



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

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**Date:** April 22, 2020  
**To:** Interested Person  
**From:** Amanda Rhoads, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 19-268628 CU CONDITIONAL USE REVIEW FOR 5-BEDROOM ACCESSORY SHORT-TERM RENTAL**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Jane Shattuck  
Jane M Shattuck Liv Tr  
3809 N Vancouver Ave  
Portland, OR 97227

**Site Address:** 3809 N VANCOUVER AVE

**Legal Description:** BLOCK 25 LOT 3, CENTRAL ALBINA  
**Tax Account No.:** R146804150  
**State ID No.:** 1N1E22DC 11300  
**Quarter Section:** 2630  
**Neighborhood:** Boise, contact [boiselanduse@gmail.com](mailto:boiselanduse@gmail.com)  
**Business District:** Soul District Business Association, contact at [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at [jessica@necoalition.org](mailto:jessica@necoalition.org).

**Plan District:** None  
**Zoning:** R2.5a – Single-Dwelling Residential 2,500 with “a” Alternative Design Density Overlay Zoning  
**Case Type:** CU – Conditional Use Review  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **PROPOSAL:**

The applicant requests Conditional Use approval to operate a Type B accessory short-term rental (ASTR) facility in the existing 5-bedroom house on this site. No exterior changes to the house or property are proposed for the ASTR use. The homeowner will live in the new Accessory Dwelling Unit (ADU) currently under construction in the backyard for at least 270 days per year and make 5 bedrooms in the primary house available for short-term rental guests (currently, the owner resides in the basement of the primary house) . The property has a

2-car parking pad accessed off the alley to the west of the site, one of which is available for short-term guests. No commercial events are proposed with this application. Type B ASTRs are allowed if approved as Type II Conditional Uses in the single-dwelling zones.

**RELEVANT APPROVAL CRITERIA:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- 33.815.105 Institutional and Other Uses in Residential and Campus Institutional Zones

Because one or more of the criteria listed above is an unacknowledged land use regulation, this proposal must comply with applicable Statewide Planning Goals. The Statewide Planning Goals may be viewed at [http://www.oregon.gov/LCD/pages/goals.aspx#Statewide\\_Planning\\_Goals](http://www.oregon.gov/LCD/pages/goals.aspx#Statewide_Planning_Goals)

## ANALYSIS

**Site and Vicinity:** The 4,850-square-foot site is developed with a single-dwelling house constructed in 1905. A detached ADU is under construction in the backyard. The owners have completed a permitted remodel of the interior of the house. No garage is onsite, but two parking pads are accessed off the rear alley.

N Vancouver Ave in this area is classified in the Transportation System Plan as a Neighborhood Collector Street, Major Transit Priority Street, Major Emergency Response Street, Major City Bikeway, and Major City Walkway,

**Zoning:** The R2.5 single-dwelling residential zone is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is also within the boundaries of the Alternative Design Density (“a”) overlay zone, though the “a” overlay regulations are not applicable to this Adjustment request. The purpose of the “a” overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. Regulations in this overlay are not relevant to this proposal.

**Land Use History:** City records indicate no prior land use reviews for the site.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **March 11, 2020**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5);
- Life Safety Plans Examiner (Exhibit E.6);
- Police Bureau (Exhibit E.7); and
- Urban Forestry Section of Parks and Recreation (Exhibit E.8);

The Bureau of Transportation responded with an analysis of the provided Traffic Study (Exhibit A.2) and findings for Criteria D.1 and D.2, and stated no objection to approval (Exhibit E.2).

**Neighborhood Review:** A total of one written response was received from a notified resident in response to the proposal. The email outlined broad disagreement with the ASTR rules in place in the City of Portland and states they are impacting the number of long-term rentals and creating a lack of both neighborhood cohesion and affordable housing. The neighbor states the applicant could have purchased a house in a commercial zone for this use, and gone through a change of use permit process, instead of using the ASTR rules. The fact that the applicant

applied for the ADU permit prior to last July and is eligible for a waiver of System Development Charges was also a point of concern in the face of at-capacity public facilities. Finally, the neighbor states the City is not obligated to grant this approval since the owner could make a “reasonable return on her investment by renting it out long term.” The letter also raised livability concerns with short-term rentals in general.

*Staff Response: Livability issues are addressed for this specific proposal in the findings for Criterion C below. The letter raises concerns about current City policy and allowances for ASTRs. The applicant is abiding by the process to allow ASTRs. The regulations for ASTRs outside of the approval criteria have been verified by this planner prior to proceeding with the review. Not agreeing with the process or regulations overall is not a valid reason to deny a proposal in the process, meeting the regulations. Once the proposal has been determined to have a valid request (meeting the residency requirements and other regulations), the decision to approve or deny is based on whether the proposal can meet the approval criteria only. Rate of return on investment is not considered. The allowed exemption for System Development Charges for ADUs is unrelated to the current proposal to approve a 5-bedroom ASTR. Finally, the ASTR use is considered accessory to the primary residential use of the property, not a commercial use.*

## 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:** The ASTR facility will not technically create a new non-Household Living use in the residential area, since ASTR facilities are classified as accessory to Household Living uses (Zoning Code Section 33.920.110.B). However, because the characteristics of a Type B ASTR are 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. This distance is reasonable as it considers all

residentially-zoned properties within a couple of blocks of the site and expands on the 150-foot notification distance for this Type II land use review; impacts are not expected to be experienced beyond this boundary. In this case, the “residential area” is the area from N Shaver St to the north to N Fremont St to the south, and N Haight Ave to the west to N Vancouver Ave to the east (where the zoning across the street is high-density commercial).

Within this residential area, most of the 93 sites are developed with residential uses, in a mixture of single-dwelling and multi-dwelling buildings – the number of residential units in the area is much higher than 93 due to the multi-dwelling development. There are four approved Type A ASTRs within this area (at 329 N Fremont St, 3626 N Haight Ave, 3916 N Gantenbein Ave, and 3953 N Gantenbein Ave), but since Type A ASTRs are limited to 2 rental bedrooms, they have operational characteristics that are more like typical residential uses. There are no other approved Type B ASTRs in the residential area defined above.

The New Hope Missionary Baptist Church is to the west of the subject site on N Gantenbein Ave; this is the only non-residential use within the defined residential area. The church has parking accessible from both N Gantenbein Ave and N Failing St. The existing church and the proposed Type B ASTR make up slightly more than 2 percent of the lots in the residential area. Therefore, the residential appearance and function will be retained with the approval of this proposal.

No exterior alterations are proposed with this application. The applicant, currently residing in the basement of the primary house, plans to live in the detached ADU currently under construction. The ADU is already permitted. To ensure the intensity and scale of the ASTR use is comparable to a more typical residential use, staff finds a condition of approval is warranted to limit the number of bedrooms rented to ASTR guests to 5 at any one time (the applicant’s proposal), and to limit the number of ASTR guests to 2 per bedroom (10 total), regardless of age. Another condition of approval will require that all advertisements for the ASTR display prominently in the title of the advertisement the maximum number of people allowed per bedroom. Also, to ensure over time that requirements for the number of guests are enforced, a condition of approval will require the applicant to maintain a guest log and provide data to the City upon request.

As there are no exterior alterations proposed, staff finds the ASTR facility will not noticeably impact the residential appearance of the area. With the conditions of approval mentioned above, staff also finds the intensity and scale of the ASTR use will not significantly lessen the residential function of the area. For these reasons, and with the noted 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 subject site is comparable to neighboring residential properties in terms of site size, building scale and style, building setbacks, and landscaping. The ASTR use will take place inside the existing house on the site, and no physical changes to the house or property are proposed with this Conditional Use application. The ADU currently under construction is allowed in the zone, meets all development standards and has previously received a building permit, and is not associated with the short-term rental use.

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

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

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

**Findings:** The proposed house rules include quiet hours between 9 pm and 9 am daily (Exhibit A.4). These quiet hours will comply with the requirements of Title 18 (Noise Control), and a condition of approval will prohibit noise impacts that violate Title 18. Since noise from outdoor gatherings at night can be especially impactful on neighbors, a condition of approval will require the house rules to prohibit outdoor gatherings of ASTR guests after 10 pm. 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. Thus both noise and late-night operations will be addressed.

To help prevent livability impacts, another condition of approval will require the applicant to provide to the immediate neighbors a telephone number and e-mail address of the primary ASTR operator (a full-time resident at the site) and a secondary, local contact who can respond to complaints when the primary ASTR operator is traveling. (However, the ASTR operator must occupy a dwelling unit on the site for at least 270 days each calendar year, per Zoning Code Section 33.207.050.A.1.) Notification to the following properties will be required at least once per year:

- 3827 N Vancouver Ave;
- 3829 N Vancouver Ave;
- The future townhouses at what is now 3773 N Vancouver Ave;
- 3804 N Gantenbein Ave;
- 3812 N Gantenbein Ave; and
- 3820 N Gantenbein Ave.

The property has no exterior lighting that is not typical for a residential use; two motion-sensor lights on the north side of the house light the path from the parking in the backyard to the front door, and no new exterior lighting is proposed. Garbage and recycling collection and yard maintenance will be managed by the applicant (Exhibit A.6, page 2). No aspect of the short-term rental operation is likely to produce glare, litter or odor impacts that are different from a typical residential use or that would adversely impact neighbors.

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

2. Privacy and safety issues.

**Findings:** The proposed ASTR guest rooms are inside the existing house on the site. To the north, the adjacent duplex has no windows facing the subject site, so the side yard where an outdoor patio is located is unlikely to impact neighbors' privacy. Guests could gather in the front yard, which is enclosed by a low picket fence, or on the front porch, but these outdoor areas are not situated in a manner likely to impact neighbors' privacy. There is a 6-foot-tall fence off the alley, and the new ADU will also serve to separate the recreational area onsite from the neighbors across the alley. Staff finds the proposed ASTR use will not create significant adverse impacts on neighbors' privacy.

No adverse safety impacts are anticipated, either. 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.7). PBOT reviewed the proposal for significant, adverse safety impacts on the adjacent rights-of-way and found none (Exhibit E.2). To further ensure safety, a condition of approval will require the applicant to obtain 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 each bedroom to be rented. 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 to the approval criteria (Exhibit E.2):

The subject site is located in a neighbourhood with well-connected streets allowing multiple possible routes to and from the site. Based on the location of likely trip destinations and major transportation facilities, as well as observations of the existing travel patterns and roadway configurations within the site vicinity, it is expected that a majority of site trips will utilize N Vancouver Avenue and N Williams Avenue as the main north/south connections between the site and the greater transportation system, while N Failing Street and N Beech Street will serve as the main east/west connections.

Satisfaction of Approval Criteria

Safety

**Motor Vehicle Safety**

Using data obtained from the Oregon Department of Transportation's (ODOT) Crash Data System, a review of the most recent available five years of crash history (from January 2014 to December 2018), at the study intersections was performed. The crash data was evaluated based on the number of crashes, the type of collisions, and the severity of collisions at the intersections.

The intersection of N Vancouver Avenue at N Failing Street had five reported crashes during the analysis period. Two of the crashes were rear-end collisions, one classified a “Property Damage Only” (*PDO*) and the other classified as “Possible Injury – Complaint of Pain” (*Injury C*). Two of the crashes were angle collisions, and one was classified as “Non-Incapacitating Injury” (*Injury B*) while the second was classified as “Incapacitating Injury – Bleeding, Broken Bones” (*Injury A*). The crash resulting in an *Injury A* classification occurred when the driver of a westbound through vehicle failed to stop at the intersection stop sign and struck a southbound vehicle traveling through the intersection. Finally, one crash was a turning movement collision that involved a bicyclist and was classified as *Injury C*. The bicycle-related crash occurred when the driver of an eastbound right-turning vehicle failed to yield right-of-way to a southbound bicyclist traveling in a marked bicycle lane.

The intersection of N Williams Avenue at N Failing Street had two reported crashes during the analysis period. Both crashes were angle collisions, one was classified as *PDO* and the other classified as *Injury C*.

The intersection of N Vancouver Avenue at N Beech Street had five reported crashes during the analysis period. Three of the crashes were angle collisions, with two being classified as *Injury B* and one being classified as *PDO*. One crash was a turning movement collision and was classified as *PDO*. Finally, one collision involved a pedestrian and was classified as *Injury B*. The pedestrian-related crash occurred when the driver of a westbound left-turning vehicle failed to yield right of way to an eastbound crossing pedestrian who was utilizing a marked crosswalk.

The intersection of N Williams Avenue at N Beech Street had nine reported crashes during the analysis period. Three of the crashes were angle collisions, with two being classified as *PDO* and one being classified as *Injury C*. Three of the crashes were turning movement collisions, one of which was classified as *PDO*. The other two turning movement collisions involved a bicyclist, with the bicyclist sustaining injuries consistent with *Injury B* classification. In both collisions, the drivers of the northbound turning vehicles failed to yield right-of-way to a northbound bicyclist crossing the intersection. Two of the crashes were rear-end collisions, and both were classified as *Injury C*. Finally, one crash was a fixed-object collision and was classified as *Injury C*.

Based on the most recent five years of available crash data, no significant safety hazards were identified at the study intersections. Additionally, no design deficiencies which would impact the safety of the area roadways and intersections were noted based on field observations conducted within the site vicinity. Crash reports for the study intersections are included as an attachment to this memorandum.

### **Bicyclist Safety**

There are five nearby bicycle routes along the vicinity streets. N Williams Avenue is a one-way roadway in the northbound direction and has one striped bicycle lane along the left side of the roadway. The roadway serves vehicular traffic traveling at low speeds (posted speed of 20 mph). N Vancouver Avenue is a one-way roadway in the southbound direction and has one striped bicycle lane along the right side of the roadway. The roadway serves vehicular traffic traveling at low speeds (posted speed of 25 mph). N Shaver Street is a shared roadway and serves vehicular traffic traveling at low speeds (posted speed of 20 mph). N Failing Street is a shared roadway and serves vehicular traffic traveling at low speeds (posted speed of 20 mph). N Rodney Avenue is a neighborhood greenway and serves vehicular traffic traveling at low speeds (posted speed of 20 mph).

Additionally, neighborhood streets not listed as bicycle routes in the immediate site vicinity are typically low-stress roadways that provide alternative routes to these and other nearby bicycle

paths. Accordingly, the surrounding bicycle infrastructure provides a safe and comfortable traveling environment for bicyclists.

### **Pedestrian Safety**

Sidewalks are complete along both sides of nearby area roadways, including N Williams Avenue, N Failing Street, N Beech Street, and N Gantenbein Avenue. Along N Vancouver Avenue between N Shaver Street and N Fremont Street, sidewalks are complete along both sides of the roadway. Adequate crossing measures, such as marked crossings, are provided across N Williams Avenue at the intersection with N Failing Street and N Beech Street. Marked crossings are also provided along N Vancouver Avenue at the intersection with N Failing Street and N Beech Street. For area intersections/roadways that don't provided marked crossings, these transportation facilities typically serve low volumes of traffic with posted/statutory speeds of 20-25 mph. The proposed short-term rental will not remove or block any existing walkways within the area, whereby pedestrian safety and connectivity in the immediate vicinity will be maintained.

### **Transit User Safety**

The nearest bus stops that could reasonably serve transit users of the proposed conditional use and nearby existing land uses are located along N Williams Avenue and N Vancouver Avenue between N Shaver Street and N Ivy Street, and along N Fremont Street between N Gantenbein Avenue and NE Cleveland Avenue. Complete sidewalks, relatively low travel speeds and traffic volumes, and adequate crossing measures (including marked crosswalks across N Vancouver Avenue, N Williams Avenue, and N Fremont Street) allow for safe travel for transit users between the site and nearby transit stops.

Based on the safety analysis, the transportation system is capable of safely supporting the proposed short-term rental in addition to the nearby existing land uses within the site vicinity.

### ***Street Capacity and Level of Service***

Observations of traffic conditions near the site were conducted to ensure that the transportation system can adequately accommodate future trips to/from the proposed conditional use in addition to the existing uses within the site vicinity. Specifically, traffic observations were conducted at the study intersections of N Vancouver Avenue at N Failing Street, N Williams Avenue at N Failing Street, N Vancouver Avenue at N Beech Street, and N Williams Avenue at N Beech Street during the morning peak period of Thursday, January 9<sup>th</sup>, 2020, from approximately 7:45 AM to 8:50 AM. In addition, traffic observations were conducted at the study intersections during the evening peak period of Wednesday, January 8<sup>th</sup>, 2020, from approximately 4:30 PM to 5:45 PM.

Intersections are generally evaluated based on the average control delay experienced by vehicles at an intersection and are assigned a grade according to their operation. The level of service (LOS) of an intersection can range from LOS A, which indicates very little or no delay experienced by vehicles, to LOS F, which indicates a high degree of congestion and delay. The City of Portland generally requires unsignalized intersections operate at LOS E or better and signalized intersections to operate at LOS D or better. Detailed LOS descriptions are included as an attachment to this memorandum.

### **N Vancouver Avenue at N Failing Street**

The intersection of N Vancouver Avenue at N Failing Street was observed for approximately 15 minutes during the morning and evening peak periods. The intersection was observed as having three vehicles enter the intersection from the eastbound approach and 10 vehicles enter from the westbound approach during the morning peak period, and seven vehicles enter the intersection from the eastbound approach and six vehicles enter from the westbound approach during the evening peak period. During both the morning and evening peak periods, the



maximum observed minor-street approach queue at the intersection was three vehicles. Gaps to enter the major-street traffic stream from the eastbound and westbound minor-street approaches were measured to be available with an average control delay of approximately 10 to 15 seconds during the morning peak period and 10 to 20 seconds during the evening peak period. Accordingly, the intersection was estimated to currently operate at LOS B during the morning peak period and LOS C during the evening peak period.

Due to nearby construction, manual traffic control (a construction worker with a stop/go sign) was present at the intersection during the morning peak hour and was infrequently used to control the flow of southbound and westbound vehicles (typically when larger construction vehicles were accessing or leaving the construction site). The control delay for vehicles affected by this manual traffic control was not recorded and not included in the average control delay calculations for this intersection.

#### **N Williams Avenue at N Failing Street**

The intersection of N Williams Avenue at N Failing Street was observed for approximately 15 minutes during the morning and evening peak periods. The intersection was observed as having five vehicles enter the intersection from the eastbound approach and six vehicles enter from the westbound approach during the morning peak period, and seven vehicles enter the intersection from the eastbound approach and 13 vehicles enter from the westbound approach during the evening peak period. During both the morning and evening peak periods, the maximum observed minor-street approach queue at the intersection was three vehicles. Gaps to enter the major-street traffic stream from the eastbound and westbound minor-street approaches were measured to be available with an average control delay of approximately 5 to 10 seconds during the morning peak period and 20 to 25 seconds during the evening peak period. Accordingly, the intersection was estimated to currently operate at LOS A during the morning peak period and LOS C during the evening peak period.

#### **N Vancouver Avenue at N Beech Street**

The intersection of N Vancouver Avenue at N Beech Street was observed for approximately 15 minutes during the morning and evening peak periods. The intersection was observed as having six vehicles enter the intersection from the eastbound approach and 10 vehicles enter from the westbound approach during the morning peak period, and eight vehicles enter the intersection from the eastbound approach and 11 vehicles enter from the westbound approach during the evening peak period. During both the morning and evening peak periods, the maximum observed minor-street approach queue at the intersection was three vehicles. Gaps to enter the major-street traffic stream from the eastbound and westbound minor-street approaches were measured to be available with an average control delay of approximately 15 to 25 seconds during the morning and evening peak periods. Accordingly, the intersection was estimated to currently operate at LOS C during the morning and evening peak periods.

#### **N Williams Avenue at N Beech Street**

The intersection of N Williams Avenue at N Beech Street was observed for approximately 15 minutes during the morning and evening peak periods. The intersection was observed as having 10 vehicles enter the intersection from the eastbound approach and 16 vehicles enter from the westbound approach during the morning peak period, and 11 vehicles enter the intersection from the eastbound approach and six vehicles enter from the westbound approach during the evening peak period. During both the morning and evening peak periods, the maximum observed minor-street approach queue at the intersection was three vehicles. Gaps to enter the major-street traffic stream from the eastbound and westbound minor-street approaches were measured to be available with an average control delay of approximately 10 to 15 seconds during the morning peak period and 20 to 25 seconds during the evening peak period. Accordingly, the intersection was estimated to currently operate at LOS B during the morning peak period and LOS C during the evening peak period.

It should be noted that N Vancouver Avenue during the morning peak hour and N Williams Avenue during the evening peak hour experienced downstream queues that would typically back up to the study intersections. However, these queues did not have a significant impact on eastbound or westbound vehicles attempting to travel through the intersections along these roadways. In these instances, drivers would leave gaps as not to block the intersection from the eastbound and westbound minor-street approaches.

### **Analysis Summary**

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 either with or without the additional site trips. No mitigation is necessary or recommended with regard to intersection capacity or operation as part of the proposed conditional use.

### **Connectivity**

The project site is located within a neighborhood where the transportation grid system is reasonably complete, providing multiple redundant routes to/from the site via motor vehicle and other modes of travel. N Failing Street and N Beech Street provide east/west connectivity to other major north/south corridors, including N Vancouver Avenue, N Williams Avenue, and NE Martin Luther King Jr Boulevard. N Vancouver Avenue will likely serve as the main southbound connector and N Williams Avenue will likely serve as the main northbound connector within the immediate site vicinity to other nearby, major roadways such as N Skidmore Street and NE Broadway Street. The aforementioned roadways will serve as the primary routes of travel between the site and the greater Portland Metro area.

### **Transit Availability**

The project site is located near four TriMet bus lines. The bus lines have stops located within an approximate quarter-mile walking/biking distance of the project site. Complete sidewalks and adequate crossing measures are available between the site and the nearest stops which serve each transit line. A summarized description of each transit line is shown in Table 4.

**Table 4: Transit Line Descriptions**

Transit Line (TriMet)	Service Area	Day From	Service Time To		Typical Headways (Minutes)	Nearest Stops
Bus Line #4 Fessenden	St. Johns Neighborhood, N Lombard	<b>Wk</b>	<b>4:00 AM</b>	<b>2:30 AM</b>	<b>10 to 70</b>	N Fremont Street at N Gantenbein Avenue, N Ivy Street at N Vancouver Avenue
	TC, Rose Quarter TC, Portland City Center	<b>Sat</b>	<b>4:30 AM</b>	<b>2:40 AM</b>	<b>15 to 60</b>	
		<b>Sun</b>	<b>4:30 AM</b>	<b>2:30 AM</b>	<b>15 to 60</b>	

Bus Line #24 Fremont/N W 18 <sup>th</sup>	Gateway Transit Center,	Wk	5:50 AM	9:35 PM	20 to 30	N Vancouver Avenue at N Ivy Street, NE Fremont Street at NE Cleveland Avenue
	Legacy Emanuel	Sat	7:30 AM	9:30 PM	25 to 30	
	Hospital, Providence Park	Sun	7:30 AM	9:30 PM	25 to 30	
Bus Line #44 Capitol Hwy/Mock s Crest	St. Johns Neighborhood, Rose	Wk	5:30 AM	10:40 PM	15 to 30	N Vancouver Avenue at N Beech Street, NE Shaver Street at N Williams Avenue
	Quarter TC, Portland City	Sat	6:30 AM	10:20 PM	30 to 50	
	Center, Barbur Blvd TC	Sun	6:30 AM	10:20 PM	35 to 50	

**BOLDED** text indicates frequent service

### Availability of Pedestrian and Bicycle Networks

Sidewalks are complete along both sides of nearby area roadways, including N Vancouver Avenue, N Williams Avenue, N Failing Street, N Beech Street, and N Gantenbein Avenue. Adequate crossing measures, such as marked crossings, are provided across N Williams Avenue and N Vancouver at their respective intersections with N Failing Street and N Beech Street. For area intersections/roadways that don't provide marked crossings, these transportation facilities typically serve low volumes of traffic with posted/statutory speeds of 20-25 mph.

The project site is located within a one-half mile walking/biking distance of five bicycle routes. N Failing Street and N Shaver Street will likely serve as the primary east/west routes, while N Williams Avenue and N Vancouver Avenue will likely serve as the primary north and south routes, respectively, for bicycle users in the immediate site vicinity.

N Rodney Avenue is a neighborhood greenway and has a signed/marked route. N Failing Street and N Shaver Street are shared roadways with a statutory speed of 20 mph. Other bicycle routes, such as N Vancouver Avenue and N Williams Avenue, provide a striped bicycle lane along one side of the roadway, which separates bicyclists from motor vehicle traffic.

In addition to the above-described bicycle routes, neighborhood streets not listed as bicycle routes in the immediate site vicinity are typically low-stress roadways that provide alternative routes to these and other nearby bicycle paths, as depicted in the City of Portland's *Northeast Portland Bike/Walk Map*.

Based on an assessment of the surrounding area, sufficient pedestrian and bicycle facilities are available within the site vicinity to adequately and safely serve the proposed conditional use in addition to the surrounding existing uses.

### On-Street Parking Impacts

#### **Existing Parking Demand**

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/early morning hours from approximately 11:10 PM to 11:45 PM on Wednesday, January 8<sup>th</sup>, 2020. Observations were

conducted along the vicinity roadways of N Gantenbein Avenue, N Vancouver Avenue, N Williams Avenue, N Failing Street, and N Beech Street within approximately a one to two block distance of the site.

The late evening and early morning hours typically reflect the peak period demand for residential land uses. At the direction of PBOT staff, it is expected that the chosen overnight timeframe for observations is sufficient to capture the peak on-street parking demand of the nearby site vicinity.

The total observed on-street parking demand within the site vicinity was 105 passenger cars during the early morning hours. For the purpose of this analysis, parked trailers and motorcycles were treated as on-street parked cars.

### Existing Parking Supply

The total amount of available parking along the studied roadways was calculated by measuring the length of the roadway segment and excluding the frontage area for each driveway curb-cut, fire hydrant, or other unavailable parking areas, such as no-parking zones or intersecting public streets. The remaining frontage area was then divided, assuming 20 feet per parked vehicle with a 4-foot buffer area for every two parked vehicles, to derive the number of available parking spaces. This methodology may underestimate the total number of available spaces in situations where driveway curb-cuts are shorter than 20 feet or when fire hydrants are on the corner of an intersection. Based on these assumptions, an estimated available on-street parking supply of 201 spaces was calculated within the site vicinity.

Table 5 shows the parking supply, demand, and net remaining available parking along the studied street segments.

**Table 5: Existing Parking Supply and Demand Summary**

<b>Roadway Segment</b>	<b>From</b>	<b>To</b>	<b>Supply</b>	<b>Demand</b>	<b>Net Available</b>	<b>Occupancy</b>
<b>N Gantenbein Avenue</b>	N Failing Street	N Beech Street	30	19	11	63.3%
<b>N Vancouver Avenue</b>	N Shaver Street	N Fremont Street	66	28	38	42.4%
<b>N Williams Avenue</b>	N Failing Street	N Beech Street	31	8	23	25.8%
<b>N Failing Street</b>	N Haight Avenue	N Williams Avenue	28	18	10	64.3%
<b>N Beech Street</b>	N Haight Avenue	N Williams Avenue	46	32	14	69.6%

<b>Total</b>	<b>201</b>	<b>105</b>	<b>96</b>	<b>52.2%</b>
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#### *Parking Generation*

The projected parking demand that will be generated as a result of the proposed short-term rental was estimated using rates from the *Parking Generation Manual*<sup>1</sup>. Data from land use code 320, *Motel*, was used to estimate parking generation of the short-term rental based on the number of rentable bedrooms.

To estimate parking generation related to the existing use as well as the planned long-term tenant, parking rates from both the 4<sup>th</sup> and 5<sup>th</sup> editions of the *Parking Generation Manual* were referenced. Upon reviewing the most recent version of the manual, no data regarding single-family houses was provided. The closest related land use within the current version of the manual is land use code 220, *Multifamily Housing (Low-Rise)*. For the purposes of maintaining a conservative analysis, data for land use code 210, *Single-Family Detached Housing*, within the 4<sup>th</sup> edition manual was compared to land use code 220 of the 5<sup>th</sup> edition manual to determine which land use provides the highest parking generation. Based on the comparison, land use code 210 of the 4<sup>th</sup> edition was utilized for the remainder of the study.

Based on the *Parking Generation Manual* data, the proposed short-term rental, in addition to the long-term tenant, is expected to increase the average peak parking demand of the site by four vehicles. Table 6 shows the projected peak period demand generated by the proposed conditional use relative to the current use of the site. Detailed parking generation calculations are included as an attachment to this memorandum.

**Table 6: Parking Generation Summary**

	<b>ITE Code</b>	<b>Average Peak Parking Demand</b>	<b>85<sup>th</sup> Percentile Peak Parking Demand</b>
<b>Existing Single-Family House</b>	210	2	2
<b>Proposed Short-Term Rental</b>			
<b>Long-Term Resident</b>	210	2	2
<b>Short-Term Rental</b>	320	4	4
<b>Total</b>		6	6
<b>Net Increase</b>		4	4

<sup>1</sup> Institute of Transportation Engineers (ITE), *Parking Generation Manual*, 5<sup>th</sup> Edition, 2019.

*Parking Impacts*

Under existing conditions, a total of 96 parking spaces remain available within the study area during the peak parking demand period. With implementation of the short-term rental, the overall parking supply within the site vicinity will remain the same while the average peak parking demand is expected to increase by four vehicles. Subsequently, the net available parking is expected to decrease from 96 to 92 spaces.

It should be noted that the site provides two off-street parking spaces. Accordingly, the parking impacts associated with the proposed short-term rental are not expected to be as significant as those presented within this analysis.

Table 7 shows the net change in parking availability in the immediate vicinity upon implementation of the short-term rental.

**Table 7: Net Change in Vicinity Parking Availability**

	Supply	Demand (Average Peak Parking)	Net Available	Occupancy
<b>Existing Conditions</b>	201	105	96	52.2%
<b>Proposed Short-Term Rental Impacts</b>	0	4	-	-
<b>Existing Conditions with Short-Term Rental</b>	<b>201</b>	<b>109</b>	<b>96</b>	<b>54.2%</b>

*Access Restrictions*

Upon reviewing the surrounding transportation system, it was noted that N Vancouver Avenue is a one-way street in the southbound direction. Although traffic movements along this roadway are restricted for northbound traffic, alternative access to and from the site for northbound travel is available along N Williams Avenue. Vehicles traveling northbound on N Williams Avenue can access the project site by turning onto N Failing Street and then traveling southbound on N Vancouver Avenue or accessing the on-site parking from the N Gantenbein Avenue-Vancouver Avenue alley. Likewise, vehicles exiting the project site and desiring to travel north can access N Williams Avenue from N Failing Street and N Beech Street.

N Williams Avenue is a one-way street in the northbound direction. Although traffic movements along this roadway are restricted for southbound traffic, alternative access to the site for southbound travel is available along N Vancouver Avenue.

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

*Neighborhood Impacts*

The impacts associated with the proposed short-term rental are expected to be minor. A minimal increase in peak hour and daily traffic (2 additional morning and evening peak hour trips and 16 additional weekday trips) as well as parking impacts (4 additional vehicles during

the peak demand period) are projected, assuming that each of the five bedrooms were rented to separate parties. Since the proposed use will only be rented to up to two separate parties at a time, the trip generation and parking generation projections within this study are expected to be conservative relative to a standard motel (land-use code 320), by which data is referenced per the direction of City of Portland staff.

As described within the study, the added trips on the nearby transportation system will not have a significant effect on the operation or safety of the nearby street system, and the proposed conditional use will have no significant impact on the available on-street parking in the neighborhood. The proposed use is also in conformance with the residential character of the existing neighborhood, and therefore will have minimal impacts felt by the neighborhood.

### Impacts on Pedestrian, Bicycle, and Transit Circulation

As described within the *Safety and Availability of Pedestrian and Bicycle Networks* sections, there are comfortable and safe walking/biking routes, as well as safe routes to access transit facilities, available within the site vicinity. The proposed conditional use will not create any new barriers to these travel modes, and safe circulation routes will remain available within the site vicinity following approval of the proposed use.

### **Conclusions**

The impacts of the proposed short-term rental to the existing transportation infrastructure are expected to be minimal and acceptable. New site trips generated by the conditional use are not expected to significantly alter the operation or safety of the existing transportation facilities. Additionally, on-street parking within the area is sufficient to meet the total parking demands of the proposed and existing land uses.

The City of Portland's transportation impact approval criteria are met for the proposed conditional use, as the transportation system is capable of safely supporting the proposed use in addition to the existing land uses in the area. No safety or operational issues are expected to occur upon implementation of the proposed short-term rental. Accordingly, no mitigation is necessary or recommended.

Based on these findings from 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 Portland Police Bureau reviewed the proposal and responded that police services are adequate for the proposed use (Exhibit E.7). The Bureau of Environmental Services reviewed the proposal and responded with no objections, indicating no concerns with the existing sanitary waste disposal and stormwater disposal for the property (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 Boise Neighborhood Plan and the Albina Community Plan.

Staff finds the following statements from the Boise Neighborhood Plan to be relevant:

- Policy III: Neighborhood Maintenance and Image – Objective 1: Encourage homeowners, landlords and tenants to maintain yards and residences.

- Policy III: Neighborhood Maintenance and Image – Objective 4: Attract new development to Boise by improving the neighborhood’s image throughout the Portland area<sup>7</sup>
- Policy VII : Business Growth and Development/Employment – Objective 4: Limit the establishment of businesses in Boise that would have an adverse effect on neighborhood livability.

Staff finds the following statements from the Albina Community Plan to be relevant:

- Policy III: Business Growth and Development – Action Item 13: Identify potential commercial and recreational businesses and activities which stimulate tourism and attract visitors to the Albina Community. Develop an action plan to stimulate the development of these economic activities within the Albina Community.

The applicant is the owner and the full-time resident on this site. As mentioned in the findings for approval criterion C, the applicant will actively manage the home and yard. The ASTR rentals will create an income stream and an incentive to keep the property well-maintained. As discussed in the findings for approval criterion A, no exterior alterations to the property are proposed, and the ASTR use will not adversely impact the residential appearance or residential character of the neighborhood. The ASTR will promote the growth of tourism in the Boise neighborhood and in the larger Albina area.

For these reasons, staff finds the proposal is consistent with the Boise Neighborhood Plan and the Albina Community Plan. Approval criterion E is met.

### **Oregon Statewide Planning Goals**

Because one or more of the criteria listed above is an “unacknowledged” land use regulation, this proposal must comply with applicable Statewide Planning Goals.

#### Goal 1: Citizen Involvement

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process.” It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

**Findings:** The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. For this application, a written notice seeking comments on the proposal was mailed to property owners and tenants within 150 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 400 feet of the site. There is also an opportunity to appeal the administrative decision at a local hearing. The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City’s ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

#### Goal 2: Land Use Planning

Goal 2 outlines the basic procedures of Oregon’s statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable “implementation ordinances” to put the plan’s policies into effect must be adopted. It requires that plans be based on “factual information”; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

**Findings:** Compliance with Goal 2 is achieved, in part, through the City’s comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that



the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed in the Zoning Code approval criteria findings, the proposal complies with the applicable regulations with conditions of approval, as supported by substantial evidence in the record. As a result, the proposal meets Goal 2.

### Goal 3: Agricultural Lands

Goal 3 defines “agricultural lands,” and requires counties to inventory such lands and to “preserve and maintain” them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

### Goal 4: Forest Lands

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will “conserve forest lands for forest uses.”

**Findings:** In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid, and Goal 3 and Goal 4 do not apply.

### Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

**Findings:** The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City’s Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection (“p”), Environmental Conservation (“c”), and Scenic (“s”) overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic overlay zones, but the site is part of a designated historic resource (the Piedmont Conservation District). Since the proposal does not include any exterior alterations that would affect the historic resource, staff finds the proposal is consistent with Goal 5.

### Goal 6: Air, Water and Land Resources Quality

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Findings:** Compliance with Goal 6 is achieved through the implementation of development regulations such as the City’s Stormwater Management Manual at the time of building permit review, and through the City’s continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. BES reviewed the proposal with respect to sanitary sewer and stormwater requirements and expressed no objections to approval of the application (Exhibit E-1). Staff finds the proposal is consistent with Goal 6.

### Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

**Findings:** The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City’s MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or

land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

#### Goal 8: Recreation Needs

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

**Findings:** The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. Staff finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the site, or by the parks and recreation system development charges that are assessed at time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is consistent with Goal 8.

#### Goal 9: Economy of the State

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Findings:** Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

#### Goal 10: Housing

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

**Findings:** The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since the site will serve as the full-time residence for the applicant, the property will remain part of the City's existing housing stock. Since the proposal will facilitate continuing investment in the City's housing stock, the proposal is consistent with Goal 10.

#### Goal 11: Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

**Findings:** The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's

public services bureaus found that public services are adequate for the proposal. Therefore, the proposal is consistent with Goal 11.

#### Goal 12: Transportation

Goal 12 seeks to provide and encourage “safe, convenient and economic transportation system.” Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

**Findings:** The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City’s TSP aims to “make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs.” The extent to which a proposal affects the City’s transportation system and the goals of the TSP is evaluated by PBOT. As discussed earlier in this report, PBOT evaluated this proposal and found the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Therefore, the proposal is consistent with Goal 12.

#### Goal 13: Energy

Goal 13 seeks to conserve energy and declares that “land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.”

**Findings:** With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to “make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs.” This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City implements energy efficiency requirements as required by the current building code. For these reasons, staff finds Goal 13 is met.

#### Goal 14: Urbanization

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an “urban growth boundary” (UGB) to “identify and separate urbanizable land from rural land.” It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

**Findings:** In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro’s Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro’s Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code’s compliance with Metro’s Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

#### Goal 15: Willamette Greenway

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Findings:** The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

### Goal 16: Estuarine Resources

This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

### Goal 17: Coastal Shorelands

This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

### Goal 18: Beaches and Dunes

Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

### Goal 19: Ocean Resources

Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

**Findings:** Since Portland is not within Oregon's coastal zone, Goals 16-19 do not apply.

## **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 lives full-time on this site and proposes to rent 5 bedrooms as a Type B ASTR facility. Staff finds that with conditions of approval, the proposal will maintain the residential appearance and function of the area, maintain physical compatibility, and limit livability impacts on neighbors. Public services are available for the site, and the Portland Bureau of Transportation found the transportation system in the area can accommodate the proposed use. With conditions of approval, the proposal meets all of the applicable approval criteria and therefore must be approved.

## **ADMINISTRATIVE DECISION**

Approval of a Type B accessory short-term rental (ASTR) operation in up to 5 bedrooms at a time within the existing house on this site, subject to the following conditions:

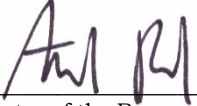
- A. This Type B ASTR approval replaces the previously approved Type A ASTR permit for this site (permit #18-113317 HO), which is no longer valid, and the Type A ASTR permit request submitted in January of 2020 (permit #20-112393 HO).
- B. Before the ASTR facility can operate, the applicant or operator must obtain approval of a fee paid inspection from BDS to confirm that the building code, smoke detector, and carbon monoxide alarm requirements of Zoning Code Section 33.207.050.B.4 are met for each of the bedrooms which may be rented to overnight guests.

- C. No more than 5 bedrooms at a time can be rented to ASTR guests.
- D. No more than 2 ASTR guests per bedroom (regardless of age) are allowed.
- E. All advertisements for the ASTR must display prominently in the title of the advertisement the maximum number of bedrooms rented to ASTR guests (5) and the maximum number of ASTR guests allowed per bedroom (2). If the house is rented as two suites (for example, the basement and the rest of the house), then each advertisement will display the number of bedrooms and number of total people allowed in that portion of the house.
- F. The “house rules” in Exhibit A.4 must be amended to prohibit outdoor gatherings of ASTR guests after 10 pm. The amended house rules must be posted in a visible location in the rental and posted on any website on which the ASTR is advertised.
- G. Commercial meetings including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.
- H. The ASTR facility may not create noise impacts in violation of Title 18 (Noise Control), which prohibits the following:
  - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
  - Operating or permitting the use or operation of any such device between the hours of 10pm and 7am to be plainly audible within any dwelling unit which is not the source of the sound.
- I. The applicant or operator must provide to the immediate neighbors a telephone number and e-mail address for:
  - The primary ASTR operator (a full-time resident at the site); and
  - A local contact who will respond to complaints about the ASTR facility while the primary ASTR operator is traveling (no more than 95 days per calendar year).

This notification must be provided annually to residents of the following properties:

- 3827 N Vancouver Ave
  - 3829 N Vancouver Ave
  - The future residential units at what is now 3773 N Vancouver Ave
  - 3804 N Gantenbein Ave
  - 3812 N Gantenbein Ave
  - 3820 N Gantenbein Ave
- 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.

**Staff Planner: Amanda Rhoads**

**Decision rendered by:**  **on April 20, 2020**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 22, 2020**

**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 December 23, 2019, and was determined to be complete on March 5, 2020.

*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 December 23, 2019.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 3, 2020.**

**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, 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 May 6, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to [BDSLUSTeamTech@portlandoregon.gov](mailto:BDSLUSTeamTech@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type

II and Ix 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 due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **May 6, 2020** 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:

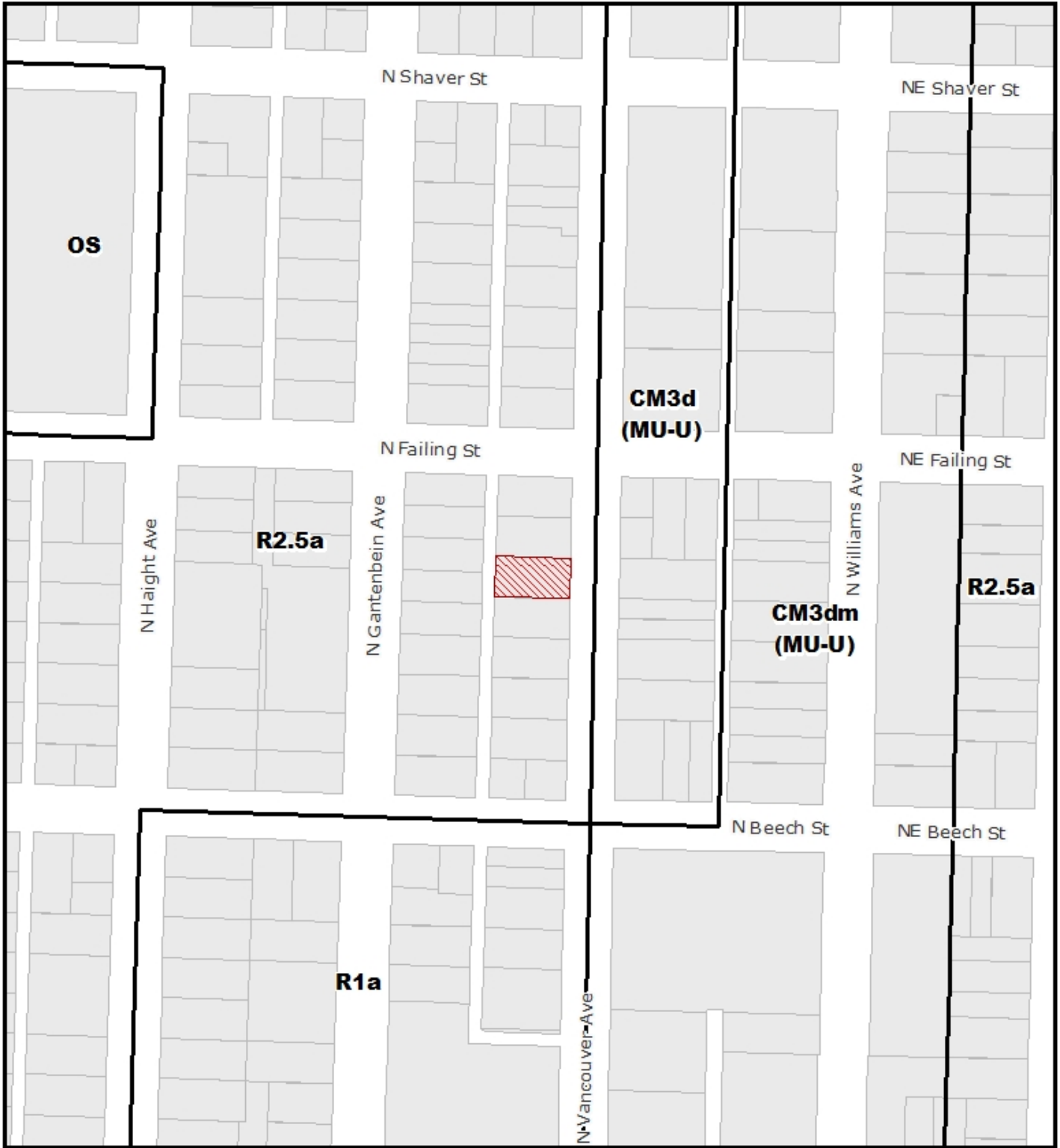
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Initial Applicant Project Description with Photos
  - 2. Traffic Study, January 24, 2020
  - 3. Applicant Narrative, January 27, 2020
  - 4. House Rules, January 27, 2020
  - 5. Other responses to incomplete letter, January 27, 2020
  - 6. Supplement to Narrative
  - 7. Applicant Email, January 28, 2020
  - 8. Applicant Email, February 27, 2020
  - 9. Floor Plans
  - 10. Response to neighbor letter, April 6, 2020
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Life Safety (Building Code) Plans Examiner
  - 7. Police Bureau
  - 8. Urban Forestry Division of Parks and Recreation
- F. Correspondence:
  - 1. Sherifa Roach, April 1, 2020, opposed to proposal
- G. Other:
  - 1. Original Land Use Application and Receipt
  - 2. Incomplete Letter, January 9, 2020
  - 3. Permit history
  - 3. Planner Email, January 28, 2020, 9:27 am
  - 4. Planner Email, January 28, 2020, 12:23 pm
  - 5. Planner Email, January 28, 2020, 3:52 pm
  - 6. Planner Email, February 27, 2020

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





**ZONING**   
NORTH

 Site

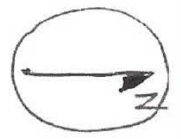
File No.	<u>LU 19 - 268628 CU</u>
1/4 Section	<u>2630</u>
Scale	<u>1 inch = 163 feet</u>
State ID	<u>1N1E22DC 11300</u>
Exhibit	<u>B</u> <u>Dec 27, 2019</u>

7.01/16 Plan

PROPERTY w/ DUPLEX

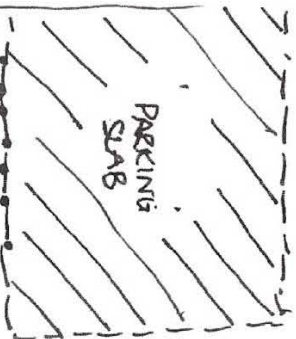
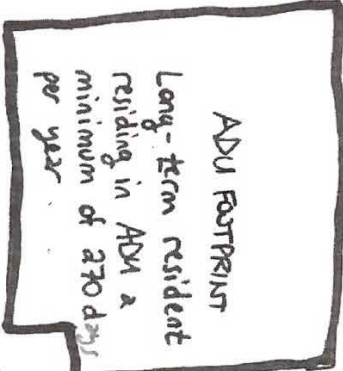
3809 N VANCOUVER AVE / simplified plan

Wooden fence

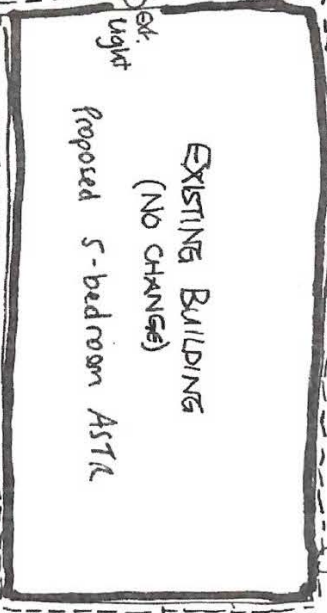


CASE NO. Lu 19-268628 cu  
EXHIBIT C.1

Alley



wooden slat/wire fence



Reset fence

N. VANCOUVER AVE

PROPERTY LINE

PROPERTY LINE

EMPTY LOT