



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: May 15, 2020
To: Interested Person
From: Don Kienholz, Land Use Services
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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 20-118012 CU

GENERAL INFORMATION

Applicant: Liam Woods
6345 NE Cleveland Ave
Portland, OR 97211

Owners: Liam Woods
George Hoffmann
Eileen Murphy Hoffmann
6345 NE Cleveland Ave
Portland, OR 97211

Site Address: 6345 NE CLEVELAND AVE
Legal Description: BLOCK 45 LOT 5, PIEDMONT
Tax Account No.: R657806970
State ID No.: 1N1E15DA 05700
Quarter Section: 2430

Neighborhood: Piedmont, contact landuse@piedmontemerald.com.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: None
Zoning: R5ah – Single-Dwelling Residential 5,000 with Alternative Design Density Overlay Zone ('a') and Aircraft Landing Zone ('h') overlay zone.
Case Type: CU – Conditional Use review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a Type B Accessory Short-Term Rental (ASTR) in an existing house that would consist of up to four bedrooms and eight guests. The current owner and long-term tenant would be the operator of the ASTR and reside in the basement living space. ASTR's that

include more than two bedrooms are Type B ASTR's that must be reviewed through a Type II Conditional Use land use review.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are in Portland Zoning Code Section 33.815.105 – Institutional and Other Uses in Residential and Campus Institutional Zones.

The City of Portland adopted a new Comprehensive Plan in 2018 that included modified elements of the Conditional Use Review approval criteria. The Comprehensive Plan was appealed and as a result the City does not technically have an acknowledged Comprehensive Plan by the Department of Land Conservation and Development. Because the Comprehensive Plan has not acknowledged, any discretionary land use review that has approval criteria changed by the updated Comprehensive Plan must have the Statewide Planning Goals applied directly to the proposal.

ANALYSIS

Site and Vicinity: The subject site is a typical 5,000 square foot lot developed with an existing 1.5-story, single-dwelling home built in 1946 with a detached garage located off the alley in the back yard. The property is between NE Martin Luther King Jr. Boulevard four blocks to the east, N. Vancouver Avenue three blocks to the west, NE Rosa Parks Way two blocks to the north and NE Ainsworth Street two blocks to the north. The surrounding area is part of the Piedmont Neighborhood and comprised of a single-dwelling neighborhood populated by early 20th century homes with a substantial commercial district along NE Martin Luther King, Jr. Boulevard and the large community park, Peninsula Park, and Interstate 5 about a third of a mile to the west.

Zoning: The site is located in a R5, Single-Dwelling 5,000 base zone, with Alternative Design Density ('a') and Aircraft Landing ('h') overlay zones.

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Alternative Design Density overlay zone is intended to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The Aircraft Landing ('h') overlay zone is intended to provide safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

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 **March 16, 2020**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);

- Site Development Section of BDS, Life Safety, Fire Bureau and Water Bureaus, and Urban Forestry (Exhibit E.2); and
- Police Bureau (Exhibit E.3).

The Bureau of Transportation Engineering provided a response to the proposal (Exhibit E.4) evaluating the applicant's transportation impact analysis and found that with conditions, they have no concerns.

Neighborhood Review: One written response was received from a notified property owner in response to the proposal. The March 23, 2020 email from David Sword was in support of the proposal.

ZONING CODE APPROVAL CRITERIA

33.815.105 Institutional and Other Uses in Residential and Campus Institutional Zones

These approval criteria apply to all conditional uses in R and campus institutional zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in residential and campus institutional zones that maintain or do not significantly conflict with the appearance and function of residential or campus areas. Criteria A through E apply to institutions and other non-Household Living uses in residential zones. Criteria B through E apply to all other conditional uses in campus institutional zones. 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.**

Finding: For Criteria A.1 and A.2 below, the terms “area” and “residential area” are synonymous and are defined as an approximate distance of 400 feet from the site. This distance is reasonable for four reasons: it considers all residentially zone property within a couple blocks of the site; is the same area reviewed for most parking analyses; ensures no adverse impacts even beyond the 150-foot noticing distance required; and it evaluates the same area reviewed for other Conditional Uses that are Type III land use reviews. Note that properties within non-residential zones (such as Commercial or Open Space zones) are not included within the “residential area.”

As defined above, the area extends from the subject site north to approximately N. Rosa Parks Way; south to the mid-block between NE Holman and NE Ainsworth Street; west to N. Moore Street; and east to NE Rodney Street. The entire area is zoned R5 except for 1 full block lot in the northeast that is on the corner of NE Rosa Parks Way and NE Martin Luther King Jr. Boulevard. Because it is a full block lot, it is zoned Mixed Use Commercial 2.

In the identified area, there is only one known non-residential uses – a 4-bedroom, Type B ASTR Conditional Use located at 85 NE Highland Street, approximately 2 blocks northeast of the subject site. Other than that Conditional Use, Portland Maps does not identify any other non-residential uses and Google Maps identifies two possible Accessory Home Occupation Uses (personal furniture making and a tarot card reader) that are accessory residential uses.

In the identified area, there are eight Type A ASTRs. Type A ASTRs are allowed by right, and are limited to renting one to two-bedrooms for short-term occupancy in a dwelling. In allowing Type A ASTRs by right, and limiting the number of rooms that could be rented for short-term occupancy, the Zoning Code acknowledges that these uses are similar in character to residential uses and any impacts associated with Type A ASTRs are not different enough from a residential use to necessitate Conditional Use review.

Considering the above, the existence of the single Type B ASTR Conditional Use, the home occupations and eight Type A ASTRs, in combination with the proposed Type B ASTR, does not lessen the appearance or function of the surrounding residential area.

Portland Zoning Code section 33.207.020.B allows for the rental of an ASTR with three or more bedrooms. While it is likely that the majority of homes in the city consist of three or fewer bedrooms, there are many that do have four, and even five. As such, use of the four bedrooms in the home is in the same intensity and scale as a large household living uses found in the single-dwelling zones.

As the residential area is made up of over 100 lots with only one in non-residential use (a Type B ASTR), the overall residential appearance and function of the area will not be lessened with the addition of this Type B ASTR.

To further limit the intensity of the use, a condition of approval will limit the ASTR rental to a maximum of four bedrooms, with no more than two guests per bedroom. Additionally, a condition of approval will limit the ASTR rental to a single-group at a time so as to limit the number of vehicles that may be generated by the rental.

With conditions of approval, this criterion is met.

B. Physical compatibility.

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

Finding: City-designated scenic resources are identified on the Official Portland Zoning Maps with the 's' overlay zoning symbol. As this site is not designated with the 's' overlay zone, and there are no City-designated scenic resources on the site, this criterion is not applicable.

Criterion met.

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

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

Finding: The proposed Type B ASTR is to be located within an existing house on a middle lot on NE Cleveland Avenue between single-family dwellings. The house is a mid-century 1.5-story bungalow that is similar to the other early to mid-20th century homes in the area. The site is a typical 5,000 square foot lot with the house the ASTR will be in meeting the building setbacks. From exterior appearances, the site, will blend in seamlessly with the residential neighborhood. There are no exterior changes to the site or house proposed as part of the Type B ASTR proposal.

As the existing house meets the R5 development standards and has a size consistent with other Portland homes, there is no need to require mitigation to achieve similarity in

appearance or scale through such means as setbacks, screening, landscaping, tree preservation, other design features.

Criteria met

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**
- 2. Privacy and safety issues.**

Finding: The applicant has provided a narrative and proposed house rules (Exhibit A) to help reduce potential adverse impacts to the surrounding properties and neighborhood. Some of the most relevant house rules include:

- A maximum of 2 ASTR guests per room;
- Check-in after 4 PM, check out by 11 AM;
- Outdoor areas are not be used between 9 PM and 8 AM weekdays and 10 PM and 8 AM weekends;
- Not disturbing neighbors and complying with reasonable requests made by neighbors; and
- No commercial meetings (Commercial Meetings are identified in Zoning Code Section 33.207.050.B.8).

The primary livability concerns related to Type B ASTRs are the possibility of late-night activities and noise, lack of parking and the intensity of the activity. The primary exterior space where late night activities and noise could occur is the outdoor patio in the back yard.

A certain level of noise is to be expected from the long-term resident(s) of the home, and the expectation of what noise might constitute a significant impact on livability is not complete silence, but whether the level of noise consistently exceeds what might be expected from that which long-term residents would generate. Long-term residents in the house would be expected generally to work during the day and, also, to recreate at home later in the evenings on weekends. The applicant's proposal to limit noise through the institution of "quiet hours" after 9:00 pm on weekdays and 10pm on weekends is a reasonable method of limiting noise during times when adjacent residents could be expected to be sleeping. However, what constitutes 'quiet hours' is discretionary. The only way to ensure quiet hours is to restrict use of outdoor areas. A condition of approval will be included to prohibit use of the outdoor area after 9 PM on weeknights and 10 PM on weekends and will require that the ASTR not create noise impacts in violation of Portland City Code Title 18.

To further enforce the quiet hours and ability of the operator to control potentially rowdy guests, a condition of approval is needed to require that the contact information of the long-term resident and the local operator be provided annually to surrounding neighbors so that they will have a means of registering complaints should there be guests that violate the rules.

Together, the prohibition of the use of outdoor areas after 9 PM and 10 PM (weekdays and weekends, respectively), the requirement to abide by Title 18 and the ability of neighbors to contact a local person to help enforce those hours will work to ensure that the noise generated by ASTR guests remains similar to what could be expected if the house were occupied by a family, or by a group of unrelated long-term residents.

As the primary use and the ASTR are both residential uses, any odors generated that are discernable from off the property can reasonably be expected to be the same as

would be generated by a strictly long-term residential use, such as those associated with cooking or barbecuing. The impacts of such odors on the livability of nearby residences, therefore, will generally be no different than if there were only a long-term resident at the house and no ASTR.

With the noted House Rules and conditions of approval discussed above, this criterion is met.

With conditions of approval, 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 following findings were provided by Portland Bureau of Transportation staff:

“The City’s Transportation System Plan (TSP) classifies both NE Cleveland as a Local Service for all modes, which is improved with a 24-ft paved roadway within a 60-ft Right-of-Way (ROW), in which the pedestrian corridor is improved to a 11-6-1 configuration, exceeding City standards. 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.”

Criterion met.

2. Transportation system:

- a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, 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: The following findings were provided by Portland Bureau of Transportation staff:

“To estimate 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 code #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 4-unit short term is estimated to generate 14 daily trips, including two weekday morning and two evening trips, in addition to the existing single-family use. Under the maximum rental scenario, the small increase of 14 trips will not pose a significant increase in traffic volumes.

“Street Capacity/Level of Service: To address the street capacity and Level of Service (LOS) evaluation factors, the applicant’s traffic engineer conducted traffic observations at the intersections of NE Rosa Parks Way and NE Cleveland, N Williams and NE Highland, N Williams and NE Holman, and NE Ainsworth and NE Cleveland during the morning and evening peak periods of Thursday, December 12, 2019 from 7:00 am to 8:15 am and 4:00 pm to 5:00 pm. All the intersections were observed operating at an LOS of B or better. Therefore, the existing intersections are capable of handling the nominal increase in traffic and will not negatively affect City of Portland’s operational standards.

Safety for All Modes: For vehicle safety, the applicant’s traffic engineer evaluated safety for all modes in conjunction with the proposed ASTR use, utilizing Oregon Department of Transportation’s (ODOT) Crash Analysis and Reporting data for the most recent five years (January 2013 to December 2017). At the NE Rosa Parks Way and NE Cleveland, only one rear-end collision had been reported. At the intersections of N Williams at both Highland and Holman, no crashes had been reported during the analysis period. At NE Ainsworth and NE Cleveland, three crashes had been reported, all which are angle crashes with property damage only. Therefore, no significant safety hazards were identified at either of the study intersections. Additionally, no design deficiencies which would impact the safety of the area roadways were noted based upon field observations. In addition, the applicant’s findings propose a single-party rental, rather than individual rentals for each proposed room, therefore the estimated trips is projected to be less than the projected maximum.

For bicycle safety, the site is close to three identified bicycle routes, NE Rosa Parks which has a protected bike facility in both directions; NE Ainsworth is a shared roadway west of MLK Jr. Blvd; and N Williams and NE Holman which are Neighborhood Greenways which are low-volume neighborhood street which is designed to provide a safe and comfortable traveling environment for cyclists. It should be noted that a few of the intersections with MLK Jr. Blvd is considered to be a difficult bicycle connection, which should be traversed with caution and utilize sidewalk or different routes is possible. For pedestrians, the sidewalk network is complete in the study area with marked crosswalks placed at the highly classified streets in the area. For those intersections which do not provide marked crossings, the streets serve low-volume neighborhood streets. For transit use, the complete sidewalk network allows for safe travel to and from the nearby transit stops. Therefore, the proposed use will have no significant safety concerns for any mode.

Transit Availability: The subject site is located near six bus lines - 4-Fessenden, 6-MLK Jr., 8-Jackson Park/NE 15th Ave, 44-Capitol Hwy/Mocks Crest, 72-Killingsworth/82nd, and 75-Cesar Chavez/Lombard - all of which are within half mile from the site and have complete sidewalks and adequate crossings between the site and transit stop. For bicycles, as noted above, the subject site is located close to five identified bicycle routes, NE Rosa Parks which has a protected bike facility in both directions; N Vancouver which has a stripped bike lane; NE Ainsworth is a shared roadway west of MLK Jr. Blvd; and N Williams and NE Holman which are Neighborhood Greenways which are low-volume neighborhood street which is designed to provide a safe and comfortable traveling environment for cyclists. The established pedestrian

network is complete in the area and allows for safe walking conditions for pedestrians to connect nearby bus stops or other areas of interest. Given the availability of a variety of multi-modal options in close proximity to the site, the applicant shall provide information regarding transit schedules, multi-modal information, bike rentals, maps, and car share options in order to mitigate the reliance on vehicle trips associated with the proposed use.

Connectivity: The subject site is located in a well-established typical grid network of ROW connections, which the system provides multiple routes to and from the site for all modes. 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. Zoning code 33.266.110 requires the existing single-family home to provide one on-site parking space, which is provided at the rear of the home accessed off NE Rodney [BDS Staff: The space is accessed off the alley], which is reserved for the long-term tenant of the site. Under the maximum rental scenario based upon ITE data, the proposed ASTR would generate three additional parking spaces, for a total demand of four parking spaces.

To determine the demand and availability of on-street parking in the vicinity of the site, the applicant's traffic engineer conducted observations within 1-2 blocks from the site, during the overnight period corresponding to the expected peak period for residential parking demand, beginning at 11:45 pm to 12:15 am, on Wednesday, December 11, 2019. Within the study area, the parking study estimated that there was an on-street parking supply of 161 spaces, in which 73 spaces were occupied at time of observation, which is an on-street parking occupancy rate of 45.3%. PBOT does not consider an area to be heavily parked until occupancy rates reach approximately 85%. Therefore, based upon the observational data, the expected on-street parking demand will increase by 2 vehicles, raising the occupancy rate by one percent to 47.2%. However, the applicant has proposed to limit rentals to a single party, therefore, the estimated trips are projected to be less than the projected maximum. Therefore, 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.

Access Restrictions: There are 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. 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".

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.”

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.

Finding: The Water Bureau and Fire Bureau have indicated, through their respective responses of “no concerns” with the proposal (Exhibits E.2), that they are capable of serving the proposed ASTR. The Police Bureau responded they have been and will continue to provide service to the site (Exhibit E.3). The response from the Bureau of Environmental Services (Exhibit E.1) indicates no objection to approval of this Conditional Use based on there being sanitary sewer service available via the public combined sewer within the site's frontage; and there being no BES requirement for additional stormwater disposal systems and this criterion will be met.

With conditions of approval, 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.

Finding: The subject site is within the boundaries of the Albina Community Plan area. The site is also in the Piedmont Neighborhood

Albina Community Plan: The Albina Community Plan (adopted in 1993) covers thirteen neighborhood areas of North and Northeast Portland, and a diverse range of issues. A central aim of the plan is to “. . . combat the loss of employment base, disinvestment and dilapidation in the Albina area. A comprehensive district action plan provides a policy framework and long-term certainty to those that own property or that may wish to invest in Albina. A comprehensive plan also recognizes the interrelationship between land use, transportation, environmental, educational, public safety, social and family issues and how each must be addressed in order for others to succeed.”

The findings below focus on only those aspects of the Plan that relate to the proposal. For example, neighborhood livability policies seek to reduce impacts of the I-5 freeway. Because the freeway is a significant distance from the site, policies related to this issue are not examined.

Policy Area I: Land Use

Policy A: General Land Use: Encourage residential, recreational, economic and institutional developments that reinforce Plan Area neighborhoods; increase the attractiveness of Albina to residents, institutions, businesses and visitors; and create a land use pattern that will reduce dependence on the automobile.

Policy B: Livable Neighborhoods: Protect and improve the livability of the residential neighborhoods within the Albina Community.

The proposal meets these two policies as it preserves an existing household living use on the property and expands on that use by providing short-term accommodation to visitors.

Criterion met.

PLANS AND POLICIES

Oregon Statewide Planning Goals

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

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. This application was submitted on February 20, 2020 and determined to be complete March 11, 2020.

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. There are opportunities for the public to testify at a local hearing on land use proposals for Type II land use decisions if appealed. For this application, a written 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 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 earlier in the findings that respond to the relevant approval criteria contained in the Portland Zoning Code, 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 for Goals 3 and 4: 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. The Bureau of Environmental Services reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application, as mentioned earlier in this report. 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 approval of this application will enable further investment in the City's existing housing stock by requiring the retention of a living unit for a long-term tenant, 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 existing public services are adequate to serve the proposal, as discussed earlier in this report.

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 the Portland Bureau of Transportation (PBOT). As discussed earlier in this report, PBOT evaluated this proposal and found the proposal to be consistent with the street designations of the TSP, and also that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area using as evaluation factors street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management (TDM) strategies. A condition of approval will require implementation of TDM measures. Therefore, with the condition of approval, 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 will also implement energy efficiency requirements for the building itself, 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.

The Statewide Planning Goals are 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 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 existing house on its own lot in which the ASTR is proposed is a single-dwelling residential structure that is compatible in appearance and scale with the surrounding residential neighborhood. There is one other non-residential use within the defined ‘residential area’ so the addition of a Type B ASTR will not materially alter the residential area or lessen the appearance of it. There are other ASTRs, Type A’s, within the defined area of this proposed ASTR. These ASTRs also maintain a residential appearance which will not change with the addition of this ASTR. Where there may be potential impacts on the surrounding residential area due to noise, late-night operations, and litter, the residential character of the area can be maintained through conditions of approval implementing the House Rules to establish and require conformance with the City’s noise ordinance, and to provide for disposition of trash and recyclable materials. City services for police, fire, water, and sanitary sewer and stormwater drainage are available and capable of serving the site. The transportation analysis provided by the applicant and reviewed by PBOT demonstrates that the proposal is consistent with the classifications of streets, and that the transportation system is capable of serving the proposed use, including consideration of the impacts of the use on the supply of on-street parking.

ADMINISTRATIVE DECISION

Conditional Use approval of a 4-bedroom Type B Accessory Short-Term Rental facility in the existing home at 6345 NE Cleveland Avenue, with the basement bedroom occupied by a long-term resident for at least 270 days during each calendar year. Approval is per Exhibits C.1 and C.2, and subject to the following conditions:

- A) Prior to the start of operation of the Type B ASTR, the 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 all bedrooms in the house that will be used as ASTR rentals.
 2. Provide residents of residentially used properties adjacent to the site (including across NE Cleveland and across the alley) with phone contact information for the long-term resident, operator, and property owner. 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. Rental of the ASTR shall be limited to a single group at a time. Renting of individual rooms to unrelated/unassociated individuals shall not be permitted
 2. Use of exterior areas after 9:00 PM on weeknights and 10:00 PM on weekends are prohibited. Additionally, the ASTR may not create noise impacts in violation of Portland City Title 18 Noise Control, which prohibits the following:
 - a. Operating or permitting the use of operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
 - b. Operating or permitting the operating or use of any such device between the hours of 10 PM and 7 AM to be plainly audible within any dwelling unit which is not the source of the sound (the operator may impose a more restrictive time frame).
 3. Commercial, meetings and events are prohibited. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation.
 4. The ASTR operator must amend the House Rules to include the conditions in B1-B3, above. The amended House Rules must be included in all advertisements for the ASTR facility.
 5. 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 is displayed prominently within a common area of the house.
 6. All advertisements for the ASTR, including on-line rental sites, shall display prominently in the title of the advertisement the maximum number of bedrooms (four) and the maximum number of people (eight) allowed per nightly rental.
 7. Confirmation data from the authorized rental organization (such as Airbnb and VRBO or similar platforms) 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.
 8. 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.

9. On an annual basis, the ASTR operator must provide residents of properties identified in Condition of Approval A.2 with phone contact information for the long-term resident, operator, and the property owner. 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.
10. Information regarding transit schedules, multi-modal information and maps, and bike and car share options shall be placed in a prominent common area of the house.

Staff Planner: Don Kienholz

Decision rendered by:  **on May 8, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 15, 2020

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 February 12, 2020, and was determined to be complete on March 11, 2020.

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 February 12, 2020.

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: July 9, 2020.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on May 29, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to BDSLUSTeamTech@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and Ix decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

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 **May 29, 2020** 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:

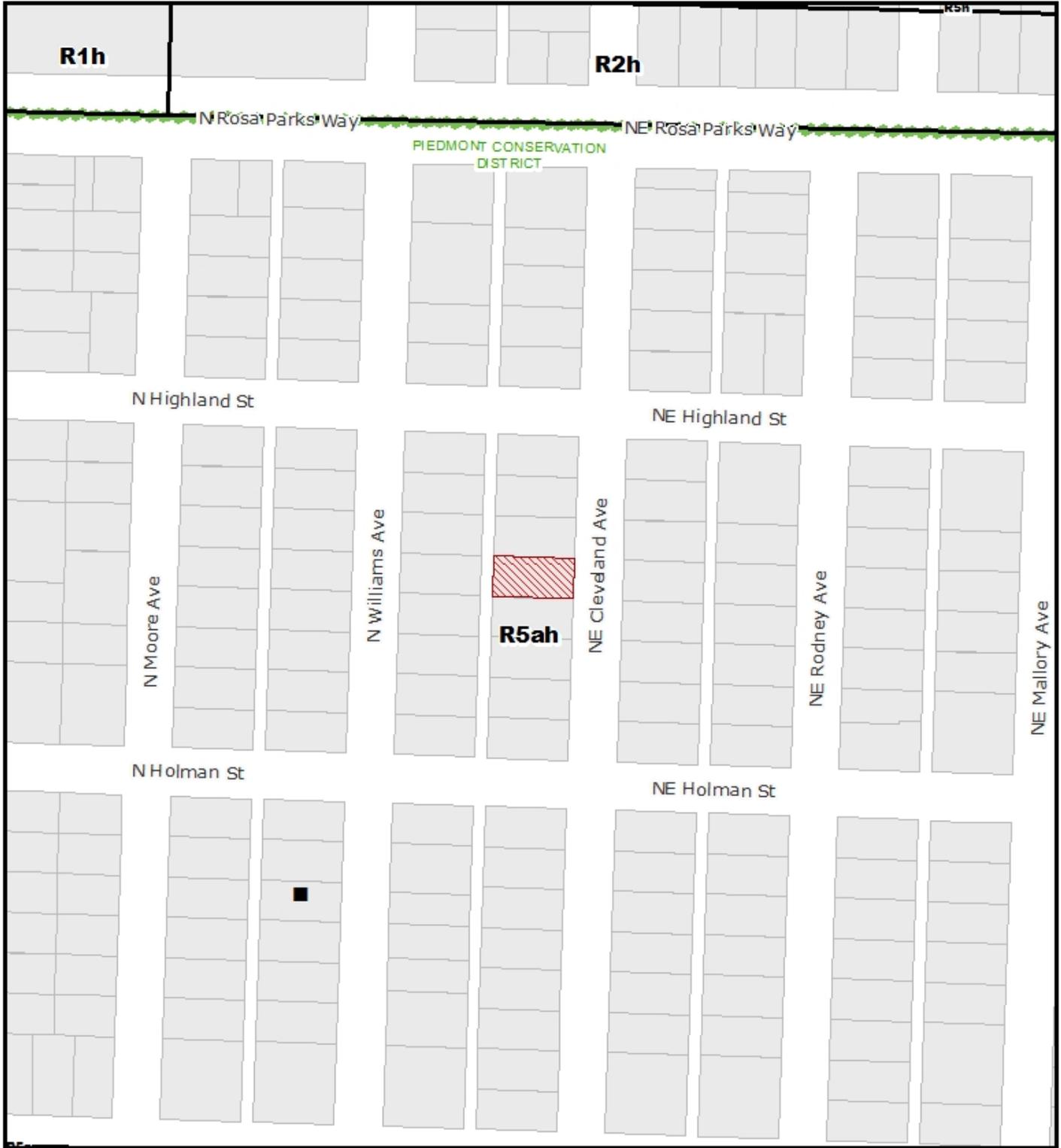
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 - 1. Site Plan (Attached)
 - 2. Floor Plans (Attached)
- D. Notification information:
 - 1. Mailing List
 - 2. Mailed Notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Section of BDS, Life Safety, Fire Bureau and Water Bureaus, and Urban Forestry
 - 3. Police Bureau
 - 4. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
 - 1. David Sword, March 23, 2020, e-mail in support of proposal
- G. Other:
 - 1. Original LU Application
 - 2. Copy of Fee Payment Receipt
 - 3. February 27, 2020 Incomplete Letter

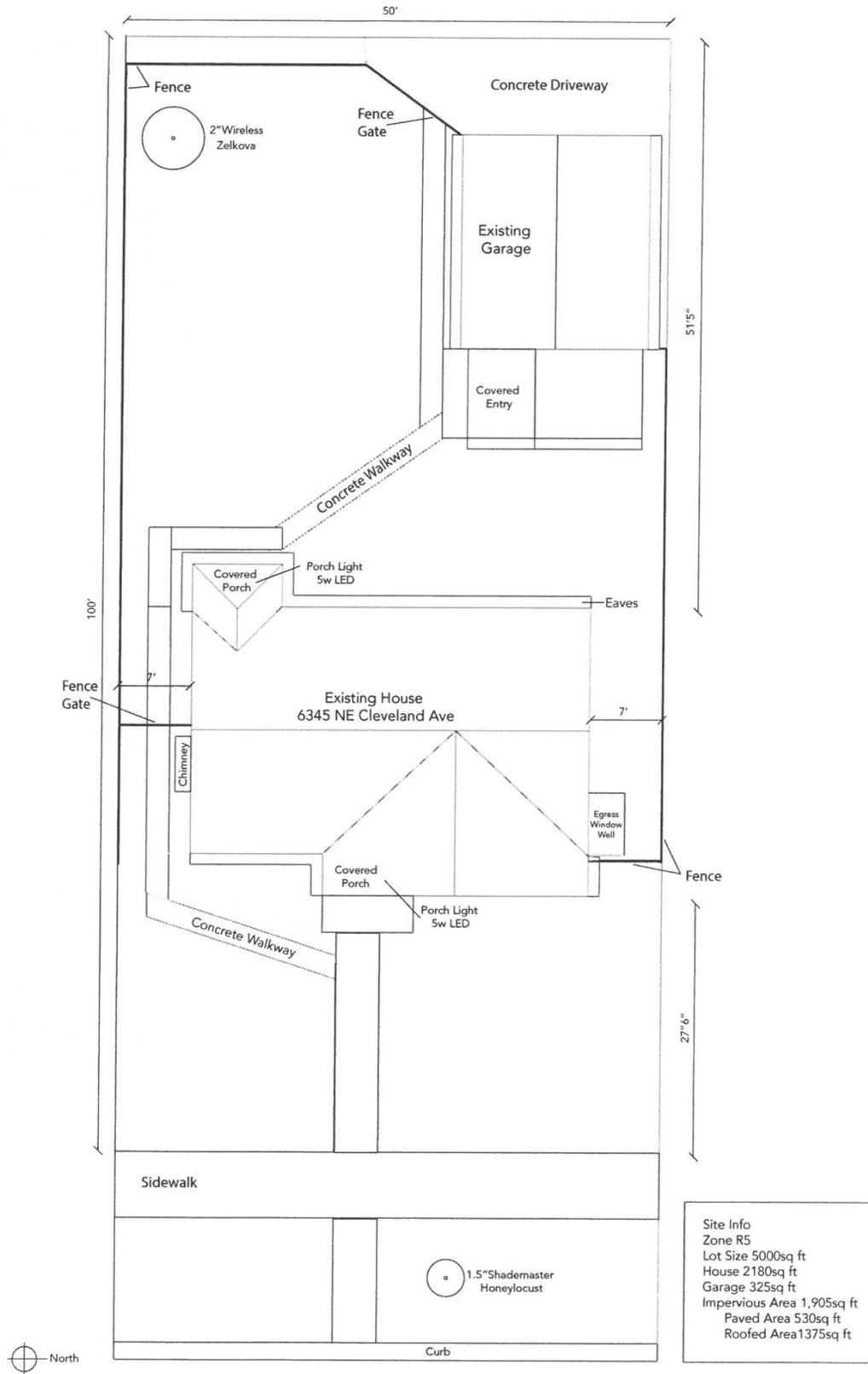
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 NORTH
 PIEDMONT CONSERVATION DISTRICT

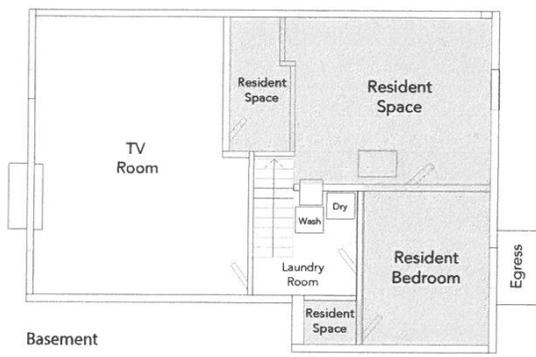
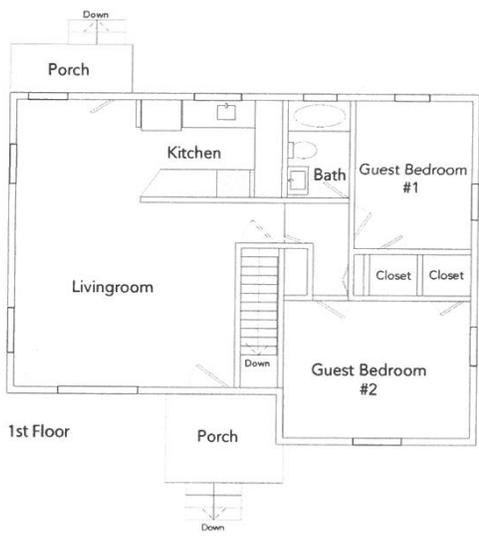
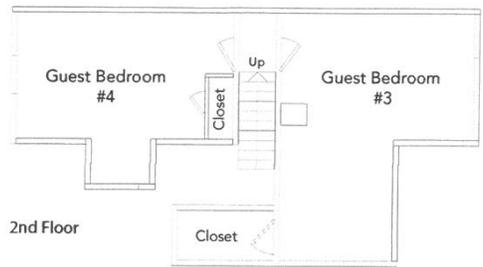
-  Site
-  Historic Landmark

File No.	LU 20 - 118012 CU
1/4 Section	2430
Scale	1 inch = 163 feet
State ID	1N1E15DA 5700
Exhibit	B Feb 19, 2020



6345 NE Cleveland Ave Site Plan
 Existing Conditions Drawings for Type B Accessory Short Term Rental
 Scale 1/4"=1'
 1 of 1

LU 20-118012 CU



6345 NE Cleveland Ave
 Existing Conditions Drawings for Type B Accessory Short Term Rental
 Scale 1/4"=1'
 1 of 1

LU 20-118012 CU