

PLANNING COMMISSION STAFF REPORT
VACATION RENTAL CONDITIONAL USE PERMIT
3951 N Boomer Drive

HEARING DATE: September 8, 2022

FILE NO: CUP22-0010

REQUEST: Conditional use permit approval to use a single-family dwelling as a vacation rental home

LOCATION: 3951 N Boomer Drive

TAX LOT: R3207BA 04000

APPLICANT/OWNER: Chris & Kelley Kish

ZONE: R-1 (Low Density Residential)

PLAN DISTRICT: LDR (Low Density Residential)

ATTACHMENTS:

Planning Commission Order 2022-012 with:

Exhibit A: Findings

Exhibit B: Conditions of Approval

Attachment 1: Application

Attachment 2: Agency Comments

A. DESCRIPTION OF APPLICATION: The applicant is requesting Conditional Use Permit (CUP) approval to use an existing four-bedroom home as a vacation rental located at 3951 N Boomer Drive. The use as a vacation rental would provide accommodations to families and travelers that want to experience wine country. The applicant has stated that two off-street parking spaces will be available in the driveway with two additional spaces in the garage for use by short-term tenants. The subject property is zoned R-1 (Low Density Residential). Attachment 1 contains the submitted application.

B. LOCATION: 3951 N Boomer Drive



C. SITE INFORMATION:

1. Location: 3951 N Boomer Drive
2. Total Lot Size: 5,130 square feet

3. Topography: Flat
4. Current Land Uses: Single family residential
5. Natural Features: Vegetation
6. Adjacent Land Uses:
 - a. North: Single-family residential
 - b. South: Single-family residential
 - c. East: Single-family residential
 - d. West: Single-family residential
7. Zoning:
 - a. North: R-1 (Low Density Residential)
 - b. South: R-1 (Low Density Residential)
 - c. East: R-1 (Low Density Residential)
 - d. West: R-1 (Low Density Residential)
8. Access and Transportation: Access to the vacation rental will occur via N Boomer Drive. N Boomer Drive is classified as a local residential street in the City's Interactive Planning Map. N Boomer Drive is a paved road.
9. Utilities:

Water: The City's GIS illustrates an 8-inch water main in N Boomer Drive with an existing service lateral to the property.

Wastewater: The City's GIS illustrates an 12-inch wastewater line in N Boomer Drive with an existing service lateral to the property.

Stormwater: The City's GIS illustrates a storm collector system drains into the gutter and then into the City's stormwater system.

Overhead Lines: Any new overhead utility connections to the property must be undergrounded. See NMC 15.430.010 for exception provisions.

- D. PROCESS:** This Conditional Use Permit request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission

will hold a quasi-judicial public hearing on the application. The Commission will make a decision on the application based on the criteria listed in the attached findings. The Planning Commission's decision is final unless appealed. Important dates related to this application are as follows:

- 7/22/22: The Community Development Director deemed the application complete.
- 8/1/22: The applicant mailed notice to the property owners within 500 feet of the site.
- 8/1/22: The applicant posted notice on the site.
- 8/17/22: The *Newberg Graphic* published notice of the Planning Commission hearing and notice was posted in four public places.
- 9/8/22: The Planning Commission will hold a quasi-judicial public hearing to consider the application.

E. AGENCY COMMENTS: The application was routed to several public agencies and City departments for review and comment. Comments and recommendations from City departments have been incorporated into the findings and conditions of approval. As of the writing of this report, the City received the following responses from the following referral agencies (Attachment 2):

1. Community Development Director: Reviewed, no conflict
2. Water Treatment Superintendent: Backflow assembly listed for this address is not in compliance with testing, last test record received was 2/9/2019.
3. City Manager: Reviewed, no conflict.
4. Engineering: Reviewed, no conflict.
5. Finance: Reviewed, no conflict.
6. Police: Reviewed, no conflict.
7. Public Works Director: Reviewed, no conflict.
8. Public Works Maintenance Superintendent: Reviewed, no conflict.
9. Public Works Wastewater: Reviewed, no conflict.
10. Zply: Reviewed, no conflict.

F. PUBLIC COMMENTS: As of the writing of this report, the City has received the following public comments on the proposal:

Linda Hayes: “I live at 3991 N Boomer Dr. I have no problem with Chris + Kelley Kish using their home as a short-term rental. If you look down our street 3951 is one of the better yard and curb appeal homes. They have been using it as a B+B and I have never had any problems with the visitors who have used this home. They have my stamp of approval.”

David and Gail Bradshaw: “We know time is of the essence, so this will be as direct as possible. While we appreciate Chris and Kelley’s desire to both make some additional revenue for themselves in these difficult times and provide vacation space for tourists who find this area a desirable destination, we have seen first hand how these kinds of arrangements can quickly turn into problems for the neighbors and the community. We see the clear specifications: Limit on occupancy to eight adults and prohibiting smoking, events, or parties. Quiet hours after 9 p.m. No street parking allowed. No changes to existing structure or site. With all due respect, our concern is what we have seen elsewhere when guidelines aren’t followed. The headache falls to the rest of us to put up with neighborhood nuisances (garbage, noise, extra traffic, to mention a few) and/or contact the appropriate agencies to straighten out the problems. We don’t foresee any legal policing available for any of the above-named specifications. So, our preference is to respectfully deny this request. We have a peaceful, congenial and concerned community and don’t want anything to destroy that.”

David Chetlain: “I live at 3950 N Bruce Drive, Newberg, OR 97132. My backyard faces the property in question. My wife and I oppose the use of this property as a vacation rental. The owners have been using this property as a vacation rental for a while. We have found the guests to be disruptive to the neighborhood. It is often an invasion of our privacy. Many of the guests have smoked and there has been noisy social gatherings that lasted well beyond 9 pm. We feel that this is a residential neighborhood and should continue to be treated as such. If we wanted to move next to a resort or hotel, we would have.”

Staff Response:

The submitted application for a vacation rental is allowed by Newberg Municipal Code (NMC) 15.445 SPECIAL USE STANDARDS and is consistent with other residential uses in design and operating characteristics.

G. ANALYSIS: The proposed vacation rental is compatible with the surrounding residential uses and neighborhood due to its size and scope. The characteristics of a vacation rental are not dissimilar to other rented and owned dwellings. The location of the proposed vacation rental is convenient and attractive for visitors to downtown, George Fox University, and surrounding tourist attractions to Newberg.

The maximum occupancy is regulated by the number of bedrooms – two guests per bedroom. Therefore, the maximum number of guests is eight (8) in the house based on the current 4-bedrooms in the home. There are two off-street parking spaces in the driveway for short term guests provided on the subject property.

H. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony and may be modified after the close of the public hearing. At the time this report was drafted, staff recommends the following motion:

Move to adopt Planning Commission Order 2022-012, which approves the requested conditional use permit with the attached conditions of approval in Exhibit “B”.



PLANNING COMMISSION ORDER 2022-012

**AN ORDER APPROVING CONDITIONAL USE PERMIT CUP22-0010 FOR A
VACATION RENTAL HOME AT 3951 N BOOMER DRIVE, YAMHILL
COUNTY TAX LOT R3207BA 04000**

RECITALS

1. Chris and Kelley Kish applied for a conditional use permit for a vacation rental home at 3951 N Boomer Drive, Yamhill County Tax Lot R3207BA 04000.
2. After proper notice, the Newberg Planning Commission held a public hearing on September 8, 2022, to consider the application. The Commission considered testimony and deliberated.
3. The Newberg Planning Commission finds that the application, as conditioned in Exhibit “B”, meets the applicable Newberg Municipal Code criteria as shown in the findings in Exhibit “A”.

The Newberg Planning Commission orders as follows:

1. Conditional Use Permit Application CUP22-0010 is hereby approved, subject to the conditions contained in Exhibit “B”. Exhibit “B” is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit “A” are hereby adopted. Exhibit “A” is hereby adopted and by this reference incorporated.
3. This order shall be effective on September 22, 2022, unless appealed prior to this date.
4. This order shall expire one year after the effective date above if the applicant does not commence use of the home as a vacation rental unless an extension is granted per Newberg Development Code 15.225.100.

Adopted by the Newberg Planning Commission this 8th day of September 2022.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit “A”: Findings

Exhibit “B”: Conditions of Approval

**Exhibit “A” to Planning Commission Order 2022-012
Findings – File CUP22-0010
Vacation Rental at 3951 N Boomer Drive**

A. Conditional Use Permit Criteria That Apply - Newberg Development Code 15.225.060.

- A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.*

Finding: The vacation rental would be in an existing four-bedroom, single-family dwelling in a neighborhood north of Downtown Newberg. The property owners are planning to use the dwelling as a short-term vacation rental for families and travelers. The site maintenance and management will be managed by the owner.

The proposed vacation rental use is similar to a regular residential use in design and operating characteristics. The home has four bedrooms so a maximum of eight renters would be allowed to occupy the home. Two off-street parking spaces are provided on the property with two more available in the garage. Single-family R-1 zoned properties are located to the north, south, east, and west of the subject property. The subject property is zoned R-1. A vacation rental use is compatible with the surrounding residential neighborhood and would effectively function no differently than the existing residential uses in the surrounding area. This criterion is met.

- B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.*

Finding: The location of the dwelling is attractive for a vacation rental due to its proximity to downtown Newberg. The downtown area is about two miles to the south. A vacation rental is a compatible use with other residential uses because it is similar in size and scope to a long-term rented (longer than 30-days) or owned dwelling. This criterion is met.

- C. The proposed development will be consistent with this code.*

Finding: The vacation rental standards are addressed in findings below; if the development complies with the standards of NMC Section 15.445.300, the application will be consistent with code requirements.

B. Applicable Criteria - NMC 15.445.300 Vacation Rental Homes

15.445.310 Where allowed.

Vacation rental homes are permitted in areas shown on Chapter 15.305 NMC.

The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

Finding: The subject property is zoned R-1. The table below is an excerpt from Chapter 15.305 of the NMC, which states vacation rental homes are permitted as a conditional use in the R-1 zone. The owner has applied for conditional use permit approval for the proposed vacation rental home. The structure was previously approved for occupancy as a single-family dwelling unit.

<u>Use</u>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3
<u>Vacation rental home</u>	C	C	S	S	S	S(13)	S(13)	S(13)

This criterion is met.

15.445.320 Registration required.

Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.

Finding: As required by NMC 15.445.320, prior to the use of the home as a vacation rental the owner or applicant will be required to register the vacation rental home with the City and will be required to pay the transient lodging tax. This criterion will be met with the adherence to the aforementioned condition of approval.

15.445.330 Standards.

A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.

B. The applicant shall provide for regular refuse collection.

C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.

D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.

Finding: The proposed vacation rental would be in an existing four-bedroom single-family dwelling. There are two off-street parking spaces available on the existing driveway and two

additional spaces in the garage. The applicant will be responsible for providing for regular refuse collection and has indicated that service is currently set up with Waste Management. Prior to the use of the home as a vacation rental, the property must be enrolled in regular weekly refuse collection services, in order to comply with this Section of the NMC. The home has four bedrooms; therefore, the maximum number of guests is limited to six (8). Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during the rental occupancy. The owner is conditioned to keep at least two off-street parking spaces available for use of vacation rental guests. The owner has proposed at least two off-street parking spaces. These criteria are met with the adherence to the aforementioned conditions of approval.

15.445.340 Registration posting.

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

- A. The name of the operator and a telephone number where the operator may be reached.***
- B. The telephone number for the police department.***
- C. The maximum number of occupants permitted to stay in the dwelling.***
- D. The standards for the rental occupancy.***
- E. The solid waste collection day.***

Finding: The applicant has acknowledged the requirements listed in NMC Section 15.445.340 and has stated that they will comply with these requirements. Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Chris & Kelley Kish

Phone Number: (971) 563-3756

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Eight (8)

Trash Pick-Up Day: Wednesday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 8 people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

The requirements of Section 15.445.040 will be met with the adherence to the aforementioned conditions of approval.

15.445.350 Complaints and revocation of registration.

If the city receives two or more written complaints within a one-year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.

B. Impose additional conditions necessary to fulfill the purpose of this section.

C. Establish a probationary period to monitor compliance.

D. Dismiss the complaint.

E. Refer the matter to the code enforcement officer for citation in municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

Finding: The City will follow the procedures listed above in the event complaints are received about the vacation rental home. The applicant's narrative acknowledges Section 15.445.050 complaints and revocation of registration. The applicants have indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

C. CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Municipal Code, subject to completion of and adherence to the attached conditions of approval in Exhibit "B".

**Exhibit “B” to Planning Commission Order 2022-012
Conditions of Approval – File CUP22-0010
Vacation Rental Home at 3951 N Boomer Drive**

THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO USE AS A VACATION RENTAL AND ADHERED TO IN ORDER TO CONTINUE THE USE OF A VACATION RENTAL:

1. **Transient Lodging Tax:** Prior to the use of the home as a vacation rental the owner or applicant will be required to register the vacation rental home with the City of Newberg and will be required to pay the transient lodging tax.
2. **Refuse Collection:** Prior to the use of the home as a vacation rental, the property must be enrolled in regular weekly refuse collection services.
3. **Parking:** Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during the rental occupancy. The owner is conditioned to keep at least two off-street parking spaces available for use of vacation rental guests.
4. **Posting:** Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Chris & Kelley Kish

Phone Number: (971) 563-3756

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

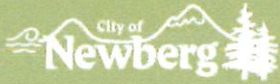
Max Number of Guests: Eight (8)

Trash Pick-Up Day: Wednesday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 8 people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

Attachment 1: Application



TYPE III APPLICATION (QUASI-JUDICIAL REVIEW)

File #: CUP22-0010

TYPES – PLEASE CHECK ONE:

- Annexation
- Comprehensive Plan Amendment (site specific)
- Zoning Amendment (site specific)
- Historic Landmark Modification/alteration
- Conditional Use Permit
- Type III Major Modification
- Planned Unit Development
- Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: Christopher and Kelley Kish
 ADDRESS: 3951 N Boomer Dr, Newberg, OR 97132
 EMAIL ADDRESS: cakhomes@gmail.com
 PHONE: 971-563-3756 MOBILE: _____ FAX: _____
 OWNER (if different from above): na PHONE: _____
 ADDRESS: _____
 ENGINEER/SURVEYOR: na PHONE: _____
 ADDRESS: _____

GENERAL INFORMATION:

PROJECT NAME: Your Wine Country Home PROJECT LOCATION: 3951 N Boomer Dr, Newberg
 PROJECT DESCRIPTION/USE: Short Term Vacation Rental
 MAP/TAX LOT NO. (i.e. 3200AB-400): R3207BA 04000 ZONE: R1 SITE SIZE: 5130 SQ. FT. ACRE
 COMP PLAN DESIGNATION: _____ TOPOGRAPHY: Flat
 CURRENT USE: Single Family Residence
 SURROUNDING USES:
 NORTH: Single Family Residence SOUTH: Single Family Residence
 EAST: Single Family Residence WEST: Single Family Residence

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Annexationp. 15
 Comprehensive Plan / Zoning Map Amendment (site specific)p. 19
 Conditional Use Permitp. 21
 Historic Landmark Modification/Alterationp. 23
 Planned Unit Developmentp.26

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Kelley Kish 6/30/2022
 Applicant Signature Date

Christopher Kish 6/30/2022
 Owner Signature Date

Kelley Kish
 Print Name

Christopher Kish
 Print Name



Ticor Title Company of Oregon
1433 SW 6th Avenue
(503)646-4444

OWNERSHIP AND MONETARY ENCUMBRANCES REPORT WITH GENERAL INDEX LIENS
Informational Report of Ownership and Monetary Encumbrances

To ("Customer"): Chris and Kelley Kish
3951 N Boomer Drive
Newberg, OR 97132

Customer Ref.: _____
Order No.: 471822118541
Effective Date: May 11, 2022 at 08:00 AM
Charge: \$100.00

The information contained in this report is furnished by Ticor Title Company of Oregon (the "Company") as a real property information service based on the records and indices maintained by the Company for the county identified below. THIS IS NOT TITLE INSURANCE OR A PRELIMINARY TITLE REPORT FOR, OR COMMITMENT FOR, TITLE INSURANCE. No examination has been made of the title to the herein described property, other than as specifically set forth herein. Liability for any loss arising from errors and/or omissions is limited to the lesser of the charge or the actual loss, and the Company will have no greater liability by reason of this report. THIS REPORT IS SUBJECT TO THE LIMITATIONS OF LIABILITY STATED BELOW, WHICH LIMITATIONS OF LIABILITY ARE A PART OF THIS REPORT.

THIS REPORT INCLUDES ONLY MONETARY ENCUMBRANCES.

Part One - Ownership and Property Description

Owner. The apparent vested owner of the property ("the Property") as of the Effective Date is:

Christopher A. Kish and Kelley E. Kish, as tenants by the entirety

Premises. The Property is:

(a) Street Address:

3951 N Boomer Drive, Newberg, OR 97132

(b) Legal Description:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Part Two - Monetary Encumbrances

Monetary Encumbrances. As of the Effective Date, the Property appears subject to the following monetary encumbrances of record, not necessarily listed in order of priority, including liens specific to the subject property and general index liens (liens that are not property specific but affect any real property of the named person in the same county):

EXCEPTIONS

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2021-2022
Amount: \$4,615.82
Levy Code: 29.0
Account No.: 710470
Map No.: R3207BA 04000

1. City Liens, if any, in favor of the City of Newberg.
2. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$292,000.00
Dated: June 30, 2020
Trustor/Grantor: Christopher A. Kish and Kelley E. Kish, as tenants by the entirety
Trustee: Lawyers Title
Beneficiary: Mortgage Electronic Registration Systems, Inc., solely as nominee for Directors Mortgage, Inc.
Loan No.: 200506428/MIN: 1002473-3000103809-2
Recording Date: July 7, 2020
Recording No: 202011057

NOTE: Based on recitals in the trust deed or an assignment of the trust deed, it appeared that Directors Mortgage, Inc. was the then owner of the indebtedness secured by the trust deed. It may be possible, for a MERS trust deed, to obtain information regarding the current owner of the indebtedness and the servicer, if any, by contacting MERS at 888-679-6377 or through the MERS website.

End of Reported Information

There will be additional charges for additional information or copies. For questions or additional requests, contact:

Deborah Clark
5035353743
deborah.clark@titlegroup.fntg.com

EXHIBIT "A"
Legal Description

Lot 52, GRACIES LANDING PHASE 3, according to the Plat thereof, recorded May 17, 2018, as Instrument No. 201807016 and being in the City of Newberg, County of Yamhill and State of Oregon.

LIMITATIONS OF LIABILITY

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, **SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.**

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

Ticor Title Company of Oregon
Order No. 471822118541

IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

RECORDING REQUESTED BY:



6000 Meadows Rd, Ste 100
Lake Oswego, OR 97035

AFTER RECORDING RETURN TO:

Christopher A. Kish and Kelley E. Kish, as tenants by the entirety
3951 N Boomer Drive
Newberg, OR 97132

SEND TAX STATEMENTS TO:

Christopher A. Kish and Kelley E. Kish
3951 N Boomer Drive
Newberg, OR 97132

710470
3951 N Boomer Drive, Newberg, OR 97132

Yamhill County Official Records	202011056
DMR-DDMR	07/07/2020 11:15:00 AM
Str=1014 JENSENC	
2Pgs \$10.00 \$11.00 \$5.00 \$60.00	\$86.00
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE

BARGAIN AND SALE DEED - STATUTORY FORM
(INDIVIDUAL or CORPORATION)

Title - 471820093468

Christopher A. Kish, Grantor, conveys to **Christopher A. Kish and Kelley E. Kish, as tenants by the entirety**, Grantee, the following described real property, situated in the County of Yamhill, State of Oregon,

Lot 52, GRACIES LANDING PHASE 3, in the City of Newberg, County of Yamhill and State of Oregon.

The true consideration for this conveyance No Dollars And No/100 Dollars (\$0.00). (See ORS 93.030).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

BARGAIN AND SALE DEED - STATUTORY FORM
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 7-1-2020

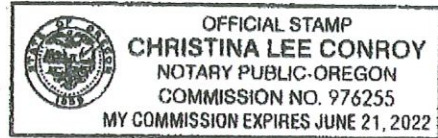
Christopher A. Kish
Christopher A. Kish

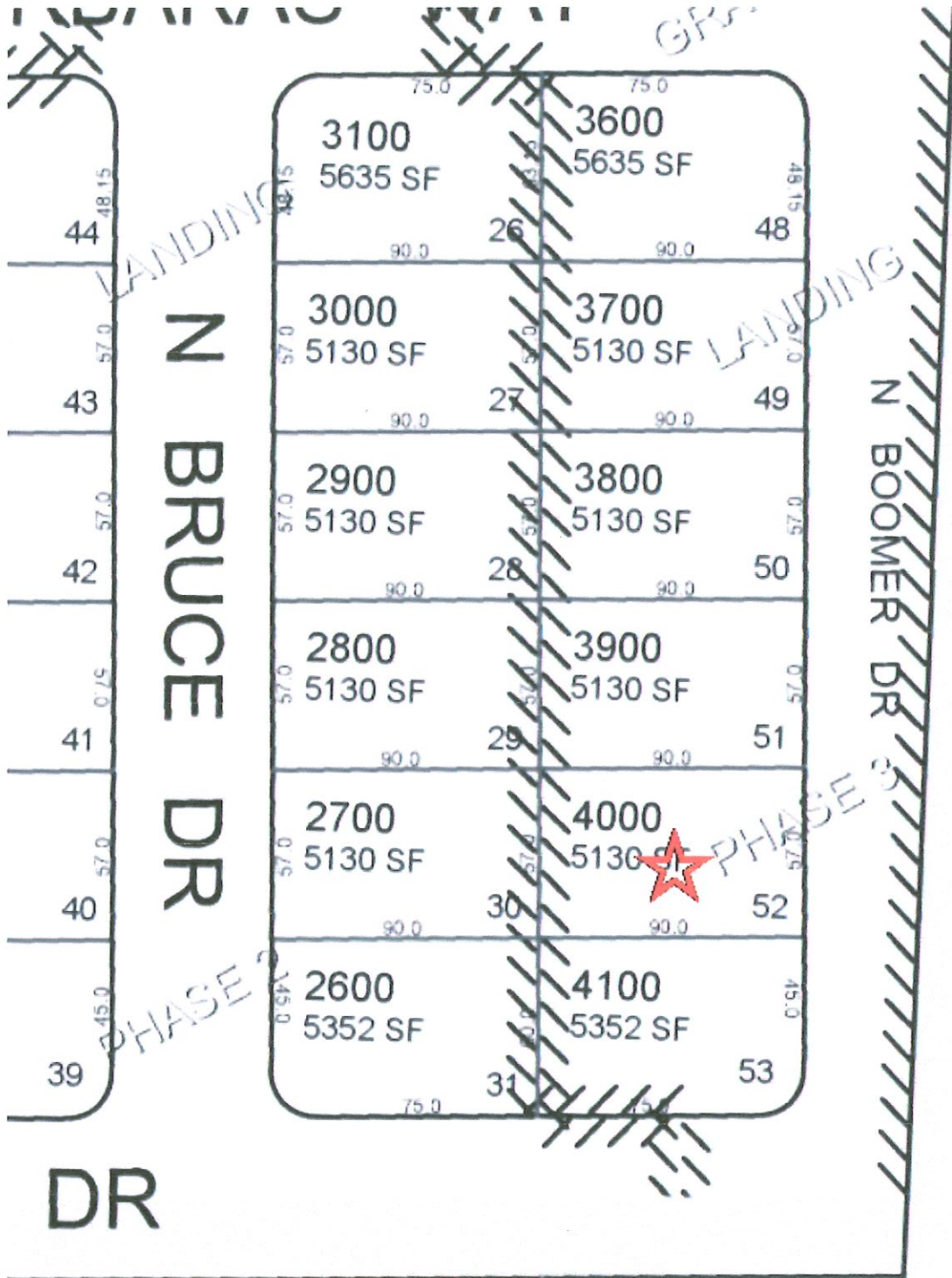
State of Oregon
County of Clatsop

This instrument was acknowledged before me on 7-1-2020 - by Christopher A. Kish.

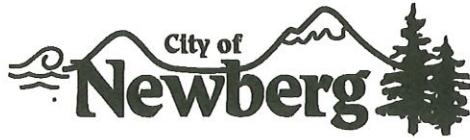
Christina Lee Conroy
Notary Public - State of Oregon

My Commission Expires: 6/21/2022





This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.



Community Development Department
P.O. Box 970 • 414 E First Street • Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

WE WANT YOUR COMMENTS ON A CONDITIONAL USE PERMIT IN YOUR NEIGHBORHOOD

A property owner in your neighborhood submitted an application to the City of Newberg to operate a short-term rental on the subject property. You are invited to take part in the City's review of this project by sending in your written comments. You also may request that the Planning Commission hold a hearing on the application. For more details about giving comments, please see the back of this sheet.

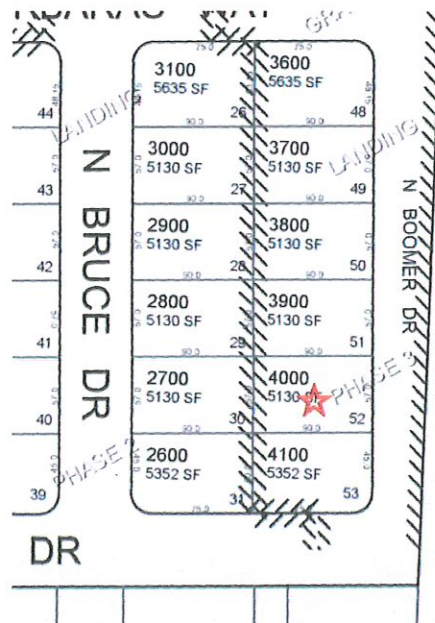
The development would include a short-term rental with a limit on occupancy to eight adults and prohibiting smoking, events or parties. Quiet hours after 9pm. No street parking allowed. No changes to the existing structure or site – and to retain an appearance and consistency with the current neighborhood.

APPLICANT: Chris & Kelley Kish
TELEPHONE: 971-373-0084

PROPERTY OWNER: Chris & Kelley Kish

LOCATION: 3951 N Boomer Dr, Newberg, OR 97132

TAX LOT NUMBER: R3207BA 04000



We are mailing you information about this project because you own land within 500 feet of the proposed new project. We invite you to send any written comments for or against the proposal within 14 days from the date this notice is mailed. You also may request that the Newberg Planning Commission hold a hearing on the application by sending a written request during this 14-day period and identifying the issues you would like the Planning Commission to address.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: File TBD
City of Newberg
Community Development Department
PO Box 970
Newberg, OR 97132

All written comments must be turned in by 4:30 p.m. on **July 15th, 2022**. Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be submitted to the City in writing before this date. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for preliminary subdivision plan approval are found in Newberg Development Code 15.235.060(A).

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

The Community Development Director will make a decision at the end of a 14-day comment period. If you send in written comments about this project, you will be sent information about any decision made by the City relating to this project.

Date Mailed: **July 1st, 2022**

**CITY OF NEWBERG
SAMPLE POSTED NOTICE**

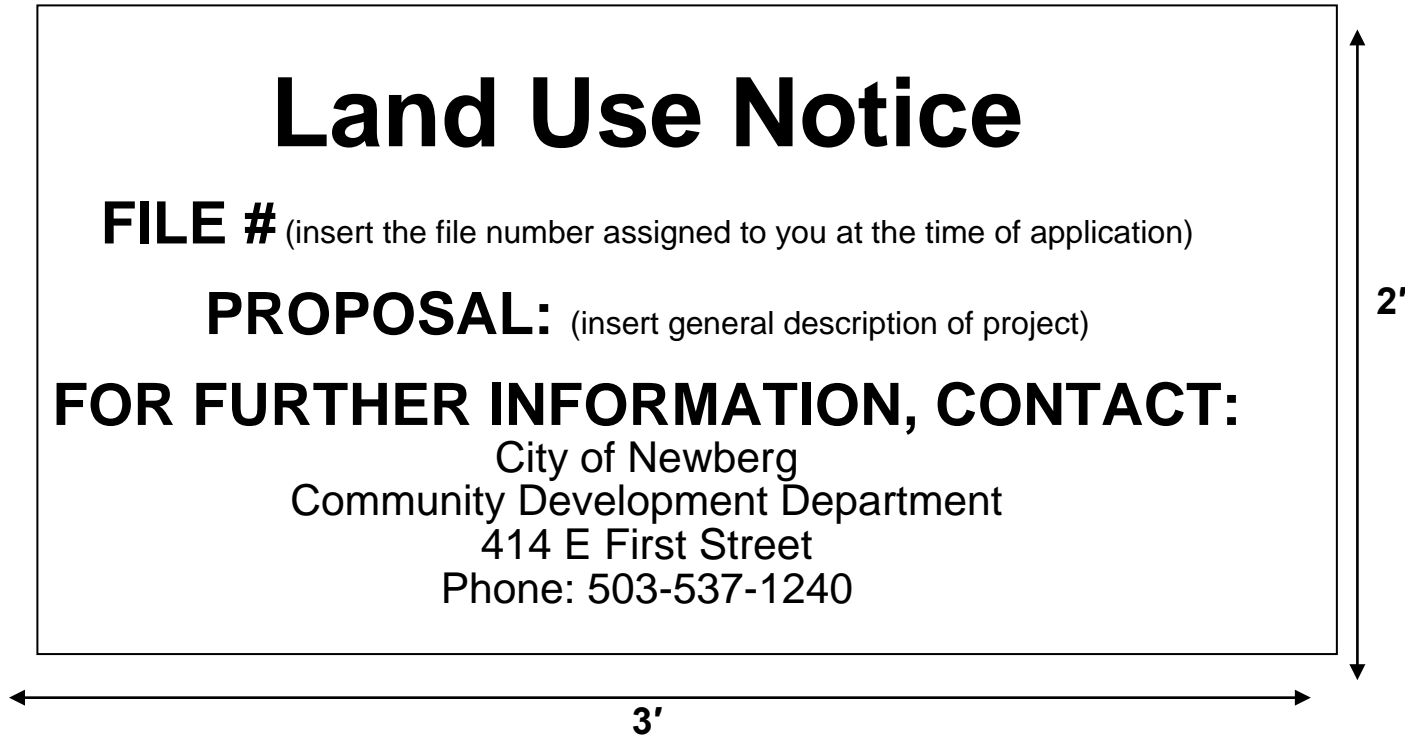
Land Use Notice

FILE # (insert the file number assigned to you at the time of application)

PROPOSAL: (insert general description of project)

FOR FURTHER INFORMATION, CONTACT:

City of Newberg
Community Development Department
414 E First Street
Phone: 503-537-1240



Notice must be white with black letters, and must be landscape orientation, as shown above.
The notice must be lettered using block printing or a "sans-serif" font, such as Arial.

WRITTEN CRITERIA RESPONSE

Existing Site Narrative

- The home was built in 2018 and no changes need to be made to the existing structure.
- The backyard is completely fenced
- Yard has a manicured lawn in front and synthetic lawn in back with all foliage being watered using a timed irrigation system.

Drainage and Grading

The house has very good drainage. The grading is from the backyard to the front and the driveway slopes to the street allowing for all drainage to move away from the home.

Utilities

City of Newberg public utilities map attached

Home

Layers

- Streets
- Buildings
- Landmarks
- Parks
- Water
- Topography
- Utility
- Other

Map Style

Map Scale

Map Data

Map Legend

- Streets
- Buildings
- Landmarks
- Parks
- Water
- Topography
- Utility
- Other

Map Tools

- Home
- Previous View
- Next View
- Full Screen
- Print
- Share

Map Data

Map Legend

- Streets
- Buildings
- Landmarks
- Parks
- Water
- Topography
- Utility
- Other

Map Tools

- Home
- Previous View
- Next View
- Full Screen
- Print
- Share







Your Wine Country Home

3951 N Boomer Dr

Newberg OR 97132

City of Newberg Conditional Use Permit

Written Criteria Response

City of Newberg Municipal Code 15.225.06

- A. Proposed use will be a short-term vacation rental (STR) while owners are not in the residence.
 - 1. The proposed STR is a SFR that was built in 2018 in the newer Gracies Landing subdivision.
 - 2. The house is a 1-story 4 bedroom single family residence on a 5130 sf lot. It has a direct neighbor to the north, south east and west. The property has a 2-car garage and 2 car parking in the driveway
- B. The location, design and site of this proposed STR will not generate any more traffic than long-term residents would living full time in the home.
- C. The proposed STR use will be consistent with ORD. 2451, 12-2-96. Code 2001 c 151.210

City of Newberg Municipal code 15.445.300 – 15.445-350

15.445.300 – Application and purpose.

3951 N Boomer Dr is a single family home that will be available, advertised or listed by an agent as available for rent for occupancy for periods of less than 30 days.

15.445.310 Where Allowed.

This home is zoned R1 for use as a vacation rental with a conditional use permit.

15.445.320 – Registration Required

In agreement with this application all information will be submitted with the forms and will include the name and contact information for the owner, operator and local contact.

15.445.330 – Standards.

- A. Provide a minimum of 2 parking spaces – There are 2 spaces in the garage and 2 spaces in the driveway.
- B. Provide regular refuse pick up – This is a service currently set up Waste Management for trash, recycling and yard debris.
- C. Occupancy – The SFR has 4 conforming bedrooms so the occupancy limit will be set at 8 people.
- D. Premises – This STR will not allow the use of occupied recreational vehicles, trailers, tents or temporary shelters during the rental occupancy.

15.445.340 Registration Posting.

This STR will have a vacation rental home registration adjacent to the entry door with the following information:

- A. The name of the operator and a telephone number where the operator may be reached.
- B. The telephone number for the police department.
- C. The maximum number of occupants permitted to stay in the dwelling (8)
- D. The standards for the rental occupancy.
- E. The solid waste collection day.

15.445.350 – Complaints and revocation of registration

Owner is fully aware and understand the above code and will make every effort to follow up with all complaints.

Project Statement

The property is located within 1 mile of the Darnell Wright Sport Complex and multiple local wineries. It is also within a few miles of George Fox University, downtown businesses and restaurants. This short term rental will provide a place for visiting university parents, wine enthusiasts, and baseball/softball families to stay and will bring tourists and revenue to local Newberg businesses. As a short term rental the impact to the surrounding properties will not be significantly impacted.

Updates to the property include light fixtures, interior paint, landscaping, front door security hardware, and all add to the value of the home and in turn, the neighborhood. Front and rear landscaping will be professionally maintained on a weekly schedule to keep in line with the neighborhood.

Tax revenue will support the local economy through annual property tax as well as the short term rental lodging tax that is required payment by each guest booking.

Local businesses and restaurants will also be promoted and featured through a welcome book with menus and information flyers as well as welcome gifts left for guests upon check in.

Attachment 2: Agency Comments

REFERRAL TO: Community Development Director: Doug Rux

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: September 01, 2022. Please refer questions and comments to Sam Gudmestad.

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT: Christopher & Kelley Kish
REQUEST: Short term Vacation Rental
SITE ADDRESS: 3951 N. Boomer Dr.
LOCATION: N/A
TAX LOT: R3207BA 04000
FILE NO: CUP22-0010
ZONE: R-1 (Low Density Residential)
HEARING DATE: N/A



The Information is attached:

- Reviewed, no conflict.
- Reviewed; recommend denial for the following reasons:
- Require additional information to review. (Please list information required)
- Meeting requested.
- Comments. (Attach additional pages as needed)



Reviewed By:

8/22/22

Date:



COMMUNITY DEVELOPMENT LAND USE APPLICATION REFERRAL

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Digitally signed by Will
DN: c=US, ou=Worthey, o=City of Newberg, cn=Will
E=will.worthey@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2022.08.18 13:19:52-0700
Foxit PhantomPDF Version: 10.1.7

8/18/22

Reviewed By:

Date:

Will Worthey CM

Organization:



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Brett Musick

Reviewed By:

CON PW Engineering

Organization:

8/19/22

Date:



COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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ZONE: R-1 (Low Density Residential)
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B Davis

Reviewed By:

8/23/22

Date:

Finance

Organization:



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Jeff Kosmicki
Digitally signed by Jeff Kosmicki
DN: O=Chief of Police, CN=Jeff Kosmicki, E=jeff.kosmicki@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2022.08.19 16:28:30-0700
Foxit PhantomPDF Version: 10.1.7

8/19/22

Reviewed By:

Date:

Newberg-Dundee Police Department

Organization:



COMMUNITY DEVELOPMENT LAND USE APPLICATION REFERRAL

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Russ Thomas
Digitally signed by Russ Thomas
DN: c=US, ou=Public Works Director, o=City of Newberg, cn=Russ Thomas,
email=russ.thomas@newbergoregon.gov
Reason: I am approving this document
Location: your signing location here
Date: 2022.08.22 17:53:29-0700
Foxit PhantomPDF Version: 10.1.7

8/22/22

Reviewed By:
Public Works Director, City of Newberg
Organization:

Date:



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RECEIVED

8/19/2022

batesf

Project Information is Attached

Reviewed, no conflict.

Reviewed; recommend denial for the following reasons:

Require additional information to review. (Please list information required)

Meeting requested.

Comments. (Attach additional pages as needed)

Carl Ramseyer

Reviewed By:

8/19/22

Date:

Organization:



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Reviewed By: _____

8/18/22

Date: _____

City of Newberg

Organization: _____



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Require additional information to review. (Please list information required)

Meeting requested.

Comments. backflow assembly listed for this address is not in compliance with testing last test record received was 2/9/2019



Reviewed By:

_____ Date:

City of Newberg - Operations

Organization:

Fe Bates

From: Dan Wilson
Sent: Thursday, August 18, 2022 1:06 PM
To: Fe Bates
Cc: Sam Gudmestad
Subject: RE: City of Newberg Community Development Land Use Application Referral-CUP22-0010

This address has a backflow prevention device on the irrigation system that is not in compliance with testing. The last test result we have for this address was on 2/9/2019. State and City codes require that testing be completed annually. If this is a reason to not approve the application let me know and I will, but testing should be brought into compliance before approval.

Thanks

Dan Wilson
Water Treatment Superintendent / Cross Connection Specialist
City of Newberg
Direct: 503-537-1239
Cell: 971-246-0022



From: Fe Bates <Fe.Bates@newbergoregon.gov>
Sent: Thursday, August 18, 2022 12:43 PM
Cc: Fe Bates <Fe.Bates@newbergoregon.gov>; Sam Gudmestad <Sam.Gudmestad@newbergoregon.gov>
Subject: City of Newberg Community Development Land Use Application Referral- CUP22-0010

Good Day,

I am sending you a Land Use Application Referral sheet for a project proposal that was submitted to the City of Newberg.

The project information is attached to the Referral.

Please fill out the attached Referral Sign Off sheet and email it back no later than **September 01, 2022** to Planning@newbergoregon.gov.

Please reach out if you have any questions.

Thank you,



COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Reviewed By:

Scott Albert - Ziplly Fiber OSP Engineering

Organization:

8/18/22

Date: