



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

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Date: April 7, 2021
To: Interested Person
From: Andrew Gulizia, 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 with conditions** 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 21-016680 CU

GENERAL INFORMATION

Applicant: Alexander Trethewy
7138 N Knowles Ave | Portland, OR 97217

Owner: Alexander Trethewy and Renee Trethewy
8309 N Hurst Ave | Portland, OR 97203

Site Address: 8309 N Hurst Ave.

Legal Description: BLOCK 138 LOT 10&11, UNIVERSITY PK
Tax Account No.: R851321550
State ID No.: 1N1E08DB 02500
Quarter Section: 2226
Neighborhood: Portsmouth, contact at pmlandusechair@gmail.com
Business District: University Park Business District, contact at <https://www.facebook.com/UPBizDist/>

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877

Zoning: R2.5 – Single-Dwelling Residential 2,500
Case Type: CU – Conditional Use Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer

Proposal: The applicant requests Conditional Use Review approval to operate a Type B accessory short-term rental (ASTR) facility in the existing 4-bedroom house on this site. No exterior alterations to the house are proposed. The full-time resident of the house (a long-term tenant) will help manage the ASTR operation. The applicant proposes to rent up to 3 bedrooms to ASTR guests to start, and up to 4 bedrooms once a planned 5th bedroom for the long-term resident is constructed in the basement. No commercial events are proposed, and the proposed house rules require quiet hours between 10 pm and 8 am.

Relevant Approval Criteria: 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.A-E.

ANALYSIS

Site and Vicinity: The subject site is a 5,000-square-foot lot on the west side of N Hurst Avenue, between N Kilpatrick Street and N Willis Boulevard. The subject site is developed with a 2-story, 2,002-square-foot, 4-bedroom house that was constructed in 1900. The property has no garage, but a 9-foot-wide, paved driveway provides an off-street parking space. Neighboring properties are developed with 1-story and 2-story houses. North Lombard Street is 4 blocks to the south.

Zoning: The R5 single-dwelling residential zone is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Type B ASTR facilities are allowed in the R5 zone when approved through Conditional Use Review.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was sent March 11, 2021. The following Bureaus responded:

- The Bureau of Environmental Services (BES) stated that “BES does not object to the request for Conditional Use approval of the Type B accessory short-term rental (ASTR) facility.” (Exhibit E-1)
- The Portland Bureau of Transportation (PBOT) responded with findings for the transportation-related approval criteria. Details of this response are included below under “Zoning Code Approval Criteria.” (Exhibit E-2)
- The Water Bureau responded with no concerns. (Exhibit E-3)
- The Fire Bureau responded with no concerns. (Exhibit E-4)
- The Police Bureau responded that police services are adequate for the proposed use. (Exhibit E-5)
- The Site Development Review Section of the Bureau of Development Services (BDS) responded with no concerns. (Exhibit E-6)
- The Life Safety Review Section of BDS responded with no objections to approval. (Exhibit E-7)
- The Urban Forestry Division of the Parks Bureau responded with no concerns. (Exhibit E-8)

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors.

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 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.

Findings: The proposal will not technically create a new non-Household Living (non-residential) use in the residential area, since ASTR facilities are classified as accessory to Household Living use (Zoning Code Section 33.920.110.B). However, because the characteristics of a Type B ASTR may be different from a typical residential use, the proposed ASTR will be considered a non-Household Living use for purposes of this approval criterion.

For purposes of this criterion, staff considers the “residential area” to be residentially zoned lots within a 400-foot radius of the subject site. Within this residential area, there are no non-residential uses and no other Type B ASTRs. Type A ASTRs have been approved for 3 lots within this residential area (at 4136 N Willis Blvd., 4120 N Willis Blvd., and 8249 N Chautauqua Blvd.), but this is a small percentage of all lots in the area. Also, since Type A ASTRs are limited to 2 rental bedrooms, they have lower impacts and operational characteristics that are little different from typical residential uses.

No exterior alterations are proposed to the existing house on this site. The full-time resident of the site will use the main floor bedroom, with the 3 bedrooms upstairs available for short-term rentals (Exhibits A-1 and A-2). The applicant intends to construct a 5th bedroom in the basement for the full-time resident, and requests approval for the main floor bedroom (for a total of up to 4 bedrooms in the house) to be approved for short-term rentals if that occurs.

For the intensity and scale of the applicant’s proposal to be reasonably evaluated within this current review, staff finds a condition of approval is warranted to require construction of the basement bedroom to be complete within 3 years of the date of this approval in order for all 4 existing bedrooms in the house to be used for short-term rentals. If construction of the basement bedroom is not completed within 3 years of the date of this approval, another Conditional Use Review would be required to expand the ASTR use beyond the 3 upper floor bedrooms.

In addition, to prevent the intensity and scale of the ASTR use from significantly impacting the residential character of the area, staff finds a condition of approval is warranted to limit the maximum number of ASTR guests to 6 while 3 bedrooms are used for short-term rentals (the equivalent of 2 persons per bedroom) and to 8 if 4 bedrooms can be used for short-term rentals. A condition of approval will require that all advertisements for the ASTR must display prominently in the title of the advertisement the maximum number of bedrooms and the maximum number of people allowed per nightly rental. To ensure over

time that requirements for the numbers of guests are enforced, a condition of approval will require the applicant to provide confirmation data from the rental organization to the City upon request.

Additionally, consistent with standards for ASTRs in single-dwelling residential zones, a condition of approval will prohibit commercial meetings at the ASTR facility. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.

As there are no exterior alterations proposed to the existing house on this site, staff finds the ASTR facility will not noticeably impact the residential appearance of the area. With the conditions of approval mentioned above, staff finds the intensity and scale of the ASTR use will not significantly lessen the residential function of the area. Therefore, with the conditions of approval, 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.” The zoning maps show no City-designated scenic resource on or near this site. Therefore, criterion B.1 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
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 surrounding residential area has varying house sizes and building styles, but the subject site is compatible with neighboring properties in terms of site size, building scale and style, building setbacks, and landscaping. The ASTR use will take place inside the existing house on the site, and no exterior changes to the house or property are proposed, even if a basement bedroom is constructed.

Since the proposed Conditional Use will not create any differences in appearance or scale between the subject site and neighboring residential properties, staff finds criterion B.2, above, is met. (Since B.2 is found to be met, B.3 does not have to be addressed.)

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: The proposed house rules include quiet hours between 10 pm and 8 am daily (Exhibit A-4). These quiet hours will comply with the requirements of Title 18 (Noise Control), and a condition of approval will prohibit noise impacts that violate Title 18. Another condition of approval will require the house rules to be posted within the house and on any website in which the ASTR is advertised. To help prevent noise or other livability impacts, another condition of approval will require the applicant to provide a telephone number and e-mail address of the full-time resident (who must occupy the property at least 270 days each year, per Zoning Code Section 33.207.050.A.1) to the immediate neighbors at least once each calendar year. Notification to the following properties will be required:

- 8314 N Foss Avenue
- 8308 N Foss Avenue

- 8321 N Hurst Avenue
- 8301 N Hurst Avenue
- 8312 N Hurst Avenue
- 8300 N Hurst Avenue

The property has no exterior lighting that is not typical for a residential use, and no new exterior lighting is proposed for the ASTR. The applicant states that garbage and recycling collection and yard maintenance will be professionally managed (Exhibit A-1, page 7). No aspect of the short-term rental operation is likely to produce glare, litter or odor impacts that are different from a typical residential use or that would adversely impact neighbors.

For these reasons, and with the conditions of approval mentioned above, staff finds there will be no significant adverse impacts related to noise, glare from lights, late-night operations, odors, or litter. With the conditions of approval, criterion C.1 is met.

2. Privacy and safety issues.

Findings: The bedrooms proposed for ASTR rentals are inside the existing house on the site, and guests' use of these bedrooms will not have unusual or significant impacts on neighbors' privacy. The property has a back yard with an uncovered porch and a covered gathering area that may be used by guests for socializing or recreation (Exhibits C-1 and A-6). However, the back yard is fully enclosed by a solid wood fence that is 6 feet or taller in height, and this existing fencing will limit impacts on neighbors' privacy. To limit privacy impacts in the future, staff finds a condition of approval is warranted to require sight-obscuring fencing around the back yard to be continuously maintained.

No adverse safety impacts are anticipated. The Fire Bureau reviewed the proposal and responded with no concerns (Exhibit E-4). The Police Bureau reviewed the proposal and found that police services are adequate for the ASTR use (Exhibit E-5). PBOT reviewed the proposal for adverse safety impacts on nearby streets and found none (Exhibit E-2).

To further ensure safety, staff finds a condition of approval is warranted for an inspection verifying the building code, smoke detector, and carbon monoxide alarm requirements in Zoning Code Section 33.207.050.B.4 are met for all bedrooms to be used for short-term rentals.

For these reasons, and with the conditions of approval mentioned above, criterion C.2 is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
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: PBOT reviewed the proposal and submitted the following response (Exhibit E-2):

To address the transportation approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Melissa Webb, PE of Lancaster Mobley [Exhibit A-7]. The TIS was reviewed and accepted by PBOT Development Review Traffic Engineer Rachel Bolton (21-024619-TR). PBOT Development Review staff agrees with the methodologies, analyses, assumptions, findings and conclusions to confirm that the transportation-related approval criteria are satisfied subject to the recommended conditions of approval.

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 used. Data for land use #320, Motel, was 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.

The subject site contains a 4-bedroom house. The applicant proposes to rent up to 3 bedrooms to ASTR guests to start, and 4 bedrooms once a planned accessory dwelling unit (ADU) for the long-term resident is constructed in the basement. The ASTR bedrooms would be rented as a group to a single family or group travelling together, rather than each bedroom being rented to a separate party. No commercial events are proposed. The submitted traffic and parking study took the more conservative approach of analyzing this proposal as using the site as both a single family dwelling and 4-unit motel concurrently.

The proposed dwelling plus ASTR is estimated to generate approximately 3 trips during both the morning and evening peak hours, with 24 trips total each weekday based upon the maximum rental scenario. This represents an increase in trips over a single-family dwelling which would generate 1-peak hour daily trip, and approximately 10 total trips each weekday. It should be noted that based on the submitted data, most trips associated the proposed ASTR will likely not occur during the AM/PM peak hours.

To address the street capacity and Level of Service (LOS) evaluation factors, the applicant's traffic engineer analyzed existing trip data and conducted observations during the morning and evening peak hours on Thursday, Nov. 12, 2020 at the following intersections:

- N Willis Blvd. at N. Hurst Ave.
- N Willis Blvd. at N. Chautauqua Blvd.
- N Kilpatrick St. at N. Hurst Ave.
- N Kilpatrick St. and N. Chautauqua Blvd.

This analysis determined all intersections are operating at Level of Service A during peak hours. As noted on page 9 of the applicant's TIS, "Based on the minimal volumes of additional weekday morning and evening peak hour trips expected to be added to the transportation system following implementation of the short-term rental, the study intersections are projected to continue operating acceptably in the future either with or

without the additional site trips. There is adequate street capacity and Level of Service at area intersections to serve the additional use.

Safety for All Modes: *The applicant's traffic engineer provided an analysis of safety based on Oregon Department of Transportation (ODOT) Crash Data System for the most recent 5-year period for which data has been finalized. This analysis evaluated the same four intersections as the Street Capacity/Level of Service evaluation. Of these four intersections, the intersection of N Willis Blvd and N Chautauqua Blvd. has a concerning number of crashes. This intersection had 10 reported crashes during the analysis period. The applicant's traffic engineer calculated a crash rate at this intersection. As noted on page 6 of the submitted TIS, "Crash rates in excess of 1.00 crashes per million entering vehicles (CMEV) may be indicative of design deficiencies and therefore require a need for further investigation and possible mitigation. Based on the number of crashes and the number of entering vehicles, a crash rate of 0.67 CMEV was calculated for the intersection."*

Staff concurs with the applicant's analysis. No significant safety hazards were identified at the study intersections.

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 is approximately 140-feet from the intersection of two streets. The City's goal is through streets every 530-feet. Additional through connections are not desirable at this location.*

Transit Availability: *Transit connections are available within a reasonable 1-block walking distance northeast of the site with bus stops for TriMet Service Route #35 at the intersection of N. Willis Blvd. and N. Chautauqua Blvd. The #35 provides service 7-days a week. It connects westward to the University of Portland and southward to all of the major area collectors and to the Rose Quarter Transit Center, downtown, the south waterfront, and on to Oregon City. Additionally, TriMet Service Route #75 is a frequent service transit line available on N. Lombard St. approximately 3-blocks south of the site. Frequent service bus lines come at intervals of 15-minutes or less most of the day, every day. The #75 travels westward to Roosevelt High School and Pier Park. It travels eastward to the Lombard Transit Center then on to 42nd Ave where it turns south proceeding to the Hollywood Transit Center and the Milwaukie City Center. The site is well served by transit.*

On-Street Parking Impacts: *The parking demand generated from the proposed development was estimated using parking demand rates from Parking Generation, 10th Edition, published by the Institute of Transportation Engineers (ITE). The data used 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. The estimated additional parking demand from the proposed ASTR is 3 vehicles. The submitted TIS assumes all parking demand from the proposed ASTR will be accommodated on-street.*

To determine the demand and availability of on-street parking near the site, the applicant's traffic engineer conducted observations during the overnight period corresponding to the expected peak period for residential parking demand in the site vicinity. The observations were conducted beginning at 11:00 PM on Wednesday, Nov. 11, 2020. Observations were conducted on the following segments:

- *N Willis Blvd (N Foss Ave. to N. Chautauqua Blvd.)*
- *N Kilpatrick St. (N Foss Ave. to N. Chautauqua Blvd.)*
- *N Foss Ave. (N Willis Blvd. and N Kilpatrick St.)*
- *N Hurst Ave. (N Willis Blvd. and N Kilpatrick St.)*
- *N Chautauqua Blvd. (N Willis Blvd. and N Kilpatrick St.)*

Within the study area, the parking study estimated there was an on-street parking capacity of 168 parking stalls, of which 56 were occupied at time of observation. Therefore, the estimated on-street parking occupancy was observed at 33.3%. If we add the potential demand for an additional 3 on-street parking spaces to the observed occupancy, you arrive at on-street parking occupancy of 35.1%. PBOT does not consider an area to be heavily parked until occupancy rates reach approximately 85%. Based on the observations and analysis, the available on-street parking in the site vicinity is amply available to safely support the proposed use in addition to the existing uses in the site vicinity.

Access Restrictions: *Staff concurs with the applicant's findings on page 14 of the TIS [Exhibit A-7] which read as follows:*

The proposed conditional use is not expected to generate significantly more vehicular traffic than the current use, nor will it generate heavy vehicle traffic. In addition, the proposed use will largely match the residential traffic characteristics of the surrounding vicinity, whereby travel patterns will not significantly alter from what is currently observable in the area. Accordingly, no additional access restrictions along any nearby vicinity roadways are necessary or recommended in conjunction with the proposed use.

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 to accommodate the use. Additionally, services for the ASTR, such as landscaping, regular maintenance, and/or cleaning will be consistent with a typical single-family home. The minimal number of vehicle trips that will be added during the peak hours as a result of this use will not have a significant impact area intersections. Transportation related impacts as a result of the proposed ASTR will be negligible.*

Adequate Transportation Demand Management Strategies: *Transportation Demand Management (TDM) strategies are actions designed to change travel behavior in order to reduce the use of single-occupant vehicles to the site and, in turn, improve the performance of transportation facilities. The applicant has proposed several strategies to mitigate demand on the surrounding transportation system. Beginning on the bottom of page 1, the submitted narrative [Exhibit A-1] states the following:*

Guest will be encouraged to use ride sharing services such as Uber or Lyft, taxi services, and public transportation services. Guests will be provided with active transportation maps, transit access, information on bike-sharing, and guidebooks and local restaurant menus to encourage guests to explore the city on foot, by bicycle, or through public transportation and ride-share services.

In conclusion, based on the evidence included in the record, 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 recommended conditions:*

- 1. Implement the Transportation Demand Management Strategies listed in the submitted narrative [Exhibit A-1, page 1, as cited above].*

Based on these findings from PBOT, and with the condition of approval recommended by PBOT for transportation demand management strategies, staff finds criteria D.1 and D.2 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 Water Bureau and the Fire Bureau reviewed the proposal and responded with no concerns (Exhibits E-3 and E-4, respectively). The Portland Police Bureau reviewed the proposal and responded that police services are adequate for the proposed use (Exhibit E-5). The Bureau of Environmental Services reviewed the application and found that existing sanitary waste disposal and stormwater disposal from the property are adequate for the proposal (Exhibit E-1). For these reasons, criterion D.3 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 located within the boundaries of the Portsmouth Neighborhood Plan, which was adopted by the City Council as part of the Comprehensive Plan. Staff finds the following policies from the Portsmouth Neighborhood Plan to be relevant:

- *Policy 3 (Public Safety): Create a secure and comfortable neighborhood where people feel safe in their homes, on the neighborhood's streets and in its parks and schools. Develop a proactive partnership between Portsmouth residents, the Police Bureau and other agencies to help maintain a safe neighborhood.*
- *Policy 4A (Neighborhood Livability, Environmental Health): Promote the public safety and environmental health of the community. Explore mitigation measures when land uses adversely impact the livability of the Portsmouth neighborhood.*
- *Policy 4B (Neighborhood Livability, Neighborhood Appearance): Improve Portsmouth neighborhood's appearance by maintaining property, keeping the neighborhood clean, and planting more green and landscaped areas. Encourage new development to be compatible with the existing character of the neighborhood.*
- *Policy 6B (Business Growth and Development, Residential Neighborhoods): Protect residential neighborhoods from adverse impacts of commercial uses. Promote home-based businesses in the neighborhood. Provide opportunities for retail and start-up businesses in Columbia Villa.*
- *Policy 7 (Transportation): Create a safe environment in which to walk, cycle, ride public transit, and drive. Protect neighborhood livability and the viability of commercial areas when making transportation improvements. Strive to ensure accessibility throughout the neighborhood and encourage people to use nonmotorized modes of transportation.*
- *Policy 8 (Housing): Strengthen the residential base of the Portsmouth neighborhood by preserving viable existing housing and constructing new housing which is responsive to the needs of present and future generations of households. As property values rise, ensure that there continues to be affordable housing in the neighborhood.*

As discussed in the findings for approval criterion C, no adverse safety impacts are anticipated, and the Police Bureau reviewed the proposal and responded with no objections (Exhibit E-5). The new ASTR use will take place primarily inside the existing house on the site, and although guests may use the yard, a condition of approval will require existing, sight-obscuring fencing around the rear yard to be maintained to preserve neighbors' privacy. Additionally, quiet hours will be enforced to minimize late night impacts, and the ASTR facility will be required to conform to the City's Title 18 Noise Control Ordinance.

The house and yard on the subject property appear well-maintained, and the ASTR rentals (a home-based business) will encourage and provide revenue for continuing maintenance

and investment in the property. At the same time, since a full-time resident is required by Zoning Code Section 33.207.050.A.1, the proposal does not remove the house from the neighborhood's housing stock, and is likely to provide relatively affordable housing for the property's full-time resident.

As discussed in the findings for approval criterion D, PBOT found the transportation system is adequate to support the proposed ASTR use (Exhibit E-2), and a condition of approval will require the ASTR operator to encourage alternative modes of transportation.

For these reasons, and with the condition of approval mentioned above, staff finds the proposal is consistent with the Portsmouth Neighborhood Plan. Approval criterion E 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 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 within the existing house on this site. Staff finds that with conditions of approval, the proposal will maintain the residential appearance and function of the area, maintain physical compatibility, and limit livability impacts on neighbors. Public services are available to serve the proposal, and a condition of approval will require transportation demand management measures to limit on-street parking impacts. The proposal is also consistent with relevant statements from the Portsmouth Neighborhood Plan. With conditions of approval, the proposal meets the applicable approval criteria and therefore must be approved.

ADMINISTRATIVE DECISION

Approval for Type B accessory short-term rentals (ASTR) within the existing house on this site, subject to the following conditions:

- A. A full-time resident who occupies the site at least 270 days each year (per Zoning Code Section 33.207.050.A.1) is always required for ASTR use to occur. While the full-time resident lives in the existing main floor bedroom, ASTR rentals are limited to the 3 upper floor bedrooms. If construction of a 5th bedroom in the basement is completed within 3 years of the date of this approval, then 4 bedrooms may be rented to ASTR guests upon approval of the fee-paid inspection for the 4th bedroom described in Condition B, below. If construction of the basement bedroom is not completed within 3 years of the date of this approval, another Conditional Use Review would be required for any expansion of the ASTR use from 3 bedrooms to 4 bedrooms.
- B. Before the ASTR facility can operate, the applicant must obtain approval of a fee paid inspection from BDS to confirm that the building code, smoke detector, and carbon monoxide alarm requirements of Zoning Code Section 33.207.050.B.4 are met for each bedroom to be rented to ASTR guests.
- C. No more than 2 ASTR guests per bedroom (regardless of age) are allowed.
- D. All advertisements for the ASTR must display prominently in the title of the advertisement the maximum number of bedrooms rented to ASTR guests (3 or 4, pursuant to condition of approval A, above) and the maximum number of ASTR guests allowed per bedroom (2).

- E. The “house rules” in Exhibit A-4 must be posted in a visible location in the rental and posted on any website on which the ASTR is advertised.
- F. 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.
- G. A fully sight-obscuring wood fence at least 6 feet in height must be continuously maintained along the side and rear lot lines behind the front building line of the house.
- H. The ASTR facility may not create noise impacts in violation of 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 use or operation of any such device between the hours of 10pm and 7am to be plainly audible within any dwelling unit which is not the source of the sound.
- I. At least once each calendar year, the applicant or operator of the ASTR must provide a telephone number and e-mail address for the full-time resident (who must reside on the site at least 270 days each year, per Zoning Code Section 33.207.050.A.1) to residents of the following neighboring properties:
- 8314 N Foss Avenue
 - 8308 N Foss Avenue
 - 8321 N Hurst Avenue
 - 8301 N Hurst Avenue
 - 8312 N Hurst Avenue
 - 8300 N Hurst Avenue
- J. The applicant or operator must maintain a guest log. The guest log must include the names and home addresses of guests, guests’ 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. Confirmation of this data from the authorized rental organization (such as Airbnb or VRBO) must also be provided to City staff upon request.
- K. In order to limit single-occupancy vehicle trips and on-street parking impacts, the ASTR operator must provide all ASTR guests with information on transit, ride sharing, and bike sharing services, biking and walking maps, and restaurants and attractions within walking distance.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on April 2, 2021**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 7, 2021

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 22, 2021 and was determined to be complete on March 9, 2021.

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 22, 2021.

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 7, 2021.**

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, 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 April 21, 2021.**

The completed appeal application form must be e-mailed to landuseintake@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 Office of Community & Civic Life recognized organizations for the appeal of Type II 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. Only digital copies of material in the file are available for viewing. 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 April 21, 2021* 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 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.

Applying for 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:

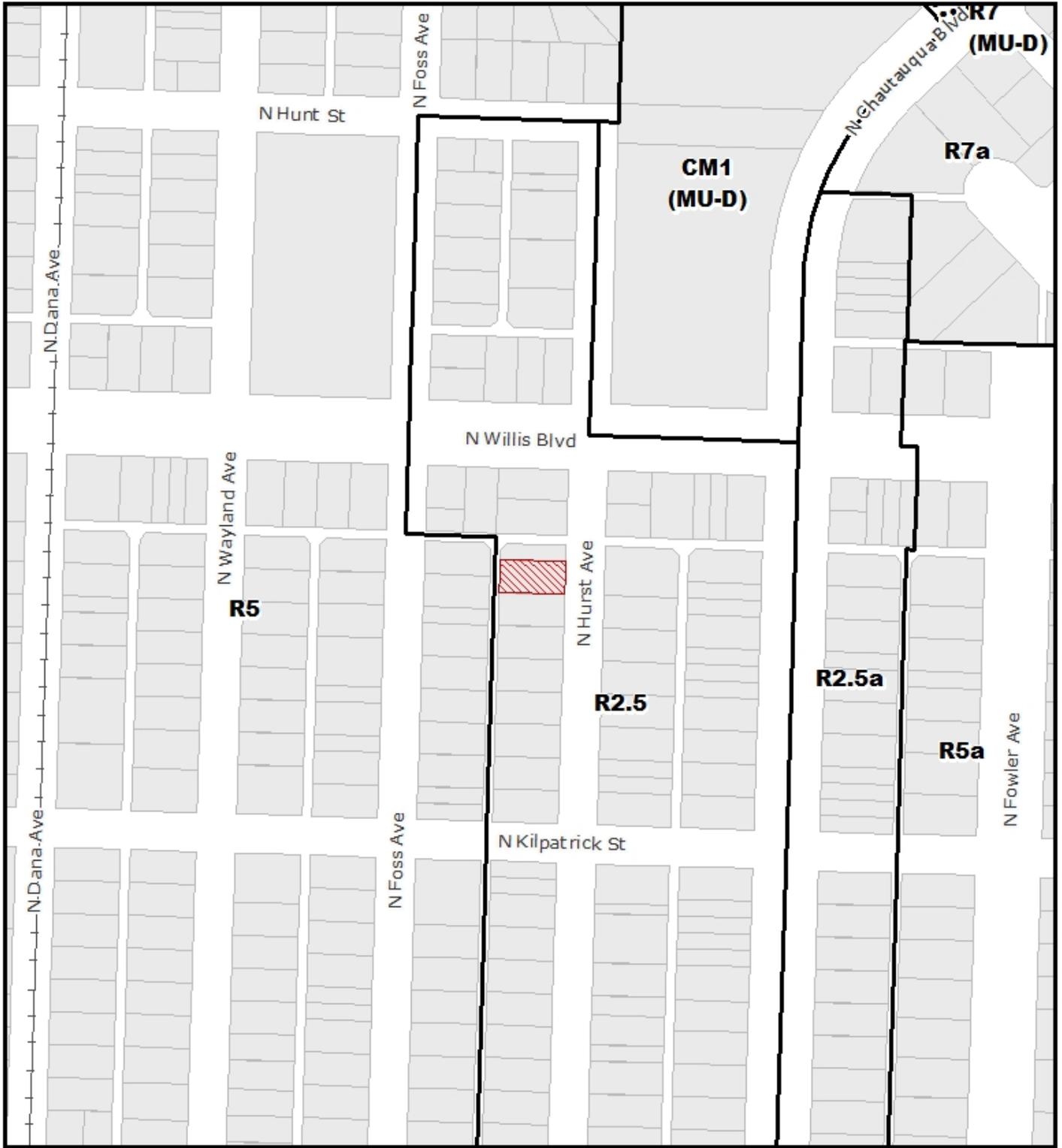
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Narrative
 2. Floor plans
 3. Front building elevation
 4. Guest log and house rules
 5. Proof of residency
 6. Photos
 7. Transportation study
 8. Site plan
- B. Zoning Map (attached)
- C. Plans/Drawings (none)
- D. Notification Information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Portland Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Police Bureau
 6. Site Development Review Section of BDS
 7. Life Safety Review Section of BDS
 8. Urban Forestry Division of the Parks Bureau
- F. Correspondence (none received)
- G. Other:
 1. Land use application form

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 21 - 016680 CU
1/4 Section	2226
Scale	1 inch = 200 feet
State ID	1N1E08DB 2500
Exhibit	B Feb 22, 2021