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503-588-6173*

## DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO: CU17-03

APPLICATION NO. : 17-102874-ZO

NOTICE OF DECISION DATE: APRIL 19, 2017

**SUMMARY:** A request for a Conditional Use Permit to allow a child day care center (Educational Services) use on the subject property.

**REQUEST:** A proposed Conditional Use Permit to allow a 7,634 square foot child day care center, for property in an RS (Single Family Residential) zone, and located at 1248-1290 Winter Street NE (Marion County Assessor's Map and Tax Lot numbers: 073W23BC / 4900, 5000, 5100, and 5200).

**APPLICANT:** Wade Harris

**LOCATION:** 1248-1290 Winter Street NE

**CRITERIA:** Salem Revised Code Chapter 240

**FINDINGS:** The findings are in the attached Order.

**DECISION:** The Hearings Officer **APPROVED** Conditional Use Case No. CU17-03.

The rights granted by the attached decision must be exercised, or an extension granted, by **May 5, 2019** or this approval shall be null and void. A copy of the Order is attached.

Application Deemed Complete:	<u>February 27, 2017</u>
Public Hearing Date:	<u>April 12, 2017</u>
Notice of Decision Mailing Date:	<u>April 19, 2017</u>
Decision Effective Date:	<u>May 5, 2017</u>
State Mandate Date:	<u>June 27, 2017</u>

Case Manager: Olivia Glantz, [OGlantz@cityofsalem.net](mailto:OGlantz@cityofsalem.net); 503.540.2343

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., Thursday, May 4, 2017.** 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 in 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.

# NOTICE OF DECISION

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



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>**

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**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

An Application for a proposed Conditional Use Permit to allow a 7,634-square foot child day care center, for property in a RS (Single Family Residential) zone, and located at 1248-1290 Winter Street NE (Marion County Assessor's Map and Tax numbers: 073W23BC / 4900, 5000, 5100, and 5200).	}	CU17-03
	}	FINDINGS OF FACT, CONCLUSIONS, AND DECISION

**DATE AND PLACE OF HEARING:**

April 12, 2017, Salem City Hall, Community Development Department, Room 305, Liberty Street SE, Salem, Oregon.

**APPEARANCES:**

<u>Staff:</u>	Olivia Glantz, Planner II
<u>Neighborhood Association:</u>	N/A
<u>Proponents:</u>	Evelyn McCoy-Harris, Applicant
<u>Opponents:</u>	N/A

**SUMMARY OF THE APPLICATION AND HEARING**

This is an application requesting for a Conditional Use to allow a child day care center to occupy property in a RS (Single Family Residential) zone of approximately 7,634 square feet floor area. The proposal is to use the portion of the building located at 1248 Winter Street NE as the child care center (Tax lots 073W23BC/ 4900, 5000, 5100, and 5200).

The City held a duly advertised public hearing on April 12, 2017 at 5:30 p.m. City Staff Planner Olivia Glantz requested and the Hearings Officer received into evidence the staff report and its attachments and exhibits. The Applicant's Representative Ms. Evelyn McCoy-Harris provided testimony consistent with the staff's presentation. No other person or party appeared, participated or submitted evidence contrary to the planning staff's presentation of evidence or the Applicant's testimony.

## **FINDINGS OF FACT AND CONCLUSIONS**

### **1. Salem Area Comprehensive Plan (SACP) designation**

The subject property is designated "Single Family Residential" on the Salem Area Comprehensive Plan Map.

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

The subject property is zoned RS (Single Family Residential). The existing building that would house the child day care center is within the RS zone. Child Day Care Center is allowed as a conditional use in the RS zone.

The zoning of surrounding properties is as follows:

North: Across Gaines Street NE; RS (Single Family Residential)

South: RS (Single Family Residential)

East: Across Alley, RS (Single Family Residential)

West: Across Winter Street NE; PE (Public and Private Education)

### **3. Site Analysis**

The property is an approximately 1.07-acre development site with an existing building of approximately 7,634 square feet floor area. There is additional building space and parking located on the site. The building was used as a former Salvation Army facility.

The development site is bordered by Market Street NE on the South, Winter Street NE on the West, and Gaines Street NE on the North. Market Street NE is designated as a minor arterial street within the Salem TSP (Transportation System Plan). Winter Street and Gaines Street at this location are designated as local streets within the TSP.

Access to the development is provided via two driveways, one located on Gaines Street and one on Market Street. The property also has access to a public alley, which abuts the property to the East.

The City's Staff Report analyzed the site, noted and responded to neighborhood traffic and parking concerns. As relevant to the applicable criteria, the Hearings Officer finds the analysis and comments informative, instructive and useful in making findings and conclusions of satisfaction with the criteria.

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

The subject property is located within the Grant Neighborhood Association. Notice was provided to the neighborhood association, and several items of concerns were raised to City Staff:

- Concerns about traffic on Winter Street, which is designated to be the Family Friendly Bikeway.

The Hearings Officer notes that the applicant has indicated that the hours of operation would be offset from the hours of operation for Grant School by several hours. The drop-off time for the day care is 6:00 a.m., and Grant school starts at 8:50 a.m. The pick-up time for the day care is approximately 5:00 p.m., where Grant school is released at 3:30 p.m.

The City Traffic Engineer reviewed the proposal of the Child Development Center (daycare), which will increase the total number of daily vehicles to the site by 167, and concluded it will not have a significant effect on the transportation system in the vicinity.

The Salem Transportation Plan states, "Family-Friendly Bikeway treatments are intended to prioritize bicycle circulation while discouraging non-local, cut-through traffic." And they should be "a safe and attractive riding environment for cyclists of all ages, abilities, and comfort levels." There is nothing demonstrated by this proposed Conditional Use that would conflict with this bikeway treatment.

- Coordination with Grant Community School concerning impacts to daycare activities.

The Hearings Officer notes that the applicant stated that the Boys and Girls Club and Salem-Keizer School District have been notified of the proposal, and the applicant does not anticipate a conflict with either Grant School or the Boys and Girls Club.

- Grant School currently uses the east parking lot on the subject property.

The Hearings Officer notes that the applicant has stated that Seeds of Faith Ministries has not leased any parking to the Grant School district. The development site currently has 42 parking spaces, which exceeds the required spaces for a child care facility.

The Hearings Officer notes that testimony provides that traffic, parking and coordination with surrounding properties would be similar to the previous use conducted by the school district. The applicant stated that previously the school district used short buses to transport children, and the proposed day care facility will have a minivan and a 12-passenger van, which will be smaller and better able to maneuver through the parking lot. The day care facility will employ approximately 5-7 people.

- Concerns about exiting parking and the amount of staff for the proposed day care center.

The Hearings Officer notes that the traffic, parking and coordination with surrounding properties would be similar to the previous use conducted by the school district. The applicant stated that the day care facility will employ approximately 5-7 people. The development site currently has 42 parking spaces, which exceeds the required spaces for a child care facility. The peak morning traffic for a daycare facility typically occurs during the 7:00 a.m. hour as parents are dropping off their children before work. The peak evening traffic to the daycare occurs after 4:00 p.m. as parents are heading home after work. Seed of Faith Ministries has indicated that students and staff could be on site between 6:00 a.m. and 5:30 p.m. They also have indicated the use of small vans to transport children, relieving some of the traffic concerns.

Hearings Officer notes that a notice was also sent to the surrounding property owners within 250 feet of the subject property and adjoining lot under common ownership, and no comments have been entered into the record from surrounding property owners.

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

City Staff indicated that the Public Works Department and the Community Development Departments Building and Safety Division reviewed the proposal and identified no issues.

#### **6. Analysis of Conditional Use Criteria**

SCR 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 undisputed testimony established that SRC Chapter 511, Table 511-1 demonstrates that a Child Day Care Center is allowed in the RS (Single Family Residential) zone with a conditional use permit.

FINDING: The Hearings Officer finds this criterion satisfied.

Criterion 2:

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

The undisputed evidence provides that the child day care center will make use of an existing facility in the neighborhood; that due to the relatively small scale of the proposed activity and the limited numbers of children and staff, there will be no significant impact on the transportation system, and that pedestrian access to the site is available from existing sidewalks. The provision of educational programs, as an accessory use of the day care facility, is consistent with the established uses in the immediate vicinity, such as the Grant Elementary School to the west and Girls and Boys Club to the east. Accordingly, the proposed use will likely have no adverse impact on the surrounding uses in the vicinity. This relatively small-scale child day care use is compatible with residential areas, as it will tend to serve the needs of families living in the neighborhood and the residential neighborhoods without presenting significant distractions to study or classroom activity.

The applicant's written statement estimates that between 50 and 100 students will be using the proposed center. The existing 42 parking spaces on the lot exceeds the minimum SRC Chapter 806, Table 806-1 minimum of 4 off-street parking spaces for day care serving 27 or more persons.

FINDING: The Hearings Officer finds this criterion satisfied.

Criterion 3:

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

The undisputed testimony and written evidence establishes that the development site is surrounded by public right-of-ways providing appropriate connections and circulation to the Salem area. The subject site is surrounded by an established residential neighborhood providing adequate pedestrian infrastructure.

The City's Planner, citing the City Traffic Engineer, indicates that the proposal of a Child Development Center (daycare) will increase the total number of daily vehicles to the site by 167, but will not have a significant effect on the transportation system in the vicinity. No evidence rebutted this evidentiary conclusion.

Evidence submitted describes the building height on the subject property as over 20 feet, with the current setback from Winter Street NE at 17 feet and from Gaines Street NE at 23 feet, with the building surrounded by mature trees on the sides adjacent to the right-of-ways, decreasing the visual impacts associated with the building.

The submitted evidence anticipates that students and staff would be on the site between the hours of 6:00 a.m. and 5:30 p.m. on school days, following a five-day-per-week work calendar. Currently, Seed of Faith Ministries anticipates providing daycare with some accessory educational programming for children, which would mean children would be on site from 6:00 a.m. until 5:30 p.m. Given the elementary school and Boys and Girls Club presence and related programs already functioning in the area, the proposed use will be reasonably compatible with the neighborhood and have minimal, if any, impact on the livability or appropriate development of surrounding property.

FINDING: The Hearing Officer finds this criterion satisfied.

### DECISION

The Hearings Officer APPROVES the Application for a Conditional Use Permit for a child day care center for property located at 1248-1290 Winter Street NE.

DATED: April 19, 2017

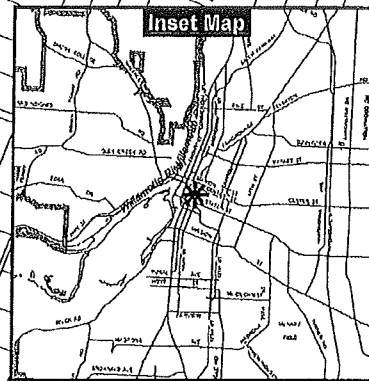
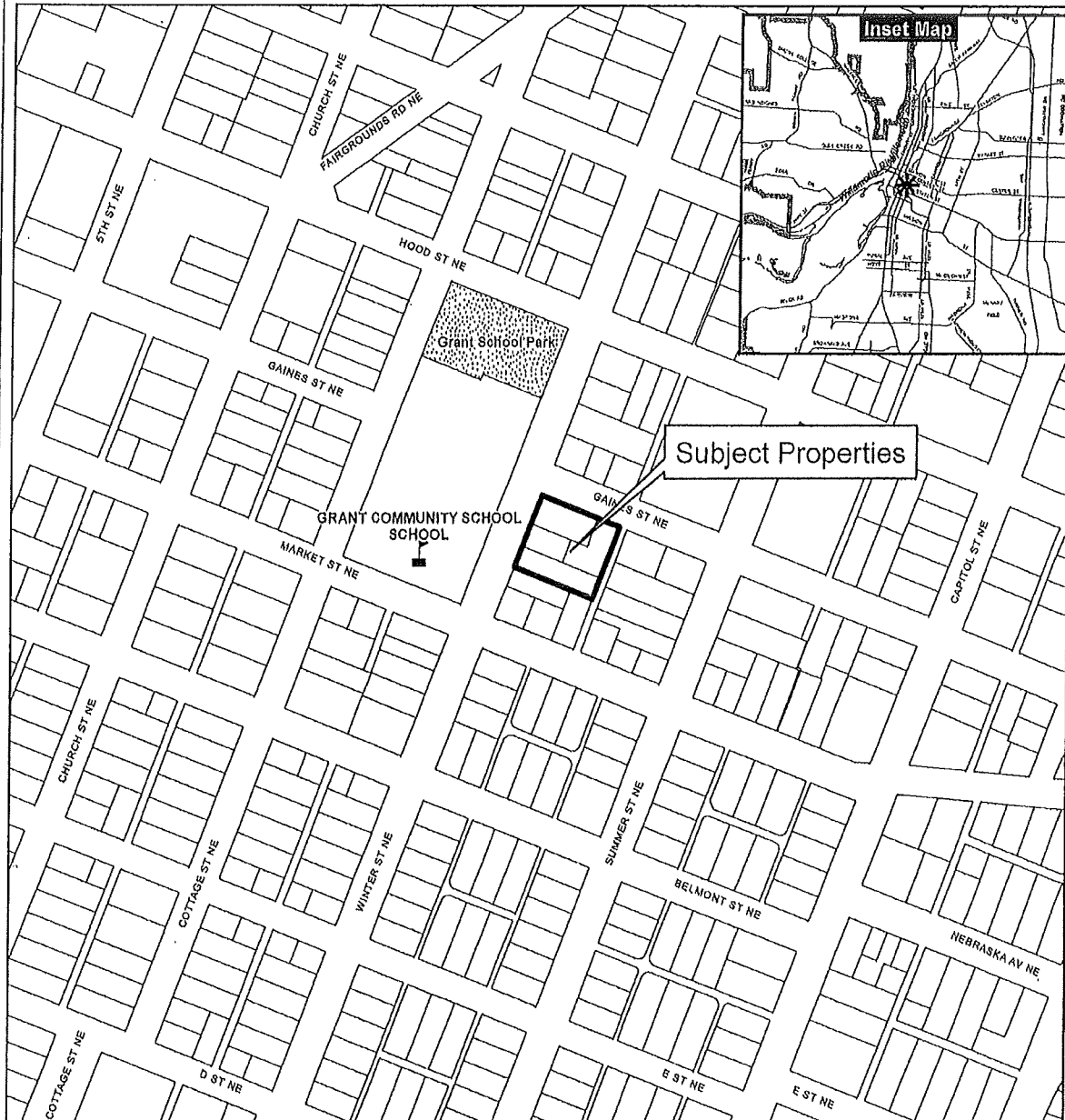


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David E. Coulombe, Hearings Officer



# Vicinity Map 1248 - 1290 Winter Street



## Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

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

0 100 200 400 Feet

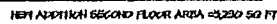


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GAINES STREET



1° = 3040


$$1^\circ \approx 80^\circ - 0^\circ$$

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