



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

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Date: September 2, 2022
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 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 22-154865 CU

GENERAL INFORMATION

Owner/Applicant: Lindsey Charlet
6037 SE 40th Ave
Portland, OR 97202

Site Address: 6037 SE 40TH AVE

Legal Description: LOT 5&6 TL 806, EVERETT WOODSTOCK
Tax Account No.: R261560250
State ID No.: 1S1E13DD 00806
Quarter Section: 3634

Neighborhood: Woodstock, contact Thatch Moyle or Les Szigethy at 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

Plan District: None
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 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 occupy the dwelling unit for at least 270 days per calendar year and the 4th bedroom would therefore be limited for use as a guest room for a maximum 95 days per 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 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 June 21, 2022 and determined to be complete on July 5, 2022.

ANALYSIS

Site and Vicinity: The 2,793 square foot site is located on the northwest corner of the intersection of SE 40th Avenue and SE Martins Street. The relatively flat site is currently developed with a 3,028 sq.ft. 2-story house. Neighboring properties are developed primarily with 1.5-to-3-story single-dwelling houses. One block to the north is SE Woodstock Blvd, which is a commercial/mixed-use corridor.

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 2 bedrooms for 4 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.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 8, 2022**. 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) expressed no objections to the Conditional Use proposal and included information about building code requirements (Exhibit E.2); and
- Urban Forestry responded with no concerns regarding the requested Conditional Use review, as no street trees will be impacted or required (Exhibit E.3).

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

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

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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) site within the defined residential area, not including the subject site. There are no other approved Type B ASTRs within this defined area.

Given that there are approximately 112 residentially zoned properties in this defined area, this proposed Type-B ASTR makes up less than 1 percent of all the residential properties, the residential appearance and function of the area is thereby maintained.

The full-time resident of the site will occupy the fourth bedroom (on the lower floor), and the other 3 bedrooms in the house will be used for short-term rentals (Exhibit A.1). While the full-time resident is away from home, the fourth bedroom 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).

To 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.

Additionally, since the applicant has not proposed to host commercial meetings on the site, and the approval criteria for this review have been evaluated without consideration of commercial meetings (such as luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation), a condition of approval will prohibit commercial meetings at the ASTR facility without approval of a new Type II Conditional Use Review. The house rules must be amended to reflect this requirement.

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 3-to-4 ASTR guest rooms be rented to a single party having a maximum of 2 guests per bedroom to limit the intensity of the use and a restriction on commercial meetings, 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-story house is in character with other houses in the area, which are comprised primarily of 1.5-to-3-story single-dwelling houses in a variety of styles. The neighborhood is in an area with minimal topographical changes. Lot sizes for these residential properties range from about 2,500 square feet to 20,000 square feet with the typical area being about 5,000 square feet. The site’s lot size (2,793 square feet) and front setbacks (about 10 feet from the front 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

The house rules require indoor and outdoor quiet hours between 10 pm and 7 am every day (Exhibit A.1, pages 1 and 6). 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).

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 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.1) must include instructions for dealing with guests' garbage, including proper use of recycling and compost, as well as garbage pick-up days, 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 (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 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.

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;*

Response: To address the transportation approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Amy Griffiths of Kittelson and Associates. The TIS was reviewed and accepted by PBOT Development Review Traffic Engineer Rachel Bolton (20-119679-TR). PBOT Development Review staff agrees with the methodologies, analyses, assumptions, findings and conclusions to confirm that the transportation-related approval criteria are satisfied subject to the recommended condition of approval.

Street Capacity/Level of Service

To estimate the vehicle trips generated by the proposed Accessory Short Term Rental (ASTR), information from the *Trip Generation Manual, 10th Edition*, published by the Institute of Transportation Engineers (ITE) was used. Data for land use #320, *Motel*, was used to calculate trip rates for the proposed facility. ITE does not have specific data for an ASTR and the Motel use is the closest land use category for which data is available.

The subject site contains a 4-bedroom house. The applicant proposes to rent up to 4 bedrooms to ASTR guests in addition to the long-term resident living in the on-site ADU. No commercial events are proposed. The submitted traffic and parking study took the conservative approach of analyzing this proposal as using the site as both a single family dwelling and 4-unit motel concurrently.

The proposed dwelling plus ASTR is estimated to generate approximately 3 trips during the morning peak hours and 3 trips during the evening peak hours, with 23 trips total each weekday based upon the maximum rental scenario. This represents an increase in trips over a single-family dwelling which would generate 1 evening peak hour daily trip, and approximately 10 total trips each weekday. It should be noted that based on the submitted data, most trips associated the proposed ASTR will likely not occur during the AM/PM peak hours.

To address the street capacity and Level of Service (LOS) evaluation factors, the applicant's traffic consultant provided the following statement, "The relatively small increase in peak hour trips anticipated by the use of the home under a maximum rental scenario will not significantly increase traffic volumes on the adjacent roadway network, therefore this criterion is met." No data collection or analysis of level of service was performed. This is consistent with PC 17.88.050-Transportation Impact Study, which reads as follows:

17.88.050 Transportation Impact Study.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) The traffic impacts of dividing or developing land may warrant a transportation impact study. The purpose of a transportation impact study is to assess the effects of development in the vicinity of a site on traffic conditions and operations; transit, pedestrians, and bicycle

movement; and neighborhood livability. A transportation impact study may be required under the following situations:

A. *Where approval criteria for a land use review include a requirement of adequacy of transportation services and the development proposed through the review meets or exceeds the following thresholds:*

- 1.** *Trip generation threshold. More than 100 new vehicle trips will be generated in the peak direction (inbound or outbound) during the site's peak traffic hour; or*
- 2.** *Neighborhood traffic threshold. More than 250 new trips will be generated per day that are likely to use predominately residential Local Service Traffic Streets.*

B. *Safety or operational impacts. Where the City Engineer has identified potential safety or operational concerns that may be impacted by the layout of a site or the location or size of driveways for a proposed development.*

PBOT's traffic engineer who reviewed the study concurred that the small change in the daily trips to the site should have no impact on the capacity or level of service for the system as a whole. Staff concurs with this conclusion.

Safety for All Modes

The subject property is at the intersection of two paved streets. Sidewalks exist on the subject side of both block faces. The public improvements on the abutting frontages and the driveway for the dwelling were all constructed to City standards via public works permit TI5233 EP9341 (12-203920-WT). Staff agrees with the applicant's assertion that the relatively small increase in trips is not anticipated to generate a safety issue.

Connectivity

The subject site is located at the intersection of two established rights-of-way. Additional connections are not needed or desirable at this location.

Transit Availability

Two different bus transit connections are available within a reasonable 1-block walking distance of the site. Tri-Met Service Route #19 operates on Woodstock Blvd. with the closest stop being at the intersection of SE Woodstock Blvd. and SE 40th Ave. The #19 provides service 7-days a week. It connects westward to SE Powell Blvd. and the Central City before turning east to provide service along Burnside and Glisan to Portland Providence Medical Center, ending at the Gateway Transit Center. Tri-Met Service Route #75 operates on Cesar E. Chavez Blvd. with the closest stop being at the intersection of SE Woodstock Blvd. and SE Cesar E. Chavez Blvd. The #75 is a frequent service route providing service with intervals of 20-minutes or less most of the day, every day. It connects south to the Milwaukie City Center and north to the Hollywood Transit Center, turning east to serve North Portland, including the N Lombard Transit Center. Many connection opportunities exist along both routes including Tri-met bus routes, MAX, and C-Tran routes. The site is well served by transit.

On-Street Parking Impacts

The parking demand generated from the proposed development was estimated using parking demand rates from *Parking Generation*, published by the Institute of Transportation Engineers (ITE). The data used to determine the parking demand for the proposed conditional use were for land use #320, *Motel* as it represents the closest use to the proposed ASTR for which data is available. The estimated additional parking demand from the proposed ASTR is 4 vehicles. The submitted TIS assumes all parking demand from the proposed ASTR will be accommodated on-street.

To determine the demand and availability of on-street parking near the site, the applicant's traffic consultant conducted observations during the overnight period corresponding to the expected peak period for residential parking demand in the site vicinity. The observations were conducted beginning at 11:00 PM on a mid-week day in February 2020 (pre-pandemic). Observations were conducted on the following segments:

- SE 40th Ave (SE Tolman St. to SE Woodstock Blvd.)
- SE Martins St. (Cesar E. Chavez Blvd. to SE 40th Ave)
- Cesar E. Chavez Blvd. (SE Carlton St. to SE Martins St)

Within the study area, the parking study estimated there was an on-street parking capacity of 86 parking stalls, of which 34 were occupied at time of observation. Therefore, the estimated on-street parking occupancy was observed at 40%. If we add the potential demand for an additional 4 on-street parking spaces to the observed occupancy, you arrive at on-street parking occupancy of 44%. PBOT does not consider an area to be heavily parked until occupancy rates reach approximately 85%. Based on the observations and analysis, the available on-street parking in the site vicinity is amply available to safely support the proposed use in addition to the existing uses in the site vicinity.

Access Restrictions

The existing house is accessed via an existing driveway onto NE 40th Ave. NE 40th Ave. is a low speed, low volume local service street. There are no vertical or horizontal curves that block sight distance. The neighboring property appears to have a mature hedge at the property line, but that hedge is not within the control of the applicant. No access restrictions are warranted.

Neighborhood Impacts

The transportation-related neighborhood impacts associated with the proposed use typically involve impacts to on-street parking and potential increases in traffic at area intersections. As documented by the applicant's analysis, there is a sufficient supply of on-street parking to accommodate the use. Additionally, services for the ASTR, such as landscaping, regular maintenance, and/or cleaning will be consistent with a typical single-family home. The minimal number of vehicle trips that will be added during the peak hours as a result of this use will not have a significant impact on area intersections. Transportation related impacts as a result of the proposed ASTR will be minor.

Adequate Transportation Demand Management Strategies

Transportation Demand Management (TDM) strategies are actions designed to change travel behavior in order to reduce the use of single-occupant vehicles to the site and, in turn, improve the performance of transportation facilities. The applicant has proposed several strategies to mitigate demand on the surrounding transportation system. Beginning on the bottom of page 7, the submitted narrative states the following:

To encourage the use of non-single occupancy travel during short-term rental periods, the Applicant will utilize the following TDM strategies:

Property information packets will be provided to each renter and posted in the home that include:

- *Parking guidelines requiring that all vehicles first park in the home's driveway (if specifically made available by the primary resident) and then park on the home's SE Martins Street or SE 40th Avenue frontage.*
- *Information on the nearest Portland Biketown pick-up locations.*
- *Walking maps to nearby essential destinations such as the commercial and retail establishments along nearby SE Woodstock Boulevard.*
- *Location of the bus stops and major destinations served for TriMet lines 19-Woodstock/Glisan and 75-Cesar Chavez/Lombard.*

In conclusion, based on the evidence included in the record, the applicant has demonstrated to PBOT's satisfaction that "the transportation system is capable of supporting the proposed use in addition to the existing uses in the area".

STREET CLASSIFICATION & TITLE 17 REQUIREMENTS

1. **TSP Classifications:** At this location, the City's Transportation System Plan (TSP) classifies both SE 40th Ave. and SE Martins St. as Local Service for all modes.
2. **Existing Conditions:** According to City GIS data the abutting rights-of way are improved as follows:

SE 40th Ave. is improved with a 28-ft paved roadway within a 60-ft ROW, in which the pedestrian corridor is improved with a 0.5-ft curb, 6.5-ft furnishing zone, 6-ft sidewalk, and 3-ft frontage zone.

SE Martins St. is improved with a 21-foot paved roadway within a 61-ft ROW in which the pedestrian corridor is improved with a 0.5-ft curb, 8-ft stormwater facility, 6-ft sidewalk, and 0.5-ft frontage

Note: The information in this document is derived from City of Portland GIS data, which may be inaccurate. A survey will be necessary for accurate ROW information.

3. **Standard Improvements:** The existing improvements meet or exceed the current standard improvement requirements including a paved roadway surface of at least 20-feet in width, 0.5-ft curb, 4-ft furnishing zone or 8-ft stormwater facility, 6-ft paved sidewalk, and 0.5-ft frontage zone.

Driveways (Chapter 17.28.110)

The site contains a driveway leading to an attached garage. The driveway appears to meet the standards of 17.28.110 and TRN 10.40. No modifications are required.

Transportation System Development Charges (Chapter 17.15): System Development Charges (SDCs) may be assessed for this development. To receive an estimate of the SDC amount, the applicant is advised to leave a voicemail message to include the case file number, at (503) 823-7002, Option 2. More information can be found at <https://www.portland.gov/transportation/permitting/transportation-system-development-charges>.

RECOMMENDATION

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

1. Implement the Transportation Demand Management Strategies listed in the submitted narrative

As noted in Section A above, the rooms 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.

1. 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: As noted above, the Bureau of Environmental Services, Police Bureau, Water Bureau, and Fire Bureau reviewed the proposal and responded that they have no concerns with 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 Woodstock Neighborhood. The Woodstock Neighborhood Plan includes the following relevant objective:

- 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 10.10, Page 78).

The proposed ASTR is located within the Woodstock Neighborhood and Woodstock Village Center and is located one block east of Reed College and Eastmoreland. It will therefore provide lodging for visitors to these areas.

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 3-4 guest rooms to be rented to a maximum of 6-8 guests. No parties or commercial meetings will be held. A ground floor bedroom will be occupied by the site's resident/owner, 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. 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 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 plans, Exhibits C.1-C2, 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 three ASTR bedrooms.

2. 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:
 - 6023 SE 40TH AVE;
 - 6036 SE 40TH AVE;
 - 6105 SE 40TH AVE; and
 - 3927 SE MARTINS 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 the Type B ASTR facility**, the ASTR operator will meet the following conditions:

1. The owner must occupy the fourth bedroom on this site at least 270 days each year, per Zoning Code Section 33.207.050.A.1. While the owner is at home, the 3 other bedrooms may be used as a short-term rental. 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.
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. When the maximum number of three (3) bedrooms are rented, ASTR group size is limited to six (6) people. When the maximum number of four (4) bedrooms are rented, ASTR group size is limited to eight (8) people.
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.1 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. 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. On an annual basis, the ASTR operator must provide the Woodstock Neighborhood Association, 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:
 - 6023 SE 40TH AVE;
 - 6036 SE 40TH AVE;
 - 6105 SE 40TH AVE; and
 - 3927 SE MARTINS 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 August 30, 2022.**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 2, 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 June 21, 2022, and was determined to be complete on July 5, 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 June 21, 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: November 2, 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 September 16, 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 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 **September 16, 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:

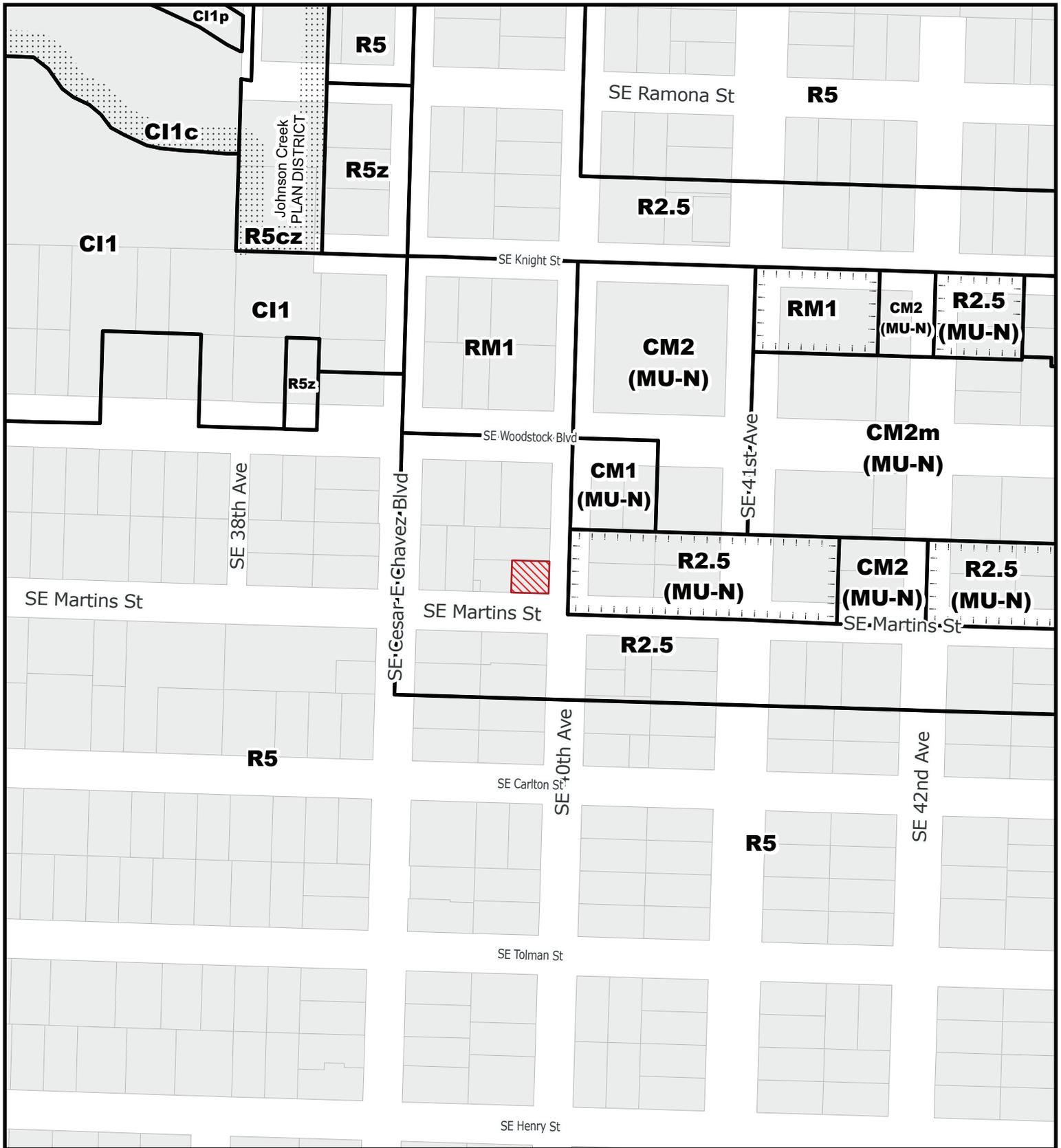
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittal
 1. Applicant's Narrative + House Rules
 2. Resident ID and application permission
 3. Traffic Analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Floor Plans (attached)
 2. Site Plan
- 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. Urban Forestry
 4. Bureaus responding with no concerns (Bureau of Environmental Services, Site Development, Fire, Water, and Police Bureaus)
- F. Correspondence: none
- G. Other:
 1. Original LU Application and Receipt
 2. Incompleteness determination letter, dated July 5, 2022

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).



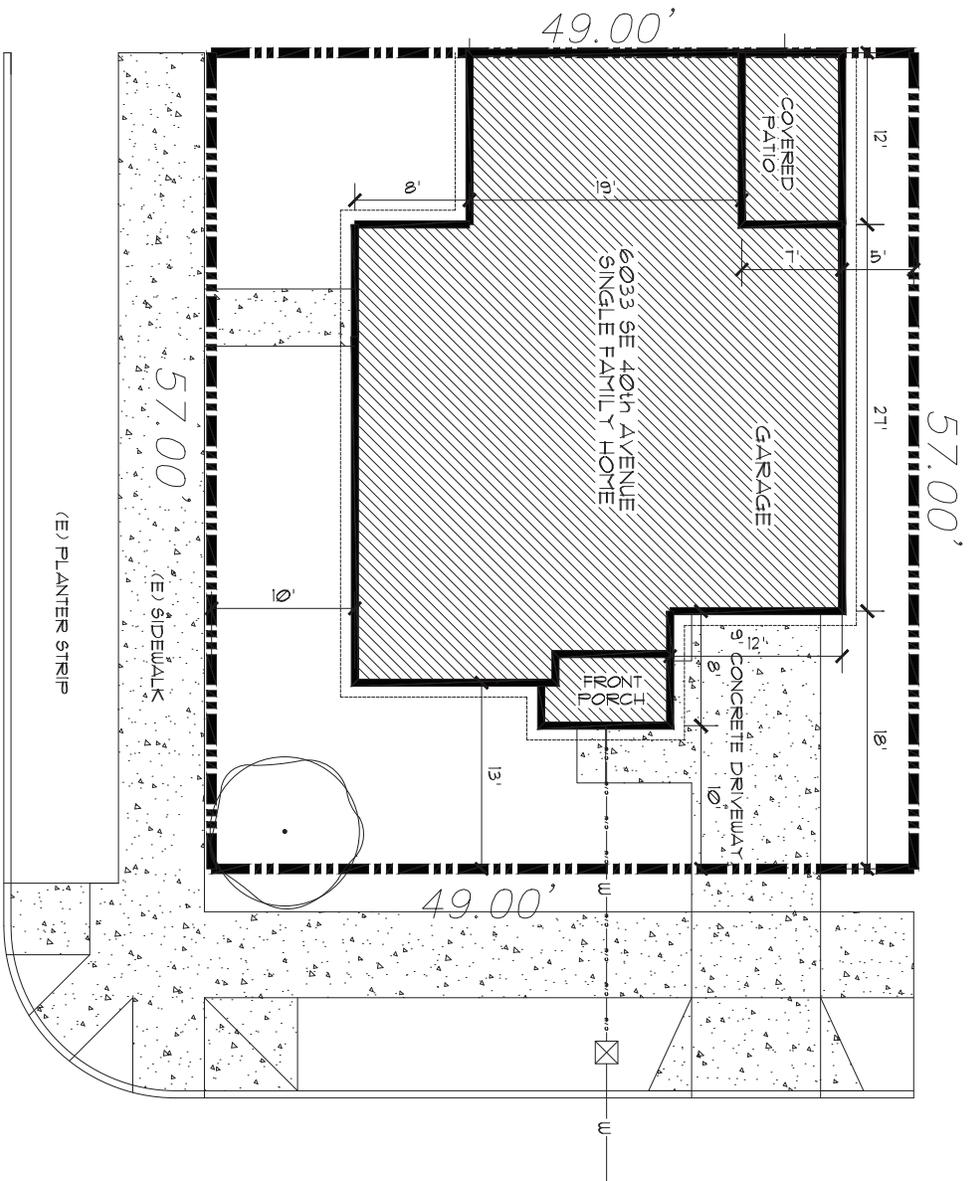
For Zoning Code in effect Post August 1, 2021

ZONING 

 Site

File No.	<u>LU 22 - 154865 CU</u>
1/4 Section	<u>3634</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S1E13DD 806</u>
Exhibit	<u>B Jun 22, 2022</u>

SE MARTINS STREET



SE 40TH AVENUE



NORTH

SCALE: 1/4" = 1'-0"

Exh. C.1

LU 22-154865 CU