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Date: September 20, 2019

To: Interested Person

From: David Besley, Land Use Services
503-823-7282 / David.Besley@portlandoregon.gov

REVISED NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.
The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 19-182081 CU

GENERAL INFORMATION

Applicant: Benjamyn Rivers
4705 SE Harrison St
Portland, OR 97215

Owner: Teeters & Colombo Investments Llc
1539 NW Summit Dr
Bend, OR 97701

Site Address: 4705 SE HARRISON ST

Legal Description: BLOCK 1 LOT 5, ROSSDALE
Tax Account No.: R729300050
State ID No.: 1S2E06CA 20700
Quarter Section: 3235

Neighborhood: Richmond, contact Matt Otis at richmond.pdx.lutc@gmail.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5 (Single-Dwelling Residential 5,000)

Case Type: CU - Conditional Use Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant is a full-time resident and caretaker who resides at the subject property, 4705 SE Harrison Street, and requests Conditional Use approval to operate a 4-bedroom Type B Accessory Short-Term Rental (ASTR) facility at this address. The house has 4 bedrooms total, including the resident's bedroom, and would have a maximum of four ASTR guest rooms that would be rented out to a maximum of 8 guests, to only one group at a time. The resident will occupy one of the bedrooms in the dwelling unit for at least 270 days during each calendar year. No exterior alterations to the house are proposed. No outside employees, food or beverage

service, or commercial events are proposed. Proposed house rules would require exterior quiet hours from 10 pm to 7 am.

Type B ASTRs are allowed in residential zones when the proposal meets the Conditional Use approval criteria and applicable standards. The regulations are intended to allow for efficient use of houses in residential areas if the neighborhood character is maintained. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

Note: the applicant originally requested and received approval of a 5-bedroom ASTR for a maximum of 10 guests. For permitting reasons, the applicant has removed two bedrooms from the basement and relocated a fourth bedroom to the second floor.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are in Zoning Code Section 33.815.105: Conditional Use Approval Criteria for Institutional and Other Uses in a Residential Zone.

The City's 2035 Comprehensive Plan has been appealed. Because Zoning Code Section 33.815.105.A-E is considered an "unacknowledged land use regulation" while the appeal is pending, this proposal must also comply with applicable Statewide Planning Goals.

ANALYSIS

Site and Vicinity: The 2,850 square foot lot is located on the northeast corner of SE Harrison Street and SE 47th Avenue. The site slopes slightly upward from west to east and is currently developed with a 2,322 square foot house (796 square foot basement, 1,016 main floor, and 510 square foot finished attic). Parking is provided via a 180 square-foot attached tuck-under garage accessed via SE 47th Avenue. Neighboring properties are developed with a mix of one-to-three-story single-dwelling houses. About 1,000 feet to the north is a busy commercial corridor (SE Hawthorne Street) and about 500 feet to the east is a higher density residential and mixed use corridor (SE 50th Avenue).

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. Type-A ASTRs (allowing the rental of up to two bedrooms for five short-term guests) are allowed outright in the single-dwelling zones. Type-B ASTRs (allowing up to 5 bedrooms for rental to short-term guests) are allowed in the R5 zone when the proposal meets the Conditional Use approval criteria and applicable standards.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 16, 2019**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under "Zoning Code Approval Criteria" (Exhibit E-1);
- The Water Bureau responded with no concerns and included information regarding the water fixtures and metering (Exhibit E-2);
- The Bureau of Environmental Services (BES) stated that BES has no issues related to the public services approval criterion for stormwater and sanitary service. Based on this proposal, no changes are proposed to the existing building that would trigger BES stormwater requirements. Additionally, sanitary sewer service is available via the combined sewer within the site's frontage; therefore, BES does not object to the request for conditional use approval of Type-B ASTR (Exhibit E-3);
- The Police Bureau responded with no concerns and noted that they are currently able to serve the existing house at the site and will be able to continue providing services to the

proposed Type-B ASTR at this address. They note that there are no proposed alterations to the site that would impact the Police Bureau's ability to provide adequate services (Exhibit E-4);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns and included information about building permit requirements and a recommendation that the applicant request a Preliminary Life Safety Meeting to verify building code requirements (Exhibit E-5); and
- Urban Forestry responded with no concerns and noted that the project will not impact existing street or city trees or require street tree planting (Exhibit E-6).

The following Bureaus have responded with no concerns (Exhibit E-7):
- The Fire Bureau; and
- The Site Development Review Section of BDS.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners and tenants in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Conditional Uses
33.815.010 Purpose
Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.105 Institutional and Other Uses in R Zones
These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A. Proportion of Household Living uses. The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: For Criteria A.1 and A.2, the terms "area" and "residential area" are the same and are defined herein as an approximate distance of 600 feet from the site. This distance is reasonable as it considers all residentially-zoned properties within a few blocks of the site and expands on the 150-foot notification distance for this Type II land use review. Within the residentially-zoned portions of this area are few uses not in the Household Living category. There are nine Type-A ASTRs (allowing the rental of one to two bedrooms for short-term guests). Type-A ASTRs are a Household Living use. They are allowed by-right as their characteristics closely resemble Household Living due to their two- bedroom limitations. Only one other Type-B ASTR is in this area (Exhibit G.3).

Given that there are approximately 200 residential zoned properties in this defined area, the one non-Household Living uses makes up less than 1 percent of the residential properties, thereby maintaining the residential appearance and function of the area.

The applicant is proposing a maximum of 8 guests (2 per bedroom in the 4 bedrooms). Two bedrooms are proposed on the main level, and two bedrooms are proposed on the second floor (Exhibit C.2). One bedroom will be occupied by the site's long-term resident, who will live at the site at least 270 days per year. To further limit the intensity of the use, a condition of approval will require the ASTR to be rented to a single group at a time. This is intended to limit the potential number of vehicles coming to the site, and the number of parking spaces required.

There are no alterations proposed to the house on this site, and the house will retain the appearance of a long-term residence for a household. Staff finds the Type B ASTR facility will not noticeably impact the appearance of the residential area.

For these reasons, and with a condition of approval to ensure that the four ASTR guest rooms be rented to a single party having a maximum of 8 guests at a time to limit the intensity of the use, staff finds this criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

   Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s." There are no City-designated scenic resources on the site or in the surrounding neighborhood. Therefore, this criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or

   Findings: The 2.5-story house is in character with other houses in the area, which are comprised primarily of single-to-three-story houses in a variety of styles. The neighborhood is relatively flat. The site's lot size (2,850 square feet), building setbacks, and landscaping are comparable to other properties in the surrounding neighborhood. The proposed ASTR facility will operate inside the existing house, and no physical changes to the house or to the landscaping on the site are proposed with this application. This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

   Findings: The applicant is not proposing any physical changes to the lot or the exterior of the house to accommodate the ASTR facility. Existing development on the site meets the setbacks, height, building coverage, and tree requirements of the applicable codes. Therefore, the proposed Conditional Use will not create any differences in appearance or scale between the subject property and neighboring properties that require mitigation. This criterion is not applicable.

C. Livability. The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

   Findings:
   <u>Late-night operations and noise</u>
   Commercial meetings (described in Zoning Code Section 33.207.050.B.8.a as events including luncheons, banquets, parties, weddings, meetings, charitable fund raising,

commercial or advertising activities, or other gatherings for direct or indirect compensation) are not permitted and, as a condition of approval, the house rules must be amended to reflect this.

Per the proposed house rules (Exhibit A-1), quiet hours are between 10 pm and 7 am. Although it was not raised as a concern in neighborhood comment letters, a primary livability concern of many ASTRs are late-night activities and noise resulting from guests' use of both indoor and outdoor spaces. Given that this proposal seeks 4 bedrooms for ASTR use, the adjacent properties may be subject to greater impacts when compared with other properties in the residential area. ASTRs are typically required to have quiet hours starting at 10 pm (consistent with Section 18.12.020.B, described below). In order to minimize adverse impacts due to noise and late-night operations, a condition will require the house rules to note that the patios and outdoor areas be off limits to ASTR guests from 10 pm to 7 am.

The ASTR use must be in compliance with City Title 18, Noise Control. Among other regulations, Title 18 sets limits on sound levels that impact residential properties. Section 18.12.020.B addresses permissible levels of sound producing or reproducing equipment. The following activities are in violation of Title 18:

> *Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which is not the source of sound.*

To alert guests of existing noise regulations and to help ensure that the house rules are understood by all parties and are followed, the house rules must include the above stated limitations on use of outdoor spaces and use of sound producing or reproducing equipment. The House Rules must be included in all advertising for the ASTR and must be posted in a visible location within the ASTR.

If at some point during the ASTR operation the City finds that one or more of the conditions of this decision are not met, constituting a Zoning Code violation, the Bureau of Development Services may choose to initiate a *Reconsideration of this Land Use Approval* per Zoning Code Section 33.700.040. This process may result in revoking the ASTR permit. While this process is stated in the Zoning Code, a condition is needed given the prior code compliance issues on the site.

To further address noise and other neighborhood impact issues quickly and effectively, it is imperative that neighbors can readily contact a responsible party. A condition of approval is necessary that requires the property owner/ASTR Operator to provide the Richmond Neighborhood Association and residents of properties adjacent to and across the street from the site with contact information for the long-term resident/onsite manager, the property owner, and (if applicable) the management company. This information must be provided annually by the ASTR Operator.

<u>Lights, Odor, and Litter</u>
No physical changes such as new exterior lighting are proposed, and the proposed house rules must be amended to include instructions for dealing with guests' garbage that will help prevent litter. No aspect of the ASTR operation is likely to produce odors that are different from a standard residential use, or that would adversely impact neighbors.

With the above conditions regarding enforcement of house rules, limitation on use of the outdoor areas/patios, listing requirements stating the maximum number of bedrooms and guests for each stay, adding instructions in the house rules for

dealing with guests' garbage, and provision of contact information to neighbors, this criterion is met.

2. Privacy and safety issues.

   Findings: The Police and Fire Bureaus state no concerns about the proposal (Exhibits E-4 and E-7). Additionally, all bedrooms to be rented for ASTR purposes must receive a fee paid BDS inspection to ensure these rooms met the building code requirements for sleeping rooms at the time they were created, and that each room has a functioning smoke and carbon monoxide detector. There are no inherent safety issues associated with the proposed ASTR use. The applicant will provide current contact information for the operator and onsite resident to help address impacts quickly. While outdoor patios at the front and back of the house present a potential privacy issue for adjacent properties, a limitation on the hours of the patio use will minimize the privacy impact on adjacent properties.

   Overall for Criterion C, Livability, with the above-cited conditions, this criterion is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;

   Findings: The Portland Bureau of Transportation (PBOT) submitted the following response (Exhibit E-1):

   Portland Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

   <u>Conditional Use Approval Criteria</u>
   The transportation related approval criteria related to the proposed Conditional Use that must be addressed are found in Code Section 33.815.105.D.1 and D.2. To address the transportation approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Kittelson and Associates, dated July 1, 2019. PBOT Development Review staff, has performed a review of the submitted professionally prepared TIS and agrees with the methodologies, analyses, assumptions, findings and conclusions including intersection capacity (or on-street parking impacts, or neighborhood impacts, etc.) to confirm that the transportation-related approval criteria are satisfied, subject to the conditions listed below.

   1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan.

   2. The Transportation System:
      a. The transportation system is capable of supporting the proposed uses in addition to the existing uses in the area. Evaluation factors include safety, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
      b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street

dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;

c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

Findings: At this location, the City's Transportation System Plan (TSP) classifies both SE Harrison and SE 47th Ave as Local Service for all modes. SE Harrison is improved with a 28-ft wide paved roadway within a 60-ft wide ROW, in which the pedestrian corridor is improved in a 9-6-1 configuration, which exceeds City standards. SE 47th Ave is improved with a 35.5-ft wide paved roadway within a 60-ft wide ROW, in which the pedestrian corridor is improved in a 4-6-2 configuration, which does not meet City standards due to a slightly narrower furnishing zone. Given that no increase in occupancy and/or Significant Alteration, dedication or frontage improvements are not required at this time. The proposed Accessory Short-Term Rental (ASTR) is supportive of these designations and the development of the site with an ASTR will not impact the distribution of local traffic throughout the area.

The applicant's Traffic Engineer, Kittelson and Associates, submitted a narrative indicating the property presently has driveway access off of SE 47th Ave, however due to modifications to the home, the garage has been converted and no longer serves as functioning on-site parking. In accordance with 17.28.110.F.1.d, PBOT may revoke any driveway if it does not access a legal parking and maneuvering space on the abutting property. Where PBOT defers to the Bureau of Development Services (BDS) in determining whether a site has a legally accepted on-site parking, PBOT recommends the applicant close the existing curb cut on SE 47th Ave., which may be a requirement in relation to a future Building Permit.

BDS Comment: As identified on Exhibit C.2.c, the garage at the basement level will be maintained and therefore the curb cut can be maintained

Street Capacity/Level of Service: To estimate the vehicle trips generated by the proposed ASTR, information from the Trip Generation Manual, 10th Edition, published by the Institute of Transportation Engineers (ITE) was utilized. Data for land use #320, Motel, were used to calculate trip rates for the proposed facility. ITE does not have specific data for an ASTR and the Motel use is the closest land use category for which data is available. Utilizing this data, the maximum rental scenario of a 5-unit short term is estimated to generate 17 daily trips, including two weekday morning and two weekday evening trips.

To address the street capacity and Level of Service (LOS) evaluation factors, the applicant's traffic engineer reviewed PBOT's traffic counts collected in 2017 and 2018, noting that SE 47th has an average demand of approximately 400 vehicles, where SE Harrison has an average daily traffic demand of approximately 340 vehicles. Under the maximum rental scenario, the small increase of trips is not anticipated to pose a significant increase of traffic volumes. However, the applicant's findings propose a whole house rental, rather than individual rentals for each proposed rooms, therefore the estimated trips is projected to be less than the projected maximum.

Safety for All Modes: The applicant's traffic engineer noted that the use of the home as an ASTR will not yield a significant increase of daily trips than that of a single-family home, therefore, with no changes to the street system., no impact to safety of

the transportation system. With closure of the curb cut, pedestrian safety will be optimized by eliminating potential conflicts.

Transit Availability: The subject site is located near Tri-Met Frequent bus service #14-Hawthone, located approximately 670-ft to the east or 1,200-ft to the north, which provides easy access to the Central City and other areas of Portland.

Connectivity: The subject site is located within a well-connected neighborhood in which the grid system is generally complete, providing multiple redundant routes to and from the site for all modes. The subject site and surrounding areas are well connected with continuous sidewalks throughout the neighborhood, with the Hawthorne Business District located 1,200 feet to the north. The area is surrounded by low-volume Local Service streets, which provides easy access to other identified pedestrian and cycling routes, such as SE Lincoln, an identified Bikeway, one block to the south. Therefore, the property is adequately accessed by all modes, providing connectivity and access to support existing uses as well as the proposed ASTR at the subject property.

On-Street Parking Impacts: The parking demand generated from the proposed development was estimated using parking demand rates from Parking Generation, 4th Edition, published by the Institute of Transportation Engineers (ITE). The data utilized to determine the parking demand for the proposed conditional use were for land use #320, Motel, as it represents the closest use to the proposed ASTR for which data is available.

To determine the demand and availability of on-street parking in the vicinity of the site, the applicant's traffic engineer conducted observations during the overnight period corresponding to the expected peak period for residential parking demand. The observations were conducted from 11:00 pm to 12:00 am on a typical weekday in June 2019. Within the study area, the parking study estimated that there was an on-street parking capacity of 114 spaces, in which 57 spaces were occupied at time of observation, which has a on-street parking occupancy rate of 50%.

The maximum rental scenario of four rooms would generate a demand of four vehicles, which would need approximately 110-ft of linear curb (5 x 22-ft) to accommodate on-street parking. The subject site has a street frontage of 115 linear feet (40 x 75). Subtract the existing 9-ft curb cut, which the applicant's Traffic Engineer confirmed no longer provides a functioning on-site parking space, the proposed use could not accommodate the maximum demand directly abutting the site. While not required to provide on-street parking immediately adjacent to the site, the impact of retaining the curb cut reduces the supply of available curb within the study area, therefore has a detrimental impact on the on-street parking as a whole. Therefore, PBOT recommends closure of the curb cut unless serving a legal parking space.

> *BDS Comment: As previously mentioned, the existing curb cut will be maintained as it will continue to access a legal parking space in the basement garage (see Exhibit C.2.c.)*

Nevertheless, within the study area, the estimated on-street parking demand would increase to approximately 54%. PBOT does not consider an area to be heavily parked until occupancy rates reach approximately 85%. Which again, the applicant's findings propose a whole house rental, rather than individual rentals for each of the proposed rooms; therefore, the estimated trips is projected to be less than the projected maximum. Accordingly, based on the observations and analysis, the available on-street parking in the site vicinity is adequate to safely support the proposed use in addition to the existing uses in the site vicinity. Therefore, the anticipated parking demand will be negligible.

Access Restrictions: The site is located at an intersection of established rights-of-way, which are well connected with improved streets, sidewalks, and multi-modal options. Due to the availability to of nearby transit and multi-modal options, PBOT has no access restriction concerns.

Neighborhood Impacts: The transportation-related neighborhood impacts associated with the proposed use typically involve impacts to on-street parking and potential increases in traffic at area intersections. As documented by the applicant's analysis, there is a sufficient supply of on-street parking within the study area to accommodate the use. However as anticipated increased development occurs within the study area, the demand of on-street parking availability would also increase, in which retaining a non-functional curb cut could have an adverse impact to the neighborhood. Although, services for the ASTR such as landscaping, regular maintenance, and/or cleaning will be consistent with a typical single-family home. Additionally, the minimal number of vehicle trips that will be added during the peak hours as a result of this use will not impact area intersections. Therefore, transportation-related impacts as a result of the proposed ASTR will be negligible. In conclusion, based on the evidence included in the record, and primarily, the applicant has demonstrated to PBOT's satisfaction that "the transportation system is capable of supporting the proposed use in addition to the existing uses in the area".

Recommendation

PBOT has no objections to the proposed Accessory Short-Term Rental (ASTR), subject to the following conditions:

- Rental of the ASTR shall be limited to a single family or affiliated group as proposed by the applicant. Renting of individual rooms to unrelated/unassociated individuals shall not be permitted;
- The applicant provides information regarding transit schedules, multi-modal information and maps, car share options, etc. in order to reduce vehicle trips associated with the proposed use.

Based on PBOT's analysis, and with a condition of approval limiting rental of the home to single group, and that the applicant provide information regarding transit schedules, multi-modal information and maps, car share options, etc. in order to reduce vehicle trips, these criteria are met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The Bureau of Environmental Services (BES) provided a written response stating no objection to the proposed ASTR facility regarding adequacy of public sanitary sewer service and stormwater management. Additionally, as no changes are proposed to the existing building, no BES stormwater requirements are triggered (Exhibit E-3). The Police Bureau noted that they are currently able to serve the existing house at the site and will be able to continue providing services to the proposed Type-B ASTR at this address (Exhibit E-4). The Water Bureau and the Fire Bureau reviewed the proposal and responded that they have no concerns with their abilities to serve the proposed ASTR (Exhibits E-2 and E-7).

Based on the responses from the relevant City service bureaus, this criterion is met.

E. Area plans. The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: The site is within the boundaries of the Richmond Neighborhood Plan. The Richmond Neighborhood Plan includes a relevant objective to "Encourage the use of

public transportation by those who work, live, shop and visit the neighborhood (Transportation Objective 6.3, page 26)."

With the aforementioned PBOT condition that the applicant provide information regarding transit schedules, multi-modal information and maps, and car share options, the proposed type-B ASTR will encourage the use of public transportation by those who visit the neighborhood.

Oregon Statewide Planning Goals

Because one or more of the criteria listed above is an "unacknowledged" land use regulation, this proposal must comply with applicable Statewide Planning Goals.

Goal 1: Citizen Involvement
Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

Findings: The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. For this application, a written notice seeking comments on the proposal was mailed to property owners and tenants within 150 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 400 feet of the site. There is also an opportunity to appeal the administrative decision at a local hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City's ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

Goal 2: Land Use Planning
Goal 2 outlines the basic procedures of Oregon's statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

Findings: Compliance with Goal 2 is achieved, in part, through the City's comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed in the Zoning Code approval criteria findings, the proposal complies with the applicable regulations, as supported by substantial evidence in the record. As a result, the proposal meets Goal 2.

Goal 3: Agricultural Lands
Goal 3 defines "agricultural lands," and requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

Goal 4: Forest Lands
This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

Findings: In 1991, as part of Ordinance No. 164517, the City of Portland took an exception

to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid, and Goal 3 and Goal 4 do not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources
Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

Findings: The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"), and Scenic ("s") overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic overlay zones and is not part of any designated historic resource. Therefore, Goal 5 is not applicable.

Goal 6: Air, Water and Land Resources Quality
Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Findings: Compliance with Goal 6 is achieved through the implementation of development regulations such as the City's Stormwater Management Manual at the time of building permit review, and through the City's continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. BES reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application (Exhibit E-1). Staff finds the proposal is consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards
Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

Findings: The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City's MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

Goal 8: Recreation Needs
Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

Findings: The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. Staff finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the site, or by the parks and recreation system development charges that are assessed at time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is consistent with Goal 8.

Goal 9: Economy of the State
Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Findings: Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

Goal 10: Housing
Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Findings: The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since the house subject to this proposal will serve as the full-time residence for the applicant, the house will remain part of the City's existing housing stock. Since the proposal will facilitate continuing investment in the City's housing stock, the proposal is consistent with Goal 10.

Goal 11: Public Facilities and Services
Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

Findings: The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that public services are adequate for the proposal.

Goal 12: Transportation
Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

Findings: The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." The extent to which a proposal affects the City's transportation system and the goals of the TSP is evaluated by PBOT. As discussed earlier in this report, PBOT evaluated this proposal and found the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Therefore, the proposal is consistent with Goal 12.

Goal 13: Energy
Goal 13 seeks to conserve energy and declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

> **Findings:** With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City implements energy efficiency requirements as required by the current building code. For these reasons, staff finds the proposal is consistent with Goal 13.

Goal 14: Urbanization
This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

> **Findings:** In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro's Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro's Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code's compliance with Metro's Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

Goal 15: Willamette Greenway
Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

> **Findings:** The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

Goal 16: Estuarine Resources
This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

Goal 17: Coastal Shorelands
This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

Goal 18: Beaches and Dunes
Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Goal 19: Ocean Resources

Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

Findings: Since Portland is not within Oregon's coastal zone, Goals 16-19 do not apply.

For these reasons, this criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant proposes to operate a Type B ASTR facility with up to four guest rooms to be rented to a maximum of 8 guests. No parties or commercial meetings will be held. One of the bedrooms will be occupied by the site's long-term resident, who will live at the site at least 270 days per year. To further limit the intensity of the use, a condition of approval will require the ASTR to be rented to a single group at a time. This is intended to limit the potential number of vehicles coming to the site, and the number of parking spaces required.

Quiet hours will be between 10 pm and 7 am. A condition that the house rules (including the internet listing) must note that the patios and outdoor areas be off limits from 10 pm to 7 am and limits on certain noise levels generated by the ASTR use. Nearby neighbors will be provided with current contact information for the long-term resident/ASTR Operator and management company. House rules must be amended to reflect dealing with guests' garbage in order to prevent litter. With conditions of approval, the proposed Type B ASTR facility meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of a Conditional Use to allow a Type B Accessory Short-Term Rental facility within the existing single-dwelling with a maximum of four guest rooms available for rent at a time, as shown on the approved plans, Exhibits C.1 and C.2, signed and dated September 16, 2019, subject to the following conditions:

A) **Prior to the start of operation of the Type B ASTR**, the Property Owner/ASTR Operator must meet the following conditions:

1. Purchase from BDS a fee-paid inspection to confirm that the requirements of Zoning Code Section 33.207.050.B.4 are met for four ASTR bedrooms.

2. Provide the Richmond Neighborhood Association and residents of properties adjacent to and across the street from the site with phone contact information (name and phone number) for the long-term resident/ASTR Operator, the property owner, and the management company if applicable. The ASTR operator shall maintain paper copies of these notifications, including the list of who was notified and when, for inspection by City staff upon request.

B) **For the duration of operation of the Type B ASTR facility**, the ASTR operator will meet the following conditions:

1. Provide rental arrangements limited to single ASTR group only, with a maximum of 2 guests per legal bedroom at any one time, regardless of age. If the maximum number of four bedrooms are rented, ASTR group size is limited to 8 people.

2. Use of all outdoor spaces, including the front and rear porches, are prohibited between the hours of 10 p.m. and 7 a.m. all days by ASTR guests and house rules must be amended to reflect.

3. ASTR use on the site must not create noise impacts in violation of Portland City Title 18, Noise Control, which prohibits the following:

   - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
   - Operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. to be plainly audible within any dwelling unit which is not the source of sound.

4. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are not allowed and house rules must be amended to reflect this.

5. House rules must be amended to reflect dealing with guests' garbage in order to prevent litter.

6. The ASTR operator must amend the House Rules in Exhibit A.1 to include Conditions B.1 through B.5 of this approval. The amended House Rules must be included in all advertisements for the ASTR facility.

7. The ASTR operator must maintain the House Rules, as required to be amended by this decision and conditions, for the duration of the operation of the ASTR facility. The ASTR Operator must email or mail copies of these House Rules to guests in advance of their visits. The ASTR Operator must ensure that at least one paper copy of these House Rules and Narrative be displayed prominently within a common area of the house.

8. All advertisements for the ASTR shall display prominently in the title of the advertisement the maximum number of bedrooms and the maximum number of people allowed per nightly rental.

9. Confirmation data from the authorized rental organization (such as Airbnb and VRBO) shall be provided to City staff upon request. Confirmation data must include the name, home address and phone number of the ASTR guests, and the dates of stay.

10. Current and active Transportation Demand Management measures, as proposed for this ASTR, will be maintained by the ASTR operator as follows:

    The ASTR operator will provide property information packets to each ASTR guest and will post this information in the house. The property information packets will include the following:

    - Transit schedules and maps for local bus/MAX routes, including identifying the closest bus/transit stops; and
    - Car/bike share options.

11. The ASTR Operator will maintain a Guest Log Book. The Guest Log Book must include the names and home addresses of guests, guest's license plate numbers if traveling by

car, dates of stay, and the room assigned to each guest. The log must be available for inspection by City staff upon request.

12. On an annual basis, the ASTR operator must provide the Richmond Neighborhood Association and to residents of properties adjacent to and across the street from the site with phone contact information for the long-term resident/ASTR on-site manager, the property owner, and the management company if applicable. The ASTR Operator shall maintain paper copies of these notifications, including the list of who was notified and when, for inspection by City staff upon request. The ASTR Operator is responsible to ensure that phone contact information remains current and neighbors are provided with updates.

13. If City staff obtains evidence that one or more of the situations described in 33.700.040.B exist for this proposal or site, the Bureau of Development Services may initiate a *Reconsideration of this Land Use Approval* per Zoning Code Section 33.700.040.

Staff Planner: David Besley

Decision rendered by: _____on September 16, 2019.
By authority of the Director of the Bureau of Development Services

Decision mailed: September 20, 2019

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on June 20, 2019, and was determined to be complete on July 10, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 20, 2019.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: November 7, 2019.**

Some of the information contained in this report was provided by the applicant.
As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on October 4, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of $250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.
If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed,* the final decision will be recorded after **October 4, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

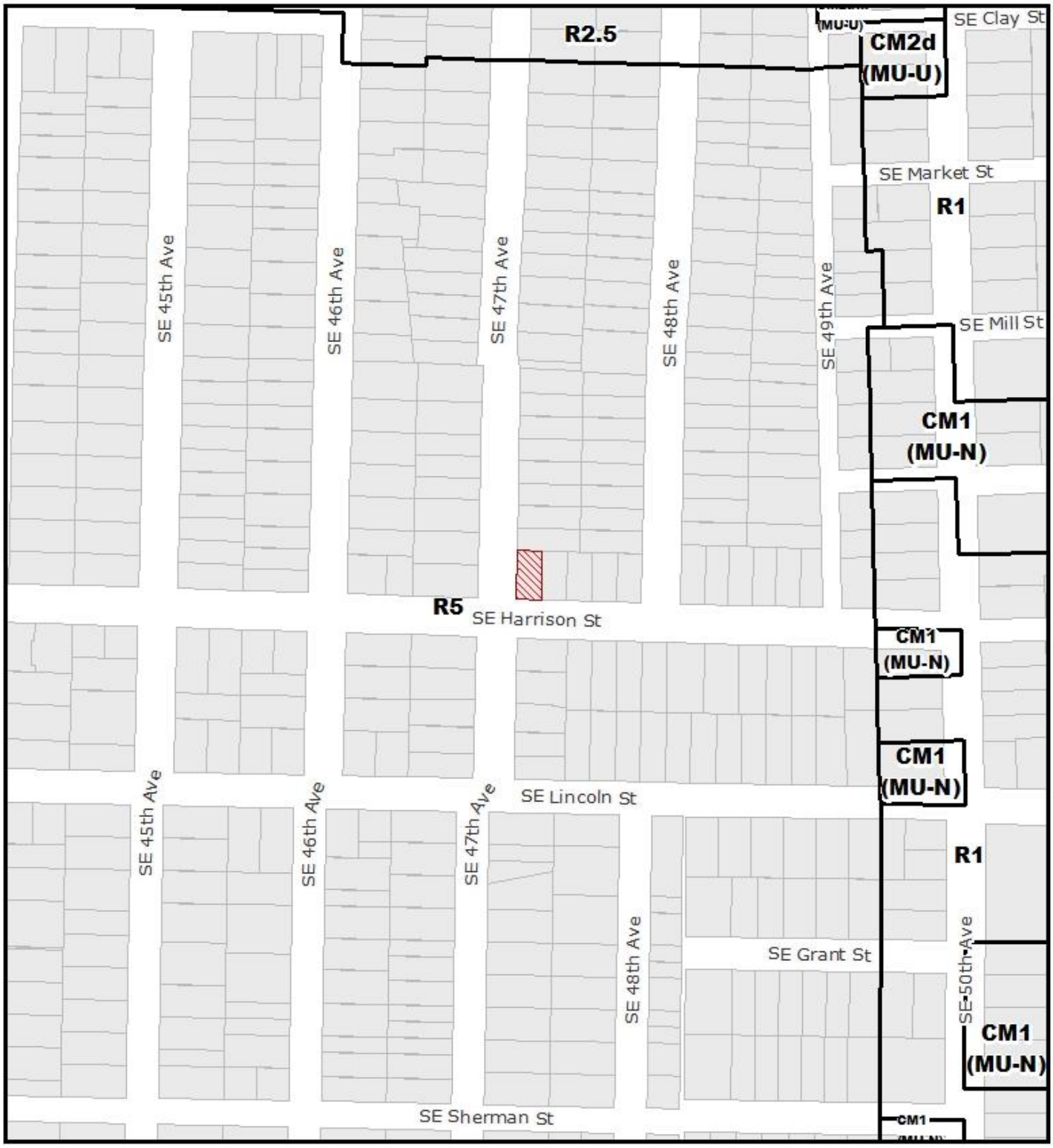
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant submittal
   1. Applicant's Statement
   2. Applicant ID
   3. Traffic Analysis
   4. Applicant's Statement – revised 9/16/19
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan (attached)
   2. Floor Plans (attached)
      a. Main Floor
      b. Second Floor
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Transportation Engineering and Development Review
   2. The Water Bureau
   3. Bureau of Environmental Services
   4. The Police Bureau
   5. The Life Safety Review Section of BDS
   6. Urban Forestry
   7. Bureaus responding with no concerns
F. Correspondence: None
G. Other:
   1. Original LU Application and Receipt
   2. Incompleteness determination letter, dated July 3, 2019
   3. Map showing ASTR Sites (Permitted) within 600 feet of the subject site

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

NORTH

Site

File No.	LU 19-182081 CU
1/4 Section	3235
Scale	1 inch = 200 feet
State ID	1S2E06CA 20700
Exhibit	B Jun 24, 2019

IMPERVIOUS AREA

DRIVEWAY N/A

PATIO N/A

WALK N/A

ROOF AREA (INCL. OVERHANG) _____

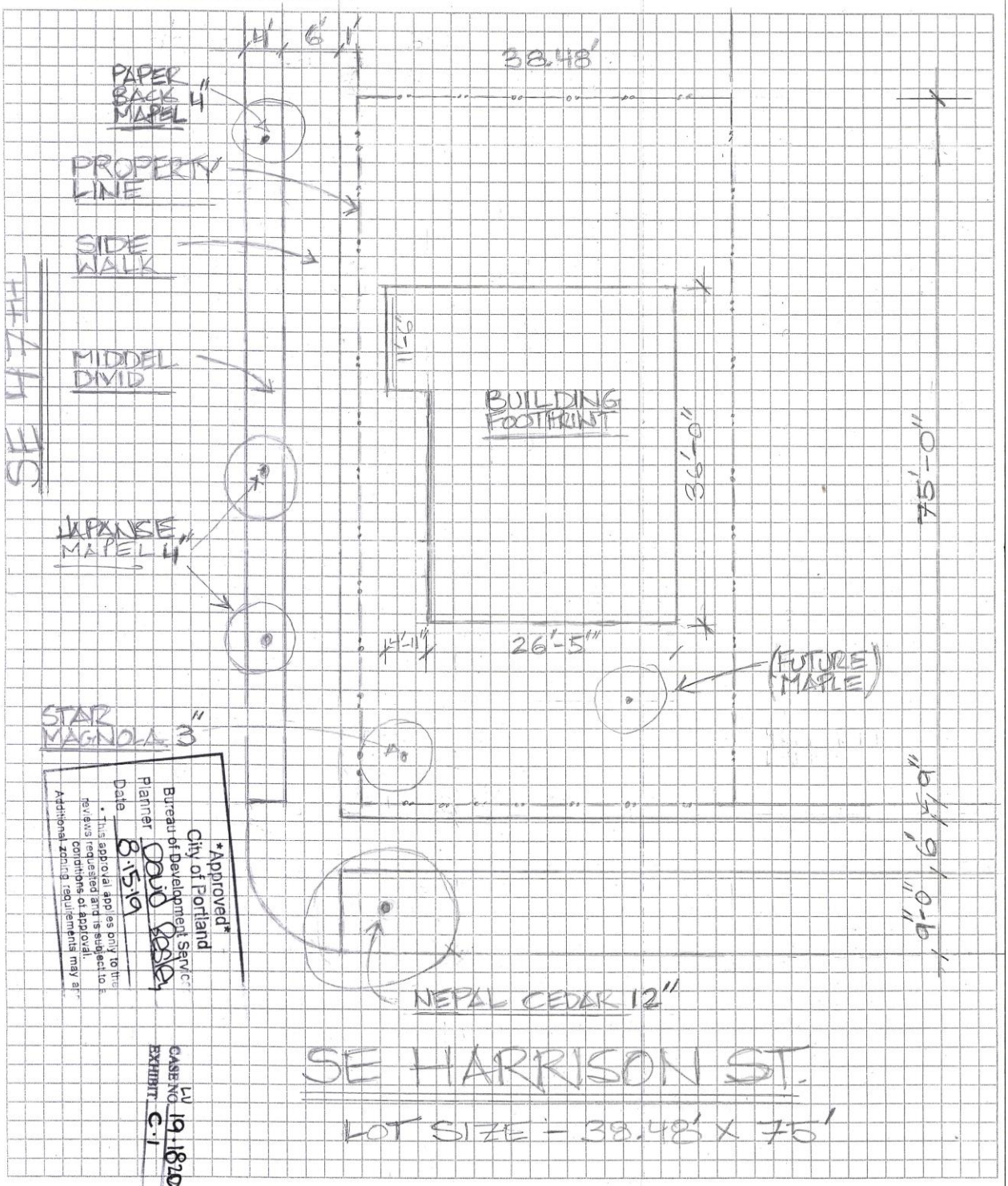
TOTAL _____

BUILDING COVERAGE

BUILDING FOOTPRINT 1008.62

LOT AREA

2850 SQ FT.



Approved
City of Portland
Bureau of Development Services
Planner David Sosa
Date 8.15.19
• This approval applies only to the reviews requested and is subject to conditions of approval.
Additional zoning requirements may ap

LU 19-182081
CASE NO.
EXHIBIT C.1

PROJECT LEGAL

PROJECT ADDRESS

4705 SE HARRISON ST.
PORTLAND, OR 97215

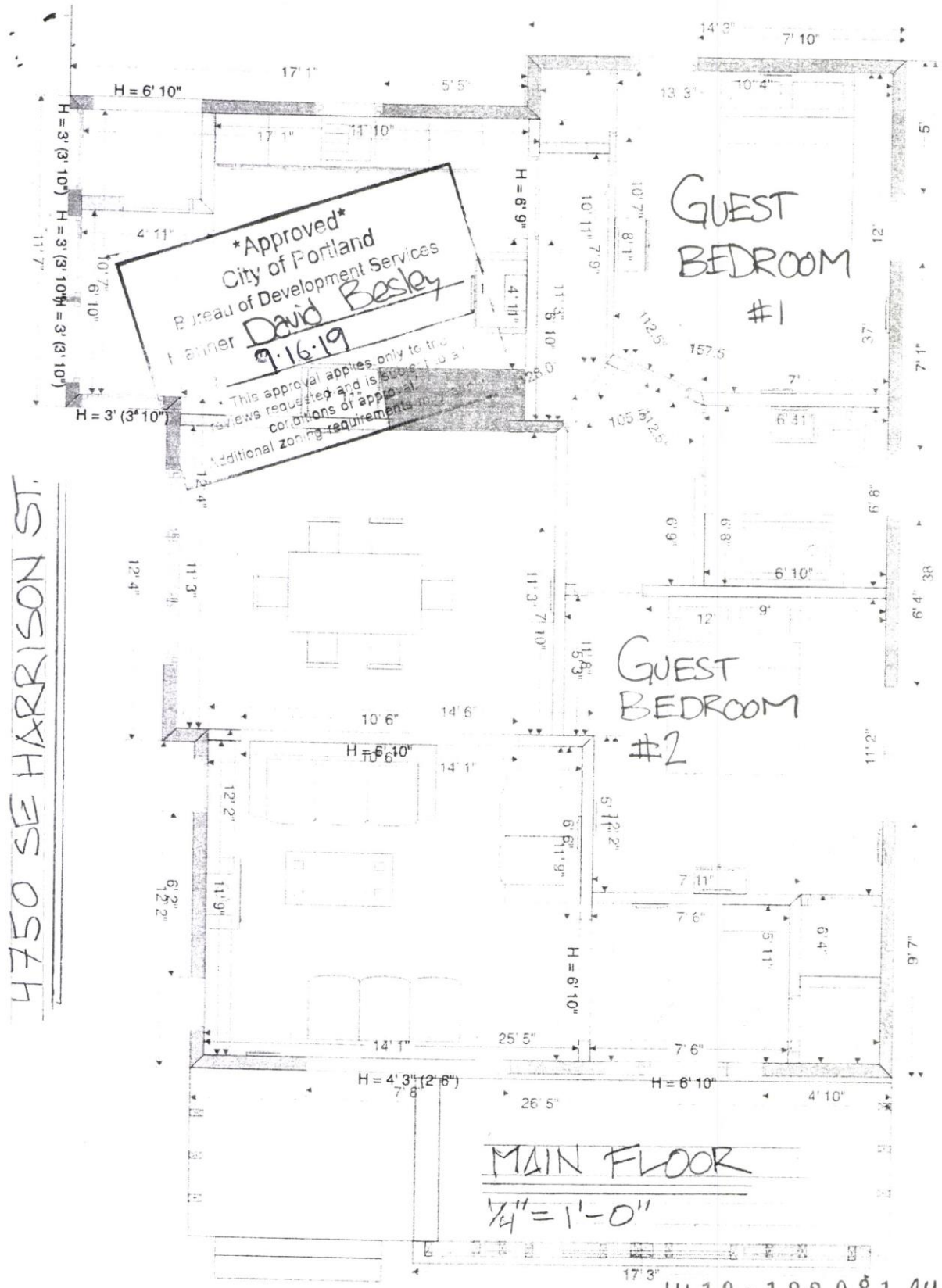
SITE PLAN

SCALE 1" = 10'

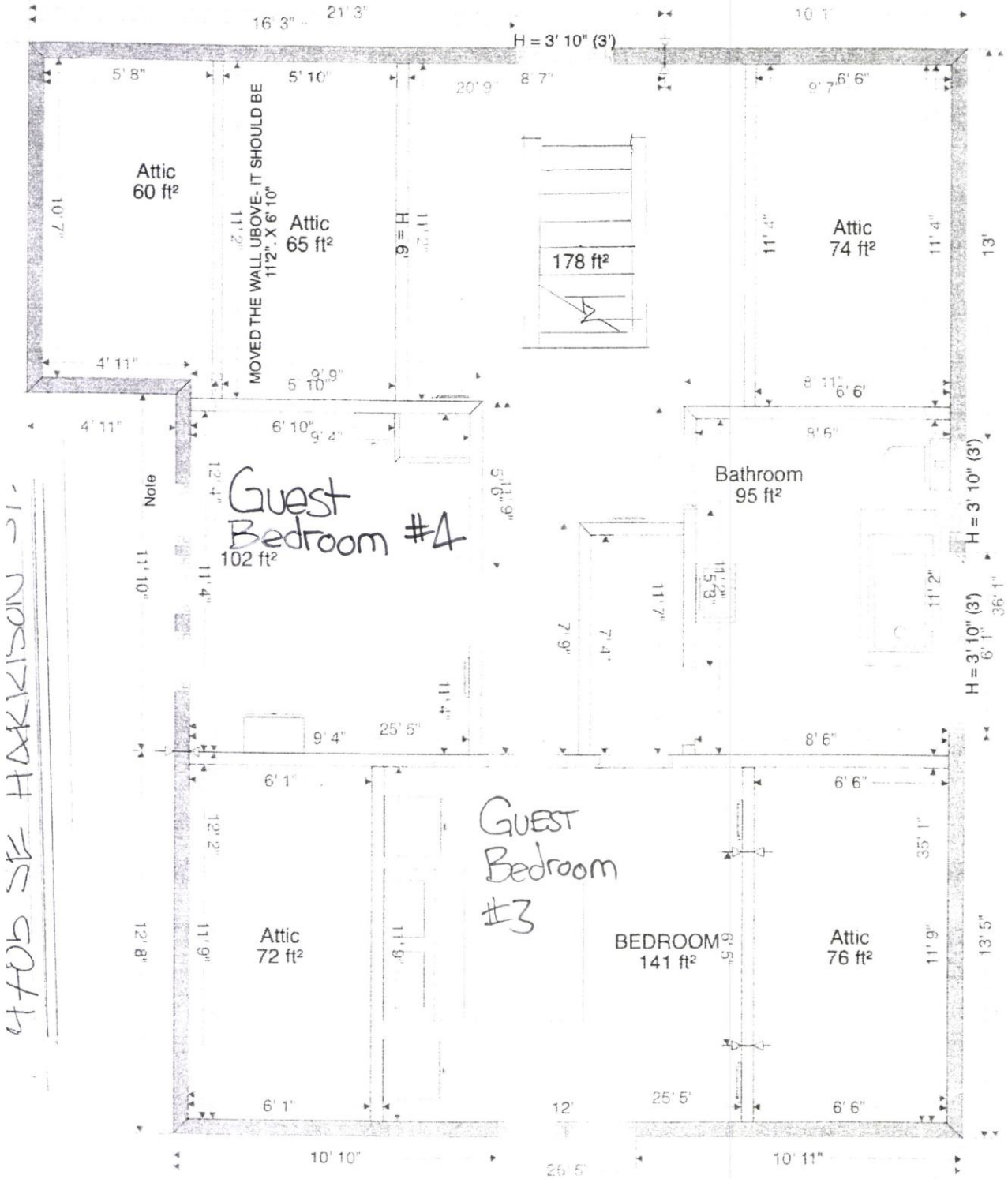
2' 10'

NORTH ARROW

LU 19-182081 cu



LU 19-182081 CU
Exh C.2.a



4405 SE HARRISON St.

SECOND FLOOR

1/4" = 1'-0"

LU19-182081CU
Ex C2.b