

**Staff Report to the Hearing Examiner
5128 N 49th Street
Conditional Use Permit
CUP 19-01**

I. General Information

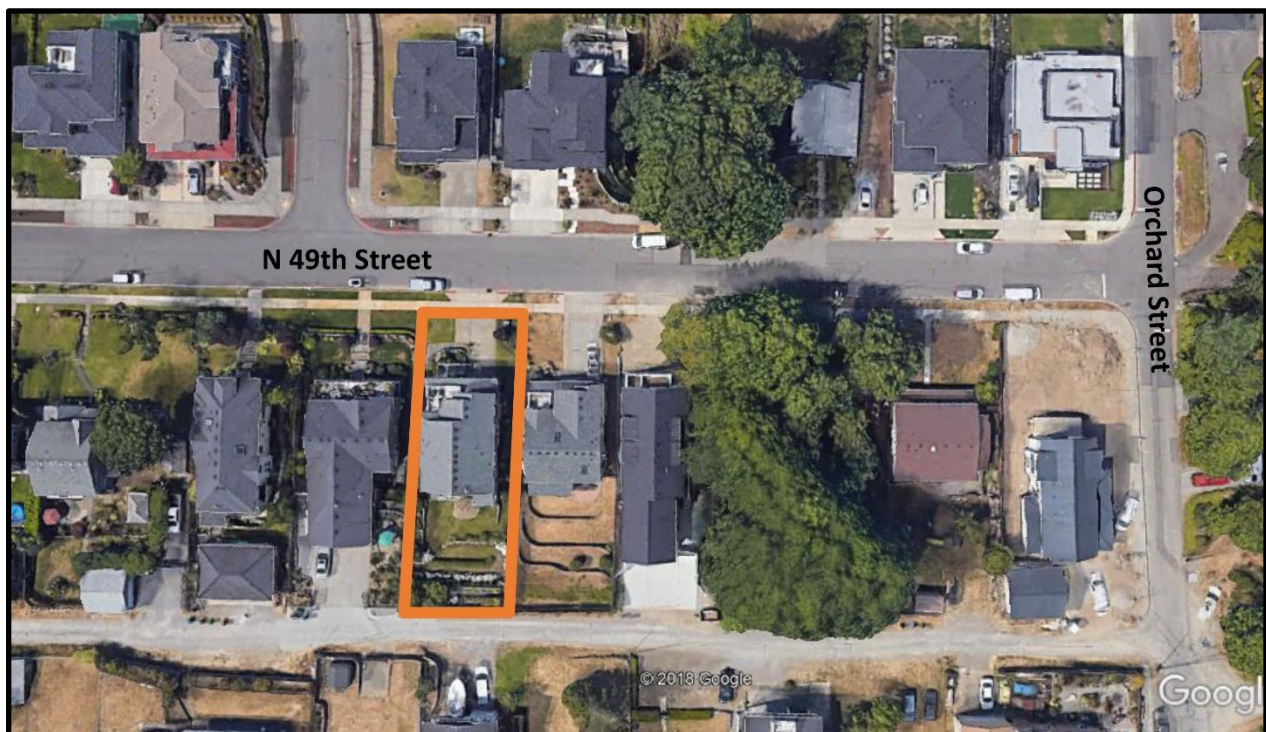
A) Applicant:

Morrie and Linda Pigott
5128 N 49th Street
Ruston, WA 98407

B) Site Address/Parcel Number:

5128 N 49th Street, Ruston, WA - 2365000701, (outlined in orange below)

C) Zoning Designation: Residential (RES)



II. Project Description

The proponent has applied to the City of Ruston for approval of a conditional use permit to convert existing living space within the lower floor of their residence to both an accessory dwelling unit and an “Airbnb” short-term rental. The unit is proposed to be approximately 620 square feet in area and includes a bathroom and bedroom. The proposal also includes a small patio along the west side of the residence which is intended to be used as private outdoor open space for the unit.

Please see the application materials attached to this report as Exhibit A for additional information and the applicant’s statements of justification and compliance.

III. Staff Analysis, Findings, and Conclusions

A) State Environmental Policy Act (SEPA) Analysis

The City’s SEPA Responsible Official has determined that this proposal qualifies as a minor land use decision and is therefore categorically exempt from SEPA review as per WAC 197-11-800(6)(b).

B) Comprehensive Plan

This section of the staff report provides a listing of relevant Comprehensive Plan goals and/or policies and provides staff findings and analysis as to how the proposal complies with them.

1) Relevant Comprehensive Plan Goals/Policies

- a. Growth Management Act Goal #2
Reduce Sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- b. Growth Management Act Goal #4
Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- c. Framework Policy FW-6
Design development to be architecturally compatible with the traditional arts and crafts style, including: scale; mass; or modulation of adjacent and nearby homes. Emphasis should be placed on the form of structures over their use.
- d. Framework Policy FW-14
Encourage and integrate: multifamily; accessory dwelling; and live-work housing types when appropriate, into neighborhoods. Design their forms to fit-in with neighborhood character and environmental characteristics.

- e. Framework Policy FW-23
Encourage accessory dwelling units as a permitted use to provide more affordable housing choices and options for accommodating growth. Provide architectural examples.
- f. Framework Policy FW-29
Pursue affordable housing whenever possible, primarily through: multifamily; accessory dwelling; and live-work housing types. Promotion of these housing types will also help Ruston meet their goals for “fair share” housing.
- g. Community Character Policy CC-4
Allow development that encourages pedestrian-oriented architecture.
- h. Community Character Policy CC-5
Allow infill development when lot and home size are in proportion, similar to existing neighborhood character.
- i. Community Character Policy CC-6
Design residential developments with arts and crafts-style homes (i.e. Craftsman, Tudor, and Pacific Northwest Timber Frame). Visible building materials should reflect human handicraft (cedar lap siding or shingles) over plywood siding such as T-111.
- j. Community Character CC-16
Create an excellent pedestrian experience through the use of safely defined walkways, landscaping, architecture and art. Pedestrian connections are important and should be required between all uses, encouraging a more walkable and healthful community.
- k. Community Character Policy CC-23
Encourage low-impact infill development such as accessory dwelling units by simplifying the permitting process. Provide architectural examples of accessory dwelling units that show good integration with the existing neighborhood.
- l. Land Use Policy LU-7
Design developments to encourage access by modes of travel other than driving alone, such as walking, bicycling and transit, and provide connections to the non-motorized system.
- m. Land Use Policy LU-13

Encourage affordable housing in appropriate areas where there is convenient pedestrian access to local stores and services. Affordable housing development should not detract from the established small-town atmosphere of the community or block defined scenic view corridors.

- n. Land Use Policy LU-15
Development should be designed to be environmentally sensitive, energy-efficient, and aesthetically pleasing.
- o. Housing Policy HO-1
Support a fuller range of housing types in Ruston's neighborhoods that offer housing for a variety of income levels and family sizes.
- p. Housing Policy HO-8
Achieve more affordable housing options in Ruston mainly through multifamily, accessory dwelling and live-work units.
- q. Capital Facilities CF-5
Seek opportunities to reduce impervious surfaces with pervious surfaces to improve water quality.

2) Staff Findings Regarding Consistency with the Comprehensive Plan

Staff finds that the proposal is consistent with the City's Comprehensive Plan as it proposes to convert existing space into an accessory dwelling unit and short-term rental unit upon a parcel that is currently occupied by a single-family residence. This infill development increases the City's density by one residential unit, while also providing potential contributions to the City's tax base through participation in business and lodging taxes. Additionally, the provision of the associated private outdoor open space for the unit and pedestrian connection to the street, creates additional open space and enhances pedestrian connectivity.

All of the features described above work in concert to create a very livable, affordable and connected, infill housing unit in Ruston, which is consistent with the City's Comprehensive Plan policies listed in the section above.

C) Ruston Municipal Code

This section of the staff report provides a listing of relevant portions of the City's zoning regulations and provides staff findings and analysis as to how the proposal complies with them.

1) RMC 25.07.020 - Land Use Matrix

Ruston's land use matrix describes all uses which are either outright permitted, or conditionally permitted within each zone. As listed in the matrix, "Dwelling, Accessory" and "Short Term Rental" are both conditionally allowed within the Residential Zone. Accessory Dwelling units are subject to RMC 25.01.040(j), and Short Term Rental units are subject to RMC 25.10 – Short Term Rentals. All proposals for conditional use permits are subject to RMC 25.01.110(b).

2) RMC 25.01.040(j) – Residential (RES) Zoning Standards (Accessory Dwellings)

Ruston Municipal Code 25.01.040(j) states the following:

RMC 25.01.040(j) Accessory Dwellings. Accessory dwellings may be conditionally allowed following review and approval by the City Hearing Examiner subject to the following conditions.

(1) A lot may have not more than one accessory dwelling.

Staff findings and analysis:

Staff finds that the proposal is consistent with this requirement as only one accessory dwelling is being proposed and none currently exist on the site.

(2) The owner must occupy either the principal structure or the accessory dwelling.

Staff findings and analysis:

Staff finds that since the applicant is the current owner of record, and that the applicant intends to occupy either the primary residence or the accessory dwelling, the proposal is consistent with this requirement.

(3) Parking must meet the requirements of Section 25.01.090.

Staff findings and analysis:

Staff finds that the proposal includes adequate parking, (two stalls within the existing garage, with at least one additional stall along the 49th Street frontage as provided in RMC 25.01.040(o.), and is therefore consistent with this requirement.

(4) *Design Requirements.* The design of an accessory dwelling shall be incorporated into the principal structure's design or is shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family dwelling.

Staff findings and analysis:

Staff finds that the proposal is consistent with this requirement since the unit is located within an existing residence.

(5) *Enforcement.* If a unit cannot be legalized because it fails to meet the standards herein and the unit cannot or will not be brought into conformance with these standards, the use will have to be discontinued. The City may cite owners of illegally occupied units who do not apply for legalization. Owners who do not apply for a permit will be subject to civil penalties and other enforcement penalties under Chapter 25.03 of this Code.

Staff findings and analysis:

Staff finds that since the recommended conditions of this report require approval of a building permit prior to occupancy, that this requirement will be met upon occupancy approval by the City's Building Official.

3) RMC 25.10 – Short Term Rental Standards

Ruston Municipal Code 25.10.010 states the following:

RMC 25.10.010(a) License Requirement. In addition to the underlying permitting and process requirements, an owner shall obtain an annual revocable short-term rental license from the City of Ruston whenever a dwelling unit is to be used for short term rental purposes under Chapter 5.05D of the Ruston Municipal Code. If the terms of the short-term rental license are not met, the license may be revoked under the procedures in Title 5 RMC. If the requirements of the short-term rental regulations under this chapter are not met, then the property owner may be subject to enforcement, including the imposition of civil penalties under the Ruston's code enforcement procedures contained in Chapter 25.03 RMC.

Staff findings and analysis:

The requirement to obtain a short-term rental business license has been added as a condition of approval in the Staff Conclusions and Recommendations portion of this report.

RMC 25.10.010(b) Occupancy Limits. No more than two overnight occupants per bedroom are allowed, plus two additional overnight occupants, shall be accommodated at any one time, e.g., a one bedroom cabin would be allowed four overnight occupants while a two bedroom

cabin would be allowed six total overnight occupants. The total number of occupants temporarily residing in a short-term rental shall not exceed six at any one time. "Occupants" includes all people over the age of two years.

Staff findings and analysis:

A compliant property management plan which limits occupancy to no more than four occupants has been provided by the applicant and is included within Exhibit A.

RMC 25.10.010(c) Appearance. The exterior of the building(s) shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road. No junk or garbage shall be allowed to accumulate in any yards and all vehicles shall park in designated parking areas.

Staff findings and analysis:

A compliant property management plan which addresses the above concerns, including garbage and parking, has been provided by the applicant and is included within Exhibit A.

RMC 25.10.010(d) Disturbances. The short term rental shall be operated in a way that will prevent disturbances to neighboring properties which are not typical of a residential neighborhood, including, but not limited to, loud music, loud noises, excessive traffic, loud and uncontrolled parties, junk/debris/garbage accumulation in the yards, trespassing, barking dogs, or excess vehicles, boats or recreational vehicles parked in the streets in front of the unit.

Staff findings and analysis:

This is not a review standard that requires findings and analysis prior to approval of a conditional use permit for short-term rentals, rather it is intended to provide guidance for the regulation and operation of short-term rentals upon approval and will be applicable and enforceable during operation. It is noted that a compliant property management plan which addresses the above concerns has been provided by the applicant and is included within Exhibit A.

RMC 25.10.010(e) Garbage. Provisions shall be made for garbage removal during rental periods, at a minimum solid waste collection is required during all months.

Staff findings and analysis:

This is not a review standard that requires findings and analysis prior to approval of a conditional use permit for short-term rentals, rather it is intended to provide guidance for the regulation and operation of short-term rentals upon approval and will be applicable and enforceable during operation. It is noted that a compliant

property management plan which addresses the above concerns has been provided by the applicant and is included within Exhibit A.

RMC 25.10.010(f) Pets. Pets shall be secured at all times while on the property. Nuisance barking by pets is prohibited.

Staff findings and analysis:

This is not a review standard that requires findings and analysis prior to approval of a conditional use permit for short-term rentals, rather it is intended to provide guidance for the regulation and operation of short-term rentals upon approval and will be applicable and enforceable during operation. It is noted that a compliant property management plan which addresses the above concerns has been provided by the applicant and is included within Exhibit A.

RMC 25.10.010(g) Parking. The short-term rental unit shall comply with the parking requirements of the underlying zone.

Staff findings and analysis:

Staff finds that the proposal includes adequate parking, with at least two stalls on site for the primary residence and at least one additional on-street parking stall along the 49th Street frontage as provided in RMC 25.01.040(o.), and is therefore consistent with this requirement.

RMC 25.10.010(h) Signage. One sign meeting the standards for wall mounted home occupations may be permitted in accordance with the Ruston Sign Code, Chapter 25.09 RMC. No off-premises signage of any type is permitted.

Staff findings and analysis:

This application does not include a proposal to install outdoor signage. Any future proposal to install signage will be required to comply with Ruston's sign code.

RMC 25.10.010(i) Accessory Dwelling Unit Approval Required. Short term rental units may only be permitted on a property with an approved accessory dwelling unit. The property owner must reside on premises and may rent out either the primary residence or the accessory dwelling unit, but not both. Short term rental unit and accessory dwelling unit permit applications may be processed concurrently. For purposes of this chapter, "reside" shall mean that the property owner's permanent residence is at the same address, and the property owner is staying overnight on the premises during all days of each short-term rental occupancy period.

Staff findings and analysis:

This proposal includes a request for approval of both an accessory dwelling unit and a short-term rental unit. If this application is approved as submitted then this requirement will have been met.

RMC 25.10.010(j) Property Management. A property management plan demonstrating how the short-term rental will be managed and how impacts to neighboring properties will be minimized and/or mitigated shall be submitted for review and approval as part of the permitting and licensing process. The property management plan which shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, etc., shall be mailed to all adjoining property owners within 300 feet as a condition of license approval, and shall be posted in a visible location within the short term rental.

Staff findings and analysis:

A compliant property management plan has been provided by the applicant and is included within Exhibit A. The requirement to provide notice to adjoining property owners has been added as a condition of approval in the Staff Conclusions and Recommendations portion of this report.

RMC 25.10.010(k) Compliance with Other Codes. The short-term rental shall meet the licensing requirements contained in Chapter 5.05D RMC and all applicable state and local health, safety and building codes.

Staff findings and analysis:

Conditions addressing the above requirements have been included as recommended conditions of approval in the Staff Conclusions and Recommendations section of this report. It is noted that the City of Ruston building official submitted the following comment regarding this proposal which has been incorporated into the Staff Conclusions and Recommendations portion of this report:

“A building permit is required in order to create a separate, additional dwelling unit within the existing building. Among other IRC code requirements, construction plans will be required that identify how the dwelling unit fire-separation as required by IRC R302.3, will be satisfied. IRC R302.3 reads as follows ‘R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E 119 or UL 263. Fire-resistance-rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing..’ Construction supporting any horizontal fire-resistive separation shall also satisfy the requirements of IRC Section R302.3.1, which reads ‘R302.3.1 Supporting construction. Where floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction

of such assemblies shall have an equal or greater fire-resistance rating.’ The means of egress shall satisfy IRC Section R311.

RMC 25.10.010(l) Complaints. All complaints shall proceed as follows:

(1) The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;

(2) The contact person shall respond promptly to the complaint, regardless of time of day, and make reasonable efforts to remedy any situation that is out of compliance; and

(3) If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the Ruston Code Enforcement Officer, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the City. The Ruston Code Enforcement Officer shall attempt to resolve the complaint. If so required, the owner or local contact person shall provide a written response to the complaint with the anticipated corrective action within ten days. A copy of the complaint will be filed in the City's short-term rental license file.

Staff findings and analysis:

This is not a review standard that requires findings and analysis prior to approval of a conditional use permit for short-term rentals, rather it is intended to provide guidance for the regulation and operation of short-term rentals upon approval and will be applicable and enforceable during operation.

RMC 25.10.010(m) Compliance and Revocation.

(1) Owners of short-term rentals shall obey all applicable laws and ordinances of the City and shall be subject to permit revocation procedures and appeals processes outlined in the Ruston Municipal Code;

(2) If there have been two or more violations of this ordinance related to the same short term rental within 12 calendar months, or if there have been two or more violations of other City ordinances related to the same short term rental within 12 calendar months, the Planning Director shall revoke the short term rental license and underlying short term rental permit, and the property owner shall be prohibited from obtaining a new short term rental permit and license for at least one year from the date of said revocation;

(3) The property owner may appeal the revocation of the short-term rental license and permit pursuant to the appeals procedures outlined in the Ruston Municipal Code, or any amendment thereto; and

(4) Nothing in this subsection precludes the City of Ruston from proceeding with formal enforcement action against a property owner and/or occupants for violations of this ordinance or any other provisions of the City Code as authorized under the City's code enforcement procedures.

Staff findings and analysis:

This is not a review standard that requires findings and analysis prior to approval of a conditional use permit for short-term rentals, rather it is intended to provide guidance for the regulation and operation of short-term rentals upon approval and will be applicable and enforceable during operation.

RMC 25.10.010(n) Additional Conditions of Approval. The Planning Director may impose other conditions of approval, such as additional parking, improved access, fencing, landscaping, architectural detailing, open space, or minimum screening to ensure the proposed use is compatible with the surrounding residential neighborhood, provided that said conditions of approval are consistent with goals and policies of the Ruston Comprehensive Plan.

Staff findings and analysis:

Conditions addressing the above requirements have been included as recommended conditions of approval in the Staff Conclusions and Recommendations section of this report.

4) RMC 25.01.110(b) – Conditional Uses (ADU and STR)

Ruston Municipal Code 25.01.110(b) states the following:

RMC 25.01.110(b) Conditional Uses.

(1) Purpose of Conditional Use Permit. It is the purpose of this chapter to establish review and approval procedures for unusual or unique types of land uses which due to their nature require consideration of their impact on the neighborhood and land uses in the vicinity. The purpose of the conditional use permit is to allow certain uses in zoning districts that would normally be prohibited, when the requested use is consistent with the goals and policies of the Comprehensive Plan or zoning code and is deemed consistent with the existing and potential uses within the zoning district. No existing building or structure shall be converted to a conditional use unless such building or structure complies, or is brought into compliance, with the provisions of this section.

A conditional use permit is a mechanism by which the City may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions

will not make a specific proposal compatible, the proposal shall be denied. The City's Hearing Examiner may grant conditional use permits only if all applicable provisions of this code are fulfilled:

- (A) The proposed use will not be injurious to the neighborhood or otherwise result in substantial or undue adverse economic, aesthetic, or environmental effects on adjacent property.*

Staff findings and analysis:

Staff finds that the proposed use is both architecturally and aesthetically consistent with the character of the surrounding neighborhood and does not anticipate any undue adverse economic, aesthetic, or environmental effects to result. The proposed unit will be located within a building which is of similar mass and scale; and which is designed with similar architectural elements existing upon buildings in the surrounding neighborhood.

- (B) The proposed use will not create a hazard for pedestrian or vehicular traffic. Traffic and circulation patterns of vehicles and pedestrians relating to the proposed use shall not be detrimental to the existing and proposed allowable uses in the zoning district. The traffic and circulation patterns shall assure safe movement in the surrounding area.*

Staff findings and analysis:

Staff does not anticipate significant traffic impacts to result from the proposal.

- (C) Adequate access will be available for emergency vehicles.*

Staff findings and analysis:

Staff finds that adequate emergency vehicle access is provided via existing right of way, including the adjacent alley to the rear of the subject site.

- (D) Adequate off-street parking will be provided to prevent congestion of public streets.*

Staff findings and analysis:

Staff finds that the proposal includes adequate parking, at least two stalls on site for the primary residence with at least one additional on-street parking stall along the 49th Street frontage as provided in RMC 25.01.040(o.), and is therefore consistent with this requirement.

(E) The bulk and lot coverage of the proposed use shall be compatible with the surrounding property, or shall be conditioned so as to not impose an adverse impact upon the surrounding property.

Staff findings and analysis:

Staff finds that the bulk and scale of the proposed use is typical for the zone in which it is located and therefore does not impose an adverse impact upon surrounding properties.

(F) Building and structure heights shall conform to the requirements of the surrounding zoning district. Bell towers, public utility antennas or similar structures may exceed the height requirements, provided that they are conditioned so as to not impose an adverse impact upon the surrounding community.

Staff findings and analysis:

Staff finds that the proposed use is within an existing, previously permitted structure which was within the allowable maximum height established for the Residential Zone at the time it was constructed.

(G) Potential noise, light and glare impacts relating to the proposed use shall not unduly impact nor detract from the surrounding properties in the zoning district. The Hearing Examiner shall find that the potential noise, light and glare shall not deter from the surrounding properties in the zoning district.

Staff findings and analysis:

Staff does not anticipate any adverse noise, light and glare impacts resulting from the proposed use. Impacts would be typical for other similar uses in the zone and do not need any further mitigation beyond what the City's codes already require, (i.e. RMC 25.01.103 – Outdoor Lighting, for example).

(H) Hours of Operation. The hours of operation shall not create intrusive impacts into the neighborhood.

Staff findings and analysis:

Hours of operation limitations are intended for non-residential conditional uses and are not applicable to this proposal.

(2) Landscaping. Landscaping shall be provided in all areas not occupied by buildings or paving. The Hearing Examiner may require exceptional landscaping as a condition.

Staff findings and analysis:

Staff finds that the site includes existing landscaping which is adequate for the proposed use, with some areas designated as available for occupants of the unit, therefore it is staff's opinion that it is not necessary for the Hearing Examiner to require additional/exceptional landscaping beyond what has been provided as part of this application.

(3) Effect of Conditional Use Permit.

(A) Once the conditional use permit is approved, no building or development shall occur contrary to that specified in the conditional use permit.

(B) The owner shall record a declaration with the Pierce County Auditor showing the land to be bound by a conditional use permit.

(i) The declaration shall reference the official files of the City through which the permit was granted.

(ii) The declaration shall be a covenant running with the land.

(iii) No building permit shall be issued unless such declaration is recorded.

(iv) No building permit shall be issued for structures other than those specified in the permit.

IV. Staff Conclusion and Recommendation

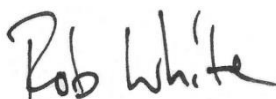
Staff concludes that given the findings and analysis detailed above that the proposal is consistent with the City's Comprehensive Plan and applicable zoning regulations for consideration of a conditional use permit and therefore recommends that the Hearing Examiner approve the proposed accessory dwelling and short term rental unit conditional use permit subject to the following conditions:

- A) The owner must occupy either the primary residence or the accessory dwelling.
- B) The short-term rental use must maintain a current short-term rental business license in accordance with RMC 25.03.
- C) No building or development shall occur contrary to that which is specified in this proposal, as required by RMC 25.01.110(b)(3)(A).
- D) Prior to occupancy, the final Hearing Examiner decision and a copy of the site plan, must be recorded with the Pierce County Auditor in accordance with RMC 25.01.110(b)(3)(B).

- E) Prior to occupancy and business license approval, a building permit is required in order to create a separate, additional dwelling unit within the existing building. Among other IRC code requirements, construction plans will be required that identify how the dwelling unit fire-separation as required by IRC R302.3, will be satisfied. IRC R302.3 reads as follows 'R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E 119 or UL 263. Fire-resistance-rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing...' Construction supporting any horizontal fire-resistive separation shall also satisfy the requirements of IRC Section R302.3.1, which reads 'R302.3.1 Supporting construction. Where floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.' The means of egress shall satisfy IRC Section R311.
- F) Prior to occupancy and business license approval, the applicant shall provide evidence of having mailed a copy of the short-term rental property management plan and compliance procedures included in Exhibit A to all properties within 300 feet of the subject site. A list of addresses used for the public notice mailing for this application is available at City Hall upon request.
- G) The short-term rental use shall be subject to an annual Fire Marshal inspection, at the Fire Marshal's discretion.
- H) Prior to occupancy and business license approval, the applicant shall pay for an additional connection to the City of Ruston's sanitary sewer system.
- I) Expiration of approval. If the applicant does not satisfy the above stated conditions within 24 months of granting this conditional use permit, the approvals shall lapse and be of no further effect. The Planning Director may extend the period of approval for not more than two years, provided that the request is submitted to the City by the property owner in writing prior to the expiration date.

V. Public Notice

Public notice was provided at least 14 days prior to the public hearing date of October 17, 2019, as required by RMC Title 19.



Rob White,
Planning Director

October 12, 2019

The following documents pertinent to your review are either attached or available for review in the City's file:

Application Materials (Exhibit A)