

TO: Hearings Officer

FROM: Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director and
Planning Administrator

DATE: June 27, 2024

SUBJECT: **Conditional Use / Class 3 Site Plan Review Case No. CU-SPR24-03 – 870
Alvina St SE; Open Rebuttal**

On June 12, 2024, the Hearings Officer held a public hearing for CU-SPR24-03. The hearing was closed, and the record was left open until June 19, 2024, at 5:00 p.m. for anyone to provide additional written testimony. Testimony received was sent to the Hearings Officer and interested parties on June 20, 2024. Any party was able to submit rebuttal to testimony given in the open record period until June 26, 2024, at 5:00 p.m. The applicant has until July 3, 2024, at 5:00 p.m. to submit final written rebuttal. No other testimony will be accepted at this time.

Attached are the rebuttal comments received during this time period.

Attachments: A. Dan Fiedler – June 21, 2024
B. Sarah Moore – June 22, 2024
C. Lori Wanner – June 25, 2024
D. Jim Edmonds – June 25, 2024
E. Renee Barratt – June 26, 2024

cc: CU-SPR24-03 File

Jacob Brown

From: Dan Fiedler <fiedlerdg@msn.com>
Sent: Friday, June 21, 2024 4:28 AM
To: Jacob Brown
Subject: Staff response

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Jacob Brown,

Can you please forward this to the hearing officer in response to The staff response on several matters.

The staff Response says an adult daycare would be no different than a childcare in creating more traffic.

Well, this is totally incorrect because when a parent drops off a child, they are there just a couple minutes, and they can park in the driveway.

But at an adult daycare it takes a huge Chariot Lift bus parked in the street for 15 to 20 minutes to lower and lift its ramps to drop off or pick up someone creating a big blockage in the street that must be driven around on a blind curve.

You also say in your response that it may need to be turned over to traffic control and maybe red curb the area across the street from the adult daycare. This tells me that you are admitting to a traffic problem and must make it no parking for the neighborhood across the street from the adult daycare to fix the problem.

The area you are talking about red curbing is the only area that the gardener can park his truck with trailer and equipment to service the two houses across the street from the adult daycare. If he can no longer park there, he would have to park down the street about four houses to have enough room to park then he would have to take all of his equipment back down the street to the house he needs to service.

Why should a neighborhood that has been here for over 40 years and doing just fine have to lose part of it's parking area because of a commercial business going into a residential neighborhood?

As best I can tell, you have been quoting and comparing codes for a residential neighborhood and that's fine for a residential neighborhood, but when you look at places zone for businesses, their streets are much wider than residential neighborhoods, allowing for things like buses and other vehicles to drop off passengers without blocking traffic.

You also said that the Blindspot only applied to intersections and corner lots and not curved roads, well I don't know what the laws are but to me a Blindspot is a Blindspot meaning you cannot see around it and if a Chariot lift bus is parked around the corner it could cause a head-on collision or a child coming down the hill on their bike could get hit by the car coming up the hill as it goes around the curve and cannot see the oncoming car or child on the bike.

Dan Fiedler
850 Alvina St. SE
Salem, Or. 97306

Sent from my iPhone

Jacob Brown

From: Sarah Moore <sarah@moorefam.us>
Sent: Saturday, June 22, 2024 6:33 AM
To: Zachery Cardoso; Jacob Brown
Subject: Re: Open Record Memo - Case No. CU-SPR24-03 for 870 Alvina St SE
Attachments: CU-SPR24-03 Open Record Memo.pdf

Mr Brown,

I am writing in response to your "Open Record Memo for Conditional Use, and Site Plan Review Case No. CU-SPR24-03" that is dated June 18, 2024 and that was emailed out on June 20, 2024.

It was supposed to summarize information submitted through Wednesday, June 19, 2024 at 5pm. However, I submitted an email to you on Tuesday, June 18, 2024 at 9:20pm and my questions in that email were not address in your memo. My email was included as an attachment but my questions were not addressed by staff. The email that Nell Klumph submitted on Tuesday, June 18th at 2:30pm was also not addressed in your report, yet she raised very good questions that need to be responded to by staff. The email that Roger Miller submitted on Tuesday, June 19, 2024 at 8:20pm was also not addressed in your report.

My neighbor Roger Miller talked to you on June 21, 2024 and you told to him that since your office was closed on Wednesday June 19th, you did not include the content submitted late Tuesday or Wednesday in your report. **It is unacceptable to exclude questions that were submitted timely.** Please add these questions, and the cities responses, to your next report.

I also have a question on item 5 in your report. Your response is unclear to me as to how the 5 person max works. Under current permits, is the owner allowed to service 5 customers per day, in total? Or is she allowed to service 5 customers at a time, with the total exceeding 5 per day, as long as the customers don't overlap? Please clarify.

Thank you,
 Sarah Moore
 5355 Norma Ave SE, Salem, OR 97306
 559-281-9218

On Jun 20, 2024, at 1:31 PM, Zachery Cardoso <ZCardoso@cityofsalem.net> wrote:

Hello,

The Open Record Memo for Conditional Use, and Site Plan Review Case No. CU-SPR24-03 for 870 Alvina St SE is attached for your information. Any party may submit rebuttal to testimony given in the open record period until June 26, 2024 at 5:00 p.m. The applicant has until July 3, 2024 at 5:00 p.m. to submit final written rebuttal.

Application Summary: A Conditional Use Permit and Class 3 Site Plan Review for an Adult Day Care Center use.

Please direct questions or comments to the **CASE MANAGER:**
Jacob Brown

jrbrown@cityofsalem.net

503-540-2347

Thank you,

Zachery Cardoso

[he/they](#)

Admin Analyst I

City of Salem | Community Planning and Development Department | Planning

555 Liberty St SE, Suite 305

Salem OR 97301

zcardoso@cityofsalem.net | 503-540-2304

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

Jacob Brown

From: Lori Wanner <lorilaw1960@gmail.com>
Sent: Tuesday, June 25, 2024 12:37 PM
To: Jacob Brown
Subject: REBUTTAL: Conditional Use and Class 3 Site Plan Review CU-SPR24-03 – 870 Alvina Street SE

Good morning Mr. Brown. Please pass this information along to the Hearing Officer. Thank you so much for your help.

I am writing to rebut some items made by Staff on the above reference CUP request.

First, I am concerned that the Staff did not consider all information submitted by the public when their Report and Memo was finished on June 18, 2024. The specific date that comments should have been received from the public was June 19, 2024. Thus, the Memo did not consider submissions from the public that fell under the deadline. In other words, the Hearing Officer may not have an adequate document submitted by Staff. Yes, the 19th was a Federal Holiday, but the Staff should have compiled the information, produced the Report and Memo and submitted it on June 20th once all submissions up to the June 19th deadline was received. I am pointing this out so that you as Hearing Officer are aware that there is additional information attached to the report that may not be included in the Staff analysis. I respectfully ask that you consider this information as it fell under the deadline and ensure that Staff is aware of it and maybe revise the Report and Memo if needed. Now, on to the parts of the Staff Memo that I am troubled by.

2. "The proposed conditional use poses an impact to traffic congestion along Alvina Street SE."

Again, I am expressing grave concern that Staff has failed to take into account impact on Norma Ave. 870 Alvina is at the corner of Alvina and Norma (see street map below). None of the Staff's analysis included impacts to Norma which has additional challenges besides being on a corner with Alvina. Below is the specific area of concern from the report:

" Furthermore, the vision clearance requirements of SRC 805.005 which would restrict vision obstruction only apply at street intersections and corner lots. SRC 805.005 does not apply to the curved portion of Alvina Street SE. "

To further confuse the issue apparently, ORS 801.320 defines "Intersection" as, in part, "Intersection means the area of a roadway created when two or more roadways join together at any angle, as described in one of the following: (1) If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines." The Staff report reads as though Alvina is at its terminus at 870 Alvina or, worse, that it continues (up Norma Ave.) to where Alvina jogs to the left to continue.

Further within #2 from Staff, the following "Although there is no requirement for the applicant to provide an improvement upon Alvina Street SE to mitigate the existing hazardous condition or the additional impact the use would pose, the comments regarding Alvina's condition has been directed to the City Traffic Engineer which will evaluate whether striping will be added along Alvina Street."

My objection, again, is the Norma Ave. problem. The potential striping will bleed over into Norma Ave. just by the nature that Alvina and Norma are a corner. What impact would any striping (No Parking, Loading Zones or other) have on Norma that will further impact, inconvenience and cause potential safety issues for both streets? We already have limited parking on the street for our guests, deliveries, first responders, mail carrier and maintenance people without the space available for them being further diminished. What is being proposed by the Staff is taking away from the neighborhood resources for one for profit business in a residential area.

I respectfully ask that Norma is taken into account, along with the intersection/corner with Alvina, when traffic analysis is performed either in the future or for reconsideration in regard to #2.

3. "The Average Daily Trips (ADT) indicated within Supplemental Staff Report does not accurately reflect the conditional use."

Staff acknowledged errors in their calculations of ADT but has basically disregarded this information in the impact analysis. The following statement "With the additional information that was provided in the testimony to the Hearings Officer, an "Adult Day Care Center" would likely operate very similarly to a "Child Day Care Center" because the clients do not drive and are dropped off and picked up later in the day." is problematic. First, if this is a truly "novelle" program, how can anyone state that it would likely operate like a Child Day care? The applicant herself is unsure at this time how this is going to work: couple hours per day, multiple groups coming and going, how many, etc. As a retired person with extensive regulatory experience, I empathize with Staff on having to go with what is written in code/laws. However, to not have a forward-looking application of codes/laws will cause problems for the neighborhood and applicant if the actual usage and purpose is not included in analysis. The Staff therefore has to use what they have. As a Hearing Officer, I hope you will apply logic and common sense to this obvious conundrum and determine that, as proposed, the calculation of ADT is not defined in code/law for this applicant and thus a clear statement of what will or will not happen is not appropriate at this time. I am asking that the applicant be made to submit a real, "worst case" analysis of the business model (such as two groups of 18 for 3 hours each, M-F as just one example) so that the Staff can perform an actual impact analysis to our neighborhood if this CUP is considered for approval. This will help the Hearing Officer but more importantly the neighborhood as we continue to contemplate and voice our objections and observations on this proposal.

4. The proposed use should be required to provide a loading area. Staff "As discussed in the Staff Report's analysis of the Site Plan Review criteria and conformance with the Unified Development Code (UDC), an Adult Day Care Center use does not trigger the requirement for an off-street loading area under SRC 806.075."

This also ties into #2 somewhat. But the fact is that Day care centers for children, located in a home, has access to a driveway where the children can be safely dropped off and picked up. Worst case, there is a full sidewalk and curb system to also accommodate children. The kids being deposited at a day care do not take that long where Cherriots will require 10 minutes or longer to accomplish one drop off let alone several at a time. The situation at 870 Alvina is much more difficult. First, Cherriots ADA Lift Vans/Busses or other similar vehicles cannot utilize a driveway and, there is no curb that can accommodate them except across the street (this is dangerous for crossing for a physically disabled person now). Second, due to limitations of no driveway and a curb only across the street, Cherriots or similar would have to block 870 Alvina's driveway to safely drop off passengers. Also, the routes Cherriots has to take would impact the entire neighborhood (see map below) as they are not allowed to make U Turns or otherwise make unsafe moves. Again, my sympathies to Staff for trying to apply law to a novelle situation but as Hearing Office, I am respectfully asking that real life, practical analysis take place when considering this CUP.

6. The approval of the Conditional Use would change the zoning of the property.

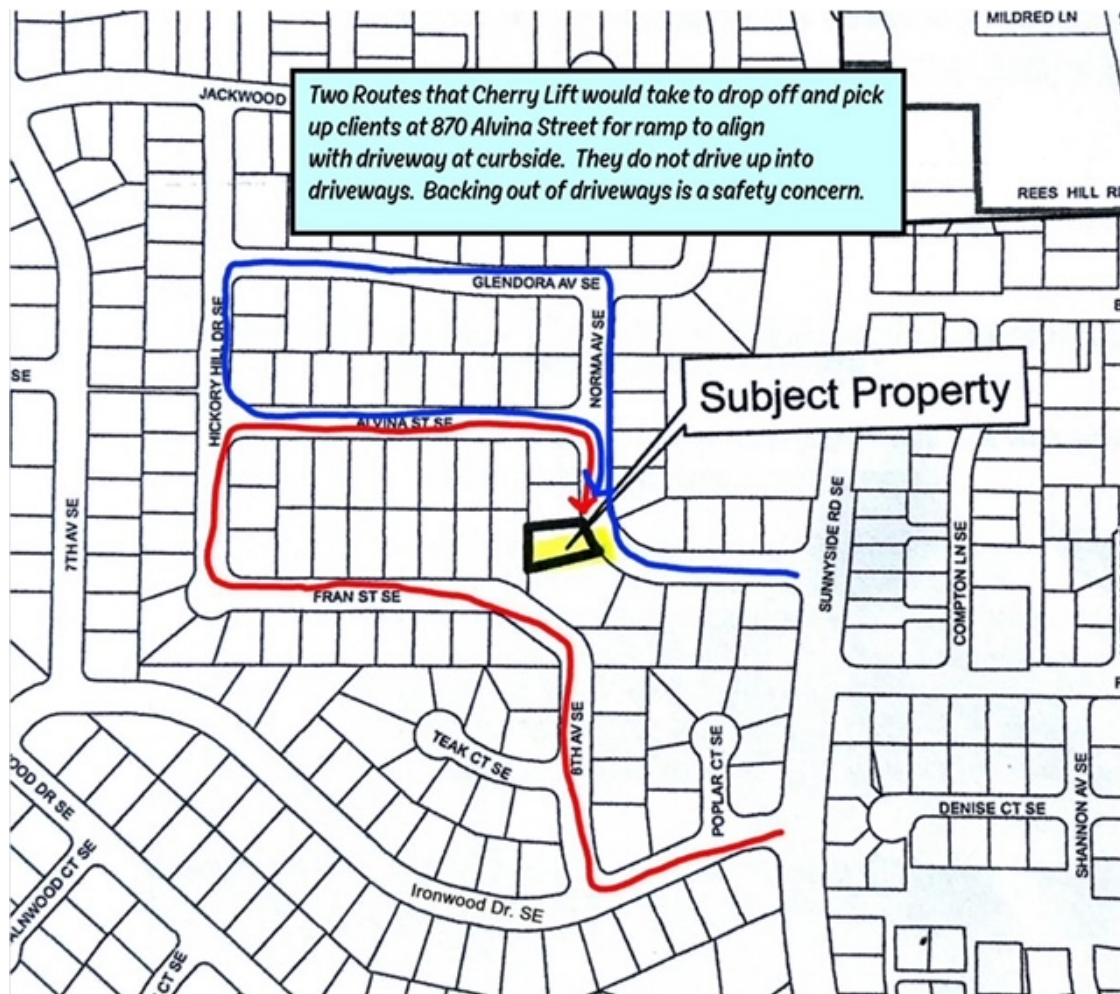
Yes, technically under current law, a CUP does not change zoning. However, the CUP for all intents and purposes, does accomplish a DeFacto change to the zoning. If you have to make accommodations for one home, used as a for profit business, that has to have stripping for parking restrictions, traffic and other impact analysis, etc., it sounds like trying to get a square peg in a round hole. The neighborhood was not designed, planned or otherwise contemplated to accommodate a potential high-volume business with attendant traffic and lack of appropriate street parking, let alone off-street parking (which I know is not a require due to SF of home). This business will change the characteristics and livability of our neighborhood.

The Applicant's absolute lack of specificity of the business model is causing most of these problems we are talking about, in addition to the fact that a business does not properly belong here, especially one for physical or otherwise disabled,

elderly individuals. It is a safety, noise and most importantly, livability issue for this neighborhood. When the property was being cleaned up earlier this year, we were overjoyed as it has been a problem and eyesore since we moved here almost eight years ago. We fell in love with the neighborhood because, excepting 870 Alvina, it was clean, quiet and the neighbors were good people. A perfect place for our retirement home in our old age. Little did we know that it would turn into a business district.

Thank you for your time in reading this. We await the final rebuttal from Applicant and the remainder of the process.

Lori Wanner
5450 Norma Ave. SE



Re: Case No. CU-SPR24-03 for 870 Alvina

We are homeowners in the area.

The following issues are in rebuttal to the information provided by staff and the public comment period:

1. Staff states that the vision obstruction requirements of SRC 805.055 do “not apply to the curved portion of Alvina”. This does not appear to be correct. SRC 805.005 (b) does apply to visibility at driveway intersections with streets. For single family residences, this vision clearance requires 10 foot “legs”. However, pursuant to SRC 805.005(b)(1)(B), vision clearance expands to 50 foot “legs” for driveways that are for “other than single family or two family” uses. The conditional use request for 870 Alvina does not qualify as a single family or two family residence. The driveway at 870 Alvina does not appear to meet the 50 foot vision clearance requirement.
2. The drop off and pick up of 5-18 daily adult daycare participants will logically use Alvina to Sunnyside. Staff correctly assumes that Alvina will be the primary ingress and egress for 870 Alvina. But this volume of traffic will dramatically increase congestion at this small residential driveway. The fact that the house sits on a curve increases the potential for congestion. Although the paved improvement is 34 feet, parking for residential traffic is allowed on both sides of the street. When cars, yard maintenance trucks, trailers and other vehicles are parked on the road, (which is a common occurrence) the space allowed for traffic is approximately 10 feet. This effectively makes the Alvina corner a one lane road. There is no place for vehicles to turn around and therefore traffic will likely create additional congestion as vehicles heading in the opposite direction will meet head on. This is complicated by limited visibility due to the road configuration and the corner where 870 Alvina sits. The traffic congestion is further increased when considering parking for the care provider employees of the business. It is projected that for each 5 daily care patients, at least one care provider is necessary. This is based on what appears to be the regulations covering operation off this business. At least 2-4 care providers will arrive at this business and need a place to park. These workers will likely park on the street creating more congestion. If these workers park in the driveway, there will no drop off area other than in the street. This will block traffic and create additional safety concerns.

This information should result in a denial of the conditional use as traffic safety is a major concern for this small residential area. However, if the conditional use is approved, the City should require the owners of 870 Alvina to provide an additional liability insurance policy with \$2 million liability coverage and execution of an indemnity and defense agreement to protect the City and other users of the roadway from potential liability events created by the additional congestion and configuration of this business venture.

3. The staff report does not identify the need for required off street parking. For a business, SRC 806.015 requires the owner to provide 1 space of off street parking for each 250 feet of gross square footage. This will require 870 Alvina to provide 7 off street parking spaces. The driveway at 870 Alvina would not accommodate this number of parking spaces.
4. Staff report does not cover whether the owners of the residence are approved to operate an adult day care center. No records show that the owners of the property have been approved for this venture nor does it show whether that they are organized as an entity that can operate an adult day care center.

Jim Edmonds.

Jacob Brown

From: Zachery Cardoso
Sent: Wednesday, June 26, 2024 4:35 PM
To: Jacob Brown
Subject: FW: Open Record Period - Case No. CU-SPR24-03 for 870 Alvina St SE

Zachery Cardoso | 503-540-2304

City of Salem | Community Planning and Development Department | Planning

From: Renee <renee@lotsofjoy.com>
Sent: Wednesday, June 26, 2024 4:33 PM
To: Zachery Cardoso <ZCardoso@cityofsalem.net>
Subject: Re: Open Record Period - Case No. CU-SPR24-03 for 870 Alvina St SE

Hello,

Thank you for holding the case open until today, though I want to make sure it is clear that because of the Junteenth holiday, it was not held open for a full week as stated at the hearing. We were told that we had until 5PM on June 19, but it was closed at 5PM on June 18. There were communications received on June 19 that should have been included and were not.

I have some thoughts about the staff response

Section 1: "Per the applicant's notarized affidavit of posting, the applicant posted the hearing notice sign on June 2, 2024"

We have testimony from dozens of people that the sign was NOT there, beginning June 2, at least not consistently. The fact that few noticed it until the 10th, and then suddenly everyone did, should be a testimony to how well and how consistently it was visible.

Section 2: *"...the comments regarding Alvina's condition has been directed to the City Traffic Engineer which will evaluate whether striping will be added along Alvina Street."*

our RESIDENTIAL NEIGHBORHOOD shouldn't need striping to accomodate someone who wants to open a commercial enterprise on our streets. If having a business there makes striping essential, there should just not be a business allowed there.

Section 3: *"Users of the adult day care are likely to travel from a higher classification of street to access the site rather than navigating through the neighborhood streets."*

Cherriots has confirmed, to multiple people, that they will be navigating through the neighborhood streets so the bus can be oriented in the correct direction for the lift. We should expect that any vehicle using any kind of lifts will need to do the same. Keep in mind, that she has no control over how many vehicles it takes to get people to the house. It could very well be 18 separate, large vehicles driving through our residential streets, at least twice a day.

Again, I emphasize that this is not the place for this business. I think these kinds of services are important to our community at large, but this is not the place and she should not be allowed to have 18 people, plus staff doing business out of that house, or any house in our neighborhood.

Please deny this request for conditional use permit.

Thank you,

-Renee Barratt
Glendora Ave SE