



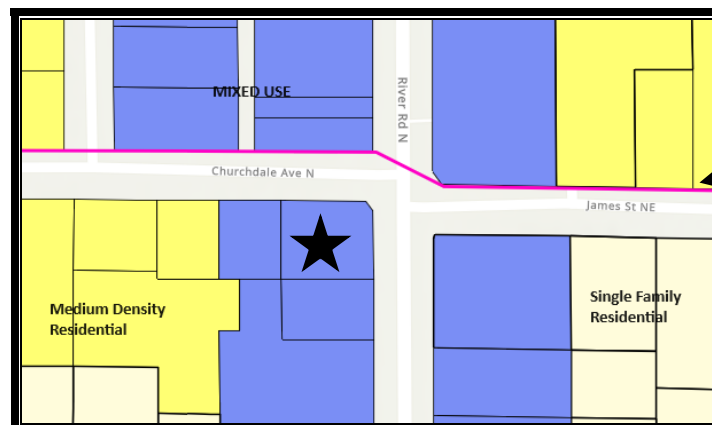
**KEIZER PLANNING DEPARTMENT
NOTICE OF DECISION
Minor Variance Case 2024-02**

I. REQUEST

The following report reviews a land use application for a Minor Variance to reduce the minimum street side setback to 16' where 20' is required along an arterial (River Road). (Exhibit 1)

II. BACKGROUND

- A. APPLICANT/OWNER:** Juan Cortes
- B. AGENT:** Multi-Tech Engineering
- C. PROPERTY LOCATION:** The subject property is located at 4885 River Rd N, Keizer, Oregon. The County Tax Assessor's map identifies the property as being located within Township 7 South; Range 3 West; Section 02BC; Tax Lot 2500. (Exhibit 2)
- D. PARCEL SIZE:** The subject property is approximately .24 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. The proposed plan is to demolish the existing single-family dwelling and construct a new vertical mixed-use building.
- 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 MU. The property immediately to the west is developed with a single-family dwelling. All other surrounding properties are developed with commercial uses.



This pink line is the dividing line for the RCOD Center. Properties to the south of this line are not within a center

III. COMMENTS

- A. The Keizer Public Works Department reviewed the proposal and submitted comments which are attached. (Exhibit 3)
- B. The Keizer Police Department and the City of Salem Planning Department reviewed the proposal and have no comments.

IV. FINDINGS AND CONCLUSIONS

- A. The applicant is proposing to construct a new vertical mixed-use building consisting of commercial uses on the ground level with 8 apartment units above with a 16' setback to River Rd when 20' is required along an arterial. Minor Variance approval is required as this proposal does not comply with requirements of the Keizer Development Code (KDC).
- B. The decision criteria for a Minor Variance are contained in Section 3.105.04 of the KDC. 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. The MU zone promotes development that combines differing uses in a single building or complex. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The applicant's intent is to build a vertical mixed-use building fronting along River Rd N. A vertical mixed-use building is a building in which differing uses are located in the same building with different uses on different floors. While mixed use development is primarily intended to consist of retail or other businesses on the ground floor with housing or office uses on upper stories it is not required.

The applicant is proposing a minor variance to allow a reduced street side setback allowance from 20' to 16' along an arterial, River Rd N. The required minimum setbacks in the 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 a vertical mixed-use building, which requires a 20' setback along River Road. If the applicant was developing the same vertical mixed-use building within a Center in the RCOD, and fronting along River Rd, the building would be required to have a maximum setback of 10'. In this case the property is within the RCOD but not within a Center.

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 street side setback of 16' 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.

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 street side setback for development in the MU zone is 20'. The applicant is requesting a variance to allow a 16' 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 street side yard setback of 16'. 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 April 1, 2024.

Unless this decision is appealed it becomes final on April 2, 2024.
--

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 16' street side setbacks. The development must comply with all other applicable requirements of the KDC.
 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 KDC and complies with Section 3.105 Variiances – Minor and Major of the KDC. Therefore, the above request for a Minor Variance request for property located at 4885 River Rd N 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

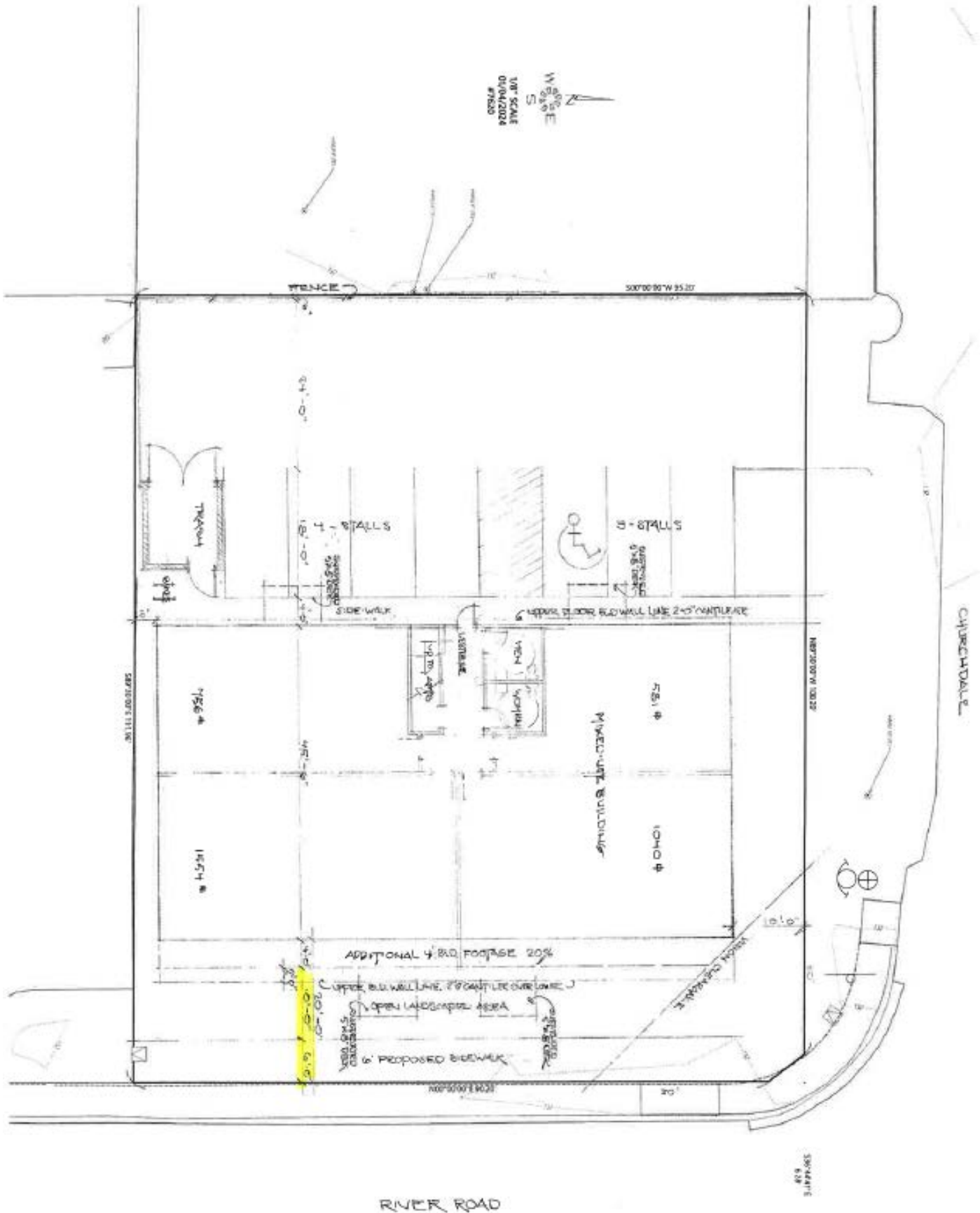
APPROVED BY:



Date: March 21, 2024

Shane Witham, Planning Director

EXHIBIT 1





MARION COUNTY, OREGON
 SW 1/4 NW 1/4 SEC 2 T7S R3W W.M.
 SCALE 1" = 100'

LEGEND

- LINE TYPES**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Flat 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 Section Corner
- NUMBERS**
- Tax Code Number
 00 00 0
- Acreage 0.25 Ac

NOTES

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



CANCELLED NUMBERS

2900
3201
3202
3301
8300
8400
8500
8600A1

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



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

PLOT DATE: 6/11/2021

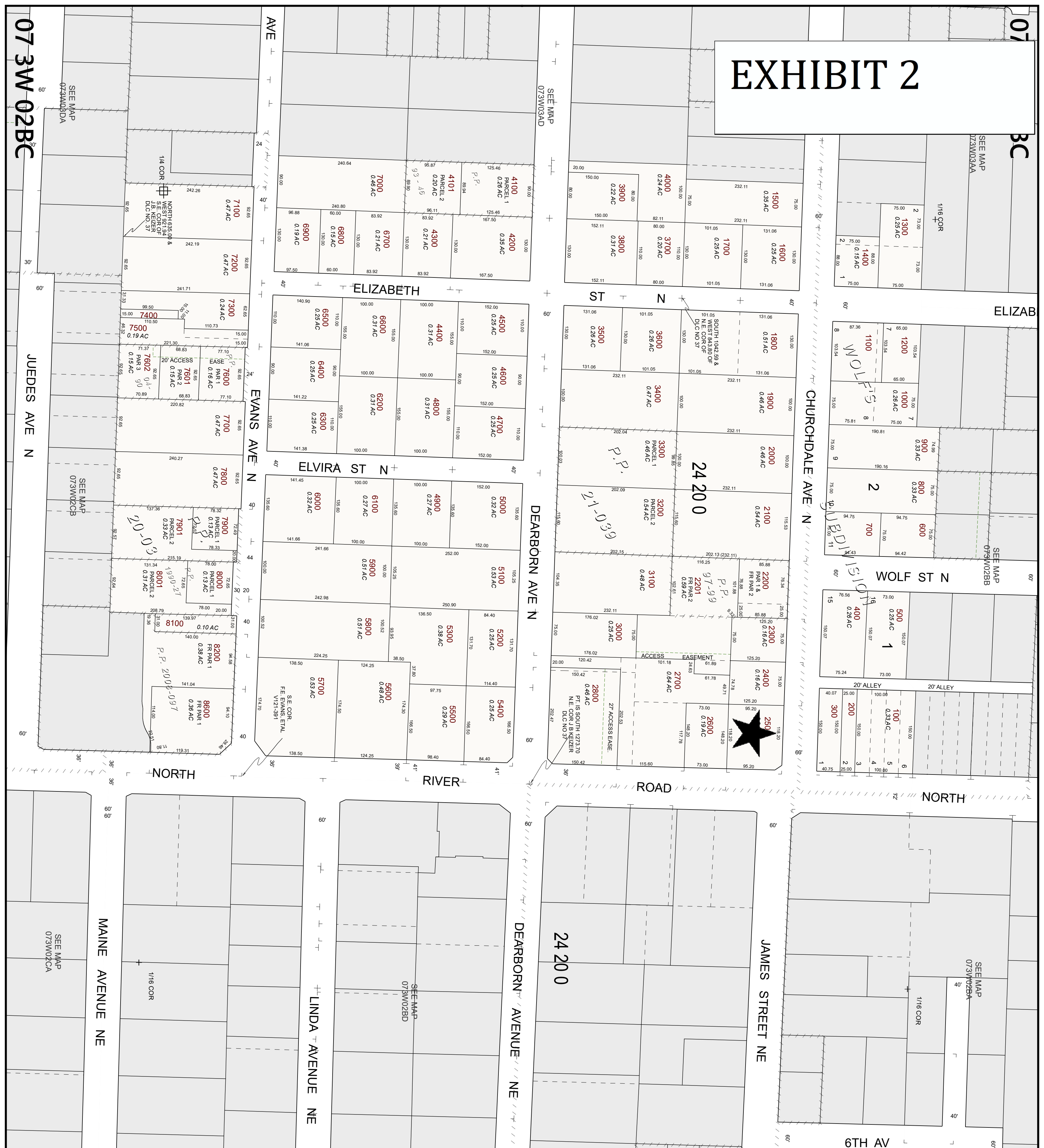


EXHIBIT 2

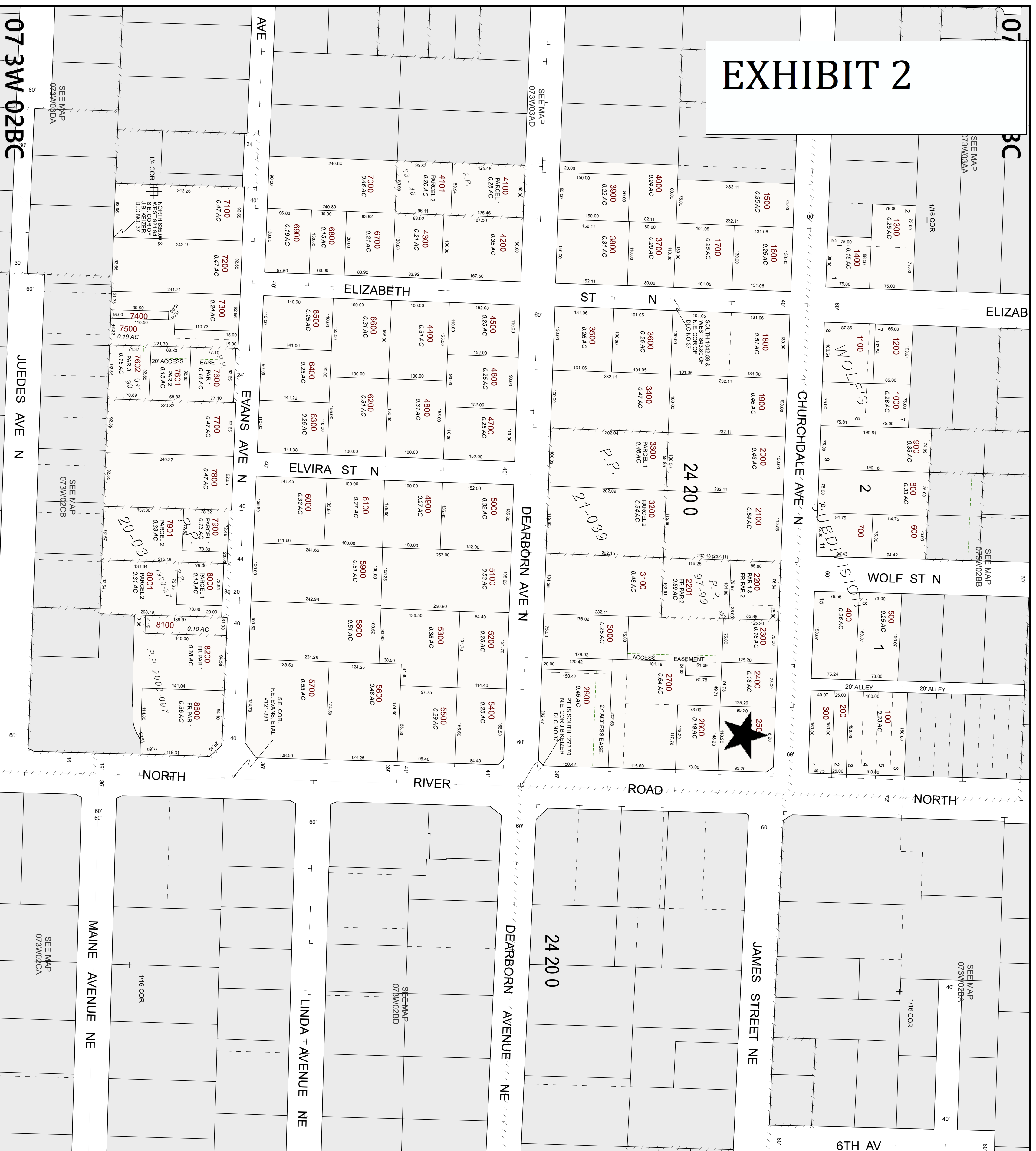


EXHIBIT 3

MINOR VARIANCE CASE NO. 2024-02
PROPERTY ADDRESS: 4885 RIVER ROAD N

PUBLIC WORKS DEPARTMENT CONDITIONS AND REQUIREMENTS

The applicant is requesting a Minor Variance to reduce a required twenty (20)-foot street side setback for a new commercial building along River Road N to sixteen (16) feet. The property is zoned Mixed Use and is designated in the Comprehensive Plan as Mixed Use. The property is located at 4885 River Road N (073W02BC02500).

The Public Works Department does not have any objection to the proposed Minor Variance. However, the applicant is advised that application for a development permit for this project will be subject to current development requirements, as follows:

GENERAL:

- a.) **Applicant is advised that all setbacks and vision clearances will be measured from the ultimate right-of-way width.** It is unclear if the site plan included with the variance request accounts for the future right-of-way dedication requirements.
- b.) Construction permits will be required for any construction within a public street, right-of-way, or City easement, for any public infrastructure on private property, and for erosion control and stormwater management on private property.
- c.) Street opening permits are required for any work within the City right-of-way or easements that is not covered by a construction permit.
- d.) Erosion control permits shall be obtained from the City prior to the disturbance of any soil on the subject property.
- e.) A pre-design meeting with the City Public Works Department will be required prior to the submittal of public improvement plans to either the City of Keizer or the City of Salem for review.
- f.) A pre-construction conference shall be required prior to commencement of any construction under permits issued by the City.

STREETS:

- a.) Public street improvements may be required for the street frontage on River Road N, a major arterial street in the City's Transportation System Plan (TSP):
- b.) Dedication of public right-of-way equivalent to a half-width of 42 feet along the development side of the right-of-way centerline is anticipated. **The setback will be measured from this ultimate right-of-way width.**
- c.) Closure of the existing driveway onto River Road N will be required with proposed development of the site.
- d.) Public street improvements may be required for the street frontage on Churchdale Avenue N, a local street in the City's TSP.

SANITARY SEWER:

- a.) The current property is connected to an existing 6-inch sanitary sewer main located on the north side of Churchdale Avenue N.
- b.) Plans for any new building sanitary sewer connections shall be submitted to the City and the City of Salem for approval and permitting prior to the start of development.
- c.) The property is within the original Keizer Sewer District and is therefore not subject to an acreage fee for sanitary sewer.

WATER SYSTEM:

- a.) The current property is connected to an existing 6-inch City water main on the south side of Churchdale Avenue N. The proposed development will likely require a larger water service and meter to serve the proposed use.
- b.) Plans for connection of the development to the existing water system shall be submitted to the City for approval and permitting prior to the start of development.
- c.) If the new buildings will be equipped with a fire sprinkler system, construction plans shall be submitted to the City prior to any combustible construction on the subject property.

STORM DRAINAGE:

- a.) The current property is not connected to the City storm drainage system. An existing 18-inch City storm main is located on the east side of River Road N.
- b.) A stormwater management plan for the development shall be submitted to the City for approval and permitting prior to the start of development.
- c.) Plans for stormwater management shall be designed by an Oregon-registered professional engineer and in accordance with City standards and specifications. The plans shall include all information as necessary for the City to review the adequacy of the storm drainage system design. The criteria and all other requirements for the design of both public and private stormwater flow control, retention, treatment, and conveyance facilities are provided in *Chapter 400 of the City's Design Standards*.