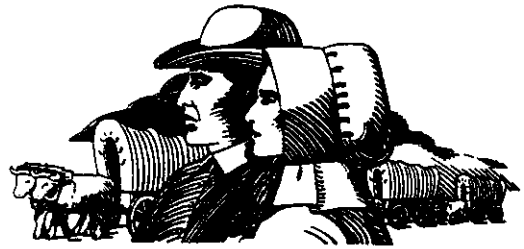


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



## AGENDA

City Commission Chambers - City Hall  
May 22, 2000 at 7:00 P.M.

COPY

### PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:05 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:10 p.m. 3. **APPROVAL OF MINUTES:** May 8, 2000
- 7:15 p.m. 4. **PUBLIC HEARINGS**
- CU 00-04;** Dr. Jay Mead/ 502 McLoughlin Blvd; Clackamas County Map #2-1E-36DD, TL 3900 & 6300; Request to convert an existing residence into a doctor's office with an associated parking lot on an adjacent parcel.
- 7:45 p.m. **VR 00-03;** Rob Young / 509 Roosevelt Street; Clackamas County Map #2-2E-32CB, TL 16700; Requesting a variance to re-establish two lots of record.
- 8:15 p.m. 5. **OLD BUSINESS**
- A. PD 99-01 (continued);** Larry Marple, Triple "D" Development, 14608 Glen Oak Rd; Clackamas County Map # 3S-2E-16A Tax Lot 800; Requesting approval of a Planned Unit Development (PUD) consisting of 37 single family homes and 30 multi-family dwellings.
- 8:25 p.m. 6. **NEW BUSINESS**
- A. Staff Communications to the Commission**
- B. Comments by Commissioners**
- 8:30 p.m. 7. **ADJOURN**

NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING DATE.

**DRAFT**

**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
May 8, 2000**

**COMMISSIONERS PRESENT**

Chairperson Hewitt  
Commissioner Carter  
Commissioner Orzen  
Commissioner Surratt  
Commissioner Vergun

**STAFF PRESENT**

Maggie Collins, Planning Manager  
Marnie Allen, City Attorney  
Paul Espe, Associate Planner

**1. CALL TO ORDER**

**Chairperson Hewitt** called the meeting to order.

**2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**

None.

**3. APPROVAL OF MINUTES: April 24, 2000**

**Commissioner Surratt** moved to accept the minutes of the April 24, 2000 Planning Commission meeting with no changes. **Commissioner Orzen** seconded.

Ayes: Carter, Orzen, Surratt, Vergun, Hewitt; Nays: None.

**4. PUBLIC HEARING (Quasi-Judicial)**

**VR 00-01 & VR 00-02; Phil Gentemann, Centurion Homes Clackamas County Map # 3-2E-89AC, Tax Lot 6900 & 8100; Request for variances to 100-foot minimum lot depth.**

**Chairperson Hewitt** stated that on May 2, 2000 applicant submitted a request to withdraw the variance request applications. They will not be heard based on the withdrawal.

## **5. OLD BUSINESS**

- A. VR 99-07 (continued);** (Adoption of findings for denial). James McKnight; 161 Barclay Avenue; Clackamas County Map # 3S-2E-31 DC, Tax Lot 5400; Request to modify the zoning requirement of an R-10 Single Family Dwelling District from 100' depth to an 80' lot depth.

**Chairperson Hewitt** stated that this item is for Planning Commission review and discussion only. With no new discussion, **Chairperson Hewitt** asked if there was a motion for adoption of findings of fact, conclusions of law, and final order for VR 99-07. **Commissioner Orzen** so moved. **Commissioner Vergun** seconded.

Ayes: Carter, Orzen, Surratt, Vergun, Hewitt; Nays: None.

**Maggie Collins** stated that applicant will be notified of the Planning Commission's final decision. **Chairperson Hewitt** asked when party would receive official notice. **Maggie Collins** replied that he would receive official notice within 3 days and that the appeal period begins at the date of decision mailing.

**Chairperson Hewitt** stated that the Planning Commission quasi-judicial review of VR 99-07 has been concluded.

## **B. Summary and Reactions**

Oregon City Downtown Community Plan Phase II Kick-Off Meeting.

**Maggie Collins** handed out maps for Downtown Community Plan (showing 4 sub-area divisions) to the Commissioners. She showed samples of notices sent to the public announcing the scheduled meetings for several sub-areas. Sub-Area 2 workgroup will meet on May 15, 2000 for a second work session and Sub-area 1 will hold a meeting on May 17, 2000. She stated that each planner will work independently with his or her individual group to develop recommendations on Plan designations and zoning. Approximately 40 people attended the Kick-Off meeting to set up work groups, plan meeting dates, and deal with outstanding issues from Phase I. November 2000 is the goal for Phase II completion, but recommendations are expected to come earlier to public hearing in front of the Planning Commission as each group reaches completion of its tasks.

**Maggie Collins** stated that notices have been sent to property owners and all interested parties. Notices will also be sent for the next two rounds of meetings, for a total of 884 notices sent per round. This is being done to get the community involved and to keep the people in each sub-area informed. All 4 sub-area groups will meet together in late August or early September 2000 to discuss progress.

**Maggie Collins** stated that Commissioners will receive the meeting notification mailers and should feel free to participate in work groups as there is no conflict of interest at this time. Once recommendations come to public hearing, Commissioners will need to step away from participating in order to properly conduct a public forum on recommendations.

**Commissioner Carter** asked about overlapping areas on the Downtown Plan Map. **Maggie Collins** identified which sub-area would review overlapping properties first. She stated that some arbitrary adjustments had to be made.

**Commissioner Vergun** stated that since meetings are televised events, we should educate home viewers who have never heard of the Downtown Community Plan and asked for a quick plan overview. **Maggie Collins** responded that Phase II is a follow-up to adopted guidelines (Phase I) on a 483 acre area of downtown Oregon City. Phase I looked at policy, Phase II is looking at Comprehensive Plan Map and zoning changes.

**Commissioner Vergun** asked how people in the community can get involved. **Maggie Collins** responded that interested people will be directed to meetings for areas in which they are interested. The City Planning Division at can be reached at 657-0891 for more information.

**Commissioner Orzen** asked how the Downtown Community Plan fits in with the Clackamette Park Master Plan. **Maggie Collins** replied that she is looking to answer that question with the City staff and that she is positive they will be able to integrate both plans. Different issues from Phase I are outstanding and require adjustments. Phase II will deal with these issues, and other "gaps".

**Chairperson Hewitt** asked if there are many zone designations within sub-areas of the Downtown Map. **Maggie Collins** responded that he was correct. **Chairperson Hewitt** stated that it was requested that they couple the final Comprehensive Plan Map with the Downtown Plan Map. **Maggie Collins** replied that it can be done. **Chairperson Hewitt** stated that he would like to fit both maps to each other sooner than later and that it is important to keep the Comprehensive Plan Map in mind while working on the Downtown project. **Maggie Collins** replied that particularly problematic zones from the Comprehensive Plan Map are in not included in this Downtown Community Plan project. She suggested a review of the Comprehensive Plan Map starting early and focusing on areas outside of the Downtown Study Area sooner than November, 2000. She stated that this is a legal issue with two options. One option is to research older documentation and bring to public hearing for changes. The second option is to build a new Plan Map and re-adopt the areas in question through public hearing. **Chairperson Hewitt** asked which option she preferred. **Maggie Collins** responded that the option of building a new map was preferred. **Chairperson Hewitt** agreed that that option seemed "cleaner" and asked if the public would be well informed of changes. **Maggie Collins** replied in the affirmative.

## **6. NEW BUSINESS**

### **A. Staff Communications to the Commission**

#### **1. New Employees**

**Maggie Collins** introduced Sean Cook as the new Planning Division Permit Technician. This is the first Planning Commission meeting he has been able to attend in his first month of employment. She also announced that Carrie Foley is replacing Melissa Widman as the Recording Secretary.

#### **2. Annual Planning Commission Report to City Commission**

**Maggie Collins** stated that Chairperson Hewitt's delivery of the first Planning Commission's Annual Report was very well received by the City Commission and that he did a great job. **Commissioner Orzen** asked him for his assessment. **Chairperson Hewitt** responded that it went very well, everyone followed along paying close attention. He was also able to clarify PUD issues on a subsequent file being heard by the City Commission.

**Maggie Collins** stated that there will be a work session on May 10, 2000 at 7pm in the Council Chambers. Focus will be on 3 items: review of design guidelines, review of a proposed tree ordinance, and review of sign ordinance issues.

**Commissioner Vergun** moved to adjourn, **Commissioner Orzen** seconded.

All Commissioners agreed to adjourn.

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**Gary Hewitt, Planning Commission  
Chairperson**

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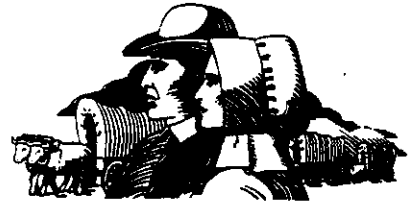
**Maggie Collins, Planning Manager**

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
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FAX 657-7892



### STAFF REPORT

Date: May 22, 2000

**FILE NO.:** CU 00-04

**FILE TYPE:** Quasi-Judicial

**HEARING DATE:** May 22, 2000  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT/  
OWNER:** Dr. Jay Mead  
516 High Street  
Oregon City, OR 97045

**REQUEST:** Conditional Use to allow for a doctor's office in the HC Historic Commercial District and to allow for an associated eight-space parking lot in the R-6 Single Family Dwelling District.

**LOCATION:** 502 S. McLoughlin Blvd.  
Map 2S-1E-36DD, Tax Lots 3900 and 6300, Clackamas County.

**REVIEWER:** Tom Bouillion, Associate Planner  
Jay Toll, Senior Engineer

**RECOMMENDATION:** Staff recommends approval of CU 00-04 with conditions of approval

## **CRITERIA:**

### **Municipal Code:**

Section 17.12 R-6 Single-Family Dwelling District

Section 17.26 HC Neighborhood Commercial District

Section 17.50 Administration and Procedures

Section 17.56 Conditional Uses

## **BASIC FACTS:**

1. The site is located at 502 S. McLoughlin Blvd. and is legally described as Map 2S-1E-36DD, tax lots 3900 and 6300, Clackamas County. The two tax lots together were historically used as the Max Telford house, built circa 1917. A description of the house is included as Exhibit 4. Tax lot 6300 contains a small detached garage and a great deal of mature landscaping along the east and south property lines.
2. The subject property consists of two tax lots with different zoning designations. Tax lot 3900, which contains the house fronting McLoughlin Boulevard, is zoned HC Historic Commercial. Tax Lot 6300, which contains the back yard to the house and a small detached garage is zoned R-6 Single Family Residential.
3. In addition to the review of the applicant's proposal by the Planning Commission, it will also be reviewed by the Historic Review Board and by staff as part of the site plan & design review process. The Planning Commission must approve this use through the CUP review prior to these other review processes.
4. Surrounding land uses are as follows:

West: The property across the highway at 501 McLoughlin Boulevard is zoned Historic Commercial, and functions as a used car sales lot and garage. This structure is a heavily altered historic house and detached garage.

North: The property across the street at 416 McLoughlin Boulevard is zoned Historic Commercial, and until recently functioned as a bed and breakfast inn and restaurant. This structure is the historic E.B. Fellows House, built circa 1867. The property across the street at 215 Miller Street is zoned R-6 Single Family Residential and functions as a

single-family residence. This structure is the historic George Marshall House, built circa 1862.

East: The property across 3<sup>rd</sup> Avenue at 410 4<sup>th</sup> Avenue is zoned R-6 single family residential and functions as a single family residence. This structure is a non-historic ranch house built in the 1950's.

South: The properties next door at 506 and 508 McLoughlin Boulevard are zoned Historic Commercial and function as two small rental houses. The structures are World War II prefabricated construction and have no great historic value. The property next door at 507 Third Avenue is zoned R-6 Single Family Residential and functions as a single-family residence. This structure is the historic Wiley B. May House, built circa 1869.

5. Transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet and the Canemah Neighborhood Association. The State Department of Transportation (ODOT) sent a letter (Exhibit 3h) indicating that the applicant shall remove an existing curb cut and replace the sidewalk fronting McLoughlin Boulevard. However, a site inspection confirmed that there is no curb cut, and ODOT has agreed that their earlier request is not applicable. In addition, ODOT indicated that no drainage will be accepted into the State's right-of-way. This comment will be considered as part of the site plan and design review process. Other comments are incorporated into this analysis or the analysis or will be used for the site plan and design review process.

## **ANALYSIS AND FINDINGS:**

### **I. 17.56 Conditional Uses**

1. **Criterion (1): The use is listed as a conditional use in the underlying district.**

Tax lot 3900 is zoned Historic Commercial (HC). The HC district lists as conditional uses all uses that are permitted in the C General Commercial District, LC Limited Commercial District, LO Limited Office District or NC Neighborhood Commercial District. Both the C and LC districts allow for professional offices, including medical practitioners.

Tax lot 6300 is zoned R-6 Single Family Residential (R-6). The R-6 district lists as conditional uses all uses listed under section 17.56.030. Under subsection Q, parking lots not in conjunction with a primary use on the same tax lot are listed as a conditional use.

Therefore, staff finds that this criterion is satisfied.



**2. Criterion (2): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.**

The size of the parcel (9,500 square feet for both tax lots) would allow the use of the existing historic home as a doctor's office, while still allowing for a small (8-space) parking lot in the back yard, as required by City off-street parking requirements. The parcel is rectangular and has street frontage on three sides, allowing for adequate access to the proposed parking lot. The parcel gently slopes from Third Street to McLoughlin Boulevard at a 7.4% grade. This slope would not hinder construction of the proposed small parking lot. All required public improvements are available to serve this site and there are no natural features which would limit the development of the parcel.

Therefore, staff finds that this criteria is satisfied.

**3. Criterion (3): The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.**

The site has good access to transportation systems, since tax lot 3900 fronts McLoughlin Boulevard (Highway 99E) and Miller Street. The Oregon Dept. of Transportation has jurisdiction over McLoughlin Boulevard and classifies it as a Regional Urban Highway. The McLoughlin frontage is fully improved with curb, gutter and sidewalk. A letter from ODOT (Exhibit 3h) provided limited comments that will be incorporated into the site plan and design review process. Vehicular access to the proposed parking lot on tax lot 6300 will be via Miller Street, classified as a local street by the City. In addition, the applicant provided a traffic study for the proposed use, attached as Exhibit 2c. An analysis by the City's contract traffic engineer (Exhibit 3g) confirmed that the existing streets can adequately serve this proposed use. Existing City sanitary sewer, storm sewer and water facilities are available to the property in Miller Street and/or McLoughlin Boulevard.

Therefore, staff finds that this criterion is satisfied.

**4. Criterion (4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district.**

The character of the surrounding area includes a mixture of commercial and residential uses. Please see a more specific description of the surrounding uses under "Basic Facts, #4, surrounding uses." Other commercial uses located along McLoughlin Boulevard near the subject site include a used car sales lot and service garage and a large diving and salvage business. In addition, a vacant bed and breakfast is located across Miller Street in a historic house. Most of the surrounding uses are single family residential located in historic homes. The proposed doctor's office would be a less intense commercial use than

others in the area. As mentioned in the applicant's traffic study (Exhibit 2c), the proposed use would generate a minimal amount of automobile traffic. By occupying an existing historic house, and constructing a small (8-space) parking lot that is well screened on two sides by mature landscaping, the applicant would be keeping in character with the surrounding area. In addition, the applicant would not limit, impair or preclude the use of surrounding properties for their primary uses, whether they are zoned commercially or residentially. This proposal will also be reviewed by the Historic Review Board and by staff as part of the site plan & design review process.

Therefore, staff finds that this criterion is satisfied.

**5. Criterion (5): The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.**

The Oregon City Comprehensive Plan contains the following applicable goals and policies:

"Encourage citizen participation in all functions of government and land-use planning."  
(Citizen Involvement Goals and Policies, Policy 4)

The public hearing was advertised and noticed as prescribed by law to be heard by the Planning Commission on May 22, 2000. The public hearing will provide an opportunity for comment and testimony from interested parties.

"Encourage the preservation and rehabilitation of homes and other buildings of historical and architectural significance." (Historic Preservation Goal, page E-59).

Granting this conditional use will allow a doctor's office to occupy the currently vacant Max Telford House and will assure that the historic structure is maintained properly.

"All new health service facilities, including doctor and dentist offices, should be designated so as to be compatible in size and scale with surrounding areas..."  
(Community Facilities, page I-11).

The proposed doctor's office will be compatible in size and scale with the surrounding area because it is an existing historic home. The only exterior alterations proposed are an ADA accessible ramp at the rear of the house and a small parking lot in the back yard. In addition, the applicant's proposal will be reviewed by the Historic Review Board and by staff as part of the site plan and design review process.

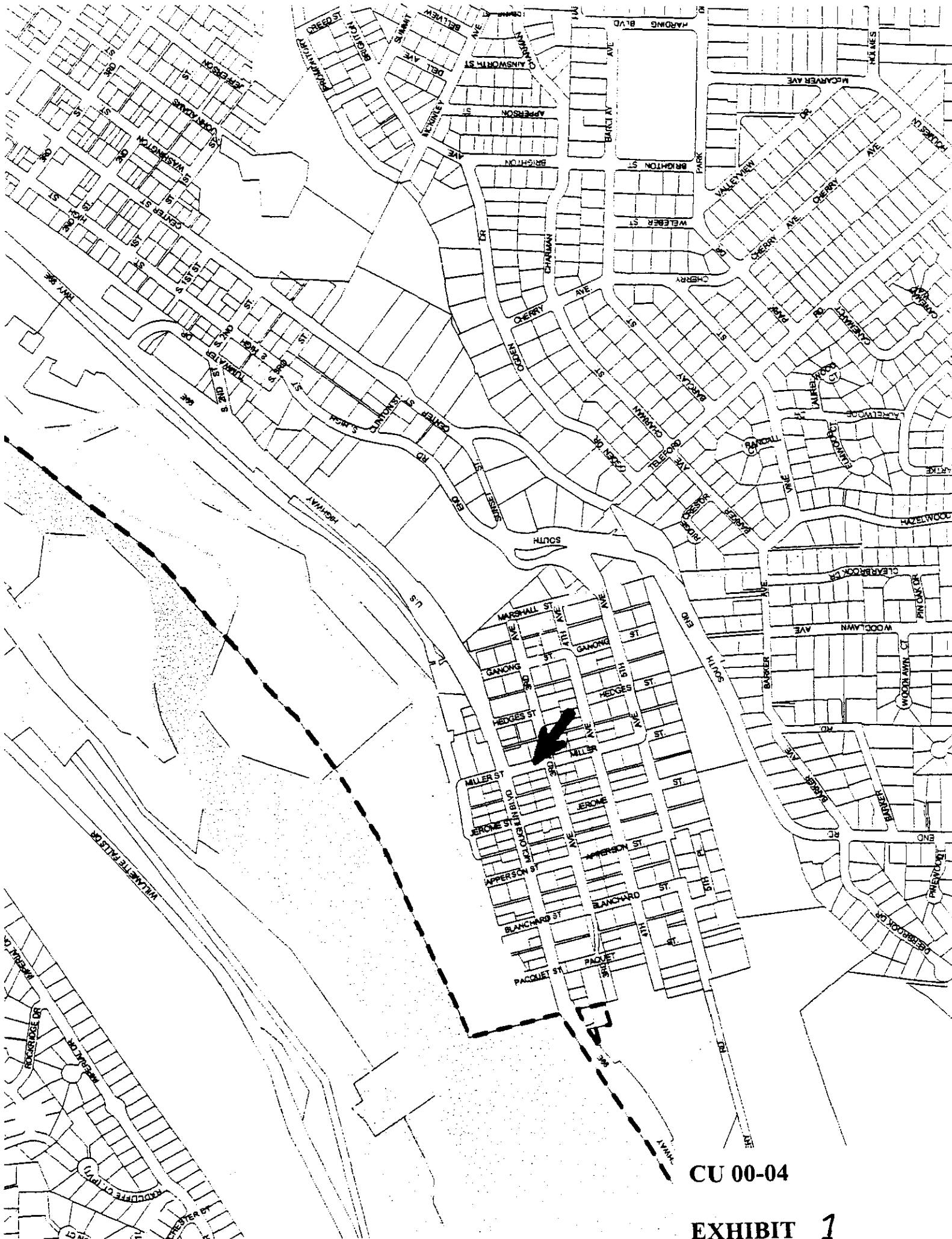
Therefore, staff finds that this criterion is satisfied in that this proposal satisfies applicable goals and policies of the Oregon City Comprehensive Plan.

## **CONCLUSION AND RECOMMENDATION:**

Based on the analysis and findings as described above, staff concludes that the proposed occupancy of the historic Max Telford house for a doctor's office with the development of an associated 8-space parking lot satisfies the requirements as described in the Oregon City Municipal Code for Conditional Use Permits (Chapter 17.56). Therefore, staff recommends that the Planning Commission approve file CU 00-04, subject to the conditions of approval attached as Exhibit 5.

## **EXHIBITS:**

1. Vicinity Map
2. Applicant Submittal
  - 2a. Applicant Narrative
  - 2b. Applicant Plan Set
  - 2c. Applicant Traffic Study (Technical Appendix is on file)
3. Agency Comments
  - 3a. City Engineering (on file)
  - 3b. City Parks (on file)
  - 3c. OC School District 62 (on file)
  - 3d. Clackamas County DTD (on file)
  - 3e. City Public Works (on file)
  - 3f. City Building (on file)
  - 3g. City Contract Traffic Engineer
  - 3h. ODOT
4. Description of the Max Telford house
5. Conditions of Approval



CU 00-04

EXHIBIT 1

## CONDITIONAL USE PERMIT

**Dr. Jay Mead**

### **Introduction:**

This application requests approval of a Conditional Use Permit to convert an existing residence to a doctor's office and to establish an associated parking lot on an adjacent parcel. The site is located at the intersection of McLoughlin Boulevard (Hwy. 99E) and Miller Street in the Canemah area of Oregon City and is comprised of two parcels.

The subject property is described as Tax Lots 3900 and 6300 of Clackamas County Assessor's map 2 1E 36DD. Tax Lot 3900 is zoned Historic Commercial (HC), and Tax Lot 6300 is zoned R-6 Single-Family Dwelling District. The existing dwelling is located on Tax Lot 3900 and faces McLoughlin Boulevard. Tax Lot 6300 is situated behind Tax Lot 3900 and fronts on 3<sup>rd</sup> Avenue at its intersection with Miller Street. The existing home is included in the City of Oregon City's inventory of historic properties and is identified as the Max Telford Residence.

### **Existing Conditions:**

As previously mentioned, the subject property is comprised of two existing parcels. Tax Lot 3900 is a rectangular tract measuring 50 feet in width by 90 feet in depth. This parcel contains the existing residence, which measures approximately 28 feet in width by 54 feet in depth. The residence is oriented so as to face McLoughlin Boulevard. Tax Lot 6300 measures 50 feet in width by 100 feet in depth, fronts on Third Avenue, and contains an existing single-car detached garage. Existing topography is gently sloping from Third Avenue towards McLoughlin Boulevard. The terrain drops from an elevation of 90 feet at Third Avenue to an elevation of 76 feet at McLoughlin Boulevard; a difference of 14 feet in 190 feet of distance, or an average grade of 7.4 percent.

Land uses along McLoughlin Boulevard include a mixture of residences and commercial uses. The commercial uses include automotive rental and sales, automobile repair, and a diving supply company. The residence immediately north of the subject property, across Miller Street, appears to have been used in the past as a bed and breakfast inn. That property is presently for sale and does not appear to be open for business at this time.

### **Compliance with Conditional Use Permit Criteria:**

The criteria for approval of conditional use permits are listed in Section 17.56 of the Oregon City Zoning Ordinance. These criteria are listed below, followed by a comment as to how this application complies with these criteria:

- 1. The use is listed as a conditional use in the underlying district;*

Comment: The proposed doctor's office will be located within the existing building on Tax Lot 3900. The zoning of this parcel is Historic Commercial. The HC district

**CU 00-04**

**EXHIBIT 2a**

identifies as permissible commercial uses those that are permitted in the C, general commercial district, LC, limited commercial district, LO, limited office district, or NC, neighborhood commercial district. The C and LC zones both permit professional offices and, therefore, the proposed doctor's office complies with this criterion. The proposed parking lot will be established on Tax Lot 6300. The zoning of this parcel is R-6. The R-6 zoning district permits conditional uses that are listed in Section 17.56.030. This list includes parking lots (item Q) as a permissible conditional use. This criterion is satisfied.

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

Comment: The site is suitable for the proposed use in consideration of the above factors. The size of the parcel permits the use of the existing building as a doctor's office, while leaving adequate room for construction of a parking lot to meet code-required off-street parking. The shape of the parcel is rectangular and has frontage on three streets, affording adequate access and allowing for construction of an acceptable parking lot. The topography of the site is gently sloping towards McLoughlin Boulevard at a 7.4% grade. This grade provides adequate site drainage, but will require only minor site grading to permit the construction of the parking lot. All required public improvements are presently available to this site, as shown on the site map. There are no significant natural features that would limit the development of this site for the proposed use. This criterion is satisfied.

3. *The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;*

Comment: The site has convenient access to transportation systems, having frontage on McLoughlin Boulevard. This arterial street is fully improved. Access is available to the subject property via Miller Street, an existing local street. Existing City of Oregon City sanitary sewer, water, and storm drainage systems are available to the property. This criterion is met.

4. *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;*

Comment: The character of the surrounding area is a mixture of commercial and residential uses. The proposed professional office is small in scale, being located within the existing structure on the property. Existing commercial uses are much more intensive than the proposed use, and include automobile repair shops and sales lots. Because the proposed use is of a lower intensity than other commercial uses found in the area and will require the construction of no new structures, it will not preclude the use of surrounding properties for uses listed in the HC and R-6 zones.

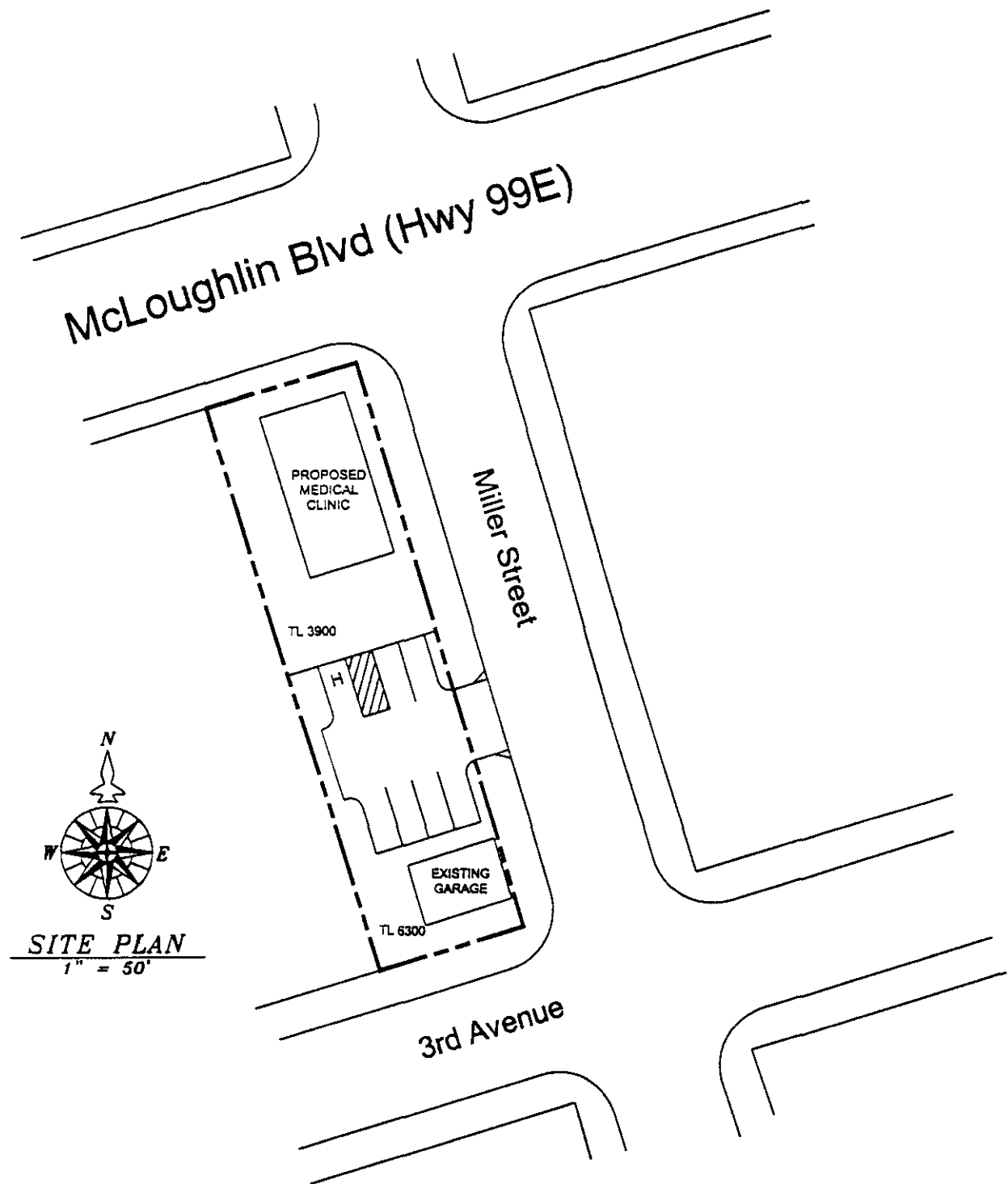
5. *The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.*

Comment: The proposed use of the site for a doctor's office is consistent with the Goal of the Commerce and Industry section of the Comprehensive Plan, in that it will aid in providing a health and diversified economic community by providing office space for needed medical services. None of the policies of this section appear to be directly applicable to the proposed use.

Approval of the conditional use for the medical office is consistent with the Historic Preservation Goal because the conversion of this house to the proposed use will help to ensure that this historic structure is maintained in good repair.

**Conclusion:**

The proposed medical office and associated parking lot comply with the conditional use permit approval standards of the Oregon City Zoning Ordinance. Approval of this application will permit the applicant to establish a needed service in this area of the City of Oregon City. The applicant requests that the Planning Commission approve this proposal.



**Applicant/  
Owner:** Dr. Jay Mead  
516 High Street  
Oregon City, OR 97045  
PH: (503) 655-1644

**Planner:** Compass Engineering, Inc.  
6564 SE Lake Road  
Milwaukie, OR 97222  
PH: (503) 653-9093

**Site Area:** 9,500 sq. ft.

**Legal:** 2 1E 36DD, TL 3900 7 6300

**Proposed Use:** Doctors office and parking lot.

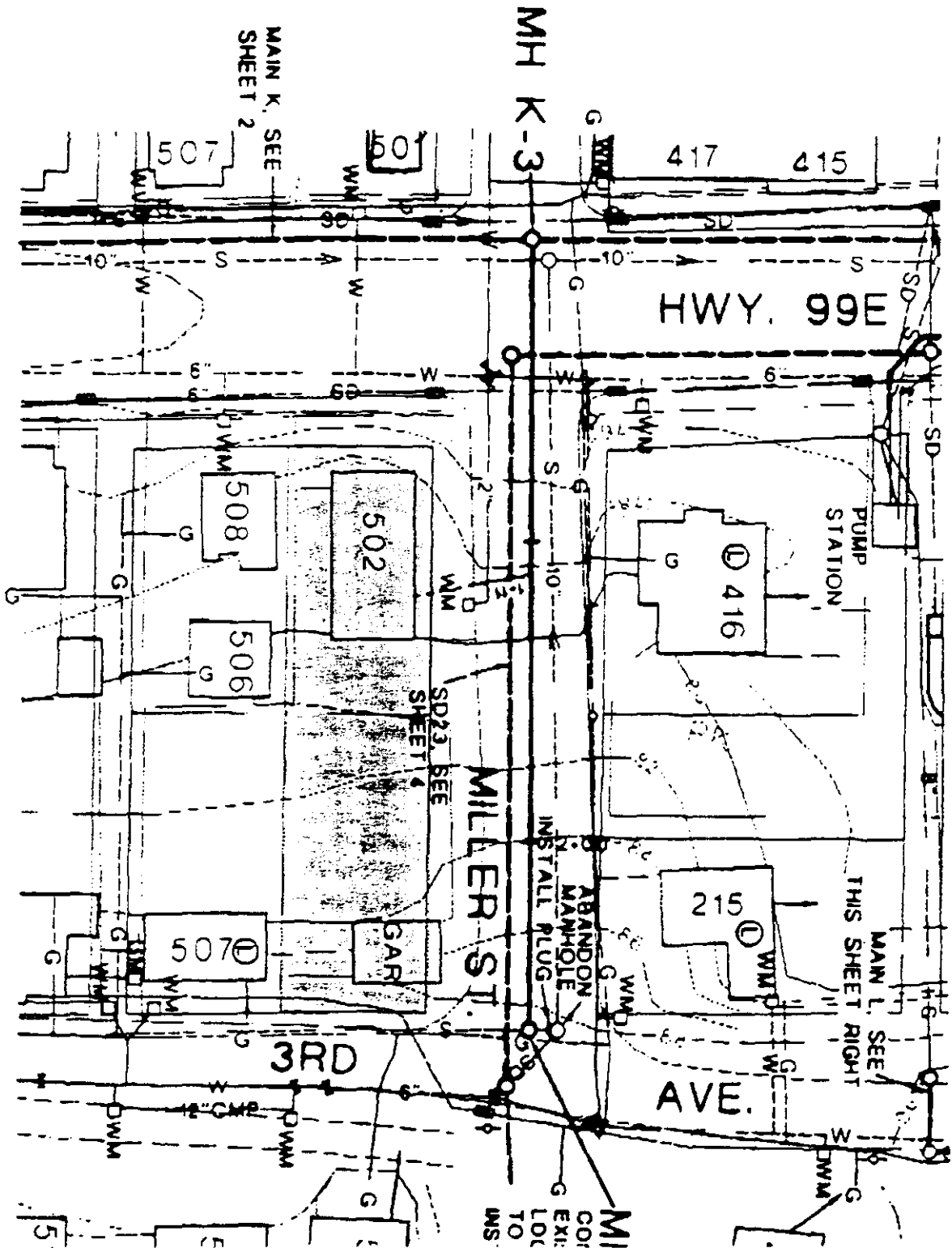
**Zoning:** H- CU 00-04

**EXHIBIT 2b**



# EXISTING UTILITIES

Dr. Jay Mead Conditional Use Permit





March 14, 2000

Rick Givens  
Compass Engineering  
6564 SE Lake Road  
Milwaukie, OR 97222

Dear Rick:

We have completed our traffic analysis for the proposed doctor's office to be located on Miller Street near McLoughlin Boulevard in the city of Oregon City. This letter report summarizes the findings of the analysis.

*Location Description*

The site is on the west side of Miller Street, between McLoughlin Boulevard and 3<sup>rd</sup> Avenue. It is our understanding that an existing home of approximately 2,000 square feet is to be converted to a doctor's office. This report will examine the intersection of McLoughlin Boulevard and Miller Street.

McLoughlin Boulevard (Highway 99E) is a four-lane facility that is under the jurisdiction of the Oregon Department of Transportation. In the 1999 Oregon Highway Plan, Highway 99E is classified as a Regional Highway. In the vicinity of the site it is a four-lane highway with two lanes in each direction. There are no left-turn lanes at minor street intersections.

Miller Street is a local residential street that is under the jurisdiction of the City of Oregon City. It is a two-lane roadway by default since there is no roadway striping in the project study area. Miller Street forms a four-legged intersection with McLoughlin Boulevard with traffic on Miller Street being controlled by stop signs.

Manual turning movement counts were made at the intersection of McLoughlin Boulevard and Miller Street from 7:00 to 8:00 AM and from 4:00 to 6:00 PM. It was found that the peak hours at the intersection are from 7:10 to 8:10 AM and from 4:40 to 5:40 PM. The existing traffic volumes, along with a vicinity map of the site, are shown in the technical appendix to this report.

CU 00-04

Rick Givens  
March 14, 2000  
Page 2 of 4

### *Trip Generation & Distribution*

To estimate the number of trips that will be generated by the proposed doctor's office, trip rates from *TRIP GENERATION*, Sixth Edition, published by the Institute of Transportation Engineers (ITE), were used. The trip rates used were for land-use code 720, *Medical-Dental Office Building*. The trip generation rates are based on the gross floor area.

As could be expected for a doctor's office of this size, the trip generation is quite low. The trip generation calculations indicate that there will be an estimated total of 5 trips generated by the development during the morning peak hour. Of these, 4 will be entering and 1 will be exiting the site. The evening peak hour is expected to result in a total of 7 trips with 2 entering and 5 exiting. A weekday total of 72 trips is expected with half entering and half exiting the site.

A summary of the trip generation calculations is shown in the following table. Detailed trip generation calculations are included in the technical appendix to this report.

| TRIP GENERATION SUMMARY |                   |                  |                |
|-------------------------|-------------------|------------------|----------------|
|                         | Entering<br>Trips | Exiting<br>Trips | Total<br>Trips |
| AM Peak Hour            | 4                 | 1                | 5              |
| PM Peak Hour            | 2                 | 5                | 7              |
| Weekday                 | 36                | 36               | 72             |

Rick Givens  
March 14, 2000  
Page 3 of 4

The site-generated trips will most likely be distributed primarily to the east and south, to and from areas of Oregon City. To approximate a worst-case analysis, it was assumed that all project site trips would use the intersection of McLoughlin Boulevard and Miller Street. In reality, a portion of the site trips will most likely use Miller Street to connect to South End Road and areas to the south, thereby avoiding McLoughlin Boulevard. However, a worst-case analysis was assumed in this case.

### *Capacity Analysis*

To determine the level of service at the intersection of McLoughlin Boulevard and Miller Street, a capacity analysis was conducted. The level of service can range from A, which indicates very little or no delay, to level F, which indicates a high degree of congestion and delay. Level of service D is commonly accepted as the minimum level of service at signalized intersections and level of service E is commonly accepted at unsignalized intersections.

Since McLoughlin Boulevard is under ODOT jurisdiction, the capacity analysis examines the volume to capacity ratios as well as the level of service based on average delay per vehicle. The 1999 Oregon Highway Plan identifies the maximum volume to capacity ratio for this portion of McLoughlin Boulevard as 0.95.

The intersection was analyzed using the two-way stop controlled unsignalized intersection analysis methods in the 1997 update to the *HIGHWAY CAPACITY MANUAL (HCM)*, Special Report 209, published by the Transportation Research Board.

The results of the capacity analysis shows that the intersection of McLoughlin Boulevard and Miller Street is currently operating at level of service C during the morning peak hour and at level of service D during the evening peak hour. These levels of service will not change with the addition of project traffic.

The results of the capacity analysis, along with the levels of service (LOS) and delay are shown in the following table. Tables showing the relationships between delay and level of service are included in the appendix to this report.

Rick Givens  
March 14, 2000  
Page 2 of 4

### *Trip Generation & Distribution*

To estimate the number of trips that will be generated by the proposed doctor's office, trip rates from *TRIP GENERATION*, Sixth Edition, published by the Institute of Transportation Engineers (ITE), were used. The trip rates used were for land-use code 720, *Medical-Dental Office Building*. The trip generation rates are based on the gross floor area.

As could be expected for a doctor's office of this size, the trip generation is quite low. The trip generation calculations indicate that there will be an estimated total of 5 trips generated by the development during the morning peak hour. Of these, 4 will be entering and 1 will be exiting the site. The evening peak hour is expected to result in a total of 7 trips with 2 entering and 5 exiting. A weekday total of 72 trips is expected with half entering and half exiting the site.

A summary of the trip generation calculations is shown in the following table. Detailed trip generation calculations are included in the technical appendix to this report.

| TRIP GENERATION SUMMARY |                   |                  |                |
|-------------------------|-------------------|------------------|----------------|
|                         | Entering<br>Trips | Exiting<br>Trips | Total<br>Trips |
| AM Peak Hour            | 4                 | 1                | 5              |
| PM Peak Hour            | 2                 | 5                | 7              |
| Weekday                 | 36                | 36               | 72             |

Rick Givens  
March 14, 2000  
Page 3 of 4

The site-generated trips will most likely be distributed primarily to the east and south, to and from areas of Oregon City. To approximate a worst-case analysis, it was assumed that all project site trips would use the intersection of McLoughlin Boulevard and Miller Street. In reality, a portion of the site trips will most likely use Miller Street to connect to South End Road and areas to the south, thereby avoiding McLoughlin Boulevard. However, a worst-case analysis was assumed in this case.

#### *Capacity Analysis*

To determine the level of service at the intersection of McLoughlin Boulevard and Miller Street, a capacity analysis was conducted. The level of service can range from A, which indicates very little or no delay, to level F, which indicates a high degree of congestion and delay. Level of service D is commonly accepted as the minimum level of service at signalized intersections and level of service E is commonly accepted at unsignalized intersections.

Since McLoughlin Boulevard is under ODOT jurisdiction, the capacity analysis examines the volume to capacity ratios as well as the level of service based on average delay per vehicle. The 1999 Oregon Highway Plan identifies the maximum volume to capacity ratio for this portion of McLoughlin Boulevard as 0.95.

The intersection was analyzed using the two-way stop controlled unsignalized intersection analysis methods in the 1997 update to the *HIGHWAY CAPACITY MANUAL (HCM)*, Special Report 209, published by the Transportation Research Board.

The results of the capacity analysis shows that the intersection of McLoughlin Boulevard and Miller Street is currently operating at level of service C during the morning peak hour and at level of service D during the evening peak hour. These levels of service will not change with the addition of project traffic.

The results of the capacity analysis, along with the levels of service (LOS) and delay are shown in the following table. Tables showing the relationships between delay and level of service are included in the appendix to this report.



LANCASTER ENGINEERING

Rick Givens  
March 14, 2000  
Page 4 of 4

### LEVEL OF SERVICE SUMMARY

|                                    | AM Peak Hour |              |            | PM Peak Hour |              |            |
|------------------------------------|--------------|--------------|------------|--------------|--------------|------------|
|                                    | <u>LOS</u>   | <u>Delay</u> | <u>v/c</u> | <u>LOS</u>   | <u>Delay</u> | <u>v/c</u> |
| <i>McLoughlin Blvd @ Miller St</i> |              |              |            |              |              |            |
| Existing Conditions                | C            | 22           | 0.03       | D            | 28           | 0.03       |
| Existing + Site Trips              | C            | 23           | 0.03       | D            | 28           | 0.03       |

LOS = Level of Service

Delay = Average Delay per Vehicle in Seconds

v/c = Volume to Capacity Ratio

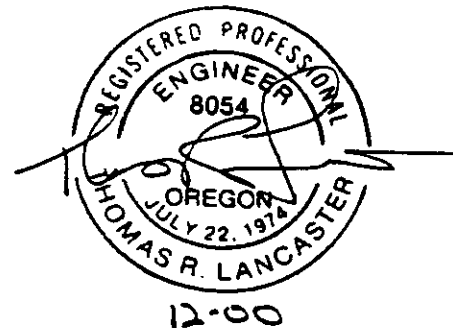
As shown in the table above, the intersection of McLoughlin Boulevard and Miller Street is currently operating at acceptable levels of service during both peak hours. Additionally, the volume to capacity ratios are well within ODOT standards for this section of McLoughlin Boulevard. The addition of traffic from the proposed doctor's office will not alter these levels of service or volume to capacity ratios.

If you have any questions regarding this report, or if we can be of any further assistance, please do not hesitate to call.

Sincerely,

Todd E. Mobley, EIT  
Senior Transportation Analyst

attachment: Technical Appendix



12-00

**CITY OF OREGON CITY - PLANNING DIVISION**  
**PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304**  
**Phone: (503) 657-0891 Fax: (503) 657-7892**

**TRANSMITTAL**

**IN-HOUSE DISTRIBUTION**

- ☒ BUILDING OFFICIAL
- ☒ ENGINEERING MANAGER
- ☒ FIRE CHIEF
- ☒ PUBLIC WORKS DIRECTOR
- ☒ PUBLIC PROJECTS MANAGER
- ☒ TECHNICAL SERVICES (GIS)
- ☒ PARKS MANAGER

**TRAFFIC ENGINEERS**

- ☒ JOHN REPLINGER @ DEA
- ☐ JAY TOLL

**MAIL-OUT DISTRIBUTION**

- ☒ CICC
- ☒ NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- ☐ N.A. LAND USE CHAIR
- ☒ CLACKAMAS COUNTY - Joe Merek
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- ☒ ODOT - Sonya Kazen
- ☐ ODOT - Gary Hunt
- ☒ SCHOOL DIST 62
- ☐ TRI-MET
- ☐ METRO - Brenda Bernards
- ☐ OREGON CITY POSTMASTER
- ☐ DLCD

RETURN COMMENTS TO:

COMMENTS DUE BY: **APRIL 27, 2000**

PLANNING PERMIT TECHNICIAN  
Planning Department

HEARING DATE:  
HEARING BODY: Staff Review: \_\_ PC: X CC: \_\_

|                  |                |   |
|------------------|----------------|---|
| ... REFERENCE TO | FILE # & TYPE: | CU 00-04 (Conditional Use)                        |
|                  | APPLICANT:     | Dr. Jay Mead                                      |
|                  | REQUEST:       | New Doctor's office and parking lot               |
|                  | LOCATION:      | 502 McLoughlin Blvd. Map 2-1E-36DD tl 3900 & 6300 |

The enclosed material has been referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

- |   |  |
|---|--|
| <input type="checkbox"/> The proposal does not conflict with our interests.                                     | <input type="checkbox"/> The proposal conflicts with our interests for the reasons stated below.     |
| <input type="checkbox"/> The proposal would not conflict our interests if the changes noted below are included. | <input type="checkbox"/> The following items are missing and are needed for completeness and review: |

**SEE ATTACHED**

Signed *Shirley L. King*  
Title Interim P.W. MGR

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATEF**

**CU 00-04**

**EXHIBIT 3e**



CITY OF OREGON CITY  
Memorandum

TO: Joe McKinney, Interim Public Works Manager

FROM: Henry Mackenroth, Public Works Engineer

DATE: April 17, 2000

SUBJECT: File Number: PA 99-103; CU 00-04

Name: 502 McLoughlin Dr. Mead

1. General Comments:

2. Water:

Water Depart. Additional Comments No: / Yes: \_\_\_\_\_ Initial: JS

Fire flows in area may not be sufficient to allow change of use without installing sprinklers inside of building. The existing grid is all 6 inch pipe.

Clackamas Water lines in area No X Yes \_\_\_\_\_

Existing Line Size = 6 inch

Existing Location = Near side of McLoughlin

Upsizing required? No X Yes \_\_\_\_\_ Size Required \_\_\_\_\_ inch

Extension required? No X Yes \_\_\_\_\_

Looping Required? No

Backflow Preventor required? Yes. To be installed in existing service line.

3. San Sew:

San. Depart. Additional Comments No: X Yes: \_\_\_\_\_ Initial: LB

Exiting Lateral being reused? No \_\_\_\_\_ Yes X

Industrial Pre-treatment required? No X Yes \_\_\_\_\_ Contact Tri City Service District

4. Storm Sew:

Storm Depart. Additional Comments No: X Yes: \_\_\_\_\_ Initial: LB

Existing storm system is probably not capable of handling any additional drainage from new parking lots.

Existing Line Size = 8 Inch None existing \_\_\_\_\_

Existing Location = Near side of McLoughlin

Upsizing required? No X Yes \_\_\_ Size Required \_\_\_ inch

Extension required? No X Yes \_\_\_

Detention Required? No \_\_\_ Yes X (For required parking lot)

On site water resources: None known

5. Dedications & Easements:

McLoughlin is State Highway

Additional right of way required? No X Yes \_\_\_

Existing Right of Way = approximately \_\_\_ feet

Total Right of Way width required? \_\_\_ feet

Recommended dedication: \_\_\_ feet

Clackamas County to recommend No X Yes \_\_\_

6. Streets:

Street Depart. Additional Comments No: \_\_\_ Yes: ✓ Initial: ff

Classification:

Major Arterial McLoughlin

Minor Arterial \_\_\_

Collector \_\_\_

Local Miller

Jurisdiction:

City Miller

County \_\_\_

State McLoughlin

Existing Width = Miller = 30 feet??

Required Width = 34 feet

Number of Traffic Lanes = 2

Center Turn Lane required? No Miller Yes McLoughlin

Bicycle Lanes required? No Miller Yes McLoughlin

Transit Street? No \_\_\_ Yes McLoughlin Line No = 79

7. Traffic Problems? None Known \_\_\_ Yes Left turns onto and off of McLoughlin

8. Geotech problems? None Known X Yes \_\_\_

# **CITY OF OREGON CITY**

## **MEMORANDUM**

**TO:** Joe McKinney, interim Public Works Manager

**FROM:** Peter Irving, acting Operations Supervisor, Street Dept.

**DATE:** April 18, 2000

**SUBJECT:** File Number: PA 99-103; CU 00-04  
Name: 502 McLoughlin Dr. Mead

6. Streets      Curb and sidewalk upgrade are required (half-street improvement) and streetlight concerns should be addressed.

**CITY OF OREGON CITY - PLANNING DIVISION**  
**PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304**  
**Phone: (503) 657-0891 Fax: (503) 657-7892**

**TRANSMITTAL**

**IN-HOUSE DISTRIBUTION**

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- ☒ SCHOOL DIST 62
- ☐ TRI-MET
- ☐ METRO - Brenda Bernards
- ☐ OREGON CITY POSTMASTER
- ☐ DLCD

RETURN COMMENTS TO:

COMMENTS DUE BY: **APRIL 27, 2000**

PLANNING PERMIT TECHNICIAN  
Planning Department

HEARING DATE:  
HEARING BODY: Staff Review: \_\_ PC: X CC: \_\_

|                 |                |   |
|-----------------|----------------|---|
| 1. REFERENCE TO | FILE # & TYPE: | CU 00-04 (Conditional Use)                        |
|                 | APPLICANT:     | Dr. Jay Mead                                      |
|                 | REQUEST:       | New Doctor's office and parking lot               |
|                 | LOCATION:      | 502 McLoughlin Blvd. Map 2-1E-36DD tl 3900 & 6300 |

The enclosed material has been referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

\_\_\_\_\_ The proposal does not  
conflict with our interests.

\_\_\_\_\_ The proposal conflicts with our interests for  
the reasons stated below.

\_\_\_\_\_ The proposal would not conflict our  
interests if the changes noted below  
are included.

\_\_\_\_\_ The following items are missing and are  
needed for completeness and review:

New use must meet ADA Requirements in Additions or Alterations  
are made

Signed \_\_\_\_\_  
Title \_\_\_\_\_

PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATER

CU 00-04

EXHIBIT 3f

**CITY OF OREGON CITY - PLANNING DIVISION**  
**PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304**  
**Phone: (503) 657-0891 Fax: (503) 657-7892**

**TRANSMITTAL**

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- ☒ JOHN REPLINGER @ DEA
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- ☐ DLCD

RETURN COMMENTS TO:

COMMENTS DUE BY: **APRIL 27, 2000**

PLANNING PERMIT TECHNICIAN  
Planning Department

HEARING DATE:  
HEARING BODY: Staff Review:    PC: X CC:   

IN REFERENCE TO

FILE # & TYPE:

CU 00-04 (Conditional Use)

APPLICANT:

Dr. Jay Mead

REQUEST:

New Doctor's office and parking lot

LOCATION:

502 McLoughlin Blvd. Map 2-1E-36DD d1 3900 & 6300

The enclosed material has been referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

X

The proposal does not  
conflict with our interests.

       The proposal conflicts with our interests for  
the reasons stated below.

The proposal would not conflict our  
interests if the changes noted below  
are included.

       The following items are missing and are  
needed for completeness and review:

Signed  
Title

John Replinger  
SENIOR TRANSPORTATION ENGINEER

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM.**

CU 00-04

EXHIBIT 3g.

**DAVID EVANS AND ASSOCIATES, INC.**

April 26, 2000

1828 SW Corbett Avenue

Portland, Oregon 97201

Tel: 503.223.6663

Fax: 503.223.2701

Ms. Barbara Shields  
City of Oregon City  
320 Warner-Milne Road  
Oregon City, OR 97045

**SUBJECT: REVIEW OF TRAFFIC IMPACT STUDY  
NEW DOCTOR'S OFFICE (DR. JAY MEAD) - CU00-04**

Dear Ms. Shields:

In response to your request, David Evans and Associates, Inc. has reviewed the Traffic Impact Analysis prepared by Tom R. Lancaster, PE (Lancaster Engineering) for Dr. Jay Mead's Office located on Miller Street at its intersection with McLoughlin Boulevard. The proposal consists of converting a single family home to a doctor's office and constructing a 7-space parking lot.

The applicant has adequately addressed Oregon City's requirements for assessing the traffic impacts from the proposed doctor's office. The applicant did not address the future conditions, but the short-term impacts were demonstrated to be so slight that they can be presumed to be similar for the long term.

The applicant used a reasonable trip generation rate and used reasonable assumptions for trip distribution. The method of analysis and the intersection analyzed are appropriate for the development. The applicant's analysis shows that the intersection level of service will be unchanged by the proposal and that the volume to capacity ratio at the intersection of McLoughlin and Miller will be well within the state's standards. No mitigation measures are proposed or required.

In conclusion, I find that the applicant's traffic impact analysis meets the City's requirements.

If you have any questions or need any further information concerning this review, please call me at 223-6663.

Sincerely,

**DAVID EVANS AND ASSOCIATES, INC.**

John Replinger, PE  
Senior Transportation Engineer

JGRE:jr  
o:\project\010009\correspo\CU00-04.doc



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Transportation

Region I

123 NW Flanders

Portland, OR 97209-4037

(503) 731-8200

FAX (503) 731-8259

May 01, 2000

PL 9-1-2B-ORE-81  
FILE CODE  
Proposal Number: 606

Planning Permit Technician  
Oregon City Planning Department  
PO Box 351  
Oregon City, OR 97045-0021

**Subject: CU00-04, Mead Jay Medical Office on Miller St x McLoughlin**

Dear Planning Permit Technician:

The proposed doctor's office and parking lot is adjacent to McLoughlin Boulevard/OR 99E, a state highway. According to the 1999 Oregon Highway Plan OR 99E is classified as a Regional Urban highway facility. As such, ODOT has regulatory responsibility to ensure that negative impacts to the highway generated by development is avoided or mitigated.

According to ODOT's video log, a curb cut exists on the highway that is blocked behind the right-of-way line along the property's frontage of this site. Even though the approach is not in use, the curb cut needs to be removed to avoid driver confusion.

We request that the following ODOT requirements be included as conditions of approval:

- The applicant shall remove the curb cut and replace the sidewalk and curb according to ODOT and ADA standards.
- No drainage will be accepted onto the state's right-of-way.

Please forward the Notice of Decision with conditions of approval when it has been issued. If you have any questions regarding the above comments, I can be reached at (503) 731-4610. Thank you for providing notification of this proposal.

Sincerely,

*Pamela Alegria*  
Pamela Alegria

Development Review Planner

cc: ODOT Traffic Analyst, John Bosket  
Loretta Kieffer, Access Coordinator

**CU 00-04**

OREGON INVENTORY OF HISTORIC PROPERTIES  
HISTORIC RESOURCE INVENTORY FORM

HISTORIC NAME: Max Telford Residence DATE OF CONSTRUCTION: c. 1917  
COMMON NAME: \_\_\_\_\_ ORIGINAL USE: Residence  
ADDRESS: 502 S. McLoughlin Boulevard PRESENT USE: Residence  
OWNER: Ted Thompson, 3250 SW Wembley Park Road, ARCH./BLDR.: Telford (?)  
Lake Oswego, OR 97034 STYLE: Bungalow  
T/R/S: 2-1E-36DD TAX LOT: 3900 BLDG. STRUC. DIST. SITE OBJ. (CIRCLE)  
ADDITION: Plat of Canemah THEME: Architecture, 20th Century  
LOT: 1 BLOCK: 7 QUAD: Oregon City

PLAN TYPE/SHAPE: Square NO. OF STORIES: 1 1/2  
FOUNDATION MATERIAL: Concrete BASEMENT (Y/N): Yes  
ROOF FORM & MATERIALS: Broadly pitched gable roof with cross-gable dormer. Composition.  
WALL CONSTRUCTION: Wood STRUCTURAL FRAME: Stud  
PRIMARY WINDOW TYPE: One-over-one double-hung windows with wide trim.  
SURFACING MATERIALS: Masonite shingles.  
DECORATIVE FEATURES: Massive aggregate chimney with decorative brick courses. Heavy  
OTHER: timber beams and large battered columns on enclosed balustrade. Exposed rafters.  
CONDITION: EXCELLENT \_\_\_\_\_ GOOD \_\_\_\_\_ FAIR X DETERIORATED \_\_\_\_\_ MOVED \_\_\_\_\_ (date)  
EXTERIOR ALTERATIONS/ADDITIONS (dated): Masonite shingles cover original siding, n.d.  
Front windows have been replaced, n.d.  
NOTEWORTHY LANDSCAPE FEATURES: Nice older flowering shrubs (rhododendrons, etc.)  
ASSOCIATED STRUCTURES: None.  
KNOWN ARCHAEOLOGICAL FEATURES: None.  
GEOGRAPHIC SETTING: Located on S. McLoughlin Boulevard, a heavily traveled State  
highway. An area of mixed residential and commercial uses.

STATEMENT OF SIGNIFICANCE: (Historical and/or architectural importance, dates, events, persons, contexts): This house was built by Max Telford, who was co-owner of Telford-Champion, dry cleaners in Oregon City. He was the son of Maxwell Telford, an Oregon City Woolen Mill worker and Canemah property owner. The father, Maxwell, had a number of children, Max being the eldest. Max worked as an electrician, and for some time was employed in the Oregon City mill. His wife's name was Elsa. Max's maternal grandfather, John Harrisberger, owned a number of properties in Canemah. This house is one of just a few bungalows in Oregon City with a strong Craftsman-style influence, and it also has a unique chimney. It has some significance for its association with the Telford family.

SOURCES: Sanborn Insurance Map, 1900, 1911, 1925. Pioneer National Title Company Records, Oregon City. Clackamas County Tax Rolls, 1901, 1905, 1910, 1915, 1920. Interview with Maxine Telford Carswell; interview with Jean McLeran, by Patricia Erigero, 1983.

NEGATIVE NO: IV-D-22, 23  
SLIDE NO: \_\_\_\_\_

RECORDED BY: Patricia Erigero  
DATE: 1983

SHPO I' - - - - -

CU 00-04

EXHIBIT 4



OREGON INVENTORY OF HISTORIC PROPERTIES  
HISTORIC RESOURCE INVENTORY FORM - TWO

NAME: Max Telford Residence

T/R/S: 2-1E-3600 TAX LOT 3900

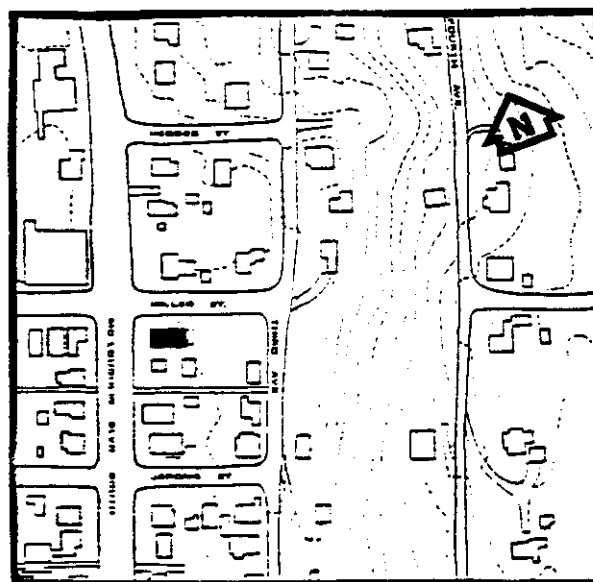
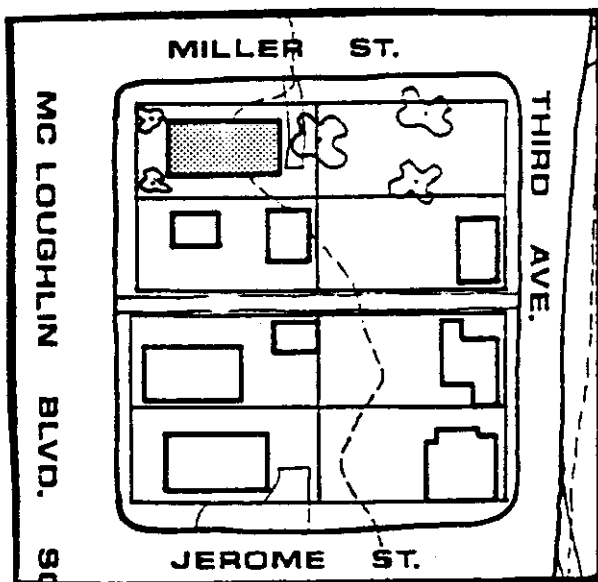
ADDRESS: 502 S. McLoughlin Boulevard

QUADRANGLE: Oregon City



NEGATIVE NO. IV-D-22, 23

SLIDE NO. \_\_\_\_\_



GRAPHIC AND PHOTO SOURCES: Base Map of Canemah. Oregon City Planning Department  
Photograph, 1983.

SHPO INVENTORY NO.: \_\_\_\_\_

**Conditions of Approval**

**CU 00-04**

**Exhibit 5**

1. This proposal shall be reviewed by staff as a site plan and design review application. The applicant shall comply with all conditions of approval generated from this review.
2. This proposal shall be reviewed by the Historic Review Board in order to obtain a certificate of appropriateness. The applicant shall comply with all conditions of approval generated from this review.

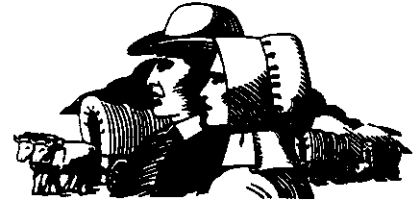
**CU 00-04**

**EXHIBIT 5**

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD OREGON CITY, OREGON 97045  
TEL 657-0891 FAX 657-7892



### STAFF REPORT

Date: May 22, 2000

**FILE NO.:** VR 00-03

**FILE TYPE:** Quasi - Judicial

**HEARING DATE:** May 22, 2000  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT:** Rob Young  
P.O. Box 1494  
Oregon City, OR 97045

**OWNERS:** Robert and Valorie Clark  
509 Roosevelt Street  
Oregon City, Oregon 97045

**REQUEST:** Variance to allow re-establishment of an existing lot of record smaller than 5,000 square feet.

**LOCATION:** 509 Roosevelt Street. Approximately 112 feet east of the intersection of Roosevelt and Eluria Streets. Clackamas County Map Number 2-2E-32CB, Tax Lot 16700.

**RECOMMENDATION:** Approval of VR 00-03 with a condition of approval

**REVIEWER:** Tom Bouillion, Associate Planner

**VICINITY MAP:** See Exhibit 1

### **BASIC FACTS:**

1. The subject property is approximately 112 feet east of the intersection of Roosevelt and Eluria Streets, Clackamas County Map Number 2-2E-32CB, Tax Lot 16700. The common address is 509 Roosevelt Street.
2. The subject property is approximately 11,250 square feet in size, is zoned R-6, Single-Family Dwelling District and Designated "LR" Low Density Residential in the Comprehensive Plan. The surrounding properties are also zoned R-6 and contain single-family residences.
3. The applicant is requesting a variance to allow re-establishment of an existing lot of record smaller than 5,000 square feet. Lot 14 of Mount Hood View Subdivision was originally platted at 45 by 100 feet or 4,500 square feet total. The applicant would like to re-establish this lot, which contains an existing single family residence, shown on Exhibit 2. The remainder of the property, Lot 15 and a portion of Lot 16, would be left at 67 by 100 feet or 6,700 square feet and thus would meet the current R-6 minimum dimensional standards.
4. OCMC section 17.12.050 states "An existing lot of record with a minimum lot size of five thousand square feet may only be occupied by a single-family dwelling, providing that yard requirements are met. An existing lot with an area of less than five thousand square feet is subject to variance procedures, pursuant to Chapter 17.60. If the variance is granted, the only permitted use is a single-family dwelling."
5. Transmittals on this proposal were sent to various City departments, affected agencies and property owners. Limited comments were received on this proposal. The Building Official raised a concern (Exhibit 3c) that the existing house would be closer than three feet to the new property line, which is not allowed under the building code. As a point of clarification, Planning staff does not normally consider the current zoning setbacks for existing buildings in evaluating lot of record re-establishment, because the location of the structure is considered a historic condition that existed prior to the establishment of the current zoning code. Planning is only interested in seeing that the structure is not located over the new property line. In order to alleviate the Building Official's concern, the applicant will be required to process a lot line adjustment, to provide the existing house with three feet of clearance.

### **DECISION MAKING CRITERIA:**

#### **Oregon City Comprehensive Plan Consistency:**

- A. Statement in Growth and Urbanization Section: *"It is the City's policy to encourage small lot single-family development in the low density residential areas..."*

- B. Community Facilities Policy No. 7: *"Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land"*.

**Municipal Code Standards and Requirements:**

|         |  |
|---------|--|
| Chapter | 17.60 Variances                              |
|         | 17.12 "R-6", Single-Family Dwelling District |

**VARIANCE ANALYSIS AND FINDINGS:**

The criteria for review of this variance request are found in section 17.60.020 of the City of Oregon City Municipal Code. A variance may be granted only in the event that all of the following conditions exist:

**Criterion A: That the literal application of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this ordinance; or, extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site.**

The literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area. The lots in Mt. Hood View Subdivision were all created at 45 x 100 feet. The majority of these lots still remain in this configuration. The plat was created in 1912 prior to any regulations regarding lot area, width or length.

**Therefore, staff finds that criterion A is met.**

**Criterion B: That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this ordinance.**

Creation of an additional lot in under the proposed dimensions would not cause significant adverse impacts to the surrounding area. The existing house located on Lot 14 has been there for more than fifty years. The remainder of the property, Lot 15 and a portion of Lot 16, would be left at 67 by 100 feet or 6,700 square feet and thus would meet the current R-6 minimum dimensional standards. Any new house would have to meet current R-6 setback standards. The applicant would be required to request a lot line adjustment, to provide three feet of clearance as stipulated by the Building Official.

The requested variance to the lot depth would not directly affect or impact the abutting properties. The request does not reduce light, air, safe access or other desirable qualities as protected under this ordinance.

**Therefore, staff finds that criterion B can be met by complying with Condition #1.**

**Criterion C: The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time that the site was purchased.**

The applicant's circumstances are not self-imposed. Lot 14 was a legal lot when Mt. Hood View Subdivision was recorded in 1912. This subdivision retains its legal validity to this day.

**Therefore, staff finds that criterion C is met.**

**Criterion D: No practical alternatives have been identified which would accomplish the same purposes and not require a variance.**

No practical alternatives have been found. Granting the variance is the only way to allow for the applicant to construct an additional single family dwelling. The City Code requires that the variance procedure be followed in the event that a legal lot of record is less than 5,000 square feet. This guarantees a review process which considers alternatives. In this case, no practical alternatives have been identified.

**Therefore, staff finds that criterion D is met.**

**Criterion E: That the variance requested is the minimum variance, which would alleviate the hardship.**

6. The variance to the minimum lot size is the minimum variance that would resolve the hardship. The platting in 1912 created Lot 14 and it is in the original configuration today. The remainder of the property, Lot 15 and a portion of Lot 16, would be left at 67 by 100 feet or 6,700 square feet and thus would meet the current R-6 minimum dimensional standards.

**Therefore, staff finds that criterion E is met.**

**Criterion F: That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.**

This proposal has been found to be consistent with Policy 1 of the Growth and Urbanization section of the Comprehensive Plan which is to provide land use opportunities within the City's Urban Growth Boundary. In addition, development and urban renewal within Oregon City boundaries will decrease the current land use burden on lands within the urban growth boundary and increase available housing within City boundaries which is found to be consistent with the Comprehensive Plan.

**Therefore, staff finds that criterion F is met.**

### **CONCLUSION AND RECOMMENDATION:**

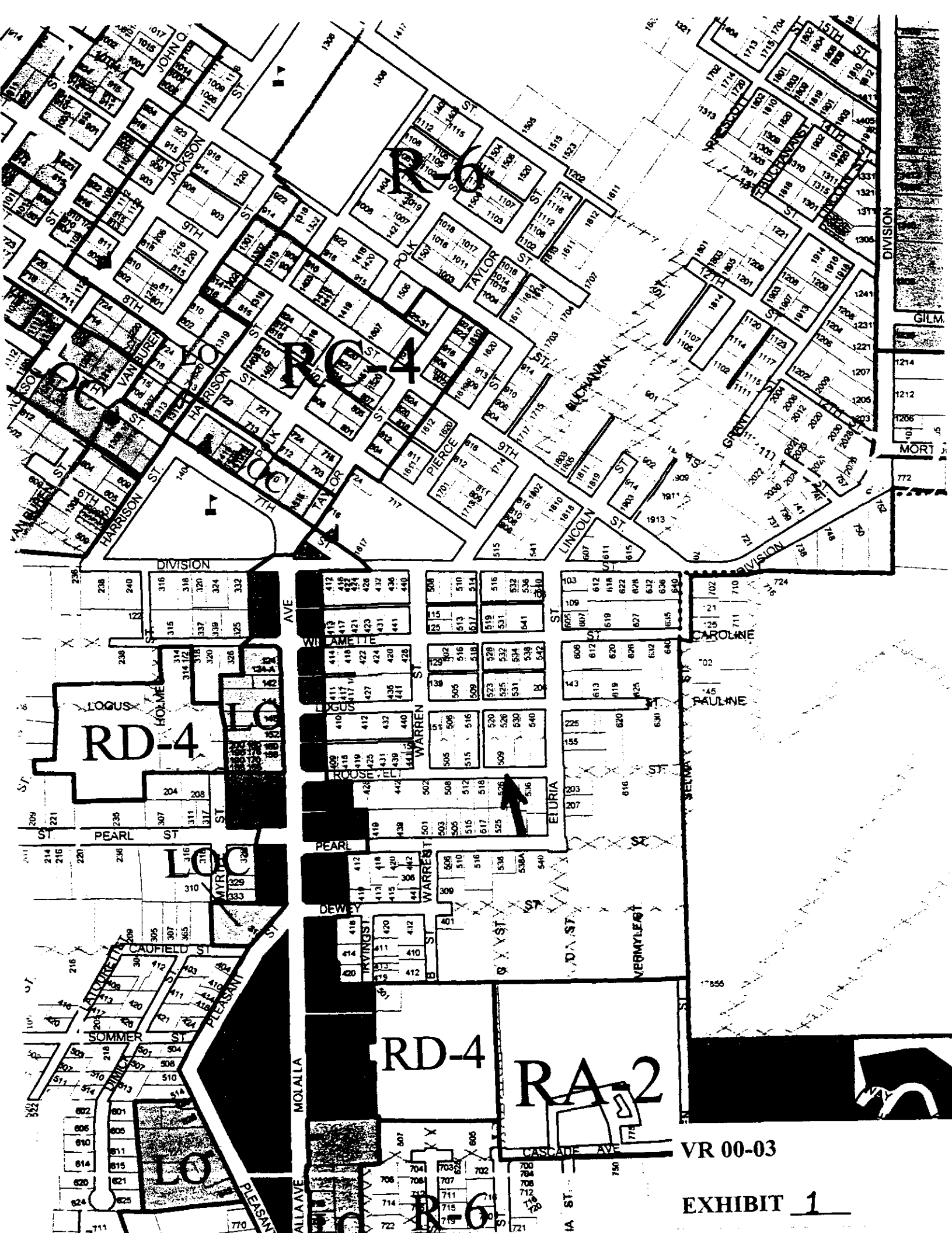
Based on the analysis and findings as described above, staff concludes that the proposed variance request allow re-establishment of an existing lot of record smaller than 5,000 square feet satisfies the requirements as described in the Oregon City Municipal Code for Variances (Chapter 17.60). Therefore, staff recommends that the Planning Commission approve file VR 00-03, subject to the condition of approval cited below.

### **CONDITIONAL OF APPROVAL:**

1. Applicant shall apply for and complete a lot line adjustment process so that the existing house on Lot 14 meets all Building Code setback requirements.

### **EXHIBITS:**

1. Vicinity Map
2. Applicant Submittal
3. Agency Comments
  - 3a. City Engineering (on file)
  - 3b. City Parks (on file)
  - 3c. City Building
  - 3d. Public Works (on file)
4. Mount Hood View Plat showing Lot 14



VR 00-03

EXHIBIT 1



March 22, 2000

Re: VARIANCE 252E32CB 16700  
509 Roosevelt St.  
Oregon City, Or 97045

To Whom it May Concern:

My proposal is to reestablish the property line existing between lots of record 14 & 15. I believe the conditions exist to accomplish this goal as the following city criteria can be met.

The reason for this variance proposal is that the established lot of record of Lot 14 would be smaller than 5000 square feet, thereby per code, subject to variance procedures.

Criteria A: Lots in the Mt. Hood view subdivision were all created at 45 x 100 feet. The majority of these lots still remain in this configuration. The plat was created in 1912 prior to existing regulations regarding lot area, width or length. Lot 14, which has an existing single family structure would sit on a lot of average size for this subdivision. Reestablishing Lot 15 and part of 16 would create a lot which is larger than present zoning requirements allow.

Criteria B: To allow a variance would not cause damage to adjacent properties as most are already on 45 x 100 foot lots, and the newly formed lot is larger than current zoning allows. Safe access is assured by the fact that if a new home is built it would meet the current zoning set back requirements. Water is provided by an existing water main in Roosevelt St. Sewer is connected to existing sewer main in Roosevelt St. Storm water for existing home is handled on site with splash blocks.

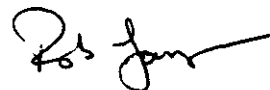
Criteria C: This criteria is not applicable as Lot 14 & Lot 15 were legal lots of record when Mt. Hood subdivision was recorded in 1912.

Criteria D: No alternatives are available to a variance as Lot 14, when reestablished, would be less than 5000 square feet. The code requires that a variance procedure be followed in the event that a legal lot of record is less than 5000 square feet.

Criteria E: Reestablishing the line between Lot 14 & Lot 15 is the minimum variance. The platting in 1912 created Lots 14 & 15 in this configuration.

Criteria F: It is my understanding of the comprehensive plan that infill lots are encouraged and also the preservation of existing homes. This is accomplished in this case by having the existing home on Lot 14 as originally platted and by combining Lot 15 with part of Lot 16, which creates a larger lot than even current zoning requirements allow.

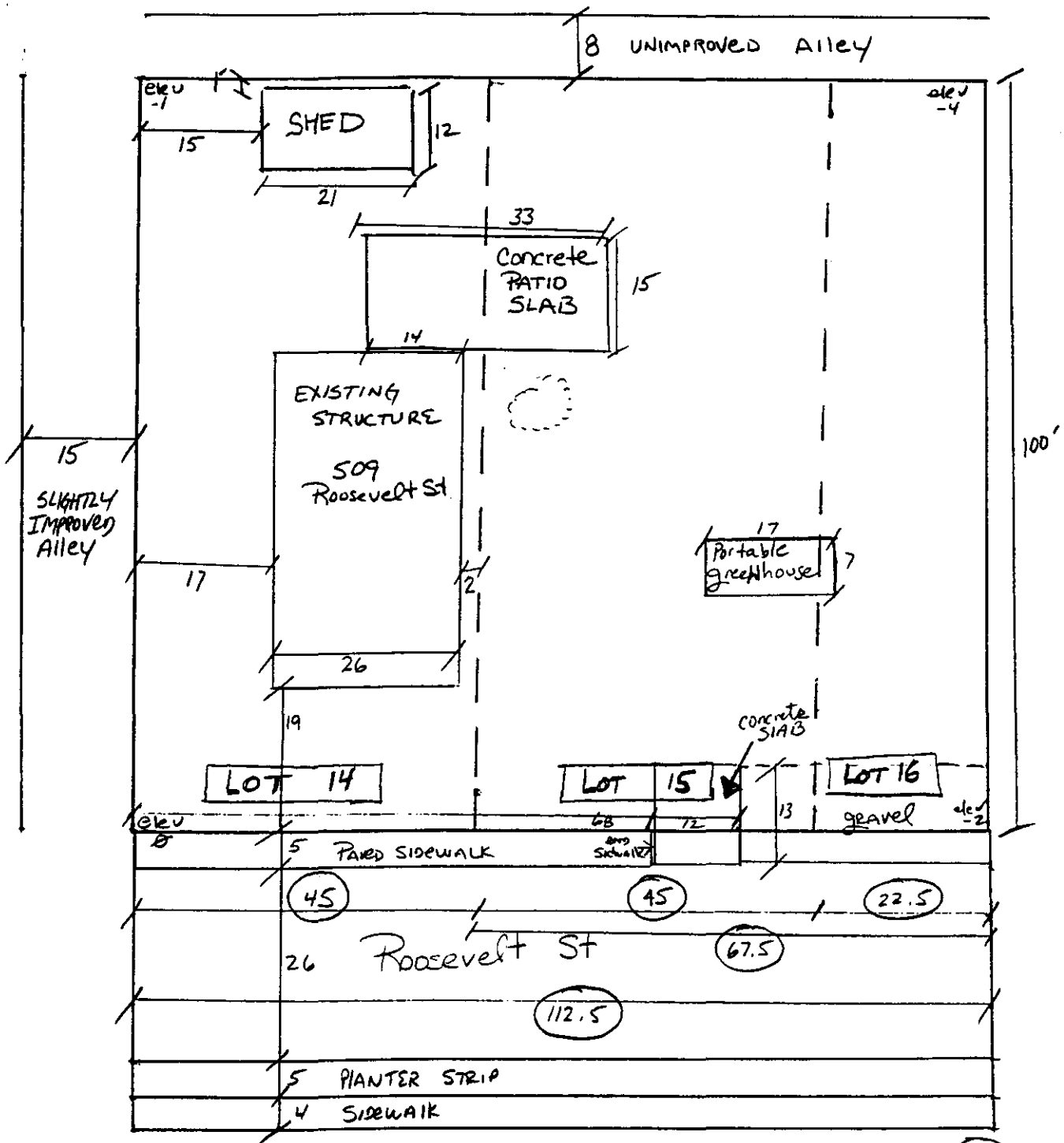
Thank you for your consideration.



Rob Young – Agent of Owner

VR 00-03

EXHIBIT 2



# STREET

6100  
506

16200  
516

45-  
16300  
520

16301  
52F

16400  
530

16500  
540

8

7

6

5

4

45.3

ALLEY

16800  
-515

16700  
509

16601  
641 pg

1660  
643

11

12

13

14

15

1991 -

1.03

STREET

Roosevelt

70  
103  
17Ac.  
08

60  
17200  
0.14Ac.  
W 512

55  
17300  
0.13 Ac.  
518

17400  
O. 26Ac.  
526

100.  
17501  
O. 29A:c.  
536

50  
17100  
505

50  
17900  
0.12Ac.  
516

55  
17800  
0.13 Ac.  
517

64  
17700  
0.15Ac  
525

46  
17600  
0.16 Ad  
531

17500  
0.14Ac.

17500  
0.14 Ac.

223

**CITY OF OREGON CITY - PLANNING DIVISION**  
**PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304**  
**Phone: (503) 657-0891 Fax: (503) 657-7892**

**TRANSMITTAL**

**IN-HOUSE DISTRIBUTION**

- ☒ BUILDING OFFICIAL
- ☒ ENGINEERING MANAGER
- ☒ FIRE CHIEF
- ☒ PUBLIC WORKS DIRECTOR
- ☒ PUBLIC PROJECTS MANAGER
- ☒ TECHNICAL SERVICES (GIS)
- ☒ PARKS MANAGER

**TRAFFIC ENGINEERS**

- ☐ JOHN REPLINGER @ DEA
- ☐ JAY TOLL

**MAIL-OUT DISTRIBUTION**

- ☒ CICC
- ☒ NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- ☐ N.A. LAND USE CHAIR
- ☐ CLACKAMAS COUNTY - Joe Merek
- ☐ CLACKAMAS COUNTY - Bill Spears
- ☐ ODOT - Sonya Kazen
- ☐ ODOT - Gary Hunt
- ☐ SCHOOL DIST 62
- ☐ TRI-MET
- ☐ METRO - Brenda Bernards
- ☐ OREGON CITY POSTMASTER
- ☐ DLCD

RETURN COMMENTS TO:

COMMENTS DUE BY: APRIL 27, 2000

PLANNING PERMIT TECHNICIAN  
Planning Department

HEARING DATE: May 22, 2000  
HEARING BODY: Staff Review: PC: X CC:     

|              |                |  |
|--------------|----------------|--|
| REFERENCE TO | FILE # & TYPE: | VR 00-03 (Variance)                            |
|              | APPLICANT:     | Rob Young                                      |
|              | REQUEST:       | Re-establish 2 lots of record.                 |
|              | LOCATION:      | 509 Roosevelt Street. Map 2-2E-32CB T.L. 16700 |

The enclosed material has been referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

|   |   |
|---|---|
| <input type="checkbox"/> The proposal does not conflict with our interests.                                     | <input checked="" type="checkbox"/> The proposal conflicts with our interests for the reasons stated below. |
| <input type="checkbox"/> The proposal would not conflict our interests if the changes noted below are included. | <input type="checkbox"/> The following items are missing and are needed for completeness and review:        |

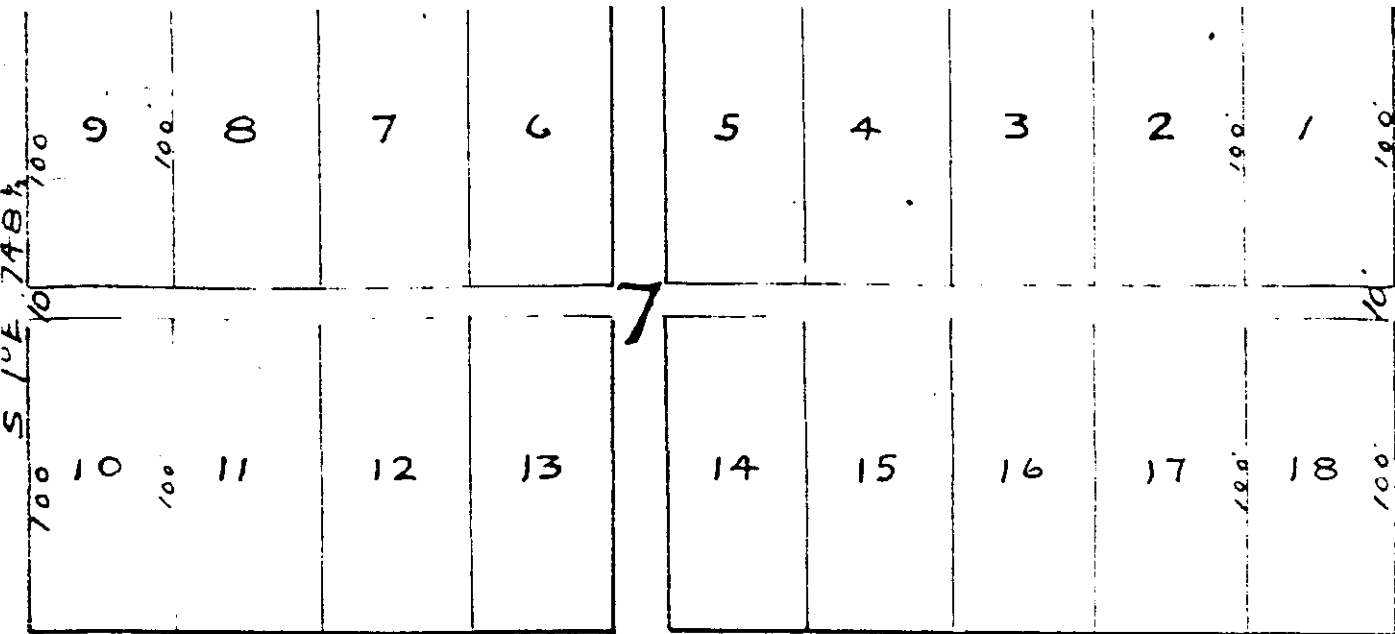
Proposal would place house on lot 14 in violation of Code for distance to property line

Signed  
Title

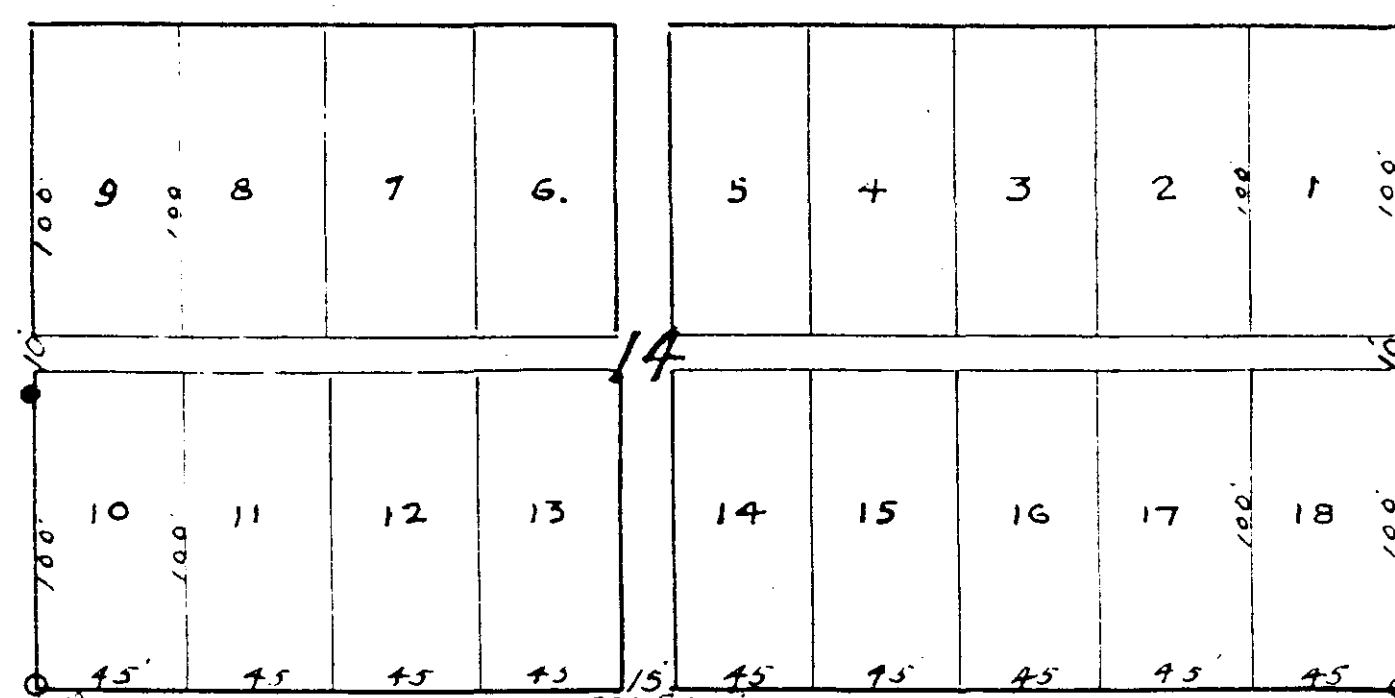
[Signature]  
B.O.

PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATI VR 00-03

EXHIBIT 3c



40' LOGUS ST 40'



40' 15' 45' 45' 45' 45' 45' 45' 45' 45' 40' N 89° E +20' ROOSEVELT ST 40'

A  
I  
R  
U  
E  
L  
E

Gas pipe

VR 00-03

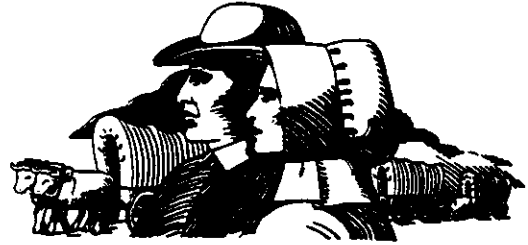
EXHIBIT 4

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



### MEMO

**TO:** Planning Commission

**FROM:** Barbara Shields

**RE:** Glen Oak Meadows PUD 99-01  
Request for Continuance

**DATE:** May 12, 2000

At the April 10, 2000, Planning Commission meeting, the applicant, Larry Marple, asked the Commission to continue the Glen Oak Meadows PUD 99-01 application to May 22, 2000, in order to allow the applicant additional time to revise the PUD Preliminary Plan.

On April 25, 2000, the applicant requested an additional continuance to June 26, 2000 (Exhibit 1).

**Recommendation:** Staff recommends that the Planning Commission grant the requested continuance to allow the applicant sufficient time to prepare the revised application.



PLANNING AND ENGINEERING

104 west 9th street, suite 207  
vancouver, wa 98660

v 503.417.3639 ext.  
360.750.0399 ext.  
f 360.750.0433

April 25, 2000

City of Oregon City Planning Commission  
C/O Ms. Barbara Shields  
Community Development Department  
320 Warner Milne Road  
Oregon City, Oregon  
97045

VIA: FAX: 657-7892

RE: Glen Oak Meadows , Case File 99-01

Dear Members of the Planning Commission:

As you recall we presented an "Alternative Plan" to the plan that was originally submitted at the Commission hearing held on March 10<sup>th</sup>, 2000. In order to allow the consultant team enough time to prepare this revised application, as well as to accommodate staff review we request a continuance of the presently scheduled May hearing to June 26<sup>th</sup>.

Accordingly, we hereby give permission to the City to extend the processing schedule for the Glen Oak Meadows project beyond the 120-day limit until September 1st.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Miller', written over a horizontal line.

Mike Miller

Cc: Larry Marple

**EXHIBIT 1**

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



## AGENDA

City Commission Chambers - City Hall  
May 8, 2000 at 7:00 P.M.

### PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:05 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:10 p.m. 3. **APPROVAL OF MINUTES:** April 24, 2000
- 7:15 p.m. 4. **PUBLIC HEARING**
- VR 00-01 & VR 00-02;** Phil Gentemann, Centurion Homes  
Clackamas County Map # 3-2E-8AC, T.L. 6900 & 8100; Request for  
variances to 100 foot minimum lot depth.
- 8:00 p.m. 5. **OLD BUSINESS**
- A. VR 99-07 (continued);** (*Adoption of findings for denial*). James McKnight/  
161 Barclay Avenue; Clackamas County Map # 3S-2E-31 DC, Tax Lot 5400;  
Request to modify the zoning requirement of an R-10 Single-Family Dwelling  
District from 100' depth to a 80' lot depth.
- B. Summary and Reactions-** Oregon City Downtown Community Plan Phase II  
Kick-Off Meeting
- 8:30 p.m. 6. **NEW BUSINESS**
- A. Staff Communications to the Commission**
- B. Comments by Commissioners**
- 8:45 p.m. 7. **ADJOURN**

NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE  
DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING  
DATE.



**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
April 24, 2000**

**COMMISSIONERS PRESENT**

Chairperson Hewitt  
Commissioner Carter  
Commissioner Surratt

**STAFF PRESENT**

Maggie Collins, Planning Manager  
Marnie Allen, City Attorney  
Tom Bouillion, Associate Planner

**1. CALL TO ORDER**

**Chairperson Hewitt** called the meeting to order.

**2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**

**Commissioner Carter** stated that she wished to make a comment before this meeting starts. She stated that the Planning Commission has been working hard to treat all citizens who come before them with dignity and respect. It is vitally important to treat all citizens with patience and kindness and to be willing to listen to them fully and completely. It is difficult for citizens to approach the Planning Commission to ask for things that are important to them. She thanked the Planning Commission for its endeavors to treat citizens respectfully. It is satisfying to be a part of a Commission that strives to treat each person who comes before them with the respect that he or she deserves.

**3. APPROVAL OF MINUTES: April 10, 2000**

**Commissioner Carter** stated that page 13 in the center paragraph, should read, "As a Planning Commission, we need to stick with the criteria, but annexation is a big issue that we are dealing with." Also a few lines down should read, "We need to find a different way to bring properties into the City."

**Commissioner Carter** moved to accept the minutes of the April 10, 2000 Planning Commission meeting with the changes mentioned. **Commissioner Surratt** seconded.

Ayes: Carter, Surratt, Hewitt; Nays: None.

**Chairperson Hewitt** stated that even though there are only three members of the Planning Commission present at the meeting, there is still a quorum and they will be able to conduct business and make motions.

**Maggie Collins** stated that the public hearing item on the agenda is a legislative hearing and the Planning Commission will make a recommendation to the City Commission.

#### **4. PUBLIC HEARING (Legislative)**

**Chairperson Hewitt** reviewed the legislative application procedures and the public hearing process. He stated the time limitations for the speakers in the public hearing.

#### **STAFF REPORT**

**AN 00-01**; Harold and Mary Spickelmier, 11886 Partlow Road; Clackamas County Map 3S-1E-12AD, Tax Lot 13800; desire to annex for partitioning of a 0.68-acre parcel into two single family residential lots as allowed by the City Comprehensive Plan and Zoning designations.

**Maggie Collins** stated that Tom Bouillion will be presenting the staff report and Deniece Won from Metro is also attending to answer any questions. **Tom Bouillion** reviewed the staff report. This is the second annexation request to be evaluated by the Planning Commission under the new Ordinance 99-1030. He gave the background of the voter approval annexation procedure. The staff report was prepared by Deniece Won of Metro and it is attached as Exhibit 1. The findings are under "Findings and Reasons" on page 17 of 18. The subject lot is a part of a County island, surrounded by property within the City. Staff recommends that the Planning Commission recommend approval to the City Commission, who will hear this request at their May 17 meeting.

**Commissioner Carter** asked which "Commission" is referred to in the statement on page one of 18. **Tom Bouillion** replied that it is written for the Planning Commission to adopt the language. **Commissioner Carter** stated that it would be the Planning Commission now and then the City Commission.

**Deniece Won** stated that Oregon City is a contract client for Metro, and therefore she is really the Planning Commission's staff. **Chairperson Hewitt** commented on Exhibit 1, the Metro staff report, on page 2. He stated that the Planning Commission has interpreted the first factor of "Adequacy of access to the site" differently. This Commission has taken a deeper meaning for the word "adequate." If there is a failing intersection that would serve a piece of property, that intersection would be taken into account. The Commission might recommend denial of an annexation based on inadequacy of access because of their stricter interpretation of the word "adequate." Just because there is road frontage to a property does not mean there is adequate access. The Commission is evaluating what it takes to get property into the infrastructure and service systems that Oregon City supplies. He asked if Ms. Won knows Metro's interpretation of the adequacy factor.

**Deniece Won** replied that the subject parcel is small and that there is nothing on the surface of this application that would lead them to believe that there would not be adequate access. She is not 100% sure what is behind the Planning Commission's interpretation. For an annexation, compared to the development approval stage, less information would be required.

**Chairperson Hewitt** stated that it is unclear from Planning Commission to City Commission how each stands on the factor of "adequacy." He wanted to make it very clear where the Planning Commission stands. Both the Planning and City Commissions look at the Transportation System Plan (TSP) and they are aware of where the failing intersections are. **Deniece Won** replied that during the annexation process, Metro sends a sheet to the City's staff asking for a response to the annexation request. If there are any problems, she should be made aware of the information.

**Chairperson Hewitt** asked if his comments regarding the adequacy of access throws any red flags at how Metro interprets criteria number one. **Deniece Won** replied that what she is hearing is that the Planning Commission wants access to be considered. She is not clear what their standard for denial would be. She looks at the criteria from a feasibility standpoint, not if there is access available at this point in the development process.

**Chairperson Hewitt** stated that the Planning Commission's decision goes deeper because of their background and the information they have been given from staff. **Deniece Won** replied that she would get that information from their staff while preparing an annexation staff report.

**Chairperson Hewitt** stated that criteria six and seven seem to contradict one another at the beginning of the sentences. How does Metro look at criteria number seven and determine what is stated? **Deniece Won** replied that Metro has not had the opportunity to fine-tune what the language means.

**Marnie Allen** stated that the criteria come from the Oregon City Code and it is up to the Planning Commission to interpret it, not Metro.

**Deniece Won** stated that in the case of this application, neither criterion six or seven would seem to have any adverse effects as a result of the annexation. **Chairperson Hewitt** stated that criterion number seven seems to refer to whether it is detrimental to the business portion of the community and criterion number six refers to whether it adversely effects any natural portion of the City.

**Commissioner Surratt** asked, in regard to the last meeting, whether the land with the variance request was already a part of the City. **Commissioner Carter** replied that it was. **Commissioner Surratt** then asked if they had reviewed this same criteria for the variance application. **Chairperson Hewitt** replied that the variance criteria is similar, but not the same.

**Deniece Won** stated that the seven factors are balancing factors to be considered. If considered in this way, it might lessen the significance on how criteria six and seven are worded. In the past, the Boundary Commission always looked at the magnitude of the development and the profit margin. Given the scale of the development and the cost of the services, the Boundary Commission staff determined whether it would be possible to finance the improvements that need to be made to make the project meet the City standards for access, water and sewer.

**Chairperson Hewitt** stated that the Planning Commission has added a larger piece to the puzzle. The systems development charges would pick up the necessary services the development would require. The Planning Commission is looking out further at impacts beyond the development. **Deniece Won** replied that her staff report addresses both the onsite and off-site effects of the development.

**Commissioner Carter** stated that there is a problem with island annexations in general. In this case, only one property of an island is asking to be annexed, while in reality they should all be annexed together. **Commissioner Surratt** replied that previously when a large number of properties desired to annex at one time, the Planning Commission was concerned that the entire property would develop simultaneously. What Commissioner Carter stated is in direct opposition to how the Planning Commission decided on the previous annexation. They struggle with the difference between annexation and development.

**Commissioner Carter** stated that in this case the City might be unable to provide adequate service because only one of four parcels desires to be annexed.

**Marnie Allen** stated that the process for initiating the annexation is also a factor. This annexation is property owner-initiated. If an individual property owner does not want to be annexed, it is a policy decision on the City's behalf to determine whether it wants to force the property into the City. **Deniece Won** stated that the flip side is whether the City would prevent this property owner from annexing because the property owner could not get the concurrent annexation agreement with his neighbors.

**Commissioner Carter** stated that properties within islands are receiving the benefits of City services without the City getting any revenue from the properties. It is in the best interest of the City to annex all the island properties. **Deniece Won** again stated that the City may initiate annexations if it desires. If the City Commission initiates an annexation, the result can be that properties are forced into the City against the property owners' wishes. There are two parties in the process: the City and the people who are outside the City. In Oregon City a vote is needed for annexation.

**Chairperson Hewitt** stated that the City Commission does not seem to be in the process of forcing people into the City. He understands Commissioner Carter's question about why the other properties do not annex in. However, they are separate property owners and

they did not want to at this time. Yes, it is a burden on the City to serve these properties, but that is the way it is.

#### **TESTIMONY IN FAVOR**

None.

#### **TESTIMONY IN OPPOSITION**

None.

#### **CLOSE OF PUBLIC HEARING**

#### **DELIBERATION AMONG COMMISSIONERS**

**Commissioner Surratt** reminded the Commission that if they make one ruling one night, the citizens will expect a similar ruling and not a total reversal. The Commissioners need to be mindful about what they are saying. **Commissioner Carter** stated that the application needs to meet the criteria. Some applications seem to meet the criteria easily while others do not seem to meet the criteria. When a large number of properties come together to be annexed, it sets up a red flag that it might turn into a development. **Commissioner Surratt** stated that the Planning Commission should not get that far with future assumptions.

**Chairperson Hewitt** stated that he disagrees. The potential for development is higher for a 15 acre parcel in comparison to the 0.68 acre parcel they are looking at tonight. **Commissioner Surratt** stated that having a smaller parcel annex is better than trying to get adjacent properties to annex at the same time.

**Chairperson Hewitt** stated that it may need to be said that the Planning Commission reviews each application on its own merit and not based on past decisions. However, there is a tendency for the Planning Commission to have the policy to not allow large annexations where limited, long-term failing intersections have an impact.

**Commissioner Surratt** stated that what Chairperson Hewitt is stating is that they would have a problem with large parcel annexations that do not meet criterion number one.

**Chairperson Hewitt** replied that his comments are in regard to criteria one, six, and seven.

**Commissioner Carter** asked Ms. Collins if the City Commission is reluctant to have a City initiated annexation. **Maggie Collins** stated that the City Commission has not directed staff to initiate the program for island annexations. It is a different process with a different set of criteria. Her advice would be to set that aside and deal here specifically with this property owner-initiated annexation.

**Tom Bouillion** stated that according to the Assistant City Manager, the City Commission has put the process of City initiated annexations on hold for some time. It is on the list of items to do, but is not one of the highest priorities. It may take effect sometime next year.

**Chairperson Hewitt** asked the Commission if they have any further discussion or questions on the criteria in the staff report from Metro.

**Commissioner Carter** moved to recommend approval of annexation proposal AN 00-01 to the City Commission due to the support of the criteria in Exhibit 1 under Findings and Reasons, page 17 of 18. **Commissioner Surratt** seconded.

Ayes: Carter, Surratt, Hewitt; Nays: None.

**Chairperson Hewitt** asked if Exhibit A is what will be forwarded to the City Commission. **Maggie Collins** replied in the affirmative.

## **5. OLD BUSINESS**

### **A. Policy Discussion**

#### **1. Zoning Upon Annexation**

**Maggie Collins** stated that staff would like the Planning Commission to make a motion after they discuss the item. This change was part of an affirmative motion for "housekeeping items" of the Municipal Code. When staff brought the item forward to the City Commission, the City Attorney had legal issues with this policy. Therefore, staff thought to bring the item back to the Planning Commission to reaffirm the Commission's original approval in March of this year. There are four reasons why R-10 is the zone of choice for new land annexed to the City, as stated on page two of the staff report. She reviewed the rationale for the choice of the R-10 zone. Staff is asking that the Planning Commission reconfirm that R-10 is their zone of choice.

**Commissioner Surratt** stated that the Planning Commission did choose R-10 as the most straightforward zone for newly annexed properties. **Commissioner Carter** heartily approved.

**Chairperson Hewitt** asked that if "all property" coming in as zone R-10 refers only to residential property, not industrial or commercial. **Maggie Collins** agreed that it is only residential property the zone is referring to. **Chairperson Hewitt** stated that if property owners believe their property should have a higher density than R-10, they would need to petition to the City to have their zone changed. He is in favor of the R-10 zone because a change would require public notice and properties of different zoning will not "sneak in" adjacent to R-10 zoned properties. The R-10 designation would benefit the City population because they would automatically know that it is either zoned R-10 or there will be public notice.

**Marnie Allen** communicated what the thinking was behind the advice the City Attorney's Office gave when the item went before the City Commission. The concern was that the Statewide Housing Goal and the Metropolitan Housing Rule require the City to achieve a density of 8 units per net buildable acre. To do that, the City would adopt various development regulations to help achieve a higher density. One option to allow higher density would be to zone a property R-6 or R-8. Removing the discretion to have the R-6 or R-8 designation when a property comes in may be limiting some of the options to achieve a higher density and thus comply with the housing requirements. As a result, the City would have to look at Planned Unit Developments and other development options to achieve the required density.

**Chairperson Hewitt** stated that there are no concrete facts to say that if the City does not bring everything in at R-8 the housing goals would not be met. There are areas of R-6 and R-6 MH already in the City that some people feel just slipped in. The attempt is to allow the neighborhood associations, the neighborhood itself, and the Planning staff to actually plan the community. If a person can justify how a R-6 or R-8 designation will work better for the community, then it is fine. But to give them the higher density up front would be damaging to both the planning and infrastructure. There is a tradeoff. PUDs will allow greater density and will encourage development on bigger portions of land that have development issues.

**Commissioner Carter** stated that she understands that the City is currently above the requirements for density. **Maggie Collins** replied that that was the conclusion a couple of years ago. Staff needs to complete a second housing study to determine if the City is at the Metro Housing density levels of requirement. Chairperson Hewitt is correct in that they do not have concrete facts to support a violation of the housing policy with an automatic R-10. It is simply a matter of the Planning Commission determining what they believe is the best planning at this time and then perhaps they will reexamine the question later on if density requirements are found to be too low.

**Chairperson Hewitt** asked when it is too late to find out. **Maggie Collins** replied that staff will not have information to review in worksession until September, 2000.

**Chairperson Hewitt** asked if the Metro requirement must be met years down the road. **Maggie Collins** replied that there are two deadlines. The first is to be in compliance with all functional plan requirements by November of 2000. The direction the City goes in however, is a 20 year direction. **Chairperson Hewitt** then stated that Ms. Allen had stated that there is a density requirement that the City must meet mandated by Metro. The City needs a benchmark to determine where they are in relation to the required goal. **Maggie Collins** stated that the benchmark can be established in October or November of this year.

**Commissioner Surratt** moved to approve Section 17.06.050 of the Municipal Code as the Planning Commission's policy choice. **Commissioner Carter** seconded.

Ayes: Carter, Surratt, Hewitt; Nays: None.

**Commissioner Carter** stated that Metro has indicated that Oregon City has a lot of building constraints because of the wetlands and rivers. Metro therefore may be rethinking what density Oregon City is capable of. **Maggie Collins** replied that that position is being discussed at the regional level. There is flexibility at this point. **Marnie Allen** stated that a net buildable acre, as stated in the density requirements, is achieved by taking out all the unbuildable land.

## **6. NEW BUSINESS**

### **A. Staff Communications to the Commission**

#### **1. Oregon City Downtown Community Plan Phase II Kick-Off Meeting, May 1, 2000**

**Maggie Collins** stated that the meeting was changed from April 26 to May 1 at 7:00 pm at the Carnegie Center. The participants in Phase I should have received their notice as well as all property owners within the study area. It is an item on the Planning Commission's year 2000 work program.

**Chairperson Hewitt** asked what is expected to be accomplished at the kick-off meeting. **Maggie Collins** replied that the goal is for everyone to understand the planning process for Phase II. They will then break into the four smaller sub-area study groups for continued work. **Chairperson Hewitt** asked if they will be discussing the Comprehensive Plan changes, or the zoning changes, or both. **Maggie Collins** replied that both will be discussed.

#### **2. City Municipal Code Online**

**Maggie Collins** stated that the Oregon City home page now does have the City Municipal Code available on [www.ci.oregon-city.or.us](http://www.ci.oregon-city.or.us). If there are any questions regarding the web page, please call City Hall.

#### **3. Annexation on May 16, 2000 ballot**

**Maggie Collins** stated that there is an annexation on the May 16 ballot. It is ballot measure 3-69. It is an annexation by Mr. and Mrs. Hess that the City Commission had approved to go on the ballot for voter approval without the Planning Commission review. The request was started before the annexation ordinance was passed in November 1999 and was therefore grandfathered in by the City Commission.



### **3. May Planning Commission Schedule**

**Maggie Collins** stated that there is a Planning Commission meeting on May 8 with several public hearing items. In addition, she would like to alert the Planning Commission to a worksession on Wednesday May 10<sup>th</sup> at 7:00 p.m. At this worksession they will be dealing with a draft of the tree ordinance proposal for maintaining trees on the public right-of-way. In addition, they will discuss a proposed revision to the City's sign ordinance. The second regularly scheduled meeting will be on May 22. There are therefore four planning related meetings in the month of May. There is no design work scheduled for the worksession. In place of that, the Planning Commissioners are to look at the book, "City Comforts or How to Build an Urban Village." The book gives ideas on design elements and it will be useful on the upcoming worksessions on design guidelines. She suggested each commissioner to take a turn reading it and then pass it on.

**Chairperson Hewitt** asked whether sign ordinance revision is a part of their work program. **Maggie Collins** stated that the City Manager and the City Commission has requested that the Planning Commission review the Sign Ordinance. **Chairperson Hewitt** asked that Ms. Collins pass the information on to the City Manager and the City Commission that the Planning Commission is steadfastly trying to work on their own work program. There is a need for a complete and solidified Comprehensive Plan Map and a complete design review process and procedure. Without a Comprehensive Plan Map, they are struggling to do planning. He would like to see the Planning Manager communicate to the City Manager and the City Commission that the Planning Commission would like to stay on track in their worksessions to stay on their work program. He hopes to bring that to light at the presentation he will make before the City Commission on May 3<sup>rd</sup>.

**Maggie Collins** stated that she would be happy to relay those remarks. The City administration has gained a lot of faith in the Planning Commission's ability to grapple with issues and give input in a timely manner even if the issues are not stated on their work program. It is therefore proper for the City and the City Commission to ask the Planning Commission to take on topics other than those stated on their work program. There must be a balance between their work program and other items the City asks them to review.

**Chairperson Hewitt** stated that he appreciates their vote of confidence, however he is conscious that they are approaching May and that leaves seven months to complete an exhaustive work program. There have been many items from other people's agenda that the Planning Commission has needed to complete. The Planning Commission needs to set aside items on other's lists and begin working on their own work program. They need to solidify at least the top three items on their work program.

**Commissioner Carter** asked what Chairperson Hewitt is presenting to the City Commission of May 3<sup>rd</sup>. **Chairperson Hewitt** replied that he will present what the

Planning Commission has accomplished of late, what their goals and policies are, and will probably send a similar message regarding their work program.

**Commissioner Carter** asked if he would like fellow commissioner support.  
**Chairperson Hewitt** replied that he would.

**Maggie Collins** stated that Mayor Williams had asked that City commissions and boards to bring forth a report of their activities and achievements. She volunteered the Planning Commission to make the first report on activities that have occurred in the last fiscal year. Chairperson Hewitt will be the first one to give a report. The reports will be annual.

**Chairperson Hewitt** stated that this is a good step of Mayor Williams and the City Commission to try and understand where the Planning Commission is at.

All Commissioners agreed to adjourn.

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**Gary Hewitt, Planning Commission  
Chairperson**

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**Maggie Collins, Planning Manager**

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD OREGON CITY, OREGON 97045  
TEL 657-0891 FAX 657-7892



### STAFF REPORT

Date: May 8<sup>th</sup> 2000

Complete: 4/7/2000  
120 Day: 8/4/2000

**FILE NO.:** VR 00-01

**FILE TYPE:** Quasi - Judicial

**HEARING DATE:** May 8<sup>th</sup>, 2000  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT/OWNER:** Phil Gentemann  
Centurion Homes  
2137 Marylwood Court  
West Linn, Oregon 97068

**REQUEST:** The applicant is requesting variance approval to allow a reduction in the lot depth for lots 19 and 20 of the pending re-plat of Oregon Meadows Estates which will be created out of lot 10, (TL 6900 Map, 3-2E-8AC) of the existing Oregon Meadows Plat. Lots 19 and 20 would have lot depths of 69 feet.

**LOCATION:** The subject lot is located at the northwest corner of Cokeron Street and Garden Meadow Drive Tax Lot 6900, Map 3-2E-8AC, Lot 10 of the Oregon Meadows Estates Subdivision. This subdivision is located 100 feet northeast of the intersection of Stillmeadow and Pinecreek Drive and 210 feet from the intersection of Gaffney Lane and Berta Drive.

**SUMMARY OF RECOMMENDATION:** Deny the request.

**REVIEWER:** Paul Espe, Associate Planner

**VICINITY MAP:** See Exhibit A

## **BACKGROUND:**

### ***Previous Land Use Decision:***

On April 22, 1997 the applicant received approval for a 21-lot multi-family duplex and single family residential subdivision on a 4.65 acre property zoned "RD-4" Two Family Dwelling District. Several variances to lot dimensional standards were also approved by the Planning Commission and are tabulated below:

| <b>VARIANCE</b>  | <b>REQUEST</b>  |
|------------------|---|
| VR96-11 – lot 7  | Variance to minimum average lot depth requirement of 100' to 95 feet.     |
| VR96-12 – lot 6  | Variance to minimum average lot depth requirement of 100' to 87 feet.     |
| VR96-13 - lot 5  | Variance to minimum average lot depth requirement of 100 feet to 88 feet. |
| VR96-34 - lot 14 | Variance to lot frontage of 45 feet.                                      |
| VR96-35 - lot 2  | Variance to lot frontage of 45 feet                                       |
| VR96-36 - lot 3  | Variance to lot frontage of 45 feet                                       |

The size and shape of the original parent parcel and the location of the right of way for Char Dias Drive were all contributing factors to reduced lot depth. This was an "infill" property located between two pending subdivisions that are now built that were extremely narrow. In order to make this subdivision possible, the applicant was provided additional property through a lot line adjustment from the property to the north (TL 1301, 3-2E-8A) where the Stillmeadow Assisted Living Facility is located.

The location of the two stub streets for Char Dias Drive also limited the lot orientation on an east west axis along Char Dias Drive within this constrained parcel width. The location of the right of way dictated lot depth and orientation along Char Dias Drive.

The narrow shape of the parcel width, taken together with the location and orientation of Char Dias Drive created an extraordinary circumstance for the parent parcel and was the reason variances listed above were approved by the Planning Commission. The approval assumed a mix of single family and duplex units.

***Subsequent Land Use Actions:***

At its June 16, 1999 meeting, the City Commission received oral testimony by Phil Gentemann of Centurion Homes requesting an amendment to the RD-4 Two-Family District to allow for single-family attached (zero lot line) units. In testimony before the Commission, Mr. Gentemann stated that, should the amendment take place, he could build attached units in individual ownership, as opposed to building duplexes where there would be a mix of rental and ownership options.

The Commission directed staff to prepare a report outlining the various issues involved with the proposed amendment. At the July 21, 1999 meeting, the City Commission directed staff to initiate amendments to the Oregon City Municipal Code to allow single-family attached dwelling units in the RD-4 Two-Family District and on November 17, 1999, the City of Oregon City Amended the Oregon City Municipal Code Chapter 17.04 to add a new definition of "Single-Family Attached Dwellings" and amend the Oregon City Municipal Code Chapter 17.16 to include single-family attached dwellings.

***Files VR00-01 and VR00-02:***

Project files VR00-01 and VR00-02 were filed as a part of an application package to re-plat the existing Oregon Meadows Estates Subdivision to allow for the above-described single family attached dwellings or "Townhouses". The re-plat is currently being processed as a Type II land use decision along with three land partitions and a Water Resources Overlay District Analysis for the adjacent wetland. All applications have been deemed incomplete pending review and approval of the subject variances.

**BASIC FACTS:**

1. The subject lot is located at the northwest corner of Cokeron Street and Garden Meadow Drive Tax Lot 6900, Map 3-2E-8AC, Lot 10 of the Oregon Meadows Estates Subdivision. This subdivision is located 100 feet northeast of the intersection of Stillmeadow and Pinecreek Drive and 210 feet from the intersection of Gaffney Lane and Berta Drive.
2. The property is zoned RD-4 and is designated "MR" Medium Density Residential in the Comprehensive Plan.
3. The northerly portion of the property is generally flat with southerly facing slopes of approximately 3-5 percent. Storm water would travel from this development to The Char Dias Estates to the south. Wetlands are present on the Char Dias site but there were no species or hydrology that indicated the presence of wetlands on this site.

4. The Stillmeadow Assisted living facility is located to the east of the site. The remaining surrounding uses consist of single family dwelling units and vacant property zoned for duplexes or single family dwelling units.
5. The applicant is requesting variance approval to allow a reduction in the lot depth for Lots 19 and 20 of the pending replat of Oregon Meadows Estates which will be created out of Lot 10, (TL 6900 Map, 3-2E-8AC) of the existing Oregon Meadows Plat. Lots 19 and 20 would have lot depths of 69 feet.
6. The Dimensional Standards for the RD-4 Duplex Zone are listed as follows:

|                           |  |
|---------------------------|--|
| Minimum Average Lot Width | 60 feet (single family attached units: 40 feet)    |
| Minimum Average Lot Depth | 100 feet   |
| Front Yard Setback        | 15 feet  |
| Interior Side Yard        | 9/7 (9 foot setback opposite common property line) |
| Corner Side Yard          | 20 feet  |
| Rear Yard                 | 15 feet  |

**Oregon City Comprehensive Plan Consistency:**

- A. Statement in Growth and Urbanization Section: *"It is the City's policy to encourage small lot single-family development in the low density residential areas..."*
- B. Community Facilities Policy No. 7: *"Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land".*

**DECISION MAKING CRITERIA:**

**Municipal Code Standards and Requirements:**

|         |  |
|---------|--|
| Chapter | 17.60 Variances                            |
|         | 17.16 "RD-4", Two Family Dwelling District |

**VARIANCE ANALYSIS AND FINDINGS:**

The criteria for review of this variance request are found in section 17.60.020 of the City of Oregon City Municipal Code. A variance may be granted only in the event that all of the following conditions exist:

**Criterion A: That the literal application of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this ordinance; or, extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site.**

To satisfy this criterion, an applicant must demonstrate that he or she is are being denied a right commonly enjoyed by others, or that there are unique features on the subject property that make it extremely difficult or impossible to comply with the criteria that apply to other properties in the City.

The applicant states in the submitted narrative that there is adequate lot area on Lot 10 to create two 4,000 square foot parcels allowed under OCMC17.16 but not have with adequate depth. In addressing this criterion, the applicant is demonstrating that there *would be* unique features *if* the two proposed lots were created. The applicant also states that he is being denied a right commonly enjoyed by others because he is being denied the ability to make use of this property in a similar fashion as other properties with the same zoning designation.

Criterion A does not contain language to allow for extraordinary circumstances to apply to lots that would be created in the future; rather, it clearly implies that extraordinary circumstances must apply to an existing lot rather than those contemplated for the future. Lot 10 complies with all current dimensional requirements of the RD-4 Zone and has no unique features. Staff finds that this criterion does not contain the language to address extraordinary circumstances on future proposed lots or the ability to create them. The lots created under the previous subdivision were created under extraordinary circumstances the subject lot no longer has.

Second, the applicant has failed provide adequate information to the record that they would be deprived a right commonly enjoyed by others *outside the subdivision*. In order to meet this criterion, the applicant must provide specific information or a list of lots legally created through the variance of subdivision standards that are enjoying property rights that are denied to the applicant.

While there may be substandard lots created through the variance process in the Oregon Meadows Estates Subdivision, the burden of proof is upon the applicant to prove that they are being denied property rights enjoyed by others outside the subdivision by providing a list of properties that are below lot depth and width standards in other areas besides this subdivision. The lots allowed under the previous subdivision were created under extraordinary circumstances

The applicant is the only person in this area who has created substandard lots through the variance process and would not be denied a right commonly enjoyed by others if this request was denied.

**All property owners in Oregon City must comply with the minimum lot depth requirements that apply within the respective zoning districts. Staff finds that the applicant has not presented evidence that demonstrates deprivation of rights commonly enjoyed by other property owners.**

**The literal application of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this ordinance; and this issue is not unique to the applicant's site, therefore, section 17.60.020(A) cannot be met.**

**Criterion B: That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this ordinance.**

In order to meet this criterion the applicant must demonstrate that any future construction on these lots would not cause substantial damage by reducing light, air, or safe access.

Lot 10 is a corner lot located at the intersection of Cokeron Street and Garden Meadow Drive. The current configuration of this lot would allow a duplex building 35 feet in height to be constructed 7 feet away from the side yard property line adjacent to Lot 9 at the northeast. While the newly proposed property line would rotate the orientation of the two newly created lots, (lots 19 and 20) the proposed building would still be in the same location as it would have been without this new property line. Variance approval to lot depth merely allows a property line to be drawn through the common wall of the duplex creating two separate units that can be individually owned and would not change the building orientation or location on the lot. (See Exhibit B).

Staff agrees that the corner lot design allows an opportunity to make more attractive homes on these lots by having driveways on two frontages, however this design would still be retained irrespective of the variance approval or the creation of additional lots.

The requested variance to the lot depth would not directly affect or impact the abutting properties. The request does not reduce light, air, safe access or other desirable qualities as protected under this ordinance. In light of the existing and proposed surrounding lots, staff concurs with the applicant's finding that approval of a reduced lot depth will not cause substantial damage to adjoining properties.

**Therefore, this section 17.60.020(B) can be met.**



**Criterion C: The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time that the site was purchased.**

Under this criterion, if a circumstance that gives rise to the need for a variance is self-imposed the variance will not be granted. If an applicant knew or should have known that a standard applies that will preclude a proposed development, the circumstance is self-imposed.

The applicant states that the circumstances are not self-imposed because physical constraints imposed by the shape of the (subdivision) site resulted in the existing configuration of Lot 10, Oregon Meadows Estates. The need to extend Garden Meadow Drive to the north boundary of the plat and to provide a connection to Cokeron Street is an aspect of subdivision design and would not be considered a hardship imposed upon the applicant.

The applicant asserts that Lot 10 is now too shallow to permit partitioning to create lots for single family attached units where minimum lot depth standards are met. The applicant further states that development standards did not exist at the time of approval of the original plat so it would have been impossible to anticipate the need for further division of this lot when it was designed.

Lots 9 and 10 are legal and conforming lots under the RD-4 zoning district. The six lots created through the variance proceeding under TP96-16 were allowed because the shape of the original tax map did not allow adequate lot depth on the east side of the subdivision. The lots currently being discussed are somewhat more narrow than most of the lots in the subdivision, but they are legal and conforming, and are therefore not related to those lots approved under the previous variances when the plat was created.

Furthermore, the physical constraints of Oregon Meadows Estates Plat that provided justification for the approval of the six variances to lot dimension do not exist for Lot 10, which is a legal and conforming lot.

Clearly, the creation of a lot that is substandard in size is a self-imposed difficulty. Criterion C generally applies to previously existing lots that may have a physical constraint, which precludes someone from the full use of the property. Variances to lot size are sometimes granted if they involve a previously existing platted lot of record that is slightly undersized.

The criterion is not met in this case because the creation of substandard lots irrespective of the reason or final result does not justify variance approval. Financial resources or other monetary hardship is not sufficient reasoning for variance approval.

Therefore Staff finds that the creation of a substandard lot is a self-imposed difficulty.

**Staff finds that Section 17.60.020(C) is not met.**

**Criterion D: No practical alternatives have been identified which would accomplish the same purposes and not require a variance.**

Under this criterion the applicant must identify that all other available practical alternatives have been explored prior to requesting this variance. The applicant maintains that the shape of the existing parcel is set by the plat of Oregon Meadows Estates and that there are no other alternative design options that would accomplish the same purpose of developing single-family attached housing.

The applicant wishes to divide Parcel 10 along the common wall of the duplex so that each unit can be individually owned. The purpose of creating the two lots is to develop single family attached housing as provided OCMC Ch17.16. The lots cannot be formed in any other way to achieve this purpose.

**Staff finds that Section 17.60.020(D) is met.**

**Criterion E: That the variance requested is the minimum variance, which would alleviate the hardship.**

Under this criterion, the applicant must demonstrate that this is the minimum variance requested. This criterion is generally more appropriate when discussing items of spatial or linear measurement. In this case, the establishment of the lot line to create common wall single family development or townhouses will create lots below the required depth as a by-product of this effort. There is not enough area in lot 9 to add to lot 10 for additional lot depth. Creation of two lots of 69 feet would be the minimum variance requested and staff finds that this criterion has been satisfied.

**Staff finds that section 17.60.020(E) is met.**

**Criterion F: That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.**

This proposal has been found to be consistent with Policy 1 of the Growth and Urbanization section of the Comprehensive Plan which is to provide land use opportunities within the City's Urban Growth Boundary. In addition, development and urban renewal within Oregon City boundaries will decrease the current land use burden on lands within the Urban Growth Boundary and increase available housing within City boundaries which is found to be consistent with the Comprehensive Plan.

**Section 17.60.020(F) is met.**

**CONCLUSION:**

Staff finds that the requested variance does not meet Criterion A, because extraordinary circumstances cannot apply to lots being created in the future and the applicant did not adequately prove that he was being denied property rights enjoyed by others.

The submitted information does not meet Criterion C because the creation of a substandard lot through the platting process was found to be a self-imposed hardship. A valid alternative to this variance request is to allow a duplex to be constructed on lots 9 and 10 and allow the property boundary between those two lots serve as the common property boundary.

**RECOMMENDATION:**

In light of the above listed evidence and the findings submitted to the record, Staff recommends denial of file VR 00-01 for property identified as Tax Lot 6900, Map 3-2E-8AC, Lot 10 of the Oregon Meadows Estates Subdivision 2S-2E-31DC, Tax Lot 5400, to allow a lot depth reduction from 100 feet to 69 feet.

**EXHIBITS**

- A. Vicinity Map
- B. Applicant's written statement, site plan and elevation
- C. OCMC Ch. 17.16
- D. Proposed Replat of Oregon Meadows Estates Subdivision
- E. Oregon Meadows Estates Subdivision Plat

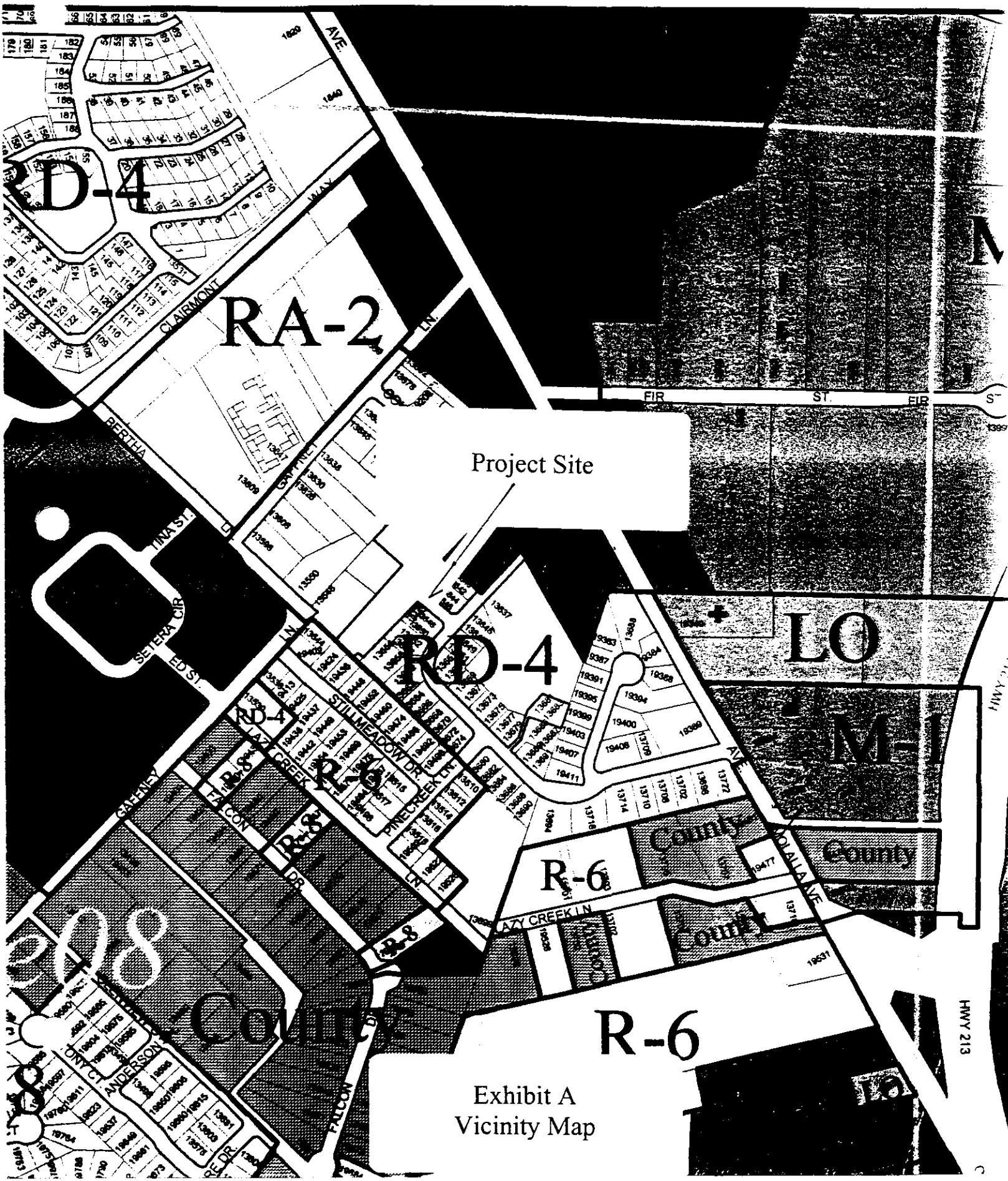


Exhibit A  
Vicinity Map

## VARIANCE APPLICATION

### LOT 10, OREGON MEADOWS ESTATES

#### Request for Variance

A variance is requested to deviate from the minimum average lot depth standard of 100 feet on Lots 19 and 20 of the pending replat of Oregon Meadows Estates. These lots are proposed to be created out of Lot 10 of the existing plat of this subdivision. The proposed parcels would have average lot depths of 69 feet. This deviation from the standard is necessary due to the layout of the street and the shape of Lot 10. Since the required lot area standard is met, each of the new lots will have sufficient dimensions to permit layout of an attached dwelling in compliance with setback standards, as shown on the attached site plan.

Lot 10 of Oregon Meadows Estates abuts Garden Meadow Drive along its east border and Cokeron Street along its south boundary. Centurion Homes plans to build single-family attached dwellings on this property. However, the configuration of this parcel will not permit division into two tracts without variance. Lot 10 is too narrow to permit division of the lot on an east-west axis such that the new parcels would front onto Garden Meadow Drive. The lot is too shallow to permit division into two lots fronting onto Cokeron Street without a variance to the minimum average lot depth requirements of the RD-4 district.

#### Variance Criteria

*17.60.020 A. That the literal application of the provisions of this title would deprive the applicant of the rights commonly enjoyed by other properties in the surrounding area under the provision of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site.*

The RD-4 district establishes single-family attached dwellings as a permitted use, with minimum lot area requirements of 4,000 sq. ft. per dwelling. Lot 10 of Oregon Meadows Estates contains 8,026 sq. ft., which would typically permit division of this parcel into two lots for single-family attached dwellings. However, the shallow configuration of this lot will not permit creation of lots that will comply with the minimum lot depth standard. The inability to make use of this property for a use which is permitted on other similarly zoned properties in Oregon City would constitute deprive the applicant of rights commonly enjoyed by other properties in the surrounding area.

*17.60.020 B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing the amount of light and air, safe or other desirable or necessary qualities otherwise protected by this title.*

As shown on the attached plot plan for this lot, the applicant has designed an attractive unit for this parcel that can be built as a duplex dwelling on the existing parcel in full conformance with required standards. The requested variance will simply permit each unit to be placed upon a separate lot so that it may be individually owned. Thus, the reduction in lot depth will have no affect upon neighboring property owners.

By conforming to required setbacks, light, air, and safety considerations will be maintained for adjacent properties. Further, it should be noted that the shallow, corner lot design affords a design opportunity to make more attractive homes on these lots by having driveways onto two frontages, thereby reducing the visual impact of garage doors on the streetscape.

**17.60.020 C.** *The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.*

The circumstances relating to the need for this variance application are not self-imposed. A review of the plat of Oregon Meadows Estates demonstrates the physical constraints imposed by the shape of the site that resulted in the existing configuration of Lot 10. The need to extend Garden Meadow Drive to the north boundary of the plat and to provide a connection to Cokeron Street created an island area in the northwest corner of the property. This area was large enough for the creation of two lots (Lots 9 and 10 of Oregon Meadows Estates), but required their configuration be longer and narrower than the other lots in the project. As a result, the shape of Lot 10 is now too shallow to permit partitioning to create single-family attached lots that will meet minimum lot depth standards. It should also be noted that the single-family attached use and related development standards did not exist at the time of approval of the original plat so it would have been impossible for the applicant to anticipate the need for further division of this lot when it was designed.

The purpose of the lot depth variance is to allow construction of a needed type of housing. Therefore, the purpose of the requested variances is not simply a monetary hardship or an inconvenience, but rather to let the applicant help the City in meeting its housing needs.

**17.060.020 D.** *No practical alternatives have been identified which would accomplish the same purposes and not require a variance.*

The shape of the existing parcel is set by the plat of Oregon Meadows Estates. There are no alternative design options that would accomplish the same purpose of developing single-family attached housing and not require a variance.

**17.060.020 E.** *That the variance requested is the minimum variance which would alleviate the hardship and that the variance conforms to the comprehensive plan and the intent of the ordinance varied.*

The variance requested is the minimum variance possible. A reduction in the minimum depth of these proposed lots to allow for single-family attached housing is consistent with the intent of the Comprehensive Plan and the zoning provisions being varied. The Comprehensive Plan has an underlying purpose of ensuring that the needs of the citizens of Oregon City for a variety of housing types are met. These variances would provide for single-family attached housing. This is a new type of housing in Oregon City that has been proven to be in great demand in other areas of the Metropolitan Area. As the population ages, and as more one and two person households are being established in the area, the need for affordable smaller homes is increasing. The proposed single-family attached housing helps to meet this need.

The purpose of the lot depth standard for the RD-4 district is, presumably, to ensure that sufficient area exists to provide for construction of homes that will maintain required setbacks. The plot plan submitted with this application demonstrates that the applicant has taken the effort to design homes that will meet this purpose on the shallower lots proposed. Approval of the requested variance is consistent with this criterion.

|    |          |         |         |             |           |
|----|----------|---------|---------|-------------|-----------|
| 4  | 120.00'  | 48.16'  | 47.84'  | N26°04'36"E | 22°59'38" |
| 5  | 120.00'  | 180.85' | 184.21' | S01°30'18"E | 86°20'54" |
| 6  | 120.00'  | 25.09'  | 25.04'  | S08°35'27"W | 11°58'40" |
| 7  | 120.00'  | 54.59'  | 54.12'  | N10°25'49"W | 28°03'51" |
| 8  | 100.00'  | 150.71' | 136.84' | N01°30'18"W | 86°20'54" |
| 9  | 80.00'   | 120.56' | 109.47' | S01°30'18"E | 86°20'54" |
| 10 | 120.00'  | 44.44'  | 44.18'  | S34°04'14"E | 21°12'59" |
| 11 | 19.00'   | 29.85'  | 28.87'  | N00°19'17"E | 90°00'00" |
| 12 | 19.00'   | 29.85'  | 28.87'  | N89°40'43"W | 90°00'00" |
| 13 | 1249.90' | 10.00'  | 10.00'  | S44°54'28"E | 00°27'30" |
| 14 | 1249.90' | 20.00'  | 20.00'  | N45°35'44"W | 00°35'01" |
| 15 | 1249.90' | 158.38' | 158.28' | N48°18'32"W | 07°15'38" |
| 16 | 1249.90' | 126.38' | 128.33' | N48°59'48"W | 05°33'06" |
| 17 | 386.75'  | 71.38'  | 71.28'  | S49°37'37"E | 10°34'27" |
| 18 | 136.23'  | 30.69'  | 30.62'  | N51°07'54"W | 12°54'23" |
| 19 | 1249.90' | 28.33'  | 28.33'  | N46°42'12"W | 01°17'55" |

BOUNDARY LINE BY AGREEMENT  
RECORDED 9/22/78 FEE NO. 78-40959

FOUND 3/8" IRON PIPE  
(R1) HELD PER  
BOUNDARY LINE  
AGREEMENT (D1 & D2)

TAX LOT 1200  
FEE NO. 93-66412

TRACT "B"  
1" ACCESS  
RESERVE STRIP

FOUND 3/8" IRON PIPE  
(R1) HELD PER BOUNDARY  
LINE AGREEMENT (D1)

BOUNDARY LINE BY  
AGREEMENT  
RECORDED  
9/22/78  
FEE NO.  
78-40958

TRACT "C"  
1" ACCESS  
RESERVE STRIP

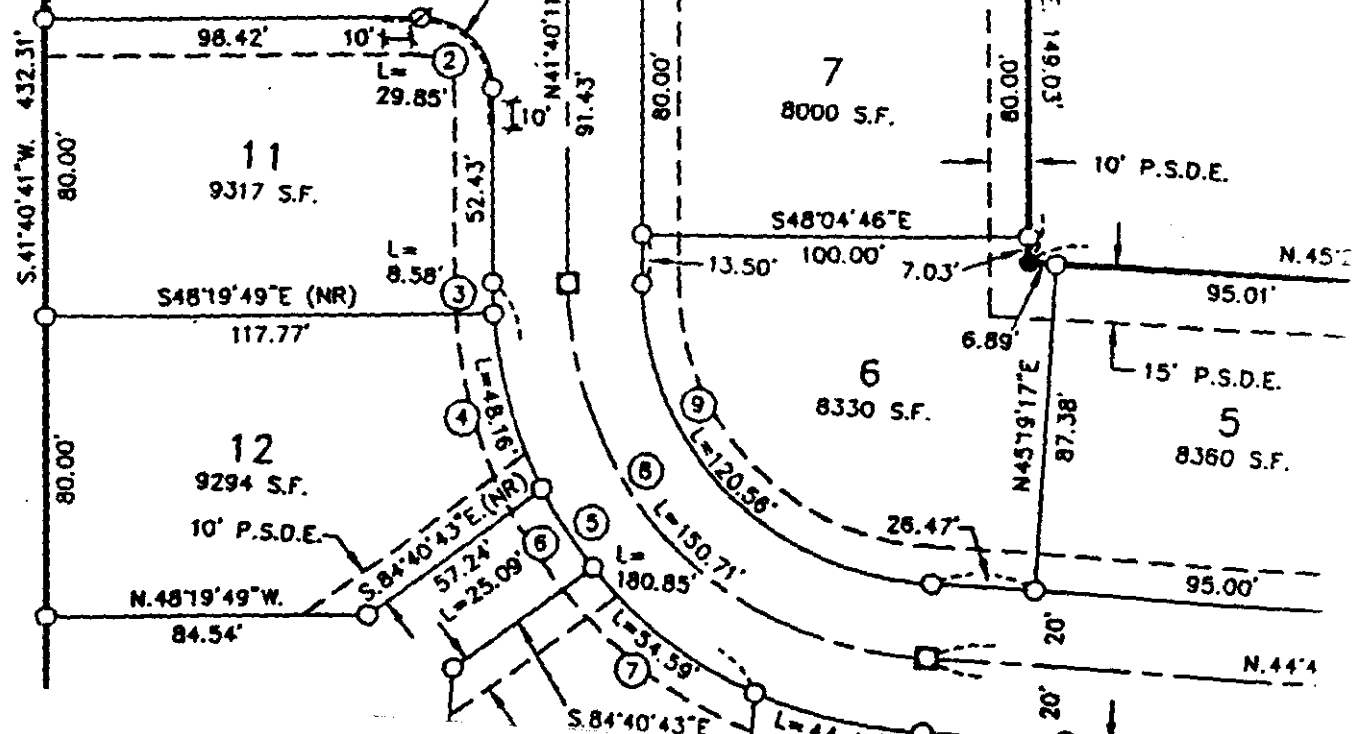
TAX LOT 1501  
FEE NO. 94-55253

COKERON STREET

NOTE: TAX LOT NUM  
UNLESS OTHER

TAX LO  
DEED FEE NO

☐ DENOTES S  
CAP STAMP  
SET ON NO  
  
 (3) CURVE NUM  
M DENOTES M  
  
 (R1) REFERS TO  
P.U.E. DENOTES PU  
S.S.E. DENOTES PU  
S.D.E. DENOTES PU  
P.S.D.E. DENOTES PRI  
N.V.A.S. DENOTES NON  
S.E. DENOTES PUB  
(NR) DENOTES NON  
P.S. PRIVATE SURV  
SURVEYOR'S C  
S.F. SQUARE FEET







ORDINANCE NO. 99-1027

AN ORDINANCE AMENDING TITLE 17: ZONING, CHAPTER 17.04 DEFINITIONS, OF THE OREGON CITY MUNICIPAL CODE OF 1991, BY CREATING A NEW SECTION 17.04.235; AND AMENDING TITLE 17: ZONING, CHAPTER 17.16: RD-4 TWO FAMILY DWELLING DISTRICT, SECTION 17.16.020 PERMITTED USES, AND CREATING A NEW SECTION 17.16.060

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, the current Municipal Code does not allow single-family attached dwellings; and

WHEREAS, the City recognizes a need for flexible standards to build single-family attached dwellings available for individual ownership; and

WHEREAS, the proposed Code amendments are supported by the Comprehensive Plan Goals and Policies.

Now, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title 17: ZONING, Chapter 17.04: DEFINITIONS, of the Oregon City Municipal Code of 1991, is hereby amended by creating Section 17.04.235 to read as follows:

17.04.235 Single-Family Attached Dwellings. Single-family attached dwellings mean two attached single-family dwelling units that share a common wall but are located on separated lots of a common property line with no setbacks from the common lot line.

Section 2. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, Section 17.16.020: PERMITTED USES, is hereby amended to read as follows:

17.16.020 Permitted uses. Uses permitted in the RD-4 district are:

- A. Two-family dwellings (duplexes);
- B. Single-family dwellings;
- C. Single-family attached dwellings;
- D. Publicly owned parks, playgrounds, play fields and community or neighborhood centers;
- E. Home occupations;
- F. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (commercial buildings are not permitted);
- G. Temporary real estate offices in model homes, located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- H. Accessory uses and buildings;
- I. Family day care provider, subject to the provisions of Section 17.54.050;
- J. Manufactured dwelling parks, if designated MR/MDP, and subject to the provisions of Chapter 17.66;
- K. Site-built manufactured homes.

Section 3. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, Section 17.16.040, is hereby amended to read as follows:

17.16.040 Dimensional standards. Dimensional standards in the RD-4 district are:

- A. Minimum lot area:

Exhibit C  
OCMC Ch. 17.16

1. Two-family dwellings, eight thousand square feet;
  2. Single-family dwellings, six thousand square feet;
  3. Single-family attached dwellings, four thousand square feet;
  4. Non-residential uses, six thousand square feet.
- B. Minimum average lot width, sixty feet, except for single-family attached units, in which case the minimum lot width per lot is 40 feet;
- C. Minimum average lot depth, one hundred feet;
- D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;
- E. Minimum required setbacks:
1. Front yard, fifteen feet minimum depth;
  2. Interior side yard, nine feet width for at least one side yard; seven feet minimum width for the other side, with the minimum nine foot side yard applying to single-family attached dwellings on the side that does not abut the common property line;
  3. Corner side yard, twenty foot minimum width;
  4. Rear yard, fifteen foot minimum depth;
  5. Solar balance point, setback and height standards may be modified subject to the provisions of 17.54.070.

Section 4. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, is hereby amended by creating a new Section 17.16.060: SINGLE-FAMILY ATTACHED DWELLING, to read as follows:

17.16.060 Single-family attached dwelling. The following standards apply to single-family dwellings, in addition to the standards in 17.16.040.

A. Maintenance easement. Prior to building permit approval, the applicant shall submit a recorded mutual easement that runs along the common property line. This easement shall be sufficient to guarantee rights for maintenance purposes of structure and yard, but in no case shall it be less than 5 feet in width.

B. Conversion of existing duplexes. Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the requirements in Section 17.16.040(A)(3), 17.16.040(B), 17.16.040(E)(2), and the State of Oregon One and Two Family Dwelling Specialty Code prior to final recordation of the land division replat.

Read for the first time at a regular meeting of the City Commission held this 17<sup>th</sup> day of November, 1999 and the foregoing ordinance was finally enacted by the City Commission this 17<sup>th</sup> day of November, 1999.

*Leilani Bronson-Crelly*  
LEILANI BRONSON-CRELLY, City of Oregon City

ATTESTED to this 17<sup>th</sup> day of November, 1999

*John F. Williams*  
JOHN F. WILLIAMS, Mayor

ORDINANCE NO. 99-1027

Effective date: December 17, 1999

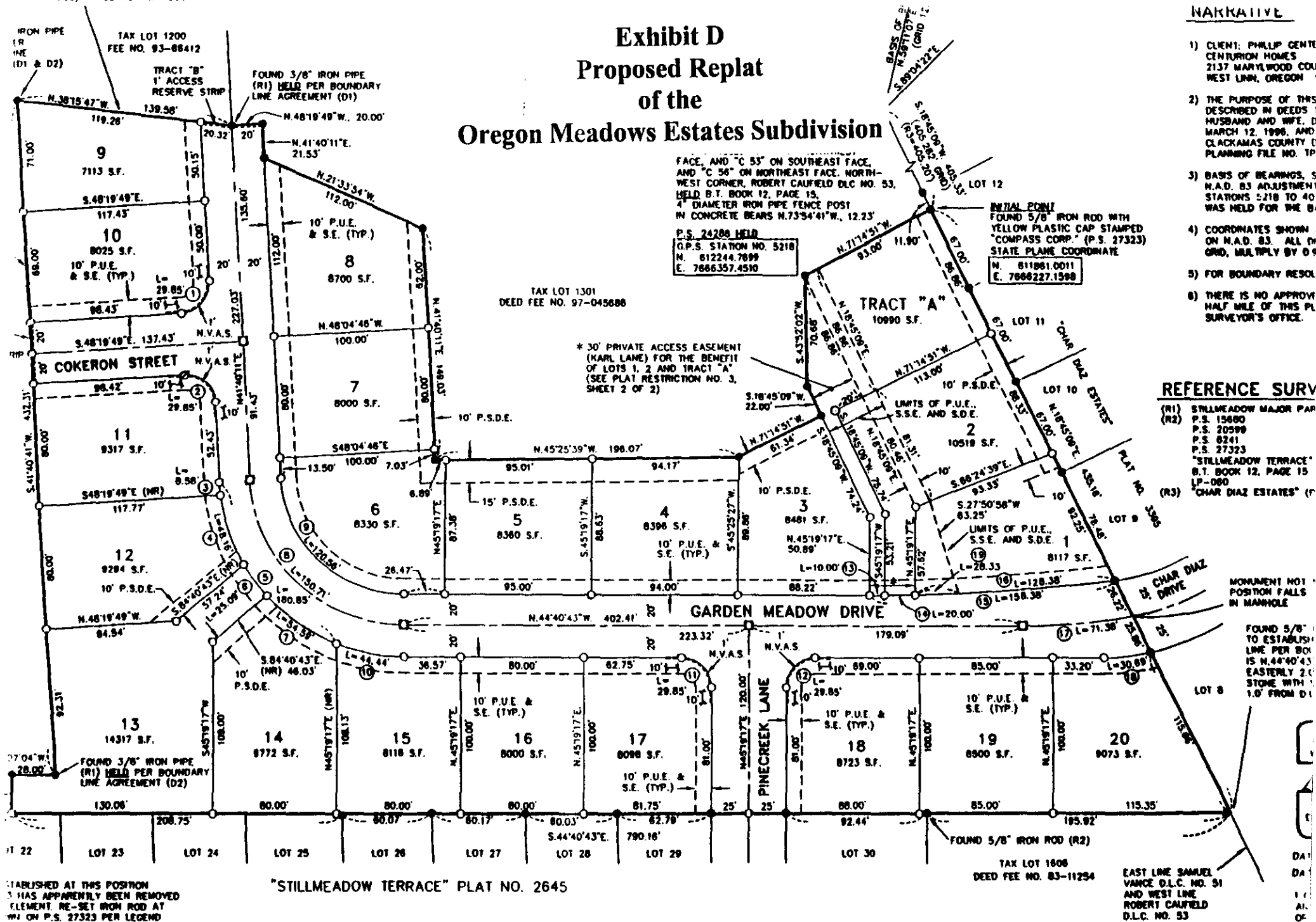
- 1) CLIENT: PHILLIP GENTLE  
CENTURION HOMES  
2137 MAYWOOD COURT  
WEST LINN, OREGON
- 2) THE PURPOSE OF THIS  
DESCRIBED IN DEEDS OF  
HUSBAND AND WIFE, D  
MARCH 12, 1996, AND  
CLACKAMAS COUNTY OF  
PLANNING FILE NO. TP
- 3) BASIS OF BEARINGS, S  
N.A.D. 83 ADJUSTMENT  
STATIONS 5:18 TO 40  
WAS HELD FOR THE 8
- 4) COORDINATES SHOWN  
ON N.A.D. 83. ALL OF  
GROUND, MULTIPLY BY 0.9
- 5) FOR BOUNDARY RESOL
- 6) THERE IS NO APPROX  
HALF MILE OF THIS PL  
SURVEYOR'S OFFICE.

(R1) STILLMEADOW MAJOR PAR  
(R2) P.S. 15600  
P.S. 20599  
P.S. 6241  
P.S. 27323  
"STILLMEADOW TERRACE"  
B.T. BOOK 12, PAGE 15  
LP-060  
(R3) "CHAR DIAZ ESTATES" (F

MONUMENT NOT  
POSITION FALLS  
IN MANHOLE

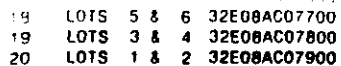
FOUND 5/8"  
TO ESTABLISH  
LINE PER BOX  
IS N.44°40'43"  
EASTERLY 2.0'  
STONE WITH  
1.0' FROM D.

EAST LINE SAMUEL  
VANCE D.L.C. NO. 51  
AND WEST LINE  
ROBERT CAUFIELD  
D.L.C. NO. 53



|    |      |       |              |
|----|------|-------|--------------|
| 19 | LOTS | 5 & 6 | 32E08AC07700 |
| 19 | LOTS | 3 & 4 | 32E08AC07800 |
| 20 | LOTS | 1 & 2 | 32E08AC07900 |

|    |      |       |              |
|----|------|-------|--------------|
| 19 | LOTS | 5 & 6 | 32E08AC07700 |
| 19 | LOTS | 3 & 4 | 32E08AC07800 |
| 20 | LOTS | 1 & 2 | 32E08AC07900 |



# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD OREGON CITY, OREGON 97045  
TEL 657-0891 FAX 657-7892



### STAFF REPORT

Date: May 8, 2000

Complete: 4/7/2000  
120 Day: 8/4/2000

**FILE NO.:** VR00-02

**FILE TYPE:** Quasi - Judicial

**HEARING DATE:** May 8th, 2000  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT/OWNER:** Phil Gentemann  
Centurion Homes  
2137 Marylwood Court  
West Linn, Oregon 97068

**REQUEST:** The applicant is requesting variance approval to allow a reduction in the lot depth for lots 33 and 34 of the pending replat of Oregon Meadows Estates which will be created out of lot 1, (TL 8100 Map, 3-2E-8AC) of the existing Oregon Meadows Plat. Lots 33 and 34 would have lot depths of 64.7 and 84.9 feet respectively.

**LOCATION:** The subject lot is located on the northeast side of Garden Meadow Drive Adjacent to the Char Diaz Subdivision to the south Tax Lot 8100, Map 3-2E-8AC, Lot 1 of the Oregon Meadows Estates Subdivision. This subdivision is located 100 feet northeast of the intersection of Stillmeadow and Pinecreek Drive and 210 feet from the intersection of Gaffney Lane and Berta Drive.

**SUMMARY OF RECOMMENDATION:** Deny the request.

**REVIEWER:** Paul Espe, Associate Planner

**VICINITY MAP:** See Exhibit A

## **BACKGROUND:**

### ***Previous Land Use Decisions:***

On April 22, 1997 the applicant received preliminary plat approval for a 21-lot multi-family duplex and single family residential subdivision on a 4.65 acre property zoned "RD-4" Two Family Dwelling District. Several variances to lot dimensional standards were also approved by the Planning Commission and are tabulated below:

| <b>VARIANCE</b>  | <b>REQUEST</b>  |
|------------------|---|
| VR96-11 - lot 7  | Variance to minimum average lot depth requirement of 100' to 95 feet.     |
| VR96-12 - lot 6  | Variance to minimum average lot depth requirement of 100' to 87 feet.     |
| VR96-13 - lot 5  | Variance to minimum average lot depth requirement of 100 feet to 88 feet. |
| VR96-34 - lot 14 | Variance to lot frontage of 45 feet.                                      |
| VR96-35 - lot 2  | Variance to lot frontage of 45 feet                                       |
| VR96-36 - lot 3  | Variance to lot frontage of 45 feet                                       |

The size and shape of the original parent parcel and the location of the right of way for CharDias Drive were all contributing factors to reduced lot depth. This was an "infill" property located between two pending subdivisions that are now built that were extremely narrow. In order to make this subdivision possible, the applicant was provided additional property through a lot line adjustment from the property to the north (TL 1301, 3-2E-8A) where the Stillmeadow Assisted Living Facility is located.

The location of the two stub-streets for Char Dias Drive also limited the lot orientation on an east west axis along Char Dias Drive within this constrained parcel width. The location of the right of way dictated lot depth and orientation along Char Dias Drive.

The narrow shape of the parcel width, taken together with the location and orientation of Char Dias Drive created an extraordinary circumstance for the parent parcel and was the reason variances listed above were approved by the Planning Commission. The approval assumed a mix of single family and duplex units.

***Subsequent Land Use Actions:***

At its June 16, 1999 meeting, the City Commission received oral testimony by Phil Gentemann of Centurion Homes requesting an amendment to the RD-4 Two-Family District to allow for single-family attached (zero lot line) units. In testimony before the Commission, Mr. Gentemann stated that, should the amendment take place, he could build attached units in individual ownership, as opposed to building duplexes where there would be a mix of rental and ownership options.

The Commission directed staff to prepare a report outlining the various issues involved with the proposed amendment. At the July 21, 1999 meeting, the City Commission directed staff to initiate amendments to the Oregon City Municipal Code to allow single-family attached dwelling units in the RD-4 Two-Family District and on November 17, 1999, the City of Oregon City Amended the Oregon City Municipal Code Chapter 17.04 to add a new definition of "Single-Family Attached Dwellings" and amend the Oregon City Municipal Code Chapter 17.16 to include single-family attached dwellings.

***Files VR00-01 and VR00-02:***

Project files VR00-01 and VR00-02 were filed as a part of an application package to re-plat the existing Oregon Meadows Estates Subdivision to allow for the above-described single family attached dwellings or "Townhouses". The re-plat is currently being processed as a Type II land use decision along with three land partitions and a Water Resources Overlay District Analysis for the adjacent wetland. All applications have been deemed incomplete pending review and approval of the subject variances.

**BASIC FACTS:**

1. The subject lot is located on the northeast side of Garden Meadow Drive Adjacent to the Char Diaz Subdivision to the south Tax Lot 8100, Map 3-2E-8AC, Lot 1 of the Oregon Meadows Estates Subdivision. This subdivision is located 100 feet northeast of the intersection of Stillmeadow and Pinecreek Drive and 210 feet from the intersection of Gaffney Lane and Berta Drive.
2. The property is zoned RD-4 and is designated "MR" Medium Density Residential in the Comprehensive Plan.
3. The northerly portion of the property is generally flat with southerly facing slopes of approximately 3-5 percent. Storm water would travel from this development to The Char Dias Estates to the south. Wetlands are present on the Char Dias site but there were no species or hydrology that indicated the presence of wetlands on this site.



4. The Stillmeadow Assisted living facility is located to the east of the site. The remaining surrounding uses consist of single family dwelling units and vacant property zoned for duplexes or single family dwelling units.
5. The applicant is requesting variance approval to allow a reduction in the lot depth for Lots 33 and 34 of the pending replat of Oregon Meadows Estates which will be created out of Lot 1, (TL 8100 Map, 3-2E-8AC) of the existing Oregon Meadows Plat. Lots 33 and 34 would have lot depths of 64.7 and 84.9 feet respectively.
6. The Dimensional Standards for the RD-4 Duplex Zone are listed as follows:

|                           |          |  |
|---------------------------|----------|--|
| Minimum Average Lot Width | 60 feet  | (single family attached units: 40 feet)        |
| Minimum Average Lot Depth | 100 feet |  |
| Front Yard Setback        | 15 feet  |  |
| Interior Side Yard        | 9/7      | (9 foot setback opposite common property line) |
| Corner Side Yard          | 20 feet  |  |
| Rear Yard                 | 15 feet  |  |

**Oregon City Comprehensive Plan Consistency:**

- A. Statement in Growth and Urbanization Section: *"It is the City's policy to encourage small lot single-family development in the low density residential areas..."*
- B. Community Facilities Policy No. 7: *"Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land".*

**DECISION MAKING CRITERIA:**

**Municipal Code Standards and Requirements:**

|         |  |
|---------|--|
| Chapter | 17.60 Variances                            |
|         | 17.16 "RD-4", Two Family Dwelling District |

### **VARIANCE ANALYSIS AND FINDINGS:**

The criteria for review of this variance request are found in section 17.60.020 of the City of Oregon City Municipal Code. A variance may be granted only in the event that all of the following conditions exist:

**Criterion A: That the literal application of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this ordinance; or, extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site.**

To satisfy this criterion, an applicant must demonstrate that they he or she is being denied a right commonly enjoyed by others, or that there are unique features on the subject property that make it extremely difficult or impossible to comply with the criteria that apply to other properties in the City.

The applicant states in the submitted narrative that there is adequate lot area on Lot 1 to create two 4,000 square foot parcels allowed under OCMC17.16 but not with adequate depth. In addressing this criterion, the applicant is demonstrating as stated on Lot 10, that there *would be* unique features *if* the two proposed lots were created. The applicant also states that he is being denied a right commonly enjoyed by others because he is being denied the ability to make use of this property in a similar fashion as other properties with the same zoning designation.

Criterion A does not contain language to allow for extraordinary circumstances to apply to lots that would be created in the future; rather, it clearly implies that extraordinary circumstances must apply to an existing lot rather than those contemplated for the future. Lot 10 complies with all current dimensional requirements of the RD-4 Zone and has no unique features. Staff finds that this criterion does not contain the language to address extraordinary circumstances on future proposed lots or the ability to create them. The lots created under the previous subdivision were created under extraordinary circumstances the subject lot no longer has.

Second, the applicant has failed provide adequate information to the record that they would be deprived a right commonly enjoyed by others *outside the subdivision*. In order to meet this criterion, the applicant must provide specific information or a list of lots legally created through the variance of subdivision standards that are enjoying property rights that are denied to the applicant.

While there may be substandard lots created through the variance process in the Oregon Meadows Estates Subdivision, the burden of proof is upon the applicant to prove that they are being denied property rights enjoyed by others outside the subdivision by providing a list of properties that are below lot depth and width standards in other areas besides this subdivision. The lots allowed under the previous subdivision were created under extraordinary circumstances

The applicant is the only person in this area who has created substandard lots through the variance process and would not be denied a right commonly enjoyed by others if this request was denied.

**All property owners in Oregon City must comply with the minimum lot depth requirements that apply within the respective zoning districts. Staff finds that the applicant has not presented evidence that demonstrates deprivation of rights commonly enjoyed by other property owners.**

**The literal application of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this ordinance; and this issue is not unique to the applicant's site, therefore, section 17.60.020(A) cannot be met.**

**Criterion B: That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this ordinance.**

In order to meet this criterion the applicant must demonstrate that any future construction on these lots would not cause substantial damage by reducing light, air, or safe access.

Lot 1 is a corner lot that fronts on a flag access on the east side of Garden Meadow Drive adjacent to the Char Dias Subdivision. The current configuration of this lot would allow a duplex building 35 feet in height to be constructed 15 feet away from the rear yard property line adjacent to Lot 2 at the northeast.

While the newly proposed property line would rotate the orientation of Lot 1 and create two new lots, (Lots 33 and 34) the proposed building would still be in the same location as it would have been without this new property line. Variance approval to lot depth merely allows a property line to be drawn through the common wall of the duplex creating two separate units that can be individually owned and would not change the building orientation or location on the lot. (See Exhibit B).

Staff agrees that the corner lot design allows an opportunity to make more attractive homes on these lots by having driveways on two frontages, however this design would still be retained irrespective of the variance approval or the creation of additional lots.

The requested variance to the lot depth would not directly affect or impact the abutting properties. The request does not reduce light, air, safe access or other desirable qualities as protected under this ordinance. In light of the existing and proposed surrounding lots, staff concurs with the applicant's finding that approval of a reduced lot depth will not cause substantial damage to adjoining properties.

**Therefore, this section 17.60.020(B) can be met.**

**Criterion C: The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time that the site was purchased.**

Under this criterion, if a circumstance that gives rise to the need for a variance is self-imposed the variance will not be granted. If an applicant knew or should have known that a standard applies that will preclude a proposed development, the circumstance is self-imposed.

The applicant states that the circumstances are not self-imposed because physical constraints imposed by the shape of the (subdivision) site resulted in the existing configuration of Lot 1, Oregon Meadows Estates. The corner of the subdivision plat extends a considerable distance northward and the location of Garden Meadows Drive was constrained by the need to connect with Char Diaz Drive. This required Lots 1, 2, and 3 to be oriented toward a private driveway.

The applicant asserts that Lot 1 is now too shallow to permit partitioning to create single family attached lots that would meet minimum lot depth standards. The applicant further states that development standards did not exist at the time of approval of the original plat so it would have been impossible to anticipate the need for further division of this lot when it was designed.

Lot 1 is a legal and conforming lot under the RD-4 zoning district and Lots 2 and 3 were allowed by previous variances to lot frontage. The six lots created through the variance proceeding under TP96-16 were allowed because the shape of the original tax map did not allow adequate lot depth on the east side of the subdivision. Lot 1 is a polygonal shaped lot with less square footage than most of the lots in the subdivision but is a legal and conforming lot and is therefore not related to those lots approved under the previous variances when the plat was created.

Furthermore, The physical constraints of Oregon Meadows Estates Plat that provided justification for the approval of the six variances to lot dimension do not exist for Lot 1, which is a legal and conforming lot.

Clearly, the creation of a lot that is substandard in size is a self-imposed difficulty. Criterion C generally applies to previously existing lots that may have a physical constraint, which precludes someone from the full use of the property. Variances to lot size are sometimes granted if they involve a previously existing platted lot of record that is slightly undersized.

The criterion is not met in this case because the creation of substandard lots irrespective of the reason or final result does not justify variance approval. Financial resources or other monetary hardship is not sufficient reasoning for variance approval.

Therefore Staff finds that the creation of a substandard lot is a self-imposed difficulty.

**Staff finds that Section 17.60.020(C) is not met.**

**Criterion D: No practical alternatives have been identified which would accomplish the same purposes and not require a variance.**

Under this criterion the applicant must identify that all other available practical alternatives have been explored prior to requesting this variance. The applicant maintains that the shape of the existing parcel is set by the plat of Oregon Meadows Estates and that there are no other alternative design options that would accomplish the same purpose of developing single-family attached housing.

The applicant wishes to divide Parcel 1 along the common wall of the duplex so that each unit can be individually owned. The purpose of creating the two lots is to develop single family attached housing as provided OCMC Ch17.16. The lots cannot be formed in any other way to achieve this purpose.

**Criterion E: That the variance requested is the minimum variance, which would alleviate the hardship.**

Under this criterion, the applicant must demonstrate that this is the minimum variance requested. This criterion is generally more appropriate when discussing items of spatial or linear measurement. In this case, the establishment of the lot line to create common wall single family development or townhouses will create lots below the required depth as a by-product of this effort. In addition, the location of the existing duplex unit on lot 2 precludes the ability to provide additional territory to increase lot depth. Creation of two lots of 67.4 and 84.9 feet would be the minimum variance requested and staff finds that this criterion has been satisfied.

**Criterion F: That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.**

This proposal has been found to be consistent with Policy 1 of the Growth and Urbanization section of the Comprehensive Plan which is to provide land use opportunities within the City's Urban Growth Boundary. In addition, development and urban renewal within Oregon City boundaries will decrease the current land use burden on lands within the Urban Growth Boundary and increase available housing within City boundaries which is found to be consistent with the Comprehensive Plan.

**Section 17.60.020(F) is met.**

**CONCLUSION:**

Staff finds that the requested variance does not meet Criterion A, because extraordinary circumstances cannot apply to lots being created in the future and the applicant did not adequately prove that he was being denied property rights enjoyed by others.

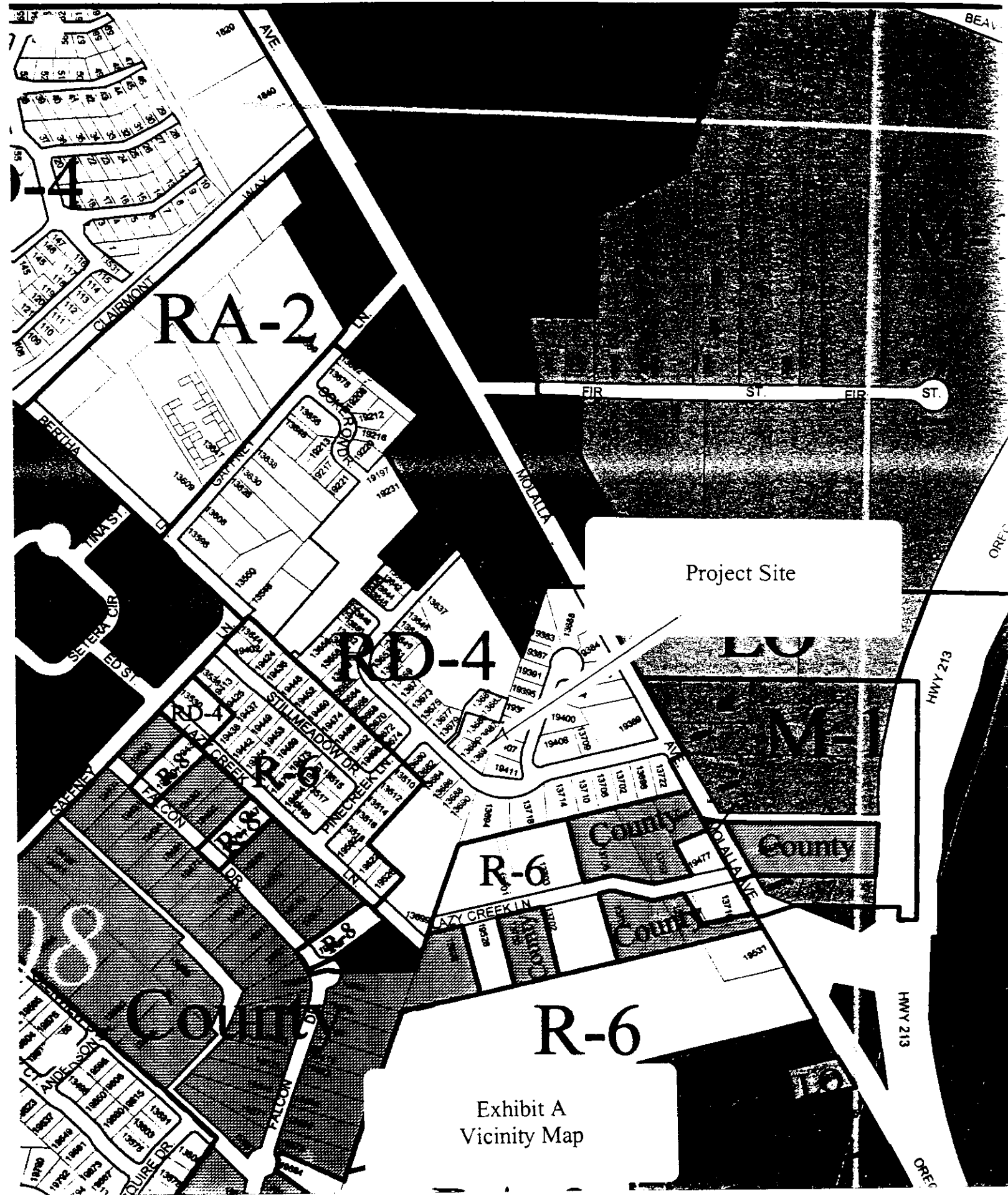
The submitted information does not meet Criterion C because the creation of a substandard lot through the platting process was found to be a self-imposed hardship. A valid alternative to this variance request is to allow a duplex to be constructed on Lot 1 in lieu of single family attached housing.

**RECOMMENDATION:**

In light of the above listed evidence and the findings submitted to the record, staff recommends denial of file VR 00-02 for property identified as Tax Lot 8100, Map 3-2E-8AC, Lot 1 of the Oregon Meadows Estates Subdivision, to allow a lot depth reduction from 100 feet to 67.4 feet and 84.9 feet.

**EXHIBITS:**

- A. Vicinity Map
- B. Applicant's written statement, site plan and elevation
- C. OCMC Ch. 17.16
- D. Proposed Replat of Oregon Meadows Estates Subdivision
- E. Oregon Meadows Estates Subdivision Plat



FOUND 7"x12" STONE WITH "X" ON TOP AND CHISELED "C 51" ON NORTHWEST FACE, AND "C 53" ON SOUTHEAST FACE, AND "C 56" ON NORTHEAST FACE. NORTHWEST CORNER, ROBERT CAUFIELD D.L.C. NO. 53.

FIELD B.T. BOOK 12, PAGE 15.  
DIAMETER IRON PIPE FENCE POST  
CONCRETE BEARS N.73°34'41"W., 12.23'

P.S. 24286 HELD

G.P.S. STATION NO. 5218  
N. 612244.7699  
E. 7666357.4510

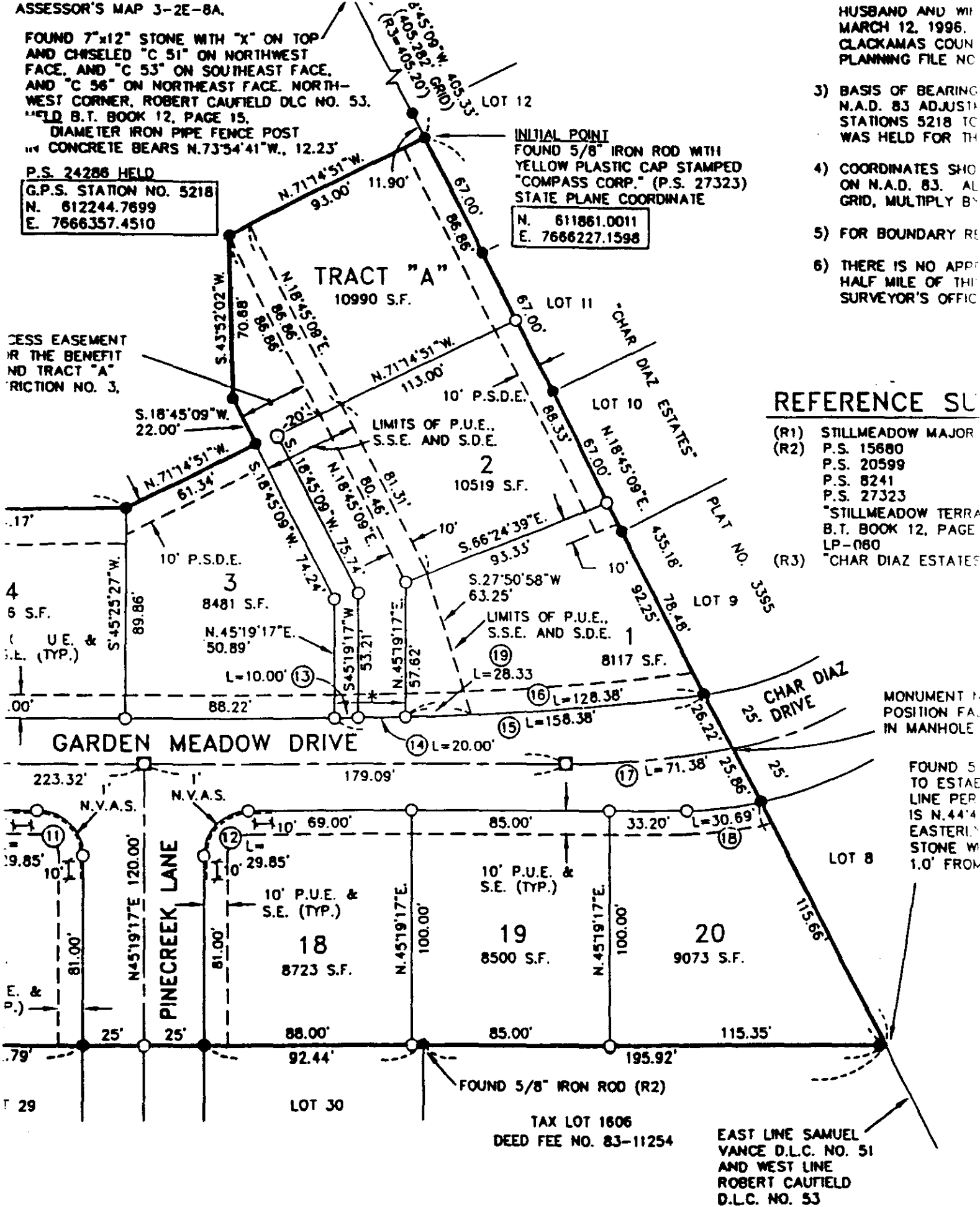
INITIAL POINT

FOUND 5/8" IRON ROD WITH  
YELLOW PLASTIC CAP STAMPED  
"COMPASS CORP." (P.S. 27323)  
STATE PLANE COORDINATE

N. 611861.0011  
E. 7666227.1598

HUSBAND AND WIFE  
MARCH 12, 1996.  
CLACKAMAS COUNTY  
PLANNING FILE NO.

- 3) BASIS OF BEARING  
N.A.D. 83 ADJUSTED  
STATIONS 5218 TO  
WAS HELD FOR THE
- 4) COORDINATES SHOWN  
ON N.A.D. 83. ALL  
GRID, MULTIPLY BY
- 5) FOR BOUNDARY RE
- 6) THERE IS NO APPROPRIATE  
HALF MILE OF THE  
SURVEYOR'S OFFICE





**VARIANCE APPLICATION**  
**LOT 1, OREGON MEADOWS ESTATES**

**Request for Variance**

A variance is requested to deviate from the minimum average lot depth standard of 100 feet on Lots 33 and 34 of the pending replat of Oregon Meadows Estates. These lots are proposed to be created out of Lot 1 of the existing plat of this subdivision. The proposed parcels would have average lot depths of 67.4 and 84.9 feet. This deviation from the standard is necessary due to the layout of the street and the shape of Lot 1. Since the proposed lot area requirements are met, each of the lots will have sufficient dimensions to permit layout of an attached dwelling in compliance with setback standards, as shown on the attached site plan for these lots.

Lot 1 of Oregon Meadows Estates abuts Garden Meadow Drive along its south border and a private driveway easement along its western boundary. Centurion Homes plans to build single-family attached dwellings on this property. However, the configuration of this parcel will not permit division into two tracts without variance. It is too narrow to permit division of the lot on an east-west axis such that the new parcels would front onto the private driveway. The lot is too shallow to permit division into two lots fronting onto Garden Meadow Drive without a variance to the minimum average lot depth requirements of the RD-4 district.

**Variance Criteria**

*17.60.020 A. That the literal application of the provisions of this title would deprive the applicant of the rights commonly enjoyed by other properties in the surrounding area under the provision of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site.*

The RD-4 district establishes single-family attached dwellings as a permitted use, with minimum lot area requirements of 4,000 sq. ft. per dwelling. Lot 1 of Oregon Meadows Estates contains 8,117 sq. ft., which would typically permit division of this parcel into two lots for single-family attached dwellings. However, the shallow configuration of this lot will not permit creation of lots that will comply with the minimum lot depth standard. The inability to make use of this property for a use which is permitted on other similarly zoned properties in Oregon City would constitute deprive the applicant of rights commonly enjoyed by other properties in the surrounding area.

*17.60.020 B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing the amount of light and air, safe or other desirable or necessary qualities otherwise protected by this title.*

As shown on the attached plot plan for this lot, the applicant has designed an attractive unit for this parcel that can be built as a duplex dwelling on the existing parcel in full conformance with required standards. The requested variance will simply permit each unit to be placed upon a separate lot so that it may be individually owned. Thus, the reduction in lot depth will have no affect upon neighboring property owners.

By conforming to required setbacks, light, air, and safety considerations will be maintained for adjacent properties. Further, it should be noted that the shallow, corner lot design affords a design opportunity to make more attractive homes on these lots by having driveways onto two frontages, thereby reducing the visual impact of garage doors on the streetscape.

**17.60.020 C.** *The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.*

The circumstances relating to the need for this variance application are not self-imposed. A review of the plat of Oregon Meadows Estates demonstrates the physical constraints imposed by the shape of the site that resulted in the existing configuration of Lot 1. The property extended a considerable distance to the north, but the location of Garden Meadow Drive was constrained by the need to connect with Char Diaz Drive. This configuration necessitated that Lots 1, 2, and 3 be oriented towards a private driveway that provides access to these parcels. As a result, the shape of Lot 1 is now too shallow to permit partitioning to create single-family attached lots. Further, it should be noted that the single-family attached use and related development standards did not exist at the time of recording of the original plat so it would have been impossible for the applicant to anticipate the need for further division of this lot when it was originally designed.

The purpose of the lot depth variance is to allow construction of a needed type of housing. Therefore, the purpose of the requested variances is not simply a monetary hardship or an inconvenience, but rather to let the applicant help the City in meeting its housing needs.

**17.060.020 D.** *No practical alternatives have been identified which would accomplish the same purposes and not require a variance.*

The shape of the existing parcel is set by the plat of Oregon Meadows Estates. There are no alternative design options that would accomplish the same purpose of developing single-family attached housing and not require a variance.

**17.060.020 E.** *That the variance requested is the minimum variance which would alleviate the hardship and that the variance conforms to the comprehensive plan and the intent of the ordinance varied.*

The variance requested is the minimum variance possible. A reduction in the minimum depth of these proposed lots to allow for single-family attached housing is consistent with the intent of the Comprehensive Plan and the zoning provisions being varied. The Comprehensive Plan has an underlying purpose of ensuring that the needs of the citizens of Oregon City for a variety of housing types are met. These variances would provide for single-family attached housing. This is a new type of housing in Oregon City that has been proven to be in great demand in other areas of the Metropolitan Area. As the population ages, and as more one and two person households are being established in the area, the need for affordable smaller homes is increasing. The proposed single-family attached housing helps to meet this need.

The purpose of the lot depth standard for the RD-4 district is, presumably, to ensure that sufficient area exists to provide for construction of homes that will maintain required setbacks. The plot plan submitted with this application demonstrates that the applicant has taken the effort to design homes that will meet this purpose on the shallower lots proposed. Approval of the requested variance is consistent with this criterion.

ORDINANCE NO. 99-1027

AN ORDINANCE AMENDING TITLE 17: ZONING, CHAPTER 17.04 DEFINITIONS, OF THE OREGON CITY MUNICIPAL CODE OF 1991, BY CREATING A NEW SECTION 17.04.235; AND AMENDING TITLE 17: ZONING, CHAPTER 17.16: RD-4 TWO FAMILY DWELLING DISTRICT, SECTION 17.16.020 PERMITTED USES, AND CREATING A NEW SECTION 17.16.060

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, the current Municipal Code does not allow single-family attached dwellings; and

WHEREAS, the City recognizes a need for flexible standards to build single-family attached dwellings available for individual ownership; and

WHEREAS, the proposed Code amendments are supported by the Comprehensive Plan Goals and Policies.

Now, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title 17: ZONING, Chapter 17.04: DEFINITIONS, of the Oregon City Municipal Code of 1991, is hereby amended by creating Section 17.04.235 to read as follows:

17.04.235 Single-Family Attached Dwellings. Single-family attached dwellings mean two attached single-family dwelling units that share a common wall but are located on separated lots of a common property line with no setbacks from the common lot line.

Section 2. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, Section 17.16.020: PERMITTED USES, is hereby amended to read as follows:

17.16.020 Permitted uses. Uses permitted in the RD-4 district are:

- A. Two-family dwellings (duplexes);
- B. Single-family dwellings;
- C. Single-family attached dwellings;
- D. Publicly owned parks, playgrounds, play fields and community or neighborhood centers;
- E. Home occupations;
- F. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (commercial buildings are not permitted);
- G. Temporary real estate offices in model homes, located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- H. Accessory uses and buildings;
- I. Family day care provider, subject to the provisions of Section 17.54.050;
- J. Manufactured dwelling parks, if designated MR/MDP, and subject to the provisions of Chapter 17.66;
- K. Site-built manufactured homes.

Section 3. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, Section 17.16.040, is hereby amended to read as follows:

17.16.040 Dimensional standards. Dimensional standards in the RD-4 district are:

- A. Minimum lot area:

Exhibit C  
OCMC Ch. 17.16

1. Two-family dwellings, eight thousand square feet;
  2. Single-family dwellings, six thousand square feet;
  3. Single-family attached dwellings, four thousand square feet;
  4. Non-residential uses, six thousand square feet.
- B. Minimum average lot width, sixty feet, except for single-family attached units, in which case the minimum lot width per lot is 40 feet;
- C. Minimum average lot depth, one hundred feet;
- D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;
- E. Minimum required setbacks:
1. Front yard, fifteen feet minimum depth;
  2. Interior side yard, nine feet width for at least one side yard; seven feet minimum width for the other side, with the minimum nine foot side yard applying to single-family attached dwellings on the side that does not abut the common property line;
  3. Corner side yard, twenty foot minimum width;
  4. Rear yard, fifteen foot minimum depth;
  5. Solar balance point, setback and height standards may be modified subject to the provisions of 17.54.070.

Section 4. That Title 17: ZONING, Chapter 17.16: RD-4 TWO-FAMILY DWELLING DISTRICT, is hereby amended by creating a new Section 17.16.060: SINGLE-FAMILY ATTACHED DWELLING, to read as follows:

17.16.060 Single-family attached dwelling. The following standards apply to single-family dwellings, in addition to the standards in 17.16.040.

A. Maintenance easement. Prior to building permit approval, the applicant shall submit a recorded mutual easement that runs along the common property line. This easement shall be sufficient to guarantee rights for maintenance purposes of structure and yard, but in no case shall it be less than 5 feet in width.

B. Conversion of existing duplexes. Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the requirements in Section 17.16.040(A)(3), 17.16.040(B), 17.16.040(E)(2), and the State of Oregon One and Two Family Dwelling Specialty Code prior to final recordation of the land division replat.

Read for the first time at a regular meeting of the City Commission held this 17<sup>th</sup> day of November, 1999 and the foregoing ordinance was finally enacted by the City Commission this 17<sup>th</sup> day of November, 1999.

*Leilani Bronson-Crelly*  
LEILANI BRONSON-CRELLY, City of Oregon City

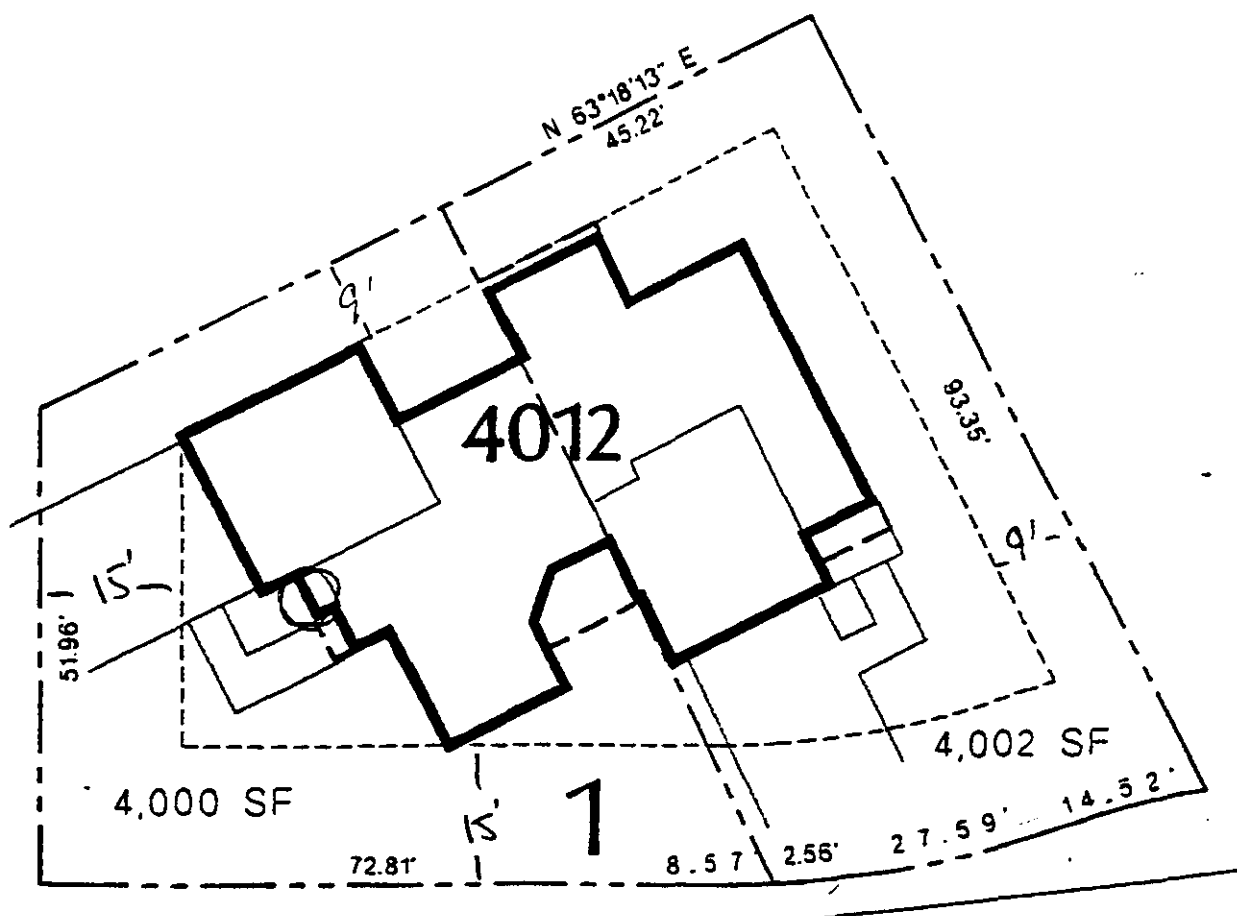
ATTESTED to this 17<sup>th</sup> day of November, 1999

*John F. Williams*  
JOHN F. WILLIAMS, Mayor

ORDINANCE NO. 99-1027

Effective date: December 17, 1999

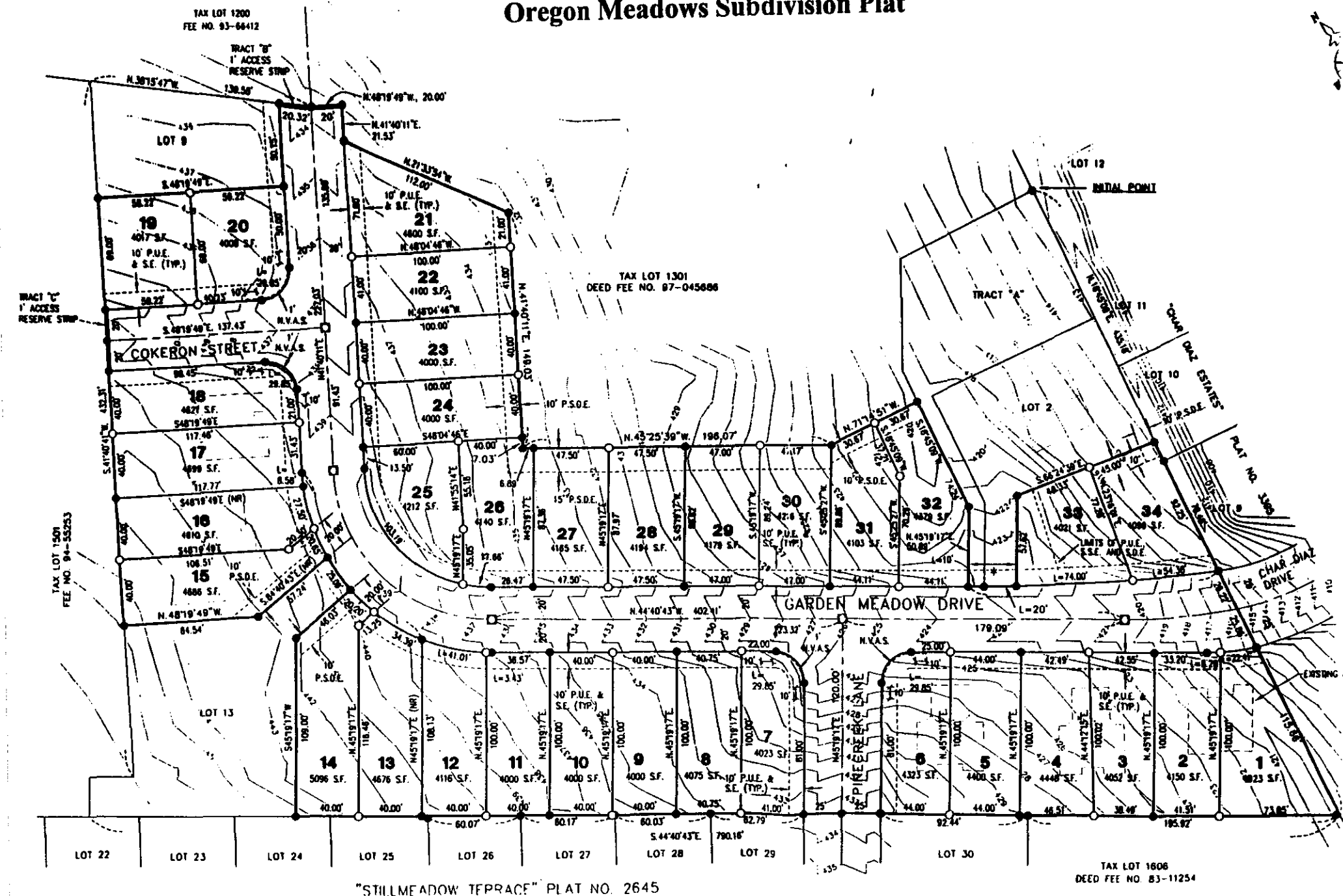
LOT 1



SCALE 1 inch = 20'

**FEBRUARY, 2000**

**Exhibit E**  
**Oregon Meadows Subdivision Plat**





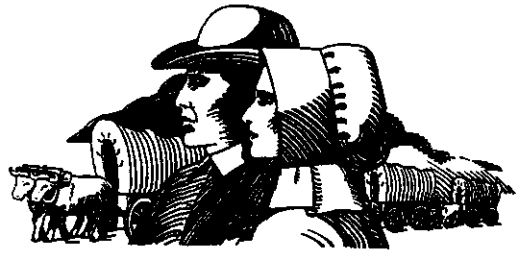


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



## AGENDA

City Commission Chambers - City Hall  
May 8, 2000 at 7:00 P.M.

### PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:05 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:10 p.m. 3. **APPROVAL OF MINUTES:** April 24, 2000
- 7:15 p.m. 4. **PUBLIC HEARING**
- VR 00-01 & VR 00-02;** Phil Gentemann, Centurion Homes  
Clackamas County Map # 3-2E-8AC, T.L. 6900 & 8100; Request for  
variances to 100 foot minimum lot depth.
- 8:00 p.m. 5. **OLD BUSINESS**
- A. VR 99-07 (continued);** (*Adoption of findings for denial*). James McKnight/  
161 Barclay Avenue; Clackamas County Map # 3S-2E-31 DC, Tax Lot 5400;  
Request to modify the zoning requirement of an R-10 Single-Family Dwelling  
District from 100' depth to a 80' lot depth.
- B. Summary and Reactions-** Oregon City Downtown Community Plan Phase II  
Kick-Off Meeting
- 8:30 p.m. 6. **NEW BUSINESS**
- A. Staff Communications to the Commission**
- B. Comments by Commissioners**
- 8:45 p.m. 7. **ADJOURN**

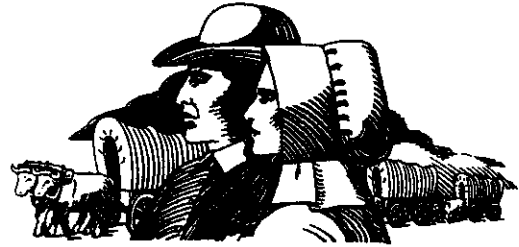
NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE  
DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING  
DATE.

# **CITY OF OREGON CITY**

## **PLANNING COMMISSION**

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



### **Staff Report April 24, 2000**

**FILE NO.:** VR 99-07

**HEARING DATE:** Monday, April 10, 2000

**FINDINGS ADOPTION DATE:** Monday, May 8, 2000

#### **BACKGROUND:**

The attached documents are draft Findings of Fact, Conclusions of Law and Final Order concerning the Planning Commission denial of a variance request, File No. VR 99-07, at a duly noticed public hearing on April 10, 2000.

Upon adoption of the attached, the appeal period governing this file shall be in effect. The applicant may obtain appeal information from the Planning Division by contacting staff at 657-0891.

Attachment: Draft Findings, VR 99-07

**DRAFT**

**BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF OREGON CITY OREGON  
May 8, 2000**

In the matter of an application for )  
variance approval for lot depth from )  
100 feet to 80 feet for tax lot 5400 )  
located at 161 Barclay Avenue, )  
Oregon City; File No.: VR99-07 )

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND FINAL ORDER**

This matter came before the Planning Commission for a final decision at a duly noticed public hearing on April 10, 2000. Following deliberations and based on all of the testimony and evidence that was presented at the public hearing, the Planning Commission voted to deny the request to reduce the required lot depth from 100 feet to 80 feet.

The Planning Commission finds that the applicant has not met the burden of proof in demonstrating that the proposed variance complies with the applicable approval criteria contained in Section 17.60.070 of the Oregon City Municipal Code (OCMC). More specifically, the variance is denied because: (1) literal application of the code will not deprive the applicant of rights commonly enjoyed by other properties; (2) there are no extraordinary circumstances that apply to this property that do not apply to other properties in the surrounding areas; (3) the applicant has not demonstrated that the variance is not likely to cause substantial damage to adjacent properties; and (4) the applicant has not demonstrated that his circumstances are not self-imposed.

**I. Introduction and Background**

The subject property is located approximately 200 feet east of the intersection of Barclay and Brighton Street and is further identified on Clackamas County Map Number 2-2E-31DC as Tax Lot 5400; the street address is 161 Barclay Avenue. The property is approximately 23,800 square feet in size, zoned R-10, Single-Family Dwelling District and Designated "LR" Low Density Residential in the Comprehensive Plan. The surrounding land uses are zoned R-10 and R-6, Single Family Dwelling District and RD-4 Two Family Dwelling District. The applicant is requesting a variance to allow a reduction in the lot depth for proposed lot 1 from 100 feet to 80 feet (+/-) to allow a future land partition. The future partition would divide this 23,800 square foot property two lots of 10,020 square feet (lot 1) and 13,780 square feet (lot 2). Lot 1 would have frontage and access from Charman Avenue, a lot depth of 80 feet and a width of approximately 131 feet.

The property acquired its present configuration from a lot line adjustment in 1991. That lot line adjustment, which was approved by the City of Oregon City, conveyed approximately 6,800 square feet of property from Tax Lot 5500 to the subject property, Tax Lot 5400, owned by the applicant. Essentially, the lot line adjustment transferred Tax Lot 5500's backyard to Tax Lot 5400. A record of survey for the lot line adjustment was not recorded with the County

Surveyor's office because a recording of survey documents was not required under County Ordinances until 1994.

In 1998, the applicant requested a pre-application conference, which was held on August 5, 1998, prior to the submittal of any application for a partition. At that 1998 pre-application, applicant was informed that the City was amending the Subdivision Ordinance but he was told that the changes being proposed would not affect the partition request. The applicant did not file any application for a partition after that pre-application. Subsequently, Section 16.28.080 (1994), which allowed for a partition with a minimum lot depth of 60 feet was removed in October of 1998. Without that provision, all partitions, including the one contemplated by the applicant, must automatically meet the dimensional standards of the underlying zone, which, in the R-10 zone, includes a minimum average lot depth of 100 feet. OCMC 17.08.040(C).

The applicant was informed in a subsequent pre-application conference on June 24, 1999, that a variance would be required for any partition and is the reason that this request is before the Planning Commission at this time.

## **II. Analysis of Approval Criteria**

The variance criteria for a reduction in the minimum lot depth are found in Section 17.60.20 of the Oregon City Municipal Code ("OCMC"). We find the applicant's request does not comply with the following criteria in that section:

- A. *17.60.20 (A) Literal Application of the Zoning Code Does Not Deprive the Applicant of Rights Commonly Enjoyed by Other Properties nor do Extraordinary Circumstances Apply to the Property that Do Not Apply to Other Property in the Surrounding Area.***

### **(1) Deprivation of Rights Commonly Enjoyed by Other Properties.**

The lot depth requirements and other dimensional standards apply to all lots in a particular zone in the City. No property owner has the right to create lots that do not meet the minimum standards set out in the OCMC. The applicant does not assert that the same standards would not apply to his neighbors should they try to partition their lots.

Instead, the applicant asserts that it will be denied a right commonly enjoyed by other property owners because of the "numerous other legal substandard lots" that have a lot depth of less than 100 feet. However, as discussed in the staff report, the majority of these lots are existing non-conforming or previously existing remainder lots of the subdivisions in the Rivercrest Neighborhood. The City has no record that any of these substandard lots were created by a partition or variance request. As pointed out in the staff report, the standards for a partition changed in 1998 and the minimum lot depth in this zone was affected. Previously, the minimum lot depth could reach 60 feet and the change in 1998 effectively increased the minimum lot depth to 100 feet.

Although the change in the law deprived the applicant of certain rights, it did so only to the extent that it deprived every other property owner of those same rights. Therefore, it cannot be said that the application of the current lot depth deprives the applicant of a right "commonly enjoyed by other property owners."

**(2) Extraordinary Circumstances Do Not Apply to This Property.**

To satisfy this criterion, an applicant must demonstrate there are unique features on its property that make it extremely difficult or impossible to comply with the applicable criteria that apply to other properties in the City. The Planning Commission interprets this provision as requiring that the unique feature be a characteristic of the property itself or otherwise related to the physical circumstances of the property. This criterion does not address procedural circumstances nor does it address the circumstances of the property owner, unless it is specifically related to the property.

There is nothing unique about the applicant's property. Applicant's argument regarding the uniqueness of his situation has two bases: First, the 1998 pre-application in which he was told that a partition was possible without a variance and that the law would not change. Second, that he suffered a stroke that affected his ability to move forward with his planned partition.

As to the applicant's first argument, what the applicant was told in a pre-application meeting is not related to the property and therefore, that issue is not properly considered under this criterion. The same is true of the applicant's second argument; it simply is not related to the property itself and should not be considered under this criterion. Although we sympathize with the applicant, we cannot say that his extraordinary circumstances "apply to the property."

Moreover, even if the criterion does not look solely to the property, the applicant has not carried his burden of showing that this criterion has been met. If the applicant had filed his application with the City within a few months of the pre-application, the City would have been bound by the ordinances in effect at the time the application was filed. ORS 227.178(3). However, the applicant waited almost ten months after the 1998 pre-application before filing any application. The City code specifically states that:

"Notwithstanding any representation by city staff, . . . any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the city of any standard or requirement." OCMC 17.50.050(D).

This is especially true in light of the fact that the relevant requirement was, in fact, not in the code at the time of the pre-application. The applicant knew that the desired partition was dependent on a particular code section in the Land Division title of the code and that a revision to that title was eminent.

Moreover, any reference to the applicant having a "valid" pre-application is inapposite. When OCMC 17.50.050(E) speaks about a pre-application as "valid" for a period of six months, this does not mean that all statements made at the pre-application remain in force or that the OCMC cannot change during that six-month period. That view of a pre-application is belied by OCMC 17.50.050(D), discussed above. Instead, the "validity" of a pre-application addresses the requirement in 17.50.050(A) for a pre-application prior to the submittal of any form of permit. Having a "valid" pre-application simply means that a person can submit an application. A "valid" pre-application does not confer any other rights or substitute for a preliminary approval, and is simply not relevant to the issues in this variance application.

This analysis is not affected by the applicant's stroke. The applicant's memo to the Planning Commission, submitted at the public hearing, specifically notes that "it wasn't until 1998 that he was truly capable of moving forward with the partition." The Planning Commission accepts this statement as indicating that, in 1998, the applicant was no longer affected by his stroke to such a degree that he was unable to proceed with the partition. Accordingly, his circumstances were not extraordinary at the time of the 1998 pre-application and nor has he provided any evidence of incapacity at any subsequent time.

In sum, the criterion that a literal application of the code would deprive the applicant of rights commonly enjoyed in the surrounding area or that extraordinary circumstances apply to the property is not met. There is nothing unique about the applicant's property, as opposed to what the applicant was told or his personal health. There is nothing so unique about the applicant's dealings with the city in light of the lapse of time between pre-application and actual application and in light of the applicant's awareness that a major revision to the Land Division title was eminent that requires the granting of a variance.

**B. 17.60.020(B). *The Proposed Variance is Likely to Cause Substantial Damage to Adjacent Property.***

Under this criterion, a variance will be denied if the applicant cannot demonstrate that the variance is not likely cause a substantial damage to neighboring properties. Mark Reagan, who owns the lot immediately adjacent to the subject property to the east, testified at the hearing. He indicated that, should the variance be approved, it would allow the construction of an additional dwelling immediately adjacent to his house, which will significantly affect and substantially damage the privacy currently enjoyed on this adjacent lot.

OCMC 17.60.020(B) specifically notes that the "substantial damage" that the Planning Commission must examine include the reduction of "light, air, safe access or other desirable or necessary qualities otherwise protected by this title." The Planning Commission notes the statement of purpose contained in OCMC 17.02.020 that "the purpose of this title is to promote public health, safety and general welfare through standards and regulations designed . . . to prevent the overcrowding of land." The Planning Commission interprets this provision regarding overcrowding to contemplate the protection of every citizen's privacy. Because the proposed variance is likely to substantially affect the adjacent property by infringing on the privacy on the lot, the Planning Commission is unable to find that this criterion has been met.

**C. 17.60.020(C). *The Applicant's Circumstances are Self-Imposed.***

Under this criterion, if a circumstance that gives rise to the need for a variance is self-imposed the variance will not be granted. If an applicant knew or should have known that a standard applies that will preclude a proposed development, the circumstance is self-imposed.

In April 1991, the applicant was informed by City Planning Staff that new parcels created through the partitioning process would be exempt from the minimum average width and depth requirements of the zoning code. The applicant purchased property from the adjoining parcel to add sufficient area to create a second lot at the rear of the property, under the then-current code

On August 5, 1998 the applicant was again informed by City Planning Staff that the partition was possible and that the new subdivision ordinance would not change previous partitioning rules described under Ch.16.28.080 (1994). Nevertheless, when the subdivision ordinance was adopted in October 1998, it removed this section. Removal of the provision automatically required all partitions and subdivisions to follow the lot dimension standards of the underlying zone.

The applicant argues that the circumstances are not self-imposed because he could not have been aware of the new restriction when he purchased his property. Applicant is, in part, correct; the code amendment that is causing his situation was not adopted until well after he had purchased his property. However, that alone does not exculpate the applicant. If that were so, the development of every property would be governed by the code in effect when it was purchased. This clearly cannot be the case. The City will continue to update its code, when required in the judgment of its elected officials. Every property owner is presumed to be aware of changes to the code that might affect his or her property.

As with the discussion of the "extraordinary circumstances" criterion, the analysis is not changed by the information provided at the 1998 pre-application or by the applicant's stroke. While both of these incidents were unfortunate, they do not affect the analysis as described above regarding the length of time between the 1998 pre-application and the filing of the actual application, the applicant's apparent recovery from his stroke, the provisions of OCMC 17.50.050(D) and the meaning of a "valid" pre-application.

**III. Conclusion**

The applicant has not demonstrated that all of the variance criteria are met, so the application is being denied. It is unfortunate that the applicant was unable to partition the lot prior to the change in the subdivision ordinance. However, he bought a piece of property that was not partitioned and that does not contain the required 100 feet of lot depth. To grant a variance under these circumstances is inconsistent with the approval criteria and would essentially "freeze" applicable standards to those in effect whenever a property owner happens to check on the standards. The requested variance is denied for all of the above reasons.

Adopted by the Oregon City Planning Commission, May 8, 2000.