



## STAFF REPORT PRESENTED TO THE PLANNING COMMISSION

**REQUEST:** The applicant is requesting approval of a Variance to allow the use of a Development Agreement instead of constructing the required Half Street Improvements. This request is intended to preserve the existing development pattern of the neighborhood.

The applicant intends to partition the property in the future in accordance with SHMC 17.58 (Land Divisions) and SHMC 17.98 (Partitions), or SHMC 17.72.040 (Lot Division for Middle Housing). The property is located within the Residential Low Density (R-1) zone.

### 17.42.050 HALF STREET DEVELOPMENT AND IMPROVEMENT

*Half-Street development conditions typically occur in areas where existing travel lanes are pre-existing and development occurs on one side of the right-of-way only.*

A. *Extension of roadways. In areas where street pavement, curbs, stormwater drainage, and sidewalks do not exist; sidewalk, curb, drainage system and driveway construction shall be required in the following conditions:*

4. *When located on a corner of two public street rights-of-way, both of which do not have existing sidewalk, curb and drainage. Corner development will set line and grade for the remainder of street block segment.*

**APPLICANT:** Tristan Nichols

**PROPERTY OWNER:** Dawn Davis

**FILE NUMBER:** VR26-04

**PROPERTY LOCATION:** 1178 46<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AD Tax Lot 04500.

**REVIEW AND DESIGN CRITERIA:** Sweet Home Municipal Code Section(s) 17.10, 17.42, 17.106, and 17.126.

**HEARING DATE & TIME:** July 2, 2026, at 6:30PM

**HEARING LOCATION:** City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386

**STAFF CONTACT:** Angela Clegg, Planning & Building Manager  
Phone: (541) 818-8029; Email: [aclegg@sweethomeor.gov](mailto:aclegg@sweethomeor.gov)

**REPORT DATE:** June 25, 2026

# I. PROJECT AND PROPERTY DESCRIPTION

## ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

Floodplain: Based on a review of the FEMA FIRM Maps; Panel 41043C0918G, dated September 29, 2010, the subject property is not the special flood hazard area.

Wetlands: The subject property does not show wetlands/waterways on the properties that are depicted on the Statewide Wetlands Inventory Map or the National Wetlands Inventory Map.

The Statewide Inventory Map does show the subject property contains Predominantly Hydric Soils. Some soils naturally retain water longer than others, especially when they occur on certain parts of the landscape, such as in depressions. These soils often exhibit characteristics (e.g. "routinely flooded") that meet the definition of, and are designated as "hydric soils." (NRCS Hydric Soils List Criteria <https://www.nrcs.usda.gov/publications/query-by-state.html>) Because of these characteristics hydric soils are often found on the landscape where wetlands occur.

Access: Based on the Subject Property Map (Attachment A), the property abuts and has access from Kalmia Street and 46<sup>th</sup> Avenue.

Services: There are City water and sewer services to the existing dwelling.

Street: The subject property abuts approximately 130 feet of Kalmia Street and 150 feet of 46<sup>th</sup> Avenue. Kalmia Street and 46<sup>th</sup> Avenue are classified as local streets.

## TIMELINES AND HEARING NOTICE:

Application Received: May 21, 2026

Application Deemed Complete: May 26, 2026

Notice Distribution to Neighboring Property Owners Within 300 feet and Service Agencies: May 26, 2026

Notice Published in New Era Newspaper: June 3, 2026

Date of Planning Commission Hearing: July 2, 2026

120-Day Processing Deadlines: October 2, 2026

Notice was provided as required by SHMC 17.126.010

## II. COMMENTS

**Matt Cook**

**CEDD Engineering:** 17.42.050 Half street development and improvement indicates this property could be required to perform half street improvements.  
17.42.080 Sidewalks indicates this property may be eligible to defer these improvements if the property qualifies as being "in the rural fringe of The City where urban construction standards have not yet occurred."

**Public Works Division:** No comments as of the issuance of this staff report.

**Jaysen Cunningham**

**Building Division:** Building has no comment.

**Sweet Home**

**Fire District:** No comments as of the issuance of this staff report.

**Public Comments:** No comments as of the issuance of this staff report.

## III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

The Planning Commission may allow a Variance from a requirement or standard of this Development Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance. [17.106.060(A)]**

Applicants Comment: A corner lot requires half street improvements. I'm requesting a variance from the half street improvements to a development agreement to maintain the existing development pattern.

Staff Findings: Staff finds that where street pavement, curbs, stormwater drainage, and sidewalks are not already in place, City standards require the construction of sidewalks, curbs, drainage systems, and driveways under specific conditions. One such condition applies to corner lots located at the intersection of two public rights-of-way that also lack existing sidewalks, curbs, and drainage. In these cases, the required improvements establish the line and grade for the remaining segment of the block, as outlined in SHMC 17.42.050(A)(4).

The City may defer sidewalk installation in areas where future roadway or utility improvements are anticipated, or in the rural fringe where urban development standards have not yet been implemented. Property owners remain responsible for installing sidewalks when requested by the City or must pay their proportional cost if the City installs them at a later time.

46th Avenue has a 40-foot dedicated right-of-way but only 20 feet of existing pavement and currently lacks sidewalks, curbs, and stormwater drainage. Kalmia Street has a 50-foot dedicated right-of-way, also with 20 feet of paved width and no existing sidewalks, curbs, or stormwater drainage.

Based on the criteria in SHMC 17.106.060(A), a variance may be granted when the Development Code does not account for special or unique physical conditions of the site, established development patterns, or adjacent land uses. The applicant states that the corner-lot requirement for half-street improvements constitutes a hardship and requests a variance to instead enter into a development agreement. This agreement would maintain the existing development pattern while ensuring the applicant's obligations are addressed.

**B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.**

Applicants Comment: Yes, the neighbors of the area would like to preserve the existing development patterns. This variance would be helpful in that.

Staff Findings: Section 17.106.060(B) requires that a variance be necessary to preserve a substantial property right enjoyed by other properties within the same vicinity. The standard also specifies that economic hardship alone cannot serve as the basis for approving a variance.

46th Avenue has a 40-foot dedicated right-of-way with only 20 feet of pavement and no existing sidewalks, curbs, or stormwater drainage. Kalmia Street has a 50-foot right-of-way with the same 20-foot paved width and lacks the same urban improvements. The surrounding developed properties similarly do not contain half-street improvements. As a result, requiring the applicant to install full half-street improvements at this time would create a level of development not present on adjacent properties.

The applicant notes that neighboring property owners wish to maintain the existing development pattern and that the variance would support this continuity. Staff find that allowing the variance would preserve a substantial property right consistent with other properties in the area, namely, the ability to develop without triggering disproportionate street improvements that are not present elsewhere along the block or within the immediate vicinity.

The request is not based on economic hardship, but rather on maintaining equality with surrounding development and avoiding the creation of isolated, out-of-sequence street improvements.

**C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.**

Applicants Comment: No, it would remain the same but cleaned up and have proper driveway approaches. It would enhance the neighborhood.

Staff Findings: Staff find that the variance will not be materially detrimental to the public welfare or injurious to the property in the vicinity or district in which the property is located. The variance does not conflict with the objectives of any City plan or policy.

**D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).**

Applicants Comment: By the applicant.

Staff Findings: Section 17.106.060(D) requires that the need for a variance not be self-imposed by the applicant or property owner. Specifically, a variance cannot result from the applicant's prior actions, such as a property line adjustment or land division previously approved for the site.

The applicant is requesting a variance to allow the use of a Development Agreement in lieu of constructing the required half-street improvements. The stated purpose of this request is to maintain the existing development pattern within the neighborhood rather than to avoid an improvement obligation created by a prior property adjustment.

The property is located within the Residential Low Density (R-1) zone, and the applicant has indicated an intention to pursue a future land division consistent with SHMC 17.58 (Land Divisions), SHMC 17.98 (Partitions), or SHMC 17.72.040 (Lot Division for Middle Housing). No previous land division or property line adjustment involving the applicant has contributed to the current request.

While the applicant acknowledges that the request arises “by the applicant,” Staff finds that the need for the variance results from the existing street conditions on 46th Avenue and Kalmia Street, both of which lack sidewalks, curbs, and stormwater drainage, and not from any self-created circumstance. The site’s context and existing infrastructure deficiencies are the factors triggering the half-street improvement requirement, not an action undertaken by the property owner.

**E. The variance requested is the minimum variance which would alleviate the identified hardship.**

Applicants Comment: Yes, it would allow for the existing development pattern to remain the same.

Staff Findings: Staff find that the requested variance is the minimum allowed for what the applicant is requesting.

**F. All applicable building code requirements and engineering design standards shall be met.**

Applicants Comment: N/A

Staff Findings: No development is proposed with this application. Staff Recommends a Condition of Approval that all building code requirements and engineering design standards be met at the time of development.

**IV. STAFF RECOMMENDATION**

Staff find that the applicant has requested the minimum variance necessary to alleviate the hardships presented by the applicant. Staff have recommended Conditions of Approval listed below.

**V. CONCLUSIONS**

The application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section III), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

**Conditions of Approval:**

1. All building code requirements and engineering design standards be met at the time of development.
2. A copy of the recorded development agreement be provided to the City within 14 days of the approval of Variance Application VR26-04

## VI. PLANNING COMMISSION ACTION

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommend that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommend that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

### Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

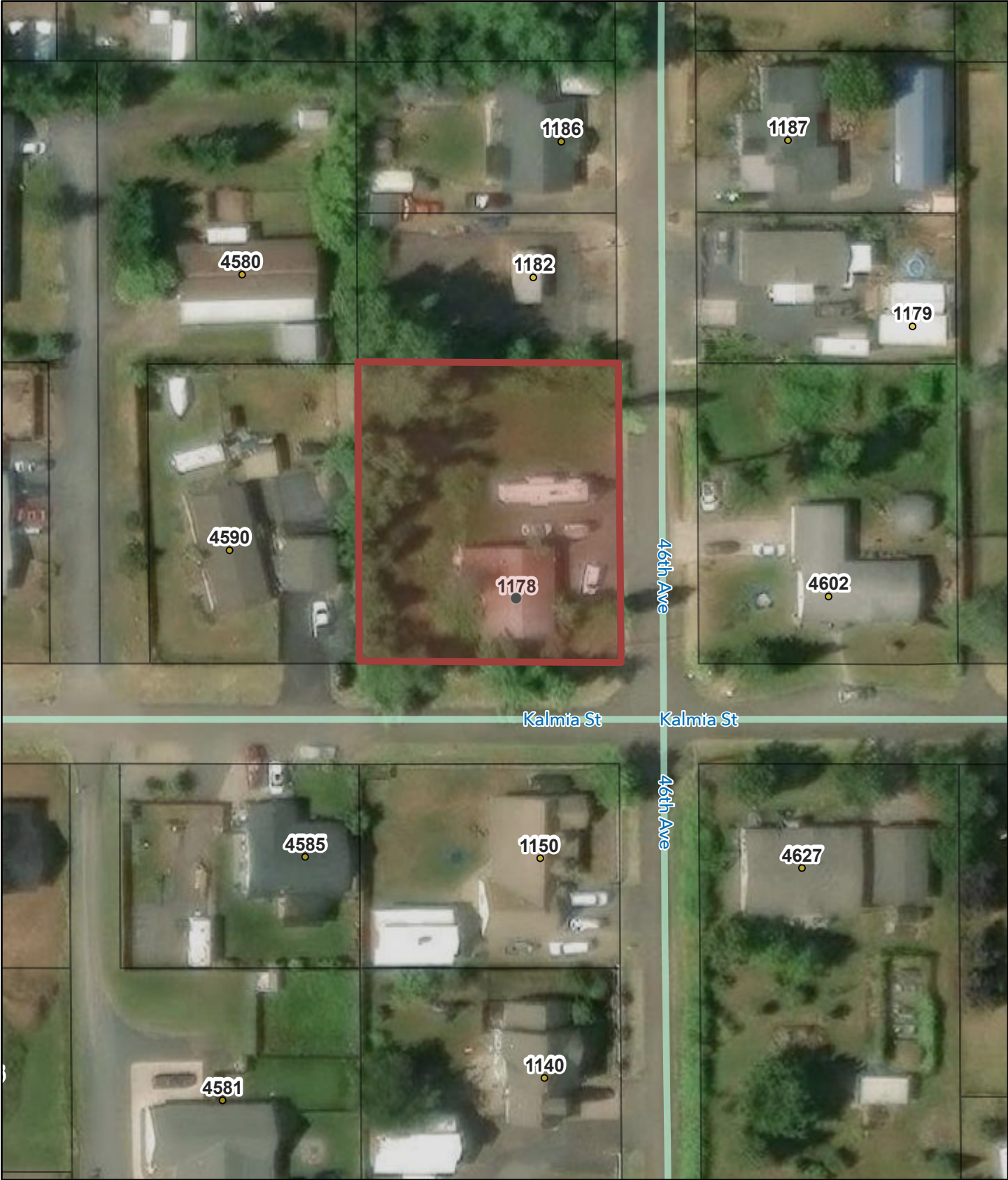
1. Move to approve application VR26-04 and thereby permit the variance for the subject lot located at 1178 46<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AD Tax Lot 04500; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR26-04 for the subject lot located at 1178 46<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AD Tax Lot 04500; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

## VII. ATTACHMENTS

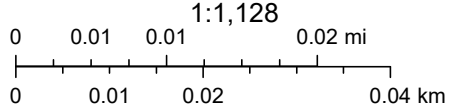
- A. Subject Property Map
- B. Site Plan

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:30 PM, Monday through Thursday, excluding holidays.

# VR26-04 Subject Property Map

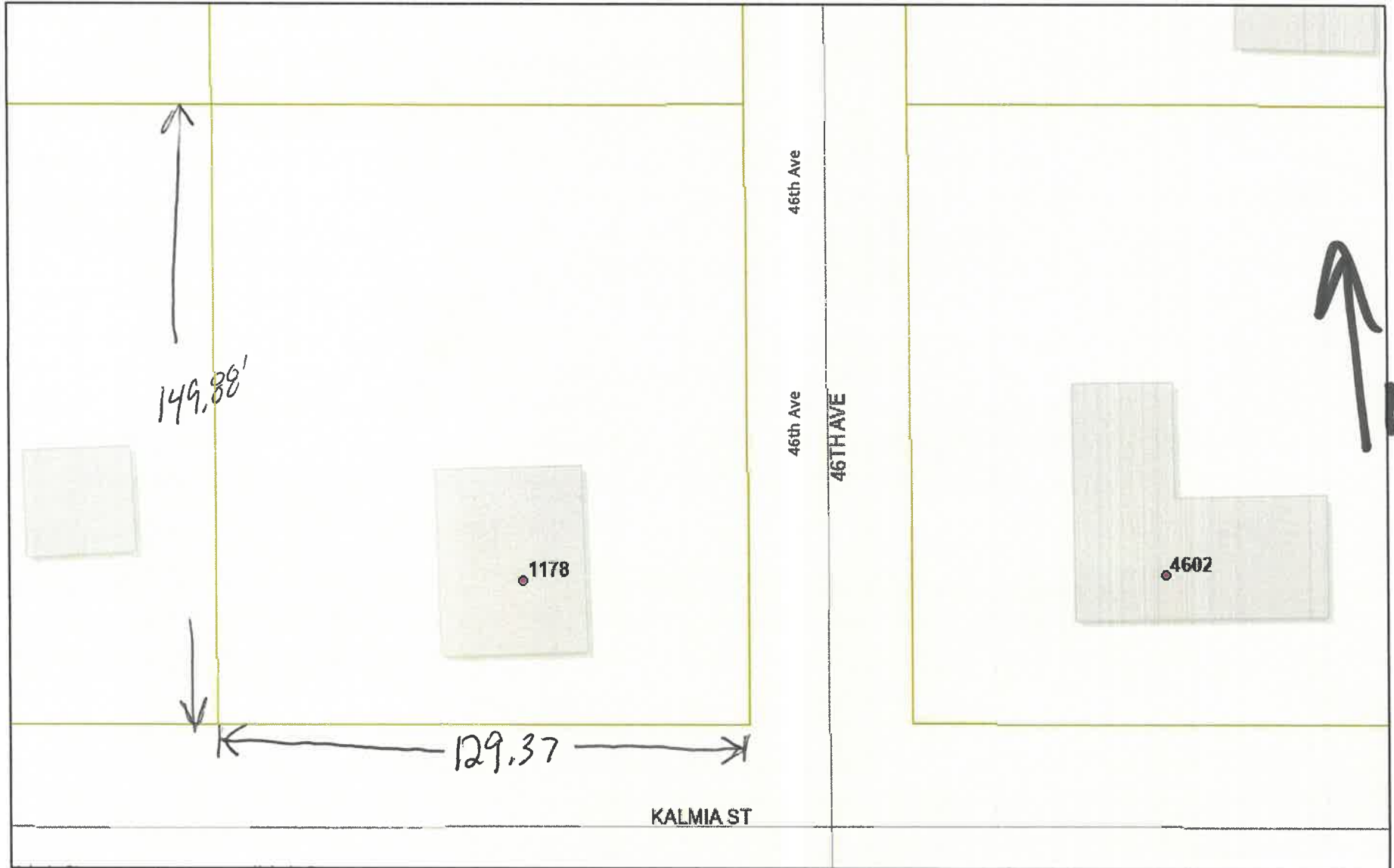


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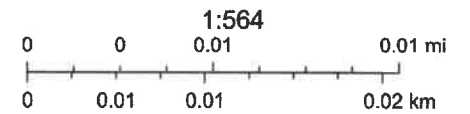
Microsoft, Vantor

# Linn County Planning Application



5/21/2026, 12:56:08 PM

- Sales
- Roads
- Tax Lots
- Address
- City Limits
- County Boundary



Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland,

Map created using the Linn County Oregon web mapping application

This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the