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DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU25-06

APPLICATION NO.: 25-114984-PLN

NOTICE OF DECISION DATE: September 16, 2025

SUMMARY: A Conditional Use Permit for a short-term rental within an existing single-family dwelling.

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 1157 Fabry Road SE (Marion County Assessors Map and Tax Lot Numbers: 083W15AD / 9300 and 9400).

APPLICANT: James Baxter, Aimee Baxter, Michael Flanigan

LOCATION: 1157 Fabry Rd SE, Salem OR 97306

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

FINDINGS: The findings are in the attached Decision dated September 15, 2025.

DECISION: The **Hearings Officer APPROVED** Conditional Use Case No. CU25-06 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:** All 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 14, 2027, or this approval shall be null and void.

Application Deemed Complete:	<u>August 20, 2025</u>
Public Hearing Date:	<u>September 10, 2025</u>
Notice of Decision Mailing Date:	<u>September 16, 2025</u>
Decision Effective Date:	<u>October 14, 2025</u>
State Mandate Date:	<u>December 18, 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. Wednesday, October 1, 2025. 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(s) 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>

Vicinity Map

1157 Fabry Road SE



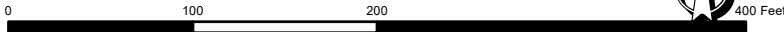
Legend

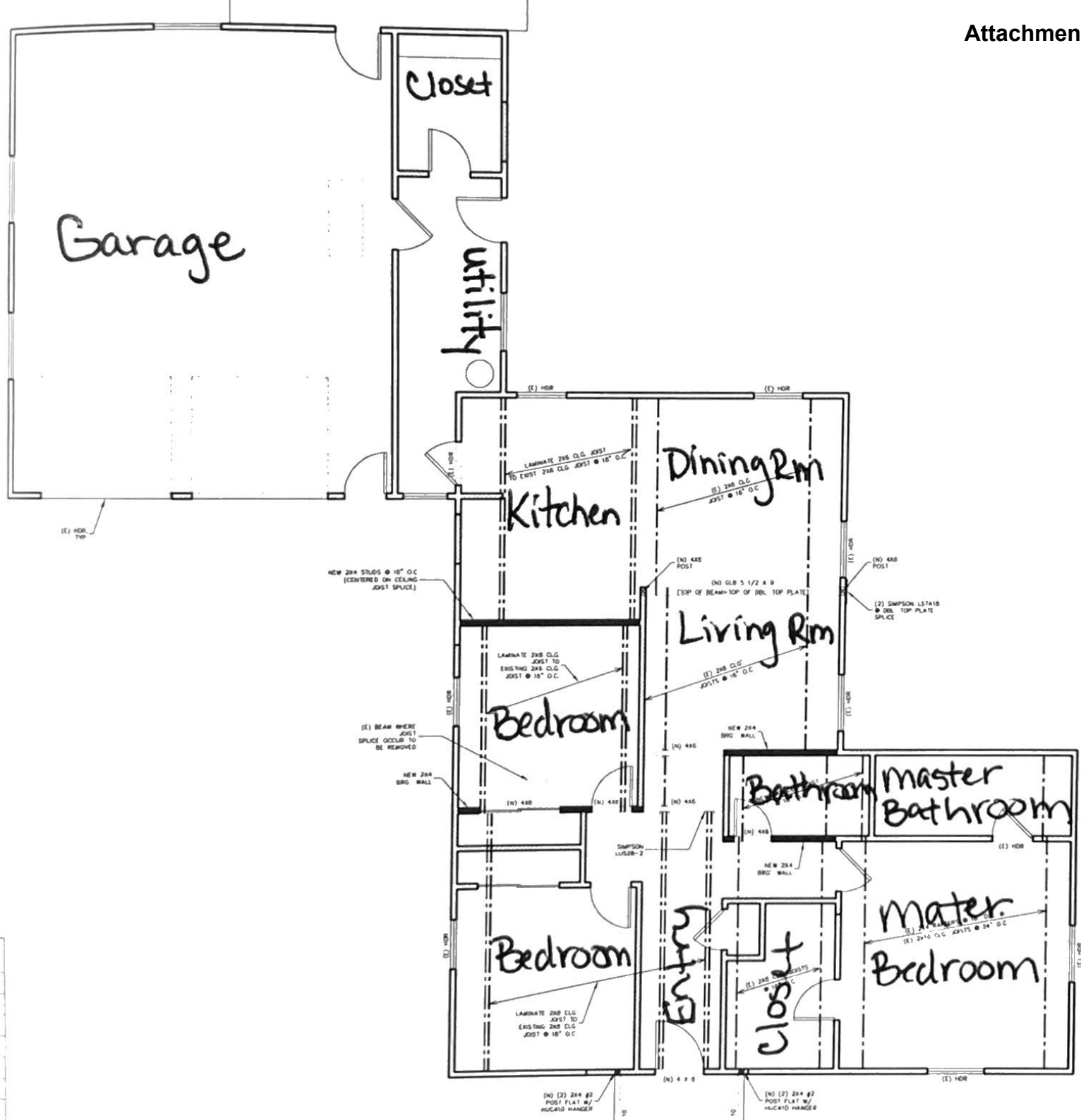
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

Parks



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**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 1157 FABRY ROAD SE (MARION COUNTY ASSESSOR'S MAP AND TAX LOT NUMBER 083W15AD / 9300 & 9400)	} } } } } } }	CU25-06 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

On September 10, 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>	West Salem Neighborhood Association
<u>Proponents:</u>	James C. Baxter
<u>Opponents:</u>	None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on September 10, 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 July 21, 2025, and was deemed complete on August 20, 2025. The 120-day State mandated deadline is December 18, 2025.

The Hearing Notice was provided on August 20, 2025, to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) and stated that the date for the hearing was September 10, 2025. The property was posted on August 30, 2025, consistent with the requirements of SRC 300.620(b)(3) for a Type III application.

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 1157 Fabry Road 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 Fabry Road SE, RS (Single-Family Residential).

West: RS (Single-Family Residential).

East: RS (Single-Family Residential).

2. Site Analysis

Finding 1: The subject property at 1157 Fabry Road SE is approximately 0.3 acres (13,068 square feet) in size, with frontage on 1157 Fabry Road SE. The property is improved with a 1,498 square foot, three-bedroom, single-story home with a 672 square foot two-car garage. The dwelling has a paved driveway connecting to 1157 Fabry Road SE.

Finding 2: The subject property is an interior lot that abuts Fabry Road SE along its southern boundary. Fabry Road SE is designated as a Local Street within the Salem Transportation System Plan (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 Fabry Road SE along the subject property’s frontage is 50 feet, which does not conform to the minimum right-of-way width requirements established in Salem Revised Code (SRC) Chapter 803.025. Pursuant to SRC 800.040, when the required public street right-of-way along the frontage of a property is not met, a special setback applies along the property’s street frontage to reserve land for the eventual widening of the street without creating nonconforming structures. The setback is not applicable to the current application as no new structure or exterior expansion is proposed.

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 South Gateway Neighborhood Association. Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On July 18, 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 or from neighbors (property owners and tenants) within 250 feet of the subject property.

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 1157 Fabry Road 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 recommended, which 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 9: 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: All 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.

Finding 10: Whether the proposed conditional use will likely not have adverse impacts on the neighborhood is largely determined by the ability and willingness of the applicant to abide by the conditions established in this decision and his resolution to monitor the subject property closely enough to ensure that it and its use are compatible with the surrounding neighborhood. At the moment, the surrounding neighborhood is occupied largely by owner-occupied residences. The applicant currently has ten rentals throughout the region and has managed multiple properties for many years. In addition, a relative currently lives adjacent to the subject property and the other owner of the subject property lives in South Salem. The applicant lives within 25 minutes of the subject property. Given the experience of the applicant in managing properties, there is a high likelihood that any adverse impacts from the use of the proposed short-term rental will be swiftly cured by the applicant.

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 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 11: No public comments were received that expressed concerns about the proposal. Short-term rentals are similar to a normal residential use in that they provide a place where living and sleeping accommodations are provided. Conditions of approval that limit the number of bookings and guests, provide noise restrictions, and that limit the use of the short-term rental to residential-related uses work to 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 925 Terrace Drive 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.
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DATED: September 15, 2025



Gary Darnielle, Hearings Officer