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503-588-6173*

## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE CASE NO.:** CU18-01

**APPLICATION NO. :** 17-124274-ZO

**NOTICE OF DECISION DATE:** MARCH 13, 2018

**SUMMARY:** A conditional use application for a short term rental use in a single family dwelling.

**REQUEST:** An application for a conditional use permit for a short term rental use of an existing single family dwelling in the RS (Single Family Residential) zone and located at 1415 Jefferson Street NE 97301 (Marion County Assessor Map and Tax Lot 073W23AB06800).

**APPLICANT(S) / OWNER(S):** Eric Kittleson and Carol Smith

**LOCATION:** 1415 Jefferson Street NE / 97301

**CRITERIA:** Salem Revised Code (SRC) Chapter 240.005(d)

**FINDINGS:** The findings are in the attached Order dated March 13, 2018.

**DECISION:** The Hearings Officer **APPROVED** Conditional Use CU18-01 subject to the following conditions of approval:

**Condition 1:** The short-term rental shall be rented to only one party at a time.

**Condition 2:** The total number of occupants in the short-term rental may not exceed 6 persons.

**Condition 3:** The applicant shall provide four bicycle parking spaces meeting the standards of SRC 806.060.

The rights granted by the attached decision must be exercised, or an extension granted, by **March 29, 2020**, or this approval shall be null and void.

Application Deemed Complete:	<u>February 2, 2018</u>
Public Hearing Date:	<u>February 22, 2018</u>
Notice of Decision Mailing Date:	<u>March 13, 2018</u>
Decision Effective Date:	<u>March 29, 2018</u>
State Mandate Date:	<u>June 2, 2018</u>

**Case Manager:** Pamela Cole, [pcole@cityofsalem.net](mailto:pcole@cityofsalem.net); 503.540.2309

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., Wednesday, March 28, 2018.**

**NOTICE OF DECISION**

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005

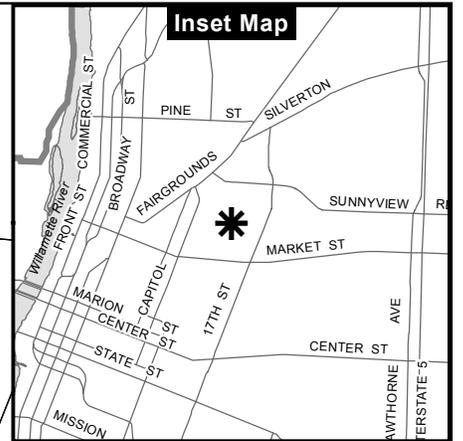
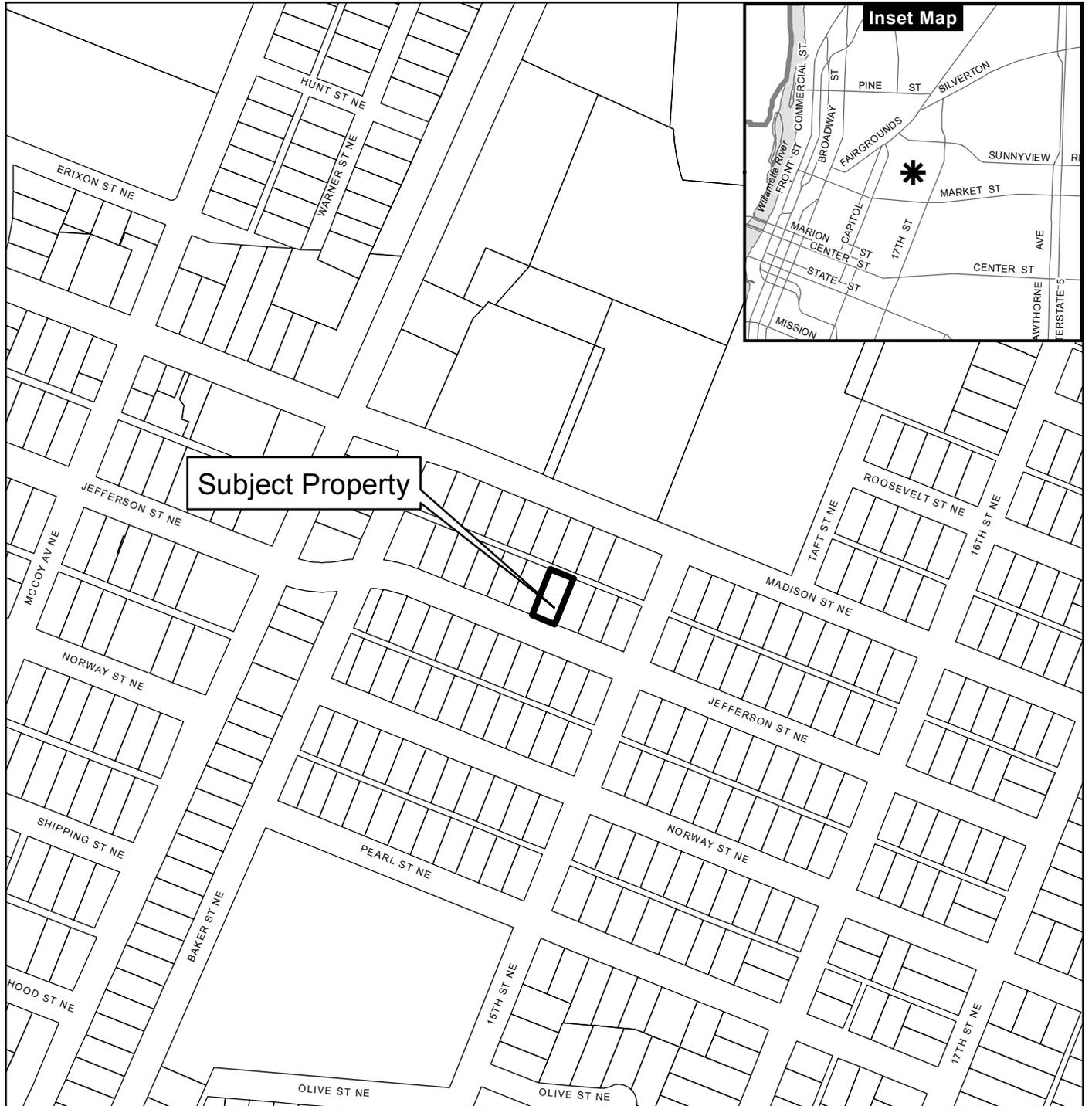
**CITY OF Salem**  
AT YOUR SERVICE

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 must be filed in duplicate with the City of Salem Planning Division. 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

# Vicinity Map 1415 Jefferson Street NE



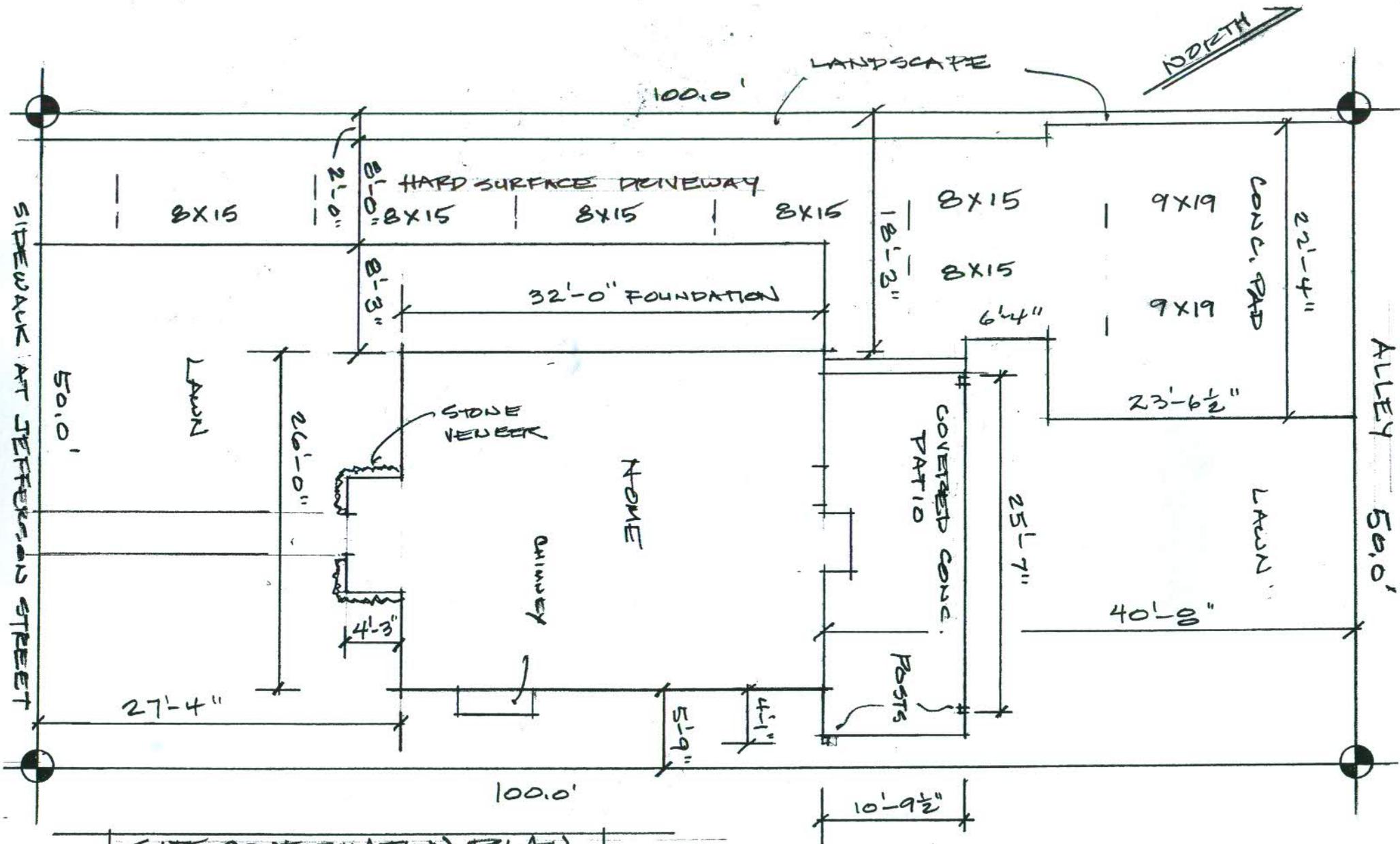
### Legend

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

  
**CITY OF Salem**  
 AT YOUR SERVICE  
 Community Development Dept.



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SITE CONFIRMATION PLAN

FOR 1415 JEFFERSON ST. NE., SALEM, OREGON

MEASUREMENTS OF FOUNDATIONS AND SITE PERIMETER

SCALE: 1" = 10'-0"

1/23/2012



# Conditional Use Permit Application

Date: Dec 21, 2017 Applicant: Carole Smith

Location: 1415 Jefferson Street NE, Salem, OR 97301

*Lot = 5000 sq ft*

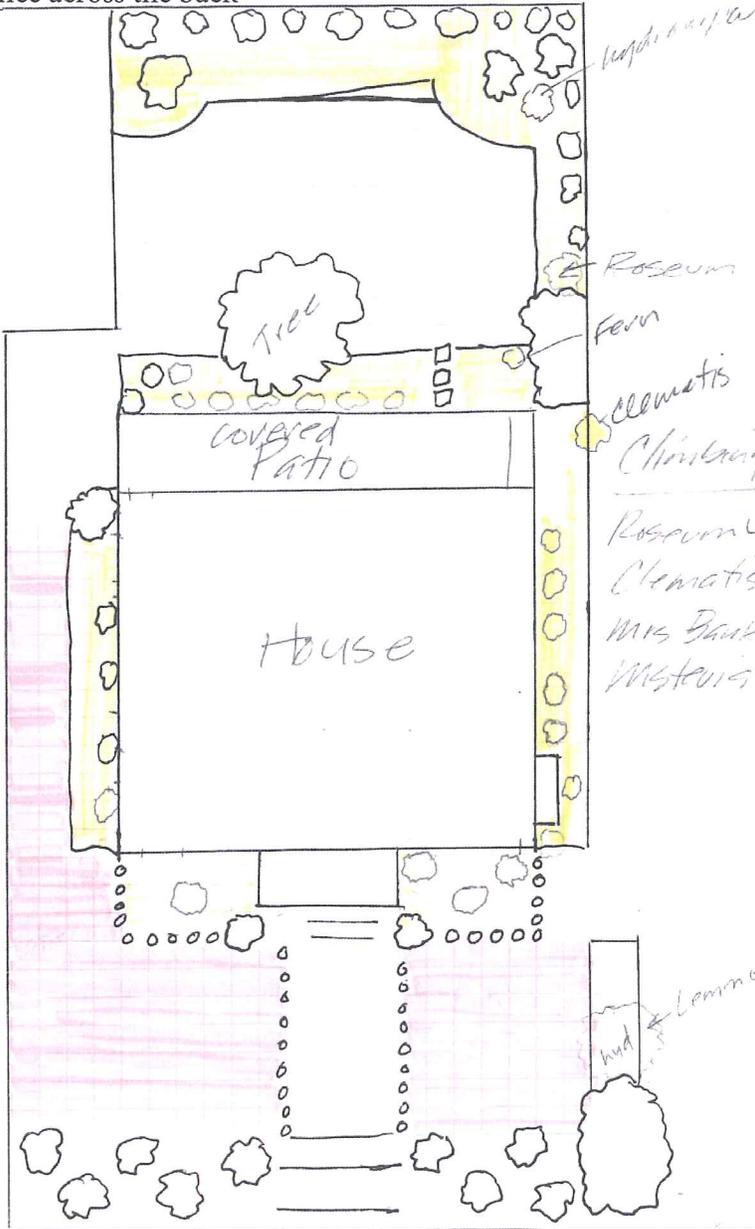
Public Alley

Chain Link Fence across the back

Parking space for two cars

Wood fence

DRIVEWAY  
(Parking for 2 cars)



CITY SIDEWALK

Large Maple Tree

Parking Strip

City Street

**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A SHORT- TERM RENTAL USE OF AN EXISTING SINGLE FAMILY DWELLING IN THE RS (SINGLE FAMILY RESIDENTIAL) ZONE AND LOCATED AT 1415 JEFFERSON STREET NE 97301 (MARION COUNTY ASSESSOR MAP AND TAX LOT 073W23AB068000.	}	CU18-01
		FINDINGS OF FACT, CONCLUSIONS, AND DECISION

**DATE AND PLACE OF HEARING:**

February 28, 2018, Salem City Council Chambers, Room 240, Civic Center, 555  
Liberty Street SE, Salem, Oregon.

**APPEARANCES:**

<u>Staff:</u>	Pamela Cole, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Eric Kittleson and Carol Smith, Applicants
<u>Opponents:</u>	None

**SUMMARY OF THE APPLICATION AND HEARING**

**BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on February 28, 2018. The Applicant filed, and the City accepted an application requesting an application for a conditional use permit for a short-term rental use of an existing single family dwelling in the RS (Single Family Residential) zone, and located at 1415 Jefferson Street NE 97301.

## 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.

### **2. Zoning and Surrounding Land Uses**

The subject property is zoned RS (Single Family Residential). When the applicant for a short-term rental does not live in the home to be rented, and the home is in the RS zone, the short-term rental requires a Conditional Use approval as well as a license.

SRC Chapter 240 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. A conditional use permit is required to establish short-term rental in the existing single family dwelling on the subject property.

The zoning and uses of surrounding properties include:

North: Across alley, CG (General Commercial) – commercial cleaning service and construction contractor

South: Across Jefferson Street NE, RS (Single Family Residential) – single family dwellings

East: RS (Single Family Residential) – single family dwelling

West: RS (Single Family Residential) – single family dwelling

### **3. Site Analysis**

The subject property is approximately 5,000 square feet. The subject property abuts Jefferson Street NE on the south, which is designated as a local street within the Salem TSP (Transportation System Plan). The property abuts an alley to the north.

#### *Natural Resources*

*SRC 808- Preservation of Trees and Vegetation:* The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 24 inches in diameter at breast

height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030 (a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

The Hearings Officer notes that no trees are identified for removal on the proposed site plan.

*SRC 809- Wetlands:* Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetlands laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

The Salem-Keizer Local Wetland Inventory (LWI) does not identify any wetland areas but does identify hydric soils on the subject property. No grading or construction activities are planned.

*SRC 810- Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. There are no mapped landslide hazard areas on the subject property; therefore, a geological assessment is not required.

#### **4. Neighborhood and Citizen Comments**

The subject property is located within the Northeast Neighbors (NEN) area. Notice was provided to NEN and surrounding property owners within 250 feet of the subject property. No comments were received from surrounding property owners and no one other than the applicant testified at the public hearing.

A comment was received from NEN stating that the NEN board voted to support the application with the following recommendation for a condition: that the house be rented to only one party at a time.

The Hearings Officer notes that city staff also recommended imposing this condition to mitigate impacts on the neighborhood.

#### **5. City Department and Public Agency Comments**

The Building and Safety Division has reviewed the proposal and commented that they need to know the number of bedrooms and total number of occupants.

The Hearings Officer notes that the applicant submitted a short-term rental license application indicating that the dwelling has 3 bedrooms. Building and Safety responded that the building occupancy may remain as a single family and no sprinklers will be required if no more than 10 occupants would be present. The applicant indicates that occupancy will be limited to 6 persons. Staff will recommend a condition limiting the use to 6 persons.

The Fire Department has reviewed the proposal and indicated they have no issues for the Conditional Use Permit application, but a change in use from an R-3 occupancy to a commercial occupancy, or an increase in fire flow, may require an additional fire hydrant be installed within an allowable distance (depending on the occupancy classification).

The Hearings Officer finds that the applicant does not intend to change the occupancy of the building to a commercial occupancy. The applicant indicates the occupancy will be limited to 6 persons. The city staff recommend, and the Hearings Officer imposed a condition limiting the use to 6 persons.

The Public Works Department identified no issues with the request.

Portland General Electric has reviewed the proposal and commented, "Development cost per current tariff and service requirements. 10' Public Utility Easement required on all front street lots."

At the hearing, Planner Cole provided information regarding the requirements of SRC 806.054 through SRC 806.060 requiring bicycle parking that comply with the standards set out in the SRC for short term commercial lodging. Planner Cole recommended imposing a condition of approval to ensure that this standard would be met.

## **6. 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:

The proposed use is allowed as a conditional use in the zone.

The Hearings Officer finds that SRC 511.005, Table 511-1, requires Conditional Use approval for a short-term rental in the RS zone. The proposal meets this criterion.

Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The Hearings Officer notes that the city staff report views the most likely adverse impacts of the proposed use as a short-term rental would be guests parking on the street and creating noise.

The Hearings Officer notes that Salem Revised Code 806.015, Table 806-1, requires one off-street parking space per guest room or suite for short-term commercial lodging, including short-term rentals in the RS zone. Three parking spaces would be required for the three-bedroom short-term rental. The property has existing paved parking in the rear yard and on a paved driveway leading to the rear yard. The staff analysis is that the applicant's site plan indicates that up to eight vehicles could be parked on the paved surfaces.

The Hearings Officer also notes that SRC 806.054 through SRC 806.060 require the applicant to provide four bicycle parking spaces on the site.

The Hearings Officer notes that the applicant indicated that a maximum of 6 persons would be allowed and that no loud and large gatherings would be allowed. The neighborhood association has requested a condition that the applicant rent the property for the use of only one responsible party at a time. These conditions will minimize noise impacts and ensure that adequate parking is available for all guests.

The staff recommends, and the Hearings Officer imposes the following conditions to mitigate the impacts:

- Condition 1:** The short-term rental shall be rented to only one party at a time.
- Condition 2:** The total number of occupants in the short-term rental may not exceed 6 persons.
- Condition 3:** The applicant shall provide four bicycle parking spaces meeting the standards of SRC 806.060.

As proposed and conditioned, the short-term rental will have a minimal impact on the immediate neighborhood. The proposal meets this criterion.

Criterion 3:

The proposed use will be reasonably compatible with and have minimal impacts on the livability or appropriate development of surrounding property.

The Hearings Officer notes that with the proposed conditions, there is sufficient on-site parking for guests' vehicles to be parked on the subject property, and the number of occupants will be similar to the number of occupants in the nearby residences. Further, the use will provide four bicycle parking spaces in order to satisfy the SRC requirements.

The Hearings Officer finds that as proposed and conditioned, the short-term rental will have a minimal impact on the livability or development of the surrounding property. The Hearings Officer finds that the proposal meets this criterion.

**DECISION**

The Hearings Officer APPROVES the request for a conditional use permit to allow a short-term rental use of an existing single family dwelling subject to the following conditions of approval:

- Condition 1:** The short-term rental shall be rented to only one party at a time.
- Condition 2:** The total number of occupants in the short-term rental may not exceed 6 persons.
- Condition 3:** The applicant shall provide four bicycle parking spaces meeting the standards of SRC 806.060.

DATED: March 13, 2018

  
James K. Brewer, Hearings Officer