



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: June 1, 2022
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-865-6714 / Andrew.Gulizia@portlandoregon.gov

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 22-134512 CU

GENERAL INFORMATION

Applicant: Stuart Cowburn
7015 SE 16th Ave.
Portland, OR 97202
(971) 344-1520
jboyle0724@gmail.com

Property Owners: Stuart and Josie Cowburn
7015 SE 16th Ave.
Portland, OR 97202

Site Address: 7015 SE 16th Ave.

Legal Description: BLOCK 8 LOT 2, CITY VIEW PK ADD & NO 2
Tax Account No.: R158901170
State ID No.: 1S1E23AB 18700
Quarter Section: 3732
Neighborhood: Sellwood-Moreland, contact David Schoellhamer at chair.landuse.smile@gmail.com
Business District: Sellwood-Westmoreland, contact at info@sellwoodwestmoreland.com
District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org
Plan District: None

Zoning: RM1d – Residential Multi-Dwelling 1 base zone with Design (“d”) overlay zone

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

Proposal: The applicant requests Conditional Use Review approval to operate a Type B accessory short-term rental (ASTR) facility in the existing 3-bedroom house on this site. The Type B ASTR operation will begin when the homeowner, who will also manage the ASTR, moves

into a planned, 1-bedroom accessory dwelling unit (ADU) in the rear yard. A building permit has been approved to convert the existing garage in the rear yard into an ADU, but construction has not yet begun as of the date of this notice (building permit 21-072984 RS). A previous Type A ASTR permit was granted to use 2 of the bedrooms in the house on this site for short-term rentals (permit 17-270071 HO). Conditional Use Review is required for a Type B ASTR facility with 3 or more bedrooms but is not required for a Type A permit.

The applicant also proposes to rent 4 bedrooms on the property (the 3-bedroom house plus the 1-bedroom ADU) for up to 95 days each calendar year, when the resident of the site may be away from home. During these periods, a third-party manager will operate the ASTR.

No commercial events or alterations to the existing house are proposed. The applicant proposes to enforce indoor quiet hours between 10pm and 7am every day. For outdoor areas of the site, the applicant proposes to enforce quiet hours between 9pm and 7am on weekdays and between 10pm and 7am on weekends.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of Title 33, the Portland Zoning Code. The relevant criteria are in Zoning Code Section 33.815.105.A-E.

ANALYSIS

Site and Vicinity: The subject site is 5,017 square feet in area and located on the west side of SE 16th Avenue, just south of the intersection with SE Bybee Boulevard. The property is developed with an approximately 2,400-square-foot, 3-bedroom house that was constructed in 1927. A building permit has been approved to convert the existing, detached garage behind the house into a 1-bedroom ADU, but construction has not yet begun as of the date of this notice (building permit 21-072984 RS). The existing driveway will remain. The abutting property to the north is developed with a commercial building, and a mixed-use building with commercial space and apartments is across SE 16th Avenue from the site. Other neighboring properties are developed with single-dwelling houses and small multi-dwelling residential buildings.

Zoning: The RM1 zone is a low-intensity multi-dwelling zone that allows multi-dwelling residential development up to a maximum floor area ratio (FAR) of 1 to 1.

The Design (“d”) overlay zone is intended to promote the conservation, enhancement, and continued vitality of areas of the city with special scenic, architectural, or cultural values. Design Review is not required for this residential lot per Zoning Code Section 33.420.045.A.2.

Land Use Review History: City records include no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was sent to City agencies and mailed to neighbors May 5, 2022 (Exhibit D-2). The following Bureaus responded:

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

- The Urban Forestry Division of Portland Parks and Recreation responded with no objections (Exhibit E-8).

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

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

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

33.815.105 Institutional and Other Uses in Residential and Campus Institutional Zones

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

- A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:
1. The number, size, and location of other uses not in the Household Living category in the residential area; and
 2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

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

For purposes of this criterion, staff considers the “residential area” to be residentially zoned lots within a 400-foot radius of the subject site. All developed, residentially zoned lots within 400 feet of this site are developed with residential uses except the Portland Memorial mausoleum property, a Conditional Use site located one block to the west. In addition, one Type A ASTR was previously approved on the residential lot at 1505 SE Bybee Boulevard, about a half block from the site. Since Type A ASTRs are limited to 2 rental bedrooms, their operational characteristics and impacts are more comparable to typical residential uses.

No alterations are proposed to the existing house on this site. The full-time resident of the site will occupy the ADU planned for the rear yard, and the 3 bedrooms in the main house

will be used for short-term rentals (Exhibit A-3). While the full-time resident is away from home, the fourth bedroom on the site (in the ADU) may also be rented to ASTR guests (Exhibit A-1, page 1). However, the full-time resident of the site can be away from home no more than 95 days each year per Zoning Code Section 33.207.050.A.1, and a condition of approval is included with this decision to highlight this limitation. Staff notes the applicant's proposal (3 rental bedrooms for most of the year and 4 rental bedrooms for part of the year) is less intense than the maximum 5 rental bedrooms allowed for Type B ASTRs (Zoning Code Section 33.207.050.B.1).

For the intensity and scale of the proposal to be reasonably evaluated within this current review, staff finds a condition of approval is warranted to require construction of the ADU to be complete within 3 years of the date of this approval. If construction of the ADU is not completed within 3 years of the date of this approval, another Conditional Use Review would be required to establish a Type B ASTR on the site.

To prevent the intensity and scale of the ASTR use from significantly impacting the residential character of the area, staff finds conditions of approval are warranted to limit the maximum number of ASTR guests to 2 per bedroom (regardless of age) and to require that all advertisements for the ASTR must display prominently in the title of the advertisement the maximum number of bedrooms and the maximum number of guests. To ensure over time that requirements for the numbers of guests are enforced, a condition of approval will require the applicant to provide confirmation data from the rental organization to the City upon request.

Additionally, since the applicant has not proposed to host commercial meetings on the site (Exhibit A-1, page 3), and the approval criteria for this review have been evaluated without consideration of commercial meetings, a condition of approval will prohibit commercial meetings at the ASTR facility without approval of a new Type II Conditional Use Review. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.

As there are no alterations proposed to the existing house on this site, and the planned conversion of the existing garage in the back yard to an ADU is allowed outright and already approved, staff finds the use of the house as an ASTR facility will not noticeably impact the residential appearance of the area. With the conditions of approval mentioned above, staff finds the intensity and scale of the ASTR use will not significantly lessen the residential function of the area. Therefore, with the conditions of approval, staff finds approval criterion A is met.

B. Physical compatibility.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s." The zoning maps show no City-designated scenic resource on or near this site. Therefore, criterion B.1 is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

Findings: The surrounding residential area has varying sizes and styles of residential buildings, but the subject site is not unusual for the neighborhood in terms of site size, building scale and style, building setbacks, and landscaping. The ASTR use will usually be

limited to the existing house on the site, and no changes to the house are proposed. The garage in the rear yard will be converted to an ADU for the full-time resident of the site, and as discussed in the findings for criterion A, this ADU may be used by short-term rental guests while the full-time resident of the site is away from home. However, construction of the ADU is allowed outright, already approved in building permit 21-072984 RS, and typical for single-dwelling residential lots.

Since the proposed Conditional Use site will remain physically compatible with neighboring residential properties, staff finds criterion B.2, above, is met. (Since B.2 is found to be met, B.3 does not have to be addressed.)

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

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

Findings: The applicant proposes indoor quiet hours between 10pm and 7am every day and outdoor quiet hours between 9pm and 7am on weekdays and between 10pm and 7am on weekends (Exhibit A-6). These quiet hours will comply with the requirements of Title 18 (Noise Control), and a condition of approval will prohibit noise impacts that violate Title 18. Another condition of approval will require the house rules to be posted within the house and on any website in which the ASTR is advertised. To help prevent noise or other livability impacts, another condition of approval will require the ASTR operator to provide a telephone number and email address of the full-time resident (who must occupy the property at least 270 days each year) and the third-party manager (for times when the full-time resident is away) to residents of the abutting residential lots at least once each calendar year. The required notification will give the residents of the following, abutting residential lots a contact for any concerns:

- 7025 SE 16th Avenue
- 1514 SE Bybee Boulevard
- 1515 SE Rural Street

No exterior lighting that is not typical for a residential use is existing or proposed, and the full-time resident of the property will manage garbage collection and property maintenance (Exhibit A-1, page 8). No aspect of the short-term rental operation is likely to produce glare, litter or odor impacts that are different from a typical residential use or that would adversely impact neighbors.

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

2. Privacy and safety issues.

Findings: The ASTR use will take place primarily indoors, and guests' use of the house (and sometimes the ADU also) is not likely to have unusual or significant impacts on neighbors' privacy. The property has a back porch and back yard with a paved area that may be used by guests for socializing or recreation (Exhibit A-2). While guests' use of these outdoor spaces may have some privacy impacts on neighboring back yards, impacts are not likely to be greater than could occur with a typical residential use. Also, the ADU building and large evergreen trees in the back yard will maintain a buffer between the outdoor recreation area on the subject site and neighboring yards (Exhibit A-2).

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

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

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

D. Public services.

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

Findings: PBOT reviewed the proposal and submitted the following response (Exhibit E-2):

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.

*Institutional and Other Uses in Residential and Campus Institutional Zones (33.815.105)
To support the transportation-related approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Lancaster Mobley, dated March 24, 2022 [Exhibit A-8]. The Portland Bureau of Transportation (PBOT) Development Review has performed a review of the submitted professionally prepared TIS and agrees with the methodologies, analyses, and conclusions to confirm that the transportation-related approval criteria are satisfied.*

At this location, the City's Transportation System Plan (TSP) classifies SE 16th Ave as a Neighborhood Walkway, Local Service for all remaining modes. The roadway is improved with a 34-ft wide paved roadway within a 6-ft Right-of-Way (ROW), in which the

pedestrian corridor is improved to a 8-6-2 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, 11th Edition, published by the Institute of Transportation Engineers (ITE) was utilized. ITE does not have specific code for ASTRs, therefore ITE land use code 220, Multifamily Housing (Low-Rise) was used to calculate trip rates for the proposed use. Utilizing this data, the maximum rental scenario of a 4-unit short term is estimated to generate 10 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 10 trips will not pose a significant increase in traffic volumes.

Street Capacity/Level of Service: To address the street capacity and Level of Service (LOS) evaluation factors, the applicant's traffic engineer conducted traffic observations at four intersections of significance that may be impacted by the proposed short-term rental. Observations were conducted at the study intersections during the morning and evening peak periods of Thursday, March 10th, 2022, from approximately 7:45 AM to 8:45 AM and 4:45 PM to 5:45 PM

The results of the 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, the study intersections are projected to continue operating acceptably in the future. Therefore, the existing intersections can handle 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 by utilizing Oregon Department of Transportation's (ODOT) Crash Analysis and Reporting data for the most recent five years (January 2016 to December 2020).

The analysis showed that of the study intersections observed, the intersection of SE Bybee and SE Milwaukie had a significant number of vehicle-related collisions, a number of which involved a pedestrian and vehicle at a crossing attributed to driver error. Despite this, no significant safety or hazards were identified and the crashes were not the result of infrastructure design. For bicycles, there are six identified bicycle routes within the area, which provide for a low-volume environment for bicycles to traverse safety throughout the transportation system. The neighborhood is filled with an established sidewalk grid-network with signalized crossings at major intersections that provide safe and comfortable passage.

Pedestrian, Cycling, and Transit Availability: As noted above, there is an established sidewalk grid-network with signalized crossings at major intersections that provide safe and comfortable passage. The site is within a quarter mile of six established bicycle routes. SE Bybee and SE Spokane will likely serve as the primary eastbound route, while SE 19th Avenue will likely serve as the primary north/south route for bicycle users. The southern terminus of the Springwater Corridor is also within close proximity to the site, The remaining surrounding neighborhood streets are low volume streets which is designed to provide a safe and comfortable traveling environment for cyclists. The project site is located near two TriMet bus lines stops located within a quarter-mile of the site. Complete sidewalks and adequate crossing measures are available between the site and the nearest stops which serve each transit line.

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: To determine the availability of parking as well as the existing parking demand in the study area, parking observations were conducted during the late evening hours from approximately 11:30 PM to 11:45 PM on Thursday, March 10th, 2022. 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), using land use code 220, Multifamily Housing (Low-Rise) as it represents the closest use to the proposed ASTR use. Under the maximum rental scenario based upon ITE data, the proposed ASTR would generate three additional parking spaces, for a total demand of two parking spaces.

Observations were conducted along the vicinity roadways of SE Bybee Boulevard, SE Rural Street, and SE 16th Avenue, within an approximate one block distance from the site. The late evening and early morning hours typically reflect the peak period demand for residential land uses. The total observed on-street parking demand within the site vicinity was 83 passenger cars during the late evening hours, which represented an approximate occupancy rate of 81.4 percent. For the purposes of this analysis, parked trailers and motorcycles were treated as on-street parked cars. With the proposed use, it is estimated 19 parking spaces remain available within the study area during the peak parking demand period. The proposed use could, at maximum capacity, increase the on-street occupancy to 83.3 percent., which is under PBOT's threshold for capacity. Therefore, the proposed use is not found to represent a significant increase in on-street demand.

Access Restrictions: There are no access restrictions for the subject site.

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:

- 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.

Based on these findings from PBOT, and with the condition of approval recommended by PBOT, staff finds criteria D.1 and D.2 are met.

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

Findings: The Water Bureau and the Fire Bureau reviewed the proposal and responded with no concerns (Exhibits E-3 and E-4, respectively). The Police Bureau reviewed the proposal and responded that police services are adequate for the proposed use (Exhibit E-

5). The Bureau of Environmental Services reviewed the application and found the existing sanitary sewer connection and existing stormwater management are adequate for the proposal (Exhibit E-1). For these reasons, criterion D.3 is met.

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

Findings: The site is located within the boundaries of the Sellwood-Moreland Neighborhood Plan, which was adopted by the City Council as part of the Comprehensive Plan. Staff finds the following policies from the Sellwood-Moreland Neighborhood Plan to be relevant:

- *Policy XI (Residential Areas), Objective 1: Ensure a mix of housing units to serve the needed range of types, sizes and income levels that will accommodate a socially and economically diverse neighborhood population.*
- *Policy XIII (Transportation): Provide for the safe movement of people and goods, while preserving, enhancing or reclaiming the neighborhood's livability.*
- *Policy XV (Public Safety and Crime Prevention): Maintain a safe neighborhood for people and property.*

While the proposal allows the site to be used by short-term rental guests, the proposal does not remove the property from the neighborhood's housing supply. An ASTR facility always requires a full-time resident to occupy the site at least 270 days per year (Zoning Code Section 33.207.050.A.1). Revenue from the ASTR operation will offset the costs of owning and maintaining the property, creating more affordable housing for the full-time resident.

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

As discussed in the findings for approval criterion C, no adverse safety impacts are anticipated, and the Police Bureau reviewed the proposal and responded with no objections (Exhibit E-5).

For these reasons, and with the condition of approval mentioned above, staff finds the proposal is consistent with the Sellwood-Moreland Neighborhood Plan. Approval criterion E is met.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant proposes to operate a Type B ASTR facility on this site. Staff finds that with conditions of approval, the proposal will maintain the residential appearance and function of the area, maintain physical compatibility with neighboring homes, and limit impacts on neighborhood livability. Public services are available to serve the proposal, and the proposal is also consistent with relevant statements from the Sellwood-Moreland Neighborhood Plan. With conditions of approval, the proposal meets the applicable approval criteria and therefore must be approved.

ADMINISTRATIVE DECISION

Approval of a Type B accessory short-term rental (ASTR) operation on this site, subject to the following conditions:

- A. Within 3 years of the date this decision becomes final, and before the Type B ASTR use is established on the site, the final inspection for the ADU proposed in building permit 21-072984 RS must be approved and the full-time resident of the site must have moved into the ADU. Otherwise, a new Type II Conditional Use Review will be required to establish a Type B ASTR on this site.
- B. Before the ASTR facility can operate, the applicant must obtain approval of a fee paid inspection from BDS to confirm that the building code, smoke detector, and carbon monoxide alarm requirements in Zoning Code Section 33.207.050.B.4 are met for each of the 4 bedrooms on the site (3 bedrooms in the main house plus 1 bedroom in the ADU).
- C. A full-time resident must occupy the ADU on this site at least 270 days each year, per Zoning Code Section 33.207.050.A.1. While the full-time resident is at home, the 3 bedrooms in the main house may be used for short-term rentals. When the full-time resident of the site is away from home (no more than 95 days each year), a third-party manager may operate ASTR rentals in all 4 bedrooms on the site (the 3 bedrooms in the main house plus the 1 bedroom in the ADU).
- D. At least once each calendar year, the applicant or operator of the ASTR must provide a current telephone number and email address for the full-time resident of the site and for the third-party manager (for times when the full-time resident is away) to residents of the following, abutting residential properties:
 - 7025 SE 16th Avenue
 - 1514 SE Bybee Boulevard
 - 1515 SE Rural Street
- E. No more than 2 ASTR guests per bedroom (regardless of age) are allowed.
- F. All advertisements for the ASTR must display prominently in the title of the advertisement the maximum number of bedrooms rented to ASTR guests (3 or 4, pursuant to condition of approval C, above) and the maximum number of ASTR guests allowed per bedroom (2).
- G. The “house rules” in Exhibit A-6 must be posted in a visible location in the rental and posted on any website on which the ASTR is advertised.
- H. 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 without a new Type II Conditional Use Review.
- I. The ASTR facility may not create noise impacts in violation of Title 18 (Noise Control), which prohibits the following:
 - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
 - Operating or permitting the use or operation of any such device between the hours of 10pm and 7am to be plainly audible within any dwelling unit which is not the source of the sound.

- J. The applicant or operator must maintain a guest log. The guest log must include the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay, and the room assigned to each guest. The log must be available for inspection by City staff upon request. Confirmation of this data from the authorized rental organization (such as Airbnb or VRBO) must also be provided to City staff upon request.
- K. The previously approved Type A ASTR permit for this site (permit # 17-270071 HO) will become void when the Type B ASTR facility is established pursuant to the conditions of approval above.
- L. The ASTR operator must provide all ASTR guests with information regarding transit schedules, multi-modal information, bike rentals, maps, car share options, etc. to reduce motor vehicle trips and parking impacts associated with the ASTR use.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on May 27, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 1, 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 April 20, 2022 and was determined to be complete on May 2, 2022.

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 April 20, 2022.

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 August 30, 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.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on June 15, 2022. 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 email, 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 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 this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 **June 15, 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 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 permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

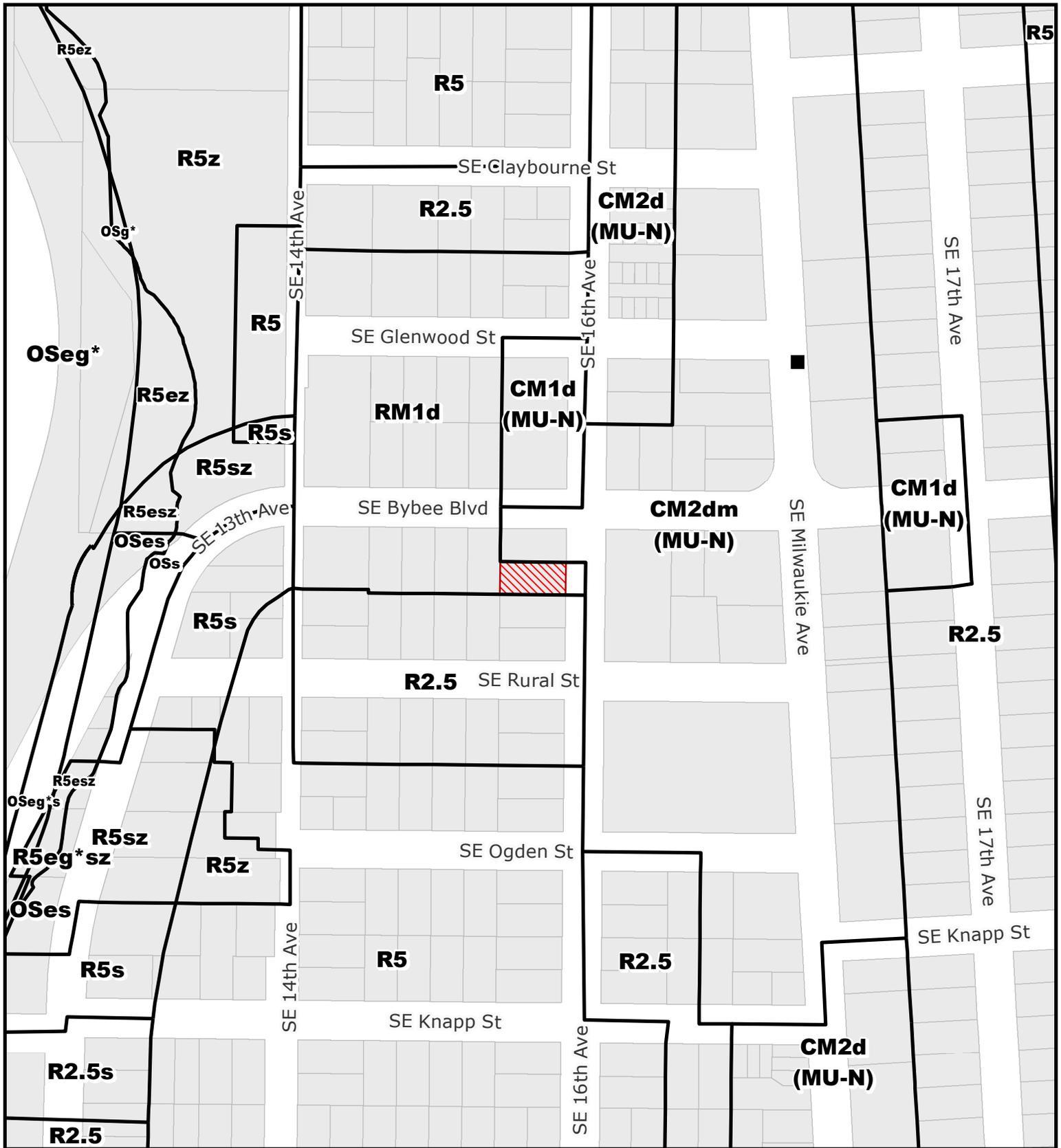
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

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

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



ZONING



For Zoning Code in effect Post August 1, 2021



Site



Historic Landmark

File No.	LU 22 - 134512 CU
1/4 Section	3732
Scale	1 inch = 200 feet
State ID	1S1E23AB 18700
Exhibit	B Apr 21, 2022