

# CITY COUNCIL AGENDA PACKET

MONDAY, August 2<sup>nd</sup>, 1999

## ● 7:00 P.M. CITY COUNCIL MEETING

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

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

**A G E N D A**  
**KEIZER CITY COUNCIL**  
**Monday, August 2, 1999**  
**7:00 p.m.**

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

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PUBLIC TESTIMONY**

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

**4. COMMITTEE REPORTS**

- a. Swearing In of Keizer Police Officer – Jeremie B. Fletcher

**5. OTHER BUSINESS**

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

- a. New Business
- b. Old Business
  - Update on Noxious Weed Complaint – Jack Richards

**6. PUBLIC HEARINGS**

- a. Amendment to Subdivision/PUD/Variance Case No. 96-04 (Wittenberg)

**7. ADMINISTRATIVE ACTION**

- a. ORDER - Appeal of Hearings Officer Decision – Case No. 99-17 (Viesko Quality Concrete Haul Road)
- b. ORDINANCE – Prohibiting Truancy
- c. ORDINANCE – Specifying Hours of Curfew for Minors
- d. RESOLUTION – Authorize City Manager to Award Bid for Cummings Lane Improvements

8. CONSENT CALENDAR

- a. RESOLUTION – Initiate The Vineyards Street Lighting District
- b. RESOLUTION – Authorizing City Manager to Award Bid for Cherry Avenue Improvements
- c. RESOLUTION – Authorizing City Manager to Sign Agreement for Wheatland Link Storm Drain Reimbursement.
- d. Approval of July 19, 1999 Regular Session Minutes

9. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications and petitions.

10. AGENDA INPUT

August 9, 1999

- 5:30 p.m. City Council Work Session
  - Annual City of Keizer Parks Tour

August 16, 1999

- 7:00 p.m. City Council Meeting
  - Certification of Street Lighting District Assessments
  - Certification of Delinquent Sewer Accounts

August 18, 1999 (Wednesday) – Work Session

- 5:30 p.m. City Council/Keizer Urban Renewal Board/Planning Commission
  - Prudential Real Estate Presentation – Chemawa Activity Center

August 25, 1999 (Wednesday) – Work Session

- 5:30 p.m. City Council/Keizer Urban Renewal Board/Planning Commission
  - Urban Renewal Strategic Plan

September 7, 1999 (Tuesday)

- 7:00 p.m. City Council Meeting

11. ADJOURN

|                                                                                                                                                                                                                   |
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| Upon request, auxiliary aids and/or special services will be provided. To request services, please contact us at 390-3700 or through Oregon Relay 1-800-735-2900 at least two working days (48 hours) in advance. |
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August 2, 1999

# **AGENDA ITEM 4a**

SWEARING IN OF KEIZER POLICE OFFICER

CITY COUNCIL MEETING OF AUGUST 2, 1999

AGENDA ITEM NO. \_\_\_\_\_

TO: Mayor and City Council

FROM: H. Marc Adams, Chief of Police

SUBJECT: **SWEARING IN OF POLICE OFFICER**

Effective today, JEREMIE B. FLETCHER is being sworn in as the newest Keizer Police Officer. He was originally appointed as one of our Reserve Officers on May 31, 1996 until being hired full-time as a Community Service Officer on February 9, 1998. He has also had prior experience as a loss prevention/security officer. Jeremie is married and lives in Keizer.

We welcome Officer Fletcher to our team and wish him much professional and personal success in his law enforcement career.

cp



August 2, 1999

# **AGENDA ITEM 5a & b**

OTHER BUSINESS



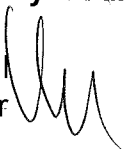
# CITY OF KEIZER

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## MEMORANDUM

**DATE:** 29 July 1999

**TO:** Mayor and City Council

**FROM:** Wally G. Mull  
City Manager 

**SUBJECT:** Public Testimony (Jack Richards)

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Mr. Jack Richards, 6010 Windsor Isl. Rd, testified regarding noxious weeds growing on adjacent property. We contacted the owner of the property zoned (AI) and they did mow a strip around the property. However I don't believe that is satisfactory to Mr. Richards.

Our noxious weed ordinance does not have a provision for noxious weeds in the AI or EFU zones. The noxious weed ordinance is currently being revised and we will be addressing this issue.



August 2, 1999

# **AGENDA ITEM 6a**

AMENDMENT TO SUBDIVISION/PUD/VARIANCE CASE NO. 96-04  
(WITTENBERG)

COUNCIL MEETING: August 2, 1999

AGENDA ITEM NUMBER: \_\_\_\_\_

TO: MAYOR NEWTON AND CITY COUNCILOR MEMBERS

THROUGH: WALLY G. MULL  
CITY MANAGER

FROM: AMY C. DROUGHT, AICP  
SENIOR PLANNER

SUBJECT: SUBDIVISION/PUD AMENDMENT CASE NO 99-44; Paul Wittenberg,  
Applicant

**BACKGROUND:**

In 1996, the Applicant received approval for a 19 lot subdivision. 11 of these lots are platted as duplex lots and identified as a Planned Unit Development. The Applicant is now requesting to re-plat the existing duplex lots in order to consolidate these with the lot currently built with the Hotel. The Applicant is proposing to build a parking lot where the duplex lots are currently located. This parking lot would accommodate the new banquet facility expansion of the hotel. The Applicant is requesting that the new lot containing the hotel, banquet facility and parking lot become part of the same Planned Unit Development

**ISSUE:**

Staff concludes that the applicant has meets the required approval criteria for the proposed Subdivision/PUD amendment. The attached staff report outlines all of the pertinent approval criteria and staff's findings. Staff recommends several conditions outlined in the attached staff report as well as below in the "Recommendation" section.

## **RECOMMENDATION:**

Staff recommends that the City Council open, conduct and close the public hearing. Staff recommends that the City Council direct staff to develop an order approving the proposed Subdivision/PUD Amendment with the following conditions:

- A. The City Engineer and Keizer Fire District submitted a list of development requirements. The requirements are necessary to ensure public health and safety. Staff recommends these as conditions of approval.
- B. The Keizer Land Development Code requires the developer to connect to public utility services. The Ordinance also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs.
- C. Staff recommends approval of the subdivision subject to the following conditions:
  - 1. The applicant shall take part in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the conference participants include the Keizer Department of Public Works, Keizer City Engineer, Keizer Fire District, City of Salem Department of Public Works (sewer), and private utility providers.
  - 2. The applicant shall submit an engineering site plan to the Keizer Department of Public Works for its review and approval. The site plan shall include information concerning storm water detention, street improvements, easements, sewer, water and other engineering information as necessary to show compliance with Public Works development standards.
  - 3. The applicant is required to submit a Flood Plain Development Permit concurrently with the required site plan for review and approval.
  - 4. The applicant shall submit a site plan and a landscaping plan to the City of Keizer Planning Department for its review and approval. The site plan shall include dimensions for proposed parking spaces, aisle widths, crosswalks in accordance with Section 2.303 Off-Street parking and Loading. The landscaping plan shall include the required sight-obscuring fence or wall and deciduous trees, shrubbery, and ground cover in accordance with Section 2.309 Site and Landscaping.
  - 5. The setback for the proposed parking lot on the subject property shall be a minimum 10 feet from the east property line.

6. Street lights shall be completed in accordance with Keizer Ordinance 98-399 along Wittenberg Lane from Claggett Street to Chemawa Road prior to any occupancy permits for the subject property.
7. The applicant shall submit a detailed site plan to the Keizer Community Development Department for review and approval. The detailed plan shall include the following provisions:
  - a. The plan shall substantially conform to the proposed request.
  - b. Include all engineering elements as required by Exhibit " D"
8. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.
9. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
10. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
11. All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed at a length eliminating the necessary for disturbing the street improvements when service connections are made.
12. Upon completion of the public improvements and prior to final acceptance of the improvements by the City, the developer shall provide certified as-built drawings of all public utility improvements to the City. As-built conditions and information shall be reflected on one set of Mylar base as-built drawings. The as-built drawings shall be submitted to the City Engineer by the Developer's engineer.
13. The preceding items shall be completed, including review and approval by the appropriate department, prior to

14. All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.
  15. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.
- D. **REQUIREMENTS:** The Keizer Zoning Ordinance, and Keizer Subdivision and Partitioning Ordinance, establish specific development and processing requirements. These requirements are mandatory and in many cases cannot be modified even through the variance or adjustment process. These requirements are included for the benefit of the applicant.
1. Completion, submittal and recording of the final subdivision plat shall comply with the requirements contained in the Keizer Subdivision and Partitioning Ordinance.
  2. Unless otherwise required by this decision, development of the individual lots shall comply with the applicable requirements of the Keizer Zoning Ordinance and building requirements of the Marion County Building Inspection Division.
  3. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges for sewer, water, parks and other facilities and shall comply with established City rules and regulations in effect at the time of the final approval of the Subdivision Plat.

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

## **STAFF RECOMMENDATION**

### **SUBDIVISION / PLANNED UNIT DEVELOPMENT / AMENDMENT CASE No. 99-44**

#### **I. GENERAL INFORMATION**

- A. **APPLICANT:** Paul Wittenberg/Team Management Co.
- B. **PROPERTY LOCATION:** The subject property is located on the east side of River Road north of the intersection of River Road and Chemawa Road and south of the intersection of Claggett Street and River Road. The subject property is addressed as 5188 Wittenberg Lane and is identified as T6SR3Wsection 35CD, Tax Lots 9500, 9600, 9700, 9800, 9900, 10000, 10100, 10200, 10300, 10400, 10500 and 10600. See Exhibit "A".
- C. **EXISTING PARCEL SIZES:** The total size of the subject property is approximately 3.65 acres.
- D. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** Portions of the parcel are developed with portions undeveloped and vacant. The parcel has frontage along River Road. River Road is designated a Major Arterial. Public sewer and water are available to serve the subject property.
- E. **PLAN DESIGNATION AND ZONING:** The subject property is designated Commercial on the Keizer Comprehensive Plan Land Use Map and is zoned CM (COMMERCIAL MIXED), the remainder of the property is zoned MU (MIXED USE). The purpose of the Commercial Comprehensive Plan designation is to provide land for commercial development. The purpose of the MU (MIXED USE) Zone is to provide land for a mix of commercial and multi-family residential development in a single building or development. (See Exhibit "B.")
- F. **ADJACENT ZONING AND LAND USES:** Property to the north is designated Medium to High Density Residential on the Comprehensive Land Use Map and is zoned RM (MEDIUM DENSITY RESIDENTIAL) and is developed with the Keizer Retirement Center. The properties to the west and south is designated Commercial on the Comprehensive Plan Land Use Map and zoned CM (COMMERCIAL RETAIL) and are developed with a range of commercial uses.

The properties to the east is designated Low Density Residential and are zoned RS (SINGLE FAMILY RESIDENTIAL). The properties located to the east are predominantly developed with single family homes on subdivision lots or large parcels

- G. **PROPOSAL:** In 1996, the Applicant received approval for a 19 lot subdivision. 11 of these lots are platted as duplex lots and identified as a Planned Unit Development. The Applicant is now requesting to re-plat the existing duplex lots in order to consolidate these with the lot currently built with the Hotel. The Applicant is proposing to build a parking lot where the duplex lots are currently located. This parking lot would accommodate the new banquet facility expansion of the hotel. The Applicant is requesting that the new lot containing the hotel, banquet facility and parking lot become part of the same Planned Unit Development. (See Exhibit "C".)

## **II. AGENCY COMMENTS**

- A. The City Public Works Department and City Engineer provided comments regarding public facility improvements. These comments are attached as "Exhibit D" and are incorporated into this staff report.
- B. The Keizer Fire District stated that all streets and turnarounds must meet the established City Street Standards. These comments are attached as "Exhibit E" and are incorporated into this staff report.

## **III. FINDINGS**

- A. Section 2.311.09 *Modification of an Approved PUD* states that a new public hearing shall be required if any one of the following changes is proposed to an approved planned unit develop site plan. A. Increase or decrease of 10% or more in the number of dwelling units. B. Increase or decrease of 10% or more in the area devoted to open space or recreational space.

**FINDINGS:** The applicant is proposing to decrease the number of lots by more than 10%. Therefore, a new public hearing is required.

- B. The Review Criteria for a Planned Unit Development is listed in Section 3.108.04 of the Keizer Land Development Code. The criteria and findings are listed below:
1. **The proposal shall comply with the applicable development standards in Section 2.405 and Section 2.3 as appropriate, including provisions for streets and utilities.**

Section 2.405 contains development standards for manufactured home parks and are therefore, not applicable in this situation. Section 2.3 of the Development Code contains the policies and standards, which guide all development approvals within the City of Keizer. Listed below are only the applicable development standards contained in Section 2.3, which are pertinent to this land use approval.

### **SECTION 2.310.03 APPLICATION OF PUBLIC FACILITY STANDARDS**

**FINDINGS:** As specified in the Public Facilities Improvement Requirements Table, the applicant will be required to provide the following public facilities: Fire Hydrant, Street Improvement, Water Hook-up, Sewer Hook-up, Storm Drain and Street Lights.

### **SECTION 2.302 - STREET STANDARDS**

**A. General Requirement.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.

**FINDINGS:** There are no new streets proposed, or any changes proposed to the existing street configuration.

**B. Continuation of Street.** Development proposal shall provide for the continuation of, and connection to, existing streets where necessary to promote appropriate traffic circulation in the vicinity of the development.

**FINDINGS:** There are no proposed changes to the existing street configuration.

**C. Alignment.** All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet.

**FINDINGS:** There are no new streets proposed, or any changes proposed to the existing street configuration.

**D. Future extension of streets.** When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessway facilities shall be platted and built to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department finds a turnaround is necessary for reasons of traffic safety. Any street extension exceeding 150 feet in length shall be provided with an approved turnaround as set forth in Section 902.2.2.4 "Dead Ends" off the Uniform Fire code, 1994 edition.

**FINDINGS:** There are no new streets proposed, or any changes proposed to the existing street configuration.

**E. Intersection angles.** Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet.

**FINDINGS:** The proposed P.U.D. Amendment does not propose any changes to the existing street configuration.

**F. Existing Streets.** Whenever existing public streets adjacent to or within a tract are of a width less than the street design standards, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.

**FINDINGS:** The existing public streets adjacent to and within the proposed development are of sufficient width to meet the street design standards. Therefore, no additional right-of-way is required.

**G. Half-Streets.** Half-streets may be approved where essential to the reasonable development of an area and when the City finds it to be practical to require the dedication of the other half when the adjoining property is developed. When a  $\frac{3}{4}$  width street can reasonably be developed, as determined by the Department of Public Works, a half street will be constructed with an additional 10 feet of pavement on the opposite side of the street from full improvement.

**FINDINGS:** The proposed P.U.D. Amendment does not propose any changes to the existing street configuration.

**H. Cul-de-sacs.** The maximum length shall be 800 feet.

**FINDINGS:** There are no cul-de-sacs proposed for the development.

**I. Street Names.** Street names and numbers shall conform to the established standards and procedures in the City.

**FINDINGS:** Street names are already assigned to the existing streets.

**J. Grades and Curves.** Grades shall not exceed 7 percent non arterials, 10 percent on collector streets or 15 percent on any other street. Street grades of 15 percent shall not exceed 200 feet in length. To provide for adequate drainage, all streets shall have a minimum slope of .5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.

**FINDINGS:** No new streets are proposed.

**K. Frontage Streets.** If a development abuts or contains an existing or proposed arterial or collector street, the City may allow frontage streets, or may require reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to preserve the capacity and safety of the collector or arterial street.

**FINDINGS:** No frontage streets are proposed.

**L. Alleys.** Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided. The corners of alley intersections shall have radii of not less than 10 feet.

**FINDINGS:** No alleys are proposed.

**M. Street Landscaping.** Where required as part of the right-of-way design, planting strips shall conform with the following standards.

**FINDINGS:** In this application, planting strips are not required.

**2.302.04 - General Right-of-Way and Improvement Widths**

The following standards are general criteria for public streets in the City of Keizer. These standards shall be the minimum requirements for all streets, except where modifications are permitted under Subsection 2.202.05.

**FINDINGS:** No new streets are proposed, or any changes to the existing street configuration. Therefore, this standard does not apply.

**2.302.05 - Modification of Right-of-Way and Improvement Width**

**FINDINGS:** No modifications of existing right of ways, or improvement widths are proposed.

**2.302.06 - Construction Specifications**

Construction specifications for all public streets shall comply with the standards of the most recently adopted public works street standards of the City of Keizer.

**FINDINGS:** No new streets are proposed, or changes to the existing street configuration. Therefore, this standard is inapplicable.

**2.302.07 - Private Streets**

**FINDINGS:** No private streets are proposed.

**2.302 - Private Access Easements**

**FINDINGS:** No private access easements are proposed.

**SECTION 2.303 - OFF-STREET PARKING AND LOADING**

**FINDINGS:** Pursuant to Section 2.303.06 *Off-Street Automobile Parking Requirements*, the applicant is required to provide approximately 130 parking spaces. This is a condition of the building permit review process, and no final approval will be granted until the Applicant has fulfilled this requirement. The proposed parking lot shall be setback ten (10) feet from

the east property line to reduce the visual impacts on adjacent residential properties. Landscaping and buffering along the east property line will be required.

#### **SECTION 2.306 - STORM DRAINAGE**

No construction of any facilities in a development included in Subsection 2.306.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and approved by the City. These provisions shall also apply to any cut or fill on a property, which may impact the velocity, volume, or quality of surface water on adjacent property, or may impact any permanent natural body of water.

**FINDINGS:** Prior to any development of the proposed subdivision, the applicant shall submit a storm drainage and erosion control plan for the project. No development will be allowed until the plan is reviewed and approved by the City. As indicated in the comments submitted by the Public Works Department, storm water detention will be required for this site. All storm water and roof drains to be connected to an approved system designed to provide adequate drainage for any proposed future new driveways and other hard surfaces. See Exhibit "C".

#### **SECTION 2.307 - UTILITY LINES AND FACILITIES**

**FINDINGS:** It is a development requirement that the applicant meet the standards set forth in this section relating to water, sanitary sewer, private utilities, street lights and easements.

#### **SECTION 2.310 - DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

##### **A. Minimum lot area.**

Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

**FINDINGS:** The subject property is located in both the CM and MU zoning districts. According to Section 2.110.05 *Dimensional Standards*, the CM zone does not have a minimum lot size, average width, or average depth requirement for commercial uses. According to Section 2.107.05 *Dimensional Standards*, the MU zone does not have a minimum lot size, average width, or average depth requirement for commercial uses.

**B. Lot Line Adjustment**

The approval or denial of a lot line adjustment is based on compliance with decision criteria found in Section 3.106 of the Keizer Land Development Code.

**FINDINGS:** The proposal does not include a lot line adjustment application.

**C. Lot width and depth.**

The depth of a lot or parcel shall not be more than 3 times the width of the parcel.

**FINDINGS:** The depth of the proposed lot will not be more than 3 times the width of the parcel.

**D. Access.**

All lots and parcels created after the effective date of this Ordinance shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone.

**FINDINGS:** There is no minimum lot width requirement for the MU and CM zones.

**E. Flag Lots.**

Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be access.

**FINDINGS:** There are no flag lots proposed with this application.

**2.310.04 Additional Design Standards for Subdivisions**

**A. Standards for Blocks**

1. **General**: The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic; and recognition of limitations and opportunities of topography.

2. **Sizes**: Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

**FINDINGS:** The applicant does not propose any change to the existing block configuration.

B. **Traffic Circulation**. The proposed subdivision shall be laid out to provide safe and convenient vehicle, bicycles and pedestrian access to nearby residential areas, transit stops, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe and convenient traffic circulation. At a minimum, "nearby" is interpreted to mean uses within 1.4 mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably be expected to be accessed by bicyclists.

**FINDINGS:** As stated above, the applicant is not proposing any changes to the existing street or block configuration. As part of this application however, the applicant will be installing sidewalks on the street frontages of the subject property. The applicant will also be required to provide a crosswalk and install street lights. This will promote safe and convenient vehicle and pedestrian access throughout the proposed development, as well as the surrounding area.

C. **Connectivity**. To achieve the objective in B., above, the Director may require the following:

1. **Stub Streets**: Where the potential exists for additional residential development on adjacent property.

2. **Pedestrian/Bicycle Accessways**: Public accessways to provide a safe and efficient connection from a residential area to nearby residential areas, transit stops, neighborhood activity centers, including schools, parks, shopping centers, other community services and other commercial and industrial areas when such connections are not available by streets and when a pedestrian must go at least one

quarter of a mile out of his or her way to make that connection using the street system.

**FINDINGS:** As stated above, as part of this application, the applicant will be installing sidewalks on the street frontages of the subject property. The applicant will also be required to provide a crosswalk and install street lights. This will promote safe and convenient vehicle and pedestrian access throughout the proposed development, as well as the surrounding area.

#### **2.310.06 - Improvement Requirements - Subdivisions**

**A. Frontage Improvements.** Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.303 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: Sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.

**FINDINGS:** As noted in the Public Works Department's conditions of approval, the applicant will be required to install sidewalks within the PUD, as well as along the existing street frontages of the subject property. These shall be installed according to the City's standards.

**B. Project Streets.** All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.

**FINDINGS:** As stated above, there are no public or private streets proposed as part of this application.

**C. Monuments.** Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

**FINDINGS:** This is a development requirement and is a condition of subdivision approval.

**D. Bench Marks** Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure.

**FINDINGS:** This is a development requirement and is a condition of subdivision approval.

**E. Surface Drainage and Storm Sewer System** Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property.

**FINDINGS:** The developer's engineer shall submit an overall storm drainage plan that will provide service to this development prior to submitting public or private street plans for approval or issuance of any permits for construction of the proposed development.

**F. Sanitary Sewers** Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

**FINDINGS:** Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.

**G. Water System** Water lines and valves and Fire District approved fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed and operating prior to start of combustible construction.

**FINDINGS:** Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer.

**H. Sidewalks** Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision.

**FINDINGS:** Sidewalks will be installed on the north and south the proposed public street. Sidewalks are also required for the required public street located in the northern portion of the development.

**I. Street Lights.** The installation of street lights is required at locations and of a type required by City standards.

**FINDINGS:** The City Council has adopted a street lighting district for Wittenberg lane. Street lights shall be completed in accordance with Keizer Ordinance 98-399 along Wittenberg Lane from Claggett Street to Chemawa Road prior to any occupancy permits for the subject property.

**J. Street Signs.** The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits.

**FINDINGS: Street signs are already installed.**

**K. Public Works Requirements.** All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works.

**FINDINGS:** This is a condition of subdivision approval and is specified in the Public Works Conditions of Approval as attached.

**L. Curb Cuts.** Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.

**FINDINGS:** All curb cuts and driveway installations shall be constructed according to City standards.

**M. Street Trees.** Street tree planting is mandatory where a planting strip is part of the street design. Plantings shall conform to Section 2.303.03 (M).

**FINDINGS:** A planting strip is not proposed as part of this street design. Therefore, street tree planting is not mandatory.

N. **Grading and Fills.** All grading which results in fills in excess of 3 feet located within the identified building envelope on a subdivision lot or parcel must be engineered.

**FINDINGS:** This is a development requirement and is a condition of final approval of the PUD.

2. **Each lot shall satisfy dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved.**

**FINDINGS:** Section 2.107.05 *Dimensional Standards* lists the minimum lot dimensions and density requirements for the MU zone. For a commercial use, there are no minimum lot size, width or depth standards. The proposal is for a commercial use so there are no density requirements.

3. **Adequate public facilities shall be available to serve the existing and newly created parcels.**

**FINDINGS:** Public sewer and water are available to serve the subject property.

- C. The Applicant is also required to fulfill the standards listed in Section 2.311 Planned Unit Development Design Standards.

#### **Section 2.311.02 Site Standards.**

A. **Area.** Planned residential, commercial, or industrial developments may be established on parcels land which are of sufficient size to be planned and developed in a manner that is consistent with the purposed and objectives of this title.

**FINDINGS:** The Applicant proposes to build a parking lot in conjunction with an existing hotel and proposed banquet facility. The applicant submitted a site plan as part of the development review process, which shows that the proposed use can be accommodated on the subject property.

B. **Zones.** A planned unit development may be located in any zoning district except the Public (P) zone.

**FINDINGS:** The proposed PUD will be located in a CM and MU zone.

### **2.311.03 Development Standards**

A. Common Open space. A minimum of 20% of the gross area shall be devoted to common open space, with at least ½ of the common open space must be contiguous. The common open space shall comply with the provisions in Section 2.311.05.

**FINDINGS:** The applicant does not indicate a common open space within the given application. Section 2.311.05(B) states that the common open space shall be appropriate for the location, size, and character of planned unit development. Specifically, the Keizer Development Code identifies the following factors to consider for open space within a planned unit development: size, density, expected residential population or work force, topography, and the number and type of structures provided.

The intent and purpose of the open space is for residential uses and a multitude of commercial uses to have a common open area for recreational or amenity use. However, the applicant proposes to create a planned unit development with one parcel and the uses limited to a hotel and banquet facilities. Due to the type of proposed development and the proposed elimination of residential units within the planned unit development, the proposed development does not necessitate the requirement for open space. In addition, however, the applicant is required to provide landscaping as described in Section 2.309 *Site and Landscaping Design*.

Lot Area. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned unit development is proposed do not apply within a planned unit development.

**FINDINGS:** As stated earlier, there are no minimum lot area or width requirements in the MU and CM zone.

A. Accessibility. All lots or buildings shall be able to access open space or recreation areas from within the planned unit development. Access may be by roadway or pedestrian/bicycle accessway.

**FINDINGS:** As discussed above, the proposed development does not indicate any open space. As part of this application however, the applicant will be installing sidewalks on the street frontages of the subject property. The applicant will also be required to provide a crosswalk and install street

lights. This will promote safe and convenient vehicle and pedestrian access throughout the proposed development, as well as the surrounding area.

C. Structure Setback Provisions. Yard setbacks for lots on the perimeter of the project shall be the same as that required for the subject zoning district.

**FINDINGS:** The addition to the existing structure maintains the required 10-foot setback from the property line adjacent to the street. In addition, the applicant has stated the intent to construct a parking lot over the area originally platted for duplexes. Therefore, the proposed parking lot would be adjacent to existing single-family dwelling units. According to Section 2.309.05 *Screening and Buffering*, requires commercial and industrial uses to screen and buffer the boundaries adjacent to residential uses. Screening methods “may be accomplished by the use of sight-obscuring plant materials, earth berms, walls, fences, building parapets, building placement or other design techniques.” Section 2.309.05(C) states the following:

“Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, on of the following buffering alternatives shall be employed; ... (4) Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated; as approved by the City.”

Due to the proximity of the proposed parking lot to the existing single family dwellings, the applicant should provide a six (6) foot sight obscuring fence or wall adjacent residential properties. The applicant should also buffer the east property line with deciduous trees, shrubbery and ground cover in accordance with Section 2.309.06 *Planting and Maintenance* of the Keizer Development Code. The applicant shall plant deciduous trees that are identified in Keizer Ordinance No. 95-332 *Regulating the Maintenance, Planting and Removal of Certain Trees*. This ordinance appropriately identifies certain types of trees that will not disturb concrete surfaces, such as the proposed parking lot.

Therefore, with the required sight-obscuring fence or wall and landscaping, the proposed parking lot should be set back a minimum ten feet from the east property line.

D. Attached Dwellings. Buildings sharing common walls are permitted within a PUD.

**FINDINGS:** The applicant does not propose to create separated buildings with common walls. The use of the hotel and banquet hall will be maintained as one structure.

E. Height. The maximum building height shall in no event exceed those building heights prescribed in the zone in which the PUD is proposed, except that a greater height may be approved if surrounding open space within the PUD, building setbacks, and other design features are used to avoid adverse impact of the greater height.

**FINDINGS:** Within the CM and MU zone, the maximum building height allowed is 50'. The proposed height of the banquet facility is

**F. Street Dedication.**

**FINDINGS:** There are no public streets or changes to the existing street configuration proposed.

**G. Private Streets.**

**FINDINGS:** There are no private streets proposed.

H. Parking. Parking will be required in accordance with the provisions of Section 2.303; however, if no parking is to be allowed on-street, the overall parking requirements for the PUD will be increased 50 percent.

**FINDINGS:** Pursuant to Section 2.303.06 *Off-Street Automobile Parking Requirements*, the applicant is required to provide approximately 130 parking spaces. This is a condition of the building permit review process, and no final approval will be granted until the Applicant has fulfilled this requirement.

I. Walkways. Sidewalks will not be required adjacent to private streets; however, the overall plan for the PUD shall include an acceptable pedestrian circulation system.

**FINDINGS:** As part of this application however, the applicant will be installing sidewalks on the street frontages of the subject property. The applicant will also be required to provide a crosswalk and install street lights.

This will promote safe and convenient vehicle and pedestrian access throughout the proposed development, as well as the surrounding area.

J. Utilities. Development of the property shall comply with utility and storm drainage provisions in Section 2.3

**FINDINGS:** The applicant will be required to comply with the utility and storm drainage provisions specified in Section 2.3.

K. Home Owners Association. A home owners association shall be required and is subject to the provisions in Section 2.311.07.

**FINDINGS:** The Applicant will be required to meet the homeowners association standards as outlined in Section 2.311.07. This shall be completed prior to the City granting final site plan approval for the proposed parking lot.

#### **2.311.04 Residential Density**

**FINDINGS:** There is no residential development proposed within the PUD.

#### **2.311.05 Common Open Space**

A. Open Space. Common open space may include open area, recreational space, school access routes, bicycle trails, natural or landscaped buffer areas, and buildings associated with recreational or community purposes of the planned development.

**FINDINGS:** The applicant proposes landscaping throughout the PUD, as well as along the property line adjacent to the residential uses.

#### **2.311.06 Park and Recreational Facilities**

**FINDINGS:** The applicant does not propose any residential development which would trigger the payment of park system development charges.

#### **2.311.07 Owners Association Required.**

A non-profit incorporated owners association, or an alternative acceptable to the City Attorney, shall be required for improving, operating, and maintaining common facilities, including open spaces, streets, drives, service and parking areas, and recreation areas.

**FINDINGS:** The Owners Association shall be set up prior to the City granting final site plan approval for the proposed parking lot.

#### **2.311.08 Allowable Open Space Uses in PUD**

**FINDINGS:** 2.311.08 F states, other accessory structures or uses which the City determines is designed to serve primarily the occupants of the PUD, and is compatible with the design of the PUD.

### **V. RECOMMENDATIONS AND CONDITIONS**

- A. The City Engineer and Keizer Fire District submitted a list of development requirements. The requirements are necessary to ensure public health and safety. Staff recommends these as conditions of approval.
- B. The Keizer Land Development Code requires the developer to connect to public utility services. The Ordinance also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs.
- C. Staff recommends approval of the subdivision subject to the following conditions:
  - 1. The applicant shall take part in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the conference participants include the Keizer Department of Public Works, Keizer City Engineer, Keizer Fire District, City of Salem Department of Public Works (sewer), and private utility providers.
  - 2. The applicant shall submit an engineering site plan to the Keizer Department of Public Works for its review and approval. The site plan shall include information concerning storm water detention, street improvements, easements, sewer, water and other engineering information as necessary to show compliance with Public Works development standards.

3. The applicant is required to submit a Flood Plain Development Permit concurrently with the required site plan for review and approval.
4. The applicant shall submit a site plan and a landscaping plan to the City of Keizer Planning Department for its review and approval. The site plan shall include dimensions for proposed parking spaces, aisle widths, crosswalks in accordance with Section 2.303 Off-Street parking and Loading. The landscaping plan shall include the required sight-obscuring fence or wall and deciduous trees, shrubbery, and ground cover in accordance with Section 2.309 Site and Landscaping.
5. The setback for the proposed parking lot on the subject property shall be a minimum 10 feet from the east property line.
6. Street lights shall be completed in accordance with Keizer Ordinance 98-399 along Wittenberg Lane from Claggett Street to Chemawa Road prior to any occupancy permits for the subject property.
7. The applicant shall submit a detailed site plan to the Keizer Community Development Department for review and approval. The detailed plan shall include the following provisions:
  - a. The plan shall substantially conform to the proposed request.
  - b. Include all engineering elements as required by Exhibit " D"
8. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.
9. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
10. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
11. All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed at a length eliminating the necessary for disturbing the street improvements when service connections are made.

12. Upon completion of the public improvements and prior to final acceptance of the improvements by the City, the developer shall provide certified as-built drawings of all public utility improvements to the City. As-built conditions and information shall be reflected on one set of Mylar base as-built drawings. The as-built drawings shall be submitted to the City Engineer by the Developer's engineer.
13. The preceding items shall be completed, including review and approval by the appropriate department, prior to
14. All improvements required under this Section shall be competed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.
15. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

D. REQUIREMENTS: The Keizer Zoning Ordinance, and Keizer Subdivision and Partitioning Ordinance, establish specific development and processing requirements. These requirements are mandatory and in many cases cannot be modified even through the variance or adjustment process. These requirements are included for the benefit of the applicant.

1. Completion, submittal and recording of the final subdivision plat shall comply with the requirements contained in the Keizer Subdivision and Partitioning Ordinance.
2. Unless otherwise required by this decision, development of the individual lots shall comply with the applicable requirements of the Keizer Zoning Ordinance and building requirements of the Marion County Building Inspection Division.
3. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges for sewer, water, parks and other facilities and shall comply with established City rules and regulations in effect at the time of the final approval of the Subdivision Plat.

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SEE MAP 06 31

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SUBJECT PROPERTY

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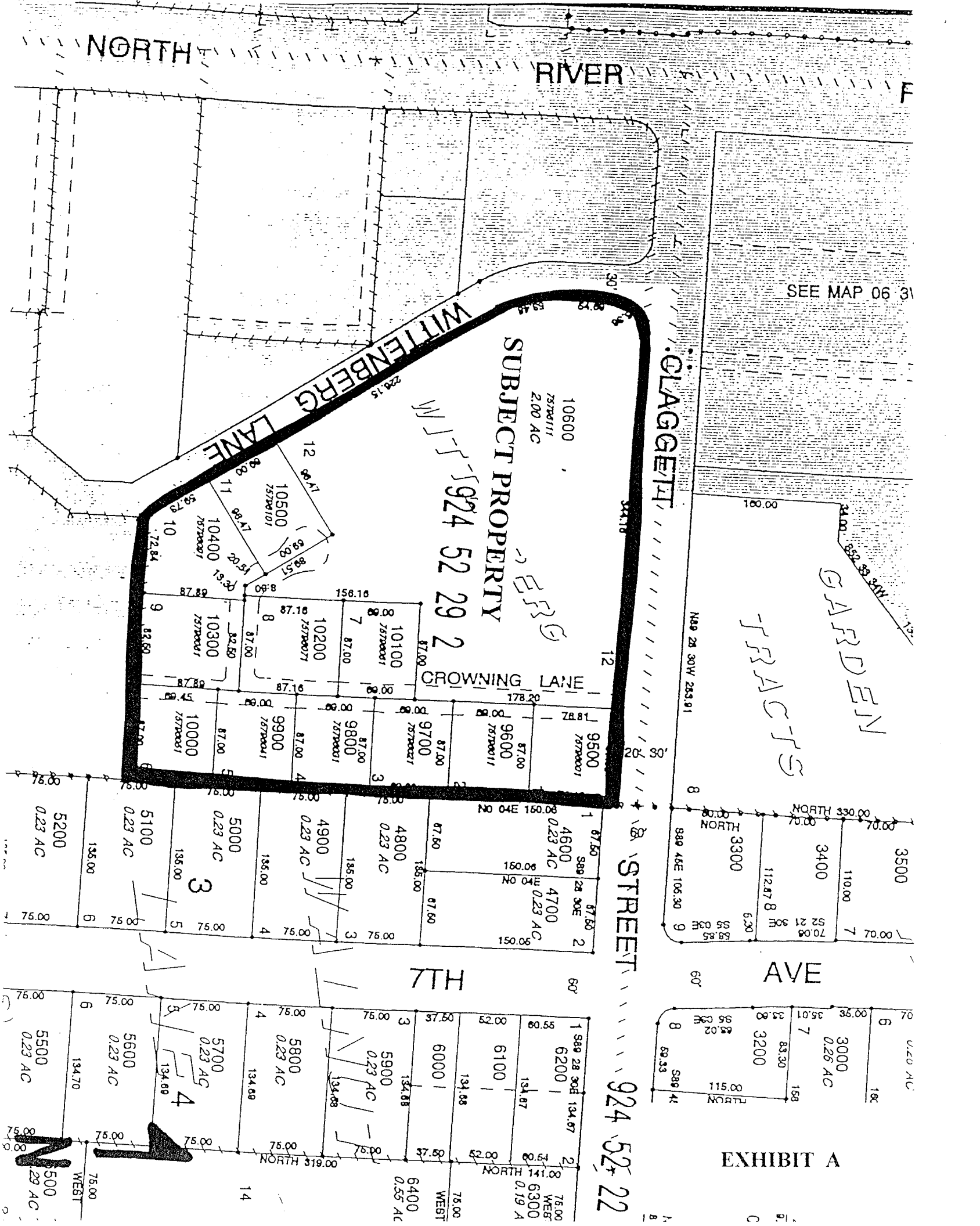
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EXHIBIT A

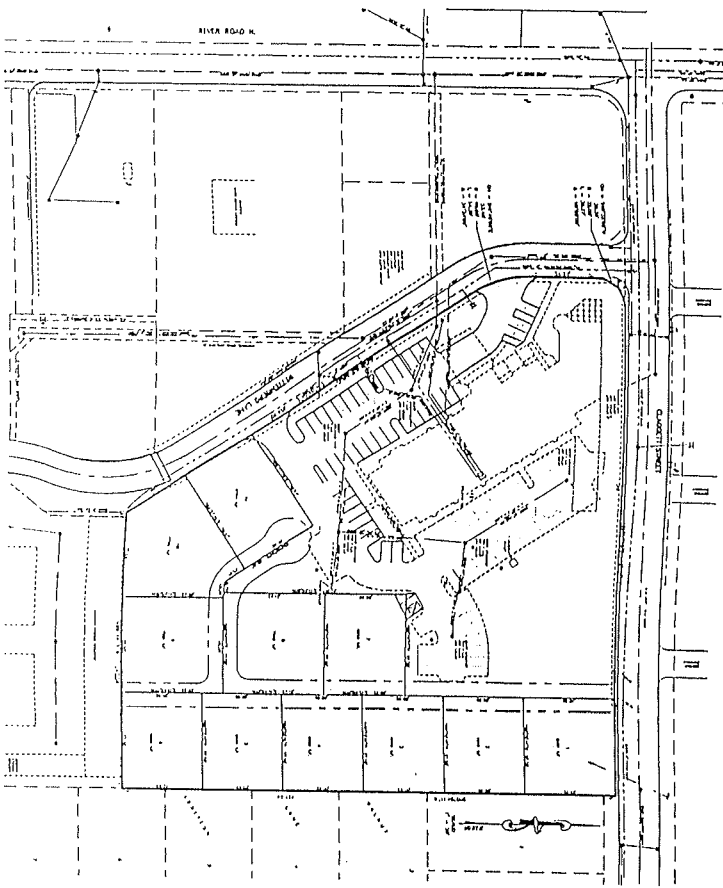
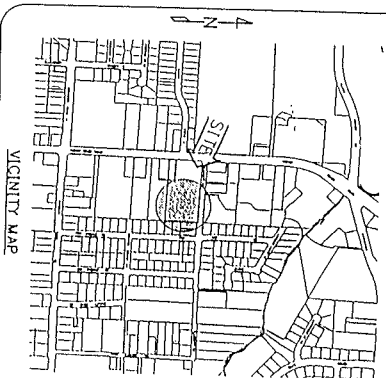


# 5 SUBJECTS

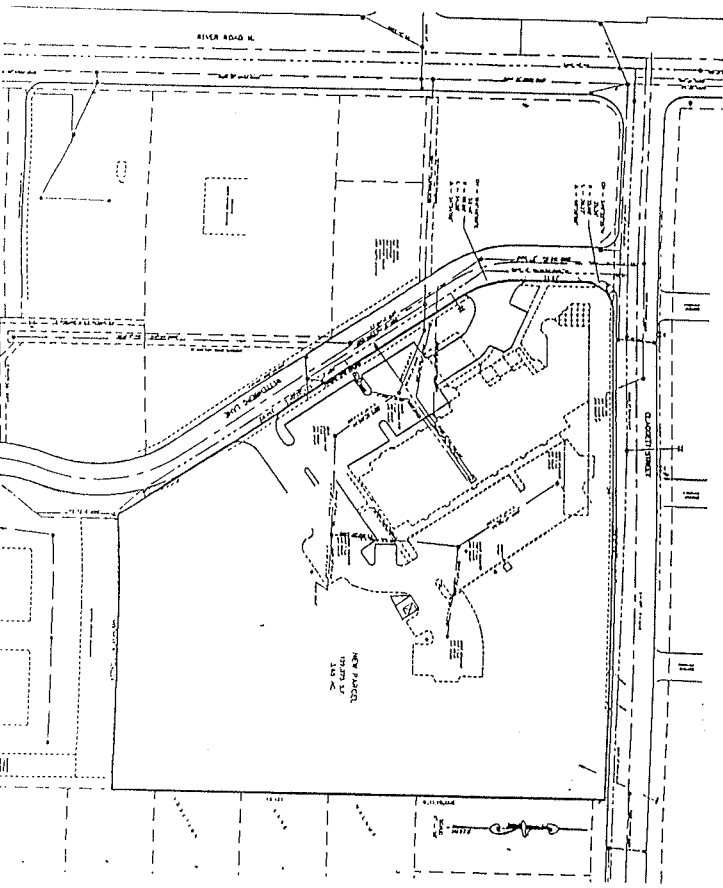
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SEC. 35 T. 6 S., R. 3 W., W.M.  
CITY OF KEIZER  
MARION COUNTY, OREGON

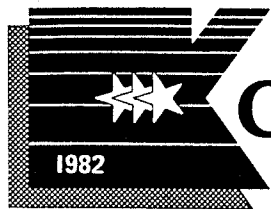
Owner / Developer:  
PAUL WITTENBERG  
P.O. BOX 20217  
KEIZER, OREGON 97307



### EXISTING CONDITION:



PROPOSED SUEBIVISION



# City of Keizer

Phone: 390-3700 • Fax: 393-9437

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

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

DATE: JULY 21, 1999

TO: CITY OF KEIZER  
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: SUBDIVISION / PUD CASE 99-44  
WITTENBERG SUBDIVISION  
APPLICANT: TEAM MANAGEMENT INC.  
ENGINEER: MULTI/TECH ENGINEERING

## DEPARTMENT COMMENTS

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

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

The application is for an amendment to Subdivision/PUD/Variance Case number 96-04. The applicant is requesting to re-plat the existing 11 duplex lots in order to consolidate these lots with the existing lot containing the Wittenberg Hotel.

### GENERAL:

The subject property is currently under an overall PUD approval which has conditions regarding the entire site. It is important that all of the conditions of the PUD approval be met unless the applicant can demonstrate justifications for modifying the present PUD approval.

### SANITARY SEWERS:

It is not anticipated that any sanitary sewer construction will result on the subject property as a result of the request to consolidate the currently platted lots. Conditions placed on the current plat for new sewer construction for the 11 lots shall be removed.

### WATER SYSTEM:

- a.) Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer.
- b.) Any existing wells on the subject property are to be abandoned in accordance with the rules of the Oregon State Water Resources Department.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) Storm water detention will be required for this site. All storm water and roof drains to be connected to an approved system designed to provide adequate drainage for any proposed future new driveways and other hard surfaces.
- b.) Sidewalk Improvements will be required along Claggett Street to complete the sidewalks along the applicant's frontage.
- c.) The subject property is within a 100 year flood plain. No development will be allowed prior to the processing of an approved flood plain development permit.
- d.) The City Council has adopted a street lighting district for Wittenberg Lane. Street lights shall be completed along Wittenberg Lane from Claggett Street to Chemawa Road prior to any occupancy permits for the subject property.

OTHER

- a.) Construction permits are required by the Department of Public Works prior to any public facility construction.
- b.) A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.
- c.) Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.
- d.) A Pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.

**KEIZER COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF RECOMMENDATION**

**SUBDIVISION / PLANNED UNIT DEVELOPMENT / VARIANCE  
CASE No. 96-04**

**TO:** Barry Adamson; Keizer Hearings Officer (Pro Tem)  
**FROM:** Roger D. Evans; Keizer City Planner. *R. Evans*  
**SUBJECT:** Subdivision / Planned Unit Development / Variance Case No. 96-04  
**DATE:** August 21, 1996

*5/15/98  
withholding*

Planning staff reviewed the above referenced case and offers the following comments.

I. GENERAL INFORMATION

- A. **APPLICANT:** Team Management Co.
- B. **PROPERTY LOCATION:** The subject property is located on the east side of River Road north of the intersection of River Road and Chemawa Road and south of the intersection of Claggett Street and River Road. The property has multiple addresses between 5000 to 5400 River Road N and is shown on Assessor Maps T7S; R3W; Sect. 02BA; Tax Lot #'s 4900, 500, 5100, & 5300 and T6S; R3W; Section 35CC & CD). See Exhibit "A".
- C. **EXISTING PARCEL SIZES:** Approximately 10.5 acres.
- D. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** Portions of the parcel are developed with portions undeveloped and vacant. The parcel has frontage along River Road. River Road is designated a Major Arterial. The property will require the extension of water and sewer mains in order that the proposed parcels may be served by public sewer and water.
- E. **PLAN DESIGNATION AND ZONING:** A portion of the subject property is designated Commercial on the Keizer Comprehensive Plan Land Use Map and is zoned CR (COMMERCIAL RETAIL), the remainder of the property is zoned MU (MIXED USE). The purpose of the Commercial Comprehensive Plan designation is to provide land for commercial development. The purpose of the MU (MIXED USE) Zone is to provide land for a mix of commercial and multi-family residential development in a single building or development. (See Exhibit "B.")
- F. **ADJACENT ZONING AND LAND USES:** Property to the north is designated Medium to High Density Residential on the Comprehensive Land Use Map and is zoned RM (MEDIUM DENSITY RESIDENTIAL) and is developed with the Keizer Retirement Center. The properties to the west and south is designated Commercial on the Comprehensive Plan Land Use Map and zoned CR (COMMERCIAL RETAIL) and are developed with a range of commercial uses.

The properties to the east is designated Low Density Residential and are zoned RS (SINGLE FAMILY RESIDENTIAL). The properties located to the east are predominantly developed with single family homes on subdivision lots or large parcels. (See Exhibit "B.")

G. **PROPOSAL:** The applicant proposes to subdivide the subject property into 19 lots ranging in size from 0.138 acres (5,660 square feet) to 1.917 acres (83,504 square feet). Eleven of the lots are within the Mixed Use Zone and are proposed to be developed with duplexes and are identified as the Planned Unit Development and one larger lot for a motel complex. Access to the duplex lots will be from a proposed private access easement encroaching onto Claggett Street. The applicant is also requesting a subdivision variance to the Subdivision and Partitioning Ordinance local street right of way width requirement and the requirement to place a sidewalk within the right of way for the north-south oriented street named Wittenberg Lane and the east-west oriented street located on the south side of the U.S. Bank property which encroaches onto River Road. The actual right of Way width for Wittenberg Lane and the east-west oriented access will be 30 feet. The applicant proposes to improve these streets to meet City standards and to offer the streets for dedication to the City of Keizer. (See Exhibit "C".)

## II. AGENCY COMMENTS

A. The City Public Works Department and City Engineer provided comments regarding public facility improvements. These comments are attached as "Exhibit D" and are incorporated into this staff report.

B. The Keizer Fire District stated that all streets and turnarounds must meet the established City Street Standards. These comments are attached as "Exhibit E" and are incorporated into this staff report.

C. Portland General Electric, Viacom Cable, and Northwest Natural Gas do not oppose the subdivision. Northwest Natural Gas stated that they have existing easements and gas mainlines and services to the subject property that must be protected and that adequate public utility easements be provided. The Salem-Keizer School District stated the district reviewed the proposal and that the proposed project will have minimal impact on the surrounding schools. These comments are attached as "Exhibit F" and are incorporated into this staff report.

D. No other agencies contacted provided specific comments.

## III. FINDINGS - SUBDIVISION

A. The proposed subdivision will contain 19 lots ranging in size from approximately 5,500 square feet to 83,504 square feet. Access to the property is proposed via a east-west oriented access easement encroaching onto Wittenberg Lane (existing north-south oriented private access road). Access is also provided from Wittenberg Lane which connects to Claggett Street at the north end of the property and Chemawa Road at the south end of the property.

This subdivision is designed to accommodate 11 duplex lots, and a lot for a motel complex on portion of the property zoned MU (MIXED USE). The remaining 7 lots will be utilized for commercial retail development and parking and are on the portion of the property zoned CR (COMMERCIAL RETAIL).

B. The purpose of this subdivision is to subdivide the property to allow commercial and residential development on discrete parcels.

C. Section III(1) of the Keizer Subdivision and Partitioning Ordinance requires the City to consider whether or not a proposed subdivision is in accordance with the Comprehensive Plan, its implementing Ordinances and other land development policies of the City. This Section also permits the City to prescribe conditions or make changes to the proposed subdivision to bring it into conformance with the applicable policies and regulations.

D. The Comprehensive Plan contains a number of policies pertinent to the subdivision proposal. The Plan indicates stabilization, in-fill and improvement should be emphasized for existing residential neighborhoods. Residential development is encouraged where full urban services, public facilities and routes of public transportation are available. The Plan also encourages the maximum efficient use of available land.

E. The proposal provides for a mix of development on vacant land within the MU (MIXED USE) Zone. Full public services, including sewer, water, storm drainage and public access, are in place or can be extended to the proposed subdivision. The subdivision has access to River Road from an east-west oriented easement and from Chemawa Road and Claggett Street from an existing north-south oriented access easement named Wittenberg Lane. The applicant proposes to upgrade both streets to meet the public street improvement standards which upon completion will be capable of accommodating the additional traffic generated by the development.

F. Sections IV, V and VI of the Keizer Subdivision and Partitioning Ordinance contain subdivision development requirements. These include standards for street improvements, lot dimensions and utilities. A variance was requested to reduce the required local street right of way width to 30 feet and to allow the placement of sidewalks or a pedestrian pathway outside of the right of way.

### III. FINDINGS - PLANNED UNIT DEVELOPMENT

A. The applicant proposes to construct a planned unit development (PUD) containing 11 lots with duplexes and a lot with a motel complex. Open space will be created as part of the landscaping surrounding the motel and the duplex units. Access will be provided via an improved private access easement maintained by the duplex owners through a Homeowners Association. This access easement will also provide access to a parking area adjacent to the motel complex.

The intent and purpose of the planned development provisions are to allow for greater flexibility in site development and to emphasize increased amenities to residences on the subject parcel.

B. Planned Unit developments shall be considered according to the procedure for review of a subdivision as stated within the Subdivision and Partitioning Ordinance. Planned Unit Developments shall meet all use and development standards and requirements contained in the Subdivision and Partitioning Ordinance. Chapter 13 of the Keizer Zoning Ordinance contains standards for a Planned Development and in the instance that these requirements conflict with the standards and requirements in the Subdivision and Partitioning Ordinance, the provisions of Chapter 13 shall apply.

C. Chapter 13 of the Keizer Zoning Ordinance establishes minimum requirements for a PUD. The subject property or portion of the property involved in the PUD must be a minimum of 3 acres in size. In addition, the parcel must be developed at a density consistent with the underlying Zone which is the MU (MIXED USE) Zone. The MU Zone density requirement is one dwelling unit may occupy 1550 square feet of net lot area (Section 30.12 (2), Keizer Zoning Ordinance). However, Section 30.12 (1) requires that duplexes be on a lot of 6,000 square feet or larger in size. The proposed duplex lots all exceed 6,000 square feet in size as shown on the preliminary subdivision plan.

D. Section 13.90 of the Keizer Zoning Ordinance contains additional specific development requirements for the planned unit development. The applicant provided a basic conceptual plan for approval and plans on providing additional detail or final plans which will address these requirements. Compliance with these requirements will be placed as conditions of approval.

### III. FINDINGS - VARIANCE

A. The applicant has requested a variance from the local street right of way width requirement to allow a right of way of 30 feet and from the requirement to place the sidewalk within the right of way as contained in Table 1 within the Keizer Subdivision and Partitioning Ordinance. This variance request applies to the north-south oriented private access road named Wittenberg Lane and the east-west oriented access easement from River Road to Wittenberg Lane located south of the U. S. Bank property.

B. Section XI of the Subdivision and Partitioning Ordinance contains the provisions and criteria regarding a variance from the provisions of the Subdivision and Partitioning Ordinance. The criteria, and staff's comments are as follows:

1. Special conditions or circumstances peculiar to the property under consideration make a variance necessary for the proper development of the subdivision or partitioning and the preservation of the property rights and values.

The north-south oriented access easement known as Wittenberg Lane exists on the subject property as a 30 foot wide private access and public utility easement. Portions of this existing easement border Parcel 1 and Parcel 2 shown on the subdivision plan.

These two parcels are under separate ownership and have been developed with uses making it difficult to gain any additional easement width to comply with the local street right of way width standards. Additionally, the applicant proposes retaining the Hydrotube building on proposed Lot 7. The placement of the building necessitates the bend in Wittenberg Lane and also limits the available area to expand the easement width to comply with the local street right of way standard. These conditions create circumstances peculiar to the property under consideration and make a variance necessary to allow the development of a local street within a narrower right of way. The highest local street improvement is 34 feet in width from curb face to curb face. The applicant proposes to complete all of the improvements within the 30 foot wide existing easement width by eliminating the parking lanes on either side. This will allow the development of two 12 foot wide travel lanes and 1 foot on either side for curbing within the proposed 30 foot wide right of way.

2. That the variances will not be detrimental to the public welfare or injurious to other properties adjacent to or in vicinity of the proposed subdivision or partitioning.

The variance will not be detrimental to the public welfare or be injurious to any property adjacent to the proposed public right of way. The designation of the private access easement as a public right of way will benefit the public and the individual property owners by providing a public access route through the proposed site. Designating the private access easements as a public right of way and street will allow the City to maintain the street and provide public services within the right of way.

## VI. DEVELOPMENT CONSIDERATIONS

A. The Department of Public Works submitted a list of development requirements. Staff, in general, agrees with the Public Works Department's conclusions. The requirements are necessary to ensure public health and safety and will be placed as conditions of approval.

B. The Subdivision and Partitioning Ordinance requires the developer to connect to public utility services. The Ordinance also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs.

C. The City's System Development Charge for park development is \$300.00 per single-family dwelling or duplex unit and \$200.00 for each apartment unit. These Development charges, as well as those involving the extension of sewer and water, will apply to this request.

## VII. RECOMMENDATION AND CONDITIONS

A. The available evidence indicates the subdivision proposal complies with the decision criteria. Staff recommends **APPROVAL** of the subdivision subject to the following conditions:

1. The applicant shall take part in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the conference participants include the Keizer Department of Public Works, Keizer City Engineer, Keizer Fire District, City of Salem Department of Public Works (sewer), U.S. West Communication, Portland General Electric, and Northwest Natural Gas.
2. The applicant shall submit an engineering site plan to the Keizer Department of Public Works for its review and approval. The site plan shall include information concerning storm water detention, street improvements, easements, sewer, water and other engineering information as necessary to show compliance with the City of Keizer development and construction standards. Additional requirements are attached as Exhibit "D" and are, by reference, included in this condition.
3. The applicant shall submit a detailed site plan (plat) to the Keizer Community Development Department for review and approval prior to submittal of a final plat. The detailed plan shall include the following provisions:
  - a. Shall substantially conform to the proposed subdivision request.
  - b. Include all engineering elements as required by Exhibit "D" (item #2, above).
4. Upon approval of the detailed site plan and engineering plans, the applicant shall submit a final plat for the subdivision which conforms to the detail plan approval. The plat shall be prepared by a registered professional surveyor and conform with the requirements in ORS Chapter 92. A bond will be required by the County Surveyor for post monumentation of the subdivision plat.
5. Street names for the subdivision shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. Street naming and parcel addressing is coordinated with the Mid-Willamette Valley Council of Governments. No final plat shall be released that does not contain approved street names.

6. The applicant shall submit a landscaping site plan for review and approval by planning staff. This landscaping plan shall comply with all provisions contained in Chapter 18 of the Keizer Zoning Ordinance.
7. The applicant shall submit to City of Keizer Legal Counsel for review and approval the articles of association for the Home Owners Association. The articles shall comply with the provisions contained in Section 13.86 of the Keizer Zoning Ordinance.
8. Upon approval of the detailed site plan, engineering plans, articles of incorporation for the Home Owners Association, and the landscaping plan, the applicant shall submit a final plat for the planned unit development.  
This plat shall which conforms to the detail plan approval. The plat shall be prepared by a registered professional surveyor and conform with the requirements in ORS Chapter 92. A bond will be required by the County Surveyor for post monumentation of the subdivision plat.
9. Items 1, 2, 3, 4, 5, 6, 7, and 8 above, shall be completed, including review and approval by the appropriate department, prior to the issuance of a building permit for any one building. The following additional items shall be completed prior to obtaining a building permit:
  - (a) All streets to be offered for dedication to the City of Keizer shall meet the City of Keizer constructions standards for the street cross sections.
  - (b) A storm drainage master plan for the site shall be submitted for review and approval.
  - (c) An overall signage plan for the proposed development shall be submitted for review and approval.
  - (d) Installation of the traffic signal at Claggett Street and River Road shall be completed prior to construction of any retail or housing on the subject property.
10. Zone Change / Variance Case No. 94-4 included portions of the subject property and the ordinance contains conditions and general development requirements which still apply to the subject property. These conditions and requirements have been attached as Exhibit "G", and are by reference, included in this decision.
11. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

B. REQUIREMENTS: The Keizer Zoning Ordinance, and Keizer Subdivision and Partitioning Ordinance, establish specific development and processing requirements. These requirements are mandatory and in many cases cannot be modified even through the variance or adjustment process. These requirements are included for the benefit of the applicant.

1. Completion, submittal and recording of the final subdivision plat shall comply with the requirements contained in the Keizer Subdivision and Partitioning Ordinance.
2. Unless otherwise required by this decision, development of the individual lots shall comply with the applicable requirements of the Keizer Zoning Ordinance and building requirements of the Marion County Building Inspection Division.
3. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges for sewer, water, parks and other facilities and shall comply with established City rules and regulations in effect at the time of the final approval of the Subdivision Plat.

[illegible]

NORTH RIVER ROAD

U.S. BANK

BOBS

EXIST CR

EXIST CR

CHEMAMA ROAD

CG

MU

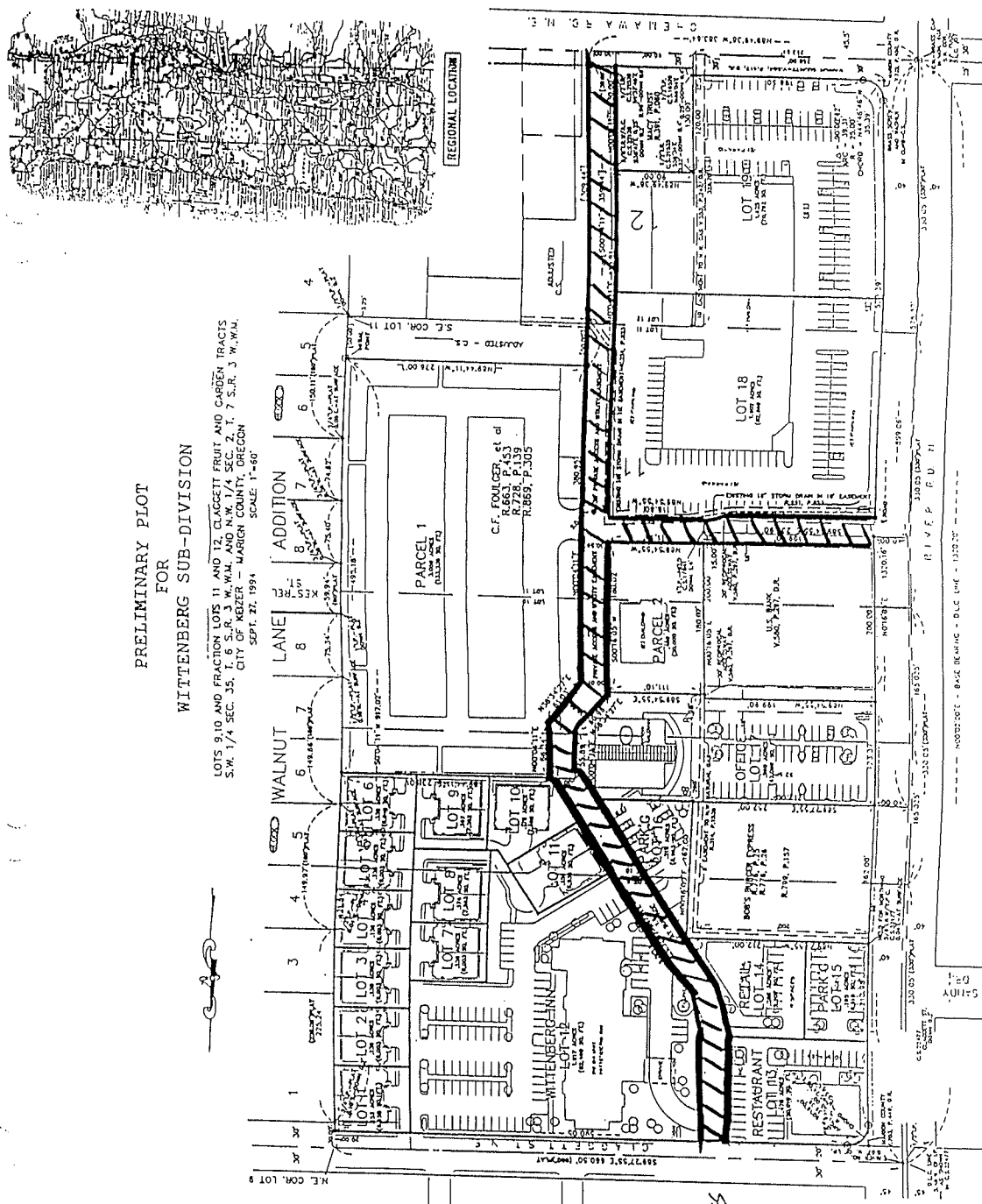
7TH AVENUE NE

KESTREL ST.

7TH AVENUE NE

EXHIBIT "B"

|   |    |    |    |
|---|----|----|----|
| 1 | 12 | 13 | 14 |
|---|----|----|----|



VARIANCE  
REQUEST APPLIES  
TO HATCHED  
EASEMENTS



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

DATE: August 5, 1996

TO: CITY OF KEIZER  
PLANNING DEPARTMENT

SUBJECT: SUBDIVISION CASE NO. 96-04  
PUD CASE NO. 96-04  
PAUL WITTENBURG  
5000 BLOCK RIVER ROAD

#### PUBLIC WORKS DEPARTMENT COMMENTS

It is the understanding of the Public Works Department that the property under consideration for development for a subdivision is located in property currently zoned appropriate for the proposed subdivision.

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

#### SANITARY SEWERS:

- a.) City of Salem approval for public sanitary sewers is required. The City of Keizer Department of Public Works will review the proposed sanitary sewers to assure adequacy of compliance with the Master Sewer Plan.
- b.) No sanitary sewer construction shall begin on this property without prior notification being given to the City of Keizer Department of Public Works.
- c.) It is the understanding of the Department of Public Works that the proposed development is located within the original Keizer Sanitary Sewer District and will therefore not be subject to the area assessment charge.
- d.) Previous agreements regarding abandonment of an existing sewer service that connects to a private sewer system must be fulfilled at the time of the next sanitary sewer system improvement. Specifically, the tract shown as Parcel 2 is connected to a private sewer system that serves Parcel 1. A new sewer trunk line through the proposed development must be constructed prior to any additional sanitary sewer services being issued. The City of Salem will be notified of this requirement.

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

Incorporated 1982  
Pride, Spirit, Volunteerism

Public Works Department Comments  
SUBDIVISION CASE NO. 96-04  
Wittenburg  
Page 2

WATER SYSTEM:

- a.) The Keizer Fire District will determine where proper locations of fire hydrants are necessary. Final development plans shall be reviewed by the Keizer Fire Department prior to any issuance of permits for public water main construction for the subdivision.
- b.) Any wells on the subject property shall be identified and abandoned in accordance with the water department requirements.
- c.) An overall water system master plan for the proposed development shall be submitted to the City of Keizer Department of Public Works for review prior to submittal of any new water mains through the proposed Subdivision/PUD.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) Sidewalk improvements, driveway closures, and landscaping are a requirement of previous land use actions for the subject property. Those requirements still remain and must be completed along with other public improvements proposed for the development.
- b.) A storm drainage master plan will be required to be submitted for review and approval prior to any construction in this area.
- c.) Storm water detention will be required for this site for all new hard-surfaced areas.
- d.) The applicant has not requested any setback variances for the subject property. If a variance is requested, the Public Works Department would like the opportunity to provide input to the planning department at that time prior to the issuance of any new building permits.
- e.) The application indicates that the proposal is to include a public north-south street through the center of the development. A portion of that street has been constructed as a private street that does not meet the City of Keizer Street Standards. A variance request was submitted as part of the application. The Department of Public Works will consider a variance for a narrower than standard right of way but the street section must meet the f Public Works Street Standards prior to the City accepting the street for continued maintenance. A sidewalk or pedestrian pathway can be considered outside of the proposed right of way. Street lights will also be required as part of the standard street improvement.

*WJL 8-19-96*  
*and an EAST/WEST SIDE*

Public Works Department Comments  
SUBDIVISION CASE 96-04  
Wittenburg  
Page 3

- f.) The developer will be responsible for preparing an over all signage plan for the proposed development. The plan shall be reviewed by the Department of Public Works and the Keizer Fire District prior to issuance of any additional permits for the subject property.
- g.) Installation of a street light at Claggett Street and River Road shall be completed prior to construction of any retail or housing uses on the subject property.
- h.) Construction permits are required by the Department of Public Works prior to any public facility construction. Contact Scott Peterson at the City Engineer's office at 390-7402 for the necessary permit information that is required.
- i.) A Pre-design meeting will be required prior to the Developer's Engineer submitting plans to the city for review.

A Pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.



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

REQUEST FOR COMMENTS

TO: Keizer Fire District  
661 Chemawa Rd NE  
Keizer OR 97303

DATE: July 22, 1996

FROM: Keizer Community Development Department

CASE: Subdivision Case No. 96-04

APPLICATION: Application by Paul Wittenburg to divide an approximate 9.2 acre area into <sup>19</sup>~~28~~ lots ranging in size from 0.138 acres (6,003 square feet) to 1.902 acres (82,860 square feet). The property is designated C (Commercial) on the Keizer Comprehensive Land Use Map and is zoned CR (COMMERCIAL RETAIL) and MU (MIXED USE).

LOCATION: The subject property is located on the east side of River Road north of the intersection of River Road and Chemawa Road and south of the intersection of Claggett Street and River Road. The property has multiple addresses between 5000 to 5400 River Road N and is shown on Assessor Maps T7S; R3W; Sect. 02BA; Tax Lot #'s 4900, 500, 5100, & 5300 and T6S; R3W; Section 35CC & CD (See attached maps).

The Keizer 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 AUGUST 5, 1996 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, PO Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Roger Evans, 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:

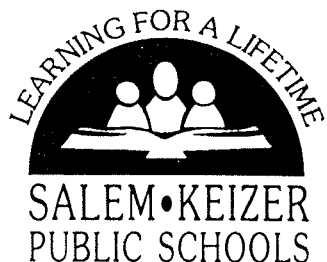
All Fire Department access and water supplies will be indicated on a detailed set of plans once they become available

Date response prepared: 8-6-96 Person Commenting: Joel Stein

The applicant must submit plans detailing the specific building layout and accesses

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

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TOM McMULLEN, Director  
Facilities Planning, Construction, and Property Management  
3630 State Street • Salem, Oregon 97301  
(503) 399-3290 • FAX: 375-7806

## ***EXHIBIT "F"***

M. LeROY NEWPORT, Director  
Business Services

Homer Kearns, Superintendent

July 30, 1996

Roger Evans, City Planner  
Keizer Community Development  
City of Keizer  
P.O. Box 21000  
Keizer, OR 97307-1000

**SUBJECT: 5000 Block of River Road N (Wittenburg Development)**

The Salem-Keizer Public School District has received a request for comments on the above-named potential development. The residential portion of this development appears to show about 22 townhouses. According to the developer, the dwelling units will not be limited to retirement age residents. Based on that information, we would estimate that the impact on the school district would be minimal. Keizer Elementary may expect up to 3 students, with Whiteaker Middle School and McNary High School, 1 student each from these units.

If this proposal should change in scope, we will supply new information based on any change submitted to us.

If you have any questions, please call me at 399-3412.

Sincerely,

Dawn Meier  
Facilities Project Coordinator

**EXHIBIT "E" Ordinance**Action**94-297**

A. The City of Keizer hereby GRANTS the requested zone change from CR (Commercial Retail) to MU (Mixed Use), subject to the following conditions:

Prior to the issuance of any building permits:

1. An existing sanitary sewer line is indicated on the city maps that provide sewer service to this area. A sewer line which lies in an extension of Kestral Street could be located under the proposed mini-storage warehouses. The applicants shall provide to the Keizer Department of Public Works a copy of the recorded easements on this property. It is possible that an easement exists that would prohibit the construction directly over the existing sewer line.
2. Appropriate easements will be required for any public sewer mains located within the subject property.
3. A water main exists in the vicinity of the proposed entrance to the property from River Road North. The water main is one of the old steel mains scheduled to be replaced by the City of Keizer. During the fire flow calculations for the subject property, the developer may want to have this main oversized. If it is oversized, the City will assist in the reconstruction of the main by helping to pay for a share of the new main. Final amounts to be paid shall be determined by the Director of Public Works prior to any connection or other work being undertaken on the existing water main.
4. Improvements to Claggett Street will involve a traffic signal at River Road North to handle the projected increase in traffic, particularly when the commercial development occurs.
5. The proposed overall development plan for the site must provide for improved access control in the vicinity of the main access to River Road and to the accessways to Chemawa Road and Claggett Street. The driveway width for both access roads shall be of adequate width to provide for left turn lanes onto River Road and to Chemawa Road.

The access road northerly to Claggett Street shall be a separate roadway not traversing through the proposed residential development. [(See condition D(2).]

Prior to the issuance of any occupancy permits:

6. The existing storm drain lines with the subject property shall be located and appropriate easements provided for all storm drains that serve separate properties or public facilities. An overall storm drain master plan shall be developed and approved by the Department of Public Works.

B. The City of Keizer hereby GRANTS the requested zone change from CR (Commercial Retail) to CG (Commercial General), subject to the following conditions:

Prior to the issuance of any building permits:

1. Conditions A(1) through A(5) above must be satisfied.
2. The CG (Commercial General) zone change is modified to include the placement of an LU (Limited Use Overlay) zone. Permitted uses on the CG zoned property shall be limited to mini-storage warehouses as identified in KZO Section 29.05(5) [SIC 40].
3. The proposed mini-storage warehouses shall substantially conform with the color, style, texture, architectural features, landscaping and layout of the plans and pictures submitted by the applicants.

Prior to the issuance of any occupancy permits:

4. Condition A(6) above must be satisfied.

C. The City of Keizer hereby GRANTS the requested variance to allow a reduction in the landscaping buffer, subject to the following conditions:

Prior to the issuance of any building permits, and perpetually thereafter:

1. The minimum landscaped area along the east side of the mini-storage warehouse units shall be ten (10) feet.

2. The entry ways to the mini-storage warehouse units shall not be situated as to be seen from the residential property adjacent to the subject property.
3. Existing trees within the ten (10) foot landscaped area shall remain and shall be continually maintained by the applicants. No trees shall be removed without written approval of the Community Development Director. Any removed trees will be replaced.

D. GENERAL DEVELOPMENT.

1. A pre-design meeting will be required prior to the developer's engineer submitting plans to the City for review. A pre-construction conference shall be required prior to commencement of any construction under permits issued by the City.
2. Prior to the issuance of any building permits on any of the entire development parcel, and regardless of zone, the applicants shall submit a master design plan. The design plan shall incorporate the elements identified in the City Engineer's Report and the Traffic Engineer's Report submitted at the hearing. The master design plan shall be reviewed and approved by the Keizer Department of Public Works and the Keizer Community Development Department to ensure compliance with City engineering requirements, conditions of approval, and other applicable development standards. Approval of the master design plan shall be required prior to the issuance of any building permits.
3. An access management plan will be developed and implemented for the entire site (not just the northern section encompassing the new development). This plan will have as its goal closing and consolidating driveways so that there are only two on Claggett Street, four on River Road, and two on Chemawa Road. This will involve staff and applicants working with other property owners and tenants to reach agreement on the plan.
4. A landscaping plan will be developed and implemented for the existing development on the southwest corner of the property. This plan will be similar to the landscaping installed for the new development in the northern part of the

property, taking into account the need to reasonably maintain parking and circulation. All the landscaping will be installed concurrently.

5. A cohesive signage plan will be developed for the entire site, including both new and old portions, and preferably involving the other ownerships and uses. This plan will focus primarily on monument signs sharing a common design and theme.
6. The development that is the subject of this application will be responsible for thirty-five percent (35%) of the cost of the traffic signal at Claggett Street and River Road. Coupled with the twenty-five percent (25%) already committed for Keizer Retirement Center, applicants will be responsible for sixty percent (60%) of the cost of the signal.

4131COK2.001



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

## REQUEST FOR COMMENTS

TO: Keizer Fire District  
661 Chemawa Rd NE  
Keizer OR 97303

DATE: July 22, 1996

FROM: Keizer Community Development Department

CASE: Subdivision Case No. 96-04

APPLICATION: Application by Paul Wittenburg to divide an approximate 9.2 acre area into 19 lots ranging in size from 0.138 acres (6,003 square feet) to 1.902 acres (82,860 square feet). The property is designated C (Commercial) on the Keizer Comprehensive Land Use Map and is zoned CR (COMMERCIAL RETAIL) and MU (MIXED USE).

LOCATION: The subject property is located on the east side of River Road north of the intersection of River Road and Chemawa Road and south of the intersection of Claggett Street and River Road. The property has multiple addresses between 5000 to 5400 River Road N and is shown on Assessor Maps T7S; R3W; Sect. 02BA; Tax Lot #'s 4900, 500, 5100, & 5300 and T6S; R3W; Section 35CC & CD (See attached maps).

The Keizer 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 AUGUST 5, 1996 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, PO Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Roger Evans, 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:

All Fire Department access and water supplies will be

checked on a detailed set of plans once they become available

Date response prepared: 8-6-96 Person Commenting: Steel Stein

s:comment:cindy

The applicant must submit plans detailing the specific building layout and accesses

Fire Marshal

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

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**CITY OF KEIZER**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
930 Chemawa Road, N.E.  
Post Office Box 21000  
Keizer, Oregon 97307 (503) 390-3700

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**HEARINGS OFFICER DECISION**

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This Decision consists of Conditions, Findings of Fact, and Conclusions

---

**September 30, 1996**

**Subdivision/Planned Unit Development/Variance Case No. 96-04**

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Applicant seeks subdivision approval for 19 lots within a Mixed Use Zone,  
11 of which are to be duplexes identified as a Planned Unit Development

**Location:** Multiple addresses between 5000 to 5400 River Road North

**Legal:** T7S, R3W, Sec. 02BA; Tax Lots 4900, 5000, 5100, and 5300;  
T6S, R3W, Sec. 35CC & CD

**Site Size:** Approximately 10.5 acres

**Applicant:** Team Management Co.

**Property Owner:** Paul Wittenberg/ Wittenberg Development

**Comprehensive Plan:** Commercial

**Zoning:** CR (Commercial Retail) and MU (Mixed Use)

## HEARINGS OFFICER DECISION:

**Approved**, a subdivision comprising 19 lots, 11 of which comprise a Planned Unit Development consisting of duplexes (as amended by applicant's September 6, 1996, letter request),<sup>[1]</sup> subject to the following conditions of approval.

### CONDITIONS OF APPROVAL:

This decision incorporates by reference those recommended conditions set forth at pages 6 and 7 of the August 21, 1996, STAFF REPORT (hereafter "STAFF REPORT"), *except* that (1) applicant's request shall be deemed modified in accordance with applicant's September 6, 1996, letter requesting that the hotel lot be removed from the planned unit development, and (2) subcondition 9(d) in that STAFF REPORT shall be modified to read:

"Applicant shall provide its proportionate share for the installation of the traffic signal at Claggett Street and River Road, which installation shall be completed prior to construction of any retail or housing on the subject property."

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## I. ANALYSIS OF THE PROPOSAL

### A. BACKGROUND / PROPOSAL SUMMARY

This decision incorporates by reference the proposal summary and accompanying background information that appears at pages 1 and 2 of the STAFF REPORT, as amended and modified by applicant's September 6, 1996, letter requesting the elimination of the hotel lot from the planned unit development portion of the proposal.

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<sup>1</sup> By letter dated September 6, 1996, the applicant requested a modification to the original 12-lot Planned Unit Development by removing the hotel lot from the PUD and adding that lot to the proposed subdivision as an additional lot. By letter dated September 7, 1996, City Staff endorsed the applicant's requested modification. I can find nothing in the City's Zoning Ordinance or Subdivision and Partitioning Ordinance that would preclude me from accepting the proposed modification.

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## B. SITE AND VICINITY DESCRIPTIONS

This decision incorporates by reference the discussion of adjacent zoning and land uses that appears at pages 1 and 2 of the STAFF REPORT.

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## C. COMPREHENSIVE PLAN AND ZONING ORDINANCE CONSIDERATIONS

This decision incorporates by reference the discussion of applicable Comprehensive Plan and Zoning Ordinance considerations that appears at page 1 and 2 of the STAFF REPORT.

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## II. APPLICABLE CRITERIA

Subdivision Approval. The STAFF REPORT identifies no applicable subdivision criteria other than Section III(1) of the Keizer SUBDIVISION AND PARTITIONING ORDINANCE ("SPO"). (STAFF REPORT at 3.) Section III(1) provides:

"CONSIDERATIONS FOR APPROVAL OR DENIAL When considering a subdivision or partitioning plan, the City shall consider *whether or not it is in accordance with the Comprehensive Plan and its implementing ordinances and all other land development policies* of the City of Keizer." (SPO § III ("General Regulations"), ¶ 1 [emphasis added].)

However, the STAFF REPORT contains no discussion or citation of particular Comprehensive Plan approval criteria pertinent to subdivisions, or any related approval criteria from "implementing ordinances," or any "land development policies" pertinent to subdivisions. The STAFF REPORT also mentions, but does not cite subdivision approval criteria from, Sections IV, V, and VI of the SPO. (STAFF REPORT at 3.)

Planned Unit Development Approval. With respect to the Planned Unit Development, the STAFF REPORT remarks that such a proposal "shall meet all use and development standards and requirements contained in the Subdivision and Partitioning Ordinance" (STAFF REPORT at 4), but does not identify any particular "standards and requirements" from that Ordinance.

The STAFF REPORT does identify Chapter 13 of the Keizer ZONING ORDINANCE ("KZO") as "establish[ing] minimum requirements for a PUD" (STAFF REPORT at 4), but identifies no approval criteria within Chapter 13 other than (1) certain density criteria in KZO § 30.12, (2) "additional specific development requirements" in KZO § 13.90, and (3) a 3-acre minimum size requirement.

Variance Approval. The STAFF REPORT identifies SPO § XI as containing the pertinent approval criteria for the applicant's requested variance from right-of-way requirements. (STAFF REPORT at 4-5.)

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### III. FINDINGS

Taken within the context of the STAFF REPORT's citation and discussion of the subdivision approval criteria mentioned above, I incorporate by reference the topic labeled "Findings – Subdivision" that appears at pages 2-3 of the STAFF REPORT.

Similarly, taken within the context of the STAFF REPORT'S citation and discussion of the Planned Unit Development approval criteria mentioned above, I incorporate by reference the topic labeled "Findings – Planned Unit Development" that appears at pages 3-4 of the STAFF REPORT. However, I would augment those findings with the following discussion.

By letter of September 9, 1996, I directed the following comments to the applicant and the City with respect to the density approval criteria:

"In reviewing the MU zone provisions in Chapter 30, I observe that all of the various provisions in Chapters 17 and 20 shall apply to all 'lots, structures and uses unless otherwise indicated.' (KZO § 30.10.) More specifically, within the MU zone the density provisions in Chapter 17 apply to proposed duplexes. (KZO § 30.12(1).) In turn, it appears to me that Chapter 17 implements specific density approval criteria, which, for purposes of this application (*viz*, an application within a MU zone), encompasses the 'other zones' criterion of 'one **dwelling unit** per lot' in KZO § 17.05(e).

"The problem arises when I consult the Zoning Ordinance's definitions of 'duplex,' 'dwelling,' and 'dwelling unit' in conjunction with the density provisions in KZO § 17.05(e). 'Duplex' means a '**dwelling** containing two independent **dwelling units**.' (KZO § 2.102.) Team Management's application proposes one

'dwelling' per lot but two 'dwelling units' per lot. But 'dwelling' and 'dwelling unit' bear different meanings that appear to result in a significant difference for purposes of Chapter 17's density restrictions. (KZO §§ 2.106 and 2.108.)

"A 'duplex,' as defined in the City's Zoning Ordinance, cannot be considered a 'dwelling unit'; it necessarily comprises *more than one* 'dwelling unit.' That being the case, the density criterion in KZO § 17.05(e) certainly appears to create a limitation of one '*dwelling unit*' per lot for duplexes with the MU zone, instead of one 'dwelling.' But that reading would effectively eliminate the possibility of constructing any 'duplex' within a MU zone; the density criterion does not allow more than one 'dwelling unit' per lot, yet a duplex, as defined, would contain more than one 'dwelling unit.' If the density criterion in KZO § 17.05(e) used the term 'dwelling' instead of 'dwelling unit,' my reading would be different.

"Therefore, on or before September 19 I would like some input from each of you with respect to my reading of the density criterion in KZO § 17.05(e)."

Summarized, the problem lies in the density criterion in KZO § 17.05(e), which plainly and unambiguously allows a density of "one *dwelling unit* per lot." Team Management's application proposes *one "dwelling"* per lot but *two "dwelling units"* per lot. Thus, the density criterion in KZO § 17.05(e) creates a limitation of one "*dwelling unit*" per lot for duplexes within the MU zone, instead of one "dwelling."

Applicant responded with a letter of September 12, 1996, in which it concludes that the applicable density restrictions in KZO § 17.05(e) are in "clear and direct conflict with the express provisions of [KZO] Chapter 30." Applicant accounts for that conflict by presuming that

"the drafters of [KZO Chapter 30] made the cross-reference to the [density] provisions of Chapter 17, but forgot to amend Section 17.05 to provide specific density guidance for the MU zone."

Unfortunately (and surprisingly), the City did not respond to my September 9 letter, and has offered no explanation or interpretation with respect to the patent conflict that appears within its own Zoning Ordinance.

Thus, I am left to *either* apply the density criteria in KZO § 17.05(e) as written, *or* declare that criteria to be nonsensical and, in effect, simply ignore it for the reasons asserted in the applicant's September 12 letter. Obviously, the latter alternative would

implicate a re-write of the City's own Zoning Ordinance in order to make it say something that it plainly does not say.

However, since the City did not bother to respond to my September 9 inquiry (and has left me to presume that it does not care whether its own density criteria are followed as written or not), I will accept the applicant's proposition that KZO § 17.05(e) simply makes no sense whatsoever in the context of duplexes. I will, therefore, ignore KZO § 17.05(e).

Finally, taken within the context of the STAFF REPORT'S citation and discussion of the variance approval criteria mentioned above, I incorporate by reference the topic labeled "Findings – Variance" that appears at pages 4–5 of the STAFF REPORT.

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#### IV. CONCLUSION

I conclude that the applicant has fulfilled all of the approval criteria identified by the City in the August 21, 1996, STAFF REPORT, with respect to the proposed subdivision, planned unit development, and accompanying variance, as amended by applicant's September 6, 1996, letter request, *subject to* those conditions of approval set forth at page 2 of this decision.

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#### V. APPEAL RIGHTS

Any interested person, including the applicant, who disagrees with this decision may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Community Development Department, 930 Chemawa Road, N.E., Keizer, Oregon 97303, by 5:00 p.m. on the tenth day following the date of mailing of this decision, and accompanied by any necessary filing fee.

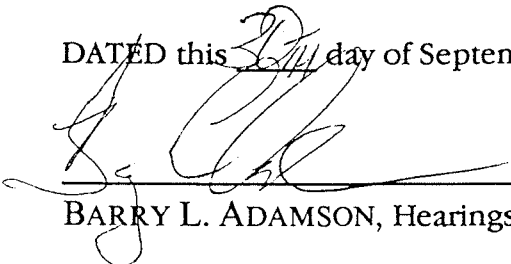
The appeal must:

- ◆ be in writing,
- ◆ request that the Council hold a hearing on the application, and
- ◆ *either* explain why the appellant believes the decision to be factually or legally incorrect or based on incomplete facts, *or* present new facts material to the decision, the omission of which resulted in a factually or legally incorrect decision, *or* offer modifications to the decision that will conform

the proposal to the requirements of the pertinent criteria governing the application.

This decision shall be effective and final after the tenth day following the date of mailing, unless appealed.

DATED this 24<sup>th</sup> day of September, 1996.

  
BARRY L. ADAMSON, Hearings Officer

I certify that on the 1<sup>st</sup> day of October, 1996, I mailed a copy of this decision to the following persons:

DATED this 1<sup>st</sup> day of October, 1996.

  
\_\_\_\_\_

**July 29, 1999**

**TO: Tracy Davis  
City of Keizer**

**FROM: Mary Blankenship  
694 Claggett Street N.E.  
Keizer, Oregon 97303**

**RE: ATTACHED MATERIALS**

**Please include these materials in the packets you send out to the Council today about the hearing 8/2/99 on Subdivision/Planned Unit Development Case #99-44, regarding the Wittenberg Inn conference center expansion.**

**I intend to oppose the application and would like Council members to be able to review my issues before the meeting.**

**Thank you.**

**MARY L. BLANKENSHIP**  
**694 CLAGGETT STREET N.E.**  
**KEIZER, OREGON 97303**  
**503-390-2403**  
**e-mail: korivy@televar.com**

July 28, 1999

Members of the Keizer City Council  
Wally Mull, City Manager  
Keizer Community Development Department  
Keizer Traffic Commission

Dear Sirs:

**RE: Subdivision/Planned Unit Development Case #99-44**

I am a residential property owner at 694 Claggett Street N.E. in Keizer, adjacent to the Wittenberg Inn at Claggett Street and River Road. This letter is written to address several issues about the conference center expansion at the Wittenberg Inn. It is also intended as an exhibit to support testimony at the Council hearing on the land use case, scheduled for August 2, 1999. The purposes of the letter and testimony are as follows:

- ◆ to make the Council aware of my objection to the change to the Subdivision/PUD plan in Case #99-44. The requested change would allow construction of a parking lot on the east side of the Wittenberg property, immediately next to the residential properties of the Walnut Lane Addition;
- ◆ to request that the Council impose certain requirements on the developer to provide relief to neighboring residents from visual, noise and traffic problems which will be caused by the conference center. I request that those requirements be imposed even if the requested change is not approved;
- ◆ to request that the City of Keizer take additional traffic management steps to provide the residential neighborhood relief from traffic and parking congestion associated with the Wittenberg Inn, the Keizer Retirement Village and the planned conference center. Those facilities collectively create a significant additional traffic and parking influx into the neighborhood which changes the character of the neighborhood.

The expansion several years ago of the retirement center and the more recent opening of the Wittenberg Inn have already had a substantial negative impact on noise, traffic and ambient nighttime light in the neighborhood. There has already been a reduction in the "livability" of this previously quiet area, and we believe there has been a dampening effect on the resale value

of homes nearest the Wittenberg properties. The neighborhood needs the help of the Council to insure that further negative effects on our homes are kept to a minimum.

During the period of development of the original plans, I was chair of the Claggett Creek Neighborhood Association. The association and I supported the planning at that time, and I spoke in its favor at a Council hearing. Our support was based on Paul Wittenberg's assurance that he would build retirement bungalows on the northeastern section of the property, a use which appeared unlikely to increase the noise, traffic or other nuisance effects on our homes.

In the ensuing time, we have been patient with the noise and disruption caused by construction, aware that it would be time-limited. However, there has been a substantial increase in traffic and parking congestion on Claggett Street. That increase continued after completion of the hotel. On most weekdays, vehicles belonging to employees and visitors of the retirement center and hotel are parked along Claggett Street to the end of the block at 7<sup>th</sup> Street and Claggett, and often around the corner to the south on 7th Avenue. The tightly parked cars limit our view from our driveways and create a hazard in exiting from our driveways. Often, parked cars crowd or park over the edges of our driveways. The attached photos attest to the parking situation in front of these homes. No parking is permitted on the north side of Claggett Street west of 7<sup>th</sup> Street, although persons visiting the retirement center frequently park there. Most non-resident cars, however, park in an eastbound direction and virtually all of them travel through the neighborhood when leaving.

In addition, the corner of 7<sup>th</sup> and Claggett is an unsupervised school bus stop for 10 to 15 elementary school children each day during the school year. Because there is no sidewalk on Claggett Street, the children are frequently in the intersection itself. A great deal of traffic comes through the intersection while children are present each morning, including large vendor trucks, creating an "accident waiting to happen." At times, tractor-trailer vendor trucks make U-turns in the intersection, an activity completely inappropriate for a residential street.

Further, many drivers avoid the traffic light at River and Chemawa Roads by taking a shortcut down Claggett and 7<sup>th</sup> Streets, and this "through" traffic often travels faster than the posted speed limit.

A conference center with hundreds of people and vehicles attending large events is certain to add to the already-existing traffic problem in a serious way. We are most concerned that vehicles arriving for and departing from large events, especially in the evening hours, will add a significant noise and headlight nuisance. These and other concerns are listed below, with our requests for steps to remedy them:

**Increased traffic congestion and hazards:**

- ♦ **require that the Wittenberg Inn provide adequate off-street parking for both customers and employees in order to avoid increasing the on-street parking congestion that already exists;**

- ◆ post a sign prohibiting commercial vehicle traffic on Claggett Street east of the Wittenberg properties and on 7th Avenue.
- ◆ create a residential permit parking zone on the south side of Claggett Street from the eastern Wittenberg property line eastward; or
- ◆ if a residential permit zone is not possible create a no-parking zone from approximately ten feet west of the driveway entrance at 694 Claggett Street N.E. to the corner of 7<sup>th</sup> and Claggett, which would provide minimal relief from the crowding and partial blocking of our driveways and the resulting safety problems;
- ◆ work with the residents to install a speed-dampening device such as a speed bump or a traffic circle to Claggett Street in the vicinity of 7<sup>th</sup> Street, which would not only slow traffic on Claggett Street and 7th Avenue but would have the additional benefit of precluding large trucks from turning around in the intersection.

**Noise and visual nuisance:**

- ◆ require the developer to build at least an eight foot concrete sound barrier fence (preferably ten foot) between the hotel property and that of the adjacent homes;
- ◆ require the developer to install all necessary parking lot lights facing away from the residences to the east of the development.

Paul Wittenberg has described a plan to erect a chain link fence with privacy slats between the hotel/conference center property and the adjacent homes. Such a fence is inadequate to provide either noise dampening or visual screening from the planned structure and its parking lot. The noise of shift workers leaving the retirement center after 11 PM has been evident for some time, and the automobile noise will be increased exponentially if several hundred cars leave a large event in a short time period. In addition, on June 16, 1999, persons attending a high school reunion at the Wittenberg Inn were involved in noisy, alcohol-involved behavior in and around a motor home in the hotel parking lot over the course of several hours, lasting until around 11:30 P.M. and requiring two calls to the hotel before staff of the facility were effective in getting the noise to stop. With even the best-managed facility, the presence of large numbers of people attending weddings, reunions and other celebrations will inevitably result in a certain number of problems. A sound barrier fence would help to reduce the impact on the neighbors.

In a similar situation, the Taco Bell restaurant on River Road was required to build a concrete sound and sight barrier fence between its lot and the neighboring residential property, and such a barrier is the minimum adequate structure to prevent significant problems with noise and visual intrusions. There is also a precedent in the sound-dampening barriers which were required along Lockhaven and the Salem Parkway. If this structure is to be the largest conference facility in the Salem area, the traffic noise problem will be at least comparable to the three examples mentioned above, and the neighborhood needs the greatest degree of relief possible from that noise. The mini-storage facility located on the southeast portion of the

Wittenberg property has a concrete back wall facing the neighborhood, and a similar structure at the north end of the property by the conference center would be logical, as it would provide thematic and visual unity to the entire development rather than a hodge-podge of styles.

If the requested change is approved and the parking lot built next to the residences, a more effective privacy fence will also be necessary to prevent the continual sweep of car headlights into the windows of the home along Walnut Lane Addition rooms during the evening and nighttime hours as people attending events at the conference center come and go.

Finally, the required lights for the parking lot, if located next to the residential area, will create a nuisance if not facing away from the east, regardless of their location on the property.

Even if the developer withdraws the application for a change in the present plan and the parking lot is placed on the River Road side of the development, we believe that a sound and sight barrier fence is necessary. The increase in noise and light from the conference center, in addition to those intrusions already caused by the retirement center and hotel, will require a barrier more substantial than a chain link fence with slats.

- ♦ **require the developer to preserve the significant trees and the continuity of the entire row of trees shared with Walnut Lane residents along the residential property line.**

The large row of old walnut trees after which Walnut Lane Addition is named is astride the property line shared by the Wittenberg property and the adjacent homes. Many of the trees would fall into the "significant tree" category defined in the Keizer code. As can be seen in the attached photos, they are an important environmental and landscaping feature of the neighborhood. The trees greatly enhance the livability of our homes. They provide shade and cooling from the afternoon sun, a visual barrier against River Road and sound barrier during the leafy season, and habitat for many birds. We believe that the presence of the trees adds substantially to the intangible value of our homes and we do not want them damaged or removed.

Mr. Wittenberg has already mentioned an intention to "prune" the trees. One-sided pruning may destabilize the trees and cause vulnerability to toppling in a windstorm. As the prevailing wind is from the west, it is the residential properties which will be most likely to suffer damage as a result. We want to insure that the developer does not take unilateral action which creates an increased risk of such an outcome to our houses and other structures on our properties. While removal of the blackberry bramble and other scrub growth beneath the trees is entirely reasonable, removal or pruning of the trees is not. Any decision to alter the walnut trees should conform to the significant tree ordinance and be taken by the developer **only** in partnership with the neighboring residential property owners on whose land the trees are also placed.

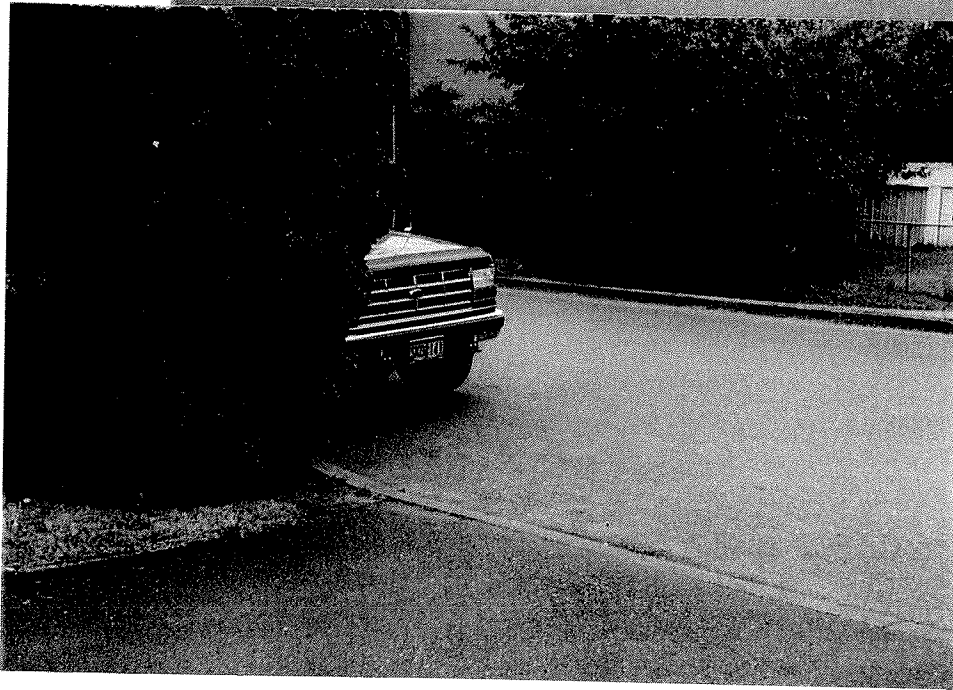
In summary, although none of the residents of our neighborhood were enthusiastic about living next door to the hotel, we were optimistic that the development of small retirement bungalows along the property line would be an appropriate transition use between our homes and this complex. The development of a large conference center next door will certainly have a more profound effect than anything that has happened to date. Both the City of Keizer and the developer will be likely to benefit from the enterprise. There is likely to be greater financial benefit to both the city and the developer than would have been realized from the more "neighbor-friendly" retirement bungalows. In realizing that benefit, it is both fair and reasonable for the residents of the nearby neighborhood to expect that adequate measures are taken to offset the negative side effects on us.

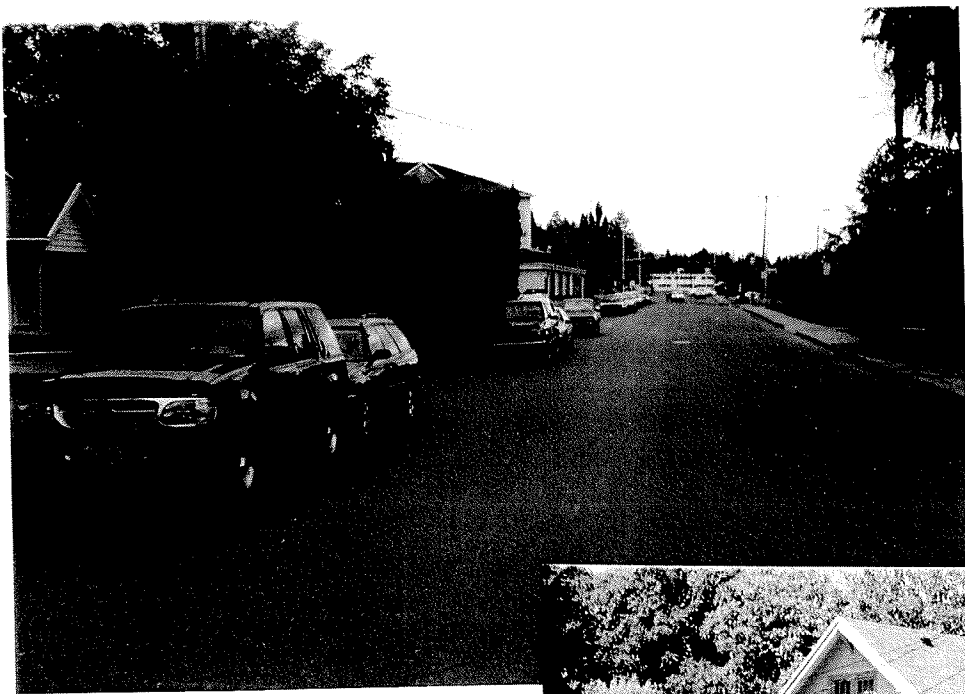
Thank you for your consideration of these requests.

Sincerely,

A handwritten signature in cursive script that reads "Mary L. Blankenship". The signature is written in black ink and is positioned below the word "Sincerely,".

Mary L. Blankenship









August 2, 1999

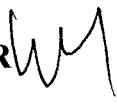
# **AGENDA ITEM 7a**

ORDER – APPEAL OF HEARINGS OFFICER DECISION  
CASE NO. 99-17 – VIESKO QUALITY CONCRETE HAUL ROAD

**CITY COUNCIL MEETING: August 2, 1999**

**AGENDA ITEM NUMBER: \_\_\_\_\_**

**TO: MAYOR NEWTON AND COUNCIL MEMBERS**

**THROUGH: WALLY MULL, CITY MANAGER** 

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: *CONDITIONAL USE CASE NO. 99-17 (VIESKO QUALITY CONCRETE)***

At its last meeting, the Council directed staff to prepare an Order granting the conditional use permit to allow the construction of the haul road for Viesko Quality Concrete.

As you may remember, Viesko continues to object to certain conditions proposed by staff. The three major issues are making the haul road a public street in the future, the requirement that a small portion of land be purchased by the applicant to make the intersection work, and the future use of Willow Lake Road.

At its last meeting, the Council directed staff to adopt the Order requiring the street to be made public at such time as the property to the north develops. In addition, Council determined that the additional portion of land was necessary for safety purposes and allowed that the power of condemnation could be used if the property owner was unwilling to sell the property voluntarily to Viesko.

The third issue was the use of the Willow Lake Road by Viesko trucks and/or their customers. The general consensus of Council was that non-truck traffic would still be able to use the road and that any Viesko trucks needing to access Keizer Sand and Gravel would be able to use Willow Lake Road. The above decisions are incorporated into conditions set forth in Exhibit "E" of the attached Order. Since there was some difference of opinion with regard to the Willow Lake Road issue, I felt it appropriate to provide the Council with the applicant's requested condition in this regard. Rick Stein, attorney for the applicant, suggests the following condition is more reasonable:

Once the haul road has been constructed, all trucks of Viesko Quality Concrete (including any successor) over \_\_\_\_\_ Gross Vehicle Weight shall primarily use said haul road to access Windsor Island Road and Lockhaven Drive.

Mayor Newton and Council Members

Page 2

Re: Conditional Use Case No. 99-17 (Viesko Quality Concrete)

Council can adopt the language in the draft order, Mr. Stein's language, or some other alternative.

**RECOMMENDATION:**

Determine whether any changes need to be made to the draft Order, and adopt the Order.

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

ESJ/tmh  
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3 IN THE MATTER OF THE APPLICATION OF VIESKO QUALITY  
4 CONCRETE, INC. FOR CONDITIONAL USE PERMIT TO ESTABLISH  
5 A HAUL ROAD IN THE EFU ZONE WEST OF THE WEST END OF  
6 LOCKHAVEN DRIVE (CONDITIONAL USE CASE NO. 99-17)

7 The City of Keizer orders as follows:

8 Section 1. THE APPLICATION. This matter came before the Keizer City  
9 Council on the appeal of Viesko Quality Concrete, Inc. from the Hearings Officer's  
10 decision dated May 6, 1999. The Hearings Officer denied approval of the applicant's  
11 request to establish a "haul road" on property located within the city to serve a planned  
12 aggregate extraction site and other uses outside the city. The location of the proposed  
13 haul road would be at the westerly extension of Lockhaven Drive (Township 7S; Range  
14 3W; Section 34AC - Tax Lot 200 and Tax Lot 1600).

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

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1        Section 3. PUBLIC HEARING. In addition to the public hearing held before the  
2        Hearings Officer, a public hearing was held on this matter before the Keizer City  
3        Council on June 21, 1999. The following persons either appeared at the City Council  
4        hearing or provided written testimony on the application before the Council:

- 5            1)     Amy Drought, Senior Planner
- 6            2)     Scott Erickson, President of Viesko Quality Concrete
- 7            3)     Rick Stein, Attorney for Applicant
- 8            4)     Jeff Tross, Land Use Consultant for Applicant
- 9            5)     John Blake, Neighboring Property Owner
- 10           6)     Dale Pierce, Neighboring Property Owner

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

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

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

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

20        ///

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

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

5        Section 10. FINAL DETERMINATION. This Order is the final determination  
6 in this matter.

7        Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon  
8 its passage.

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

12        PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

13        SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

14 \_\_\_\_\_  
15 Mayor

16 \_\_\_\_\_  
17 City Recorder

## **EXHIBIT "A"**

### Evidence

Official notice has been taken of the Planning Department files and reports in this matter, as well as the Hearings Officer's decision.

Mayor Newton opened the public hearing on June 21, 1999.

City Attorney, Shannon Johnson announced the appeal of the Hearings Officer decision on Conditional Use Case No 99-17 ~ Viesko Quality Concrete. He noted the applicable criteria of the case as outlined in the Keizer Development Code. He asked that any testimony being presented be directed towards the criteria.

In response to an inquiry by Mr. Johnson pertaining to conflict of interest, bias or ex-parte contacts Council President Whalen stated that he was a property owner adjacent to the proposed haul road and did not feel it would prejudice his opinion and would participate in the debate and the vote.

Councilor Campbell disclosed an ex-parte contact with Scott Erickson a couple of months ago where a copy of the surrounding land map was supplied and Mr. Erickson identified where the proposed access route would be and identified the items which would be placed along the road. (ie: sound walls). Councilor Moir shared she was at the same meeting as Councilor Campbell and received the same information.

Councilor McGee disclosed that he spoke with Mr. Erickson over a year ago before this was a land use issue. He noted that the information he received at that time is now public record.

Senior Planner, Amy Drought submitted the staff report stating in March, 1999 Viesko Quality Concrete applied for a Conditional Use Permit to develop a "haul road" to serve a planned aggregate extraction site, batch plant and office. Ms. Drought explained that the proposed aggregate extraction site is located entirely within Marion County. The proposed batch plant and office site is located outside of the City limits, but within the Salem-Keizer Urban Growth Boundary. Ms. Drought noted that Viesko proposes to use the former PGE easement in conjunction with Tax Lot 1600 to serve the proposed batch plant, office and aggregate extraction site. Ms. Drought noted a map that outlined the haul road and the tax lots involved.

Ms. Drought noted that the properties involved in the application are zoned Exclusive Farm use. The proposed haul road would be part of the sand and gravel processing operation and according to the Keizer Development Code gravel processing is listed as a Conditional Use.

Therefore, staff concluded that approval for the development of the proposed haul road required a Conditional Use Permit.

Ms. Drought shared that the City recommended approval of the CUP to the Hearings Officer with a list of conditions. Some of the conditions were:

The proposed batch plant and office site be annexed to the City of Keizer prior to the development of the haul road, and

The proposed haul road be developed as a public street. Ms. Drought noted that this was proposed to adequately serve adjacent property as well as to meet the conductivity standards within the Keizer Development Code. Ms. Drought noted that the City Traffic Engineer and the Public Works Department recommended that trucks currently using Willow Lake Road from the Keizer Sand and Gravel Operation reroute their traffic to use this new public street as well.

Ms. Drought shared that the Hearings Officer denied the Conditional Use Permit based on the grounds that the proposed "haul road" was not an allowed use in the EFU zone.

Viesko Concrete appealed the decision and after review of the development code the applicant felt that a Conditional Use Permit was not required as definition of a "street" in the Keizer Development Code specifically excludes access to mining operations, and since this is excluded from consideration from a street they felt that no Conditional Use Permit was required and the Hearings Officer decision and the Conditional Use Application should be dismissed.

Ms. Drought shared that staff disagreed with the Hearings Officer's conclusion and the applicant's statement of appeal. The Hearings Officer concluded since the Haul Road was not specifically listed as a use in the EFU zone, it could not be permitted. Ms. Drought noted that staff had always considered access for a proposed used to be part of the use itself for purposes of land use approval.

Ms. Drought stated that staff recommended that the City Council open and conduct a public hearing. Staff recommended Council grant the Conditional Use approval. Staff felt that the applicant had met the criteria for a Conditional Use Permit provided that they meet specific conditions of approval as listed in the staff report.

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Ms. Drought shared that an additional condition of approval was added at the time of the hearing stating: that the approval would be given only with the understanding that the proposed batch plant and office would be located on tax lots 1500. If located on any parcel other than the current proposal would require an additional evaluation from the City through a new land use approval process.

Mr. Johnson noted his supplemental staff reports and asked the Council to note his comments regarding the Hearings Officer's decision and the applicant's theory on appeal. He also explained his suggested terms in order of analysis in reviewing the application.

Mr. Johnson requested that the hearing take place this evening, but be continued until July 19, 1999 in order to respond to issues that the applicant's attorney (Mr. Stein) brought forward. This would also entail the applicant applying for an extension to 120 days.

Responding to questions Ms. Drought declared the City felt the need to review the impacts that the batch plant and office would have, and since these facilities were located within the UGB but not within the City limits it would be appropriate to annex it. Ms. Drought went on to explain the use of a batch plant, and that staff is only looking to annex that piece of property.

Mr. Johnson explained his interpretation of ORS Chapter 215 and counterpart Chapter 227.

There was discussion among the Council whether to expand the annexation area or to review each property on a case by case basis.

Presenting Public testimony were:

Scott Erickson, President of Viesko Quality Concrete. Mr. Erickson gave a brief history of Viesko Concrete and noted they would like to expand the company into Keizer. He indicated that they own property west of Keizer that had been designated a sand and gravel site since 1950's with the only access to the property being down Willow Lake Lane. This street currently carries the traffic of Keizer Sand and Gravel, themselves and the expanding neighborhood traffic. He requested the City's support in separating truck traffic from the neighborhood traffic by allowing the private haul road.

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Mr. Erickson shared his plan that would include turning a 40-foot strip of land west of Lockhaven Drive into a private driveway to service Viesko Concrete. He informed the Council this would remove truck traffic from the neighborhood. Mr. Erickson explained a 10-foot high and 2 ½ foot thick sound barrier wall would be built along the haul road to screen the neighborhood from truck traffic and assist with the existing complaints of the noise from the treatment plant. He stressed that they did not have this option on Willow Lake Lane and sited safety concerns in this area as part of the reason for requesting the haul road.

Mr. Erickson noted that the condition of staff by making the driveway a public street would defeat the purpose of their intentions to separate truck and neighborhood traffic. Mr. Erickson stated that the property in which the City is requesting to be annexed is not contiguous and therefore he felt it could not be annexed.

Mr. Erickson stressed his concern for the community and stated he was proceeding with the project to try to do what would be best for the community.

Rick Stein, Land Use Attorney, 1395 Liberty Street SE, Suite 101, Salem, Representing the applicant in the case. Mr. Stein strongly expressed his opinion that the Hearings Officer's decision was incorrect and believed it was a permitted use.

Mr. Stein shared a handout and explained that he felt EFU statutes from Chapter 215 apply to this case. He sited the case of *Byrnes vs. the City of Hillsboro* and LUBA ruling in the case of the City stating once a city's comprehensive plan and land use regulations are acknowledged, they and not the state goals apply to land use decisions. Mr. Stein cited case law and felt this was clear and that EFU statutes did not apply in the case of the City.

Mr. Stein compared the Keizer Development Code, definitions within the code and the ORS definitions. He went on to state because of the definition of "*street*" in the Keizer Development Code and that the applicants request is a permitted use already recognized under the Keizer Development Code.

Mr. Stein discussed the staff's position of the application being a conditional use. He expressed his concerns with the conditions requested by staff and shared background from the U.S. Supreme Court and Oregon Courts indicating that a city or county may impose conditions of approval on a land use application that deal with impacts created by the application. Mr. Stein read language from the *Art Piculell Group vs. Clackamas County* ruling and indicated they felt this quoted language had a direct bearing on their case.

Mr. Stein urged the Council to remember that the application is for a haul road and not a batch plant or mining operation. He reiterated Mr. Erickson's words stating that Viesko had it's

mining permits and could begin this process and use Willow Lake Lane, but they were looking at lessening the impacts of commercial trucks on residential streets.

Mr. Stein reviewed the conditions as set forth by the city staff and felt annexation could not take place, as there was no contiguousness with the tax lot in question. He also requested that condition (2) two be deleted, as public policy separating heavy truck traffic from residential areas and traffic are the same, regardless of whether the road is used to haul unprocessed rock or processed rock, if a batch plant WAS approved. Mr. Stein indicated that the batch plant approval was tied to the condition of the annexation and without an annexation this condition would not apply. He shared that Viesko would be willing to place a sound wall as part of the condition, and noted under the Public Works Requirements that the haul road would have no impact on the City's water, and he reiterated their objection to the haul road being a public road. He also restated objection to the requirements for water and sanitary services. He indicated they would be willing to cooperate regarding any storm drainage issues and would be happy to discuss with Public Works the development of the intersection at Windsor Island Road. Mr. Stein indicated their willingness to see that an adequate access was made for fire equipment.

Mr. Stein concluded by stating that Viesko is working to make this a proactive approach and asked for the Council's consideration.

Mayor Newton requested clarification of Mr. Stein's wording of "Willow Lake Lane". It was verified by the map that it is actually "Willow Lake Road".

Councilor Moir questioned since tax lot 1500 and 1600 are not currently in possession by Viesko why a haul road would be considered.

Mr. Stein deferred the question to Mr. Tross.

Jeff Tross, Land Use Consultant, 1720 Liberty Street SE, Salem. Mr. Tross indicated that the proposed access drive was not intended to serve the batch plant, but to act as a long term access to a sand and gravel excavation site located outside of the UGB as an alternative route to using Willow Lake Road.

In response to questions Mr. Erickson shared that they own a strip of land on the north side of tax lot 1500 that does connect to the mine site west of the property.

Mr. Tross noted the report in the packet addressing the conditional use criteria and the applicable goals and policies in the comprehensive plan. Mr. Tross reiterated that this is a voluntary proposal and summarized this as a better way to access the property with reduced conflict between local traffic, pedestrians and commercial traffic. He shared that Viesko Sand

and Gravel is listed on the Marion County Comprehensive Plan Inventory as a mineral and aggregate resource site and the intent of the driveway is to establish a limited-use access way. Mr. Tross explained that under LCDC Goal (5) five the requirement of significant sand and gravel resources be protected from conflicting uses. He established that the definition of *street* in the Keizer Development Code and its specific exclusion of private access ways that serve a mining site from the definition of a *street*. He noted that this exclusion meets the purposes of Goal (5) five in this case and stressed the need for the site to be able to be closed off by a gated entry after business hours to provide for the security and safety of the site.

Mr. Tross noted that the proposal would benefit the neighborhood by removing the truck traffic from Willow Lake Road and placing it on a private single purpose driveway that would be maintained by the property owner.

In response to questions Mr. Erickson clarified by use of a map the lots which he currently owns and how the access road would go through if lots 1500 and 1600 were not purchased. Mr. Erickson also confirmed he owned property on both sides of the UGB.

Mr. Johnson clarified that an annexation must generally be contiguous or connected with a "cherry stem" road. He indicated that staff's recommendation presumed that Salem agrees to an annexation of the Salem owned strip and would be the only way the annexation would work. Currently there had been no contact with Salem through the City staff.

Responding to questions Mr. Erickson suggested that a haul road by his definition would be a truck that transports gravel to and from the plant, which would be paved and have a sound wall. Mr. Erickson noted that the aggregate mine would be workable for 20-40 years, and felt the access road would continue to be used for access by the other properties after this time. Mr. Erickson indicated that they had offered the use of their proposed haul road to Keizer Sand and Gravel but could not force them to use it.

Mr. Erickson addressed Council's concerns regarding water and shared that the batch plant would only use one well running 600-1000 gallons per minute, which is considered small by industrial standards. He acknowledged that their permit had requested 3100 gallons and explained how the site reuses pond water to wash the silt off of the rock and then returns the water back to the pond.

Public Works Director, Rob Kissler, stated that a discussion with Viesko's Water Consultant indicated that the drilled well would not go into the City's aquifer.

There was some discussion regarding hours of operation of the plant and Mr. Erickson commented that their general specified hours are from 6:00 a.m. to 6:00 p.m. Mr. Tross quoted

the Marion County Zoning Ordinance which specifies these hours Monday through Friday with special provisions for a limited operation on Saturday.

Responding to questions Mr. Erickson indicated that the plant would not be able to hook up to Salem's sewer system, but Marion County would allow them to use a septic tank system.

Mr. Johnson noted that during the hearing at Council level any issues may be discussed, but the hearing only involved the haul road and specific conditions to the batch plant were not part of the hearing.

Providing Public Testimony were:

John Blake, 5655 Windsor Island Road, Keizer. Shared that his family owned and operated Willow Lake Nursery and their property was across from the batch plant. He detailed instances of increased theft and problems with the residential areas butting up to the agricultural areas and is in favor of the haul road and sound wall as a natural dividing line to cut back on some of these problems.

Dale Pierce, 5455 Windsor Island Road North, Keizer. Resides adjacent to the haul road and indicated that the sound wall would run across the back of his property. Mr. Pierce shared that Mr. Erickson was in contact with him and satisfied his concerns regarding noise, dust and hours of operation and appreciated Mr. Erickson's handling of the situation. Mr. Pierce expressed his preference in favor of the private haul road.

At Mr. Johnson's initiation there was a discussion among the Council whether to continue the hearing until August 2, 1999 or to only leave the record open.

Responding to Council's questions Ms. Drought noted that there were conductivity standards in the new development code which caused them to look at how adjacent properties would be affected. She shared that a large piece of undeveloped property sits to the north, which could be served by the proposed street. Ms. Drought suggested the possibility of working out an agreement with the applicant in allowing access from the property to the north.

Mayor Newton suggested closing the public hearing, but requested the record remain open to be deliberated on July 19, 1999.

///

///

Council raised questions regarding the annexation portion of the hearing. Ms Drought indicated that the annexation proposal had been on the table from the beginning and staff had made this a condition of approval with the understanding that the applicant would work with the City of Salem to have that portion of land annex. Ms. Drought stated that since the Hearings Officer's decision this had changed.

City Manager, Wally Mull, shared staff's thought regarding the annexation issue that the City had no control if Marion County allowed a batch plant in the future. Mr. Mull indicated if this was not in the City of Keizer it would be very difficult to regulate and any complaints generated would come to the City and not to the County.

Mr. Erickson reiterated what he thought he and the staff had agreed regarding the annexation process and working with Marion County. He felt that even if the County decided the permits the City would still have influential input with the County.

By City Council decision, the hearing and record was closed on June 21, 1999.

## **EXHIBIT "B"**

### Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Development Code (KDC).

The following criteria have been identified as applicable:

1. KDC 3.103.03.

No other criteria were identified as applicable.

## EXHIBIT "C"

### Facts

#### FACTS: GENERAL

1. The applicant is Viesko Quality Concrete, Inc.
2. The subject properties are located west of Windsor Island Road close to the intersection of Windsor Island Road and Lockhaven. The Marion County Tax Assessor's Map identifies the property as 6S3W34C Tax Lot 200 and Tax Lot 1600.
3. Tax Lot 200 is approximately 1.63 acres; Tax Lot 1600 is approximately 10.73 acres. Tax Lot 200 is the former PGE Easement and has access to Lockhaven Drive. Tax Lot 1600 currently does not have access to any public street, nor does it have access to public water or sewer. Both properties are designated Special Policy Area (SPA) in the Keizer Comprehensive Plan and are zoned Exclusive Farm Use (EFU).
4. Properties directly to the south (Tax Lots 300, 500 and 500) are zoned Single Family Residential (RS) and are planned for future residential development. Tax Lot 100 is zoned Agricultural Industrial (AI) and is currently in farm use.
5. The applicant is requesting approval of a Conditional Use in order to develop a haul road to serve a proposed aggregate extraction site, batch plant, and office. The proposed aggregate extraction site (Tax Lot 700) is located entirely within Marion County. The proposed batch plant and office site (Tax Lot 1900) is located outside of the City limits, but within the Salem-Keizer Urban Growth Boundary. The proposed haul road (Tax Lots 200 and 1600) is located within the Keizer City limits.
6. The current access to Viesko's existing aggregate site is by Willow Lake Road. This is a public street also used as the access to the Keizer Sand and Gravel operation, which is located just south of the Viesko land. As an alternative to using Willow Lake Road, Viesko proposes to construct a road on the former PGE Easement (Tax Lot 200) in conjunction with Tax Lot 1600. Approximately 200 trucks per day are expected to use this haul road during peak season. The City Traffic Engineer recommends that in the future, all truck traffic from Keizer Sand and Gravel be re-routed to use this proposed haul road as well.
7. The subject properties involved in this application are zoned Exclusive Farm Use (EFU). According to Section 2.117.03 of the Keizer Development Code, "Exploration, and processing of geothermal or other subsurface resources not used exclusively in conjunction with farm or

forest management” is listed as a Conditional Use. The proposed haul road is part of the sand and gravel processing operation. Approval for the development of the proposed haul road requires a Conditional Use Permit.

#### FACTS: CONDITIONAL USE

Section 3.103.03 of the Keizer Development Code establishes specific conditional use criteria for the review of conditional use permit applications. A conditional use permit may be approved if findings can be made that the Criteria in Section 3.103.03 Keizer Development Code have been satisfied. The specific criteria and related findings are set forth below:

8. The use is listed as a conditional use in the underlying district. KDC 3.103.03(A).

FINDINGS: As noted above, the underlying zone is EFU. Exploration and processing of subsurface resources is included as a Conditional Use in the EFU zone. Sand and gravel are subsurface resources. The haul road will be a part of the sand and gravel processing operation. The application complies with this criteria.

9. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features. KDC 3.103.03(B).

FINDINGS: The subject properties are relatively flat with no distinguishing topography or other natural features which could preclude it from developing to the proposed use. However, additional truck traffic in this area will create the need for a safe, well lighted intersection with appropriate sight distances in all directions. The existing intersection with Windsor Island Road will need to be improved to ensure this safety. The intersection with Windsor Island Road and Lockhaven Drive and the new haul road needs to be constructed to provide for a curvilinear alignment resulting in adequate centerline continuance for the intersection.

Additionally, to adequately serve the property to the north of the subject property as well as other property in the vicinity of the subject property, the proposed haul road shall be developed for eventual use as a public street. The right-of-way shall be sufficient to provide for the required intersection improvements at Windsor Island Road.

10. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use. KDC 3.103.03(C).

FINDINGS: The existing transportation systems, public facilities and services are currently not adequate to support the proposed development. However, the City is requiring several conditions of approval which would bring the transportation network and public facilities up to the standard necessary to serve the proposed use, as well as the surrounding area affected by the use.

A public street will make it possible for the trucks currently using Willow Lake Road to reroute their traffic to use this new street. In addition, as noted in the earlier finding, in order to adequately serve the property immediately to the north and other property in the vicinity of the subject property, the proposed haul road access driveway shall be eventually developed as a public street.

11. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. KDC 3.103.03(D).

FINDINGS: Property directly to the north is zoned Agriculture Industrial (AI). Uses allowed in the AI zone include farm use, timber tracts, public buildings, agricultural services and miscellaneous manufacturing uses. The proposed haul road and truck traffic will not interfere with these allowed uses. The dedication of the haul road to a public right-of-way will facilitate the future development of this site, and would eliminate the need to develop an additional accessway onto Windsor Island Road. The public dedication of this right-of-way will allow the trucks from Keizer Sand and Gravel to possibly use this haul road as well.

Property directly to the south have received subdivision approval and are zoned Single Family Residential (RS). The use of the proposed haul road will be designed and maintained to avoid impact on the adjacent residential land. The haul road will be provided with a dust-free surface and a sound barrier wall will be erected along the south side of the haul road to protect the adjoining residential land from truck noise.

12. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use. KDC 3.103.03(E).

FINDINGS: Listed below are applicable goals and policies relating to the City's conditions of approval:

///

Public Facilities to Support Development.

2. Goals and policies.

Plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Provide and encourage a safe, convenient and economic transportation system.

FINDINGS: The haul road, when designed as conditioned herein, will provide a safe and convenient element of the transportation system. By providing a public street in this area, it avoids the possibility of other east/west streets intersecting Windsor Island Road at a location too close to the Lockhaven Drive/Windsor Island Road intersection thereby enhancing the safety of the traveling public in the area.

## EXHIBIT "D"

### Justification

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

In this case the applicant is requesting conditional use permit approval to establish a haul road for possible expansion of an aggregate operation. In addition, the applicant may establish a batch plant and office. The aggregate operation, batch plant and office are located outside the City limits, though the haul road will be in the City limits.

A threshold question arises regarding the Hearings Officer's decision. The Hearings Officer determined that neither the Keizer Development Code, nor state statutes listed "road" as a permitted or conditional use. Therefore, the Hearings Officer denied the application without reaching the substantive criteria.

The Keizer City Council finds that a road is an allowed conditional use when such road is used in conjunction with a permitted conditional use. In other words, the primary use of the property served by the road is used to determine approval of the road itself. In this case, the primary property is located outside the City limits and is not directly a subject of these proceedings, but the use of such property is relevant in determining the use of the road.

The applicant submitted the application for the conditional use permit, but after the Hearings Officer's decision argued that the road was an outright permitted use that required no City approval. Because the applicant did not submit the application in protest, the City Council finds that the applicant has waived the rights to make such argument. In the alternative, the applicant's argument in this regard centers on the Development Code definition of street. Such definition has a specific exemption for mining purposes:

"... A private way created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining, or agricultural purposes is excluded from this definition."

Because specifically excluded, applicant argues that the road in this case is an outright permitted use. This logic misses a step; namely, how does the definitional analysis lead to the conclusion that the use is outright permitted? The analysis merely points out that the use is not defined as a street, not whether it is permitted or not.

Applicant has objected to certain conditions. First, the City is requiring that a portion of property not owned by applicant (Tax Lot 100) be acquired to make the intersection safe at Windsor Island Road and Lockhaven Drive. Without the additional property, the alignment of the haul road at the intersection would cause significant safety problems as to trucks leaving and entering the haul road. Therefore, it is a necessary condition in order to meet the criteria as set forth in Exhibit "C".

Second, the City has required the applicant to dedicate a portion of the haul road as public right-of-way. However, such requirement is effective only when and if the property to the north (Tax Lot 100) develops. This is a reasonable condition as it provides for access to the Windsor Island Road/Lockhaven Drive intersection in a safe manner. Such condition is roughly proportional to the impact caused by the heavy truck traffic on the new haul road.

As conditioned, the application meets the relevant criteria and should therefore be granted.

## EXHIBIT "E"

### Action

The City of Keizer ORDERS as follows:

The application for the conditional use permit to establish and operate a "haul road" is hereby GRANTED, subject to the following conditions:

1. Prior to construction of the haul road, the applicant shall construct a sound wall along the south side of the proposed road. The design and construction of such sound wall shall comply with the design set forth in Exhibit "E-1" attached and by this reference incorporated herein.
2. The applicant shall construct the proposed haul road in compliance with the requirements set forth in Exhibit "E-2" attached and by this reference incorporated herein. Such improvements shall include intersection design at Windsor Island Road and Lockhaven Drive that provide appropriate sight distances and adequate centerline continuances as set forth in Exhibit "E-2". The City recognizes to make the intersection improvements, applicant will need to purchase a small portion of property from the property owner of Tax Lot 100. If applicant cannot, after a good faith effort, reach agreement for purchase of such property, the City of Keizer shall commence condemnation actions to acquire such property. Applicant shall pay any and all costs of such condemnation.
3. The proposed haul road may be developed as a private road with a gate as indicated in Exhibit "E-2" until such time as any portion of the property to the north (Tax Lot 100) experiences development. At such time, the gate shall be removed and the haul road shall be dedicated as a public right-of-way for only that section of such haul road extending the length of the property to the north (Tax Lot 100). As used herein "development" shall have the meaning set forth in the Keizer Development Code.
4. The applicant shall submit a site grading plan to the Public Works Director indicating where fill will be proposed and showing that storm water shall not be impeded by the proposed development. The site grading plan shall be submitted and approved by the Public Works Director prior to any grading operations on the site within the city limits.
5. Once the haul road has been constructed, all trucks making commercial or retail delivery of Viesko Quality Concrete products (including any successor company) shall use such haul road to access Windsor Island Road and Lockhaven Drive.

6. The applicant shall comply with all Keizer Fire District and Marion County Fire District #1 requirements.

4979COK.002

EXHIBITS E1 AND  
E2 WILL BE  
PRESENTED AT  
THE COUNCIL  
MEETING ON  
MONDAY  
EVENING.



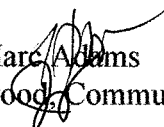
August 2, 1999

# **AGENDA ITEM 7b**

ORDINANCE – PROHIBITING TRUANCY

To: Mayor and City Council

Thru: Wally Mull, City Manager 

From: Chief H. Marc Adams   
Jodi Sherwood, Community Services Coordinator

Subject: TRUANCY ORDINANCE

---

**BACKGROUND**

On August 21, 1995 the City Council adopted Truancy Ordinance #95-335. After a two year cycle the ordinance was renewed on August 4, 1997, #97-371. Because the ordinance included a sunset clause the Truancy Ordinance is once again up for renewal.

There are no changes to the substance of the ordinance. The ordinance asks that all children that are between the ages of 7 and 18 years who have not completed the twelfth grade attend school. There are exceptions for home schooled and alternative school attendees. It does contain a parental responsibility clause in that the parent, guardian or person having the custody of any child under the age of 18 years, can be also be cited under this ordinance.

Cathy Clark, a Home School Teacher and Home School Proponent, and Nicolasa Bustamante, Assistant Principal at McNary High School have sent letters of support for this ordinance.

District One and Three voted unanimously to recommend passage of this ordinance to the Main Committee. District Two did not have a regular meeting in July but the chair, Verena Wessel, has given her recommendation for passage. The Main Committee has reviewed the ordinance in detail. They have unanimously recommended passage of the ordinance with the only change of the sunset clause being removed.

History of truancy incidents:

| 9/95-6/96 | 9/96-6/97 | 9/97-6/98 | 9/98-6/99 |
|-----------|-----------|-----------|-----------|
| 10        | 33        | 34        | 31        |

**FISCAL IMPACT**

There is no anticipated fiscal impact with the passage of this ordinance.

**RECOMMENDATION**

The Keizer Police Department recommends that the council approve this ordinance with the only change being the removal of the sunset clause.

After a four year history the ordinance has proven to be an effective law within the city of Keizer. If approved this ordinance would repeal the previous Truancy Ordinance #97-371 and this ordinance would take its place.

July 26, 1999

Dear Jody,

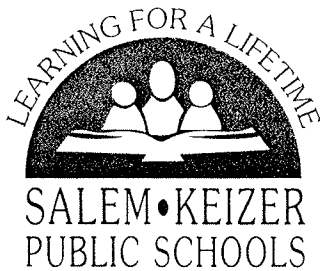
I was very surprised when I was reminded that the Day Curfew was up for renewal. Two years flew by!

The good news is that the police have been judicious in their enforcement. I have heard no complaints about Keizer. I appreciate the awareness of and sensitivity to home schoolers' varied and sometimes unconventional schedules.

I hope the Community policing meeting changes will allow me to attend. I have missed being a part of the positive things happening through citizen-police partnership. Hope to see you at Kids' Day next month.

Sincerely,

Cathy Clark



KATHLEEN HANNEMAN, Director  
Secondary Education  
1340 State Street SE • PO Box 12024 • Salem, Oregon 97309-0024  
(503) 399-2636 • FAX (503) 375-7817

Homer Kearns, Superintendent

July 19, 1999

To: City of Keizer

Re: Truancy Ordinance

This letter is to express my view on the Truancy Ordinance . As an Assistant Principal at McNary I deal with many of the children from Keizer that get into trouble because they're on the street during school hours.

I can honestly say that dealing with truancy issues, as a school official is at times frustrating due to the fact that students do not have a legal consequence. Students do get detention or suspension from school, however, even though police officer return students back to school no further legal consequence is enforced.

I like to see students go to court in Keizer since it is a city ordinance instead of having truancy referrals made to the DA. Often times the DA disregards the truancy infractions because there are other pressing issues. Again I would like to see our Keizer students face their consequence for truancy in the Keizer court.

I would also like to mention that currently we have an exceptional school resource officer: Dan Soto works hard in helping us with our school issues. We sincerely appreciate his efforts. I would like to see the officers on patrol during the day taking a more active role with the students that are roaming the streets instead of leaving it for Dan to do. Many of the Keizer officers already do a marvelous job and we thank them.

I thank you for the opportunity to express my view and to share my in-put. For further questions please contact me at 399-3233 or until August 13<sup>th</sup> at 399-3397.

Here to Serve,  
  
Nicolasa Bustamante  
Assistant Principal

1 BILL NO. \_\_\_\_\_

A BILL

ORDINANCE NO.

99- \_\_\_\_\_

3 FOR

4 AN ORDINANCE

5 PROHIBITING TRUANCY;  
6 **REPEALING ORDINANCE 97-371**  
7

8 WHEREAS, the City of Keizer finds that it furthers the interests of the City to  
9 encourage children to regularly attend school; and

10 WHEREAS, children between the ages of 7 and 18 who have not completed the  
11 twelfth grade are required under state law to regularly attend school; and

12 WHEREAS, under state law there is no fine or penalty attached to a child failing to  
13 regularly attend school; and

14 WHEREAS, the City of Keizer finds that special circumstances exist that call for  
15 the special regulation of minors within the City in order to protect them from being  
16 victimized and enhancing the overall public safety of the community; NOW,  
17 THEREFORE

18 The City of Keizer ordains as follows:

19 Section 1. CHILDREN REQUIRED TO ATTEND SCHOOL. All children  
20 between the ages of 7 and 18 years who have not completed the twelfth grade are  
21 required to attend regularly a public full-time school of the school district in which the  
22 child resides, or comply with the exemptions set forth in ORS 339.030 and ORS 339.035  
23 and state regulations thereunder.

24 Section 2. CHILDREN NOT TO BE IN A PUBLIC PLACE. No child between  
25 the ages of 7 and 18 years who have not completed the twelfth grade may be in or upon  
26 any street, highway, park, alley or other public place during regular school hours unless:

- 27 (a) Such child is accompanied by a parent, guardian or other person 21 years of  
28 age or over and authorized by the parent or by law to have care and custody  
29 of the minor, or

- 1 (b) Such child is engaged in a lawful pursuit or activity which requires the  
2 presence of the child, or there exists a reasonable necessity for the presence  
3 of the child during regular school hours, or  
4
- 5 (c) Such child is emancipated pursuant to ORS 419B.550 and 419B.558,  
6 or  
7
- 8 (d) Such child is authorized and approved to be away from the school by the  
9 school in which the minor is enrolled, or  
10
- 11 (e) Such child is exempt from compulsory school attendance pursuant to ORS  
12 339.030, including but not limited to children taught by a parent or private  
13 teacher, provided that the child and/or parent complies with all laws and  
14 regulations regarding such exemptions.  
15

16 Section 3. VIOLATION BY PARENT OR CUSTODIAN. Any parent,  
17 guardian or person having the care and custody of any child between the ages of 7 and 18  
18 who has not completed the twelfth grade is required to take reasonable steps to prevent  
19 such child from violating Sections 1 and 2 of this Ordinance and is further required to:  
20

- 21 (a) Send such child to and maintain such child in regular attendance at a public  
22 full-time school during the entire school term, or  
23
- 24 (b) Comply with the exemption set forth in ORS 339.030 and ORS 339.035  
25 and state regulations thereunder.  
26

27 As used herein, "regular attendance" is given the meaning set forth in ORS  
28 339.065.

29 Section 4. VIOLATION OF ORDINANCE. Violation of Sections 1, 2 or 3 of  
30 this Ordinance is a civil infraction.

31 Section 5. TAKING CHILD INTO CUSTODY. Any police officer is  
32 authorized to take into custody a minor violating any provision of Section 2 as provided in  
33 ORS 419C.080, 419C.085 and 419C.088. The officer shall use due diligence to find the  
34 parents or guardian or other authorized custodian, or school officials.

35 Section 6. SEVERABILITY CLAUSE. Should any section or portion of this  
36 Ordinance be held unlawful and unenforceable by any court of competent jurisdiction,

1 such decision shall apply only to the specific section, or portion thereof, directly specified  
2 in the decision. All other sections or portions of this Ordinance shall remain in full force  
3 an effect.

4 Section 7. REPEAL OF PREVIOUS ORDINANCE. Ordinance No. 97- 371 is  
5 hereby repealed.

6 Section 8. SAVING CLAUSE. Ordinance No. 97-371, repealed by this  
7 ordinance, shall remain in force to authorize the citation, prosecution, conviction and  
8 punishment of a person who violates Ordinance No. 97-371 prior to the effective date of  
9 this ordinance.

10 Section 9. EFFECTIVE DATE. This Ordinance shall become effective thirty  
11 (30) days after its passage.

12  
13 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

14 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

15  
16  
17 \_\_\_\_\_  
18 Mayor

19 \_\_\_\_\_  
20 City Recorder



August 2, 1999

# **AGENDA ITEM 7C**

ORDINANCE – SPECIFYING HOURS OF CURFEW FOR MINORS

To: Mayor and City Council  
Thru: Wally Mull, City Manager  
From: Chief H. Marc Adams  
Jodi Sherwood, Community Services Coordinator  
Subject: CURFEW ORDINANCE

---

**BACKGROUND**

On August 21, 1995 the City Council adopted Curfew Ordinance #95-334. After a two year cycle the ordinance was renewed on August 4, 1997, #97-372. Because the ordinance included a sunset clause the Curfew Ordinance is once again up for renewal.

There are no changes to the substance of the ordinance. The hours of curfew for minors ages 16 and 17 are from 12:00 midnight to 6:00 a.m. For minors ages 15 and under the curfew is 10:00 p.m. to 6:00 a.m. It does contain a parental responsibility clause in that the parent, guardian or person having the custody of any child under the age of 18 years, can be also be cited under this ordinance.

These hours continue to coincide with surrounding jurisdictions such as; Marion County, Woodburn and Salem. There are no anticipated changes that these agencies will be making to their ordinances.

The members of the Keizer Police Department have recommended passage of this ordinance as presented. Some of the comments include; "They...help shift some responsibility back onto the parents, and in some cases, they help educate the parents as to the activities of their children.", "Both ordinances have been effective tools to keep kids off the street and from getting into trouble.", and "...most of the kids I talk to know about it and know what will happen if they get caught."

District One and Three voted unanimously to recommend passage of this ordinance to the Main Committee. District Two did not have a regular meeting in July but the chair, Verena Wessel, has given her recommendation for passage. The Main Committee has reviewed the ordinance in detail. They have unanimously recommended passage of the ordinance with the only change of the sunset clause being removed.

History of curfew citations:

| 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999<br>as of May |
|------|------|------|------|------|------|-------------------|
| 14   | 28   | 46   | 34   | 28   | 39   | 8                 |

**FISCAL IMPACT**

There is no anticipated fiscal impact with the passage of this ordinance.

### **RECOMMENDATION**

The Keizer Police Department recommends that the council approve this ordinance with the only change being the removal of the sunset clause. In recent curfew sweeps the number of minors out after curfew has gone down. However, occasionally there are minors out in the early hours roaming the streets. This ordinance is not only to protect those juveniles but to help reduce juvenile crime.

After a four year history the ordinance has proven to be an effective law within the city of Keizer. If approved this ordinance would repeal the previous Curfew Ordinance #97-372 and this ordinance would take its place.

1 BILL NO. \_\_\_\_\_

A BILL

ORDINANCE NO.

99- \_\_\_\_\_

3 FOR

4 AN ORDINANCE

5 SPECIFYING HOURS OF CURFEW FOR MINORS

6 **REPEALING ORDINANCE 97-372**

8 WHEREAS, state law sets curfew hours for minors under the age of 18; and

9 WHEREAS, such state statutes provides that municipalities may make regulations  
10 concerning the conduct of minors provided that the local ordinance restricts curfew hours  
11 to at least the extent required by state law; and

12 WHEREAS, state law sets curfew hours at between 12:00 midnight and 4:00 a.m.  
13 the following morning with some exceptions; and

14 WHEREAS, the City of Keizer finds that special circumstances exist that call for  
15 the special regulation of minors within the City in order to protect them from being  
16 victimized and enhancing the overall public safety of the community; NOW,  
17 THEREFORE,

18 The City of Keizer ordains as follows:

19 Section 1. HOURS OF CURFEW.

20 (A) No minor under the age of 16 years shall be in or upon any street, highway,  
21 park, alley, or other public place between the hours of 10:00 p.m. and 6:00 a.m. the  
22 following morning unless such minor is:

23 (1) Accompanied by a parent, guardian or other person 21 years of age or over  
24 and authorized by the parent or by law to have care and custody of the  
25 minor; or

26  
27 (2) Engaged in a lawful pursuit or activity which requires the  
28 presence of the child, or there exists a reasonable necessity for the presence  
29 of the child during the hours specified in this Section, or

30  
31 (3) Such child is emancipated pursuant to ORS 419B.550 and 419B.558

32 (B) No minor who has attained the age of 16 years, but is under the age of 18

1 years, shall be in or upon any street, highway, park, alley, or other public place between  
2 the hours of 12:00 midnight and 6:00 a.m. the following morning unless such minor is:

3 (1) Accompanied by a parent, guardian or other person 21 years of age or over  
4 and authorized by the parent or by law to have care and custody of the  
5 minor; or  
6

7 (2) Engaged in a lawful pursuit or activity which requires the  
8 presence of the child, or there exists a reasonable necessity for the presence  
9 of the child during the hours specified in this Section, or  
10

11 (3) Such child is emancipated pursuant to ORS 419B.550 and 419B.558

12 Violation of this Section is a civil infraction.

13 Section 3. VIOLATION BY PARENT OR CUSTODIAN. Any parent,  
14 guardian or person having the care and custody of any child under the age of 18 years  
15 shall knowingly allow such minor to be in or upon any street, highway, park, alley or  
16 other public place between the hours specified in Section 1, except as otherwise provided  
17 in that Section. Violation of this Section is a civil infraction.

18 Section 4. TAKING CHILD INTO CUSTODY. Any police officer is  
19 authorized to take into custody a minor violating any provision of Section 1 as provided in  
20 ORS 419C.080, 419C.085 and 419C.088. The officer shall use due diligence to find the  
21 parents or guardian or person having custody of the minor and shall release the minor to  
22 the parent, guardian, juvenile authorities or other authorized custodian.

23 Section 5. SEVERABILITY CLAUSE. Should any section or portion of this  
24 Ordinance be held unlawful and unenforceable by any court of competent jurisdiction,  
25 such decision shall apply only to the specific section, or portion thereof, directly specified  
26 in the decision. All other sections or portions of this Ordinance shall remain in full force  
27 an effect.

28 Section 6. REPEAL OF PREVIOUS ORDINANCE. Ordinance #97-372 is  
29 hereby repealed.

1        Section 7.    SAVING CLAUSE.    Ordinance No. 97-372, repealed by this  
2 ordinance, shall remain in force to authorize the citation, prosecution, conviction and  
3 punishment of a person who violates Ordinance No. 97-372 prior to the effective date of  
4 this ordinance.

5        Section 8.    EFFECTIVE DATE.    This Ordinance shall become effective thirty  
6 (30) days after its passage.

7  
8        PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

9        SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

10

11

12

13

\_\_\_\_\_  
Mayor

14

15

\_\_\_\_\_  
City Recorder



August 2, 1999

## **AGENDA ITEM 7d**

RESOLUTION – AUTHORIZE CITY MANAGER TO AWARD BID FOR  
CUMMINGS LANE AND CHEMAWA ROAD PROJECT

CITY COUNCIL MEETING: August 2, 1999

AGENDA ITEM NUMBER: \_\_\_\_\_

**TO:** MAYOR NEWTON AND CITY COUNCIL MEMBERS

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

**FROM:** ROB KISSLER  
DIRECTOR OF PUBLIC WORKS

**SUBJECT:** CUMMINGS LANE AND CHEMAWA ROAD IMPROVEMENTS

**ISSUE:**

On July 14, 1999 five bids were received and opened for improvements to Cummings Lane and Chemawa Road. These improvements will widen Cummings Lane between North River Road and Shoreline Drive and Chemawa Road between North River Road and Verda Lane. Each project will include bike lanes.

All bids were received on time and were certified by the City Engineer as acceptable. The low bidder on each of these projects was Houck Construction. The bid for the Chemawa Road project was \$61,084.00 and the Cummins Lane project for \$117,995.40.

Based upon action at the July 19, 1999 City Council meeting, staff has reviewed and satisfied concerns voiced by all parties.

**FISCAL IMPACT:**

Funds for this project were included in the 1999-2000 fiscal year budget in the Street Fund: Bike Path and Street Improvement line items.

**RECOMMENDATION:**

It is recommended the Council adopt the attached Resolution authorizing the City Manager to sign the necessary contracts awarding the street improvement projects to Houck Construction.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-\_\_\_\_\_

3 AUTHORIZING THE CITY MANAGER TO ENTER AGREEMENT

4 WITH HOUCK CONSTRUCTION FOR CUMMINGS LANE AND CHEMAWA ROAD

5 STREET IMPROVEMENTS

6 WHEREAS, in June, 1999 an invitation to bid was published for  
7 improvements to Cummings Lane and Chemawa Road:

8 WHEREAS, on July 14, 1999 five bids were received and opened. Low  
9 bidder on the Chemawa Road project was Houck Construction with a bid of  
10 \$61,084.00. Houck Construction also was the low bidder on the Cummings  
11 Lane project with a bid of \$117,995.40. NOW, THEREFORE,

12 BE IT RESOLVED by the City Council of the City of Keizer that the City  
13 Manager is hereby authorized to enter an agreement with Houck  
14 Construction for street improvements to Chemawa Road for a total of  
15 \$61,084.00 and Cummings Lane for a total of \$117,995.40

16 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

17 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

18 \_\_\_\_\_  
19 Mayor

20 \_\_\_\_\_  
21 City Recorder  
22  
23



August 2, 1999

# **AGENDA ITEM 8a**

RESOLUTION – INITIATE THE VINEYARDS STREET LIGHTING  
DISTRICT

COUNCIL MEETING: August 2, 1999

AGENDA ITEM NUMBER: \_\_\_\_\_

TO: MAYOR NEWTON AND CITY COUNCIL

THROUGH: WALLY G. MULL  
CITY MANAGER



FROM: TRACY L. DAVIS, CMC  
CITY RECORDER

SUBJECT: INITIATING THE VINEYARDS STREET LIGHTING LOCAL  
IMPROVEMENT DISTRICT

**ISSUE:**

Shall the City Council initiate the Vineyards Street Lighting Local Improvement District?

**DISCUSSION:**

A petition was filed on July 14, 1999 by the developer of The Vineyards subdivision to form a local improvement district for street lights in this area of Keizer. The petition contained the required signatures of the property owner as outlined by City of Keizer Ordinance 94-278.

**RECOMMENDATION:**

It is recommended that the City Council approve the Resolution initiating The Vineyards Street Lighting Local Improvement District and direct the City Engineer to prepare a survey of the area.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2  
3 Resolution R99-\_\_\_\_\_  
4

5 DECLARING THE CITY'S INTENT TO INITIATE A STREET LIGHTING  
6 LOCAL IMPROVEMENT DISTRICT (THE VINEYARDS) AND  
7 DIRECTING THE CITY ENGINEER TO MAKE A SURVEY AND FILE A  
8 WRITTEN REPORT WITH THE CITY RECORDER  
9

10 WHEREAS, the City Council of the City of Keizer has received a petition from  
11 the developer to initiate a street lighting district in the Vineyards area in the City of  
12 Keizer, Oregon; and

13 WHEREAS, pursuant to City of Keizer Ordinance 94-278, the necessary  
14 signatures of land owner comprising two-thirds of the property to be included within The  
15 Vineyards Street Lighting District have requested the formation of the district; NOW,  
16 THEREFORE,

17 BE IT RESOLVED by the City Council of the City of Keizer that:

- 18 1. The City Council declares its intent to initiate the Vineyards Street  
19 Lighting Local Improvement District;  
20 2. The map attached hereto, marked Exhibit "A", and by this reference  
21 incorporated herein sets forth the proposed boundaries of the district;  
22 3. The City Engineer is hereby directed to make a survey of the District;  
23 4. The City Engineer shall file a written report with the City Recorder to be  
24 considered by the City Council on September 7, 1999.

25 PASSED this \_\_\_\_ day of \_\_\_\_\_, 1999.

26 SIGNED this \_\_\_\_ day of \_\_\_\_\_, 1999.  
27

28 \_\_\_\_\_  
29 Mayor  
30

31 \_\_\_\_\_  
32 City Recorder

# PETITION TO FORM LOCAL IMPROVEMENT DISTRICT FOR STREET LIGHTING

To the City Council for the City of Keizer:

The undersigned being the owner or contract purchaser of the described property hereinafter set opposite my or its name, hereby petition the Keizer City Council to form a STREET LIGHTING LOCAL IMPROVEMENT DISTRICT for:

THE VINEYARDS NORTH SUBDIVISION

within the City of Keizer.

The legal description of the proposed district is:

LOTS 1 thru 90 THE VINEYARDS NORTH

## PLEASE ATTACH A MAP OF THE AREA

This petition to form this district is in conformity with the charter, ordinances and regulations of the City of Keizer.

### PETITION SUBMITTED BY:

NAME: The Vineyards/Tim C. Smith

ADDRESS: 5605 Inland Shores Way, Keizer, OR 97303

PHONE NUMBER: (503) 390-2900

| DATE    | DEED HOLDER/CONTRACT<br>BUYER | SIGNATURE                                                                          | ADDRESS OF PROPERTY<br>(IF VACANT - LOT<br>NUMBER/SECTION) |
|---------|-------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------|
| 7/14/99 | The Vineyards LLC             |  | Lots 1 thru 90                                             |
|         |                               |                                                                                    |                                                            |
|         |                               |                                                                                    |                                                            |
|         |                               |                                                                                    |                                                            |

Recd  
7-14-99



August 2, 1999

# **AGENDA ITEM 8b**

RESOLUTION – AUTHORIZING CITY MANAGER TO AWARD BID  
FOR CHERRY AVENUE IMPROVEMENTS

CITY COUNCIL MEETING: August 2, 1999

AGENDA ITEM NUMBER: \_\_\_\_\_

TO: MAYOR NEWTON AND CITY COUNCIL MEMBERS

FROM: WALLY G. MULL  
CITY MANAGER



SUBJECT: CHERRY AVENUE ROAD IMPROVEMENTS

**ISSUE:**

On July 14, 1999 five bids were received and opened for the widening of Cherry Avenue from Manbrin Drive to Greenwood Drive. These improvements will include curbs, gutters, sidewalks, improved drainage, and an overlay of Cherry Avenue between these points.

All bids were received on time and were certified by the City Engineer as acceptable. The low bidder on the project was Houck Construction. The bid was \$56,687.

**FISCAL IMPACT:**

Funds for this project were included in the 1999-2000 fiscal year Urban Renewal budget.

**RECOMMENDATION:**

It is recommended the Council adopt the attached Resolution authorizing the City Manager to sign the necessary contracts awarding the bid to Houck Construction.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-\_\_\_\_\_

3 AUTHORIZING THE CITY MANAGER TO ENTER AGREEMENT

4 WITH HOUCK CONSTRUCTION FOR CHERRY AVENUE STREET IMPROVEMENTS

5  
6 WHEREAS, in June, 1999 an invitation to bid was published for  
7 improvements to Cherry Avenue. These improvements include curbs, gutters,  
8 sidewalks, improved drainage and an overlay between Manbrin Drive and  
9 Greenwood Drive;

10 WHEREAS, on July 14, 1999 five bids were received and opened. Low  
11 bidder on the Cherry Avenue project was Houck Construction with a bid of  
12 \$56,687.00. NOW, THEREFORE,

13 BE IT RESOLVED by the City Council of the City of Keizer that the City  
14 Manager is hereby authorized to enter an agreement with Houck  
15 Construction for street improvements to Cherry Avenue for a total of  
16 \$56,687.00

17 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

18 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

19 \_\_\_\_\_  
20 Mayor

21 \_\_\_\_\_  
22 City Recorder  
23  
24



August 2, 1999

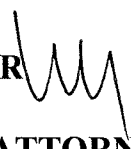
# **AGENDA ITEM 8C**

RESOLUTION – AUTHORIZING CITY MANAGER TO ENTER  
AGREEMENT FOR WHEATLAND LINK STORM DRAIN  
REIMBURSEMENT

**CITY COUNCIL MEETING: August 2, 1999**

**AGENDA ITEM NUMBER: \_\_\_\_\_**

**TO: MAYOR NEWTON AND COUNCIL MEMBERS**

**THROUGH: WALLY MULL, CITY MANAGER** 

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: *WHEATLAND-CLAGGETT STORM DRAIN REIMBURSEMENT AGREEMENT***

As conditions of approval for development in the Clear Lake area, major storm drain improvements were constructed. The developers, JVR, Inc., Berkshire Estates, L.L.C. and the Piculell Group agreed to construct the improvements jointly subject to entering into a reimbursement agreement with the City. Such agreement is attached.

**RECOMMENDATION:**

Adopt the attached Resolution authorizing the City Manager to enter into the reimbursement agreement.

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

ESJ/tmh  
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-\_\_\_\_\_

3 AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
4 STORM DRAIN REIMBURSEMENT AGREEMENT WITH  
5 JVR, INC., BERKSHIRE ESTATES, L.L.C. AND THE  
6 PICULELL GROUP

7 WHEREAS, JVR, Inc., Berkshire Estates, L.L.C. and the Piculell Group have  
8 developed certain subdivisions in the Keizer area;

9 WHEREAS, as a condition for approving the developments, the City required that a  
10 portion of the City's Master Storm Drainage System be constructed;

11 WHEREAS, JVR, Inc., Berkshire Estates, L.L.C. and the Piculell Group did not wish  
12 to delay the development of their property until the City constructed the Wheatland-Claggett  
13 Link;

14 WHEREAS, such developers have financed and constructed the Wheatland-Claggett  
15 Link that will benefit more than their particular subdivisions;

16 WHEREAS, it is fair and equitable that such developers be reimbursed for the portion  
17 of the Wheatland-Claggett Link construction costs that are in excess of the necessary costs  
18 to develop the individual subdivisions; NOW THEREFORE,

19 ///

20 ///

21 BE IT RESOLVED by the City Council of the City of Keizer that the City Manager

1 is authorized to enter into the Wheatland-Claggett Storm Drain Reimbursement Agreement  
2 a copy of which is attached as Exhibit "A" to provide reimbursement to the above-named  
3 developers subject to the conditions and audit of the final costs as set forth in the Agreement.

4

5 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

6 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

7

8

\_\_\_\_\_  
Mayor

9

10

\_\_\_\_\_  
City Recorder

11 4712COK.002

**WHEATLAND-CLAGGETT STORM  
DRAIN REIMBURSEMENT AGREEMENT**

THIS AGREEMENT, made and entered into this 19<sup>th</sup> day of July, 1999, by and among:

JVR, Inc., Berkshire Estates, L.L.C. and The Piculell Group, which parties are hereinafter collectively referred to as "Developers"; and

The City of Keizer, an Oregon municipal corporation, hereinafter referred to as "the City".

WITNESSETH:

Developers are the owners of the parcels, totaling 38.72 acres, located east of Wheatland Road in Keizer, Marion County, Oregon, which properties are more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof. These properties are hereinafter collectively referred to as "Developers' Properties", or "their respective Properties". The Developers each wish to develop or have developed their respective Properties for residential purposes.

As a condition for approving the residential developments proposed by the Developers, the City requires that a portion of the City's Master Storm Drainage System be constructed. This portion is hereinafter referred to as "the Wheatland-Claggett Link". The City is not scheduled to construct the Wheatland-Claggett Link in the immediate future, and the Developers do not wish to delay the development of the Developers' Properties until the City completes this portion of the storm drainage system.

In order to facilitate the immediate development of their respective Properties, the Developers have constructed the Wheatland-Claggett Link at their own initial cost and expenses, upon the condition and understanding that as other properties are connected to the storm system improvements constructed by the Developers, the Developers shall be reimbursed for portions of their costs incurred in constructing the Wheatland-Claggett Link on an equitable basis upon the development of other properties within the service area as hereinafter defined.

The City is willing to provide for the reimbursement to the Developers of a portion of their costs, as set forth hereinbelow.

NOW, THEREFORE, in consideration of their mutual covenants herein, the parties agree as follows:

1. **Construction of Wheatland-Claggett Link.** Developers have constructed the Wheatland-Claggett Link by running a 30 inch storm water drainage line from the east line of Wheatland Road in a westerly direction through an easement crossing the Willamette Lutheran Home property, to a discharge area in the Claggett Creek Drainage Basin, in accordance with the Plans and Specifications attached hereto as Exhibit "B" and by this reference made a part hereof. All costs and expenses of construction have been paid by the Developers in the following proportions:

JVR, Inc. 50.2%; Berkshire Estates, L.L.C. 35.7%; and Piculell Group 14.1%

2. **Service Area.** The area which will be served by the Wheatland-Claggett Link is shown on Exhibit "C", attached hereto and by this reference made a part hereof. It contains 86.17 acres including the Developers' Properties and is referred to herein as "the Service Area". The Service Area excludes properties which have already been developed to a point where redevelopment to a higher density would be impractical (heavy cross-hatched area on Exhibit "C"), consisting of approximately 2.67 acres, and right-of-way outside of developing residential properties, consisting of approximately 0 acres, as shown on Exhibit "C".
3. **Total Cost.** The actual total cost incurred by Developers in construction of the Wheatland-Claggett Link was \$278,338.53, (hereinafter referred to as "the Total Cost"). Developers shall provide to the City proof of full payment of all costs to contractors, subcontractors, suppliers and others connected with in any way the construction of the Wheatland-Claggett Link in a form acceptable to the City in its reasonable discretion. Such proof shall be provided and accepted by the City prior to any reimbursements being paid.
4. **Reimbursement Amount.** The Developers' Properties cover an area of 38.72 acres which is 44.93 percent of the total Service Area. Therefore, 44.93 percent of the Total Cost is payable by the Developers without any right of reimbursement therefor. For purposes of this Agreement, that portion of the Total Cost shall be credited against the Total Cost, leaving 55.07 percent of the Total Cost, together with interest accruing thereon, to be reimbursed to the Developers. Therefore, \$153,281.02, together with interest accruing on unpaid balances of said amount as called for in Section 5, is the maximum amount to be reimbursed (hereinafter referred to as "the Reimbursement Amount").

5. **Interest.** Interest shall accrue on unpaid balances of the Reimbursement Amount from the date of this Agreement until the entire Reimbursement Amount and all interest accrued thereon has been reimbursed in full, at an interest rate of seven percent (7%) per annum.
6. **Prorata Share and Adjustments.** The per acre Prorata Share to be paid by subsequent developers of acreage within the Service Area is \$3,230.10 per acre plus interest on such amount from the date of this Agreement, until the payment of said Prorata Share; i.e., the interest portion of the Prorata Share is calculated only on the amount paid by a particular subsequent developer (number of acres x \$3,230.10), not on the total Reimbursement Amount.
7. **City Collection.** As each property in the Service Area develops, (other than Developers' Properties) the person developing such property shall pay to the City the Prorata Share per acre for that property as a condition of approval for the Land Use Action involving such development. As used herein "Land Use Action" shall include subdivision, partitioning, and zone change and comprehensive plan change. However, the term "Land Use Action" shall not include issuance of a building permit in and of itself. Any amounts collected by the City hereunder shall be forwarded to the Developers within thirty (30) days of collection, after retaining the administrative fee described below. All payments of reimbursement amounts and interest accrued thereon shall be applied first to the payment of the amount of interest for the Prorata Share accrued to the date of such payment, and then to the reduction of the principal balance of the Reimbursement Amount. Said amounts shall be remitted to the Developers in the same proportions in which they shared the costs and expenses of constructing the Wheatland-Claggett Link under Section 1 above. The City shall be entitled to deduct and retain for its own use a sum equal to one percent of the total amount collected to compensate the City for its administration of the reimbursement program described herein.

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8. **Collection Policy.** The parties hereby agree that so long as there remains any outstanding and unpaid principal or interest owing upon the Reimbursement Amount to the Developers during the term of this Agreement, the City shall attempt to collect the Prorata Share on a lump sum basis as set forth above from parties that develop properties within the Service Area. The Developers understand that there is no formal Systems Development Charges, or other policies to enforce the collection of such amounts. Rather, the City agrees that it will attempt to collect such amounts as being roughly proportional to the impact that development will cause. The Developers understand and agree the City has no mechanism to require payment of these amounts in situations other than Land Use Actions as defined in Section 7 above.
9. **Legal Action Not Required.** Nothing contained herein shall require the City to initiate legal action or maintain the defense of any action brought against it in any form to collect Prorata Share from other parties. The City agrees to use its reasonable efforts to collect the Prorata Share in the normal course of business according to the City's standard procedures. Nothing contained herein shall be interpreted as requiring the City to pay to the Developers any amount exceeding the actual collected Prorata Share as referred to herein.
10. **Indemnification.** Should any party make any claim against the City after payment of such party's Prorata Share, Developers agree to defend and indemnify the City of Keizer for and from such claims, causes of actions, suits, complaints or other actions in connection with the collection of the Reimbursement Amount. This obligation by the Developers shall be joint and several. By mutual consent of all the Developers, such claims may be settled and compromised, at no expense to the City.
11. **Term.** This Agreement shall remain in full force and effect for ten (10) years from the date hereof, after which point the Agreement shall be of no further effect, and reimbursements as set forth herein shall not be required.

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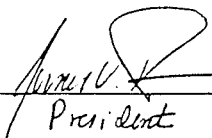
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date and year first hereinabove written.

JVR, INC.

CITY OF KEIZER, OREGON

Date: 7-14-99

Date: \_\_\_\_\_

By:   
President

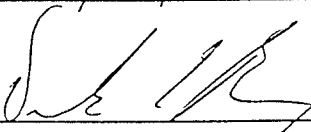
By: \_\_\_\_\_

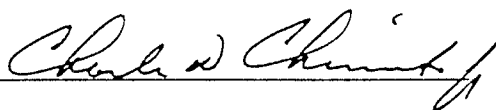
BERKSHIRE ESTATES, L.L.C.

THE PICULELL GROUP

Date: 7/19/99

Date: 7/13/99

By:  Member

By: 

4712COK.001

# Exhibit "A" - JVR Inc.

Property Controlled by J.V.R. Inc.

## *Pinehurst*

Beginning at an axle at the northeast corner of parcel 2 of Partition Plat No. 96-91 as recorded in the Marion County record of Partition Plats; thence S00°10'02"W, along the east line of said Parcel 2, a distance of 234.00 feet to a point; thence N89°30'30"W a distance of 170.83 feet to a point; thence S00°09'41"W a distance of 122.46 feet to a point; thence N89°50'19"W a distance of 89.25 feet to a point; thence along the arc of a 35.00 feet radius curve left (the chord of which bears S20°27'42"W 16.35 feet), an arc distance of 16.50 feet, to a point of reverse curvature; thence along the arc of a 30.00 feet radius curve right (the chord of which bears S23°51'11"W 10.55 feet), an arc distance of 10.61 feet to a point; thence S89°50'19"E 99.16 feet to a point; thence S00°09'41"W 343.07 feet to a point at the southeast corner of said Parcel 2; thence N89°12'58"W, along the south line of said Parcel 2, a distance of 730.13 feet to a point at the southwest corner of said Parcel 2; thence N06°46'59"E, along the west line of said Parcel 2, a distance of 214.48 feet to an angle point in the southwest boundary of said Parcel 2; thence N78°19'55"W, along the south line of said Parcel 2, a distance of 167.71 feet to a point at the most westerly corner of said Parcel 2; thence N16°44'27"E, along the west line of Parcel 1 of said Plat, a distance of 224.01 feet to the northwest corner of said Parcel 1; thence S89°31'37"E, along the north line of said Parcels 1 and 2, a distance of 453.30 feet to an angle point in the westerly boundary of said Parcel 2; thence N00°09'07"E, along the west line of said Parcel 2, a distance of 259.88 feet to the northwest corner of Parcel 2; thence S89°30'30"E, along the north line of said Parcel 2, a distance of 523.37 feet to the point of beginning and containing 11.24 acres of land. All being located in Section 23, Township 6 South, Range 3 West of the Willamette Meridian, Marion County, Oregon.

## *Forest Ridge Estates*

Forest Ridge Estates Phase 1 as recorded in the Marion County Book of Town Plats in Volume 43, Page 3

Beginning at the Initial Corner for this subdivision, a 1 inch iron pipe at the Southwest Corner of Lot 10 Waterford Addition as platted and recorded in the Marion County Book of Town Plats in Volume 42, Page 38; thence South 00°09'01" West a distance of 74.97 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence North 89°51'48" West a distance of 519.67 feet to a 5/8 inch iron rod; thence North 00°00'44" West a distance of 189.90 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence North 89°42'51" West a distance of 437.13 feet to a 5/8 inch iron rod 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence North 00°10'58" East a distance of 149.62 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence North 89°49'02" West a distance

of 174.25 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence North 00°01'14" East a distance of 248.32 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng.; thence South 89°49'02" East a distance of 544.98 feet to a 3/4 inch iron pipe; thence South 88°43'03" East a distance of 65.95 feet to a 5/8 inch iron rod; thence South 89°50'04" East a distance of 519.69 feet to a 5/8 inch iron rod with yellow plastic cap marked Multi/Tech Eng. on the westerly boundary line of said Waterford Addition; thence South 00°00'44" East, along said westerly boundary of Waterford Addition, a distance of 512.13 feet to the Point of Beginning.

The above described parcel contains 12.00 acres of land. All being in Section 23, Township 6 South, Range 3 West, Willamette Meridian, Marion County, Oregon.

## Exhibit "A" - Berkshire LLC

*Berkshire M.H.P.*

Beginning at the Northeast Corner of Parcel 2, of Partition Plat No. 96-91, Marion County Records; thence N89°30'30"W a distance of 903.59 feet to a point on the easterly right-of-way line of Wheatland Road North; thence northeasterly, along said right-of-way, along the arc of a 818.51 feet radius curve right (the chord of which bears N27°19'00"E 95.04 feet), an arc distance of 95.09 feet to a point; thence N30°46'07"E a distance of 42.22 feet to a point; thence S89°30'11"E 178.58 feet to a point; thence N00°17'15"E a distance of 123.53 feet to a point on the southerly line of Brower Place as recorded in the Marion County Book of Town Plats in Volume 42, Page 73; thence, along the southerly line of Brower Place, S89°28'05"E a distance of 79.09 feet to a point at the southeast corner of Lot 30 of said Brower Place; thence N00°17'15"E a distance of 95.34 feet to a point; thence northwesterly, along the arc of a 20.00 feet radius curve left (the chord of which bears N44°36'37"W 28.23 feet), an arc distance of 31.34 feet to a point on the south right-of-way line of Rupp Avenue N.E.; thence S89°30'30"E, along said right-of-way line, a distance of 80.00 feet to a point; thence southwesterly, along the arc of a 20.00 feet radius curve left (the chord of which bears S45°23'27"W 28.33 feet), an arc distance of 31.49 feet to a point; thence S00°17'15"W a distance of 69.93 feet to a point at the southwest corner of Lot 29 of said Brower Place; thence S89°30'30"E a distance of 541.51 feet to a point at the southeast corner of Lot 20 of said Brower Place; thence S00°19'45"W a distance of 172.30 feet to a point; thence S89°48'12"E a distance of 870.17 feet to a point; thence S00°05'55"W 370.09 feet to a point; thence N89°49'02"W a distance of 870.89 feet to a point on the east line of Parcel 2 of Partition Plat No. 96-91; thence N00°10'02"E a distance of 272.60 feet to the point of beginning. The above described parcel contains 12.13 acres of land. All being in Section 23, Township 6 South, Range 3 West of the Willamette Meridian, Marion County, Oregon.

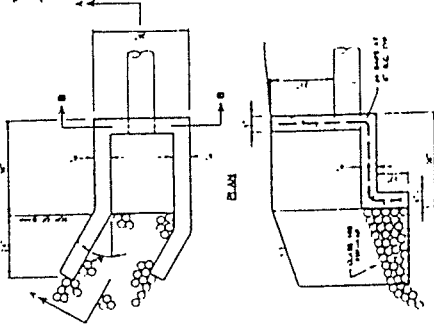
## Exhibit "A" - Chimento-Piculell Group

### *Brower Place*

Brower Place as recorded in the Marion County Book of Town Plats in Volume 42, page 73.

Commencing at the Northeast Corner of Parcel 2, of Partition Plat No. 96-91, Marion County Records; thence N00°19'45"E a distance of 270.00 feet to A 5/8 inch iron rod marked Multi/Tech Eng., marking the initial corner of this subdivision, said corner being the point of beginning; thence N89°30'30"W a distance of 541.51 feet to a point; thence S00°17'15"W a distance of 25.30 feet to a point; thence N89°28'05"W a distance of 225.08 feet to a point on the Easterly right-of-way line of Wheatland Road (60.00 feet wide); thence N30°46'07"E, along said right-of-way line, a distance of 490.46 feet to a point; thence S58°47'02"E a distance of 83.68 feet to a point; thence S89°28'54"E a distance of 446.27 feet to a point; thence S00°19'45"W a distance of 355.46 feet to the Point of Beginning. The above described parcel contains 5.46 acres of land. All being in Section 23, Township 6 South, Range 3 West of the Willamette Meridian, Marion County, Oregon.

# EXHIBIT B

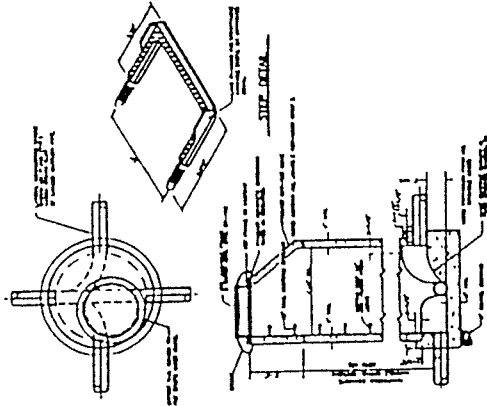


SECTION B-B

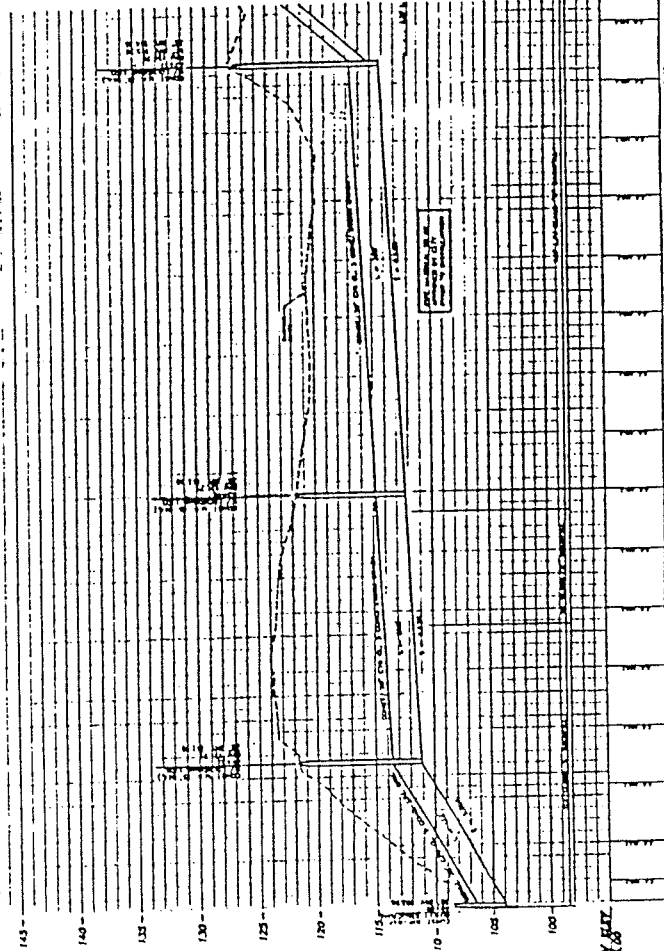
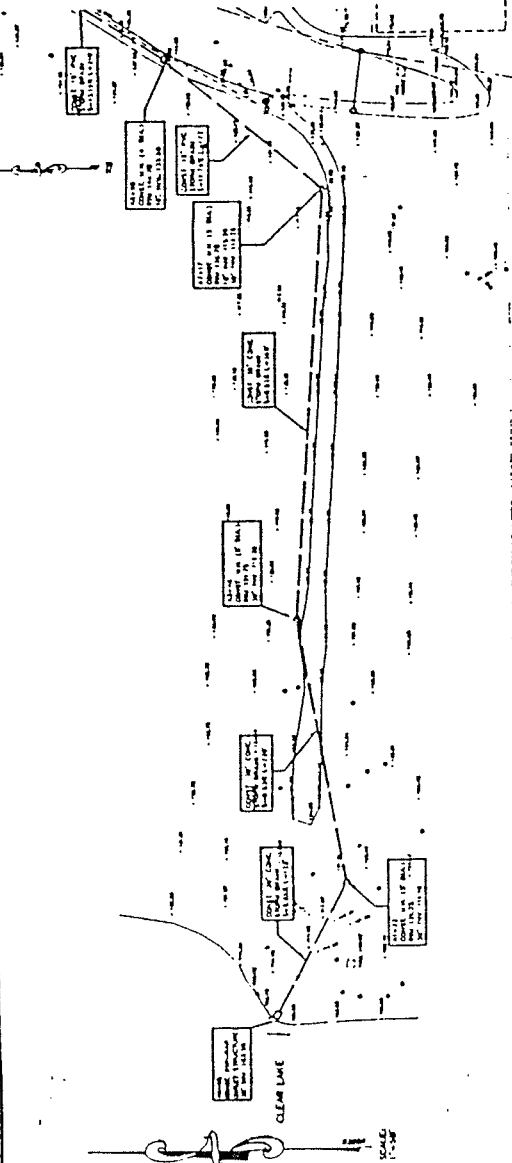
OUTLET STRUCTURE DETAIL

SECTION A-A

1. ALL STRUCTURES TO BE PUBLIC.
2. ALL CONSTRUCTION TO BE TO CITY OF KELLER STANDARDS.
3. ALL CONSTRUCTION TO BE TO CITY OF KELLER STANDARDS AND STREET.
4. THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES SHALL BE DETERMINED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
5. THE CONTRACTOR SHALL COMPLY WITH ALL REQUIREMENTS OF THE CITY OF KELLER AND THE STATE OF TEXAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE LOCATION AND DIMENSIONS OF EXISTING UTILITIES.



STANDARD MANHOLE OR  
CHECK MANHOLE AT TRANSVERSE



NO CHANGES TO BE MADE IN THIS DRAWING WITHOUT THE WRITTEN APPROVAL OF THE ENGINEER. ANY CHANGES MUST BE APPROVED BY THE ENGINEER.



NOT FOR CONSTRUCTION  
UNLESS STAMPED  
APPROVED HERE

DESIGNED BY: [Name]  
CHECKED BY: [Name]  
DATE: 12/31/2023

EXHIBIT B  
MULTI / TECH  
10/20/23

10/20/23

STORM DRAIN  
IMPROVEMENTS

NORTHWEST KEIZER  
DRAINAGE PLAN

Design: [Name]  
Drawn: [Name]  
Checked: [Name]  
Scale: AS SHOWN  
Date: 12/31/2023

NO CHANGES TO BE MADE IN THIS DRAWING WITHOUT THE WRITTEN APPROVAL OF THE ENGINEER. ANY CHANGES MUST BE APPROVED BY THE ENGINEER.



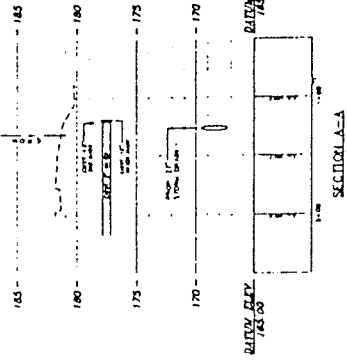
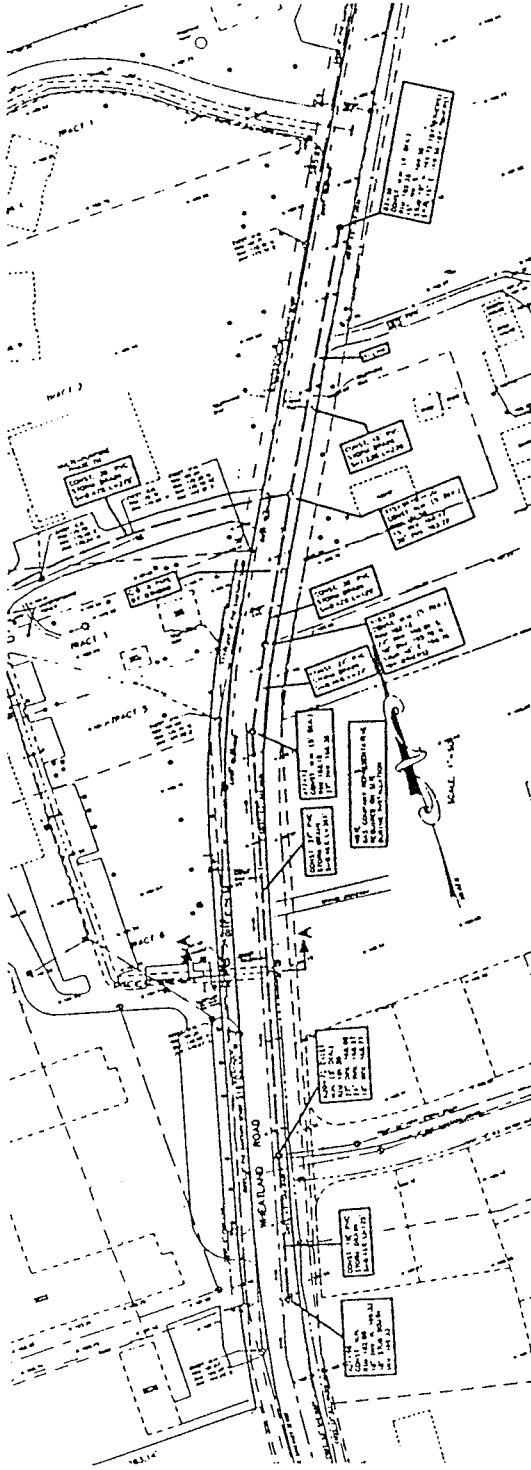
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DATE: 12/31/2023

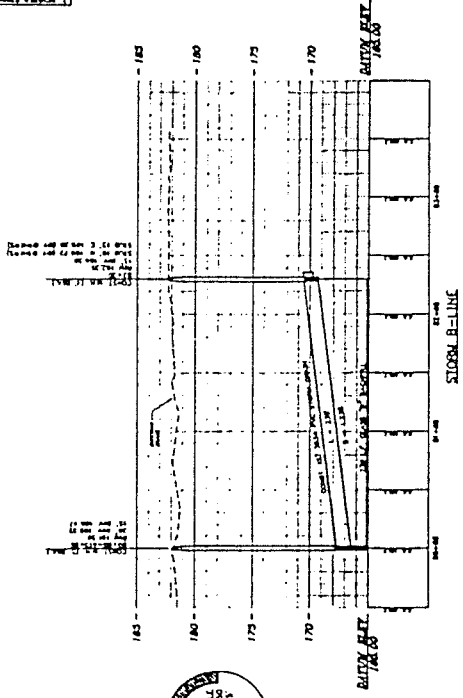
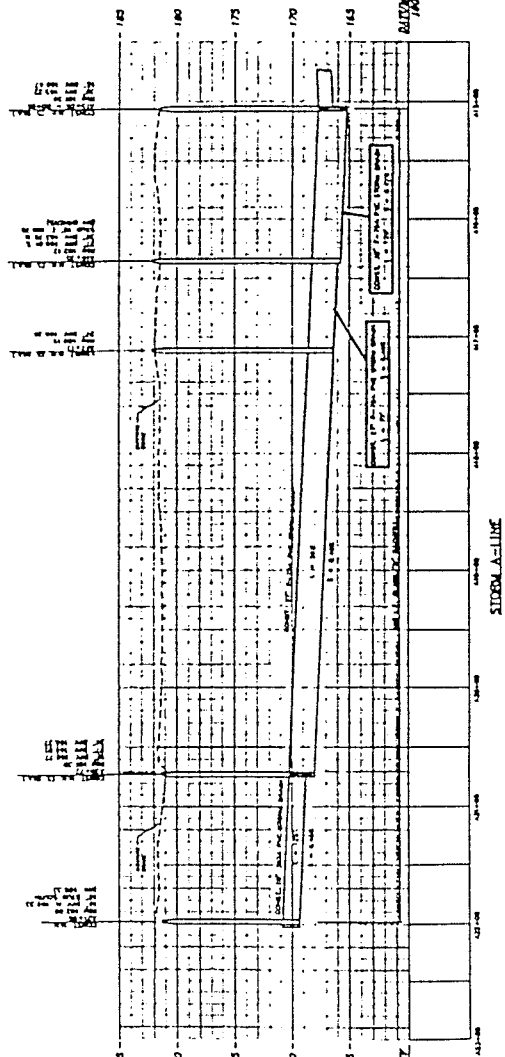
EXHIBIT B  
MULTI / TECH  
10/20/23

10/20/23





SEE SHEET 2 OF 3  
FOR GENERAL NOTES



Drawing Number  
**3242**  
Sheet Number  
**3 of 3**

**STORM DRAIN  
IMPROVEMENTS**

**NORTHWEST KEIZER  
DRAINAGE PLAN**

Project: J.E.C.  
Checked: J.E.C.  
Date: 11/11/11  
Scale: 1"=100'

NO CHANGE, MODIFICATION OR  
REVISIONS TO THIS DRAWING  
SHALL BE MADE WITHOUT THE  
APPROVAL OF THE DESIGN  
ENGINEER.  
DESIGNER'S WORK IS THE  
PROPERTY OF THE DESIGNER.

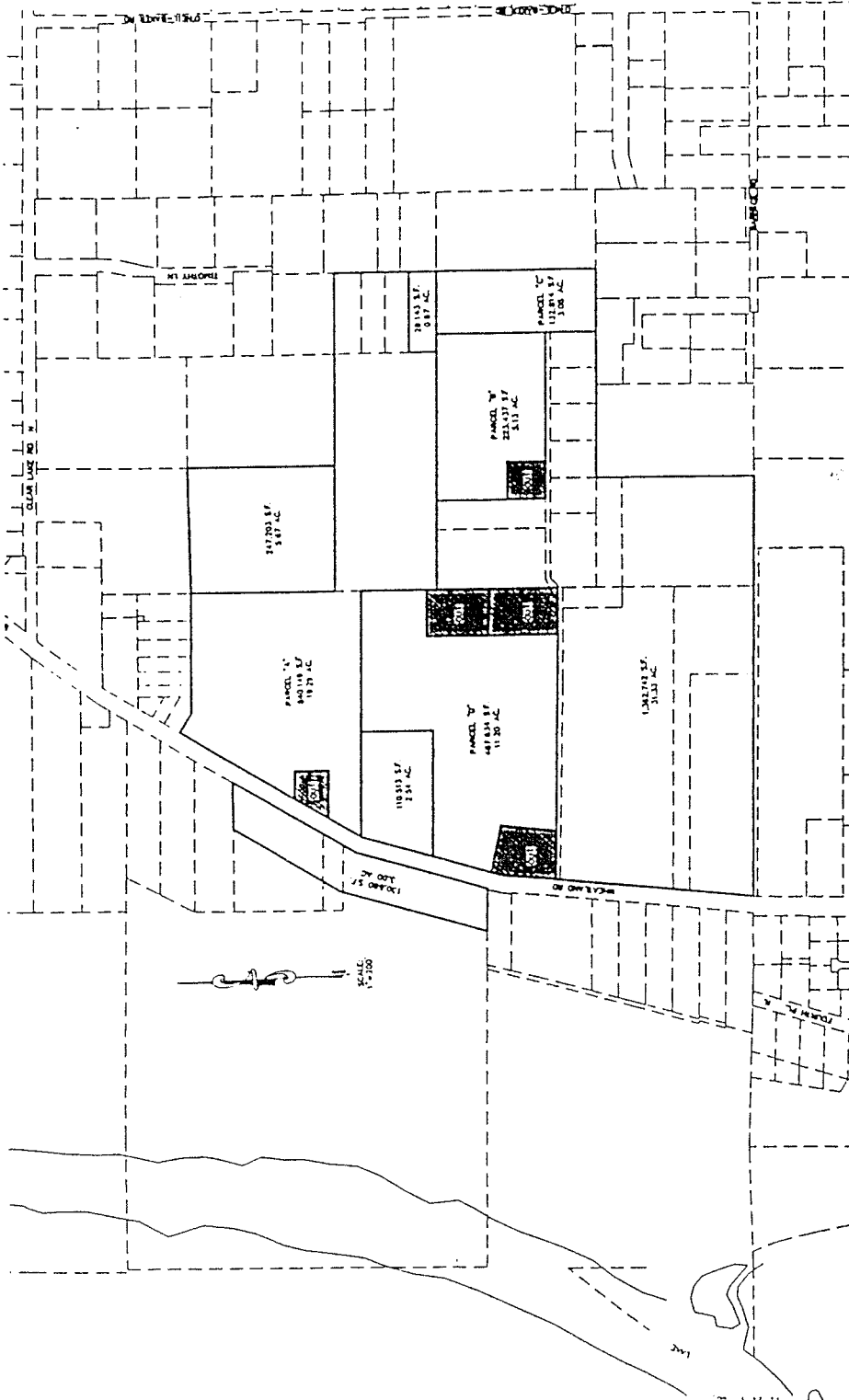


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CONSTRUCTION  
UNLESS STAMPED  
APPROVED HERE

**MULTI/TECH**  
ENGINEERING & ARCHITECTURE  
1111 SW 10th Ave, Suite 100  
Portland, OR 97204  
503.228.1111

# NORTHWEST KEIZER DRAINAGE BASIN MAP

SEC. 23 T. 6 S., R. 3 W., W.M.  
CITY OF KEIZER  
MARION COUNTY, OREGON



VICINITY MAP

TOTAL BASIN AREA  
81.93 AC.

EXHIBIT C

DRAINAGE  
BASIN MAP

MAP

Drawing Number  
**3262**  
Sheet Number  
**1 of 1**

DESIGNED BY: J.E.C.  
CHECKED BY: J.E.C.  
DATE: 11/11/00  
BY: J.E.C.



NOT FOR  
CONSTRUCTION  
UNLESS STAMPED  
APPROVED HERE

ENGINEERING - PLANNING - INFO.  
1000 N. W. 10th Ave., Suite 100  
Keizer, OR 97138  
Phone: (503) 325-1234  
Fax: (503) 325-5678  
E-mail: info@jpc-engineering.com

MULTI/TECH



August 2, 1999

# **AGENDA ITEM 8d**

APPROVAL OF THE JULY 19, 1999 REGULAR SESSION MINUTES

**MINUTES**  
**KEIZER CITY COUNCIL**  
**Monday, July 19, 1999**  
**Keizer City Hall**  
**Robert L. Simon Council Chambers**  
**Keizer, Oregon**

**CALL TO ORDER**

Mayor Newton called the regular meeting to order at 7:03 p.m. Roll Call was taken as follows:

**Present:**

Bob Newton, Mayor  
Lore Christopher, Councilor  
Jim Keller, Councilor  
Jacque Moir, Councilor

**Absent:**

Craig Campbell, Councilor  
Jerry McGee, Councilor  
Garry Whalen, Council President

**Staff:**

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

**PUBLIC TESTIMONY**

**Dave Bauer, 260 Janet Avenue, Keizer-** Mr. Bauer noted that his eight year term on the Salem-Keizer School Board ended July 1, 1999. Because of a recent article in the Keizertimes Mr. Bauer felt obligated to speak to the Council regarding some of the issues in regards to the construction of the new schools in Keizer which were raised in the article. Mr. Bauer, as a member of the school board, indicated that he had no knowledge of a search for other school sites and potential budget issues. Mr. Bauer apologized to the Council for the City taking the brunt of the blame for the school issue. He requested that any new negotiations start out fresh. Mr. Bauer believed the extension of Alder Street to Cherry Avenue was not necessary. He thanked the Council for their service to the community.

Mayor Newton thanked Mr. Bauer for his years of service on the School Board and stressed the City's commitment to move forward to try to get the new schools open by fall.

**Carl Beach, 810 Ventura Street North, Keizer-** Mr. Beach spoke in support of Mr. Bauer comments and indicated that as a member of the Bond Steering Committee he felt it was important to keep the new school sites within the city limits of Keizer. The Bond Steering Committee will continue to study issues surrounding the construction of new schools in Keizer.

Mayor Newton thanked Mr. Beach for his service on the Steering Committee.

**Jack Richards, 6010 Windsor Island Road, Keizer-** noted that he was appearing before the Council for the second time regarding weed and fire nuisance near his home which is across from the Willow Lake Treatment Plant and behind McNary Estates. He stated that he had assurance that these problems would be taken care of and to date had not. Mr. Richards added that he has spent a great deal of time and money in an attempt to keep the weeds from overtaking his garden. He once again requested the Council's assistance.

Responding to Mr. Richards concerns, City Manager Mull shared that he had been in touch with the owner of the golf course who owns the property and there were some zoning issues involved. Mr. Mull noted that he would speak with the Code Enforcement Officer and report back to Mr. Richards and the Council.

Mayor Newton noted that if the ordinance currently in place would cover the problem that they would promptly take care of it.

**Dave Wallery, 202 Cummings Lane, Keizer-** Mr. Wallery requested the Council stop the proposed road widening project scheduled to take place on Cummings Lane. He felt there was a safety issue for the residents and bicyclists along Cummings Lane. Mr. Wallery advised he had gathered signatures on a petition from residents on Cummings Lane opposing the improvements. He urged the Council to take into account the safety of the residents that live along Cummings Lane as the top priority.

## **COMMITTEE REPORTS**

**a. Swearing In - Sergeant Greg Barber and Sergeant Bob Trump**  
Chief Adams introduced Sergeant Barber and Sergeant Trump and gave a profile of each.

Shannon Johnson, City Attorney issued the oath of office to each Sergeant.

**b. Parks Advisory Board Report** - Councilor Christopher shared that 500 people attended the opening of the new skate park, which was named after Charlane and Steve Carlson.

Councilor Christopher noted that the Parks Board had joined with KYBA (Keizer Youth Basketball Association) to put together a Summer Slam Dunk Program that would take place the next three Tuesdays from 6:30 - 9:00 p.m. free of charge. She urged anyone interested to contact the city and they would be put in touch with the contact people.

The Annual Punk, Pass and Kick is tentatively scheduled for the second weekend in September and will take place at McNary High School with various service clubs assisting with this project.

Councilor Christopher shared that the Annual Parks Tour is scheduled August 9, 1999 at 5:30 p.m.

Councilor Christopher noted that the Parks Board had discussed the possibility of partnering with a skate shop to hold a skate competition in conjunction with the Iris Parade next year. She will bring more information back to the Council as it becomes available.

## **OTHER BUSINESS**

### **a. New Business**

➤ **Newly Hired City of Keizer Employees**  
Ms. Hunt welcomed new employees, Marilyn Sherwood, Karen Sergeant and Kelley King. She shared each of their backgrounds and their duties with the City.

Mayor Newton noted that the Oregon Transportation Commission would be holding their meeting on July 21, 1999 in Keizer. Also, Mayor Newton noted he would be attending the Oregon Mayor's Association Conference in Burns, Oregon on July 29 - August 1, 1999.

### **b. Old Business**

➤ **Year 2000 Update**  
Ms. Hunt reviewed her staff report with the Y2K update and the current update of Senate Bill 268 which limits liability to public bodies and gives date functionality problem protection. Ms. Hunt indicated that the City of Keizer had in good faith met the criteria submitted by the bill.

Responding to questions Ms. Hunt indicated that the major critical systems were close to 100% but major issues such as the 911 system, the City is waiting on confirmation from the responsible agency at this time.

Mayor Newton directed staff to direct a letter to the RAIN Program requesting in writing their Y2K readiness of their system.

**Jim Hupy - Keizer Heritage Foundation President-** gave an update on the renovation of the old school sharing that the National Guard has completed their portion of the parking lot. He noted that everything is on task and they are looking forward to a December opening.

Councilor Moir noted that the Claggett Creek Watershed would be holding their first annual meeting and elections on July 27, 1999 at 7:00 p.m. Also, in the absence of Lt. Miranda, Fire Chief, Greg Frank would be the acting Emergency Management Chair.

Chief Adams noted that the Community Services Specialist position would be filled in house by Laurie Phillips.

Chief Adams commended the youth of this community for their respect of others at the Carlson Skate Park. He reported there have been few problems and the trash is being better attended to.

## **ADMINISTRATIVE ACTION**

### **a. Neighborhood Traffic Management Plan**

Shannon Johnson, City Attorney reported at the City Council meeting in June, the Council directed staff to prepare a Resolution to adopt the Neighborhood Traffic Management Program. The Program was adapted from the larger Program that would be implemented through the Transportation System Plan. He recommended adoption of the resolution.

City Manager Mull noted that a temporary map indicating collectors and arterials would be placed in the plan and once the TSP is adopted the permanent map would be placed.

Councilor Keller moved a Resolution adopting the Neighborhood Traffic Management Program. Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, Moir and Newton (4)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

**b. Traffic Safety  
Commission - Radar  
Reader Board Grant**

Mike Kirby, Chair of the Traffic Safety Commission shared the steps taken in the Neighborhood Traffic Management Plan to assess the need for traffic calming devices on neighborhood streets. He indicated that the Commission is currently working on a grant to cover half of the purchase price of a radar reader board and trailer. He introduced Sergeant John Teague who was working in conjunction with him in pursuing the grant.

Sergeant John Teague thanked the Council for supporting the Neighborhood Traffic Management Plan and requested their assistance and support of the grant for the radar reader board and trailer. He indicated that the total cost of this would be approximately \$8,000 with the grant covering approximately \$4,000 of this cost. He pointed out the pros of the use of the radar reader board that included greater officer efficiency and the ability to be left on site unmanned for great periods of time. Sergeant Teague noted the funds being requesting are contingent upon receipt the grant.

Responding to questions Sergeant Teague added that in his discussions with various cities they have encountered very little vandalism to their units.

Concerns about funding were brought up and City Manager Mull indicated that there were funds budgeted for the Traffic Safety Commission to start the Neighborhood Traffic Management Program that could also be used for this purpose, but suggested the use of funds from Revenue Sharing.

Councilor Keller moved to authorize staff to apply for the Traffic Safety Commission Grant for the purchase of a radar reader board and trailer and identifying funds in Revenue Sharing which would be used as the matching grant. Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, Moir and Newton (4)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee, and Whalen (3)

**c. Appeal of Hearings  
Officer Decision- Case  
No. 99-17 (Viesko  
Quality Concrete Haul  
Road)**

Amy Drought, Senior Planner reported that on June 21, 1999 the City Council conducted a public hearing on the appeal of the hearings officer decision on the haul road for Viesko Quality Concrete. At that time the City Council closed the public hearing and the record, and set the date of July 19, 1999 for deliberations on this appeal.

Ms. Drought stated that staff believed that a Conditional Use Permit was required to develop the proposed haul road. Staff recommended that the City Council approve the Conditional Use with the following conditions:

*The applicant comply with the Department of Public Works requirements that would include:*

- a) The applicant improve the proposed haul road to a 3/4 width improvement in accordance with the City of Keizer Department of Public Works Street Standards.*
- b) The proposed haul road can be developed as a private road with a gate until such time that the property to the north develops. At that time, the 3/4 width improvement shall be dedicated as a public right of way for only that section of the haul road extending the length of the property to the north (Tax lot 100)*
- c) The applicant shall develop a sound wall along the south side of the proposed haul road. The design and construction of the sound wall shall be approved by the Keizer Public Works Department. The sound wall shall be installed prior to any use of the proposed road.*
- d) The applicant shall create a safe, well-lighted intersection with appropriate sight distances in all directions. The intersection with Windsor Island Road and Lockhaven Drive shall be designed to provide for a curvilinear alignment resulting in adequate centerline continuance for the intersection.*
- e) The applicant shall submit a site grading plan to the Department of Public Works indicating where fill will be proposed and showing that no storm water in the*

*area will be impeded by the proposed development. A site-grading plan shall be submitted to the Department of Public Works prior to any grading operations on the site within the City limits.*

- f) Once constructed, all Viesko Quality Concrete trucks and other vehicles associated with Viesko Quality Concrete business, shall use the haul road and not Willow Lake Road.*
- g) The applicant shall comply with Keizer Fire District and Marion County Fire District #1 requirements.*

City Attorney, Shannon Johnson noted that prior to deliberations he wished to address his memo from the last meeting. He also requested the applicant's attorney have an opportunity to request the reopening of the record.

Rick Stein, Attorney for the applicant announced that he did not desire to request the record be reopened at this time.

Mr. Johnson reviewed his memo to Council dated June 14, 1999 which included a list of proposed sequence of analysis. He explained that the Council would need to make the decision whether the Conditional Use Permit was necessary. If not, then no decision could be made and no conditions could be attached. This would dismiss the appeal as mute. Mr. Johnson went on to explain in his opinion, the EFU statutes do not apply and believed a Conditional Use Permit was necessary in this case.

Mr. Johnson noted that next, the Council must decide whether the code allows this use of a street in the EFU zone. He felt the code did allow for the use, opposing the Hearings Officers decision.

Responding to questions Ms. Drought noted that staff was suggesting that the intersection at Windsor Island Road and Lockhaven Road be improved to cause more of a center line alignment, and Lot 100 was not currently owned by the applicant. She explained that the Public Works Department conditions were as listed above with the exception of the previously recommended annexation and the hook up to public sewer and water due to the thought that the batch plant would be built in this area. She shared that the decision was made that these conditions were not practical and were eliminated.

In response to the Mayor's concerns Mr. Johnson shared that the major concerns between the applicant and the City were the City requesting that the proposed haul road be made a public street once the property to the north is developed. He noted that the applicant was concerned with traffic conflicts and the applicant requested that only the first 200 feet be declared public allowing internal movement with one outlet. He noted the other issue regarding staffs request of a linear alignment at Lockhaven and Windsor Island Road as shared by the applicant that they do not own Tax Lot 100 which would be needed to make this alignment. Mr. Johnson shared that staff had proposed an acquisition of additional right of way to allow this to be done.

City Engineer, Bill Peterson acknowledged the Council's questions and noted that the proposed gated entrance could be moved farther back on the property to allow easy turn around access to the public and emergency vehicles. He gave examples of where this had been done and felt that the intersection would be a two-way stop.

Councilor Keller suggested that language should be added to item (d) to show a joint effort in the acquisition of property needed to make the intersection align as required.

Mr. Johnson indicated in the final order a more detailed description would be added. He felt it should be written more as if the applicant attempted to purchase the land for fair market value and was unable to do so that at the applicant's cost the City could step in and acquire the property.

There was discussion between Mr. Johnson and Mr. Peterson whether land acquisition could take place if not for the purpose of public use. Mr. Johnson indicated that land did not have to be public, but would need to have a public purpose for this to do done.

Councilor Keller expressed his concern with the request that the haul road be designated public once the property north was developed. He explained he was unsure what type of traffic would mix well with gravel trucks and expressed some concern with the wording of this.

Mayor Newton suggested changing the language to "at such time as the property changes designation".

Responding to questions Mr. Johnson noted that if the language was left as written the City would not be required to accept the dedication to a public road if the

zoning of the northern properties changed and it was found that the traffic would not merge well with the traffic from the gravel site.

Mayor Newton returned to Mr. Johnson's memo of June 14, 1999. He received consensus from the Council and agreement of Mr. Johnson's suggestions in the memo.

Mayor Newton felt that the intersection should align and if negotiations with the property owners of Lot 100 do not work the City could then become involved with the process. He noted that he would like the haul road to remain a private drive and at a future date, once the public purpose is found, to have the opportunity to change the designation to insure safety of the public.

Councilor Keller moved to direct staff to return with an order granting the haul road with the conditions listed in the staff report 1(a), 1(c), 1(d), 1(e) as reworded, 1(f) and item 2.

The motion died for lack of a second.

Mayor Newton moved to direct staff to grant the Conditional Use Permit with staff recommendations.  
Councilor Moir seconded the motion.

Responding to questions Mr. Johnson noted that the applicant expressed concern with the finality of the wording in condition (f). He noted in discussion with Viesko that occasionally they purchase products from Keizer Sand and Gravel and would need to use Willow Lake Road. He noted in this case the Council should make this exception and would write language to reflect this condition.

Councilor Christopher expressed her concern with the wording "shall use" in condition (f) in the staff report. She requested the wording be revised to allow usage of the road under certain circumstances.

The Council agreed to Councilor Christopher's suggestion as a friendly amendment.

The motion passed as follows:

AYES: Christopher, Moir and Newton (3)

NAYS: Keller (1)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

**d. ORDINANCE-  
Regulating  
Construction and  
Maintenance of Floating  
Structures**

City Manager Mull noted that during the June 21, 1999 Council Meeting the Council directed staff to bring back an ordinance containing the recommended changes.

Senior Planner, Amy Drought shared the ordinance with the recommended changes and some minor typographical errors to be changed.

Councilor Keller moved the Bill for Ordinance in the matter of Adopting Standards for Regulating the Construction of Floating Structures with corrections as addressed by staff. Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, Moir and Newton (4)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

**CONSENT  
CALENDAR**

The Consent Calendar consisted of the following items:

- a. RESOLUTION - Initiate Prairie Clover Street Lighting District
- b. RESOLUTION - Initiate Jordan Run Street Lighting District
- c. RESOLUTION - Authorizing City Manager to Enter Agreement for Slurry Seals
- d. RESOLUTION -Authorization for Clearing Account with US Bank
- e. RESOLUTION - Authorizing City Manager to Award Bid for Chemawa Road and Cummings Lane Road Improvements
- f. RESOLUTION -Cable Television Franchise Agreement Extension
- g. Approval of June 21, 1999 Regular Session Minutes

Councilor Keller requested that item (e) is pulled from the Consent Calendar.

Councilor Keller moved for approval of the Consent Calendar with the removal of item (e). Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, Moir and Newton (4)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

Item "e"

Councilor Keller noted that he had discussions with Mr. Wallery and Verena Wessel of the West Keizer Neighborhood Association regarding the proposed improvements along Cummings Lane. He noted there are a large number of children using Delight Street when walking to and from school and felt this area was more of a concern as opposed to Cummings Lane.

Mayor Newton shared that as Council Liaison to the Bikeways Committee their long-term plans were for bicyclists to get from that end of Keizer. Cummings Lane was identified as part of this path.

Rob Kissler, Director of Public Works stated that Cummings Lane through the Salem-Keizer Area Transportation System Plan was designated as a collector street and would remain at a collector standard. He noted that there was a bike path on the south side of Cummings Lane and that a shift in the painted centerline would be made with this program and a bike lane would be added to the north side of Cummings Lane. This would range from approximately 200 feet west of River Road to Shoreline. Mr. Kissler also noted that during this process they would be reviewing underground utilities located near the Space Age Service Station and the church at that corner. They had encountered water main problems and did not want to build a new road over the top of that. Mr. Kissler went on to state that the proposed bike path would be done in the current right of way and they City would not be acquiring any additional right of way. He noted that they had partnered with the School District in the past to do a better traffic pattern around Cummings Lane with the addition of some drainage. Delight Street south of Cummings was also reviewed and a walkway and bike area was added for the children to gain access to the school.

Mr. Kissler shared that grants applied for by the City to build a bike path and walking lane on the north side of Cummings Lane were unsuccessful. After conversations

with the Bikeways Committee and the Traffic Safety Commission they supported the idea of an additional bike lane.

Responding to questions Ms. Drought explained the requirements of the Transportation System Plan for collector streets and how this would effect the City's ability to obtain grant money for various projects.

Councilor Keller stressed that he felt Delight Street was of more importance to improve for the safety of the children walking to school.

After a lengthy discussion Mayor Newton asked the effect of tabling the issue until next month.

Mr. Kissler noted if the improvements were going to be done on Cummings that delaying for a month would not allow the improvements to be completed before the beginning of school.

In response to questions Mr. Kissler shared that the property owners along Cummings Lane had not been asked to participate in a Local Improvement District to add curbs and sidewalks.

Councilor Christopher moved to Authorize the City Manager to Enter Into and Agreement with Houck Construction for Cummings Lane and Chemawa Road Street Improvements. Councilor Moir seconded the motion.

The motion failed as follows:

AYES: Christopher and Moir (2)

NAYS: Keller and Newton (2)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

Councilor Keller suggested conversation with the Traffic Safety Commission to evaluate Cummings Lane and Delight to decide what street would be more appropriate to improve at this time.

Mr. Kissler noted that the City did not have funding to do Delight at this time and the proposal would have to be changed to do so.

Mr. Mull noted that the main reason for improvements to Cummings were that is could be part of a street overlay with a minimum amount of cost.

Mayor Newton asked staff to restudy to entire issue and asked if an alternate street could be placed in the bid to replace Cummings Lane.

Mr. Kissler noted that Trail Avenue was a collector street that could be reviewed or the completion of the bike path at north River Road to connect to the Marion County north of the Meadows Park.

Councilor Keller moved Authorizing the City Manager to Enter into an Agreement with Houck Construction for Chemawa Road Street Improvements and directed staff to select another project for the funds identified for Cummings Lane. Mayor Newton seconded the motion.

Responding to questions Mr. Kissler noted he would return to Council in two weeks with a proposed project to fill the Cummings Lane project, but noted that the drainage issues along Cummings would continue for another year.

Mr. Kissler noted that one option could be to develop bikeways and bike paths on a portion of the street from Delight to the west.

The motion failed as follows:

AYES: Keller and Newton (2)

NAYS: Christopher and Moir (2)

ABSTENTIONS: None (0)

ABSENT: Campbell, McGee and Whalen (3)

City Manager Mull stated staff would review this issue and bring options back to the Council on August 2, 1999.

## **WRITTEN COMMUNICATIONS**

No written communications were brought before the Council.

## **AGENDA INPUT**

July 28, 1999 (Wednesday)-Keizer Police Auditorium  
5:30 p.m. Special City Council/Keizer Urban Renewal Board/ Planning Commission  
➤ Urban Renewal Strategic Plan

August 2, 1999  
7:00 p.m. City Council Meeting  
➤ Wittenberg Subdivision/PUD Amendment Public Hearing  
➤ Curfew Ordinance  
➤ Truancy Ordinance  
➤ Order - Case No. 99-17- Viesko Quality Concrete Haul Road

August 9, 1999  
5:30 p.m. City Council Work Session  
➤ Annual City of Keizer Parks Tour

August 16, 1999  
7:00 p.m. City Council Meeting

Mayor Newton noted the agenda items.

Councilor Moir requested that staff notify the West Keizer Neighborhood Association of the agenda of August 2, 1999.

## ADJOURNMENT

The meeting was adjourned at 9:07 p.m.

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Tracy L. Davis, CMC  
City Recorder

APPROVED:  
MAYOR:

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Bob Newton

## COUNCIL MEMBERS:

(absent)  
Councilor #1 - Garry Whalen

Councilor #4 - Jacque Moir

Councilor #2 - Lore Christopher

(absent)  
Councilor #5 - Craig Campbell

Councilor #3 - Jim Keller

(absent)  
Councilor #6 - Jerry McGee

Minutes approved: