

CITY COUNCIL AGENDA PACKET

MONDAY,
July 21, 2003

- 6:00 P.M. EXECUTIVE
SESSION
- 7:00 P.M. CITY COUNCIL
REGULAR SESSION

*Please contact Chris Eppley, City Manager if
you have any questions or need additional
information regarding any of the staff
reports or issues contained on the agenda.
Thanks!!*

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/URBAN RENEWAL AGENCY
EXECUTIVE SESSION

Monday, July 21, 2003

6:00 p.m.

Keizer City Hall

Keizer, Oregon 97303

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION**
 - a. Pursuant to ORS 192.660(1)(f) (To consider records that are exempt by law from public inspection)
 - b. Pursuant to ORS 192.660(1)(h) (To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed)
4. **ADJOURN**

Upon request, auxiliary aids and/or special services for those with disabilities will be provided. To request services, please contact us at (503) 390-3700 or through Oregon Relay 1-800-735-2900 at least two working days(48 hours) in advance.

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

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

REGULAR SESSION

Monday, July 21, 2003

7:00 p.m.

Robert L. Simon Council Chambers

Keizer, Oregon 97303

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

4. PUBLIC TESTIMONY

This time is provided for citizens to address the Council on any matters other than those on the agenda scheduled for public hearing.

5. PUBLIC HEARINGS

6. COMMITTEE REPORTS

a. Appointment to Volunteer Coordinating Committee – Council President Moir

7. 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 that are not on tonight's agenda.

- New Business**
 - Carlson Skate Park Issues**
- Old Business**
 - Keizer Station Plan – Development Disposition Agreement Update**
 - Peddler Ordinance – Process Review**

8. ADMINISTRATIVE ACTION

- a. ORDER - Appeal of Hearings Officer Decision – Major Variance Case No. 2003-08 (Weigel)**
- b. Inland Shores PUD (Reduction of Application Fees)**

9. CONSENT CALENDAR

10. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications.

11. AGENDA INPUT

August 4, 2003

7:00 p.m. City Council Meeting

August 11, 2003

12:00 p.m. (Noon) – City Council Work Session

August 18, 2003

7:00 p.m. City Council Meeting

12. ADJOURN

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July 21, 2003

AGENDA ITEM 6a

APPOINTMENT TO VOLUNTEER COORDINATING COMMITTEE

CITY COUNCIL MEETING: July 21, 2003

AGENDA ITEM NUMBER: _____

TO: MAYOR CHRISTOPHER AND CITY COUNCIL MEMBERS

**THROUGH: CHRIS EPPLEY
CITY MANAGER**

**FROM: TRACY L. DAVIS, CMC
CITY RECORDER**

SUBJECT: VOLUNTEER COORDINATING COMMITTEE APPOINTMENT

ISSUE:

The Resolution establishing the Volunteer Coordinating Committee states... The Volunteer Coordinating Committee shall consist of seven (7) members. Each of the seven (7) members shall be appointed by a member of the City Council. The members shall be appointed to a position corresponding with the position of the Council member responsible for their appointment.

Terri McCowan, who has served in Council President Moir's position since November 2000 has submitted her resignation from the Volunteer Coordinating Committee. Council President Moir will announce her appointment to fill this vacancy.



July 21, 2003

AGENDA ITEM 8a

ORDER – APPEAL OF HEARINGS OFFICER DECISION – MAJOR
VAIRANCE CASE NO. 2003-08

CITY COUNCIL MEETING: July 21, 2003

AGENDA ITEM NUMBER: _____

TO: MAYOR CHRISTOPHER AND COUNCIL MEMBERS
THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER
FROM: E. SHANNON JOHNSON, CITY ATTORNEY
SUBJECT: *WEIGEL VARIANCE REQUEST (CASE NO. 2003-08)*

At the last meeting, Council directed our office to prepare an appropriate Order denying the variance request by Lloyd and Juanita Weigel. Such Order is attached for your review.

RECOMMENDATION:

Adopt the attached Order.

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

ESJ/tmh
enclosure

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3 IN THE MATTER OF THE APPLICATION OF LLOYD
4 AND JUANITA WEIGEL FOR A MAJOR VARIANCE TO
5 REDUCE THE REQUIRED STREET SIDE SETBACK
6 FOR PROPERTY LOCATED AT 108 AND 109 SHYRINA
7 COURT NE, KEIZER, OREGON (CASE NO. 2003-08)

8 The City of Keizer orders as follows:

9 Section 1. THE APPLICATION. This matter came before the Keizer City
10 Council on the appeal by the applicants of the hearings officer's denial of a variance to
11 KDC 2.102.05. Specifically, the applicants are requesting a major variance to reduce
12 the required street side setback from twenty (20) feet to ten (10) feet along the side yard
13 property lines adjacent to Wheatland Road for property located at 108 and 109 Shyrina
14 Court Northeast, Keizer, Oregon.

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

19 Section 3. PUBLIC HEARING. In addition to the public hearing from the
20 hearings officer, a public hearing was held on this matter before the Keizer City Council
21 on July 7, 2003. The following persons either appeared at the City Council hearing or
22 provided written testimony on the application before the Council:

23 1) Cheryl Vafakos, Interim Planning Director

1 2) Lloyd Weigel, Applicant

2 3) Bob Ohrn

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

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

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

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

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

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

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

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

20 ///

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

4 PASSED this _____ day of _____, 2003.

5 SIGNED this _____ day of _____, 2003.

6

7

Mayor

8

9

City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and the exhibits contained therein, as well as the Hearings Officer's Order.

The minutes of the City Council meeting of July 7, 2003 are incorporated herein as if fully set forth.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to the application are found in the Keizer Development Code (KDC). The specific criteria are set forth below:

1. KDC 2.102.05 (Dimensional Standards).
2. KDC 3.105 (Variances).

No other specific criteria and standards were raised at the hearing.

EXHIBIT "C"

Facts

FINDINGS: GENERAL

1. The applicants and property owners are Lloyd and Juanita Weigel.
2. The subject properties are located at 108 and 109 Shyrina Ct NE. The subject properties are located on the west side of the intersection of Wheatland Rd and Shyrina Ct N, Keizer. The subject properties are also identified as Lots 1 and 10 in the Clearlake Heights subdivision, as recently recorded. The County Assessor's map identifies the property as being located within Township 6 South; Range 3 West; Section 23CA; Tax Lots 5800 and 6700.
3. The subject properties are approximately 7,990 square feet (Lot 1) and 8,399 square feet (Lot 10).
4. The subject properties are vacant and have full public facilities available. There is a new house near completion on Lot 2 which is next to the subject Lot 1. Lots 5 and 6, at the west end of Shyrina, are fully developed for residential use, and the other seven lots in the ten-lot subdivision are vacant. A six-foot high, decorative block fence has been built, with variance approval, two (2) feet from the property lines of the subject lots. The block fence runs the length of the lots along Wheatland Road, and curves around the corner turn radius onto Shyrina Court.
5. The subject properties are designated Low Density Residential (LDR) on the Comprehensive Plan Map and are zoned Residential Single Family (RS).
6. Surrounding properties to the north and east are zoned Urban Transitional (UT) and are predominantly single family residences. Properties to the south are zoned Medium Density Residential (RM) and contain a fire department station and an adult care facility.
7. The decorative block wall along Wheatland Road required approval of a Variance to allow its height and proximity to Wheatland Road's right-of-way (Major Variance Case No. 2001-46). The subdivision that created the subject lots was created by actions monumented in Subdivision Case No. 2000-01.
8. The applicants are requesting a variance to Keizer Development Code Section 2.102.05 which establishes minimum yard setbacks for property in the Single Family Residential (RS)

zoning district. Wheatland Road is a minor arterial street. The minimum setback for a side yard on an arterial street is twenty (20) feet. The applicants are proposing to reduce the setback to ten (10) feet.

9. The Public Works Department provided the following comments as conditions, "[D]riveways are to be located as far to the west as possible on both lots. Home shall not encroach into any public utility easements."

10. The Clearlake Neighborhood Association submitted the following comments:

"We oppose the granting of this variance.

1. Scrap the design of the home design that won't fit on the lot. Replace it with a custom design that fits on the lot. Any good architect should be able to design a home that will fit on the lot.

2. Change the CCRs.

3. Pursue a lot line adjustment.

Unwillingness to design a true custom home that will fit on an odd shaped lot in compliance with the development code should not be adequate justification for granting a major variance!"

11. The Keizer Police Department; Salem Public Works; Marion County Fire District #1; and, Marion County Surveyors responded they have reviewed the proposal and determined they have no comments.

FINDINGS: VARIANCE

12. Section 2.102.05 establishes minimum yard setbacks for property in the Single Family Residential (RS) zoning district. Wheatland Road is a minor arterial street. The minimum setback for a side yard on an arterial street is twenty (20) feet. The applicants are proposing a minimum setback of ten (10) feet from Wheatland Rd. Therefore, variance approval is required as this proposal does not comply with requirements of the Keizer Development Code.

13. The decision criteria for a variance are contained in Section 3.105.05 of the Keizer Development Code. The criteria and findings are listed below:

A. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone. KDC3.105.05(A).

FINDINGS: The subject properties are approximately 8,390 and 7,990 sq ft in area. The twenty (20) foot setback area encompasses approximately 2,300 sq ft of each lot. This leaves over 5,500 sq ft of buildable area within each of the subject properties. The minimum lot size for a single family dwelling within a Residential Single Family (RS) zone is 5,000 sq ft. The area left for development after removing the twenty (20) foot setback area is larger than the minimum lot size required for development of a single family dwelling within the RS zone.

The minimum lot width for the RS zone is forty (40) feet. While the lots are irregular in shape both lots can meet the minimum lot width after removing the required side, rear and twenty (20) foot setback area required from Wheatland Rd.

The variance request is not the minimum necessary to permit development of the property for uses allowed in the RS zone. An alternative house plan could be used that would fit the subject property within the required setbacks. The proposed variance cannot satisfy this criterion.

B. There has not been a previous land use action approved on the basis that variances would not be allowed. KDC 3.105.05(B).

FINDINGS: There are no prior land use actions, which expressly prohibit the granting of the variance. The proposed variance satisfies this criterion.

C. The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property. KDC 3.105.05(C).

FINDINGS: The reduction of the setback area for two parcels should not unreasonably affect properties within the neighborhood. An overall detrimental effect upon the neighborhood could occur if additional properties in the vicinity also applied for, and received approval for the same request. However, allowance of this variance will not be detrimental to properties or improvements in the neighborhood of the subject properties. The proposed variance satisfies this criterion.

D. The variance will not significantly affect the health or safety of persons working or residing in the vicinity. KDC 3.105.05(D).

FINDINGS: Setbacks along arterials provide better light, air, and visibility, and help mitigate the negative impacts from a higher traffic volume on arterial streets.

A variance was previously granted providing for the placement of a block wall along the property line adjacent to Wheatland Rd. The addition of the house located within this area should not create any additional health or safety issues. The proposed variance satisfies this criterion.

E. The variance will be consistent with the intent and purpose of the provision being varied. KDC 3.105.05(E).

FINDINGS: The intent and purpose for the setback requirements from an arterial is to provide better light, air, visibility and help mitigate the negative impacts from a higher traffic volume on arterial streets than are created by local or collector streets. No permanent structures may be built within this area affording pedestrian and vehicular safety by providing areas with less visual obstructions. Future street improvements proposed along Wheatland road may further increase the amount of impact traffic may impose upon the residential structure by moving the roadway closer than it is currently. The proposed major variance does not provide adequate distance from Wheatland Rd to help mitigate that impact. The proposed variance does not meet this criterion.

EXHIBIT "D"

Justification

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

The applicants are requesting a variance to the Keizer Development Code Section 2.102.05 which establishes minimum yard setbacks for property in the Single Family Residential (RS) zoning district. The minimum setback for a side yard on an arterial street is twenty (20) feet. The applicants are proposing to reduce the setback to ten (10) feet.

The applicants are requesting this variance to reduce the required arterial street side yard setback to ten (10) feet because the angles on the properties create problems with building homes that look similar to the other homes in the neighborhood.

One of the criteria requires that the variance request be consistent with the intent and purpose of the provisions requested to be varied. KDC 3.105.05(E). The intent and purpose for requiring a 20-foot setback is to provide better light, air, visibility, and to help mitigate traffic impacts from arterials. The hearings officer denied this application based on the fact that the existing 6-foot wall is not sufficient to ensure compliance with the purposes of the setback and that the variance request would block light onto Wheatland Road in excess of that blocked by the existing 6-foot wall. In addition, the variance request is not the minimum necessary to permit development of the properties and alternative house plans could be used that would fit the subject properties within the required setbacks.

Because the application does not meet all of the required criteria, the requested variance must be denied.

EXHIBIT "E"

Action

The City of Keizer order as follows:

The requested major variance to reduce the required street side yard setback to ten (10) feet is DENIED.



July 21, 2003

AGENDA ITEM 8b

INLAND SHORES PUD (REDUCTION OF APPLICATION FEES)



MEMO TO: Mayor Christopher and City Councilors
FROM: Cheryl Vafakos, Interim Planning Director
THROUGH: Chris Eppley, City Manager
RE: Cost associated with PUD Amendment application for Inland Shores.
DATE: July 15, 2003

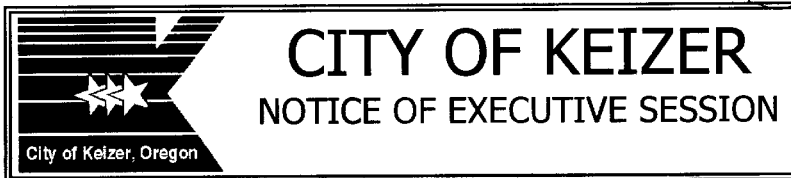
ISSUE:

On July 7, 2003, City Council requested staff to provide cost estimates associated with the possibility of Inland Shores applying for an amendment to their PUD (Planned Unit Development). Below you will find costs associated with the application. Staff has been tracking the time spent on land use applications for approximately 2 years. This has provided us a very thorough understanding of the time allotted for staff to complete each type of application. The costs below are a direct result of this tracking process. The average time spent by a planner on a PUD is 14 hours. Since this should not be a complex application I have reduced the planner's time in half. All other time and costs are the usual and customary that would occur regardless of the complexity of the application.

The Hearings Officer's contract is up for renewal on Oct 1, 2003. Through the budget process, funding was allocated to accommodate an increase in the retainer fee paid to the Hearings Officer. The costs shown reflect amounts prior to and after the increase.

	Prior to Oct 1 2003	After Oct 1, 2003
Fixed Costs		
Hearings Officer	\$558.00	767.00
Advertisement	200.00	200.00
Labels	25.00	25.00
Sub total	\$783.00	\$992.00
Staff time (approximate)		
Clerical	190.00	190.00
Planner	200.00	200.00
Admin	\$ 25.00	\$ 25.00
Total	\$1,198.00	\$1,407.00

FAXED



NOTICE is hereby given that the City Council and the Urban Renewal Agency of the City of Keizer will meet in executive session on **Monday, July 21, 2003 beginning at 6:00 p.m.** The Executive Session is being held pursuant to ORS 192.660(1)(f) – To consider records that are exempt by law from public inspection and ORS 192.660(1)(h) – To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and

The Executive Session will be held at Keizer City Hall, 930 Chemawa Road NE, Keizer, Oregon.

Questions regarding this session may be directed to Chris Eppley, City Manager at 390-3700, extension 102.

Dated this 18th, day of July 2003.

Tracy L. Davis, CMC
City Recorder

Notice for Information Purposes Only.

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PUBLIC TESTIMONY

IF YOU ARE INTERESTED IN ADDRESSING THE COUNCIL ON AN ISSUE NOT LISTED ON THE AGENDA OR AN ITEM ON THE AGENDA NOT SCHEDULED FOR A PUBLIC HEARING, PLEASE FILL OUT THE INFORMATION BELOW AND GIVE TO THE CITY RECORDER OR STAFF GREETER PRIOR TO THE START OF THE MEETING. THE MAYOR WILL RECOGNIZE YOU AND ASK FOR YOUR TESTIMONY AT EITHER THE PUBLIC TESTIMONY SECTION OF THE MEETING OR THE APPROPRIATE AGENDA ITEM.

EACH PERSON'S COMMENTS WILL BE LIMITED TO FIVE MINUTES.

Name: MICHAEL KERRY

Address: KT CONTINUING C.

1724 CHEMUNAW ROAD, NE
KATON 97303

Subject or Agenda Item Number: _____

BID REJECTION

Your Comments:

Proponent _____ Opponent _____ General _____

Date 7-21-03

PUBLIC TESTIMONY

IF YOU ARE INTERESTED IN ADDRESSING THE COUNCIL ON AN ISSUE NOT LISTED ON THE AGENDA OR AN ITEM ON THE AGENDA NOT SCHEDULED FOR A PUBLIC HEARING, PLEASE FILL OUT THE INFORMATION BELOW AND GIVE TO THE CITY RECORDER OR STAFF GREETER PRIOR TO THE START OF THE MEETING. THE MAYOR WILL RECOGNIZE YOU AND ASK FOR YOUR TESTIMONY AT EITHER THE PUBLIC TESTIMONY SECTION OF THE MEETING OR THE APPROPRIATE AGENDA ITEM.

EACH PERSON'S COMMENTS WILL BE LIMITED TO FIVE MINUTES.

Name: Judy Chappell

Address: 5025 Bailey NE
Heizer, OR 97303

Subject or Agenda Item Number: VACATION

of Right of way at
5015 Bailey NE

Your Comments:

Proponent _____ Opponent _____ General _____

Date 7-21-03

Aug 4
Public
Hearing