

**NOTICE OF DECISION**  
**1738 E DARBY COURT CONDITIONAL USE PERMIT – CUP22-0013**

January 17, 2023

Tyler Van Hoomissen  
2650 Coeur D Alene Dr  
West Linn, OR 97068

Cc: All persons who provided public comment

On January 12, 2023, the Newberg Planning Commission approved conditional use permit CUP22-0013 for a vacation rental at 1738 E Darby Court, tax lot R3220CA 00913, subject to the conditions listed in the attached Order. The Commission's decision will become effective on January 27, 2023, unless an appeal is filed.

An affected party may appeal the Commission's decision to the City Council within 14 calendar days of the Commission's written decision in accordance with Newberg Development Code §15.100.170. Affected parties include the applicant, any party entitled to receive notice of the hearing, anyone providing written or oral comments at the hearing, and anyone providing written comments prior to the close of the hearing. All appeals must be in writing on a form provided by the Planning Division. Anyone wishing to appeal must submit the written appeal form together with the required fee of \$1,165 plus the 5% Technology Fee to the Planning Division.

**The deadline for filing an appeal is 4:30 pm on January 26, 2023.**

At the conclusion of the appeal period, please remove all notice signs from the site.

The conditional use permit is effective only when the exercise of right granted is commenced within one year of the effective date listed above. If you are approaching the expiration date, please contact the Planning Division regarding extension opportunities.

If you have any questions, please contact me at 503-554-7764 or [sam.gudmestad@newbergoregon.gov](mailto:sam.gudmestad@newbergoregon.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Gudmestad".

Sam Gudmestad  
Assistant Planner

Attachment: Order 2023-01



## PLANNING COMMISSION ORDER 2023-01

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AN ORDER APPROVING CONDITIONAL USE PERMIT CUP22-0013 FOR A  
VACATION RENTAL HOME AT 1738 E DARBY COURT, YAMHILL COUNTY  
TAX LOT R3220CA 00913

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### RECITALS

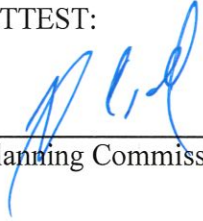
1. Tyler Van Hoomissen applied for a conditional use permit for a vacation rental home at 1738 E Darby Court, Yamhill County Tax Lot R3220CA 00913.
2. After proper notice, the Newberg Planning Commission held a public hearing on January 12, 2023, to consider the application. The Commission considered 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 CUP22-0013 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 January 27, 2023, 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 12<sup>th</sup> day of January 2023.

ATTEST:

  
\_\_\_\_\_  
Planning Commission Chair

  
\_\_\_\_\_  
Planning Commission Secretary

**Exhibit “A” to Planning Commission Order 2023-01  
Findings – File CUP22-0013  
Vacation Rental at 1738 E Darby Court**

**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 three-bedroom, single-family dwelling in a neighborhood southeast of Downtown Newberg. The property owners are planning to use the dwelling as a short-term vacation rental for families and travelers. Bookings will be done through Airbnb and the site maintenance and management will be managed by the owners.

The proposed vacation rental use is similar to a regular residential use in design and operating characteristics. The home has three bedrooms so a maximum of six renters would be allowed to occupy the home. Two off-street parking spaces are provided on the property. Single-family R-2 zoned properties are located to the north, south, west, and east of the subject property. The subject property is zoned R-2. 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 less than a mile to the northwest. 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-2. 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-2 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>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
<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 three-bedroom single-family dwelling. There is one off-street parking space available on the existing driveway and one 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 three bedrooms; therefore, the maximum number of guests is limited to six (6). 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: Tyler Van Hoomissen

Phone Number: (408) 528-4394

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

Max Number of Guests: Six (6)

Trash Pick-Up Day: Friday

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 6 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 2023-01  
Conditions of Approval – File CUP22-0013  
Vacation Rental Home at 1738 E Darby Court**

**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.

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