

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. 25-004

APPLICATION: Application of Erin Dowers, Kerry Dowers, and Mathilda Manuela Untalan Sanchez for an adjustment to reduce the required 12-foot side street setback to 1-foot along the southern property line and reduce the required 14-foot rear yard setback to 7-feet along the western property line for an addition to a dwelling in a RS (Single Family Residential) zone located at 453 36th Ave NE, Salem (T7S; R2W; Section 30BC; Tax lot 5100).

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 **May 20th, 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 applicants shall maintain a 1-foot setback along the southern property line and a 7-foot setback along the western property line.

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 **May 20th, 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 **May 21st, 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 in the unincorporated area of Salem, on the west side of 36th Ave NE, directly northwest of the intersection of 36th and Monroe Ave NE. The subject parcel is lots 9 and 10 in Thompson's Addition- a legally platted subdivision as recorded in the book of town plats on Page 56 Book 14. It is therefore legal for land use purposes.
3. To the north, east, and south of the subject parcel are single family residential zoned parcels. The property directly west is within the City of Salem Planning jurisdiction, followed by the Interstate 5 freeway.
4. The applicant proposes to reduce the 12-foot side street setback to 1-foot along the southern property line and reduce the required 14-foot rear yard setback to 7-feet along western property line.
5. Various agencies were contacted with requests for comment.

Marion County Building Department commented: "Permit(s) are required to be obtained prior to construction of the addition and utilities installation on private property. The setback of 1 foot to the line used for the right-of-way dedication is not a concern because the fire separation distance, as defined by the 2023 ORSC and described in ORSC R302.1 and Table R302.1, the fire separation distance is measured to the centerline of the adjacent street, Thorndale Rd NE, which will exceed 3 feet according to Table R302.1, thus fire rated construction on the proposed exterior wall is not required as presented."

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, and therefore subject to the use and development standards of SRC Chapter 511. Any future development will have to meet the development standards of SRC Chapter 511.010 unless otherwise adjusted through future land use actions.
- b. No structures- including eaves- are allowed to project into the public right-of-way. The existing fence also appears to be located within the public right-of-way.

Marion County Assessor's Office provided information about the taxes on the subject property.

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 the setbacks will allow for the development of a home in an area of primarily single-family dwellings. There will be no significant adverse impacts on the adjacent residential uses. The criterion is met.
 - b. *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*

The adjusted setbacks will allow an addition on a dwelling that will require permitting by Marion County Building Inspection to ensure the dwelling is built safely. Furthermore, the impact on traffic will not be of concern as Thorndale is a dead-end road with only two homes accessing off it. It can be determined that the adjustment will have no significant impact on persons working or residing in the area. 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 an addition to dwelling on the subject parcel. The parcel is approximately 111 feet by 90 feet, with the house taking up most of the area. This adjustment is necessary to avoid relocating the gas meter and still maintaining yard space in the side and rear. The reduction to the western and southern setbacks is the minimum necessary to permit the proposed development. 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 maintain the intent of MCC 16.15.120-150, as the changes in setbacks will be compensated by other areas of the property. The existing home is approximately 32-feet from the rear property line, as shown on the site plan. The difference between the current and proposed setbacks exceeds the required 14-foot setback, ensuring adequate rear yard space. Additionally, the pre-existing fence along the side yard already intrudes on the southern property line adjacent to Thorndale Rd NE. Adjusting the setback to 1 foot will not exacerbate this non-conformity, as the structure will remain within the non-conforming fence. Thus, modifying the side and rear setbacks to facilitate the proposed development aligns with the provisions of MCC 16.15.120-140, given that the property is sufficiently enclosed by a fence and ample yard space will remain. 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**.

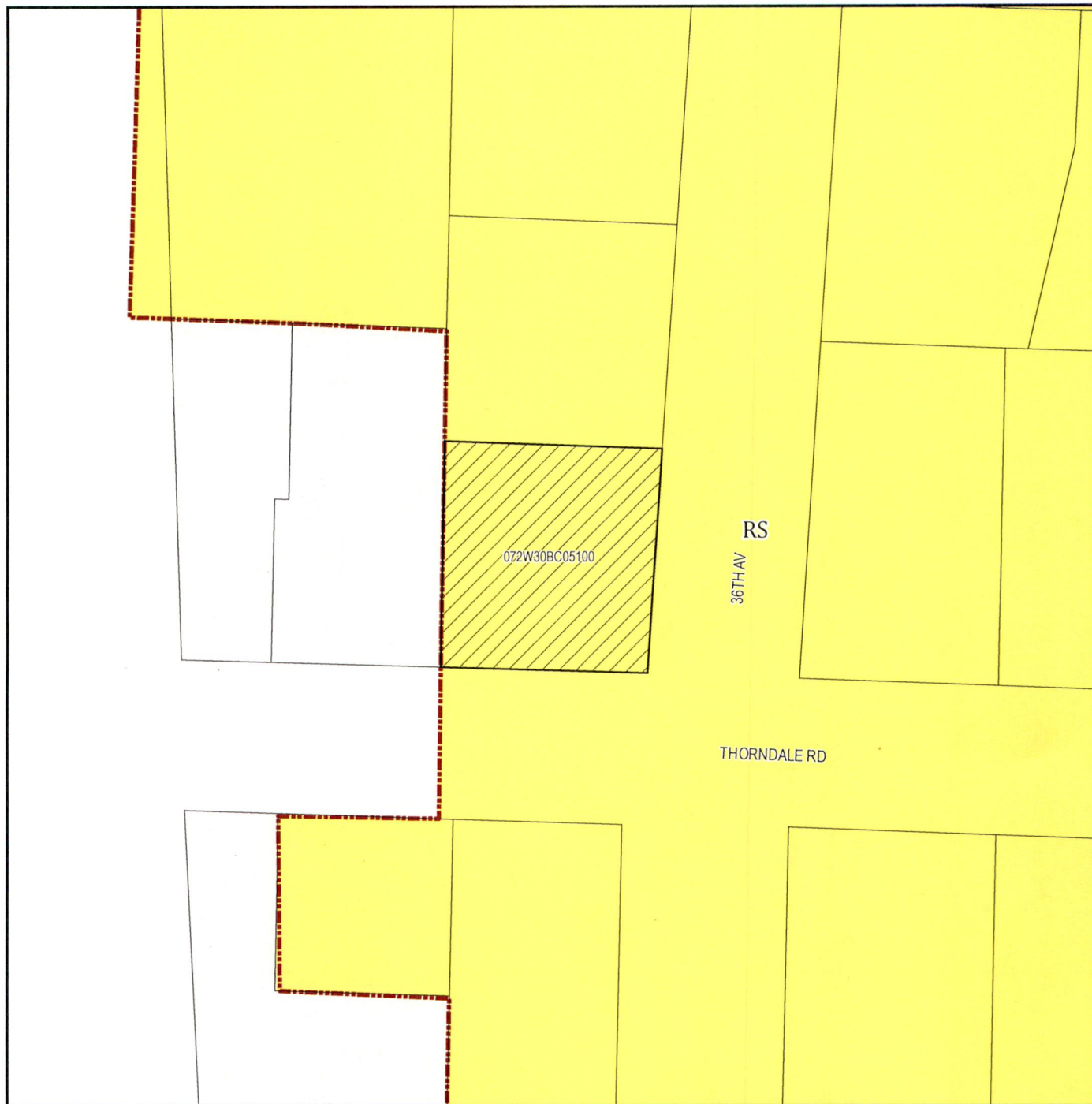
Brandon Reich

Date: May 5th, 2025

Planning Director/Zoning Administrator

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): 072W30BC05100

Owner Name: DOWERS, ERIN PEGGY DOWERS,
KERRY DAMON UNTALAN SANCHEZ,
MATHILDA MANUELA
Situs Address: 453 36TH AVE NE
City/State/Zip: SALEM, OR, 97301
Land Use Zone: RS
School District: SALEM-KEIZER
Fire District: MARION COUNTY NO.1

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 59 ft

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.