

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



*Si necesita ayuda para comprender esta información, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

### CLASS 2 ADJUSTMENT MODIFICATION / CLASS 2 DRIVEWAY APPROACH PERMIT CASE NO.: ADJ-DAP22-07MOD1

APPLICATION NO.: 23-112390-PLN

NOTICE OF DECISION DATE: September 26, 2023

**SUMMARY:** A modification of two Adjustments and a new Adjustment and Driveway Approach Permit for development of a Cottage Cluster with eight units.

**Request:** A Class 2 Adjustment and Driveway Approach Permit for development of a Cottage Cluster containing eight dwelling units. The Class 2 Adjustment requests to:

- 1) Reduce the interior setback standard for a vehicle use area from ten feet to five feet; and
- 2) Reduce the vehicle use area setback abutting a street from 20 feet to 12 feet.
- 3) Reduce the minimum required spacing for driveway approaches onto a minor arterial from 370 to 45 feet.

For property approximately 0.30 acres in size, zoned RS (Single Family Residential) and located on the 4396 Block Market Street NE 97301 (Marion County Assessor's Map and Tax Lot number: 072W22AC / 1200 & 1300).

**APPLICANT:** Rhonda Wolf, Britany Randall

**LOCATION:** 4396 Market St NE

**CRITERIA:** Salem Revised Code (SRC) Chapters 250.005(d)(2)(A) – Class 2 Adjustments; 804.025(d) – Class 2 Driveway Approach Permits.

**FINDINGS:** The findings are in the attached Decision dated September 25, 2023.

**DECISION:** The **Planning Administrator APPROVED** Class 2 Adjustment Modification and Driveway Approach Permit Case No. ADJ-DAP22-07MOD1 subject to the following conditions of approval:

**Condition 1.** The landscaping plans shall include Type C landscaping along all required setbacks.

The rights granted by the attached decision must be exercised, or an extension granted, by the dates listed below or this approval shall be null and void.

Class 2 Adjustment Modification:	<u>October 12, 2025</u>
Class 2 Driveway Approach Permit:	<u>October 12, 2027</u>

Application Deemed Complete:	<u>August 30, 2023</u>
Notice of Decision Mailing Date:	<u>September 26, 2023</u>
Decision Effective Date:	<u>October 12, 2023</u>
State Mandate Date:	<u>December 28, 2023</u>

Case Manager: Jacob Brown, [jrbrown@cityofsalem.net](mailto:jrbrown@cityofsalem.net), 503-540-2347

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](mailto:planning@cityofsalem.net), no later than 5:00 p.m., October 10, 2023. 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(s) 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
MODIFICATION OF CLASS 2 ADJUSTMENT )	
CLASS 2 DRIVEWAY APPROACH PERMIT, )	
CASE NO. ADJ-DAP22-07MOD1 )	
4396 MARKET STREET NE - 97301 )	SEPTEMBER 25, 2023

In the matter of the applications for modification of Class 2 Adjustment and Class 2 Driveway Approach Permit submitted by the applicant United Way Mid-Willamette Valley represented by Britany Randall with BRAND Land Use, 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 modification of two Adjustments and a new Adjustment and Driveway Approach Permit for development of a Cottage Cluster with eight units.

Request: A Class 2 Adjustment and Driveway Approach Permit for development of a Cottage Cluster containing eight dwelling units. The Class 2 Adjustment requests to:

- 1) Reduce the interior setback standard for a vehicle use area from ten feet to five feet; and
- 2) Reduce the vehicle use area setback abutting a street from 20 feet to 12 feet.
- 3) Reduce the minimum required spacing for driveway approaches onto a minor arterial from 370 to 45 feet.

For property approximately 0.30 acres in size, zoned RS (Single Family Residential) and located on the 4396 Block Market Street NE 97301 (Marion County Assessors Map and Tax Lot number: 072W22AC / 1200 & 1300).

A vicinity map illustrating the location of the property is attached hereto and made a part of this staff report (**Attachment A**).

## PROCEDURAL FINDINGS

### 1. Background

On June 14, 2023, a consolidated application for a modification of Class 2 Adjustments, and Class 2 Driveway Approach Permit originally approved under ADJ-DAP22-07 was filed for the proposed development. After additional information was provided, including submission of a new Class 2 Adjustment, the applications were deemed complete for processing on August 30, 2023. The 120-day state mandated decision deadline for this consolidated application is December 28, 2023.

The applicant's proposed site plan is included as **Attachment B** and the applicant's written statement addressing the approval criteria applications can be found in the record, accessible online as indicated below.

## **SUBSTANTIVE FINDINGS**

### **2. 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: 23 112390.

### **3. Neighborhood Association and Public Comments**

The subject property is located within the boundaries of the East Lancaster Neighborhood Association (ELNA).

Applicant Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), land use applications included in this proposed consolidated land use application request require neighborhood association contact. On November 4, 2021, the applicant attended a meeting at ELNA informing them of the proposed project.

Neighborhood Association Comment: Notice of the application was provided to ELNA pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. As of the date of completion of this staff report, no comments have been received from the neighborhood association.

Homeowners Association: The subject property is not located within a Homeowners Association.

Public Comment: Notice was also 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.

Staff received two public comments prior to the end of the comment period. One comment indicated concerns with the proposal's impact on property values.

The second comment expressed concerns over traffic related issues, off-street parking availability for the eight cottages proposed, and impacts upon the property to the east which the commentor was concerned was a wetland. Staff has addressed the comments below:

#### **Property Values**

**Staff Response:** Effect on property values is not a criterion under the Salem Revised Code for granting or denying a Class 2 Adjustments nor Class 2 Driveway Approach permit. The zoning code allows the proposed eight-unit cottage cluster as a special use, provided that the

proposed development meets SRC 700.011 and demonstrates that the approval criteria for a Class 2 Adjustment and Class 2 Driveway are met.

### **Traffic**

**Staff Response:** The Assistant City Traffic Engineers have found no adverse traffic impacts from an eight-unit cottage cluster use on the site. The existing street system is adequate to serve the proposed development, and the Assistant City Traffic Engineer has determined that additional right of way or street improvements are not required. The existing median located on Market Street NE restricts movement to right-in and right-out which will not create a traffic hazard and will provide safe turning movements and access to the proposed development.

### **Off-Street Parking**

**Staff Response:** The Salem Revised Code (SRC) 806.015 (a)(1) establishes parking maximums and does not require a minimum amount of parking for any proposed use. As such, if the proposed development does not exceed the allowed amount of off-street parking, the amount of parking provided is at the discretion of the applicant.

### **Property to the East**

**Staff Response:** The property abutting 4396 Market Street NE to the east is owned by the City of Salem and currently maintained as a stormwater facility. There are no anticipated impacts by the proposed development to the facility.

## **4. City Department Comments**

Public Works Department - Reviewed the proposal and provided a memo which is included as **Attachment D**.

Building and Safety Division - Reviewed the proposal and indicated no concerns.

Fire Department - Reviewed the proposal and indicated no concerns.

## **5. Public Agency Comments**

As of the date of completion of this staff report, no comments have been received from any public agency.

## **DECISION CRITERIA FINDINGS**

### **6. 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 requesting three Class 2 Adjustments to:

- 1) Reduce the interior setback standard for a vehicle use area from ten feet to five feet;
- 2) Reduce the vehicle use area setback abutting a street from 20 feet to 12 feet.
- 3) Reduce the minimum required spacing for driveway approaches onto a minor arterial from 370 to 45 feet.

*Reduce the interior setback standard for a vehicle use area from ten feet to five feet.*

The purpose of the vehicle use area setback abutting interior property lines is to reduce the impact of motor vehicles on neighboring uses. The applicant proposed to install additional landscaping and site obscuring fencing to mitigate impacts of parking vehicles closer to the property line. To ensure the proposal equally meets the intent, the following condition applies;

**Condition 1:** The landscaping plans shall include Type C landscaping along all required setbacks.

*Reduce the vehicle use area setback abutting a street from 20 feet to 12 feet.*

The purpose of requiring a setback of 20-feet to the street is to preserve the pedestrian environment and protect pedestrians from having conflicts with vehicles. Because the vehicle use area is positioned parallel rather than perpendicular to the right-of-way, the reduction will not cause pedestrian and vehicular conflicts. Additionally, the parking is oriented in a manner which the vehicle headlights will point eastward onto the site, further reducing the vehicle use area impacts on the street and neighboring properties. The requested reduction to standards allows the applicant to maintain the rear separation to the vehicle use area abutting neighboring single-family property, the proposal equally meets the intent of the provision in compliance with this criterion.

*Reduce the minimum required spacing for driveway approaches onto a minor arterial from 370 to 45 feet.*

The purpose of requiring 370 feet spacing for driveway approaches onto a minor arterial is to maintain safe and efficient access to public streets. The applicant is proposing a driveway that access onto Market Street NE within 45 feet of another driveway west of the proposed development. The proposed location is position near an existing center median island in Market Street Ne, which restricts the driveway approach from allowing left hand turns and direct traffic to only right-in and right-out movements. The restriction in movement reduces potential traffic accidents with the nearby schools north of the subject property.

***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:** The development site is located within a residential area. As conditioned above the proposed adjustments will not detract from the livability of the residential area. The appearance

of the area will be greatly improved with the approval of the proposed development. The development and use of the cottage development will provide for more livable accommodations in the area and provide an improved appearance with landscaping. This criterion is met.

***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:** Three separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

## **8. Analysis of Class 2 Driveway Approach Permit Approval Criteria**

Salem Revised Code (SRC) 804.025(d) provides that an application for a Class 2 Driveway Approach Permit 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 804.025(d)(1): The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.***

**Finding:** The proposed driveway is located less than 370 feet from adjacent street intersections; therefore, a Class 2 Adjustment is required for driveway spacing as described above. Otherwise, the proposed driveway meets the standards for SRC 804 and PWDS.

***SRC 804.025(d)(2): No site conditions prevent placing the driveway approach in the required location.***

**Finding:** There are no site conditions prohibiting the location of the proposed driveways.

***SRC 804.025(d)(3): The number of driveway approaches onto an arterial are minimized.***

**Finding:** One access is proposed to an arterial street.

***SRC 804.025(d)(4): The proposed driveway approach, where possible:***

***(A) Is shared with an adjacent property; or***

***(B) Takes access from the lowest classification of street abutting the property***

**Finding:** The subject property abuts only one street, which has a minor arterial classification. A shared driveway approach is not possible because the adjacent parcels to the east contains a Water Quality Rain Garden, owned by the City and there is not

room for a shared driveway approach. A shared driveway approach with the neighbor to the west is not possible due to existing development patterns.

***SRC 804.025(d)(5): The proposed driveway approach meets vision clearance standards.***

**Finding:** The proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

***SRC 804.025(d)(6): The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.***

**Finding:** No evidence has been submitted to indicate that the proposed driveway will create traffic hazards or unsafe turning movements. Additionally, the Assistant City Traffic Engineer has reviewed the proposal and finds that with movements limited to right-in and right-out, the proposed approach will not create a traffic hazard and will provide safe turning movements and access to the proposed development.

***SRC 804.025(d)(7): The proposed driveway approach does not result in significant adverse impacts to the vicinity.***

**Finding:** Staff analysis of the proposed driveway and the evidence that has been submitted indicate that the location of the proposed driveway will not have any adverse impacts to the adjacent properties or streets.

***SRC 804.025(d)(8): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.***

**Finding:** The proposed driveway approach is located on a Minor Arterial street and does not create a significant impact to adjacent streets and intersections.

***SRC 804.025(d)(9): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.***

**Finding:** The proposed development is surrounded by residentially zoned property. The proposed development only abuts a Minor Arterial Street. The proposed driveway is taken from the lowest classification street abutting the subject property. The driveway balances the adverse impacts to residentially zoned property and will not have an adverse effect on the functionality of the adjacent streets.

## **9. Conclusion**

Based upon review of SRC Chapters 250, and 804, the applicable standards of the Salem Revised Code, the findings contained herein, and due consideration of comments received, the application complies with the requirements for an affirmative decision.

### **IT IS HEREBY ORDERED**

Final approval modification of Class 2 Adjustment and Class 2 Driveway Approach Permit Case No. ADJ-DAP22-07MOD1 is hereby **APPROVED** subject to SRC Chapters 250 and 804,



the applicable standards of the Salem Revised Code, conformance with the approved site plan included as Attachment B, and the following conditions of approval:

**Condition 1:** The landscaping plans shall include Type C landscaping along all required setbacks.



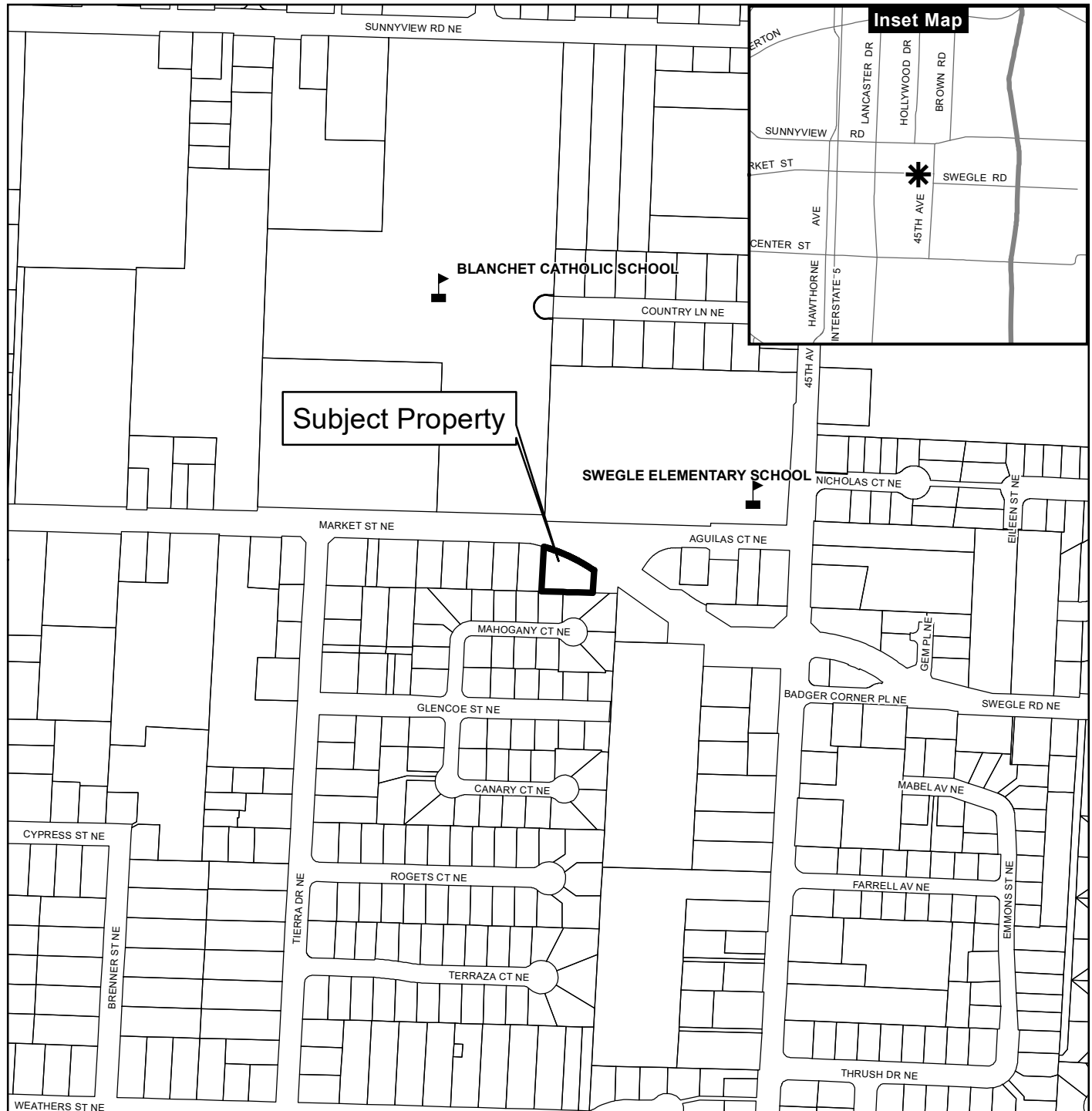
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Jacob Brown, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments: A. Vicinity Map  
B. Proposed Development Plans  
C. Public Works Memo

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

# Vicinity 4396 Market Street NE



## Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

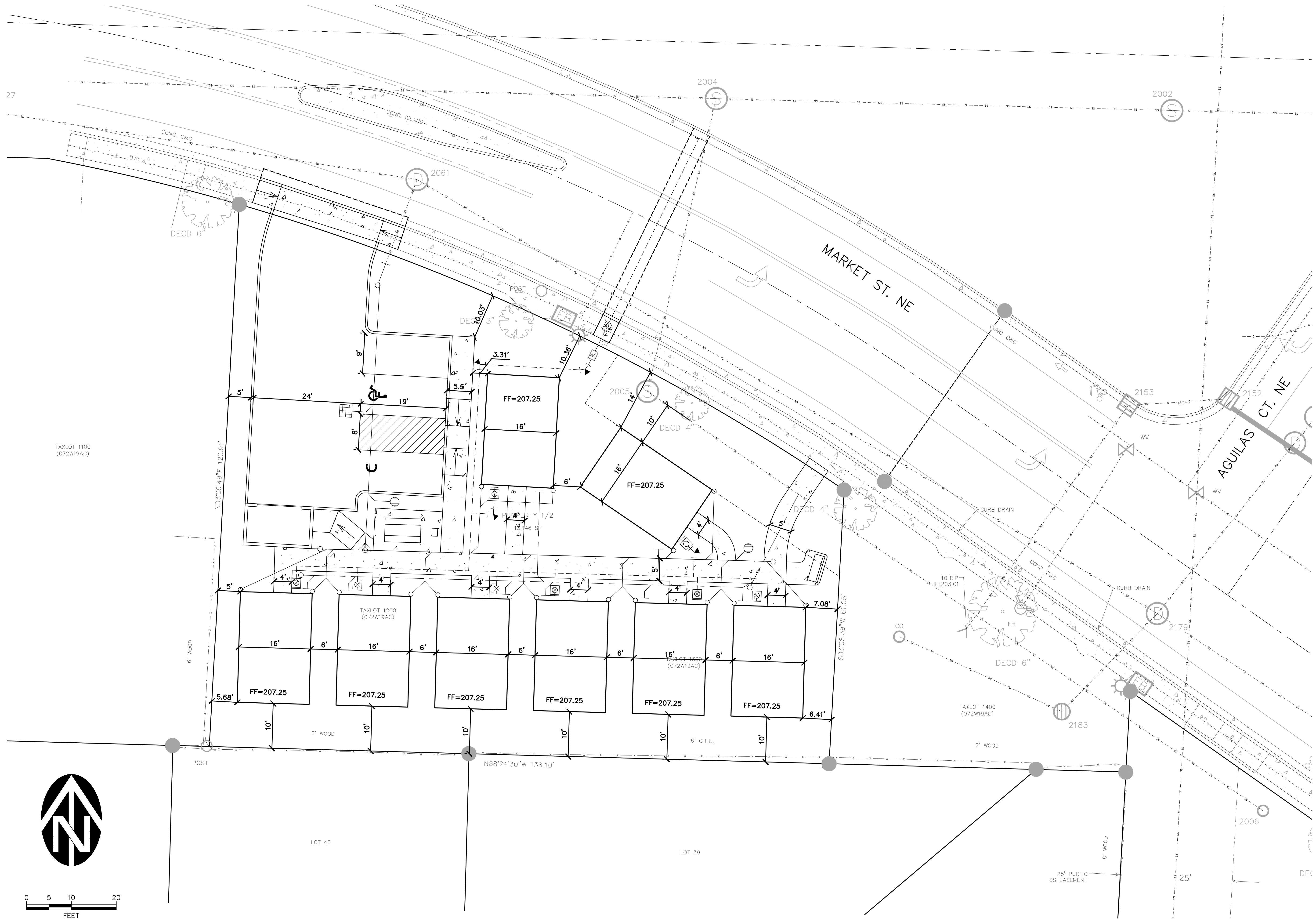
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Community Development Dept.

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VERIFY SCALE		DATE: 02/2023	
BAR IS ONE INCH ON ORIGINAL DRAWING	1"	DSN. JW	PER CITY COMMENTS
IF NOT ONE INCH ON SCALES ACCORDINGLY	0	DRN. JH	BY
		CKD. JW	REVISIONS
		NO. 2	DATE 05.15.2023

REGISTERED PROFESSIONAL ENGINEER  
DIGITALLY SIGNED  
WILLIAM J. WILSON  
OREGON NOV 12, 2008  
RENEW: 6/30/2022

**WESTECH ENGINEERING, INC.**  
CONSULTING ENGINEERS AND PLANNERS  
3841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302  
Phone: (503) 585-2474 Fax: (503) 585-3986  
E-mail: westech@westech-eng.com


UNITED WAY OF THE MID-WILLAMETTE VALLEY  
MARKET STREET COTTAGES - SOUTHWEST  
**SITE PLAN**

**DRAWING C2.0**  
JOB NUMBER 3361.0000.0



# MEMO

**TO:** Jacob Brown, Planner I  
Community Development Department

**FROM:** Laurel Christian, Planner II  
Public Works Department 

**DATE:** September 12, 2023

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS  
ADJ-DAP22-07MOD1 (23-112390-PLN)  
4396 MARKET STREET NE  
COTTAGE CLUSTER OF EIGHT UNITS**

## **PROPOSAL**

A Class 2 Adjustment and Driveway Approach Permit for development of a Cottage Cluster containing eight dwelling units. The Class 2 Adjustment requests to:

- 1) Reduce the interior setback standard for a vehicle use area from 10-feet to 5-feet;
- 2) Reduce the vehicle use area setback abutting a street from 20-feet to 12-feet;  
and,
- 3) Reduce the minimum required spacing for driveway approaches onto a minor arterial from 370-feet to 45-feet.

For property approximately 0.30 acres in size, zoned RS (Single Family Residential) and located on the 4396 Block Market Street NE 97301 (Marion County Assessors Map and Tax Lot number: 072W22AC / 1200 & 1300).

## **SUMMARY OF FINDINGS**

The proposed development meets applicable criteria related to Public Works infrastructure standards.

## **FACTS**

### **Streets**

1. Market Street NE

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Code authority references are abbreviated in this document as follows: *Salem Revised Code* (SRC); *Public Works Design Standards* (PWDS); *Salem Transportation System Plan* (Salem TSP); and *Stormwater Management Plan* (SMP).

- a. Standard—This street is designated as a Minor Arterial in the Salem TSP. The standard for this street classification is a 46-foot-wide improvement within a 72-foot-wide right-of-way.
- b. Existing Conditions—This street has an approximate 46-foot improvement within a 76-foot-wide right-of-way abutting the subject property.

### **Storm Drainage**

#### **1. Existing Conditions**

- a. There is an 18-inch storm main located in Market Street NE.

### **Water**

#### **1. Existing Conditions**

- a. The subject property is located in the G-0 water service level.
- b. There is a 12-inch water main located in Market Street NE.

### **Sanitary Sewer**

#### **1. Existing Conditions**

- a. There is an 8-inch sewer main located in Market Street NE.
- b. There is an 8-inch sewer main located on the subject property in an easement.

### **CRITERIA AND FINDINGS**

**Criteria—A Class 2 Driveway Approach Permit shall be granted if:**

- (1) The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards;**

**Finding—**With approval of the adjustment for driveway spacing, the proposed driveway meets the standards for SRC Chapter 804 and PWDS.

- (2) No site conditions prevent placing the driveway approach in the required location;**

**Finding—**There are no site conditions prohibiting the location of the proposed driveway.

**(3) The number of driveway approaches onto an arterial are minimized;**

**Finding**—The subject property only has access onto an arterial street (Market Street NE); one driveway is proposed.

**(4) The proposed driveway approach, where possible:**

- i. Is shared with an adjacent property; or**
- ii. Takes access from the lowest classification of street abutting the property;**

**Finding**—The subject property abuts only one street, which has a Minor Arterial classification. A shared driveway approach is not possible because the adjacent parcels to the east contain a Water Quality Rain Garden, owned by the City and there is not room for a shared driveway approach. A shared driveway approach with the neighbor to the west is not possible due to existing development patterns.

**(5) Proposed driveway approach meets vision clearance standards;**

**Finding**—The proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

**(6) The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;**

**Finding**—The proposed driveway approach will be limited to right-in and right-out movements due to the existing median located in the center turn lane of Market Street NE. Removal of the existing median is not proposed or permitted. The Assistant City Traffic Engineer has reviewed the proposal and finds that with movements limited to right-in and right-out, the proposed approach will not create a traffic hazard and will provide safe turning movements and access to the proposed development.

**(7) The proposed driveway approach does not result in significant adverse impacts to the vicinity;**

**Finding**—Staff analysis of the proposed driveway and the evidence that has been submitted indicate that the location of the proposed driveway will not have any adverse impacts to the adjacent properties or streets.

**(8) The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and**

**Finding**—The proposed driveway approach is located on a minor arterial street and does not create a significant impact to adjacent streets and intersections.

**(9) The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.**

**Finding**—The proposed development is surrounded by residentially zoned property. The proposed development only abuts a minor arterial street. The proposed driveway is taken from the lowest classification street abutting the subject property. The driveway balances the adverse impacts to residentially zoned property and will not have an adverse effect on the functionality of the adjacent streets.

**CRITERIA AND FINDINGS—CLASS 2 ADJUSTMENT**

Analysis of the proposed Class 2 adjustment based on relevant criteria in SRC 250.005(d)(2) is as follows:

**Criteria**—The purpose underlying the specific development standard proposed for adjustment is:

1. Clearly inapplicable to the proposed development; or
2. Equally or better met by the proposed development.

**Finding**— The applicant is requesting a Class 2 adjustment to allow for reduced spacing between driveways less than the standard of 370 feet. The proposal will allow one driveway approach onto Market Street NE that is approximately 45-feet from the westerly neighboring driveway approach. The proposed driveway approach is located at its proposed location to utilize an existing center median island in Market Street NE, which will restrict the driveway approach to right-in and right-out movements. Restricting movements to right-in and right-out will reduce potential vehicle safety conflicts with existing access to the school within the center turn lane in Market Street NE. Pursuant to SRC 804.035(a)(2)(C), the proposed driveway is allowed because the development cannot be feasibly served by access onto a local or collector street. Additionally, the proposed driveway configuration meets the adjustment criteria by allowing for turning movements and traffic safety equal to what would be accomplished by meeting the development standard.

Prepared by: Laurel Christian, Planner II  
cc: File