

**TO: HEARINGS OFFICER**

**FROM: LISA ANDERSON-OGILVIE, AICP  
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING  
ADMINISTRATOR**

**SUBJECT: CONDITIONAL USE & CLASS 2 ADJUSTMENT CASE NO. CU-ADJ22-04;  
FOR PROPERTY LOCATED AT 795 CHURCH STREET SE  
AMANDA NO. 22-117577-PLN**

**REQUEST**

A consolidated application for a Conditional Use Permit and Class 2 Adjustment to allow an existing four-bedroom single-family dwelling to be used as a short-term rental.

The application includes the following:

- 1) A Conditional Use Permit to allow the use of the existing single-family dwelling as a short-term rental; and
- 2) A Class 2 Adjustment to allow the two proposed off-street parking spaces located in the existing driveway to encroach approximately seven feet into the required 12-foot special setback abutting Mission Street SE (SRC 800.040).

The subject property is approximately 6,098 square feet in size, zoned RS (Single Family Residential) within the Gaiety Hill/Bushs Pasture Park Historic District and located at 795 Church Street SE (Marion County Assessor Map and Tax Lot Number: 073W27DB00600).

**APPLICANT:** Brandon Fahlman and Quinn Burke

**OWNER:** Brandon Fahlman, Whitney Fahlman, Quinn Burke, and Katelyn Burke

**REPRESENTATIVE:** Brandon Fahlman

**PROPOSAL**

The application under review by the Hearings Officer is a consolidated Conditional Use and Class 2 Adjustment for property located at 795 Church Street SE (**Attachment A**).

The Conditional Use Permit is required in order to allow the existing four-bedroom single family dwelling to be used as a non-owner-occupied short-term rental and the Class 2 Adjustment has been requested to allow the two proposed off-street parking spaces located in the existing driveway to encroach approximately seven feet into the required 12-foot special setback abutting Mission Street SE.

**SUMMARY OF RECORD**

The following items are submitted to the record and are available: 1) All materials and testimony submitted by the applicant, including any applicable professional studies such as

traffic impact analysis, geologic assessments, and stormwater reports; 2) Any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public; and 3) All documents referenced in this decision.

All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 117577.

## **APPLICANT'S MATERIALS**

The proposed site plan submitted by the applicant is included as **Attachment B** and the written statement provided by the applicant addressing the applicable approval criteria is included as **Attachment C**.

## **FACTS AND FINDINGS**

### **1. Procedural Findings**

On August 25, 2022, Brandon Fahlman, on behalf of the applicant and property owners, Brandon Fahlman, Quinn Burke, Whitney Fahlman, and Katelyn Burke, filed an application for a Conditional Use Permit to allow the existing four-bedroom single family dwelling located at 795 Church Street SE to be used as a short-term rental.

Subsequent to staff's initial review of the application for completeness and identification of additional information that was needed in order to continue processing the application, an additional application for a Class 2 Adjustment was filed in order to allow the two proposed off-street parking spaces located in the existing driveway to encroach approximately seven feet into the required 12-foot special setback abutting Mission Street SE.

Because both a Conditional Use Permit and Class 2 Adjustment are required in connection with the proposal, the applicant, pursuant to SRC 300.120(c), chose to consolidate the applications and process them together as one. When multiple applications are consolidated, the review process for the consolidated application is required to follow the highest numbered procedure type required for the land use applications involved, and the Review Authority for the application shall be the highest applicable Review Authority under the highest numbered procedure type.

Based on these requirements, the proposed consolidated application is required to be reviewed by the Hearings Officer and processed as a Type III procedure.

After additional requested information was provided by the applicant, the application was deemed complete for processing on November 22, 2022, and notice of the public hearing on the proposal was subsequently sent, pursuant to SRC requirements, on November 23, 2022. Notice was also posted on the subject property by the applicant's representative pursuant to SRC requirements on December 1, 2022.

The public hearing on the Conditional Use Permit and Class 2 Adjustment is scheduled for December 14, 2022. The state-mandated 120-day local decision deadline for the application is March 22, 2023.

## 2. Salem Area Comprehensive Plan (SACP)

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.

## 3. Zoning

The subject property is zoned RS (Single Family Residential) and is located within the Gaiety Hill/Bush’s Pasture Park Historic District. The zoning of surrounding properties is as follows:

Zoning of Surrounding Properties	
North	RS (Single Family Residential) within the Gaiety Hill/Bush’s Pasture Park Historic District
South	Across Mission Street SE, PA (Public Amusement) within the Gaiety Hill/Bush’s Pasture Park Historic District
East	Across Church Street SE - PE (Public and Private Educational Services)
West	RS (Single Family Residential) within the Gaiety Hill/Bush’s Pasture Park Historic District

## 4. Site Analysis

The subject property at 795 Church Street SE is approximately 0.14 acres (6,098 square feet) and located within the Gaiety Hill/Bush’s Pasture Park Historic District. The property is improved with a 2,713 square-foot, four-bedroom, two-store home with a 1,320 square-foot basement and is listed as a historic contributing resource within the Historic District. The site also includes an existing single car garage, and a driveway which connects to Mission Street SE.

Existing uses to the north and west of the subject property include single family homes within the Historic District. To the east of the property, across Church Street, is land owned by Salem Health that is developed with a rehabilitation center and playground. To the south of the property, across Mission Street, is Bush’s Pasture Park.

- A. Circulation & Access. The subject property is a corner lot that abuts Church Street SE along its eastern boundary and Mission Street SE along its southern boundary. Vehicular access to the property is provided by an existing driveway onto Mission Street.

Church Street is designated as a collector street under the City’s Transportation System Plan (TSP) which requires a minimum right-of-way width of 60 feet. The existing right-of-way width of Church Street is 99 feet and therefore exceeds minimum right-of-way width requirements.

Mission Street is designated as a minor arterial street under the TSP requiring a minimum right-of-way width of 72 feet. The existing right-of-way width of Mission Street along the frontage of the property is 60 feet, which does not conform to minimum right-of-way width requirements. Pursuant to SRC 800.040, when the required public street right-of-way along

the frontage of a property is not met, a special setback applies along the property's street frontage to reserve land for the eventual widening of the street without creating nonconforming structures.

Because the right-of-way of Mission Street does not currently meet the minimum required 72-foot width under the TSP, a special setback of 12 feet applies along the property's Mission Street frontage. No structures or paving are allowed within the special setback area, other than those allowed under SRC 800.040(d), and any other setbacks required elsewhere under the City's development code apply in addition to the special setback and are therefore measured from the special setback line.

As shown on the site plan submitted by the applicant, the proposed short-term rental will include two of its required off-street parking spaces in the existing driveway off Mission Street. Due to the 12-foot special setback applicable along Mission Street, the southern approximate seven feet of these two spaces will encroach into the required special setback area. Pursuant to SRC 800.040(d)(4), only off-street parking, other than minimum required off-street parking, is allowed within a special setback with a removal agreement. Because the two spaces within the existing driveway that encroach into the special setback are required to meet part of the proposed short-term rental's minimum off-street parking requirement, they cannot be within the special setback without an adjustment. The applicant has therefore requested a Class 2 Adjustment in conjunction with the Conditional Use Permit to allow the two off-street parking spaces to encroach into the special setback. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included in Section 8 of this report.

#### 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 (*dbh*) of 20 inches or greater and any other tree with a *dbh* of 30 inches or greater, with the exception of tree of heaven, empress tree, black cottonwood, and black locust), trees and native vegetation in riparian corridors, and trees on lots and parcels 20,000 square feet or greater. 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 and Class 2 Adjustment 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 not identify any mapped wetlands or waterways as being present on the subject property. The property also does not contain any hydric or wetlands-type soils and no grading 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 is flat. According to the City's adopted landslide hazard susceptibility maps, the subject property does, however, contain an area of two mapped landslide hazard susceptibility points. Pursuant to the City's landslide hazard ordinance (SRC Chapter 810), because no regulated development activity is proposed on the site, a geologic assessment is not required in conjunction with the proposal.

## **5. Public and Private Agency Review.**

Notice of the proposal was provided to City Departments, public agencies, and to public & private service providers. The following comments were received:

- A. The City of Salem Building and Safety Division reviewed the proposal and indicated no objections.
- B. The City of Salem Public Works Department reviewed the proposal and indicated no objections.

## **6. Neighborhood Association and Public Comments**

The subject property is located within the boundaries of the South Central Association of Neighbors (SCAN) neighborhood association.

Neighborhood Association Contact. SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), Conditional Use Permit applications require neighborhood association contact. On August 17, 2022, the applicant contacted the SCAN Neighborhood Association to provide details about the proposal; thereby satisfying the requirements of SRC 300.310.

### Neighborhood Association Comments

Notice of the application was provided to the neighborhood association pursuant to SRC 300.620(b)(2)(B)(vii), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. Comments were received from the SCAN neighborhood association that are include as **Attachment D**.

The comments received from the neighborhood association indicate, in summary, that the SCAN Board voted unanimously to request that the Hearings Officer deny the conditional use permit for the proposed short-term rental of 795 Church Street SE because the proposal does not meet approval criterion SRC 240.005(d)(3), which requires the proposed use to be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property, and approval criterion SRC 240.005(d)(2), which requires that the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The neighborhood association indicates that approval criterion SRC 240.005(d)(3) is not met due to the following:

- A. National Historic District. The neighborhood association explains, in summary, that the proposed short-term rental use is a commercialization of a single family residence which

conflicts with both 1) the expressed goal in the establishment of the residential Gaiety Hill/Bush's Pasture Park National Historic District, which is to provide the district with a front line of defense against commercial encroachment; and 2) one of the primary intended benefits associated with the original National Register nomination to help stabilize the neighborhood and stimulate increased owner occupancy by making it a more distinct and desirable place to live. As such, the neighborhood association indicates that when the boundaries of the Historic District were established, commercial uses were specifically and intentionally excluded.

The neighborhood association indicates that Gaiety Hill residents oppose the short-term rental because the commercialization of the property as a vacation short-term rental will not help to stabilize the neighborhood and will undermine Gaiety Hill as a distinct and desirable place to live.

In addition, the neighborhood association also expresses broader concerns about the impacts of short-term rentals on housing supply. The neighborhood association indicates that short-term rentals have been found to not broadly be in the public interest of cities due their influence in contributing to increased rental costs and decreased availability of affordable housing and standard long-term rental units in the marketplace.

- B. Livability. The neighborhood association indicates, in summary, that short-term rentals are classified as commercial lodging and therefore cannot be found to be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding residential property.

The neighborhood association explains that livability must be measured by the functionality of a neighborhood. Short-term renters come and go in quick succession without any involvement in the residential neighborhood. People living, sleeping, and eating in a house for a few days do not make neighbors. A single-family neighborhood of long-term owners and renters develops as a social and security network of neighbors helping neighbors and neighbors watching out for each other's children and property. It is explained that neighbors do not speed in their own neighborhood, they volunteer to keep the streets and nearby parks clean, and help the less-able maintain their property. As a result, neighborhoods become safer, friendlier, and more well-kept, which benefits all of the residents.

The neighborhood association indicates that every home converted to a short-term rental takes away a home for a neighbor and potentially active community member; thereby eroding the ability of the neighborhood to serve those functions and causing the livability of the neighborhood to decline. The neighborhood association explains that short-term renters are not neighbors, and an empty house in between short-term renters also is detrimental to a neighborhood. It is indicated that the loss of even one long-term neighbor impact the Gaiety Hill neighborhood because it is a small, geographically defined neighborhood surrounded by commercial, public health, and public use zones.

The neighborhood association indicates that approval criterion SRC 240.005(d)(2) is not met because although the four conditions proposed by the applicant are helpful, they are not sufficient to minimize the adverse impacts on the neighborhood because the very nature of short-term rentals commercializes the neighborhood, undermines its stability, and, as a commercial use, is not allowed in the historic district.

**Staff Response:** As identified in the findings included under Sections 7 and 8 of this report, the requested Conditional Use Permit and Class 2 Adjustment satisfy the applicable approval criteria.

In regard to the issues raised concerning neighborhood livability and the commercialization of an existing single family dwelling, 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 persons for periods of less than 30 days. As a short-term rental, people may choose to stay in the home one night, a few days, or a few weeks, but in all cases people choose to stay there in order to have a place to reside and live on a temporary basis.

Although a short-term rental is not classified as a residential use under the UDC, short-term rentals and accessory short-term rentals are, along with a limited list of other non-residential uses, allowed in the RS zone because these uses have generally been found to be reasonably compatible with and appropriate within the context of residential areas. Accessory short-term rentals, where owners or long-term renters rent their homes on a short-term basis but still reside in the home, are allowed outright as a Special Use in the RS zone subject to the additional special use standards under SRC 700.006 and the requirement to obtain an annual license. Short-term rentals on the other hand do not require the owners to reside in the home; therefore, this type of rental, while allowed in the RS zone, must obtain Conditional Use Permit approval in addition to the required annual license.

The conditional use permit review process applicable to the approval of short-term rentals allows for the placement of additional conditions on the use when necessary to mitigate potential impacts on the immediate neighborhood and to ensure the use will be reasonably compatible with and have minimal impact on the livability and appropriate development of surrounding property.

As is identified in the written communication provided to the neighborhood association prior to application submittal (**Attachment E**), both applicants for the proposal are local area residents who will be self-managing the property and will be available to respond to and address any issues that may arise when the home is being rented. In addition, staff is also recommending that the Hearings Officer place conditions on the approval of the conditional use permit including:

- 1) Limiting the number of overall guests that may stay in the home at any one time;
- 2) Restricting the number of bookings of the home at any given time to one group of guests;
- 3) Restricting the types of activities the home may be rented for; and
- 4) Limiting the transferability of the conditional use permit another applicant or owner.

The recommended conditions of approval are consistent with the requirements applicable to accessory short-term rentals, which are allowed outright within the RS zone as a Special Use without the requirement to obtain a conditional use permit, and they ensure that the

number of guests and types of activity occurring on the property will be similar to that of the surrounding residential neighborhood.

In regard to the issues raised concerning the impact of the proposed use on the Gaiety Hill/Bush's Pasture Park Historic District, the proposed short-term rental use is not a prohibited use due to its location within the historic district. As indicated in this report, the subject property is zoned RS (Single Family Residential) and is located within the Gaiety Hill/Bush's Pasture Park Historic District. As such, the use and development of the property is subject to the applicable requirements of the RS zone (SRC Chapter 511) and the City's Historic Preservation ordinance (SRC Chapter 230).

The RS zone, pursuant to SRC 511.005 – Table 511-1, establishes the allowed uses within the zone. The RS zone also establishes the basic development standards applicable to development within the zone, such as lot standards, required building and accessory structure setbacks, lot coverage requirements, and maximum building and accessory structure heights. The City's Historic Preservation ordinance on the other hand establishes a historic design review process that applies to new construction and exterior alterations/additions to existing designated historic resources. The Historic Preservation ordinance, does not, however, identify lists of uses that are allowed or prohibited within historic districts. Instead, historic design review standards are established to regulate physical additions and alternations to properties within the district to ensure consistency and compatibility with the established historic character of the district and the question of what specific uses are allowed is left to the underlying zone.

Within the RS zone short-term rentals are specifically identified as an allowed conditional use and the applicant has submitted the required Conditional Use Permit to establish the proposed use in the zone. Because the property is located within the historic district, the property will continue to be subject to the historic design review requirements of SRC Chapter 230 to ensure that the property, regardless of use, maintains conformance with the established character of the historic district.

As identified in the application materials submitted by the applicant, the existing home is proposed to be used as a short-term rental and no additions to the home or expansions to the existing paved area on the site are proposed; and no changes have been identified to accommodate the use that would preclude the home from being used again as a single family residence if, at some point in the future, the dwelling were to no longer be used as a short-term rental. Therefore, although a short-term rental is classified as a commercial lodging use, the property will maintain a residential appearance in conformity with the rest of the historic district.

Staff has also recommended a condition of approval to be placed on the decision limiting the transferability of the conditional use permit to another applicant or owner. As such, if the subject property is later sold by the current owners, any new owner who intends to use the property as a short-term rental will be required to receive approval of a new Conditional Use Permit and go through the Conditional Use Permit approval process.

In regard to issues raised concerning the impact of the proposed use on the City's residential housing supply, a number of amendments have been made to the City's development code to remove barriers and provide incentives for the development of



needed housing. These include allowing accessory dwelling units on lots with single family dwellings; refinements to the City's multiple family design review requirements to streamline the approval process and simplify the design review standards included under SRC Chapter 702 (Multiple Family Design Review Standards) for multiple family development; implementation of the requirements of State House Bill HB 2001 concerning middle housing to allow townhouses, two-family uses, three-family uses, four-family uses, and cottage clusters within the City's residential zones that allow single family dwellings; reductions to the minimum off-street parking requirements for multiple family and middle housing residential developments to promote greater affordability; and new minimum residential density requirements established through the Our Salem process for certain types of residential development within the City's single family zones. All of the aforementioned amendments will act to both incentivize, and in some cases require, increased opportunities for affordable housing to strengthen the City's supply of needed affordable housing.

In addition, when the City's development code was amended in 2017 to allow short-term rentals and accessory short-term rentals specific measures were taken to limit the impact of these uses on the City's affordable housing supply by not allowing them within multiple family developments or within accessory dwelling units; and instead allowing short-term rentals only within single family dwelling units and dwellings units within condominiums and accessory short-term rentals only within single family dwelling units, guest houses, or two family dwelling units. The proposed short-term rental will be located within a single-family dwelling consistent with the intent and requirements of the City's development code and any impact this conversion may have on the City's housing supply will be made up for by the increased variety of housing types now allowed within the City's residential zones.

### Public Comments

In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.620(b)(2)(B)(ii), (iii), (viii), & (ix), to property owners and tenants within 250 feet of the subject property. As of the date of completion of this staff report, comments from 28 area property owners have been submitted which are included at **Attachment F**. The comments received express concerns and opposition to the proposal which can be summarized as falling into the following main categories:

- A. Impact on residential character of neighborhood and residential historic district. Comments submitted express concerns about the conversion of this existing single family historic home with the Gaiety Hill/Bush's Pasture Park Historic District into a commercial use accommodating a non-owner occupied short-term rental and the negative effects it will have on the character of the surrounding neighborhood and the Historic District; thereby precluding the proposed use from conforming with the applicable conditional use permit and class 2 adjustment approval criteria. Specific concerns raised regarding the proposal and its potential impacts to the neighborhood and Historic District include the following:
- The potential for absentee/out-of-state or long-distance landlords to be non-responsive, the property not being adequately monitored and maintained, and the associated impact on the quality of the neighborhood;
  - The use of the property as a short-term rental will remove one more family home from the neighborhood and replace it with short-term renters who won't be involved, or have a vested interest, in the neighborhood. Unlike homeowners or tenants in a long-term

rental, there is no chance to develop a relationship or to work out problems with renters in a short-term rental. It is the people who live in the neighborhood that keep the historic district sound and viable;

- The Gaiety Hill/Bush's Pasture Park Historic District was put in place to preserve the Gaiety Hill neighborhood and protect Bush Park. The neighborhood and park and valuable assets to the City and are vulnerable to development that would be detrimental to the character of the neighborhood and park. Allowing the short-term rental and non-residents will reduce the quality and desirability, and undermine the integrity, of the neighborhood.
- The removal of housing stock from the neighborhood and the potential for rising rents.
- Allowing a contributing historic resource within the Gaiety Hill/Bush's Pasture Park Historic District to be used as a non-owner-occupied short-term rental subverts the policies and guidance set forth in the Salem Area Comprehensive Policies Plan and the purpose of the City's Historic Preservation ordinance (SRC Chapter 230).

**Staff Response:** 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. Guests within short-term rentals will go about their days similar to other families in the neighborhood and eat, sleep, work, visit various destinations, and dine at restaurants.

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. As identified in this report, conditions of approval are recommend 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 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 proposed use also conforms to the applicable policies of the Salem Area Comprehensive Plan concerning the preservation of historic properties and is consistent with the purpose of the City's Historic Preservation ordinance (SRC Chapter 230). Though the proposed use is not strictly residential in nature because it's being operated for the commercial purpose of renting rooms on a short-term basis to individuals, the general characteristics of the use are similar to those of a single-family residential use in that there are people living in the structure, albeit on a temporary basis. The proposed use requires no alterations to the dwelling that would preclude it from being used as a single family home in the future, the investments made in the dwelling by the owner will help to ensure the long-term viability of the resource, and any changes to the exterior will be subject to the requirements of Historic Design Review to ensure the appearance of the structure is maintained as a contributing historic resource within the Gaiety Hill/Bush's Pasture Park

Historic District and the property remains consistent with the development pattern of surrounding properties.

In addition, as provided in the written communication provided by the applicant to the SCAN neighborhood association prior to application submittal (**Attachment E**), it is explained that both owners/applicants grew up in Salem and are local area residents; they appreciate the historic character of the home and the neighborhood; and will be self-managing the property and will be available by phone or e-mail if needed.

- B. Parking Impacts. Comments received express concern about the potential parking impacts of the proposed use and that the proposed five off-street parking spaces are too many. It is explained that the house supports three parking spaces, one in the garage and two in the driveway.

**Staff Response:** The minimum off-street parking requirement for short-term rentals, established under SRC 806.015(a), Table 806-1, is one space per guest room or suite. Because there are four bedrooms within the home, a minimum of four off-street parking spaces are required for the proposed short-term rental. As identified on the site plan submitted by the applicant (**Attachment B**), a total of four off-street parking spaces are proposed in conformance with the minimum off-street parking requirements of SRC Chapter 806. One of the required spaces will be within the existing garage, two spaces will be located in the existing driveway, and the fourth required space will be located within the side yard of the lot between the home and Mission Street inside of a proposed screened parking area.

As indicated earlier in this report, however, because the right-of-way of Mission Street does not currently meet the minimum required 72-foot width under the TSP, a special setback of 12 feet applies along the property's Mission Street frontage. Within the special setback area no structures or paving are allowed, other than those allowed under SRC 800.040(d).

As shown on the applicant's site plan, two of the required off-street parking spaces are located in the existing driveway off Mission Street. Due to the 12-foot special setback applicable along the street, the southern approximate seven feet of these two spaces will encroach into the required special setback area. Pursuant to SRC 800.040(d)(4), only off-street parking, other than minimum required off-street parking, is allowed within a special setback with a removal agreement. Because the two spaces within the existing driveway that encroach into the special setback are required to meet part of the proposed short-term rental's minimum off-street parking requirement, they cannot be within the special setback without an adjustment. The applicant has requested a Class 2 Adjustment in conjunction with the Conditional Use Permit to allow the two off-street parking spaces to encroach into the special setback. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included in Section 8 of this report.

With the approval of the requested adjustment there will be a total of four off-street parking spaces to serve the proposed use; thereby satisfying the applicable minimum off-street parking requirements of the code.

- C. Impact on housing supply. Comments received express concern regarding the impacts the proposed use will have on the City's housing supply as a result of the existing single family dwelling being converted to a commercial business.

**Staff Response:** As previously indicated in this report, a number of amendments have been made to the City's development code to remove barriers and provide incentives for the development of needed housing. In addition, the original amendments to the code in 2017 to allow short-term and accessory short-term rentals specifically limited short-term rentals to being located within single family dwelling units or condominium units in order to minimize the impacts the use may have on the City's housing supply. The proposed short-term rental will be located within a single-family dwelling consistent with the intent and requirements of the City's development code and any impact this conversion may have on the City's housing supply will be made up for by the increased variety of housing types now allowed within the City's residential zones.

- D. Precedent of previous Conditional Use Permit approval for 725 High Street. Comments received indicate that the previous approval of the Conditional Use Permit to allow the single-family dwelling at 725 High Street SE to be used as a short-term rental was characterized by staff as a "good experiment to see where it goes" and, as such, the approval represented an arbitrary and capricious experiment that has now set a precedent for future non-owner-occupied rentals.

**Staff Response:** The Conditional Use Permit approved in 2018 (Case No. CU-ADJ18-07) to allow the single-family dwelling at 725 High Street SE to be used as a short-term rental was not an arbitrary and capricious experiment setting unfounded precedent for future non-owner-occupied rentals. It instead was a land use request submitted, reviewed, and approved under the applicable standards of the Salem Revised Code, which were amended in 2017 to allow short-term rentals and accessory short-term rentals in single-family dwellings. The proposal was reviewed and approved by the Hearings Officer through a public hearing process. The Hearings Officer's decision was later called-up for review by the City Council and subsequently affirmed by the Council.

This proposed new application, as with the prior one, is being made under the applicable standards and criteria of the Salem Revised Code and is being reviewed based on the specific standards, criteria, and facts applicable to the case.

#### Homeowners Association

The subject property is not located within a Homeowners Association.

### **7. ANALYSIS OF CONDITIONAL USE PERMIT APPROVAL 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.

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.

***SRC 240.005(d)(1): The proposed use is allowed as a conditional use in the zone.***

**Finding:** The subject property at 795 Church Street SE 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, this criterion is met.

***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:** The written statement provided by the applicant (**Attachment C**) identifies four proposed conditions of approval intended to minimize any reasonably likely adverse impacts of the use on the immediate neighborhood. They include limiting the maximum number of occupants within the short-term rental; restricting the rental of the home to only one group of guests at a time; limiting the rental to the provision of lodging and prohibiting non-lodging activities such as events, parties, gatherings, etc.; and limiting the transferability of the conditional use permit to different applicants or property owners in the future.

The applicant explains that the suggested conditions of approval and conformance with the applicable licensing requirements for short-term rentals included under SRC Chapter 30 (Licenses) will minimize the reasonably likely adverse impacts of the proposed use to the immediate neighborhood.

Staff concurs with the findings included in the applicant's written statement. Though the proposed short-term rental will not be used as a single-family dwelling, the types of activities occurring in the dwelling will be similar to that of a single-family dwelling, but on a short-term basis and without the owner residing on-site; and that although the applicants/owners of the short-term rental will not live on-site, they are still both local area residents who will be managing the rental, as required by the license standards for short-term rentals under SRC 30.1105(b), that will be the point of contact for neighbors, respond to any issues that arise, and ensure the proper maintenance of the property.

As previously identified in this report, 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.

In order to ensure the proposed short-term rental operates in a manner that will not impact the immediate neighborhood, the following conditions of approval are recommended which are derived from the standards applicable to non-hosted accessory short-term rentals under SRC 700.006:

- Condition 1:** 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.
- 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.

Development standards are included within the Salem Revised Code in order to ensure that the use and development of land within the City occurs in a manner that implements the City's Comprehensive Plan, provides for the orderly growth and development of the City, and minimizes any reasonably likely adverse impacts of uses on other properties as required under this approval criterion. In order to ensure that adequate bicycle parking is provided to serve proposed uses, in addition to off-street vehicle parking, SRC 806.055 establishes minimum bicycle parking requirements. Pursuant to SRC 806.055 - Table 806-9, the minimum off-street bicycle parking for short-term rentals is the greater of four spaces or one space per 50 rooms. Because the proposed short-term rental includes four guestrooms, the minimum required bicycle parking for the use is four spaces. The site plan provided by the applicant (**Attachment B**) indicates that two of the required bicycle parking spaces will be located inside the garage utilizing wall racks and that the remaining two bike spaces will be accommodated by an existing metal rail in a staple-style configuration. In order to ensure that the bicycle parking spaces provided conform to the applicable standards of SRC Chapter 806, the following condition of approval is recommended:

- Condition 4:** The bicycle parking spaces provided for the short-term rental use shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.

SRC 806.025 establishes location and screening requirements for parking in yards. Pursuant to SRC 806.025(a)(2)(B), off-street parking is allowed within side and rear yards abutting streets when the parking is screened by a minimum 6-foot-tall sight-obscuring fence, wall, or hedge. As shown on the site plan provided by the applicant, there is an existing paved area located in the side yard of the lot between the existing dwelling and Mission Street. The area has been used for parking and is large enough to accommodate two parking spaces, but it does not currently meet the screening requirements of SRC 806.025(f)(1) and the southern portion of the paved area is located within the 12-foot special setback of Mission Street and cannot be used for parking. In order to ensure that the proposed use conforms to the applicable parking area screening requirements of SRC 806.025(f)(1) and the southern portion of the paved area within the special setback of Mission Street is not used for off-street parking, the following condition of approval is recommended:

- Condition 5:** The existing paved area located to the east of the existing driveway between the dwelling and Mission Street SE shall be modified as follows:

- a) Remove the southern portion of the paved area located within the required 12-foot special setback of Mission Street SE and restore the area with landscaping, which may be grass lawn; and
- b) The proposed parking space located on the northern portion of the paved area shall be screened with a 6-foot sight-obscuring fence that conforms to the applicable historic design review standards of SRC Chapter 230.

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/operator, their designated property manager, when required, 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 following condition of approval is recommended:

**Condition 6:** 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.

As identified in the applicant's written statement and discussed in the associated findings in response to this approval criterion, the reasonably likely adverse impacts of the proposed short-term rental on the immediate neighborhood are minimized through the recommended conditions of approval and conformance with the applicable licensing requirements for short-term rentals included under SRC Chapter 30. This criterion is met.

***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:** The written statement provided by the applicant (**Attachment C**) indicates that the proposed use is reasonably compatible with surrounding properties and the four conditions of approval ensure that any impacts to the livability or appropriate development of the surrounding area will be minimal.

As previously identified in this report, 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. As identified in this report, conditions of approval have been recommended limiting the maximum number of guests allowed in the

rental, limiting the type of activities the rental may be used for, limiting the number of bookings that may be made at any one time, restricting the transferability of the Conditional Use Permit approval to future applicant/owners, and requiring certain modifications to existing site improvements to ensure compliance with applicable development standards of the Salem Revised Code. These conditions help to ensure that the number of guest within the dwelling and the types of activities occurring 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 proposed use also conforms to the applicable policies of the Salem Area Comprehensive Plan concerning the preservation of historic properties and is consistent with the purpose of the City's Historic Preservation ordinance (SRC Chapter 230). Though the proposed use is not strictly residential in nature because it's being operated for the commercial purpose of renting rooms on a short-term basis to individuals, the general characteristics of the use are similar to those of a single-family residential use in that there are people living in the structure, albeit on a temporary basis. The proposed use requires no alterations to the dwelling that would preclude it from being used as a single-family home in the future, any changes to the exterior will be subject to the requirements of Historic Design Review to ensure the appearance of the structure is maintained as a contributing historic resource within the Gaiety Hill/Bush's Pasture Park Historic District, and the property remains consistent with the development pattern of surrounding properties.

As proposed, and recommended to be conditioned, the short-term rental will have a minimal impact on the livability or development of the surrounding property. This criterion is met.

## **8. ANALYSIS OF CLASS 2 ADJUSTMENT APPROVAL CRITERIA**

Salem Revised Code (SRC) 250.005(d)(2) sets forth the following criteria that must be met before approval can be granted to an application for a Class 2 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 2 Adjustment application, or for the issuance of certain conditions to ensure the criteria are met.

***SRC 250.005(d)(2)(A): 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.***

**Finding:** Due to the existing right-of-way width of Mission Street along the frontage of the property not meeting the minimum required 72-foot right-of-way width for a minor arterial street under the City's Transportation System Plan (TSP), a 12-foot special setback applies along the Mission Street frontage of the property reserving the area for future right-of-way dedication should Mission Street be widened at some point in the future. Within the required special setback area no structures or paving are allowed, other than those allowed under SRC 800.040(d).

As shown on the site plan submitted by the applicant, the proposed short-term rental includes two of its required off-street parking spaces in the existing driveway off Mission Street. Due to



the 12-foot special setback applicable along Mission Street, the southern approximate seven feet of these two spaces encroach into the required special setback area. Pursuant to SRC 800.040(d)(4), only off-street parking, other than minimum required off-street parking, is allowed within a special setback with a removal agreement. Because the two spaces within the existing driveway that encroach into the special setback are required to meet part of the proposed short-term rental's minimum off-street parking requirement, they cannot be within the special setback without an adjustment. The applicant has therefore requested a Class 2 Adjustment in conjunction with the Conditional Use Permit.

The underlying purpose of the special setback requirement of SRC 800.040 is to reserve land for future right-of-way designation without resulting in the creation of nonconforming units of land or nonconforming development. In the case of the proposed use, if Mission Street is widened at some point in the future and 12 feet of additional right-of-way is acquired to accommodate the widening, the number of off-street parking spaces provided to serve the four guest room short-term rental would be reduced from four spaces to two because the two spaces in the existing driveway would be eliminated and, as a result, the use would no longer conform to minimum off-street parking requirements.

Because it is uncertain when any widening of Mission Street may occur, the applicant has requested a Class 2 Adjustment to allow the proposed short-term rental use of the property to continue to utilize the two existing parking spaces within the driveway that currently serve the existing single-family dwelling until such time Mission Street is widened and there is no longer a sufficient driveway depth to accommodate the two parking spaces. In order to ensure that the underlying purpose of the special setback standard of SRC 800.050 is equally met by the proposed development, the following condition of approval is recommended to ensure that if Mission Street is widened at some point in the future, the widening of the street will not result in the creation of a nonconforming development:

- Condition 7:** At the time of any future widening of Mission Street SE, if additional right-of-way is required to be dedicated along the Mission Street frontage of the property such that a minimum driveway depth of 20 feet cannot be maintained on the subject property:
- a) The number of guest rooms within the short-term rental shall be reduced from four to two and the maximum number of guests allowed shall be correspondingly reduced to four, with children under 12 years of age not counting towards the maximum number of occupants; or
  - b) The short-term rental shall be converted back to use as a single-family dwelling.

The above recommended condition of approval ensures that if Mission Street is ever widened in the future: 1) The intensity of the use is commensurately reduced to reflect the number of off-street parking spaces available; and 2) The use of the site maintains conformance with the off-street parking requirements of SRC Chapter 806 without resulting in the creation of nonconforming development. With the loss of two off-street parking spaces within the existing driveway, two off-street parking spaces would still remain on the site. The two remaining off-street parking spaces are sufficient to meet the minimum off-street parking requirement of either a short-term rental with two guest rooms or a single-family dwelling.

Because the above recommended condition of approval ensures that any widening of Mission Street will not result in the creation of nonconforming development, the underlying purpose of the special setback is equally met by the proposed development. This criterion is met.

***SRC 250.005(d)(2)(B): If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.***

**Finding:** The subject property is located within the RS (Single Family Residential) zone. The applicant's requested adjustment to allow the two parking spaces within the existing driveway off Mission Street to encroach into the required 12-foot setback will not detract from the liability or appearance of the residential area. If Mission Street is widened at some point in the future and these two spaces can no longer be accommodated, a condition of approval is recommended to ensure that the intensity of the use on the site is correspondingly reduced to reflect the reduced number of off-street parking spaces available; and until such time that a future widening of Mission Street occurs, the two existing spaces will continue to be used as they have been when serving the existing single family dwelling. The existing driveway and off-street parking provided will continue to maintain its appearance as serving a single-family dwelling and therefore will not detract from the livability or appearance of the residential area. This criterion is met.

***SRC 250.005(d)(2)(C): 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.***

**Finding:** The proposal includes only one adjustment request to allow the two proposed off-street parking spaces located in the existing driveway to encroach approximately seven feet into the required 12-foot special setback abutting Mission Street SE. Because the proposal does not include more than one adjustment, this approval criterion is not applicable.

## **CONCLUSION**

Based on the facts and findings presented herein, staff concludes that the proposed Conditional Use Permit and Class 2 Adjustment, as recommended to be conditioned, satisfy the applicable criteria contained under SRC 240.005(d) and SRC 250.005(d)(2) for approval.

## **RECOMMENDATION**

Based on the facts and findings contained in this staff report, staff recommends that the Hearings Officer **APPROVE** the requested Conditional Use Permit and Class 2 Adjustment to allow a short-term rental within an existing four-bedroom single family dwelling located at 795 Church Street SE and allow the two proposed off-street parking spaces located in the existing driveway to encroach approximately seven feet into the required 12-foot special setback abutting Mission Street SE, subject to the following conditions of approval:

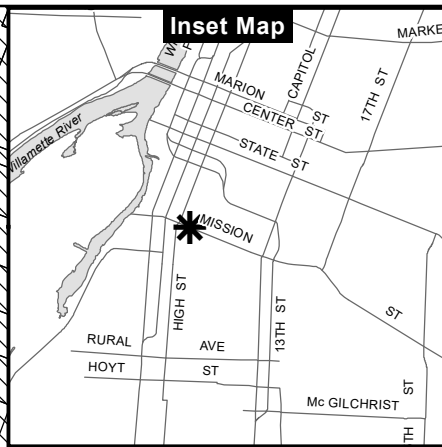
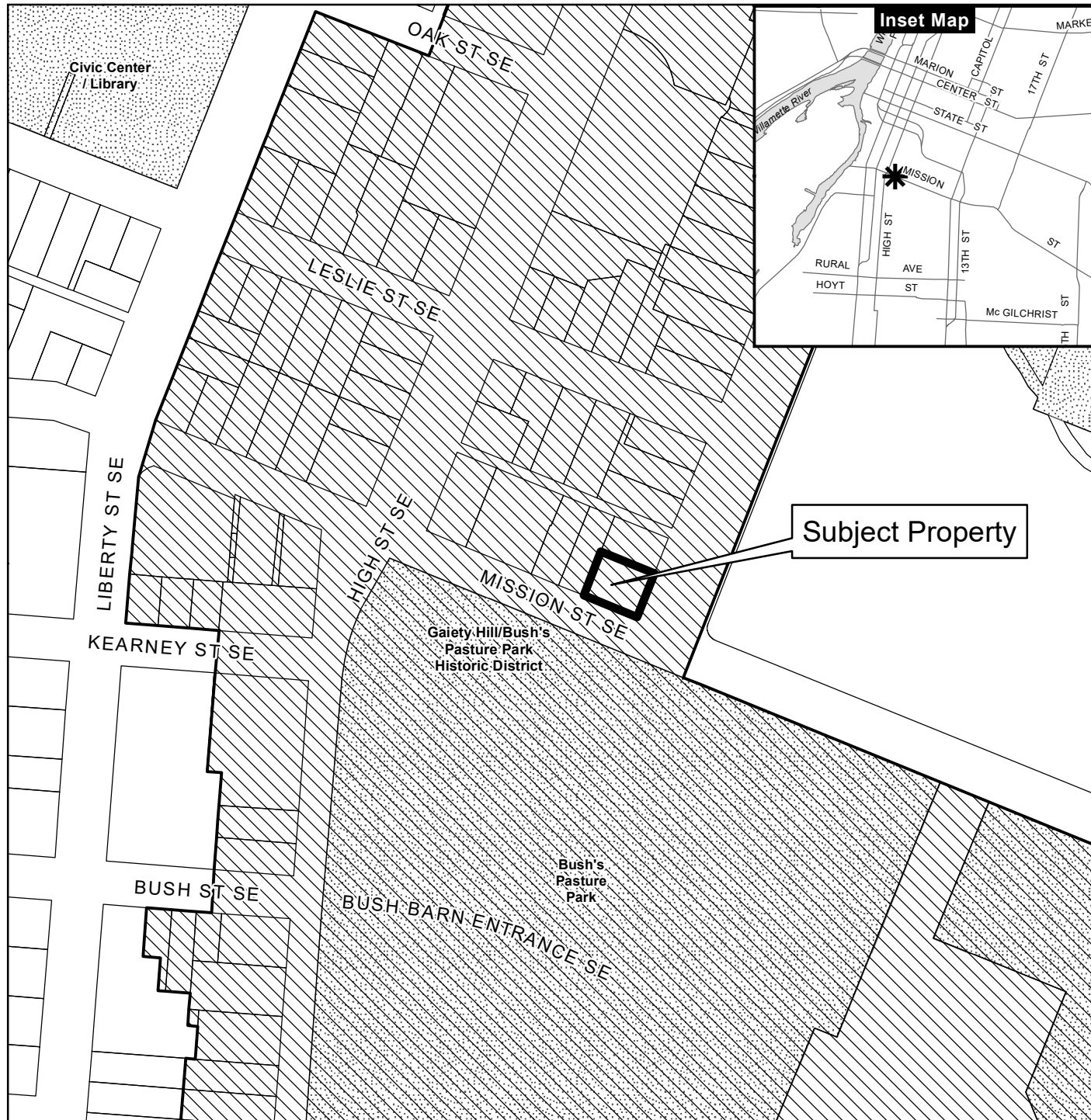
**Condition 1:** The maximum number of occupants in the short-term rental shall not exceed eight persons. For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants.

- 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 bicycle parking spaces provided for the short-term rental use shall be developed in conformance with the applicable bicycle parking development standards included under SRC 806.060.
- Condition 5:** The existing paved area located to the east of the existing driveway between the dwelling and Mission Street SE shall be modified as follows:
- a) Remove the southern portion of the paved area located within the required 12-foot special setback of Mission Street SE and restore the area with landscaping, which may be grass lawn; and
  - b) The proposed parking space located on the northern portion of the paved area shall be screened with a 6-foot sight-obscuring fence that conforms to the applicable historic design review standards of SRC Chapter 230.
- Condition 6:** 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.
- Condition 7:** At the time of any future widening of Mission Street SE, if additional right-of-way is required to be dedicated along the Mission Street frontage of the property such that a minimum driveway depth of 20 feet cannot be maintained on the subject property:
- a) The number of guest rooms within the short-term rental shall be reduced from four to two and the maximum number of guests allowed shall be correspondingly reduced to four, with children under 12 years of age not counting towards the maximum number of occupants; or
  - b) The short-term rental shall be converted back to use as a single-family dwelling.

- Attachments:
- A. Vicinity Map
  - B. Applicant's Proposed Site Plan
  - C. Applicant's Written Statement
  - D. SCAN Neighborhood Association Comments
  - E. Applicant's Written Contact to Neighborhood Association
  - F. Public Comments








Prepared by Bryce Bishop, Planner III

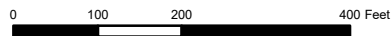
# Vicinity Map 795 Church Street SE



Subject Property

**Legend**

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



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Conditional Use Permit - Date: 8/17/2022, Revised on 10/28/2022

Applicants: Brandon Fahlman & Quinn Burke

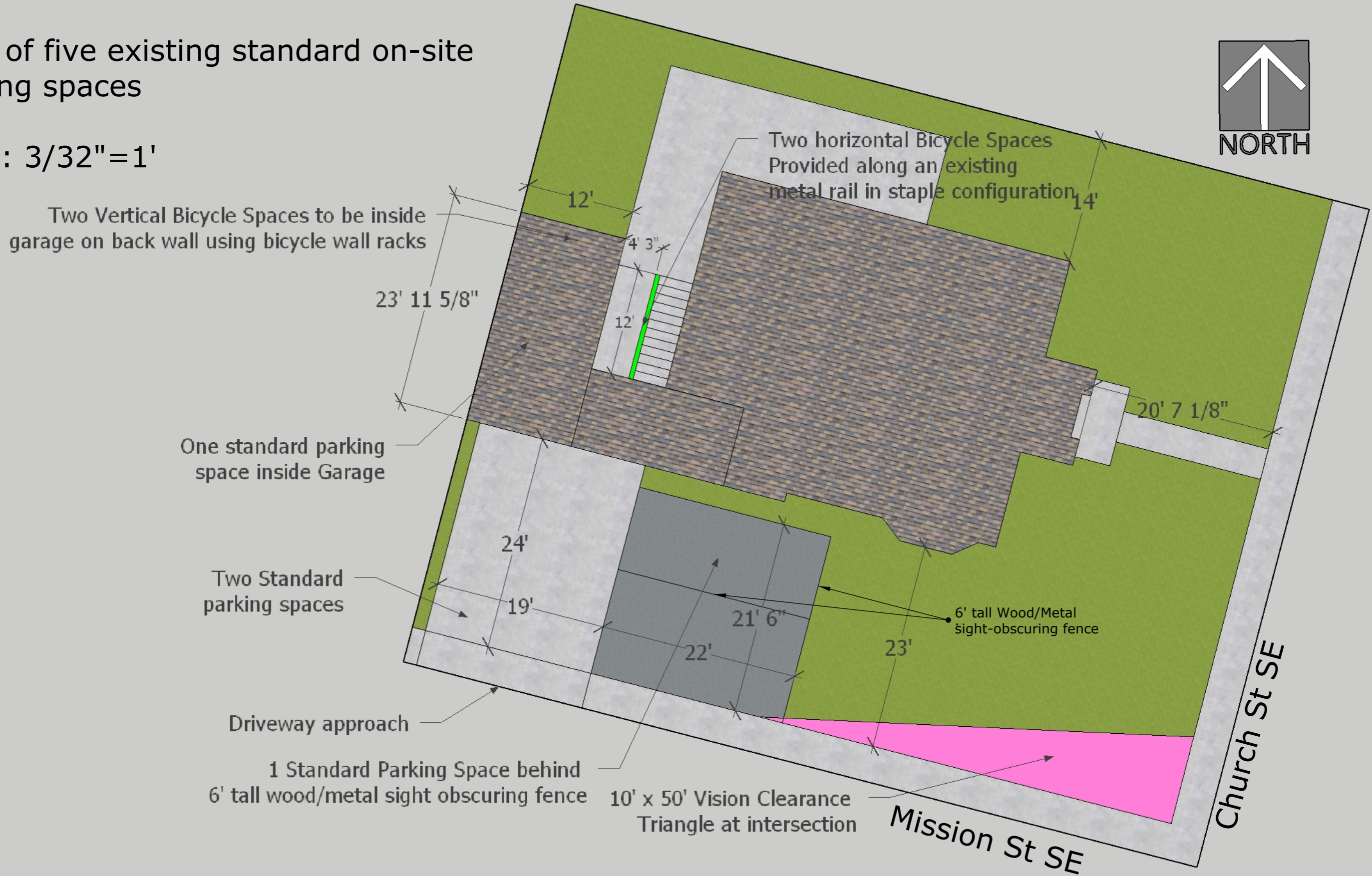
Location: 795 Church St SE, Salem, OR 97301

Site Area: 6264 square feet - no protected trees or vegetation - Landscaped area: approximately 2931 square feet

# Attachment B

Total of five existing standard on-site parking spaces

Scale: 3/32"=1'



## Proposal

The Applicants request a Conditional Use Permit to allow for a short-term rental within an existing four-bedroom single-family dwelling. The Applicants are not proposing any changes to the site or to the exterior.

### **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 within the Urban Service Area.

### **2. Zoning**

The subject property is zoned RS (Single-family Residential). The proposal would allow a short-term rental within an existing single-family dwelling. Short-term rentals require a Conditional Use Permit within the RS zone, pursuant to SRC 511.005(a).

The zoning of surrounding properties is as follows:

North: RS (Single-family Residential)

South: Across Mission St SE - PA (Public Amusement)

East: Across Church St SE - PE (Public/Private Education)

West: RS (Single-family Residential)

### **3. Site Analysis**

The subject property consists of one tax lot with an area of 0.14 acres, lot width of 72 feet, lot depth of 87 feet. The property has street frontages of 72 feet and 87 feet along Church St SE and Mission St SE, respectively.

According to the Marion County Assessor, the property is improved with a 2713-square-foot two story house with a 1320-square-foot basement. The Applicant states that the house has four bedrooms. The site also includes an existing garage and a driveway.

**A. Circulation & Access:** The subject property abuts Church St SE along its Easterly boundary. Church St SE is designated as a Collector under the City's Transportation System Plan (TSP). The subject property abuts Mission St SE along its Southerly boundary. Mission St SE is designated as a Minor Arterial under the City's Transportation System Plan (TSP). Primary vehicular access to the subject property is provided via the existing driveway onto Mission St SE.

#### **B. Natural Features:**

**Trees:** The Applicant's site plan identifies zero protected trees on the subject property. The Applicant does not identify any trees for removal 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).

#### **4. Neighborhood Association, Citizen, and Homeowners Association Information**

The subject property is located within the boundaries of the South Central Association of Neighbors (SCAN).

##### Applicant Neighborhood Association Contact

SRC 300.310 requires an Applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), the land use application in this request requires neighborhood association contact. On August 17, 2022, the Applicants contacted the neighborhood chair and land use chair to provide details about the proposal in accordance with the requirements of the SRC.

#### **5. Conditional Use Criteria**

SRC Chapter 240.005(d) establishes the following approval criteria for a Conditional Use Permit:

##### **SRC 240.005(d)(1): The proposed use is allowed as a conditional use in the zone.**

The subject property is zoned RS (Single-family Residential). Pursuant to SRC 511.005(a), short-term rentals are allowed as a conditional use in the RS zone.

##### **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.**

The Applicants propose the following conditions to meet the above criteria of SRC 240.005(d)(2):

**Condition 1:** The maximum number of occupants in the short-term rental shall not exceed nine persons (two per guest room plus one). For purposes of this condition of approval, children under 12 years of age do not count towards the maximum number of occupants. In no case shall the total number of guests exceed 13.

**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 Applicants believe that the above four conditions of approval and conformance with the applicable licensing requirements for short-term rentals included under SRC will minimize the reasonably likely adverse impacts of the proposed short-term rental to the immediate neighborhood.

**SRC 240.005(d)(3) The proposed use will be reasonably compatible with and have minimal impact on the liveability or appropriate development of surrounding property.**

The proposed use is reasonably compatible with the surrounding properties. The four conditions of approval ensure that any impacts to the livability or appropriate development of the surrounding area will be minimal.





November 30, 2022

City of Salem  
Bryce Bishop  
555 Liberty Street SE  
Salem, Oregon 97301

Re: **Conditional Use and Adjustment Case No. CU-ADJ22-04 for 795 Church St SE**

Dear Bryce,

Regarding the application for Conditional Use and Class 2 Adjustment at 795 Church Street SE, the SCAN Board has approved the following comments by a vote of 12 yays-0 nays-1 abstention. Please pass these comments on to the Hearings Officer.

**The SCAN Board requests the Hearings Officer deny the proposed conditional use permit for short-term rental of 795 Church St. SE.**

**The applicant has not met approval criteria 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, based on the following findings.**

#### **National Historic District Findings**

The short-term rental use is a commercialization of a single family residence which conflicts with the expressed goal in the establishment of the residential Gaiety Hill/Bush's Pasture Park National Historic District – that “Gaiety Hill...provides the district with front line of defense against commercial encroachment...upon a distinctive intact residential neighborhood surrounding Bush's Pasture Park...”. (See *National Register* [“NR”] of *Historic Places – Gaiety Hill/Bush's Pasture Park Historic District*).

Commercial uses were specifically and intentionally excluded from the boundaries of the Gaiety Hill/Bush's Pasture Park National Historic District. “The boundaries of the...district were carefully drawn.” (NR). “A decision was made to exclude...properties primarily because of the intrusion of commercial uses.” (NR). Categories of uses within the District's carefully delineated boundaries were (a) museum; (b) park; (c) private residences; (d) religious; and (e) gardens. (NR). A specific use *not included* was commercial.

The District was created in 1986 by City Council after an extensive three-year review process to meet the standards of the State Historic Preservation Officer, the State Advisory Committee on Historic Preservation, and the U. S. National Park Service

(Department of Interior, and the Keeper of the National Register of Historic Places). Properties were identified from the Statewide Inventory of Historic Sites and Buildings (1976); the Salem Landmarks Commission's Historic Salem: An Inventory of Historic Places (1984); historic resource inventories of the South Central Association of Neighbors (1983); and designated trees of the Salem Heritage Tree Program (1982).

“One of the primary benefits of National Register nomination is...to help stabilize a neighborhood, stimulate increased owner occupancy by making it a more distinct and desirable place to live...”. (*State of Oregon Heritage Bulletin 6, June 2015, Planning a National Register Historic District, Oregon Parks and Recreation Department, see Oregon Heritage [www.oregonheritage.org](http://www.oregonheritage.org)*). The proposed conditional use and class 2 adjustment does not stimulate increased owner occupancy or stabilize the neighborhood.

Gaiety Hill residents have brought their concerns and opposition to this proposed short-term rental to the last two SCAN meetings. They oppose the short-term rental of this property because the commercialization of the property as a vacation short-term rental would not help to stabilize the neighborhood. It would undermine Gaiety Hill as a distinct and desirable place to live. SCAN has not received support for this proposal from any Gaiety Hill resident or anyone else.

In addition to Gaiety Hill residents' concerns, there is broader concern about the impact of short-term rentals. “Short-term rentals are not broadly in the public interest in cities,” said David Wachsmuth, Assistant Professor of Urban Planning at McGill University (*see Nightly Business Report from July 4, 2018*). Evidence is that short-term rentals increase rental costs and decrease availability of affordable housing and standard long-term rental units in the marketplace. The proposal diminishes increased owner occupancy, “one of the primary benefits” of a National Register historic district nomination and designation.

The proposed conditional use is not compatible with and has unacceptable impact on the livability and appropriate development of Gaiety Hill as a residential National Historic District.

### **Livability Findings**

Short-term rentals are classified as commercial lodging. The proposed conditional use cannot be found to be reasonably compatible with and have minimal impact on the livability or appropriate development of the surrounding *residential* property.

“Livability” must be measured by the functionality of a neighborhood. Short-term renters come and go in quick succession without any involvement in the residential neighborhood. People living, sleeping, and eating in a house for a few days do not make neighbors. A single-family neighborhood of long-term owners and renters develops as a social and security network of neighbors helping neighbors; of neighbors watching out for each other's children and property. Neighbors do not speed in their own neighborhood. Neighbors volunteer to keep the streets and nearby parks clean; and to

help the less-able maintain their property. As a result, neighborhoods become safer, friendlier, and more well-kept, which benefits all of the residents.

Every home converted to a short-term rental takes away a home for a neighbor, a potentially active community member, thereby eroding the ability of the neighborhood to serve those functions. As a result, the "livability" of the neighborhood declines. Short-term renters are not neighbors, and an empty house in between short-term renters also is detrimental to a neighborhood. The City should consider an unoccupied house in any residential neighborhood as something to avoid.

The loss of even one long-term neighbor impacts the Gaiety Hill neighborhood because it is a small, geographically defined neighborhood surrounded by commercial, public health, and public use zones.

**The applicant has not met approval criteria 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.**

The four conditions proposed by the applicant are helpful (condition 4 is already required by code), but not sufficient to minimize the adverse impacts on the neighborhood. The very nature of short-term rentals commercializes the neighborhood, undermines its stability, and, as a commercial use, is not allowed in this historic district.

SCAN requests the Hearings Officer accept these findings of fact and deny the conditional use permit.

Thank you for your consideration,

Victor Dodier, President  
South Central Association of Neighbors

## Bryce Bishop

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**From:** Roz Shirack <rozshirack7@gmail.com>  
**Sent:** Wednesday, November 30, 2022 3:28 PM  
**To:** Bryce Bishop  
**Subject:** Re: Conditional Use Case CU-ADJ22-04 for 795 Church St SE

Hi again,

An update on the SCAN Board vote included in the comments on this case : the board member who had abstained has emailed President Victor and I to let us know he changed his vote to yay. So the vote is unanimous (13 Board members) to deny the conditional use as a short-term rental.

Thanks, Roz Shirack

On Wed, Nov 30, 2022 at 1:21 PM Bryce Bishop <[BBishop@cityofsalem.net](mailto:BBishop@cityofsalem.net)> wrote:

Hi Roz,

This is to confirm that SCAN's comments have been received and will be included in the staff report to the Hearings Officer for the December 14<sup>th</sup> hearing. If you have any questions, please let me know.

Thanks,

Bryce

**Bryce Bishop**

*Planner III*

City of Salem | Community Development Department

555 Liberty St SE, Suite 305, Salem OR 97301

[bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net) | 503-540-2399

[Facebook](#) | [Twitter](#) | [YouTube](#) | [CityofSalem.net](http://CityofSalem.net)



Brandon Fahlman &lt;bfahlman@gmail.com&gt;

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**Short-Term Rental @ 795 Church St SE, Salem, OR 97301**

5 messages

**Brandon Fahlman** <bfahlman@gmail.com>

Wed, Aug 17, 2022 at 11:47 AM

To: vjdodier@teleport.com, Roz Shirack &lt;rozshirack7@gmail.com&gt;, dakotalor@msn.com

Cc: Quinn Burke &lt;qburke82@gmail.com&gt;

Hi Lorrie &amp; Roz,

I wanted to inform the SCAN neighborhood association that myself and Quinn Burke are in contract to purchase property at 795 Church St SE, Salem, OR 97301.

We plan to hold this property as a rental, and specifically plan to market the property as a short-term rental through websites such as Airbnb, VRBO, etc.

Quinn is a graduate of South Salem High School and completed his MBA at Willamette University.

I have been raised in West Salem since 1988 and am a graduate of Salem Academy High School.

We are locals to the area and appreciate the historic character of the house and neighborhood. We will be self-managing the property and are available by phone or email if needed.

We plan to submit an application for Conditional Use for the property in the near future.

--

Brandon Fahlman  
P (503) 930-2786  
E [bfahlman@gmail.com](mailto:bfahlman@gmail.com)

**DISCLAIMER:**

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**lorrie walker** <dakotalor@msn.com>

Wed, Aug 17, 2022 at 12:55 PM

To: victor &lt;vjdodier@teleport.com&gt;, Brandon Fahlman &lt;bfahlman@gmail.com&gt;, ROZ SHIRACK &lt;rozshirack@msn.com&gt;

Thank you! I have recently stepped down as President of SCAN and have forwarded to Victor Dodier current President.  
Lorrie Walker

Sent from my iPhone

On Aug 17, 2022, at 12:52 PM, lorrie walker <[dakotalor@msn.com](mailto:dakotalor@msn.com)> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

**From:** Brandon Fahlman <[bfahlman@gmail.com](mailto:bfahlman@gmail.com)>**Date:** August 17, 2022 at 11:48:03 AM PDT

## Bryce Bishop

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**From:** Bruce Hoffman <bruhof@gmail.com>  
**Sent:** Friday, November 25, 2022 4:33 PM  
**To:** Bryce Bishop  
**Subject:** Subject: Request for Comments - Case No. CU-ADJ22-04 for 795 Church St SE

I am writing to encourage you to not grant a Conditional Use Permit and Class 2 Adjustment to allow an existing single-family dwelling to be used as a short-term rental. at 795 Church Street. Our neighborhood has been designated a historic district with strict requirements for how residents can update or modify their property. Allowing a business to be established in this historic district is contrary to the historic district designation and removes a home from the neighborhood that should be used solely for residential use.

Please disallow this conditional use permit.

Bruce Hoffman  
370 Leslie Street, SE  
Salem, OR 97301

## Bryce Bishop

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**From:** Lisa Taylor <lisakristinetaylor@gmail.com>  
**Sent:** Sunday, November 27, 2022 7:19 PM  
**To:** Bryce Bishop  
**Subject:** Public comment on No. CU-ADJ22-04

Conditional Use and Adjustment Case No. CU-ADJ22-04

Hi, I'd like to provide public comment on No. CU-ADJ22-04, the conditional use of a single family home on Mission and Church as a short term rental (STR). I am opposed to this permit as it removes a single family home from the market during a housing shortage.

I like to think of this as the tale of two houses. My house, just a few blocks up near Church and Leslie vs this home as a possible STR. Both homes were bought within a year of each other for about the same price.

## Bryce Bishop

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**From:** Irene LONGAKER <IRELON@msn.com>  
**Sent:** Tuesday, November 29, 2022 9:59 AM  
**To:** Bryce Bishop  
**Cc:** Leslie Street Group  
**Subject:** Conditional Use/Class 2 Adjustment Case No. CU-ADJ22-04

Good morning.

I have resided at my home at 975 High Street SE for approximately 45 years. I was involved when we put together the plan to form the Gaiety Hill/Bush Park Historic District. The main reason to form this historic district was two fold: One to protect the integrity of a vulnerable neighborhood and to protect Bush Park itself. We have fought and lost many battles over the years and I am saddened that a beautifully restored home is now going to be removed from the district as a single family residence. We need every house in this small neighborhood to remain as a family home.

Parking has always been an issue and this home is located directly on well traveled Mission Street.

Please consider not approving this condition use request.

We need to protect this neighborhood and especially one of Salem's biggest assets, Bush Park.

Thank you.

Irene Longaker



## Bryce Bishop

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**From:** william vagt <william\_vagt@q.com>  
**Sent:** Tuesday, November 29, 2022 3:37 PM  
**To:** Bryce Bishop  
**Subject:** CASE NO. CU-ADJ22-04 FOR 795 CHURCH ST SE

I oppose the conversion of 795 Church St SE to a short term rental. The City should not support out-of-town real-estate speculators over long term Salem residents! This conversion will compete directly with down town hotels. It will also increase traffic and parking problem in an already congested and dangerous traffic area. It will also decrease housing in a time of housing shortage. This conversion will continue the encroachment of businesses into this historic neighborhood.

William Vagt  
690 Liberty St SE

## Bryce Bishop

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**From:** Patricia Deminna <patdex@comcast.net>  
**Sent:** Friday, December 2, 2022 4:39 PM  
**To:** Bryce Bishop  
**Subject:** Conditional Use Case CU-ADJ22-04 for 795 Church St SE

Dear Mr. Bishop,

My husband and I live up the street from the house at 795 Church Street. We request that approval not be granted for conditional use of this house as a non-owner occupied short-term rental.

Years ago in the 1980s, long before short-term rentals were popularized, a group of thoughtful neighbors entered into a process to protect our neighborhood and our homes from commercial encroachment. When they drew the boundaries of the historic district, they intentionally excluded all commercial uses within those boundaries. They wanted to preserve what makes a neighborhood livable and comfortable for families and children. An essential part of that meant, No commercialization. In 1986, at the end of an exhaustive three-year review, the City Council created Gaiety Hill/Bush's Pasture Park Historic District. Today it is one of only two national historic districts in the city of Salem that are residential.

Over the years, our neighborhood has struggled with different types of commercial intrusion. There was the hospital's plan for vehicle access onto Church St. from the blind school property; and the proposal for 10-hour metered parking across from our homes, again on Church Street. Both proposals were negotiated and abandoned. Our small-scale size, our proximity to downtown, and our adjacency to public use zones – along Church, Mission, and Liberty Streets – make the Gaiety Hill neighborhood particularly vulnerable.

Now, with the introduction of short-term rentals in 2017, it is our homes themselves that can be converted into places of commerce. The owners of non-owner occupied STRs are not residents, they are commercial investors who live offsite; and the short-term guests next door are no longer our neighbors. STRs may provide visitors "a different way...to experience the city," but what benefit do they provide to the neighborhood? Respectfully, in granting a conditional use permit, can that not be a consideration, too? Rather than simply to mitigate harm?

The conversion to short-term rentals in the historic district is appealing to investors, but it reduces the already diminished housing supply, and it threatens the sustainability of a neighborhood that has taken intentional steps to remain residential.

In making your decision, we ask you to consider the process undertaken by our neighbors in the 1980s to protect our neighborhood from commercialization; and the value of preserving the integrity of one of only two residential historic districts in Salem. We respectfully request that you do not approve the proposed conditional use permit.

Thank you.

Patricia and Roger Deminna

## Bryce Bishop

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**From:** Mary Anne Spradlin <spradlinmacn@hotmail.com>  
**Sent:** Saturday, December 3, 2022 8:25 AM  
**To:** Bryce Bishop  
**Cc:** lesliestreet345@googlegroups.com; rozshirack7@gmail.com; friendsofhistoricsalem@gmail.com  
**Subject:** Conditional Use and Adjustment Case No. CU-ADJ22-04 for 795 Church ST SE

Dear Bryce,

My name is Mary Anne Spradlin and I currently live at 1547 Chemeketa Street NE. I previously lived at 712 High Street SE for over 6 years and I still maintain strong ties to the neighborhood.

I request that the city DENIES the application for a Conditional Use Permit and a Class 2 Parking adjustment to allow the existing single-family home at 795 Church Street SE to be used as a non-owner-occupied short-term rental.

There's no compelling factual evidence that rezoning an existing single-family home in a residential historic district for 100% commercial use is consistent with the policies and guidance in the Salem Area Comprehensive Policies Plan or the city's Historic Preservation Ordinance. In fact, it's exactly the opposite. This plan is absolutely not compatible with the preservation of this historic neighborhood. Every time we lose another single-family home our neighborhood is diminished. We are in danger of shrinking away to nothing, losing one house at a time to rezoning over the years.

The City of Salem should encourage and support the residents of the historic neighborhoods. The heart and soul of a neighborhood is the people who live there long-term, who actively care about the houses and the other people who live there. Short-term renters are not neighbors and they do not care about the people or the houses in the neighborhoods. I strongly believe that the City Council should pass an ordinance that would prohibit non-owner-occupied short-term rentals within the residential historic districts. That would be a great way to help protect the neighborhoods from the creeping encroachment that they both experience.

As for the request for 5 parking spaces, that's way too many. The house supports 3 parking spaces, one in the garage and 2 in the driveway. It's a small corner lot mostly covered by the existing house, garage and driveway. Please deny this request.

Please pass my comments on to the Hearings Officer.

Mary Anne Spradlin  
1547 Chemeketa St NE  
Salem OR 97301  
spradlinmacn@hotmail.com

## Bryce Bishop

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**From:** Leonard Kelly <leonard.kelly@gmail.com>  
**Sent:** Saturday, December 3, 2022 11:35 AM  
**To:** Bryce Bishop  
**Cc:** Baccaus  
**Subject:** Conditional Use and Adjustment Case No. CU-ADJ22-04 for 795 Church St. SE

Dear Mr. Bishop,

My wife and I are opposed to this conditional use permit in our neighborhood. We have lived at 690 High St. SE for nineteen years and this is the second time an application has been made for a conditional use permit for a non-owner-occupied short-term-rental in this neighborhood. The first one, located at 725 High St. SE, was unfortunately granted. As I recall the Planning Department staff thought that granting this conditional use permit would be a good "experiment" to see where it goes. This action was a capricious and arbitrary experiment which has now set a precedent for future non-owner-occupied rentals. It is also, I believe, contrary to the provisions of our historic district. It is argued that people have a right to do what they wish with their property. This is true to a point. However, this is not true if what they do will adversely affect someone else's property. And harm to our neighborhood will occur if this conditional use permit is allowed.

Our neighborhood is small and one more home removed as a single family residence diminishes the historical value of our neighborhood. Why do we have a Historic Preservation Ordinance if we don't follow it? Let's not make this a second, ill-advised "experiment!" Such action would contribute to the ongoing destruction of a Salem historic treasure.

Sincerely,  
Leonard Kelly

Sent from my iPad

## Bryce Bishop

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**From:** Jacque Heavey <jacqueheavey@gmail.com>  
**Sent:** Saturday, December 3, 2022 12:35 PM  
**To:** Bryce Bishop; Zachery Cardoso  
**Subject:** Re: Case No. CU-ADJ22-04

On Fri, Dec 2, 2022 at 9:11 PM Jacque Heavey <[jacqueheavey@gmail.com](mailto:jacqueheavey@gmail.com)> wrote:  
To The City of Salem Planning Division:

Hello, my name is Jacque Heavey and I live with my family two doors down from the proposed non-owner occupied short term rental on 795 Church St.. I believe if this is conditional use is approved it will be short-sighted decision that only serves the investors and not the community at large.

We have a large residential housing need in this community. This house is only a few doors down from another single family home that was taken out of the residential housing stock and turned into commercial lodging at 725 High Street. Both homes are less than half of a mile from the Grande Hotel and the current construction of the downtown Holman Hotel.

In terms of the physical compatibility of turning a residential home into a motel, which is essentially what is being proposed, expanding the residential driveway to a five car parking lot is not compatible with the surrounding homes in the neighborhood. This is a neighborhood of older homes, many of us do not have driveways, and if we do, they are very small and narrow. Most residents park on the street. I understand wanting to accommodate the motel guests but that doesn't fit with any residence around it. This is clearly a commercial decision not a residential decision.

This issue aside, I personally think the much bigger question is not a physical plant issue. **The question is-What do Airbnb's do to neighborhoods? How do they effect the social structure and livability?** The research is not good, and this is why many municipalities have started the process of clear regulations. The City of Salem has not addressed this issue yet.

A recent study out of Northeastern University discusses the impact of how **"highly transient housing pokes holes in the social fabric of the neighborhood"**. The outcomes point to the fact that neighborhoods dissolving around Vacasa's don't immediately happen because of a rowdy tourist here, or an Airbnb house party there, it happens slowly. **"It becomes significant over time"**, and that is what is heartbreaking to me. One doesn't see the negative impact on livability right away, it's not obvious at first. It is that slowly the tipping point will be reached and a resilient neighborhood will erode and be gone. I have no doubt Salem will be lesser for it.

Like other areas surrounding downtown Salem, this urban neighborhood has felt the public health crisis unfolding on our streets. At various points groups of us have met with social service agencies, and the Salem P.D.. Part of what they shared is that we might not have the stickers on our windows- but we basically live the ethos of Neighborhood Watch. The residents are communicative and collaborative, partly because our houses are super close together and also because many of us have built relationships over time. But mostly, this bond has been built out of the necessity of living in downtown Salem.

Why did the neighborhood association vote unanimously to deny this decision? They know the unique geography of this place. They know the impacts of those "holes" will be felt much quicker here. The neighborhood is only a couple of square blocks, and Salem Hospital is directly to the east. One only needs to look around the country and see what the surrounding areas by urban hospitals look like. Why has that not happened here? It's because we have an intact

neighborhood of residents, people that communicate and have a solid stake in what happens here every. single. day. Putting commercial lodging into a single family home in this residential neighborhood is not only incompatible, it undermines the ecosystem of this tiny, strong, historic, urban neighborhood. This process will destroy it, and with a lack of regulation it is already underway. The research proves this point.

Let us be a resilient neighborhood for all of Salem. Support us.

Unfortunately, if this is approved, I just keep thinking of that song : "You're gonna miss me when I'm gone."

~ Jacque Heavey

I

## Bryce Bishop

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**From:** Mary Fitzpatrick <maryfitz88@hotmail.com>  
**Sent:** Saturday, December 3, 2022 3:41 PM  
**To:** Bryce Bishop  
**Subject:** Case No. CU-ADJ22-04 for 795 Church St SE

Dear Mr. Bishop,

We are writing regarding the property at 795 Church St SE, as we live in the neighborhood at 685 Church St SE. We are opposed to the residential property being transformed into a commercial business and used as a short term rental. The Gaeity Hill Bush Pasture Park Historic District is a residential district and a purely commercial business such as that proposed for 795 Church St SE has no place in the district. Further, given the extreme housing shortage in Salem and throughout the state, and the resultant affordability problem for many families, it makes no sense to turn a large single family home into a hotel with more parking and an extended driveway. It defies the intent and purpose of a residential neighborhood and an increase in parking spaces is most certainly not appropriate in a historic neighborhood. If the new owners instead wanted to live in the home and rent out some of the rooms, either on a short term or long term basis, we would have no issue with such a mixed use.

Thank you for your time and consideration.

Sincerely,  
Mary Fitzpatrick and Jeff Willemsen

## Bryce Bishop

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**From:** John Van Dreal <johnvandreal@gmail.com>  
**Sent:** Sunday, December 4, 2022 6:35 PM  
**To:** Bryce Bishop  
**Cc:** coleen van dreal  
**Subject:** re: application for short term rental use of 795 Church St. SE.

Hello Mr. Bishop,

We hope this email finds you well and enjoying the holiday season.

We'd like to provide written testimony against the approval of the application for short term rental use of the property at 795 Church St. SE. We have been residents at 595 Leslie St. SE for 17 years. As residents, we have enjoyed and are proud of our small community and how our homes accent the thriving downtown area. Accent is an important word descriptor and, to us, means keeping the character of our neighborhood and not allowing businesses, such as short term rentals, to encroach into our historic district.

Additionally, given the housing shortage, eliminating a residence from the pool seems short sighted.

We hope that you will deny the application.

Respectfully,  
John and Coleen Van Dreal  
595 Leslie St. SE.  
Salem, Or. 97301

John Van Dreal, Principal  
John Van Dreal Consulting LLC  
Salem, Oregon  
ph. 503.881.1915  
[johnvandreal@gmail.com](mailto:johnvandreal@gmail.com)  
[vandrealconsulting.com](http://vandrealconsulting.com)



## Bryce Bishop

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**From:** sylvia.strand@comcast.net  
**Sent:** Monday, December 5, 2022 3:39 PM  
**To:** Bryce Bishop  
**Subject:** Fwd: ConditionalUse and Adjustment Case for 795 Church Street SE

----- Original Message -----

From: sylvia.strand@comcast.net  
To: "bbbishop@cityofSalem.net" <bbbishop@cityofSalem.net>  
Cc: "lesliestreer345@googlegroups.com" <lesliestreer345@googlegroups.com>  
Date: 12/05/2022 3:23 PM  
Subject: ConditionalUse and Adjustment Case for 79 Church Styreet SE

Dear Mr. Bishop,

Having read many of my neighbors' responses to this issue, with their requests for denial, they all express my own concerns much better and more factually than I can, so I will not waste your time repeating them.

As a personal comment, my family has lived in the Historic District for more than thirty-five years, first at 545 Mission Street, now The Lord and Schryver Conservancy. I gave them first right of refusal to purchase the property thinking it would stabilize the neighborhood. Now at 87 years I have had to downsize and live at 520 Leslie Street SE. In all those years we have fought many battles to maintain the Historic District; won some and lost some.

It was upsetting when an adjustment was approved for a short-term rental on High Street. A second attempt was bound to follow, and it has. One less family home in our neighborhood would not improve the community as a whole. This second attempt for an adjustment is a profit motivated request.

If this adjustment is not denied, do we sit back and wait for the next attempt? Do we really want to lose our history and welcome the beginning of Salem's Bed and Breakfast Central?

We try hard to maintain the given rules for the privilege of living in this area and respectfully request that the rule of single-family homes be upheld.

Sylvia Strand

## Bryce Bishop

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**From:** Christi Kurtz <campkurtz@gmail.com>  
**Sent:** Monday, December 5, 2022 6:27 PM  
**To:** Bryce Bishop  
**Subject:** Conditional Use Case CU-ADJ22-04 for 795 Church St SE

My name is Jeff Kurtz and I reside at 757 Church Street with my wife and three children.

Our dream home became available, and we weren't sure that we could make that dream a reality. But we clung to hope and found a way to make it happen. In the four years since moving in to our dream home, it has become clear that it was better than we could have imagined because of the people that live in this neighborhood.

When we first moved in, we were made to feel so welcome. People came to visit and sent welcome messages, and brought treats for our kids, initiating the process of getting to know one another and care about each others' lives.

When we were at a movie one evening the thunder scared our dog enough to jump out of a window. She ran to the next door neighbor's house (the now subject property) and they took her in. They calmed her and kept her safe until we could come home and realize she was missing. They brought her home to us.

One January there was a man recovering from addiction, who was not in his right mind. He tried to push his way into our home. People in this neighborhood recognized that he did not belong here and stepped up to assist. Not only did the people around us come to our aid, they also cared for the man and tried to get him the help he needed. After that scary event, neighbors consistently checked in on us and brought comfort to make sure we were okay and felt safe in our home, in the neighborhood they love.

I've come to see that we didn't just buy a house, but we have a home in a community that knows and cares for one another.

I have no interest in stopping someone from making a living in real estate, but I struggle to understand why this family home is in danger of becoming the type of a rental property where the inhabitants won't be around long enough to recognize the people around them and appreciate the investment we have in our community. We are raising our children here, and they will grow up and have long lasting memories of their home and their neighbors. We hope they will bring their children back here, and maybe even live here themselves one day.

There are many people we know looking for a home for their family and not finding a place that will work. It seems like we shouldn't remove an established family home from that pool of options to make a quick buck on an endeavor that likely will turn out to be a failure anyway.

We want to know our neighbors. We want them to know us. We want to have mutual trust, and to care for each other during crisis and difficult circumstances. These things just aren't feasible in short term leasing scenarios. The temporary resident won't have time to get to know their neighbors. They won't recognize who lives in the neighborhood, and who does not. And they certainly won't have the investment in the people or the community in the same way that long term resident would.

Maybe the home should be a rental, but it should not be a hotel catering to frequent short term, web-booked stays. It will change the dynamics of family and safety and established long term community that exists here, in exchange for one realtor's short term gain. I don't know if it's 'legal' but it certainly doesn't seem right or fair to the people of this community, or more specifically to my wife and children. This is not what they signed up for.

Thank you for taking all of this into consideration,

Jeff and Christi Kurtz

## Bryce Bishop

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**From:** Matthew Stevenson <staylost@gmail.com>  
**Sent:** Monday, December 5, 2022 6:38 PM  
**To:** Bryce Bishop  
**Subject:** Public Comment Regarding Case No. CU-ADJ22-04

Bryan,

My wife and I reside at 420 Leslie St. SE, Salem, Oregon and we are writing you today to encourage the City of Salem to reject the conditional use permit application presented by the owners of 795 Church St SE, Salem, Oregon (collectively, the "Applicant") in case no. CU-ADJ22-04 (the "Application").

The Applicant's use of the property will operate much like a hotel and this type of commercial activity is not appropriate for a residential neighborhood that is small and has been specifically organized to keep its noncommercial character. Salem has ample historic properties that permit commercial activity. It is not clear why Applicant didn't simply choose to purchase those properties if Applicant's intention was commercial activity.

The Application should be rejected as a matter of public policy as Salem's City Council has identified housing as a critical issue facing our community. Every house taken out of the market further exacerbates our current housing crisis. To grant this Application would work to counter the tax dollars the City spends to improve the availability of housing for its residents.

Finally, temporary housing in this fragile neighborhood is not needed. Temporary housing is plentiful at existing commercial locations within walking distance from the Applicant's property.

Any choice to grant the Application is a decision to reject both this neighborhood's wishes and Salem's goals.

Sincerely,

Matthew and Claudine Stevenson

## Bryce Bishop

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**From:** Wally Benson <wkbenson4@gmail.com>  
**Sent:** Monday, December 5, 2022 7:05 PM  
**To:** Bryce Bishop  
**Cc:** Bacchus  
**Subject:** Conditional use case No. CU-ADJ22-04 for 795 Church St. SE

Mr. Bishop, I'm opposed to the application for conditional use for the house at 795 Church St. SE. I'm asking that the application be denied.

When homes are converted to short-term rentals — non-owner-occupied — it removes from the neighborhood a potentially active community member, which can lead to a decline in the livability of the neighborhood. We are a neighborhood of fewer than 50 homes bordered by commercial, public health and public use zones. Any loss of residents is magnified.

Short-term rentals are essentially hotels and as such are commercial endeavors, which I feel have no place in a neighborhood, especially such a small one as ours.

The city of Bend has acted to keep short-term rentals from being approved. McMinnville has extended its moratorium on short-term rentals. And Lincoln City is an excellent example of what short-term rentals can do to a neighborhood. We don't want to be like Lincoln City; in fact, Lincoln City isn't sure it wants to be like Lincoln City. Their permanent residents have found that they don't know anyone in the neighborhood because they're surrounded by short-term rentals. Salem shouldn't want to have the same issues.

Our neighborhood is a gateway to Bush's Pasture Park, one of the city's treasures. Protecting Gaiety Hill from commercialization also protects Bush Park.

Please don't allow this effort of commercialization to move forward. This is bad for our neighborhood and bad for Salem.

Respectfully,

Wally Benson

## Bryce Bishop

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**From:** Carlene Benson <bensonwc@mac.com>  
**Sent:** Monday, December 5, 2022 7:12 PM  
**To:** Bryce Bishop  
**Cc:** Bacchus  
**Subject:** Case No. CU-ADJ22-04 795 Church St. SE

Mr. Bishop, I am writing in opposition to the application for conditional use at 795 Church St. SE.

Short-term, non-owner-occupied rentals remove permanent housing from our available housing stock, the shortage of which is already a subject of concern in the city. We should not allow things to become worse by approving applications such as this.

There is nothing residential about this situation. The owners will not live there, meaning it essentially will be a mini hotel in a nationally recognized residential historic district.

It will bring in strangers to a neighborhood of actual residents, including children, for the sole purpose of the owners benefitting financially. Clearly this is a commercial enterprise that should not be allowed in our neighborhood.

These are not accessory short-term rentals, which actually help our permanent housing inventory because they allow people to stay in their homes, in the neighborhood, and pick up some extra income. Nor are they long-term rentals, as the renters actually live there and participate in the neighborhood.

Other communities have found that short-term rentals have a negative impact on neighborhoods and the community as a whole. Many are moving to moratoriums to stop and limit them. Let's learn from their experiences.

Again, this application should be denied.

Respectfully,

Carlene Benson

## Bryce Bishop

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**From:** Cheryl randall <randall5793@comcast.net>  
**Sent:** Monday, December 5, 2022 10:29 PM  
**To:** Bryce Bishop  
**Cc:** Wally Benson; Carlene Benson  
**Subject:** Question of Another Short Term Rental in the Gaiety Hill Neighborhood

Dear Mr. Bishop,

This Thanksgiving marked 32 years since my husband, Jim, and I moved into our home at 460 Leslie Street in Gaiety Hill. We were thrilled at that time. We loved the character of the neighborhood; it was so close to downtown, the library, and Bush Park. In addition, because it was protected as part of an historic district, it was designated to remain free of any commercial development. As years went by, through many regularly scheduled parties in each others' homes and a yearly Labor Day potluck picnic in the alley between High and Church Street, we became close friends with our Gaiety Hill neighbors. Jim even served a term on the City Council, which he enjoyed, while appreciating the privilege. Sadly, Jim passed away in 2021. If he were here, he too would be speaking out and writing his own letter.

Several of our neighbors have written well researched letters about the gradual detrimental effects of the encroachment of commercial enterprises on neighborhoods. It has also been pointed out that there are only two such neighborhoods as ours in Salem. I believe it is important to maintain the character of these neighborhoods, not only for those of us living here now, but for generations to come. Children growing up to become future Salem home owners deserve a quality of life such as we have had here.

I too am respectfully asking that you deny this request for another Gaiety Hill Airbnb and all the parking changes requested to accompany it .

Thank-you for your careful consideration of this.

With best regards,  
Cheryl Randall  
Sent from iPhone

## Bryce Bishop

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**From:** Mark Dolan <markmdolan@gmail.com>  
**Sent:** Tuesday, December 6, 2022 6:03 AM  
**To:** Bryce Bishop  
**Subject:** Condition Use / Class 2 Adjustment Case No. "CU-ADJ22-04"

Mr. Bishop,

I am writing you in opposition of the Condition Use / Class 2 Adjustment Case No. "CU-ADJ22-04" that requests a Conditional Use Permit to allow a single-family dwelling be used as a short-term rental.

I live at 747 Church St SE, two doors down from the home at 795 Church St SE.

Our city recently approved the Our Salem Plan to guide our leaders and planning commission to promote certain values and objectives to guide our city into the future.

Based on my understanding of the Our Salem Plan, we should be supporting strong neighborhoods. We should work to maintain and increase residential housing. Our city will strive to promote and protect Salem's historic resources and neighborhoods. The Our Salem Plan provides guidelines to support livable and vibrant neighborhoods. These are the values supported by the Our Salem Plan, and these values come to life in our neighborhood.

Allowing this Conditional Use Permit and another short term rental in our Historic District will undermine the qualities that make our neighborhood great, livable, and vibrant. It will decrease residential housing by converting a single family home into a commercial business and short-term rental.

Please deny this Conditional Use Permit. Follow the guidelines and values the Our Salem Plan has laid in front of us.

Thank you,

Mark Dolan  
747 Church St. SE  
Salem, OR. 97301

--

Mark Dolan  
[markmdolan@gmail.com](mailto:markmdolan@gmail.com)

Hope Orthopedics of Oregon  
1600 State St  
Salem, OR 97301  
503.540.6300



## Bryce Bishop

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**From:** Sharon Edwards <97301sace@gmail.com>  
**Sent:** Tuesday, December 6, 2022 7:34 AM  
**To:** Bryce Bishop  
**Subject:** Short term Rental Case No CU-ADJ22-04 795Church St SE

Mr. Bishop,

I'm opposed to the conditional use of the property at 975 Church St SE.

I ask that the approval not be granted for conditional use of this house as a non-owner occupied short-term rental.

My grandparents built my house at 735 Church in the 30's and helped to get this neighborhood its Historical designation. I purchased the house in 1990 from their estate and have lived here continuously ever since. This is the type of neighborhood Gaiety Hill is known for. Long term, owner occupied, well maintained homes that give Salem the charm it so proudly displays.

We are a tight knit neighborhood. I know and socialize with my neighbors.

How many neighborhoods can say that these days? Please don't take that away by allowing a commercial property to be established here. Short-term rentals are Commercial endeavors and have no place in a Residential neighborhood.

Thank you.

Sincerely,

Sharon Edwards

## Bryce Bishop

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**From:** mrlince <mrlince@yahoo.com>  
**Sent:** Tuesday, December 6, 2022 8:20 AM  
**To:** Bryce Bishop  
**Subject:** Conditional Use Case No.CU-ADJ22-04 for 795 Church ST SE

Mr. Bishop,

We are the Lince family, residing at 765 High ST SE, and we are writing to you regarding the potential short-term rental property of 795 Church ST SE, one block away.

We oppose this action as we feel having yet another short-term rental in this already very small historic neighborhood will greatly take away from the sense of community and safety, even with the loss of just one family home, by bringing in the transient nature of a short-term rental property.

This will become a revolving door of strangers bringing noise, trash, and even more traffic, to our little neighborhood. The houses are close together and this will absolutely have an affect on the homes around it. When the house is not rented it will sit empty, possibly inviting less savory activities, or at minimum becoming a target for vandalism. I feel this would create an undue burden on the neighbors having to constantly watch out for this house, whether it is sitting empty or full of strangers.

There is already one short-term home rental a few houses from us at 725 High St SE. It sits empty frequently. However, many, many times I have had to pull their trash bin off the road after seeing it sit there days after trash pickup, clearly indicating "no one is home." It is one less family home creating that very important sense of community and safety.

There is also a perfectly good hotel, The Grand, just a short distance away, with another hotel being built downtown. Hotels that employ many people in this community. Hotels that are already established and prepared to deal with the nature of transient guests.

In conclusion, we feel the impact of this short-term rental home will be negative to the neighborhood.

Thank you for taking the time to read about our concerns.

Sincerely,

Russ and Michelle Lince  
765 High St SE

Sent via the Samsung Galaxy S10e, an AT&T 5G Evolution capable smartphone

## Bryce Bishop

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**From:** ashley carson cottingham <ashleybrey@gmail.com>  
**Sent:** Tuesday, December 6, 2022 9:26 AM  
**To:** Bryce Bishop  
**Subject:** Case No. CU-ADJ22-04 795 Church St. SE

Mr. Bishop,

We are writing in opposition to the application for conditional use at 795 Church St. SE.

Short-term, non-owner-occupied rentals remove permanent housing from our available housing stock, the shortage of which is already a subject of concern in the city.

We encourage the city to limit the number of short-term, non-owner-occupied rentals allowed within a geographic area, through the municipal code as soon as possible.

With one vacation rental already available in our neighborhood (which doesn't appear to be continuously rented), there is no need for additional short-term rentals, especially ones that require additional parking, in this area.

Sincerely,  
Ashley and Carroll Cottingham  
(755 High Street SE, Salem, OR 97301)

## Bryce Bishop

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**From:** Andrea Foust <andreafooust@gmail.com>  
**Sent:** Tuesday, December 6, 2022 12:50 PM  
**To:** Bryce Bishop  
**Subject:** Letter of opposition to conditional use case No. CU-ADJ22-04 for 795 Church St. SE

Dear Mr. Bishop,

My daughter Madeleine Carlson and I live at 565 Leslie St. and I am also writing on behalf of my mother, Phyllis Foust who lived at 560 Leslie St. for 29 years, until she moved recently. Together we would like to state our strong opposition to the proposed conditional use of the property at 795 Church St. SE (Short term Rental Case No CU-ADJ22-04 795 Church St SE).

I join with my neighbors and their stated concerns and feel strongly that granting this permit would be extremely detrimental to our neighborhood as well as detrimental to one of only two residential historic districts in Salem, OR. These historic districts provide a living and cherished anchor to Salem's past. Any loss of a residence in a historic district neighborhood represents a substantial loss in that it replaces a home with a commercialized business and removes one more house that can be used by the local community in an already tight housing market.

Growing up in Salem, it was a dream of mine to live in one of the houses in this historic district. I loved the history and the beauty of these older homes and sadly watched as the elements of historic Salem disappeared in other areas. I was so glad that these homes were part of a protected historic district where families would continue to live and I was thrilled when I was finally able to own and live in one of these homes. They were designed to be lived in by families and for those families to be part of a neighborhood. When we lost the home at 725 High Street to a short-term rental, there was and remains a profound sense of loss. A short-term rental does change the residential aspect of a neighborhood and moves it firmly towards a commercialized space.

I agree with the SCAN Board request that Case No CU-ADJ22-04 795 Church St SE be denied the proposed conditional use permit for short-term rental of 725 High St. SE.

We also oppose the proposed expansion of the residential driveway and the safety issues that would accompany that expansion as well as the loss of the historic nature of the exterior of the residence.

Looking to the future, the owner's of 795 Church St. SE do have other options available to them rather than operating this as a short-term rental that is non-owner occupied with conditional use permits and parking zone changes. A number of homes in our historic district have been rented out on a long-term basis successfully, with residents who actively participate in the preservation of Salem's historic districts and the fabric of our community.

Please help us honor the preservation of this fragile historic district by denying conditional use case No. CU-ADJ22-04 for 795 Church St. SE.

Thank you for your consideration.

Sincerely,  
Andrea Foust (and Madeleine Carlson and Phyllis Foust)

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## Bryce Bishop

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**From:** Justin Wilhere <justin.wilhere@gmail.com>  
**Sent:** Tuesday, December 6, 2022 1:39 PM  
**To:** Bryce Bishop  
**Subject:** Conditional use case No. CU-ADJ22-04 for 795 Church St. SE - DENY

Bryce Bishop,

I oppose the application for conditional use for the house at 795 Church St. SE.

I'm asking that the application be denied.

We moved to Salem one year ago and one of the things that drew us to our house is that it is in an Historical District. We previously lived in the Frank Lloyd Wright Historic District in Oak Park Illinois and were elated to live in another historic district with beautiful homes and protected aesthetics. Back in Oak Park we did not allow short-term rentals in our homes.

There are currently no businesses on the block in question, what is the different allowing this business or an attorney, therapist, or cannabis dispensary? The cars coming and going will be unknown and the people entering the home will be unknown. Short term rentals have a well documented past of attracting criminal activity.

Please do not chip away at the beautiful community that has been created for Gaiety Hill/Bush's Pasture Park Historic District.

We love knowing our neighbors and rely on them for safety and conveniences of collecting mail, etc., I would not want to live next to a soul-less home/business.

In conclusion, please deny the application for conditional use for the house at 795 Church St. SE

Respectfully,

Justin Wilhere  
710 Liberty St SE  
Salem OR 97301  
503-994-8557

## Bryce Bishop

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**From:** Carol M <carolmitc@gmail.com>  
**Sent:** Tuesday, December 6, 2022 1:52 PM  
**To:** Bryce Bishop  
**Subject:** application for conditional use at 795 Church St. SE.

Dear sir,

This is a response from outside the Gaiety Hill Historic District on this proposed use.

Like many people in the area, I treasure Bush's Pasture Park and the lovely neighborhood surrounding it. The residents have fought hard to protect and preserve the area for everyone to enjoy. It's a wonderful area for walking and learning about Salem history. It doesn't need more traffic.

The city already has hotels, motels and so on. They don't belong in a historic district.

Please deny this application and preserve the special quality of the unique neighborhood as single family residential.

Sincerely,

Carol Mitchell, Fairmount Hill

## Bryce Bishop

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**From:** Gale Strong <gale.strong@yahoo.com>  
**Sent:** Tuesday, December 6, 2022 3:59 PM  
**To:** Bryce Bishop  
**Cc:** Bacchus  
**Subject:** Short term Rental Case No CU-ADJ22-04 795 Church St SE

Dear Mr. Bishop,

My husband Gale and I are opposed to the proposed conditional use of the property at 795 Church St. SE (Short term Rental Case No CU-ADJ22-04 795 Church St SE

We considered many houses and many neighborhoods before purchasing our house at 675 Church Street St SE .

Several things about the the Gaiety Hill neighborhood stood out for us: the parks, the historic houses, but most of all, the strong sense of community.

Allowing one short-term rental would open the door to more of the same and destroy that sense of community. It would also change the way the parks in this neighborhood are used, potentially surrounding them with people who do not value them, in addition to having no connection to, or concern about the parks and the families who now live here. Across the street from the house on 795 Church St. SE is not only Bush Park (to the south) but also to the west a heavily used and beloved children's park.

Please deny the application for this and all short-term rentals in the Gaiety Hill Historic District.

Sincerely,

Sarai St. Julien  
Gale C. Strong

## Bryce Bishop

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**From:** Stephen Wood <stephenbrianwood@gmail.com>  
**Sent:** Tuesday, December 6, 2022 4:09 PM  
**To:** Bryce Bishop  
**Subject:** Conditional use case No. CU-ADJ22-04 for 795 Church St. SE

Mr. Bishop,

I oppose the application for conditional use of 795 Church St SE and ask for it to be denied.

This neighborhood is an incredible group of homeowners who genuinely care for each other and their immediate community. In this already small neighborhood, adding another non-owner-occupied short-term rental chips away at the community by denying us potentially active community members. This is in stark contrast to the neighborhood I previously lived in (Morningside), which had no sense of community and where it would not have made a difference if a short-term rental existed.

While I am open to mutually beneficial businesses, a business of this category bears no benefit to our community and gives us nothing but question marks to the future activities of the house.

After living across the street from an already existing non-owner-occupied short-term rental at 725 High St, I can say with confidence that an approval of this application would be a loss for our immediate community and a loss for the city as well. 725 High St sits dark and empty the vast majority of the year and only occasionally is used with what amounts to a mixed bag of travellers and partiers. It is an ineffective use of a house and actively denies its ability to be a home. There is nothing to suggest that the approval of this application would yield anything different for 795 Church St.

We don't need more short-term rentals, especially with the addition of more hotel rooms opening just blocks away from here.

Please, this application should be denied.

Respectfully,

Stephen Wood  
712 High St.  
Salem, OR



## Bryce Bishop

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**From:** Brittiny Vollmar <bfrangelica@gmail.com>  
**Sent:** Tuesday, December 6, 2022 4:13 PM  
**To:** Bryce Bishop  
**Cc:** Nic Olson; lesliestreet345@googlegroups.com  
**Subject:** Letter of Protest Against Conditional Use Permit in Historical District

Dear Mr. Bishop,

My fiance and I call 555 Mission St SE home. We are two doors away from the proposed conditional use home requesting non-owner occupied rental allowances. We respectfully request that this not be approved.

When we purchased our house it was much more than just four walls and a roof. It was a neighborhood and a community - one that looks out for others, where you can rely on those next door and feel safe about those you welcome in.

The introduction of the proposed commercial use of the house next door is in direct contrast to the values and sense of community that homeowners and long term residents go out of their way to foster and nurture here.

Beyond the fact that we are a very small community there are larger misgivings that need to be recognized. Salem is not immune to the lack of single family housing constraints felt across the country - something many communities have encountered and fought back against to maintain their own integrity. It is no surprise that there are others who seek to commercialize on the location of our neighborhood but that is also what makes it worth protecting.

We see no positive outcome to this should it be granted and strongly ask you deny opening up our small neighborhood to an unnecessary and unwelcome commercial intrusion.

Sincerely,

Brittiny & Nicholas Olson

## **Bryce Bishop**

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**From:** Jay Burr <jayburr@gmail.com>  
**Sent:** Tuesday, December 6, 2022 4:16 PM  
**To:** Bryce Bishop  
**Subject:** Conditional use for 795 Church Street

Mr Bishop,

I have read the many excellent points from my neighbors that all point to the rejection of the conditional use permit for the house at 795 Church Street. I add my plea to you to not add to the deterioration of this neighborhood and support a neighborhood where you are comfortable to live and raise a family.

Jay and Nancy Burr

## **Bryce Bishop**

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**From:** carleneshopping@mac.com  
**Sent:** Tuesday, December 6, 2022 4:50 PM  
**To:** Bryce Bishop  
**Subject:** 795 Church St. SE (Short term Rental Case No CU-ADJ22-04)

Dear Mr. Bishop,

This request for a short term rental at 795 Church St. SE is incompatible in a nationally designated historic district, which is residential under City code (SRC 230), with clear defined boundaries to not encourage commercial encroachment since 1986; the City, with such a clear need, should not reduce family housing stock.

Other cities are re-evaluating such conditional uses. Nearby McMinnville declared a Moratorium in 2021, reaffirmed and extended the Moratorium on November 18, 2022, until the re-evaluation is completed. Clear evidence exists that communities are reassessing the benefits of such conversions of single family homes, and finding negative outcomes can result from such conversions.

The applicant has not met approval criteria SRC 240.005(d)(2): the reasonably likely adverse impacts of the use on the immediate neighborhood cannot be minimized through the imposition of conditions. This application should be denied.

Thank you,  
Mary B. Orr  
545 Leslie St. SE