



## KEIZER PLANNING DEPARTMENT

### NOTICE OF DECISION Floodplain Development Permit 2023-05

#### I. REQUEST

The following report reviews an application requesting a Floodplain Development Permit for the placement of up to 30 cubic feet of fill and the construction of a 33-unit multi-family development on property within the 100-year special flood hazard area (SFHA). (Exhibit 1)

#### II. BACKGROUND

- A. **APPLICANT/  
PROPERTY OWNER:** Arthur Lydon
- B. **AGENT:** Multi-Tech Engineering
- B. **PROPERTY LOCATION:** The subject property is located at 5799 Trail Avenue NE. The Marion County Assessor's map identifies the property as Township 6 South; Range 3 West; Section 35AC; Tax Lot 03900. (Exhibit 2)
- C. **PARCEL SIZE:** The subject property is approximately 1.70 acres.
- D. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The subject property contains a single-family home which will be removed for the development of the site with an apartment complex. The area within the floodplain is currently undeveloped.
- E. **ZONING:** The subject property is designated Mixed Use (MU) in the Comprehensive Plan and is zoned Mixed Use (MU). The FEMA FIRM map indicates a portion of the property is located within the 100-year special flood hazard area.

#### III. COMMENTS

- A. The Keizer Public Works Department submitted comments (Exhibit 3) pertaining to the development. The comments specifically indicate that new storm water runoff from the proposed grading will be required to be kept on-site. In addition, there are concerns with a low area adjacent to the westerly portion of the subject property that provides for flood storage during storm events. These concerns will be required to be addressed as a condition of this permit.

- B. The City of Salem Public Works Department submitted comments (Exhibit 4) pertaining to the multi-family development. Specifically, the requirement of construction plans and sewer permits for the sewer connections and the need for a Revocable License to Encroach for the trash enclosure within the easement area as shown on the site plan.
- C. The City of Keizer Police Department indicated they have no comments.

#### **IV. FINDINGS AND CONCLUSIONS**

**GENERAL FINDINGS:** The applicant is requesting a floodplain development permit in order to place fill and develop a 33-unit multi-family development on a property located within the 100-year floodplain. FEMA FIRM map 41047C0194 G indicates the property is within Zone AE special flood hazard area (SPHA). The applicant's engineer submitted a Base Flood Elevation Determination stating the FIRM map identifies this area as a base flood elevation (BFE) of 124 feet, however to be conservative, they have elected to use 125 feet as the BFE in this area.

A certificate of elevation was provided which certifies the flood zone designation on this property is zone AE and the base flood elevation is 125.0 feet. Fill and regrading of the site is proposed along with the construction of a new multi-family complex. One of the proposed buildings is located within area shown on the FIRM map as zone AE but outside of the area identified by the base flood determination documentation.

The majority of the standards found in KDC 2.122 apply to construction of structures and flood protection standards that must be adhered to. Fill and grading is allowable subject to the requirements of KDC 2.122, amount and location of any fill or excavation activities must be provided. The applicant's engineer has provided a site grading plan and quantities of proposed excavation and fill not to exceed 30 cubic yards of material.

The City of Keizer has a responsibility to assure that any floodplain development be done in a matter that is consistent with city requirements and does not cause adverse impacts to other properties within the community. The Public Works Department provided comments which will be placed as a condition of floodplain development permit approval. Specifically, requirements for runoff being kept on-site and not directed to the adjacent property, and the concern with a low area adjacent to the westerly portion of the subject property that provides for flood storage during storm events. The applicant's engineer must demonstrate to the Department of Public Works how the proposed fill in the flood plain will allow for storm water flow across the subject property without impacting the existing runoff.

#### **SECTION 2.122.04A - GENERAL STANDARDS**

1. **Alteration of Watercourses.** Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished.

**Findings:** The proposal is to develop the site with a multi-family development that requires grading and adding up to 30 cubic yards of fill to the site which is located in the 100-year floodplain. There is no watercourse which is being altered and therefore this standard is not applicable to this request.

The Public Works department submitted comments pertaining to the flood storage capacity adjacent to the westerly portion of the subject property. A Drainage Plan is required, as a condition of approval, and that the applicant's engineer demonstrate to the Public Works Department how the proposed fill in the flood plain will allow for storm water flow across the subject property without impacting the existing runoff.

2. **Anchoring.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

**Findings:** The proposal is for the placement of fill and grading of the site in addition to a 33-unit multi-family development. The building identified as building 3 on the applicants site plan is located partially within the floodplain and will be constructed and anchored to a permanent foundation.

3. **Construction Materials and Methods.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.

**Findings:** Building 3 is shown to be located partially within the 100-year flood plain, however it is proposed to be elevated above the base flood elevation.

4. **Utilities and Equipment.** Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

**Findings:** All new and replacement water supply systems, sanitary sewer systems and onsite waste disposal systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. The City of Salem submitted comments regarding connection to the sewer system and requirements for appropriate easements.

5. **Tanks.** Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood and above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

**Findings:** No underground tanks are proposed. Therefore, this standard is not applicable.

6. **Subdivision Proposals and Other Proposed Developments**

**Findings:** The proposal is not for a subdivision, but rather for filling and regrading the site to prepare it for development of an apartment complex.

7. **Use of Other Base Flood Data.** When Base Flood Elevation data has not been provided in accordance with Section 2.122.02.B the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 2.122.04.

**Findings:** Base flood elevation was provided by the applicant's engineer which identifies the base flood elevation on the site of 125.0 feet. The applicant proposes to fill and regrade the site to an elevation of 126.0 feet. Conditions of approval are being placed on this application to assure that placement of fill does not result in adverse impacts to existing runoff patterns and flood storage.

8. **Structures Located in Multiple or Partial Flood Zones.**

**Findings:** When a structure is located in *multiple flood zones* on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply. When a structure is *partially* located in a SFH area, the entire structure shall meet the requirements for new construction and substantial improvements. The proposed building 3 is located partially within Zone AE and is within a SFH area and will be required to be constructed accordingly.

9. **Critical Facilities.**

**Findings:** Construction of new critical facilities shall be located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. This proposal is not for a critical facility.

10. **Willamette River Riverwall.**

**Findings:** There shall be no physical alterations to the riverwall constructed along the Willamette River in the areas of Cummings Lane (west of Shoreline Drive), and Rafael Avenue without the prior written approval of the City Engineer. The property is not located near the Willamette River Riverwall, and therefore this criterion is not applicable.

**SECTION 2.122.04B - SPECIFIC STANDARDS FOR RIVERINE FLOOD ZONES** These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards.

1. **Flood Openings** - All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) shall be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters; be used solely for parking, storage, or building access; or be certified by a registered professional engineer or architect to meet or exceed minimum criteria.

**Findings:** Building 3 is partially located within the floodplain, but the applicant's proposal indicates that no enclosed space will be located below the base flood elevation.

2. **Garages** - Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if certain requirements are met. Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 2.122.04.B.3.f or non-residential structures in Section 2.122.04.B.3.c depending on the square footage of the garage.

**Findings:** No garages are proposed with this floodplain development permit request.

3. **For Riverine Special Flood Hazard Areas with Base Flood Elevations** - For Riverine Special Flood Hazard Areas With Base Flood Elevations. In addition to the general standards listed above, specific standards shall apply in Riverine SFHA with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

**Findings:** The property is located within Zone AE, but there is no identified floodway area on the subject property. This section allows for the placement of fill if it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point in the community. The applicant's engineer submitted information regarding the quantity and of the proposed fill and grading activity, and has shown that 30 cubic feet of fill is proposed within the area identified in the 100-year flood plain. The Public Works Department is requiring that new stormwater runoff be kept on-site and that a drainage plan be furnished to show how the subsurface drainage will be treated and disposed. In addition, there is a major low area adjacent to the westerly portion of the subject property which provides for flood storage during storm events. This area should not be blocked during the development of the subject property. During some large rainfall events, storm water flows through the area designated as Zone AE on the FIRM for this area of Keizer. As a condition of approval, the applicant's engineer must demonstrate to the Public Works Department how the proposed fill in the flood plain will allow for storm water flow across the subject property without impacting the existing runoff.

New construction shall have the lowest floor, including basement, elevated at least 1 foot above the Base Flood Elevation (BFE). The applicant shows the proposed finished floor of Building 3 will be approximately 10 feet above the established BFE of 125.0 feet which complies with this standard. This requirement will be placed as a condition of approval for the construction of Building 3.

4. **Floodways** - Located within the special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential certain provisions apply.

**Findings:** The property is not located within the floodway.

5. **Standards for Shallow Flooding Areas** - Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations.

**Findings:** This area is not identified as a shallow flooding area.

## **V. DECISION**

Staff finds the proposed request for a Floodplain Development Permit meets the criteria and requirements found in Section 2.122.04 of the Keizer Development Code. Notice is hereby given that the Zoning Administrator for the City of Keizer has APPROVED WITH CONDITIONS the proposed Floodplain Development Permit subject to certain requirements noted below.

## **VI. APPEALS**

Any interested person, including the applicant, who disagrees with this decision, may request that the application be considered by the Keizer Hearings Officer at a public hearing. The appeal is subject to the appellant paying a \$250.00 fee. This fee may be refunded if the appeal is upheld.

An appeal request for a hearing in front of the Hearings Officer must be submitted in writing on a form provided by the City of Keizer. The appeal request must be received in the Keizer Planning Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. on May 5, 2023.

**Unless further consideration is requested by the applicant, or the decision is appealed, this decision becomes final on May 6, 2023.**

## VII. CONDITIONS AND REQUIREMENTS

**CONDITIONS:** The following conditions must be met or continually met as a condition of the particular land use:

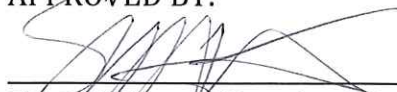
1. The proposed fill and regrading must be substantially in conformance with what is proposed, with the exception of any modifications necessitated by the Public Works Department or City Engineer needed to assure compliance with City requirements.
2. All applicable requirements outlined in Section 2.122 Flood Plain Overlay Zone of the Keizer Development Code must be adhered to at all times and shall be complied with prior to issuance of any permits for the subject property.
3. The lowest floor of building 3 must be elevated to a minimum of 1 foot above the BFE of 125.0. Lowest floor elevation for building 3 must be no less than 126.0 feet. Elevation certificates must be provided as required in Section 2.122 Flood Plain Overlay Zone.
4. Storm water runoff due to the proposed grading plan will be required to be kept on-site and not directed to the property adjacent to the subject property. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed. This plan shall be submitted to the Public Works Department for review and approval prior to any fill or regrading.
5. A major low area adjacent to the westerly portion of the subject property provides for flood storage during many storm events and should not be blocked during the development of the subject property. During some large rainfall events, storm water flows through the area designated as Zone AE on the FIRM for this area of Keizer. The applicant's engineer shall demonstrate to the Public Works Department how the proposed fill in the flood plain will allow for storm water flow across the subject property without impacting the existing runoff.
6. Comments submitted by the City of Salem regarding sewer connections and the existing easement must be addressed at the time of construction. This condition is advisory.

**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 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.

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

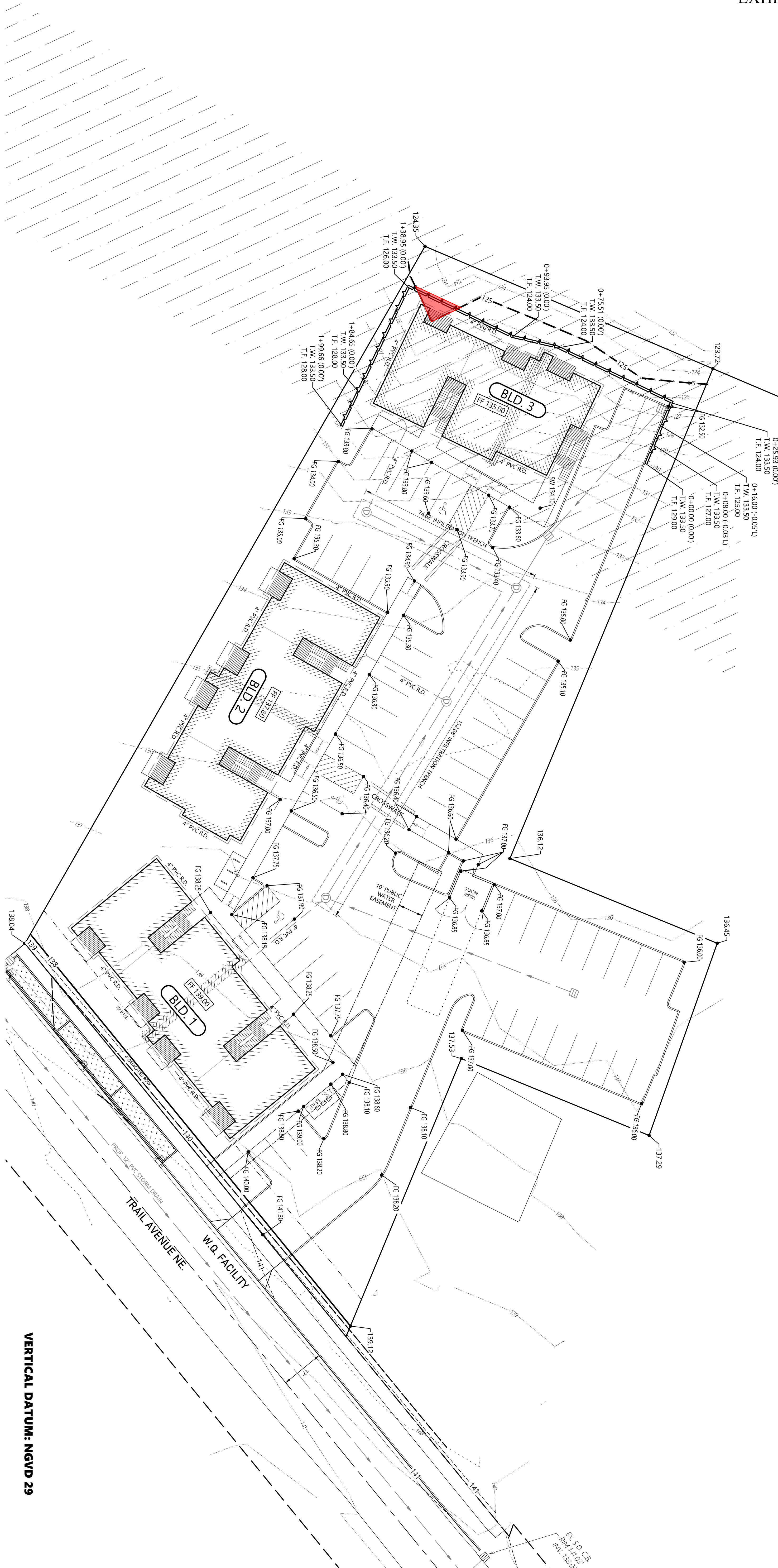
REPORT PREPARED BY: Dina Horner, Assistant Planner

APPROVED BY:

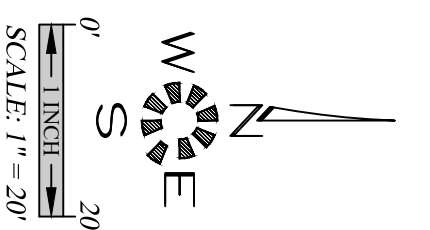
  
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Shane Witham, Planning Director

Date: 4/24/23





FLOODWAY ZONE AE



VERTICAL DATUM: NGVD 29

BM 139.60  
A 2 IN ALUMINUM CAP DESIGNATED 9653  
LOCATED ON THE EASTERLY EDGE OF  
PAVEMENT ACROSS FROM HOUSE  
NUMBER 5799 TRAIL AVENUE  
NORTHEAST.  
\* BASE FLOOD ELEVATION OF 125.0

C2.2

DESIGNER'S SEAL AND SIGNATURE

7506p C2.2-FLD  
Design: M.D.G.  
Drawn: A.R.B.  
Checked: J.J.G.  
Date: Mar-23  
Scale: AS SHOWN

NO CHANGES, MODIFICATIONS  
OR REPRODUCTIONS TO BE  
MADE TO THESE DRAWINGS  
WITHOUT WRITTEN  
AUTHORIZATION FROM THE  
DESIGN ENGINEER.  
DIMENSIONS & NOTES TAKE  
PRECEDENCE OVER  
GRAPHICAL REPRESENTATION.

TRAIL AVE. APARTMENTS

FLOOD PLAN  
DEVELOPMENT PLAN

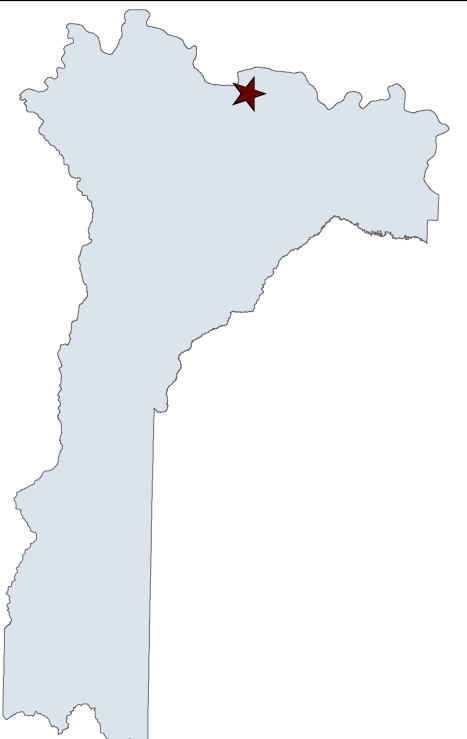
MULTI/TECH  
ENGINEERING SERVICES, INC.  
1155 13th ST. S.E. SALEM, OR. 97302  
PH. (503) 363 - 9227 FAX (503) 364-1260  
www.mtengineering.net office@mtengineering.net



06 3W 35BD

06 3W 35BD

KEIZER

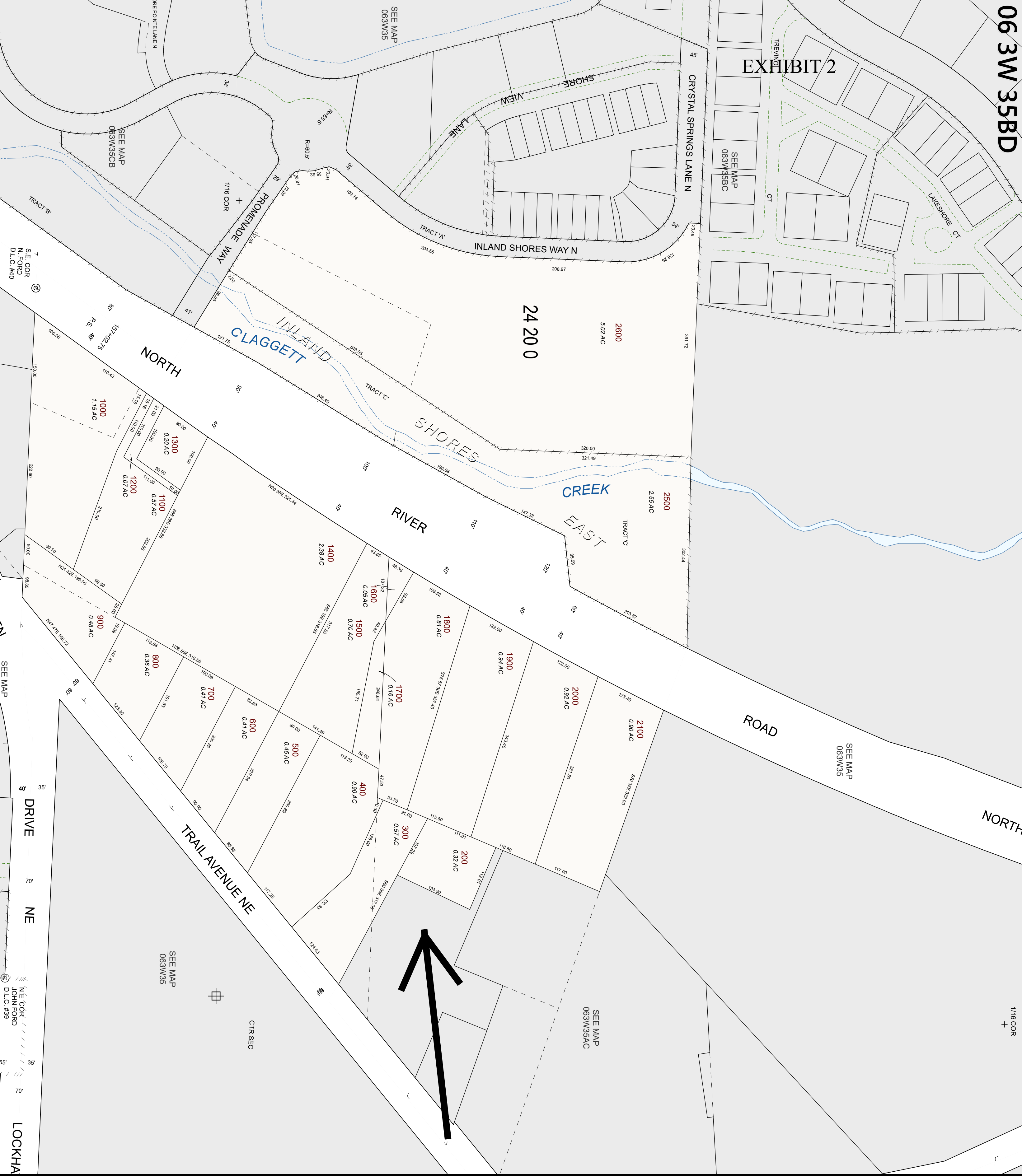


MARION COUNTY, OREGON  
SE1/4 NW1/4 SEC35 T6S R3W W.M.  
SCALE 1" = 100'

EXHIBIT 2

06 3W 35BD

06 3W 35BD



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

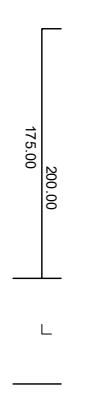
- + 1/16TH Section Cor.
- ⊕ 1/4 Section Cor.
- ⊙ DLC Corner
- ⊕ Section Corner
- ⊕ Section Corner
- ⊕ Section Corner

NUMBERS  
Tax Code Number  
00 00 0

Acreage 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

2300
2400
2401

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
www.co.marion.or.us

PLOT DATE: 8/2/2022

KEIZER

06 3W 35BD

# EXHIBIT 3

TO: DINA HORNER, ASSISTANT PLANNER  
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT  
SUBJECT: FLOODPLAIN DEVELOPMENT CASE NO. 2023-05

APPLICANT – ARTHUR LYDON  
ADDRESS – 5799 TRAIL AVENUE

## PUBLIC WORKS DEPARTMENT REQUIREMENTS

The application is for a floodplain development permit for property located within the 100-year special flood hazard area.

### STREET AND DRAINAGE IMPROVEMENTS:

No street and storm drain plans are being required by the Public Works Department at this time but the new storm water runoff from the proposed grading plan will be required to be kept on-site and not directed to the property adjacent to the subject property. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed.

A major low area adjacent to the westerly portion of the subject property provides for flood storage during many storm events and should not be blocked during the development of the subject property. During some large rainfall events, storm water flows through the area designated as Zone AE on the Firm for this area of Keizer. The approval of the application will be conditioned on the applicant's engineer demonstrating to the Department of Public Works how the proposed fill in the flood plain will allow for storm water flow across the subject property without impacting the existing runoff.

All applicable requirements for development within the Flood Plain Overlay Zone shall be complied with prior to issuance of any permits for the subject property.



# REQUEST FOR COMMENTS

## EXHIBIT 4

DATE: March 28, 2023  
CASE: Floodplain Development Permit No. 2023-05

The Planning Division is soliciting comments you may wish to have considered in the City's review of the above land use case. Application materials are attached.

**Comments must be submitted in our office by 5:00 pm on April 11, 2023.** If we do not receive a response by the end of the comment period, we will assume you have no concerns.

**Send comments or questions to:**

Dina Horner, Assistant Planner  
Email: [Hornerd@keizer.org](mailto:Hornerd@keizer.org) Phone: (503) 856-3442  
City of Keizer Planning Division  
930 Chemawa Rd NE, Keizer OR 97303

REQUEST: The applicant is requesting a Floodplain Development Permit to construct a multi-family complex at 5799 Trail Av NE. Although the floodplain area is not proposed to be disturbed by the development, a portion of the property is located within the 100-year special flood hazard area (SFHA) which requires the Floodplain Development Permit. The property is located at 5799 Trail Av NE (063W35AC Tax Lot 03900).

APPLICANT: Arthur Lydon  
ZONE: Mixed Use (MU)

**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: \_\_\_\_\_

**The proposed connection to sewer will require construction permits in accordance with the Salem Revised Code, the Public Works Design Standards, and Standard Construction Specifications. Permits will not be issued by the City of Salem Permit Application Center until all construction plans have been approved by the Public Works Department. Construction drawings can be submitted by email to: [developmentsservices@cityofsalem.net](mailto:developmentsservices@cityofsalem.net). There is a City of Salem public sewer main on the property, within an easement as shown on the applicants plan. A trash enclosure is shown within this area. A Revocable License to Encroach is required for the trash enclosure within the easement area.**

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Name: Laurel Christian, Planner II  
Agency: City of Salem, Public Works Department  
Phone: 503-588-6211 ext. 7445  
Email: Lchristian@cityofsalem.net  
Address: 555 Liberty Street SE, Salem, OR 97301  
Date: April 11, 2023