

NOTICE OF DECISION

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503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

CLASS 2 ADJUSTMENT CASE NO.: ADJ24-05

APPLICATION NO.: 24-116832-PLN

NOTICE OF DECISION DATE: September 19, 2024

REQUEST: A Class 2 Adjustment to allow a six-foot-tall see-through metal fence within the front yard 12 feet from the property line abutting a street where the allowed maximum height is four feet, per SRC 800.050(a)(1)(A)(i). The subject property is 0.78-acres in size, zoned RS (Single Family Residential) and located at 4740 Kale Street NE (Marion County Assessor's Map and Tax Lot 072W05BB / 300).

APPLICANT: Carl Gunter

LOCATION: 4740 Kale St NE, Salem OR 97305

CRITERIA: Salem Revised Code (SRC) Chapter 250.005(d)(2)

FINDINGS: The findings are in the attached Decision dated September 19, 2024.

DECISION: The Planning Administrator **APPROVED** Class 2 Adjustment Case No. ADJ24-05 subject to SRC Chapter 250, the applicable standards of the Salem Revised Code and conformance with the approved site plan included as **Attachment B**.

The rights granted by the attached decision must be exercised, or an extension granted, by October 5, 2026, or this approval shall be null and void.

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|----------------------------------|---------------------------|
| Application Deemed Complete: | <u>September 4, 2024</u> |
| Notice of Decision Mailing Date: | <u>September 19, 2024</u> |
| Decision Effective Date: | <u>October 5, 2024</u> |
| State Mandate Date: | <u>January 2, 2025</u> |

Case Manager: Peter Domine, Planner II, pdomine@cityofsalem.net, 503-540-2311

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m., FRIDAY, October 5, 2024. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 250. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

DECISION

| | | |
|------------------------------|---|--------------------|
| IN THE MATTER OF APPROVAL OF |) | FINDINGS & ORDER |
| CLASS 2 ADJUSTMENT |) | |
| CASE NO. ADJ24-05 |) | |
| 4740 KALE ST NE |) | SEPTEMBER 19, 2024 |

In the matter of the application of a Class 2 Adjustment, submitted by the property owner and applicant, Carl Gunter, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

Summary: A Class 2 Adjustment for the installation of a six-foot-tall fence abutting a street.

Request: A Class 2 Adjustment to allow a six-foot-tall see-through metal fence within the front yard 12 feet from the property line abutting a street where the allowed maximum height is four feet, per SRC 800.050(a)(1)(A)(i). The subject property is 0.78-acres in size, zoned RS (Single Family Residential) and located at 4740 Kale Street NE (Marion County Assessor's Map and Tax Lot 072W05BB / 300).

PROCEDURAL FINDINGS

1. Proposal

The applicant is proposing to install a six-foot-tall metal fence along the front and side yard abutting a street.

2. Background

On August 14, 2024, an application for a Class 2 Adjustment was filed for the proposed development. The application was deemed complete for processing on September 4, 2024. The 120-day state mandated decision deadline for this application is January 2, 2025.

A vicinity map of the property is included as **Attachment A**, and the applicant's proposed site plan is included as **Attachment B**. The applicant's written statement can be found in the record, as indicated below.

SUBSTANTIVE FINDINGS

3. Summary of Record

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 24 116832.

4. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the Northgate Neighborhood Association

Applicant Neighborhood Association Contact: Neighborhood Association Contact is not required for this application.

Neighborhood Association Comment: Notice was provided, pursuant to SRC 300.520(b)(1)(B)(v) to the neighborhood association. As of the date of this decision, no comments were received from the Neighborhood Association.

Homeowner's Association: The subject property is not located within a Homeowner's Association.

Public Comment: Notice was provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. As of the date of this decision, no comments were received indicating concerns with the proposal.

5. City Department Comments

Building and Safety – The Building and Safety Division reviewed the proposal and indicated no concerns.

Salem Fire Department – The Fire Department has reviewed the proposal and indicated no concerns.

Development Services Division – The Development Services division has reviewed the proposal and indicated there is a 12-foot special setback from the property line abutting the street, and that the proposed fence is not located in the special setback and does not obstruct vision clearance.

6. Public Agency Comments

Notice was provided, pursuant to SRC 300.520(b)(1)(B) (viii), (ix) & (x); at the time of this decision, no comments were received from public agencies.

DECISION CRITERIA FINDINGS

7. Analysis of Class 2 Adjustment Approval Criteria

Salem Revised Code (SRC) 250.005(d)(2) provides that an application for a Class 2 Adjustment shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

SRC 250.005(d)(2)(A) The purpose underlying the specific development standard proposed for adjustment is:

- (i.) Clearly inapplicable to the proposed development; or***
- (ii.) Equally or better met by the proposed development.***

Finding: The applicant is proposing the installation of a six-foot-tall, see-through metal fence around the perimeter of the subject property abutting Kale Street NE. The fence is proposed to be located within the front yard abutting the street. Pursuant to SRC 800.050(a)(1)(A)(i), fences and walls in residential zones shall not exceed a maximum height of four feet when located within 20 feet of the property line abutting the street; and when within ten feet of the property line abutting the street any portion of the fence or wall above 30 inches in height shall be no less than 25 percent opaque when viewed at any angle at a point 25 feet away from the fence or wall.

The applicant's written statement indicates they propose to install a fountain within the front yard and are concerned for the safety of passing pedestrians entering their front yard, as well for general site safety and security. The applicant requests a Class 2 Adjustment to allow a six-foot-tall, see-through fence within the front yard located at 12 feet from the current property line abutting the street.

The intent of the fence height limitation and opaqueness requirement along streets is to provide adequate vision clearance for drivers on the street and so as not to create visual or excessive physical barriers to pedestrians within the community along the public right-of-way. On the north side of Kale Street, the newer houses of the North Star subdivision primarily face inward, with their rear yards abutting Kale Street. These rear yards all include a six-foot-tall, sight-obscuring privacy fence roughly 10 feet from the property lines abutting Kale Street.

Because Kale Street is recently improved, including a complete sidewalk along the south side abutting the subject property, which is nearly two feet from the sidewalk, the finished fence will be nearly 14 feet from the sidewalk. Given the similarly placed sight-obscuring fences on the north side of the street, the applicant's proposed six-foot-tall, see-through metal fence will not create a visual or physical barrier immediately adjacent to the pedestrian path of travel, and equally meets the intent of the standard.

SRC 250.005(d)(2)(B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

Finding: As described above, similar houses across Kale Street include six-foot-tall, sight-obscuring fences within 10 feet of the property line abutting the street, and in effect, the sidewalk. While rear yards are permitted a six-foot-tall fence within 10 feet of a property line abutting a street and are not required to be partially opaque, the applicant's proposed fencing will be entirely see-through and will not create an excessive visual or physical barrier to pedestrians along the sidewalk. Given the similarities to the existing conditions of the neighborhood, the proposed fence material and height will not detract from the livability or appearance of the residential area.

SRC 250.005(d)(2)(C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Finding: Only one Class 2 Adjustment has been requested; therefore, this criterion is not applicable.

8. Conclusion

Based upon review of SRC Chapter 250, the applicable standards of the Salem Revised Code, and the findings contained herein, the application complies with the requirements for an affirmative decision.

IT IS HEREBY ORDERED

Class 2 Adjustment, Case No. ADJ24-05 is hereby **APPROVED** subject to SRC Chapter 250, the applicable standards of the Salem Revised Code and conformance with the approved site plan included as **Attachment B**.



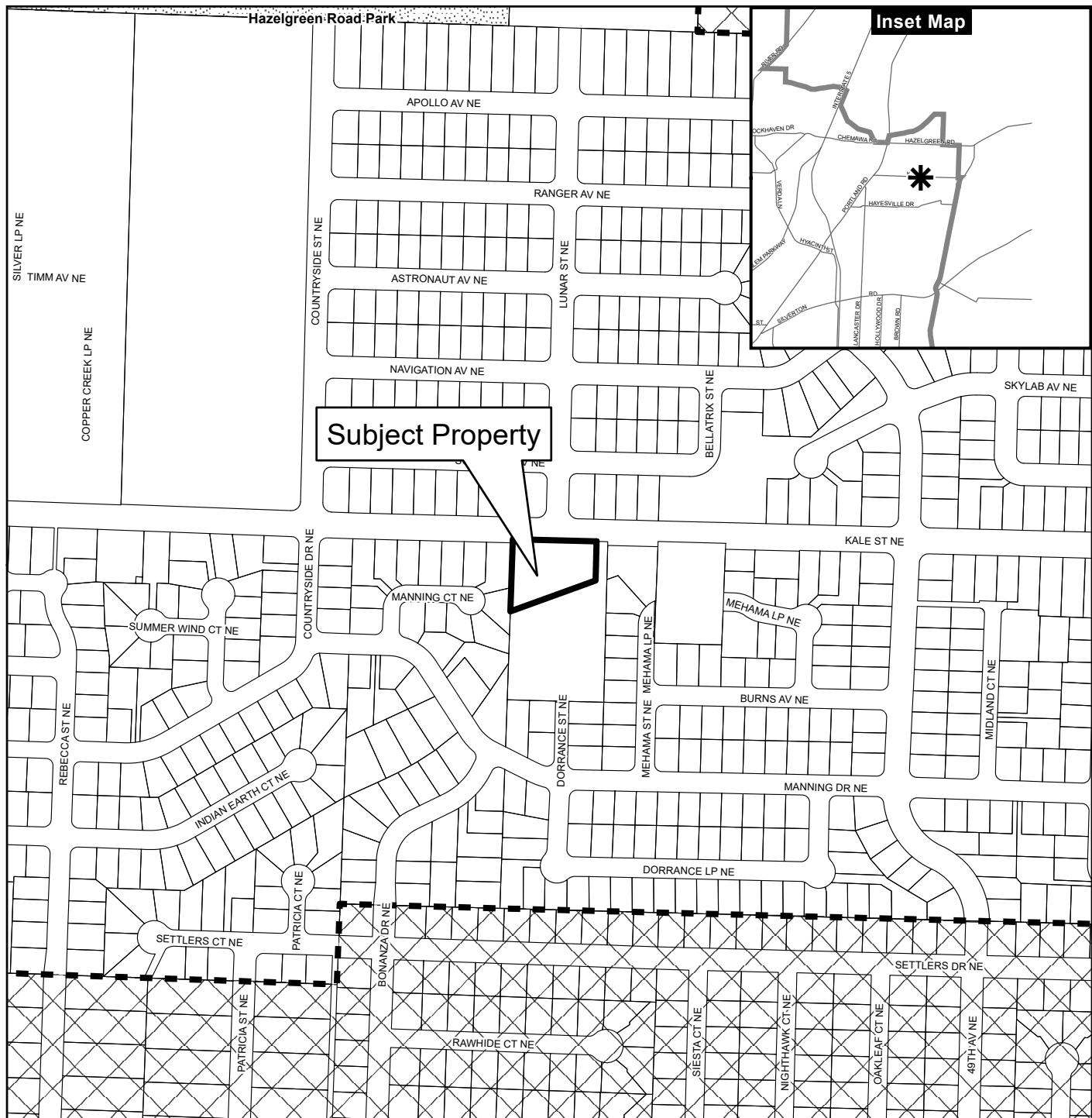
Peter Domine, Planner II, on behalf of
Lisa Anderson-Ogilvie, AICP,
Planning Administrator

Attachments: A. Vicinity Map
B. Site Plan

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Vicinity Map

4740 Kale Street NE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits

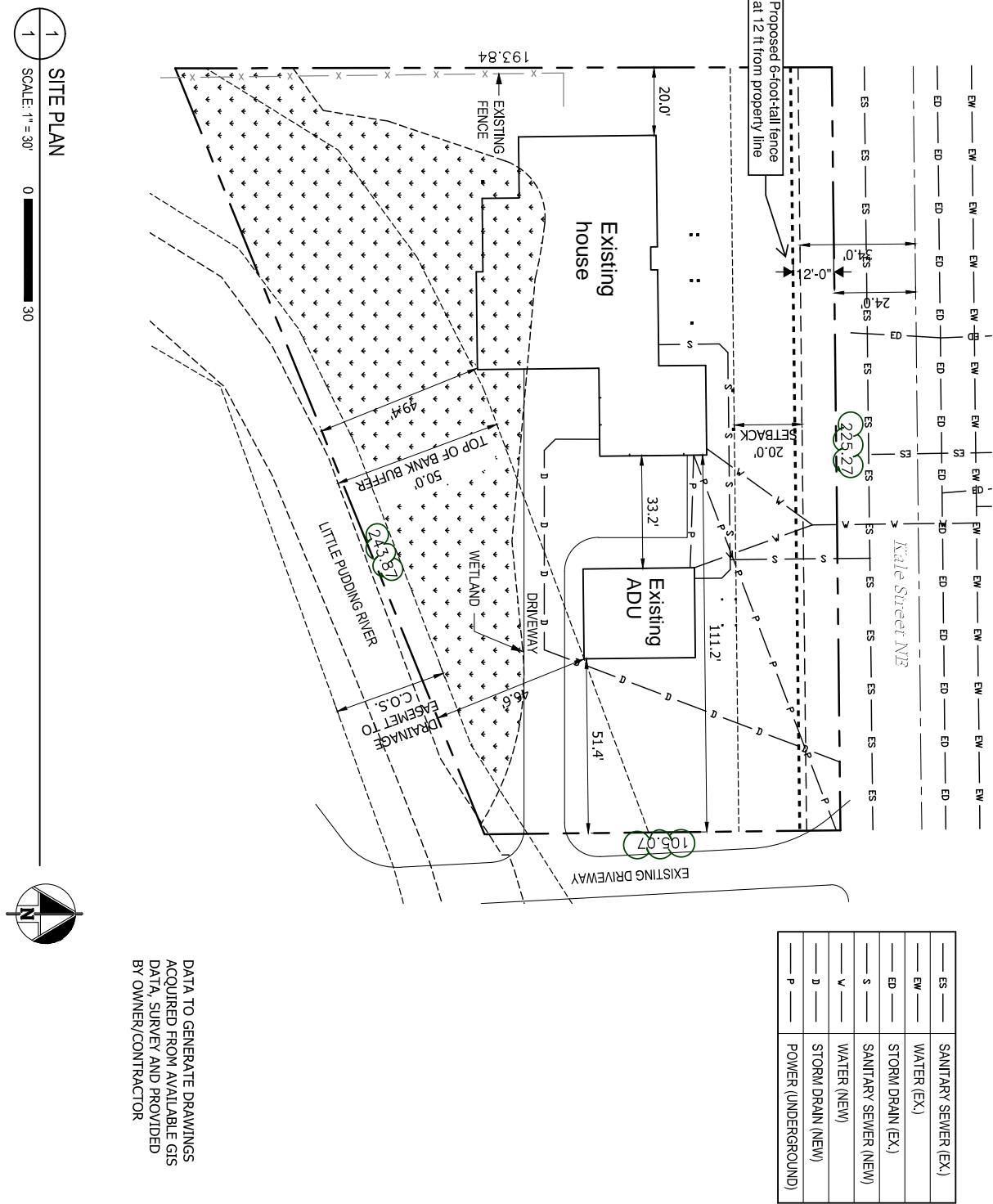
- Outside Salem City Limits
- Historic District
- Schools

- Parks



Community Planning and Development

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4740 Kale St. NE

Site Plan

DATA TO GENERATE DRAWINGS
ACQUIRED FROM AVAILABLE GIS
DATA, SURVEY AND PROVIDED
BY OWNER/CONTRACTOR

1
1
SCALE: 1" = 30'
0
30

SITE PLAN

30

The Zeta logo is a circular emblem. It features a horizontal line segment with a vertical crossbar in the center. The letter 'Z' is formed by the intersection of these lines. The area to the left of the 'Z' is white, and the area to the right is black.

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