

August 1992

ADDITIONAL GRAPHICS FOR CALENDAR

SUNDAY

MONDAY

TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

SATURDAY

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August 1992

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

A G E N D A
KEIZER CITY COUNCIL
Monday, August 3, 1992
7:30 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 on the agenda.

4. COMMITTEE REPORTS

a. Volunteer of the Month - Maur Horton

5. PUBLIC HEARINGS

a. Amendment to Sewer Plan (Continued from July 20, 1992)

b. Amendments to the City Charter

c. Conditional Use - Appeal 91-9 - (Chandler)

6. DELIBERATION

a. Amendment to Sewer Plan (Continued from July 20, 1992)

b. Conditional Use Permit - Appeal 91-9 - (Chandler)

7. ORDINANCE

a. Zone Change Case 92-1 (Richard Beck) (Second Reading)

8. DISCUSSION

a. Request to Initiate Amendment of the Comprehensive Park System Development Plan

b. Procedures for Land Use Public Hearing

1. Comments Following the Close of Public Hearings

2. Site Visits in Land Use Cases

CITY COUNCIL
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- c. Consideration of Method of Filling Planning Commission Vacancies
- d. Statement from Planning Commission concerning Planning for Schools

9. CONSENT CALENDAR

- a. Bid Award - Lockhaven Phase II
- b. Urban Renewal Agency Financial Statement
- c. RESOLUTION - Meadows Phase 5 Street Lighting District
- d. RESOLUTION - Timberview Phase 3 Street Lighting District
- e. Approval of July 20, 1992 Regular Session Minutes

10. OTHER BUSINESS

This time is provided to allow Council members the opportunity to bring matters before the Council which are not on tonight's agenda.

11. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications and petitions.

12. AGENDA INPUT

August 17, 1992

- Deliberation - Proposed Charter Amendments

13. ADJOURN

14. EXECUTIVE SESSION

- a. ORS 192.660(1)(e) - Negotiation of Real Property Transactions



City of Keizer - Public Works Department

Phone: 390-3700 • 393-1608
930 Chemawa Rd. N.E. • P.O. Box 21030 • Keizer, Oregon 97307-1030

CITY COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 5a

TO: MAYOR AND CITY COUNCIL

THROUGH: DONALD H. OTTERMAN M.S.P.A. *DHO*
CITY MANAGER

FROM: WALLY MULL *WM*
PUBLIC WORKS DIRECTOR

SUBJECT: PUBLIC HEARING -
AMENDMENT TO THE KEIZER SEWER MASTER PLAN

DISCUSSION:

The City Engineer, working with the Public Works and Community Development Departments, has completed a draft of the Keizer Sewer Master Plan. This update focuses on the Clear Lake area. This work was performed under contract from the City of Salem, the operator of the sewer system.

Staff is currently working with local Developers to complete a financial package that would allow for the completion of a gravity force sewer line serving the Clear Lake area.

RECOMMENDATION:

It is recommended the public hearing on this issue be held over until August 17, 1992.



City of Keizer

Administration

930 Chemawa Rd. N.E. • P.O. Box 21000

Keizer, Oregon 97307-1000 • (503) 390-3700 • Fax # 390-8295

CITY COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 5b

TO: MAYOR AND CITY COUNCIL
FROM: DONALD H. OTTERMAN, CITY MANAGER *DHO*
SUBJECT: PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHARTER

DISCUSSION

The City Council authorized the scheduling of a public hearing for this evening to take input regarding the changes that the Charter Review Committee have recommended. Notice of Public Hearing was published during the week of July 20 in the Statesman Journal. Copies of the proposed Charter amendments have been available for anyone wishing a copy.

If the City Council wants to place the amendments to the Charter on the November ballot, it must be submitted to the County by September 3.

RECOMMENDATION

It is recommended that the City Council hold the public hearing this evening to take input from any interested citizens, and then give the staff, and Charter Review Committee, direction for any changes that you would like considered, with a report back to the City Council at the August 17 City Council meeting. The first City Council meeting in September is September 8 which would be too late to give final approval for putting the issue on the November ballot.



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: Aug. 3, 1992

AGENDA ITEM NUMBER: 5c

TO: MAYOR AND CITY COUNCIL

THROUGH: DONALD H. OTTERMAN M.S.P.A. *DHO*
CITY MANAGER

FROM: JOHN N. MORGAN, AICP *JN*
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONDITIONAL USE CASE No. 91-9 (DAN CHANDLER); APPEAL TO CITY COUNCIL

BACKGROUND

This is an appeal of the Hearings Officer's denial of a Conditional Use request to establish a church on property located within the 5400 block of Windsor Island Road. The subject 6.22 acre property is located within the Special Policy Area of the Comprehensive Plan and currently zoned EFU (EXCLUSIVE FARM USE).

DISCUSSION

The Conditional Use request was originally reviewed by staff who denied the application in a decision dated April 7, 1992. Staff found the applicant was able to meet a majority of the conditional use decision criteria found in Section 8.30 the Keizer Zoning Ordinance. Staff noted, however, the applicant failed to comply with the criteria in Section 8.30(a), which states the particular use must be identified as a conditionally permitted use within the zone.

The uniqueness in this request lies within the intent and purpose of the underlying plan designation, the West Keizer Special Policy Area. This policy area was established, as part of the Comprehensive Plan, in recognition of the real or potential impacts associated with the Willow Lake Sewage Treatment Plant. This facility is located approximately 3/4 of a mile to the northwest of the proposed church site. The City's Comprehensive Plan specifically limits development in this area to "...agriculture and related uses, industrial and commercial uses related to agriculture, institutional and other public uses." (p. 49). Further, new developments must be made aware of the possible noise and odor impacts resulting from operations of the Treatment Facility.

The Comprehensive Plan does not specifically define "institutional and other public uses". Institutional activities include an established organization especially one dedicated to public service or culture. This definition can apply to churches. Staff recognizes most churches are establishments or entities readily available to the public, and may therefore be considered a public use.

The City of Salem submitted comments in opposition to the request. Salem staff specifically cited



City Council
August 3, 1992

the following policies from the Salem Area Comprehensive Plan, the Keizer Comprehensive Plan and the Dual Interest Agreement for the Willow Lake Treatment Plant Area:

- a. Salem Area Comprehensive Plan: Salem staff noted General Development Policy 19 limits activities to "(A)gricultural uses, commercial-industrial warehousing and other commercial and industrial uses, which are not labor intensive, are compatible with the treatment plant." The Policy goes on to say "(O)ther uses may also be compatible if special provisions agreeable to the City are applied which adequately limit the City's liability."
- b. Keizer Comprehensive Plan: Salem staff referenced Policy 1.a., which simply seeks to limit uses to those that will not be adversely affected by the Treatment Facility.
- c. Dual Interest Agreement: Interim Control 3.a., is more specific in limiting allowed uses to "... those industrial, commercial, and agricultural and related uses that will not be adversely affected by the treatment plant noises and odors..."

Both the Salem Area Plan and the Keizer Plan appear to permit non-industrial, commercial or agricultural uses, such as "institutional and public uses", provided they are, or can be made, compatible with the treatment plant. The Dual Interest Agreement, however, superseded both Plans as it specifically restricts allowed uses to "industrial, commercial, and agricultural and related uses".

Policy #4 of the West Keizer Special Policy Area requires the City of Keizer to coordinate and participate with the City of Salem on studies related to the Treatment Facility. These studies are to establish the feasibility, and plan for the financial improvements necessary, to expand and remove potential adverse conditions at the sewage treatment plant. The Dual Interest Agreement is a result of coordination efforts between the two jurisdictions. The Agreement identifies potential areas for study as well as interim controls on development within the Special Policy Area.

The Dual Interest Agreement must be viewed as a complementary document to the Comprehensive Plan as it implements a Plan policy. This agreement specifically restricts uses to industrial, commercial, and agricultural and related uses that will not be adversely affected by the treatment plant. The Agreement does not allow public or institutional uses. Therefore, while a church is identified as a conditionally permitted use in the EFU zone, this use is inconsistent with the Dual Interest Agreement which implements Plan policy.

For these reasons, staff determined the proposed activity did not comply with the conditional use decision criteria. The applicant subsequently appealed the decision to the City Hearings Officer.

In reviewing the matter, the Hearings Officer also denied the application. In his decision, the Hearings Officer recognized the use as a conditionally permitted activity within the zone but noted the proposal fails to comply with the criteria which requires the use to be suitable for the proposed

City Council
August 3, 1992

location. The justification for this conclusion was essentially the same as contained in the staff decision; the Dual Interest Agreement limits the permissible uses within the zone.

The Hearings Officer also noted the decision would be denied even if the use were identified as permitted within the Dual Interest Agreement. The Hearings Officer noted the Sewage Treatment facility serves Salem, Keizer and the urban areas of Marion County, providing an essential and vital public service. The City's Comprehensive Plan has given priority to the protection of the operation of the Treatment Plant; uses which may inhibit present and future operation, and development, of the facility are strongly discouraged. The Hearings Officer also concluded that while the use is listed as a conditionally permitted activity within the zone, it is within the discretionary authority of the City to deny the application.

Although staff and the Hearings Officer based their respective conclusions on different criteria, the findings in support of the denial are the same. Staff also agrees with the Hearing Officer's assessment regarding the need to protect the Treatment Facility. If anything, the additional findings and conclusions of the Hearings Officer further justify denial of the request.

The conditional use decision criteria for activities within the EFU zone also require compliance with provisions in Section 8.60. These criteria address issues relating to establishment of a dwelling, potential impacts on adjacent farm activities and the overall land use pattern. The church was also required to comply with certain site development standards contained in Section 12.60. Specific findings for these items were not established as staff, and the Hearings Officer, concluded the use should not be established.

RECOMMENDATION

It is recommended the City Council uphold the Hearing Officer's decision and DENY Conditional Use Case No. 91-9.

Report prepared by Skip Wendolowski, City Planner

CITY OF KEIZER
ADJUSTMENT/CONDITIONAL USE/VARIANCE APPLICATION

APPLICATIONS RETURNED BY MAIL WILL NOT BE ACCEPTED

Applicant: Please check what you are applying for:

CONDITIONAL USE (✓)
fee: \$ 15.50

VARIANCE ()
fee: \$

ADJUSTMENT ()
fee: \$

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

Mark D. Grenz
Name

1155 13th St. S.E., Salem, OR 97302
Address

363-9227
Daytime telephone (8:30 a.m. to 5:00 p.m.)

1. Applicant

Dan Chandler

Address and zip code

P.O. Box 12397, Salem, OR 97309

2. Property owners (if other than applicant)

Same

Address and zip code

3. Contract and/or mortgage holders (if any)

Address and zip code

4. The owners of record of the subject property do hereby request permission to Locate a Church as a Conditional Use on property zoned EPU.

5. Address of subject property 5400 Block of Windsor Island Road

6. Size of subject property (include all contiguous tax lots in same owner ship) 6.22 Acres

FOR OFFICE USE ONLY

Section Township Range

Tax lot number(s)

Zone

Zone map number

1-3-92
Date app. determined to be complete

Application elements submitted:

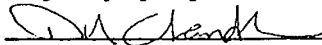
- ✓ (a) Title transfer instrument
- ✓ (b) Assessor's map
- ✓ (c) Plot plan
- ✓ (d) Applicant's statement
- ✓ (e) Adjacent property owner's list
- _____ (f) Filing fee

12-27-91
Application accepted by

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

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

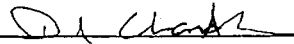
8. SIGNATURES of each owner (husband and wife) and any contract holder of the subject property.



DATED this 24th day of Dec, 1991.

9. THE APPLICANT(S) SHALL CERTIFY THAT:

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

SIGNATURE of Applicant(s): 

DATED this 24th day of Dec, 1991.

CONDITIONAL USE APPLICATION

Supplemental Information

The applicant currently owns a 6.22 acre tract of land along the 5400 block of Windsor Island Road just to the north of the Appletree Subdivision.

The property is currently zoned EFU and vacant. Presently the property is not being used for any purpose it is just vacant and empty.

The request is to locate a church on the property as an allowed conditional use.

The City of Keizer Zone Code lists a church as an allowed use within an EFU zone.

The Keizer Zoning Ordinance outlines the following criteria that shall be used in the consideration of a conditional use application:

- a) The use is listed as a conditional use in the zone.

We note that in section 38.02(m) churches are listed as a conditional use in an EFU zone.

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

The size and shape of the parcel as well as location make the site very desirable for a church site. The parcel is located along one Keizer Arterial Street and at the end of Lockhaven Drive a Major Collector Street.

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

Currently the parcel is vacant and not being used for any activity. The surrounding area to the east and south is developed as single family residential. The area to the north and west is agricultural in a very limited intensity.

The development of a church with conditions will be compatible to the surrounding area and will serve as a buffer for the existing residential areas.

- d) The proposed use will not have any detrimental effect on the existing solar or wind energy systems.

The development of a church on the site will not effect the potential for development of solar or wind energy systems for the surrounding area.

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

The location of the site adjacent to two major streets will allow for the flow of traffic to and from the church without forcing traffic flow onto residential or minor street systems.

We have shown on the site plan the location of existing sanitary sewer and water mains for the area.

We note that the City of Keizer in 1990 installed a sanitary sewer trunk line along the north and western boundary of the site and assess the site for its share of the costs of the truck line.

The conditional use for a church within the EFU zone is allowed as we understand the ordinance.

The City of Keizer Comprehensive Plan includes this parcel of land within the SPA (Special Policy Area.)

Review of the West Keizer Special Policy Area with the Plan Diagram and Special Land Use Policies we find the following:

2. Allow within the special policy area agricultural and related uses, industrial and commercial uses related to agriculture, institutional, and other public uses.

We believe that the church use is consistent with this policy for the SPA area.

It complies in that the proposed church will hold church services, Sunday bible studies, as well as some additional bible and educational activities on the site. The church is open to any own who wants to attend. We believe that this use would be institutional in nature.

This proposed use would be very compatible to the existing residential area that borders it on the south and east.

U

The use of the church facilities would be a limited amount of time, with no one required to be present on the site as a resident.

We believe that the City of Keizer has encouraged the investment of resources from the applicant to support the construction of public facilities that would benefit this property as well as others. The amount of money requested to be contributed from this site is the same as the residential property to the south of the site.

It would seem that failure to allow the development of this site for a use that is allowed as a conditional use within the zone after the investment of sewer trunk fund money would be denying the right of the applicant for a reasonable return on his investment, as others have been allowed to develop.

B\CONDITON.USE



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

1982

APPLICANT

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

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

The Notice of Decision is divided into the following sections:

I. REQUEST: This is a brief introduction of your request.

II. FACTS: Facts relevant to the case, such as the location and zoning of the property and adjacent land uses are in this section.

III. FINDINGS AND CONCLUSIONS: All land use applications are judged on whether they meet specific criteria of the Keizer Zoning Ordinance. This section identifies those criteria and discusses how the application does, or does not, meet them.

IV. DECISION: After reviewing the criteria and whether the request complies with the criteria, the final decision is presented in this section.

V. CONDITIONS: Approvals usually require the fulfillment of additional requirements called "conditions". Some are specific to the request, such as providing fencing, and some are purely technical, such as requiring the applicant to obtain a building permit. This section lists those conditions.

VI. APPEALS: If you disagree with the final decision, or any part of the decision, you have the right to appeal, or, request that the City staff reconsider your request. This section explains the appeal procedure.

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

**NOTICE OF DECISION
KEIZER CONDITIONAL USE CASE NO. 91-9**

I. REQUEST

The Keizer Zoning Ordinance requires certain applications be first considered by the City Zoning Administrator. The following report reviews a conditional use application to construct a church on a 6.22 acre parcel located within the Exclusive Farm Use (EFU) zone.

II. FACTS

- A. The property is owned by Dan R. Chandler.
- B. The subject property is located on the west side of the intersection of Windsor Island Road and Lockhaven Drive. The County Assessor identifies the property as located within Section 34C; Township 6 South; Range 3 West; Tax Lot #600. The 6.22 acre parcel is vacant.
- C. The property is designated Special Policy Area in the Keizer Comprehensive Plan and is zoned EFU (EXCLUSIVE FARM USE). The purpose of this Plan designation is to limit uses to those that will not be adversely affected by noise and odors originating at the Willow Lake Sewage Treatment Plant. The EFU zoning acts as a holding zone restricting development to uses which are compatible with the Treatment Plant. In addition, the southern portion of the property also lies within the identified 100-year floodplain. (See EXHIBIT "A".)
- D. Property to the north and west is also designated Special Policy Area and zoned EFU (EXCLUSIVE FARM USE). The majority of the land is in farm use. Property to the south and east is zoned RS (SINGLE FAMILY RESIDENTIAL) and contains single family dwellings on subdivision lots. (See EXHIBIT "A".)
- E. The applicant is requesting approval of a Conditional Use to establish a church on the subject property. The applicant did not apply for a floodplain development permit. (See EXHIBIT "B".)

III. FINDINGS AND CONCLUSIONS

- A. Conditional Use:

1. The proposed church building would be located on the east side of the property, approximately 70 feet from Windsor Island Road. Other than a site plan identifying the proposed location, the application was not specific as to the type of church, it's size, expected seating capacity, ancillary church activities or other information regarding the proposed use. Staff notes that Section 38.02(m), of the Zoning Ordinance, allows churches subject to obtaining a conditional use permit, and, complying with the special use development standards in Section 12.60.

2. In order to obtain a Conditional Use permit, the request must comply with the criteria in Section 8.30. In general, these criteria include: (a) the use is listed as a conditional use in the zone; (b) the parcel is suitable for the proposed use considering such factors as size, shape, topography, drainage, location and other natural features; (c) the proposed use, as conditioned, will not materially alter the character of the area in a manner which limits, impairs or precludes the use of surrounding properties for the primary uses identified in the zone; (d) the proposed use will not adversely affect existing wind and solar energy systems, and, (e) adequate public utility facilities are available to serve the site or will be made available prior to the establishment of the use.

3. The submitted site plan indicates the parcel is of sufficient size to accommodate the use and comply with the development standards in Chapter 38. The site does not contain physical limitations which would prohibit it's planned location. The church, however, would be located within the identified 100-year floodplain. While the floodplain does not prohibit development, construction of the church would require a separate conditional use approval and compliance with all floodplain development restrictions. The proposal complies, or can conditionally comply, with item 2.(b).

4. Churches are common in residential areas, the dominant land use to the south and east. Windsor Island Road provides a buffer between the church and residential uses to the east. Impact on residential development to the south would be limited to three lots and the church building would also maintain a 30 foot separation from these parcels. Further, compliance with the development standards in Section 12.60 would continually ensure adequate buffering and screening from residential activity to the south. For these reasons, staff finds the placement of the church will not materially alter the character of the area. The proposal complies with item 2.(c).

5. Based on a site visit, staff determined the proposal would not interfere with existing area wind and solar energy systems as none exist. Information as to public facility needs was not supplied by the applicant. The property is served by sewer and water, although a service extension may be required. The proposal complies with items 2.(d) and (e).

6. The uniqueness in this request lies within the intent and purpose of the underlying plan designation, the West Keizer Special Policy Area. This policy area was established in recognition of the impacts, real or potential, associated with the Willow Lake Sewage Treatment Facility. This facility is located approximately 3/4 of a mile to the northwest of the proposed church site. The City's Comprehensive Plan specifically limits development in this area to "...agriculture and related uses, industrial and commercial uses related to agriculture, institutional and other public uses." (p. 49). Further, new developments must be made aware of the possible noise and odor impacts resulting from operations of the Treatment Facility.

7. The Comprehensive Plan does not specifically define "institutional and other public uses". By definition (American Heritage), institutional activities include an established organization or foundation, especially one dedicated to public service or to culture. This definition can easily apply to churches. Staff recognizes most churches are establishments or entities readily available to the public, and may therefore be considered a public use. Churches are also included in the list of conditionally permitted uses within the EFU zone, the zone which specifically coincides with the Plan designation.

8. The City of Salem submitted comments in opposition to the request. Salem staff specifically cited the following policies from the Salem Area Comprehensive Plan, the Keizer Comprehensive Plan and the Dual Interest Agreement for the Willow Lake Treatment Plant Area:

a. Salem Area Comprehensive Plan: Salem staff noted General Development Policy 19 limits activities to "(A)gricultural uses, commercial-industrial warehousing and other commercial and industrial uses, which are not labor intensive, are compatible with the treatment plant." The Policy goes on to say "(O)ther uses may also be compatible if special provisions agreeable to the City are applied which adequately limit the City's liability."

b. Keizer Comprehensive Plan: Salem staff referenced Policy 1.a., which simply seeks to limit uses to those that will not be adversely affected by the Treatment Facility.

c. Dual Interest Agreement: Interim Control 3.a., is more specific in limiting allowed uses to "... those industrial, commercial, and agricultural and related uses that will not be adversely affected by the treatment plant noises and odors..."

Both the Salem Area Plan and the Keizer Plan appear to permit non-industrial, commercial or agricultural uses, such as "institutional and public uses", provided they are, or can be made, compatible with the treatment plant. The Dual Interest Agreement, however, conflicts with both Plans as it specifically restricts allowed uses to "industrial, commercial, and agricultural and related uses".

9. Policy #4, of the West Keizer Special Policy Area, requires the City of Keizer to coordinate and participate with the City of Salem on studies related to the Treatment Facility. These studies are to establish the feasibility, and plan for the financial improvements necessary, to expand and remove potential adverse conditions at the sewage treatment plant. The Dual Interest Agreement is a result of coordination efforts between the two jurisdictions. The Agreement identifies potential areas for study as well as interim controls on development within the Special Policy Area.

10. The Dual Interest Agreement must be viewed as a complementary document to the Comprehensive Plan as it implements a Plan policy. This agreement specifically restricts uses to industrial, commercial, and agricultural and related uses that will not be adversely affected by the treatment plant. The Agreement does not allow public or institutional uses. Therefore, while a church is identified as a conditionally permitted use in the EFU zone, this use is inconsistent with the Dual Interest Agreement which implements Plan policy. For this reason, the proposed activity does not comply with item 2.(a).

11. Approval of a conditional use requires compliance with all the decision criteria. The request does not comply with the criteria as it fails to comply with item 2.(a).; the request is therefore denied.

B. Special Use Requirements

1. Section 12.60 establishes additional development requirements for churches. While the proposal generally complies, or can comply, with these requirements, staff will not review these standards in detail as the proposal fails to comply with the conditional use criteria.

IV. DECISION

Notice is hereby given that the Zoning Administrator for the City of Keizer has **DENIED** the proposed Conditional Use application.

V. APPEALS

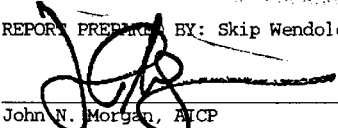
Any interested person, including the applicant, who disagrees with this decision may request that the application be considered by the Keizer Hearings Officer at a public hearing. The appeal is subject to the appellant paying an \$150.00 fee. The fee will be refunded if the decision is reversed in favor of the appellant.

In addition, the applicant may request reconsideration of the decision on the basis of new information; provided, the applicant signs a waiver of the 120 day time limit for the review of zoning applications.

Requests for reconsideration, or consideration by the Hearings Officer, must be in writing and be received in the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. on April 17, 1992. Unless further consideration is requested, this decision becomes final on April 18, 1992.

If you have any question about this application or the decision please call 390-3706 or visit the Community Development Department at the above address.

REPORT PREPARED BY: Skip Wendolowski, City Planner


John N. Morgan, AICP
Community Development Director

April 7, 1992
Date

EXHIBIT "A"

EFU

LLA 82-11

T80-18
CU 77-5

EFU

SUBJECT PROPERTY

EFU

WILDWOOD MO

RM

LOCKHAVEN

CYNTHIA

CYNTHIA

UT

P91-B

KSUS/LLA/FP
90-4

GOLDEN

LN

BUSCHOLZ

BUNDY CT

UT

RM

RM

HOLLYN LANE

KZC / CP / CU 86-4

MOBILE

HOME

EXHIBIT "B"

ISLAND

WINDSOR

N2518°00'W

288.75'

PROPOSED
BUILDING

60' EASEMENT

1012.60'

N89°30'00"W

PROPOSED

SITE

EFU

1137.90'

N89°30'00"W

28

29

34

35

36

41

42

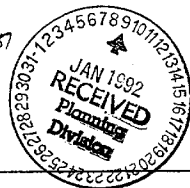
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27
TREE

APPLE
TREE

City of Keizer

Administration
930 Chemawa Rd. N.E. • P.O. Box 21000
Keizer, Oregon 97307-1000 • (503) 390-3700 • Fax # 390-8295



REQUEST FOR COMMENTS

TO: CITY OF SALEM DATE: January 8, 1992

FROM: Keizer Community Development Department

CASE: Conditional Use Case No. 91-9

APPLICATION: Request by Dan Chandler to construct a church on property designated Special Policy Area in the Keizer Comprehensive Plan and zoned EFU (EXCLUSIVE FARM USE).

LOCATION: 5400 block, Windsor Island Road; (Sec. 34C; T6S; R3W: Tax Lot #600. (See attached map.)

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report.

Please return your comments to our office by JANUARY 17, 1992 in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns.

You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, 930 Chemawa Road NE, Keizer, Oregon 97303. Questions regarding the application may be directed to Skip Wendolowski, City Planner, at 390-3700. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

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

Date response prepared: _____ Person commenting: _____

"Pride, Spirit and Volunteerism"

MEMORANDUM

TO: KEIZER COMMUNITY DEVELOPMENT DEPARTMENT
ATTENTION: JOHN MORGAN, DIRECTOR

FROM: ROGER J. BUDKE, ASSISTANT PLANNING DIRECTOR, CITY OF SALEM

DATE: JANUARY 17, 1992

SUBJECT: CONDITIONAL USE NO. 91-9, PROPOSED CHURCH IN EXCLUSIVE FARM USE (EFU) ZONE, 5400 BLOCK WINDSOR ROAD, KEIZER

1992 JAN 17 AM 9 36

We have reviewed the conditional use application No. 91-9 for a proposed church located in the Area of Influence of the Willow Lake Wastewater Treatment Plant. This being the same area referred to in the Kelzer Comprehensive Plan as the "Special Policy Area (SPA)." Development in this area is a sensitive issue due to odor and noise impacts associated with the operation of the Willow Lake facility.

We conclude that the development of a church in the proposed location is inconsistent with adopted land use policy and therefore Conditional Use No. 91-9 should be denied. Our findings to support this conclusion are as follows:

1. A normal and frequent part of church use involves gatherings of large numbers of people within the church and on the church grounds. Concentrations of people are not compatible with odor and noise associated with the Willow Lake Wastewater Treatment Plant.
2. Church use is in the Area of Influence (i.e., SPA) is not consistent with the adopted land use policy of the Salem Area Comprehensive Plan (SACP), the Kelzer Comprehensive Plan (an amendment to the SACP), and the Dual Interest Agreement for Willow Lake Treatment Plant Area (Attached). The pertinent policies regarding compatible land use are as follows:

a. Salem Area Comprehensive Plan, General Development Policy 19.

The Willow Lake Sewage Treatment Plant creates some conditions that are not compatible with all urban development and land uses. Only those land uses that will not be adversely affected by the conditions such as noise and odor shall be allowed in the affecting area. Agricultural uses, commercial-industrial warehousing, and other industrial and commercial uses, which are not labor intensive, are compatible with the treatment plant. Other uses may also be compatible if special provisions agreeable to the City are applied which adequately limit the City's liability.

b. Kelzer Comprehensive Plan, West Kelzer Special Policy Area Policy 1.a.

1. Establish an area, consistent with the Salem Area Comprehensive Plan Map, as a special policy area east of the Willow Lake Sewage Treatment Plant. The purpose of the special policy area is to:

- a. Limit uses to those that will not be adversely affected by noise and odor originating at the Willow Lake Sewage Treatment Plant.

c. Dual Interest Area Agreement, Interim Control 3.a.

3. Until the above-noted studies are implemented, the following policies shall govern development within the area:

- a. Only those industrial, commercial, and agricultural and related uses that will not be adversely affected by treatment plant noises and odor will be allowed.

d. Dual Interest Area Agreement, Regulation Procedure 4.

Quasi judicial procedural rights to notice and opportunity to comment shall be extended to the interested jurisdictions prior to any land use decisions in the area. Should disagreements arise, the SKAPAC conflict resolution process, or an agreed upon lesser process, shall be pursued prior to a final land use decision affecting the area.

ATTACHMENT: Dual Interest Area Agreement for Willow Lake Treatment Plant Area.

DUAL INTEREST AREA AGREEMENT FOR WILLOW LAKE TREATMENT PLANT AREA

WHEREAS, the Salem/Keizer Area Comprehensive Plan provides for establishment of dual interest areas, land use decision making for which may be provided by agreement between affected jurisdictions; and

WHEREAS, Marion and Polk Counties and the Cities of Salem and Keizer have identified the area of the Willow Lake Treatment Plant as a dual interest area, and wish to establish the nature and scope of coordinated land use regulation in the area by dual interest area agreement.

NOW THEREFORE, Marion County and the Cities of Salem and Keizer, the parties having jurisdiction in the Willow Lake Treatment Plant Area, agree as follows;

1. Establishment of Willow Lake Sewage Treatment Plant Dual Interest Area

The Willow Lake Treatment Plant dual interest area is established and described by the legal description attached hereto and incorporated herein.

2. Study to Identify Allowed Uses and Land Use Controls

The three jurisdictions with an interest in the Willow Lake Treatment Plant Interest Area (hereinafter "Area") are the Cities of Keizer and Salem and Marion County. These jurisdictions shall participate jointly in studies to identify 1) those uses and improvements in the area that are compatible with treatment plant operation, 2) those land use policies that operate to minimize the adverse impact of allowed uses on the treatment plant, and 3) practical plant modifications that reasonably mitigate noise and odor. These studies shall be completed by June 30, 1993. Study recommendations should be implemented within a reasonable time thereafter.

3. Interim Controls

Until the above-noted studies are implemented, the following policies shall govern development within the area:

a. Only those industrial, commercial, and agricultural and related uses that will not be adversely affected by treatment plant noise and odor will be allowed.

b. Prior to the establishment of any use or issuance of any development/building permit, the affected property owner shall acknowledge the existence of nuisance impacts associated with the treatment plant and shall, in a signed and recorded document, hold the operator of the Willow Lake Treatment Plant harmless from any adverse impacts from noise or odor related to treatment plant operations.

c. Subdivision of parcels within the area shall not be allowed.

4. Regulation Procedure

Quasi judicial procedural rights to notice and opportunity to comment shall be extended to the interested jurisdictions prior to any land use decisions in the area. Should disagreements arise, the SKAPAC conflict resolution process, or an agreed upon lesser process, shall be pursued prior to a final land use decision affecting the area.

5. Amendments

Amendment to this dual interest agreement shall be in writing and approved by all parties to this agreement.

CITY OF KEIZER

By: [Signature]
Title: MAYOR

Approved as to form:

[Signature]
City Attorney

CITY OF SALEM

[Signature]
Title: Mayor

Approved as to form:

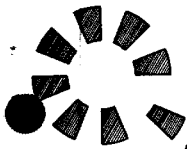
[Signature]
City Attorney

MARION COUNTY

By: [Signature]
Title: Chairman

Approved as to form:

[Signature]
Marion County Counsel



**MULTI
|
TECH**
ENGINEERING SERVICES, INC.

CONSULTANTS
1155 13th Street, S.E.
Salem, Oregon 97302
(503) 363-9227

April 16, 1992

City Recorder
City of Keizer
930 Chemawa Rd. N.E.
Salem, OR 97307-1000

RE: **Keizer Conditional Use Case No. 91-9**

Our office as representative of the applicant wishes to file an appeal of the Denial of Conditional Use Case No. 91-9.

This appeal is being filled in accordance with the procedures of the Keizer Zone Code.

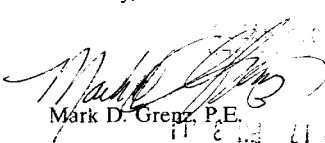
It is our contention that the Community Development Director failed to follow proper procedures in the matter of the Conditional Use Application Case No. 91-9.

That he failed to consider the use of special conditions that would have made the use compatible with the provisions of the current Comprehensive Plan and its policies.

That he failed to inform the applicant of all operating policies and agreements that would affect the uses allowed on the property, and that would be different than those implied in the zone code and the comprehensive plan.

We are requesting a hearing before the Keizer Hearings Officer at its earliest possible date.

Sincerely,


Mark D. Grenz, P.E.

cc: Dan Chandler

A:\WINDS-CU.AL1

BEFORE THE CITY OF KEIZER HEARINGS OFFICER

In the Matter of the) Case No. CU 91-9
Application of:)
DAN R. CHANDLER)
CONDITIONAL USE

ORDER

I. Nature of the Application

This matter came before the City of Keizer Hearings Officer on appeal from the denial by the Zoning Administrator of a conditional use application by Dan R. Chandler to construct a church on a 6.22 acre parcel of land zoned Exclusive Farm Use (EFU) and located on the west side of the intersection of Windsor Island Road and Lockhaven Drive. (Section 34C; Township 6 South; Range 3 West; Tax Lot #600).

II. Relevant Criteria

The applicable criteria for this proposed conditional use are embodied in the following:

1. Keizer Comprehensive Plan, especially Sections III(D)(2)(g), IV(A)(4), and IV(C)(2)(f), and Appendix 2.
2. Keizer Zoning Ordinance, especially Chapters 8 and 38 and Section 2.076.
3. Dual Interest Agreement concerning the West Keizer Special Policy Area.

III. Public Hearing

A public hearing was held on this appeal on June 11, 1992. Official notice was taken of the Keizer Community Development Department file in this matter. The following persons appeared at the hearing and provided testimony on the application:

- | | |
|---------------------|------------------------------|
| 1. Skip Wendolowski | City Planner |
| 2. Mark Grenz, P.E. | Engineer represent applicant |
| 3. Wendell Mann | Proponent of Church |

Approximately fifteen other persons attended the hearing and expressed general support for the application. None chose to provide testimony.

The following documents were marked as Exhibits and entered into the record:

- Exhibit 1 Letter of Daniel Willms, Pastor of Keizer Free Methodist Church
- Exhibit 2 Letter of Calvin Palmer, a Keizer businessman
- Exhibit 3 Letter of Oliver L. Jones, area resident

No objections were raised as to notice or jurisdiction, alleged conflicts of interest, bias or prejudice, or evidence presented or testimony taken at the hearing. The Hearings Officer stated that he was a Marion County employee involved in review the Dual Interest Agreement. The applicant made no objection on this ground.

IV. Issues Presented

The applicant's appeal raised two issues for consideration by the Hearings Officer:

1. The proposed church was a listed conditional use in the EFU zone, and met the criteria in the Keizer Comprehensive Plan and Zone Code. The Dual Interest Agreement could not limit or modify these legislative acts. Therefore, the church should be permitted, subject to conditions.
2. Conditions could be imposed which made the church suitable on the property even though it was located within the West Keizer Special Policy Area.

V. Findings of Fact and Conclusions

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following findings and conclusions:

1. The property is owned by Dan R. Chandler. The property is located on the west side of the intersection of Windsor Island Road and Lockhaven Drive. The property is 6.22 acres in size. The southern portion of the property lies within the identified 100-year floodplain. No application for a floodplain development permit was made by the applicant.

2. The property is zoned Exclusive Farm Use (EFU). The purpose of this zone is to allow the continued practice of commercial agriculture. The zone is applied to areas designated as Special Policy Area in the comprehensive plan. Churches are listed as a conditional use in the zone. The zone acts as a holding zone to restrict development to uses compatible with the designation.

3. The property is within the West Keizer Special Policy Area designated in the Keizer Comprehensive Plan. This designation limits uses to those which would not be adversely affected by noise and odors emanating from the Willow Lake Sewage Treatment Facility.

4. The West Keizer Special Policy Area is subject to the Dual Interest Agreement for Willow Lake Treatment Plant Area between the City of Keizer, the City of Salem, and Marion County. Section 3(a) of the Agreement imposes interim controls: "Only those industrial, commercial, and agricultural and related used that will not be adversely affected by treatment plant noise and odor will be allowed". Section 4 of the Agreement allows the interested jurisdictions to participate in this hearing, raise objections, and compel use of the SKAPAC conflict resolution process before a final favorable land use decision is made.

5. The property to the north and west is also designated Special Policy Area and is zoned EFU. The majority of the land is in farm use. The property to the south and east is zoned Single Family Residential (RS), and contains single family dwellings on subdivision lots.

6. The proposed church building would be located on the east side of the property, approximately 70 feet from Windsor Island Road. The site plan shows only location. Other information necessary to show conformance with the special use development standards in the zone code, Section 12.60, was not provided.

7. A conditional use permit may be granted if the request complies with the criteria in Section 8.30 of the zone code: (a) the use is listed as a conditional use in the zone; (b) the land is suitable for the proposed use considering such factors as size, shape, topography, drainage, location and other natural features; (c) the proposed use, as conditioned, will not materially alter the character of the area in a manner which limits, impairs or precludes the use of surrounding properties for the primary uses identified in the zone; (d) the proposed use will not adversely affect existing wind and solar energy systems, and (e) adequate public utility

facilities are available to serve the site or will be made available prior to establishment of the use.

8. The site plan provided with the application shows that the parcel is of sufficient size to accomodate the use and meet the development standards, including setbacks. There are no physical limitations which would prohibit the proposed church. The floodplain does not prohibit development. But construction of the church would require a separate approval and compliance with all floodplain development restrictions.

9. Churches are common in residential areas, the dominant uses to the south and east of the property. Windsor Island Road provides a buffer between the church and residential uses to the east. Residential development to the south can be protected by a 30 foot setback and screening. The proposed church will not materially alter the character of the area.

10. No wind or solar energy systems exist.

11. The property is served by water and sewer, although a service extension may be required. Windsor Island Road is adequate to serve the traffic likely to be generated by the church.

12. The church is listed as a conditional use in the EFU zone. Churches would qualify as an institutional use permitted under the comprehensive plan in the West Keizer Special Policy Area. The Hearings Officer agrees with the Zoning Administrator that institutions include established organizations or foundations dedicated to public service or to culture. Churches are readily available to and serve the public.

13. The application meets the criteria in 7 (a), (c), (d) and (e) above.

14. The application does not meet the criterion in 7 (b), because the church is not suitable for the proposed location. The property lies within the West Keizer Special Policy Area. The Willow Lake Sewage Treatment Facility is approximately 3/4 mile to the northwest of the proposed church site. The City of Keizer has chosen to restrict acceptable conditional uses in this area by adoption of the Dual Interest Area Agreement For Willow Lake Treatment Plant Area. Acceptable conditional uses are limited to commercial, industrial and agricultural uses. The City of Salem has objected to location of a church on the property. Institutional uses, such as the proposed church, are not permitted by the policy of the City of Keizer, as

expressed in the Agreement, and are not permitted if a jurisdiction which is party to the Agreement objects.

15. The Dual Interest Area Agreement is a proper limitation consistent with the City of Keizer Comprehensive Plan. A comprehensive plan is a general statement of policy. It serves as the basis for more specific rules and regulations implementing the plan. ORS 197.010(3). Regional cooperation is a feature of the Keizer plan. Dual Interest Areas are defined by the plan as areas where two or more local governments have an interest. Section IV(A)(4), p. 69. The plan anticipates that decisions in Dual Interest Areas will be governed by terms of agreements. Section IV(C)(2)(f). The plan incorporates a regional cooperation agreement. Appendix 2. And the West Keizer Special Policy Area is specifically established by the plan. Section III(D)(2)(g). The Dual Interest Agreement for this Special Policy Area limits the uses permissible in the zone.

16. Even if the Dual Interest Agreement did not limit uses for the subject property, the proposed church should still be denied. The comprehensive plan and the Agreement show the reasons for refusing to allow the proposed church: noise and odor emanating from the Willow Lake Sewage Treatment Plant. This is a regional facility serving Salem, Keizer and urban areas of Marion County. Plans for the improvement of the facility are still under study. Adequate sewage treatment and disposal facilities are critical for the urban areas of Salem, Keizer and Marion County. Priority has been given to protection of the present and future operation of this facility. Uses which may inhibit present and future operation and development of this facility are strongly discouraged.

17. The City of Keizer has authority to refuse the proposed church, even though it is listed as a conditional use in the EFU zone. There is no right to a conditional use. A conditional use in the City of Keizer is a matter of permission. The City has some discretion to allow or deny a conditional use. Conditional uses are defined in the zone code as those uses which are permitted only after review and approval. Section 2.076. Conditional uses are generally understood as those which "may be approved". Section 8.20. In the EFU zone, conditional uses are those which "may be permitted subject to obtaining a conditional use permit". Section 38.02. The applicant has suggested a number of conditions which may mitigate the impact of the church on the Willow Lake Sewage Treatment Plant. These include sealed windows, air conditioning, and a non-remonstrance agreement. But the Dual Interest Agreement expresses a discretionary decision to limit conditional uses in the Special Policy Area. This is within the authority of the City of Keizer. The Hearings Officer must honor that decision.

VI. Order

It is hereby found that the applicant/appellant has not met the burden of proving the relevant criteria pursuant to the City of Keizer Zoning Ordinance, Section 8.30(b), and it is further found that the proposed church is not a conditional use in the West Keizer Special Policy Area which may be approved under the Dual Interest Agreement or under the policy of the City of Keizer. It is hereby ordered that the conditional use application is DENIED.

VII. Appeals

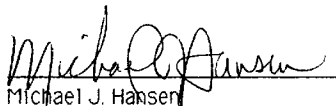
Any interested person, including the applicant/appellant, who disagrees with this decision, may appeal this decision to the City Council. An appeal must be filed with the Keizer Community Development Department, 930 Chemawa Road NE, Keizer, Oregon, 97303, by 5:00 p.m. on the ____ day of July, 1992, (ten days from the mailing of this Order).

The appeal must be in writing, must request that the Council hold a hearing on the application, and must explain why the decision is factually or legally incorrect, or based on incomplete facts, or present new facts material to the decision, or present modifications that will conform the proposal to the requirements of the ordinance and regulations governing the application. (Consult the Community Development Department to determine if a filing fee is required.)

This Order shall be effective ten days from the date the Order is mailed, unless appealed.

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

DATED this 29th day of June, 1992.


Michael J. Hansen
City of Keizer Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Order on the following persons:

Daniel R. Chandler
665 Fall Creek Dr. N.
Keizer, Oregon, 97303

Wendel and Joanie Mann
2129 Flag Stone Ct NE
Keizer, Oregon, 97303

Mark D. Grenz
1155 13th St. SE
Salem, Oregon, 97302

Jill Barker
6267 Arbordale Dr SE
Salem, Oregon, 97305

David and Nola Cronk
3098 Woodleaf St NE
Salem, Oregon, 97305

Terrri Miller
4220 Rowan Ave. N
Keizer, Oregon, 97303

David and Cathy Short
1932 Jentif Ct NE
Keizer, Oregon, 97303

Leonard Conkling
1698 Wiessner Dr NE
Keizer, Oregon, 97303

Ralph Cater
7390 Wheatland Rd
Keizer, Oregon, 97303

Joseph and Cheree Kline
4377 Cedar Ave N.
Keizer, Oregon, 97303

Terry and Linda Saylor
5045 Windsor Island Rd
Keizer, Oregon, 97303

Pam Willms
1092 Bundy Ct. N
Keizer, Oregon, 97303

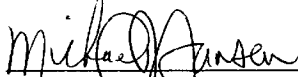
Jim Garrigues
1210 Valley View Dr NW
Salem, Oregon 97304

Daniel J. Willms
P.O. Box 21268
Keizer, Oregon, 97307-1268

Calvin N. Palmer
2009 Flag Stone Ct NE
Keizer, Oregon, 97303

Oliver L. Jones
5353 Newton Ct N
Keizer, Oregon, 97303

by mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the Post Office at Salem, Oregon, on the 24th day of June, 1992, and that the postage thereon was prepaid.

A handwritten signature in black ink, appearing to read "Michael J. Hansen", written over a horizontal line.

Michael J. Hansen
City of Keizer Hearings Officer



FREE METHODIST CHURCH

RECEIVED

JUN 10 PM 2 27

June 9, 1992

Hearings Officer - Zoning
City of Keizer
PO Box 21000
Keizer OR 97307

Dear Sir:

I am writing this letter in support of a conditional use permit being granted for the property on Windsor Island Road owned by Mr. Dan Chandler.

My belief, along with the leadership of our church, is that this property would be ideal for a location of a church building. It is right next to the Apple Tree Estates subdivision and would serve as a buffer between agricultural/light industrial zone and the residential.

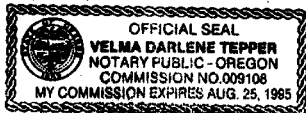
We don't believe that the sewage treatment plant would cause any undue problems for a church facility.

Again, we would appeal to you to allow a church building on this piece of property. Thank you for your consideration.

Sincerely,

Daniel J. Willms
Pastor
393-9249 (office)
390-7189 (home)

jb



RECEIVED

'92 JUN 10 PM 2 28

June 9, 1992

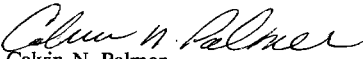
City of Keizer
PO Box 21000
Keizer OR 97303

To whom it may concern:

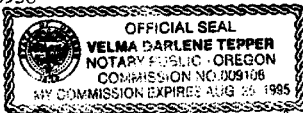
I want to extend my support for zoning permission for a church to be built on property presently owned by Dan Chandler on Windsor Island Road. I believe this would be a positive use of this area and would be a benefit to the surrounding community.

As a Keizer businessman, I believe that churches contribute to a positive community attitude. Furthermore, a church building would be consistent with the designated use of the area being light industrial. Thank you for considering this statement of support.

Sincerely,


Calvin N. Palmer
2009 Flag Stone Ct NE
Keizer OR 97303
390-3958

jb







RECEIVED

June 8, 1992

JUN 8 PM 2 15

City of Keizer
P.O. Box 21000
Keizer, OR 97307

Dear Sirs:

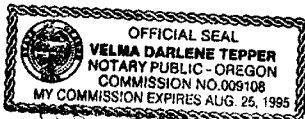
I support the request of the owners of the Windsor Island Road property to build a facility for the Keizer Free Methodist Church.

I reside at 5353 Newton Ct. N. and the property in question is adjacent to the subdivision that I live in (Apple Tree Estates).

It is my feeling that if the area is zoned for light industrial, a church facility would be an ideal use. It would enhance our property value. Also the building and landscaping would be more enhancing than industrial type buildings and fences.

Sincerely,

Oliver L. Jones
Oliver L. Jones
5353 Newton Ct. N.
Keizer, OR 97303
390-9416



EXHIBIT

3

BILL NO. _____

A BILL

ORDINANCE NO.

92-_____

FOR

AN ORDINANCE

IN THE MATTER OF THE APPLICATION OF RICHARD BECK,
PHYLLIS J. NELSON, J. LARRY FUGATE AND FUGATE ENTERPRISES
(OWNERS/APPLICANTS) FOR A ZONE CHANGE FROM COMMERCIAL
OFFICE (CO) TO COMMERCIAL RETAIL (CR) ON 0.53 ACRES OF
PROPERTY LOCATED AT 4710 RIVER ROAD NORTH AND 524 LINDA
AVENUE N.E., KEIZER, OREGON (CASE NO. KEC 92-1)

Section 1. THE APPLICATION. This matter comes before the
Keizer City Council on the application of Richard Beck, Phyllis J.
Nelson, J. Larry Fugate and Fugate Enterprises (Owners/Applicants)
for a zone change from COMMERCIAL OFFICE (CO) to COMMERCIAL RETAIL
(CR) to permit the development of a Pizza Hut restaurant on
property located at 4710 River Road North and 524 Linda Avenue
N.E., Keizer, Oregon (Section 02BD; T7S; R3W), Tax Lots 7900 and
8000.

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

Section 3. PUBLIC HEARING. A hearing was held on this
matter before the Hearings Officer on March 26, 1992. In addition,
a public hearing was held before the Keizer City Council on June
15, 1992. The following persons either appeared at the City
Council Hearing or provided written testimony on the application:

///

- 1 1) Skip Wendolowski, Keizer City Planner
- 2 2) John Morgan, Community Development Director
- 3 3) Jeff Tross, Attorney for Owners/Applicants
- 4 4) Richard E. Beck, Co-Owner/Co-Applicant
- 5 5) Phyllis Nelson, Co-Owner/Co-Applicant
- 6 6) Lillian Walston
- 7 7) Wilbur Bluhm
- 8 8) Marilyn Wendel
- 9 9) Isabelle Cassidy
- 10 10) Dorothy Shearer
- 11 11) Jackie B. Miller
- 12 12) Ed Schunke
- 13 13) Al Lofstedt
- 14 14) Deby Nelson
- 15 15) Gary Ryder
- 16 16) Evelyn Franz
- 17 17) Roy Shelton
- 18 18) Carol Shelton
- 19 19) Bev Ryder
- 20 20) Jim Shelton
- 21 21) Dyan Hood-Taylor
- 22 22) Joni Gilles
- 23 23) Beth Shelton
- 24 24) George Sukos
- 25 25) Russell Smith
- 26 ///

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

3 Section 5. OBJECTIONS. No objections have been raised as
4 to notice, jurisdiction, alleged conflicts of interest, evidence
5 presented or testimony taken at the hearing.

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

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

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

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

16 Section 10. FINAL DETERMINATION. This ordinance is the final
17 determination in this matter.

18 Section 11. EFFECTIVE DATE. This ordinance being necessary
19 for the immediate preservation of the public health, safety and
20 welfare, an emergency is declared to exist and this ordinance shall
21 take effect immediately upon its passage.

22 ///

23 ///

24 ///

25 ///

26 ///

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

4 PASSED this _____ day of _____, 1992.

5 SIGNED this _____ day of _____, 1992.

6 _____
7 Mayor

8 _____
9 City Recorder

10 3532COK.001

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. In addition, official notice has been taken of the Hearings Officer's recommendation and letters and other written documents submitted.

Mayor Orcutt opened the Public hearing on the matter of Zone Change 92-1 continued from May 18, 1992.

Skip Wendolowski, City Planner, gave the staff report. He reviewed the application, the original staff report and comments from the Hearings Officer regarding the request to change the zone from Commercial Office to Commercial Retail on the land owned by Richard Beck and Phyllis Nelson. The purpose is to permit the development of a Pizza Hut.

Mr. Wendolowski clarified the property in question and elaborated on the zoning of the nearby properties. The zone change criteria are found in Section 4.16 of the Keizer Zoning Ordinance. Mr. Wendolowski reviewed the staff report's analysis of the criteria and the proposal's conformance.

The major issue facing development is street access. The Taco Bell on the south has primary access on River Road. The Traffic Engineer encouraged use of access to River Road for both properties. Staff noted a limited use overlay could be used to limit the effect of the development on the neighborhood. Staff also recommended the placement of specific requirements.

The Hearings Officer denied the request based on available property and the traffic destabilizing the land use of adjacent property. The staff agreed, in general, with the Hearings Officer's statements regarding available property. At the present time, it may be inappropriate to make zone changes until the River Road Design Plan has been approved. The staff recommended the Council uphold the Hearings Officer's decision and deny the zone change.

Speaking as proponents of the zone change were:

Jeff Tross, 1720 Liberty Street S.E., Salem, Oregon 97302. Mr. Tross spoke on behalf of Richard Beck. He addressed the aspects of zone use and property development. He felt the application did conform to the Comprehensive Plan as a service business. The Plan explicitly identifies North River Road as the place for businesses requiring automobile traffic. He stated the Plan, by identifying that location, excluded other areas of Keizer.

He elaborated on the actual property setup. The Beck/Nelson property occupies the same position on Linda Avenue as the Taco Bell property does on Maine Avenue. One half of the block is zoned Commercial Retail while the remainder of the block is zoned Commercial Office. He stated that automobile traffic is the big criteria. The present situation is such that Mr. Beck cannot use the driveway on the Taco Bell property, thus there will be more traffic on Linda Avenue. The property now is in adverse circumstances even if the variance is approved. He felt it is hard to see Taco Bell sharing a driveway with an office. Under the present zoning, an ATM drive-up banking facility could operate on the property, which would be more traffic intensive than the proposed restaurant.

Mr. Tross stated the traffic concerns can be effectively addressed through site design, perhaps with an exit-only driveway on Linda Avenue, curved so that only left turns can be made. A sign that Linda Avenue is a dead end, along with the "Left Turn Only" sign could result in minimal traffic on Linda Avenue.

Mr. Tross stated the Pizza Hut restaurant could be accommodated by a driveway off River Road rather than Linda Avenue. These measures would only be possible if Taco Bell grants an easement. The Hearings Officer's denial prevented a shared driveway.

Mr. Tross also noted that only vacant land is required to be examined as possible sites. The only two other available pieces of land that are zoned Commercial Retail are many times larger than the company needed and they did not want to purchase additional land. Mr. Tross stated the conclusion of the Hearings Officer did not include the evidence that the other lots were too large for the business.

Mr. Richard E. Beck, 4485 River Road S., Salem, Oregon. Mr. Beck is a partner in the lot on the corner of Linda Avenue and River Road. He stated that when it was decided to sell the property, he let the Pizza Hut owners make the application. They were assured at that time that there would be no problem since the lot met criteria and the prospective use met the traffic condition. The site plans were reviewed.

Mr. Beck showed slides to the Council of the property from all views. Some of the slides included showed the wall erected by the Taco Bell company, the types of land use near the property, the Taco Bell driveway and the present view from the property in question. He stated the owners are now in a poor position since there is no access from their property. The plan is only half finished. He urged Council to move forward and approve the appeal.

Phyllis Nelson, 524 Linda Avenue, Keizer, Oregon 97303. Ms. Nelson is a co-owner of the subject property and had previously planned to reinvest her profits from the sale of the subject property in a home in Keizer. She is not certain that she still wishes to do so after this experience. She stated that her fence had been torn down and her privacy had been invaded since only half of the plan had been completed.

Speaking against the application were:

Lillian Walston, 513 Linda Avenue NE, Keizer, Oregon 97303, deferred to Mr. Bluhm.

Wilbur Bluhm, 743 Linda Avenue NE, Keizer, Oregon. Mr. Bluhm stated he was in agreement with the Hearings Officer. He also stated that he understood the issue of availability is but one of the issues. He elaborated on the history and character of Linda Avenue, stating little had changed in the past 15 years. The residents range from young families to senior citizens. The street has no sidewalks, is a dead end and is a children's playground. Livability and character are very important to the people there.

Since Linda Avenue is one block south of Dearborn Avenue, traffic is a serious problem. He said that the signal at Dearborn Avenue often causes traffic to be backed up three or four blocks to the south and it is difficult to get onto River Road. He was concerned that people coming out of Pizza Hut would not follow the sign, but would come down Linda Avenue looking for a cross street to miss the light.

Mr. Bluhm raised the question of what might happen if the zone is changed to Commercial Retail and a restaurant did fail there. He stated the proper land use action is to try to build buffers where you have highly conflicting uses of land. He was not pleased with the possibility of having an unsightly wall as a buffer. He was also concerned about the impact of the restaurant noise, lights and late hours. It is possible an emergency vehicle might have difficulty getting down Linda Avenue if traffic were blocked at the intersection. He was extremely concerned about that being a life-or-death matter. River Road is the only access the people of Linda Avenue have and it is an extremely serious issue.

Marilyn Wendel, 754 Linda Avenue, Keizer, Oregon 97303. Ms. Wendel was concerned about the extra traffic that might be generated on a street that is .2 of a mile long. The street also has no other access. She mentioned the extra noise that will be generated by the restaurant since the people using it will be younger. She was concerned that the corner in question would be a real problem for a high impact restaurant. She also suggested two alternate sites.

Isabelle Cassidy, 7333 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Dorothy Shearer, 583 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Jackie B. Miller, 744 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Ed Schunke, 644 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Al Lofstedt, 624 Linda Avenue NE, Keizer, Oregon 97303, stated he was a renter and concurred with the previous speakers.

Deby Nelson, 624 Linda Avenue NE, Keizer, Oregon 97303, agreed with the previous speakers.

Gary Ryder, 663 Linda Avenue NE, Keizer, Oregon 97303. Mr. Ryder suggested a curb be built into the exit onto Linda Avenue. He said it wouldn't take many cars to block both lanes, which would cause problems for emergency vehicles getting in. He pointed the Council to the key points of the Hearings Officer's decision, especially the availability of alternative properties. He thought that Pizza Hut could consider occupied properties if they were so inclined.

Lillian Walston, 513 Linda Avenue NE, Keizer, Oregon 97303. Ms. Walston stated she lives behind the dental complex. She had reported in the first hearing that her apartment had been hit four times and not all the damage had been repaired. On the end of the apartment there is a private driveway with a "No Trespassing Sign", but people still whip through there. She also stated she was a heart patient and was concerned about emergency vehicles being able to get in if the traffic increased.

Evelyn Franz, 693 Linda Avenue, Keizer, Oregon 97303. Ms. Franz commented on the number of fast-food places presently visible from the property. Ms. Franz said that she and Ms. Shelton had done some research on available properties and on April 6 she found 22 places from the Parkway to Manzanita. Nine of the properties are zoned Commercial Retail and three are zoned Commercial Office.

Roy Shelton, 723 Linda Avenue, Keizer, Oregon 97303. Mr. Shelton said that he had lived in that location over 30 years. He was concerned about the bus stop for the children to get on and off the school bus. The children would be required to go along River Road or through the Pizza Hut and Taco Bell properties. He also pointed out there is a U-shaped court across from the property that would not be protected by the wall on the east perimeter, thus causing the senior citizens to be affected by the noise. Mr. Shelton pointed out the Senior Citizen court on the map at the request of Councilor McGee.

Carol Shelton, 723 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Bev Ryder, 663 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Jim Shelton, 723 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Dyan Hood-Taylor, 674 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Joni Gilles, 684 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Beth Shelton, 724 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

George Sukos, 773 Linda Avenue NE, Keizer, Oregon 97303, concurred with the previous speakers.

Russell Smith, 672 Maine Avenue NE, Keizer, Oregon 97303. Mr. Smith stated that although he lived on Maine Avenue, he was speaking against allowing the same thing to happen to Linda Avenue that happened to his street. The two streets are like bookends since they are similar in character. He felt there would be more benefit in maintaining the current office zoning and having a diverse economic situation rather than turning the area into a fast-food strip.

Councilor Newton questioned how Mr. Smith differentiated that situation from James Avenue since it was similar. Mr. Smith stated that James Avenue may have some intersecting streets. Every house on Linda Avenue gets every car coming past it. He believed with older folks and rental property down the avenue, Pizza Hut did not fit.

Al Lofstedt, 624 Linda Avenue NE, Keizer, Oregon 97303. Mr. Alstead believed no matter where the turn is put, the drive will be too short to channel the cars back onto River Road without using Linda Avenue. He felt drivers are going to get smart and zigzag over to Dearborn Avenue through the private drive.

Speaking in rebuttal to the opponents of the variance were:

Jeff Tross, 1720 Liberty Street SE, Salem, Oregon 97302. Mr. Tross stated that although he heard sincere comments, he was certain there are solutions. The effect of traffic today on Linda Avenue is a problem which is not caused by Mr. Beck's property. He felt the City of Keizer had the talent to work out the traffic problems. If there were to be no driveway on Linda Avenue, then the development would not cause a problem. He also

didn't think there would be a problem for emergency vehicles, but if there were, the vehicle could cut through the Pizza Hut Property and get out.

With the present zoning, one of the examples of use permitted today would be a drive-up banking center with constant traffic. A restaurant has peak times, lunch and dinner. The dinner hour is typically after the rush hour. Two driveways would likely not create any compounding of traffic. A limited use condition has been proposed and would be a natural.

Mayor Orcutt questioned whether he heard Mr. Tross state that the development could live with no driveway if access could be obtained to the Taco Bell driveway. Mr. Tross answered, "Yes." Mayor Orcutt also asked about the aesthetic issue. Mr. Tross stated they would be willing to install something other than a wall which would be a buffer, but since that doesn't provide a sound barrier, maybe a wall with hedge would be best.

Councilor Miller asked whether both businesses are owned by Pepsico or did they just own the franchise. Mr. Tross answered that he understood the two were subsidiaries. The Pizza Hut will be owned completely separately. Since Pizza Hut is one of the largest companies nationwide, not many are allowed to close and disappear. He also stated that the use of property with River Road frontage was supposed to be for automobile traffic and Pizza Hut would fit. It would only have 41 parking spots and is a family restaurant. If there is a traffic problem, the city needs to address the problem, which he did not believe was associated with his property.

John Morgan, Community Development Director, gave the final staff comments. He stated that the two businesses are separate franchise holders and their only connection is that they have one delivery truck. The driveway permit for Taco Bell was granted with several conditions. They were required to grant to the Beck property access so that whatever business was there could use the driveway.

He also stated the Taco Bell people agreed to relocate the driveway if the River Road Design Plan feels it should be moved. The traffic issues brought up will perhaps be changed by the implementation of the second year of the Design Plan. The thrust is to synchronize all the signals and time the progression for 30-32 miles per hour. This would create platooning and bunch the cars up. He also stated that while there are uses in the Commercial Retail zone that generate more traffic, a medical office would create more than a Pizza Hut.

There being no further testimony to come before the Council, Mayor Orcutt closed the public hearing.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to this application are found in the City of Keizer Zoning Ordinance (KZO) and the Keizer Comprehensive Plan (KCP).

Of importance in this particular application are the procedures outlined in the KZO Section 4.16 (Procedure for Zone Changes), Chapter 27 (Commercial Office Zone), and Chapter 28 (Commercial Retail Zone).

Also of particular importance is the "Goals and Policies: Economic, Commercial and Industrial Development" section of the Keizer Comprehensive Plan (pages 40-43).

EXHIBIT "C"

Facts

1. The subject property is designated Commercial in the Keizer Comprehensive Plan and zoned CO (COMMERCIAL OFFICE).

2. The 0.53 acre subject area consists of two parcels located on the southeast corner of the intersection of River Road and Linda Avenue. A single-family dwelling is located on the subject property.

3. Property to the south is zoned CR (COMMERCIAL RETAIL). Building plans were approved to construct a Taco Bell restaurant on the site. Property to the north is also zoned CO and contains a medical office complex. Land to the west is zoned both CR and CO and includes a bank, gas station and medical offices. To the east is RS (SINGLE FAMILY RESIDENTIAL) zoned land containing single-family residents.

4. The Applicants are requesting approval to rezone the subject property to CR (COMMERCIAL RETAIL) to permit the development of a Pizza Hut restaurant.

5. The City of Keizer Fire District noted that fire hydrants are located on both Maine Street and Linda Avenue; fire suppression will not be a problem.

6. The City Public Works Department noted that public water and sewer services are available to the site and indicated that a half-street improvement along the subject property's Linda Avenue street frontage should be provided. The improvements should include paving, curbs, drainage and sidewalk facilities.

7. The City Traffic Engineer provided comments regarding access to the property that apply to both the proposed zone change and the Taco Bell property located to the south. In general, the Traffic Engineer is opposed to any access to River Road, preferring the access be limited to the side streets of Maine Street and Linda Avenue, with a connecting alley on the east side of both properties. If access to River Road is permitted, the access should be directly opposite Evans Street and serve both the Pizza Hut and Taco Bell properties. The engineering report is contained within the file and is made part of the submitted record. No other contacted agency responded.

8. The zone change would permit the establishment of a Pizza Hut restaurant. The restaurant building would contain approximately 2900 square feet with parking for 41 automobiles. The site development plan calls for access to both Linda Avenue and River Road. The restaurant will also feature a drive-up pick-up window located on the north side of the building.

With regard to the zone change criteria in KZO Section 4.16, the following findings are relevant:

9. The existing plan designation for the property is Commercial. Pursuant to Section 4.02 of the Zoning Ordinance, the four permitted zone classifications within this plan designation are CO (COMMERCIAL OFFICE), CR (COMMERCIAL RETAIL), CG (COMMERCIAL GENERAL) and UT (URBAN TRANSITION). The proposed zone is appropriate for the Comprehensive Plan designation. KZO 4.16(1)(a).

10. The Applicants submitted a site plan indicating the proposed restaurant can be physically located on the subject property. The site plan complies with CR zone development requirements regarding setbacks and landscaping areas. The proposed plan will also be able to comply with the requirements in Chapter 17 to 20, regarding access, parking, buffering, vision clearance areas, special setbacks, and other applicable standards. KZO 4.16(1)(b) and (c).

11. The Public Works Department noted adequate public facilities are available to serve the property. Other than the required street frontage improvements on Linda Avenue, no additional public facility improvements are necessary. KZO 4.16(1)(d).

12. Restaurants are only permitted in the CR and CG zones.

13. The Comprehensive Plan seeks to diversify the local economy while ensuring compatibility with adjacent property. Design features such as special setbacks are encouraged to reduce impacts on adjacent residential uses. The proposal will convert underutilized property to commercial uses thereby diversifying the local economy. Design features creating adequate buffering are incorporated within the Zoning Ordinance and are included on the site plan. The proposed zone change is consistent with the policies of the Comprehensive Plan. KZO 4.16(1)(e).

14. The location of the appropriately zoned land is not locationally or physically suited to the particular uses proposed for the subject property, and/or such alternate sites lack specific amenities required by the proposed use. KZO 4.16(2)(a).

15. The supply of vacant land in the existing zone (COMMERCIAL OFFICE) is adequate to accommodate the projected rate of development of uses allowed in the zone during the next five years. KZO 4.16(2)(b).

16. The proposed zone, when modified to provide for a limited use overlay, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent property. KZO 4.16(2)(c).

17. The proposal generally complies with the zone change criteria found in Section 4.16. However, the CR zone may permit activities that are detrimental to the residential area. The use of development conditions and the placement of a limited use overlay zone may be necessary to ensure future development of the site does not significantly affect adjacent residential areas.

With regard to the zone change conditions criteria in KZO Section 4.18, the following findings are relevant:

18. The zone change to COMMERCIAL RETAIL will allow uses more intensive than allowed in the current zone (COMMERCIAL OFFICE).

19. The conditions delineated in Exhibit "E" are reasonably related to impacts caused by the development which will be allowed in the proposed zone, and/or to impacts caused by the specific development proposed on the subject property.

20. The conditions listed in Exhibit "E" will serve the public purpose of mitigating potentially negative impacts of the allowed uses on adjacent property.

21. The conditions listed in Exhibit "E" are based upon policies or standards contained in the Keizer Comprehensive Plan and/or Keizer Zoning Ordinance.

EXHIBIT "D"

Justification

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

In the current case, the Applicants have requested a zone change from COMMERCIAL OFFICE to COMMERCIAL RETAIL. As part of the application process, such zone change shall be modified to be a request for a COMMERCIAL RETAIL-LIMITED USE OVERLAY (CR-LU), restricting the uses of the property as detailed in Exhibit "E".

Opponents to the zone change request cited traffic and safety concerns as reasons to deny the zone change. The common fear was that access from the proposed Pizza Hut restaurant to Linda Avenue will cause patrons to turn down Linda Avenue when exiting and only to find that Linda Avenue is a dead-end street. Such motorists would then have to turn around causing additional congestion and traffic concerns on Linda Avenue. In addition, there was a concern that vehicles may use the private drive north of the subject property to gain access to Dearborn Avenue where there is a traffic signal.

To address such concerns, the zone change will be conditioned on limiting access to and from Linda Avenue for service vehicles only and such access will be gated at all other times.

Another concern was expressed regarding adverse noise and sight impacts caused by the proposed restaurant. Though these impacts may be unavoidable to some degree, they can be mitigated by requiring sound and aesthetic buffers to be installed as a condition of approval.

There was also discussion and debate on the criteria involving the supply of vacant land in the proposed zone. Keizer Zoning Ordinance 4.16(2)(a). Though the opponents presented examples of alternative placement of the Pizza Hut, the Applicants and their representatives indicated that such property was not locationally or physically suited to this particular use. The fact that there are other commercial retail-zoned property does not make the requested zone change inappropriate; the fact that such other property is not suited to this particular use satisfies this criteria.

The other criteria have been met as set forth in Exhibit "C". Though there may be some impacts, the proposed use will not destabilize the land use pattern or significantly adversely affect adjacent properties.

The Keizer Comprehensive Plan provides for commercial development along River Road North (see Chapter III (4)(c)(9), page 43). The Comprehensive Plan calls for encouraging commercial development. The development of this parcel will help meet such goals, while the imposition of certain conditions will mitigate any adverse impacts.

EXHIBIT "E"

Action

The City of Keizer ordains as follows:

The application of Richard Beck, Phyllis J. Nelson, J. Larry Fugate and Fugate Enterprises (Owners/Applicants) for a zone change from COMMERCIAL OFFICE (CO) to COMMERCIAL RETAIL (CR) is hereby GRANTED, subject to the following conditions:

1. The zone change request is modified to a CR-LU (COMMERCIAL RETAIL-LIMITED USE OVERLAY) zone restricting the permitted uses on the subject property to a restaurant that serves primarily dine-in customers and has no intercom-type drive-through service.

2. Prior to the issuance of a building permit, the Applicants shall:

- a) Half-street improvements to be installed along the subject property's Linda Avenue frontage shall be reviewed and approved by the City Department of Public Works.
- b) The Applicants shall connect the subject property public sewer and water service.
- c) The Applicants shall submit a final site development plan substantially conforming with the plan submitted March 19, 1992, and such final site development plan shall be approved by the Keizer Community Development Department.

3. Prior to issuance of the final Certificate of Occupancy, the Applicants shall:

- a) Be in compliance with all applicable development standards contained within the Keizer Zoning Ordinance.
- b) Public access to the subject property shall be limited to a driveway on River Road North and any driveway onto Linda Avenue North shall be gated and used only by service vehicles.
- c) A sound wall shall be constructed along the east boundary of the subject property in a similar manner to the wall located on the lot directly to the south of the subject property (Taco Bell).

- d) A sound and aesthetic buffer approved by the Community Development Director shall be constructed on the north side of the subject property from the service entrance on Linda Avenue west to River Road North, however, such sound and aesthetic buffer shall not violate the vision clearance requirements of Chapter 17.
- e) The Owners/Applicants shall have recorded in the Marion County Real Property Records an access easement benefiting the subject property and granted by the property owner on the parcel to the south (Taco Bell) to allow vehicular access from the Taco Bell driveway. No driveway permit onto River Road shall be granted without amendment of this Ordinance or approval via an adopted urban renewal program. The Applicants shall cooperate, at their own expense, with any relocation of the shared driveway resulting from the recommendations of the River Road Design Plan when adopted, or any subsequent detailed implementing plan.



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: Aug. 3, 1992

AGENDA ITEM NUMBER: 8a

TO: MAYOR AND CITY COUNCIL

THROUGH: DONALD H. OTTERMAN M.S.P.A. *DHO*
CITY MANAGER

FROM: JOHN N. MORGAN, AICP *JN*
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: REQUEST TO INITIATE AMENDMENT OF THE
COMPREHENSIVE PARKS SYSTEM DEVELOPMENT PLAN

BACKGROUND:

The Comprehensive Parks System Development Plan was adopted as an element of the Comprehensive Plan on July 6, 1992. Staats Corporation has requested an amendment of the Plan. A copy of the letter making the request is attached. The purpose of tonight's discussion is to determine if the amendment process should be initiated.

The Plan calls for the development of a neighborhood park north of Keizer School. The new park is planned to have an acreage of 4 acres in addition to the school property. Acquisition of the site will be through the park development fund which is funded through parks system development charges and/or the dedication of property in lieu of payment of the parks SDC. It has been anticipated this will occur when Staats Corporation develops the Staats Lake property.

The McNary Activity Center Plan is also an element of the Comprehensive Plan. This MAC Plan calls for the development of a neighborhood park north of Keizer School with an additional two acres added to the school property. The document states that it will automatically change to reflect any different specific plan included in a subsequently adopted parks plan. Since the Park Plan calls for four acres of dedication, this supersedes the McNary Activity Center Plan.

Staats Corporation followed the development of the Parks Plan through conversations with the Parks Superintendent and the Community Development Director, and through review of a draft of the Plan prior to the hearings. However, the corporation did not participate in the hearing process.



City Council
August 3, 1992

PROCESS:

The initial step in amending any element of the Comprehensive Plan is having either the Planning Commission or the Council initiate the amendment. Attached are the sections of the Kelzer Zoning Ordinances dealing with revisions to the Comprehensive Plan. The process begins with Section 4.14. The initiating body must find "...the proposed change is in the public interest and will be of general public benefit."

If the Council chooses to initiate the amendment, the following process will be followed:

- August 17 Council adoption of a resolution initiating the amendment and referring it to the Parks Committee for analysis and development of the recommendation.
- September 22 Parks Committee considers the request, providing an opportunity for Staats Corporation to present its position and arguments. Recommendation to Council is developed.
- October 5 Council public hearing and deliberation.

RECOMMENDATION:

Council should determine if the requested amendment should be considered, and if so, direct staff to initiate the process outlined above.

STAATS CORPORATION

P. O. BOX 2261

SALEM, OREGON 97308

PHONE 363-6816

Dear Mr. Morgan,

RECEIVED
After attending the Keizer Council Meeting on July 6, 1992, it was decided that letters be drafted and mailed on to the appropriate representatives of the City of Keizer.

In the McNary Activity Center Design Plan, page 10-11, the location of where a neighborhood park in conjunction with Keizer School, is discussed. It also states that a comprehensive Parks Development Master Plan was to be created and if that study showed better ways to meet the park need than the park adjacent to Keizer School, that the Activity Center Plan would be superseded.

The OTEK study does not recommend a different site however has doubled the recommended acreage discussed in the McNary Activity Plan. The size of the park being changed or superseded was not addressed.

There are currently 7 neighborhood parks, the top end is 8.4 acres, the low is .9 acres. If you include the high and low end you arrive at 3.7 acres average, if you exclude them and utilize the 5 remaining parks figures you arrive at an average of 3.44 acres per park.

On Page 10 of the MACP it states that the Comprehensive Plan calls for neighborhood parks to be located adjacent to elementary school sites. With the 3.8 acres of the school and two from Staats development that would create 5+ acres which is well above the average size of the now existing neighborhood parks.

At the council meeting of July 6, 1992, there were factors of the plan which several of the council members verbally stated they felt needed more research, the OTEK Park System Development Plan was adopted after councilmen Jerry McGee clarified that this plan was amendable.

It is the intention of Staats Lake Development Team to have the OTEK plan be amended as follows:

Proposed 2-Acre Park Site (West End)

Develop a two-acre neighborhood park adjacent to the school with complimentary improvements.

Please forward to us any information which we would need from you, to proceed with an amendment as stated above.

Respectfully,

Joyce Staats
Joyce Staats

Corporate Manager

4.02 COMPREHENSIVE PLAN DESIGNATION AND ZONE CLASSIFICATIONS. Zone classifications implement the Comprehensive Plan designations. Following are the zones allowed in each Comprehensive Plan designation.

Comprehensive Plan Designation

Zone Classification

Low Density Residential (LDR)
Medium and High Density Residential (MHDR)
Commercial (C)
General Industrial (GI)
Campus Light Industrial (CLI)
Special Policy Area (SPA)
Civic (CI)
Schools (ES, MS, HS)
Park (P)

RS, UT
RL, RM, RH, UT
CO, CR, CG, UT
IG, UT
IP, UT
EFU, UT
P
P, UT
P, UT

4.10 INITIATION OF ZONE CHANGES.

Any amendment of the official zoning map involving 4 or less lots in separate ownership or involving 15 or fewer acres and which does not include any amendment to the text of the ordinance, is a zone change application. A zone change may be initiated in the manner provided for applications in Section 5.02 and 5.03. They may also be initiated by resolution of the Council when the change is for some governmental, or philanthropic purpose or in order to bring the zoning ordinance and zone map into compliance with the Comprehensive Plan. The Hearings Officer or Planning Commission may initiate zone changes.

4.11 PROCEDURES FOR ZONE CHANGES.

- (a) A zone change application, as defined in Section 4.10 shall be reviewed as provided in Section 5.10, 5.12 and Section 4.13 (d), (e), (f), (g), and (h). Notwithstanding the above, a Hearings Officer's decision on a zone change is a final decision on the matter unless it is appealed to the City Council within 10 days of the date it is issued.
- (b) Approval of a zone change application shall include findings that the change meets the criteria in Section 4.16.
- (c) A zone change reclassifying properties to a zone allowing more intensive use of the property may be conditional as specified in subsection 4.13 provided the ordinance includes the findings specified for conditional zoning.

4.12 INITIATION OF LEGISLATIVE AMENDMENTS.

Any amendment of this zoning ordinance which deletes, supplements, or changes the text hereof, or involves 5 or more lots in separate ownership, or involves more than 15 acres, is a legislative amendment. Such amendments may be initiated by the Council or Planning Commission by resolution. An interested party may request initiation of a legislative amendment. Legislative amendments shall only be initiated by the Council or

Planning Commission when the proposed change is in the public interest and will be of general public benefit. Whenever a legislative amendment is initiated by the Council, the resolution shall be referred to the Planning Commission for its recommendation. The Planning Commission shall forward a recommendation or report of its deliberations before the close of the Council's public hearing.

4.13 PROCEDURES FOR LEGISLATIVE AMENDMENTS.

- (a) Upon receipt of a resolution initiating a legislative amendment the Zoning Administrator shall schedule a public hearing. The resolution shall prescribe whether the Hearings Officer, Planning Commission or Council shall conduct the hearing. The Zoning Administrator shall submit a report on the proposal at the hearing. Prior to approval of any amendment which deletes, supplements or changes the text of this Ordinance, the City Council shall hold a hearing.
- (b) Notice and conduct of the hearing shall comply with the requirements of Section 5.10 (e) and 5.12. A notice shall be published in a newspaper of general circulation in the affected area one or more times at least 10 days prior to the date of the hearing. The notice shall provide information prescribed for mailed notice under section 5.10 (e). Notice of the initial hearing shall be provided to the State Department of Land Conservation and Development, to the Chairman of the Citizen Involvement Committee, and to any person who requests, in writing, notice of the initial hearing.

Mailed notice shall not be required for subsequent hearings on the same proposal. If more than 50 ownerships are involved the Zoning Administrator may substitute posted notice. The notice shall be posted along the nearest public road at the boundaries of the affected area. The notice shall be visible from the public road, indicate "notice of public hearing on proposed land use change for this area" and provide a phone number where information on the proposal can be obtained.

A signed certification of notice describing the types of notice, the date notice was provided, a copy of any mailing list, and other information that demonstrates that the notification requirements have been met, shall be placed in the record of the initial hearing.

- (c) When the Hearings Officer or Planning Commission holds a hearing the Hearings Officer or Planning Commission shall prepare a report setting forth findings of fact, conclusions and a recommendation. The written report shall be presented to the Council, and mailed to those testifying at the hearing and those requesting notice. The Hearings Officer's or Planning Commission's recommendation shall be scheduled for consideration at

a regular Council meeting occurring more than 10 days after the date the Council reviews the recommendation.

- (d) Those with standing may, within 10 days of notice of recommendation, request that the Council hold a hearing before taking action on the Hearings Officer's or Planning Commission's recommendation. The request shall explain wherein the Hearings Officer or Planning Commission failed to conform to the provisions of this ordinance.
- (e) If the Council after review of the matter accepts the recommendation of the Hearings Officer or Planning Commission, the Council may indicate its acceptance and take the recommended action.
- (f) If the Council is of the opinion that the facts in the case warrant further review, the matter shall be set for hearing before the Council. If the Council schedules a hearing their consideration shall be de novo. The Council, following its hearing, shall issue a decision taking the appropriate action.
- (g) If someone with standing requests a hearing pursuant to section 4.13 (d) the Council shall hold a de novo hearing following notice procedures set forth in 4.13 (b) and issue its decision taking the appropriate action.
- (h) The Council decision shall be final subject to such appeals as are provided in State law. A decision to deny shall be made by Order. A decision to approve shall be made by Ordinance. Notice of the decision shall be mailed to those with standing and those who request notice prior to the close of the final hearing. Notice shall also be sent to the Department of Land Conservation and Development as required by law.
- (i) Approval of a zoning ordinance legislative amendment shall include findings showing that the amendment meets the criteria in Section 4.15.

4.14 PROCEDURES FOR COMPREHENSIVE PLAN AMENDMENTS.

- (a) Amendments to the text of the City of Keizer Comprehensive Plan, or amendments of a Land Use Designation involving 5 or more lots in separate ownership or involving more than 15 acres, is a comprehensive plan legislative amendment. They may be initiated and shall be reviewed as provided for zoning ordinance legislative amendments in Section 4.12 and 4.13.
- (b) An amendment to the land use designation for 4 or less lots in separate ownership or 15 or fewer acres is a Comprehensive Plan map change application. They may be initiated and shall be reviewed as provided for zone change applications in Sections 4.10 and 4.11.

- (c) In addition to the procedure prescribed herein, the Council shall hold a hearing prior to taking final action if required by State law.
- (d) An ordinance adopting an amendment to the text of the Comprehensive Plan shall include findings that the criteria in Section 4.15 have been met.
- (e) An ordinance adopting an amendment to the land use designation in the Comprehensive Plan shall include findings that the criteria in Section 4.17 have been met.

4.15 CRITERIA FOR LEGISLATIVE AMENDMENT OF THE TEXT OF THIS ORDINANCE OR THE COMPREHENSIVE PLAN. The following criteria shall be used to review and decide legislative amendments to the text of this ordinance and to the text of the Comprehensive Plan.

- (a) Compliance with the statewide land use goals and related administrative rules is demonstrated.
- (b) Conformance with the Comprehensive Plan goals, policies and intent is demonstrated.
- (c) Public need is best satisfied by this particular change.
- (d) The change will not adversely affect the health, safety and welfare of the community.
- (e) Adequate public facilities, services and transportation networks are in place, or are planned to be provided concurrently with the development of the property.

4.16 ZONE CHANGE CRITERIA.

- (1) The following criteria shall be used to review and decide either legislative amendments or applications that involve a change in the zoning classification of land:
 - (a) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
 - (b) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
 - (c) Allowed uses in the proposed zone can be established in compliance with the development requirements in Chapters 17 to 20 without need for adjustments or variances.
 - (d) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.

MEMORANDUM

TO: Mayor and City Council

THROUGH: John Morgan, AICP, Community Development Director *jm*

FROM: E. Shannon Johnson, City Attorney *esj*

RE: Comments Following the Close of Public Hearings

DATE: July 29, 1992

With regard to the "Pizza Hut" zone change request, I noted that one of the neighbors spoke at the meeting of July 20, 1992. I anticipate that this may also occur at the August 3 meeting when the second reading of the ordinance will happen.

Though I understand the reasons the neighbors wish to comment further, they must be reminded that the hearing is closed. Further testimony by any party, even in terms of informal comments, really should not be made. Though such comments are made at open Council meetings, they can technically be categorized as ex parte contacts because they are made without the applicants being present. The fact that the hearing is closed means that the applicants could not comment formally even if they were present.

Though the parties to a land use case could be told that their comments are not part of the record, and allowed to speak anyway, I believe the better course of action would be to politely tell them that comments cannot be accepted further. Though it may be inapplicable in the Pizza Hut case, if the matter was carried to extremes, an applicant who was denied a zone change could appeal on the basis of such comments because they were ex parte contacts.

The Council may want to consider leaving hearings open even up to the final vote on the written ordinance. In that manner, parties can comment on the wording of the conditions, if any.

Should you have any questions in this regard, please let me know. Thank you for your attention to this matter.

ESJ:clt

MEMORANDUM

TO: Mayor, City Council, Planning Commission
FROM: E. Shannon Johnson, Assistant City Attorney
RE: Ex Parte Contacts with Planning Commission
or City Council Members
DATE: June 19, 1991

I have reviewed some statutes and cases regarding the above referenced matter. Both Planning Commissioners and City Councilors have had inadvertent contacts with land use applicants or opponents and I felt we should develop a specific policy in this regard.

Though the Land Use Board of Appeals is reluctant to reverse or remand a case based on ex parte contacts, it still can be a problem, particularly if an aggrieved party can make a argument that such contact affected the decision. At a minimum, it can be a problem with the public's perception of the impartiality of the decision. Therefore, I would recommend that the Planning Commission and City Council adhere to the following policy:

1. If possible, avoid communication with applicants or owners of property that you know have pending land use cases before the Zoning Administrator, Hearings Officer, Planning Commission or City Council, or with those who may have such land use cases in the near future. If your professional or social activities put you in contact with such persons, make it clear that you are not to discuss, or even listen to, any matters concerning the land use case.
2. If you do have a contact regarding a land use case, then at the first public hearing following the ex parte communication, an announcement should be made that the ex parte contact occurred and the substance of the ex parte communication should be placed on the record. In addition, staff should notify the public at the hearing that any party has a right to rebut the substance of the ex parte communication.

Though it would be better to avoid ex parte contacts altogether if possible, the contacts with regard to the McNary Activity Center are not as crucial as, for example, a specific development proposal, such as a subdivision or zone change request. The McNary Activity Center work is a "legislative" decision, and as such, is not as sensitive to ex parte contacts as a specific land use application with specific proponent and opponents.

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

ESJ:clt

MEMORANDUM

TO: Mayor and City Council

THROUGH: John Morgan, AICP, Community Development Director *JA*

FROM: E. Shannon Johnson, City Attorney *esj*

RE: Site Visits in Land Use Cases

DATE: July 29, 1992

I wanted to alert the Council to a matter which I did not bring up in my memo regarding ex parte contacts last year. A copy of such memorandum is enclosed.

One of the results of Oregon's system of land use law is the formalizing (or overformalizing) of the process. Land use cases brought before public bodies are now approaching the level of a court case in their formality. One of the areas of concern is ex parte contacts.

The literal definition of ex parte contacts is "proceeding granted at the instance and for the benefit of one party only, and without notice to, or contestation by any party adversely interested." As I had pointed out previously, ex parte contacts are to be avoided. This is true even assuming that the contact can be mitigated by full disclosure of the contact, its nature and contents. Of course, if an ex parte contact occurs after a hearing is closed, the disclosure of the contact will not cure the problem. The only cure for such an ex parte contact would be a reopening of the hearing.

Some councilors visit the site of the subject property to familiarize themselves with the matter and to acquire full understanding of the case. Though this is logical, caution must be exercised, because this site visit is also an ex parte contact. Therefore, I would suggest that if you wish to make a site visit, you do the following:

1. Make the site visit prior to the first hearing.
2. If this is not possible, make the site visit prior to the close of the public hearing.
3. At the first hearing date after the visit, disclose that you made the visit and what you discovered and its significance to the proceeding; e.g., "I visited the site and I see a problem with traffic turning left out of the proposed development."

The idea behind disclosing the content of the ex parte contact, whether it be with an actual person or in the form of a site visit, is to allow the parties opportunity to rebut the nature, content or characterization of the ex parte information.

Should you have any questions in this regard, I would be happy to try to answer them. Thank you for your attention to this matter.

ESJ:clt



1982

City of Keizer

Administration

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CITY COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 8c

TO: MAYOR AND CITY COUNCIL

FROM: DONALD H. OTTERMAN, CITY MANAGER *DO*

SUBJECT: CONSIDERATION OF METHOD FILLING PLANNING COMMISSION
VACANCIES

ISSUE

Shall the City Council establish a separate method of filling Planning Commission vacancies from that of filling other commission or committee vacancies?

DISCUSSION

The Volunteer Coordinating Committee (VCC) was established by the City Council on July 15, 1991 to fill the vacancies that exist from time to time on various commissions and committees, and to establish a volunteer recognition program, among other duties.

When the VCC was established, it was recognized that the Planning Commission was the only volunteer commission that was mandated by state law, and that perhaps the filling of those vacancies should be left to the City Council. There have not been any vacancies on the Commission since the VCC was established, but now there are three terms that are expiring at the end of September.

The City Council needs to determine whether the Council wants to make those appointments, whether they want the VCC to make recommendations to them for approval, or whether they want the VCC to make the appointments with the concurrence of the Mayor. The City Council also needs to establish whether a member would be automatically reappointed if they expressed an interest, or whether the process of filling the positions should be left open, and anyone interested apply.

There are three vacancies that will occur in September. Two of those three members have expressed an interest in being reappointed. The third does not want to be reappointed. We have received one application for appointment to the Commission from an individual not on the commission.

City Council
August 3, 1992

The following options are available to the council.

1. Keep the VCC totally out of the process and the City Council appoint members to the Commission directly.
2. Have the VCC advertise the openings on the Commission, screen applications, and appoint (subject to the Councils concurrence) based upon the criteria established in the ordinance establishing the Commission. This would be the process whether the existing members wished to be appointed or not. All interested persons would have to go through the same process.
3. Reappoint a member if the member wishes to be reappointed and there is a favorable report from the chairman of the commission regarding that members attendance and participation.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Ordinance No. 83-00 6

3 AN ORDINANCE CREATING A PLANNING COMMISSION;
4 PROVIDING FOR ITS COMPOSITION AND ORGANIZATION;
5 PROVIDING ITS POWERS AND DUTIES.

6 The City of Keizer ordains as follows:

7 Section 1

8 KEIZER PLANNING COMMISSION;
9 COMPOSITION; TERMS AND VACANCIES.

10 a. The Keizer Planning Commission is hereby created.

11 The commission will have the powers and duties hereinafter set
12 forth and such additional powers and duties as may be conferred
13 on such commission by the constitution and laws of the State of
14 Oregon, by the Charter of the City of Keizer or by Ordinances,
15 Resolutions or orders of the City Council.

16 b. The commission will consist of the City admin-
17 istrator as an ex-officio, non voting member and seven other
18 members to be appointed by the City Council. No more than one
19 voting member shall be engaged principally in the buying,
20 selling or developing of real estate for profit as individuals,
21 or be members of any partnership, or officers or employees
22 of any corporation, that engages principally in the buying,
23 selling or developing of real estate for profit. No more
24 than one voting member shall be engaged in the same kind of
25 occupation, business, trade or profession. No more than one
26 member shall be a non-resident of the City of Keizer.

c. The term of office of the appointed members shall

1 be three years, or until their successors are appointed and
2 qualified. The terms of office for appointed members shall
3 be staggered so that the term of office of not more than three
4 will expire in the same year. No appointive member shall
5 serve more than two consecutive terms. Notwithstanding the
6 other provisions of this section, the initial term for com-
7 mission members originally appointed upon the passage of
8 this ordinance may be established by council resolution in
9 order to achieve the proper staggering of terms.

10 d. The City Council shall fill any vacancy in the
11 commission by appointment for the unexpired term of the
12 predecessor in office. Prospective members of the commission
13 may be required to qualify by submitting a written application
14 and/or appearing before the city council for a personal
15 interview. Before entering upon the duties of a planning
16 commissioner, each commissioner shall take an oath or shall
17 affirm support for the constitution and the laws of
18 the United States and of the State of Oregon and that each
19 commissioner will faithfully and impartially perform duties of
20 that office.

21 e. The members of the commission shall receive no
22 compensation but shall be reimbursed for duly authorized expenses.

23 Section 2

24 ORGANIZATION

25 a. The commission shall elect a chairman and
26 vice chairman, who shall be members appointed by the City

1 Council and who shall hold office during the pleasure of the
2 commission.

3 b. Four members appointed by the City Council shall
4 at all times constitute a quorum.

5 c. The commission shall meet at least once each
6 month and the regular meeting place of the commission shall
7 be the City Hall.

8 d. The commission may make, establish and alter
9 rules and regulations for its government and procedure
10 consistent with the laws of the State of Oregon and with the
11 charter and ordinances of the City of Keizer. Before any
12 rules, amendments or deletions become effective, the commission
13 must submit them to the City Council for approval.

14 Section 3

15 ANNUAL REPORT TO COUNCIL

16 The commission shall on or before the first day of
17 October each year make and file with the City Council a report
18 of all transactions of the commission for the preceeding fiscal
19 year.

20 Section 4

21 POWERS AND DUTIES

22 Except as otherwise provided by the City Council,
23 the city planning commission may:

24 a. Recommend and make suggestions to the council
25 and to other public authorities concerning:

26 A. The laying out, widening, extending and locating

1 of public thoroughfares, parking of vehicles, relief of traffic
2 congestion;

3 B. Betterment of housing and sanitation conditions;

4 C. Establishment of district for limiting the use,
5 height, area, bulk and other characteristics of buildings and
6 structures related to land development;

7 D. Protection and assurance of access to incident
8 solar radiation; and

9 E. Protection and assurance of access to wind for
10 potential future electrical generation or mechanical application.

11 b. Recommend to the council and other public
12 authorities plans for regulating the future growth, development
13 and beautification of the city in respect to its public and
14 private buildings and works, streets, parks, grounds and vacant
15 lots, and plans consistent with future growth and development
16 of the city in order to secure to the city and its inhabitants
17 sanitation, proper service of public utilities, including
18 appropriate public incentives for overall energy conservation
19 and harbor, shipping and transportation facilities.

20 c. Recommend to the council and other public
21 authorities plans for promotion, development and regulation
22 of industrial and economic needs of the community in respect to
23 industrial pursuits.

24 d. Promote the advantage and opportunities
25 of the city and availability of real estate within the city
26 for development.

1 e. Encourage economic development within the
2 city.

3 f. Make economic surveys of present and potential
4 commercial and industrial needs of the city.

5 g. Study needs of local industries with a view to
6 strengthening and developing them and stabilizing employment
7 conditions.

8 h. Do and perform all other acts and things
9 necessary or proper to carry out the provisions of ORS 227.010
10 to 227.170, 227.175 and 227.180.

11 i. Study and propose such measures as are advisable
12 for promotion of the public interest, health, morals, safety,
13 comfort, convenience and welfare of the city and of the area
14 within six miles thereof, except where by law such powers and
15 duties devolve upon some other public body as to the area
16 outside the city.

17 j. For the purposes of this section:

18 (a) "Incident solar radiation" means solar energy
19 falling upon a given surface area.

20 (b) "Wind" means the natural movement of air at an
21 annual average speed measured at a height of 10 meters of at
22 least eight miles per hour.

23 Section 5

24 EMERGENCY

25 This ordinance being necessary for the immediate
26 preservation of the public health, safety and welfare, an

1 emergency is declared to exist and this ordinance shall take
2 effect immediately upon its passage.
3

4 Passed this _____ day of _____, 1983.

5 Signed this _____ day of _____, 1983.
6
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8 _____
Mayor

9 _____
City Recorder
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City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 8d

TO: MAYOR AND CITY COUNCIL

THROUGH: DONALD H. OTTERMAN M.S.P.A. *DHO*
CITY MANAGER

FROM: JOHN N. MORGAN, AICP *JNM*
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: APPROVAL OF PLANNING COMMISSION STATEMENT -
PLANNING FOR SCHOOLS

DISCUSSION:

The Keizer Planning Commission has been meeting with its peer commissions from Salem, Marion County, and Polk County on a regular basis since March. These meetings have proven to be dynamic, fruitful forums for discussing important planning issues of regional significance.

The first major issue the joint commissions have dealt with is planning for schools. The interest is prompted by the successful May levy for school construction. The Commissions have expressed concern that the District's school siting process is not comprehensive enough to consider many factors important to good community planning.

In response to this concern, the joint commissions have taken three actions. First was a meeting with school district officials and board members to discuss the planning issues. Second is a formal request that members of each commission be included on the citizen committee advising the School Board on siting. Third is the development of a "white paper" on school facility planning.

The paper, entitled "Planning for Schools" has been adopted by the individual commissions. It is being forwarded to each governing body both as a recommendation for specific action, and to get approval to formally pass it on to the School Board.

The paper has two major thrusts, the need to take a broad community development approach to the new school siting process, and the need to expand the District's involvement in the review process for new developments.

In the last few weeks, the other jurisdictions have approved the paper. With's the Keizer City Council's approval, it will be signed and presented to the School Board.

RECOMMENDATION

It is recommended the Council approve the "Planning for Schools" statement and authorize the Planning Commission to present it to the School Board.



**The Planning Commissions of the
Salem/Keizer Urban Area,
Meeting in Joint Session,
Jointly Adopt the Following Statement**

Planning for Schools

WE SHARE the joint goal of making this a better community.

WE RECOGNIZE that a successful community has many components blended and working together to create a supportive environment in which to live, work, play, and learn; and that we must focus our planning efforts on maintaining and improving each of these components.

WE ACKNOWLEDGE that we, in our roles as the planning commissions for our respective jurisdictions, focus on land use issues and on planning for the facilities provided by the cities and counties, including streets, sewer, water, storm drainage, and parks.

WE ARE CONCERNED that due to staff resource limitations and Salem/Keizer School Board policy, insufficient consideration has been devoted to planning for schools as a critical element in the function and quality of our neighborhoods.

WE BELIEVE that better coordination and joint planning activities between the local jurisdictions and the school district will enhance the community's comprehensive ability to improve its existing environment and develop more successful neighborhoods in the future, as well as lead to greater efficiency and effectiveness of local government.

THEREFORE, THE SALEM/KEIZER URBAN AREA PLANNING COMMISSIONS call upon our respective Councils and Boards of Commissioners, and on the Board of Salem/Keizer Public Schools, to jointly commit to greatly improved and expanded joint planning activities.

WE SPECIFICALLY RECOMMEND the following actions at this time:

- ❖ **Bring the planning staffs of each local jurisdiction directly into the planning process for new facilities authorized by the March 1992 bond issue. Their expertise and knowledge in land use patterns and public facilities and services will help guide the location process to the best long term decisions.**

- ❖ Include consultation with the Planning Commissions in the review and selection process for new school sites.
- ❖ Improve the level of information provided by the District during consideration of land use cases. The responses should be very specific in terms of analyzing the impacts of new school children, and in identifying strategies for correcting deficiencies.
- ❖ Establish better long term joint planning coordination, including population projections, locational analysis, transportation needs, and neighborhood development.
- ❖ Support additional funding and staff positions in the respective planning departments to implement the recommended actions.

Adopted this _____ day of _____, 1992

Chair, Salem Planning Commission

Chair, Polk County Planning Commission

Chair, Keizer Planning Commission

Chair, Marion County Planning Commission



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City of Keizer

Administration

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COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 9a

DATE: JULY 30, 1992

TO: MAYOR AND CITY COUNCIL

FROM: TRACY DAVIS, CITY RECORDER, PRO TEM *JD*

SUBJECT: AGENDA ITEM 9a - BID AWARD - LOCKHAVEN PHASE II

Bids for the Lockhaven Drive Widening - Phase II (Joan Drive to Windsor Island Road Section) will be opened on July 31, 1992 at 10:00 a.m. The material will be provided to you on Monday, August 3, 1992.



City of Keizer — Public Works Department

Phone: 390-3700 • 393-1608 • Fax # 390-8295

930 Chemawa Rd. N.E. • P.O. Box 21030 • Keizer, Oregon 97307-1030

COUNCIL MEETING: August 3, 1992

AGENDA ITEM NUMBER: 9a

TO: Hon. Mayor and City Council

FROM: *WM* William I. Peterson, City Engineer and
Wally Mull, Public Works Director

THROUGH: Donald H. Otterman M.S. PA, City Manager *DOH*

SUBJECT: Lockhaven Drive Widening - Phase 2
Contract Award Recommendation

ISSUE:

Shall the City Council award the Contract for the Widening of Lockhaven Drive from Joan Dr. to Windsor Island Rd. to the low bidder, Morse Bros., Inc. ? If awarded, the Council would thereby authorize the Mayor, City Recorder, and City Attorney to sign the contract between Morse Bros., Inc. and the City of Keizer which will begin the construction process.

BACKGROUND:

On July 31, 1992 the City received six (6) bids for the construction of this project. They are summarized below and a detailed tabulation will be available at or prior to Council's meeting this evening:

<u>Bidder</u>	<u>Amount</u>
Morse Bros., Inc.	\$ 340,644.50
Gelco Construction Co.	342,163.10
Salem Road and Driveway	365,368.19
Emery & Sons Construction, Inc.	372,621.12
D & D Paving, Inc.	381,482.36
Paul Brothers, Inc.	458,064.00

All bids have been checked and no errors were found. The bid received from Morse Bros., Inc.. was \$ 100,825.60 (23%) below the Engineer's estimate. It is the most favorable bid for the City and appears to be balanced.

_____"Pride, Spirit and Volunteerism"_____

FISCAL IMPACT:

The cost of the widening project will be paid for with \$ 400,000.00 in Federal Aid Urban (FAU) funds. An agreement between the State of Oregon and the City of Keizer allowing the transfer of these funds is being prepared. We expect to receive it today and will present it to Council for signatures at the meeting the evening or tomorrow August 4, 1992.

RECOMMENDATION:

The staff recommends that the Council AWARD the Contract to Morse Bros., Inc.. and authorize the Mayor, City Recorder, and City Attorney to sign the necessary contract documents which will allow the widening project to begin.

cc: Marion County, Dan Keeley
ODOT, Kevin Boyle



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: Aug. 3, 1992

AGENDA ITEM NUMBER: 9b

TO: MAYOR AND CITY COUNCIL

THROUGH: DONALD H. OTTERMAN M.S.P.A. *DHO*
CITY MANAGER

FROM: JOHN N. MORGAN, AICP *JN*
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: URBAN RENEWAL DISTRICT ANNUAL FINANCIAL REPORT

ORS 457.460 requires that an agency shall prepare an annual financial report for the governing body and general public. This report is to be forwarded to the governing body of the municipality, and notice published that the statement has been prepared and is on file. The information given in the following sections complies with the reporting requirements of ORS 457.460. This information comprises the 1992 annual financial report for the Keizer Urban Renewal Agency.

1. The amount of money received during the preceding fiscal year:

Tax Increment Funds	\$59394.52
Interest Income	\$1319.07
TOTAL	\$60,713.59

2. The purpose and amount of money expended during the preceding fiscal year:

Capital Improvements	\$49.00
Personal Services	\$0.00
Materials and Services	\$19,248.53
Transfer to General Fund	\$9,148.00
TOTAL	\$28,445.53



City Council
August 3, 1992

3. The amount of money estimated to be received during Fiscal Year 1992-1993:

Tax Increment Revenue	\$600,000.00
Tax Increment Bond Sale	\$3,500,000.00
Other (Interest Income)	\$172,872.00
TOTAL	4,272,872.00

4. A budget setting forth the purposes and estimated amount for which moneys received will be expended during the current fiscal year:

Capital Improvements	\$2,320,000.00
Personal Services	\$23,679.00
Materials and Services	\$91,000.00
Debt Service	\$264,679.00
TOTAL	2,699,358.00

5. An analysis of the impact of carrying out the renewal plan on the tax rate for the preceding year.

Since 1991, property tax statements have shown the amount of property tax required to raise tax increment revenues for urban renewal agencies. Property tax payers in the City of Keizer therefore now receive direct notice of the tax rate impact of urban renewal activities. The property tax rate required to raise the tax increment revenues during fiscal year 1991-1992, as noted in item 1 above, was approximately twelve cents per thousand of assessed valuation.

RECOMMENDATION:

For information only.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R92-_____

THE MEADOWS PHASE 5 STREET LIGHTING DISTRICT

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

Section 1. That the City Council hereby finds the preliminary plans, an estimate of probable costs contained in the City Engineer's report for The Meadows Phase 5 Street Lighting District which was filed with the City Recorder on July 29, 1992 to be satisfactory, and the same are hereby approved and adopted.

Section 2. That the City Council hereby declares its intention to make the lighting district improvements to serve The Meadows Phase 5 and hereby declares that the improvements to be made shall consist of 10 (ten) 100 Watt high pressure Sodium luminaries mounted on 8 foot long mast arms and attached to 25 foot aluminum poles within the district, all in accordance with the aforesaid preliminary plans with the initial cost of installation to be borne by Portland General Electric and the operational and electrical power costs estimated at \$2156.22 the first year and \$1960.20 in subsequent years to be assessed against the properties benefitting from the improvements.

Section 3. That the City Council hereby directs the City Recorder to give notice of intention to make the improvements by publication once each week for two (2) successive weeks in a newspaper of general circulation in the City of Keizer stating a public hearing will be held on September 8, 1992, said notice to

1 also provide that information required under City of Keizer
2 Ordinance 87-094, an ordinance providing for procedures for
3 municipal lighting districts and special assessments.

4 Section 4. That the City Council hereby directs the City
5 Recorder to mail notice of the proposed assessments to each owner
6 in the local improvement district with notice that any objections
7 to the Engineer's Report and the proposed assessment will be
8 considered by the City Council at the aforesaid September 8, 1992
9 public hearing.

10 Section 5. That the City Council may abandon the proceedings
11 for the lighting district improvements if sufficient property owner
12 support for the local improvement district does not materialize.

13 Section 6. If any section, subsection, sentence, clause or
14 phrase of this resolution is for any reason held to be invalid or
15 unconstitutional by the decision of any court of competent
16 jurisdiction, such decision shall not affect the validity of the
17 remaining portions of the resolution. The City Council hereby
18 declares that it would have passed this resolution and each
19 section, subsection, sentence, clause or phrase thereof
20 irrespective of the fact that any one or more sections,
21 subsections, sentences, clauses or phrases be declared invalid or
22 unconstitutional.

23 PASSED this _____ day of _____, 1992.

24 SIGNED this _____ day of _____, 1992.

25 _____
26
27 Mayor

28 _____
29
30 City Recorder

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R92-_____

TIMBERVIEW PHASE 3 STREET LIGHTING DISTRICT

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

Section 1. That the City Council hereby finds the preliminary plans, an estimate of probable costs contained in the City Engineer's report for Timberview Phase 3 Street Lighting District which was filed with the City Recorder on July 29, 1992 to be satisfactory, and the same are hereby approved and adopted.

Section 2. That the City Council hereby declares its intention to make the lighting district improvements to serve Timberview Phase 3 and hereby declares that the improvements to be made shall consist of 8 (eight) 100 Watt high pressure Sodium luminaries mounted on 8 foot long mast arms and attached to 25 foot aluminum poles within the district, all in accordance with the aforesaid preliminary plans with the initial cost of installation to be borne by Portland General Electric and the operational and electrical power costs estimated at \$2069.97 the first year and \$1881.79 in subsequent years to be assessed against the properties benefitting from the improvements.

Section 3. That the City Council hereby directs the City Recorder to give notice of intention to make the improvements by publication once each week for two (2) successive weeks in a newspaper of general circulation in the City of Keizer stating a public hearing will be held on September 8, 1992, said notice to

1 also provide that information required under City of Keizer
2 Ordinance 87-094, an ordinance providing for procedures for
3 municipal lighting districts and special assessments.

4 Section 4. That the City Council hereby directs the City
5 Recorder to mail notice of the proposed assessments to each owner
6 in the local improvement district with notice that any objections
7 to the Engineer's Report and the proposed assessment will be
8 considered by the City Council at the aforesaid September 8, 1992
9 public hearing.

10 Section 5. That the City Council may abandon the proceedings
11 for the lighting district improvements if sufficient property owner
12 support for the local improvement district does not materialize.

13 Section 6. If any section, subsection, sentence, clause or
14 phrase of this resolution is for any reason held to be invalid or
15 unconstitutional by the decision of any court of competent
16 jurisdiction, such decision shall not affect the validity of the
17 remaining portions of the resolution. The City Council hereby
18 declares that it would have passed this resolution and each
19 section, subsection, sentence, clause or phrase thereof
20 irrespective of the fact that any one or more sections,
21 subsections, sentences, clauses or phrases be declared invalid or
22 unconstitutional.

23 PASSED this _____ day of _____, 1992.

24 SIGNED this _____ day of _____, 1992.

25
26
27 _____
28 Mayor

29
30 _____
City Recorder

MINUTES

KEIZER CITY COUNCIL
Monday, July 20, 1992
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular meeting to order at 7:30 p.m. Roll call was taken as follows:

Present

Andrew J. Orcutt, Mayor
Mike Hart, Councilor
Dennis Koho, Councilor
Jerry McGee, Councilor
Al Miller, Councilor
Bob Newton, Councilor
Joe Van Meter, Councilor

Staff

Donald H. Otterman, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
John Lien, City Attorney
Shannon Johnson, City Attorney
Linda Sanders, Recording Secretary

PUBLIC TESTIMONY

Giving testimony was:

Harry Ryder, 663 Linda Avenue, Keizer, Oregon 97303. Mr. Ryder stated he had two areas of concern relating to Item No. 7 on the agenda, Zone Change Case 92-1. He was concerned about the definition of an aesthetic and acoustical barrier on the north of the property located at Linda Avenue and River Road. He wanted to be sure the decision would reflect the impression the Linda Avenue residents got from the Council regarding what would be placed there and not a short fence. The residents are agreeable to assist in this decision.

Mr. Ryder's second area of concern related to unwarranted traffic down Linda Avenue. He did not feel a dead end sign would be effective. His suggestion was an island type of barrier that could be located just east of the property near the truck fence area. This barrier or turning island would give drivers a chance to correct their direction before they got down the street. He said Linda Avenue residents were willing to make contributions toward this and were willing to help. He felt it could be effective and pleasing in appearance, perhaps with landscaping.

Al Davie, planter of the new American Legion Post in Keizer. He stated he came from the Post in Keizer which numbered approximately 100 members. He showed the Council pictures of a possible monument to be erected to honor Veterans. His

discussions with the business community had been positive and he said the monument including the flag pole would cost about \$9,000. The cost will be born by the American Legion. The flag pole would be the Keizer City Flag Pole. He said they would like to erect the monument and pole on City property and at Cherry and River Road, if the property would be available.

In answer to questions by Councilor McGee, Mr. Davie related that the names on the monument could be anyone who has served their country, without rank or organization, who has applied and paid the fee needed to cover the etching on the stone. Mayor Orcutt suggested the location of the monument and flag pole be referred to the Parks Committee. Councilor Koho said that he would like to see the location more visible than the possibility mentioned of behind City Hall. Councilor Van Meter suggested Mr. Davie attend the Parks Committee meeting on July 28th. Mr. Morgan noted that the River Road Redevelopment Board had heard the presentation in their last meeting and they directed the staff to work on a location on River Road.

COMMITTEE REPORTS

Charter Review Committee

Mr. Otterman stated the Charter Review Committee was established last year and asked to review the existing City Charter to make suggested changes. The Committee has met twice a month for the past few months. They have also reviewed other City Charters and the Model Charter. The committee has spent a lot of time working on this and Mr. Otterman noted that the work done is good and concise. Chet Patterson, Chair of the Committee, will give the Committee's report tonight and if there are suggestions the committee could work on those. If there is direction to the Committee, they could do that and return the document for a Public Hearing on August 17th. This would allow the amendments to be placed on the ballot for the November 3rd election.

Mr. Patterson formally thanked the Committee members, Chalmer L. Jones, Maur Horton, David Moomaw and Mollie A. Smith. Mr. Patterson stated that the proposed revisions were meant to be brief and are restricted to generalities. The Committee worked to keep functions out of the Charter. The real protection for the citizens comes from the initiative and the referendum process. He felt the Charter needs to remain brief.

The Charter does not contain provisions on a number of subjects which would better be covered by ordinance or resolution. Some examples of those were making local improvements, levying and collecting special assessments and rules and procedures for the Council.

The present Charter was created in 1983 and has been amended once. It has 43 sections and they were all discussed by the Committee. He proposed discussing the major recommendations.

One of the changes presented by the report was to revise sections of the Charter that did not use gender neutral language. The report also recommended the removal of the City Recorder as a charter-appointed officer. With that recommendation, Mr. Patterson listed the specific sections where there would have to be changes. In Section 3, the Committee proposed the change to a Custodian of Records which could be selected by ordinance. The receiving of petitions for City offices could be described by an ordinance. The signing of ordinances would need to be assigned to someone through an ordinance.

The Committee proposed the adoption of the language of the Model Charter in several instances which would actually create no change in the meaning or intent of the present Charter, i.e. Section 3, Section 5, Section 6, etc. Mr. Patterson reported the work of the Committee resulted in recommendation for retaining the at-large system for electing councilors. They did not feel the city is large enough for the ward system, although that might be needed in the future.

Another recommendation from the Committee was to change the number of votes required to remove the City Manager from office to 5. The Committee also thought the time allowed for replacement in the case of a vacancy of the City Manager should be increased from 4 to 6 months recognizing that time is needed for the interview process and for the newly-hired city manager to leave their previous position.

The Committee recommended that the bid process be revised to provide for bids to be governed by ordinance. The present \$1000 limit puts a burden on the City for small needs when a more informal process could work. Lastly, the Committee recommended the addition of language regarding removing a councilor from office for interference in the administrative process of the city. Mr. Patterson also noted minor changes were included.

Councilor Koho thanked the Committee for their hard work and asked whether thought had been given to the actual writing of the ordinances. Mr. Patterson said the question had come during the Committee's meetings and they would be available for some of that work if it was requested of them. They were not sure where the Council wanted them to head but would be able to help. Councilor McGee asked if any consideration had been given to the idea of a primary. Mr. Patterson said that it had been discussed very briefly and little excitement was generated basically due to the cost. Councilor Newton praised the report and asked if there were any other items that were dismissed summarily. Mr. Patterson did not think of anything at the time. Mayor Orcutt thanked Mr. Patterson and the Committee for the work they had done. Councilor Hart noted he found the report extremely easy to read and he appreciated the work done by the Committee.

PUBLIC HEARINGS

Sewer Plan Amendment

The Mayor reopened the Public Hearing.

Mr. Mull apologized for the lateness of the delivery of the reports. He stated that Bill Peterson, City Engineer, would be giving the presentation on the update of the Sewer Master Plan which includes the Clear Lake Section. That section runs from River Road and Wheatland and runs to Clear Lake and to take in the Urban Growth Boundary.

Mr. Peterson gave a brief history and overview of the present situation. In 1983, the Marion County Commissioners wanted to see how the Sewer District expansion could occur and the City entered in agreement to do a plan. Areas of growth were identified to the North, East and West. The study identified a need to discover a cost to charge developers. The study included an analysis of pipe sizes required based on the information given by the City of Salem. Salem owns the major sewer interceptor that runs through Keizer to Willow Lake Treatment Plant and there are probably 35 connector points in Keizer.

The study was completed and an assessment of \$1,500 per acre was to be charged by the City to developers. The first element was developed when McNary Estates went in and they signed on to a Local Improvement District for 150 acres. A 36" sewer trunk was built from north of Staats Lake which runs up to the old McNary pump Station. Staats also participated in the cost using the same formula. The Pump station was removed and additional developments have occurred. Mr. Peterson said the City of Salem became concerned regarding the capacity. A new agreement between the City of Keizer and the City of Salem was entered into. The new agreement called for a new Master Plan Update, requested by Salem, and Mr. Peterson's firm was hired three years ago to do the work.

Mr. Peterson said his firm was to look at growth areas and develop data about existing basins which might be causing problems in infiltrating and inflow. He explained the coding of the map that resulted from taking the data and inserting it into a particular computer program as used by the City of Salem. This would result in a model for the north area of the city. The City of Salem also requested different numbers be used on infiltrating and inflow allowances than used in the original report. He pointed out the result on the map.

Mr. Peterson stated that overall costs have increased over the years. The plan suggests a cost estimate of \$2,066 per acre for the residential area called the Clear Lake area. That amount is a result of 2 numbers. The Chemawa Activity Center which is commercial and industrial and the flows from that would run through the Upper Labish trunk. The cost of the pipe size there would be shared by the property in Clearlake area. The lines to the north would only be shared by the developers.

The reason for the creation of Basin 36 is the development that is happening in that area thus reaching sewer capacity. The City of Salem requested the firm look specifically at this area. The past 3 years of lower than average rainfall has left estimates regarding the work in Keizer's basins lacking.

Mr. Peterson stated the report on Basin 36 included line sizes to serve the area and the estimate of the cost to do those improvements. There is a situation where one of the developers in the Meadows Subdivision has an agreement to put in a pump station and then have a connector to the existing interceptor. This was analyzed in the report. If the City agrees to put a station that would take in that area and the Chemawa Activity Center, the overall costs would be more but the benefit would be greater and the developer might help on the costs. The developer is interested in knowing what is going to happen so he can get going, either cooperating or doing his own work.

In answers to questions by Councilor Hart, Mr. Peterson said that the existing sewer on Wheatland road varies from 8 to 10 inches. He said the line on River Road has capacity but no grade. The plan is asking to delete the areas that had previously been looked at and coming straight south. The purpose of that line would be to pick up the pump station which was a deliberate decision by the City Council. A pump station was put where there would be a sewer interceptor.

Councilor McGee asked about the gravity flow line replacing the pump station. Mr. Peterson said that on the original master plan a gravity line was shown. The City of Salem would like to have a gravity line because less upkeep would be required than for a

pump station. Councilor McGee also asked if some of the line goes outside the City boundary. Mr. Peterson stated that it does and it is more sensible to build in a straight line. The lines have proven to be compatible with farm land and the City of Salem has lots of lines outside the limits to carry water. Mr. Morgan explained that hookups would not be allowed. The land is zoned farm use and the only cost would be the easement.

Mayor Orcutt questioned when this line could go in, so the developer would not have to put in a pump station. Mr. Peterson said it would take several months to acquire an easement although he didn't think there are any objections. He thought it could be under construction by next spring and a pump station probably would take longer than that to put in.

Mayor Orcutt asked if there has been money set aside. Mr. Peterson said the usual action is to get the plan approved and then assemble the money. They have about \$150,000 already and there was probably enough land up there. Mr. Mull suggested that the Council might continue the Public Hearing until the 3rd and they would come up with a plan for the funds.

Councilor Miller asked about the possibility of creating a process, if there is not one, to streamline getting the easements. Mr. Mull stated there hasn't been one in the past but he thought that is something that the City could or should do. Councilor Miller asked for a proposal at the August 3rd meeting. Mr. Otterman stated they would talk to the City Attorney, John Lien and have the process ready for the Council.

Councilor McGee said he would like to see a procedure to determine the policy that it is in the best interest for a line to go a certain place so that the City Staff could move ahead, if the line was approved, without having to return to the Council several times. Mr. Mull stated they would work with City Legal Counsel.

Councilor Van Meter noted that the letter from the City of Salem supported the gravity sewer approach strongly while the developer wanted to have a pump. Mr. Peterson stated he thought the developer would work with the City. Their goal was to get the line done. As soon as the plan is adopted there should be enough flexibility to make progress in discussions with some of the key City staff in Salem.

Mayor Orcutt stated that the Public Hearing will be held over until August 3rd.

Variance 92-3/ Ackerley

Mayor Orcutt opened the Public Hearing. Mr. Johnson, City Attorney gave the staff report. He introduced a draft of the settlement agreement resulting in Ackerley Communications removing the variance request. Mr. Johnson noted the main points of the settlement required the company to pay \$500.00 to the City, provide 10 complimentary advertising faces for use by the City, reduce the height of the existing sign and make all other signs on the location conform to the Sign Code.

Councilor Newton said he did not agree with the complimentary advertising. He did not believe it is appropriate in the settlement and thought the dispute resolution should end the matter. Mr. Johnson said the idea was not necessarily for the City to use the faces but other organizations within the City, i.e. Iris Festival, Little League, etc. Mayor Orcutt commented that he thought when this was brought to the Council that the City

wouldn't have need or want for that space but somebody else in the Keizer might and it could be donated.

Councilor McGee recalled that a condition was not requested but offered. He was concerned that if the Council supported the use of the signs it would be supporting sizes that they have opposed in the past. He would like the City not to be a part of it at all. Councilor Koho agreed and did not want to have to explain how the City had money to apply the sign faces. Councilor Miller also pointed out that the Council had passed a sign code that would hopefully eliminate those signs and by including it as a part of the agreement the Council would be moving against the Sign Code. Councilor Newton believed the spirit of the offer was genuine but the Council should stay away from that sort of arrangement.

Councilor Koho made a motion to dismiss the Variance request and permit Mayor Orcutt to sign the negotiated agreement with Ackerley Communications once it is drafted by legal counsel removing all conditions related to the free donated space. The motion was seconded by Councilor Hart.

The motion carried unanimously and the votes were:

AYES: Hart, Newton, Van Meter, Orcutt, Koho, Miller, McGee (7)

NAYS: None

ABSTENTIONS: None

ABSENT: None

ORDINANCE 92-1 Pizza Hut

Mr. Morgan stated the proposed ordinance is in the packet. He commented on the motion regarding a sound and visual barrier, stating the City staff would work with the applicant although broad authority is given but no actual guidance. He thought the Council might want to nail it down or the staff could work on it. He said the staff had also been working on how to deal with the traffic at River Road intersections of Maine and Linda since they are unique. The idea of the traffic circle mentioned earlier in the meeting is one possibility. Mr. Morgan said the specific issue will be taken back to the River Road Redevelopment Board for discussion regarding those two streets.

Councilor Hart said on the north side, he did not believe the Council said how high the barrier should be in the motion but 6 feet was discussed. He thought it should be a sound buffer and aesthetic. Councilor Miller asked about the height of the wall on the east side. There was uncertainty whether the wall was 6 or 8 feet high.

Councilor Miller noted he did not have a problem with a minimum being put in the ordinance but the goal of the condition in the motion was to make the barrier effective. Mr. Morgan stated that it is possible a zoning ordinance would be violated by a structure taller than 30 inches adjacent to the street. He said there was the possibility of a 30 inch high solid wall with some substantial landscaping. Councilor Miller asked if there was a way to get around the ordinance and Mr. Morgan answered that a variance would be required.

Councilor Koho asked about the wording in the Exhibit E, questioning whether there could be some sort of wall all the way to River Road. Mr. Johnson, City Attorney noted that the Exhibit said subject to the vision clearance requirements of Chapter 17. With

those requirements, there would not be a buffer from the service entrance to River Road. The code deals with walls running adjacent to the street. There could be an aesthetic barrier but Mr. Johnson thought that would have to be set back farther than would be practical. Councilor Koho stated he did not want to be surprised after the building is done. He thought there would be some substantial vegetation for vision when he voted for the motion.

Councilor McGee said that Councilor Koho's points were well taken. A sound barrier would be difficult since sound will come out of any restaurant parking lot. His concern from the beginning has been aesthetics to shield the lights or the cars rather than sound. A sound barrier would be very impractical since it would have to be an 8 foot solid wall. He had in mind a nice hedge which would shield aesthetically. Councilor Miller said he had envisioned that the driveway on the corner of Linda Avenue, would be gated with a solid gate. A 10-foot gap beside the gate was not what he had thought. He envisioned the sound wall on the east side, the gated driveway with a solid gate and then a buffer up to 30 feet from River Road. He thought the present plan did away with the whole intent.

Mr. Morgan read the code saying that within 10 feet of the front property line no fence, wall or hedge should be taller than 24 inches on any yard adjacent to the street. He said the code does not allow a solid wall of any kind running parallel to the street. Councilor Miller asked if it could be remedied. Mr. Morgan said a variance procedure for this particular instance may be justified.

Mr. Morgan stated a variance would be required if the barrier is 10 feet from the property line and more than 25% opaque. Setting a wall back to fit in the code would probably make it so far into the property that the property would not be usable. Councilor Miller stated he was not in favor of the motion if this area could not be worked out. Councilor McGee noted that it was interesting that even though the Council had worked hard on this before, all the time he did not see the gate as being solid. He recommended that the Ordinance be passed and the staff come back with a plan. Mayor Orcutt was opposed to having the Council choose what is aesthetically pleasing and having the Ordinance come back again and again to the Council. He felt the ordinance should be decided tonight.

Councilor Koho asked whether if this Ordinance were passed in the present form tonight and within a month there was a variance procedure allowing a hedge, the developer could rely upon today's code. Mr. Johnson answered yes. The variance would not make the developer change plans unless it was a condition of the approval. Mr. Johnson suggested that in Exhibit E, (3) d, the words "approved by the Community Development Department" be inserted. He suggested that Councilors with specific concerns could go to Mr. Morgan. This would allow the site plan to be submitted to the department for approval. He was concerned about the Council initiating variances for their own Code, especially ones which might be safety oriented. Mayor Orcutt also noted that a variance could start the whole process over with Public Hearings and appeals. Mr. Johnson hoped the addition of the words in the Exhibit would allow for Councilors to work with Mr. Morgan and the Community Development Department could work with the developers.

Councilor Koho said that 2 feet did not do what he had wanted but he didn't know if the Community Development Department could require something that isn't in the

ordinance. Mr. Johnson said that was a legitimate concern and he usually tried to avoid discretionary acts by the Staff, but that any time there is talk about screens or hedges adjacent to the street, problems with the Code arise. He could not think of another way to deal with it unless the Council wanted to reject the Zone Change or vote to amend with other words. It would not be appropriate to make a condition that would require a variance. Councilor Hart noted that at present there is not a Pizza Hut but a vote on a Zone Change and there may be some other restaurant in the future. This would result in a different site plan and he supported Mr. Johnson's addition.

A motion was made by Councilor Hart that a Bill for an Ordinance in the matter of the application of Richard Beck, Phyllis J. Nelson, J. Larry Fugate and Fugate Enterprise for a Zone Change from Commercial Office to Commercial Retail on .53 acres of property located at 4710 River Road North and 524 Linda Avenue NE, Keizer Oregon, be amended Exhibit E,(3) D to include Sound and Aesthetic Buffer as approved by the Community Development Department. Councilor McGee seconded the motion.

Councilor Miller asked whether the work would have to be done by variance when the site plan came in. Mr. Morgan said he felt comfortable with the discretionary authority and cited the two instances of State Farm and the Chevron Station where the Council granted authority to staff. The staff went toe to toe with developers in both cases and prevailed. He said they would probably work to create a significant visual break with staggered trees and other landscaping. He thought the sound could be muffled, too although a wall could not be built. He said he would gladly accept the challenge with the understanding a wall could not be put there.

Councilor Koho asked whether greenery fell under the code. Mr. Morgan said the code said fence, wall or hedge so as long as it is not solid, they are alright.

Mr. Ryder, formerly speaking during Public Testimony, asked the Council if the residents of Linda Avenue were losing all their hard earned fight with only a staggered tree or so. Mayor Orcutt explained a wall could not be along the street. He encouraged the Council to make an extra effort and get a variance passed which would allow for the wall since the residents were expecting it.

The motion passed with the following voting:

AYES: Hart, Van Meter, Orcutt, Koho, Miller, McGee (6)

NAYS: Newton (1)

ABSTENTIONS: None

ABSENT: None

Mayor Orcutt stated it would be back for a second reading on August 3rd.

Mayor Orcutt announced a brief recess.

The meeting was called back to order at 9:20 p.m.

DISCUSSION Extension of City Layoff Notices

Mr. Otterman stated that the City gave layoff notices to 5 employees in the Keizer Police Department and 2 in City Hall. On June 30th, the notices were extended. He said the

discussion related to whether the notices should be extended past August 3. As an update, he noted that 1 of the police officer who was more senior resigned due to a spouse's job transfer so 1 officer with a lay off notice will be moved to her position. In the City Hall, the part-time clerk was temporarily appointed as Pro-Tem City Clerk.

Mr. Otterman gave the Council a summary of keeping the personnel on the payroll. He recommended that if the Council is going for a status quo budget, that the employees be kept on until after the election. The funds from the changes would be adequate until the end of September at which time he recommended layoffs be scheduled. In answer to a question by Councilor McGee, Mr. Otterman said the \$13,370 amount is the monthly total of funds needed to keep the employees on and this would be required for both August and September.

Mr. Otterman said that the notices could be extended to a specific date so they wouldn't have to be reissued. The City Attorney had said that would be in compliance.

Councilor Koho moved that the layoff notices be extended until September 20, 1992.
Councilor Van Meter seconded the motion.

Councilor McGee asked why the notices might not be dated the 16th since the levy results would be known on the 15th. Mr. Otterman said that could happen but the original notices were set at the end of a payroll period and on the shift change of the Police Department to make coverage easier. Councilor Koho did not think the 16th would be realistic since some officers would be going to work early in the morning. Councilor Hart noted that he felt Mr. Otterman was comfortable with the availability of funds until the 30th and he probably would have made a motion to extend until then. Councilor Newton thought 5 days is a reasonable time. Councilor McGee said he could live with the date since services would be rendered. He did note that he was not sure everyone felt comfortable with the transfer and he did not feel it was appropriate.

The motion carried unanimously:

AYES: Hart, Newton, Van Meter, Orcutt, Koho, Miller, McGee (7)

NAYS: None

ABSTENTIONS: None

ABSENT: None

Proposed Charter Amendments

Councilor Koho stated he would like to set a Public Hearing as soon as possible since there were a lot of issues for discussion, and hold off discussion in this meeting. Mr. Otterman said a hearing could be set for August 3, 1992 with deliberation on August 17.

Periodic Review Status Report

Mr. Morgan noted that Marion County had asked for a meeting to discuss the issues that had been previously rejected by the City Council. He asked for direction whether to do this. Secondly, procedurally all four jurisdictions adopt at the same time. Within the next month or two the document should be back for another hearing and adoption.

Mayor Orcutt asked that a meeting be set up with Marion County in Keizer to discuss the points. Mayor Orcutt, Councilor Newton, and Councilor Hart had served as Council

RESOLUTION
Viacom Cable
Extension

Representatives in the past.

Mr. Otterman reported that the Viacom Cable Franchise Agreement expires on August 19, 1992. He shared the history of the agreement made in 1990. The Joint Government Committee on Cable Television refused to represent the City at that time because they were not members of the PEG access cable communication system. Mr. Otterman reported he had monitored the progress of the Committee and recommended that whatever came out with Marion County and Salem should be recommended for Keizer. He felt the Joint Government Committee could do a better job and asked the Council to consider again asking for Keizer to be included in the negotiations.

Mr. Otterman stated he had had conversations with Marion County who has also extended their agreement to January 1994. He would like to join with them to work out a franchise agreement for both cities and the County. With the Council's agreement, he said the City staff would work with them and he recommended the franchise agreement be extended to January 20, 1994.

Councilor Koho moved that the City Council approve the Resolution extending the franchise agreement to January 20, 1994 and that the City once again approach the Joint Government Committee on Cable Television for the purpose of requesting that they represent the City in further negotiations. Councilor Hart seconded the motion.

The motion carried unanimously with the following votes:

AYES: Hart, Newton, Van Meter, Orcutt, Koho, Miller, McGee (7)

NAYS: None

ABSTENTIONS: None

ABSENT: None

CONSENT CALENDAR

- 1992-93 Resurfacing of Street Bid Award
- May 26, 1992 Special Session Minutes
- June 15, 1992 Regular Session Minutes
- July 6, 1992 Regular Session Minutes
- Lockhaven Agency Fund Exchange Agreement
- RESOLUTION - Adopting the Urban Renewal Agency Budget
- RESOLUTION - Making Appropriations for the Keizer Urban Renewal Agency
- RESOLUTION - Amending Resolution R92-569 and Making Appropriations
- RESOLUTION - Amending June 30, 1992 Minute Motion Adopting City Budget

Councilor Hart moved the approval of the Consent Calendar. Councilor Koho seconded the motion.

Councilor McGee asked that f and g be removed from the calendar.

The motion passed unanimously with the votes:

AYES: Hart, Newton, Van Meter, Orcutt, Koho, Miller, McGee (7)

NAYS: None

ABSTENTIONS: None

ABSENT: None

Councilor McGee asked if the budget for the Urban Renewal Agency was supposed to be complete and whether it assumed that the bond would be issued. Mr. Morgan stated the budget was in the least complete state possible and the purpose is to pass a minimum budget that can be given to the County.

Councilor McGee moved that items f and g on the Consent Calendar be approved. Councilor Koho seconded the motion.

The motion carried unanimously:

AYES: Hart, Newton, Van Meter, Orcutt, Koho, Miller, McGee (7)

NAYS: None

ABSTENTIONS: None

ABSENT: None

OTHER BUSINESS

Mr. Otterman stated that a Budget Committee meeting has been scheduled for July 27th at 7:00 p.m. The Budget document was completed and should be delivered tomorrow.

Councilor Hart asked about the newspaper article saying the Oregon Water Resource Committee was going to be asking for plans to cut water use. Mr. Mull said they had done a preliminary plan last year and until the final results of the request was seen, he did not know if the plan was in compliance. Councilor Hart asked if the situation is such that the Council can report back that the City doesn't have to cut water. Mr. Mull said until he saw the report he would not know, but that would be his recommendation.

Councilor Van Meter said the recent report received regarding Police Activity during 1991 was an exceptional report. He hoped copies would be available for civic groups and felt it was the clearest report he had seen from the Police Department.

Councilor Newton reported to the Council that he had received a phone call regarding a citizen's extreme displeasure about the 3rd levy and he wanted to let the other council members know.

Mr. Otterman reported that Bob Simon had had an accident where he fell and broke his arm. He is recuperating at his son's home and the City will be sending a card and possibly some flowers. He said he would get the address for the Council members.

WRITTEN COMMUNICATIONS

There were no written communications to come before the council.

AGENDA INPUT

Mr. Otterman said the method for filling Planning Commission vacancies would be on the agenda. There will be three vacancies at the end of September and all the present members will be filing for reappointment. The question is whether the Volunteer Coordinating Committee should be used or other methods. There will also be the 2nd reading of the Zone Change 92/1 and the Public Hearing for the Charter Review Report.

ADJOURNMENT

The meeting was recessed at 9:45 p.m. to reconvene in Executive Session at 9:46 p.m.

Linda S. Sanders,
Recording Secretary

APPROVED:

MAYOR



City of Keizer

Administration

930 Chemawa Rd. N.E. • P.O. Box 21000

Keizer, Oregon 97307-1000 • (503) 390-3700 • Fax # 390-8295

COUNCIL MEETING: August 3, 1992

AGENDA ITEM NO.: 14a

DATE: JULY 30, 1992

TO: MAYOR AND CITY COUNCIL

FROM: TRACY DAVIS, CITY RECORDER, PRO TEM

SUBJECT: AGENDA ITEM 14a, EXECUTIVE SESSION ORS 192.660 (1)(e) -
NEGOTIATION OF REAL PROPERTY TRANSACTION

Agenda Item Number 14a is not included in this agenda package. However, the material will be provided to you on or before Monday, August 3, 1992.