



**KEIZER COMMUNITY DEVELOPMENT
DEPARTMENT
NOTICE OF DECISION
Minor Variance 2019-19**

I. REQUEST

The following report reviews a land use application request for a Minor Variance to allow an increase to the allowed square footage to convert an existing 899 square foot accessory building to an accessory dwelling unit whereas the maximum conversion allowed by the Keizer Development Code is 750 square feet. (Exhibit 1)

II. BACKGROUND

- A. **APPLICANT/OWNERS:** Derek and Amanda Stephens
- B. **PROPERTY LOCATION:** The subject property is located at 7160 Wheatland Rd NE, Keizer. The Marion County Tax Assessor's map identifies the property as being located within Township 6 South; Range 3 West; Section 26BD; Tax Lot 00200. (Exhibit 2)
- D. **PARCEL SIZE:** The subject property is approximately 0.64 acres in area.
- E. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The property is developed with an existing single family dwelling and accessory building and is served by a well and public sewer.
- F. **ZONING:** The subject property is designated LDR (Low Density Residential) in the Comprehensive Plan and is zoned RS (Residential Single Family).
- G. **ADJACENT ZONING AND LAND USES:** The surrounding properties are zoned RS and are developed with single-family dwellings.

III. COMMENTS

AGENCY COMMENTS:

- A. The Keizer Public Works department, the Keizer Police Department and the City of Salem Planning Department responded they have reviewed the proposal and have no comments.

- B. No other comments were received regarding this proposal

IV. FINDINGS AND CONCLUSIONS

- A. The applicant is proposing to convert an existing 899 square foot accessory building to an accessory dwelling unit whereas the maximum conversion allowed by the Keizer Development Code is 750 square feet. 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 intent of this provision is to ensure the provision being varied is satisfied or that there is some unique burden that is borne by this property more than others that impact its ability to be developed. The property is developed with a single family home and accessory structure. The property is large by residential zone standards (approximately 198' wide by 168' deep), regular in shape, and is approximately 0.64 acres in size. There are no slopes or other constraints due to natural features that affect development of the parcel. The issue at hand is the request of the applicant to be able to convert the existing accessory structure to and Accessory Dwelling Unit (ADU) at a larger size than what is permitted in the code.

The intent of the underlying RS zone is to allow the development of single family homes and uses determined to be consistent with the RS zone. Accessory Dwelling Units are a part of the category of uses called "Shared Housing Facilities" listed as a Special Permitted Use in the RS zone and must be consistent with the standards outlined in Section 2.403 of the Keizer Development Code (KDC). These standards have been established in order to ensure an overall development pattern that is consistent with residential neighborhoods. The City has modified the standards for ADUs to allow more flexibility, and ADU development has been identified as a strategy that may help additional housing needs and types within the City to accommodate projected population growth. The purpose of the established design standards and size limitations help to prevent the visual domination of ADUs and are intended to foster an aesthetic of smaller scale "cottages" that clearly are secondary to the main home. The limit to structure size also helps to maintain adequate open space and regulate the amount of lot coverage on individual parcels. The size of an ADU is limited to 750 square feet in area, and is applied to both new and existing

structures to be converted. The applicant proposes to convert an existing accessory structure of 899 square feet in area, which is an increase of just less than 20% from this code standard. The intent of allowing for conversion of existing oversized accessory structures was specifically created to allow flexibility for property owners, without the creation of additional buildings. The limitation of 750 square feet was selected for consistency with the size allowed for a newly built ADU, and policy was set to avoid very large accessory structure from being converted and used as a second primary detached single family dwelling on a single parcel, which has a greater impact on existing neighborhoods, rather than a smaller cottage used as an accessory dwelling. Staff feels, in this case, the minor variance request demonstrates consistency with the intent of the provision limiting conversion size, even though it is slightly larger than what is allowed by code.

The proposed building will be located in the rear yard. As a condition of approval, the setback requirements outlined in Section 2.403 must be met and will be placed as a condition of building permit approval. The applicant indicates the existing building is located approximately 5 feet from the rear property line and 10 feet from the side property line, which exceeds the minimum standard.

The property is approximately 0.64 acres in size and the structure is pre-existing. The structure does not currently dominate the visual landscape of the area, nor does it appear to be oversized or out of place in relation to the amount of open space around it. In fact, the structure is not highly visible due to the location and existing landscaping on the property, which is not proposed to be changed in any way. Therefore, even though the structure is slightly larger than what is allowed by code for conversion, it will not seem out of place in relation to the overall amount of open space provided on the property. It should be noted that, if the applicant chose to convert only 750 square feet of the existing structure as allowed outright by code, the building would not have to be modified. The only requirement would be that the additional area (149 sqft) would not be allowed to be used for dwelling purposes and could only be accessed from the outside of the building. The existing building complies with the height provisions and is located in the rear of the property, so it does not dominate the visual landscape of the property and it does not seem out of place or inconsistent with the established development pattern of the neighborhood, since it has been there since 1963; well before most of the surrounding development was established. At the time of building permit approval, the proposal will be reviewed to ensure the structure complies with all setback provisions and lot coverage requirements outlined in the development code.

Taking into consideration the size and depth of the parcel, the location of the structure, the fact the building is pre-existing; staff feels this request demonstrates consistency with the intent and purpose of the provisions outlined in the development code. Therefore, 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 accessory structure already exists and has been located in the rear yard of the subject property for quite some time. According to the applicant's written statement and the Marion County Tax Assessor records, the structure was built in 1963. The overall size, height, and location of the building will not be altered in any way. The only changes proposed are to the interior of the existing building. The building conversion will require building permit approval, at which time it will be reviewed to ensure compliance with the provisions of the development code.

The subject property is large by residential subdivision standards (approximately 0.64 acres) and could possibly be redeveloped or divided in the future. However, the existing home is located in the center of the property, which most likely would require significant modification or more likely, removal of the home to accommodate division of land to maximum densities allowed. The existing structure proposed to be converted is located in the rear corner of the property approximately 5 feet from the rear and 10 feet from the side property line, which leaves significant area between the existing single family home proposed ADU. This could theoretically allow for a partitioning or redevelopment of the property in the future. More importantly, the structure is pre-existing and therefore, will not impact the possibilities for redevelopment any more than if no variance were being requested. Therefore, staff finds this variance approval will not have a detrimental impact on future development potential of the subject property.

The proposal will have no impact on adjacent properties that do not currently exist. The structure already exists and there is existing landscaping. The building exceeds the minimum building setbacks required if a new structure were being built. Building permits must be obtained prior to conversion and occupancy, assuring the structure will not pose any adverse impacts in relation to fire, life, or safety issues to adjacent properties. As a condition of variance approval, the structure shall be limited to the existing footprint and must be 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. The applicant is only requesting a variance to allow the size of the ADU to be increased. All other design requirements of the development code relating to aesthetics, location, height, property setbacks, building separation, and exterior finish must be followed and will be regulated as a part of the building permit review. 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 size allowed for the conversion of an existing residential accessory structure to an accessory dwelling unit is 750 square feet in area. A 20 percent increase to this standard is equal to 900 square feet. The applicant is asking variance approval to allow the conversion of an existing 899 square foot accessory building, and therefore satisfies this criterion. As a condition of approval, the proposed structure may not be enlarged and must be consistent with the applicant's proposal. This will be placed as a condition of approval and will be regulated through the building permit review and approval process. Therefore this variance request is necessary to achieve the purpose of the variance request. 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.

The proposed Minor Variance conforms to Section 3.105 of the Keizer Development Code. Based on the above findings, staff concludes the proposal complies with the applicable decision criteria and approves the proposal subject to conditions outlined below:

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 September 19, 2019.

Unless this decision is appealed it becomes final on September 20, 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 accessory structure is approved to be converted for use as an accessory dwelling unit. No modifications to the size of the structure will be allowed.

2. The accessory dwelling unit must comply with Section 2.403.02.D (Design) of the Keizer Development Code, and must incorporate a minimum of 3 design features for single family dwellings found in Section 2.314.A. This will be reviewed at the time of building permit application for compliance.
3. 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.

- 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 2.102 Residential Single Family 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 7160 Wheatland Rd 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

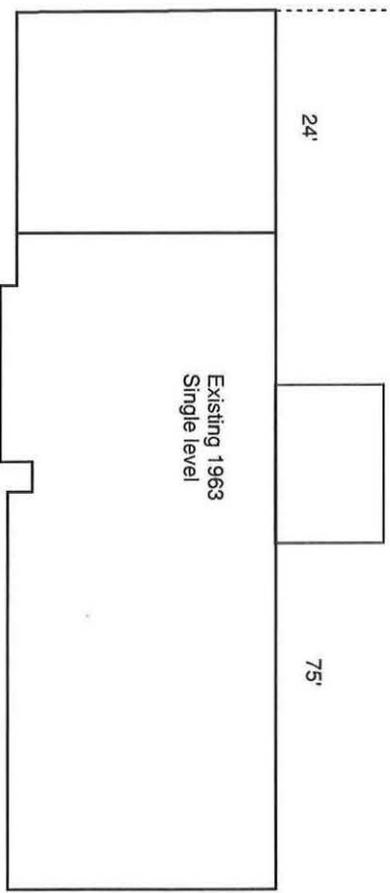
Date: 9/9/19

P A R C E L L I N E



5'

40' 6"



198'

P A R C E L L I N E

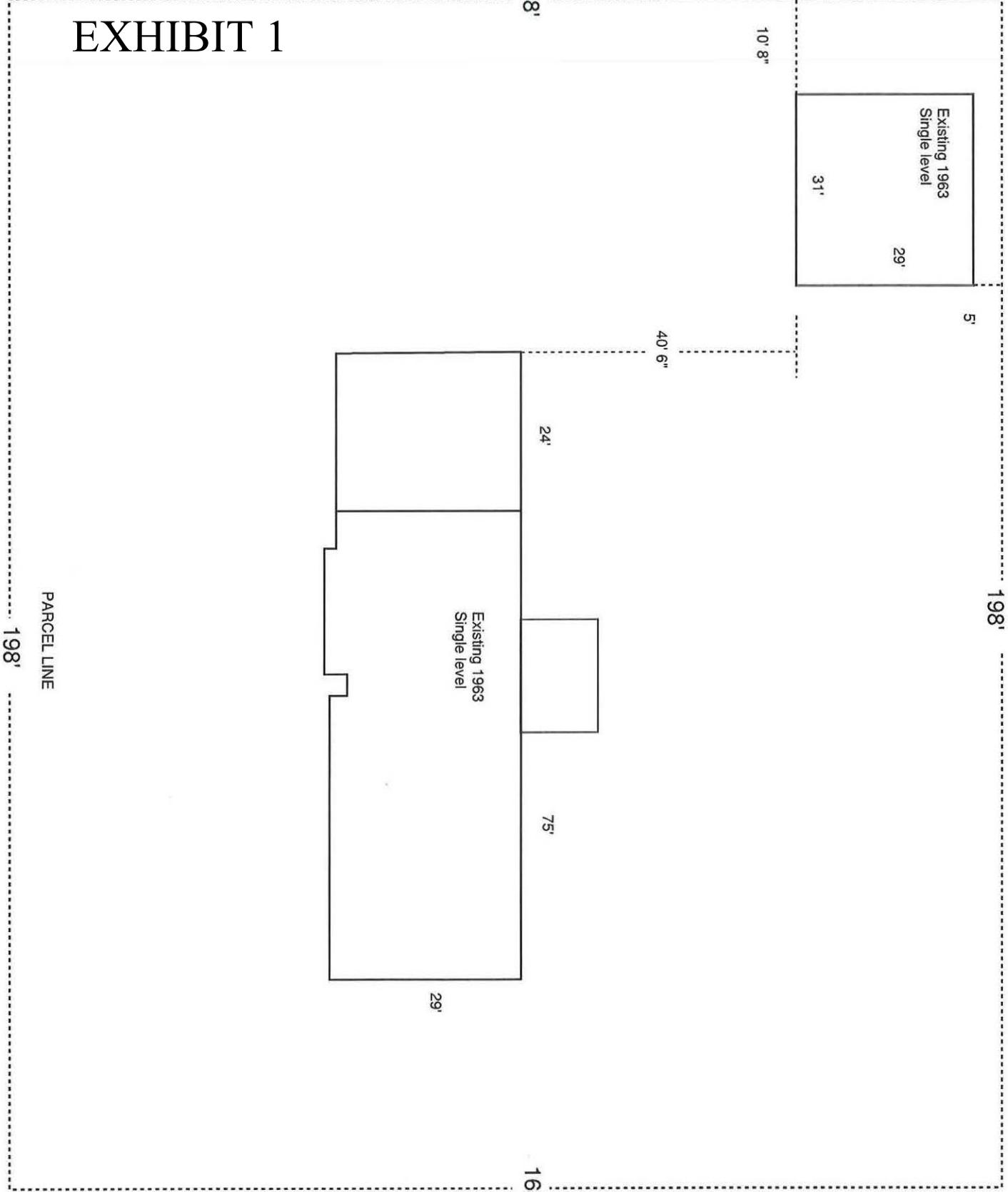
168'

168'

P A R C E L L I N E

F a r m l a n d

EXHIBIT 1



P A R C E L L I N E

198'

Wheatland Road

Derek Stephens
7160 Wheatland
Rd, N Keizer, OR,
97303

NORTH

Scale 1" = 20'

