



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

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Date: May 4, 2021
To: Interested Person
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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 21-008934 CU

GENERAL INFORMATION

Applicant/Owner: Aisha Krieger
3115 SE 6th Ave
Portland, OR 97202

Owner: James Draper
3115 SE 6th Ave
Portland, OR 97202

Site Address: 3115 SE 6TH AVE

Legal Description: BLOCK 1 LOT 10 TL 6200, VILLA HTS
Tax Account No.: R865200270
State ID No.: 1S1E11BC 06200
Quarter Section: 3331

Neighborhood: Brooklyn Action Corps, contact Josh Hetrick at chair@brooklyn-neighborhood.org

Business District: Greater Brooklyn, contact at greaterbrooklynba@gmail.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313

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 is a full-time resident and caretaker who resides at the subject site, and requests Conditional Use approval to operate a 4-bedroom Type B Accessory Short Term Rental (ASTR) facility at this address. The house has 4 bedrooms total, including the resident's bedroom, and would have a maximum of four ASTR guest rooms that would be rented out to a maximum of 8 guests. The applicant would be occupying the dwelling unit for at least 270 days per calendar

year. No exterior alterations to the house are proposed. No outside employees, food or beverage service, or commercial events are proposed. Proposed house rules would require exterior quiet hours from 9 pm to 9 am.

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

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The 4,630 square foot site is located on the west side of SE 6th Avenue, about 30 feet south of the intersection of SE 6th Avenue and SE Kelly Street. The site slopes downward from west to east and is currently developed with a 2,192 square foot, 1.5-story house with a basement and a 280 square foot attached garage. Neighboring properties on SE 6th Avenue are developed primarily with 1.5-to-3-story single-dwelling houses with a few multi-dwelling buildings. One block to the north is SE Powell Blvd, which is a busy commercial corridor. One block to the west is SE Grand Avenue, a busy thoroughfare with a mix of Commercial, Employment, Industrial, and Residential zoned properties, and associated uses.

Zoning: The R2.5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. Type-A ASTRs (allowing the rental of up to two bedrooms for five short-term guests) are allowed outright in the single-dwelling zones. Type-B ASTRs (allowing up to 5 bedrooms for rental to short-term guests) are allowed in the R2.5 zone when the proposal meets the Conditional Use approval criteria and applicable standards.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 19, 2021**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under "Zoning Code Approval Criteria" (Exhibit E-1);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the requested Conditional Use review, but included information about building permit requirements (Exhibit E-2); and
- The Bureau of Environmental Services (BES) stated that they have no issues related to the public services approval criterion for stormwater and sanitary service. Based on this proposal, no changes are proposed to the existing building that would trigger BES stormwater requirements, though a safe stormwater disposal location that does not impact adjacent properties and/or structures must be shown at the time of building permit submittal (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- Urban Forestry;
- The Site Development Review Section of BDS;
- The Fire Bureau;
- The Water Bureau; and
- The Police Bureau.

Neighborhood Review: One written response (Exhibits F.1) was received from a neighboring property owner in opposition to the proposal. Concerns are summarized as follows:

- The applicant is not believed to reside at this location full time, but in another state.
- The house at this location has been used for short term, whole house rental for a few years and has impacted the parking situation negatively.
- The proposed quiet hours from 9 p.m. to 9 a.m. has not been the case with the rental. The seating area that fronts onto SE 6th is used regularly as party-central by the visitors in the nicer weather and continues past 11 p.m. This is a densely populated street with small children and noise after 9pm is noticeable. With the applicant not being in residence, we are left with the option of calling the police or confronting the offenders ourselves.
- Any survey of parking, traffic etc. that may have been conducted recently would not show the negative impact that historically we who live here have experienced in the pre-pandemic rental situation.

Applicant's Response: In response to the neighbor's comments above, the applicant notes that she has taken the following measures:

1. sent all current and future guests information that if they disregard my no parties policy, the police will be notified as well as Airbnb and their ratings will suffer;
2. installed cameras outside so if I am not home, I can monitor the situation and address it with the renters before it becomes a problem for the neighbors;
3. given clear parking instructions on parking including not parking in front or in driveways of neighbor's houses but to stay to in front of my house or on SE Kelly St where there are no addresses; and
4. made herself available to be contacted by phone if any issues arise (Exhibit A3).

Staff Response: Relevant parking concerns, quiet hour, and owner/applicant occupancy requirements are addressed in the Zoning Code Approval Criteria findings below.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

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

33.815.105 Institutional and Other Uses in R Zones

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

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

1. The number, size, and location of other uses not in the Household Living category in the residential area; and

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: For Criteria A.1 and A.2, the terms “area” and “residential area” are the same and are defined herein as an approximate distance of 600 feet from the site. This distance is reasonable as it considers all residentially-zoned properties within a few blocks of the site and expands on the 150-foot notification distance for this Type II land use review. Within the residentially-zoned portions of this area, all uses appear to be in the Household Living category. There is one ASTR (Type A) within the defined residential area. There are no other approved Type B ASTRs within this defined area.

Given that there are approximately 75 residentially zoned properties in this defined area, and this proposed Type-B ASTR makes up only approximately 1.3 percent of all the residential properties, the residential appearance and function of the area is thereby maintained.

The applicant is proposing a maximum of 8 guests (2 per bedroom in the 4 bedrooms); a condition of approval will limit the number of guests to 2 per bedroom, with a maximum of 4 bedrooms rented for ASTR purposes. Three of the rental bedrooms are proposed on the second floor (Exhibit C.1). The fourth bedroom is on the main floor and will be occupied by the owner at least 270 days per year; thus, a whole-house rental with 4 bedrooms and up to eight guests can only occur a maximum of 95 days per year; for the remaining 270 days, only a maximum of three bedrooms with six guests would be allowed. To further limit the intensity of the use, a condition of approval will require the ASTR to be rented to a single group at a time. This is intended to limit the potential number of vehicles coming to the site, and the number of parking spaces required.

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

For these reasons, and with conditions of approval to ensure that the four ASTR guest rooms be rented to a single party having a maximum of 2 guests per bedroom to limit the intensity of the use, staff finds this criterion is met.

B. Physical compatibility.

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

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

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

Findings: The 1.5-story house is in character with other houses in the area, which are comprised primarily of 1.5-to-3-story single-dwelling houses with a few multi-dwelling buildings in a variety of styles. The neighborhood is in an area with moderate topographical changes and a mix of slightly denser R2.5 (single-dwelling residential 2,500) sites and less dense R5 (single-dwelling residential 5,000) sites one block to the south. Lot sizes for these residential properties range from about 1,300 square feet to 87,086 square feet (the latter being an apartment complex) with the typical area being about 4,000 square feet. The site’s lot size (4,630 square feet) and front setbacks (about 15 feet from the front property line, but with a garage that is closer to the property line) are consistent with the R2.5 zoned sites in the

surrounding area. The proposed ASTR facility will operate inside the existing house, and no physical changes to the house or to the landscaping on the site are proposed with this application. This criterion is met.

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

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

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

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

Findings:

Late-night operations and noise

Commercial meetings (described in Zoning Code Section 33.207.050.B.8.a as events including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation) are not permitted per the proposed house rules (Exhibit A.2), which also require quiet hours between 9 pm and 9 am every day and that no ASTR guests be allowed during these quiet hours.

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

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

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

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

To further address noise and other neighborhood impact issues quickly and effectively, it is imperative that neighbors can readily contact a responsible party. A condition of approval is necessary that requires the property owner/ASTR Operator to provide the Brooklyn Neighborhood Association and residents of properties

adjacent to and across the street from the site with contact information for the long-term resident/onsite manager, the property owner, and (if applicable) the management company. This information must be provided annually by the ASTR Operator.

Lights, Odor, and Litter

No physical changes such as new exterior lighting are proposed. The proposed house rules (Exhibit A.2) must include instructions for dealing with guests' garbage that will help prevent litter. No aspect of the ASTR operation is likely to produce odors that are different from a standard residential use, or that would adversely impact neighbors.

Summary

With the above conditions regarding enforcement of house rules and rental agreement requirements, limitation on use of the outdoor areas/patios, listing requirements stating the maximum number of bedrooms and guests for each stay, adding house rules to address guests' garbage to prevent litter, and provision of contact information to neighbors, this criterion is met.

2. Privacy and safety issues.

Findings: The Police and Fire Bureaus state no concerns about the proposal (Exhibit E.4). Additionally, all bedrooms to be rented for ASTR purposes must receive a fee paid BDS inspection to ensure these rooms met the building code requirements for sleeping rooms at the time they were created, and that each room has a functioning smoke and carbon monoxide detector. There are no inherent safety issues associated with the proposed ASTR use. The applicant will provide current contact information for the operator and onsite resident to help address impacts quickly.

With the above-cited conditions, the proposal meets Criterion C.

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 Chapter 33.815 Title 33, Planning and Zoning Conditional Uses 8/10/20 815-8 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 Portland Bureau of Transportation (PBOT) submitted the following response (Exhibit E-1):

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

Conditional Use Approval Criteria

The transportation related approval criteria related to the proposed Conditional Use that must be addressed are found in Code Section 33.815.105.D.1 and D.2. To address the transportation approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Lancaster Mobley, dated March 30, 2020. The Portland Bureau of Transportation (PBOT) Development Review has performed a review of the submitted professionally prepared TIS and agrees with the methodologies, analyses, assumptions, findings and conclusions including intersection capacity, on-street parking impacts, neighborhood impacts, etc. to confirm that the transportation-related approval criteria are satisfied, subject to the conditions listed below.

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan.
2. The Transportation System:
 - a. The transportation system is capable of supporting the proposed uses in addition to the existing uses in the area. Evaluation factors include safety, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
 - b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;
 - c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

Findings:

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

Conditional Use Approval Criteria

The transportation related approval criteria related to the proposed Conditional Use that must be addressed are found in Code Section 33.815.105.D.1 and D.2. To address the transportation approval criteria, the applicant submitted a professional

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

The Transportation System:

- a. The transportation system is capable of supporting the proposed uses in addition to the existing uses in the area. Evaluation factors include safety, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
- b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;
- c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

Findings: The City's Transportation System Plan (TSP) classifies SE 6th Ave at his location as Local Service for all modes, which is improved with a 30-ft paved roadway within a 40-ft Right-of-Way (ROW), in which the pedestrian corridor is improved to a 0-5-0 configuration. 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.

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. 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.

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 SE Powell Blvd and SE 7th Ave, SE Franklin St and SE McLoughlin Blvd, SE Franklin and SE Milwaukie Ave during the morning and evening peak periods of Thursday, March 19, 2020 from 7:35 am to 8:20 am and 4:25 pm to 5:10 pm.

It should be noted that at time of observations, Oregon had just implemented COVID-19 safety measures which stay-at-home orders were given, schools had shut down, and many events were cancelled. As a result, traffic patterns observed are likely to be atypical, however staff had directed the applicant to proceed with traffic observations at that time since it was unknown when things would normalize. Therefore, 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). The intersection of SE Powell Blvd and SE 7th Ave reported 13 crashes during the time period, seven of which were rear-end collisions, five were turning movements collisions, and one fixed-object collision. Of the reported crashes, three property damage only, nine were classified injuries, and one fatality. Given the significant number of collisions that occurred at the intersection, a crash rate was calculated to evaluate relative safety at the intersection. Crash rates provide the ability to compare safety risks at different intersections by accounting for both the number of crashes that occurred during the study period and the number of vehicles that typically travel through the intersection. Crash rates in excess of 1.0 Crashes per Million Entering Vehicles (CMEV) may be indicative of design deficiencies and therefore may need further review. Based upon the data collected, this intersection has a crash rate of 0.1 CMEV. The intersection SE Franklin St and Milwaukie Ave was also studied and reported eight crashes during the analysis period, which a crash rate was also calculated to be 0.43 CMEV. Therefore, based upon the submitted information, no significant safety hazards were identified at the study intersections. For bicycles, there are five identified bicycle routes within the area, plus a multi-use path over Powell Blvd and the Springwater Corridor in close proximity. Sidewalks are generally complete in the area with signalized crossings at major intersections.

Pedestrian, Cycling, and Transit Availability: The subject site is located near four TriMet bus lines - #9-Powell, #17-Bolgate, #19-Woodstock, and #66-Marquim Hill - all within a quarter 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 plus the Springwater Corridor multi-use path. The remaining surrounding streets are low-volume neighborhood streets 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, 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 12:15 am to 12:30 am, on Wednesday, March 18, 2020. Within the study area, the parking study estimated that there was an on-street parking supply of 132 spaces, in which 79 spaces were occupied at time of observation, which is an on-street parking occupancy rate of 59.8%. 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 four vehicles, raising the occupancy rate by one percent to 62.1%. 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: Review of the surrounding transportation system notes that vehicles are restricted to right-in/right-out movements at the intersection of SE Powell Blvd and SE 7th, as well as at the intersection of SE Franklin St and Mcloughlin Blvd. The proposed use is not expected to generate significantly more vehicular traffic the current use and will likely match typical residential travel patterns. Therefore, no additional access restrictions are recommended with the proposed ASTR 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 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".

Recommendation

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

- Rental of the ASTR shall be limited to a single family or affiliated group as proposed by the applicant. Renting of individual rooms to unrelated/unassociated individuals shall not be permitted.
 - The applicant provides information regarding transit schedules, multi-modal information, bike rentals, 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.

Findings: The Bureau of Environmental Services (BES) provided a written response stating no objection to the proposed ASTR facility regarding adequacy of public sanitary sewer service and stormwater management. Additionally, as no changes are proposed to the existing building, no BES stormwater requirements are triggered (Exhibit E.3). The Police Bureau, Water Bureau, and Fire Bureau reviewed the proposal and responded that they have no concerns with their abilities to serve the proposed ASTR (Exhibit E.4).

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

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

Findings: The site is within the boundaries of the Brooklyn Neighborhood. The Brooklyn Neighborhood Plan includes the following relevant objectives:

- Encourage residential properties, both owner-occupied and rentals, to be improved and maintained (Objective 4.1, page 61); and
- Encourage restoration, rehabilitation, and preservation of the neighborhood's housing stock (Objective 4.2, page 61).

The proposed Type-B ASTR will make use of an existing residential building and will thus preserve housing stock. The applicant notes that the house has been undergone improvements and regular maintenance (Exhibit A.2).

For these reasons, and with the above-cited condition, this criterion is met.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

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

Quiet hours will be between 9 pm and 9 am. Nearby neighbors will be provided with current contact information for the long-term resident/ASTR Operator and management company. With conditions of approval, the proposed Type B ASTR facility meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of a Conditional Use to allow a Type B Accessory Short-Term Rental facility within the existing single-dwelling with up to a maximum of four bedrooms available for rent at a time, as shown on the approved plans, Exhibit C.1, subject to the following conditions:

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

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

Provide the Brooklyn Neighborhood Association (<http://www.brooklyn-neighborhood.org>), and residents of properties adjacent to the site and across the street with phone contact information (name and phone number) for the long-term resident/ASTR Operator, the property owner, and the management company if applicable. The ASTR operator Operator, the property owner, and the management company if applicable. The properties to be included in this notification are:

- 3103-3109 SE 6th Ave.;
- 3118 SE 6th Ave.;
- 3121 SE 6th Ave; and
- 3114 SE McLoughlin Blvd.

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. 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 house, ASTR rentals are limited to three bedrooms.
2. Provide rental arrangements limited to single ASTR group only, with a maximum of 2 guests per legal bedroom at any one time, regardless of age. If the maximum number of four (4) bedrooms are rented, ASTR group size is limited to eight (8) people.
3. Use of all outdoor spaces are prohibited between the hours of 10 p.m. and 7 a.m. all days by ASTR guests.
4. ASTR use on the site must not create noise impacts in violation of Portland City Title 18, Noise Control, which prohibits the following:
 - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
 - Operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. to be plainly audible within any dwelling unit which is not the source of sound.
5. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are not allowed and house rules must be amended to reflect this.
6. The ASTR operator must amend the House Rules in Exhibit A.1 to include Conditions B.2 through B.5 of this approval and to include instructions for dealing with guests' garbage that will help prevent litter. The amended House Rules must be included in all advertisements for the ASTR facility.
7. The ASTR operator must maintain the House Rules, as required to be amended by this decision and conditions, for the duration of the operation of the ASTR

facility. The ASTR Operator must email or mail copies of these House Rules to guests in advance of their visits. The ASTR Operator must ensure that at least one paper copy of these House Rules and Narrative be displayed prominently within a common area of the house.

8. All advertisements for the ASTR shall display prominently in the title of the advertisement the maximum number of bedrooms and the maximum number of people allowed per nightly rental.
9. Confirmation data from the authorized rental organization (such as Airbnb and VRBO) shall be provided to City staff upon request. Confirmation data must include the name, home address and phone number of the ASTR guests, and the dates of stay.
10. To reduce vehicle trips associated with the proposed use, the ASTR Operator must provide to all ASTR guests information regarding transit schedules, multi-modal information and maps, car-share options, and additional measures consistent with the Transportation Demand Management Strategies listed in the submitted Transportation Impact Study.
11. The ASTR Operator will maintain a Guest Log Book. The Guest Log Book must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room assigned to each guest. The log must be available for inspection by City staff upon request.
12. On an annual basis, the ASTR operator must provide the Brooklyn Neighborhood Association (<http://www.brooklyn-neighborhood.org>) and residents of properties adjacent and across the street to the site with phone contact information for the long-term resident/ASTR on-site manager, the property owner, and the management company if applicable. The properties to be included in this notification are:
 - 3103-3109 SE 6th Ave.;
 - 3118 SE 6th Ave.;
 - 3121 SE 6th Ave; and
 - 3114 SE McLoughlin Blvd.

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.

Staff Planner: David Besley



Decision rendered by: _____ **on April 28, 2021.**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 4, 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 January 27, 2021, and was determined to be complete on March 12, 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 January 27, 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 12, 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, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 18, 2021. The completed appeal application form must be emailed 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 ONI recognized organizations for the appeal of Type II and IIX 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 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 18, 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.

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.

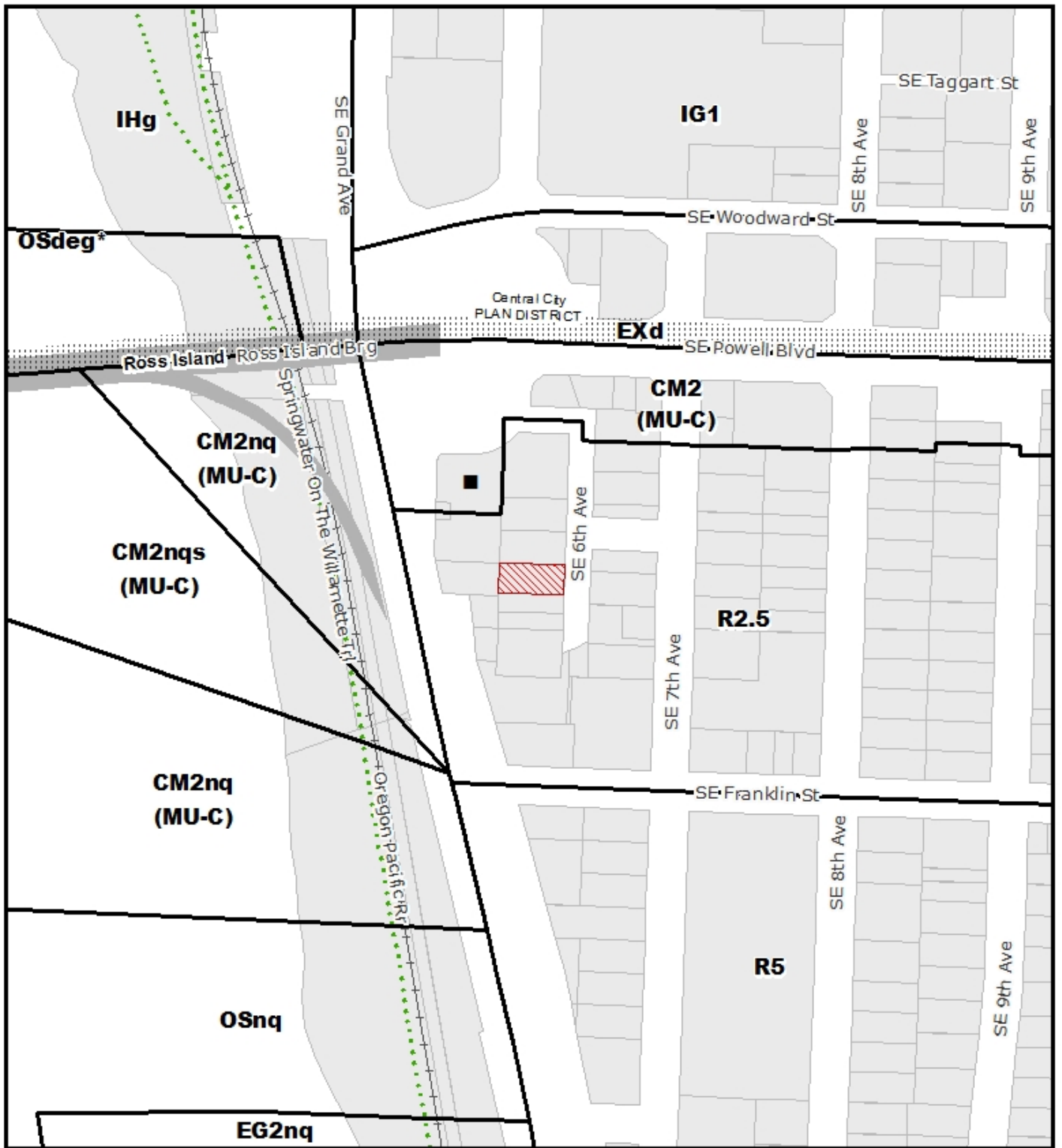
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicant's Statement (Narrative, Applicant ID, Traffic Analysis)
 2. Supplemental Information (House Rules, Approval Criteria)
 3. Response to Letter of Opposition (Exhibit F.1)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Floor Plans
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Transportation Engineering and Development Review
 2. Life Safety Section of BDS
 3. Bureau of Environmental Services
 4. Bureaus responding with no concerns (Urban Forestry, Site Development, Fire, Water, and Police Bureaus)
- F. Correspondence:
 1. Emily McKinnon, 4/6/2021, Letter of Opposition
- G. Other:
 1. Original LU Application and Receipt

2. Incompleteness determination letter, dated February 10, 2021

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



-  Site
-  Historic Landmark
-  Recreational Trails

File No.	LU 21 - 008934 CU
1/4 Section	3331
Scale	1 inch = 200 feet
State ID	1S1E11BC 6200
Exhibit	B Jan 28, 2021