

NOTICE OF DECISION

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



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

DECISION OF THE HEARINGS OFFICER

CONITIONAL USE / CLASS 2 ADJUSTMENT CASE NO.: CU-ADJ20-05

APPLICATION NO.: 20-108213-ZO / 20-110941-ZO

NOTICE OF DECISION DATE: September 15, 2020

SUMMARY: An application to convert an existing single family dwelling to a room and board residence and provide bicycle parking in an existing garage.

REQUEST: A conditional use application to convert an existing single family dwelling at 320 14th Street NE 97301 (Marion County Assessor Map and Tax Lot 073W26BA06800) in the RH (Multiple Family High Rise Residential) zone and Court/Chemeketa Residential Historic District to a room and board residence for 6-10 people, consolidated with Class 2 Adjustments for relief from bicycle parking development standards that require (1) bicycle parking inside a building to be within a convenient distance from, and accessible from, the primary building entrance and (2) bicycle parking to have direct and accessible access to the public right-of-way and the primary building entrance that is free of obstructions and any barriers, such as curbs or stairs, which would require users to lift their bikes in order to access the bicycle parking area.

APPLICANT: Mark Bulgin

LOCATION: 320 14th St NE

CRITERIA: Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use Permits; 250.005(d)(2) – Class 2 Adjustments

FINDINGS: The findings are in the attached Decision dated September 11, 2020

DECISION: The **Hearings Officer APPROVED** Conditional Use / Class 2 Adjustment CU-ADJ20-05 subject to the following conditions of approval:

Conditional Use:

Condition 1: The Conditional Use approval shall be limited to a room and board facility for 6 to 10 persons operated by a non-profit entity.

Adjustment:

Condition 2: The adjusted development standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

The rights granted by the attached decision must be exercised, or an extension granted, by October 1, 2022 or this approval shall be null and void.

Application Deemed Complete:	July 16, 2020
Public Hearing Date:	August 12, 2020
Notice of Decision Mailing Date:	September 15, 2020
Decision Effective Date:	October 1, 2020
State Mandate Date:	December 3, 2020

Case Manager: Pamela Cole, pcole@cityofsalem.net, 503-540-2309

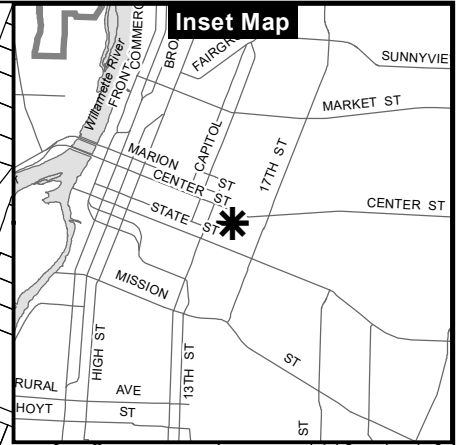
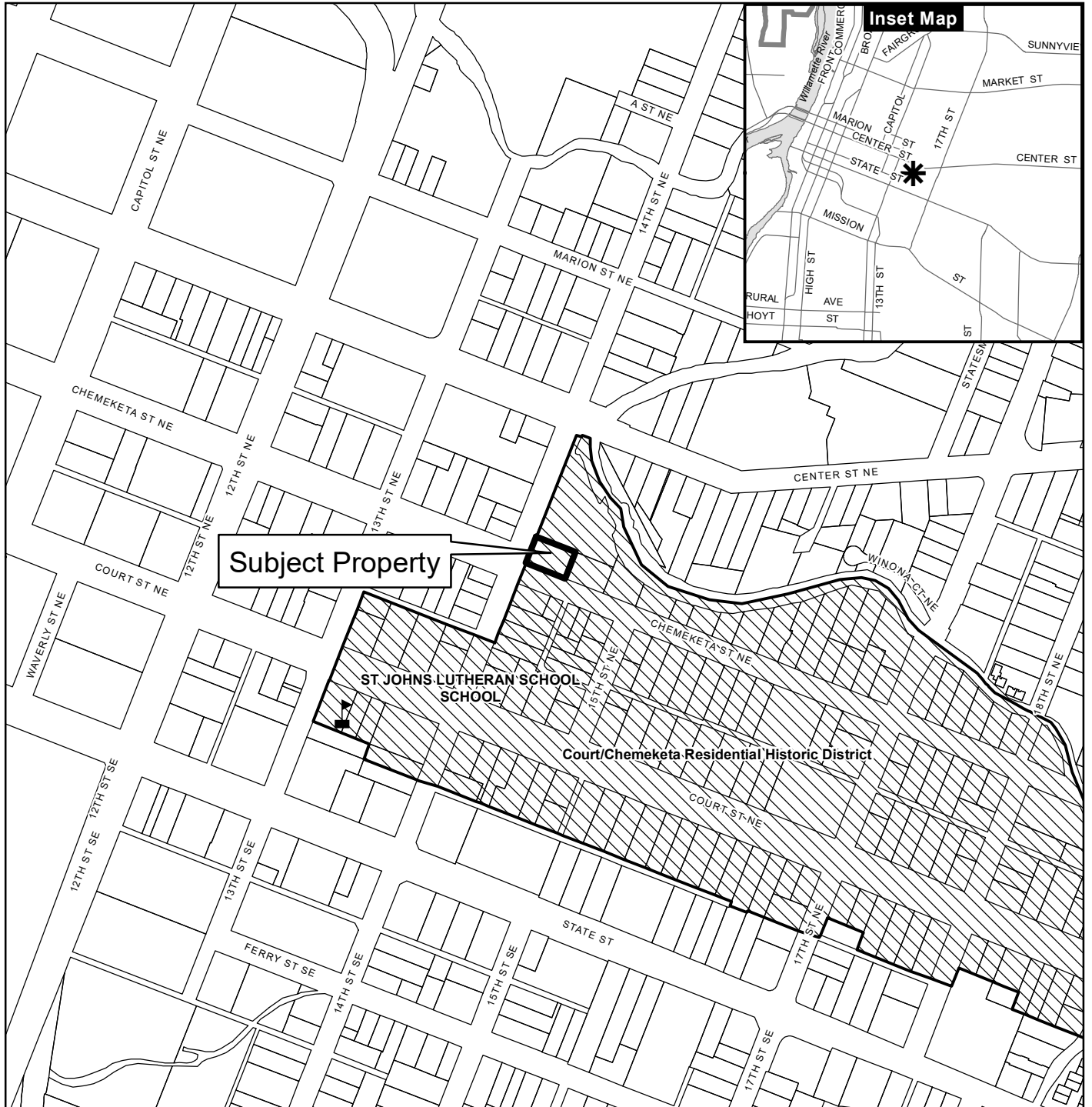
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m., September 30, 2020. Any person 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 and 250. 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, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

Vicinity Map

320 14th Street NE



Legend



Taxlots



Urban Growth Boundary



City Limits



Outside Salem City Limits



Historic District



Schools



Parks

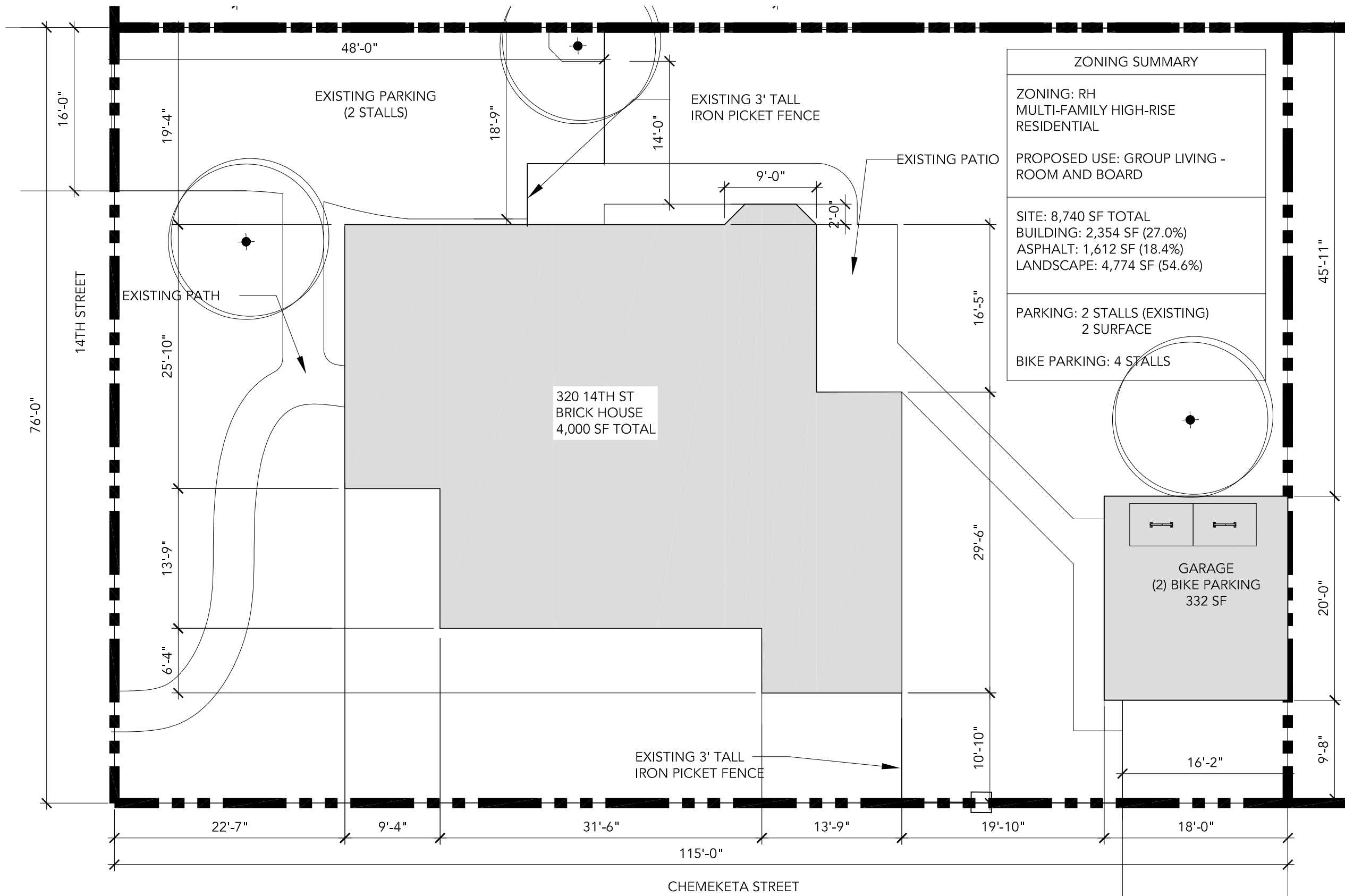
CITY OF Salem
AT YOUR SERVICE

Community Development Dept.

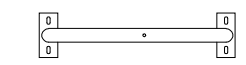
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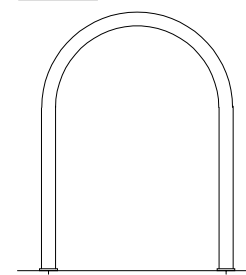




ZONING SUMMARY
ZONING: RH MULTI-FAMILY HIGH-RISE RESIDENTIAL
PROPOSED USE: GROUP LIVING - ROOM AND BOARD
SITE: 8,740 SF TOTAL BUILDING: 2,354 SF (27.0%) ASPHALT: 1,612 SF (18.4%) LANDSCAPE: 4,774 SF (54.6%)
PARKING: 2 STALLS (EXISTING) 2 SURFACE
BIKE PARKING: 4 STALLS



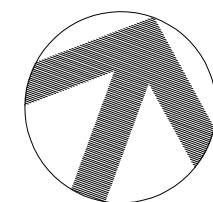
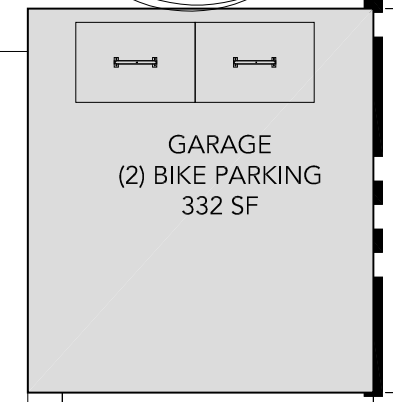
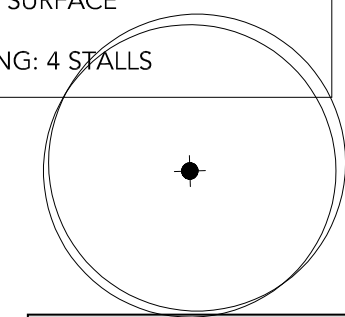
PLAN



ELEVATION

BASIS OF DESIGN : DERO HOOP RACK

BIKE PARKING (TYP.)



1 SITE PLAN
A0.1 SCALE: 1:10

IKE HOUSE
CONDITIONAL USE PERMIT

Project Issue	
Date:	4-13-2020
Rev:	Date:

EXISTING
CONDITIONS

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE	}	
APPLICATION FOR A PERMIT TO CONVERT	}	CU-ADJ20-05
AN EXISTING SINGLE-FAMILY DWELLING	}	
AT 320 14TH STREET NE 97301 (MARION	}	
COUNTY ASSESSOR MAP AND TAX LOT	}	FINDINGS OF FACT, CONCLUSIONS, AND
073W26BA06800) IN THE RH (MULTIPLE	}	DECISION
FAMILY HIGH RISE RESIDENTIAL) ZONE	}	
AND COURT/CHEMEKETA RESIDENTIAL	}	
HISTORIC DISTRICT TO A ROOM AND	}	
BOARD RESIDENCE FOR 6-10 PEOPLE,	}	
CONSOLIDATED WITH CLASS 2	}	
ADJUSTMENTS FOR RELIEF FROM BICYCLE	}	
PARKING DEVELOPMENT STANDARDS	}	
THAT REQUIRE (1) BICYCLE PARKING	}	
INSIDE A BUILDING TO BE WITHIN A	}	
CONVENIENT DISTANCE FROM, AND	}	
ACCESSIBLE FROM, THE PRIMARY	}	
BUILDING ENTRANCE AND (2) BICYCLE	}	
PARKING TO HAVE DIRECT AND	}	
ACCESSIBLE ACCESS TO THE PUBLIC	}	
RIGHT-OF-WAY AND THE PRIMARY	}	
BUILDING ENTRANCE THAT IS FREE OF	}	
OBSTRUCTIONS AND ANY BARRIERS, SUCH	}	
AS CURBS OR STAIRS, WHICH WOULD	}	
REQUIRE USERS TO LIFT THEIR BIKES IN	}	
ORDER TO ACCESS THE BICYCLE PARKING	}	
AREA.	}	

DATE AND PLACE OF HEARING:

August 12, 2020, held remotely and broadcast live via digital means on
YouTube due to the COVID-19 pandemic.

APPEARANCES:

Staff: Pamela Cole, Planner II

Neighborhood Association: Northeast Neighbors Neighborhood Association
(NEN) (Letters dated 7/21/2020 and
8/12/2020).

Proponents:

Mark Bulgin for Isaac's Room

Gretchen Stone, CBTwo Architects
(virtual meeting and letters dated 8/25/2020 and 9/01/2020)

Opponents:

Appearing via email: John Laurence Poole
(8/11/2020, 8/12/2020, 8/13/2020, 8/21/2020,
8/24/2020, 8/25/2020, 9/02/2020),
Hazel Patton (8/01/2020),
Susan Crothers (8/01/2020, 8/07/2020,
8/10/2020),
Heidi Preuss Grew (8/13/2020)
Court Chemeketa Residential Historic District
(CCRHD (Hazel Patton, Joan Lloyd, Evan Lloyd,
Lois Parker, Craig Parker, Bonnie Hull, Roger Hull,
Juliana Inman, Heidi Preuss Grew, Scott Grew,
Norma Gekakis, Peter Gekakis, Sue Crothers,
Laura Begnoche, Nicholas King, Aislinn Adams,
Tom O'Connor, John Mangini, Gerry De
Leon)(Letter dated 8/12/2020)

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized virtual public hearing on August 12, 2020, regarding the request to approve an application for an existing single-family dwelling to be used as a room and board residence for 6-10 people and to allow adjustments for relief from development standards for bicycle parking. Notice of the application and hearing was posted on the property and sent to some of the neighboring properties within the notice area on July 29, 2020.

Due to a misunderstanding about the contiguous property which is under common ownership with the subject site, some of the neighboring properties within the notice area were not sent the required notice until August 5, 2020. The Hearings Officer increased the time for all parties to submit additional information to the record, and extended the timeline for the applicant's final written argument. The Hearings Officer notes the objection to the final written argument emailed by John Laurence Poole on September 2, 2020. That objection is well taken, and the Hearings Officer will not consider new information or evidence included within the final written argument.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP)

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Multiple Family Residential." The subject property is within the Urban Growth Boundary and within the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned RH (Multiple Family High Rise Residential) and is located in the Court/Chemeketa Residential Historic District. The proposed use of a room and board residence serving 6 to 10 persons is a Conditional Use in the RH zone. Therefore, a conditional use permit is required for the change of use.

The zoning of surrounding properties is as follows:	
North	RH (Multiple-Family High-Rise Residential)
South	Across Chemeketa Street NE, RD (Duplex Residential)
East	RD (Duplex Residential)
West	Across 14 th Street NE, RH (Multiple-Family High-Rise Residential)

3. Site Analysis

The subject property is a single subdivision lot of 0.2 acre and has approximately 76 feet of frontage on 14th Street NE and 115 feet of frontage on Chemeketa Street NE. In the Transportation System Plan, 14th Street NE is designated as a Collector street and Chemeketa Street NE is designated as a Local street.

4. Neighborhood and Citizen Comments

The subject property is located within the Northeast Neighbors Neighborhood Association (NEN). Notice was provided to NEN and to surrounding addresses, property owners, and tenants within 250 feet of the subject property. Unfortunately, after the property was posted, staff became aware that the mailed notice had not been sent to property owners within 250 feet of the contiguous property at 360 14th Street NE, which is under common ownership. Staff sent the Notice of public hearing to an additional 22 addresses on August 5, 2020. The Neighborhood Association submitted comments in support of the application, the City received two comments objecting to or requesting additional conditions on the proposal, and

questions were received from three other individuals about the process. Staff provided responses to the questions, which are also entered into the record for consideration. Because of the late notice to 22 addresses, the Hearings Officer provided additional time for any party to provide written comments (extending the time for initial comments until August 25, 2020, and for final arguments from the applicant until September 1, 2020. As noted above, the Hearings Officer received an objection to the applicant's final written argument, which is well-founded, and will not consider the new information or evidence submitted in that argument.

The Subject property is located within the Court Street Chemeketa Street Residential Historic District (CCRHD). CCRHD submitted a letter for the record on the date of the hearing. The CCRHD and residents of CCRHD agree to observations in the Staff Report but have concerns regarding the seismic analysis and retrofit of the residence with occupancy in the basement space, off-site parking, landscaping, and waste receptacle visibility. They would also like the Conditional Use Permit be limited to the ownership and operation of Isaac's Room, and that the permit not be transferrable upon Isaac's Room vacating the subject property.

A comment was submitted that objects to this use in a historic district, especially to allowing the use in a Historic Contributing property. The specific concerns raised were about having more individuals in one house, about protecting the character of the neighborhood from encroachment of non-residential uses and about owner-occupied dwellings shifting to rental homes. The comment also stated that the historic district and historic preservation goals should take precedence over the uses allowed in the RH (Multiple Family High Rise Residential) zone.

Additional comments that were received during the open record period include: a concern in regard to the equitability of the notification and public hearing process, a request for the case documents to be downloaded, and a question whether the notice of hearing was valid because there were errors on the applicant's site plan concerning the driveway and parking. The Planning Administrator responded to this concern as well. The Hearings Officer notes that the application is to allow a conditional use on the property, but does not propose an alteration of the historic resource or the related built environment. While errors in the site plan are concerning, the Hearings Officer notes that although there were certainly errors in the site plan, this decision will not approve a new or amended site plan that changes existing features outside of the dwelling or garage. While the corrected site plan is more accurate and provides better context for community concerns about the parking on the property, the Hearings Officer finds that the notice sufficiently described the nature of the application and the possible decisions.

A party requested the complete case file, information on zoning history, and information on land use and building permits relating specifically to the parking pad; Planning provided electronic copies of the case file, a copy of the variance case that referred to the parking spaces, and other information on land use and building permit records. Other comments were submitted in regard to concerns about the parking situation.

The applicant's representative submitted an email and revised the site plan in response to questions regarding the dimensions of the driveway/ parking area north of the building.

The Hearings Officer notes that uses allowed on the property are determined by the RH (Multiple Family High Rise Residential) zone. The Hearings Officer notes that the Court-Chemeketa Historic District overlay zone is implemented by SRC Chapter 230 Historic Preservation. The Hearings Officer finds that the intent of the overlay and the regulations in SRC Chapter 230 is to regulate the exterior appearance of structures, landscaping, and streetscape in the historic district. The Hearings Officer finds that SRC Chapter 230 does not dictate or regulate the allowed uses on a historic property.

The Hearings Officer notes that the applicant is not proposing any exterior changes to the property, nor is the Hearings Officer inclined to require any changes to the property as conditions related to the proposed conditional use; any exterior changes would continue to be subject to the rules and regulations of SRC Chapter 230. The Hearings Officer notes that dwellings in any zone can be rented by the owners without City review or permits, as long as they comply with the same occupancy rules that apply to similarly situated dwellings-- regardless of the property being a renter- or owner-occupied dwelling.

The Hearings Officer notes a comment indicating support of the proposed use as long as Isaac's Room maintained ownership, but expressing concern over the use in general, due to ongoing issues with drugs, trespassing, and prostitution in other boarding houses in the neighborhood.

The Hearings Officer notes that SRC 300.820(a) prohibits the City from imposing conditions that would limit the use of the subject property to one particular owner, tenant, or business. The Hearings Officer notes staff's suggestion to consider a request to place a condition on the approval of the use, requiring that a non-profit run the room and board, or some other condition that requires any future owners to run it in substantially the same manner as the applicant is proposing. The Hearings Officer agrees that the Hearings Officer does not have the authority under the code to require that the proposed conditional use approval would expire if the property is sold.

The Hearings Officer will address this issue further in the Hearings Officer's analysis of Conditional Use Criteria, below.

5. City Department and Public Agency Comments

The Public Works Department reviewed the proposal and had no comments.

The Salem Building and Safety Division reviewed the proposal and identified no issues.

The Salem Fire Department reviewed the proposal and identified no issues.

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 notes that the subject property is zoned RH (Multiple-Family High-Rise Residential). The proposed use of a room and board serving 6 to 10 persons is a Conditional Use in the RH zone. Therefore, a conditional use permit is required for the change of use.

The Hearings Officer finds that the proposal satisfies 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 proposed use would allow up to 10 persons to reside on the property, which is located in a high-density residential zone. The Hearings Officer notes that if the condition use were not approved, the single family dwelling could be occupied by an unlimited

number of persons related by blood, marriage, domestic partnership, legal adoption, or guardianship; two or more persons with disabilities, as defined in the Fair Housing Amendments Act of 1988, who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship; or a group of not more than five persons who need not be related by blood, marriage, legal adoption, or guardianship. The Hearings Officer finds that the appropriate measure for determining the adverse impacts of the proposed use on the immediate impact is to distinguish, as best possible given the evidence in the record as a whole, between the reasonably likely impacts of the room and board use and a single family dwelling use.

The Hearings Officer notes that the existing dwelling on the property is 4,000 square feet according to the applicant's site plan and 3,989 square feet according to the Marion County Assessor (1,677 square feet on the main floor, 1,262 square feet in the finished basement, and 1,050 square feet in the finished attic). The Hearings Officer agrees with staff that this gross floor area within the building is sufficient to accommodate a large family or 6 to 10 boarders.

The Hearings Officer notes that because the proposed boarders would reside within an existing building, and because no changes are proposed to the exterior of the building or the garage, and because no other changes are proposed on the property, there will be little change in appearance and little visual impact on the immediate neighborhood compared to a use as a single family dwelling. As the application does not propose any changes to the built environment, and as the Hearings Officer finds no reason to require changes as a condition of approval for the room and board use, nothing in this decision should be interpreted as permitting a change without following a different process consistent with the SRC.

The Hearings Officer notes that a potential increase in the number of residents could reasonably impact parking demand compared to a single family dwelling use. Although the SRC does not require any parking spaces as a standard for a room and board use, the existing property includes one or two compact parking spaces in the garage and two additional spaces on the northern driveway. These spaces will be retained with the current proposal. The Hearings Officer notes concerns raised regarding the possibility of tandem parking in the northern driveway. The Hearings Officer again repeats that nothing in the application requested a change to the built environment. The Hearings Office notes that Ms. Cole in an email dated August 12, 2020, responding to an email from Mr. Poole, stated that for uses other than one-family, two-family, three-family, or four-family, "tandem parking is not allowed." As there is no evidence in the record contrary to that statement, the Hearings Officer agrees. Because tandem parking would not be permitted by

the requested use, the Hearings Officer finds that no condition is required to maintain the status quo.

The Hearings Officer notes the concern that a room and board use that is not operated by a responsive not-for-profit entity is reasonably likely to have adverse impacts on the immediate neighborhood compared to the existing single family dwelling. To ensure that the Room and Board is operated in substantially the same manner, even if the property is sold, staff recommended the following condition:

Condition 1: The Conditional Use approval shall be limited to a room and board facility for 6 to 10 persons operated by a non-profit entity.

The Hearings Officer finds that with this condition, the proposed development will have a minimal impact on the immediate neighborhood.

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 the Subject Property is surrounded by residential properties. To the north is a property under common ownership and occupied by an existing room and board facility and apartments. To the east is a single-family dwelling. To the south across Chemeketa Street NE are single-family dwellings. To the west across 14th Street NE are single-family dwellings. The subject property and the properties to the north, east, and south are in the Court/Chemeketa Residential Historic District.

The Hearings Officer notes that the proposed change of use will remain residential in nature, and therefore, will be reasonably compatible with the surrounding residential development. The Hearings Officer notes that no changes are proposed to the exterior of the building or garage, and so the development will retain the appearance of a single-family dwelling. The Hearings Officer notes that the proposed development meets the applicable standards of the RH zoning district, as discussed in the Analysis of Development Standards in the staff report.

The Hearings Officer notes that potential impacts on the surrounding properties would be related to the potential increase in the number of residents. The Hearings Officer addressed these impacts, including parking and noise, in the findings for Criterion 2.

Because the development will be reasonably compatible with the surrounding residential development and have minimal impact on surrounding uses, the Hearings Officer finds that the proposed development satisfies this approval criterion.

7. Analysis of Development Standards

Use Standards - RH (Multiple-Family High-Rise Residential) Zone

The Hearings Officer notes that the subject property is zoned RH (Multiple-Family High-Rise Residential) Zone. The proposed use of a room and board serving 6 to 10 persons is a Conditional Use in the RH zone. Therefore, the Hearings Officer finds that a conditional use permit is required for the change of use.

The following is a summary of the applicable development standards for the proposed development.

Development Standards – RH Zone:

SRC 515.005(a) - Uses:

The permitted, special, conditional, and prohibited uses in the RH zone are set forth in Table 515-1.

The Hearings Officer finds that room and board uses serving 6 to 10 persons are allowed as a conditional use in the RH zone per Table 515-1.

SRC 515.010(a) – Lot Standards:

Lots within the RH zone shall conform to the standards set forth in Table 515-2. There is no minimum lot area, lot width, or lot depth. Lots for uses other than single family are required to have minimum lot frontage of 40 feet.

The Hearings Officer notes that the subject property has approximately 76 feet of frontage on 14th Street NE and 115 feet of frontage on Chemeketa Street NE.

SRC 515.010(b) – Setbacks:

Setbacks within the RH zone shall be provided as set forth in Table 515-3.

North: RH (Multiple-Family High-Rise Residential)

South: Across Chemeketa Street NE, RD (Duplex Residential)

East: RD (Duplex Residential)

West: Across 14th Street NE, RH (Multiple-Family High-Rise Residential)

North: Adjacent to the north is an RH (Multiple-Family High-Rise Residential) zone. Buildings not more than 35 feet in height and accessory structures require a minimum 5-foot building setback. Vehicle use areas require a minimum 5-foot setback.

South: Adjacent to the south is right-of-way for Chemeketa Street NE. Buildings and accessory structures greater than 4 feet in height on lots outside the CSDP area require a minimum 12-foot building setback. Vehicle use areas require a minimum 6- to 10-foot setback adjacent to a street.

East: Adjacent to the east is an RD (Duplex Residential) zone. Buildings not more than 35 feet in height require a 5-foot setback. Accessory structures not more than 9 feet in height require no setback. Accessory structures greater than 9 feet in height require a minimum setback of 1 foot for each 1 foot of height over 9 feet. Vehicle use areas require a minimum 5-foot setback.

West: Adjacent to the west is right-of-way for 14th Street NE. Buildings and accessory structures greater than 4 feet on lots outside the CSDP area require a minimum 12-foot building setback. Vehicle use areas require a minimum 6- to 10-foot setback adjacent to a street.

The Hearings Officer notes that no changes are proposed to the existing building, accessory structure, or vehicle use areas. The existing building, according to the applicant's revised site plan, is set back 19'6" from the north property line, 10'10" from the south property line, 37 feet from the east property line, and 22 feet from the west property line; the south setback is nonconforming. The accessory structure is 46 feet from the north property line, 9'8" from the south property line, 0 feet from the east property line, and 98 feet from the west property line; the south and east setbacks are nonconforming. The parking and vehicle use areas are nonconforming. The Hearings Officer finds that no changes are required to the existing building or parking and vehicle use area setbacks.

SRC 515.010(c) - Lot Coverage, Height:

For the proposed use, there is no maximum lot coverage, no maximum rear yard coverage for accessory structures, and no maximum height for buildings or accessory structures.

The Hearings Officer finds that no changes are proposed to the existing building, accessory structure, or vehicle use areas.

SRC 515.010(e) - Landscaping:

Landscaping within the RH zone shall be provided as set forth in this subsection.

- (1) **Setbacks.** Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) **Vehicle Use Areas.** Vehicle use areas shall be landscaped as provided under SRC Chapters 806 and 807.

The Hearings Officer finds that no changes are required to the existing building or parking and vehicle use area setbacks. Approximately 63% of the subject property is landscaped, but the number of plant units appears to be nonconforming with respect to the landscaping requirements. The Hearings Officer finds that no changes are required to the existing landscaping.

SRC 515.010(f) – Outdoor Storage:

Within the RH zone, outdoor storage shall be screened from streets and adjacent properties by a minimum 6-foot high sight-obscuring fence, wall, or hedge.

The Hearings Officer finds that outdoor storage areas are not provided for the proposed use.

General Development Standards SRC 800

Pedestrian access SRC. 800.065

Pedestrian connections are not required because the proposal is for a change of use inside an existing building, and no development outside the building is proposed.

Off-Street Parking, Loading, and Driveways SRC 806

SRC 806.005 - Off-Street Parking; When Required.

Off-street parking shall be provided and maintained for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a parking ratio requiring a greater number of spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.

Required off-street parking shall be located on the same development site as the use or activity it serves; or, within residential zones, required off-street parking may be located within 200 feet of the development site containing the use or activity it serves.

SRC 806.015 - Amount of Off-Street Parking.

- a) *Minimum Required Off-Street Parking.* No off-street parking spaces are required for a room and board use.
- b) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2A. Where an activity does not require a minimum number of off-street parking spaces based on the requirements of Table 806-1, or because it is located in an area where no minimum off-street parking is required for the activity, maximum off-street parking shall be determined based on the assumed minimum off-street parking set forth in Table 806-2B. Parks and open space are exempt from maximum off-street parking standards. Table 806-2B allows maximum parking of one space per 900 square feet for the proposed use.

The Hearings Officer finds that the minimum off street parking requirement is 0 spaces. The maximum off-street parking allowance for the 4,000 square foot use is 4 spaces ($4,000 / 900 = 4.44$). The site plan indicates two compact spaces in the existing garage and two (tandem) spaces in the existing driveway, within the maximum of 4 off-street parking spaces.

SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.

Unless otherwise provided under the UDC, off-street parking and vehicle use areas, other than driveways and loading areas, for uses or activities other than Single Family, Two Family, Three Family, and Four Family shall be developed and maintained as provided in this section.

- a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to:
 - 1. The development of new off-street parking and vehicle use areas.
 - 2. The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added.
 - 3. The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and
 - 4. The paving of an un-paved area.

The Hearings Officer finds no new, expanded, or altered off-street parking and vehicle use areas are proposed, and no paving of an un-paved area is proposed. Off-street parking and vehicle use area development standards do not apply to the existing off-street parking areas in the driveway and garage. Tandem spaces in the driveway and the spaces in the garage set back 9'8" from the street would not meet parking and vehicle use area development standards for uses other than single family, two family, three family, and four family uses. Although no minimum parking requirement applies to the

proposed room and board use, the existing, nonconforming spaces may continue to be used.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided and maintained for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a bicycle parking ratio requiring a greater number of spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.

Bicycle parking shall be located on the same development site as the use or activity it serves.

SRC 806.055 - Amount of Bicycle Parking.

A room and board use requires the greater of 4 spaces or 1 space per 50 rooms.

The Hearings Officer finds that the proposed change of use from single family to room and board requires bicycle parking. The applicant's site plan indicates that four bicycle parking spaces will be provided.

SRC 806.060 – Bicycle Parking Development Standards

Unless otherwise provided under the UDC, bicycle parking areas shall be developed and maintained as set forth in this section.

- (a) Location. Except as otherwise provided in this section, bicycle parking shall be located outside a building.
 - 1) Bicycle parking located outside a building shall be located within a convenient distance of, and be clearly visible from, the primary building entrance. In no event shall bicycle parking be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route.
 - 2) Where bicycle parking cannot be located outside a building, it may be located inside a building within a convenient distance of, and accessible from, the primary building entrance.
- (b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance that is free of obstructions and any barriers, such as curbs or stairs, which would require users to lift their bikes in order to access the bicycle parking area.
- (c) Dimensions. Except as provided in subsection (f) of this section, bicycle parking areas shall meet the following dimension requirements:
 - 1) Bicycle parking spaces. Bicycle parking spaces shall be a minimum of six feet in length and two feet in width with the bicycle rack

centered along the long edge of the bicycle parking space. Bicycle parking space width may be reduced, however, to a minimum of three feet between racks where the racks are located side-by-side.

- 2) Access aisles. Bicycle parking spaces shall be served by a minimum four-foot-wide access aisle. Access aisles serving bicycle parking spaces may be located within the public right-of-way.
- (d) Surfacing. Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards.
- (e) Bicycle racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall meet the following standards.
- 1) Racks must support the bicycle frame in a stable position, in two or more places a minimum of six inches horizontally apart, without damage to wheels, frame, or components.
 - 2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;
 - 3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and
 - 4) Racks shall be securely anchored.
 - 5) Examples of types of bicycle racks that do, and do not, meet these standards are shown in Figure 806-10.

The Hearings Officer notes that the site plan indicates racks meeting the development standards, except for the location and access standards. The applicant has requested adjustments to the location and access standards. Findings are included in Section 8 of this decision.

Off-Street Loading Areas

SRC 806.065 - General Applicability.

Off-street loading areas shall be provided and maintained for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.070 – Proximity of Off-Street Loading Areas to Use or Activity Served.

Off-street loading shall be located on the same development site as the use or activity it serves.

SRC 806.075 - Amount of Off-Street Loading.

Group living uses, including room and board, of less than 5,000 square feet of floor area do not require off-street loading area per Table 806-9.

The Hearings Officer finds that the proposal requires no off-street loading space.

Landscaping

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

The Hearings Officer finds that the landscaping is consistent with landscaping in the area for dwellings and is legal non-conforming. No building permit application subject to landscaping requirements is required for the proposed change of land use, therefore, there is no requirement for additional landscaping.

Natural Resources

SRC 601 – Floodplain: No floodplain or floodway areas exist on the subject property.

SRC 808 - Preservation of Trees and Vegetation: The City's tree preservation SRC 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.

No protected trees have been identified on the site plan for removal.

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 wetland 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.

According to the Salem-Keizer Local Wetland Inventory (LWI) there are not mapped wetlands present on the subject property.

SRC 810 - Landslide Hazards: A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. The subject property does not contain areas of mapped landslide hazard.

8. Analysis of Class 2 Zoning Adjustment Permit Criteria

SRC Chapter 250.005(d)(2) provides that an applicant for a Class 2 Adjustment shall be granted if all of the following criteria are met:

Criterion 1:

The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or
- (ii) Equally or better met by the proposed development.

Relief from bicycle parking development standards that require bicycle parking inside a building to be within a convenient distance from, and accessible from, the primary building entrance

The Hearings Officer notes that the proposed bicycle parking is not near or accessible from the primary building entrance facing 14th Street NE. However, it would be located in the existing garage within approximately 25 feet from the secondary, rear entrance facing east. This entrance will be frequently used by residents, and the bicycle parking is primarily for the use of the residents. A paved pathway connects the main building, garage, and driveway. The proposed location also provides a greater level of security and weather protection for bicycles, and the concealed bicycle racks are more appropriate than exterior commercial bicycle racks in the residential zone and historic overlay zone. The Hearings Officer finds that the proposed location equally or better meets the purpose of the development standard, which is to provide convenient access to the bicyclists.

Relief from bicycle parking development standards that require bicycle parking to have direct and accessible access to the public right-of-way and the primary building entrance that is free of obstructions and any barriers, such as curbs or stairs, which would require users to lift their bikes in order to access the bicycle parking area.

The Hearings Officer notes the proposed location in the existing garage does not have direct and accessible access from the primary building entrance on 14th Street NE and from the public right-of-way on 14th Street NE. The Hearings Officer finds, however, that it does have direct and accessible access from the public right-of-way on Chemeketa Street NE, equally or better meeting the purpose of the development standard to provide unobstructed access.

Criterion 2:

If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

The Hearings Officer notes that the subject property is located within a residential zone. The proposed adjustments allow bicycle parking to be located and concealed in an existing garage. The Hearings Officer finds that the requested adjustments result in no visual impact to the residential area and will not detract from the livability or appearance of the residential area.

The Hearings Officer finds that the proposal meets the criterion.

Criterion 3:

If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

The Hearings Officer notes that two separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The Hearings Officer finds that the cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the Multiple-Family High-Rise Residential Zone, which allows multiple family residential uses, along with a mix of other uses that are compatible with and/or provide services to the residential area.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

Condition 2: The adjusted development standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan,

shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

DECISION

CONDITIONAL USE PERMIT:

The Hearings Officer APPROVES the conditional use and adjustment application for the proposed development of a room and board residence for 6-10 people and associated bicycle parking on a property approximately 0.2 acres located at 320 14th Street NE, subject to the following conditions of approval:

Condition 1: The Conditional Use approval shall be limited to a room and board facility for 6 to 10 persons operated by a non-profit entity.

ADJUSTMENT:

Condition 2: The adjusted development standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

The Hearings Officer APPROVES the Adjustment to allow bicycle parking on the property, subject to the condition, above.

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DATED: September 11, 2020


James K Brewer, Hearings Officer