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503-588-6173

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE PERMIT CASE NO.: CU26-04

APPLICATION NO.: 26-102590-PLN

NOTICE OF DECISION DATE: May 26, 2026

REQUEST: A Conditional Use Permit for a Short-Term Rental within an existing three-bedroom single-family dwelling located on property zoned RS (Single-Family Residential) and located at 1115 Little John Loop NW (Polk County Assessor's Map and Tax Lot Number: 073W20BC / 12400).

APPLICANT: LENA DAVIDSON

LOCATION: 1115 LITTLE JOHN LP NW

CRITERIA: Salem Revised Code (SRC) Chapter 240.005(d) Conditional Use Permits

FINDINGS: The findings are in the attached Decision dated May 26, 2026.

DECISION: The **Hearings Officer APPROVED** Conditional Use Case No. CU26-04 subject to the following conditions of approval:

Condition 1: The maximum number of occupants in the short-term rental shall not exceed six persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants.

Condition 2: The short-term rental shall be rented to only one group of guests at a time. Bookings of the rental by more than one group of guests at any given time is prohibited.

Condition 3: Use of the short-term rental shall be limited to the provision of lodging. Activities other than lodging, such as events, parties, gatherings, luncheons, banquets, weddings, meetings, fundraising, or commercial or advertising activities are prohibited.

Condition 4: Use of the short-term rental shall not generate noise beyond the property between the hours between 10 pm to 8 am.

Condition 5: Four bicycle parking spaces shall be provided for the short-term rental use and shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.

Condition 6: The applicant shall mark the perimeter of the driveway to demarcate the property boundary. The marking shall be of a reflective material or paint as to be visible at night. Visibility may be accomplished by perimeter lighting.

NOTICE OF DECISION

PLANNING DIVISION
planning@cityofsalem.net



Condition 7: The applicant shall employ an electronic surveillance system that will allow 24-hour monitoring of the front yard and driveway of the short-term rental and allow the applicant to identify when the rental is occupied.

Condition 8: Exterior lighting shall be directed towards the subject property and shall not shine or reflect directly onto adjacent properties.

Condition 9: The conditional use permit shall be for the duration of the ownership of the subject property by the applicant.

Condition 10: Guests shall be prohibited from parking in the lower transportation/utility easement. Parking is restricted to the garage and driveway of the short-term rental.

Condition 11: Prior to arrival at the subject property, prospective guests shall be provided with documentation regarding the travel circulation direction and speed limit for Little John Loop NW, a warning about the possibility of pedestrians crossing the street to access the park, and parking restrictions. This documentation shall also be posted in the short-term rental.

The rights granted by the attached decision must be exercised, or an extension granted, by June 11, 2028, or this approval shall be null and void.

Application Deemed Complete:	<u>February 25, 2026</u>
Public Hearing Date:	<u>April 8, 2026</u>
Notice of Decision Mailing Date:	<u>May 26, 2026</u>
Decision Effective Date:	<u>June 11, 2026</u>
State Mandate Date:	<u>July 25, 2026</u>

Case Manager: Caroline DeBruine, cdebruine@cityofsalem.net, (503) 540-2326

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, in person at 440 Church St SE, Salem OR 97312, by mail P.O. Box 14300 Salem, OR 97309, or by email at planning@cityofsalem.net, no later than 5:00 p.m., June 10, 2026. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 240.005(d) Conditional Use Permits. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, 440 Church St SE, Salem, during regular business hours.

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

AN APPLICATION FOR A CONDITIONAL USE
PERMIT TO ALLOW A SHORT-TERM RENTAL
WITHIN AN EXISTING SINGLE-FAMILY
DWELLING ON PROPERTY ZONED RS
LOCATED AT 1115 LITTLE JOHN LOOP NW
(POLK COUNTY ASSESSOR'S MAP AND TAX
LOT NUMBER 073W20BC / 12400)

CU26-04

FINDINGS OF FACT, CONCLUSIONS,
AND DECISION

DATE AND PLACE OF HEARING:

On April 8, 2026, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at the Anderson Room, Salem Public Library, 585 Liberty Street SE, Salem, Oregon.

APPEARANCES:

Staff: Caroline DeBruine, Planner I

Neighborhood Association: West Salem Neighborhood Association

Proponents: Lena Davidson

Opponents: Jeff and Denise Parker, Kelly Johnson, Mike and Karin Faust, James Weber, Chad Caubin, Celeste Bonniksen (Summer Park Homeowners Assn), Steve Anderson (West Side Neighborhood Assn)

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

An application for a conditional use permit for a short-term rental was accepted for processing on January 22, 2026, and was deemed complete on February 25, 2026. The applicant provided a 30-day waiver to the 120-day statutory deadline; which is July 25, 2026.

The City of Salem held a duly authorized and noticed public hearing on April 8, 2026, regarding the applicant's request for conditional use permit approval of a short-term rental. During the hearing, Caroline DeBruine requested that the staff report and associated files be entered into the record, and the Hearings Officer granted the request. Initially, the record was held open for three weeks. Thereafter, at the request of the City, the record was reopened until close of business on May 18, 2026.

The Hearing Notice was provided on March 19, 2026, to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) and stated that the date for the hearing was April 8, 2026. The property was posted on March 25, 2026, although inconsistently with the requirements of SRC 300.620(b)(3) for a Type III application.

PROCEDURAL OBJECTIONS

Inadequate Posting: The Summer Park Homeowners Association has argued that the posting requirements of SRC 300.620(b)(3) were deficient; arguing that the notice sign was initially not posted on Little John Loop NW but next to the applicant's house on the private driveway. Planning staff acknowledged the error and the notice sign was repositioned correctly on April 1, 2026; one day prior to the end of the comment period and seven days prior to the April 8, 2026 hearing.

A land use decision will not be reversed or remanded for procedural error unless the error causes prejudice to a petitioner's substantial rights. *Stockwell v. Clackamas County*, 24 Or LUBA 358, 361 (1992) SRC 300.620(3)(A)(i) requires that notice be posted not less than 10 days prior to the public hearing. In the present case, the subject property was properly posted 7 days prior to the hearing; a procedural error.

Per SRC 300.620(2)(B)(vii) and (viii), mailed notice was sent to City-recognized homeowner's associations and property owners located within 250 feet from the subject property. The homeowner's association responded with written and personal testimony. No testimony alleged or demonstrated that the late posting caused prejudice. In addition, the record was held open following the hearing and then reopened until May 18, 2026, to allow additional testimony. Absence of evidence that the posting error has caused prejudice to any party the Hearings Official cannot conclude that the hearing was deficient. This objection is dismissed.

Inadequate Staff Report: The homeowner's association objects that the staff report does not reflect the full statutory required public comment period since it was completed on March 31, 2026; three days before the comment period had ended. While the Association is correct that the staff report did not account for a complete record of public comment, it is not intended to. The public record extends into the hearing and, in the present case, eventually was extended beyond the hearing. The Hearing Official reviews the findings and analysis provided by staff but is not bound by that narrative. Planning staff provides only one source of information presented to the Hearings Official. New testimony, sometimes rebutting staff findings and analysis, is often presented at the hearing. This occurred at the April 8, 2026, hearing when the Association and neighbors presented oral and written testimony and subsequently, during the period when the record was held open.

Statutory law does not dictate the composition of the staff report; only that it be available 7 days prior to the public hearing. (ORS 197.797(4)(b)) The statute recognizes that "additional documents or evidence" may be submitted at the hearing and provides that the record may be held open or the hearing continued to provide a reasonable opportunity for

parties to respond. Of most importance, the Hearings Official reviews all evidence contained in the record; whether it is summarized in the staff report or is timely submitted into the record. This objection is dismissed.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is “Single Family Residential.” The subject property is within the Urban Growth Boundary and the Urban Service Area. It has a site address of 1115 Little John Loop NW, Salem, Oregon.

2. Zoning and Surrounding Land Uses

The subject property is zoned RS (Single–Family Residential). The zoning and uses of the surrounding properties include:

North: RS (Single–Family Residential).

South: RS (Single–Family Residential).

West: RS (Single–Family Residential).

East: RS (Single–Family Residential).

2. Site Analysis

Finding 1: The subject property at 1115 Little John Loop NW is 18,986 square feet in size, with frontage on Little John Loop NW. The property is improved with a 2,188 square foot, three–bedroom, two–story home and two–car garage. The applicant has managed short–term and long–term rentals in the past but this is the first short–term rental that she owns.

Finding 2: The subject property can be identified as Lot 25 of Summer Park Subdivision, Polk County, Oregon. Summer Park CC&Rs were adopted November 25, 1997. Article 1, Sections 1 and 12 of the CC&Rs provides “member” of the Homeowners Association as a home owner in the Summer Park Subdivision. Article III provides that all lots in the Development shall only be used for residential purposes. Residential care facilities, foster homes and group homes are expressly prohibited but home occupations are allowed.

Finding 3: Vehicular access to the property is provided by a flag lot accessway (panhandle) off of Little John Loop NW. The private access driveway is a shared thoroughfare without sidewalks or dedicated pedestrian zones. As a result, pedestrians and vehicles are forced to compete for the same ingress and egress access. Concern has been raised that introducing high–turnover vehicle traffic into a space that residents and guests use creates a safety concern, as there is currently

no protected area for recreation or foot/bicycle travel on the access road across easements.

Little John Loop NW is designated as a local street under the Salem Transportation (TSP), which requires a minimum right-of-way width of 60 feet, or a 30-foot half-width right-of-way. The existing right-of-way width for Little John Loop NW is approximately 33 feet, which does not conform to the minimum right-of-way width requirements established in Salem Revised Code (SRC) Chapter 803.025. The original subdivision decision for the Summer Park Subdivision (SUB93-04), included a variance to allow Little John Loop to have a street improvement width of 20 feet with a 27-foot-wide right-of-way, with parking and sidewalks on one side. The final plat approved a 33-foot-wide right-of-way width, adequate for on-street parking and a sidewalk.

Finding 4: The City's tree preservation ordinance (SRC Chapter 808) protects Heritage trees, Significant Trees, trees and native vegetation in riparian corridors, and trees on lots and parcels 20,000 square feet or greater. No trees have been identified for removal by the applicant as part of this conditional use permit. Any removal of trees from the property must comply with the requirements of the City's tree preservation ordinance (SRC Chapter 808).

Finding 5: The Salem-Keizer Local Wetland Inventory (LWI) shows that there are no hydric soils and/or linear wetland area(s) mapped on the property.

Finding 6: The Floodplain Administrator has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

Finding 7: Based upon the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there is a mapped 5-point landslide hazard area on the subject property. SRC 810.020 requires a geological assessment or report when regulated activity is proposed in a mapped landslide hazard area. The applicant's proposal utilizes an existing structure and does not disturb any portion of a mapped landslide hazard area; therefore, a geological assessment is not required.

3. Neighborhood and Citizen Comments

Finding 8: The subject property is located within the West Salem Neighborhood Association. Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On December 29, 2025, the applicant contacted the neighborhood association, meeting the requirements of SRC 300.310(b)(1 and (c). Pursuant to SRC 300.620(b)(2)(B)(iii), (vi), & (vii), notice was provided to surrounding addresses, property owners, and tenants within 250 feet of the subject property. The West Salem Neighborhood Association provided oral and written testimony.

Finding 9: The subject property is subject to the Summer Park Subdivision Homeowner’s Association. It is located on Lot 25 of the Summer Park Subdivision and is subject to recorded CCRs filed December 4, 1997 in the Polk County Deeds and Records (Book 345, Page 947), as amended December 22, 2003.

There are two transportation/utility easements that burden the subject property. The lower transportation/utility easement is shown on the plan and is a part of the HOA development plan. The lower HOA–managed public access and utility easement is designated strictly for ingress and egress, serving as a vital conduit for emergency and service vehicles. Per HOA regulations, parking is strictly prohibited in this area to ensure unobstructed emergency access. The subject property’s bargain and sales deed provides that overnight parking is prohibited within the access easement and daytime parking is permitted only if vehicles do not encroach more than four feet onto the asphalt roadway.

The upper transportation easement applies to the subject property and the two neighboring homes to the west and east. The upper easement has restrictions related to parking on the driveway/road and joint use of the drive/road by other parties. The upper transportation easement terminates at the western lot line of the subject property. The pad in front of the garage needs to be utilized in order to turnaround at the end of this "flag lot" development without trespassing onto the neighboring lot to the west or executing an unsafe turnaround within the access drive/road itself or backing down the hill across our lot. It appears that only three cars can be parked at the property (two in the garage) and one or possibly two at the garage pad and still allow sufficient area for cars to safely turn around.

Of primary interest to all parties is the evidentiary value of the CC&Rs burdening the subject property. The City has argued, and normal procedure has been, to apply Code criteria without acknowledgment of private covenants that might conflict with those criteria. The argument is that if an application satisfies applicable approval criteria then evidence of private covenants that would, for instance, strictly prohibit the proposed use is irrelevant. That is, the enforcement of the covenants are a private consideration that may be resolved in Circuit Court not in the planning process.

In support of its position, the City argues that SRC 110.060(a) states that “*the UDC shall be applied independently of, and without regard to, any private easement, covenant, condition restriction or other legally enforceable interest in, or obligation imposed on, the use or development of the land.*” SRC 110.060(b) further provides that the City “*does not enforce any easement, covenant, condition restriction or other agreement between private parties.*” While these code provisions state what I believe to be the general rule in planning, there are a myriad of contradictory exceptions. For instance, if a criterion required legal access to property, the existence of an easement providing that access would be recognized as satisfying that criterion and would be required to be perpetual unless other legal access was obtained.

SRC 240.005(d)(3) requires that the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. The Summer Park Subdivision's CC&Rs apply to all lots within the Subdivision and are intended to provide a uniform set of rules and obligations that govern residential use. The Hearings Official believes that the CC&Rs represent objective principles that, in large part, help comprise the standard of livability and appropriate development within the Homeowner's Association.

4. City Department and Public Agency Comments

No comments were received.

5. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(1) provides that no building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

Criterion 1 (SRC 240.005(d)(1): *The proposed use is allowed as a conditional use in the zone.*

Finding 10: The subject property at 1115 Little John Loop NW, Salem, Oregon is zoned RS (Single-Family Residential), which requires a conditional use permit for short-term rentals per Table 511-1 in SRC 511.005(a).

Conclusion: As short-term rentals are allowed in the RS zone as a conditional use, the Hearings Officer concludes that the proposal meets this criterion.

Criterion 2 (SRC 240.005(d)(2): *The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.*

Finding 11: The applicant is requesting a conditional use permit for a short-term rental. The term "short-term rental" is defined by SRC 111.001 as a type of short-term rental which is operated as an accessory use to a household living use where a resident family rents guest rooms within their dwelling unit, or a guest house if applicable, when they are present as hosts, or rents their entire dwelling unit, including a guest house if applicable, during periods of time when they are away, to overnight guests on a daily or weekly basis for periods of less than 30 consecutive days. A short-term rental differs from an accessory short-term rental in that it is not a residential use where individuals reside on the property as their primary place of living while in the latter a resident family is present or normally resides in the dwelling. The proposed use is a short-term rental because there is no resident family present. The applicant will be managing the rental as required by the license standards for short-term rentals under SRC 30.1105(b) and will be

the primary point of contact for neighbors, respond to any issues that arise, and ensure the property is maintained.

To ensure the proposed short-term rental operates in a manner that will not impact the immediate neighborhood, the following conditions of approval are necessary and are derived from the standards applicable to non-hosted accessory short-term rentals under SRC 700.006:

- Condition 1:** The maximum number of occupants in the short-term rental shall not exceed six persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants.
- Condition 2:** The short-term rental shall be rented to only one group of guests at a time. Bookings of the rental by more than one group of guests at any given time is prohibited.
- Condition 3:** Use of the short-term rental shall be limited to the provision of lodging. Activities other than lodging, such as events, parties, gatherings, luncheons, banquets, weddings, meetings, fundraising, or commercial or advertising activities are prohibited.
- Condition 4:** Use of the short-term rental shall not generate noise beyond the property between the hours between 10 pm to 8 am.

Finding 12: To ensure that adequate bicycle parking is provided to serve proposed uses, SRC 806.055 establishes minimum bicycle parking requirements. Pursuant to Table 806-9 in SRC 806.055, the minimum off-street bicycle parking for short-term rentals is the greater of four spaces or one space per 50 rooms, with 75 percent of spaces allowed as long-term. As the proposed short-term rental includes four guestrooms, the minimum required bicycle parking for the use is four spaces. To ensure that the bicycle parking spaces provided conform to the applicable standards of SRC Chapter 806, and that a minimum of one bicycle parking space meets the short-term bicycle parking standards, the following condition of approval is required:

- Condition 5:** Four bicycle parking spaces shall be provided for the short-term rental use and shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.

Finding 13: The neighbor adjacent to the subject property to the west, 1111 Little John Loop NW, testified convincingly about his concerns regarding vehicular trespass onto his property due to the configuration of the short-term rental's garage and driveway. The Hearings Official confirmed the existence of this issue during his site view of the subject property. However, denying the conditional use permit on the basis of this situation is too extreme when a practical solution may be available. In

this regard, it seems possible for the applicant to mark the property boundary along the driveway to provide a guest with a visual and possibly tactual marking to facilitate backing a vehicle out of the driveway without trespassing on the neighbor's property. The following condition of approval is intended to implement this solution:

Condition 6: The applicant shall mark the perimeter of the driveway to demarcate the property boundary. The marking shall be of a reflective material or paint as to be visible at night. Visibility may be accomplished by perimeter lighting.

Finding 14: During testimony, the concerns of a school district administrator were expressed regarding the danger of having a home vacant for extended periods of time. He noted that such information was frequently considered to be general knowledge among students and, in his professional experience, would often times use those structures for parties and other activities. When questioned at the hearing whether she would be providing on-site camera systems to monitor use of the subject property, the applicant was non-committal. Absent any other information regarding how frequently the applicant would be monitoring the appropriate behavior of her guests or the presence of illegal use of the house, the Hearings Official believes that the following condition of approval is appropriate:

Condition 7: The applicant shall employ an electronic surveillance system that will allow 24-hour monitoring of the front yard and driveway of the short-term rental and allow the applicant to identify when the rental is occupied.

Finding 15: James Weber lives behind the subject property. His concern is that the short-term rental will produce outside lighting that will intrude upon his property; specifically bedrooms facing the subject property. The record does not contain evidence regarding exterior lighting so the following condition of approval is appropriate:

Condition 8: Exterior lighting shall be directed towards the subject property and shall not shine or reflect directly onto adjacent properties.

Finding 16: The West Salem Neighborhood Association requests that a condition be added to limit the duration of the conditional use permit to the extent of the current ownership of the subject property. The Neighborhood Association pointed out the potential inconsistency between SRC 240.005(d)(2), SRC 300.820(a)(2), and SRC 240.005(e). SRC 240.005(d)(2) allows the implementation of conditions to minimize likely adverse impacts of a proposed conditional use. It is not inconsistent with SRC 240.005(e), which states that conditional uses shall run with the land unless otherwise provided in the decision granting a conditional use permit.

An apparent inconsistency occurs with SRC 300.820(a)(2), which states that the Review Authority may not impose any permanent condition which would limit the use of the subject property to one particular owner. This provision further provides that permanent conditions may limit the subject property as to use but cannot be so restrictive that other occupants who might devote the property to the same or substantially similar or substantially similar use would be unable to reasonably comply with the conditions.

SRC 110.080(d) provides that where there are several provisions relating to the same subject, a construction shall be given where, if possible, that all provisions will be given effect. Generally, the general rules of statutory construction require that where there are conflicting provisions, the first step is to harmonize the provisions to give each provision effect. When those provisions cannot be reconciled, the specific provision controls the more general.

SRC 240.005(d)(2) applies to conditional use permits and specifically allows the approval authority to apply conditions to the permit approval. SRC 300.820(a)(2) provides a more general restriction on permanent conditions that restrict uses of a property to one particular owner. Within this context, SRC 300.820(a)(2) can be interpreted as a restriction of the validity of the conditional use permit approval to the applicant for that permit; not a permanent condition on the use of the land. That is, it doesn't limit the use of the property but rather the validity of the conditional use permit approval.

In support of its position, the Neighborhood Association has pointed out that fill permits issued by the Salem Public Works Department were limited to the applicant for that permit. The Association further suggested that a narrow interpretation of SRC 300.820(a)(2) would also prevent the imposition of the conditions of approval suggested by staff.

Assuming that SRC 240.005(d)(2) allows the Hearings Official to restrict the operation of the requested conditional use permit to an applicant, the question is whether that condition is appropriate to the circumstances associated with the application. The most significant circumstances in the present application are twofold: First, the design of the garage and driveway of the dwelling and its relationship with the adjacent property line present a unique vehicle maneuvering situation. Second, an explicit explanation of how existing CC&Rs might burden property may not always be discussed¹ in a real estate transaction.

The current hearing process has clearly informed the applicant of the nuances of the CC&Rs that apply to the subject property and the various concerns of the neighbors. If the conditional use permit status automatically transfers with the sale of the subject property, future owners will not have the opportunity to hear the concerns of the public, the homeowners association, or the neighborhood associations. And those

¹ It should be noted that the term “discussed” is not meant to imply that the information was not disclosed; only that it may not have been orally conveyed.

entities will not be able to share their concerns with the owner. The Hearings Officer believes those concerns to be significant. Conditions of approval are important to mitigate likely adverse impacts from a conditional use permit but they do not always adequately provide the overall context within which those conditions were imposed. Given the nature of the concerns expressed, the Hearings Officer believes that the proposed condition of the West Salem Neighborhood Association is appropriate:

Condition 9: The conditional use permit shall be for the duration of the ownership of the subject property by the applicant.

Conclusion: The conditions of approval recommended by staff mirror the requirements of SRC 700.006 and SRC 806.055 and are intended to address generic concerns regarding short-term rentals. The Hearings Official believes that additional conditions are warranted to address unique circumstances of the surrounding neighborhood and concerns raised by the public, the neighborhood association and the homeowner's association. However, as noted in Section 3 of this decision, the CC&Rs reflect on the livability of the area and must be addressed, through conditions if necessary, in regard to conformance with SRC 240.005(d)(3).

In the present case, SRC 240.005(d)(2) has been met as the reasonably likely adverse impacts of the proposed short-term rental on the immediate neighborhood are minimized through the recommended conditions of approval, conformance with the applicable licensing requirements for short-term rentals included under SRC Chapter 30, and the experience of the applicant in managing properties.

Criterion 3 (SRC 240.005(d)(3): *The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.*

Finding 17: As provided above in Section 3 of this decision, the Hearings Official believes that the Homeowner Association's CC&Rs that apply to the subject property and other lots within the subdivision provide an objective framework for determining the livability and appropriate development of surrounding properties; all of which lie within the subdivision. While it is not the job of the conditional use process to enforce the CC&Rs, under this criterion it must nevertheless recognize where there are likely and/or past violations of those CC&Rs that affect the proposed use.

The Homeowner's Association has argued that its CC&Rs explicitly prohibit the proposed use. Article III of the November 25, 1997, CC&Rs state that "lots or units" in the development shall only be used for residential purposes; explicitly prohibiting residential care facilities, foster homes, and group homes but allowing home occupations. Home occupations, as defined by Section 8 of Article I of the CC&Rs, may not include room rentals on the premises. The City considers short-term rentals as residential uses in the RS Zone as well as residential homes and facilities, manufactured homes and, presumably, foster homes. The RS Zone also includes child and adult day care homes as outright permitted uses.

The City’s definition of what constitutes a “residential use” includes all of the uses expressly prohibited by Article III of the CC&Rs. What is not clear is whether the CC&Rs, as currently written, exclude a short–term rental as a residential use. The City’s definition is pretty broad and essentially considers short–term rentals to be a residential use because they provide living and sleeping accommodations. The intent of the CC&Rs is much more specific and furnishes a short list of uses that are not to be considered as being “residential.” The proper venue for interpreting imprecise CC&Rs is the Polk County Circuit Court. It should also be pointed out that Section 2 of Article XI of the CC&Rs allows the membership to clarify its provisions through amendment. The Hearings Official declines the opportunity to amend those restrictions through interpretation.

As noted in Section 3 of this decision, the Homeowner Association and neighbors are concerned about short–term rental guests blocking areas reserved for emergency vehicles, pedestrian safety, visibility, trespass, and dangerous slopes. These issues are addressed as follows:

Finding 18: Lower Transportation/Utility Easement: This easement is located where the stem of the subject property’s panhandle ends. While the deed to the subject property allows restricted daytime parking in this area, the CC&Rs strictly prohibit parking in this area to ensure unobstructed access by emergency vehicles. This concern can be addressed through the following condition:

Condition 10: Guests shall be prohibited from parking in the lower transportation/utility easement. Parking is restricted to the garage and driveway of the short–term rental.

Finding 19: Pedestrian Safety: Concern was voiced about guests of the proposed use will not safely travel around Little John Loop NW in search of the subject property’s panhandle. The site view of the area indicated that the travel circulation direction and speed on the street was well marked. Nevertheless, the presence of a park located within the middle of the loop poses an additional concern as it may attract numerous residents, including children, that access the park from their adjacent homes. Also, the pavement width of Little John Loop NW is less than standard and the outside of the street is used for parking; reducing visibility of pedestrians crossing the street.

However, a careful driver, defined as one who has been educated in the nuances of the street, should not create a danger to pedestrians. The record does not include any pamphlet or other documentation that the applicant intends to provide to prospective guests. However, the applicant shall provide, at a minimum, documentation of the following nature:

Condition 11: Prior to arrival at the subject property, prospective guests shall be provided with documentation regarding the travel circulation direction and speed limit for Little John Loop NW, a warning about

the possibility of pedestrians crossing the street to access the park, and parking restrictions. This documentation shall also be posted in the short-term rental.

Finding 20: Visibility: SRC 800.025 provides that flag lot accessways that serve three to four residentially zoned properties be at least 25 feet wide with a minimum paved width of 20 feet. The flag lot accessway meets these standards.

A paved accessway travels up the panhandle and then splits to the west and east when it reaches the lower transportation/utility easement area. The western portion of the accessway does not serve any dwelling and, by terms of the CC&Rs, is supposed to be vacant. The eastern portion continues in a U-shaped fashion to serve the subject and adjacent properties. For traffic accessing the subject property, the potential for opposing traffic is limited to that coming from one side; the left. For traffic leaving the subject property the concern is the right turn down the panhandle.

As observed during the site view and confirmed by neighbors, the visibility at the top of the panhandle is poor due to thick vegetation located on adjacent properties where it joins the lower transportation/utility easement area. However, the lack of visibility is visually obvious well prior to making the necessary turn. Observing the limited visibility ahead, a prudent driver would slow down until it was clear that the turn was safe. It is also reasonable to conclude that a driver would also slow down when encountering an abrupt change in slope as the panhandle is steeper than the relatively level transportation/utility easement area. Finally, the access easement only serves four properties, generally limiting the amount of vehicle interaction. I therefore cannot conclude that the visibility issue associated with the panhandle is serious enough to deny the conditional use permit.

Finding 21: Trespass: Concern has been raised by the owner of the adjacent lot to the west that the placement of the garage on the subject property has created a situation that encourages trespass onto his property. SRC 806.030(b) requires that driveways that serve two off-street parking spaces be at least 10 feet in width and setback at least 20 feet from an adjacent property line. The garage/driveway meets these standards although it has been argued that its functional design is incompatible with the high turnover of a rental.

The driveway ends directly at the property line of 1111 Little John Loop NW (Lot 24). Because of repeated trespass onto his property from the driveway that neighbor has erected a six-foot tall fence partially along the property line. The site view taken by the Hearings Official confirms that it is difficult in determining the location of the property line when backing out of the driveway. This issue is addressed in Condition of Approval #6, above.

Finding 22: Dangerous Grade: It was observed during the site view that the panhandle's grade was steep and that winter conditions might make it dangerously slippery. However, none of the neighbors that would be normally be affected by such

a condition testified that this situation has presented itself in the past. The Hearings Official will therefore not speculate on that possibility arising in the future.

During the hearing, staff explained that operators of short-term rentals are required to obtain a short-term rental license per SRC 30.010. To obtain the short-term rental license, the operator is required to meet the licensing standards of SRC 30.1105 and must renew the license by the end of each calendar year. The licensing requirements are designed to ensure that short-term and accessory short-term rentals have minimal impacts to surrounding uses and residents, in addition to complying with any applicable conditions of approval where a conditional use permit is required.

Conclusion: The Hearings Official has used the condition of approval process to address those CC&Rs that, if violated, would cause an adverse impact upon adjacent properties or the surrounding area. As opined above, the CC&Rs represent a comprehensive set of rules that collectively play an important part of what can be considered to be a standard of livability in the Subdivision. Compliance with those CC&Rs, through conditions of approval, therefore ensure that the proposed use will be reasonably compatible with and have minimal impact on the livability and the appropriate development of surrounding property.

The Hearings Officer concludes that the proposal meets this criterion.

DECISION

Based upon the Record presented and Facts and Findings herein, the Hearings Officer **APPROVES** the application for a conditional use to allow a short-term rental on the property located at 1115 Little John Loop NW, subject to the following conditions of approval:

- Condition 1:** The maximum number of occupants in the short-term rental shall not exceed six persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants.
- Condition 2:** The short-term rental shall be rented to only one group of guests at a time. Bookings of the rental by more than one group of guests at any given time is prohibited.
- Condition 3:** Use of the short-term rental shall be limited to the provision of lodging. Activities other than lodging, such as events, parties, gatherings, luncheons, banquets, weddings, meetings, fundraising, or commercial or advertising activities are prohibited.
- Condition 4:** Use of the short-term rental shall not generate noise beyond the property between the hours between 10 pm to 8 am.

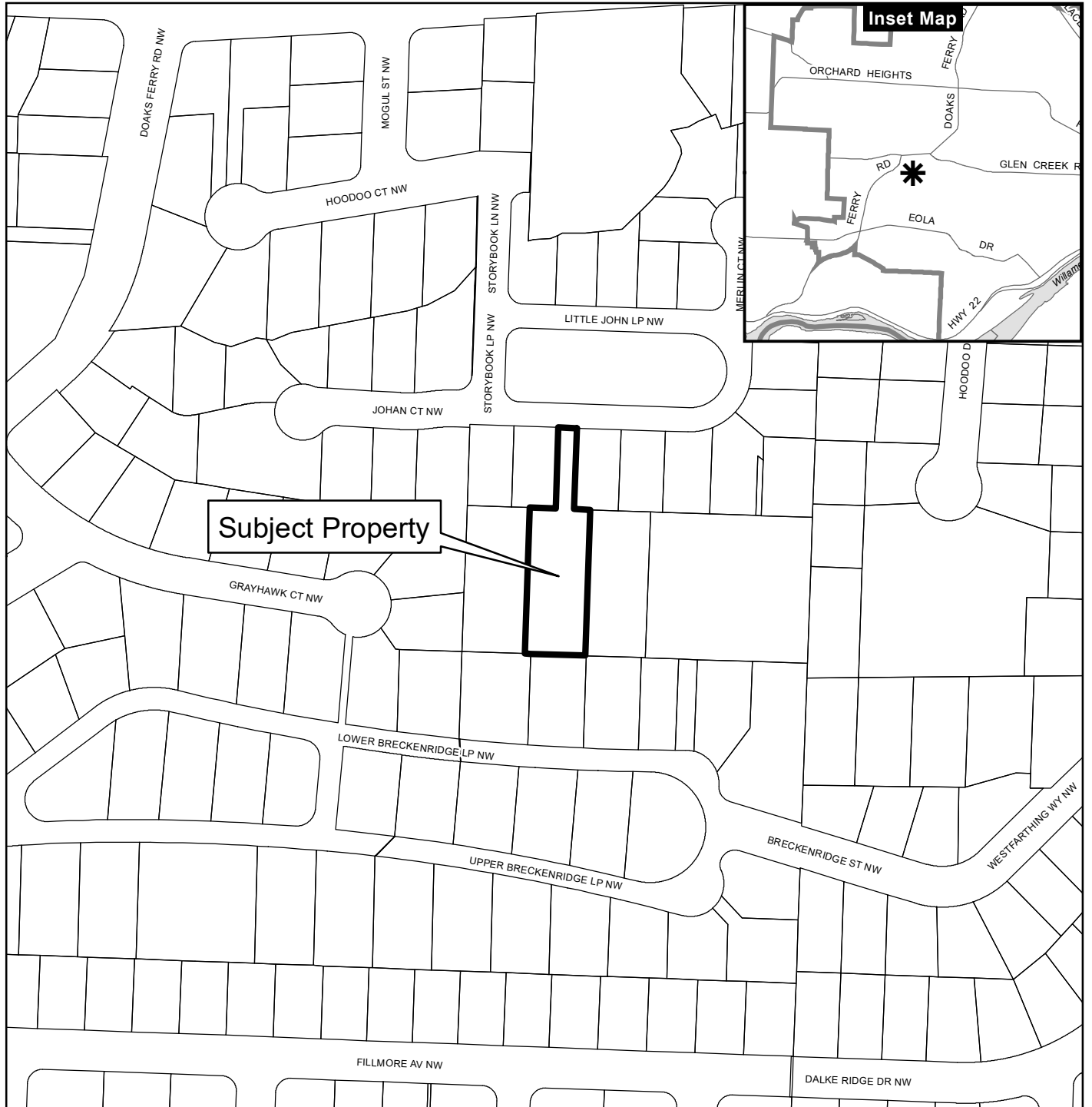
- Condition 5:** Four bicycle parking spaces shall be provided for the short-term rental use and shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.
- Condition 6:** The applicant shall mark the perimeter of the driveway to demarcate the property boundary. The marking shall be of a reflective material or paint as to be visible at night. Visibility may be accomplished by perimeter lighting.
- Condition 7:** The applicant shall employ an electronic surveillance system that will allow 24-hour monitoring of the front yard and driveway of the short-term rental and allow the applicant to identify when the rental is occupied.
- Condition 8:** Exterior lighting shall be directed towards the subject property and shall not shine or reflect directly onto adjacent properties.
- Condition 9:** The conditional use permit shall be for the duration of the ownership of the subject property by the applicant.
- Condition 10:** Guests shall be prohibited from parking in the lower transportation/utility easement. Parking is restricted to the garage and driveway of the short-term rental.
- Condition 11:** Prior to arrival at the subject property, prospective guests shall be provided with documentation regarding the travel circulation direction and speed limit for Little John Loop NW, a warning about the possibility of pedestrians crossing the street to access the park, and parking restrictions. This documentation shall also be posted in the short-term rental.

DATED: May 26, 2026










Gary Darnielle, Salem Hearings Officer

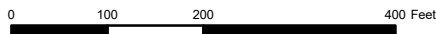
Vicinity Map 1115 Little John Loop NW



Subject Property

Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks



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SITE PLAN
 1115 LITTLE JOHN LOOP NW.
 SALEM, OREGON



1"=40'

CONTRACTOR:
3 G'S CONST.
503-871-8434

- * CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD*
- * ALL UTILITY LOCATIONS ARE TO BE DETERMINED BY CONTRACTOR.*
- * ALL PROPERTY ELEVATIONS ARE TO BE DETERMINED BY CONTRACTOR.*

