



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

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**STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER
REGARDING THE RECONSIDERATION OF A LAND USE APPROVAL FOR A TYPE B
ACCESSORY SHORT-TERM RENTAL (ASTR) USE**

CASE FILE: LU 18-118937 CU
PC # 17-250573

REVIEW BY: Hearings Officer

WHEN: May 15, 2019 at 1:00 pm

WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this Reconsideration.

BUREAU OF DEVELOPMENT SERVICES STAFF: MARGUERITE FEUERSANGER /
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GENERAL INFORMATION

ASTR Operator: Raymond M. Burse, Jr.
2948 NE 9th Avenue, Portland, OR 97212

Owners: Raymond Burse, Sr. and Raymond M. Burse, Jr.
2948 NE 9th Avenue, Portland, OR 97212

Site Address: 2946 NE 9th Avenue

Legal Description: BLOCK 101, LOT 15, IRVINGTON
Tax Account No.: R420422790
State ID No.: 1N1E26BD 05800
Quarter Section: 2731

REC'D HEARINGS OFFIC
FR MAY 3'19 PM 1:35

Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: Soul District Business Association, contact at outreach@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

Zoning: R5, Single Dwelling Residential 5,000 Zone
Other Designations: Historic Resource Protection Overlay Zone, Contributing Structure within Irvington Historic District

Original Case Type: CU, Conditional Use, Type II Procedure
Procedure: Modified Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council. However, the Type III reconsideration procedure does not require a pre-application conference and does not require submittal of a fee or an application.

Reconsideration Purpose

The ability to publicly reconsider a land use approval provides an opportunity to determine if the use or development is in compliance with Title 33 (Portland Zoning Code). It also allows for clarification of prior land use approvals. As part of the reconsideration, the ability to add new conditions or even revoke the approval provides a strong enforcement mechanism for the Zoning Code.

Reconsideration Process

Per Zoning Code Section 33.700.040(C), reconsideration of the land use approval may be initiated by the Director of the Bureau of Development Services (BDS) any time after 60 days have passed from the date of the first zoning violation. This Reconsideration was initiated on April 15, 2019 (the mailing date of the Notice of Public Hearing Regarding the Reconsideration), 135 days from November 30, 2018, the mailing date of the first Notice of Violation.

Reconsideration Criteria

Certain land use approvals, including Conditional Uses, may be reconsidered if there is evidence that situations listed in Zoning Code Section 33.700.040.B.1-3 have occurred. These situations are the Reconsideration Criteria. For the subject site, the Conditional Use (Type B Accessory Short-Term Rental - ASTR) land use approval is being reconsidered because BDS has found substantial evidence of the following:

- One or more conditions of the land use review approval have not been implemented or have been violated (33.700.040.B.1); and
- The activities of the use, or the use itself, are substantially different or have substantially increased in intensity from what was approved (33.700.040.B.2).

ASTR Review Process and Proposal Background

Zoning Code regulations allow Accessory Short-Term Rental (ASTR) uses in residential zones, provided the relevant regulations of Zoning Code Chapter 33.207, Accessory Short-Term Rentals, are met. The Type B ASTR use allows three to five bedrooms for rent if approved through the Type II Conditional Use review procedure (Portland Zoning Code Section 33.207.050.A.2). The approval criteria for Type B ASTRs are found in Section 33.815.105.A-E, Conditional Use Approval Criteria for Institutional and Other Uses in the Residential Zones. Find full Zoning Code chapters and approval criteria online at www.portlandoregon.gov/zoningcode.

The property owner received Conditional Use approval for a Type B ASTR limited to three bedrooms and six guests, for the house on the subject site, on August 18, 2018. The Conditional Use approval (#18-119837 CU, Exhibit I-5) included Conditions A.1-A.3 and B.1 – B.16. Since that time, BDS obtained substantial evidence that shows the following conditions of the approval were violated: Conditions B.1, B.2, B.3, B.5, B.7 and B.8. Information about these conditions and the BDS evidence is found in the findings under Reconsideration Criteria.

ANALYSIS

Site and Vicinity: The 5,000 square-foot site occupies the central portion of the block bounded by NE Siskiyou and NE Stanton Streets and by NE 9th and NE 10th Avenues. The site contains a single-dwelling house. A driveway is located at the south side of the lot, which accommodates two vehicles. A wood fence, approximately 5 to 6 feet in height is located near the rear and side property lines.

The site's one and one-half story bungalow-style house (built around 1909) is identified as a contributing structure within the Irvington Historic District. Platted in the late 19th Century, the Irvington neighborhood developed generally from southwest to northeast and its growth was greatly influenced by streetcar lines that provided an easy commuting route to downtown.

The surrounding area's block pattern is strikingly consistent, characterized by 500-foot-long block faces along the numbered north-south streets, onto which the houses generally face. The named east-west street block faces are the traditional 200-foot Portland block lengths. Mature street trees are a prominent feature along all streets near the site.

Residential lots to the north, south, and east of the site contain multi-story, single-family residences. The surrounding area within several blocks of the site is similarly characterized by older homes of various architectural styles built in the 1910s and 1920s. The nearest commercial development is located along NE Martin Luther King, Jr. Boulevard to the west and along NE Fremont Street to the north. Irving Park is located approximately 550 feet north of the site. Adjacent and nearby streets of NE Siskiyou and NE Stanton Streets and NE 9th and NE 10th Avenues, are fully improved with sidewalks and landscape strips, and designated as Local Service Streets in Portland's Transportation System Plan. There are no posted parking restrictions along NE 9th Avenue near the site.

Zoning: The site is in the R5, Single Dwelling Residential Zone. The single-dwelling residential zones, including R5, are intended to preserve land for housing and to provide housing opportunities for individual households. The single dwelling zones implement the Comprehensive Plan policies and designations for single-dwelling housing.

The site is identified within the Irvington Historic District and identified as a contributing resource. The Irvington Historic District and the Historic Resource Protection Overlay zone protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties. *This Reconsideration process does not include changes to the exterior of the house (a contributing structure in the Irvington Historic District) or to the site. A prior building permit (18-110036 RS) approved the installation of a larger replacement basement window at the south elevation to create a new basement bedroom. Most exterior changes including replacement of windows require Historic Resource review. However, in this case the replacement basement window was exempt from Historic Resource review per Zoning Code Section 33.445.320.B.4.*

Land Use History: City records include one prior land use review for the site:

2012 - 118996 HR Historic Resource Review Approval of exterior alterations including enclosing a mudroom, building a new deck with railings, eaves extending 5 feet over the deck, and installing three double-hung windows and new door, for the existing house, designated as a contributing resource in the Irvington Historic District.

2018 - 0118937 CU Conditional Use Review Approval of a 3-bedroom ASTR with conditions. This land use decision is the subject of this Reconsideration Process.

Operator's Statement: The ASTR Operator, Raymond M. Burse, submitted a letter to the Hearings Officer on April 30, 2019 (Exhibit I-36). The following issues were raised in the April 30, 2019 letter:

1. While the Notice of a Public Hearing Regarding the Reconsideration (Exhibit I-33) included a statement that BDS obtained evidence of violation of Condition B.7, the initial Notice of Zoning Violations did not include a statement about Condition B.7.

Staff response: *Because BDS obtained additional evidence of violation of Condition B.7, the notice of this evidence was included in the Notice of a Public Hearing Regarding the Reconsideration. Raymond*

M. Burse and Raymond M. Burse, Jr., were mailed a copy of this notice and will be mailed a copy of this report which includes information about the violation of Condition B.7. An opportunity to review and respond to this evidence is provided beginning on May 3, 2019, the day this report is available to the public, up to the close of the public hearing. Note that there is nothing in Zoning Code Section 33.700.040 or the Type III notice provisions that limits the Hearings Officer's consideration to only those conditions cited in the initial notice.

2. Violations of Conditions B.1, B.2, B.3, B.5 and B.8 have been corrected by the Operator. The use and intensity of the use has not changed. The Reconsideration is premature as the corrections have not been allowed to be implemented and evaluated.

Staff response: *Although the Operator attempted to or is in the process of attempting to correct violations of conditions, the history of neighborhood complaints and reoccurring violations of the ASTR use are documented in the Code Compliance Cases (#17-204765 CC, #17-250573 CC and #18-186735 CC), the Administrative Decision (Exhibit H-3) and in the Decision of the Hearings Officer on Appeal of the Administrative Decision (Exhibit I-5). Further, Condition B-16 of the Decision of the Hearings Officer on Appeal of the Administrative Decision recommends revocation for any but the most minor of violations:*

B.16 "If City staff obtains evidence that one or more of the situations described in 33.700.040.B exist for this proposal or site, the Bureau of Development Services may initiate a Reconsideration of this Land Use Approval per 33.700.040. Given the site's history of violations and non-compliance, any but the most minor violations should be grounds for revocation of this approval."

*Evidence of violations is provided in this report under **Zoning Code Reconsideration Criteria.***

3. Attached to Raymond M. Burse's letter (Exhibit I-31) is a copy of a February 7, 2019 letter to Michael Liefeld, BDS, and four associated exhibits (Exhibit I-23). The information contained in Exhibit I-23 is discussed in this report under **Zoning Code Reconsideration Criteria.**

Agency Review: This Reconsideration does not affect city service availability or city service adequacy. Therefore, city bureau staff did not review or comment on this Reconsideration.

Neighborhood Review: A Notice of a Public Hearing Regarding the Reconsideration was mailed on April 15, 2019 (Exhibit I-31). One written response was received from the Neighborhood Association in response to the Reconsideration (Exhibit I-37). Robert Dobrich, President of the Irvington Community Association (ICA), wrote to say that the ICA has learned that the ASTR resident has been away from the site for more than three consecutive days, in violation of Condition B-14 of the land use approval.

Staff response: *Condition B-14 states:*

"The ASTR operator shall notify the Association and residents of properties adjacent to and across the street from the site whenever the resident will be away from the site for more than three consecutive days."

The statement from the Neighborhood Association and from the neighbors Barbara Nagle and Richard Plagge have confirmed that the operator has not ever provided the notification that the resident will be away from the property for a period of 3 consecutive days. The resident manager for the site was listed as Yasmine Barghouty. In her conversation with BDS in January, she stated that she would not be at the residence while guests were there. She also stated that she was not aware that she needed to notify the neighbors or the ICA if she would be gone for more than 3 days. When asked if she was gone from

the residence for more than 3 days, Yasmine had stated that she was not. This is contrary to her statement that she was not at the residence when there were guests stays. According to the log Airbnb confirmation data submitted by the operator, most of the stays were back to back stays by guests as shown in exhibit I-25.a. The log itself also shows that there were 6 occasions where guests rented the house for a period or more than 3 days during the time frame from August to October which Yasmine stated she was the resident of the site. It can be concluded that Yasmine was away from the site for periods over 3 consecutive days. The property owner, Raymond Burse Jr, sent a notification to the ICA on January 15, which was the day after Yasmine Barghouty spoke with BDS regarding her occupancy of the property. He stated that he and Andrea Rozdeba were now the permanent residents of the house. He also stated that they had been residing there since October of 2018. In the conversations with Raymond in January, he stated that he worked in South Carolina and traveled to Portland. He stated that he stays at the house while he is in Portland. He also stated that his girlfriend stays at the house. He stated that his girlfriend stays at a different location in Portland when there are guests at the house. Based on the Airbnb confirmation data in Exhibit I-25.a, there were 5 occasions between November 2018 and January 2019 that guests stayed for than 3 nights. There were also periods of back to back stays of guests during this time which would have meant that residents were not there.

*BDS has obtained evidence that pertains to violations of other conditions of the land use approval. The relevant conditions and evidence are discussed in this report under **Zoning Code Reconsideration Criteria**.*

ZONING CODE RECONSIDERATION CRITERIA

Section 33.700.040 Reconsideration of Land Use Approvals

Certain land use approvals, including Conditional Uses, may be reconsidered if there is evidence that situations listed in 33.700.040.B.1-3 have occurred. These situations are the Reconsideration Criteria. For the subject site, the Conditional Use (Type B ASTR) land use approval is being reconsidered because BDS has found substantial evidence of the following:

1. One or more conditions of the land use review approval have not been implemented or have been violated (33.700.040.B.1); and

Findings: A history of the land use review decisions for the proposed Type B ASTR use on the site is relevant background for this Reconsideration process:

- **Administrative Approval/Notice of a Type II Decision**, June 4, 2018 (Exhibit H-3).
Leading up to the administrative decision, BDS staff considered the issues raised by those in opposition to the proposal (19 letters were received in opposition) and considered the history of neighborhood complaints on the site (refer to findings under Criterion C, Livability). Overall, staff concluded that the applicant/property owner was demonstrating good intent to comply with ASTR rules by applying for the Conditional Use Type B ASTR, establishing House Rules designed to minimize neighborhood impacts (including a proposed time limit on use of outdoor decks), and identifying a long-term resident for the property. Staff conclusions are relevant for this Reconsideration process:

“Central issues of this proposal are ensuring that the house can accommodate a long-term resident, thereby maintaining the primary household living use, and reducing the proposed intensity of a four-bedroom rental with ten guests per stay. The site is within a moderately dense single dwelling neighborhood, and the rear yard contains two outdoor decks in proximity to other backyards. Previously an ASTR was operating at the site without the benefit of a Conditional Use review or ASTR permit and was the source of multiple complaints regarding adverse impacts from noise, late-night activity, and traffic. For this request, many nearby neighbors

wrote letters of frustration about prior unpermitted ASTR activity and voiced opposition to the proposal citing similar issues identified in the prior complaints. A Type A ASTR (2-bedroom rental) is currently approved for the site but the applicant has discontinued operation of all ASTR activity pending the outcome of this review. By applying for this review, identifying a long-term resident and establishing House Rules that minimize impacts to neighbors, the applicant intends to comply with the ASTR rules. Noncompliance with the ASTR rules and conditions of this decision can be cause for BDS to reconsider this land use review approval.

Conditions are needed to minimize potential adverse impacts on nearby properties. A significant condition of this approval reduces the number of bedrooms available for ASTR use to three and the number of guests per stay to six, or two guests per room. Other conditions require that guests be informed of the House Rules and Narrative, which include time periods for quiet hours and limits the use of the outdoor decks. Neighbors will be provided with current contact information for the long-term resident and management company. The conditions are designed to work toward effectively promoting good neighbor attributes of the ASTR." (excerpts from Conclusions, p. 16 of Exhibit H-3)

- **Decision of the Hearings Officer on Appeal of Administrative Decision**, July 17, 2018 (Exhibit I-5). The adjacent property owners, the ICA and the property owner appealed the administrative decision to the Hearings Officer. While the adjacent property owners and the ICA were opposed to the ASTR use, the property owner requested that the ASTR use be expanded to reflect the original proposal of four bedrooms with groups of 10 guests. The Hearings Officer's decision reaffirmed the Conditional Use approval for a three-bedroom Type B ASTR, limited to two bedrooms on the main floor and one bedroom on the upper floor of the house, with a maximum group size of up to six guests. However, the Hearings Officer decision added conditions and made key amendments to the conditions of the Administrative Decision. The Hearings Officer's changes to the conditions were imposed in response to public testimony and in part to limit the intensity of the ASTR use, ensure that impacts on neighbor's livability were minimized and to clarify for the Operator that going forward, a Reconsideration process is the remedy for all but the most minor violations. Thus, these changes are relevant to this Reconsideration process and are listed below, with **bold** and ~~strikethrough~~ print signifying the Hearings Officer's additions and changes to the Administrative Decision:

B. For the duration of operation of the Type B ASTR facility, the ASTR operator will meet the following conditions:

1. Provide rental arrangements limited to single groups only, with a maximum of 2 guests per legal bedroom at any one time, regardless of age. If the maximum number of three bedrooms are rented, ASTR group size is limited to 6 people. **The resident's bedroom in the basement of the site shall not be rented to guests at any time.**
2. **All persons on the site shall comply with** Quiet hours ~~during rental stays are~~ between 9 pm and 8 am Sundays through Thursdays and between 10 pm and 8 am Fridays and Saturdays. Use of all outdoor spaces, including the main level rear porch and 2nd story rear porch, **and yards** are prohibited **by anyone** between the hours of 7 pm and 8 am all days. **Use of the driveway and front walkway shall be limited to parking of passenger vehicles and for travel to and from the house during these hours. Gathering or waiting in the driveway is prohibited between 7 p.m. and 8 a.m. all days.**

3. No more than two tandem parking spaces are available on the driveway for ASTR guests and the on-site residents. Parking is not allowed within 10 feet of the front property line.
4. Commercial meetings and commercial events are prohibited. **PCC 33.207.050.B(8)(a) provides, "Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation."**
5. Smoking **and inhalant delivery systems (vaping, etc.) is prohibited anywhere** on the property, including indoor and outdoor spaces, ~~is prohibited~~.
6. The ASTR operator will encourage guests to walk, and to use bicycles and public transportation for travel to and from the ASTR as well as side trips taken during the ASTR rental period. The applicant will provide guests with information about nearby bicycle rental and bus route locations and schedules.
7. **Guests shall be required to access the residence via the front door. No guest access is permitted between the driveway and the rear yard.**
8. The ASTR operator must amend the House Rules and Narrative included in Exhibit A-3 to comply with this decision and Conditions B1 through ~~B6~~ **B7** of this approval. The amended House Rules and Narrative must be included in all advertisements for the ASTR facility.
9. The ASTR operator must maintain the House Rules and Narrative, 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 is prominently displayed within a common area of the house.
10. All advertisements for the ASTR shall display prominently in the title of the advertisement the maximum number of bedrooms (**three**) and the maximum number of people allowed per nightly rental (**six, two per bedroom**).
11. 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.
12. 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.
13. On an annual basis, the ASTR operator must provide the **Irvington Community Association** and residents of properties adjacent to and across the street from the site with phone contact information for the long-term resident/onsite manager, the property owner, and the management company. Properties include: 2933, 2938, 2943, 3006 and 3007 NE 9th Avenue, and 2937, 2947 and 3007 NE 10th Avenue. 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.

14. The ASTR operator shall notify the Association and residents of properties adjacent to and across the street from the site whenever the resident will be away from the site for more than three consecutive days.

15. In the event the existing approximate 5 to 6-foot tall wood fence, located along the rear and side property lines, is removed or damaged, the property owner must replace it with a new fence that meets the F2 standard Chapter 33.248. The locations of required F2 fencing are shown on Exhibit C-1.

16. If City staff obtains evidence that one or more of the situations described in 33.700.040.B exist for this proposal or site, the Bureau of Development Services will may initiate a Reconsideration of this Land Use Approval per 33.700.040. Given the site's history of violations and non-compliance, any but the most minor violations should be grounds for revocation of this approval.

As shown in both the content of the conditions and the strict limits placed on the ASTR use, the Hearings Officer's conditions were applied to satisfy the Conditional Use approval criteria. Simply stated, the conditions minimize the impacts of the ASTR on neighbors and limit the intensity of the ASTR use within the residential neighborhood.

BDS Evidence of Violations of Conditions BDS obtained the following substantial evidence that shows the violations of Conditions B.1, B.2, B.3, B.5, B.7 and B.8:

B) For the duration of operation of the Type B ASTR facility, the ASTR operator will meet the following conditions:

- 1. Provide rental arrangements limited to single groups only, with a maximum of two guests per legal bedroom at any one time, regardless of age. If the maximum number of three bedrooms are rented, ASTR group size is limited to six people. The resident's bedroom in the basement of the site shall not be rented to guests at any time.*

Condition B1 List of Violations			
Date	Description of the Violation	Evidence	Exhibit
8/24/18	Renting to 10 guests, more than 3 guests per room, more than 4 rooms	Operator's Guest Log	I-25.b
8/30/18	Renting to 8 guests and 4 rooms	Operator's Guest Log	I-25.b
9/05/18	Renting 4 rooms	Operator's Guest Log	I-25.b
9/20/18	Renting to 11 guests, 4 rooms and 3 guests per room	Operator's Guest Log	I-25.b
10/4/19	The Airbnb ad has a review from Steven in September which mentions place accommodated 10 people. This matches the Operator's Guest Log for Steven Solis who rented the house for a group of 11 on 9/20/18.	BDS Document	I-7
10/05/18	Renting to 8 guests and 4 rooms	Operator's Guest Log	I-25.b
10/19/18	Renting 4 rooms	Operator's Guest Log	I-25.b
11/09/18	Renting 4 bedrooms	Operator's Guest Log	I-25.b
12/21/18	Renting 4 bedrooms	Operator's Guest Log	I-25.b
12/24/18	Renting 4 bedrooms	Operator's Guest Log	I-25.b
12/29/18	Renting 4 bedrooms	Operator's Guest Log	I-25.b
01/19/19	Use of 4 bedrooms	Operator's Guest Log	I-25.b
3/2019	The Airbnb review by Breanne mentions the use of the	BDS Document	I-35

Condition B1 List of Violations			
Date	Description of the Violation	Evidence	Exhibit
	Bonus space in the basement. This is the location of the 4 th bedroom		

B.2. All persons on the site shall comply with quiet hours between 9 p.m. and 8 a.m. Sundays through Thursdays and between 10 p.m. and 8 a.m. Fridays and Saturdays. Use of all outdoor spaces, including the main level rear porch and second story rear porch, and yards are prohibited by anyone between the hours of 7 p.m. and 8 a.m. all days. Use of the driveway and front walkway shall be limited to parking of passenger vehicles and for travel to and from the house during these hours. Gathering or waiting in the driveway is prohibited between 7 p.m. and 8 a.m. all days.

Condition B2 List of Violations			
Date	Description of the Violation	Evidence	Exhibit
8/23/18 Thursday	Use the outdoor spaces between 7pm and 8am There is a loud party on the two back decks, photo taken at 11pm of the guests smoking on the side patio	Citizen Complaint Log	I-9
8/25/18 Saturday	Use of the outdoor spaces between 7pm and 8am "Loud party on back deck Photo 3 Guests arrive after 10 PM. Noisy drop off of 2 guys at 2:30 AM wakes us. Another group dropped off at 3:30 AM. At 4:30 AM 3 guys on back deck smoking and drinking. "	Citizen Complaint Log	I-9
9/7/18	Gathering in the driveway for a commercial bike ride by a California bike manufacturing group Eliel at 6:59am - Use of the Driveway between 7pm and 8am.	Citizen Complaint Log	I-9
9/8/18	Use of outdoor spaces between 7pm and 8am Large group of partiers on the side porch at 7:50pm	Citizen Complaint Log	I-9
9/21/18 Friday	Use of the outdoor spaces between 7pm and 8am loud voices wake the neighbors. Two men yelling on the back deck at 1:38am photo 7	Citizen Complaint Log	I-9 and I-11
9/22/18	Use of the outdoor areas between 7pm and 8am Guests return to house at 1:37am and are on the side deck waking the neighbors.	Citizen Complaint Log	I-9
9/22/18 to 9/23/19	Use of the outdoor spaces between 7pm and 8am All day party and BBQ starting at 10am and extending into the night and to the next morning of the 23rd – Photo at 10pm of the party on the side deck. Another photo at 12:34am of the party on the side deck.	Citizen Complaint Log	I-9
10/20/18	Use of the outdoor spaces between 7pm and 8am party on back deck at 9pm	Citizen Complaint Log	I-9
1/17/19 to 1/18/19	Use of the outdoor space between 7pm and 8am Party on the back deck. There are photos of guests smoking on the side deck at 9:13pm and 9:42pm. At 12:03am neighbors are awakened by partiers from the	Citizen Complaint Log	I-20

Condition B2 List of Violations			
Date	Description of the Violation	Evidence	Exhibit
	house exiting the side door and going into the street		
1/18/19 to 1/19/19	Use of the outdoor spaces between 7pm and 8am. There are smokers on the back deck in a photo at 10:39pm. At 12:30am, the neighbors are awoken by a party on the back deck with an obscene conversation and guests smoking shown in the photo	Citizen Complaint Log	I-20
1/21/19	Use the outdoor spaces between 7pm and 8am 1:47 am Loud noises from guests dropped off at the house and accessing the side porch	Citizen Complaint Log	I-20
1/22/19	Use of the outside areas between 7pm and 8am Guests are out on the side patio at 9:58pm	Citizen Complaint Log	I-28
1/28/19	Use of outdoor spaces between 7 pm and 8am Guest smoking on the side patio at 6:59am	Citizen Complaint Log	I-28
1/29/19	Use of the outdoor spaces between 7pm and 8am 7:29pm guests partying on the back deck	Citizen Complaint Log	I-28
2/15/19	Use of the outdoor spaces between 7pm and 8am Photos of guests on the side patio at 8:51pm and 9:33pm	Citizen Complaint Log	I-29
3/7/19	Use of exterior areas between 7pm and 8am Guests using the outside are at 8:16pm.	Citizen Complaint Log	I-30
3/11/19	Use of outdoor spaces between 7pm and 8am 940pm Guests on the side patio	Citizen Complaint Log	I-26
3/14/19	Use of outdoor spaces between 7pm and 8am Guests on the side patio at 920pm	Citizen Complaint Log	I-26
3/17/19	Use of the outdoor spaces between 7pm and 8am Guests on the side deck at 11:12pm	Citizen Complaint Log	I-26
3/27/19	Gathering in the driveway between the hours of 7pm and 8am photo shows guests hangout and smoking on the driveway at 8:19pm.	Citizen Complaint Log	I-31
3/29/19	Use of outdoor spaces between 7pm and 8am Guests using the back deck to smoke at 10:16pm	Citizen Complaint Log	I-31
4/7/19	Use of the outdoor spaces between 7pm and 8am Loud noises and conversations from guests parking cars in the driveway and unloading packages from the vehicles into house through the back deck using the outdoor spaces. There are photos from 12:03 am, 1:07am, and 1:10am	Citizen Complaint Log	I-32

3. *No more than two tandem parking spaces are available on the driveway. Parking is not allowed within 10 feet of the front property line.*

Condition B3 List of Violations			
Date	Description	Evidence Document	Exhibit
10/1/18	3 cars in the driveway, parking within 10 feet of the front property line	Citizen Complaint Log	I-21
11/22/18	3 cars in the driveway, parking within 10 feet of the front property line	Citizen Complaint Log	I-21
11/23/18	3 cars in the driveway, parking within 10 feet of the front property line	Citizen Complaint Log	I-21
11/24/18	3 cars in the driveway, parking within 10 feet of the front property line	Citizen Complaint Log	I-21
1/18/19 Saturday	Parking a vehicle within 10 feet of the front property line	Citizen Complaint Log	I-20
1/26/19	3 cars in the driveway, car parking within the 10 ft of the front property line	Citizen Complaint Log	I-27
4/7/19	3 cars in the driveway	Citizen Complaint Log	I-32

5. *Smoking and inhalant delivery systems (vaping, etc.) is prohibited anywhere on the property, including indoor and outdoor spaces.*

Condition B5 List of Violations			
Date	Description	Evidence Document	Exhibit
8/20/18	Guests smoking on the site – back deck	Citizen Complaint Log	I-9
8/23/18	Guests smoking on the site – Back deck	Citizen Complaint Log	I-9
8/25/18	Guests smoking on the site – Back deck	Citizen Complaint Log	I-9
9/29/18	Group of smokers in the driveway	Citizen Complaint Log	I-9
1/17/19	Guests smoking on the site	Citizen Complaint Log	I-20
1/18/19	Guests smoking on the back deck	Citizen Complaint Log	I-20
1/19/19	Guests smoking on site	Citizen Complaint Log	I-20
1/28/19	Guests smoking on the property	Citizen Complaint Log	I-28
2/25/19	Guests smoking on the site	Citizen Complaint Log	I-29
3/17/19	Guests smoking at the site	Citizen Complaint Log	I-26
3/17/19	Guests accessing house from the side entrance at the driveway	Citizen Complaint Log	I-26
3/27/19	Guests smoking on the driveway of the property	Citizen Complaint Log	I-31
3/28/19	Guests smoking on the back deck of the property	Citizen Complaint Log	I-31
3/29/19	Guests smoking on the back deck of the property	Citizen Complaint Log	I-31

7. *Guests shall be required to access the residence via the front door. No guest access is permitted between the driveway and the rear yard.*

Condition B7 List of Violations			
Date	Description	Evidence Document	Exhibit
8/23/18	Guests using the side entrance to enter the house	Citizen Complaint Log	I-9
8/25/18	Use of the side entrance to access the site	Citizen Complaint Log	I-9
1/9/19	Guests access the residence through the side door keypad entrance at the rear patio at 9:21 pm	Citizen Complaint Log	I-21 and I-22
1/12/19	Guests access the residence through the side door keypad entrance at the rear patio at 12:38pm	Citizen Complaint Log	I-21 and I-22
1/14/19	Guests access the residence through the side door keypad entrance at the rear patio at 9:31am	Citizen Complaint Log	I-21 and I-22
1/17/19	Guests access the residence through the side door keypad entrance at the rear patio at 7:15pm	Citizen Complaint Log	I-20
1/21/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-20
1/22/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-28
1/26/19	Guests accessing the house from the side entrance at the driveway	Citizen Complaint Log	I-28
1/30/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-28
1/31/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-28
2/15/19	Guests access the residence through the side door keypad entrance at the rear patio at 8:51 and 9:33pm – guests bring the suitcases down the driveway to access the side entry.	Citizen Complaint Log	I-29
2/16/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-29
2/16/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-29
2/17/19	Guests use the side entry for all access to and from the house during the stay	Citizen Complaint Log	I-29
2/18/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-29
2/20/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-29
2/23/19	Guests access the residence through the side door keypad entrance at the rear patio – Guests are confused in the driveway about access to the house. They discuss in the driveway that they must use the side entrance to access the house.	Citizen Complaint Log	I-29
2/25/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-30

Condition B7 List of Violations			
Date	Description	Evidence Document	Exhibit
2/26/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-30
3/7/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-30
3/11/19	Guests access the residence through the side door keypad entrance at the rear patio.	Citizen Complaint Log	I-26
3/12/19	New Guests arrive at the house and attempt to enter through the front door. Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-26
3/14/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-26
3/18/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-26
3/20/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-30
3/22/19	Guests leave the site through the side door keypad entrance at the rear patio at 6:38am	Citizen Complaint Log	I-30
3/23/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-30
3/27/19	Guests access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-31
4/5/19	Guests arrive and attempt to enter the residence at the front door which does not work. Guests then access the residence through the side door keypad entrance at the rear patio	Citizen Complaint Log	I-32
4/6/19	Guests accessing the residence through the side door	Citizen Complaint Log	I-31
4/7/19	Guests accessing the house through the side entrance	Citizen Complaint Log	I-31

8. *The ASTR operator must amend the House Rules and Narrative included in Exhibit A-3 to comply with this decision and Conditions B1 through B7 of this approval. The amended House Rules and Narrative must be included in all advertisements for the ASTR facility.*

List of Violations of Condition B8			
Date	Description	Evidence Document	Exhibit
10/4/18	The Airbnb advertisement does not contain language which reflects the conditions of the CU. Five beds are advertised but bedroom photos have one bed; 3-level house is advertised. Guest review states that 10 people were accommodated very comfortably.	BDS Document	I-7
10/5/18	The Airbnb advertisement does not contain language which reflects the conditions of the CU. Under the description of the house, it states 3 bedrooms and	BDS Document	I-8

	bonus room. It also states there is private parking for 3 cars in 2 different sections of the ad. Under the policies section, it states there is an 8-guest minimum on all holidays and weekends for summer and fall months. It also states the house is non-smoking house, Ashtrays are provided for convenience, please disposed of all butts appropriately.		
10/29/18	Airbnb ad remains in violation – no conditions added to the narrative and house rules	BDS Document	I-10
11/29/18	Airbnb ad remains in violation – no conditions added to the narrative and house rules	BDS Document	I-12
1/8/19	Airbnb ad remains in violation – no conditions added to the narrative and house rules	BDS Document	I-16
1/23/19	Airbnb ad remains in violation – no conditions added to the narrative and house rules	BDS Document	I-23
3/21/19	Airbnb ad was modified – states a 6-guest minimum. language was added that addresses conditions B1, B2, B3, and B4 from the Conditional Use, but it also has conflicting language. It states 3 bedrooms available, but later in the description states that there is a bonus room which hints at 4 rooms versus the 3 allowed though B1. While the house rules sections describe that only 2 tandem car parking spots are allowed, the neighborhood description states that there is a private driveway to park 3 cars.	BDS Document	I-27
4/17/19	Same as above.	BDS Document	I-34

Summary: The above findings and evidence showing reoccurring violations of six conditions of approval is cause for revocation of the land use approval.

2. The activities of the use, or the use itself, are substantially different or have substantially increased in intensity from what was approved (33.700.040.B.2); and

Findings: The land use approval limited ASTR use to three bedrooms. That limitation and Condition B.1 (limiting the number of ASTR guests to six people) are intended to minimize the intensity of the ASTR.

On at least twelve occasions over the course of five months (between August 24, 2018 and January 19, 2019), BDS has collected evidence showing that the house was either rented to groups of more than six guests or at least four bedrooms were rented for ASTR use. The evidence is in part provided in the Operator's Guest Log (Exhibit I-25.b). The log cites four occasions where the house was rented to groups of more than six guests, in violation of the land use approval and Condition B.1 (refer to the above chart citing evidence of violations of Condition B.1). The limit on the number of guests was intended to ensure that the intensity of the ASTR use would be consistent with Conditional Use Criterion 33.815.105.A.2 (Hearings Officer's findings on pp 16-21 of Exhibit I-5).

Condition B.2 in part restricted use of the outdoor spaces to a discrete daily time period, between the hours of 7 p.m. and 8 a.m. Evidence provided by Citizen Complaint Logs (refer to the chart above listing evidence of violations of Condition B.2) shows more than 20 incidents of use of outdoor spaces that extended beyond the allotted time period. This expanded time period of the use of outdoor spaces results in an increased intensity of the ASTR use beyond the land use approval and has negatively impacted neighbors.

Because the evidence shows that the intensity of the ASTR use has regularly increased beyond the approved limits, staff finds cause for revocation of the land use approval.

3. The use is subject to the conditional use or nonconforming use regulations, has not been subject to a conditional use or nonconforming use review, and has substantially changed its activities or substantially increased the intensity of its operations since it became a conditional use or a nonconforming use. Examples of increases in intensity are: an increase in the number of members, students, employees, visitors, or vehicle trips per event, per year, or per other comparable period of time; an increase in the hours of operation; or an increase in the number of events per year (33.700.040.B.3).

Findings: The ASTR is subject to the conditional use regulations but it has been subject to a Conditional Use review. Therefore, this Revocation criterion does not apply.

CONCLUSIONS

As documented in this report, BDS has obtained substantial evidence of reoccurring violations of six conditions of approval for the subject Conditional Use Type B ASTR. A central purpose of the Conditional Use review is to identify potential negative impacts of the proposed use and apply conditions to the use to ensure its operation is compatible with residential uses and neighborhood livability. In this case, those central purposes were not realized due to reoccurring violations. A significant number of conditions were placed on the initial land use approval. After a public hearing on the Appeals of the initial land use approval, the Hearings Officer upheld the initial approval but placed additional and firmer conditions on the ASTR use. The conditions were intended to reduce the intensity of use to ensure neighborhood livability and compatibility. Despite the lengthy review process, the evidence shows that the ASTR use did not operate within the limits defined by the Hearings Officer's decision.

Although the Hearings Officer applied 16 conditions to the ASTR use, one of the conditions is most relevant for this Reconsideration:

"If City staff obtains evidence that one or more of the situations described in 33.700.040.B exist for this proposal or site, the Bureau of Development Services may initiate a *Reconsideration of this Land Use Approval* per 33.700.040. Given the site's history of violations and non-compliance, any but the most minor violations should be grounds for revocation of this approval." (*Condition B.16, Exhibit I-5*)

A written response from one of the property owners, Raymond M. Burse, states that the Reconsideration process is premature and that over time, violations have been addressed or corrected (Exhibit I-36). Staff disagrees with this assessment. A Notice of Zoning Violation was issued to the property owners on November 30, 2018. A follow-up letter was issued to the property owner on January 24, 2019 which stated, "It is imperative that you and your management company immediately review the entirety of the City Code Hearings Officer's order to ensure that your property is operated in compliance with all conditions of LU 18-118937 CU (Hearings Office 4180016)." The evidence demonstrates that violations have continued even after BDS notification of the requirements. The evidence does not support the property owner's assertion that the violations have been addressed or corrected.

Continued and consistent compliance with conditions of approval for a Conditional Use is essential in ensuring that negative impacts on surrounding properties are minimized. And such conditions are inextricably tied to the approval of the Conditional Use. In this case, neighborhood complaints relate to noncompliance with approved operational limits and the conditions of the approval. The evidence collected by BDS shows that ASTR use and activity exceeded maximum limitations and

intensity on many occasions. Multiple conditions were violated prior to and immediately after the approval of the Type B ASTR at the subject site.

BDS concludes that the documented evidence of violations of the land use approval conditions is significant. Repeated violations of the conditions have resulted in an increased intensity of the ASTR use over what was approved and have had a substantial negative impact on the livability of nearby residents. Violations of the conditions have been documented since August 2018 and continued even after notification of violations in November 2018. The ongoing chronic nature of the documented violations establishes that either the property owners cannot operate the ASTR in compliance with the conditions of approval or at worst simply chose not to comply with the Hearings Officer's Order. The evidence obtained by BDS meets the thresholds of Zoning Code 33.700.040(B)(1) and (2), and of Condition B.16 of the land use approval. The land use approval should therefore be revoked.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Revocation of the Land Use Approval for a Type B ASTR at 2946 NE 9th Avenue, LU #18-118937 CU.

Procedural Information. There is no application for this Reconsideration of a Land Use Approval per Zoning Code Section 33.700.040. The first zoning violation letter was sent to the property owners on November 30, 2018. Per Section 33.700.040.C, the Reconsideration may be initiated any time after 60 days have passed from the first notice of violation.

Some of the information contained in this report was provided by the ASTR operator.

Decision Making Process. This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this Reconsideration case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may take any of the actions described in 33.700.040.E. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record.

The staff report and recommendation is be posted on the BDS website at <https://www.portlandoregon.gov/bds/35625>. Land use reviews are listed by the District Coalition shown at the beginning of this document. The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. We can provide some information over the phone (see contact information at the top of the first page of this notice). Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <http://www.portlandonline.com/auditor/index.cfm?c=28197>.

The neighborhood association, listed on the first page of this notice, may take a position on this reconsideration and may have scheduled an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

To comment, you may write to the Land Use Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201, or FAX your comments to 503-823-4347; or you may testify at the hearing. In your comments, you should address the Reconsideration Criteria cited above. Your comments must be directed at the criteria and provide enough specificity to allow all parties the opportunity to respond to the issues you raise. The Hearings Officer does not accept comments via e-mail. Please refer to the file number when seeking information or submitting testimony. Written comments must be received by the end of the hearing. Please note that all correspondence and testimony

received will become part of the public record. BDS staff will be at the hearing to answer questions and respond to comments. The general order of appearance for oral testimony at the hearing is as follows: BDS staff report, ASTR operator testimony, testimony of interested parties who wish to ask questions or testify, staff response and closing comments, and ASTR operator's closing comments. The Hearings Officer will make a decision about this Reconsideration within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

Prior to the conclusion of the hearing before the Hearings Officer, any participant may request an opportunity to present additional evidence or testimony regarding the reconsideration. If such a request is made, the record will be held open for seven days to receive the new evidence and the record shall be held open for at least an additional seven days to provide the other parties an opportunity to respond to that new evidence. Unless waived by the ASTR operator, there will be an additional seven days provided to the ASTR operator for written rebuttal to the evidence, if the ASTR operator requires that time.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal Process. You may appeal the Hearings Officer's Reconsideration decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/ASTR operator. Appeals must be filed within 14 days of the decision. If appealed, City Council will hold an "on the record" hearing. New evidence cannot be submitted to the City Council in the event of an appeal. No fee is charged for an appeal of a Reconsideration decision to City Council (Section 33.700.040.D.1).

The City Council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA).

Failure to raise an issue in person or in writing by the close of the record at or following the final evidentiary hearing before the Hearings Officer on this case may preclude an appeal to City Council or LUBA on that issue. Also, if you do not provide enough detailed information to the Hearings Officer, they may not be able to respond to the issue you are trying to raise. In such a situation an appeal to City Council or LUBA based on that issue may not be allowed.

Enforcement of revocation. Per 33.700.040.F, in the event that the land use approval is revoked, the use or development becomes illegal. The use or development must be terminated within 21 days of the date the revocation decision is filed with the City Auditor, unless the decision provides otherwise. Enforcement is the responsibility of BDS.

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 by the Bureau of Development Services at least 14 days after **the Hearings Officer issues a decision**.

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.

Per Zoning Code Section 33.700.040(C), reconsideration of the land use approval is being initiated by the Director of BDS.

Hearing Cancellation

This public hearing will be cancelled if the City of Portland is closed due the inclement weather or other similar emergency. Check local television or the City of Portland website (www.portlandoregon.gov) for closures. Contact the Hearings Office at 503-823-7307 for immediate information regarding cancellations or rescheduling.

The hearing will be rescheduled for the earliest possible date. A renotification notice will not be sent.

To attend the hearing, public transportation is available. Tri-Met buses stop near the BDS building at SW Fifth or Sixth Ave. at SW Hall St. and SW Harrison St. Call Tri-Met at 503-238-7433 (or www.trimet.org) for routes and times. Hourly rated public parking is available a half block south of the building on Fourth Ave.

Planner's Names: Marguerite Feuersanger and Justin Lindley

Date: May 3, 2019

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement (for initial Conditional Use Review Proposal)
 - 1. Original Submittal, February 13, 2018
 - 2. Updated Submittal, February 27, 2018, narrative addressing approval criteria, lease agreement, and resident's statement
 - 3. Updated Submittal, March 20, 2018, updated narrative addressing the proposal description, house rules, approval criteria, development standards of Chapter 33.207, and roles and responsibilities of the proposed ASTR management
 - 4. Updated Transportation Analysis, April 25, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
 - 3. Elevations (attached)
- D. Notification information (for initial Conditional Use Review Proposal):
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses (for initial Conditional Use Review Proposal):
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6. Site Development Review Section of BDS
 - 7. Life Safety Plan Review of BDS
 - 8. Urban Forestry Division of Parks and Recreation
- F. Correspondence (for initial Conditional Use Review Proposal, February 28, 2018 - April 23, 2018):
Writing in opposition to the proposal:
 - 1. Donna Wax and Jeff Jones, February 28, 2018 and April 17, 2018
 - 2. Karen Deora, March 2, 2018
 - 3. Cary Leach, March 2, 2018
 - 4. Randy Bloom, March 2, 2018 and April 17, 2018

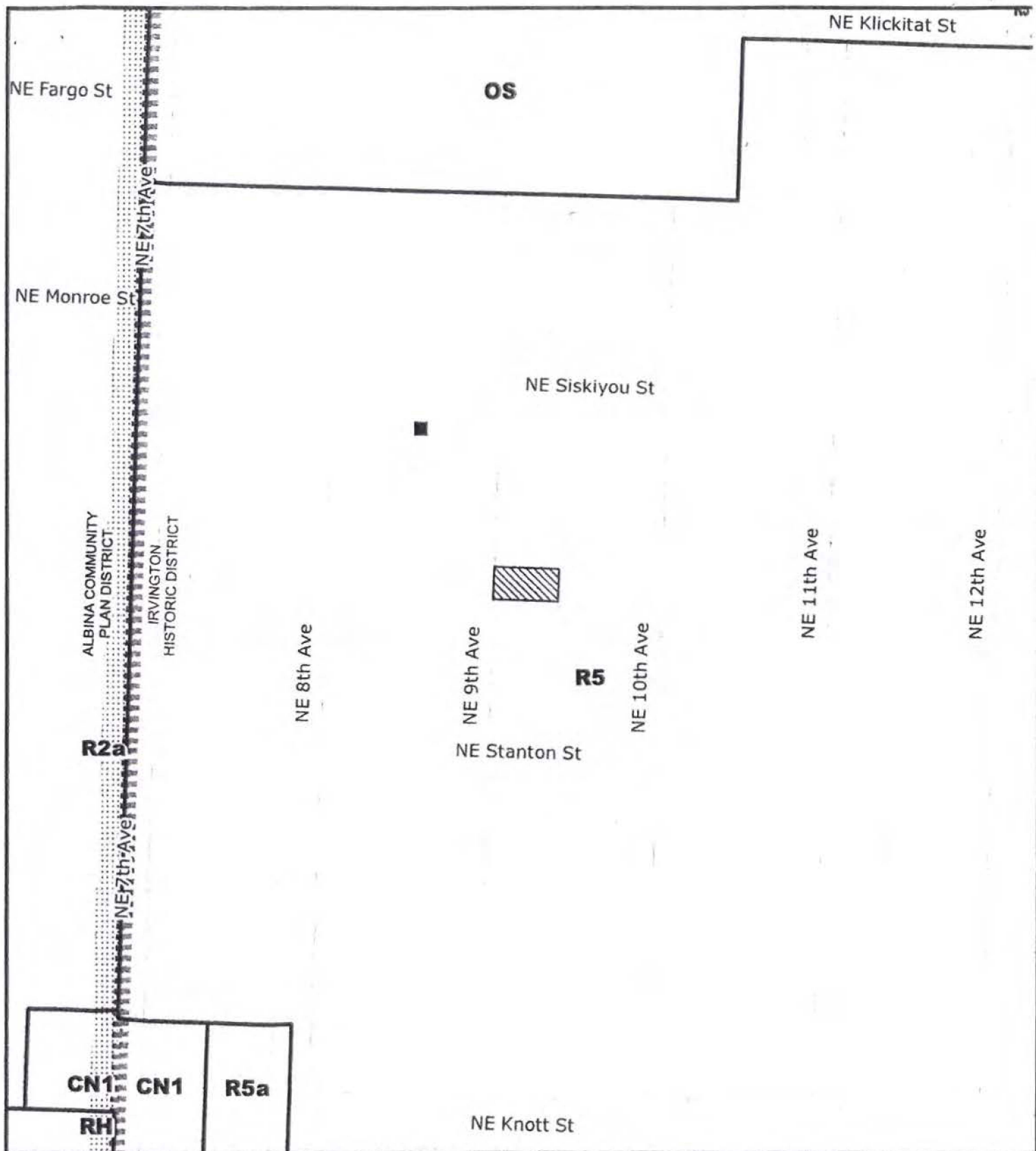
5. Barb Tillman, March 2, 2018
 6. Kay and David Reingold, March 3, 2018
 7. Virginia Green, March 4, 2018
 8. Ann Thomas, March 5, 2018
 9. Jennifer Klovee-Smith, March 6, 2018, mailing address not provided
 10. Carolyn Dasher, March 7, 2018 and April 18, 2018
 11. Peter Crabtree, March 7, 2018 and April 18, 2018
 12. David Kabat, March 8, 2018 and April 12, 2018
 13. Amy D. Valentine, March 13, 2018
 14. Dean P. Gisvold, Irvington Community Association, April 16, 2018 and April 23, 2018
 15. Tom Robbins, April 16, 2018 and April 17, 2018
 16. Tim Braun, April 18, 2018
 17. Barbara Nagle, April 19, 2018
 18. Christopher Crean, April 23, 2018
 19. Richard Plagge, April 23, 2018
 20. Jeffrey L. Kleinman, representing Barbara Nagle and Richard Plagge, April 23, 2018
- G. Other:
1. Original LU Application
 2. Applicant's signed extension of 120-day review period
 3. Map of Non-Residential Uses within the Residential Area
 4. 2017 Aerial Map of Site and Adjacent Properties
- H. Received by the Hearings Office (for initial Conditional Use Review Proposal)
1. Email Request to Schedule Hearings from BDS with Email Scheduling Reply from Hearings Office – Feuersanger, Marguerite
 2. Notice of Appeal Hearing (22 pages) – Feuersanger, Marguerite
 3. Notice of a Type II Decision On A Proposal In Your Neighborhood – Feuersanger, Marguerite
 4. Type II and IIX Decision Appeal Form Gisvold – Feuersanger, Marguerite
 5. Type II and IIX Decision Appeal Form Burse – Feuersanger, Marguerite
 6. Type II and IIX Decision Appeal Form Nagle and Plagge – Feuersanger, Marguerite
 7. Email Correspondence from Feuersanger to Hearings Office dated 7/10/18 – Feuersanger, Marguerite
 8. Letter from Tony Greiner to Feuersanger dated 7/7/18 – Feuersanger, Marguerite
 9. Email from Crabtree to Feuersanger dated 7/9/18 – Feuersanger, Marguerite
 10. 7/10/18 email from Barbara Tillman – Feuersanger, Marguerite
 11. 7/11/18 letter (2 pages) – Snyder, Gregg
 12. 7/10/18 letter from Celine Gihring – Dean Gisvold
 13. Written testimony (2 pages) with 4 additional copies – Gisvold, Dean
 14. Oversized photo – Plagge, Richard
 15. Oversized photo – Plagge, Richard
 16. Oversized photo – Plagge, Richard
 17. Oversized photo – Plagge, Richard
 18. Oversized photo – Plagge, Richard
 19. Oversized photo – Plagge, Richard
 20. Oversized photo – Nagle, Barbara E.
 21. Oversized photo – Nagle, Barbara E.
 22. Oversized photo – Nagle, Barbara E.
 23. Oversized photo – Nagle, Barbara E.
 24. Oversized calendar – Nagle, Barbara E.
 25. Written testimony (5 pages) – Nagle, Barbara E.
 26. Code compliance printout – Kleinman, Jeffrey L.
 27. 7/10/18 letter from Celine Gihring (2 pages) – Feuersanger, Marguerite
 28. 7/11/18 email from Cary Leach – Feuersanger, Marguerite
 29. PowerPoint presentation printout (34 pages) – Feuersanger, Marguerite
 30. Record Closing Information Sheet – Hearings Office
 31. 7/18/18 Memo with attachment – Feuersanger, Marguerite

- a. 7/17/17 Memo from Steven Kass to Feuersanger – Feuersanger, Marguerite
 32. Record Closing Information Sheet – Burse, Raymond M.
 33. 7/18/18 final argument letter (4 pages) – Burse, Raymond M.
 34. Proposed ASTR Roles and Responsibilities – Burse, Raymond M.
 35. Narrative addressing the ASTR regulations (9 pages) – Burse, Raymond M.
 36. 6/20/18 Notice of Appeal Hearing sent to Applicant/Appellant Burse, Raymond M.
 37. 6/4/18 Notice of a Type II Decision – Burse, Raymond M.
 38. 6/4/18 Notice of a Type II Decision sent to Applicant Burse Raymond – Burse, Raymond
 39. 7/23/18 letter – Kleinman, Jeffrey L.
 - a. Exhibit H-33 with highlighting (4 pages) – Kleinman, Jeffrey L.
 40. 7/23/18 letter – Kleinman, Jeffrey L.
 - a. Exhibit H-33 with highlighting (4 pages) – Kleinman, Jeffrey L.
- I. Reconsideration Documents (through April 30, 2019)
1. Initiation of Code Compliance Case File #17-204765 CC, July 17, 2017
 2. Initiation of Code Compliance Case File #17-250573 CC, October 3, 2017
 3. Type A ASTR (2-bedroom, Administrative Process) File #18-118947 HO, cancelled on February 7, 2018
 4. Initiation of Code Compliance Case File #18-186735 CC, June 13, 2018
 5. Decision of the Hearings Offer on Appeal of Administrative Decision, July 27, 2018
 6. Notes from Meeting with Raymond Burse, Jr., M. Feuersanger, BDS, August 16, 2019
 7. Airbnb Advertisement, Guest Reviews and Calendar, October 4, 2018
 8. Airbnb Advertisement and House Rules, October 5, 2018
 9. Citizen Complaint Log, October 26, 2018
 10. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, October 29, 2018
 11. Citizen Complaint Log, November 6, 2018
 12. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, November 29, 2018
 13. Notice of Zoning Violation, Enforcement Program of BDS, November 30, 2018
 14. Notice of Zoning Violation, Enforcement Program of BDS, December 7, 2018
 15. Letter from Raymond Burse, Jr. to Justin Lindley, BDS, December 30, 2018
 16. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, January 8, 2019
 17. Notes from Phone Conversation with Yasmine Barghouty, Justin Lindley, BDS, January 14, 2019
 18. Notes from Phone Conversation with Raymond Burse, Jr., Justin Lindley, BDS, January 15, 2019
 19. Notes from Meeting with Raymond Burse, Jr., Mike Liefeld, BDS, and Justin Lindley, BDS, January 18, 2019
 20. Citizen Complaint Log, January 21, 2019
 21. Citizen Complaint Log (1 of 2) January 23, 2019
 22. Citizen Complaint Log (2 of 2), January 23, 2019
 23. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, January 23, 2019
 24. Letter to Raymond Burse, Jr., Request for Administrative Review, January 24, 2019
 25. Letter to Michael Liefeld, BDS – Burse, Raymond M. and Burse, Raymond M. Jr., February 7, 2019
 - a. Exhibit 1, Airbnb confirmation data/transactional history of guest stays August 1, 2018 through January 23, 2019
 - b. Exhibit 2, Copy of the ASTR Operator Guest Log Book
 - c. Exhibit 3, Driver's License and post office mailing address, for new resident, Raymond M. Burse Jr., as of October 15, 2019
 - d. Exhibit 4, Email from Ray Burse, Jr., to Irvington Community Association president regarding residency change, January 15, 2019
 26. Citizen Complaint Log, March 18, 2019
 27. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, March 21, 2019
 28. Citizen Complaint Log, March 26, 2019
 29. Citizen Complaint Log (1 of 2), March 29, 2019

30. Citizen Complaint Log (2 of 2), March 29, 2019
31. Citizen Complaint Log, March 30, 2019
32. Citizen Complaint Log, April 7, 2019
33. Mailed Notice of a Public Hearing Regarding the Reconsideration, April 15, 2019
34. Mailing List for Notice of a Public Hearing Regarding the Reconsideration, April 15, 2019
35. Airbnb Advertisement, House Rules, Guest Reviews and Calendar, April 17, 2019
36. ASTR Operator Written Comments, including Exhibit I-23 (letter and four exhibits) – Burse, Raymond M., April 30, 2019
37. Email to Hearings Officer from Robert Dobrich, Irvington Community Association, April 30, 2019

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).

TrackIT 1272374



ZONING



THIS SITE LIES WITHIN THE:
IRVINGTON HISTORIC DISTRICT



Site



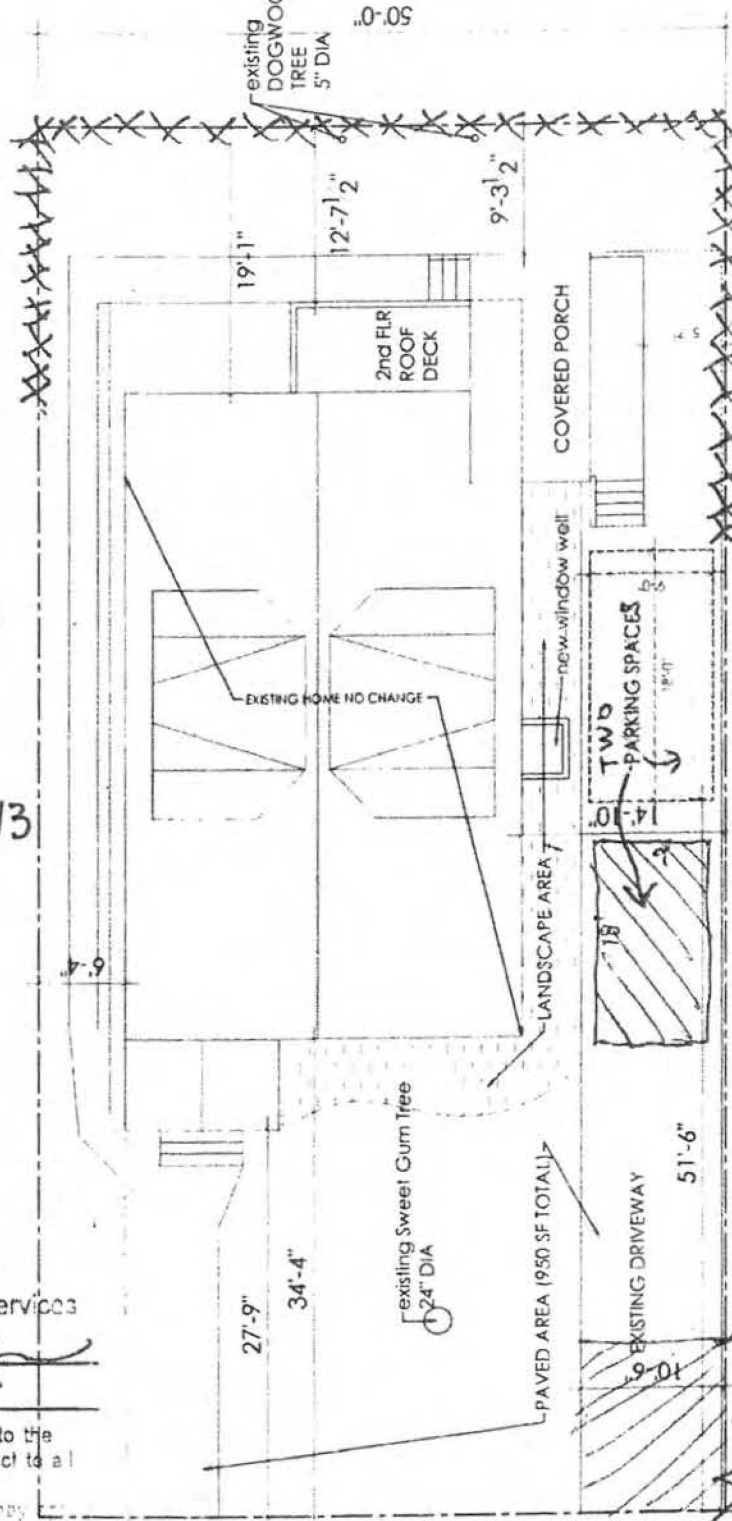
Historic Landmark

File No.	<u>LU 18-118937 CU</u>
1/4 Section	<u>2731</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E26BD 5800</u>
Exhibit	<u>B Feb 13, 2018</u>

TOTAL IMPERVIOUS COVERAGE: 2700sf
TOTAL LOT SIZE: 5000 sf

0.05

existing
DOGWOOD
TREE
5" DIA



xxxx-Location
of Required
fence per
Condition B.13

Approved
City of Portland

Bureau of Development Services

Planner *[Signature]*

Date *May 30, 2018*

* This approval applies only to the
reviews requested and is subject to all
conditions of approval
Additional zoning requirements may apply

PER CONDITION B.3,
NO PARKING IN
THIS AREA

SITE PLAN
not to scale

rec. 3/20/18

NE 9TH AVE

2946 NE 9th Ave

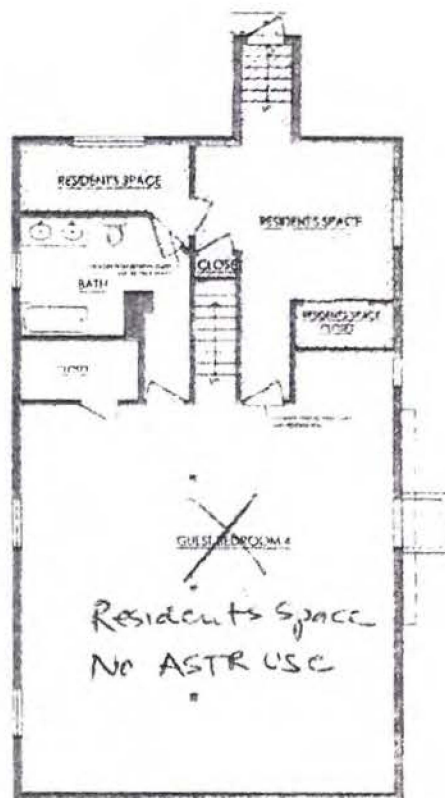


EXHIBIT C-1
18-118937-04

2946 NE 9th Ave

Existing Conditions Drawings for Type B Accessory Short Term Rental

2/2



RESIDENT'S SPACE

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



MAIN FLOOR PLAN
SCALE: 1/4" = 1'-0"



UPPER FLOOR PLAN
SCALE: 1/4" = 1'-0"

Approved
City of Portland

Bureau of Development Services

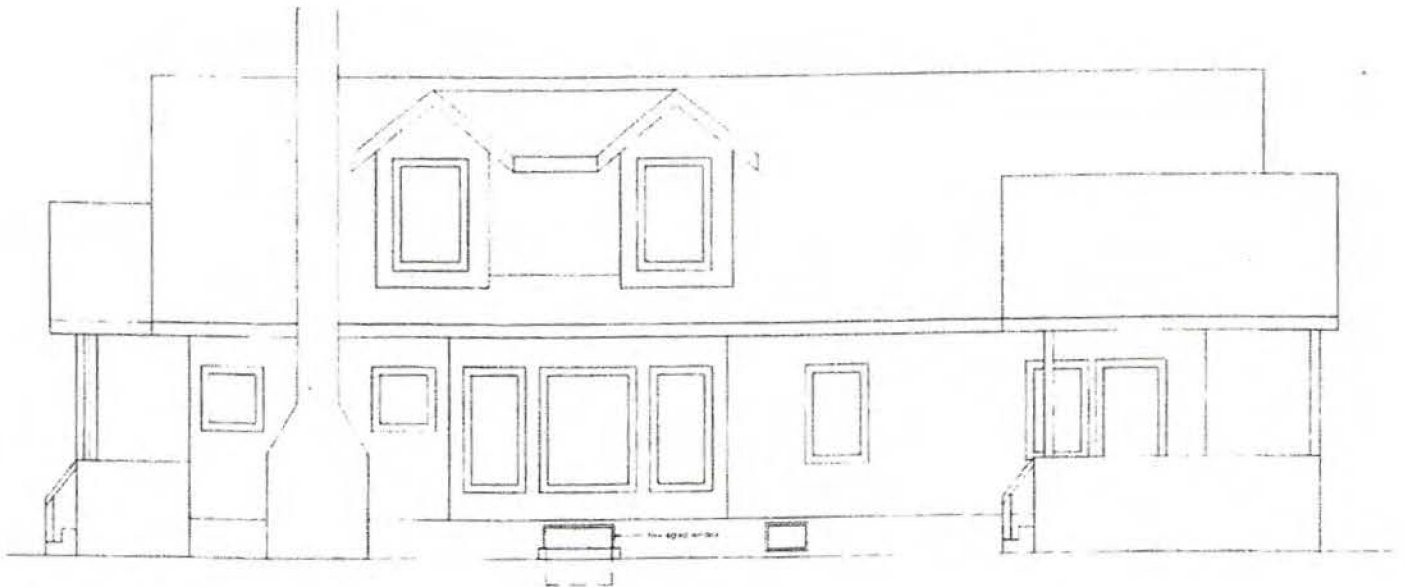
Planner *[Signature]*

Date May 30, 2018

* This approval applies only to the reviews requested and is subject to all conditions of approval
Additional zoning requirements apply

FLOOR PLANS
2946 NE 9th Avenue

EXHIBIT C.2
18-118937 CU



EXISTING SOUTH ELEVATION
SCALE: $\frac{1}{4}"=1'-0"$

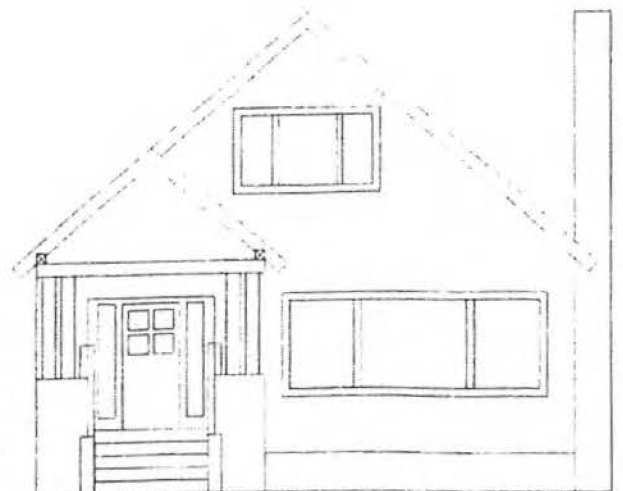
Approved
City of Portland
Bureau of Development Services
anner *[Signature]*
May 30 2018

* This approval applies only to the
reviews requested and is subject to
conditions of approval.
Additional zoning rules

HOUSE ELEVATIONS
2946 NE 9th Avenue

rec. 3/20/18

8



EXISTING FRONT (WEST) ELEVATION
SCALE: $\frac{1}{4}"=1'-0"$

EXHIBIT C-3
18-118937 CU