

Attention Property Owner: A land use proposal has been submitted for property near where you live or near the 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
ADJUSTMENT CASE NO. 25-001**

APPLICATION: Application of TEK Properties LLC for an adjustment to permit a second driveway for an accessory dwelling unit in an RS (Single Family Residential) zone located at 4576 46th Ave NE, Salem (T7S; R2W; Section 6DD; Tax lot 200).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Adjustment, subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **April 3rd, 2027**, unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposal 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 be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS:

1. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. 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.
3. The proposed ADU shall meet all other criteria listed in MCC 16.26.100.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other 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. The applicant is advised of the following:

4. 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.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must deny the application. Anyone who disagree with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) on the basis of new information subject to sign an extension of the 150-day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **April 3rd, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **April 4th, 2025**, unless appealed.

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 zone is to promote residential development at low densities.
2. The property is located on the east side of 46th Ave NE, approximately 450 feet north of its intersection with Jade Street. The subject parcel was created as Lot 2 Block 8 in the Parkdale Addition No. 3 Subdivision as shown in a 1963 survey. It is therefore legal for land use purposes.
3. All adjacent properties are zoned RS (Single-Family Residential) and contain dwellings.
4. The applicant proposes an adjustment to permit a second driveway on the property at 4576 46th Ave for the addition of an accessory dwelling unit. MCC 16.26.100(D) states: D. *“No additional curb cuts are permitted. Existing curb cuts may be expanded with an approved access permit up to the maximum width allowed;”*
5. Various agencies were contacted with requests for comment.

Marion County Building Department commented: “No Building Inspection concerns with proposed adjustment for additional curb cut for access to private property. If any adjustments to existing utilities are encountered, permit(s) are required to be obtained prior to alterations to these utilities.”

The City of Salem Planning Division commented:

- A. This property is designated SF (Single-Family) in the Salem Comprehensive Plan and would be zoned RS (Single-Family Residential) upon annexation. ADU’s are permitted outright in the RS Zone.
- B. The proposed driveway and ADU appear to impact several trees which may be considered significant per SRC 808.005. Significant trees are protected during construction per SRC 808.046.
- C. ADUs in Salem have a maximum size of 900 square feet or 75% of the gross floor area of the main house, whichever is less, per SRC 700.007. Per Marion County Assessor records, the main house is 1,344 square feet, which would permit an ADU of 900 square feet.
- D. Off-street parking is not required for ADUs. However, if constructing a driveway, it needs to lead to a designated off-street parking area such as a garage per SRC 806.025 and be paved with a hard surface material.

Marion County Land Development and Engineering Permits commented:

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits, an issued Access Permit will be required to install the requested secondary curb cut and approach for the proposed ADU. Application has already been tendered and a permit record file #555-25-000142-PW established in support of the request. It is noted that USPS Central Box Unit (CBU) public mailbox assemblies are apparently situated in front of the desired ADU driveway approach. It is the Applicant’s responsibility to coordinate with USPS for relocation approval; written evidence shall be provided to PW Engineering in this regard. It will also be the Applicant’s responsibility to construct a replacement concrete pad, the actual work for which can be incorporated into the Access Permit. USPS does the CBU box replacement or relocation. Note it is not uncommon that USPS queues / backlog for this type of work request tend to be gauged in months.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.

- C. Any new utility service extensions originating within the public right-of-way to the property require additional permits from MCPW Engineering.

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

6. *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*

The proposed adjustment to permit an additional driveway will facilitate the development of an accessory dwelling unit in a zone where such units are outright permitted. This driveway will have effects comparable to typical residential improvements. Although the removal of trees and vegetation may affect the areas greenspace, it will not impact development or neighboring residential uses. There will be no significant adverse impacts on adjacent properties. The criterion is met.

- (b) *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

The proposed driveway and ADU will require permitting by Marion County Building and Land Development and Engineering Permits to ensure the development is safe. The adjustment will allow for easier access to the ADU for emergency services to keep the future residents safe. No individuals living or working in the vicinity will be at risk for health or safety impacts. The criterion is met.

- (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*

The purpose of the proposed adjustment is to allow development of a driveway to access an ADU on the parcel. No other standards are being adjusted; the driveway is the minimum necessary to accommodate safe access to the permitted ADU. The criterion is met.

- (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.*

This adjustment will uphold the intent of MCC 16.26.100 by creating a new curb cut, as expanding the existing one is not feasible. The current driveway is situated near the northern property line, requiring any expansion to occur to the north. However, the applicants indicate that northern access is impractical due to insufficient space for emergency services. Expanding the curb cut to the south would eliminate the curb along the entire house and front yard, posing safety risks for both homeowners and pedestrians. The existing driveway lacks adequate space for the new tenants, and providing access to the new development will minimize street parking in the neighborhood. Therefore, permitting a new curb cut instead of expanding the existing one aligns the intent and purpose of the provisions in MCC 16.26.100. The criterion is met.

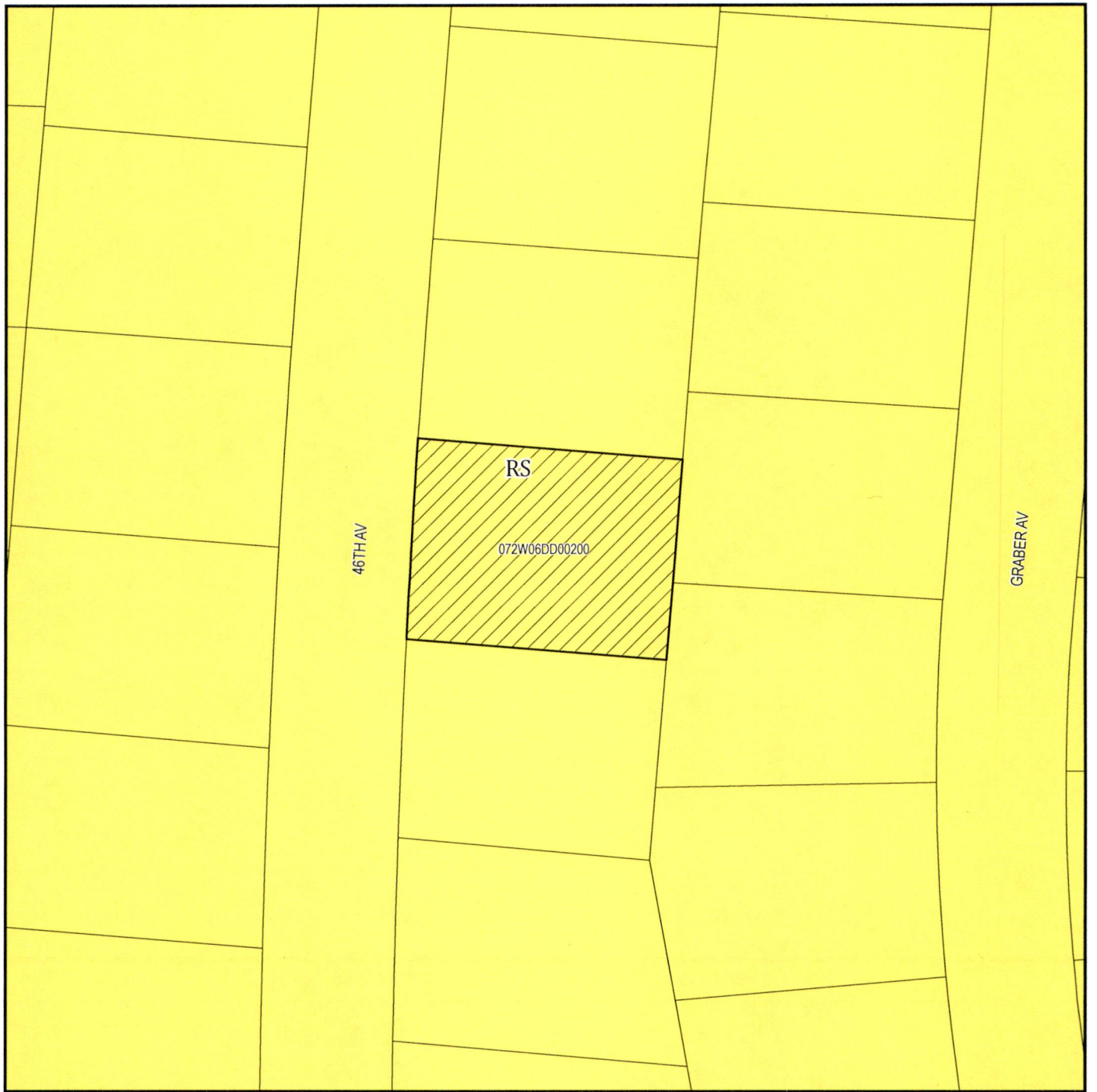
7. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 19th, 2025

If you have any questions regarding this decision contact Gillian Peden 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.





ZONING MAP

Input Taxlot(s): 072W06DD00200

Owner Name: PUGH, DIANN M

Situs Address: 4576 46TH AVE NE
City/State/Zip: SALEM, OR, 97305
Land Use Zone: RS
School District: SALEM-KEIZER
Fire District: MARION COUNTY NO.1

<p>Legend</p> <ul style="list-style-type: none"> Input Taxlots Lakes & Rivers Highways Cities 		
<p>N</p>  <p>scale: 1 in = 65 ft</p>	<p><small>DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.</small></p>	