



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

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**Date:** February 25, 2022  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 21-097982 CU**

#### **GENERAL INFORMATION**

**Owner's Rep:** Melissa Wright  
Short Term Rental Permits  
1216 SE Water Avenue  
Portland, OR 97214  
Email: [melissa@strpermit.com](mailto:melissa@strpermit.com)  
Phone: (503)407-1052

**Owners/Applicant:** Yang Fan and Wenna Shi  
26592 Shane Drive  
Lake Forest, CA 92630  
Email: [jfan@cloxer.com](mailto:jfan@cloxer.com)  
Phone: (909) 979-1234

**Long-term Tenant:** Qiyang Liu  
4526 SE 41<sup>st</sup> Avenue  
Portland, OR 97202

**Long-term Tenant:** Xun Wang  
4522 SE 41<sup>st</sup> Ave  
Portland, OR 97202

**Site Address:** 4522-4526 SE 41ST AVE

**Legal Description:** BLOCK 1 LOT 14, BEAUVOIR  
**Tax Account No.:** R061300154  
**State ID No.:** 1S2E18BB 23900  
**Quarter Section:** 3535

**Neighborhood:** Woodstock, contact Thatch Moyle at [luc@woodstockpdx.org](mailto:luc@woodstockpdx.org)  
**Business District:** Woodstock Community Business Association, contact at <http://www.woodstockbiz.com>

**District Coalition:** Southeast Uplift, contact Matchu Williams at [matchu@seuplift.org](mailto:matchu@seuplift.org)

**Plan District:** NONE

**Zoning:** RM1 (Residential Multi-Dwelling 1)

**Case Type:** CU (Conditional Use Review)

**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

**Proposal:**

The building on the subject site is a duplex and the owners/applicants are proposing to establish two Type B Accessory Short-Term Rentals (ASTRs) – one in each unit. Each unit includes 6 bedrooms, one of which would be occupied by a long-term tenant/caretaker at least 270 days per calendar year. The other 5 bedrooms of each unit are proposed to be rented out to a maximum of 10 guests (two guests per bedroom). 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 quiet hours from 10 pm to 7 am.

Type B Accessory Short-Term Rentals 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.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on October 19, 2021 and determined to be complete on November 24, 2021.

## ANALYSIS

**Site and Vicinity:** The 5,910 square foot site is located on the east side of SE 41<sup>st</sup> Avenue, about 150 feet south of the intersection of SE Holgate Boulevard and SE 41<sup>st</sup> Avenue. The relatively flat site is currently developed with a 5,667 square foot, 2.5-story duplex. Neighboring properties are developed primarily with 2-to-3-story multi-dwelling development to the south, 1-to-2.5-story single-dwelling development to the east and west, and commercial development to the north. The closest street to the north is SE Holgate Boulevard, which includes a mix of residential and commercial development.

**Zoning:** The RM1 zone is a multi-dwelling zone that is intended to preserve land for urban housing and to provide housing opportunities for multi-dwelling housing. 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 multi-dwelling zones. Type-B ASTRs (allowing up to 5 bedrooms for rental to short-term guests) are allowed in the RM1 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 **December 3, 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, and included information about the building code and building permit requirements (Exhibit E.2);
- The Bureau of Environmental Services (BES) stated that they have no issues related to the public services approval criterion for stormwater and sanitary service and noted that no changes are proposed to the existing building that would trigger BES stormwater requirements (Exhibit E.3);
- Urban Forestry responded with no concerns regarding the requested Conditional Use review, and included information about tree plan requirements (Exhibit E.4); and
- The Police Bureau responded with no concerns regarding the requested Conditional Use review, and noted that there are no proposed alterations to the site that would impact the Police Bureau’s ability to provide adequate services (Exhibit E.5).

The following Bureaus have responded with no concerns (Exhibit E.6):

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on November 19, 2021. No written response were received.

## 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 are 2 ASTR (Type A) sites within the defined residential area. There are no other approved Type B ASTRs within this defined area.

Given that there are approximately 177 residentially zoned properties in this defined area, and this proposed Type-B ASTR makes up approximately 1 percent of all the residential properties, the residential appearance and function of the area is thereby maintained.

The applicant is proposing a maximum of 10 guests (2 per bedroom in the 5 bedrooms) in each of the two units (20 guests total). For each unit, four of the rental bedrooms are on the upper floor, and the 5<sup>th</sup> rental bedroom and the long-term renter bedroom are located on the lower floor (Exhibit C.2). The 5<sup>th</sup> rental bedroom and the long-term renter bedroom share a bathroom and are separated by the other guest bedrooms by a main level (which includes a kitchen and dining room). Due to the layout and the increased impact of two side-by-side 5-bedroom ASTRs within a single building – a relatively uncommon land use pattern in the City – a condition of approval will limit rental of the fifth bedroom to a maximum of 95 days per year, due to the long-term renters/caretakers needing to reside on site at least 270 days per year.

a condition of approval will limit the number of guests to 2 per bedroom. To limit the intensity of the use, a condition of approval will require the ASTR in each unit of the duplex to be rented to a single group at a time and another condition of approval will limit the number of guests to 2 per bedroom, with a maximum of 5 bedrooms in each unit rented for ASTR purposes. This is intended to limit the potential number of vehicles coming to the site.

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 five ASTR guest rooms be rented to a single party having a maximum of 2 guests per bedroom to limit the intensity of the use, in addition to limiting the use of one bedroom in each unit to a maximum of 95 days per year, staff finds this criterion is met.

## **B. Physical compatibility.**

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

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

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

**Findings:** The 2.5-story house is in character with other houses in the area, which are comprised primarily of 1-to-3-story single and multi-dwelling houses in a variety of styles. The neighborhood is in an area with minimal topographical changes and a mix of denser RM1 (Residential Multi-Dwelling 1) sites to south and northwest, and slightly less dense R5 (single-dwelling residential 5,000) sites to the east and west. Lot sizes for these residential properties range from about 4,500 square feet to 30,000 square feet with the typical area being about 5,000 square feet. The site’s lot size (5,910 square feet) and front setbacks (about 18 feet from the front property

line) are consistent with the RM1 zoned sites in the surrounding area. The proposed ASTR facilities will operate inside the existing duplex, 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 and a condition of approval will require the house rules to be amended to reflect this requirement. The house rules note that quiet hours are between 10 pm and 7 am every day (Exhibit A.4).

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 5 bedrooms for each ASTR use (10 bedrooms total), 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 Woodstock 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.4) 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, 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 (Exhibits E.5 and E.6). Additionally, all bedrooms to be rented for ASTR purposes must receive a fee paid BDS inspection to ensure these rooms met the building code requirements for sleeping rooms at the time they were created, and that each room has a functioning smoke and carbon monoxide detector. There are no inherent safety issues associated with the proposed ASTR use. The applicant will provide current contact information for the operator and onsite resident to help address impacts quickly. While outdoor patios at the front and back of the house present a potential privacy issue for adjacent properties, a limitation on the hours of the patio use will minimize the privacy impact on adjacent properties.

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 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, and are stated as follows:

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

**Findings:** At this location, SE 41st Ave is classified in the Transportation System Plan (TSP) as a Local Service street for all modes except two – it is also a Neighborhood Walkway (it should be noted here that, pursuant to the City Engineer, PBOT considers Neighborhood Walkways as equivalent to Local Service streets) and a Major City Bikeway. The TSP states that “Local Service streets are intended to distribute local traffic and provide access to local residences or commercial uses.” The TSP also states that “Major City Bikeways form the backbone of the city's bikeway network and are intended to serve high volumes of bicycle traffic and provide direct, seamless, efficient travel across and between transportation districts. The proposed project will have no impacts on the stated functions or objectives of the roadway classifications noted above. The proposed Conditional Use request is supportive of the aforementioned street classifications from the Transportation Element of the Comprehensive Plan (Transportation System Plan [TSP]). This criterion is met.

2. a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;

- b. Measures proportional to the impacts of the proposed use are proposed to mitigate on and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;

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

**Findings:** The applicant hired a professional traffic consultant to prepare a Transportation Impact Study (TIS) to address these criteria. The transportation impacts of the property were analyzed as two scenarios:

Scenario 1 – each side of the duplex as a five-bedroom motel within a single-family house, which is representative of five rentable bedrooms while maintaining one room for a long-term tenant. A total of a 10-bedroom motel and two single-family homes.

Scenario 2 – one side of the duplex as a five-bedroom motel within a single-family house, which is representative of five rentable bedrooms while maintaining one room for a long-term tenant. The other side of the duplex as a single-family house, which is representative of a long-term rental. A total of a five-bedroom motel and two single-family homes.

PBOT has reviewed the submitted TIS via 21-116711 TR and offers the following assessment:

Scenario 1 – There will be 4 new morning peak hour vehicle trips generated and 4 new afternoon peak hour vehicle trips generated by the proposed project. There will be a total daily trip increase of 34 vehicles over the existing development.

Scenario 2 – There will be 2 new morning peak hour vehicle trips generated and 2 new afternoon peak hour vehicle trips generated by the proposed project. There will be a total daily trip increase of 16 vehicles over the existing development.

With regard to the evaluation factors identified above:

- Safety: The TIS included standard ODOT crash history data collection from the most recent available 5-year timeframe. Although there were multiple crashes throughout the study area, no significant safety hazards were identified at the study intersections and no mitigation is warranted.
- Capacity/level of service: The results of intersection operation field observations indicate that all study intersections are currently operating acceptably during the weekday morning and evening peak periods. 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 (noted above), the study intersections are projected to continue operating acceptably in the future either with or without the additional site trips. No mitigation is necessary or recommended with regard to intersection capacity or operation as part of the proposed Conditional Use.
- Connectivity: There is no new development proposed on the site – the existing attached homes will remain. Therefore, providing any new vehicular or pedestrian connection through the site is not possible unless the existing development is demolished. Furthermore, the block upon which the site is located satisfies the City's connectivity goals in a north-south direction. Connectivity could be enhanced across the subject site further to the east (mid-block).
- Transit availability: There are two transit lines with stops within a ¼ mile distance from the site - Trimet route numbers 17 (Holgate/Broadway) and 75 (Cesar Chavez/Lombard). These two bus options are available for the users of the proposed project.
- Pedestrian-bicycle network availability: Though not entirely complete, there is a robust pedestrian system of sidewalks throughout the broader area. According



to the Portland Bike/Walk Map, SE 41st Ave is designated as a “bike lane” street to facilitate bicycling in the area. These facilities are available for the users of the proposed project.

- On-street parking impacts: The TIS includes an on-street parking analysis to address this evaluation factor. Parking observations were made during the peak period for residential parking – late evening/early morning to calculate the current demand for on-street parking as well as the on-street parking supply in the area. There were 77 vehicles observed parking in the 117 on-street parking supply within the area (including segments of SE Holgate/SE 41st Ave/SE Pardee) – there are 40 on-street parking spaces remaining in the parking study area. Existing parking demand was observed to be greatest along SE 41st Ave (between SE Holgate/SE Long). The parking demand for the existing duplex is 4 vehicles, which can be accommodated on-site.

Referencing the International Transportation Engineers/Parking Generation Manuals (4th and 5th Editions), the applicant’s traffic consultant provided expected parking demand under the project’s two different scenarios. Under Scenario 1, parking demand is identified as increase of 7 vehicles (therefore, the remaining on-street parking supply will be 33 spaces (40 - 7)). Under Scenario 2, parking demand is identified as an increase of 4 vehicles (therefore, the remaining on-street parking supply will be 36 spaces (40 - 4)).

Based on the parking analysis, adequate on-street parking is available to serve the proposed Conditional Use described in both rental scenarios in addition to the existing surrounding land uses.

- Access restrictions: The proposed Conditional Use is not expected to generate significantly more vehicular trips than the current use. 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. The Transportation System Plan largely designates SE 41st Ave as a Local Service-street for most modes. Accordingly, no access restrictions along any nearby vicinity roadways are necessary or recommended in conjunction with the proposed use.
- Neighborhood impacts: Impacts to intersection operations and impacts to on-street parking can be attributed as transportation-related neighborhood impacts. As noted above, study intersections will continue to operate at acceptable levels of service (the City’s performance metric) and there is a sufficient quantity of on-street parking supply to accommodate existing uses and the proposed use. Transportation-related neighborhood impacts are therefore not anticipated.
- Pedestrian/bicycle/transit circulation impacts: There are comfortable and safe walking/biking routes, as well as safe routes to access transit facilities, available within the site vicinity. The proposed Conditional Use will not create any new barriers to these travel modes, and safe circulation routes will remain available within the site vicinity with or without the proposed use.

The applicant has demonstrated to PBOT satisfaction that “the transportation system is capable of supporting the proposed use in addition to the existing uses in the area”. This approval criterion is satisfied.

Criteria b and c identified above are not applicable given the lack of mitigation needs as analyzed in the TIS and summarized above.

**Recommendation:**

PBOT has no objections to the proposed Conditional Use request.

As noted in Section A above, the rooms of each unit must be rented to a single group, which will minimize parking impacts. Additionally, the ASTR Operator must provide to all ASTR guests information regarding transit schedules, multi-modal information and maps, and additional measures consistent with the Transportation Demand Management Strategies listed in the submitted Transportation Impact Study. As conditioned, this criterion is met.

2. 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 (Exhibits E.5-E.6).

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 Woodstock Neighborhood. The Woodstock Neighborhood Plan includes the following relevant objectives and actions:

- Encourage the development of bed and breakfast establishments in and adjacent to the Village Center to provide lodging for visitors to Reed College and the Eastmoreland, Reed and Woodstock Neighborhoods (Objective 11.10, page 78)
- Foster linkages among local businesses, residents, start-up entrepreneurs, and households with home occupations. Support the use of local businesses and craftspeople (Action 11.9, page 82).

The proposed Type-B ASTRs will provide lodging for visitors to the area and foster linkages among local businesses, residents, and households by providing locally supported short term rental units within an existing residential building.

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 two Type B ASTR facilities with five guest rooms to be rented to a maximum of 10 guests in each of the duplex units. No parties or commercial meetings will be held. Bedrooms in the lower floors will be occupied by long-term residents/caretakers, who will live at the site at least 270 days per year. To further limit the intensity of the use, a condition of approval will require the ASTR to be rented to a single group at a time and that rental of the 5<sup>th</sup> bedroom be limited to a maximum 95 days per year. This is intended to limit

the potential number of vehicles coming to the site, and the number of parking spaces required.

Quiet hours are required between 10 pm and 7 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 two Type B Accessory Short-Term Rental facilities within each of the existing duplex units (4522 and 4526 SE 41ST AVE) with up to a maximum of five bedrooms available for rent at a time in each unit (10 bedrooms total), as shown on the approved plans, Exhibit C.1 and C.2, subject to the following conditions:

A) **Prior to the start of operation of each 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 in each unit.

Provide the Woodstock Neighborhood Association ([info@woodstockpdx.org](mailto:info@woodstockpdx.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, the property owner, and the management company if applicable. The properties to be included in this notification are:

- 4536 SE 41ST AVE, UN 1;
- 4532 SE 41ST AVE, UN 2;
- 4081 SE PARDEE ST; and
- 4121 SE PARDEE ST.

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 each Type B ASTR facility**, the ASTR operator will meet the following conditions:

1. Provide rental arrangements limited to single ASTR group only, with a maximum of 2 guests per legal bedroom at any one time, regardless of age. If the maximum number of five (5) bedrooms are rented, ASTR group size is limited to ten (10) people.
2. Use of all outdoor spaces are prohibited between the hours of 10 p.m. and 7 a.m. all days by ASTR guests, and house rules must be amended to reflect this.
3. ASTR use on the site must not create noise impacts in violation of Portland City Title 18, Noise Control, which prohibits the following:
  - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
  - Operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. to be plainly audible within any dwelling unit which is not the source of sound.

4. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are not allowed and house rules must be amended to reflect this.
5. The ASTR operator must amend the House Rules in Exhibit A.4 to include Conditions B.1 through B.4 of this approval. The amended House Rules must be included in all advertisements for the ASTR facility.
6. Rental of the fifth bedroom (the bedroom that shares bathroom with the operator/caretaker's bedroom) in each unit is limited to a maximum of 95 days per year.
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. The ASTR Operator must provide to all ASTR guests information regarding transit schedules, multi-modal information and maps, 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 Woodstock Neighborhood Association (<https://woodstockpdx.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, the property owner, and the management company if applicable. The properties to be included in this notification are:
  - 4536 SE 41ST AVE, UN 1;
  - 4532 SE 41ST AVE, UN 2;
  - 4081 SE PARDEE ST; and
  - 4121 SE PARDEE ST.

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 February 25, 2022.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 25, 2022**

**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 October 19, 2021, and was determined to be complete on November 24, 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 October 19, 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: March 24, 2022.**

**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 March 11, 2022. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto: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 and Civic Life 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 **March 11, 2022** by the Bureau of Development Services.

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

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

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

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

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

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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittal
  - 1. Applicant's Narrative
  - 2. Resident ID and application permission (Qiyang Liu)
  - 3. Resident ID and application permission (Xun Wang)
  - 4. House Rules
  - 5. Traffic Analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation Drawings and Floor Plans (attached)
- 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. Urban Forestry
  - 5. Police Bureau
  - 6. Bureaus responding with no concerns (Site Development, Fire, and Water)
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application and Receipt
  - 2. Incompleteness determination letter, dated November 12, 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).**