

PLANNING COMMISSION STAFF REPORT  
VACATION RENTAL CONDITIONAL USE PERMIT  
3238 E PROVINCE COURT

HEARING DATE: September 14, 2023

FILE NO: CUP23-0009

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

LOCATION: 3238 E Province Court

TAX LOT: R3221BB 00711

APPLICANT/OWNER: Jason Phillips

ZONE: R-2 (Medium Density Residential)

PLAN DISTRICT: MDR (Medium Density Residential)

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**ATTACHMENTS:**

Planning Commission Order 2023-17 with:  
Exhibit A: Findings  
Exhibit B: Conditions of Approval

Attachment 1: Application  
Attachment 2: Agency Comments

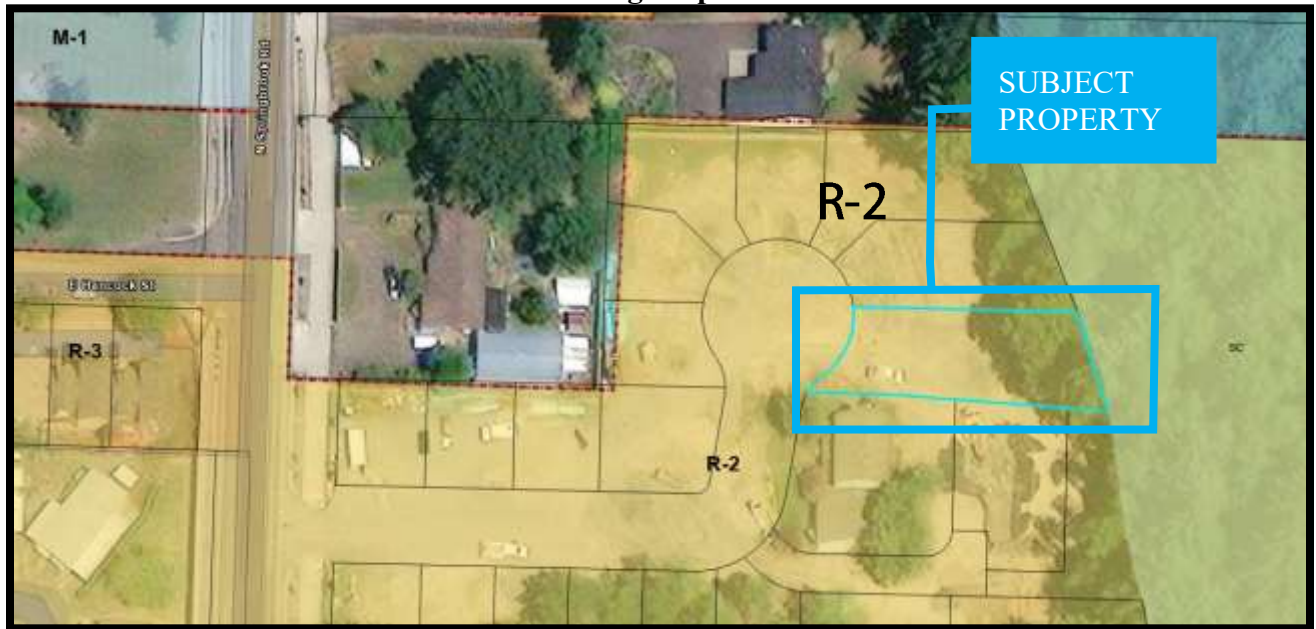
- A. DESCRIPTION OF APPLICATION:** The Applicant is requesting Conditional Use Permit (CUP) approval to use an existing 3,100 square foot single family dwelling for use as a six-bedroom vacation rental at 3238 E Province Court. The subject property includes a total of four off-street parking spaces, including two garage parking spaces and two driveway parking spaces. The application materials indicate that the vacation rental will have an occupancy limit of twelve (12) people. The subject property is located in the R-2 (Medium Density Residential) zoning district. Attachment 1 contains the submitted application materials.

**B. LOCATION: 3238 E Province Court**

**Aerial Map**



**Zoning Map**



**Public Utility Map**



**SUBJECT  
PROPERTY**

### C. SITE INFORMATION:

1. Location: 3238 E Province Court
2. Total Lot Size: 4,437 square feet
3. Topography: Mostly flat with gentle downward slope to eastern portion of subject property
4. Current Land Uses: Single family residential
5. Natural Features: Residential landscaping with limited vegetation to abutting creek area to east of subject property.
6. Adjacent Land Uses:
  - a. North: Single-family residential
  - b. South: Single-family residential
  - c. East: Undeveloped/Creek
  - d. West: Single-family residential
7. Zoning:
  - a. North: R-2 (Medium Density Residential)
  - b. South: R-2 (Medium Density Residential)
  - c. East: R-2 (Medium Density Residential) / SC (Stream Corridor Overlay Subdistrict)
  - d. West: R-2 (Medium Density Residential)
8. Access and Transportation: Access to the vacation rental will occur via E Province Court which is classified as a Residential Street in the City's Transportation System Plan.
9. Utilities:

Water: The City's GIS identifies an 8-inch water main located west of the subject property in E Province Court which provides a connection to the subject property via an existing 3/4-inch service lateral.

**Wastewater:** The City's GIS identifies an 8-inch wastewater main located west of the subject property (front) in E Province Court which provides a connection to the subject property.

**Stormwater:** The City's GIS identifies a 4-inch stormwater collector located west of the property (front) in E Province Court which connects to a 12-inch collector that is also located in E Province Court.

**Overhead Lines:** Any new overhead utility connections to the property must be undergrounded. See Newberg Municipal Code (NMC) 15.430.010 for exception provisions.

- D. PROCESS:** This CUP request is a Type III application and follows the procedures in NMC Section 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:

- 6/5/2023: The Community Development Director deemed the application complete.
- 07/15/23: The applicant posted notice on the site.
- 07/21/23: The applicant mailed notice to the property owners within 500 feet of the site.
- 07/27/23: The *Newberg Graphic* published notice of the Planning Commission hearing and notice was posted in four public places.
- 8/2/2023: The Applicant requested that the public hearing on the application be continued to the next available date and granted a 60-day extension to the City's 120-day decision limit.
- 08/10/23: The Planning Commission continued the hearing for CUP23-0009 to September 14, 2023.
- 09/14/2023 The Planning Commission will hold a quasi-judicial public hearing to consider the application.

- E. AGENCY COMMENTS:** On July 18, 2023, 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 which are also provided in Attachment 2:

1. Building Official: Reviewed, no conflict.
2. City Manager: Reviewed, no conflict.
3. Community Development Director: Comment was provided stating:  
*“5 bedrooms = 10 people. The office is not a bedroom.”*
4. Police: Reviewed, no conflict.
5. Public Works Director: Reviewed, no conflict.
6. Public Works – Maintenance Superintendent: Reviewed, no conflict.
7. Public Works – Wastewater Treatment: Reviewed, no conflict.
8. Public Works – Engineering: Reviewed, no conflict.
9. Portland General Electric. Reviewed, no conflict. Comment provided stating:  
*“Based on the information received there are no PGE conflicts. Facilities appear to remain as they are. No changes.”*

**F. PUBLIC COMMENTS:** As of the writing of this report, the City has received no public comments on the proposal.

**G. ANALYSIS:** The characteristics of a vacation rental are not dissimilar from other rented and owned dwellings. The maximum occupancy is regulated by the number of bedrooms – two guests per bedroom. The application materials (Attachment 1) request that the conditional use permit to operate a vacation rental be approved six bedrooms. However, the building permit issued for the subject property (Record No. NDWL22-0002) include building plans and approval for a 5-bedroom single family home.

Because building permit of the residence recognizes that the single family dwelling has five bedrooms and the City’s regulations relating to vacation rental homes allow up to two guests per bedroom, the maximum number of guests in the house is ten (10). The application materials indicate that four (4) off-street parking spaces will be available at the subject property for use by vacation rental guests. The proposed vacation rental will be compatible with the surrounding residential uses and neighborhood based on the proposed use, size, operating characteristics, and scope.

**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 2023-17, which approves the requested conditional use permit with the attached conditions of approval in Exhibit "B".*



## **PLANNING COMMISSION ORDER 2023-17**

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**AN ORDER APPROVING CONDITIONAL USE PERMIT CUP23-0009 FOR A VACATION RENTAL HOME AT 3238 E PROVINCE COURT, YAMHILL COUNTY TAX LOT R3221BB 00711.**

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### **RECITALS**

1. Jason Phillips applied for a conditional use permit for a vacation rental home at 3238 E Province Court, Yamhill County Tax Lot R3219AC 11700.
2. After proper notice, the Newberg Planning Commission held a public hearing on September 14, 2023, to consider the application. The Commission considered testimony and deliberated.
3. The Newberg Planning Commission finds that the application 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 CUP23-0009 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 29, 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 14<sup>th</sup> day of September 2023.**

ATTEST:

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Planning Commission Chair

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Planning Commission Secretary

List of Exhibits:

Exhibit "A": Findings

Exhibit "B": Conditions of Approval

**Exhibit “A” to Planning Commission Order 2023-17  
Findings – File CUP23-0009  
Vacation Rental at 3238 E Province Court**

Formatting notes: The Newberg Municipal Code (NMC) criteria are written in *italic bold* font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact. Finding of fact with underlined font indicate subsequent inclusion in Exhibit “B” Conditions of Approval.

**I. CONDITIONAL USE PERMIT CRITERIA THAT APPLY (NMC SECTION 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 occur in an existing five-bedroom, single-family dwelling located near Newberg’s downtown area. The Applicant has proposed to use the dwelling as a short-term vacation rental with a maximum occupancy of ten people. The Applicant intends to manage the property with a property management company (Lifestyle Properties). Weekly trash, recycling, and yard waste service are in place for the property and provided by Waste Management.

The proposed vacation rental use is similar to other residential uses in design and operating characteristics. The home has five bedrooms and is therefore eligible to host a maximum of ten (10) occupants. The application materials indicate that four off-street parking spaces will be provided to short-term rental guests, including two garage and two driveway parking areas. The subject property is located in the R-2 zoning district and abutted on all sides by properties within the R-2 zoning district. Additionally, the City’s Stream Corridor Overlay occurs abuts the eastern portion of the property.

Because the size, design and operating characteristics of a vacation rental home are similar to residential use of the existing single-family residence, the 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:** According to the application materials, the location of the dwelling is attractive for a vacation rental because it will provide quick and easy access to Highway 99W and the Newberg-Dundee Bypass, as well backing up to a natural area along the west branch of Springbrook Creek. The downtown central business district is located approximately 1.1 miles west of the subject property. Because the operating characteristics of a vacation rental home are similar in size and scope to a long-term rental (longer than 30-days) or owner occupied dwelling, a vacation rental home is a compatible use with other residential uses.

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 proposed project complies with the standards of Article VII. Vacation Rentals (NMC Chapter 15.445) the application will be consistent with code requirements.

**II. APPLICABLE CRITERIA FOR VACATION RENTAL HOMES (NMC 15.445.300, ARTICLE VII. 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 located in the R-2 zoning district. The table below is an excerpt from NMC Chapter 15.305, which states that vacation rental homes are permitted as a conditional use in the R-2 zoning district. The owner has applied for a conditional use permit 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)

Because vacation rental homes are permitted in the R-2 zoning district as a conditional use and the subject property possesses a single-family dwelling located in the R-2 zoning district, the use is permitted pursuant to approval of a conditional use permit.

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 Applicant has requested to operate a vacation rental property. Because the standards relate to continued operation of the vacation rental, the Applicant shall ensure that the vacation rental will:

- A. Provide at least two off-street parking spaces at the subject property in the driveway.
- B. Maintain weekly garbage, and yard debris collection, and every other week recycling collection by Waste Management that is to be picked up in front of the home.
- C. Offer a vacation rental in an existing five-bedroom single family home with a maximum occupancy of ten people.
- D. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during the rental occupancy.

These criteria are met with the adherence to the 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. Because the Applicant has stated that they will comply with the 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: Jason and Katherine Phillips

Operator Phone Number: 503-347-6360

Rental Management Company and Contact: Lifestyle Properties (Megan Carda)

Rental Management Company Phone Number: 971-832-3399

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

Max Number of Guests: Ten (10)

Trash Pick-Up Day: Friday and Yard Debris; Recycling every other 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 ten 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 NMC Section 15.445.040 will be met with 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 Applicant has indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

### **III. 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 2023-17  
Conditions of Approval – File CUP23-0009  
Vacation Rental Home at 3238 E Province 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:**
  - a. 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. Parking:**
  - a. Provide at least two off-street parking spaces at the subject property in the driveway.
- 3. Refuse Collection:**
  - a. Maintain weekly garbage, and yard debris collection, and every other week recycling collection by Waste Management that is to be picked up in front of the home.
- 4. Maximum Occupancy:**
  - a. Offer a vacation rental in an existing five-bedroom single family home with a maximum occupancy of ten people.
- 5. Temporary Occupancy Limits:**
  - a. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during the rental occupancy.
- 6. 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: Jason and Katherine Phillips

Operator Phone Number: 503-347-6360

Rental Management Company and Contact: Lifestyle Properties (Megan Carda)

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

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