



**KEIZER COMMUNITY DEVELOPMENT  
DEPARTMENT  
NOTICE OF DECISION  
Minor Variance Case No. 2016-12**

**I. REQUEST**

The following report reviews a land use application for a Minor Variance to reduce the street side setback from a local street to 8 feet where a minimum of 10 feet is required per Section 2.102.05.B of the Keizer Development Code.

**II. BACKGROUND**

- A. APPLICANT/PROPERTY OWNER:** Joseph Kachaturian
- B. PROPERTY LOCATION:** The subject property is located at 680 Sunset Av N, Keizer, Oregon. The County Tax Assessor's map identifies the property as being located within Township 7 South; Range 3 West; Section 10AA; Tax Lot # 02200. (See Exhibit '1')
- C. PARCEL SIZE:** The subject property is approximately .23 acres in area.
- D. EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The subject property is developed with an existing single family home and is served by public sewer and water.
- E. ZONING:** The subject property is designated Low Density Residential (LDR) on the Comprehensive Plan Map and is zoned RS (Residential Single Family).
- F. ADJACENT ZONING AND LAND USES:** Surrounding properties are zoned RS and contain single family homes.
- G. PROPOSAL:** The applicant is requesting a Minor Variance to reduce the street side yard setback along Rivercrest Dr N to 8 feet where 10 feet is required by Section 2.102.05.B of the Keizer Development Code. (Exhibit '2')

### III. AGENCY COMMENTS

- A. The Keizer Public Works Department submitted comments indicating there are no sight distance or utility easement issues, and that a maximum of 30 feet of width is allowed for driveway access and it appears the proposed additional driveway off Rivercrest Drive is not acceptable. (Exhibit '3')
- B. The Keizer Police Department submitted comments indicating they would rely upon the Code Enforcement Officer to assure the car collection complies with zoning codes and ordinances. (Exhibit '4')

### IV. DECISION AND APPEALS

Notice is hereby given that the Community Development Director for the City of Keizer has **APPROVED** the Minor Variance application subject to certain conditions and requirements. Findings in support of this decision are found in Section V. 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 and be heard 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. Requests for appeal to the Hearings Officer must be in writing, on a form provided by the City, and be received in the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. on June 27, 2016.

**Unless the decision is appealed this decision becomes final on June 28, 2016.**

### V. FINDINGS AND CONCLUSIONS

- A. The applicant is proposing to reduce the minimum street side setback in an RS zone to 8 feet where 10 feet is required. 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 3.105.05 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:** Setback requirements have been established to assure development adheres to the minimum requirements of the underlying zoning designation. These minimum requirements are established in order to provide adequate building separation, open space between adjacent uses, to ensure an overall aesthetically consistent and pleasing pattern of development, to allow for landscaped areas, and to provide adequate separation from the public right of way to protect the public safety.

The applicant is requesting variance approval to allow an addition to an existing home in order to expand the attached garage. The resulting structure will be located approximately 8 feet from the Rivercrest Drive property line where 10 feet is required. The encroachment into this required setback area will be along the west side yard the length of the proposed attached garage. Request for comments were sent out to all affected agencies and no safety concerns have been expressed regarding this variance request. Rivercrest Drive is developed with street paving and curbs, but currently there are no sidewalks or drainage facilities that exist. There are no immediate plans to widen the street, and it should be noted the right of way width of Rivercrest Drive is 60 feet. This exceeds the right of way width requirements for a local street, as outlined in section 2.302 of the development code, and therefore can allow for future sidewalks and/or drainage facilities to be installed within the existing right of way area. Currently, the maximum total right of way width required for a local street is 48 feet in width (24 feet from centerline) which means that theoretically, there is 6 feet of extra right of way width along Rivercrest Drive. If full improvements were provided consistent with current street design standards outlined in the development code, there would still be four (4) additional feet between the edge of future improvements and the property line adjacent to Rivercrest Drive. Therefore, the applicant's proposal to reduce the setback down to 8 feet from the property line along Rivercrest Drive will result in the proposed structure being located approximately twelve (12) feet from the edge of future public improvements, whereas under normal circumstances a structure could be as close as 10 feet. Furthermore, the proposed development will be located almost 20 feet away from the existing street improvements, so it will not give the appearance that the structure is closer than what is allowed by code. Staff finds this proposal will provide adequate separation from the public right of way both now and in the future, will be consistent with the aesthetic pattern of development in the surrounding area, and will actually appear as if the development exceeds the minimum of 10 feet required by development code. The specific setback reduction being requested is not adjacent to any other property owner and therefore does not create any burden for others.

Taking into consideration the minimal reduction to the required setback, that there are no safety concerns regarding the applicant's proposal, the fact there is adequate space to provide future sidewalk and drainage improvements if needed, and that aesthetically it will appear minimum setbacks are being adhered to, staff feels that this request demonstrates consistency with the intent and purpose of the setback provision outlined in

the development code. Additionally, due to the fact that there are no directly affected property owners, staff feels that this setback reduction will not result in a burden for any other adjacent property owner. As a condition of variance approval, the applicant will be limited to variance approval only for that which is proposed. In no case may the building be placed closer than 8 feet to the Rivercrest Drive property line and the development must substantially conform to what has been submitted with this application. Any future additions or redevelopment must comply with all provisions of the Keizer Development Code. 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:** Since the setback requested to be varied is along a public right of way and not an adjacent property owner, there really is no measurable impact created by this variance proposal. The argument could be made that due to the building being located closer to the public right of way, and the fact the applicant intends to increase the height of the existing structure, an impact is generally felt by the public. However, staff feels that this impact will be negligible and will go mostly unnoticed by the general public. Especially when taking into consideration the structure (as proposed) will be located almost 20 feet from the existing street curb. So whether this particular building is located 10 feet or 8 feet from the street side property line, there will be no noticeable impact on the built environment in the surrounding area. Additionally, there are 2 large existing trees which will help obscure the view of some of the building massing adjacent to Rivercrest Drive. As a condition of variance approval, the proposed addition will be required to meet the design standards in the development code which will be regulated as a part of the building permit review and approval process. As such, the garage door openings cannot account for more than 50% of the building façade along Sunset Avenue and all other setbacks must be adhered to.

The proximity of the proposed structure does not pose any adverse impacts in relation to fire, life, or safety issues and exceeds the minimum building code requirements which govern construction. It should be noted that prior to development, all appropriate permits must be obtained. The Public Works Department submitted comments relating to driveway locations, which will be regulated through the building permit review and approval process, and/or the driveway permit review and approval process. The applicant shall obtain all necessary permits prior to development of the property. This will be placed as a condition of variance approval.

It should be noted that currently the applicant stores several vehicles and personal items out of doors in the existing driveway, RV pad area adjacent to the house, as well as the rear yard area. This proposal will allow the applicant to store vehicles and other personal items within the enclosed

attached garage building as opposed to cluttering the driveway, RV pad, and areas on the street. This will have a positive impact on the surrounding properties in that it will remove items from the public view, which even though legally parked/stored, are often considered aesthetically unpleasing and have the perception of being clutter. The applicant indicates the proposed addition is for personal use and storage and it is to be noted the Keizer Development Code does not allow vehicle repair as a home occupation. The Keizer Police Department submitted comments indicating they would depend on the Code Enforcement Officer to assure the property complies with zoning codes and ordinances. As such, as a condition of variance approval, the use of the garage is limited to personal use and storage functions only. No commercial use is allowed with the exception that uses associated with a home occupation, subject to the standards and restrictions outlined in section 2.407 of the Keizer Development Code may be allowed.

Taking all of these factors into consideration, staff finds the proposal will not unreasonably impact adjacent existing or planned uses. Staff feels the impact felt by the general public for this particular variance request will be minimal, if at all. 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 is 10 feet. A 20 percent reduction to this standard is equal to 8 feet. The applicant is asking for a variance from this standard to allow the building to be placed 8 feet from the property line, which is a 20 percent reduction, and therefore satisfies this criterion. The purpose of the variance is to allow for the expansion of an existing attached garage that is part of an existing single family dwelling. Single family uses are consistent with the comprehensive plan and zoning designation for the use of the property. The applicant wishes to be able to store vehicles and other items indoors, and is currently unable to accomplish this with the existing garage structure. In fact, there has been previous code enforcement action on the basis that too many vehicles and items were stored out of doors. With the approval of this variance the applicant will be able to locate personal items within the enclosed garage building so as to comply with City ordinances. Therefore, staff finds that it is the minimum necessary to allow for this proposal. 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 that would not allow this particular variance. Staff therefore finds this request satisfies this criterion.

- C. 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 recommends approval of the proposal subject to conditions outlined below:

## **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. Unless otherwise specifically modified by this decision, development of the property shall comply with remaining requirements of the Keizer Development Code and all building code requirements must be met.
  2. The applicant shall be limited to variance approval for only what is indicated on the submitted site plan. This requires a minimum setback of 8 feet from the Rivercrest Drive property line to the proposed building. All other development requirements will be regulated through the building permit review and approval process. Garage doors facing the street may not account for more than 50% of the dwelling façade facing the street.
  3. Building permits must be obtained within one year of the final date of this decision. This approval is only valid when building permit approval is received by June 28, 2017.
  4. Appropriate driveway permits must be obtained through the Keizer Public Works Department at the time of building permit approval.
  5. Use of the garage is limited to personal use and storage functions. No commercial use is allowed with the exception of uses associated with a home occupation; subject to the standards and restrictions outlined in section 2.407 of the Keizer Development Code.
- B. **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.

- C. 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 Community Development Department at 930 Chemawa Rd NE, Keizer, Oregon.

REPORT PREPARED BY: Shane Witham, Associate Planner

APPROVED BY:



Date: 6/14/16

Nate Brown, Community Development Director

MARION COUNTY, OREGON  
NE1/4 NE1/4 SEC10 T7S R3W W1M.  
SCALE 1" = 100'

LEGEND

- LINE TYPES**
- Taxlot Boundary
  - Road Right-of-Way
  - Railroad Right-of-Way
  - Private Road R/W
  - Subdivision/Plat Boundary
  - Waterline - Taxlot Boundary
  - Waterline - Non Boundary
  - Historical Boundary
  - Easement
  - Railroad Centerline
  - Taxcode Line
  - Map Boundary
  - Waterline - Non Boundary
- SYMBOL TYPES**
- Survey Monument
  - Road Station
  - DLC Corner
  - 1/16th Section Cor.
  - 1/4 Section Cor.
  - 1/8 Section Corner
  - 1/4 Section Corner
  - 21.22

NUMBERS  
Tax Code Number  
00000000

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

Tick Marks: If a tick mark is indicated on the end of a line, then the dimension goes to the tick mark. This is used when dimensions extend into public right-of-ways.

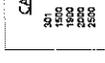


Exhibit '1'

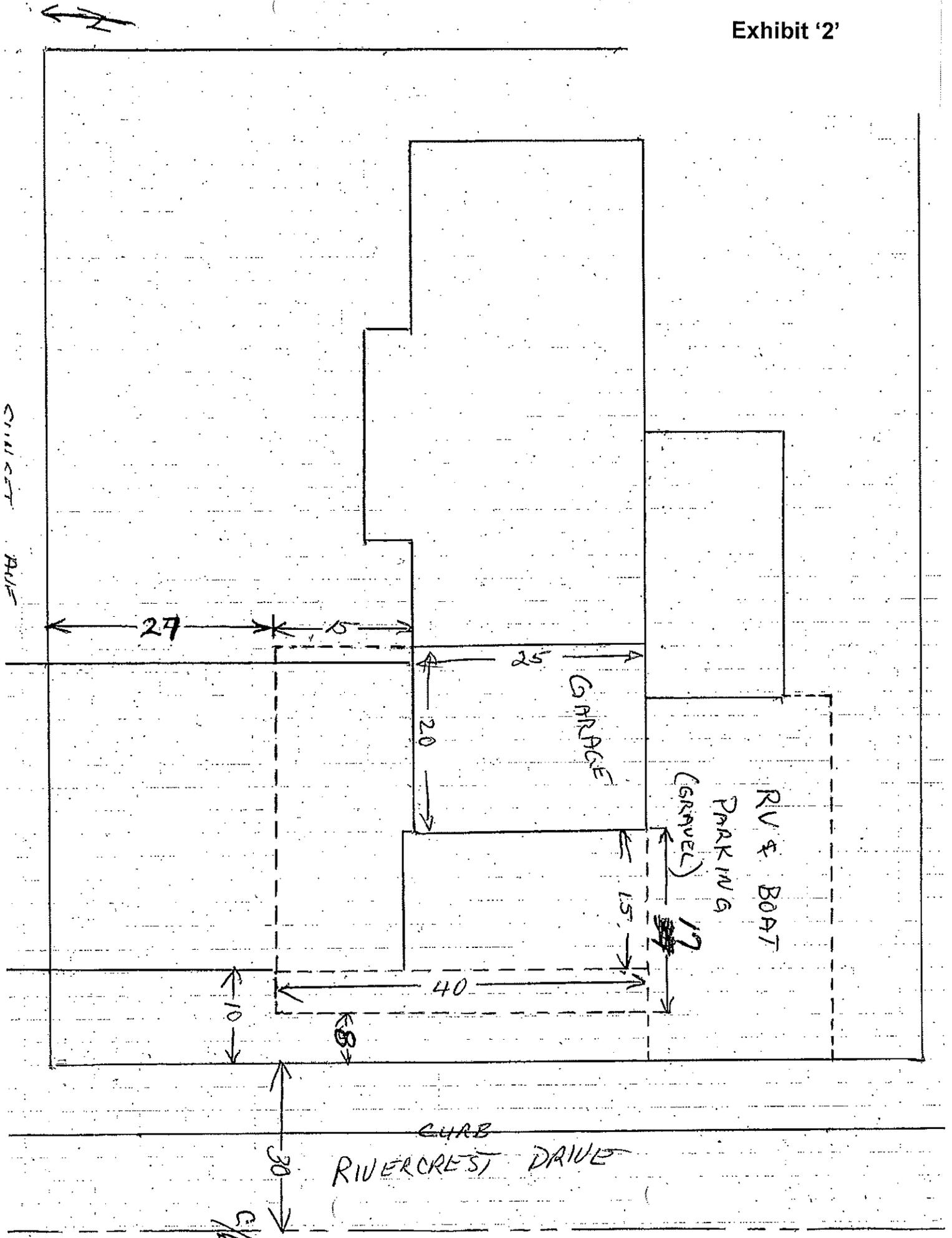
DISCLAIMER FOR AS



FOR ADOPTION

PLO





TO: SHANE WITHAM, ASSOCIATE PLANNER  
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT  
SUBJECT: MINOR VARIANCE CASE NO. 2016-12

APPLICANT – JOSEPH KACHATURIAN  
ADDRESS – 680 SUNSET AVE. N.

PUBLIC WORKS DEPARTMENT REQUIREMENTS

The application is for reducing a side yard, street side setback from the required ten (10) feet to eight (8) feet. There are no public works requirements regarding the proposed side yard reduction. Sight distance does not seem to be compromised and there are no public utility easements that would be impacted.

The current vehicle access to the subject is from Sunset Avenue N. The existing driveway access exceeds the allowed 24 feet. (A total of 30 feet can be approved with proper submittals to the Department of Public Works.). Of concern to the Public Works Department is access to the proposed RV and Boat Parking area from Rivercrest Drive. A maximum of 30 feet can be approved for any combination of driveways. An additional driveway located on Rivercrest Drive does not appear to be acceptable.



## REQUEST FOR COMMENTS

May 20, 2016

TO: City of Keizer Public Works  
City of Keizer Police Department  
City of Salem Public Works  
City of Salem Community Development

AKS Engineering  
Keizer Fire District  
Marion County Community Development

FROM: Shane Witham, Associate Planner

CASE: Minor Variance Case No. 2016-12

RESPONSE DATE: **June 3, 2016**

APPLICATION: The applicant is requesting a Minor Variance to reduce a side yard, street side setback from the required ten (10) feet to eight (8) feet. The subject property is addressed as 680 Sunset Av N and is also identified on Marion County Tax Assessor maps as being Township 7; Range 3 West; Section 10AA; Tax Lot 02200.

APPLICANT: Joseph Kachaturian  
ZONE: Residential Single Family (RS)

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 **June 3, 2016** 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 Shane Witham, Associate Planner, at (503) 856-3439. 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: THE POLICE DEPARTMENT WILL RELY UPON THE CODE ENFORCEMENT OFFICER TO ASSURE THE "CURRENT CAR COLLECTION" COMPLIES WITH ZONING CODES AND ORDINANCES.

Response Date: 5/20/16

Person commenting: JEFFREY K. KUHNS  
DEPUTY CHIEF

ATTACHMENTS

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