



STAFF REPORT PRESENTED TO THE PLANNING COMMISSION

REQUEST: The applicant is requesting approval of a Variance to allow a 5-foot interior north side yard setback for a proposed residential accessory structure.

The applicant poured a concrete slab in compliance with R-1 development standards prior to purchasing the structure and was unaware that the structure's height would require an increased setback. The proposed accessory structure is approximately 17.75 feet in height.

Pursuant to Sweet Home Municipal Code (SHMC) 17.70.010(B)(2), the required side yard setback for a structure of this height is 15 feet. The applicant originally applied for an adjustment based on a staff calculation error. Upon discovery of the staff error, it was determined the request exceeds the 10 percent adjustment threshold and requires approval of a Variance pursuant to SHMC 17.106.010:

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard.

The applicant is therefore requesting a Variance to reduce the required side yard setback from 15 feet to 5 feet.

The subject property is zoned Residential Low Density (R-1) and is designated Low Density Residential (R-1) under the Comprehensive Plan.

APPLICANT AND PROPERTY OWNER: Marilyn Nicholson

FILE NUMBER: VR26-02

PROPERTY LOCATION: 1197 43rd Ave, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 1702

REVIEW AND DESIGN CRITERIA: Sweet Home Municipal Code Section(s) 17.10.060, 17.70.010(B), 17.106, and 17.126.

HEARING DATE & TIME: March 5th, 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

REPORT DATE: February 27, 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 41043C0914G, 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.

Access: Based on the Subject Property Map (Attachment A), the property abuts 43rd Avenue.

Services: There are existing City water and sewer services to the property from 43rd Avenue.

Street: The subject property abuts approximately 136 feet of 43rd Avenue.

TIMELINES AND HEARING NOTICE:

Application Received: January 28, 2026

Application Deemed Complete: January 29, 2026

Notice Distribution to Neighboring Property Owners Within 300 feet and Service Agencies: February 2, 2026

Notice Published in New Era Newspaper: February 4, 2026

Date of Planning Commission Hearing: March 5, 2026

120-Day Processing Deadlines: May 30, 2026

Notice was provided as required by SHMC 17.126.010

II. COMMENTS

Matt Cook

CEDD Engineering:

CEDD Engineering has no comments on Variance VR26-02. Utilities are available along 43rd Avenue to include a storm ditch, 8" CON sanitary sewer main, and 16" DI water main.

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: The Planning and Building Manager received a voicemail from a neighboring property owner expressing opposition to the application and proposed setback. The caller stated that the height of the structure and its proximity to the property line would shade his garden area. A return voicemail was left requesting that the concerns be submitted in writing (via letter or email) so they could be included in the record. As of the date of this staff report, no written correspondence has been received.

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)]**

Staff Findings: The applicant is requesting a Variance to reduce the required side yard setback from 15 feet to 5 feet for a proposed accessory structure approximately 17.75 feet in height.

The applicant initially poured a concrete slab in compliance with R-1 development standards prior to purchasing the accessory structure. At the time the slab was installed, the applicant understood the development to meet the applicable setback requirements. It was not until the building permit review process that the applicant became aware that the height of the proposed structure would trigger an increased side yard setback requirement.

When this was identified, the concrete slab had already been completed, and the structure had been purchased. Relocating the slab to meet the 15-foot setback would require demolition and/or reconstruction, resulting in significant costs to the applicant.

Pursuant to Section 17.106.060(A), a variance may be granted when the Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. In this case, the strict application of the increased setback requirement is directly related to the structure's height rather than to site-specific impacts. The location of the existing slab, installed in good faith under the applicant's understanding of the R-1 standards, creates a practical hardship unique to this property.

Staff finds that the circumstances surrounding the completed slab and purchased structure, combined with the development pattern in the area, support consideration of the requested variance under

Section 17.106.060(A), as the code provision does not fully account for the site-specific conditions present in this case.

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.

Staff Findings: Section 17.106.060(B) requires that the variance be necessary to preserve a substantial property right enjoyed by other properties in the same vicinity or district and may not be based solely on economic hardship.

Accessory structures are a permitted use within the R-1 zone. The subject property is approximately 40,075 square feet. Based on the square footage of the lot, the applicant is allowed to construct an accessory structure up to approximately 4,207 square feet and can cover up to 40% of the lot. The applicant is proposing a 1,200 square foot accessory structure and has 33% of lot coverage to utilize.

The property owners in the vicinity are afforded the right to construct accessory structures consistent with zoning standards. The requested variance would allow the applicant to utilize the existing foundation to develop an accessory structure comparable in function and scale to those commonly permitted in the area.

Although relocation of the slab would result in significant cost, staff's findings are not based solely on economic hardship. Rather, the variance is necessary to allow reasonable enjoyment of a property right consistent with other similarly situated properties.

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.

Staff Findings: Staff finds 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).

Staff Findings: The applicant initially poured a concrete slab in compliance with R-1 development standards prior to purchasing the accessory structure. At the time the slab was installed, the applicant understood the development to meet the applicable setback requirements. It was not until the building permit review process that the applicant became aware that the height of the proposed structure would trigger an increased side yard setback requirement.

When this was identified, the concrete slab had already been completed, and the structure had been purchased. Relocating the slab to meet the 15-foot setback would require demolition and/or reconstruction, resulting in significant costs to the applicant.

The variance is not the result of a property line adjustment or land division approval previously granted to the applicant.

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

Staff Findings: Staff finds 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.

Staff Findings: Building Permit 827-25-000292-STR is reliant on the approval of Variance application VR26-02. Staff Recommends a Condition of Approval that all building code requirements and engineering design standards be met prior to the final inspection.

IV. STAFF RECOMMENDATION

Staff find that the applicant has requested the minimum variance necessary to alleviate the hardships presented by the applicant. Staff has 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 prior to the final inspection

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 VR26-02 and thereby permit the variance for the subject lot located at 1197 43rd Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 01702; 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 VR26-02 for the subject lot located at 1197 43rd Avenue. Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 01702; 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.



Subject Property



1 inch = 157 feet

VR26-02
Subject Property Map

Date: 01/30/2026

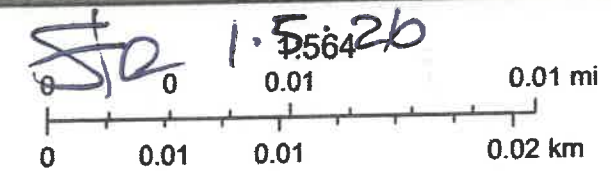
Linn County Planning Application

Site Address: 1197 43rd Ave.
Sweet Home, OR
97386



12/3/2025, 8:01:54 AM

- Permits
- City Limits
- ▭ County Boundary
- Roads
- ▭ Tax Lots



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Linn County GIS, City of Albany, City of Brownsville, City of Gates, City of Helsay, City of Harrisburg, City of Idanha, City of Lebanon, City of Lyons, City

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

BUILDING FILE COPY