

CITY COUNCIL AGENDA PACKET

TUESDAY, SEPTEMBER 8, 1998

- 5:30 P.M. EXECUTIVE
SESSION
- 7:00 P.M. CITY COUNCIL
MEETING

Please contact Wally Mull, City Manager if you have any questions or need additional information regarding any of the staff reports or issues contained on the agenda.

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**

A G E N D A
KEIZER CITY COUNCIL
EXECUTIVE SESSION

Tuesday, September 8, 1998

5:30 p.m.

Mayor's Office

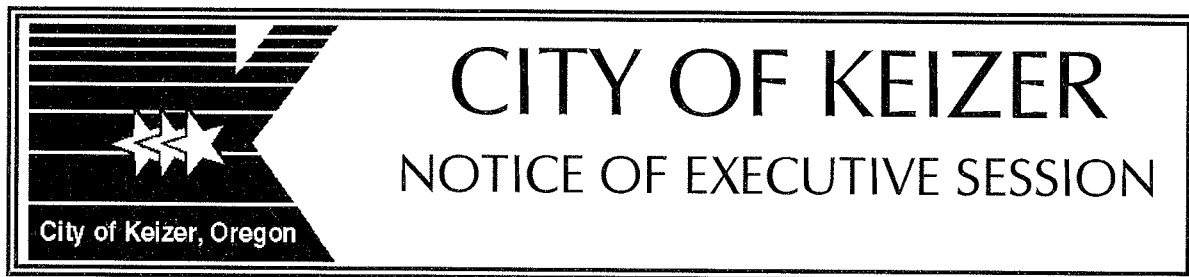
Keizer City Hall

Keizer, Oregon 97303

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION**
 - a. Pursuant to ORS 192.660(1)(i) – City Manager Evaluation
4. **ADJOURN**

Upon request, auxiliary aids and/or special services for those with disabilities 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.

The Oregon Public Meeting Law authorizes governing bodies to meet in executive session in certain limited situations. An executive session is defined as any meeting or part of a meeting of a governing body which is closed to certain persons for deliberations on certain matters as defined by ORS 192.660. These sessions are closed to the public and under certain circumstances the media also. The governing body is not allowed to take any final action or make any final decisions during the executive sessions. Any final action or decision must be made after returning or at the next regularly scheduled meeting.



NOTICE is hereby given that the City Council of the City of Keizer will hold an executive session on Tuesday, September 8, 1998 at 5:30 p.m. pursuant to ORS 192.660(1)(i) – City Manager Evaluation.

The Session will be held in the Mayor's Office, Keizer City Hall, 930 Chemawa Road NE, Keizer, Oregon.

Questions regarding this session may be directed to Wally Mull, City Manager at 390-3700.

Dated this 29th day of August, 1998.

Tracy L. Davis, CMC
City Recorder

Notice for Information Purposes Only.

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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**

A G E N D A
KEIZER CITY COUNCIL
Tuesday, September 8, 1998
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. Swearing in of Keizer Police Officers
 - Officer Dan Soto
 - Officer Jeffrey Goodman
- b. Council Liaison Reports
 - Keizer Urban Renewal Board – Councilor Beach
 - Traffic Safety Commission – Mayor Koho

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
 - 1998 City Council Election
 - Newly Hired City of Keizer Employees
- b. Old Business Report
 - Municipal Court Amnesty Week Report

6. PUBLIC HEARINGS

- a. RESOLUTION – Forming Wittenberg Lane Street Lighting District
ORDINANCE – Spreading Assessments to Wittenberg Lane Street Lighting District (continued from August 17, 1998)

7. **ADMINISTRATIVE ACTION**

- a. **ORDER** - Appeal of Hearings Officer Decision - Partition Case No. 97-22 (Chom Construction)
ORDER - Appeal of Hearings Officer Decision - Partition/Adjustment Case No. 98-03 (Chom Construction)

8. **CONSENT CALENDAR**

- a. **RESOLUTION** – Approving Engineer’s Report for Forest Ridge Estates Street Lighting District
- b. **RESOLUTION** – Certification of Delinquent Sewer Accounts
- c. **RESOLUTION** – Certification of Street Lighting Districts
- d. **RESOLUTION** – Disinterest for Prison Site Consideration
- e. **RESOLUTION** – Delight Street and Cummings Lane Bike Lane Designation
- f. **RESOLUTION** – Authorizing City Manager to Enter an Agreement with Morse Bros. Inc. and D & D Paving to Construct Street Improvements on 15th Avenue and Delta Dr. NE.
- g. Approval of August 3, 1998 Regular Session Minutes
- h. Approval of August 17, 1998 Regular Session Minutes

9. **WRITTEN COMMUNICATIONS**

To inform the Council of significant written communications and petitions.

10. **AGENDA INPUT**

September 14, 1998
5:30 p.m. City Council Work Session

September 21, 1998
7:00 p.m. City Council Meeting
➤ Sanitary Sewer System Development Charge Amendment Public Hearing
➤ Salem-Keizer School District Bond Issue Presentation

October 5, 1998
7:00 p.m. City Council Meeting

11. **ADJOURN**



September 8, 1998

AGENDA ITEM 4a

SWEARING IN OF KEIZER POLICE OFFICERS

CITY COUNCIL MEETING OF SEPTEMBER 8, 1998

AGENDA ITEM NO. 4a

TO: MAYOR AND CITY COUNCIL
FROM: H. MARC ADAMS, CHIEF OF POLICE 
SUBJECT: SWEAR IN OF TWO (2) NEW POLICE OFFICERS

The following new police officers shall be sworn in at this City Council meeting:

Daniel Soto Hired on August 24, 1998; has nearly 2 years of experience as police officer with Union Gap and Toppenish Police Departments in Washington, and Oregon Department of Corrections. Graduated from Toppenish High School and attended University of Washington at Seattle. Married to Katherine and has a baby son born in March of this year.

Jeffrey K. Goodman Hired on August 24, 1998; has 4-1/2 years of law enforcement experience as Deputy Sheriff with Linn County Sheriff's Office. Also served in US Air Force as Military Policeman for 4 years. Graduated from Tigard High School and received his associates degree in law enforcement from Linn-Benton Community College. Married to Lisbeth and has 2 young children.

cp



September 8, 1998

AGENDA ITEM 5a

NEW BUSINESS REPORT

City Council Meeting: September 8, 1998

Agenda Item: 5a

TO: Mayor Koho and City Council Members

SUBJECT: New Business Report

- Keizer City Council Election
- Newly Hired City of Keizer Employees

Keizer City Council Election
(Tracy L. Davis – City Recorder)

In January, 1999, the terms of Mayor Dennis Koho, Councilors Carl Beach, Al Miller, and Jerry McGee will expire on the Keizer City Council. The filing deadline for anyone wishing to run for one of these positions was August 25, 1998. On August 27, 1998, I certified the following names to the Marion County Clerk to place on the November 3, 1998 ballot.

Mayor (2 year term)

- J.R. Bob Newton

Council Position Number 4 (4 year term)

- Carl E. Beach
- Ken Gierloff
- Jacqueline L. Moir

Council Position Number 5 (4 year term)

- Craig Campbell

Council Position Number 6 (4 year term)

- Mark Earl Matlack
- Jerry McGee

**Newly Hired City of Keizer Employees
(Dianne Hunt, Human Resources Officer)**

The City of Keizer is pleased to welcome the following new staff

Finance Department

Debra (Debbie) Bernard, Utility Billing Clerk. Debbie started August 24 in the utility billing section. She has several years experience in customer service, including working at Molalla Communications and TCI as a Customer Service Representative. She was also a licensed insurance agent for ten years. Her duties will include responding to all billing inquiries on the telephone and in person. Debbie's fluency in Spanish will be helpful to our Hispanic customers.

Municipal Court

Cathy Rodriguez, Clerical Specialist. Cathy started August 11 filling the full-time position approved by Council effective July 1, 1998. Cathy has several years experience in bookkeeping and customer service, including training Safeway employees. She will process traffic fines, greet customers and backup the receptionist.

Community Development Department

Maria Meier, Associate Planner, will start work September 8. Maria was employed by the City of Salem Community Development Department as an Assistant Planner. She will work with residents and developers with such issues as land use applications, zoning and partitioning. She has a bachelor's degree in Public Planning from Northern Arizona University, Flagstaff, Arizona.

Police Department

Stacey Kowalski, Community Policing Crime Analyst Assistant, was hired August 3 to fill a one-year Police Department grant position. She will work part-time to compile and analysis crime statistics within the city of Keizer. A part-time clerk will be hired to enter the data into the computer. Stacey graduated in 1998 with a master's degree in Administration of Justice from Portland State University, completing a research project through Michigan State University.

Prajudes Martinez, Support Specialist I, will start work in the Records Divisions on September 14. Prajudes has several years experience as a Legal Assistant, managing numerous case loads. She interpreted and prepared legal documents in English and Spanish as well as handled telephone calls. Prejudes attended Chemeketa Community College. Her duties will include answering the telephone for the Police Department and greeting customers at the front counter.

Donna Hill, Support Specialist I, will start in Records on September 21. Most recently, Donna worked as a Public Service Representative II for the Oregon State Police Forensic Services Division. She was also the Auto Buyer for Marion and Polk Schools Credit Union, coordinating services between customer, vendor and the loan department.

Daniel Soto, Police Officer, was hired August 24. Dan has two years experience as a police officer in the state of Washington.

Jeffrey Goodman, Police Officer, was hired August 24. Jeff has 4 1/2 half years experience with Linn County Sheriff's Office. He also served in the US Air Force.

WELCOME
CATHY, DEBBIE, MARIA,
STACEY, DONNA, PREJEDES, DAN AND JEFF!



September 8, 1998

AGENDA ITEM 5b

OLD BUSINESS REPORT

City Council Meeting: September 8, 1998

Agenda Item: 5b

TO: Mayor Koho and City Council Members

SUBJECT: Old Business Report
• Municipal Court Amnesty Week

**Municipal Court Amnesty Week Report
(Tracy L. Davis – City Recorder)**

During the week of August 24, 1998 the Keizer Municipal Court sponsored an Amnesty Week to assist in clearing up some of the back traffic fines owing to the City. This one time "window of opportunity" allowed defendants to pay fifty-cents (\$0.50) per one-dollar (\$1.00) on the total balance owing. The Court used many methods of getting the word out; television coverage on channels 2, 6, and CCTV channels, articles in the Keizertimes and Statesman Journal newspapers, posting announcements at various sites throughout Keizer and Salem, and radio announcements on various stations, including the Hispanic radio stations.

During Amnesty Week, the Court collected \$13,952.60 from 92 different defendants. Approximately 80% of the defendant taking advantage of this program were allowed to clear the suspension of their driving privileges.

Even though it did not bring in a tremendous amount of back fines, I believe it was very successful program. We have had many inquiries from other Municipal Courts on our process and also received many words of thanks from the defendants who did take this opportunity to put these fines behind them.

If you have any questions or need additional information, please do not hesitate to contact me.

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.



September 8, 1998

AGENDA ITEM 6a

WITTENBERG LANE STREET LIGHTING DISTRICT

COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 6a

TO: MAYOR KOHO AND CITY COUNCILOR MEMBERS

THROUGH: WALLY G. MULL
CITY MANAGER

FROM: TRACY L. DAVIS, CMC 
CITY RECORDER

SUBJECT: WITTENBERG LANE STREET LIGHTING DISTRICT PUBLIC HEARING

BACKGROUND:

In April, 1998 Paul Wittenberg filed a petition to create a lighting district to install street lights along Wittenberg Lane. The Council initiated the district on April 20, 1998 and then approved the Engineer's report on July 6, 1998. The plan recommended the installation of seven standard street lights along Wittenberg Lane. Mr. Wittenberg has been working with Mike Crossland of Portland General Electric on the possible upgrade of these lights to match the decorative street lights in the surrounding area.

As of the writing of this report, Mr. Wittenberg has not made a determination on the type of street lights to be installed. These costs must be determined and included in the ordinance spreading the assessments for the district.

RECOMMENDATION:

It is recommended the Council reopen the public hearing, accept any testimony, and continue the hearing until Monday, September 21, 1998 at 7:00 p.m.



September 8, 1998

AGENDA ITEM 7a

**ORDER - APPEAL OF HEARINGS OFFICER DECISION -
PARTITION CASE NO 97-22 AND PARTITION/ADJUSTMENT
CASE NO. 98-03 - CHOM CONSTRUCTION**

CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 7a

TO: MAYOR KOHO AND COUNCIL MEMBERS

THROUGH: WALLY MULL, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY 

SUBJECT: *APPLICATION OF CHOM CONSTRUCTION*
PARTITION CASE NO. 97-22
PARTITION/ADJUSTMENT CASE NO. 98-03

At its August 17, 1998 meeting, the Council deliberated on the above-referenced consolidated cases. The Council then directed our office to prepare Orders denying the application and upholding the Hearings Officer's decision in both cases. Both of those Orders are attached.

Please let me know if you have any questions. Thank you.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3
4 IN THE MATTER OF THE APPLICATION OF CHOM
5 CONSTRUCTION FOR PARTITION OF A 0.45 ACRE
6 PARCEL LOCATED AT 1250 SHADY LANE N.E.,
7 KEIZER, OREGON (PARTITION CASE NO.97-22)

8 The City of Keizer orders as follows:

9 Section 1. THE APPLICATION. This matter came before the Keizer City
10 Council on the appeal of Chom Construction, Inc. from the Hearings Officer's decision
11 dated January 8, 1998. The Hearings Officer denied approval of the Applicant's request
12 to partition a .45 acre property into three parcels of 4,515 square feet, 7,462.65 square
13 feet, and 7,482 square feet. The subject property is located at 1250 Shady Lane N.E.,
14 Keizer (Township 7S; Range 3W; Section 11AC, Tax Lot No. 3000).

15 Section 2. JURISDICTION. The land in question in this Order is within the city
16 limits of the City of Keizer. The City Council is the governing body for the City of
17 Keizer. As the governing body, the City Council has the authority to make final land
18 use decisions concerning land within the city limits of the City of Keizer.

19 Section 3. PUBLIC HEARING. In addition to the public hearings held before
20 the Hearings Officer, a public hearing was held before the Keizer City council on
21 August 3, 1998. The following persons either appeared at the hearing or provided
22 written testimony on the application before the Council:

23 1) Amy Drought, Community Development Director

- 1 2) Norman Hill, applicant's attorney
- 2 3) Marcy Wilkins, opponent
- 3 4) Gary Steiner, neighborhood association President
- 4 5) Ken Gierloff, neighborhood association Vice-President

5 Section 4. EVIDENCE. Evidence before the City Council in this matter is
6 summarized in Exhibit "A" attached.

7 Section 5. OBJECTIONS. No objections have been raised as to notice, alleged
8 conflicts of interests, bias, evidence presented or testimony taken at the hearing.

9 Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant
10 to the decision in this matter are set forth in Exhibit "B" attached.

11 Section 7. FACTS. The facts before the City Council in this matter are set forth
12 in Exhibit "C" attached.

13 Section 8. JUSTIFICATION. Justification for the City Council's decision in this
14 matter is explained in Exhibit "D" attached.

15 Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E"
16 attached.

17 Section 10. FINAL DETERMINATION. This Order is the final determination
18 in this matter.

19 Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon
20 its passage.

1 Section 12. APPEAL. A party aggrieved by the final determination in a
2 proceeding for a discretionary permit or a zone change may have it reviewed under
3 ORS 197.830 to ORS 197.834.

4 PASSED this _____ day of _____, 1998.

5 SIGNED this _____ day of _____, 1998.

6 _____
7 Mayor

8 _____
9 City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and exhibits contained therein.

Mayor Koho opened the public hearing on August 3, 1998.

Shannon Johnson, City Attorney, announced this will be a joint hearing on the appeal of the Hearings Officer decision of Partition Case No. 97-22 and Partition/Adjustment Case No. 98-03. He noted the applicable criteria of each case is outlined in the staff report and requested the reading of the criteria be waived. There were no objections raised. Mr. Johnson also requested any testimony being presented be directed towards this criteria.

In response to an inquiry by Mr. Johnson, there were no conflict of interests, bias, jurisdiction, or defective notice issues raised at this time. Mr. Johnson noted that several Councilors have discussed the matter with him and the planning staff in recent weeks.

Amy Drought, City Planner reported this matter involves two appeals of the Hearing's Officer decision on Case No. 97-22 and Partition/Adjustment Case No. 98-03. The applicant in both cases is Chom Construction. The location of the subject property is 1250 Shady Lane NE, Keizer, Oregon. The present zoning is single family residential with surrounding properties being zoned the same. Ms. Drought indicated these decisions involve complicated land-use issues and address implications for in-fill development in Keizer.

Ms. Drought announced that the complete planning files for both applications are being entered into the record at this time.

In reviewing the history of the cases, Ms. Drought explained in November 1997 Chom Construction filed a partition application to divide one lot into three lots. She displayed a drawing of the potential division of the lot showing the access easement and dimensions of each of the proposed lots. After staff approval of the partition application, an appeal was filed by M.J. and Cynthia Wilkins. Upon appeal, the Hearing's Officer concluded the proposed new lots (interior lots) did not meet the required lot depth requirement of the zoning ordinance. The Hearings Officer based his decision on the fact that the front lot line was measured from the private access easement as opposed to being measured from the boundaries that are parallel to Shady Lane.

Continuing with the history of the case, Ms. Drought pointed out a partition/adjustment (for the lot depth requirement) application was then filed by Chom Construction in March, 1998. After staff approved the application, an appeal was then filed again by M.J. and Cynthia Wilkins. The Hearings Officer ruled that the lot depth for the two interior lots should be measured from the edge of the easement not the exterior boundary of the lot. This resulted in lot depths of 52.5 feet for each lot, which is more than a difference of 20% as allowed in an adjustment. This decision resulted in an appeal by Chom Construction.

Ms. Drought pointed out the central issue in both appeals is whether the applicant has satisfied the lot depth requirement of the zoning ordinance. She recommended the Council consider the testimony and then determine where the front lot line for the interior lots should be measured from; the side which faces the public street or the side of the lot which faces the access easement. She also recommended the Council determine the measuring point for an interior lot line. Upon making these decisions, the Council should direct the staff on the preparation of an order for adoption.

Mr. Johnson reiterated that this is a consolidated hearing on both cases in this matter.

In response to a question from Mayor Koho, Ms. Drought stated the minimum lot width is 40 feet and minimum lot depth is 70 feet. These minimums are intended to assure the lot has adequate buildable area. In addition, she stated that staff has historically determined on in-fill situations with existing dwellings, the front lot line is the line facing the public street. Ms. Drought noted the front lot line is only considered for the division of property, not to determine which direction the house will face when constructed. This decision is made at the time the building permit is approved.

Responding to a question from Council President Keller, Ms. Drought explained the easement would be viewed the same regardless of the type of easement. The edge of easement would not be considered the lot line if it was a sewer easement.

Councilor Whalen believed the issues being brought forth in this case will be faced in other future decisions. He hoped this case would be dealt with as an interpretation question and not a policy decision on amendments to the code.

Norm Hill, Attorney for Applicant (Chom Construction), 1114 Twelfth Street SE, Salem, distributed a written applicant's statement to the Council and requested this be made a part of the record. Mr. Hill concurred with the staff recommendation in the first case (No.97-22) in which stated the lot line is measured from the boundaries that parallel Shady Lane. This is consistent with previous planning actions. Using an enlarged version of the Keizer

Development Code, Mr. Hill pointed out his position is that the exterior lot boundaries should always be definitive when determining the lot depth. The zoning ordinance defines a lot line as one of the property lines forming the exterior boundaries of the lot. He believes the Hearings Officer erred in his analysis of determining the location of the front lot line. Mr. Hill recommended the Council adopt the staff recommendation that the front lot line should be parallel to the public street right of way.

Mr. Hill also pointed out the decision by the Hearing's Officer in reference to the lot area creates an absurdity. The Code states the lot area is defined as the area in square feet or acres of a horizontal plane bounded by the vertical extensions of the lot lines. The lot lines used to determine the lot area would be different than those lines used to determine lot depth. Therefore the conclusion is inconsistent.

Referring to the memorandum in the staff report from the City Attorney, Mr. Hill pointed out there is a large amount of discretion to interpret the City's ordinances. However, there are limitations which restrict the Council from adopting an interpretation that is in violation of the Comprehensive Plan. In conclusion, Mr. Hill believed the Hearing's Officer determination in these cases is wrong and urged the Council to adopt the staff recommendation.

Marcy Wilkins, 1240 Shady Lane NE, Keizer, indicated she owns the property directly next to the property in question. In the first case, 97-22 Ms. Wilkins pointed out under the rules of the Oregon State Land Use Board this matter has passed the 120 day appeal period. Therefore, she believes this has become a standing land use decision under the provisions of ORS 215.428.

Responding, Mr. Johnson noted the statute cited is incorrect, however there is another statute which addresses the 120 day appeal period. He pointed out in this case the City allowed the applicant for sake of efficiency to wait on the first appeal believing the matter could be resolved by an adjustment or variance. Furthermore, the applicant waived the 120 day period in order to proceed with the second case. Mr. Johnson questioned if anyone other than the applicant is allowed to enforce the 120-day rule.

Ms. Wilkins stated the judgment rendered in Case No.98-03 indicating the lot depth of 52.5 feet is correct. This is based upon the ruling in case 97-22, where the actual lot depth came into contention. The appeal was based upon the actual definition of front lot line. According to Keizer Zoning Ordinance 2.228 the front lot line is defined as the roadway easement – the edge of the roadway easement not the center of the road. Citing the definitions of Keizer Zoning Ordinance 2.230 and 17.10 which define the rear lot line, Ms. Wilkins pointed out because it was an easement, it grants ownership at this point. With this configuration four separate properties are separated from the direct ownership of the principal parcel. Therefore

it cannot be included in any size calculations based upon the lot.

Ms. Wilkins pointed out parcel one is insufficient to meet the requirements of the lot area dimensions under Keizer Zoning Ordinance 23.12. It states that a minimum lot area for a single family dwelling in a mobile home park or planned unit development is 4000 square feet. In areas other than those, it is a minimum of 6000 square feet. The application in cases 97-22 and 98-03 states the square footage of parcel one is only 4515 square feet. This falls short of the 6000 square foot requirement.

Based upon the fact that the front line is used to determine all other lot lines on a property and in light of the definition of a corner lot (Keizer Zoning Ordinance 2.080), Ms. Wilkins declared the first parcel should be considered a corner lot under this planning action. Therefore the lot should have a minimum depth of 70 feet from both Shady Lane and the private access easement. The determination of the front footage is addressed in Keizer Zoning Ordinance 2.152. Based upon this definition and the ruling by the Hearings Officer in case 98-03, the actual size of the lots is 52.5 wide by 70 feet deep. This calculates to 3675 square feet which is below the minimum required.

On a final note, Ms. Wilkins believed parcel one provides insufficient yard set back on the east side. Based upon the definitions in Keizer Zoning Ordinance 17.10 the actual depth from the street easement needs to be 12 feet. Currently it is 1.7 feet from the edge of the street. Even if it is to be a side yard, it fails to meet the 5 foot requirement. Ms. Wilkins cited Keizer Zoning Ordinance section 17.20 which addresses minimum set backs which this development also fails to meet.

In response to a question by Councilor Whalen, Ms. Wilkins pointed out section 17.10 deals with the separation of lots or yard areas. She believes this states that you cannot figure a portion of another property or not under complete ownership of one person or parcel to be included in the area specified for another lot.

Ms. Wilkins reiterated that she owns the parcel of property to the immediate west of this proposed development and is very concerned with the application.

Gary Steiner, President of South East Keizer Neighborhood Association, 4054 Noon Avenue NE, Keizer, believed the Council will set make decisions that the future development of Keizer will be based upon. This will affect the livability and productivity of the community. Mr. Steiner pointed out the decision in this case will have an affect on the livability of the southeast area of Keizer. He urged the Council to take into consideration this entire area when making this decision.

Ken Gierloff, Vice-President of South East Keizer Neighborhood Association, 4035 Arnold Street, Keizer indicated the board voted unanimously to request the Council uphold the hearings officer decision. This decision is based upon livability and reality. Mr. Gierloff concluded the siting of the house will most likely face the private access easement rather than Shady Lane, which would also allow the adjacent lot to develop similarly. This will create an impact of four additional lots in this area.

In case 98-03, Mr. Gierloff believed the frontage area of the house should not be considered part of the square footage or set backs. He cited an example on Danwood Street in which the house lacks a front yard due to the setback allowance.

In reviewing the lots similar to the case in point along Shady Lane, there could be six lots that can be developed in a similar fashion. The density will be abundant and the livability will be poor. In addition, park space, traffic congestion, and pedestrian safety will become major concerns. Mr. Gierloff urged the Council to consider these issues when making a policy decision on this case.

In response to a question by Councilor McGee, Mr. Gierloff confirmed he agrees with the decision of the hearings officer on these cases. Furthermore, by adding the easement into the front property line, this will allow the house too close to the street without having a front yard. This situation is a detriment to the community because it does not provide adequate play area, access for police patrols, or promote pedestrian use. Mr. Gierloff requested this application be denied and further comprehensive plans developed for in-fill projects of this type.

In rebuttal, Norm Hill, Attorney for the Applicant, pointed out most items brought up by the opponent during this hearing were rejected by the Hearings Officer. Also, the reference to Keizer Zoning Ordinance 17.10 that Ms. Wilkins brought forth refers to Planned Unit Developments and this is not one.

Mr. Hill stated none of the arguments raised by the opponent at this time were raised in the appeal. Therefore for the purposes of this hearing the only item in front of the Council for consideration is the interpretation that is put forth by the applicant. Mr. Hill pointed out the adopted Comprehensive Plan is implemented by the Keizer Zoning Ordinance and therefore interpretation of the code must be consistent. The Comprehensive Plan allows for in-fill development. Also, the purpose for the lot depth is to insure there is adequate space for development. The parcels in question are almost double the required area.

In response to an inquiry by Mayor Koho, Mr. Hill indicated the easement will be paved to at least the required 16 feet. He was unsure if the entire 24 feet would be paved.

Mr. Johnson, responding to questions from Councilor Whalen believed the 120 day rule violation raised by Ms. Wilkins, only applies to the applicant which has waived the appeal period. Therefore, he felt comfortable with the Council making a decision on case 97-22. He also stated the Council may decide the case on any facts or references raised during this hearing.

Amy Drought, City Planner pointed out during the testimony a statement was made that the house must face the front property line. This is not a requirement under the code. The siting of the homes will be considered during the building permit process. The front lot line is only defined for calculations of lot depth, not building orientation.

Responding to concerns raised by Council President Keller, Ms. Drought indicated the in-fill projects in Keizer are continuing to increase. She indicated the Planning Commission would like to develop in-fill design standards to assist staff in dealing with these issues.

Councilor Miller requested additional time to review the material and issues raised during testimony. He believes in-fill development is increasing in the community and would like to make sure all points are addressed.

Councilor McGee expressed the difficulty of dealing with these conflicting values. He believes staff has interpreted the code correctly, however if in-fill is not desirable narrower guidelines must be developed.

Councilor Whalen pointed out this application was filed in November, 1997 and by delaying the decision to investigate this issue further, it is not fair to the applicant.

Mr. Hill explained the applicant waived the 120 day appeal period in the first case pending outcome of the second case. The waiver in the second case will expire on August 17th, 1998. Mr. Hill believed his client would not be willing to extend the waiver, however he would request time to discuss the issue if necessary.

The Council recessed at 9:05 p.m.

The Council reconvened at 9:12 p.m.

Mr. Hill announced the applicant would waive the 120 day period until Tuesday, September 8, 1998.

Mayor Koho closed the public hearing.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Comprehensive Plan (KCP), the Keizer Zoning Ordinance (KZO) and the Keizer Subdivision and Partitioning Ordinance (KSPO). The following criteria have been identified as applicable:

1. KSPO Section III (1).
2. KZO Chapter 23.
3. KSPO Section IV (7).
4. KSPO Section VII (6).
5. KCP provision regarding encouraging infill development.

No other criteria were identified as applicable.

EXHIBIT "C"

Facts

1. The subject .45 acre property is located at 1250 Shady Lane N.E., Keizer. (Township 7S; Range 3W; Section 11AC, Tax Lot #3000). The applicant is Chom Construction, Inc.
2. The parcel is the site of an existing dwelling. Access for the existing dwelling is off of Shady Lane.
3. The subject property is designated Low Density Residential in the Keizer Comprehensive Plan and is zoned Single Family Residential (RS).
4. Surrounding property is also zoned Single Family Residential and single family homes are the dominant land use.
5. The applicant is requesting approval to divide the existing parcel to create three separate lots with the following dimensions: 4,515 square feet, 7,462.65 square feet, and 7,482 square feet. Access for the proposed parcels will be from a proposed 24 foot easement. One half of the access easement will be located on the property to the east.
6. The lot depth requirement set forth in KZO 23.12 (b) is made applicable by KSPO III (1). An average lot depth of 70 feet is required. Lot depth in this instance is measured from the side of the interior parcels which is parallel to the access easement. A full discussion of interpretation in this regard is set forth in Exhibit D (Justification) and in the Hearings Officer's decision which is incorporated herein as if fully set forth. When measured using the easement boundary as the front lot line, the lot depth is less than the required 70 feet. Applicant has not shown compliance with this criteria.
7. Since the criteria regarding lot depth cannot be met, the application must be denied and the Council does not make a determination on the other criteria in this case.

EXHIBIT "D"

Justification

The Applicant has the burden of proving that the application meets the relevant standards and criteria to be applied in the particular case.

In this case, the Applicant is requesting a partition of a .45 acre property into three parcels. The application was denied by the Hearings Officer based on the fact that the lot depth requirement of 70 feet could not be met.

Section III (1) of the Keizer Subdivision and Partitioning Ordinance (KSPO) requires consideration of all implementing ordinances. Since the subject property is in the single family residential (RS) zone, the lot depth requirement set forth in KSO 23.12 (b) is applicable.

Lot depth is defined as the horizontal distance between the front and rear lot lines measured at a point halfway between the side lot lines. KZO 2.223. Therefore, lot depth cannot be determined without deciding the location of both the front and rear lot lines. KZO 2.228 defines front lot line as follows:

- (a) In the case of an interior lot having only one street or roadway easement frontage, the lot line separating the lot from the street right-of-way or the nearest right-of-way line of a roadway easement.
- (b) In the case of any lot not covered by (a), the lot line which the architecturally designed front of the building faces.

For reasons set forth in the Hearings Officer's decision in Case No. 97-22, subparagraph (a) is applicable. Because the two proposed interior parcels will necessarily front on the roadway easement, it is that side which is the front lot line. The definition for rear lot line set forth in KZO 2.230 is the lot line opposite from the front lot line. Lot depth is therefore measured from the boundary on the easement right-of-way to the opposite line (rear lot line). In this case, such measurement is less than the 70 feet required under the Zoning Ordinance.

In his "Applicant's Statement" applicant argues that the Hearings Officer ignored the word "separating" in the front lot line definition set forth above. Applicant's Statement at page 4. However, the interpretation decided by the Hearings Officer and adopted by the City Council rightly should ignore such word. The interpretation adopted by the Council would clarify the front lot line definition as follows:

In the case of an interior lot having only one street or roadway easement frontage, **the front lot line is either (1) the lot line separating the lot from the street right-of-way or (2) the nearest right-of-way line of a roadway easement, whichever is applicable.**

Under this interpretation, the word “separating” is rightly ignored as the second portion of the definition is the applicable one.

Applicant also points to the Comprehensive Plan Policy which encourages the infilling of existing of undeveloped lots. KCP III C (2)(b)(7) at page 35. Applicant urges the City Council to consider that the Hearings Officer’s interpretation will result in an inability to develop the subject property as well as other similar parcels. Applicant argues that such an interpretation goes against the plan policy.

The Comprehensive Plan Policy regarding infill development indicates that it will be “encouraged.” It does not require interpretations of ordinance provisions to be decided based on how they will effect the policy. The question regarding lot depth is an interpretation question that (though not decided in a vacuum) is based on the language of the ordinance. Though more than one interpretation of such language is possible, the Council has determined that the Hearings Officer’s interpretation is the correct one.

In addition, though obviously affecting the decision in this case, there was no sufficient evidence to indicate that the interpretation taken by the Council will cause a violation of the subject policy overall.

The City Council makes the lot depth interpretation based on the language of the Ordinance. The Council adopts the Hearings Officer’s interpretation as its own with regard to this issue only, and incorporates such analysis as if fully set forth herein.

Because the lot depth is less than the required 70 feet, the requested partition must be denied.

EXHIBIT "E"

Action

The City of Keizer ORDERS as follows:

The requested partition is DENIED.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3
4 IN THE MATTER OF THE APPLICATION OF CHOM
5 CONSTRUCTION FOR PARTITION AND AN
6 ADJUSTMENT TO LOT DEPTH REQUIREMENT ON A
7 0.45 ACRE PARCEL LOCATED AT 1250 SHADY LANE
8 N.E., KEIZER, OREGON (PARTITION ADJUSTMENT
9 CASE NO.98-03)

10 The City of Keizer orders as follows:

11 Section 1. THE APPLICATION. This matter came before the Keizer City
12 Council on the appeal of Chom Construction, Inc. from the Hearings Officer's decision
13 dated June 29, 1998. The Hearings Officer denied the Applicant's request to partition
14 a .45 acre property into three parcels of 4,515 square feet, 7,462.65 square feet, and
15 7,482 square feet and adjustment to the lot depth requirement. The subject property is
16 located at 1250 Shady Lane N.E., Keizer (Township 7S; Range 3W; Section 11AC, Tax
17 Lot No. 3000).

18 Section 2. JURISDICTION. The land in question in this Order is within the city
19 limits of the City of Keizer. The City Council is the governing body for the City of
20 Keizer. As the governing body, the City Council has the authority to make final land
21 use decisions concerning land within the city limits of the City of Keizer.

22 Section 3. PUBLIC HEARING. In addition to the public hearings held before
23 the Hearings Officer, a public hearing was held before the Keizer City council on
24 August 3, 1998. The following persons either appeared at the hearing or provided

1 written testimony on the application before the Council:

- 2 1) Amy Drought, Community Development Director
- 3 2) Norman Hill, applicant's attorney
- 4 3) Marcy Wilkins, opponent
- 5 4) Gary Steiner, neighborhood association President
- 6 5) Ken Gierloff, neighborhood association Vice-President

7 Section 4. EVIDENCE. Evidence before the City Council in this matter is
8 summarized in Exhibit "A" attached.

9 Section 5. OBJECTIONS. No objections have been raised as to notice, alleged
10 conflicts of interests, bias, evidence presented or testimony taken at the hearing.

11 Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant
12 to the decision in this matter are set forth in Exhibit "B" attached.

13 Section 7. FACTS. The facts before the City Council in this matter are set forth
14 in Exhibit "C" attached.

15 Section 8. JUSTIFICATION. Justification for the City Council's decision in this
16 matter is explained in Exhibit "D" attached.

17 Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E"
18 attached.

19 Section 10. FINAL DETERMINATION. This Order is the final determination
20 in this matter.

1 Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon
2 its passage.

3 Section 12. APPEAL. A party aggrieved by the final determination in a
4 proceeding for a discretionary permit or a zone change may have it reviewed under
5 ORS 197.830 to ORS 197.834.

6 PASSED this _____ day of _____, 1998.

7 SIGNED this _____ day of _____, 1998.

8
9 _____ Mayor

10 _____
11 City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and exhibits contained therein.

Mayor Koho opened the public hearing on August 3, 1998.

Shannon Johnson, City Attorney, announced this will be a joint hearing on the appeal of the Hearings Officer decision of Partition Case No. 97-22 and Partition/Adjustment Case No. 98-03. He noted the applicable criteria of each case is outlined in the staff report and requested the reading of the criteria be waived. There were no objections raised. Mr. Johnson also requested any testimony being presented be directed towards this criteria.

In response to an inquiry by Mr. Johnson, there were no conflict of interests, bias, jurisdiction, or defective notice issues raised at this time. Mr. Johnson noted that several Councilors have discussed the matter with him and the planning staff in recent weeks.

Amy Drought, City Planner reported this matter involves two appeals of the Hearing's Officer decision on Case No. 97-22 and Partition/Adjustment Case No. 98-03. The applicant in both cases is Chom Construction. The location of the subject property is 1250 Shady Lane NE, Keizer, Oregon. The present zoning is single family residential with surrounding properties being zoned the same. Ms. Drought indicated these decisions involve complicated land-use issues and address implications for in-fill development in Keizer.

Ms. Drought announced that the complete planning files for both applications are being entered into the record at this time.

In reviewing the history of the cases, Ms. Drought explained in November 1997 Chom Construction filed a partition application to divide one lot into three lots. She displayed a drawing of the potential division of the lot showing the access easement and dimensions of each of the proposed lots. After staff approval of the partition application, an appeal was filed by M.J. and Cynthia Wilkins. Upon appeal, the Hearing's Officer concluded the proposed new lots (interior lots) did not meet the required lot depth requirement of the zoning ordinance. The Hearings Officer based his decision on the fact that the front lot line was measured from the private access easement as opposed to being measured from the boundaries that are parallel to Shady Lane.

Continuing with the history of the case, Ms. Drought pointed out a partition/adjustment (for the lot depth requirement) application was then filed by Chom Construction in March, 1998. After staff approved the application, an appeal was then filed again by M.J. and Cynthia Wilkins. The Hearings Officer ruled that the lot depth for the two interior lots should be measured from the edge of the easement not the exterior boundary of the lot. This resulted in lot depths of 52.5 feet for each lot, which is more than a difference of 20% as allowed in an adjustment. This decision resulted in an appeal by Chom Construction.

Ms. Drought pointed out the central issue in both appeals is whether the applicant has satisfied the lot depth requirement of the zoning ordinance. She recommended the Council consider the testimony and then determine where the front lot line for the interior lots should be measured from; the side which faces the public street or the side of the lot which faces the access easement. She also recommended the Council determine the measuring point for an interior lot line. Upon making these decisions, the Council should direct the staff on the preparation of an order for adoption.

Mr. Johnson reiterated that this is a consolidated hearing on both cases in this matter.

In response to a question from Mayor Koho, Ms. Drought stated the minimum lot width is 40 feet and minimum lot depth is 70 feet. These minimums are intended to assure the lot has adequate buildable area. In addition, she stated that staff has historically determined on in-fill situations with existing dwellings, the front lot line is the line facing the public street. Ms. Drought noted the front lot line is only considered for the division of property, not to determine which direction the house will face when constructed. This decision is made at the time the building permit is approved.

Responding to a question from Council President Keller, Ms. Drought explained the easement would be viewed the same regardless of the type of easement. The edge of easement would not be considered the lot line if it was a sewer easement.

Councilor Whalen believed the issues being brought forth in this case will be faced in other future decisions. He hoped this case would be dealt with as an interpretation question and not a policy decision on amendments to the code.

Norm Hill, Attorney for Applicant (Chom Construction), 1114 Twelfth Street SE, Salem, distributed a written applicant's statement to the Council and requested this be made a part of the record. Mr. Hill concurred with the staff recommendation in the first case (No.97-22) in which stated the lot line is measured from the boundaries that parallel Shady Lane. This is consistent with previous planning actions. Using an enlarged version of the Keizer

Development Code, Mr. Hill pointed out his position is that the exterior lot boundaries should always be definitive when determining the lot depth. The zoning ordinance defines a lot line as one of the property lines forming the exterior boundaries of the lot. He believes the Hearings Officer erred in his analysis of determining the location of the front lot line. Mr. Hill recommended the Council adopt the staff recommendation that the front lot line should be parallel to the public street right of way.

Mr. Hill also pointed out the decision by the Hearing's Officer in reference to the lot area creates an absurdity. The Code states the lot area is defined as the area in square feet or acres of a horizontal plane bounded by the vertical extensions of the lot lines. The lot lines used to determine the lot area would be different than those lines used to determine lot depth. Therefore the conclusion is inconsistent.

Referring to the memorandum in the staff report from the City Attorney, Mr. Hill pointed out there is a large amount of discretion to interpret the City's ordinances. However, there are limitations which restrict the Council from adopting an interpretation that is in violation of the Comprehensive Plan. In conclusion, Mr. Hill believed the Hearing's Officer determination in these cases is wrong and urged the Council to adopt the staff recommendation.

Marcy Wilkins, 1240 Shady Lane NE, Keizer, indicated she owns the property directly next to the property in question. In the first case, 97-22 Ms. Wilkins pointed out under the rules of the Oregon State Land Use Board this matter has passed the 120 day appeal period. Therefore, she believes this has become a standing land use decision under the provisions of ORS 215.428.

Responding, Mr. Johnson noted the statute cited is incorrect, however there is another statute which addresses the 120 day appeal period. He pointed out in this case the City allowed the applicant for sake of efficiency to wait on the first appeal believing the matter could be resolved by an adjustment or variance. Furthermore, the applicant waived the 120 day period in order to proceed with the second case. Mr. Johnson questioned if anyone other than the applicant is allowed to enforce the 120-day rule.

Ms. Wilkins stated the judgment rendered in Case No.98-03 indicating the lot depth of 52.5 feet is correct. This is based upon the ruling in case 97-22, where the actual lot depth came into contention. The appeal was based upon the actual definition of front lot line. According to Keizer Zoning Ordinance 2.228 the front lot line is defined as the roadway easement – the edge of the roadway easement not the center of the road. Citing the definitions of Keizer Zoning Ordinance 2.230 and 17.10 which define the rear lot line, Ms. Wilkins pointed out because it was an easement, it grants ownership at this point. With this configuration four separate properties are separated from the direct ownership of the principal parcel. Therefore

it cannot be included in any size calculations based upon the lot.

Ms. Wilkins pointed out parcel one is insufficient to meet the requirements of the lot area dimensions under Keizer Zoning Ordinance 23.12. It states that a minimum lot area for a single family dwelling in a mobile home park or planned unit development is 4000 square feet. In areas other than those, it is a minimum of 6000 square feet. The application in cases 97-22 and 98-03 states the square footage of parcel one is only 4515 square feet. This falls short of the 6000 square foot requirement.

Based upon the fact that the front line is used to determine all other lot lines on a property and in light of the definition of a corner lot (Keizer Zoning Ordinance 2.080), Ms. Wilkins declared the first parcel should be considered a corner lot under this planning action. Therefore the lot should have a minimum depth of 70 feet from both Shady Lane and the private access easement. The determination of the front footage is addressed in Keizer Zoning Ordinance 2.152. Based upon this definition and the ruling by the Hearings Officer in case 98-03, the actual size of the lots is 52.5 wide by 70 feet deep. This calculates to 3675 square feet which is below the minimum required.

On a final note, Ms. Wilkins believed parcel one provides insufficient yard set back on the east side. Based upon the definitions in Keizer Zoning Ordinance 17.10 the actual depth from the street easement needs to be 12 feet. Currently it is 1.7 feet from the edge of the street. Even if it is to be a side yard, it fails to meet the 5 foot requirement. Ms. Wilkins cited Keizer Zoning Ordinance section 17.20 which addresses minimum set backs which this development also fails to meet.

In response to a question by Councilor Whalen, Ms. Wilkins pointed out section 17.10 deals with the separation of lots or yard areas. She believes this states that you cannot figure a portion of another property or not under complete ownership of one person or parcel to be included in the area specified for another lot.

Ms. Wilkins reiterated that she owns the parcel of property to the immediate west of this proposed development and is very concerned with the application.

Gary Steiner, President of South East Keizer Neighborhood Association, 4054 Noon Avenue NE, Keizer, believed the Council will set make decisions that the future development of Keizer will be based upon. This will affect the livability and productivity of the community. Mr. Steiner pointed out the decision in this case will have an affect on the livability of the southeast area of Keizer. He urged the Council to take into consideration this entire area when making this decision.

Ken Gierloff, Vice-President of South East Keizer Neighborhood Association, 4035 Arnold Street, Keizer indicated the board voted unanimously to request the Council uphold the hearings officer decision. This decision is based upon livability and reality. Mr. Gierloff concluded the siting of the house will most likely face the private access easement rather than Shady Lane, which would also allow the adjacent lot to develop similarly. This will create an impact of four additional lots in this area.

In case 98-03, Mr. Gierloff believed the frontage area of the house should not be considered part of the square footage or set backs. He cited an example on Danwood Street in which the house lacks a front yard due to the setback allowance.

In reviewing the lots similar to the case in point along Shady Lane, there could be six lots that can be developed in a similar fashion. The density will be abundant and the livability will be poor. In addition, park space, traffic congestion, and pedestrian safety will become major concerns. Mr. Gierloff urged the Council to consider these issues when making a policy decision on this case.

In response to a question by Councilor McGee, Mr. Gierloff confirmed he agrees with the decision of the hearings officer on these cases. Furthermore, by adding the easement into the front property line, this will allow the house too close to the street without having a front yard. This situation is a detriment to the community because it does not provide adequate play area, access for police patrols, or promote pedestrian use. Mr. Gierloff requested this application be denied and further comprehensive plans developed for in-fill projects of this type.

In rebuttal, Norm Hill, Attorney for the Applicant, pointed out most items brought up by the opponent during this hearing were rejected by the Hearings Officer. Also, the reference to Keizer Zoning Ordinance 17.10 that Ms. Wilkins brought forth refers to Planned Unit Developments and this is not one.

Mr. Hill stated none of the arguments raised by the opponent at this time were raised in the appeal. Therefore for the purposes of this hearing the only item in front of the Council for consideration is the interpretation that is put forth by the applicant. Mr. Hill pointed out the adopted Comprehensive Plan is implemented by the Keizer Zoning Ordinance and therefore interpretation of the code must be consistent. The Comprehensive Plan allows for in-fill development. Also, the purpose for the lot depth is to insure there is adequate space for development. The parcels in question are almost double the required area.

In response to an inquiry by Mayor Koho, Mr. Hill indicated the easement will be paved to at least the required 16 feet. He was unsure if the entire 24 feet would be paved.

Mr. Johnson, responding to questions from Councilor Whalen believed the 120 day rule violation raised by Ms. Wilkins, only applies to the applicant which has waived the appeal period. Therefore, he felt comfortable with the Council making a decision on case 97-22. He also stated the Council may decide the case on any facts or references raised during this hearing.

Amy Drought, City Planner pointed out during the testimony a statement was made that the house must face the front property line. This is not a requirement under the code. The siting of the homes will be considered during the building permit process. The front lot line is only defined for calculations of lot depth, not building orientation.

Responding to concerns raised by Council President Keller, Ms. Drought indicated the in-fill projects in Keizer are continuing to increase. She indicated the Planning Commission would like to develop in-fill design standards to assist staff in dealing with these issues.

Councilor Miller requested additional time to review the material and issues raised during testimony. He believes in-fill development is increasing in the community and would like to make sure all points are addressed.

Councilor McGee expressed the difficulty of dealing with these conflicting values. He believes staff has interpreted the code correctly, however if in-fill is not desirable narrower guidelines must be developed.

Councilor Whalen pointed out this application was filed in November, 1997 and by delaying the decision to investigate this issue further, it is not fair to the applicant.

Mr. Hill explained the applicant waived the 120 day appeal period in the first case pending outcome of the second case. The waiver in the second case will expire on August 17th, 1998. Mr. Hill believed his client would not be willing to extend the waiver, however he would request time to discuss the issue if necessary.

The Council recessed at 9:05 p.m.

The Council reconvened at 9:12 p.m.

Mr. Hill announced the applicant would waive the 120 day period until Tuesday, September 8, 1998.

Mayor Koho closed the public hearing.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Comprehensive Plan (KCP), the Keizer Zoning Ordinance (KZO) and the Keizer Subdivision and Partitioning Ordinance (KSPO). The following criteria have been identified as applicable:

1. KSPO Section III (1).
2. KZO Chapter 23
3. KSPO Section IV (7).
4. KSPO Section VII (6).
5. KCP provision regarding encouraging in-fill development.
6. KZO Chapter 7 regarding adjustment criteria.

No other criteria were identified as applicable.

EXHIBIT "C"

Facts

1. The subject .45 acre property is located at 1250 Shady Lane N.E., Keizer. (Township 7S; Range 3W; Section 11AC, Tax Lot #3000). The applicant is Chom Construction, Inc.
2. The parcel is the site of an existing dwelling. Access for the existing dwelling is off of Shady Lane.
3. The subject property is designated Low Density Residential in the Keizer Comprehensive Plan and is zoned Single Family Residential (RS).
4. Surrounding property is also zoned Single Family Residential and single family homes are the dominant land use.
5. The applicant is requesting approval to divide the existing parcel to create three separate lots with the following dimensions: 4,515 square feet, 7,462.65 square feet, and 7,482 square feet. Applicant is also requesting an adjustment to reduce the lot depth requirement of 70 feet. Access for the proposed parcels will be from a proposed 24 foot easement. One half of the access easement will be located on the property to the east.
6. The lot depth requirement set forth in KZO 23.12 (b) is made applicable by KSPO III (1). An average lot depth of 70 feet is required. Lot depth in this instance is measured from the nearest right-of-way line of the roadway easement.. A full discussion of interpretation in this regard is set forth in Exhibit D (Justification) and in the Hearings Officer's decision, as well as companion Case No. 97-22. Such discussion is incorporated by reference as if fully set forth herein. When measured from the westernmost (nearest) edge of the easement, the lot depth is only 52.5 feet. The adjustment criterion at KZO 7.30 (d) allows only a reduction of 20% to 56 feet. Applicant has not shown compliance with this criteria.
7. Since the criteria regarding the adjustment for lot depth cannot be met, the application must be denied and the Council does not make a determination on the other criteria in this case.

EXHIBIT "D"

Justification

The Applicant has the burden of proving that the application meets the relevant standards and criteria to be applied in the particular case. The discussion and materials set forth in companion Case 97-22 are incorporated by reference herein, as if fully set forth.

In the companion Case No. 97-22, it was determined that the lot depth requirement could not be met because it was measured from the side where the roadway easement was, rather than the side of the interior boundaries which would be parallel to Shady Lane. The applicant then applied for an adjustment in addition to the partition. The application was denied by the Hearings Officer based on the fact that an adjustment to the lot depth requirement of 70 feet could not be granted. That is the case currently before the Council. (Case No.98-03).

In this Case No. 98-03, the question of the exact location of the front lot line on such boundary needs to be determined in order to determine lot depth. The applicant is requesting an adjustment to reduce the 70 foot requirement to 64.5 feet. Keizer Zoning Ordinance Section 7.30 sets forth the adjustment criteria. One of the criteria is that the adjustment does not expand or reduce a quantifiable standard by more than 20%.

Lot depth is defined as the horizontal distance between the front and rear lot lines measured at a point halfway between the side lot lines. KZO 2.223. Therefore, lot depth cannot be determined without deciding the location of both the front and rear lot lines. Opponent Marcy Wilkins argued, and the Hearings Officer determined that the language defining front lot line required the lot depth to be measured from the edge of the right-of-way easement, rather than the exterior boundary of the property, which in this case was the center line of the easement. Using the edge of the right-of-way as the measuring point, the lot depth is only 52.5 feet. Because such reduction when compared to 70 feet is more than the 20% allowed by KZO 7.30 (d), the adjustment must be denied. Without an adjustment, the partition must also be denied because it fails to meet the lot depth requirement.

KZO 2.228 (a) defines front lot line as follows:

- (a) In the case of an interior lot having only one street or roadway easement frontage, the lot line separating the lot from the street right-of-way or the nearest right-of-way line of a roadway easement.

Emphasis added.

Because the “nearest” right-of-way line is the westernmost edge, this reduces the lot depth below the minimum allowed by adjustment.

In his “Applicant’s Statement” applicant argues that the Hearings Officer ignored the word “separating” in the front lot line definition set forth above. Applicant’s Statement at page 4. However, the interpretation decided by the Hearings Officer and adopted by the City Council rightly should ignore such word. The interpretation adopted by the Council would clarify the front lot line definition as follows:

In the case of an interior lot having only one street or roadway easement frontage, **the front lot line is either (1) the lot line separating the lot from the street right-of-way or (2) the nearest right-of-way line of a roadway easement, whichever is applicable.**

Under this interpretation, the word “separating” is rightly ignored as the second portion of the definition is the applicable one.

Applicant also argues that KZO 2.226 defines “lot line” as one of the property lines forming the exterior boundary of the lot. Applicant goes on to argue that the front lot line, must be on the exterior boundary if it is any type of lot line.

The definition of front lot line is placed there (among other reasons) to determine lot depth. Though it may be arguably inconsistent with the definition of lot line, for purposes of determining lot depth the front lot line determination made by the Hearings Officer follows the language of the ordinance.

Applicant also points to the Comprehensive Plan Policy which encourages the infilling of existing of undeveloped lots. KCP III C (2)(b)(7) at page 35. Applicant urges the City Council to consider that the Hearings Officer’s interpretation will result in an inability to develop the subject property as well as other similar parcels. Applicant argues that such an interpretation goes against the plan policy.

The Comprehensive Plan Policy regarding infill development indicates that it will be encouraged. It does not require interpretations of ordinance provisions to be decided based on how they will effect the policy. The question regarding lot depth is an interpretation question that (though not decided in a vacuum) is based on the language of the ordinance. Though more than one interpretation of such language is possible, the Council has determined that the Hearings Officer’s interpretation is the correct one.

In addition, though obviously affecting the decision in this case, there was no sufficient evidence to indicate that the interpretation taken by the Council will cause a violation of the subject policy overall.

The City Council makes the lot depth interpretation based on the language of the Ordinance. The Council adopts the Hearings Officer's interpretation and analysis as its own with regard to this issue only, and incorporates such analysis as if fully set forth herein.

Because the lot depth is less than the required 70 feet, the requested partition must be denied.

EXHIBIT "E"

Action

The City of Keizer ORDERS as follows:

The requested partition and adjustment is DENIED.



September 8, 1998

AGENDA ITEM 8a

**RESOLUTION – APPROVING ENGINEER’S REPORT FOR
FORREST RIDGE ESTATES STREET LIGHTING DISTRICT**

COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8a

TO: MAYOR KOHO AND CITY COUNCIL

THROUGH: WALLY G. MULL
CITY MANAGER

FROM: TRACY L. DAVIS, CMC 
CITY RECORDER

SUBJECT: FORREST RIDGE ESTATES STREET LIGHTING LOCAL IMPROVEMENT
DISTRICT

ISSUE:

Upon review of the City Engineer's report filed for Forrest Ridge Estates Street Lighting Local Improvement District, should City Council adopt a Resolution approving this report - or amend and approve the report as amended - and set a public hearing date to receive remonstrances to the project; or, in the alternative, abandon formation of the district.

BACKGROUND:

On August 17, 1998, the City Council adopted Resolution R98-1066 declaring the City's intent to initiate Forrest Ridge Estates Street Lighting Local Improvement District and directing the City Engineer to make a survey and file a written report with the City Recorder. This Council action was taken in response to a petition from the developer requesting the formation of a lighting district in this area.

FISCAL IMPACT:

The costs for establishing the district in the first year include a fee for the engineers report and an 8.5% administrative fee to cover the costs for advertising and staff time in establishing the district. The City receives reimbursement from the property owners for these costs and the actual electricity used through assessments placed on the tax rolls. All activity is budgeted through the Utility Fund.

RECOMMENDATION:

It is recommended City Council adopt a Resolution approving the City Engineer's Report and setting the public hearing date for September 21, 1998 to consider remonstrances and other comments on the district's formation and objections to proposed assessments, and directing the City Recorder to provide notice of public hearing.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2
3 Resolution R98-____

4
5 APPROVING THE CITY ENGINEER'S REPORT; DECLARING
6 THE CITY'S INTENT TO FORM FORREST RIDGE ESTATES STREET LIGHTING
7 LOCAL IMPROVEMENT DISTRICT; PROVIDING NOTICE AND SETTING HEARING
8

9 BE IT RESOLVED by the City Council of the City of Keizer, Oregon:

10 Section 1. That the City Council hereby finds the City Engineer's Report,
11 marked as exhibit "A" and by this reference incorporated herein, containing preliminary
12 plans and an estimate of probable costs for Forrest Ridge Estates Street Lighting Local
13 Improvement District which was filed with the City Recorder on August 21, 1998 to be
14 satisfactory, and the same are hereby approved and adopted.

15 Section 2. That the City Council hereby declares its intention to form the Forrest
16 Ridge Estates Street Lighting Local Improvement District and to make the lighting
17 district improvements to serve Forrest Ridge Estates Street Lighting District.

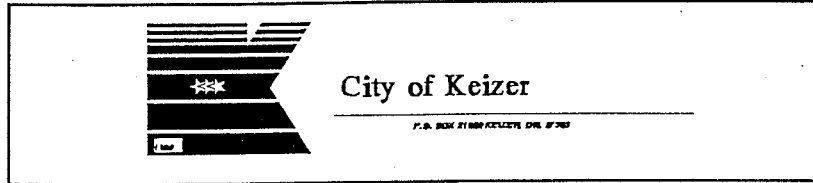
18 Section 3. That the City Council hereby directs the City Recorder to give notice
19 of its intention to form the Forrest Ridge Estates Street Lighting Local Improvement
20 District and to make the improvements by sending notice to the property owners within
21 the district stating a public hearing will be held on September 21, 1998, said notice to
22 also provide that information required under City of Keizer Ordinance 94-278, an
23 ordinance providing for procedures for municipal lighting districts and special
24 assessments.

25 PASSED this ____ day of _____, 1998.

26 SIGNED this ____ day of _____, 1998.

27 _____
28 Mayor

29 _____
30 City Recorder
31



ENGINEER'S REPORT
FOR
FOREST RIDGE
STREET LIGHTING DISTRICT

For City Council Action September 8, 1998



Renew date: December 31, 1998

PREPARED BY:
William I. Peterson
Engineering Consultants, Inc.
4300 Cherry Ave. N
Keizer, OR 97303

Date: August 18, 1998

Project File 98-0583

(503) 390-7402

10/14/98
9-14-98

August 18, 1998

TO: The Hon. Mayor and City Council

FROM: City Engineer's Office

SUBJECT: Street Lighting District for Forest Ridge

Authority and Purpose: This report is submitted in accordance with the requirements of City of Keizer **Ordinance No. 94-278** and Council **Resolution 98-1066** for the purpose of creating the subject Street Lighting District.

District Boundaries and Map: A Map of the proposed District is attached showing the areas benefited by the street lights proposed to be installed.

Lighting Plan The lighting improvements will consist of 14, 100 Watt, high pressure sodium luminaires mounted on 4 foot long mast arms and attached to 25 foot aluminum poles. This design is selected to be consistent with adjacent lighted areas. It is recommended that installation be accomplished by the following method:

Portland General Electric (PGE) would supply, install and maintain the luminaires, poles and underground or overhead wiring. PGE would also supply the electrical power to the District.

Estimated Costs:

Initial Cost and Annual costs -

14 Poles & 100 Watt luminaires @ \$16.86 per month each x 12 mos.	= \$2832.48
Administrative Fee @ 8.5%	240.76
Engineering @ \$14.00/Lot:	<u>770.00</u>
Total Assessment	\$3843.24
(1) Per Lot Assessment (First Year , 55 Lots)	\$69.88

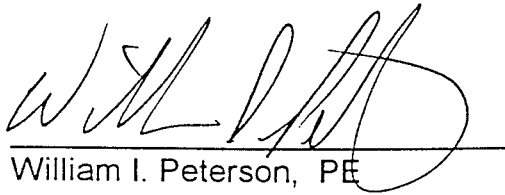
(1) Includes tax roll preparation, audit, delinquencies and miscellaneous administrative costs to the City as authorized by Res. 94-716.

Method of Assessment: It is recommended that the costs be assessed on a per lot basis to each parcel in the district.

The first year assessment would include the one time costs for District formation and engineering. Subsequent years assessments would reduce to \$ 51.50 per lot.

Assessment Roll: The attached preliminary assessment roll identifies the benefited properties and the first year assessments to be levied against each.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'William I. Peterson', is written over a horizontal line. The signature is stylized with large, flowing letters.

William I. Peterson, PE

PRELIMINARY ASSESSMENT ROLL

FOREST RIDGE
STREET LIGHTING DISTRICT

*Assessors Map 6 3W 23DC

<u>Lot #</u>	<u>Owners Name and Address</u>	<u>Cost per Lot</u>	<u>Lots</u>	<u>Assessment</u>
1 - 21	SPYGLASS DEVELOPMENT LLC	\$69.88	21	\$1467.88±
22 - 27	BOHLANDER, JOHN E & SUSAN M 1326 OPPEK ST N	\$69.88	6	\$419.28±
28 - 55	SPYGLASS DEVELOPMENT LLC	\$69.88	28	\$1956.64±

TOTAL ASSESSMENT \$3843.24



September 8, 1998

AGENDA ITEM 8b

**RESOLUTION – CERTIFICATION OF DELINQUENT SEWER
ACCOUNTS**

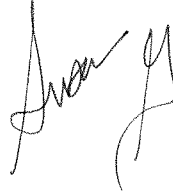
CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8b

TO: MAYOR KOHO AND CITY COUNCILORS

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

**FROM: SUSAN GAHLSDORF, CPA
FINANCE DIRECTOR**



ISSUE:

The City of Keizer collects sewer fees for the City of Salem from residents of Keizer. The attached list, marked as exhibit "A" represents an itemized list of delinquent accounts from July 26, 1997 through June 15, 1998. Each resident has been notified by certified letter and given a sufficient amount of time to remit payment for their account. ORS 454.225 authorizes the City to certify the delinquent amounts to the County Assessor to be assessed against the premises serviced. The statute also allows the City to collect penalty, interest or costs associated with the delinquencies. A 10% delinquent amount has been added as a penalty and a \$10.00 administration costs has been added to the delinquent amount.

RECOMMENDATION:

It is recommended the City Council adopt the attached Resolution which certifies the delinquent sewer accounts to the County Assessor for collection.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R98-_____

CERTIFICATION OF DELINQUENT SEWER ACCOUNTS

WHEREAS, the City of Keizer is responsible for the collection of sewer fees for the City of Salem from the residents of Keizer; NOW THEREFORE,

BE IT RESOLVED that the attached Exhibit "A" is an itemized list of delinquent sewer charges through and including June 15, 1998, that the City has been unable to collect through the usual collection procedures; and

BE IT FURTHER RESOLVED that ten percent (10%) of the delinquent amount has been added as a penalty and that a \$10.00 administration cost has also been added to the delinquent amount; and

BE IT FURTHER RESOLVED that the amounts certified on Exhibit "A" shall be added to the appropriate tax accounts as indicated pursuant to ORS 454.225.

PASSED this _____ day of _____, 1998.

SIGNED this _____ day of _____, 1998.

Mayor

City Recorder

EXHIBIT "A"
DELINQUENT SEWER ACCOUNTS

TAX ID#	OWNER NAME	SERVICE ADDRESS	ASSESSMENT
71910040	Bonesteele, AK	4858 13th Ave NE	42.46
48881000	Bryant, Patrick	7495 Wheatland Rd N	238.33
82256530	Carlson, Robert	1208 Candlewood Dr NE	286.34
53686000	Collier, Ardis	770 Cade Ave NE	42.60
80131000	Collins, Paul	4126 Arnold	86.38
82257900	Marrs, Anna Marie/Salem Electric	1310 Alder Dr NE	241.26
70840650	Cowley, James	4915 Rickman Rd NE	286.34
53456000	Do, Huy Kuang	472 Chemawa Rd N	72.96
80130340	Ducusian, Braulio	4370 Gary St NE	91.94
53265000	Granthum, Lyle	1477 Greenwood Dr NE	35.34
49240000	Blakely, Richard A. & Nona	6390 McLeod Ln NE	241.26
73740050	Hudnall, Gale	761 Chemawa Rd N	189.82
48528000	Jiraceck, Garen	7585 Wheatland Rd N	102.47
49121002	King, Dennis	1620 Chemawa Rd NE	286.34
53140667	Kleen, Jerry	4375 River Rd N aka. 159 Menlo N	22.00
52991000	Veitenheimer, Steve	1618 Chemawa Rd NE	286.34
49079000	Long, Gemeva	5799 Trail Ave NE	108.19
75800000	McArthur, R.	4905 River Rd N	50.49
52927000	Moser, Frank E. & Lois L.	1840 Claxter Rd NE	545.81
80120150	Morris/Trump	3755 Pleasantview Dr NE	94.59
70790030	Murphy, Edward	1256 Jays Dr N	238.33
71372501	Darling, Jeffrey A.	4914 Northwind Ct N	55.71
00008593	Knebel	150 Sunset Ave N	238.33
49281002	Mount, James C.-Trustee	5625 McLeod Ln NE	79.61
73580050	St. John, Dick	4788 19th Pl NE	50.79
49205538	Stevens, Joel	2485 Chemawa Rd NE	47.70
53415000	Terhell, Michael	4935 Delight St N	238.33
TOTALS			4,300.06



September 8, 1998

AGENDA ITEM 8C

**RESOLUTION – CERTIFICATION OF STREET LIGHTING
DISTRICTS**

CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8c

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

**THROUGH: WALLY MULL
CITY MANAGER**

**FROM: SUSAN GAHLSDORF, CPA
FINANCE DIRECTOR**



SUBJECT: RESOLUTION - CERTIFICATION OF LIGHTING DISTRICT ACCOUNTS

ISSUE:

Each year the City of Keizer certifies to the Marion County Tax Assessor the cost of installation, operation and maintenance of street lights. These street lights benefit the properties within their respective street lighting districts. Also, in the initial year of the district, the costs of the engineering report are included.

The City of Keizer pays the cost of operation and maintenance of the street lights throughout the year. At the end of the fiscal year, the amount paid by the City is totaled, a 8.5% administration charge is added, and the amounts are allocated among the affected properties. While the majority of the districts are calculated on a "per lot" basis, some are calculated on a "front footage" basis. Those computed on the latter method are the Hicks-Jones Lighting District, the Greenwood Drive Lighting District and a portion of the Shady Lane Lighting District. The amounts assessed to each of the properties are attached to the Resolution as Exhibit "A".

RECOMMENDATION:

It is recommended the Council approve the attached Resolution certifying the lighting district accounts to the Marion County Assessor.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R98-_____

3 CERTIFICATION OF LIGHTING DISTRICT ACCOUNTS

4
5 BE IT RESOLVED by the City Council of the City of Keizer that Keizer has
6 determined and computed the amount of money necessary to be raised by
7 assessment to cover funds spent to operate and maintain certain street lighting
8 facilities within Keizer, including administrative costs in the amount of \$270,627.23;
9 and

10 BE IT FURTHER RESOLVED that Keizer certifies Exhibit "A" attached hereto,
11 is a true and correct list of the properties within the various lighting assessment
12 district in Keizer giving the proper assessment and apportionment of costs and
13 expenses to be assessed against the respective properties for operation and
14 maintenance of street lighting facilities for the year; and

15 BE IT FURTHER RESOLVED that Exhibit "A" attached hereto, is certified to the
16 County Assessor to be added to the appropriate tax accounts for the respective
17 properties indicated.

18 PASSED this _____ day of _____, 1998.

19 SIGNED this _____ day of _____, 1998.

20 _____
21 Mayor

22 _____
23 City Recorder
24

EXHIBIT A

LIGHTING DISTRICTS 1997/98

DISTRICT NAME	# OF LOTS	TOTAL	
		PER DISTRICT	1998 PER LOT
129 DENNIS LANE N	44	1,361.88	30.95
026 SHADY LANE	FF	1,985.41	SEE ATTACHED
086 HICKS JONES	FF	5,823.98	SEE ATTACHED
019 ARNOLD WAY	40	546.62	13.67
015 APPLEBLOSSOM	89	2,230.16	25.06
080 GLYNBROOK	42	1,852.19	44.10
094 WILL MANOR 4	23	1,010.28	43.93
025 MENLO	27	892.17	33.04
017 RIVERCREST	324	9,187.07	28.36
165 RIVERVIEW N #2	28	792.46	28.30
083 PALMA CIEA #5	22	673.52	30.61
141 PALMA CIEA	447	13,003.74	29.09
142 RIVERVIEW N	29	780.11	26.90
047 HILLIGOSS	14	468.06	33.43
184 JUNIPER #2 SUBDIV	21	965.65	45.98
144 JUNIPER	20	624.08	31.20
034 GREENWOOD	FF	1,113.84	SEE ATTACHED
018 IVY WAY	120	2,818.52	23.49
143 MEADOWBROOK	9	341.57	37.95
132 CHARLOTTE	45	1,178.67	26.19
207 FERNBROOK	39	1,113.29	28.55
206 FOUR WINDS ADDN N	123	3,900.51	31.71
205 GLYNBROOK II N	43	2,412.13	56.10
208 EDEN ESTATES	42	2,041.03	48.60
215 GARY ST	37	678.74	18.34
218 GREENWAY	19	547.17	28.80
231 FOURWINDS II	16	410.38	25.65
216 ARNOLD ST #2	23	546.62	23.77
219 NOON AVE	32	820.76	25.65
217 FOUR WINDS III	20	290.89	14.54
251 RIVERCREST PH-1&2	44	1,390.73	31.61
246 CHERRYLAWN CT NE	8	371.10	46.39
269 HOMESTEAD/CLEARVIEW	10	273.59	27.36
270 HONEYSUCKLE	26	1,094.34	42.09
278 HOLLY LN/ALDER DR NE	9	273.59	30.40
282 3RD AVE N	57	1,367.92	24.00
079 ANDREW PARK	15	758.42	50.56
128 CHEHALIS SUB	16	425.17	26.57
130 CRESTWOOD VILLAGE	12	499.08	41.59
048 CARLHAVEN ADDITION	28	517.94	18.50
024 CEDAR PARK ST LGHT	19	1,062.63	55.93
087 CARLHAVEN ADD #2	29	625.33	21.56
097 CHEMAWA PARK	18	1,377.57	76.53
081 LAWNDAL E SUB	34	1,891.46	55.63
046 LANCER PARK	36	1,727.76	47.99
014 MAI-LIN DISTRICT	291	8,600.44	29.55
044 MAI-LIN DISTRICT #2	22	606.34	27.56

EXHIBIT A

LIGHTING DISTRICTS 1997/98

DISTRICT NAME	# OF LOTS	TOTAL	
		PER DISTRICT	1998 PER LOT
008 MARDELL	207	4,800.02	23.19
108 MCLEOD PARK #2	28	1,478.22	52.79
045 MCLEOD PARK	36	1,497.22	41.59
023 MCNARY HGHTS	88	4,778.72	54.30
126 MCLEOD ESTATES	74	3,743.05	50.58
022 NORTHVIEW TERRACE	86	3,118.64	36.26
082 NORTHWOOD PARK #4	98	6,753.84	68.92
028 NORTHWOOD PARK #1	49	3,005.18	61.33
043 NORTHWOOD PARK #2	43	2,338.22	54.38
084 WILARK PARK ANN #5	18	998.14	55.45
012 WILARK PARK ST LTG	190	11,395.97	59.98
041 WILARK PARK #6	18	748.61	41.59
050 WHITAKER PARK	78	3,820.89	48.99
042 WILARK PARK ANN #7	16	748.61	46.79
122 SIX SUBDIVISION	23	536.94	23.35
146 TERRACE GLEN	16	787.18	49.20
095 WHEATLAND LN	7	393.60	56.23
049 WINDSOR ESTATES	23	1,180.78	51.34
183 NORTHRIDGE PARK	32	854.73	26.71
147 WEDGEWOOD ESTATE	32	789.45	24.67
194 BUCHOLZ ADDITION	21	390.39	18.59
195 PARKLAWN ADDITION	6	260.25	43.38
162 WARNER PARK	10	159.14	15.91
161 WALENWOOD SUB	9	158.89	17.65
163 SPRINGTIME PK SUB	15	748.61	49.91
164 STONEHEDGE ESTATE	100	5,720.33	57.20
182 VISTAVIEW ESTATE #2	60	1,906.69	31.78
181 TIMBERVIEW SUB	142	6,238.42	43.93
185 KEIZER HEIGHTS	65	3,042.65	46.81
285 PRAIRIE ESTATES	94	8,106.64	86.24
192 FRIENDSHIP ADDITION	12	279.79	23.32
193 TEN AT MCNARY	15	1,098.51	73.23
191 CLARK ST NE	29	441.96	15.24
209 COUNTRY CLUB EST	29	979.26	33.77
212 LAWNDAL I SUB PH-2	39	1,678.72	43.04
213 STONEHEDGE EST II	89	3,688.63	41.45
220 STONEHEDGE EST III	32	1,383.24	43.23
232 WHITAKER HGTS	34	1,077.32	31.69
228 THE MEADOWS PH-1	56	3,610.90	64.48
234 THE MEADOWS PH-3	35	2,256.82	64.48
235 THE MEADOWS PH-2	37	2,385.77	64.48
236 THE MEADOWS PH-4	39	2,514.73	64.48
249 THE MEADOWS PH-5	42	2,708.18	64.48
253 THE MEADOWS PH-6	31	1,998.89	64.48
254 THE MEADOWS PH-7	32	2,063.37	64.48
227 WILLOW LAKE EST	44	2,074.85	47.16
221 STONEHEDGE EST 4&5	32	1,604.02	50.13

EXHIBIT A

LIGHTING DISTRICTS 1997/98

DISTRICT NAME	# OF LOTS	TOTAL PER DISTRICT	1998 PER LOT
239 SPRINGMEADOW EST	1	3,385.85	3,385.85
237 ORCHARD CREST	54	1,787.23	33.10
241 WILLOW LAKE 2&3	96	4,149.69	43.23
238 STONEHEDGE EST #6	31	1,613.78	52.06
255 TIMBERVIEW PH-3	28	1,844.31	65.87
250 ORCHARD CREST PH-2	53	1,692.93	31.94
256 APPLETREE PH-1,2,3	46	3,227.54	70.16
248 MAX CT	10	549.46	54.95
247 ORCHARD CREST PH-3	35	1,385.12	39.57
257 BRIARWOOD	1	2,396.94	2,396.94
258 HIDDEN CRK EST PH-1	41	3,688.63	89.97
259 CATERWOOD ESTATES	51	2,535.94	49.72
260 PARKMEADOW APTS	1	1,152.70	1,152.70
261 NORTHRUP/NORTHSHIRE	12	469.22	39.10
262 COUNTRY GLEN EST	190	10,143.73	53.39
263 FIRCONE	29	1,385.12	47.76
264 HIDDEN CRK EST PH-2	16	922.16	57.64
265 CLEARLAKE SUBDIV	49	2,997.00	61.16
272 LARSON PARK SUBDIV	12	461.08	38.42
266 SPRINGRIDGE EST	32	1,844.31	57.63
267 THE RIDGE	22	1,383.24	62.87
273 BAILEY ESTATES	10	461.08	46.11
274 STICKLES ADDITION	9	230.54	25.62
268 NORTHSIDE ESTATES	43	2,000.74	46.53
275 CEDAR BLUFF SUBDIV	27	1,844.31	68.31
287 TEPPER E SUB	28	1,449.64	51.77
276 ABT KOUFAX LN	24	1,613.78	67.24
277 HIDDEN CREEK PH-3	33	691.60	20.96
283 HIDDEN CREEK PH-4	16	922.16	57.64
284 JACOB ESTATES SUB	10	1,152.70	115.27
286 TECUMSEH ESTATES	21	1,152.70	54.89
120 CHEMAWA EST #1	30	1,746.76	58.23
131 CHEMAWA EST #2	34	1,996.53	58.72
159 JOHNISEE ADDN	13	317.78	24.44
148 JULIE ESTATES	20	1,497.22	74.86
150 KEPHART ESTATES	40	1,570.22	39.26
096 NORTHTREE ESTATES	100	6,408.55	64.09
NEW WESTMORE	24	935.05	38.96

TOTAL

270,627.23

1997-98
M/C CODE TAX ACCT FRONT FOOT ASSESSMENT

86 HICKS-JONES LIGHTING DISTRICT

53711000	100.00	31.78
53717000	110.00	34.96
53722000	73.67	23.41
53726000	162.57	51.67
53734000	105.00	33.37
53736000	20.00	6.36
53739000	385.00	122.36
53746000	33.01	10.49
53747000	33.91	10.78
53752000	225.00	71.51
53758000	115.00	36.55
53764000	105.00	33.37
70315000	84.11	26.73
70315030	80.00	25.42
71064001	94.33	29.98
71064041	103.14	32.78
71670010	93.22	29.63
71670040	83.86	26.65
71670050	85.00	27.01
71670060	85.00	27.01
71670070	85.00	27.01
71670080	85.00	27.01
71670090	85.00	27.01
71670100	85.00	27.01
71670120	85.00	27.01
71680000	80.00	25.42
71680010	80.00	25.42
71680020	115.00	36.55
71680030	115.00	36.55
71680040	80.00	25.42
71680050	80.00	25.42
71680060	79.86	25.38
71680061	107.18	34.06
71680070	65.00	20.66
71680080	80.00	25.42
71680090	80.00	25.42
71680100	103.04	32.75
71680110	115.00	36.55
71680120	80.00	25.42
71680130	80.00	25.42
71680140	80.00	25.42
71680150	80.00	25.42
71680160	115.00	36.55
71700000	66.70	21.20
71700010	70.00	22.25
71700020	83.96	26.68
71700030	48.68	15.47

M/C CODE	1997-98	
	TAX ACCT	FRONT FOOT ASSESSMENT
	71700040	40.85 12.98
	71700050	40.00 12.71
	71700060	42.12 13.39
	71700070	87.00 27.65
	71700080	72.78 23.13
	71990020	70.00 22.25
	71990030	77.00 24.47
	71990090	70.00 22.25
	75090000	116.90 37.15
	75090010	80.00 25.42
	75090020	80.00 25.42
	75090030	70.00 22.25
	75090040	41.62 13.23
	75090050	66.10 21.01
	75090060	85.00 27.01
	75090070	85.00 27.01
	75090080	98.32 31.25
	75090090	80.00 25.42
	75090100	85.00 27.01
	75090110	80.00 25.42
	75090120	90.00 28.60
	75090130	107.72 34.23
	80120000	59.98 19.06
	80120008	83.50 26.54
	80120010	99.98 31.77
	80120020	194.90 61.94
	80120030	104.00 33.05
	80120220	150.00 47.67
	80130000	50.71 16.12
	80130720	70.00 22.25
	80130910	70.00 22.25
	80130920	70.00 22.25
	80130930	60.00 19.07
	81756001	100.00 31.78
	81756361	100.00 31.78
	81756371	62.50 19.86
	81756381	62.50 19.86
	81756391	62.50 19.86
	81756401	62.50 19.86
	81756411	107.00 34.01
	81756461	107.40 34.13
	82256000	68.00 21.61
	82256010	68.00 21.61
	82256020	68.00 21.61
	82256030	68.00 21.61
	82256048	138.13 43.90
	82256051	75.72 24.06
	82256060	75.72 24.06

M/C CODE	1997-98	
	TAX ACCT	FRONT FOOT ASSESSMENT
	82256066	75.72 24.06
	82256075	75.72 24.06
	82256120	90.00 28.60
	82256130	103.60 32.92
	82256140	96.80 30.76
	82256150	96.80 30.76
	82257370	129.07 41.02
	82257380	61.07 19.41
	82257390	68.00 21.61
	82257400	129.07 41.02
	82257420	63.86 20.30
	82257430	63.86 20.30
	82257440	196.18 62.35
	82257450	61.18 19.44
	82257460	35.84 11.39
	82257468	18.82 5.98
	82257470	144.99 46.08
	82257650	430.00 136.66
	82257730	108.81 34.58
	82257740	90.50 28.76
	82257750	101.55 32.27
	82257760	75.50 23.99
	82257770	85.00 27.01
	82257780	85.00 27.01
	82257790	100.00 31.78
	82257807	64.73 20.57
	82257810	70.00 22.25
	82257820	150.95 47.97
	82257830	194.74 61.89
	82257850	110.09 34.99
	82257860	84.61 26.89
	82257900	79.00 25.11
	82257920	79.65 25.31
	82257930	100.00 31.78
	82257941	70.00 22.25
	82257950	96.21 30.58
	82257960	101.00 32.10
	82257970	65.00 20.66
	82257990	78.00 24.79
	82258000	144.33 45.87
	82258010	35.00 11.12
	82258020	81.00 25.74
	82258030	105.00 33.37
	82258040	130.00 41.31
	82258050	75.00 23.84
	82258060	75.00 23.84
	82258090	80.00 25.42
	82258100	114.00 36.23

M/C CODE	1997-98	
	TAX ACCT	FRONT FOOT ASSESSMENT
82258110	97.00	30.83
82258130	96.50	30.67
82258150	193.60	61.53
82258160	87.60	27.84
82258170	6.00	1.91
82258180	100.00	31.78
82258190	95.00	30.19
82258200	82.71	26.29
82258210	30.00	9.53
82258220	87.89	27.93
82258230	87.89	27.93
82258240	76.05	24.17
82258250	76.00	24.15
82258260	82.00	26.06
82258270	76.00	24.15
82258280	87.20	27.71
82258300	70.00	22.25
82258310	67.81	21.55
82258320	67.81	21.55
82258330	50.00	15.89
82258340	50.00	15.89
82258350	50.00	15.89
82258360	50.00	15.89
82258370	65.78	20.91
82258380	70.00	22.25
82258420	91.19	28.98
82258430	109.00	34.64
82258440	80.20	25.49
82258450	60.00	19.07
82258460	126.70	40.27
82258470	75.00	23.84
82258480	72.00	22.88
82258490	73.50	23.36
82258540	20.00	6.36
82258550	70.00	22.25
82258560	80.00	25.42
82258580	115.00	36.55
82258590	83.79	26.63
82258600	82.00	26.06
82258610	100.00	31.78
82258630	162.33	51.59
82258650	21.00	6.67
82258660	62.02	19.71
82258662	17.72	5.63
82258663	70.26	22.33
82258673	70.00	22.25
82258680	75.00	23.84
82258690	14.00	4.45

M/C CODE	1997-98 TAX ACCT	FRONT FOOT	ASSESSMENT
	82258700	116.00	36.87
	82258705	51.00	16.21
	82258710	65.00	20.66
	82258720	67.62	21.49
	82258730	50.00	15.89
	82258740	78.00	24.79
	82258750	66.00	20.98
	82258758	66.00	20.98
	82258760	20.00	6.36
	82258770	62.00	19.70
	82258780	100.00	31.78
	82258790	62.00	19.70
	82258800	101.54	32.27
	82258810	75.57	24.02
	82258820	75.00	23.84
	82258830	106.55	33.86
	82258840	75.00	23.84
	82258850	81.41	25.87
	82258870	74.93	23.82
	82258890	73.75	23.45
	82258900	63.71	20.26
		18,325.57	5,823.98

34 GREENWOOD DRIVE LIGHTING DISTRICT

53137000	100.61	29.60
53138000	101.00	29.72
53139000	101.00	29.72
53142000	122.32	35.99
53143000	122.00	35.90
53146000	100.00	29.43
53242000	100.00	29.43
53243000	100.00	29.43
53244000	100.00	29.43
53245000	100.00	29.43
53249000	100.00	29.43
53251000	100.00	29.43
53252000	100.00	29.43
53253000	100.00	29.43
53254000	100.00	29.43
73290001	110.00	32.37
73290010	100.00	29.43
73290020	100.00	29.43
73290030	100.00	29.43
73290040	200.00	58.85
73290050	100.00	29.43
73290060	100.00	29.43

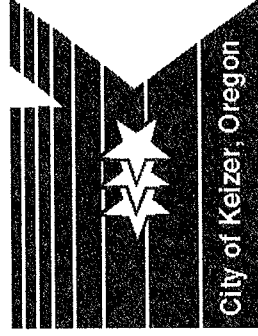
M/C CODE	1997-98 TAX ACCT	FRONT FOOT	ASSESSMENT
	73290070	100.00	29.43
	73290080	100.00	29.43
	73290090	120.00	35.31
	73290100	165.42	48.67
	73290110	104.00	30.60
	73290120	104.00	30.60
	73290130	104.00	30.59
	73290140	104.00	30.59
	73290160	104.00	30.59
	73290170	105.00	30.89
	73290180	104.00	30.59
	73290190	104.00	30.59
	73290200	110.00	32.36
		3,785.35	1,113.84

26 SHADY LANE LIGHTING DISTRICT

53684000	18.38
53831000	18.38
53832000	18.38
75080000	18.38
75080020	18.38
75080030	18.38
75080040	18.38
75080050	18.38
75080060	18.38
75080070	18.38
75080080	18.38
75080090	18.38
75080100	18.38
75080110	18.38
75080120	18.38
75080130	18.38
75080140	18.38
75080150	18.38
75080160	18.38
75080200	18.38
75080210	18.38
75080220	18.38
75080230	18.38
75080240	18.38
75080251	18.38
75080270	18.38
75080280	18.38
75080290	18.38
75080300	18.38
75080310	18.38

1997-98		
M/C CODE	TAX ACCT	FRONT FOOT ASSESSMENT
75080320		18.38
75080330		18.38
75080340		18.38
75080350		18.38
75080370		18.38
75080380		18.38
75080390		18.38
75080400		18.38
75080410		18.38
75080420		18.38
75080430		18.38
80120170	163.02	36.25
80120180	76.98	17.12
80120190	80.00	17.79
80120200	80.00	17.79
80120480	50.00	11.12
80120500	100.00	22.24
80120510	100.00	22.24
80120520	100.00	22.24
82256160	75.00	16.68
82256170	30.00	6.67
82256180	50.00	11.12
82256190	50.00	11.12
82256200	74.00	16.46
82256210	60.00	13.34
82256220	15.00	3.34
82256230	75.00	16.68
82256241	75.00	16.68
82256250	75.00	16.68
82256260	75.00	16.68
82256270	75.00	16.68
82256275	75.00	16.68
82256280	75.00	16.68
82257100	136.92	30.45
82257110	73.09	16.25
82257120	60.00	13.34
82257130	67.00	14.90
82257140	63.00	14.01
82257150	68.14	15.15
82257160	60.00	13.34
82257170	64.53	14.35
82257180	64.53	14.35
82257190	64.53	14.35
82257200	64.53	14.35
82257210	64.53	14.35
82257220	193.60	43.05
82257230	20.00	4.45
82257236	76.80	17.08

	1997-98		
M/C CODE	TAX ACCT	FRONT FOOT	ASSESSMENT
	82257240	20.00	4.45
	82257250	76.80	17.08
	82257260	96.80	21.53
	82257270	96.30	21.41
	82257280	60.00	13.34
	82257290	210.63	46.84
	82257300	54.75	12.18
	82257320	64.30	14.30
	82257330	120.00	26.68
	82257350	89.00	19.79
	82257360	100.00	22.24
	82257480	116.67	25.94
	82257490	100.00	22.24
	82257500	100.00	22.24
	82257510	118.00	26.24
	82257520	64.69	14.39
	82257530	64.46	14.34
	82257540	64.54	14.36
	82257550	193.60	43.06
	82257560	96.80	21.54
	82257570	96.80	21.54
	82257580	96.80	21.54
	82257590	96.80	21.54
	82257600	125.00	27.81
	82257630	100.87	22.44
	82257660	67.00	14.91
	82257670	67.00	14.91
	82257680	67.00	14.91
	82257690	67.00	14.91
	82257710	77.00	17.13
		5,538.81	1,985.41



September 8, 1998

AGENDA ITEM 8d

**RESOLUTION – DISINTEREST FOR PRISON SITE
CONSIDERATION**

CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8d

TO: MAYOR KOHO AND COUNCIL MEMBERS

THROUGH: WALLY MULL, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY 

**SUBJECT: RESOLUTION REQUESTING NOT TO BE CONSIDERED AS SITE
FOR WOMEN'S FACILITY AND INTAKE CENTER**

At its last meeting the Council requested that a resolution be brought back expressing the Council's disinterest in being considered a site for the Women's Facility and Intake Center. Such a resolution is enclosed. I have also enclosed a copy of the letter from the Senate Special Committee on Prison Siting along with the administrative rules that we received.

Please let me know if you have any questions in this regard. Thank you.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R98-_____

**RESOLUTION REQUESTING NOT TO BE
CONSIDERED AS POTENTIAL SITE FOR THE
WOMEN'S FACILITY AND INTAKE CENTER**

WHEREAS, the City of Keizer received a letter from the Senate Special Committee on Prison Siting requesting cities and counties to identify their interest in being considered as a site for the proposed Women's Facility and Intake Center;

WHEREAS, the Keizer-Salem metropolitan area is already home to several correctional institutions;

WHEREAS, the City Council wishes to clearly express its desire not to have Keizer considered as a potential site for the Women's Facility and Intake Center;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer, that the City hereby declares that it is not interested in being considered as a site for the proposed Women's Facility and Intake Center and expressly requests not be considered in the site selection process.

PASSED this _____ day of _____, 1998.

SIGNED this _____ day of _____, 1998.

Mayor

City Recorder

Lien & Johnson

Attorneys at Law
4855 River Road N.
Keizer, Oregon 97303
(503) 390-1635

**SENATE SPECIAL COMMITTEE
ON PRISON SITING**

453 STATE CAPITOL
SALEM, OREGON 97310
(503) 986-1496
FAX (503) 986-1814



SENATOR QUTUB, CHAIR
SENATOR GEORGE
SENATOR TARNO
SENATOR FISHER
SENATOR DUKES
SENATOR GORDLY

August 3, 1998

Mayor Dennis Koho
PO BOX 21000
Keizer, OR 97307

RE: Opportunity to Participate in Siting Process for Women's Facility and
Intake Center

Dear Mayor Koho:

The purpose of this letter is to formally invite all Oregon counties and cities to participate in a Senate initiated prison-siting process. I have sent this letter to all county commissioners, mayors, and city managers. I ask that mayors and city managers please share this letter with their city councilors.

Senate President Brady Adams has formed the Senate Special Committee on Prison Siting to study whether the Women's Facility and Intake Center should be built in the Wilsonville area or somewhere else. As a part of the study, officials from Oregon cities and counties are being provided with another opportunity to identify potential alternative sites for a Women's Facility and Intake Center.

Prior efforts by the Department of Corrections and a five-person Facility Siting Authority to find a location for a Women's Facility and Intake Center were limited to 200-300 acre sites. Changes in the facility design as well as elimination of the need to co-locate a central warehouse facility have significantly reduced the state's land need. An alternative site in the Wilsonville area that is currently being considered encompasses only 108 acres. **In support of the Senate's efforts to consider further public input on this alternative site and identify the best available site for this correctional**

facility, cities and counties are being provided with the opportunity to identify other potential sites that are 105-200 acres in size. The actual acreage requirement will ultimately depend on specific site characteristics and buffering needs.

The Senate Special Committee on Prison Siting plans to review additional potential sites in areas where the elected public officials are willing to adopt a resolution of interest. **In order for a city or county identified site to be considered, a description of the property and a formally adopted RESOLUTION OF INTEREST must be submitted to me at the above address by September 15, 1998.** After receipt and review of nominated sites, the Senate Special Committee on Prison Siting plans to hold additional public hearings so those affected can provide comments and ask questions. For your information, we are also considering the inventory of state-owned land for siting possibilities.

With the exception of the 200-300 acreage requirement, the Senate Committee plans to apply the same mandatory and desirable criteria that were used by the Department of Corrections and the Facility Siting Authority when all other correctional facility sites were nominated. A copy of these rules (OAR 291-073) is attached for your review.

I look forward to working with the cities and counties and am hopeful that this process will result in the Women's Prison and Intake Facility being constructed in the best available location.

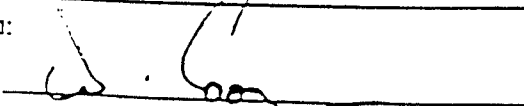
Sincerely,

A handwritten signature in cursive script, appearing to read "Eileen Qutub".

Senator Eileen Qutub, Chair

Attachments

CC: President Brady Adams, Senate President
Senator Gene Derfler, Senate Majority Leader
Senator Cliff Trow, Senate Minority Leader

 STATE OF OREGON Department of Corrections	Subject MANDATORY AND DESIRABLE CRITERIA FOR SITING OREGON CORRECTIONAL FACILITIES
Related ACA Standards:	OAR 291-073-0010 through OAR 291-073-0040 Rule #073 (Tab #54) Functional Unit(s) Affected: Planning & Budget
Procedure Requirement (Yes ☒ No ☐)	
Approved:  David S. Cook, Director	Effective Date: 10/1/96 (Supersedes document dated: 7/8/96)

AUTHORITY AND PURPOSE

291-073-0010 (1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.614, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish mandatory and desirable criteria to be used in the nomination of sites for the construction and operation of Oregon correctional facilities.

MANDATORY CRITERIA FOR ALL SITES

291-073-0020 The mandatory criteria for all sites (including medium security and minimum work camps) are listed below. They are not in any order of preference.

(1) A proposed site must be available by purchase, condemnation, exchange or otherwise.

(2) A proposed site must be of sufficient size and shape to accommodate the planned facility and its operation.

(3) A proposed site must not be located in a 100-year flood plain as defined by a current FEMA map.

(4) A proposed site must not be in a designated tsunami inundation zone.

(5) A proposed site must have infrastructure available either on-site or such that

they can be provided and maintained cost effectively. This infrastructure includes:

- (a) Water for domestic use, fire protection, and irrigation;
- (b) Sanitary sewer collection and treatment;
- (c) Surface drainage and storm water collection and disposal; and
- (d) Electricity, natural gas and/or oil or propane and telecommunications.

(6) A proposed site must be served by road or highway system capable of supporting the planned facility. New roadway construction or roadway improvements (if required) must be able to be constructed at a reasonable cost and be ready at the time the facility is scheduled to be opened.

DESIRABLE CRITERIA FOR MEDIUM SECURITY SITES

291-073-0030 The desirable criteria for medium security sites are listed below. They are not in any order of preference. An alternate means of meeting the intent of a criterion may be considered.

- (1) A proposed site which is available at little or no cost.
- (2) A proposed site which has 200-300 acres with 300 acres the preferred size.
- (3) A proposed site which is square or nearly so.
- (4) A proposed site which is relatively flat to minimize earthwork, foundation, construction costs and surface/subsurface drainage construction costs.
- (5) A proposed site which has natural buffers from surrounding land uses such as lakes, rivers, or ridges.
- (6) A proposed site which is not adjacent to a school, unless the parcel is buffered.
- (7) A proposed site which is not adjacent to a developed single-family or multi-family residential area, unless the parcel is buffered.
- (8) A proposed site in which the soils shall not be unduly prone to liquefaction due to seismic activity.
- (9) A proposed site with existing buildings that can be remodeled for utilization in new construction.

(10) A proposed site not subject to flooding from adjacent bodies of water, natural surface drainage or subsurface high water table.

(11) A proposed site not having an environmental, ecological, cultural or historic feature or condition which cannot be mitigated with remediation and/or health risk assessment prior to the beginning of site development. These conditions include, but may not be limited to, wetlands, historic or culturally significant sites, habitat for federally designated threatened and endangered species.

(12) A proposed site that maximizes the use of present Department of Corrections facilities and considers such institution management issues as warehousing, inmate transportation, inmate management, etc.

(13) A proposed site which has judicial, emergency and support services availability:

(a) Fifteen minutes or less to local and/or state police, full service fire department, and emergency medical transport/care;

(b) Sixty minutes or less to a National Guard unit;

(c) Forty-five minutes or less response time from licensed full service in-patient care hospital that accepts OMAP payment;

(d) Forty-five minutes or less to educational institutions to provide GED, vo-tech programs for inmates;

(e) Ninety minutes or less to higher education opportunities for staff development;

(f) Adequate providers of support services to inmates, including counseling, religious, job training and education; and

(g) Reasonable access to court facilities.

(14) A proposed site that can demonstrate eminent opportunity for inmate work by either the public or private sector. Sites that have Oregon Enterprise Zone designations that may be of assistance in attracting a private partner using inmate labor.

(15) A proposed site which is in close proximity to a population area from which a large number of inmates originate.

(16) A proposed site in which the facility is perceived as beneficial by local jurisdiction and community.

(17) A proposed site which is served by interstate and/or major arterial roadway.

Paved (providing year around service, two lanes, maintained by state, city or county) interstate access is preferable.

(18) A proposed site with convenient access by public transportation, including commercial airport and surface transportation and public accommodations, such as hotel/motel facilities.

(19) A proposed site with a community of 30,000 population or greater within a 60-mile radius with:

(a) Substantiation of an adequate workforce;

(b) Demonstration of the ability of the community to provide for or develop adequate housing and other community services, including primary and secondary schools;

(c) Range of physical specialty services; and

(d) Community ability to cost effectively provide food, fuel, equipment, spare parts, and maintenance to the facility.

DESIRABLE CRITERIA FOR MINIMUM SECURITY WORK CAMP SITES

291-073-0040 The desirable criteria for medium security work camps sites are listed below. They are not in any order of preference. An alternate means of meeting the intent of a criterion may be considered.

(1) A proposed site which is available at little or no cost.

(2) A proposed site which has 25 acres with 30 acres the preferred size.

(3) A proposed site which is square or nearly so.

(4) A proposed site in which the topography will minimize earthwork, foundation, construction costs and surface/subsurface drainage construction costs.

(5) A proposed site which has natural buffers from surrounding land uses such as lakes, rivers, or ridges.

(6) A proposed site which is rural, isolated locations are appropriate.

(7) A proposed site in which the soils shall not be unduly prone to liquefaction due to seismic activity.

(8) A proposed site which has appropriate soil percolation capacity to use septic tank and drain field, if one is proposed for the site.

(9) A proposed site with existing buildings that can be remodeled for utilization in new construction.

(10) A proposed site not subject to flooding from adjacent bodies of water, natural surface drainage or subsurface high water table.

(11) A proposed site not having an environmental, ecological, cultural or historic feature or condition which cannot be mitigated with remediation and/or health risk assessment prior to the beginning of site development. These conditions include, but may not be limited to wetlands, historic or culturally significant sites, habitat for federally designated threatened and endangered species.

(12) A proposed site that maximizes the use of present Department of Corrections facilities and considers such institution management issues as warehousing, inmate transportation, inmate management, etc.

(13) A proposed site which has judicial, emergency and support services availability:

(a) Thirty minutes or less to local and/or state police, full service fire department, and emergency medical transport/care; and

(b) Sixty minutes or less response time from licensed full service in-patient care hospital that accepts OMAP payment.

(14) A proposed site which can identify inmate work opportunities by either the public or private sector.

(15) A proposed site in which the facility is perceived as beneficial by local jurisdiction and community.

(16) A community able to cost effectively provide:

(a) Food, fuel, equipment, spare parts, and maintenance to the facility; and

(b) Support services to inmates, including counseling, religious, job training and education.



September 8, 1998

AGENDA ITEM 8e

**RESOLUTION –DELIGHT STREET AND CUMMINGS LANE
BIKE LANE DESIGNATION**

CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8e

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY MULL CITY MANAGER

FROM: ROB KISSLER DIRECTOR PUBLIC WORKS

SUBJECT: CUMMINGS LANE AND DELIGHT ST. BICYCLE LANES

BACKGROUND:

The City of Keizer Bikeways Committee Chair has submitted a proposal to the Public Works Department, designating Cummings Lane and Delight Street local bicycle routes. These new routes will be added to The City's overall Transportation System Plan being developed by the Planning Commission.

Cummings Lane currently has a bike path on the south side only. Delight Street and Cummings Lane both have adequate right of ways to accommodate new bike paths. Construction of the bike paths will serve McNary High School and Cummings Elementary, creating safer access for students.

Serving two schools is part of the criteria of a successful funding grant. The Oregon Bicycle and Pedestrian Plan through the Oregon Department of Transportation will consider funding this project if the local authority adopts these streets as designated bicycle pedestrian routes.

FISCAL IMPACT:

City Engineers estimate of this project is \$160,000. A successful grant will fund this project up to 80%, or a maximum of \$100,000. Funds to make up the difference, are available in the Street Fund Budget.

RECOMMENDATION:

Staff recommends the City Council adopt the attached resolution, designating Cummings Lane from River Road to Shoreline Drive and Delight Street from Cummings Lane to Chemawa Road North, bicycle pedestrian lanes meeting the requirements of the Oregon Bicycle and Pedestrian Program.

August 12, 1998

Rob Kissler
City of Keizer Public Works Director
930 Chemawa Rd. N.E.
Keizer, OR 97307

RE: City of Keizer Bikeways Committee
Delight & Cummings Bike Lanes

Rob,

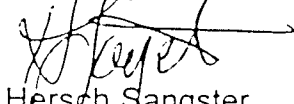
The City of Keizer Bikeways Committee recommends that the City adopt an ordinance designating Delight St. and Cummings Lane for bicycle lanes. These streets serve two area schools, and are currently inadequate to serve the high after school concentration of pedestrian, bicycle, and vehicular traffic.

The City of Keizer Bikeways Committee would like to see the Public Works Department apply for grants through the Oregon Department of Transportation Bicycle Program. A consideration in the disbursement of those grant funds is facility adoption by a local authority. While these facilities are being recommended by the Bikeways Committee, they were not designated within the Salem-Keizer Area Transportation Study (SKATS) Bicycle Facilities Plan.

The SKATS plan was more regionally based, focusing on major bicycle facilities for arterial and collector streets within the Salem, Keizer, and Marion County. The City of Keizer Bikeways Committee uses the SKATS plan as a framework for making local recommendations that will enhance the bicycle facilities for the residents of the City of Keizer.

The City of Keizer recommends that an ordinance be adopted by City Council resolution designating Cummings Lane between North River Road and Shoreline Drive, and Delight Street between Cummings Lane and Chemawa Rd. for bike lanes meeting requirements established in the Oregon Bicycle Plan.

Sincerely,



Hersch Sangster
Chair - City of Keizer Bikeways Committee

cc Keizer Bikeways Committee Members
Wally Mull, City Manager

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R98-_____

3 DESIGNATING DELIGHT STREET AND CUMMINGS LANE FOR BICYCLE LANES

4
5 WHEREAS, the Keizer Bicycle Advisory Committee has recommended
6 Delight Street, between Cummings Lane and Chemawa Road, and
7 Cummings Lane between North River Road and Shoreline Drive have
8 designated bike lanes; and

9 WHEREAS, these two streets serve two school areas and are currently
10 inadequate to serve the high after school concentration of pedestrian,
11 bicycle, and vehicular traffic; and

12 WHEREAS, grant funds are available through the Oregon Department of
13 Transportation Bicycle Program for the construction of these bike lanes; NOW,
14 THEREFORE

15 BE IT RESOLVED by the City Council of the City of Keizer that Delight
16 Street, between Cummings Lane and Chemawa Road and Cummings Lane
17 between North River Road and Shoreline Drive be designated as bicycle
18 lanes.

19 PASSED this _____ day of _____, 1998.

20 SIGNED this _____ day of _____, 1998.

21
22 _____
23 Mayor

24
25 _____
26 City Recorder



September 8, 1998

AGENDA ITEM 8f

RESOLUTION – AUTHORIZING CITY MANAGER TO ENTER AN AGREEMENT WITH MORSE BROS. INC. AND D & D PAVING TO CONSTRUCT STREET IMPROVEMENTS ON 15TH AVENUE AND DELTA DR. NE.

CITY COUNCIL MEETING: September 8, 1998

AGENDA ITEM NUMBER: 8f

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

FROM: WALLY G MULL
CITY MANAGER

SUBJECT: BID AWARD (15th Ave & DELTA DR STREET IMPROVEMENTS)

BACKGROUND:

Portions of 15th Ave and Delta Dr have had half-street improvements for some time. Recent construction in these areas, a new subdivision on 15th and the widening of River Rd in the Delta Dr area, have caused the public works department safety concerns. Completion of these two projects will add curbs, storm drains and sidewalks making these streets safer for both pedestrians and vehicular traffic.

FISCAL IMPACT

Staff was aware of these projects and funding for the improvements was included in the 1998-99 Street Fund Budget.

RECOMMENDATION:

Council adopt a resolution authorizing the City Manager to enter into a contract with Morse Bros. Inc; (\$31,422.78) and D& D Paving (\$79,154.59) to construct street improvements on 15th Ave N and Delta Dr. NE.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R98-____

3
4
5 AUTHORIZING THE CITY MANAGER TO ENTER AN AGREEMENT WITH MORSE
6
7 BROS. INC., AND D & D PAVING TO CONSTRUCT STREET IMPROVEMENTS ON
8
9 15TH AVENUE AND DELTA DRIVE NE

10
11
12 WHEREAS, In August, 1998 an invitation to bid was published for the
13
14 construction of street improvements on 15th Avenue N. and Delta Drive Northeast; and

15
16 WHEREAS, on August 26, 1998, bids were received and opened. The low bid of
17
18 \$31,422.78 was submitted by Morse Bros Inc., for 15th Avenue N. and \$79,154.59 by
19
20 D & D Paving for Delta Dr. NE; NOW THEREFORE;

21
22 BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is
23
24 hereby authorized to enter into an agreement with Morse Bros Inc. and D & D Paving to
25
26 construct street improvements on 15th Avenue N. and Delta Dr. NE.

27
28
29 PASSED this _____ day of _____, 1998

30
31 SIGNED this _____ day of _____, 1998

32
33
34
35
36 _____
Mayor

37
38
39 _____
City Recorder
40



September 8, 1998

AGENDA ITEM 8g

**APPROVAL OF AUGUST 3, 1998 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Monday, August 3, 1998
Keizer City Hall
Robert L. Simon Council Chambers, Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:07 p.m. Roll call was taken as follows:

Present:

Dennis Koho, Mayor
Carl Beach, Councilor
Lore Christopher, Councilor (Sworn in at 7:09 p.m.)
Jim Keller, Council President
Jerry McGee, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Staff:

Wally Mull, City Manager
H. Marc Adams, Chief of Police
Dianne Hunt, Human Resources Officer
Rob Kissler, Public Works Director
Susan Gahlsdorf, Finance Director
Amy Drought, City Planner
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

**SWEARING IN OF
COUNCILOR LORE
CHRISTOPHER**

Mayor Koho announced at an earlier special session, Lore Christopher was appointed to fill the vacancy on City Council. She will fulfill the unexpired term of Dawn Meier who recently tendered her resignation from Council Position Number Two.

Shannon Johnson, City Attorney issued the oath of office to Councilor Christopher.

Councilor Christopher took her place at the Council table.

PUBLIC TESTIMONY **There was no public testimony to come before the Council.**

COMMITTEE REPORTS

SWEARING IN OF KEIZER POLICE OFFICERS

Chief H. Marc Adams introduced Officer Jeffery Isham and Officer Jennifer Perkins as the newest members of the Keizer Police Department. He provided a brief background on each of the new officers.

Shannon Johnson, City Attorney issued the oath of office to Officer Isham and Officer Perkins.

VOLUNTEER AWARD

Jim Nightengale, member of the Volunteer Coordinating Committee announced the Volunteer of the Quarter award was being presented to the family of Ben Miller in recognition for Mr. Miller's contributions to the Keizer Community during his lifetime. Mr. Nightengale pointed out Mr. Miller's willingness to provide services or equipment through his rental agency at no or minimal cost.

Mayor Koho presented a clock in recognition of Mr. Miller's volunteer efforts to his wife and family.

KEIZER BICYCLE ADVISORY COMMITTEE REPORT

Hersch Sangster, Chair of the Keizer Bikeways Committee updated the Council on the projects and activities during the last year. One of the goals of the Committee is to provide bicycle education for kids in the community. Recently, a group of 15 individuals from Keizer, including 5 police officers, participated in a SMART training session. Knowledge learned at this program will ensure coordinated training efforts. There will be an opportunity for sharing this training at the Bike Rodeo at Day Springs Church on Saturday, August 22nd, 10:00 a.m. to 2:00 p.m.

In response to an inquiry from Mayor Koho, Mr. Sangster pointed out the Bicycle Committee is working in conjunction with the Traffic Safety Commission on many issues. Representatives attend each of the monthly meetings. He believes this is valuable communication as well as an opportunity to apply for traffic safety grants pertaining to bicycle issues.

KEIZER VOLUNTEER COORDINATING COMMITTEE APPOINTMENTS

Mayor Koho announced the Volunteer Coordinating Committee terms of Anne Rasmus and Mike Hart were scheduled to expire on August 31, 1998. Ms. Rasmus serves in Councilor Whalen's position and Mr. Hart in the Mayor's position. He indicated both individuals were contacted and wished to be reappointed to serve an additional term.

Mayor Koho moved to appoint Anne Rasmus (Councilor Whalen's position) and Mike Hart (Mayor's position) to another three-year term on the Volunteer Coordinating Committee. Council President Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller, and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Miller reported the **Parks Advisory Board** met on July 14th and discussed the annual Parks Tour will be held on Monday, August 10th at 5:30 p.m. He indicated the Council should meet at City Hall and then proceed via shuttle to Claggett Creek Park for a barbecue dinner prior to the tour. In addition, he pointed out the construction of the picnic shelter at Claggett Creek Park has been completed, the play structure at the Meadows Park has been completed, installation of underground sprinklers at the Meadows Park, Willark Park and Willamette Manor Park will soon be complete.

At the July **Keizer Urban Renewal Board** meeting, Councilor Beach explained they discussed current development projects and the upcoming construction of Iris Lane. John Morgan, consultant led a discussion of the second phase of the River Road design plan. The board will continue discussions on this plan at their August meeting.

Amy Drought, City Planner reported the **Planning Commission** met on July 8th for their monthly meeting. The Commission discussed the timeline for the transportation system plan and public involvement program for the plan. The next meeting will be held on August 12th.

Mayor Koho reported the **Traffic Safety Commission** held their monthly meeting on July 23rd and announced the receipt of applications for mini-grants for traffic safety projects.

Craig Campbell, 6736 Fenwick Court N, Keizer – Chair of the Community Policing Committee – reported at the last meeting the group narrowed the strategic planning process and will be joining the police department for their strategic planning. In reviewing the projects which have been completed and others that will be completed, Mr. Campbell made note of these items; Prostitution Ordinance, renewal of the Curfew and Truancy Ordinances, staffing levels, landlord training classes, and a review of the District Attorney's case prioritization for crimes committed in Keizer. Mr. Campbell also pointed out the Cadet program will be implemented by the Keizer Police Department. Some of the short term projects include a peer court, control of paint guns, bb guns, or air guns, creation of a false alarm ordinance, and a possible telephone reporting unit. Long term projects include a water emergency response at Inland Shores and crime prevention near the Plymouth Drive apartments. Details of the strategic plan will be presented to the Council in the near future.

Councilor McGee reported the steering committee of the **Cable Television Task Force** met recently to discuss production and improvements to the televised Council meetings. The purpose for this meeting was to set a time to call in additional people to discuss improvements. However, during this meeting a list of potential improvements was made. Gary Williams, CCTV will work on the technical aspects of the production. Councilor McGee pointed out the pre-meeting briefing was added for tonight's meeting. This briefing will include a various term or process that will be explained as well as the items on the agenda. He requested any members of the viewing audience or Council, please contact the City Manager with any suggestions or concerns with the broadcast. The goal of the Task Force is to make the meeting more enjoyable to the viewing audience.

OTHER BUSINESS

NEW BUSINESS

Wally Mull, City Manager reported the Keizer Municipal Court will hold an **Amnesty Week** during the week of August 24th through August 29th. The Court will accept fifty-cents (\$.50) per one-dollar (\$1.00) of the total balance. The Court hopes to close some of the past due accounts and allow those drivers to legally obtain their driver's license. Mr. Mull noted this will be a one-time event and after the one-week period, all fines will revert to the original balance and turned over to the Collection Agency for collection.

Councilor Beach requested the staff investigate the option of printing the entire list of past due accounts.

Councilor McGee requested the staff prepare a proposal for Council consideration outlining a process for **Council appointments** when a vacancy on the Council occurs. He noted during the last six years three different appointment processes have been used, each successfully, however different. He believed if a policy was in place it would make a smooth transition each and every time this situation arises.

Mayor Koho supported the concept of developing options for consideration by the Council for the appointment process. He requested the staff bring this matter back to the Council before the end of the year.

Councilor Beach **applauded the Budget Officer**, Susan Gahlsdorf on the beautiful budget document that was adopted by the Council. He requested a staffing allocation outline be included in the budget showing how different employees are spread throughout the various funds.

Councilor Beach voiced his appreciation to the Keizer Heritage Foundation and other citizens who have been working so diligently on the **old school house**. The improvements are coming along nicely.

Councilor Beach mentioned as chair of the **Charter Review Committee** he has not scheduled a meeting to review any necessary changes to the Charter. He would like to refer this matter back to the Council to discuss during a work session. He hoped this could be accomplished soon as the November election is approaching.

Mayor Koho announced the filing deadline for the November ballot is August 25th. There is insufficient time to get this matter on that ballot. In addition, he requested this issue be delayed until the newly elected members of the Council are in place so they may participate in this process.

Councilor Beach pointed out one amendment he wishes to discuss would be a limitation in spending urban renewal funds without voter's approval.

Councilor Whalen requested the staff begin the process of **evaluating the water rates and reviewing the water capital improvement plan**. The last time these issues were reviewed was in 1995. He would like to keep up the excellent systems we have in place and with the growth being experienced, a full review would be beneficial at this time. In addition, it may be appropriate to review all the system development fees at this time.

Councilor Miller noted the Parks Advisory Board has been discussing the Parks System Development Charges and will be bringing information forth to the Council in the near future.

Chief Adams announced the **National Night Out** is set for Tuesday, August 4th. Approximately 50 groups have signed up to participate in this night against crime. He commended Jodi Sherwood for organizing this event.

Chief Adams reported the **K-9 unit** has received approximately \$7900 in donations to date. Chief Adams explained that this is a community project and the department is excited with this joint venture.

Chief Adams updated the Council on the **recruitment process** underway at the Police Department. Have hired four certified police officers, four reserve officers and a crime analyst. In addition, the process is just beginning for the records technician positions.

Council President Keller pointed out the idea of the K-9 unit was not brought to the budget committee or council and was turned down. The intent from the inception of the program was to make this a community project. He congratulated the department the support this program has received.

Council President Keller also commented on a recent article printed in the Statesman Journal regarding the increase in the **impoundment fee**. He is a strong supporter of this program which removes uninsured vehicles or suspended drivers from our streets. He noted in 1997 the Police Department impounded 662 cars off the streets of Keizer and 308 so far this year.

Susan Gahlsdorf, Finance Director reported the City is currently recruiting for the approved **Utility Billing Clerk position**. In

addition the **Utility Billing system conversion** is underway and the new billings will be printed in the next few days.

Wally Mull, City Manager announced the improvements at **McLeod Lane** are moving along according to schedule. This **Water Reservoir** at Keizer Little League Park has been filled. In addition, the construction at Iris Lane and Cherry Avenue will begin next week.

City Manager Mull also announced the **Skate Park** construction is behind schedule due to the weather and the number of volunteers during this construction period. He invited any volunteers that are interested in participating on this project should contact City Hall.

The Public Works and Parks Department are working in conjunction to place **ten trash receptacles** along River Road to help clean the area.

OLD BUSINESS

Council President Keller announced the Chamber of Commerce and the Keizer Heritage Association are continuing their discussion on the Old School building. The are contract issues that need to be reviewed and discussed and hopefully a resolution will be in place by the end of the month. Council President Keller indicated the September deadline for the improvements to the outside of the building is being taken very seriously.

PUBLIC HEARINGS

Mayor Koho reopened the public hearing which was continued on July 6, 1998.

RESOLUTION ADOPTING AGREEMENTS FOR CITY OF KEIZER NON-PREFERENCE TOWING SERVICES

Shannon Johnson, City Attorney announced the hearing was opened at the last meeting continued to this evening in order for the Council to review the language changes to the agreement.

Councilor Miller noted on page 7 – item A – the language states tow trucks shall not include car carrier or flat bed vehicles. However, throughout the document car carriers or flat bed vehicles are allowed.

Mr. Johnson explained this section only notes that the tow companies must have the minimum of one vehicle that is capable of towing/hooks onto a car to pull it out of a difficult area. A flat bed truck will not serve this purpose in all towing instances.

However, they are allowed to use flat beds or car carriers for towing purposes.

Councilor Miler suggested rewording this section to state... in order to qualify under this agreement, it is required to provide a minimum of one operable tow truck excluding car carriers or flat bed truck or other language that clarifies this statement. In addition, he noted on page 9 – Section E it should state indicating rather than indication.

Council President Keller pointed out on page 6 – Section 9 – it states *that no person convicted of a felony or a misdemeanor involving fraud, moral turpitude or a crime against property shall be an owner of or driver for a contractor.* He does not believe the City should be involved in these types of checks or record keeping.

Mr. Johnson indicated the Police Department requested this language be included to assure the drivers are licensed. It also ensures the safety of the public.

There was no public testimony to come before the Council.

Mayor Koho closed the public hearing.

In response to Councilor Beach, Mr. Johnson noted there are insurance requirements for the contractors, however no requirement to post a bond with the City.

Responding to Mayor Koho, Mr. Johnson explained the term moral turpitude is a fraudulent crime or describes a crime of character. A conviction of this nature may not be in the best interest of the customers or public.

Councilor McGee believed the contractors should be held to a standard to assure the citizens requiring the services of a towing company are trustworthy.

Councilor Miller agreed there should be a standard for the contractors. This is an excellent safeguard for the citizens.

Council President Keller supported the concept of this inclusion, however he is concerned with the clerical staff of the police department be overburdened with the overseeing of this

requirement. He suggested the tow company maintain this information and it would be available for inspection upon request.

Mr. Johnson noted this could be handled as an administrative matter by the Police Department rather than putting specific language into the agreement.

Mayor Koho moved a Resolution in the Matter of the Adoption of the Agreement for Non Preference Towing Services. Councilor McGee seconded the Motion.

Councilor Miller moved to amend the language on Page 7 – Section VIII – Section A to add a sentence at the end.... *As long as at least one tow truck is available, contractor may use flatbed or car carrier vehicles* and on Page 9 – Section VIII – E – changing the word *indication to indicating*. Mayor Koho seconded the amendment.

The amendment to the Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller, and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

In response to Council President Keller's concern on the administration of the background and criminal checks, Lt. Mark Miranda believed during an inspection of the tow company, they would be required to produce the employees driving and criminal history background. This could be handled administratively by the Police Department.

The Motion as amended passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller, and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**APPEAL OF HEARINGS
OFFICER DECISION –
PARTITION CASE NO.
97-22 AND PARTITION/
ADJUSTMENT CASE
NO. 98-03 (CHOM
CONSTRUCTION)**

Mayor Koho opened the public hearing.

Shannon Johnson, City Attorney announced this will be a joint hearing on the appeal of the Hearing's Officer decision of Partition Case No. 97-22 and Partition/Adjustment Case No. 98-03. He noted the applicable criteria of each case is outlined in the staff report and requested the reading of the criteria be waived. There were no objections raised. Mr. Johnson also requested any testimony being presented be directed towards this criteria.

In response to an inquiry by Mr. Johnson, there were no conflict of interests, bias, jurisdiction, or defective notice issues raised at this time. Mr. Johnson noted that several Councilors have discussed the matter with him and the planning staff in recent weeks.

Amy Drought, City Planner reported this matter involves two appeals of the Hearing's Officer decision on Case No. 97-22 and Partition/Adjustment Case No. 98-03. The applicant in both cases is Chom Construction. The location of the subject property is 1250 Shady Lane NE, Keizer. The present zoning is single family residential with surrounding properties being zoned the same. Ms. Drought indicated these decisions involve complicated land-use issues and address implications for infill development in Keizer.

Ms. Drought announced that the complete planning files for both applications are being entered into the record at this time.

In reviewing the history of the cases, Ms. Drought explained in November 1997 Chom Construction filed a partition application to divide one lot into three lots. She displayed a drawing of the potential division of the lot showing the access easement and dimensions of each of the proposed lots. After staff approval of the partition application, an appeal was filed by M.J. and Cynthia Wilkens. Upon appeal, the Hearing's Officer concluded the proposed new lots (interior lots) did not meet the required lot depth requirement of the zoning ordinance. The Hearing's Officer based his decision on the fact that the front lot line was measured from the private access easement opposed to being measured parallel to Shady Lane.

Continuing with the history of the case, Ms. Drought pointed out a partition/adjustment (for the lot depth requirement) application was then filed by Chom Construction in March, 1998. After staff

approved the application, an appeal was then filed again by M.J. and Cynthia Wilkens. The Hearing's Officer ruled that the lot depth for the two interior lots should be measured from the edge of the easement not the exterior boundary of the lot. This resulted in lot depths of 52.5 feet for each lot, which is more than a difference of 20% as allowed. The application was then remanded back to the staff for a decision on a variance. This decision resulted in an appeal by Chom Construction.

Ms. Drought pointed out the central issue in both appeals is whether the applicant has satisfied the lot depth requirement of the zoning ordinance. She recommended the Council consider the testimony and then determine where the front lot line for the interior lots should be measured from; the side which faces the public street or the side of the lot which faces the access easement. She also recommended the Council determine the measuring point for an interior lot line. Upon making these decisions, the Council should direct the staff on the preparation of an order for adoption.

Mr. Johnson reiterated that this is a consolidated hearing on both cases in this matter.

In response to a question from Mayor Koho, Ms. Drought stated the minimum lot width is 40 feet and minimum lot depth of 70 feet. These minimums are intended to assure the lot has adequate buildable area. In addition, she stated that staff has historically determined on in-fill situations with existing dwellings, the front lot line is the line facing the public street. Ms. Drought noted the front lot line is only considered for the division of property, not to determine which direction the house will face when constructed. This decision is made at the time the building permit is approved.

Responding to a question from Council President Keller, Ms. Drought explained the easement would be viewed the same regardless of the type of easement. The edge of easement would not be considered the lot line if it was a sewer easement.

Councilor Whalen believed the issues being brought forth in this case will be faced in other future decisions. He hoped this case would be dealt with as an interpretation question and not a policy decision on amendments to the code.

Norm Hill, Attorney for Applicant (Chom Construction) 1114 Twelfth Street SE, Salem distributed a written applicants statement to the Council and requested this be made a part of the record. Mr. Hill concurred with the staff recommendation in the first case (97-22) in which stated the lot line is measured from Shady Lane. This is consistent with previous planning actions. Using an enlarged version of the Keizer Development Code, Mr. Hill pointed out his position is that the exterior lot boundaries should always be definitive when determining the lot depth. The development code defines a lot line as one of the property lines forming the exterior boundaries of the lot. He believes the Hearings Officer erred in his analysis of determining the location of the front lot line. Mr. Hill recommended the Council adopt the staff recommendation that the front lot line should be parallel to the public street right of way.

Mr. Hill also pointed out the decision by the Hearing's Officer in reference to the lot area creates an absurdity. The Code states the lot area is defined as the area in square feet or acres of a horizontal plane bounded by the vertical extensions of the lot lines. The lot lines used to determine the lot area would be different than those lines used to determine lot depth. Therefore the conclusion is inconsistent.

Referring to the memorandum in the staff report from the City Attorney, Mr. Hill pointed out there is a large amount of discretion to interpret the City's ordinances. However, there are limitations which restrict the Council from adopting an interpretation that is in violation of the Comprehensive Plan. In conclusion, Mr. Hill believed the Hearing's Officer determination in these cases is wrong and urged the Council to adopt the staff recommendation.

Marcy Wilkins, 1240 Shady Lane NE, Keizer indicated she owns the property directly next to the property in question. In the first case, 97-22 Ms. Wilkins pointed out under the rules of the Oregon State Land Use Board this matter has passed the 120 day appeal period. Therefore, she believes this has become a standing land use decision under the provisions of ORS 215.428.

Responding, Mr. Johnson noted the statute cited is incorrect, however there is another statute which addresses the 120 day appeal period. He pointed out in this case the City allowed the applicant for sake of efficiency to wait on the first appeal believing

the matter could be resolved by an adjustment or variance. Furthermore, the applicant waived the 120 day period in order to proceed with the second case. Mr. Johnson questioned if anyone other than the applicant is allowed to enforce the 120-day rule.

Ms. Wilkins stated the judgement rendered in case 98-03 indicating the lot depth of 52.5 feet is correct. This is based upon the ruling in case 97-22, where the actual lot depth came into contention. The appeal was based upon the actual definition of front lot line. According to Keizer Zoning Ordinance 2.228 the front lot line is defined as the roadway easement – the edge of the roadway easement not the center of the road. Citing the definitions of Keizer Zoning Ordinance 2.230 and 17.10 which define the rear lot line, Ms. Wilkins pointed out because it was an easement, it grants ownership at this point. With this configuration four separate properties are separated from the direct ownership of the principal parcel. Therefore it cannot be included in any size calculations based upon the lot.

Ms. Wilkins pointed out parcel one is insufficient to meet the requirements of the lot area dimensions under Keizer Zoning Ordinance 23.12. It states that a minimum lot area for a single family dwelling in a mobile home park or planned unit development is 4000 square feet. In areas other than those, it is a minimum of 6000 square feet. The application in cases 97-22 and 98-03 states the square footage of parcel one is only 4515 square feet. This falls short of the 6000 square foot requirement.

Based upon the fact that the front line is used to determine all other lot lines on a property and in light of the definition of a corner lot (Keizer Zoning Ordinance 2.080), Ms. Wilkins declared the first parcel should be considered a corner lot under this planning action. Therefore the lot should have a minimum depth of 70 feet from both Shady Lane and the private access easement. The determination of the front footage is addressed in Keizer Zoning Ordinance 2.152. Based upon this definition and the ruling by the Hearings Officer in case 98-03, the actual size of the lots is 52.5 wide by 70 feet deep. This calculates to 3675 square feet which is below the minimum required.

On a final note, Ms. Wilkins believed parcel one provides insufficient yard set back on the east side. Based upon the definitions in Keizer Zoning Ordinance 17.10 the actual depth

from the street easement needs to be 12 feet. Currently it is 1.7 feet from the edge of the street. Even if it is to be a side yard, it fails to meet the 5 foot requirement. Ms. Wilkins cited Keizer Zoning Ordinance section 17.20 which addresses minimum set backs which this development also fails to meet.

In response to a question by Councilor Whalen, Ms. Wilkins pointed out section 17.10 deals with the separation of lots or yard areas. She believes this states that you cannot figure a portion of another property or not under complete ownership of one person or parcel to be included in the area specified for another lot.

Ms. Wilkins reiterated that she owns the parcel of property to the immediate west of this proposed development and is very concerned with the application.

Gary Steiner, President of South East Keizer Neighborhood Association, 4054 Noon Avenue NE, Keizer believed the Council will set make decisions that the future development of Keizer will be based upon. This will affect the livability and productivity of the community. Mr. Steiner pointed out the decision in this case will have an affect on the livability of the southeast area of Keizer. He urged the Council to take into consideration this entire area when making this decision.

Ken Gierloff, Vice-President of South East Keizer Neighborhood Association, 4035 Arnold Street, Keizer indicated the board voted unanimously to request the Council uphold the hearings officer decision. This decision is based upon livability and reality. Mr. Gierloff concluded the siting of the house will most likely face the private access easement rather than Shady Lane, which would also allow the adjacent lot to develop similarly. This will create an impact of four additional lots in this area.

In case 98-03, Mr. Gierloff believed the frontage area of the house should not be considered part of the square footage or set backs. He cited an example on Danwood Street in which the house lacks a front yard due to the setback allowance.

In reviewing the lots similar to the case in point along Shady Lane, there could be six lots that can be developed in a similar fashion. The density will be abundant and the livability will be poor. In addition, park space, traffic congestion, and pedestrian safety will

become major concerns. Mr. Gierloff urged the Council to consider these issues when making a policy decision on this case.

In response to a question by Councilor McGee, Mr. Gierloff confirmed he agrees with the decision of the hearings officer on these cases. Furthermore, by adding the easement into the front property line, this will allow the house too close to the street without having a front yard. This situation is a detriment to the community because it does not provide adequate play area, access for police patrols, or promote pedestrian use. Mr. Gierloff requested this application be denied and further comprehensive plans developed for infill projects of this type.

In rebuttal, **Norm Hill, Attorney for the Applicant** pointed out most items brought up by the opponent during this hearing were rejected by the Hearings Officer. Also, the reference to Keizer Zoning Ordinance 17.10 that Ms. Wilkins brought forth refers to Planned Unit Developments and this is not one.

Mr. Hill stated none of the arguments raised by the opponent at this time were raised in the appeal. Therefore for the purposes of this hearing the only item in front of the Council for consideration is the interpretation that is put forth by the applicant. Mr. Hill pointed out the adopted Comprehensive Plan is implemented by the Keizer Zoning Ordinance and therefore interpretation of the code must be consistent. The Comprehensive Plan allows for infill development. Also, the purpose for the lot depth is to insure there is adequate space for development. The parcels in question are almost double the required area.

In response to an inquiry by Mayor Koho, Mr. Hill indicated the easement will be paved to at least the required 16 feet. He was unsure if the entire 24 feet would be paved.

Mr. Johnson, responding to questions from Councilor Whalen believed the 120 day rule violation raised by Ms. Wilkins, only applies to the applicant which has waived the appeal period. Therefore, he felt comfortable with the Council making a decision on case 97-22. He also stated the Council may decide the case on any facts or references raised during this hearing.

Any Drought, City Planner pointed out during the testimony a statement was made that the house must face the front property

line. This is not a requirement under the code. The siting of the homes will be considered during the building permit process. The front lot line is only defined for calculations of lot depth not building orientation.

Responding to concerns raised by Council President Keller, Ms. Drought indicated the infill projects in Keizer are continuing to increase. She indicated the Planning Commission would like to develop infill design standards to assist staff in dealing with these issues.

Councilor Miller requested additional time to review the material and issues raised during testimony. He believes infill development is increasing in the community and would like to make sure all points are addressed.

Councilor McGee expressed the difficulty of dealing with these conflicting values. He believes staff has interpreted the code correctly, however if infill is not desirable narrower guidelines must be developed.

Councilor Whalen pointed out this application was filed in November, 1997 and by delaying the decision to investigate this issue further, it is not fair to the applicant.

Mr. Hill explained the applicant waived the 120 day appeal period in the first case pending outcome of the second case. The waiver in the second case will expire on August 17th, 1998. Mr. Hill believed his client would not be willing to extend the waiver, however he would request time to discuss the issue if necessary.

The Council recessed at 9:05 p.m.

The Council reconvened at 9:12 p.m.

Mr. Hill announced the applicant would waive the 120 day period until Tuesday, September 8, 1998.

Mayor Koho closed the public hearing.

Mayor Koho announced the Council would deliberate on this issue on August 17, 1998.

**WITTENBERG LANE
STREET LIGHTING
DISTRICT**

Mayor Koho opened the public hearing.

Wally Mull, City Manager requested this hearing be held over until August 17th, 1998 in order for Mr. Wittenberg to investigate an upgrade of the street lights being recommended for installation.

There was no testimony to come before the Council.

Mayor Koho announced the public hearing would be continued until Monday, August 17, 1998.

**BAHNSEN WOODS
STREET LIGHTING
DISTRICT**

Mayor Koho opened the public hearing.

Wally Mull, City Manager reported the developer of Bahnsen Woods filed a petition to create a street lighting district. At a previous meeting the engineer's report and lighting layout was approved.

There was no testimony to come before the Council.

Mayor Koho closed the public hearing.

Council President Keller moved a Resolution Forming the Bahnsen Woods Street Lighting District. Mayor Koho seconded the Motion.

The Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller, and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Council President Keller moved a bill for an Ordinance Spreading Assessments to Bahnsen Woods Street Lighting Local Improvement District. Mayor Koho seconded the Motion.

The Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller, and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

Items on the Consent Calendar were as follows:

- a. Resolution – Adopting Fiscal Year 1998-99 City of Keizer Budget (Repealing R98-1042)
- b. Resolution – Calling Up Comp Plan/Zone Change/PUD Amendment (McNary Estates Phase 20)
- c. Approval of July 6, 1998 Regular Session Council Minutes
- d. Approval of July 27, 1998 Special Session Minutes

Council President Keller moved for approval of the items on the consent calendar. Mayor Koho seconded the Motion.

The Motion passed with the following votes:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATION

Mayor Koho announced there were no written communications to come before the Council.

AGENDA INPUT

Mayor Koho noted the agenda input items. He reminded the Council of the annual Parks Tour on Monday, August 10, 1998. All members of the Council should meet at City Hall at 5:15 p.m.

ADJOURNMENT

The City Council meeting was adjourned at 9:29 p.m.

After a ten minute break the Council reconvened in an executive session pursuant to ORS 192.660(1)(h) –Litigation.

Tracy L. Davis, CMC
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Carl Beach

Councilor #2 - Lore Christopher

Councilor #5 - Al Miller

Council President - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:



September 8, 1998

AGENDA ITEM 8h

**APPROVAL OF AUGUST 17, 1998 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Monday, August 17, 1998
Keizer City Hall
Robert L. Simon Council Chambers, Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:06 p.m. Roll call was taken as follows:

Present:

Dennis Koho, Mayor
Carl Beach, Councilor
Lore Christopher, Councilor
Jim Keller, Council President
Jerry McGee, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Staff:

Wally Mull, City Manager
H. Marc Adams, Chief of Police
Dianne Hunt, Human Resources Officer
Rob Kissler, Public Works Director
Susan Gahlsdorf, Finance Director
Amy Drought, City Planner
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

**COMMITTEE
REPORTS**

Council President Keller reported the **Planning Commission** met on Wednesday, August 12, 1998. Discussion items included the goals and policy for the Keizer Transportation System Plan and a brief discussion of the Chom Construction partition case that is on the agenda for tonight.

**COUNCIL LIAISON
REPORTS**

Craig Campbell, Chair of the **Community Policing Committee**, pointed out a copy of the draft Community Policing Strategic Plan was distributed to the Council. This will be the last draft until the Police Department has an opportunity to prepare their portion of the plan. He requested any input or questions be directed to

himself or the committee. Mr. Campbell noted the Committee has attempted to include measurable outcomes for the goals and strategies to determine if they have been beneficial to the community.

Jim Keller, Council President reported the subcommittee for the renovation of the **Old Keizer School** has met with members of the Keizer Heritage Foundation and Chamber of Commerce to discuss the future of this project. At this time, the Chamber of Commerce has announced they are no longer interested in assisting in this project. As promised earlier this year, the Keizer Heritage Foundation has been working on the exterior of the school recently. Holly Erickson, President of the Keizer Heritage Foundation has submitted an annual report detailing the accomplishments and goals.

After many discussions, Council President Keller requested the Council consider conveying an agreement to the Keizer Heritage Foundation that the exterior (painting, landscaping, cement work) will be completed this year and the interior be completed as funds become available. Council President Keller also announced Al Rasmus has volunteered to provide his expertise to the Keizer Heritage Foundation to investigate and pursue new funding sources.

Mayor Koho announced his support for the concept as outlined by Council President Keller. He is an advocate of this project and would be willing to provide some public funds for the renovation when the time is appropriate.

Councilor McGee expressed his appreciation to Council President Keller for his participation on this venture. He requested a specific date be determined for the completion of the exterior projects. Councilor McGee suggested this work be completed by September 30, 1998, as previously stated by Ms. Erickson. This timeline would be in the best interest of the neighbors.

Council President Keller pointed out some of the volunteer work being provided is from contractors who are busy with their professional trade at this time. In order to provide flexibility, he believed a December 30th deadline would be appropriate.

Councilor Whalen acknowledged a time certain for completion for the exterior projects should be determined. He understood a business plan and budget is being developed by Mr. Rasmus at this time.

Councilor Beach announced he was unaware the Chamber of Commerce would no longer be participating in this project. He requested additional time to review the annual report, the business plan, and also the terms of the lease agreement, which he believes is expired. Councilor Beach noted his appreciation for the work that has been complete so far, however he is concerned with the future of the project. He requested a definitive plan be provided to the City Council.

Councilor Miller also expressed his surprise that the Chamber of Commerce would no longer be a participant in this project. He requested additional time and information to review the status of this project.

Council President Keller pointed out the lease agreement has not expired. Furthermore, specific details of the renovation are not included in the agreement. He suggested the Council work with the Keizer Heritage Association on a specific timeline for improvements.

Holly Erickson, Keizer Heritage Foundation President, 4775 Verda Lane NE, Keizer reported the Heritage Foundation began negotiations with the Chamber of Commerce a few months ago on the renovation project of the old Keizer School. Due to reasons that are not clear to her, the Chamber of Commerce announced on August 13th they would no longer participate on the project. Ms. Erickson indicated improvements are continuing to be made on the project. In addition, a business plan is being put together by Mr. Al Rasmus and a financial report should be forthcoming.

Responding to Councilor Beach, Ms. Erickson indicated the architectural bill is the only outstanding account to be paid at this time. She pointed the Heritage Foundation has been very cautious in spending. Presently, the balance of the bank account is approximately \$17,000.

Mr. Erickson believed the exterior projects as listed by Council President Keller could be completed by September 30th, 1998.

Possible detriments to completing this work on time would be weather or lack of volunteer assistance. She noted all of the exterior projects are being completed by volunteers.

Councilor McGee pointed out the completion of the exterior projects would be a great benefit to the community. In addition, the completed improvements could generate enthusiasm for additional donations and restore the credibility for completion of this project.

In response to an inquiry by Councilor McGee, Ms. Erickson indicated the Chamber of Commerce did not resign from the project due to the lack of potential in the completion of the project.

Jim Hupy, Keizer Florist, 631 Chemawa Road NE, Keizer pointed out he is a member of the Keizer Heritage Foundation Board and also a member of the Chamber of Commerce. He and his wife have fully supported, both monetary and labor, the renovation of the old school building since 1993. He questioned the City Council's support for the renovation of the school. He understands the Council's desire for accountability, timelines, and financial reports. Mr. Hupy thanked the citizens of the community for their dedication and support for this project.

Mr. Hupy explained the goal of the Keizer Heritage Association is to provide the community with a place for many civic groups and events to take place. He noted the Keizer Heritage Foundation has discussed a business plan and will pursue completion of this in the near future. However, the ultimate goal at this point is to complete the renovation of the building. He believes the lack of this business plan lead to the resignation of the Chamber of Commerce on this project.

Councilor Beach reiterated the Council's concern that this project be completed in the near future. He

Mr. Hupy pointed out the Keizer Heritage Association has been conservative from the beginning of this project without incurring and indebtedness. He requested the Council express their support to the community for this project.

Mayor Koho pointed out he is encouraged by the support and direction this project is taking.

In response to a question by Councilor Christopher, Mr. Hupy believed Al Rasmus would be completing the business plan in the near future. Councilor Christopher expressed her appreciation to the Keizer Heritage Association for their work on this project.

The Council agreed by consensus that the exterior improvements to the old school building (painting, landscaping, and cement work) would be completed by September 30th. If any unforeseen weather calamities or volunteer failure are experienced the Council should be notified of these. The Council requested the City Attorney prepare an amendment to the lease outlining these expectations.

Councilor Beach requested an additional phrase be added that completion of the project should occur within one year.

Councilor McGee pointed out he does agree that the entire project must be complete in one year.

Mayor Koho expressed his interest in completing the project in order for the City to utilize the space currently being occupied at City Hall by the Keizer Art Association and Reading Connection.

Mayor Koho requested the rotation schedule for the Council **Management Committee** be monitored to assure the tenure of the Councilors is mixed.

Mayor Koho expressed his appreciation to **Kathryn Vannoy** for her volunteer work on the CCTV crew in the broadcasting of the Council meetings. He wished her the best in her studies at Chapman University.

OTHER BUSINESS

Chief Marc Adams announced on Saturday, August 22, 1998 there will be a Kid's Day at the Keizer Police Department from 11:00 a.m. to 4:00 p.m. at the Chalmers Jones Park.

Chief Adams also announced the recent hiring of two certified Police Officers. They will begin on Monday, August 24th. Also, the finalist for the Police Support Specialist will take place on Tuesday, August 18th.

In addition, Chief Adams reported the donations for the K-9 unit have exceeded \$10,000 and are still being collected.

Rob Kissler, Public Works Directed thanked the Parks Advisory Board for a great job on the annual Parks Tour and dinner hosted at Claggett Creek Park. He believed it was very informational for the Council, Board, and staff.

Councilor Keller also commended the Parks Advisory Board for their work on annual parks tour. This was an excellent tour and he appreciated the staff members being involved. He hopes this continues on an annual basis.

Wally Mull, City Manager announced the Municipal Court Amnesty Week which will take place during the week of August 24th, 1998. Several press releases have been sent out and notices posted in the area.

Mr. Mull also announced the pre-construction meeting on Iris Lane took place earlier today and they expect to start construction on Wednesday, August 19th.

Councilor Beach commended Shirley McGee for the nice article in the Statesman Journal and thanked her for her continued attendance at the meetings.

PUBLIC HEARINGS

WITTENBERG LANE STREET LIGHTING DISTRICT

Mayor Koho reopened the public hearing continued on August 3, 1998.

Wally Mull, City Manager reported Mr. Wittenberg is working with Portland General Electric and the City Engineer to install decorative lighting similar to those in the surrounding area. The costs of this option will affect this allocated cost in the ordinance. He recommend the hearing be held over until the next meeting.

There was not testimony to come before the Council.

Mayor Koho continued the hearing until September 8, 1998 at 7:00 p.m.

ADMINISTRATIVE ACTION

APPEAL OF HEARINGS OFFICER DECISION – PARTITION CASE NO. 97-22 AND PARTITION /ADJUSTMENT CASE NO. 98-03 (CHOM CONSTRUCTION)

Mayor Koho noted the public hearing on this matter was closed on August 3, 1998.

Amy Drought, City Planner explained the Council needs to make two decisions tonight. In partition case no. 97-22 a decision needs to be determined what constitutes a front lot line for lots 2 and 3. The Hearings Officer concluded it was the lot line facing the easement. On case no. 98-03, partition/adjustment, a determination needs to be reached on where to measure from to determine the lot depth.

Shannon Johnson, City Attorney added the motion should be an interpretation decision by the Council.

Responding to Councilor McGee on case no. 97-22, stated the previous practice of the Planning Department has been to use the front lot line that faces the public right of way, in this case Shady Lane. This is consistent with the language in the newly adopted development code.

Councilor McGee supported following the previous practices of the Planning Department.

Councilor McGee moved to uphold the staff recommendation of using the lot line as currently interpreted as being parallel to the public street.

There was no second to the motion.

Mayor Koho moved to uphold the hearings officer decision in case no 97-22 (agreeing with the analysis in terms of the Hearings Officer's interpretation). Council President Keller seconded the motion.

Council President Keller confirmed that the new development code does not contain different language when determining what the front lot lines for the interior lots would be.

City Attorney Johnson indicated the new code discusses setbacks from easement.

Councilor Whalen pointed out the past practice of the Planning Department has been to view the front lot line parallel to the public street. Most of those partitions created one single lot with a

side driveway. However in this case he believes it is important to uphold the hearings officer decision. Councilor Whalen requested the Mayor form a task force to visit what issues this case has brought to our attention and discuss potential amendments to the code.

Mayor Koho suggested Councilor Whalen and Council President Keller, Planning Commission Council Liaison, and Chair of the Planning Commission to be on this task force.

Councilor Beach supported the hearings officers decision in measuring the lot line from the easement. He believes this analysis be included in the development code so this interpretation problem will be clear in future infill projects as this.

The motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Council President Keller moved to uphold the hearings officer decision and analysis in case 98-03 – partition/adjustment.
Council Whalen seconded the motion.

In response to an inquiry from Councilor McGee, Ms. Drought explained that the language in the old code is the same as the new code language in how you measure to determine lot depth. She stated there are differences in the codes in related issues such as measuring setbacks and whether the easement is included when determining the lot area. Previously, the City has always determined the property line is the point at which you measure from to determine lot depth.

Ms. Drought further explained that each lot must have a minimum depth of 70 feet. Historically, this has always been measured from the property line. In case no. 98-03 it is 64.5 feet using this measurement. However the Hearings Officer determined it must be measured from edge of easement which would make it only 52 feet. This measurement is below the criteria for an adjustment.

Mr. Johnson explained a set back is measured at the time of building permit. It is not an issue at this time.

Mayor Koho believed there will be a great difference if the property line is used to measure the setback rather than using the center of easement. Therefore he is in support of the hearings officer analysis in this case.

Councilor Beach believed if you are paying taxes for the entire lot (including the easement area) you should be able to develop or use this lot to the property line. He believes the property line is the logical point to measure the depth from.

In response to a statement from Council President Keller, Ms. Drought explained the building setback is measured differently than lot depth. The new code there is a provision to require buildings or structures to be set back a minimum of five feet from the edge of easement. However, in determining lot depth there is no difference in terms of the language or definitions or giving staff directions in how to determine this.

Council President Keller pointed out if the subject property is allowed to build as requested, the lot to the west would not be allowed to develop similarly. Furthermore, there are similar lots along Shady Lane that would have similar development issues.

Councilor Miller supports the hearings officer decision as measuring from the easement line. Depth requirements are for several purposes, one to insure proper dimensions in order to place buildings on lots and have adequate surrounding areas. He is uncomfortable with a 52 foot depth measurement.

Councilor McGee indicated by supporting the hearings officer interpretation it will have a dramatic effect on property owners opportunity wishing to developing their own property in an infill pattern. Historically the staff has measured the lot depth and square footage from one property line to the parallel property line. This decision changes this practice. The newly adopted code allows for infill, however this decision of the hearings officer will prohibit it. Furthermore, Councilor McGee expressed his desire to allow infill development for the benefit of the community.

Mayor Koho believed this decision does not prohibit infill, only sets limits to manage it. He hoped there would be additional future discussion to set public policy on matters of this nature.

Councilor McGee expressed his desire to look at issues regarding infill in more detail and make modifications if necessary. However, we shouldn't stop previous practices while making these decisions.

Councilor Whalen pointed out because of the issues raised by Councilor McGee, it is imperative that the hearings officer decision be upheld and allow the time to create tools to identify how to develop infill in a way that is compatible with the existing neighborhoods. This is a conservative stance, however in the mean time accurate standards can be redefined when envisioning the future development of this type.

Council President Keller stated the density standards set for the City are being met at this time. Therefore, the City should allow time to review this entire issue. He believed infill development was not intended to benefit one property owner to the detriment of another property owner.

Councilor Beach commented that each party in this matter has followed the law and therefore it is unfair not to allow the development to occur as allowed by the existing code.

Councilor Miller disagreed with the comments made by Councilor Beach. He noted staff issues an interpretation using the code, however policy decisions are made by the Council. When establishing a policy, the future types of development must be considered. He does not believe by upholding the hearings officer decision it puts a moratorium on infill development.

Councilor McGee pointed out the newly adopted development code was created over a three-year period. During this time, we did not deny building permits because the details of the code were not finalized. They were allowed to build under the current development code adopted in 1987. In this case, it is not fair to restrict development until refinement of the code takes place. It should be decided under the present rules.

Councilor Miller disagreed noting decisions were made by a staff interpretation previously. This case is the first to come before the Council on a policy decision.

Councilor Christopher expressed her support of the statement made by Councilor Miller. By upholding the decision of the hearings officer, it allows Council to change the direction and look towards future development of Keizer. Development needs to be conducive to the community.

Shannon Johnson, City Attorney announced Council President Keller's attendance at the Planning Commission meeting on August 12th does not constitute an ex parte contact. It was a public meeting where the Planning Commission chair requested an update of the issue.

The Motion passed as follows:

AYES: Christopher, Keller, Koho, Miller and Whalen (5)

NAYS: Beach and McGee (2)

ABSTENTIONS: None (0)

ABSENT: None (0)

Mayor Koho directed the staff to return with the appropriate Orders on September 8, 1998.

**RESOLUTION –
AUTHORIZING CITY
MANAGER TO ENTER
AGREEMENT TO
PURCHASE COUNTRY
GLEN PARK**

Wally Mull, City Manager reported during the development process approval of the Country Glen Subdivision, it required the dedication of a 5.6 acre parcel of land to be donated for the purpose of a neighborhood park. Since the time of development approval, staff and the developer have been negotiating a price for this parcel. Mr. Mull announced the agreed upon price is \$87,000. Furthermore, during the time this subdivision has developed, the City has collected \$59,000 in parks system development charges and anticipates an additional \$8,100 on lots that have not been developed as of this time. In addition, Mr. Epping has 33.07 acres of land designated as Mixed-Use which could generate as much as \$60,000 in parks system development charges.

In response to an inquiry from Mayor Koho, the negotiated price two years ago was higher than the \$87,000, however due to the flooding potential the price was lowered to this amount.

Responding to a question by Councilor Christopher, Mr. Johnson believed previous discussions indicated the parcel was worth more than the \$87,000. The developer's estimate of the maximum parks system development charges was \$87,000. The hearings officer decision in the development process indicated the City and the developer must reach agreement on the price.

Councilor Christopher questioned if this matter has been reviewed by the Parks Advisory Board. She believed this would be the appropriate avenue prior to a final decision to purchase the parcel.

Councilor Christopher moved to refer this matter to the Parks Advisory Board for consideration. Mayor Koho seconded the Motion.

Councilor Beach questioned the ability to develop this parcel due to the flooding history of this area.

City Manager Mull did not believe the planning decision in 1993 did not pinpoint the exact location of the parcel. The parcel location was determined during the negotiations for purchase.

The Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

Items on the Consent Calendar were as follows:

- a. Resolution – Initiating Forrest Ridge Estates Street Lighting Local Improvement District
- b. Resolution – Initiating Wheatland Terrace Street Lighting Local Improvement District

- c. Resolution – Authorizing City Manager to Enter Agreement for Paving of Keizer Little League Southern Parking Lot
- d. Approval of August 3, 1998 Special Session Minutes
- e. Approval of August 10, 1998 Work Session Minutes

Council President Keller moved for approval of the items on the consent calendar. Council President Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Christopher, Keller, Koho, McGee, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATION

Mayor Koho announced receipt of a letter from Senator Qutub regarding the Senate's process in prison-siting. The letter requested a "resolution of interest" from governing bodies. Mayor Koho suggested the City adopt a resolution of disinterest in having a prison facility in this area due to the near location of several other prison sites.

Councilor McGee questioned the need for a resolution of disinterest rather than not taking any action.

Mayor Koho believed there was a motive to move another prison facility to this area due to the abundance of state owned properties in the area. He believes this action would be proactive.

The Council agreed by consensus to direct staff to prepare a Resolution of disinterest in siting a prison in the Keizer or surrounding area.

In regards to a memorandum written by City Manager Mull regarding the Trail/Manzanita property directed to Wayne Truke, Gubser Neighborhood Association President, Mayor Koho requested additional clarification of some points.

Councilor Miller explained the memorandum suggesting using this parcel as a park, however this would not be at the City's involvement or expense. If the Gubser Neighborhood Association wishes, they could match the existing offer and purchase the property for what they deem appropriate. This issue has been pending for 3-4 years and no resolution has been made to this point.

City Manager Mull stated this was the purpose of the letter to give them an opportunity to provide final input on this issue. Therefore the Council will have all the necessary information when making a final decision on the issue.

Councilor Miller noted the letter does not specify that they must purchase the parcel to develop it as a park. He believed this needs to be very clear to the Association. Furthermore, it should be noted that the City has received an offer on the property.

Councilor Keller believed the Association meeting will be held on August 20th and it should be clear there is a pending offer.

Mayor Koho directed the City Manager to clarify these points with the Gubser Neighborhood Association prior to their meeting on August 20th.

AGENDA INPUT

Mayor Koho noted the agenda input items. He reminded the Council of the City Manager evaluation scheduled for Tuesday, September 8, 1998 at 5:30 p.m.

ADJOURNMENT

The City Council meeting was adjourned at 8:59 p.m.

Tracy L. Davis, CMC
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Carl Beach

Councilor #2 - Lore Christopher

Councilor #5 - Al Miller

Council President - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:

Submitted
by
Wayne
Truckle
9-10-98

GUBSER NEIGHBORHOOD ASSOCIATION

DATE: September 8, 1998
TO: Keizer City Council
FROM: Gubser Neighborhood Association
RE: Trail/Manzanita Property

At the Gubser Neighborhood Association (GNA) meeting on August 20, 1998, the issue of the sale of the City owned property at the corner of Trail and Manzanita was again discussed. The reason this subject came up again is the possible sale of this property for the development of a gas station/mini-mart.

The GNA wants to go on record, again, as being opposed to the sale of this property for a gas station/mini-mart. Our concerns remain the same as those expressed in our letter dated January 15, 1998 (copy attached).

At this meeting on August 20, 1998, the GNA voted unanimously to recommend to the Council that this property be developed, in conjunction with the Salem Transit District, into a bus park 'n ride area or as an area to load/unload bus passengers, as bus turn outs. This was a proposal that the GNA made in November 1995 (a copy of the sketch presented to the council in November is attached along with the petition presented at the same time).

In addition, the GNA requests that we be notified of any change in the status of the Trail/Manzanita property, such as its being vacated, and are given a chance to be heard on the issue.

The other issue about this property that needs to be cleared up is that the GNA has never recommended that this property be a park. The first mention of using this property as a park took place at a city council meeting on March 6, 1995 when Councilor Watson suggested that the city consider maintaining possession of the property for future use as a park or other public development. At the council meeting of November 11, 1995, the GNA recommended the property be developed as an aesthetic buffer or as a bus turn out and buffer zone.

Please keep the GNA informed on matters involving the Trail/Manzanita property and allow us input prior to vacating or selling this property.

GNA

GUBSER NEIGHBORHOOD ASSOCIATION

DATE: January 15, 1998

TO: Keizer City Council

FROM: Gubser Neighborhood Association

RE: Trail/Manzanita Property

According to the October 16, 1995 Keizer City Council minutes, the Trail/Manzanita Property was brought to the city council for consideration of sale due to the amount of maintenance the city was enduring in caring for this parcel of property. According to the city council minutes of November 20, 1995, the maintenance consists of mowing grass and removing garbage. (No actual costs for the maintenance of this property have been provided. What are the costs?) According to city council minutes beginning March 6, 1995, the Gubser Neighborhood Association (GNA) has continually offered to maintain the property. In addition, we also offered to landscape the property if the city would provide left over dirt from the bridge project.

At the GNA meeting on January 15, 1998, we reaffirmed our commitment to landscape the property and to perform maintenance and clean up at least once a year.

Also in the March 6 minutes, concern was voiced by Councilor Miller on what process would place conditions or restrictions on the uses of the property, if sold. This is one of the reasons the GNA opposes this sale. The Chevron station on River Road is a good example showing where the criteria for landscaping has not been met, and still no process appears to be in place to enforce the Landscaping ordinance (Zoning Ordinance, Chapter 18).

The GNA concerns that have been previously voiced to the council (and thus will not be repeated here) are also evidenced in the zoning ordinances as follows: 1) The Trail/Manzanita property is in the General Commercial zone: Chapter 29, Section 29.00 Purpose: states that "noises, lights, odors, and traffic hazards associated with permitted uses will not conflict with local streets." This property not only abuts a residential street and neighborhood but the traffic flow would be forced onto the residential street which is zoned MU. 2) A gasoline service station must meet Section SU 12.52 Screening: "The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall, or hedge" and, Lighting: "Outdoor lighting shall be directed away from residential property." There is little evidence provided by council that large overhead service station lighting can achieve this requirement. 3) This property is also in the Activity Center Overlay zone, which, as pointed out by Morgan at the November 20

DATE: January 15, 1998
TO: Keizer City Council
From: Gubser Neighborhood Association
RE: Trail/Manzanita Property
Page 2

council meeting, requires a conditional use permit and must meet stricter criteria and standards for approval of the permit. The Activity Center Overlay zone, Chapter 46, requires a master plan development for approval which includes pedestrian and vehicular circulation and how they achieve the activity center design plan. [Would the City Council and/or zoning ordinances permit a service station on the West side of River Road in McNary Estates?] Also, for any project for which the projected average daily traffic will exceed 250 vehicle trips per day, a traffic impact analysis will be required and a written explanation of how negative impacts will be mitigated. Morgan noted that no access will be allowed from Manzanita which further indicates a traffic and circulation study should be done. The only and closest data meeting this criteria was presented by the GNA.

At the March 6, 1995 council meeting, Councilor Beach requested a traffic study but the motion failed. Morgan stated that a traffic study would cost \$1600. The council decided no traffic study was required prior to the hearing.

According to Wally Mull, Keizer does not have its own Sale of Real Property requirements but uses the State requirements. Under the State ORS 221.725, 1) to sell real property or any interest therein, the city council shall publish a notice of the proposed sale in a newspaper of general circulation in the city, and shall hold a public hearing concerning the sale prior to the sale. 2) the notice shall be published at least once during the week prior to the public hearing....The notice shall state the time and place of the public hearing, a description of the property....to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. 3) Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. 4) The nature of the proposed sale and the general terms thereof, including an appraisal, or other evidence of the market value of the property, shall be fully disclosed by the city council at the public hearing.

Also, the city council has not provided any valid data that would indicate it is necessary or convenient to sell the property in lieu of the GNA's offer to maintain the property.

Regarding the request of Council that the GNA provide other suggested uses for the property, the GNA has provided significant design plans for a buffer area. The GNA still feels this is the best use for this property until such time that a low volume impact infrastructure use is determined. We suggest that this property be zoned Mixed Use (MU) as is the rest of Trail, as it was originally

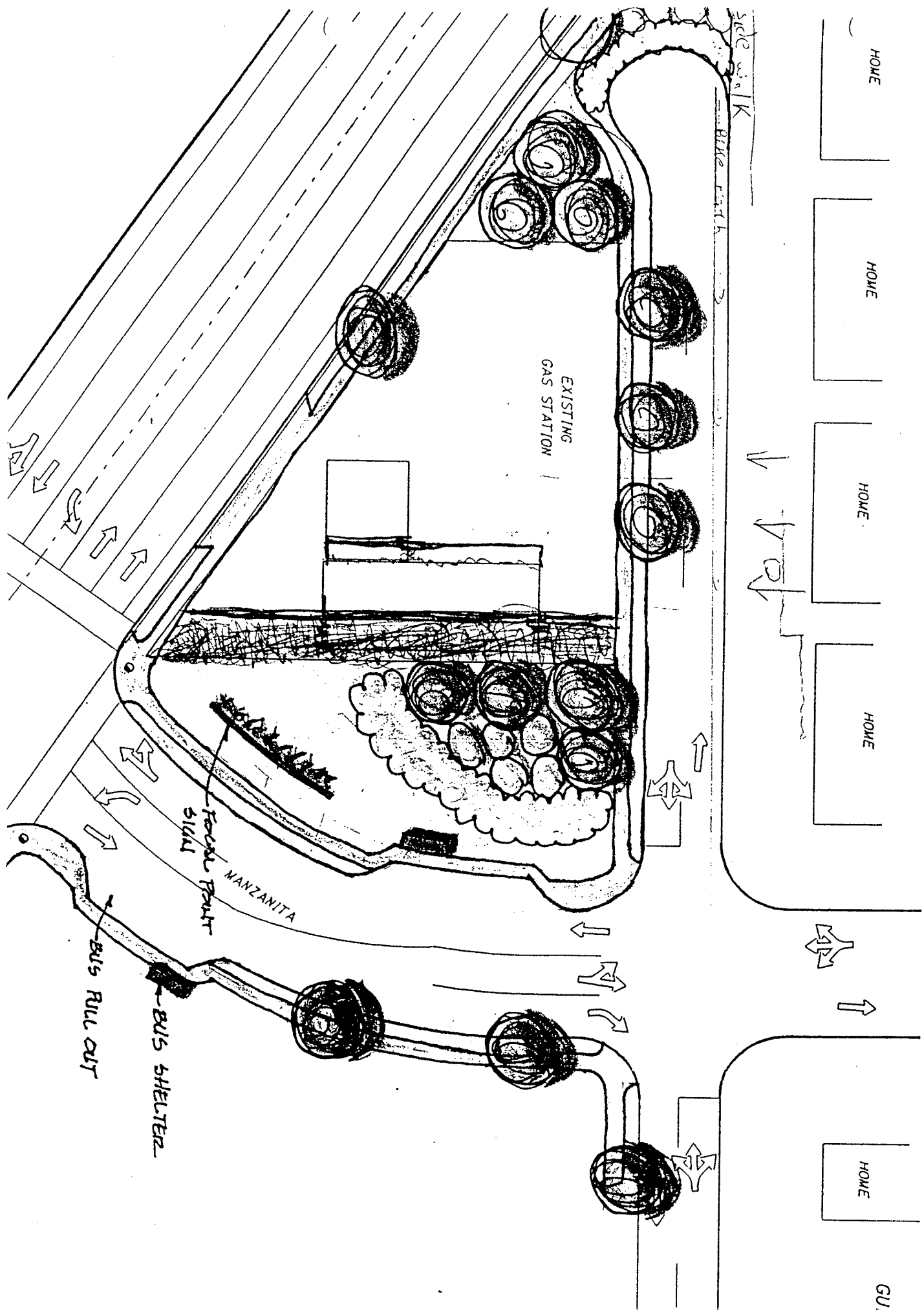
DATE: January 15, 1998
TO: Keizer City Council
From: Gubser Neighborhood Association
RE: Trail/Manzanita Property
Page 3

thought to be. The size, shape, unique location, and access to this property does not lend itself to high volume commercial use.

In reading the city council minutes it is clear that a good deal of discussion influencing the city council's previous decision to sell this property was based on Mr. VanCleave's statement that he would develop his property whether he had the additional property or not. Mr. VanCleave has since rescinded that desire.

Mr. VanCleave has turned down the sale twice. So the sale of the property to Mr. VanCleave should be a dead issue. Why is this being pushed so much when Mr. VanCleave does not want the property at the appraised value? And the neighborhood opposes the sale. And the ordinances point out that it is not a desirable location for a service station.

We do not understand why the city council wants to sell this property so badly, and why to someone to develop a service station. There is no viable income advantage to the city; there is much opposition to the sale, and there is no means to ensure that the ordinances will or can be met.



Public Hearing
on
Proposed Sale of City Property
Trail Avenue and Manzanita Street

WHAT YOU DON'T KNOW COULD BE HAZARDOUS TO YOUR NEIGHBORHOOD HEALTH!

THE SITUATION

The City of Keizer has scheduled a public hearing on whether to declare surplus and then sell an undeveloped parcel of land belonging to the city at the northwest corner of the intersection of Manzanita St. and Trail Avenue. (See map on Reverse)

If the property is sold, it is likely that it will be developed for a high-intensity commercial use, possibly a HIGH-VOLUME GASOLINE STATION AND MINI-MARKET in conjunction with the existing adjacent service station property.

Some city councilors have expressed strong interest in selling this property. Unless area residents such as you take steps to express their views, it is likely that the Council will declare the property surplus and sell it.

THE PROBLEM

There are a number of reasons why you should be concerned about the city's possible sale of this public property:

FIRST, it will increase traffic flow and congestion on area streets, particularly Manzanita Street and Trail Avenue.

Traffic projections indicate that a high volume gasoline station may generate as much as 60 additional vehicle trips per hour at that location! Some of that traffic will move through your neighborhood!

SECOND, increased commercial activity immediately adjacent to residences, will decrease the quality of life and liveability of your neighborhood.

Commercial development is likely to involve expanded hours of operation, greater noise, reduced physical security, reduced safety, and more activity in the area at night.

MOST IMPORTANTLY, if the property is sold, the public loses the opportunity to control its development ... AND the neighborhood will live with whatever development is placed there, good or bad, for many, many years to come.

THE SOLUTION

A neighborhood committee has concluded that the "highest and best use" for this property is development as a low-maintenance landscaped public space that will be a visual and aesthetic buffer for adjacent residential areas.

This neighborhood has already been adversely effected by the city's decision several years ago to connect Manzanita Street directly to River Road. Area residents know that putting Manzanita Street through to River road led to an increase in traffic speeding through the neighborhood, increased noise levels, and a decreased quality of life. Selling this parcel will add insult to injury, further affecting your quality of life and possibly the economic value of your most significant investment, your home.

HERE IS WHAT YOU CAN DO TO OPPOSE SALE OF THIS IMPOTANT PARCEL!!

1. ATTEND THE PUBLIC HEARING NEXT MONDAY, NOVEMBER 20, 1995 AT 7:00 P.M. AT KEIZER CITY HALL. Be sure to sign up on the sign-up sheet for this public hearing so that you can express your opinion! Note: there are several hearings scheduled for that evening, so be sure you sign up for the hearing on this matter.
2. SIGN THIS ANNOUNCEMENT IN THE SPACE INDICATED BELOW TO SHOW YOUR OPPOSITION TO SALE OF THE PROPERTY AND RETURN IT TO THE CITY COUNCIL.

OR

SEND A PERSONAL LETTER TO THE CITY COUNCIL EXPRESSING YOUR OPPOSITION TO SALE OF THIS PROPERTY AND ASKING THAT THE CITY RETAIN OWNERSHIP AND DEVELOP IT AS A LANDSCAPED BUFFER TO PROTECT THE NEIGHBORHOOD.

The signed announcement or your personal letter should be sent to: Wally Mull, Public Works, P.O. Box 21000, Keizer, Oregon 97307 or delivered to City Hall. Whether mailed or delivered it needs to arrive before 5:00 p.m. on November 20, 1995 to be considered.

3. ENCOURAGE YOUR FRIENDS AND NEIGHBORS TO ATTEND THE HEARING, SIGN AND SEND COPIES OF THIS ANNOUNCEMENT AND/OR PERSONAL LETTERS EXPRESSING OPPOSITION TO THE PROPOSED SALE TO THE CITY COUNCIL.

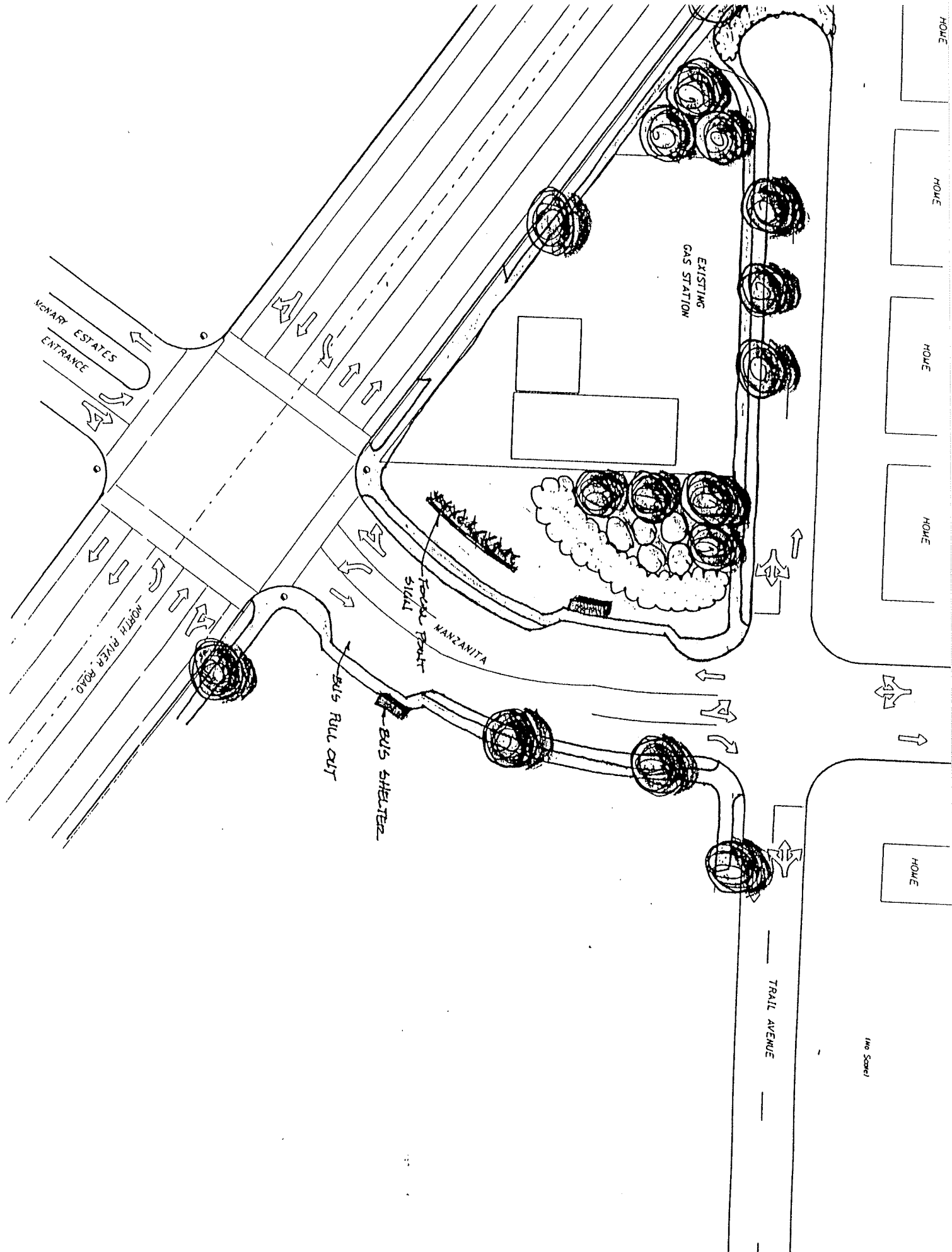
To the City Council:

I oppose sale of the city property located at Trail Avenue and Manzanita Street. The City should retain this property in public ownership and use it as a landscaped buffer to protect adjacent residential areas.

Name AAGE HANSEN
Address 1196 - HARMONY DR NE
Name Andrea Cross
Address 1246 Harmony Dr. NE

Name Gordon Hague
Address 1340 Harmony N.E.

88 PEOPLE
SIGNED,





**You are invited to
"our house" for an
old fashioned
neighborhood
Bar B Que**



**The Date: Saturday Sept. 12
The Time: 4:30 - 7:00 p.m.
Come on in for burgers, hot dogs,
baked beans, chips and drinks
Clear Lake Fire Station
7793 Wheatland Rd.**

Hot dog dinners \$2
Hamburger dinner \$3
All proceeds go toward
school zone safety signs
at
Clear Lake Elementary

Hosted by:
Marion County Fire District No.1
Neighbors helping neighbors make a
positive difference in their community!

You
...could make
the difference.

JOIN US!

To find out
how-call. . .

589-7481

Do it today!

