

**CITY OF BEND PLANNING DIVISION
TYPE II ADMINISTRATIVE DECISION**



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLSTR20230166

DATE MAILED: May 22, 2023
Day 48 since application was accepted as complete

APPLICANT: Krista Tollefson
20563 Gloucester Lane
Bend, OR 97701
kristatollefson@gmail.com

OWNER: Krista Tollefson et al.
2712 NE Black Oak Place
Bend, OR 97701

LOCATION: 2712 NE Black Oak Place; Lot 1 of Oakview Phase IX Subdivision;
Tax Lot 09800 on Deschutes County Assessor's Map # 17-12-26BA.

REQUEST: Type II application for a 3-bedroom Short-Term Rental in the Standard Density Residential (RS) zone.

STAFF REVIEWER: Simran Dhaliwal, Assistant Planner
sdhaliwal@bendoregon.gov; (541) 330-4003

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Bend Development Code

Criteria and Standards

Chapter 2.1, Residential Districts
Chapter 3.6, Special Standards and Regulations for Certain Uses
3.6.500, Short-Term Rental

Procedures

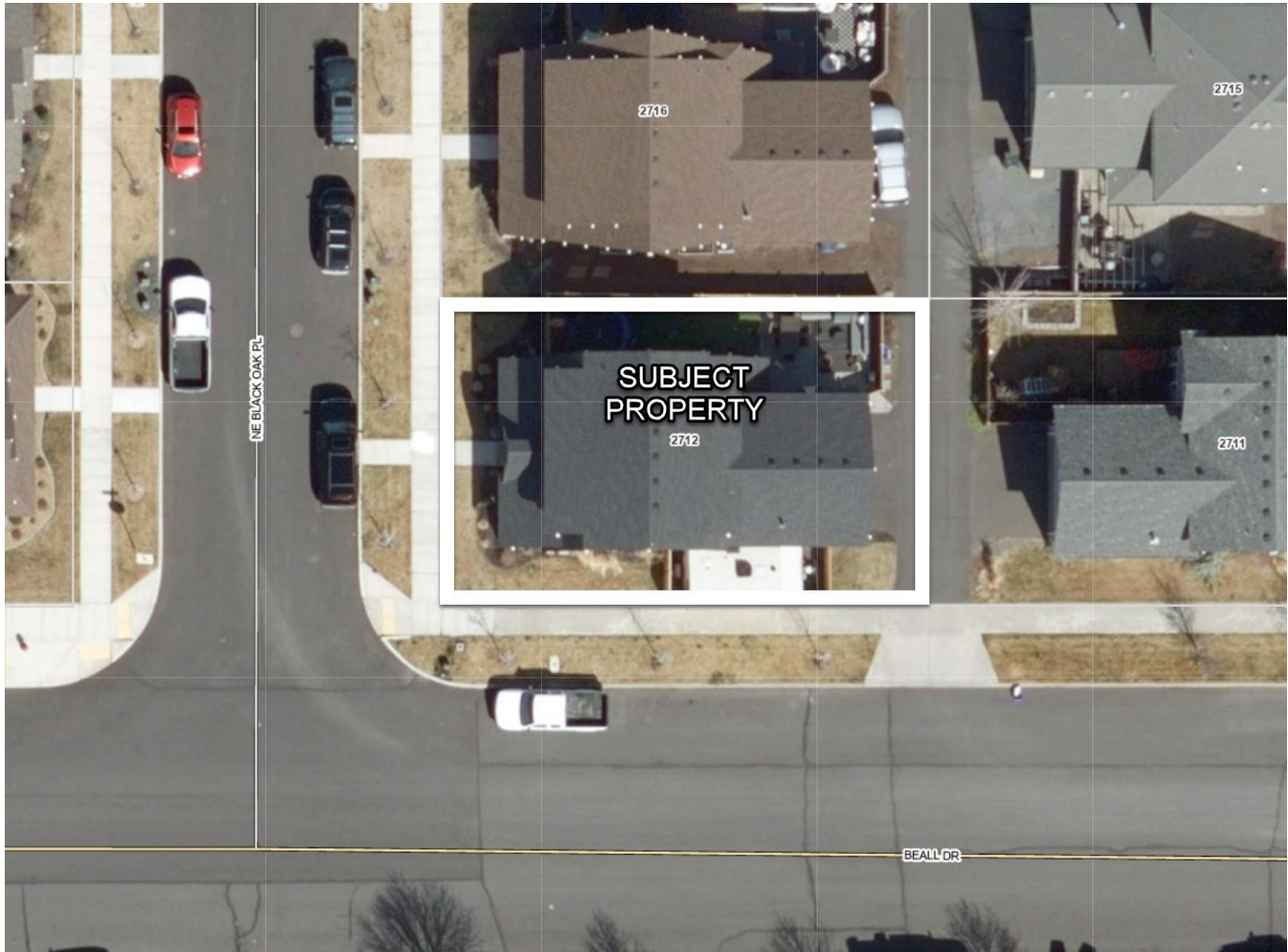
Chapter 4.1, Land Use Review and Procedures

FINDINGS OF FACT:

- 1. ZONING:** The subject property is zoned Standard Density Residential (RS) and is designated Urban Standard Density on the Bend Area Comprehensive Plan map.
- 2. SITE DESCRIPTION & SURROUNDING USES:** The property is a rectangular lot located on the northeast corner of the intersection of NE Black Oak Place and Beall Drive. NE Black Oak Place is classified as a residential local street with 60 feet of right of way, improved with a paved width of 32 feet, with curb and sidewalk along either frontage. Beall Drive is classified as a collector street with 80 feet of right of way, improved with a paved width of

52 feet, with curb and sidewalk along either frontage. The surrounding properties are primarily developed with single-family residences and are zoned RS.

According to the Deschutes County Tax Assessor database (DIAL), the subject property is developed with a three-bedroom, two-story home built in 2018.



Subject property, data accessed from: City of Bend Data Explorer, 2022

3. **PROPOSAL:** Type II application to establish the three-bedroom dwelling at 2712 NE Black Oak Place as a Short-Term Rental.
4. **PUBLIC NOTICE AND COMMENTS:** On April 10, 2023, the City of Bend Planning Division sent notice of the request to surrounding owners of record and residents of property within 250 feet of the subject property, as shown on the most recent property tax assessment roll, as well as to the Mountain View Neighborhood Association representative. A *Notice of Proposed Land Use* was also posted on the property on April 4, 2023 and remained in place for the duration of the comment period. No comments were received in response to the proposal.
5. **APPLICATION ACCEPTANCE DATE:** The application was submitted on March 14, 2023 and application fees were paid on the same day. The application was deemed incomplete on March 21, 2023 and was deemed complete the same day. On April 3, 2023, The

applicant requested to extend the 120-day review period by 14-days. The 120-day review period ends on August 2, 2023.

CONFORMANCE WITH THE CITY OF BEND DEVELOPMENT CODE

Chapter 2.1 Residential Districts

2.1.200 Permitted Land Use. The land uses listed in Table 2.1.200 are permitted in the Residential Districts, subject to the provisions of this Chapter.

FINDING: Table 2.1.200 identifies short-term rental as a permitted use in the RS zone. A short-term rental is subject to special standards in Chapter 3.6, Special Standards and Regulations for Certain Uses. Conformance with special standards is addressed below.

Chapter 3.6 Special Standards and Regulations for Certain Uses

3.6.500 Short-Term Rentals.

The following provisions apply to all short-term rentals (STRs) after April 15, 2015.

A. Applicability.

- 1. No person can occupy, use, operate or manage, nor offer or negotiate to use, lease or rent, a dwelling unit for short-term rental occupancy unless issued a short-term rental (STR) permit or exempted under this chapter.**
- 2. A permit is required for each dwelling unit that is allowed to be a short-term rental even if located on the same legal lot. Applications submitted after November 4, 2021, located in the RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) that include more than one dwelling unit on a property (e.g., ADUs, duplexes, triplexes, quadplexes, multi-unit, cottages, etc.) can only have one unit permitted as a short-term rental.**

B. Application Submittal Requirements. The following information shall be submitted to the City along with a form approved by the City in order to apply for a STR permit.

- 1. The name, address, email address and telephone number of the owner of the short-term rental for which the permit is to be issued, and the same for the authorized representative if different than the owner. An application may be submitted by an owner with the buyer as the applicant and upon written request, the approval will be granted to both the owner and the buyer.**
- 2. A floor plan identifying the number of bedrooms proposed for use.**
- 3. A diagram and/or photograph of the premises showing and indicating the number, location and dimensions of designated on-site and abutting on-street parking spaces.**
- 4. Acknowledgment by signature that the owner and authorized representative have read all the regulations relating to the operation of a short-term rental under [BC Chapter 7.16](#).**
- 5. Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.**
- 6. Consent to inspection to ensure compliance with this section.**

FINDING: The applicant submitted the required information and signed the authorization form acknowledging the operating license requirements in Bend Code Chapter 7.16, certifying the accuracy of submitted information, and consenting to an inspection.

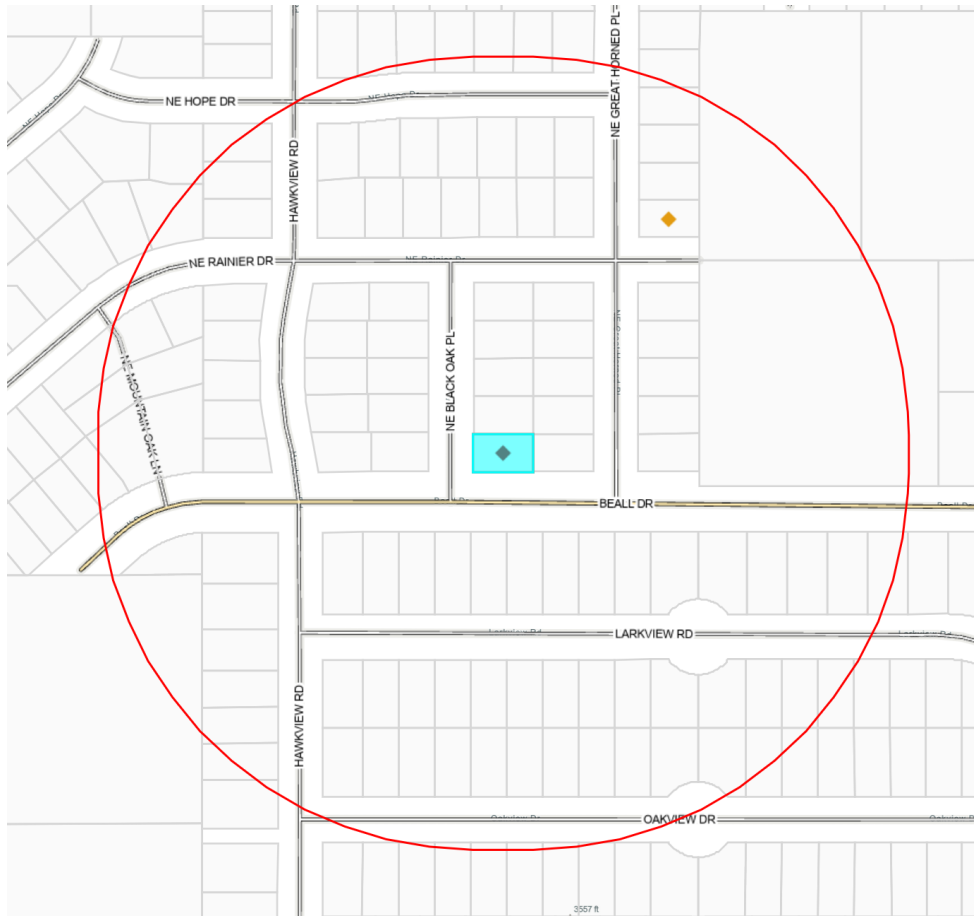
C. Review Type. Short-term rentals are permitted subject to the following permit processes provided all other requirements of this section are met:

- 4. Other than as provided in subsections (C)(2) and (3) of this section, in residential zones (SR2-1/2, RL, RS, RM, RM-10, RH) and in the MR Zone outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C), STRs are permitted subject to a Type II permit process provided all requirements of this section are met.**

FINDING: The applicant requests approval of a short-term rental for 2712 NE Black Oak Place, which is located in the RS Zone. Therefore, this application is processed as a Type II application.

E. Concentration Limits. There must be at least 500 feet of separation between properties zoned RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) measured radially from the property boundary of the subject property as determined by the City of Bend Community and Economic Development Director or designee, which have a valid Type II short-term rental application or permit or an active vacation home rental approved prior to April 15, 2015.

FINDING: There are no other properties within 500 feet of the subject property with a Type II short-term rental application or permit, as indicated on the map below. The 500-foot distance is shown with a shaded red pattern. Existing Type II short-term rentals of entire dwelling units are shown with a blue or red diamond. The orange diamond shown in the circle below is a Type I Short-term Rental which is not subject to the concentration limits.



Subject property 500' buffer, data accessed from: City of Bend Data Explorer, 2022

F. Limits on Permit Transfer. Notwithstanding [BDC 4.1.1330](#), any short-term rental application submitted after April 15, 2015, is specific to the owner of the dwelling unit or owner-authorized buyer for which the permit is issued. This means that the short-term rental permit shall not run with the land, but shall terminate and be void with no further proceedings on sale or transfer of the real property which was rented pursuant to the short-term rental permit.

Sale or transfer means any change of ownership during the lifetime of the permit holder, whether or not there is consideration, or after the death of the permit holder, except a change in ownership where title is held in survivorship with a spouse or domestic partner, or a transfer on the owner's death to a trust which benefits only a spouse, child(ren) or domestic partner for the lifetime of the spouse, child(ren) or domestic partner. The survivor may not sell or transfer title, except that title may transfer among the survivors. A sale or transfer also does not mean (1) the transfer of ownership from the owner(s) of the real property to or between the members of a limited liability company or partnership when the transfer involves the same owners, or (2) the transfer to a trustee, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity, if at least one owner is living at the time of transfer so long as that owner retains at least a 25 percent interest in the entity. The permit or nonconforming right shall terminate if the original owner ceases to own at least 25 percent interest in the entity. If the owner is a corporation, the shareholders of the corporation shall be considered the owners for purposes of this section.

FINDING: This application was submitted on March 14, 2023; therefore, this section applies to the application. The approval for the short-term rental is specific to the owner noted in this decision. The short-term rental permit does not run with the land.

G. Occupancy. The maximum occupancy for the dwelling shall be two persons per bedroom plus two additional persons. For example, a two-bedroom dwelling would have a maximum occupancy of six persons.

FINDING: Based on the information submitted with the application, the subject property contains three bedrooms, which was confirmed with the Deschutes County property records. The maximum occupancy for a three-bedroom short-term rental is eight (8) persons. This is calculated based on two people per bedroom plus two additional people as indicated above.

Condition of Approval: *The maximum occupancy for the short-term rental is eight (8) persons.*

H. Parking. The following parking standards are required, in accordance with BDC Chapter 3.3:

- 1. If on-site parking is provided, each on-site space must be a minimum of 20 feet deep by nine feet wide. Parking spaces may be in a garage or in an otherwise approved parking space on the property, such as a driveway, provided the parking dimension for the spaces are met. New parking spaces are required to be paved and cannot be gravel. The entirety of the parking space must be accommodated on-site such that the space does not cross over the property line. Tandem parking is allowed.**

FINDING: There are no minimum parking requirements for a short-term rental. No on-site parking is proposed with this short-term rental application.

I. Prohibited Use. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with the short-term rental.

FINDING: The applicant does not propose any use of a temporary shelter with this request for short-term rental. As a condition of approval, these types of temporary shelters are prohibited.

Condition of Approval: *No recreational vehicle, travel trailer, tent, or other temporary shelter shall be used in conjunction with the short-term rental.*

J. Short-Term Rental Operating License. In addition to obtaining a STR permit under this section, persons operating short-term rentals must obtain a short-term rental operating license under [BC Chapter 7.16](#).

7.16.060 Operating License and License Renewal.

A. License Must Be Obtained. An operating license shall be obtained and/or renewed as required in this section. The ability to operate a short-term rental in the City of Bend shall be discontinued for failure to obtain or renew a license to operate as provided in this chapter.

B. Application and Renewal Application Process. A person engaging in a short-term rental who has not yet obtained an operating license, or who is required to renew an existing operating license, shall do so as follows:

- b. New Permits.** For new land use permits issued after the effective date of this chapter, it is the responsibility of the owner or authorized agent to apply for an operating license within 60 days of receiving the final land use approval to permit the use of the property of a short-term rental.

FINDING: It is a standard condition of approval that the applicant comply with the licensing provisions stated above.

Condition of Approval: The applicant must apply for a short-term rental operating license per BC Chapter 7.16 within 60 days of the date of this decision, i.e. by July 21, 2023. The property may not be rented as a short-term rental until the operating license is issued.

K. Abandonment of Use.

- 1. Notwithstanding BDC Chapter 5.2, Nonconforming Uses and Developments, if the short-term rental ceases for a period of more than 12 months, the short-term rental permit shall be void with no further proceedings.**
- 2. Failure to maintain the STR operating annual license as provided in that chapter shall be considered abandonment of use.**

FINDING: The applicant must utilize the short-term rental at least once every 12 months. The applicant must also maintain an annual operating license per BDC 3.6.500.K above. Otherwise, this approval will be void with no further proceedings.

Condition of Approval: The applicant must rent the property as a short-term rental at least one night every 12 months; otherwise, this approval will be void with no further proceedings.

Condition of Approval: The applicant must maintain an annual short-term rental operating license; otherwise this approval will be void with no further proceedings.

L. Expiration of Approval and Initiation of Use. Notwithstanding BDC 4.1.1310 and 4.1.1315, Expiration of Approval and Initiation of Use, if the short-term rental does not initiate the use by renting the short-term rental at least one night within the first 12 months of obtaining a short-term rental permit, the short-term rental permit shall be void with no further proceedings.

- 1. For existing permits submitted prior to the effective date of this code, and permit applications submitted. after April 15, 2015, and prior to September 1, 2015, the 12-month initiation of use period shall begin September 1, 2015. For all permits submitted after that date, the initiation of use period begins upon final land use permit approval.**

FINDING: The applicant must initiate the short-term rental use within 12 months of the date of this decision; otherwise, this approval will be void with no further proceedings.

Condition of Approval: The applicant must initiate the short-term rental use within 12 months of the date of this decision, i.e., by May 22, 2024; otherwise this approval will be void with no further proceedings.

CONCLUSION: The application, as conditioned, meets the Bend Development Code criteria for approval for a short-term rental.

CONSISTENCY WITH THE BEND CODE

Bend Development Code 1.1.300 states that each development application initiated under the Development Code, shall comply with all applicable local ordinances.

FINDING: Based on available city records, there are no active code enforcement actions on this property. This short-term rental application was initiated under the Bend Development Code; therefore, it must comply with all local ordinances. The following sections of the Bend Code are applicable ordinances.

Bend Code 12.05 Room Tax

12.05.015 Room Tax Imposed.

- A. Effective June 1, 2015, each occupant shall pay a tax in the amount of 10.4 percent of the rent. The occupant shall pay the room tax with the rent payment. Tax amounts shall be rounded down to the nearest cent. The operator shall maintain records of all rent charged and room tax payments received. The amount of the room tax shall be stated separately from rent or any other charges on all receipts or invoices issued by the operator. If rent is paid in installments a proportionate share of the room tax shall be paid by the occupant to the operator with each installment unless the operator pays the entire amount with the first payment.**
- B. Bills and invoices provided to occupants shall list the City of Bend room tax separately and must accurately state the amount of room tax. All amounts listed as room tax on invoices or bills must be reported as room tax and, after collection, must be turned over to the City, less the five percent administrative charge.**

FINDING: The City of Bend collects room tax on all temporary lodging units that are rented for 30 days or more per year. By signing the authorization form for the short-term rental, the owner registered with the City to pay transient room tax for the short-term rental.

DECISION: Based on the materials submitted with this application, the proposal meets the applicable Development Code approval criteria for a Type II Short-Term Rental. Therefore, PLSTR20230166 is approved subject to the conditions of approval listed below.

CONDITIONS OF APPROVAL:

1. The maximum occupancy for the short-term rental is eight (8) persons.
2. No recreational vehicle, travel trailer, tent, or other temporary shelter shall be used in conjunction with the short-term rental.
3. The applicant must apply for a short-term rental operating license per BC Chapter 7.16 within 60 days of the date of this decision, i.e. by July 21, 2023. The property may not be rented as a short-term rental until the operating license is issued.
4. The applicant must rent the property as a short-term rental at least one night every 12 months; otherwise, this approval will be void with no further proceedings.
5. The applicant must maintain an annual short-term rental operating license; otherwise this approval will be void with no further proceedings.

6. The applicant must initiate the short-term rental use within 12 months of the date of this decision, i.e., by May 22, 2024; otherwise this approval will be void with no further proceedings.

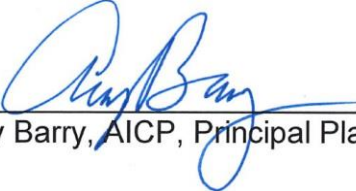
This decision will become final 12 days after the date the decision was mailed, unless appealed by a party of interest, in accordance with BDC 4.1.1100.

For any questions regarding the submission of Transient Room Tax, please contact the Finance Department at 541-388-5509 or roomtax@bendoregon.gov.

For any questions regarding the Short-Term Rental Annual Operating License, please contact Lorelei Williams at 541-323-8565 or lwilliams@bendoregon.gov

Written by: 

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Reviewed by: 

Amy Barry, AICP, Principal Planner