

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



# NOTICE OF DECISION

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

## **REVISED: ATTACHMENTS CORRECTED**

### DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 ZONING  
ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH PERMIT CASE NO. CU-SPR-  
ADJ-DAP16-07

APPLICATION NOS.: 16-112019-ZO, 16-113491-RP, & 16-113349-ZO

NOTICE OF DECISION DATE: **SEPTEMBER 4 2, 2016**

**SUMMARY:** A conditional use, site plan review, zoning adjustment and driveway approach permit to allow a non-profit shelter with an adjustment to reduce the minimum number of parking spaces from 12 spaces to 6 spaces.

**REQUEST:** A consolidated Conditional Use, Class 3 Site Plan Review, Class 2 Zoning Adjustment and Class 2 Driveway Approach Permit request to allow a non-profit shelter serving up to 10 people and an adjustment to reduce the minimum number of parking spaces from 12 spaces to 6 spaces, for property approximately 0.54 acres in size, zoned RM-I (Multi-Family Residential) and located at 1530 Gabriela Court NE - 97301 (Marion County Assessor's Map and Tax Lot number: 072W20CA03100).

**APPLICANT:** WSH LLC (JAYNE DOWNING, CALEB A. WILLIAMS)

**OWNERS:** WSH LLC (JAYNE DOWNING, CALEB A. WILLIAMS)

**LOCATION:** 1530 GABRIELA CT NE / 97301

**CRITERIA:** Conditional Use: SRC 240.005(d)  
Class 3 Site Plan Review: 220.005(f)(3)  
Class 2 Adjustment: 250.005(d)(2)  
Class 2 Driveway Approach Permit: SRC 804.025(d)

**FINDINGS:** The findings are in the attached Order.

**DECISION:** The Hearings Officer **GRANTED** Conditional Use / Class 3 Site Plan Review / Class 2 Zoning Adjustment / Class 2 Driveway Approach Permit Case No. CU-SPR-ADJ-DAP16-07 as follows:

A. That the Conditional Use Permit for the proposed development of a non-profit shelter is **APPROVED**, subject to the following conditions:

**Condition 1:** The non-profit shelter shall operate in conformance with the application and applicable Code requirements. Any substantial changes to the operation shall require a modification to the Conditional Use Permit.

**Condition 2:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment B.

**Condition 3:** Prior to building permit issuance, convey land for dedication to equal a cul-de-sac radius right-of-way of 45 feet on the development side of Gabriela Ct NE.

**Condition 4:** Design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

B. That the Class 3 Site Plan Review for the proposed development of a non-profit shelter is **APPROVED**.

C. That the Class 2 Adjustment to reduce the minimum number of parking spaces from 12 spaces, as required under SRC 806.015(a) to 6 spaces be **APPROVED**, subject to the following condition:

**Condition 5:** The reduced parking requirements, as approved in this zoning adjustment, shall only apply to the non-profit shelter and development shown in the attached site plan. Any future change of use or development, beyond what is shown in the attached site plan, shall conform to the minimum parking requirements for that use or development, unless reduced through a future land use action.

D. That the Class 2 Driveway Approach Permit for the proposed driveway from the subject property to Turner Road SE is **APPROVED**.

The rights granted by the attached decision must be exercised, or an extension granted, as follows or this approval shall be null and void:

Conditional Use	<u>September <del>17</del> 20, 2018</u>
Site Plan Review	<u>September <del>17</del> 20, 2020</u>
Adjustment	<u>September <del>17</del> 20, 2018</u>
Driveway Approach Permit	<u>September <del>17</del> 20, 2018</u>

Application Deemed Complete:	<u>July 29, 2016</u>
Public Hearing Date:	<u>August 24, 2016</u>
Notice of Decision Mailing Date:	<u>September 4 2, 2016</u>
Decision Effective Date:	<u>September <del>17</del> 20, 2016</u>
State Mandate Date:	<u>November 26, 2016</u>

Case Manager: Olivia Glantz, [OGlantz@cityofsalem.net](mailto:OGlantz@cityofsalem.net)

*OGlantz for OGI*

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., SEPTEMBER 16 19, 2016**. 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 Chapters 220, 240, 250 and 804. The appeal must be filed in duplicate with the City of Salem Planning Division. 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 Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE  
PERMIT, SITE PLAN REVIEW, ADJUSTMENT  
AND DRIVEWAY APPROACH PERMIT TO  
ALLOW A NON-PROFIT SHELTER WITH AN  
ADJUSTMENT TO REDUCE THE MINIMUM  
NUMBER OF PARKING SPACES FROM 12  
SPACES TO 6 SPACES. REQUEST: A  
CONSOLIDATED CONDITIONAL USE, CLASS  
3 SITE PLAN REVIEW, CLASS 2 ZONING  
ADJUSTMENT AND CLASS 2 DRIVEWAY  
APPROACH PERMIT REQUEST TO ALLOW A  
NON-PROFIT SHELTER SERVING UP TO 10  
PEOPLE IN AN RM-I ZONE AND AN  
ADJUSTMENT TO REDUCE THE MINIMUM  
NUMBER OF PARKING SPACES FROM 12  
SPACES TO 6 SPACES, FOR PROPERTY  
APPROXIMATELY 0.54 ACRES IN SIZE,  
ZONED RM-I (MULTI-FAMILY  
RESIDENTIAL) AND LOCATED AT 1530  
GABRIELA COURT NE SALEM OREGON

CU-SPR-ADJ-DAP16-07

FINDING OF FACT CONCLUSION AND  
DECISION

**DATE AND PLACE OF HEARING:**

August 24, 2016 City of Salem Council Chambers Rm.240, 555 Liberty Street SE Salem,  
Oregon.

**APPEARANCES:**

Staff:

Olivia Glantz, Planner II

Applicant:

Jayne Downing, Caleb A. Williams

Neighborhood Association:

East Lancaster Neighborhood Association (ELNA) Appear  
by letter

Proponents:

Jamie Zegan

Opponents:

None

## SUMMARY OF THE APPLICATION

**Summary:** A request for a Conditional Use Permit, Site Plan Review, Adjustment and Driveway Approach Permit to allow a non-profit shelter with an adjustment to reduce the minimum number of parking spaces from 12 spaces to 6 spaces.

**Request:** A consolidated Conditional Use, Class 3 Site Plan Review, Class 2 Zoning Adjustment and Class 2 Driveway Approach Permit request to allow a non-profit shelter serving up to 10 people in an RM-I zone and an adjustment to reduce the minimum number of parking spaces from 12 spaces to 6 spaces, for property approximately 0.54 acres in size, zoned RM-I (Multi-Family Residential) and located at 1530 Gabriela Court NE Salem, Oregon.

## FINDINGS OF FACT AND CONCLUSION AND DECISION

1. The Salem Area Comprehensive Plan designates the property Multi- Family Residential.
2. The subject property is zoned RM-1 Multiple Family Residential. The proposed use is a shelter serving up to 10 people which falls into the non-profit shelter use classification. Non- profit shelter uses are allowed in RM-I Zone with a conditional permit.
3. The zoning of the surrounding properties is as follows:
  - North: RM-I (Multiple Family Residential)
  - East: Urban Development (UD) Marion County Zoning
  - South: RS (Single Family Residential)
  - West: Right-of-Way for Gabriela Court NE
4. The East Lancaster Neighborhood Association filled a letter in support of the request.
5. A neighbor raised the following concern:
  - a. **Traffic and Parking:** The testimony from the applicant that the shelter will be operated like a single family dwelling. There is a request for a parking adjustment reducing the number of spaces, and if granted the parking issues will be addressed and public works has reviewed the driveway approach and states the proposed driveway provide for safe turning movement on and off the property.
  - b. **Type of Facility and Clientele:** The applicant has stated, "We want to make sure you know it is NOT a drug and alcohol recovery home, sex offender treatment, or a re-entry for individuals coming out of prison. It will be individuals and families that are involved in working on goals, such as securing employment and long-term housing. Our nonprofit will work closely with them each day to move towards self-sufficiency."

- c. **Operation of the Facility:** According to the applicant, the movements of the residents will be similar to any family in a dwelling, duplex, or apartment, including trips such as going to appointments and searching for jobs. There will be no deliveries to the site.
- d. **Property Value:** The decision that the Hearings Officer makes does not involve the reduction or possible reduction of property values as an applicable criterion. However, there is significant effort made in granting the application to provide for reasonably compatible and minimal impact.
- e. **Compatibility:** According to the applicant this will be operated like a single family residence and compatibility is a concern that will be addressed later in this order.

6. Conditional use Criteria is contained in SRC Chapter 240.005(d):

**Criterion 1:** The proposed use is allowed as a conditional use in the zone.

It is the finding of the Hearings Officer that SRC Chapter 513, Table 513-1 provides that Non-Profit Shelters uses are allowed in the RM-I zone with a conditional use permit.

**Criterion 2:** The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The potential negative impact which could be generated by the proposal, including traffic, crime and noise. The applicant has indicated business practices that would mitigate these potential adverse impacts. However, to ensure that the reasonably likely adverse impact of the use on the immediate neighborhood can be minimized. The Hearings Officer adopts the following condition:

**Condition 1:** The non-profit shelter shall operate in conformance with the application and applicable Code requirements. Any substantial changes to the operation shall require a modification to the Conditional Use Permit.

As to the parking requirements the applicant has requested a Class 2 Adjustment with the application reduced to the standard 12 spaces to 6 spaces. This requires a Class 2 Adjustment and based upon the finds in the Class 2 Adjustment application this proposed development conforms with this criterion.

**Criterion 3:** The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

As proposed the non-profit shelter is compatible with and will have minimal impact on the surrounding property. Based upon the testimony received at the hearing and with the adoption of condition 2; this will ensure the development is done as proposed.

**Condition 2:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment B to the staff report.

7. Class 3 Site Plan Review Approval Criteria is contained in SRC 220.005(f)(3):

Criterion 1: The application meets all applicable standards of the UDC.

The proposed development includes a request to allow a non-profit shelter with an adjustment to reduce the minimum number of parking spaces from 12 spaces to 6 spaces. The proposed development otherwise complies with all applicable development standards of the Salem Revised Code

- a. SRC 513.005(a) **Uses:** Non-Profit Shelters uses are allowed in the RM-I zone, subject to conditional use permit. The conditional use permit is consolidated with this application and addressed above, with that this criterion is satisfied.
- b. SRC 513.010(b) **Lot Standards:** The subject property has approximately 145-feet of frontage along Gabriela Court NE, which exceeds the minimum frontage requirement.
- c. SRC 513.010(d) **RM-I Zone Setbacks:** According to the site plan submitted, the proposed building will comply with the minimum setback requirement to the North, South, East and the West.
- d. SRC 513.010(e) **Lot Coverage, Height:** The subject property is 0.54-acres in size and the non-profit shelter is proposed to be 4,191 square feet. The lot coverage would be approximately 18%, less than the maximum allowed of 50%. The shelter is proposed to be 19-feet in height, less than the 35-feet allowed. Therefore, this criterion has been satisfied.
- e. SRC 513.010(g) **Landscaping:** Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC Chapters 513 and 807 at the time of building permit application.
- f. **Solid Waste Service Area Development Standards SRC Chapter 800:** A dedicated solid waste service area is not shown on the proposed site plan; however, if the service area is occupied by a receptacle less than 1 cubic yard in size, then the solid waste service area development standards of SRC Chapter 800 are not applicable.
- g. **Off-Street Parking, Loading, and Driveways are contained in SRC Chapter 806:** The proposed non-profit shelter will be 4,191 square feet, requiring a minimum of 12 off-street parking spaces. There are six proposed off-street parking spaces provided for the proposed use. The applicant has requested a Class 2 Adjustment with this application to reduce the standard from 12 spaces to 6 spaces. If that is granted later in this order this criterion has been satisfied.
- h. **SRC 806.035 Off-Street Parking and Vehicle Use Area Development Standards.** The proposed development includes a new off-street parking area. The proposed parking area is not located within required setbacks, and the proposed perimeter setbacks and landscaping meet the applicable setbacks of 5 feet from the proposed building.
- i. **Interior Landscaping:** The proposed off-street parking area is approximately 3,200 square feet in size, and is therefore not subject to interior parking lot landscaping requirements of SRC Chapter 806.
- j. **Off-Street Parking Area Dimensions:** The proposed off-street parking spaces are sufficient to meet the minimum dimensions for standard parking spaces.
- k. **Additional Off-Street Parking Area Development Standards 806.035(f-m):** The proposed off-street parking area is developed consistent with the additional standards for grade, surfacing, and drainage. Bumper guards, wheel barriers, striping, marking and signage and lighting will meet the standards of SRC 806. Lighting shall be

consistent with SRC Chapter 806. The site plan proposes screening with a six-foot wood fence along the northern, eastern and southern property lines. Therefore, this criterion has been satisfied.

- l. **Bicycle Parking and Bicycle Parking Development Standards:** The proposed use includes a 4,191 square foot non-profit shelter, which requires a minimum of four bicycle parking space. The proposed development includes six new bicycle parking spaces. The proposed bicycle parking spacing will be within 50 feet of the main entry of the building, and the bicycle rack meets the requirements of SRC 806.060.
- m. **Off- Street Loading Areas:** The applicant is proposing to construct a 4,191 square foot building to use as a non-profit shelter. Since the building is less than 5,000 square feet a dedicated off-street loading space is not required.
- n. **Landscaping:** Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.
- o. **Natural Resources:** Based upon the testimony there are no protected trees that have been identified on the site for removal. The Salem-Keizer Local Wetland Inventory does not show any wetland and the applicants proposal does not appear to disturb any portion of a mapped landslide hazard area.

**Criterion 2:** The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

In order to ensure that streets within the proposed development are provided consistent with the TSP and the requirements of SRC Chapter 803, the following condition of approval is adopted:

**Condition 3:** Prior to building permit issuance, convey land for dedication to equal a cul-de-sac radius right-of-way of 45 feet on the development side of Gabriela CT NE.

**Criterion 3:** Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

The existing driveway access onto Gabriela Court NE and the public alley provide for safe turning movements into and out of the property. Therefore, this criterion has been satisfied.

**Criterion 4:** The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

Based upon the Public Works Department testimony, the water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the development. However, to ensure the adequate provision of water, sewer, and storm services to the subject property, the Hearings Officer adopts the following condition:

**Condition 4:** Design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

8. Class of 2 Adjustment Criteria is contained in SRC 250.005(d)(2)

**Criterion 1:** 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.

It's the finding of the Hearings Officer that the purpose of the off-street parking requirements in the City's off-street parking chapter is to ensure that adequate parking is provided to serve development on-site. It's the testimony that there required one space per 350 square feet ratio or 12 spaces does not apply to this non-profit shelter, because the 12 parking spaces are not used by the clients to the shelter. Based upon the staff testimony that the purpose of the parking requirement of one space per 350 square feet ratio is inapplicable, The Hearings Officer finds that this criterion has been satisfied, but adopts the following condition:

**Condition 5:** The reduced parking requirements, as approved in this zoning contained in the record, shall only apply to the non-profit shelter and development shown in the attached site plan. Any future change of use or development, beyond what is shown in the attached site plan, shall conform to the minimum parking requirements for that use or development, unless reduced through a future land use action.

**Criterion 2:** If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

The shelter is proposed to be constructed in a matter similar to a single family dwelling. Since the adjustment would allow the non-profit shelter to appear and function more like a single family dwelling, it will not detract from the livability or appearance of the residential area.

**Criterion 3:** 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.

It is the finding of the Hearings Officer that only one adjustment has been requested, so this criterion does not apply.

9. Driveway Approach Permit is contained in SRC 804.025(d)

**Criterion 1:** The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.

The applicant is proposing one driveway onto Gabriela Court NE, which is a local road. The Traffic Engineer has determined that the proposed driveway does provide a safe access point for the development.

**Criterion 2:** No site conditions prevent placing the driveway approach in the required location.

It is the finding of the Hearings Officer that there are no site conditions prohibiting the driveway approach in the required location.

**Criterion 3:** The number of driveways onto an arterial is minimized.



It is the finding of the Hearings Officer that the proposed driveway takes access onto Gabriela Court NE, which is designated as a Local Road in the TSP. The proposed driveway is not accessing onto an arterial street.

**Criterion 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.

It is the finding of the Hearings Officer that the proposed driveway is currently located with access to the lowest classification of street abutting the subject property.

**Criterion 5:** The proposed driveway approach meets vision clearance standards.

It is the finding of the Hearings Officer that the proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

**Criterion 6:** The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

It is the finding of the Hearings Officer that the Traffic Engineer has determined that the proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

**Criterion 7:** The proposed driveway approach does not result in significant adverse impacts in the vicinity.

It is the finding of the Hearings Officer that the locations of the proposed driveway will not create any adverse impacts to the adjacent properties or streets. It will provide for safe turning movements for access to the subject property.

**Criterion 8:** The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.

It is the finding of the Hearings Officer that the proposed driveway approach does not create a significant impact to adjacent streets and intersections.

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

It is the finding of the Hearings Officer that the proposed non-profit shelter would be similar in nature to a residential use. The proposal will not have an adverse impact on the residentially zoned property and the functionality of the adjacent streets.

Based upon the foregoing the Hearings Officer approves the following request, for the subject property approximately 0.54 acres in size, zoned RM-I (Multi-Family Residential), and located at 1530 Gabriela Court NE Salem, Oregon

- A. That the Conditional Use Permit for the proposed development of a non-profit shelter is APPROVED, subject to the following conditions:

**Condition 1:** The non-profit shelter shall operate in conformance with the application and applicable Code requirements. Any substantial changes to the operation shall require a modification to the Conditional Use Permit.

**Condition 2:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment B.

**Condition 3:** Prior to building permit issuance, convey land for dedication to equal a cul-de-sac radius right-of-way of 45 feet on the development side of Gabriela CT NE.

**Condition 4:** Design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

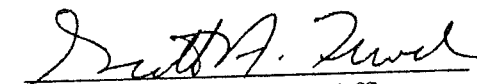
- B. That the Class 3 Site Plan Review for the proposed development of a non-profit shelter is APPROVED.

- C. That the Class 2 Adjustment to reduce the minimum number of parking spaces from 12 spaces, as required under SRC 806.015(a) to 6 spaces be APPROVED, subject to the following condition:

**Condition 5:** The reduced parking requirements, as approved in this zoning adjustment, shall only apply to the non-profit shelter and development shown in the attached site plan. Any future change of use or development, beyond what is shown in the attached site plan, shall conform to the minimum parking requirements for that use or development, unless reduced through a future land use action.

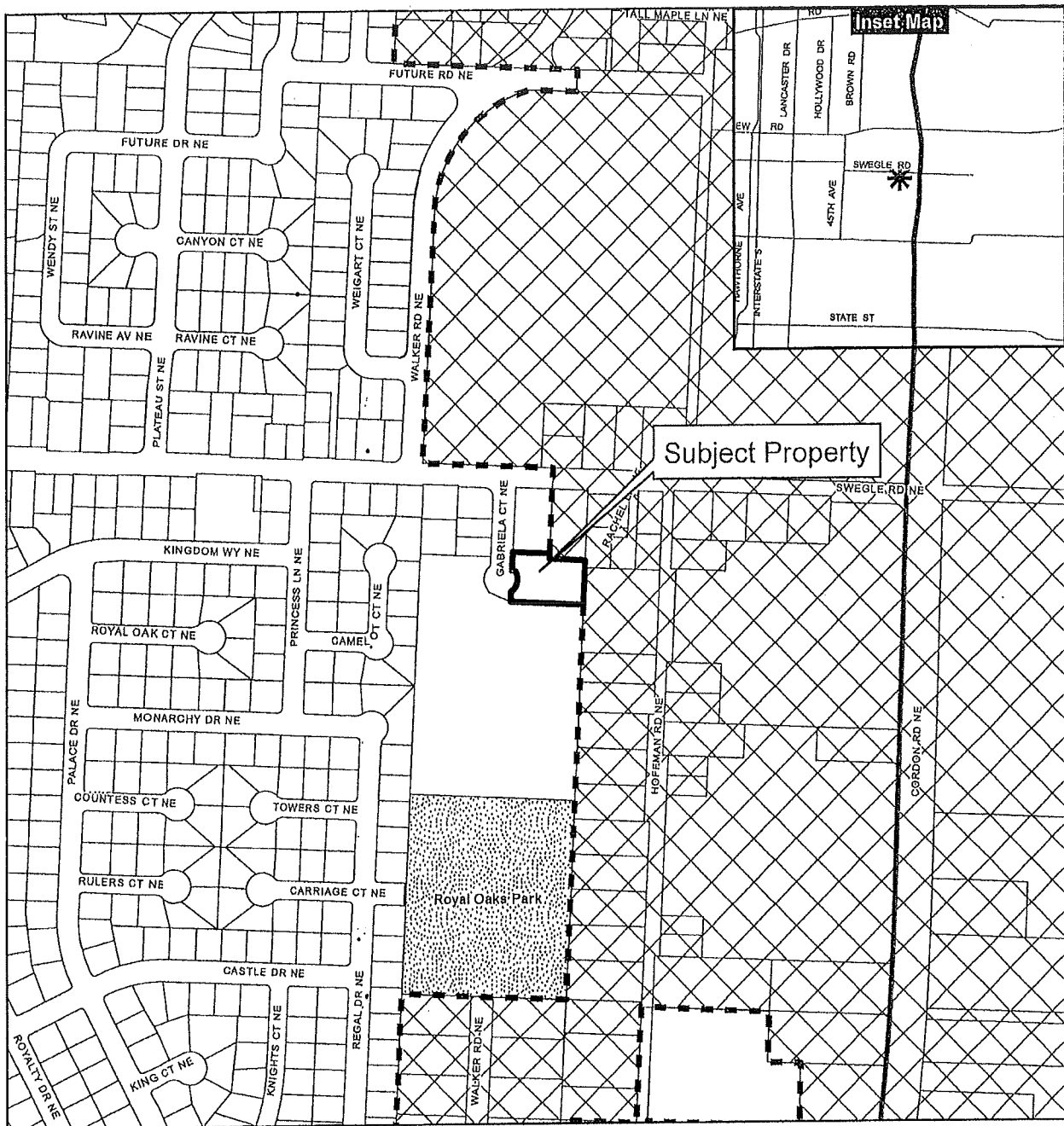
- D. That the Class 2 Driveway Approach Permit for the proposed driveway from the subject property to Turner Road SE is APPROVED.

DATED: September 2, 2016

  
Scott A. Fewel, Hearings Officer

# Vicinity Map

## 1530 Gabriela Court NE



### Legend

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

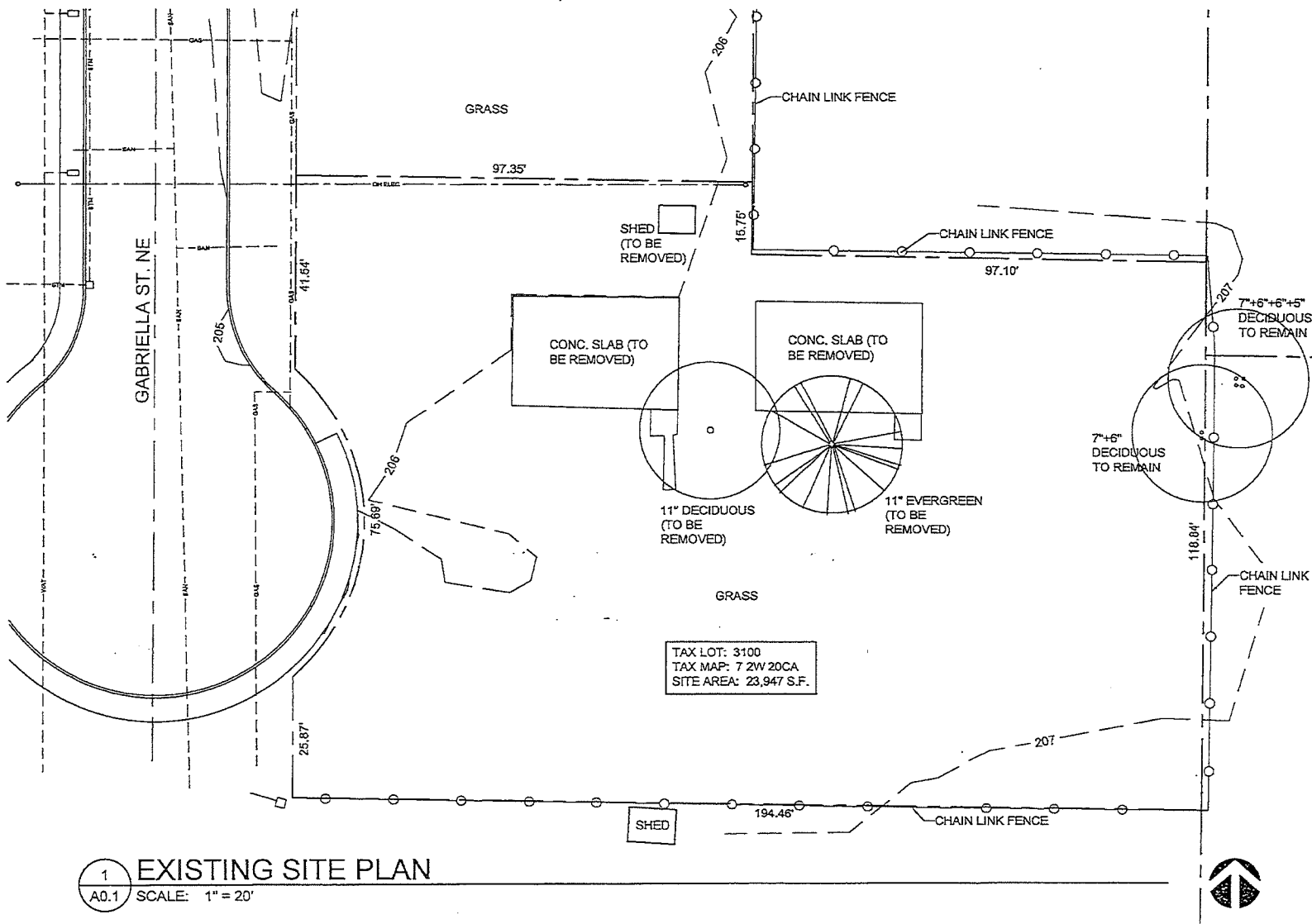
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Community Development Dept.

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PROJ: CONDITIONAL USE PERMIT WSH, LLC 4911 SWEIGLE RD. NE SALEM, OR 97301	DRAWN	DATE
	JMS	5-31-16
SHEET TITLE EXISTING SITE PLAN SHEET NO.	JOB NO.	
	A0.1	
ANDERSON SHIRLEY ARCHITECTS INC. 688 COMMERCIAL SE SUITE 5 SALEM, OR 97301 VI 509.371.1140 FI 503.364.6761		

