



**KEIZER COMMUNITY DEVELOPMENT
DEPARTMENT
NOTICE OF DECISION
Minor Variance Case No. 2016-19**

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/AGENT:** John Juhring
- B. **OWNER:** John and Lisa Juhring
- C. **PROPERTY LOCATION:** The subject property is located at 1234 Bair Rd NE, Keizer. The Marion County Tax Assessor's map identifies the property as being located within Township 6 South; Range 3 West; Section 23DC; Tax Lot # 05000. (Exhibit '2')
- D. **PARCEL SIZE:** The subject property is approximately 0.36 acres in area.
- E. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The property is developed with an existing single family dwelling and 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 5:00pm on October 21, 2016.

Unless this decision is appealed it becomes final on October 22, 2016
--

V. COMMENTS

AGENCY COMMENTS:

- A. The Keizer Public Works department submitted comments (Exhibit '3') regarding the proposed development.
- B. The Keizer Police 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:
 - 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 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. The property is developed with a single family home and is located within an existing single family neighborhood with single family dwellings directly to the west, east and south. The property is a deep lot (179'), regular in shape, and is approximately 0.36 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 construct an accessory structure larger in size than what is permitted in the code, in order to accommodate the storage of their RV and other personal items.

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 structures are listed as a Special Permitted Use in the RS zone and must be consistent with the standards outlined in Section 2.313 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 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 size of residential accessory structures is limited to 600 square feet in area by Section 2.313.01.E. 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 proposed building will be located in the rear yard. As a condition of approval, the setback requirements outlined in Section 2.313 regulating accessory structures must be met and will be placed as a condition of building permit approval. The applicant's site plan shows a 5 foot setback, but this is not acceptable. The Public Works Department submitted comments regarding this application which indicate there is a 10 foot wide private drainage swale easement located along the southerly portion of the property. Therefore, as a condition of variance approval a 10 foot setback must be provided along the south property line, and all other 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 0.36 acres in size and is 179' in depth, 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 structure will only cover approximately 10% of the total rear yard area. It should be noted that up to 20% of total yard area can be covered by an accessory structure. Therefore, even though the proposed structure is larger than what is allowed by code, it will not necessarily seem out of place in relation to the overall amount of open space provided on the property. The applicant points out there are two property owners east of the subject property that have accessory structures similar to what is proposed. Therefore, the proposed structure will not

seem out of place or inconsistent with the immediate surrounding vicinity or established development pattern. The proposed building will be required to comply with the height provisions and so will 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 and depth 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 required to provide a 10 foot setback along the south property line 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. 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 existing residence. The building 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 quite large by residential subdivision standards (approximately 0.36 acres). However, due to the orientation and location of the existing home and adjacent properties, along with limited accessibility, it is not practical to partition or redevelop the property with additional residential lots. Therefore, this variance approval will not have a detrimental impact on future development potential of the subject property.

There is an existing fence located along the perimeter of the property which will help mitigate the visual impact of the structure to adjacent properties. The applicant has pointed out in their written statement the variance will allow for a recreational vehicle to be stored indoors, along with storage for personal items, and to accommodate a woodworking shop. Providing space to locate these functions indoors as opposed to outside will protect the visual aesthetics for the adjacent neighbors. In addition, by 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. This will be placed as a condition of variance approval, and will be regulated through the building permit approval process.

The Public Works Department submitted comments pertaining to this proposal and the impact storm water runoff could have on adjacent parcels, as well as the public system. As a condition of variance approval, all new storm water runoff from the

proposed structure will be required to be kept on-site and not directed to the existing storm drain system in Bair Road. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed. This plan will also need to demonstrate how the storm drain runoff from the required driveway will be handled. This will ensure no adverse impacts are created by storm water runoff.

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 an RV (up to 32' in length) and personal property inside an enclosed building and 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 a minimum of 10 feet from the southern property line. All other setbacks must comply with Section 2.313 of the Keizer Development Code.
 2. The accessory structure must comply with the standards in Section 2.313 of the Keizer Development Code relating to location, height, building separation, and exterior finish requirements for accessory structures. A driveway must be built to serve the accessory building since it is being designed to accommodate a vehicle.
 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 related to the construction of an accessory structure.
 4. Storm water runoff from the proposed structure will be required to be kept on-site and not directed to the existing storm drain system in Bair Road. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed.
 5. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage swale easements.
 6. The existing driveway drop along Bair Road is 30 feet wide. An additional driveway width extension will not be granted.
- 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 1234 Bair 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.

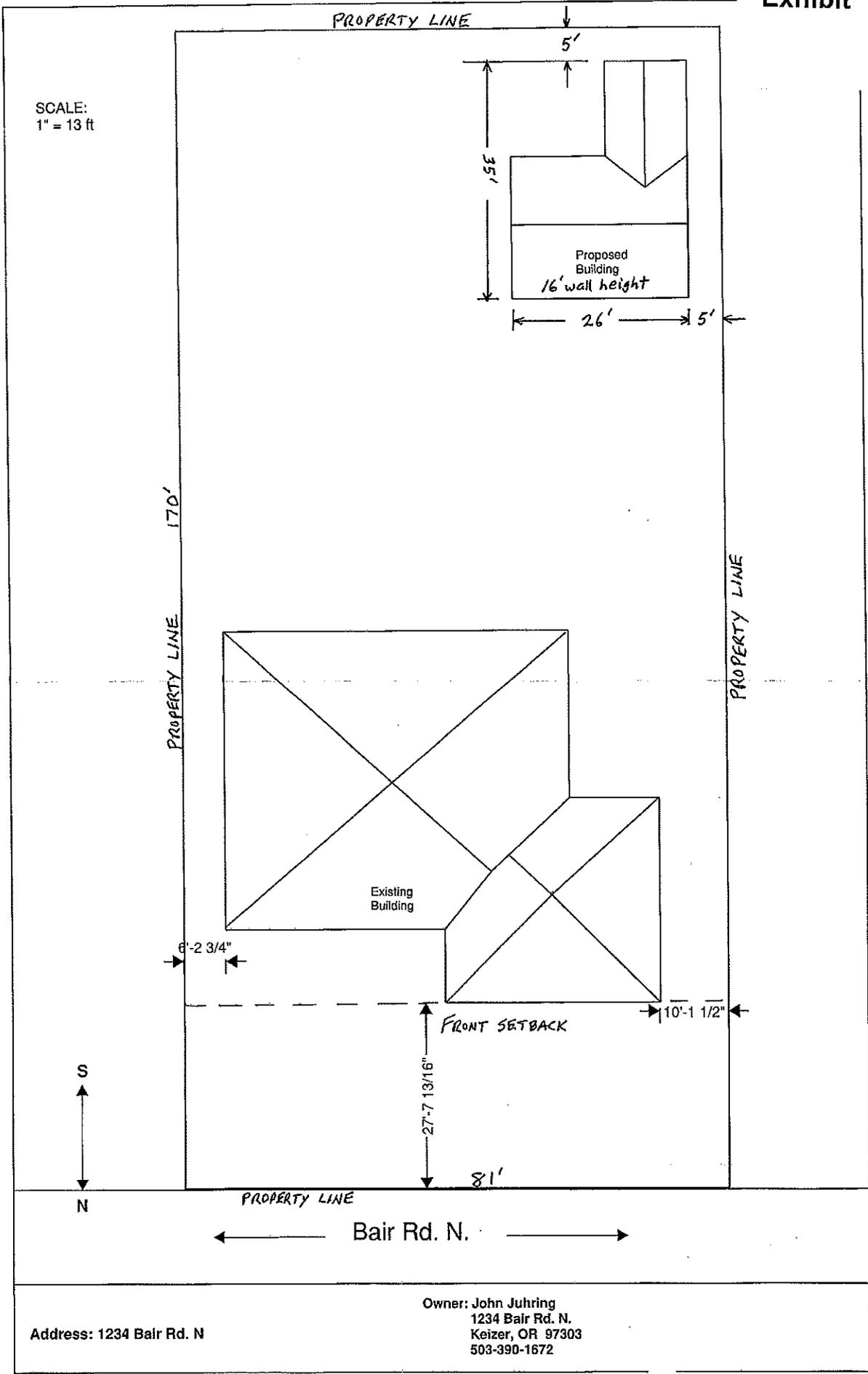
REPORT PREPARED BY: Shane Witham, Associate Planner

APPROVED BY:

 FOR NATE BROWN Date: 10/10/16
Nate Brown, Community Development Director

Exhibit '1'

SCALE:
1" = 13 ft



Address: 1234 Bair Rd. N

Owner: John Juhring
1234 Bair Rd. N.
Keizer, OR 97303
503-390-1672

06 3W 23DC
KEIZER



MARION COUNTY, OREGON
SW 1/4 SE 1/4 SEC 23 T6S R3W W.M.
SCALE 1" = 100'

LEGEND

LINE TYPES

- Taxlot Boundary
- Road Right-of-Way
- Railroad Right-of-Way
- Private Road ROW
- Subdivision Right-of-Way
- Veterine - Taxlot Bndry
- Waterline - Non Bndry
- Historical Bndry
- Easement
- Railroad Centerline
- Backcode Line
- Map Boundary
- Waterline - Non Bndry

- SYMBOL TYPES
- Survey Monument
 - Road Station
 - DLC Corner
 - 1/16TH Section Cor.
 - 1/4 Section Cor.
 - 16 1/2 Section Corner
 - 21 22

NUMBERS

Tax Code Number
000 000 00 0

All acres listed are NAB Acres, excluding any portions of the taxlot within public ROW's

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

- 101
- 400
- 600
- 800
- 1000
- 1200
- 1400
- 1600
- 1800
- 2001

Exhibit '2'

DISCLAIMER: THIS MAP IS FOR ASSESSMENT PURPOSES ONLY.

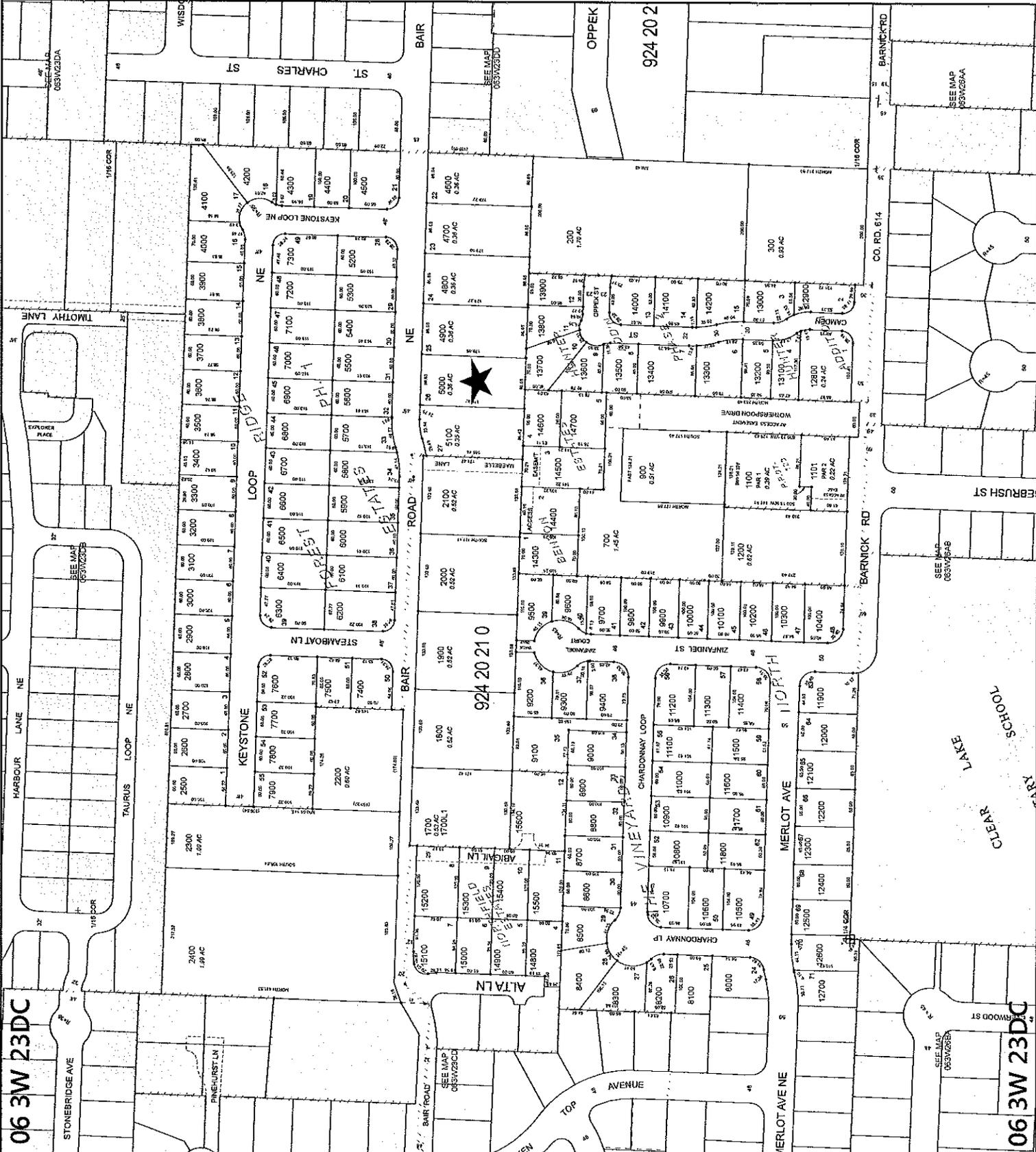


FOR ADDITIONAL INFORMATION, CONTACT THE ASSESSOR'S OFFICE.

PLOT DATA

KE

06 3W 23DC



06 3W 23DC

06 3W 23DC

TO: SHANE WITHAM, ASSOCIATE PLANNER
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT
SUBJECT: MINOR VARIANCE CASE NO. 2016-19

APPLICANT – JOHN JUHRING
ADDRESS – 1234 BAIR RD.

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 water runoff from the proposed structure will be required to be kept on-site and not directed to the existing storm drain system in Bair Road. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed.

The applicant should be aware that a 10 foot wide private drainage swale easement exists along the southerly portion of the subject property. The proposed 5 foot setback along the southerly property line will not be acceptable. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage swale easements.

The existing driveway drop along Bair Road is 30 feet wide. An additional driveway width extension will not be granted.