



**KEIZER COMMUNITY DEVELOPMENT
DEPARTMENT
NOTICE OF DECISION
Minor Variance Case No. 2016-16**

I. REQUEST

The following report reviews a land use application request for a Minor Variance to allow for the construction of an accessory structure on a parcel located within the RS (Residential Single Family) zone of 720 square feet in area where 600 square feet is the maximum size allowed by the Keizer Development Code. (Exhibit '1')

II. BACKGROUND

- A. **APPLICANT/OWNER:** Jason and Tammy Baker
- B. **PROPERTY LOCATION:** The subject property is located at 5575 Willapa Ct NE, Keizer. The Marion County Tax Assessor's map identifies the property as being located within Township 6 South; Range 3 West; Section 36CB; Tax Lot # 03100. (Exhibit '2')
- D. **PARCEL SIZE:** The subject property is approximately 0.31 acres in area.
- E. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The property is developed with an existing single family dwelling. The subject property is served by public water and 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. 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 VII. of this report. Findings in support of this decision are found in Section VI. of this decision.

IV. APPEALS

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 5:00 p.m. on October 7, 2016

Unless this decision is appealed it becomes final on October 8, 2016

V. COMMENTS

AGENCY COMMENTS:

- A. The Keizer Public Works department submitted comments (Exhibit '3') regarding the proposed development.
- B. The Keizer Police Department, Keizer Fire District, and City of Salem Community Development Department responded they have reviewed the proposal and have no comments.
- C. No other comments were received regarding this proposal

VI. FINDINGS AND CONCLUSIONS

MINOR VARIANCE:

- A. The applicant is proposing to construct a residential accessory structure of 720 square feet in area where 600 square feet is the maximum size allowed. 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:
 - I.
 - 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 ensure the intent and purpose of 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. This parcel is located at the end of a cul-de-sac and is not regularly shaped. Originally the applicant had planned to build onto the existing garage to accommodate a storage area for an RV. However, due to the orientation of the existing home, an existing storm drain easement along the side property line, and the limited width of the parcel across the front of the property, there was not enough room to construct the additional area. There are no slopes or other constraints due to natural features that affect development of the parcel. The property is developed with a single family home. The issue at hand is the request of the applicant to be able to construct an accessory structure larger in size than what is permitted in the code, in order to accommodate the storage of their RV.

The intent of the underlying RS zone is to allow the development of RS zoned parcels with single family homes and uses determined to be consistent with the RS zone. Accessory structures are listed as a Special Permitted Use in Section 2.102.03 KDC consistent with the standards within Section 2.313 KDC. The size of residential accessory structures is limited to 600 square feet in area by Section 2.313.01.E KDC. The applicant proposes to build an accessory structure of 720 square feet in area, which is an increase of 20% from this code standard. The standards for residential accessory structures have been established in order to ensure an overall development pattern that is consistent with residential neighborhoods and which will prevent the visual domination of neighborhoods by large accessory structures that might be best situated on farm parcels out in the county. The limit to structure size also helps to maintain adequate open space and regulate the amount of lot coverage on individual parcels.

The proposed building will be located in the rear yard. The applicant has not indicated the proposed height of the structure, but the site plan indicates the proposed structure will be located 8 feet from the west property line and 12 feet from the south property line. As a condition of variance approval, the requirements of Section 2.313 must be met. This will be regulated as a part of the building permit approval process. The property is approximately 0.31 acres in size, so the accessory structure will not dominate the visual landscape of the area, nor will it appear to be oversized or out of place in relation to the amount of space around it. The proposed accessory building will be required to not exceed accessory structure height provisions and so should not dominate the visual landscape of the property, let alone the neighborhood. 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 of the parcel and the location of the proposed accessory building, staff feels that this request demonstrates consistency with the intent and purpose of the accessory structure provisions outlined in the development

code. As a condition of variance approval, the applicant will be limited to build the proposed structure as shown on the site plan, and must comply with all other design standards outlined in the 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: The proposed accessory structure will be located in the rear yard area adjacent to the neighboring houses to the south and east. The building will require building permit approval, at which time it will be reviewed to ensure compliance with the provisions of the development code. While the overall height of the building is not known, Section 2.313 KDC prohibits an accessory structure being greater than 24 feet in height or taller than the residence. In addition, required setbacks will limit the proposed structures height.

The proposal will locate the new accessory structure such that it will exceed the size requirements of the development code by 20%. There is an existing fence along the east property line and the applicant's site plan indicates a proposed 6' fence will be built along the south property line which will help mitigate the visual impact to the adjacent neighbors. The applicant has pointed out in their written statement that the variance will allow for a recreational vehicle to be stored indoors, as opposed to outside thereby improving the visual aesthetics for the adjacent neighbors. In addition, with the structure exceeding or meeting the minimum building setbacks, the proposed structure will not pose any adverse impacts in relation to fire, life, or safety issues to any adjacent property. The Public Works Department submitted comments regarding the proposal and that storm drain runoff from the proposed structure will be required to be kept on site and not directed to the existing storm drain system in Willapa Ct, and that the structure not place any additional load bearing on the existing storm drain line located on the property. This will be placed as a condition of variance approval, and will be regulated through the building permit approval process.

As a condition of approval, 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 structure 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 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 maximum size allowed for a residential accessory structure is 600 square feet in area. A 20 percent increase to this standard is equal to 720 square feet. The applicant is asking variance approval to allow the construction of a 720 square foot accessory building, and therefore satisfies this criterion. As a condition of approval, the proposed structure must be built consistent with the applicant's proposal and will be limited to 720 square feet in area. This will be placed as a condition of approval and will be regulated through the building permit review and approval process. The purpose of the variance is to allow for storing personal property inside an enclosed building, out of site, and due to the size of the RV 600 square feet is not large enough to accomplish this. 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.

- 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:

VII. 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 a maximum of 720 square feet in size and shall be located substantially as shown on the submitted plan in this application.
 2. The accessory structure must comply with the standards in Section 2.313 of the Keizer Development Code relating to location, height, property setbacks, building separation, and exterior finish requirements for accessory structures.
 3. A 6 foot tall, sight obscuring fence is proposed along the south property line in the area of the proposed accessory structure, and must be installed prior to final building inspection approval.

4. 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 related to the construction of an accessory structure. 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 October 8, 2017.
 5. Storm drain runoff from the proposed structure will be required to be kept on-site and not directed to the existing storm drain system in Willapa Court.
 6. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage easements. Prior to issuance of a building permit for the new structure a determination will be required that the structure will not place any additional load bearing on the existing storm drain line.
- 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.

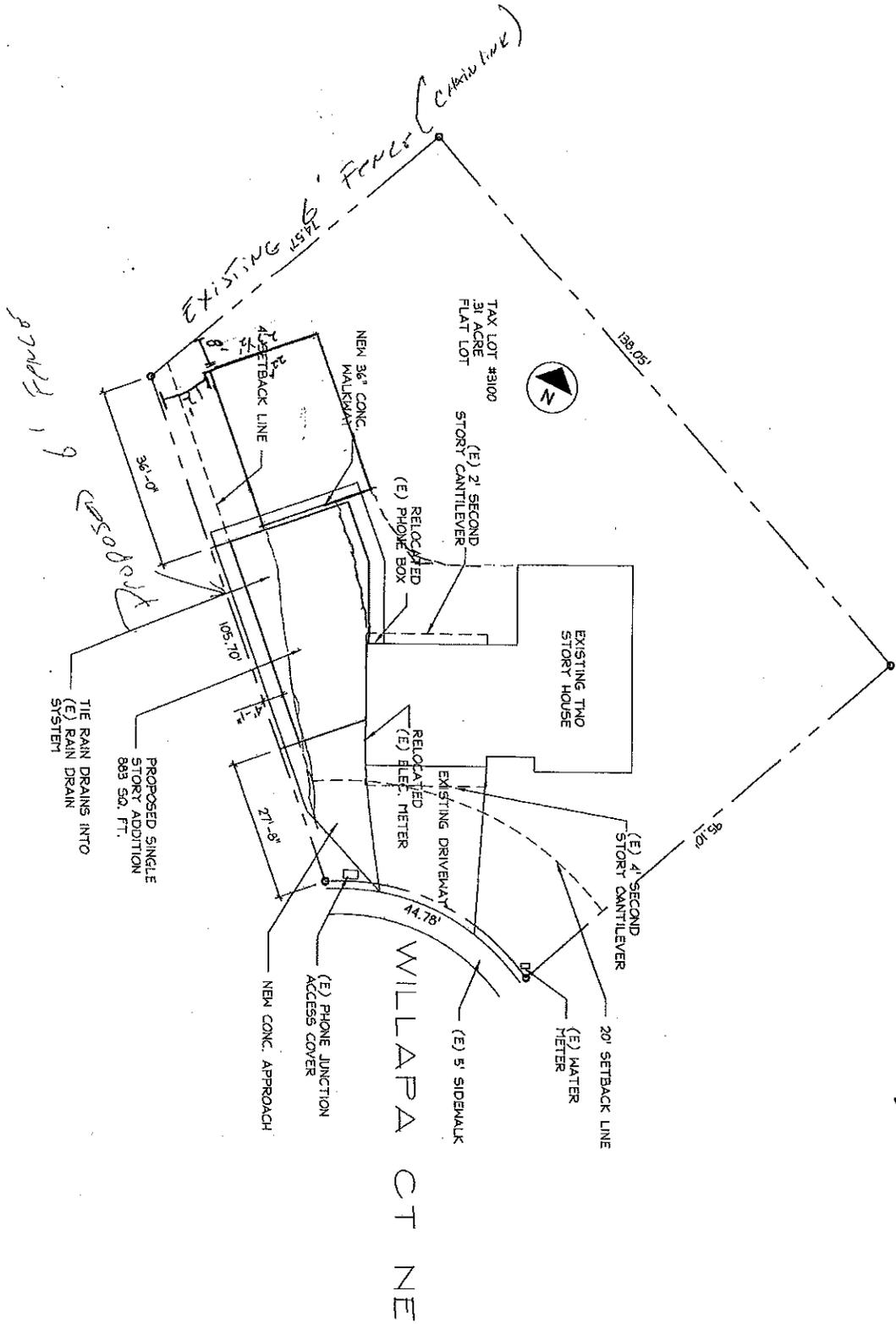
The proposed development meets the purpose and intent of the standards set forth within Section 2.102 Residential Single Family zone of the Keizer Development Code and complies with Section 3.105 *Variances – Minor and Major* of the Keizer Development Code. Therefore, the above request for a Minor Variance request for property located at 5575 Willapa Ct 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, Associate Planner

APPROVED BY: 

September 27, 2016

SITE PLAN



SCALE 1"=20'-0"

<p>1</p> <p>SHEET</p> <p>OF 2 SHEETS</p>	<p>J. BAKER</p> <p>5575 WILLAPA CT NE</p> <p>KEIZER, OR 97303</p>	<p>PAUL G. WILLET</p> <p>DESIGN/ DRAFTING</p> <p>REMODELING & NEW CONSTRUCTION PLANS</p> <p>503-932-5473</p> <p>pw4designs@yahoo.com</p>
	<p>DATE: 6-2-2016</p> <p>DRAWN BY: JASON B.</p>	

06 3W 36CB
KEIZER



MARION COUNTY, OREGON
NW1/4 SW1/4 SEC36 T6S R3W W.M.
SCALE 1" = 100'

- LEGEND**
- LINE TYPES**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision Plat Boundary
 - Veterine - Taxlot Boundary
 - Veterine - Non Boundary
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Locode Line
 - Map Boundary
 - Waterline - Non Boundary
- SYMBOL TYPES**
- Survey Monument
 - Road Station
 - DLC Corner
 - 1/16TH Section Cor.
 - 1/4 Section Cor.
 - 1/2 Section Corner
 - 21 22
- NUMBERS**
- Tax Code Number
000 000 00 0
- All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES

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-way.

CANCELLED NUMBERS

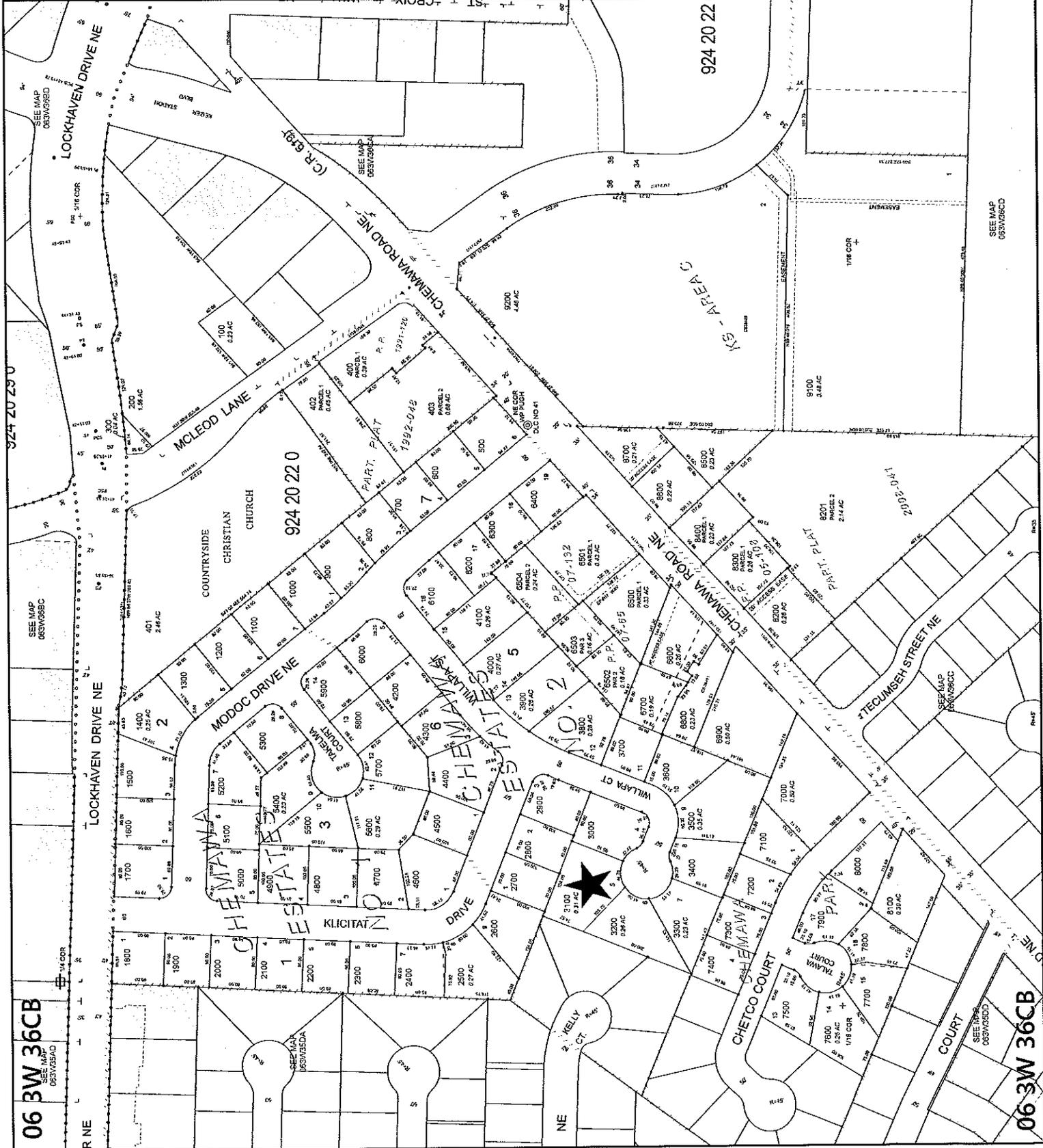
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Exhibit '2'

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06 3W 36CB
SEE MAP 063W36CB

06 3W 36CB
SEE MAP 063W36CB

TO: SHANE WITHAM, ASSOCIATE PLANNER
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT
SUBJECT: MINOR VARIANCE CASE NO. 2016-16

APPLICANT – JASON BAKER
ADDRESS – 5575 WILAPA CT.

PUBLIC WORKS DEPARTMENT REQUIREMENTS

The application is for a new accessory structure larger than the code maximum.

STREET AND DRAINAGE IMPROVEMENTS:

All previous land use decisions that apply to the parcel will still be in effect. No street and storm drain plans are being required by the Department of Public Works but the new storm drain runoff from the proposed structure will be required to be kept on-site and not directed to the existing storm drain system in Willapa Court.

The building shall conform to the Keizer Development Code setback requirements. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage easements. Prior to issuance of a building permit for the new structure a determination will be required that the structure will not place any additional load bearing on the existing storm drain line.