

CITY OF KEIZER MISSION STATEMENT
**KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY
SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION**

AGENDA

KEIZER CITY COUNCIL

Monday, October 20, 1997

7:00 p.m.

Robert L. Simon Council Chambers
Keizer City Hall, Keizer, Oregon 97303

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC TESTIMONY

This time is provided for citizens to address the Council on matters not scheduled for public hearing or listed on the agenda.

4. COMMITTEE REPORTS

- a. Five-Year Service Awards
Officer J.R. Baker and Officer David LeDay
- b. Clear Lake Neighborhood Association Annual Report
- c. Volunteer Coordinating Committee Appointment - Council President Keller
- d. Council Liaison Reports
 - Planning Commission - Council President Jim Keller
 - Claggett Creek Task Force - Mayor Koho
 - Community Policing Committee - Councilor Meier
 - Parks Advisory Board - Councilor Miller

5. OTHER BUSINESS

This time is provided to allow the Mayor, Council members or staff an opportunity to bring new or old matters before the Council which are not on tonight's agenda.

- a. New Business
- b. Old Business Report
 - Multi-Purpose Skate Park Status Report
 - City of Keizer 15th Anniversary Celebration
 - Keizer Baseball Stadium Fund -- Revenue/Expenditure Report

6. PUBLIC HEARINGS

- a. Bonneville Street Vacation (continued from October 6, 1997)

- b. Subdivision Appeal Case No. 97-04 - Derek L. Brown & Associates

7. ADMINISTRATIVE ACTION

- a. RESOLUTION - Reestablishing Community Policing Committee
- b. RESOLUTION - Amending Salary Range Structure (Amendments for Community Services Coordinator and Administrative Assistant)
- c. Hotel/Motel Tax Issue
- d. RESOLUTION - Keizer Housing Rehabilitation Program - Refinancing Policy

8. CONSENT CALENDAR

- a. RESOLUTION - Deed to Reserve Strip - Springtime Court
- b. RESOLUTION - Designating Portion of Delight Street N as NO PARKING

9. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications and petitions.

10. AGENDA INPUT

NOVEMBER 3, 1997

5:00 p.m. to 7:00 p.m.

- City of Keizer 15th Anniversary Celebration

7:00 p.m. City Council Meeting

- Amendment to Zoning Ordinance to Add Conditional Use for Child Foster Homes

NOVEMBER 10, 1997

5:30 p.m. City Council Work Session

NOVEMBER 17, 1997

7:00 p.m. City Council Meeting

11. ADJOURN

Upon request, auxiliary aids and/or special services will be provided. To request services, please contact us at 390-3700 or through Oregon Relay 1-800-735-2900 at least two working days (48 hours) in advance.



October 20, 1997

AGENDA ITEM 4a

**FIVE-YEAR SERVICE AWARDS
KEIZER POLICE DEPARTMENT**

COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 4a

TO: MAYOR KOHO AND CITY COUNCILORS

FROM: WALLY G. MULL
CITY MANAGER 

SUBJECT: FIVE-YEAR SERVICE AWARDS - KEIZER POLICE DEPARTMENT

ISSUE:

Lieutenant Pat Bowe will present five-year service awards to Officers J.R. Baker and David LeDay.



October 20, 1997

AGENDA ITEM 4b

**CLEAR LAKE NEIGHBORHOOD ASSOCIATION
ANNUAL REPORT**

COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 4b

TO: MAYOR KOHO AND CITY COUNCILORS

FROM:  **WALLY G. MULL**
CITY MANAGER

SUBJECT: CLEAR LAKE NEIGHBORHOOD ASSOCIATION ANNUAL REPORT

ISSUE:

Clear Lake Neighborhood Association was recognized by the City Council on October 4, 1993. Attached you will find the 1997 annual report received from President James K. Warner.

RECOMMENDATION:

It is recommended the Council, by motion extend recognition to the Clear Lake Neighborhood Association for an additional year.

Clearlake Neighborhood Association

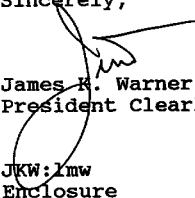
October 13, 1997

John Morgan
c/o City of Keizer
Community Development Dept.
PO BOX 21000
Keizer, OR 97303

Dear Mr. Morgan:

Enclosed please find a copy of our 1997 annual report. If you have any questions regarding this report prior to submitting to City Council, please contact me.

Sincerely,



James R. Warner
President Clearlake Neighborhood Assoc.

JKW:lmw
Enclosure

Clearlake Neighborhood Association

October 10, 1997

Attn: Mayor Dennis Koho
Members of Keizer City Council

Regarding: Clearlake Neighborhood Associations 1997 report

Within the last year, the Clearlake Neighborhood Association has been less than extremely active. In our meetings over the last few years, it has become increasingly difficult for us to get member participation. As a matter of fact, the current officer slate has served for the last two years, not so much out of choice, but rather out of necessity. Volunteers are very difficult to find. Why is this? Well, we believe that this is partly a sign of societies overall loss of faith in government. Also, in Clearlake, we feel very disenfranchised by the Keizer City Council and by the City of Keizer as a whole. It is important to remember that Clearlake has been a neighborhood and a community for well over a 100 years, far longer than Keizer has been a city. As a matter of fact, the Clearlake School, that still stands, traces its history to over 100 years ago and has recently been renamed by the school district, as the "Centennial" School.

Our neighborhood has been gobbled up by the big city and is losing its sense of community identity. We feel "steam rolled" by many of the activities of local government. This includes the Salem-Keizer school board, which closed the old school to regular classes, after promising us they would not. They were able to close it because their claim was that their census counts were off. Yet, immediately after the closing, they already had the funds ready to remodel it and use it for the district offices. This makes us feel very taken advantage of and very misled by our local government agencies. Here it is, just two short years later, and now the new Clearlake school is brim to full capacity, which would not be the case if they would have left the old school operating as they had promised. This seems to be just "one more nail in the coffin" in the lack confidence of our community and our neighborhood, to trust any government agency.

As it relates to the Keizer City Council, it seems that our neighborhood has been rapidly changed, against over 100 years of tradition and against our recommendations, time and time again. Our neighborhood survey has never been completed. We feel as an association, that the overall master plan for development has not adequately considered the unique neighborhood that we represent. We have many families that have been here for generations. They see their homes get swallowed up and surrounded by high density housing. Time and time again, we have asked that the density for this area be set at 4 homes per acre, rather than at the average of 6. Yet, over and over again special "deals" are made to allow for shorter frontages, increased density, and narrower streets. This is so the developers can get one or two more lots out of a four or five acre plot. This disenfranchisement and lack of communication and understanding of our unique needs, in the master plan, by hearings officers, and in the council itself, makes our voice seem to be unheard. There does come a point, when you speak and speak, if no one listens, you just quit. Our members feel this way. It is difficult to feel that your opinion truly matters and counts, when it is not acted on. We feel and have discussed in some depth, that a lack of a city council representative from our geographic and lifestyle area is also part of the problem. Having one counselor, that is not directly responsible for our area, makes it difficult, we feel, for the council to understand that the Clearlake area does have a lifestyle unique to Keizer. Unfortunately, this lifestyle is being eroded and contaminated by routine excessively dense development.

We also, have another problem. Keizer continues to remain a bedroom community. It does not have a stable employment and economic base. For us, the problem is compounded. Instead of being a bedroom community to the city of Salem, as Keizer traditionally has been, we are in the unique position of being a northward commuting neighborhood. This also cuts down on the input of our association. Estimates show that 25% of our work force or more, commutes northward every day, leaving the city early and coming back to our neighborhood late at night.

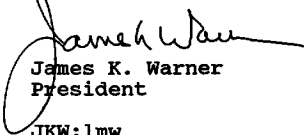
We continued to answer and respond, either by membership meetings or by executive meetings, to the requests for information on applicable land use areas. It does seem that our voice goes unheard and unhurled.

During late 1996, we stabilized our borders to the 1996 Clearlake School boundary, as was originally directed in our charter. We understand that there is a move to create a new neighborhood association within our borders. We would anticipate and expect involvement in that process, to see if creating that association is appropriate and will not hamstring our ability to function.

We feel, that it is important that the City of Keizer recognize that the Clearlake Neighborhood Association is unique within Keizer. Our boundaries extend outside of the city limits, since our neighborhood does, both by tradition and by the design of our infrastructure. These include roads and services. Much of our neighborhood is served primarily by Marion County Fire District #1, rather than by the Keizer Fire Department. Part of our neighborhood is served by policing from the Sheriff's department, rather than from the City of Keizer. We truly are a community of our own, that is being swallowed up, annexed, and integrated into a city, frequently with our voice and our wishes neither acknowledged nor considered.

Thank you for the opportunity to review our year and for us to provide our feelings about what is happening in our city. As well as, to give you a glimpse of the difficulties in running a neighborhood association in the north end of town.

Sincerely,



James K. Warner
President

JKW:lmw



October 20, 1997

AGENDA ITEM 4c

**VOLUNTEER COORDINATING COMMITTEE APPOINTMENT
COUNCIL PRESIDENT KELLER (POSITION #3)**

CITY COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 4c

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY G. MULL
CITY MANAGER

FROM: TRACY L. DAVIS
CITY RECORDER

SUBJECT: VOLUNTEER COORDINATING COMMITTEE APPOINTMENT

BACKGROUND:

In July of 1991 the City Council, by motion created a Volunteer Coordinating Committee to handle volunteer recruitment, work coordination and recognition of City volunteers. In 1993, the City Council further defined the charge of this committee to make recommendations for volunteer appointments to commissions, committees or task forces. These recommendations are then forwarded to the Mayor and/or City Council. The Committee consists of seven members, each who are appointed by individual members of the City Council.

ISSUE:

Recently Kim Carter, a member of the Volunteer Coordinating Committee tendered her resignation due to her employment relocation outside of the city of Keizer. Ms. Carter was serving a three-year term in Council position number three(Councilor Keller) on the committee. Her term was scheduled to expire on August 30, 1999. Councilor Keller will be nominating Norm Cobb to fill this position.

RECOMMENDATION:

It is hereby recommended the Council accept the nomination of Councilor Keller and appoint Norm Cobb to fill this vacancy on the Volunteer Coordinating Committee.



October 20, 1997

AGENDA ITEM 5b

OLD BUSINESS REPORT

City Council Meeting: October 20, 1997

Agenda Item: 5b

TO: Mayor Koho and City Council Members

SUBJECT: Old Business Report

- **Skateboard Park Status Report**
 - **15th Anniversary Celebration**
 - **Keizer Baseball Stadium Expense/Revenue Report**
-

**Skateboard Park Status Report
(Rob Kissler - Public Works Director)**

In January of 1997, members of the Keizer Multi-Use Skate Park Committee made a presentation to the City Council to construct a skate park facility at the Chalmers Jones Park. The Council unanimously directed the City Manager to negotiate an agreement with the committee and return with final construction and financial plans. The Keizer Skateboard Park plans will be completed in the next two weeks by Mr. Bart Bennett at Carlson/Veit Architects. Skate Park Committee Chairperson, Charlane Carlson has submitted a draft list of necessary construction supplies.

The Committee has established a 501-C account through Catholic Community Services Organization. Donations are tax deductible and can be directed to Catholic Community Services Foundation - Keizer Skate Park, P.O. Box 20400, Keizer, Oregon 97307-0400. Questions regarding donations should be directed to Charlane Carlson at 390-9182 or to Charlene Lawry at 390-8562, extension 17.

Charlane Carlson and members of the committee have worked extremely hard on their fund raisers and have earned approximately \$2,700.00. In addition, there have been several offers of in-kind services. Future fund raising events are also scheduled. The next meeting of the Committee is on Tuesday, October 28, 1997 at 7:00 p.m. at Keizer City Hall.

After the conditional use application has been approved and the funding mechanisms are in place, staff will return to the Council for final approval.

**City of Keizer 15th Anniversary Celebration
(Tracy L. Davis - City Recorder)**

On November 2, 1982 by a vote of 4440 to 3341, the area in Marion County known as Keizer became an incorporated city. The first population census in July of 1983 showed 19,650 people lived in Keizer. At a meeting on January 25, 1983 five City Councilors were sworn in; Richard Bauer, Phil Bay, Andrew Orcutt, Chet Patterson and Robert Simon. The first official Keizer City Council meeting was held at McNary High School on January 26, 1983 and Robert Simon was chosen as Mayor.

In honor of our 15th birthday as a City, staff is planning an open house celebration prior to the City Council meeting on Monday, November 3, 1997 beginning at 5:00 p.m. Departments are preparing displays, information and facts from the last 15 years are being compiled, and press releases have been issued. We would appreciate any assistance, input or suggestions you may have to celebrate this special event.

**Keizer Baseball Stadium Fund -- Revenue and Expenditure Report
(Susan Gahlsdorf - Finance Director)**

Attached you will find a schedule indicating the expenditures and revenue for the Keizer Baseball Stadium from January through September 1997.

Note: If you have a matter that you would like to see under an old business report, please contact one of the members of the Council Management Committee to forward to the appropriate department.

Keizer Baseball Stadium Fund – Revenue/Expenditure Report
January 1997 through September 1997

Total Revenues

	Total Gross Ticket Receipts	5% Proceeds to City of Keizer	Total Parking Revenue	20% Proceeds to City of Keizer	Total Revenue to City of Keizer
January	\$153,210.98	\$7,660.55	\$0.00	\$0.00	\$7,660.55
February	119,855.45	5,992.77	958.32	191.66	6,184.44
March	63,436.55	3,171.83	957.51	191.50	3,363.33
April	57,424.46	2,871.22	798.46	159.69	3,030.92
May	76,676.91	3,833.85	547.89	109.58	3,943.42
June	113,382.49	5,669.12	9,701.47	1,940.29	7,609.42
July	192,292.53	9,614.63	30,315.18	6,063.04	15,677.66
August	115,105.17	5,755.26	31,894.50	6,378.90	12,134.16
Total	\$891,384.54	\$44,569.23	\$75,173.33	\$15,034.67	\$59,603.89

Total Expenditures

	June	July	August	September	Total
Operating Costs:					
Barricades			335.00		335.00
Videos			45.00		45.00
Legal Services:					
Lien & Johnson			342.00	495.20	837.20
Contractual Services:					
Richard Woelk				263.89	263.89
Actual Expenditures	0.00	0.00	722.00	759.09	1,481.09
Estimated Property Taxes	13,256.00	2,210.00	2,210.00	2,210.00	19,886.00
Total Expenditures	13,256.00	2,210.00	2,932.00	2,969.09	21,367.09

Budget vs. Actual

	Fiscal Year 1996-1997			Fiscal Year 1997-1998 through September 1997			Total		
	Budget	Actual	Over/ Under	Budget	Actual	Over/ Under	Budget	Actual	Over/ Under
Rent Revenues	0	31,792	31,792	63,390	27,812	(35,578)	63,390	59,604	(3,786)
Expenditures:									
Estimated Property Taxes	0	13,256	13,256	6,630	0	6,630	6,630	13,256	6,626
City Operational Costs	0	0	0	11,000	1,481	9,519	11,000	1,481	(9,519)
	0	13,256	13,256	17,630	1,481	16,149	17,630	14,737	(2,893)
Revenues Over Expenditures	0	18,536	18,536	45,760	26,331	(19,429)	45,760	44,867	(893)

Expenditures using other funds:

Nets	1,687.50
Police Officer Overtime	9,389.45
Public Works Overtime	3,876.00
	<u>14,952.95</u>

**CITY OF KEIZER
ADOPTED BUDGET 1997-98**

STADIUM FUND

Actual 1994-95	Actual 1995-96	Adopted 1996-97	Manager Recommended	Committee Approved	Council Adopted
RESOURCES					
\$0	\$0	\$0 Beginning Fund Balance	\$0	\$0	\$0
\$0	\$0	\$0 Stadium Rent	\$63,390	\$63,390	\$63,390
\$0	\$0	\$0 Team Property Tax Payment	\$6,000	\$6,000	\$6,000
\$0	\$0	\$0 TOTAL RESOURCES	\$69,390	\$69,390	\$69,390
EXPENDITURES					
MATERIALS AND SERVICES					
\$0	\$0	\$0 Property Tax	\$26,513	\$26,513	\$26,513
\$0	\$0	\$0 Operational Costs	\$11,000	\$11,000	\$11,000
\$0	\$0	\$0 TOTAL MATERIALS & SERVICES	\$37,513	\$37,513	\$37,513
CONTINGENCY					
\$0	\$0	\$0 Contingency	\$31,877	\$31,877	\$31,877
\$0	\$0	\$0 TOTAL CONTINGENCY	\$31,877	\$31,877	\$31,877
\$0	\$0	\$0 TOTAL EXPENDITURES	\$69,390	\$69,390	\$69,390
\$0	\$0	\$0 ENDING FUND BALANCE	\$0	\$0	\$0



October 20, 1997

AGENDA ITEM 6a

BONNEVILLE STREET VACATION PUBLIC HEARING

CITY COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 6a

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY G. MULL
CITY MANAGER

FROM: JOHN N. MORGAN, AICP
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: BONNEVILLE/SEEBURG/ALDER STREET VACATION

ISSUE:

On October 6, 1997 the Council opened a public hearing to receive testimony in the above entitled matter. Bonneville Street is a right-of-way in the southeast portion of Keizer that generally is parallel to and between Claggett Creek and Verda Lane. It connects existing streets to the west via extensions of Seeburg and Alder streets. These right-of-ways are decades old and have never been improved with any street development. (Additional information is contained in the staff report of October 6, 1997 which is attached.)

Notice of this hearing has been published and distributed as set forth in the state statutes.

RECOMMENDATION:

It is recommended the hearing be reopened, testimony received and then closed. The Council should direct the staff to bring back an Ordinance vacating Bonneville Street at the November 3, 1997 meeting.

CITY COUNCIL MEETING: Oct.6, 1997

AGENDA ITEM NUMBER:

TO: MAYOR AND CITY COUNCIL

FROM: JOHN N. MORGAN, AICP
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PUBLIC HEARING –
BONNEVILLE/SEEBURG/ALDER STREET VACATION

DISCUSSION:

Bonneville Street is a right-of-way in the southeast portion of Keizer that generally is parallel to and between Claggett Creek and Verda Drive. It connects to existing streets to the west via extensions of the Seeburg and Alder Streets. These rights-of-way are decades old and have never been improved with any street development. There are no utilities located within these alignments.

The area proposed for vacation is shown on the attached map. It contains approximately 4,500 linear feet of right-of-way. For the purposes of this report, the vacation area shall be referred to as Bonneville Street, even though it also includes those portions of Seeburg and Alder.

The area through which Bonneville Street passes is vacant, but proposed for a housing development. Staff, working in conjunction with the property owner/developer, has determined that the best street configuration for this area differs significantly from the existing right-of-way. The existing right-of-way does not lend itself to the best housing lay out. More importantly, the proposed Alder Street extension runs east/west through this area and conflicts with the existing right-of-way locations, including the existing Alder Street right-of-way.

The proposed vacation involves reconfiguring the rights-of-way so that they meet both the City's and developer's needs. Bonneville Street will be vacated to the property owners, and, in exchange, the property owner will dedicate the Alder Street right-of-way. The attached drawing shows the properties and alignments involved. It should be noted that the vacation is not necessary to develop the property, as the platted streets can be improved and used to serve future housing.

The Public Works and Engineering staffs have reviewed and approved the proposal. Notice has been provided to surrounding property owners, however, statutory requirements for notice require that this hearing be continued until the October 20th Council meeting.

RECOMMENDATION

It is recommended Council open the meeting, receive any testimony, and continue the hearing until October 20, 1997.



ENGINEERING
FIRM
1000 N. 10TH ST.
SUITE 100
DENVER, CO 80202
TEL: 333-1234

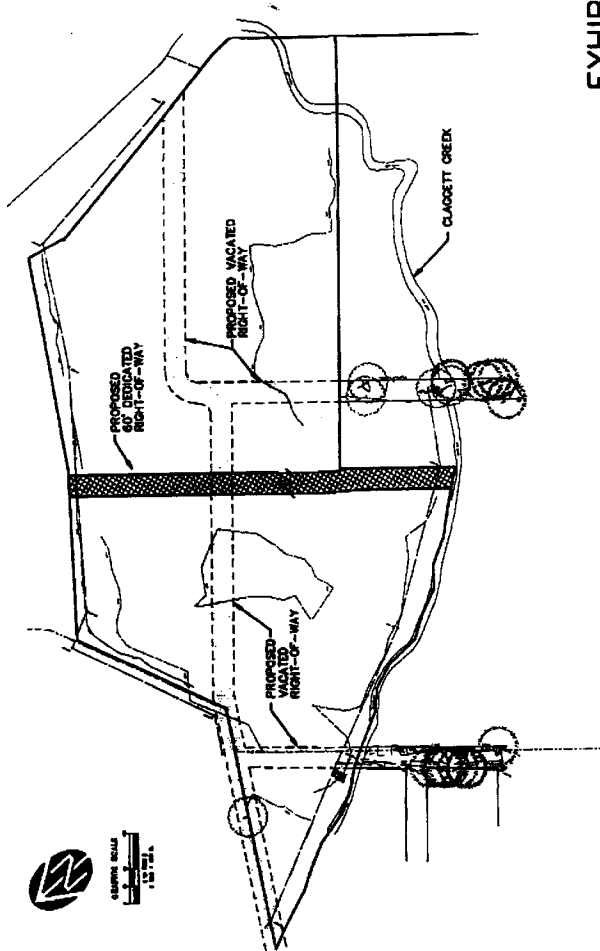


EXHIBIT MAP
DEDICATED / VACATED
RIGHT-OF-WAY



October 20, 1997

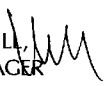
AGENDA ITEM 6b

**SUBDIVISION APPEAL - CASE NO. 97-04
DEREK L. BROWN & ASSOCIATES**

CITY COUNCIL MEETING: Oct. 20, 1997

AGENDA ITEM NUMBER: 6b

TO: MAYOR AND CITY COUNCIL

THROUGH: WALLY MULL, 
CITY MANAGER

FROM: JOHN N. MORGAN, AICP 
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PUBLIC HEARING –
APPEAL OF CONDITIONAL USE CASE 97-04

DISCUSSION:

This is a very complex land use case that involves an appeal of the Zoning Administrator's original approval of a conditional use application, the Hearings Officer sustaining the appeal thereby denying the application, and both the applicant and opponents appealing the case to the City Council.

This is a conditional use application to create a 13 space manufactured home park within the UT (Urban Transition) zone on property located between Wheatland and O'Neil Roads at the south end of Timothy Lane. The proposed park is an expansion of a 90 space park previously approved that is currently under construction. The applicant and developer is Derek Brown.

Attached to this report is an extensive body of evidence including the following major elements:

- Original Application and supporting materials
- Zoning Administrator Decision
- Letter of Appeal
- Evidence entered into the record before the Hearings Officer
- Hearings Officer Decision

- Letters of Appeal
- Additional material received for the Council hearing

In summary, the original appellants of the Zoning Administrator's decision raised numerous points in their appeal. The Hearings Officer rejected all the points except one. He found that no evidence had been submitted adequate to determine that there would be adequate fire flow. Based on this finding, the Hearings Officer reversed the original decision and denied the application.

The applicant's appeal is based on the Hearings Officer erring in dealing with the fire flow issue.

The opponent's appeal is based on the Hearings Officer erring in finding that the other points raised in the original appeal are without merit.

This is a complex case that must be evaluated in light of the criteria for a conditional use found in Chapter 8 of the zoning ordinance. Those criteria are quoted below:

8.30 CONDITIONAL USE CRITERIA. The following criteria shall be used to review and decide conditional use permit applications except that the criteria in Section 8.60 shall apply to conditional uses under Section 38.02 (b) of the EFU zone:

- (a) The use is listed as a conditional use in the zone.
- (b) The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.
- (c) The proposed use, as conditioned, will not materially alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the applicable zone.
- (d) The proposed use will not have a detrimental effect on existing solar or wind energy systems.
- (e) Adequate public and utility facilities and services to serve the use exist or will be made available prior to establishment of the use.

In addition, in the UT zone, the following conditional use criteria apply:

36.03 CONDITIONAL USE CRITERIA. Before a conditional use permit may be approved, it must be found that the following criteria applicable to the proposed use will be satisfied:

- (a) The use will not increase traffic beyond the capacity of existing roads.
- (b) It will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties.
- (c) The use can utilize rural services or existing urban services, and will not individually or together with nearby uses increase pressure for installation of new urban services.
- (d) The use meets the development standards of the most restrictive zone in the zoning ordinance consistent with the Comprehensive Plan designation.
- (e) The expansion will result in an accumulated increase of no greater than 50 percent of the total ground floor and outside storage area lawfully existing on the effective date of the application of this zone to the property.
- (f) The Comprehensive Plan designation clearly indicates that the use to be expanded will be a permitted use in the zones typically applied in the applicable designation.
- (g) No new residential structures or mobile homes, except as provided for in section 36.01 (e), are permitted unless the area is designated for residential development and the most restrictive zone would permit the residential use or mobile home.

Each of the decisions as well as the letters of appeal deals with these criteria. All the prior testimony as well as that received by the Council in this hearing must be evaluated by these criteria.

RECOMMENDATION:

It is recommended Council:

1. Open and conduct the hearing;
2. Give Staff direction on the preparation of an order;
3. Direct staff to return on November 3, 1997 with the proposed order; and
4. Leave the hearing open until November 3, 1997.

KEIZER CITY ATTORNEY
MEMORANDUM

TO: JOHN MORGAN, AICP
COMMUNITY DEVELOPMENT DIRECTOR

FROM: E. SHANNON JOHNSON
CITY ATTORNEY

SUBJECT: **CONDITIONAL USE CASE NO. 97-04 (DEREK L.
BROWN/BERKSHIRE LLC)**

DATE: OCTOBER 15, 1997

Both the applicant and appellants have appealed the Hearings Officer's denial in the above referenced case and the matter is set for hearing before the City Council on October 20, 1997.

One of the issues you asked me to look into is the question of whether the hearing should be de novo. "De novo" means that the hearing is a new one and additional or different evidence can be raised. Traditionally, all hearings at the Council have been de novo, though we do include as a matter of routine the entire planning file and Hearings Officer's order or recommendation as part of the record.

The applicant's representative, Mark Grenz, argues in his October 9, 1997 notice of appeal that a de novo hearing was previously held at the hearings officer level and that the only issue should be the one that was determinative to the Hearings Officer, namely, whether there is sufficient "fire flow" water conditions. Though referenced as a de novo issue, it is also a question of limiting the area of the appeal.

Since this will be a threshold issue for the Council to decide, I am sending you this memo to put as part of the packet for next week's hearing. The applicable section is found at Section 5.25 of Keizer Zoning Ordinance. Such section notes in part that the Council may reverse, affirm, or modify the Hearings Officer's decision. There is no reference to whether or not the Council hearing should be de novo or not.

Elsewhere in the Zoning Ordinance there is a reference to de novo hearings for legislative zone changes and comprehensive plan amendments. However, the fact that there is a reference to de novo hearings in that section, and there is no reference in Section 5.25, does not necessarily mean that the absence of such phrase indicates an intent that the Council did not want de novo hearings for conditional use permit and other types of land use decisions.

It is my opinion that the hearings should be de novo unless it specifies otherwise; in other words, if a section is silent on the issue, a de novo hearing should be presumed.

I state this for two reasons. First, the Council is usually not familiar with the case and appreciates an opportunity to hear about the entire case at the Council hearing. Second, it is appropriate to have a de novo hearing when all the evidence presented can be easily summarized by the staff report and the previous administrative decision and/or Hearings Officer's decision.

In any event, I believe the question may be moot in this particular case. The attorney for some opponents, Norman Hill, has filed a cross appeal in this matter. It is my understanding that Mr. Hill is appealing on behalf of his client because the Hearings Officer's order was allegedly in error by determining that other required criteria had been met. Therefore, on the cross appeal all issues properly raised by such appeal should be before the Council and the applicant and appellant on the cross appeal should have the right to present evidence on those particular matters.

I hope this is some assistance to you and the Council in preparing for this case. Please let me know if you have further questions. Thank you.

ESJ/tmh

**CITY OF KEIZER
ADJUSTMENT/CONDITIONAL USE/VARIANCE APPLICATION**

APPLICATIONS RETURNED BY MAIL WILL NOT BE ACCEPTED

Applicant: Please check what you are
applying for:

CONDITIONAL USE (X)

e: \$ 200.00

VARIANCE ()

e: \$

ADJUSTMENT ()

e: \$

If there are any questions
about this application, who
should be contacted?

Mark D. Grenz

Name

1155 13th St. SE Salem, OR 97302

Address

(503) 363-9227

Daytime telephone (8:30 a.m. to
5:00 p.m.)

Applicant

Derek L. Brown & Associates

Property owners (if other than applicant)

Robert Woods

Clarice Woods

**Contract and/or mortgage holders
(if any)**

Address and zip code

13620 SW BeefBend Rd. #78 Tigard OR
97224

Address and zip code

7789 Timothy Lane NE

Keizer OR 97303

Address and zip code

The owners of record of the subject property do hereby request permission
to Obtain a conditional use permit to create a manufactured home park as a second
phase to an existing permit.

Address of subject property 7700 Block of Timothy Lane

Size of subject property (include all contiguous tax lots in same owner
ship) 1.63 Acres 13 spaces for a total of 103

FOR OFFICE USE ONLY

Section Township Range

Lot number(s)

Acres UT

Map number

6/23/97 ASD 5/16/97

Is app. determined to be complete

(When missing Rpt.)

Application elements submitted:

- (a) Title transfer instrument
- (b) Assessor's map
- (c) Plot plan
- (d) Applicant's statement
- (e) Adjacent property owner's
list
- X (f) Filing fee

ASD 6/13/97
Application accepted by

*in file copy
97-01*

T6S, R3W, S1C, 23DB; 2000', 1200', 1100', 1000', 950'

T6S, R3W, S1C, 23CH; 1400'

7. Applicants: To have a complete application, you will need to attach the following at the time you submit this application.

- (a) A copy of the latest officially recorded title transfer instrument (deed, warranty deed, or contract) giving the legal description for the subject property.
- (b) A copy of the most recent Assessor's maps for the subject property: Available at the Marion County Assessor's Office in the Courthouse.
- (c) Plot plan drawn in black ink on a separate sheet of paper, 8 1/2 x 11, showing the location of the proposed conditional use, variance or adjustment and its distance from other structures, property lines, roads, and other features. See attached example.
- (d) A written statement explaining your reasons for the proposed adjustment, conditional use or variance, and how your proposal conforms to City of Keizer development policies and the requirements of the particular zone (applicable for conditional uses). Insert extraordinary circumstances which may apply.
- (e) A list of all property owners within 100 feet of the subject property. The list must be certified by a Title Company or County Assessor's Office (see attached "Procedures for Preparing Notification List"). The list must have been prepared to be current to within 30 days of the date of application.
- (f) Filing fee made payable to the City of Keizer.

8. SIGNATURES of each owner (husband and wife) and any contract holder of the subject property.

Robert H. Woods

Charles J. Woods

DATED this _____ day of _____, 19____.

9. THE APPLICANT(S) SHALL CERTIFY THAT:

- (a) The above request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- (b) If the application is granted, the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- (c) All the above statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- (d) The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

SIGNATURE of Applicant(s): [Signature]

DATED this 13th day of June, 1997.



222 High St S.E.
P.O. Box 71
Salem, Oregon 97308-0071
Phone: (503) 585-1881
Fax: (503) 370-7915

JUNE 23, 1997

CITY OF KEIZER
ATTN: AMY DROUGHT/VIA FAX #393-9437
930 CHEMANA ROAD
KEIZER, OR 97303

RE: FBO/DEREK BROWN
ACCOUNT #'s: 48605-000, 48606-000, 48615-000

DEAR AMY:

DEREK BROWN HAS REQUESTED THAT WE AT KEY TITLE FAX THIS
INFORMATION DIRECTLY TO YOU IN REGARDS TO THE ABOVE REFERENCED
TAX ACCOUNT NUMBERS.

IF YOU HAVE ANY QUESTIONS, YOU CAN EITHER CALL DEREK BROWN
OR RHONDA PARENT OR MYSELF HERE AT KEY TITLE. THANK YOU!!

SINCERELY,
KEY TITLE COMPANY

KATHY M. GROVES
ESCROW CLOSER

Offices in:

ALBANY
ASTORIA
BANDON
BEND
BROOKINGS
COOS BAY
CORVALLIS
DALLAS
EUGENE
GRANTS PASS
INDEPENDENCE
KEIZER
LEBANON
LINCOLN CITY
MEDFORD
NEWBERG
NEWPORT
REDMOND
ROSEBURG
SEASIDE
SILVERTON
ST. HELENS
TILLAMOOK
WOODBURN



KEY TITLE & ESCROW
 Attn: Rhonda
 222 High St. SE
 Salem, Oregon 97301

222 High St. S.E.
 P.O. Box 71
 Salem, Oregon 97308-0071
 Phone: (503) 585-1881
 Fax: (503) 370-7915

June 16, 1997
 Report No: 18-59527
 Your No: 2-50742
 Seller/Lender: **WOODS ROBERT**
 Buyer/Borrower: **BROWN/SOLLIGER**

SUPPLEMENTAL REPORT FOR:

Owner's Policy \$400000.00

PREMIUMS:

Owner's Premium	2010	\$1150.00
Government Service Fee		\$ 15.00

We are prepared to issue an ALTA policy (10/17/92) in the form and amount shown above insuring the title to the following described land:

PARCEL I:

Beginning at the Northwest corner of E. M. and F. R. Rawlins property located in Section 23, Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, and described in Volume 640, Page 152, Deed Records for Marion County, Oregon, said corner being also on the East line of the Oscar Bair property described in Probate Court Journal Volume 22, Page 116, for said County and state; thence South 00° 02' West 370.00 feet along the East line of said Oscar Bair property to the Southeast corner thereof; thence North 89° 45' West along the South line of said Oscar Bair property 871.20 feet to the Southwest corner thereof; thence North 00° 02' East along the West line of Oscar Bair property 370.00 feet; thence South 89° 45' East 871.20 feet to the point of beginning.

PARCEL II:

Beginning at a point which is 1379.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast one-quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence North 0° 02' West 85.0 feet along the West line of said tract; thence South 89° 45' East 291.72 feet to the East line of said tract; thence South 0° 02' East 85.0 feet to the place of beginning.

ORANGE
 ALBANY
 ASTORIA
 BACON
 BEND
 BROOKINGS
 CENTRAL POINT
 COOS BAY
 CORVALLIS
 DALLAS
 EUGENE
 GRANTS PASS
 INDEPENDENCE
 KELZER
 LEBANON
 LINCOLN CITY
 MC MINNVILLE
 MEDFORD
 NEWBERG
 NEWPORT
 REDMOND
 REDFORT
 ROSEBURG
 SALEM
 SCAPPOOSE
 SEASIDE
 SILVERTON
 SISTERS
 ST. HELENS
 TILLAMOOK
 WOODBURN

PARCEL III:

Beginning at a point which is 1109.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence South 0° 02' West along the West line of said Baughman tract a distance of 100.00 feet; thence South 89° 45' East a distance of 291.72 feet; thence North 0° 02' East a distance of 100.00 feet to the place of beginning.

Real Property Tax Account No.: 48605-000 48606-000 48615-000
 Situs Address as disclosed by Marion County Tax Roll: none disclosed

VESTED IN:

ROBERT A. WOODS AND CLARICE F. WOODS
 as tenants by the entirety

Dated as of May 12, 1997 at 8:00 a.m.

Subject to the Standard Exceptions, if any, the printed Exclusions and the Conditions and Stipulations of the policy as well as the following Special Exceptions:

1. City liens, if any, of the City of Keizer. (An inquiry has been directed to the City Clerk concerning the status of said liens and a report will follow if such liens are found.)

2. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Water District.

3. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Service District.

4. An easement created by instrument, including the terms and provisions thereof,

Recorded: April 11, 1962 in Book 557, Page 64,
 Deed Records, Marion County, Oregon

For: Roadway purposes

Affects: Easterly portion

5. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: July 19, 1977

Recorded: July 20, 1977 in Reel 89, Page 322,
 Microfilm Records, Marion County, Oregon

Amount: \$62,000.00 (includes additional property)

Mortgagor: Robert A. Woods and Clarice F. Woods

Mortgagee: State of Oregon, represented and acting by the Director of Veterans' Affairs

6. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: May 2, 1979
Recorded: May 4, 1979 in Reel 166, Page 1189,
Microfilm Records, Marion County, Oregon
Re-Recorded: June 15, 1979 in Reel 172, Page 111,
Microfilm Records, Marion County, Oregon
Amount: \$16,000.00 (includes additional property)
Mortgagor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Mortgagee: State of Oregon, represented and acting by the Director of
Veterans' Affairs

7. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 11, 1989
Recorded: April 27, 1989 in Reel 686, Page 194,
Microfilm Records, Marion County, Oregon
Amount: \$25,000.00 (includes additional property)
Grantor: Robert A. Woods and Clarice F. Woods
Trustee: American Pacific Title and Escrow Co.
Beneficiary: First Interstate Bank of Oregon, N. A. a national banking
association

8. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
Recorded: April 30, 1997 in Reel 1390, Page 26,
Microfilm Records, Marion County, Oregon
Amount: \$225,000.00 Parcel 1
Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Trustee: Amerititle
Beneficiary: Western Bank, a division of Washington Mutual Bank

9. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
Recorded: April 30, 1997 in Reel 1390, Page 27,
Microfilm Records, Marion County, Oregon
Re-Recorded: May 14, 1997 in Reel 1393, Page 143,
Microfilm Records, Marion County, Oregon
Amount: \$75,000.00 Parcel 1
Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Trustee: Amerititle
Beneficiary: Western Bank, a division of Washington Mutual

10. Lien or liens of any long term care facility filed pursuant to O.R.S. 87.501 through 87.539 against any person who holds or held an interest in the subject property on or after September 9, 1995.

The foregoing exception may be removed upon the execution of a proper form of affidavit or payment of any existing or potential lien identified.

END OF EXCEPTIONS

NOTE: Our examination of the premises herein described reveals an appurtenant easement which should be included in the description of any conveyance or encumbrance documents. No examination has been made as to the insurability of the easement which is set out here for informational purposes only. Should insurance of the easement be desired, an additional charge will be made. Said easement is described as follows:

Any conveyance or encumbrance: Together with the following non-exclusive easement for roadway purposes to be used in common by grantors and grantees and their heirs and assigns, over and across a strip of land 25 feet in width, being 12 1/2 feet on each side of the following described center line: Beginning on the legal subdivision line running East and West through the center of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 270.94 feet North 89° 45' West from the Northeast corner of the West 1/2 of the Southeast 1/4 of said Section; thence South 0° 02' West 241.95 feet; thence along the arc of a 317.70 foot radius curve to the right (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence along the arc of a 317.70 foot radius curve to the left (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence South 0° 02' West 481.92 feet).

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$3,286.11
Account No.: 48605-000 Parcel I

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$518.12
Account No.: 48606-000 Parcel II

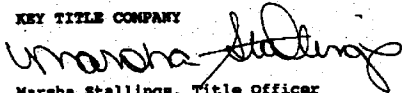
NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$637.68
Account No.: 48615-000 Parcel III

NOTE: We find no judgments or United States Internal Revenue liens against Derek Brown or Ralph Bolliger.

NOTE: MARION COUNTY RECORDING CHARGES ARE AS FOLLOWS:

1. \$ 5.00 per page, plus
2. \$10.00 per document for survey corner restoration fee
3. \$20.00 per conveyance document for Department of Revenue County Assessment and Taxation Fund
4. Additional fees will be assessed by the County Clerk if a document fails to meet the requirements for recording imposed by ORS Chapter 205.

KEY TITLE COMPANY


Marsha Stallings, Title Officer

5 cc: Key Escrow South

FACSIMILE TRANSMITTAL

FROM THE DESK OF
KATHY GROVES
ESCROW DEPARTMENT
KEY TITLE COMPANY

TO: City of KeizerATTN: Amy DroughtFAX: 393-9437DATE: 6-23-97PAGES: 6, INCLUDING THIS COVER SHEET

RE: Cover letter & Preliminary title report
being forwarded to you per Deborah Brown's
request -

222 HIGH STREET S.E.
SALEM, OREGON 97301
(503) 585-1881
FAX (503) 370-7915



222 High St S.E.
P.O. Box 71
Salem, Oregon 97308-0071
Phone: (503) 585-1881
Fax: (503) 370-7915

JUNE 23, 1997

CITY OF KEIZER
ATTN: AMY DROUGHT/VIA FAX #393-9437
930 CHEWAMA ROAD
KEIZER, OR 97303

RE: FBO/DEREK BROWN
ACCOUNT #'s: 48605-000, 48606-000, 48615-000

DEAR AMY:

DEREK BROWN HAS REQUESTED THAT WE AT KEY TITLE FAX THIS
INFORMATION DIRECTLY TO YOU IN REGARDS TO THE ABOVE REFERENCED
TAX ACCOUNT NUMBERS.

IF YOU HAVE ANY QUESTIONS, YOU CAN EITHER CALL DEREK BROWN
OR RHONDA PARENT OR MYSELF HERE AT KEY TITLE. THANK YOU!!

SINCERELY,
KEY TITLE COMPANY

KATHY M. GROVES
ESCROW CLOSER

Offices:

ALBANY
ASTORIA
BANDON
BEND
BROOKINGS
COOS BAY
CORVALLIS
DALLAS
EUGENE
GRANTSTOWN
INDEPENDENCE
KEIZER
LEBANON
LINCOLN CITY
MEDFORD
NEWBERG
NEWPORT
REDMOND
ROSEBURG
REDFORT
SALEM
SEASIDE
SILVERTON
SISTERS
ST. HELENS
TILLAMOOK
WOODBURN



KEY TITLE & ESCROW
 Attn: Rhonda
 222 High St. SE
 Salem, Oregon 97301

222 High St S.E.
 P.O. Box 71
 Salem, Oregon 97308-0071
 Phone: (503) 585-1881
 Fax: (503) 370-7915

June 16, 1997

Report No: 18-59527

Your No: 2-50742

Seller/Lender: **WOODS ROBERT**

Buyer/Borrower: **BROWN/BOLLIGER**

SUPPLEMENTAL REPORT FOR:

Owner's Policy \$400000.00

PREMIUMS:

Owner's Premium	2010	\$1150.00
Government Service Fee		\$ 15.00

We are prepared to issue an ALTA policy (10/17/92) in the form and amount shown above insuring the title to the following described land:

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ALBANY

ASTORIA

BANDON

BEND

BROOKINGS

CENTRAL POINT

COOS BAY

CORVALLIS

DALLAS

EUGENE

GRANT PASS

INDEPENDENCE

KEIZER

LEBANON

LINCOLN CITY

MCMINNVILLE

MEDFORD

NEWBERG

NEWPORT

REDMOND

SEASIDE

SEASIDE

SILVERTON

SILVERTON

ST. HELENS

TILLAMOOK

WOODBURN

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Real Property Tax Account No.: 48605-000 48606-000 48615-000
 Situs Address as disclosed by Marion County Tax Roll: none disclosed

VESTED IN:

ROBERT A. WOODS AND CLARICE F. WOODS
 as tenants by the entirety

Dated as of May 12, 1997 at 8:00 a.m.

Subject to the Standard Exceptions, if any, the printed Exclusions and the Conditions and Stipulations of the policy as well as the following Special Exceptions:

1. City liens, if any, of the City of Keizer. (An inquiry has been directed to the City Clerk concerning the status of said liens and a report will follow if such liens are found.)
2. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Water District.
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4. An easement created by instrument, including the terms and provisions thereof,
 Recorded: April 11, 1962 in Book 557, Page 64,
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 For: Roadway purposes
 Affects: Easterly portion
5. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.
 Dated: July 19, 1977
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 Amount: \$62,000.00 (includes additional property)
 Mortgagor: Robert A. Woods and Clarice F. Woods
 Mortgages: State of Oregon, represented and acting by the Director of Veterans' Affairs

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7. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

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Trustee: American Pacific Title and Escrow Co.
Beneficiary: First Interstate Bank of Oregon, N. A. a national banking
association

8. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

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Beneficiary: Western Bank, a division of Washington Mutual

10. Lien or liens of any long term care facility filed pursuant to O.R.S. 87.501 through 87.539 against any person who holds or held an interest in the subject property on or after September 9, 1995.

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NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$3,286.11
Account No.: 48605-000 Parcel I

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$518.12
Account No.: 48606-000 Parcel II

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$637.68
Account No.: 48615-000 Parcel III

NOTE: We find no judgments or United States Internal Revenue liens against Derek Brown or Ralph Bolliger.

NOTE: MARION COUNTY RECORDING CHARGES ARE AS FOLLOWS:

1. \$5.00 per page, plus
2. \$10.00 per document for survey corner restoration fee
3. \$20.00 per conveyance document for Department of Revenue County Assessment and Taxation Fund
4. Additional fees will be assessed by the County Clerk if a document fails to meet the requirements for recording imposed by ORS chapter 205.

KEY TITLE COMPANY

Marsha Stallings
Marsha Stallings, Title Officer

5 cc: Key Escrow South

7849 Timothy Ln NE
Keizer, Or 97303

Aug 2, 1997

City of Keizer
Keizer, Or

Ladies & Gentlemen:

Thank you for your letter of Aug 1, 1997 in response to my concern about the development of 1.63 Acres (not 2½ Acres--should have done my home work better); the section where 13 mobile units will be put around a existing house. However, it is still my contention that it is wrong to do this. We on Timothy Ln have come out here to develop this area the way it best suits us. We have worked for years at this. You are telling us our developing is wrong, that it's not good to have some room around us. We bought this in a "raw source" (as such) and made it attractive.

It seems to me you have plenty of urban renewal ground to make urban density; you don't need Timothy Ln.

Sincerely,

A handwritten signature in cursive script, reading "Lela McGarvey". The signature is written in dark ink and is positioned below the word "Sincerely,".

Lela McGarvey
Timothy Ln Resident

Contract technicalities turn barn into little more than spectac

There is some ambiguity about the whole business at Melisa Lua's place.

But there's no denying this: The barn out back is sawed cleanly in half, its once-dark, musty interior sun open to the summer sun.

Lua's half looks curiously undisturbed — except for the carefully sawed-off eaves, the rain gutter that ends in mid-air, and the straight-cut edges of corrugated metal siding.

The other half is gone without a trace, having disappeared into Portland developer Derek Brown's vi-

DAN POSTREL
OUT OF THE BLUE



sion of what will happen on his piece of the property. Flat, buildable land is great demand in this town, and he's designing a 23-lot subdivision.

A deal, he says, is a deal. It's the sort of sight that makes you blink and look again.

And it's an object lesson for Melisa Lua and her father, the property's original owner. He now acknowledges such elemental mistakes as not reading everything he signed and calculating that he could handle the sale without help from a lawyer or a real estate agent.

He's a man who likes to save money, who assumes that such affairs can be handled simply and amicably, even with a handshake, Lua says.

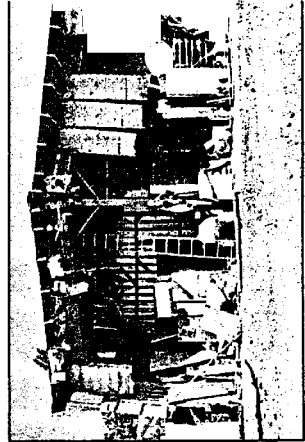
The property in question, a little less than two acres on Brown Road NE, is both

rural and suburban, with chickens strutting around in the yard, corn plants waving in the breeze and tract houses in the middle distance.

Lua's parents, James and Laura McFie, bought it in 1988, "for the kids to have their own place to stretch their legs," as James says.

Last November, they sold off about an acre and a half for \$53,600, according to deeds. It eventually passed to Brown, who has combined it with some other property.

In April, the McFies granted the house and barn to Melisa, her husband, SEE BARN / 2C



BARN GONE: Melisa Lua's barn now stands ripped in half after developer Derek Brown tore down the place on his la-

TIMOTHY J. GONZALEZ/Salem News

Barn: Contract explicit, developer says

CONTINUED FROM 1C

Ramon, who works as a janitor, and their children — for no consideration other than "love and affection," the deed says.

But by then, the barn, or at least half of it, apparently wasn't McFie's to grant. And Brown was laying plans for his subdivision, with lots he expects to sell for about \$40,000 each.

Brown says McFie understood fully where the line was when the deal was closed, so there should have been no reason for surprise when survey stakes went up this summer, with the barn between them.

"The contract I have is right down to the foot and the inch," Brown says. "That building encroached on my property some 40-odd feet."

Sometime around Aug. 1, after various deadlines, extensions and firmly worded letters from Brown, these 40 feet came down.

The Luas salvaged such contents as lumber, shelving and doors. Now, they're left with a spectacle, and a structure that probably will need further modification, if not demolition, to comply with building codes.

And James McFie, a retired schoolteacher now past 70, may not be free of the deal yet.

Brown can't get his subdivision plans accepted until the city approves a partition, the document that formally separates his piece from the part he didn't buy.

That requires McFie's signature, and Brown, who spoke to me of a "staff of attorneys," expects it.

But under the circumstances, McFie wonders if he really ought to sign whatever shows up in the mail.

"I did agree that when they got ready to partition it, I would agree to it," he says. "I really need to get some legal advice.

don't I?"

I should think so.

Out of the Blue appears Sundays, Wednesdays and Fridays. Dan Postrel can be reached by phone at 399-6833, by fax at 399-6133, or by mail at the Statesman Journal, P. 13009, Salem, Ore. 97309.

7830 Timothy Lane, N.E.
Keizer, OR 97303
August 25 1997
RECEIVED
'97 AUG 26 AM 11 13
CITY OF KEIZER
OREGON 97303

Keizer Community Development Department
930 Clemens Road, N.E.
Keizer, OR 97303

Attention: Ms. Amy C. Drought, City Planner

Dear Ms. Drought:

This relates to Conditional Use Case No. 97-04 about property on the western side of the 7700 block of Timothy Lane, wherein it is proposed that 13 new homes be placed on 1.63 acres for Phase II of Berkshire Estates.

Rather than 13 houses, we request that no more than 2 new houses be erected (along with the existent yellow house). We suggest that these 2 new residences be granted normal access to Timothy Lane, to provide for personal and utility use as is the practice for current Timothy residents.

(2)

It would appear that with the amount of acreage and number and type of houses already bordering this private lane, 2 newer homes would be more consistent with the present environment.

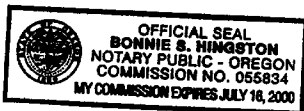
The new Timothy Lane residence could have the benefits and privileges of full use of this road, we suggest that a fence separate the Phase II and Phase I Babbie Estates developments.

Thank you.

Sincerely,
Grace J. Barnick
Ronald E. Barnick

State of Oregon
County of Marion
my commission expires
7/16/2000

Bonnie Stinger



RECEIVED

'97 AUG 19 PM 2 43

CITY OF KEIZER
OREGON 97303

8-19-97

I AM AGAINST HAVING SO MANY
MOBILE HOMES CLOSE TO ME.

I WILL CONSIDER HAVING,
2 SINGLE HOUSES.

8 FOOT FENCE SOLID SO I
CAN HAVE MY PRIVACY.

ONLY THE 2 SINGLE HOUSES
CAN HAVE ~~THE~~ USE OF
TIMOTHY LANE.

THANK YOU

Charles R. Van Dusen
7829 Timothy Ln. NE
Keizer, Ore. 97303

7830 Timothy Lane, N.E.
Keizer, OR 97303

RECEIVED
'97 AUG 26 AM 11 13
CITY OF KEIZER
OREGON 97303
August 25 1997

Keizer Community development department

930 Clemens Road, N.E.

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(2)
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The new Timothy Lane residence could have the benefits and privileges of full use of this road, we suggest that a fence separate the Phase II and Phase I Badline Estates developments.

Thank you.

Sincerely,

Grace J. Barnick
Ronald E. Barnick

State of Oregon
County of Marion
my commission expires
7/16/2000

Bonnie Stinger



RECEIVED

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CITY OF KEIZER
OREGON 97303

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8 FOOT FENCE SOLID SO I
CAN HAVE MY PRIVACY.

ONLY THE 2 SINGLE HOUSES
CAN HAVE ~~THE~~ USE OF
TIMOTHY LAKE.

THANK YOU!

Charles R. Van Dusen
7879 Timothy Ln. NE
Keizer, Ore. 97303

VW 7/7/97.

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

July 3, 1997

Mr. John Morgan
Ms. Amy C. Drought
Planning Department
City of Keizer
P.O. Box 21000
930 Chemawa Road NE
Keizer, OR 97303-1000

Re: Our Client: Carl Alleman/Timothy Lane Residents

Dear Ms. Drought and Mr. Morgan:

Thank you for forwarding to me the zoning codes regarding the Berkshire Estates Mobile Home Park.

This firm represents eight (8) families that reside on abutting properties. They object to this development and request that the matter be set for public hearing so their objections can be heard.

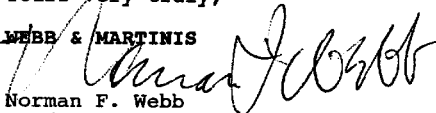
We have engaged a traffic engineer, and the engineer informs us that the development plan is inappropriate. The traffic flow for this high density development is not suitable for the area, inasmuch as Timothy Lane, which is a private easement, borders the east side of the development and access would not be lawful. Further, the proposal involves two (2) 20-foot roads leading to Timothy Lane which is a nine foot wide private easement. The development is not compatible with the land uses in the area.

Would you please advise me whether or not this matter will be set for public hearing or what information we can provide to assist your staff, in the event a public hearing for this matter is not anticipated.

Please feel free to call me.

Yours very truly,

~~WEBB & MARTINIS~~


Norman F. Webb
NFW/dla
cc: Carl Alleman

KEIZER FIRE DISTRICT

Memorandum

Date: 03/21/97

To: Mark Grenz

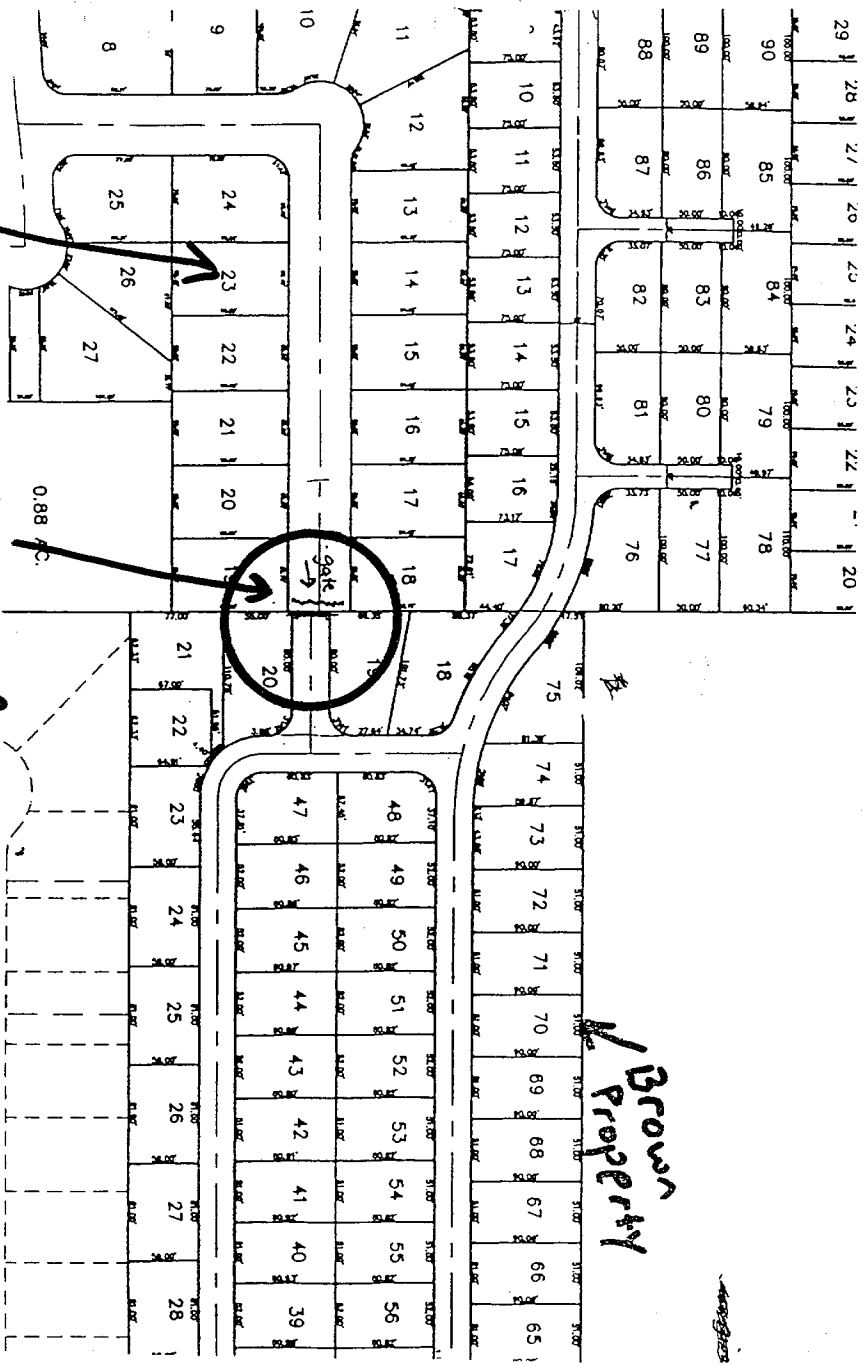
CC: Wally Mull, Interim City Manager
Ron Smith, Fire Marshal MCFD #1
Derek Brown, Developer

From: Joel Stein

RE: Street Access

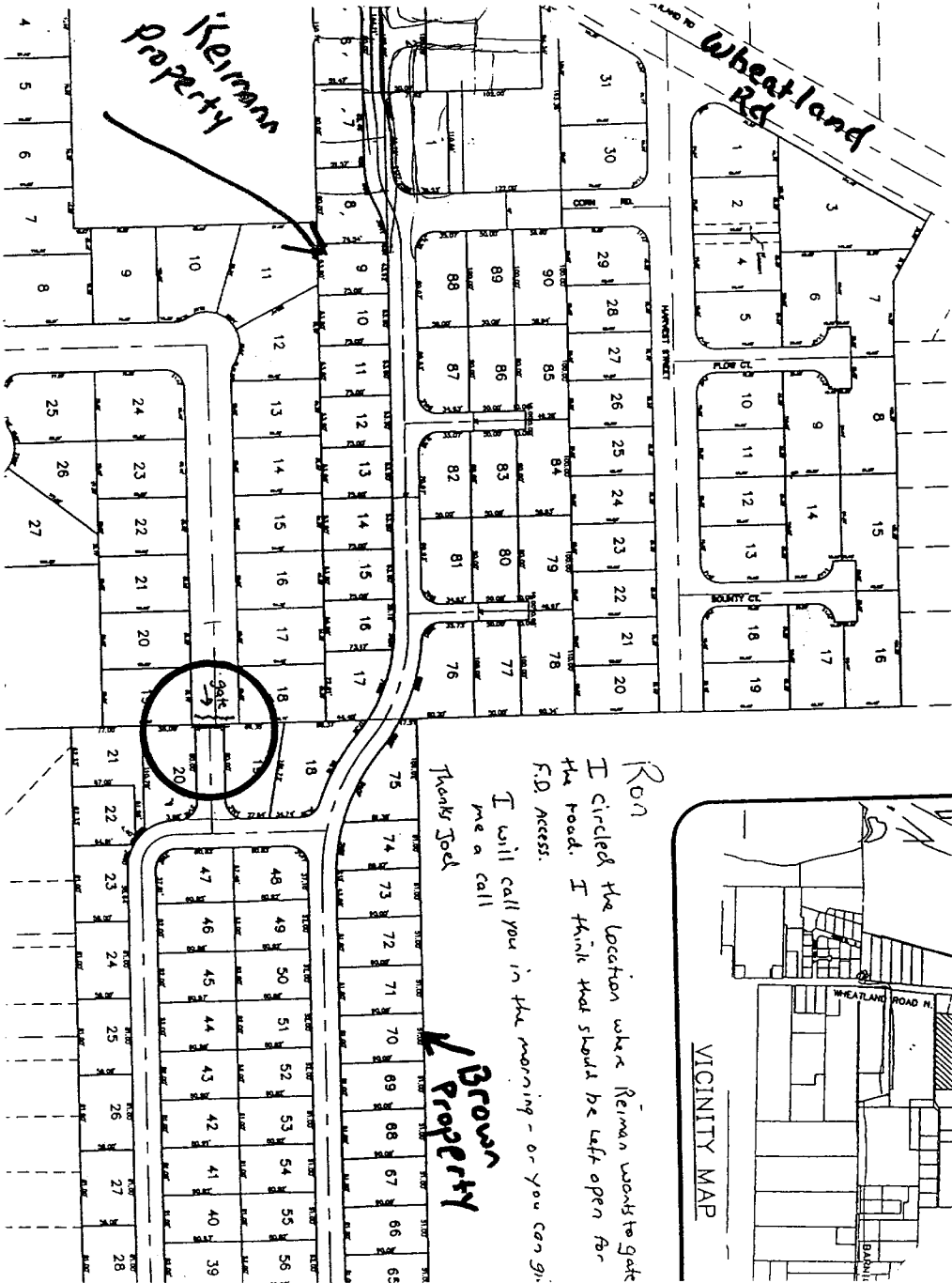
Mark, As per our phone conversation on 3-21-97, the unnamed street that ends at lots 18 and 19 on the East end of the Reimann property may end as long as an approved turnaround is provided and built to City of Keizer Street Standards. Keizer Fire District would require a set of plans showing the turn around before final approval of the Sub-Division. Also it is agreed that a gate may be placed at the location shown on the plans provided it is equipped with a lock that can be cut in the event emergency access is required. This plan has been discussed with both Wally Mull, City of Keizer, and Ron Smith, Marion County Fire District Fire Marshal.

JS



Reiman
Property

Turn around
Required
Must meet City of Keizer Street Standards



Ron
 I circled the location where Keimann wants to gate
 the road. I think that should be left open for
 F.D. Access.
 I will call you in the morning - or you can go.
 me a call
 Thanks Joel



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

REQUEST FOR COMMENTS

TO:

Portland Gen. Elec. DATE: June 116, 1997

FROM:

Keizer Community Development Department

CASE:

Conditional Use Case No. 97-03

APPLICATION:

Request to create a manufactured home park as a second phase to an existing permit. This would create an additional 13 spaces to make a total of 103 spaces.

APPLICANT:

Derek Brown

LOCATION:

7700 Block of Timothy Lane (T6S, R3W, Section 23DB, Tax Lot 2000, 1200, 1100, 1000, 900; and T6S, R3W, Section 23CA, Tax Lot 1400)

APPLICANT:

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **June 30, 1997** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Amy Drought, City Planner, at 390-3700. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

- ☐ Our agency reviewed the proposal and determined we have no comment.
- ☐ Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.
- ☐ Our comments are in the attached letter.
- ☒ Our Agency's comments are:

- ☐ Development cost per current tariff and service _____
- ☐ requirements. 10' PUE required on all front _____
street lots.

Bruce Rogers
463-4395

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•

Incorporated 1982
Pride, Spirit, Volunteerism



REQUEST FOR COMMENTS

TO: TCI Cable DATE: June 116, 1997

FROM: Keizer Community Development Department

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- ☒ Our agency reviewed the proposal and determined we have no comment.
- ☐ Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.
- ☐ Our comments are in the attached letter.
- ☐ Our Agency's comments are:

Dan Chason
6-24-97



Engineering/Construction
TCI of Oregon
1710 Salem Industrial Dr. N.E.
Salem, OR 97303-4291

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•
Incorporated 1982
Pride, Spirit, Volunteerism

It's time to study growth in Oregon

■ A committee will assess effects of the state's population boom.

Gov. John Kitzhaber has made a timely decision to appoint a statewide committee to look at the costs and benefits of growth.

The Oregon growth debate has accelerated as surging populations have strained services and changed the character of communities.

Oregon needs to allow growth, but also must maintain its quality of life. To ensure that the land-use system works, we need accurate and timely information, which Kitzhaber's committee hopes to generate.

The committee, which will hold its first meeting by September, is expected to determine development costs to builders, the public cost of providing services to new buildings and the toll of growth on such things as neighborhoods, schools and farmland.

The resulting data should help lawmakers and residents make better decisions about growth.

Oregonians enjoy the benefits of growth — a stronger economy, a larger retail base and a more vibrant, diverse population. But they worry about crowded classrooms, deteriorating roads, the encroachment of homes into forests, coastal lands and scenic open space, the deterioration of air and water quality, higher housing prices and increases in crime and poverty.

They have reason to be concerned.

The U.S. Census Bureau reported last week that Oregon was among the nation's leaders — ninth overall — in house and apartment growth from 1990 to 1996. At the end of 1996, there were 1.34 million housing units in Oregon — a 12.4 percent increase in six years.

Oregon's population growth is expected to

decline in the next few years because of the surging economies in California and Washington and because of Oregon's high housing prices. The median cost of a single-family home in Oregon was \$124,600 last year, compared with \$70,800 in 1990 — a faster growth rate than any U.S. state.

Still, any slight decline isn't likely to cool the debate over growth:

■ **Some residents say** that developers aren't paying their fair share, but builders disagree. Developers say land-use restrictions are driving up the costs of housing, but critics see little evidence the building boom has led to cheaper housing. And both sides disagree over who should pay for the roads, water and sewer systems and schools required by new construction.

■ **During this year's** legislative session, lawmakers debated scores of proposals that would have affected the state's famed land-use system.

One proposal would have allowed local governments to charge developers of new homes and apartments for part of the cost of building new schools. Another bill — narrowly rejected — would have allowed state regulators to oversee annexation decisions by local voters. Meanwhile, rural legislators continued pushing for a relaxation of land-use and environmental laws.

■ **In Salem**, slow-growth proponents are pushing ballot measures that would increase development fees and allow a public vote on all proposed annexations. A group of parents is proposing ballot measures to limit the number of students per classroom in Salem and Keizer public schools.

In these and other cases, the debate lacks little agreement about the basic costs and benefits of growth.

We believe Kitzhaber's committee can help fill that gap and give Oregonians the information they need to make better decisions.

7/14/97

Dear Ms. Drought:

This committee is too late to save our neighborhood but maybe it can help someone else. Battleground, Washington has declared a complete moratorium on growth due to lack of planning, sewers, water, schools, etc. I believe that is what the city of Keizer should do. It is destroying neighborhoods. I don't believe the citizens of Keizer will thank the planning dept. for a m.h. park like the one Mr. Brown has developed on Springbrook Road in Newberg.

O. M. Allen

Webb & Martinis

RECEIVED

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

'97 AUG 11 AM 11 13

CITY OF KEIZER
OREGON 97303

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

August 7, 1997

Ms. Amy Drought
Mr. John Morgan
City of Keizer
Planning Department
P.O. Box 21000
930 Chemawa Road NE
Keizer, OR 97303-1000

Re: Our Client: Carl Alleman / Timothy Lane Residents
Adverse Party: Derek Brown / Derek L. Brown & Associates

Dear Ms. Drought and Mr. Morgan:

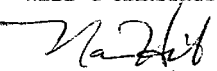
As you know, this office represents Carl Alleman regarding to Conditional Use Case No. 97-04. I am in receipt of your Notice of Decision approving Derek Brown's proposed manufactured home park expansion. Our client respectfully disagrees with the conclusions contained in your decision.

In addition, our client contends that the decision fails to comply with applicable statutes, regulations and ordinances, including the Keizer Zoning Ordinance. In particular, the applicant has not demonstrated compliance with requirements for a manufactured home park or a conditional use permit.

Accordingly, our client hereby requests a hearing in front of a Hearings Officer pursuant to Keizer Zone Code, Chapter 5.08. Enclosed please find a check for \$150.00 to serve as our filing fee.

Very truly yours,

WEBB & MARTINIS



Norman R. Hill
NRH/dla

Check No. 6381 for \$150.00

cc: Carl Alleman

7849 Timothy Ln,
Keizer, Or 97303

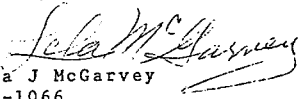
July 18, 1997

To the City of Keizer
Keizer, Or

Ladies & Gentlemen:

What is the City of Keizer thinking? You talk about making the City of Keizer look nice and tear it apart and destroy its beauty at the same time. You let developers come out on Timothy Ln and on approximately 2½ acres amidst homes put 13 mobile units around a house that already exist. It is not comparable nor compatible with the houses that already exist. The development is inconsistent with the types of dwellings on Timothy Ln. We have homes on parcels of land of 3/4 acres and up to 3 acres; now you want to stick 13 mobile units in the middle of these parcels--not very desirable, I wouldn't think. I watched these people uproot the trees, knock down the barn, destroy the habitat. I wonder what you would do if this happened on your street? This is not progress, this is destruction. I'll bet not one of you have been out here to see what is happening. And now there are trees on each side that will probably blow down, destroying something of these property owners. It wouldn't have been bad if you would have allowed 2 mobile units there; we wouldn't have said anything and so much destruction wouldn't have been done.

Timothy Ln owner


Lela J McGarvey
393-1066

rc 4 8/4/97

LIEN & JOHNSON
Attorneys At Law
4855 River Rd. N.
Keizer, Oregon 97303

John A. Lien
E. Shannon Johnson

Telephone 503-390-1635
Fax 503-390-6567

August 4, 1997

Norman R. Hill
Attorney at Law
1114 Twelfth St SE
Salem, OR 97302-2897

RE: Your Client: Carl Alleman (Derek L. Brown Development)

Dear Mr. Hill;

I am in receipt of your July 29 letter. It is my understanding that at this time, the City has "red tagged" the project. No further work is progressing at this time.

Please be advised that the City is looking into the matter further, and may change it's position should further review of the facts and the development regulations make it appropriate to do so. If you have any questions in this regard, please feel free to contact the city planner, Amy Drought.

Thank you.

Yours truly,

LIEN & JOHNSON

By: E. Shannon Johnson

ESJ/llw
c: Amy Drought

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINISNORMAN R. HILL
ASSOCIATE

July 25, 1997

SENT BY FACSIMILE TRANSMISSION
(503)393-9437 AND REGULAR MAILAmy C. Drought
City Planner
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307Wally Mull
Interim City Manager and
Community Development Director
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

RE: Timothy Lane, Berkshire Estates, Keizer

Dear Ms. Drought and Mr. Mull:

As you know this firm represents Mr. and Mrs. Carl Alleman regarding the Second Phase in Birkshire Estates. Our clients are very distressed to learn that Mr. Brown is proceeding with the development of this project without waiting for City approval.

Our clients were informed that the crew working on the property will begin laying roads over the weekend.

This activity is clearly contrary to the City of Keizer's code. Our clients demand that the City of Keizer undertake steps to insure that this activity does not take place prior to issuance of a proper permit.

Your immediate attention in this matter is appreciated.

Yours very truly,

Webb & Martinis

Norman R. Hill
NRH:ssf
cc: Mr. and Mrs. Alleman
[alleman/keizer.723]

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

July 25, 1997

SENT BY FACSIMILE TRANSMISSION
(503)393-9437 AND REGULAR MAIL

Amy C. Drought
City Planner
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

Wally Mull
Interim City Manager and
Community Development Director
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

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Yours very truly,

Webb & Martinis



Norman R. Hill
NRH:ssf
cc: Mr. and Mrs. Alleman
[alleman\keizer.725]

MARION COUNTY, OREGON
DEPARTMENT OF PUBLIC WORKSAPPLICATION AND PERMIT
FOR USE OF A
PUBLIC RIGHT OF WAY

PERMIT NO. SR-1-81

Name and Address of Applicant:

Carl E. Allerton

1342 Clear Lake Road N.E.

Salem, Oregon 97303

Telephone No. 393-4536

Applicant hereby applies to the Marion County Department of Public Works for permission to: Maintain and operate an existing water well approximately 570 feet south of the center of County Road No. 813 within the Public Road Right-of-Way known as Timothy Lane N.E. in Section 23, Township 6 South, Range 2 West, as shown on the Map or Plan attached hereto and by this reference made a part hereof.

This Permit is issued through the Office of the Director of Public Works by the authority of the Board of County Commissioners, subject to the requirements and conditions stated herein and/or attached hereto.

This Permit is made necessary by the dedication of the Timothy Lane N.E. right-of-way for public roadway purposes as required by Condition of Approval No. 3 of Major Partitioning Case No. 81-28.

Conditions of Permit:

1. This permit is valid only for the water well in existence on the date that the permit is issued and shall expire either when the well is no longer needed or when it no longer produces an adequate volume of water. Maintenance of the well and pump is allowed but the well shall not be deepened nor replaced with a new well located within the public road right-of-way.
2. This permit shall be valid for the applicant, his heirs and assigns.
3. Applicant shall be responsible for all costs of maintenance and operation.

The Applicant, his heirs and assigns, shall indemnify and save harmless Marion County, its Board of Commissioners, its officers and employees from all suits and actions; or claims of any character brought because of any injuries or damages received or sustained by any person, or property on account of the operations of the said Applicant, his Subcontractors or the employees of either; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the said Applicant.

This permit is accepted and agreed to by the Applicant subject to the requirements and conditions.

Applicant: Carl Oltman

MARION COUNTY DEPARTMENT OF PUBLIC WORKS

By: Carl Oltman

By: James Lewis

Date of Application: 11-20-81

Effective Date: 11-21-81

cc: Building Department
Planning Department
Forrest Jones
Dave Steenson

Attachments

Derek L. Brown and Associates, Inc.

6969 SW Hampton Street # 101, Portland, Oregon 97223
(503) 639-8625 or (503) 241-6019 Fax # (503) 639-9575
CCB # 58699 Ore

FAX COVER SHEET

To: Bill Peterson/ City of Keizer

From: **Derek L. Brown**

Fax Number: (503) 390-7461

Date: 7/24/97

CC: _____

Time: _____

Number of Pages: 2
(including this one)

Comments: RE: Berkshire Estates permit issuance

Mark Grenz asked that I get this letter over to
you at your office

Please call (503) 639-8625 if you do not receive all of the pages.

PLEASE NOTE: THIS IS A CONFIDENTIAL TRANSMISSION. The documents accompanying this facsimile transmission may contain confidential, legally privileged information belonging to the sender. The information is intended only for the use of the individuals or entities listed above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of action in reliance on the contents of this information is strictly prohibited. If you receive this transmission in error, please notify us immediately so that we may arrange for the return of the documents. Thank you.



Derek L. Brown and Associates, Inc.

6069 N.W. Hunnion Street / Suite 101 / Portland, Oregon 97223 / (503) 639-8625 / Fax (503) 639-9575

July 21, 1997

Bill Peterson- City of Keizer Public Works
4300 Cherry Avenue NE
Keizer, Oregon 97303

RE: Berkshire Estates (Keizer mobile home park)

Dear Bill:

It has come to my attention by my engineer Mark Grenz of Multi-Tech Engineering on Friday July 18, 1997 that both the city of Salem and the city of Keizer have approved our building plans for the development project known as Berkshire Estates (mobile home park). It is also our understanding that before the cities can physically release these permits to Berkshire Estates that you need my written assurance that the cities will receive upon construction completion the necessary easements for the public sanitary sewer and the public water. Please be advised that as the General Partner for Berkshire Estates that we have no problem granting your request so that construction can immediately commence and that once construction of these lines is implemented that Mark Grenz of Multi-Tech Engineering has been authorized by me to promptly provide those easements to you in a form acceptable to both cities as soon as these lines are complete. Based on our approval herein of your condition we would at this time like to pull our permits so that construction can commence so that we can accurately give you the easements you have requested. It should probably be pointed out as well that this situation also affects a neighboring 31 lot subdivision called Brower Place owned by the Chimento-Picoull Group Inc. which needs access to this public sewer line and their project also is awaiting final permitting based on this situation. I greatly appreciate your cooperation and promptness in resolving this situation.

Sincerely,

Derek L. Brown
President & General Partner Berkshire Estates
DLB

cc: Mark Grenz/ Multi-Tech

Transmittal

W.I. Peterson Engineering Consultants, Inc.
4300 Cherry Avenue NE
Keizer, OR 97303
503-390-7402
FAX 390-7461

Date: 7-22-97Pages 3, incl. cover

To: Amy, John, Wally FAX # _____
From: Bill _____
Subject: Berkshire Estates Permit _____
Attachments: _____

Transmittal Mode:

☒ FAX ONLY ☐ FAX & MAIL ☐ MAIL ONLY ☐ HAND DELIVER

Comments:

Please review.

by:

- CONTRACT
10/97

SJ

- CONTRACT
10/97
- Permit Application

LIEN & JOHNSON**Attorneys At Law
4855 River Rd. N.
Keizer, Oregon 97303**John A. Lien
E. Shannon JohnsonTelephone 503-390-1635
Fax 503-390-6557**TELEFAX COVER LETTER**Date: July 30, 1997 Time: 9:50Destination Fax Number: COXDeliver To: Amy Drought

Regarding: _____

Cover Sheet Plus 2 Pages Our File No. _____

If You Need Pages Retransmitted, Please Call:

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Comments: _____

Prepared by: TML Sent by: TML

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(burever.sh)

7-29-1997 4:47PM FROM WEBB-MARTINIS 15033632250

P 1

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINISNORMAN R. HILL
ASSOCIATE

July 29, 1997

SENT BY FACSIMILE TRANSMISSION
AND REGULAR MAIL 390-6557

Mr. Shannon Johnson
City of Keizer
P.O. Box 21000
Keizer, OR 97307-1000

Re: Our Client: Carl Alleman/Timothy Lane Residents
Adverse Party: Derek L. Brown

Dear Mr. Johnson:

Thank you for speaking with me on July 29, 1997. As I mentioned, this office represents Carl Alleman regarding his property on Timothy Lane and the impact of Derek Brown's proposed Berkshire Estates Mobile Home Park and the expansion thereof.

Our client is very concerned with the extension development activity taking place on the expansion without approval. At your request, I contacted our clients to try and obtain more detailed information from them regarding Mr. Brown's activity. They informed me they were told by employees of Multi/Tech Engineering that rough cutting of roads in Phase II is being undertaken. They are hauling in and spreading topsoil at a substantial rate. The dust is causing a nuisance to our clients.

Our clients also inform me that Phase II was being similarly developed.

You expressed concern that it may be possible for a landowner to begin this type of alteration of their property without a permit. However, I note that the Keizer Zoning Ordinance at Section 2.088 defines "develop" as "To construct or structural alter a structure and making alterations or improvements to land for the purpose of advancing its economic value or productivity." In this case, it is obvious that Mr. Brown is simply beginning to develop his property into a manufactured home park without an approval. This is of serious to our clients, because they fully intend on appealing that conditional use approval. It would be extraordinarily unfair for

1)

7-29-1997 4:48PM FROM WEBB-MARTINIS 15033632250

P.2

Mr. Shannon Johnson
City of Keizer
Re: Alleman/Brown/Timothy Lane
July 29, 1997
Page Two

them to be forced to wait until after the decision on the conditional use application is made in order to appeal, while allowing Mr. Brown to simply go ahead with his development. Our clients' ability to defend their rights is thus eliminated.

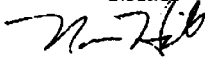
Your prompt attention to this matter is greatly appreciated. Our clients would prefer to have the City undertake enforcement action to enforce its ordinance. Please advise as soon as possible whether the City will take action.

In the absence of the City's enforcement action, our clients will be forced to seek a restraining order to prevent further degradation of the neighborhood.

Your assistance in this matter is greatly appreciated.

Very truly yours,

WEBB & MARTINIS


Norman R. Hill
NRH/dla

cc: Carl Alleman

REV'd 7/25/97

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

July 24, 1997

Ms. Amy Drought
City of Keizer
Planning Department
P.O. Box 21000
930 Chemawa Road NE
Keizer, OR 97303-1000

Re: Our Client: Carl Alleman / Timothy Lane Residents

Dear Ms. Drought:

As you know, this office represents Carl Alleman and other residents in the Timothy Lane vicinity in conjunction with the above-reference application of Derek Brown. Our clients object to approval of Mr. Brown's application for a Conditional Use Permit to expand the Berkshire Estates Mobile Home Park. However, since our last correspondence with your office a number of issues have arisen which the City should consider in evaluating the proposal.

A. EXISTENCE OF WETLANDS. It appears there is evidence that the subject property may contain wetlands. I note that the soils map for the area reveals a large concentration of amity soils. I am informed that amity soils may include substantial inclusions of wetland soils. In addition, our clients report seeing sedges and other plants characteristic of wetland areas on the property. As a result, the City should require a wetlands delineation or some level of inquiry into this issue before granting the Conditional Use Permit.

Currently, the property owner has begun construction of the manufactured home park, despite the fact that he has not received a Conditional Use Permit. In order to avoid substantial problems during the wet season, our clients urge the City to make immediate inquiries into the drainage capabilities of the site.

B. DRAINAGE PLAN. Our clients are also distressed to learn that the City is contemplating approving Mr. Brown's development without receiving a storm drainage master plan. The Keizer Zoning Code at 14.30(15) requires all spaces to be provided with adequate storm drainage and connected to storm drainage if a system is available. The facilities must be sufficient to safely transport through the park all volumes of water generated up stream and on the site. On-site storm water detention systems may be required.

Ms. Amy Drought
City of Salem
Re: Alleman/Brown
July 24, 1997
Page Two

*not done at
the same time*

In the present case, it is our understanding that the City is contemplating approving the Conditional Use Permit and simply listing a Storm Drainage Plan as a condition of issuing the building permit. Our clients strongly object to this practice. The code clearly contemplates that storm drainage approval is required in order to approve the use. Given the fact that the property may contain wetlands, our clients are very concerned about the drainage issues. As a result, they need the opportunity to review and object to the proposed development if it will contribute to drainage problems in the area. Simply including the drainage as a condition, deprives our clients of the right to a public hearing on this matter. It further deprives our clients of the right to appeal the City's land use decision in the event the drainage plan is inadequate.

C. **TIMOTHY LANE.** Our clients also object to the proposed use of Timothy Lane by the subdivision. Timothy Lane is a private roadway. The parcels abutting Timothy Lane have easements for ingress and egress to their properties. Unfortunately, Mr. Brown's proposal appears to use Timothy Lane as a partial access to a much larger development.

Our clients further object to any form of gate or access to Timothy Lane for the larger parcel. It is our understanding that the developer is contemplating using Timothy Lane for emergency vehicle access. Such use is beyond the scope of the original easement. Our clients object and will seek judicial remedies if necessary to prevent Mr. Brown's use of Timothy Lane.

It is our sincere hope that you will consider our clients' objections in deciding whether or not to approve Mr. Brown's application as stated.

If you have any questions concerning the foregoing, please do not hesitate to contact me.

Very truly yours,

WEBB & MARTINIS



Norman R. Hill
NRH/dla

cc: Carl Alleman

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

July 25, 1997

SENT BY FACSIMILE TRANSMISSION
(503)393-9437 AND REGULAR MAIL

Amy C. Drought
City Planner
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

Wally Mull
Interim City Manager and
Community Development Director
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

RE: Timothy Lane, Berkshire Estates, Keizer

Dear Ms. Drought and Mr. Mull:

As you know this firm represents Mr. and Mrs. Carl Alleman regarding the Second Phase in Birkshire Estates. Our clients are very distressed to learn that Mr. Brown is proceeding with the development of this project without waiting for City approval.

Our clients were informed that the crew working on the property will begin laying roads over the weekend.

This activity is clearly contrary to the City of Keizer's code. Our clients demand that the City of Keizer undertake steps to insure that this activity does not take place prior to issuance of a proper permit.

Your immediate attention in this matter is appreciated.

Yours very truly,

Webb & Martinis



Norman R. Hill

NRH:ssf

cc: Mr. and Mrs. Alleman

[alleman\keizer.725]



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

REQUEST FOR COMMENTS

TO: Cleanlake N.A. DATE: June 116, 1997

FROM: Keizer Community Development Department

CASE: Conditional Use Case No. 97-03

APPLICATION: Request to create a manufactured home park as a second phase to an existing permit. This would create an additional 13 spaces to make a total of 103 spaces.

APPLICANT: Derek Brown

LOCATION: 7700 Block of Timothy Lane (T6S, R3W, Section 23DB, Tax Lot 2000, 1200, 1100, 1000, 900; and T6S, R3W, Section 23CA, Tax Lot 1400)

APPLICANT:

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **June 30, 1997** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Amy Drought, City Planner, at 390-3700. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

☐ Our agency reviewed the proposal and determined we have no comment.

☒ Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.

☒ Our comments are in the attached letter.

☐ Our Agency's comments are:

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•

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Pride, Spirit, Volunteerism

Clear Lake Neighborhood Association

June 19, 1997

Keizer Community Development Department
P.O. Box 21000
Keizer, OR 97307-1000

The CLNA met in an executive meeting on June 18, 1997, and considered your request of comment on Conditional Use Case No. 97-03.

Our decision was to oppose the conditional use permit. The increase in density and units is not necessary to the vitality of our community, and lowers the quality of living in our area. Please remember that Clear Lake existed long before the city of Keizer was even a dream, let alone a reality. We have the right to proclaim that **our quality of life is critical to the livability and value of our lands, life and our individual and our collective pursuit of happiness.**

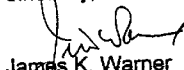
Briefly stated our concerns are:

1. Traffic safety, the increase of traffic in an area that is currently overburdened, has some obvious visibility problems, has no sidewalks on feeder streets (Wheatland and River Road), and has had a series of accidents on the River Road access area from Hidden Creeks and on Timothy Lane itself. We are concerned about the increase in load on these streets and would request review of study results on traffic safety and flow.
2. Public safety, what will be the effect on police, fire and city infrastructure resources by increasing the population density in an area where rapid growth is affecting services and city resources. Are we creating a bill our taxpayers will need to carry, by allowing increased development on this parcel?

We are not opposed to well thought out and completely studied development. However, we want our concerns answered in a complete and timely manner proving beyond a shadow of a doubt that these requested changes will not adversely change our livability or our community safety and well being, otherwise we must remain opposed to these requested changes.

Thank you for the opportunity to respond, should you have any questions or need additional comments, please contact our association.

Sincerely,



James K. Warner
Chair

Allen: Am



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

REQUEST FOR COMMENTS

TO: Mar. City File Dist #1 DATE: June 116, 1997

FROM: Keizer Community Development Department

CASE: Conditional Use Case No. 97-0#

APPLICATION: Request to create a manufactured home park as a second phase to an existing permit. This would create an additional 13 spaces to make a total of 103 spaces.

APPLICANT: Derek Brown

LOCATION: 7700 Block of ^{Whitland Rd.} ~~Timothy Lane~~ (T6S, R3W, Section 23DB, Tax Lot 2000, 1200, 1100, 1000, 900; and T6S, R3W, Section 23CA, Tax Lot 1400)

APPLICANT:

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **June 30, 1997** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Amy Drought, City Planner, at 390-3700. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

- ☐ Our agency reviewed the proposal and determined we have no comment.
- ☐ Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.
- ☒ Our comments are in the attached letter.
- ☐ Our Agency's comments are:

Please see comments on ATTACHED PAGES
For Requirements on Road access, Address & Hydrants

Thank you

Paula Blomquist

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•

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6/23/97

MARION COUNTY FIRE DISTRICT COMMENTS

Comply with all UBC & UFC requirements and MCFD #1 1996.1:

A-6: Approved Fire Hydrant Requirements

A-8: Fire Apparatus Access Roads On Private Property

A-9: Address Requirements For Residential & Commercial Use

MARION COUNTY FIRE DISTRICT #1 ORDINANCE 19961
APPENDIX A-6

APPROVED FIRE HYDRANT REQUIREMENTS

Except where requirements for fire hydrants are waived pursuant to Appendix A-3, fire hydrants shall be required as provided herein.

Section 1. COVERAGE

Distribution of hydrants shall be based upon the required fire flow and the average area served per the Uniform Fire Code and/or the Insurance Services Office.

A. Hydrants on Public Rights-of-Way

Preferred coverage shall result in hydrant spacing of 500 feet in residential areas, 300 feet in high value district including industrial subdivision.

Hydrants shall be located as nearly as possible to the corner of street intersections and not at a dead end or any cul-de-sac.

B. Hydrants on Private Rights-of-Way

When any portion of the building protected is in excess of 150 feet from a water supply on a public street, as measured by an approved route around the exterior of the building, there shall be provided on-site fire hydrants and mains capable of supplying the required fire flow.

Section 2. LOCATION

No fire hydrant shall be installed on a main of less than eight (8) inches inside diameter unless it is in a looped system of six-inch mains. The hydrant lead shall be a minimum six (6) inches inside diameter.

No hydrants which are installed so that fire hose must cross a major highway, street or road with four (4) or more lanes of driveable surface will be approved by this district in areas of new construction.

No hydrant shall be installed less than five (5) feet from any existing or future above- or below-ground utility services.

Page 2
Appendix A-6

Section 3. APPROVED HYDRANT TYPES AND VALVES

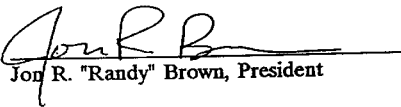
Within the areas of the City of Salem Water Department, the City of Keizer Water Department, the East Salem Suburban Water District and the Brooks Water District, approved hydrants and valves shall comply with all standards as required by the water department/district.

All areas must have Marion County Fire District #1 approval.

Section 4. INSTALLATION

Required hydrants must be in place and working prior to construction above the level of the foundation.

MARION COUNTY FIRE DISTRICT #1


Jon R. "Randy" Brown, President


Orville Downer, Secretary

DATED this 19th day of June, 1996.

MARION COUNTY FIRE DISTRICT #1 ORDINANCE 1996.1

Appendix A-8

FIRE APPARATUS ACCESS ROADS ON PRIVATE PROPERTY

Section 1. Fire apparatus access roads serving more than one multi-family (duplex or greater) dwelling, serving more than two single-family dwellings, or serving any commercial building, shall be provided and maintained in accordance with the provision of this appendix.

This will also include all private roads, including, but not limited to, those designated in county records as "Way", "Place", "Lane" or "Drive".

Section 2. Required access. Fire Apparatus access roads shall be provided in accordance with the 1994 Uniform Fire Code (UFC), Sections 901 and 902.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility.

Exceptions:

1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of the 1994 UFC, Sections 902.2.1 and 902.2.2 may be modified by the chief.
2. When access roadways cannot be installed due to location on property, topography, waterways, non-negotiable grades or other similar conditions, the fire chief is authorized to require additional fire protection as specified in the 1994 UFC, Section 1001.9.

More than one fire apparatus road shall be required when it is determined by the chief that access by a single road may be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

Section 3. Access roads shall meet the following minimum standards.

A. Width

1. For up to four (4) multi-family dwelling units
 - a. Unobstructed width of not less than 20 feet.
 - b. Driveable surface of not less than 20 feet.

- c. Dead-end fire apparatus access roads in excess of 150' in length shall be provided with fire apparatus turnarounds and/or approved second means of access as approved by the chief or fire marshal.
 - 2. From 5 - 100 multi-family dwelling units
 - a. Unobstructed width of not less than 24 feet.
 - b. Driveable surface of not less than 24 feet.
 - c. Dead-end fire apparatus access roads in excess of 150' in length shall be provided with fire apparatus turnaround and/or approved second means of access as approved by the chief or fire marshal.
 - 3. Commercial
 - a. Unobstructed width of not less than 20 feet.
 - b. Driveable surface of not less than 20 feet.
 - c. Dead-end fire apparatus access roads in excess of 150' in length shall be provided with fire apparatus turnaround and/or approved second means of access as approved by the chief or fire marshal.
- B. Vertical Clearance
 - 1. Fire apparatus access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

Exception: Upon approval, vertical clearance may be reduced provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.
- C. Surface

A paved surface with adequate drainage shall be required and constructed and maintained in accordance with national, county and city recognized standards.

D. Turning Radius

The turning radius of a fire apparatus access road shall be 29' inside and 45' outside.

See attached diagrams for turning radius.

E. Turnarounds

All dead-end fire apparatus access roads in excess of 150 feet in length may be provided with approved provision for the turning around of fire apparatus.

See attached diagrams for turnarounds.

F. Bridges

When a bridge is required to be used as part of a fire apparatus access road, it shall be constructed and maintained in accordance with national, county and/or city recognized standards. See 1994 UFC, Article 90, Standard a.1.1. (Page 1-391, Section 9003 - Recognized Standards). The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

Vehicle load limits shall be posted at both entrances to bridges when required by the chief.

Certification must be provided by a licensed engineer.

NOTE: Live loads differ from fire department to fire department with most gross vehicle weights of 60,000 pounds. The chief shall provide any requirements above the 60,000 pounds, if needed, when approving bridges prior to certification by a licensed engineer.

G. Grade

The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief.

No street grade shall exceed 12% without approval of the chief or fire marshal.

H. Obstruction

1. The required width of any fire apparatus access road shall not be obstructed in any manner including parking of vehicles. Minimum required widths and clearances established under this section shall be maintained at all times.
2. When "no parking" is required, it shall be in accordance with the following.
 - a. Fire lane curbs or road surfaces shall be painted bright red with white letters. The stroke shall be 1" with letters 6" high to read "No Parking Fire Lane". Spacing for signage shall be every 25'.
 - b. Vertical signs shall be mounted so that the tops are no more or less than 7' high.
 - (a) Vertical signs shall be 12" wide by 18" high. Signs shall have red letters and border on a white background. The word "NO" shall be presented in a reverse color arrangement in the upper left-hand corner. Spacing shall not exceed every 25'.



I. Signs

When required, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

NOTE: Approved signs shall comply with Marion County standards for signs.

The chief or fire marshal may authorize any changes to the above standards as needed within the jurisdiction.

Page 5
Appendix A-8

Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

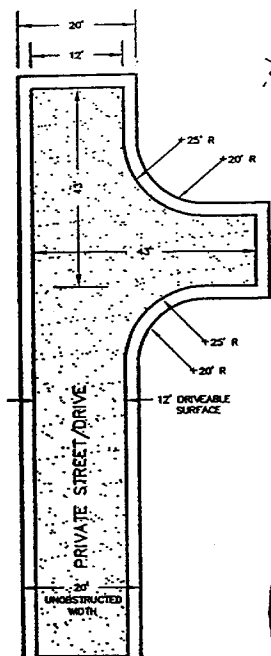
MARION COUNTY FIRE DISTRICT #1


Jon/R. "Randy" Brown, President

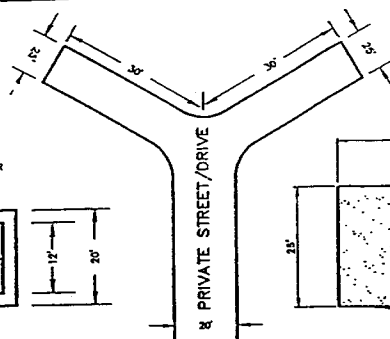

Orville Downer, Secretary

DATED this 19th of June, 1996.

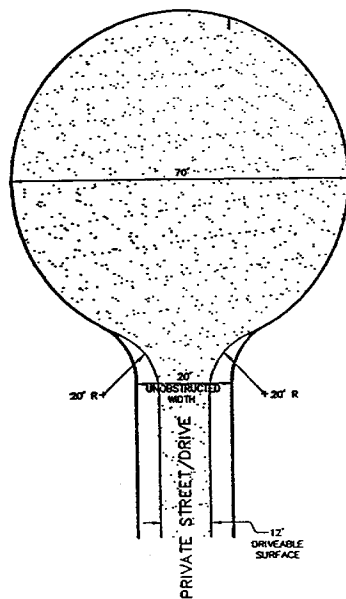
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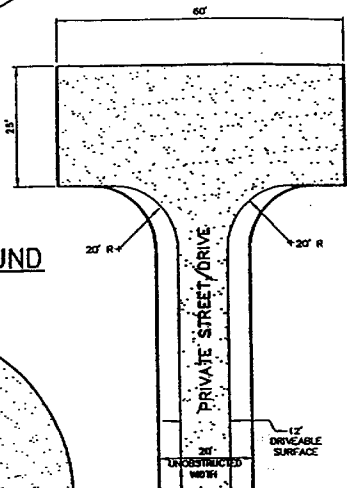
**HAMMERHEAD
ALTERNATE
TURNAROUND**
N.T.S.



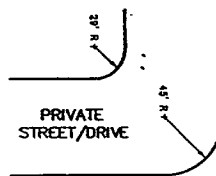
TURNAROUND
N.T.S.



BULB TURNAROUND
N.T.S.



**HAMMERHEAD
TURNAROUND**
N.T.S.



CORNER
N.T.S.

APPROVED BY:

Row Smith

06-19-96
DATE

STANDARD DETAIL DRAWING

**FIRE APPARATUS ACCESS ROAD
REQUIREMENTS PRIVATE STREETS**

MCFD # 1

DATE: 06-19-96

MARION COUNTY FIRE DISTRICT #1 ORDINANCE 1996.1

Appendix A-9

ADDRESS STANDARDS FOR RESIDENTIAL & COMMERCIAL USE

Section 1. RESIDENTIAL USE

A. Location, height and color

1. Numbers shall be affixed to the building visible from the roadway. The assigned numbers shall not be less than four (4) inches in height and shall be painted or affixed to the building in a contrasting and highly visible color.
2. In cases where the building is not visible from the access roadway or drive, the occupant or owner shall place a roadside marker with numbers not less than three (3) inches in height at the access point as approved by the chief or the fire marshal.

Section 2. COMMERCIAL USE

A. Location, height and color

1. Numbers shall be affixed to the building visible from the roadway and/or main access point. The assigned numbers shall be not less than six (6) inches in height and shall be painted or affixed to the building in a contrasting and highly visible color.
2. In cases where the building is not visible from the access roadway or drive, the occupant or owner shall place a roadside marker with numbers not less than five (5) inches in height in a contrasting and highly visible color.

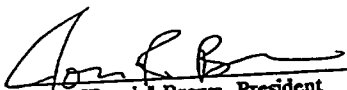
Section 3. POSTING ADDRESS NUMBERS

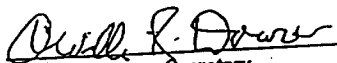
New road names, renaming of roads, assignment or reassignment of addresses requiring changes to existing addresses shall be considered final unless written objections are received within ten (10) days of the mailing of the address/road name decision.

NOTE: Objections must be sent to Marion County Planning and/or Marion County Building Department. These agencies are responsible for Section 3 of this Appendix.

Page 2
Appendix A-9

MARION COUNTY FIRE DISTRICT #1


Jon R. "Randy" Brown, President


Orville Downer, Secretary

DATED this 19th of June, 1996.

b-appendA9.doc/vp5.1
04-16-96/mrrab

Warner Chiropractic Office, P.C.

J. K. WARNER, D.C.

3830 River Road North • Keizer, Oregon 97303
(503) 390-1144 Fax (503) 390-1146

February 11, 1997

John Morgan
P.O. Box 21000
KEIZER OR 97307

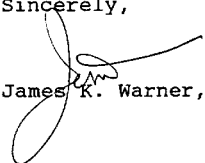
Dear Mr. Morgan:

As chairperson of the Clear Lake Neighborhood Association I have scheduled a meeting regarding case numbers 97-1, 97-2, 97-3. Our meeting will be held February 20 at Clear Lake Elementary School. Before I chair that meeting I have some questions I would like answered so I may present this additional information to our members.

1. Will staff be considering the load on infrastructure including storm run-off, groundwater changes, and sewage use by these proposed developments? If so, are those systems appropriately designed to handle that currently.
2. Has the city considered the demands this will place on emergency services including fire and police. Will this significantly increase the response time for emergency services to other citizens in the community?
3. Considering Measure 47 and its cuts into city services will it be safe to add this additional population base into this corner of the city? Safety includes public health issues as well as police, fire, and emergency services.
4. Has a traffic study been performed as to how this will increase traffic on Wheatland Road? We have had concerns over the Wheatland Road speed limit, lack of sidewalks, and poorly lit school crossings. Will these developments adversely affect the safety of our children?

Thank you for your response to these questions.

Sincerely,



James K. Warner, D.C.

Community Development Department - Memorandum

DATE: February 20, 1997

TO: Jim Warner,
Clear Lake Neighborhood Association

FROM: John Morgan 

SUBJECT: Feb. 20th Clear Lake Meeting on Development Proposals

Let me offer answers to the questions presented in your February 11, 1997 letter:

1. The load on the infrastructure is a major element of the review and approval process. The City has master water, sewer, and storm drainage plans. The developments must conform to these plans. As well, the City has detailed engineering design standards that must be followed in building the new public facilities.

The inadequacy of these facilities has been a major factor in delaying development in the Clear Lake area. The City does not build major new infrastructure facilities. Rather it places those responsibilities on the developers. There are two major facilities in this area, sewer and water, that have needed major new trunk lines and other improvements. The stumbling block has been that a "path" of new development connecting Wheatland Road and O'Neil Road is necessary to provide the route for major new water and sewer facilities. This area probably would have developed much earlier had this route been available. Now, a coalition of developers has put together a continuous pattern of ownership connecting the two streets in the right alignment to build the new pipes. Hence, the projects are proceeding.

We also delayed the consideration of these specific applications until a strategy could be worked out to develop a water tank in the area to be paid for by new development. With this rapid growth, it is necessary to provide additional storage capacity now instead of in a few years as the master plan anticipated.

Storm drainage is a major factor for these developments, especially those toward O'Neil which drain into Labish Ditch. However, a storm drainage plan must be developed and approved as being in compliance with our design standards. A significant standard relates to storm water detention. We



basically required the development to store water during a storm, releasing it at a controlled rate that will not cause downstream flooding.

2. The City has not considered the demands the developments place on emergency services, or schools for that matter, as we are basically not allowed to do so. Let me summarize the philosophy that is embedded in state statute by saying that land within an urban growth boundary is considered urbanizable and available for development. It is up to the municipal government, the fire district, the school district, and other service providers to "keep up." No public service issues can be used to stop development. Public facilities such as inadequate sewer and water can, but not services.
3. Again, despite Measure 47, we have no legislative authority to deny or condition these applications based on public service delivery.
4. The Regional and City transportation plans are based on identifying transportation needs and solutions to the year 2015. Those plans designate Wheatland Road as a minor arterial, which is a major through street intended to carry significant amounts of traffic between different parts of the City. The threshold between a minor arterial with 2 lanes and a major arterial with 4 lanes is when the traffic is projected to exceed approximately 15,000 vehicle trips per day.

Wheatland Road currently carries approximately 8,400 trips per day as it approaches its intersection with River Road. This number goes down substantially the farther north you go. Projections based on the full buildout of the urban growth boundary show Wheatland staying below the threshold for widening to four lanes.

Again, it is primarily the City's responsibility to make or foster the operational improvements to streets. We can require a contribution from a developer, but according to the Dolan decision by the US Supreme Court, that contribution must be "directly proportional" to the impacts the development causes. In cases where it is easy to assess impact, such as the development of the Wittenberg property where a traffic signal is warranted by the traffic the development generates, we can assess those costs. In the case of Wittenberg, he is paying about 75% of the cost of a new signal at Claggett and River Road.

It is much more difficult if not impossible, however, to assess impacts from subdivisions which "blend in" much more thoroughly than a single intense development. For example, we could not reasonably require the developments to install sidewalks all the way to River Road, as these sidewalks would benefit a very large number of people, much greater than the residents of the new subdivisions. There is no practical way to attach conditions related to these proportional impacts.

The developers are required to make all internal improvements and improvements on the boundaries, such as Wheatland Road and O'Neil Road, so there will be curbs, sidewalks, and storm drainage adjacent to the developments.

In closing, I think it behooves the Clear Lake Neighborhood Association to start working on specific strategies to develop sidewalks in the areas where development will not be occurring. During the update of the City transportation plan, which is scheduled for FY 97-98, pedestrian and bicycle needs will be a paramount topic of discussion and a major part of the planning effort. Clear Lake should be strongly involved in this process.

Please contact me if you have any further questions.

Attachment: original letter

Cc: Amy Drought, City Planner
Wally Mull, Public Works Director





Warner Chiropractic Office, P.C.

J. K. WARNER, D.C.

3830 River Road North • Keizer, Oregon 97303
(503) 390-1144 Fax (503) 390-1146

February 11, 1997

John Morgan
P.O. Box 21000
KEIZER OR 97307

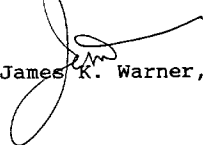
Dear Mr. Morgan:

As chairperson of the Clear Lake Neighborhood Association I have scheduled a meeting regarding case numbers 97-1, 97-2, 97-3. Our meeting will be held February 20 at Clear Lake Elementary School. Before I chair that meeting I have some questions I would like answered so I may present this additional information to our members.

1. Will staff be considering the load on infrastructure including storm run-off, groundwater changes, and sewage use by these proposed developments? If so, are those systems appropriately designed to handle that currently.
2. Has the city considered the demands this will place on emergency services including fire and police. Will this significantly increase the response time for emergency services to other citizens in the community?
3. Considering Measure 47 and its cuts into city services will it be safe to add this additional population base into this corner of the city? Safety includes public health issues as well as police, fire, and emergency services.
4. Has a traffic study been performed as to how this will increase traffic on Wheatland Road? We have had concerns over the Wheatland Road speed limit, lack of sidewalks, and poorly lit school crossings. Will these developments adversely affect the safety of our children?

Thank you for your response to these questions.

Sincerely,



James K. Warner, D.C.

7849 Timothy Ln,
Keizer, Or 97303

July 18, 1997

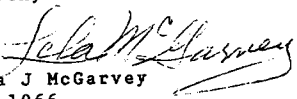
To the City of Keizer
Keizer, Or

Ladies & Gentlemen:

What is the City of Keizer thinking? You talk about making the City of Keizer look nice and tear it apart and destroy its beauty at the same time.

You let developers come out on Timothy Ln and on approximately 2 1/4 acres amidst homes put 13 mobile units around a house that already exist. It is not comparable nor compatible with the houses that already exist. The development is inconsistent with the types of dwellings on Timothy Ln. We have homes on parcels of land of 3/4 acres and up to 3 acres; now you want to stick 13 mobile units in the middle of these parcels--not very desirable, I wouldn't think. I watched these people uproot the trees, knock down the barn, destroy the habitat. I wonder what you would do if this happened on your street? This is not progress, this is destruction. I'll bet not one of you have been out here to see what is happening. And now there are trees on each side that will probably blow down, destroying something of these property owners. It wouldn't have been bad if you would have allowed 2 mobile units there; we wouldn't have said anything and so much destruction wouldn't have been done.

Timothy Ln owner


Lela J McGarvey
393-1066

July 3, 1997

John Morgan
Community Development Director
City of Keizer
Keizer, OR 97303

Re: Proposed manufactured home park & variance
on Robert Woods Property

Dear Sir:

There are many problems associated with the above proposed project. Perhaps the most significant problem is that the park is not compatible with the lot sizes on Timothy Lane. The existing lots vary in size from 85' x 291 plus feet to lots that are over one acre in size. There is one lot south of the Woods residence that is 85' x 291'. There is a lot that is 100' x 291' on the north side of the residence. I do not believe that the neighbors on Timothy Lane would object if Mr. Derek Brown would plan site-built homes on these two lots even though Timothy Lane is a private road.

Another problem is Timothy Lane itself. The Woods property is on the section of Timothy Lane that is a private road. The paved portion of the 25' roadway is only 8' or 9' wide. The entire length of Timothy Lane must be maintained by the residents of Timothy Lane. The lane cannot support the addition of twelve manufactured homes, if the variance is granted and the lane is used for ingress and egress. Mr. Robert Woods has stated to Don Nyberg and Carl Alleman that he specified that the property be developed into homes. He has stated that the wording was changed to "dwellings". If wording in the contract was, in fact changed, there seems to be some dishonesty involved. The proposed park also presents a need for additional water supplies. We knew from the controversy over the siting of the above ground water tank, that water supplies are limited. How can approximately 105 manufactured homes not impact the limited water supplies?

We are unhappy about the sewer line on the Morton property being placed across Timothy Lane. I spoke with Mr. Wally Mull, Public Works Director, on July 29, 1996. Mr. Mull stated that before the sewer line could cross the lane, all Timothy Lane residents with easements must be asked for approval. The sewer line has crossed Timothy Lane and none of us were asked for approval.

It is our understanding that Mr. Brown, at present, has no access to the property from Wheatland Road. We, the residents of Timothy Lane, are strenuously opposed to our lane being used for the construction vehicles ingress and egress. We are adamant about this.

Previously, the McGarvey's on our lane wanted to replace an older manufactured home with a new one. They were not allowed to do this. How can the City of Keizer turn down a request for one manufactured home then allow Mr. Brown to build an entire park of manufactured homes?

We know that growth is coming to our area. We are not objecting to the development on the Bohlander property south of us, even though we would prefer to have it remain a sheep pasture. We do notice that many of the trees in the pasture have red lines painted on them. If the lines mean that the trees will be cut, we anguish over their loss and the loss of the remaining trees on the Woods property. Numerous beautiful trees have been lost in this area- the Redwoods in the Leewood development as well as the Douglas Fir on the Bahnsen property. More beautiful trees were cut in the easement which Mr. Brown purchased from the Mortons. Trees will be cut on the Timothy Lane right-of-way if the sewer line goes in on the lane as proposed. We read your guest opinion in the Statesman Journal but we do not see any tree cutting stopped. Trees give Timothy Lane it's character which is what we want to preserve. If we must live with subdivisions all around us, at least let us maintain our livability on the lane. The proposed manufactured home park does not fit the character of our neighborhood.

Our neighbor, Don Nyberg, spoke with Amy Drought on Wednesday, July 2, 1997. According to Mr. Nyberg, we cannot be present when the planning development makes a decision on allowing twelve manufactured homes to be placed on the Timothy Lane side of the Woods property. After the decision is made, and if we do not agree with the decision, we can appeal. At that time the attorney for the City of Keizer will defend the planning department's decision. We find it abhorrent that we must pay for an attorney to defend our position and our tax dollars pay for the City of Keizer to fight against us.

Sincerely,

Carl Alleman
C. O. M. Alleman

Carl & O.M. Alleman
7759 Timothy Lane N.E.
Keizer, OR 97303

GUEST OPINION

highlighting the cutting of trees in Salem. These articles tended to group Keizer in with Salem in questioning the appropriateness of allowing these practices.

I believe the community should know that Keizer cares a great deal about our urban forests and has developed a series of initiatives to preserve and enhance the local environment through tree preservation and planting.

First, the city, through its urban renewal district, is working with property owners to add street trees along both River Road and Cherry Avenue. Along River Road, grants have been given to several property owners to add trees, and several other projects are planned, including major tree planting at the Bi-Mart/Keizer Village Shopping Center area.

With the improvement of Cherry Avenue, which is scheduled to be completed in the fall of 1998, dozens of trees will be planted lining the corridor. Naturally, these will be a broad variety of flowering cherry trees.

Second, the city's draft development code, which is in the public hearing process, will, if adopted,



ed, require street trees in all new subdivisions. Every project will install trees just as sidewalks and street lights are installed today.

Third, the city's street tree ordinance regulates the cutting, pruning and planting of trees in the public right-of-way. No tree can be cut without permission by the public works director, and that permission is given only if the tree in question are breaking up sidewalks or the street, causing vision hazards, or are in ill health.

When street trees are removed, the public works director can require they be replaced. Whenever trees are planted in the right-of-way, they must be from the city's approved list of street trees. The varieties on this list are all proven to be successful due to their characteristics of having deep root systems and tall columnar shapes.

age trees which are trees that due to location, size, age or historical context, are significant to the entire community. Heritage Trees cannot be cut or pruned without city permission.

Finally, the city's tree ordinance allows the community development director to require replacement plantings for any significant tree removed as part of a development or construction process. A significant tree is one more than 12 inches in diameter or more than 50 feet in height. This includes any significant tree cut up to one year prior to the application. This provision has been invoked several times during the past few years.

These five initiatives present a cohesive city effort to preserve, and enhance our urban forest.

Part of the livability and character of Keizer is the large number of second-generation trees planted when houses were built during the past 40 years. Adding to these trees with new planting efforts along with their artesianity, and within new developments, will continue to build Keizer's attractiveness and livability.

John N. Morgan is community development director and city manager pro tem for Keizer.

When a tree is replaced, the replanting must be done in the fall of the year. The replanting must be done in the fall of the year. The replanting must be done in the fall of the year.

When a tree is replaced, the replanting must be done in the fall of the year. The replanting must be done in the fall of the year. The replanting must be done in the fall of the year.

REQUEST FOR COMMENTS



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

RECEIVE

JUN 13 1997

**SALEM AREA TRANS
GENERAL MANAGE**

TO: Salem Transit DATE: June 116, 1997

FROM: Keizer Community Development Department

CASE: Conditional Use Case No. 97-03

APPLICATION: Request to create a manufactured home park as a second phase on an existing permit. This would create an additional 13 spaces to make a total of 103 spaces.

APPLICANT: Derek Brown

LOCATION: 7700 Block of Timothy Lane (T6S, R3W, Section 23DB, Tax Lot 2000, 1200, 1100, 1000, 900; and T6S, R3W, Section 23CA, Tax Lot 1400)

APPLICANT:

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **June 30, 1997** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Amy Drought, City Planner, at 390-3700. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

- ☒ Our agency reviewed the proposal and determined we have no comment.
- ☐ Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.
- ☐ Our comments are in the attached letter.
- ☐ Our Agency's comments are:

Doug Phant, Senior Planner
Salem Area Mass Transit District
3140 Del Webb Ave NE
Salem, Oregon 97303

DATE: 6/23/97

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•

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Pride, Spirit, Volunteerism

July 1, 1997

Amy Drought
Planning Department
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307-1000

I have several concerns, like many of my neighbors, about the proposed manufactured housing development that is located between Wheatland Road and Timothy Lane.

First, I was hoping you could tell me if part of this plan allows access to Timothy Lane from the development. I have heard conflicting answers to this question. If in fact this is the case I have numerous concerns.

If the plan does not allow for access at this time could that access be granted in the future? I have been led to believe that since Timothy Lane is a private road that access to developments would not be allowed. If this is not the case then I would like to know when and where I could voice my concerns about the proposed development.

If you could write me or call me I would appreciate answers to these questions. Thank you for your help.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ken Dawson".

Ken Dawson

6/27/97

Amy Drought
Keizer City Planning
PO Box 21000
930 Chemawa Road
Keizer, Oregon 97307

RE: Conditional Use Permit Case 97-4.

Dear Amy:

We are writing in opposition to a proposed conditional use proposal 97-4 in its current form. We are of the opinion that the proposal would adversely affect the living conditions in the area. The plan should be rejected unless it is substantially modified.

Our major concern is the extension of streets that abut Timothy Lane. This is not appropriate. The proposal shows two streets coming right up to Timothy Lane with no appropriate turn around. The obvious next step is to outlet onto Timothy. This is unacceptable.

Timothy Lane is not a through street, and is not designed now, or in the future, to handle through traffic. Having a plan that has streets ending as this one does will put formal or informal pressure on Timothy to handle additional traffic. Once the traffic starts there will be no stopping it.

As homeowners who are partially responsible for the maintenance of the public portion of Timothy, we are not willing to take on the added cost of maintaining a more traveled road. When we accepted the condition of maintaining the street it was with the understanding that Timothy was not a through street and the comprehensive plan was not to ever have Timothy other than a dead end street. We are unwilling to accept the additional cost or any liability that would come from any additional traffic generated by this plan.

The plan could be modified by including a subdivision of a portion of this plan. Lots 4 and 5 could be combined into one lot. Lots 12 and 13 could be combined into another. Then the two new lots and the existing home site could be segregated (partitioned). This would allow a stick built home to be constructed on each new lot. These could have access to Timothy and would not create an unreasonable traffic load. Such lots would also create a buffer from the residential stick built neighborhood to the manufactured structure development. This would be good for the area.

It would also ensure that the proposed streets would not press onto Timothy. In addition, some of the lots 4 and 12 could be used for part of a turnaround dead end to the new streets proposed.

This would leave the proposal with 11 lots in the 1.6 or so acres. This should provide the zoning density needed to comply with the plan.

Let us repeat that we are opposed to the proposal as it now stands. Without substantial modification the proposed conditional use places an unacceptable burden on the surrounding Timothy Lane neighborhood.

Thank you

William Aldrich
Dona Aldrich

William Aldrich
Dona Aldrich

7850 Timothy Lane
Keizer, Oregon 97303

(503) 390-1591

AREA PROPERTY OWNER



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

A request has been made by a property owner in the vicinity of your property to make a change in their land use status. The City of Keizer is required by State law to notify all property owners within a specific area about this change.

The attached Notice of Decision explains the request made, the review undertaken by the City Planning Department, and the decision made on the request. This is the same notice that the applicant receives, except for any special attachments. While the City must meet certain legal requirements in the notification, every attempt has been made to ensure that the information is easy to read and understand. An area zoning map and a site plan of the subject property are also included for your convenience.

The Notice of Decision is divided into the following sections:

- I. **REQUEST**: This is a brief introduction on the applicant's request and the application process.
- II. **BACKGROUND**: Facts and background relevant to the case, such as the location and zoning of the property and adjacent land uses are in this section.
- III. **DECISION**: After reviewing the criteria and whether the request complies with the criteria, the final decision is presented in this section.
- IV. **CONDITIONS AND RECOMMENDATIONS**: Approvals usually require the fulfillment of additional requirements called "conditions". Some are specific to the request, such as providing fencing, and some are purely technical, such as requiring the applicant to obtain a building permit. This section lists those conditions.
- V. **APPEALS**: As an affected property owner, if you disagree with the decision, you have the right to appeal. This section explains the appeal procedure.
- VI. **FINDINGS AND CONCLUSIONS**: All land use applications are judged on whether they meet specific criteria of the Keizer Zoning Ordinance. This section identifies those criteria and discusses how the application does, or does not, meet them.

We hope this brief introduction was helpful in understanding the Notice of Decision. If you have **ANY** questions, concerns or comments regarding the decision, your rights, or the format of the report, please call the Keizer Community Development Department at 390-3700.

•
Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
•

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Pride, Spirit, Volunteerism

APPLICANT



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

You recently submitted an application to make a change in the land use status of your property. State law requires the City of Keizer to provide a written determination of the City's decision, and if the application is approved, to provide notice to all property owners within a specific area.

The attached Notice of Decision explains your request, the review undertaken by the City Planning Department, and the decision made on the request. While the City must meet certain legal requirements in the notification, every attempt has been made to ensure that the information is easy to read and understand.

The Notice of Decision is divided into the following sections:

- I. **APPLICATION PROCEDURE**: This is a brief introduction of your request and the application process.
- II. **BACKGROUND**: Facts relevant to the case, such as the location and zoning of the property and adjacent land uses are in this section.
- III. **DECISION**: After reviewing the criteria and whether the request complies with the criteria, the final decision is presented in this section.
- IV. **CONDITIONS AND REQUIREMENTS**: Approvals usually require the fulfillment of additional requirements called "conditions". Some are specific to the request, such as providing fencing, and some are purely technical, such as requiring the applicant to obtain a building permit. This section lists those conditions.
- V. **APPEALS**: If you disagree with the final decision, or any part of the decision, you have the right to appeal, or, request that the City staff reconsider your request. This section explains the appeal procedure.
- VI. **FINDINGS AND CONCLUSIONS**: All land use applications are judged on whether they meet specific criteria of the Keizer Zoning Ordinance. This section identifies those criteria and discusses how the application does, or does not, meet them.

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I. REQUEST

The Keizer Zoning Ordinance requires certain applications be first considered by the City Zoning Administrator. The following report reviews a Conditional Use application to create an additional 13 spaces to a prior approved manufactured home park.

II. BACKGROUND

- A. **APPLICANT:** Derek Brown Associates (for property owned by Robert and Clarice Woods).
- B. **PROPERTY LOCATION:** The subject property is located on the east side of Wheatland Road and west side of Timothy Lane. The County Assessor identifies the parcel as located within Township 6 South, Range 3 West, Section 23DB, Tax Lot # 2000, 1200, 1100 and 1000. (See EXHIBIT "A".)
- C. **PARCEL SIZE:** The applicant is requesting approval for 13 spaces on 1.63 acres.
- D. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The property has access to Wheatland Road which is a public street. The property can be served by public sewer and water.
- E. **ZONING:** Urban Transition (UT).
- F. **ADJACENT ZONING AND LAND USES:** All adjacent property is zoned UT. The dominant land use is large acreage homesites. Subdivision applications were recently approved for the property to the north and south of the prior approved 90 space manufactured home park. When these subdivision plats are recorded, these properties will automatically be re-zoned to Single Family Residential (RS).
- G. **PROPOSAL:** The applicant is requesting a Conditional Use permit to create an additional 13 spaces to a prior approved manufactured home park containing 90 spaces. This 90 space manufactured home park was approved as Conditional Use Permit/Lot Line Adjustment Case No 97-01.

III. DECISION

Based on the above findings, notice is hereby given that the Zoning Administrator for the City of Keizer **APPROVED** the Conditional Use request with conditions. Supporting findings are found in Sections VII to VIII.

IV. CONDITIONS

This decision does not include approval of a building permit.

A. CONDITIONS: The following conditions shall apply:

1. The applicant shall participate in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the participants include the Keizer Department of Public Works, the City Engineer, Marion County Fire District, and private utilities.
2. The applicant shall submit an engineering plan for the entire development to the Keizer Department of Public Works for review and approval. The engineering plan shall include information concerning street lighting, fire hydrants, storm water detention, street improvements, easements, sewer, water and other information as necessary to indicate conformance with Keizer Public Works Standards and consistency with the development proposal. The plans shall be subject to the recommendations provided by the City Public Works Department and City Engineer, hereby made a part of this record.
3. The applicant shall submit a detailed site plan to the City of Keizer for review and approval prior to receiving a building permit for construction of the manufactured home park. The detailed plan shall include the following provisions:
 - a. The plan for the manufactured home park shall substantially conform to the proposal regarding the layout and number of spaces
 - b. The plan shall identify the location of walkways adjacent to the private streets.
 - c. All streets shall include turn-arounds consistent with Zoning Ordinance and Fires District requirements.

- d. The applicant shall demonstrate conformance with Ordinance No. 95-339 *"Tree and Landscape Preservation Ordinance."* The applicant shall work with the City on identifying locations for replacement trees.
 - d. Plans identified in the above items shall include sufficient detail to indicate compliance with the standards in the Keizer Development Code and engineering requirements of the City.
4. The applicant shall complete the following prior to applying for a location permit for any one manufactured home:
- a. The applicant shall extend or install sanitary sewer, water and storm drainage facilities to serve the entire development. The improvements shall comply with the approved engineering plans.
 - b. Frontage improvement, including curb, sidewalk, paving and drainage, shall be installed along the portions of Wheatland Road fronting the subject property. These improvements shall conform to the plans approved by the City of Keizer Department of Public Works. Adequate bonding or other financial security shall be obtained.
 - c. The applicant shall apply to the City of Keizer for the creation of a Local Improvement District (L.I.D.) for street lighting. Street lighting improvements shall comply with the City regulations and requirements.
 - d. The perimeter of the park shall be screened consistent with the requirements in Section 20.01 of the Keizer Zoning Ordinance. The location of the fence shall comply with Zoning Ordinance requirements and not obstruct vision areas.
5. Development of the individual manufactured home spaces shall comply with the applicable requirements of the Keizer Zoning Ordinance.
6. No ingress or egress to the Manufactured Home Park will be allowed from Timothy Lane. Emergency vehicles will use the Wheatland Road entrance for access. An adequate turn-around meeting Fire Code standards shall be installed on the subject property adjacent to Timothy Lane. The Manufactured Home Park will be required to provide access to Timothy Lane if and when Timothy Lane becomes a public street.

7. The turn-around area adjacent to Timothy Lane shall be posted "No Parking - Fire Lane."
 8. The applicant shall demonstrate that adequate fire flows can be provided to the development.
 9. All improvements shall comply with the standards and requirements of the Keizer Public Works Department. Adequate bonding, or other financial instrument acceptable to the City, shall be obtained to complete all street and facility improvements.
 10. Development of the property shall comply with the applicable requirements of the Keizer Zoning Ordinance.
 11. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges for sewer, water, parks and other facilities.
 12. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.
- B. OTHER PERMITS AND RESTRICTIONS: This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits 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.

V. APPEALS

Any interested person, including the applicant, who disagrees with this decision may request that the application be considered by the Keizer Hearings Officer at a public hearing. The appeal is subject to the appellant paying an \$150.00 fee. This fee will be refunded if the Zoning Administrator's decision is reversed. In addition, the applicant may request reconsideration of the decision on the basis of new information; provided, the applicant signs a waiver of the 120 day time limit for the review of zoning applications.

Requests for reconsideration, or for an appeal hearing in front of the Hearings Officer, must be in writing and be received in the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. on August 11, 1997.

Unless further consideration is requested by the applicant, or the decision is appealed by an affected property owner or applicant, this decision becomes final on August 12, 1997.

This approval remains valid and the decision must be exercised prior to **August 12, 1998.**

VI. APPLICATION SUMMARY

- A. The applicant is requesting a conditional use permit to create an additional 13 spaces to a prior approved manufactured home permit. The 90 space manufactured home park was approved in March 1997 and is Conditional Use/Lot Line Adjustment Case No. 97-01. The applicant is requesting to expand this existing permit by 13 spaces on 1.63 acres.

Access to the park will be off of Wheatland Road and through two separate subdivisions to the north and south of the park. Although expansion area abuts against Timothy Lane, access will not be allowed from Timothy Lane since it is a private easement. The roadway system to serve these 13 spaces will be a continuation from the roadway system in the main park.

- B. The property is zoned Urban Transition (UT). This is a holding zone until sufficient services can be provided to serve permitted development. Pursuant to Section 36.02 (a), of the Keizer Zoning Ordinance, a conditional use is required to establish any permitted use listed in the most restrictive zone in this zoning ordinance that can be applied in the applicable Comprehensive Plan designation. The approval is also subject to meeting the criteria in Section 36.03 (a), (b), (c), (d), (e), (f), and (g).
- D. The subject property is designated Low Density Residential in the Comprehensive Plan. The most restrictive zone in this Plan designation is the Single Family Residential (RS) zone. Pursuant to Section 23.01(e)(12) of the RS zone, mobile home parks are permitted outright. Therefore, consistent with Section 36.02 (a) this use may be conditionally permitted within the UT zone.
- E. The City received comments from affected public and private agencies:
1. The City Public Works Department and City Engineer provided comments regarding public facility improvements. These comments are attached as "EXHIBIT C" and are incorporated into this staff report. In general, sewer and water services are available to serve the development. On-site storm drainage

detention will be required. All improvements must comply with City Public Works Standards. Direct access to Wheatland Road is prohibited. The applicant is also required to dedicate 20' of frontage for future improvements to Timothy Lane.

2. The Clearlake Neighborhood Association submitted comments. The neighborhood association stated concerns regarding traffic safety and impacts to police, fire and city infrastructure resources by the added growth.
3. The Keizer Fire District and the Marion County Rural Fire District #1 reviewed the proposal and determined that emergency vehicle service can be provided from Wheatland Road and that Timothy Lane would not be needed as an emergency vehicle response route.
4. Portland General Electric noted the applicant must comply with current tariffs and service costs. A 10 foot public utility easement was requested. Salem Transit reviewed the proposal and offered no comment. No other contacted agency responded.

VII. CONDITIONAL USE

- A. As noted, establishment of a manufactured home park within the UT zone requires conditional use approval. Within the UT zone this requires compliance with provisions in Section 36.03 (a), (b), (c), (d), (e), (f), and (g) as well as the Conditional Use criteria in Chapter 8. These items are reviewed in the following sections.
- B. The applicable criteria in Section 36.03, and staff's findings, are as follows:

1. The use will not increase traffic beyond the capacity of existing roads.

FINDINGS: Access to the property will be off of Wheatland Road. Wheatland Road is a designated minor arterial and designed to accommodate the additional traffic generated by this development and other residential development along the roadway.

2. It will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties.

FINDINGS: The entire property will be developed with a manufactured home park. No portion of the property will remain unused.

3. The use can utilize rural services or existing urban services, and will not individually or together with nearby uses increase pressure for installation of new urban services.

FINDINGS: Public sewer and water services are available to the property. The applicant will be responsible for extending services to the site and comply with Public Works Standards for public facilities. This action will not require additional community investment in public facilities.

4. The use meets the development standards of the most restrictive zone in the zoning ordinance consistent with the Comprehensive Plan designation.

FINDINGS: As noted, the most restrictive zone within the Low Density Residential designation is Single Family Residential (RS). This zone permits manufactured home parks. Based on the submitted site plan there is sufficient evidence the development can either comply, or conditionally comply, with the development standards for a park.

5. The expansion will result in an accumulated increase of no greater than 50 percent of the total ground floor and outside storage area lawfully existing on the effective date of the application of this zone to the property.

FINDINGS: The proposed expansion meets this standard.

6. The Comprehensive Plan designation clearly indicates that the use to be expanded will be a permitted use in the zones typically applied in the applicable designation.

FINDINGS: The subject property is designated Low Density Residential, and zoned in the City's Comprehensive Plan. This Plan designation and applicable RS zone are primarily designed to accommodate single family homes at densities of up to eight dwelling units per acre. Other compatible residential uses, such as manufactured homes, are also allowed. The park is consistent with the existing and expected development within the surrounding area.

7. No new residential structures or mobile homes, except as provided for in section 36.01 (e), are permitted unless the area is designated for residential development and the most restrictive zone would permit the residential use or mobile home.

FINDINGS: As noted earlier, the most restrictive zone within the Low Density Residential designation is Single Family Residential (RS). This zone permits manufactured home parks.

- C. In addition to the criteria in chapter 36, the proposal must also comply with the conditional use requirements in Chapter 8. Specific decision criteria are found in Section 8.30; the criteria, and staff's comments, are as follows:

1. The use is listed as a conditional use in the zone.

FINDINGS: Based on the information provided in Section VI., a conditional use permit is required to establish a manufactured home park within the UT zone.

2. The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.

FINDINGS: The parcel is relatively level and does not contain any limitations such as topography or natural features which would restrict development. The Public Works Department is requiring stormwater detention for the site and that an approved master storm drainage plan be in place prior to issuing any building permits. The submitted site plan indicates the parcel is capable of accommodating the proposed use.

3. The proposed use, as conditioned, will not materially alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the applicable zone.

FINDINGS: The subject property, and all adjacent properties, are designated Low Density Residential in the City's Comprehensive Plan. This Plan designation and applicable RS zone are primarily designed to accommodate single family homes at densities of up to eight dwelling units per acre. Other compatible residential uses, such as manufactured homes, are also allowed.

Staff notes the proposed park is entirely consistent with the Plan designation as it provides a residential use allowed in the applicable RS zone and at a density allowed by the Plan. While other parcels may be larger and are more rural in

character, it is the full expectation of the Plan these parcels will be developed at urban densities. Therefore, the manufactured home park is consistent with the existing and expected development within the surrounding area, and will not substantially limit, impair, or preclude the use of surrounding properties for residential development.

Although not required by the Zoning Ordinance, screening will be required along the perimeter of the development. Screening shall comply with the provisions in Section 20.13 of the Zoning Ordinance. Staff also notes homes located along the park's perimeter must comply with the 14 foot rear yard setback requirement of the RS zone.

4. The proposed use will not have a detrimental effect on existing solar or wind energy systems.

FINDINGS: The proposal is for a residential development and due to its location and low building height is not expected to interfere with existing or future wind and solar energy systems.

5. Adequate public and utility facilities and services to serve the use exist or will be made available prior to establishment of the use.

FINDINGS: Based on comments received by the City Engineer, adequate facilities are available to serve the property.

VIII. MANUFACTURED HOME PARK DEVELOPMENT REQUIREMENTS

- A. Chapter 14 establishes the design requirements for a manufactured home park. Specific requirements are found in Section 14.30. These requirements, and staff's comments, are as follows:

1. **Type of Mobile Home Permitted:** Only those mobile homes used as permanent residences, manufactured after June 15, 1976, which exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards shall be permitted. All such mobile homes shall be at least 20 feet wide with exterior dimensions enclosing a space of not less than 864 square feet. In addition, the mobile homes shall have siding materials similar to that presently used on houses constructed under the Uniform Building Code (UBC); a composition or wood shingle or shake roof, at a minimum slope of two (2) inches in 12 inches (16 percent); and unless

the mobile home is set on a ground level foundation, skirting which in design, color, and texture appears to be an integral part of the adjacent exterior wall of the mobile home.

FINDINGS: Compliance with this requirement is determined at the time of a manufactured home placement permit.

2. **Minimum Area and Density:** No mobile home space shall contain less than 3,000 square feet, except that a space any portion of which is within 15 feet of the boundary of the mobile home park property, shall be not less than 4,000 square feet. The number of mobile home spaces shall comply with the density regulations in the Planned Development Special Use provisions in Section 13.82.

FINDINGS: Space size range from 4,000 square feet to 9,987 square feet which exceeds the minimum size for spaces within the park and adjacent to the park's boundary. Staff also notes the spaces meet the minimum 4,000 square foot lot size of the RS zone. Section 13.82 requires the density to be determined by calculating the number of units per gross acre. The calculated density is 7.98 units per acre which meets the maximum eight units per acre allowed by the Comprehensive Plan.

3. **On-site Storage:** Furniture, tools, equipment, building materials, or supplies belonging to the management of the park stored outdoors shall be screened. Screening shall be sight-obscuring and shall blend with the park environment.

FINDINGS: A manager's space was not identified. However, if one is provided, the developer will be required to continually comply with this requirement.

4. **Street Names and Addresses:** Each park street shall be named and each mobile home space shall be numbered as approved by the Zoning Administrator.

FINDINGS: This is a development requirement. Consistent with City policy, street names and space numbering will be coordinated through the Mid-Willamette Valley Council of Governments

5. **Fire Hydrants:** Fire hydrants shall be provided within the park on park streets or on a public street in conformance with the design and capacity requirements of the fire district.

FINDINGS: The City Engineer requested the Fire District help in determining the number and location of required hydrants. This can be addressed when engineering plans are submitted and reviewed.

6. Roadway Standards: Park roadways shall be located on park property and shall be maintained by the park owner. Roadways shall conform to the following requirements:

- a. Park roadways shall be a minimum of 20 feet in width, curb to curb, provided that if parking is to be allowed on either side of the street, the minimum width shall be increased by seven (7) feet for each side of the street on which parking is to be allowed. Parking shall be parallel.

FINDINGS: The street system meets this standard. Parking will be prohibited along the 20 foot streets and limited to one side on the 30 foot streets.

- b. Streets shall be paved with Portland cement, concrete, or asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage.

FINDINGS: This is a development requirement which is reviewed at the time engineering plans are submitted.

- c. Dead-end roadways over 300 feet in length shall have a cul-de-sac bulb with 38-foot curb radius. Shorter dead-end streets shall have a turnaround area. No dead-end street shall exceed 500 feet in length.

FINDINGS: No dead-end roadway exceeds 300 feet in length. Turn-around areas which meet Keizer Fire district standards will be required for the dead-end streets on the final site design plan.

- d. Concrete curbs shall be provided.

FINDINGS: This is a development requirement which is reviewed at the time engineering plans are submitted.

- e. The park roadway system shall have direct connection to a public street.

FINDINGS: The property has access to Wheatland Road which is a public street.

7. **Parking:** There shall be two (2) automobile parking spaces for each mobile home space. Parking spaces may be designed end-to-end, side-to-side, or provided in off-street parking areas as approved by the Zoning Administrator.

FINDINGS: Compliance with this provision is determined at the time of the placement permit for each space.

8. **Walks:** Provisions shall be made for hard-surfaced, well-drained walks, not less than 48 inches in width, from each mobile home space to the park buildings and to a public street or park roadway.

FINDINGS: Walks were not identified on the plans. Walks will be required and compliance with this provision will be reviewed at the time engineering plans are submitted.

9. **Lighting:** Roadways and walkways designed for the general use of the park residents shall be lighted during the hours of darkness. Such lighting shall not be under control of the mobile home occupant. Lighting shall be designed to a minimum of 0.35 candlepower per square feet and a maximum of 0.1 watts per square foot energy use.

FINDINGS: Information on lighting is supplied with the engineering plans. Compliance with this requirement is determined at that time.

10. **Driveway:** Each mobile home space within the park shall have direct access to a park roadway or to a public street which the park abuts on both sides. The driveway shall be an unobstructed area, not less than 10 feet in width and shall be constructed of hard surface materials and well drained.

FINDINGS: All spaces have access to the interior park road system. Access to Wheatland Road will be prohibited. Compliance with the driveway requirements is reviewed at the time of the building permit.

11. **Decks, Patios:** Each mobile home space shall be provided with one or more slabs or decks adjacent to the mobile home stand, constructed of concrete, asphalt, flag stone, wood, or other equivalent surface material which singly or in combination, total not less than 120 square feet of area and are not less than four (4) feet in width in their least dimension.

FINDINGS: Compliance with this requirement is determined at the time of building permit.

12. **Separations and Setbacks:** Building separations and setbacks from the park boundary for mobile homes, accessory structures, and buildings shall conform to the following:
- a. A mobile home shall not be located closer than 10 (ten) feet to any other mobile home or closer than 10 (ten) feet to a building.
 - b. Mobile homes on spaces any portion of which is within 24 feet of the park boundary shall be set back from the boundaries of the space the same distance as would be required for dwellings in the underlying zone to set back from side and rear property lines. Side and rear lines of a mobile home space shall be determined with relation to a park roadway the same as side and rear lot lines are determined with relation to a public street as provided in this zoning ordinance.
 - c. An accessory structure shall not be located closer than six (6) feet from any mobile home or other accessory buildings on an adjacent space, except that a double carport or garage may be built that serves two (2) adjacent mobile homes. Accessory buildings shall be set back at least ten (10) feet from the park boundary.
 - d. When a double carport or garage is built to serve two (2) adjacent mobile homes, a minimum six (6) foot separation shall be provided between the double carport and any adjacent structure, mobile home, or mobile home accessory structure. In the alternative, a one-hour fire separation may be provided through the center of the double carport serving adjacent mobile homes.
 - e. Mobile homes shall be set back a minimum distance of eight (8) feet from the edge of the surface of any adjacent park roadway and five (5) feet from any sidewalk. A vision clearance area shall be maintained as provided in Section 17.18.
 - f. A mobile home and any structure in the park, other than a sign or fence, shall be at least 20 feet from a public street right-of-way.

FINDINGS: Compliance with all setbacks are determined at the time of the placement permit.

13. **Water Supply:** All spaces shall be served by a public water system.

FINDINGS: Based on comments submitted by the City Engineer, public water is available to serve this site. All connections and improvements must comply with City Public Works Standards.

14. **Sewer Disposal:** All spaces shall be served by a public sewer system.

FINDINGS: Based on comments submitted by the City Engineer, sanitary sewer may be extended to this site. All connections and improvements must comply with City Public Works Standards

15. **Storm Drainage:** All spaces shall be provided with adequate storm drainage and connected to the storm drainage system if such system is available. Such facilities shall be sufficient to safely transport through the park all volumes of water generated upstream and on the site. Where a connection will be made to a public storm drainage facility, it shall be approved by the City. An on-site storm water detention system may be required.

FINDINGS: Based on comments submitted by the City Engineer, storm drainage can be accommodated but will likely require a detention basin. All improvements must comply with City Public Works Standards

16. **Foundation:** Mobile home and accessory building foundations shall be of sufficient strength to support the loads imposed by the mobile home, based on accepted engineering design standards as approved by the building official. Foundations, tie-downs, or other supports shall be provided to withstand the specific horizontal, uplift, and overturning wind forces on a mobile home and any attached or supported structures based on accepted engineering design standards, as approved by the building official.

FINDINGS: Compliance with this provision is determined at the time of the placement permit.

17. **Recreational Vehicles:** Mobile home parks may accommodate only mobile homes and not recreational vehicles except for storage in a designated storage area. A recreational vehicle shall not remain overnight in a mobile home park, unless it is parked in a designated recreational vehicle storage area.

FINDINGS: This is a development requirement which is enforced during the placement permit process.

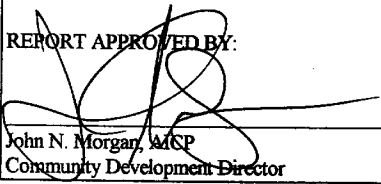
18. **Building Height, Location, and Lot Coverage:** Except as modified by this section, all structures within a mobile home park shall comply with all provisions of the zone in which the park is located.

FINDINGS: No structures were identified on the site. All future structures must comply with this provision; compliance is determined at the time of the building permit.

If you have any question about this application or the decision please call 390-3700 or visit the Community Development Department at the above address.

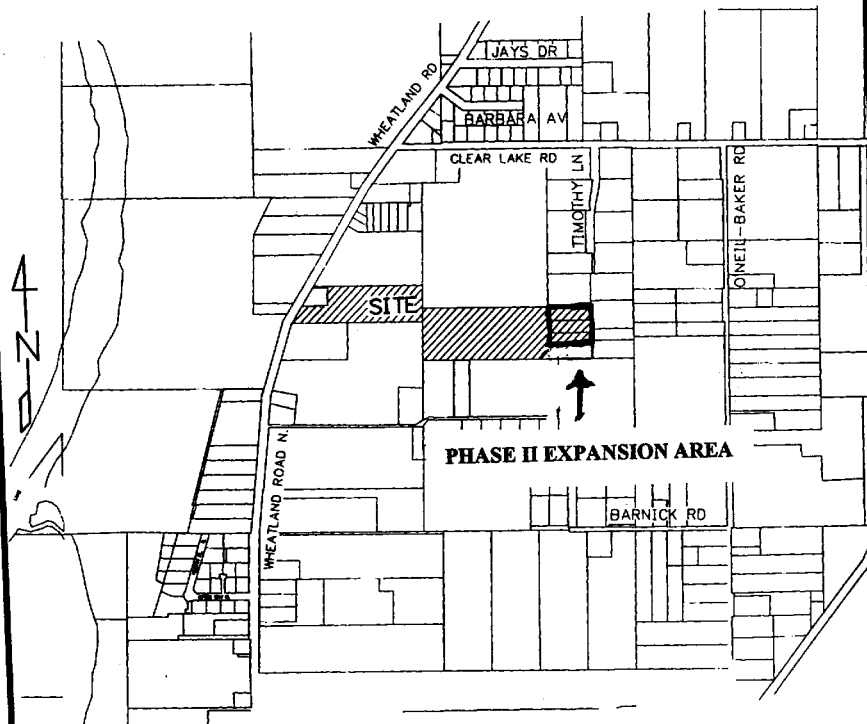
REPORT PREPARED BY: Amy C. Drought; Keizer City Planner

REPORT APPROVED BY:


John N. Morgan, MCP
Community Development Director

Date 7/31/97

EXHIBIT A



VICINITY MAP

EXHIBIT B

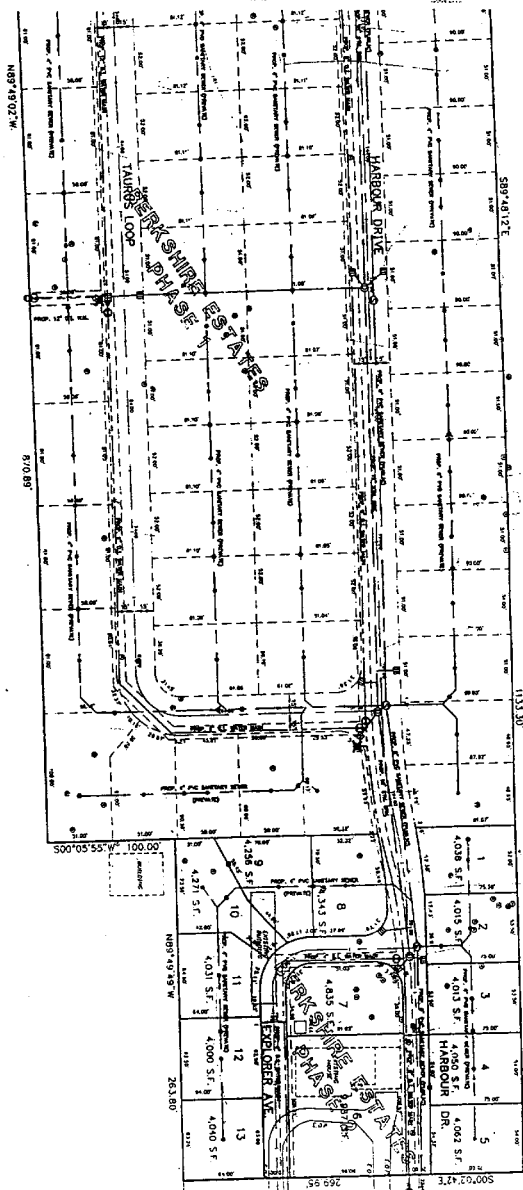


EXHIBIT C

DATE: JUNE 30, 1997

TO: CITY OF KEIZER
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: CONDITIONAL USE CASE NO. 97-04
Derek Brown
7700 Block of Timothy Lane



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

PUBLIC WORKS DEPARTMENT COMMENTS

It is the understanding of the Public Works Department that the property is located within a zone that is appropriate for the intended use.

The following comments are being provided to assist in the overall evaluation of the proposal:

CONDITIONAL USE:

The plan for the conditional use for a 13 space addition to a permitted mobile home park on the subject property indicates access to the property will be from the proposed private streets within the approved mobile home park. The Public Works Department is concerned that adequate circulation for emergency vehicles be available to the overall park.

SANITARY SEWERS:

The subject property is subject to a current acreage charge of \$4,400.00 per acre for the development of sanitary sewer trunk lines required to serve the general area. The policy of the City of Keizer is that the acreage charge be paid at time of platting and that the charge is based on the charge currently in place at the time of platting. The manufactured home park will not result in a plat and the charge will therefore be determined at the time of connection to the sanitary sewer system.

- a.) City of Salem approval for local sewer permits will need to be issued prior to construction.
- b.) Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.
- c.) Appropriate easements will be required for any public sewer mains located within the subject property. Adequate separation between sewer and water lines shall be maintained in accordance with the Uniform Plumbing Code. The overall site plan indicating location of proposed structures or homes for the manufactured home park

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Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
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will be required prior to issuance of any permits for sanitary sewers for the development.

- d.) The Department of Public Works will require the applicant to demonstrate that capacity is available through the proposed sewer system being constructed along Timothy Lane to service adjacent property. The Master Sewer Plan indicates a sewer trunk line requirement along Timothy Lane along the frontage of the subject property. Capacity for adjacent property will be required as a condition of this proposed development.

WATER SYSTEM:

- a.) A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements for all public water mains and fire hydrants will be required to be in place prior to any permits being issued for water main construction. Any system development charges for water system improvements will be those in place at the time of individual service connections.
- b.) Sizing any new water services and/or design of water mains will be to the requirements of the City of Keizer Water Department and the Uniform Plumbing Code.
- c.) Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer.
- d.) Any existing wells on the subject property are to be abandoned in accordance with the rules of the Oregon State Water Resources Department.
- e.) Location of all meters to be approved by Keizer Water Department.
- f.) No Polywrap will be required for public water mains for the subject property.
- g.) The east ends of the water mains shown in Harbour Drive and Explorer Ave. shall be connected with an 8 inch water main in Timothy Lane. The water main shall be located in a public right of way consistent with city right of way requirements.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) An overall master storm drainage plan that will provide service to this area of Keizer needs to be in place prior to issuance of any permits for construction of the proposed development.
- b.) Storm water detention will be required for this site. All storm water and roof drains to be connected to an approved system designed to provide adequate drainage for the proposed new driveways and other hard surfaces.
- c.) Right of Way dedication along the easterly 270 feet +/- shall be made to the City of Keizer to provide 24 feet of right of way from the east property line of the subject property. Roadway improvements to this portion of street shall not be required at this time unless construction is required by the appropriate fire district. A non-remonstrance agreement shall be required for the construction of fronting improvements if construction is deferred.

OTHER

- a.) A private street light system shall be provided for the private streets.
- b.) Construction permits are required by the Department of Public Works prior to any public facility construction.

Contact Scott Peterson at the City Engineer's office at 390-7402 for the necessary permit information that is required.
- c.) A Pre-design meeting will be required prior to the Developer's Engineer submitting plans to the city for review.
- d.) Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.
- e.) A Pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.

August 1, 1997



Dear interested citizen:

930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

Thank you for your comments regarding Conditional Use Case No. 97-04, an application by Derek Brown and Associates for a 13 space addition to a permitted Manufactured Home Park. The City approved this application with several conditions which are addressed in the attached **Notice of Decision**. Although the **Notice of Decision** addresses many of your questions, I would like to offer some specific answers to the concerns which you raised in your letter.

- The applicant has applied for a Conditional Use Permit which is an administrative decision made by the City Zoning Administrator. The City's Zoning Ordinance requires the Zoning Administrator to process and review the decision, and to send notice of the decision to surrounding landowners. A decision may be appealed to the Hearings Officer. The appeal process is outlined on page 4 of the attached **Notice of Decision**.
- The subject property is zoned Urban Transition (UT) and designated Low Density Residential in the City's Comprehensive Plan. Manufactured Home Parks are allowed in the UT zone with a Conditional Use Permit in this Comprehensive Plan designation. All adjacent properties are also designated Low Density Residential. Although many of the adjacent properties are in large acreage residences, the Clear Lake area is within the City's Urban Growth Boundary and is expected to develop to urban densities. Much of the surrounding properties have recently been approved for subdivisions and will be developed to urban densities.
- The impact of continued growth is a major element of the review and approval process of new developments. The City has master water, sewer, and storm drainage plans. All new developments must conform to these plans. The City also has detailed engineering design standards that must be followed in building the new public facilities. The Public Works Department submitted requirements to ensure that the manufactured home park follows these master plans. (See Exhibit C in the attached **Notice of Decision**.)
- The subject property abuts against Timothy Lane which is a private easement. The applicant will not be allowed to use Timothy Lane as ingress or egress for the manufactured home park. The Keizer Fire District and the Marion County Rural Fire District determined that Timothy Lane is not needed for an emergency vehicle response route to the Park.

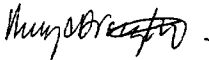
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Fax 503.390.8295
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- Ordinance #95-339 "*Requiring Preservation of Trees and Landscaping in New Developments*" allows the City to require any significant tree that is removed on-site to be replaced by two new trees. The City has noted this requirement as a condition of approval in the attached Notice of Decision.

I hope this letter was helpful. The attached **Notice of Decision** outlines the approval criteria and findings used to approve the development as well as the process for appeal. Please don't hesitate to contact me at 390-3700 if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy C. Drought".

Amy C. Drought
City Planner

c: John Morgan, AICP, Community Development Director

BEFORE THE COMMON COUNCIL

'97 AU 27 AM 11 02

OF THE CITY OF KEIZER

CIT
OR

In the Matter of the Estate of	)	
	)	CONDITIONAL USE
DEREK L. BROWN & ASSOCIATES,	)	CASE NO. 97-04
	)	
Applicant.	)	OBJECTIONS TO
	)	CONDITIONAL USE

COMES NOW Carl Alleman and submits the following memorandum and affidavit in opposition to the Conditional Use granted in Case No. 97-04 by the City of Keizer, Zoning Administrator. The Zoning Administrator has not properly followed the requirements of the Keizer Zoning Code. Accordingly, the case should be remanded for further information and findings.

DISCUSSION

A. **FACTS.** The present application requests approval to site 13 manufactured home spaces on 1.6 acres located on three separate parcels. The 13 spaces are an expansion of a previously approved 90-unit manufactured home park. The site is within an Urban Transition Zone. The remaining parcels in the neighborhood consist of large acreage homesites. The subject property is adjacent to Timothy Lane. At least a portion of Timothy Lane near the subject property is private. However, the subject property enjoys an easement across Timothy Lane based on its prior use.

The developer's plan is to arrange the manufactured homesites in such a manner as to insure maximum density under the code. However, an existing house is left on the property. See Exhibit A. Presumably, this house would be incorporated in the development.

The City Zoning Administrator approved the applicant's conditional use request, subject to numerous conditions. Unfortunately, the City has been presented with insufficient evidence demonstrating that all of the relevant approval criteria has been met. The City has also not made specific findings that the property meets all of the relevant criteria. Instead, the Zoning Administrator simply deferred the evaluation of critical elements of the proposal until later in the development process. As discussed below, this practice is unacceptable.

B. STORM WATER DETENTION. The most serious shortfall of the proposal thus far is the cursory treatment given to storm water detention. The Keizer Zoning Code requires the developer to demonstrate that drainage is adequate for the property. Section 8.3 of Chapter 8 of the Keizer Zoning Code requires a finding that the parcel is suitable for the proposed use, considering such factors as size, shape, location, topography, soil, slope stability, drainage, and natural features. Likewise, Chapter 14, Section 14.30 relating specifically to mobile home parks, requires a finding that all spaces be provided with adequate storm drainage and connected to the storm drainage system if such system is available. Facilities must be sufficient to safely transport through the park all volumes of water generated upstream and on the site.

Unfortunately, the City has not adequately addressed the storm drainage issue. Residents in the vicinity of the subject property indicate that the property has a problem with flooding and

a high water table in the past. For example, the house existing on the subject property has a history of severe flooding in the basement. I have personally seen sedges and other plants normally associated with wet areas on the subject property. The soils map governing the subject property reveals large concentrations of amity soils. See Exhibit A, excerpts from soil survey. The statistical calculations for the soil map specify that indications of amity soils may include substantial inclusion of wetland soils. Id.

The property is currently the low spot for the surrounding geographic areas. See Exhibit B, photograph showing elevation difference between subject property and adjacent property. The developer has already brought in substantial amounts of fill material to fill in the low spots and, presumably, deal with the dampness on the property. Logically, the increased impervious surface created by the manufactured home park will lead to additional amounts of runoff being discharged from the property during a normal rainy season. With the build up of Phase II of Berkshire Estates and development of adjacent properties, our home may become one of the new low spots in the neighborhood. We are particularly concerned that this development will lead to flooding on our property. The applicant should be required to demonstrate that the limitations of this building site can be safely managed. The applicant should not be allowed to simply transfer these difficulties to neighboring parcels.

Unfortunately, the code requirement that the developer address the storm water detention problem has not been met. The Zoning Administrator has no significant finding relating to the storm water issue. Instead, the Zoning Administrator simply includes a condition of approval that an engineering plan, including information concerning storm water detention be submitted to the City. However, no deadline for submission of such a plan exists. Proceeding in this fashion clearly violates existing land use regulations. It is well settled that local governments cannot avoid the obligation of making a thorough investigation of proposed developments and making factual findings required by the Zoning Code. Conditions of approval are not findings and cannot substitute for required findings. See Vizina v. Douglas County, 16 Or LUBA 936 (1988); See Foland v. Jackson County, 18 Or LUBA 731, 773 n. 40 (1990).

It is not enough for the City simply to conclude that the condition can be met because there is not sufficient evidence in the record to support that conclusion.

The Public Works comments reflected in the Findings of Fact accompanying this decision simply state that "an overall master storm drainage plan that will provide service for the City of Keizer needs to be in place prior to issuance of any permits for construction of the proposed development." Without such a plan being in place, it is impossible for Staff or the governing body to evaluate whether or not the development, as it is currently proposed, can comply with the overall drainage plan for the City.

In addition, I am not comfortable with simply conditioning permits on the completion of a storm water master plan. The storm water master plan is a requirement of the land use process. The applicant should be forced to publically reveal this study and demonstrate that the surrounding property can be made safe from excessive flooding.

C. UNUSED PORTIONS OF THE PROPERTY CANNOT BE ADEQUATELY REDEVELOPED.

Section 36.03 of the Keizer Zoning Code requires a finding that the development will be located in such a manner that any significant unused portion of the property has adequate development options. The Staff finding does not address this requirement. Instead, it states that the entire property will be developed with a manufactured home park.

However, Staff's conclusion is incorrect. The current development plan contains 13 lots. Lot 6 consists of a 9,987 square foot lot. It contains an existing house. See Exhibit C. From speaking with the developer, I am told that the existing house will remain on the property. Surrounding this existing house with a mobile home park and restricting its access to Wheatland Road only, substantially diminishes its development options. The City's Findings of Fact and the development proposal should adequately address the future development of Lot 6 and the house thereon.

The proposed use also materially alters the character of the surrounding area in a manner substantially limiting and impairing the use of the surrounding properties for primary uses listed in the applicable zone. Section 8.3 of the Keizer Zoning

Page 5 - OBJECTIONS TO CONDITIONAL USE CASE NO. 97-04

Code requires all approved conditional use proposals to demonstrate that the new use will not materially alter the character of the surrounding area in a manner substantially limiting or impairing the use of surrounding properties for the primary uses listed in the applicable zone.

In this case, there is no doubt that the current nature of the surrounding property will be dramatically altered. Timothy Lane historically has been a quiet, rural, and private roadway servicing large acreage homesites. See Exhibit D, photographs of Timothy Lane. Allowing the proposed conditional use will dramatically alters the neighborhood's character. The inclusion of manufactured homes as opposed to site-built homes will dramatically decrease the desirability of the neighborhood for future development as a residential subdivision. This is particularly true, given the fact that the City's decision in this case mandates that Timothy Lane will ultimately be open to access by the manufactured home park. As a result, additional conditions should be placed on the manufactured home park to limit its impact on the surrounding neighborhood. Such conditions may include more specific and strenuous requirements regarding walls and hedges than currently listed in KZO 20.13.¹

¹ It should be noted that the original decision appears to contain a typographical error. The actual condition imposed on the properties at the perimeter of the park be screened consistent with the requirements of Section 20.01 of the Keizer Zoning Ordinance. However, that section contains no screening requirements. Instead, Staff presumably was referring to Section 20.13 relating to site-obscuring fences, walls and hedges. This citation is noted on page 9 of the decision.

D. ADEQUATE PUBLIC AND UTILITY FACILITIES AND SERVICES MUST BE MADE AVAILABLE PRIOR TO ESTABLISHMENT OF THE USE.

Keizer Zoning Ordinance, Section 8.30 requires the applicant to demonstrate that adequate public utility facilities and services to serve the use exist or will be made available prior to establishment of the use. However, in this case there is a serious question about whether or not sufficient flows exist for fire fighting purposes. Staff's findings simply state that based on comments received by the City Engineer, adequate facilities are available to serve the property. Obviously, the City Engineer's comments attached to the findings do not specifically state that these facilities exist. In particular, there is a serious question as to whether or not fire flows exist to assist with fire fighting activities in the event of a fire. Indeed, Staff makes a demonstration of adequate fire flows a condition. However, nothing in the engineering department's or the fire department's comments even relate to fire flows. This requirement is clearly one upon which a factual finding must be made. Yet, there is not documentation in the record relating to this issue.

In addition, the sanitary sewer through the property must have sufficient capacity to serve adjacent properties. However, it is my understanding that this inquiry has never been made. Yet, the permits have already been issued by the City of Salem. Construction of the sewer lines has already begun and is being installed. It is simply unconscionable for City Staff to allow such work to be completed prior to basic land use approval.

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E. APPLICANT HAS FAILED TO COMPLY WITH KEIZER ORDINANCE 87-078 RELATING TO TREES AND LANDSCAPING IN NEW DEVELOPMENTS.

Section 18.09 of the Keizer Zoning Ordinance as amended October 2, 1995, requires all applications for land use approval to include a site plan identifying existing significant trees identified by common names, along with the size of such trees. The term "existing trees" includes any trees removed within one year prior to the date the application was submitted. The City may require that the significant trees that are removed be replaced at a rate of two new trees for each significant tree removed.

The applicant has completely ignored this requirement. Both phases of Berkshire Estates Mobile Home Park contained numerous significant trees. The trees were an essential part of the character of the neighborhood. See Exhibit E, photographs of trees on subject property. However, the applicant has already removed most of the trees from both sites. Neither file includes a condition that the trees be replaced. If the Keizer Tree Ordinance is to have any value whatsoever, it must be enforced. Accordingly, the applicant should be required to engage in a two-to-one replacement of all significant trees located on the subject property. Most importantly, however, the submission of a site plan and a landscaping plan should be completed prior to issuance of a conditional use permit. Under the code, the application is simply not complete until the site plan showing existing trees is submitted.

F. A LOT LINE ADJUSTMENT IS REQUIRED. Finally, the subject property is in reality three parcels. There are three different tax lot numbers and three different discrete property descriptions. See Exhibit F, Deed to subject property. Although they were held by one party for some time, the lots remain discrete. Accordingly, a lot line adjustment is required. However, the applicant has never applied for a lot line adjustment for Phase II of Berkshire Estates Mobile Home Park. Without such an application, the conditional use should be denied.²

CONCLUSION

For the reasons set forth above, the application for a Conditional Use Permit should be denied.

DATED this 27th day of August, 1997.




CARL ALLEN

SUBSCRIBED AND SWORN TO before me this 27th day of August, 1997.


Notary Public for Oregon

[ALLEN\OBJECTION]

² It should be noted that tax lots identified on page 1 of the Notice of Decision is incorrect. Tax Lots 2000, 1200, 1100 and 1000 include property far in excess of the 1.63 acres identified in this conditional use.

are defined in the Glossary. The acreage and proportionate extent of the mapping units are shown in table 7. The location of the soils in the Marion County Area is shown on the detailed soil map at the back of this survey.

Abiqua Series

The Abiqua series consists of well-drained soils that have formed in alluvium. These soils have slopes of 0 to 5 percent. They occur on low foothills, along small streams and in drainageways, at elevations of 250 to 1,000 feet. The average annual precipitation is 40 to 60 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly Douglas-fir, native grasses, and shrubs. Abiqua soils are associated with McAlpin and Waldo soils.

In a typical profile, the surface layer is very dark brown silty clay loam about 6 inches thick. The subsurface layer is also very dark brown silty clay loam and is about 15 inches thick. The upper part of the subsoil is dark reddish-brown silty clay that extends to a depth of about 54 inches. The lower part of the subsoil is dark-brown silty clay loam that extends to a depth of 72 inches or more.

The Abiqua soils are used mainly for small grains, grass grown for seed, orchards, and pastures. When irrigated, they are used for other crops.

Abiqua silty clay loam, 0 to 3 percent slopes (AbA).—This soil is along streams and in drainageways of the Salem and Waldo Hills. The areas are small.

Representative profile 85 feet east and 60 feet south of road intersection (in the corner of SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2, T. 9 S., R. 1 W.):

- Ap—0 to 6 inches, very dark brown (10YR 2/2) silty clay loam, dark brown (7.5YR 3/2) when dry; moderate, very fine, granular structure; friable, hard, slightly plastic and slightly sticky; many roots; many interstitial pores; medium acid (pH 5.8); abrupt, smooth boundary. (5 to 7 inches thick.)
- A3—6 to 21 inches, very dark brown (10YR 2/2) silty clay loam, dark brown (7.5YR 3/2) when dry; moderate, fine and very fine, subangular blocky structure; firm, hard, plastic and sticky; many roots; many, fine, tubular pores; thin, patchy, darker colored coatings on ped surfaces; medium acid (pH 5.6); clear, smooth boundary. (13 to 17 inches thick.)
- B21—21 to 36 inches, dark reddish-brown (5YR 2/2) silty clay, dark reddish brown (5YR 3/4) when dry; weak, prismatic structure breaking to moderate, medium, subangular blocky structure; firm, very hard, very plastic and very sticky; common roots; many, fine and very fine, tubular pores; thin, continuous, slightly darker colored coatings on ped surfaces; strongly acid (pH 5.4); diffuse, smooth boundary. (10 to 20 inches thick.)
- B22—36 to 54 inches, dark reddish-brown (5YR 3/2) silty clay, reddish brown (5YR 4/4) when dry; very weak, prismatic structure breaking to moderate, medium, subangular blocky structure; firm, very hard, very plastic and very sticky; few roots; many, fine and very fine, tubular pores; thin, continuous, dark reddish-brown (5YR 3/4) coatings on ped surfaces when dry; common, fine and very fine fragments of weathered rock; strongly acid (pH 5.3); diffuse, smooth boundary. (13 to 23 inches thick.)
- B3—54 to 72 inches, dark reddish-brown (7.5YR 3/2) silty clay loam, reddish brown (5YR 4/3) when dry; moderate, medium, subangular blocky structure; firm, hard, plastic and sticky; very few roots; many, fine and very fine, tubular pores; many fine and very fine fragments of weathered rock; strongly acid (pH 5.3).

Color of the A horizon is dark brown or very dark brown, and texture of that horizon ranges from silt loam to silty clay loam. Color of the B horizon ranges from dark brown to dark reddish brown. Texture of the B horizon ranges from silty clay to clay, except that the B3 horizon is silty clay loam in many places. In some areas a few angular pebbles are scattered throughout the profile.

Included with this soil in mapping were small areas that contain a layer of gravel below a depth of 40 inches. Also included were small areas of McAlpin and Waldo soils.

The available water capacity is 10 to 11 inches, permeability is moderately slow, and fertility is moderate. Runoff is slow, and the hazard of erosion is only slight. Where additions of organic matter are regularly supplied, workability of this soil is good. Depth to which roots can penetrate is not restricted.

This soil is used mainly for small grains, grass grown for seed, orchards, and pasture, but small areas are still in Douglas-fir. When this soil is irrigated, it is used for most of the crops commonly grown in the survey area. It is well suited to most crops, but it is not well suited to potatoes and carrots. (Capability unit I-1; not placed in a woodland suitability group)

Abiqua silty clay loam, 3 to 5 percent slopes (AbB).—This soil has a profile similar to the one described for Abiqua silty clay loam, 0 to 3 percent slopes, except that material washed from higher slopes has been deposited on the surface in a few places. Runoff is medium, and the hazard of erosion is slight.

This soil is used for about the same crops as Abiqua silty clay loam, 0 to 3 percent slopes. (Capability unit IIe-2; not placed in a woodland suitability group)

Alluvial Land

Alluvial land (Ad) occurs mostly along the Santiam, North Santiam, and Willamette Rivers, on or near the bed of the main stream, in overflow channels, and on islands or bars. It consists mostly of loose sand, gravel, and cobblestones, but it includes some small areas of silt loam. This material is frequently shifted by floodwaters, for this land type is subject to overflow in winter and spring.

In places this land type supports a good stand of cottonwoods, but use of these trees for timber is restricted by the very severe hazard of erosion if the trees are cut. Other areas have a cover of Douglas-fir. Still other small areas are bare, except for scattered willows. (Capability unit VIIw-1; not placed in a woodland suitability group)

Amity Series

The Amity series consists of somewhat poorly drained soils that have formed in mixed alluvial silts. These soils have slopes of 0 to 2 percent. They occur on broad valley terraces at elevations of 150 to 350 feet. The average annual precipitation is between 40 and 45 inches. The average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly grasses, shrubs, hardwoods, and scattered Douglas-fir. Amity soils are associated with Dayton and Concord soils.

In a typical profile, the surface layer is very dark grayish-brown silt loam that is mottled in the lower part and is about 17 inches thick. The subsurface layer is mottled dark-gray silt loam about 7 inches thick. The subsoil is

mottled grayish-brown silty clay loam about 13 inches thick. A substratum of mottled olive-brown silt loam underlies the subsoil.

The Amity soils are used mainly for cereal grains, grass grown for seed, and pasture. When irrigated, areas that are drained can be used for all the crops commonly grown in the survey area.

Amity silt loam (Am).—This is the only soil of the Amity series mapped in the survey area. It occupies slightly convex or nearly level areas on terraces consisting of Willamette silts.

Representative profile 30 feet east of a paved road (SW $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 10, T. 5 S., R. 2 W.):

- Ap—0 to 7 inches, very dark grayish-brown (10YR 3/2) silt loam, grayish brown (10YR 5/2) when dry; moderate, fine, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; abundant fine roots; many interstitial pores; medium acid (pH 6.0); clear, smooth boundary. (5 to 8 inches thick.)
- A1—7 to 17 inches, very dark grayish-brown (10YR 3/2) silt loam, grayish brown (10YR 5/2) when dry; common, fine, faint, reddish-brown mottles; moderate, medium, subangular blocky structure; friable, hard, slightly sticky and slightly plastic; abundant fine roots; common interstitial pores and few, fine and medium, tubular pores; common, fine and medium, reddish-brown concretions; medium acid (pH 6.0); clear, smooth boundary. (5 to 10 inches thick.)
- A2—17 to 24 inches, dark-gray (10YR 4/1) silt loam, gray (10YR 6/1) when dry; common, fine, faint, reddish-brown mottles; weak, medium, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; common fine roots; common interstitial pores and common, fine and medium, tubular pores; common, fine and medium, brown concretions; medium acid (pH 6.0); clear, wavy boundary. (4 to 8 inches thick.)
- B2t—24 to 29 inches, grayish-brown (2.5Y 5/2) silty clay loam, light brownish gray (10YR 6/2) when dry; common, fine, distinct, reddish-brown mottles; weak, medium, prismatic structure breaking to moderate, coarse, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; common, medium, tubular pores; thin, patchy clay films in pores, on vertical surfaces of peds, and on some horizontal surfaces of peds; common, fine, red and black concretions; slightly acid (pH 6.2); gradual, wavy boundary. (4 to 9 inches thick.)
- B2t—29 to 37 inches, grayish-brown (2.5Y 5/2) silty clay loam, light brownish gray (2.5Y 6/2) when dry; common, fine, distinct, light yellowish-brown and black mottles; weak, medium, prismatic structure breaking to moderate, coarse, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; few, medium and fine, tubular pores; thin, patchy clay films in pores and on vertical and horizontal surfaces of peds; many, fine, reddish-brown and few, fine, black concretions; slightly acid (pH 6.2); diffuse boundary. (5 to 14 inches thick.)
- C—37 to 60 inches, olive-brown (2.5Y 4/4) silt loam, light yellowish brown (2.5Y 6/4) when dry; common, fine, faint, brown mottles; massive; friable, hard, slightly sticky and slightly plastic; few fine roots; few fine and medium pores; thick clay films in pores; slightly acid (pH 6.4).

When the soil is moist, color of the A horizon ranges from dark brown to very dark grayish brown. Texture of the B horizon is heavy silt loam in some areas, and the structural grade of that horizon is moderate in places. In some places the lower part of the B horizon is weakly to moderately brittle. Bedrock is at a depth of more than 60 inches.

Included with this soil is mapping were small areas of soils that are in drainageways and depressions and that

have slopes of 2 to 5 percent. Also included were small areas of Woodburn and Concord soils.

The available water capacity ranges from 9 to 12 inches. Permeability is moderately slow, and fertility is moderate. Runoff is slow, and erosion is not a hazard or is only a slight hazard. The depth to which roots can penetrate is moderately restricted by wetness, partly caused by a high water table that is near the surface during winter and spring. Workability is good, but this soil compacts easily if it is cultivated when wet.

Undrained areas of this soil are used for small grains, pasture, and grasses grown for seed, but drainage is needed for berries, vegetables, and specialty crops. If this soil is drained and irrigated, it can be used for all the crops commonly grown in the survey area. Even after drainage is installed, however, there are slight restrictions to use of this soil for deep-rooted crops that cannot tolerate excessive moisture. Nevertheless, response to drainage and fertilizer is generally good. (Capability unit IIw-2; not placed in a woodland suitability group)

Bashaw Series

The Bashaw series consists of poorly drained and very poorly drained soils that have formed in alluvium. These soils are in backwater areas of the flood plains and in drainage channels of silty alluvial terraces. They have slopes of 0 to 1 percent. Elevations range from 100 to 400 feet. The average annual precipitation is between 40 and 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 200 to 210 days. In areas that are not cultivated, the vegetation is mainly annual and perennial grasses, wild blackberries, sedges, rushes, willows, and a few ash and oak trees. Bashaw soils are associated with Wapato soils.

In a typical profile, the surface layer is about 31 inches thick and consists of mottled very dark gray clay in the uppermost 3 inches and of mottled black clay below. The upper part of the substratum, just beneath the surface layer, is very dark gray clay that extends to a depth of 48 inches. The lower part of the substratum is dark grayish-brown clay or sandy clay that extends to a depth of 60 inches or more. The substratum is mottled throughout.

The Bashaw soils are used mainly for pasture.

Bashaw clay (Ba).—This is the only soil of the Bashaw series mapped in the survey area. It occupies concave backwater areas adjacent to silty alluvial terraces, and it is also in drainage channels on the terraces. The areas are small.

Representative profile (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 9, T. 6 S., R. 1 W.):

- A11—0 to 3 inches, very dark gray (10YR 3/1) clay, dark gray (10YR 4/1) when dry; many, fine, distinct, yellowish-red (5YR 4/6) mottles; moderate, medium and fine, subangular blocky structure; firm, very hard, very sticky and very plastic; common roots; many very fine pores; medium acid (pH 5.5); abrupt, smooth boundary. (0 to 4 inches thick.)
- A12g—3 to 14 inches, black (N 2/0) clay, very dark gray (N 3/0) when dry; few, fine, distinct, yellowish-red (5YR 3/6) mottles; massive when wet; weak, coarse, prismatic structure breaking to weak, coarse, angular blocky structure when moist or dry; very firm, very hard, very sticky and very plastic; common very fine roots; many very fine pores; common, fine, red

fir, cottonwood, bigleaf maple, Oregon white oak, ash, and an understory of vine maple, wild blackberry, vines, shrubs, and grasses. Cloquato soils are associated with Chehalis and Newberg soils.

In a typical profile, the surface layer is dark-brown silt loam about 9 inches thick. The subsoil, which is also dark-brown silt loam, is about 56 inches thick. The substratum is dark-brown fine sandy loam that extends to a depth of 83 inches or more.

Cloquato soils that are not irrigated are used mainly for small grains, orchards, pasture, hay, and grass grown for seed. When irrigated, these soils are used for all the crops commonly grown in the survey area.

Cloquato silt loam (Cm).—This is the only Cloquato soil mapped in the survey area. It occupies large areas along the Willamette, Pudding, and Santiam Rivers and along Butte Creek.

Representative profile (E1½SE¼ sec. 20, T. 6 S., R. 1 W.):

- Ap—0 to 9 inches, dark-brown (10YR 3/3) silt loam, brown (10YR 5/3) when dry; weak, medium and coarse, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; many roots; many, fine and very fine, tubular pores; medium acid (pH 6.0); clear, smooth boundary. (6 to 10 inches thick.)
- B2—0 to 41 inches, dark-brown (10YR 3/3) silt loam, brown (10YR 5/3) when dry; weak, medium, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; common roots; many, very fine, tubular pores; slightly acid (pH 6.2); gradual, smooth boundary. (15 to 35 inches thick.)
- B3—41 to 65 inches, dark-brown (10YR 4/3) silt loam, pale brown (10YR 6/3) when dry; very weak, coarse, subangular blocky structure; very friable, slightly hard, slightly sticky and nonplastic; few roots; many, fine, tubular pores; slightly acid (pH 6.4); clear, smooth boundary. (0 to 25 inches thick.)
- C—65 to 83 inches, dark-brown (10YR 4/3) fine sandy loam, pale brown (10YR 6/3) when dry; massive; very friable, soft, nonsticky and nonplastic; no roots; many fine pores; slightly acid (pH 6.4).

Texture of the B2 horizon is dominantly silt loam, but this horizon contains thin layers of sandy material in places. This sandy material is generally below a depth of 30 inches.

Included with this soil in mapping were small areas of Chehalis, Newberg, and Camas soils, and small areas in which the substratum is gravelly. Also included were areas of steeper slopes that have short slopes and that are adjacent to sloughs and old stream channels. The included areas make up from 10 to 15 percent of the acreage in this mapping unit.

The available water capacity is 12 to 14 inches. Permeability is moderate, and fertility is high. Runoff is slow, but the hazard of erosion is slight to moderate as the result of periodic overflow. Overflow generally occurs about once in 3 or 4 years, but it occurs two or more times in some years. Roots can penetrate to a depth of 5 feet or more. Workability is very good.

This soil is used mainly for small grains, orchards, pasture, hay, and grass grown for seed. When irrigated, it is used for all the crops commonly grown in the survey area.

This soil is well suited to all the commonly grown crops. Floodwaters leave debris, and they can erode deep holes in orchards and in areas occupied by other permanent crops. (Capability unit IIw-3; not placed in a woodland suitability group)

Concord Series

The Concord series consists of poorly drained soils that have formed in alluvium of mixed mineralogy. These soils are on broad valley terraces, in slightly concave depressions and in drainageways. They have slopes of 0 to 2 percent. Elevations range from 125 to 350 feet. The average annual precipitation is 40 to 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 200 to 210 days. In areas that are not cultivated, the vegetation is mainly rushes, sedges, wild blackberry, hazel, annual grasses, and ash trees. Concord soils are associated with Amity and Dayton soils.

In a typical profile, the surface layer is very dark grayish-brown silt loam about 6 inches thick. The subsurface layer is mottled dark-gray silt loam about 9 inches thick. Just below the subsurface layer is a layer of mottled gray and dark-gray silty clay about 4 inches thick. The subsoil is about 10 inches thick. It consists of mottled grayish-brown silty clay in the upper part and of mottled dark grayish-brown silty clay in the lower part. The substratum of mottled dark grayish-brown silt loam extends to a depth of 80 inches or more.

Concord soils that are neither drained nor irrigated are used mainly for cereal grains, pasture, hay, and grass grown for seed. When irrigated, the drained areas are used mainly for berries and vegetables.

Concord silt loam (Co).—This is the only soil of the Concord series mapped in the survey area. It occupies narrow strips along and at the heads of drainageways, and it is also in depressions on terraces. In most places the slope is less than 2 percent.

Representative profile at the eastern edge of the Baldock Freeway, 200 feet north of the overpass (NE¼NE¼, NW¼ sec. 33, T. 5 S., R. 2 W.):

- Ap—0 to 6 inches, very dark grayish-brown (10YR 3/2) silt loam, light brownish gray (10YR 6/2) when dry; moderate, fine, subangular blocky structure breaking to moderate, fine, granular structure; friable, hard, sticky and plastic; abundant fine roots; many interstitial pores and wormholes; common, fine, brown concretions; medium acid (pH 6.0); abrupt, smooth boundary. (5 to 7 inches thick.)
- A21—0 to 9 inches, dark-gray (10YR 4/1) silt loam, gray (10YR 6/1) when dry; common, fine, distinct, dark-brown (7.5YR 4/2) mottles; moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; abundant fine roots; many, very fine and few, fine, tubular pores; common, fine, very dark brown concretions; medium acid (pH 5.8); clear, smooth boundary. (1 to 6 inches thick.)
- A22—0 to 15 inches, dark-gray (10YR 4/1) heavy silt loam, light gray (10YR 7/1) when dry; common, fine, distinct, dark-brown (7.5YR 4/4) mottles; weak, medium, prismatic structure breaking to moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; many, very fine and common, fine, tubular pores; common, fine, very dark brown concretions; medium acid (pH 6.0); clear, smooth boundary. (4 to 9 inches thick.)
- A&B—15 to 19 inches, gray (10YR 5/1) and dark-gray (10YR 4/1) light silty clay, light gray (10YR 7/1 and 10YR 6/1) when dry; darker colors in ped interiors; common, fine, distinct, dark-brown (7.5YR 4/4) mottles; weak, medium, prismatic structure breaking to moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; many, very fine, tubular pores; many, fine, very dark brown concretions; slightly acid (pH 6.2); clear, smooth boundary. (2 to 7 inches thick.)

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IIB2t—19 to 24 inches, grayish-brown (2.5Y 5/2) heavy silty clay, light brownish gray (2.5Y 6/2) when dry; common, fine, distinct, yellowish-brown (10YR 5/6) mottles; strong, fine, prismatic structure breaking to strong, medium and fine, angular blocky structure; firm, extremely hard, very sticky and very plastic; very few roots; many, very fine and few, fine and medium, tubular pores; few thin and moderately thick clay films on ped surfaces and in pores; many, fine, very dark brown and few black concretions; slightly acid (pH 6.4); clear, wavy boundary. (4 to 12 inches thick.)

IIB3t—24 to 29 inches, dark grayish-brown (2.5Y 4/2) silty clay, light brownish gray (2.5Y 6/2) when dry; many, fine, distinct, dark yellowish-brown (10YR 4/4) mottles; massive; firm, very hard, sticky and plastic; few fine roots; common fine pores; common moderately thick clay films along lines of weakness, and few clay films in pores; few, fine, dark-brown and black concretions; neutral (pH 6.6); gradual, smooth boundary. (3 to 9 inches thick.)

IIC—29 to 60 inches, dark grayish-brown (2.5Y 4/2) silt loam, light gray (2.5Y 7/2) when dry; many, medium, distinct, dark yellowish-brown (10YR 4/4) mottles; friable, hard, sticky and plastic; massive; common, very fine, tubular pores; few black stains; neutral (pH 6.6).

The Ap horizon is dominantly silt loam, but the texture ranges to silty clay loam. In places texture of the IIB2t horizon is clay. Soil reaction ranges from medium acid in the A horizon to slightly acid and neutral in the B and C horizons.

Included with this soil in mapping were small areas of Dayton soils. These included soils make up from 5 to 10 percent of the acreage in the mapping unit.

The available water capacity ranges from 9 to 12 inches. Permeability is slow, and fertility is low. Runoff is slow, and ponding occurs in some areas, especially in depressions. The hazard of erosion is slight. Depth to which roots can penetrate is restricted by the silty clay in the subsoil. It is also restricted by wetness, caused by the poor drainage and by the seasonal high water table. This soil is easily worked, but it tends to compact if it is cultivated when too moist.

Areas of this soil that are neither drained nor irrigated are used for spring small grains, pasture, hay, and grass grown for seed. When irrigated, drained areas are used for berries and vegetables. This soil is well suited to vegetables, small grains, pasture, and hay. (Capability unit IICw-2; not placed in a woodland suitability group)

Courtney Series

The Courtney series consists of poorly drained soils that have formed in alluvial deposits of different ages. These soils are on gravelly alluvial terraces, where they occur in shallow depressions and in drainageways. Slopes range from 0 to 2 percent, and elevations range from 175 to 650 feet. The average annual precipitation is 40 to 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly ash, vine maple, hazel, wild rose, blackberry, rushes, sedges, and annual and perennial grasses. Courtney soils are associated with Salem and Clackamas soils.

In a typical profile, the surface layer is about 12 inches thick, and it consists of mottled, black gravelly silty clay loam in the upper part and of mottled, very dark gray gravelly silty clay loam in the lower part. The subsoil is mottled dark-gray gravelly clay about 12 inches thick.

The substratum consists of a layer of dark grayish-brown very gravelly clay loam, about 25 inches thick, that grades to mottled, dark-brown very gravelly sand, which extends to a depth of 57 inches or more.

Undrained areas of Courtney soils are used mainly for pasture, hay, and grass grown for seed. The drained areas are used for these crops and also for small grains.

Courtney gravelly silty clay loam (C₀).—This soil is on terraces between Stayton and Salem. It is in depressions and in narrow drainageways. This is the only soil of the Courtney series mapped in the survey area.

Representative profile (NW¼SE¼ sec. 6, T. 8 S., R. 2 W.):

A11—0 to 4 inches, black (10YR 2/1) gravelly silty clay loam, dark gray (10YR 4/1) when dry; few, fine, distinct, dark-brown (7.5YR 4/4) mottles; strong, medium and fine, subangular blocky structure; friable, hard, sticky and plastic; many roots; many, very fine and fine, interstitial pores; iron stains in root channels; 20 to 25 percent coarse pebbles; strongly acid (pH 5.4); clear, smooth boundary. (2 to 8 inches thick.)

A12—4 to 12 inches, very dark gray (7.5YR 3/0) gravelly silty clay loam, very dark gray (10YR 3/1) when crushed and dark gray (10YR 4/1) when dry; common, medium, distinct, strong-brown (7.5YR 4/4) mottles; strong, medium and fine, subangular blocky structure; friable, hard, sticky and plastic; many roots; many, very fine, tubular pores; iron stains in root channels; 30 percent pebbles; medium acid (pH 5.8); abrupt, smooth boundary. (7 to 10 inches thick.)

IIB2t—12 to 24 inches, dark-gray (10YR 4/1) gravelly clay, gray (10YR 5/1) when dry; few, fine, distinct mottles; weak, coarse, prismatic structure; firm, very hard, very sticky and very plastic; few roots; 30 percent pebbles and a few cobblestones; slightly acid (pH 6.4); clear, smooth boundary. (10 to 20 inches thick.)

IIC1—24 to 49 inches, dark grayish-brown (10YR 4/2) very gravelly clay loam, gray (10YR 5/1) when dry; massive; firm, hard, sticky and plastic; iron stains; 85 percent pebbles; few cobblestones; slightly acid (pH 6.2); abrupt, smooth boundary. (24 to 48 inches thick.)

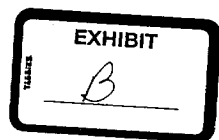
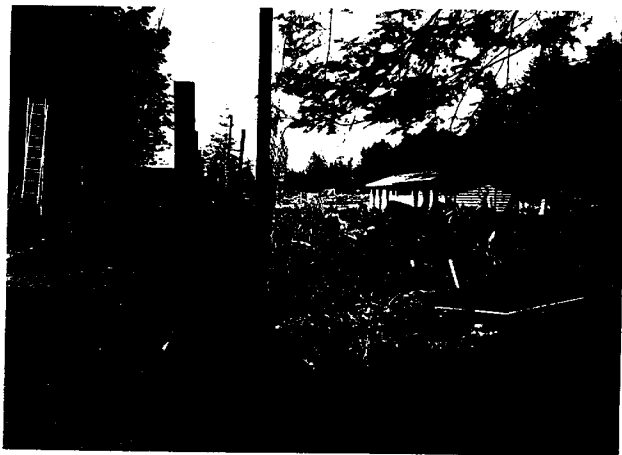
IVC2—49 to 57 inches, mottled dark-brown (7.5YR 3/2) very gravelly sand, strong brown (7.5YR 5/6) when moist; massive; friable, soft, nonsticky and nonplastic; many, medium, interstitial pores; neutral (pH 6.7).

Color of the A horizon ranges from black or very dark brown to very dark gray, and texture of that horizon ranges from silty clay loam or clay loam to silty clay. In some places the B horizon is very dark gray, and it is gravelly silty clay in some areas. The amount of gravel in the B horizon ranges from 20 to 30 percent. Depth to the very gravelly C horizon ranges from 24 to 38 inches. The C horizon is stratified. Both the thickness of the different layers in the C horizon and the amount of gravel and cobblestones in that horizon are highly variable.

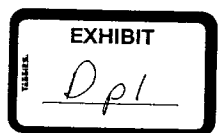
Included with this soil in mapping were small areas that have a surface layer of very dark gray silt loam.

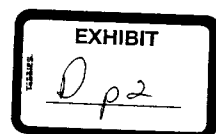
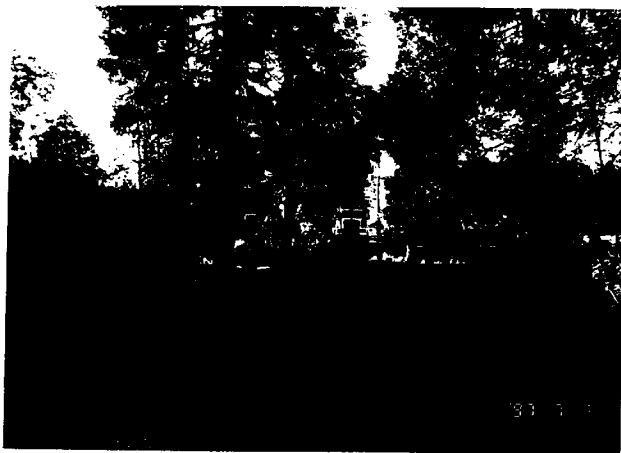
Above the clay subsoil, the available water capacity is less than 3 inches. Permeability is very slow, and fertility is moderate. Runoff is ponded or very slow, and the hazard of erosion is slight. The depth to which roots can penetrate is restricted by the claypan in the subsoil, but it ranges from 12 to 16 inches. Workability is fair.

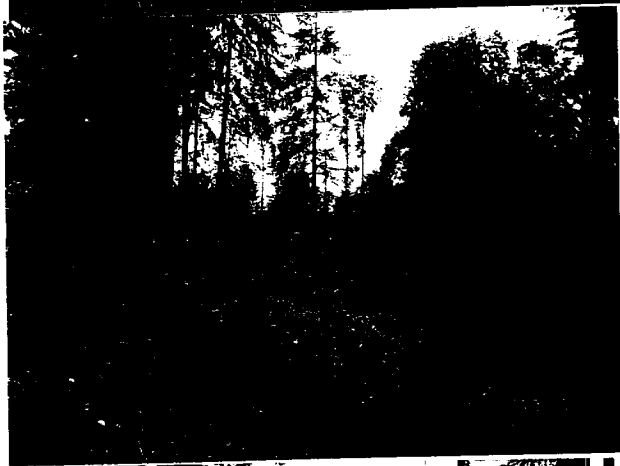
Undrained areas of this soil are used for pasture, hay, and grass grown for seed. The drained areas are used for these crops and also for spring small grains and winter wheat. When irrigated, the drained areas are used for sweet corn, berries, and beans. This soil is used for these irrigated crops because it occupies only small areas and extends through and is managed like the adjacent Sifton, Salem, and Clackamas soils. Courtney soils are poorly











EXHIBIT

Epl





KEY TITLE & ESCROW
Attn: Rhonda
222 High St. SE
Salem, Oregon 97301

222 High St S.E.
P.O. Box 71
Salem, Oregon 97308-0071
Phone: (503) 585-1881
Fax: (503) 370-7915

June 16, 1997
Report No: 18-59527
Your No: 2-50742
Seller/Lender: WOODS ROBERT
Buyer/Borrower: BROWN/BOLLIGER

SUPPLEMENTAL REPORT FOR:

Owner's Policy \$400000.00

PREMIUMS:

Owner's Premium 2010 \$1150.00
Government Service Fee \$ 15.00

We are prepared to issue an ALTA policy (10/17/92) in the form and amount shown above insuring the title to the following described land:

PARCEL I:

Beginning at the Northwest corner of E. M. and F. R. Rawlins property located in Section 23, Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, and described in Volume 640, Page 152, Deed Records for Marion County, Oregon, said corner being also on the East line of the Oscar Bair property described in Probate Court Journal Volume 22, Page 116, for said County and state; thence South 00° 02' West 370.00 feet along the East line of said Oscar Bair property to the Southeast corner thereof; thence North 89° 45' West along the South line of said Oscar Bair property 871.20 feet to the Southwest corner thereof; thence North 00° 02' East along the West line of Oscar Bair property 370.00 feet; thence South 89° 45' East 871.20 feet to the point of beginning.

PARCEL II:

Beginning at a point which is 1379.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast one-quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence North 0° 02' West 85.0 feet along the West line of said tract; thence South 89° 45' East 291.72 feet to the East line of said tract; thence South 0° 02' East 85.0 feet to the place of beginning.

Oneida
ALBANY
ASTORIA
BANDON
BENT
BROOKINGS
CENTRAL POINT
COOS BAY
CORVALLIS
DALLAS
EUGENE
GRANTS PASS
INDEPENDENCE
KEIZER
LEBANON
LINCOLN CITY
MCMINNVILLE
MEDFORD
NEWBERG
NEWPORT
REDMOND
REDFORT
ROSBURG
SALEM
SCAPPOOSE
SEASIDE
SILVERTON
SISTERS
ST ALLENS
TILLAMOOK
WENDEN

EXHIBIT

TABULAR

Fpl

PARCEL III:

Beginning at a point which is 1109.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence South 0° 02' West along the West line of said Baughman tract a distance of 100.00 feet; thence South 89° 45' East a distance of 291.72 feet; thence North 0° 02' East a distance of 100.00 feet to the place of beginning.

Real Property Tax Account No.: 48605-000 48606-000 48615-000
Situs Address as disclosed by Marion County Tax Roll: none disclosed

VESTED IN:

ROBERT A. WOODS AND CLARICE F. WOODS
as tenants by the entirety

Dated as of May 12, 1997 at 8:00 a.m.

Subject to the Standard Exceptions, if any, the printed Exclusions and the Conditions and Stipulations of the policy as well as the following Special Exceptions:

1. City liens, if any, of the City of Keizer. (An inquiry has been directed to the City Clerk concerning the status of said liens and a report will follow if such liens are found.)

2. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Water District.

3. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Service District.

4. An easement created by instrument, including the terms and provisions thereof,

Recorded: April 11, 1962 in Book 557, Page 64,
Deed Records, Marion County, Oregon
For: Roadway purposes
Affects: Easterly portion

5. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: July 19, 1977
Recorded: July 20, 1977 in Reel 89, Page 322,
Microfilm Records, Marion County, Oregon
Amount: \$62,000.00 (includes additional property)
Mortgagor: Robert A. Woods and Clarice F. Woods
Mortgagee: State of Oregon, represented and acting by the Director of Veterans' Affairs

EXHIBIT

F p2

6. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: May 2, 1979
 Recorded: May 4, 1979 in Reel 166, Page 1189,
 Microfilm Records, Marion County, Oregon
 Re-Recorded: June 15, 1979 in Reel 172, Page 111,
 Microfilm Records, Marion County, Oregon
 Amount: \$16,000.00 (includes additional property)
 Mortgagor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
 Mortgagee: State of Oregon, represented and acting by the Director of
 Veterans' Affairs

7. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 11, 1989
 Recorded: April 27, 1989 in Reel 686, Page 194,
 Microfilm Records, Marion County, Oregon
 Amount: \$25,000.00 (includes additional property)
 Grantor: Robert A. Woods and Clarice F. Woods
 Trustee: American Pacific Title and Escrow Co.
 Beneficiary: First Interstate Bank of Oregon, N. A. a national banking
 association

8. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
 Recorded: April 30, 1997 in Reel 1390, Page 26,
 Microfilm Records, Marion County, Oregon
 Amount: \$225,000.00 Parcel 1
 Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
 Trustee: Amerititle
 Beneficiary: Western Bank, a division of Washington Mutual Bank

9. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
 Recorded: April 30, 1997 in Reel 1390, Page 27,
 Microfilm Records, Marion County, Oregon
 Re-Recorded: May 14, 1997 in Reel 1393, Page 143,
 Microfilm Records, Marion County, Oregon
 Amount: \$75,000.00 Parcel 1
 Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
 Trustee: Amerititle
 Beneficiary: Western Bank, a division of Washington Mutual

10. Lien or liens of any long term care facility filed pursuant to O.R.S. 87.501 through 87.539 against any person who holds or held an interest in the subject property on or after September 9, 1995.

The foregoing exception may be removed upon the execution of a proper form of affidavit or payment of any existing or potential lien identified.

END OF EXCEPTIONS

EXHIBIT

F_{p3}

NOTE: Our examination of the premises herein described reveals an appurtenant easement which should be included in the description of any conveyance or encumbrance documents. No examination has been made as to the insurability of the easement which is set out here for informational purposes only. Should insurance of the easement be desired, an additional charge will be made. Said easement is described as follows:

Any conveyance or encumbrance: Together with the following non-exclusive easement for roadway purposes to be used in common by grantors and grantees and their heirs and assigns, over and across a strip of land 25 feet in width, being 12 1/2 feet on each side of the following described center line: Beginning on the legal subdivision line running East and West through the center of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 270.94 feet North 89° 45' West from the Northeast corner of the West 1/2 of the Southeast 1/4 of said Section; thence South 0° 02' West 241.95 feet; thence along the arc of a 317.70 foot radius curve to the right (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence along the arc of a 317.70 foot radius curve to the left (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence South 0° 02' West 481.92 feet).

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$3,286.11
Account No.: 48605-000 Parcel I

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$518.12
Account No.: 48606-000 Parcel II

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$637.68
Account No.: 48615-000 Parcel III

NOTE: We find no judgments or United States Internal Revenue liens against Derek Brown or Ralph Bolliger.

NOTE: MARION COUNTY RECORDING CHARGES ARE AS FOLLOWS:

1. \$ 5.00 per page, plus
2. \$10.00 per document for survey corner restoration fee
3. \$20.00 per conveyance document for Department of Revenue County Assessment and Taxation Fund
4. Additional fees will be assessed by the County Clerk if a document fails to meet the requirements for recording imposed by ORS Chapter 205.

KEY TITLE COMPANY

Marsha Stallings
Marsha Stallings, Title Officer

5 cc: Key Escrow South

EXHIBIT

F p4

RECEIVED
BEFORE THE COMMON COUNCIL SEP 11 PM 4 29

OF THE CITY OF KEIZER

In the Matter of the Estate of)
DEREK L. BROWN & ASSOCIATES,)
Applicant.)
CONDITIONAL USE
CASE NO. 97-04
ADDITIONAL TESTIMONY
IN SUPPORT OF APPEAL

COMES NOW Carl Alleman and submits the following additional testimony in support of his memorandum in opposition to the Conditional Use granted in Case No. 97-04 by the City of Keizer, Zoning Administrator.

At the hearing previously held in this matter, the Hearings Officer held the record open for 14 days for additional testimony of the appellant. However, the Hearings Officer specifically limited the additional testimony to testimony regarding the applicant's argument concerning a lot line adjustment and the fact that the applicant's proposed mobile home park is going to be established on three (3) separate and distinct parcels.

Appellant objects to the Hearings Officer so limiting its additional testimony. ORS 197.763(6)(a) does not contain any provision allowing a hearings officer to limit the scope of new evidence and matters that can be presented in this additional time period.

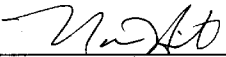
Substantively, the appellant contends that the mobile home park violates Keizer Zoning Ordinance 17.01. That section requires that all structures and uses be entirely situated on a single lot except as allowed under the Unit Ownership Law, ORS

91.400 et seq. (Repealed) In this case, the proposal obviously intend to combine three (3) parcels. The attached deed reveals that there are three separate parcels. As a result, the applicant must apply for a partition. State law is explicit. All lots and parcels lawfully created must remain discrete lots or parcels unless they are vacated as provided by law. See ORS 92.017.

In this case, the applicant has not applied for nor received a partition or lot line adjustment. Accordingly, the Zoning Administrator's decision to grant the conditional use in this matter should be reversed.

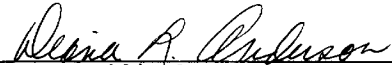
DATED this 11th day of September, 1997.

WEBB & MARTINIS

By: 

Norman R. Hill, OSB #94340
1114 - 12th Street SE
Salem, OR 97302
(503) 363-9264
Of Attorneys for Appellant

SUBSCRIBED AND SWORN TO before me this 11th day of September, 1997.


Notary Public for Oregon 4-18-99

[ALLEMAN\ADDITIONAL.EVI]

After recording return to:

BURNKSHIRE ESTATES, L.L.C.

6969 S.W. HAMPTON ST STE 101

PORTLAND, OR 97223

TITLE ORDER NO. 104527

KEY NUMBER NO. 104527

Page 1

140 71

Until a change is requested tax statements
shall be sent to the following address

SAME AS ABOVE

WARRANTY DEED -- STATUTORY FORM
(INDIVIDUAL OR CORPORATION)

ROBERT A. WOODS and CLARICE F. WOODS, Grantor.

Conveys and warrants to

BURNKSHIRE ESTATES, L.L.C., an Oregon Limited Liability Company, Grantee.

the following described real property free of encumbrances except as
specifically set forth herein:

See Attached Exhibit "A" as incorporated herein and made a part hereof

Tax Account No. 18665 369 Map No.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST
PRACTICES AS DEFINED IN ORS 30.930.

The full consideration for this conveyance is the sum of \$10,000.00 which is paid
in full consideration of part of an undivided interest in the property. If the
full consideration is not paid, the grantor shall be liable for the balance of the
consideration. The grantor shall be liable for the balance of the consideration
if the grantor is not paid the full consideration. The grantor shall be liable
for the balance of the consideration if the grantor is not paid the full
consideration. The grantor shall be liable for the balance of the consideration
if the grantor is not paid the full consideration.

Signed this 2 day of July 1999

Robert H. Woods
Robert A. Woods
Clarice F. Woods
Clarice F. Woods

Marion

STATE OF OREGON, COUNTY OF

This instrument was acknowledged before me on July 2
1999 by Robert A. Woods and Clarice F. Woods.

Theresa M. Grant
Theresa M. Grant

1/27/1999

EXHIBIT A

PARCEL I:

Beginning at the Northwest corner of E. M. and F. R. Rawlins property located in Section 23, Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, and described in Volume 640, Page 152, Deed Records for Marion County, Oregon, said corner being also on the East line of the Oscar Bair property described in Probate Court Journal Volume 22, Page 118, for said County, and state; thence South 00° 02' West 370.00 feet along the East line of said Oscar Bair property to the Southeast corner thereof; thence North 89° 45' West along the South line of said Oscar Bair property 871.20 feet to the Southwest corner thereof; thence North 00° 02' East along the West line of Oscar Bair property 370.00 feet; thence South 89° 45' East 871.20 feet to the point of beginning.

PARCEL II:

Beginning at a point which is 1379.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast one-quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence North 0° 02' West 85.0 feet along the West line of said tract; thence South 89° 45' East 291.72 feet to the East line of said tract; thence South 0° 02' East 85.0 feet to the place of beginning.

PARCEL III:

Beginning at a point which is 1109.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence South 0° 02' West along the West line of said Baughman tract a distance of 100.00 feet; thence South 89° 45' East a distance of 291.72 feet; thence North 0° 02' East a distance of 100.00 feet to the place of beginning.

Any conveyance or encumbrance: Together with the following non-exclusive easement for roadway purposes to be used in common by grantors and grantees and their heirs and assigns, over and across a strip of land 23 feet in width, being 12 1/2 feet on each side of the following described center line: Beginning on the legal subdivision line running East and West through the center of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 270.94 feet North 89° 45' West from the Northeast corner of the West 1/2 of the Southeast 1/4 of said Section; thence South 0° 02' West 241.93 feet; thence along the arc of a 317.70 foot radius curve to the right (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence along the arc of a 317.70 foot radius curve to the left (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence South 0° 02' West 481.92 feet).

SUBJECT TO:

1. Taxes for the fiscal year 1997-98, a lien in an amount to be determined, but not yet payable.
2. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Water District.
3. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Service District.

Jul 08, 1997

4. An easement created by instrument, including the terms and provisions thereof.

Recorded: April 11, 1962 in Book 537, Page 64.
Deed Records, Marion County, Oregon

For: Roadway purposes
Affects: Easterly portion

JUL 08, 1997

REEL:1408

PAGE: 71

July 08, 1997 , 01:43P

CONTROL #: 1408071

State of Oregon
County of Marion

I hereby certify that the attached
instrument was received and duly
recorded by me in Marion County
records:

FEE: \$45.00

ALAN H DAVIDSON
COUNTY CLERK

JUL 08, 1997

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINISNORMAN R. HILL
ASSOCIATE

October 9, 1997

SENT BY FACSIMILE TRANSMISSION
(503)393-9437 AND REGULAR MAILJohn Morgan
Community Development Director
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

RE: Timothy Lane, Keizer

Dear Mr. Morgan:

Thank you for speaking with me on October 8, 1997. As we discussed, my office is attempting to locate the City of Keizer's water system master plan. In particular, I am looking for the planning document that enables city staff to determine the public infrastructure that a development must provide as a condition of development.

Mr. Peterson has repeatedly indicated that this document exists. He has stated that, depending on the basin, the document contains various basins which determine the nature of the improvements. However, my staff has been informed by Mr. Peterson he has only preliminary notes. Mr. Peterson indicates that the City has the actual planning document. In turn, you have informed me that Mr. Peterson has the actual document.

Our clients are particularly concerned that the document that was purportedly used to make determinations regarding the development at issue cannot be located. We need access to this document for purposes of the appeal. The appeal period ends on Friday, October 10, 1997.

Page 2 - October 9, 1997
Alleman/City of Keizer Appeal

Please advise immediately as to the location of this document.

Very truly yours,

WEBB & MARTINIS

Dictated but not
read to avoid
delay

Norman R. Hill
NRH/paw

cc: Carl Alleman

D:\ALLENMAN\KEIZER.109

Webb & Martinis
ATTORNEYS AT LAW
1100 TOWNSEND ST. SE
SALEM, OREGON 97301-3000
TEL: 503/463-8800



MULTI/
TECH
ENGINEERING SERVICES, INC.

RECEIVED

'97 OCT 19 AM 8 30

CITY OF KEIZER
OREGON 97303

Rect # 4931
pd 10-10

CONSULTANTS

1155 13th Street, S.E.

Salem, Oregon 97302

(503) 363-9227

October 9, 1997

Before the City Recorder
City of Keizer
and the
Common Council

In the matter of Conditional Use Case No. 97-04
Hearings Officer Decision
Appeal of Zoning Administrator's Approval

By this document the Applicant, Derek L. Brown, Berkshire L.L.C., is appealing the Decision of the Hearings Officer on September 30, 1997.

This appeal is being made relative to the Hearings Officer's findings that the Applicant failed to demonstrate that adequate fire flow either exists or will exist as required by KZO 8.30(e)

This Conditional use application was made to construct 13 manufactured home spaces on 1.63 acres of property that is adjacent to and east of the current Berkshire Estates Manufactured Home Park project. This is intended to be "Phase 2" of this project.

On July 31, 1997 the Zoning Administrator granted conditional use approval to the project, based on sufficient findings by the applicant and public work staff that sufficient water service exists in the area that adequate fire flow can be provided to the area through the construction of water mains within the area by other projects under construction.

An appeal was filed by Carl Atteman and others along Timothy Lane that the applicant failed to comply with applicable statutes, regulations and ordinances, including the Keizer Zoning Ordinance.

A public hearing was held on August 27, 1997 by the Keizer Hearings Officer.

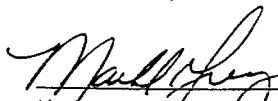
The decision issued by the Hearings Officer on September 30, 1997 Sustains the Appellants argument that Applicant has failed to demonstrate or has otherwise failed to ensure that the record contains evidence demonstrating that adequate fire flow either exists or will exist, as required by KZO 8.30(e). The Hearings officer rejected all other arguments made by the Appellants relative the Zoning Administrator's decision.

We request that the appeal before the Keizer City Council not be a *de novo* hearing. That evidence the testimony be limited to this one issue. This is based on the fact that the Hearing's Officer held a *de novo* public hearing for the project site and the benefit of public. He did not limit the amount or type of new evidence to be presented.

Given the fact that the Zoning Administrator found that the application met all of the requirements necessary to grant a conditional use approval. That the Hearings Officer found that with the exception of the matter of "Fire Flow", all other portions of the Zoning Administrator's Decision would stand. The most effective use of the Council Time would be on the singular issue of Fire Flow. Both sides have had sufficient opportunities at public hearings to provide all relevant information related to the other conditional use criteria. There is nothing to be gained by going through it all again, after two decisions support the staff and applicant in this matter on these issues.

We believe that the Hearings Officer failed to properly consider the information that was provided by the City Engineer at the Hearing relative to this matter. Mr Bill Peterson, P.E. stated at the hearing that with the development of the Pinehurst Subdivision and the first phase of the Berkshire Manufactured Home Park, that sufficient water would be available to supply adequate fire flow to the 13 spaces proposed.

Submitted by Berkshire L.L.C.


Mark D. Grenz, P.E.
Project Engineer



Renew date: June 30, 1999

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

October 13, 1997

Amy Drought
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307

RE: Timothy Lane, Keizer

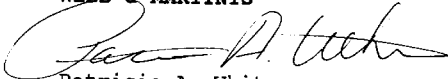
Dear Amy:

Enclosed for filing is the Appeal of Hearings Officer's Decision in the above referenced matter. Our office originally faxed you a copy of this Appeal on Friday, October 10, 1997 at 4:58 p.m.

Also enclosed is a conforming postcard for you to indicate that the Appeal was filed. If you have any questions, please do not hesitate to contact our office.

Very truly yours,

WEBB & MARTINIS



Patricia A. Whitener
Legal Assistant for
Attorneys
PAW/s

attachment: Appeal

cc: Mr. Carl Alleman (w/o enc.)

D:\ALLEMAN\KEIZER.113

BEFORE THE COMMON COUNCIL
OF THE CITY OF KEIZER

In the Matter of)
DEREK L. BROWN & ASSOCIATES,)
Applicant.)
CONDITIONAL USE
CASE NO. 97-04
APPEAL OF HEARINGS
OFFICER'S DECISION

COMES NOW Carl Alleman and the residents of Timothy Lane, by and through their attorney, Norman R. Hill of Webb & Martinis, and appeal the decision of the Hearings Officer, Barry Adamson, dated September 30, 1997 for the following reasons:

I. INTRODUCTION

Conditional Use Case No. 97-04 is an application for a conditional use approval by Derek L. Brown & Associates to develop a manufactured home park on property in the vicinity of Timothy Lane. The subject property is three (3) separate parcels. The land totals 1.63 acres. It currently contains a single-family dwelling. This single-family dwelling has ingress and egress via Timothy Lane, a private right of way.

Mr. Brown is apparently developing these 13 lots in conjunction with development of over 100 manufactured homesites on adjacent property. The larger development is known as Berkshire Estates Phase I. It received conditional use approval several months ago.

The current application seeks to enlarge the Berkshire Estates Manufactured Home Park. The newly constructed park will stretch from Wheatland Road all the way to Timothy Lane.

1 Timothy Lane is currently a narrow, slightly improved
2 private roadway. It services several homes on small acreage
3 lots.

4 **II. ADMINISTRATIVE HISTORY**

5 This particular appeal began as an administrative
6 decision to grant a conditional use approval to extend Mr.
7 Brown's manufactured home park. That decision was appealed to
8 the Hearings Officer, Barry Adamson.

9 On September 30, 1997, Mr. Adamson issued a decision
10 overturning the Staff approval of a conditional use permit.
11 However, in doing so, the Hearings Officer rejected all of the
12 Appellants' arguments except one. The Hearings Officer concluded
13 that Mr. Brown did not demonstrate that sufficient fire flows
14 existed to service the development. The applicant has appealed
15 this decision. However, Mr. Alleman and the other residents of
16 Timothy Lane are appealing the Hearings Officer's decision with
17 respect to the other issues raised in the prior appeal, in order
18 to protect the record.

19 **III. NATURE OF THIS APPEAL**

20 The applicant has questioned the Keizer City Council's
21 authority to hear all of the issues in this appeal. In his
22 letter dated October 9, 1997, Mark Grenz, a representative of the
23 applicant, Derek L. Brown, requests that the City Council not
24 conduct a de novo review. He urges the Council only to look at
25 the single issue of whether there is adequate fire flow for the
26 project. Mr. Grenz urges that there is nothing to be gained by

1 allowing the citizens of Keizer an opportunity to appeal to the
2 City Council all the issues in this decision, because they have
3 had an opportunity to present their views to the Hearings
4 Officer. The Appellants disagree.

5 Section 5.22 of the Keizer Zoning Code governs appeals
6 of hearings decisions. The appeal must explain where the
7 decision is factually incorrect, based on incomplete facts, or
8 present new facts material to the decision. These requirements
9 describe a de novo appeal.

10 Moreover, Staff informed the applicant, Appellants and
11 Hearings Officer at the prior public hearing that the City of
12 Keizer has traditionally conducted de novo reviews of the City
13 Council. In this case, the Appellants disagree with a portion of
14 the Hearings Officer's decision. They should have the same right
15 to appeal to the City Council as the developer. The City Council
16 should conduct a de novo review of the entire decision.

17 IV. DISCUSSION

18 1. Lot Line Adjustment. Derek Brown's conditional use
19 permit should not have been approved, because construction of the
20 manufactured home park violates State law and Keizer Zoning
21 Ordinance prohibitions against combining lots in this fashion.

22 The subject property is really three (3) separate
23 parcels. The Deed, attached hereto as Exhibit G, demonstrates
24 that Robert and Clarice Woods conveyed the three (3) parcels to
25 Berkshire Estates, LLC. The assessor's parcel map for this
26 location illustrates the three (3) separate lots as they are

1 described in the Woods to Berkshire Estates Deed. Berkshire
2 Estates, the proposed development, has been completed without
3 regard to these lot lines. Indeed, many of the homesites are on
4 multiple lots. More importantly, the existing house located on
5 Lot 6 is not separated from the rest of the development. Thus,
6 it violates the KZO 17.05 density requirements. That section
7 states there can only be one dwelling unit per lot within the RS
8 zone. In this case, the home on Lot 6 would be on the same
9 parcel as the manufactured homes in Lots 7 and 8. While the
10 manufactured homesites may qualify as part of the RS zone, the
11 currently existing single-family dwelling is an obvious
12 violation.

13 In short, in order to complete this development, the
14 applicant should be required to obtain a lot line adjustment to
15 consolidate the lots. This requires the applicant to follow the
16 partitioning and subdivision requirements of the Keizer Zoning
17 Code. No such application has been made. Consequently, the
18 Hearings Officer's decision should have been reversed.

19 **2. Storm Water Detention.** The most serious shortfall of
20 the proposal thus far is the cursory treatment given to storm
21 water detention. The Keizer Zoning Code requires the developer
22 to demonstrate that drainage is adequate for the property.
23 Section 8.3 of Chapter 8 of the Keizer Zoning Code requires a
24 finding that the parcel is suitable for the proposed use,
25 considering such factors as size, shape, location, topography,
26 soil, slope stability, drainage, and natural features. Likewise,

1 Chapter 14, Section 14.30 relating specifically to mobile home
2 parks, requires a finding that all spaces be provided with
3 adequate storm drainage and connected to the storm drainage
4 system if such system is available. Facilities must be
5 sufficient to safely transport through the park all volumes of
6 water generated upstream and on the site.

7 Unfortunately, the City has not adequately addressed
8 the storm drainage issue. Residents in the vicinity of the
9 subject property indicate that the property has a problem with
10 flooding and a high water table in the past. For example, the
11 house existing on the subject property has a history of severe
12 flooding in the basement. Appellants have personally seen sedges
13 and other plants normally associated with wet areas on the
14 subject property. The soils map governing the subject property
15 reveals large concentrations of amity soils. See Exhibit A,
16 excerpts from soil survey. The statistical calculations for the
17 soil map specify that indications of amity soils may include
18 substantial inclusion of wetland soils. Id.

19 The property is currently the low spot for the
20 surrounding geographic areas. See Exhibit B, photograph showing
21 elevation difference between subject property and adjacent
22 property. The developer has already brought in substantial
23 amounts of fill material to fill in the low spots and,
24 presumably, deal with the dampness on the property. Logically,
25 the increased impervious surface created by the manufactured home
26 park will lead to additional amounts of runoff being discharged

1 from the property during a normal rainy season. With the build
2 up of Phase II of Berkshire Estates and development of adjacent
3 properties, homes on Timothy Lane will become the new low spots
4 in the neighborhood. Appellants are particularly concerned that
5 this development will lead to flooding on our property. The
6 applicant should be required to demonstrate that the limitations
7 of this building site can be safely managed. The applicant
8 should not be allowed to simply transfer these difficulties to
9 neighboring parcels.

10 Unfortunately, the code requirement that the developer
11 address the storm water detention problem has not been met. The
12 Zoning Administrator has no significant finding relating to the
13 storm water issue. Instead, the Zoning Administrator simply
14 includes a condition of approval that an engineering plan,
15 including information concerning storm water detention be
16 submitted to the City. However, no deadline for submission of
17 such a plan exists. Proceeding in this fashion clearly violates
18 existing land use regulations. It is well settled that local
19 governments cannot avoid the obligation of making a thorough
20 investigation of proposed developments and making factual
21 findings required by the Zoning Code. Conditions of approval are
22 not findings and cannot substitute for required findings. See
23 Foland v. Jackson County, 18 Or LUBA 731, 773 n. 40 (1990),
24 Holland v. Lane Co. 16 Or LUBA 583 (1988); Pekarek v. Wallowa
25 County, LUBA No. 96-135 (5/23/97).

26

1 It is not enough for the City simply to conclude that
2 the condition can be met because there is not sufficient evidence
3 in the record to support that conclusion.

4 The Public Works comments reflected in the Findings of
5 Fact accompanying this decision simply state that "an overall
6 master storm drainage plan that will provide service for the City
7 of Keizer needs to be in place prior to issuance of any permits
8 for construction of the proposed development." Without such a
9 plan being in place, it is impossible for Staff or the governing
10 body to evaluate whether or not the development, as it is
11 currently proposed, can comply with the overall drainage plan for
12 the City.

13 In addition, Appellants are not comfortable with simply
14 conditioning permits on the completion of a storm water master
15 plan. The storm water master plan is a requirement of the land
16 use process. The applicant should be forced to publicly reveal
17 this study and demonstrate that the surrounding property can be
18 made safe from excessive flooding.

19 The Appellant's concerns about flooding were
20 substantiated during the recent rains. Puddling and localized
21 flooding has developed. See photos of recent ponding adjacent to
22 applicant's project, attached as Exhibit H.

23 Nevertheless, the Hearings Officer rejected this
24 argument below. He concluded that KZO 14.30, the development
25 standards for mobile home parks does not apply. He concluded
26 that since the project does not involve creating separate lots,

1 the automatic rezoning to a RS zone does not apply. The Hearings
2 Officer, therefore, concluded that Chapter 14 at any point in the
3 development process did not apply because it only applied to
4 mobile home parks in RS zones. The Hearings Officer is
5 incorrect.

6 KZO 14.10, the general requirements, state that were it
7 permitted a special use, mobile home parks must meet the use and
8 development standards in this chapter. The Hearings Officer's
9 proposed interpretation creates a gaping hole in the Keizer
10 Zoning Code. Under his analysis, one can avoid all of the
11 requirements of Chapter 14 simply by creating a mobile home park
12 in a UT zone, rather than a mobile home subdivision in a UT zone.
13 Obviously, that was not contemplated by the code.

14 Instead, the park is more properly understood as a
15 special use, allowed as a conditional use, pursuant to KZO 36.02.
16 Thus, the Hearings Officer's decision was in error and should be
17 reversed. For the reasons explained above, the conditions of
18 approval in Chapter 14 do apply and must be met.

19 It should be noted, that the Hearings Officer's
20 interpretation is apparently at odds with the staff's
21 interpretation. The staff's decision contains an explicit
22 discussion of the application of Chapter 14. Undoubtedly, this
23 indicates that Chapter 14 must be complied with at the time land
24 use approval is given.

25 3. Unused Portions of the Property cannot be adequately
26 redeveloped. Section 36.03 of the Keizer Zoning Code

1 requires a finding that the development will be located in such
2 a manner that any significant unused portion of the property has
3 adequate development options. The Staff finding does not address
4 this requirement. Instead, it states that the entire property
5 will be developed with a manufactured home park.

6 However, Staff's conclusion is incorrect. The current
7 development plan contains 13 lots. Lot 6 consists of a 9,987
8 square foot lot. It contains an existing house. See Exhibit C.
9 The Appellants were informed by the developer that the existing
10 house will remain on the property. Surrounding this existing
11 house with a mobile home park and restricting its access to
12 Wheatland Road only, substantially diminishes its development
13 options. The City's Findings of Fact and the development
14 proposal should adequately address the future development of Lot
15 6 and the house thereon.

16 The proposed use also materially alters the character
17 of the surrounding area in a manner substantially limiting and
18 impairing the use of the surrounding properties for primary uses
19 listed in the applicable zone. Section 8.3 of the Keizer Zoning
20 Code requires all approved conditional use proposals to
21 demonstrate that the new use will not materially alter the
22 character of the surrounding area in a manner substantially
23 limiting or impairing the use of surrounding properties for the
24 primary uses listed in the applicable zone.

25 In this case, there is no doubt that the current nature
26 of the surrounding property will be dramatically altered.

1 Timothy Lane historically has been a quiet, rural, and private
2 roadway servicing large acreage homesites. See Exhibit D,
3 photographs of Timothy Lane. Allowing the proposed conditional
4 use will dramatically alters the neighborhood's character. The
5 inclusion of manufactured homes as opposed to site-built homes
6 will dramatically decrease the desirability of the neighborhood
7 for future development as a residential subdivision. This is
8 particularly true, given the fact that the City's decision in
9 this case mandates that Timothy Lane will ultimately be open to
10 access by the manufactured home park. As a result, additional
11 conditions should be placed on the manufactured home park to
12 limit its impact on the surrounding neighborhood. Such
13 conditions may include more specific and strenuous requirements
14 regarding walls and hedges than currently listed in KZO 20.13.¹

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16 The Hearings Officer rejected this argument. The
17 Hearings Officer unilaterally narrowed the Appellant's argument
18 to attack the fact that additional conditions needed to be placed
19 on the manufactured home park to limit the impact on the
20 surrounding neighborhood. Appellants respectfully submit that is
21 the same argument.

22 _____
23 ¹ It should be noted that the original decision appears to
24 contain a typographical error. The actual condition imposed on the
25 properties at the perimeter of the park be screened consistent with
26 the requirements of Section 20.01 of the Keizer Zoning Ordinance.
27 However, that section contains no screening requirements. Instead,
28 Staff presumably was referring to Section 20.13 relating to site-
29 obscuring fences, walls and hedges. This citation is noted on page
30 9 of the decision.

1 The code does not examine whether or not a use will
2 materially alter the character of a surrounding area in a vacuum.
3 Rather, it requires the applicant to demonstrate that the
4 conditions placed on the use will prevent the property from
5 materially altering the neighborhood's character.

6 The Hearings Officer points out that the approval, as
7 stated, does not adequately address the issue of whether or not
8 the manufactured home park materially alters the neighborhood.
9 Accordingly, the Appellant hereby raises that argument for appeal
10 in this de novo proceeding.

11 However, the Staff's inclusion of additional conditions
12 implies that the manufactured home park materially alters the
13 surrounding neighborhood. This underlying assumption is both
14 logical and reasonable given the dramatic difference between the
15 proposed use of the property and the existing land uses. Thus,
16 the zoning administrator's decision should have been rejected.

17 **4. Adequate Public and Utility Facilities and Services**
18 **Must be made available prior to establishment of use.**

19 The sanitary sewer through the property must have
20 sufficient capacity to serve adjacent properties. However, this
21 inquiry has never been made. Yet, the permits have already been
22 issued by the City of Salem. Construction of the sewer lines has
23 already begun and is being installed. It is simply
24 unconscionable for City Staff to allow such work to be completed
25 prior to basic land use approval.

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2 already begun and is being installed. It is simply
3 unconscionable for City Staff to allow such work to be completed
4 prior to basic land use approval.

5 The Hearings Officer rejected the Appellant's arguments
6 in this point solely on the basis that Chapter 8 of the zoning
7 code did not require an analysis of the effect of the development
8 on adjacent properties. The Hearings Officer apparently
9 misunderstood the Appellant's argument.

10 Section 8.40 of the Keizer Zoning Code provides, in
11 part, that the condition of approval must be included dealing
12 with the extension of public sewer water and storm drainage on
13 lands where such improvements are planned to facilitate
14 urbanization of adjacent lands. This requirement makes it
15 implicit that there be a determination that the existing sewer
16 have the capacity to serve the adjacent properties. This
17 conclusion is logical given the fact that the UT zone is a
18 holding zone designed to ensure the efficient development of
19 public services. In this case, the sewer for the property has

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1 already been approved. The Appellants are simply insisting that
2 the interest of adjacent property owners be taken into account in
3 evaluating the adequacy of the system.

4 DATED this 10th day of October, 1997.

5 WEBB & MARTINIS



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9
10 SUBSCRIBED AND SWORN TO before me this 10th day of
11 October, 1997.

12 *Patricia A. Vetter* 2-23-00
Notary Public for Oregon

13 [ALLEMAN\APPEAL]
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are defined in the Glossary. The acreage and proportionate extent of the mapping units are shown in table 7. The location of the soils in the Marion County Area is shown on the detailed soil map at the back of this survey.

Abiqua Series

The Abiqua series consists of well-drained soils that have formed in alluvium. These soils have slopes of 0 to 5 percent. They occur on low foothills, along small streams and in drainage ways, at elevations of 250 to 1,000 feet. The average annual precipitation is 40 to 60 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly Douglas-fir, native grasses, and shrubs. Abiqua soils are associated with McAlpin and Waldo soils.

In a typical profile, the surface layer is very dark brown silty clay loam about 6 inches thick. The subsurface layer is also very dark brown silty clay loam and is about 15 inches thick. The upper part of the subsoil is dark reddish-brown silty clay that extends to a depth of about 54 inches. The lower part of the subsoil is dark-brown silty clay loam that extends to a depth of 72 inches or more.

The Abiqua soils are used mainly for small grains, grass grown for seed, orchards, and pastures. When irrigated, they are used for other crops.

Abiqua silty clay loam, 0 to 3 percent slopes (AbA).—This soil is along streams and in drainage ways of the Salem and Waldo Hills. The areas are small.

Representative profile 35 feet east and 60 feet south of road intersection (in the corner of SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2, T. 9 S., R. 1 W.):

Ap—0 to 6 inches, very dark brown (10YR 2/2) silty clay loam, dark brown (7.5YR 3/2) when dry; moderate, very fine, granular structure; friable, hard, slightly plastic and slightly sticky; many roots; many interstitial pores; medium acid (pH 5.8); abrupt, smooth boundary. (5 to 12 inches thick.)

A3—6 to 21 inches, very dark brown (10YR 2/2) silty clay loam, dark brown (7.5YR 3/2) when dry; moderate, fine and very fine, subangular blocky structure; firm, hard, plastic and sticky; many roots; many, fine, tubular pores; thin, patchy, darker colored coatings on ped surfaces; medium acid (pH 5.6); clear, smooth boundary. (13 to 17 inches thick.)

B21—21 to 36 inches, dark reddish-brown (5YR 2/2) silty clay, dark reddish brown (5YR 3/4) when dry; weak, prismatic structure breaking to moderate, medium, subangular blocky structure; firm, very hard, very plastic and very sticky; common roots; many, fine and very fine, tubular pores; thin, continuous, slightly darker colored coatings on ped surfaces; strongly acid (pH 5.4); diffuse, smooth boundary. (10 to 20 inches thick.)

B22—36 to 54 inches, dark reddish-brown (5YR 3/2) silty clay, reddish brown (5YR 4/4) when dry; very weak, prismatic structure breaking to moderate, medium, subangular blocky structure; firm, very hard, very plastic and very sticky; few roots; many, fine and very fine, tubular pores; thin, continuous, dark reddish-brown (5YR 3/4) coatings on ped surfaces when dry; common, fine and very fine fragments of weathered rock; strongly acid (pH 5.3); diffuse, smooth boundary. (13 to 23 inches thick.)

B3—54 to 72 inches, dark-brown (7.5YR 3/2) silty clay loam, reddish brown (5YR 4/3) when dry; moderate, medium, subangular blocky structure; firm, hard, plastic and sticky; very few roots; many, fine and very fine, tubular pores; many fine and very fine fragments of weathered rock; strongly acid (pH 5.3).

Color of the A horizon is dark brown or very dark brown, an texture of that horizon ranges from silt loam to silty clay loam. Color of the B horizon ranges from dark brown to dark reddish brown. Texture of the B horizon ranges from silty clay to clay, except that the B3 horizon is silty clay loam in many places. In some areas a few angular pebbles are scattered throughout the profile.

Included with this soil in mapping were small areas that contain a layer of gravel below a depth of 40 inches. Also included were small areas of McAlpin and Waldo soils.

The available water capacity is 10 to 11 inches, permeability is moderately slow, and fertility is moderate. Run off is slow, and the hazard of erosion is only slight. Where additions of organic matter are regularly supplied, water ability of this soil is good. Depth to which roots can penetrate is not restricted.

This soil is used mainly for small grains, grass grown for seed, orchards, and pasture, but small areas are still in Douglas-fir. When this soil is irrigated, it is used for most of the crops commonly grown in the survey area. It is well suited to most crops, but it is not well suited to potatoes and carrots. (Capability unit I-1; not placed in a woodland suitability group)

Abiqua silty clay loam, 3 to 5 percent slopes (AbB).—This soil has a profile similar to the one described for Abiqua silty clay loam, 0 to 3 percent slopes, except that material washed from higher slopes has been deposited on the surface in a few places. Runoff is medium, and the hazard of erosion is slight.

This soil is used for about the same crops as Abiqua silty clay loam, 0 to 3 percent slopes. (Capability unit IIe-2; not placed in a woodland suitability group)

Alluvial Land

Alluvial land (Ad) occurs mostly along the Santiam, North Santiam, and Willamette Rivers, on or near the bed of the main stream, in overflow channels, and on islands or bars. It consists mostly of loose sand, gravel, and cobbles, but it includes some small areas of silt loam. This material is frequently shifted by floodwaters, for this land type is subject to overflow in winter and spring.

In places this land type supports a good stand of cottonwoods, but use of these trees for timber is restricted by the very severe hazard of erosion if the trees are cut. Other areas have a cover of Douglas-fir. Still other small areas are bare, except for scattered willows. (Capability unit VIIw-1; not placed in a woodland suitability group)

Amity Series

The Amity series consists of somewhat poorly drained soils that have formed in mixed alluvial silts. These soils have slopes of 0 to 2 percent. They occur on broad valley terraces at elevations of 150 to 350 feet. The average annual precipitation is between 40 and 45 inches. The average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly grasses, shrubs, hardwoods, and scattered Douglas-firs. Amity soils are associated with Dayton and Concord soils.

In a typical profile, the surface layer is very dark grayish-brown silt loam that is mottled in the lower part and is about 17 inches thick. The subsurface layer is mottled dark-gray silt loam about 7 inches thick. The subsoil is

EXHIBIT

A p1

mottled grayish-brown silty clay loam about 13 inches thick. A substratum of mottled olive-brown silt loam underlies the subsoil.

The Amity soils are used mainly for cereal grains, grass grown for seed, and pasture. When irrigated, areas that are drained can be used for all the crops commonly grown in the survey area.

Amity silt loam (Am).—This is the only soil of the Amity series mapped in the survey area. It occupies slightly convex or nearly level areas on terraces consisting of Willamette silts.

Representative profile 30 feet east of a paved road (SW $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 10, T. 5 S., R. 2 W.):

A_p—0 to 7 inches, very dark grayish-brown (10YR 3/2) silt loam, grayish brown (10YR 5/2) when dry; moderate, fine, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; abundant fine roots; many interstitial pores; medium acid (pH 6.0); clear, smooth boundary. (5 to 8 inches thick.)

A₁—7 to 17 inches, very dark grayish-brown (10YR 3/2) silt loam, grayish brown (10YR 5/2) when dry; common, fine, faint, reddish-brown mottles; moderate, medium, subangular blocky structure; friable, hard, slightly sticky and slightly plastic; abundant fine roots; common interstitial pores and few, fine and medium, tubular pores; common, fine and medium, reddish-brown concretions; medium acid (pH 6.0); clear, smooth boundary. (5 to 10 inches thick.)

A₂—17 to 24 inches, dark-gray (10YR 4/1) silt loam, gray (10YR 6/1) when dry; common, fine, faint, reddish-brown mottles; weak, medium, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; common fine roots; common interstitial pores and common, fine and medium, tubular pores; common, fine and medium, brown concretions; medium acid (pH 6.0); clear, wavy boundary. (4 to 8 inches thick.)

B₂₁—24 to 29 inches, grayish-brown (2.5Y 5/2) silty clay loam, light brownish gray (10YR 6/2) when dry; common, fine, distinct, reddish-brown mottles; weak, medium, prismatic structure breaking to moderate, coarse, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; common, medium, tubular pores; thin, patchy clay films in pores, on vertical surfaces of peds, and on some horizontal surfaces of peds; common, fine, red and black concretions; slightly acid (pH 6.2); gradual, wavy boundary. (4 to 9 inches thick.)

B₂₂—29 to 37 inches, grayish-brown (2.5Y 5/2) silty clay loam, light brownish gray (2.5Y 6/2) when dry; common, fine, distinct, light yellowish-brown and black mottles; weak, medium, prismatic structure breaking to moderate, coarse, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; few, medium and fine, tubular pores; thin, patchy clay films in pores and on vertical and horizontal surfaces of peds; many, fine, reddish-brown and few, fine, black concretions; slightly acid (pH 6.2); diffuse boundary. (5 to 14 inches thick.)

C—37 to 60 inches, olive-brown (2.5Y 4/4) silt loam, light yellowish brown (2.5Y 6/4) when dry; common, fine, faint, brown mottles; massive; friable, hard, slightly sticky and slightly plastic; few fine roots; few fine and medium pores; thick clay films in pores; slightly acid (pH 6.4).

When the soil is moist, color of the A horizon ranges from dark brown to very dark grayish brown. Texture of the B horizon is heavy silt loam in some areas, and the structural grade of that horizon is moderate in places. In some places the lower part of the B horizon is weakly to moderately brittle. Bedrock is at a depth of more than 60 inches.

Included with this soil in mapping were small areas of soils that are in drainageways and depressions and that

have slopes of 2 to 5 percent. Also included were small areas of Woodburn and Concord soils.

The available water capacity ranges from 9 to 12 inches. Permeability is moderately slow, and fertility is moderate. Runoff is slow, and erosion is not a hazard or is only a slight hazard. The depth to which roots can penetrate is moderately restricted by wetness, partly caused by a high water table that is near the surface during winter and spring. Workability is good, but this soil compacts easily if it is cultivated when wet.

Undrained areas of this soil are used for small grains, pasture, and grasses grown for seed, but drainage is needed for berries, vegetables, and specialty crops. If this soil is drained and irrigated, it can be used for all the crops commonly grown in the survey area. Even after drainage is installed, however, there are slight restrictions to use of this soil for deep-rooted crops that cannot tolerate excessive moisture. Nevertheless, response to drainage and fertilizer is generally good. (Capability unit IIw-2; not placed in a woodland suitability group)

Bashaw Series

The Bashaw series consists of poorly drained and very poorly drained soils that have formed in alluvium. These soils are in backwater areas of the flood plains and in drainage channels of silty alluvial terraces. They have slopes of 0 to 1 percent. Elevations range from 100 to 400 feet. The average annual precipitation is between 40 and 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 200 to 210 days. In areas that are not cultivated, the vegetation is mainly annual and perennial grasses, wild blackberries, sedges, rushes, willows, and a few ash and oak trees. Bashaw soils are associated with Wapato soils.

In a typical profile, the surface layer is about 31 inches thick and consists of mottled very dark gray clay in the uppermost 3 inches and of mottled black clay below. The upper part of the substratum, just beneath the surface layer, is very dark gray clay that extends to a depth of 48 inches. The lower part of the substratum is dark grayish-brown clay or sandy clay that extends to a depth of 60 inches or more. The substratum is mottled throughout.

The Bashaw soils are used mainly for pasture.

Bashaw clay (Bo).—This is the only soil of the Bashaw series mapped in the survey area. It occupies concave backwater areas adjacent to silty alluvial terraces, and it is also in drainage channels on the terraces. The areas are small.

Representative profile (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 9, T. 6 S., R. 1 W.):

A₁₁—0 to 3 inches, very dark gray (10YR 3/1) clay, dark gray (10YR 4/1) when dry; many, fine, distinct, yellowish-red (5YR 4/6) mottles; moderate, medium and fine, subangular blocky structure; firm, very hard, very sticky and very plastic; common roots; many very fine pores; medium acid (pH 5.8); abrupt, smooth boundary. (0 to 4 inches thick.)

A_{12g}—3 to 14 inches, black (N 2/0) clay, very dark gray (N 3/0) when dry; few, fine, distinct, yellowish-red (5YR 5/6) mottles; massive when wet, coarse, angular prismatic structure breaking to weak, coarse, angular blocky structure when moist or dry; very firm, very hard, very sticky and very plastic; common very fine roots; many very fine pores; common, fine, red

EXHIBIT

A p2

fir, cottonwood, bigleaf maple, Oregon white oak, ash, and an understory of vine maple, wild blackberry, vines, shrubs, and grasses. Cloquato soils are associated with Chehalis and Newberg soils.

In a typical profile, the surface layer is dark-brown silt loam about 9 inches thick. The subsoil, which is also dark-brown silt loam, is about 56 inches thick. The substratum is dark-brown fine sandy loam that extends to a depth of 83 inches or more.

Cloquato soils that are not irrigated are used mainly for small grains, orchards, pasture, hay, and grass grown for seed. When irrigated, these soils are used for all the crops commonly grown in the survey area.

Cloquato silt loam (Cm).—This is the only Cloquato soil mapped in the survey area. It occupies large areas along the Willamette, Pudding, and Santiam Rivers and along Butte Creek.

Representative profile (E $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 20, T. 6 S., R. 1 W.):

- A_p—0 to 9 inches, dark-brown (10YR 3/3) silt loam, brown (10YR 5/3) when dry; weak, medium and coarse, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; many roots; many, fine and very fine, tubular pores; medium acid (pH 6.0); clear, smooth boundary. (6 to 10 inches thick.)
- B₂—0 to 41 inches, dark-brown (10YR 3/3) silt loam, brown (10YR 5/3) when dry; weak, medium, subangular blocky structure; friable, slightly hard, slightly sticky and slightly plastic; common roots; many, very fine, tubular pores; slightly acid (pH 6.2); gradual, smooth boundary. (15 to 35 inches thick.)
- B₃—41 to 55 inches, dark-brown (10YR 4/3) silt loam, pale brown (10YR 6/3) when dry; very weak, coarse, subangular blocky structure; very friable, slightly hard, slightly sticky and nonplastic; few roots; many, fine, tubular pores; slightly acid (pH 6.4); clear, smooth boundary. (0 to 25 inches thick.)
- C—65 to 83 inches, dark-brown (10YR 4/3) fine sandy loam, pale brown (10YR 6/3) when dry; massive; very friable, soft, nonsticky and nonplastic; no roots; many fine pores; slightly acid (pH 6.4).

Texture of the B₂ horizon is dominantly silt loam, but this horizon contains thin layers of sandy material in places. This sandy material is generally below a depth of 30 inches.

Included with this soil in mapping were small areas of Chehalis, Newberg, and Camas soils, and small areas in which the substratum is gravelly. Also included were areas of steeper soils that have short slopes and that are adjacent to sloughs and old stream channels. The included areas make up from 10 to 15 percent of the acreage in this mapping unit.

The available water capacity is 12 to 14 inches. Permeability is moderate, and fertility is high. Runoff is slow, but the hazard of erosion is slight to moderate as the result of periodic overflow. Overflow generally occurs about once in 3 or 4 years, but it occurs two or more times in some years. Roots can penetrate to a depth of 5 feet or more. Workability is very good.

This soil is used mainly for small grains, orchards, pasture, hay, and grass grown for seed. When irrigated, it is used for all the crops commonly grown in the survey area.

This soil is well suited to all the commonly grown crops. Floodwaters leave debris, and they can erode deep holes in orchards and in areas occupied by other permanent crops. (Capability unit IIw-3; not placed in a woodland suitability group)

Concord Series

The Concord series consists of poorly drained soils that have formed in an alluvium of mixed mineralogy. These soils are on broad valley terraces, in slightly concave depressions and in drainageways. They have slopes of 0 to 2 percent. Elevations range from 125 to 350 feet. The average annual precipitation is 40 to 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 200 to 210 days. In areas that are not cultivated, the vegetation is mainly rushes, sedges, wild blackberry, hazel, annual grasses, and ash trees. Concord soils are associated with Amity and Dayton soils.

In a typical profile, the surface layer is very dark grayish-brown silt loam about 6 inches thick. The subsurface layer is mottled dark-gray silt loam about 9 inches thick. Just below the subsurface layer is a layer of mottled gray and dark-gray silty clay about 4 inches thick. The subsoil is about 10 inches thick. It consists of mottled grayish-brown silty clay in the upper part and of mottled dark grayish-brown silty clay in the lower part. The substratum of mottled dark grayish-brown silt loam extends to a depth of 60 inches or more.

Concord soils that are neither drained nor irrigated are used mainly for cereal grains, pasture, hay, and grass grown for seed. When irrigated, the drained areas are used mainly for berries and vegetables.

Concord silt loam (Col).—This is the only soil of the Concord series mapped in the survey area. It occupies narrow strips along and at the heads of drainageways, and it is also in depressions on terraces. In most places the slope is less than 2 percent.

Representative profile at the eastern edge of the Baldock Freeway, 200 feet south of the overpass (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 33, T. 5 S., R. 2 W.):

- A_p—0 to 6 inches, very dark grayish-brown (10YR 3/2) silt loam, light brownish gray (10YR 6/2) when dry; moderate, fine, subangular blocky structure breaking to moderate, fine, granular structure; friable, hard, sticky and plastic; abundant fine roots; many interstitial pores and wormholes; common, fine, brown concretions; medium acid (pH 6.0); abrupt, smooth boundary. (5 to 7 inches thick.)
- A₂₁—0 to 9 inches, dark-gray (10YR 4/1) silt loam, gray (10YR 6/1) when dry; common, fine, distinct, dark-brown (7.5YR 4/2) mottles; moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; abundant fine roots; many, very fine and few, fine, tubular pores; common, fine, very dark brown concretions; medium acid (pH 5.8); clear, smooth boundary. (1 to 6 inches thick.)
- A₂₂—0 to 15 inches, dark-gray (10YR 4/1) heavy silt loam, light gray (10YR 7/1) when dry; common, fine, distinct, dark-brown (7.5YR 4/4) mottles; weak, medium, prismatic structure breaking to moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; many, very fine and common, fine, tubular pores; common, fine, very dark brown concretions; medium acid (pH 6.0); clear, smooth boundary. (4 to 9 inches thick.)
- A&B—15 to 10 inches, gray (10YR 5, 1) and dark-gray (10YR 4/1) light silty clay, light gray (10YR 7/1 and 10YR 6/1) when dry; darker colors in ped interiors; common, fine, distinct, dark-brown (7.5YR 4/4) mottles; weak, medium, prismatic structure breaking to moderate, medium, subangular blocky structure; friable, hard, sticky and plastic; few fine roots; many, very fine, tubular pores; many, fine, very dark brown concretions; slightly acid (pH 6.2); clear, smooth boundary. (2 to 7 inches thick.)

EXHIBIT

A p 3

IIB2t—19 to 24 inches, grayish-brown (2.5Y 5/2) heavy silty clay, light brownish gray (2.5Y 6/2) when dry; common, fine, distinct, yellowish-brown (10YR 5/6) mottles; strong, fine, prismatic structure breaking to strong, medium and fine, angular blocky structure; firm, extremely hard, very sticky and very plastic; very few roots; many, very fine and few, fine and medium, tubular pores; few thin and moderately thick clay films on ped surfaces and in pores; many, fine, very dark brown and few black concretions; slightly acid (pH 6.4); clear, wavy boundary. (4 to 12 inches thick.)

IIB3t—24 to 29 inches, dark grayish-brown (2.5Y 4/2) silty clay, light brownish gray (2.5Y 6/2) when dry; many, fine, distinct, dark yellowish-brown (10YR 4/4) mottles; massive; firm, very hard, sticky and plastic; few fine roots; common fine pores; common moderately thick clay films along lines of weakness, and few clay films in pores; few, fine, dark-brown and black concretions; neutral (pH 6.6); gradual, smooth boundary. (3 to 9 inches thick.)

IIIC—29 to 60 inches, dark grayish-brown (2.5Y 4/2) silt loam, light gray (2.5Y 7/2) when dry; many, medium, distinct, dark yellowish-brown (10YR 4/4) mottles; friable, hard, sticky and plastic; massive; common, very fine, tubular pores; few black stains; neutral (pH 6.6).

The Ap horizon is dominantly silt loam, but the texture ranges to silty clay loam. In places texture of the IIB2t horizon is clay. Soil reaction ranges from medium acid in the A horizon to slightly acid and neutral in the B and C horizons.

Included with this soil in mapping were small areas of Dayton soils. These included soils make up from 5 to 10 percent of the acreage in the mapping unit.

The available water capacity ranges from 9 to 12 inches. Permeability is slow, and fertility is low. Runoff is slow, and ponding occurs in some areas, especially in depressions. The hazard of erosion is slight. Depth to which roots can penetrate is restricted by the silty clay in the subsoil. It is also restricted by wetness, caused by the poor drainage and by the seasonal high water table. This soil is easily worked, but it tends to compact if it is cultivated when too moist.

Areas of this soil that are neither drained nor irrigated are used for spring small grains, pasture, hay, and grass grown for seed. When irrigated, drained areas are used for berries and vegetables. This soil is well suited to vegetables, small grains, pasture, and hay. (Capability unit IIIw-2; not placed in a woodland suitability group)

Courtney Series

The Courtney series consists of poorly drained soils that have formed in alluvial deposits of different ages. These soils are on gravelly alluvial terraces, where they occur in shallow depressions and in drainageways. Slopes range from 0 to 2 percent, and elevations range from 175 to 650 feet. The average annual precipitation is 40 to 45 inches, the average annual air temperature is 52° to 54° F., and the length of the frost-free season is 190 to 210 days. In areas that are not cultivated, the vegetation is mainly ash, vine maple, hazel, wild rose, blackberry, rushes, sedges, and annual and perennial grasses. Courtney soils are associated with Salem and Clackamas soils.

In a typical profile, the surface layer is about 12 inches thick, and it consists of mottled, black gravelly silty clay loam in the upper part and of mottled, very dark gray gravelly silty clay loam in the lower part. The subsoil is mottled dark-gray gravelly clay about 12 inches thick.

The substratum consists of a layer of dark grayish-brown very gravelly clay loam, about 25 inches thick, that grade: to mottled, dark-brown very gravelly sand, which extends to a depth of 57 inches or more.

Undrained areas of Courtney soils are used mainly for pasture, hay, and grass grown for seed. The drained areas are used for these crops and also for small grains.

Courtney gravelly silty clay loam (Cu).—This soil is on terraces between Stayton and Salem. It is in depressions and in narrow drainageways. This is the only soil of the Courtney series mapped in the survey area.

Representative profile (NW¼SE¼ sec. 6, T. 8 S., R. 2 W.):

A11—0 to 4 inches, black (10YR 2/1) gravelly silty clay loam, dark gray (10YR 4/1) when dry; few, fine, distinct, dark-brown (7.5YR 4/4) mottles; strong, medium and fine, subangular blocky structure; friable, hard, sticky and plastic; many roots; many, very fine and fine, interstitial pores; iron stains in root channels; 20 to 25 percent coarse pebbles; strongly acid (pH 5.4); clear, smooth boundary. (2 to 8 inches thick.)

A12—4 to 12 inches, very dark gray (10YR 3/0) gravelly silty clay loam, very dark gray (10YR 3/1) when crushed and dark gray (10YR 4/1) when dry; common, medium, distinct, strong-brown (7.5YR 4/4) mottles; strong, medium and fine, subangular blocky structure; friable, hard, sticky and plastic; many roots; many, very fine, tubular pores; iron stains in root channels; 30 percent pebbles; medium acid (pH 5.8); abrupt, smooth boundary. (7 to 10 inches thick.)

IIB2t—12 to 24 inches, dark gray (10YR 4/1) gravelly clay, gray (10YR 5/1) when dry; few, fine, distinct mottles; weak, coarse, prismatic structure; firm, very hard, very sticky and very plastic; few roots; 30 percent pebbles and a few cobblestones; slightly acid (pH 6.4); clear, smooth boundary. (10 to 20 inches thick.)

IIIC1—24 to 49 inches, dark grayish-brown (10YR 4/2) very gravelly clay loam, gray (10YR 5/1) when dry; massive; firm, hard, sticky and plastic; iron stains; 85 percent pebbles; few cobblestones; slightly acid (pH 6.2); abrupt, smooth boundary. (24 to 48 inches thick.)

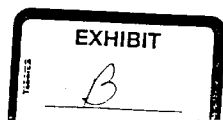
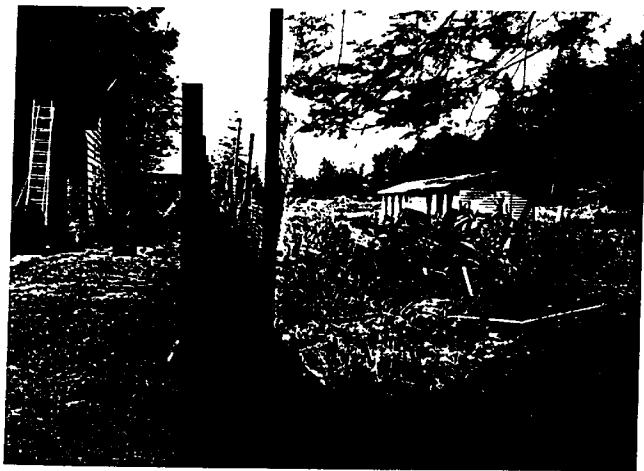
IVC2—49 to 57 inches, mottled dark-brown (7.5YR 3/2) very gravelly sand, strong brown (7.5YR 5/6) when moist; massive; friable, soft, nonsticky and nonplastic; many, medium, interstitial pores; neutral (pH 6.7).

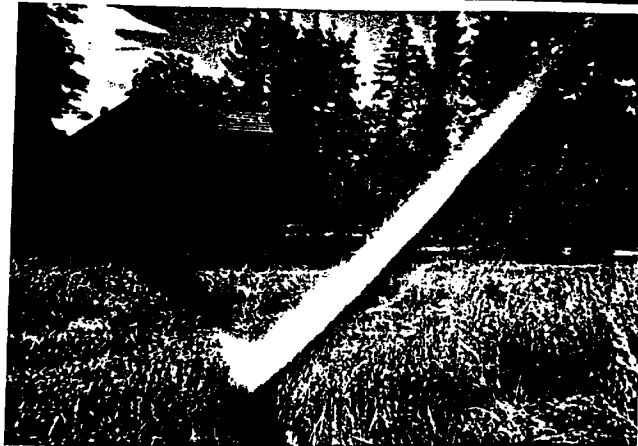
Color of the A horizon ranges from black or very dark brown to very dark gray, and texture of that horizon ranges from silty clay loam or clay loam to silty clay. In some places the B horizon is very dark gray, and it is gravelly silty clay in some areas. The amount of gravel in the B horizon ranges from 20 to 30 percent. Depth to the very gravelly C horizon ranges from 24 to 36 inches. The C horizon is stratified. Both the thickness of the different layers in the C horizon and the amount of gravel and cobblestones in that horizon are highly variable.

Included with this soil in mapping were small areas that have a surface layer of very dark gray silt loam.

Above the clay subsoil, the available water capacity is less than 3 inches. Permeability is very slow, and fertility is moderate. Runoff is ponded or very slow, and the hazard of erosion is slight. The depth to which roots can penetrate is restricted by the claypan in the subsoil, but it ranges from 12 to 16 inches. Workability is fair.

Undrained areas of this soil are used for pasture, hay, and grass grown for seed. The drained areas are used for these crops and also for spring small grains and winter wheat. When irrigated, the drained areas are used for sweet corn, berries, and beans. This soil is used for these irrigated crops because it occupies only small areas and extends through and is managed like the adjacent Sifton, Salem, and Clackamas soils. Courtney soils are poorly





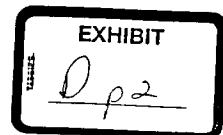
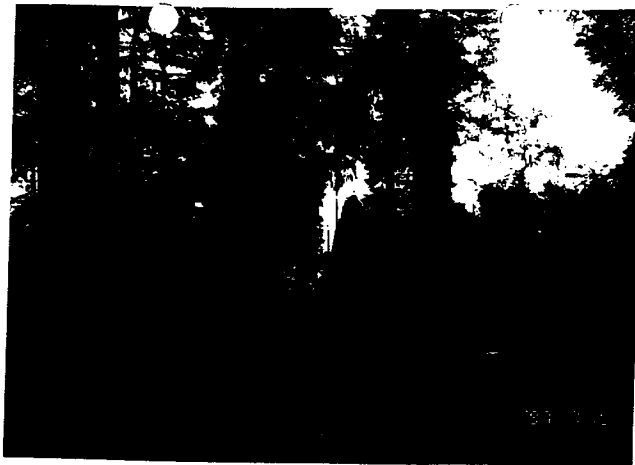
EXHIBIT

C



EXHIBIT

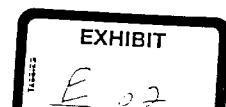
Dpl





EXHIBIT

Epl





KEY TITLE & ESCROW
 Attn: Rhonda
 222 High St. SE
 Salem, Oregon 97301

222 High St S.E.
 P.O. Box 71
 Salem, Oregon 97308-0071
 Phone: (503) 585-1881
 Fax: (503) 370-7915

June 16, 1997

Report No: 18-59527

Your No: 2-50742

Seller/Lender: WOODS ROBERT

Buyer/Borrower: BROWN/BOLLIGER

SUPPLEMENTAL REPORT FOR:

Owner's Policy \$400000.00

PREMIUMS:

Owner's Premium 2010 \$1150.00

Government Service Fee \$ 15.00

We are prepared to issue an ALTA policy (10/17/92) in the form and amount shown above insuring the title to the following described land:

PARCEL I:

Beginning at the Northwest corner of E. M. and F. R. Rawlins property located in Section 23, Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, and described in Volume 640, Page 152, Deed Records for Marion County, Oregon, said corner being also on the East line of the Oscar Bair property described in Probate Court Journal Volume 22, Page 116, for said County and state; thence South 00° 02' West 370.00 feet along the East line of said Oscar Bair property to the Southeast corner thereof; thence North 89° 45' West along the South line of said Oscar Bair property 871.20 feet to the Southwest corner thereof; thence North 00° 02' East along the West line of Oscar Bair property 370.00 feet; thence South 89° 45' East 871.20 feet to the point of beginning.

PARCEL II:

Beginning at a point which is 1379.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast one-quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence North 0° 02' West 85.0 feet along the West line of said tract; thence South 89° 45' East 291.72 feet to the East line of said tract; thence South 0° 02' East 85.0 feet to the place of beginning.

ALBANY

ASTORIA

BANDON

VENU

BROOKINGS

CENTRAL POINT

COOS BAY

CORVALLIS

DALLAS

EUGENE

GRANTS PASS

INDEPENDENCE

KLUZIK

LEBANON

LINCOLN CITY

MCMINNVILLE

MIDFORD

NEWBERG

NEWPORT

REDMOND

REDFORT

ROSELAND

SALEM

SCAPPoose

SEASIDE

SILVERTON

ST. HELENS

THE DALY

WILSON

WOODBURN

EXHIBIT

PARCEL III:

Beginning at a point which is 1109.06 feet South 0° 02' West and 291.72 feet North 89° 45' West from the Northeast corner of the West one-half of the Southeast quarter of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 89° 45' West 291.72 feet to a point on the West line of a tract of land conveyed to B. C. Baughman by deed recorded in Volume 483, Page 399, Deed Records for Marion County, Oregon; thence South 0° 02' West along the West line of said Baughman tract a distance of 100.00 feet; thence South 89° 45' East a distance of 291.72 feet; thence North 0° 02' East a distance of 100.00 feet to the place of beginning.

Real Property Tax Account No.: 48605-000 48606-000 48615-000
 Situs Address as disclosed by Marion County Tax Roll: none disclosed

VESTED IN:

ROBERT A. WOODS AND CLARICE F. WOODS
 as tenants by the entirety

Dated as of May 12, 1997 at 8:00 a.m.

Subject to the Standard Exceptions, if any, the printed Exclusions and the Conditions and Stipulations of the policy as well as the following Special Exceptions:

1. City liens, if any, of the City of Keizer. (An inquiry has been directed to the City Clerk concerning the status of said liens and a report will follow if such liens are found.)

2. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Water District.

3. Regulations, including levies, liens, assessments, rights of way, and easements of Keizer Service District.

4. An easement created by instrument, including the terms and provisions thereof,

Recorded: April 11, 1962 in Book 557, Page 64,
 Deed Records, Marion County, Oregon
 For: Roadway purposes
 Affects: Easterly portion

5. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: July 19, 1977
 Recorded: July 20, 1977 in Reel 89, Page 322,
 Microfilm Records, Marion County, Oregon
 Amount: \$62,000.00 (includes additional property)
 Mortgagor: Robert A. Woods and Clarice F. Woods
 Mortgages: State of Oregon, represented and acting by the Director of
 Veterans' Affairs

6. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: May 2, 1979
Recorded: May 4, 1979 in Reel 166, Page 1189,
Microfilm Records, Marion County, Oregon
Re-Recorded: June 15, 1979 in Reel 172, Page 111,
Microfilm Records, Marion County, Oregon
Amount: \$16,000.00 (includes additional property)
Mortgagor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Mortgagee: State of Oregon, represented and acting by the Director of
Veterans' Affairs

7. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 11, 1989
Recorded: April 27, 1989 in Reel 686, Page 194,
Microfilm Records, Marion County, Oregon
Amount: \$25,000.00 (includes additional property)
Grantor: Robert A. Woods and Clarice F. Woods
Trustee: American Pacific Title and Escrow Co.
Beneficiary: First Interstate Bank of Oregon, N. A. a national banking
association

8. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
Recorded: April 30, 1997 in Reel 1390, Page 26,
Microfilm Records, Marion County, Oregon
Amount: \$225,000.00 Parcel 1
Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Trustee: Amerititle
Beneficiary: Western Bank, a division of Washington Mutual Bank

9. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: April 21, 1997
Recorded: April 30, 1997 in Reel 1390, Page 27,
Microfilm Records, Marion County, Oregon
Re-Recorded: May 14, 1997 in Reel 1393, Page 143,
Microfilm Records, Marion County, Oregon
Amount: \$75,000.00 Parcel 1
Grantor: Robert A. Woods and Clarice F. Woods, as tenants by the entirety
Trustee: Amerititle
Beneficiary: Western Bank, a division of Washington Mutual

10. Lien or liens of any long term care facility filed pursuant to O.R.S. 87.501 through 87.539 against any person who holds or held an interest in the subject property on or after September 9, 1995.

The foregoing exception may be removed upon the execution of a proper form of affidavit or payment of any existing or potential lien identified.

END OF EXCEPTIONS

EXHIBIT

F_{p3}

NOTE: Our examination of the premises herein described reveals an appurtenant easement which should be included in the description of any conveyance or encumbrance documents. No examination has been made as to the insurability of the easement which is set out here for informational purposes only. Should insurance of the easement be desired, an additional charge will be made. Said easement is described as follows:

Any conveyance or encumbrance: Together with the following non-exclusive easement for roadway purposes to be used in common by grantors and grantees and their heirs and assigns, over and across a strip of land 25 feet in width, being 12 1/2 feet on each side of the following described center line: Beginning on the legal subdivision line running East and West through the center of Section 23, in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point which is 270.94 feet North 89° 45' West from the Northeast corner of the West 1/2 of the Southeast 1/4 of said Section; thence South 0° 02' West 241.95 feet; thence along the arc of a 317.70 foot radius curve to the right (the chord of which bears South 7° 16' West 79.54 feet) a distance of 80.20 feet; thence along the arc of a 317.70 foot radius curve to the left (the chord of which bears South 7° 15' West 79.54 feet) a distance of 80.20 feet; thence South 0° 02' West 481.92 feet).

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$3,286.11
Account No.: 48605-000 Parcel I

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$518.12
Account No.: 48606-000 Parcel II

NOTE: Taxes for the fiscal year 1996-97, Paid in Full
Total Amount: \$637.68
Account No.: 48615-000 Parcel III

NOTE: We find no judgments or United States Internal Revenue liens against Derek Brown or Ralph Bolliger.

NOTE: MARION COUNTY RECORDING CHARGES ARE AS FOLLOWS:

1. \$ 5.00 per page, plus
2. \$10.00 per document for survey corner restoration fee
3. \$20.00 per conveyance document for Department of Revenue County Assessment and Taxation Fund
4. Additional fees will be assessed by the County Clerk if a document fails to meet the requirements for recording imposed by ORS Chapter 205.

KEY TITLE COMPANY

Marsha Stallings
Marsha Stallings, Title Officer

5 cc: Key Escrow South

EXHIBIT

EXHIBIT

F p4

EXHIBIT I of I Page

6561/22/1

1952-53

Handwritten signature: *John H. ...*

7
 2000

1. The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of Alaska:

2. The total land owned by the United States in the State of Alaska is 38,000,000 acres.

3. The land is divided into three categories: (a) National Forest Land, (b) National Monument Land, and (c) National Preserve Land.

4. The National Forest Land is 15,000,000 acres, the National Monument Land is 10,000,000 acres, and the National Preserve Land is 13,000,000 acres.

5. The land is also divided into three categories: (a) National Forest Land, (b) National Monument Land, and (c) National Preserve Land.

6. The National Forest Land is 15,000,000 acres, the National Monument Land is 10,000,000 acres, and the National Preserve Land is 13,000,000 acres.

7. The land is also divided into three categories: (a) National Forest Land, (b) National Monument Land, and (c) National Preserve Land.

8. The National Forest Land is 15,000,000 acres, the National Monument Land is 10,000,000 acres, and the National Preserve Land is 13,000,000 acres.

9. The land is also divided into three categories: (a) National Forest Land, (b) National Monument Land, and (c) National Preserve Land.

10. The National Forest Land is 15,000,000 acres, the National Monument Land is 10,000,000 acres, and the National Preserve Land is 13,000,000 acres.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING ON ACQUIRING THIS INSTRUMENT, THE PERSON ACQUIRING THE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO DETERMINE APPROVED USES AND TO DETERMINE ANY LIMITS OR FUTURE ACQUIRING EMINENT DOMAIN OR FOREST PRACTICES AS DEFINED IN ORS 30.97).

ON 09/01/2011 09:00:00 AM

See Attached Exhibit "A" as incorporated herein and made a part hereof.

00000000000000000000000000000000

44-38861-107 (over)

FINISHING ESTIMES, I.T.C., 25 ORANGE AVENUE, NEW YORK, N.Y. 10022

ΕΙΣ ΤΗΝ ΕΠΙΣΤΑΣΙΝ ΤΟΥ ΕΛΛΗΝΙΣΜΟΥ

'3098260 'SPOON 'A EXHIBIT PMS SPOON 'Y JERSON

INDIVIDUAL OR CORPORATION) -- DIVISIONS FROM

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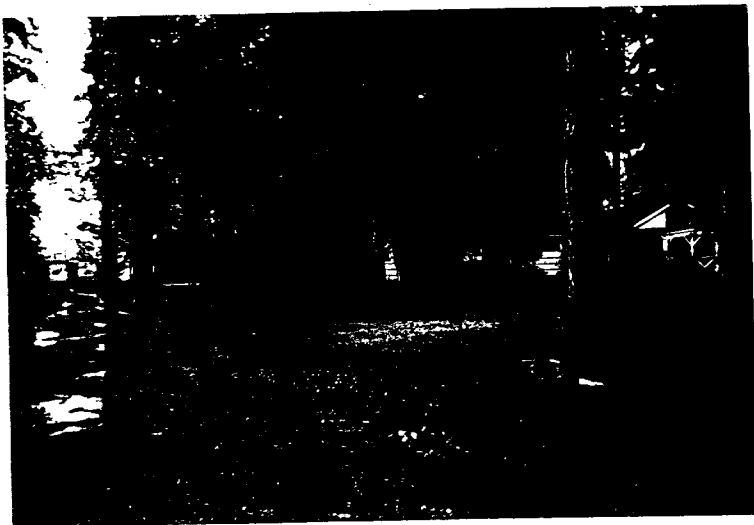
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CITY OF KEIZER
COMMUNITY DEVELOPMENT DEPARTMENT
930 Chemawa Road, N.E.
Post Office Box 21000
Keizer, Oregon 97307 (503) 390-3700

HEARINGS OFFICER DECISION

Appeal in Conditional Use Case No. 97-04

—————•••••—————

Appeal from the Zoning Administrator's approval of a Conditional Use permit to create an additional 13 spaces in a 90-space manufactured home park previously approved in Conditional Use/Lot Line Adjustment Case No. 97-01

Location: East of Wheatland Road, and west of Timothy Lane

Legal: Tax Lot Nos. 2000, 1200, 1100, and 1000^[1]

Site Size: 1.63 acres

Applicant: Derek Brown Associates

Property Owner: Robert and Clarice Woods

Comprehensive Plan: Low-Density Residential

Zoning: Urban Transition

¹ These tax lot numbers appear in the Notice of Decision. There seems to be some question whether the referenced tax lots represent more than the 1.63-acre subject property.

HEARINGS OFFICER DECISION:

The Hearing Officer **sustains** Appellants' argument that Applicant has failed to demonstrate — or has otherwise failed to ensure that the record contains evidence demonstrating — that adequate fire flow either exists or will exist, as required by KZO § 8.30(e). Except for that one argument, the Hearings Officer rejects all other arguments.

I. APPEAL SUMMARY

Applicant requested conditional use approval to create a 13-space manufactured home park adjacent to an existing 90-space manufactured home park previously approved in March, 1997, in Conditional Use/Lot Line Adjustment Case No. 97-01.

Section 5.00 of the KEIZER ZONING ORDINANCE ("KZO") empowers the City's Zoning Administrator to make the initial decision on applications for conditional use approval. The Zoning Administrator granted conditional use approval (the "Approval") in a July 31, 1997, decision that concurrently prescribed twelve conditions of approval.

Although the Approval recites that Applicant has requested an *expansion* of the existing conditional use permit granted in Case No. 97-01 (*id.* at 5), it appears from the maps in the record that the current request does not represent merely an enlargement or modification of an existing conditional use, but, instead, represents the creation of a *new* use on property not otherwise involved in the prior conditional use approval in Case No. 97-01.

Appellants Carl Alleman and the "Timothy Lane Residents" ("Appellants") timely requested a hearing — or what will be described in this decision as an "appeal" — pursuant to KZO § 5.08. In their letter of appeal, Appellants contend that the Approval

"fails to comply with applicable statutes, regulations and ordinances, including the Keizer Zoning Ordinance. In particular, the applicant has not demonstrated compliance with requirements for a manufactured home or a conditional use permit." (Appellants' August 7, 1997, letter.)

The Hearings Officer conducted a public hearing to consider the appeal on August 27, 1997. At Appellants' request, the Hearings Officer held the record open until 5:00 p.m. on September 10, 1997, to allow Appellants to submit further evidence concerning a lot line adjustment issue, and he further held the record open until 5:00 p.m. on September 17, 1997, for Applicant to respond to any evidence submitted by the Appellants. At that point, the record closed.

II. PROCEDURAL ISSUES

A. SUFFICIENCY OF APPEAL

The non-specific nature of Appellants' August 7 appeal letter (quoted above) raises the question whether Appellants have adequately preserved any argument on appeal. After Appellants supplemented the appeal with a memorandum labeled "Objections To Conditional Use" filed on August 27, 1997 (the "Objections"), the Hearings Officer raised the question during the August 27 public hearing whether the lack of specificity in the August 7 appeal letter would preclude consideration of more specific arguments such as those contained in the supplemental memorandum.

Staff responded that Appellants' August 7 appeal letter adequately preserved Appellants' right to raise *any* argument in support of the appeal, regardless of the fact that Appellants did not advance any particular arguments until they filed the August 27 supplemental memorandum. Applicant, on the other hand, complained — with some justification — that Appellants' failure to identify specific grounds for appeal in the August 7 appeal letter deprived it of an adequate opportunity to prepare for the August 27 public hearing.

KZO § 5.08 provides that anyone with the requisite standing — and it appears from comments at the August 27 hearing that at least some of the Appellants qualify — "may request a hearing before the Hearings Officer" with respect to any Zoning Administrator's decision. But it does not further prescribe any particular formalities or procedures in connection with a request for hearing. Based upon Staff's comments at the August 27 hearing, it appears that the City has interpreted KZO § 5.08 as enabling someone to file a request for hearing without including therein a specification of particular issues. That interpretation does not plainly conflict with any portion of the KEIZER ZONING ORDINANCE, although it certainly poses problems for all other participants.

Applicant offered no particular challenge to the manner in which the City has historically interpreted KZO § 5.08, and it did not appear from the testimony at the public hearing that Applicant had been irreparably harmed by the lack of advance notice of the specific issues that Appellants would raise at the hearing, or otherwise precluded from challenging the appeal. (The Hearings Officer asked whether Applicant would like additional time to respond to Appellants' arguments, but Applicant declined.)

Therefore, the Hearings Officer will apply KZO § 5.08 in the manner in which the City has apparently interpreted it historically; Appellants' August 7 appeal letter — although less than optimum — adequately preserves Appellants' right to offer any arguments in support of the appeal notwithstanding the fact that no particular argument(s) or issue(s) appear identified in that letter.

B. TYPE OF REVIEW ON APPEAL

Nothing in the Keizer Zoning Ordinance prescribes the type of review that the Hearings Officer shall conduct in an appeal of the Zoning Administrator's decision. At the August 27 public hearing, both Appellants and City Staff concurred that (1) new evidence could be considered on appeal (that is, evidence submitted to the City after the July 31 Approval), and (2) the review on appeal would be *de novo*, meaning that the Zoning Administrator's decision would not be accorded deferential weight by the Hearings Officer.^[2] Applicant objected to any new evidence and to *de novo* review. No one directed the Hearings Officer to any pertinent authority one way or the other.

Appellants emphasized that no public hearing had occurred prior to the Zoning Administrator's July 31 Approval, and that the appeal hearing would represent the public's first opportunity to present any evidence. That being the case, it seems reasonable to allow the public to introduce evidence at the appeal hearing. In any event, according to Staff the City has apparently interpreted its Zoning Ordinance to allow the submittal of new evidence in an appeal from the Zoning Administrator's decisions, and the Hearings Officer finds no compelling reason to reach a different interpretation.

Staff also suggested that the review be conducted *de novo* because the City Council conducts *de novo* review in its appeals. Although that fact would not necessarily prescribe a similar review here, the Hearings Officer will nevertheless conduct a *de novo* review of the findings and conclusions until the City or higher authority determines that some other review would suffice.

C. TARDY SUBMITTAL OF ADDITIONAL EVIDENCE

As recited earlier, the Hearings Officer held the record open until 5:00 p.m. on September 10, 1997, to allow Appellants to submit further evidence concerning a lot line adjustment issue. On September 11 (the day after the deadline expired), Appellants submitted a memorandum entitled "Additional Testimony In Support Of Appeal." In his reply (timely filed with the City on September 15, two days prior to the expiration of the deadline imposed upon Applicant), Applicant objected to Appellants' additional memorandum as untimely.

There is no question but that Appellants' supplemental memorandum arrived at the City after the deadline had expired for the receipt of additional evidence from Appellants. There is also no question but that the deadline had been clearly and repeatedly stated at the August 27 hearing. The Hearings Officer will therefore not consider Appellants' supplemental memorandum.

² The Hearings Officer observes, however, that some of Appellants' arguments raise the question whether portions of the Zoning Administrator's Approval are supported by substantial evidence in the record — an argument that presumes the Zoning Administrator's decision will otherwise be accorded deferential weight as long as it appears supported by substantial evidence in the record. If the review is to be *de novo*, then those particular arguments would be rendered moot.

III. APPLICABLE CONDITIONAL USE CRITERIA

The Hearings Officer concludes that the following criteria apply to the proposed conditional use request:

A. KZO §§ 8.20 AND 8.30

(General Conditional Use Authorization and Approval Criteria)

KZO § 8.20 provides that “[u]ses listed as Conditional Uses in a zone classification may be approved if . . . findings can be made that the criteria in Section 8.30 *and* the zone have been satisfied. . . .” (Emphasis added.) The Hearings Officer construes the phrase “and the zone” to refer to any supplemental or different *conditional use* criteria in the underlying zone, as opposed to any and all development criteria in a zone. The UT zoning district contains such supplemental conditional use criteria; *see* the following topic.

KZO § 8.30 prescribes the following general approval criteria for conditional uses:

- “(a) The use is listed as a conditional use in the zone.
- “(b) The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.
- “(c) The proposed use, as conditioned, will not materially alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the applicable zone.
- “(d) The proposed use will not have a detrimental effect on existing solar or wind energy systems.
- “(e) Adequate public and utility facilities and services to serve the use exist or will be made available prior to establishment of the use.”

B. KZO §§ 36.02 AND 36.03

(Specific Conditional Use Approval Criteria — Urban Transition Zoning District)

KZO § 36.02 provides, in pertinent part:

“The following uses may be permitted subject to obtaining a conditional use permit:

- “(a) Any permitted use listed in the most restrictive zone in this zoning ordinance that can be applied in the applicable Comprehensive Plan designation *subject to meeting the criteria in Section 36.03(a), (b), (c) and (d).*” (Emphasis added.)

The Approval relies upon KZO § 36.02(a) as authorizing the use in question. (*Id.* at 5 [observing that the RS zoning district in KZO Chapter 23 represents the most restrictive zoning district in areas designated Low-Density Residential in the City's Comprehensive Plan, and that KZO § 23.01(e)(12) allows “mobile home parks”].) No one disputes the applicability of KZO § 36.02(a) to Applicant's requested use.³ Thus, the separate conditional use approval criteria in KZO § 36.03(a)–(d) will also apply.

KZO § 36.03 provides the following conditional use approval criteria for uses in the Urban Transition zoning district:

- “(a) The use will not increase traffic beyond the capacity of existing roads.
- “(b) It will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties.
- “(c) The use can utilize rural services or existing urban services, and will not individually or together with nearby uses increase pressure for installation of new urban services.
- “(d) The use meets the development standards of the most restrictive zone in the zoning ordinance consistent with the Comprehensive Plan designation.”

KZO § 36.03 also contains additional conditional use approval criteria in subsections (e), (f), and (g). However, notwithstanding the Approval's reference to the additional criteria (Approval at 7–8), those additional approval criteria have no application here; KZO § 36.02(a) specifically limits the pertinent approval criteria to those in KZO § 36.03(a), (b), (c), and (d).

³ The Hearings Officer observes that the Keizer Zoning Ordinance contains definitions of “mobile home” and “mobile home park” (KZO §§ 2.236 and 2.238), but contains no definition of “manufactured home” or “manufactured home park.” The Hearings Officer also observes that KZO §§ 12.02 and 12.03 (the contents of which are not otherwise pertinent to this appeal) appear to differentiate between “mobile homes” and “manufactured homes” for purposes of the “special use” provisions in KZO Chapter 12. However, the definition of “mobile home” in KZO § 2.236 includes “manufactured homes.”

Because everyone else seems to have assumed that a “mobile home park” is the same thing as a “manufactured home park,” the Hearings Officer will do likewise.

C. OTHER APPROVAL CRITERIA

1. KZO CHAPTERS 12 TO 20 — IN GENERAL

Although the general conditional use language in KZO § 8.20 recites that

“[c]onditional uses shall be *established* and *maintained* in accordance with the applicable *development* standards in the zone and in Chapters 12 to 20” (emphasis added),

the Hearings Officer construes the terms “established,” “maintained,” and “developed” to connote requirements pertinent to *actual construction*, rather than the approval of a use. A review of KZO Chapters 12 to 20 confirms that interpretation; those chapters make it reasonably apparent that they generally contain criteria that would control the physical development or construction of an approved use.

Therefore, the Hearings Officer concludes that, *except* where otherwise specifically made applicable to a conditional use or other land use approval (see the next topic), the provisions in KZO Chapters 12 to 20 in general do not necessarily comprise approval criteria in this instance. The fact that the Approval discusses various development standards in KZO Chapter 14 (Approval at 9–15) and incorporates a condition derived from KZO Chapter 20 (Approval at 3 [Condition A.4.d.]) does not otherwise make applicable that which the City’s Zoning Ordinance makes inapplicable. Indeed, specific provisions within KZO Chapters 14 and 20 render each of them inapplicable under the circumstances; see the discussion later in this decision.

2. PARTICULAR PORTIONS OF KZO CHAPTERS 12 TO 20

(a). KZO § 18.09(a) (Site Plans)

In this case, the parties have identified one provision within KZO Chapters 12 to 20 that does apply on its face: KZO § 18.09(a), which requires the submittal of a site plan for “[a]ll applications for *land use approvals*.” Applicant’s request for conditional use approval certainly qualifies as an “application for land use approval.”⁴

Thus, the submittal of the requisite site plan functions as a condition precedent to any conditional use approval.

⁴ KZO § 18.09(a) also requires a site plan for “applications for building permits.” Although this would seem to impose a redundant approval criterion in this instance (that is, a request for approval of a use to be followed by a request for issuance of building permits), no one has questioned whether the language in KZO § 18.09(a) otherwise requires an applicant to submit a site plan *twice* when seeking conditional use approval, although the language in § 18.09(a) does seem to require a dual submittal.

(b). KZO § 14.30
(Development Standards For Certain Mobile Home Parks)

For reasons that neither the record nor the Approval explains, the Approval also discusses certain manufactured home park development "standards and conditions" found in KZO § 14.30. (*Id.* at 9-15.) However, the introductory sentence in KZO § 14.30 limits all of the various standards and conditions in that section to "[m]obile home parks *in RS zones*[" The subject property does not lie in an RS zoning district; it lies entirely within an UT zoning district.⁵ Thus, it would appear that KZO § 14.30 has no application here.

However, KZO § 14.10 separately provides — in almost direct contradiction to the limitation in KZO § 14.30 — that

"[w]here permitted as a *special use*, mobile home parks shall meet the use and development standards in this Chapter."

Does Applicant's proposal qualify as a "special use" for purposes of KZO § 14.10? KZO § 2.342 contains a two-sentence definition of "special use." The first sentence reads:

"SPECIAL USE means a use which is a *permitted use* in a particular zone *subject to compliance with the applicable standards of Chapter 12.*" (Emphasis added.)

⁵ The City's Zoning Ordinance contains an uncommon provision that can, under some circumstances, transform property zoned UT into property zoned RS. The City has in other circumstances (*i.e.*, subdivision approvals) interpreted this provision to require consideration of certain development or locational criteria in the RS zone for property that, prior to platting, was zoned UT.

Specifically, Chapter 36 — which controls uses and development within the UT zoning district — contains a provision that reads:

"A subdivision . . . or other residential development involving the division of land into 4 or more lots intended to be occupied by dwellings or mobile homes may be considered on property in the UT zone if public sewer and water will be available at the time of development. Notwithstanding the zone change procedures in Chapter 4, upon approval and recordation of the plat the land included in the plat shall automatically be rezoned to the RS (SINGLE-FAMILY RESIDENTIAL) Zone." (KZO § 36.31(a).)

On its face, KZO § 36.31(a) does not apply to Applicant's proposal; notwithstanding its similarity to a 13-lot subdivision, Applicant's proposal purports to create only a 13 "space" manufactured home park that (apparently) does not yield separate lots and does not otherwise need subdivision approval. That being the case, there should be no question but that the subject property will *not* be governed by any RS zone provision.

Applicant's proposed use certainly comprises a "permitted use" within the UT zoning district. See KZO § 36.02 (using the term "permitted" to describe various conditional uses). However, the Hearings Officer construes the phrase "subject to compliance with the applicable standards of Chapter 12" to mean that a "special use" only includes a "permitted use" that the *underlying zone itself* makes subject to Chapter 12; any other interpretation would fail to provide any differentiation between a "special use" and a "permitted use." Nothing in KZO Chapter 36 subjects the "permitted" manufactured home park use to the various standards in KZO Chapter 12.

The second sentence of the definition of "special use" in KZO § 2.342 reads, in part: "Special uses may also be identified in a particular zone as a conditional use[.]" However, that second sentence has no bearing here; the first sentence in the definition of "special use" makes it plain that Applicant's proposed use does not comprise a "special use" in the first place — whether designated as a conditional use or otherwise.

Therefore, the Hearings Officer concludes that KZO § 14.10 has no application in this instance, which, in turn, means that none of the "standards and conditions" in KZO § 14.30 would apply under that scenario.^[6]

(c). KZO § 20.13
(Other Development Standards)

The Approval mentions a screening requirement derived from KZO § 20.13, and prescribes a condition of approval that incorporates that requirement. (Approval at 3 [Condition A.4.d.]) However, KZO § 20.01(a) provides that

⁶ The question whether Applicant's proposed use constitutes a "special use" is far from certain under the wording and relationship of the various provisions in the City's Zoning Ordinance.

The fact that Applicant's proposed use represents a *permitted* use within the RS zoning district qualifies it as a *conditional* use within the UT zoning district, pursuant to KZO § 36.02(a). (Approval at 5, relying upon KZO § 23.01(e)(12) [allowing mobile home parks].) However, for purposes of the RS zoning district any use listed in KZO § 23.01(e) represents a "*special use*" subject to, among other things, KZO Chapters 12 and 14.

Thus, it remains conceivable that Applicant's proposed use might well be denominated a "special use" by virtue of the fact that the conditional use criterion in KZO § 36.02(a) provides a direct connection to KZO § 23.01(e) and in fact depends upon the types of uses authorized in KZO § 23.01(e) to determine whether a use can be a conditional use within the UT zone. In other words, if, because of the connection to KZO § 23.01(e), the proposed use represents a "special use" at the outset, then KZO § 14.10 would appear to make applicable the "use and development standards" in KZO Chapter 14.

However, the Approval does not adopt this interpretation, and nowhere does it otherwise identify Applicant's proposed use as a "special use" by which KZO § 14.10 might otherwise become applicable.

"[t]he regulations set forth in this chapter shall apply to all structures *accessory or secondary to a permitted, special or conditional use*[" (Emphasis added.)

Nothing about Applicant's proposed use involves "accessory" or "secondary" structures. Moreover, KZO § 20.13 itself provides that it applies "[w]herever a sight-obscuring fence, wall or hedge *is required under the provisions of this zoning ordinance*[" (Emphasis added.) It is plainly dependent upon some other provision or regulation, but no one has identified any other zoning ordinance provision or regulation that prescribes screening or buffering requirements for the proposed use.

Therefore, the Hearings Officer concludes that KZO § 20.13 has no application in this instance.

IV. DISCUSSION

Appellants raise a number of challenges to the Approval. (Objections at 2-9.)

A. STORM WATER DETENTION

Citing KZO §§ 8.30 and 14.30, Appellants argue that

- ◆ "[t]he Keizer Zoning Code requires the developer to demonstrate that drainage is adequate for the property" (Objections at 2);
- ◆ "the City has not adequately addressed the storm drainage issue" (Objections at 2);
- ◆ "[t]he applicant should be required to demonstrate that the [drainage] limitations of this building site can be safely managed" (Objections at 3);
- ◆ "[t]he Zoning Administrator[s] [Approval] has no significant finding relating to the storm water issue" (Objections at 4); and
- ◆ "[i]t is not enough for the City simply to conclude that the condition [requiring later submittal of an engineered stormwater plan] can be met because there is not sufficient evidence in the record to support that conclusion (Objections at 4).

If the City's approval criteria contain no definitive requirement that Applicant submit engineered plans for a stormwater management facility, then the separate questions whether the Approval contains adequate findings or whether the record contains substantial evidence to support those findings becomes moot. (Given the fact of *de novo* review, those questions might well be moot in any event.)

Appellants' arguments necessarily assume that KZO § 14.30 applies to Applicant's proposal. However, for the reasons set forth earlier in this decision, the Hearings Officer has concluded that § 14.30 does *not* apply. Thus, nothing in KZO § 14.30 mandates the requirement(s) that underlay this portion of Appellants' appeal.

The remaining question becomes whether KZO § 8.30 — which, unlike § 14.30, certainly does apply — contains any approval criterion that requires findings with respect to stormwater management issues and the design of a stormwater management facility. Appellants select the language in KZO § 8.30(b), which requires that the Zoning Administrator determine, as a condition precedent to conditional use approval, whether the subject property “is suitable for the proposed use considering such factors as . . . drainage[.]” (Objections at 2.) The language in KZO § 8.30(b) requires only that the Zoning Administrator “consider” a number of factors, and the Approval reflects that he did so (Approval at 8 [section C.2.]); the Approval refers to the Department of Public Works' comments (attached as Exhibit C to the Approval) in which that department recommended a number of stormwater-related conditions of approval (Exhibit C at 3), and the Approval ultimately incorporated those recommended conditions (Approval at 2-4). But § 8.30(b) contains no other approval requirement that might otherwise required the submittal of engineered plans.

The Hearings Officer concludes that nothing in the Keizer Zoning Ordinance purports to require the type of detailed plan submittal that Appellants suggest. Although other local governments might contain an approval criterion that requires the submittal of engineered plans that describe the design of a proposed stormwater management facility, the City's conditional use approval criteria need not include any such requirement. To this Hearings Officer's knowledge, unless otherwise expressly required by some specific provision the City has consistently interpreted its Zoning Ordinance to require the submittal of engineered plans *subsequent* to approval of a particular use, and the City's Zoning Ordinance does not even contain any requirement of a further public hearing to consider the design of required stormwater management facilities.

The Hearings Officer therefore rejects this argument as a basis for overturning the Zoning Administrator's Approval.

B. DEVELOPMENT OF UNUSED PORTIONS OF THE SUBJECT PROPERTY

Appellants argue that the Approval fails to adequately address the approval criterion in KZO § 36.03(b) that requires that the proposed use “will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties.” (Objections at 5.)

The Approval addresses this particular criterion as follows:

“The entire property will be developed with a manufactured home park. No portion of the property will remain unused.” (Approval at 7.)

Appellants maintain that the first sentence of the finding is incorrect; they say that proposed Lot 6 in the 13-lot development contains an existing residence, citing Exhibit C to the Objections. Exhibit C to the Objections comprises three photographs, each of which portrays a house amidst some development activity on some unidentified property. Also, Exhibit B to the Approval describes an “existing house” on Lot 6. However, Appellants’ argument focuses on an inconsequential — albeit erroneous — portion of that the Approval’s finding.

KZO § 36.03(b) requires consideration of “any significant *unused* portion of the property[.]” Appellants’ argument does not suggest that any portion of the property will remain “unused,” nor does the record so reflect; *all* of the subject property will be used — either for a 13-lot manufactured home park or for a single-family residence located on proposed Lot 6.

Thus, Appellants have challenged the evidentiary support only for the first sentence in the Approval’s two-sentence finding, quoted just above, yet that particular portion of the finding has no relevance to § 36.03(b). The Hearings Officer finds that, because a single-family will apparently co-exist on the subject property, the record does not support the Approval’s declaration that “[t]he *entire property* will be developed with a manufactured home park.” However, the Hearings Officer also concludes that that particular portion of the quoted finding — although in error — remains completely irrelevant to the criterion set forth in KZO § 36.03(b).

The second sentence in the Approval’s two-sentence finding, quoted above, does address the criterion in KZO § 36.03(b); it declares that “[n]o portion of the property will remain unused.” Appellants do not challenge *that* portion of the Approval, and the Hearings Officer concludes that the record supports that finding in any event.

The Hearings Officer therefore rejects this argument as a basis for overturning the Zoning Administrator’s Approval.

C. MATERIAL ALTERATION OF THE SURROUNDING AREA

Although not separately identified by topic heading, Appellants have included in their Objections the argument that the Approval fails to supply sufficient conditions of approval to comply with KZO § 8.30(c). (Objections at 5–6.) To emphasize the nature of Appellants’ argument, Appellants have *not* challenged the sufficiency of the Approval’s finding with respect to KZO § 8.30(c) or the evidence that supports the Approval’s finding; rather, Appellants merely argue that “additional conditions should be placed on the manufactured home park to limit its impact on the surrounding neighborhood.” (Objections at 6.)

KZO § 8.30(c) requires that Applicant demonstrate that

"[t]he proposed use, as conditioned, *will not materially alter the character of the surrounding area* in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the applicable zone." (Emphasis added.)

The Approval's finding with respect to KZO § 8.30(c) reads:

"The subject property, and all adjacent properties, are designated Low Density Residential in the City's Comprehensive Plan. This Plan designation and applicable RS zone [*sic*; 'UT' zone]⁷ are primarily designed to accommodate single family homes at densities of up to eight dwelling units per acre. Other compatible residential uses, such as manufactured homes, are also allowed."

It appears to the Hearings Officer that the Approval's finding falls short of the sort of discussion that KZO § 8.30(c) requires. The Approval does generally identify the character of the surrounding area — *viz*, single-family residential — but it fails to address the question whether the proposed 13-lot manufactured home park, "as conditioned," might "materially alter" the character of the surrounding environment, or, if so, whether any such material alteration might "substantially" limit, impair, or preclude the use of surrounding properties. However, as noted above, Appellants have not challenged the Approval on that basis.

In support of their argument that additional conditions are necessary, Appellants urge that

"there is no doubt that the current nature of the surrounding property will be dramatically altered. Timothy Lane historically has been a quiet, rural, and private roadway servicing large acreage homesites. . . . Allowing the proposed conditional use will dramatically alters [*sic*] the neighborhood's character. The inclusion of manufactured homes as opposed to site-built homes will dramatically decrease the desirability of the neighborhood for future development as a residential subdivision."

However, not only does Appellants' argument likewise fail to address § 8.30(d) in terms of the language actually used, but Appellants' rationale represents nothing but Appellants' unsubstantiated *opinion*; it stands unsupported by any evidence in the record that would allow the Hearings Officer to find, for instance, that traffic on Timothy Lane will increase by any definite amount, or that the neighborhood's "desirability" will decrease. Indeed, the record contains virtually no details about the manufactured home park as it will look upon buildout.

⁷ The Approval elsewhere notes that all adjacent properties lie within the UT zoning district (*id.* at 1), not the RS zoning district mentioned in the quoted finding. However, the Approval does correctly recite that the recordation of recently-approved subdivision plats to the north and south of the subject property will result in an automatic rezoning of those properties from UT to RS (*id.* at 1.) See KZO § 36.31.

The Hearings Officer cannot impose additional conditions without an adequate basis for comparing existing conditions of approval with probable future impacts. Appellants' unsupported opinions about the anticipated impact of a manufactured home park do not supply the necessary evidence about probable future impacts. Indeed, nowhere have Appellants explained — as they must in order for their argument to be accepted at all — how or why the Approval “substantially limits, impairs, or precludes the use” of surrounding properties.

The Hearings Officer therefore rejects this argument as a basis for overturning the Zoning Administrator's Approval.

D. ADEQUACY OF EXISTING FACILITIES AND SERVICES

Appellants argue that the record lacks sufficient evidence with respect to the adequacy of existing facilities and services. (Objections at 7.) In particular, Appellants challenge the sufficiency of the record with respect to (1) demonstration of adequate fire flow and (2) demonstration of sanitary sewer capacity to serve “adjacent” properties. (*Id.*)

KZO § 8.30(e) requires that Applicant demonstrate that

“[a]dequate public and utility facilities and services to serve the use *exist or will be made available* prior to establishment of the use.” (Emphasis added.)

No one has disputed Appellants' underlying suggestion that fire flow and sanitary sewer capacity comprise a subset of “public and utility facilities and services.” The Hearings Officer will assume as much for purposes of Appellants' argument.

The Approval's finding with respect to KZO § 8.30(e) reads:

“Based on comments received by the City Engineer, adequate facilities *are available* to serve the property.” (Approval at 9 [emphasis added].)

Although that finding fails to track the language of KZO § 8.30(e), the Hearings Officer presumes that the phrase “adequate facilities *are available*” in the finding means, in the words of § 8.30(e), that “adequate public and utility facilities and services . . . *exist*,” as opposed to “will be made available.” If the Zoning Administrator intended to find only that the required facilities and services “will be made available,” the Hearings Officer finds that the language used does not plainly convey that intent.

1. ADEQUACY OF FIRE FLOW

The City Engineer's “comments” described in the Approval's finding apparently refer to Exhibit C to the Approval (the Department of Public Works' June 30, 1997, comments). Al-

though those comments contain a number of observations and recommendations about the "water system" (Exhibit C at 2), the Hearings Officer cannot find any confirmation about the adequacy of the existing water system with respect to the fire flow issue that Appellants have raised. Representatives from the City's Fire Department and Department of Public Works testified at the August 27 public hearing, and they testified, respectively, that (1) compliance with the Uniform Fire Code's minimum fire flow requirement cannot yet be determined based upon the record, and (2) upon the completion of all of the various subdivisions and other developments in the area the 12" line will provide the requisite minimum fire flow. Although the Approval contains a condition that requires Applicant to demonstrate adequate fire flow (Approval at 4 [Condition A.8.1]), a condition of approval cannot suffice as a substitute for a finding that Applicant has already made the requisite showing.

Applicant responded that (1) the City's Zoning Ordinance does not require the submittal of such detailed information at this stage, (2) the City can rely upon its knowledge that other developments have been approved in the vicinity which, when completed, will provide a sufficient level of services and utilities, and (3) he is adhering to the City's "Master Plan" and he does not need to demonstrate anything beyond that adherence. Those arguments fail to carry the day, however, for three reasons. *First*, although it seems to be correct that the City's *Subdivision and Partitioning Ordinance* does not appear to require anything but a "bare bones" submittal (Applicant's terminology) for *subdivision* approvals, KZO § 8.30(e) seems to require something more definitive. *Second*, although the City may have some inherent knowledge about the status of other developments in the area, the record does not describe that knowledge. *Third*, the record neither contains nor describes any "Master Plan" that might otherwise demonstrate that adequate fire flow is either currently available or will exist to a certainty prior to development.

Thus, the Hearings Officer concludes that this portion of Appellants' argument must be sustained; absent a showing by Applicant that "[a]dequate public and utility facilities and services to serve the use *exist or will be made available* prior to establishment of the use," Applicant has not fulfilled KZO § 8.30(e).

2. ADEQUACY OF SEWER CAPACITY

Appellants' remaining argument about the sanitary sewer issue is more easily resolved. Appellants challenge the lack of a finding in the Approval concerning the capacity "to serve *adjacent* properties." (Objections at 7 [emphasis added].) However, nothing in KZO § 8.30(e) requires an assessment of *adjacent* properties, and the Hearings Officer does not construe the language in

that provision as implying any such assessment; the context makes it reasonably plain that the focus is on the subject property — the “use” — alone.^[8]

The Hearings Officer therefore rejects this portion of Appellants' argument.

E. PROVISION OF THE REQUISITE LANDSCAPING PLAN

Appellants argue that Applicant has failed to submit the landscaping plan required by KZO § 18.09. (Objections at 8.)^[9]

KZO § 18.09 requires an applicant to submit a “site plan” that identifies “significant trees” and their fate under the proposal.

“All applications for land use approvals, and applications for building permits shall include a site plan which identifies the following:

- “(1) The existing significant trees identified by their common names, along with the size of such significant trees. . . .
- “(2) Which significant trees are proposed to be removed, or have been removed within the past year.
- “(3) Which significant trees are to be left standing and what steps will be taken to protect and preserve those trees.
- “(4) Location, size, and type of replacement trees proposed to be added, if any.”

Applicant submitted a “Conditional Use Plan” dated January, 1997, that would qualify as a site plan of sorts. However, the Hearings Officer has reviewed the plan in detail and finds that, although it appears to identify various trees by marker only, it nevertheless fails to provide the details that KZO § 18.09(a)(1)–(4) plainly require.

⁸ The Hearings Officer observes that the Department of Public Works' comments include a recommended condition of approval that would require Applicant to demonstrate that the proposed sewer system will have sufficient capacity to serve *adjacent* properties. (Exhibit C to Approval, at 2.) The Approval incorporates those comments as a condition of approval. (Approval at 4 [Condition A.9.].) However, the imposition of that condition of approval adds nothing to Appellants' argument that the Zoning Ordinance requires Applicant to affirmatively demonstrate such capacity as a condition precedent to approval.

⁹ The Hearings Officer has already concluded earlier in this decision that KZO § 18.09 applies to Applicant's proposal because it comprises an “application for land use approval.”

But Appellants also complain that Applicant “has *already* removed most of the trees from both sites.” (Objections at 8 [emphasis added].) If that is indeed the case, then it makes little sense at this point to require Applicant to do something that he can no longer do; the fact that the Zoning Ordinance requires Applicant to submit a site plan that shows “significant trees” becomes utterly inconsequential if, as Appellants declare, any such site plan could no longer show what it would otherwise be required to show.

The Hearings Officer observes, however, that the Approval contains a condition of approval — Condition A.3.d. — that specifically requires Applicant to “demonstrate conformance with Ordinance No. 95-339 [entitled] ‘*Tree and Landscape Preservation Ordinance*.’” (Approval at 3.) The Hearings Officer has not been provided a copy of Ordinance No. 95-339, so he does not know whether that particular ordinance has been codified in KZO § 18.09, or whether it addresses some other issue. But if that Ordinance presumes that trees will be preserved to some extent, then it seems odd that the City would impose a condition of approval of that nature if Applicant has already cleared the site. In any event, no one at the public hearing disputed Appellants’ testimony that the site has already been cleared.

If the trees have been cleared, then the issue at this point has seemingly become one of enforcement. The Hearings Officer therefore rejects this argument as a basis for overturning the Zoning Administrator’s Approval.

F. NECESSITY OF LOT LINE ADJUSTMENT

Appellants argue that “the subject property is in reality three parcels” (Objections at 9) and that “a lot line adjustment is required” (*id.*) Appellants cite no portion of the City’s Zoning Ordinance for this proposition, and the Hearings Officer discerns no relevance to the conditional use approval. The Hearings Officer will not independently search the Zoning Ordinance for some pertinent provision that might support the argument, nor will the Hearings Officer attempt to determine how or why any lot line issue — if one exists — is remotely pertinent at this point.

The Hearings Officer therefore rejects this argument as a basis for overturning the Zoning Administrator’s Approval.

IV. CONCLUSION

Based upon the above discussion, the Hearings Officer concludes that Applicant has failed to demonstrate — or has otherwise failed to ensure that the record contains evidence demonstrating — that adequate fire flow either exists or will exist, as required by KZO § 8.30(e). The appeal will be sustained on that basis.

However, the Hearings Officer concludes that none of the remaining arguments raised in the appeal have any merit, and he rejects all other arguments.

V. APPEAL RIGHTS

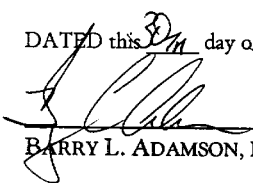
Any interested person, including the applicant, who disagrees with this decision may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Community Development Department, 930 Chemawa Road, N.E., Keizer, Oregon 97303, by 5:00 p.m. on or before the tenth day following the date of mailing of this decision, and accompanied by any necessary filing fee.

The appeal must:

- ♦ be in writing,
- ♦ request that the Council hold a hearing on the application, and
- ♦ *either* explain why the appellant believes the decision to be factually or legally incorrect or based on incomplete facts, *or* present new facts material to the decision, the omission of which resulted in a factually or legally incorrect decision, *or* offer modifications to the decision that will conform the proposal to the requirements of the pertinent criteria governing the application.

This decision shall be effective and final after the tenth day following the date of mailing, unless appealed.

DATED this 30th day of September, 1997.


BARRY L. ADAMSON, Hearings Officer



MULTI/TECH
ENGINEERING SERVICES, INC.

CONSULTANTS

1155 13th Street, S.E.

Salem, Oregon 97302

(503) 363-9227

MEMORANDUM

from the Desk of:

Mark D. Grenz, P.E. *[Signature]*
President
MULTI/TECH Engineering Services, Inc.
1155 13th Street SE
Salem, Oregon 97302
Phone: (503) 363-9227
FAX: (503) 364-1260

DATE: September 15, 1997

TO: Amy Drought
City of Keizer

REGARDING: Appellant's Response

Attached is our comments in accordance with the Hearings Officers directions.

We note that the response from Mr. Hill was one day late.

We request that you do not supply their information to the Hearings Officer. In fact, you should return the information to the Attorney as being non-responsive to the directions of the Hearings Officer.

Please advise our office of your actions in this matter. Care should be taken by the City of not flaw this process any more than has occurred to date.

Thanks for your assistance.

BEFORE THE COMMON COUNCIL
OF THE CITY OF KEIZER

In the Matter of the Estate of	)	
	)	CONDITIONAL USE
DEREK L. BROWN & ASSOCIATES,	)	CASE NO. 97-04
	)	
Applicant.	)	RESPONSE TO ADDITIONAL
_____	)	TESTIMONY FROM APPELLANT

This response is being provided in accordance with the direction of the Hearings Officer stated at the public hearing held on August 27, 1997.

At that hearing the Hearings Officer held the record open for 14 days for additional testimony of the appellant on the matter that a lot line adjustment is required in this matter, and is a basis to deny the conditional use. At that time the Applicant was given 7 days to respond to the additional information provided by the Appellant on this matter.

Our first comment on the information stated is that it should not appear in the record, based on the fact that it was received by the City of Keizer on September 11, 1997 at 4:00PM, 15 days after the hearing, one day after the period allowed by the Hearings Officer. During the hearing the Hearings officer stated that the 14 day period ended at 5:PM on September 10, 1997 and that the Applicant would have until 5:PM on September 17 to provide our responses. The Appellant's attorney erred in the filing of his response.

There appears to be some confusion on the matter of what Section 17.01 of the Keizer Zoning Ordinance states and requires. (a copy of page 17-2 of the code is attached)

You can not take portions of that section out of context as it appears Mr. Hill has done.

This section does state that all structures and uses shall be entirely situated on a single lot, however in the next sentence, it states that if a structure is located on two or more lots under single ownership (as is the case here, seen by the attached deed) ... the separate lots shall be considered as single lot for the purposes of this ordinance.

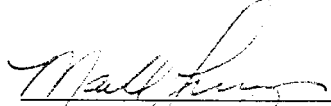
It would be our opinion that this application does meet the requirements of Section 17 and all of the requirements of the Keizer Zoning Ordinance relative to the matter of a need for a lot line adjustment.

We believe that the applicant and staff have demonstrated that the development can be approved with sufficient conditions to allow the development to proceed.

We here by request that the Hearings Officer uphold the decision of the Community Development Director in this matter. We request that the decision be made as quickly as possible. With the handling of this matter by the Appellants attorney, this decision has been delayed by over 21 days with out any justification. They failed to provide any additional information in the time prescribed by the Hearings Officer.

This response is provided on behalf of the Applicant in the matter of Conditional Use Case No. 97-04

By:



Mark D. Grenz, Project Engineer

Dated: September 15th, 1997



17.01 STRUCTURES TO BE ON A LOT. All structures and uses shall be entirely situated on a single lot except as allowed under the Unit Ownership law (ORS 91.400 et seq.). Where a structure is placed on two or more separate lots under single ownership so that the structure overlaps the common boundary or encroaches on required yards along the common lot line the separate lots shall be considered a single lot for the purpose of this ordinance except that buildings which are attached at a common property line, but which meet all requirements of the Building Code as separate buildings, shall be considered separate and shall not have the effect of combining the affected lots.

17.02 CONTIGUOUS OWNERSHIP. In the EFU zone contiguous lots of land under one ownership shall be considered as a single lot except those lots approved under the provisions of the Subdivision and Partitioning Ordinance shall retain the right to be exercised subject to the conditions of approval.

17.03 DIVISION OR ALTERATION OF LOTS. In addition to any requirement in the Subdivision and Partitioning Ordinance, no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this ordinance. If a lot does not meet such requirements at the time this ordinance is adopted it shall not be divided or altered in such a manner that the lot is less in conformity with these regulations in any respect, except as otherwise provided in this ordinance.

17.04 LOT COVERAGE, GENERALLY. Specific standards for lot size or area, for lot dimensions, and for lot coverage are set forth in the applicable zone. Where a standard for lot coverage is expressed as a percentage, such standard means the percentage of total lot area covered by buildings and by roofed but unenclosed structures, whether or not attached to buildings. Covered structures less than five feet in height and having less than 20 square feet of gross floor area (such as pet shelters, play houses, etc.) shall not be included in calculating lot coverage.

17.05 DENSITY. The number of dwelling units allowed for the purpose of dividing land into lots, determining the number of dwellings in a planned development, or locating several dwellings on the same lot, shall conform to the following density limitations. When only two or three lots will be created the minimum lot area shall be used to determine allowable density. When the number of dwellings allowed includes a fraction of 1/2 or more the density shall be increased one dwelling unit.

- (a) RS Zone: one dwelling unit per lot unless provided otherwise in this ordinance; and one dwelling unit per 4,000 sq. ft. of area devoted to residential use (i.e. excluding public streets, and areas in conjunction with non-residential uses) in a planned development.
- (b) RL Zone - one dwelling unit per 3,000 sq. ft. of net lot area.
- (c) RM Zone - one dwelling unit per 2,000 sq ft of net lot area.
- (d) RH or CO zone - one dwelling unit per 1500 sq. ft. of net lot area.
- (e) Other zones - one dwelling unit per lot, if dwellings allowed.

BARRY L. ADAMSON

— ATTORNEY AT LAW —

47 EAGLE CREST DRIVE, #13

POST OFFICE BOX 1172

LAKE OSWEGO, OREGON 97035

TELEPHONE AND FACSIMILE: (503) 699-9914

— FACSIMILE TRANSMITTAL —

PAGES: 1 (including this page)

TO: Amy Drought, Fax No. 503-393-9437

FROM: Barry Adamson

DATE: September 29, 1997

REGARDING: Conditional Use Case No. 97-04

INSTRUCTIONS / COMMENTS: Unless the City Council also meets on October 27 as well as October 20, Mr. Simon's September 29 fax does not benefit the decision-making process; although it extends the 120th day to October 28, as a practical matter any appeal would still need to be decided by the Council at the October 20 hearing. Thus, unless the Council also meets on October 27 (or some other day prior to October 28), Mr. Simon's seven-day extension of the 120-day period does not add any additional time to the Hearings Officer's timing considerations. I will still need to have the decision to the City by October 1 in order to accommodate any possible appeal(s).

BARRY L. ADAMSON

— ATTORNEY AT LAW —

47 EAGLE CREST DRIVE, #13

POST OFFICE BOX 1172

LAKE OSWEGO, OREGON 97035

TELEPHONE AND FACSIMILE: (503) 699-9914

September 30, 1997

To: City of Keizer — Amy Drought
Applicant — Derek L. Brown & Associates
Appellants — Carl Alleman / Timothy Lane Residents
(via submittal to the City)

Re: Conditional Use Case No. 97-24

Both Applicant and the City advised me that the parties might reach a settlement of the above matter. However, no one could assure me that a settlement would be reached prior to my decision deadline of October 1 (two weeks from the close of the record on September 17). Applicant and the City mentioned the possibility of delaying my decision. That proves problematic.

I have recently been informed that the City deemed Applicant's request complete as of June 23, 1997. The 120-day deadline imposed under Oregon law would thus expire on October 21. Working backwards from the City Council's regularly-scheduled meeting on October 20, my decision would have to be submitted to the City on or before September 30 in order to accommodate the various appeal opportunities and attendant notice requirements.

I am also informed that on September 29 Applicant recently volunteered to add seven days to the 120-day deadline, extending it to October 28. However, that short extension would not serve to delay my decision; the City Staff has informed me that the City Council would not again meet at a regularly-scheduled meeting in time to render a decision on or before October 28. Thus, the seven-day offer would prove inconsequential in terms of observing the necessary deadlines and accommodating the 120-day limitation.

For the above reasons, I am submitting my decision to the City today by fax, to be followed by the original decision to be mailed to the City today.

Barry L. Adamson
Hearings Officer

FILE COPY

Webb & Martinis

ATTORNEYS AT LAW

1114 TWELFTH ST. SE

SALEM, OREGON 97302-2897

NORMAN F. WEBB
MICHAEL J. MARTINIS

NORMAN R. HILL
ASSOCIATE

September 24, 1997

Mr. Robert S. Simon
THE ROBERT S. SIMON LAW FIRM
712 Main Street
Oregon City, OR 97045

Re: Our Client: Carl Alleman - Timothy Lane Residents
Your Client: Derek L. Brown & Associates

Dear Mr. Simon:

As you know, our clients are primarily concerned with the drainage along Timothy Lane. We would be willing to enter into an agreement with your clients to ensure that Timothy Lane is properly drained through the improvements that will be going in as part of your client's manufactured home park.

The code obviously contemplates that the drainage system for the park handle the upstream flows. It is clear that provisions to the plan will have to be made to accomplish this. Our client's objections throughout this whole process have revolved around the fact that by making the engineering determinations after land use approval has been made is improper. Thus, I would be interested in having Mr. Grenz design a system to accommodate and specifically address the Timothy Lane flooding issues prior to land use approval.

I have spoken with the City and they have stated that they are willing to withdraw their decision and modify the same as soon as our clients reach an agreement. That would eliminate the need for further public hearing. This could be done quickly with a minimum loss of time for your client.

In addition, our clients would like extensive screening, including an attractive fence and landscaping where the park intersects with Timothy Lane.

Finally, I have also spoken with Mr. Alleman concerning your suggestion that your client would be willing to purchase Mr. Alleman's property. Mr. Alleman has indicated that he would be receptive to further inquiries from your client.

2 - September 24, 1997
Alleman/Brown & Associates
Timothy Lane Dispute

Please advise whether your client would be interested in negotiating further concerning the drainage and screening issues.

The City has indicated their willingness to conduct a mediation of this matter to try and come up with a solution that is beneficial to all parties.

Thank you for your attention to this matter.

Very truly yours,

WEBB & MARTINIS

/s/ NORMAN R. HILL

Norman R. Hill
NRH/paw

cc: Carl Alleman
Derek Brown

Webb & Martinis

ATTORNEYS AT LAW
1114 TWELFTH ST. SE
SALEM, OREGON 97302-2997
TELEPHONE (503) 383-8800

MEMO

To: Ms. Amy Drought
From: Robert S Simon, The Robert S Simon Law Firm
Subject: Brown/Allemann Appeal
Date: September 29, 1997

The Applicant will agree to add seven days to the current 120 day count if the Hearings Officer will agree to postpone issuing a decision for seven additional days.

August 25, 1997

APPEAL FOR CONDITIONAL USE CASE NO. 97-04

To Whom It May Concern:

When is a stop-work order a stop-work order? The residents of Timothy Lane managed to get stop-work orders placed on Phase I and II of Berkshire Estates due to lack of permits. The City of Keizer has since lifted the stop-work order on Phase I to allow Derek Brown to obtain a building permit. We thought the process would be to obtain a building permit in order to have the stop-work order lifted. The Phase II stop-work order sign has been removed but, supposedly, the order remains in effect. The sign was removed to discourage telephone calls to Keizer Planning Department according to Amy Drought.

Storm Drainage: The approval per Conditional Use Case No. 97-04 repeatedly states that on-site storm drainage will be provided. It further states that the park will require a detention basin. Yet we have learned that the City of Keizer has negotiated with Willamette Lutheran Homes, a local retirement community, for the storm drainage to be channeled to Clear Lake. The Department of Environmental Quality has literature describing how toxins in storm drainage affect rivers and streams. How can the City of Keizer, in good conscience, aid and abet in the demise of Clear Lake? We see no provision for a detention basin on the plan for Berkshire Estates.

Tree and Landscape Ordinance No. 95-339:

The residents repeatedly asked for tree siting plans when Leewood Meadows was in the planning stages. All the beautiful redwood trees along O'Neil-Baker Road were destroyed after verbal promises from the developer to "save as many trees as possible." The beautiful Douglas fir trees on the Bahnsen property were destroyed after some arborist supposedly stated that the trees were "soft." Firs are softwood. The fir trees on the Bucholz property are scheduled for destruction. One hundred year old maple trees were among the trees destroyed on Phase I and the trees on Phase II of Berkshire Estates were destroyed illegally. All the while our concerns were met with the answer, "We can't do anything about it as it is private property," from the City of Keizer's Planning Department. Does no one care about the loss of bird habitat when the trees

Any bird except Starlings and house sparrows

are destroyed? It is illegal to kill according to our local Audubon Society. Destruction of habitat is a form of bird killing. We had many hummingbirds at our feeders until the tree devastation on Phase I and II. Now we have none.

Our neighbor, Robert Ohrn, a professional forester, has asked repeatedly for tree siting plans. Amy Drought, Keizer City Planner, informed us that no one asked for a plan on Phase I and no plan would be required. That is simply not true.

We believe that development can occur without total destruction of trees. The people of this country have jumped on the bandwagon of "stop the destruction of the rain forests of third world countries." No one cares that it is happening locally at an alarming pace. We are concerned that trees, water, wildlife habitat are all being destroyed. Any loss of species upsets the balance of nature.

Phase II: The first plan for Phase II showed seven lots for stick-built homes. That plan was denied by Keizer's planners. The residents of Timothy Lane would have been much happier with that plan if part of the lots would have had ingress and egress through the park and the east lots could have used Timothy Lane.

Timothy Lane: The conditional use approval states in Item No. 6 on page 3 that Timothy Lane will not be needed for emergency vehicles' ingress or egress. *IT IS AGAIN STATED IN NO. 4 ON PAGE 6* Timothy Lane is a twenty-five foot privately owned and privately maintained roadway with only 8' or 9' wide paved area on the southern half. However, our attorney informs us that a curb is planned along the lane on Phase II in order to allow emergency vehicles to jump the curb and enter Phase II of the park. That is totally unacceptable to the residents of the lane. If emergency vehicles can jump the curb, any resident of the park who owns a pickup or any other sports vehicle can jump the curb and use Timothy Lane for ingress or egress to the manufactured home park. Nor do we want the foot traffic or bicycle traffic from the park. The residents of the lane have accepted the liability and costs of maintenance and the lane is solely for our use.

Our attorney states that the "non-exclusive" easement that Mr. Brown got when he purchased the Woods property is for Mr. Brown and his invited guests only. Yet construction vehicles continue to use the lane as well as the construction workers and their personal vehicles. As late as Friday, August 15th, a large semi came down the

lane to bring concrete tiles for the public sewer being installed in the park. Today, August 25th, a truck from "PIPE" brought huge cement tiles down Timothy Lane.

If our appeal for Phase II is unsuccessful, we insist on a wall or an eight foot fence to prevent Timothy Lane from being accessed from the park. We would ask Mr. Brown to be a good neighbor and give up the easement on Timothy Lane.

Master Sewer Plan: Peterson Engineering Co. developed a master sewer plan for the Clear Lake area. It originally was designed to go north on O'Neill-Baker Road then west on Clear Lake Road. At one discussion that Carl Alleman had with Peterson Engineering a fist was pounded on a desk and the statement made that the master sewer plan would be followed. However, Derek Brown was allowed to circumvent the master plan and proceed through an easement that he purchased from Ronald Morton, 7760 Timothy Lane. Incidentally, this easement resulted in the additional loss of beautiful trees. Now we are informed that the master plan is a "fluid" document. It is our personal opinion that Peterson Engineering was probably paid by the City of Keizer to develop a master plan. Isn't the cost a waste of taxpayers' dollars if the plan is not followed? Now the area at the north end of O'Neill Road is left without sewer access as well as the north end of Timothy Lane. All of the homes on Timothy should have access to sewer service or none. Part of the residents are being discriminated against.

Traffic: We are told that traffic reports have been done for this area and that Wheatland Road, Clear Lake Road, and O'Neill Road can handle the traffic. We know of no one in the area who has seen any traffic report nor do we believe that the traffic generated from nine subdivisions can be dealt with effectively.

Water: We know from news accounts that water systems in the City of Keizer will be maxed out. There was a report that Wally Mull was negotiating with Larry Epping to purchase a piece of property near Country Glen on which to place the above-ground water tank which the residents of Wiesner Drive successfully defeated. We wonder if the residents of Country Glen will accept a tall water tank. Anyway, it has been a long time since any word of placing the water tank has been circulated.

Schools: The schools in this area have been woefully over capacity for some time but planners tell us that they do not have to address the impact that nine subdivisions will have on our schools. They address each subdivision individually and, individually, schools may not be impacted significantly, but when totalled we believe the impact is great. We are enclosing an article written by the editor of Keizer Times addressing the school issue. We believe Pamela Kingsbury will be addressing the school issue in more detail.

There was an article printed in our local Statesman Journal regarding the lack of sales of new homes in Leewood Meadows and the Waterford Subdivision. Silverstar Construction's owner was quoted as saying, "you get nervous when you have a million and a half dollars of promissory notes out." This leads us to believe that Keizer planners have time to stop and do some thoughtful planning that benefits all the taxpayers of this area rather than just the developers' pocket books.

Some of us on Timothy Lane have lived here 30 plus years but our needs have been totally disregarded. There should have been a facilitator to bring all sides together and decide how development and rural homeowners could co-exist. We very much resent the callousness of City planners regarding our concerns. Dust control was non-existent during the time that Berkshire Estates' illegal construction was proceeding. Dust and debris from chipping activity was ignored, too. We have a log which is approximately 4' in length and 3" in diameter that flew about 80' and landed on a driveway leading to our shop. It could have killed us had it hit us. The huge drum chipping machine was parked 10' west of our shop and small debris is all over our property and the west side of our shop roof is covered with debris.

We have concerns about the interior plans for the park as well as our concerns for our property. Some that we have not previously addressed are:

Flooding of properties owned by Nyberg, Van Domelen, Good, and Alleman families. Ten to twelve inches of top soil have been added on Phase II. The natural drainage has been changed and the above families are now vulnerable to flooding from runoff. The area west of Timothy Lane (Waterford) has been raised leaving us in a low pocket.

Wetlands: We believe this was not properly addressed. We have the three components for a wetland - Amity soil, wetland plants, all of which have been destroyed on Phase I and II. There are wetland plants growing north of Berkshire Estates and south of the area on the Alleman property. The third is adding more than 3 cubic feet of topsoil which has been done.

Parks: We understand that Berkshire Estates will have families. Why isn't there a park area identified on the plan? We believe children should have a safe place to play. Surely, Mr. Brown can combine several home spaces and provide playground equipment and space and some picnic tables for families.

School Bus Pick-up Sites: We realize there is no access to Wheatland Road from Berkshire Estates but we have seen no bus turn-outs identified in any of the subdivisions. With all the traffic that will be generated from these subdivisions, there will be too much danger for children to be picked up on roads. There needs to be bus turn-out areas in each subdivision.

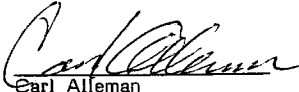
Our lives have been placed on hold due to Berkshire Estates. We were unable to paint our house because of the dust. Are we to be held captive next summer due to dust from the Bohlander property being developed south of our property?

Will the trees on the Bohlander property be clear cut? There is still time for some thought as to what trees can be saved and enhance the homesites.

We find ourselves in a Catch-22 situation. We want to leave Timothy Lane where we have spent 30 plus years and planned to live out our lives. However, since it has changed from a lovely wooded area to a clear-cut devastation our property values will certainly not be appreciating and we cannot buy a new home with the proceeds from the sale of our home. This is a burden on us at a time when we are entering the senior years and must think about the financial impact and whether we have the resources to care for ourselves.

We resent the fact that our tax dollars are being spent to defend against this appeal and we must spend more to pay an attorney if we are to have adequate representation.

Sincerely,



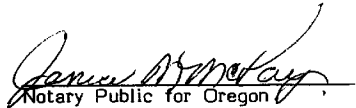
Carl Alleman
Owner and Resident
Tax Lot # 900
7759 Timothy Lane NE
Keizer, Oregon 97303



O.M. Alleman
Owner and Resident
Tax Lot # 900
7759 Timothy Lane NE
Keizer, Oregon 97303

State of Oregon)
) ss
County of Marion)

Personally appeared before me CARL ALLEMAN and O.M. ALLEMAN and acknowledged the foregoing instrument to be their voluntary act and deed this 26th day of August, 1997.


Notary Public for Oregon

Questions for the record

APPEAL

Case 92-07

Contradictions in Conditional Use Approval:

1. Tax Lot 2000 - Part of Phase I ^{7.04} ₁₂
2. No. 3. Page 2 Site Plan Non-existent at time of appeal
3. No. 3 C No Plan, at time of appeal, showing How Explorer and Harbor drives are to be looped.
4. No. 3 D No site, plan at time of appeal, showing "significant trees" - Note: All trees have been removed from Phase I and 2.
5. Much of the work done on Phase I & 2 done before permits on file - RE: Rents being "cut in" - trees removed - buildings demolished - topsoil Added to Phase II Changing Natural Drainage

6. Page 8 & 9 # 3

OVER WHAT duration of time is this Findings based on - as some of the residents have lived on these "Larger and more RURAL Parcels" for 30 plus years -

7. Note: ~~that~~ there is a "stick Built home" located on property within 12.08A Parcel described as Phase I, this Parcel is NOT Part of the Numbered Lots for MANUFACTURED HOMES -

There is ALSO A "stick Built Home" located on Phase II, this house is ON A Numbered Lot of Phase II - how can this be done Both ways and not have a partitioning or "handeled" under the same criteria as a "Manufactured Home Park" - ie NO public hearing etc -

8. ^{MOB} 6 E FINDING Access to PARK OFF WHEATLAND ROAD "direct Access Prohibited" FINE 11 6 E FINDINGS state that property has Access to Wheatland Road

9. EXHIBIT C

Water systems # G.

"The EAST ENDS of the water mains shown in Harbor Drive and Explorer Ave. shall be connected with an 8" water main in Timothy Lane. The water main shall be located in a PUBLIC Right of Way consistent with City Right of Way Requirements"

NOTE: Timothy Lane is a PRIVATE OWNED AND PRIVATELY MAINTAINED ROADWAY -

10. Deeded Length to Woods Property shows 291.72 Ft Along South line of Phase II FROM SW CORNER to center line of Timothy Lane

North Line of Phase II also shows 291.72' FROM NW CORNER to center line of Timothy Lane. EASEMENT for Timothy Lane BEING 12.5 Ft EACH SIDE of center line South line of Berkshire Estates # II shows 263.80' to SE COR Lot 13 North line NW COR Lot 1 to NE COR Lot 5 shows 267.0'

- 3 -
Exhibit C.

Street and DRAINAGE TPC

"Right of Way" dedication along the Easterly $270 \pm$ Ft shall be made to the City of KEIZER to provide 24 Feet of Right of Way From the EAST PROPERTY LINE of the Subject Property

South Line Phase II

291.72 Deed distance

- 263.80 South line Phase II

27.92 Remaining Property to center line of ^{line}

- 24.00 Deed to Keizer For R of W

3.92 FEET UNACCOUNTED FOR

NORTH LINE PHASE II

291.72 Deed distance

- 267.00 NORTH LINE PHASE II

24.72 Remaining PROPERTY to center line of ^{line}

- 24.00 Deed to Keizer For R of W.

.72 FEET UNACCOUNTED FOR

THIS COVERS 8.53 Feet ^{on South} of Deeded ^{Basement} R of W to Residents of Timothy Lane and 11.78 FEET ON North of Deeded Easement R of W to Residents of Timothy Lane.

Also check permit & Plan for storm sewer Before any other permits issued

Exhibit C

Street and drainage improvements:

- a. An overall master storm drainage Plan that will provide service to this Area of Keizer needs to be in place prior to issuance of ANY permits for construction of the proposed development.

8/07/97

Jim Warner reports that Clear Lake appears to have flooded during the past two rainy winters. Storm drainage channeled to Clear Lake from subdivisions will add to flooding problem. What is that going to do to farmers' crops?

8/27/97 2:30 p.m.

CONVERSATION WITH JOEL STEIN
FROM KEIZER FIRE DEPT.

RON SMITH OF MARION CTY. FIRE
DISTRICT #10.1 HAS ULTIMATE
AUTHORITY SINCE TIMOTHY LAVER
IS IN MARION CTY. FIRE DIST. #1.

MR. STEIN STATES THAT ACCESS IS
LIMITED TO ONE EGRESS ON WHEATLAND
ROAD - THROUGH SUBDIVISION NORTH
OF BERKSHIRE ESTATES.

REIMAN DEVELOPMENT SOUTH OF
BERKSHIRE ESTATES - ACCESS ROAD
WILL BE GATED.

MR. STEIN STATES THAT THEY DECIDED
ON A CASE-TO-CASE BASIS AS TO
SECONDARY ACCESS. IN A MEETING
WITH DEREK BROWN THEY ASKED HIM
TO LOOP HARBOUR & EXPLORER AS
THEY WANT NO DEAD ENDS OVER 150' LONG.

Mr. Hill:

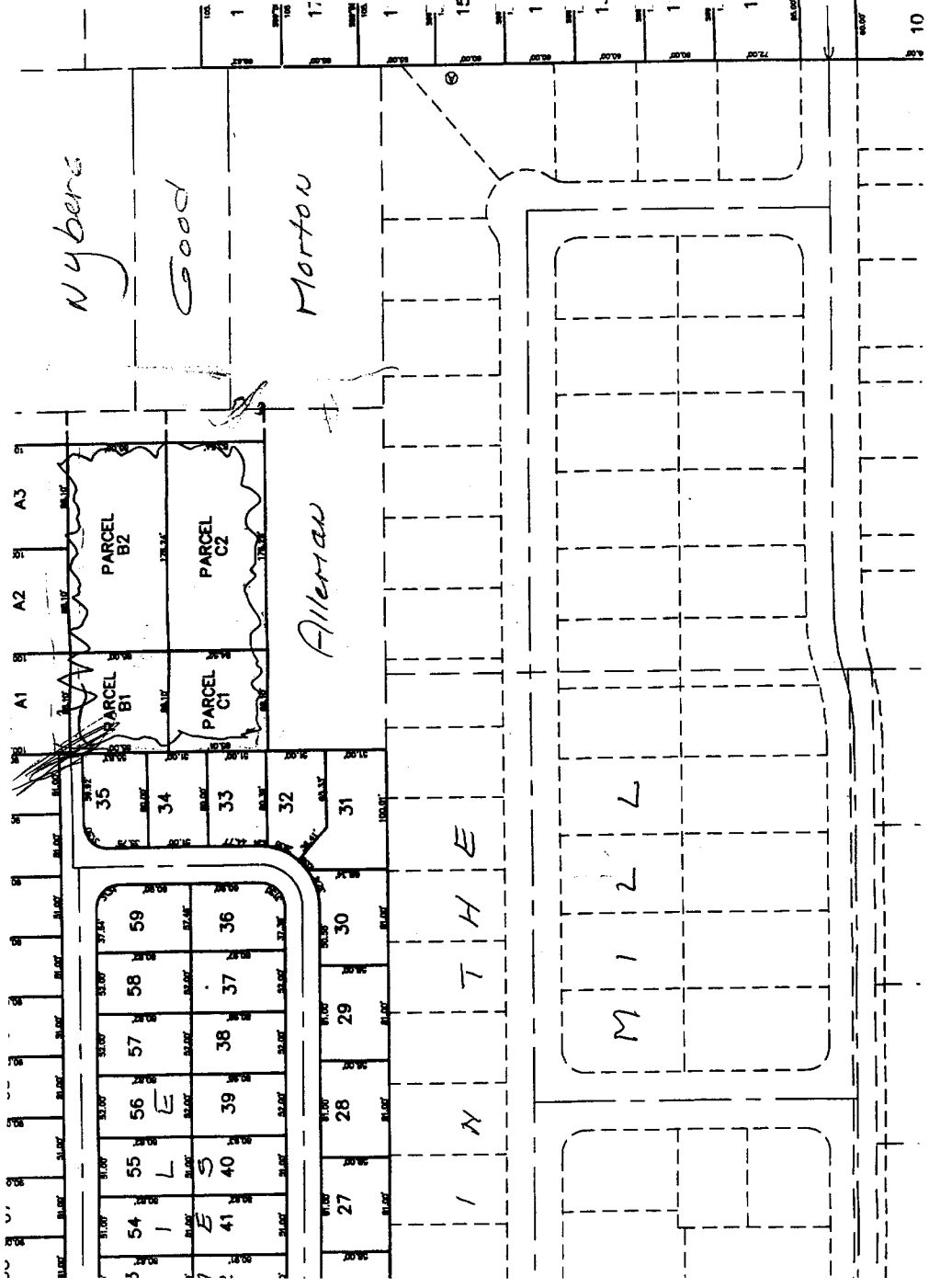
I TALKED to Joel Stein AGAIN
at 4:15 p.m. the Reiman gated
road will be available for
emergency vehicles. However, due
to wind changes & tactical
maneuvers they want access
from another direction - Timothy
Lane. They do not carry keys -
they use bolt cutters for gate
removal.

I ALSO ASKED him about Above
ground water tank, the area
near Punta Elena did not work
out with Mr. Epping. Joel Stein
said they would like to place tank
in North end but no developer
will give up land for tank. Surprise!
Nally Mall will not be in office
until Thursday. He knows more about tank.

the second thing they asked Mr. Brown (because of the concerns of Timothy Lane residents) to curb Timothy Lw. to afford access to park. They do not like to have \$250,000.00 Fire engines jumping curbs.

Why weren't Timothy Lane residents involved with planning on this issue?

12 1144 LOT 1144



Barwick

Nyberg

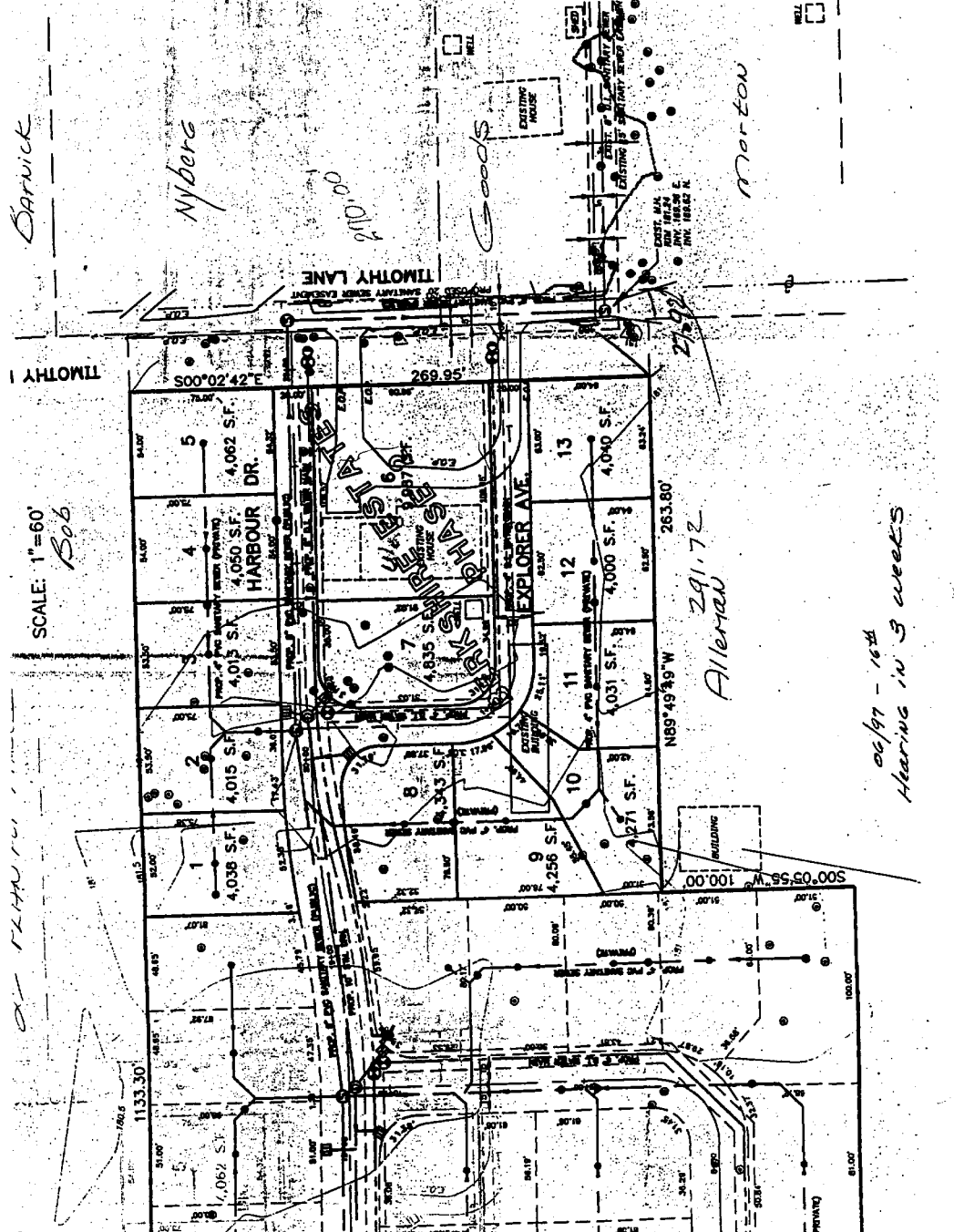
210.00

Good

Morton

SCALE: 1"=60'
Bob

of 11/11/11



291.72
Allman

06/97 - 10th
Hearing in 3 weeks

DEQ regulates approximately 550 municipal wastewater sewage treatment plants and 2,600 industrial dischargers.

In addition to permitting municipal and industrial discharges, DEQ also permits and inspects septic system installation and operation to prevent pollution and public health problems. About thirty percent of the state's population use septic tank systems that rely on soil to treat wastewater for on-site sewage disposal.

Surface Water Runoff

Most people believe that the largest source of water pollution comes from a pipe, such as from factories and sewage treatment plants. *But the fact is that the largest source of water pollution in Oregon's rivers, lakes and streams comes not from a pipe - but from surface water runoff.*

When it rains, water washes over driveways, roofs, agricultural lands, streets, lawns, construction sites, and logging operations picking up soil, garbage and toxics.

The amount of pollution carried by rainwater, snowmelt and irrigation water flowing into streams and lakes, and through the soil into groundwater is much larger than pollution from industry. This type of pollution causes damage to fish, wildlife and their habitat, damages drinking water supplies, promotes excessive weed growth and degrades Oregon's scenic beauty and recreational opportunities.

Pollution from surface water runoff is hard to detect and control because it doesn't come from a single source like a factory or sewage treatment plant. Instead, many everyday activities and traditional land use practices destroy aquatic habitat by causing soil erosion, stream overheating and by allowing pollutants to wash into our waters.

Surface Water Pollution

Comes From:

- * Household chemicals and soaps running off driveways, roofs and yards into streets and down storm drains directly to streams and rivers.
- * Fertilizers and pesticides running off agricultural lands and urban areas such as yards, parks, golf courses and landscaped areas.
- * Oil, anti-freeze, and other toxic materials running off roadways into storm drains or directly into streams.
- * Soil erosion which comes from construction sites, logging activities and agricultural lands.
- * Failing septic tanks that cause both surface and groundwater pollution.
- * Livestock and pets, such as dogs, which pollute the water with bacteria, cause erosion, and destroy aquatic habitat.

Watersheds And Water Quality

Watersheds (or river basins) are areas of land that collect rainfall and snowmelt which later flows into streams, rivers and groundwater. Watersheds can encompass huge areas like the Columbia River watershed, smaller ones like the Willamette River watershed or even smaller areas like creeks.

A healthy watershed has natural vegetation in and along streams and rivers, a diversity of plants and animals, naturally made stream channels and good water quality.

Healthy watersheds provide clean drinking water and support and sustain economic activities. When watershed health declines there is less habitat for fish and wildlife, and the land becomes less productive

LIEN & JOHNSON
Attorneys At Law
4855 River Rd. N.
Keizer, Oregon 97303

John A. Lien
E. Shannon Johnson

RECEIVED
AUG 06 1997
COPY
Telephone 503-390-1835
Fax 503-390-6557

August 4, 1997

Norman R. Hill
Attorney at Law
1114 Twelfth St SE
Salem, OR 97302-2897

RE: Your Client: Carl Alleman (Derek L. Brown Development)

Dear Mr. Hill;

I am in receipt of your July 29 letter. It is my understanding that at this time, the City has "red tagged" the project. No further work is progressing at this time.

Please be advised that the City is looking into the matter further, and may change it's position should further review of the facts and the development regulations make it appropriate to do so. If you have any questions in this regard, please feel free to contact the city planner, Amy Drought.

Thank you.

Yours truly,

LIEN & JOHNSON



By: E. Shannon Johnson

ESJ/llw
c: Amy Drought

COPY SENT TO CLIENT
ON 8/6/97 BY llw

Norm Hill, Attorney
Fax 363-2250

FAX Transmission

from: **MULTI/TECH Engineering Services, Inc**

Date: August 14, 1997

To: Don Woodly, Marion County Building Department

Fax Number: 588-7948

From: Mark Grenz, P.E.

President

Phone # (503) 363-9227 Fax # (503) 364-1260

Number of Pages **3**

in this transmission:

(If you do not receive the number of pages noted, please contact our office)

Regarding: Berkshire Manufactured Home Park

Originals ☐ Will Follow ☐ Will Not Follow

MESSAGE:

Our office has obtained a construction permit from the City of Salem for the installation of the public sanitary sewer mains within the Berkshire Manufactured Home Park, between Wheatland Road and Timothy Lane. A copy has been attached for your information.

Please make note that construction of the main will start on Monday, August 18, 1997

All stop work posting for this project should be removed from the site to prevent any confusion with the adjoining property owners.

Any delays in the construction of the project at this point, would be costly to the parties involved.

Please make sure that your inspectors know the status of the work to avoid any such problems.

Call if you have any questions.

RECEIVED
AUG 14 1997

MARION COUNTY
BUILDING INSPECTION

KEIZER FIRE DISTRICT

661 CHEMAWA RD. N.E. • KEIZER, OR 97303

TEL: (503) 390-9111

FAX: (503) 390-8299

April 29, 1997

Wally Mull
City of Keizer
930 Chemawa Rd. NE
Keizer, Or. 97303

Dear Wally;

The City of Keizer Water Department water system master plan indicates the necessity for reserve water storage to protect against disruption in the supply of water to the system. Interruptions could occur for several reasons, planned or unplanned. Any disruption during a substantial fire event could be catastrophic. When considering reserve water storage by means of a reservoir the risk of interruption in fire flows is greatly reduced. An above ground storage type of tank would be necessary to maintain a natural gravity flow in the event that pumps are not operable.

The existing water system plan appears to address the potential needs of the Keizer Fire District provided the plan is followed as written. Key elements are addressed in the plan such as calculations and formulas use by the Insurance Services Office (ISO) . This is tested and proven information, and should be strongly considered when finalizing the plan for future water needs of the city.

In closing, let me say that Keizer Fire District supports the plans recommendation for additional storage in the Northern area of Keizer.

Sincerely,



Joel Stein

Division Chief/Fire Marshal

"Committed to Excellence – Dedicated to Service"

This Indenture Witnesseth, That B. C. BAUGHMAN and QUINTINE BAUGHMAN, husband and wife

for the sum of Ten and no/100----- DOLLARS
to them paid, have bargained and sold and by these presents do----- bargain, sell and convey to
CARL B. ALLEMAN and OLLIE M. ALLEMAN

husband and wife as tenants by the entirety the following described premises situate in Marion County, Oregon, to-wit:

Beginning at a point which is 1379.06 feet south 0° 02' west and 291.72 feet north 89° 45' west from the northeast corner of the west 1/2 of the southeast 1/4 of Section 23 in Township 6 south, Range 3 west of the Willamette Meridian in Marion County, Oregon; thence north 89° 45' west 291.72 feet to a point on the west line of a tract of land conveyed to B. C. Baughman by deed recorded in volume 483, page 399, Deed Records for said county and state; thence south 0° 02' west 100.00 feet to the southwest corner of said tract; thence south 89° 45' east 291.72 feet to the southeast corner of said tract; thence north 0° 02' east 100.00 feet to the place of beginning.



TOGETHER WITH a non-exclusive right of way for ingress and egress over and along an existing private road as set forth or referred to in the following instruments of record: volume 483, page 399; volume 483, page 400; volume 545, page 360; volume 545, page 361; volume 546, page 178; volume 557, page 64; volume 559, page 91; but subject to the burdens thereby created.

#203996 (4) 540 PAGE 4
FURNISHED AS A COURTESY BY:

To Have and to hold unto the said grantees, as tenants by entirety, their Heirs and Assigns forever. AND the said grantors do

hereby covenant to and with the said grantees, their Heirs and Assigns, that they are the owner in fee simple of said premises; that said premises are free from all encumbrances except taxes for the fiscal year 1964-65, a lien not yet payable; easement for roadway purposes affecting the easterly 12-1/2 feet of herein described premises, recorded April 11, 1962, in volume 557, page 64, Deed Records of Marion County, Oregon;

and that they will WARRANT and DEFEND the same from all lawful claims whatsoever save and except as above stated.

husband and wife as tenants by the entirety

and that they will WARRANT and DEFEND the same from all lawful claims whatsoever save and except as above stated.

WITNESS their hands and seal this 28th day of August, 1964

B. C. Baughman (SEAL)
Quintine Baughman (SEAL)
(SEAL)
(SEAL)

July 3, 1997

John Morgan
Community Development Director
City of Keizer
Keizer, OR 97303

Re: Proposed manufactured home park & variance
on Robert Woods Property

Dear Sir:

There are many problems associated with the above proposed project. Perhaps the most significant problem is that the park is not compatible with the lot sizes on Timothy Lane. The existing lots vary in size from 85' x 291' plus feet to lots that are over one acre in size. There is one lot south of the Woods residence that is 85' x 291'. There is a lot that is 100' x 291' on the north side of the residence. I do not believe that the neighbors on Timothy Lane would object if Mr. Derek Brown would plan site-built homes on these two lots even though Timothy Lane is a private road.

Another problem is Timothy Lane itself. The Woods property is on the section of Timothy Lane that is a private road. The paved portion of the 25' roadway is only 8' or 9' wide. The entire length of Timothy Lane must be maintained by the residents of Timothy Lane. The lane cannot support the addition of twelve manufactured homes, if the variance is granted and the lane is used for ingress and egress. Mr. Robert Woods has stated to Don Nyberg and Carl Alleman that he specified that the property be developed into homes. He has stated that the wording was changed to "dwellings". If wording in the contract was, in fact changed, there seems to be some dishonesty involved. The proposed park also presents a need for additional water supplies. We know from the controversy over the siting of the above ground water tank, that water supplies are limited. How can approximately 105 manufactured homes not impact the limited water supplies?

We are unhappy about the sewer line on the Morton property being placed across Timothy Lane. I spoke with Mr. Wally Mull, Public Works Director, on July 29, 1996. Mr. Mull stated that before the sewer line could cross the lane, all Timothy Lane residents with easements must be asked for approval. The sewer line has crossed Timothy Lane and none of us were asked for approval.

It is our understanding that Mr. Brown, at present, has no access to the property from Wheatland Road. We, the residents of Timothy Lane, are strenuously opposed to our lane being used for the construction vehicles' ingress and egress. We are adamant about this.

Previously, the McGarvey's on our lane wanted to replace an older manufactured home with a new one. They were not allowed to do this. How can the City of Keizer turn down a request for one manufactured home then allow Mr. Brown to build an entire park of manufactured homes?

We know that growth is coming to our area. We are not ^{inc}objective to the development on the Bohlander property south of us, even though we would prefer to have it remain a sheep pasture. We do notice that many of the trees in the pasture have red lines painted on them. If the lines mean that the trees will be cut, we anguish over their loss and the loss of the remaining trees on the Woods property. Numerous beautiful trees have been lost in this area- the Redwoods in the Leewood development as well as the Douglas Fir on the Bahnsen property. More beautiful trees were cut in the easement which Mr. Brown purchased from the Mortons. Trees will be cut on the Timothy Lane right-of-way if the sewer line goes in on the lane as proposed. We read your guest opinion in the Statesman Journal but we do not see any tree cutting stopped. Trees give Timothy Lane its character which is what we want to preserve. If we must live with subdivisions all around us, at least let us maintain our livability on the lane. The proposed manufactured home park does not fit the character of our neighborhood.

Our neighbor, Don Nyberg, spoke with Amy Drought on Wednesday, July 2, 1997. According to Mr. Nyberg, we cannot be present when the planning development makes a decision on allowing twelve manufactured homes to be placed on the Timothy Lane side of the Woods property. After the decision is made, and if we do not agree with the decision, we can appeal. At that time the attorney for the City of Keizer will defend the planning department's decision. We find it abhorrent that we must pay for an attorney to defend our position and our tax dollars pay for the City of Keizer to fight against us.

Sincerely,

Carl & O.M. Alleman
7759 Timothy Lane N.E.
Keizer, OR 97303

Council rejects Wiessner plan

City may hike fees to buy tank

A group of Keizer residents recently showed you can fight City Hall and win.

But the victory for Northside Terrace homeowners means new homeowners in Keizer are likely to pay hundreds of dollars more for their homes.

Wally Mull, city public works director, said he will propose the city increase its development charge per home lot from \$300 up to \$800.

The increase is needed to pay the extra cost of burying a water reservoir the city had planned to put on stilts.

Mull said he also is drafting the city's first-ever water curtailment plan. The plan — just in case — would dictate restricted water use in the city if a shortage develops.

The actions come after the Keizer City Council reversed course recently and voted against a tall water tank on Wiessner Drive. Residents in the area had been baiting the city for months. They contended the 35-foot tank, holding 1.5 million gallons of water, would be an eyesore that disrupted their

views and harmed property values. The council initially backed the city staff's plan to put in the tank.

Last week, though, the council changed its mind. Councilors instructed that if a water tank is built in Northview Terrace, it be underground.

That's causing fits for the city.

Work had already started on the tank for above-ground storage. The tank is done, but now the city has no place to put it. Building a tank underground means nearly doubling the cost — from approximately \$650,000 for a tower tank to \$1.2 million for a cement tank underground.

Mull said in an interview that with 1,000 new homes planned for the Clear Lake area, the city needs additional water storage now. The city planned to meet the new demand by having the water reservoir in place this summer.

"In the past, we've operated at full capacity to meet demand," Mull said. He said the city can still meet demand

with new homes — but that leaves the city with precious little reserves. If any of the city's 14 wells failed or a major fire developed, the city could be in trouble.

Mull wants to make use of the steel tank that had been destined for Northview Terrace. He is looking for property in the north end of Keizer to hold the tank tower.

The 1.5 million gallon tank will help, but the city still needs more storage, Mull said. That means the underground tank will be needed, and raising money means looking for a new source of cash.

That source could be the development charge levied on new home lots. Mull said he wants to raise the fee to \$800 per lot as soon as possible. The fee is charged when a new water meter is hooked up to a home.

And until the new reservoirs are in place, Mull wants to be prepared for a water emergency. He said he expects to take a plan to the city council in July that would mandate such things as restricting lawn watering to every other day.

Growing schools need renewed joint efforts

As families why they move to Keizer and a ready answer is they like the schools here. That's a great reputation, but the growing population is stretching our schools. The Salem-Keizer School Board now is considering a more aggressive role in community planning. It's time.

The picture is typical clear in Keizer. New subdivisions are flying up at a record pace. The school system predicts how many students will come out of the subdivisions. District officials then report to local planners whether local schools can handle the additional enrollment.

In recent years, the answer has been Keizer schools can't handle the extra students. Yet the district's statistical report becomes a footnote in the planning work. The choice to permit a new subdivision never turns on whether schools have room for the students produced by the subdivision. The subdivision goes up, the students roll in, and the school district is stuck with cramped schools.

For too many years, city planning and school planning have been isolated from each other. City planners seldom consider the impact on schools of growth. And school officials, sensitive to politics, keep their noses out of city planning. Until now.

The school board at its recent planning retreat decided to consider stepping up its role in community planning. A subcommittee of board members will consider just how to do that. Now, the district files a report on each subdivision, listing how many students are coming and whether schools can handle the students. If new students push a school over its space limits, the district gives a boilerplate warning that portable classes, boundary adjustments, double shifting or other remedies may be used. The district, at least now, doesn't really say how it will deal with overcrowding.

That's one step that should

change. The district should give its best answer on what it intends to do with the extra kids. The boilerplate has to be replaced with a meaningful answer. That way, city planners and the community have a realistic idea of what will happen to new students.

The district's response should also spell out what the district has already done to affected schools to ease overcrowding. If a Keizer school already converted a lunch room to a classroom, the planners and community need to know that. So do the potential homebuyers who are about to bring more kids into Keizer. Call it a truth in Education Statement.

What's really missing is the answer to what city government should do with school information. Keizer can't very well reject a subdivision application because it swamps an elementary school or Whiteaker Middle School. And Keizer can't charge a developer an extra fee to build a new school wing to house the kids. Keizer city government, though, can be a partner in planning the community development that one hoped for. Yet the growth and crowding issues really focus on a question debated by cities all over Oregon: Who's going to pay for bigger schools or new ones? The usual answer is: the community. In Keizer, that means more bond money for more schools. Or does it? Perhaps it's time in Keizer to analyze what this growth is costing the community — and that includes schools. Is there some other way to pay for more classes?

If the school board explores its more aggressive role, it should invite the chief of Keizer to join in the debate. Keizer city government should be eager to help, realizing again that quality schools help make a quality community. Tough choices need to be made now, or we'll keep cramming kids into schools, pretending we can't do anything about it. — LZ



A red "Stop Work" tag bars anymore construction work on Berkshire Estates subdivision on Wheatland Road until the developer gets the necessary permits.

All quiet City shuts down subdivision work

Building officials last week ordered work stopped on a controversial Keizer subdivision because developers didn't have the necessary permits.

The stop work order was issued for Berkshire Estates, a 103-space manufactured home park going in on Wheatland Road.

The project is being developed by Derek Brown Associates of Portland. The contractor on the early site work was Canby Excavation. George Schmidt of Canby Excavation said his company had already finished what work it intended to do for now when the stop order was issued. He said no more work was planned until permits were obtained.

John Morgan, city community development director, said he directed work be stopped because the company hadn't complied with a host of city requirements.

He said Derek Brown Associates began work on the first phase of its subdivision without getting the required building permit or before filing a master storm sewer plan.

Morgan also said the company started

excavating for the second phase of the subdivision before it obtained the necessary conditional-use permit.

The actual stop order was issued by the Marion County Building Department, under contract to Keizer to provide inspection and permit services.

Morgan said the city was concerned that the developer started grading streets and changing the landscape of the property without the necessary city approval. He said the city has become very concerned in new developments with storm runoff. Derek Brown Associates hasn't submitted its plan to deal with storm drains, Morgan said.

The developer got approval for the 90-unit subdivision earlier this year. Last month it sought city permission to add 13 lots to the back end of the project. The narrow subdivision runs from Wheatland Road east to Timothy Lane, a small rural road.

Morgan Friday granted the company's request for the additional lots, but that permission doesn't become effective until next Monday at the earliest. Residents could ap-

peal Morgan's decision, forestalling issuance of the necessary permits. As of Tuesday, appeal had been filed.

Morgan maintained that the company went ahead with site work on the second phase anyway. He said city building code prohibit anything but modest site work the permits are issued.

Trouble with the city wasn't the only problem Derek Brown Associates had the subdivision last week.

The state Department of Environmental Quality visited the site after neighbors complained about excessive dust. DEQ told contractor on the job, Canby Excavation, employ water trucks to water down the dirt during construction.

Lance Powlison of Derek Brown Associates said the only problem he knew of involved the dust issue. He said Canby Excavation was arranging for the necessary water trucks to comply with the DEQ directive.

Powlison said the company hoped to finish the project in November and then remove the park sites.

AUG. 7, 1997

Keizer serious about its street trees

The Statesman Journal has run several articles recently highlighting the cutting of trees in Salem. These articles tended to group Keizer in with Salem in questioning the appropriateness of allowing these practices.

I believe the community should know that Keizer cares a great deal about our urban forests and has developed a series of initiatives to preserve and enhance the local environment through tree preservation and planting.

First, the city, through its urban renewal district, is working with property owners to add street trees along both River Road and Cherry Avenue. Along River Road, grants have been given to several property owners to add trees, and several other projects are planned, including major tree planting at the Bi-Mart/Keizer Village Shopping Center area.

With the improvement of Cherry Avenue, which is scheduled to be completed in the fall of 1998, dozens of trees will be planted lining the corridor. Naturally, these will be a broad variety of flowering cherry trees.

Second, the city's draft development code, which is in the public hearing process, will, if adopted,

JOHN N. MORGAN

GUEST OPINION



...require street trees in all new subdivisions. Every project will install trees just as sidewalks and street lights are installed today.

Third, the city's street tree ordinance regulates the cutting, pruning and planting of trees in the public right-of-way. No tree can be cut without permission by the public works director, and that permission is given only if the trees in question are breaking up sidewalks or the street, causing vision hazards, or are in ill health.

When street trees are removed, the public works director can require they be replaced. Whenever trees are planted in the right-of-way, they must be from the city's approved list of street trees. The varieties on this list are all proven to be successful due to their characteristics of having deep root systems and tall columnar shapes.

Fourth, the city identifies Heritage Trees, which are trees that due to location, size, age or historical context, are significant to the entire community. Heritage Trees cannot be cut or pruned without city permission.

Finally, the city's tree ordinance allows the community development director to require replacement plantings for any significant tree removed as part of a development or construction process. A significant tree is one more than 12 inches in diameter or more than 50 feet in height. This includes any significant tree cut up to one year prior to the application. This provision has been invoked several times during the past few years.

These five initiatives present a cohesive city effort to preserve and enhance our urban forest. Part of the livability and character of Keizer is the large number of second-generation trees planted when houses were built during the past 40 years. Adding to these trees with new planting efforts along the major arterials and within new developments will continue to build Keizer's attractiveness and livability.

John N. Morgan is community development director and city manager pro tem for Keizer.

Rural Keizer residents fight additional ma

BY ELVIA DIAZ
The Statesman Journal

KEIZER — Living on the outskirts of town for three decades has meant a country life for Lela and Clarence McGarvey.

But they're worried that a development near their home on Timothy Lane in northeast Keizer may change their rural surroundings.

"We don't want more traffic out here," said Lela McGarvey, a Keizer resident for 37 years. "We don't know what kind of people might come to live here. We will lose our peace."

The McGarveys are

Signs of Growth



among a dozen residents who are fighting Keizer city officials to keep a manufactured-home park under construction from adding new units.

About five months ago, Portland developers Derek L. Brown and Associates secured a building permit from

Keizer to build 90 homes on a 14-acre lot west of Timothy Lane. Work on that phase is under way.

A few weeks later, Brown returned to Keizer asking to be allowed to expand the project by 13 homes.

Residents had feared the 90 units originally planned would mean a huge increase in traffic. But the 13 additional units would be even closer to the neighbors' homes, and they worry it will be dangerous to drive along their narrow, dead-end private road.

Brown said traffic wouldn't be a problem because residents would enter

the new homes from Wheatland Road, on the west side of Timothy Lane. The lane would be used only for emergency vehicles.

"Frankly, what the residents are saying sounds elitist to me," Brown said. "It sounds like not-in-my-backyard type of argument."

Brown expects senior citizens and first-time home buyers to purchase the manufactured houses, which will range from \$65,000 to \$70,000. Space rental will add about \$300 a month, he

SEE HOMES/2C

Growth: More development news. **2C**

Homes: Keizer to review the permit

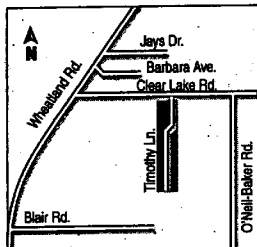
CONTINUED FROM 1C
said.

But the Timothy Lane residents said they would feel the impact of the 13 additional homes because there would be no buffer zone between them and the manufactured-home park. They don't think new residents would avoid driving along Timothy Lane.

"We didn't hesitate to pay for road maintenance when we bought our properties because we liked the idea of keeping the road private," said Dona Aldrich, who has lived on Timothy Lane for nine years.

Keizer City Planner Amy Drought said staff has not made a decision on whether to issue the permit for the additional 13 units. But she said that the area has been zoned for development for years.

"We're always interested in what residents have to say," she said. "But we're reviewing the



DEBRA DE YAMPERT/Statesman Journal

Timothy Lane

Derek L. Brown & Associates of Portland wants to expand a manufactured home project from 90 to 103 units.

application on its own merits."

The neighbors have hired a lawyer to assist them.

"City officials aren't telling us much," said Donald Nyberg, a

Timothy Lane resident. "All they tell us is about the process. We have not received any notices."

The city is required to notify residents who live within 100 feet of the proposed development, but only after a decision has been made, Drought said. Residents then can appeal the city's decision within 10 days.

"My house will be just across from the new homes if the city allows them to add the new units," Nyberg said. "We have to have a say now."

McGarvey, who farms a half-acre, said she bought her property on Timothy Lane because she wanted to keep her family's farming tradition.

"Pretty soon Keizer is going to be nothing but a big city," said McGarvey. "In a way, we're still in farm country. I want to keep it like that."

Keep up with growth in the burgeoning Mid-Willamette Valley with Signs of Growth on Mondays in the Statesman Journal.

Appeal exposes county's blunder in approving

Marion County erred in approving a 17-lot subdivision in the hills south of Salem, the state Land Use Board of Appeals has found.

Responding to an appeal by neighbors, LUBA said Marion County failed to prove there is adequate ground water supply to serve South Ridge Estates, on rural Pettyjohn Road S. The matter now goes back to Marion County for a second look.

LUBA heard the case after Richard and Carolyn Harcourt challenged the

ANNE WILLIAMS

SIGNS OF GROWTH

county Planning Commission's decision last December to allow the subdivision at 4567 Pettyjohn.

The Harcourts, whose property abuts part of the 42-acre site, charged that the addition of 17 homes could deplete an already poor ground water supply. Homes in the area are served by wells, and the Harcourts and other neighbors say their supply has di-

minished in recent years, forcing some to drill new wells repeatedly.

When it approved the subdivision, the planning commission said evidence of sufficient water supply was lacking. But the commission decided to give it preliminary approval anyway on the condition that the state Department of Water Resources evaluate the ground water supply before final approval.

Sterling Anderson, a principal planner with the county, said he believed the

county did get the necessary review from that agency. But LUBA said the county never should have passed on the responsibility to Water Resources: It was up to the county to find proof of adequate water supply before granting approval.

LUBA also found that the county failed to adequately address the potential for mudslides and soil erosion at the site.

At the same time the
SEE APPEAL / 2C

Appeal: Decision halts development

CONTINUED FROM 1C

LUBA appeal was pending, the county was drafting an ordinance that would impose restrictions on development in areas where ground water may be scarce. It's a common concern in developing areas, including the hills south of Salem.

The Harcourts, who have testified in favor of that ordinance, hailed the LUBA decision.

"I think it vindicates everything we had expected," Richard Harcourt said. "It certainly throws a monkey wrench into their plans. I expect there are a lot of red faces and a lot of embarrassment over at the county."

But LUBA's decision does not necessarily mean that developers didn't evaluate the site satisfactorily, said county assistant legal counsel Jo Stonecipher. It could simply mean that the evidence wasn't documented and explained well enough.

Developer Lynn Merrill said he's confident it is simply a matter of rewriting the findings to the satisfaction of the county. Hydrologic and geologic study of the site, he said, "was more than any other subdivision we know of in the history of Marion County."

Pending LUBA's decision, work had continued on the subdivision. The land has been cleared, underground utilities have been laid and paving was scheduled to begin in September,

Merrill said. But Stonecipher said that no more work will take place until the county takes action.

"This stops all work temporarily," she said. "Right now they don't have land-use approval, so they have no basis for going forward."

Gladys Blum, South Ridge's listing agent with Prudential Real Estate Professionals, said five of the lots — which sell for between \$95,000 and \$185,000 — are reserved.

Six had been reserved, but Salem resident Terry Layton backed out when he got wind of the ground water debate and legal troubles.

"We just decided that maybe they're going to find the well now, but how long will it last?" said Layton, who had already talked with an architect about plans for his dream home on the scenic lot.

Layton said he was never told about the LUBA appeal or ground water concerns. Blum said Layton reserved the lot before the Harcourts filed their appeal and would have been told everything before formalizing the deal.

Blum lives on Roberts Ridge Road S, which branches off Pettyjohn. She's been there 20 years, she said, and has noticed no decline in her water supply, which she said is not great, but

satisfactory.

"We've been very careful to disclose everything we know" to people interested in lots, she said.

The county's proposed ground water ordinance would restrict building in vulnerable areas unless developers can prove that the land use will not deplete supply. Rob Hallyburton, the county's principal long-range planner, said the Merrills may well have done the necessary study to comply with the ordinance.

The county commissioners likely will reconsider South Ridge Estates later this month. They could decide to approve the subdivision if new findings are deemed sufficient or send it back to the planning commission or county hearings officer for another public hearing.

Harcourt and his neighbors have urged commissioners to give them another chance to be heard.

Keep up with growth in the burgeoning Mid-Willamette Valley with Signs of Growth on Mondays in the Statesman Journal.

It's time to study growth in Oregon

■ A committee will assess effects of the state's population boom.

Gov. John Kitzhaber has made a timely decision to appoint a statewide committee to look at the costs and benefits of growth.

The Oregon growth debate has accelerated as surging populations have strained services and changed the character of communities.

Oregon needs to allow growth, but also must maintain its quality of life. To ensure that the land-use system works, we need accurate and timely information, which Kitzhaber's committee hopes to generate.

The committee, which will hold its first meeting by September, is expected to determine development costs to builders, the public cost of providing services to new buildings and the toll of growth on such things as neighborhoods, schools and farmland.

The resulting data should help lawmakers and residents make better decisions about growth.

Oregonians enjoy the benefits of growth — a stronger economy, a larger retail base and a more vibrant, diverse population. But they worry about crowded classrooms, deteriorating roads, the encroachment of homes into forests, coastal lands and scenic open space, the deterioration of air and water quality, higher housing prices and increases in crime and poverty.

They have reason to be concerned.

The U.S. Census Bureau reported last week that Oregon was among the nation's leaders — ninth overall — in house and apartment growth from 1990 to 1996. At the end of 1996, there were 1.34 million housing units in Oregon — a 12.4 percent increase in six years.

Oregon's population growth is expected to

decline in the next few years because of the surging economies in California and Washington and because of Oregon's high housing prices. The median cost of a single-family home in Oregon was \$124,600 last year, compared with \$70,800 in 1990 — a faster growth rate than any U.S. state.

Still, any slight decline isn't likely to cool the debate over growth:

■ **Some residents say** that developers aren't paying their fair share, but builders disagree. Developers say land-use restrictions are driving up the costs of housing, but critics see little evidence the building boom has led to cheaper housing. And both sides disagree over who should pay for the roads, water and sewer systems and schools required by new construction.

■ **During this year's** legislative session, lawmakers debated scores of proposals that would have affected the state's famed land-use system.

One proposal would have allowed local governments to charge developers of new homes and apartments for part of the cost of building new schools. Another bill — narrowly rejected — would have allowed state regulators to oversee annexation decisions by local voters. Meanwhile, rural legislators continued pushing for a relaxation of land-use and environmental laws.

■ **In Salem**, slow-growth proponents are pushing ballot measures that would increase development fees and allow a public vote on all proposed annexations. A group of parents is proposing ballot measures to limit the number of students per classroom in Salem and Keizer public schools.

In these and other cases, the debate lacks little agreement about the basic costs and benefits of growth.

We believe Kitzhaber's committee can help fill that gap and give Oregonians the information they need to make better decisions.

1159 timothy Ln, N.E.
Salem, OR 97303

August 10, 1997

to whom it may concern:

If we could sit down and negotiate with Derek Brown, the following is a list of wishes that would make us happy:

1. Fences Around entire perimeter 8' tall. We would like timothy lane fenced now to prevent access from construction vehicles.
2. trees and shrubs Around perimeter for sound barriers.
3. Repair paving on lane (paving was damaged by construction vehicles).
4. Low light posts on phase II. the residents of timothy lane enjoy star gazing without lights.
5. Give up timothy lane easement. Easement would not be needed if lane is fenced.

6. Indemnifying Goods, Van Dohelen,
nyberg, Allenman families AGAINST
flooding since top soil has been
Added on Phase II and natural
drainage has been changed.
Stuart Crosby from multi-tech
Engineering has assured us
that drainage will be better
than before so this should not
be a problem for Mr. Brown.

Sincerely,

Carl Allenman

Carl Allenman

C. M. Allenman

C. M. Allenman

7830 Timothy Lane, N.E.
Keizer, OR 97303
August 11, 1997

To Whom It May Concern:

This relates to Conditional Use Case No. 97-04 about property on the western side of the 7200 Block of Timothy Lane, wherein it is proposed that 13 new homes be placed on 1.63 acres for Phase II of Berkshire Estates.

Rather than 13 houses, we request that no more than two new homes be erected (alongside the existent yellow house). We suggest that these new residences be allowed to have normal access to Timothy Lane, to provide for personal and utility use as is the practice for current residents of this private road.

It would appear that with the amount of acreage and number and type of houses already bordering this Lane, 2 new homes would be more consistent with the present environment.

The new residences could have the benefits and privileges of full use of Timothy Lane, particularly if there were fences separating these sites from the Phase I Berkshire Estates development.

Thank you.

Sincerely,
Grace J. Barnick
Ronald E. Barnick

To Whom it may concern:

We oppose conditional use proposal 97-4 in its current form. We are of the opinion that the proposal would adversely affect the living conditions in the area. If the plan were modified we could accept it.

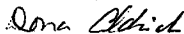
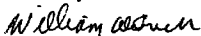
Our major concern is Timothy Lane. Timothy Lane is single family residential street and should remain as one. It is not a through street, and is not designed now, or in the future, to handle through traffic.

The conditional use proposal 97-4 should be modified to include the subdivision of a portion of the land. Lots 4 and 5 should be combined into one lot. Lots 12 and 13 should be combined into another. Then the two new lots and the existing home site should be segregated (partitioned). This would allow a single family residential home to be constructed on each new lot. These could have access to Timothy and would not create an unreasonable traffic load. Such lots would also create a buffer from the residential area to the manufactured structure development. This would be good for the area and still allow the developer to develop the property.

This would leave the proposal with 11 lots in the 1.6 acres. This should provide the zoning density needed to comply with the comprehensive plan.

With this modification we would not oppose the proposal.

Thank you



William Aldrich

Dona Aldrich

7850 Timothy Lane
Keizer, Oregon 97303

(503) 390-1591

August 26, 1997

7770 Timothy Lane NE
Salem, Oregon 97303

To Whom It May Concern:

We are in full agreement with these various letters by the residents of Timothy Lane.

We are especially concerned about the drainage problem. Our property is lower than any of the others, and water from rains will drain across Timothy Lane onto us. The property across the lane from us has been raised a little higher than it was before, and water from heavy rains will flow onto our property.

Sincerely,

Harold Good
Genevieve Good

August 1997
7909 Timothy Ln. N.E.
Salem, Oregon 97303

To Whom it may Concern:

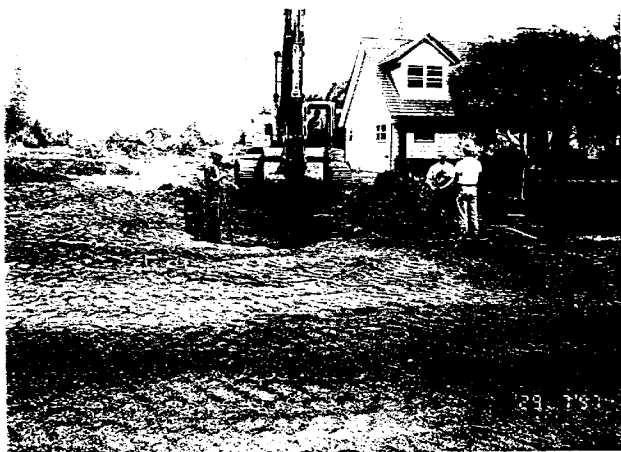
Timothy Lane is an extremely narrow, quiet lane that we, as residents, want kept as is - a private "dead end" lane.

The traffic from the Derek Brown mobile home park should be routed out entirely onto Wheatland Rd. There are no reasons for any vehicles or foot traffic to use Timothy Ln. - it really is not capable of supporting additional traffic - because it is such a small street.

We will press for permanent barricades or adequate fencing to be erected to block residents and vehicles from the mobile homes from trespassing onto this private lane.

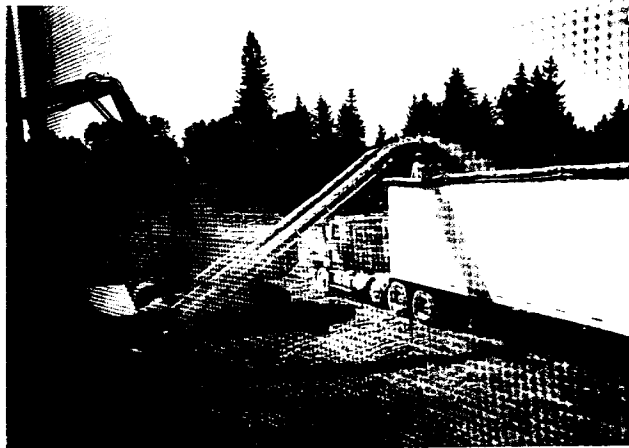
Since Derek Brown's mobile home park is so out of character for the existing neighborhood, landscaping with trees and shrubs dense enough to camouflage and curb noise from the encroaching development would be immensely appreciated.

Sincerely,
Bill Hendell Pearson.



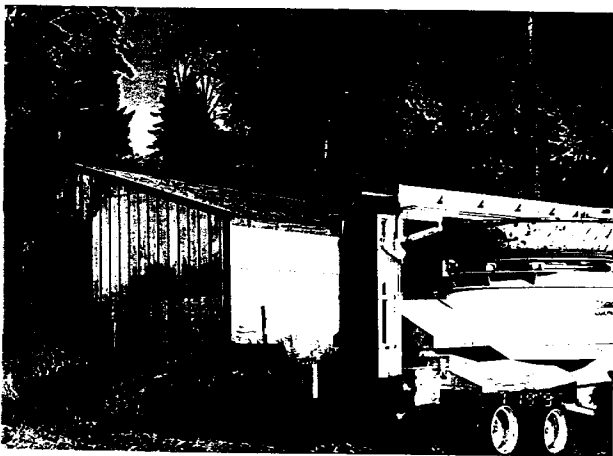
Timothy
Laur
Sewer
install-
ation





*chipper
dust*





drum
chipper
behind
our shop

Note:
chipper
debris on
Shop roof



Log From
chipper
landed
About 80'
From
drum
chipper



Examples
of debris
left on
our
property
From
drum
chipper





South
Side of
Woods
Home -
After
Clear
Cutting
ON
Phase II



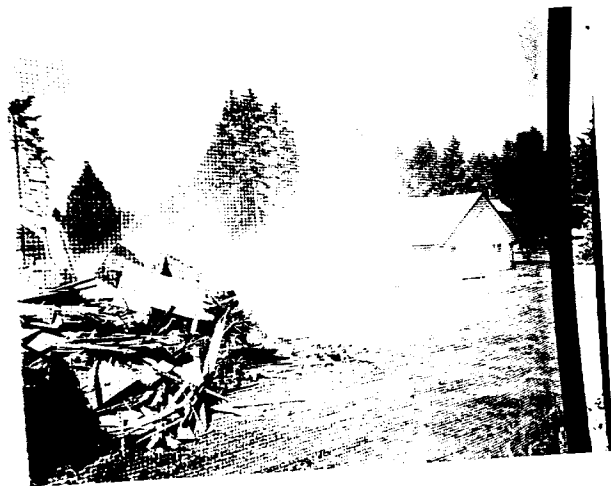


North
Side of,
Woods'
Home
After
Clear
cutting
ON
Phase II





Canby
Excavation
dust
control
on
Phase II

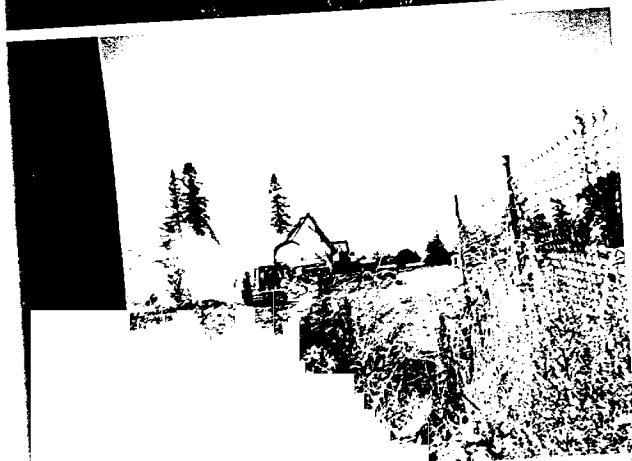


more
dust
control





topsoil being
placed on
Phase II





Woods'
barn -
before
and
After



FROM
WHEELHARD
ROAD

HOUSE ON
PHASE I
NOT ON
A NUMBERED
LOT. WILL
IT BE
PARTITIONED?





Private
Road
being
used by
construc-
tion
vehicles





*workers'
vehicles*





*Sewer easement
through Morton
property*

*manhole on
Timothy Lane*



timothy
LANE)
B.C.
(before
clear-
cutting)





October 20, 1997

AGENDA ITEM 7a

RESOLUTION - REESTABLISHING COMMUNITY POLICING
COMMITTEE

To: Mayor and City Council

Thru: Wally Mull, City Manager 
Lt. Pat Bowe 

From: Jodi Sherwood, Community Policing Coordinator 
Craig Campbell, Community Policing Committee Chair

Subject: RESOLUTION REESTABLISHING COMMUNITY POLICING COMMITTEES

BACKGROUND

The Keizer Police Department began the Community Policing Program in November 1993. Resolution #R93-636 was originally adopted to acknowledge the formation of the original Community Policing Committee. Over the course of the program the committee has evolved and has been restructured.

The current Main Community Policing Committee (now referred to as the Keizer Community Policing Committee) has developed the attached resolution. The basics of the resolution include current practices that are being conducted by these committees. Elections, roles, appointments, and reporting of information, as well as other topics, are now more plainly defined.

On August 4, 1997 City Council adopted Resolution R97-980 establishing the Community Policing Committee, Pro Tem. This was to allow the Committee to work on its current structure and improve the scope of the committee. Over the course of the last three months, committee members, department personnel and City Council members have been involved with the review. Through several meetings the attached Resolution has been prepared. City Attorney, Shannon Johnson, has recently reviewed the Resolution and has approved the current language.

The Mission and Value Statement that is included within the resolution has been drafted by the Management Staff, with input from all personnel, in conjunction with members of the Community Policing Committee. This same Mission and Value Statement is the new focus for the Department as well as the Committee.

FISCAL IMPACT

There is no anticipated fiscal impact with adopting this resolution.

RECOMMENDATION

We recommend that you adopt the resolution acknowledging the Community Policing Committee. Working with community members will continue to allow the Keizer Police Department an effective way to resolve residents' concerns and for the department to learn more about community problems. It will promote the encouragement of the community having more say in deciding how law enforcement resources should be spent and in setting law enforcement goals.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R97- _____

A RESOLUTION REESTABLISHING COMMUNITY POLICING COMMITTEES;
REPEALING RESOLUTION R97-980

WHEREAS, the City Council of Keizer has approved the implementation of a Community Policing Program for the City of Keizer; and

WHEREAS, the City Council has continued its commitment towards improving Community Policing in the City of Keizer; and

WHEREAS, the current Community Policing Committee is authorized to operate in its current structure until October 31, 1997, NOW THEREFORE

BE IT FURTHER RESOLVED that the mission of community policing for Keizer is:
The mission of the Keizer Community Policing Committee is to provide quality police services through community oriented policing

BE IT FURTHER RESOLVED that the Community Policing Committee will follow the following values;

Communication

Communication is the open and honest exchange of information and ideas among the Police Department, the City Government and the Community at all levels and is essential to effective community-oriented policing.

Partnership

Partnership is the Police Department, the City Government and the Community working together to identify and address community concerns while upholding the law.

Problem Solving

Problem solving is the investment of time and effort to prevent, eliminate or reduce the fear and incidence of crime.

Empowerment

Empowerment gives the Police Department, the City Government and the Community the ability to try new and non-traditional approaches to problem solving, in addition to those that are safe, proven and traditional to address community concerns.

Responsibility

Responsibility is the expectation that the Police Department, the City Government and the Community will be devoted to community policing through honest and committed effort in an open process.

Quality Service

Quality Service is being visible, responsive and willing to assist while maintaining a helpful, professional demeanor. Employees are expected to be self-disciplined, well trained and competent and to possess the ability to deal fairly and respectfully with the public.

1 BE IT FURTHER RESOLVED that the Community Policing Committee shall, in
2 cooperation and coordination with the departments, boards and committees of the City of Keizer to
3 develop and improve community policing in Keizer;

4
5 BE IT FURTHER RESOLVED that the Community Policing Committee shall advise the
6 City Council regarding the progress of community policing efforts, report deficiencies and
7 successes in community policing efforts and recommend steps necessary to further the mission and
8 values of Community Policing;

9
10 BE IT FURTHER RESOLVED that the Community Policing Committee shall take
11 appropriate action to establish and maintain an effective and productive partnership with the
12 community. To mutually identify and address community concerns. To empower employees and
13 engage citizens to cooperatively develop and maintain an expectation of respect and responsibility
14 in our community. And, to enhance the safety of the community and its citizens and officers;

15
16 BE IT FURTHER RESOLVED that the Community Policing Committee shall prioritize,
17 develop and where appropriate, implement community policing programs;

18
19 BE IT FURTHER RESOLVED that the Community Policing Committee shall: provide a
20 forum for the community at large regarding community policing issues. The committee will be
21 responsible for maintaining open communications with all parties represented by its members;

22
23 BE IT FURTHER RESOLVED that the Community Policing Committee shall also, at the
24 direction of the City Council or the request of the police department make recommendations
25 regarding programs and policies related to community policing;

26
27 BE IT FURTHER RESOLVED that the Community Policing Committee shall conduct itself
28 in accordance with the following structure and operating procedures;

29 30 **RULES OF OPERATION AND PROCEDURES**

31 The Keizer Community Policing Committee will operate according to Roberts Rules
32 of Order. It will make all formal decisions based on roll call vote once a quorum has
33 been established. A quorum shall consist of a majority of the standing members.

34 35 **SELECTION OF MEMBERS**

36 The Keizer Community Policing Committee will consist of the following members
37 who shall be elected or appointed on a yearly basis:

38
39 One representative appointed by each of the neighborhood associations recognized
40 by the City

41 The chair and vice-chair (when applicable) of each District Community Policing
42 Committee

43 One Representative appointed by the Chamber of Commerce

44 A Liaison appointed by the City Council from its members

45 The Chief of Police

46 The Community Policing Coordinator

1 A Representative appointed by the Police Officer's Association from its membership
2 Three Representatives at-large:
3 The committee shall nominate individuals and select from a list to fill the at-large
4 positions. At-Large positions shall be drawn from areas of the community other than
5 those listed above.

6 7 **REMOVAL OF MEMBERS**

8 The Keizer Community Policing Committee may vote to remove a member if the
9 member is absent from three or more consecutive meetings.

10 11 **OFFICERS**

12 At the beginning of each calendar year, the Keizer Community Policing Committee
13 will elect a Chair and Vice-Chair.

14 15 **ELECTIONS**

16 The Chair and Vice-Chair shall be elected from the membership of the Community
17 Policing Committee at the first meeting of each calendar year. Nominations shall be
18 submitted by standing members to the Community Policing Committee either in
19 advance of, or at the meeting during which the election will take place. Each
20 nominee shall be allowed five minutes to state his or her reason for running.

21 22 **Voting:**

23 The Chair and Vice-Chair shall be elected by a majority vote of members present
24 once a quorum has been established. The Community Policing Coordinator shall
25 administer the vote. The vote shall be tallied by a roll call vote, with each member
26 indicating their choice for Chair and Vice-Chair from the list of nominees. A
27 Separate Vote will be taken for each position with the election for Chair to be held
28 first.

29 30 **Vacancies:**

31 Should the position of Chair or Vice-Chair become vacant during the course of the
32 year a special election shall be held at the next meeting of the committee following
33 the date of the vacancy. The election shall be held in the manner specified above.

34 35 **SUBCOMMITTEE STRUCTURE**

36 The Community Policing Committee may organize subcommittees and task forces,
37 as it deems necessary to carry out its purpose.

38 39 **COMMUNITY POLICING ANNUAL REPORT AND YEARLY** 40 **COMMUNITY WIDE GOAL SETTING FORUM**

41 The Community Policing Committee will develop an Annual Report in January of
42 each year. The report shall consist of a strategic plan, identifying the goals for the
43 next calendar year and a review of community policing progress on strategic goals
44 from the previous year.

45 Each year the Community Policing Committee will hold one or more community-
46 wide open forums on community policing to assist the committee in setting goals for

1 the upcoming year. The forum will be held at a time, date and place to allow for
2 community input and the development of recommendations to coincide with the city
3 budgeting process as the city manager requests.
4

5
6 PASSED this _____ of October 1997.

7
8 SIGNED this _____ of October 1997.
9

10 _____
11 Mayor

12 _____
13 City Recorder
14



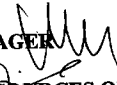
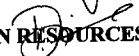
October 20, 1997

AGENDA ITEM 7b

**RESOLUTION - AMENDING SALARY RANGE STRUCTURE
AMENDMENTS FOR COMMUNITY SERVICE COORDINATOR
AND ADMINISTRATIVE ASSISTANT**

CITY COUNCIL MEETING: October. 20, 1997

AGENDA ITEM NUMBER: 7b

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS
THRU: WALLY MULL, CITY MANAGER 
FROM: DIANNE SUEK, HUMAN RESOURCES OFFICER 
SUBJECT: COMPENSATION STUDY -
*COMMUNITY SERVICES COORDINATOR AND
ADMINISTRATIVE ASSISTANT*

BACKGROUND:

At its August 4, 1997 meeting, Council implemented the Compensation Study by approving a Resolution Setting Forth a New Salary Range Structure effective July 1, 1997. Excluded from this action were Personnel Officer, Finance Director, Community Services Coordinator and Administrative Assistant positions, which were to remain at current salary levels until further study of each position was completed. At its September 15, 1997 meeting, Council approved two of the positions, Human Resources Officer (Personnel Officer) and Finance Director.

Tonight, staff is presenting information on the final two positions, Community Services Coordinator and Administrative Assistant, with a recommendation to amend the Compensation Resolution to reflect the appropriate salary ranges for these positions.

Community Services Coordinator: This position was then reevaluated by the City Manager, Human Resources Officer, and the staff person currently in this position using information received from council members, staff and community policing and neighborhood association representatives. The job description was rewritten to reflect the addition of a more community based position, coordinating activities of community policing, neighborhood associations, neighborhood watch, and community volunteers. In addition, this position, which previously reported to the Chief of Police, will be reporting to the Lieutenant and will no longer be supervising community service officers.

Administrative Assistant: There was one council member who expressed some thoughts about this position. This position was reevaluated by the City Manager, Human Resources Officer, and the staff person currently in this position. Based upon this input, a new job description was written which more closely reflects the duties currently being performed.

RECOMMENDATION:

It is recommended that Council adopt the attached Resolution Amending the New Salary Range structure effective July 1, 1997.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON
Resolution R97- ____

AMENDING THE NEW SALARY RANGE STRUCTURE EFFECTIVE JULY 1, 1997.

The City Council of the City of Keizer does hereby resolve as follows:

SECTION 1. That Resolution R97-990 is hereby repealed in its entirety.

SECTION 2. Salary grades for unrepresented classifications have been revised as recommended by the City Manager and approved by the City Council, and are currently assigned to the following classifications, effective July 1, 1997.

SALARY GRADE	CLASSIFICATION	FLAT	BASE MONTHLY PAY RANGES				
			1	2	3	4	5
NA	City Manager	\$5,833					
NA	Chief of Police		\$4,698	\$4,933	\$5,180	\$5,439	\$5,711
NA	City Recorder		\$3,392	\$3,562	\$3,740	\$3,927	\$4,123
NA	Community Development Director		\$4,448	\$4,671	\$4,904	\$5,150	\$5,407
NA	Finance Director		\$4,370	\$4,589	\$4,818	\$5,059	\$5,312
NA	Public Works Director		\$4,603	\$4,833	\$5,075	\$5,329	\$5,595
11	Police Lieutenant		\$4,053	\$4,255	\$4,468	\$4,691	\$4,926
10	.. ¹		\$3,718	\$3,904	\$4,099	\$4,304	\$4,519
9	Police Sergeant		\$3,411	\$3,582	\$3,761	\$3,949	\$4,146
9	Public Works Superintendent		\$3,411	\$3,582	\$3,761	\$3,949	\$4,146
8	Human Resources Officer		\$3,129	\$3,286	\$3,450	\$3,623	\$3,804
7	Accountant		\$2,871	\$3,014	\$3,165	\$3,323	\$3,490
7	Community Services Coordinator		\$2,871	\$3,014	\$3,165	\$3,323	\$3,490
7	Municipal Utility Worker III		\$2,871	\$3,014	\$3,165	\$3,323	\$3,490
7	Planner		\$2,871	\$3,014	\$3,165	\$3,323	\$3,490
6	Administrative Assistant		\$2,634	\$2,766	\$2,904	\$3,049	\$3,202
5	Municipal Utility Worker II		\$2,508	\$2,634	\$2,766	\$2,904	\$3,049
5	Utility Billing Technician		\$2,508	\$2,634	\$2,766	\$2,904	\$3,049
4	Code Enforcement/Zoning Technician		\$2,389	\$2,508	\$2,634	\$2,766	\$2,904
4	Municipal Court Clerk		\$2,389	\$2,508	\$2,634	\$2,766	\$2,904
3	.. ¹		\$2,275	\$2,389	\$2,508	\$2,634	\$2,766
2	Municipal Utility Worker I		\$2,167	\$2,275	\$2,389	\$2,508	\$2,634
1	Clerical Specialist		\$2,064	\$2,167	\$2,275	\$2,389	\$2,508
1	Recording Secretary		\$2,064	\$2,167	\$2,275	\$2,389	\$2,508
1	Utility Billing Clerk		\$2,064	\$2,167	\$2,275	\$2,389	\$2,508

///

/// ¹ No position is currently assigned to this Salary Grade.

SECTION 2. The following positions have been removed from the new salary range structure and the

salaries frozen at their current range for future Council action, effective July 1, 1997.

CLASS TITLE	BASE MONTHLY PAY RANGES				
	1	2	3	4	5
Administrative Assistant	\$2,140	\$2,247	\$2,360	\$2,478	\$2,602
Administrative Assistant					
Community Services Coordinator					

SECTION 3. The following salary grades have been adjusted based upon a contracted cost of living

increase as recommended by the City Manager and approved by the City Council, and are currently assigned to the following Police Department classifications, effective July 1, 1997.

CLASS TITLE	BASE MONTHLY PAY RANGES				
	1	2	3	4	5
Police Officer	\$2,696	\$2,831	\$2,973	\$3,122	\$3,278
Support Specialist	\$1,997	\$2,097	\$2,202	\$2,312	\$2,428

SECTION 4. A City employee who is determined to be fluent in a second language which is deemed to be of benefit to the City, shall receive a maximum incentive of two and one-half percent (2.5%) per month. Determination of whether the second language is of benefit to the City, will be at the discretion of the City Manager. Fluency will be determined by the City Manager, based upon a standard and testing program which the City will implement by policy with the assistance of high school and/or college faculty members and/or court-approved translators.

SECTION 5. Holiday schedules for all non-represented employees, except Sergeants, are as follows:

New Years Day	Labor Day	1- Personal Leave Day
Martin Luther King's Birthday	Veterans Day	1- Floating Holiday
Presidents Day	Thanksgiving Day	
Memorial Day	Christmas Day	
Independence Day		

SECTION 6. Sergeants shall be entitled to take twelve (12) paid floating holidays per fiscal year. A holiday shall accrue on the first of each month and be taken or paid as earned. Holiday time off shall be scheduled at the request of the employee who may accrue no more than four (4) holidays at any time and who shall make every effort to schedule all of the holidays off during that fiscal year. Should the employee be unable to obtain this schedule

because of a request denial by the City, then the employee shall be allowed to accumulate additional holiday time and carry over to the next fiscal year, or be paid for the accrued holiday time at the City's option.

SECTION 7. Vacation schedules for all full time non-represented employees are as follows:

REGULAR EMPLOYEES

1-2 yrs. @ 6.7 hours
3-4 yrs. @ 8 hours
5-9 yrs. @ 10 hours
10-14 yrs. @ 12 hours
15 + yrs. @ 16.67 hours

DEPARTMENT HEADS

1-4 yrs. @ 10 hours
5-9 yrs. @ 12 hours
10-14 yrs. @ 13.33 hours
15 + yrs. @ 16.67 hours

Note: 6.7 hours = 10 days; 8 hours = 12 days; 10 hours = 15 days; 12 hours = 18 days; 13.33 hours = 20 days; 16.67 hours = 25 days. Half-time employees accrue vacation at one-half the above rate; three-quarter time employees accrue at three-quarter the above rate.

SECTION 8. Sick-leave shall accrue at the rate of 8 hours per month for full-time employees, and shall be prorated accordingly for part-time employees. Sick-leave may be accumulated to a maximum of 960 hours and carried over to the next year. Provided, however, that the employee in the classification of Public Works Director hired prior to June 30, 1985 who has excess of 960 hours of accumulated sick leave shall be entitled to carry up to 1460 hours. The 1460 hours shall be reduced based upon sick leave usage.

SECTION 9. Compassionate Leave: 5-days for each death in the immediate family.

SECTION 10. The City shall pay an incentive of two and one-half percent (2.5%) per month to a Sergeant holding an Associate of Arts Degree. The City shall pay five percent (5%) to a Sergeant holding a Bachelor's degree from an accredited college or university.

SECTION 11. Standby pay for Water Department is \$100.00 per week for 24-hour standby.

SECTION 12. The City shall pay an incentive of:
\$0.10 per hour for Waterworks Certification I;
\$0.25 per hour for Waterworks Certification II;
\$0.75 per hour for Waterworks Certification III;
2.5% per month for an Intermediate BPSST Certificate;
5% per month for an Advanced BPSST Certificate.

SECTION 13. Mileage reimbursement for all employees is set by current IRS rate.

SECTION 14. RETIREMENT PLAN:

Management employees: If eligible for PERS, employer contribution will be based upon the actuarial report received from PERS but not more than 19% of gross salary. If eligible for defined contribution (ICMA 401a) employer contribution equaling 11% of base salary.

Non-management employees: If eligible for PERC, employer contribution will be based upon the actuarial report received from PERS. If eligible for defined contribution (ICMA) employer contribution in an amount equaling 11% of base salary.

In addition the City will match employee deferred compensation contributions (ICMA 457) up to six percent (6%) of salary for unrepresented employees.

Upon retirement, unrepresented employees may also apply 50% of unused sick leave toward retirement benefits.

SECTION 15. HEALTH AND WELFARE

Management benefit package: An amount equal to 32% over and above base monthly pay. For those eligible for defined contribution, an amount equal to an additional 1% of base monthly pay toward defined contribution.

PASSED this ____ day of _____, 1997.

SIGNED this ____ day of _____, 1997.

Mayor

City Recorder



JOB DESCRIPTION

Community Services Coordinator

Class Title:	Community Services Coordinator	Effective Date:	
Working Title:	Community Services Coordinator	Supervisor:	Lieutenant
Department:	Police	Supervision:	None

Position: (X) Full Time () Part Time () Temporary () Seasonal () Job Share

FLSA: () Exempt (X) Non-exempt **Eligible for Overtime:** (X) Yes () No

JOB SUMMARY

Under the general direction of the Lieutenant, this professional level staff position coordinates projects, events, and administrative tasks between city government and citizen groups; in conjunction with the Lieutenant, identifies needs, develops statistics and writes reports; provides resource information to citizens related to crime prevention and other community safety related needs; coordinates activities related to Community Policing, Neighborhood Associations, Neighborhood Watch/Crime Prevention Programs and other community programs.

WORKING CONDITIONS

Work is performed primarily in an office setting with some work performed off-site. Work includes routine evening meetings taking place off-site, requiring traveling to and from various locations. This position may require bending, stooping and lifting up to 10 pounds. Requires use of a personal computer, calculator and telephone. Occasional contact with employees and customers in conflictive situations.

DUTIES, RESPONSIBILITIES AND ESSENTIAL FUNCTIONS

The following examples of duties and responsibilities do not encompass all job requirements

1. Develops and implements meetings, events and manages projects relating to Community Policing Committees, Neighborhood Associations, Neighborhood Watch, and other community groups;
2. In conjunction with department staff, develops and presents programs to civic groups, business groups, merchants, and community groups;
3. Works with local ethnic groups to develop a relationship that will foster a working relationship between the various ethnic communities and the City of Keizer;
4. Works with department members and divisions in the development and presentation of crime prevention programs;
5. Organizes and manages community volunteers relative to the various programs;
6. Provides support to community volunteer groups and individual members;
7. Maintains records on programs for departmental recording and use, including annual reports;
8. Performs surveys, analyzes data, and writes reports;
9. Maintains brochures, video-tapes and other material. Promotes crime prevention through the media, community groups, neighborhood watch, etc.;
10. Researches and develops new department programs;
11. Researches, writes, and manages grant programs;
12. Attends seminars and meetings to collect program information;
13. Other duties as assigned.

DESIRED QUALIFICATIONS

Experience and Training:

High school diploma or GED equivalent; three years experience and training in dealing effectively with the public and in organizing and implementing programs, preferably related to public safety, requiring independent scheduling of activities; or a combination of training and experience which provides the applicant with the knowledge, skills and abilities required to perform the job.

Knowledge, Skills and Abilities:

Knowledge of group process, community organizing, and effective citizen participation techniques.

Knowledge and ability in written and verbal communication and to make group presentations.

Knowledge and experience in needs analysis and program development.

Knowledge of community policing, and crime prevention programs.

Skill in the use of personal computers, including word processing, spreadsheets, and desktop publishing

Skill in the use of various office equipment and audio visual equipment.

Ability to effectively plan, coordinate, and motivate others to actively promote the delivery of community services programs.

Ability to schedule, assign, reward, and review the work of volunteers.

Ability to establish and maintain effective working relationships with the general public, employees, volunteers, other law enforcement agencies, diverse groups and individuals, and media.

Ability to be self-motivated and to work on various tasks and assignments at one time

Valid driver's license.

APPROVED:

City Manager

Date



JOB DESCRIPTION

Administrative Assistant

DRAFT

Class Title: Administrative Assistant
Working Title: Administrative Assistant
Department: Police

Effective Date:
Supervisor: Chief of Police
Supervision: None

Position: (X) Full Time () Part Time () Temporary () Seasonal () Job Share

FLSA: () Exempt (X) Non-exempt **Eligible for Overtime:** (X) Yes () No

JOB SUMMARY

This professional level staff assistant provides administrative and technical support to the Chief of Police, Lieutenant and supervisors. This position prepares policies, procedures, staff reports and other technical documents; maintains police department files; and other related duties. Assignments involve the use of initiative and judgment in the independent conduct of work and reviewed on the basis of results obtained. This position works under the supervision of the Chief of Police.

WORKING CONDITIONS

Work is performed in an office setting and may require bending, stooping and lifting up to 10 pounds. Requires use of a personal computer, calculator and telephone. Occasional contact with employees and customers in conflictive situations.

DUTIES, RESPONSIBILITIES, AND ESSENTIAL FUNCTIONS

The following examples of duties and responsibilities do not encompass all job requirements.

1. Handles confidential materials/documents;
2. Composes correspondence, assists in research and preparation of statistical reports, personnel reports, budgets, and other confidential tasks;
3. Prepares staff reports, monthly statistical reports, and other documents for distribution to City Manager, City Council, etc.;
4. Maintains administrative appointment schedule and makes travel arrangements;
5. Responds to public inquiries and/or complaints regarding police operations;
6. Maintains Police Department files such as staff, budget, etc.;
7. Orders, obtains, and maintains inventory control of office supplies, uniforms, equipment and other items for the department; obtains bids and proposals, makes recommendation to Chief, orders and receives items.
8. Reviews and maintains department financial records; maintenance agreements, contracts and other expenditures;
9. Verifies department invoices for accuracy; prepares purchase orders, codes invoices, handles problems and routes invoices to City Finance Dept.;
10. Receives monetary and non-monetary contributions/donations from agencies, businesses, citizens, etc., and forwards to City Finance Dept. for processing.
11. Maintains department petty cash fund, including disbursement, reconciliation, and requests;
12. Provides administrative and technical support to supervisors;

13. Assists with recruitment process, processing necessary paperwork and correspondence for individuals offered employment, handles the issuance of department uniform, equipment, and other related items for new hires.
14. Monitors department performance evaluation system, ensures timely preparation by supervisors, and completes personnel action forms;
15. Participates in department staff meetings and prepares/distributes minutes of meeting;
16. Other related duties as assigned.

DESIRED QUALIFICATIONS

Experience and Training

High school graduate or equivalency, plus three years of progressively responsible experience in a staff professional/technical position with at least one year experience in a police department, or any satisfactory combination of experience and training which demonstrates the knowledge, skills and ability to perform the duties, responsibilities and essential functions of the job.

Knowledge, Skills and Abilities

Knowledge of Governmental and particularly police operational practices, procedures and methods; research and study methodologies; budget concepts and preparation; business English, composition, grammar, accounting.

Skill in proficient use of personal computers; word processing, spreadsheet and graphics software applications; effective interpersonal and written communication; organization; analysis.

Ability to organize and prioritize multiple projects; conduct analysis; interpret and apply information in making decisions and providing information; maintain professional integrity of sensitive and confidential information; comprehend and interpret Police policies and standard operating procedures, City Ordinances, Oregon Revised Statutes, Oregon Administrative Rules and federal laws; establish and maintain effective working relationships with other employees, representatives of governmental and community agencies, and the public.

APPROVED:

City Manager

Date



October 20, 1997

AGENDA ITEM 7c

HOTEL/MOTEL TAX ISSUE

CITY COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 7c

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY G. MULL

FROM: SUSAN GAHLSDORF
FINANCE DIRECTOR

SUBJECT: HOTEL/MOTEL TAX DISCUSSION

BACKGROUND:

Over the past few years, the City Council has had several discussions on whether to impose a hotel/motel tax. Actions taken by the council include the following:

- August 15, 1994, the Council passed Resolution R94-762 establishing intent to impose a hotel/motel tax.
- April 15, 1996, the Council passed a Motion to consider repealing Resolution R94-762.
- May 20, 1996, the Council Motion failed to repeal Resolution R94-762.
- May 5, 1997, John Morgan informed the Council a building permit for an 86 unit hotel was in process. He also noted that numerous developers were actively looking at locations within the Chemawa Activity Center. He requested the Council provide staff direction on the hotel/motel tax issue. The Council passed a Motion to proceed with a study on developing a hotel/motel tax.

ISSUE:

Shall the City levy an occupancy tax on hotel and motel facilities after conducting a hearing to receive objections and/or support for a proposed ordinance?

The attached memo is a synopsis of interviews with those in the community as well as those in the lodging industry. These interviews were intended to identify concerns surrounding the Transient Occupancy Tax (TOT) issue.

The following identifies what certain other cities have done regarding a Transient Occupancy Tax:

CITY	TAX RATE	FUND USE
Eugene	9.0%-9.5%	
Grants Pass	7.0%	25% Tourism Promotion 75% Public Safety
Medford	6.0%	75% General Fund 25% Chamber of Commerce
Portland	8.0%-9.0%	84% General Fund
Roseburg	6.0%	50% Streets, sidewalks, lights 35% Visitors & Convention Bureau 10% Economic Development
Salem	6.0%	100% Tourist Fund
Springfield:		
County	6.0%	45% General Fund
City	4.5%	55% Tourist Related Special Projects
Wilsonville		60% General Fund 40% Chamber of Commerce
Woodburn	6.0%	3% Chamber of Commerce 97% General Fund

FISCAL IMPACT:

The following scenarios identify anticipated annual revenues from a TOT levy:

Assumptions:

Wittenberg Hotel 86 units
Activity Center Motel 150 units

Scenario #1 - 65% occupancy rate, \$55 room rate

	Based on 5% tax		Based on 6% tax	
	5% Operator Retainer	City's Revenue	5% Operator Retainer	City's Revenue
Wittenberg Hotel	\$ (2,805.48)	\$ 53,304.14	\$ (3,366.58)	\$ 63,964.97
Activity Center Motel	(4,893.28)	92,972.34	(5,871.94)	111,566.81
Total	\$ (7,698.76)	\$ 146,276.49	\$ (9,238.52)	\$ 175,531.79

Scenario #2 - 65% occupancy rate, \$82 room rate

Based on 5% tax		Based on 6% tax	
5% Operator Retainer	City's Revenue	5% Operator Retainer	City's Revenue
Wittenberg Hotel	\$ (4,182.72)	\$ (5,019.26)	\$ 95,365.96
Activity Center Motel	(7,295.44)	(8,754.53)	166,335.98
Total	\$(11,478.16)	\$(13,773.79)	\$ 261,701.93

Scenario #3 - 70% occupancy rate, \$55 room rate

Based on 5% tax		Based on 6% tax	
5% Operator Retainer	City's Revenue	5% Operator Retainer	City's Revenue
Wittenberg Hotel	\$ (3,021.29)	\$ (3,625.55)	\$ 68,885.36
Activity Center Motel	(5,269.69)	(6,323.63)	120,148.88
Total	\$(8,290.98)	\$(9,949.17)	\$ 189,034.23

Scenario #4 - 70% occupancy rate, \$82 room rate

Based on 5% tax		Based on 6% tax	
5% Operator Retainer	City's Revenue	5% Operator Retainer	City's Revenue
Wittenberg Hotel	\$ (4,504.47)	\$ (5,405.36)	\$ 102,701.80
Activity Center Motel	(7,856.63)	(9,427.95)	179,131.05
Total	\$(12,361.09)	\$(14,833.31)	\$ 281,832.85

The use of TOT revenues was discussed by staff, at the Department Head level. Staff believe that the addition of new hotel and motel facilities would impose an additional burden on the City. These costs need to be recovered, to some extent. The following allocation is recommended:

- 5% Hotel/Motel operator collection fee (5% is the standard in Oregon)
- 5% Administrative costs
- 10% Police services
- 10% Fire services
- 10% Banner Program (please see attached memo for description)
- 15% Street & Park development
- 55% Total allocation to City
- 45% Amount available
- 100% Total

The implications of Measure 50 need to be considered in decisions regarding the use of new tax revenues. If the Council decides to proceed with a hotel/motel tax, research needs to be done to ensure the appropriate application of these revenues.

The remaining 45% of the funds could be used to promote recreation and the community. The following ideas were presented:

- Keizer Heritage and the old schoolhouse -- tourists want something cultural to visit
- Informational brochures -- tourists want information on the area where they are staying
- Paving the Little League Field parking lot -- when Keizer Little League hosts regional games, some visitors will presumably stay at Keizer lodging facilities
- Gateway landscaping -- Keizer wants the City's entrance to appeal to visitors
- Park maintenance -- tourists would use these facilities and therefore, need to help pay for maintenance

Funding for specific projects should be decided using a grant awards process whereby organizations could apply each year for tourist grant funds.

RECOMMENDATION:

It is our recommendation that the Council discuss alternatives and provide direction to staff on preparing a draft ordinance for consideration at a public hearing.

Memo

To: Wally Mull

John Morgan

From: Susan Gahlsdorf 

Date: October 16, 1997

Re: Hotel/Motel Tax

Over the past few weeks I have been discussing the concept of a Transient Occupancy Tax (TOT) with a number of people and gathered information to present to the City Council on October 20, 1997. I thought it would be helpful to summarize what I have learned.

Meeting with Chamber of Commerce

John and I estimated the annual revenue the City could expect from imposing a hotel/motel tax (attached). John suggested we figure a 5% tax since most other cities assessed a 6%-7% tax. Then we met with Sam Goesch and John Weeks (Keizer Chamber of Commerce) to discuss uses of these revenues. We discussed several ideas including operation and maintenance of the "Banner Program." The Banner Program is designed to decorate River Road to acknowledge the seasons and holidays throughout the year. We could purchase 5 different sets of banners (approximately 60 of each set) and hang them on the street lights. John contacted Martin Brothers Signs for an estimate on the cost to change the banners 5 times a year. Martin Brothers figured it would take 10 hours at \$65 an hour. This equates to approximately \$3,200. John will get an estimate from June Abbott regarding cleaning charges. Storage will cost approximately \$30 per month (per Wally).

We also discussed granting funds to the Chamber of Commerce since the Chamber drives who will come here to visit. We could use funds for the following:

- Keizer Heritage and the old schoolhouse -- tourists want something cultural to visit
- Informational brochures -- tourists want information on the area where they are staying
- Paving the Little League Field parking lot -- when Keizer Little League hosts regional games, some visitors will presumably stay at Keizer lodging facilities

- Gateway landscaping – Keizer wants the City's entrance to appeal to visitors
- Park maintenance -- tourists would use these facilities and therefore, need to help pay for maintenance

We also discussed ways of informing hotel/motel patrons of how the city spends the tax including a flyer or card highlighting the major uses of funds.

Telephone conversation with Mark Siegel, City of Salem, Finance Department

I contacted Mark to identify how the City of Salem was using its TOT revenues. He sent me a copy of Salem's Cultural and Tourism Fund budget. The budget includes approximately 5% for administration and contingencies. The administrative costs are charged using an indirect cost allocation. The budget document Mark sent did not show total TOT revenues or the portion of revenues used for areas other than the Cultural and Tourism Fund budget.

Telephone conversation with Bill Dorney, Salem Area Visitors Association

I asked Bill if he had any information on the use of Salem's TOT revenues. He said he did not have any information in addition to what I was able to obtain from the City of Salem, Finance Department. We discussed revenues for the City of Keizer. Bill thought the average room charge would be around \$55 per night, at least in the first couple years. He agreed with our estimate of a 65% occupancy rate.

I asked for his input on the concept of a hotel/motel tax. He said the Lodging sector's concern is that revenues are not allocated to tourism. He strongly urged me to contact those in the industry to get their input. He said Marion County has run into a problem with the Oregon Lodging Association because the County did not consult the Association. He gave me two names of individuals in the industry, Scott Snyder (President of the Salem Area Lodging Association and general manager of the Phoenix Inn, Salem) and Scott West (Director of the Oregon Lodging Association).

Bill asked why the hotel/motel industry is the only market sector with a sales tax and noted that Keizer did not charge a license fee or tax to any other type of business.

Conversation with Mark Caillier, City of Salem, Police Department

When I asked Mark what he thought the impact a new motel would have on the number of police calls he said it depended on the type of facility. A small, quiet motel in the center of town, such as the Whittenburg motel, would not have much of an impact on police services. However, a larger facility, near the interchange, with a bar and convention center, would increase the staffing needs of the Police Department. Not only would there be additional calls for service, we would also need to increase security in the area. Mark stated that it takes one police officer (one full-time equivalent, FTE) to secure and respond to the needs at Lancaster

Mall. He anticipates that the proposed Activity Center in Keizer would require one additional FTE as well.

Mark stated that he did not think Keizer would become a destination tourist area and therefore we should not spend a lot on promotion. He indicated that we should use TOT dollars to defray the burden to the City imposed by tourists and hotel/motel facilities.

Telephone conversation with Scott Snyder, President of the Salem Area Lodging Association

I asked Scott for his input on the concept of a hotel/motel tax. His concern is that the majority of the funds are not currently used to promote tourism in Salem. However, he is happy with the 6% tax Salem charges because, as a Motel manager, it gives him a great market edge over Portland that charges 8%-9% and Eugene that charges 9%-9 1/2%. He said Keizer would not want to charge too little because we would just be leaving money on the table.

I asked Scott if he thought cities should allocate some of the TOT revenues to defray the additional administrative, police, fire, street and park maintenance costs imposed by motels. He said the positive economic impact on restaurants and shops will off-set these costs. (I have a copy of the "Economic Impacts of the Oregon Travel Industry 1991-1996" from the Oregon Tourism Commission.)

I asked for his ideas on how to educate tourists and visitors on the use of their tax dollars. He said most travelers, especially business travelers, expect a TOT tax. It's usually the senior citizens and infrequent travelers that need explanation. He believes it is helpful to train and educate his front-desk staff on answering these questions. He said he would not want to put up a sign or post information on how these tax revenues are spent.

I asked Scott how the Marion County Tax proposal worked, specifically the clause that states "[The] Tax would not apply in cities unless the city asks to be included." Scott said he did not think cities would want to be included because the city would have to share the tax with the county. Alternatively, a city can impose its own tax and it would not have to share its revenues.

Telephone conversation with Scott West, Director of the Oregon Lodging Association

I asked Scott for his input on the concept of a hotel/motel tax. He said the industry is opposed because tax dollars do not go back into the industry. Of the \$45 million collected in Oregon, less than 30% (28%) goes to tourism, the rest of the money goes to the General Fund. He is perplexed that there is a sales tax on one market niche. He said studies show that tourism has a considerably higher economic impact on the Retail and the Food & Beverage industries than the lodging industry. He noted that the Transportation and Lodging industry were a distant third and forth, respectively, in this area. He said it is an "easy tax" because tourists do not get a say on such taxes.

He believes Ballot Measure 50 has caused many cities to divert more TOT revenues to the General Fund. He noted that Woodburn allocated 3% of its TOT to tourism and 97% to the General Fund. Portland allocates 84% of its TOT to the General Fund. According to Scott, Lincoln City broke its charter to balance its budget. The charter specifies that TOT revenues be put in the city's tourist fund. The City gets around this charter by posting TOT revenues first to the tourist fund and then transferring them to the General Fund. The City of Lincoln City is currently in litigation over this practice.

Scott said the Marion County tax currently on the ballot will commit 80% of the revenues to tourist promotion and 20% of the revenues for parks maintenance. However, the industry is against the Marion County tax because they were not involved in the discussions. He said "we may agree to disagree" on the use of funds but the industry wants to be heard. He said facilities have suffered a pricing disadvantage because of county taxes. In one such case, there were two motels operating very competitively with each other. One was inside a county where a tax was imposed and the other was outside the county. The county tax caused a price increase for the motel within the county, yet its competitor was able to keep prices the same. He strongly urges us to get input from the owner of the Wittenburg Inn when discussing the prospect of a TOT in Keizer.

I asked Scott if he thought it was reasonable to allocate a certain amount of TOT revenues to the City for police, fire, administrative costs, etc. He said it's only fair if the city assesses taxes on other businesses, such as strip malls, for their incremental burden on services.

Revenue

CITY OF KEIZER
HOTEL/MOTEL TAX

Estimated Revenues

Assumptions:

Writtenberg Motel 84 Units
Freeway Interchange Motel 150 Units
234 Total Units

Average occupancy per night
based on study 2 years ago 65%-70%

Motel Rates - 2 people, 1 bed							
Mill Creek	\$75	off season					
Quality Inn	\$82	on season					
Phoenix Inn	\$78	Oct-97					
Phoenix Inn	\$80	w/breakfast					
per Bill Dorney	\$66	seniors					
Revenue Range	\$55						Net 5%
	Units	Occupancy	Room Rate	Nights/ Year	Tax	Annual Revenue	Operator Change
Writtenberg Motel	86	65%	\$56.00	365	5%	\$56,109.63	\$ 53,304.14
Freeway Interchange Motel	150	65%	\$56.00	365	5%	\$97,866.63	\$ 92,972.34
						\$153,976.25	\$ 146,276.49
Writtenberg Motel	86	70%	\$82.00	365	6%	\$108,107.16	\$ 102,701.80
Freeway Interchange Motel	150	70%	\$82.00	365	6%	\$188,559.00	\$ 178,131.05
						\$296,666.16	\$ 281,832.85



October 20, 1997

AGENDA ITEM 7d

RESOLUTION - KEIZER HOUSING REHABILITATION
PROGRAM - REFINANCING POLICY

CITY COUNCIL MEETING: Oct. 20, 1997

AGENDA ITEM NUMBER: 7d

TO: MAYOR AND CITY COUNCIL

THROUGH: WALLY MULL, 
CITY MANAGER

FROM: JOHN N. MORGAN, AICP 
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: HOUSING REHABILITATION PROGRAM –
PROPOSED POLICY ON REFINANCING

DISCUSSION:

The City's Housing Rehabilitation program has been in place for almost two years. In that time, over 20 homes have been rehabilitated with more taking place all the time as existing loans are retired.

The program was originally financed by a Community Development Block Grant of \$300,000. An expansion of that grant of approximately \$90,000 was awarded during FY 96-97. After the initial active period as the grant funds were placed, the program now operates only when funds are made available when an existing loan is repaid.

The loan structure is simple. The loans are recorded as a lien against the property. They accrue no interest. They are satisfied when title transfers through a one time payment.

A situation has arisen with refinancing and requests for the City to subordinate its position. In many cases the City is in first position with the only encumbrance on a property. In others, the City is second position behind a primary mortgage. With interests rates remaining low, many of the City's clients have indicated an interest in refinancing through a home equity loan, either moving the City from first to second position, or changing the first position keeping the City in second.

This situation has created several areas of concern:

- In many cases, the new lender wants to clear all existing encumbrances which includes paying off the City. From the perspective of the program's goals, this may not be the City's preference as the subsequent new monthly payment may be greater than the original monthly payment as the City does not require monthly payments. Obviously, this is not attractive to the clients as well.
- The City may be losing its position if a new first mortgage is taken.
- With many lenders offering refinance packages allowing higher loan to value ratios than the City's original criteria (80%), the City could be forced into a riskier position.
- There is a cost to the City to process and record the required new lien.

Staff researched the policies of other cities and found a broad variety of approaches, from absolute refusal to approve any new financing to having no position on refinancing.

Staff believes the most realistic approach was found in several cities. This allows refinancing resulting in the City being in a second position as long as the 80% loan to value ratio is maintained. This is consistent with the philosophy and criteria used to evaluate and approve loans in the first place.

Staff has prepared the attached resolution establishing a subordination policy for the Council's consideration.

RECOMMENDATION:

It is recommended Council pass the resolution.

CITY OF KEIZER, OREGON

RESOLUTION 97- _____

ESTABLISHING A POLICY FOR THE SUBORDINATION
OF HOUSING REHABILITATION LOANS

WHEREAS, The City of Keizer operates a program for the lending of funds for the purpose of rehabilitating housing within the City, known as the Keizer Housing Rehabilitation Loan Program; and

WHEREAS, clients of the loan program may request that the City of Keizer subordinate its position on housing rehabilitation loans for the purpose of refinancing other loans or taking additional loans; and

WHEREAS, the City Council finds that in some occasions the subordination of the loan through the Loan Program makes such refinancing easier and will still meet the various objectives of the Loan Program; and

WHEREAS, the City Council desires to make a uniform policy to be used in determine when such subordination of the City's interest should be allowed, and to allow recapturing the costs of consideration and granting such subordination;

NOW THEREFORE, IT IS HEREBY RESOLVED THAT THE FOLLOWING
SUBORDINATION POLICY IS ADOPTED:

1. There is hereby established a policy for the consideration of Subordination Agreements by the City of Keizer when requested by recipients of loans funded or administered by the Keizer Housing Rehabilitation Loan Program. The purpose for establishing this policy is to allow homeowners to request subordination agreements which would financially benefit those persons by allowing them to refinance existing loans or take new loans.
2. The City will consider request from recipients of a Keizer Housing Rehabilitation Loan for the City to subordinate its security interest under the following conditions:
 - A. A subordination agreement must be entered into for the purpose of the recipient to refinance the balance due on priority loans which were in place prior to the approval of the City loan, or to finance new priority loans.
 - B. Borrowers shall be allowed to borrow funds up to an amount which insures

RESOLUTION ESTABLISHING A POLICY FOR THE SUBORDINATION OF HOUSING REHABILITATION LOANS

that the new loan and the Keizer Housing Rehabilitation Loan together will constitute less than 80% of the appraised value of the security. The property owner shall have the burden of proving to the City that the value of the security ensures this ratio of value is 80% or less. The City reserves the final determination as to whether or not this ratio is maintained after the refinancing.

C. Any cost of preparing, processing or providing proof to the City of the value ratio, or in processing and recording any amendments to the loan documents, shall be paid by the property owner or recipient of the Housing Loan.

3. All other provisions of the Keizer Housing Rehabilitation Loan Program shall remain enforceable.

4. The City shall agree to only one subordination agreement during the lifetime of any Housing Loan.

Passed this 20th day of October, 1997

Signed this 20th day of October, 1997

Mayor

ATTEST:

City Recorder



October 20, 1997

AGENDA ITEM 8a

RESOLUTION - DEED TO RESERVE STRIP - SPRINGTIME
COURT

CITY COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 8a

TO: MAYOR KOHO AND COUNCIL MEMBERS
THROUGH: WALLY MULL, CITY MANAGER
FROM: E. SHANNON JOHNSON, CITY ATTORNEY
SUBJECT: DEED TO RESERVE STRIP
DATE: October 15, 1997

The City acquired many reserve strips from Marion County in the mid-80's. A "reserve strip" is a one-foot strip of property between the right-of-way and the subject property. The county used this method to control access to property that was to be developed later.

One of the reserve strips is on the north side of Springtime Court immediately west of Chemawa Road. The property adjoining the reserve strip is owned by Bruce E. Weigel. Mr. Weigel has received partitioning approval for such property and needs to have the reserve strip to access the property.

The purpose of the reserve strip has been accomplished, namely controlling access to the property until proper subdivision or partitioning approval is acquired.

It is therefore appropriate to deed the reserve strip to Mr. Weigel and the appropriate resolution and deed is attached.

RECOMMENDATION:

Approve the resolution authorizing deeding the reserve strip to Bruce E. Weigel.

Please let me know if you have any questions. Thank you.

ESJ/tmh
enclosures

824GCOK1.010

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R97- _____

3 AUTHORIZING THE CITY MANAGER TO SIGN DEED
4 FOR RESERVE STRIP (BLOCK "B" SPRINGTIME PARK)

5 WHEREAS, the City of Keizer acquired a one-foot reserve strip on the north side of
6 Springtime Court immediately west of its intersection with Chemawa Road;

7 WHEREAS, the purpose of such reserve strip is to control access to adjoining
8 property until such property is approved for subdivision or partitioning;

9 WHEREAS, Bruce E. Weigel has received preliminary approval to partition the
10 property adjoining such reserve strip;

11 WHEREAS, it is no longer necessary to hold such reserve strip for controlling access
12 to such property;

13 NOW, THEREFORE,

14 BE IT RESOLVED that the City Council of the City of Keizer hereby authorizes the
15 City Manager to sign and deliver a deed conveying such property to Bruce E. Weigel. A
16 copy of such deed is attached as Exhibit "A" and by this reference incorporated herein.

17 PASSED this _____ day of _____, 1997.

18 SIGNED this _____ day of _____, 1997.

19 _____
20 Mayor

21 _____
22 City Recorder

BARGAIN AND SALE DEED - STATUTORY FORM
Corporate Grantor

CITY OF KEIZER, a municipal corporation duly organized and existing under the laws of the State of Oregon, Grantor, conveys to BRUCE E. WEIGEL, Grantee, the following described real property situated in Marion County, Oregon, to-wit:

Block "B" in Springtime Park, Marion County, Oregon.

The true consideration for this conveyance is: None.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.903.

DATED this _____ day of _____, 1997.

CITY OF KEIZER

By: _____
Wally Mull, City Manager

STATE OF OREGON)
) ss.
County of Marion)

_____, 1997.

The foregoing instrument was acknowledged before me this _____ day of _____, 1997, by Wally Mull, City Manager of The City of Keizer, a Municipal Corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

**AFTER RECORDING
RETURN TO:**

Bruce E. Weigel
1753 Springtime Ct. N.E.
Keizer, OR 97303

**UNTIL A CHANGE IS REQUESTED,
SEND ALL TAX STATEMENTS TO:**

Bruce E. Weigel
1753 Springtime Ct. N.E.
Keizer, OR 97303



October 20, 1997

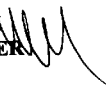
AGENDA ITEM 8b

RESOLUTION - DESIGNATING PORTION OF DELIGHT
STREET NORTH AS *NO PARKING*

CITY COUNCIL MEETING: October 20, 1997

AGENDA ITEM NUMBER: 8b

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

FROM: WALLY MULLEN
CITY MANAGER 

SUBJECT: DESIGNATING A PORTION OF DELIGHT ST N
AS "NO PARKING"

ISSUE

Shall the City Council adopt a resolution designating a portion of Delight St N as "No Parking".

BACKGROUND

A parking problem has existed adjacent to Cummings Elementary School since 1953. Delight street is a turnpike street with no curbs or sidewalks. Parents picking up children have parked in various locations and directions.

Last month, in a joint effort, the city and the school district combined to install storm drainage and asphalt along the west side of Delight St N adjacent to Cummings School. The School now plans to designate a pick-up area in this space.

A large number of parents stop, in the street, on the east side of Delight St to pick up children. This causes a safety problem, with Children running across the street, blocks local driveways and blocks the street should emergency equipment need to respond in this area.

RECOMMENDATION:

Staff recommends adoption of a resolution designating a portion of Delight St N, east side only, between Cummings Ln N and Juedes Ave N a "No Parking" zone.

INTEROFFICE MEMORANDUM

TO: WALLY MULL INTERIM CITY MANAGER
FROM: JOEL STEIN FIRE MARSHAL *JS*
SUBJECT: NO PARKING
DATE: OCTOBER 15, 1997

WALLY,

KEIZER FIRE DISTRICT WOULD CONCUR WITH THE REQUEST TO INSTALL NO PARKING SIGNS ON THE EAST SIDE OF DELIGHT STREET NORTH BETWEEN JUEDES AND CUMMINGS STREET. IF THE POTENTIAL EXISTS FOR DELAYS IN RESPONSE THROUGH THAT AREA DUE TO VEHICLES PARKING ON BOTH SIDES OF THE ROAD, KEIZER FIRE DISTRICT WOULD SUPPORT THE ALLOWANCE OF PARKING ONLY ON THE WEST SIDE IN THE DESCRIBED AREA.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R97- _____

DESIGNATING A PORTION OF DELIGHT STREET NORTH
AS A "NO PARKING" ZONE

WHEREAS, the City Council of the City of Keizer has authority pursuant to
ORS 810.010(3) and 810.160 and Keizer Ordinance 86-059 to establish "No Parking" zones
where the Council deems it appropriate to preserve the public health, safety and welfare;
and

WHEREAS, Keizer Public Works Department along with the Keizer Fire District have
requested "No Parking" zone for the parking of vehicles on the east side of Delight Street
between Cummings Lane North and Juedes Avenue North; NOW, THEREFORE

BE IT RESOLVED by the City Council of the City of Keizer that:

1. A "No Parking" zone is hereby established on the east side of Delight Street
North between Cummings Lane North and Juedes Avenue North as marked
on Exhibit "A" which is attached hereto and by this reference made a part
hereof.

BE IT FURTHER RESOLVED, that said City Manager is hereby directed and ordered
to have said "No Parking" signs installed as indicated at the above described location.

PASSED this _____ day of _____, 1997.

SIGNED this _____ day of _____, 1997.

Mayor

City Recorder

MARION CO

