

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
CONDITIONAL USE/ADJUSTMENT CASE NO. 24-030**

APPLICATION: Application of Reliance Estates III LLC for a conditional use permit to operate an nursing care facility and an adjustment to reduce the required 20-foot setbacks from all property lines to the standard setbacks for single family dwellings in the RS zone of 12-feet for the front yard, 5-feet for the side yards and 14-feet for the rear yard on a 0.17-acre parcel in a Single-family Residential (RS) zone located at 3961 Camishaun Ct NE, Salem (T7S; R2W; Section 7DA; Tax lot 2000).

DECISION: The Zoning Administrator for Marion County has **APPROVED** the above-described Conditional Use and Adjustment application subject to certain conditions.

EXPIRATION DATE: This conditional use permit is valid only when exercised by **October 4th, 2026**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain approval for all permits required by the Marion County Building Inspection Division.
2. The structure used for the nursing care facility shall maintain the standard dwelling setbacks from property lines for the RS (Single Family Residential) zone: 5 feet from the sides, 14 feet from the rear, and 12 feet from the front property lines.
3. The applicants shall comply with all other use standards outlined for nursing care facilities in MCC 16.26.240.
4. Any expansion of the nursing care facility shall require the approval of a new conditional use.
5. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

6. Failure to continuously comply with the conditions of approval may result in this approval being revoked.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or another instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying any restrictions or conditions thereon. It is recommended that the agencies mentioned in

Finding #5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the Marion County No. 1 Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
8. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Zoning Administrator. If there is any doubt that the application conforms with adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a County Hearings Officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 120-day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **October 4th, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 7th, 2024** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Single Family Residential in the Salem Area Comprehensive Plan. The purpose of this designation and the corresponding Single Family Residential (RS) zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located at 3961 Camishaun Ct NE on the west side of the cul-de-sac end of the road within the City of Salem urban growth boundary. The property was created as Lot 8 in the Jan Ree East No 4 subdivision on May 21, 1973. The lot contains a 1975 dwelling and is legal for land use purposes.
3. Surrounding uses are almost exclusively urban single-family residences. The only other significant uses include the main campus of Chemeketa Community College 850 feet to the west and Lamb Elementary School a half mile to the east.
4. The applicant proposes to convert the existing single-family dwelling on the property into a nursing care facility for 5 or less elderly persons and to adjust the required 20-foot minimum setback from all property lines for nursing care facilities to the standard setbacks for single-family dwellings in the RS zone. The adjustment from the standard setbacks for nursing care facilities is necessary to allow the applicants to use the existing home as a nursing care facility. The applicants are not proposing any expansion to the current footprint of the dwelling currently on the property.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Requirements:

- A. The subject property will be assessed Transportation System Development Charges (SDCs) upon application for building permits, based on the net difference between five (5) proposed client beds minus credit for prior single-family residential use.

Marion County Building commented: “A building permit is required to be obtained to change the use of a single-family dwelling into a care facility for 5 or fewer residents receiving medical care on a 24 hr basis. If other work is proposed to the structure, additional permit(s) may be required prior to the work. Discussion with a building plans examiner is recommended prior to making application.”

City of Salem Planning commented that they had no concerns with the proposal.

Marion County No. 1 Fire District provided comments regarding their requirements and standards.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. All conditional uses are subject to the general criteria in MCC 16.40.020, these include:

- (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

The applicants are proposing to operate a nursing care facility for elderly people out of an existing single-family dwelling on the property. The care facility would include nonfamily staff that would live on site and care for the individuals. MCC 16.02.020.F lists residential facilities as a conditional use in the RS zone subject to specific use standards. Nursing care facilities are a type of residential facility so the proposed use is a listed conditional use in the zone. The criterion is met.

- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

The parcel was developed in the 1970's as a single-family dwelling home site typical of a residential subdivision at the time. The proposed use as a nursing care facility for no more than 5 elderly residents and 2 on site staff is very similar to normal residential uses, with the main difference being the individuals providing care are employed and compensated as opposed to being parents providing care for children. As such, the current development state of the parcel is suitable for the proposed use. The criterion is met.

- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*

The proposed nursing care facility will not require substantial redevelopment of the property that would impact the surrounding area. All redevelopment proposed is limited to renovations of the interior of the home on the existing footprint. Afterwards, the nursing facility will not bring a significant level of additional traffic that would be unusual to a single-family residential subdivision, as it will function similarly to a normal single-family household for the majority of the time. Any additional traffic generated by moving new residents into the care facility as vacancies open, and the potential increase in visits to the site by emergency services for medical emergencies, are not expected to substantially limit, impair, or preclude the use of surrounding properties as single-family residences. The criterion is met.

- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

The proposed use is not expected to generate any significant adverse effects on air or water quality in the area. The criterion is met.

- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

The property has access to essential public utilities for the use as a nursing care facility. The criterion is met.

7. In addition to the general conditional use criteria, residential facilities must also meet the following criteria:

Nursing care facilities shall meet the following use and development standards:

- A. *Yards. Front yards, 20-foot minimum or front yard required in applicable zone, whichever is greater. Side and rear yards, 20-foot minimum, or side and rear yard of applicable zone, whichever is greater.*

The current dwelling on the property appears to have been established in compliance to standard setbacks for single-family dwellings in the RS zone, and does not meet the 20-foot setbacks for the rear, side, and possibly some of the front yard. While this criterion is not met to these standards, the applicants are applying for an adjustment to these standards in addition to applying for the conditional use. See Finding and Conclusion #8 below.

- B. *Off-Street Parking. No off-street parking or loading area shall be permitted within five feet of the side and rear lot lines.*

According to the site plan submitted by the applicant, the current location of the existing driveway is 6 feet from the side property line. No expansion of the existing driveway is proposed that would move it closer than 5 feet to a side or rear property line. The proposal meets the criterion, however this shall still be made a condition of approval as it is a required development standard.

- C. *Landscaping. All lot area not lawfully developed for building, structures, parking, loading or driveways, shall be landscaped as provided in Chapter [16.29](#) MCC.*

The existing lot is already developed with landscaping covering all areas that are not already paved. Other than the addition of a concrete ramp to the entrance, the existing landscaping is not proposed to change. The proposal meets the criterion, however this shall still be made a condition of approval as it is a required development standard.

- D. *Screening. Parking areas shall be screened from adjacent uses by a six-foot-high sight-obscuring fence, wall or hedge, except for the front yard.*

This shall still be made a condition of approval as it is a required development standard.

8. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. These include:

- A. *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
B. *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*
C. *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*
D. *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.*

The proposed development is to establish a nursing care facility for no more than 5 elderly residents that would have 2 on-site staff members living in the home at any given time. The facility will function like a residence with 7 adult family members living in the house. The difference is that the caretakers are compensated and the turnover of individuals living in the facility will be greater than a normal residence. That higher level of turnover is not expected to have a significant adverse impact on the surrounding uses or the safety of the surrounding area. The proposed adjustment is to reduce the required 20-foot setbacks from all property lines for nursing care facilities to the standard setbacks for a dwelling in the RS zone. The existing dwelling does not meet the 20-foot setback requirement on the side and rear yards, but it does meet the standard setback requirements for dwellings in the RS zone: 5 feet minimum from the side property lines, 14 feet minimum from the rear property lines, and 12 feet minimum from the front property line. The proposal is the minimum necessary to achieve the goals of the

proposal because it would apply the same setbacks to the structure that are currently in place, and to assess the 20-foot setbacks would require portions of the existing dwelling to be demolished. To require such a significant redevelopment of the property would cause a greater disturbance to the local area than the proposed use is anticipated to cause over the duration of its existence, and the purpose of the setbacks is to mitigate significant adverse impacts on the surrounding area. As such the development maintains the intent and purpose of the provision to be adjusted. The criteria are met.

9. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: 9/19/2024

If you have any questions regarding this decision contact Alexander Seifer at (503) 588-5038

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.