



**KEIZER COMMUNITY DEVELOPMENT
DEPARTMENT
NOTICE OF DECISION
Variance Case No. 2019-11**

I. REQUEST

The following report reviews a land use application for a Minor Variance to reduce the minimum side yard setback to 8 feet where 10 feet is required and to increase the maximum density from 24 units per acre to 27 units per acre.

II. BACKGROUND

- A. APPLICANT/OWNER:** Jeff Ullman
- B. PROPERTY LOCATION:** The subject property is located at 1095 Clearview Av NE, Keizer, Oregon. The County Tax Assessor's map identifies the property as being located within Township 7 South; Range 3 West; Section 11BA; Tax Lot 5200. (Exhibit 1)
- C. PARCEL SIZE:** The subject property is approximately .30 acres in area.
- D. EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The subject property is currently developed with a single family dwelling and connected to both public water and sewer.
- E. ZONING:** The subject property is designated Mixed Use on the Comprehensive Plan Map and is zoned MU (Mixed Use).
- F. ADJACENT ZONING AND LAND USES:** The property to the east of the subject property is zoned Residential Medium Density (RM) and contains a multi family development. Properties to the west are zoned Mixed Use (MU) and single family dwellings are the prominent uses. The undeveloped property immediately to the north, fronts Cherry Av NE and is zoned MU. The properties directly across the street are zoned RM with a mix of single and multi family dwellings.
- G. PROPOSAL:** The applicant is requesting a Minor Variance to reduce the side setback required to 8 feet where a minimum of 10 feet is required and to increase the maximum density from 24 units per acre to 27 units per acre. (Exhibit 2)

III. COMMENTS

- A.** The Keizer Public Works Department reviewed the proposal and submitted comments which are attached. (Exhibit 3)
- B.** The Keizer Police Department reviewed the proposal and submitted comments regarding concerns over additional units and parking. (Exhibit 4)

IV. FINDINGS AND CONCLUSIONS

- A. The applicant is proposing to construct an 8-unit multi family development with a higher density than what is currently allowed and with a reduced side yard setback. Therefore, variance approval is required as this proposal does not comply with requirements of the Keizer Development Code.
- B. The decision criteria for a Minor Variance are contained in Section 3.105.04 of the Keizer Development Code. The criteria and staff's findings are listed below:
- 1.
- a. *The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or,*
 - b. *The variance requested is consistent with the intent and purpose of the provision being varied; or*
 - c. *The applicant in good faith is unable to comply with the standard without undue burden which is grossly disproportionate to the burden born by others affected by the specific provisions of the code sought to be varied.*

FINDINGS: The subject property is zoned MU (Mixed Use) and multi-family dwellings are an outright permitted use in the zone. The applicant is proposing this variance to allow a slight density increase and a reduced side yard setback allowance from 10 feet to 8 feet for the side yard of the building.

Density provisions are intended, in part, to prevent “over-building” on properties and to regulate the number of dwelling units in a manner that allows for adequate areas for buildings, required parking, landscaping, and associated open space. Density requirements are tied to comprehensive plan designations and are used as a tool to project what type of development is allowable and expected in identified zoning designations, which helps cities identify land needs to accommodate housing types and projected growth. In Keizer, there is currently a deficit of available lands for housing in all categories of housing types and zoning designations. In this case, the applicant is requesting a minor variance to increase the maximum density allowed from 24 units per acre up to 26.7 units per acre. The applicant’s site plan and written statement demonstrate that adequate parking will be provided as well as adequate landscaped area. Because of these factors, staff finds this request is consistent with the intent of the established density provisions in Keizer. In addition, it allows for needed housing in an area which is zoned to accommodate multi-family development.

The required minimum setbacks in the Keizer Development Code (KDC) have been established to provide adequate building separation and open space between structures. The subject property is zoned mixed use which allows for different development types with different setback requirements. In this case, the applicant proposes to develop an 8 unit apartment complex, which requires a 10 foot side yard setback regardless of adjacent properties zoning designations. It should be noted that if the applicant were developing a commercial use on the site, the building could theoretically be shifted to the west and comply with the provisions of KDC since it is adjacent to other properties zoned MU. But in this case, since the proposal is for

multi-family development, a 10 foot side yard setback is required, regardless of adjacent zoning designations. The applicant proposes to landscape the required yards and as a condition of building permit approval, will have to demonstrate that all minimum landscape requirements are met.

The Keizer Police Department submitted comments expressing concerns about required parking and whether or not street frontage improvements would be required along Clearview Avenue. The applicant has shown that adequate parking will be provided consistent with the provisions of the KDC, which will be regulated through the building permit review and approval process. In addition, the Public Works Department submitted comments which have been incorporated into the conditions of approval which do require appropriate frontage improvements to Clearview Avenue.

Taking into consideration the applicant's proposal, comments received, staff finds this request is consistent with the intent and purpose of the provisions being varied. At the time of development, the applicant's proposal shall substantially conform to what has been submitted with this application. A maximum of 8 units shall be allowed and a minimum side yard setback of 8 feet must be provided. With this condition, staff finds this request satisfies this criterion.

2. *The impact of the development due specifically to the varied standards will not unreasonably impact adjacent existing or planned uses and development.*

FINDINGS: The proposed development will not impact adjacent or planned uses unreasonably. The property to the east is developed with an existing apartment complex and is zoned RM (Residential Medium Density) while the other surrounding properties are zoned MU (Mixed Use) and have redevelopment potential that will likely see a mix of commercial and residential uses developed in the future. This proposal is not inconsistent with the surrounding area or expected development patterns for the mixed use zone.

As a condition of variance approval, the structure shall be located substantially as shown. This will be regulated through the building permit approval process. Building permits must be obtained to ensure the new construction complies with the provisions of the building code. All other design requirements of the development code relating to aesthetics, location, height, building separation, parking and landscaping requirements, and exterior finish must be followed and will be regulated as a part of the building permit review which will require it to be constructed consistent with the city design provisions.

Taking all of these factors into consideration, staff finds the proposal will not unreasonably impact adjacent existing or planned uses. Therefore, this request satisfies this criterion.

3. *The minor variance does not expand or reduce a quantifiable standard by more than 20 percent and is the minimum necessary to achieve the purpose of the minor variance.*

FINDINGS: The maximum density allowed for multi-family development in the MU zone is 24 units per acre. A 20 percent increase to this standard is equal to 28.8 units per acre. The subject property is 0.3 acres in area and the applicant proposed to construct an 8 unit apartment complex which equates to a density of 26.7 units per acre which is an increase of 11.25%. The required side yard setback for multi-family development in the MU zone is 10 feet. The applicant is requesting a variance to allow an 8 foot setback, which is a 20% reduction to the required minimum side yard setback.

As a condition of approval, the proposed structure must be built consistent with the applicant's proposal and will be limited to 8 dwelling units and must maintain a minimum side yard setback of 8 feet. This will be placed as a condition of approval and will be regulated through the building permit review and approval process. Staff finds this request satisfies this criterion.

4. ***There has not been a previous land use action approved on the basis that a minor variance would not be allowed.***

FINDINGS: There are no other previous land use actions affecting this property that would not allow this particular variance. Staff therefore finds this request satisfies this criterion.

V. DECISION

Notice is hereby given that the Zoning Administrator for the City of Keizer has **APPROVED** the Minor Variance application subject to the conditions and requirements found in Section VI. of this report. Findings in support of this decision are found in Section IV. of this decision.

Any interested person, including the applicant, who disagrees with this decision, may request that the application be appealed to the Keizer Hearings Officer at a public hearing. The appeal is subject to the appellant paying a \$250.00 fee. This fee will be refunded if the appeal is upheld. Requests for appeal to the Hearings Officer must be in writing and be received in the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00pm on May 28, 2019.

Unless this decision is appealed it becomes final on May 29, 2019
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VI. CONDITIONS AND REQUIREMENTS

This decision does not include approval of a building permit.

- A. **CONDITIONS:** The following conditions must be met before a building permit can be obtained or must be continually met as a condition of the particular land use:
1. The proposed variance request is approved to allow a maximum of 8 dwelling units for the proposed multi-family development, and to allow 8 foot minimum side yard setbacks. The development must comply with all other applicable requirements of the Keizer Development Code.

2. The applicant shall comply with the requirements of the Marion County Building Inspection Division and with all applicable development standards of the Keizer Development Code.
3. All requirements and conditions of the Public Works Department must be adhered to at the time of development as outlined in **Exhibit 3**. These requirements include provisions for sanitary sewers, water, street and drainage improvements, along with other general standards governing the development proposal.

- B. OTHER PERMITS AND RESTRICTIONS: This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits such as a storm water permit for example, from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for obtaining other permits or satisfying any restrictions or conditions thereon.
- C. TRANSFER OF VARIANCE: This variance request shall automatically transfer to any new owner or occupant subject to all conditions of approval. It is the responsibility of the applicant and property owner to provide information to any new property owner(s) regarding this variance request and any conditions of approval.

The proposed development meets the purpose and intent of the standards set forth within Section 2.2.107 Mixed Use zone of the Keizer Development Code and complies with Section 3.105 Variations – Minor and Major of the Keizer Development Code. Therefore, the above request for a Minor Variance request for property located at 1095 Clearview Av NE is approved.

If you have any question about this application or the decision, please call (503) 856-3441 or visit the Community Development Department at the above address.

REPORT PREPARED BY: Shane Witham, Senior Planner

APPROVED BY:


Nate Brown, Community Development Director

Date: 5/14/19

07 3W 11BA

SEE MAP 073W02CC

Exhibit 1

07 3W 11BA

KEIZER



MARION COUNTY, OREGON
NE1/4 NW1/4 SEC11 T7S R3W W.M.
SCALE 1" = 100'

LEGEND

- LINE TYPES**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Waterline - Non Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary

CORNER TYPES

- + 1/16th Section Cor.
- ⊙ DLC Corner
- ⊕ 1/4 Section Cor.
- ⊙ 16.15
- ⊕ Section Corner
- ⊙ 21.22

NUMBERS
Tax Code Number
000 00 00 0

Acres
All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs
0.25 AC

NOTES

Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW



CANCELLED NUMBERS

100	
201	
1700	
1800	
3300	
3900	
3701	
3800	
4100	
4200	
4500	
4800	
4900	
6702	

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



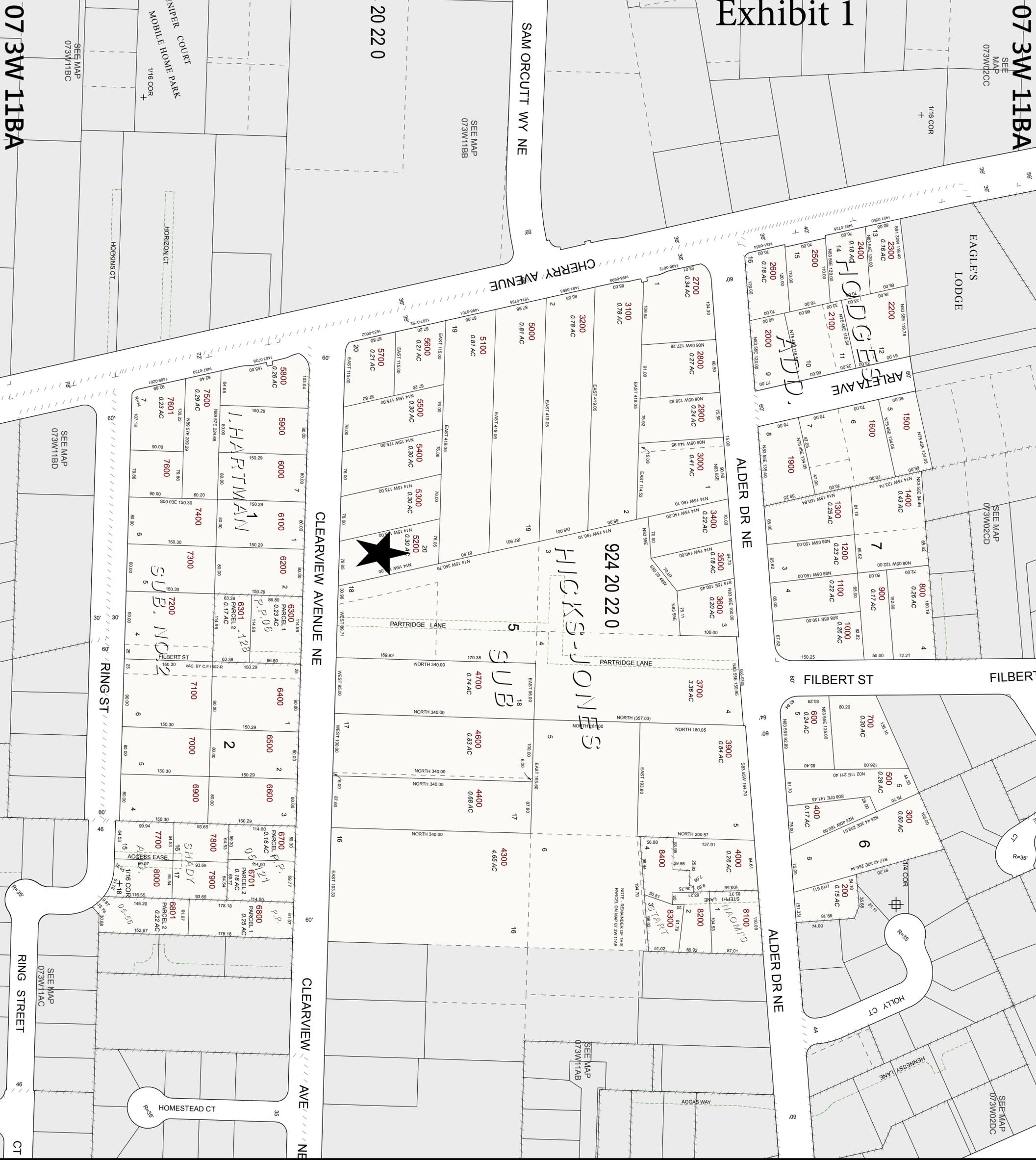
FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.comarion.or.us

PLOT DATE: 2/20/2019

KEIZER

07 3W 11BA

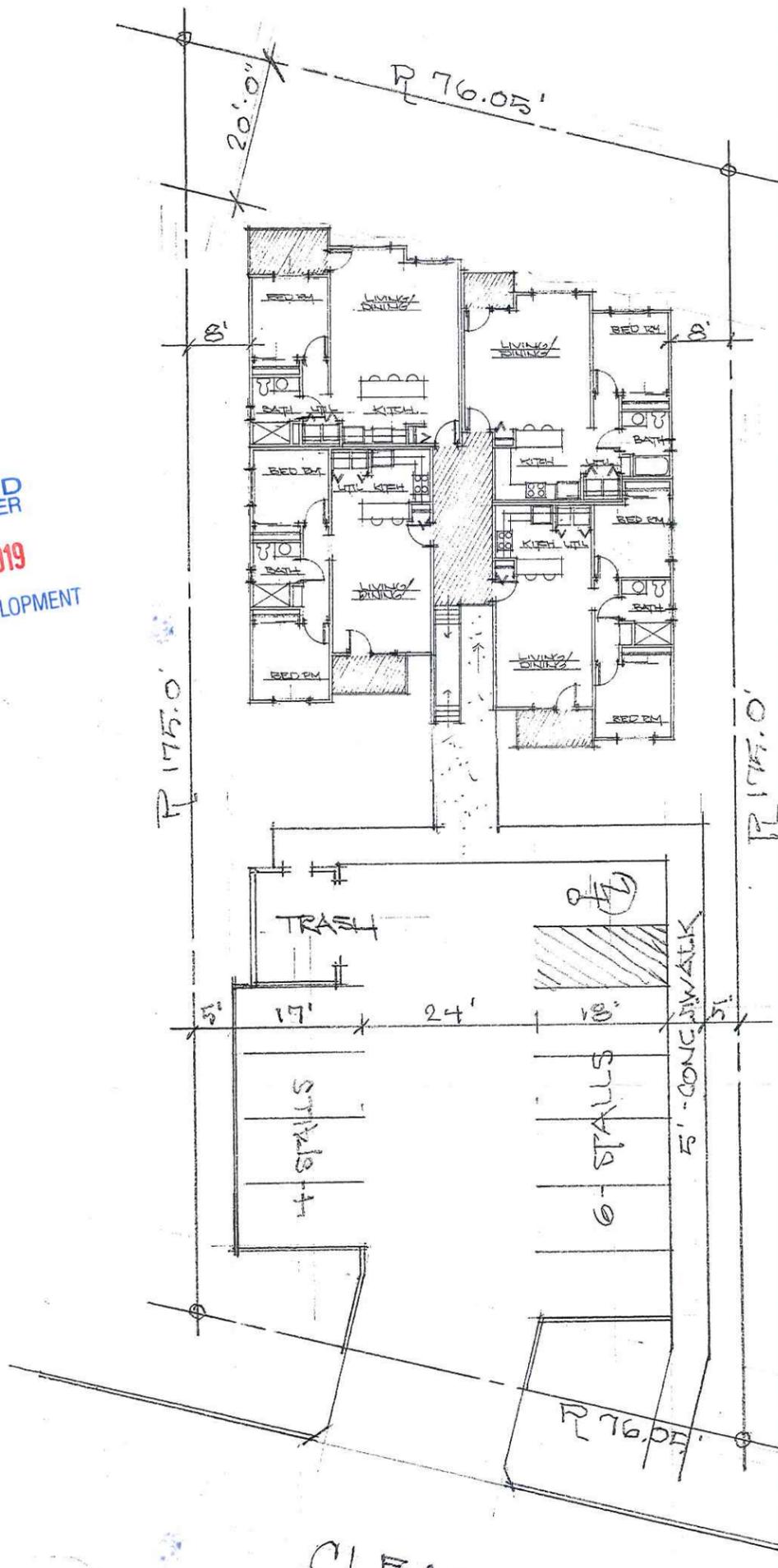
07 3W 11BA



FILBERT ST

SEE MAP 073W02DC

RECEIVED
CITY OF KEIZER
MAR 26 2019
COMMUNITY DEVELOPMENT



CLF AD...
SITE PLAN

1" = 20'0"

8 TOTAL APT UNITS

- 2 TYPE (F) 1 BED/ 1 BATH
- 2 TYPE (G) 1 BED/ 1 BATH
- 2 TYPE (H) 2 BED/ 1 BATH
- 2 TYPE (I) 2 BED/ 1 BATH

10 TOTAL PARKING STALLS

- 5 STANDARD STALLS
- 4 COMPACT
- 1 HANDICAPPED STALLS

SITE

- 1 TRASH/RECYCLE
- Open Space

Exhibit 3

MINOR VARIANCE CASE NO. 2019-11
ADDRESS – 1095 CLEARVIEW AV. NE
ZONE: MIXED USE (MU)

PUBLIC WORKS DEPARTMENT CONDITIONS AND REQUIREMENTS

GENERAL CONDITIONS

The application is for reducing the minimum side yard setback from 10 ft. to 8 ft. and increase the maximum density from 24 units per acre to 27 units per acre. The property is zoned Mixed Use and is located at 1095 Clearview Ave. N.

SANITARY SEWERS:

It is the developer's responsibility to connect the proposed development to the appropriate master plan sewer lines designed to serve the area.

- a.) City of Salem approval for local sewer permits will need to be issued prior to construction. Construction permits will be required for any construction within a public street or access easement.
- b.) Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Each parcel will be required to have its own sanitary sewer service and will be required to connect to an approved public sanitary sewer line. Plans for connection to the sanitary sewer system shall be submitted to the City of Keizer and the City of Salem for all parcels and shall be permitted by the City of Salem prior to recording of the partition plat.
- c.) Appropriate easements will be required for any public sewer mains located within the subject property if located outside of the platted right of ways. Easements will be required for all private sewer lines that cross private properties.
- d.) The property is within the original Keizer Sewer District and is therefore not subject to an acreage fee for sanitary sewer.
- e.) Any septic tank and drain field on the subject property shall be abandoned according to the requirements of the appropriate agency. Evidence of satisfactory compliance shall be submitted to the City of Keizer prior to issuance of any building permits on the subject property.

WATER SYSTEM:

- a.) The application will require new individual water services if services have not yet been installed. New service lines shall be installed by City forces and paid for by the developer or builder.
- b.) It is the Public Works Department understanding that the Keizer Fire District may be requiring a new fire hydrant for the proposed development. The developer of the subject property will be required to furnish information from the Keizer Fire

District regarding the location of an appropriate fire hydrant to serve the proposed development.

- c.) Location of water meters shall be submitted for approval to the Public Works Department after all proposed utility locations are known.
- d.) Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) Public street improvements will be required for the street frontage on Clearview Av. The Developer will be required to submit plans for improvements Clearview Av. that will include widening of Clearview Av. to City of Keizer street standards, including a five foot sidewalk along the frontage of the subject property.

A storm drainage plan shall be designed for the improvements proposed to keep all storm water runoff on-site. No storm water runoff from the new development shall be directed to Clearview Ave.

- b.) A grading and drainage plan will be required for the proposed development and all lot corners shall have finished grade elevations indicated on the plan. The grading and drainage plan shall be submitted for review and approval prior to issuance of any construction or building permits for the subject property.
- c.) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property.

OTHER

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

Exhibit 4



REQUEST FOR COMMENTS

April 17, 2019

TO: City of Keizer Public Works
 City of Keizer Police Department
 City of Salem Public Works
 City of Salem Community Development
 Marion County Tax Assessor's

AKS Engineering
 Keizer Fire District
 Marion County Community Development
 Marion County Surveyor's Office

FROM: **Dina Russell**, Assistant Planner
 CASE: Minor Variance Case No. 2019-11
 RESPONSE DATE: **May 1, 2019**

APPLICATION: The applicant is requesting to reduce the minimum side yard setback from 10' to 8' and to increase the maximum density from 24 units per acre to 27 units per acre. The property is zoned Mixed Use and is located at 1095 Clearview Av NE.

APPLICANT: Jeff Ullman
 ADDRESS: 1095 Clearview Av NE
 ZONE: Mixed Use (MU)

The Community Development Department is soliciting comments from affected agencies on the above referenced land use application. These comments will be considered as part of the staff report. Please return your comments to our office by **May 1, 2019** in order that we may process the application in a timely manner. Phone calls are acceptable if it is not possible to respond in writing by this date. If we receive no response, we will assume your agency has no concerns. You may use this response form, or, attach a separate letter. Please return your written responses to the Keizer Community Development Department, P.O. Box 21000, Keizer, Oregon 97307-1000. Questions regarding the application may be directed to Dina Russell, Assistant Planner, at (503) 856-3442. Thank you for your assistance.

PLEASE CHECK THE APPROPRIATE ITEMS:

- Our agency reviewed the proposal and determined we have no comment.
- Our agency would like to receive a copy of the staff decision/report and notice of any public hearings in this case.
- Our comments are in the attached letter.
- Our Agency's comments are: CONCERNED ABOUT THE ADDITIONAL UNIT.
PLEASE CONFIRM NUMBER OF PARKING SPACES CONFORMS TO CODE.
WILL SIDEWALKS BE REQUIRED ON CLEARVIEW ?

Response Date: 04-18-19 Person commenting: JEFFREY K. KUHNS
DEPUTY CHIEF

- ATTACHMENTS**
- Applicant's Statement
 - Vicinity Map
 - Proposed Site Plan