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503-588-6173

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU25-07

APPLICATION NO.: 25-117392-PLN

NOTICE OF DECISION DATE: September 29, 2025

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 4936 Pullman Avenue SE (Marion County Assessor's Map and Tax Lot Number: 083W09DD / 5100).

APPLICANT: Rishel Flanigan

LOCATION: 4936 Pullman Ave SE, Salem OR 97302

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

FINDINGS: The findings are in the attached Decision dated September 29, 2025.

DECISION: The **Hearings Officer APPROVED** Conditional Use Case No. CU25-07 subject to the following conditions of approval:

- Condition 1:** The maximum number of guests 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 of 10 pm to 8 am.
- Condition 5:** The bicycle parking spaces provided for the short-term rental use shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.

NOTICE OF DECISION

PLANNING DIVISION
planning@cityofsalem.net



The rights granted by the attached decision must be exercised, or an extension granted, by October 15, 2027, or this approval shall be null and void.

Application Deemed Complete:	<u>September 2, 2025</u>
Public Hearing Date:	<u>September 24, 2025</u>
Notice of Decision Mailing Date:	<u>September 29, 2025</u>
Decision Effective Date:	<u>October 15, 2025</u>
State Mandate Date:	<u>December 31, 2025</u>

Case Manager: Quincy Miller, gmiller@cityofsalem.net, 503-584-4676

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., Tuesday, October 14, 2025. 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. 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.

<http://www.cityofsalem.net/planning>

**.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 4936 PULLMAN AVENUE SE, SALEM, OREGON (MARION COUNTY ASSESSOR'S MAP AND TAX LOT NUMBER 083W09DD / 5100)	} CU25-07 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

On September 24, 2025, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at the Community Room, Salem Police Department, 333 Division Street NE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Quincy Miller, Planner I
<u>Neighborhood Association:</u>	Faye Wright Neighborhood Association
<u>Proponents:</u>	Rishel Flanigan
<u>Opponents:</u>	Douglas Bunselmeyer

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on September 24, 2025, regarding the applicant's request for conditional use permit approval of a short-term rental. During the hearing, Quincy Miller requested that the staff report be entered into the record, and the Hearings Officer granted the request. The application for a conditional use permit was accepted for processing on August 20, 2025, and was deemed complete on September 2, 2025. The 120-day State mandated deadline is December 31, 2025.

The Hearing Notice was provided on September 11, 2025, to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) and stated that the date for the hearing was September 24, 2025. The property was posted on September 11, 2025, consistent with the requirements of SRC 300.620(b)(3) for a Type III application. On September 13, 2025, the Planning Division was notified that the signs were no longer on the subject property. Staff provided new signs which were installed on September 16, 2025. Pursuant to SRC 300.800(a)(2), "posted notice shall be

deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.” Therefore, noticing requirements have been met.

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 4936 Pullman Avenue SE, 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: Across Lori Avenue SE, RS (Single-Family Residential).

West: Across Pullman Avenue SE, RS (Single-Family Residential).

East: RS (Single-Family Residential).

2. Site Analysis

Finding 1: The subject property has an address of 4936 Pullman Avenue SE and is approximately 0.17 acres (7,280 square feet) in size, with frontage on Lori Avenue SE and Pullman Avenue SE. The property is improved with a 1,322 square foot, three-bedroom, single-story home with a 494 square foot attached two-car garage. The dwelling has a paved driveway connecting to Lori Avenue SE.

Finding 2: The subject property is a corner lot that abuts Pullman Avenue SE along its western boundary and Lori Avenue SE along its southern boundary. Vehicular access to the property is provided via an existing driveway onto Lori Avenue SE.

Both Pullman Avenue SE and Lori Avenue SE are designated as local streets under the Salem Transportation System Plan (TSP), which require 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 both Pullman Avenue SE and Lori Avenue SE is 60 feet, which conform to the minimum right-of-way width requirements established in Salem Revised Code (SRC) Chapter 803.025. Lori Avenue SE is not a through street and is barricaded to

the east.

Finding 3: 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 4: 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 5: 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. The Hearings Official agrees.

Finding 6: Based upon the City’s adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property.

3. Neighborhood and Citizen Comments

The subject property is located within the Faye Wright Neighborhood Association. Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On August 13, 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. No comments were received from the Neighborhood Association. As of the date of the completion of the staff report, one comment was received from the public. Issues raised in this comment is addressed below under the approval criteria.

The subject property is not located within a Homeowner’s Association.

4. City Department and Public Agency Comments

The Public Works Department reviewed the proposal and indicated no concerns.

The Salem Building and Safety Division reviewed the proposal and indicated that it had no concerns. However, it was pointed out that building permits would be required if the applicant was converting non-habitable space to habitable space or making other alterations to the dwelling.

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 7: The subject property at 4936 Pullman Avenue SE 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 8: 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 imposed, which are derived from the standards applicable to non-hosted accessory short-term rentals under SRC 700.006:

Condition 1: The maximum number of guests 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 of 10 pm to 8 am.

Comments received from Douglas Bunselmeyer, an individual who lives across the street from the subject property, raised issues regarding increased noise, parking issues, incompatibility with the neighborhood, property damage and sanitation, reduced security and decrease in property values. These issues are addressed as follows:

Finding 9: Incompatibility with the neighborhood/Loss of sense of community.

Short-term rentals share many characteristics of normal residential use. That is, the guests will normally eat and sleep in the residence and use the residence as a base from which they will travel to various destinations in the area. Their use may differ from the normal residential use in the neighborhood in that their stay is limited to 30 days and none of the guests may actually work during their stay. The latter situation is no different from residences inhabited by retired individuals.

Short-term rentals are not *per se* incompatible with residential neighborhoods. Rather, they can become incompatible if they display the type of potential adverse impacts identified by the comments made by Mr. Bunselmeyer. These potential impacts are addressed in the following findings and have been found, in the present case, not to be reasonably likely.

The likelihood of whether a short-term rental will be incompatible with a residential neighborhood is largely a function of how well the applicant manages the rental. In the present case, the applicant has a history in managing short-term rentals. She has a short-term rental in Keizer, Oregon and in Tillamook, Oregon. Her business is associated with Airbnb and other similar services. These services rate guests upon their behavior. Thus, the applicant screens her guests based upon their prior short-term rental behavior. If a potential guest does not have a nearly perfect rating they are not offered the rental.

The applicant lived in the short-term rental for many years and had a close relationship with some of her neighbors and still communicates with several. It is highly likely that if guests are causing adverse impacts to the neighborhood the applicant will be notified by those neighbors. In addition, the applicant monitors the exterior of the short-term rental dwelling with a video camera and is able to quickly identify behavior that may violate the rental agreement or that is incompatible with the neighborhood. Finally, the applicant's guests sign an agreement that specifies expected behavior. Violation of the contract gives the applicant the right to immediately terminate the short-term rental agreement.

I share Mr. Bunselmeyer's concern about loss of sense of community or neighborhood identity through the creation of a transient atmosphere. It is common knowledge that this situation has presented itself at several Oregon coastal communities where a large number of absentee owners have rented out their second homes to vacationers. However, I have seen no evidence that one well-managed, short-term rental would result in this situation. The record does not indicate that there were other short-term rentals in the immediate vicinity and the applicant, who lived on the property for about four years, was not aware of any.

Finding 10: Increased noise. Staff notes that noise disturbances are prohibited by SRC Chapter 93, where excessive noise from sound-producing equipment such as speakers is prohibited. SRC Chapter 51 also regulates noise levels; specifically, SRC 51.015 provides maximum sound levels based on the source and receiver of the sound. It is unlawful to exceed the maximum sound levels without an event sound permit.

However, the approval criterion addresses (1) whether it is reasonably likely that the proposed use will have adverse impacts of the use on the immediate neighborhood and (2) whether these impacts can be minimized through the imposition of conditions. Whether there are enforcement mechanisms that can be employed should those impacts occur is largely irrelevant to the criteria.

The question of whether the proposed short-term rental will generate an unreasonable amount of noise in the neighborhood is partially dependent upon the short-term guests. It is also dependent upon the ability of the applicant to be aware of excessive noise events and the willingness of the applicant to enforce the conditions of this permit and the rental agreement. As pointed out above, the applicant monitors the behavior of the short-term rental guests through her connection with ex-neighbors and the video camera system that surveils the exterior of the subject property. Thus, the management system employed by the applicant in conjunction with the conditions of approval that limit the number and affiliation of the short-term guests and the imposition of no-noise hours, result in a minimization of any adverse impacts to the neighborhood.

Finding 11: Parking issues. As staff has pointed out, the City of Salem does not require a minimum amount of off-street parking for any use, though there are maximum off-street parking amounts per Table 806-1 in SRC 806.015(a). Short-term rentals are allowed a maximum of 1.5 off-street parking spaces per guest room; therefore, for the three-bedroom dwelling, a maximum number of five off-street parking spaces are allowed.

Mr. Bunselmeyer's concern about the creation of parking issues associated with short-term rentals is valid. It is especially true where there is limited off-street parking for the short-term rental and the adjacent street has limited parking capacity. However, this is not the case in the present situation.

The dwelling is developed with a two-car garage and driveway, along with a screened off-street parking area in the rear yard, for a total of three off-street vehicle parking spaces with up to three vehicles allowed to park in the driveway. The record does not indicate that either Pullman Avenue SE or Lori Avenue SE has restricted parking conditions (i.e. parking allowed on only one side of the street.) Furthermore, as the occupancy of the short-term rental is limited to a maximum of six guests over the age of 12, and the activities are limited to lodging, the number of vehicles utilizing the parking areas and adjacent streets is expected to be limited and not adversely affect parking or traffic in the surrounding area.

Finding 12: Property damage and sanitation. I presume that the issue concerns damage to adjacent properties and improper sanitation that could lead to health concerns. The applicant has contracted for weekly garbage pickup for the short-term rental and can detect any property damage through feedback from ex-neighbors and from her video surveillance system. Therefore, the chances of property damage or sanitation issues caused by guests appear to be minimal.

Finding 13: Reduced security. The standard is whether it is reasonably likely that the proposed use will have adverse impacts on the immediate neighborhood and whether those impacts can be minimized. The record does not contain any crime data nor does it contain any evidence that the impacts on a neighborhood from a short-term rental are significantly different than from a owner-occupied or a rental-occupied residential use.

In the present case, the applicant has a video surveillance system that monitors the exterior of the subject property. If anything, this system increases the security of the neighborhood. Also, the applicant is able to identify and refuse to rent to potential guests who have had a history of behavior that might reduce the security of the neighborhood.

Finding 14: Diminution of property values. As noted above, the standard of the reasonable likelihood of adverse impacts is quite broad and could conceivably cover adverse effects on property values. However, there is no evidence in the record to suggest that is the case and the characteristics of a short-term rental are

so similar to that of an owner-occupied residential use that it can be presumed that property values will not be affected one way or another.

Common sense would suggest that surrounding property values might be adversely affected if a residence's yard is poorly maintained, it violated various nuisance ordinance regulations, or the occupants are in constant breach of City noise standards. However, it is clearly in the best interests of the applicant to prevent such occurrences as it would lower the marketability of the short-term rental and make the applicant-owner liable for code violations and penalties. In this respect, the applicant has contracted for twice weekly yard maintenance. The applicant is also aware that the conditional use permit could be vacated for failure to comply with the conditions of approval. Thus, it seems that there are more incentives on a property owner with a short-term rental to properly maintain the property than an owner-occupier of the same property.

The applicant has experience with long-term rentals as well as short-term ones. She has noted less problems arising from short-term rentals than from long term rentals and in the four years that she has managed her other short-term rentals she has not seen any diminution of property values in the neighborhoods in which they are located. She attributes this fact to the professional necessity of keeping short-term rental properties in good shape in order to attract clients.

Finding 15: 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 three 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 recommended:

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

Conclusion: This criterion 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 property management practices of the applicant.

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 16: The subject property is located in a relatively homogeneous residential neighborhood contains a mixture of owner-occupied and rental dwellings. The owner-occupied residents are a mixture of working and retired families. Most of the properties are well maintained, which is a large factor in determining the livability of the neighborhood. A use that comports with this standard would normally be compatible with the neighborhood. The applicant has previously lived on the subject property and will not be making any changes to the property or any further substantial modifications to the residence.

The comments raised by Mr. Bunselmeyer identify potential impacts that might make a short-term rental incompatible with a neighborhood. In the present case, the applicant's management methods for the subject property, along with the proposed conditions of approval, ensure that the proposed use of the subject property will be reasonably compatible and have a minimal impact on the livability or appropriate development of surrounding properties. There are no other factors present that would cause one to draw a different conclusion.

Conclusion: 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 4936 Pullman Avenue SE, subject to the following conditions of approval:

- Condition 1:** The maximum number of guests 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 of 10 pm to 8 am.

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

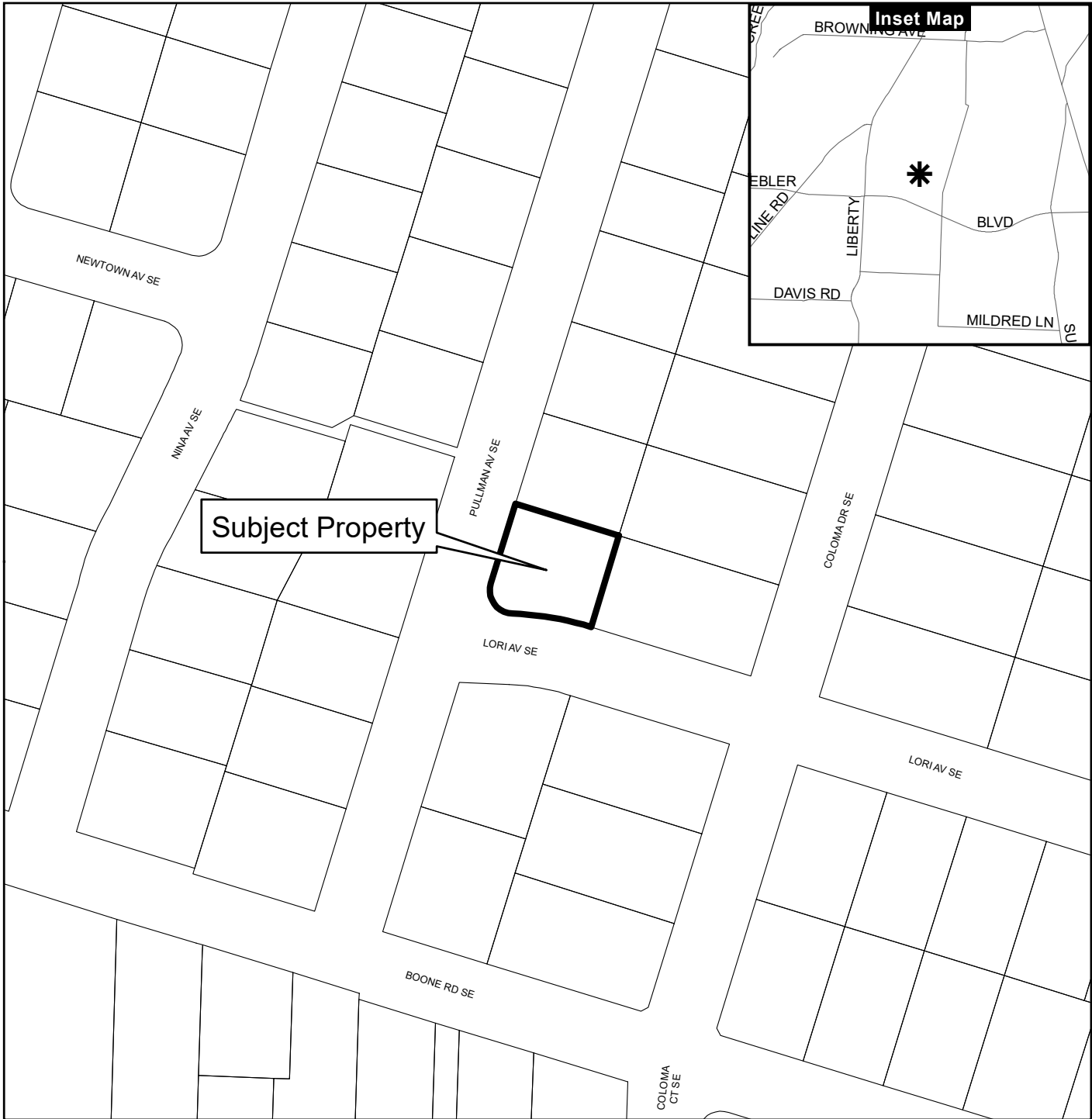
DATED: September 29, 2025

A handwritten signature in cursive script, reading "Gary Darnielle", written in dark ink on a light background.

Gary Darnielle, Hearings Officer

Vicinity Map

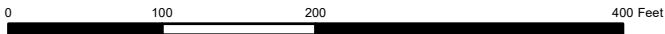
4936 Pullman Avenue SE



Legend

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

Parks



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SITE PLAN

Conditonal Use Application, 8/20/25, Applicant: Rishel Flanigan

Address: 4936 Pullman Ave SE
Salem, OR 97302
Parcel ID: 083W09DD05100
Lot area: 0.17 Acres
Plot Size: 11"x17"
Drawing scale: 1"=20'

