

June 1992



CITY OF KEIZER CALENDAR OF EVENTS

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 7:30pm CITY COUNCIL (NEW)	2 8:00am -5:00 WWO INTERVIEWS (LIB)	3 8:00am MUNI-COURT(NEW) 8:00am -5:00 WWO INTERVIEWS (LIB) 7:00pm R3B (LIB)	4 12:00am SEATS BACK(NEW) 8:00am -11:30 WWO INTERVIEWS(LIB) 12:00am -2:00pm LIBRARY HOURS 7:00pm PAC(LIB)	5	6 8:45am A.A. (LIB)
7 10:00am -1:30 P.M. NEW LIFE FELLOWSHIP (LIB)	8 5:00pm MUNI-COURT(LIB) 7:30pm URBAN RENEWAL AG.(NEW)	9 6:00pm MC SOLID WASTE (NEW)	10 8:00am MUNI-COURT(NEW) 4:00pm KGAC (LIB) 4:30pm VOL. COORD.& DEPT.HEADS (MAYORS OFF.)	11 10:00am -2:00pm LIBRARY HOURS 5:00pm MUNI-COURT(LIB) 7:00pm PUB. HEARINGS(NEW) Z/SUB92-2&CUB91-9	12	13 8:45am A.A. (LIB)
14 10:00am -1:30 P.M. NEW LIFE FELLOWSHIP (LIB) *FLAG DAY*	15 7:00pm KEIZER PC (LIB) 7:30pm CITY COUNCIL	16	17 8:00am MUNI-COURT (NEW)	18 10:00am -2:00pm LIBRARY HOURS 7:00pm PAC (LIB)	19 7:30pm OB. CHEVY (LIB)	20 8:45am A.A. (LIB)
21 10:00am -1:30 P.M. NEW LIFE FELLOWSHIP (LIB) *FATHERS DAY*	22 5:00pm MUNI-COURT(LIB)	23 5:00pm -9:00 VI CARLISLE (LIB)	24 8:00am MUNI-COURT (NEW) 5:00pm -9:00 VI CARLISLE	25 10:00am -2:00pm LIBRARY HOURS 5:00pm MUNI-COURT(LIB)	26	27 8:45am A.A. (LIB)
28 10:00am -1:30 P.M. NEW LIFE FELLOWSHIP (LIB)	29 7:00pm COUNCIL/URA(NEW)	30 7:30pm PARKS ADV. BD. (LIB) *SPECIAL ELECTION*				

** SUBJECT TO CHANGE ** (NEW)=COUNCIL CHAMBERS/(LIB)=LIBRARY

6/11/1992

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

S U P P L E M E N T A L A G E N D A

KEIZER CITY COUNCIL

Monday, June 15, 1992
7:30 p.m.

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

5.1

ORDINANCE
Relating to Participation by the City of Keizer in an
Intergovernmental Agreement Rechartering the Mid-
Willamette Valley Council of Governments

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

A G E N D A
KEIZER CITY COUNCIL
Monday, June 15, 1992
7:30 p.m.
Robert L. Simon Council Chambers
Keizer City Hall
Keizer, Oregon 97303

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC TESTIMONY

This time is provided for citizens to address the Council on matters not on the agenda.

4. COMMITTEE REPORTS

- a. Volunteer of the Month - Jay Prall

5. PUBLIC HEARINGS

- a. Zone Change 92-1, Beck/Pizza Hut, Continued from May 18, 1992
- b. Variance 92-3/Ackerley Communications, Continued from June 1, 1992
- c. Periodic Review
- d. Sign Code, (Continue on July 6, 1992)

6. DISCUSSION

- a. Terrace Green Reserve Strip

7. CONSENT CALENDAR

- a. May 26, 1992 Special Session Minutes
- b. June 1, 1992 Regular Session Minutes
- c. RESOLUTION - Insurance Agent of Record
- d. La Brisa Liquor License Renewal

CITY COUNCIL
JUNE 15, 1992
PAGE 2

8. OTHER BUSINESS

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

9. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications and petitions.

10. AGENDA INPUT

July 6, 1992

- Park's System Development Comprehensive Plan
- Public Hearing: Keizer Tomorrow Community Vision
- Public Hearing: Sign Code, continued

11. ADJOURN

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1982

City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295
930 Chemawa Rd. N.E. • P.O. Box 21000 • Keizer, Oregon 97307-1000

CITY COUNCIL MEETING: June 15, 1992

AGENDA ITEM NUMBER: 5b

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: VARIANCE CASE NO. 92-3; ACKERLEY COMMUNICATIONS

BACKGROUND:

1. The applicant is Ackerley Communications for property owned by Phil Luarca.
2. The subject property is located at the south side of Chemawa Road North, approximately 550 feet west of its intersection with River Road. The parcel is addressed as 170 Chemawa Road North; the County Assessor's map identifies the property as being located within Section 02BB; Township 6 South; Range 3 West; Tax Lot #'s 3400 and 3500.
3. The subject property is designated Commercial in the Keizer Comprehensive Plan and is zoned CR (COMMERCIAL RETAIL). The purpose of this Plan designation and zone is to provide land for commercial offices, retail sales and other commercial accommodations and activities. Signs are also permitted in the zone subject to compliance with the requirements in Chapter 15 of the Zoning Ordinance.
4. The 11,200 square foot parcel contains a retail business specializing in bicycles and go-karts (Luarca's World of Wheels/Karts and Parts). Property to the north, west and east is also zoned CR. Land uses include a bookstore and two shopping centers (Baker Square and Schoolhouse Square). Land to the northwest is zoned RM (MEDIUM DENSITY RESIDENTIAL) and contains an apartment complex. To the south is CO (COMMERCIAL OFFICE) zoned property which is currently developed with single-family dwellings. (See EXHIBIT "A".)
5. The applicant is requesting Variance approval to permit the placement of a sign which exceeds the sign area requirements and height limitation contained in Chapter 15. (See EXHIBIT "B".)

FINDINGS

1. On or about March 17, 1992, Ackerley Communications disassembled an existing sign on the subject property. The sign was (and is) free-standing and situated adjacent to Chemawa Road. Originally greater than 20 feet in height (specific information was not supplied by the applicant), the sign structure was rebuilt and the height increased. There was no increase in sign area. The company, however, did not obtain a sign permit, nor building permit, to perform the alterations. Prior to the completion of the work the City obtained a "Stop Work" order from the Marion County Building Inspection Division. This order was issued, but not until the reassembly of the sign was nearly completed. The "Stop Work" order prevented the reinstallation of the small sign advertising Luarca's business.
2. Section 15.20(1) of the Keizer Zoning Ordinance requires the issuance of a permit for the construction, alteration or relocation of a sign. By definition [Section 15.10(1)], alteration includes any change in the size, shape, position, location, construction or supporting structure of a sign. Based on this definition, the modification to the subject sign constitutes an alteration and therefore required a permit.
3. Section 15.30(2), however, prohibits the issuance of a permit for new, altered or relocated signs that do not comply with the sign code regulations, including those related to sign area. The calculation to determine the maximum allowable sign area is identified in Section 15.70(1). This limitation is defined by multiplying the building frontage by 1.5. Based on the submitted site plan, the building frontage is 50 feet, thereby permitting a maximum of 75 square feet of sign area on the subject property. It appears the existing business contains at least 50 to 60 square feet of sign area leaving, at best, 15 to 25 square feet for a free-standing sign.
4. The alteration of the free-standing sign was in violation of the sign regulations as the alterations did not result in a sign conforming to the sign area requirements of Section 15.70(1). As the altered sign could not comply with the sign regulations, the City was (or would be) unable to issue a sign permit.
5. The applicant was informed of the violation in a letter dated March 20, 1992. The City gave the applicant the option of either removing the sign or obtaining a sign permit which would establish a conforming sign. The sign owner had until April 4, 1992 to comply with either requirement. Citations for failure to obtain a sign permit and failure to conform with the sign limitations in Section 15.70(1) were issued on April 6, as the company did not comply with either request.

City Council
June 1, 1992

6. In a subsequent phone conversation, the company president was informed of the possibility for a sign variance that might allow maintenance of the sign in its present form. An application was submitted on April 20, 1992, specifically requesting a variance to the sign limitation standard contained in Section 15.70(1). In reviewing the request, staff also noted sign height was increased so that a variance to the sign height limitation of 20 feet [Section 15.70(1)(c)]. Because the alterations effectively create a new sign, staff is obligated to review the request as if this were the establishment of a new sign.
7. The decision criteria for a variance to the sign regulations are contained in Section 15.90 of the Keizer Zoning Ordinance. In general, they include: (a) granting of the variance would not decrease traffic safety nor adversely affect other identified items of public welfare; (b) there are unique circumstances or conditions such that the variance compensates for those circumstances in a matter that does not grant a special privilege; (c) the variance will not result in a special advertising advantage in relation to neighborhood businesses; (d) granting of the variance would not obstruct views of other buildings, signs, unique architectural features or landscaping; (e) the size, placement, texture, color and graphics of the proposed sign results in a more attractive sign than would otherwise be permitted under strict interpretation of the code; and, (f) the variance request is not the result of a self-imposed condition and hardship.
8. The applicant did not respond directly to each of the criteria. The applicant did note, however, that a building was recently constructed to the east of the property (apparently Baker Square) which obstructs the view of the sign from River Road. Accordingly, the sign needed to be raised to a height of 35 feet to maintain visibility. The applicant also requested the sign advertising the retail business (Luarca's) be allowed to be reinstalled.
9. The sign is located at least 50 feet from the centerline of Chemawa Road. This is a sufficient setback as to preclude interference with traffic. Staff is not aware of any detrimental impact of the sign on public welfare such as fire protection or the provision of other public services. The proposal complies with item 7(a).
10. The variance request is to allow a sign which exceeds the sign area and sign height limitations. Aesthetic issues regarding the placement, texture, color and graphics of the proposed sign are not applicable to the request. Compliance with item 7(e) is therefore not required.
11. Other than the increase in the adjacent building height, the applicant did not identify any unique circumstances or conditions which require the variance. The adjacent building was built in full compliance with the development standards for commercial structures in a CR zone, including those related to height limitations and setback requirements. The building does not present itself as an unique circumstance or pre-existing condition but a

City Council

June 1, 1992

structure in absolute conformity with Keizer land use development requirements and expectations.

12. Staff finds it difficult to conclude land use actions which are permitted and conform with Ordinance standards can form the basis for a special circumstance on adjacent property. Approval of this variance would effectively grant a special privilege by permitting a larger, and taller, sign that is not otherwise obtainable by other businesses within the City. The proposal does not comply with item 7(b).
13. Ordinance sign regulations do not regulate sign content. While unlikely, there is nothing to prohibit the current property owner (Luarca) from using the large free-standing sign for advertising his business. Further, the property owner obtains an additional privilege by being able to rent or lease sign advertising space; a privilege not available to other businesses. For these reasons the proposal does not comply with item 7(c).
14. Based on the applicant's statement, it appears the purpose of the alteration was to create a taller sign due to a building obstruction. Area development is generally ranges from 15 to 20 feet in height so that the sign is not expected to obstruct the view or architectural features on adjacent development. Staff, however, notes the height regulations of the Zoning Ordinance prefer taller commercial buildings (up to 50 feet) to taller signs (maximum 20 feet); this is further buttressed by Ordinance prohibitions against roof signs. The sign has the potential for obstructing building views in the future and is contrary to the intent of the Zone Code. The proposal does not comply with item 7(d).
15. The variance application is in response to a citation issued by the City for failing to obtain a sign permit and failing to conform with the Zoning Ordinance sign code provisions. Had no alteration of the sign occurred a variance would be unnecessary and sign could have remained, in its prior state, until the abatement period of May 7, 1997. Therefore, this variance request is the direct result of a self-imposed condition and hardship and fails to comply with the criteria in item 7(f).

CONCLUSION

The variance request is able to comply with some of the decision criteria contained in Section 15.90. However, approval of a variance requires compliance with all the relevant criteria. Staff specifically notes there does not appear to be any special circumstance or condition that justifies a variance. The establishment of the sign effectively grants a special privilege to the property owner and has the potential of providing additional sign area for the existing business. The sign can also obstruct the vision of buildings and is singularly the result of a hardship created by the applicant.

City Council
June 1, 1992

RECOMMENDATION

Based on the above findings, the Community Development Department recommends the City Council direct the City Attorney to draft an order denying the variance request for approval at the next Council meeting.

Prepared by Skip Wendolowski, City Planner

This is a detailed street map of a residential neighborhood in Chicago, showing property lots, street names, and zoning designations. The map includes streets such as Dearborn Ave, Evanston Ave, and Greenwood Ave. Zoning codes like RM, CR, RS, and CO are marked on various lots. A specific lot is highlighted and labeled "SUBJECT PROPERTY".

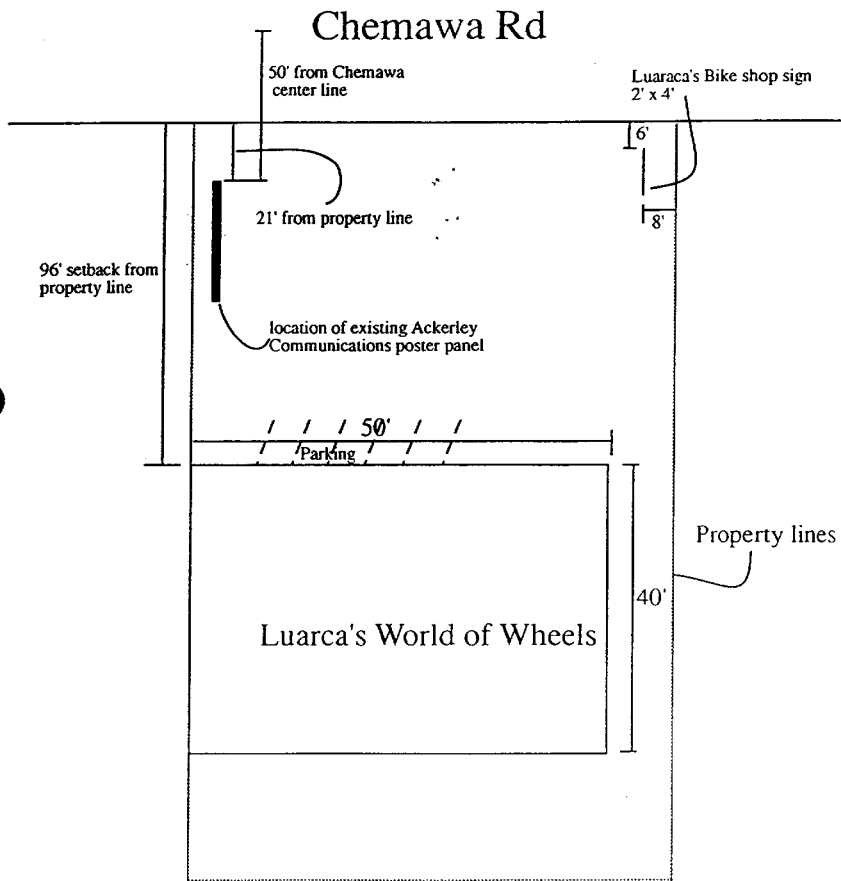
Streets shown: Dearborn Ave, Evanston Ave, Greenwood Ave, James St, Janet Ave, Linda Ave, Main Ave, Melson, and others.

Zoning Designations: RM (Residential Medium Density), CR (Community Residential), RS (Residential Single-Family), CO (Community Office), and others.

Other features: The map includes lot numbers, street names, and various annotations such as "SUBJECT PROPERTY" and "SUB".

N

Marion County Map 7 3W 02BB,
Lots 3400 (50' x 160') & 3500 (20' x 160'),
owned by Phil Luarca





City of Keizer — Community Development

1982

Phone: 390-3700 • Fax # 390-8295
930 Chemawa Rd. N.E. • P.O. Box 21000 • Keizer, Oregon 97307-1000

CITY COUNCIL MEETING: May 4, 1992

AGENDA ITEM NUMBER: 7

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: ACKERLEY COMMUNICATION VARIANCE REQUEST

DISCUSSION:

Ackerley Communication has been cited for violation of the zoning ordinance resulting from their alteration of their non-conforming sign on the south side of Chemawa Road west of River Road. Prior to the issue going to Court, Ackerley filed a variance request which stays the legal proceeding.

Staff expects this land use issue to ultimately be before the Council. Staff is prepared to issue a denial to the variance request. Ackerley can be expected to appeal this denial to the Hearings Officer. Regardless of the Hearings Officer's decision, the case will probably be appealed to the Council for a final public hearing and decision. The estimated time frame for this process follows:

May 8	-	Staff decision issued
May 15	-	Appeal filed
June 25	-	Hearings Officer public hearing
July 6	-	Hearings Officer decision issued
July 13	-	Appeal filed
August 3	-	City Council public hearing and decision

Staff believes it is in the public interest to remove all non-conforming structures in accordance with the provisions of the zoning ordinance. In this case, it is in the public interest to remove this sign in the near term in order to better implement the intent and purpose of the sign code.

City Council
May 4, 1992

Since, in all likelihood, this matter will be before the Council; and since the decision on the variance will be partially based on issues of public policy, which neither the Staff or Hearings Officer have the authority to be setting or interpreting, Staff recommends the Council call up this variance case.

RECOMMENDATION

Council, by motion, call up the Ackerley Communication variance request and set the matter for public hearing on May 18, 1992.

**ACKERLEY COMMUNICATIONS
OF THE NORTHWEST, INC.**

April 20, 1992

Skip Wendolowski
City Planner
City of Keizer
930 Chemawa Rd. N. E.
Keizer, OR 97307

RE: Billboard Located at 170 Chemawa Rd. N, Keizer, OR

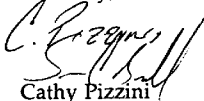
Dear Mr. Wendolowski:

We have maintained our sign structure on this parcel of property for some years. Recently a building was erected right against the north property line just east of this property which had completely obstructed the view of our sign structure. We request a variance to maintain our structure at an overall height of 35'. This increased height has become necessary as a result of the new building, and its close proximity to our existing sign structure.

We also request that we be granted a permit for attaching a sign to our posts for the bicycle store located on this property.

The Keizer code requires, "All signs shall be maintained in a good structural condition, attractive and readable at all times." Our raising of the sign structure made the sign face readable where it was not before.

Sincerely,



Cathy Pizzini
Real Estate Manager
Sean C. Bell
Lease Representative



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

1982

March 20, 1992

CERTIFIED MAIL

Bill Barber, President
Ackerley Communication of the Northwest, Inc.
715 NE Everett Street
Portland, Oregon 97232

RE: Billboard Alterations; 170 Chemawa Road North, Keizer

Dear Mr. Barber:

It recently came to the City's attention that your company structurally altered a sign located at 170 Chemawa Road North, Keizer. The City authorized a "Stop Work" order from Marion County Building Inspection Division to halt all further work on the sign.

Section 15.20(1) of the Keizer Zoning Ordinance requires the issuance of a permit for the construction, alteration or relocation of a sign. By definition [Section 15.10(1)], alteration includes any change in the size, shape, position, location, construction or supporting structure of a sign. Based on this definition, the modification to the Chemawa Avenue sign constitutes an alteration and therefore requires a permit.

While a sign permit is required, Section 15.30(2) prohibits the issuance of a permit for new, altered or relocated signs that do not comply with the sign code regulations. The existing sign is non-conforming, in that it exceeds the maximum allowable sign area identified in Section 15.70(1). Therefore, any alteration of the structure is prohibited unless the resulting sign is brought into conformance with the sign code requirements.

Your company has not applied for nor received the necessary permit for the modifications. Based on the requirements of the sign code, however, the City would be unable to approve a sign permit for the structural changes as these modifications would not create a conforming sign. For these reasons, the City concludes the structural changes to the sign are in violation of the Keizer Zoning Ordinance.

The City hereby requires that you either remove the sign or obtain a sign permit modifying the structure to conform with code requirements. You must comply with one of these requests within fifteen days of the date of this letter. Failure to comply by that date will result in enforcement action and possible fines of up to \$500.00 per day of violation.

A copy of the sign code is enclosed for your convenience. Please contact the Community Development Department, at 390-3700, if you have any questions.

Sincerely,


Skip Wendolowski
City Planner

cc: Andy Orcutt, Mayor
Don Otterman, City Manager
John Morgan, AICP; Community Development Director
John Lien, City Attorney

ENFRCMNT:ackerley

4-27-92

CITY OF KEIZER
ADJUSTMENT/CONDITIONAL USE/VARIANCE APPLICATION

APPLICATIONS RETURNED BY MAIL WILL NOT BE ACCEPTED

Applicant: Please check what you are
applying for:

CONDITIONAL USE ()
Fee: \$

VARIANCE (✓)
Fee: \$ 200.00

ADJUSTMENT ()
Fee: \$

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

Cathy Pizzini/ Sean C. Bell
Name

715 NE Everett, Portland, OR 97232
Address

1 (503) 232-3111

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

1. Applicant

Address and zip code

715 NE Everett, Portland, OR 97232

2. Property owners (if other than applicant)

Address and zip code

170 CHEMAWA RD KEIZER

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

Address and zip code

~~170 Chemawa Rd. N., Keizer, OR 97307~~

4. The owners of record of the subject property do hereby request permission
to 15.70(1) KZC. PERMITTING A SIGN EXCEEDING THE HEIGHT

LIMITATIONS

5. Address of subject property 170 Chemawa Rd North, Keizer, OR 97232

5. Size of subject property (include all contiguous tax lots in same owner
ship) 70' x 160'

FOR OFFICE USE ONLY

Section 2283 Township 7S Range 3W

Fax lot number(s) 3400 3500

Zone CR

Zone map number

4/24/92

Date app. determined to be complete

Application elements submitted:

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

4/20/92
Application accepted by

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

(a) A copy of the latest officially recorded title transfer instrument (deed, warranty deed, or contract) giving the legal description for the subject property.

* (b) A copy of the most recent Assessor's maps for the subject property: Available at the Marion County Assessor's Office in the Courthouse.

(c) Plot plan drawn in black ink on a separate sheet of paper, 8 1/2 x 11, showing the location of the proposed conditional use, variance or adjustment and its distance from other structures, property lines, roads, and other features. See attached example.

15.90
VARIANCE
(d) A written statement explaining your reasons for the proposed adjustment, conditional use or variance, and how your proposal conforms to City of Keizer development policies and the requirements of the particular zone (applicable for conditional uses). Insert extraordinary circumstances which may apply.

* (e) A list of all property owners within 100 feet of the subject property. The list must be certified by a Title Company or County Assessor's Office (see attached "Procedures for Preparing Notification List"). The list must have been prepared to be current to within 30 days of the date of application.

(f) Filing fee made payable to the City of Keizer.

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

Philip A. Suarez

Neda Suarez

DATED this April 20 day of April, 1992.

9. THE APPLICANT(S) SHALL CERTIFY THAT:

(a) The above request does not violate any deed restrictions that may be attached to or imposed upon the subject property.

(b) If the application is granted, the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.

(c) All the above statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.

(d) The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

SIGNATURE of Applicant(s): S. C. Hill

DATED this April 20 day of April, 1992.



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: May 4, 1992

AGENDA ITEM NUMBER: 7

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: ACKERLEY COMMUNICATION VARIANCE REQUEST

DISCUSSION:

Ackerley Communication has been cited for violation of the zoning ordinance resulting from their alteration of their non-conforming sign on the south side of Chemawa Road west of River Road. Prior to the issue going to Court, Ackerley filed a variance request which stays the legal proceeding.

Staff expects this land use issue to ultimately be before the Council. Staff is prepared to issue a denial to the variance request. Ackerley can be expected to appeal this denial to the Hearings Officer. Regardless of the Hearings Officer's decision, the case will probably be appealed to the Council for a final public hearing and decision. The estimated time frame for this process follows:

May 8	-	Staff decision issued
May 15	-	Appeal filed
June 25	-	Hearings Officer public hearing
July 6	-	Hearings Officer decision issued
July 13	-	Appeal filed
August 3	-	City Council public hearing and decision

Staff believes it is in the public interest to remove all non-conforming structures in accordance with the provisions of the zoning ordinance. In this case, it is in the public interest to remove this sign in the near term in order to better implement the intent and purpose of the sign code.

City Council
May 4, 1992

Since, in all likelihood, this matter will be before the Council; and since the decision on the variance will be partially based on issues of public policy, which neither the Staff or Hearings Officer have the authority to be setting or interpreting, Staff recommends the Council call up this variance case.

RECOMMENDATION

Council, by motion, call up the Ackerley Communication variance request and set the matter for public hearing on May 18, 1992.



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

COUNCIL MEETING: June 15, 1992

AGENDA ITEM NO.: 5a

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: ZONE CHANGE CASE No. 92-1 (RICHARD BECK/PIZZA HUT);
APPEAL TO CITY COUNCIL

DATE: June 8, 1992

BACKGROUND

This is an appeal of the Hearings Officer's denial of a zone change request. The subject property is located on the southeast corner of the intersection of River Road and Linda Avenue and is currently zoned CO (COMMERCIAL OFFICE). The proposal would change the zoning to CR (COMMERCIAL RETAIL) thereby permitting the establishment of a Pizza Hut restaurant.

The above noted case was originally scheduled to be heard at your May 18, 1992 City Council meeting. Due to prior conflicts, the appellant/applicant was unable to attend the hearing and requested, by letter, the hearing be rescheduled for June 15, 1992.

DISCUSSION

The zone change request was originally heard by the Hearings Officer on March 26, 1992. The applicant was able to meet a majority of the decision criteria found in Section 4.16 of the Keizer Zoning Ordinance. The submitted site plan was also found to meet site development standards for the CR zone.

Staff noted, however, the applicant failed to provide sufficient information regarding Section 4.16(2)(a) and (b). These criteria, respectively, address availability of other appropriately zoned land to accommodate the restaurant, and, the supply of vacant property to accommodate the projected rate of development for the CO zone. Staff neither recommended approval nor denial of the request but recommended a series of development conditions if sufficient findings could be made in support of the zone change. The applicant requested a continuance to submit additional information addressing these concerns.

In reviewing the matter, the Hearings Officer denied the application. In general, the denial centered on the following items:

(a) There is an adequate supply of properly zoned land to accommodate the restaurant. While the parcels may not be as locationally advantageous and may be larger, there is no evidence these parcels are too small to accommodate the restaurant.

(b) The restaurant, with its additional traffic and hours of operation, will tend to destabilize the land use pattern in the area and adversely affect single-family residential development to the east. The Hearings Officer concluded the CO zone is more appropriate for the property as it allows less intensive commercial uses.

Staff, in general, agrees with the Hearing Officer's assessment regarding available land. There are other parcels of CR zoned land along River Road that can accommodate the proposed use.

A larger question arises as to the appropriateness of continually developing River Road with commercial retail uses. River Road is identified in the Comprehensive Plan as an area for commercial strip development. This essentially recognizes the existing land use pattern. The City, however, is under no obligation to encourage commercial development which is limited only to retail activities. It is appropriate to accommodate a mixture of retail and office uses for reasons of diversity, traffic impacts and compatibility with adjacent non-commercial land uses.

While not central to the case, the City is in the process of re-defining the design and development aspects of River Road as part of the City's Urban Renewal program. It may be inappropriate at this time to encourage zone changes, which result in significant land use impacts, until such time the River Road Design Plan is adopted.

RECOMMENDED ACTION

For the reasons stated above, staff recommends the City Council uphold the Hearing Officer's decision and **DENY** the Zone Change Case No. 92-1.

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

May 8, 1992

RECEIVED

Sue Darby
City Recorder, City of Keizer
P.O. Box 21000
Keizer, Oregon 97307-1000

32 MAY 11 AM 11 16

RE: APPEAL OF HEARINGS OFFICER DECISION, ZC 92-1, RIVER ROAD AT LINDA AVE.

Dear Ms. Darby:

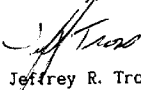
I am writing on behalf of Richard Beck, the appellant in the zone change case cited above.

We have received the City's Notice of Public Hearing, which states the hearing date of May 18.

Due to prior conflicts with the scheduled hearing date, we must ask for the hearing to be rescheduled or continued to a later date. We request that the hearing be scheduled for June 15, if possible. The applicant/appellant agrees to waive the 120 day limitation for the decision on this case.

We hope that this request does not cause you any inconvenience. Please call if you have any questions regarding this request. Thank you for your cooperation.

Sincerely,



Jeffrey R. Tross

cc: Richard Beck

BEFORE THE HEARINGS OFFICER OF THE CITY OF KEIZER

In the Matter of the Application of) Zone Change/
) Case No. 92-1
RICHARD BECK, PHYLLIS J. NELSON,)
J. LARRY FUGATE and FUGATE) RECOMMENDATION
ENTERPRISES,) RECEIVED
(Owners/Applicants))

A. The Application:

This matter comes before the Hearings Officer on the application of Richard Beck, Phyllis J. Nelson, J. Larry Fugate and Fugate Enterprises (Owners/Applicants) for a zone change from CO (Commercial Office) to CR (Commercial Retail) for property located on the east side of River Road N. at its intersection with Linda Avenue NE. The subject property, which is identified as 4710 River Road N. and 524 Linda Avenue NE, consists of two parcels combined for a total area of 0.53 acres. The property is designated commercial in the Keizer Comprehensive Plan. There is a single family dwelling currently located on the property. The property adjoins a parcel on the south which is presently zoned CR (Commercial Retail) and has been approved for development as a Taco Bell restaurant. Property to the north across Linda Avenue is zoned CO and contains a medical office complex. Land to the west across River Road is zoned CR and CO and includes a bank, gas station and medical offices. To the east, along Linda Avenue, property is zoned RS (single-family residential) and contains single-family residences.

The Applicants request the zone change in order to develop the subject parcel as a Pizza Hut restaurant.

B. Public Hearing:

A public hearing was conducted in the Robert L. Simon Council Chambers on Thursday, March 26, 1992, by Sandra Smith Gangle, Keizer Hearings Officer, pursuant to notice sent to affected property owners on March 6, 1992. The notice of hearing contained the land use decision criteria that would be applicable to the zone change request.

At the beginning of the hearing the Hearings Officer read into the record the land use criteria contained in Keizer Zoning Ordinance Section 4.16. She advised all parties that failure to raise an issue with sufficient specificity to afford the decision maker and other parties an opportunity to respond would preclude an appeal based on that issue. The Hearings Officer took official notice of the file in this matter, including the application and supporting documentation, the responses to requests for comments from affected public agencies and the

Planning Staff Report dated March 20, 1992.

Mr. Skip Wendolowski of the Keizer Planning Department was present at the hearing and presented the Staff Report. Mr. Wendolowski offered into the record a supplemental traffic engineering report, prepared by Richard L. Woelk, of Associated Transportation Engineering and Planning, dated March 25, 1992. Mr. Wendolowski also submitted into the record letters, many of which were notarized, signed by the following individuals: Dave Bowerly, Wilbur L. Bluhm, Elizabeth Shelton, Edward Schunke, Gerald J. Bowerly, James J. Cassidy, Joan Suckow, Roy L. Shelton, Carol G. Shelton, Evelyn J. Franz, James S. Tanner and Gary and Beverly Ryder.

The Applicants' representatives, Jeff Tross and Sue Hill, as well as the contractor for the proposed Pizza Hut restaurant, Ron Phair, appeared on behalf of the application. Their addresses are as follows:

Jeff Tross
1720 Liberty St. SE
Salem, OR 97302

Sue Hill
486 Valleywood Dr. SE
Salem, OR 97306

Ron Phair
510 Winding Way SE
Salem, OR 97302

The following witnesses appeared and offered testimony before the Hearings Officer in opposition to the proposed application:

Mary Lou Copeland
703 Main Ave. NE
Keizer, OR 97303

Gary Ryder
663 Linda Ave. NE
Keizer, OR 97303

Wilbur Bluhm
743 Linda Ave. NE
Keizer, OR 97303

Roy and Carol Shelton
723 Linda Ave. NE
Keizer, OR 97303

Jim Tanner
643 Linda Ave. NE
Keizer, OR 97303

George Suckow
773 Linda Ave. NE
Salem, OR 97303

George C. and Jackie Miller
744 Linda Ave. NE
Keizer, OR 97303

Lillian Walston
513 Linda Ave. NE
Keizer, OR 97303

Additional witnesses, who had signed in to testify, advised the Hearings Officer that they concurred with other witnesses who opposed the zone change and did not need to offer separate testimony. Those witnesses were as follows:

Evelyn J. Franz
693 Linda Ave. NE
Keizer, OR 97303

Edward Schunke
644 Linda Ave.
Keizer, OR 97303

Isabelle Cassidy
733 Linda Ave. NE
Keizer, OR 97303

Beth Shelton
724 Linda Ave. NE
Keizer, OR 97303

Kelly and Betty Peters
195 Evans Ave. N.
Keizer, OR 97303

At the end of the hearing, the Applicants' representative requested that the record be left open for seven (7) days to allow submission of supplemental testimony on the issue of availability of CR-zoned property in Keizer. The Hearings Officer granted the request and announced that the record would be left open until 5:00 p.m. on Thursday, April 2, 1992, for submission of supplemental written testimony by any witness. The Applicant submitted supplemental written testimony which was received into the record and the record was officially closed at 5:00 p.m. on April 2, 1992.

C. Findings of Fact:

The Hearings Officer, having reviewed all the evidence in the record and the Staff Report, hereby makes the following findings of fact:

1. The Applicant wishes to establish a Pizza Hut restaurant on the subject property which has a combined lot area of 23,000 square feet. The proposed building would contain approximately 2900 square feet and there would be parking for 41 automobiles. The site development plan calls for access to and from both Linda Avenue and River Road. At the request of the City Planning Staff, the Applicant has amended its original plan to allow for a shared access on the River Road side, half of which would be located on the subject property and the other half of which would be on the adjoining parcel to the south. The combined access would serve both the proposed Taco Bell restaurant on the south and the proposed Pizza Hut restaurant. The Applicant also has amended its original proposal to provide for an alley along the eastern boundary of the subject parcel that would connect with a similar alley on the Taco Bell parcel existing on Maine Ave. N. The alley would be constructed in such a way that through access would only be allowed during daytime business hours when deliveries were being made to the two restaurants. At all other times, direct access between Linda Avenue N.

and Maine Avenue N. would be blocked.

2. The Public Works Department has noted that adequate public facilities are available to serve the property. Other than the required half street improvement along the property's Linda Avenue frontage, no public facility improvements are necessary.
3. River Road N. is a major arterial. Much of the property along both sides of River Road N. is already committed to commercial uses, including professional offices, retail stores and other businesses.
4. The current zoning on the subject property, CO (Commercial Office), would not allow the development of a restaurant. The proposed CR zone would allow more intensive uses than are permitted in a CO zone, including uses that are more intensive than a restaurant use. Staff has recommended that, in the event the Hearings Officer grants the proposed zone change, a limited use overlay zone be imposed which would limit the uses otherwise permissible in the CR zone to the proposed Pizza Hut restaurant.
5. According to Applicants' representative, Jeff Tross, many of the uses that are allowed under the present zoning are at least as intensive as the proposed restaurant use. He cited the following as examples: vocational schools, medical or dental clinics, travel agencies, news stands, barber or printing shops, and parking lots. He testified that many of those uses would have at least as great if not greater impact on the surrounding residential properties than the proposed Pizza Hut restaurant. He also testified that the Keizer Comprehensive Plan calls for strip commercial development along River Road N.
6. Representative Tross also testified that the restaurant building will cover only twelve percent of the lot size, whereas normally, a commercial building covers twenty percent or more of a commercial lot. As a result, greater parking availability will be provided than is ordinarily required for a restaurant.
7. Applicants' representative Sue Hill testified that the proposed Pizza Hut restaurant will be a full service restaurant serving pizza, pasta, salads, and a family menu. It will have a drive-up window, to be designed for phone-in orders only. There will be no speaker box for drive-thru orders. The restaurant will be open until 11:00 p.m. on Sunday through Thursday night and until midnight on Fridays and Saturdays.

8. The Applicant did not request any variance or adjustment to the development standards contained in Chapters 17-20 of the Keizer Zoning Ordinance. Staff concluded, based upon its review of the proposal, that the proposal could meet the City's development standards and recommended that a condition be imposed requiring compliance with those standards.
9. Contractor Ron Phair testified that he is willing to make construction changes as required. Although he expressed concerns about the City's recommendation for a combined access, based upon the "tunnel effect" design of the access, he testified he has been willing to incorporate the City's recommendation into his proposed construction plan.
10. Opponents expressed serious objections to the proposed plan. Their objections can be summarized as follows:

a) Opponents Bluhm, Ryder, Shelton and Suckow complained that there is already a serious traffic congestion problem at the intersection of Linda Avenue and River Road. Because of the traffic light at Dearborn, northbound traffic on River Road tends to back up for one or more blocks, prohibiting access to River Road for vehicles exiting from Linda Avenue. Sometimes it takes five minutes to make the exit. A commercial use of the subject property will further aggravate the existing problem which tends to be more severe during rush hours at noon and 4-6 p.m. The proposed Taco Bell restaurant will be a high-traffic fast food restaurant. When that use is in place, the traffic problem will be aggravated. An additional commercial activity on the subject property will make it virtually impossible for vehicles to exit from Linda Avenue onto River Road.

b) Linda Avenue is a short dead-end street, approximately three blocks in length. There are no sidewalks and there is no cul-de-sac at the end. A semi trailer truck cannot turn around on Linda Avenue. If vehicles are allowed to access and egress from the subject property onto Linda Avenue, many vehicles will naturally tend to turn eastward on Linda Avenue, believing that there is an exit from the neighborhood in that direction. Those vehicles will have to turn around at the end of Linda Avenue and head back in a westerly direction towards River Road. The experience of Linda Avenue residents has shown that when cars erroneously head eastward on Linda Avenue, those

vehicles speed back toward River Road, creating a dangerous hazard to residents.

c) Linda Avenue is a livable street. Many of the residents have lived in their present homes for twenty or thirty years. There are a number of young children who live in the neighborhood. Those children play on the street because there are no sidewalks. Their safety will be endangered by the increased traffic due to a restaurant use of the subject property.

11. Opponents Tanner and Suckow testified that they believe the character of businesses that would be allowed in the CO zone is quite different from the character of the proposed Pizza Hut restaurant. Specifically, commercial office uses operate during daytime business hours almost exclusively, whereas a restaurant use will be open until 11:00 p.m. or midnight. Restaurants are also open on weekends. Their busiest times tend to be during the congested rush hour traffic times. They also involve considerable noise, and lighting that adversely affect neighborhood residential uses. The current office uses of the property on the northeast corner of Linda Avenue and River Road are quite compatible with nearby residential uses. There is very little traffic and no noise or lighting problems.
12. Opponent Bluhm pointed out that in other areas where there is commercial retail property, there is buffering between the retail uses and the neighboring residential uses. Such buffering can include church use, apartment houses or other less intensive uses. The subject property adjoins residential property on the east with no intervening development of a buffering nature. Bluhm recommended as a minimum that twenty-foot conifer trees be required along the east boundary in order to limit the intrusion of light and noise.
13. Opponent Suckow pointed out that there is a park-like area on the eastern end of Linda Avenue. That park, which is actually private property and is not a public park, would tend to attract customers from the Pizza Hut restaurant who would picnic there and leave their debris and litter on the property. That litter would then be disseminated throughout the neighborhood, adversely affecting the liveability for the residents.
14. Opponents Miller and Walston testified that there is a private driveway across from the proposed property on the north side of Linda Avenue running parallel to River Road N. and ending at Dearborn. The driveway is not a public way, but is sometimes used by others as an

access route. Customers from the proposed Pizza Hut would tend to use the alley improperly, creating a further hazard to the owners of the property.

15. The Applicant submitted evidence showing that there is a shortage of available property zoned CR in Keizer. The following sites were identified as available for sale at the present time: a parcel consisting of approximately 15 acres on the east side of River Road south of Claggett Street; a 3.35 acre parcel on the southwest corner of River Road and Hollyhock; three properties which are not located on street corners, but are identified as 3976 River Road N., 4913 River Road N., and 4680 River Road N. According to the Applicant, the first two parcels are too large for the proposed use. The Applicant expresses no opinion with regard to the utility of the remaining three available parcels for the proposed Pizza Hut restaurant.

D. Applicable Legal Provisions:

The zone change review criteria are found in Section 4.16 of the Keizer Zoning Ordinance. The criteria are as follows:

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

- (2) The following additional criteria shall be used to review all non-residential zone changes:
- (a) The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next 5 years; or, the location of the appropriately zoned land is not locationally or physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.
 - (b) The supply of vacant land in the existing zone is adequate, assuming the zone change is granted, to accommodate the projected rate of development of uses allowed in the zone during the next 5 years.
 - (c) The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

The Keizer Comprehensive Plan contains the following provisions which are relevant to the application:

Commercial Goals and Policies:

- (3) (b) Strip Commercial will be located along North River Road generally south of Claggett Street, and along Cherry Avenue.
- (d) Ensure that future improvements and land use changes in the area provide adequate sound, light and visual buffers to adjacent residential areas.
- (e) Work with existing businesses, property owners and residents to establish an access policy along N. River Road so that the number of driveways can be reduced, and traffic flows and safety improved.

E. Conclusions of Law:

Having carefully reviewed the facts and the applicable legal provisions, the Hearings Officer concludes that the proposed zone change meets the criteria of KZO Section 4.16(1). The application does not meet the criteria of KZO Section 4.16(2) in the following particulars:

- 1. The applicant has not persuaded the Hearings Officer that there is an inadequate supply of land in the

proposed zone in Keizer to accommodate the proposed Pizza Hut restaurant use or to accommodate the projected rate of development of CR (Commercial Retail) uses over the next five years. While other available property may not be as locationally advantageous to the applicant as the subject property, there are several adequately-sized parcels available for sale on River Road N. with the appropriate zoning in place. While some of the available parcels may be larger than the applicant desires for the restaurant use, there is no evidence that any of them is too small.

2. Even if a limited use overlay zone were applied, the proposed use would tend to destabilize the land use pattern of the neighborhood and would adversely affect adjacent residential uses on Linda Avenue. The Hearings Officer is persuaded that there is a significant problem of traffic congestion at the intersection of River Road N. and Linda Avenue N., especially at noon and between 4:00 and 6:00 p.m. That congestion will worsen when the Taco Bell restaurant is in operation. The addition of the Pizza Hut restaurant would be likely to create further hazards as follows:
 - a) Emergency vehicles would not be able to enter or exit Linda Avenue with ease;
 - b) Vehicular traffic would back up on Linda Avenue, especially during rush hours, and would be unable to exit onto River Road;
 - c) Vehicles exiting the Pizza Hut lot onto Linda Avenue would be likely to use the private driveway on the north side of Linda in order to reach Dearborn without exiting onto River Road;
 - d) Some Pizza Hut customers would drive easterly on Linda Avenue in the mistaken belief that they could exit the neighborhood in that direction;
 - e) Some customers would drive easterly on Linda Avenue in order to use the private park area for eating purposes;
 - f) Noise and lights from the Pizza Hut restaurant would interfere with the peace and quiet of the residential neighborhood late at night, particularly on weekends.

The current zone, CO (Commercial Office) allows uses which are considerably less intensive than the proposed Pizza Hut restaurant. Even though professional offices have customers arriving in vehicles, their business hours are usually limited to 8:00 a.m. to 5:00 p.m. daytimes, with few, if any, weekend hours.

RECOMMENDATION

For the foregoing reasons, the Hearings Officer recommends denial of the proposed zone change.

DATED this 17th day of April, 1992.

A handwritten signature in dark ink, appearing to read "Sandra Smith Gangle".

Sandra Smith Gangle
Hearings Officer

APPEAL RIGHTS

The decision of the Hearings Officer is final unless a written appeal is filed with the Keizer City Council, Keizer City Hall, 930 Chemawa Road NE, Keizer, Oregon, within the ten (10) days from the date of the mailing of this decision by any person aggrieved by this decision. The appeal must be in writing, must be filed in duplicate and must state wherein this decision is in error. A copy of the appeal notice form is attached hereto.

Questions about this decision or about appeal rights may be addressed to the City of Keizer Planning Department at the above address, telephone 390-3700. An appeal fee of \$100.00 plus costs will be collected at the time of filing an appeal. The appeal fee will be refunded in the event the Hearings Officer's decision is reversed.

APPEAL OF HEARINGS OFFICER'S LAND USE DECISION

The undersigned hereby appeals the decision of the Keizer Hearings Officer in the following matter. I understand that this appeal form must be filed in duplicate with the City Recorder of the City of Keizer and must accompany the appropriate appeal fee and costs as determined by the Keizer City Recorder, made payable to the City of Keizer. I further understand that only the applicant, owners and purchasers of the property or those who submitted testimony themselves or through a representative at the Hearings Officer's hearing are aggrieved and have standing to appeal the decision by the Hearings Officer.

LAND USE CASE NO.: _____

APPLICANT: _____

APPELLANT: _____

APPELLANT'S ADDRESS: _____

BASIS FOR APPEAL (Use additional sheet if necessary): _____

DATE HEARINGS OFFICER'S DECISION WAS MAILED: _____

Date of Appeal _____

Signature of Appellant _____

OFFICE USE ONLY

*DATE APPEAL RECEIVED: _____

*APPEAL FEE/COSTS PAID: _____

*NOTE: In accordance with
*Resolution R87-260, a
*portion of the appeal fee
*may be refunded if the
*decision is reversed:

\$ 100.00 Appeal Fee
\$ Mailing of Notice
\$ Photocopies
\$ Advertisement
\$ Staff Cost

\$ TOTAL PAID - Receipt

CITY OF KEIZER
930 Chemawa Road N.E.
P. O. Box 21000
Keizer, Oregon 97307-1000
Telephone: 390-3700

CERTIFICATE OF MAILING

I hereby certify that I served a true copy of the foregoing Order on the following persons:

KEIZER CITY COUNCIL
Keizer City Hall
P.O. Box 2100
Keizer, OR 97307

KEIZER CITY COUNCIL
ATTN: SKIP WENDOLOWSKI
P.O. Box 2100
Keizer, Oregon 97307

ALICE LINKER, Keizertimes
680 Chemawa Rd. NE
Keizer, OR 97303

SHANNON JOHNSON
Attorney at Law
4855 River Road N.
Keizer, OR 97303

J. LARRY FUGATE
208 S. Maize Rd.
Wichita, KS 67209

RICHARD BECK
c/o Dave Curry
Caldwell Banker
615 Commercial St. NE
Salem, OR 97301

JEFF TROSS
1720 Liberty St. SE
Salem, OR 97302

SUE HILL
486 Valleywood Dr. SE
Salem, OR 97306

RON PHAIR
510 Winding Way SE
Salem, OR 97302

MARY LOU COPELAND
703 Main Ave. NE
Keizer, OR 97303

GARY RYDER
663 Linda Ave. NE
Keizer, OR 97303

WILBUR BLUHM
743 Linda Ave. NE
Keizer, OR 97303

ROY & CAROL SHELTON
723 Linda Ave. NE
Keizer, OR 97303

JIM TANNER
643 Linda Ave. NE
Keizer, OR 97303

GEORGE SUCKOW
773 Linda Ave. NE
Keizer, OR 97303

GEORGE C. & JACKIE MILLER
744 Linda Ave. NE
Keizer, OR 97303

LILLIAN WALSTON
513 Linda Ave. NE
Keizer, OR 97303

EVELYN J. FRANZ
693 Linda Ave. NE
Keizer, OR 97303

EDWARD SCHUNKE
644 Linda Ave.
Keizer, OR 97303

ISABELLE CASSIDY
733 Linda Ave. NE
Keizer, OR 97303

BETH SHELTON
724 Linda Ave. NE
Keizer, OR 97303

KELLY & BETTY PETERS
195 Evans Ave. N.
Keizer, OR 97303

which included those witnesses who appeared at the hearing and requested, in writing, copies of this decision by mail duly posted to them at the above addresses through the United States Post Office at Salem, Oregon, on the 17th of April, 1992.

SANDRA SMITH GANGLE

SANDRA SMITH GANGLE
Hearings Officer

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

Applicant Ex. 1

**SUPPLEMENTAL STATEMENT FOR FUGATE ENTERPRISES
RIVER ROAD ZONE CHANGE PROPOSAL**

Fugate Enterprises has applied for a zone change from CO to CR on property located at the southeast corner of River Road and Linda Avenue. The subject property is identified as Tax Lots 7900 and 8000 on Marion County Assessor's map T7S R3W Section 02BD, and is addressed as 4710 River Road N and 524 Linda Ave. NE. The purpose of the zone change is to provide a location for a new Pizza Hut restaurant. This Statement has been prepared to supplement the materials that have been previously submitted by the applicant.

Zone Change Criteria, Keizer Zoning Ordinance (KZO) Section 4.16(1):

(a) The proposed zone is appropriate for the Comp Plan land use designation on the property and is consistent with the description and policies for the Comp Plan land use classification.

The property is designated "Commercial" by the Comp Plan. The proposed CR zone implements the "Commercial" Plan designation. The CR zone "Purpose" statement, KZO 28.00, specifically includes "eating and drinking places" as an appropriate activity in the CR zone. For these reasons, the proposed zone is appropriate under the Plan classification.

Under the Comp Plan, the "Commercial" designation identifies areas that are appropriate for commercial use and development. The "Commercial" designation provides for retail and service activities, which as a category includes restaurants. In part III.C. of the Plan, "Land Use and Economic Development", the stated Goals and Policies are to diversify the economy, direct commercial development to concentrate along arterial streets, and prevent adverse impacts on residential areas. In part III.D., "Plan Diagram and Special Land Use Policies", section d.3., the Plan recognizes and provides for strip commercial

development along North River Road, which is already committed to this type of development pattern.

The proposed use will diversify the local service economy by establishing a service that is not presently available in Keizer. Currently, Keizer residents who wish to visit a Pizza Hut restaurant must travel to Salem. The proposal will expand the choices available locally and provide Keizer residents with the same opportunity for this service that is available to Salem residents.

The proposed site is along River Road, which is a designated arterial. The lands fronting on River Road to the north, south and west of the subject site are already developed or zoned for commercial use.

The proposed use will be designed and managed to prevent adverse impacts on nearby residential areas. Primary access to the site will be provided to River Road. A secondary access will be located on Linda Ave., but directional signs and curbing can be provided to prevent traffic from turning into the neighborhood. Linda Ave. is a dead-end street, so there is no route for traffic to filter through the neighborhood. As shown on the site plan, the building will be set back nearly forty feet from the border with residential property. A fence and landscaping will be provided along this border. There will be no outdoor storage.

River Road is committed to strip development as a result of the existing development pattern. The existing strip development pattern is recognized by the commercial designation on the Comp Plan map.

For these reasons, the proposed zone is consistent with the description and policies for the "Commercial" Comp Plan designation.

(b) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

The site totals ±.53 acres (±23,068 s.f.). The ground is flat and level, has

no unusual physical features, and presents no apparent physical limitations or conditions that require special measures or considerations, or that would prevent or impair the development of the proposed use.

The proposed building is ±2900 s.f. This will result in a building lot coverage of only ±12.5%. There is no stated lot coverage limitation for the existing CO zone or for the proposed CR zone. Based on the proposed building size and the proposed use, thirteen parking spaces are required. As shown on the site plan thirty-four spaces will be provided. All required setback and landscaping requirements will be met or exceeded, as shown on the submitted site plan.

The proposed restaurant is a permitted use in the CR zone, KZO 28.01(9). Based on the proposed use and development of the property relative to the physical characteristics of the site, this permitted use can be accommodated on the site without exceeding its physical capacity.

(c) Allowed uses in the proposed zone can be established in compliance with the development requirements of Chapters 17 to 20 without the need for adjustments or variances.

No adjustments or variances have been requested or are needed. As demonstrated by the site plan, all development requirements can be met.

(d) Adequate public facilities, services, and transportation networks are in place or will be provided.

The proposed use will be served by the appropriate public facilities and services at levels that are adequate for the use, including sewer, water, and storm drainage. A half-street improvement along the Linda Ave. frontage will be provided as a part of the development process.

(e) The zone change review criteria of the Comp Plan are satisfied. The applicable Plan goals and policies have been reviewed in (a), above. These form the zone change criteria in the Plan applicable to this proposal.

(f) Residential zone change criteria.

The proposal is not a residential zone change.

(2) Non-Residential Criteria

(a) The location of appropriately zoned land is not suited to the particular use proposed, or lack site specific amenities required by the proposed use. The proposed use requires a location that offers high visibility and exposure to the public and access to an adjacent arterial street. In Keizer, the only location meeting these requirements is the River Road commercial corridor.

In Keizer, commercial service activities are concentrated along the River Road frontage. This development pattern is reflected on the Comp Plan and zoning maps. In recognition of the existing development pattern and its effects, the Plan policies require new commercial activities to locate along the River Road commercial corridor. The policy directives serve to maintain the River Road corridor as the primary commercial service location in the community. As also shown on the Comp Plan and zoning maps, designated commercial land along River Road is typically bordered by residential lands.

Due to the site-specific requirements of the proposed use and the existing development pattern, the only appropriate location for the proposed use is on property along River Road. The proposed site is within the general area occupied by other similar business, and the zone change will result in a more compact cluster of commercial services within the River Road corridor.

(b) The supply of vacant land in the existing zone is adequate.

Although the proposal would replace CO zoning with CR, the CR zone allows CO uses. Furthermore, the City has recently applied a mixed use zone that provides for CO-type uses on an extensive area around the old McNary Lake gravel mine. This should increase the overall area available for CO uses. CO-type uses and zoning will remain on surrounding lands located near the proposed site. For these reasons, there will be no significant loss of CO capability in the city or in the immediate area.

(c) If more intensive uses are allowed by the proposed zone than in other zones, it will not allow uses that would destabilize the land use pattern of the area or adversely affect adjacent properties.

In general, the CR zone allows more intensive uses than the CO zone. In this case, however, the use of the property is proposed to be limited to the proposed use through application of the Limited Use zoning provision. The proposed restaurant is similar to the use of the adjacent property to the south, on which another restaurant is being built. Due to differences in the nature of their respective operations, the proposed use will be less intensive than the restaurant to the south. By limiting the use of the subject property to the proposed use, the land use pattern of the area will not be destabilized. By incorporating the development standards of the zoning ordinance and other conditions of approval to regulate considerations such as the number and location of access drives, building setbacks, landscaping and screening, and building height, the residential neighborhood to the east will be protected and there should be no significant adverse impacts

For these reasons, the proposal addresses the zone change criteria and the proposed zone change from CO to CR is appropriate.

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

RECEIVED

'82 APR 2 PM 3 56

April 1, 1992

JEFF TROSS

TO: KEIZER HEARINGS OFFICER C/ROD SKIP WENDOLOWSKI
RE: ZONE CHANGE 92-1, FUGATE ENTERPRISES (PIZZA HUT)

Enclosed are revised Pages 4 - 6 of the *Supplemental Statement* submitted on behalf of the applicant. These revisions are submitted specifically to provide additional information to address zone change criterion (2)(a), with regards to the supply of vacant CR-zoned land. Criteria (2)(b) and (c) have also been revised. Please include this information in the record of this case.

Thank you for the opportunity to submit this information.

(f) Residential zone change criteria.

The proposal is not a residential zone change.

(2) Criteria for a Non-Residential Zone Change

(a) The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five years; or, the location of appropriately zoned land is not suited to the particular use proposed for the subject property, or lack site specific amenities required by the proposed use.

There is little vacant land zoned CR along River Road. After a drive-by survey along River Road conducted on March 31, it appears that there are only two vacant CR parcels along the River Road commercial corridor (the commercial corridor extends south of Claggett St., as referenced in Plan policy III.D.2.d.3.(b), p. 47). One of the vacant parcels is a tract of ±15 acres located along the east side of River Road south of Claggett. The other is advertised as 3.35 acres, at the southwest corner of River and Hollyhock. These two vacant CR parcels are too large for the proposed use. There appears to be no inventory of vacant, small CR parcels along River Road.

The lack of small, vacant CR parcels means there are no existing, suitable sites for the proposed use. Based on only the two large, vacant CR parcels, it appears that the supply of vacant land in the CR zone is inadequate to accommodate development of CR uses during the next five years.

In addition to the lack of vacant CR land, there appears to be a general lack of available CR-zoned property. The Realtor representing the subject property has reviewed the CR and CG zoned land along River Road and has reported his findings in a letter dated March 30 (copy attached). This review included the vacant 15 acre parcel and other property that is developed. Although this criterion only requires a review of vacant property, the Realtor's information demonstrates the general lack of available CR zoned property. Even including the developed sites that may be

available, there does not appear to be an adequate supply of CR zoned land to accomodate development that could be expected over the next five years.

The proposed use requires a location that offers high visibility and exposure to the public, and access to an adjacent arterial street. In Keizer, the only location meeting these requirements is the River Road commercial corridor.

In Keizer, commercial service activities are concentrated along the River Road frontage. This development pattern is reflected on the Comp Plan and zoning maps (ref. Plan, Figure 2, "Land Use Diagram"). In recognition of the existing development pattern and its effects, the Comp Plan's goals and policies provide for new commercial service activities to locate along the River Road commercial corridor (Plan, Chapter III, "Findings and Policies", D. Plan Diagram and Special Land Use Policies, 2. Goals and Policies, d. Commercial, 3.a.-g., p. 47). The policy directives serve to maintain the River Road corridor as the primary commercial service location in the community. As is also shown on the Comp Plan and zoning maps, designated commercial land along the River Road corridor is typically bordered by residential neighborhoods along the local streets that extend from River Road.

Due to the site-specific requirements of the proposed use and the existing development pattern, the only appropriate location for the proposed use is on property along River Road. The proposed site is within the general area occupied by other similar business, and the zone change will result in a more compact cluster of commercial services within the River Road corridor.

(b) The supply of vacant land in the existing zone is adequate, assuming the zone change is granted, to accomodate development during the next five years.

Although the proposal would replace the existing CO zoning with CR, the CR zone allows CO uses. Therefore, there will be no actual loss of land available to accomodate CO uses. In addition, the City has recently applied a mixed use zone that provides for CO-type uses on an extensive area around

the old McNary Lake gravel mine. This action increases the overall area available for CO uses. CO-type uses and zoning will remain on surrounding lands located near the proposed site. For these reasons, there will be no significant loss of CO capability in the city or in the immediate area.

(c) If more intensive uses are allowed by the proposed zone than in other appropriate zones, it will not allow uses that would destabilize the land use pattern of the area or adversely affect adjacent properties.

In general, the CR zone allows more intensive uses than the CO zone. In this case, however, the use of the property is proposed to be limited to the proposed restaurant through application of the Limited Use zoning provision. The proposed restaurant will be a similar use to the use of the CR property adjacent to the south, on which another restaurant is now being built. The restaurant being built on the adjacent property (Taco Bell) will establish the land use pattern. By limiting the use of the subject property to the proposed restaurant, the land use pattern of the area will be uniform and will not be destabilized. By incorporating the development standards of the zoning ordinance and other conditions of approval to regulate considerations such as the number and location of access drives, building setbacks, landscaping and screening, and building height, the residential neighborhood to the east will be protected and there should be no significant adverse impacts. Due to differences in the nature of their respective operations, the proposed restaurant will be less intensive than the restaurant to the south. In addition, a service station is located on the west side of River Road across from the subject property. This is an existing traffic-intensive use zoned CR, which is also a part of the land use pattern of the area. The proposed use will not be more intensive than this existing use.

For these reasons, the proposal meets the requirements of the zone change criteria and the proposed zone change from CO to CR is appropriate.



MOUNTAIN WEST
REAL ESTATE, INC.
COMMERCIAL DIVISION

815 COMMERCIAL STREET NE
SALEM, OR 97301
BUS: (503) 588-3508
FAX (503) 588-3514

March 30, 1992

Jeff Tross
Planning Counsel
1720 Liberty SE
Salem, OR

Dear Jeff,

As per our phone conversation regarding the CR or CG ground available in the city of Keizer on River Road.

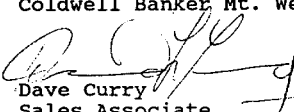
There are two corner parcels for sale in Keizer zoned CR. One is the one Pizza Hut has Purchased subject to a zone change from CO to CR. The other is the south east corner of Claggett and River Road and the owner wants to sell the entire parcel, including a shopping center which is a total of 15 acres, plus or minus.

The only other commercial property for sale is as follows:

1. 3976 River Road N. Not a corner, too small
2. 4913 River Road N. Not a corner, too small
3. 4680 River Road N. Not a corner, too small

Sincerely,

Coldwell Banker, Mt. West



Dave Curry
Sales Associate

DC:rd



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

STAFF RECOMMENDATION

SUBJECT: Keizer Zone Change Case No. 92-1

APPLICANT: Fugate Enterprises (Property Owners: Richard Beck and Phyllis J. Nelson)

DATE: March 20, 1992

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

I. Request

A. Fugate Enterprises is requesting approval of a zone change from CO (COMMERCIAL OFFICE) to CR (COMMERCIAL RETAIL) on 0.53 acres of land located at 4710 River Road North and 524 Linda Avenue NE, Keizer; (Sec. 02BD; T7S; R3W) Tax Lot #'s 7900 and 8000. The property is owned by Richard Beck and Phyllis J. Nelson.

B. The purpose of the zone change is to permit the development of a Pizza Hut restaurant.

II. General Information

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

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

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

III. Agency Comments

A. Keizer Fire District noted fire hydrants are located on both Maine Street and Linda Avenue; fire suppression will not be a problem.

B. The City Public Works Department noted that public water and sewer services are available to the site. The applicant will be required to provide a half-street improvement along the property's Linda Avenue street frontage. Required improvements will include paving, curbs, drainage and sidewalk facilities.

C. The City Traffic Engineer provided comments regarding access to the property. These comments apply to both the proposed zone change and the Taco Bell property located to the south. In general, the Traffic Engineer is opposed to any access to River Road, preferring the access to be limited to the side streets of Maine Street and Linda Avenue, with a connecting alley on the east side of both properties. If access to River Road is permitted, the access should be directly opposite Evans Street and serve both the Pizza Hut and Taco Bell properties. The engineering report is contained within the file and is made part of the submitted record.

IV. Findings

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

B. The zone change review criteria are found in Section 4.16 of the Zoning Ordinance. The criteria include: (1) the zone must be appropriate for the Plan designation; (2) potential uses can be accommodated on the property; (3) allowed uses can comply with the development standards found in Chapters 17 to 20 of the Zoning Ordinance; (4) adequate public facilities are available; (5) the zone change complies with applicable Comprehensive Plan policies; (6) the location of existing appropriately zoned land is not locationally or physically suited for the particular uses proposed for the property; (7) the supply of vacant land in the existing zone is inadequate to accommodate the 5 year projected rate of development; and, (8) the proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

C. Staff reviewed the criteria against the proposal and offer the following comments:

1. Section 4.02 identifies Comprehensive Plan designations and their corresponding zones. Pursuant to this Section, the CR zone is appropriate for the Commercial Plan designation.

2. The applicant submitted a site plan indicating the proposed restaurant can be physically located on the subject property. The site plan complies with CR zone development requirements regarding setbacks and landscaping areas. The proposed plan will also be able to comply with the requirements in Chapters 17 to 20, regarding access, parking, buffering, vision clearance areas, special setbacks, and other applicable standards. These issues will be reviewed in Section V., below. Staff is unaware of any physical limitation preventing development of the proposed use in compliance with the Zoning Ordinance development requirements.

3. The Public Works Department noted adequate public facilities are available to serve the property. Other than the required street frontage improvements on Linda Avenue, no additional public facility improvements are necessary.

4. The Comprehensive Plan provides several goals and policies applicable to the request. The Plan seeks to diversify the local economy while ensuring compatibility with adjacent property. Design features such as special setbacks are encouraged to reduce impacts on adjacent residential uses. Commercial development should be located along major arterials and avoid traffic filtering through adjacent residential areas. Adequate public facilities and should be available.

Regarding these goals and policies, the proposal will convert underutilized property to commercial uses thereby diversifying the local economy. Design features creating adequate buffering are incorporated within the Zoning Ordinance and are included on the site plan. The development is located along a major arterial and access to this arterial, either directly or indirectly, is available. While access would be available to Linda Avenue (a designated local street) the use of Linda Avenue will not generate, or filter, commercial traffic through the adjacent residential area as Linda Avenue dead-ends. Finally, as noted, adequate public facilities are available to serve the site.

5. Restaurants are only permitted in the CR and CG (COMMERCIAL GENERAL) zones. According to the applicant, appropriately zoned land suitable for the restaurant is unavailable elsewhere within the City. Evidence in support of this statement was not supplied by the applicant. Staff, however, recognizes this type of restaurant requires a location adjacent to an arterial street making this site physically or locationally suited for the business.

6. Information on the supply of vacant land to accommodate the 5 year projected rate of development in the CO zone was also not provided. In response, staff recognizes the unique character of River Road, a street whose entire length is designated by the Plan for commercial development. In many respects the CO and CR zones can be used interchangeably, with the CR zone capable of providing for most of the uses permitted in the CO zone. In addition, the City recently establishment a Mixed Use zone which permits commercial office activities. This zone is now available to over 50 acres of land within the McNary Activity Center area and provides additional opportunities for commercial office activities. In general, staff does not believe the reduction of 0.53 acres of property will adversely affect the availability land for uses permitted in the CO zone.

7. The proposed CR zone would allow more intensive uses than currently permitted in the CO zone. However, the uses within the CR zone are generally less intensive than those permitted in the CG (COMMERCIAL GENERAL) zone. The Zoning Ordinance permits the placement of conditions, or the establishment of the limited use overlay zone, to ensure compatibility with adjacent land uses.

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

V. Site Plan

A. The restaurant is identified as a permitted use in the CR zone [Section 28.01(9)]. The CR zone establishes certain development standards. The building must maintain a minimum 5 foot setback from any street-side and a minimum 3 foot setback from any adjacent residential property. The maximum building height is 50 feet; there is no minimum lot area or lot dimension. Based on the site plan, the proposed restaurant complies with all setback provisions. Building height information was not provided by the applicant, however, compliance with the height limitation can be placed as a condition of approval. The CR zone also requires the landscaping of all required yard (setback) areas. This is indicated on the site plan and can be further enforced as a condition of approval.

B. Other applicable development requirements are contained in Chapters 17 to 20. The applicable requirements are reviewed below:

1. Section 17.32 limits commercial structures to a maximum of 20 feet within 50 feet of residentially zoned property. As noted, height information was not provided by the applicant. This requirement can be placed as a condition of approval.

2. Section 17.40 requires additional buffering between commercial and residential uses. The site must provide a 20 foot landscaped area or a two-way driveway between the development and adjacent residential property. The site plan calls for a 26 foot, two-way driveway along the east property line in addition to the required 3 foot landscaped strip. Combined with additional building setbacks, the restaurant will be separated from adjacent residential property by at least 38 feet.

3. This Section also requires all lighting to be directed away from the adjacent residential uses and the screening of any outdoor storage areas and roof equipment. These are requirements and can be placed as a condition of approval.

4. Chapter 18 establishes landscaping requirements. These include permitted and prohibited landscaping materials, maintenance requirements, installation, parking lot landscaping, and the need to provide a landscaping plan. The applicant did not provide detailed landscaping information. However, at this preliminary stage detailed information is not required and compliance with the requirements in Chapter 18 can be placed as a condition of approval.

5. Chapter 19 establishes parking requirements. At a minimum, the restaurant is required to supply 13 parking spaces. The submitted site plan calls for 41 spaces (and a subsequent modified plan provided 34). Each parking space must be at least 9 feet wide and 17 feet in length. All two-way driveways must be at least 24 feet in width. Based on the submitted site plan, the parking spaces are 9 feet wide and 18 feet in length; all two-way driveways are at least 25 feet in width. The proposal complies with the parking requirements in Chapter 19.

6. Chapter 20 reviews the requirements for accessory structures and fences. The site development will not include accessory structures. A fence is required along the east property line, adjacent to the residential property. This fence must be sight-obscuring and at least six feet in height. The location or height of the fence was not indicated on the site plan but compliance with this requirement can be placed as a condition of approval.

C. Staff recognizes many of the above comments were not conclusive. This is partially based on the limits of the submitted site plan. However, based on this plan, staff concludes the proposal is capable of complying with the applicable requirements in Chapters 17 to 20. The applicant did not request any variance or adjustment to these standards. The issuance of a building permit will require evidence, either with a detailed site plan or other written information, that the development can and will comply with all Ordinance development standards.

D. The site plan did identify the placement of a sign along River Road. Specific details as to the sign's design were not provided. This sign may need to be relocated as it interferes with the vision clearance area at the driveway intersection. Whether or not relocation is required depends on the height and the structure of the sign. All signs require sign permits.

VI. Traffic

A. A major issue facing development of the property is street access. Part of the concern lies with development of the CR zoned property to the south for a Taco Bell restaurant. The Taco Bell building permit was approved with a primary access to River Road and a secondary access to Maine Street. Subsequently, the City reconsidered the access question in light of the Pizza Hut restaurant proposal. The City Traffic Engineer strongly urged, at a minimum, the establishment of a joint access off of River Road to serve both properties and the creation of an alley along the eastern property line of both parcels.

B. During the completion of the staff report, the operators of both Pizza Hut and Taco Bell agreed to a joint access. The applicant submitted a new site plan on March 19, 1992 showing the revised layout. This joint access would be located opposite and approximately 23 feet to the south of Evans Street. The driveway would be extended at least 75 feet into the property before traffic could turn left or right into an adjoining restaurant. The City Traffic Engineer found the location acceptable as Evans Street does not generate a significant amount of traffic onto River Road.

C. The revised site plan, however, will make it difficult to maneuver trucks within and between both restaurants. Staff is very concerned the trucks will be forced to use the side streets for unloading merchandise. This situation is totally unacceptable. For this reason, staff believes it is appropriate to require a connecting alley located on the east side of the property. This will allow the unloading of material without using the Linda Avenue or Maine Street. Reciprocal easements for both Taco Bell and Pizza Hut will be required and issuance of an access permit to River Road will be conditioned on the establishment of the alley.

VII. Other

A. Staff previously noted the CR zone permits certain uses that could be detrimental to adjacent residential uses. The Zoning Ordinance permits the placement of a Limited Use Overlay Zone which limits the number of permitted uses while requiring conditional use approval for the remainder. Staff recommends placement of the limited use overlay restricting development to the proposed restaurant. This will ensure the site is developed as proposed by the applicant and in a manner that is compatible with adjacent residential uses.

VIII. Conclusions

A. Staff recognizes the current CO zoning on the property automatically entitles the property owner to some type of commercial development, without the need for any land use authorization other than a building permit. The zone change provides an opportunity to ensure the activity can be made compatible with area residential uses.

B. The application is capable of complying with a majority of the zone change decision criteria. If sufficient findings can be established to justify the zone change, staff recommends the zone change be modified to a CR-LU (COMMERCIAL RETAIL-LIMITED USE OVERLAY) zone, limiting the permitted uses to those found in Section 28.01(9) of the Keizer Zoning Ordinance. In addition, staff recommends placement of the following conditions:

1. Development of the site shall substantially conform with the revised site development plan, submitted March 19, 1992. The applicant shall create a shared access to River Road with the parcel to the south. This access shall be located approximately opposite Evans Street with the entrance-way extending a minimum of 65 feet before access is permitted to either property. The applicant shall also establish an alley located on the east side of the property which connects to the property located to the south.

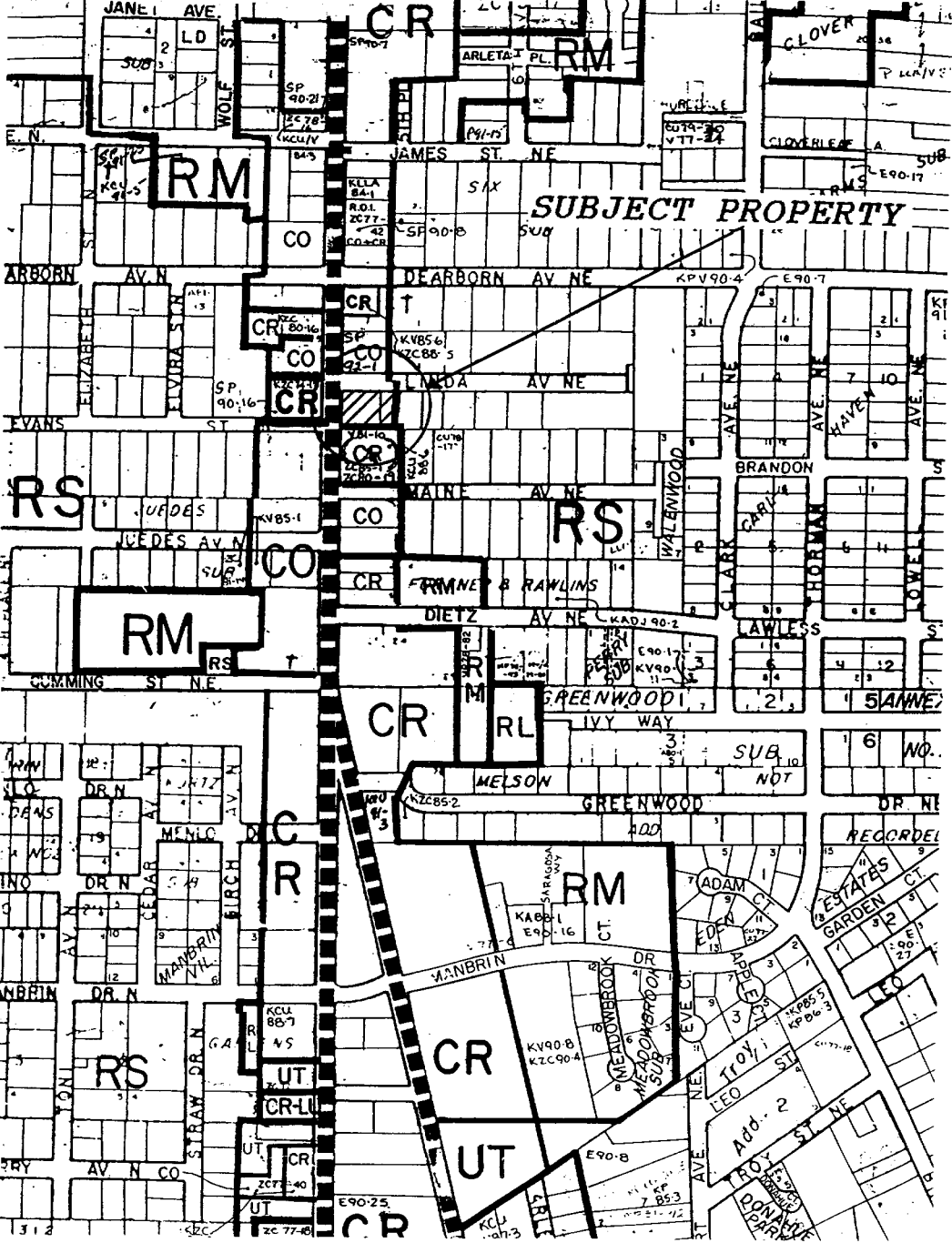
2. No driveway permit granting access to River Road shall be issued unless the development is in compliance with the access requirements in item VIII.B.1., above. The applicant shall provide evidence of reciprocal easements with the property to the south prior to obtaining any building permits.

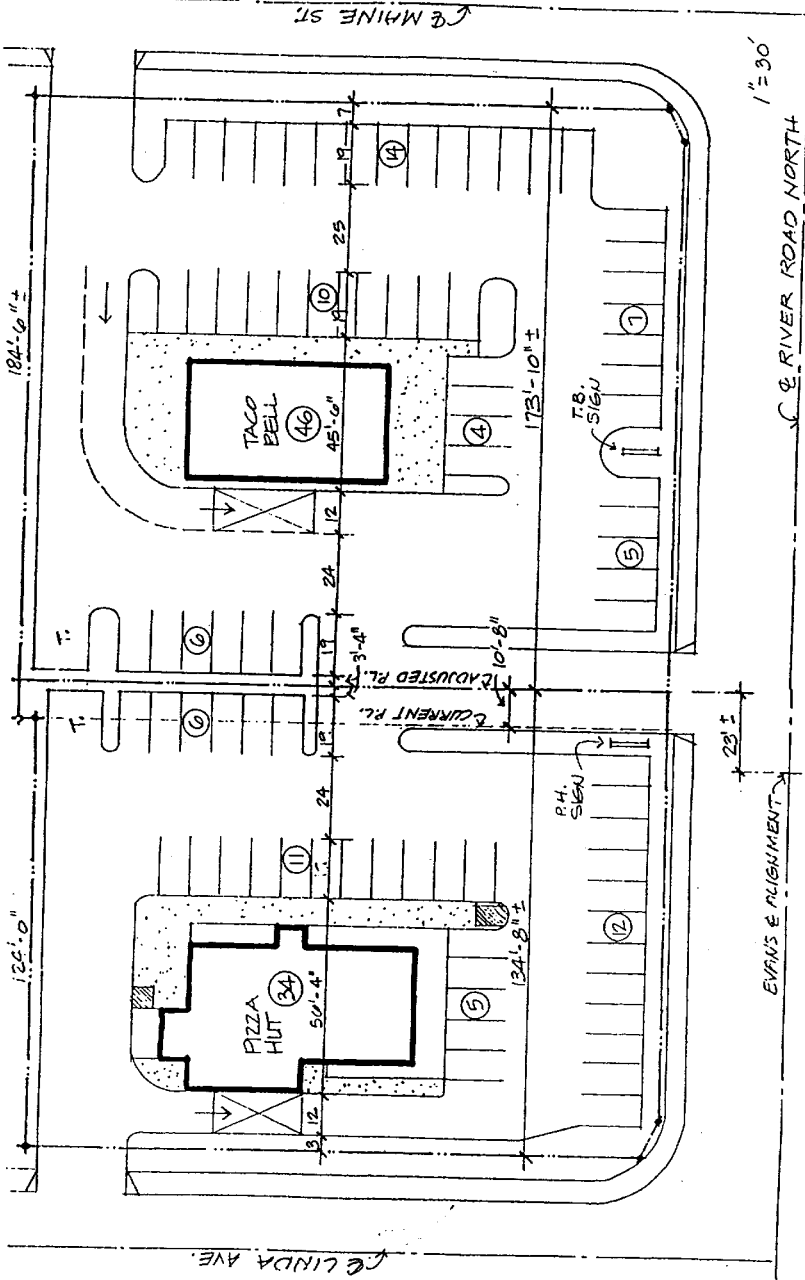
3. The applicant shall install the half-street improvements along the property's Linda Avenue frontage. These improvements shall be reviewed and approved by City Department of Public Works prior to the issuance of building permits. The necessary improvements shall be in place prior to occupancy of the structure.

4. The applicant shall connect to public sewer and water service.

5. The applicant shall obtain all necessary building permits from the Marion County Building Inspection Division.

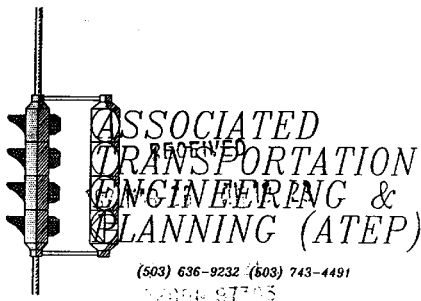
6. Development of the site shall comply with all applicable development standards contained within the Keizer Zoning Ordinance.





March 25, 1992

Mr. Skip Windolowski
City of Keizer
P.O. Box 2100
Keizer, OR 97307



RE: Pizza Hut-Taco Time

Dear Skip:

In review of the proposed uses for this property, as I described to you last week, while the location of the proposed shared approach on River road is not in the perfect position, the low volumes of traffic on Evans Street probably will not conflict with the turning movements for this driveway.

As to the need for an alley through the east side of the property, I feel it is important to the internal circulation of the parking lots. Without the alley any truck traffic entering the site will not be able to negotiate turning around in the parking lots and will need to back out of the site. With the alley, the trucks could stop in the alley and unload and then proceed through the alley to the adjacent street. This is a much better circulation pattern than the pattern proposed without the alley.

I feel that this alley could be blocked with ballards or some type of removable post that could be removed to allow the truck traffic and then replaced to prohibit vehicular pass through between the two streets.

If you have any questions regarding this analysis please contact me at 743-4491.

Sincerely,

ASSOCIATED TRANSPORTATION ENGINEERING & PLANNING, (ATEP)

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

March 25, 1992

To Whom It May Concern:

This letter is a statement of concerns with the proposed zone change of Linda Ave. at the corner of River Rd. N.E.

We have lived on Linda Ave. since May of 1980. We are concerned with the following matters:

1. Without the location of a pizza parlor at the corner, the waiting time for access to River Rd. is approximately five minutes. With the increase of traffic, residential traffic will become congested and a hazard.
2. On occasion, large delivery trucks have not noted the dead end sign at the top of the street and have become "stuck" on the street requiring assistance to turn around, using driveways and blocking access to homes on the block. This process has and can take as long as 30-45 minutes.
3. As the end of Linda Ave. is a dead end and has a field at the end of it (our house being the last on the street) we are especially concerned with the amount of litter that will accumulate as people see this as a good place to eat.
4. The street itself is currently in poor condition, having large potholes. The increase in traffic will further its deterioration.

We were not notified of the impending zone change, but read about it in the paper. The zone change will affect us in regards to our access to an emergency outlet and especially the condition of the road.

We question whether this zone change is necessary as it seems there are other sites available without a zone change. Examples being the empty Circle K at Manbrin and Jackies Rib building.

We hope you will take in our concerns in your decision as once the pizza parlor is built, no one will help us with our problems regarding the deterioration of the street, litter, increased congestion, and poor access to the main road.

State of Oregon
County of Marion
Signed before me 3-25-92

Julie A. Smith

JULIE A. SMITH
NOTARY PUBLIC - OREGON

My Commission Expires 6-27-92

Sincerely,

Joan Suckow

Joan Suckow
773 Linda Ave. N.E.
Keizer, Oregon 97303

733 Linda Ave. N.E.
Keizer, Oregon 97303
March 24, 1992

John Morgan
Keizer Planning Director
Keizer City Hall

Dear Mr. Morgan:

I commend you for your efforts to bring new business to the city of Keizer and I presume that many of your decisions are based on in-put from the local citizenry.

Regarding the zone change for the property at the corner of River Road and Linda Ave. and the proposed fast food outlet, I find troublesome. The use of Linda Ave. as an exit for vehicles leaving this establishment would create a tremendous traffic problem for the residents living on Linda Ave. It is already bad enough getting from Linda Ave. onto River Road, especially during rush hour traffic. It is not unusual for vehicles stopped on River Road for the traffic signal at Dearborn to back up far enough to block Linda Ave.

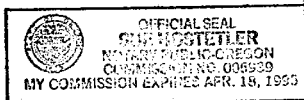
Linda Ave. is a dead-end street whose residents consist of senior citizens down to pre-schoolers. You would be surprised at the amount of turn-around traffic from motorists who don't know that it is a dead-end and to use it as an exit for a business establishment would only compound the traffic problem.

Yours truly,

James J. Cassidy
James J. Cassidy

Signed before me on March 24, 1992.
State of Oregon, County of Marion

David G. [Signature]
Commission expires 4-18-95

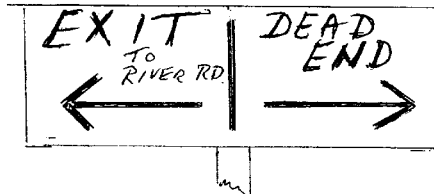


March 16, 1992

Keizer Community Development Department
City of Keizer
P.O. Box 21000
Keizer, OR 97307

Re: Public Hearing - Zone change case No. 92-1

1. My name is Gerald Bowerly, and my residence is on Linda Ave. Inasmuch as it will not be possible for me to attend the hearing on March 26th, it is requested that the following comments be entered in the record.
2. I wish to protest the zone change from Commercial Office to Commercial Retail.
3. Two adjacent fast food outlets will certainly cause traffic problems.
4. Ingress and egress from and to Linda and Maine Avenues will greatly increase traffic on these dead-end streets.
5. Young children frequently play in these streets, and the increased traffic will make it very dangerous for the children.
6. Many drivers who use Linda Avenue thinking it to be a through street, turn around at the end and speed back to River Road. This problem would be greatly multiplied with ingress and egress from and to Linda Avenue.
7. I urge the Keizer Community Development Department to sustain the Commercial Office zone designation for this case.
8. In the event that the zone is changed, and ingress - egress is allowed on Linda and Maine Avenues, request is hereby submitted for large mandatory signs as illustrated:



With fluorescent
letters

Respectfully,

Gerald Bowerly
Gerald J. Bowerly

734 Linda Ave. N.E., Keizer OR 97303

SECOND SESSION - 1992
OF MARCH, 1992
Paul E. Ingberg

My Commission Expires 10-23-92

To City of Keizer

3-22-92 -

Att. Zoning Dept.

I'm writing to you in regards to the zone change on the corner of River Rd and Linda Av.

I live at 644 Linda Ave. which is three houses off River Rd and two houses from the zone change.

The zone change which would make it possible for Pizza Hut to build would cause many problems to our now quiet family neighborhood.

At present there has been for the last two years a large traffic problem leaving Linda Av. on to River Rd. Anytime after 2:00 P.M. on weekdays and anytime after 1 P.M. on weekends it's a long wait to enter or exit off Linda.

With Pizza Hut and Taco Bell, the noise level would be high around my home with people talking and cars coming and going at all hours of the day and night.

Linda Av is a dead end st. and at the present time traffic still tries to get through having to turn around and race back up to River Rd. to get out. This is causing big problems with the Safety to ALL the small children and people living on Linda Av.

It is my thought that the property's on Linda would take a loss. People looking to move on to this st would see this kind of Business and traffic problems and keep on Looking.

thanks Edward Schunke

Keizer Community Development Department
City of Keizer
P.O. Box 21000
Keizer, OR. 97307

March 25, 1992

To Whom it May Concern,

My name is Elizabeth Shelton and I reside at 724 Linda Ave N.E. This letter is in regards to zone change case No. 92-1.

From the information I have received, I understand that a Pizza Hut is planned to be established on North River Road and Linda Ave.

My first desire of this letter is to protest the zone change from a commercial office zone to commercial retail.

Secondly, I feel the proposed Pizza Hut and Taco Bell would increase the traffic to Linda Ave drastically and cause traffic safety problems. Linda Ave. is a dead end street and drivers would occasionally exit from Pizza Hut east onto Linda Ave only to find the street a dead end and have to drive back down Linda Ave to River Road.

Third, I have two children between the ages 5 1/2 and 8 1/2 whom I have instructed on pedestrian safety but would be more concerned of their safety when out on Linda Ave walking to and from the school bus stop and the neighbors homes. We do not have sidewalks on Linda Ave.

Fourth, I realize added business is good for our City of Keizer but really do we need another pizza and taco restaurant? I hope you will consider what I, a citizen of Keizer have to say.

Sincerely,

Elizabeth Shelton

Submitted to the City of Keizer Planning Commission
March 25, 1992

743 Linda Avenue NE
Keizer, Oregon 97303
March 24, 1992

To Whom It May Concern

RE: Zone Change from CO to CR, 4710 River Road North and 524 Linda Avenue NE

This letter outlines concerns which my wife Mary and I have for the proposed zone change for these properties. These concerns are shared by most, if not all, of the residents of Linda Avenue.

Linda Avenue began more than 30 years ago. When first developed it was one of the most livable and desirable residential communities in Keizer. Nearly half the homes on the street are still lived in by the original owners. Most other homeowners on the street have lived in their homes for 10, 20, or more years. Subsequently other developments have surpassed our street in some ways, but the original character and livability of Linda Avenue have continued. The street has not deteriorated.

The proposed zone change is the greatest threat to the character and livability of our street since its inception. Following are specific concerns we have.

1. This zone change, to allow Pizza Hut to build and operate, is a distinct threat to the public health, welfare, and safety of the immediate area, to the long time stability and tranquility of the nearby residential community. The existing CO zone is definitely more compatible with the nature of this community, though even it has caused apprehension and occasional problems.

2. Linda Avenue, and nearby Maine Avenue, has been relatively free of criminal activity. A fast food restaurant at this location is virtually certain to change this as it influences the character of the neighborhood.

3. Transportation problems are an extreme concern. A fast food restaurant will surely generate much additional traffic. The effect of this additional traffic on the ingress and egress of Linda Avenue for emergency and service vehicles, as well as for those of residents and visitors, has grave consequences. Consider the following.

- a. Linda Avenue is a two block long dead-end street with only a River Road access. There is no other, and there are no other possibilities in the future.

- b. Rush hour traffic, such as from 3:30 to 6:00 P.M., often backs up two or three blocks from the Dearborn Avenue traffic signal, one block north of Linda Avenue. When this happens it may take 5 minutes or more for a single vehicle to exit Linda Avenue. Autos exiting the proposed Pizza Hut restaurant onto Linda Avenue will severely impact this problem. It's conceivable this could cause a half hour wait to enter River Road if traffic from the restaurant is funneled into Linda Avenue to exit onto River Road.
- c. Entry to Linda Avenue could be greatly limited by vehicles exiting the proposed Pizza Hut restaurant. Exiting traffic from the restaurant will surely block traffic lanes on Linda Avenue, this becoming most critical during rush hours when it precisely needs to be minimized.
- d. Linda Avenue is now trafficked several times daily by those seeking a short cut to their destination or a bypass of the River Road- Dearborn Avenue traffic signal. Not infrequently this includes long-based tractor trailers which find the narrow street extremely difficult to turn around in. Typical reaction of auto drivers after turning around is frustration and anger, then speeding at high speeds, 30 or 40 miles per hour back to River Road. No signing will prevent such occurrences from increasing with a Pizza Hut restaurant, especially if restaurant traffic can exit onto Linda Avenue.
- e. Several young families live on Linda Avenue. It has always been a family oriented street. Children play in the street; it's their playground. Speeding traffic is a grave concern.
- f. Effectiveness of emergency vehicles - police, fire, ambulance - can often be measured in seconds (of time). Traffic congestion at Linda Avenue-River Road intersection is life critical for Linda Avenue residents and for others.
- g. The "Staff Recommendation" report says, "...use of Linda Avenue will not generate, or filter, commercial traffic through (staff's underlining) the adjacent residential area as Linda Avenue dead-ends." True, but it will feed more frustrated and angry drivers, and curiosity seekers, onto Linda Avenue.
- h. There is apprehension about vision clearance at the River Road-Linda Avenue intersection, which in times past has been a problem and could become more so with a more intensive use of the property.
- i. The Staff Recommendation report states, "Staff is very concerned the trucks will be forced to use the side streets for unloading merchandise. This situation is totally unacceptable." We agree. However, auto traffic generated by the proposed restaurant during all hours of the day poses even greater problems.

River Road/Linda Avenue zone change, page 3.

- j. In light of the previous comments, a secondary access to either enter or exit the restaurant from Linda Avenue is unacceptable.
4. Pizza Hut restaurant, and more specifically CR zoning, has implications to Keizer's comprehensive plan.
 - a. The restaurant will not provide the alleged economic diversity, there already being a number of pizza and other restaurants in the community. It more likely will disrupt the economic stability of this business sector. That the property is presently "underutilized" is an assumption based upon personal opinions and values which are not necessarily valid.
 - b. The Staff Recommendation report says, "According to the applicant, appropriately zoned land suitable for the restaurant is unavailable elsewhere within the City. Evidence in support of this statement was not supplied by the applicant....Information on the supply of vacant land to accommodate the 5 year projected rate of development in the CO zone was also not provided...." Compliance with requirements of Section 4.16 of Keizer, Oregon zoning ordinance is clearly lacking.

Considerable vacant land, not adjacent to a residential community, exists along River Road. It may or may not be as economically advantageous, but it does exist.
 - c. The Staff Recommendation report acknowledges the applicant has not complied with the requirement to provide height information as specified.
5. We have great concerns about the "unique character" of River Road.
 - Traffic is increasing rapidly, creating congestion and delays.
 - Intensive commercial development, lining this major thoroughfare, contributes unnecessarily to traffic problems. The proposed Pizza Hut restaurant will only further aggravate the problem.
 - A number of vacancies exist where other businesses have failed. There is concern that our community cannot support another pizza restaurant.
 - River Road is rapidly moving toward a sorry example of strip zoning, matching such blights as Portland's 82nd Street, Salem's Lancaster Drive, and the worst strip-zoned streets in many American cities. A Pizza Hut restaurant will but contribute to this deterioration of River Road.
 - As much as we may like to believe, River Road is not an attractive street, and it's getting uglier. Something needs to be done for the only face of this community seen by the countless people traveling through.

River Road/Linda Avenue zone change, page 4.

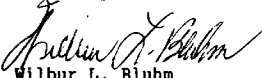
6. Transition zones effectively buffer the incompatibilities of residential and intensive commercial land uses. None exists here. The proposed 6 feet high fence, 3 feet landscape strip, two-way driveway, and setback requirements do not provide an acceptable transition buffer. The very minimum for this proposal is an evergreen (conifer or broadleaved) tree hedge of a minimum height of 20 feet within 5 to 10 years, to block light and activity, and buffer the effects of noise.

7. We are greatly concerned with the direct effect of a fast food restaurant at this location. Fast food restaurant customers occasionally park, eat, and dump their garbage at the end of our street. The convenient location of a Pizza Hut restaurant will only compound this problem. Prevention, not policing, is the solution to such problems.

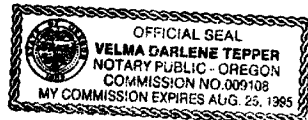
If you still believe the Pizza Hut restaurant is a justifiable use of this property, we urgently suggest you consider it be allowed as a non-conforming use in the existing CO zone. Pizza restaurants have proliferated in Keizer, up and down River Road. Some have failed, only to be replaced by others. It's nearly inevitable that others will fail in the future as competition increases, possibly as pizza becomes a less favored food. It's a situation perhaps analagous to the proliferation of gas service stations by major petroleum companies during the 1960s, after which many failed. Permitting Pizza Hut as a non-conforming use would at least assure that an even more undesirable use of this property would not occur in the future.

Thank you for considering our concerns in making your decision. If you have questions, or I can be of help to you, please let me know.

Sincerely yours,


Wilbur L. Bluhm

cc: Mayor Andy Orcutt
Keizer City Council
City Manager Don Otterman





DAVID G. BOWERLY, D.M.D., P.C.

3-26-92

Keizer City Hall

Attn: John Morgan

Re: Fast food outlets proposed for River Rd. at
Main St location.

Dear Sirs,

Having had a business and owning property adjacent to this location since 1975, I am also interested and concerned about development here. I am not opposed to new businesses here, but am concerned about traffic flow problems. Entrance to River Rd. has increasingly become more difficult and dangerous for most side streets without lights and the type of businesses involved here would add significantly to this problem for residents of Maine and Linda avenues. I would hope that some provision in planning would look to the possibility of a traffic light to safer and continuing flow at the intersection if this type of business is allowed here.

Sincerely,
David Bowerly

May 11, 1992

Keizer City Council
Keizer Community Development Department
P.O. Box 2100
Keizer, Oregon 97307

Re: Public Hearing - Zone Change Case # 92-1 (Pizza Hut)

My name is Gerald Bowerly, 734 Linda Ave. N.E., Keizer, having resided at this address for 35 years.

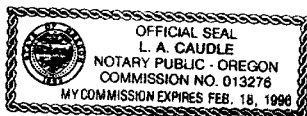
Please enter the following comments into the record:

1. I oppose the proposed zone change from Commercial Office to Commercial Retail.
2. Linda Ave. is a dead end street, and many cars come down our street each day thinking they can short cut to Dearborn St. In their frustration, they speed back to River Road.
3. Children play in the street, and the increased traffic from the Pizza Hut will definitely increase the hazard of accidents.
4. The increased traffic will greatly reduce the quality of liveability on Linda Ave.
5. The increased traffic will make it very difficult to enter River Road from Linda Ave. during rush hours.
6. The problem of trespassing via the private driveway behind the Dental Clinic, from Linda to Dearborn, will be greatly abused and aggravated.
7. A Commercial Office building would complement the office building on the N.E. corner of the intersection, and would not generate additional traffic during evening and night hours.
8. I strongly urge the City Council to deny the proposed zone change.

Respectfully submitted,

Gerald J. Bowerly
Gerald J. Bowerly
734 Linda Ave. N.E.
Keizer, Oregon 97303

393-0470



STATE OF OREGON)

County of Marion)

SUBSCRIBED AND SWORN to before me this
11th day of May, 1992.

L. A. Caudle
Notary Public for Oregon

573 Linda Avenue N.E.
Keizer, OR 97303

May 7, 1992

Andrew Orcutt, Mayor
P.O. Box 21000
Keizer, OR 97307

Dear Sir:

I urge you to uphold the decision made by Hearings Officer Sandra Smith Gangle on the request for a zone change, case No. 92-1. Please read and carefully consider the recommendation reached after the hearing held March 20, 1992.

Keizer is very heavily loaded with eating establishments, the majority of which are fast food places. They contribute much to the litter along River Road. I see it daily on my walks for health reasons and for necessity.

Please consider the citizens, taxpayers, in any future decisions and have concern for quality of life in neighborhoods.

Sincerely yours,
Fidelian M. Walston

CITY OF KEIZER
ZONE/COMPREHENSIVE PLAN CHANGE APPLICATION

APPLICATIONS RETURNED BY MAIL WILL NOT BE ACCEPTED

Applicant: please check what
you are applying for:

ZONE CHANGE (X)
Fee:

COMPREHENSIVE PLAN CHANGE ()
fee:

ZONE CHANGE/COMP. PLAN CHANGE ()
fee:

1. Applicant

J. Larry Fugate

2. Property Owners
(if other than applicant)

Richard Beck

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

J. Larry Fugate

4. The applicants propose to change the zone from CO current zone
to CR on _____ and/or change the
Comprehensive Plan designation from _____
to _____.

5. Address of the subject property 4710 N. River Rd. and 524 Linda

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

Karon Perrill

Name (please print or type)

208 S. Maize Road, Wichita, KS 67209

Address

(316) 722-5670

Daytime Telephone (8:30 a.m.- 5:00 p.m.)

Address and zip code

208 S. Maize Rd., Wichita, KS 67209

Address and Zip Code

c/o Dave Curry

Coldwell Banker
615 Commerase St. NE
Salem, OR 97301

Address and Zip Code

208 S. Maize Road, Wichita, KS 67209

FOR OFFICE USE ONLY

Section _____ Township _____ Range _____
Tax Lot Number(s) _____

Existing zone and Comp Plan
Designation _____

Zone Map # _____

2/19/92
Application accepted by

Application elements submitted:

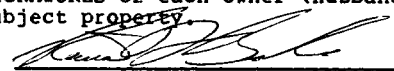
- ☒ (A) Title transfer instrument
☒ (B) Assessor's Map
☒ (C) Two Plot Plans
☒ (D) Applicant's Statement
☒ (E) Adjacent property owners list
☒ (F) Filing Fee

2/24/92 Date application
determined to be complete

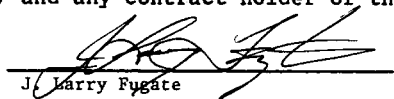
6. Applicant: To have a complete application, you will need to attach the following at the time you submit the application:

- (A) A copy of the latest officially recorded title transfer instrument (deed, warranty deed, or contract) giving the legal description for the subject property. If only a portion of property is being changed then a legal description prepared by a Title Company or surveyor for that portion to be rezoned is required.
- (B) A copy of the most recent Assessor map for the subject property.
- (C) Two plot plans drawn in ink on sheets of paper 8 1/2" x 11". One plot plan shows existing zoning and what structures, etc. presently exist on the property. The other plot plan shows proposed zoning and what structures, etc. are proposed for the subject property. See attached example for what details need to be shown.
- (D) Attach a written statement explaining your reasons for this request and addressing the Zone Change criteria and/or Zone Change/Comprehensive Plan Change criteria as outlined on the cover sheet of this application.
- (E) Certified List - a list of all property owners within 250 feet of the subject property. The list must be certified by a Title Company or County Assessor's Office (see attached "Procedures for Preparing Notification List"). The list must have been prepared to be current to within 30 days of the date of application.
- (F) Filing fee made payable to the City of Keizer.

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


Richard Beck


Phyllis J. Nelson


J. Larry Fugate

DATED THIS 14th day of February, 1992.

8. THE APPLICANT(S) SHALL CERTIFY THAT:

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

SIGNATURE of Applicant(s):



DATED this 14th day of February, 1992



Fugate Enterprises/208 S. Maize Road/Wichita, KS 67209-3193/Phone: (316) 722-5670/Fax: (316) 722-2437

February 14, 1992

City of Keizer
930 Chemawa Road N.E.
Keizer, OR 97307-1030

Attn: Mr. Walter J. Wendowski

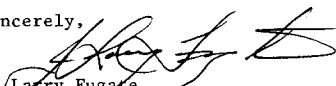
Re: 4710 N. River Road and 524 Linda
Keizer, Oregon

Gentlemen:

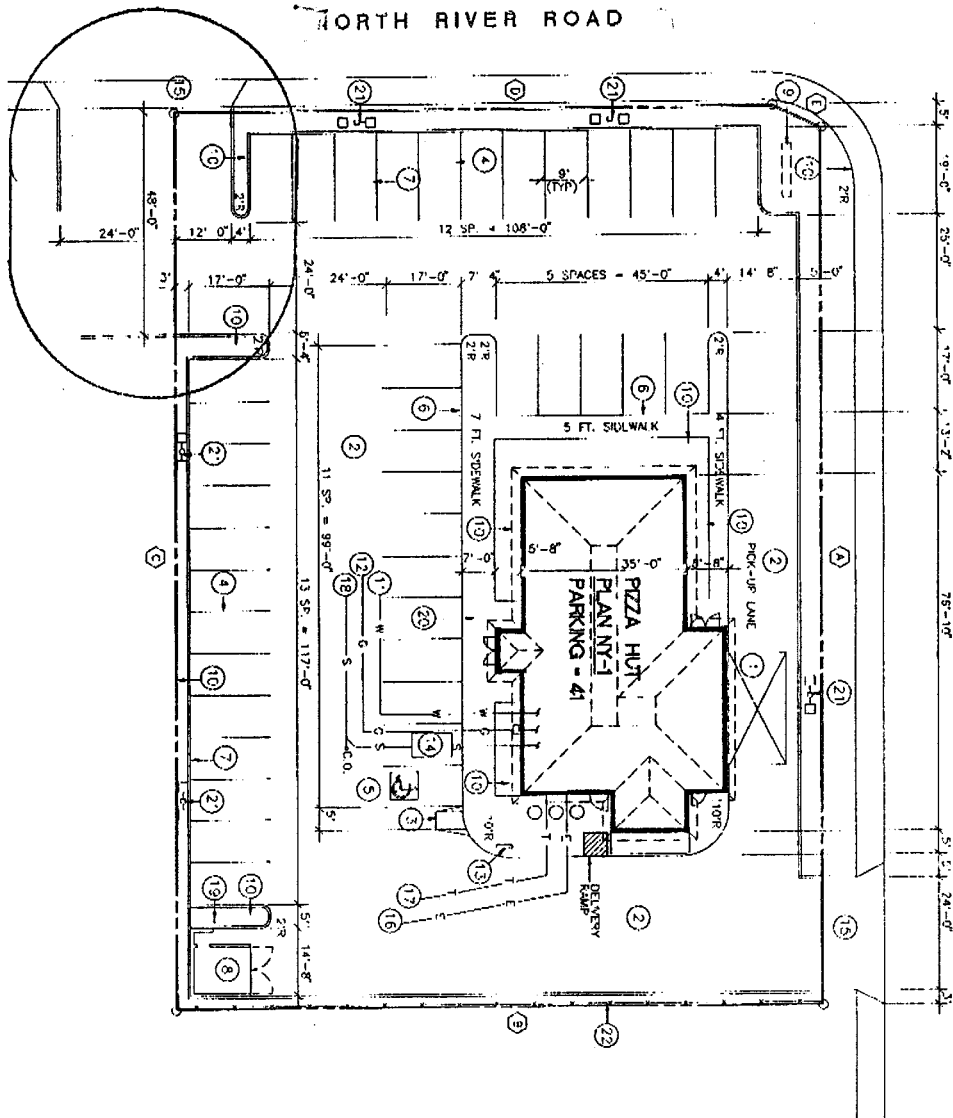
I am enclosing an application for a change of zoning on the above referenced property from the current CO to a requested CR zone. In consideration of our request for rezoning, we would like to point out the following;

- A) The proposed rezoning to Commercial Retail is appropriate for the comprehensive plan use designation currently on the property and is consistent with the description and policies for the applicable comprehensive plan land use classification.
- B) Applicant intends to construct a Pizza Hut restaurant with drive thru on the property. This use as well as other uses permitted in the proposed Commercial Retail zoning can be accommodated nicely on the proposed site without exceeding its physical capacity.
- C) The allowed uses as currently established in the Commercial Retail zoning will be in compliance with the development requirements in Chapter 17 to 20 of the Keizer Zoning Ordinance without any need for adjustments or variances.
- D) There are currently adequate public facilities, services, and transportation networks in place in order to serve the subject property.
- E) The supply of existing vacant land in a commercial retail zone is insufficient and not as well located as the subject property. The proposed rezoning to commercial retail would not destabilize the land use pattern of the area nor significantly adversely affect the adjacent properties. The property immediately to the south of the subject property is currently zoned CR and is in the permitting process for a Taco Bell restaurant.

Sincerely,


J. Larry Fugate
President

LINDA AVE N.E.



Proposed CR Zoning

14 April, 1992

City of Keizer
Director of Community Development and
City Council
Keizer, Oregon

Ref: Proposed Zoning Change for Two Lots on **RECEIVED**
Linda Ave and River Road

1992 MAY 15 PM 1 26

To Whom It May Concern:

Please Be advised that I, Gary Ryder, and my wife Beverly are **very concerned** about the proposed zoning change that has been requested for two lots entering Linda Avenue.

My wife and I have lived on Linda for just over 20 years. Most of the families who live on Linda Avenue have lived here at least that long. Some have lived here over 30 years. It is a very nice street to live on. The homes, although not opulent, are spacious and the yards well maintained. There is a definite pride of ownership. The Linda is perhaps three blocks in length with only **one** entrance (and exit), that being off of River Road. The street is used mainly by its residents with only an occasional car that gets onto the street by accident not realizing it is a dead end street. As a result, everyone knows every one else that lives on the street, at least by sight if not by name. The children play into the street with only limited concern regarding traffic. It is a nice place to live.

We now find our quality of life threatened. With the proposed zone change and the resulting introduction of a high traffic restaurant at the entrance to our street, we can look forward to:

A. Much Heavier Traffic: The introduction of the Toco Bell restaurant, just south of the two lots now in question, has already laid the grounds for great deal of additional traffic in our general area. This facility, by itself, will aggravate the already difficult task of getting onto River Road during rush hours. The traffic light at Dearborn **already** backs up traffic well past Linda Avenue to the point that the only way you get onto River Road is by the courtesy of a driver who allows you to break into line. When the Taco Bell opens, this situation will be even worse.

Now consider what the conditions will be like with the introduction of a **second** heavy traffic restaurant in same area.

B. Concerns of **safety** for ourselves and the children: It is propose to direct this additional restaurant traffic directly onto Linda to get it back out onto River Road. This creates two more serious problems: 1. Both lanes of Linda Avenue could easily be blocked by cars leaving the restaurant, preventing residents, and more importantly emergency vehicles, from either getting onto or off of Linda. 2. Exasperated

drivers waiting in line trying to get out of the restaurant would inevitably try turning right and going down Linda. Finding no exit available; these drives, now even more exasperated would have to backtrack on Linda and try to get back into line (the speed of their return would likely reflect the frustration felt by the driver). This could seriously affect the safety of all of those who live and play on Linda.

- C. Diminished Quality of Life: Linda is a clean, quiet, tree lined, pleasant street. A nice place for a picnic or a pleasant lunch and would likely be so used by restaurant patrons. Even if we would provide garbage cans at the end of Linda, it is a safe bet that food containers and wrappers would be discarded along the street.

We ask you not to allow the requested zone change. Please come and look at Linda Avenue and see if you do not agree that it is worth maintaining a pleasant livable area in the heart of downtown Keizer.

Sincerely,

Gary R. Ryder
Gary and Beverly Ryder
663 Linda Ave NE
Keizer, Oregon 97303

Beverly Ryder

STATE OF OREGON
COUNTY OF MARION

Signed or attested before me on May 15, 1992 by
Gary Ryder.

Edmund S. Stale
Notary Public

My Commission Expires : April 11, 1994

STATE OF OREGON
COUNTY OF MARION

Signed or attested before me on May 15, 1992 by
Beverly Ryder

Tracy L. Davis
NOTARY PUBLIC FOR OREGON



May 14, 1992

Director
City of Keizer
Community Development Department

TO WHOM IT MAY CONCERN:

We, the undersigned, Roy L. and Carol G. Shelton, 723 Linda Avenue N.E., Keizer, Oregon, and Evelyn J. Franz, 693 Linda Avenue N.E., Keizer, Oregon, wish to go on record regarding the following proposed Zone Change No. 92-1, which would allow construction of a PIZZA HUT RESTAURANT at the corner of River Road N., and Linda Avenue NE, Keizer, Oregon.

Our main concerns are as follows:

1) According to the site plan, relative to the above, the PIZZA HUT and the adjoining business will share a common entrance from River Rd., N, but traffic will exit from PIZZA HUT onto Linda Avenue before it enters the flow of traffic on River Rd. N. Linda Avenue is one block south of the traffic light on Dearborn. At peak traffic times, traffic frequently backs up for two blocks, as far south as Maine Avenue. At present, without the additional traffic which would be generated by PIZZA HUT, residents of Linda Avenue find it increasingly more difficult to safely enter the traffic flow of North River Rd.

We feel this additional traffic will not only compound the problem - which already exists - but can create a more dangerous situation for Linda Ave. residents, and PIZZA HUT customers, who try to exit Linda Avenue onto River Rd. N, and for Linda Ave. residents who try to exit River Rd. N. onto Linda Avenue. This additional traffic congestion can also hamper the entrance onto Linda Avenue of emergency vehicles - especially during peak traffic hours.

2) The children who live on Linda Avenue must play in the street because there are no sidewalks. Of the twenty-one (21) families who live on Linda Avenue, five (5) have children who have had the freedom of safely playing on the street - because of the dead end feature.

Linda Avenue has been a dead end street for over thirty years and has been so signed. Regardless of the signs, drivers frequently come down the street expecting an exit at the East end. When they discover their mistake, they typically turn around in the private driveway of a home and go back to River Road N. much faster than they came down the street.

May 14, 1992

Director
City of Keizer
Community Development Department

page 2

We are concerned that drivers, who are trying to exit PIZZA HUT premises, when they see the traffic congestion trying to enter River Rd., will be tempted to turn right on Linda Ave. seeking an exit at the end of the street. This extra volume of traffic on Linda Ave., and the resulting turn-a-round, will not only add greatly to the problem already present, but, more importantly, will compound the risk to our children.

Furthermore, school children who ride the school bus to and from school must enter and exit the school bus at a place which is just south of the site selected by PIZZA HUT. The children who live on Linda Avenue must then walk in the street to get to their homes. Additional traffic will make this more hazardous than it is now

3) In the staff recommendation concerning Zone Change, Case 92-1, Section IV, Paragraph 5, the applicant states --in essence-- that this site, corner of River Rd. N., and Linda Avenue NE, is the only available site in the City of Keizer.

We submit that the applicant be required to produce proof to verify that statement. We also submit that other attractive sites appear to be available in Keizer, i.e., the location on the Northwest corner of River Rd. N. and Manbrin Drive ; the vacant property just North of BOB'S HAMBURGER RESTAURANT, as well as the vacant property just north of BURGER KING RESTAURANT, facing River Rd. N..

4) Based upon the reasons set forth in the above paragraphs, we respectfully request that the zone restrictions for the property in question not be changed.

Robert L. Shelton
(signed)

Carol J. Shelton
(signed)

STATE OF OREGON)
County of Marion) ss.

Carol J. Shelton
(signed)

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14th DAY OF MAY, 1992.



OFFICIAL SEAL
TRACY L. DAVIS
NOTARY PUBLIC - OREGON
COMMISSION NO. 0000000000 PUBLIC FOR OREGON
MY COMMISSION EXPIRES NOV. 28, 1995

Attach me to (2)

Beginning ^{at} ~~Salem Highway~~ ^{VACANT LAND}
 Ending ^{at} ~~River Rd N~~ ^{RIVER ROAD N} #1
 Manzanita 04-06-92

Marker	No.	LOCATION	PROPERTY			
			SALE	LEASE	OTHER	
East	1.	across from Fred Meyer	owner			8.2 acres across from Parkway & Broadway
"	2.	across from KFC - 19th St.	Prudential			1.49 RM & Ch
"	3.	Next to KFC by signal				Broadway & River Rd. Vacant lot
West	4.	Broadway & River Rd.	Prudential			across Park & 4th Street Broadway
"	5.	Lot by Theater - North	-	-	-	1.98 acres 12,700 sq. ft.
"	6.	" " - South	-	-	-	-
East	7.	5000000 River Rd				down vacant lot - house with across River Rd. & River Rd.
"	8.	No corner River Rd	Prudential			3.35 acres - corner lot
West	9.	Vacant lot - next to Burger King				-
"	10.	" " "				-
East	11.	Keizer Village Frontage on River Rd.				across from Round & Bell old nursery
West	12.	across from Mike's Maytag	Northwest			For sale or lease
"	13.	Next to Oil Can House	Prof. Realty			Common Property
"	14.	Large lot Main St & River Rd.				was a Circle K
"	15.	In front of Keizer Mental Clinic				-
"	16.	Former Union Oil Station				-
"	17.	Lot next to Chevron Station				-
East	18.	Hydro-tube	Mr. West			-
"	19.	Lot on N. side of 6th St.	Rest Estate			Claggett & River Rd.
"	20.	Next Vacant lot - Northwest corner				Too small
West	21.	Rocky area & near Rd				Large area
"	22.	Large vacant lot Former W. Manzanita & River Rd.				Large area
Signed:						Signed:
C. Lynn Ingram						Laral Shetter
603 Linda Ave. NE						723 Linda Ave. NE
Bend, OR 97703						Bend, OR 97703

Vacant Land Survey

River Road N.

#2

Keizer, Oregon

May 13, 1992

#1 to #4 are in Salem

- | | | |
|-------|------------------------|---|
| # 5 - | CR | Lot in front of Theater |
| 6 - | CR | " " " " |
| 7 - | CO | So corner River Dr |
| 8 - | CO | No. corner River Dr. |
| 9 | no zone | } Hurty |
| 10 | no zone | |
| 11 | CR | Eastside Property in front - known
for Maat + Maatke |
| 12 | CR | Triple Tree property |
| 13 | UT | house by Oil Can Henry's |
| 14 | CR | Formerly (CR) west side |
| 15 | CO | in front of Dental Office - westside |
| 16 | CR | old Union Oil Station |
| 17 | - | Church property |
| 18 | CR | Hydrotech |
| 19 | CR | North of Bob's - Elggat + River Rd. |
| 20 | | too small |
| 21 | Ent - River Dr Lockman | Statue Lake |
| 22 | CR | Large vacant lot corner
of Elggat + River Rd |

May 13, 1992
673 Maine Ave. N.E.
Salem, OR 97303

Keizer City Council
Keizer City Hall
930 Chenawa Road N.E.
Keizer, OR 97303

To the members of the Keizer City Council:

Dear Sirs:

I wish to speak to the matter of the appeal of the Hearings Officer's decision to deny the application for a zone change from CO (Commercial Office) to CR (Commercial Retail) on approximately 0.53 acres of land located at 4710 River Road North and 523 Linda Avenue NE.

I support the decision of the Hearings Officer. Linda Ave. NE is a dead-end street and as such should not have a high volume traffic business located on the corner of River Road and Linda Ave. NE. The fact that property at the corner of Maine Ave. NE was allowed to become CR (Commercial Retail) only compounds the problem of two dead-end streets being involved with high volume traffic on property facing River Road.

I am hoping that the City Council will listen to what the residents of Linda Avenue and Maine Avenue have to say about the impact of high volume traffic businesses have upon their streets, their property values and their quality of life. Please consider people as well as development and business.

The property at the corner of Linda Avenue and River Road should remain CO (Commercial Office).

Sincerely,



Elizabeth J. Hanauska

STATE OF OREGON
COUNTY OF MARION

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14th DAY OF MAY, 1992



Tracy L. Davis
Notary Public for Oregon
My commission expires: 11-28-95

April 14, 1992

To Whom It May Concern:

This letter is a statement of concerns with the proposed zone change of Linda Ave. at the corner of River Rd. N.E. RECEIVED

We have lived on Linda Ave. since May of 1980. We are concerned with the following matters: 92 MAY 15 PM 12 13

1. Without the location of a pizza parlor at the corner, the waiting time for access to River Rd. is often up to five minutes. With the increase of traffic, residential traffic will become congested and a hazard.
2. On occasion, large delivery trucks (semi-trailers) have not noted the dead end sign at the top of the street and have become "stuck" on the street requiring assistance to turn around, using driveways and blocking access to homes on the block. This process has and can take as long as 30-45 minutes.
3. As the end of Linda Ave. is a dead end and has a field at the end of it (our house being the last on the street) we are especially concerned with the amount of litter that will accumulate as people see this as a good place to eat. It already occurs occasionally even without a restaurant on Linda.
4. The street itself is currently in poor condition with large potholes. The increase in traffic will further its deterioration.
5. Linda is a street with no sidewalks and children play in the street. We have concerns with the increase in traffic, especially people who will exit at high speed after becoming angry because they failed to see it is a dead-end street.
6. The zone change will affect us in regards to our access to an emergency outlet.

We question whether this zone change is necessary as it seems there are other sites available without a zone change. An example being the empty Circle K at Manbrin.

We hope you will take in our concerns in your decision as once the pizza parlor is built, no one will help us with our problems regarding the deterioration of the street, litter, increased congestion, and poor access to the main road.



Sincerely, *Joan Suckow*
Joan Suckow
773 Linda Ave. N.E. Kelzer, Or

SUBSCRIBED AND SWORN TO BEFORE ME THIS 15th DAY OF MAY, 1992

Tracy L. Davis

RECEIVED

'92 MAY 15 AM 10 31

733 Linda Ave. N.E.
Keizer, Or. 97303
May 15, 1992

Keizer City Recorder
Keizer City Hall
Keizer, Or. 97303

Subject: Proposed Zone Change for the property at the corner of
N. River Rd. and Linda Ave.

I admire your interest in bringing in new business for the City of Keizer, but the use of this property as a fast food outlet would, in my opinion, have an adverse impact on the residents of Linda Ave.

It is the traffic that concerns me. You would be surprised at the amount of turn-around traffic we already have, caused by motorists who fail to see and/or heed the dead end street sign.

If the traffic onto Linda Ave. were to be limited to service vehicles only, then I, personally, would not object to the zone change.

James J. Cassidy
James J. Cassidy

STATE OF OREGON)
County of Marion) ss.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 15th DAY OF MAY, 1992

Tracy L. Davis
NOTARY PUBLIC FOR OREGON



513 Linda Avenue N.E.
Keizer, OR 97303

May 7, 1992

RECEIVED

Ms. John Morgan
Community Development Director
P.O. Box 21000
Keizer, OR 97307

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Dear Ms. Morgan:

Thank you for your response in the Keizer Times, April 30, 1992 to an editorial the week before by Leslie S. Jaitz about a zone change decision on a request by Pizza Hut. This zone change was for property located at the corner of River Road - Linda Avenue.

I realize Ms. Jaitz did not have complete nor accurate information and frequently is not aware of situations within Keizer and their effect upon the citizens most closely affected.

Keizer does not need more eating establishments along River Road and especially not more fast food/junk food places. The thoroughfare is already glutted with such establishments and littered with the garbage from these. Anyone can verify this by walking the length of River Road. I am aware of this problem because

I walk River Road very frequently for health problems and out of necessity. I am an elderly widow, 73 years $7\frac{1}{2}$ months of age. Because of this I am very aware of the poor condition of most sidewalks and many streets; of traffic problems for pedestrians and motorists.

I hope the people making decisions about our town will consider the citizen-taxpayers wishes for their neighborhoods and what might make Keizer a city, and not just a bedroom community overfilled with junk food places. Keizer, like Japan, was allowed just to grow for how many years? So many, many streets are little short streets which are either dead end or cul-de-sac streets which make it difficult in many parts of the town to plan for development or expansion. It will take wisdom and very careful planning to keep from ruining Keizer. I hope our officials are up to the task.

Sincerely yours,
(ms.) Lillian M. Wolstone

Heizer Community Development Department
City of Heizer
P.O. Box 21000
Heizer, OR. 97307

To Whom it May Concern,

My name is Elizabeth Shetter. My family and I reside at 724 Linda Ave. N.E. This letter is in regards to zone change case no. 92-1.

From the information I have received I understand that a Pizza Hut is planned to be established on North River Road and Linda Ave.

My first desire of this letter is to protest the zone change from a Commercial office zone to Commercial Retail.

Secondly I feel the proposed Pizza Hut would increase the traffic to Linda Ave and cause traffic safety problems. Linda Ave is a dead-end street and drivers would occasionally exit from Pizza Hut east onto Linda Ave. only to find the street a dead-end and have to drive back down Linda Ave to River Road.

Third I have two children the ages 5 1/2 and 8 1/2 years. When I have instructed on pedestrian safety but would be more concerned of their safety when out on Linda Ave walking to and from the school bus stop and the neighbors homes. We do not have sidewalks on Linda Ave.

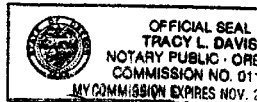
Fourth I realize added business is good for our City of Heizer but really do we need another pizza restaurant? I hope you will consider what I a citizen of Heizer have to say.

Sincerely,

Elizabeth Shetter

STATE OF OREGON
County of Marion

SUBSCRIBED AND SWORN TO BEFORE ME THIS 15th DAY OF MAY, 1992.



Tracy L. Davis
NOTARY PUBLIC FOR OREGON

24 March 1992

City of Keizer
Director of Community Development
Keizer, Oregon

Ref: Proposed Zoning Change for two lots on
Linda Ave. and River Road

To Whom It May Concern:

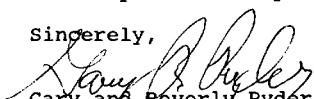
Please be advised that we are very concerned about the proposed zoning change for the above referenced lots from CO to CR. My wife and I have lived at 663 Linda Ave for just over 20 years. Although Linda Avenue is not located in one of the newer opulent areas of the city, the street has always been a pleasant place to come home to. The homes are older, well built and the yards show a pride of ownership. The street is perhaps three blocks in length with the only one entrance (and exit) to and from River Road. As a result, everyone on the block knows everyone else and the children can play into the street with only limited concern regarding to traffic. It's been a nice place to live.

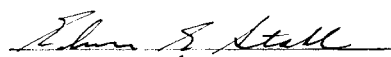
We now find standard of life threatened. With the proposed introduction of a pizza restaurant at the entrance to our street, we all can look forward to:

- a. heavy traffic which is currently proposed to flow directly onto Linda Avenue. This would make access onto River Road (which is even now often difficult) nearly impossible - not only for the residents of Linda but for the restaurant patrons as well.
- b. Even with the best of signs advising that there is no exit at the end of Linda, there will be patrons making a wrong turn. Who, upon finding the end of the street blocked, will have to backtrack on Linda again (likely at a speed that reflects the fact that they have been greatly inconvenienced). The safety of our children will be of much greater concern.
- c. Even if we place garbage cans at the end of Linda, it is safe to bet that much of the fast food container and wrappers would be discarded on Linda Avenue street.

For these reasons, I ask you to consider the proposed zone change from the perspective of home owners who are proud of their homes and neighborhood and ask that it not be sacrificed so that there can be yet another pizza shop in the area.

Sincerely,


Gary and Beverly Ryder
663 Linda Ave. NE
Salem, Oregon


Normey Public

My Commission Expires 4-11-94

WRITTEN COMMENTS

ZONE CHANGE CASE NO. 92-1

Submitted by:
James S. Tanner
643 Linda Avenue, N.E.
Keizer, Oregon 97303

I am a fourteen (14) year resident of Keizer. My single family residence is located approximately 75 feet east and on the opposite side of Linda Avenue from the property proposed for zone change. I have two young children that attend Keizer school.

I am strongly opposed to the proposed zone change because:

A. I believe the market value of my home will be seriously eroded because of its proximity to commercial establishments which detract from residential neighborhood livability (i.e., noise, traffic, litter, etc.).

B. I am also concerned for the safety of my children because of increased traffic risk, greater exposure to strangers in the neighborhood and whose behavior may be influenced by establishments which serve alcoholic beverages (three establishments within two blocks of our property). In addition, the school bus stop which my children use is located on the property proposed for the zone change. While the school bus stop is at a convenient location, it is likely that it will have to be moved to some other location some distance away.

C. The subject area should remain zoned CO (commercial office). The CO zone is in conformance with the Keizer comprehensive plan and is compatible with the adjacent RS (single family residential) zoned land to the east. Also, the CO subject area is comparable to the developed CO property directly north and is also comparable to the developed CO property directly west.

D. It appears that the application fails to sufficiently satisfy some of the criteria found in section 4.16 of the zoning ordinance. The applicant states that appropriately zoned land suitable for their restaurant is unavailable elsewhere within the city. The applicant did not submit evidence in support of this statement. The entire length of River Road North within the Keizer city limits (approximately 3 miles) is designated for commercial development in the

comprehensive plan. Cherry Avenue, an arterial which leads into River Road North, also includes commercial developed areas. It would appear that there are numerous developed and undeveloped CR (commercial retail) sites which currently exist without necessitating the rezoning of the subject property.

E. The proposed zone change taken together with the zone change favoring the adjacent Taco Bell property creates significant traffic problems. These problems include the need for a River Road access onto the two retail properties, the need for access from both Main Street and Linda Avenue as well as the need to accommodate delivery truck access including loading and unloading. The planning staff and the traffic engineer proposed to mitigate these problems by recommending a jointly shared access from River Road and by requiring a connecting alley located along the entire east side of the property. I think it is important to realize that these traffic problems occur with the addition of the second parcel of CR property which is the subject of this case. Recognizing that there is a common owner for both the Taco Bell and the Pizza Hut operations it would appear that the CR zoned property for Taco Bell is being leveraged to help resolve the problems associated with the proposal to rezone the Pizza Hut property to CR. In my opinion the CR zoning application for Pizza Hut should stand alone on its own merits.

F. The Pizza Hut application provides a site plan which is casual and non-specific regarding a number of site development requirements set forth in section 28.01(9) and Chapters 17-20. The neighborhood residents of the adjacent properties will have no other opportunity to influence the conditions which the Keizer Community Development Department may or may not require at the time a building permit is approved. Of particular interest to the residents are barriers (site and sound), set backs, landscaping, lighting, building height, etc. The residents need assurances that their concerns with the site will be addressed in the event the CR zone change is allowed.

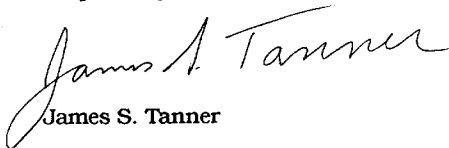
In addition to the above concerns, it should be noted that long time residents of Main Street and Linda Avenue were surprised to hear that the Taco Bell site had already been rezoned to CR and that the residential property at 524 Linda Avenue NE had already been rezoned from RS to CO during some previous zoning process of which they were unaware.

I would request that the hearings officer direct the Keizer Community Development Department to review and report on the rezoning process for both of these pieces of property to ensure that no procedural errors occurred.

Finally, in the event the residents of Main Street and Linda Avenue are unable to persuade the decision-maker to deny the application and leave the subject property as is currently zoned, CO, it is essential that the Keizer Community Development Department impose development conditions and the

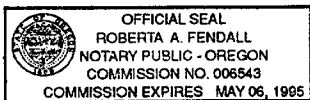
placement of a limited use overlay zone to ensure that future CR development of the site does not significantly affect and/or further erode the livability of the adjacent residential areas.

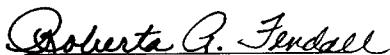
Respectfully submitted,


James S. Tanner

State of Oregon)
) ss
County of Multnomah)

Signed before me on March 25, 1992 by James S. Tanner.




Roberta A. Fendall
Notary Public in and for
the State of Oregon.
My commission expires 5/6/95

743 Linda Avenue NE
Keizer, Oregon 97303
March 24, 1992

To Whom It May Concern

RE: Zone Change from CO to CR, 4710 River Road North and 524 Linda Avenue NE

This letter outlines concerns which my wife Mary and I have for the proposed zone change for these properties. These concerns are shared by most, if not all, of the residents of Linda Avenue.

Linda Avenue began more than 30 years ago. When first developed it was one of the most livable and desirable residential communities in Keizer. Nearly half the homes on the street are still lived in by the original owners. Most other homeowners on the street have lived in their homes for 10, 20, or more years. Subsequently other developments have surpassed our street in some ways, but the original character and livability of Linda Avenue have continued. The street has not deteriorated.

The proposed zone change is the greatest threat to the character and livability of our street since its inception. Following are specific concerns we have.

1. This zone change, to allow Pizza Hut to build and operate, is a distinct threat to the public health, welfare, and safety of the immediate area, to the long time stability and tranquility of the nearby residential community. The existing CO zone is definitely more compatible with the nature of this community, though even it has caused apprehension and occasional problems.
2. Linda Avenue, and nearby Maine Avenue, has been relatively free of criminal activity. A fast food restaurant at this location is virtually certain to change this as it influences the character of the neighborhood.
3. Transportation problems are an extreme concern. A fast food restaurant will surely generate much additional traffic. The effect of this additional traffic on the ingress and egress of Linda Avenue for emergency and service vehicles, as well as for those of residents and visitors, has grave consequences. Consider the following.
 - a. Linda Avenue is a two block long dead-end street with only a River Road access. There is no other, and there are no other possibilities in the future.

- b. Rush hour traffic, such as from 3:30 to 6:00 P.M., often backs up two or three blocks from the Dearborn Avenue traffic signal, one block north of Linda Avenue. When this happens it may take 5 minutes or more for a single vehicle to exit Linda Avenue. Autos exiting the proposed Pizza Hut restaurant onto Linda Avenue will severely impact this problem. It's conceivable this could cause a half hour wait to enter River Road if traffic from the restaurant is funneled into Linda Avenue to exit onto River Road.
- c. Entry to Linda Avenue could be greatly limited by vehicles exiting the proposed Pizza Hut restaurant. Exiting traffic from the restaurant will surely block traffic lanes on Linda Avenue, this becoming most critical during rush hours when it precisely needs to be minimized.
- d. Linda Avenue is now trafficked several times daily by those seeking a short cut to their destination or a bypass of the River Road- Dearborn Avenue traffic signal. Not infrequently this includes long-based tractor trailers which find the narrow street extremely difficult to turn around in. Typical reaction of auto drivers after turning around is frustration and anger, then speeding at high speeds, 30 or 40 miles per hour back to River Road. No signing will prevent such occurrences from increasing with a Pizza Hut restaurant, especially if restaurant traffic can exit onto Linda Avenue.
- e. Several young families live on Linda Avenue. It has always been a family oriented street. Children play in the street; it's their playground. Speeding traffic is a grave concern.
- f. Effectiveness of emergency vehicles - police, fire, ambulance - can often be measured in seconds (of time). Traffic congestion at Linda Avenue-River Road intersection is life critical for Linda Avenue residents and for others.
- g. The "Staff Recommendation" report says, "...use of Linda Avenue will not generate, or filter, commercial traffic through (staff's underlining) the adjacent residential area as Linda Avenue dead-ends." True, but it will feed more frustrated and angry drivers, and curiosity seekers, onto Linda Avenue.
- h. There is apprehension about vision clearance at the River Road-Linda Avenue intersection, which in times past has been a problem and could become more so with a more intensive use of the property.
- i. The Staff Recommendation report states, "Staff is very concerned the trucks will be forced to use the side streets for unloading merchandise. This situation is totally unacceptable." We agree. However, auto traffic generated by the proposed restaurant during all hours of the day poses even greater problems.

- j. In light of the previous comments, a secondary access to either enter or exit the restaurant from Linda Avenue is unacceptable.
4. Pizza Hut restaurant, and more specifically CR zoning, has implications to Keizer's comprehensive plan.
 - a. The restaurant will not provide the alleged economic diversity, there already being a number of pizza and other restaurants in the community. It more likely will disrupt the economic stability of this business sector. That the property is presently "underutilized" is an assumption based upon personal opinions and values which are not necessarily valid.
 - b. The Staff Recommendation report says, "According to the applicant, appropriately zoned land suitable for the restaurant is unavailable elsewhere within the City. Evidence in support of this statement was not supplied by the applicant....Information on the supply of vacant land to accommodate the 5 year projected rate of development in the CO zone was also not provided...." Compliance with requirements of Section 4.16 of Keizer, Oregon zoning ordinance is clearly lacking.

Considerable vacant land, not adjacent to a residential community, exists along River Road. It may or may not be as economically advantageous, but it does exist.
 - c. The Staff Recommendation report acknowledges the applicant has not complied with the requirement to provide height information as specified.
5. We have great concerns about the "unique character" of River Road.
 - Traffic is increasing rapidly, creating congestion and delays.
 - Intensive commercial development, lining this major thoroughfare, contributes unnecessarily to traffic problems. The proposed Pizza Hut restaurant will only further aggravate the problem.
 - A number of vacancies exist where other businesses have failed. There is concern that our community cannot support another pizza restaurant.
 - River Road is rapidly moving toward a sorry example of strip zoning, matching such blights as Portland's 82nd Street, Salem's Lancaster Drive, and the worst strip-zoned streets in many American cities. A Pizza Hut restaurant will but contribute to this deterioration of River Road.
 - As much as we may like to believe, River Road is not an attractive street, and it's getting uglier. Something needs to be done for the only face of this community seen by the countless people traveling through.

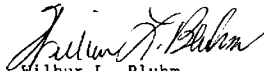
6. Transition zones effectively buffer the incompatibilities of residential and intensive commercial land uses. None exists here. The proposed 6 feet high fence, 3 feet landscape strip, two-way driveway, and setback requirements do not provide an acceptable transition buffer. The very minimum for this proposal is an evergreen (conifer or broadleaved) tree hedge of a minimum height of 20 feet within 5 to 10 years, to block light and activity, and buffer the effects of noise.

7. We are greatly concerned with the direct effect of a fast food restaurant at this location. Fast food restaurant customers occasionally park, eat, and dump their garbage at the end of our street. The convenient location of a Pizza Hut restaurant will only compound this problem. Prevention, not policing, is the solution to such problems.

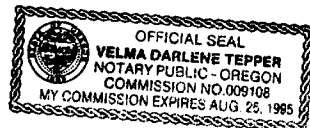
If you still believe the Pizza Hut restaurant is a justifiable use of this property, we urgently suggest you consider it be allowed as a non-conforming use in the existing CO zone. Pizza restaurants have proliferated in Keizer, up and down River Road. Some have failed, only to be replaced by others. It's nearly inevitable that others will fail in the future as competition increases, possibly as pizza becomes a less favored food. It's a situation perhaps analagous to the proliferation of gas service stations by major petroleum companies during the 1960s, after which many failed. Permitting Pizza Hut as a non-conforming use would at least assure that an even more undesirable use of this property would not occur in the future.

Thank you for considering our concerns in making your decision. If you have questions, or I can be of help to you, please let me know.

Sincerely yours,


Wilbur L. Bluhm

cc: Mayor Andy Orcutt
Keizer City Council
✓ City Manager Don Otterman



March 25, 1992

Director
City of Keizer
Community Development Department

TO WHOM IT MAY CONCERN:

We, the undersigned, Roy L. and Carol G. Shelton, 723 Linda Avenue NE, Keizer, OR., and Evelyn J. Franz, 693 Linda Avenue NE., Keizer, OR, wish to go on record regarding the following proposed Zone Change No. 92-1, which would allow construction of a PIZZA HUT RESTAURANT at the corner of River Road N., and Linda Avenue NE, Keizer, OR.

Our main concerns are as follows:

- 1) According to the site plan, relative to the above, the PIZZA HUT and the adjoining business will share a common entrance from River Rd., N, but traffic will exit from PIZZA HUT onto Linda Avenue before it enters the flow of traffic on River Rd. N. At present, without this additional traffic, residents of Linda Avenue find it increasingly more difficult to safely enter the traffic flow of River Rd. N. We feel that this additional traffic will not only compound the problem--which already exists--but can create a dangerous situation for Linda Avenue residents who try to exit River Rd. N, onto Linda Avenue. We also are concerned that this traffic congestion can hamper the entrance onto Linda Avenue of emergency vehicles--especially during peak traffic times.
- 2) Linda Avenue has been a dead end street for over thirty years and has been so signed. Regardless of the signs, drivers frequently come down the street expecting an exit at the East end. When they discover their mistake, they typically turn around in the private driveway of a home and go back to River Road N much faster than they came down the street.

Of the twenty-one (21) families who live on Linda Avenue, five (5) have children who have had the freedom of safely playing on the street--because of the dead end feature.

We are concerned that drivers, who are trying to exit the PIZZA HUT premises when they see the traffic congestion trying to enter River Rd., will be tempted to turn right on Linda Avenue seeking an exit at the end of this street. This extra volume of traffic on Linda Avenue, and the resulting turn-a-round, will not only add greatly to the problem already present, but, more importantly, will compound the risk to our children.

- 3) In the staff recommendation concerning Zone Change, Case 92-1, Section IV, Paragraph 5, the applicant states--in essence--that this site, corner of River Rd. N., and Linda Avenue NE, is the only available site in the City of Keizer.

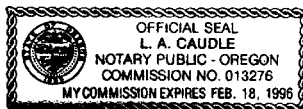
We submit that the applicant be required to produce proof to verify that statement. We also submit that other attractive sites appear to be available, i.e., the location on the Northwest corner of River Rd. N. and Manbrin Drive; the vacant property just North of BOB'B HAMBURGER RESTAURANT, as well as the vacant property just North of BURGER KING, facing River Rd. N.

- 4) Based upon the reasons set forth in the above paragraphs, we respectfully request that the zone restrictions for the property on the corner of Linda Avenue NE and River Road N, not be changed.

David J. Shelton
(Signed)

Carol G. Shelton
(Signed)

Erskine J. Framy
(Signed) *Erskine J. Framy*
03/25/92



LA Caudle
3-25-92



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: June 15, 1992

AGENDA ITEM NUMBER: 5c

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: PERIODIC REVIEW OF THE
CITY OF KEIZER COMPREHENSIVE PLAN

BACKGROUND:

The City Council opened its public hearing on the periodic review of the Keizer Comprehensive Plan on May 4, 1992. The hearing was held over until tonight at the request of the City of Salem. A copy of the May 4th staff report is attached for the Council's information.

Both Salem and Marion County submitted written testimony, copies of which are attached.

DISCUSSION:

Salem's material includes the Salem Planning Commission recommendation to the Salem Council and the Salem Council staff report which was adopted. In summary, Salem concurred with the plan without any conditions.

Marion County, however, voted to concur with two conditions, as discussed below.

The first condition is designating the Residential Density Policy as a "sub-regional" policy. Sub-regional policies are those that impact only two or three of the four urban area jurisdictions. Such policies can only be amended through the mutual consent of each affected jurisdiction.

The County's interest is in being party to the specific average residential figure of 6.5 dwelling units per gross acre, so that they would have to concur in any change to the number.

There are two ways to look at this issue. First, there is the question of how far the City is willing to go in letting the County continue to insist on having a veto power over local land use issues.



City Council
June 15, 1992

Second, however, is a practical analysis of the probability of changing this 6.5 number. The City is exceeding 6.5 dwelling units per gross acre now with new development. Staff anticipates this trend will not change in the foreseeable future. Therefore, there may be no practical reason to not adopt it as a sub-regional policy as there is little likelihood any change will be proposed. Further, it may be most expedient to adopt the policy and move on to adoption of the total order without further delay.

The second condition proposed by the County is adoption of an industrial policy reflecting a policy being adopted by Marion County and Salem for the Salem area. The proposed policy, which is described and analyzed in detail in the attached County material, calls for a provision requiring that divisions of large tracts of industrial land leave at least one parcel of at least 40 acres.

The reason for this policy is the County's fear that all the industrial land will be divided into small parcels. If a large industrial employer then wishes to locate in Keizer there would have to be an expansion of the Urban Growth Boundary to accommodate the facility. This would cause valuable agricultural land to be taken out of production.

The policy, as applied in Keizer, would impact only the Keizer Industrial Park in the far northern part of the community on the east side of River Road. This vacant land, which is owned by Larry Epping, contains approximately 67 acres. The proposed policy would require that at least 40 acres of this land be kept in one piece. Mr. Epping is being informed of this proposal and invited to testify to the Council on its impacts to his plans for the property.

Staff agrees with the philosophy of the recommendation. Large, vacant, and available industrial parcels are a rare commodity in any community. Keizer should seek to protect this valuable resource for some future major industrial employer.

RECOMMENDATION:

It is recommended Council direct the City Attorney to prepare the appropriate ordinances adopting the Periodic Review of the Keizer Comprehensive Plan, amending the document to include the sub-regional policies proposed by Marion County.



1982

City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: May 4, 1992

AGENDA ITEM NUMBER: 5

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: PUBLIC HEARING - PERIODIC REVIEW OF
THE KEIZER COMPREHENSIVE PLAN

INTRODUCTION

The Keizer Comprehensive Plan was adopted on January 19, 1987 and acknowledged by the Land Conservation and Development Commission on February 10, 1987. Oregon Administrative Rule 660 requires all jurisdictions to periodically review and update their comprehensive plans.

There are four factors that must be considered. For each factor, the jurisdiction must determine if and how the factor applies and then draft amendments to the Comprehensive Plan to meet the factor requirements.

SUMMARY

The four factors, and the draft periodic review document's response, are summarized below:

Factor One - Substantial Change in Circumstances

The review finds there have been no major unanticipated developments or events impacting the Keizer urban area. However, there have been changes in the urban area government's regional approach to planning. This necessitates amendments to the Keizer Comprehensive Plan.

On page 1-3 of the periodic review order are found the new regional policies. These policies, which are being adopted by all four jurisdictions, define how the governments relate to each other on matters impacting the entire urban area. The changes in these policies primarily focus on Keizer's comprehensive plan standing as its own document rather than as a subset of the Salem Area Comprehensive Plan. The policies eliminate many of the concurrence requirements, as well as set more independent policy on management of the urban growth boundary. The regional policies also

City Council
May 4, 1992

reflect the provisions of the Willow Lake Wastewater Treatment Plant agreement. Of particular note is the regional policy found on page 1-12 calling for "effective utilization of land for residential development.....". This is followed up specifically in later sections.

The Council should carefully review the analysis of plan policies that have not been met beginning on page 1-16. This identifies things that are in the 1987 Plan that have not been carried out. It provides a remedy for each that generally involves setting a new time frame.

Housing is discussed beginning on page 1-21. Highlights include adopting a definition of "adult residential home care" that conforms with state law, along with zoning provisions that allow such homes without discrimination. There are similar changes for "child day care."

Transportation begins on 1-30. The order updates the Keizer Comprehensive Plan to reflect the more recently adopted Salem Keizer Area Transportation Study Year 2005 Transportation Plan. It also sets other policies that more closely reflect the major provisions of the Salem Transportation Plan. Major new policies include d.iii. which calls for a 20 percent transit ridership rate at the peak hour, and policy f.ii. setting city policy to try to acquire the Burlington Northern right-of-way. Three changes in the SKATS plan map are proposed on plate 1-35.

Factor Two - New or Amended Goals or Rules Adopted Since the Date of Acknowledgment

The order analyzes the economic trends of the community and finds the existing plan is adequate in addressing them. The same is found for housing except for setting a new policy requiring new residential development to average 6.5 dwelling units per acre over all. Since 1987, residential development has averages 7.2 dwelling units per acre, which is greater than the Comprehensive Plan land use map envisions. There should little difficulty achieving the 6.5 figure, but the policy helps assure the city "holds the line" in working to achieve a compact, efficient urban form.

The new Public Facilities Plan begins on 2-17. This plan summarizes existing major facility plans for streets, sewer, water, and storm drainage. It includes identification of specific projects, programs construction of those projects, and makes cost estimates.

Factor Three - New or Amended State Agency Plans or Programs Adopted Since the Date of Acknowledgement

The only changes proposed resulting from this factor are new policies dealing with air, water, and noise quality stating that all uses must conform with DEQ regulations.

City Council
May 4, 1992

Factor Four - Additional Planning Tasks Required at the Time of Acknowledgment or Agreed to in Receipt of State Grant Funds

The analysis finds there are no changes required by this analysis.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission has reviewed the proposed order in detail. Following a public hearing, the Commission unanimously voted to forward the order to Council with a recommendation for its passage.

CITY OF SALEM REQUEST FOR EXTENSION OF THE PUBLIC HEARING

Attached to this report is a letter from City of Salem asking for an extension of the hearing until July.

CONCLUSION

The periodic review order finds that the existing Keizer Comprehensive Plan is sound. With a few minor revisions and updates, with revised regional policies sitting in the forefront, the Keizer Comprehensive Plan will continue to serve the community well for the near future.

RECOMMENDATION

It is recommended the Council, after closing the public hearing, direct the staff to prepare an adopting ordinance to be returned for first reading at the next meeting.



CITY
OF SALEM,
OREGON

City Hall / 555 Liberty St. S.E.
Zip Code 97301-3503

PLANNING DIVISION
Room 305
Telephone (503) 588-6173

April 28, 1992

John N. Morgan, Community Development Director
City of Kelzer
P.O. Box 21000
Kelzer, OR 97307-1000

RE: Kelzer Local Order, Periodic Review

Dear John:

Salem is in the process of completing a formal review of the Kelzer Local Order for Periodic Review. The process the City is following is the one set out in the Comprehensive Plan. Under Salem's schedule the Planning Commission is scheduled to complete its review on May 5. The Salem City Council will hold a public hearing on the Order on May 11. Following the normal procedures for first and second reading, we anticipate that the City of Salem ordinance approving the Order will have an effective date of July 7, 1992.

We recognize that Salem's schedule exceeds Kelzer's proposed time frame for adoption. Salem has experienced an extremely high number of requests for land use actions in recent months which has limited our flexibility to act on a number of fronts. This has even included the land use actions themselves. City Council has authorized a delay in our land use processes of up to 60 days to account for the influx of applications. Consequently, we have been adjusting our work priorities and delayed action on Kelzer's request.

Salem shares your interest in completing Periodic Review. Kelzer's February 1992, adoption of the Local Order for the Salem Area Comprehensive Plan after due consideration of our August 1990 proposal was a significant step in that direction. In a legal context, we all recognize that the completion of Kelzer's Periodic Review with respect to implementing the new "regional policies" format requires all four jurisdictions to sign off on Periodic Review on the Salem Area Comprehensive Plan at the same time. It appears that Marion County is moving in a direction where concurrence on this matter will be a reality.

Therefore, Salem requests additional time to accomplish the procedures currently prescribed for a legislative Comprehensive Plan amendment as proposed in the Final Order. The City of Salem requests the City of Kelzer delay final action on the Final until July 7, 1992.

Please let me know if you have further questions about Salem's process regarding this matter.

Sincerely yours,

Roger J. Budke
Assistant Planning Administrator

cc: Gary A. Eide
Kenn Battaille



ISSUE: Local Review Order, Keizer Comprehensive Plan

DATE OF DECISION: May 5, 1992

APPLICANT: City of Keizer

PURPOSE OF REQUEST:

To determine if the City of Salem concurs with the proposed Final Order for the Keizer Comprehensive Plan

ACTION:

The Salem Planning Commission recommends that the City Council concur with the Final Order for the periodic review of the Keizer Comprehensive Plan, recognizing that the Regional Procedures and Policies will be operational at such time as there is full concurrence with the Final Order for the Salem Area Comprehensive Plan.

Planning Commission action was based on the following Facts and Findings:

1. Keizer was given notice by DLCD to perform periodic review for its Comprehensive Plan in 1988, just as Salem was notified with respect to the Salem Area Comprehensive Plan.
2. Keizer has prepared five drafts of the periodic review document. A majority of the issues addressed are those prescribed by DLCD. These include compliance with State rules, new legislation, and new inventories. Consequently there are similarities with the periodic review of the Salem Area Comprehensive Plan. On some issues the Keizer review draws directly from several of Salem's working papers. The resulting revisions to Keizer policies and land use codes, however, are drafted to reflect the needs of the City of Keizer.
3. A substantial portion of the Keizer review document is a Public Facility Plan for the Keizer Urban Area, as required by State rules. The City of Salem Public Works staff have reviewed the Keizer Public Facilities Plan and have no comments other than to indicate that Keizer is currently updating its Sewer Master Plan.
4. The Order also incorporates the Regional Procedure and Policies that have been agreed to in principle by the four local jurisdictions. The City of Keizer adopted these by ordinance in 1992. While Keizer has indicated its full support for these Comprehensive Plan revisions, the changes will not be effective until all four local jurisdictions concur. While Marion County has not yet concurred with the SACP periodic review Final Order, however, recent discussions indicate concurrence is near.

TO: MAYOR AND CITY COUNCIL
THROUGH: GARY A. EIDE, CITY MANAGER *Gary Eide*
FROM: *Robt Briscoe* ROBERT BRISCOE, DIRECTOR
COMMUNITY DEVELOPMENT
SUBJECT: LOCAL REVIEW ORDER, KEIZER COMPREHENSIVE PLAN

ISSUE

Does the City of Salem concur with the proposed Final Order for the Keizer Comprehensive Plan?

BACKGROUND

The Keizer Comprehensive Plan was adopted as a post acknowledgement amendment to the Salem Area Comprehensive Plan (SACP) in 1987. Therefore the current adoption procedures for the Keizer Comprehensive Plan require the concurrence of Salem, Marion County, and Polk County for legislative plan revisions. This includes the Final Order for the periodic review of the Keizer Comprehensive Plan.

FACTS AND FINDINGS

1. Keizer was given notice by DLCD to perform periodic review for its Comprehensive Plan in 1988, just as Salem was notified with respect to the Salem Area Comprehensive Plan.
2. A majority, if not all, of the issues addressed by Keizer in its review are those prescribed by Department of Land Conservation and Development (DLCD). These issues include compliance with State rules, new legislation, new inventories and the public facilities plan. Consequently there are basic similarities with the periodic review of the Salem Area Comprehensive Plan. On some issues the Keizer review draws directly from Salem's periodic review working papers. The proposed revisions to Keizer policies and land use codes, however, are drafted to reflect the needs of the City of Keizer.
3. A substantial portion of the Keizer review document is a Public Facility Plan for the Keizer Urban Area. This plan is a State requirement. The City of Salem Public Works staff has reviewed the Keizer Public Facilities Plan and has no comments other than to indicate that Keizer is currently updating its Sewer Master Plan.
4. The Final Order for Keizer also incorporates the Regional Procedure and Policies that have been agreed to in principle by the four local jurisdictions. The City of Keizer adopted these by ordinance in 1992. While Keizer has indicated its full support for these Salem Comprehensive Plan revisions, the changes will not be effective until all four local jurisdictions concur. Concurrence by Marion County is still pending.
5. The Planning Commission has reviewed the proposed Final Order for Keizer Comprehensive Plan. The Commissions comments are attached.

RECOMMENDATION

That the City Council concur with the Final Order for the periodic review of the Keizer Comprehensive Plan, recognizing that the Regional Procedures and Policies will be operational at such time as there is full concurrence with the Final Order for the Salem Area Comprehensive Plan.

Kenneth P. Battelle
Kenneth P. Battelle, Planning Administrator

Attachment: Planning Commission Action of May 5, 1992



Marion County
OREGON
COMMUNITY DEVELOPMENT
DEPARTMENT

DIRECTOR
Craig O. Luedeman

BUILDING INSPECTION
(503) 588-5147

**PLANNING &
ENFORCEMENT**
(503) 588-5038

**BOARD OF
COMMISSIONERS**
Randall Franke
Gary Heer
Mary Pearmine

**ADMINISTRATIVE
OFFICER**
Ken Roudybush

MEMORANDUM

TO: John Morgan, City of Keizer
FROM: Russ Nebon, Marion County *RN*
DATE: May 22, 1992
SUBJECT: Keizer Comprehensive Plan Periodic Review

The Board of Commissioners held a public hearing on May 20, 1992 on the Keizer Comprehensive Plan Periodic Review Order. Your letter of May 20, 1992 was entered in the hearing record.

Following the hearing the Board voted to concur in the Keizer Periodic Review Order contingent on the resolution of the following issues:

1. Designation of the specific residential density policy as a sub-regional policy so that any amendment would require the concurrence of Marion county.
2. Inclusion of a sub-regional policy expressing the intent to retain at least one suitable site of 40 or more acres for a large labor intensive industry in the Keizer urban area. The policy should provide for city and county concurrence in the division of any site of 40 acres or more designated campus light industrial.

With regard to item 1 the Keizer Order on page 1-9 indicates that "any amendment to an urban area policy shall follow the regional planning action procedures, except that the concurrence requirement will be limited to jurisdictions within the urban area". If the General Housing Policy on page 2-15 of the Order will be an urban area policy it would appear that Marion County would need to concur in any amendments. If so, this item may already be addressed.

The County Planning Commission report to the Board is attached and includes a discussion of the concern regarding the division of large industrial sites. The final wording of the proposed Salem industrial policy should be available shortly if the City of Keizer would like to consider similar wording.

I will be available the week of June 1 to discuss these matters further.



Marion County

OREGON

**COMMUNITY DEVELOPMENT
DEPARTMENT**

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**BOARD OF
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**ADMINISTRATIVE
OFFICER**
Ken Roudybush

MEMORANDUM

TO: Board of County Commissioners
FROM: County Planning Commission
SUBJECT: Keizer Comprehensive Plan Periodic Review
DATE: May 20, 1992

BACKGROUND: In 1987 the County concurred in a post acknowledgement amendment to the Salem/Keizer Comprehensive Plan to include a separate section incorporating policies specific to the Keizer portion of the Urban Area. Subsequently, questions arose regarding the applicability in the Keizer area of certain "regional" policies. At the same time, LCDC notified both the City of Salem and the City of Keizer that periodic review of the Salem/Keizer Area Comprehensive Plan was due in July, 1988. Extensive updating of inventories, review of policies by city planning commissions and city councils and negotiations between the four affected jurisdictions necessitated several deadline extensions. The City of Keizer has submitted its Local Periodic Review Order to the other three jurisdictions for concurrence. The County Planning Commission has reviewed the proposal and offers the following analysis and recommendations for Board consideration at your hearing scheduled for May 20, 1992.

ANALYSIS: The Keizer Periodic Review Order consists of findings addressing the four factors that must be evaluated: unanticipated development or events, new or amended goals or rules, new or amended state agency plans or programs, and additional planning required at the time of acknowledgement.

Factor 1: The order indicates that in the four years since acknowledgment there have been no major unanticipated developments or unrealized planned-for development or events impacting the Keizer urban area.

The LCDC periodic review notice to the City of Salem mentioned the incorporation of the City of Keizer as a substantial change in circumstances to the extent that there is not coordination and consistency with Keizer's Plan on regional issues. Keizer has also proposed to revise the urban area plan to allow one jurisdiction to amend its plan without the concurrence of the other jurisdictions. The proposed order states: "The City Councils of Keizer and Salem have informally agreed that the two comprehensive plans should function as separate, but coordinated plans, each complete in itself and each containing its own local goals and policies which are unique and different and which each jurisdiction may change without concurrence from the other jurisdictions, and each also containing a list of identical regional issues which require concurrence by all other jurisdictions for amendment. The list of regional issues includes jurisdiction and procedures for amendment, urban growth boundary, transportation, Willow Lake Treatment Plant, solid waste, storm drainage policy, and residential density". The proposed order will incorporate in the 1987 Keizer plan the same regional policies that the county and the City of Salem have tentatively agreed upon.

Other issues discussed under Factor 1 include text and map changes, historic and cultural resources, capital improvement program, public facilities plan, new information from state and federal agencies, new and revised statutes, the Salem/Keizer area transportation study - Year 2005 Plan, Functional Highway classifications, Activity Centers, and Federal Emergency Management Agency requirements. The manner in which these issues are addressed has been reviewed and with one exception do not affect matters of county concern. Staff has been assured that residential development included in the McNary Activity Center Plan is equivalent or greater than what was allowed under previous plan designations and that the density of residential development will be included when reviewing conformance with the residential density goal.

Factor 2: With regard to new or amended LCDC Goals or rules, the Keizer periodic review order discusses industrial and commercial development, housing, and public facilities planning. When discussing housing the order notes that a regional policy calls for establishment of residential density objectives and proposes adding the following General Housing policy consistent with the policy proposed for the Salem urban area:

"Structures and their siting in all residential developments shall optimize the use of land. The cumulative effect of all new residential development in the Keizer Urban Area should average 6.5 dwelling units per gross acre of residential development."

With regard to industrial development the order notes that there are 60 parcels totaling 166 acres designated for campus light

industrial development. Most of these lands were placed in this designation as part of the Project '90 industrial lands plan amendments. There are many goals and policies under the Economic, Commercial and Industrial Development section of the Keizer plan, however, none is comparable to the policy in the Salem plan discouraging the division of large industrially designated parcels into parcels of less than 20 acres. As part of the periodic review of the Salem urban area plan the county is considering a revised policy to ensure the protection of the few industrial sites that are more than 40 acres in size. Without this protection these sites could be fragmented and lead to requests for UGB expansion to include other large sites when a highly desirable large, labor intensive, industry wishes to locate in the Salem/Keizer urban area.

The public facilities plan identifies street, transportation, sanitary sewer, and storm drainage improvements planned to the year 2005. Special facility plans have been included for the Chemawa Activity Center and the North River Road Economic Development Area. All of these plans are confined within the current urban growth boundary except for the drainage plan which takes into account the drainage from a small rural residential area lying between the city limits and North River Road.

Factors 3 and 4. The discussion of Factors 3 and 4 in the Keizer review order does not address any issues that affect unincorporated areas within or outside the urban growth boundary.

CONCLUSION: The Planning Commission concludes that the regional policies proposed to be included in the Keizer Comprehensive Plan are equivalent to those in the Salem plan with one difference. The policy giving priority consideration for future inclusion in the UGB to lands previously removed does not apply in the Keizer urban area. The Keizer review order also includes the 6.5 dwellings per acre residential density policy. However, it is not clear that county concurrence is necessary to amend the policy. And, the Keizer order does not propose a policy with regard to protection of large industrial sites.

RECOMMENDATION: The Planning Commission recommends that the Board of Commissioners concur in the Keizer periodic review order contingent on resolution of two issues:

1. Designation of the specific residential density policy as a sub-regional policy so that any amendment would require the concurrence of Marion County.
2. Inclusion of a sub-regional policy expressing the intent to retain at least one suitable site of 40 or more acres for a large labor intensive industry in the Keizer urban area. The policy should provide for city and county concurrence in the division of any site of 40 acres or more designated campus light industrial.



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: June 15, 1992

AGENDA ITEM NUMBER: 5d

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: SIGN CODE REVISIONS

DISCUSSION:

Attached to this staff report is a list of proposed changes to the Sign Code. For almost one year, the Governmental Affairs Committee has been working on these revisions. Initially, these changes were to be "housekeeping" changes reflecting the experiences of administering the code for about one year. It was inevitable that "bugs" would be found that would need adjustment.

Most of the changes reflect these adjustments. However, several of the GAC's recommendations are more fundamental in nature, generally calling for larger sign area.

The Planning Commission has review the proposed changes in detail. The Commission has taken action on recommendations for many of the proposals, but on others is recommending that no action be taken until after the River Road Design Plan is completed. They Commission anticipates there may be changes to the Code that will be necessary to implement the Design Plan, and believes it would be premature to make any changes now.

The attached matrix includes the proposed change, a brief description, and the recommendations of the Governmental Affairs Committee, the Planning Commission, and the Staff.

RECOMMENDATION:

It is recommended Council:

1. review each of the proposed changes and direct Staff to prepare an ordinance adopting any the Council finds appropriate;
2. direct Staff to bring the ordinance back on July 6, 1992 for adoption; and
3. hold the public hearing open until July 6, 1992 for additional comment on the proposed ordinance.

PROPOSED CHANGE

REASON FOR CHANGE

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Section 15.10 (2) Area - Change the second sentence to read: If the sign is enclosed in a frame or cabinet the area is based on the outer [inner] dimensions of the frame or cabinet surrounding the sign face. <i>(Proposed by GAC)</i>	This change maximizes the amount of sign copy that can be created without a penalty for a surrounding frame.	Approve	No recommendation	Approve
Section 15.10 (5) Building Frontage - Change the definition to read: The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined, as allowed in this chapter. [A gasoline service station may use the overhanging canopy as a substitute for building frontage when computing the allowable sign area.] <i>(Proposed by Staff)</i>	The trend in service station design is to have a small building and a big canopy. The code did not anticipate this change and therefore places an undue restriction on the amount of signage available. This change will increase the amount in a fair manner.	Approve	Approve	Approve
Section 15.10 Canopy Signs - Add a new definition as follows and re-number accordingly: (6) Canopy Sign. A sign hanging from a canopy or eve, at any angle relative to the adjacent wall, that is at least 8 feet above the underlying grade. <i>(Proposed by Staff)</i>	This change reflects a sign type that was not anticipated during development of the sign code.	Approve	Did not review	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

REASON FOR CHANGE

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Section 15.10 (13) Integrated Business Center - Change the definition to read: A group of two or more businesses or building which are planned or designed as a center or [and] share a common off street parking area or access whether or not the business, buildings or land are under common ownership. (Proposed by GAC)	The existing provision, because it says "or" applies to any complex where parking is shared, such as Bi-Mart and Marth's, or Shutterbug and 7-11. This is not the intent of the code. The proposed change eliminates using joint parking areas as a single criteria.	Approve	No recommendation	Approve
Section 15.10 (24) Projecting Signs - Change the definition to read: A sign [not flush with the wall on which it is mounted,] projecting more than 12 inches from a structure. (Proposed by Staff)	The existing code is confusing on the point of projecting signs. Due to an inadequate definition, wall signs that are "thicker" than 12 inches are prohibited, as they then fit the definition of a projecting sign.	Under Review	Approve	Approve
Section 15.10 (28) Roof Sign - Change the definition to read: A sign or portion of which is displayed above the roof line [highest point of the roof], whether or not such sign also is a wall sign. (Proposed by GAC)	Removing all signs that are fully or partially on a roof does not significantly contribute to eliminating sign clutter, while removing those signs extending above the highest point of a roof will contribute.	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

REASON FOR CHANGE

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PLANNING COMMISSION RECOMMEN- DATION

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Section 15.30(4) Abatement of Nonconforming Signs - Change the first sentence as follows: Permanent signs in existence on the effective date of these regulations which are not in conformance with the provisions of this Ordinance shall be regarded as nonconforming signs and must be removed, altered, or replaced so as to conform on or before May 7, 1997 (except that, permanent signs in existence on the effective date of these regulations shall be considered conforming signs if such signs do not exceed any quantifiable standard contained within this Chapter by more than 5%). (Proposed by Staff)	It may be unreasonable to require a sign owner to spend a great deal of money to change or replace a sign when the sign does not conform to the code provisions by only a small margin. There should be no significant visual or practical impact on the aesthetic character of River Road with the implementation of this provision.	Approve	Approve	Approve	Approve	Approve
Section 15.30 (5) Abandoned Signs - Change the section as follows: All signs for a business shall be removed within thirty days after that business ceases to operate on a regular basis, and the entire sign structure or structures shall be removed within six (12) months of such cessation of operation. (Proposed by Staff)	Six months is an unreasonably short period of time as many vacant commercial structures take longer than that to re-rent. It is an expensive proposition to remove a sign structure and then replace it later. One year is suggested as a better, and more fair, time frame.	Approve	Approve	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

REASON FOR CHANGE

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Section 15.40 (4) Real Estate and Construction Signs - Change the section as follows: Temporary real estate and/or construction project signs that do not exceed 32 square feet which advertise the sale, rental, or lease of the premises upon which the signs are located. [A. Contractor job signs placed upon a construction site, not exceeding 32 square feet in area provided that the sign is removed within thirty days from date of final occupancy permit (if applicable). B. Real Estate development signs not exceeding 32 square feet which advertise the sale, rental or lease of premises upon which the sign is located. Real Estate development signs may be used up to two years without a permit.] <i>(Proposed by GAC)</i>	There is concern over signs that are put up and left for years. This especially applies to development signs.	Approve	Disapprove	Staff is concerned about how to track the specific time frames without a permit process. The permit administration function in City Hall is already working beyond its limits, so adding another permit is not viewed with enthusiasm, especially when the problem is not profound. Staff supports these changes as long as enforcement is on a complaint basis and there is no permitting process involved.
Section 15.40 Signs Generally Permitted - Add the following section: [(13) In a CO, CR, CG, IP, IG or MU zone, signs painted or hung on the inside of windows.] <i>(Proposed by Staff)</i>	Window signs currently are subject to the maximum total square footage requirements and require a permit. This provision has not been enforced due to its impracticality. Rather than create a system to regulate both permanent and temporary window signs, the recommendation recognizes this is not currently a significant problem and does not mandate regulation.	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

REASON FOR CHANGE

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Section 15.40 (7) Public Safety and Convenience Signs - Delete this section (Proposed by Staff)	Section 7 is similar to Section 5 and should be eliminated to remove any confusion.	Approve	Approve	Approve
Section 15.60 Signs in Residential Zones - Change the section 1 as follows: (1)(a) Wall and window signs shall be permitted outright, and free standing signs as set forth below, [subject to the limitations in 15.60(3).] (1)(b) One free-standing sign per driveway for multi-family dwellings. All other free-standing signs shall be permitted by conditional use permit only. [Free-standing signs subject to the limitations in 15.60(3).] (Proposed by Staff)	Free-standing signs currently require a conditional use permit in these zones. There are many allowed uses, such as churches, which must get such a permit for their sign, yet the use of a free-standing is customary and generally in keeping with neighborhood character if the scale is kept small. It seems to be an unfair and unreasonable burden on these owners to have to get a permit for a sign when the use is allowed outright. The proposed change will allow small free-standing signs as permitted uses, while larger ones will continue to require a conditional use permit.	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

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Section 15.60 Signs in Residential Zones - Change the section 1 as follows: (2) Maximum number. One sign for each lot, such signs being located on the lot on which the permitted use is located; (Any combination of wall or free-standing signs not exceeding the sign area and height limitations of this Section;) plus, signs allowed in Section 15.60(1) let and (c). (Proposed by Staff)	See Above	Approve	Approve	Approve
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PROPOSED CHANGE

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PROPOSED CHANGE	REASON FOR CHANGE	GAC RECOMMEN- DATION	PLANNING COMMISSION RECOMMEN- DATION	STAFF RECOMMEN- DATION
Section 15.60 Signs in Residential Zones - Change the section 3 as follows: (3) Maximum total sign area [for property on which the building or buildings are located]: (a) Single-family and two-family (duplex) dwelling - 6 square feet, unless otherwise specified [provided total sign area on a free-standing sign shall be limited to a maximum of 4 square feet.] (b) Multiple family dwelling - 20 [32] square feet, unless otherwise specified. [provided total sign area on a free-standing sign shall be limited to a maximum of 24 square feet.] continued....	See Above	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

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PLANNING COMMISSION RECOMMENDATION

STAFF RECOMMENDATION

....continued				
(c) Public and Semi-Public - 20 [64] square feet [provided total sign area on a free-standing sign shall be limited to a maximum of 48 square feet.]				
(d) The sign area for a free-standing sign may be increased up to the maximum total sign area permitted in sections (a), (b), and (c), above, with a conditional use permit. <i>(Proposed by Staff)</i>				
Section 15.60 Signs in Residential Zones - Change the section 4 as follows: (4)(b) Free-standing sign (where allowed by conditional-use permit) - 6 feet. <i>(Proposed by Staff)</i>	See Above	Approve	Approve	Approve
Section 15.60 Signs in Residential Zones - Change the section 5 as follows: (5)(b) Free-standing sign where allowed for multi-family dwellings or by conditional-use permit - where fences are allowed. <i>(Proposed by Staff)</i>	See Above	Approve	Approve	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

REASON FOR CHANGE

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Section 15.70 (1) Signs for Business not in integrated business center. - (a) Total Allowed Area. One and one-half square feet of total allowed sign area for each linear foot of building frontage, up to a maximum total allowed area of 150 square feet. [(ii) (A) Wall Signs (and Canopy Signs) - Total allowed area for each building frontage will be one and one-half square feet of total allowed sign area for each linear foot of building frontage, up to a maximum total allowed area of 150 feet. (B) Wall and windows signs shall not project above the parapet or roof eaves. (C) Location: Wall signs may project up to 1.5 feet from the building. (ii) Free Standing Signs (A) One and one-half square feet to total allowed sign area per sign for each linear foot of building frontage or one square foot of total allowed sign area for each linear foot of street frontage. In either method sign area not to exceed 100 square feet per sign. The area of multifaced signs shall be calculated by including only one-half of the total area of all sign faces. (B) Free standing signs shall have a maximum height of 20 feet.] (Proposed by GAC)	This change greatly increases the amount of allowable sign area. It uses the existing 150 square foot maximum for all signs as the standard for wall signs, plus adds up to 100 square feet for free standing signs. This is intended to increase the exposure of the individual businesses. The change also recognizes canopy signs.	Approve		Delay until after River Road Design Plan is adopted.	Disapprove. There is no need to increase the allowable sign area to assure fair and workable identification for each property. This provision also defeats the intent of the code to improve the aesthetics of the community. The provision adding canopy signs should be approved.
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KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

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Section 15.70 Signs in CR, CO, CG, IP, IG and other zones. (1)(c)(iii) Free-standing signs - maximum total height of 20 feet, with a maximum sign-face height of 8 feet. (Proposed by GAC)	The 8 foot sign face height limitation limits a merchant's ability to use creativity in designing signs. The 8 foot provision is resulting in "lollipop" signs such as Izy's and Keele's Carpets, which, if repeated all along River Road, would not be as attractive as a variety of sign shapes.	Approve	Delay until after River Road Design Plan is adopted.	Approve now. There are pending sign permits that need this change. It is highly unlikely the River Road Design Plan will include anything that would impact this provision.
Section 15.70 (2)(b) Signs for integrated Business Centers - In addition to this allowed area, for each integrated business center, one free standing sign per street frontage [with or without a reader board] not exceeding 100 square feet in area for a sign-identifying the name of the center and/or all the tenants [for centers with a total land area less than two acres and a maximum allowable area of 150 square feet for center with a total land area of two acres or more.] (Proposed by GAC)	There are several components to this change. First, it removes the provision that the sign may only identify the name of the center and/or all the businesses. This is reflected in the specific mention of reader boards. This change is in keeping with common business practice and emphasizes that who is on the sign is a business decision between the owner and tenants and not an arena the City should be regulating. Second, the change allows a larger sign for larger projects.	Approve	Delay until after River Road Design Plan is adopted.	Approve the changes in the nature of the signs now. Disapprove the increase in sign size.

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT

PROPOSED CHANGE

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Section 15.70 (3)(c) Additional Signs - Change the section as follows: Order signs describing products and/or order instructions to a customer, such as menu boards on the exterior of a drive-thru restaurant are allowed as follows: One per business limited to 40 [40] square feet in area and a maximum height of six [eight] feet. [Any order sign greater than 10 square feet in area and/or six feet in height must be screened from adjacent streets by a screen obscuring fence, wall or hedge.] (Proposed by Staff and Planning Commission)	The current 10 square foot limitation has proven to be unrealistic given current design practices. A survey of existing drive-in menu boards in Keizer showed they ranged from 24 to 36 square feet. They all are screened in a way that conforms with the proposed code provision except for Bob's.	Approve	Approve	Approve
Section 15.80 Conditional Use Permits - Eliminate the following section: 41(f) the total allowed sign area for a business shall be reduced by 25% if the business has a flashing, rotating, revolving, or message sign. (Proposed by GAC)	There should be no penalty for these types of signs.	Approve	Delay until after River Road Design Plan is adopted.	Disapprove
Section 15.90 Variances - Change the section as follows: (a) The requested variance better implements [is consistent with] the purpose of the Chapter as stated in Section 15.01. (Proposed by Staff)	The existing criteria is highly subjective and goes beyond a reasonable discretionary decision.	Approve	Delay until after River Road Design Plan is adopted.	Approve

KEIZER SIGN CODE REVISIONS

JULY 11, 1992 DRAFT



DAIRY QUEEN

May 22, 1992

Mr. Walter "Skip" Wendolowski
Box 21000
Keizer, OR 97307-1000

Dear Mr. Wendolowski:

Pursuant to our conversation regarding the signage ordinance, I am requesting a change that I believe is insignificant to the city, but of great consequence to my livelihood. As you know, I am building a Dairy Queen on Lockhaven Drive. I have structured my signs to meet Keizer's sign ordinance regarding maximum square footage. I also understand that I need to keep my maximum height at twenty feet. As I understand, the pole signage must be no more than eight feet from top to bottom. It is in this area I am requesting a concession.

My DQ logo sign is six feet from top to bottom and my reader board is five feet. Please see enclosed drawing. I would like to be able to stack my signage, as is conventional. I can conform to the ordinance by placing my signs side by side, as on a goal post or massive street lamp, or by doing a custom two feet by twenty feet reader board. Please see enclosed sketches. Either of these configurations would look odd, and I believe, detract from the DQ and street aesthetics. To eliminate either the logo or reader board would cause a great reduction in sales. The logo, of course identifies us. The reader board informs customers of sale items. Dairy Queen is a small player in fast food sales and advertising. DQ national advertising is about \$40 million annually while McDonald's is near half a billion. We rely heavily on our reader board.

Finally, to change top to bottom requirements would allow businesses flexibility without violation of the spirit of the sign ordinance. In fact, I see this giving some diversity whereas presently all signs will be conforming to a lollipop appearance. I feel an ordinance change regarding maximum height to depth would not adversely affect Keizer beautification.

Thank you for your time.

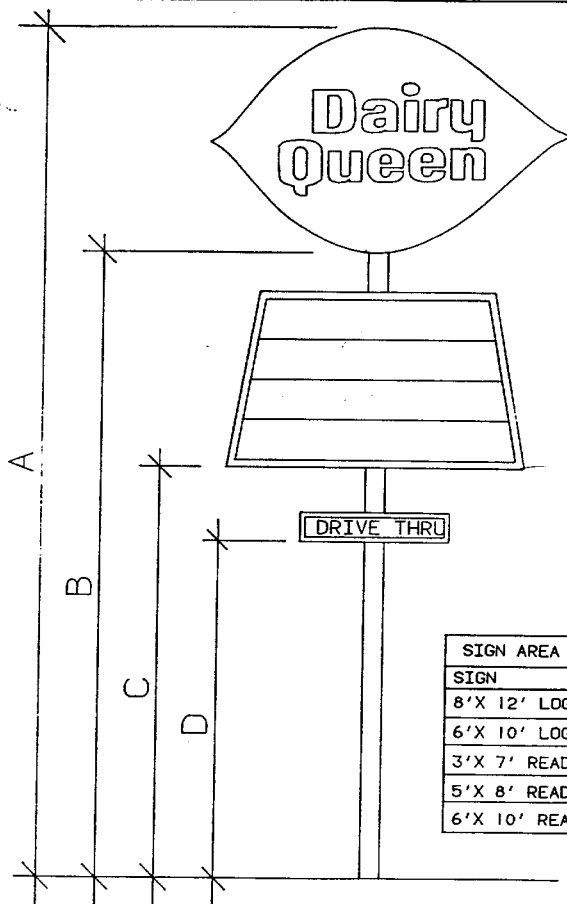
Sincerely,

A handwritten signature in cursive script that reads "Tom Landon".

Tom Landon

5605 Avenue Dr NE Salem 97301

Dairy Queen.



SIGN AREA (ONE SIDE)	
SIGN	SQ.FT.
8'X 12' LOGO	68
6'X 10' LOGO	39
3'X 7' READER	16
5'X 8' READER	34
6'X 10' READER	48

BASE	LOGO	READER	A	B	C	D
PY-6	6'X 10'	3'X 7'	22'- 3"	16'- 3"	10'- 0"	7'- 4"
PY-6	6'X 10'	5'X 8'	22'- 3"	16'- 3"	10'- 0"	7'- 4"
PY-8	8'X 12'	6'X 10'	29'- 4"	21'- 4"	14'- 0"	11'- 4"

PYLON SIGN
DETAILS

SCALE----- N.T.S.

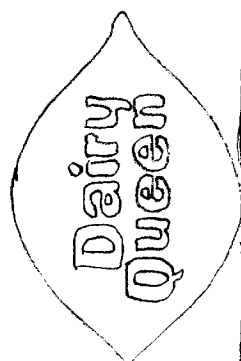
ENGINEERING/CONSTRUCTION DEPARTMENT
2/90

Dairy
Quest

DRIVE THRU

Dairy
Quest

DRIVE THRU



SUPPLEMENTAL AGENDA ATTACHMENT

NO.: 5.1



City of Keizer

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

COUNCIL MEETING: JUNE 15, 1992

AGENDA ITEM NO.: 5.1

TO: MAYOR AND City COUNCIL

FROM: DONALD H. OTTERMAN, City MANAGER

SUBJECT: PARTICIPATION BY THE City OF KEIZER IN AN
INTERGOVERNMENTAL AGREEMENT RECHARTERING THE MID-
WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS (COG)

ISSUE

Shall the City of Keizer approve relating to participation by the City in an intergovernmental agreement rechartering the Mid-Willamette Valley Council of Governments?

DISCUSSION

The City has received the attached memorandum from the Mid-Willamette Valley Council of Governments regarding the amendment to the existing Charter and approval of a proposed agreement that would restructure the way in which the COG is created and functions.

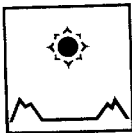
The original COG was established under ORS 190.010 which authorizes local governments to make agreements for the performance of functions jointly for one another. This ORS section also authorizes the formation of governmental entities which are public bodies of the State. The formation of an intergovernmental entity requires that any participant in an intergovernmental agreement that creates a separate entity ratify its participation by legislative act of its governing body. The enclosed ordinance meets the requirements of ORS 190.085 in that it ratifies the City's participation in the COG as newly formed.

It is requested that you review the attached information that has been provided by the COG. I have asked that they have someone available for our council meeting to answer any questions that the council may have.

RECOMMENDATION

It is recommended that the City Council approve the ordinance relating to participation by the City of Keizer in an intergovernmental agreement rechartering the Mid-Willamette Valley Council of Governments.

“Pride, Spirit and Volunteerism”



MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S.E.
SALEM, OREGON 97301

Telephone (503) 588-6177
FAX (503) 588-6094

1957-1992

35
Years
of
Service

CHAIR:
COMMISSIONER DENNIS GOECKS
YAMHILL COUNTY

VICE CHAIR:
CRAIG SMITH
SALEM SCHOOL DISTRICT

DIRECTOR: ALAN H. HERSHEY

RECEIVED

92 MAY 26 AM 11 17

MEMORANDUM

TO: Don Otterman, Manager
City of Keizer

FROM: Alan H. Hershey
Director

SUBJECT: PROPOSED COG CHARTER

DATE: May 21, 1992

Enclosed are two sets of information relating to the proposed COG Charter. Please forward one to your legal counsel so he/she can prepare the necessary instrument for adoption by your governing body in the month of June.

The enclosures are:

1. A draft of an ordinance as required by ORS 190.085 for participation in an intergovernmental agreement creating a separate entity. (NOTE: Some districts may not have ordinance powers. Their legal counsel will have to determine the proper legislative act of the governing body to comply.)
2. A two page summary of the changes.
3. The original Charter highlighted to reflect each change (yellow copy).
4. The proposed new Agreement (Charter) without the highlights (a "clean" version -- white copy).
5. An extra signature page attached to the draft ordinance to be returned to COG so we can print the new Charter. A stamped, self-addressed envelope is enclosed for that purpose.

By June 30, 1992, please mail to COG:

1. A signed copy of the ordinance or other legislative act.
2. A fully executed signature page. (It has a yellow tag stapled to it that says "ORIGINAL-. Return to COG after signature.")

BACKGROUND

This past October the COG began a comprehensive self-evaluation so the member governments could redirect our efforts as they determined. Professional facilitators interviewed a representative sample of a dozen officials of small, mid-size and larger members and sent a survey to every member government. A Steering Committee of eleven elected officials and top administrators reviewed the work. Three subcommittees were formed to review 1) the Charter, 2) the Fee Schedule and 3) COG Goals and the 1992-93 Work Plan.

The new fee schedule was adopted January 21, 1992 by the COG Board and promptly sent to all member budget officers for preparation of the 1992-93 budget. The Charter subcommittee report was circulated for several weeks to obtain comment. It was to be adopted at the conclusion of this fiscal year so the new fiscal year can be started with it in place.

The Goals process produced three new issues in priority order:

1. Growth and Futures Issues
2. Water Quantity and Quality
3. Street Maintenance, Repair and Design.

The Goals were defined as follows. Work plans are in development now with assistance of member governments. Your advice and comment is welcome.

GROWTH -- organize and coordinate a program taking a very long range view of growth impacts on air, water, education, health care, human waste, garbage, etc. to assist member governments in making determinations as to the kinds of growth, the rate of growth and the dispersal of growth we wish to provide for and encourage in this region in order to maintain livability.

FUTURES -- serve as an umbrella for member governments; help us pull farther away from being provincial. Develop programs and bring experts in futures planning to the area for discussions, seminars and development of specific activities which member governments can undertake to meet future changes in a positive fashion.

WATER QUANTITY AND QUALITY -- assist water providers (cities and districts) with long-range plans for provision of the quantities of water necessary to serve the projected population for the region and assist in development of programs to preserve water quality.

STREET MAINTENANCE, REPAIR AND DESIGN -- assist member governments who have this responsibility to consider ways of consolidating their services to achieve a lesser cost. Seek improved ways of contracting out for services through a single operation. Assist member governments to consider consolidation of design engineering functions where it can be shown to provide economies and greater efficiencies.

The above goals are in addition to existing services and programs including:

1. Economic development plans and programs (small business loans, grant applications, grant management assistance, etc.) for the Marion, Polk, Yamhill area.
2. Assistance with a regional agricultural strategy for Marion, Polk, Yamhill and Benton Counties.
3. Transportation Planning for the Salem/Keizer area.
4. Coordination of support and lobbying for Yamhill County Parkway.
5. Assistance to Polk, Yamhill, Lincoln and Tillamook Counties to meet LCDC Goal 4 related to Forestry.
6. A Water Resources planning effort for Yamhill, Polk and Lincoln Counties.
7. Contract services as requested by members:
 - a. Mapping
 - b. Data gathering and analysis
 - c. Board and/or staff goal setting
 - d. Board and/or staff team building
 - e. Land use planning
 - f. Graphics
 - g. Reapportionment
 - h. Street index descriptions.

CONCLUSION

If you would like someone from the COG Board or staff to appear at your Council/Board meeting, please call me at 588-6177. We would be pleased to attend.

RECEIVED
JUN 05 1992

MID WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS

For Council Meeting Of:

Agenda Item No.: 5.1.J

TO: MAYOR AND CITY COUNCIL

THROUGH: GARY A. EIDE CITY MANAGER *Gary Eide*

FROM: STEPHANIE SMYTHE, CITY ATTORNEY *Stephanie Smythe*

SUBJECT: RATIFICATION OF MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS AGREEMENT

ISSUE:

Should the City ratify a new master agreement re-creating the Mid-Willamette Valley Council of Governments (COG)?

POLICY DECISIONS:

Consideration of Salem's continued participation in COG under a new agreement that reflects revised goals, simplified procedures, and language more accurately reflecting current COG membership and administration.

BACKGROUND:

In October 1991 COG began a comprehensive self-evaluation involving input from all members. The result was a three-prong action plan. One committee worked on COG Goals, one worked on a fee schedule, and one worked on revision of the current COG "Charter and Agreement."

The first two committees completed their work earlier this year. The "Charter" committee reviewed the product of the first two committees and prepared a final recommendation consistent with the work of the other two committees. That recommendation was approved by the COG Board and the result is the form of Agreement which is attached. Also attached is a document dated May, 1992, prepared by COG explaining the differences between the proposed Agreement and the current "Charter and Agreement."

In the background of this revision process, the 1991 Legislature adopted a new statute applicable to a local government which is to become part of an intergovernmental entity such as COG. That new statute requires that the local government's participation in such an entity must be ratified by ordinance of its governing body.

Because the new COG Agreement represents, in effect, a re-creation of COG the new statute applies to the City's participation in the re-organized COG.

FACTS AND FINDINGS:

Ordinance Bill No. 49 satisfies the new statutory requirement for ratification of the City's participation in a reorganized MWVCOG.

The proposed Agreement represents no change in or conflict with current Council policy regarding Salem's participation in COG.

The City Attorney's Office has carefully reviewed the proposed Agreement for legal sufficiency and for conflict with the City's own Charter and ordinances. This office is satisfied that the proposed Agreement is legally sufficient and does not violate or conflict with any provision of law, Charter or ordinance.

Should the City Council not adopt the Ordinance Bill, Salem's participation in the Mid-Willamette Valley Council of Governments would effectively terminate as of July 1, 1992.

RECOMMENDATION:

Adopt Ordinance Bill No. 49, ratifying the proposed Mid-Willamette Valley Council of Governments Agreement.

1 BILL NO. _____

A BILL

ORDINANCE NO.

2

92-_____

3

FOR

4

AN ORDINANCE

5

RELATING TO PARTICIPATION BY THE CITY OF
6 KEIZER IN AN INTERGOVERNMENTAL AGREEMENT
7 RECHARTERING THE MID-WILLAMETTE VALLEY COUNCIL
8 OF GOVERNMENTS

9

WHEREAS, the City of Keizer has been a member of the Mid-
10 Willamette Valley Council of Governments (MWVCOG);

11 WHEREAS, the member governments of MWVCOG desire to revise and
12 reform the Charter and Agreement by which the MWVCOG is created;
13 and

14 WHEREAS, ORS 190.085 requires that prior to the effective date
15 of an intergovernmental agreement creating an intergovernmental
16 entity, each of the parties to the agreement shall enact an
17 ordinance ratifying the creation of the intergovernmental entity;
18 NOW, THEREFORE,

19 The City of Keizer ordains as follows:

20 Section 1. INTENT TO CREATE. It is the intent of the City
21 Council of the City of Keizer to create, along with the other
22 parties to the Agreement, an intergovernmental entity known as the
23 Mid-Willamette Valley Council of Governments.

24 Section 2. SPECIFICATION OF PURPOSES, POWERS AND DUTIES.
25 The effective date of the Agreement, specification of public
26 purposes for which the MWVCOG is created, and the powers, duties
27 and functions of the MWVCOG are as stated in the Agreement attached
28 hereto and by this reference incorporated herein.

29 ///

PAGE 1 - ORDINANCE NO. 92-_____

LIEN, HOBSON & JOHNSON

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

PROPOSED CHANGES TO COG CHARTER AND AGREEMENT

May, 1992

Item	Pages
------	-------

- | | | |
|-----|-----|---|
| 1. | 1 | The word "Charter" is removed throughout. For simplicity the document is referred to solely as an "Agreement". This is not a substantive change. |
| 2. | 1 | The "Citation" was edited to make it more readable. |
| 3. | 1-2 | The "Authority" section is reworded to include amendments to ORS 190 made by the 1991 Legislature. The principal amendment requires any participant in an intergovernmental agreement creating a separate entity to ratify its participation by adopting an ordinance rather than by acting through a motion or resolution. An ordinance requires a public hearing so that the public can be notified and involved in the decision of the governing body. Ordinances are possible at counties and cities and some special districts. Those special districts who do not have ordinance authority will use a form which best meets their requirements pursuant to advice from their legal counsel. |
| 4. | 1 | A reference to ORS 190.210 regarding responsibilities of the Executive Department of the State of Oregon is stricken. The State has not been a member since 1981. |
| 5. | 2 | The "Definitions" section was made shorter and more readable. |
| 6. | 2-3 | The section titled "Nature of Agreement" was substantially reduced. The emphasis of the editing was to describe the concept that members should bring proposals to the attention of the COG for the study and recommendation of the members as they may deem desirable. Examples were eliminated. |
| 7. | 3 | Lines 20 - 22 on page 3 were inserted to specify that an action of the Board of Directors regarding its own internal matters are binding on the COG, although the actions of any committee of the COG are of an advisory nature and not binding. |
| 8. | 4 | The section titled "Establishment" (history) was made shorter. |
| 9. | 4-5 | The "Purpose" section was updated and made shorter. |
| 10. | 5 | The "Functions" section was substantially edited to bring it up to date with what the member governments want the COG to do. |
| 11. | 6 | The "Powers" section was amended to authorize the COG to enter into a lease of real property for up to 20 years. The current limitation is 5 years. This section is also amended so that the COG may appoint more than one member government as a service agent for financial, purchasing, personnel, legal and other auxiliary services. The authority to make and amend by-laws consistent with the Charter was eliminated as unnecessary. |

12. 6 The "Membership" section was amended in several ways:
- a) Clarification that membership in good standing includes payment of membership fees (appears at the bottom of page 6);
 - b) At the top of page 7, the requirements for an ordinance or other legislative act are specified on lines 3-6;
 - c) The State of Oregon is eliminated as a potential member. It has not been an active member since the time of Governor Victor Atiyeh. The Salem Area Mass Transit District is provided a vote on the Board as it is a member which previously had no representation on the Board.
 - d) Other changes were simply for name changes or proper grammar or as in lines 17 through 26 of page 8 and lines 1 through 3 of page 9, eliminated as unnecessary language.
13. 9 The "Meetings" section was amended to allow the Board to set its own meeting schedule and have it vary from time to time. The same was done for the Executive Committee and the Annual Meeting.
14. 9-10 The "Procedures and Voting" section was amended to specify that a quorum of the Board of Directors shall be 51% of its members. Lines 23 through 26 of page 9 and lines 1 and 2 of page 10 were edited to shorten the language.
15. 10 Lines 3 through 5 were added to specify that a member of the Board of Directors has a responsibility to vote unless the member declares a conflict of interest.
16. 10-11 Lines 6 through 26 on page 10 and line 1 on page 11 were added to specify the duties of each of the officers of the Board and to clarify their roles.
17. 11 The Executive Committee description was amended to include the immediate past chair in a voting position. Lines 15 through 19 were added for a budget committee now required by Oregon law. It would consist of three members of the Board and three lay citizens appointed by the Board representing the major services and programs of the COG.
18. 11-13 All language having to do with former committees whose purposes were eliminated in a review of the Charter in the early 1980's are stricken. These were the Governmental Coordinating Committee and the Regional Planning Committee. Neither has operated since 1983.
19. 14 The "Staff" section was eliminated as unnecessary.
20. 14 The Executive Committee rather than the Governmental Coordinating Committee has the responsibility of recommending a membership fee structure to the COG Board annually.
21. 15 On lines 8 through 11, the paragraph referring to "termination of a delinquent member's rights being forfeited" was eliminated. It is unnecessary because language earlier in the Agreement (bottom of page 6) was inserted to specify that dues had to be paid to vote or participate in programs or services.

**CHARTER AND AGREEMENT
OF
MID WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS**

January 1, 1975

Highlighted to indicate changes proposed

May, 1992

CONTENTS

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~~CHARTER AND AGREEMENT~~

MID--WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

This ~~Charter and Agreement~~ is made and entered into this ____ day of _____, 1992, by
and between the undersigned governmental bodies.

I CITATION

The Mid-Willamette Valley of Oregon is faced with numerous problems resulting from rapid urbanization, including problems of health, education, safety, economics, transportation, recreation, culture, multiplicity of governments, ~~budget restraints~~, coordination of ~~human resources~~ programs, environmental quality, community appearance and well being. These problems will increase in complexity and intensity as the population increases. ~~In order so~~ that the solution of these problems may be prepared ~~or~~ ~~planned through a rational democratic process, it is fitting that~~ the affected governmental units join together in voluntary cooperation, and for this purpose they ~~do~~ make this ~~Charter and Agreement~~.

II AUTHORITY

This ~~Charter and Agreement~~ is established under the authority of the following Oregon Statutes:

ORS 190.010 which authorizes local governments to ~~make agreements for the performance of functions jointly or for one another, form intergovernmental entities which are public bodies of the State of Oregon~~

ORS 190.030 which provides that any agency established under the authority of ORS 190.010 is vested with all powers, rights, duties, and functions therefore existing by law in separate agencies, pertaining to functions and activities.

~~ORS 190.085 which requires that any participant in an intergovernmental agreement creating a separate entity ratify its participation by legislative act of its governing body.~~

ORS 190.110 which authorizes public corporations, political subdivisions, and state agencies to cooperate.

~~ORS 190.210 and ORS 190.220 which assigns to the Executive Department of the State of Oregon the responsibility and authority for maintaining liaison with local governmental agencies which provide~~

1 ~~services to state agencies and for participation in the development and coordination of plans for activities~~
2 ~~and services which are supported or utilized by state agencies and which are formulated by tax supported~~
3 ~~governmental agencies.~~

4 III DEFINITIONS

5 1. ~~"Charter and Agreement"~~ shall mean the Charter and Agreement of the Mid-Willamette Valley
6 Council of Governments by which this document is titled.

7 2. ~~"Council"~~ or "Council of Governments" shall mean the Mid-Willamette Valley Council of
8 Governments established by this Charter and Agreement.

9 ~~3. "Intergovernmental Cooperation" shall mean the coordination of public functions and~~
10 ~~programs between two or more governmental units through formal and informal arrangements which are~~
11 ~~voluntarily operated within contemporary political structures.~~

12 ~~4.~~ "Mid-Willamette Valley" shall mean the area within Marion, Polk and Yamhill Counties.

13 ~~5.~~ "Member government" shall mean a government which is a party to this Charter and
14 Agreement or which becomes a member as provided in Article IX.

15 ~~6. "Signatory member" shall mean a government represented by the signors to this Charter and~~
16 ~~Agreement.~~

17 IV NATURE OF AGREEMENT

18 1. The parties to this Charter and Agreement hereby recognize the need to inform each other
19 of proposals, plans, developments and operations of significance and which have regional impact; and
20 hereby agree to ~~Members should~~ bring all such proposals, plans, developments, and operations to the
21 attention of the Council ~~for its consideration, and for its study and recommendation as the Council member~~
22 may deem desirable.

23 ~~Examples of matters to be brought before the Council are as follows:~~

24 ~~Major annexations of territories to or merger or consolidation of cities, special districts,~~
25 ~~county service districts, domestic water supply districts, or other governmental agencies.~~

26 ~~The formation of a municipality, service district, county service district, or domestic water~~

1 ~~supply corporation.~~

2 ~~_____ Referenda for authority to tax or incur indebtedness.~~

3 ~~_____ Significant changes in fiscal policies.~~

4 ~~_____ Significant capital improvements.~~

5 ~~_____ Significant changes in administrative operations such as the implementation of data~~
6 ~~processing systems, changes of purchasing procedures and warehousing, changes in personnel policies,~~
7 ~~and adjustments in levels of service.~~

8 ~~_____ Federal and state legislation or programs which will affect local governments, especially as~~
9 ~~to their responsibilities for planning and coordination with other units of government.~~

10 2. This organization is based on the principle of the sovereign equality of all its members within
11 the Council.

12 3. The parties to this Charter and Agreement recognize that the well being of each of the
13 constituent political jurisdictions is dependent upon the sound growth and development of the entire Mid-
14 Willamette Valley.

15 4. Nothing contained in this Charter and Agreement shall authorize the Council to intervene
16 in matters which are essentially within the domestic jurisdiction of any member without its consent.

17 5. This Charter and Agreement and all actions of the Council shall be within the framework of
18 the laws of the State of Oregon and its subdivisions.

19 6. The actions of any committee or group authorized by this Charter and Agreement are of
20 an advisory nature and not binding on any member of the Council without the member's approval ~~except~~
21 ~~with respect to the Council's own internal administrative matters, and actions taken by the Council in~~
22 ~~furtherance of a legal obligation.~~

23 7. All members, in order to insure to each of them the rights and benefits resulting from
24 membership, shall fulfill in good faith the obligations assumed by them in accordance with this Charter and
25 Agreement.

26 ~~VV~~ ESTABLISHMENT

1 ~~The Mid-Willamette Valley Council of Governments as prescribed in this Charter and Agreement is~~
2 ~~hereby established and this Agreement supersedes the Charter and Agreement of the Mid Willamette Valley~~
3 ~~Council of Governments adopted August 10, 1971, January 1, 1975, which Agreement shall be terminated~~
4 ~~by the mutual consent of the parties upon the adoption of this Charter and Agreement. The Council~~
5 ~~established by this Charter and Agreement shall assume all obligations, functions and authority heretofore~~
6 ~~vested in or assumed by the Mid-Willamette Valley Council of Governments.~~

7 The history of the establishment and development of this organization is as follows: ~~On July 25,~~
8 ~~1967, the Mid-Willamette Valley Council of Governments superseded and replaced the Mid Willamette Valley~~
9 ~~Planning Council organized on July 26, 1957, and the Mid Willamette Valley of Oregon Compact of Voluntary~~
10 ~~Intergovernmental Cooperation adopted December 23, 1950, and the Agreement which established the Mid~~
11 ~~Willamette Valley Planning Council organized on July 26, 1957, which Compact and Agreement were~~
12 ~~terminated by mutual consent of the parties upon adoption of the July 25, 1967, Charter and Agreement of~~
13 ~~the Mid Willamette Valley Council of Governments. The Charter and Agreement of the Council of~~
14 ~~Governments was amended on August 10, 1971, and on January 1, 1975.~~

15 **PURPOSE**

16 The purposes of this Charter and Agreement are:

17 1. To enable the elected officials of the member governments to jointly identify issues and
18 needs which are regional in scope; achieve concurrence for cooperative actions; plan, approve, and
19 recommend governmental action in areas of intergovernmental concern ~~such as, health, safety, and welfare~~
20 ~~and growth, transportation, parks and recreation, water and sewage facilities, education, planning and~~
21 ~~auxiliary services related to such areas of concern.~~

22 2. To assure, through cooperation and the pooling of common resources, maximum efficiency
23 and economy in governmental operations which will provide every citizen with the utmost value for every
24 tax dollar.

25 3. To attain the greatest degree of intergovernmental cooperation possible in the Mid
26 Willamette Valley in order to foresee and prevent the problems created by urban growth and change in this

1 region.

2 ~~24.~~ To develop among the several governmental units the ultimate in communication and
3 understanding while effecting cooperation and coordination of services, programs and facilities.

4 ~~5. To utilize the various tools of intergovernmental cooperation such as joint enterprises,~~
5 ~~mutual aid, parallel action, and contractual services on a voluntary basis through formal and informal~~
6 ~~agreements.~~

7 ~~XVI~~ FUNCTIONS AND DUTIES

8 The Council ~~shall have the following primary functions and duties shall be:~~

9 ~~1. To facilitate intergovernmental communication and issue resolution for member~~
10 ~~governments.~~

11 2. ~~To prepare and adopt comprehensive plans and programs pertaining to all regional~~
12 ~~governmental functions which the member governments are empowered to perform and to prepare and~~
13 ~~adopt plans and programs prescribing the governmental and organizational devices for conducting said~~
14 ~~governmental functions. To provide technical and administrative support services to member governments.~~

15 ~~3.~~ To initiate, conduct, or cause to be conducted, studies of regional problems.

16 ~~4.~~ To recommend, for purposes of solving or alleviating regional problems, action by public
17 ~~and private agencies. To recommend action by public and private agencies for purposes of solving or alleviating~~
18 ~~regional problems.~~

19 4. ~~To render advice and technical assistance to public and private agencies.~~

20 5. ~~To promulgate resolutions, ordinances, codes, laws, and regulations for submission to the~~
21 ~~member governments for their approval and adoption. To conduct and administer programs which, by law,~~
22 ~~must be administered by a regional agency, or at the request of the member government or governments~~
23 ~~who would otherwise be responsible for their administration.~~

24 ~~6. To contract or subcontract with public and private agencies for performance of the foregoing~~
25 ~~functions.~~

26 ~~XVII~~ POWERS

1 The Council shall have the power:

2 1. To enter into agreements with the United States of America, State of Oregon or any
3 subdivision or agency or any municipal corporation for the purpose of obtaining financial aid or other
4 participation in attaining the objectives and purposes of the Council.

5 2. To enter into contractual relationships with private agencies or firms for terms not to exceed
6 five years. ~~Activities under the foregoing limitations the Council may enter into real property lease~~
7 ~~agreements for terms not exceeding 20 years.~~

8 3. To establish an office and sub-offices as needed.

9 4. To adopt a budget indicating the expenditures of the Council and recommending the
10 amount of financial participation by each member government.

11 5. To designate a ~~one or more~~ member governments as fiscal ~~service agents~~, which agent
12 ~~shall provide for provision of~~ financial, purchasing, personnel, legal and other auxiliary services to the
13 Council and which shall account to the Council.

14 ~~6. To make, adopt and amend by laws consistent with this Charter and Agreement.~~

15 ~~7. To appoint an executive staff Director and assign duties, responsibilities and authorities.~~

16 ~~8. To appoint advisory committees to assist in carrying out its functions and duties.~~

17 ~~B. To exercise any and all powers and functions authorized by law for an intergovernmental~~
18 ~~entity, including the powers conferred by ORS 100.050.~~

19 9. Such other powers as are necessary to enable the Council to carry out its functions and
20 duties or which are implied by this ~~Charter and Agreement.~~

21 ~~ARTICLE~~ MEMBERSHIP

22 4. The membership of the Council shall consist of the signatories of this Agreement and any
23 incorporated city, special district, or other legally established governmental entity in Marion County, Polk
24 County, or Yamhill County which may become a member as herein provided. ~~Continued membership in~~
25 ~~good standing, including the right to vote and participate in Council programs and services, shall be~~
26 ~~conditioned upon being current in payment of membership fees as set under this Agreement.~~

Membership may be attained by legally established governmental entities governed by officials directly elected by the people by:

(a) Entering into ~~written declaration of unconditional acceptance of obligations under this Charter and Agreement~~ ~~in a form approved by the Council, and~~

~~(b) Adopting an ordinance or other legislative act ratifying its participation in the Council as provided in OHS' policies and~~

~~(b)(c)~~ Providing a portion of the finances necessary to defray the expenses of the Council as provided in Article XIV ~~§§~~ of this Charter and Agreement, which portion shall be established annually by the Council prior to the approval of individual government budgets by governing bodies of member governments and governments seeking membership in the Council.

Membership in the Council of Governments shall not constitute voting membership except as provided below in Section 2, Article VII ~~§§~~, of this Charter and Agreement.

2. The voting membership of the Council, the authorized representatives of which may also be referred to as the "Board of Directors" of the Council, shall consist of the chief elected officials representing the current membership of the Council as follows:

~~(a)~~ State of Oregon (1 vote)

~~(b)(a)~~ Marion County. (1 vote)

~~(c)(b)~~ Polk County. - (1 vote)

~~(d)(c)~~ Yamhill County. (1 vote)

~~(e)(d)~~ City of Salem. (1 vote)

~~(f)(e)~~ The two most populous cities (excluding Salem) of each county, each to have 1 vote. (6 votes)

~~(g)(f)~~ One additional city representative for each county selected by separate annual caucuses of the mayors of members cities of each county (excepting the two largest cities of the county and Salem). (3 votes)

~~(h)(g)~~ A chairman of ~~§~~ Fire or Water District of the tri-county area selected by annual

- 1 caucus of the chairmen of member fire and water districts. (1 vote)
- 2 ~~(f)(h)~~ A chairman of an Intermediate Education Service District selected by annual caucus
- 3 of the chairmen of IED ~~ESD~~ boards to represent all member school districts of the
- 4 tri-county area, except Salem/Katzer School District 24J. (1 vote)
- 5 ~~(f)(h)~~ Salem/Katzer School District 24J. (1 vote)
- 6 ~~(i) The Salem/Katzer School District. (1 vote)~~
- 7 (k) A chairman of a soil and water conservation district, water control district, irrigation
- 8 district, drainage district, or other legally established governmental entity concerned
- 9 with conservation and ~~the~~ natural resources shall be selected by annual caucus of
- 10 three representatives (one from each member county) who were selected by the
- 11 aforementioned member districts in each county. ~~The two remaining~~
- 12 ~~representatives will be designated as first and second alternates for purposes of~~
- 13 ~~representation on the Council.~~ (1 vote)
- 14 (l) ~~The Chairman of the Board of Education of the Chemeketa Community College~~
- 15 ~~District.~~ (1 vote)
- 16 TOTAL (19 votes)

17 3. ~~The signatory member representatives shall consist of: Governor of the State of Oregon,~~

18 ~~the Chairman of the Marion County Board of Commissioners, the Chairman of the Polk County Board of~~

19 ~~Commissioners, the Chairman of the Yamhill County Board of Commissioners, the mayors of each member~~

20 ~~city, and the elected chairman of each member special district. The chief elected official of a member~~

21 ~~government represented on the Board of Directors of the Council may designate an alternate to attend~~

22 ~~meetings of the Board of Directors in his absence. Such alternates must be elected officials of the member~~

23 ~~government or governments represented by the voting position, except that the Governor of the State of~~

24 ~~Oregon may designate a key member of his staff as an alternate. All duly qualified alternates shall be voting~~

25 ~~alternates.~~

26 4. ~~The following shall be ex officio non-voting members of the Council: The Marion County~~

~~Board of Commissioners, the Polk County Board of Commissioners, the Yamhill County Board of Commissioners, the members of boards of directors of member special districts, the members of the City Councils of member cities.~~

~~53.~~ The ~~Executive staff~~ Director of the Council of Governments shall be responsible for calling the necessary annual caucuses of member governments for selection of voting representatives, and he shall provide written notice to the affected member governments in advance of each caucus.

~~64.~~ If a particular jurisdiction named above in Section 2 of this Article as a voting member chooses not to participate in the Council of Governments, its seat shall be left vacant.

~~VII~~ MEETINGS

1. The Council Board of Directors shall ~~meeting monthly~~ at times to be set by the Council and at such other times as the Council ~~Chair~~ may desire ~~direct~~. ~~Ex-officio members shall be notified of all meetings of the Board of Directors.~~

2. ~~The Executive Committee shall meet at the call of the Chair and at such other times as a majority of the members of the Committee may call.~~

~~3.~~ ~~Each January/Annually~~ the Council ~~Chair~~ shall call a general meeting at which meeting the Council shall review the status of the region with respect to all regional matters with which it is concerned.

~~IX~~ PROCEDURES AND VOTING

1. The Council shall elect a chairman, vice chairman, and such other officers as it may desire.

2. Each voting member of the Council shall have one vote.

~~3. A quorum of the Board of Directors or Executive Committee shall be 51% of its members.~~

~~44.~~ Decisions of the Council on procedures to be followed by the Council with regard to the conduct of its business shall be made by an affirmative majority vote.

~~45.~~ Decisions of the Council which involve ~~recommendations for planning studies of the implementation of plans or which involve~~ agreements between member governments shall require a majority vote, including an affirmative vote by members who represent the affected government or governments.

~~5. Decisions of the Council which involve recommendations for expenditure of funds or which~~

1 involve financial agreement between two or more member governments shall require a majority vote,
2 including an affirmative vote by the members who represent the affected government or governments.

3 6. Every member when a question is taken shall vote unless a majority of the Council for
4 special reasons shall excuse said person, but no member shall be permitted to vote on any subject in which
5 he or she has a conflict of interest.

6 7. The duties of the Council's officers shall be as follows and such other duties as the Board
7 shall direct:

8 a. Chair

9 (1) To call meetings of the Board of Directors and the Executive Committee.

10 (2) To call meetings of the Board of Directors and the Executive Committee.

11 (3) The chair shall have a vote in the proceedings of the Board of Directors and
12 Executive Committee.

13 b. Vice Chair

14 (1) To call meetings of the Board of Directors and the Executive Committee in the
15 absence of the Chair.

16 (2) When the Chair is unavailable for a considerable length of time or the urgency of
17 an issue requires action of the Executive Committee, the Vice Chair may call a meeting of the Executive
18 Committee at the request of the Director or two members of the Executive Committee.

19 c. Third Member of Executive Committee

20 (1) To consider and vote on actions placed before the Executive Committee and to
21 participate in all matters brought before the Executive Committee.

22 d. Immediate Past Chair

23 (1) To consider and vote on actions placed before the Executive Committee and to
24 participate in all matters brought before the Executive Committee.

25 (2) To assist and advise the Executive Committee, and particularly the Chair, as to the
26 motivation and concepts of the prior year's leadership of the Council of Governments on key issues and

1 ~~procedural matters.~~

2 XII PERMANENT COMMITTEES

3 1. There is hereby established an Executive Committee which shall consist of the Council
4 Chairman and Vice Chairman and one other member of the Council's Board of Directors appointed by the
5 Chairman. Not more than two of these three members of this committee may represent jurisdictions in
6 Salem and Marion County. ~~The immediate past Chair, if still in elected office, shall also serve in a voting~~
7 ~~position on the Executive Committee.~~

8 The functions of the Executive Committee shall be:

9 ~~1.~~ To consult with the Director of the Council and provide direction to him between the regular
10 meetings of the Council's Board of Directors.

11 ~~2.~~ To prepare a set of operational guidelines for the Executive Director of the Council.

12 ~~3.~~ To review all proposals for initiation of new programs by the Council of Governments and
13 to prepare a statement of the impact of said programs for the consideration of the Board of Directors of the
14 Council.

15 ~~4.~~ ~~There is hereby established a Budget Committee which shall consist of six members~~
16 ~~including three members of the Board of Directors and three lay citizens appointed by the Board of Directors~~
17 ~~representing the major services and programs of the Council of Governments.~~

18 ~~5.~~ ~~The Budget Committee shall perform the requirements of law, especially ORS 294.~~

19 ~~6.~~ ~~The Executive Director shall serve as Budget Officer and shall assist the Budget Committee.~~

20 ~~2.~~ ~~There is hereby established a Governmental Coordinating Committee which shall consist~~
21 ~~of the chief administrative officials of eleven of the member governments as follows:~~

22 1. ~~Marion County~~

23 2. ~~Polk County~~

24 3. ~~Yamhill County~~

25 4. ~~City of Salem~~

26 5. ~~School District 24J~~

6. ~~_____~~ A member city of Yamhill County
7. ~~_____~~ A member city of Polk County
8. ~~_____~~ A member city of Marion County
9. ~~_____~~ At large appointment of a member agency
10. ~~_____~~ At large appointment of a member agency
11. ~~_____~~ Chemeketa Community College

~~The term of membership in the Governmental Coordinating Committee shall be one year with annual appointment in January. The Board of Commissioners of each county shall appoint a Commissioner to fill positions 1, 2 and 3, respectively as listed above. The Mayors of the member cities of each county shall caucus annually in the month of January to appoint a chief administrative officer of one of the member cities of each county serve on the Governmental Coordinating Committee in positions 6, 7 and 8, as listed above. The Chairman of the Board of Directors of the Council of Governments shall make the at large appointments of chief administrative officers of member governments to positions 9 and 10, as listed above.~~

~~The Committee shall elect a Chairman and Vice Chairman from its membership. A Committee member may designate an alternate to attend a committee meeting in his absence. Such alternates shall be voting alternates.~~

~~The functions of the Governmental Coordinating Committee shall be:~~

~~To study and advise the Council and staff on regional governmental functions of mutual concern which have been referred by the Council or identified by the Committee.~~

~~To assist the staff in the coordination of governmental activities.~~

~~To recommend budgets, staff organization and other administrative matters to the Council.~~

~~3. There is hereby established a 13 member Regional Planning Committee with membership as follows:~~

~~One member from each of the Marion, Polk and Yamhill Planning Commissions appointed by the respective Boards of Commissioners. _____ (3 members)~~

~~One member from the City of Salem Planning Commission appointed by the City~~

~~Council. (1 member)~~

~~One member of each County Board of Commissioners in Marion, Polk and Yamhill~~

~~Counties appointed by the respective Boards of Commissioners. (3 members)~~

~~Two mayors of the Board of Directors of the Council of Governments appointed by its~~

~~Chairman. (2 members)~~

~~One City of Salem Councilman appointed by the City Council. (1 member)~~

~~Two members at large appointed by the Council's Board of Directors. (2 members)~~

~~The representative of the Marion, Polk and Yamhill Soil & Water Conservation Districts~~

~~on the Board of Directors of the Council. (1 member)~~

~~(13 members)~~

~~The functions of the Regional Planning Committee shall be, on direction from the Council of Governments Board of Directors:~~

~~(a) To formulate and recommend regional goals and objectives.~~

~~(b) To recommend regional, comprehensive plans for land use, transportation, community facilities and utilities (with such planning coordinated with the planning commissions operating in the tri-county area).~~

~~(c) To study regional problems which have been identified by and referred from the Council.~~

~~(d) To recommend uniform codes and ordinances.~~

~~(e) To recommend a regional capital improvement program.~~

~~The Committee shall elect a Chairman and a Vice Chairman from its membership. A committee representative may designate an alternate to attend a committee meeting in his absence. Such alternates shall be voting alternates.~~

~~The term of membership in the Regional Planning Committee shall be two years. A Committee member may be reappointed.~~

~~4. Representatives of the member governments shall be consulted by those permanent committees on issues which affect them, and the Governmental Coordinating Committee and the Regional~~

1 ~~Planning Committee shall give notice of meetings to the member governments so that the membership may~~
2 ~~attend, listen and participate in discussions affecting them.~~

3 ~~XIII~~ — STAFF

4 ~~The Council, and all boards, commissioners and committees established by this Charter and~~
5 ~~Agreement or by action of the Council shall be served by the staff of the Mid-Willamette Valley Council of~~
6 ~~Governments and such additional staff as the Council shall authorize and the Council member governments~~
7 ~~shall financially support.~~

8 ~~XIV~~ ~~XII~~ EXPENSES

9 The expenses of the Council shall be shared and defrayed by the governments represented by its
10 members in proportion and relation to the benefits derived by each government. Prior to the approval of
11 their individual government's budgets by the governing bodies of the member governments, the Council
12 shall recommend ~~and the governing bodies shall approve~~ a Council budget for the ensuing fiscal period.
13 Each local government member shall appropriate in its budget and contribute its share of the expenses of
14 the Council in accordance with the budget approved by the Council to the extent that revenues are available
15 therefore insofar as each government member is concerned. ~~The Governmental Coordinating Committee~~
16 ~~Executive Committee~~ shall recommend a participation cost structure to the Council annually, no later than
17 March, so that the Council may recommend these costs to the member governments.

18 ~~XV~~ DURATION AND TERMINATION

19 This ~~Charter and Agreement~~ shall continue and remain in full force and the Council shall not be
20 dissolved unless by a majority vote of the entities constituting the participating members; provided, however,
21 that any such dissolution shall not become effective until such time as any contracts to which the Council
22 is a party have been fully performed or are no longer in effect. In the event of such dissolution all assets
23 on hand shall be distributed to the member governments in proportion to their contributions for the purchase
24 of such assets.

25 Any member government may withdraw as a participating member in the Council under this Charter
26 and Agreement at the termination of the fiscal year by notifying the Board of Directors of the Council at least

1 six months prior to the end of the fiscal year of its intention to so withdraw.

2 In the event of withdrawal by a member government, the Council shall determine the portion of the
3 Council's assets, if any, to which the withdrawing government shall be entitled. Any indebtedness incurred
4 by the Council on behalf of a government which is withdrawing shall remain an obligation of that government
5 provided that such indebtedness received the affirmative vote of the government on behalf of which the
6 indebtedness was incurred at the time the obligation was incurred, and is evidenced by written agreement
7 or memorandum.

8 ~~By at least two thirds majority vote of the Council's Board of Directors, a delinquent government's~~
9 ~~membership in the Council may be terminated and thereby all rights and benefits accrued by virtue of~~
10 ~~participation in the Council shall be forfeited. A member government may be declared delinquent by the~~
11 ~~Council at the expiration of sixty days following the date due for payments agreed upon.~~

12 ~~XIV~~ AMENDMENTS

13 This ~~Charter and Agreement~~ may be amended by unanimous vote of the member governments.

14
IN WITNESS WHEREOF, the parties to this ~~Charter and Agreement~~ have caused these articles to
be executed by their authorized officer or representative ~~as of~~ the day and year first above written.

**PROPOSED AGREEMENT
OF
MID-WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS**

May, 1992

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AGREEMENT
MID--WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

This Agreement is made and entered into this ____ day of _____, 1992, by and between the undersigned governmental bodies.

I CITATION

The Mid-Willamette Valley of Oregon is faced with numerous problems resulting from rapid urbanization, including problems of health, education, safety, economics, transportation, recreation, culture, multiplicity of governments, budget restraints, coordination of programs, environmental quality, community appearance and well being. These problems will increase in complexity and intensity as the population increases. So that the solution of these problems may be prepared and planned through a rational democratic process, the affected governmental units join in voluntary cooperation, and for this purpose they make this Agreement.

II AUTHORITY

This Agreement is established under the authority of the following Oregon Statutes:

ORS 190.010 which authorizes local governments to form intergovernmental entities which are public bodies of the State of Oregon.

ORS 190.030 which provides that any agency established under the authority of ORS 190.010 is vested with all powers, rights, duties, and functions therefore existing by law in separate agencies, pertaining to functions and activities.

ORS 190.085 which requires that any participant in an intergovernmental agreement creating a separate entity ratify its participation by legislative act of its governing body.

ORS 190.110 which authorizes public corporations, political subdivisions, and state agencies to cooperate.

III DEFINITIONS

1. "Agreement" shall mean the Agreement of the Mid-Willamette Valley Council of Governments

1 by which this document is titled.

2 2. "Council" or "Council of Governments" shall mean the Mid-Willamette Valley Council of
3 Governments established by this Agreement.

4 3. "Mid-Willamette Valley" shall mean the area within Marion, Polk and Yamhill Counties.

5 4. "Member government" shall mean a government which is a party to this Agreement or which
6 becomes a member as provided in Article IX.

7 IV NATURE OF AGREEMENT

8 1. The parties to this Agreement recognize the need to inform each other of proposals, plans,
9 developments and operations of significance which have regional impact. Members should bring all such
10 proposals, plans, developments, and operations to the attention of the Council for its study and
11 recommendation as the members may deem desirable.

12 2. This organization is based on the principle of the sovereign equality of all its members within
13 the Council.

14 3. The parties to this Agreement recognize that the well being of each of the constituent
15 political jurisdictions is dependent upon the sound growth and development of the entire Mid- Willamette
16 Valley.

17 4. Nothing contained in this Agreement shall authorize the Council to intervene in matters
18 which are essentially within the domestic jurisdiction of any member without its consent.

19 5. This Agreement and all actions of the Council shall be within the framework of the laws of
20 the State of Oregon and its subdivisions.

21 6. The actions of any committee or group authorized by this Agreement are of an advisory
22 nature and not binding on any member of the Council without the member's approval except with respect
23 to the Council's own internal administrative matters, and actions taken by the Council in furtherance of a
24 legal obligation.

25 7. All members, in order to insure to each of them the rights and benefits resulting from
26 membership, shall fulfill in good faith the obligations assumed by them in accordance with this Agreement.

1 V ESTABLISHMENT

2 This Agreement supersedes the Charter and Agreement of the Mid Willamette Valley Council of
3 Governments adopted January 1, 1975, which Agreement shall be terminated by the mutual consent of the
4 parties upon the adoption of this Agreement. The Council established by this Agreement shall assume all
5 obligations, functions and authority heretofore vested in or assumed by the Mid-Willamette Valley Council
6 of Governments.

7 The history of this organization follows: On July 25, 1967 the Mid-Willamette Valley Council of
8 Governments replaced the Mid Willamette Valley Planning Council organized on July 26, 1957, and the Mid
9 Willamette Valley of Oregon Compact of Voluntary Intergovernmental Cooperation adopted December 23,
10 1959. The Charter and Agreement of the Council of Governments was amended on August 10, 1971, and
11 on January 1, 1975.

12 VI PURPOSE

13 The purposes of this Agreement are:

14 1. To enable the elected officials of the member governments to jointly identify issues and
15 needs which are regional in scope; achieve concurrence for cooperative actions; plan and recommend
16 governmental action in areas of intergovernmental concern such as, health, safety, welfare and growth.

17 2. To assure, through cooperation and the pooling of common resources, maximum efficiency
18 and economy in governmental operations which will provide every citizen with the utmost value for every
19 tax dollar.

20 3. To attain the greatest degree of intergovernmental cooperation possible in the Mid-
21 Willamette Valley in order to foresee and prevent the problems created by urban growth and change in this
22 region.

23 4. To develop among the several governmental units the ultimate in communication and
24 understanding while effecting cooperation and coordination of services, programs and facilities.

25 VII FUNCTIONS

26 The Council's primary functions shall be:

1 1. To facilitate intergovernmental communication and issue resolution for member
2 governments.

3 2. To provide technical and administrative support services to member governments.

4 3. To initiate, conduct, or cause to be conducted, studies of regional problems.

5 4. To recommend action by public and private agencies for purposes of solving or alleviating
6 regional problems.

7 5. To conduct and administer programs which, by law, must be administered by a regional
8 agency, or at the request of the member government or governments who would otherwise be responsible
9 for their administration.

10 6. To contract or subcontract with public and private agencies for performance of the foregoing
11 functions.

12 VIII POWERS

13 The Council shall have the power:

14 1. To enter into agreements with the United States of America, State of Oregon or any
15 subdivision or agency or any municipal corporation for the purpose of obtaining financial aid or other
16 participation in attaining the objectives and purposes of the Council.

17 2. To enter into contractual relationships with private agencies or firms for terms not to exceed
18 five years. Notwithstanding the foregoing limitation the Council may enter into real property lease
19 agreements for terms not exceeding 20 years.

20 3. To establish an office and sub-offices as needed.

21 4. To adopt a budget indicating the expenditures of the Council and recommending the
22 amount of financial participation by each member government.

23 5. To designate one or more member governments as service agents, for provision of financial,
24 purchasing, personnel, legal and other auxiliary services to the Council and which shall account to the
25 Council.

26 6. To appoint an Executive Director and assign duties, responsibilities and authorities.

- 1 7. To appoint advisory committees to assist in carrying out its functions and duties.
- 2 8. To exercise any and all powers and functions authorized by law for an intergovernmental
- 3 entity, including the powers conferred by ORS 190.080.
- 4 9. Such other powers as are necessary to enable the Council to carry out its functions and
- 5 duties or which are implied by this Agreement.

6 IX MEMBERSHIP

7 1. The membership of the Council shall consist of the signatories of this Agreement and any

8 incorporated city, special district, or other legally established governmental entity in Marion County, Polk

9 County, or Yamhill County which may become a member as herein provided. Continued membership in

10 good standing, including the right to vote and participate in Council programs and services, shall be

11 conditioned upon being current in payment of membership fees as set under this Agreement.

12 Membership may be attained by legally established governmental entities governed by officials

13 directly elected by the people by:

14 (a) Entering into a written declaration of unconditional acceptance of obligations under this

15 Agreement in a form approved by the Council; and

16 (b) Adopting an ordinance or other legislative act ratifying its participation in the Council as

17 provided in ORS 190.085; and

18 (c) Providing a portion of the finances necessary to defray the expenses of the Council as

19 provided in Article XIII of this Agreement, which portion shall be established annually by the Council prior

20 to the approval of individual government budgets by governing bodies of member governments and

21 governments seeking membership in the Council.

22 Membership in the Council of Governments shall not constitute voting membership except as

23 provided below in Section 2, Article IX, of this Agreement.

24 2. The voting membership of the Council, the authorized representatives of which may also

25 be referred to as the "Board of Directors" of the Council, shall consist of the chief elected officials

26 representing the current membership of the Council as follows:

1	(a)	Marion County.	(1 vote)
2	(b)	Polk County.	(1 vote)
3	(c)	Yamhill County.	(1 vote)
4	(d)	City of Salem.	(1 vote)
5	(e)	The two most populous cities (excluding Salem) of each county, each to	
6		have 1 vote.	(6 votes)
7	(f)	One additional city representative for each county selected by separate	
8		annual caucuses of the mayors of members cities of each county	
9		(excepting the two largest cities of the county and Salem).	(3 votes)
10	(g)	A chair of a Fire or Water District of the tri-county area selected by annual	
11		caucus of the chairs of member fire and water districts.	(1 vote)
12	(h)	A chair of an Education Service District selected by annual caucus of the chairs of	
13		ESD boards to represent all member school districts of the tri-county area, except	
14		Salem/Kelzer School District.	(1 vote)
15	(i)	Salem/Kelzer School District .	(1 vote)
16	(j)	The Salem Area Mass Transit District.	(1 vote)
17	(k)	A chair of a soil and water conservation district, water control district, irrigation	
18		district, drainage district, or other legally established governmental entity concerned	
19		with conservation of natural resources shall be selected by annual caucus of three	
20		representatives (one from each member county) who were selected by the	
21		aforementioned member districts in each county.	(1 vote)
22	(l)	Chemeketa Community College District.	(1 vote)
23		TOTAL	(19 votes)

24 3. The Executive Director of the Council of Governments shall be responsible for calling
25 annual caucuses of member governments for selection of voting representatives, and shall provide written
26 notice to the affected member governments in advance of each caucus.

4. If a jurisdiction named above in Section 2 of this Article as a voting member chooses not to participate in the Council of Governments, its seat shall be left vacant.

X MEETINGS

1. The Council Board of Directors shall meet at times to be set by the Council and at such other times as the Chair may direct.

2. The Executive Committee shall meet at the call of the Chair and at such other times as a majority of the members of the Committee may call.

3. Annually the Chair shall call a general meeting at which meeting the Council shall review the status of the region with respect to all regional matters with which it is concerned.

XI PROCEDURES AND VOTING

1. The Council shall elect a chair, vice chair, and such other officers as it may desire.

2. Each voting member of the Council shall have one vote.

3. A quorum of the Board of Directors or Executive Committee shall be 51% of its members.

4. Decisions of the Council on procedures to be followed by the Council with regard to the conduct of its business shall be made by an affirmative majority vote.

5. Decisions of the Council which involve agreements between member governments shall require a majority vote, including an affirmative vote by members who represent the affected government or governments.

6. Every member when a question is taken shall vote unless a majority of the Council for special reasons shall excuse said person, but no member shall be permitted to vote on any subject in which he or she has a conflict of interest.

7. The duties of the Council's officers shall be as follows and such other duties as the Board shall direct:

a. Chair

(1) To call meetings of the Board of Directors and the Executive Committee.

(2) To chair meetings of the Board of Directors and the Executive Committee.

(3) The chair shall have a vote in the proceedings of the Board of Directors and Executive Committee.

b. Vice Chair

(1) To call meetings of the Board of Directors and the Executive Committee in the absence of the Chair.

(2) When the Chair is unavailable for a considerable length of time or the urgency of an issue requires action of the Executive Committee, the Vice Chair may call a meeting of the Executive Committee at the request of the Director or two members of the Executive Committee.

c. Third Member of Executive Committee

(1) To consider and vote on actions placed before the Executive Committee and to participate in all matters brought before the Executive Committee.

d. Immediate Past Chair

(1) To consider and vote on actions placed before the Executive Committee and to participate in all matters brought before the Executive Committee.

(2) To assist and advise the Executive Committee, and particularly the Chair, as to the motivation and concepts of the prior year's leadership of the Council of Governments on key issues and procedural matters.

XII PERMANENT COMMITTEES

1. There is hereby established an Executive Committee which shall consist of the Council Chair and Vice Chair and one other member of the Council's Board of Directors appointed by the Chair. Not more than two of these three members may represent jurisdictions in Salem and Marion County. The immediate past chair, if still in elected office, shall also serve in a voting position on the Executive Committee.

The functions of the Executive Committee shall be:

a. To consult with the Director of the Council and provide direction to him between the regular meetings of the Council's Board of Directors.

b. To prepare operational guidelines for the Executive Director.

1 c. To review all proposals for initiation of new programs by the Council of Governments and
2 to prepare a statement of the impact of said programs for the consideration of the Board of Directors of the
3 Council.

4 2. There is hereby established a Budget Committee which shall consist of six members
5 including three members of the Board of Directors and three lay citizens appointed by the Board of Directors
6 representing the major services and programs of the Council of Governments.

7 a. The Budget Committee shall perform the requirements of law, especially ORS 294.

8 b. The Executive Director shall serve as Budget Officer and shall assist the Budget Committee.

9 XIII EXPENSES

10 The expenses of the Council shall be shared and defrayed by the governments represented by its
11 members in proportion and relation to the benefits derived by each government. Prior to the approval of
12 their individual government's budgets by the governing bodies of the member governments, the Council
13 shall recommend a Council budget for the ensuing fiscal period. Each local government member shall
14 appropriate in its budget and contribute its share of the expenses of the Council in accordance with the
15 budget approved by the Council to the extent that revenues are available therefore insofar as each
16 government member is concerned. The Executive Committee shall recommend a participation cost structure
17 to the Council annually, no later than March, so that the Council may recommend these costs to the
18 member governments.

19 XIV DURATION AND TERMINATION

20 This Agreement shall continue and remain in full force and the Council shall not be dissolved unless
21 by a majority vote of the entities constituting the participating members; provided, however, that any such
22 dissolution shall not become effective until such time as any contracts to which the Council is a party have
23 been fully performed or are no longer in effect. In the event of such dissolution all assets on hand shall be
24 distributed to the member governments in proportion to their contributions for the purchase of such assets.

25 Any member government may withdraw as a participating member in the Council under this
26 Agreement at the termination of the fiscal year by notifying the Board of Directors of the Council at least six

1 months prior to the end of the fiscal year of its intention to so withdraw.

2 In the event of withdrawal by a member government, the Council shall determine the portion of the
3 Council's assets, if any, to which the withdrawing government shall be entitled. Any indebtedness incurred
4 by the Council on behalf of a government which is withdrawing shall remain an obligation of that government
5 provided that such indebtedness received the affirmative vote of the government on behalf of which the
6 indebtedness was incurred at the time the obligation was incurred, and is evidenced by written agreement
7 or memorandum.

8 XV AMENDMENTS

9 This Agreement may be amended by unanimous vote of the member governments.

10
IN WITNESS WHEREOF, the parties to this Agreement have caused these articles to be executed
by their authorized officer or representative as of the day and year first above written.

PLEASE USE BLACK INK. THE SIGNATURE BLOCK WILL BE REPRODUCED.

CITY OF KEIZER

By _____
Mayor

Attest _____
Recorder

CONFIDENTIAL MEMORANDUM

TO: Mayor Orcutt and City Council
FROM: E. Shannon Johnson, City Attorney
RE: Ackerley Communications Billboard
DATE: June 10, 1992

This matter is on the June 15 agenda as a variance request. As you may know, because of the construction of Baker Square, Ackerley Communications increased the height of their adjacent billboard approximately four feet to make the sign more readable.

They were cited for violation of the sign ordinance because alteration of a sign requires a permit. They were told that the citation would be held in abeyance if a variance was requested and they have applied for a variance.

Joe Willis, the attorney for Ackerley Communications, contacted me wanting to discuss accommodating the current billboard sign and reaching settlement on the citation. We discussed in several phone calls both the details of this particular sign case and the broader constitutional issues of sign regulation. He feels that Keizer's sign ordinance could be declared void because of strong free speech provisions in both the Oregon and the federal Constitution (see the attached copy of his letter dated June 1, 1992).

Though the letter and his points should be considered to be posturing on his part, there are some arguments that he could use to attack the sign ordinance. If Ackerley was successful, the entire ordinance would be declared void, hence there would be no requirement for a permit.

Though I believe that that would be difficult for Ackerley to accomplish, it could be quite draining on the resources of Keizer to fight a long and complex legal battle over this issue. Ackerley has done this before, and I will fill you in on some of their previous battles during executive session.

On behalf of his client, Willis has submitted an offer to settle the matter. His offer is as follows:

1. The owner of the subject property (Phil Luarca's bicycle shop) currently has a freestanding sign. Such freestanding sign would be removed.

2. Luarca would be allowed a "hanger" sign to go beneath the billboard, similar to the sign that he had previously (the City has not allowed him to replace that hanger sign pending resolution of this matter). The sign area for Luarca (not including the billboard area) would not exceed the area allowed under the sign ordinance and he would not be permitted any freestanding sign separate from the hanger sign.
3. Ackerley would give the City public service space on its billboards. If the City is interested in this item, we would need to discuss the details of how much time and space on the billboards the City would be allowed. Willis indicated that this would not include the sign copy which would have to be printed at the City's expense, but the space (which is allegedly fairly valuable) would be given free.
4. Ackerley would pay a \$500 fine as a penalty for not checking the sign ordinance before altering the sign. There would be no further citations.
5. Ackerley would lower the height of the billboard sign to its original height.

There were some other issues that we discussed in terms of settlement and I will detail those to you at the executive session.

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

ESJ:clt

**SCHWABE
WILLIAMSON
& WYATT**

ATTORNEYS AT LAW

DONALD JOE WILLIS

PACWEST CENTER, SUITES 1800-1850

1211 SOUTHWEST FIFTH AVENUE • PORTLAND, OREGON 97204-7765

TELEPHONE: 503 222-9281 • FAX: 503 796-2900 • TELEX: 4997535 SWK U

May 30, 1992

SENT BY FAX 1-390-6557
TELEPHONE 1-390-1635City of Keizer
c/o E. Shannon Johnson, Esq.
Lien, Hobson & Johnson
4855 River Road, N.
Keizer, Oregon 97303Re: Ackerley Communications of the Northwest, Inc.
Variance Requesting Hearing June 1, 1992, at
7:30 p.m.

Dear Mr. Johnson:

Please consider this a request of Ackerley Communications of the Northwest, Inc. to continue the hearing on its request for variance currently set for June 1, 1992, at 7:30 p.m.

The reasons for this are in part my scheduling problems. The other reason is the hope that we can work out some resolution of the matter that would avoid costly litigation for both our clients.

On behalf of Ackerley, I also want to formally put the City on notice that in my opinion the sign regulations contained in chapter 15 will not pass constitutional muster under Article I, Section 8, of the Oregon Constitution nor under the First Amendment to the U.S. Constitution. The ordinance appears to me to be, on its face, unconstitutional and thus void.

I think we agree that to be facially valid under the Oregon constitutional standard the ordinance must be content neutral. I recognize the City has stated in its purpose section that the ordinance works in a content neutral manner. However, even a cursory review of the ordinance shows otherwise. All of the following provisions support my view. First, in Section 15.01 which states the purpose, reference is made to business identification which is definitely content-determined and permeates the balance of the ordinance. See also 15.10(7) construction project sign; (11) garage sale sign; (16) message sign -- to the extent that it uses the word "... advertisement ..."; (19) mural -- to the extent that someone has to determine what a

City of Keizer
c/o E. Shannon Johnson, Esq.
May 30, 1992
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"... graphic illustration or artful presentation..." is (who in the city of Keizer is to determine if a presentation is artful or inartful?); (20) name plate; (25) public safety and convenience sign; (26) real estate sign; (30) sign -- This definition seems to bear out the reference to business identification in the purpose section. Please note that it defines a sign only as one that is used to announce, direct attention to, or advertise. Given the prohibitions against vagueness where free speech values are involved, it appears to me that a common solicitation campaign for a charity would not fall within this definition. There are numerous other examples that come to mind as well.

In addition to the content-based definitions set forth above, Section 15.40 permits signs without a permit based on content. I am thus confident that this ordinance cannot be enforced. I would ask you to review Ackerley v. Multnomah County, 72 Or.App. 617 (1985); Apalategui v. Washington County, 14 Or LUBA 261, Rev'd on other grounds 80 Or.App. 508 (1986) and Ackerley v. City of Gresham, 18 LUBA 541 (1989) and Moser v. Frohnmayer, 112 Or.App. 226 (1992), and ask yourself the following questions. Why is it the City of Keizer can impose a permit requirement on my client or numerous other persons who seek to communicate through the medium of signs while allowing free of those restrictions other signs pursuant to 15.40 if they contain the appropriate content? Why should government, in the face of Article I, Section 8, place more value on a temporary real estate or construction project sign than it does one which seeks to recall the City Council or tell a poor family they can buy a gallon of milk at Safeway for less than other stores? Why should the government have the right to use signs free of permit restrictions to inform the public regarding public services (see 15.40(5)) when a citizen in the private sector who may be in direct competition with that government service is denied that right? I could go on and on and on with many examples that have caused the federal court in this district, LUBA, and the Court of Appeals all to strike down ordinances in the past regarding similar problems.

I doubt if anything else is needed to demonstrate that this ordinance is content-determined in large part. To the extent any more is needed, please see Section 15.50(3) purporting to prohibit signs which contain advertising matter which is untruthful. Who in the City of Keizer will make the determination of whether a particular thing is first "advertising matter" and, if so, if it is "untruthful"? If those questions can be satisfactorily answered, then why is it that the City of Keizer only prohibits "advertising matter" that is untruthful rather than all forms of untruthful communication? If that question can be satisfactorily answered, then how can the City of Keizer lawfully impose this type of prior restraint? This type of prohibitory

City of Keizer
c/o E. Shannon Johnson, Esq.
May 30, 1992
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prior restraint strikes at the very core of free speech values. There are additional content-based distinctions in 15.50(9), (16), 15.60(c), 15.70(2)(b), 15.70(3)(b) & (c).

In addition, it is my position that the variance procedure in and of itself raises independent constitutional infirmities. As examples (not intended to be complete), why is it that the government under 15.90(2)(a) can determine if a particular sign better implements the purpose of providing equitable methods of business identification? Why, under 15.90(2)(b), is the variance to be the minimum necessary to compensate for unique circumstances, etc., where a free speech value is involved? Why, under 15.90(4), are buildings or landscape areas valued higher by the government than free speech values? The objects the government seeks to protect have no communicative value and yet they are favored. Who is to decide if size, placement, color, and graphics produce "... more attractive signage ..."?

Those type of standards may be very common for variances in zoning codes dealing solely with buildings. Any review of the vagueness doctrine cases makes it exceedingly clear that they cannot be constitutionally applied to a medium of communication.

Overall, the ordinance appears to discriminate significantly against structures that have a communicative element. That, in and of itself, seems to turn the constitutional limitation on government, which is designed to protect people's right to speak, write, or print freely on any subject whatever upside down.

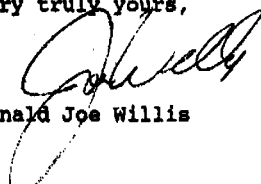
As I explained on the phone, I have represented the Ackerley people for many years. We have had some significant legal battles with various jurisdictions during those years, but Ackerley always did then and does now prefer to reach some accommodation short of those battles, and I am willing to sit down and discuss those with you in a more thorough fashion once we have time for that. It is with that hope that I ask for your recommendation to the counsel that this hearing be continued to allow us to explore that process prior to forcing Ackerley to resort to legal action to protect its rights.

I understood from our conversation that you would recommend the continuance but were not in any position to indicate if the counsel would grant it or what their attitude might be toward seeking some other resolution of the matter. Thanks for your professional courtesies. I would appreciate a response to the

City of Keizer
c/o E. Shannon Johnson, Esq.
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continuance question immediately if that is at all possible and a suggested date when you and I and a representative of the clients could sit down and see if some other alternative can be worked out.

Very truly yours,



Donald Joe Willis

JW:mjr

cc: Ackerley Communications of the Northwest, Inc.
Attn: William A. Barber
Terry Sandblast - Fax No. 232-7937



City of Keizer — Community Development

Phone: 390-3700 • Fax # 390-8295

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

CITY COUNCIL MEETING: June 15, 1992

AGENDA ITEM NUMBER: 6a

TO: MAYOR AND CITY COUNCIL

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

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

SUBJECT: TERRACE GREEN RESERVE STRIP

DISCUSSION:

At its meeting on June 1, 1992, Council directed Staff to send Terrace Green Association a letter and deed asking it board to deed the reserve strip along Nottingham Drive NE to the City. That was done immediately after the Council meeting.

As of the preparation of this staff report, Terrace Green Association has not returned an executed deed. Staff understands that Norm Webb, attorney for the association, will be at Council to discuss the situation.

RECOMMENDATION:

The Council should determine what, if any, additional involvement the City should take in acquiring this reserve strip.

MINUTES

KEIZER CITY COUNCIL

Tuesday, May 26, 1992
Special Meeting
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the Special Session to order at 12:07 p.m. Roll call was taken as follows:

Present

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

Absent

Joe Van Meter, Councilor

Staff

Donald H. Otterman, City Manager
Wally Mull, Public Works Director
John Morgan, Community Development Director
Paul Frykberg, Accountant
Chuck Stull, Police Chief
Susan Darby, City Recorder

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

**DISCUSSION - 1992-93 BUDGET
AND ONE YEAR OPERATING LEVY**

Mayor Orcutt said that Councilor Van Meter was suffering from poison oak, but that he indicated his favor of the \$1.25 million budget.

Mr. Otterman summarized the changes he has made to the budget document. Those include a one-time reduction in the U. S. West franchise fees for the current fiscal year because of a rebate. The projected figure for next year remains at \$80,607. Under interest revenue, he has projected \$4,324, and a

reduction in the rental property expenses is down to \$11,090. The special duty officer has been changed to \$8090. Miscellaneous is at \$16,012. The interest in the parks fund has been changed to \$814. He noted that this will not make any difference in the bottom line because it will be transferred out to the parks fund at the end of the year.

For the expenditure side of the budget on page 5 of the proposed budget, Mr. Otterman said that he reviewed the current figures where expenditures were less than 83.33%. The total personal services projected through June 1992 is \$184,391.

On page 6, Mr. Otterman has projected actual expenditures of \$5,465. Legal expenditures are projected at \$80,000. He noted that at the end of April, expenditures total \$70,706. This does not include a bill just paid to Lien & Hobson in May of \$6,200 and an unpaid bill to Akin Blitz. In addition, there is the anticipation of an arbitration hearing in June, as well as routine items such as the sign code issue. He determined that these expenditures will exceed the \$80,000 projection.

Mr. Otterman noted that all of contract services will be expended as will the training budget. The audit line item has been amended to read \$2,767.

Councilor Koho asked for the net difference in the ending balance. Mr. Otterman responded that the net difference is an increase of \$340,604.

Responding to a question from Councilor Miller, Mr. Otterman explained that the legal fees between April and the end of June are unknown. He has instructed Lien & Hobson to cut back wherever possible, however, there is an arbitration scheduled for June 16 and 17 which will incur additional legal expenses.

Responding to a question from Councilor McGee, Mr. Otterman explained that the City's medical insurance plan, beginning June 1, increases 20% which equates to an increase of \$1,300. The police budget is over 90% now on medical insurance premiums at this point. The overall increase for medical insurance is about \$11,000 which will come out of the contingency. Additional legal expenses will also come from the contingency, which could total \$10,000.

Councilor Hart asked about the lawsuits from the tow companies. Mr. Otterman indicated that the insurance carrier is covering the legal expenses at this point, however, if there is a judgment, the city will be required to pay the cost.

Councilor McGee suggested cutting the contingency to \$5,000. Mr. Otterman indicated that \$10,000 should cover the expenses, including office supplies in

the police department which hit 100% in April. Operating materials are at 101%. Councilor McGee said that there is at least \$20,000 which can be brought forward. Mr. Otterman replied that if the contingency is underestimated and the fund balance is overestimated, the additional needs will come from next year's budget.

Councilor Hart indicated that while he appreciates Councilor McGee's viewpoint, the budget is not an exact tool but rather an instrument based on projections. He preferred that the contingency remain at \$50,000.

Councilor Koho stated that while cutting the contingency back as far as possible might be the admirable thing to do, caution must be exercised so that the city does not run out of money and become unable to pay the bills. He preferred a figure somewhere in the middle.

Following further discussion, the Council agreed to establish the contingency at \$355,604.

With respect to the 1992-93 budget, Mr. Otterman proposed a shift of expenditures for the Community Development Director, 10% of the Accountant's time, and 10% of clerical time to the Urban Renewal fund. This was the recommendation of the Urban Renewal Advisory Board. Mr. Otterman explained that Mr. Morgan is spending more time with urban renewal issues and it would be appropriate to reflect this in the appropriate budget.

Councilor McGee agreed with the need to transfer \$23,000 to Urban Renewal.

Councilor Hart asked for direction on the procedure. Mr. Otterman explained that the Council can make a reduction in expenditures without Budget Committee review as long as the bottom line does not change by more than 10% and property taxes are not increased. Neither of those apply to this situation. In addition, the Urban Renewal Agency will be holding a budget session prior to July 1.

Responding to a question from Councilor Koho, Mr. Otterman indicated that 20% would be from administration and 5% from planning.

Councilor Newton agreed with the proposal to shift the funds accordingly, as did Mayor Orcutt.

Mr. Otterman indicated the court training budget has been reduced from \$1,500 to \$750 to reflect one conference for the judge next year. The professional collections line item would be eliminated. Mr. Otterman indicated that Councilor McGee proposed to cut \$4,000 from parks seasonal help.

There being no objection from the Council, Mayor Orcutt indicated that the court training budget be reduced to \$750. The Council discussed the professional collections line item and agreed to reduce the amount to \$0 but to retain the line item in the budget.

With respect to Councilor McGee's proposal to eliminate the parks seasonal help line item, Mr. Otterman explained that this work is done now at a much higher rate through Cascade Landscaping. The proposal is to hire college or high school students to do the work at a lower cost. Following discussion on the parks seasonal help line item, the Council concurred in leaving this in the budget.

The Council then discussed the lieutenant's line item and the sergeants' line item. Mr. Otterman said that the proposal would promote one sergeant to a lieutenant, leaving four permanent sergeants and one acting sergeant. The acting sergeant would be reclassified to a permanent sergeant.

Councilor Koho indicated that he would favor the lieutenant's position. Councilor Newton stated that this shuffling of positions has gone on without the Council's consent. Then, at budget time, staff must consult the Council. He opposed an increase of \$5,000 to call the position lieutenant rather than sergeant. Councilor Newton indicated that he does not subscribe to the proposal, especially when no one is working detective narcotics which is a need that is not being satisfied. He added that there has been some public comment about the lieutenant's position and whether it is really needed. This would result in beefing up the police department's administrative bureaucracy rather than having more people working on crime.

Councilor McGee said that the concept of an administrative sergeant is working well and continue with this situation.

Chief Stull said that the lieutenant would have direction supervision over the supervisory staff.

Mayor Orcutt said that he suggested increasing the administrative sergeant's position because someone that is like an assistant manager is needed in the police department. This would provide a distinct chain of command.

Councilor Miller said that there would be increased responsibility and supervisory capacity and it would only cost \$2,900 which is not a whole bunch of money. He said he thinks it is necessary.

There being no further comments from the Council, Mayor Orcutt indicated that the lieutenant's position would remain.

Mr. Otterman proposed that the school resource officer position be changed from a sworn position to a civilian position, resulting in a savings of about \$11,500. Chief Stull has concerns, though, such as how the union contract would be affected. Chief Stull said that he did not know this was going to the City Council today. He has no plan nor has any research been done to indicate whether it is a solid idea from an administrative standpoint. He said that any new position in the police department is subject to negotiation by the union. He said there could be a potential for conflict in negotiating salary and benefits between sworn and non-sworn positions.

Responding to a question from Councilor Hart, Chief Stull said that during a normal work day the school resource officers would be called out on an emergency of a major magnitude. During the summer, they are transferred into investigations to help work on the tremendous backlog of active cases.

Councilor McGee said that this area must be explored. The civilian would be trained differently, and it would be possible to get more bang for the buck than a school resource officer.

Councilor Koho said that while he thinks the concept has merit, there are a number of questions that need to be answered. He asked for something from the police department on the ways and how such a position could be utilized, along with the estimated costs.

Councilor McGee said there are two openings in the police department now. Existing officers can be moved into those slots and the school resource officer position be filled by a community service person.

Mayor Orcutt said that under the tight timelines, it would be difficult to implement the position now.

Councilor Newton asked whether the union's concern over the addition of a community services person does not extend to the lieutenant's position. Chief Stull said that the lieutenant's position is a non bargaining position.

There being no further comment, Mayor Orcutt indicated that the school resource officer positions will remain the same.

Mr. Otterman proposed that the police postage line item be reduced from \$3,000 to \$1,500. Councilor McGee has suggested a reduction in gasoline expenditures by \$3,000. Mr. Otterman stated that actual expenditures for 1990-91 was \$26,900 when the department was at full staffing. If the department gets back to full staffing, he anticipates that the level of expenditures would be about the same.

Councilor Koho asked about the existing vacancies for two officers.

Presumably, those vacancies will not be filled before July 1. Mr. Otterman indicated that the individuals would be paid from their hire date and through the academy.

Mr. Otterman indicated that he would have no objection to Councilor McGee's suggestion to reduce the utilities by \$400. In addition, the medical reduction would go to \$1,750. The transfer of a patrol car from capital revenue to revenue sharing would necessitate moving something else out of revenue sharing. The records management system has been suggested. Councilor McGee said that this system has not been used widely across the state. Mayor Orcutt stated that Councilor McGee has tried to remove this from the budget and he has tried to retain it. He indicated that purchasing the system could make the limited staff more efficient and more effective than similar communities in the State of Oregon and would give the residents a better product for the money. He indicated he would not support any movement to remove the records system from the budget. Councilor McGee said that Mayor Orcutt's timing in supporting this system was based. Councilor Koho indicated that he will continue to support the Mayor's position. With limited resources, it may be possible to forestall the need for additional clerical or administrative help. He noted that the professional staff is burdened with many duties that are more clerical in nature and the records management system can be a real time saver for them.

Councilor McGee moved to transfer funds for a patrol vehicle to the Revenue Sharing Fund and eliminate the electronic records keeping system. Councilor Newton seconded the motion.

Responding to a question from Councilor Newton, Mr. Otterman indicated that the records system is now in the Revenue Sharing budget.

Mayor Orcutt indicated that as staff is experiencing more and more pressure to serve the public, this system will enable them to perform their jobs more efficiently and effectively.

Councilor Miller said that he was persuaded by one person on the Budget Committee who seemed to have recordkeeping experience. That person indicated his belief that advances are being made and significant improvements will be made. For that reason, he will support the motion to remove the system from this year's budget because he does not wish to buy something that will be obsolete in two years.

Councilor Koho indicated that this individual on the Budget Committee who represented himself as the only expert in computerized matter is not the only person with such experience and knowledge. Councilor Koho indicated that, like hand held calculators, the records management system will be cheaper and

better in two years, but a decision must be made at some point that it is worth the purchase. There will always be a better price or better technology in the future. Today is the day it is needed.

Councilor Newton asked if it could have application in the police department as well as the administrative offices. Mr. Morgan responded that it could. If the police department wants to put records on it, it can be secured and work for them as well. Councilor Newton asked about staff to be assigned to use the system. Mr. Morgan indicated that the expectations are that staff will begin using it from that point forward. Placing historical records into the system would be done by volunteers. It will take less than what goes into paper filing today.

The motion failed by the following vote:

AYES: McGee, Miller (2)

NAYS: Orcutt, Koho, Hart, Newton (4)

ABSENT: Van Meter (1)

Mr. Otterman indicated that the \$4,000 purchase of office furniture in the police department be eliminated. Chief Stull said that they are replacing some existing furniture that the police department has had since incorporation ten years ago. He said that the records and supervisory areas are complete. He is now working on patrol and investigations. Councilor Newton reminded Chief Stull that the police department did not incorporate ten years ago.

Councilor McGee asked if this amount is removed, whether it would mean sitting on older couches and chairs for a while. Though it may affect their moral, it would not affect their performance. Chief Stull said that if the existing items cannot be repaired, they would replace them item by item. Councilor Koho suggested cutting the budget in half, acknowledging that replacement occur if items break. Councilor Miller said that it should include furniture that's needed if existing furniture is not available for a given purpose.

There being no objection, Mayor Orcutt indicated that this lien item would be cut in half.

Mr. Otterman said that the suggestion has been made to eliminate the \$30,000 City Hall replacement fund. Councilor Koho indicated that \$30,000 won't go far in the way of replacing city hall. Councilor Miller said that it would be less than prudent if budgeting isn't started for replacement when the present building crumbles. Councilor McGee said he would support a reduction of the amount. Councilor Hart indicated that he is more concerned that the fund remain than the actual dollar amount at this point.

Councilor Miller suggested combining this fund with the maintenance fund. Mr. Otterman said that he would prefer to keep them separate since that are separate concepts. He indicated that he would prefer \$20,000 in each. Councilor Hart indicated that he could support this idea.

There was no objection from the Council for this proposal.

The Council then discussed the BPST assessment and unitary tax for traffic citations. Mr. Otterman indicated there are about 3,000 citations per year being issued now. This number would increase with full staffing. Mr. Otterman proposed leaving the unitary assessment at 20,000. There was no objection from the Council.

Mr. Otterman indicated that with these changes, cuts of about \$78,000 have been made. Total resources except taxes is \$1,493,799. Taxes necessary to balance the budget are \$1,202,577 for a total of \$2,696,376. Depending on the level used for uncollectibles, the total expenditures could be \$2,618,297, and property taxes of \$1,124,498.

Mayor Orcutt indicated that he does not favor going lower than 7% because of too many uncertainties. Councilor Hart agreed. Councilor Koho said that he checked with the tax department today and they anticipate the uncollectible rate to be about 7% by the end of June, but they don't keep exact records.

Councilor McGee said that 7% is excessive. Mayor Orcutt disagreed, stating that the chart shows that had the City levied 7% uncollectibles, it would have been under the amount necessary. Councilor Koho stated that anything under 7% is not advisable.

Councilor McGee said that the additional money is being pulled out for no one's gain, and it has been absorbed into the budget. He said that this is not being strictly honest. Councilor Koho disagreed, saying that a reduction from 10% is good, but anything less than 7% would be a mistake.

Councilor Koho moved to levy taxes using an uncollectible rate of 7% for 1991-92. Councilor Hart seconded the motion.

The motion passed by the following vote:

AYES: Orcutt, Hart, Koho, Miller (4)

NAYS: Newton, McGee (2)

ABSENT: Van Meter (1)

Councilor Koho moved for a resolution placing a one year fixed dollar amount operating levy of \$1,209,137 with a 7% uncollectible rate on the June 30, 1992 ballot. Councilor Hart seconded the motion.

Councilor McGee said that he would prefer to get down one cent more, to a \$2 rate.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton (6)

NAYS: None (0)

ABSENT: Van Meter (1)

OTHER BUSINESS

There was no Other Business to come before the Council.

WRITTEN COMMUNICATIONS

Councilor Koho noted that the June 30 mail-in ballots will be sent to electors on June 20.

ADJOURN

The meeting adjourned at 1:45 p.m.

APPROVED:

Susan Darby, City Recorder

MAYOR

(COUNCILOR VAN METER ABSENT)

MINUTES

KEIZER CITY COUNCIL

Monday, June 1, 1992

Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

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

Present

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

Staff

Donald H. Otterman, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
Shannon Johnson, City Attorney
Susan Darby, City Recorder

PUBLIC TESTIMONY

Charles Lawson, 7013 8th Court, Keizer, as a member of the Keizer Tomorrow Committee, stated that the vision document from this comment was an excellent starting place for Keizer. He stated that maintaining the status quo for Keizer's future is not practical nor can it be done if all 22,000 residents wanted it done. Mr. Lawson explained that citizens wanted results tailored to the individual and to give them choices. More and more citizens expect to participate in the decisions that affect their lives. Citizens say no to taxation that does not allow for their early participation. More and more citizens are shifting from holding the line to an attitude of shifting taxes and reducing spending. Entrepreneurial efforts are needed where results are awarded, and where networking and volunteering meet the basic needs of all of the citizens. Keizer should look at other models where inventive leaders have stepped forward to form action teams, not to theorize but to demonstrate new ways to govern which are overwhelmingly effective. The entrepreneurial approach will solve many of

Keizer's problems in the future as well as Oregon's tax problems. He urged the Council to quit relying on managers and employees to set policies and for the Council to compound the gridlock. Mr. Lawson suggested that the City retain the managers, clerks for the manager and inspectors, and that all other services be contracted out. He suggested setting up citizen oversight committees to make sure the contracted services are properly managed. Mr. Lawson stressed a reliance on volunteers, and on providing information to the citizens.

Mr. Lawson stated that it has been a pleasure serving his community and that he looks forward to the opportunity to helping make those visions a reality. Mr. Lawson recommended that the Council read the book titled, Reinventing Government, which addressed those communities that have taken an entrepreneurial approach to governance. Mr. Morgan indicated that he has the book.

COMMITTEE REPORTS

There were no committee reports to come before the Council.

PUBLIC HEARING - ZONE CODE TEXT CHANGE - PRINTING AND PUBLISHING

Mayor Orcutt opened the public hearing on the amendment to the Keizer Zoning Ordinance related to "printing and publishing" in the commercial retail zone.

Mr. Morgan summarized the staff's report, stating that Mr. Les Zaitz is in the process of relocating the Keizertimes office into the CR zone. It was discovered that such a use is not allowed in the CR zone so, rather than go through a zone change to CG, staff explored whether the ordinance itself was appropriate. This matter was brought up to the Planning Commission and that body unanimously agreed that "printing and publishing" should be allowed in the CR zone.

One of the reasons for making this recommendation is that commercial printing is allowed in the CR zone and, yet, "printing and publishing" is disallowed in that same zone.

Mr. Morgan indicated that an ordinance is before the Council which would amend the CR zone to include "printing and publishing."

Councilor Koho asked about the use of emergency clauses. He suggested a general review of this practice. He questioned whether this ordinance should be passed on an emergency basis for the preservation of the public health, safety and welfare. Mr. Morgan responded that Mr. Zaitz is in the process of moving his business. Mr. Johnson noted that the only time an emergency

clause is not used, in general, is when an ordinance has fairly broad implications. Without an emergency clause, an ordinance would become effective 30 days from its passage. It is typical to use the emergency clause on land use decision cases. Mr. Johnson clarified that passing an ordinance with an emergency clause does not require a unanimous vote. If an ordinance doesn't pass unanimously, it must return for second reading. Les Zaitz, publisher of the Keizertimes newspaper, 142 Chemawa Road N., Keizer, testified that this is an attempt to make common sense of statutory language. Mr. Zaitz believed that omitting "printing and publishing" from the CR zone was an oversight when the original code was adopted. In an analysis of how a legislative amendment concurs with the comprehensive plan, Mr. Zaitz said that it is explicit that Keizertimes wants to be in Keizer, and that the comprehensive plan encourages new business and the expansion of existing business. The comprehensive plan also indicates that development should use local development, labor and management. Keizertimes' request complies with this provision.

Mr. Zaitz stated that the inconsistency in the zone code becomes apparent in comparing the CG and CR uses. He indicated that the Keizertimes office looks much like any other office. They do not have heavy printing presses, delivery systems, etc. which are normally associated with large newspaper operations.

Mr. Zaitz said that the CR zone allows far more uses than the CG zone. The CG zone is suitable for warehousing, wholesale commercial sales and storage. Keizertimes fits none of these uses and the CR zone, in fact, is a better fit for this use under the professional and general commercial offices uses.

Mr. Zaitz indicated that there are three allied fields associated with the CR zone, including commercial printing, publications and newsdealers/newsstands. The impact of the Keizertimes' operation would be significantly less than other existing uses in the CR zone, such as grocery stores, pizza restaurants, etc.

Mr. Zaitz asked that the CR zone be expanded to include "printing and publishing."

Responding to a question from Councilor Newton, Mr. Zaitz said that the Keizertimes newspaper is not published in Keizer. That would be a long range plan for which space is available should that decision be made in the future.

Councilor Miller asked if the zone text amendment would still be necessary if the newspaper does not plan to print in Keizer. Mr. Zaitz said that under the CR zone, he can build a printing plant and print around the clock and have heavy trucks going in and out. But, because of specific definitions, newspaper publishing, which is the actual writing (front office elements) are for some

reason not allowed in the CR zone. Mr. Morgan agreed that it would be appropriate in the CR zone. He noted that Keizer's code is extremely specific to the extend that staff is working with the Planning Commission to increase the flexibility. The specific SIC classification calls the use "printing and publishing," so staff used those exact words, which includes the publishing offices of the newspaper.

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

VARIANCE 92-3

ACKERLEY COMMUNICATIONS

Mayor Orcutt opened the public hearing on Variance No. 92-3, Ackerley Communications.

Mr. Johnson stated that the applicant's attorney called last Friday and asked for a continuance to the next Council meeting. He believed it would be appropriate for the Council to consider that continuance now. If the Council desires, staff could present his staff report at the continued hearing.

Mayor Orcutt indicated that the Council will still take testimony tonight from anyone interested.

Responding to a question from Councilor McGee, Mr. Johnson stated that the 120 day limit is still sometime away since this was called up for initial hearing before the City Council.

There being no objection from the Council, Mayor Orcutt announced that the hearing would be continued to June 15. Those in the audience indicated that they would prefer to hold their testimony until that time.

1991-92 SUPPLEMENTAL BUDGET

Mayor Orcutt opened the public hearing on the 1991-92 supplemental budget.

Mr. Otterman highlighted the staff's report regarding the purchase of property at 4950 Bailey Road and the loan of funds for the purchase from the Water Fund to the General Fund. He also discussed the possible use of urban renewal funds to offset a portion of the purchase cost. The two questions before the Council tonight are:

1. Whether the City Council wishes to approve the loan of funds from the Water Fund to the General Fund to cover the entire purchase of the property, or

2. Whether the City Council wishes to authorize an expenditure of urban renewal funds of \$16,698 that has been budgeted for capital improvement projects, and to approve a supplemental budget that would authorize a transfer of funds from the Water Fund to the General Fund to make up the difference between \$49,000 and \$16,698.

Mr. Otterman indicated that members of the River Road Redevelopment Board were polled and, for the most part, they supported the concept with a couple of stipulations. A memorandum addressing those positions is included with the agenda packet.

Mayor Orcutt called for testimony from the public; there was no response. Mayor Orcutt then closed the public hearing.

ORDINANCE - ZONE CODE AMENDMENT TO ALLOW PRINTING AND PUBLISHING

Mayor Orcutt stated that due to repeated vicious and malicious attacks on him, he would abstain from the voting on the request of Les Zaitz and the Keizertimes for a change of the CR zone to include "printing and publishing."

Councilor Koho moved for passage of a bill for an ordinance amending Ordinance 87-078 (Keizer Zoning Ordinance) to add "printing and publishing" as a permitted use in the CR zone. Councilor McGee seconded the motion. The motion carried on first reading by the following vote:

AYES: Hart, Koho, McGee, Miller, Newton (5)

NAYS: Van Meter (1)

ABSTENTION: Orcutt (1)

VARIANCE 92-3, ACKERLEY COMMUNICATIONS

Mayor Orcutt indicated that the action on Variance 92-3, Ackerley Communications, would be postponed until June 15, 1992.

1991-92 SUPPLEMENTAL BUDGET

Mayor Orcutt declared a potential conflict of interest since his company has listed the subject property for sale at 4950 Bailey Road. He indicated he would not participate in the discussion nor vote on the matter.

Councilor Koho preferred not to use urban renewal funds. Councilor Miller agreed.

Councilor McGee questioned Mayor Orcutt's declaration of potential conflict. He indicated that the decision to purchase the property has already been made. He did not believe there was a conflict of interest. Mayor Orcutt explained that if the Council does not approve the supplemental budget, the City cannot purchase the property. It would be a conflict if he were the deciding vote in the matter.

Councilor McGee said that the City has already made the decision to purchase the property, and they are now discussing the method to fund that purchase. Mayor Orcutt stated that if the City decides not to fund the purchase, then the City cannot purchase the property.

Councilor McGee said that he would support a loan from the Water Fund since there is a precedent for this action. Councilor Hart agreed.

Councilor Hart moved to transfer \$49,000 from the Water Fund to the General Fund for the purchase of the property at 4950 Bailey Road N.E. Councilor Koho seconded the motion.

Councilor Newton suggested that funding may be available by the end of June in order to repay the loan. Mr. Otterman indicated that if the City Council chose to do so, the loan could be as short term as two weeks.

The motion passed unanimously by the following vote:

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

NAYS: None (0)

ABSTENTION: Orcutt (1)

TERRACE GREEN/NOTTINGHAM RESERVE STRIP

Mr. Morgan indicated that this issue was held over for two weeks to give Terrace Green the opportunity to explain their side of the issue revolving around the reserve strip on Nottingham Drive. As noted in the staff report, Mr. Morgan talked with Cheryl Jaskowski of the Terrace Green Homeowners' Association. Mr. Norm Webb, representing the Terrace Green Association, asked that the matter be held over for two weeks because of a scheduling conflict. Mr. Morgan suggested that Mr. Webb contacted Mr. Gerald Horner's attorney, Mr. Lilligard. Ms. Jaskowski apparently attempted to make contact with Mr. Webb but has received no response to date. Also, Mr. Horner is unaware of any request to postpone the action.

Mr. Morgan noted that the issue before the Council tonight is one of the erroneous dedication of the Nottingham one foot reserve strip to the Terrace

Green Association. Mr. Horner has indicated that he wants the strip dedicated to the City so that he may proceed with development of his property.

Responding to a question from Councilor McGee, Mr. Morgan stated that the deed was legally transmitted to the Terrace Green Association. It just wasn't given to the right body.

Mr. Morgan indicated that, technically, Keizer could find a violation of the subdivision ordinance for not properly completing the conditions of subdivision approval 25 years ago. Staff is asking to what degree the City Council wishes staff to investigate and take legal action to secure legal access to the reserve strip.

Councilor Newton indicated that the county has had this in their ballpark for two years and have now just decided that it will be expensive to rectify, and that Keizer should spend its legal funds to obtain proper title. Mr. Morgan indicated that Marion County has expressed an interest in working with Keizer on obtaining the title. Mr. Johnson added that the county has offered to join in any litigation. The county's letter explained their position that this is more of a planning decision. He noted that, at this stage, Mr. Horner's attorney has not asked the City to file suit on behalf of his client, but has asked Keizer to look into the problem and pursue resolving the matter.

Councilor Newton indicated that he would like staff to pursue this matter. He preferred that Keizer communicate with Terrace Green and ask them to voluntarily deed the reserve strip to Keizer. Mr. Morgan suggested that he send a letter to Terrace Green along with a deed, asking them to execute and return the deed. If Terrace Green refuses to sign, staff can bring the matter back to the Council for follow-up and discussion with Terrace Green Association. Councilor Newton preferred trying to resolve the matter before extensive legal costs are incurred.

Councilor Hart stated that he has a conflict of interest since he lives in Terrace Green. He asked about the extent of the reserve strip, noting that there appears to be some inconsistency since the discussion is focusing on one block; however, there are three blocks which are affected. He also noted that the trees which are used as a border for Terrace Green are 60 to 70 feet high all the way along Nottingham. Councilor Hart also indicated that the issue was that a mistake was made along the way, and the deed was put into the name of the Terrace Green Association who have had it in its ownership for over 20 years. He questioned the direction Keizer should be going on this matter.

Responding to a question from Councilor McGee, Councilor Hart said that it is his understanding from the staff report that Mr. Horner wishes to remove the

trees along Nottingham Drive. Councilor McGee said that things are negotiable and it may be possible to remove only those necessary for development.

Councilor Hart indicated that not included in the staff report is the fact that Mr. Horner did a curb cut three years ago and removed two of the trees. Mr. Horner had to eventually put the curb back and plant two new trees.

Mr. Horner said that his petition is with the City of Keizer; not with the Terrace Green Association. He is relying on the City to obtain legal access to his property. Mr. Horner stressed that it is time to clear this matter up; that the subdivision agreement has never been fulfilled. Mr. Horner clarified that he did not make the curb cut; it was done by the former owner, Ms. Wanda Cochran. Ms. Cochran did obtain a legal driveway permit and had the trees removed. Mr. Horner stated that he intends to do nothing illegal or contrary to the City's zoning ordinance.

Mr. Horner said that it is not his attorney's position to tell the City Attorney how to acquire legal access. His attorney has indicated that Mr. Horner has a legal right to have access to his property, and he has requested this access from the City.

Councilor Koho said that while he appreciates Mr. Horner's frustration in attempting to resolve this issue, he is unwilling to commit the City to any legal course of action that could involve lawsuits without at least discussing the matter and trying to work cooperatively with the Terrace Green Association.

Responding to a question from Councilor Miller, Mr. Horner explained that his property is 750 feet long. There is a row of trees along Nottingham Drive, including arborvitae and Southern cedar. Adjacent to his property is a curb and a right of way 49 feet in total width with a one foot reserve strip between his property and the trees and the curb. That one foot strip was deeded to Terrace Green Association and effectively separates his property from the right of way. The trees are on city property; the one foot reserve strip is on the north side of the city property. Mr. Horner said that Terrace Green can retain the trees on their side of the street. As a part of this action, he would like the city to remove the trees on his side of the street or give him permission to remove the trees. There are about 60 trees that overhand the street and are in the way of the sidewalk. Councilor Koho indicated that he is not sure that the City would be willing to have the trees removed. Mr. Morgan said that this would be a totally separate issue from the deed to the reserve strip.

Chuck Lawson, a resident of Terrace Green, said that this community was originally planned 25 years ago to be insulated and to have walkways and greenways and that row of trees to separate them from development and to

protect the aesthetic integrity. Mr. Lawson said that he believes most of the community would say they purchased their property because of that aesthetic integrity and the amenities for \$40 per month including a swimming pool, etc. He said that while he doesn't know what the Association's position is, some decisions might be made in terms of what Mr. Horner wishes to do with his property and to meet Terrace Green's as well as the City's needs.

Councilor Newton asked that a report on Terrace Green's reaction be provided to the Council at the June 15 meeting. He suggested going back to the original points of contention and resurrecting the discussions that occurred in the past.

There being no objections, Mayor Orcutt indicated that the matter would be continued to the June 15 meeting.

RESOLUTION - WATER FUND LOAN

Mr. Otterman indicated that lines 12 and 13 should include the amount of the transfer, and line 18 should refer to the Water Fund rather than the Street Fund.

Councilor Van Meter moved for passage of a resolution authorizing a loan of \$49,000 from the Water Fund to the General Fund. Councilor Koho seconded the motion. The motion passed unanimously as follows:

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

NAYS: None (0)

ABSTENTION: Orcutt (1)

RECONSIDERATION- ZONE CODE TEXT AMENDMENT/ZAITS-KEIZERTIMES

Councilor Miller moved to reconsider the vote on the zoning ordinance amendment for "printing and publishing" for the Keizertimes. Councilor Koho seconded the motion.

Councilor Miller said that all of the members of the City Council have had disagreements but are sitting as a body of elected officials and are called upon to overlook their personal opinions for the better of the city. By not having a unanimous vote, Keizertimes will be delayed in their process of moving their offices.

Councilor Van Meter asked whether a total revamp will be done of the zoning ordinance and whether this should be a part of that revamp. He also expressed concern about Mr. Zaitz' comment that he plans on putting a publishing plant

next to his new offices. Mr. Morgan said that it will be some time before the zoning ordinance is redrafted and the first of next year before the Council sees the revisions. He believed the omission of "printing and publishing" in the CR zone is ludicrous and one which should be cleared up in this instance. Mr. Morgan added that Mr. Zaitz does not need a zone change to print the newspaper. If this specific request had not come up, the change would have come before the Council nine months from now when the code is revised.

Responding to a question from Councilor McGee, Mr. Johnson said that the ordinance will pass unanimously on a 6 to 0 vote with an abstention.

The motion to reconsider passed unanimously as follows:

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

NAYS: None (0)

ABSTENTION: Orcutt (1)

Councilor Koho moved for passage of a bill for an ordinance amending Ordinance 87-078 (Keizer Zoning Ordinance) to add "printing and publishing" as a permitted use in the CR zone. Councilor Miller seconded the motion. The motion carried on first reading by the following vote:

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

NAYS: None (0)

ABSTENTION: Orcutt (1)

PARKS SYSTEM DEVELOPMENT CHARGE

Mr. Morgan reported that at the last meeting the Council had a draft of the comprehensive master plan for the parks and discussion was held on the development charge. Before the Council tonight is the staff report prepared by Mr. Wickman regarding the methodology for arriving at the proposed charge.

Mr. Morgan explained that out of the last legislative session, there are five public arenas that can be imposed for systems development charge, and parks is one of them. The statutes also establish the basic guidelines for setting the rates based on rational methodology oriented to new development. If money is collected for new development, that money must basically benefit that development. The methodology was developed as part of the parks system master plan. Using that methodology, an analysis was made of necessary costs to expand the parks. It was determined that three specific community parks would be appropriate for assessment: Little League Park, Claggett Creek Park and Northridge Park. In addition, there are three neighborhood parks which would be appropriate for systems development charges. Those include any

park adjacent to the Keizer school, a park in conjunction with Clearlake School, and a park located in the southeast portion of the community. Each of those six parks have been found to be appropriate for application of the systems development charge. Using cost estimates, the consultant has arrived at a \$400 per dwelling unit charge as the cost to provide those new park facilities.

Mr. Morgan asked to what degree the City Council wishes to assess the cost of new growth. In the past, the City has collected \$100 for single family or condominium dwelling units. Mr. Morgan indicated that \$400 would be legally justifiable because the statutes allow the City to collect 100% of the cost. Any balance would be subsidized from the General Fund, which would provide that the full community bears some of the cost of new development. Mr. Morgan stressed that this is a policy decision on the Council's part. He noted that the City of Salem recently enacted a \$400 per dwelling unit systems development charge for parks. Mr. Eric Meurer, representing the Salem Homebuilders Association, has taken issue with the entire concept and then suggests that the charge be \$200 for single family and \$150 or \$100 for multi family units.

Councilor Van Meter questioned whether the multi-family dwelling unit cost should be less than the single family since families in the multi family dwellings do not have a yard and would, therefore, probably use the park more often. Mr. Morgan stated that many communities have concluded that. However, he suggested thinking in terms of scale, based on the amount of land area.

Responding to a question from Councilor Koho, Mr. Johnson indicated that the City has leeway to charge less than the \$407.23 as provided in the methodology, but it may not charge more.

Councilor Koho moved for passage of a bill for an ordinance establishing a parks system development charge. Councilor Van Meter seconded the motion.

In response to a question from Mayor Orcutt, Mr. Johnson stated that the ordinance itself does not limit the money to sole use for capital improvements at community parks and new parks. There are two additional documents for Council's consideration tonight. Discussion on the last document, a resolution regarding the dollar amount, would be the appropriate place to address this issue. As drafted, these ordinance and resolutions would allow the systems development charge to be used only for improvements to the three community parks and acquisition of land for three new parks and improvements to those three new parks. None of the systems development charge would be used for improvements to existing neighborhood parks or to maintenance of any parks.

Councilor McGee said that the concept of systems development charges is relative new but the one of impact charges is very old. He believes it is

generally conceded that systems development charges will reduce the amount of affordable housing as a hidden cost charged to a home buyer. He said he will support the systems development charge for parks but will address methodology and cost.

In response to a concern from Councilor Hart, Mr. Johnson clarified the intent of the ordinance and two resolutions before the Council tonight. He explained that the ordinance is broad based to cover future changes without having to change the ordinance. Councilor Hart asked about Section 11 regarding methodology. Mr. Johnson said that Section 11(a) is of no use at the present time; it was included for future flexibility. Councilor Koho believed that if the City wishes to have a special parks tax, it should adopt it by special ordinance at that time.

Councilor Koho moved to amend the motion to delete Subsection 11(a) on page 6 from the ordinance and to reletter the remaining subsections as appropriate. Councilor Hart seconded the motion.

Mr. Johnson explained that Section 11(a) was included to prevent the need to amend the ordinance in the future. If a reimbursement fee were established, a hearing would be held. The Council briefly discussed the concept of a parks reimbursement fee.

The motion passed by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton (6)

NAYS: Van Meter (1)

The main motion, as amended, passed unanimously on first reading by the following vote:

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

NAYS: None (0)

The Council then discussed the resolution to establish the methodology for a parks system development charge. Councilor Miller said that he would oppose the resolution until it is revised to use systems development money to make improvements in existing parks as the City sees fit. He preferred that the City does not limit itself in this way. Councilor McGee said that this would be impossible. Writing such an ordinance would not meet State law requirements.

Mr. Johnson clarified that the intent of the fees is to increase user capacity rather than making the existing parks nicer. He explained that the fees could be used, for example, to purchase another jungle gym for a park, but could not

be used to paint the old one. He stressed that the needs will require more funds than what these fees will bring in. Mr. Johnson indicated that the methodology would need to be reworked if Councilor Miller's suggestion was held in favor by the rest of the Council.

Mr. Morgan stated that the monies collected, for example, from the Meadows development and new subdivisions in the north end will be pooled and used to purchase a park at the south end. Councilor Miller said that he wants the funds to be used city-wide. Mayor Orcutt indicated that since this action will not do this, he suggested that Councilor Miller vote in opposition to the motion.

Councilor Koho moved to amend the motion to remove the first paragraph, change to the term "projected population," and add the word "maximum" in front of "final calculation" for the systems development fee. Councilor Van Meter seconded the motion. The motion passed unanimously as follows:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)
NAYS: None (0)

Responding to a comment from Councilor McGee, Mayor Orcutt said that the systems development charge will not bring in enough money to buy and build parks for the anticipated population increase. The existing residents, as well as the new residents, will be supporting the parks. A benefit to existing residents is that the existing parks will be less crowded.

Councilor McGee said that he believed the \$400 was too much to collect. In ten years, \$400 will be worth \$684.

Councilor Van Meter said that one of the many reasons people move to Keizer is because it is a wonderful place to raise kids. This includes the good parks system and the City should maintain that system.

Councilor Koho said that if the City collects and saves all of the systems development fees, the rate of inflation might equal the amount received from interest. He indicated that the City would not be saving the money but spending it to purchase parks. In this case, the City will lose to inflation but will gain from interest.

The main motion, as amended, passed unanimously as follows:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)
NAYS: None (0)

With respect to the resolution establishing the systems development fee, Mr. Johnson suggested a change to the wording in the proposed resolution to state as follows: "All systems development charges collected hereunder shall be used only for the improvements to the three community parks, acquisition of land for the proposed three new neighborhood parks and improvements thereto, as identified in the comprehensive parks system development plan, and administrative costs directly attributable to the above."

Councilor Hart moved for passage of a resolution establishing the amount of the parks system development charge with the new language proposed by Mr. Johnson minus the improvements to existing parks, and to establish the fee at \$250. Councilor McGee seconded the motion.

Councilor Hart stated that this would remove any improvements to existing parks, which would leave a per unit fee of approximately \$250. Councilor Miller objected to a fee which would not be spent for all new parks and improvements, not just the three new parks. He said he would support a fee of \$200 for single family and \$100 for multi-family units. Mr. Morgan clarified that the current fee of \$100 per dwelling unit was done by motion rather than by ordinance, and staff has followed that policy.

Councilor Miller moved to amend the systems development charge to \$200 for single family units and \$100 for multi-family units. The motion died for lack of a second.

Councilor Van Meter noted that during deliberations with the Parks Advisory Committee and OTAK, there was a definite delineation between neighborhood parks and community parks. For example, the Keizer Little League Park, because of its heavy use, needs much more upkeep. Development needs to occur along the creek according to the master plan and access for the disabled is also needed.

Councilor Koho indicated that the Council can discuss levying something less than the \$400 per unit fee, but shouldn't restrict itself to say that none of the development charge would ever go to improvements in the existing parks. If the Council did not want to consider improvements to existing community parks, then that provision should not have been added into the computation for the systems development charge in the previous resolution.

Mr. Morgan stated that the estimated number of people per household is an average of 2.1. Based on the 1990 census, the number for single family residents was closer to 2.59 and multi-family was 1.9 to 2.0. The ratio between single and multi family was about two to one or a little more, including mobile homes. Councilor McGee said the unfairness comes when an apartment unit is

developed by the same developer. If the charge were levied at final construction point, it would ease the load on apartment development. Mayor Orcutt added that Bancroft bonding could also be used.

Councilor Miller said that multi family housing does not put as much load on the parks system as single family housing. Councilor Van Meter suggested another point of view, with two people per apartment complex and no yard, they may be putting more pressure on the park system for barbecues, walks, playgrounds, etc.

Councilor Miller moved to amend the motion to establish the systems development charge for multi-family units at \$150. Councilor Newton seconded the motion.

Mr. Morgan stated that the different fee would not be difficult to administer as long as it is clear, i.e., condominiums, duplexes, mobile homes, etc. He indicated that single family dwellings, mobile homes and duplexes would be considered as single family; the rest would be multi-family.

The motion failed by the following vote:

AYES: Newton, McGee, Miller (3)

NAYS: Orcutt, Hart, Koho, Van Meter (4)

The main motion failed by the following vote:

AYES: Hart, McGee (2)

NAYS: Orcutt, Koho, Miller, Newton, Van Meter (5)

Councilor Koho moved for passage of a resolution establishing the amount of the parks system development charge, including Mr. Johnson's earlier amendment, setting the fees at \$300 for single family, duplexes and mobile homes, and \$200 for multi-family. Councilor Van Meter seconded the motion.

Councilor Miller said that he will not support any amounts higher than \$250 and \$150 because it is an unfair burden on new people coming into the community.

Councilor Van Meter stressed that \$300 and \$200 is too low, but by the discussion it is obvious that the fee will not be increased to \$400 across the board. Councilor Van Meter maintained that \$300 and \$200 are inadequate and that there is substantial documentation in the parks plan for the higher fee.

The motion passed by the following vote:

AYES: Orcutt, Koho, Newton, Van Meter (4)
NAYS: Hart, McGee, Miller (3)

INSURANCE AGENT OF RECORD

Mr. Otterman addressed the issue of appointing an insurance agent of record. He explained that Joe Phillippay has been the agent of record for the past three years. Staff sent out requests for proposals to interested individuals and published the advertisement in the local newspaper and insurance periodical as required by Oregon Administrative Rules. Three proposals were submitted by insurance agencies, and the firms were interviewed by Councilor McGee, the City Recorder and himself. This committee is recommending that Huggins Insurance Company be appointed as the City's insurance agent of record for the next three years, beginning July 1, 1992. Mr. Otterman said that he contacted several references, including the City of Newberg and COG. He also discussed Huggins Insurance with Phil Bay and Mr. Bay believed the recommendation of the committee was appropriate.

Councilor Koho moved for passage of a resolution appointing Huggins Insurance Agency as Insurance Agent of Record for the period of July 1, 1992 to June 30, 1995. Councilor Miller seconded the motion.

Responding to a question from Councilor Hart, Mr. Otterman explained that Huggins was being recommended because of their strong risk management program, their nearby location and their extensive background in municipal government insurance.

Councilor McGee said that the recommendation of the committee was unanimous and that he was impressed by the risk management program offered by Huggins.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)
NAYS: None (0)

HEARINGS OFFICER AWARD OF CONTRACT

Mr. Morgan stated that the committee who interviewed the individuals for hearings officer are recommending the contract be awarded to Janet McCoy with Mike Hansen as a back-up.

Councilor Miller said that he has reviewed all of the proposals and applications, resumes and examples. He said that he did not see any difference in abilities or qualifications or experience except the price. He said that Mr. Hansen has a

hourly rate that is \$15 lower than Ms. McCoy. Mr. Morgan explained that it was a difficult decision between the two, however the final decision was made when contacting Ms. McCoy's references. Hearings officer work is a part of her regular caseload. For Mr. Hansen, it is a moonlighting position as he is assistant legal counsel for Marion County. The committee believed that Ms. McCoy would be more committed because this is her regular type of work. In addition, the committee agreed that Ms. McCoy prepared a better sample decision.

Councilor Miller asked if the committee believed that since Mr. Hansen doesn't do this work full time whether the City would receive any less service. Mr. Morgan indicated that there was no such information.

Councilor Miller asked about terminating the hearings officer contract. Mr. Morgan explained that it could be terminated with 30 days notice.

Councilor Miller said that with Mr. Hansen, the City would still get hearings officer services for \$15 less per hour.

Responding to a question from Councilor McGee, Mr. Morgan indicated that Ms. McCoy does her own work, and she does not pay for an office or a support staff.

Councilor Koho indicated that when you sometimes interview people, you come away with a feeling of their enthusiasm for the work. Mr. Hansen was professional, confident and would do a good job. Despite the difference in fees, Ms. McCoy displayed the personality and an enthusiasm for the job that was immeasurable and a willingness to work with staff, along with the documentation that was given in the way of her written work. He indicated that this work would be her number one priority where it would not be with Mr. Hansen.

Councilor Miller moved to appoint Mike Hansen as hearings officer. Councilor McGee seconded the motion.

Councilor Miller said that this motion intends that Ms. McCoy would be the back-up.

In response to a question from Councilor Van Meter, Mr. Morgan indicated that the City is averaging about 12 cases each year, with Mr. Hansen charging a flat rate of \$350 per month and \$35 more per hour for more than 12 hearings or 14 cases in a year. Councilor Miller said that Mr. Hansen's proposal was an "either/or" - he would charge either \$35 per hour or the flat fee. He said that Mr. Hansen was more than willing to settle for a straight \$35 per hour.

Councilor Miller said that his motion includes appointing Mike Hansen at \$35 per hour. Mr. Morgan said that he believes the City would get a better deal the other way.

Councilor Koho stated that while he understands the economics of the additional \$15 per hour, he hoped the Council would show some deference to the team that took time to interview these people and make the recommendation. Councilor Miller said that there appears to be little difference between the two and it was a flip of the coin.

Councilor Hart indicated that he would prefer a flat rate of \$350 per month rather than \$35 per hour.

Mayor Orcutt indicated that the committee that interviewed the individuals have a better concept of what the individuals will do for the City. He said he is leaning towards Ms. McCoy.

Councilor Miller said that, based on Mr. Morgan's comments, he would withdraw the part of his motion regarding the \$35 per hour and leave it up to staff. Mr. Morgan said that it would be whichever way is to the City's advantage.

The motion failed by the following vote:

AYES: Miller, McGee, Newton (3)

NAYS: Orcutt, Hart, Koho, Van Meter (4)

Councilor Van Meter moved to accept the recommendation of the committee to appoint Janet McCoy as hearings officer. Councilor Koho seconded the motion.

Councilor Newton said that he appreciates the time and effort of the committee conducting the interviews and would support the motion if there was a meritorious significance between the two individuals. Councilor Koho said that if there wasn't a difference between the two, the committee would have recommended the lower rate.

The motion failed by the following vote:

AYES: Orcutt, Koho, Van Meter (3)

NAYS: Hart, McGee, Miller, Newton (4)

Councilor Hart moved to appoint Mike Hansen as hearings officer at a flat fee of \$350 month with \$35 per hour for more than 12 hearings or 14 cases in a year and to appoint Janet McCoy as back-up. Councilor McGee seconded the

motion.

Clarification was provided that this motion is not a reconsideration but a new motion because of the flat fee arrangement.

The motion passed by the following vote:

AYES: Hart, McGee, Miller, Newton (4)

NAYS: Orcutt, Koho, Van Meter (3)

CONSENT CALENDAR

The Consent Calendar consisted of:

- Resolution - Revenue Sharing
- March 11, 1992 Public Hearing Minutes
- March 30, 1992 Special Budget Meeting Minutes
- May 18, 1992 Regular Session Minutes

Councilor Koho asked for a check on the vote on page 6 of the May 18 minutes. It was subsequently noted that the vote on the parks system development charge motion by Councilor Koho should show Councilor Koho voting in favor of the motion.

Councilor Van Meter moved to approve the Consent Calendar. Councilor Newton seconded the motion. The motion passed unanimously as follows:

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

NAYS: None (0)

OTHER BUSINESS

SKATS Letter

Mr. Morgan suggested that the Council members read the SKATS letter which was included with the Council packet.

Urban Renewal

Mayor Orcutt set an Urban Renewal Agency meeting for Monday, June 8 at 7 p.m.

Town Hall Meeting

Councilor Koho informed the Council that he was sponsoring another town hall meeting on Thursday, June 11 at 7:30 p.m. at the Fire Hall. He said he would be trying to invite those residents who voted against the City's tax base, although the session will be open to all City issues.

CITY COUNCIL MINUTES

June 1, 1992 - Page 19

Lindquist Request/Clearview

Councilor Hart received a letter from the Lindquist family regarding a parking issue on Clearview and their request for "no parking" signs. Mayor Orcutt indicated that still will distribute copies to the Council and will follow up on the matter.

AGENDA INPUT

There were no further additions to the agenda for June 15.

ADJOURNMENT

The meeting adjourned at 10:20 p.m.

APPROVED:

Susan Darby, City Recorder

MAYOR



City of Keizer

Administration

930 Chemawa Rd. N.E. • P.O. Box 21000

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

COUNCIL MEETING: JUNE 15, 1992

AGENDA ITEM NO.: 7c

DATE: JUNE 9, 1992

TO: MAYOR AND CITY COUNCIL

FROM: DONALD H. OTTERMAN, CITY MANAGER 

SUBJECT: INSURANCE AGENT OF RECORD

ISSUE

Shall the City Council Change the Effective Date of the Council's Decision Appointing Huggins Insurance Agency as the Insurance Agent of Record?

DISCUSSION

On June 1, 1992 the City Council adopted a Resolution appointing Huggins Insurance Agency as the City's Insurance Agent of Record, effective July 1, 1992. Huggins Insurance Agency has contacted the insurance company that is currently providing liability insurance coverage for the city to obtain a quote for insurance, and has been told by the insurance company that since the City Council's action was not effective until July 1, 1992, they would not provide them with a quote for coverage. I asked Huggins Insurance to see whether an authorization from our current Insurance Agent of Record would meet the needs of the insurance company, and have found that it will not.

Therefore, it is necessary for the City Council to change the date on the resolution to be effective June 15, 1992, so that Huggins Insurance Agency can obtain the insurance quote.

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution changing the effective date.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R92- _____

APPOINTMENT OF INSURANCE AGENT OF RECORD
REPEALING RESOLUTION 92-565

WHEREAS, the City Council approved Resolution 92-565 appointing Huggins Insurance Company as the City of Keizer's Insurance Agent of Record effective July 1, 1992; and

WHEREAS, because the new fiscal year begins July 1, 1992, the City must review insurance quotes prior to that date; and

WHEREAS, it is necessary to change effective date for the appointment of Huggins Insurance Company in order to allow Huggins Insurance Company to obtain said quotes; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the appointment of Huggins Insurance Agency will commence as Insurance Agent of Record on June 15, 1992.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that R92-565 is hereby repealed.

PASSED this _____ day of _____, 1992.

SIGNED this _____ day of _____, 1992.

Mayor

City Recorder



City of Keizer

Administration

930 Chemawa Rd. N.E. • P.O. Box 21000

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

COUNCIL MEETING: JUNE 15, 1992

AGENDA ITEM NO.: 7d

DATE: JUNE 11, 1992

TO: MAYOR AND City COUNCIL *DH*

FROM: DONALD H. OTTERMAN, City MANAGER

SUBJECT: LA BRISA LIQUOR LICENSE RENEWAL

ISSUE

Shall the City Council take action on the renewal application by La Brisa for its liquor license?

DISCUSSION

Attached is a memorandum from the Chief of Police regarding the renewal application by La Brisa for its liquor license. I concur with the recommendation of the Chief that the City take no position at this time on the renewal of the license until OLCC has completed its review of the application for the 1991 liquor license.

OLCC has completed the hearing on the application but there has been no decision reached regarding the renewal of the license. It seems more appropriate for the City to not make a recommendation on the renewal of the license until after OLCC has completed the hearing process and there has been a final decision reached. The decision of OLCC might impact the way that the City would approach the consideration of the renewal of this license.

RECOMMENDATION

It is recommended that the City Council forward the liquor license application from La Brisa to OLCC with a "no recommendation" position.

KEIZER POLICE DEPARTMENT
Memorandum

DATE: May 21, 1992
TO: Don Otterman, City Manager
FROM: Charles R. Stull, Chief of Police
SUBJECT: LA BRISA LIQUOR LICENSE APPLICATION RENEWAL

Here is the La Brisa "no recommendation" draft staff report. I also have a "denial" draft if that is the way you would like to proceed.

Please review and provide any comments you may have.

crs:cp



Keizer Police Department

930 Chemawa Rd. N.E. • P.O. Box 21060
Keizer, Oregon 97307-1060 • 390-3713 / FAX 390-8295

Charles R. Stull
Chief of Police

DATE: June 11, 1992
TO: Mayor and City Council
VIA: Don Otterman, City Manager
FROM: Charles R. Stull, Chief of Police *CRS*
SUBJECT: **LA BRISA LIQUOR LICENSE APPLICATION RENEWAL**

ISSUE

Shall the Keizer City Council approve the renewal of a liquor license application for La Brisa Restaurant and Lounge?

BACKGROUND

La Brisa Restaurant and Lounge, located at 3600 River Road in Keizer, has been a licensed liquor serving establishment since 1988. The establishment has come under scrutiny because of the number and types of police calls for service generated there. (Refer to Appendix "A".)

During the calendar year 1991, the Keizer Police Department responded to a total of 12 calls for service at the La Brisa Restaurant and Lounge. A breakdown of the total 18 calls for service is listed below:

1991 CALLS FOR SERVICE	<u>LA BRISA</u>	<u>KEIZERBRAU</u>	<u>SPORTSMAN</u>	<u>MCNARY</u>
	12	2	2	2

The following analysis represents the types of calls for service to liquor serving establishments in the City of Keizer by the Keizer Police Department in 1991:

	<u>LA BRISA</u>	<u>KEIZERBRAU</u>	<u>SPORTSMAN</u>	<u>MCNARY</u>
Assault	1			
Theft	2	1		
Vandalism		1	1	
Suspicious Activity	2			
DUII			1	
Alarms	4			2
Accidents	1			
Civil Complaint	1			
Public Assist	1			

LA BRISA LIQUOR LICENSE APPLICATION RENEWAL
June 11, 1992
Page Two

For the City Council's review, attached are Appendixes B, C, D and E. These charts provide a statistical summary of calls for service to La Brisa Restaurant during 1991.

- APPENDIX B "Calls for Service 1991" shows the percentage of calls for service by establishment
- APPENDIX C "Calls by Day of the Week" shows that all of the calls were concentrated on Saturday, Sunday and Monday
- APPENDIX D "Calls by Hour of the Day" shows that half of the calls occurred between 12:30 am and 2:30 am
- APPENDIX E "Calls by Month of year" shows that the majority of the calls for service were during the first quarter of the year

ANALYSIS

The conclusion which can be drawn from the statistical charts indicates that:

1. La Brisa Restaurant accounted for 12 of the 18 total calls for service to liquor serving establishments in the City of Keizer.
2. Calls for service to La Brisa were concentrated during the first quarter of the year with none being received during the last quarter of the year.
3. The Days of the Week chart reflects that calls only occurred on the weekends with most of them occurring Sunday night or Monday morning.
4. The review of the Hours of the Day chart reflects that over half of the calls were received during the evening or early morning hours.

ARRESTS

During the year 1991, the Keizer Police Department arrested only one (1) subject as a result of a call for service generated by La Brisa Restaurant.

LA BRISA LIQUOR LICENSE APPLICATION RENEWAL
June 11, 1992
Page Three

Additionally, the Oregon Liquor Control Commission (OLCC) DUII reports indicate that twenty-nine (29) persons arrested for driving under the influence of intoxicants stated that they had been drinking at La Brisa. (See Appendix "F".)

1991	<u>LA BRISA</u>	<u>KEIZERBRAU</u>	<u>SPORTSMAN</u>	<u>MCNARY</u>
DUII ARRESTS	29	6	4	0

CURRENT LICENSING RESTRICTIONS

La Brisa's liquor license is under review at this time for non-renewal. The establishment is being allowed to operate under its old license pending the outcome of the review. Under the extended license, OLCC imposed the following restrictions (see Appendix "G"):

1. "Employ at least two people to monitor patrol behavior between 10:00 pm and closing on any evening when you are open during those hours and featuring live music".
2. "Patrons may not enter the premises after 1:30 am".
3. "The rear door to the premises may be used as an exit only".
4. "Maintain an '86' list and permanently bar anyone who brings a weapon on the premises".
5. "After 9:00 pm, post notices at the entrance in both English and Spanish prohibiting weapons".

The City of Keizer had also stipulated, at the time with La Brisa, that the establishment would install additional lighting in the parking lot area, particularly on the north side, and "No Trespassing" and or "No Loitering" signs also in the parking lot.

CURRENT LICENSE STATUS

As mentioned above, La Brisa's license is currently under review for non-renewal. OLCC has recommended that the license not be renewed and is going through the hearing process. Reportedly, OLCC based its recommendation for refusal to renew the license on several items outlined in Mr. Mahar's report, including the following:

1. The history of serious and persistent problems at La Brisa.

LA BRISA LIQUOR LICENSE APPLICATION RENEWAL

June 11, 1992

Page Four

2. The fact that the serious problems include "violent incidents of life threatening gun fire or menacing, physical assaults, fights, disorder and drunkenness".
3. La Brisa acknowledged measures that could be taken to reduce police calls, but failed to implement such measures such as the parking lot lights.
4. La Brisa has not provided adequate uniformed security guard service.

RECOMMENDATIONS

The Keizer City Council generally has the following options available in addressing the questions of approval or denial of La Brisa's liquor license application.

1. Unconditional Approval: This would require the City Council to approve La Brisa's application as filed with no conditions attached. This application would then be forwarded to OLCC for their final approval.
2. Denial: This would require the Council to deny La Brisa's liquor license application renewal, in which case the application along with the denial would be forwarded to OLCC for their further review.
3. Approval Based on Agreed Stipulations: This would require that the City Council and La Brisa enter into a formal agreement based on stipulations to correct the problems facing the establishment.
4. Approval Based on Non-Agreed Stipulations: This would require the Council to forward the liquor license application to OLCC indicating certain stipulations that the council has agreed upon for the regulation of the serving of alcoholic beverages at La Brisa and forwarding that to OLCC for their approval. This category also indicates that the owner of the establishment does not agree to the stipulations as set forth by the City Council.
5. No recommendation: This option allows the City Council to forward the license application to OLCC with a neutral "no recommendation" position. This position neither supports nor denies the applicant's license request.

LA BRISA LIQUOR LICENSE APPLICATION RENEWAL

June 11, 1992

Page Five

On November 25, 1991 the OLCC Commission met and, after hearing testimony decided to deny La Brisa's liquor license application renewal.

This decision was appealed by La Brisa and on April 6, 1992 the fact finding hearing process began. The hearing lasted approximately nine (9) days and the last day was scheduled for April 29, 1992.

It is anticipated that a recommendation from the Hearings Officer will be forwarded to the OLCC Commission within the next ninety (90) days.

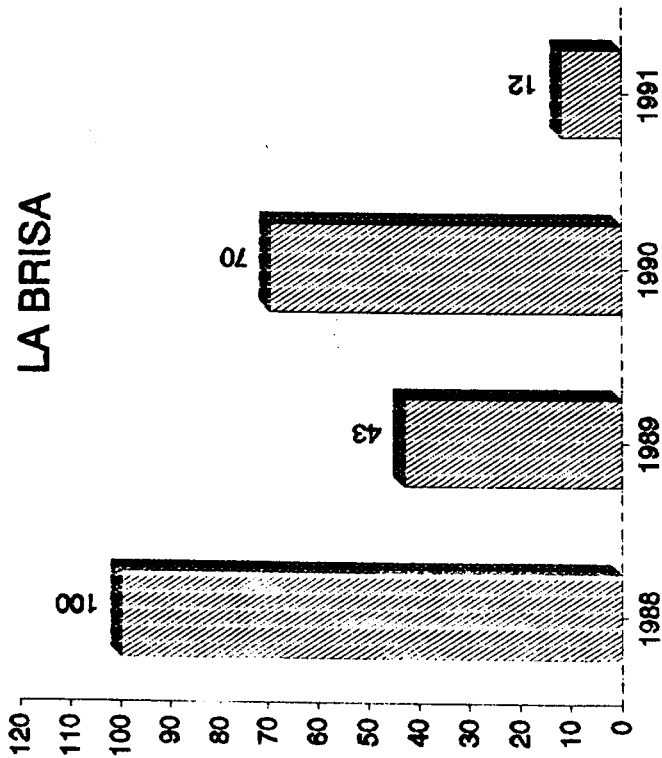
It is my recommendation to the Keizer City Council that La Brisa's liquor license application be forwarded to OLCC with a "no recommendation" position.

crs/mjm:cp

APPENDIX "A"

CALLS FOR SERVICE

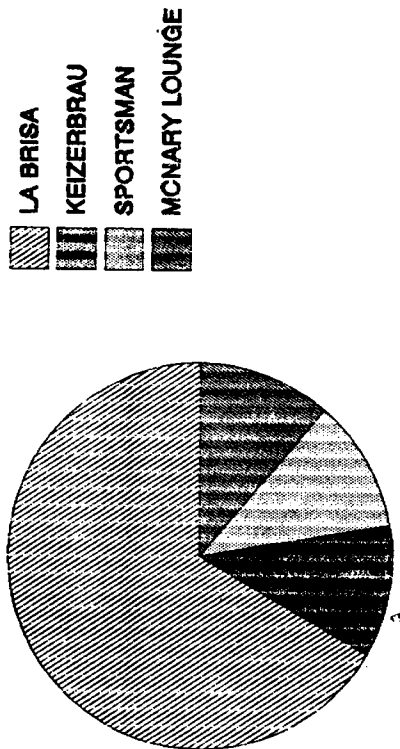
LA BRISA



APPENDIX "B"

CALLS FOR SERVICE

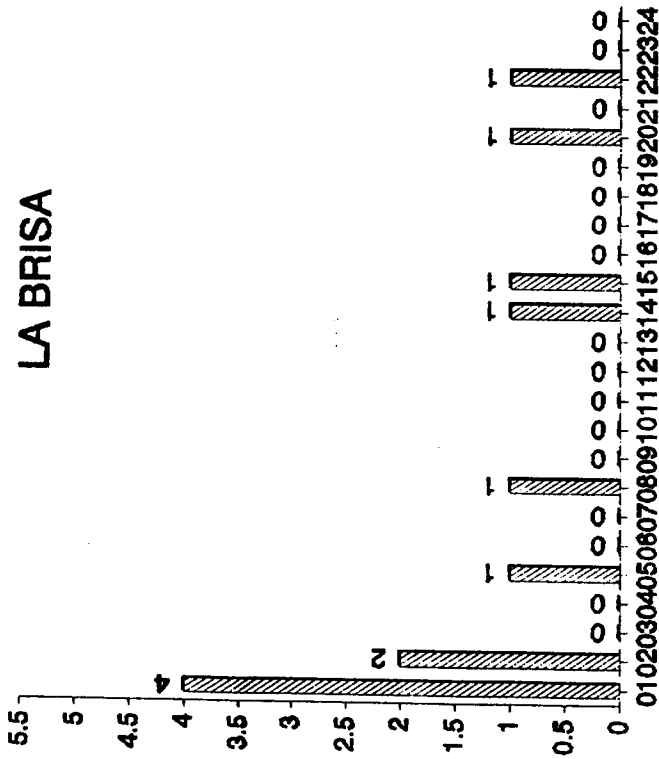
1991



APPENDIX "C"

CALLS FOR SERVICE BY HOUR

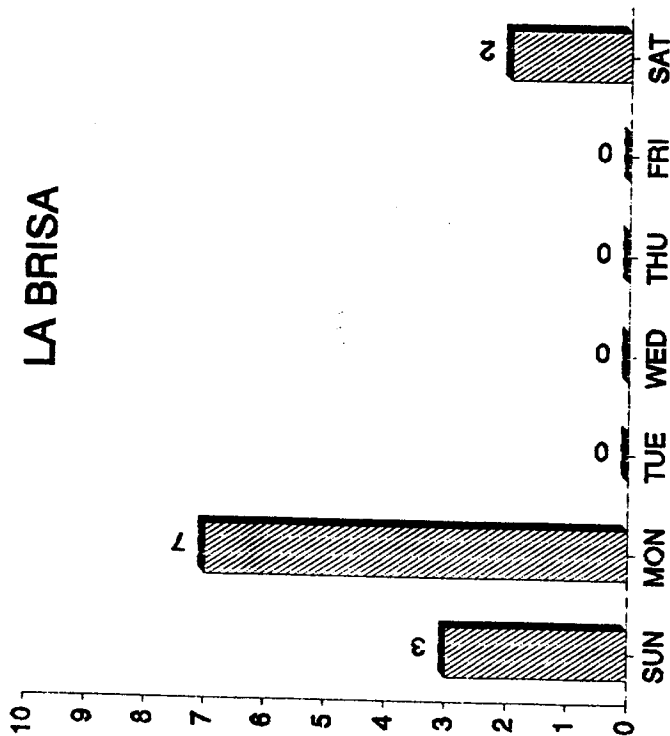
LA BRISA



APPENDIX "D"

CALLS FOR SERVICE

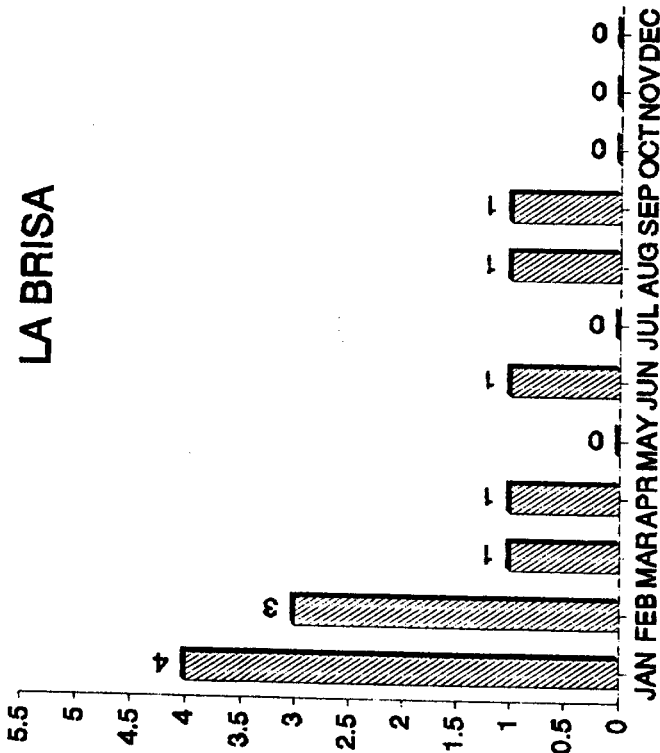
LA BRISA



APPENDIX "E"

CALLS FOR SERVICE - 1991

LA BRISA



OREGON LIQUOR CONTROL COMMISSION

APPENDIX "F"

DUII INFORMATION PROGRAM MONTHLY PRINT-OUT

DECEMBER 1991
(1991 - FOURTH QUARTER)

ENISES	DATE/TIME/DAY	EAC	REPORT/DEPT	NOTIFICATION AND ACTION	FOURTH QUARTER	YEAR TO DATE TOTAL
ELON COUNTY						
BLACK ANGUS - SALEH	12-08-91/0340/SU	.16	91-7560/DAS	LETTER 1		
BLACK ANGUS - SALEH	12-19-91/2318/TH	.14	91-56527/SMP	---	3	16
BOONES TAVERN - STAYTON	12-28-91/2330/S	.14	91-0907/AVP	---	1	1
50-50 TAVERN - SALEH	12-27-91/2326/P	.08	91-57759/SMP	---	1	1
LA BRISA - KEIZER	12-30-91/0010/H	.11	91-8559/KZP	---	2	29
LA LINDA'S - WOODBURN	11-25-91/0240/M	.18	91-6834/WBP	LETTER 1		
LA LINDA'S - WOODBURN	12-22-91/0312/SU	.19	91-7412/WBP	+	5	11
RANCH - SALEH	11-23-91/2347/S	.11	91-52342/SMP	---		14
RANCH - SALEH	12-04-91/0230/W	.19	91-53960/SMP	LETTER 1		
RANCH - SALEH	12-21-91/0056/S	.19	91-56704/SMP	+		
RANCH - SALEH	12-28-91/0236/S	.16	91-57789/SMP	+		
RANCH - SALEH	12-29-91/0059/SU	.19	91-57943/SMP	+		
ROCKABILLY'S - SALEH	12-18-91/0236/W	.17	91-8267/KZP	LETTER 1	6	13
SCOREBOARD - SALEH	12-05-91/2358/TH	.21	91-54285/SMP	LETTER 1	2	22
SPORTSHAW - KEIZER	11-28-91/0002/TH	.10	91-53050/SMP	LETTER 1	1	11
UPPER DECK REST. - SALEH	12-28-91/0245/S	.25	91-8508/KZP	---	2	4
WEBER'S - SALEH	12-24-91/1711/T	.16	91-57295/SMP	LETTER 1	1	1
WEBER'S - SALEH	12-26-91/0115/TH	.15	91-57435/SMP	+	4	8

Oregon Liquor Control Commission

Appendix "G"

8078 SE McLOUGHLIN BLVD., PORTLAND, OREGON
(Mailing Address: PO BOX 22287, PORTLAND, OR 97222)

October 9, 1989

Patricia C. Gutierrez
3600 River Road N.
Keizer, OR 97303

LICENSE RENEWAL WITH RESTRICTIONS

CERTIFIED MAIL

Re: LA BRISA (DA)
3600 River Road N.
Keizer, OR 97303

Dear Ms. Gutierrez:

The Commissioners of the Oregon Liquor Control Commission have granted your application for license renewal with the following restrictions on the license:

- 1) Employ at least two people to monitor patron behavior between 10:00 p.m. and closing on any evening when you are open during those hours and featuring live music.
- 2) Patrons may not enter the premises after 1:30 a.m.
- 3) The rear door to the premises may be used as an exit only.
- 4) Maintain an '86' list and permanently bar anyone who brings a weapon on to the premises.
- 5) After 9:00 p.m., post notices at the entrance in both English and Spanish, prohibiting weapons.

The Commissioners imposed the restrictions based on the following:

There is a recent history of altercations, noisy conduct or other disturbances in or around these premises.

The Commission's imposition of these restrictions upon your license is pursuant to the provisions of ORS 471.210, 471.215 and 471.730, and OAR 845-05-055.

EXHIBIT

29

PAGE

1

FINAL OFFICIAL CANVASS RESULTS

MAY 19, 1992-PRIMARY ELECTION
MARION COUNTY, OREGON

FINAL OFFICIAL CANVASS RESULTS
REPORT-EL52 PAGE 001

CITY OF KEIZER - TAX BASE

01 = YES
02 = NO

MEASURE 24-7

VOTES PERCENT
2,068 37.86
3,394 62.14

WITH 14 OF 14 PRECINCTS REPORTING
03 = OVER VOTES
04 = UNDER VOTES

VOTES PERCENT
0
133

0051 McNARY HIGH SCHOOL
0052 KENNEDY ELEMENTARY SCHOOL
0053 WHITEAKER MIDDLE SCHOOL
0054 KEIZER CITY HALL
0055 KENNEDY ELEMENTARY SCHOOL
0056 KEIZER ELEMENTARY SCHOOL
0057 McNARY HIGH SCHOOL
0058 KEIZER CITY HALL
0059 GUBSER ELEMENTARY SCHOOL
0060 KEIZER ELEMENTARY SCHOOL
0061 WHITEAKER MIDDLE SCHOOL
0062 CLEAR LAKE FIRE STATION
0063 GUBSER ELEMENTARY SCHOOL
0064 CLEAR LAKE FIRE STATION

	01	02	03	04
0051	109	198	0	5
0052	95	168	0	3
0053	185	214	0	13
0054	213	335	0	11
0055	161	306	0	10
0056	198	358	0	13
0057	262	385	0	26
0058	103	222	0	7
0059	187	236	0	10
0060	147	221	0	11
0061	129	176	0	7
0062	114	253	0	13
0063	164	222	0	4
0064	1	0	0	0

RECEIVED
MAY 20 1992

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.

Signature of *John G. T. Smith* Clerk of Court
Date of Abstract *May 19, 1992*



1982

City of Keizer

Administration

930 Chemawa Rd. N.E. • P.O. Box 21000

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

COUNCIL MEETING: June 15, 1992

AGENDA ITEM NO.: 9

TO: MAYOR AND CITY COUNCIL

FROM: SUSAN DARBY, CITY RECORDER

SUBJECT: MAY 19, 1992 PRIMARY ELECTION - FINAL OFFICIAL CANVASS RESULTS

Attached are the final official canvass results from the May 19, 1992 primary election. If you have any questions, please let me know.

"Pride, Spirit and Volunteerism" _____