

*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU18-09

APPLICATION NO.: 18-117909-ZO

NOTICE OF DECISION DATE: NOVEMBER 15, 2018

SUMMARY: A request to allow an existing single-family dwelling to be used as a short-term rental.

REQUEST: A Conditional Use Permit to allow an existing single-family dwelling to be used as a short-term rental. The subject property is approximately 0.24 acres in size, zoned RS (Single Family Residential), and located at 2183 Morrow Court NW (Polk County Assessor Map and Tax Lot Number: 073W08DC00300).

APPLICANT / OWNER: Joseph W. Dobbles

LOCATION: 2183 Morrow Ct NW / 97304

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

FINDINGS: The findings are in the attached Order dated November 15, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use CU18-09 subject to the following conditions of approval:

Condition 1: The maximum number of occupants in the short-term rental shall not exceed 6 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: The conditional use permit shall be valid only for the current applicant/owner. The conditional use permit shall not run with the land and is not transferable to any other applicant or owner.

The rights granted by the attached decision must be exercised, or an extension granted, by **December 1, 2020** or this approval shall be null and void.

A copy of the decision is attached.

NOTICE OF DECISION

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



Application Deemed Complete:	<u>September 18, 2018</u>
Public Hearing Date:	<u>October 24, 2018</u>
Notice of Decision Mailing Date:	<u>November 15, 2018</u>
Decision Effective Date:	<u>December 1, 2018</u>
State Mandate Date:	<u>January 16, 2019</u>

Case Manager: Britany Randall, brandall@cityofsalem.net; 503.540.2304

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., November 30, 2018**. 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) 240.005(d). 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.

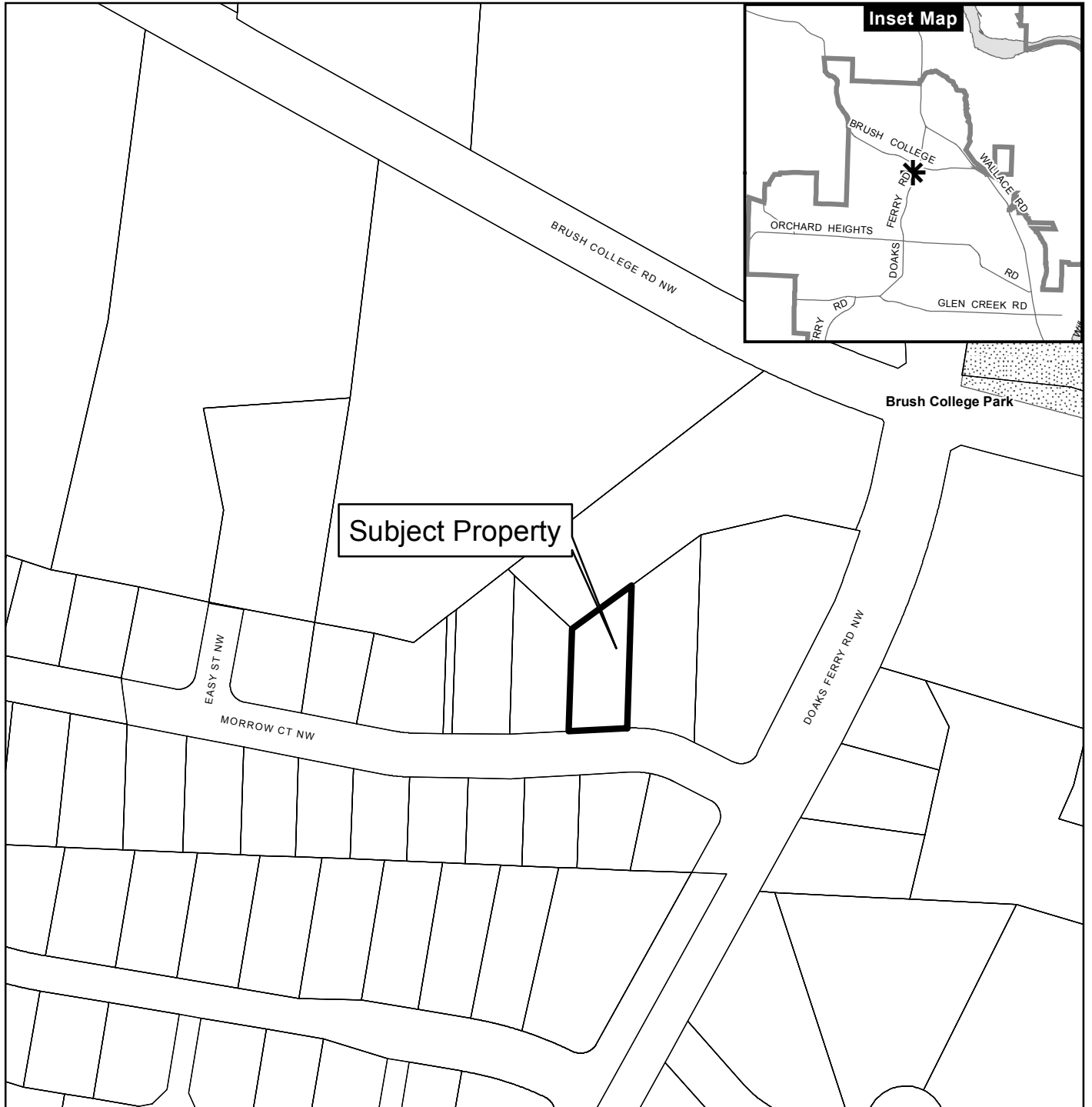
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

\\allcity\amanda\amandaforms\4431Type2-3NoticeOfDecision.doc

Vicinity Map

2183 Morrow Court NW



Legend

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

- Parks

CITY OF Salem
 AT YOUR SERVICE
 Community Development Dept.

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet





PCMAPS 4

2183 MORROW CT NW

Show search results for 2183 M...

(6 of 6)

Taxlot: 00300

Account Number: 2183

Appraisal Report: 2183

Image: [Map Image](#)

Historic Maps:

Map: 7.3.8DC

Taxlot: 00300

Owner: DOBBES JOINT TRUST

Agent: DOBBES JOSEPH W & DOBBE

Mailing: 2183 MORROW CT NW

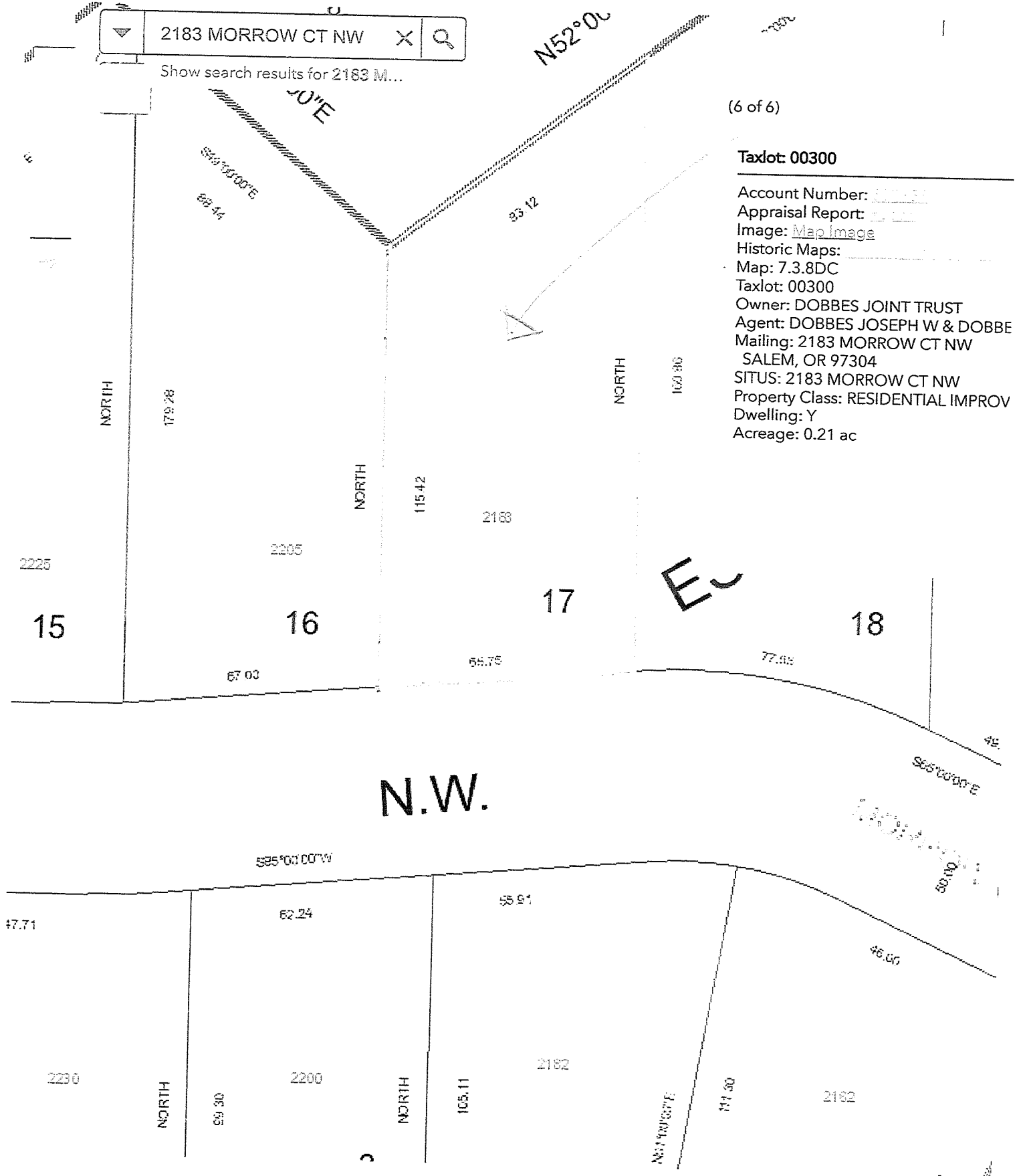
SALEM, OR 97304

SITUS: 2183 MORROW CT NW

Property Class: RESIDENTIAL IMPROV

Dwelling: Y

Acreage: 0.21 ac



82418

Conditional Use Application

Short-Term Rental

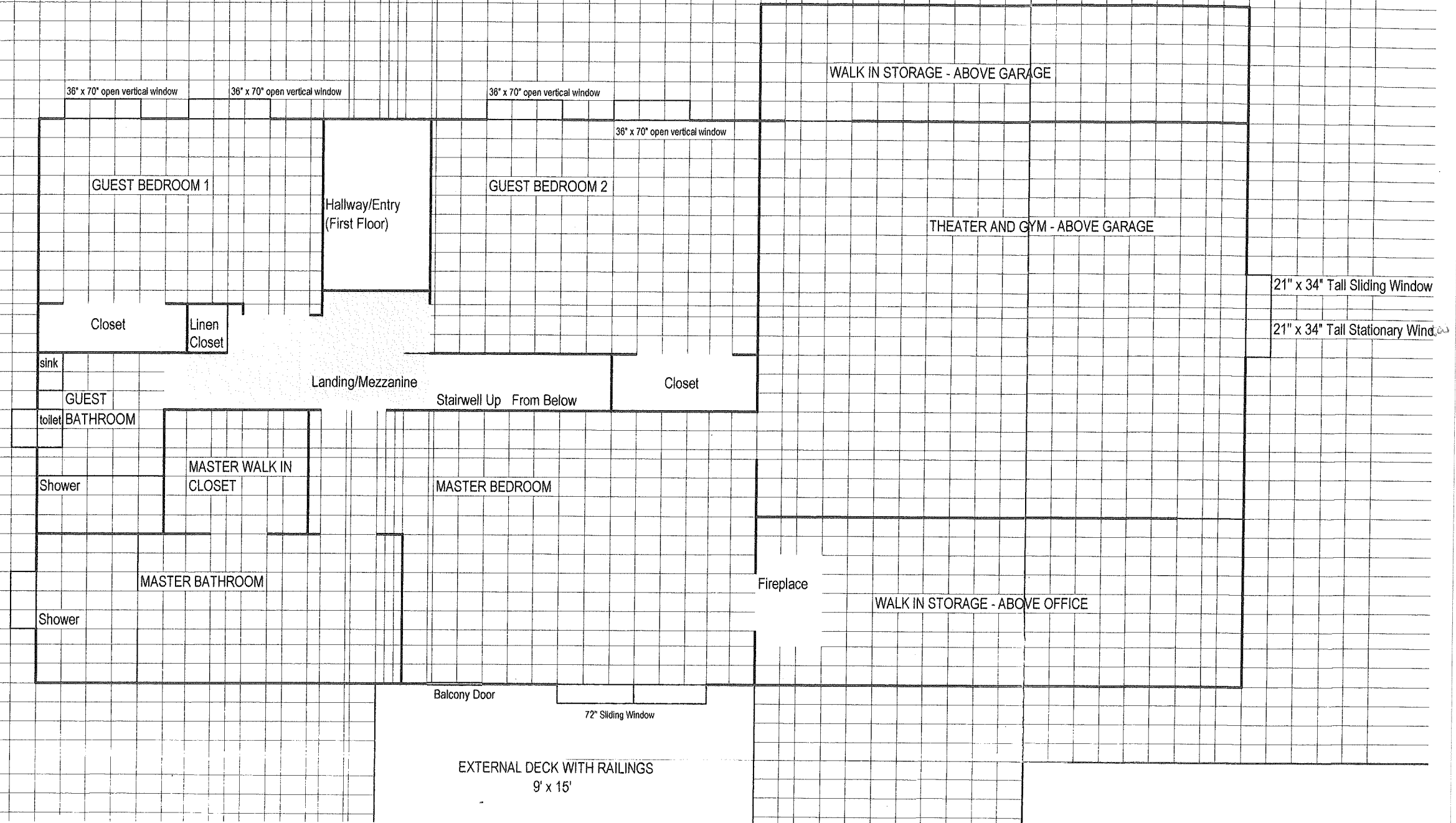
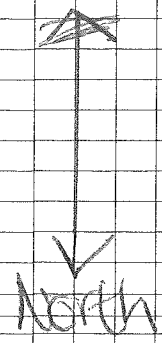
Lot Size: 10,282 Square Feet

Dobbes
2183 Morrow Court NW
Salem, OR 97304

Upper Level

Morrow Court NW

Scale:
Each full size square = 1 foot
Full Size Column Width = 3
Full Size Row Height = 15.75



8-27-18

Conditional Use Application

Dobbes
2183 Morrow Court NW
Salem, OR 97304

Lower/Street Level

Morrow Court NW
← 33 feet to street

Scale:
Each full size square = 1 foot
Full Size Column Width = 3
Full Size Row Height = 15.75

Short term rental
Lot Size: 10,282 square feet

27 feet to sidewalk

33 feet to street

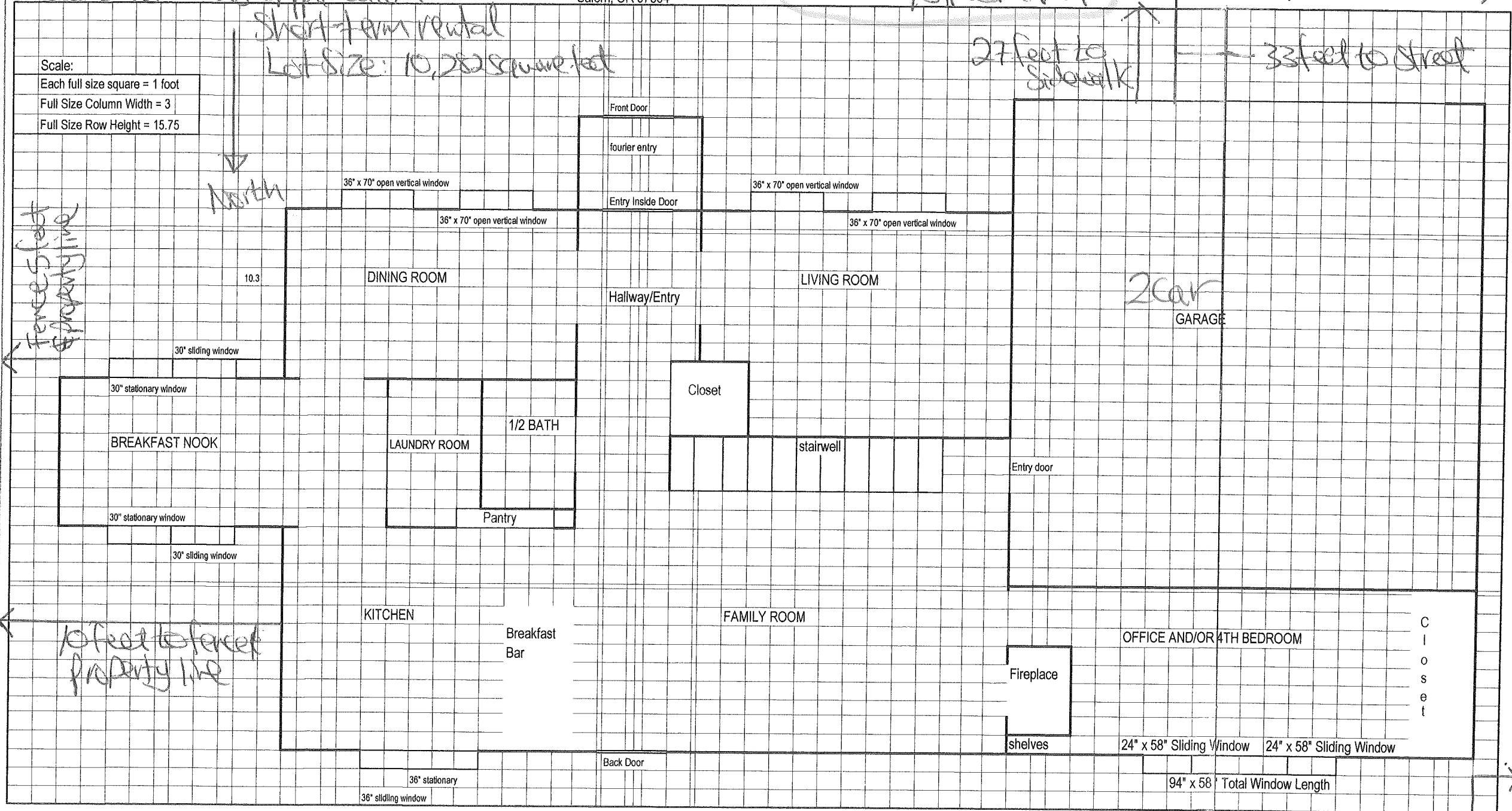
North

Fence 5 feet
to property line

10 feet to fence
property line

2 car
GARAGE

Fence &
Property line 6 feet



**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE	} Case No. CU18-09 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
PERMIT TO ALLOW AN EXISTING SINGLE-	
FAMILY DWELLING LOCATED AT 2183	
MORROW COURT NW - 97304 TO BE USED	
AS A SHORT-TERM RENTAL. THE SUBJECT	
PROPERTY IS APPROXIMATELY 0.24 ACRES	
IN SIZE, ZONED RS (SINGLE FAMILY	
RESIDENTIAL), AND LOCATED AT 2183	
MORROW COURT NW (POLK COUNTY	
ASSESSOR MAP AND TAX LOT NUMBER:	
073W08DC00300).	

DATE AND PLACE OF HEARING:

October 24, 2018, Salem City Council Chambers, Room 240, Civic Center, 555
Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Britany Randall, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Joseph Dobbles and Patricia Dobbles, Applicants
<u>Opponents:</u>	Joe Macharg, letter of October 6, 2018.

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on October 24, 2018, regarding an application requesting for a Conditional Use Permit to allow an existing single-family dwelling located at 2183 Morrow Court NW - 97304 to be used as a short-term rental. At the commencement of the hearing, the Hearings Officer identified the applicable criteria and outlined the procedures. The Hearings Officer accepted the staff report and presentation into the record. No party requested a continuance or for the record to remain open. Prior to the close of the public hearing, the applicant waived the additional 7-day period for final argument.

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 and is located within the Urban Growth Boundary and the City’s Urban Service Area.

2. Zoning

The subject property is zoned RS (Single Family Residential). The zoning of surrounding properties is as follows:

Zoning of Surrounding Properties	
North	RA (Residential Agriculture)
South	Across Morrow Ct NW - RS (Single Family Residential)
East	RS (Single Family Residential)
West	RS (Single Family Residential)

3. Existing Conditions

The subject property at 2183 Morrow Court NW is approximately 0.24 acres (9,048 square feet). The property is improved with a two-story, 2,265 square-foot, and three-bedroom home. The site also includes an existing two car garage and a driveway which connects to Morrow Ct NW.

A. Circulation & Access: The subject property abuts Morrow Ct NW along its southerly boundary. Morrow Ct NW is designated as a local street under the City’s Transportation System Plan (TSP).

Primary vehicular access to the subject property is provided via the existing driveway onto Morrow Ct NW.

B. Natural Features:

Trees: The City’s tree preservation ordinance (SRC Chapter 808) protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. The tree preservation ordinance defines “tree” as, “any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves.”

No trees have been identified for removal by the applicant as part of this conditional use permit application. Any removal of trees from the property must comply with the requirements of the City's tree preservation ordinance (SRC Chapter 808).

Wetlands: Grading and construction activities within jurisdictional waters of the state are regulated by the Oregon Department of State Lands (DSL) and U.S. Army Corps of Engineers. State and federal wetlands laws are also administered by DSL and the Army Corps of Engineers, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

The Salem-Keizer Local Wetlands Inventory (LWI) does identify mapped wetlands or waterways as being present on the subject property at the northerly side of the property near Gibson Creek. No grading or construction activities are planned. As such, no impacts to wetlands or required mitigation measures are required in conjunction with the proposal.

Landslide Hazards: The topography of the subject property has approximately 20 feet of fall from the midpoint of the subject site to the northern boundary. According to the City's adopted landslide hazard susceptibility maps, the subject property contains areas of mapped landslide hazard susceptibility points. Pursuant to the City's landslide hazard ordinance (SRC Chapter 810), a geologic assessment is not required in conjunction with the proposal.

4. Neighborhood Association Comments

The subject property is located within the boundaries of the West Salem Neighborhood Association. The neighborhood association was notified of the proposal. As of the date of completion of the staff report, no comments were received from the neighborhood association.

5. Public Comments

All property owners and tenants within 250 feet of the subject property were mailed notice of the proposal. Notice of public hearing was also posted on the subject property. As of the date of completion of the staff report, one comment was received from a neighboring property owner, Joe Macharg. The following is a summary and Mr. Maharg's letter of October 6, 2018, is included with the staff report as Attachment E:

Mr. Macharg opposes allowing the short-term rental in the neighborhood because it consists primarily of a single cul-de-sac

street. There is concern regarding the nature of short-term rentals and the associated activity level, noise, traffic, and parking.

The Hearings Officer notes the written statement provided by the applicant indicates, in summary, that minimization of the reasonably likely adverse impacts of the use on the neighborhood can be achieved by marketing the home with a three-night minimum stay for a rental rate of a minimum of \$4,000 per night. At the hearing the applicant explained that there was a typographical error in the written materials, and the minimum rental rate would be four hundred (\$400) per night, and not four thousand (\$4,000).

The Hearings Officer notes that both short-term rentals and accessory short-term rentals are allowed in the RS zone. Unlike short-term rentals, however, accessory short-term rentals are allowed outright in the RS zone as a Special Use without the need for a conditional use permit. But accessory short-term rentals must conform to the additional special use standards included under SRC 700.006. The special use standards under SRC 700.006 were established to help ensure that accessory short-term rentals operate in a manner that is compatible with the residential neighborhoods they are located within.

6. City Department Comments

The Building and Safety Division reviewed the proposal and provided comments indicating they have no concerns with the proposal.

The Fire Department reviewed the proposal and provided comments indicating they have no concerns with the proposal.

The Public Works Department reviewed the proposal and provided comments indicating they have no concerns with the proposal.

7. Public Agency & Private Service Provider Comments

Notice of the proposal was provided to public agencies and to public & private service providers. At the time of the staff report, no comments were received.

8. Conditional Use Permit Approval Criteria

The subject property at 2183 Morrow Court NW is zoned RS (Single Family Residential). Within the RS zone, short-term rentals are allowed as a conditional use pursuant to SRC 511.005(a), Table 511-1. In order for a use that is allowed as a conditional use in a zone to be established it must first be approved for a Conditional Use Permit pursuant to the requirements of SRC Chapter 240 (Conditional Use).

Salem Revised Code (SRC) 240.005(d) sets forth the following criteria that must be met before approval can be granted to an application for a Conditional Use Permit. The following subsections are organized with approval criteria shown in **bold italic**, followed by findings evaluating the proposal's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Conditional Use Permit application, or for the issuance of certain conditions to ensure the criteria are met.

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

The Hearings Officer notes the subject property at 2183 Morrow Court NW is zoned RS (Single Family Residential). Within the RS zone, short-term rentals are allowed as a conditional use pursuant to SRC 511.005(a), Table 511-1. Because short-term rentals are specifically identified as being allowed as a conditional use within the RS zone, the Hearings Officer finds this criterion is met.

(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 the written statement provided by the applicant (with the typo explained at the hearing) indicates, in summary, that minimization of the reasonably likely adverse impacts of the use on the neighborhood can be achieved by marketing the home with a three-night minimum stay for a rental rate of a minimum of \$400 per night. The Hearings Officer notes the letter in opposition raises concerns with the level of activity and the negative impacts from irresponsible short-term tenants.

The Hearings Officer notes that both short-term rentals and accessory short-term rentals are allowed in the RS zone. Unlike short-term rentals, however, accessory short-term rentals are allowed outright in the RS zone as a Special Use without the need for a conditional use permit but must conform to the additional special use standards included under SRC 700.006. The special use standards under SRC 700.006 were established to help ensure that accessory short-term rentals operate in a manner that is compatible with the residential neighborhoods they are located within.

The Hearings Officer finds in order to ensure the proposed short-term rental operates in a manner that will not impact the immediate neighborhood, the Hearings Officer must impose the following standards applicable to non-hosted accessory short-term rentals under SRC 700.006 as conditions of approval for the proposed short-term rental at 2183 Morrow Court NW:

Condition 1: The maximum number of occupants in the short-term rental shall not exceed 6 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.

The Hearings Officer notes that the applicant requested raising the number of occupants in the short-term rental from the six proposed by staff to at least eight. In consideration of the need to minimize the likely adverse impacts of the use on the immediate neighborhood, the Hearings Officer finds that limiting the number of occupants to six, not including children under the age of 12, best meets and addresses the likely impacts, including those raised by Mr. Macharg.

The Hearings Officer notes that under SRC 240.005(e), conditional use permit approvals run with the land unless otherwise provided in the decision granting the conditional use permit. Because the potential for adverse impacts associated with short-term rentals is largely dependent upon the individual owner, their designated property manager, and how they choose to manage the property, requiring a separate conditional use permit for any future owner of the property helps to ensure accountability and public input in the approval process. As such, in order to ensure that the proposed conditional use permit, if approved, is only valid for the current owner/applicant and cannot be transferred to any future owner/applicant, the Hearings Officer imposes the following condition of approval:

Condition 4: The conditional use permit shall be valid only for the current applicant/owner. The conditional use permit shall not run with the land and is not transferable to any other applicant or owner.

The Hearings Officer finds that with the four conditions of approval and conformance with the applicable licensing requirements for short-term rentals included under SRC Chapter 30, the application satisfies this criterion.

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

The Hearings Officer notes that while the proposed short-term rental is not a residential use where individuals reside on the property as their primary place of living, it is similar to a residential use in that it provides a place where living and sleeping accommodations are provided, albeit on a temporary basis, to guests for periods of less than 30 days.

Because this type of use shares similarities with residential uses, both short-term rentals and accessory short-term rentals are allowed within the RS zone. However, because short-term rentals are not required to be owner occupied, they must go through the conditional use review process and obtain a conditional use permit. The conditional use permit review process is intended to provide neighboring property owners with an ability to provide comments and identify additional conditions of approval to help the use conform to the character of a particular area and minimize potential impacts. Conditions of approval shall be enforced to limit the maximum number of guests allowed in the rental, the type of activities the rental may be used for, and the number of bookings that may be made at any one time. These conditions help to ensure that the number of guests within the dwelling, and the types of activities occurring on the property will be consistent with that of other single-family dwellings in the neighborhood and therefore ensure the compatibility of the use and the preservation of livability for surrounding properties.

The Hearings Officer notes that with the imposed conditions, the short-term rental will have a minimal impact on the livability or development of the surrounding property. The Hearings Officer finds that the application satisfies this criterion.

DECISION

The Hearings Officer **APPROVES** the Conditional Use Permit to allow the existing single-family dwelling located at 2183 Morrow Court NW to be used as a short-term rental, subject to the following four conditions of approval:

Condition 1: The maximum number of occupants in the short-term rental shall not exceed 6 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: The conditional use permit shall be valid only for the current applicant/owner. The conditional use permit shall not run with the land and is not transferable to any other applicant or owner.

DATED: November 15, 2018

A handwritten signature in dark ink, appearing to read 'James K. Brewer', with a long horizontal flourish extending to the right.

James K. Brewer, Hearings Officer