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503-588-6173

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU26-03

APPLICATION NO.: 26-101906-PLN

NOTICE OF DECISION DATE: March 23, 2026

REQUEST: A Conditional Use Permit for a Short-Term Rental within an existing four-bedroom single-family dwelling located on property zoned RS (Single-Family Residential) and located at 5175 Foxhaven Court SE (Marion County Assessor's Map and Tax Lot Number: 083W13BA / 400).

APPLICANT: Jesus Bustamante Lua

LOCATION: 5175 Foxhaven Ct SE

CRITERIA: Salem Revised Code (SRC) Chapters
SRC 240.005(d)

FINDINGS: The findings are in the attached Decision dated March 23, 2026.

DECISION: The **Hearings Officer APPROVED** Conditional Use Case No. CU26-03 subject to the following conditions of approval:

- Condition 1:** The garage of the short-term rental shall be kept available for the parking of two normal passenger vehicles at all times. Guest parking is restricted to the property occupied by the short-term rental.
- Condition 2:** The maximum number of occupants in the short-term rental shall not exceed eight persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants. In addition, the proposed use may not generate more than six off-street parking spaces at any one time.
- Condition 3:** 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 4:** 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 5:** Use of the short-term rental shall not generate noise

NOTICE OF DECISION

PLANNING DIVISION
planning@cityofsalem.net



beyond the property between the hours between 10 pm to 8 am.

Condition 6: 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.

The rights granted by the attached decision must be exercised, or an extension granted, by April 14, 2028, or this approval shall be null and void.

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| Application Deemed Complete: | <u>February 3, 2026</u> |
| Public Hearing Date: | <u>February 25, 2026</u> |
| Notice of Decision Mailing Date: | <u>March 23, 2026</u> |
| Decision Effective Date: | <u>April 14, 2026</u> |
| State Mandate Date: | <u>June 3, 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., April 7, 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(s) SRC 240.005(d). 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**

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| 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 5175 FOXHAVEN COURT SE (MARION COUNTY ASSESSOR'S MAP AND TAX LOT NUMBER 083W13BA / 400) | } | CU26-03 FINDINGS OF FACT, CONCLUSIONS, AND DECISION |
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DATE AND PLACE OF HEARING:

On February 25, 2026, 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:

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|----------------------------------|---|
| <u>Staff:</u> | Caroline DeBruine, Planner I |
| <u>Neighborhood Association:</u> | South Gateway Neighborhood Association |
| <u>Proponents:</u> | Jesus Ivan Bustamente Lua |
| <u>Opponents:</u> | Dan Olson, Tiffany Underwood, Jennifer Stair, Scott Stair, Vivian Stair, Brian Barker, John & Joan Kaiser, Allen Campora, Marc Burton, Keith Andersen |

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 12, 2026, and was deemed complete on February 3, 2026. The 120-day State mandated deadline is June 3, 2026.

The City of Salem held a duly authorized and noticed public hearing on February 25, 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.

The Hearing Notice was provided on February 3, 2026, to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) and stated that the date for the hearing

was February 11, 2026. The property was posted on February 14, 2026, consistent with the requirements of SRC 300.620(b)(3) for a Type III application, and the applicant provided a signed and notarized affidavit of the signs on February 17, 2026.

In regard to the posting of the subject property, apparently the soil where the sign was posted was loose and the sign tilted towards the ground. Photographs of the two-sided sign taken between February 21, 2026 and February 25, 2026, show the sign slowly listing to the left until one side touched the ground. Nevertheless, the both sides of the sign were readable from the street.

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 5175 Foxhaven Court 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 Foxhaven Court SE, RS (Single-Family Residential).

West: RS (Single-Family Residential).

East: RS (Single-Family Residential).

2. Site Analysis

Finding 1: The subject property at 5175 Foxhaven Court SE is 6,995 square feet in size, with frontage on Foxhaven Court SE. The property is improved with a 2,091 square foot, four-bedroom, single-story home with a 440 square foot attached two-car garage. The dwelling has a paved driveway connecting to Foxhaven Court SE. The driveway is not steep although Foxhaven Court SE in this location is moderately sloped. The subject property has been used as a short-term rental (Airbnb) since September of 2025 without the benefit of a license from the City or a conditional use permit.

Finding 2: Foxhaven Court SE is designated as a cul-de-sac under the Salem Transportation (TSP), which requires a minimum right-of-way width of 50 feet, or a 25-foot half-width right-of-way. The existing right-of-way width for

Foxhaven Court SE is 50 feet, which conforms to the minimum right-of-way width requirements established in Salem Revised Code (SRC) Chapter 803.025.

Finding 3: 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 four-bedroom dwelling, a maximum number of six off-street parking spaces are allowed. The dwelling is developed with a two-car garage and driveway, for a total of potentially four off-street vehicle parking spaces if the garage is utilized. The occupancy of the short-term rental is limited to a maximum of eight guests over the age of 12, and the activities are limited to lodging.

One of the concerns voiced by neighbors is the adverse impact on the neighborhood because of the impact from street parking. There are eleven properties that border Foxhaven Court SE and photographs submitted by the applicant and Ms. Underwood show limited space between driveways, especially near the subject property. Testimony in opposition focused upon safety for children playing in the cul-de-sac and the impact of parked large vehicles on emergency vehicle access. The applicant has indicated that his short-term rental services are primarily directed towards families and professional guests and the applicant has pointed to his renting the house to a family that was displaced by damage to their home and to a company that lays telecommunication cables. In regard to the latter, the neighbors testified about their concerns of the parking of a large diesel truck in the cul-de-sac during that occasion. The truck was only parked during the evening as it was used in its professional capacity during the day. Following complaints, the trucks from the cable-laying company were parked in the driveway.

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 are mapped 2-point landslide hazard areas 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 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 January 12, 2026, 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. At the public hearing, a Neighborhood Association representative spoke in opposition to the approval of the application.

The subject property is not located within a homeowner's association.

Two comments were received from the public prior to the public hearing. The comments expressed concern over the increase in on-street vehicle parking and the reduction in neighborhood security. These comments will be addressed below under SRC 240.005(d)(2) and (3).

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 required building permits should be obtained.

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 9: The subject property at 5175 Foxhaven Court SE, 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 10: 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.

A number of neighbors, residents of the cul-de-sac within which the short-term rental is located, testified in opposition to the approval of the requested conditional use permit. The opposition largely centered around an incident that occurred on the subject property on December 6, 2025 and the early hours of the next day. Apparently the guests renting the short-term rental, which had been advertised through the Airbnb network, held a party that began before dinner time and ran until 2:30 or 3:00 of the following morning. The noise from the party was loud and disturbed residents of the cul-de-sac. It was audible within several of the adjacent residences. Further, party participants were drinking in the yard of the short-term rental and in the street. The result was that the next day several of the neighbors’ yards and driveways were littered with trash, empty beer containers, and vomit. While the December party may have been an aberration, one resident reported late-night noise from the short-term rental on several occasions subsequent to the party.

At the time of the party, the applicant did have an external camera system setup to view the front yard of the subject property. However, it appears that the system did not operate at night and it was not adequately situated to cover the property. The applicant has since upgraded the camera system so that it can be triggered at night and monitored by the applicant. It has also been better aligned to properly view the front yard of the short-term rental.

Beside excessive noise, issues raised by the neighbors included the effect of parking in the street on possible adverse impacts on emergency vehicle circulation/turn-around and child safety, general neighborhood compatibility, and security/safety concerns. Except for the parking issue, the other issues will be addressed under the analysis of consistency with (SRC 240.005(d)(3), below.

Generally, it is assumed that the recommended conditions of approval, generated for compliance of SRC 700.006 for accessory short-term rentals and the noise disturbance regulations of SRC 93.010. These provisions address the potentially adverse impacts from short-term rentals by limiting the composition and number of the occupants and by limiting the use of the rental to lodging. While Condition of 4 prohibits noise between 10:00 pm and 8:00 am it should be noted that SRC 93.010 prohibits anyone from creating the creation or continuance of any noise disturbance at anytime during the day.

The proposed conditions do not directly address concerns about parking, which is a particularly sensitive issue because the subject property is located in a cul-de-sac. Neighborhood concerns have focused on the impact of off-street parking from the short-term rental on emergency vehicle circulation and children safety. While the width of Foxhaven Court SE meets Code requirements, it is clear that any parking on the street will have a negative impact on the ability of emergency vehicles to navigate the cul-de-sac. It is also reasonable to presume that off-street parking within the cul-de-sac may reduce the visibility of children playing in the street; especially for visitors that are not familiar with the area.

Given the fact that it is reasonable to assume that a limit of eight adult guests will not result in an excess of four vehicles. As noted above, if the dwelling's garage is used, the short-term rental can easily accommodate four vehicles. Since the applicant has warranted that recreational vehicles are not allowed, a condition of approval that required that all guest vehicles be on-site is reasonable and addresses the concerns regarding off-street parking.

Condition 1: The garage of the short-term rental shall be kept available for the parking of two normal passenger vehicles at all times. Guest parking is restricted to the property occupied by the short-term rental.

The following conditions of approval are derived from the standards applicable to non-hosted accessory short-term rentals under SRC 700.006 and SRC 93.010:

Condition 2: The maximum number of occupants in the short-term rental shall not exceed eight persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants. In addition, the proposed use may not generate more than six off-street parking spaces at any one time.

Condition 3: 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 4: 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 5: Use of the short-term rental shall not generate noise beyond the property between the hours between 10 pm to 8 am.

Finding 11: 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 6: 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.

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 12: The “livability” of an area can largely be defined as where residents are generally comfortable with their living environment. In the present case, it appears to consist of neighbors who respect each other’s properties and the peacefulness of the cul-de-sac in the evening and night. In addition, the neighbors understand the traffic and parking concerns that may be particular to a cul-de-sac where children often play and emergency vehicles must be careful in their navigation even during the best of conditions.

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 few factors present that would cause one to draw a different conclusion.

One public comment expressed specific concern that the proposed short-term rental would have an adverse impact on neighborhood security. No evidence has been presented that would indicate that short-term rentals, in general, increase crime or reduce neighborhood security, or that the proposed use, in specific, would have that effect. The impacts that a short-term rental might have on a neighborhood are largely determined by the care by which an applicant selects guests and how closely they monitor the use of the short-term rental. The applicant states that he utilizes the Airbnb rating system and only accepts guests who have the highest rating. The upgrade in the video surveillance system also increases the ability of the applicant to monitor the behavior of his guests.

Whether the proposed conditional use will likely not have adverse impacts on the neighborhood is largely determined by the ability and willingness of an applicant to abide by the conditions established in this decision and their resolution to monitor the subject property closely enough to ensure that it and its use are compatible with the surrounding neighborhood. The applicant has a little more than five months of experience in managing the current short-term rental and has experience as an operations supervisor at a resort in California. However, his track record in managing the proposed short-term rental is far from unblemished; the December party being the most glaring blotch although one neighbor counted five separate occasions where noise from the short-term rental was heard after 10:00 pm.

There are, however, several factors that suggest that future operations of the short-term rental will be compatible with the livability and appropriate development of the surrounding area. First, the application fee for a conditional use permit is somewhere around \$7,000. It was clear from his testimony at the hearing that this represented a substantial investment by the applicant and one that he did not wish to lose. Second, while the December party was a pretty significant inconvenience to the neighbors, it did result in many of the neighbors obtaining a direct telephone number of the applicant and the applicant's promise to respond to any reports of inappropriate behavior caused by the short-term rental. Based upon the testimony offered at the hearing on this matter, it is reasonable to believe that the neighbors will not be shy about responding to this offer should it become necessary. It should also be pointed out that since the subject property is located in a cul-de-sac, it is directly visible to more neighbors than a similar dwelling located in a linearly-oriented residential block. The neighbors were also made aware that they were free to contact both the Neighborhood Association and the City should such circumstances arise. Finally, the license to operate a short-term rental must be renewed on an annual basis.

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. As conditional use approvals "run with the land" and are tied to the property rather than the applicant, the licensing requirements help standardize the operation of a short-term rental even if the licensed operator differs from the property owner.

In summary, the applicant has all the tools necessary to ensure that the short-term rental is compatible with the neighborhood. He has a 24-hour video surveillance system for the subject property, friends that live in the general area that help him monitor the property, and neighbors who will be scrutinizing every guest that uses the short-term rental. Condition of Approval 1 addresses concern about guest parking in the cul-de-sac and the remaining conditions implement Code requirements for short-term rentals.

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 5175 Foxhaven Court SE, subject to the following conditions of approval:

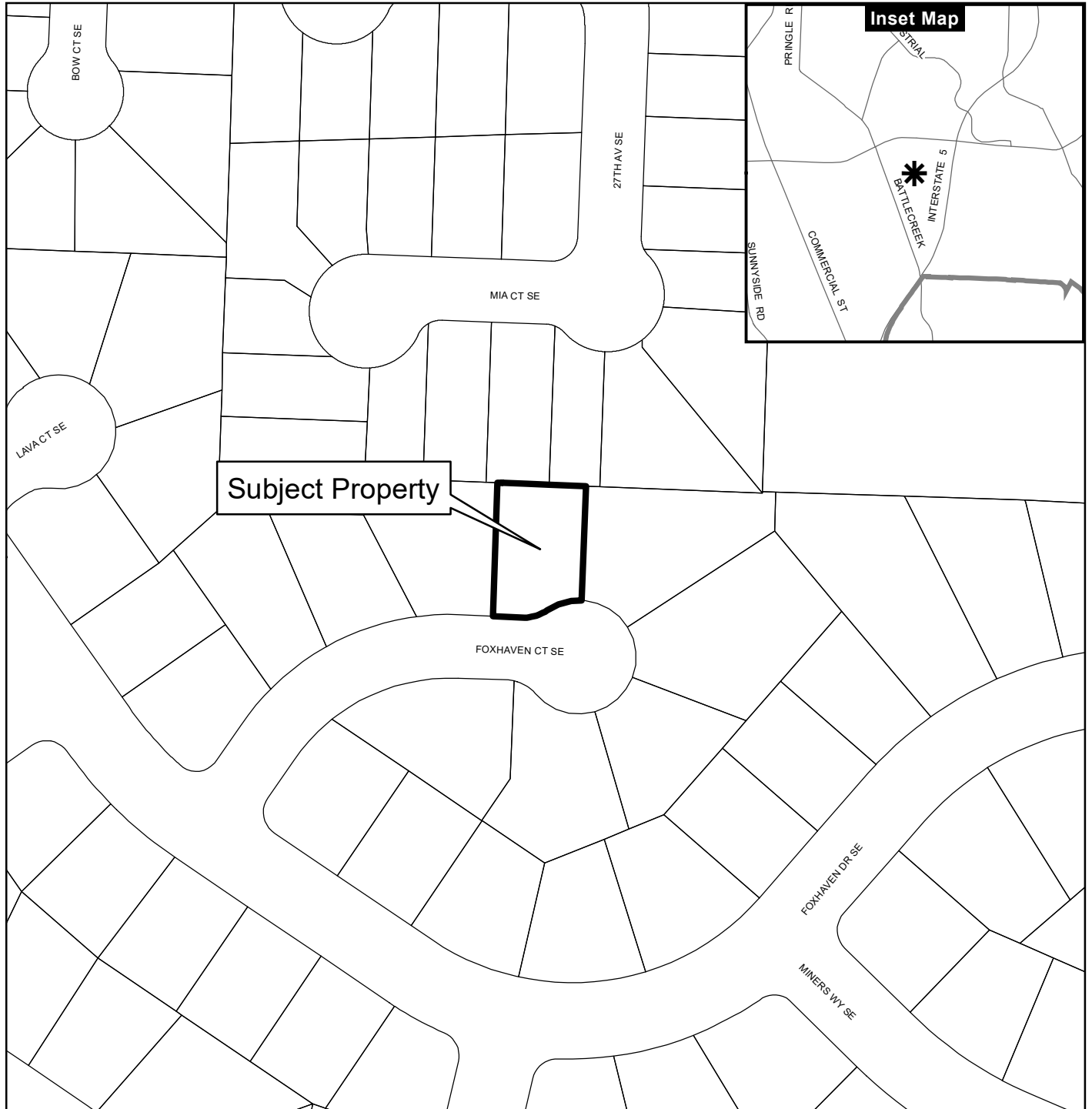
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- Condition 5:** Use of the short-term rental shall not generate noise beyond the property between the hours between 10 pm to 8 am.
- Condition 6:** Four bicycle parking spaces shall be provided for the short-term rental use and shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.

DATED: March 19, 2026

A handwritten signature in cursive script that reads "Gary Darnielle". The signature is written in dark ink on a light-colored background.

Gary Darnielle, Hearings Officer

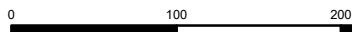
Vicinity Map 5175 Foxhaven Court SE



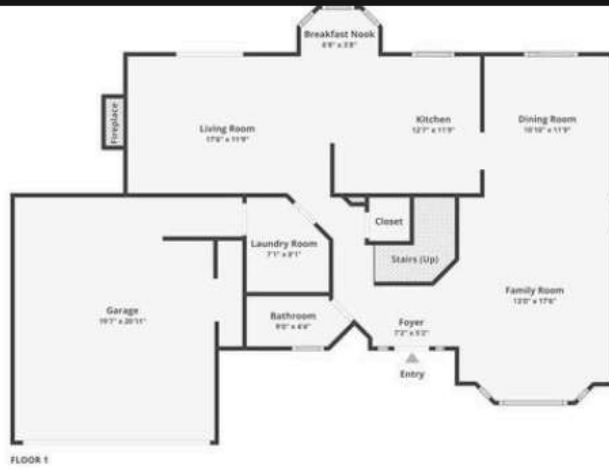
Legend

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

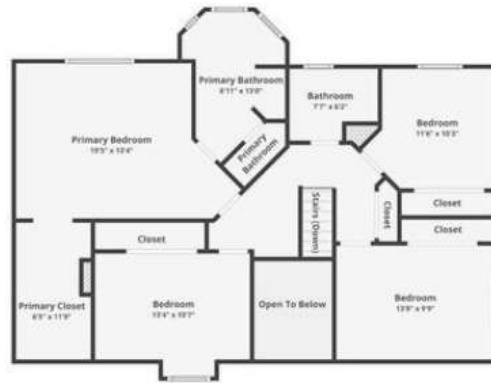
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 Community Development Dept.



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FLOOR 1



FLOOR 2