



**KEIZER COMMUNITY DEVELOPMENT
DEPARTMENT
NOTICE OF DECISION
Minor Variance Case No. 2017-15**

I. REQUEST

The following report reviews a land use application for a Minor Variance to reduce the rear yard setback to 16 feet where a minimum of 20 feet is required per Section 2.102.05.B of the Keizer Development Code.

II. BACKGROUND

- A. APPLICANT/PROPERTY OWNER:** Heidi Carver-Stice-Morin
- B. PROPERTY LOCATION:** The subject property is located at 4968 Restmore Ct N, Keizer, Oregon. The County Tax Assessor's map identifies the property as being located within Township 7 South; Range 3 West; Section 03BB; Tax Lot 03900. (See Exhibit 1)
- C. PARCEL SIZE:** The subject property is approximately 6,970 sq. ft. in area.
- D. EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The subject property is developed with a single family dwelling and is served by both public sewer and water.
- E. ZONING:** The subject property is designated Low Density Residential (LDR) on the Comprehensive Plan Map and is zoned RS (Single Family Residential).
- F. ADJACENT ZONING AND LAND USES:** Surrounding properties are zoned RS (Single Family Residential) and are developed with single family dwellings.
- G. PROPOSAL:** The applicant is requesting a Minor Variance to reduce the rear yard setback to 16 feet where 20 feet is required by Section 2.102.05.B of the Keizer Development Code in order to allow for an addition onto the existing home which was previously constructed. (Exhibit 2)

III. AGENCY COMMENTS

- A. The Keizer Public Works Department submitted comments regarding new storm water runoff. (Exhibit 3)
- B. The Keizer Police Department submitted they have reviewed the request and have determined they have no comments.
- C. No other comments were received regarding this request.

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 August 11, 2017.**

Unless the decision is appealed this decision becomes final on August 12, 2017.

V. FINDINGS AND CONCLUSIONS

The applicant is proposing to reduce the minimum rear yard setback in an RS zone to 16 feet to a proposed home addition where 20 feet is required. Therefore, variance approval is required as this proposal does not comply with requirements of the Keizer Development Code.

- 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, the variance requested is consistent with the intent and purpose of the provision being varied; or 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 in the RS zone have been established to assure residential 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 in residential neighborhoods, and to allow for landscaped areas and open space around residences for personal use.

The applicant is requesting variance approval to allow for an addition to the existing home. Based upon the applicant's site plan and written statement, the proposed addition would encroach into the required setback area four feet, allowing 16 feet for the rear yard setback for the length of the addition (approximately 20 feet), as opposed to the 20 feet required by the Keizer Development Code. The proposed second story addition will be located next to a neighboring home which has no windows on the wall that will be adjacent to the addition, so the visual impact to the adjacent home will be negligible.

As a condition of variance approval, the addition must substantially conform to the applicant's proposal, which is to build an addition of approximately 16 feet by 20 feet. The applicant will be limited to variance approval only for that which is proposed. Taking into consideration the location of the existing home and the effected neighboring home, staff feels that this request demonstrates consistency with the intent and purpose of the setback provision outlined in the development code. Staff finds this request satisfies this criterion.

B. The impact of the development due specifically to the varied standards will not unreasonably impact adjacent existing or planned uses and development.

FINDINGS: The home was built on the corner of Restmore Ct N and Rushmore Av N oriented towards Restmore Ct N. The adjacent property on Rushmore Av N is the only property that will be directly impacted by this variance proposal. However, staff feels this impact will be negligible. While the proposal does indeed locate the new addition closer to the property line than is allowed by code, it can be argued that if the home had been built oriented towards Rushmore Av N, the impact could be much greater and still comply with the standards of the development code, due to the fact side yard setback requirements are only 5 feet.

There is an existing wooden fence and landscaping which provide screening and privacy for both properties. Additionally, the adjacent home does not have windows facing the proposed addition in the second story, so visual impact will be minimal. As a condition of approval, the existing fencing and vegetation must continually be maintained. Taking these privacy providing factors into consideration, staff feels that the impact on the adjacent property will be minimal.

The proximity of the structures does not pose any adverse impacts in relation to fire, life, or safety issues and exceeds the minimum building code requirements which govern new residential construction. As a condition of variance approval, a building

permit must be obtained to ensure the actual construction of the addition complies with fire, life, and safety requirements outlined in the building code. The Department of Public Works submitted comments (Exhibit 3) to ensure the proposed addition does not adversely impact the public storm drainage system or utilities. Public Works is requiring new storm water runoff from the proposed structure to be kept on-site and not directed to the existing street storm drain system. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed. The applicant will also be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage easements. These requirements will be placed as conditions of variance approval and will be regulated as a part of the building permit review and approval process.

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.

- C. 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 rear yard setback for a dwelling is 20 feet for a two-story home. A 20 percent reduction to this standard is equal to 4 feet. The applicant is asking for a 4 foot variance from this standard, which is a 20 percent reduction, therefore minor variance approval is requested and staff finds that it is the minimum necessary to allow for this proposal. As a condition of variance approval, the proposed addition must provide a minimum setback of 16 feet. This requirement will be regulated as part of the building permit review and approval process. Staff finds this request satisfies this criterion.

- D. 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.

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 on the following page.

VI. CONDITIONS AND REQUIREMENTS

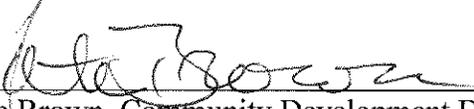
This decision does not include approval of a building permit.

- 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. The addition must substantially conform to what is proposed, which is an addition of approximately 16 feet by 20 feet. A minimum setback of 16 feet must be provided from the rear property line to the proposed addition.
 3. The existing fence and vegetation along the rear property line must be maintained and must remain to provide screening between the proposed addition and the adjacent property.
 4. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage easements to the Public Works Department.
 5. New storm water runoff from the proposed structure will be required to be kept on-site and not directed to the existing street storm drain system. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed to the Public Works Department.
- 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.

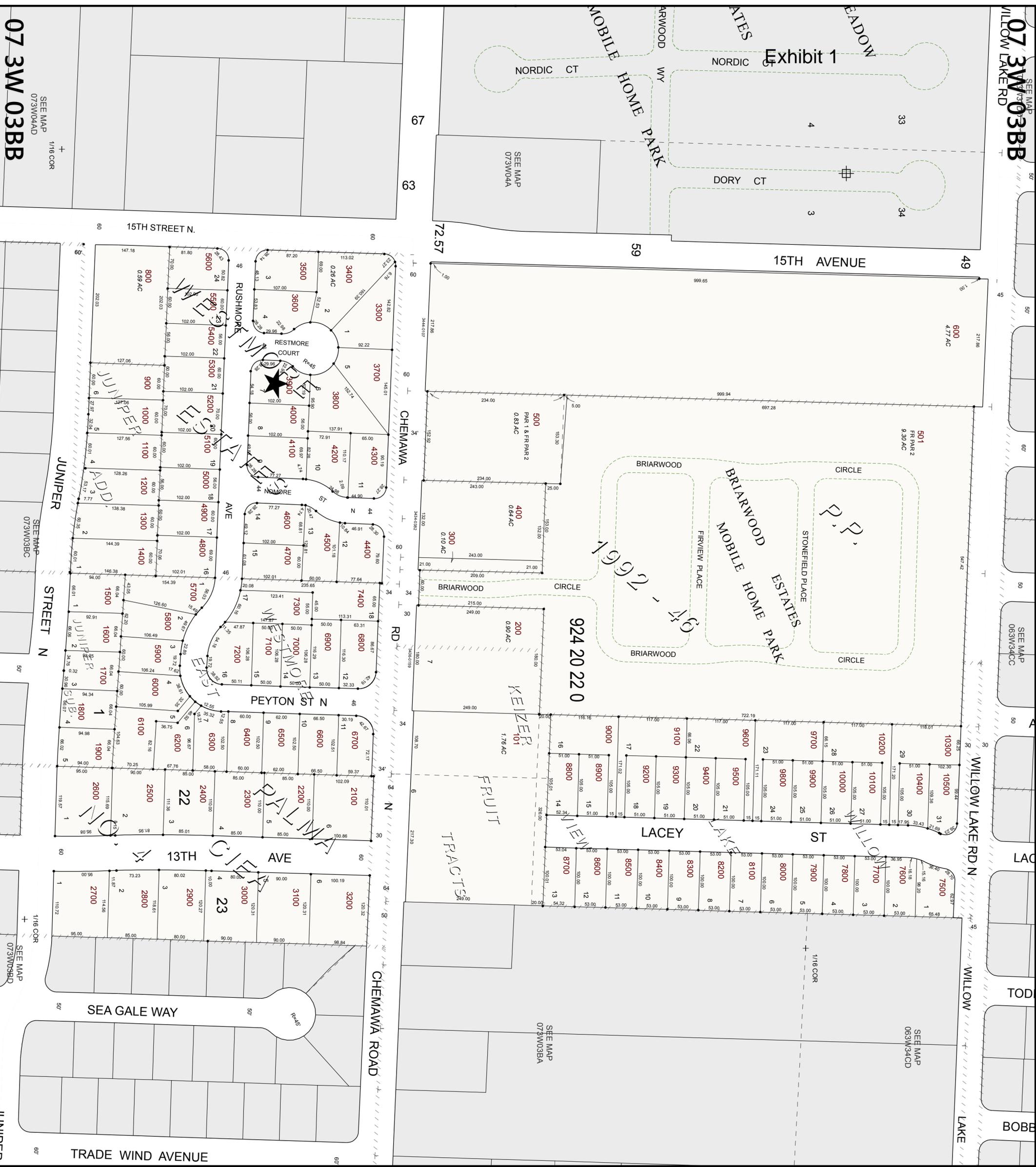
REPORT PREPARED BY: Shane Witham, Senior Planner

APPROVED BY:



Nate Brown, Community Development Director

Date: 7/31/17



MARION COUNTY, OREGON
NW1/4 NW1/4 SEC3 T7S R3W W.M.
SCALE 1" = 100'

LEGEND

- LINE TYPES**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Waterline - Non Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary

SYMBOL TYPES

- Survey Monument
- Road Station
- DLC Corner
- 1/16TH section Cor.
- 1/4 Section Cor.
- Section Corner

NUMBERS

Tax Code Number
000 00 000 0

Acreage All acres listed are Net Acres, excluding any 0.25 AC 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-ways.

CANCELLED NUMBERS

100
102
103
700
2000



Assessors Office
Cartography Dept
FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.comarion.or.us

PLOT DATE: 10/8/2015

KEIZER

07 3W 03BB

Exhibit 2

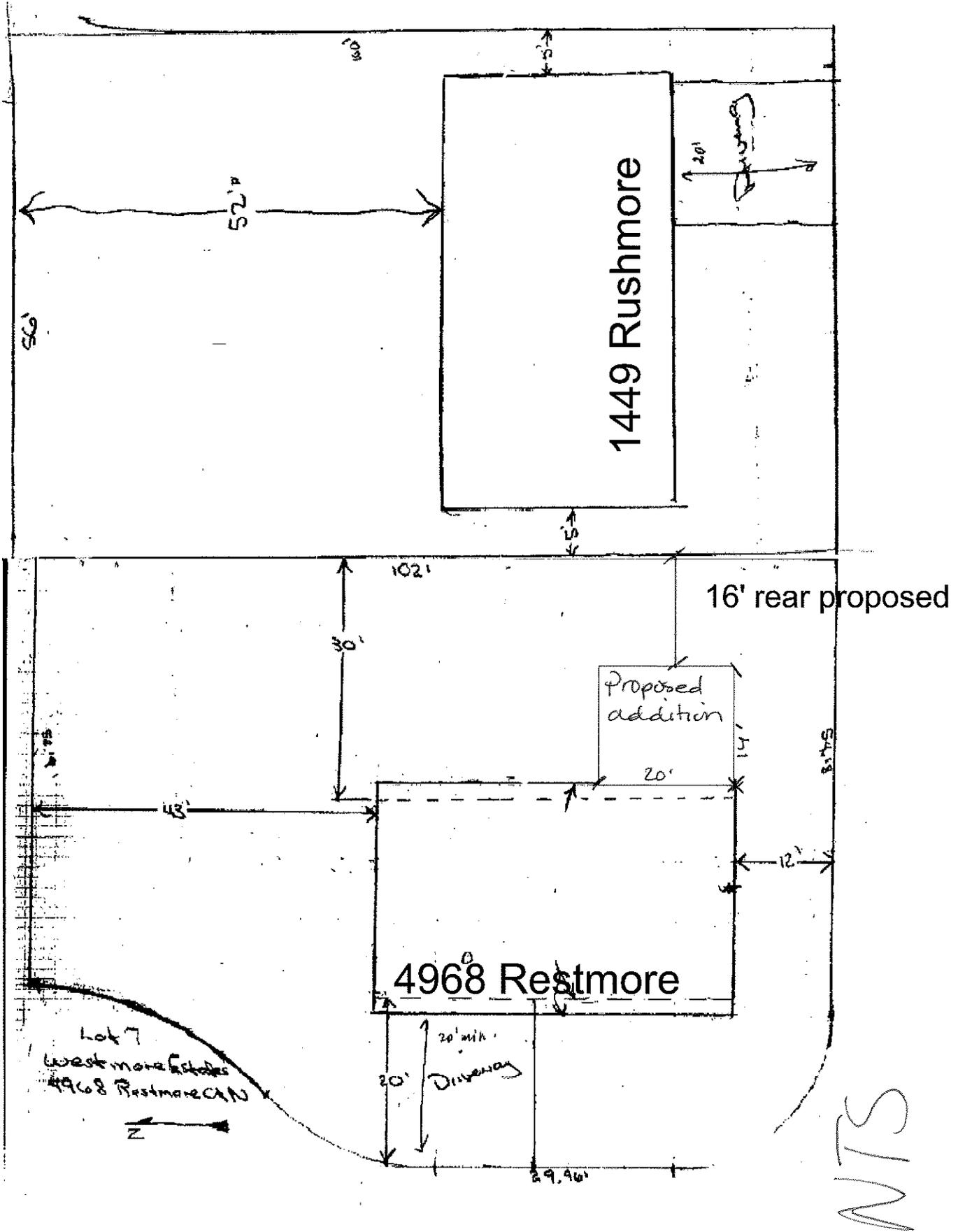


Exhibit 3

TO: SHANE WITHAM, SENIOR PLANNER
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT
SUBJECT: MINOR VARIANCE CASE NO. 2017-15

APPLICANT – HEIDI CARVER-STICE-MORIN
ADDRESS – 4968 RESTMORE CT. N.

PUBLIC WORKS DEPARTMENT REQUIREMENTS

The application is to reduce the rear yard setback from 20 feet to 16 feet.

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 street storm drain system. The applicant will be required to furnish a drainage plan to show how the subsurface drainage will be treated and disposed.

The building shall conform to the Keizer Development Code setback requirements with exception to the proposed variance. The applicant will be required to furnish evidence that the proposed building will not encroach on any existing utility or drainage easements.

It is anticipated that the existing driveway will remain the same as currently constructed.