



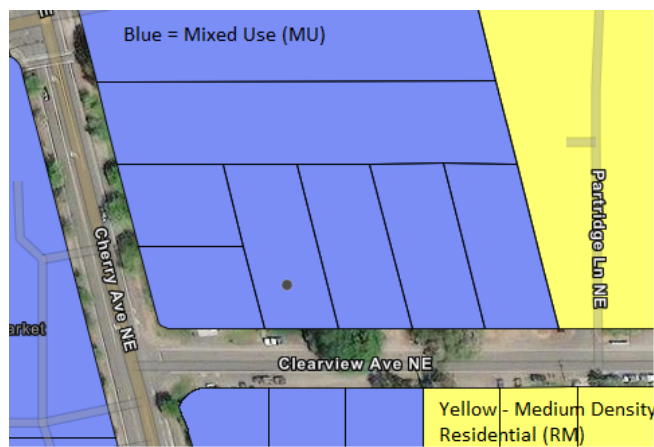
KEIZER PLANNING DEPARTMENT NOTICE OF DECISION Variance Case 2022-11

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. (Exhibit 1)

II. BACKGROUND

- A. **APPLICANT:** Jeff Ullman
- B. **OWNER:** Clearview Apartments LLC
- C. **PROPERTY LOCATION:** The subject property is located at 1065 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 5500. (Exhibit 2)
- D. **PARCEL SIZE:** The subject property is approximately .29 acres in area.
- E. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The subject property is currently developed with a single-family dwelling and connected to both public water and sewer.
- F. **ZONING:** The subject property is designated Mixed Use on the Comprehensive Plan Map, zoned Mixed Use (MU) and within the River-Cherry Overlay District (RCOD).
- G. **ADJACENT ZONING AND LAND USES:** Surrounding properties are zoned Mixed Use. The property immediately to the north is zoned MU and is undeveloped. The properties directly across the street and to the east are developed with multifamily dwellings and the properties to the west is developed with a duplex.



III. COMMENTS

- A. The Keizer Public Works Department reviewed the proposal and submitted comments which are attached. (Exhibit 3)
- B. Keizer Fire District submitted comments concerns that reducing the setback could increase the probability of a fire spreading to neighboring buildings. (Exhibit 4)
- C. The City Engineer, Marion County Surveyor's office and the Keizer Police Department reviewed the proposal and have no comments.

IV. FINDINGS AND CONCLUSIONS

- A. The applicant is proposing to construct a two-story, 8-unit multifamily development with 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 reduced side yard setback allowance from 10 feet to 8 feet for the side yard of the building.

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 MU 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 east 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.

Taking into consideration the applicant's proposal, staff finds this request is consistent with the intent and purpose of the provision being varied. At the time of development, the applicant's proposal shall substantially conform to what has been submitted with this application. 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 surrounding properties are zoned MU 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 MU zone.

As a condition of variance approval, the structure shall be located substantially as shown. The Keizer Fire District has submitted comments that because the neighboring property also has received a variance to reduce the side setback from 10 feet to 8 feet, now creating only 16 feet between buildings, there is an increase in probability of a fire spreading from one apartment building to another. They are encouraging the building be built with no openings on the side of the structure impacted by this variance, or increasing the fire protection with NFPA 13 sprinklers instead of NFPA 13R. The Building Code and the Fire Code 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 and fire codes. 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 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 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 below. 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 Planning Department, 930 Chemawa Road NE, Keizer by 5:00pm on September 1, 2022.

Unless this decision is appealed it becomes final on September 2, 2022.
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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 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.
 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 2.107 Mixed Use zone of the Keizer Development Code and complies with Section 3.105 *Variances – Minor and Major* of the Keizer Development Code. Therefore, the above request for a Minor Variance request for property located at 1065 Clearview Av NE is approved.

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:


Shane Witham, Planning Director

Date: 8/22/22

EXHIBIT 1

- 8 TOTAL APARTMENT UNITS
- 2 TYPE "A" 1-Bd, 1-ba (741 S.F.) UNITS
- 2 TYPE "B" 1-Bd, 1-ba (727 S.F.) UNITS
- 2 TYPE "C" 2-Bd, 2-ba (906 S.F.) UNITS
- 2 TYPE "D" 2-Bd, 2-ba (884 S.F.) UNITS
- 10 TOTAL PARKING STALLS
- 5 STANDARD STALLS
- 4 COMPACT STALLS
- 1 HANDICAP STALLS
- 6 BICYCLE SPACES
- 1 TRASH COMPACTOR / RECYCLE
- 1 U.S. MAIL BOX AREA

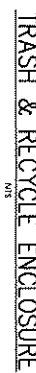
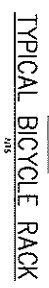
- - POLE LIGHT MAXIMUM 14' TAIL
-  - POST LIGHT MAXIMUM 5' TAIL
-  - LOCATION OF ELECTRICAL SEPARATION WALL
-  - MAXIMUM 1:12 SLOPE ON SIDEWALK & END RAMPS
-  - BICYCLE SPACES



MULTI-TECH
ENGINEERING SERVICES, INC.

1155 13th ST. S.W., SALEM, OR. 97302
PH. (503) 363-9222 FAX (503) 364-1766
www.mtceengineering.net elf@mtceengineering.net

1. ALL OF THE FOLLOWING ARE DEFINITION CONCEPTS TO THE PUBLIC FRAMEWORK AND POSITIVE CONCEPTS TO THE POLICY FRAMEWORK EXCEPT:
a. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
b. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
c. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
d. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
2. WHICH OF THE FOLLOWING IS NOT A DEFINITION CONCEPT TO THE PUBLIC FRAMEWORK AND POSITIVE CONCEPTS TO THE POLICY FRAMEWORK?
a. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
b. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
c. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
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d. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
4. THE CONCEPT OF A WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION IS A DEFINITION CONCEPT TO THE PUBLIC FRAMEWORK AND POSITIVE CONCEPTS TO THE POLICY FRAMEWORK. WHICH OF THE FOLLOWING IS NOT A DEFINITION CONCEPT TO THE PUBLIC FRAMEWORK AND POSITIVE CONCEPTS TO THE POLICY FRAMEWORK?
a. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
b. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
c. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION
d. WORLDWIDE ECONOMIC AND ENVIRONMENTAL PROTECTION



SITE PLAN

JOB # 7426

NO CHANGES, MODIFICATIONS
OR REPRODUCTIONS TO BE
MADE TO THESE DRAWINGS
WITHOUT WRITTEN
AUTHORIZATION FROM THE
DESIGN ENGINEER.

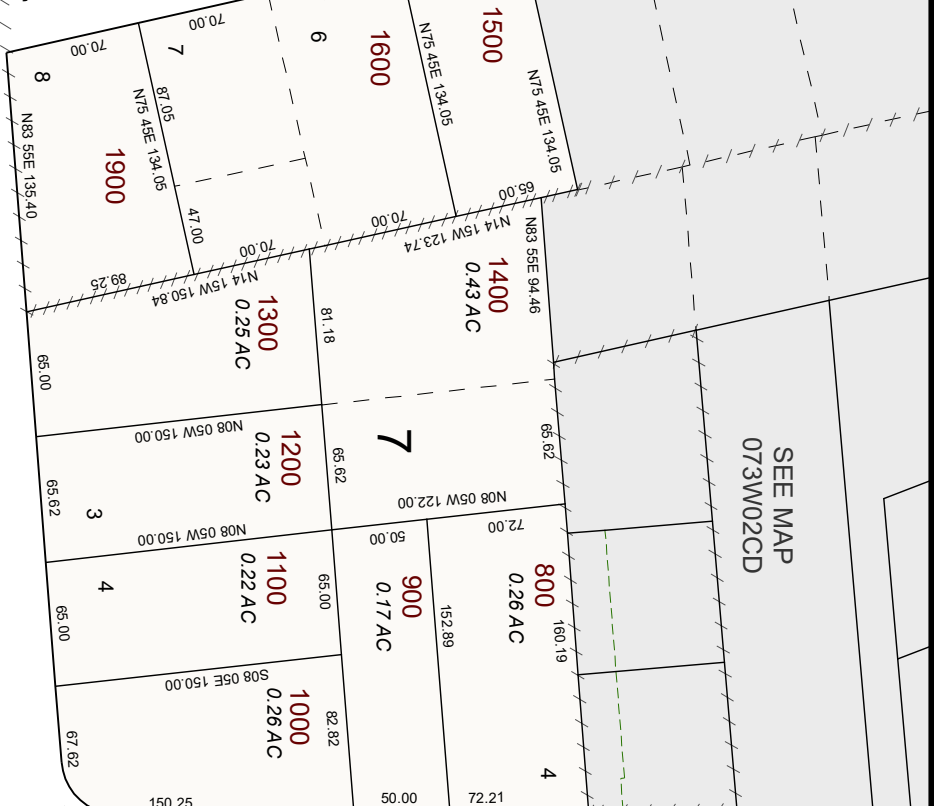
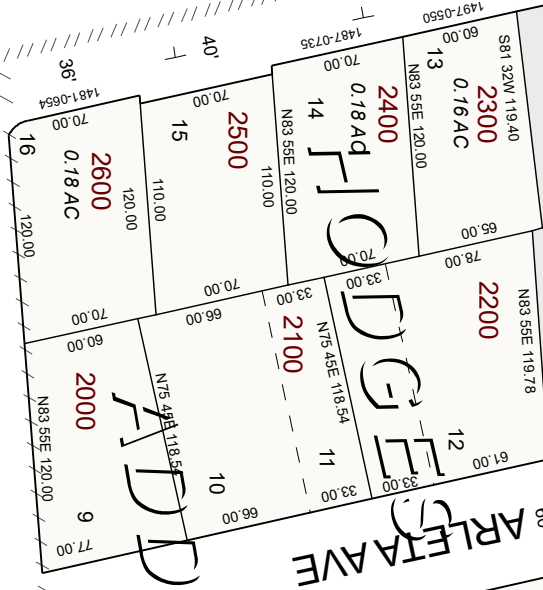
DIMENSIONS & NOTES TAKE
PRECEDENCE OVER
GRAPHICAL REPRESENTATION.

07 3W 11BA

SEE MAP
073W02CC

EXHIBIT 2

EAGLE'S
LODGE

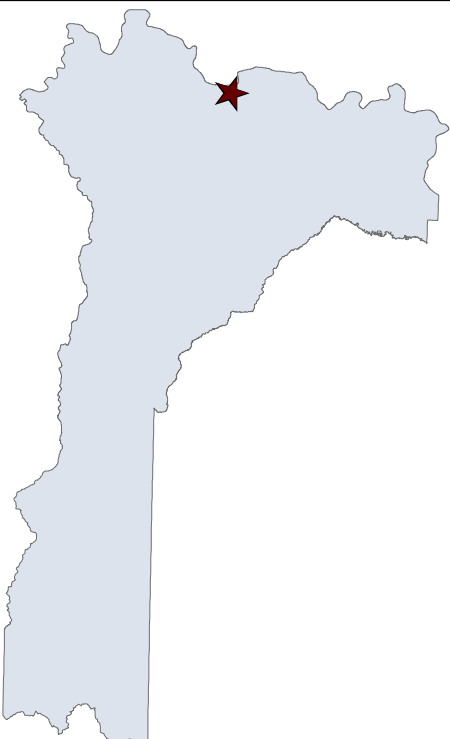


FILBERT ST

ALDER DR NE

07 3W 11BA

KEIZER



MARION COUNTY, OREGON
NE1/4 NW1/4 SEC11 T7S R3W W.M.

SCALE 1" = 100'

LINE TYPES

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

CORNER TYPES

+ 1/16TH Section Cor.	1/4 Section Cor.
⊙ DLC Corner	16 15 Section Corner
	21 22

NUMBERS

Tax Code Number
00 00 0

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

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
3701
3800
4100
4200
4500
4800
4900
6702

DISCLAIMER: THIS MAP WAS PREPARED
FOR ASSESSMENT PURPOSES ONLY



Assessors Office
Cartography Dept

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

PLOT DATE: 10/16/2020

KEIZER

07 3W 11BA

EXHIBIT 3

VARIANCE CASE NO. 2022-11
ADDRESS – 1065 CLEARVIEW AVE. NE
ZONE: MIXED USE AND WITHIN THE RCOD

PUBLIC WORKS DEPARTMENT CONDITIONS AND REQUIREMENTS

GENERAL CONDITIONS:

The application is for a variance to the minimum side yard setback from 10 feet to 8 feet.

The property is Tax Lot 073W11BA05500 and is 0.30 acres

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.
- 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 a new individual water service if an appropriately sized service is not existing. 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 will be required to furnish information from the Keizer Fire District regarding the location of the 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 Ave. The developer will be required to submit plans for half street improvements meeting City of Keizer standards, including a five-foot sidewalk along the frontage of the subject property.
- b.) 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 Avenue.
- c.) 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 erosion control, construction or building permits for the subject property.
- d.) 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. All services including power and franchise utilities serving the new building shall be installed underground.
- 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

From: Anne-Marie Storms <AStorms@keizerfire.com>
Sent: Thursday, August 18, 2022 4:19 PM
To: Horner, Dina <HornerD@keizer.org>
Subject: RE: REQUEST FOR COMMENTS - Minor Variance 2022-11

Hi Dina,

The fire district has concern that reducing the property setback to eight feet from ten, could increase the probability of fire spread from one apartment building to another. If the city chooses to reduce setback we would encourage no openings on that side of the structure or increasing the fire protection with NFPA 13 sprinklers instead of NFPA 13R. The neighboring property already reduced their setbacks to 8 thus creating only 16 feet between buildings.

Anne-Marie