

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

URBAN RENEWAL AGENCY OF THE CITY OF KEIZER

Monday, June 21, 1999

6:30 p.m.

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

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC HEARING**
- 4. ADMINISTRATIVE ACTION**
 - a. RESOLUTION – Adoption of 1999-2000 Urban Renewal Agency Budget**
- 5. CONSENT CALENDAR**
 - a. Approval of the June 7, 1999 Agency Minutes**
- 6. OTHER BUSINESS**

This time is provided to allow Urban Renewal Agency members the opportunity to bring matters before the Agency which are not on tonight's agenda.
- 7. ADJOURN**

Upon request, auxiliary aids and/or special services will be provided to participants with disabilities. To request services, please contact us at 390-3700 at least two working days (48 hours) in advance.



URBAN RENEWAL AGENCY BOARD
June 21, 1999

AGENDA ITEM 4a

ADOPTION OF 1999-2000 URBAN RENEWAL AGENCY BUDGET

URBAN RENEWAL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: CHAIR NEWTON AND BOARD MEMBERS

THROUGH: WALLY MULL
CITY MANAGER

FROM: SUSAN GAHLSDORF, CPA
FINANCE DIRECTOR

SUBJECT: RESOLUTION ADOPTING URBAN RENEWAL AGENCY FISCAL YEAR
1999-00 BUDGET, MAKING APPROPRIATIONS AND IMPOSING AND
CATEGORIZING TAXES

BACKGROUND:

The Budget Committee, comprised of the Board and seven citizens, reviewed and approved the Manager Recommended Budget for Fiscal Year 1999-00.

On June 7, 1999, the Urban Renewal Agency conducted a public hearing and approved the Committee Approved budget with the following amendment:

Project Fund:

	<u>Committee Approved</u>	<u>Increase</u>	<u>Decrease</u>	<u>Board Adopted</u>
Materials & Services				
Design Services	\$34,000		\$14,000	\$20,000
Ending Fund Balance	\$83,426	\$14,000		\$97,426

RECOMMENDATIONS:

Staff recommend that the Board adopt the Urban Renewal Agency budget as shown on the attached resolution.

CITY OF KEIZER, STATE OF OREGON

RESOLUTION UR99-_____

ADOPTING THE FY'00 BUDGET, MAKING APPROPRIATIONS,
AND IMPOSING AND CATEGORIZING TAXES

BE IT RESOLVED, that the Urban Renewal Agency of the City of Keizer hereby adopts a budget for fiscal year 1999-00 in the sum of \$7,625,240.

BE IT FURTHER RESOLVED that the amounts for the fiscal year beginning July 1, 1999, and for the purposes shown below are hereby appropriated as follows:

Tax Increment Fund

Debt Service	\$3,650,964
Reserves	808,779

TOTAL TAX INCREMENT FUND	\$4,459,743
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Project Fund

Operations	\$ 232,820
Capital Outlay	2,439,325
Transfers	100,000
Contingency	50,000

TOTAL PROJECT FUND	\$2,822,145
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Refund Fund

Operations	\$ 343,352
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TOTAL PROJECT FUND	\$ 343,352
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TOTAL ALL FUNDS	\$7,625,240
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BE IT FURTHER RESOLVED that the Urban Renewal Board for the Keizer Urban Renewal District hereby imposes the taxes provided for in the adopted budget at the rate of \$14.465 per \$1,000 of increment value from the Division of Taxes, with no taxes to be imposed from a Special Levy.

PASSED this _____ day of _____, 1999.

SIGNED this _____ day of _____, 1999.

Chair

City Recorder



URBAN RENEWAL AGENCY BOARD
June 21, 1999

AGENDA ITEM 5a

APPROVAL OF JUNE 7, 1999 AGENCY MINUTES

MINUTES
Urban Renewal Agency
Monday, June 7, 1999
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Chair Newton called the meeting to order at 6:01p.m.

Roll Call was taken as follows:

Present:

Bob Newton, Chair
Craig Campbell
Lore Christopher
Jim Keller
Jerry McGee
Jacque Moir
Garry Whalen

Staff:

Wally Mull, City Manager
Susan Gahlsdorf, Finance Director
Tracy Davis, City Recorder
Amy Drought, Senior Planner

PUBLIC HEARINGS

a. 1999-2000 Urban
Renewal Budget

Chair Newton opened the public hearing.

No public testimony was brought before the Agency.

Ms. Gahlsdorf reported the Budget Committee approved the Urban Renewal budget and no monetary changes were made from the Manager's recommended budget. She recommended the Agency conduct a public hearing and deliberate any changes if needed.

In regards to the design services line item in the budget, City Manager Mull pointed out during the budget process the manager recommended amount increased from \$20,000 to \$34,000. Upon researching this changes, it was found that this number was incorrect and should have remained at \$20,000. He requested this change be made in the budget document.

In response to concerns raised by Jim Keller in regards to some projects listed in the budget, Mr. Mull noted these projects can not be completed until authorization by the Urban Renewal Agency. He indicated the location of the entry way signs are also subject to right-of-way

acquisition. Mr. Mull announced a joint meeting with the City Council/Urban Renewal Agency, the Keizer Urban Renewal Board, and Planning Commission will be held on July 28, 1999 and further discussion can take place on some of these items.

Responding to questions regarding contractual services, Mr. Mull indicated last years services were less and the engineering costs have been moved to contractual services in this budget.

Chair Newton closed the public hearing.

Jacque Moir moved to adopt the budget with the changes made and bring back to Agency for approval on June 21, 1999. Craig Campbell seconded the motion.

The Agency agreed by consensus that projects noted in the budget would not be authorized until approved by the Urban Renewal Agency.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

The consent calendar consisted of the following items:

a. Approval of the May 17, 1999 Agency Minutes

Jim Keller moved to approve the Consent Calendar.
Garry Whalen seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

OTHER BUSINESS

There was no other business to come before the Agency.

ADJOURNMENT

The meeting was adjourned at 6:15 p.m.

Tracy L. Davis, CMC
City Recorder

CHAIR:

Bob Newton

MEMBERS:

Garry Whalen

Jacque Moir

Lore Christopher

Craig Campbell

Jim Keller

Jerry McGee

Minutes approved:

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, June 7, 1999

7:00 p.m. 21

**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. Council Liaison Reports**
 - **Planning Commission – Council President Whalen**
 - **Parks Advisory Board – Councilor Christopher**
 - **Bikeways Committee – Mayor Newton**
 - **Library Task Force – Mayor Newton**
 - **Keizer Heritage Foundation – Councilor Keller**

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**
 - **Year 2000 Update**
 - **Cost of Making City Records Available**

6. PUBLIC HEARINGS

- a. ORDINANCE – Regulating Construction and Maintenance of Floating Structures**
- b. Appeal of Hearings Officer Decision – Conditional Use Case No. 99-17 – Viesko Quality Concrete Haul Road**
- c. RESOLUTION – Authorizing City Manager to Sale of City Owned Real Property – 25 foot strip – 1600 Block Chemawa Rd NE**

7. **ADMINISTRATIVE ACTION**

- a. **RESOLUTION** – Adoption of 1999-2000 City of Keizer Budget and Making Appropriations
- b. **ORDINANCE** – Amendments to Provide for Child Foster Homes

8. **CONSENT CALENDAR**

- a. **RESOLUTION** – Transferring Appropriations for Fiscal Year 1998-1999
- b. **RESOLUTION** - Election to Receive State Shared Revenue
- c. **RESOLUTION** – Certifying City of Keizer Provides Four or More Services
- d. Council Motion to Reschedule July 6, 1999 Regular City Council Meeting
- e. Approval of June 7, 1999 Regular Session Minutes

9. **WRITTEN COMMUNICATIONS**

To inform the Council of significant written communications and petitions.

10. **AGENDA INPUT**

July 6, 1999 (Tuesday)

7:00 p.m. City Council Meeting (***CANCELED - RESCHEDULED FOR JULY 12th***)

July 12, 1999

6:00 p.m. City Council Meeting

- Salem-Keizer School District Land Use Public Hearing

July 19, 1999

7:00 p.m. City Council Meeting

- Traffic Safety Commission - Neighborhood Traffic Management Plan

July 28, 1999 (Wednesday)

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

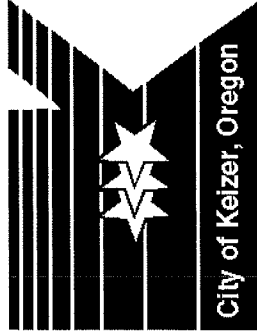
August 9, 1999

5:30 p.m. City Council Work Session

- Annual City of Keizer Parks Tour

11. **ADJOURN**

12. **EXECUTIVE SESSION** – Pursuant to ORS 192.660(1)(h) – Potential Litigation



June 21, 1999

AGENDA ITEM 5b

OLD BUSINESS

City Council Meeting: June 21, 1999

Agenda Item: 5b

TO: **Mayor Newton and City Council Members**

SUBJECT: **Old Business Report**

- **Year 2000 Update**
- **Cost of Making Public Records Available**

Year 2000 Update
(Dianne Hunt, Human Resources Officer)

There have been no changes since the May Update. With the final adoption of Fiscal Year 1999-2000 budget, many Y2K issues will be resolved with new computer equipment. We are still on target with the September 1, 1999 completion date.

Our liability insurance carrier this year requested a "Data Functionality Questionnaire for Public Entity Risk Management" be completed to ensure the City of Keizer recognizes the importance of this issue. Attached is the completed form.

If there are any questions, please do not hesitate to contact me.

Cost of Making City Records Available
(Wally Mull, City Manager)

(memorandum attached)

Date Completed 5-24-99

Date Functionality Questions for Public Entity Risk Management

1. Have you tested these systems for Date Functionality?

Heating Systems	☒ Yes	☐ No	Temperature controls	☐ Yes	☐ No
Alarms	☒ Yes	☐ No	Telephones	☐ Yes	☐ No
Bldg. Security	☒ Yes	☐ No	Elevators	☐ Yes	☐ No
Fire Sprinklers	☒ Yes	☐ No	Emerg. Communication	☐ Yes	☐ No
Card Readers	☐ Yes	☐ No	Lighting Systems	☐ Yes	☐ No
Safes/Vaults	☐ Yes	☐ No			
2. If you operate any of the following utility services, are they Date Functional?

Water Systems	☒ Yes	☐ No	Electrical Utilities	☒ Yes	☐ No
Sewer Systems	☒ Yes	☐ No	Telephones	☒ Yes	☐ No
3. If you operate any of the following facilities or systems, are they Date Functional?

911 Systems	☐ Yes	☐ No	Traffic Lights	☒ Yes	☐ No
Emerg. Dispatch	☐ Yes	☐ No	Jails/ Detention Cells	☐ Yes	☐ No
Alarm Monitors	☐ Yes	☐ No	Data Centers	☐ Yes	☐ No
Airports	☐ Yes	☐ No	Hospitals	☐ Yes	☐ No
4. Have you tested hardware and software (both operating systems and applications) for:

Mainframes:	☐ Yes	☐ No	Networks	☒ Yes	☐ No
Stand Alone PCs	☐ Yes	☐ No	Laptops	☒ Yes	☐ No
5. Have you verified systems/vendors supplying these records/services are Date Functional?

Payroll	☒ Yes	☐ No	Property Ownership Records	☐ Yes	☐ No
Personnel Records	☐ Yes	☐ No	Other Tax Records	☐ Yes	☐ No
Emp Benefit Records	☐ Yes	☐ No	Prisoner Records	☐ Yes	☐ No
General Ledger	☒ Yes	☐ No	Other Computer Records	☐ Yes	☐ No
Property Tax Records	☐ Yes	☐ No			
6. Have you developed plans to retain key staff involved in this process? ☒ Yes ☐ No

The following are additional issues your organization should address.

- C What hardware or system upgrades are necessary to support Date Functionality efforts?
- C Has that upgrade cost been identified and budgeted?
- C Has your organization developed Millennium contingency plans and staffed the response teams for September 9, 1999, December 31, 1999 and January 1, 2000?



DATE FUNCTIONALITY QUESTIONNAIRE
FOR PUBLIC ENTITIES

Applicant Name and Address City of Keizer
930 Chemauna Rd NE, Keizer OR 97303

As used in this application, to be date functional, an electronic system must be able to correctly recognize, sequence, and compute days and dates, and values which are dependent on days and dates. This questionnaire applies to computer hardware, software, and other systems which electronic chips.

- 1.a. Has your entity identified which systems to test for date functionality? ☒ Yes ☐ No
- b. Has your entity addressed date functionality concerns for building systems, security, alarms, communications, elevators, traffic management utilities, and other systems which rely on embedded chips? ☒ Yes ☐ No
- c. Has your entity prepared and approved a budget to test all systems for date functionality? ☒ Yes ☐ No
- d. Has your entity approved a budget to fix or replace systems which are not date functional? ☒ Yes ☐ No
- e. Has your entity obtained written confirmation from essential vendors and suppliers (including those providing electronic systems and/or information other than computer hardware and software) to assure their timely plans to maintain their date functionality? ☒ Yes ☐ No
- f. Does your entity have a disaster recovery or contingency plan to deal with date functionality failure or partial failure? ☒ Yes ☐ No

Attach a summary of your date functionality project schedule(s), including deadlines for analysis, implementation, corrective measures, and compliance testing. Indicate project status, summarize remaining problems and time frames for correction. Identify persons or firms responsible for each phase.

2. Is there a complete documentation evidencing your organization's vigilance with regard to identifying and testing date functionality problems? ☒ Yes ☐ No
3. Is date functionality considered in all relevant aspects of your organization's planning? ☒ Yes ☐ No
4. Has your entity made public or regulatory disclosures regarding the state of your date functionality compliance plan? ☒ Yes ☐ No
5. Has your organization met date functionality compliance guidelines and time frames established by regulatory authorities? ☒ Yes ☐ No

The undersigned represent that the statements set forth herein are true and include all material information. All written statements and materials furnished to Northland Insurance Companies (Us/We) in connection with this application are hereby incorporated by reference into this application and made part hereof. The undersigned agree that if the information supplied with this application changes between the date signed and the inception date of insurance, he/she will immediately notify Us of such change. The signing of this application does not bind Us to offer nor the applicant to accept insurance, nor does signing of this application indicate the existence of coverage for exposures addressed in the application. It is agreed that, should a policy be issued which does provide coverage for exposures addressed in this application, We shall have relied upon the application in issuing such coverage.

Signature of Presiding Official

Dianne Hunt

Title

HR Officer

Date

5/24/99

Signature of Computer/Information Systems Manager



CITY OF KEIZER

MEMORANDUM

DATE: 17 June 1999

TO: Mayor Newton and City Council

FROM: Wally G. Mull
City Manager

SUBJECT: Cost of Making City Records Available

At a recent council meeting Marsha Bednarczyk raised an issue regarding the cost of making copies. City of Keizer Resolution R94-764 establishes fees for the cost of making copies for the public. The intent of the Resolution is to establish reasonable fees calculated to reimburse the city for its actual cost.

In May Ms Bednarczyk requested copies of the drainage and erosion control plans for the Highlands Subdivision. The City of Keizer does not have the capability to produce these copies and our planning staff asked Peterson Engineering to produce the requested copies, seven in total. The City was billed by Peterson engineering for ½ hour staff time, \$20.00 and \$2.00 per copy for a total invoice of \$34.00. This was the actual cost to produce these documents. Resolution 94-764 would have allowed the city to charge staff time and a \$5.00 fee per copy of the requested documents.

The resolution also allows the City Manager discretion to waive fees for the City Council, boards and commissions, neighborhood associations, media, or local government agencies. No request was made to waive the fees either to the staff or the City Manager.



June 21, 1999

AGENDA ITEM 6a

**ORDINANCE – REGULATING CONSTRUCTION AND
MAINTENANCE OF FLOATING STRUCTURES**

COUNCIL MEETING: June 21, 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: PROPOSED FLOATING STRUCTURES ORDINANCE

BACKGROUND:

In the early 1990s, the City of Keizer granted approval for a Planned Unit Development at Staats Lake. This approval included 21 floating homes. Staff has been informed that a developer proposes to construct several floating homes in the near future. Currently, there are no regulations adopted by either the City of Keizer or the Marion County Building Inspection Department governing floating structures.

Therefore, staff felt that it was very important to develop an Ordinance regulating the construction and maintenance of floating structures. Staff worked very closely with the Marion County Building Inspection Department and the Keizer Fire District to develop the attached ordinance. The model for this Ordinance comes from the City of Portland. Staff also sought input from the Department of Environmental Quality, the City of Salem, and the Marine Board.

RECOMMENDATION:

It is recommended that the City Council conduct the public hearing, deliberate and approve adoption of the attached ordinance. Please let me know if you have any questions. Thank you.

1 BILL NO. _____
2 NO. _____

A BILL

ORDINANCE
99- _____

FOR

AN ORDINANCE

IN THE MATTER OF ADOPTING STANDARDS FOR REGULATING THE
CONSTRUCTION OF FLOATING STRUCTURES

WHEREAS, the City of Keizer currently does not have any existing standards
regulating the construction of floating structures,

WHEREAS, the City Council of the City of Keizer finds that it in order to protect
the public health, welfare and safety of the citizens of Keizer, it is important to have a
body of standards regulating the construction and maintenance of floating structures,

NOW THEREFORE,

The City of Keizer ordains as follows:

Section 1. SHORT TITLE. This ordinance shall be known as the "Floating
Structures Ordinance."

Section 2. PURPOSE AND SCOPE. It is the purpose of this Ordinance to
promote the public's health, safety and welfare through the regulation of floating structures
and their appurtenances. These regulations recognize that waterborne structures, by their
very nature confront different environmental factors than do structures located on land.
Furthermore, it is recognized that waterborne structures have distinctive design requirements
such that strict adherence or application of land oriented Specialty Codes is not always
appropriate and that modifications or exceptions should be made in appropriate
circumstances in the application of those codes.

Section 3. SCOPE. This Ordinance does not apply to the construction.

1 maintenance, or operation of vessels or boats. The Oregon Structural Specialty Code and
2 the Oregon One and Two Family Dwelling Code, adopted by reference by the City in other
3 portions of this ordinance, is to be modified as appropriate by a nautical application or
4 tradition. Exceptions be made in this and similar circumstances to allow for the nautical
5 character and unique needs of floating structures. This ordinance shall cover all residential
6 and commercial uses. Floating structures moved into the City of Keizer shall comply with
7 this code as for new construction.

8 Section 4. DEFINITIONS.

- 9 1. Addition: An increase in the floor area or height of a structure or building.
- 10 2. Alteration: Any change or modification of existing construction.
- 11 3. Berth: An open (uncovered) waterside area defined by floating walkways and finer
12 floats, for the wet storage of a boat.
- 13 4. Boathouse: A covered floating structure used primarily for the wet or dry storage of
14 a boat.
- 15 5. Combo: A boathouse-floating home combination.
- 16 6. Fire Apparatus Access Roads: Roads providing the driving surface for fire
17 department vehicles responding to an emergency, extending from a public right of
18 way to a point nearest a moorage or marine gangway or pier.
- 19 7. Floating Home (Houseboat): A floating structure used primarily as a dwelling unit.
- 20 8. Floating Structure: A structure supported by a flotation system and held in place by
21 piling and mooring devices, including but not limited to boathouses, floating homes,
22 marinas, and walkways.
- 23 9. Gangway: A variable slope structure intended to provide pedestrian access between

1 a fixed pier or shore and a floating structure.

2 10. Houseboat: See floating home.

3 11. Marine: Floating structure(s) used primarily for the service, and/or repair, sale or
4 moorage of boats in berths, but may include other occupancies.

5 12. Moorage: A site used for the mooring of one or more floating structures or boats
6 and includes the piling, mooring connectors, piers, ramps, gangways, walkways, and
7 the land area used in conjunction therewith.

8 13. Moored or Mooring: The attachment of a boat or floating structure in one location
9 temporarily or permanently, to piles, walkways, gangways, piers or other structures.

10 14. Mooring Connectors: A connection between a floating structure, floating home,
11 boathouse, berth, or marina, and a pile, pier, walkway, ramp, gangway or other
12 structure, with the capability to hold the structure in place under reasonably expected
13 conditions.

14 15. Mooring Site: A site within a moorage designed or used for the mooring of a boat,
15 boathouse, floating home or other occupied floating structure.

16 16. New Construction: A new building or structure or an addition to an existing building
17 or structure.

18 17. Pier: A non-floating fixed platform extending out over the water from shore to
19 which gangways are usually attached.

20 18. Ramp: A fixed sloped structure providing pedestrian access between portions of a
21 moorage which are at different elevations.

22 19. Repair: The reconstruction or renewal of any part of an existing structure for the
23 purpose of its maintenance.

20. Specialty Codes: A code of regulations adopted under ORS 447.020(2), 455.020(2), 479.730(1) or 480.535 commonly referred to as the Structural Specialty Code, Mechanical Specialty Code, Plumbing Specialty Code and the Electrical Specialty Code.

21. Tender House: A non-habitable, floating accessory building.

22. Transient Tie-up: A floating structure used exclusively for the open moorage of pleasure boats on a short term, maximum 72 hour stay.

23. Walk: A fixed portion of a floating home structure providing access to and around a floating home.

24. Walkway: A covered or open floating structure used for ingress or egress to a mooring site. There are three types:

a. Fingerfloat: A fingerlike floating structure, usually attached perpendicular to a main walkway, which physically defines a berth and provides direct pedestrian access to and from a berthed boat or floating home.

b. Main Walkway: A floating structure to which two or more fingerfloats are attached, thereby providing direct pedestrian access between the berths and marginal walkways or shore.

c. Marginal Walkway: A floating structure which provides pedestrian access between two or more main walkways and shore.

25. Waste: Means garbage, litter, or sewage including kitchen, bath and laundry waste except for effluent from Coast Guard approved sanitation devices.

Section 5. ADMINISTRATION AND ENFORCEMENT.

Responsibility. The City Manager or his designee administer and enforce the provisions of

1 this Ordinance for new construction. The State of Oregon Department of Environmental
2 quality shall have responsibility for enforcing violations pertaining to the dumping of waste
3 into the waters of the City. Nothing in this Ordinance is intended to displace or conflict with
4 any other relevant federal, state statute, rule or regulation nor grant exemption therefrom.

5 **Permits and Inspections.** It shall be unlawful for any person, firm or corporation to
6 erect, construct, enlarge, alter repair, move, improve or convert any structure regulated by
7 this Ordinance, except as provided for herein, or cause the same to be done without first
8 obtaining a separate permit for each structure from the building official as required by this
9 Ordinance. Exemption from the permit requirements of this Ordinance shall not be deemed
10 to grant authorization for any work to be done in any manner in violation of the provisions
11 of this Ordinance or any other rules or regulations of the City of Keizer, the State of Oregon,
12 or the Federal government.

13 Failure to comply with the terms of this Ordinance, subjects a person to such
14 remedies as City, the Marion County Building Inspection Department, Keizer Fire District,
15 in the exercise of their reasonable discretion deems appropriate, and as may be otherwise
16 limited by law.

17 Unless otherwise exempted, separate plumbing, electrical and mechanical permits
18 are required for any work performed covered by this Ordinance.

19 1. Permits and inspections shall be required for the following:

20 (a). The new construction of floating homes or combos capable of supporting
21 full time residency and any alteration work performed on these same floating
22 structure involving over 50 percent of the structure.

23 (b) The new construction of an addition of habitable space to a floating home or

1 combo capable of supporting full time residency.

2 (c) Existing or new floating homes or combos capable of supporting full time
3 residency moved into the City of Keizer.

4 (d) The new construction of public and private floating structures such as, but
5 not limited to, moorages, marinas, yacht clubs, places of assembly, living
6 quarters, and attendant piling, mooring connectors, piers, ramps, gangways,
7 walkways, land structures, roadways and parking areas.

8 (e) Any new and/or alteration to any electrical, plumbing, heating/air
9 conditioning installation on a floating structure, including wood stoves.

10 2. Permits and inspections are not required for the following:

11 (a) Repairs and alterations with like materials in a manner to less than 50
12 percent of a moorage structure.

13 (b) Replacement of piles provided the replacement piles are like material,
14 installed in a like manner and total less than 50 percent of the piles
15 supporting the structure.

16 (c) Construction, alteration or repair of individual boathouses, swim or ski
17 floats, or combos not capable of supporting full time residency.

18 (d) Construction, alteration or repair of tender houses not meant or used for
19 living purposes.

20 (e) Relocation of boathouses, floating homes, combos or other floating
21 structures within a moorage or between separate moorages as long as the unit
22 moved is in good repair and the distance between units is not diminished by
23 the move.

1 (f) Other exceptions allowed pursuant to the various specialty codes.

2 3. Arrangements with regard to permits and inspection for projects constructed
3 outside of Keizer but intended for use in Keizer are to be made with the Chief Building
4 Official prior to the commencement of construction.

5 4. It is the contractor's responsibility to request inspection prior to proceeding with the
6 next phase of work. Instructions for requesting inspection are provided at permit issuance.

7 **Fees.** All permit and inspection fees shall be adopted by City Council resolution.

8 Section 6. REGULATIONS FOR FLOATING STRUCTURES.

9 **General.** Floating structures and moorages shall comply with these specific
10 regulations as well as applicable Specialty Codes, and all other applicable regulations of
11 the City, State, and Federal governments. Where conflicts exist between these specific
12 regulations and other regulations, this Ordinance shall apply. Existing floating structures
13 moved to the City of Keizer shall comply with this Ordinance as though they were new
14 construction.

15 **Maintenance.** All floating structures and supporting structural systems, electrical,
16 plumbing and mechanical installations and devices required by this title shall be maintained
17 in good serviceable condition.

18 Section 7. NEW CONSTRUCTION

19 **Minimum Standards.** The following are minimum standards by which moorages
20 and floating structures are to be designed and built. Moorages and floating structures may
21 be designed to a higher standard and be deemed to conform to these regulations.

22

23

1 **Materials and installations.**

2 **1. Structural materials.** Structural members and connectors within 18 inches of the
3 water shall be fabricated of materials or be coated or treated such that the materials will
4 resist deterioration due to their proximity to the water except logs used for flotation and steel
5 piling. In general: framing lumber shall be pressure treated with an approved preservative;
6 framing connectors shall be hotdipped galvanized or noncorrosive metal except for an
7 choring chain and pins; plywood shall have exterior type adhesive; exposed plywood shall
8 be exterior grade.

9 **2. Thermal insulation.** Main floor insulation shall be of a type approved for damp
10 locations.

11 **3. Underfloor ventilation.** All enclosed floating home, combo, or boathouse wood
12 construction systems, shall be ventilated in accordance with the building code.

13 **Engineered Construction.**

14 **1. General.** The minimum structural design of floating structures and moorages shall
15 be in conformity with all applicable sections of the State Building Code and the
16 requirements of this section. The piling, mooring connectors, the gangway, and flotation
17 system for all floating structures shall be designed by an engineer or architect of record who
18 is registered in Oregon. Hereafter, where the term "engineer of record" is written it shall
19 mean either engineer or architect of record.

20 The Engineer of Record shall be responsible for establishing the design criteria and
21 completing the design of the complete project. The Engineer or Record shall do this by
22 preparing and certifying complete construction drawings and calculations for structural
23 strength and flotation. The design criteria shall be substantiated by the Engineer or record

1 and noted on the first sheet of the construction drawings.

2 If an engineer(s) or architect of other than the Engineer of Record have been
3 engaged to design a portion of the project (piles for example), the Engineer of Record is to:

4 (a) Verify that the other engineer(s) or architect(s) have provided drawings and
5 calculations certified by an Oregon engineer or architect.

6 (b) Verify that the other engineer(s) or architect(s) have used design criteria
7 (loads, load combinations, etc.) that have been established by the Engineer of
8 record.

9 (c) Verify the compatibility of the portion's design with the design of the
10 complete project.

11 (d) Verify that the designs of structural connections between the portion(s) of
12 the project designed by other engineers and portions designed by the
13 Engineer of Record have been accomplished by an engineer or architect
14 registered in Oregon.

15 (e) Place review approval stamp on all drawings and calculations prepared by
16 the other engineers showing that a. through d. have been accomplished.

17 2. **Loading.** All floating structures, piling, mooring devices and gangways shall be
18 designed and constructed to sustain, within the stress limitations specified in the
19 State Building Code, all applicable wind, snow, and live loads specified in the State
20 Building Code and this Ordinance.

21 (a) Current loads shall be calculated on the basis of maximum current
22 anticipated at the location of the structure.

23 (b) Wave and wake loads shall be calculated on the basis of the maximum

possible wave and/or wake that can be expected at the location of the structure.

(c) Impact loads from the boats, and other objects shall be considered with a minimum velocity of 2 feet per second.

(d) Gangways not more than 6 feet wide shall be designed to sustain a live load of 50 psf unless they serve structures which contain an occupancy where more than 50 people may occupy a room at one time such as some dining establishments or meeting rooms.

(e) Gangways not more than 6 feet wide serving public recreational boat launching and transient tie up facilities may be designed to sustain a live load of 40 psf. Those gangways and all those more than 6 feet wide shall be designed to sustain a live load of 100 psf.

(f) All floating structures, piling, mooring connectors, gangways and ramps shall be designed and constructed to resist lateral forces produced by the reasonable combination of expected wind, current, wave/wake and impact loads at the location. Reductions allowed in the State Building Code for simultaneous loads may be applied.

3. Mooring connectors.

(a) Every floating structure shall be moored with connectors having the capacity to hold the structure in place under reasonable expected conditions.

(b) Whatever structure the mooring connectors are attached to, whether it is a walkway, piling, or other, shall be designed to withstand the loads from the mooring connectors, the Engineer of Record's design criteria for the project

1 shall include the maximum dimensions of the floating structure(s) as these
2 determine the loads on the mooring connectors and their supports.

3 **4. Piling.**

- 4 (a) The floating structure shall be attached to piling which is adequate to resist
5 lateral forces produced by any normally expected combination of wind,
6 current, wave, wake and impact. The minimum height of the top of the
7 piling shall be a minimum of two feet above the 100 year flood elevations as
8 shown on the Federal Insurance Rate Maps published by the Federal
9 Emergency Management Agency.

10 The following apply to all floating structures:

11 **5. Flotation.**

- 12 (a) Floating structures shall be constructed and maintained to provide a flotation
13 system that complies with the requirements of this Ordinance. The flotation
14 devices shall be structurally sound and securely attached to the framing for
15 the superstructure, except that foam flotation blocks may be held in place by
16 friction only. The flotation systems shall provide support adequate to
17 provide a level and safe walking surface under all reasonable load
18 conditions. EXCEPTION: Floating homes, boat houses and combos need
19 only have adequate flotation to maintain clearance above water under all
20 applicable conditions.

- 21 (b). Clearance Above Water. The clearance above water as measured from the
22 water line to the top of the lowest point on the floor or deck under usual dead
23 load conditions, shall not be less than 1 foot-0 inches for walkways, and not

1 less than 1 foot-8 inches for all other floating structures.

2 (c) Live Loads. In addition to dead loads, the flotation system shall be adequate
3 to support the maximum condition of the following minimum live loads.
4 Depending on use, higher load may be more appropriate.

5 (1) 25 psf applied to the gross area; or,

6 (2) A concentrated load of 600 lbs.; or,

7 (3) 25 psf applied to the gross, main floor area plus 10 psf on each upper
8 floor or loft; or,

9 (4) For nonresidential occupancies, the live load required by the State
10 Building Code for the particular nonresidential occupancy.

11 (5) Pedestrian walkways or ramps serving an occupant load of 10 or
12 more 40 psf; all others 25 psf.

13 (6) Pedestrian walkways or structures serving boat launching or transient
14 tie up facilities 20 psf.

15 (7) At locations where live loads are transmitted from gangways to
16 floating structures, the live load may be reduced 50 percent on the
17 gangway for purposes of calculating the reaction only. Additional
18 flotation may have to be provided to compensate for this reaction on
19 the floating system to maintain the prescribed clearance above water.

20 (d). Stability with short term, off-center loading or wind loading. The floating
21 structure when subjected to either off-center loading or wind loading shall
22 not exceed the following limitations:

23 (1) The maximum angle of list shall not exceed 4 degrees, or the

1 clearance above water when measured from the water line to the top
2 of the first floor or deck shall not be less than 1/3 of the normal
3 clearance above water, whichever is the more restrictive.

4 (2) The ratio of resisting moment (M_r) to applied moment (M_a) shall be
5 equal or greater than unity:

6 (3) The resisting moment due to buoyancy (M_r) shall be computed
7 about a longitudinal axis passing through the center of gravity at a
8 list angle of not more than 4 degrees.

9 (4) The minimum off-center loading shall be considered as applicable to
10 the completed structure and shall be considered in addition to all
11 dead loads. It shall consist of a minimum live load of 100 pounds
12 per lineal foot of floor length at the first floor and 50 pounds per
13 lineal foot of floor length at each additional floor or loft. If the width
14 of the floor or loft exceeds 20 feet then the load shall consist of 5
15 pounds times the width of the floor per lineal foot of floor length at
16 the first floor and 2.5 pounds times the width of the floor per lineal
17 foot of floor length at each additional floor or loft. These uniform
18 live loads are to be applied halfway between the center of gravity and
19 the outside edges of the floors. The overturning moments resulting
20 from the off-center loading (M_a) shall be computed about both sides
21 of the center axis of gravity.

22 (5) Other appropriate eccentric or off-center loading due to wind, snow,
23 live loads or combinations of these shall also be considered.

Fire Safety.

1. Fire apparatus access roads.

Access to moorages shall be by fire apparatus access roads having all-weather driving surfaces capable of supporting the imposed loads of Fire Apparatus. Such roads shall be a minimum 20 feet unobstructed width with not less than 13 feet-6 inches unobstructed vertical clearance. They shall be provided from the nearest public way to the head of the gangway. Fire apparatus turnarounds shall be required on any fire access road having a dead end exceeding 150 feet, as illustrated in City of Keizer Street Standards.

2. Moorage exits.

Two exit gangways are required whenever any one of the following conditions apply:

- (a) The marginal walkway exceeds 250 feet,
- (b) Total distance from the nearest point of apparatus set-up (usually at the head of a gangway) to the most remote portion of the moorage exceeds 800 feet.

EXCEPTION: Moorages used for the moorage of pleasure boats without covers (open moorage configuration) and having not more than two floating homes (for owner and caretaker, for instance) need have only one exit gangway. When two exit gangways are required, they shall be separated by the maximum distance possible so as to avoid the possibility of any one fire cutting off exit or access to both exit gangways.

3. A complete Residential Fire sprinkler system shall be installed in each Floating Home to meet or exceed NFPA Standards and/or the local fire jurisdiction.

4. Distance between floating homes.

1 (a) Separation between floating homes shall not be less than those prescribed
2 in the State Structural Specialty Code.

3 5. **Occupancy separation.** A covered boat well, in a floating home, enclosed on
4 more than two sides shall be separated from the habitable space by a wall having 5/8 inch
5 thick type 'X' gypsum board on the boat well side.

6 6. **Fire protection standpipe.** Moorages having any portion of a floating structure
7 more than 150 feet from the point of fire apparatus set up, shall have a Class 1 dry
8 standpipe system designed and installed in accordance with the Uniform Fire Code and the
9 following: EXCEPTION: 1: Installations for moorages used exclusively for loading and
10 off loading boats or vessels and transient tie-up moorages.

11 (a) Standpipes shall be located on plans and approved by the Fire Chief.

12 (b) Shall have a water supply that complies with any one of the following:

13 1. Municipal water providing 1000 gpm.

14 2. A fire hydrant within 500 feet of the closest point of fire department
15 access to a moorage site exit ramp.

16 3. The Willamette River or associated bodies of water with pump or
17 pumps capable of providing 250 GPM at 100 psi to any single outlet
18 on the standpipe system. Pumps are to be powered with natural gas
19 or propane and be listed by Underwriters Laboratory.

20 (c) Have a fire department connection located within 30 feet of fire apparatus set
21 up.

22 (d) Have pipe sized to provide minimum flows as designed to adequately supply
23 sprinkler system.

- 1 (e) Have adequate drain valves installed in ensure complete drainage.
- 2 (f) Have gate valve outlets made of noncorroding metal, 2-2-1/2 inch I.D. with
- 3 National Standard threads spaced a distance apart as follows:
- 4 1. For moorages having marine service stations, floating homes or other
- 5 type of structures, having permanent living quarter, valves are to be
- 6 every 100 feet and within 50 feet of the end of walkways.
- 7 2. For moorages serving only boathouses, valves are to be every 150 feet
- 8 and within 75 feet of the end of the walkways.
- 9 3. For moorages having only open moorage of pleasure boats, standpipes
- 10 shall only be required along the marginal walkway with valves required
- 11 only at intersecting main walkways, or not less than every 200 feet and
- 12 100 feet from the end of marginal walkways not having intersecting
- 13 walkways.
- 14 4. Standpipe systems shall be tested in accordance with Uniform Fire Code
- 15 Appendix III.C(97). The Fire Marshall shall be notified at least 24 hours
- 16 in advance of all tests and tests shall be done in their presence or the
- 17 presence of their representative. The system shall be tested annually or
- 18 as required by the Fire District.

19 **Gangways, Ramps, Walkways and Walks.**

- 20 1. Gangways, ramps and walkways shall be illuminated by lights designed, constructed
- 21 and maintained to provide a minimum average of 1 foot candle of light per square foot at the
- 22 walking surface. EXCEPTION: Recreational boat launching and transient tie up facilities.
- 23 2. Gangways and ramps shall have a maximum slope of 1 vertical to 2.5 horizontal and

1 shall have a non-slip walking surface or surface cleats securely fastened in place with a
2 minimum spacing center to center of 1 foot 6 inches.

3 3. Gangways shall have a minimum, unobstructed width of 5 feet when a single
4 gangway is required and 4 feet when more than one gangway is required and shall be
5 provided with guardrails and handrails as required by the building code. Intermediate
6 landings shall not be required for gangways. EXCEPTION: Gangways serving an
7 occupant load less than 10 and gangways serving recreational boat launching and transient
8 tie up facilities need not be more than 4 feet in width.

9 4. Walkways shall have a minimum, unobstructed width of 6 feet, except for
10 fingerwalkways, which may be 3 feet in width. Cleats, bull rails, mooring connectors,
11 utility stands and the like may not project into the required width of main and marginal
12 walkways.

13 5. A 2 foot wide walk shall be provided on at least one side of all floating homes.

14 **Identification.** All moorages shall be provided with identification as follows:

15 1. All moorages shall be identifiable by name and address from the street on which
16 they front at or near the point of emergency vehicle access.

17 2. The head of the gangway providing access to the moorage shall be obviously
18 identifiable from the point of emergency vehicle access; or in those cases having a
19 secondary access road, from the shore end of the access road; or the facility shall be signed
20 as required to provide such identification.

21 3. The location and identification of all floating structures shall be obvious from the
22 head of the gangway or a sign shall be provided indicating the layout of the moorage and the
23 walkway and structure identification method.

1 4. The walkway and structure identification shall be logical and obvious.

2 Section 8. ELECTRICAL INSTALLATIONS

3 All electrical work shall be designed and installed in accordance with the State of
4 Oregon Electrical Specialty Code, and this Ordinance. Permits and inspections are required
5 for all work.

6 1. Transformer pads shall not be located closer than 8 feet to combustible surfaces and
7 2 feet to noncombustible surfaces.

8 2. Overhead power drops shall be installed and maintained a minimum of 12 feet
9 above all walking surfaces or the ordinary high water line, whichever is higher.

10 3. Electrical installations within 2 feet of the water shall be considered to be in a wet
11 environment, except that installations inside a structure and not exposed to the water may be
12 considered to be in a dry environment.

13 Section 9. PLUMBING INSTALLATIONS

14 All plumbing installations shall be designed and installed in accordance with the
15 Oregon State Plumbing Specialty Code (O.S.P.S.C.), and this chapter. Permits and
16 inspections shall be required for all work except ordinary repairs as defined in the Oregon
17 State Plumbing Specialty Code.

18 1. Sewage connections shall be planned and constructed to be environmentally
19 protective.

20 2. Sewage pipes shall be suspended and connected to the docks, walkways, and/or
21 ramps. No sewage pipe shall be submerged.

22 3. An alarm system shall be installed on all sewage connections to alert of an overflow.

23 4. All sewage connections shall be constructed with flexible connectors.

1 5. Sewage ejectors shall be installed in accordance with the manufacturer's instructions
2 and the O.S.P.S.C., except that the head pressure required by Section 318 K (6)(3) for
3 testing drainage systems is reduced from 10 feet to 5 feet for ejectors installed at individual
4 floating homes.

5 6. Flexible connectors for water lines shall be approved by the National Sanitation
6 Foundation and be of the type approved for mobile home installations or marine use.

7 7. Piping materials shall be as specified in the O.S.P.S.C.

8 8. Pipes shall be protected from freezing.

9 9. Approved Reduced Pressure Principal Backflow Prevention assembly shall be
10 required for each connection to a City water meter.

11 10. Expansion tank or approved equivalent must be installed downstream of the
12 Reduced Pressure Principal Backflow Prevention assembly.

13 Section 10. MECHANICAL INSTALLATIONS

14 All mechanical work including but not limited to heating, air conditions, ventilating,
15 gas piping and woodstoves, shall be designed and installed in accordance with the State of
16 Oregon Mechanical Specialty Code and this chapter. Permits and inspections shall be
17 required for all work.

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This Ordinance shall take place 30 days after its passage.

SIGNED this _____ day of _____, 1999.

CITY RECORDER



June 21, 1999

AGENDA ITEM 6b

**PUBLIC HEARING – APPEAL OF HEARINGS OFFICER
DECISION – CONDITIONAL USE CASE NO. 99-17
VIESKO QUALITY CONCRETE HAUL ROAD**

COUNCIL MEETING: June 21, 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: APPEAL OF HEARINGS OFFICER DECISION CONDITIONAL USE
CASE NO. 99-17; VISEKO QUALITY CONCRETE

Attached please find a staff report and copy of the record for this land use appeal. Shannon Johnson also prepared a staff report for your review as well. Please feel free to contact me if you have questions regarding any of the attached material.

Thank you.

MEMO TO: Mayor Newton and City Councilors

FROM:  Amy C. Drought, AICP, Senior Planner

THROUGH: Wally Mull, City Manager

RE: Appeal of Hearings Officer Decision on Conditional Use Case No. 99-17;
Viesko Quality Concrete

DATE: June 14, 1999

BACKGROUND:

A. Conditional Use Case No. 99-17

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. The proposed aggregate extraction site is located entirely within Marion County (Tax Lot 700). The proposed batch plant and office site is located outside of the City limits, but within the Salem-Keizer Urban Growth Boundary (Tax Lot 1500). Viesko proposes to use the former PGE easement (Tax Lot 200) in conjunction with Tax Lot 1600 to serve the proposed batch plant, office and aggregate extraction site.

The properties involved in this application are zoned Exclusive Farm use (EFU). The proposed haul road will be part of the sand and gravel processing operation. According to Section 2.117.03 of the Keizer Development Code, "exploration, and processing geothermal or other subsurface resources not used exclusively in conjunction with farm or forest management" is listed as a Conditional Use. Therefore, staff concluded that approval for the development of the proposed haul road required a Conditional Use Permit.

The City recommended approval of the CUP to the Hearings Officer with several conditions. A complete list of these conditions is listed in the attached Staff Recommendation. Some of these conditions include:

- The proposed batch plant and office site shall be annexed to the City of Keizer prior to the development of the haul road, and
- The proposed haul road shall be developed as a public street. This is proposed in order to adequately serve the property to the north of the subject property as well as other property in the vicinity of the subject property, and to meet the connectivity standards within the Keizer Development Code. The City Traffic Engineer and Public Works Department recommends that the trucks currently using Willow Lake Road from the Keizer Sand and Gravel Operation reroute their traffic to use this new public street as well.

B. Hearings Officer Decision

The Hearings Officer denied the Conditional Use Permit. The Hearings Officer concluded that the proposed “Haul Road” was not an allowed use in the EFU zone. Please see Shannon Johnson’s attached memo for additional information regarding the Hearings Officer decision.

C. Appeal by Viesko

Viesko Quality Concrete appealed the Hearings Officer decision. After a new review of the Keizer Development Code, the applicant now believes that a Conditional Use Permit is not needed because the definition of street in the Keizer Development Code specifically excludes access to mining operations. Section 1.200.04 of the Keizer Development Code Street states “The entire width between the boundary lines of every way of travel which provides for ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas, or tracts of land. Streets shall follow the locally adopted street designations. 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.”

The applicant states in their appeal letter that since a private access used in conjunction with mining is exempt from consideration as a street, there is no need for this Conditional Use application, and therefore, the Hearings Officer decision and the Conditional Use application should be dismissed.

ISSUE:

Staff disagrees with the Hearings Officer conclusion and applicant’s statement of appeal. The Hearings Officer concluded that since the Haul Road was not specifically listed as a use in the EFU zone, it could not be permitted. However, staff has always considered access for a proposed use to be part of the use itself for purposes of land use approval.

Since the haul road is proposed to provide access to an aggregate operation, and the aggregate operation is a conditional use in the EFU zone, the approval of the haul road therefore requires conditional use approval.

RECOMMENDATION:

Staff recommends that the City Council open, conduct, and close the public hearing. Staff recommends that the City Council deny the appeal and approve Use Case No. 99-17 with the following conditions:

- Prior to the construction and use of the proposed road, the proposed batch plant and office site shall be annexed to the City of Keizer.
- Prior to the construction and use of the proposed road, the applicant shall receive all required approvals from Marion County for development of the aggregate operation.
- Prior to the construction and use of the proposed road, the applicant shall apply for and receive all of the necessary land use approvals from the City of Keizer in order to develop and operate the Batch Plant and office use on the proposed site.
- A sound wall shall be constructed 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.
- The applicant shall meet all Department of Public Works and Engineering requirements as noted in Exhibits “D” and “E” which are attached in the staff recommendation.
- The applicant shall meet the Keizer Fire District requirements and the Marion County Fire District #1 requirements as noted in Exhibit “F” which are attached in the staff recommendation.

KEIZER CITY ATTORNEY
MEMORANDUM

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)**

DATE: JUNE 14, 1999

This matter is before the City Council on the applicant's appeal of the Hearings Officer decision. I am writing to supplement the Senior Planner's staff report on two specific issues: (1) the Hearings Officer's decision; and (2) the Applicant's theory on appeal.

Hearings Officer's decision. The Hearings Officer's decision denied the application, not because specific criteria were not met, but simply because the "road" was not listed as an allowed use either in the Keizer Development Code (KDC) or the state statutes on EFU zones. With regard to the KDC issue, the Hearings Officer is correct that the specific use (road) is not listed as an allowed or conditionally allowed use in the EFU. However, as a distinct and separate use, "road" or "street" does not appear as a use in other zones either. ("Street" appears as a generally permitted use in all zones, but only for public right-of-ways. KDC 2.203.01C).

Generally speaking, the Hearings Officer's premise that the use must be specifically listed to be allowed is a correct one. Zoning and development codes generally specify with some detail the exact uses that are allowed. Any other uses not listed are presumed to be disallowed. Therefore, the Hearings Officer's decision in some sense may be technically correct. However, the practice of the Community Development Department has been to evaluate street or access ways in connection with the connected use; e.g., a street connecting to a residential subdivision would be evaluated as a residential use. Though additional clarity in the KDC would be helpful, I believe the City Council could validly interpret the code to provide for an interpretation that is consistent with past staff analysis; that is that a road is reviewed in conjunction with the use it connects to.

The state statute issue is more problematic. The Hearings Officer correctly points out that state statutes do not specifically list "roads" as allowed uses for EFU zones. (Unlike other zones, the statutes specifically talk in detail about what is and is not allowed in EFU zones.) The first question for the Council to answer is whether or not the EFU statutes apply to cities. The statute chapter is entitled "County Planning", and the statutes appear to apply to counties by the language expressed therein. There certainly is no express exemption for cities in the statutes, however, I would advise that determining that the statutes do not apply to cities is appropriate.

Even if the statutes apply, the second question is whether the Hearings Officer's conclusion regarding the disallowance for the use is correct. The Hearings Officer felt without specific allowance for "roads" in the statutes, that the use could not be allowed. In this interpretation question, the City Council is not provided the deference that is allowed in interpreting the City's own code. However, though a close question, I believe that the City Council may conclude that the state statutes allow for this type of use. The reason for my conclusion is that a contrary answer would lead to an illogical result. If an aggregate (gravel) property owner can be allowed that type of use in an EFU zone, the road to the use would seem to be consistent, as long as all other criteria are met. For example, presume that Viesko's batch plant was within the city limits. The application would be reviewed as a whole; the plant itself and the road.

Consequently, if the Council chooses to do so, I believe that an interpretation that the statutes allow for the access road could be defensible.

Applicant's theory on appeal. The applicant's argument on appeal is a unique one. (See May 19, 1999 appeal letter from the applicant's consultant.) The applicant's consultant, Jeffrey R. Tross, argues that the definition of street at KDC 1.200.04 excludes the type of private access way proposed in this case. Such definition is set forth below:

Street. The entire width between the boundary lines of every way of travel which provides for ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas or tracts of lands. 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 excluded from this definition.

Mr. Tross believes that because the proposed access will be a private way provided for ingress and egress in conjunction with mining, that it is excluded from the definition of street.

Mr. Tross concludes that such exception means that a conditional use permit is not necessary. I respectfully disagree with this position with this conclusion.

The Keizer Development Code requires that the use of all land, as well as the construction, structural alteration, use or occupation of any structure within the City conforms to the requirements of the Code. KDC 1.102.02. There is currently no road on the old PGE easement which is proposed for connecting the batch plant to Lockhaven Drive. The construction of the road in that location is certainly a use and a dramatic change in the use of the land. From a statutory interpretation point of view, it will result in a significant impact on land uses. Consequently, the question of whether or not this "private way" is defined as a street or not does not relieve the applicant from the burden of proving that the road is a valid conditional use within the EFU zone.

With regard to whether such access should be defined as a public street or not, the connectivity standards within the Code imply that public connection is an appropriate condition. The definition of "street" is useful for analyzing already existing streets and whether or not they fall within the definition requirements. However, I do not believe that analysis of the definition is helpful in this particular instance.

RECOMMENDATION:

After conducting and closing the public hearing, the Council has some threshold matters to consider before reviewing the conditional use permit criteria and deciding whether to grant or deny the application. The following is a suggestion in terms of order of analysis:

1. Determine whether the applicant's theory is correct; i.e., whether the applicant even needs to have conditional use permit approval in order to construct the access way. The Council should preliminarily determine whether or not the conditional use permit is necessary. If it is not necessary, that determination can be made by resolution and the appeal can be dismissed. If a conditional use permit is determined to be necessary, the Council should move to the next stage of analysis.

2. Determine whether or not the KDC allows the requested use of "road" or "street" in this particular circumstance. If the Council determines that the Code does not allow this type of use, the Hearings Officer's decision should be upheld and the application denied. If the Council determines that its interpretation of the Code allows for this type of use, then the Council should go to the next step in the analysis.
3. Determine whether or not the state statutes on EFU apply to this situation. If the Council determines that the statutes do not apply, then the Council should go forward to Step 5 in the analysis to determine the substantive issues in the case. If the Council determines that the statutes do apply, then the Council should go to the next step in the analysis.
4. Determine whether the EFU state statutes allow for this type of use; i.e., road or street use. If the Council determines that the statutes do not allow for this use, then the application should be denied and the Hearings Officer's decision should be upheld. If the Council determines that the statutes do allow for this type of use, then the Council should go to the next step in the analysis.
5. Determine whether or not the application meets the relevant criteria and either deny, grant, or grant with conditions the application.

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

ESJ/tmh
enclosure

May 19, 1999

Keizer City Council
c/o Community Development Department
City Hall
Keizer, Oregon 97307

RE: APPEAL OF HEARINGS OFFICER DECISION, CASE NO CU 99-17.
VIESKO QUALITY CONCRETE

Dear Council Members:

I am writing on behalf of the Applicant, Viesko Quality Concrete, to Appeal the Hearings Officer's decision in Conditional Use Case No. CU 99-17, and to request that the Council hold a hearing on this matter. This decision was issued on May 11, 1999, and the Appeal Period extends to May 21, 1999. This Appeal is filed within the specified Appeal Period.

The purpose of this application is to create a private access to serve an existing sand and gravel resource site located to the west, outside of the UGB, and a future aggregate processing operation. The proposed accessway would be an alternative to the use of Willow Lake Road, the existing access to the property. The proposed accessway would remove the aggregate site traffic from the public street, which would avoid potential conflicts between industrial vehicles and the residential traffic that uses this street.

The proposed accessway would be located on land that is inside the city and zoned EFU. The Conditional Use application was filed in accordance with a City Staff determination that a private drive used in conjunction with an aggregate processing operation required a Conditional Use Permit under Keizer Development Code (KDC) 2 117.03-D.

The Hearings Officer denied the request on the sole basis of his determination that the proposed accessway does not qualify as a Conditional Use in the EFU zone. This was the only issue examined by the Hearings Officer. The Hearings Officer made no other judgments with regards to whether the proposal met the Conditional Use criteria, or any other matters related to the application.

After a new review of the KDC, we believe that a Conditional Use Permit is not needed to allow this private access. Additional review of the Code since the Hearings Officer's public hearing reveals that the proposed private access is excluded from the definition of a street, as provided in KDC 1.200.04. A street is defined as a "...way of travel which provides for ingress and egress...to one or more lots, parcels, areas, or tracts of land".

The definition continues, *"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."*

The proposed access will be a "private way". Its purpose will be to provide ingress and egress to land in conjunction with mining. The specific purpose of the access fits precisely with the exclusion provided in the definition of a street.

Since a private access used in conjunction with mining is exempt from consideration as a street, there was no need for this Conditional Use application. The proposed private access does not require a public hearing or a decision by the City. For these reasons, the Hearings Officer's decision, and the Conditional Use application, should be dismissed.

If, in the alternative, the Council determines that the proposed private access does qualify as a Conditional Use in the zone, the information provided in the application shows that the proposal satisfies the Conditional Use criteria

Thank you for your consideration of this Appeal. We will look forward to discussing this matter with you at the public hearing.

Sincerely,



Jeffrey R. Tross

cc: Viesko Quality Concrete

Keizer - 1334
6/19/49



CITY OF KEIZER APPEAL FORM

APPEAL RIGHTS: Upon final action on a land use application by the Zoning Administrator, Hearings Officer or Planning Commission, the applicant or any persons receiving notice of decision may appeal the decision by filing within ten (10) days from the date of the mailing of the decision. An appeal to the Hearings Officer, Planning Commission or City Council shall include notice at least ten (10) days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

Any interested person, including the applicant, who disagrees with this decision may request that the application be considered by the appropriate body at a public hearing. The appeal is subject to the appellant paying an \$150.00 fee at the time the appeal form is submitted. This fee will be refunded if the appeal is upheld. In addition, the applicant may request reconsideration of the decision on the basis of new information; provided, a waiver of the 120-day time limit for the review of zoning application is signed.

The appeal form must be received by the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. on the tenth day following the date of the mailing of the decision. The failure to submit the required fee with the appeal form or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect resulting in the dismissal of the case.

FEE: \$150

Land Use Case Appealed: CU 99-17

Final Date of Appeal Period: MAY 24, 1999

Purpose of Appeal: - SEE ATTACHED LETTER OF APPEAL -

Appellant Name: SCOTT ELLISON / VIESKO QUALITY CONCRETE *Scott Ellison*

Address, City, Zip: PO BOX 20610
KEIZER 97307

Daytime Phone Number: 393-5050

The City of Keizer Community Development Department will be in contact to notify you of the scheduled hearing for the appeal of this land use case. If you have any questions, contact the department at (503) 390-3700.

JEFFREY R. TROSS
Land Planning and Development Consultant
1720 Liberty St. S.E., Salem, Oregon 97302
(503) 370-8704

May 19, 1999

Keizer City Council
c/o Community Development Department
City Hall
Keizer, Oregon 97307

RE: APPEAL OF HEARINGS OFFICER DECISION, CASE NO. CU 99-17,
VIESKO QUALITY CONCRETE

Dear Council Members:

I am writing on behalf of the Applicant, Viesko Quality Concrete, to Appeal the Hearings Officer's decision in Conditional Use Case No. CU 99-17, and to request that the Council hold a hearing on this matter. This decision was issued on May 11, 1999, and the Appeal Period extends to May 21, 1999. This Appeal is filed within the specified Appeal Period.

The purpose of this application is to create a private access to serve an existing sand and gravel resource site located to the west, outside of the UGB, and a future aggregate processing operation. The proposed accessway would be an alternative to the use of Willow Lake Road, the existing access to the property. The proposed accessway would remove the aggregate site traffic from the public street, which would avoid potential conflicts between industrial vehicles and the residential traffic that uses this street.

The proposed accessway would be located on land that is inside the city and zoned EFU. The Conditional Use application was filed in accordance with a City Staff determination that a private drive used in conjunction with an aggregate processing operation required a Conditional Use Permit under Keizer Development Code (KDC) 2.117.03-D.

The Hearings Officer denied the request on the sole basis of his determination that the proposed accessway does not qualify as a Conditional Use in the EFU zone. This was the only issue examined by the Hearings Officer. The Hearings Officer made no other judgments with regards to whether the proposal met the Conditional Use criteria, or any other matters related to the application.

After of a new review of the KDC, we believe that a Conditional Use Permit is not needed to allow this private access. Additional review of the Code since the Hearings Officer's public hearing reveals that the proposed private access is excluded from the definition of a street, as provided in KDC 1.200.04. A street is defined as a "...way of travel which provides for ingress and egress...to one or more lots, parcels, areas, or tracts of land".

The definition continues, *"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."*

The proposed access will be a "private way". Its purpose will be to provide ingress and egress to land in conjunction with mining. The specific purpose of the access fits precisely with the exclusion provided in the definition of a street.

Since a private access used in conjunction with mining is exempt from consideration as a street, there was no need for this Conditional Use application. The proposed private access does not require a public hearing or a decision by the City. For these reasons, the Hearings Officer's decision, and the Conditional Use application, should be dismissed.

If, in the alternative, the Council determines that the proposed private access does qualify as a Conditional Use in the zone, the information provided in the application shows that the proposal satisfies the Conditional Use criteria.

Thank you for your consideration of this Appeal. We will look forward to discussing this matter with you at the public hearing.

Sincerely,



Jeffrey R. Tross

cc: Viesko Quality Concrete

Receipt # 1337
5/19/99



CITY OF KEIZER APPEAL FORM

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FEE: \$150

Land Use Case Appealed: CU 99-17

Final Date of Appeal Period: MAY 21, 1999

Purpose of Appeal: - SEE ATTACHED LETTER OF APPEAL -

Appellant Name: SCOTT ELLISON (VIESKO QUALITY CONCRETE) *Scott Ellison*

Address, City, Zip: PO BOX 20610
KEIZER 97307

Daytime Phone Number: 393-5050

The City of Keizer Community Development Department will be in contact to notify you of the scheduled hearing for the appeal of this land use case. If you have any questions, contact the department at (503) 390-3700.

JEFFREY R. TROSS
Land Planning and Development Consultant
1720 Liberty St. S.E., Salem, Oregon 97302
(503) 370-8704

***APPLICANT'S STATEMENT
FOR
SCOTT ERICKSON/VIESKO QUALITY CONCRETE
CONDITIONAL USE PERMIT FOR KEIZER AGGREGATE
SITE ACCESS DRIVEWAY***

Background

Viesko Quality Concrete Co. owns a sand and gravel aggregate resource site located west of Windsor Island Road and approximately 2000' to the northwest of the west end of Willow Lake Road. The property is identified as Tax Lots 800, 900, and 1900 on Marion County Assessor's map T6S R3W Section 33. This location has been the site of aggregate excavation activity in the past, and it is included on the Marion County Comprehensive Plan Mineral and Aggregate Inventory of aggregate resource sites. The site is situated in Marion County, outside of the Keizer Urban Growth Boundary (UGB). The site is zoned EFU.

Viesko has been planning to renew the use of this existing resource site, and together with adjacent lands the site is planned to become the Company's long-term location for aggregate materials and processing. In addition to parcels 800, 900 and 1900, the Company owns parcel 700, adjacent on the north, which will be proposed for future excavation; and it is arranging to purchase or lease parcels 1500, 1600 (north half only), and 1700. Parcel 1500 is being considered as the site for a concrete batch plant and the company offices. No production activities are planned for parcels 1600 and 1700.

All of the land to be involved in the future aggregate resource and processing operation is located outside of the city limits and UGB. Only parcel 1600 is inside the city, and parcels 1500 and 1700 (a narrow strip located between 1500 and 1600) are inside the UGB but outside of the city. This means that all of the parcels to be involved in the future extraction and processing operations are under Marion County jurisdiction for land use review. Therefore, the proposal for future aggregate resource and processing activities will be processed and reviewed by Marion County.

The Proposal

Access to Viesko's existing aggregate resource site is currently provided by Willow Lake Road, a public street that extends west from Windsor Island Road south of the Lockhaven intersection. This street is the primary access to a residential neighborhood that is located to the north of the street. It is also currently used as the access to the Keizer Sand and Gravel operation, which is located just south of the Viesko land.

As an alternative to the use of this public street by the truck traffic that will be generated by the future aggregate operation, Viesko has purchased a parcel of land for use as a private driveway to serve the planned aggregate site. This long, narrow parcel, formerly

owned by PGE, is identified as Tax Lot 200 on Marion County Assessor's map T6S R3W Section 34C. It is planned to be used as access to the aggregate site in conjunction with adjacent parcel 1600. Parcel 200 is a strip of land approximately 40' wide and 1820' long, and it is currently unimproved and unused. It extends between Windsor Island Road and the east line of parcel 1600. Due to its dimensions, the use of the parcel will be limited to a driveway.

The proposed use of parcels 200 and 1600 as a private access for the future aggregate operation will serve to minimize truck traffic on Willow Lake Road, will avoid potential conflicts between trucks and residential traffic including pedestrians and bicycles, and will reduce congestion along Willow Lake Road and at the Windsor Island Road intersection.

Parcel 200 adjoins Windsor Island Road directly across from Lockhaven, effectively forming a 4-way intersection. The location of the driveway directly opposite the Lockhaven intersection is appropriate as it will avoid conflicting turn movements, and it provides the best sight distance in all directions.

The City Planner has determined that parcel 200 is zoned EFU. Parcel 1600 is also zoned EFU. As shown on the City Zoning Map, parcel 200 is sandwiched between vacant land to the north that is zoned IA (Agricultural Industrial), and vacant land to the south that is zoned RS.

The City has determined that the use of these parcels for a driveway in conjunction with an aggregate operation requires approval of a Conditional Use Permit under Keizer Development Code (KDC) EFU zone Section 2.117.03 D., "Exploration, and processing of geothermal or other subsurface resources not used exclusively in conjunction with farm or forest management." On the basis of that determination this application is made for a Conditional Use Permit to allow parcels 200 and 1600 to serve as the driveway access to the future Viesko aggregate extraction and processing operation.

A review of the proposed use under the criteria for a Conditional Use Permit follows.

Analysis

Conditional Use Permits are reviewed according to the criteria of KDC Section 3.103.03, which are addressed as follows:

A. The use is listed as a conditional use in the underlying district.

The underlying district is EFU. Exploration and processing of subsurface resources is included as a Conditional Use in the EFU zone, KDC Section 2.117.03-D. Sand and gravel are subsurface resources. The proposed driveway will be used exclusively as the access to the future sand and gravel operation to be located on the adjacent lands to the west. The driveway will therefore be a part of the sand and gravel processing operation. Because the driveway will be a part of the sand and gravel processing operation, the use is listed as a conditional use in the underlying EFU district and this criterion is met.

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

The site consists of parcels 200 and 1600. Parcel 200 is a strip of land that is approximately 40' wide and 1820' long. The parcel extends from Windsor Island Road to the east line of parcel 1600, which borders lands that will be a part of the future aggregate materials processing site. The site of the future aggregate excavation and processing operation is composed of parcels that have no frontage on a public road, and therefore they are landlocked. Because of its narrow width and long length, parcel 200 has no practical use other than as an access drive. The size, shape and location of this parcel makes it especially suitable as an alternative access to the use of Willow Lake Road, the existing access to the planned aggregate site. The topography of parcels 200 and 1600 is flat and level, and there are no physical features within the parcels that prevent their use as an access driveway. There are no improvements within the subject parcels that preclude their use as a driveway.

The use of the parcels as a driveway is important and appropriate because it provides access from landlocked parcels to the public road, and because it provides an alternative to the use of a public road that serves a residential neighborhood. For these reasons, the characteristics of the site are suitable for the proposed use considering its size, shape, location, topography, and location of improvements and natural features, and this criterion is met.

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

The proposed development is a driveway to serve the future aggregate site, which will be located on lands to the west. The impact of the proposed driveway on the transportation system has been examined by the City Traffic Engineer (report from Dick Woelk, ATEP, March 17, 1998, Exhibit A attached). This report recommends that the proposed driveway be allowed. The report discusses the benefits of allowing the proposed driveway as an alternative to the use of Willow Lake Road. No adverse impacts to the street system are anticipated.

The transportation system is adequate to allow the proposed development. No other public facilities are required for the subject site to be used as a driveway, and no public facilities will be adversely affected by the use of the subject parcel as a driveway.

The use of the proposed driveway by traffic generated by the future aggregate operation will avoid the use of Willow Lake Road, the only existing access to the aggregate site. The proposed driveway will therefore benefit the existing public street system. The City Traffic Engineer's report is favorable to the proposed use. The proposal is timely because it identifies in advance the access for a future aggregate resource activity. Because the proposed development is timely considering the adequacy of the transportation systems, public facilities and services, existing or planned for the area affected by the use, this criterion is met.

D. 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.

The proposed use is a private driveway. Private driveways currently exist in this area to serve the farm activities west of Windsor Island Road. The purpose of the proposed driveway is to provide access to a sand and gravel excavation and processing operation that is being planned to operate on lands west of Windsor Island Road, outside of the city. The driveway will serve as an alternative to the use of Willow Lake Road, the public street that currently provides access to the applicant's existing aggregate resource property.

Willow Lake Road is the primary access to a bordering residential neighborhood. The proposed driveway will remove the future aggregate site truck traffic from Willow Lake

Road, and therefore avoid the potential for conflict or interference with the traffic from the residential neighborhood.

The area surrounding the subject property consists of vacant land zoned IA to the north of parcel 200, vacant land zoned RS to the south of both parcels, and the Salem wastewater treatment plant to the north of parcel 1600, zoned P. The proposed access driveway will not limit, impair or preclude the use of these surrounding lands for the primary uses listed in the zones.

The primary uses in the IA district are listed in KDC Section 2.115.02-.04, and include farm and forest uses, public buildings, food products, recreational facilities, and a variety of manufacturing uses, among others. The location of the driveway at the south edge of the IA land will avoid interference with the future use or development of the IA land. The limited, specialized use of the driveway, and its intersection opposite Lockhaven Drive, will not alter the character of the IA land or impair or preclude the primary uses listed in the IA zone.

The primary uses in the RS district are listed in 2.102.01-.04, and include single-family residential uses and residential support uses such as day care, schools, and parks, among others. The use of the driveway will be limited, and it will be designed and maintained to avoid impact on the adjacent residential land. The driveway will be provided with a dust-free surface. A sound barrier wall can be erected along the south side of the driveway to protect the adjoining the residential land from truck noise. There will be no access from the driveway to the residential land to the south. The traffic volume that will use the driveway is estimated at approximately 200 vehicle trips/day during seasonal peak periods. This is the equivalent of 20 single family homes, and therefore is less than is generally experienced on a public street serving a residential neighborhood. Considering the volume of traffic and the measures to minimize impacts, the use of the driveway in the manner proposed will not alter the character of the RS land or impair or preclude the primary uses listed in the RS zone.

The driveway as proposed will have no effect on the adjacent sewage treatment plant.

By limiting its use to serving the aggregate resource located to the west, maintaining a dust-free surface, and providing a noise barrier, the proposed driveway 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 districts, and this criterion is met.

E. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.

The use of property as a driveway access is not specifically addressed by Comp Plan goals or policies, and the Plan goals and policies generally do not apply to a natural resource use that will be located outside of the UGB. Certain Plan goals and policies pertain to the relationship of various land uses to one another. The following Comp Plan Findings, Goals and Policies may be applicable to this proposal, and are addressed as follows:

III. Findings and Policies

A. Significant Natural and Cultural Features

c. Open Spaces...and Natural Resources

1. Inventories - (e) Aggregate Resources: This section notes there are two existing aggregate sites near Chemawa Road and the Willamette River outside the city and the UGB. Although unidentified in the Plan, these are the Keizer Sand and Gravel site and the Viesko site. The Finding notes these are potentially sensitive resources. This proposal is to create an alternative to the use of Willow Lake Road to access the Viesko aggregate site. This will benefit the use of both identified aggregate resources by relieving traffic pressure from aggregate trucks on the public street.

2. Goals and Policies

a. Agricultural Lands

1. This policy encourages agricultural lands within the UGB to remain in agricultural use until such lands are available for urban development. In this case, although parcel 200 is zoned EFU it is unsuitable for urban development. It is only 40' wide, and it is bordered by lands zoned IA on the north and RS on the south. It is an isolated strip within unusual dimensions. Parcel 1600 is currently landlocked. For these reasons the proposed use does not conflict with this policy.

B. Urban Growth and Growth Management

2. Goals and Policies

b. Urban Growth Policies

7. Preserve and enhance the livability of the area: The proposal is consistent with this policy by providing an access alternative to the use of a public street that also serves a residential neighborhood. The private driveway will preserve and enhance the livability of the area by minimizing truck traffic on this residential street. The measures to be incorporated to reduce noise and dust also serve to preserve and enhance the livability of the area.

9.(c) The area outside the UGB will be maintained with low-density living areas, agricultural, open space lands, and other uses compatible with the intent of the urban growth policies: The use of the proposed driveway will be limited to serving an aggregate resource operation. Sand and gravel aggregates are recognized and protected as significant resources under LCDC Statewide Planning Goal 5. The proximity of this aggregate resource will benefit the urban area. The proposal will maintain the area outside the UGB in open space resource land. For these reasons the proposal is consistent with this policy.

C. Land Use and Economic Development

2. Goals and Policies: Residential Development

a. General Goals

8. Ensure compatibility...between residential and non-residential uses; and
9. Protecting existing and proposed residential areas from conflicting non-residential land uses while providing for compatible mixed-use development: The proposed driveway will accomplish these goals by separating the aggregate site truck traffic from the residential street, thereby protecting existing development. It will protect future residential development on the vacant land to the south through the use of a dust-free travel surface and a sound barrier wall. Separating traffic and employing impact-reduction measures will also help ensure compatibility between the residential uses and the and non-residential truck traffic. For these reasons, the proposal is consistent with this goal.

b. General Policies

13. Discourage through traffic in residential neighborhoods: The proposal is precisely consistent with this policy by providing an alternative access to the use of the public residential street.

16. Protect residential areas...from any land use activity involving an excessive level of noise, pollution, traffic volume, nuisances, and hazards to residents: The proposal will act to protect residential areas in the manner directed by this policy. The driveway will protect the existing residential area along Willow Lake Road from additional volumes of truck traffic. With the sound barrier wall to be located along the south edge of the driveway, existing and future residential areas will be protected from excessive noise. Separating the truck traffic from the public road will also avoid potential pollution and minimize the potential for hazards. For these reasons, the proposal is consistent with this policy.

4. Goals and Policies: Economic, Commercial and Industrial Development

a. General Goals

1. Broaden, improve and diversify the Keizer economy while maintaining or enhancing its environment: The proposed driveway will serve a new aggregate operation, which will become the long-term site for Viesko Quality Concrete. Viesko is currently located north of Keizer in the Wheatland ferry area. The proposal will help bring this business closer to the city, which will help maintain and enhance the economy.

7. Encourage public and private efforts to increase economic development in Keizer. To the extent possible such efforts should use local capital, labor, and management: The proposed driveway will encourage the location of the aggregate and concrete operation in proximity to Keizer. This represents an increase in economic development. The business is locally owned and operated. These factors contribute to the economic development of the city.

c. Commercial and Industrial Developments

1. Provide for commercial and industrial developments

(c) Convenient access to arterial or collector streets for traffic generated by industrial and commercial uses: The proposed driveway will provide direct access from the aggregate operation to Windsor Island Road, an arterial. The driveway will form a four-way intersection with Lockhaven Drive. The driveway will avoid placing haul trucks on the residential street. The driveway will result in convenient access to the arterial for the industrial traffic. For these reasons, the proposal is consistent with this policy.

2. Require from commercial and industrial developments:

(g) Compliance with DEQ noise and other environmental quality standards: The proposed driveway will be provided with a noise barrier wall along its boundary with residential land. The noise barrier will maintain noise levels from the truck traffic within DEQ standards.

4. Discourage in commercial and industrial developments: (a) Major customer traffic from outside the immediate neighborhoods from filtering through nearby residential streets: Although the traffic will not be from customers, the proposal is consistent with the intent of this policy by separating the aggregate site trucks from filtering through Willow Lake Road, a residential street.

D. Plan Diagram and Special Land Use Policies

2. Goals and Policies

g. West Keizer Special Policy Area

1. Establish an area...as a special policy area east of the Willow Lake Sewage Treatment Plant. The purpose of the special policy is to: (a) Limit uses to those that will not be adversely affected by noise or odor originating at the treatment plant: The proposed driveway will not be affected by noise or odor originating at the Willow Lake plant. To the contrary, by supporting a sand and gravel aggregate operation, the proposed driveway will help assure that uses that could be adversely affect by noise or odors from the plant will remain a substantial distance away. Therefore, the proposal helps implement this policy.

2. Allow within the special policy area agricultural and related uses, industrial and commercial uses related to agriculture, institutional and other public uses: The proposed use is a natural resource use that is regulated and protected by LCDC Goal 5, in a manner similar to the protection provided to agriculture by Goal 3. The proposed driveway will support an aggregate operation located to the west. As an open space/natural resource use, the aggregate operation is a highly appropriate activity for a location near the sewage treatment plant. For these reasons the proposal is consistent with this policy.

The proposed driveway helps to preserve and maintain the nearby residential areas. It will remove tuck traffic from the residential street and prevent non-residential traffic from filtering through the residential access. Measures will be employed to prevent adverse

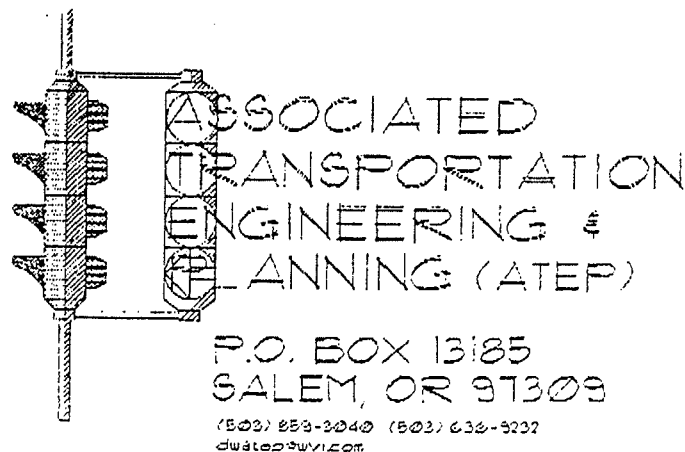
impacts to residential neighborhoods from noise and dust. The proposed use is in support of a natural resource activity that is appropriate for a location near the sewage treatment plant. For these reasons, the proposal is consistent with the applicable policies of the Comprehensive Plan, and this criterion is met.

The proposed use is included in the EFU zone. The characteristics of the site are appropriate for use as a driveway. The proposed development is timely with regards to the transportation system and public facilities. With the impact-mitigation measures as proposed, it will not affect the future use of adjacent lands. The proposal is consistent with the goals and policies of the Comp Plan. Based on the factors and reasons provided, the proposal meets the criteria for a Conditional Use Permit.

EXHIBIT A

March 17, 1998

Mr. Wally Mull
Keizer City Manager
P.O. Box 21000
KEIZER, OR 97307-1000



RE: Quality Concrete Inc. Conditional Use Traffic Analysis

Dear Mr. Mull

As requested by Mr. John Morgan, Community Services Director on January 21, 1998, I have conducted a traffic analysis of the proposed Conditional Use and its proposed access from Windsor Island Road.

Viesko Quality Concrete currently operates a gravel pit site located on the west end of Willow Lake Road adjacent to Keizer Sand and Gravel. Quality Concrete proposes to construct a private road directly west of Lockhaven Drive creating the west leg of the Windsor Island Road/Lockhaven Drive intersection. This proposed private roadway would extend approximately 1,820 feet to the existing gravel and concrete operation.

Existing Transportation Conditions

Current access to both Keizer Sand and Gravel and the Viesko Quality Concrete reserve site is from Willow Lake Road. Willow Lake Road is approximately 30 feet in width with curbs and sidewalks on the north side only.

Willow Lake Road connects to Windsor Island Road which is approximately 35 feet in width from edge of pavement to curb. Windsor Island Road has with curbs and sidewalks on the west side between Willow Lake Road and a point approximately 600 feet north.

Windsor Island Road is designated as a Collector Street by the City of Keizer Comprehensive Plan¹ and carries approximately 4,000 vehicles per day².

¹ City of Keizer Comprehensive Plan Figure 3, Page 59.

² City of Keizer Traffic Count, 5/10/96

Viesko Quality Concrete**March 17, 1998****Page 2**

Existing Gravel Operations

Currently Viesko Concrete operates both a gravel pit and a concrete batch plant located at their Wheatland Ferry site. Access to the proposed site currently traverses the property of Keizer Sand and Gravel and connects to the site which is located directly north of Keizer Sand and Gravel operation. Both operations would use Willow Lake Road as the primary access.

If the current Viesko Concrete operation moves to the Keizer site and uses the existing access road, it will add approximately 150 round trip truck trips per day (75 in and 75 out) with approximately 60 trips per day by employee traffic to the Willow Lake Road access. Keizer Sand and Gravel currently runs approximately the same number of trips per day for a total of 300 truck trips per day. The hours of operation for both developments are from 6:00 am to 6:00 pm each day Monday through Friday. Viesko does operate for one-half day on Saturday.

Intersection Operations

Based on the traffic counts taken for this project, both Willow Lake Road and Lockhaven Drive at Windsor Island Road operate at level of service "A" during the pm peak hour. Sight distance is a problem at both intersections, Willow Lake Road to the south is obscured by trees that extend into the right of way which limits sight distance to approximately 300 feet where 475 feet is required³. At Lockhaven Drive and Windsor Island Road, vision is blocked to the north by a combination of the angle the roadways intersect and shrubbery within the right of way which limits sight distance to the north to approximately 400 feet where 475 feet of sight distance is required.

Potential Impacts

The proposed street would create a full four way intersection at Windsor Island Road and Lockhaven Drive. The Viesko proposal for a new access would remove approximately 200 vehicle trips per day (150 truck and 50 to 60 employee vehicle trips) from Willow Lake Road thereby reducing the truck trips per day by one-half. The extension of this road to connect to Lockhaven has no adverse affects on the operation of the Lockhaven/ Windsor Island Road intersection and would reduce the truck traffic through the existing residential neighborhood along Willow Lake Road.

Recommendations

- 1) Viesko Quality Concrete be permitted to create the west leg of the Windsor Island Road/Lockhaven Drive intersection with a sound wall along the south side of the new road the entire length of the road that is adjacent to the residential neighborhood to the south.
- 2) In the future all access to the gravel operations currently served by Willow Lake Road should be rerouted to use the new access road to the Viesko Quality Concrete development. This will require the cooperation of both Viesko Quality

Viesko Quality Concrete**March 17, 1998****Page 3**

Concrete and Keizer Sand and Gravel since Keizer Sand and Gravel will have to traverse through the Viesko development to gain access to the new roadway.

- 3) The new roadway be controlled by a stop sign.

If I can be of further assistance please contact me at 503-859-3040.

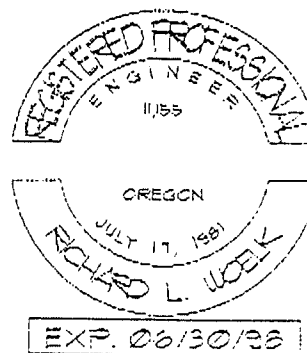
Sincerely,

ASSOCIATED TRANSPORTATION ENGINEERING & PLANNING, (ATEP)



Richard L. Woelk, P.E., T.E.
Principal

cc: Scott Erickson, Viesko Concrete



KEIZER COMMUNITY DEVELOPMENT DEPARTMENT

STAFF RECOMMENDATION

CONDITIONAL USE CASE No. 99-17

MEMO TO: Barry Adamson,, Hearings Officer

FROM: *huc* Amy C. Drought, AICP, Senior Planner

RE: Staff Recommendation for Conditional Use Case No. 99-17.

DATE: April 15, 1999

The following report is a Staff Recommendation for a Conditional Use Application to develop a haul road to serve a planned aggregate extraction site, batch plant, and office. Section 3.101 of the Keizer Development Code states that Conditional Use Applications are Type I-B Applications. Section 3.101.01 B of the Keizer Development Code further states that the Zoning Administrator may refer any Type I-B application to the Hearings Officer or the City Council for public hearing and decision.

Pursuant to this Section, the Zoning Administrator is referring this application to the Hearings Officer for public hearing and decision. City Staff offers the following *Staff Recommendation* for the Hearings Officer consideration.

BACKGROUND

- A. APPLICANT: Scott Erickson for Viesko Concrete
- B. PROPERTY LOCATION: 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. (See Exhibit "A").
- C. PARCEL SIZE: Tax Lot 200 is approximately 1.63 acres, Tax Lot 1600 is approximately 10.73 acres.

- D. EXISTING DEVELOPMENT AND PUBLIC FACILITIES: 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.
- E. PLAN DESIGNATION AND ZONING: Both properties are designated Special Policy Area (SPA) in the Keizer Comprehensive Plan and is zoned Exclusive Farm Use (EFU). (See Exhibit "B")
- F. ADJACENT ZONING AND LAND USES: Properties directly to the south (Tax Lots 300, 500 and 600) are zoned Single Family Residential (RS) are planned for future residential development. Tax Lot 100 is zoned Agricultural Industrial (AI) and is currently in farm use.
- G. PROPOSAL: The applicant is requesting approval of a Conditional Use to develop a haul road on Tax Lot 200 and 1600 in order to serve a proposed aggregate extraction site, batch plant, and office.

AGENCY COMMENTS

The Keizer Fire District and the Marion County Fire District #1 submitted comments which are attached as Exhibit "F". The Public Works Director submitted comments and are attached as Exhibit "D". The City Engineer submitted comments which are attached as Exhibit "E". The City Traffic Engineer has also submitted comments on the proposal. These comments are attached with the Applicant's statement (See Exhibit "C"). No other agencies or stakeholders submitted comments at the time this staff report was written.

REQUEST

As noted above, 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 is located entirely within Marion County (Tax Lot 700). The proposed batch plant and office site is located outside of the City limits, but within the Salem-Keizer Urban Growth Boundary (Tax Lot 1900). The proposed haul road is located within the Keizer City limits (Tax Lots 200 and 1600).

As noted in the Applicant's statement, the current access to Viesko's existing aggregate site is by Willow Lake Road (See Exhibit A). 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 use 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.

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. Therefore, approval for the development of the proposed haul road requires a Conditional Use Permit.

FINDINGS

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 applicant has provided a response to these criteria contained in the Applicant's Statement. See Exhibit "C".

Staff's comments regarding each criteria are listed below:

The use is listed as a conditional use in the zone:

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 driveway will be a part of the sand and gravel processing operation. Therefore, the use is listed as a conditional use in the underlying zone.

The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.

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, as noted in the Public Works Comments, 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 Public Works Department is requiring that the intersection with Windsor Island Road and Lockhaven Drive needs to be designed 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 as a public street. Prior to development of the roadway improvements, the property shall be dedicated to the City as a public right of way. The right-of-way shall be sufficient to provide for the required intersection improvements at Windsor Island Road. Details regarding these conditions are in Exhibit "E".

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.

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.

The City Traffic Engineer noted in his recommendations that all future truck traffic currently using Willow Lake Road from the Keizer Sand and Gravel Operation, should be rerouted to use this proposed new haul road. A public street will also enable the trucks currently using Willow Lake Road from the Keizer Sand and Gravel Operation to reroute their traffic to use this new public 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 developed as a public street.

In addition, the City has determined that the proposed batch plant and office site shall be hooked up to public water and sewer in conformance with the City of Keizer Master Sewer Plan, and the City of Keizer Master Water Plan. This property shall also be annexed to the City of Keizer prior to its development.

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.

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 use this haul road as well.

Property directly to the south (Tax Lots) 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. There will be no access from the haul road to the residential land to the south.

Additionally, as noted in the Public Works Director comment, there is a potential for any proposed wells on the future batch plant site to potential interfere with the City municipal wells. The City Public Works Director is submitting several conditions of approval in order to ensure protection of the City's water supply. These are submitted as Exhibits "D 1, 2, & 3."

The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.

FINDINGS: The applicant's testimony lists applicable goals and policies relating to this application. Listed below are applicable goals and policies relating to the City's conditions of approval.

B. Urban Growth and Growth Management

b. Urban Growth Policies

- (e) All parties should encourage the orderly annexation to the City of Keizer and City of Salem the land within the urban growth boundary.
- (i) Sewer or water services will not be extended to subdivisions developing outside city limits and county service districts. Such areas must be annexed to the cities to receive those services except as may be agreed by the cities and appropriate county.
- (j) (3) Orderly and economic provision for public facilities and services.

A. Public Facilities to support Development.

2. Goals and policies.

- 1. Plan and develop a timely, orderly & efficient arrangement of public facilities and services to serve as a framework for urban development.
- 2. Provide and encourage a safe, convenient and economic transportation system.

RECOMMENDATIONS

The City of Keizer recommends granting approval for a conditional use to allow the proposed haul road only if specific conditions of approval are met. These conditions are listed below.

1. The proposed batch plant site shall be annexed to the City of Keizer prior to the development of the haul road.
2. The applicant shall apply for and receive all of the necessary land use approvals from the City of Keizer in order to develop and operate the Batch Plant and office use on the proposed site.
3. A sound wall shall be constructed 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 haul road.
4. The applicant shall meet all Department of Public Works and Engineering requirements as noted in Exhibits "D" and "E".
5. The applicant shall meet the Keizer Fire District requirements and the Marion County Fire District #1 requirements as noted in Exhibit "F".

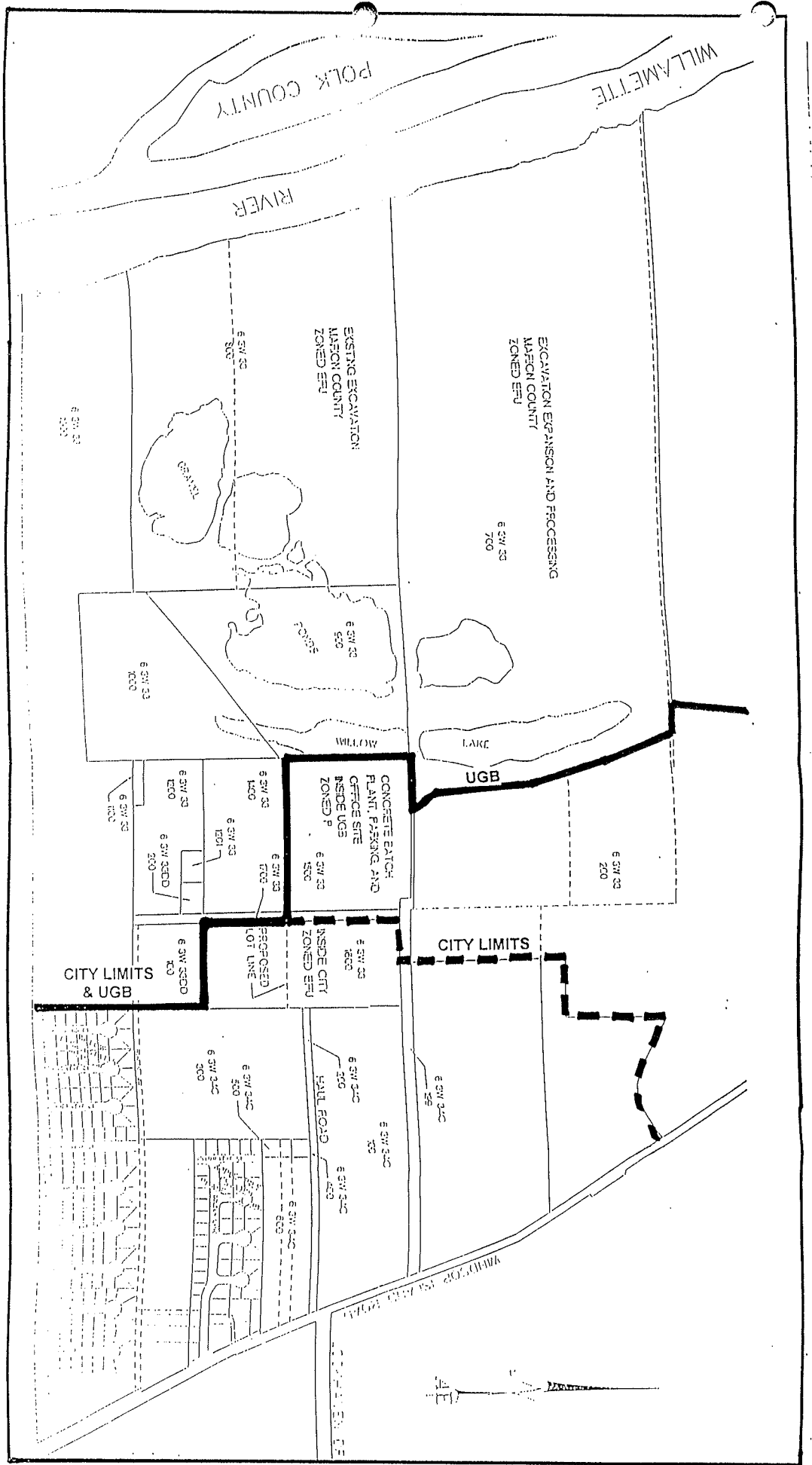


EXHIBIT A

JEFFREY R. TROSS
Land Planning and Development Consultant
1720 Liberty St. S.E., Salem, Oregon 97302
(503) 370-8704

***APPLICANT'S STATEMENT
FOR
SCOTT ERICKSON/VIESKO QUALITY CONCRETE
CONDITIONAL USE PERMIT FOR KEIZER AGGREGATE
SITE ACCESS DRIVEWAY***

EXHIBIT C

Background

Viesko Quality Concrete Co. owns a sand and gravel aggregate resource site located west of Windsor Island Road and approximately 2000' to the northwest of the west end of Willow Lake Road. The property is identified as Tax Lots 800, 900, and 1900 on Marion County Assessor's map T6S R3W Section 33. This location has been the site of aggregate excavation activity in the past, and it is included on the Marion County Comprehensive Plan Mineral and Aggregate Inventory of aggregate resource sites. The site is situated in Marion County, outside of the Keizer Urban Growth Boundary (UGB). The site is zoned EFU.

Viesko has been planning to renew the use of this existing resource site, and together with adjacent lands the site is planned to become the Company's long-term location for aggregate materials and processing. In addition to parcels 800, 900 and 1900, the Company owns parcel 700, adjacent on the north, which will be proposed for future excavation; and it is arranging to purchase or lease parcels 1500, 1600 (north half only), and 1700. Parcel 1500 is being considered as the site for a concrete batch plant and the company offices. No production activities are planned for parcels 1600 and 1700.

All of the land to be involved in the future aggregate resource and processing operation is located outside of the city limits and UGB. Only parcel 1600 is inside the city, and parcels 1500 and 1700 (a narrow strip located between 1500 and 1600) are inside the UGB but outside of the city. This means that all of the parcels to be involved in the future extraction and processing operations are under Marion County jurisdiction for land use review. Therefore, the proposal for future aggregate resource and processing activities will be processed and reviewed by Marion County.

The Proposal

Access to Viesko's existing aggregate resource site is currently provided by Willow Lake Road, a public street that extends west from Windsor Island Road south of the Lockhaven intersection. This street is the primary access to a residential neighborhood that is located to the north of the street. It is also currently used as the access to the Keizer Sand and Gravel operation, which is located just south of the Viesko land.

As an alternative to the use of this public street by the truck traffic that will be generated by the future aggregate operation, Viesko has purchased a parcel of land for use as a private driveway to serve the planned aggregate site. This long, narrow parcel, formerly

owned by PGE, is identified as Tax Lot 200 on Marion County Assessor's map T6S R3W Section 34C. It is planned to be used as access to the aggregate site in conjunction with adjacent parcel 1600. Parcel 200 is a strip of land approximately 40' wide and 1820' long, and it is currently unimproved and unused. It extends between Windsor Island Road and the east line of parcel 1600. Due to its dimensions, the use of the parcel will be limited to a driveway.

The proposed use of parcels 200 and 1600 as a private access for the future aggregate operation will serve to minimize truck traffic on Willow Lake Road, will avoid potential conflicts between trucks and residential traffic including pedestrians and bicycles, and will reduce congestion along Willow Lake Road and at the Windsor Island Road intersection.

Parcel 200 adjoins Windsor Island Road directly across from Lockhaven, effectively forming a 4-way intersection. The location of the driveway directly opposite the Lockhaven intersection is appropriate as it will avoid conflicting turn movements, and it provides the best sight distance in all directions.

The City Planner has determined that parcel 200 is zoned EFU. Parcel 1600 is also zoned EFU. As shown on the City Zoning Map, parcel 200 is sandwiched between vacant land to the north that is zoned IA (Agricultural Industrial), and vacant land to the south that is zoned RS.

The City has determined that the use of these parcels for a driveway in conjunction with an aggregate operation requires approval of a Conditional Use Permit under Keizer Development Code (KDC) EFU zone Section 2.117.03 D., "Exploration, and processing of geothermal or other subsurface resources not used exclusively in conjunction with farm or forest management." On the basis of that determination this application is made for a Conditional Use Permit to allow parcels 200 and 1600 to serve as the driveway access to the future Viesko aggregate extraction and processing operation.

A review of the proposed use under the criteria for a Conditional Use Permit follows.

Analysis

Conditional Use Permits are reviewed according to the criteria of KDC Section 3.103.03, which are addressed as follows:

A. The use is listed as a conditional use in the underlying district.

The underlying district is EFU. Exploration and processing of subsurface resources is included as a Conditional Use in the EFU zone, KDC Section 2.117.03-D. Sand and gravel are subsurface resources. The proposed driveway will be used exclusively as the access to the future sand and gravel operation to be located on the adjacent lands to the west. The driveway will therefore be a part of the sand and gravel processing operation. Because the driveway will be a part of the sand and gravel processing operation, the use is listed as a conditional use in the underlying EFU district and this criterion is met.

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

The site consists of parcels 200 and 1600. Parcel 200 is a strip of land that is approximately 40' wide and 1820' long. The parcel extends from Windsor Island Road to the east line of parcel 1600, which borders lands that will be a part of the future aggregate materials processing site. The site of the future aggregate excavation and processing operation is composed of parcels that have no frontage on a public road, and therefore they are landlocked. Because of its narrow width and long length, parcel 200 has no practical use other than as an access drive. The size, shape and location of this parcel makes it especially suitable as an alternative access to the use of Willow Lake Road, the existing access to the planned aggregate site. The topography of parcels 200 and 1600 is flat and level, and there are no physical features within the parcels that prevent their use as an access driveway. There are no improvements within the subject parcels that preclude their use as a driveway.

The use of the parcels as a driveway is important and appropriate because it provides access from landlocked parcels to the public road, and because it provides an alternative to the use of a public road that serves a residential neighborhood. For these reasons, the characteristics of the site are suitable for the proposed use considering its size, shape, location, topography, and location of improvements and natural features, and this criterion is met.

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

The proposed development is a driveway to serve the future aggregate site, which will be located on lands to the west. The impact of the proposed driveway on the transportation system has been examined by the City Traffic Engineer (report from Dick Woelk, ATEP, March 17, 1998, Exhibit A attached). This report recommends that the proposed driveway be allowed. The report discusses the benefits of allowing the proposed driveway as an alternative to the use of Willow Lake Road. No adverse impacts to the street system are anticipated.

The transportation system is adequate to allow the proposed development. No other public facilities are required for the subject site to be used as a driveway, and no public facilities will be adversely affected by the use of the subject parcel as a driveway.

The use of the proposed driveway by traffic generated by the future aggregate operation will avoid the use of Willow Lake Road, the only existing access to the aggregate site. The proposed driveway will therefore benefit the existing public street system. The City Traffic Engineer's report is favorable to the proposed use. The proposal is timely because it identifies in advance the access for a future aggregate resource activity. Because the proposed development is timely considering the adequacy of the transportation systems, public facilities and services, existing or planned for the area affected by the use, this criterion is met.

D. 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.

The proposed use is a private driveway. Private driveways currently exist in this area to serve the farm activities west of Windsor Island Road. The purpose of the proposed driveway is to provide access to a sand and gravel excavation and processing operation that is being planned to operate on lands west of Windsor Island Road, outside of the city. The driveway will serve as an alternative to the use of Willow Lake Road, the public street that currently provides access to the applicant's existing aggregate resource property.

Willow Lake Road is the primary access to a bordering residential neighborhood. The proposed driveway will remove the future aggregate site truck traffic from Willow Lake

Road, and therefore avoid the potential for conflict or interference with the traffic from the residential neighborhood.

The area surrounding the subject property consists of vacant land zoned IA to the north of parcel 200, vacant land zoned RS to the south of both parcels, and the Salem wastewater treatment plant to the north of parcel 1600, zoned P. The proposed access driveway will not limit, impair or preclude the use of these surrounding lands for the primary uses listed in the zones.

The primary uses in the IA district are listed in KDC Section 2.115.02-.04, and include farm and forest uses, public buildings, food products, recreational facilities, and a variety of manufacturing uses, among others. The location of the driveway at the south edge of the IA land will avoid interference with the future use or development of the IA land. The limited, specialized use of the driveway, and its intersection opposite Lockhaven Drive, will not alter the character of the IA land or impair or preclude the primary uses listed in the IA zone.

The primary uses in the RS district are listed in 2.102.01-.04, and include single-family residential uses and residential support uses such as day care, schools, and parks, among others. The use of the driveway will be limited, and it will be designed and maintained to avoid impact on the adjacent residential land. The driveway will be provided with a dust-free surface. A sound barrier wall can be erected along the south side of the driveway to protect the adjoining the residential land from truck noise. There will be no access from the driveway to the residential land to the south. The traffic volume that will use the driveway is estimated at approximately 200 vehicle trips/day during seasonal peak periods. This is the equivalent of 20 single family homes, and therefore is less than is generally experienced on a public street serving a residential neighborhood. Considering the volume of traffic and the measures to minimize impacts, the use of the driveway in the manner proposed will not alter the character of the RS land or impair or preclude the primary uses listed in the RS zone.

The driveway as proposed will have no effect on the adjacent sewage treatment plant.

By limiting its use to serving the aggregate resource located to the west, maintaining a dust-free surface, and providing a noise barrier, the proposed driveway 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 districts, and this criterion is met.

E. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.

The of use of property as a driveway access is not specifically addressed by Comp Plan goals or policies, and the Plan goals and policies generally do not apply to a natural resource use that will be located outside of the UGB. Certain Plan goals and policies pertain to the relationship of various land uses to one another. The following Comp Plan Findings, Goals and Policies may be applicable to this proposal, and are addressed as follows:

III. Findings and Policies

A. Significant Natural and Cultural Features

c. Open Spaces...and Natural Resources

1. Inventories - (e) Aggregate Resources: This section notes there are two existing aggregate sites near Chemawa Road and the Willamette River outside the city and the UGB. Although unidentified in the Plan, these are the Keizer Sand and Gravel site and the Viesko site. The Finding notes these are potentially sensitive resources. This proposal is to create an alternative to the use of Willow Lake Road to access the Viesko aggregate site. This will benefit the use of both identified aggregate resources by relieving traffic pressure from aggregate trucks on the public street.

2. Goals and Policies

a. Agricultural Lands

1. This policy encourages agricultural lands within the UGB to remain in agricultural use until such lands are available for urban development. In this case, although parcel 200 is zoned EFU it is unsuitable for urban development. It is only 40' wide, and it is bordered by lands zoned IA on the north and RS on the south. It is an isolated strip within unusual dimensions. Parcel 1600 is currently landlocked. For these reasons the proposed use does not conflict with this policy.

B. Urban Growth and Growth Management

2. Goals and Policies

b. Urban Growth Policies

7. Preserve and enhance the livability of the area: The proposal is consistent with this policy by providing an access alternative to the use of a public street that also serves a residential neighborhood. The private driveway will preserve and enhance the livability of the area by minimizing truck traffic on this residential street. The measures to be incorporated to reduce noise and dust also serve to preserve and enhance the livability of the area.

9.(c) The area outside the UGB will be maintained with low-density living areas, agricultural, open space lands, and other uses compatible with the intent of the urban growth policies: The use of the proposed driveway will be limited to serving an aggregate resource operation. Sand and gravel aggregates are recognized and protected as significant resources under LCDC Statewide Planning Goal 5. The proximity of this aggregate resource will benefit the urban area. The proposal will maintain the area outside the UGB in open space resource land. For these reasons the proposal is consistent with this policy.

C. Land Use and Economic Development

2. Goals and Policies: Residential Development

a. General Goals

8. Ensure compatibility...between residential and non-residential uses; and

9. Protecting existing and proposed residential areas from conflicting non-residential land uses while providing for compatible mixed-use development: The proposed driveway will accomplish these goals by separating the aggregate site truck traffic from the residential street, thereby protecting existing development. It will protect future residential development on the vacant land to the south through the use of a dust-free travel surface and a sound barrier wall. Separating traffic and employing impact-reduction measures will also help ensure compatibility between the residential uses and the and non-residential truck traffic. For these reasons, the proposal is consistent with this goal.

b. General Policies

13. Discourage through traffic in residential neighborhoods: The proposal is precisely consistent with this policy by providing an alternative access to the use of the public residential street.

16. Protect residential areas...from any land use activity involving an excessive level of noise, pollution, traffic volume, nuisances, and hazards to residents: The proposal will act to protect residential areas in the manner directed by this policy. The driveway will protect the existing residential area along Willow Lake Road from additional volumes of truck traffic. With the sound barrier wall to be located along the south edge of the driveway, existing and future residential areas will be protected from excessive noise. Separating the truck traffic from the public road will also avoid potential pollution and minimize the potential for hazards. For these reasons, the proposal is consistent with this policy.

4. Goals and Policies: Economic, Commercial and Industrial Development

a. General Goals

1. Broaden, improve and diversify the Keizer economy while maintaining or enhancing its environment: The proposed driveway will serve a new aggregate operation, which will become the long-term site for Viesko Quality Concrete. Viesko is currently located north of Keizer in the Wheatland ferry area. The proposal will help bring this business closer to the city, which will help maintain and enhance the economy.

7. Encourage public and private efforts to increase economic development in Keizer. To the extent possible such efforts should use local capital, labor, and management: The proposed driveway will encourage the location of the aggregate and concrete operation in proximity to Keizer. This represents an increase in economic development. The business is locally owned and operated. These factors contribute to the economic development of the city.

c. Commercial and Industrial Developments

1. Provide for commercial and industrial developments

(c) Convenient access to arterial or collector streets for traffic generated by industrial and commercial uses: The proposed driveway will provide direct access from the aggregate operation to Windsor Island Road, an arterial. The driveway will form a four-way intersection with Lockhaven Drive. The driveway will avoid placing haul trucks on the residential street. The driveway will result in convenient access to the arterial for the industrial traffic. For these reasons, the proposal is consistent with this policy.

2. Require from commercial and industrial developments:

(g) Compliance with DEQ noise and other environmental quality standards: The proposed driveway will be provided with a noise barrier wall along its boundary with residential land. The noise barrier will maintain noise levels from the truck traffic within DEQ standards.

4. Discourage in commercial and industrial developments: (a) Major customer traffic from outside the immediate neighborhoods from filtering through nearby residential streets: Although the traffic will not be from customers, the proposal is consistent with the intent of this policy by separating the aggregate site trucks from filtering through Willow Lake Road, a residential street.

D. Plan Diagram and Special Land Use Policies

2. Goals and Policies

g. West Keizer Special Policy Area

1. Establish an area...as a special policy area east of the Willow Lake Sewage Treatment Plant. The purpose of the special policy is to: (a) Limit uses to those that will not be adversely affected by noise or odor originating at the treatment plant: The proposed driveway will not be affected by noise or odor originating at the Willow Lake plant. To the contrary, by supporting a sand and gravel aggregate operation, the proposed driveway will help assure that uses that could be adversely affect by noise or odors from the plant will remain a substantial distance away. Therefore, the proposal helps implement this policy.

2. Allow within the special policy area agricultural and related uses, industrial and commercial uses related to agriculture, institutional and other public uses: The proposed use is a natural resource use that is regulated and protected by LCDC Goal 5, in a manner similar to the protection provided to agriculture by Goal 3. The proposed driveway will support an aggregate operation located to the west. As an open space/natural resource use, the aggregate operation is a highly appropriate activity for a location near the sewage treatment plant. For these reasons the proposal is consistent with this policy.

The proposed driveway helps to preserve and maintain the nearby residential areas. It will remove tuck traffic from the residential street and prevent non-residential traffic from filtering through the residential access. Measures will be employed to prevent adverse

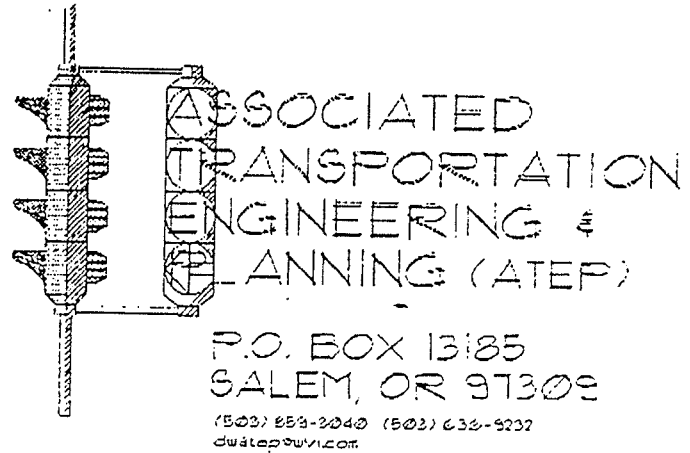
impacts to residential neighborhoods from noise and dust. The proposed use is in support of a natural resource activity that is appropriate for a location near the sewage treatment plant. For these reasons, the proposal is consistent with the applicable policies of the Comprehensive Plan, and this criterion is met.

The proposed use is included in the EFU zone. The characteristics of the site are appropriate for use as a driveway. The proposed development is timely with regards to the transportation system and public facilities. With the impact-mitigation measures as proposed, it will not affect the future use of adjacent lands. The proposal is consistent with the goals and policies of the Comp Plan. Based on the factors and reasons provided, the proposal meets the criteria for a Conditional Use Permit.

EXHIBIT A

March 17, 1998

Mr. Wally Mull
Keizer City Manager
P.O. Box 21000
KEIZER, OR 97307-1000



RE: Quality Concrete Inc. Conditional Use Traffic Analysis

Dear Mr. Mull

As requested by Mr. John Morgan, Community Services Director on January 21, 1998, I have conducted a traffic analysis of the proposed Conditional Use and its proposed access from Windsor Island Road.

Viesko Quality Concrete currently operates a gravel pit site located on the west end of Willow Lake Road adjacent to Keizer Sand and Gravel. Quality Concrete proposes to construct a private road directly west of Lockhaven Drive creating the west leg of the Windsor Island Road/Lockhaven Drive intersection. This proposed private roadway would extend approximately 1,820 feet to the existing gravel and concrete operation.

Existing Transportation Conditions

Current access to both Keizer Sand and Gravel and the Viesko Quality Concrete reserve site is from Willow Lake Road. Willow Lake Road is approximately 30 feet in width with curbs and sidewalks on the north side only.

Willow Lake Road connects to Windsor Island Road which is approximately 35 feet in width from edge of pavement to curb. Windsor Island Road has with curbs and sidewalks on the west side between Willow Lake Road and a point approximately 600 feet north.

Windsor Island Road is designated as a Collector Street by the City of Keizer Comprehensive Plan¹ and carries approximately 4,000 vehicles per day².

¹ City of Keizer Comprehensive Plan Figure 3, Page 59.

² City of Keizer Traffic Count, 5/10/96

Viesko Quality Concrete**March 17, 1998****Page 2**

Existing Gravel Operations

Currently Viesko Concrete operates both a gravel pit and a concrete batch plant located at their Wheatland Ferry site. Access to the proposed site currently traverses the property of Keizer Sand and Gravel and connects to the site which is located directly north of Keizer Sand and Gravel operation. Both operations would use Willow Lake Road as the primary access.

If the current Viesko Concrete operation moves to the Keizer site and uses the existing access road, it will add approximately 150 round trip truck trips per day (75 in and 75 out) with approximately 60 trips per day by employee traffic to the Willow Lake Road access. Keizer Sand and Gravel currently runs approximately the same number of trips per day for a total of 300 truck trips per day. The hours of operation for both developments are from 6:00 am to 6:00 pm each day Monday through Friday. Viesko does operate for one-half day on Saturday.

Intersection Operations

Based on the traffic counts taken for this project, both Willow Lake Road and Lockhaven Drive at Windsor Island Road operate at level of service "A" during the pm peak hour. Sight distance is a problem at both intersections, Willow Lake Road to the south is obscured by trees that extend into the right of way which limits sight distance to approximately 300 feet where 475 feet is required³. At Lockhaven Drive and Windsor Island Road, vision is blocked to the north by a combination of the angle the roadways intersect and shrubbery within the right of way which limits sight distance to the north to approximately 400 feet where 475 feet of sight distance is required.

Potential Impacts

The proposed street would create a full four way intersection at Windsor Island Road and Lockhaven Drive. The Viesko proposal for a new access would remove approximately 200 vehicle trips per day (150 truck and 50 to 60 employee vehicle trips) from Willow Lake Road thereby reducing the truck trips per day by one-half. The extension of this road to connect to Lockhaven has no adverse affects on the operation of the Lockhaven/ Windsor Island Road intersection and would reduce the truck traffic through the existing residential neighborhood along Willow Lake Road.

Recommendations

- 1) Viesko Quality Concrete be permitted to create the west leg of the Windsor Island Road/Lockhaven Drive intersection with a sound wall along the south side of the new road the entire length of the road that is adjacent to the residential neighborhood to the south.
- 2) In the future all access to the gravel operations currently served by Willow Lake Road should be rerouted to use the new access road to the Viesko Quality Concrete development. This will require the cooperation of both Viesko Quality

³

A Policy on Geometric Design of Highways and Streets , American Association of State Highway and Transportation Officials, 1990, page 762 Table IX-40

Viesko Quality Concrete
Page 3

March 17, 1998

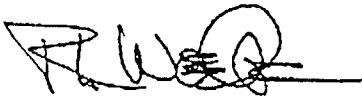
Concrete and Keizer Sand and Gravel since Keizer Sand and Gravel will have to traverse through the Viesko development to gain access to the new roadway.

- 3) The new roadway be controlled by a stop sign.

If I can be of further assistance please contact me at 503-859-3040.

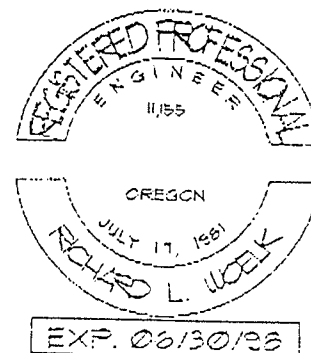
Sincerely,

ASSOCIATED TRANSPORTATION ENGINEERING & PLANNING, (ATEP)



Richard L. Woelk, P.E., T.E.
Principal

cc: Scott Erickson, Viesko Concrete



Memo

To: Amy Drought
City Planner
From: Rob Kissler 
Director of Public Works
CC: Wally Mull, Bill Peterson, Ed Butts
Date: 04/15/99
Re: Conditional use Case 99-17

Amy; The Public Works Department has major concerns over the proposed use of this property regarding water consumption, water quality and proximity of the applicants wells to our municipal wells. The Oregon State Water Resources Department as you know, has jurisdiction on all water rights in the State of Oregon. However, Water Resources will not act on potential interference but only on proven interference. The City Public Works Department recommends the following be submitted into the record and part of the conditions for approval.

1. Applicant to provide a detailed drawing of well locations and depths
2. Applicant to provide detailed drawings on building locations and estimated water consumption needs in GPM
3. Applicant to provide a hydrological study of the area of proposed wells to make sure that potential interference of our municipal wells is either confirmed or not. If the result of this study confirms interference to our municipal wells, the conditional use should be denied.
4. If conditional use is approved, all wells and well casings shall be constructed meeting State Water Resources and City of Keizer standards before permits are issued and construction begins.

Amy; I'm providing you two additional letters dated March 29, 1999 from Stettler Supply and The City of Keizer dated December 10, 1998. Please enter these letters into the record. Let me know if you have questions.

Stettler Supply Company

1810 Lana Avenue N.E.

Salem, Oregon 97303

(503) 585-5550 • FAX: (503) 581-6799

Since 1948

IRRIGATION SYSTEMS

pivots/linears
travelers
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WATER SYSTEMS

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commercial
domestic

ENGINEERING SERVICES

civil
environmental
electrical
control systems

CCB# 33228
OWWC# 633

Mr. Rob Kissler
Public Works Director
City of Keizer
PO Box 21000
Keizer, OR 97307-1000

3-29-99

RE: Proposed Viesko Concrete Water Right Application

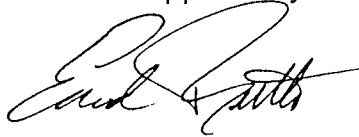
Dear Mr. Kissler,

I have reviewed the proposed Final Order, and Mr. Steve Applegate's letter to you (Dated December 29, 1998) and wish to offer the following comments:

1. The proposed Well #1 is expected to be completed to a depth of 100'. This depth, contrary to Mr. Applegate's letter, does permeate the upper portion of the Troutdale Aquifer. Based on observations from your well logs as well as other logs, I believe the clay layer he refers to extends between 70'-90' depth in this area. This exposure to the aquifer you use could represent a potential contamination source for your water supply if Viesko's extraction well is not properly constructed and sealed. While I do not feel the proposed withdrawal of 600 GPM should have a significant effect on your wells I do believe that the Water Resource Department should require total sealing of the well to the overlying clay layer.
2. To protect the City's interest, I suggest that appropriate language be inserted in the permit to avoid full scale (3100 GPM) withdrawal from the Troutdale aquifer should results from the shallow aquifer be deemed inadequate. Currently, I see no such prohibitive language in the proposed order which could therefore allow Viesko's to develop the full production from the lower aquifer. Contrary to the state's opinion, I firmly believe that a withdrawal rate of 3100 GPM from the Troutdale aquifer at this location would definitely cause an impact to the city's Chemawa, Burnside, and McNary wells.

3. Even though the city's water right is senior to the proposed use, I recommend monitoring and continued interest by the city be demonstrated to avoid potential future problems.

Please let me know if I can be of further assistance and Thank You for the opportunity to be of service.

A handwritten signature in black ink, appearing to read "Edward Butts". The signature is fluid and cursive, with a large initial "E" and a stylized "B".

Edward Butts, PE



City of Keizer

1982

Phone: 390-3700 • Fax: 393-9347
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

December 10, 1998

Mr. Bill Ferber Water Master
Oregon State Water Resources
158 12th St NE
Salem, Oregon 97310

Dear Mr. Ferber:

The City of Keizer has major concerns, regarding the proposed well construction by Viesko Quality Concrete's new location near Lockhaven and Windsor Island Road. If your applicant needs the 3100 gpm as indicated on the application, we recommend a hydro geological study be done to protect the existing municipal wells located up gradient. Single point withdrawal at this location, may interfere with several of our municipal wells. As you know, over draft of an aquifer can create potential water quantity and quality issues, specifically nitrates. I respectfully request a hold be placed on this application until a determination has been made that this proposed water use will not interfere with the City's drinking water.

Sincerely:

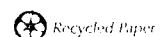
Rob Kissler
Director of Public Works

cc: Stettler Supply
Peterson Engineering
City Manager
City Senior Planner

"Pride, Spirit and Volunteerism"

Incorporated 1982

EXHIBIT D3



DATE: APRIL 14, 1999

TO: CITY OF KEIZER
PLANNING DEPARTMENT

SUBJECT: CONDITIONAL USE PERMIT FOR
SCOTT ERICKSON / VIESKO QUALITY CONCRETE CONDITIONAL USE
PERMIT FOR KEIZER AGGREGATE SITE ACCESS DRIVEWAY
FILED BY JEFFREY R. TROSS
LAND PLANNING AND DEVELOPMENT CONSULTANT

PUBLIC WORKS DEPARTMENT COMMENTS

The property under consideration for the conditional use permit consists of two tax lots, Tax Lot 200 is approximately 40 feet wide by 1820 feet long and is located on Marion County Assessor's Map T6S R3W Section 34C. Additionally, Tax Lot 1600, located at the west end of Tax Lot 200 is also to be used for access.

It is the understanding of the Public Works Department that the property under consideration is zoned appropriate for the proposed Conditional Use, assuming that the required conditions can be met.

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

The Keizer Development Code is the guiding document to be used in reviewing the proposed application. Section 2.3, General Development Standards, states: 2.301.01 Purpose. The purpose of this Section is to A. Comprehensive Plan. Carry out the Comprehensive Plan with respect to development standards and policies.

The Comprehensive Plan for the City of Keizer indicates that parcels under consideration for development are either located within the city limits or are outside the city limits but within the Urban Growth Boundary of the City of Keizer. It is therefore necessary that the Keizer Development Code be followed in determining the appropriate conditions necessary to allow for orderly development in this area of Keizer. Development of property within the City of Keizer Urban Growth Boundary shall be annexed to the City of Keizer prior to development.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) The proposed access driveway provides access to future development by accessing onto Windsor Island Road at it's junction with Lockhaven Drive. Truck traffic in this area, as well as additional service vehicles, will create the need for a safe, well lighted intersection with appropriate sight distances in all directions.

EXHIBIT E

STREET AND DRAINAGE IMPROVEMENT (CONTINUED)

a.) Continued

To adequately serve the property along the subject property as well as other property in the vicinity of the subject property, the proposed access driveway shall be developed as a public street. With the exception of the intersection at Windsor Island Road, a 40 foot wide parcel can be developed as a 3/4 width street in accordance with the City of Keizer Department of Public Works Street Standards. Future right of way can be obtained from the parcel to the North of the subject property in the future when development is proposed for that parcel. 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. This condition will require additional property to be added to the conditional use application or a delay in development until additional processing of a conditional use for the adjoining property needed for the roadway development. The portion of the access street through Parcel 1600 can be developed as a full width street. Sidewalks along the street may be postponed until development along the subject properties are proposed.

- b.) Prior to development of the roadway improvements, the property shall be dedicated to the City as a public right of way. The right of way shall be sufficient to provide for the required intersection improvements at Windsor Island Road. A preliminary plan of the proposed roadway shall be reviewed by the Department of Public Works prior to the dedication of the right of way. The preliminary plan shall indicate the proposed centerline curve data using standard sight distance for a collector street. Additionally, the preliminary plan shall indicate a sound wall barrier along the south line of the roadway as indicated in the applicant's statement.
- c.) The developer 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.
- d.) A construction permit for the proposed street will be required. Additionally, a construction permit for a storm drain system to serve the street will be required.

SANITARY SEWERS:

- a.) The proposed development that will be served by the access road that will be within the Urban Growth Boundary shall be served by a sanitary sewer system in conformance with the City of Keizer Master Sewer Plan. To avoid damage and reconstruction to the proposed street, a sanitary sewer system for the future development to the west shall be install within the right of way prior to construction of the roadway.

VIESKO QUALITY CONCRETE
CONDITIONAL USE PERMIT
ACCESS DRIVEWAY
APRIL 14, 1999
PAGE 3

- 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.) A street opening permit is required from the Department of Public Works prior to any construction within public right of ways.
- d.) The subject property is subject to an acreage assessment. The acreage charge will be based on the current acreage charge in place at the time of issuance of permits for the subject property.
- e.) The City of Salem is required to approve all sanitary sewers within the City of Keizer. Prior to submittal of plans to the City of Salem, the developer shall submit said plans to the City of Keizer for review for conformance with the City of Keizer Master Sewer Plan.

WATER SYSTEM:

- a.) The proposed development that will be served by the access road that will be within the Urban Growth Boundary shall be served by a public water system in conformance with the City of Keizer Master Water Plan. To avoid damage and reconstruction to the proposed street, a water main for the future development to the west shall be installed within the right of way prior to construction of the roadway.
- b.) Individual water services for all parcels must be installed. Location of the connection to an existing water main will be determined by the Department of Public Works.
- c.) Keizer Fire District shall be required to approve any development on the proposed parcels regarding access and fire protection. It may be necessary for the developer of the subject property to install a fire hydrant on an appropriately sized water main to provide fire protection for the proposed
- d.) Location of all proposed meters to be determined by the Department of Public Works.
- e.) To eliminate the possibility of any cross connections and assure that adequate separation between wells and sanitary sewer lines exist, any wells on the property to be abandoned by a licensed and bonded well driller to the standards of the Oregon State Department of Water Resources and the City of Keizer.

VIESKO QUALITY CONCRETE
CONDITIONAL USE PERMIT
ACCESS DRIVEWAY
APRIL 14, 1999
PAGE 4

GENERAL

- a.) 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.
- b.) Construction permits are required by the Department of Public Works prior to any public facility construction.
- c.) 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.

REQUEST FOR COMMENTS

TO: Keizer Fire Dist DATE: March 4, 1999
FROM: Keizer Community Development Department
CASE: Conditional Use Case No. 99-17
RESPONSE DATE: March 26, 1999
APPLICATION: The applicants are requesting to utilize Tax Lot 200 and 1600 (Marion County Tax Assessor's Map No. 6S3W34C) as a private driveway to serve the planned aggregate site.
APPLICANT: Viesko Quality Concrete
LOCATION: The subject property is west of Windsor Island Road at Lockhaven in the 5500 block of Windsor Island Road.
ZONE: EFU

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by March 26, 1999 in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Maria Meier, Associate 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: Emergency Vehicle Access and potential for water supplies to control fire in the area of the operation may be required. Keizer Fire Dist. would request review of future site plans. It is also recommended that the district be involved in any future meetings regarding development of this project

Response Date: 3-16-99 Person commenting: Joel Stein Div Chief / Fire Marshal

EXHIBIT F

REQUEST FOR COMMENTS

TO: Fire Dist #1 DATE: March 4, 1999

FROM: Keizer Community Development Department

CASE: Conditional Use Case No. 99-17

RESPONSE DATE: **March 26, 1999**

APPLICATION: The applicants are requesting to utilize Tax Lot 200 and 1600 (Marion County Tax Assessor's Map No. 6S3W34C) as a private driveway to serve the planned aggregate site.

APPLICANT: Viesko Quality Concrete

LOCATION: The subject property is west of Windsor Island Road at Lockhaven in the 5500 block of Windsor Island Road.

ZONE: EFU

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **March 26, 1999** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Maria Meier, Associate 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: Must comply with
Comments on Following Pages

Thank you,

Response Date: 3/17/99 Person commenting: Paula Blomquist

MARION COUNTY FIRE DISTRICT COMMENTS

Comply with all UBC & UFC requirements and MCFD #1 1998.1:

A-3 Approved Fire Detection and Reporting Systems In Lieu Of Required
Water Supplies

A-4: Approved Fire Alarm Receiving Stations

A-8: Fire Apparatus Access Roads On Private Property (To Include Multi
Family Dwellings and/or Commercial Use

A-9: Address Requirements For Residential & Commercial Use

BEFORE THE LAND USE HEARINGS OFFICER
FOR THE CITY OF KEIZER

Regarding a request by Viesko Quality Concrete for conditional use approval to develop a "haul road" to serve a planned aggregate extraction site, batch plant, and office	)	FINAL ORDER
	)	
	)	Conditional Use Case No. 99-17
	)	(Viesko Quality Concrete)

— CONDITIONAL USE: *Denied* as not an allowable EFU "use" —

A. SUMMARY OF PERTINENT FACTS

Applicant Viesko Quality Concrete (hereafter "Applicant") seeks conditional use approval pursuant to the KEIZER DEVELOPMENT CODE (hereafter "KDC") § 3.103.03 to develop a "haul road" to serve a planned aggregate extraction site, batch plant, and office that actually lies on property outside the City limits (but within the Salem-Keizer Urban Growth Boundary) in Marion County.

The affected properties, identified for purposes of this decision as Tax Lot 200 and Tax Lot 1600, lie directly west of the intersection of Windsor Island Road/Lockhaven Drive at the western edge of the Keizer city limits. Tax Lot 200 comprises a former 40'x1,820' PGE easement whose only apparent function for purposes of Applicant's proposal would be an access road west from the Windsor Island Road/Lockhaven Drive intersection to Tax Lot 1600, at which point the proposed haul road would continue westerly across the 10+-acre Tax Lot 1600 to the extraction site, batch plant, and office. Although within the Keizer city limits, both properties lie within an Exclusive Farm Use (EFU) zoning district in an area designated Special Policy Area (SPA) on the City's COMPREHENSIVE PLAN Map.

Additional details can be found in Applicant's undated narrative entitled "*Applicant's Statement For Scott Erickson/Viesko Quality Concrete Conditional Use Permit For Keizer Aggregate Site Access Driveway*" ("APPLICANT'S NARRATIVE").

B. HEARING AND RECORD

The Hearings Officer heard testimony at a public hearing on April 22, 1999. The City rendered its "*Staff Recommendation*" (hereafter "STAFF REPORT") on April 15, 1999. Except as may be modified in this decision, the Hearings Officer adopts the pertinent factual discussions

in both the STAFF REPORT and APPLICANT'S NARRATIVE as his own, and incorporates them within this decision by this reference. All exhibits and records of testimony have been filed with the Keizer Community Development Department.

The Hearings Officer had no *ex parte* contacts, bias, or conflicts of interest to disclose. Pursuant to ORS 197.763(5), the Hearings Officer declared to those in attendance at the hearing that: (1) the conditional use approval criteria in KDC § 3.103.03 (cited in the STAFF REPORT) as well as the statutory EFU "use" criteria in ORS 215.283(2) would control Applicant's approval request; (2) all testimony and documentary evidence must be directed to the prescribed approval criteria or to other identified approval criteria in the City's DEVELOPMENT CODE, COMPREHENSIVE PLAN, or other identified source; and (3) the failure to raise any factual or legal issue with specificity and clarity sufficient to allow the Hearings Officer or any participant to address and respond to such issue may preclude any appeal based upon the Hearings Officer's resolution of such issue.

City Planner Amy Drought summarized the application and the STAFF REPORT, following which the Hearings Officer took testimony and other comments. The Hearings Officer closed the public record at the conclusion of the testimony.

C. APPROVAL CRITERIA

KDC § 3.103.03 implements the City's conditional use approval criteria, and it provides:

"Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- "A. The use is listed as a conditional use in the underlying district.
- "B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.
- "C. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.
- "D. The proposed use will not alter the character of the surrounding area in [a] manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
- "E. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use."

D. DISCUSSION AND FINDINGS

Because the Hearings Officer concludes that one issue resolves this matter, this decision will confine itself to that single issue.

KDC § 3.103.03(a) requires that the proposed conditional use be “listed as a conditional use in the underlying district.” Applicant proposes nothing more than the development of an access road to serve a planned aggregate extraction site, batch plant, and office that actually lies on property outside the City limits. More simply put, Applicant proposes a road.

In this case, KDC § 2.117.03 delineates the allowable conditional uses within the City’s EFU zoning district. Of the various conditional uses described in KDC § 2.117.03(A)–(P), only the following has any remotely pertinent applicability:

“D. Exploration, and processing of geothermal or other subsurface resources not used exclusively in conjunction with farm or forest management.”

The STAFF REPORT relies upon the category in KDC § 2.117.03(D), as does Applicant. (See APPLICANT’S NARRATIVE at 2.) However, the Hearings Officer concludes that the proposed “haul road” does not qualify as the use described in KDC § 2.117.03(D); even assuming for purposes of argument that the proposed road might be *associated* with the use described in KDC § 2.117.03(D), the *road itself* does not qualify as the use described therein.

Therefore, the Hearings Officer concludes that the proposed “haul road” does not qualify under KDC § 2.117.03 as a use “listed as a conditional use in the underlying district” for purposes of KDC § 3.103.03(A).

In addition, Oregon law — specifically, ORS 215.283(2) — both prescribes and limits the kinds of non-farm uses allowed in EFU zoning districts.¹ At the April 22 hearing, Applicant identified the following provisions within ORS 215.283(2) as candidates for the “haul road”:

¹ The oddity about this particular approval request lies in the applicability — or at least the apparent applicability — of the “non-farm” use provisions in ORS 215.283(2). The only statutory provisions that address uses that can occur on EFU property appear in ORS Chapter 215, yet ORS Chapter 215 applies solely to *County* planning functions. ORS Chapter 227, which applies solely to *City* planning functions, says nothing whatsoever about EFU property or uses allowed thereon. The fact that the City even has EFU-zoned property within its municipal boundaries may well be an anomaly. In any event, nothing in ORS 215.283(2) itself actually distinguishes between “counties” or “cities” for purposes of the uses described therein, a fact that renders it applicable on its face here.

“(2) The following *nonfarm uses* may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

“* * * * *

“(b) Operations conducted for:

“* * * * *

“(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298[.]

“* * * * *

The Hearings Officer concludes that the proposed “haul road” does not qualify as the use described in ORS 215.283(2)(b)(B) for the same reason that it fails to qualify as the use described in KDC § 3.103.03(D); even assuming for purposes of argument that the proposed road might be *associated* with the use described in ORS 215.283(2)(b)(B), the *road itself* does not qualify as the use described therein.

Therefore, the Hearings Officer concludes that the proposed “haul road” does not qualify under ORS 215.283(2) as a non-farm use that might otherwise be allowed on EFU-zoned property.

Finally, Applicant asserted the applicability of ORS 215.283(3) at the April 22 hearing:

“(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

“(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

“(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.”

The applicability of ORS 215.283(3) faces a number of problems:

- ◆ *First*, only ORS 215.283(2), not ORS 215.283(3), specifically purports to identify non-farm uses that may occur on EFU property.

- ◆ *Second*, given the land use context of ORS 215.283(3), the Hearings Officer construes the phrase “[r]oads, highways and other transportation facilities and improvements” as meaning *rural* roads lying outside city limits — or, stated differently, something other than “roads” that would otherwise have to be developed to *urban* standards as city streets (which would be the result, given the facial applicability of the City’s street standards).
- ◆ *Third*, even assuming for purposes of argument that ORS 215.283(3) might apply, in order for subsection (a) to apply the City would have to adopt an exception to LCDC’s agricultural lands goal — an event that could not possibly occur within this proceeding.
- ◆ *Fourth*, even assuming for purposes of argument that ORS 215.283(3) might apply, in order for subsection (b) to apply the “haul road” would have to qualify as a use “identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993,” and the Hearings Officer remains unaware of any such rule that might serve to describe what, in actuality, would be an *urban* road constructed to *urban* standards (*viz*, the City’s road standards).

Therefore, the Hearings Officer concludes that the proposed “haul road” does not qualify under ORS 215.283(3) as within a category of non-farm “[r]oads, highways and other transportation facilities and improvements” use that might otherwise be allowed on EFU-zoned property within city limits.

E. DECISION

The Hearings Officer **denies** the request for conditional use approval, on the grounds that the proposed “haul road”:

1. does not qualify under KDC § 2.117.03 as a use “listed as a conditional use in the underlying district” for purposes of KDC § 3.103.03(A);
2. does not qualify under ORS 215.283(2) as a non-farm use that might otherwise be allowed on EFU-zoned property; and
3. does not qualify under ORS 215.283(3) as within a category of non-farm “[r]oads, highways and other transportation facilities and improvements” use that might otherwise be allowed on EFU-zoned property within city limits.

F. APPEAL RIGHTS

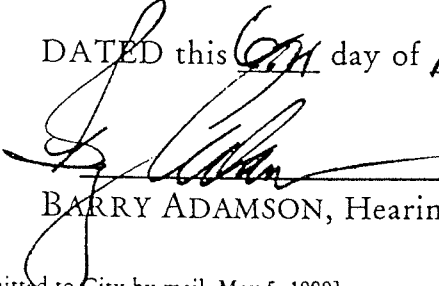
Any interested person, including the applicant, who disagrees with this decision may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Community Development Department, 930 Chemawa Road, N.E., Keizer, Oregon 97303, by 5:00 p.m. on or before the tenth day following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

The appeal must:

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

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

DATED this 6th day of MAY, 1998.


BARRY ADAMSON, Hearings Officer

[Submitted to City by mail: May 5, 1999]

~~ROUGH DRAFT~~

ALBERT G. DUBLE, P.E., INC.
ACOUSTICAL CONSULTANT

16905 NE KINGS GRADE

NEWBERG, OREGON 97132

503-538-8044

FAX (503) 537-8044

MEMBER - INSTITUTE OF NOISE CONTROL ENGINEERING

January 22, 1999

Mr. Scott Erickson, President
Viesko Quality Concrete Inc.
P.O. Box 20610
Keizer, OR 97307

Re: Keizer East Bank Aggregate Processing Site - Noise Impact

Dear Mr. Erickson:

This is a letter report containing a Noise Impact Study for the Keizer East Bank future aggregate processing site. To satisfy the State DEQ Noise Ordinance requirements, I have measured environmental ambient noise at four sites in the directions of adjacent sensitive residential land uses. (See attached site map). The noise sites are as follows;

- Site-1 Residence located at 1982 Naples Road, north of the proposed processing site.
- Site-2 Walnut orchard zoned for future residential development; northwest corner nearest the proposed aggregate processing site.
- Site-3 Residence located south of the proposed aggregate processing site; on gravel road just north of Bowden Lane. (See attached aerial site map).
- Site 4 Residence at 5815 Windsor Island Road, directly east of proposed aggregate processing site, on the east side of the road.

The land plot planned for a concrete batch plant, east of Willow Lake has not been used before as an aggregate processing site, and therefore qualifies for the DEQ "ambient degradation rule" clause of the State standard. Under this clause, the lowest hourly noise during proposed operating hours may be increase by no more than 10 dBA. The rock excavation and processing site east of Willow lake has been used in the last 20 years as an aggregate processing site, and therefore can be addressed as standard sites with the noise levels shown in Table I below.

TABLE 1

DEQ NOISE STANDARD - OAR 340-35-035

	<u>L1</u>	<u>L10</u>	<u>L50</u>
Daytime (7 am-10 pm)	75	60	55, dBA
Nighttime (10 pm-7 am)	60	55	50, dBA

The standards are for daytime operation of a new operation, between the hours of 0700 and 2200. The L50 noise level is always the most difficult to meet, and if it can be met, the other two percentile standards (L1 and L10) usually can also be met. The L1 level is a short term noise quantity representing only 36 seconds (1 percent) out of any hour. The L10 and L50 represent 6 and 30 minutes of noise out of any operating hour.

Table 1 applies to the rock extraction and processing operations. The concrete batch plant standard noise levels are the lowest daytime noise level between the hours of 6 am and 6 pm, plus 10 dBA. These ambient standard levels are shown in Table 2 below;

TABLE 2

SITE AMBIENT NOISE LEVEL STANDARDS

FOR CONCRETE BATCH PLANT

LOWEST HOUR - DAYTIME

<u>SITE</u>	<u>L1</u>	<u>DEQ</u>	<u>L10</u>	<u>DEQ</u>	<u>L50</u>	<u>DEQ</u>
1	51	61	40	50	34	44
2	42	52	39	49	37	47
3	40	50	34	44	33	43
4	67	75	52	55	37	47

Operating hours for this initial noise analysis at the Keizer East Bank Site are 0700 to 2200 hours. This causes some low noise levels taken from the data printouts (attached) at 2000 and 2100 hours at each site. If it is not feasible to meet the standards with these lower ambient noise hours, the operating hours can be reduced to raise the ambient level plus 10 dBA for the standard.

DEQ Standards Explanation

The State DEQ noise standards cover the day in two 12 hour periods; 7 am to 10 pm (daytime) and 10 pm to 7 am (nighttime). The L50 (near the average) standard levels are 55 dBA daytime and 50 nighttime. The L50 is the lowest standard and the most difficult to meet. If the L50 and L10 are met, the L1 standard level is also usually met. (These standards are called percentiles in statistical terminology). The L50 refers to 50 percent of the hour or 30 minutes of noise out of any hour. The L10 likewise refers to 10 percent or 6 minutes, and the L1 is 1 percent or 36 seconds). Modern noise analyzers placed at a measurement site automatically sample the noise data 32 times per second, and generate mathematically the statistical quantities above as programmed by the engineer before the tests.

Description of the Environment - Predicted Future Noise

This area is dominated by traffic noise on Windsor Island Road and by processing noise emanating from the Willow Lake Sewerage Treatment Plant just north of the proposed concrete batch plant site, now an orchard. Site 4 is located right next to Windsor Island Road and thus reflects traffic noise more than the other three sites. The environment is quieter at Sites 2 and 3 as they are located west of Windsor Island Road. Site 1 is located adjacent to Naples Road which does not carry much traffic as it is a dead-end road. Noise levels at night are very low at all of these sites, ranging from L50 31 to 43 dBA.

Future operating noise of the three main sources to be in place at this new site are shown below with their representative A-weighted noise levels and reference distances;

Excavation Equipment - Hitachi Hoe: 77 dBA at 75 feet

Crushing and Screening Equipment: 60 dBA at 700 feet

Concrete Batch Plant: 77 dBA at 150 feet

Not shown are octave band noise levels for each source from 31.5 to 16,000 Hz. These are required as data for the noise propagation computer model used to estimate future noise levels of the three sources. The model, known as the "New York State Noise Model", is widely used by consultants to predict environmental noise. It considers distance, source and receiver elevations, temperature and humidity. It does not calculate the effect of wind or temperature effects on noise propagation. The consultant estimates these separately for the impact analysis.

Distances between the three source locations and the four sensitive sites were taken from an aerial site map with a scale of 500 feet = 1 inch. The attached site map has the sensitive sites circled and numbered in bold black pen. Elevations of the sources and residences were taken from another map with elevation contours in the Viesko office.

Future noise is predicted separately for each source and then summed at each site for a total noise level. This is then compared to the appropriate State DEQ noise standard listed in Tables 1 and 2 above. Ambient noise at the four sensitive sites studied include the background noise from the Willow Lake Sewerage Treatment Plant, however the exact configuration of this plant the night of the measurements is unknown. However, the treatment plant (WWTP) noise study completed in 1991 and 1992 showed an increase in ambient noise at the nearest sites of about 5 dBA during the canning season. (CH2M, Volume II, Final Report, Willow Lake Comprehensive Noise & Odor Study, Summer 1992). Although the Sites are in different locations for each of these noise studies, it is apparent that there will be an increase in noise of 1 to 4 dBA at all of the four Sites studied for the Viesko proposed aggregate processing operations. The WWTP noise is a continuous sound, and will tend to provide some masking for aggregate processing sound, especially for the rock crushing equipment.

Table 3 below shows predicted noise levels for the proposed concrete batch plant with trucks mixing at high idle, and with the trucks facing the west on the west side of the plant. This site plan will place these noise sources behind the silos, the weigh house building, and possibly some gravel stock piles which should be situated near the plant to block noise to the south and east. If the concrete plant and truck mixing area were to be placed in a large metal shed open to the west, noise would be reduced another 5 to 10 dBA for Sites 2, 3 and 4. Site 1 would experience less noise reduction but would still be well in compliance. Shed insulation should be 4 inch thick fiberglass with PVC facing not-to-exceed 3 mil (.003 inch) thickness.

TABLE 3

<u>FUTURE CONCRETE BATCH PLANT NOISE</u>					
<u>SITE</u>	<u>DISTANCE</u>	<u>BARRIER?</u>	<u>NOISE (dBA)</u>	<u>DAYTIME</u> <u>DEQ STD</u>	<u>CRITERIA</u>
		*			
1	3550	Yes	26	44	Meets
2	925	Yes	39	47	Meets
3	700	Yes	42	43	Meets
4	2350	Yes	30	47	Meets

* Note 1: Barrier consists of a three-sided metal shed with 4 inch fiberglass insulation and roof sloping up to the west to release exhaust gases. Operation should be in full compliance with an insulated metal shed.

Note 3: DEQ ambient noise criteria with extended daytime hours 0700 to 2200.

Tables 4 and 5 below show the results of noise propagation calculations for rock crushing and excavation operations;

TABLE 4

<u>FUTURE CRUSHING OPERATIONS NOISE</u>					
<u>SITE</u>	<u>DISTANCE</u>	<u>BARRIER</u>	<u>NOISE (dBA)</u>	<u>DAYTIME**</u> <u>DEQ STD</u>	<u>CRITERIA</u>
1	2400	Yes	34	55	Meets
2	2900	Yes	32	55	Meets
3	2500	Yes	34	55	Meets
4	4200	Yes	28	55	Meets

* Note 1: A 10 ft lower elevation for the crusher, or a 10 foot berm barrier at 250 feet maximum would place Site 1 in full compliance at 34 dBA, and provide a satisfactory total operating noise level when all sources are added together in impact section ahead.

** Note: DEQ criteria with extended daytime hours 0700 to 2200

Rock processing noise levels in Table 4 above are acceptable for all sites. To provide a margin of safety for total noise contribution and followup measurement, it would be advantageous to use the plastic type shaker screens and keep stock piles high around the operations on all sides but the west towards the river. Lowering the crushing equipment elevation, or adding a 10 foot high berm at 250 feet on the north, south and east sides would place all sites in full compliance.

TABLE 5

<u>FUTURE EXCAVATION OPERATIONS NOISE</u>					
<u>SITE</u>	<u>DISTANCE</u>	<u>BARRIER?</u>	<u>NOISE (dBA)</u>	<u>DAYTIME DEQ STD</u>	<u>CRITERIA</u>
1	1050	Yes	38	55*	Meets
2	1850	Yes	43	55	Meets
3	1400	Yes	36	55	Meets
4	3225	No	37	55	Meets

* Note: DEQ noise criteria with daytime hours 0700 to 2200

All mobile yard equipment, including the excavation hoe must use residential quality mufflers and insulated engine side covers to meet the total noise requirement. The Donaldson type mufflers are available from Air Flow Systems Inc. in Milwaukie, OR at 503-659-9120. With quieter muffler technology, and an 8 inch acoustical louver over the hoe radiator/fan grill, the hoe operating hours could be extended to dark in the summertime. Acoustical louvers in custom sizes are available from Rink Company in Grandview, MO at 816-761-7476. (Catalog cuts attached).

Truck Noise On Site

Truck noise on public roads and highways is exempted by the State DEQ noise standard. However, noise from vehicles on private property is regulated. The truck access haul road follows the power line right-of-way, with a 40 foot wide access and two 12 foot wide paved lanes. A 10 foot high noise barrier will consist of large interlocking concrete blocks stacked on the south side of the haul road. This road is shown by a dotted line on the attached aerial site map.

Barrier analysis with 15 mph dump truck speed shows 5 dBA noise reduction with stock mufflers on the trucks. With residential critical Donaldson type mufflers installed, barrier analysis shows about 12 dBA barrier noise reduction to Sites 2, 3 and 4. Site 1 is too far away to be affected by haul truck noise. Instantaneous noise levels for these three sites calculated for 15 MPH average truck speed are 48, 39, and 35 dBA with the special mufflers. (The use of the special mufflers has the effect of lowering the truck noise elevation from 8 feet to 5 feet, thus causing the noise barriers to be more efficient).

The DEQ L1 ambient noise standards for these three sites are 58, 58, and 75 dBA. Thus, the truck traffic flow, with trucks separated by at least several minutes of quiet time, appears to be in compliance with this type of analysis. (The L1 percentile would be present for only 36 seconds out of any measurement hour, and would be closest to the Lmax or instantaneous noise levels).

As a check, the statistical standards L10 and L50 percentiles were used for another analysis. This mathematical method considers the truck speed (15 MPH is the only appropriate octave-band truck data available at this time), and the percentage time of exposure which is 6 minutes for the L10 and 30 minutes for the L50 levels. The calculated noise levels for these statistical noise levels are shown below in Table 6;

TABLE 6

STATISTICAL TRUCK NOISE LEVELS

<u>SITE</u>	<u>L10</u>	<u>DEQ L10</u>	<u>L50</u>	<u>DEQ L50</u>	<u>COMPLIANCE</u>
2	48	53	45	47	MEETS
3	39	50	36	43	MEETS
4	35	55	33	47	MEETS

NOTE 1: The DEQ standards are the lowest hourly levels measured between 0700 and 2200 hours, plus 10 dBA for the concrete batch plant site. Trucks are new on the site for all operations.

Overall Noise Impact Analysis

Table 7 below is a summation of all aggregate processing noise, namely the excavation (consisting mainly of a Hitachi Model 700 hoe), rock crushing, the concrete batch plant, and haul trucks.

TABLE 6

TOTAL NOISE LEVELS - ALL SOURCES

<u>SITE</u>	<u>EXCAV HOE</u>	<u>CRUSHING EQUIP</u>	<u>CONCRETE PLANT</u>	<u>HAUL TRUCKS</u>	<u>TOTAL LEVEL</u>	<u>DEQ STD</u>	<u>CRITERIA</u>
1	40	34	26	N/A	41	44	MEETS
2	35	32	39	44	46	47	MEETS
3	38	34	42	35	44	43	+1 dBA
4	29	28	30	31	36	47	MEETS

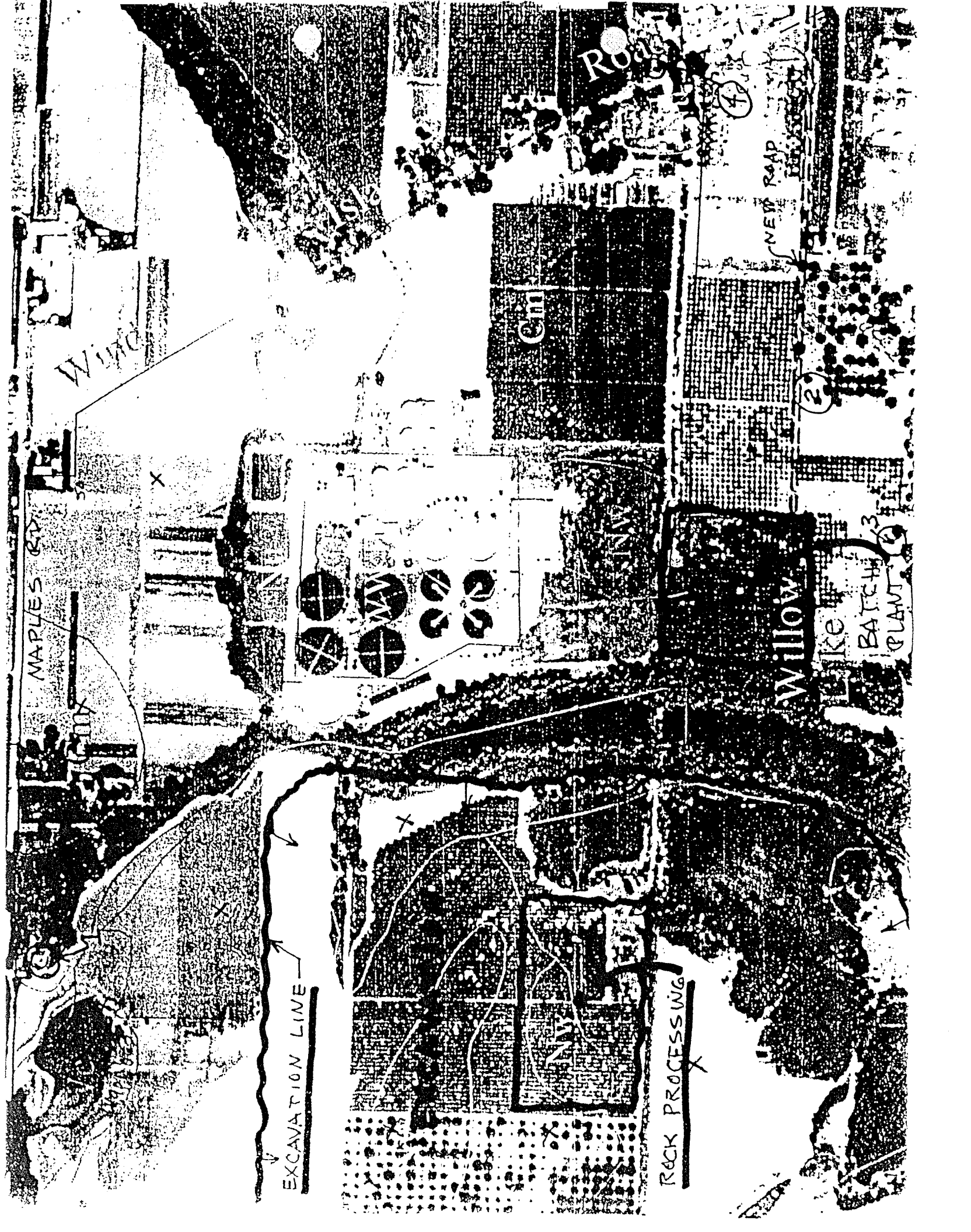
The noise comparison above is not exactly fair as some sources like the excavation hoe, the concrete plant and haul trucks are really statistical noise sources where noise varies over time. Above, they are being compared to a more steady noise source such as the crushing equipment. (The L50 percentile is used for the most part because it is the most stringent of the / DEQ percentiles). The DEQ criteria above is also the most stringent as it represents the ambient noise degradation standard which can be applied only to plots previously unused for this purpose, such as the concrete plant, the crusher and the trucks.

The excavation hoe will be located in an area previously used for rock extraction and this uses the higher daytime and nighttime L50 DEQ standards of 55 and 50 dBA. However, in the table, if Viesko process operations can meet the most stringent standard, then we know it will meet the higher standard by default. Therefore, this analysis is a conservative approach erring on the side of caution. Conversations with Viesko Quality Concrete have shown that the company is willing to strive to be the best neighbor possible. It was the companys (Mr. Erickson's) idea to use the solid concrete block for the truck noise barrier. This is a very good barrier, and one seldom seen in this application.

Call if you have any questions.

Very truly yours,

Albert G. Duble, P.E.
Acoustical Engineer
Mem. INCE



MAPLES RD

WIND

Rock

NEW ROAD

CM

Willow

EXCAVATION LINE

Rock PROCESSING

BATCH PLANT

(2)

(4)

3

6

Submitted
(Hearing
1/22/99.

My husband and I are residents of the
Senior Mobile Home Park on Lockhaven Dr.

We are opposed to the haul road as an
extension of Lockhaven Dr, west of Windsor
Is. Rd. There will be an increase in
truck noise and traffic from early morning
to late evening. The noise will be
increased by the use of "Jake Brakes".

We are also concerned for the school
children who walk along Lockhaven and
must cross the street twice a day.

Thank You.

Robert & Betty Lewis
1055 Lockhaven Dr. N. Sp. # 59
Kearney, OK 97303

Barbara Bickel #55

Submitted at
Meeting 4/22/99

April 22, 1999

To: Keizer City Council

From: David and Janie Stairs
Appletree Estates
5396 McIntosh Court N
Keizer, OR 97303
503-390-5214

Re: Conditional Use Case No. 99-17
Viesko Concrete: Planned aggregate extraction site, batch plant, and office

Our first request is that you deny this conditional use application:

- ✓ Our neighborhood did not learn of this application until the week of April 11, 1999 when a public hearing notice was posted, although the city has been working on this application for one year.
- ✓ Why do you want to change land zoned for Exclusive Farm Use (EFU)?
- ✓ Why would the city want to pay for improving the intersection of Windsor Island road and developing a public street, to benefit one business.
- ✓ Concerns were raised about the possibility for well contamination.
- ✓ Allowing expanded operations will increase the congestion on Lockhaven Road, as it reduces the congestion on Willow Lake Road. You are merely moving from one adjoining residential area to another.
- ✓ The staff recommendation states that use of this property in the manner proposed is not addressed in the Comprehensive Plan.
- ✓ The staff recommendation mainly focuses on the benefit of having a driveway, while ignoring other considerations.
- ✓ Why do you want an aggregate operation closer to the city-is this really the type of economic development you want in Keizer?

↓
The staff recommendation states that there will not be an impact on existing neighborhoods:

- ✓ 200 gravel trucks for Viesko and however many trucks Keizer Sand and Gravel re-route/day running up and down behind our home will increase noise and dust in our neighborhood. We already hear the sound of trucks shifting gears, as they slow down at the Lockhaven/Windsor Island intersection. Stating that this is the equivalent of 20 residential homes is not a true comparison--semi-trucks are far noisier than private vehicles.
- ✓ The noise from operating an aggregate and concrete plant will affect our neighborhood.
- ✓ The proposed wall will not block this noise out. We currently can hear the treatment plant operations.

*submitted
at hearing
4/22/99*

April 22, 1999

Testimony of Steven P. Applegate

Water Resources Consultant for Viesko Quality Concrete

The City of Keizer has expressed concerns about the proposed use of groundwater by Viesko at their Lockhaven and Windsor Island site. The concerns appear to be that the use would have the potential to interfere with the production from and/or degrade the water quality in the City's nearby wells. We do not believe this is possible, given the following facts:

1. Two of the "wells" to be used are existing ponds or exposed alluvial groundwater left behind from prior gravel production on the site.
2. The 3rd well will be completed and sealed within the upper alluvial aquifer also. State standards expressly prohibit the construction of wells that intercept more than one aquifer (see OAR 690-210-080). The Troutdale aquifer that the City utilizes lies below the upper alluvial zone separated by a significant impermeable layer of clay. The 100 foot depth of this proposed well was only an approximation. The well will not penetrate this clay layer, and will be cased and sealed above that level, thus preventing any hydraulic connection with the City's wells.
3. The Oregon Water Resources Department (OWRD) has issued a final order approving a permit for the necessary water right for the site. The draft permit (copy attached) includes numerous conditions on the use designed to prevent the City's concerns from occurring, and, if they do occur, to interrupt or reduce Viesko's use to eliminate the problem.
4. OWRD's staff hydrogeologist has reviewed the proposed use, and has addressed the City's concerns through the inclusion of the above-mentioned conditions.
5. OWRD's draft permit allows for the development of the alluvial aquifer only as a source, based upon the source requested in the application. In order to develop the Troutdale aquifer, Viesko would be required to obtain a new permit for that source.
6. The total withdrawal of groundwater allowed under the permit is 6.91 cfs (3100 GPM). However, the actual consumption of water will be less than 10%, or about 300 GPM. The balance of the pumped water is recycled, following treatment to DEQ standards, back to the original source for reuse. Mr. Butts' letter of March 29 states that he believes a withdrawal of 600 GPM would not have a "significant effect" on the City's wells.

Given the above facts, the restrictions and additional requirements being proposed by the City with respect to this use are excessive and an unnecessary expense to the applicant.

OREGON ADMINISTRATIVE RULES
CHAPTER 690, DIVISION 210 — WATER RESOURCES DEPARTMENT

on the well report form (well log). Information which shall be included is the type and amount of explosive used.

(2) In no case shall explosives other than commercially developed gun perforators be detonated inside the well casing or liner pipe without written permission from the Director. The request shall include the type of explosive to be used, how they will be placed, and where they are to be placed. In no case shall an explosive charge be dropped down a well or used to sever installed well casing or liner pipe.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-61-066 by WRD 13-1986, f. 10-7-86, ef. 11-1-86

Hydrofracturing

690-210-065 (1) If the well is hydrofractured, the constructor shall so note on the well report. Information reported shall include methods and materials used, maximum pressure exerted on the formation, location of packers, as well as initial and final yield figures.

(2) In no case shall hydrofracturing allow commingling of waters within the well bore.

(3) The well shall not be hydrofractured within 20 feet of the bottom of the existing well casing.

(4) Clean sand or other materials (propants) approved by the Department may be injected into the well to hold the fractures open when the pressure is removed.

(5) All tools and propants shall be disinfected prior to placement into the well.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94

Injection Wells

690-210-070 No well subject to these rules shall be used for the injection of surface or groundwaters, or chemically or thermally altered waters, unless the injection installation, well design, and receiving formations are approved by the Water Resources Department. For additional regulations on the use of wells for injection purposes, contact the Oregon Department of Environmental Quality.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-60-030 by WRD 13-1986, f. 10-7-86, ef. 11-1-86

Commingling of Waters

690-210-080 In no case shall a well be constructed to allow commingling or leakage of groundwater within an individual well by gravity flow or artesian pressure from one aquifer to another. See definition of aquifer.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-61-061 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94

Perched Groundwater

690-210-090 Wells drawing water from perched zones must be constructed to prevent the waste of this type of groundwater.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-61-059 by WRD 13-1986, f. 10-7-86, ef. 11-1-86

Mineralized or Contaminated Groundwater

690-210-100 All formations which yield contaminated or mineralized water shall be adequately cased and sealed off so as to prevent contamination of the overlying or underlying water-bearing zones.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-61-056 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88

Unattended Wells

690-210-110 All wells when unattended during construction shall be covered to protect public health and safety.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Amended & Renumbered from 690-61-071 by WRD 13-1986, f. 10-7-86, ef. 11-1-86

Additional Standards for Artesian Wells

690-210-120 (1) Wells penetrating into an artesian aquifer shall have an upper drillhole four inches greater in diameter than the nominal diameter of the permanent well casing. Watertight unperforated casing shall extend and be sealed at least five feet into the confining formation immediately overlying the artesian water-bearing zone. In all cases, a minimum of 18 feet of casing and casing seal will be required. If cement grout is placed by a suitable pump from the bottom of the casing (Methods A, B, and D, in Appendix 2 and Figure 2), the diameter of the upper drillhole shall be at least two inches larger than the nominal diameter of the casing. To complete the well, a smaller diameter casing, a perforated liner, or a well screen may be installed.

(2) When artesian pressures are encountered in the absence of a confining formation, casing and casing seal requirements shall be determined by the Director upon written application. In the alternative, the person constructing the well may construct the well in conformance with the minimum standards for artesian wells with a confining formation, set forth in section (1) of this rule.

(3) If a well flows at land surface, the well shall be equipped with a watertight mechanical cap, threaded or welded, and a control valve, so that all flow of water from the well can be completely stopped.

(4) All flowing artesian wells shall be equipped with a pressure gauge placed on a deadend line. A petcock valve shall be placed between the gauge and well casing. (See Figure 10, 1986)

(5) All flowing artesian wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well report.

MEMO

DATE: January 19, 1999
TO: DWIGHT FRENCH
FROM: LAURA SNEDAKER
SUBJECT: G-14780 for Veisko Quality Concrete

Please route the attached file up to the Groundwater Section for some additional review. I received comments from the City of Keizer expressing concerns about the applicants wells potential for interference with the cities wells. A determination needs to be made of whether the Div 9 findings need to be modified based upon these comments.

Thank you.

To: Laura,

RE: G-14780

The concerns of the City of Keizer are addressed by the recommended conditions (7B). The majority of the water pumped for this operation will be for gravel washing. The water is reused with very little consumption. It has been estimated that 90-95% of the water pumped is returned to the groundwater system. My review and recommendation stand.

Marc A Norton

1/28/99

7/13, 1998

FROM: Groundwater/Hydrology Section Man A Norton
SUBJECT: Application G- 14780 Reviewer's Name

GROUNDWATER/SURFACE WATER CONSIDERATIONS

1. PER THE _____ Basin rules, one or more of the proposed POA's is/is not within _____ feet/mile of a surface water source (_____) and taps a groundwater source hydraulically connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
- a. _____ will, or _____ have the potential for substantial interference with the nearest
 - b. ☒ will not _____ surface water source, namely _____; or
 - c. _____ will if properly conditioned, adequately protect the surface water from interference:
 - i. _____ The permit should contain condition #(s) _____;
 - ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. _____ The permit should be conditioned as indicated in item 4 below; or
 - d. _____ will, with well reconstruction, adequately protect the surface from substantial interference.

GROUNDWATER AVAILABILITY CONSIDERATIONS

3. BASED UPON available data, I have determined that groundwater for the proposed use
- a. _____ will, or _____ likely be available in the amounts requested without injury to prior rights
 - b. _____ will not _____ and/or within the capacity of the resource; or
 - c. ☒ will if properly conditioned, avoid injury to existing rights or to the groundwater resource:
 - i. ☒ The permit should contain condition #(s) 7B, 7C;
 - ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. _____ The permit should be conditioned as indicated in item 4 below; or
- 4.
- a. _____ THE PERMIT should allow groundwater production from no deeper than _____ ft. below land surface;
 - b. _____ The permit should allow groundwater production from no shallower than _____ ft. below land surface;
 - c. _____ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. _____ Well reconstruction is necessary to accomplish one or more of the above conditions.
 - e. _____ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS: _____

(Well Construction Considerations on Reverse Side)

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-14780

Final Order

Application History

On June 22, 1998, SCOTT ERICKSON, for VIESKO QUALITY CONCRETE, submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on February 9, 1999. The protest period closed March 26, 1999, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

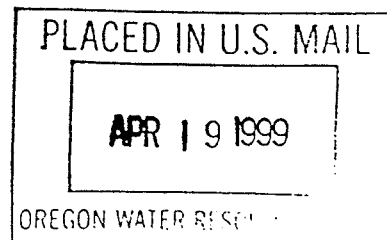
Order

Upon payment of outstanding permit recording fees and submittal of easements for property not owned by the applicant, Application G-14780 shall be approved as proposed by the Proposed Final Order and as provided on the attached draft permit.

Permit recording fees are required in the amount of \$150.00. Said fees and are due and payable and easements for property not owned by the applicant must be submitted no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fees within 60 days from the date of this Final Order will result in the proposed rejection of Application G-14780.

DATED April 16, 1999


Martha O. Pagel, Director



Appeal Rights

No changes have been made to the findings of the Proposed Final Order and no protests were filed during the protest period following the Proposed Final Order, therefore, there is no opportunity for appeal or judicial review of this final order (690-310-160(5)).

STATE OF OREGON

COUNTY OF MARION

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

VIESKO QUALITY CONCRETE
SCOTT ERICKSON
P.O. BOX 20610
KEIZER, OREGON 97307

PHONE: (503)393-5050

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-14780

SOURCE OF WATER: THREE WELLS IN THE WILLAMETTE RIVER BASIN

PURPOSE OR USE: INDUSTRIAL USE AND MINING OPERATIONS

MAXIMUM RATE: 6.91 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS FROM WELL 1 AND 5.57 CFS FROM WELLS 2 AND 3

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JUNE 22, 1998

POINT OF DIVERSION LOCATION: SE 1/4 SW 1/4, NW 1/4 SE 1/4, SECTION 33, T6S, R3W, W.M.; WELL 3 - 1020 FEET NORTH & 3080 FEET WEST; WELL 1 - 2200 FEET NORTH AND 1420 FEET WEST; WELL 2 - 1080 FEET NORTH AND 2380 FEET WEST ALL FORM SE CORNER, SECTION 33

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4
SW 1/4 NW 1/4
SE 1/4 NW 1/4
NE 1/4 SW 1/4
NW 1/4 SW 1/4
SW 1/4 SW 1/4
SE 1/4 SW 1/4
NE 1/4 SE 1/4
NW 1/4 SE 1/4
SW 1/4 SE 1/4

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or

The use of water shall be limited when it interferes with any prior surface or ground water rights.

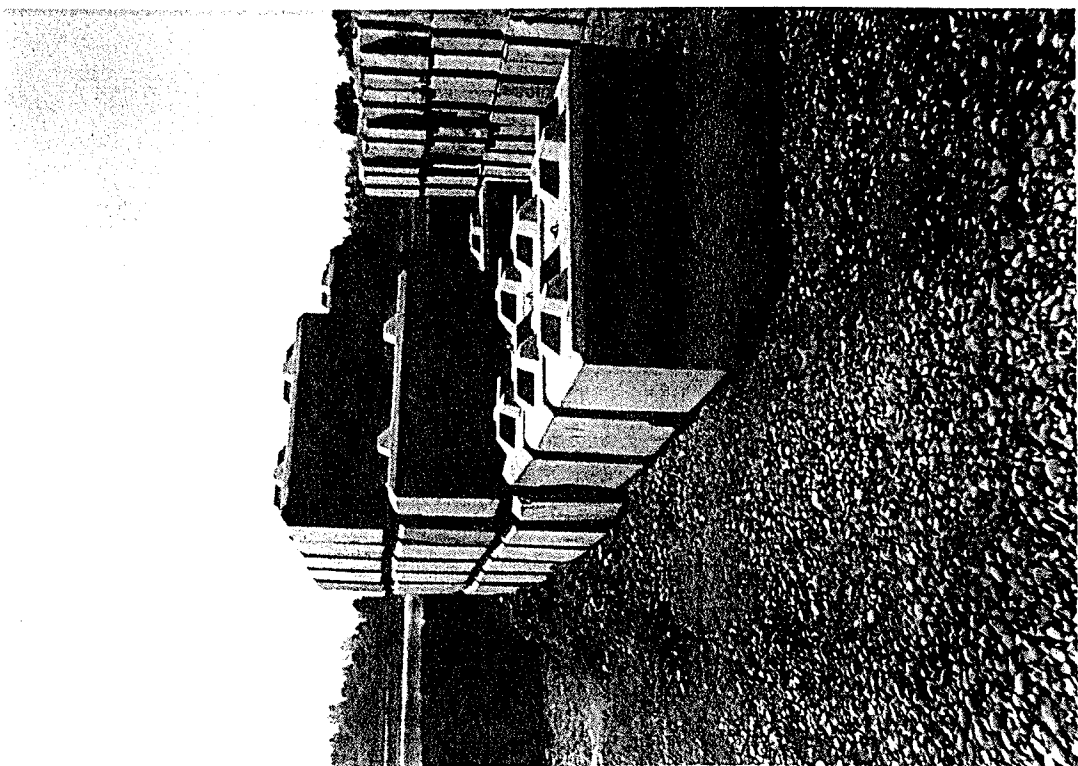
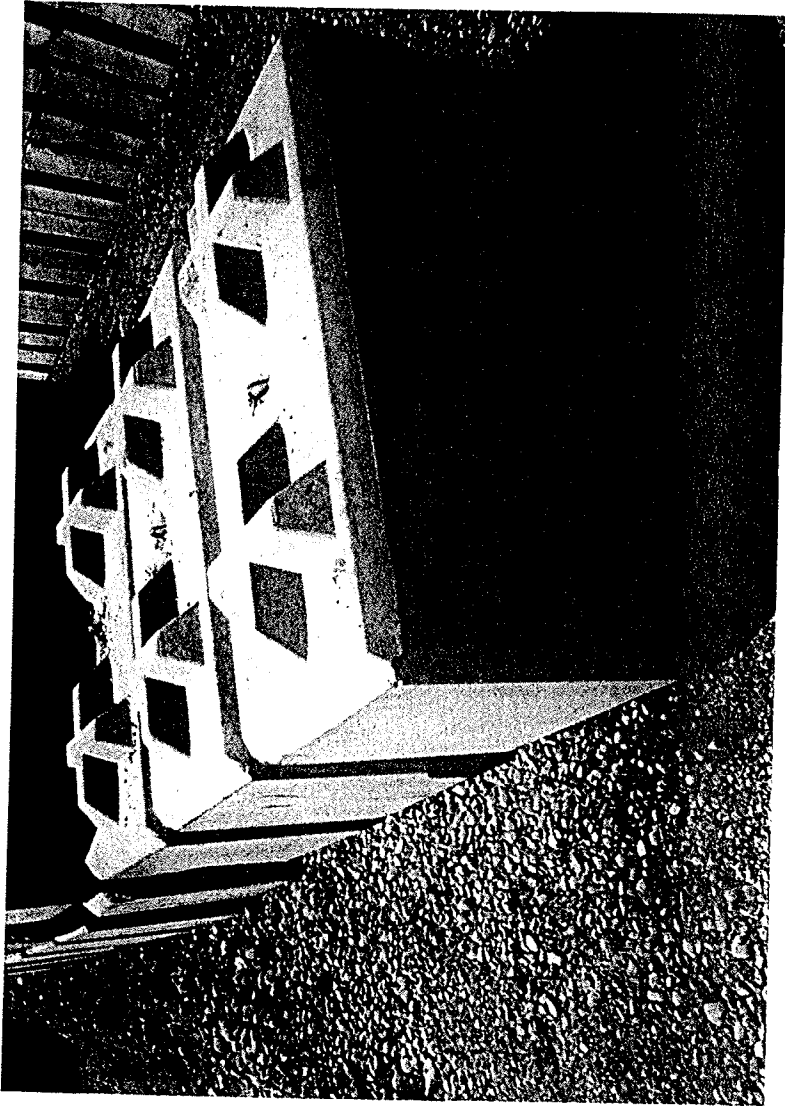
The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction of the well shall begin by April 16, 2000. Complete application of water to the use shall be made on or before October 1, 2003. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 199_

DRAFT - THIS IS NOT A PERMIT

Martha O. Pagel, Director
Water Resources Department





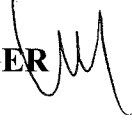
June 21, 1999

AGENDA ITEM 6C

**PUBLIC HEARING – SALE OF CITY OWNED PROPERTY
1600 BLOCK CHEMAWA ROAD NE**

CITY COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND COUNCIL MEMBERS
THROUGH: WALLY MULL, CITY MANAGER 
FROM: E. SHANNON JOHNSON, CITY ATTORNEY 
**SUBJECT: PUBLIC HEARING FOR SALE OF 25-FOOT STRIP PROPERTY
(CHEMAWA GLEN SUBDIVISION)**

Earlier this year the Hearings Officer approved a lot line adjustment and subdivision request for the Chemawa Glen Subdivision. This subdivision is located east of Chemawa Road just beyond the curve east of the intersection of Chemawa and Verda Lane. The applicant plans to access the property via Chemawa Road, but to do so needs to purchase the 21-foot by 511-foot strip of property owned by the City of Keizer. (See attached map.) The City of Keizer acquired this orphan piece from the County several years ago. The strip has a sanitary sewer line running through its entire length and storm sewer for a short portion.

During the preapplication phase of the subdivision, staff indicated that they would be willing to recommend to Council the sale of such strip, but the applicant wanted to be certain that final land use approval was received prior to purchasing the strip. Consequently, tonight's public hearing was appropriately noticed in the newspapers and is before the Council tonight for consideration.

Attached please find a copy of an appraisal indicating the value of the subject property to be \$6,800.00. I have prepared an earnest money agreement for this transaction. Considering the circumstances, staff is recommending the developer pay for title insurance and escrow costs. The City would retain an easement for the utility lines.

RECOMMENDATION:

Open and conduct a public hearing. After taking all public testimony, close the public hearing and adopt the attached resolution authorizing the City Manager to enter into the transaction of the sale of the property for \$6,800.00.

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

ESJ/tmh
enclosures

NOTICE OF PUBLIC HEARING SALE OF PROPERTY

NOTICE is hereby given that the Keizer City Council will hold a public hearing to consider the sale of real property owned by the City.

1. **Time and place of hearing:** The hearing shall be held on **Monday, June 21, 1999 at 7:00 p.m.** at the Robert L. Simon Council Chambers, Keizer City Hall, 930 Chemawa Road N.E., Keizer, Oregon. (NOT A MAILING ADDRESS.)
2. **Description of property to be sold:** A 25-foot strip of property which is located south of the adjoining property currently owned by Mountain West Investment Corp. and immediately east of Chemawa Road.
3. **Proposed uses for the property:** This property is a small strip that is zoned single-family residential. The proposed use of the 25-foot strip of property is street purposes.
4. **Reason to sell the property:** The City will consider if the property has public use or should be sold. Sale of the property will allow the City to avoid the costs of maintaining the property and will put the property on the tax rolls.

The location of the hearing is accessible to the disabled. Please contact the City Recorder at 390-3700, extension 108 at least 48 hours prior to the hearing if you will need any special accommodations to attend or participate in the hearing.

Comments are welcome at the hearing or in writing in advance of the hearing. Please forward written testimony to Tracy Davis, City Recorder, P.O. Box 21000, Keizer, Oregon 97307. **Written testimony should arrive at City Hall no later than Monday, June 21, 1999 at 5:00 p.m..** You may contact Rob Kissler at 390-3700, extension 149 for further information.

Dated this 11th day of June, 1999.

Tracy L. Davis, CMC
City Recorder



Spencer Powell & Associates, Inc. – PGP, Inc.

LIMITED RESTRICTED USE APPRAISAL

Residential Land

1600 Block of Chemawa Rd NE
Keizer, Oregon 97303

PREPARED FOR

Kris Gorsuch
Attorney at Law
Saalfeld, Griggs & Gorsuch
250 Church St SE, Suite 300
Salem, Oregon 97301

PREPARED BY

C. Spencer Powell, MAI
Spencer Powell & Associates, Inc. – PGP, Inc.
925 Commercial St. SE, Suite 310
Salem, Oregon 97302
(503) 371-2403

OFFICES IN

Portland – Sacramento – Salem
Seattle – Vancouver

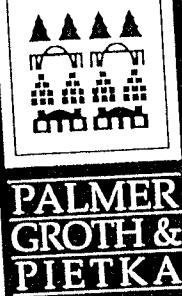
CSP

al Estate Consultants

Spencer Powell & Associates, Inc.

925 Commercial St. SE, Suite 310
Salem, Oregon 97302-4109
503.371-2403 • 503.371-2613 Fax
email.spowell@pgpinc.com

— & —



Palmer, Groth & Pietka

May 7, 1999

Kris Gorsuch
Attorney at Law
Saalfeld, Griggs & Gorsuch
250 Church St SE, Suite 300
Salem, Oregon 97301

RE: **Residential Land (07-3W-02AA Tax Lot 100)**
1600 Block of Chemawa Rd NE
Keizer, Oregon

Dear Mr. Gorsuch:

Per your request, we have appraised the captioned property using generally accepted appraisal principles and practices. This is a *Limited* appraisal assignment, presented in a *Restricted Use* report format. The attached report complies with the report requirements set forth under Standards Rule 2-2(c) of the *Uniform Standards of Professional Appraisal Practice (USPAP)* as adopted by the Appraisal Foundation and the Appraisal Institute. It does not present in detail, discussions of the data, reasoning, or analyses that were used in the appraisal process to develop the appraisers' opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraisers' file. The depth of discussion contained in the report is specific to the needs of the client and for the stated use.

Based on our investigation and analysis of available information, the estimated market value of the fee simple interest in the property, as of May 5, 1999 is:

\$6,800

With Offices In
Vancouver, Seattle, Portland, Salem & Sacramento

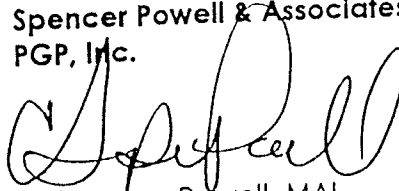
Saalfeld, Griggs & Gorsuch
Kris Gorsuch

May 7, 1999
Page 2

This valuation is subject to the conditions and comments presented in this report. The analysis has been prepared by the undersigned.

Sincerely,

Spencer Powell & Associates, Inc.
PGP, Inc.

A handwritten signature in black ink, appearing to read "C. Spencer Powell", written over the printed name.

C. Spencer Powell, MAI
OR State Certified General Appraiser
No. C000154

CSP:jet
P99098

LIMITED RESTRICTED USE APPRAISAL

USE OF REPORT RESTRICTION

The use of the report is restricted solely to the client, who possesses substantial knowledge regarding the subject. The client's use is restricted to decision making regarding purchase of the subject property. Please note that the report cannot be comprehensively understood without review of additional information contained in the appraiser's work file.

PROPERTY IDENTIFICATION

The subject is located in the 1600 Block of Chemawa Rd NE, Keizer, Oregon. It is known as Assessor's Parcel 07-3W-02AA tax lot 100.

INSPECTION/VALUATION/REPORT DATES

The date of inspection and date of valuation is May 5, 1999. The date of the report is May 7, 1999.

PURPOSE AND INTENDED USE OF APPRAISAL

The purpose of this appraisal is to estimate the market value of the fee simple interest of the subject property. The client will use the appraisal for decision-making purposes related to the purchase of the subject property.

DEFINITION OF MARKET VALUE

This definition is in compliance with the OCC (Office of the Comptroller of the Currency), FDIC (Federal Deposit Insurance Corporation), FIRREA (Federal Institutions Reforms, Recovery, and Enforcement Act), and USPAP (Uniform Standards of Professional Appraisal Practice) as adopted by the Appraisal Foundation and the Appraisal Institute.

Market Value, as defined by the *Uniform Standards of Professional Appraisal Practice*, 1998 Edition, is:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and

LIMITED RESTRICTED USE APPRAISAL (continued)

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

PROPERTY RIGHTS APPRAISED

Fee simple estate, defined in *The Dictionary of Real Estate Appraisal*, Third Edition (1993), as:

"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

APPRAISAL DEVELOPMENT AND REPORTING PROCESS

Preparation of this appraisal included:

- An inspection of the subject property.
- Inspection of the subject property neighborhood.
- Land sale comparable research in subject's market. All information utilized was confirmed.
- Discussions with the City of Keizer Planning Department and Multi-Tech Engineering.
- Preparation of the Sales Comparison Approach to estimate market value.

USE OF RECOGNIZED APPRAISAL APPROACHES

This appraisal utilizes the Sales Comparison Approach to estimate the subject's market value.

PROPERTY OWNERSHIP AND SALES HISTORY

According to Marion County records, title to the property is currently vested in the City of Keizer. No transference of title has occurred within the past three years.

TAX AND ASSESSMENT INFORMATION

The City of Keizer owns the parcel; therefore tax and assessment information is not applicable.

PROPERTY DESCRIPTION

The subject site is an 11,326 SF (0.26 acre) parcel of RS-zoned land located on Chemawa Road NE in Keizer, Oregon. It is a long, narrow strip of property, approximately 21.31 feet wide and 511.03 feet in length. The subject is level and at grade. Access is via Chemawa Road NE

¹ The Appraisal Foundation, *The Uniform Standards of Professional Appraisal Practice*, 1998 e. (United States of America: 1998), p. 163. and *Code of Federal Regulations, Part 1608*, 7-25-91 revision, p. 2, Section 1608.2 (f).

LIMITED RESTRICTED USE APPRAISAL (continued)

only. Public utilities are available to the site. No apparent topographic or drainage problems are noted. According to Flood Insurance Rate Map 410288 0005 A, dated May 1, 1985, the subject is not within the 100-year or 500-year flood plain. A sanitary sewer line, access right of way, and storm drain encumber the subject property.

HIGHEST AND BEST USE

Given its shape and other encumbrances, the subject property is deemed to be an uneconomic remainder. Therefore, the highest and best use of the subject is for additional plottage to an adjoining property owner.

VALUATION

This appraisal is based upon analysis, which is limited to the Sales Comparison Approach and is presented in a Restricted Use Format. This format is designed to report conclusions only. A detailed discussion of the valuation is not presented.

Uneconomic remainder sales in the Salem area tend to sell to adjoining property owners at a discount from 40 to 60 percent. In almost every case the acquirer wished to expand his/her holdings at a price below the value of the parent parcel. The addition of these uneconomic remainders to an adjoining larger holding results in increased value when added to the parent parcel. The seller is willing to take the discount because there is seldom any other buyer. If the seller is motivated to sell, the acceptance of the discount is mandatory. However, if the seller is not motivated to sell, as in the case of a municipality they may not be interested in accepting a discount.

Several land sales in the area have been researched to establish the land value if the subject was not an uneconomic remainder. The comparable sales suggest a value of \$1.50 per SF for the subject, if it were a part of the parent parcel. Applying the 40 to 60 percent discount suggests values of the uneconomic remainder parcel between \$0.60 to \$0.90 per SF.

Typically, uneconomic remainders do not include additional development pitfalls other than their shape, size, and location. In the case of the subject property, these factors, as well as some additional encumbrances, as discussed in the Property Description section, further limit its potential use. Therefore, a value at the bottom of the range is deemed most appropriate, or \$0.60 per SF.

Therefore, the indicated market value of the fee simple interest in the property as of May 5, 1999, is $(11,326 \times \$0.60)$ \$6,795.60 rounded to:

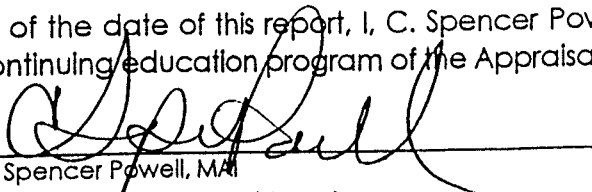
\$6,800

CERTIFICATION OF APPRAISAL

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and reflects our personal, unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective personal interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- We have no bias with respect to the property that is the subject of this report or to the parties involved in this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment was not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the *Code of Professional Ethics and Standards of Professional Appraisal practice* of the Appraisal Institute, and the *Uniforms Standards of professional Appraisal Practice*, as set forth by the Appraisal Standards Board of the Appraisal Foundation.
- We, C. Spencer Powell and Jason E. Tokarski, have made a personal inspection of the property that is the subject of this report. C. Spencer Powell has not made a personal inspection of the appraisal property.
- Jason E. Tokarski, Appraiser Assistant (OR Registration No. AA01255) contributed significant assistance in the preparation of this report. Except as noted herein, the persons signing this report received no additional professional assistance.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, I, C. Spencer Powell, have completed the requirements of the continuing education program of the Appraisal Institute.


C. Spencer Powell, MAI
OR State Certified General Appraiser
No. C000154

**SPENCER POWELL & ASSOCIATES, INC.
EXPERIENCE & QUALIFICATIONS**

EXPERIENCE AND QUALIFICATIONS

Spencer Powell & Associates, Inc. has been serving the northwest since 1973. The firm has offices in both Salem and Portland, concentrating on complex commercial, industrial and multi-family valuation assignments for government, corporations and individuals. Work has been performed on a national scale. A sample of clients served is included below.

Financial:

Absolute Funding, Inc.
American Federal Savings
American Pacific Bank
American Savings & Loan (FCA)
AT&T Capital Credit
Baker Mortgage, Inc.
Bank of America
Bank of California
Bank of Newport
Bank of Salem
Benjamin Franklin
Berkeley Bank and Trust
Centennial Bank
Church Extension Plan
Citizens Bank
Commercial Bank
Continental Bank
Cypress Pointe Capital, Inc.

Eichler, Fayne & Associates
Family Federal Savings
First Federal, Coeur d'Alene
First Federal, Longview
First Federal, McMinnville
First Interstate Bank, N.A.
First Mutual Bank
First Tennessee Bank
First Security Bank
First Security Leasing Company
Freedom Federal Savings
Interwest Mortgage
Independence/Graimark
Juniper Banking Company
Key Bank of Oregon
Liberty Federal Bank
Old National Financial

National Mortgage Company
Norris, Beggs & Simpson
Pioneer Trust Bank, N.A.
Rainier Bank
Seafirst Real Estate Advisory
Southern Pacific Thrift & Loan
The Oregon Bank
U.S. National Bank of Oregon
United Savings Bank
Vancouver Federal
Ward Cook Inc.
Washington Federal Bank
Washington Mutual Bank
Western Bank
Western Security Bank
Willamette Savings
Willamette Resources
Yakima Valley Bank

Governmental:

Benton County
Bonneville Power Administration
City of Albany
City of Coos Bay
City of Corvallis
City of Eugene
City of Lincoln City
City of Salem
City of Silverton
City of Woodburn
Dallas School District
Douglas County

FDIC
Federal Home Loan Bank
FSLIC
GSA - State of Oregon
Klamath County
Lane County
Marion County
Military Dept. - State of Oregon
Mount Angel School District
Oregon Dept. of Transportation
Oregon Division of State Lands
Oregon Dept. of General Services

Network Oregon Affordable Housing
Port of Portland
Resolution Trust Corporation
Riverdale School District
Salem/Keizer School District
U.S. Army Corps of Engineers
U.S. Bureau of Land Management
U.S. Dept. of Interior
U.S. Marshall's Office
U.S. Forest Service
Washington Dept. of Fish & Wildlife
Woodburn School District
Yamhill County Housing Authority

Insurance/Medical:

Mutual of Enumclaw
Oregon Mutual
Killen Enterprises
Mid-Valley Healthcare
Harvard Medical

Northwest Life Assurance
OMO Partnership
Salem Hospital
Corvallis Clinic
Good Samaritan Hospital
(Corvallis)

MetLife Capital Insurance Company
Equitable of Iowa
Pacific Mutual
St. Paul Fire & Marine
Osteon Partners

General:

Aegon USA Realty, Inc.
Agripac, Inc.
Atlantic Richfield Corporation
Brand "S" Corporation
Capital Consultants
Capital Auto World
Chevron, USA
Chrysler Realty
Colson & Colson Construction
Conservation Fund
DAV II Investments
McDonalds Corporation
George R. Suniga Enterprises

First American Title
International Business Machines
Keller Enterprises
Merritt Truax
Meier & Wyse
Miller, Nash
Microlect, Inc.
Morrow Crane
Mt. West Development
Moyer Theaters
Neilsen Manufacturing
Nippon Kokan K.K.
Nonpareil, Inc.

Pacific Petroleum
Portland General Electric
River Network
Saeftel, Griggs & Gorsuch
Schnitzer Investment
State Farm Insurance Co.
Stoel, Rives, L.L.P.
Sun America Investments
Texaco Lubricants
Valley Rolling Mills
Viking Insurance Company

APPRAISER QUALIFICATIONS

EXPERIENCE AND QUALIFICATIONS

C. SPENCER POWELL, MAI, is a partner in the real estate appraisal and consultation firm of Spencer Powell & Associates, Inc. - PGP, Inc., 925 Commercial Street SE, Suite 310, Salem, Oregon. He was employed as a staff appraiser for Hagood & Daniels, Inc., Fort Worth, Texas from 1971 through 1973. He has been an independent fee appraiser in Oregon since 1973. He has qualified as an expert witness in Circuit Courts throughout Oregon as well as U.S. Bankruptcy Court and Federal Court. Mr. Powell works on complex valuation and consultation assignments throughout the Northwest.

PROFESSIONAL AFFILIATIONS

Appraisal Institute, Designated MAI (No. 5518), 1976
National President, Appraisal Institute, 1996
Chair, AI Educational Trust, 1998-99
1983 Oregon Chapter President, Governing Council 1985-1987, (Appraisal Institute)
Member National Appraisal Review Committee (ARC) 1978-1980, (Appraisal Institute)
Regional Member Ethics Administration 1983-1987, (Appraisal Institute)
Vice Chairman National Ethics Administration Division 1988
Vice Chairman National Ethics and Counseling Committee 1989
National Chairman, Ethics & Counseling Committee, 1993
Northwest Regional Vice President, 1990, (Appraisal Institute)
1974-75 Salem Chapter President, Society of Real Estate Appraisers
District Vice-Governor, Society of Real Estate Appraisers, 1978.
Licensed Oregon Real Estate Broker.
State of Oregon - Certified Appraiser No. C000154.

COMMUNITY

Founder, Member of the Board, Bank of Salem, 1994-99.
Board Member - American Home Savings and Loan Association, 1987-1989.
Board Member - Downtown Development Board, 1990-1993.
Board Member, Vice President, Building Committee Chairman - United Methodist Retirement Center 1980-1987.
Board Member, Past President - Salem Economic Development Corporation 1981-1985.
Board Member - Salem Area Chamber of Commerce 1978-1981.
Board Member - Friends of Deepwood 1975-1977.

EDUCATION:

Oregon State University-Corvallis, Oregon; University of Oregon-Eugene, Oregon.
Majored in Real Estate and Urban Studies; Bachelor of Business Administration.

EXPERIENCE

A real estate appraiser since 1971, an independent appraiser and consultant since 1973.

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal is subject to the following limiting conditions:

SPECIAL ASSUMPTIONS

This is a Restricted Use Appraisal Report, which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(c) of the *Uniform Standards of Professional Appraisal Practice* for a Restricted Use Appraisal Report. As such, it does not include discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraisers' opinion of value. Supporting documentation concerning the data, reasoning and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.

GENERAL ASSUMPTIONS

The analysis assumes that the Marion County Assessor's office legal description accurately represents the subject property. A survey has not been provided to the appraisers. If further verification is required, a survey by a registered surveyor is advised.

I assume no responsibility for matters legal in character, nor do I render any opinion as to title, which is assumed to be marketable. All existing liens, encumbrances, and assessments have been disregarded, unless otherwise noted, and the property is appraised as though free and clear, under responsible ownership, and competent management.

The exhibits in this report are included to assist the reader in visualizing the property. I have made no survey of the property and assume no responsibility in connection with such matters.

Unless otherwise noted herein, it is assumed that there are no encroachments, zoning, or restrictive violations existing in the property.

The appraiser assumes no responsibility for determining if the property requires environmental approval by the appropriate governing agencies, nor if it is in violation thereof, unless otherwise noted herein.

Information presented in this report has been obtained from reliable sources, and it is assumed that the information is accurate.

This report shall be used for its intended purpose only, and by the parties to whom it is addressed. Possession of the report does not include the right of publication.

The appraiser may not be required to give testimony or to appear in court by reason of this appraisal, with reference to the property in question, unless prior arrangements have been made therefor.

The statements of value and all conclusions shall apply as of the dates shown herein.

The appraiser has no present or contemplated future interest in the property which is not specifically disclosed in this report.

Neither all, nor any part, of the contents of this report shall be conveyed to the public through

ASSUMPTIONS AND LIMITING CONDITIONS (continued)

advertising, public relations, news, sales, or other media without the written consent or approval of the author. This applies particularly to value conclusions and to the identities of the appraiser and the firm with which the appraiser is connected.

This report must be used in its entirety. Reliance on any portion of the report independent of others may lead the reader to erroneous conclusions regarding the property values. No portion of the report stands alone without approval from the author.

The liability of Spencer Powell & Associates, Inc. - PGP, Inc., and employees is limited to the client only and only up to the amount of the fee actually received for the assignment. Further, there is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser is in no way responsible for any costs incurred to discover or correct any deficiency in the property. The appraiser assumes that there are no hidden or unapparent conditions of the property, subsoil, or structures which would render it more or less valuable. In the case of limited partnerships or syndication offerings or stock offerings in real estate, the client agrees that in case of lawsuit (brought by lender, partner, or part owner in any form of ownership, tenant, or any other party), any and all awards, settlements, or cost, regardless of outcome; the client will hold Spencer Powell & Associates, Inc. - PGP, Inc., completely harmless.

The appraiser is not qualified to detect the presence of toxic or hazardous substances or materials which may influence or be associated with the property or any adjacent properties, have made no investigation or analysis as to the presence of such materials, and expressly disclaim any duty to note the presence of such materials. Therefore, irrespective of any degree of fault, Spencer Powell & Associates, Inc. - PGP, Inc., and its partners, agents, and employees, shall not be liable for costs, expenses, damages, assessments, or penalties, or diminution in value, property damage, or personal injury (including death) resulting from or otherwise attributable to toxic or hazardous substances or materials, including without limitation hazardous waste, asbestos material, formaldehyde, or any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, solids, or gasses, waste materials or other irritants, contaminants, or pollutants.

The appraiser assumes no responsibility for determining if the subject complies with the *Americans with Disabilities Act (ADA)*, which prescribes specific building standards which may be applied differently to different buildings, depending on such factors as building age, historical significance, amenability to improvement, and costs of renovation. Spencer Powell & Associates, Inc. - PGP, Inc., its partners, agents, and employees, shall not be liable for any costs, expenses, assessments, penalties, or diminution in value resulting from non-compliance. Except as otherwise noted herein, this appraisal assumes that the subject complies with all ADA standards appropriate to the subject improvements; if the subject is not in compliance, the eventual renovation costs and/or penalties would negatively impact the value of the subject. If the necessary renovation costs, time period needed for renovation, and penalties for non-compliance (if any) were known today, appropriate deductions would be made to the value conclusions reported herein.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-_____

3 AUTHORIZING THE CITY MANAGER TO ENTER INTO A
4 TRANSACTION FOR THE SALE OF CITY OWNED
5 APPROXIMATE 25 FOOT STRIP TO MOUNTAIN WEST
6 INVESTMENT CORP. (CHEMAWA GLEN SUBDIVISION)

7 WHEREAS, Mountain West Investment Corp. has requested the City to sell to it an
8 approximate 25-foot by 511-foot strip of property running east west, east of Chemawa Road
9 for use as a public street and partial building lot;

10 WHEREAS, a notice of hearing as provided in ORS 221.725 was completed and a
11 public hearing was held on June 21, 1999;

12 WHEREAS, the City Council of the City of Keizer enters the findings set forth below;

13 NOW, THEREFORE,

14 BE IT RESOLVED as follows:

15 Section 1. PUBLIC HEARING. A public hearing was held before the City Council
16 on June 21, 1999. Notice of such hearing was published concerning the above referenced
17 sale.

18 Section 2. FINDINGS. The notice requirements of ORS 221.725 have been complied
19 with. The nature of the proposed sale and the general terms thereof, including an appraisal
20 or other evidence of the market value of the property have been fully disclosed by the City
21 Council at the public hearing. Any resident of the city has been given an opportunity to
22 present written or oral testimony at the hearing.

Lien & Johnson

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

1 The property is not developable as it is bisected by storm and sanitary sewer
2 easements, including working easements. The property is not necessary for public use,
3 except for such easements. The subject property is necessary to the proposed buyer in that
4 it provides access to the buyer's approved subdivision (Lot line Adjustment/Subdivision Case
5 No. 99-07).

6 It is necessary and convenient to sell the real property at this time as it would be of
7 little or no use to anyone other than the proposed buyer herein and the proposed buyer now
8 wishes to buy the property.

9 Section 3. DECISION TO SELL. Following the public hearing, the City Council
10 voted to sell the subject property to the buyer, on the terms set forth in the attached
11 Agreement.

12 Section 4. AUTHORIZATION TO CITY MANAGER. The City Council hereby
13 authorizes the City Manager to enter into the attached Sale Agreement and Receipt for
14 Earnest Money and to take all acts necessary to consummate the transaction as contemplated
15 therein.

16 PASSED this _____ day of _____, 1999.

17 SIGNED this _____ day of _____, 1999.

18 _____
19 Mayor

20 _____
21 City Recorder

22 5051COK.004

**SALE AGREEMENT AND
RECEIPT FOR EARNEST MONEY**

SELLER: CITY OF KEIZER, an
Oregon municipal corporation
PO Box 21000
Keizer, OR 97307

BUYER: MOUNTAIN WEST INVESTMENT CORP.,
an Oregon corporation
c/o Sylvia Sum, Attorney at Law
PO Box 470
Salem, OR 97301-0470

RECITAL:

Seller desires to sell to Buyer and Buyer desires to purchase from Seller certain real property located in Marion County, Keizer, Oregon (the "Property"):

See Exhibit "A" attached hereto and by this reference incorporated herein.

SUBJECT to an easement reserved by Seller for utility purposes over the entire property.

AGREEMENT:

Now, therefore, for valuable consideration, the parties agree as follows:

1. **Sale and Purchase.** Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer for the sum of \$6,800.00 the "Purchase Price").

2. **Earnest Money.** Seller hereby acknowledges receipt of the sum of \$1,000.00 paid by Buyer as earnest money. The earnest money shall be applied to the Purchase Price on the Closing Date, as that term is defined below.

3. **Payment of Purchase Price.** The Purchase Price shall be paid as follows:

3.1 At closing, the earnest money shall be credited to the Purchase Price.

3.2 At closing, Buyer shall pay the balance of the purchase price in cash.

4. **Closing.** Closing shall take place on or before July 20, 1999 (the "Closing Date").

5. **Preliminary Title Report.** Within ten (10) days after full execution of this Agreement, Seller shall furnish to Buyer a preliminary title report showing the condition of title to the Property, together with copies of all exceptions listed therein (the "Title Report"). Buyer will have ten (10) days from receipt of the Title Report to review the Title Report and to notify Seller, in writing, of Buyer's disapproval of any exceptions shown in the Title Report. Buyer shall not be required to notify Seller with regard to any trust deed or mortgage or other monetary lien which will be presumed disapproved. Those exceptions not objected to by Buyer are referred to below as the "Permitted Exceptions." Zoning ordinances, building restrictions, taxes due and payable for the current tax year, and reservations in federal patents and state deeds shall be deemed Permitted Exceptions. If Buyer notifies Seller of disapproval of any exceptions, Seller shall have fifteen (15) days after receiving the disapproval notice to either remove the exceptions or provide Buyer with reasonable assurances of the manner in which the exceptions will be removed before the transaction closes. If Seller does not remove the exceptions or provide Buyer with such assurances, Buyer may terminate this Agreement by written notice to Seller given within fifteen (15) days after expiration of such 15-day period, in which event the earnest money shall be refunded to Buyer and this Agreement shall be null and void.

6. **Deed.** On the Closing Date, Seller shall execute and deliver to Buyer a statutory bargain and sale deed, conveying the Property to Buyer.

7. **Title Insurance.** Within fifteen (15) days after closing, Buyer shall be furnished, at Buyer's expense, with an owner's policy of title insurance in the amount of the purchase price, standard form, insuring Buyer as the owner of the Property subject only to the usual printed exceptions and the Permitted Exceptions.

8. **Costs and Expenses.** Seller shall pay for Seller's share of prorations. Buyer shall pay for all premiums for the title insurance policy, all document recording charges, all escrow fees and costs, and Buyer's share of prorations. Buyer and Seller shall each pay their own legal and professional fees respectively. All other costs and expenses shall be allocated between Buyer and Seller in accordance with the customary practice in Marion County, Oregon.

9. **Taxes; Prorates.** Real property taxes for the then current tax year, if any, and other usual items shall be prorated as of the Closing Date.

10. **Possession.** Buyer shall be entitled to possession immediately upon closing.

11. **Property Included.** The Property is bare land only. No fixtures or personal property are part of the Property.

12. **Personal Property.** No personal property is included as part of the Property being sold to Buyer.

13. **Property Sold "AS IS".** Buyer has had and has exercised a full and complete opportunity to inspect and investigate the property. No representations or warranties have been made by the Seller or anyone on Seller's behalf to the Buyer as to the environmental or other condition of the premises or the improvements, and it is understood and agreed that the premises are sold "as is" at the time this Agreement is closed.

Buyer hereby waives, releases, acquits and forever discharges Seller, its employees or agents or any other person acting on behalf of Seller, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Buyer now has or which may arise in the future on account of or in any way growing out of or in connection with any physical characteristics or existing condition including, without limit, subsurface conditions and solid and hazardous wastes, and hazardous substances, on, under, or related to the real property, or any law or regulation applicable thereto.

Pursuant to ORS 105.465(1)(a), Buyer hereby indicates to the Seller, and such indication is conclusive, that the real property, will be used for purposes other than a residence for the Buyer or the Buyer's spouse, parent or child. Therefore, a statutory seller's disclosure or disclaimer form is not required.

14. **Seller Held Harmless as Municipal Government.** Buyer agrees and understands that Seller's responsibility and obligations under this Agreement do not and can not bind Seller as to its duties as municipal government which are necessarily separate and apart from its obligations hereunder. To that end, with regard to any actions that may affect Buyer's operation of the Premises in any manner whatsoever, Buyer agrees to hold Seller harmless from any acts Seller may take to enforce in good faith any lawful ordinances or regulations, or any other acts Seller may take with regard to the adoption of appropriate and necessary laws and ordinances, or any other acts Seller may take in its role as municipal government. This provision shall survive closing and shall not merge with the deed.

15. **Binding Effect/Assignment Restricted.** This Agreement is binding on and will inure to the benefit of Seller, Buyer, and their respective heirs, legal representatives, successors, and assigns.

16. Remedies. Time is of the essence of this Agreement. If this Agreement does not close, through no fault of Seller, prior to the close of business on the closing date specified above, Buyer shall forfeit the earnest money to Seller as liquidated damages, and such forfeiture shall be Seller's sole remedy. If Seller cannot furnish marketable title at closing or otherwise fails to consummate this transaction, the earnest money shall be refunded to Buyer, and Buyer shall be entitled to its actual out-of-pocket expenses. The refund of the earnest money and reimbursement of the expenses shall be Buyer's sole remedy.

17. Attorney Fees. In the event action is instituted to enforce any term of this Agreement, the prevailing party shall recover from the losing party reasonable attorney fees incurred in such action as set by the trial court and, in the event of appeal, as set by the appellate courts.

18. Notices. All notices and communications in connection with this Agreement shall be given in writing and shall be delivered personally or transmitted by certified or registered mail, return receipt requested, to the appropriate party at the address first set forth above. Any notice so transmitted shall be deemed effective on the date delivered personally or it is placed in the United States mail, postage prepaid. Either party may, by written notice, designate a different address for purposes of this Agreement.

19. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the purchase and sale of the Property. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the parties. This Agreement may not be modified or amended except by a written agreement executed by both parties.

20. Applicable Law. This Agreement shall be construed, applied, and enforced in accordance with the laws of the state of Oregon.

21. Acceptance. This Agreement shall be null and void unless accepted by Seller, by Seller's execution of it, on or before June 23, 1999.

22. Required Statutory Warning. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

EXHIBIT "A"

TL #52990-000

Beginning at a point which is 544.50 feet North and 352.23 feet South 88° 17' West from the Southeast corner of the W. P. Pugh Donation Land Claim in Township 6 South, Range 3 West of the Willamette Meridian, in Marion County, Oregon, said point being the Southwest corner of the tract of land conveyed to William J. Slayton, et ux, by deed recorded in Book 534, Page 307, Deed Records for Marion County, Oregon; thence North 1° 54' West along the West line of said tract, 20.00 feet; thence South 88° 05' West to a point on the Easterly line of Chemawa Road; thence South 24° 20' East along the East line of said Chemawa Road 21.648 feet to a point on the South line of the tract of land conveyed to Harold Richardson et ux, by deed recorded in Book 429, Page 333, Deed Records for Marion County, Oregon; thence North 88° 05' East along the South line of said Richardson Tract to the place of beginning.

MT. WEST INVESTMENT CORP.
698 12TH STREET, S.E., SUITE 210
SALEM, OR 97301

BANK OF SALEM
1995 COMMERCIAL ST., SE
P.O. BOX 847 - SALEM, OR 97302
96-661/1232

4682

6/17/1999

PAY TO THE
ORDER OF

City of Keizer

\$ **1,000.00

One Thousand and 00/100*****

DOLLARS

City of Keizer
Keizer, Oregon

MEMO:

ChemawaGlen:LandEM

Signia Ann Thorton

⑈004682⑈ ⑆123206613⑆ 001 102273⑈

SECURITY FEATURES: MICRO PRINT TOP & BOTTOM BORDERS COLORED PATTERN ARTIFICIAL WATERMARK ON REVERSE SIDE MISSING FEATURE INDICATES A COPY



June 21, 1999

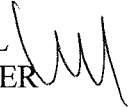
AGENDA ITEM 7a

**RESOLUTION – ADOPTION OF 1999-2000 CITY OF KEIZER
BUDGET**

CITY COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND COUNCIL MEMBERS

THROUGH: WALLY MULL
CITY MANAGER 

FROM: SUSAN GAHLSDORF, CPA
FINANCE DIRECTOR 

SUBJECT: RESOLUTION ADOPTING FISCAL YEAR 1999-00 BUDGET, MAKING APPROPRIATIONS, AND IMPOSING AND CATEGORIZING TAXES

ISSUE:

The Budget Committee, comprised of the Council and seven citizens, reviewed and approved the Manager Recommended budget for Fiscal Year 1999-00.

One June 7, 1999, the Council conducted a public hearing and moved to adopt the Committee Approved budget with the following amendments:

	<u>Committee Approved</u>	<u>Increase</u>	<u>Decrease</u>	<u>Council Adopted</u>
<u>Street Fund:</u>				
Capital Outlay				
Vehicle	\$ 7,500		\$7,500	\$ 0
Budgeted Fund Balance	\$72,836	\$ 7,500		\$80,336

Revenue Sharing Fund:

Capital Outlay				
Police Radios	\$ 30,600		\$17,065	\$13,535
Police Mobil Computer Terminal	\$ 26,450		\$12,340	\$14,110
Patrol Vehicle	\$ 48,700		\$32,465	\$16,235
Contingency	\$ 1,101	\$61,870		\$62,971

Water Fund:

Capital Outlay				
Vehicle	\$ 7,500		\$7,500	\$ 0
Budgeted Fund Balance	\$71,470	\$ 7,500		\$78,970

RECOMMENDATION:

Staff recommends that the City Council adopt the City Budget as shown on the attached resolution.

CITY OF KEIZER, STATE OF OREGON

RESOLUTION R99-_____

ADOPTING THE FY'99 BUDGET, MAKING APPROPRIATIONS
AND IMPOSING AND CATEGORIZING TAXES

BE IT RESOLVED, that the City Council of the City of Keizer hereby adopts a budget for fiscal year 1999-00 in the sum of \$14,002,228 now on file at the City Hall.

BE IT FURTHER RESOLVED that the amounts for the fiscal year beginning July 1, 1999, and for the purposes shown below are hereby appropriated as follows:

General Fund

Administration	\$535,915
Parks	124,726
Community Development	255,975
Municipal Court	274,720
Police	3,439,186
Stadium Operations	29,638
Contingency	80,243

TOTAL GENERAL FUND	\$4,740,403
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Revenue Sharing

Expenditures	132,218
Contingency	62,970

TOTAL REVENUE SHARING	195,189
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911 Communications

Expenditures	127,849
Contingency	161,495

TOTAL 911 COMMUNICATIONS	289,344
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Housing Services	Expenditures	236,972
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TOTAL HOUSING SERVICES	236,972
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Crime Prevention	Expenditures	10,768
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TOTAL CRIME PREVENTION	10,768
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Street	Expenditures	1,762,234
	Contingency	116,807

TOTAL STREET	1,879,041
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City Hall Facility	Expenditures	100,000	
	Contingency	14,471	
TOTAL CITY HALL FACILITY			114,471
Parks Improvement	Expenditures	128,000	
	Contingency	273,556	
TOTAL PARKS IMPROVEMENT			401,556
Street Lighting Districts	Expenses	299,434	
	Contingency	5,232	
TOTAL STREET LIGHTING			304,666
Utilities	Expenses	3,099,166	
	Debt Service	9,345	
	Transfers	125,565	
	Contingency	26,199	
TOTAL UTILITIES			3,260,275
Water	Expenses	1,456,863	
	Debt Service	381,660	
	Transfers	50,000	
	Contingency	56,020	
TOTAL WATER			1,944,543
Water Facility Replacement Reserve	Expenses	70,000	
	Reserve	180,000	
TOTAL WATER FACILITY REPLACEMENT RESERVE			250,000
Sewer Reserve	Expenses	375,000	
TOTAL SEWER RESERVE			375,000
TOTAL ALL FUNDS			14,002,228

BE IT FURTHER RESOLVED that the City Council of the City of Keizer hereby imposes the taxes provided for in the adopted budget at the rate of \$2.0838 per \$1,000 of assessed value for operations; and that these taxes are hereby imposed and categorized for tax year 1999-2000 upon the assessed value of all taxable property within the district.

**General
Government**

General Fund \$2.0838/\$1000

PASSED this _____ day of _____, 1999.

SIGNED this _____ day of _____, 1999.

Mayor

City Recorder



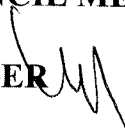
June 21, 1999

AGENDA ITEM 7b

**ORDINANCE – AMENDMENTS TO PROVIDE FOR CHILD
FOSTER HOMES**

CITY COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND COUNCIL MEMBERS
THROUGH: WALLY MULL, CITY MANAGER 
FROM: E. SHANNON JOHNSON, CITY ATTORNEY 
SUBJECT: AMENDMENTS TO PROVIDE FOR CHILD FOSTER HOMES

At the Council's last meeting a public hearing was held on the adoption of amendment to the Keizer Development Code to provide for child foster homes as permitted and conditionally permitted uses in certain zones. You may remember that this came before the Planning Commission and the City Council to add child foster homes because references to such uses were inadvertently left out of the new Development Code.

At its last meeting the Council asked staff to get further clarification from the Planning Commission with regard to the Commission's recommendation for child foster homes in the Medium Density Residential, Residential Limited and High Density Residential zones. The matrix provided in Amy's staff report indicated that the amendment was for six or more children as a conditional use. There was no maximum on the number of children allowed.

At its June 9, 1999 meeting, the Planning Commission considered this issue and recommends that the language stay as it was in the previous Keizer Zoning Ordinance. The commission felt that the higher density zones could accommodate larger child foster homes and that the requirement that such uses go through the conditional use review process would prevent problems from occurring.

RECOMMENDATION:

Adopt the attached Ordinance.

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

ESJ/tmh
enclosure

1 BILL NO. ____

A BILL

ORDINANCE NO.
99-_____

2

3

FOR

4

AN ORDINANCE

5

AMENDING THE KEIZER DEVELOPMENT CODE TO
6 ALLOW FOR CHILD FOSTER HOMES AS PERMITTED AND
7 CONDITIONALLY PERMITTED USES IN CERTAIN ZONES;
8 AMENDING ORDINANCE NO. 98-389

9

WHEREAS, when the Keizer Development Code (Ordinance No. 98-389) was
10 adopted, various provisions regarding the allowance of child foster homes were
11 inadvertently deleted;

12

WHEREAS, the Keizer Planning Commission has considered an amendment
13 to the Keizer Development Code to provide for child foster homes as previously allowed
14 under the old Keizer Zoning Ordinance;

15

WHEREAS, the Keizer Planning Commission has recommended to the Keizer
16 City Council an amendment to provide for child foster homes as permitted and
17 conditionally permitted uses in certain zones;

18

WHEREAS, the Keizer City Council has held a public hearing and considered
19 the matter in compliance with all state laws and city ordinances;

20

WHEREAS, the Keizer City Council has determined that such amendment
21 meets the criteria set forth in state laws, Keizer Comprehensive Plan, and the Keizer
22 Development Code;

23

NOW, THEREFORE,

1 The City of Keizer ordains as follows:

2 Section 1. FINDINGS. The City of Keizer adopts the findings set forth in
3 Exhibit "A" attached hereto and by this reference incorporated herein.

4 Section 2. AMENDMENT TO ADD DEFINITION FOR CHILD FOSTER
5 HOME. The Keizer Development Code (Ordinance No. 98-389) is hereby amended at

6 Section 1.200 (Definitions) to add the following definition in Section 1.200.04:

7 Child Foster Home: Any home maintained by a person who has under the care
8 of the person in such home any child under the age of 18 years not related to
9 the person by blood or marriage and unattended by the parent or guardian for
10 the purpose of providing such child's care, food and lodging. This use must
11 have a current certificate of approval issued by the State of Oregon.

12 Section 3. AMENDMENT TO SINGLE FAMILY RESIDENTIAL ZONE -

13 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
14 amended at Section 2.102 (Single Family Residential - RS zone) by the addition of a new
15 Subsection E at the end of Section 2.102.02 to allow the following as a permitted use:

16 E. **Child foster home** for five or fewer children.

17 Section 4. AMENDMENT TO SINGLE FAMILY RESIDENTIAL ZONE -

18 CONDITIONAL USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
19 amended at Section 2.102 (Single Family Residential - RS zone) by the addition of a new
20 Subsection H at the end of Section 2.102.04 to allow the following as a conditionally

21 permitted use:

22 H. **Child foster home** for six, seven or eight children, provided such
23 home:

1. is properly accredited by the Council on Accreditation on Child and Family Programs;
2. be located on a lot of no less than 16,000 square feet;
3. the lot shall be located on an arterial or major collector street;
4. shall be no less than 2,400 square feet in size, excluding attached garages, carports, patios, and all unfinished space;
5. shall have setbacks for all structures of no less 16 feet on each side and 30 feet along the back of the property;
6. shall have usable paved off-street parking for no less than 6 vehicles, plus one additional usable off-street paved parking space is to be provided for each foster child that owns or is the principal driver of any vehicle;
7. at least one half of the lot area (no less than 8,000 square feet) shall consist of open space, grass and landscaping, including landscaping area at least 8 feet wide for permanent visual screening along the sides and back of the property (which landscaping along sides and back of the property shall be designed for a minimum height of no less than 6 feet after five years). Decks, patios, paved areas, and parking areas (paved or unpaved), shall not be included when calculating the amount of required open space, grass and landscaping;
8. is not located within one-half (1/2) mile of another child foster home of six to eight children, as measured between the closest lot lines of the existing child foster home and the proposed child foster home.

All child foster homes shall meet all applicable laws and regulations, including, but not limited to, applicable building codes.

Section 5. AMENDMENT TO LIMITED DENSITY RESIDENTIAL

ZONE - PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is

hereby amended at Section 2.103 (Limited Density Residential - RL zone) by the addition

Lien & Johnson

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

1 of a new Subsection G at the end of Section 2.103.02 to allow the following as a
2 permitted use:

3 G. **Child foster home** for five or fewer children.

4 Section 6. AMENDMENT TO LIMITED DENSITY RESIDENTIAL
5 ZONE - CONDITIONAL USE. The Keizer Development Code (Ordinance No. 98-389)
6 is hereby amended at Section 2.103 (Limited Density Residential - RL zone) by the
7 addition of a new Subsection H at the end of Section 2.103.04 to allow the following as
8 a conditionally permitted use:

9 H. **Child foster home** for six or more children.

10 Section 7. AMENDMENT TO MEDIUM DENSITY RESIDENTIAL
11 ZONE - PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is
12 hereby amended at Section 2.104 (Medium Density Residential - RM zone) by the
13 addition of a new Subsection G at the end of Section 2.104.02 to allow the following as
14 a permitted use:

15 G. **Child foster home** for five or fewer children.

16 Section 8. AMENDMENT TO MEDIUM DENSITY RESIDENTIAL
17 ZONE - CONDITIONAL USE. The Keizer Development Code (Ordinance No. 98-389)
18 is hereby amended at Section 2.104 (Medium Density Residential - RM zone) by the
19 addition of a new Subsection G at the end of Section 2.104.04 to allow the following as
20 a conditionally permitted use:

21 G. **Child foster home** for six or more children.

1 Section 9. AMENDMENT TO HIGH DENSITY RESIDENTIAL ZONE -

2 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
3 amended at Section 2.105 (High Density Residential - RH zone) by the addition of a new
4 Subsection E at the end of Section 2.105.02 to allow the following as a permitted use:

5 E. **Child foster home** for five or fewer children.

6 Section 10. AMENDMENT TO HIGH DENSITY RESIDENTIAL ZONE -

7 CONDITIONAL USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
8 amended at Section 2.105 (High Density Residential - RH zone) by the addition of a new
9 Subsection G at the end of Section 2.105.04 to allow the following as a conditionally
10 permitted use:

11 G. **Child foster home** for six or more children.

12 Section 11. AMENDMENT TO COMMERCIAL OFFICE ZONE -

13 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
14 amended at Section 2.108 (Commercial Office - CO zone) by the addition of a new
15 Subsection TT at the end of Section 2.108.02 to allow the following as a permitted use:

16 TT. **Child foster home.**

17 Section 12. AMENDMENT TO COMMERCIAL RETAIL ZONE -

18 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
19 amended at Section 2.109 (Commercial Retail - CR zone) by the addition of a new
20 Subsection III at the end of Section 2.109.02 to allow the following as a permitted use:

21 III. **Child foster home** for five or fewer children as a secondary use.

1 Section 13. AMENDMENT TO COMMERCIAL MIXED USE ZONE -

2 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
3 amended at Section 2.110 (Commercial Mixed Use - CM zone) by the addition of a new
4 Subsection L at the end of Section 2.110.02 to allow the following as a permitted use:

5 L. **Child foster home** for five or fewer children as a secondary use.

6 Section 14. AMENDMENT TO COMMERCIAL GENERAL ZONE -

7 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
8 amended at Section 2.112 (Commercial General - CG zone) by the addition of a new
9 Subsection L at the end of Section 2.112.02 to allow the following as a permitted use:

10 L. **Child foster home** for five or fewer children as a secondary use.

11 Section 15. AMENDMENT TO URBAN TRANSITION ZONE -

12 PERMITTED USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
13 amended at Section 2.118 (Urban Transition - UT zone) by the addition of a new
14 Subsection H at the end of Section 2.118.02 to allow the following as a permitted use:

15 H. **Child foster home** for five or fewer children.

16 Section 16. AMENDMENT TO URBAN TRANSITION ZONE -

17 CONDITIONAL USE. The Keizer Development Code (Ordinance No. 98-389) is hereby
18 amended at Section 2.118 (Urban Transition - UT zone) by the addition of a new
19 Subsection F at the end of Section 2.118.03 to allow the following as a conditionally
20 permitted use:

1 F. **Child foster home** for six, seven or eight children, provided such
2 home:

- 3 1. is properly accredited by the Council on Accreditation on Child
4 and Family Programs;
- 5 2. be located on a lot of no less than 16,000 square feet;
- 6 3. the lot shall be located on an arterial or major collector street;
- 7 4. shall be no less than 2,400 square feet in size, excluding
8 attached garages, carports, patios, and all unfinished space;
- 9 5. shall have setbacks for all structures of no less 16 feet on each
10 side and 30 feet along the back of the property;
- 11 6. shall have usable paved off-street parking for no less than 6
12 vehicles, plus one additional usable off-street paved parking
13 space is to be provided for each foster child that owns or is the
14 principal driver of any vehicle;
- 15 7. at least one half of the lot area (no less than 8,000 square feet)
16 shall consist of open space, grass and landscaping, including
17 landscaping area at least 8 feet wide for permanent visual
18 screening along the sides and back of the property (which
19 landscaping along sides and back of the property shall be
20 designed for a minimum height of no less than 6 feet after five
21 years). Decks, patios, paved areas, and parking areas (paved or
22 unpaved), shall not be included when calculating the amount of
23 required open space, grass and landscaping;
- 24 8. is not located within one-half (1/2) mile of another child foster
25 home of six to eight children, as measured between the closest
26 lot lines of the existing child foster home and the proposed child
27 foster home.

28 All child foster homes shall meet all applicable laws and regulations,
29 including, but not limited to, applicable building codes.

1 Section 17. SAVINGS CLAUSE. Should any section or portion of this
2 Ordinance be held unlawful or unenforceable by any court of competent jurisdiction,
3 such decision shall apply only to the specific section, or portion thereof, directly
4 specified in the decision. All other sections and portions of this Ordinance shall remain
5 in full force and effect.

6 Section 18. EFFECTIVE DATE. This Ordinance shall take effect thirty (30)
7 days after its passage.

8 PASSED this _____ day of _____, 1999.

9 SIGNED this _____ day of _____, 1999.

10

11

Mayor

12

13

City Recorder

14 4763COK.004

EXHIBIT 'A'

FINDINGS REGARDING THE ADOPTION OF AMENDMENT TO THE KEIZER DEVELOPMENT CODE

Criteria is listed in Section 3.111.03 of the Keizer Development Code

The City of Keizer finds that:

1. Impact of the proposed amendment on land use and development patterns within the City of Keizer, as measured by:

Traffic generation and circulation patterns,

The proposed amendment will not affect any transportation facilities or services.

Population concentrations,

The proposed amendment will not impact population concentrations.

Demand for public facilities and services,

The proposed amendment will not create additional demands for public facilities and services.

Maintenance of public health and safety,

The proposed amendment will provide additional housing opportunities for a diversity of housing needs. This will provide a benefit for public health and safety in general.

Level of park and recreation facilities,

The proposed amendment will have no impact on park and recreation facilities.

Economic activities,

The proposed amendment will have no impact on economic activities within the City of Keizer.

Protection and use of natural resources,

The proposed amendment will not be a detriment to any identified natural resources.

Natural hazards and constraints.

The proposed amendment will not have an impact on any natural hazards or create any natural hazards as a result of its implementation.

Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvement programs.

There are no existing adopted special purpose plans or programs which would be triggered as a result of this amendment.

2. A demonstrated need exists for the product of the proposed amendment.

A demonstrated need exists for the proposed amendment in order to provide housing opportunities for a variety of different types of housing needs.

3. These amendments to the Keizer Development Code comply with statewide land use goals and related administrative rules as follows:

GOAL 1: CITIZEN INVOLVEMENT

Public hearings were conducted on this matter with the review and adoption proceedings consistent with local land use regulations.

GOAL 2: LAND USE PLANNING

The ordinance amends the Keizer Development code. The adoption proceeding was conducted in a manner consistent with the requirements of the Keizer Comprehensive Plan, Keizer Development Code, and applicable state law.

GOAL 3: AGRICULTURE LANDS

These amendments do not affect agricultural operations.

GOAL 4: FOREST LANDS

These amendments do not affect forest lands.

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

These amendments do not affect open spaces, scenic and historic areas, and/or natural resources.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

These amendments will not affect air, water and land resources quality.

GOAL 7: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

These amendments will not affect any areas subject to natural disasters and hazards.

GOAL 8: RECREATIONAL NEEDS

These amendments will not impact recreational needs.

GOAL 9: ECONOMIC DEVELOPMENT

These amendments do not impact economic development.

GOAL 10: HOUSING

These amendments assist in providing additional housing opportunities.

GOAL 11: PUBLIC FACILITIES AND SERVICES

These amendments do not affect public facilities and services.

GOAL 12: TRANSPORTATION

These amendments will not affect any transportation facilities or services.

GOAL 13: ENERGY CONSERVATION

These amendments will not affect energy conservation.

GOAL 14: URBANIZATION

These amendments will not adversely affect urbanization efforts.

GOAL 15: WILLAMETTE GREENWAY

These amendments will not affect the Willamette Greenway.

GOALS 16, 17, 19 and 19:
ESTUARINE RESOURCES, COASTAL SHORELANDS, BEACHES AND DUNES,
AND OCEAN RESOURCES

These goals do not apply as Keizer is not located in an ocean shoreland area.

4. The amendment is deemed by the City Council to be desirable, appropriate, and proper in order to provide opportunities for different types of housing needs.



June 21, 1999

AGENDA ITEM 8a

**RESOLUTION - TRANSFERRING APPROPRIATIONS FOR
FISCAL YEAR 1998-1999**

COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCILORS

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

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



SUBJECT: Transferring appropriations for fiscal year 1998-99

BACKGROUND:

After the budget is adopted, the local government must stay within the appropriations set for the fiscal year. It is illegal to overspend an appropriation (ORS 294.100 and 294.435 (4)).

ISSUE:

Currently, expenditures for the General Fund – Police Department budget and the 911 Fund budget are within the Adopted Budget for fiscal year 1998-99. As of June 16, 1999, year-to-date expenditures should be at 96.1% or below to be within budget. As of June 16th, Police Department expenditures equal 95.99% of the appropriation and 911 Fund expenditures equal 91.2% of the appropriation.

These funds are close to exceeding the budgeted appropriations. In the event of an emergency, or for other unforeseen reasons, these funds could exceed the budgeted amounts.

RECOMMENDATION:

Staff recommends the Council pass the attached resolution to ensure compliance with budget law in the event of unforeseen emergency purchases.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-_____

3 TRANSFERRING APPROPRIATIONS FOR FISCAL YEAR 1998-1999

4 WHEREAS, the Keizer City Council adopted a budget for the City of
5 Keizer for the 1998-1999 fiscal year on June 22, 1998;

6 WHEREAS, there have been occurrences which were specifically
7 unanticipated at the time of the preparation of the budget for the 1998-1999
8 fiscal year for the General Fund and 911 Fund. Such expenditures are
9 necessary for the operations of the Police Department;

10 WHEREAS, ORS 294.450(3) provides for the transfer of appropriations
11 within a fund; NOW, THEREFORE,

12 BE IT RESOLVED by the City Council of the City of Keizer, that
13 appropriations for the fiscal year ending June 30, 1999 be transferred in the
14 amounts indicated below:

15 General Fund

	<u>Increase</u>	<u>Decrease</u>
16 Police Expenditures	50,000	
17 Contingency		50,000

18 911 Fund

	<u>Increase</u>	<u>Decrease</u>
19 Expenditures	18,000	
20 Contingency		18,000

21 PASSED this _____ day of _____, 1999.

22 SIGNED this _____ day of _____, 1999.

23 _____
24 Mayor

25 _____
26 City Recorder



June 21, 1999

AGENDA ITEM 8b

**RESOLUTION - ELECTION TO RECEIVE STATE SHARED
REVENUE FUNDS**

COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCIL MEMBERS

FROM: WALLY G. MULL
CITY MANAGER 

SUBJECT: CITY'S ELECTION TO RECEIVE STATE REVENUE SHARING

ISSUE:

State Revenue Sharing Law, ORS 221.770 requires cities to pass a Resolution each year stating they want to receive state revenue sharing money. The law also requires the City to certify the public hearings for the budget were held. The adoption of this Resolution will accomplish both of these items.

RECOMMENDATION:

It is recommended the Council adopt the Resolution declaring the City's election to receive state revenue sharing and certify the dates of the budget public hearings.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-_____

3
4 DECLARING THE CITY'S ELECTION TO RECEIVE
5 STATE REVENUES
6

7 The City Council of the City of Keizer resolves as follows:

8 Pursuant to ORS 221.770, The City Council of the City of Keizer hereby elects
9 to receive state revenues for fiscal year 1999-2000.
10

11 PASSED this _____ day of _____, 1999.

12 SIGNED this _____ day of _____, 1999.

13
14
15 _____
16 Mayor
17

18
19 _____
20 City Recorder
21

22
23 I certify that a public hearing before the Budget Committee was held on May 4,
24 1999 and a public hearing before the City Council was held on June 7, 1999, giving
25 citizens opportunity to comment on use of State Revenue Sharing.
26

27
28 _____
29 City Recorder



June 21, 1999

AGENDA ITEM 8C

**RESOLUTION - CERTIFYING THE CITY OF KEIZER PROVIDES
FOUR OR MORE SERVICES**

COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCIL MEMBERS

FROM: WALLY G. MULL 
CITY MANAGER

SUBJECT: CERTIFYING THE CITY PROVIDES FOUR OR MORE MUNICIPAL
SERVICES

ISSUE:

The law provides that a city located within a county having more than 100,000 inhabitants must provide four or more municipal services to be eligible to receive state-shared revenue.

RECOMMENDATION:

It is recommended the Council adopt the Resolution certifying the City of Keizer provides four or more municipal services.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-_____

3 CERTIFYING THAT THE CITY OF KEIZER PROVIDES FOUR
4 OR MORE MUNICIPAL SERVICES

5
6 WHEREAS, ORS 221.760 provides as follows:

7 Section 1. The officer responsible for disbursing funds to cities under ORS
8 323.455, 366.785, 366.820 and 471.805 shall, in the case of a city located within a
9 county having more than 100,000 inhabitants according to the most recent federal
10 decennial census, disburse such funds only if the city provides four or more of the
11 following services:

- 12 1) Police protection
13 2) Fire protection
14 3) Street construction, maintenance and lighting
15 4) Sanitary sewer
16 5) Storm sewers
17 6) Planning, zoning and subdivision control
18 7) One or more utility service

19 WHEREAS, city officials recognize the desirability of assisting the state officer
20 responsible for determining the eligibility of cities to receive such funds in
21 accordance with ORS 221.760; NOW THEREFORE,

22 /////

BE IT RESOLVED that the City of Keizer hereby certifies that it provides the following four or more municipal services enumerated in Section 1, ORS 221.760:

- 1) Police protection
- 2) Street construction, maintenance and lighting
- 3) Planning, zoning and subdivision control
- 4) One or more utility services

PASSED this _____ day of _____, 1999.

SIGNED this _____ day of _____, 1999.

Mayor

City Recorder



June 21, 1999

AGENDA ITEM 8d

**MOTION TO RESCHEDULE THE JULY 6, 1999 REGULAR
MEETING OF THE KEIZER CITY COUNCIL**

COUNCIL MEETING: June 21, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCILOR MEMBERS

THROUGH: WALLY G. MULL 
CITY MANAGER

FROM: TRACY L. DAVIS, CMC 
CITY RECORDER

SUBJECT: MOTION TO RESCHEDULE JULY 6, 1999 REGULAR CITY COUNCIL
MEETING

ISSUE:

The City Charter provides that the Council will hold at least one regular Council meeting per month. The Council procedures indicate regular meetings of the City Council will be held on the first and third Mondays of each month at 7:00 p.m. If such date falls on a legal holiday, the meeting shall be held at the usual hour and place on the following day. According to these procedures, the first meeting in July would be Tuesday, July 6, 1999.

Staff is requesting that this meeting be rescheduled to Monday, July 12, 1999 in order to provide the most efficient time line for the public hearing and Council review of the Salem-Keizer School District land use application for the new schools in Keizer. It is also requested that this meeting be scheduled to begin at 6:00 p.m.

RECOMMENDATION:

It is recommended the Council, by motion, reschedule the July 6, 1999 regular City Council meeting from Tuesday, July 6, 1999 at 7:00 p.m. to Monday, July 12, 1999 at 6:00 p.m.



June 21, 1999

AGENDA ITEM 8e

**APPROVAL OF THE JUNE 7, 1999 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Monday, June 7, 1999
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Newton called the regular meeting to order at 7:04 p.m.

Roll Call was taken as follows:

Present:

Bob Newton, Mayor
Craig Campbell, Councilor
Lore Christopher, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Jacque Moir, Councilor
Garry Whalen, Council President

Staff:

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

PUBLIC TESTIMONY

Bob Ohrn, 7950 Timothy Lane NE, Keizer- Secretary, Treasurer and Land Use Chair for the Cleaklake Association. Mr. Ohrn submitted a letter he had written pertaining to the decision on Subdivision Case No. 99-03. He talked about subjective, discretionary decision-making in the approval process and requested further information pertaining to this issue.

City Manager Mull indicated that the planning staff is currently working with the Planning Commission on these issues

Ray Buckno, 939 Lawnview St NE, Keizer- Expressed his concerns regarding the amount and the speed of traffic along Verda Lane. He feels extending Alder to Verda would cause even greater speeds and more traffic.

Shannon Johnson, City Attorney announced that any comments regarding the Alder Street extension should be voiced at the hearing on the land use application for the school district at the City Council meeting on July 12, 1999.

Mayor Newton explained the only changes planned along Verda Lane were sidewalks, curbs and gutters south of Chemawa.

Marcia Bednarczyk, 7775 O'Neil Road, Keizer- requested clarification regarding access and charges for public information. On May 7, 1999 Ms. Bednarczyk requested information, noted she was representing the Clearlake Association and was billed for the maps that she requested. She felt this practice was unethical in billing the taxpayers and using public employees for the benefit of a private business. She requested that the Council look into this practice.

Mayor Newton indicated he would look into the matter. He noted specific fees are charged for copies of information.

Responding to questions Ms. Bednarczyk indicated that the bill was from the City of Keizer for services provided by Peterson Engineering. Mayor Newton requested that she leave a copy of the bill and he would look into the matter.

Al Parker, General Manager of Wittenberg Inn, 5188 Wittenberg Lane, Keizer-Shared his approval of the room tax allotment given to the Keizer Chamber of Commerce. He pointed out his goal is to increase the room tax by increasing the number of visitors into Keizer. He asked that the Council consider assisting in this by allowing additional signage on the freeway.

COMMITTEE REPORTS

a. Swearing In of Keizer Police Reserves

Chief of Police, Marc Adams introduced the new Keizer Police Reserves. They are: Tony G. Caser, James A. Devaney, Erika D. Grissom, Dennis L. Hodgdon, Christopher E. Nelson and Kirk L. Thiems.

City Attorney, Shannon Johnson issued the oath to the Reserve Officers.

**b. Traffic Safety
Commission ~ Traffic
Calming Devices**

Mike Kirby, 6657 14th Ave NE, Keizer - Presented the final draft of the Neighborhood Traffic Management Program. He indicated that comments made since the April 19th presentation had been incorporated in to the final draft.

Mr. Kirby explained the program will be initiated by a neighborhood petition. Once the petition process was completed a Level I Program steps would address education and enforcement related traffic management measures. He shared the steps that would be taken in the Level I stage to move onto Level Two and finally for Council consideration.

Mr. Kirby shared that the Traffic Safety Commission recommended adoption of the program and would provide Citywide framework for effectively addressing neighborhood traffic issues.

Responding to questions, Mr. Kirby shared at the last Commission meeting there was discussion for the Commission to apply for a mini-grant to fund a radar trailer. In addition, a map would be incorporated into the plan to indicate the streets identified under the various headings, arterial, collector etc.

Councilor McGee moved to adopt the Neighborhood Traffic Management Program. Councilor Campbell seconded the motion.

Responding to questions Mr. Kirby indicated the program provides a process that interested neighbors would initiate a petition and 75% support is needed along the particular street to work through the Level I. If this Level does not alleviate the problem it would move forward to indicate if criteria is met in Level Two. Mr. Kirby urged interested citizens to work through the program to advance mitigation.

Public Works Director, Rob Kissler shared that through staff and Council it would need to be identified whether this plan would become part of the TSP (Transportation System Plan). Mr. Kissler indicated that staff would like to see it stand alone to have to opportunity to make adjustments if necessary. Mr. Kissler shared that if this was part of the Development Code, building new streets that during construction, traffic calming could be achieved and not wait until retro-fit. Mr. Kissler shared that these basic issues should be addressed before adoption.

Responding to questions, Ms. Drought noted if the Neighborhood Traffic Management Plan became part of the TSP it would also become part of the Comprehensive Plan. If in the future a change of language were needed in the plan a Comprehensive Plan amendment would be required. She shared the thinking would be a stand-alone document in order to avoid this, but referencing the plan in the Transportation System Plan document.

Councilor McGee urged the Council to pass the document as a stand-alone document. He expressed his gratitude for the work the Committee had accomplished.

Mr. Johnson explained staff is still discussing how the document would be best adopted. He indicated that he felt it would fall in a land use regulation and advised against adopting the document since the process of adopting land use regulations had not been followed.

A discussion ensued whether adoption of the document tonight was advisable and what measures could be taken to expedite the adoption process.

Mr. Johnson indicated that if this fell into a land use regulation as a portion of a Comprehensive Plan or as part of the Development Code a public hearing would be required.

Councilor Campbell moved to table the motion until the July 19, 1999 Council Meeting. Mayor Newton seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

c. Council Liaison Reports

Youth Compact ~ Councilor Christopher explained at the last meeting on May 26, 1999 it was announced the \$100,000 grant that was applied for through the Youth Compact to benefit Whiteaker Middle School for the Lighted School Program, was denied. However, Bush Elementary received a \$200,000 grant for an after school program.

Councilor Christopher explained a concerned parent from McNary had contacted her regarding the safety of students at McNary in response to the recent cases of school violence. Through this contact a volunteer program was initiated at McNary called Parent Presence Program. Parent volunteers monitor the hallways as an extra set of eyes. The program will continue through next year and Brenda Dick is the parent coordinator. Additional parents are needed till the end of the school year and Ms. Dick can be reached at 393-3233.

Ed John, 559 Palmer, Keizer- reported a couple of weeks ago an incident of a threat had taken place at McNary. During the investigation there was no substance to the rumor but this started a heightened concern and help to start the Parents Presence Program. He expressed his appreciation for the support of the community.

Councilor Christopher applauded all the efforts at McNary in trying to keep the students safe.

Keizer Urban Renewal Board ~ Councilor Keller reported the Board met May 26, 1999 at 5:30 p.m. Proposed projects in the Urban Renewal budget as well as the Chemawa Activity Center were discussed. Councilor Keller indicated that the Board requested a joint meeting with the City Council and the Planning Commission which has been tentatively scheduled for July 28, 1999 at 5:30 p.m.

Keizer Heritage Foundation ~ Councilor Keller noted that the Foundation had raised \$225,000 as of this date.

In response to questions regarding the parking lot, Foundation President, Jim Hupy shared that the catch basin and drains are in, and the parking lot is approximately 65% completed.

Emergency Management Committee ~ Councilor Moir shared that the Committee met on Thursday, May 27, 1999. Elmer Rassmessen from Mitsubishi explained an explosion that took place at the plant when a blower that expels gas failed and ignited the gas that started a fire. Councilor Moir noted that all the safety features that were in place worked correctly and the fire was extinguished before the fire department arrived.

A disaster drill with a simulated wreck between a train and truck took place on Front Street simulating a chemical spill. It was found that some of the plans such as decontamination of victims needed updating. A decon trailer will be established at Salem Hospital by Bruce Visser of the Marion County Emergency Management for use in such an emergency.

Councilor Moir shared that a new database volunteer will be working approximately 10 hours a week in the construction of a database for the Volunteer Committee. There are currently enough volunteers to staff leaders to staff 24 hours a day seven days a week if there was an emergency.

In Lt. Miranda's absence Fire Chief, Greg Frank would be the interim appointment as chair of the Emergency Management Committee.

Councilor Moir shared that 50 people attended the Volunteer training to work in the EOC Volunteer Center. This training included an overview of the center and tasks to be performed. The next meeting would include a tabletop exercise.

The next meeting of the Emergency Management Meeting will be June 17, 1999.

Claggett Creek Watershed Council ~ Councilor Moir noted the last meeting took place May 25, 1999. The discussion included drainage issues in North Keizer and how it would affect area creeks. The Oregon Department of Fish and Wildlife gave the Council \$500 so the Council requested that Marion County's Soil and Water Conservation act as their fiscal agent. On Saturday, June 19, 1999 the Claggett Creek Watershed Council would be participating in a watershed booth at the Riverfront Festival.

Councilor Moir explained the school site mitigation site plan was distributed and well done. The hope is to have more mitigation take place along Claggett Creek. The School District shared that \$28,000 had already been deposited at the Weather's Bank. The Watershed Council would request a compromise with some of the mitigation going to the Weather's Bank and along Claggett Creek.

Councilor Moir shared the New Board would be elected on July 27, 1999 and Councilor Moir urged anyone interested in a position on the Watershed Council to attend.

Responding to questions, Councilor Moir noted that an inventory of potential sites for mitigation will be drafted and forwarded to the Parks Board for discussion.

For citizens information, Councilor McGee shared that the Watershed Council was not a City Committee but endorsed by several municipalities, Salem, Keizer and Marion County.

Cable Regulatory Commission ~ Councilor Campbell shared that the Commission met on May 28, 1999. The budget was addressed and they wanted to define a line item for each jurisdiction for the back billing of staff time. Councilor Campbell indicated that the contract is up on July 26, 1999 and there is a need to go through these contracts to see if they wish to extend the franchise agreements. Councilor Campbell noted that the Commission had requested a six month extension to hire a consultant to advise them on the franchise agreements.

Councilor Campbell noted the budget process would be taking place for the Commission and one additional Keizer resident is needed to serve on the budget committee. Councilor Campbell requested input from Council regarding their recommendation to fill the position.

OTHER BUSINESS

a. New Business

Councilor Moir provided an article to the Council from the Northwest Carpenter's Magazine regarding the skate park. The official opening of the skate park will be Saturday, July 10, 1999 at 11:00 a.m. to 3:00 p.m.

Mayor Newton congratulated Lt. Miranda on his selection to attend the FBI Academy.

Responding to questions regarding the ex-parte contacts on the school district application, Mr. Johnson explained that he would research the issue in regards to Councilors attending other meetings as Council liaisons. He encouraged the Councilors to avoid any "one on one" contact in discussing this case.

Council President Whalen acknowledged McNary Graduates and also the nominated best male and female athletes from the 24-7 District, Steven Copeland and Nikki Hayhurst.

Councilor McGee congratulated the McNary High School Baseball team on their recent successful season.

b. Old Business

➤ Drainage Issues

City Manager Mull reported because of concerns of Clear Lake residents regarding drainage issues in the Highland Subdivision, it was investigated by staff. Mr. Mull stated the subdivision was not in compliance with the drainage and grading plan as previously approved. A meeting will take place with the builders on Wednesday to address the problem and resolve the issues at hand.

Councilor McGee requested the formation of a long-range financial planning committee consisting of three Councilors. He asked to be appointed Chair to this committee. Councilor Keller and Councilor Christopher volunteered to serve on the committee. It was the consensus of the Council to appoint four citizens to the committee. Nominations should be brought back to the Council.

Chief Adams shared that the new "four ten-hour shift" was enacted as of last Saturday.

Ms. Gahlsdorf noted that she had received the data from Marion County and the last batch of refund checks would be mailed next week.

Mr. Kissler indicated that the traffic light at Sam Orcutt Way and Cherry Avenue is now in place and working. The landscaping on Cherry Avenue should be completed over the next month.

Responding to questions Mr. Kissler shared that the traffic being diverted along River Road was for the conversion of manhole covers. In the next fiscal year the public works department is looking at the overlay of River Road.

PUBLIC HEARINGS

a. Amendments to Keizer Development Code ~ Child Foster Homes

Mayor Newton opened the public hearing.

Amy Drought, Senior Planner, reported when the new Development Code was adopted in 1998 the standards for Child Foster Homes were inadvertently omitted. This omission included the Ordinance City Council adopted in 1997.

Ms. Drought pointed out at a meeting of the Planning Commission a motion was passed recommending that the standards set forth in Ordinance 97-375 be adopted and incorporated into the Development Code along with the definition for Child Foster Homes as found in the former Zoning Ordinance be included in the definition section of the new Development Code.

There was no public testimony to come before the Council.

Mayor Newton closed the public hearing.

Councilor McGee proposed a review of the criteria to other various zones to make the code more consistent. He asked that this be reviewed by the Planning Commission.

Ms. Drought voiced her concern that currently there were no standards in the code. She suggested that a Child Foster Home for five or fewer children be used as a permitted use in the residential zones be adopted now with only the 6-8 children as a conditional use being remanded and deliberated by the Planning Commission.

After discussion it was the consensus of the Council to direct staff to take this back to the Planning Commission for review and consideration for consistency in other zones and bring the proposed Ordinance back to the Council on June 21, 1999.

b. 1999-2000 City of Keizer Budget

Mayor Newton opened the public hearing.

Susan Gahlsdorf, Finance Director reviewed the changes made to the Manager Recommended budget by the Budget Committee. The changes were to reduce the cost of living from 3% to 1.89% and reduce the Facility Maintenance line item from \$14,000 to \$10,500.

Greg Olson, Undersheriff at Marion County, 1064 Laurel Ridge Street NE, Keizer- pointed out Marion County uses a take-home car policy and would answer any questions in regards to the successfulness or problems associated with the program.

Responding to questions, Mr. Olson believed the vehicles travel approximately 200-300 miles per shift and their program had been in place for twelve years. Mr. Olson shared the benefits of this program to include crime prevention, the doubling of the work force during shift change, the vehicles are better maintained and a quicker response time.

There was no other testimony to come before the Council.

Mayor Newton closed the public hearing.

Councilor Keller voiced his concern that doubling the fleet of police vehicles would result in a deficit in future years.

Responding, Ms. Gahlsdorf stated that in preparing the five year projections, she estimated this expense would not only come from revenue sharing, but also a portion from the general fund.

There was a lengthy discussion regarding the average number of miles per day a police vehicle travels. Chief Adams indicated there are many variables to this and could not give an accurate estimate. Chief Adams felt the number of hours the cars were running was more of a factor than the number of miles.

Councilor Keller indicated in his research he found that the police vehicles in Keizer average only 39 miles per day.

Mayor Newton commended the Budget Committee and the Chair of the Committee and Councilor McGee for their detailed and thorough work.

Councilor McGee reviewed the budget process used to get to this point, read the names of the individuals on the Budget Committee and the process they went through to reach their decision to refer the budget on to the Council.

Councilor McGee requested that the Budget Committee Meeting minutes be accepted and approved by the Council to enable them to be part of the record.

Councilor McGee moved to receive the minutes from the Budget Committee meetings as amended by Councilor Campbell. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor McGee indicated he could not support the purchase of a public works vehicle this year.

Councilor McGee moved to approve the budget presented by the Budget Committee to the Council for the 1999-2000-budget year. Councilor Campbell seconded the motion.

Councilor McGee moved to amend the Street Fund and Water Fund by zeroing out the line item for the vehicle. Mayor Newton seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor McGee moved to eliminate the position in the police budget of the Community Service Analyst. Councilor Keller seconded the motion.

Councilor McGee expressed his displeasure with the program. He indicated that the crime analysis information would be better collected by the Chief, Lieutenants and Sergeants. He went on to explain that the community service portion of the program should be handled by the Community Services Coordinator. Councilor McGee urged the Chief to review the new Community Service Officer positions to expand the job description to include

support to the Community Services Coordinator. He indicated a savings of \$34,472 with an additional \$12,000 in fringe benefits. He expressed his concern that the Council had committed to the support of six officers and he could not justify this position against an officer's position.

Chief Adams shared that the grant for this position funded a study for one crime problem in one district. He indicated that the use of this position would be used differently in the future. Chief Adams reiterated that this position was a vital tool in being proactive as a police department and its work in community policing. He felt that the Community Service Officer officers were doing all they could do without police officer's handling overflow issues. Chief Adams went on to explain that the money spent for this position now would save money in the future.

Responding to questions Chief Adams shared that the grant funded position was not a full-time position thus the reason for the 38% increase in the budgeted position was for a full-time position.

Councilor Keller felt that the position was described in a supervisory role and felt if supervisors were more involved in the process it would not need to be studied.

Chief Adams indicated that this position would not cause a loss of responsibility to the supervisor's, but would allow them to better use the resources that are available.

Responding to questions Lt. Barker indicated that a few years ago a rash of burglaries had taken place which they were unable to locate a pattern and the department brought on a retired officer to do some research and pinpoint the details which assisted in an arrest.

Councilor McGee questioned Chief Adams to review the report submitted by the analyst and give examples from this report of how it would change police procedure.

Chief Adams indicated that they learn from the data as it is compiled how it fits a pattern and reiterated that he would like to use the position in other ways such as to educate the public on how to fight crime.

Councilor Campbell shared his concern with Community Service Officer's being used for this position. He felt that the position would require an individual who is qualified in crime analysis.

There was discussion among the veteran Councilor's regarding the understanding of the need to go out for a levy in the future to continue to fund the six police officers hired.

During the discussion Mr. Mull indicated that during last year's budget process staff made it clear that the numbers in 2001-2002 may fall into a deficit and a special levy may be necessary.

The amendment to the motion failed as follows:

AYES: Newton and McGee (2)

NAYS: Christopher, Campbell, Keller, Moir, Whalen (5)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Christopher moved to keep the Analysis portion of the position as a 3/4 time position for a twelve month period to be reviewed by the Council to discuss expanding or leaving the position as is. Councilor Keller seconded the motion.

Councilor Keller requested the motion include an analysis of the position be brought back to the Council before the end of the budget year.

Councilor Campbell expressed his opposition to the motion, as he felt the position was strengthened by having both rolls in the same place.

Council President Whalen believed this position should be approved at this time and the analysis performed after one full year. This would allow the Council and management an opportunity to study the value of the position.

Councilor McGee questioned how the position would be evaluated and under what criteria would this be done.

Councilor Keller suggested that the criteria be developed by the Chief and reviewed by the Council.

The motion failed as follows:

AYES: Christopher, Keller and McGee (3)

NAYS: Campbell, Moir, Newton and Whalen (4)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Keller moved that the Crime Analysis position be funded for one year. The Chief of Police would develop an evaluation process for the position that would be presented to the Council for approval. Also, prior to the end of the budget year the actual analysis be conducted. Councilor Moir seconded the position.

Councilor Christopher requested the position be evaluated on a quarterly.

The motion passed as follows:

AYES: Christopher, Campbell, Keller, Moir, Newton, Whalen (6)

NAYS: McGee (1)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Keller reiterated his concerns under Revenue Sharing of the projections that had taken place.

Councilor Keller moved to authorize the Chief to lease four vehicles in the years 1999-2000, taking the two less desirable vehicles and dispose of them. The remaining two, one vehicle would be given to public works and the other to the Code Enforcement Officer. Councilor McGee seconded the motion.

Councilor Keller spoke to the motion indicating that in none of the information received had any of these departments doubled their fleet size in order to begin a take home program. He felt by taking this small step forward the Chief could develop additional information to support the take home program and review if it was actually cost effective.

Councilor Whalen expressed his support of the motion. He felt in the information that they had received that there was no compelling information that would support a take home program.

Councilor Christopher noted that the community members on the budget committee had supported the take home program. She asked that a compromise of possibly two officers per vehicle be examined.

Councilor Campbell expressed his support of the take home program and felt it was a critical element of community policing.

Councilor Moir shared her support of the take home program stating that approximately 1/2 hour to one hour would be saved during the shift changes that would allow officers to spend more time on the street.

Chief Adams shared some of the positive aspects of the program and indicated that the correct title of the program is the "High Visibility Program".

Councilor McGee felt the discussion should be how many police vehicles would be needed for the next two years and from that point make a decision on what program would be the most cost effective for the city. He went on to state that the data received did not support the purchase of twelve new cars but only four.

The motion passed as follows:

AYES: Keller, McGee, Newton, Whalen (4)

NAYS: Christopher, Campbell, and Moir (3)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor McGee moved a motion to reduce the police nylon duty rig line item from \$6,670 to \$2,500 and phase in the purchasing of these items. Councilor Keller seconded the motion.

Responding to questions Chief Adams shared that the purchase of the nylon duty rigs would be less costly under the quote he had received as opposed to having the officer's purchase their own.

The motion failed as follows:

AYES:, Keller, McGee and Whalen (3)

NAYS: Christopher, Campbell, Moir and Newton (4)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor McGee moved to adopt the budget as amended and have the staff to bring back the Resolutions for final adoption on June 21, 1999. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Due to changes in the police budget Chief Adams requested that the mobile data systems line item be reduced from \$120,000 to \$64,000 and the car radio line item be reduced from \$30,000 to \$10,000.

Ms. Gahlsdorf noted she would make the necessary changes to the budget.

ADMINISTRATIVE ACTION

a. RESOLUTION ~ Park Reservation Fees

Public Works Director, Rob Kissler submitted his staff report noting that the Parks Department is receiving many phone calls regarding reservations of the new picnic shelter located at Claggett Creek Park. Mr. Kissler stated that large groups in the parks place a stress on existing garbage facilities and overall park cleanliness. The Parks Advisory Board in conjunction with the City staff have developed a reservation fee schedule that would allow staff to respond on weekends and after hours to clean facilities prior to the next reservation.

Mr. Kissler indicated that the Claggett Creek soccer field receives many requests for reservations by organized groups, from within Keizer and the surrounding area. He went on to state that the Parks Department continues to maintain the necessary striping, additional soccer field maintenance and removal of additional garbage generated by those organizations.

Mr. Kissler stated that the Parks Advisory Board and City staff recommend repealing Resolution R93-630 and adopting the Resolution establishing Parks Reservation fees to cover additional expenses in the parks.

Councilor Christopher moved a motion to repeal Resolution R93-630 and adopt the resolution establishing Parks Reservation Fees. Council President Whalen seconded the motion.

For clarification Mr. Kissler indicated in the resolution under line 19 the wording any single sport "field" should be added.

Responding to questions, Mr. Kissler indicated the hourly rate was proposed with the possibility of making them available to more than one group during the day. He went on to explain that the idea of the Resolution would cover the shelter and soccer field at Claggett Creek, along with outside organizations using the facilities.

Mayor Newton suggested in future resolutions that the language of the ball fields being used on a first come, first serve basis is incorporated into the resolution.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

a. Approval of May 17, 1999 Regular Session Minutes

Councilor Moir moved to approve the consent calendar with the changes noted by Councilor Campbell. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATIONS

No written communications were brought before the Council

AGENDA INPUT

June 9, 1999

5:30 p.m. Executive Session ~ ORS 192.660(1)(d) ~
Labor Negotiations

June 21, 1999

7:00 p.m. City Council Meeting

- Adoption of 1999-2000 City of Keizer Budget
- Adoption of the Urban Renewal Budget.
- Floating Structures Ordinance Public Hearing
- Appeal of Hearings Officer Decision ~ Viesko Haul Road
- Sale of City Owned Real Property ~ 1600 Block Chemawa Road NE
- Urban Renewal DeJour Bond
- Extension of Cable Regulatory Commission Agreement with ATT

July 6, 1999 (Tuesday)

7:00 p.m. City Council Meeting ~~

(CANCELED - RESCHEDULED FOR JULY 12TH)

July 12, 1999

6:00 p.m. City Council Meeting

- Salem-Keizer School District Land Use Public Hearing

July 19, 1999

7:00 p.m. City Council Meeting

- Revisiting the tabled motion regarding the Neighborhood Traffic Management Plan.

July 28, 1999 (Wednesday)

5:30 p.m. Special City Council/Keizer Urban Renewal Board/Planning Commission

- Chemawa Activity Center

August 2, 1999

7:00 p.m. City Council Meeting

August 9, 1999

5:30 p.m. City Council Work Session

- Annual City of Keizer Parks Tour
-

ADJOURNMENT

The meeting was adjourned at 10:53 p.m.

Tracy L. Davis, CMC
City Recorder

APPROVED:

MAYOR:

Bob Newton

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Jacque Moir

Councilor #2 - Lore Christopher

Councilor #5 - Craig Campbell

Councilor #3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:



submitted by
Rick Stein
applicant
attorney
6-21-99

June 21, 1999

RAMSAY & STEIN, P.C.
ATTORNEYS AT LAW

The Honorable Bob Newton, Mayor
and the Keizer City Council
City of Keizer Civic Center
930 Chemawa Road N.E.
Keizer, Oregon 97303

Re: **Conditional Use Case No. 99 - 17,**
Viesko Quality Concrete

Dear Mayor Newton and City Councilors:

Our firm is representing the applicant in this case, Viesko Quality Concrete (Viesko). It is our position that the Hearings Officer erred in this case. It is also our position that the staff recommendations do not correctly interpret existing law and recommend an unconstitutional taking.

Hearings Officer's Decision

Both staff, the city attorney, and Viesko are in agreement that the Hearings Officer's decision is wrong. The decision is wrong for one of two reasons. Our position is that the road is a permitted use in the EFU zone for the reasons set out below. KDC 2.117.02 (A). The staff position is that the application is properly considered as a conditional use related to the exploration and processing of subsurface resources. KDC 2.117.03 (D). Their rationale is set out in the staff memorandum dated June 14, 1999, and forwarded to you. As the City Attorney correctly points out, the result reached by the Hearings Officer is absurd. Under this interpretation, a farmer could not build a road in the EFU zone because it is not specifically listed. The Hearings Officer should be reversed.

The Hearings Officer also gets in to the applicability of state law to this case, specifically ORS Chapter 215. Again, we agree with the memo from the Keizer City Attorney on this point, and there is case and statutory law in point. Specifically, the Oregon Supreme Court ruled in Byrd v. Stringer, 295 Or 311, 666 P2d 1332 (1983) that once a comprehensive plan has been acknowledged, it is the plan and the implementing ordinances that apply to land use decisions, and not the LCDC goals. 666 P.2d at 1334.

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The Honorable Bob Newton
June 21, 1999
Page 2

Logically, since ORS 215 is an implementing statute for Goal 3 for the purpose of protecting agricultural lands, Byrd would apply since the Keizer Comprehensive Plan and implementing ordinances have been acknowledged by LCDC.

LUBA has also specifically ruled that in the case of a city, once a city's comprehensive plan and land use regulations are acknowledged, then they and not the state goals apply to land use decisions. Byrnes v. City of Hillsboro, 18 Or. LUBA 494, 505 (1989). This case was appealed to the Court of Appeals on other grounds, but in footnote 4 of its decision, the court inferred that LUBA's decision on this issue was the correct one. 790 P.2d 552, 554 (1990). Again, the clear logic is that it is the local comprehensive plan and implementing ordinances that apply once they are acknowledged and not state statute or the LCDC goals.

This conclusion is further reinforced by LUBA's scope of review set out in ORS 197.835(5), which provides that LUBA shall reverse or remand a decision not subject to an acknowledged comprehensive plan or a land use regulation if the decision does not comply with the goals. The necessary logical corollary is that if a land use decision is subject to an acknowledged comprehensive plan or a land use regulation, then LUBA does not review it for compliance with the goals, which is precisely what ORS 197.835(8) states. It is only the Keizer Comprehensive Plan and ordinances that apply.

Viesko's Position

As noted above, our position is that a conditional use permit is not required here because a private haul road to a gravel mining operation in an EFU is a permitted use. The parcel to be used for the private haul road is located in an EFU zone, but within the Keizer UGB and city limits. As the City Attorney correctly points out, it is a change of use. The question, however, is how is this change of use regulated by the Keizer Development Code (KDC)

The City has taken the position that because the private haul road is ancillary to a batch plant, it should be processed as a conditional use under KDC 2.117.03(D). This analysis is incorrect, however, because there is no application before the City for the batch plant. In fact, the batch plant to be located in Marion County has not even been filed yet, and will be considered by the County. Although Viesko is negotiating to buy tax lots 1500 and 1600, there is a strip of land between these lots owned by the City of Salem and containing a sewer main. The City of Salem has tentatively indicated that it will grant an easement for the private haul road to cross this strip but it will retain ownership of the strip. Unless the City of Salem were to consent to the annexation of this strip, tax lot 1500 will not be contiguous at any point to the Keizer city limits at any point and, therefore, it cannot be legally annexed. Thus, Marion County will continue to be the governmental body with jurisdiction to hear a batch plant application for tax lot 1500, although Keizer will have the opportunity to fully participate in the hearings. No improvements other than the private haul road are planned for tax lot 1600 at the west end of the haul road.

In our view, the proper analysis in this case for applicability of the KDC is as follows:

1. **Permitted Use.** KDC 2.117.02(A) lists "farm use" as a permitted use in Keizer's EFU zone. In parentheses, this section says "see farm use definition". Turning to the general definition section found at KDC 1.200.04(p. 12), the term "farming" is defined, although "farm use" is nowhere to be found. The definition states that "farming" is "The use of land for purposes defined in ORS Chapter 215." **It is important to note that the definition does not say that farming has the same definition as "farm use" defined in ORS Chapter 215.**
2. **ORS 215.283(3).** Turning to ORS Chapter 215, ORS 215.283 generally deals with permitted uses in the EFU zone. Subsection (3) of this statute specifically allows "Roads, highways and other transportation facilities and improvements not allowed under (1) and (2) of this section..." In other words, one of the "purposes" defined in ORS Chapter 215 is for these types of facilities. A private haul road is certainly a "road" or "... other transportation facility... or improvement" within the meaning of the statute. Accordingly, a private haul road is a permitted use under KDC 2.117.02(A). (Emphasis added.)
3. **Consistent with Keizer Development Code.** This interpretation is consistent with the Keizer Development Code. As applicant has previously noted in its appeal notice dated May 19, 1999, the term "Street" as defined at KDC 1.200.04 (p.12) specifically *excludes* private haul roads by stating that:

"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."

Clearly, the KDC recognizes private roads for the purposes stated. Our proposal is for a "private way" for "ingress and egress" to property for "mining" purposes. The Keizer Comprehensive Plan and implementing ordinances have been acknowledged by LCDC, so that excluding such private ways is consistent with state land use goals. This also makes perfect sense because forestry, gravel mining, and agriculture are all resource uses recognized and protected by the state goals and statutes. It is also a common sense fact is that private roads are needed to use land for these purposes.

Viesko is trying to be a good corporate citizen here by routing traffic out of neighborhoods via a private haul road. This is consistent with the Comprehensive Plan, Land Use and Economic Development, General Policy No. 13, which provides that it is a policy of the City of Keizer to discourage through traffic in residential neighborhoods. For the above reasons, we respectfully submit that the private haul road that we have proposed is a permitted use and this body should so rule.

Staff Position

We have already shown above why the staff analysis of this application is in error. In the event that the Council agrees with the staff's position, however, we would like to address the proposed conditions, as we believe that several of them present legal and constitutional problems.

As a general background, both the U. S. Supreme Court and Oregon courts have made it clear that while a city or county may impose conditions of approval on a land use application that deal with impacts created by that application, if they go too far, it can be an unconstitutional taking.

The U. S. Supreme Court in the *Dolan* case, stated that to avoid being an unconstitutional taking, a condition must have an "essential nexus" to a legitimate governmental interest and must be related in its nature and extent to the impact and development. *Dolan v. City of Tigard*, 512 US 374, 114 S.Ct. 2309, 129 L.Ed. 2d 304 (1994). The Court also ruled that there must be a "rough proportionality" between the condition and impacts and put the burden of demonstrating the above on the governmental body. A considerable degree of particularity by the government in explaining its justification was required the Court.

The Oregon appellate courts have had the chance to look at this issue since the U.S. Supreme Court decided *Dolan*, and the case of *Art Piculell Group v. Clackamas County*, 922 P.2d 1227, 142 Or App 327 (1996) is particularly instructive in this case. This case also dealt with a road. The Court of Appeals reviewed the requirements of *Dolan* and then went on to emphasize that:

"... the determinative factor must be the relationship between the impacts of the development and the approval conditions, and not the extent of the public's need for road or other improvements that happen to exist at the time the particular development is approved." 922 P.2d at 1236. (Emphasis added.)

We believe that the *Art Piculell* case and the above-quoted language have a direct bearing on this case.

Specifically, it is important to understand what is being proposed in the application and what is not being proposed. The applicant is simply asking to establish a private haul road. We are not asking for approval of a batch plant or a mining operation. Indeed, Viesko already has its mining permits and could legally begin hauling rock from the site right now. In terms of the batch plant, Viesko will go before Marion County for consideration of its application. Therefore, in terms of determining impacts, the City should look solely at the impacts, if any, of just the private haul road. It is clear in this regard, though, that the impact will be *to lessen* traffic impacts on the nearby residential streets. It is also clear that if this is made a public road, it will

create new and adverse traffic impacts. Thus, the City would be in the interesting position of imposing conditions on a application that has a positive impact on the community as currently designed but, by virtue of the proposed conditions, would create negative impacts - at the applicant's expense! We do not believe that this would meet the standards in either *Dolan* or *Art Piculell*.

With the above background in mind, we would like to review the proposed conditions as recommended by staff:

1. **Annexation:**

The public policy remains the same whether the company is hauling existing rock or processed rock after a new batch plant is in place - heavy truck traffic should be segregated from the residential area and traffic. Therefore, we would ask that Condition #2 be deleted.

Further, a condition to annex has nothing whatsoever to do with any impacts of the proposed haul road. Even if a connection could be articulated, there is no "rough proportionality" between the private haul road and such a requirement. Accordingly, such a condition violates both the *Dolan* and *Art Piculell* cases.

2. **Required Approvals:**

The public policy of separating heavy truck traffic from residential areas and traffic is the same, regardless of whether the road is used to haul out unprocessed rock now or processed rock, if a batch plant is approved. Therefore, Viesko would like the right to both construct and use the road prior to Marion County approval of the batch plant and would ask that recommended Condition #2 be deleted.

3. **Batch Plant Approval by City of Keizer:**

This condition is tied to the first condition. Therefore, if there is no annexation then this condition could not apply.

4. **Sound Wall:** This condition is acceptable.

5. **Public Works Requirements:**

The haul road has no impacts on water. Accordingly, the concerns set out

in Exhibit D would not apply. With regard to Exhibit E, we have already stated our objection, based on *Dolan* and *Art Piculell*, not to mention public policy, that the haul road should not be a public road. Likewise, we would make the same objections to any requirements for water and sanitary sewers. We will be willing to cooperate on the issue of appropriate storm drainage. We have no objection to cooperating with Public Works on development of the intersection at Windsor Island Road, to the extent of applicant's land ownership. Obviously, this will require distribution between Public Works, ourselves, and the other property owners.

6. **Fire Districts:**

We are, of course, willing to make sure that fire equipment has adequate access. Because the private haul road will be designed to accommodate large and heavy gravel trucks, we do not anticipate any problem with the ability of the haul road to handle fire trucks or other equipment.

CONCLUSION

We hope that you will agree, after understanding the facts in this case, as well as the applicable law, that a private haul road is in the best interests of the community. We strongly believe that we are entitled to a permitted use for this purpose. Even if the Council should disagree, and treat it as a conditional use, then most of the conditions recommended by staff **create** new problems of the sort that the private haul road is designed to solve. Thank you for your consideration. We will be happy to answer any questions that you may have.

Sincerely,

RAMSAY & STEIN, P.C.



Richard C. Stein

RCS:jk

cc: Mr. Steve Erickson, Viesko Quality Concrete
Mr. Jeff Tross