

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

ORDER

IN THE MATTER OF THE APPLICATION OF NORTHWEST NATIONAL LLC  
RESPONDING TO THE LUBA REMAND OF THE APPROVAL OF THE KEIZER  
STATION MASTER PLAN/SUBDIVISION (AREA A - VILLAGE CENTER), MAJOR  
VARIANCE AND SIGN VARIANCE

The City of Keizer ORDERS as follows:

Section 1: THE APPLICATION. The matter came before the Keizer City Council on the remand by LUBA of LUBA Case No. 2004-121 dated February 17, 2005. ORS 227.181 requires the City to respond to the LUBA remand within 90 days of the date the LUBA remand is effective. LUBA remanded for interpretation of a particular provision in the KSP.

Section 2. JURISDICTION. The matter concerns the Keizer Station Master Plan Area A Village Center, within the limits of the City of Keizer. The City Council is the governing body for the City of Keizer. As the governing body, the City Council has the authority to make the final land use decision in this case.

Section 3. PUBLIC HEARING. The matter comes before the City Council on the original application for approval of the Master Plan/Subdivision (Area A - Village Center) Major Variance and Sign Variance (hereinafter Master Plan) and as such this remand proceeding is a part of one continuous proceeding on that application. The initial evidentiary hearing on the matter was conducted before the LUBA appeal and a remand evidentiary hearing was conducted to consider the remand issue on March 21, 2005. While an opponent requested the record remain open for additional argument, the law does not require the city to grant that request. The City believes it is in the public interest to complete the remand with

an expeditious final decision and denies the request for further argument.

Section 4. EVIDENCE. Evidence before the City Council in this matter includes the original record submitted to LUBA in the matter, the LUBA decision in the matter, the notice of the March 21, 2005 hearing, the staff report and its attachments and exhibits for the March 21, 2005 remand hearing and all evidence placed before and not rejected by the City Council in the March 21, 2005 remand proceeding. In this regard, the Council rejected portions of the March 21, 2005 letter from Oregonians In Action that pertained to another matter on the council's agenda.

Section 5. OBJECTIONS. No objections have been raised regarding jurisdiction, alleged conflicts of interests, bias, evidence presented or testimony taken at the March 21, 2005 hearing. Mr. Day objected to the City's Notice of the hearing contending his clients, the Lowerys, did not receive a copy of the City's Notice of the March 21, 2005 hearing. The Council finds that the City's official documents establish that the City's Notice of the March 21, 2005 hearing was duly mailed to the Lowerys. The council concludes that notice was adequate because it was provided to all persons entitled to notice, including the Lowerys, as required by law.

Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant to the decision in this matter are set forth in the KSP page 10 as described in the notice of the March 21, 2005 hearing and LUBA's Final Opinion and Order on Remand.

Section 7. FACTS. The facts before the City Council in this matter are set forth in the Staff Report and its attachments from the March 21, 2005 Council hearing.

Section 8. JUSTIFICATION. Justification for the City Council's decision in this

matter is explained in the Staff Report for the matter and its Attachment 1 which are incorporated herein by this reference. The council notes that the Remand KSP provision does not require a showing that public facilities and services are planned differently for commercial or industrial uses. The establishment of basic design guidelines (IBP and CG design designations) in the Master Plan shows the menu of allowed uses to enable the master plan to meet the KDC 2.119.02 required 25% industrial use split for the Village Center area. The establishment of the basic design guidelines also provides a way to establish the development and provision of interconnected public facilities to the Village Center including any unowned property. Thus, the Remand KSP provision anticipates that if public facilities need to be planned differently based on IBP and CG design guidelines, they can be because such IBP and CG use locations are known. However nothing in the Remand KSP provision requires evidence showing that commercial or industrial areas require different types or levels of public facilities. In fact, the evidence at the March 21, 2005 hearing was that the master plan shows public facilities in appropriate detail to show the development and provision of public facilities and services to all of the KSP Village Center area, including the unowned property, and the council so finds.

Section 9. ACTION. The decision of the City Council is set forth in this order, the Staff Report for this matter and the Staff Report's Attachment 1 from the March 21, 2005 Council meeting, all of which documents are adopted by the Council as its findings in the matter and are incorporated herein by this reference.

Section 10. FINAL DETERMINATION. This Order is the final determination in this matter.

Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon its passage.

Section 12. APPEAL. Any party aggrieved by the final determination in this case may file a timely appeal to LUBA as provided in ORS 197.830 and obtain LUBA's review as provided in ORS 197.805 to ORS 197.845.

PASSED this 4th day of April, 2005.

SIGNED this 4th day of April, 2005.

  
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Mayor

  
\_\_\_\_\_  
City Recorder



COUNCIL MEETING: March 21, 2005

AGENDA ITEM NUMBER: \_\_\_\_\_

**TO: MAYOR CHRISTOPHER AND CITY COUNCIL MEMBERS**

**THROUGH: CHRIS EPPLEY  
CITY MANAGER**

**FROM: NATE BROWN  
COMMUNITY DEVELOPMENT DIRECTOR**

**SUBJECT: LUBA Remand in LUBA No. 2004-121**

**BACKGROUND:**

On June 21, 2004, the Council approved a Master Plan for the Keizer Station Plan KSP, including the subdivision element of the Master Plan (together referred to as Master Plan). Robert and Marilyn Lowrey (hereinafter referred to as "petitioners") appealed that Master Plan approval to the Land Use Board of Appeals (LUBA). LUBA ruled for the City on all of the issues petitioners raised during the City process and raised in petitioners' LUBA brief. Importantly, LUBA decided the City did nothing wrong by approving a Master Plan, including its subdivision element, for the entire KSP area, including land the applicant did not own. LUBA affirmed the City's conclusion that there is nothing in local or state law that forbids such approval. LUBA agreed with the City that it is free to accept applications for master planning in KSP areas for property not owned by the applicant. LUBA approved the City's findings in their entirety.

However, LUBA determined that in a footnote their brief, petitioners had suggested an *additional* argument.<sup>1</sup> In this City Council summary, this argument is

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<sup>1</sup> The genesis for the new issue that caused remand was the following statement in a footnote in petitioners' brief:

"It is likely the City will ask [LUBA] instead to focus on the second sentence of the cited provision for support of the City's argument that [the applicant] can submit a master plan for [petitioners'] property. When read in its proper context, it is easy to see the flaw in the City's argument. The second sentence merely directs an applicant to include all of the property within the master plan area in a master plan application. This provision of the KSP Comp Plan does not allow an applicant to actually plan for area [as the applicant] has done in this case, by proposing private development on [petitioners'] property." (Emphasis in original).

The "cited" KSP provision that petitioners referenced in the above footnote states:

"All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities, the master plan

termed "new argument". After the LUBA case was briefed and argued, while the parties were awaiting the LUBA decision on the merits, LUBA wrote to the parties and reframed the new argument in detail that was absent in all local processes, and also was not in the LUBA briefs and was discussed only cryptically at oral argument.<sup>2</sup> In its post oral argument letter, LUBA framed the new issue as follows:

"Assuming the city had the authority to process the master plan application for all of Area A notwithstanding that the Lowerys did not consent, may an applicant provide the level of planning detail that the applicant here proposes for the property that he does not own?"

Then, following up on the new issue, LUBA required the following:

- "1. Was the issue raised in the petition for review or was it raised for the first time at oral argument?
- "2. If the issue was raised in the petition for review, was the issue raised during the local proceedings and thus preserved for appeal?
- "3. If we can consider [the issue], may a master plan applicant provide the level of detail provided here, and if so, why?"

In its final decision, LUBA decided even though the new issue was not raised before the City and was not clearly raised in the briefs or at oral argument, LUBA would decide the new issue – disposing of issues 1 and 2 above. LUBA did this because the City had not listed the referenced KSP provision in its hearing notice. LUBA stated that its framing of the new issue and opportunity to respond to it in its letter to the parties gave the City a fair chance to respond to the new issue.

The City responded to LUBA's post oral argument letter by pointing out to LUBA that the Master Plan certainly meets the required level of planning detail for a master plan because the findings explain how the Master Plan meets every local approval standard regarding required detail for master plans. The City also pointed out that petitioners never argued that the approved Master Plan failed to meet any approval standard for the detail required for a master plan.

LUBA said it was uninterested in whether the Master Plan had the required planning detail to comply with the City's code standards for Master Planning. What LUBA wanted to know was whether the approved master plan had the right kind of planning detail to meet the following KSP provision:

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shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area."

<sup>2</sup> Because the new issue was never raised in any local City process, obviously the City adopted no findings regarding it.

"For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area."

LUBA determined that this KSP provision was an approval standard that had to be met because "the city could deny or require modification of an application [for a master plan approval] that did not master plan the area in appropriate detail based on ownership." Decision page 13. LUBA interpreted this standard itself rather than allowing the City to do so: It did this based on LUBA's decision in *Wicks-Snodgrass v. City of Reedsport*, 32 Or LUBA 292 (1997). LUBA may have been unaware that the court of appeals reversed its decision in *Wicks-Snodgrass* at 148 Or App 217 in its entirety on jurisdictional grounds. Regardless, LUBA determined this KSP provision requires the City to determine whether an application for Master Plan approval:

1. "covers the area 'in appropriate detail based on ownership,' and
2. "whether the master plan focuses on 'a cohesive interconnected system of planned public facilities' and sets 'general guidelines to be used throughout the Master Plan area.'"

LUBA then remanded for the following:

[T]he city did not have an opportunity to adopt an express interpretation of the KSP language<sup>3</sup> \* \* \* and consider whether that language (1) merely directs an applicant to include unowned property in the master plan for the limited purposes of developing a "cohesive interconnected system of planned facilities" and "general design guidelines [for] the Master Plan area," (2) requires that the applicant include unowned property and propose a development Master Plan as though the applicant owned the unowned property, or (3) include unowned property and treat that unowned property in some other manner. It is therefore necessary to remand the challenged decision to allow the city, in the first instance, to provide an interpretation of the KSP language.

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<sup>3</sup> The KSP language to which LUBA refers is the following:

"All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. *For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area.*" (Emphasis supplied.)

LUBA's remand focuses on the italicized portion of this KSP provision.

## **ISSUE**

1. Determine the meaning of the following language in the KSP with particular focus on the italicized portion:

"All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. *For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area.*" (Emphasis supplied.)

2. While LUBA does not appear to require more, LUBA has not previously remanded a local government decision simply for an informational item only. LUBA is required to remand when a remand influences a decision. Here, the remand influences the challenged decision if the interpretation is applied to the Master Plan that LUBA otherwise approved. Accordingly, staff recommends that the Council also determine, but to do so in the alternative, whether the original approved Master Plan complies with the Council's interpretation of the above KSP provision.

## **RECOMMENDATION:**

Staff recommends that the Council interpret the above referenced KSP provision and, in the alternative to the extent that the LUBA remand requires, apply that interpretation to the existing Master Plan.

Staff recommends that the Council adopt the interpretation of the KSP provision that is provided in Attachment 1 to this staff report. Staff further recommends that the Council determine, in the alternative, that as applied, the existing Master Plan complies with that interpretation of the remand provision of the KSP.

## **ATTACHMENTS:**

1. Interpretation of KSP Provision At Issue in LUBA Remand
2. LUBA Decision LUBA No. 2004-121.
3. Relevant Portions of the KSP
4. Approved Master Plan

## ATTACHMENT I

The rationale for these findings is explained in the staff report to which these findings are attached. That staff report is incorporated herein by this reference. The City of Keizer City Council understands LUBA to have remanded the City's Master Plan approval decision for solely an interpretation of a particular provision of the KSP. That KSP provision is

*"All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area."* (Hereinafter referred to as the "remand KSP provision").

These findings are designed to respond to that remand and that remand only. It is not the City's intention to open new issues or to any way expand beyond the requirements of the remand. Rather, it is the City's intention to limit the issues here to those of the remand. *See Beck v. Tillamook*, 313 Or. 148 (1992). In *Beck*, the Oregon Supreme Court "reviewed the relevant statutes governing LUBA review of land use decisions and judicial review of LUBA decisions and held that where LUBA remands a decision but rejects some of petitioner's assignments of error, those rejected assignments of error may not be reasserted in a subsequent LUBA appeal where petitioner does not appeal." *Morseman v. City of Madras*, 196 Or App 67 (2004)). The appeal to LUBA in The City of Keizer case at issue here settled all issues that were expressly raised or that could have been but were not raised at LUBA. The only outstanding issues are those that were the express subject of the remand. Only the remand issues are addressed here.

It is important to understand that the remand issue is a narrow one. LUBA was solely interested in the meaning of the remand KSP provision. The remand KSP provision is fairly modest in its scope and effect. This is explained in detail below. Importantly, however, LUBA affirmed the key issue in dispute regarding whether a Master Plan could ever be submitted or approved for the Village Center area if a property owner was unwilling to participate in Master Planning for the area. LUBA unequivocally determined that the Council did not err in accepting or approving the Master Plan application.

The Council is making an effort to be cautious in the scope of its response to the LUBA remand. The reason for this caution is that achieving final approval of the KSP Master Plan so that development of the Village Center may move forward, is a critical objective of the City. The subject area – the KSP Village Center – is the "true economic activity center" of the KSP area. KSP p 15(1) "Purpose and Objectives". The Village Center objectives further include the role of the Village Center to serve as a "focal point for commerce and community activities"; providing a "northern Gateway to the City" and

"gateway to sports activities" for the community; develop a variety and source of employment opportunities for Keizer citizens; establish "a place for multiple activities" for Keizer citizens to enjoy among others. KSP page 15(1)B. Attaining such important public interest objectives was the prime rationale for the Keizer Urban Renewal Agency's effort to establish the KSP in the first place. Toward these important community ends, a number of public facilities contracts either have been or are soon to be issued to begin work on the KSP project. The City believes it is responsible to avoid have outstanding land use challenges that could undermine those contracts and public commitments. State law has provided a roadmap for most efficiently resolving land use disputes. Issues LUBA settled in the City's favor or that could have been but were not raised at LUBA are not required to be revisited or visited anew.

The Council is making best efforts to respond to what LUBA asked. That response is an interpretation of the remand KSP provision. However, in an abundance of caution and in the alternative only without waiving the City's right to rely on LUBA's stated sole purpose for remand, the City also applies the interpretation to the approved Master Plan. In so doing, it is the City's hope to avoid successive land use appeals and to resolve the one issue LUBA indicated. As is explained herein, the approved Master Plan meets the remand KSP provision.

The City Council interprets the remand KSP provision to provide minimum requirements. LUBA's first stated interpretive "option" is essentially correct; viz: that the remand KSP provision "merely directs an applicant to include unowned property in the master plan for the limited purposes of developing a 'cohesive interconnected system of planned facilities' and 'general design guidelines [for] the Master Plan area[.]'" LUBA slip opinion page 11. However, this does not mean that the Master Plan is prohibited from approving general development types in the Master Plan area on property that is not owned by an applicant. General development types tell the City what the general design of the KSP area will be. Moreover, other parts of the KDC require that a Master Plan establish that the Village Center develop with certain minimum percentages of commercial land and certain minimum percentages of industrial land. See KDC 2.119. The remand KSP provision cannot foreclose the Master Plan from meeting other required provisions. The use of the words in the remand KSP provision "general design guidelines" requires that even on property not owned by an applicant that enough detail in general use types be shown to enable the City to determine how the Master Plan area will generally be designed -- (eg) how it will be laid out.

The required minimum elements under this remand KSP provision then are simply that:

The City encourages people to cooperate with one another and here, in the first sentence, the City encourages property owners to submit a master plan as co applicants. However, the City cannot make property owners cooperate with one another and submit an application as co-applicants. As LUBA has affirmed (which is not revisited here), that a property owner chooses not to participate as a coapplicant in master planning, does not give that property owner a veto power over the City's ability to master plan. The remand

KSP provision explains the consequence of all property owners not joining together as coapplicants. LUBA's holding in this regard is not revisited here ("[T]he city anticipated this exact issue and clearly addressed it in the KSP, providing that an applicant for a master plan need not own all of the land within the plan boundary. \* \* \* We conclude that the city's interpretation that the KSP and KDC allow submittal of a master plan application, even if the applicant does not own or control all of the property, is supportable \* \* \*." LUBA Decision, slip opinion page 4.)

The next sentence of the remand KSP provision states that even where property is not owned or controlled by an applicant that the applicant still has certain minimum obligations with regard to planning for the development and provision of public facilities and services. Specifically, an applicant must show on the master plan enough (i.e. "appropriate") detail to allow the Council to conclude that planning for the development and provision of public facilities and services of the KSP master plan area is not impracticable or foreclosed. This means that the City simply asks the applicant to supply enough information to show that planning for the development and provision of public facilities and services in the master planned area is not made impracticable or impossible for that matter by the design of such public facilities and services given the location of property not owned or controlled by the applicant. The approved Master Plan provides the "appropriate" detail in this regard. The Council finds that as designed in the approved Master Plan, that planning for the development and provision of public facilities and services to the Master Planned area is not made impracticable given the location of property that the applicant does not own. In fact, the approved Master Plan's layout of public facilities provides adequate detail for the Council to conclude that planning for the development and provision of public facilities and services occurs in a efficient and effective as well as connected manner notwithstanding that all property owners are not applicants.

The next sentence of the remand KSP provision states further minimum standards for a Master Plan with regard to property that the applicant does not own or control. This provision asks for a *focus* for the Master Plan, but does not foreclose the master plan from going beyond the required focus. As explained above, the remand KSP provision does not impose maximum requirements. This sentence of the provision asks for the Master Plan to focus on provision of a cohesive interconnected system of public facilities and general design guidelines on property not owned by an applicant.

The requirement to show an interconnected system of public facilities draws on the second sentence of the remand KSP provision. The requirement for showing an interconnected system of public facilities simply requires that an applicant for a Master Plan not cut off property that is not owned or controlled by the applicant from being served with interconnected and cohesive public facilities and services. In other words, the City is looking to the Master Plan to show how all properties in the Master Plan area can be served with public facilities in a cohesive and interconnected way. Here, the approved Master Plan provides strong detail establishing the all property that is not owned by the applicant will be served with public facilities in a cohesive and interconnected manner. Regarding the remand KSP provision, the more detail that is

provided, the more effective the entire master planned area can be to provide interconnected public facilities and design guidelines.

Moreover, the use of the term "general design guidelines" in this sentence means that enough detail is required to enable the Council to see how the master plan area is designed to develop as a whole and specifically, to see the general use types and layout designed for property not owned by the applicant. The absence of provision in a master plan of general use types and general layout on property not owned or controlled by an applicant, would make it impossible possible to determine the design of the Master Plan area. Specifically, it would be impossible to determine which property is generally designed to develop as commercial land and which is designated to develop as industrial land. The general commercial and industrial use split is critical to the overall design of the master plan area. Moreover, it would be impossible to see how general commercial and industrial use types are designed to interrelate to one another to achieve the purposes of the Village Center. Therefore, the minimum requirement for general design guidelines requires that a Master Plan furnish enough information to show the general use types and layout in the entire Master Plan area so that the Council can see and approve the general Village Center layout. Obviously, this also affects the location of public facilities and services.

Thus, the use of the terms "general design guidelines" refers not only to the unowned property, but also to how such unowned property relates to the general layout of the KSP Master Plan area. Here, the approved Master Plan establishes the general layout for the property the applicant does not own to establish how the area is likely to develop, but does not precisely establish what businesses will occupy the Master Plan area. In this regard, it is important to understand that the remand KSP provision uses the term "design guidelines." Guidelines are by their nature somewhat flexible. The applicant is not required to establish that every single approval standard that asks for detail regarding particular businesses be met on property the applicant does not own. This is because the applicant cannot know for certain what specific business will develop. The remand KSP provision recognizes this. On the other hand, the remand KSP provision provides the applicant with flexibility to show the design and layout (i.e.) general commercial or industrial use categories and approximate square footage) for unowned property, and the City flexibility to impose conditions of approval to further guide design of unowned property. As such it is possible for a property owner who is not also an applicant to go through the building permit and development approval processes specified in the KDC and develop his property without having to submit an application for an amendment to the approved master plan. On the other hand, if an owner of property who is not also an applicant for master plan approval does not wish to develop his property under the design guidelines established by the applicant and City in the approved master plan, he may submit an application for a master plan amendment, even though he is not an owner of the entire master plan area. The remand KSP provision both facilitates the public's interest in a comprehensive master plan for the KSP area, while also providing nonapplicant property owners the benefits of master planning or the opportunity to submit his own amendment to the approved master plan.



Here, the design guidelines in the approved master plan including the council conditions of approval are adequate to establish appropriate detail for both the property the applicant owns and does not own to establish the general design and layout of the Village Center. The approved Master Plan establishes general use types and locations to allow the Council to see and approve the general design guidelines for the Village Center area. The use type split and approximate square footages can also be reasonably ascertained based on the approved master plan. The approved master plan well meets the terms of the remand KDC provision.

On a final note: the remand KSP provision should not be understood to undermine or limit other requirements found in other parts of the KSP and KDC governing master planning in the KSP area and specifically in the KSP Village Center. The remand KSP provision is one of many provisions that apply to master plans for the KSP Village Center area. Certainly, other requirements in the KSP for the Village Center impose important requirements for master planning this area. The KDC also imposes specific requirements for the Village Center area -- the subject of the approved master plan at issue here. See KDC 3.113. Therefore, if more detail is provided in a master plan including in any element of a master plan than is strictly required, such does not violate the remand KSP provision. As worst such is surplusage. Accordingly, nothing in the KSP remand provision should be read to suggest the provision expresses a limitation on the detail that may be provided in a master plan where such detail serves a purpose or requirement imposed in another KSP or KDC provision. The remand KSP provision was never intended to express a limitation on the detail for master planning, but rather to establish a set of basic standards for dealing with master planning on property not owned or controlled by an applicant. The remand KSP provision simply requires the demonstration of a cohesive interconnected system of public facilities and general design guidelines. However, the general design guidelines are important because they furnish the basis for the nonapplicant property owner to secure subsequent development approval should he chose to do so in a manner that is consistent with the design of the overall master planned area, without having to go through a subsequent master plan amendment.

The council wishes to reiterate that the EG zone was applied to petitioners' property in 2003 as a part of the KSP approval. The EG zone has a number of requirements to which all property subject to the EG zone must comply. The LUBA petitioners' property is subject to the requirements of the EG zone as a result of the 2003 KSP approval. Moreover, as such the LUBA petitioners' property is subject to the KDC 2.119.02 requirement that all EG land in the KSP Village Center be subject to an approved Master Plan showing a 25% minimum amount of industrial uses and 75% commercial uses. In addition, as a result of the 2003 KSP decision, the petitioners' property is subject to the requirements of KDC 2.125. The remand KSP provision is simply one of many standards that apply to master planning for the Village Center in which the LUBA remand petitioners' property is located.

In sum, the requirements of the remand KSP provision are modest: for property an applicant does not own, the applicant is required to show enough detail to establish an interconnected system of public facilities is feasible for when the entire Master Plan area

develops. Also it should show general design guidelines for the property the applicant does not own in enough detail to allow the Council to see the proposed design of the Village Center. In turn, these design guidelines should supply enough detail in the approved master plan to enable the nonapplicant owner to go through subsequent steps in a manner that is consistent with the approved master plan and gain development approval. The Master Plan approved by the City and that was appealed to LUBA meets this interpretation. Nothing approves a specific business to be established on the LUBA petitioners' property, but the types of businesses and approximate square footages are established. The requirement for this was established in the adoption of the 2003 KSP itself. Showing the business types (commercial or industrial) and approximate square footage establishes basic design guidelines for the area as well as a way to establish cohesive interconnected public facilities. It is also fair to the nonapplicant owner to allow him tools to seek development approval for a specific business he chooses for his land without having to apply for a master plan amendment—which amendment is no small undertaking. The remand KSP provision is met by the approved Master Plan.

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

ROBERT LOWERY and MARILYN LOWERY,  
*Petitioners,*

vs.

CITY OF KEIZER,  
*Respondent.*

LUBA No. 2004-121

FINAL OPINION  
AND ORDER

Appeal from City of Keizer.

Ross Day, Tigard, filed the petition for review and argued on behalf of petitioners. With him on the brief was Oregonians In Action Legal Center.

E. Shannon Johnson, Keizer, filed the response brief and argued on behalf of respondent. With him on the brief was Lien and Johnson.

DAVIES, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member, participated in the decision.

REMANDED

02/17/2005

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

## Opinion by Davies.

**NATURE OF THE DECISION**

Petitioner challenges the city's approval of a master plan application for a mixed use development on approximately 96 acres.<sup>[1]</sup>

**FACTS**

On February 3, 2003, the city adopted the Keizer Station Plan (KSP) for a 225-acre area located at the interchange of Interstate 5 and Chemawa Road.<sup>[2]</sup> The KSP divided the 225 acres into five sub-areas: Area A (Village Center), Area A (Sports), Area B (Retail Service), Area C (Keizer Station) and Area D (Commerce Center). Petitioners' property is located in the southwest corner of Area A.

Following approval of the KSP, Northwest National LLC (Northwest) submitted an application for approval of the Keizer Station Master Plan, a master plan for development of land located in Areas A and B. The proposed master plan includes petitioners' property. On June 21, 2004, the city council conducted a hearing on the master plan application, at which petitioners objected because their property was included in Area A and they had not signed the application. The city council approved the master plan on July 9, 2004. This appeal followed.

**MOTION TO STRIKE**

The city moves to strike Appendix D to the petition for review. Appendix D is a site plan of Area A, similar to a site plan in the record, but a hand-drawn outline purporting to show the boundaries of petitioners' property has been added by petitioners. The city argues that the depiction of petitioners' property is not accurate and, in any event, is not included in the record. See *Friends of Clean Living v. Polk County*, 36 Or LUBA 544, 548-49 (1999) (documents included in party's brief that are not part of the record and of which LUBA may not take official notice will be stricken). Petitioners respond that Appendix D is offered not for its evidentiary value, but rather as a visual aid to understanding the evidence that is in the record. Petitioners' Response to Respondent's Motion to Strike 1 (citing *Root v. City of Medford*, 36 Or LUBA 778, 781 (1999) (denial of motion to strike a map that was not part of the record attached to brief, where map offered as visual aid and where LUBA would not consider it for its evidentiary value)).

We have recognized that we might allow minor additions to maps in the record, at least where

accuracy is not in dispute, where such additions would enable the Board to identify the subject property. *Carver v. City of Salem*, 42 Or LUBA 305, 309 (2002). Here, however, the city *does* dispute the accuracy of Appendix D. Petitioners concede the outline depicted on the map is not in the record, and they do not argue that we are entitled to take official notice of Appendix D. Accordingly, the city's motion to strike is granted.

### **ASSIGNMENT OF ERROR**

Petitioners assign error to the city's approval of the Keizer Station Master Plan "because the Plan includes the [petitioners'] property without [their] permission." Petition for Review 3. They provide three arguments in support of their assignment of error: (1) the KSP and Keizer Development Code (KDC) amendments do not grant Northwest the authority to submit a master plan for property owned by the Lowerys, (2) the KDC permits only the Lowerys or their designated agent to submit a master plan application for their property, and (3) allowing a third party to submit an application is contrary to ORS 227.175 and sound public policy.

#### **A. Keizer Development Code and Comprehensive Plan Provisions**

KDC 3.201.04 provides:

"An application for a land use action or permit may be filed by one or more of the following persons:

- "1. Owner of subject property;
- "2. Purchaser of subject property under a duly executed written contract when the application is accompanied by proof of the purchaser's status and the seller consents in writing to such application;
- "3. A lessee in possession of the property, when the owner consents in writing to such application;
- "4. The agent for any of the foregoing, when duly authorized in writing to such application is accompanied by proof of authority."

Petitioners' central argument is that the city was not authorized to accept or process the application because the Lowerys, owners of a portion of the property subject to the master plan, did not sign the application. The proposal, therefore, did not satisfy KDC 3.201.04.

The city argues that the KSP specifically "envision[s] that a master plan may be considered even if the applicant does not own all the property in the master plan boundary[.]" Respondent's Brief 6.<sup>[3]</sup>

The regulations implementing the KSP provide similar language that controls the submittal of the master plan application in this case. KDC 2.119.08(B).<sup>[4]</sup> The city argues that the language of the KSP and KDC 2.119.08(B) clearly provide that an application for a master plan may be submitted without the signature of all of the owners of the property involved, notwithstanding the requirement of KDC 3.201.04. First, the city argues that the specific provisions of the KSP and implementing code language control over the more general requirement in KDC 3.201.04. Second, the KSP specifically provides that where there is a conflict between the KSP provisions and the development code, the KSP language controls. Finally, the city council's interpretation, according to the city, is entitled to deference. *Church v. Grant County*, 187 Or App 518, 69 P3d 759 (2003); *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992).<sup>[5]</sup>

We agree with the city that the KSP specifically allows the submittal of a master plan application without the signature of all of the owners of property subject to the application. Although KDC 3.201.04, when read in isolation, would appear to prohibit the application that was submitted in this case, the city anticipated this exact issue and clearly addressed it in the KSP, providing that an applicant for a master plan need not own all of the land within the plan boundary. Petitioners cannot now collaterally attack that determination made by the city when it adopted the KSP in February, 2003. We conclude that the city's interpretation that the KSP and KDC allow submittal of a master plan application, even if the applicant does not own or control all of the property, is supportable under the deferential standard of review required by *Clark* and *Church*. See also ORS 197.829(1).

#### B. ORS 227.175(1)

Petitioners also argue that the city's interpretation violates ORS 227.175(1).<sup>[6]</sup> They assert that this statute allows only the owner of a piece of property to file an application affecting the use of land. Petition for Review 9. Because the master plan application included petitioners' property and petitioners did not sign or consent to the application, petitioners argue, the city was not authorized to accept or process the subject application. According to petitioners, the statute furthers a state policy not to allow individuals or entities to apply for land use approvals on property that they do not own. *Id.*

The city argues that this argument regarding ORS 227.175 was waived because it was not raised before the city council. ORS 197.763(1); ORS 197.835(3). Petitioners do not directly address this

waiver argument. However, we have held that the waiver doctrine does not preclude a party from raising new *arguments* that were not discussed below as long as the *issue* was adequately raised below. *DLCD v. Curry County*, 33 Or LUBA 728, 733 (1997). While the distinction between “issues” and “arguments” is seldom obvious, in this case it is relatively clear that petitioners’ discussion of ORS 227.175(1) merely adds an additional *argument* in support of the *issue* raised below; *i.e.*, whether the city properly accepted and processed the master plan application for the entire KSP area, regardless of ownership. We, therefore, will consider that argument.

In response to petitioners’ argument that ORS 227.175(1) prohibits a non-owner from filing a land use application, the city points out that the language of the statute is permissive, providing: “[w]hen required or authorized by a city, an owner of land *may* apply” for a permit or zone change. The city also points out that the statute is primarily concerned with the procedural safeguards of notice and hearing and has never been read to limit applications in the way now proposed by petitioners. Respondent’s Brief 12.

We do not necessarily agree with the city’s analysis. For instance, we do not see that the legislature’s use of the word “may” provides any guidance one way or the other whether the statute limits the pool of land use applicants to owners of property. However, we also do not agree with petitioners that ORS 227.175(1) expounds the policy they suggest. Under petitioners’ reading of the statute, nobody other than the owner of the subject property could submit a land use application. Petitioners’ argument proves too much. Even the local code provision that petitioners argue applies, KDC 3.201.04, provides that an application may be submitted not only by the owner, but also by a prospective purchaser of the property, a lessee of the property with written consent of the owner, or an authorized agent of an owner, purchaser or lessee. Petitioners’ reading of ORS 227.175(1) would invalidate KDC 3.201.04, and quite possibly hundreds of other similar code provisions. We do not believe the legislature intended to limit land use applicants as petitioners suggest.

### C. Land Not Controlled by Applicant

At oral argument, petitioners focused much of their time on an argument that is included in a footnote in their petition for review.<sup>[7]</sup> They argued that even if the city had authority to process the application for the master plan, notwithstanding that the applicant did not own all of the property

included in the proposed master plan, nothing in the KSP or the code allowed the applicant to propose new development for the property that it did not own.<sup>[8]</sup> We understand petitioners to contend that with regard to their property, which is property that is “not owned or controlled by the applicant,” the cited KSP language merely directs that their property be included in the master plan for the limited purposes of developing a “cohesive interconnected system of planned facilities” and “general design guidelines [for] the Master Plan area.” Petitioners contend that nothing in the cited KSP language or elsewhere in the KSP or the city’s land use regulations permits the applicant to propose or the city to approve new development for property that the applicant does not own or control. For ease of reference, in the balance of this opinion we will call this the “development of unowned property issue” or simply “the issue.”

Petitioners’ attorney was questioned by the Board at oral argument whether the development of unowned property issue was a new issue or whether it was raised in the petition for review. *See* OAR 661-010-0040(1) (“The Board shall not consider issues raised for the first time at oral argument.”). Petitioners’ attorney responded that the argument was presented in response to respondent’s brief. Although the city addressed this issue in some detail at oral argument, it is not obvious to us that respondent’s brief raised or discussed that issue.

Because it was unclear whether the development of unowned property issue had been raised in the petition for review and, if so, whether it had been raised below, we invited further briefing from the parties. In a letter dated January 7, 2005, we identified the issue as follows:

“Assuming the city had the authority to process the master plan application for all of Area A notwithstanding that the Lowerys did not consent, may an applicant provide the level of planning detail that the applicant here proposes for the property that he does not own?”

We then requested additional briefing on the following questions:

- “1. Was the issue raised in the petition for review or was it raised for the first time at oral argument?
- “2. If the issue was raised in the petition for review, was the issue raised during the local proceedings and thus preserved for appeal?
- “3. If we can consider [the issue], may a master plan applicant provide the level of detail provided here, and if so, why?”<sup>[9]</sup>



The city argues that the development of unowned property issue was not raised below during the local proceedings nor was it raised in the petition for review. We address the second question first because, procedurally, it is the threshold inquiry.

**1. Waiver of the “Development of Unowned Property” Issue**

In order to raise an issue before LUBA, a party must have raised the issue at the local level with sufficient specificity to afford the parties and decision maker an opportunity to respond. ORS 197.763 (1); *1000 Friends of Oregon v. Clackamas County*, 46 Or LUBA 375, 386-87 (2004). The purpose of the ORS 197.763(1) “raise it or waive it” requirement is to prevent unfair surprise. *Central Klamath County CAT v. Klamath County*, 40 Or LUBA 129, 137 (2001). Before a party is obligated to raise an issue at the local level, however, the party generally must be given notice of the applicable criteria. ORS 197.763(3)(b), therefore, requires that a local government list the applicable criteria in the notice of the hearing on a quasi-judicial land use application. Where an applicable criterion is not listed in the pre-hearing notice as required by ORS 197.763(3)(b), a party’s failure to raise issues with regard to that omitted criterion is excused. ORS 197.825(4)(a).<sup>[10]</sup>

According to the city, petitioners’ testimony at the local level consisted of a letter and oral testimony. Record 325, 298. The city summarizes the letter as addressing two issues, only one of which is relevant here. The letter alleges that “the application is not properly before the City because the Lowerys have not consented to have the application submitted.” We will refer to this issue as the “consent” issue. Respondent’s Memorandum 5. Petitioners’ oral testimony presented at the June 21, 2004 hearing parallels the issues raised in the letter. The city argues that the development of unowned property issue was not raised at the local level.

Petitioners concede that the issue was not raised below. However, they argue that they are not precluded from raising that issue now because they were never given the opportunity to raise the issue below. According to petitioners, at the end of the June 21, 2004 hearing, a member of the city council questioned whether petitioners’ property could be removed from the application. Record 304. The city attorney responded that he did not know the answer and would have to get back to the council at a later date. *Id.* On July 6, 2004, the city held a work session and adopted the interpretation discussed previously in this opinion. *See* n 5.

According to petitioners, the city adopted findings "and applied new criteria," allowing someone other than the property owner to submit a master plan application. Response to the City of Keizer's Memorandum Regarding the Board's January 7, 2005 Letter 7-8. Petitioners contend that they were never given an opportunity to "raise objections to the new findings." *Id.* at 7.<sup>[11]</sup> They argue that where a local government does not provide a hearing where a party can raise issues, a petitioner can raise those issues for the first time at LUBA. *Id.* (citing *Dead Indian Memorial Rd. Neigh. v. Jackson County*, 43 Or LUBA 511 (2003), and *Ashley Manor Care Centers v. City of Grants Pass*, 38 Or LUBA 308 (2000)).

The city offers several responses. First, the city argues, the "new criterion" that petitioners allege was omitted from the notice relates to the consent issue, not the issue on which we requested additional briefing; *i.e.*, the development of unowned property issue. Second, the city argues that submittal requirements are not approval criteria, and the city was not required under ORS 197.835(4)(a) to list in its notice such procedural standards. Finally, the city argues that KDC 3.113, which includes the submittal requirements, was in fact listed in the hearing notice. Record 494.

We agree with the city that petitioners continue to confuse, or at least fail to distinguish between, the consent issue and the development of unowned property issue on which we have requested additional briefing. The consent issue was raised, and we disposed of that issue in the city's favor earlier in this opinion. The development of unowned property issue, which petitioners concede was not raised below, is the issue on which we requested additional briefing.

We first address the city's argument that the relevant language does not constitute approval criteria.<sup>[12]</sup> We addressed a similar issue in *Wicks-Snodgrass v. City of Reedsport*, 32 Or LUBA 292 (1997). The hearing notice in that case did not reference several plan provisions that the petitioners claimed were approval criteria. The respondent argued that ORS 197.835(4)(a) did not apply because the cited provisions were not approval criteria and that the city's failure to list them did not excuse the petitioners' failure to raise new issues before LUBA. We noted that the city had not made an interpretation below whether the provision was an applicable approval criterion. However, we cited ORS 197.829(2) and made that interpretation in the first instance.<sup>[13]</sup>

In this case, the city did not address whether the language at issue is an approval criterion,

because petitioner did not raise the issue. As we did in *Wicks-Snodgrass*, we exercise our discretion to make that determination in the first instance. The language cited at n 7 provides mandatory language that the decision maker must consider when reviewing a master plan application. The city council's decision whether to approve the master plan must address (1) whether the master plan covers all the area "in appropriate detail based on ownership" and (2) whether the master plan focuses on "a cohesive interconnected system of planned public facilities" and sets "general design guidelines to be used throughout the Master Plan area." Under this language, the city could deny or require modification of an application that did not master plan the area in "appropriate detail based on ownership."

The city appears to argue that, even if the language is a mandatory approval criterion, petitioners have still waived the issue because they could have raised the issue at the June 21, 2004 hearing. See ORS 197.835(4)(a), n 10; *see also Burke v. Crook County*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2004-081, October 6, 2004) (where mandatory approval criterion is not listed in the notice, but it is cross-referenced in a provision that is listed, issues related to that unlisted provision could have been raised and, because not raised, are waived). We now address the city's arguments to that effect.

The city claims that KDC 3.113 was listed in the pre-hearing notice, and was sufficient to apprise petitioners of the issue they now seek to raise. It is correct that the pre-hearing notice listed KDC 3.113. Record 494. KDC 3.113 is entitled "Keizer Station Master Plan Review." It includes, among other things, review procedures, KDC 3.113.02; submittal requirements for master plans for each of the sub-areas covered by the KSP, KDC 3.113.03; and review criteria, KDC 3.113.04.<sup>[14]</sup> KDC 3.113.03 includes a detailed list of the items required for submittal of a master plan application. KDC 3.113.04 lists the applicable approval criteria for reviewing a master plan. The city argues that petitioners never made an argument that the application did not comply with KDC 3.113.04, the applicable approval criteria, and therefore cannot now complain about the "merits of the master plan itself." Respondent's Reply Memorandum 5.

The city seems to miss the point. Petitioners are not arguing that the master plan does not comply with the approval criteria already listed in KDC 3.113.04. Although petitioners mix their argument up with the consent issue, we read their argument to be that the notice of hearing did not include the KSP language at n 7, upon which the development of unowned property issue is based.

Accordingly, under ORS 197.835(4)(a), they are allowed to raise the issue for the first time here.

The reference in the notice to KDC 3.113 does not help the city. KDC 3.113 does not provide notice of the KSP language that petitioners rely on to raise the development of unowned property issue. The city seems to be taking the position that KDC 3.113.01 makes clear that the KSP includes provisions that are mandatory approval criteria and that petitioners were therefore on notice to look to the KSP. We disagree. KDC 3.113.01 provides:

"The Keizer Station Plan requires the development of Master Plans for each of the five sub-areas. This process provides the City Council with an opportunity to review development proposals in conformance with the Keizer Development Code and the adopted Keizer Station Plan. \* \* \*."

KDC 3.113.01 does not provide for review "in compliance with the Keizer Station Plan," as the city contends. Rather, it seems to suggest that the procedures outlined in KDC 3.113 create a process that *implements* the KSP.<sup>[15]</sup> Consequently, the reference to KDC 3.113 in the notice did not provide petitioners with the requisite notice of the KSP language at issue.

We do not believe that it is reasonable to expect that, under these circumstances, petitioners could have anticipated the issue prior to the city's announcement of its interpretation on July 6, 2004. Only then did petitioners have any indication that the city was relying on the KSP provisions discussed above, which requires inclusion of all of the property within the area to be master planned and which also includes the language that forms the basis of petitioners' argument regarding the development of unowned property issue. See KSP language cited at n 7. However, by the time that interpretation was announced, the record had already closed and petitioners had no opportunity to address the issue. The language at issue is a mandatory approval criterion that the city was required to list in the pre-hearing notice. No other criteria that were listed could reasonably have given petitioners notice of the development of unowned property issue that is clearly identified only in the KSP language cited in n 7. Consequently, petitioners did not waive the issue by failing to raise it below.

## **2. Raised in Petition for Review or at Oral Argument**

We turn, then, to the next question: whether OAR 661-010-0040(1), which precludes our consideration of issues raised for the first time at oral argument, applies. While LUBA does not generally require strict compliance with its procedural rules, the rationale underlying OAR 661-010-

0040(1) is obvious. The requirement that an issue be raised in the briefs prevents LUBA from deciding cases based on issues that the parties have not had an adequate opportunity to respond to. *See Ward v. City of Lake Oswego*, 21 Or LUBA 470, 482 (1991) (consideration of issue raised for first time at oral argument would violate purpose of LUBA's rules to provide reasonable time to prepare and submit case and provide full and fair hearing under OAR 661-010-0005).

Although it is a reasonably close question, we believe the issue was raised in the petition for review. However, even if it wasn't, we have given the parties an opportunity to brief the issue, and the purpose of the rule has been satisfied in this case.

### 3. The Unowned Property Issue

The city offers numerous reasons that the applicant's proposed development for petitioners' property in the master plan approved by the city was appropriate. For instance, the city suggests that the KSP language quoted at n 7 merely indicates that the "exact nature of the development cannot be imposed for property not owned by the applicant." Respondent's Memorandum 7. The city contends that the applicant does not propose specific development for petitioners' property. For property owned by the applicant, the proposed site plan indicates specific uses; *e.g.*, office building, restaurant, retail and anchor. *Id.*, Record 279. However, for petitioners' property, the proposed site plan does not indicate specific uses, but only shows how the property *could* be used and proposes general uses; *e.g.*, commercial or industrial, to that property. *Id.* at 7-8.

As discussed earlier in this opinion, petitioners did not have an opportunity to raise the unowned property issue. Consequently, the city did not have an opportunity to adopt an express interpretation of the KSP language at n 7 and consider whether that language (1) merely directs an applicant to include unowned property in the master plan for the limited purposes of developing a "cohesive interconnected system of planned facilities" and "general design guidelines [for] the Master Plan area," (2) requires that the applicant include unowned property and propose a development Master Plan as though the applicant owned the unowned property, or (3) include unowned property and treat that unowned property in some other manner. It is therefore necessary to remand the challenged decision to allow the city, in the first instance, to provide an interpretation of the KSP language.

Petitioners' assignment of error is sustained in part.

The city's decision is remanded.

[1] The challenged decision also approves a preliminary subdivision plat, a major variance for building setbacks and a sign variance. Those approvals, although part of the same order, are not challenged in this appeal.

[2] The city simultaneously adopted code amendments implementing the KSP.

[3] As relevant, the KSP provides:

"This Plan calls for the development of Master Plans for Area A – Village Center, Area A – Sports Center, Area B, and Area D. In Area C, a Master Plan is only required for development of two or more lots/parcels. The Master Plans are to be reviewed and approved by the City Council through a Type II-B review process in accordance with the Keizer Station Plan guidelines. These Master Plans are to be publicly or privately prepared representing the development proposal for a given area. *It is recognized that the applicant of a Master Plan for an area may not own or control all the land within the Master Plan boundary. All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area.* Amendments to an approved Master Plan shall require City Council approval. Subdivision approval shall be based upon the applicable zone and applicable KDC Section 3.108 requirements.

"The Master Plans will be developed and considered in accordance with the requirements of the Activity Center Overlay provisions (KDC Section 2.125 of the Keizer Development Code). Individual areas may require a detailed transportation system design plan as a requirement of Master Plan Approval. Once a Master Plan is adopted, individual buildings and uses must receive building permit approval. As part of the building permit process, the proposal will be evaluated for compliance with the adopted Master Plan, zone standards, and applicable design standards as referenced in the Keizer Development Code. *In case of conflicts between the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards will apply.*" Record 23-24. (Emphasis added).

[4] KDC 2.119.08(B) provides:

"Master Plan Required. A master plan must be reviewed and approved by the City Council prior to subdivision platting or development. The Master Plan shall be reviewed through a Type II-B review process in accordance with this Section. It is recognized that the applicant of the master plan for the area may not own or control all the land within the master plan boundary. The master plan shall still cover the entire EG zone. For those portions not owned or controlled by the applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general guidelines to be used throughout the Master Plan area. Subdivision approval shall be based upon the zone and Section 3.108 as applicable.

"1. The Master Plan will be developed and considered in accordance with the requirements of the Activity Center Overlay provisions (Section 2.125 of the Keizer Development Code). Once a Master Plan is adopted, the proposed development of each use shall be reviewed through Development Review as required in Section 2.315 of the Keizer Development Code. In the case of conflicts between the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards will apply.

"2. The Master Plan shall include a detailed transportation system design plan for the EG zone. The location of transit facilities shall conform to Section 2.305 of the Code."

[5] The city council adopted the following interpretation:

"Master planning of the KSP area was determined by the City Council to be necessary for cohesive development of the area and to achieve the economic development purposes of the KSP. As is clear from the above quoted provisions, master planning includes public facilities planning as well as subdivision or partition approval. No one has contended otherwise. Moreover, it is also clear from the above quoted provisions that any conflict between the KSP provisions and the development code are resolved in favor of the KSP.

"The Council finds that KDC 3.201.04 does not apply to the KSP Master Plan application. The council finds that the approval contemplated in this proceeding is the approval of the contemplated KSP Master Plan including all of its elements to realize the objectives of the KSP.

"Master Plans are subject to the Type II-B process and the Type II-B process as quoted above expressly contemplates that all owners may not submit or approve of the master plan application. Nevertheless, a master plan is required by the KSP. Further, in the Master Plan approval process, the City expressly required that all property be included to ensure the KSP area is developed as a cohesive whole. It is axiomatic that the master plan approval process specified in the KSP is not subject to collateral attack here.

"As the KSP provisions explain, the specific provisions of the KSP prevail over the more general provisions of the city code. Here, the master plan application includes all of the contemplated elements, including streets, public facilities, open space, parking, subdivision and variances. At the time of actual KSP development under the Master Plan provisions, the property must be owned by the developer, or it must be acquired by the city or Urban Renewal agency. The City Council finds it is feasible for the city to exercise its authority of eminent domain to acquire any property necessary to allow the implementation of the KSP approved Master Plan." Record 24-25.

[6] ORS 227.175(1) provides:

"When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or other such person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service." (Underscoring added by the city; italics added by petitioners).

[7] Petitioners cite the following excerpt from the KSP in their petition for review:

"*All property owners in each area are encouraged to join together as co-applicants. However to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area.*" Petition for Review 6. (Emphasis added by petitioners).

In a footnote, petitioners state:

"It is likely the City will ask the Board instead to focus on the second sentence of the cited provision for support of the City's argument that Northwest can submit a master plan application for the Lowerys' property. When read in its proper context, it is easy to see the flaw in the City's argument. The second sentence merely directs an applicant to include all of the property within the master plan area in a master plan application. This provision of the KSP Comp Plan does not allow an applicant to actually plan the area, as Northwest has done in this case, by proposing private development on the Lowerys' property." Petition for Review 7 n 3. (Emphasis in original).

[8] The record contains site plans for the entire area covered by the master plan that indicate parking areas, building pads and proposed uses; i.e., commercial or industrial, for the Lowery's property. Record 279.

[9] Our order provided an opportunity for both parties to respond to those issues. However, after petitioners' response memorandum, the city filed a motion to file a reply. We grant that motion and consider the city's reply memorandum.

[10] ORS 197.835(4) provides, in part:

"A petitioner may raise new issues to [LUBA] if:

- "(a) The local government failed to list the applicable criteria for a decision under ORS 197.195 (3)(c) or 197.763 (3)(b), in which case a petitioner may raise new issues based upon applicable criteria that were omitted from the notice. However, [LUBA] may refuse to allow new issues to be raised if it finds that the issue could have been raised before the local government[.]

" \* \* \* "

[11] Petitioners do not identify what findings they are referring to. We assume "the findings" to which they refer are the findings in which the city adopts its interpretation of the consent issue. See n 5.

[12] We view the relevant language from the KSP to be the excerpt cited by petitioners in their petition for review. See n 7.

[13] ORS 197.829(2) provides:

"If a local government fails to interpret a provision of its comprehensive plan or land use regulations, or if such interpretation is inadequate for review, the board may make its own determination of whether the local government decision is correct."

[14] KDC 3.113.02 provides that Area A "may develop with Type II-B Keizer Station Master Plan Review approval by the City Council."

KDC 3.113.03 provides separate submittal requirements for the different areas of the KSP. Among the submittal requirements for Area A are the following:

- "1. Infrastructure engineering and architectural site plans showing all structures in relation to projected final topography of the project, all proposed connections to existing or proposed roads \*  
\* \*

" \* \* \* \* \*

- "3. Building elevations, typical cross-sections and typical wall sections of all building areas.

" \* \* \* \* \*

- "10. Calculation of gross building, parking and open space.

" \* \* \* "

KDC 3.113.04 provides the review criteria for approval of a master plan for an area of the KSP. It includes criteria regarding pedestrian access, safety and comfort; vehicular movement; crime prevention and security; parking; and public spaces.

[15] We also do not agree with the city's reliance on the provision in KDC 3.113.04.B., which the city alleges "states that the Keizer Station Plan provisions shall control if it conflicts with the Keizer Development Code." Respondent's Reply Memorandum 5. The city reads the language of KDC 3.113.04.B too broadly. The language the city refers to is found in the section of the review criteria dealing with different standards. KDC 3.113.04.B. provides, in its entirety:

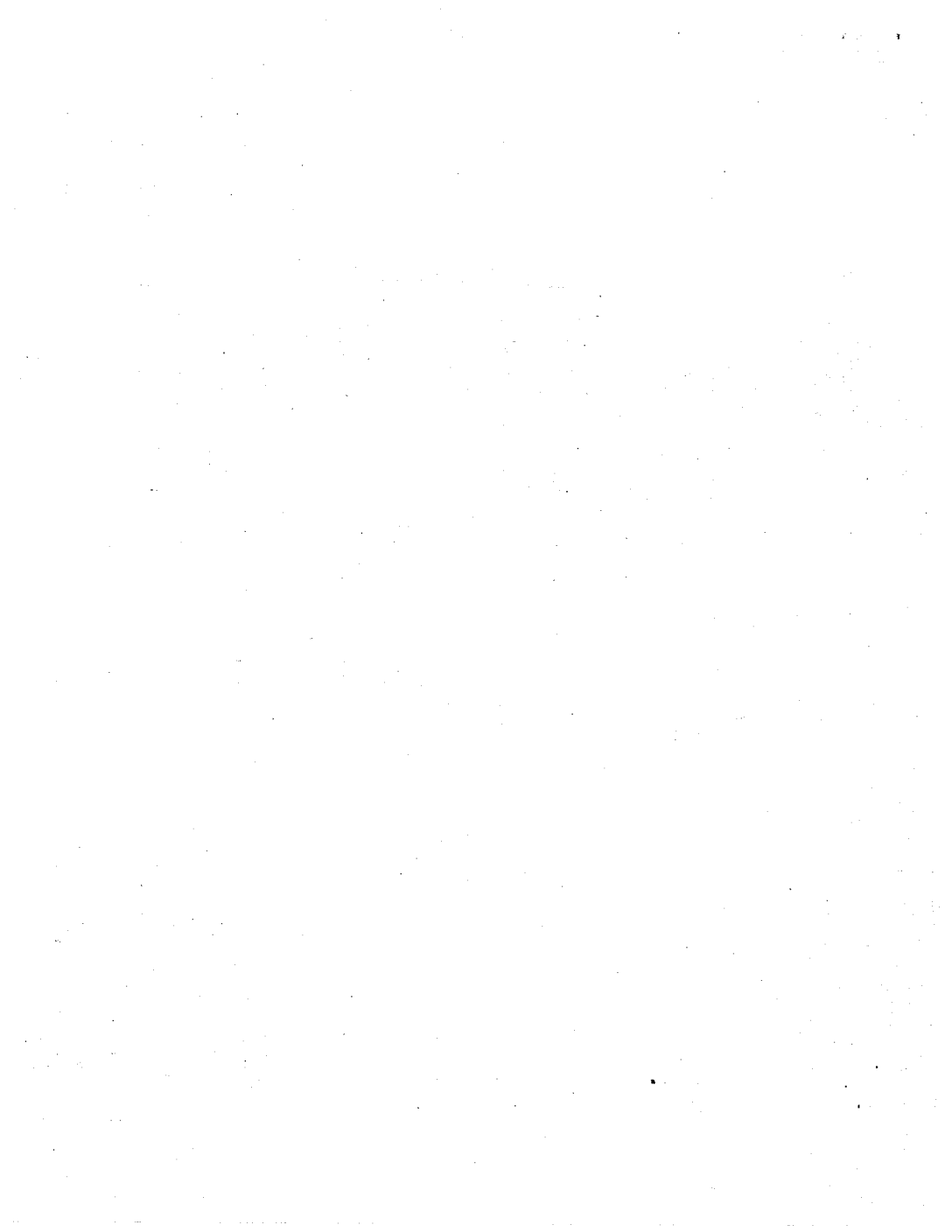
"The master plan shall meet the following standards as identified in the Keizer Station Plan in addition to standards within applicable zones:



- "1. Design standards
- "2. Transportation system standards
- "3. Utility standards
- "4. Parking standards
- "5. Landscape standards

"If a conflict exists between *standards* within the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan *standards* shall be applied." (Emphasis added).

This language, shown here in its appropriate context, seems to apply to specific *standards* provided in the KSP. It does not relate in general to all provisions of the KSP, as the city asserts. It therefore cannot be relied on, as the city seems to be arguing, to provide notice to petitioners of the provision of the KSP that petitioners rely on to argue that a master plan applicant cannot propose new development on property the applicant does not own. There are other provisions in the KSP and the code that could be read more broadly and, if cited in the notice, might have provided petitioners with a roadmap leading to the KSP language at issue here. See KDC 2.119.08(B), n 4; see also KSP language addressing conflict resolution at n 3. However, those provisions were not cited in the notice either.



## **KEIZER STATION PLAN**

### **INTRODUCTION**

Planning for this area began in 1987 when the Keizer Comprehensive Plan established the Chemawa Activity Center and McNary Activity Center. The first Chemawa Activity Center Plan was adopted in 1993, followed by amendments to the plan in 1995. The city amended the plan two years later and adopted the 1997 version of the Chemawa Activity Center Plan, which provides for development of a mixed-use area incorporating service commercial, industrial, housing, retail, office, and public uses. The Chemawa Activity Center Plan and the Keizer Station Plan are both "activity center design plans" as described in the Keizer Comprehensive Plan. The activity center is divided into four areas (A through D) corresponding with specific sections on the north and south side of Chemawa Road and Lockhaven Drive.

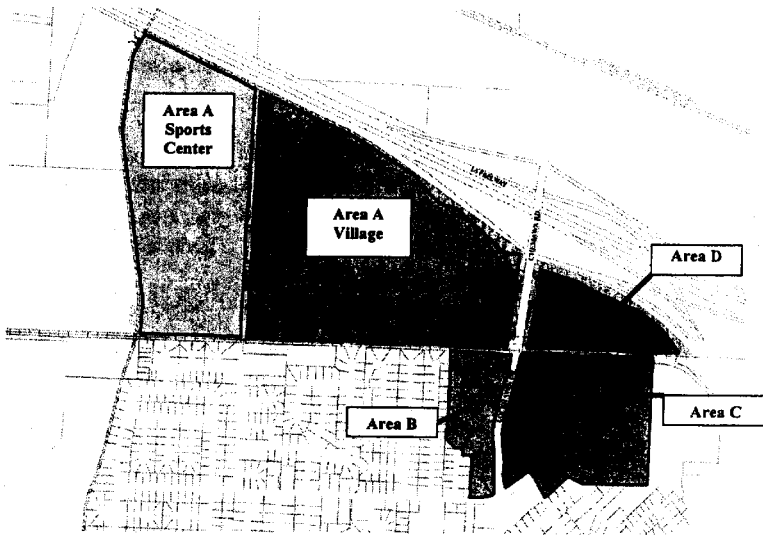
Suggested changes to the Comprehensive Plan and Zoning maps are recommended to be consistent with the types of uses based on anticipated market demand. The changes to the zoning pattern are further supported by the economic analysis conducted by Hobson Ferrarini & Associates, which demonstrates that there is a large shortfall of commercial land within Keizer. This analysis also indicates that the existing industrial land in Keizer is more than sufficient to meet the 20-year demand for industrial uses.

This plan also provides specific development standards within the Keizer Station Plan area. Development standards design details for buildings and on-site improvements and uses are provided in the Keizer Development Code.

This plan establishes four specific areas within the Keizer Station Plan area (Figure 1):

- Area A – Village Center/Sports Center
- Area B – Retail Service Center
- Area C – Keizer Station Center
- Area D – Commerce Center

**FIGURE 1: SUBAREAS**



**FIGURE ONE**

**KEIZER STATION PLAN -**

**SUBAREAS**  
September 2001



**ANKROM MOISAN**  
ASSOCIATED ARCHITECTS

The Keizer Station Plan is intended to build on the objectives that were previously used to guide the preparation of the Chemawa Activity Center Plan:

- Establish a northern gateway into the Keizer area;
- Provide an opportunity for multi-modal transportation options;
- Provide the opportunity to live, work and shop in close proximity to the Center;
- Provide an additional focal point for industry, commerce and community activities;
- Enhance economic activity within the community without threatening the economic health and redevelopment activities along the River Road and Cherry Avenue corridors;
- Provide an appropriate site for community facilities;
- Offer a source of employment, including family wage jobs; and
- Be a Source of Pride.

## **KEIZER STATION PLAN LAND USE AND ZONING**

The Plan takes advantage of the access and visibility of the Keizer Station Plan area and is designed to allow flexibility with applicable development standards. Compared with the Chemawa Activity Center Plan, which excludes the ballpark and properties immediately north, the Keizer Station Plan area includes these properties. The Plan land use designations, which are shown in Figure 2, include:

<b>Plan Designation</b>	<b>Acres</b>
<b>Area A</b>	
Industrial General	30.8
Campus Light Industrial	37.2
Special Planning District	93.0
<b>Area B</b>	
Commercial	11.4
Low Density Residential	1.1
<b>Area C</b>	
Mixed Use	34.5
Commercial	1.5
<b>Area D</b>	
Campus Light Industrial	15.7
<b>Total Approximate Acres</b>	<b>225.2</b>

The Plan also features a new zoning district called Employment General (EG) that develops standards to promote an employment center with the opportunity for a mix of industrial and commercial uses. The Keizer Development Code amendments that are necessary to implement the Keizer Station Plan are provided in Attachments A through N.

Based on the Comprehensive Plan Map amendments (Figure 2), the Zoning Map (Figure 3) the following approximate acreage totals for the Keizer Station Plan area by zoning district are summarized below. All of these properties are within the Activity Center Overlay for the Keizer Station Plan.

<b>Zoning District</b>	<b>Existing Acres</b>	<b>Proposed Acres</b>	<b>Change/Acres</b>
Industrial Business Park (IBP)	122.1	52.7*	-69.2
General Industrial	0	30.8	+30.8
Commercial Mixed Use (CM)	19.7	11.4	-8.3
Mixed Use (MU)	36	34.5	-1.5
Public (P)	34.9	0	-34.9
Commercial Office (CO)	12.5	0	-12.5
Commercial Retail (CR)	0	1.5	+1.5
Single Family Residential (RS)	0	1.1	+1.1
Employment General (EG)	0	93	+93
<b>Total Approximate Acres</b>	<b>225.2</b>	<b>225.2</b>	

*The above listed acreage is based upon data from the Marion County Assessor's Office, October 31, 2002.*

The existing and proposed zoning is further described for the four areas of the Keizer Station Plan as follows in approximate acreage:

**Area A**

**Village Center**

<u>Zoning</u>	<u>Existing Acres</u>	<u>Proposed Acres</u>
Employment General (EG)	0	93
Industrial General (IG)	0	2
Industrial Business Park (IBP)	84	0
Commercial Mixed (CM)	11	0

**Sports Center**

<u>Zoning</u>	<u>Existing Acres</u>	<u>Proposed Acres</u>
Industrial Business Park (IBP)	38.1	37.2
General Industrial (IG)	0	28.8
Public (P)	27.9	0

**Area B - Retail Service Center**

<u>Zoning</u>	<u>Existing Acres</u>	<u>Proposed Acres</u>
Commercial Mixed Use (CM)	0	11.4
Single Family Residential (RS)	0	1.1
Commercial Office (CO)	12.5	0

**Area C - Keizer Station Center**

<u>Zoning</u>	<u>Existing Acres</u>	<u>Proposed Acres</u>
Mixed Use (MU)	36	34.5
Commercial Retail (CR)	0	1.5

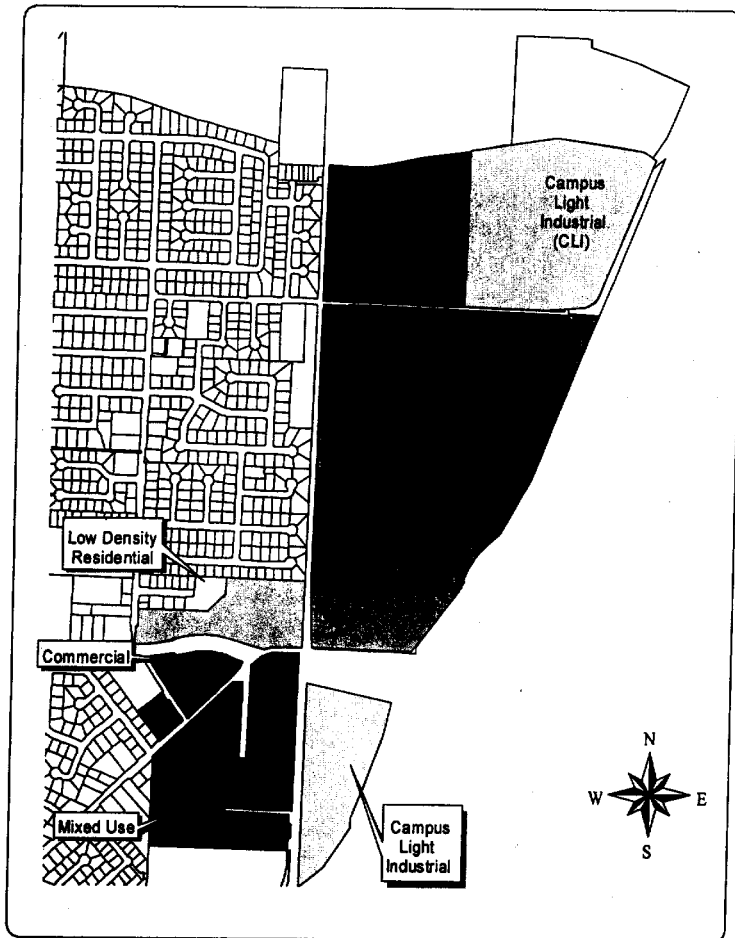
**Area D - Commerce Center**

<u>Zoning</u>	<u>Existing Acres</u>	<u>Proposed Acres</u>
Industrial Business Park (IBP)	0	15.7
Commercial Mixed-Use (CM)	8.7	0
Public (P)	7.0	0

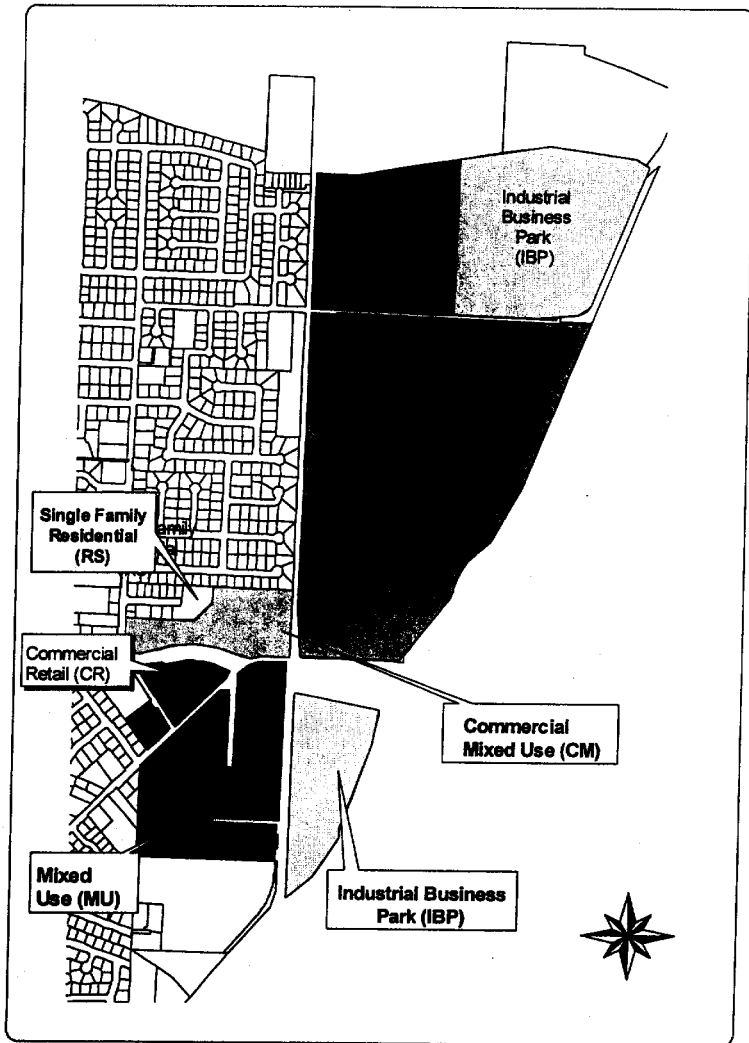
*The above listed acreage is based upon data from the Marion County Assessor's Office.*



**Figure 2: Comprehensive Plan Map Land Use Designations**



**Figure 3: Zoning Designations**



## SITE CHARACTERISTICS

One factor that will influence future development in the Keizer Station Plan area is the site's physical constraints. These constraints will shape where future development and infrastructure will be located include:

- Utility easements, including the BPA and PGE powerline easements;
- ODOT access easements; and
- Rail right-of-way.

## KEIZER STATION PLAN AREAS AND DESIGN GUIDELINES

The Keizer Station Plan has evaluated each of the four areas from a development, urban design, transportation and public facilities perspective. Based on this evaluation, this Plan recommends a number of specific design guidelines and identifies development issues that will need to be addressed as development occurs in each area. The following section provides the specific area descriptions, design guidelines and issues that will guide future development for each of the following areas:

- Area A – Village Center/Sports Center
- Area B – Retail Service Center
- Area C – Keizer Station Center
- Area D – Commerce Center

To help create the mix of uses envisioned in the Keizer Station Plan, the floor area for specified uses, which generally have retail and commercial characteristics, is limited as provided in the Keizer Development Code (KDC). Each area is limited with a prescribed amount of floor area for specific uses. The specific use restrictions are also included in the Keizer Development Code for each applicable zone and the Activity Center Overlay (ACO) Zone. The areas are restricted to the following amount of square footage for these specified uses as follows:

<u>Areas</u>	<u>Square Footage Limitation for Specified Uses</u>
Area A –	
<i>Village Center</i>	800,000 sq. ft.
<i>Sports Center</i>	15,000 sq. ft.
Area B – <i>Retail Service Center</i>	25,000 sq. ft.
Area C – <i>Keizer Station Center</i>	65,000 sq. ft.
Area D – <i>Commerce Center</i>	70,000 sq. ft.

## **KEIZER STATION PLAN IMPLEMENTATION PROCEDURES**

### **Land Use Review Procedures**

This Plan calls for the development of Master Plans for Area A – Village Center, Area A – Sports Center, Area B, and Area D. In Area C, a Master Plan is only required for development of two or more lots/parcels. The Master Plans are to be reviewed and approved by the City Council through a Type II-B review process in accordance with the Keizer Station Plan design guidelines. These Master Plans are to be publicly or privately prepared representing the development proposal for a given area. It is recognized that the applicant of the Master Plan for an area may not own or control all the land within the Master Plan boundary. All property owners in each area are encouraged to join together as co-applicants. However, to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area. Amendments to an approved Master Plan shall require City Council approval. Subdivision approval shall be based upon the applicable zone and applicable KDC Section 3.108 requirements.

The Master Plans will be developed and considered in accordance with the requirements of the Activity Center Overlay provisions (KDC Section 2.125 of the Keizer Development Code). Individual areas may require a detailed transportation system design plan as a requirement of Master Plan approval. Once a Master Plan is adopted, individual buildings and uses must receive building permit approval. As part of the building permit process, the proposal will be evaluated for compliance with the adopted Master Plan, zone standards, and applicable design standards as referenced in the Keizer Development Code. In the case of conflicts between the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards will apply.

- ◆ In order to establish the Type II B procedures, KDC Section 3.101.02 is amended and shown in Attachment B.
- ◆ In order to establish the criteria for Type II B review, KDC Section 3.113 is added as shown in Attachment C.

## **Transportation Review Procedures**

Beginning with the adoption of the Chemawa Activity Center Plan (1997) a transportation level-of-service standard for future traffic operations at the signalized intersections on Lockhaven Drive and Chemawa Road between River Road and the eastern I-5 ramp was developed. This level-of-service standard (volume to capacity (V/C) ratio of 0.87) is included in Keizer's Transportation System Plan (TSP) as well. Traffic operations are a critical element of the future implementation of the Keizer Station Plan. Therefore, the Keizer Station Plan includes the 0.87 volume to capacity (v/c) ratio as adopted in the Chemawa Activity Center Plan.

The transportation requirements of the Keizer Station Plan may include an underpass of Chemawa Road. The underpass is one of several optional elements of the overall transportation system needed to provide safe access to and from the developing areas of the Keizer Station Plan. Provisions for construction of the underpass and/or other improvements shall be in place so as to not allow the intersection of Radiant Drive with Chemawa Road to fall below the v/c ratio of 0.87 as calculated by the critical movement analysis methodology as development occurs.

Off-ramp and other ODOT facility improvements, if necessary, shall be constructed as a regional improvement to the I-5 Interchange under ODOT's direction. Funding shall be provided, as appropriate, by all parties benefiting from the improvements.

Street right of way dedications and street vacations will be required. Prior to development, an overall preliminary plan shall be submitted for review and approval by the Department of Public Works indicating the location of all proposed public and private streets to be dedicated and vacated. All new public streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards. During the master planning process, circulation to and within the Keizer Station Plan shall be addressed to promote pedestrian and bicycle access to the site from all surrounding areas.

## **Utility Review Procedures**

### **General:**

- A. A street lighting master plan shall be developed. A street lighting district shall be created while under the control of the developer to provide for adequate streetlights along the frontage of all new street rights of way. Decorative lighting shall be used.
- B. Construction permits are required by the Department of Public Works prior to any public facility construction. Contact the City Engineer's office at 390-7402 for the necessary permit information that is required.
- C. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.
- D. Street opening permits are required for any work within the City right-of-way that is not covered by a Construction Permit.
- E. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works.

### **Sanitary Sewer:**

A portion of the Keizer Station Plan is located within the original Keizer Sewer District and a portion is located outside of the original district. Developers will construct the sewer trunk line and pay an acreage fee for the property outside of the original district.

- A. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the Department of Public Works for review and approval. The entire project shall be served by an existing 18-inch trunk sewer line located adjacent to Keizer Stadium.
- B. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to

submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area.

- C. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.
- D. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.
- E. It will be the responsibility of the developer's engineer to locate any existing wells (including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be addressed by the developer prior to issuance of public works construction permits. The timing for resolving any conflicts shall be identified as part of a Master Plan approval.

**Domestic Water:**

- A. A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Location of all meters shall be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements, it is anticipated that new public wells and storage facilities will be required. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Dedication of property to the City shall be required for any wells or storage facilities developed. Any system development charges for water system improvements will be those in place at the time of individual service connections.
- B. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.
- C. Existing wells on the subject property are to be located by the developer and reviewed by the Keizer Department of Public Works to determine if existing

water rights can be transferred to municipal use. If so, the developer shall make the transfer at the request of the City. The City will be responsible for any fees charged by the State of Oregon associated with the transfer. If the wells cannot be incorporated into the city system, the developer shall abandon them in accordance with the rules of the Oregon State Water Resources Department.

**Storm Sewer:**

- A. Development plans will require an evaluation of the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to development, an overall storm water master plan shall be submitted for review and approval by the Department of Public Works.
- B. Storm water detention will be required. All storm water and roof drains shall be connected to an approved system designed to provide adequate drainage for the proposed new driveways and other impervious surfaces.
- C. A grading and drainage plan shall be prepared and submitted for review and approval by the Department of Public Works. Details shall include adequate conveyance of storm water from adjacent property across the subject property.
- D. As part of the Keizer Station Plan development, a detailed analysis of the various drainage basins within the planning area was completed (Chapter of the September 2001 KSP proposal, Attachment N). In all cases, storm water detention and treatment will be required to the standards in place at the time of development
- E. Prior to development, a phasing plan shall be submitted for review and approval by the Department of Public Works to indicate how the storm water system will be developed to provide service to each area.



## **AREA A – VILLAGE CENTER**

### **I. PURPOSE AND OBJECTIVES**

- A. **Purpose:** The Village Center (95 acres) portion of Area A is the heart of the Keizer Station Plan. The Village Center will provide the opportunity to establish a true economic activity center that will focus on offering a variety of industrial and commercial activities. In order to achieve the necessary mix of uses and design environment to create the Village Center, this plan sets forth a series of objectives for new development to accomplish.

Key issues that will need to be considered as Area A – Village Center develops include:

- Location and design of transportation facilities.
- Traffic operations at the Chemawa Interchange.
- Physical constraints (e.g. power lines, utility easements, rail right-of-way) that will influence the amount of buildable land and building locations; and
- Phasing of development.

- B. **Objectives:** Development in Area A – Village Center will be focused on achieving the following objectives:

- Provide a northern gateway to Keizer;
- Develop a variety of employment opportunities;
- Create a focal point for commerce and community activities;
- Establish a place for multiple activities;
- Provide a gateway to sports activities; and
- Be a source of employment opportunities.

- C. **Base Zones:** In order to achieve the Development Objectives for Area A – Village Center, the Special Planning District Comprehensive Plan designation shall apply to the property within the Village Center. Property within this area shall be zoned as follows:

<b>Zoning</b>	<b>Acres</b>
Employment General (EG)	93.0
Industrial General (IG)	2.0

## II. DESIGN STANDARDS

Following Master Plan approval, as described earlier, subsequent development within Area A – Village Center, shall satisfy the development standards of the underlying zone, Employment General (EG) – Section 2.119, along with the following design standards:

- A. **Development Standards:** KDC Section 2.315 *Development Standards* requires new development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08 as part of the building permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

Modification of a building permit application, which is not in substantial conformity with the Development Standards or the approved Master Plan, may be approved by the City Council under KDC Section 2.315.09.

- B. **Additional Design Standards:** Development throughout Area A – Village Center will also be controlled by a set of design standards aimed at establishing an environment that promotes a coordinated approach to developing the entire 95 acres. The intent is to establish design standards in addition to the standards identified in KDC Section 2.315 that will guide future development in a manner that will achieve the development objectives for Area A – Village Center. The following Design Standards shall also apply to new development in Area A – Village Center area as part of the Master Plan approval process:

1. **Gateway.** In order to achieve the objective of making Area A – Village a gateway to Keizer, a gateway feature visible from I-5 shall be provided.
2. **Weather protection.** Weather protection for pedestrians, such as awnings, canopies and arcades, shall be provided at building entrance(s). Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

### **III. TRANSPORTATION SYSTEM**

The extension of Radiant Drive through Area A – Village is a key element, not only to the transportation system, but to the visual quality of the center. Accordingly, the following design features shall apply to Radiant Drive:

- A. **Streetscape.** Radiant Drive is relocated to bisect Area A – Village Center and will provide a landscaped entry as well as providing a direct connection into Area A – Village Center. The design of Radiant Drive and internal streets shall include landscape features as approved by the City Council as part of the Master Plan approval process. Landscaping and streetscaping provisions identified in KDC Section 2.119, Attachment A.
- B. **Access.** Access from Radiant Drive to adjoining property shall be controlled. The intent of Radiant Drive is to provide efficient through traffic. Signalized access connections will be located at least 600 feet apart, except where approved by the City Traffic Engineer. Additional access connections on Radiant Drive should be limited and designed to maximize the flow of traffic. All internal signalized intersections on Radiant Drive will operate at a V/C standard of 0.87 or better.
- C. **Pedestrian circulation:**
  - 1. The on-site pedestrian circulation system shall be continuous, connecting the ground-level entrances of primary structure(s) to the following:
    - a. Streets abutting the site;
    - b. Parking areas;
    - c. Shared open spaces and play areas;
    - d. Abutting transit stops;
    - e. Any pedestrian amenity such as plazas, resting areas and viewpoints; and
    - d. Adjacent buildings.
  - 2. There shall be at least one pedestrian connection to an abutting street frontage for each 300 linear feet of street frontage.

#### **IV. UTILITIES**

In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:

- A. All utilities located adjacent to Radiant Drive and connecting transportation facilities shall be located underground.
- B. All other new utility connections and lines shall be located underground where practicable.

#### **V. PARKING**

Parking standards for Area A – Village Center shall follow the standards located in the corresponding base zone as well as Off-Street parking and Loading – Section 2.302. In addition to these standards, the following shall also apply:

- A. Location of parking – If the building is located within 20 feet of the Radiant Drive right-of-way, there shall be no parking or maneuvering between the building and the right-of-way.

#### **VI. LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standards shall apply:

- A. A coordinated landscape plan shall be provided for the frontage portion of the Village Center along I-5 with the request for master plan approval.
- B. Restriction on Tree Removal. From the date of adoption of this ordinance, no trees shall be removed from any property within Area A- Village Center without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.

Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

## **AREA A – SPORTS CENTER**

### **I. PURPOSE AND OBJECTIVES**

- A. **Purpose:** Area A – Sports Center (66 acres) is the location of the Keizer Stadium as well as the potential location for a variety of industrial, entertainment, recreation and sports-related facilities. A portion of this area is devoted to an existing power substation and a baseball stadium. Area A – Sports Center will be accessed via the extension of Radiant Drive through Area A - Village. Key issues that will need to be considered as Area A – Sports Center develops include:

- Location and design of Radiant Drive;
- Physical constraints that will influence the amount of buildable land and building locations;
- Phasing of development;
- Coordination with Keizer Stadium activities; and
- Relationship to Lake Labish restoration improvements.

- B. **Objectives:** Development in Area A – Sports Center will be focused on achieving the following objectives:

- Providing development opportunities for industrial and recreation facilities while addressing building constraints;
- Creating an industrial, recreation and community center; and
- Providing compatible uses to the existing power transmission center.

- B. **Base Zone:** In order to achieve the Area A – Sports Center Development Objectives, the Comprehensive Plan designation for property within Area A – Sports Center shall be Campus Light Industrial and General Industrial. Property within the Sports Center shall be zoned as follows:

<b>Zoning</b>	<b>Acres</b>
Industrial Business Park (IBP)	37.2
General Industrial (IG)	28.8

## II. DESIGN STANDARDS

Following Master Plan approval, as described earlier, subsequent development within Area A – Sports Center, shall satisfy the development standards of the underlying zone, Industrial Business Park—Section 2.113 along with the following design standards:

- A. **Development Standards:** KDC Section 2.315 *Development Standards* requires new development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08 as part of the building permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

Modification of a building permit application, which is not in substantial conformity with the Development Standards or the approved Master Plan, may be approved by the City Council under KDC Section 2.315.08.

- B. **Additional Design Standards:** In addition to the design standards in the underlying base zones, the following design standards shall apply as part of the Master Plan approval process:

1. The requirement in Industrial Business Park Section 2.113.05 H (Lot Coverage) for 20 percent of the gross area of a lot in the IBP district shall also apply to Area A – Sports Center.
2. The requirement in General Industrial Section 2.114.05 B is amended to allow an additional one foot of height for every five feet of setback from residential areas in Area A – Sports Center.

### III. TRANSPORTATION SYSTEM

The extension of Radiant Drive into Area A - Sports Center is a key element, not only to the transportation system, but also to the visual quality of the center. Accordingly, the following design features shall apply to Radiant Drive:

- A. Radiant Drive is relocated to bisect Area A – Village Center and will provide a landscaped entry into the area as well as providing a direct connection into the Area A - Sports Center.
- B. Access from Radiant Drive to adjoining property shall be controlled. The intent of Radiant Drive is to provide efficient through traffic. Signalized access connections will be located at least 600 feet apart, except where approved by the City Traffic Engineer. Additional access connections on Radiant Drive should be limited and designed to maximize the flow of traffic. All internal signalized intersections on Radiant Drive will operate at a V/C standard of 0.87 or better.
- C. **Pedestrian circulation:**
  - 1. The on-site pedestrian circulation system shall be continuous, connecting the ground-level entrances of primary structure(s) to the following:
    - a. Streets abutting the site;
    - b. Parking areas;
    - c. Shared open space and play areas; and
    - d. Abutting transit stops;
    - e. Any pedestrian amenity such as plazas, resting areas and viewpoints; and
    - f. Adjacent buildings.
  - 2. There shall be at least one pedestrian connection to an abutting street frontage for each 300 linear feet of street frontage.

#### **IV. LANDSCAPE**

In addition to the development standards of Site and Landscape Design – KDC Section 2.309 the following standard shall apply:

- A. A coordinated landscape plan shall be provided for the frontage portion of the Sports Center along I-5 with the request for master plan approval.
- B. Restriction on Tree Removal. From the date of adoption of this ordinance, no trees shall be removed from any property within Area A- Sports Center without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.
  1. Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

#### **AREA B – RETAIL SERVICE CENTER**

##### **I. PURPOSE AND OBJECTIVES**

- A. **Purpose.** Area B – Retail Service Center (12.5 acres) is envisioned to offer community supporting retail services such as a food store, personal services and specialty retail. In addition, the plan proposes the completion of Dennis Ray Avenue to complete the residential neighborhood nearby. Key issues that will need to be considered as Area B develops include:
  - Site access;
  - Buffering between adjacent residential areas; and
  - Traffic operations on Lockhaven.



B. **Objectives:** Development in Area B will be focused on achieving the following objectives:

- Complete residential neighborhood on Dennis Ray Avenue and provide a pedestrian and bicycle connection to nearby commercial activities;
- Provide convenient retail opportunities for nearby residential areas;
- Create a landscape buffer along the northern edge of the site; and
- Protect traffic operations on Lockhaven Drive and McLeod Lane.

C. **Base Zones:** In order to achieve Area B Development Objectives, the Comprehensive Plan designation for property within the Area B shall be Low Density Residential for those properties zoned Single Family Residential and Commercial for the property zoned Commercial Mixed (CM). Property within Area B shall be zoned as follows:

Zoning	Acres
Commercial Mixed Use (CM)	11.4
Single Family Residential (RS)	1.1

## II. DESIGN STANDARDS

Following Master Plan approval, as described earlier, subsequent development within Area B, shall satisfy the development standards of the underlying zone, along with the following design standards:

A. **Development Standards:** KDC Section 2.315 *Development Standards* requires all new commercial and multi-family development to apply for Development Review and to comply with standards identified in Section 2.315.08 as part of the building permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

Modification of a building permit application, which is not in substantial conformity with the Development Standards or the approved Master Plan, may be approved by the City Council under KDC Section 2.315.08.

- B. **Other Design Standards:** In addition, the Residential Single Family (RS) and Commercial Mixed (CM) zones provide design standards for new development.

### **III. TRANSPORTATION SYSTEM**

Traffic operations on Lockhaven Drive are an important design issue as Area B develops. Careful consideration of the location of access points to Lockhaven Drive and McLeod to the site will need to occur. Based on initial traffic assessments for the Keizer Station Plan, the following traffic-related elements shall be a part of future development of Area B:

- A. **Access to Lockhaven Drive.** Access will be via a single access point forming the northern leg of the Lockhaven Drive and Chemawa Road intersection. Additional or alternative access will only be allowed when it is demonstrated to the approval of the City Traffic Engineer that it can be designed so as to have minimal impacts on the safe and efficient flow of traffic on Lockhaven Drive.
- B. **Access to McLeod.** Access may be provided via a single access point located as far north as possible. No automobile access shall be allowed to Dennis Ray Avenue. At the City Traffic Engineer's discretion, this driveway may be limited to right-in/right-out depending on anticipated traffic flows.
- C. **Pedestrian Connectivity.** A pedestrian/bicycle connection Area B shall be provided at Dennis Ray Avenue. The circulation system shall include provisions to provide pedestrian and bicycle connections to the overall Keizer Station Activity Center area from Area B and to Dennis Ray Avenue.
- D. **Internal Circulation.** This is provided to allow internal circulation and avoid the need to use Lockhaven Drive for vehicle trips within Area B.

**E. Pedestrian circulation:**

1. The on-site pedestrian circulation system shall be continuous, connecting the ground-level entrances of primary structure(s) to the following:
  - a. Streets abutting the site;
  - b. Parking areas;
  - c. Abutting transit stops; and
  - d. Adjacent buildings.
2. There shall be at least one pedestrian connection to an abutting street frontage for each 300 linear feet of street frontage.

**IV. UTILITIES**

In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:

- A. All new utility connections and lines shall be located underground.

**V. LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standard shall apply:

- A. A coordinated landscape plan, including the use of trees, shall be provided for the frontage portion of Area B along Lockhaven Drive and McLeod with the request for master plan approval.
- B. **Restriction on Tree Removal.** From the date of adoption of this ordinance, no trees shall be removed from any property within Area B without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.
1. Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

## **AREA C – KEIZER STATION CENTER**

### **I. PURPOSE AND OBJECTIVES**

- A. **Purpose.** Area C (36 acres) is intended to allow for a mix of uses, both residential and commercial as well as opportunities for connection to public transit. Key issues that will need to be considered as the Keizer Station Center area develops include:

- Traffic operations on Lockhaven and Chemawa, especially at the intersection;
- Appropriate mix of uses;
- Compatibility with existing residential development; and
- Location and operation of future Commuter Rail Transit Station.

- B. **Objectives:** Development in Area C will be focused on achieving the following objectives:

- Compatibility with existing residential development;
- Mix of uses that support transit development; and
- Preserving opportunities to support a future Commuter Rail Transit Station.

- C. **Base Zones:** In order to achieve the Keizer Station Plan Development Objectives, the Comprehensive Plan designation for property within the Keizer Station Center area shall be Mixed Use and Commercial. Property within the Keizer Station Center area shall be zoned as follows:

<b>Zoning</b>	<b>Acres</b>
Mixed Use (MU)	34.5
Commercial Retail (CR)	1.5

### **II. DESIGN STANDARDS**

Following Master Plan approval, as described earlier, subsequent development within Area C, shall satisfy the development standards of the underlying zone, along with the following design standards:

- A. **Development Standards:** KDC Section 2.315 *Development Standards* requires all new commercial, industrial and multi-family development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08 as part of the permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

Modification of a building permit application, which is not in substantial conformity with the Development Standards or the approved Master Plan, may be approved by the City Council under KDC Section 2.315.08.

B. **Permitted Uses:** All permitted uses listed in the corresponding base zones are allowed in the Keizer Station Center. In addition to the permitted uses, a Transit Station is allowed as a Special Permitted Use in the Mixed Use zone. Section 2.4 of the Keizer Development Code is amended to Supplemental Standards for a Transit Station to be used as part of the Master Plan approval process (See Attachment F: KDC Section 2.107).

The potential location of the Commuter Rail Transit Center in the Keizer Station Center is shown on Figure 4 (See Attachment G: KDC Section 2.429).

- C. **Other Design Standards:** In addition to the design standards in the underlying base zones, Mixed Use – KDC Section 2.107 and Commercial Retail – KDC Section 2.109, the following design standard shall apply to CR zoned properties within the Keizer Station Center area as part of the Master Plan approval process:

1. **Building orientation:** Buildings located within the Commercial Retail area shall have the building's primary entrance oriented to Lockhaven.

### III. TRANSPORTATION SYSTEM

Traffic operations on Lockhaven Drive are an important design issue as the Keizer Station Center area develops. Careful consideration of the location of access points to Lockhaven Drive, McLeod and Chemawa will need to occur. Based on initial traffic

assessments for the overall Keizer Station Plan, the following traffic-related elements shall be a part of future development of Area C:

- A. Access to Lockhaven Drive will be allowed when it is demonstrated to the approval of the City Traffic Engineer that it can be designed so as to have minimal impacts on the safe and efficient flow of traffic on Lockhaven Drive.
- B. Access to McLeod and Chemawa shall be coordinated with properties on both sides of these roads to minimize the number of access points and to align primary access points opposite each other. At the City Traffic Engineer's discretion, driveways may be limited to right-in/right-out depending on anticipated traffic flows.
- C. The circulation system shall include provisions to provide pedestrian and bicycle connections to the overall Keizer Station Plan area.

#### **IV. UTILITIES**

In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:

- A. All new utility connections and lines shall be located underground.

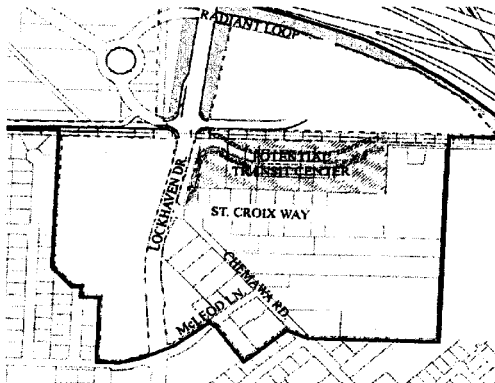
#### **V. LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standard shall apply:

- A. A coordinated landscape plan, including the use of trees, shall be provided for the frontage portion of the Keizer Station Center along Lockhaven Drive with the request for master plan approval.
- B. Restriction on Tree Removal. From the date of adoption of this ordinance, no trees shall be removed from any property within Area C without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.

1. Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

**FIGURE 4: Potential Commuter Rail Transit Center**



#### **AREA D – COMMERCE CENTER**

##### **I. PURPOSE AND OBJECTIVES**

- A. **Purpose:** Area D (15 acres) is proposed to have a mix of industrial uses. Key issues that will need to be considered as Area D develops include:

- Location and design of transportation facilities;
- Traffic operations at the Chemawa Interchange; and
- Physical constraints (e.g. power lines, utility easements and rail right-of-way) that will influence the amount of buildable land and building locations.

- B. **Objectives:** Development in Area D will be focused on achieving the following objectives:

- A Source of Employment Opportunities; and
- Protect Traffic Operations

- C. **Base Zone:** In order to achieve the Commerce Center Development Objectives, the Comprehensive Plan designation for property within the Commerce Center shall be Campus Light Industrial. Property within Area D shall be zoned as follows:

<b>Zoning</b>	<b>Acres</b>
Industrial Business Park (IBP)	15.7

## **II. DESIGN STANDARDS**

Following Master Plan approval, as described earlier, subsequent development within Area D, shall satisfy the development standards of the underlying zone, along with the following design standards:

- A. **Development Standards:** KDC Section 2.315 *Development Standards* requires new development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08. These standards are intended to be objective and to serve as a guide to designers of developments during the building permit approval process. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

Modification of a building permit application, which is not in substantial conformity with the Development Standards or the approved Master Plan, may be approved by the City Council under KDC Section 2.315.08.

- B. **Other Design Standards:** Design standards the underlying base zone, Industrial Business Park – Section 2.113 shall apply.

## **III. TRANSPORTATION SYSTEM**

The extension of transportation facilities through Area D is a key element, not only to the transportation system but also to the visual quality of the center. Accordingly, the following design features shall apply to Radiant Drive:



- A. Transportation facilities may be established to bisect Area D to provide a landscaped entry into Area D and Area A – Village activities.
- B. Access from a potential transportation facility to adjoining property shall be controlled. The intent of Radiant Drive is to provide efficient through traffic. Signalized access connections will be located at least 600 feet apart, except where approved by the City Traffic Engineer. Additional access connections on Radiant Drive should be limited and designed to maximize the flow of traffic. All internal signalized intersections on Radiant Drive will operate at a V/C standard of 0.87 or better.

#### **IV. UTILITIES**

In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:

- A. All utilities located adjacent to transportation facilities connecting to Radiant Drive shall be located underground.
- B. All other new utility connections and lines shall be located underground.

#### **V. LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standard shall apply:

- A. A coordinated landscape plan shall be provided for the frontage portion of Area D along I-5 with the request for master plan approval.
- B. Restriction on Tree Removal. From the date of adoption of this ordinance, no trees shall be removed from any property within Area D without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.
  - 1. Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

## **FINANCING OPTIONS – ALL AREAS**

Financing for certain pieces of infrastructure and/or facilities within the Keizer Station Plan area may be financed through the implementation of certain public financing options if agreeable to the City and property owner(s). Some of these options could include, but not necessarily be limited to the implementation of one or more local improvement district(s), creation of one or more tax overlay zone(s), and/or the issuance of Bancroft bonds as allowed for by the Oregon State Constitution. Infrastructure components and/or facilities funded by public financing options could include, but not necessarily be limited to, recreational facilities, streets, water/sewer/storm water improvements, or similar improvements.

**CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON**

**ORDER**

**IN THE MATTER OF THE APPLICATION OF NORTHWEST NATIONAL LLC FOR APPROVAL OF THE KEIZER STATION MASTER PLAN/SUBDIVISION (AREA A-VILLAGE CENTER), MAJOR VARIANCE AND SIGN VARIANCE**

The City of Keizer orders as follows:

**Section 1. THE APPLICATION.** This matter came before the Keizer City Council on the application of Northwest National LLC for a master plan/subdivision, major variance and sign variance for the Keizer Station Plan - Area A (Village Center).

**Section 2. JURISDICTION.** The land in question in this Order is within the city limits of the City of Keizer. The City Council is the governing body for the City of Keizer. As the governing body, the City Council has the authority to make final land use decisions concerning land within the city limits of the City of Keizer.

**Section 3. PUBLIC HEARING.** A public hearing was held on this matter before the Keizer City Council on and June 21, 2003. The following persons either appeared at the City Council hearing or provided written testimony on the application before the Council:

- 1) Chuck Sides, Northwest National LLC, Developer
- 2) Jeff Benner, Developer's Architect
- 3) Chris Stanley, Developer's Transportation Consultant
- 4) Ross Day, Attorney for Property Owners Robert and Marilyn Lowery
- 5) Jim Shomeyer, Neighbor

6) Jerry Walker, Volcanoes Stadium

Section 4. EVIDENCE. Evidence before the City Council in this matter is summarized in Exhibit "A" attached.

Section 5. OBJECTIONS. No objections have been raised as to notice, jurisdiction, alleged conflicts of interests, bias, evidence presented or testimony taken at the hearing. Objections were raised regarding ex parte contacts. The alleged contacts were cured on the record.

Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant to the decision in this matter are set forth in Exhibit "B" attached.

Section 7. FACTS. The facts before the City Council in this matter are set forth in Exhibit "C" attached.

Section 8. JUSTIFICATION. Justification for the City Council's decision in this matter is explained in Exhibit "D" attached.

Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E" attached.

Section 10. FINAL DETERMINATION. This Order is the final determination in this matter.

Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon its passage.

Section 12. APPEAL. A party aggrieved by the final determination in a proceeding for a discretionary permit or a zone change may have it reviewed under ORS 197.830 to ORS 197.834.

PASSED this 6th day of July, 2004.

SIGNED this 9th day of July, 2004.

Michael Hopper  
Mayor

Naupli Davis  
City Recorder



## EXHIBIT "A"

### Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and the exhibits contained therein.

City Attorney Shannon Johnson summarized the applicable criteria statement. No objections to notice, conflicts or ex parte contacts were declared.

Mayor Christopher opened the Public Hearing for the Addendum Keizer Station Master Plan - Area A. City Attorney, Shannon Johnson, stated that the applicable criteria for the quasi-judicial case is set forth in the staff report, but because the staff report was lengthy he would not be reading it, but copies were available. There were no objections to not reading the entire list of criteria and they were considered waived. He continued that testimony and evidence directed toward the criteria in this application must meet the criteria set forth into which you believe apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the Parties an opportunity to respond to that issue precludes appeal to Land Use Board of Appeals based on that issue. He asked if there were any objections as to notice, opportunity to be heard, jurisdiction, conflict of interest, or bias or prejudice of the Councilors. If so, they should be raised at this time. If there are any ex parte contacts or bias that need to be disclosed they should be disclosed at this time. There was no response to this. Mr. Johnson noted that the entire Community Development file in addition to the documents before the Council is before the Council for review and is considered placed into the record without objection.

Community Development Director, Nate Brown pointed out that the composite drawing includes the transportation system, landscaping plan, street lighting, and plans for the plazas including the tree retention. It does not have the subdivision or signage requirements which are under consideration. Mr. Brown called attention to: 1. A memo dated June 21, 2004, from Public Works Director, Rob Kissler, which should be added as an addendum to the conditions that are already identified as an addendum as a cover to the staff report. 2. A memo submitted by Oregon Department of Transportation and pointed out that Dan Fricke was in the audience and would be willing to answer questions. Mr. Brown noted that the application consists of four separate applications: (1) The Master Plan, (2) the Subdivision required to divide the parcels, (3) the Setback Variance for some of the buildings under consideration, and (4) a sign variance. Keizer Development allows these to be rolled into one decision for ease of processing. Director Brown stated that the application represents a positive representation of some great assets to the community with many amenities such as plazas, a trail system, landscaping which will take place with both the public and private development of the facility. What is proposed is almost 1,000,000 square feet of commercial and industrial space representing some significant and complex issues. Rather than review all 68 conditions of the staff report and addendums, Mr. Brown presented a major overview of the four different applications and the issues addressed through the conditions. The Master Plan is significant. Staff has tried to insure that amenities proposed are those required, and that some aspects and impacts to neighboring properties are addressed. For

example a sight and sound obscuring wall shall be constructed between the residential properties and that of Area B.

Mayor Christopher pointed out that, because the sight and sound obscuring wall for Area B has to do with the transportation system that is benefitting Area A, it was being addressed this evening. Mr. Brown confirmed this and noted that Area B will undergo a Master Plan process which will be submitted as the areas are developed. Regarding the subdivision, there were concerns over compliance with area requirements in the EG zone which specifies a complex balance between commercial and industrial properties. The southwest corner of the parcel had been shown as industrial, but included the car wash and service station which are not listed as industrial uses but as commercial. The developer has indicated that they will modify the plan pursuant to. Mr. Brown noted that he is confident that the issues will be worked out on the subdivision in a manner that will legally comply with all the requirements of the zone for that balance of commercial/industrial. Basically, that requirement would be that some of the small lots on the proposal would have to be combined with other lots in order to comply with requirements.

Mr. Brown noted that the applicant has submitted a request for major variance for yard setbacks. The justification for the variance in most cases is because the Master Plan requires that they accommodate the eventual build-out of Radiant Drive and with the subdivision, they dedicate the right-of-way necessary to accommodate that eventual build-out. That extra wide right-of-way width placed a burden on the developer for developable space. Extra-large setbacks required by the EG zone are not necessary because we are only building the road width necessary to accommodate the foreseeable future traffic through the year 2008. Staff supports the request for a variance with the exception of the request from tenant space B. This request is to surround the building with a drive-through, but staff recommends that that aspect of the request be denied. Mr. Brown then addressed the Sign Variance Request which would apply throughout the entire development adding that staff supports the approach they have granted. They are basically limiting the amount of free-standing signage that will be throughout the development and staff feels that is an appropriate trade for granting additional height and area on an identifying sign to the development. However, staff is recommending that the height of the sign be limited to the same height as the Volcano Stadium and Woodburn Mall signs. Mr. Brown added that the developer is agreeable to this.

Director Brown noted that one of the conditions staff recommends is that the circulation system, particularly the pedestrian system be amended to better connect it to the remainder of the pedestrian transportation. Staff recommends that the west side of the new road "A" have an additional sidewalk installed. Developer will address this issue with the Council because they feel there are some significant constraints by the railroad tracks which present safety problems and it is questionable how much pedestrian traffic there would be in the area because there is pedestrian circulation along Radiant Drive as it connects to Lockhaven. Other conditions are acceptable to the developer.

Councilor Moir asked if the points brought up in the ODOT letter had been reviewed. Mr.



Brown responded that ODOT indicates that they have reviewed this carefully and indicated that they are supportive as long as the documentation has been submitted and that it complies with all state requirements and all state required permits have been obtained. Chris Eppley thanked ODOT, Dan Fricke and Tony Martin specifically, for their responsiveness in working through this and getting a comment to the City in a timely manner.

Councilor Smith questioned if the variance for setbacks is approved, would there be room to expand the road in the future. Mr. Brown responded that the right-of-way required now is for the eventual build-out, so with this approval all right-of-way necessary will be established. The building would not be next to the sidewalk, there would still be appropriate setback. There would be reduced setback at that point, it would be reduced from 20 feet to 10 feet so there would not be a sidewalk next to the building.

Councilor Lee questioned if the lease with the Volcanoes had been checked pertaining to requirements regarding Radiant Drive. City Manager Chris Eppley responded that contact has been maintained with the Volcanoes over the last four years regarding this project and he has no doubt that they would be willing to work with the City on future alignments. Councilor Lee asked for additional explanation on Road C. Mr. Brown responded that Road C is necessary to provide internal circulation. By establishing Road C, a portion of land was carved off some parcels. If that is a public right-of-way, it creates a parcel that does not meet the dimensional or area requirements of the EG zone because of size, depth or width requirements. City Manager Chris Eppley followed up that the reason it is developed on a public easement as opposed to right-of-way, is that allows them to retain ownership of the ground and count that area as part of a lot size so it remains in one parcel. The road that will be built will feel like a public road and the City will maintain ownership and maintenance of it.

Chuck Sides, 2555 Hollywood Drive, Salem, complimented staff on all the hard work that has been done on the project and added that it was his hope that the Council will vote to move forward because time is of the essence and the concept has to be approved in order to meet the next movement forward.

Jeff Benner, 5000 SW Meadows Road, Suite 430, Lake Oswego, the designer of the master plan explained that what has been done over the last four years is a culmination of a lot of hard effort: a Site Plan that takes into account everything that has been addressed in the Keizer Master Plan requirements, criteria created by the developer and by others. There are two (and possibly three) tenants who are signed and ready to move forward on this project with many to follow.

Councilor Gaynor inquired as to the location of the sign. Mr. Benner showed him the location on the map and continued that initially in the first Urban Renewal hearing it was located in a different location, but it has been moved away from the park and is being treated as an identifying sign element. Councilor Moir questioned Tepper Lane and the pedestrian underpass, the landscaping along the back of the buildings, and access points for pedestrians that would be using Tepper to get to the stores if they didn't want to come down to the proposed realignment of

Radiant Drive. Mr. Benner responded that he was not sure of exactly what the future plans are for the PGE property but concerning the area of the planned entertainment/sports facilities, they are in planning, but every effort is being made to make good pedestrian connections not only to the baseball field but to the entertainment they hope to provide. Concerning Tepper Lane there is an underpass under the railroad tracks. They will actually bring them, they will border along an 8-foot sidewalk eastward, they will go past a loading and be connected into the front of "Major One" and they can actually traverse to "Anchor 2" and "Anchor 1" or they can connect to "Majors 2, 3 and 4". There are other connections that move laterally throughout the site to the shops buildings and those buildings across the street.

Councilor Smith noted that with the orientation of the buildings the Keizer Stadium and a future entertainment sports complex will be looking at the back of buildings (blank walls, loading docks, garbage bins, etc.). She asked if landscaping was planned to make it more attractive. Mr. Benner responded affirmatively and showed some different pictures. He added that there will be a significant amount of articulation and undulation in the building wall, variation in heights and tower-like elements, 12-foot screen walls, character adding details and landscaping.

Councilor Walsh asked what Tepper would look like at completion. Mr. Benner replied that it would have a  $\frac{1}{2}$  street improvement so on the south edge there would be a finished street with the bike lane, landscaping, and the 8-foot sidewalk, but it would not be improved on the north side. Mr. Brown added that the conditions require only the south side of Tepper be fully improved, that the cross section of Tepper is  $\frac{1}{2}$  width and constructed at collector street standards to accommodate the heavy truck traffic that is anticipated, but at this point there is no requirement because the other half of the street will be acquired when the other side develops. Councilor noted that if the other side of the street would not have a bike lane until development occurs on that side so bikes could use the other side to get to the east side of the development, but on the way home the bikes would have to fight with the anticipated truck traffic without a bike lane. Mr. Brown pointed out that Tepper lane will be closed off to through traffic. Mr. Walsh pointed out that it would be designated for bikers, it will go through for bikes and since there are loading areas, there will be trucks.

Rob Kissler stated that it is legal for a bicycle to ride on a 12-foot lane going westbound toward Tepper. There will be a transition at the end of Tepper Lane on the westernmost portion for a turnaround to accommodate both emergency services. The transition will also allow for bicycles and pedestrians to continue west under Tepper Lane. Currently development code standards do not require improvements on the north side of Tepper Lane. Additionally, at the time of the construction of Volcano Stadium the city constructed a gravel walking path on the north side of Tepper to give pedestrians an opportunity to stay off the roadway. Mr. Kissler added that he would not want to lead Council into thinking that there was ever going to be any development on the north side of Tepper, at least on the frontage of the BPA because he does not anticipate that use being changed any time soon. It is unfortunate that when the BPA developed that years ago that they weren't required to do some frontage improvements. So the short answer is that they are not required to construct a bike path, but if Council wishes there may be some ways to do that with other funding and incorporate at least a bike path on that side. It would take some work with utility relocation and a property owner who would be willing to work with the

city on placing that bike path along a potential part of their frontage. Mr. Walsh added that if this is the area we are encouraging everyone from the Gubser neighborhood to come into via alternative transportation, there should be a safe way to return home, especially with truck traffic. He encouraged exploring the completion of the route through whatever means available.

Responding to questioning from Mr. Eppley, Mr. Brenner said that he thought the 8-foot sidewalk on the south side of Tepper Lane was dedicated right-of-way and a 12-foot sidewalk could be built which is the ODOT standard for a multi-use path in that area. This would take care of the bike lane issue. Mr. Benner requested approval of the Master Plan and the subdivision map with the caveat that he will work closely with staff for the next four days to make sure that a subdivision map is created that is acceptable to the city. Although they would like to be granted the variance on Anchor B they understand that with respect to all the conditions for approval including the signs, they are in favor of the compromise. Mr. Benner noted the concern over pedestrian traffic coming eastbound on the north side of Chemawa where they cross Road A and move northerly. Nate Brown had suggested providing the pedestrian connection adjacent to the railroad tracks on the west side of Road A and have that as a direct connection to Anchor 1. Mr. Benner stated that his firm believes that people coming from Lockhaven/Chemawa will use Radiant. This sidewalk will provide direct access to the center. It is thought that the sidewalk in question would not have high usage. Other sidewalks could be provided on the south side, but conditions from ODOT and the railroad that prevent crossings where necessary. It is also thought that northbound pedestrians would most likely drop down into the project along the south side of Anchor A. In conclusion, Mr. Benner stated that a connection can be provided that will connect Anchor A and Anchor 1.

Chris Stanely, Kittleson & Associates, 610 SW Alder, Portland, stated that the pedestrian crossings details will be worked out with the City and ODOT. There are many components and factors that come into play. The original plan was right-in right-out movements which did not allow pedestrian crossings across Chemawa. To cross, pedestrians will currently cross in different locations. A diagonal crossing is being evaluated. Typical they are done where there is an "all pedestrian" phase at a signal so pedestrians can cross at both 90° and 45° but it is definitely a design specific solution for this project. Mr. Brown added that staff has not considered or evaluated any of the details of such a proposal. Mr. Stanley continued by addressing the bikeway on Tepper Lane. He described the character of Tepper Lane as a dead end of street so the volumes will be low. From this standpoint there should be flexibility to provide bicycle facilities including a multi-purpose path. Another option would be no striping on the street so it operated so the cars and the street share the same travelway.

Council recessed for 10 minutes.

Ross Day, 7831 St. Charles Street NE, Keizer made a couple of procedural objections: (1) with regard to jurisdiction, he will reserve the right to raise the issue on further appeal and (2) during the last recess he witnessed numerous ex parte contacts were not declared on the record which is required to do immediately when session reconvenes. He then stated that he is privileged

to serve on the Keizer Planning Commission. He continued that during this process he was arguably, outside of the developer, the biggest proponent of the Keizer Station Plan and he still is. However, he did not attend the meeting in his capacity as a Planning Commissioner. Instead he attended as attorney for Robert and Marilyn Lowery, property owners alongside Chemawa Lane. They own 5 or 6 tax lots which are within the scope of this Master Plan. Keizer Development Code is very clear; it states that the only people who get to apply are the property owners or their agents, authorized agents, or a successor in interest. The applicants are neither. This application is not properly before the council today. The jurisdictional question is also an issue of criteria because part of the criteria for submitting an application requires that submitter to be a proper applicant. Mr. Day directed Council to Johnston vs. City of Albany 34 LUBA 32, 1998 Case which has nearly identical facts. A Master Plan by developers was submitted to the City of Albany; City approved it; it included some property which was not owned by the developers at the time and as a result the LUBA reversed and remanded the decision.

The Lowerys still own their property despite the condemnation threats that are being levied against them. They have lived there since 1946 and operated the nursery for 30 years. They are not the applicants here today, however the application involves their property. Accordingly, this application should have never have been accepted, but right now is not properly before the council. Mr. Day stated that his concern is not only with the process but also with the rights of the Lowerys. The reason for the haste in moving this application forward is that within 7 days of June 30th the developers can request the Keizer Urban Renewal Agency to institute condemnation proceedings, presumably against the only two property owners who have not sold. This is not the appropriate use of the condemnation authority which is a tremendous authority and should not be used lightly. Mr. Day represented that he and the Lowerys would fight this as long as they have to. It is a simple matter of fairness to the Lowerys. The matter is not properly before the council, the council does not have the authority to approve it, although it may be approved and an appeal will be filed and it will be back before the Council.

Councilor Smith mentioned that she was at the nursery a year ago and the two gentlemen who sold the plants to her indicated that they were leasing or buying the business from the Lowerys. She noted that last summer Mr. Lowery was not there and questioned if he had leased or sold the business. Mr. Day responded that to the best of his knowledge Mr. Lowery still owns the nursery.

Councilor Walsh asked Shannon Johnson about declaring exparte contacts or any contacts. Mr. Johnson responded that the hearing was recessed technically and it probably should have been held more as a joint discussion. He suggested that if any Councilor speaks, the exparte contacts should be declared at this time. He explained that an exparte contact would be anyone (including another Councilor) who was spoken to as well as the nature of it. The reason for that is that theoretically during break all members should have left the room and not discussed the issue, but it makes the most sense to get up and look at the pictures and while people are standing around, talk about what you see in the pictures. Technically, however, that is an exparte contact because the record is not open and the tape is not running. To just say you had the exparte

contact is not enough, because objectors don't know what you learned from that and cannot make appropriate rebuttal. So he suggested that Council members declared them and put them on the record at this time.

Councilor Moir declared two exparte contacts: 1) Joel Stein of the Keizer Fire Department about Tepper Lane and the turnaround for the fire vehicles to see if that met their standards and he informed her that they did. 2) Jerry Walker of the Keizer Volcanoes; about future possibilities for the development of the area north of the area being reviewed tonight and accesses into that area. She did not finish the conversation because she brought the City Manager in and left.

Councilor Walsh declared five exparte contacts: 1) Jerry Walker about Tepper Lane and some improvements there; 2) Mr. Jensen discussing and pointing at the sign and expanding the path to 12 feet. Mr. Jensen had commented about the expense of adding an additional 4 feet and that was discussed. 3) Mayor Christopher and Jerry Walker joined the conversation with Mr. Jensen and they all tried to figure out how big 68 feet was because the height of the sign is 68 feet. They were outside trying to compare different trees measuring them against the 10-foot tall basketball hoops and trying figure out how many basketball hoops it would take and came to the conclusion that the second tree next to the white house is probably closest to 68 feet so that would be about the size of the sign. 4) Councilor Gaynor and Councilor Lee about the path and sign. 5) Joel Stein with the Fire District who mentioned Tepper Lane and how it would be nice to find an alternative path for fire trucks to get to the back side of the Keizer Station, perhaps under the underpass which was an idea that he proposed several months ago, and they discussed that a little. ( Mayor Christopher stated that she was in on the tree discussion).

Councilor Gaynor stated that his exparte contact was with: 1) Chris Eppley after he finished talking about the traffic patterns by Station A. Mr. Gaynor stated that he had an area where he like to walk his dog and he wanted to know if it would be possible to get a path up to the corner and he could go across the street heading north and connect to the same bicycle path to the one that now goes under because he didn't want to go down the hill and back up again, and he thought others might feel the same. However, Mr. Eppley had informed Councilor Gaynor that if that was done, the pedestrians would interfere with the traffic flow on Chemawa Road because they would be pushing the button. Councilor Gaynor asked if the pedestrians could be ignored and Mr. Eppley had said no, there has to be a button for a pedestrian walkway. 2) Chris Stanley with Kittleson about the 68-foot sign and that he liked the sign.

Councilor Smith declared one exparte contact with former Councilor McGee with discussion centering around the Budget.

Councilor Lee declared that he wandered around listening to everyone but his exparte contact was with: 1) Richard Walsh taking part in the tree debate regarding the sign. 2) Former Councilor McGee and Councilor Smith with some mention as to how many people were going to be speaking at the Public Hearing this evening. 3) Larry Epping who stated he was here to learn more about it. They spoke about how exciting the project is. 4) Councilor Gaynor and Shannon

Johnson regarding the location of the sign. City Attorney Shannon Johnson encouraged anyone in the audience, including Mr. Day, to question the councilors on their exparte contacts.

Jim Shomeyer, 2328 Aldene Court NE, Keizer stated he attended the meeting to get clarification on the site and boundary wall that will be along the property lines on Site B, the entrance road of the project. He also wanted to know how tall it would be and questioned what would be done with the sewer cleanout behind the property. He asked for insight because it affects his property value. Nate Brown explained that it would be at the rear of all of the residential properties that abut Area B. He continued that it is the desire of the City to work with the property owners and that because Radiant Drive is depressed the need for the wall might be better indicated by working with individual property owners and what their desire is. Those details have not been defined specifically. Council might wish to direct staff to work with individual property owners that abut the rear property line, which staff would be willing to do. Mr. Brown continued that the wall depends on site characteristics: the ones along the freeway are higher than something within the city. Mr. Shomeyer added that he wanted to have input regarding the wall because some residents will have lights coming into the back of their house, as well as sound pollution and foot traffic. Originally it was supposed to be a landscape barrier rather than a wall, which he didn't like either. Some neighbors like the wall idea, but he noted he couldn't speak for all of them. Mr. Brown explained that the Development Code requires that lighting be directed away from residences, so that issue will be addressed. When the Master Plan is developed for that area, the lighting will be considered. Regarding the landscape buffer vs. the wall, the landscape buffer typically does not attenuate sound very well, and the concern has been for the privacy of those people. There will be a large amount of traffic on Radiant, so a wall is being required. Details of the specific wall will depend on a lot of factors. Contact with the landowners will come at the direction of Council. Councilor Smith noted that a wall of this nature was an effective means of blocking sound. The Lockhaven Sound wall (10-12 feet high) might be a good example for Mr. Shomeyer to look at. Chris Eppley added that because the site has unique characteristics and the road will depress below ground level for a significant portion of it, the wall might have less impact in some areas than others, so the site will need to be evaluated specifically and property owners will be worked with. The City does not want to build more wall than necessary but wants to assure residents in the area that they will be protected from sight and sound.

Jerry Walker, 6604 Rimrock Court NE, Keizer with the Salem-Keizer Volcanoes noted he had no idea he was involved in exparte contacts. He added that he has had a lot of discussion with the developers and he commended them for their work. He added that much work has been done to get people out of the Volcano Stadium parking lot and onto the roads that go through the development. The way it looks right now on the drawing presented, it will not work. Because of this he has met with the developer several times over the last month and they have come up with three very good alternatives, two of which are very good, that he would like them to present assuming that it is part of the Master Plan. None of these alternatives are shown on the map, possibly because it is a fairly recent development. He added that he understood that it was the developer's intent to have it included and, therefore, it should be discussed tonight so the Council

knows how we are going to get all the people out of the stadium. Part of the problem has been the lack of time to focus the last week or so since he had about 11,000 people over for dinner this past weekend and had spent a lot of time preparing for that so was unable to maintain contact as well as normal. He concluded that this would be an appropriate time to see how people would be directed out of the stadium. The way the drawing looks right now, it shows only one lane of traffic leaving Volcano Stadium and that created his initial concern and led to the discussions which he had with the developers because one lane of traffic leaving the stadium will not work. They do, however, have a couple of good plans that will work so maybe Chris Stanley could speak to that point now.

Chris Stanley joined Mr. Walker and reported that based on meetings with the Volcanoes a few sketches were provided to Jerry Walker to review to ensure that the stadium will be able to accommodate the games and other special events and that people will be able to easily and efficiently get in and out. Radiant Drive was evaluated and additional capacity was added specifically to accommodate stadium events. The next question was with Radiant Drive being realigned, how would it connect to the stadium. Several alternatives were developed to be evaluated. Because there are several factors that must go into that evaluation, such as utilities and plans for the area to the north, Mr. Stanley's recommendation was not to choose an alternative at this time because it might become something that is difficult to build, but he would recommend that the Council allow the work with the Volcanoes to continue so that whatever is built is to their satisfaction. Mr. Stanley stated that currently Radiant Drive dead ends into the middle of the stadium parking lot. The new plan shifts it to the west so the driveway out of the stadium is somewhat offset. The current exit out of the stadium accommodates two lanes out, one continuing straight down Chemawa and the other one continues right onto Tepper. As part of the plan, the vehicular access down Tepper is going to be eliminated which will be a better solution because it will reduce stadium traffic across the railroad and through the neighborhood. That means two exit lanes will be required in order to maintain the same capacity. There is redundancy in the system by adding a second southbound lane on Radiant to the first signal and there are alternative routes throughout so there is a lot of flexibility. The addition of the traffic signals will improve safety particularly at Chemawa where there will be signalized access points instead of the current unsignalized ones. Work with the stadium involves connecting this road that currently tees into Tepper with the stadium. Ultimately there is a lot of discussion about the possibility of extension to the north for some long range planning with the City, what development will go in, etc. When the applications come in this will be something that must be designed into it. The focus was on guaranteeing continued capacity but does not limit possibilities. One of the options investigated was widening of Tepper Lane so that there are two lanes out of the parking lot up to where Radiant intersects and then continue southward. One of the constraints here is the width, because there is currently a power line on the north side of Tepper Lane. Another option is to provide two lanes into the southern area of the parking lot and another option is to provide two more lanes into the central area of the parking lot. Some of the issues that will need to be addressed with that is property ownership, the power line in the area and making sure that when the connection is made into the parking the striping and the configuration of the parking lot for the Volcanoes facilitates access. Mr. Stanley concluded stating that they will continue to refine the

constraints and work with Mr. Walker to ensure that the alternative is both build able and will operate well.

Councilor Walsh inquired if signals could be tailored to the ball games or timed to give priority to the ball game people. Mr. Stanley responded that that has been something the city has said from the beginning: they want Radiant Drive to be a priority roadway. That people traveling throughout the area and particularly to/from the stadium want the through movements to have little delay. The infrastructure has been designed accordingly and the traffic signals along Radiant will be interconnected so that when one signal is approached it will turn green so through movements will receive priority. Mr. Stanley added that the he anticipates that a specific signal phasing plan will be done for stadium events only so that when the games let out, people leaving the stadium will have even greater priority. As it is the light will stay green until someone comes to the side street, but a specific plan will probably be developed that increases the green time even further to maximize the ability to get access.

Mr. Walker stated that he would be pleased with any type of approval that is subject to or conditioned upon creating that link to the Volcano Stadium parking lot. Apparently it is not defined accurately yet, but it is very important.

Mayor Christopher closed the public hearing.



## **EXHIBIT "B"**

### **Criteria and Standards**

The criteria and standards relevant to the application are found in the Keizer Development Code (KDC). The specific criteria are set forth below:

1. Keizer Station Master Plan
2. KDC 3.113.04 (KSP Master Plan)
3. KDC 2.119 (Employment General Zone)
4. KDC 2.302 (Street Standards)
5. KDC 2.303 (Off Street Parking and Loading)
6. KDC 2.305 (Transit)
7. KDC 2.306 (Storm Drainage)
8. KDC 2.307 (Utilizations)
9. KDC 2.308 (Signs)
10. KDC 2.309 (Site and Landscaping Design)
11. KDC 2.313 (Development Standards)
12. KDC 2.419 (Service Stations) 2.420 (Automotive Services)
13. KDC 3.108 (Subdivision) 3.110 (Development Standards for Land Divisions)
14. KDC 3.105.05 (Major Variance)
15. KDC 2.308.10 ( Sign variance)

No other specific criteria and standards were raised at the hearing.

## **EXHIBIT "C"**

### **FACTS**

**A. APPLICANT/OWNER:** \_\_\_\_\_ Northwest National, LLC

**B. AGENT:** W & H Pacific, Rick Martin

**C. PROPERTY LOCATION :**

The subject property is located at the Chemawa/Interstate 5 interchange. The subject property consists of Area A (Village) of the Keizer Station Plan, a parcel owned by the City and located in Area B (identified on Marion County Tax Assessor's Map No. as Township 6 South Range 3 West, Section 36BC, Lot 06000); and other property located in Keizer Station Plan Area B.

**D. EXISTING PARCEL SIZE:** The subject property contains approximately 96 acres.

**E. EXISTING DEVELOPMENT AND PUBLIC FACILITIES:**

The site has street frontage onto Chemawa Road, Lockhaven Drive, Tepper Lane, Radiant Drive, Ridge Drive, and McLeod Lane, which are public streets. I-5 and the Chemawa Interchange are immediately east of the site. Public water is available to the subject site. Public sanitary sewer service is currently available north of the site. Public bus transit is provided by Salem Area Transit with Route numbers 4 and 9 currently serving the intersection of Lockhaven and McLeod. Route #4 services the School for the Deaf, Cherriots Administrative Office, Keizer, and Whiteaker Middle School.

**F. PLAN DESIGNATION AND ZONING:**

The subject property is designated Special Planning District on the Comprehensive Plan Map and is zoned EG (Employment General) for the parcels in "Area A" and CM (Commercial Mixed Use) for those in "Area B".

**G. ADJACENT ZONING AND LAND USES:**

The site is bordered on the north by Tepper Lane, Interstate 5 (I-5) to the east, Portland and Western Railroad to the west, and Chemawa Road to the south. A residential neighborhood is located on the west side of the railroad tracks, and Tepper Lane crosses the tracks, providing street access between the subject property and the neighborhood. Industrial properties, electrical utility facilities, and the baseball stadium lie to the north of Tepper Lane. The surrounding properties are zoned RS - Single Family Residential to the west, IG - Industrial General to the north, and IBP - Industrial Business Park to the northeast and south.

## **H. PROPOSAL:**

The proposal consists of four related applications, which are Keizer Station Master Plan, preliminary Subdivision plat; a Major Variance for building setbacks for seven (7) buildings; and, a Sign Variance. These four applications are described in more detail below:

Originally, a Comprehensive Plan Map Amendment/Zone Change application was applied for to accommodate the adjustment necessary for the placement of "Anchor 1". Analysis of the zoning showed that the southern half of the Portland General Electric property was zoned EG with the Keizer Station Plan and a zone change was unnecessary.

### **Keizer Station Village Center Master Plan**

#### **Land Uses**

Development within the site includes 758,810 square feet of commercial/retail building area, 3.12 acres of park land, 799,110 of specified uses (KDC 2.119.07.B), five plazas ranging in size from approximately 2,750 to 4,900 square feet, and bike and pedestrian pathways. The site is grouped into three distinct planning districts:

- **Power Center:** northern half of the site. Includes anchor buildings 1 through 3, major tenant buildings 1 through 7, retail buildings 1 through 4, and restaurant buildings 1 through 4. These buildings will include, but are not limited to, tenant uses such as home improvement, variety, clothing, home furnishings and electronics, office products, crafts, home accessories, books, small in-line shops and restaurants, sit-down restaurants, and drive-thru restaurants.
- **Neighborhood Center:** located between Radiant Drive and the northern portion of the site. Includes anchor buildings A through B, shop buildings A through C, and pad restaurant buildings A and C. These buildings will include but not be limited to such things as grocery, drug store, food court, sit-down restaurants and neighborhood shops and services.
- **Arca south and east of Radiant Drive:** Includes a major commercial office building, hotel, sit-down restaurants, drive-thru restaurants, fuel center, and other related commercial uses.

Three parks, totaling 3.12 acres, are proposed:

- **Chemawa Park (1.10 acres)** is located outside the master plan area, between the relocated ODOT access control fence along Chemawa Road, road A and B and lot 1. It will act as the village center entry point for pedestrians. Amenities include open space lawn area, ornamental shrubs and trees, benches, tables, trash receptacles, and pedestrian scale lighting fixtures.

- Central Park (.97) is located adjacent to I-5, at the east end of the site. The park surrounds a 0.28 acre wetland area and will combine existing native vegetation with ornamental plants and trees, and plaza/hardscape amenities. Plaza construction and amenities will include: concrete pavers and poured in place concrete; a range of concrete finishes from standard broom finish to colored stamped patterns; natural stone faced retaining wall to define the wetland area and relationship to the park/plaza area; benches, tables and movable chairs; and bollards, cast iron tree grates, trash receptacles and movable planters. A multi-use shelter/gazebo will create a community gathering space for special events throughout the year.
- Tower Park (1.05 acres) is located in the northeast corner of the Village Center. It has an open space environment consisting of lawn and ornamental shrubs and trees to create an informal park. Design elements will include benches, picnic tables, trash enclosures and a pedestrian pathway that connects the overall Village Center pedestrian circulation system to the Volcanoes baseball stadium complex to the North of the site.

Five plazas are proposed in order to offer outdoor use opportunities. Amenities include seating, tables, articulated plaza features, trellises, water features, specialty lighting, and more intense landscaping. The plazas are located between shop A and B, between pad C and shop C, south of major 7, between retail 2 and 3, and south and east of major 4.

### **Circulation**

The internal street system allows for vehicular travel within the site as well as providing access to and from major arterial streets to the south (Chemawa Road), west (Lockhaven), and access to the existing and future sports facilities to the north. There will be approximately two miles of new public roads and three new bridges.

Internal streets will have a boulevard feel with tree lined streets, landscape medians, and low-impact street lighting. All streets are proposed with bicycle lanes in each direction and eight-foot wide pedestrian sidewalks, separated from the street with a five-foot landscape buffer. As a result of safety concerns, certain specific areas do not have sidewalks. Radiant Drive is the primary through street and will be depressed for a portion to allow it to pass under the railroad and Roads A and C. Tepper Lane will be widened to accommodate a local street improvement. An additional nine feet of right-of-way for a half-street width of 24 feet will be dedicated. A pedestrian underpass at Tepper Lane will provide a pedestrian and bicycle connection from the adjacent neighborhood to the development.

A system of internal pedestrian walkways to building structures is proposed. These connections vary in width from five feet to twelve feet and connect to larger articulated building entrance plazas, varying in width from 10 feet to 16 feet, and the larger outdoor plaza areas.

## **Water Service**

Water service will be provided by a connection to a new reservoir south of Chemawa Road NE as well as connection to the existing water mains in Tepper Lane and Lockhaven Drive. The public water system will be constructed in dedicated public right of ways within the realigned Radiant Drive and roads A, B and C. Fire hydrants will be spaced between 250 and 500 feet to any point on the buildings.

## **Sanitary Sewer**

Sanitary sewer service will be provided through a connection to the existing 21-inch sewer main at the intersection of the existing Radiant Drive and Tepper Lane at the existing ball field entrance. The public sewer main will be extended to the south along the realigned Radiant Drive, within the right of ways for streets A, B and C and within dedicated public right of ways. Each lot will be provided with at least one sewer service connection.

## **Storm Drainage**

Storm drainage facilities will be provided within the public roadway system to collect and convey runoff from the development. The project area is identified as a critical drainage basin, requiring higher runoff control standards. The public storm drain system will provide an overcapacity conveyance system. Each private lot will provide water quality treatment and detention of its storm water runoff.

## **Landscaping**

Most of the existing deciduous trees are a combination of alder, ash, poplar, maple, birch, oak, unidentified sucker and common orchard fruit and nut trees. Existing evergreen trees include cedar, fir, pine, and sequoia. Twelve significant evergreen and two deciduous trees have been incorporated into the new site plan. A grove of aspen and ash/alder have been preserved within the wetland delineation area (Tract A). The landscape master plan shows a proposed ratio of 7.7 new trees for every one tree removed.

## **Subdivision Proposal**

The subdivision request is to subdivide 95.7 acres (currently 39 lots) into a 14-lot and 3-tract commercial/industrial area.

## **Major Variance**

The applicant is requesting Major Variance approval for the building setbacks for buildings labeled as Pad 'A' and 'C' and Restaurant '1', '2', '4', and '5'. The Keizer Development Code has a minimum setback of twenty (20) feet for Industrial Uses within the EG Zone. The applicant is proposing to allow a minimum setback of 12 to 14 feet. In addition, a Major Variance is requested for the building setbacks for Shop 'A' and Anchor 'B'. The Keizer Development Code requires a minimum setback of ten (10) feet and a

maximum setback of twenty (20) feet for commercial uses whereas the applicant is requesting a setback of 31 to 33 feet.

### **Sign Variance**

The applicant is requesting a Variance for the sign height. The Keizer Development Code has a maximum height limitation of 20 feet. The applicant is proposing a tenant directory sign that is 68 feet in overall height.

## **II. COMMENTS**

### **AGENCY COMMENTS:**

The Public Works Department has submitted a memorandum with extensive comments and recommendations regarding the proposal (~~Exhibit 2~~).

### **OTHER COMMENTS:**

The Keizer Fire District ~~has submitted the requirements of the Uniform Fire Code and are attached to this report (Exhibit 3)~~

The city received The comments from City of Salem Development Services, Portland General Electric, Marion County Planning, and citizens., ~~and citizens are also attached to this report (Exhibit 4).~~

### **III. FINDINGS – KEIZER STATION MASTER PLAN**

#### **Introduction**

This master plan application is the first proposal submitted following the adoption of the Keizer Station Plan and the related Keizer Comprehensive Plan and Development Code (KDC) amendments. A master plan is subject to a Type II-B procedure (KDC 3.101.02), which includes a public hearing and decision by the City Council. Following City Council approval of a master plan, subsequent city review of the project design and construction details shall be completed as part of the building permit approval process.

#### **Objections By Lowerys**

Oregonians in Action Legal Center submitted a letter dated June 21, 2004 indicating that they represent Robert and Marilyn Lowery. The Lowerys reside on property located in the Area A-Village Center. Such letter, in part, argues that Keizer Development Code (KDC) Section 3.201.04 requires in essence that the owner or agent of the owner are the only ones that can submit a Master Plan application for the subject property. However, in the adoption of KSP Master Plans, including all Master Plan elements, the applicant need not own or control all of the land.

KSP Implementation procedures "Land Use Reviews" states in relevant part the following:

"This Plan calls for the development of Master Plans for Area A - Village Center, Area A - Sports Center, Area B, and Area D. In Area C, a Master Plan is only required for development of two or more lots/parcels. The Master Plans are to be reviewed and approved by the City Council through a Type II-B review process in accordance with the Keizer Station Plan design guidelines. These Master Plans are to be publicly or privately prepared representing the development proposal for a given area. It is recognized that the applicant of the Master Plan for an area may not own or control all the land within the Master Plan boundary. All property owners in each area are encouraged to join together as co-applicants. However, to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area. Amendments to an approved Master Plan shall require City Council approval. Subdivision approval shall be based upon the applicable zone and applicable KDC Section 3.108 requirements.

The Master Plans will be developed and considered in accordance with the requirements of the Activity Center Overlay provisions (KDC Section 2.125 of the Keizer Development Code). Individual areas may require a detailed transportation system design plan as a requirement of Master Plan approval. Once a Master Plan is adopted,

individual buildings and uses must receive building permit approval. As part of the building permit process, the proposal will be evaluated for compliance with the adopted Master Plan, zone standards, and applicable design standards as referenced in the Keizer Development Code. In the case of conflicts between the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards will apply.

- In order to establish the Type II-B procedures, KDC Section 3.101.02 is amended and shown in Attachment B.
- In order to establish the criteria for Type II-B review, KDC Section 3.113 is added as shown in Attachment C." (Emphasis supplied)

KSP, p. 10

In turn, Attachment B (Summary of Application Types) states:

"The following actions are processed under a Type II-B procedure:

- "1. Keizer Station Master Plans, Subdivision and Partitioning."

KSP, Attachment A, page 1.

Master planning of the KSP area was determined by the City Council to be necessary for cohesive development of the area and to achieve the economic development purposes of the KSP. As is clear from the above quoted provisions, master planning includes public facilities planning as well as subdivision or partition approval. No one has contended otherwise. Moreover, it is also clear from the above quoted provisions that any conflict between the KSP provisions and the development code are resolved in favor of the KSP.

The Council finds that KDC 3.201.04 does not apply to the KSP Master Plan application. The council finds that the approval contemplated in this proceeding is the approval of the contemplated KSP Master Plan including all of its elements to realize the objectives of the KSP.

Master Plans are subject to the Type II-B process and the Type II-B process as quoted above expressly contemplates that all owners may not submit or approve of the master plan application. Nevertheless, a master plan is required by the KSP. Further, in the Master Plan approval process, the City expressly required that all property be included to ensure the KSP area is developed as a cohesive whole. It is axiomatic that the master plan approval process specified in the KSP is not subject to collateral attack here.

As the KSP provisions explain, the specific provisions of the KSP prevail over the more general provisions of the city code. Here, the master plan application includes all of the contemplated elements, including streets, public facilities, open space, parking, subdivision and variances. At the time of actual KSP development under the Master Plan provisions, the property must be owned by the developer, or it must be acquired by the city or Urban Renewal agency. The City Council finds it is feasible for the city



to exercise its authority of eminent domain to acquire any property necessary to allow the implementation of the KSP approved Master Plan.

The KSP and the ability to achieve the purposes of the KSP through the KSP process has been explained and determined by both the city council and the city urban renewal agency in the comprehensive analysis of the KSP. Adopting the Master Plan is necessary to achieve the purposes of the KSP.

The city and its urban renewal agency determined that the KSP and its processes were necessary to provide economic development opportunities to the city and its citizens. The findings supporting the KSP decision adopting urban renewal for the KSP area explain:

"The City Council finds the lack of development in the CACP area particularly troubling because no development occurred through the 1990s, the decade with the greatest economic growth in recent history." "The City of Keizer and the Urban Renewal Agency of the City of Keizer entered into a 'Nonexclusive etc to the end of that sentence.

Finally, the City determined the best way to achieve the objectives of the City and the City's urban renewal agency was through the KSP and the KSP development process as follows:

"The applicant for the [adoption of the KSP amendments] is the City \* \* \*. Northwest National LLC is the City's choice of developer to bring the economic objectives of this decision to fruition." KSP Findings page 7.

The Master Plan has been presented by Northwest National LLC as contemplated to achieve these economic development objectives.

It is important to underscore what the findings supporting KSP explained after listening to citizen testimony in countless public hearings:

"The biggest deterrent to realizing economic growth in Keizer is the lack of commercially zoned property." KSP Findings page 68.

"If nothing is done, the lack of commercial land will seriously inhibit Keizer's economic development potential in the near and long term." KSP Findings page 69.

"The KSP includes requirements for Master Planning, which is a planning tool available to encourage vacant or underutilized land to be aggregated and developed as a whole. Therefore, through the tool of zoning designations and master planning, the sites in the KSP alone are capable of delivering the suitable sites having the size and locational and other characteristics that the [economic opportunities analysis] identifies." KSP Findings page 76.

While the City prefers that the Master Plan be implemented in a collaborative process, the City's authority of eminent domain allows it to complete the Master Plan in order to complete the KSP. Completion of the KSP is respectful of the countless hours of citizen testimony, planning commission, city council, city urban renewal agency, SKAPAC and the time of others in crafting the KSP.

The KSP including its findings were affirmed by both Land Use Board of Appeals and the Oregon Court of Appeals and it is inappropriate and unfair to revisit that decision at this late date. The City will not do so.

### **Master plan Criteria**

The criteria that apply to a master plan range from overall master plan objectives and arrangement of uses to landscaping, site planning, and architectural details. The master plan application provides the information required by the KDC. Because this project will occur over a number of years involving buildings for tenants which are not known at this time, not all of the specific building design details are available as part of the master plan review. The concepts that are presented will however provide a basis for specific building permit review and administrative approval.

As a result, this staff report focuses primarily on the proposed master plan concepts submitted by the applicant and the overall objectives of the Keizer Station Plan and related KDC provisions. Many of the design details will be evaluated during the building permit process. It is important for the City Council's master plan decision to provide clear guidance regarding the desired outcome of the many design decisions that will be part of building permit approval for the improvements.

In addition to the Keizer Station Plan and KDC, the applicant and the city entered into a Development and Disposition Agreement (DDA) on November 6, 2003, which supplements the adopted city plan and code requirements. The provisions of the DDA, which are relevant to this process, are covered in a separate section of this report.

- A. The Review Criteria for the Keizer Station Master Plan are listed in Section 3.113.04 of the Keizer Development Code (KDC). The criteria and findings are listed below:

3.113.04 A The master plan shall meet the purpose and objectives identified in the Keizer Station Design Plan.

The purpose and objectives for Area A – Village Center, are identified on page 15 of the Keizer Station Plan and are listed below.

- a. Purpose: The Village Center will provide the opportunity to establish a true economic activity center that will focus on offering a variety of industrial and commercial

activities. Key issues that will need to be considered as Area A – Village Center develops include:

- Location and design of transportation facilities.
- Traffic operations at the Chemawa Interchange.
- Physical constraints (e.g. power lines, utility easements, rail right-of-way) that will influence the amount of buildable land and building locations; and
- Phasing of development.

## **FINDINGS:**

The proposed development in Area A includes approximately 898,000 square feet of floor area offering a combination of commercial and industrial uses as specified in the EG zone (discussed later in this report).

The applicant's traffic consultant, City Staff, the City's traffic engineer, and City engineer (plans have been forwarded to the Oregon Department of Transportation (ODOT)) have evaluated the impact of this development on the transportation system. The street design is based upon the input from traffic and transportation planning professionals from each of these parties.

The buildings and improvements are located to keep existing easement areas clear of inappropriate development.

No information has been provided regarding phasing for the development shown.

b. Objectives: Development in Area A – Village Center will be focused on achieving the following objectives:

- Provide a northern gateway to Keizer;
- Develop a variety of employment opportunities;
- Create a focal point for commerce and community activities;
- Establish a place for multiple activities;
- Provide a gateway to sports activities; and
- Be a source of employment opportunities.

## **FINDINGS:**

The landscaping and pathway improvements along Chemawa Road and I-5 and a "Welcome to Keizer" monument sign in the northwest quadrant of the I-5/Chemawa Road interchange will create a gateway to the city if developed aesthetically and in accordance to landscape design industry standards and maintained appropriately.

The proposed mix of commercial and IBP uses on the site will clearly provide new and varied employment opportunities. Although the proposed master plan will provide the desired employment, the current design appears to fall short of the objectives to provide a focal point for community and multiple activities, and a gateway to sports activities (primarily the baseball park to the north). The arrangement and orientation of buildings, plazas, and open space provides a scattered assortment of amenities and public spaces, which are separated by significant distances. This results in a development with sidewalks but without any meaningful pedestrian orientation or scale. One must keep the size of the site and some of the proposed buildings in mind when evaluating the site. For example, the three buildings in the northwest portion of the site (Anchors 1 and 2 and Major 1) have a combined frontage of almost ¼ mile. In its proposed configuration, visitors will almost surely drive – even between stores. The following issues can be improved with refinement of the plan that has been submitted for master plan approval. To meet objectives stated above, the following need to be adjusted on the Site Plan as approved by Community Development Director

- ☐ Pedestrian street along Radiant esp. from the Street A intersection to Tepper
- ☐ Gateway to ball park

- Rearrange/improve plazas/open spaces to be more effective public areas so that there are better opportunities for effective pedestrian use.
- Clustering complementary uses/spaces along Radiant Dr. to enhance greater convenience (e.g., between office bldg. and restaurants, hotel and park)
- Improved pedestrian connections generally and provide an more inviting pedestrian gateway into the site via Radiant and Street A such as including re-orienting the office building to take advantage of the park amenities.

3.113.04 B The master plan shall meet the following standards as identified in the Keizer Station Plan in addition to standards within applicable zones:

1. Design standards
2. Transportation system standards
3. Utility standards
4. Parking standards
5. Landscape standards

If a conflict exists between standards within the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards shall be applied.

The applicable zone within the subject site is General Employment (EG). Sections 2.119.02 through 2.119.07 identify the various uses allowed in the EG zone as well as the required mix of industrial and commercial uses. Sections 2.119.08 through 2.119.10 define the development standards, dimensional standards, height, setback, coverage and landscaping requirements, and design standards. Section 2.119.10 states that all

development in the EG zone must comply with the applicable standards identified in the KDC including, but not limited to, the following:

Section 2.3	General Development Standards
Section 2.301	General Provisions
Section 2.302	Street Standards
Section 2.303	Off-Street Parking and Loading
Section 2.305	Transit Facilities
Section 2.306	Storm Drainage
Section 2.307	Utility Lines and Facilities
Section 2.308	Signs
Section 2.309	Site and Landscaping Design
Section 2.310	Development Standards for Land Divisions
Section 2.312	Yard and Lots Standards
Section 2.315	Development Standards
Section 2.4	Special uses
Section 2.419	Service Stations
Section 2.420	Auto Services

## **SECTION 2.119 GENERAL EMPLOYMENT**

**2.119.02 through 2.119.07** identify the use requirements for the EG zone, including the permitted, special permitted, and use restrictions, which apply to the site. A minimum of 25% of the land area must be devoted to industrial uses listed in Sections 2.119.03 and 2.119.04.

**FINDINGS:** The applicant has identified the proposed industrial (subject to 25% minimum requirement) and commercial (up to 75% maximum) use types for the site. The uses proposed under the industrial and commercial categories comply with the KDC requirements.

**2.119.09.B. Minimum Lot Dimension Requirements.** Within the acreage identified for commercial uses, at least eighty percent (80%) of the lots must have a minimum lot area of 20,000 sq. ft., minimum average width of 100 ft. and minimum average depth of 100 feet. The remainder of the lots must have a minimum lot area of 10,000 sq. ft., minimum average width of 75 ft. and minimum average depth of 75 feet. Lots or tracts created only for the purposes of providing a right-of-way or dedicated utilities, public drainage facilities or open space are exempt from the lot size and shape standards of this section.

**FINDINGS:** The subdivision plan submitted as part of the application complies with the minimum lot dimensions.

**2.119.10 Development Standards Height, Setback, Coverage, and Landscaping Requirements.** For commercial development, the standards are as follows:

- Building standards, maximum height: 100 ft., maximum lot coverage: 85%
- Building setbacks, street-side: 10 feet minimum and 20 feet maximum for commercial uses and 20 feet minimum for industrial uses; Side/Rear not adjacent to a residential zone, none; and adjacent to a residential zone, 40 feet.
- Minimum landscaping, percent of lot coverage: 15%

**FINDINGS:** Eight buildings or footprints do not meet these requirements:

- Pads A and C, Restaurants 1, 2, and 4, do not meet the street side setbacks for industrial uses.
- Shops A and Anchor B do not meet the street side setbacks for commercial uses.
- Restaurant 5 shows a building envelope line that does not meet the Industrial setbacks.

As a result, a variance has been requested to allow amended setbacks for these buildings. The variance and related findings are covered later in this report.

- c. Alternative maximum setback option for large commercial uses. Commercial buildings that exceed 100,000 square feet of floor area are exempt from the maximum setback requirements identified in Section 2.119.10.A provided the pedestrian system connects buildings on the site to all adjacent properties.

**FINDINGS:** Anchor stores 1 and 2 and Major store 1 provide adequate pedestrian walkways except that a pedestrian crossing should also be provided to cross Street B next to Retail 1. Anchor 3 should have a walkway connecting to the perimeter pathway along the I-5 right-of-way.

**Anchor 1 and 3, and the building that contains Anchor 2, while able to be setback greater from the street due to their size, still require the same level of pedestrian access. The application meets the criterion only if conditioned as set forth herein.**

## **SECTION 2.302 STREET STANDARDS**

**2.302.03.A. General Requirement.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.

**FINDINGS:** The proposed development features three new public streets within the development and the realignment of the existing Radiant Drive to pass under the existing railroad tracks to connect to Lockhaven Drive between McLeod Lane and the railroad crossing. The location, width and grade of the proposed streets are designed to promote public convenience and safety for the commercial development.

All new public streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. Tepper Lane shall be constructed as a ¼ width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles. All other streets shall be designed to arterial standards in terms of structural section and geometrical configuration. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed.

The Public Works Department comments include specific conditions of approval.

**2.302.03.B. Continuation of Streets.** Development proposals, including subdivisions and partitions, shall provide for the continuation of, and connection to, streets where necessary to promote appropriate traffic circulation in the vicinity of the development. Where necessary to give access or permit a satisfactory future division of adjoining land, streets and utilities shall be extended to property boundaries to allow the future extension of streets and infrastructure. A temporary turnaround shall be constructed for stub streets in excess of 150 feet in length.

No street or utility extensions are required when any of the following circumstances exist:

1. Less than three additional existing or future lots on adjoining parcels would gain access from the extension. For purposes of this criterion, the size of said future lots shall be no greater than two times the minimum lot size of the zone.
2. Parcel shape or size prevents new lots from meeting lot width or depth standards when a public street or infill street is proposed through the parcel.
3. Partial-width streets where adjoining development would provide a full-width public street or infill street; does not eliminate the need for variances to lot depth or width requirements.
4. Natural physical obstructions or barriers, such as parkland, floodplain, slopes, or significant trees, make access and connectivity unreasonable or impracticable.
5. Providing access and connectivity to one or more adjoining parcel(s) would not be useful given that at least one of the following conditions exist:

- a. A future street plan demonstrates that adequate access and connectivity is provided from the adjacent parcel(s).
- b. The development potential of the adjoining parcel(s) is (are) limited due to physical or jurisdictional constraints to such a degree that connectivity is unreasonable or impracticable.

**FINDINGS:** The proposed development provides the necessary street and pedestrian/bicycle connections to adjoining properties. It will include construction of an underpass under the BNRR as well as an underpass of Chemawa Road, "Road B" and Radiant. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include, but are not limited to, construction of an extension of Radiant Drive to Lockhaven Drive and continuing to Chemawa Road to a point south of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian undercrossing of the BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area D development, ODOT and the Keizer Community Development Department. The path shall be of ~~Portland- Cement- C-concrete~~ and constructed to a width of 12 feet.

**2.302.03.C. Alignment.** All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet.

**FINDINGS:** The proposed realignment of Radiant Drive shall be in alignment with the existing street by continuation of the existing centerline. The proposed streets are all through streets and do not create "T" intersections.

**2.302.03.D. Future extension of streets.** When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessway facilities shall be platted and built to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department finds a turnaround is necessary for reasons of traffic safety. Any street extension exceeding 150 feet in length shall be provided with an approved turnaround as set forth in Section 902.2.2.4 "Dead Ends" of the Uniform Fire Code, 1994 edition.

**FINDINGS:** Tepper Lane will dead-end at the railroad tracks to the west. Tepper Lane shall be constructed as a ¼ width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles and shall safely accommodate east/west bicycle and pedestrian traffic separated from vehicular traffic.



**2.302.03.E. Intersection angles.** Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet.)

**FINDINGS:** The proposed new streets are designed to be linear extensions at right angles. The street intersections must have a curb radius of no less than 35 feet.

**2.302.03.F. Existing Streets.** Whenever existing public streets adjacent to or within a tract are of a width less than the street design standards, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.

**FINDINGS:** Additional right-of-way is proposed on existing streets that are at a width less than street design standards. Tepper Lane shall be constructed as a  $\frac{1}{4}$  width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles.

**2.302.03.I. Street Names.** Street names and numbers shall conform to the established standards and procedures in the City.

**FINDINGS:** Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No final plat shall be released without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names should also receive approval of the City Council.

**2.302.03.J. Grades and Curves.** Grades shall not exceed 7 percent on arterials, 10 percent on collector streets or 15 percent on any other street. Street grades of 15 percent shall not exceed 200 feet in length. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.

**FINDINGS:** The proposed arterial street grades are relatively flat and in no case do they exceed 7%. All streets have a minimum profile grade of 0.60%.

**2.302.03.K. Frontage Streets.** If a development abuts or contains an existing or proposed arterial or collector street, the City may allow frontage streets, or may require reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to preserve the capacity and safety of the collector or arterial street.

**FINDINGS:** No frontage streets are proposed.

**2.302.03.L. Alleys.** Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided. The corners of alley intersections shall have radii of not less than 10 feet.

**FINDINGS:** No alleys are proposed. The site provides adequate access to off-street parking and loading facilities.

**2.302.03.M. Street Landscaping.** Where required as part of the right-of-way design, planting strips shall conform with the following standards:

1. Street trees shall be planted at a ratio of no less than one tree per 30 feet of property frontage. Street trees shall conform with the list of acceptable trees included in the City's Street Tree Ordinance. Installation of street trees shall be included in any improvement agreement covering the installation of public facilities and services on a property.
2. Planting strips shall be planted and maintained in predominantly living groundcover materials with hard surfaces consisting of bricks, pavers, rocks, decorative concrete work, etc., only being included as part of an overall landscape design where living plant material is predominant. In no case shall asphalt be used within the planting strip.

**FINDINGS:** The conceptual landscaping plan (Sheets LO1-4) indicates that street trees shall be planted with 30-foot spacing using one or more of 13 identified varieties. The plan specifies 1 ¼ inch caliper sizes. ~~Although this caliper is the minimum city requirement, the staff recommends that a~~ minimum caliper of 2 inches should be used in areas subject to damage along walkways and streets. First, a significant number of trees are proposed for removal (Sheet TO1 of Exhibit '5'), and providing larger specimens will help offset the impact of losing these trees. Second, 1 ¼ inch caliper trees are very small and much more susceptible to damage and vandalism.

Ground cover is indicated, but not specified in the conceptual landscaping plan. This information shall be required as part of building permit approval.

## **SECTION 2.303 OFF-STREET PARKING AND LOADING**

**2.303.6 Off-Street Automobile Parking Requirements.** Off-street parking shall be provided in the amount not less than:

- Retail store: 1 per 300 square feet
- Service repair center; retail store handling bulky merchandise (e.g. furniture): 1 per 900 square feet
- Bank, offices, medical clinic: 1 per 300 square feet
- Eating and drinking establishment: 1 per 250 square feet

- **Hotel: 1 space per guest room**

**FINDINGS:** Although this ~~entire~~ ~~standard~~ may be satisfied, parking area calculations have not been provided by the applicant. Documentation of this requirement shall be made as part of this master plan approval.

**2.303.08.A Bicycle Parking** Bicycle Parking shall be required in all public and semi-public, commercial and industrial development as well as park-and-ride lots. Bicycle parking shall be provided in the following amounts:

- **Retail store: 1 per 10 required vehicle parking spaces with a maximum of 6 required**
- **Service repair center; retail store handling bulky merchandise (e.g. furniture): 1 per 30 required vehicle parking spaces with a maximum of 6 required**
- **Bank, offices, medical clinic: 1 per 20 required vehicle parking spaces with a maximum of 6 required**
- **Eating and drinking establishment: 1 per 20 required vehicle parking spaces with a maximum of 6 required**
- **Hotel: 1 per 40 required vehicle parking spaces**

**FINDINGS:** Except for a description of bicycle parking in the plaza areas, no information has been provided regarding bicycle parking. The applicant shall be expected to meet these standards as part of building permit approval with each individual building. In keeping with the design requirements of the KSP, Bicycle parking facilities shall be interesting, and must consist of more than simple pole structures.

**2.303.08.B Bicycle Parking Development Requirements**

1. **Space Size.** Each bicycle parking space shall be a minimum of six feet long and two feet wide and be accessible by a minimum four foot aisle.
2. **Location.** All bicycle parking areas shall be within 100 feet of a building entrance and located within a well-lit area.
3. **Rack Design.** Bicycle racks must be designed to secure the bicycle frame and at least one wheel, and, accommodate a locking device. Racks, lockers or other related facilities shall be securely anchored to the ground or to a structure. As an alternative, the bicycle spaces can be provided within a secured compound.
4. **Access.** Access to a public right-of-way and pedestrian access from the bicycle parking area to the building entrance must be provided.

**FINDINGS:** No information has been provided regarding bicycle parking. The applicant shall be expected to meet these standards as part of building permit approval. In accordance with the design requirements, bicycle parking facilities shall be interesting and shall consist of more than

simple pole structures.

**2.303.10 Off-Street Loading Requirements** All other commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount: for buildings containing over 5,000 square feet of gross floor area, 1 space; for each additional 40,000 square feet of gross floor area, or any portion thereof, 1 space.

**FINDINGS:** Sufficient paved areas and designated loading area are provided on-site throughout the project area in a manner, which is appropriate for the size and character of the buildings and businesses they contain (Sheet AO1). (See Exhibit '8')

**2.303.11 Parking and Loading Area Development Requirements**

**A. Surfacing.** All driveways, parking and loading areas shall have a durable, hard, dust free surface built to Department of Public Works standards.

**FINDINGS:** Pavement conforming to adopted City of Keizer standards shall be required as part of the building permit process.

**B. Parking Spaces**

**1. Dimensions.** Parking spaces shall be a minimum 9 feet wide and 18 feet in length.

**2. Compact Spaces.** Compact parking spaces, at a reduced width of 8.5 feet, shall be permitted on sites with more than five (5) parking spaces. No more than 30% of the required parking shall be compact spaces and each space must be identified as a "Compact Space."

**FINDINGS:** The proposal appears to meet these requirements, but without noted dimensions and plan scales of 1" = 60' and 1" = 100', the parking space dimensions must be verified during the building permit review process.

**C. Aisle** The following minimum aisle dimensions shall apply:

**1. Without adjacent parking:**

- b. One-way: 12 feet**
- c. Two-way: 22 feet**

**2. With adjacent parking:**

PARKING ANGLE	DRIVEWAY WIDTH
0 to 40	12 feet
41 to 45	13 feet
46 to 55	15 feet
56 to 70	18 feet
71 to 90	24 feet

**FINDINGS:** The proposal appears to meet these requirements, but without noted dimensions and plan scales of 1" = 60' and 1" = 100', the driveway dimensions must be verified during the building permit review process. Due to the high volume of traffic, aisle width in parking areas shall be increased to the industry design standards of 24 feet.

- D. Screening.** When any public parking or loading area is within or abuts a residential zone along a side or rear lot line, the parking or loading area shall be separated from the lot line by a 20 foot landscaped yard, or shall be screened from the residential property with an ornamental fencing or wall of at least 4 feet in height.

**FINDINGS:** The only residential zoning is on the west side of the railroad tracks. Almost all of the parking proposed will be located internally or along I-5. Some parking is provided on the west side of Major 1, but is over 100 feet east of any residential properties. In addition, this parking area does have perimeter landscaping.

- E. Lighting.** All lighting shall be directed entirely onto the loading or parking area and away from any residential use. The lighting shall not cast a glare or reflection onto the public rights-of-way.

**FINDINGS:** The residential properties to the west are separated by the railroad right-of-way. The proposed lighting plan demonstrates that the proposed site lighting will not cast any light or glare toward these properties.

- F. Landscaping.** A tree shall be planted for every eight lineal parking spaces not located adjacent to a building. The planting space shall measure no less than 4 feet square and be surrounded by concrete curbing. The plant shall be of a species that the root system will not interfere with underground utilities or the parking surface, and, is capable of achieving a 15 foot radius. The specific planting enclosure and appropriate tree selection will be provided by the City.

**FINDINGS:** The site plan shows that one tree has been supplied in parking areas for every eight parking stalls. Unless necessary to adjust the spacing in order to preserve an existing tree this requirement shall be a strict condition of approval.

- G. Traffic Flow.** Service drives to off-street parking areas shall be designed and

constructed to allow flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.

**FINDINGS:** The access to and from the various parking lots is controlled and designed to provide suitably spaced street or driveway intersections. This design will provide for safe and efficient traffic flow throughout the site. ODOT is reviewing the proposed plans.

**H. Entrance/Exits.** Service drive exits shall have a minimum vision clearance area of 15 feet from the intersection of the street and driveway.

**FINDINGS:** The entrances all appear to have adequate vision clearance. The specific location and mature size of the plants listed in the preliminary landscaping plan could potentially interfere with vision clearance. The final choice of landscaping materials during the building permit approval stage should be made so that minimal maintenance will be necessary to maintain adequate site distance.

**I. Bumper Rails.** Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail to prevent a motor vehicle from extending over an adjacent property, a street, or a sidewalk. The bumper shall be at least 4" high and located a minimum of 3 feet from the property line.

**FINDINGS:** This is a design detail, which is not shown in the submitted plans, however, will be provided as part of the building permit review.

## **SECTION 2.305 TRANSIT**

### **2.305.01 Location Requirements**

**A. Siting Requirements.** The location of transit facilities shall be based upon the size and trip generation potential of major new development adjacent to a transit street. Section 2.305.02 outlines the maximum transit facilities that may be required by the City. Determination of specific requirements will be made on a case by case basis for each development by evaluation the following factors:

1. Expected transit ridership generated by a development.
2. The level of existing or planned transit service adjacent to the development. Planned transit service is defined as service that is planned to be established within five years after the completion of development according to the latest officially adopted transit plan by the Transit District.
3. The location of existing facilities.

**4. The proximity of other transit ridership generators.**

**FINDINGS:** The applicant shall work with the Transit District to ensure compliance with these requirements, making adjustments where necessary to accommodate the needs of the district.

**2.305.02 Design Requirements**

**Retail /industrial/institutional peak hour traffic trips of more than 200 require a concrete boarding pad and transit turnout.**

**FINDINGS:** The applicant shall work with the transit District to ensure compliance with these requirements, making adjustments where necessary to accommodate the needs of the district.

**SECTION 2.306 - STORM DRAINAGE**

**2.306.05.A General Standards** All development shall be planned, designed, constructed and maintained to:

1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
2. Protect development from flood hazards;
3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
4. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeded, phasing of grading;
5. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
6. Provide dry wells, french drains, or similar methods, as necessary to supplement storm drainage systems;
7. Avoid placement of surface detention or retention facilities in road rights-of-way.

**FINDINGS:** The developer has submitted plans indicating the present drainage patterns and

runoff characteristics. The property is within a critical drainage basin and strict compliance with city ordinances will be necessary. No increase in runoff will be allowed as development occurs.

Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge.

Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces. Where on-site detention is planned, adequate covenant, conditions and restrictions (CCR) shall be recorded to alert future owners/developers that detention and/or treatment shall be required to be constructed to the standards in effect at the time of building permit application.

A grading and drainage plan shall be developed for the subject property including proposed lot corner elevations. Details shall include adequate conveyance of storm water from adjacent property across the subject property.

The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.

The applicant submitted a preliminary storm drainage plan along with the master plan application. The Public Works Department reviewed the drainage plan and their comments are included in the *Conditions* section, (Exhibit E). ~~of this staff report.~~

## **SECTION 2.307 UTILITY LINES AND FACILITIES:**

### **2.307.02 Standards**

- A. **Impact.** The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.

**FINDINGS:** It is a development requirement that the applicant locate, design, install and maintain all utility lines and facilities with the minimum feasible disturbance to soil and site and shall comply with best management practices for erosion control and vegetation protection.

- B. **Water.** All development that has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the City.

**FINDINGS:** The applicant submitted a master water system plan showing proposed routes of



public water mains, fire hydrants and individual services. Prior to submittal of final construction plans the applicant's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines located outside of proposed right of ways. Final location of all meters shall be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNSF right of way, and any other off-site construction required to provide required peak flows to the proposed development.

Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Dedication of property to the City shall be required for any wells or storage facilities developed. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer. The Public Works Department reviewed the master water system plan and their comments are included in the *Conditions* section, (Exhibit E). ~~of this staff report.~~

- C. Private Utilities.** All development that has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.

**FINDINGS:** It is a development requirement that the electricity, gas and communications services shall be installed pursuant to the requirements of the district or company serving the development.

- D. Sanitary Sewers.** All development that has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

**FINDINGS:** The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is \$7,460.00 per gross acre prior to platting of the subdivision. The acreage fee applied will be the fee in place at the time of development of the property. The Master Sewer Plan provides for a sewer trunk line to be constructed through the subject property with adequate size and depth to provide for additional capacity for areas located within the original sewer district west of the BNSF railroad. Additionally, Area D, south of Chemawa Road shall be served with a sewer trunk line to be constructed along with the proposed under crossing of Chemawa Road. A review of the construction plans for the subject property will be required to assure that capacity of the master plan sewer trunk lines is not exceeded. The Public Works Department comments include specific conditions of approval related to sanitary sewers.

- E. Street Lights.** When required, installation of street lights shall be pursuant to the requirements of the city and the company serving the development.

**FINDINGS:** A street lighting master plan has been proposed. A street lighting district shall be created while under the control of the developer to provide for adequate street lights along the frontage of all new street rights of way. Decorative lighting approved by the Department of Community Development which meets street standards requirements shall be used.

- F. Easements.** Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions, and on the final plat of all partitions.

**FINDINGS:** All easements shall be located in the appropriate locations based on actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations.

## **SECTION 2.308 SIGNS**

### **2.308.08.B. Commercial and Industrial Signs, Integrated Business Centers:**

- 1. Total allowed area.** For wall, canopy and projecting signs on individual businesses within an integrated business center, one and one-half square feet of total allowed sign area for each lineal foot of building frontage for the individual business, up to a total maximum of 150 square feet per business. Individual businesses may not assign their unused allowed area to other businesses in the integrated business center. Free standing signs are permitted only as set forth below and in Section 2.308.08.C.

**FINDINGS:** The proposal demonstrates compliance with all requirements of the sign code with regard to wall, canopy and projecting signs, and has indicated that there will be additional consistency standards implemented as private lease/sale agreements which would be above the requirements of the sign code.

- 2. Free-standing Sign.** For each integrated business center, 1 free-standing sign per street frontage not to exceed 100 square feet in area. Free-standing signs shall not exceed one sign on each frontage and shall be oriented to face the traffic flow on the street upon which they front.

**FINDINGS:** The applicant is proposing to seek a variance which would allow a sign in excess of 100 square feet, which will be addressed as part of the sign variance.

3. **Maximum sign height:**

**Wall and canopy signs shall not project above the parapet or roof eaves.  
Free-standing signs: 20 feet.**

**FINDINGS:** The applicant is proposing to place a sign in excess of 20 feet which will be addressed with the sign variance information in this report.

4. **Location:**

a. **Wall or projecting signs may project up to 2 feet from the building.**

**FINDINGS:** The applicant is proposing to comply with these requirements.

b. **Free-standing signs have no limitations except the signs shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.**

**FINDINGS:** The proposal indicates compliance with these requirements for free standing signs.

**2.309 SITE AND LANDSCAPING DESIGN**

**2.309.03 Minimum Area Requirements.** Landscaped areas may include landscaping around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Ordinance. The following area requirements shall be the minimum areas devoted to landscaping:

**A minimum of 10% of the gross land area shall be devoted to landscaping in commercial developments.**

**FINDINGS:** Although it appears that this criterion is satisfied, landscaped area calculations have not been provided by the applicant. Documentation of this requirement shall be made as part of this master plan approval.

**2.309.05 Screening and Buffering**

**A. Screening.** Screening shall be used to eliminate or reduce the visual impacts of the following uses:

1. Commercial and industrial uses when abutting residential uses.
2. Industrial uses when abutting commercial uses.
3. Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas. (5/98)
4. Outdoor storage areas.
5. Parking areas for 20 or more vehicles for multi-family developments, or 30 or more vehicles for commercial or industrial uses.
6. At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.

- B. Screening Methods.** Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques.

**FINDINGS:** The preliminary landscaping plan (Sheets LO1-4) indicates that screening will be provided along the western side of the project utilizing landscaped areas and trees. The width of the landscaped areas along with the density of the trees will provide sufficient screening for the residents on the west side of the railroad. Additional screening, through a sight and sound obscuring fence shall be provided between the residential properties and Area B of the Keizer Station Plan.

Service areas within the development are proposed to be screened with vegetation and fencing. No outdoor storage areas are proposed. The plans are not sufficiently detailed to show electrical and mechanical equipment. Parking areas are all surrounded by landscaping consisting of ground cover, shrubs, and trees. The specific screening details will need to be reviewed and approved during the building permit process.

- C. Buffering.** Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:

1. **Planting Area:** Width not less than 15 feet, planted with the following materials:
  - a. At least one row of deciduous or evergreen trees staggered and spaced not more than 15 feet apart.

- b. At least one row of evergreen shrubs that will grow to form a continuous hedge at least five feet in height within one year of planting.
  - c. Lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.
- 2. **Berm Plus Planting Area:** Width not less than 10 feet, developed in accordance with the following standards:
  - a. Berm form should not slope more than 40 percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary.
  - b. A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.
  - c. The combined total height of the berm and hedge shall be not less than five feet.
- 3. **Wall Plus Planting Area:** Width must not be less than five feet developed in accordance with the following standards:
  - a. A masonry wall or fence not less than five feet in height.
  - b. Lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.
- 4. **Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated, as approved by the City.**

**FINDINGS:** Buffering is proposed along the western edge of the project, which is across the railroad tracks from the residences on the other side. The preliminary landscaping plan (Sheets LO1-4) is consistent with the "planting area" option noted above because it provides a continuous landscaped area with ground cover and trees.

#### **2.309.06 Planting and Maintenance**

- A. **Planting Height.** No sight-obscuring plantings exceeding 30 inches in height shall be located within any required vision clearance area in accordance with Section 2.312.09 of this Ordinance.

**FINDINGS:** As noted above, the specific types of plants near driveway and street intersections must be reviewed in more detail during the building permit stage to ensure compliance with the

standard.

- B. Plant Materials.** Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of eight feet and to a minimum height of 15 feet over streets and vehicular traffic areas.

**FINDINGS:** Based upon the plant list proposed by the applicant, this problem is not anticipated. Street trees will be pruned to comply with this requirement.

- C. Utility Interference.** Landscape plant materials shall be selected, which do not generally interfere with utilities above or below ground.

**FINDINGS:** Utilities are to be placed underground. No conflicts are foreseen between the preliminary landscaping plan and the utility plan.

- D. Installation.** Landscape plant materials shall be properly guyed and staked to current industry standards as necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

**FINDINGS:** The preliminary landscaping plan includes typical planting details for trees. This will be monitored as part of the building permit approval process.

- E. Suitability.** Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated should be sufficiently hardy to thrive under these conditions. Plants should have vigorous root systems, and be sound, healthy, free from defects, diseases, and infections.

**FINDINGS:** The plants proposed in the preliminary landscaping plan appear to be appropriate, given the conditions of the site. Although the proposed trees meet the minimum caliper prescribed in the KDC, trees of this size are susceptible to damage and vandalism. Those trees located in areas susceptible to damage such as along street and walkways should be increased in size to ensure survivability.

- F. Deciduous Trees.** Deciduous trees should be fully branched, have a minimum caliper of 1 1/4 inches, and a minimum height of 8 feet at the time of planting.

**FINDINGS:** As noted above, the preliminary landscaping plan calls for trees of this size, however, trees this small are easily damaged. Trees located along streets and pathways should be increased in size.

- G. Evergreen Trees.** Evergreen trees shall be a minimum of 6 feet in height, fully branched at time of planting.

**FINDINGS:** This shall be a requirement of the Master Plan approval.

- H. **Shrubbery.** Shrubs shall be supplied in a minimum 1 gallon containers or 8 inch burlap balls with a minimum spread of 12 to 15 inches.

**FINDINGS:** This shall be a requirement of the Master Plan approval. Additionally, the shrub plant materials shall be planted at a spacing necessary to achieve the landscape design objectives within five years of growth.

- I. **Ground Cover.** Ground cover plants shall be spaced in accordance with current nursery industry standards to achieve covering of the planting area. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum 4 inch size container or a 2 1/4 inch container or equivalent if planted 18 inches on center.

**FINDINGS:** The applicant proposes ground cover spacing of 24" on center. While this may be appropriate for some species, the spacing should more appropriately be indicated as that which is needed for whatever species of ground cover is proposed, to reach full coverage by the third year of growth, in accordance with nursery standards.

- J. **Irrigation.** All developments are required to provide appropriate methods of irrigation for the landscaping. Sites with over 1,000 square feet of landscaped area shall be irrigated with automatic sprinkler systems to insure the continued health and attractiveness of the plant materials. Sprinkler heads shall not cause any hazard to the public. Irrigation shall not be required in wooded areas, wetlands, floodplains, or along natural drainage channels or stream banks.

**FINDINGS:** An irrigation system is proposed for the entire development. Irrigation plans will be reviewed and approved as part of the building permit review process.

- K. **Re-planting.** Trees or shrubbery which die-off shall be replaced with a new plant of the same or similar type. Replacement is ultimately the responsibility of the property owner.

**FINDINGS:** This will be done as necessary if any of the plants die.

- L. **Maintenance.** Landscaping shall be continually maintained. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.

**FINDINGS:** This shall be expected by the city.

- M. **Plant Protection.** Landscape plant material shall be protected from damage due to

heavy foot traffic or vehicular traffic by protective tree grates, pavers or other suitable methods.

**FINDINGS:** The preliminary landscaping plan appears to have the landscaped areas well-protected. This will need to be confirmed when the final landscaping plans are submitted for approval as part of the building permit process.

## **SECTION 2.315 DEVELOPMENT STANDARDS**

**2.315.08.A. Pedestrian Circulation.** As used herein "walkway" means a hard surfaced area intended and suitable for use by pedestrians, including both public and private sidewalks.

- 1. Connection Required.** The pedestrian circulation system for the proposed development must connect uses, building entrances, adjacent streets, and nearby transit stops.

**FINDINGS:** Generally, sidewalks are provided to allow safe and relatively convenient pedestrian access throughout the site. However, as mentioned earlier in this report, improvements to this system ~~must~~<sup>could</sup> be made in two areas. The first is the location and orientation of some of the buildings along Radiant Drive. The sheer distance between buildings and uses will act to significantly discourage walking. ~~Staff recommends~~ Modifications to the site plan ~~must~~<sup>to</sup> bring uses, such as the hotel, restaurants, retail pads, parks, office building and plazas closer together and with an orientation to Radiant Drive. These requirements are set forth on p.8 This would promote walking because the distances would be more manageable, and this area would also function as a more active pedestrian center for Keizer Station Village Center.

Second, several additional walkway connections should be provided. The following pedestrian connections should also be provided in addition to what is shown on the Pedestrian Pathways Plan (Sheet AO3):

~~SideWalk on the west and north side of Road A from Chemawa Road to the southern driveway to Anchor 1.~~

- A crosswalk and easterly extension of the sidewalk on Radiant Drive across Road B to the driveway near Anchor B.
- A crosswalk for the perimeter pathway at Road B.
- A sidewalk connection between the Chemawa Road/I-5 interchange and the Road B sidewalk.
- Walkway connections between the buildings on the east side of the site with the perimeter walkway along I-5.
- Walkway connection between the Radiant Drive walkway and the front of Anchor A.
- Walkway connections between restaurant and retail pads and the adjacent street sidewalks, such as Pads B, E and F, the hotel, the office building, Anchor B, and Majors 5 and 6.
- Walkway connection between Anchor 1 and Anchor A.



2. **Walkway Location and Design.** Walkway(s) shall be located so that a pedestrian can conveniently walk between a transit street and the entrance(s) to a building(s). Except where it crosses a driveway, a walkway shall be separated by a raised curb or other physical barrier from the auto travel lane and parking. If a raised path is used the ends of the raised portions must be equipped with curb ramps which comply with Oregon State Building Code Requirements.

**FINDINGS:** While transit service is ultimately anticipated, route locations and stops have not been established. ~~Providing uses that are clustered more~~ Clustering uses near the streets, as ~~required~~ recommended above, will facilitate future transit use by creating more activity and easier pedestrian access.

3. **Additional Street Access.** A walkway from a building entrance to a public street shall be provided for every 300 feet of street frontage.

**FINDINGS:** Majors 5 and 6 on Road A and the hotel do not meet this criterion. Majors 5 and 6 have an extensive frontage on Road A with little pedestrian accommodation. Improved pedestrian access must be provided from these buildings to Road A. The hotel is relatively isolated from the street and other uses by its location in the middle of a site surrounded by parking. The hotel is recommended to be moved closer to the street, the park, and other complementary uses, such as restaurants. A walkway from the hotel entrance ~~shall~~ should connect to the street sidewalk and park (in addition to the perimeter walkway as mentioned above).

4. **Driveway Crossings.** Driveway crossings shall be a maximum of 36 feet in width. Where the pedestrian system crosses driveways, parking areas and loading areas, the system must be clearly identifiable through the use of elevation changes, a different paving material, texture, or other similar method.

**FINDINGS:** The driveways all appear to meet this standard except for the driveway associated with Anchor B at Road A. Pedestrian crossings at streets, driveways and parking areas shall be constructed with a different paving material and texture.

5. **Lighting.** Lighting shall be provided for all walkways. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers.

**FINDINGS:** The general lighting proposed for the site will provide appropriate illumination for the development. Special attention is required to provide safety at the pedestrian undercrossing located at Tepper and the Railroad. Security lighting shall be provided which provides secure illumination of the undercrossing, while being directed away from the residential areas that are adjacent.

**6. Walkway Coverage.**

- a. Any portion of a walkway located within three feet of a building frontage shall be covered with awnings or building overhangs. The minimum vertical clearance shall be 9 feet for awnings and building overhangs. The maximum vertical clearance shall be 15 feet.
- b. In the EG zone, Any portion of a walkway located within three feet of a building frontage shall be covered with awnings or building overhangs as provided in Subsection a, except for buildings, which have greater than 300 feet of lineal frontage, where this requirement shall apply to at least 33 percent of the building frontage. The maximum vertical clearance shall be 15 feet.

**FINDINGS:** The design concepts for some of the buildings are provided on Sheets AO7-9. These appear to comply with this criterion. Compliance with this standard must be confirmed during the building permit review.

- 7. Dimensions.** Walkways shall be at least five feet in paved unobstructed width. Walkways that serve multiple uses or tenants shall have a minimum unobstructed width of eight feet.

**FINDINGS:** At scales of 1" = 60' or 1" = 100', this is difficult to determine, but the preliminary plans appear to be consistent with this criterion. All sidewalks within the Keizer Station Village Center are intended to serve multiple use destinations for pedestrians. In order to be consistent with the standards set in the Development Standards for walkway design all sidewalks shall be a minimum of eight feet.

- 8. Stairs or ramps shall be in place where necessary to provide a direct route between the transit street and the building entrance. Walkways without stairs shall comply with the accessibility requirements of the Oregon State Building Code.**

**FINDINGS:** This will be evaluated during building permit review.

- 9. Access to Adjacent Property.** If the proposed development has the potential of being a significant attractor or generator of pedestrian traffic, potential pedestrian connections between the proposed development and existing or future development on adjacent properties other than connections via the street system shall be identified.

**FINDINGS:** The pedestrian connections could shall be improved as noted above. In addition, it appears that more consideration should be given about creating in order to meet the criterion, improved pedestrian connection leading between the center of this project and the baseball stadium

to the north is required. This would support the objective of the Keizer Station Plan to "provide a gateway to sports activities". Additional amenities shall be required to support the pedestrian uses such as seating, public art and other points of interest.

10. The building permit application or Development Standards Alternative-application shall designate walkways and pedestrian connections on the proposed site plan. If the applicant considers walkways are infeasible or proposed findings shall be submitted demonstrating that the walkway or connection is infeasible. The findings will be evaluated in conjunction with the building permit or Development Standards Alternative process.

**FINDINGS:** This will be performed as part of building permit review.

#### **2.315.08.B. Building Design**

##### **1. Ground floor windows**

- b. In the EG zone, one elevation of any building with more than 100,000 square feet of floor area, which contains permitted uses listed under Sections 2.119.05 F, G, H, I, J, and K, shall have no less than 33 percent of the ground floor wall area, defined from the ground to the height of the awning, with windows or window facsimiles or other architectural features that simulate windows, display areas or doorway openings.

**FINDINGS:** Conceptual elevations (Sheets AO7-9) for several of the proposed buildings appear to meet this standard, but compliance will need to be confirmed during permit review.

##### **2. Building facades**

- b. In the EG zone, facades facing a public street shall extend no more than 60 feet without providing a variation of building materials for buildings over 20,000 square feet. In the EG zone, no building facade shall extend for more than 400 feet without a pedestrian connection between or through the building, provided that there is a pedestrian purpose being served.

**FINDINGS:** The concept drawings and plans ~~indicate consistency~~ comply with this criterion, and compliance will need to be confirmed during the building permit review. Specific conditions shall be addressed later in this report to ensure that the proposed design and massing of the buildings are established as a requirement.

3. Awnings – Awnings or canopies, shall be provided along building storefronts abutting a public sidewalk. Awnings and canopies shall be constructed of canvass, acrylic fabric, laminated vinyl, metal or similar standard material. Awnings and canopies of corrugated fiberglass or polycarbonate roofing shall be prohibited.

**Awnings and canopies shall not be back lit.**

**FINDINGS:** The concept drawings and plans indicate ~~compliance~~consistency with this criterion, and compliance will need to be confirmed during the building permit review.

#### **4. Materials and Texture**

##### **a. Building Materials.**

- 1. All buildings shall have wood, brick, stone, or stucco siding, or vinyl siding made to look like wood siding. Metal siding as described in this section shall be allowed. (5/98) In the EG zone, all buildings shall have wood, brick, stone, architectural block, slump stone, architectural concrete or stucco siding, or vinyl siding made to look like wood siding.**
- 2. Metal siding other than corrugated or reflective material are allowed except for residential buildings housing 3 or more dwellings and buildings within the EG zone metal siding is allowed with the exception of corrugated or reflective metal.**
- 3. Plain concrete block, plain concrete, plywood and sheet press board may not be used as exterior finish materials.**

**FINDINGS:** The concept drawings and plans indicate ~~compliance~~consistency with this criterion, and ~~compliance~~which will need to be confirmed during the building permit review.

##### **b. Trim Material. Building trim shall be wood, brick, stone, stucco, vinyl siding material made to look like wood, or metal.**

**FINDINGS:** The concept drawings and plans indicate ~~compliance~~consistency with this criterion, and compliance will need to be confirmed during the building permit review.

##### **c. Roofing Material. Any roofing material is allowed including metal roofs.**

**FINDINGS:** The concept drawings and plans indicate ~~consistency~~compliance with this criterion, and compliance will need to be confirmed during the building permit review.

##### **d. Foundation Material. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 3 feet.**

**FINDINGS:** The concept drawings and plans indicate ~~consistency~~compliance with this criterion,

and compliance will need to be confirmed during the building permit review.

## **SECTION 2.419 SERVICE STATIONS**

**Where permitted as a special use, gasoline service stations shall meet the following use and development standards.**

- A. **Lot area and dimensions.** Minimum lot size 10,000 square feet, minimum of 100 feet of street frontage for an interior lot and minimum of 120 feet of frontage on each street abutting a corner lot.

**FINDINGS:** The application complies with this requirement.

- B. **Yard Exceptions for Service Stations.** Free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Ordinance.

**FINDINGS:** The pumps and islands are proposed to be in an interior portion of the service station site.

- C. **Gasoline Pumps.** Gasoline pumps and pump islands shall not be located so that any part of a vehicle being served will extend into any public right-of-way, alley or private drive used for access or egress. Further, gasoline pumps or pump islands shall not be built within 10 feet of a property line.

**FINDINGS:** The pumps and islands are proposed to be in an interior portion of the service station site, and this criterion is met.

- D. **Screening.** The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall, or hedge.

**FINDINGS:** As noted above, this entire development is well screened from the residential neighborhoods located on the west side of the railroad.

- E. **Lighting.** Outdoor lighting shall be directed away from residential property.

**FINDINGS:** As noted above, the lighting plan demonstrates that light and glare will not go beyond the boundaries of the development. In addition, the railroad right-of-way provides additional distance for any light to dissipate before reaching residences.

## **SECTION 2.420    AUTOMOTIVE SERVICES**

Where permitted as a special use, automotive services are subject to the following development requirements.

- A. **Outdoor Storage.** Outdoor storage of material, parts and equipment shall be prohibited.

**FINDINGS:** No outdoor storage areas are proposed.

- B. **Screening.** The property shall be screened from every abutting residential zone or use by a 6 foot sight-obscuring fence or wall.

**FINDINGS:** The automotive services are not adjacent to the residential area, being separated by the Railroad and Road A.

## **KEIZER STATION PLAN DESIGN STANDARDS**

- A. **Development Standards:** KDC Section 2.315 *Development Standards* requires new development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08 as part of the building permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

**FINDINGS:** These standards shall be addressed in the building permit approval process and will be binding on all structures. In addition, the Master Plan process allows flexibility for the city to apply more stringent requirements than those found within this section.

- B. **Additional Design Standards:** Development throughout Area A – Village Center will also be controlled by a set of design standards aimed at establishing an environment that promotes a coordinated approach to developing the entire 95 acres. The intent is to establish design standards in addition to the standards identified in KDC Section 2.315 that will guide future development in a manner that will achieve the development objectives for Area A – Village Center. The following Design Standards shall also apply to new development in Area A – Village Center area as part of the Master Plan approval process:

1. Gateway. In order to achieve the objective of making Area A – Village a gateway to Keizer, a gateway feature visible from I-5 shall be provided.

**FINDINGS:** This will be achieved by the proposed landscaping on the perimeter of the site and the "Welcome to Keizer" monument sign located near the Chemawa interchange.

2. **Weather protection.** Weather protection for pedestrians, such as awnings, canopies and arcades, shall be provided at building entrance(s). Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

**FINDINGS:** The building concepts presented for Majors 2 through 7 and Retail 2 and 3 (Sheets AO7-9) show that the applicant intends to provide these amenities. This will need to be confirmed during the building permit review process along with confirmation for all other buildings.

3. **Landscaping.** All required yards, except driveways, are required to be landscaped; that portion within the required yard, which is landscaped, may be included in the calculation to meet minimum landscape area requirements. Landscaping shall meet all applicable standards identified in Section 2.309 of the Code. In addition to landscaping provisions identified in Section 2.309, landscaping for properties within the EG zone shall be defined as follows: (2/03)

"Landscaped Area" must be native or non-native trees, vegetation, ponds, rocks, ground cover, bark chips, cinders, terraces, vegetable or flower gardens, trellises, pathways, or structural features including but not limited to fountains, reflecting pools, outdoor art work, screen walls, fences and benches, which reasonably requires and continues to reasonably require human management to distinguish the area from a natural area. (2/03)

Within the EG zone, landscape area requirements may be determined by the City Council to have a portion of landscaped or streetscaped area within the right-of-way to be included within the minimum landscape area requirement.

**FINDINGS:** The application shows a variety of significant areas that are landscaped and includes such things as a water feature at the intersection of Road A and Road B. Other features, which are not shown, but which should will be a condition of approval should will include other structural features such as benches, trellises, screen walls and outdoor art.

4. **Streetscaping.** Streetscaping is defined as pedestrian oriented improvements to property outdoors. Streetscaping may include, but not limited to, walkways with varied materials (other than plain concrete or asphalt), art features, water features, planters, benches, hanging plant baskets, and plazas. (2/03)

- (a) In accordance with Section 3.113 Keizer Station Master Plan Review, at the time of master plan approval by the Council, the Council may determine if streetscaped areas may be included in the minimum landscape area for a proposed development.

**FINDINGS:** In keeping with the intent of the overall design of the Village Center, special attention is required for the pedestrian circulation system. The application shows that pedestrian crossings at streets and parking areas are distinguished from vehicular traffic with the use of distinct patterns and different materials such as colored and patterned concrete at those crossing areas. This should will be a ~~requirement~~ condition of the Master Plan approval.

## **KEIZER STATION PLAN TRANSPORTATION SYSTEM**

- A. **Streetscape.** Radiant Drive is relocated to bisect Area A – Village Center and will provide a landscaped entry as well as providing a direct connection into Area A – Village Center. The design of Radiant Drive and internal streets shall include landscape features identified in KDC Section 2.119.10.A.4

**FINDINGS:** The area along the new location of Radiant Drive as well as the entry of the Keizer Station Plan at Lockhaven shall be landscaped according to these requirements, and shall be made a ~~requirement~~ condition of approval.

- B. **Access.** Access from Radiant Drive to adjoining property shall be controlled. The intent of Radiant Drive is to provide efficient through traffic. Signalized access connections will be located at least 600 feet apart, except where approved by the City Traffic Engineer. Additional access connections on Radiant Drive should be limited and designed to maximize the flow of traffic. All internal signalized intersections on Radiant Drive will operate at a V/C standard of 0.87 or better.

**FINDINGS:** Traffic signals on Radiant at Roads A and B are slightly less than 600 feet, however, this design has been approved by the City Traffic Engineer. Non signalized access is limited and available evidence indicates that the volume-to-capacity ratio is met.

C. **Pedestrian circulation:**

1. The on-site pedestrian circulation system shall be continuous, connecting the ground-level entrances of primary structure(s) to the following:

- a. Streets abutting the site;
- b. Parking areas;
- c. Shared open spaces and play areas;
- d. Abutting transit stops;
- e. Any pedestrian amenity such as plazas, resting areas and viewpoints; and
- f. Adjacent buildings.



**FINDINGS:** As discussed previously in this report, there are two related issues. One relates to providing the appropriate walkways for safe and convenient pedestrian connections. With the amendments to the walkway system recommended listed in the conditions of approval, this pedestrian circulation issue will be addressed. The second issue is locating and orienting destinations (hotel, restaurants, retail, public spaces) to reduce walking distances. Clustering these activity areas along Radiant Drive would do much to improve the pedestrian "friendliness" of Keizer Station Village Center. By adjusting the building envelope locations, this can be accomplished.

2. There shall be at least one pedestrian connection to an abutting street frontage for each 300 linear feet of street frontage.

**FINDINGS:** This criterion is satisfied with the modifications noted in the conditions of approval.

#### **KEIZER STATION PLAN UTILITIES**

In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:

- A. All utilities located adjacent to Radiant Drive and connecting transportation facilities shall be located underground.
- B. All other new utility connections and lines shall be located underground where practicable.

**FINDINGS:** Utilities are proposed to be underground. This will be assured through the building permit and other permit review requirements.

#### **KEIZER STATION PLAN PARKING**

**Parking standards for Area A** – Village Center shall follow the standards located in the corresponding base zone as well as Off-Street parking and Loading – Section 2.302. In addition to these standards, the following shall also apply:

- A. **Location of parking** – If the building is located within 20 feet of the Radiant Drive right-of-way, there shall be no parking or maneuvering between the building and the right-of-way.

**FINDINGS:** All of the buildings shown on the plans comply with this criterion.

## **KEIZIER STATION PLAN LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standards shall apply:

- A. **A coordinated landscape plan** shall be provided for the frontage portion of the Village Center along I-5 with the request for master plan approval.
- B. **Restriction on Tree Removal**. From the date of adoption of this ordinance, no trees shall be removed from any property within Area A - Village Center without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.

Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.

**FINDINGS:** A preliminary landscaping plan (Sheets L01-L04) (See Exhibit 9) has been provided indicating a comprehensive landscaping concept for the entire site, including the frontage along I-5 and Chemawa Road. As noted herein, landscaping plan details will be refined during the building permit review process. A tree inventory has been submitted by the applicant, which shows the majority of the existing trees cannot be saved due to the extensive change this proposal means for the property. The City Council finds the extent of the tree removal justified, and that rather than modifying the proposal to save a few more trees, it will be more productive to focus on the quality of the new trees to be planted. This is why an increase of the caliper for the new trees from 1 ¼ inches to 2 inches is recommended.

## **SECTION 3.113.04.C DEVELOPMENT STRATEGIES FOR AREA A – VILLAGE CENTER**

### **I. Pedestrian Access, Safety and Comfort**

- a. To ensure safe, direct, and convenient pedestrian circulation, development in the EG zone, shall provide a continuous pedestrian and/or multi-use path system.
- b. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas wherever possible.
- c. Pathways with developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets and parking areas.

- d. For all developments subject to Master Plan review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.
- e. Recessed entries, canopies, and/or similar features shall be used at the entries to a building in order to create a pedestrian scale.
- f. For driveways that service more than 100 parking spaces, such driveway intersections with Radiant Drive shall not have any parking within twenty-five feet of the driveway intersection. This area shall be landscaped in accordance with Section 2.309 of the Keizer Development Code.
- g. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

**FINDINGS:** As discussed in this report and ~~w~~With the recommended conditions of approval, these criteria are met.

## **2. Vehicular Movement**

- a. Encourage traffic to enter and exit the development at locations other than Tepper Lane.

**FINDINGS:** With the closure of Tepper Lane to vehicular traffic as a condition of the railroad to allow the new Radiant Drive underpass, this criterion will be satisfied.

## **3. Crime Prevention and Security**

Crime prevention shall be considered in the site design through application of all of the following guidelines:

- a. **Territoriality** – All proposed building entrances, parking areas, pathways and other elements are defined with appropriate features that express ownership. For example, landscaping, fences, pavement treatments, art and signs are some physical ways to express ownership through design. Such features should not conflict with the need for natural surveillance, as described in b.; and
- b. **Natural Surveillance** – The proposed site layout, building and landscape design promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site. For example, window placement, the use of front porches or stoops, use of low or see-

- through walls, and appropriate use of landscaping and lighting can promote natural surveillance. Sight-obscuring shrubs and walls should be avoided, except as necessary for buffering between commercial uses and lower density residential districts, and then shall be minimized; and
- c. **Activity Support** – The proposed site layout and building design encourage legitimate activity in public spaces. For example, locating outdoor seating in areas that are visible from inside a restaurant helps to discourage crime and supports the activity of dining; and
  - d. **Access Control** – By properly siting and designing entrances and exits (i.e., in clear view from the store), and through the appropriate use of lighting, signs and/or other features, the proposed plan controls access in ways that discourage crime; and/or
  - e. **The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.**

**FINDINGS:** The proposed plan is generally consistent with the above criteria. As discussed above, ~~the staff recommends that more should be done to improve the plan by clustering uses to a greater degree along Radiant Drive and by providing additional pedestrian connections as noted is required.~~

Regarding the natural surveillance issue, the proposed park locations are poorly integrated and significantly removed from the surrounding activities. The park and plaza along the central I-5 frontage is adjacent to Radiant Drive, parking lots, and the I-5 right-of-way. Because this area will be created around an existing wetland, it obviously cannot be moved. However, the opportunity clearly exists to shift building and parking lot locations around the park plaza to make the park an easily accessible amenity.

The open space in the far northeast corner of the property identified as Tower Park is completely isolated from other activities proposed here and the ballpark to the north. It is recommended that this area be used for parking, landscaping or other amenities to the development and the open space trails system be improved to a more significant level and which is more easily accessible to and integrated with the other activity area in the development.

#### **4. Reduced Parking**

**Reduce or waive minimum off-street parking standards. The applicant may request a reduction to or waiver of parking standards based on a parking impact study. The study allows the applicant to propose a reduced parking standard based on estimated peak use, reductions due to easy pedestrian accessibility; availability of transit service, and likelihood of car pool use; and adjacent on-street parking. The parking study is subject to review and approval or modification by the City.**

**FINDINGS:** The parking requirements must be met and calculations must be provided as part of the Master Plan approval. The applicant has not requested a reduction or waiver.

#### **5. Creating and Protecting Public Spaces**

- a. The development provides an appropriate amount of public space as determined by the City Council in addition to sidewalks and landscaping.**
- b. Public space may be a landscaped open space or plaza with pedestrian amenities, as approved by the City Council.**

**FINDINGS:** The applicant is proposing an appropriate amount of public spaces and park, however, the staff recommends amending the site plan to better integrate the two parks along I-5 with the rest of the development to enhance their value as amenities and to create more defensible and crime-free areas.

#### **6. Human Scaled Building Design**

**Building facades are designed to a human-scale, for aesthetic appeal, pedestrian comfort, and design character of a development. The City Council may determine architectural character, continuity of building sizes, roof forms, rhythm of window and door spaces and the general relationship of buildings to public spaces such as street, plazas, other open space and public parking.**

**FINDINGS:** The proposal indicates typical elevations which are varied in texture, building materials and showing an attractive human scale in blocking and human scale design elements. The plan shows no more than fifteen feet between varied vertical elements and building materials, an average height of 23 feet punctuated frequently with various architectural accents no greater than 22 feet in width and no higher than 28 feet to the cave line. The plan shows a variety of roof lines and that a variety of materials are intended to be used which are indicated in the submitted materials, which shows cultured stone, five varieties of split face Concrete Mortar Units (CMU), as well as smooth faced CMU walls. The colors indicate compliance with the Development Standards. These details shall be made part of the requirements/conditions of the Master Plan Approval.

7. The Village within Area A shall contain a public improvement design to include a promenade/sidewalk design that may vary in width to meet a minimum width of 8 feet on both sides of Radiant Drive. The promenade/sidewalk shall be separated from the street with a landscape belt, to include decorative lighting and trees.

**FINDINGS:** The walkway facilities along Radiant Drive are generally consistent with this criterion. An extension of this walkway beyond Road B is noted above. Design constraints have led to a walkway on one side of Radiant Drive under the railroad and Road B. To enhance Radiant Drive as a primary pedestrian entry into Keizer Station Village Center, the staff recommends that the city and developer work together to provide design amenities to enhance the aesthetic appearance and pedestrian functionality of the two underpasses. Finish materials, landscaping, and lighting of these underpasses Should all contribute in this regard. Finish materials shall be consistent with that of the buildings in the Village Center.

## VI. FINDINGS - SUBDIVISION

### Introduction

Normally, A subdivision is subject to a Type II procedure (KDC 3.101.02), which includes a quasi-judicial review by the Hearings Officer. However, the Zoning Administrator may refer any application to the City Council for public hearing and decision bypassing the Hearings Officer. Following a City Council approval of the subdivision, subsequent city review of the project design and construction details will be completed as part of the building permit approval process. However, Keizer Development Code provides that the Master Plan process includes subdivision and partitions. Therefore, this matter is properly before the Council as a Type II-B action.

The criteria that apply to a subdivision include lot size and orientation, provision of utilities, and circulation details. The subdivision application provides the information required by the KDC.

The applicant is proposing to divide the 95.7 acres into 15 developable lots and 3 open space tracts as follows:

Lot number	Area	Proposed buildings within lot	Proposed uses within lot
1	1.994.49 acres	Pad E, Pad F, Pad G, Pad H, Pad I, car wash	Commercial, industrial
2	3.860.78 acres	Pad B, Pad F, Pad H, Pad I	Industrial
3	5.990.69 acres	Pad A, Shops A, Shops B	Commercial/Industrial
4	756.04 acres	Pad A, Anchor A, Shops A, Shops B	Commercial

5	11.80+2.44 acres	Anchor 1	Commercial
6	16.24+7.81 acres	Major 1, Major 2, Major 3, Major 4, Anchor 2, Retail 1	Commercial
7	1.29+1.58 acres	Retail 1, Retail 2, Retail 3	Industrial (Flex) Commercial
8	1.84+0.20 acres	Retail 2, Retail 3, Anchor 3	Commercial
9	10.39+4.43 acres	Retail 4, Restaurant 2, Restaurant 3, Restaurant 4, Anchor 3	Commercial, Industrial
10	1.0+2.23 acres	Restaurant 1	Industrial
11	6.91+6.68 acres	Major 5, Major 6, Major 7	Commercial
12	3.65+7.88 acres	Hotel, Restaurant 5, Restaurant 4, Restaurant 2, Restaurant 3, Retail 4, Retail 5	Industrial (w/flex space)
13	1.39+2.97 acres	Anchor B, Shops C, Pad C	Commercial
14	1.58 acres	Pad C, Shops C	Commercial, industrial
154	5.60 acres	Pad D, Commercial Office Building	Industrial
Tract A	1.25 acres	Central Park	
Tract B	1.05 acres	Open Space, Tower Park	
Tract C	1.58 acres	Open space	

### **Findings**

- A. The Review Criteria for a Subdivision is listed in Section 3.108.04 of the Keizer Development Code. The criteria and findings are listed below:

**3.108.04.A** The proposal shall comply with the applicable development standards in Section 2.405 and Section 2.3 as appropriate, including provisions for streets and utilities.

Section 2.405 contains development standards for manufactured home parks and are therefore, not applicable in this situation. Section 2.3 of the Keizer Development Code contains the policies and standards, which guide all development approvals within the City of Keizer. Listed below are only the applicable development standards contained in Section 2.3, which are pertinent to subdivision approval:

Section 2.302	Street Standards
Section 2.303	Off-Street Parking and Loading
Section 2.305	Transit Facilities
Section 2.306	Storm Drainage

Section 2.307	Utility Lines and Facilities
Section 2.308	Signs
Section 2.309	Site and Landscaping Design
Section 2.310	Development Standards for Land Divisions

**FINDINGS:** Consistency with the above KDC sections is addressed in the earlier section related to the standards under the EG zone for the Keizer Station Plan, with the exception of requirements in Section 2.310 specifically related to subdivisions. These requirements are addressed below.

## **SECTION 2.310 - DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

### **B. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.**

**FINDINGS:** Section 2.119.09 specifies the dimensional requirements for lots within the EG zone. For commercial lots, at least 80% must have a minimum lot size of 20,000 square feet, with a minimum average width and depth of 100 feet. The remainder 20% must have a minimum lot size of 10,000 square feet, with a minimum average width and depth of 75 feet. Of the seven lots that have exclusively commercial uses, all are over 20,000 square feet in size and all have average width and depths of over 100 feet. The commercial uses meet the code criteria.

For industrial lots, at least 80% must have a minimum lot size of 3 acres, with a minimum average width and depth of 350 feet. The remainder 20% must have a minimum lot size of one acre, with a minimum average width and depth of 150 feet.

~~Of the six lots that have exclusively industrial uses, three, or 50%, have lots sizes over 3 acres. Two of the industrial sites (lots 2 and 3) are less than one acre and do not have minimum average width or depths of 150 feet. Lot 12 is 3.65 acres, but does not have an average minimum width of 350 feet. The industrial uses do not meet the code criteria.~~

~~Two of the lots (1 and 14) have both industrial and commercial uses. If commercial criteria were followed, both lots would meet the commercial criteria. If industrial criteria were followed, lot 1 would increase the percentage of industrial lots over 3 acres to 57%, which is still less than the required 80%. This lot would meet the minimum average lot width and depth requirements. Lot 14 also meets the minimum average lot width and depth requirements. If lots 1 and 14 were considered industrial, the criteria would not be met.~~

### **C. Lot width and depth. The depth of a lot or parcel shall not be more than 3 times the width of the parcel, with the following exceptions:**

- 1. Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet with no dimension less than 6 feet**



of semi-private outdoor living space for each unit.

2. Individual lots for single-family attached dwelling units shall be designed so that lot depth is not greater than 3 1/2 times lot width.
3. Parcels created for public utility uses or in zones where there is no minimum lot area requirement shall be exempt from width to depth ratio provisions.

**FINDINGS:** The depth of each lot appears to average less than three times the width of each lot. This criterion is met.

- D. **Access.** All lots and parcels created after the effective date of this Ordinance shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone.

**FINDINGS:** All commercial lots provide a minimum street frontage of 100 feet. Of the industrial lots, lot 3 has a street frontage of 120 feet, which is less than the required minimum lot width of 150 feet. The industrial uses do not meet the code requirement.

- E. **Lot Lines.** The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line.

**FINDINGS:** The side lines of the lots run at right angles to the right-of-way lines upon which the lots face for almost all of the lots. The one exception is the side lines of lots 5 and 6 which follows the driveway. The rear lot lines are not less than 1/2 the dimension of the front lot line in any case. This criterion has been met.

- F. **Utility Easements.** Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width as specified in Section 2.302.04 of this Code.

**FINDINGS:** Section 2.302.04 states that utility easements shall be between five and 10 feet adjacent to the right of way. The width may be increased as determined by the Department of Public Works on a case by case basis. The width of the utility easements range from 15 feet to 50 feet within each lot, based on the preliminary plat provided by the applicant. The Department of Public Works comments state that "all easements to be located in the appropriate locations based on actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations."

## **2.310.04 Additional Design Standards For Subdivisions**

### **A. Standards for Blocks**

1. **General:** The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic; and recognition of limitations and opportunities of topography.
2. **Sizes:** Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

**FINDINGS:** The realignment of Radiant Drive and the construction of the three new roads will be to arterial standards in terms of structural section and geometric configuration. The distance between the intersections is more than 600 feet and less than 1,800 feet. The blocks have been laid out to provide adequate building sites for the proposed uses, convenient access and circulation, and safety of traffic signals. Multiple entrances off the streets are provided within each block to serve the various uses proposed. These entrances are adequately spaced to provide convenient access and circulation. Entrances into the blocks are located away from street intersections and should not provide conflicts with the intersections.

- B. Traffic Circulation.** The proposed subdivision shall be laid out to provide safe and convenient vehicle, bicycle and pedestrian access to nearby residential areas, transit stops, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe and convenient traffic circulation. At a minimum, "nearby" is interpreted to mean uses within ¼ mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably be expected to be accessed by bicyclists.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.B and Section 2.315.08A.1. The criterion has been met with conditions.

- C. Connectivity.** To achieve the objective in B., above, the Director may require the following:

1. **Stub Streets:** Where the potential exists for additional residential development on adjacent property.
2. **Pedestrian/Bicycle Accessways:** Public accessways to provide a safe and

efficient connection from a residential area to nearby residential areas, transit stops, neighborhood activity centers, including schools, parks, shopping centers, other community services and other commercial and industrial areas when such connections are not available by streets and when a pedestrian must go at least one quarter of a mile out of his or her way to make that connection using the street system.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.315.08A.1 and Section 2.315.08.A.9. The criterion has been met with conditions.

**D. Design Standards.** Pedestrian/bicycle accessways shall meet the following design standards:

1. Minimum dedicated width: 10 feet
2. Minimum improved width: 10 feet
3. Maximum length: 250 feet. A clear line of vision for the entire length of the accessway shall be required.
4. Lighting shall be provided illuminating any walkway exceeding 150 feet in length to a level where the system can be used at night. Lighting shall be included in the lighting district(s) established for the subdivision.
5. The accessway shall be designed to prohibit vehicle traffic.

**FINDINGS:** At scales of 1" = 100', this is difficult to determine, but the pathway along Interstate 5 and along Radiant Drive appear to be consistent with the criterion. The pathway along Interstate 5 appears to be 12 feet wide and the bike and pedestrian access along Radiant Drive appear to be 18 feet wide. The pathway running through Chemawa Park connecting Chemawa Road and Road A to Road B appears to be 8 feet. This pathway should be increased to be 12 feet wide, consistent with the pathway along Interstate 5. The pathways shall be designed to prohibit vehicle traffic and shall include lighting.

**2.310.06 - Improvement Requirements - Subdivisions**

- A. Frontage Improvements.** Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.303 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such

other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.A. The criterion has been met with conditions.

**B. Project Streets.** All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302. The criterion has been met with conditions.

**C. Monuments.** Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

**FINDINGS:** This is a development requirements and a condition of subdivision approval.

**D. Bench Marks** Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure.

**FINDINGS:** This is a development requirements and a condition of subdivision approval.

**E. Surface Drainage and Storm Sewer System.** Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.306. The criterion has been met with conditions.

**F. Sanitary Sewers.** Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.D. The criterion has been met with conditions.

**G. Water System.** Water lines with valves and Fire District approved fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be

installed and operating prior to start of combustible construction.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.B. The criterion has been met with conditions.

**H. Sidewalks.** Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision.

**FINDINGS:** Sidewalks are proposed along both sides of Radiant Drive, Road A, Road B, and Road C. Tepper Lane is recommended by the Public Works Department to be constructed as a ¼ width street and therefore is proposed to have sidewalks on one side of the street only. However, separated bicycle and pedestrian lanes are required as stated on page 14 (Future Extension of Streets) of these findings. Additional sidewalks are proposed as conditions of approval as noted in Section III, Keizer Station Master Plan, findings for Section 2.315.08.A.

**I. Street Lights.** The installation of street lights is required at locations determined to be appropriate by the City and shall be of a type required by City standards.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.E. The criterion has been met with conditions.

**J. Street Signs.** The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits.

**FINDINGS:** This is a condition of subdivision approval. No building permits will be issued until all required street signs are installed.

**K. Public Works Requirements.** All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works.

**FINDINGS:** This is a condition of subdivision approval. Public Works comments are included under *Recommendations and Conditions* of the Keizer Station Master Plan section of this staff report. These comments are applicable to the subdivision application.

**L. Curb Cuts.** Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.

**FINDINGS:** All curb cuts and driveway installations shall be constructed according to City standards.

**M. Street Trees.** Street tree planting is mandatory where a planting strip is part of the

**street design. Plantings shall conform to Section 2.302.03 (M).**

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.M. The criterion has been met with conditions.

**N. Grading and Fills.** All grading which results in fill in excess of 3 feet located within the identified building envelope on a subdivision lot or parcel must be engineered.

**FINDINGS:** This is a development requirement and a condition of subdivision approval.

**SECTION 3.108.04.B** Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved.

Section 2.119.9 of the Keizer Development Code contains the dimensional standards and density standard for the EG zone.

**FINDINGS:** Consistency with KDC Section 2.119.9 is addressed in Section III, Keizer Station Master Plan, findings for section 2.119 and this section, findings for section 2.310.

**SECTION 3.108.04.C** Adequate public facilities shall be available and shall serve the existing and newly created parcels.

**FINDINGS:** Public sewer and water are available and will be extended to serve the subdivision. Section 2.301.03 requires the following public facilities to be provided: fire hydrants, street improvements, water hook-up, sewer hook-up, storm drain, and street lights. No development permit, including building permit, shall be approved or issued unless the improvements are provided prior to occupancy or operation.

## **2. FINDINGS - MAJOR VARIANCE**

**A. The Review Criteria for a Major Variance is listed in Section 3.105.05 of the Keizer Development Code. The criteria and findings are listed below.**

**1. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.**

**FINDINGS:** The subject property is zoned EG. In general, the surrounding uses are commercial/retail. The placement of restaurants and most office type uses are permitted within the EG zone. The setback requirements for Industrial Uses within the EG zone are to provide for and ensure compatibility with adjacent uses, provide areas for outdoor storages, incidental sales,

and access for the transport of bulk materials where the noises, lights, odors, and traffic hazards associated with permitted uses will not conflict with local and collector streets. The applicant is requesting to reduce the maximum setback for industrial uses to approximately 12 to 14 feet for "Pad A and C", and "Rest 1, 2, 4 and 5". In addition, an increase is requested to the minimum ten foot setback for commercial uses to approximately 31 to 33 feet for "Shops A" and "Anchor B".

#### **MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 AND 5":**

The surrounding uses are commercial/retail in general. The uses proposed on the subject properties are permitted within the IG zone, however they are more commercial related than industrial. Normally, the access requirements for industrial type uses are greater than those required for commercial/retail uses. However, many permitted industrial uses are also found within the permitted commercial/retail uses whose access and storage requirements are not as great as the majority of industrial uses. This is the case within this area as the proposed use for these building pads is for restaurants. Therefore, the setback requirements do not meet the needs of the proposed businesses. Therefore, staff finds this request can satisfy the above criterion. The variance is the minimum necessary for this use. This criterion is met.

#### **MAJOR VARIANCE FOR "SHOP A":**

The applicant's statement indicates that there is a overhead power line easement along the north side of the building. The applicant's subdivision plat shows a 100 foot easement running east and west along the north side of the property. Seventy five feet of the easement is within the right of way leaving an additional twenty-five feet of easement within the parcel containing "Shop A" reducing the building lot frontage by twenty-five feet. Therefore, staff recommends approval of this request. Due to this, this criterion is met.

#### **MAJOR VARIANCE FOR "ANCHOR B":**

The applicant's statement indicates that the request for a 31 foot setback along the northerly and easterly side of this pad is to accommodate a bank drive thru. This pad is located at a major intersection within "Area A" and does not meet the "pedestrian friendly environment" nor maintain the stated purposes of the Keizer Station Plan. Staff cannot support this variance request and therefore does not recommend approval of this request. Unlike the previous variance requests, there is no justifiable position for the variance. This criterion is not met.

- 2. The applicant in good faith is unable to comply with the standard without undue burden. The applicant must demonstrate that the burden is substantially greater than the potential adverse impacts caused by the proposed variance.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A":**

**FINDINGS:** At staff's request, the right of way was expanded in "Area A" to accommodate future needs as well as maintaining the purpose of the Keizer Station Plan. The applicant states that this requirement is a burden placed upon the applicant and that allowing this variance will provide a more pedestrian friendly appearance. This criterion is met.

**MAJOR VARIANCE FOR "ANCHOR B":**

**FINDINGS:** The applicant has not shown why the standard imposes an undue burden, nor has it been shown that it is greater than the impacts the variance would cause. This criterion has not been met.

3. **The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A":**

**FINDINGS:** The surrounding properties are zoned EG which allows a mixture of Commercial and Industrial Uses. The uses proposed are permitted within the EG zone, however they are more retail related than industrial. Since the surrounding areas are being developed as commercial/retail and will have similar setback requirements, the approval of this variance will not be unreasonably detrimental to property or improvements in the neighborhood. The structures will be located outside of any vision clearance areas. Therefore, staff finds this request can satisfy the above criterion.

**MAJOR VARIANCE FOR ANCHOR B:**

**FINDINGS:** The intent and purpose of the set back is to give a buffer for aesthetic purposes. The drive-thru proposed for Anchor B will cause the loss of effective buffer. This criterion is not met.



4. **There has not been a previous land use action approved on the basis that variances would not be allowed.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A" AND ANCHOR "B":**

**FINDINGS:** There are no prior land use actions, which expressly prohibit the granting of this variance. Therefore, the proposed variance can comply with this criterion.

5. **The variance will not significantly affect the health or safety of persons working or residing in the vicinity.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOPS A", AND "ANCHOR B":**

**FINDINGS:** Staff cannot find any significant affects upon the health or safety of persons working or residing in the vicinity if the variance request is granted. Therefore, staff concludes this request meets with the above criteria. This criterion is met.

6. **The variance will be consistent with the intent and purpose of the provision being varied.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A":**

**FINDINGS:** The intent and purpose for the setback requirements for Industrial Uses within the EG zone is to ensure their compatibility with adjacent uses, to provide areas for outdoor storage, incidental sales, and access for the transport of bulk materials where the noises, lights, odors, and traffic hazards associated with permitted uses will not conflict with local and collector streets. The surrounding uses are commercial/retail in general. The uses proposed are permitted uses within the IG zone; however they are more retail related than industrial. The access requirements are not as great as a majority of industrial uses therefore the setback requirements do not meet the needs of these businesses. Since the surrounding area is being developed as commercial/retail and will have similar setback requirements there will be no adverse impacts. The structure will be located outside any vision clearance areas. Therefore this request can satisfy the above criterion.

**X. RECOMMENDATION FOR MAJOR VARIANCE APPLICATION** for "Anchor B" is that the Community Development Director for the City of Keizer recommends **DENIAL** of the Major Variance application. Findings in support of this decision can be found above.

**XI. RECOMMENDATION AND CONDITIONS FOR MAJOR VARIANCE APPLICATION** for "Pads A and C", and "Rests 1, 2, 4 5" and "Shop A"

1. Unless otherwise specifically modified by this decision, development of the structure shall comply with remaining requirements of the Keizer Development Code.

2. The applicant shall meet all requirements of the Marion County Building Division.

3. The applicant shall locate the proposed structures substantially as indicated on the submitted site plan and shall maintain a minimum setback of 12 to 14 feet from the property line adjacent to Radiant or "Road B".

4. The construction of this structure must be completed within one year of the final date of this decision. This approval is only valid when the construction is completed by June 21, 2005.

**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.

**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.

## **XII. FINDINGS – SIGN VARIANCE**

A. The Review Criteria for a sign variance is listed in Section 2.308.10 of the Keizer Development Code. The criteria and findings are listed below:

1. There are unique circumstances or conditions of the lot, building or traffic pattern such that:
  - a. The existing sign regulations create an undue hardship;
  - b. The requested variance is consistent with the purpose of this chapter as stated in Section 2.308.01; and
  - c. The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this chapter.

**FINDINGS:** The location of such a major development along the I-5 corridor creates special needs which the limitation of the freestanding signs to 20' in height would create an undue hardship

for visibility at speeds anticipated on the interstate highway. By developing an over-all signage program which limits other freestanding signs throughout the complex the intent of the sign code will be met to provide attractive, visible, and useful signage throughout the complex. By allowing an increase in size and height of a location sign and restricting the freestanding signs elsewhere, compensation for those conditions will achieve the purposes of the sign code.

2. **The granting of the variance shall not:**
  - a. **Decrease traffic safety nor detrimentally affect any other identified items of public welfare.**
  - b. **Result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance.**
  - c. **Be the result of a self-imposed condition or hardship.**

**FINDINGS:** The need of height increase along I-5 is comparable to the same needs experienced by the nearby Volcanoes Stadium, as well as the regional mall at the City of Woodburn. In both circumstances, the needs for visibility were thoroughly evaluated and limited in height to 50'. By granting a variance greater than 50' this would create an advantage for this development that is not enjoyed by a neighboring property. Therefore the height should be limited to 50' in height. By granting a variance in height to a maximum of 50' while granting the requested signage area, the applicant would be treated equitably with others.



## **EXHIBIT "D"**

### **Justification**

The applicant has the burden of proving that the application meets relevant standards and criteria to be applied in the particular case. The applicant, Northwest National LC has requested approval of a Master Plan/Subdivision, Major Variance and Sign Variance for Area A-Village Center of the Keizer Station Plan area.

The Keizer Station Design Plan was adopted in February 2003 for the area formerly known as the Chemawa Activity Center. The Keizer Station Plan (KSP) sets forth a detailed vision for the northwest and southwest quadrants of the I-5 interchange. This well-situated and strategic property has been planned for a mix of commercial and industrial uses with emphasis on pedestrian-friendly design and attractive, streetscape amenities.

The applicant has met its burden of showing compliance with all the applicable criteria, except as noted below. The Master Plan/Subdivision request includes the industrial and commercial mix envisioned by the creation of the employment general (EG) zone when the KSP was adopted. As properly conditioned, the Master Plan/Subdivision presents a vibrant and energetic vision for the Village Center. The KSP goals of a northern gateway to Keizer, a focal point for commerce and community activities, and a source of employment opportunities are enhanced and realized by this proposal. The criteria has been satisfied with the aid of appropriate conditions.

Major variance requests involve the setbacks for certain buildings in the industrial portion of the plan. Because of the placement of electrical easements and because of the commercial nature of these buildings, it is appropriate to allow the variances for the most part. However, the variance criteria were not met for Anchor "B" structure. The justification put forth by the applicant was not sufficient to meet the required criteria. Therefore, that variance request is denied.

The Sign Variance requested a 68 foot high free-standing sign for the development. The City Council finds that such a sign is not appropriate, but because of the adjacent I-5 freeway and the fact of the speed of the vehicles and topography require a larger sign, grant a free-standing sign of 50 feet high. However, other signage in the development shall be minimized accordingly. As conditioned, the signage requests meet the code criteria and the goals of Keizer Station Plan.

The proposal, accept as noted herein meets the applicable criteria and is approved.



## **EXHIBIT "E"**

### **Action**

**The City of Keizer hereby ORDERS as follows:**

**The request for Major Variance Anchor B is hereby DENIED.**

**The Master Plan/Subdivision, remaining Major Variance and Sign Variance requests are GRANTED subject to the following conditions:**

### **PUBLIC WORKS CONDITIONS:**

#### **SANITARY SEWERS:**

The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is \$7,460.00 per gross acre prior to platting of the subdivision. The acreage fee applied will be the fee in place at the time of development of the property. The Master Sewer Plan provides for a sewer trunk line to be constructed through the subject property with adequate size and depth to provide for additional capacity for areas located within the original sewer district west of the BNSF railroad. Additionally, Area D, south of Chemawa Road shall be served with a sewer trunk line to be constructed along with the proposed under crossing of Chemawa Road. A review of the construction plans for the subject property will be required to assure that capacity of the master plan sewer trunk lines is not exceeded. Additionally, the following conditions shall be applied:

1. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the Department of Public Works for review and approval. The plan shall include proposed rim and invert elevations. The entire project shall be served by an existing 18" trunk sewer line adjacent to Keizer Stadium.
2. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area.
3. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.
4. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.
5. It will be the responsibility of the developer's engineer to locate any existing wells

(including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be resolved by the developer prior to issuance of public works construction permits.

#### **WATER SYSTEM:**

6. The developer has submitted a master water system plan showing proposed routes of public water mains, fire hydrants and individual services. The master plan is generally acceptable to the Public Works Department, however, prior to submittal of final construction plans the developer's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines located outside of proposed right of ways. Final location of all meters to be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNRR right of way, and any other off-site construction required to provide required peak flows to the proposed development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Dedication of property to the City shall be required for any wells or storage facilities developed. Any system development charges for water system improvements will be those in place at the time of individual service connections.
7. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.
8. It will be the responsibility of the developer to abandon all existing wells prior to site grading in accordance with the rules of the Oregon State Water Resources Department unless the City has determined that water rights are available in some cases that could be transferred to municipal use by the city.

#### **STORM DRAINAGE IMPROVEMENTS:**

9. The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge.



10. Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces. Where on-site detention is planned, adequate covenant, conditions and restrictions (CCR) shall be recorded to alert future owners/developers that detention and/or treatment shall be required to be constructed to the standards in effect at the time of building permit application.
11. A grading and drainage plan shall be developed and approved for the subject property including proposed lot corner elevations. Details shall include adequate conveyance of storm water from adjacent property across the subject property.
12. If it is anticipated that the property will develop in phases, prior to any development, a phasing plan shall be submitted to indicate how the storm water management will be developed to provide service to each area.
13. The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site and shall provide adequate protection for existing vegetation. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.
14. The drainage plan for the project includes a proposed storm drain pump station for a portion of the realigned Radiant Drive. The street section requiring pumping shall be minimized to the fullest extent possible. The Department of Public Works shall determine the criteria for design of the station. The developer's engineer shall provide three sets of an approved operation and maintenance manual for the station including a provision for emergency or standby operation. The developer shall also submit a plan for financing the annual operation and maintenance expense of the station.

#### **TRANSPORTATION:**

15. The proposed development requires construction of an underpass under the BNRR as well as an underpass of Chemawa Road. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include but are not limited to, construction of an extension of Radiant Drive from the BNRR tracks South Westerly through Area B to Lockhaven Drive and continuing to Chemawa Road to a point north of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian undercrossing of the BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area D development, ODOT and the Keizer Community Development Department. The path shall be of Portland Concrete Cement and constructed to a width of 12 feet.
16. All new public streets shall be constructed to the requirements of the City of Keizer

Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. Tepper Lane shall be terminated at the Railroad and shall be constructed as a ¼ width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles. In addition, Tepper Lane shall have facilities to safely accommodate eastbound and westbound bicycle and pedestrian traffic which is separated from vehicular traffic. All other streets shall be designed to arterial standards in terms of structural section and geometrical configuration. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed.

17. The developer's engineer shall submit detailed traffic signal plans indicating phasing, recommended inter-ties, materials to be used, etc. to the City of Keizer Department of Public Works for approval prior to construction. All traffic signal plans shall be designed to City of Salem/ODOT Standards where appropriate.

#### **GENERAL:**

18. Adequate access shall be provided that meets the needs of Keizer Station and the KSP transportation system.
19. A queuing plan for Phase 1 of the Development (assuming 2008 build out of Areas A and D) shall be submitted to the department of Public works for approval prior to Construction Plan Review. This analysis will determine the needed lane configurations.
20. Phase 1 improvements will require the closure of Ridge Drive at Chemawa Road and Chemawa Road at Lockhaven Drive. A suitable connection between Ridge Drive and the intersection at Chemawa Road and McLeod Lane will be required. Figure 17 in the April 2004 final Transportation Impact Analysis indicates a connection suitable to the Department of Public Works. The Department of Public Works will consider other alternative street alignments depending on Area C development patterns.
21. A separate Railroad sensitivity analysis is required for Phase 1 improvements (assuming 2008 build out of Areas A and D) as outlined in the TIA dated April 2004 on page 21.
22. A street lighting master plan shall be developed. A street lighting district shall be created while under the control of the developer to provide for adequate street lights along the frontage of all new street rights of way. Decorative lighting approved by the Department of Public Works shall be used.
23. Construction permits are required by the Department of Public Works prior to any public

facility construction. Contact the City Engineer's office at 390-7402 for the necessary permit information that is required.

24. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.
25. Street opening permits are required for any work within the City right-of-way that is not covered by a Construction Permit.
26. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council.
27. All easements are to be located in the appropriate locations based on actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations.
28. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place prior to construction permits being issued or the final subdivision plat approval.

**KSP and KDC COMPLIANCE:**

29. Prior to approval of any building permits, the applicant shall submit a phasing plan for Community Development Director approval.
30. The landscaping and pathway improvements along Chemawa Road and I-5 and a "Welcome to Keizer" monument sign in the northwest quadrant of the I-5/Chemawa Road interchange shall be provided as shown in the application or as modified by the conditions of approval. The final landscaping and pathway plans shall be approved by the Community Development Director prior to installation. These landscaping and pathway improvements and the "Welcome to Keizer" sign shall be provided in conjunction with the first building permit approved for the development.
31. The land area devoted to industrial and commercial uses, as required in KDC 2.119 EG Zone shall be met and maintained within Area A - Village Center. The land area calculation shall be based upon the land area of the subdivision lots and the uses occupying them. Commercial and industrial uses shall not jointly occupy a single lot.
32. Except as approved in the variance application, all KDC dimensional requirements for building heights, lots, and setbacks shall be met.
33. Anchor stores 1 and 2 and Major store 1 shall provide a pedestrian crosswalk to cross Road

B next to Retail 1. Anchor 3 shall provide a walkway connecting to the perimeter pathway along the I-5 right-of-way.

34. Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No final plat shall be released without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names should also receive approval of the City Council.
35. Street trees shall be planted with 30-foot spacing using one or more of 13 identified varieties. A minimum caliper of 2 inches shall be used for street trees and all other trees in areas subject to damage near pathways, walkways and streets. A final street tree planting plan shall be approved by the Community Development Director prior to planting. All the other landscaping standards of the KDC shall be met.
36. Ground cover and shrubbery shall be planted in conformity with the KDC and industry standards as approved by the Community Development Director, and shall reach full coverage by the third year of growth.
37. Parking shall be provided as required by KDC 2.303. Parking driveway aisles shall be a minimum of 24 feet wide. A plan documenting compliance with parking requirements shall be provided as part of the Master Plan approval for the Community Development Director's Master Plan approval. Verification shall be provided during building permit review.
38. Bicycle parking shall be provided as required by KDC 2.303.08. In addition, the bicycle rack design shall provide secure support for bicycles and the ability to lock bicycles securely. The bicycle rack design, installation, and locations shall be approved by the Community Development Director prior to installation.
39. Sufficient paved areas and designated loading areas shall be provided in accordance with KDC 2.303.10.
40. Pavement shall be provided for all driveway, loading, and parking areas as required by KDC 2.303.11.
41. A tree shall be planted for every eight lineal parking spaces not located adjacent to a building in accordance with KDC standards.
42. A minimum of 15% of the gross land area for Commercial uses and 20% for Industrial uses shall be devoted to landscaping in commercial developments. This requirement shall be satisfied for development within each of the individual lots of the proposed subdivision. To provide for adequate vision clearance the landscaping material shall be selected to provide for the maintenance of adequate site distance.
43. Buffering shall be provided along the western edge of the project, in a manner, which is

consistent with the proposed preliminary landscaping plan (Sheets LO1-4.). Electric and mechanical equipment shall be screened with vegetation and fencing. The final landscaping plan shall be approved by the Community Development Director prior to planting.

44. Irrigation system plans shall be submitted for approval as part of the building permit review process. Approved irrigation systems shall be installed prior to issuance of an occupancy permit.
45. The site plan shall be amended to locate the hotel, commercial office building, restaurants, retail pads, parks, and plazas closer together with an orientation to Radiant Drive. Of primary importance will be to locate buildings within 10 to 25 feet of Radiant Drive and to locate active uses adjacent to and buildings oriented toward Central Park (Tract A). Central Park must be adjacent to active areas and/or visually accessible from adjacent buildings. The amended plan shall be approved by the Community Development Director.
46. Tower Park (Tract B) is of virtually no open space value. The applicant shall provide plans for Community Development Director approval to provide off-setting open space, plaza, area, and/or public amenities in more advantageous locations within the development. The amenities to be provided shall include, but not be limited to, seating, pedestrian gathering places, public art, plaza connections, exercise stations, and other points of interest.
47. The following pedestrian connections and improvements shall be provided in addition to what is shown on the Pedestrian Pathways Plan (Sheet AO3) for Community Development Director approval:
  - A crosswalk and easterly extension of the sidewalk on Radiant Drive across Road B to the driveway near Anchor B.
  - A crosswalk for the perimeter pathway at Road B.
  - A sidewalk connection between the Chemawa Road/I-5 interchange and the Road B sidewalk.
  - Walkway connections between the buildings on the east side of the site with the perimeter walkway along I-5.
  - Walkway connection between the Radiant Drive walkway and the front of Anchor A.
  - Walkway connections between restaurant and retail pads and the adjacent street sidewalks, such as Pads B, E and F, the hotel, the office building, Anchor B, and Majors 5 and 6.
  - Pedestrian crosswalks at streets, driveways and parking lots must be constructed with colored, stamped concrete pavement treatment (or equivalent as approved by the Community Development Director to clearly identify all crosswalks).
  - Public amenities shall be installed to support pedestrian uses including those along the multi-use path. The amenities to be provided shall include, but not be limited to, seating, pedestrian gathering places, public art, plaza connections, exercise stations, and other points of interest.
  - Walkway connection between Anchor 1 and Anchor A.

48. The Village within Area A shall contain a public improvement design to include a promenade/sidewalk design that meets a minimum sidewalk width of 8 feet. The promenade/sidewalk design may vary in width to meet a minimum width of 8 feet on both sides of Radiant Drive. The area of Radiant Drive which is depressed below grade shall be installed with the sidewalk on one side only. All promenade/sidewalks shall be separated from the street with a landscape belt, to include decorative lighting and trees.
49. Majors 5 and 6 shall provide improved pedestrian access to Road A in accordance with KDC 2.315.08.A.3.
50. Driveway crossings shall be a maximum of 36 feet wide.
51. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers. The lighting plan shall be approved by the Community Development Director.
52. The proposed site lighting will not cast any light or glare toward the residential properties to the west.
53. Building design elements including ground floor windows, facades, awnings and materials shall satisfy KDC 2.315.08.
54. The elevations of all buildings shall be varied in texture, building materials and shall create a very human scale in blocking and incorporate human scale design elements. Elevations of all buildings shall incorporate no more than fifteen feet between varied vertical elements, an average height of 23 feet punctuated frequently with various architectural accents no greater than 22 feet in width and no higher than 28 feet to the eave line. A variety of materials, varied at the same frequency as the architectural elements, shall be used and shall conform to the samples in the submitted materials. These materials shall incorporate cultured stone, five varieties of split face Concrete Mortar Units (CMU's), as well as smooth faced CMU walls. The colors used shall be in compliance with the Development Standards.
55. The application includes design concepts for some of the buildings within the development. Final building designs shall conform with the design concepts submitted with the application, and shall be reviewed by the Community Development Director for compliance with applicable KDC design standards as part of the building permit review.
56. The city and developer shall work together to provide design amenities to enhance the aesthetic appearance and pedestrian functionality of the two underpasses. Finish materials, landscaping, and lighting shall be consistent with that of the buildings in the Village Center.
57. Streetscape features shall be constructed and shall include seating, outdoor art, a significant water feature at the intersection of Road A and Road B as shown on the application materials, awnings and trellises, and interesting bicycle facilities.

58. Maintenance of the open space tracts, plazas, and pathways shall be the responsibility of an association of all property owners of the Village Center.
59. Construction specifications (e.g., base rock, pavement thickness) for the separate pathways shall be subject to Public Works Department approval in accordance with Keizer City Standards.
60. Maintenance of the "Welcome to Keizer" sign shall be the responsibility of the City of Keizer.
61. The Plan shall conform to the requirements of all other State and Special District requirements.
62. During construction, residential properties shall be protected from impacts of noise at unreasonable hours, unreasonable dust, and safety concerns, and shall conform to Keizer city requirements regulating such impacts.
63. The development of the Village Center shall comply with all conditions of the Development Disposition Agreements and all other contractual obligations to the City of Keizer.
64. The applicant shall work with the Transit District to ensure compliance with the requirements found in Section 2.305 of the KDC.
65. In addition to the development standards of Utility Lines and Facilities - Section 2.307 the following standard shall apply to new utilities: A.) All utilities located adjacent to Radiant Drive and connecting transportation facilities shall be located underground. B.) All other new utility connections and lines shall be located underground where practicable.
66. A sight and sound obscuring wall shall be constructed of Concrete Masonry Units or equivalent between the residential properties and the northern border of Area B.
67. Car wash and any automobile service station uses are allowed only as a special permitted use.
68. A portion of Road C shall be located in a public easement, constructed to City of Keizer road standards, and maintained by the City of Keizer.
69. The applicant shall be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master Plan. These shall be submitted to the Community Development Director for verification and final approval.

**CONDITIONS FOR MAJOR VARIANCE APPLICATION** for "Pads A and C", and "Rests 1, 2, 4,5" and "Shop A"

70. Unless otherwise specifically modified by this decision, development of structure shall comply with the remaining requirements of the Keizer Development Code.
71. The applicant shall meet all requirements of the Marion County Building Division.
72. The applicant shall locate the proposed structures substantially as indicated on the submitted site plan and shall maintain a minimum setback of 12 to 14 feet from the property line adjacent to Radiant or "Road B".
73. The construction of the structures must be completed within one year of the final date of this decision. This approval is only valid when the construction is completed by June 21, 2005.

**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 other restrictions or conditions thereon.

**TRANSFER OF VARIANCE:** This variance 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.

**CONDITIONS FOR SIGN VARIANCE APPLICATION**

74. Unless otherwise specifically modified by this decision, development of the structure shall comply with the remaining requirements of the Keizer Development Code.
75. The applicant shall meet all requirements of the Marion County Building Division.
76. The signage of the Keizer Station, Area A Village Center shall be limited to the signage indicated in Exhibit 5 and the related specific drawings.
77. The height of the locational sign shall be limited to 50 feet in height; area of signage shall be allowed up to 400 sq ft on this sign. All other freestanding signs shall be limited to those size and heights as indicated on the plans submitted.

**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.

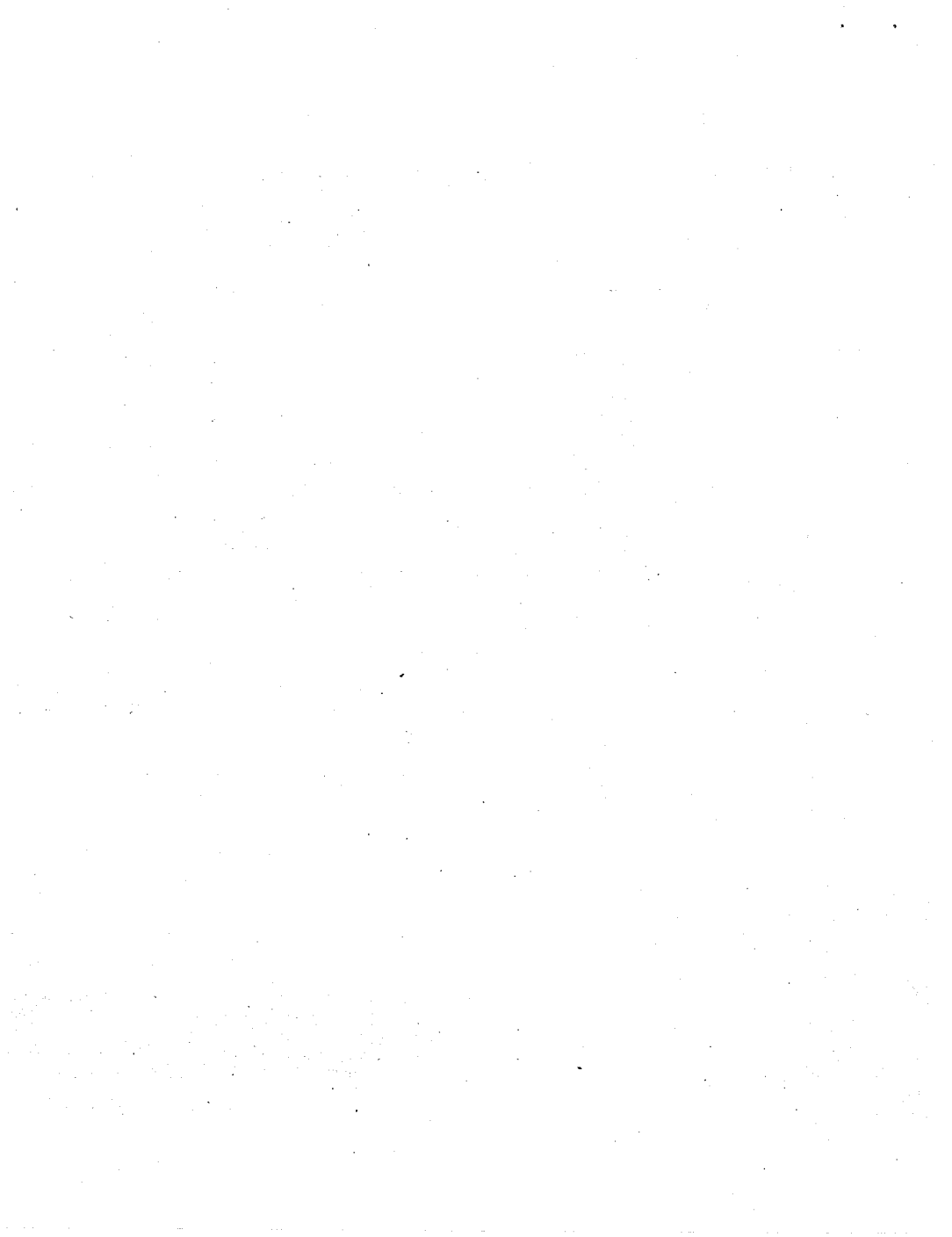
**TRANSFER OF VARIANCE:** The variance request shall automatically transfer to any new owner or occupant subject to all conditions of approval. It is the responsibility of the applicant and property owner to provide information to any new property owner(s) regarding this variance request and any conditions of approval.

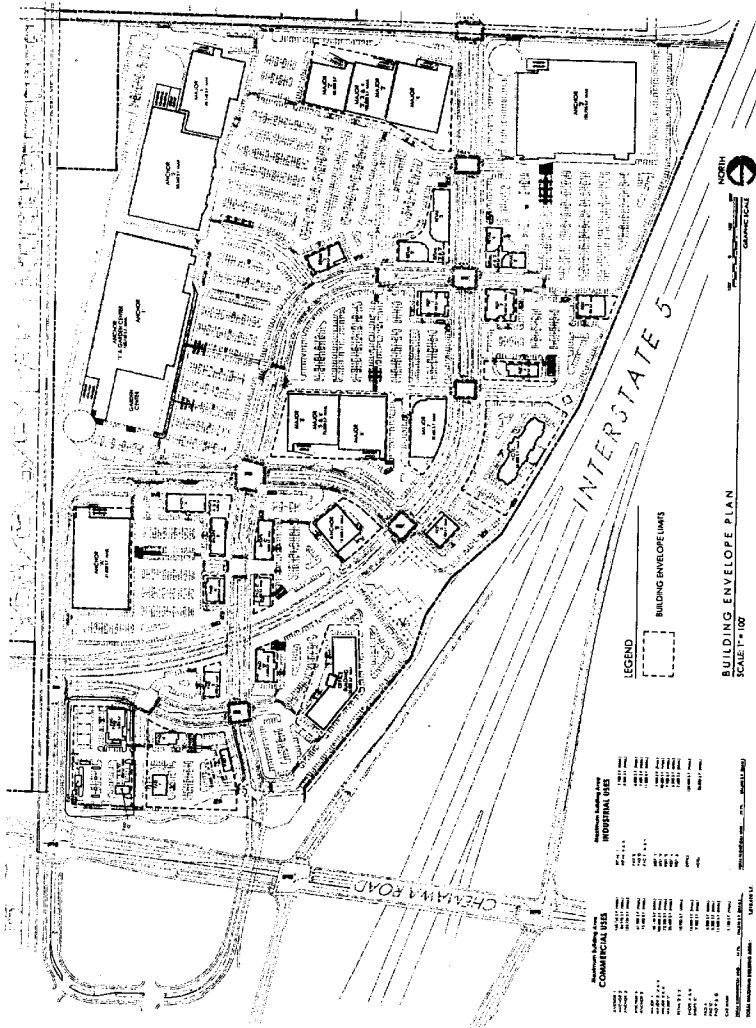
78. Unless expressly specified otherwise within these conditions, the on-site and off-site improvements shall be constructed in substantial conformance with the attached Exhibits and their related documents:

1. Building Envelope Plan
2. Site Plan (Site Area by Use)
3. Public Improvement Plans
4. Landscape Plans
5. Signage Site Plans

79. This land use action is approved on the basis that no future variances will be allowed.

80. Unless expressly stated otherwise with these conditions, no building permits shall be issued until all conditions have been met or the applicant has demonstrated with certainty in the City's discretion the ability to meet such conditions. For example, no building permit shall be issued until contracts have been let for all infrastructure. Building permits may also be held until sufficient infrastructure is completed to support the requested development.





**Legend**

Building Envelope Units

Building Envelope Units	Commercial Uses	Industrial Uses
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
11	11	11
12	12	12
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14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
19	19	19
20	20	20
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89	89	89
90	90	90
91	91	91
92	92	92
93	93	93
94	94	94
95	95	95
96	96	96
97	97	97
98	98	98
99	99	99
100	100	100

UPDATED: 7/01/04  
REVISED: 3/20/04



# Master Plan Keizer Station Village Center Keizer, Oregon

Northwest National, LLC  
2401 NW 10th Street, Suite 100  
Portland, Oregon 97227  
Phone: 503.453.4500  
Fax: 503.453.4501

RPS Development Company, Inc.  
1000 N. 10th Street, Suite 100  
Portland, Oregon 97227  
Phone: 503.453.4500  
Fax: 503.453.4501

A04

Sheet



**BENNER  
STANGE  
ASSOCIATES**  
ARCHITECTS PC  
5000 S.W. MEADOWS RD.  
SUITE 430  
LAKE OSWEGO, OR 97031  
(503) 235-0224  
FAX (503) 235-0235  
mst@benstange.com



SITE PLAN - ( SITE AREA BY BUILDING USE )

## Master Plan

Keizer Station Village Center  
Keizer, Oregon

RPDS Development Company, Inc.

8833 High Heaven Road  
Baltimore, MD 21238  
Phone: 303.435.4907 Fax: 303.435.4909

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**Northwest National, LLC**

245 Elm Street NE  
Salem, OR 97301  
Phone: 503 588 7099 Fax: 503 588 4437

RPS Development Co.

8833 High Heaven Road  
Baltimore, MD 21238  
Phone: 303.435.4907 Fax: 303.435.4909

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### Site Area for Industrial Users

Case	Age	Sex	Site	Pathologic	Survival
1	58	M	Rectum	Adenocarcinoma	10 mo
2	65	M	Rectum	Adenocarcinoma	10 mo
3	68	M	Rectum	Adenocarcinoma	10 mo
4	70	M	Rectum	Adenocarcinoma	10 mo
5	72	M	Rectum	Adenocarcinoma	10 mo
6	75	M	Rectum	Adenocarcinoma	10 mo
7	78	M	Rectum	Adenocarcinoma	10 mo
8	80	M	Rectum	Adenocarcinoma	10 mo
9	82	M	Rectum	Adenocarcinoma	10 mo
10	85	M	Rectum	Adenocarcinoma	10 mo
11	88	M	Rectum	Adenocarcinoma	10 mo
12	90	M	Rectum	Adenocarcinoma	10 mo
13	92	M	Rectum	Adenocarcinoma	10 mo
14	95	M	Rectum	Adenocarcinoma	10 mo
15	98	M	Rectum	Adenocarcinoma	10 mo
16	100	M	Rectum	Adenocarcinoma	10 mo
17	102	M	Rectum	Adenocarcinoma	10 mo
18	105	M	Rectum	Adenocarcinoma	10 mo
19	108	M	Rectum	Adenocarcinoma	10 mo
20	110	M	Rectum	Adenocarcinoma	10 mo
21	112	M	Rectum	Adenocarcinoma	10 mo
22	115	M	Rectum	Adenocarcinoma	10 mo
23	118	M	Rectum	Adenocarcinoma	10 mo
24	120	M	Rectum	Adenocarcinoma	10 mo
25	122	M	Rectum	Adenocarcinoma	10 mo
26	125	M	Rectum	Adenocarcinoma	10 mo
27	128	M	Rectum	Adenocarcinoma	10 mo
28	130	M	Rectum	Adenocarcinoma	10 mo
29	132	M	Rectum	Adenocarcinoma	10 mo
30	135	M	Rectum	Adenocarcinoma	10 mo
31	138	M	Rectum	Adenocarcinoma	10 mo
32	140	M	Rectum	Adenocarcinoma	10 mo
33	142	M	Rectum	Adenocarcinoma	10 mo
34	145	M	Rectum	Adenocarcinoma	10 mo
35	148	M	Rectum	Adenocarcinoma	10 mo
36	150	M	Rectum	Adenocarcinoma	10 mo
37	152	M	Rectum	Adenocarcinoma	10 mo
38	155	M	Rectum	Adenocarcinoma	10 mo
39	158	M	Rectum	Adenocarcinoma	10 mo
40	160	M	Rectum	Adenocarcinoma	10 mo
41	162	M	Rectum	Adenocarcinoma	10 mo
42	165	M	Rectum	Adenocarcinoma	10 mo
43	168	M	Rectum	Adenocarcinoma	10 mo
44	170	M	Rectum	Adenocarcinoma	10 mo
45	172	M	Rectum	Adenocarcinoma	10 mo
46	175	M	Rectum	Adenocarcinoma	10 mo
47	178	M	Rectum	Adenocarcinoma	10 mo
48	180	M	Rectum	Adenocarcinoma	10 mo
49	182	M	Rectum	Adenocarcinoma	10 mo
50	185	M	Rectum	Adenocarcinoma	10 mo
51	188	M	Rectum	Adenocarcinoma	10 mo
52	190	M	Rectum	Adenocarcinoma	10 mo
53	192	M	Rectum	Adenocarcinoma	10 mo
54	195	M	Rectum	Adenocarcinoma	10 mo
55	198	M	Rectum	Adenocarcinoma	10 mo
56	200	M	Rectum	Adenocarcinoma	10 mo
57	202	M	Rectum	Adenocarcinoma	10 mo
58	205	M	Rectum	Adenocarcinoma	10 mo
59	208	M	Rectum	Adenocarcinoma	10 mo
60	210	M	Rectum	Adenocarcinoma	10 mo
61	212	M	Rectum	Adenocarcinoma	10 mo
62	215	M	Rectum	Adenocarcinoma	10 mo
63	218	M	Rectum	Adenocarcinoma	10 mo
64	220	M	Rectum	Adenocarcinoma	10 mo
65	222	M	Rectum	Adenocarcinoma	10 mo
66	225	M	Rectum	Adenocarcinoma	10 mo
67	228	M	Rectum	Adenocarcinoma	10 mo
68	230	M	Rectum	Adenocarcinoma	10 mo
69	232	M	Rectum	Adenocarcinoma	10 mo
70	235	M	Rectum	Adenocarcinoma	10 mo
71	238	M	Rectum	Adenocarcinoma	10 mo
72	240	M	Rectum	Adenocarcinoma	10 mo
73	242	M	Rectum	Adenocarcinoma	10 mo
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242	665	M	Rectum	Adenocarcinoma	10 mo
243	668	M	Rectum	Adenocarcinoma	10 mo
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245	672				

### Site Area for Commercial Uses

15-24-24-2	5-10-24-2
16-24-14-9	6-12-24-2
16-24-14-5	7-12-24-2
16-24-14-1	8-12-24-2
16-24-14-7	9-12-24-2
16-24-14-3	10-12-24-2
16-24-14-8	11-12-24-2
16-24-14-4	12-12-24-2
16-24-14-6	13-12-24-2
16-24-14-2	14-12-24-2
16-24-14-0	15-12-24-2
16-24-14-1	16-12-24-2
16-24-14-7	17-12-24-2
16-24-14-3	18-12-24-2
16-24-14-8	19-12-24-2
16-24-14-4	20-12-24-2
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16-24-14-1	24-12-24-2
16-24-14-7	25-12-24-2
16-24-14-3	26-12-24-2
16-24-14-8	27-12-24-2
16-24-14-4	28-12-24-2
16-24-14-6	29-12-24-2
16-24-14-2	30-12-24-2
16-24-14-0	31-12-24-2

Small Commercial Sales	74.6%	46.9M Sales	101.4M Industrial / Retail Sales	21.6%	11.43 Acres
<p>Developed Industrial Area:</p>					38.51 Acres

1. **RESEARCH DESIGN** The study was a descriptive, cross-sectional survey of 1000 randomly selected, non-pregnant, non-lactating women in the community. The study was conducted in the community of the study area, which is a rural area. The study was conducted in the community of the study area, which is a rural area. The study was conducted in the community of the study area, which is a rural area.

7177 MAY 2001

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Northwest NC

**Don't Say No!**

1999 507 JAN 20 1999

2000

## Development

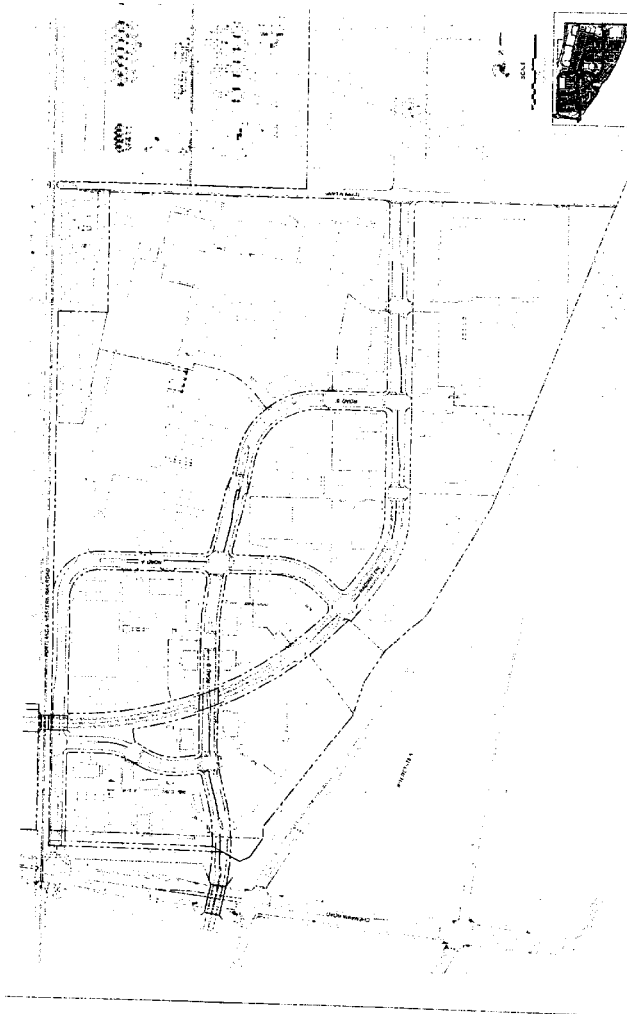
Design Height: 6'00"  
 Material: 0.09 1/2" x 1/2"

104 103 435 4907 104

**TABLE 1**

100

www.bps.com | 1-800-368-5777



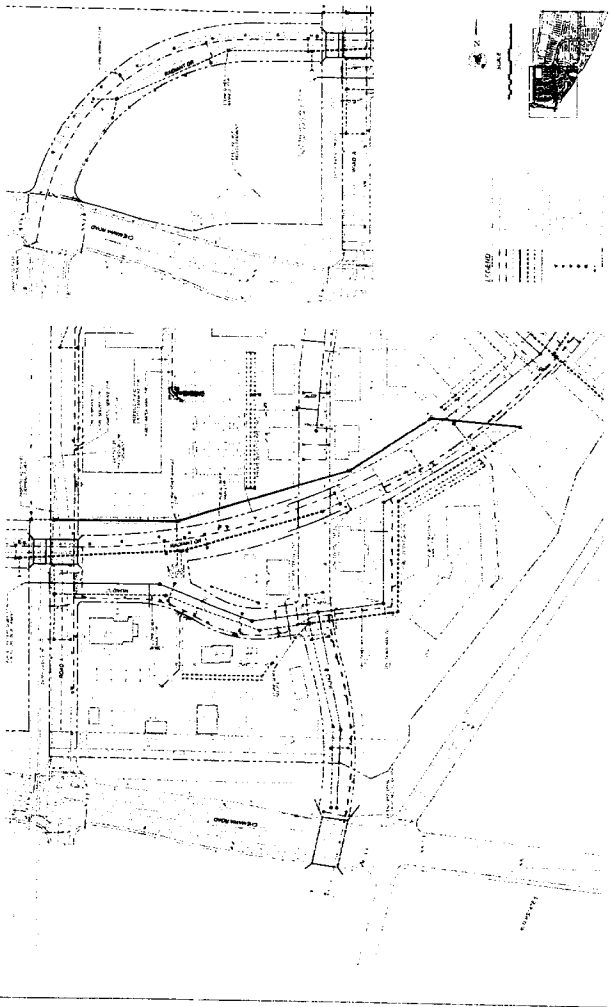
Preliminary Public Street Improvements

Public Improvement Plan  
Keizer Station Village Center  
Keizer, Oregon

Northwest National, LLC  
1000 NE Oregon Street  
Portland, Oregon 97232  
Phone: 503.255.1234 Fax: 503.255.1235  
www.nwnatl.com



PC01



Preliminary Public Utility Plan

Northwest National, LLC  
 10000 N. 10th Ave., Suite 100  
 Portland, OR 97217  
 503.281.1234  
 www.nwnatl.com

Public Improvement Plan

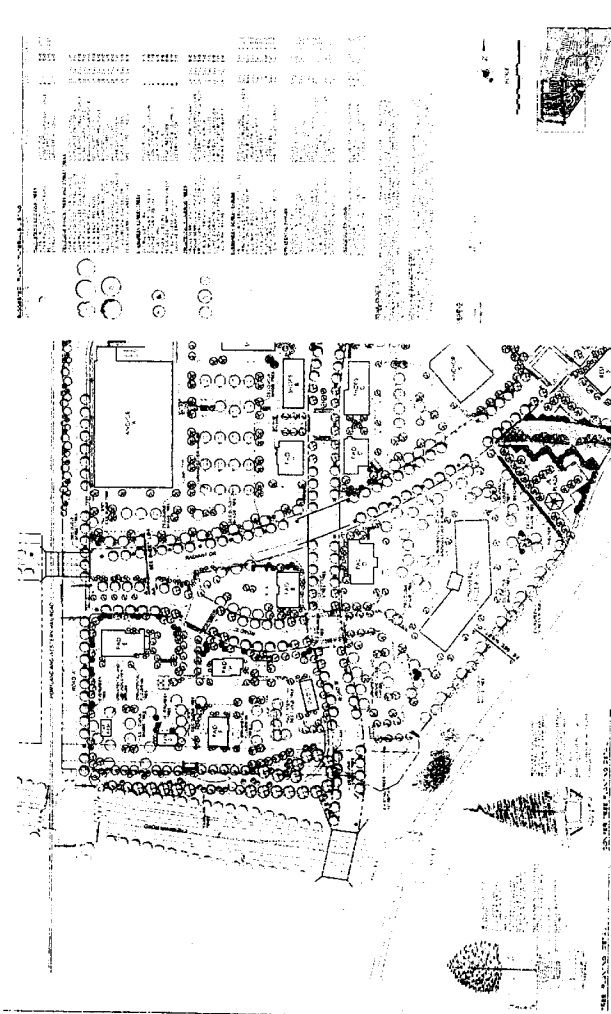
Keizer Station Village Center  
 Keizer, Oregon

RPS Development Company, Inc.  
 10000 N. 10th Ave., Suite 100  
 Portland, OR 97217  
 503.281.1234  
 www.rpsinc.com



PC05

11/1/2009



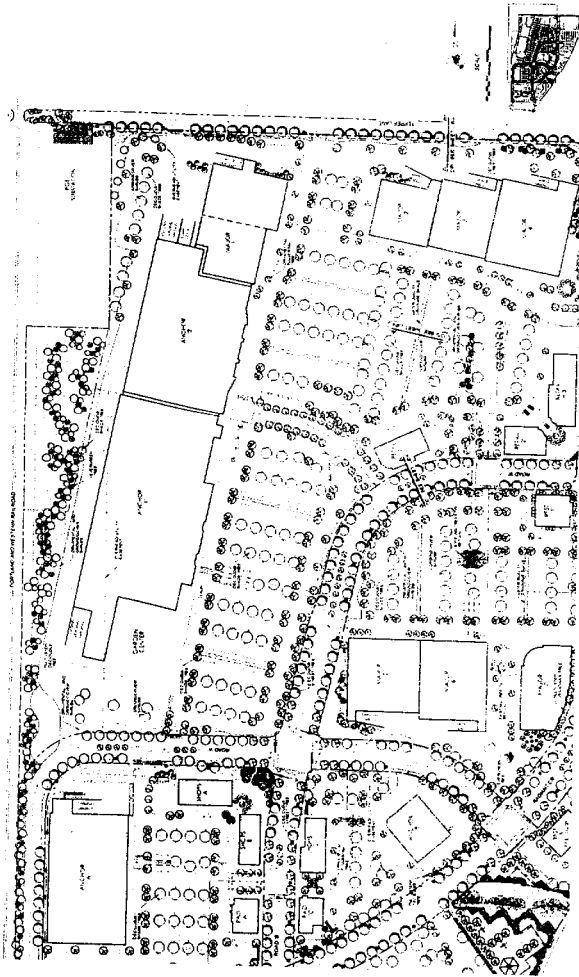
Preliminary Landscape Plan

Northwest National LLC  
10000 NE 10th Ave  
Suite 200  
Portland, OR 97220  
Phone: 503.255.1100  
Fax: 503.255.1101  
www.nwnatl.com

Master Plan  
**Keizer Station Village Center**  
Keizer, Oregon



101



Northwest National, LLC  
 10000 N. 10th Ave., Suite 100  
 Portland, OR 97217  
 Phone: 503.281.1111  
 Fax: 503.281.1112  
 Email: info@nw-natl.com

RPS Development Company, Inc.  
 10000 N. 10th Ave., Suite 100  
 Portland, OR 97217  
 Phone: 503.281.1111  
 Fax: 503.281.1112  
 Email: info@rpsdev.com

Master Plan  
**Keizer Station Village Center**  
 Keizer, Oregon



102

Preliminary Landscape Plan





Preliminary Landscape Plan

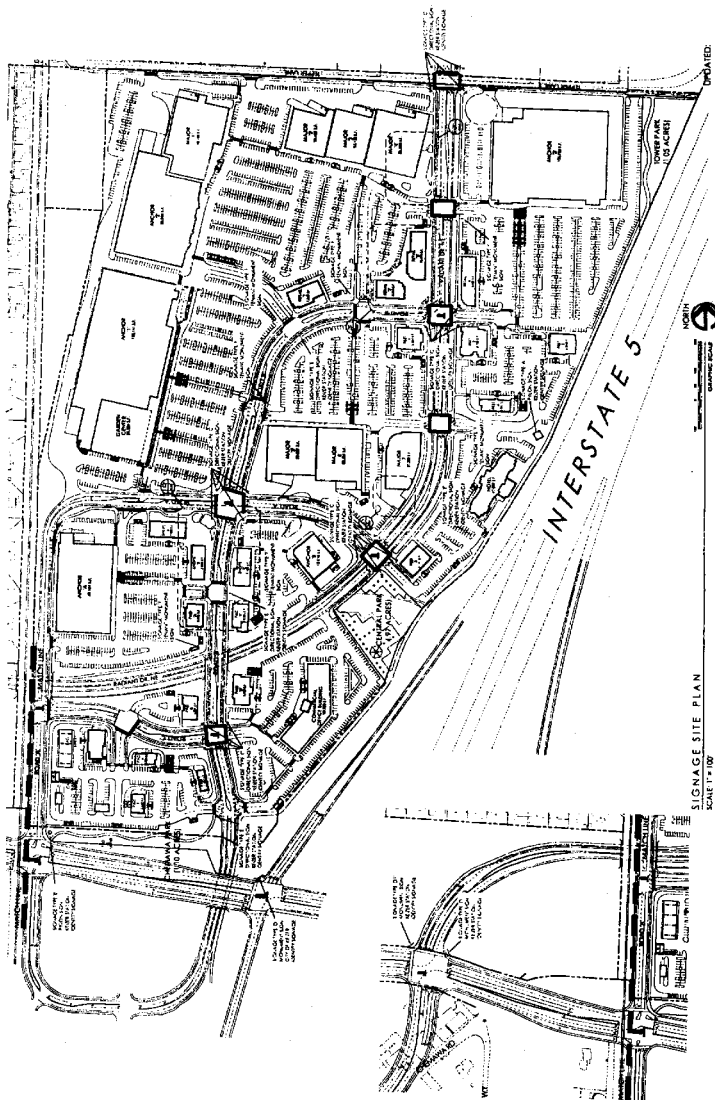
L03

Master Plan

Keizer Station Village Center  
Keizer, Oregon

Northwest National, LLC

Northwest National, LLC  
RPS Development Company, Inc.



NOTED  
REVIEW SUBMITTAL 3/30/04



BAKER  
ENGINEERING AND  
ARCHITECTURE, INC.  
1000 N. GAVIN AVENUE  
SUITE 100  
PORTLAND, OREGON 97227  
TEL: 503.253.1000  
FAX: 503.253.1001

A12

NORTH

SIGNAGE SITE PLAN  
SCALE 1" = 100'

Master Plan  
Keizer Station Village Center  
Keizer, Oregon

Northwest National, LLC  
1000 N. GAVIN AVENUE  
SUITE 100  
PORTLAND, OREGON 97227  
TEL: 503.253.1000  
FAX: 503.253.1001

PRS Development Company, Inc.  
2443 N. GAVIN AVENUE  
SUITE 100  
PORTLAND, OREGON 97227  
TEL: 503.253.1000  
FAX: 503.253.1001

**ATTACHMENT 2  
ORDER  
MASTER PLAN AMENDMENT #05-07**

**FACTS, FINDINGS AND CONDITIONS OF APPROVAL  
MASTER PLAN APPROVAL, #04-21  
(Including revisions)  
KEIZER STATION AREA A VILLAGE CENTER**

**FACTS**

- A.     **APPLICANT:**           Northwest National, LLC
- B.     **AGENT:**               W & H Pacific, Rick Martin
- C.     **PROPERTY LOCATION :**

The subject property is located at the Chemawa/Interstate 5 interchange. The subject property consists of Area A (Village) of the Keizer Station Plan, a parcel owned by the City and located in Area B (identified on Marion County Tax Assessor's Map No. as Township 6 South Range 3 West, Section 36BC, Lot 06000); and other property located in Keizer Station Plan Area B.

- D.     **EXISTING PARCEL SIZE:** The subject property contains approximately 96 acres.

- E.     **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:**

The site has street frontage onto Chemawa Road, Lockhaven Drive, Tepper Lane, Radiant Drive, Ridge Drive, and McLeod Lane, which are public streets. I-5 and the Chemawa Interchange are immediately east of the site. Public water is available to the subject site. Public sanitary sewer service is currently available north of the site. Public bus transit is provided by Salem Area Transit with Route numbers 4 and 9 currently serving the intersection of Lockhaven and McLeod. Route #4 services the School for the Deaf, Cherriots Administrative Office, Keizer, and Whiteaker Middle School.

- F.     **PLAN DESIGNATION AND ZONING:**

The subject property is designated Special Planning District on the Comprehensive Plan Map and is zoned EG (Employment General) for the parcels in "Area A" and CM (Commercial Mixed Use) for those in "Area B".

## G. ADJACENT ZONING AND LAND USES:

The site is bordered on the north by Tepper Lane, Interstate 5 (I-5) to the east, Portland and Western Railroad to the west, and Chemawa Road to the south. A residential neighborhood is located on the west side of the railroad tracks, and Tepper Lane crosses the tracks, providing street access between the subject property and the neighborhood. Industrial properties, electrical utility facilities, and the baseball stadium lie to the north of Tepper Lane. The surrounding properties are zoned RS – Single Family Residential to the west, IG – Industrial General to the north, and IBP – Industrial Business Park to the northeast and south.

## H. PROPOSAL:

The proposal consists of four related applications, which are Keizer Station Master Plan, preliminary Subdivision plat; a Major Variance for building setbacks for seven (7) buildings; and, a Sign Variance. These four applications are described in more detail below:

Originally, a Comprehensive Plan Map Amendment/Zone Change application was applied for to accommodate the adjustment necessary for the placement of “Anchor 1”. Analysis of the zoning showed that the southern half of the Portland General Electric property was zoned EG with the Keizer Station Plan and a zone change was unnecessary.

### **Keizer Station Village Center Master Plan**

#### **Land Uses**

Development within the site includes 758,810 square feet of commercial/retail building area, 3.12 acres of park land, 799,110 of specified uses (KDC 2.119.07.B), five plazas ranging in size from approximately 2,750 to 4,900 square feet, and bike and pedestrian pathways. The site is grouped into three distinct planning districts:

- **Power Center:** northern half of the site. Includes anchor buildings 1 through 3, major tenant buildings 1 through 7, retail buildings 1 through 4, and restaurant buildings 1 through 4. These buildings will include, but are not limited to, tenant uses such as home improvement, variety, clothing, home furnishings and electronics, office products, crafts, home accessories, books, small in-line shops and restaurants, sit-down restaurants, and drive-thru restaurants.
- **Neighborhood Center:** located between Radiant Drive and the northern portion of the site. Includes anchor buildings A through B, shop buildings A through C, and pad restaurant buildings A and C. These buildings will include but not be limited to such things as grocery, drug store, food court, sit-down restaurants and neighborhood shops and services.
- **Area south and east of Radiant Drive:** Includes a major commercial office building, hotel, sit-down restaurants, drive-thru restaurants, fuel center, and other related commercial uses.

Three parks, totaling 3.12 acres, are proposed:

- Chemawa Park (1.10 acres) is located outside the master plan area, between the relocated ODOT access control fence along Chemawa Road, road A and B and lot 1. It will act as the village center entry point for pedestrians. Amenities include open space lawn area, ornamental shrubs and trees, benches, tables, trash receptacles, and pedestrian scale lighting fixtures.
- Central Park (.97) is located adjacent to I-5, at the east end of the site. The park surrounds a 0.28 acre wetland area and will combine existing native vegetation with ornamental plants and trees, and plaza/hardscape amenities. Plaza construction and amenities will include: concrete pavers and poured in place concrete; a range of concrete finishes from standard broom finish to colored stamped patterns; natural stone faced retaining wall to define the wetland area and relationship to the park/plaza area; benches, tables and movable chairs; and bollards, cast iron tree grates, trash receptacles and movable planters. A multi-use shelter/gazebo will create a community gathering space for special events throughout the year.
- Tower Park (1.05 acres) is located in the northeast corner of the Village Center. It has an open space environment consisting of lawn and ornamental shrubs and trees to create an informal park. Design elements will include benches, picnic tables, trash enclosures and a pedestrian pathway that connects the overall Village Center pedestrian circulation system to the Volcanoes baseball stadium complex to the North of the site.

Five plazas are proposed in order to offer outdoor use opportunities. Amenities include seating, tables, articulated plaza features, trellises, water features, specialty lighting, and more intense landscaping. The plazas are located between shop A and B, between pad C and shop C, south of major 7, between retail 2 and 3, and south and east of major 4.

## **Circulation**

The internal street system allows for vehicular travel within the site as well as providing access to and from major arterial streets to the south (Chemawa Road), west (Lockhaven), and access to the existing and future sports facilities to the north. There will be approximately two miles of new public roads and three new bridges.

Internal streets will have a boulevard feel with tree lined streets, landscape medians, and low-impact street lighting. All streets are proposed with bicycle lanes in each direction and eight-foot wide pedestrian sidewalks, separated from the street with a five-foot landscape buffer. As a result of safety concerns, certain specific areas do not have sidewalks. Radiant Drive is the primary through street and will be depressed for a portion to allow it to pass under the railroad and Roads A and C. Tepper Lane will be widened to accommodate a local street improvement. An additional nine feet of right-of-way for a half-street width of 24 feet will be dedicated. A pedestrian underpass at Tepper Lane will provide a pedestrian and bicycle connection from the adjacent neighborhood to the development.

A system of internal pedestrian walkways to building structures is proposed. These connections vary in width from five feet to twelve feet and connect to larger articulated building entrance plazas, varying in width from 10 feet to 16 feet, and the larger outdoor plaza areas.

### **Water Service**

Water service will be provided by a connection to a new reservoir south of Chemawa Road NE as well as connection to the existing water mains in Tepper Lane and Lockhaven Drive. The public water system will be constructed in dedicated public right of ways within the realigned Radiant Drive and roads A, B and C. Fire hydrants will be spaced between 250 and 500 feet to any point on the buildings.

### **Sanitary Sewer**

Sanitary sewer service will be provided through a connection to the existing 21-inch sewer main at the intersection of the existing Radiant Drive and Tepper Lane at the existing ball field entrance. The public sewer main will be extended to the south along the realigned Radiant Drive, within the right of ways for streets A, B and C and within dedicated public right of ways. Each lot will be provided with at least one sewer service connection.

### **Storm Drainage**

Storm drainage facilities will be provided within the public roadway system to collect and convey runoff from the development. The project area is identified as a critical drainage basin, requiring higher runoff control standards. The public storm drain system will provide an overcapacity conveyance system. Each private lot will provide water quality treatment and detention of its storm water runoff.

### **Landscaping**

Most of the existing deciduous trees are a combination of alder, ash, poplar, maple, birch, oak, unidentified sucker and common orchard fruit and nut trees. Existing evergreen trees include cedar, fir, pine, and sequoia. Twelve significant evergreen and two deciduous trees have been incorporated into the new site plan. A grove of aspen and ash/alder have been preserved within the wetland delineation area (Tract A). The landscape master plan shows a proposed ratio of 7.7 new trees for every one tree removed.

### **Subdivision Proposal**

The subdivision request is to subdivide 95.7 acres (currently 39 lots) into a 14-lot and 3-tract commercial/industrial area.

### **Major Variance**

The applicant is requesting Major Variance approval for the building setbacks for buildings labeled as Pad 'A' and 'C' and Restaurant '1', '2', '4', and '5'. The Keizer Development Code has a minimum setback of

twenty (20) feet for Industrial Uses within the EG Zone. The applicant is proposing to allow a minimum setback of 12 to 14 feet. In addition, a Major Variance is requested from the building setbacks for Shop 'A' and Anchor 'B'. The Keizer Development Code requires a minimum setback of ten (10) feet and a maximum setback of twenty (20) feet for commercial uses whereas the applicant is requesting a setback of 31 to 33 feet.

### **Sign Variance**

The applicant is requesting a Variance for the sign height. The Keizer Development Code has a maximum height limitation of 20 feet. The applicant is proposing a tenant directory sign that is 68 feet in overall height.

## **II. COMMENTS**

The Public Works Department has submitted a memorandum with extensive comments and recommendations regarding the proposal.

The Keizer Fire District submitted the requirements of the Uniform Fire Code. The city received comments from City of Salem Development Services, Portland General Electric, Marion County Planning, and citizens..

## **III. FINDINGS – KEIZER STATION MASTER PLAN**

### **Introduction**

This master plan application is the first proposal submitted following the adoption of the Keizer Station Plan and the related Keizer Comprehensive Plan and Development Code (KDC) amendments. A master plan is subject to a Type II-B procedure (KDC 3.101.02), which includes a public hearing and decision by the City Council. Following City Council approval of a master plan, subsequent city review of the project design and construction details shall be completed as part of the building permit approval process.

### **Objections By Lowerys**

Oregonians in Action Legal Center submitted a letter dated June 21, 2004 indicating that they represent Robert and Marilyn Lowery. The Lowerys reside on property located in the Area A-Village Center. Such letter, in part, argues that Keizer Development Code (KDC) Section 3.201.04 requires in essence that the owner or agent of the owner are the only ones that can submit a Master Plan application for the subject property. However, in the adoption of KSP Master Plans, including all Master Plan elements, the applicant need not own or control all of the land.

KSP Implementation procedures "Land Use Reviews" states in relevant part the following:

“This Plan calls for the development of Master Plans for Area A - Village Center, Area A - Sports Center, Area B, and Area D. In Area C, a Master Plan is only required for development of two or more lots/parcels. The Master Plans are to be reviewed and approved by the City Council through a Type II-B review process in accordance with the Keizer Station Plan design guidelines. These Master Plans are to be publicly or privately prepared representing the development proposal for a given area. It is recognized that the applicant of the Master Plan for an area may not own or control all the land within the Master Plan boundary. All property owners in each area are encouraged to join together as co-applicants. However, to properly plan development and provision of public facilities and services, the master plan shall still cover all the area in appropriate detail based on ownership. For those portions not owned or controlled by an applicant, the Master Plan shall focus on a cohesive interconnected system of planned public facilities and shall set general design guidelines to be used throughout the Master Plan area. Amendments to an approved Master Plan shall require City Council approval. Subdivision approval shall be based upon the applicable zone and applicable KDC Section 3.108 requirements.

The Master Plans will be developed and considered in accordance with the requirements of the Activity Center Overlay provisions (KDC Section 2.125 of the Keizer Development Code). Individual areas may require a detailed transportation system design plan as a requirement of Master Plan approval. Once a Master Plan is adopted, individual buildings and uses must receive building permit approval. As part of the building permit process, the proposal will be evaluated for compliance with the adopted Master Plan, zone standards, and applicable design standards as referenced in the Keizer Development Code. In the case of conflicts between the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards will apply.



- ♣ In order to establish the Type II-B procedures, KDC Section 3.101.02 is amended and shown in Attachment B.
- ♣ In order to establish the criteria for Type II-B review, KDC Section 3.113 is added as shown in Attachment C.” (Emphasis supplied)

KSP, p. 10

In turn, Attachment B (Summary of Application Types) states:

“The following actions are processed under a Type II-B procedure:

“1. Keizer Station Master Plans, Subdivision and Partitioning.”

KSP, Attachment A, page 1.

Master planning of the KSP area was determined by the City Council to be necessary for cohesive development of the area and to achieve the economic development purposes of the KSP. As is clear from the above quoted provisions, master planning includes public facilities planning as well as subdivision or partition approval. No one has contended otherwise. Moreover, it is also clear from the above quoted provisions that any conflict between the KSP provisions and the development code are resolved in favor of the KSP.

The Council finds that KDC 3.201.04 does not apply to the KSP Master Plan application. The council finds that the approval contemplated in this proceeding is the approval of the contemplated KSP Master Plan including all of its elements to realize the objectives of the KSP.

Master Plans are subject to the Type II-B process and the Type II-B process as quoted above expressly contemplates that all owners may not submit or approve of the master plan application. Nevertheless, a master plan is required by the KSP. Further, in the Master Plan approval process, the City expressly required that all property be included to ensure the KSP area is developed as a cohesive whole. It is axiomatic that the master plan approval process specified in the KSP is not subject to collateral attack here.

As the KSP provisions explain, the specific provisions of the KSP prevail over the more general provisions of the city code. Here, the master plan application includes all of the contemplated elements, including streets, public facilities, open space, parking, subdivision and variances. At the time of actual KSP development under the Master Plan provisions, the property must be owned by the developer, or it must be acquired by the city or Urban Renewal agency. The City Council finds it is feasible for the city to exercise its authority of eminent domain to acquire any property necessary to allow the implementation of the KSP approved Master Plan.

The KSP and the ability to achieve the purposes of the KSP through the KSP process has been explained and determined by both the city council and the city urban renewal agency in the

comprehensive analysis of the KSP. Adopting the Master Plan is necessary to achieve the purposes of the KSP.

The city and its urban renewal agency determined that the KSP and its processes were necessary to provide economic development opportunities to the city and its citizens. The findings supporting the KSP decision adopting urban renewal for the KSP area explain:

“The City Council finds the lack of development in the CACP area particularly troubling because no development occurred through the 1990s, the decade with the greatest economic growth in recent history.” “The City of Keizer and the Urban Renewal Agency of the City of Keizer entered into a ‘Nonexclusive etc to the end of that sentence.

Finally, the City determined the best way to achieve the objectives of the City and the City’s urban renewal agency was through the KSP and the KSP development process as follows:

“The applicant for the [adoption of the KSP amendments] is the City \* \* \*. Northwest National LLC is the City’s choice of developer to bring the economic objectives of this decision to fruition.” KSP Findings page 7.

The Master Plan has been presented by Northwest National LLC as contemplated to achieve these economic development objectives.

It is important to underscore what the findings supporting KSP explained after listening to citizen testimony in countless public hearings:

“The biggest deterrent to realizing economic growth in Keizer is the lack of commercially zoned property.” KSP Findings page 68.

“If nothing is done, the lack of commercial land will seriously inhibit Keizer’s economic development potential in the near and long term.” KSP Findings page 69.

“The KSP includes requirements for Master Planning, which is a planning tool available to encourage vacant or underutilized land to be aggregated and developed as a whole. Therefore, through the tool of zoning designations and master planning, the sites in the KSP alone are capable of delivering the suitable sites having the size and locational and other characteristics that the [economic opportunities analysis] identifies.” KSP Findings page 76.

While the City prefers that the Master Plan be implemented in a collaborative process, the City’s authority of eminent domain allows it to complete the Master Plan in order to complete the KSP. Completion of the KSP is respectful of the countless hours of citizen testimony, planning commission, city council, city urban renewal agency, SKAPAC and the time of others in crafting the KSP.

The KSP including its findings were affirmed by both Land Use Board of Appeals and the Oregon Court of Appeals and it is inappropriate and unfair to revisit that decision at this late date. The City will not do so.

### **Master plan Criteria**

The criteria that apply to a master plan range from overall master plan objectives and arrangement of uses to landscaping, site planning, and architectural details. The master plan application provides the information required by the KDC. Because this project will occur over a number of years involving buildings for tenants which are not known at this time, not all of the specific building design details are available as part of the master plan review. The concepts that are presented will however provide a basis for specific building permit review and administrative approval.

As a result, this staff report focuses primarily on the proposed master plan concepts submitted by the applicant and the overall objectives of the Keizer Station Plan and related KDC provisions. Many of the design details will be evaluated during the building permit process. It is important for the City Council's master plan decision to provide clear guidance regarding the desired outcome of the many design decisions that will be part of building permit approval for the improvements.

- A. The Review Criteria for the Keizer Station Master Plan are listed in Section 3.113.04 of the Keizer Development Code (KDC). The criteria and findings are listed below:

3.113.04 A The master plan shall meet the purpose and objectives identified in the Keizer Station Design Plan.

The purpose and objectives for Area A – Village Center, are identified on page 15 of the Keizer Station Plan and are listed below.

- a. Purpose: The Village Center will provide the opportunity to establish a true economic activity center that will focus on offering a variety of industrial and commercial activities. Key issues that will need to be considered as Area A – Village Center develops include:

- Location and design of transportation facilities. Traffic operations at the Chemawa Interchange.
- Physical constraints (e.g. power lines, utility easements, rail right-of-way) that will influence the amount of buildable land and building locations; and
- Phasing of development.

**FINDINGS:** The proposed development in Area A includes approximately 898,000 square feet of floor area offering a combination of commercial and industrial uses as specified in the EG zone (discussed later in this report).

The applicant's traffic consultant, City Staff, the City's traffic engineer, and City engineer (plans have been forwarded to the Oregon Department of Transportation (ODOT)) have evaluated the impact of this development on the transportation system. The street design is based upon the input from traffic and transportation planning professionals from each of these parties.

The buildings and improvements are located to keep existing easement areas clear of inappropriate development.

No information has been provided regarding phasing for the development shown.

- b. Objectives: Development in Area A – Village Center will be focused on achieving the following objectives:
- Provide a northern gateway to Keizer;
  - Develop a variety of employment opportunities;
  - Create a focal point for commerce and community activities;
  - Establish a place for multiple activities;
  - Provide a gateway to sports activities; and
  - Be a source of employment opportunities.

**FINDINGS:**

The landscaping and pathway improvements along Chemawa Road and I-5 and a "Welcome to Keizer" monument sign in the northwest quadrant of the I-5/Chemawa Road interchange will create a gateway to the city if developed aesthetically and in accordance to landscape design industry standards and maintained appropriately.

The proposed mix of commercial and IBP uses on the site will clearly provide new and varied employment opportunities. Although the proposed master plan will provide the desired employment, the current design appears to fall short of the objectives to provide a focal point for community and multiple activities, and a gateway to sports activities (primarily the baseball park to the north). The arrangement and orientation of buildings, plazas, and open space provides a scattered assortment of amenities and public spaces, which are separated by significant distances. This results in a development with sidewalks but without any meaningful pedestrian orientation or scale. One must keep the size of the site and some of the proposed buildings in mind when evaluating the site. For example, the three buildings in the northwest portion of the site (Anchors 1 and 2 and Major 1) have a combined frontage of almost ¼ mile. In its proposed configuration, visitors will almost surely drive – even between stores. To meet objectives stated above, the following need to be adjusted on the Site Plan as approved by Community Development Director

- ♣ Improve plazas/open spaces so that there are better opportunities for effective pedestrian use.
- ♣ Cluster complementary uses/spaces along Radiant Dr. to enhance greater convenience (e.g., between office bldg. and restaurants, hotel and park)
- ♣ Improve pedestrian connections generally and provide an inviting pedestrian gateway into the site via Radiant and Street A including re-orienting the office building to take advantage of the park amenities.

3.113.04 B The master plan shall meet the following standards as identified in the Keizer Station Plan in addition to standards within applicable zones:

1. Design standards
2. Transportation system standards
3. Utility standards
4. Parking standards
5. Landscape standards

If a conflict exists between standards within the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards shall be applied.

The applicable zone within the subject site is General Employment (EG). Sections 2.119.02 through 2.119.07 identify the various uses allowed in the EG zone as well as the required mix of industrial and commercial uses. Sections 2.119.08 through 2.119.10 define the development standards, dimensional standards, height, setback, coverage and landscaping requirements, and design standards. Section 2.119.10 states that all development in the EG zone must comply with the applicable standards identified in the KDC including, but not limited to, the following:

Section 2.3	General Development Standards
Section 2.301	General Provisions
Section 2.302	Street Standards
Section 2.303	Off-Street Parking and Loading
Section 2.305	Transit Facilities
Section 2.306	Storm Drainage
Section 2.307	Utility Lines and Facilities
Section 2.308	Signs
Section 2.309	Site and Landscaping Design
Section 2.310	Development Standards for Land Divisions
Section 2.312	Yard and Lots Standards
Section 2.315	Development Standards
Section 2.4	Special uses
Section 2.419	Service Stations
Section 2.420	Auto Services

## **SECTION 2.119 GENERAL EMPLOYMENT**

**2.119.02 through 2.119.07** identify the use requirements for the EG zone, including the permitted, special permitted, and use restrictions, which apply to the site. A minimum of 25% of the land area must be devoted to industrial uses listed in Sections 2.119.03 and 2.119.04.

**FINDINGS:** The applicant has identified the proposed industrial (subject to 25% minimum requirement) and commercial (up to 75% maximum) use types for the site. The uses proposed under the industrial and commercial categories comply with the KDC requirements.

**2.119.09.B. Minimum Lot Dimension Requirements.** Within the acreage identified for commercial uses, at least eighty percent (80%) of the lots must have a minimum lot area of 20,000 sq. ft., minimum average width of 100 ft. and minimum average depth of 100 feet. The remainder of the lots must have a minimum lot area of 10,000 sq. ft., minimum average width of 75 ft. and minimum average depth of 75 feet. Lots or tracts created only for the purposes of providing a right-of-way or dedicated utilities, public drainage facilities or open space are exempt from the lot size and shape standards of this section.

**FINDINGS:** The subdivision plan submitted as part of the application complies with the minimum lot dimensions.

**2.119.10 Development Standards Height, Setback, Coverage, and Landscaping Requirements.** For commercial development, the standards are as follows:

- Building standards, maximum height: 100 ft., maximum lot coverage: 85%
- Building setbacks, street-side: 10 feet minimum and 20 feet maximum for commercial uses and 20 feet minimum for industrial uses; Side/Rear not adjacent to a residential zone, none; and adjacent to a residential zone, 40 feet.
- Minimum landscaping, percent of lot coverage: 15%

**FINDINGS:** Eight buildings or footprints do not meet these requirements:

- Pads A and C, Restaurants 1 2, and 4, do not meet the street side setbacks for industrial uses.
- Shops A and Anchor B do not meet the street side setbacks for commercial uses.
- Restaurant 5 shows a building envelope line that does not meet the Industrial setbacks.

As a result, a variance has been requested to allow amended setbacks for these buildings. The variance and related findings are covered later in this report.

- c. Alternative maximum setback option for large commercial uses. Commercial buildings that exceed 100,000 square feet of floor area are exempt from the maximum setback requirements identified in Section 2.119.10.A provided the pedestrian system connects buildings on the site to all adjacent properties.

**FINDINGS:** Anchor stores 1 and 2 and Major store 1 provide adequate pedestrian walkways except that a pedestrian crossing should also be provided to cross Street B next to Retail 1. Anchor 3 should have a walkway connecting to the perimeter pathway along the I-5 right-of-way.

**Anchor 1 and 3, and the building that contains Anchor 2, while able to be setback greater from the street due to their size, still require the same level of pedestrian access. The application meets the criterion only if conditioned as set forth herein.**

## **SECTION 2.302 STREET STANDARDS**

**2.302.03.A. General Requirement.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.

**FINDINGS:** The proposed development features three new public streets within the development and the realignment of the existing Radiant Drive to pass under the existing railroad tracks to connect to Lockhaven Drive between McLeod Lane and the railroad crossing.

The location, width and grade of the proposed streets are designed to promote public convenience and safety for the commercial development.

All new public streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. Tepper Lane shall be constructed as a ¼ width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles. All other streets shall be designed to arterial standards in terms of structural section and geometrical configuration. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed.

The Public Works Department comments include specific conditions of approval.

**2.302.03.B. Continuation of Streets.** Development proposals, including subdivisions and partitions, shall provide for the continuation of, and connection to, streets where necessary to promote appropriate traffic circulation in the vicinity of the development. Where necessary to give access or permit a satisfactory future division of adjoining land, streets and utilities shall be extended to property boundaries to allow the future extension of streets and infrastructure. A temporary turnaround shall be constructed for stub streets in excess of 150 feet in length.

No street or utility extensions are required when any of the following circumstances exist:

1. Less than three additional existing or future lots on adjoining parcels would gain access from the extension. For purposes of this criterion, the size of said future lots shall be no greater than two times the minimum lot size of the zone.
2. Parcel shape or size prevents new lots from meeting lot width or depth standards when a public street or infill street is proposed through the parcel.
3. Partial-width streets where adjoining development would provide a full-width public street or infill street; does not eliminate the need for variances to lot depth or width requirements.
4. Natural physical obstructions or barriers, such as parkland, floodplain, slopes, or significant trees, make access and connectivity unreasonable or impracticable.



5. **Providing access and connectivity to one or more adjoining parcel(s) would not be useful given that at least one of the following conditions exist:**

- a. **A future street plan demonstrates that adequate access and connectivity is provided from the adjacent parcel(s).**
- b. **The development potential of the adjoining parcel(s) is (are) limited due to physical or jurisdictional constraints to such a degree that connectivity is unreasonable or impracticable.**

**FINDINGS:** The proposed development provides the necessary street and pedestrian/bicycle connections to adjoining properties. It will include construction of an underpass under the BNRR as well as an underpass of Chemawa Road, "Road B" and Radiant. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include, but are not limited to, construction of an extension of Radiant Drive to Lockhaven Drive and continuing to Chemawa Road to a point south of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian undercrossing of the BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area D development, ODOT and the Keizer Community Development Department. The path shall be of Portland Cement Concrete and constructed to a width of 12 feet.

**2.302.03.C. Alignment.** All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet.

**FINDINGS:** The proposed realignment of Radiant Drive shall be in alignment with the existing street by continuation of the existing centerline. The proposed streets are all through streets and do not create "T" intersections.

**2.302.03.D. Future extension of streets.** When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessway facilities shall be platted and built to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department finds a turnaround is necessary for reasons of traffic safety. Any street extension exceeding 150 feet in length shall be provided with an approved turnaround as set forth in Section 902.2.2.4 "Dead Ends" of the Uniform Fire Code, 1994 edition.

**FINDINGS:** Tepper Lane will dead-end at the railroad tracks to the west. Tepper Lane shall be constructed as a  $\frac{3}{4}$  width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles and shall safely accommodate east/west bicycle and pedestrian traffic separated from vehicular traffic.

**2.302.03.E. Intersection angles.** Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet.)

**FINDINGS:** The proposed new streets are designed to be linear extensions at right angles. The street intersections must have a curb radius of no less than 35 feet.

**2.302.03.F. Existing Streets.** Whenever existing public streets adjacent to or within a tract are of a width less than the street design standards, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.

**FINDINGS:** Additional right-of-way is proposed on existing streets that are at a width less than street design standards. Tepper Lane shall be constructed as a  $\frac{3}{4}$  width street designed to Collector Street standards with an appropriate turnaround at the west end accommodating emergency vehicles.

**2.302.03.I. Street Names.** Street names and numbers shall conform to the established standards and procedures in the City.

**FINDINGS:** Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No final plat shall be released without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names should also receive approval of the City Council.

**2.302.03.J. Grades and Curves.** Grades shall not exceed 7 percent on arterials, 10 percent on collector streets or 15 percent on any other street. Street grades of 15 percent shall not exceed 200 feet in length. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.

**FINDINGS:** The proposed arterial street grades are relatively flat and in no case do they exceed 7%. All streets have a minimum profile grade of 0.60%.

**2.302.03.K. Frontage Streets.** If a development abuts or contains an existing or proposed arterial or collector street, the City may allow frontage streets, or may require reverse frontage lots with

suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to preserve the capacity and safety of the collector or arterial street.

**FINDINGS:** No frontage streets are proposed.

**2.302.03.L. Alleys.** Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided. The corners of alley intersections shall have radii of not less than 10 feet.

**FINDINGS:** No alleys are proposed. The site provides adequate access to off-street parking and loading facilities.

**2.302.03.M. Street Landscaping.** Where required as part of the right-of-way design, planting strips shall conform with the following standards:

1. Street trees shall be planted at a ratio of no less than one tree per 30 feet of property frontage. Street trees shall conform with the list of acceptable trees included in the City's Street Tree Ordinance. Installation of street trees shall be included in any improvement agreement covering the installation of public facilities and services on a property.
2. Planting strips shall be planted and maintained in predominantly living groundcover materials with hard surfaces consisting of bricks, pavers, rocks, decorative concrete work, etc., only being included as part of an overall landscape design where living plant material is predominant. In no case shall asphalt be used within the planting strip.

**FINDINGS:** The conceptual landscaping plan (Sheets LO1-4) indicates that street trees shall be planted with 30-foot spacing using one or more of 13 identified varieties. The plan specifies 1 ¼ inch caliper sizes. A minimum caliper of 2 inches should be used in areas subject to damage along walkways and streets. First, a significant number of trees are proposed for removal (Sheet TO1 of Exhibit '5'), and providing larger specimens will help offset the impact of losing these trees. Second, 1 ¼ inch caliper trees are very small and much more susceptible to damage and vandalism.

Ground cover is indicated, but not specified in the conceptual landscaping plan. This information shall be required as part of building permit approval.

## **SECTION 2.303 OFF-STREET PARKING AND LOADING**

**2.303.6 Off-Street Automobile Parking Requirements.** Off-street parking shall be provided in the amount not less than:

- Retail store: 1 per 300 square feet

- Service repair center; retail store handling bulky merchandise (e.g. furniture): 1 per 900 square feet
- Bank, offices, medical clinic: 1 per 300 square feet
- Eating and drinking establishment: 1 per 250 square feet
- Hotel: 1 space per guest room

**FINDINGS:** Although this standard may be satisfied, parking area calculations have not been provided by the applicant. Documentation of this requirement shall be made as part of this master plan approval.

**2.303.08.A Bicycle Parking** Bicycle Parking shall be required in all public and semi-public, commercial and industrial development as well as park-and-ride lots. Bicycle parking shall be provided in the following amounts:

- Retail store: 1 per 10 required vehicle parking spaces with a maximum of 6 required
- Service repair center; retail store handling bulky merchandise (e.g. furniture): 1 per 30 required vehicle parking spaces with a maximum of 6 required
- Bank, offices, medical clinic: 1 per 20 required vehicle parking spaces with a maximum of 6 required
- Eating and drinking establishment: 1 per 20 required vehicle parking spaces with a maximum of 6 required
- Hotel: 1 per 40 required vehicle parking spaces

**FINDINGS:** Except for a description of bicycle parking in the plaza areas, no information has been provided regarding bicycle parking. The applicant shall be expected to meet these standards as part of building permit approval with each individual building. In keeping with the design requirements of the KSP, Bicycle parking facilities shall be interesting, and must consist of more than simple pole structures.

**2.303.08.B Bicycle Parking Development Requirements**

1. **Space Size.** Each bicycle parking space shall be a minimum of six feet long and two feet wide and be accessible by a minimum four foot aisle.
2. **Location.** All bicycle parking areas shall be within 100 feet of a building entrance and located within a well-lit area.
3. **Rack Design.** Bicycle racks must be designed to secure the bicycle frame and at least one wheel, and, accommodate a locking device. Racks, lockers or other related facilities shall be securely anchored to the ground or to a structure. As an alternative, the bicycle spaces can be provided within a secured compound.
4. **Access.** Access to a public right-of-way and pedestrian access from the bicycle parking area to the building entrance must be provided.

**FINDINGS:** No information has been provided regarding bicycle parking. The applicant shall be expected to meet these standards as part of building permit approval. In accordance with the design requirements, bicycle parking facilities shall be interesting and shall consist of more than simple pole structures.

**2.303.10 Off-Street Loading Requirements** All other commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount: for buildings containing over 5,000 square feet of gross floor area, 1 space; for each additional 40,000 square feet of gross floor area, or any portion thereof, 1 space.

**FINDINGS:** Sufficient paved areas and designated loading area are provided on-site throughout the project area in a manner, which is appropriate for the size and character of the buildings and businesses they contain (Sheet AO1).

### **2.303.11 Parking and Loading Area Development Requirements**

**A. Surfacing.** All driveways, parking and loading areas shall have a durable, hard, dust free surface built to Department of Public Works standards.

**FINDINGS:** Pavement conforming to adopted City of Keizer standards shall be required as part of the building permit process.

#### **B. Parking Spaces**

**1.Dimensions.** Parking spaces shall be a minimum 9 feet wide and 18 feet in length.

**2.Compact Spaces.** Compact parking spaces, at a reduced width of 8.5 feet, shall be permitted on sites with more than five (5) parking spaces. No more than 30% of the required parking shall be compact spaces and each space must be identified as a "Compact Space."

**FINDINGS:** The proposal appears to meet these requirements, but without noted dimensions and plan scales of 1"= 60' and 1" = 100', the parking space dimensions must be verified during the building permit review process.

**C. Aisle** The following minimum aisle dimensions shall apply:

- **Without adjacent parking:**
  - b. One-way: 12 feet**
  - c. Two-way: 22 feet**

2. **With adjacent parking:**

<b>PARKING ANGLE</b>	<b>DRIVEWAY WIDTH</b>
<b>0 to 40</b>	<b>12 feet</b>
<b>41 to 45</b>	<b>13 feet</b>
<b>46 to 55</b>	<b>15 feet</b>
<b>56 to 70</b>	<b>18 feet</b>
<b>71 to 90</b>	<b>24 feet</b>

**FINDINGS:** The proposal appears to meet these requirements, but without noted dimensions and plan scales of 1"= 60' and 1" = 100', the driveway dimensions must be verified during the building permit review process. Due to the high volume of traffic, aisle width in parking areas shall be increased to the industry design standards of 24 feet.

- D. Screening.** When any public parking or loading area is within or abuts a residential zone along a side or rear lot line, the parking or loading area shall be separated from the lot line by a 20 foot landscaped yard, or shall be screened from the residential property with an ornamental fencing or wall of at least 4 feet in height.

**FINDINGS:** The only residential zoning is on the west side of the railroad tracks. Almost all of the parking proposed will be located internally or along I-5. Some parking is provided on the west side of Major 1, but is over 100 feet east of any residential properties. In addition, this parking area does have perimeter landscaping.

- E. Lighting.** All lighting shall be directed entirely onto the loading or parking area and away from any residential use. The lighting shall not cast a glare or reflection onto the public rights-of-way.

**FINDINGS:** The residential properties to the west are separated by the railroad right-of-way. The proposed lighting plan demonstrates that the proposed site lighting will not cast any light or glare toward these properties.

- F. Landscaping.** A tree shall be planted for every eight lineal parking spaces not located adjacent to a building. The planting space shall measure no less than 4 feet square and be surrounded by concrete curbing. The plant shall be of a species that the root system will not interfere with underground utilities or the parking surface, and, is capable of achieving a 15 foot radius. The specific planting enclosure and appropriate tree selection will be provided by the City.

**FINDINGS:** The site plan shows that one tree has been supplied in parking areas for every eight parking stalls. Unless necessary to adjust the spacing in order to preserve an existing tree this requirement shall be a strict condition of approval.

**G. Traffic Flow.** Service drives to off-street parking areas shall be designed and constructed to allow flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.

**FINDINGS:** The access to and from the various parking lots is controlled and designed to provide suitably spaced street or driveway intersections. This design will provide for safe and efficient traffic flow throughout the site. ODOT is reviewing the proposed plans.

**H. Entrance/Exits.** Service drive exits shall have a minimum vision clearance area of 15 feet from the intersection of the street and driveway.

**FINDINGS:** The entrances all appear to have adequate vision clearance. The specific location and mature size of the plants listed in the preliminary landscaping plan could potentially interfere with vision clearance. The final choice of landscaping materials during the building permit approval stage should be made so that minimal maintenance will be necessary to maintain adequate site distance.

**I. Bumper Rails.** Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail to prevent a motor vehicle from extending over an adjacent property, a street, or a sidewalk. The bumper shall be at least 4" high and located a minimum of 3 feet from the property line.

**FINDINGS:** This is a design detail, which is not shown in the submitted plans, however, will be provided as part of the building permit review.

## **SECTION 2.305 TRANSIT**

### **2.305.01 Location Requirements**

**A. Siting Requirements.** The location of transit facilities shall be based upon the size and trip generation potential of major new development adjacent to a transit street. Section 2.305.02 outlines the maximum transit facilities that may be required by the City. Determination of specific requirements will be made on a case by case basis for each development by evaluation the following factors:

- 1. Expected transit ridership generated by a development.**
- 2. The level of existing or planned transit service adjacent to the development. Planned transit service is defined as service that is planned to be established within five years after the completion of development according to the latest officially adopted transit plan by the Transit District.**
- 3. The location of existing facilities.**

**4. The proximity of other transit ridership generators.**

**FINDINGS:** The applicant shall work with the Transit District to ensure compliance with these requirements, making adjustments where necessary to accommodate the needs of the district.

**2.305.02 Design Requirements**

**Retail /industrial/institutional peak hour traffic trips of more than 200 require a concrete boarding pad and transit turnout.**

**FINDINGS:** The applicant shall work with the transit District to ensure compliance with these requirements, making adjustments where necessary to accommodate the needs of the district.

**SECTION 2.306 - STORM DRAINAGE**

**2.306.05.A General Standards** All development shall be planned, designed, constructed and maintained to:

- 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;**
- 2. Protect development from flood hazards;**
- 3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;**
- 4. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeded, phasing of grading;**
- 5. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;**
- 6. Provide dry wells, french drains, or similar methods, as necessary to supplement storm drainage systems;**
- 7. Avoid placement of surface detention or retention facilities in road rights-of-way.**



**FINDINGS:** The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge.

Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces. Where on-site detention is planned, adequate covenant, conditions and restrictions (CCR) shall be recorded to alert future owners/developers that detention and/or treatment shall be required to be constructed to the standards in effect at the time of building permit application.

A grading and drainage plan shall be developed for the subject property including proposed lot corner elevations. Details shall include adequate conveyance of storm water from adjacent property across the subject property.

The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.

The applicant submitted a preliminary storm drainage plan along with the master plan application. The Public Works Department reviewed the drainage plan and their comments are included in the *Conditions* section.

## **SECTION 2.307 UTILITY LINES AND FACILITIES:**

### **2.307.02 Standards**

- A. **Impact.** The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.

**FINDINGS:** It is a development requirement that the applicant locate, design, install and maintain all utility lines and facilities with the minimum feasible disturbance to soil and site and shall comply with best management practices for erosion control and vegetation protection.

- B. **Water.** All development that has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the City.

**FINDINGS:** The applicant submitted a master water system plan showing proposed routes of public water mains, fire hydrants and individual services. Prior to submittal of final construction plans the applicant's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines located outside of proposed right of ways. Final location of all meters shall be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNSF right of way, and any other off-site construction required to provide required peak flows to the proposed development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Dedication of property to the City shall be required for any wells or storage facilities developed. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer. The Public Works Department reviewed the master water system plan and their comments are included in the *Conditions* section, (Exhibit E)..

- C. Private Utilities.** All development that has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.

**FINDINGS:** It is a development requirement that the electricity, gas and communications services shall be installed pursuant to the requirements of the district or company serving the development.

- D. Sanitary Sewers.** All development that has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

**FINDINGS:** The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is \$7,460.00 per gross acre prior to platting of the subdivision. The acreage fee applied will be the fee in place at the time of development of the property. The Master Sewer Plan provides for a sewer trunk line to be constructed through the subject property with adequate size and depth to provide for additional capacity for areas located within the original sewer district west of the BNSF railroad. Additionally, Area D, south of Chemawa Road shall be served with a sewer trunk line to be constructed along with the proposed under crossing of Chemawa Road. A review of the construction plans for the subject property will be required to assure that capacity of the master plan sewer trunk lines is not exceeded. The Public Works Department comments include specific conditions of approval related to sanitary sewers.

- E. **Street Lights.** When required, installation of street lights shall be pursuant to the requirements of the city and the company serving the development.

**FINDINGS:** A street lighting master plan has been proposed. A street lighting district shall be created while under the control of the developer to provide for adequate street lights along the frontage of all new street rights of way. Decorative lighting approved by the Department of Community Development which meets street standards requirements shall be used.

- F. **Easements.** Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions, and on the final plat of all partitions.

**FINDINGS:** All easements shall be located in the appropriate locations based on actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations.

## **SECTION 2.308 SIGNS**

### **2.308.08.B. Commercial and Industrial Signs, Integrated Business Centers:**

1. **Total allowed area.** For wall, canopy and projecting signs on individual businesses within an integrated business center, one and one-half square feet of total allowed sign area for each lineal foot of building frontage for the individual business, up to a total maximum of 150 square feet per business. Individual businesses may not assign their unused allowed area to other businesses in the integrated business center. Free standing signs are permitted only as set forth below and in Section 2.308.08.C.

**FINDINGS:** The proposal demonstrates compliance with all requirements of the sign code with regard to wall, canopy and projecting signs, and has indicated that there will be additional consistency standards implemented as private lease/sale agreements which would be above the requirements of the sign code.

2. **Free-standing Sign.** For each integrated business center, 1 free-standing sign per street frontage not to exceed 100 square feet in area. Free-standing signs shall not exceed one sign on each frontage and shall be oriented to face the traffic flow on the street upon which they front.

**FINDINGS:** The applicant is proposing to seek a variance which would allow a sign in excess of 100 square feet, which will be addressed as part of the sign variance.

3. **Maximum sign height:**

**Wall and canopy signs shall not project above the parapet or roof eaves.  
Free-standing signs: 20 feet.**

**FINDINGS:** The applicant is proposing to place a sign in excess of 20 feet which will be addressed with the sign variance information in this report.

4. **Location:**

a. **Wall or projecting signs may project up to 2 feet from the building.**

**FINDINGS:** The applicant is proposing to comply with these requirements.

b. **Free-standing signs have no limitations except the signs shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.**

**FINDINGS:** The proposal indicates compliance with these requirements for free standing signs.

## **2.309 SITE AND LANDSCAPING DESIGN**

**2.309.03 Minimum Area Requirements.** Landscaped areas may include landscaping around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Ordinance. The following area requirements shall be the minimum areas devoted to landscaping:

**A minimum of 10% of the gross land area shall be devoted to landscaping in commercial developments.**

**FINDINGS:** Although it appears that this criterion is satisfied, landscaped area calculations have not been provided by the applicant. Documentation of this requirement shall be made as part of this master plan approval.

### **2.309.05 Screening and Buffering**

A. **Screening.** Screening shall be used to eliminate or reduce the visual impacts of the following uses:

1. **Commercial and industrial uses when abutting residential uses.**
2. **Industrial uses when abutting commercial uses.**
3. **Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas. (5/98)**
4. **Outdoor storage areas.**
5. **Parking areas for 20 or more vehicles for multi-family developments, or 30 or more vehicles for commercial or industrial uses.**
6. **At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.**

**B. Screening Methods.** Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques.

**FINDINGS:** The preliminary landscaping plan (Sheets LO1-4) indicates that screening will be provided along the western side of the project utilizing landscaped areas and trees. The width of the landscaped areas along with the density of the trees will provide sufficient screening for the residents on the west side of the railroad. Additional screening, through a sight and sound obscuring fence shall be provided between the residential properties and Area B of the Keizer Station Plan.

Service areas within the development are proposed to be screened with vegetation and fencing. No outdoor storage areas are proposed. The plans are not sufficiently detailed to show electrical and mechanical equipment. Parking areas are all surrounded by landscaping consisting of ground cover, shrubs, and trees. The specific screening details will need to be reviewed and approved during the building permit process.

**C. Buffering.** Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:

1. **Planting Area:** Width not less than 15 feet, planted with the following materials:
  - a. **At least one row of deciduous or evergreen trees staggered and spaced not more than 15 feet apart.**

- b. At least one row of evergreen shrubs that will grow to form a continuous hedge at least five feet in height within one year of planting.
  - c. Lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.
- 2. **Berm Plus Planting Area:** Width not less than 10 feet, developed in accordance with the following standards:
  - a. Berm form should not slope more than 40 percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary.
  - b. A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.
  - c. The combined total height of the berm and hedge shall be not less than five feet.
- 3. **Wall Plus Planting Area:** Width must not be less than five feet developed in accordance with the following standards:
  - a. A masonry wall or fence not less than five feet in height.
  - b. Lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.
- 4. **Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated, as approved by the City.**

**FINDINGS:** Buffering is proposed along the western edge of the project, which is across the railroad tracks from the residences on the other side. The preliminary landscaping plan (Sheets LO1-4) is consistent with the "planting area" option noted above because it provides a continuous landscaped area with ground cover and trees.

#### **2.309.06 Planting and Maintenance**

- A. **Planting Height.** No sight-obscuring plantings exceeding 30 inches in height shall be located within any required vision clearance area in accordance with Section 2.312.09 of this Ordinance.

**FINDINGS:** As noted above, the specific types of plants near driveway and street intersections must be reviewed in more detail during the building permit stage to ensure compliance with the standard.

**B. Plant Materials.** Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of eight feet and to a minimum height of 15 feet over streets and vehicular traffic areas.

**FINDINGS:** Based upon the plant list proposed by the applicant, this problem is not anticipated. Street trees will be pruned to comply with this requirement.

**C. Utility Interference.** Landscape plant materials shall be selected, which do not generally interfere with utilities above or below ground.

**FINDINGS:** Utilities are to be placed underground. No conflicts are foreseen between the preliminary landscaping plan and the utility plan.

**D. Installation.** Landscape plant materials shall be properly guyed and staked to current industry standards as necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

**FINDINGS:** The preliminary landscaping plan includes typical planting details for trees. This will be monitored as part of the building permit approval process.

**E. Suitability.** Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated should be sufficiently hardy to thrive under these conditions. Plants should have vigorous root systems, and be sound, healthy, free from defects, diseases, and infections.

**FINDINGS:** The plants proposed in the preliminary landscaping plan appear to be appropriate, given the conditions of the site. Although the proposed trees meet the minimum caliper prescribed in the KDC, trees of this size are susceptible to damage and vandalism. Those trees located in areas susceptible to damage such as along street and walkways should be increased in size to ensure survivability.

**F. Deciduous Trees.** Deciduous trees should be fully branched, have a minimum caliper of 1 1/4 inches, and a minimum height of 8 feet at the time of planting.

**FINDINGS:** As noted above, the preliminary landscaping plan calls for trees of this size, however, trees this small are easily damaged. Trees located along streets and pathways should be increased in size.

**G. Evergreen Trees.** Evergreen trees shall be a minimum of 6 feet in height, fully branched at time of planting.

**FINDINGS:** This shall be a requirement of the Master Plan approval.

**H. Shrubby.** Shrubs shall be supplied in a minimum 1 gallon containers or 8 inch burlap balls with a minimum spread of 12 to 15 inches.

**FINDINGS:** This shall be a requirement of the Master Plan approval. Additionally, the shrub plant materials shall be planted at a spacing necessary to achieve the landscape design objectives within five years of growth.

**I. Ground Cover.** Ground cover plants shall be spaced in accordance with current nursery industry standards to achieve covering of the planting area. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum 4 inch size container or a 2 1/4 inch container or equivalent if planted 18 inches on center.

**FINDINGS:** The applicant proposes ground cover spacing of 24" on center. While this may be appropriate for some species, the spacing should more appropriately be indicated as that which is needed for whatever species of ground cover is proposed, to reach full coverage by the third year of growth, in accordance with nursery standards.

**J. Irrigation.** All developments are required to provide appropriate methods of irrigation for the landscaping. Sites with over 1,000 square feet of landscaped area shall be irrigated with automatic sprinkler systems to insure the continued health and attractiveness of the plant materials. Sprinkler heads shall not cause any hazard to the public. Irrigation shall not be required in wooded areas, wetlands, floodplains, or along natural drainage channels or stream banks.

**FINDINGS:** An irrigation system is proposed for the entire development. Irrigation plans will be reviewed and approved as part of the building permit review process.

**K. Re-planting.** Trees or shrubby which die-off shall be replaced with a new plant of the same or similar type. Replacement is ultimately the responsibility of the property owner.

**FINDINGS:** This will be done as necessary if any of the plants die.

**L. Maintenance.** Landscaping shall be continually maintained. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.

**FINDINGS:** This shall be expected by the city.

**M. Plant Protection.** Landscape plant material shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers or other suitable methods.



**FINDINGS:** The preliminary landscaping plan appears to have the landscaped areas well-protected. This will need to be confirmed when the final landscaping plans are submitted for approval as part of the building permit process.

## **SECTION 2.315 DEVELOPMENT STANDARDS**

**2.315.08.A. Pedestrian Circulation.** As used herein “walkway” means a hard surfaced area intended and suitable for use by pedestrians, including both public and private sidewalks.

- 1. Connection Required.** The pedestrian circulation system for the proposed development must connect uses, building entrances, adjacent streets, and nearby transit stops.

**FINDINGS:** Generally, sidewalks are provided to allow safe and relatively convenient pedestrian access throughout the site. However, as mentioned earlier in this report, improvements to this system must be made in two areas. The first is the location and orientation of some of the buildings along Radiant Drive. The sheer distance between buildings and uses will act to significantly discourage walking. Modifications to the site plan must bring uses, such as the hotel, restaurants, retail pads, parks, office building and plazas closer together and with an orientation to Radiant Drive. These requirements are set forth on p.8 This would promote walking because the distances would be more manageable, and this area would also function as a more active pedestrian center for Keizer Station Village Center.

Second, several additional walkway connections should be provided. The following pedestrian connections should also be provided in addition to what is shown on the Pedestrian Pathways Plan (Sheet AO3):

- A crosswalk and easterly extension of the sidewalk on Radiant Drive across Road B to the driveway near Anchor B.
  - A crosswalk for the perimeter pathway at Road B.
  - A sidewalk connection between the Chemawa Road/I-5 interchange and the Road B sidewalk.
  - Walkway connections between the buildings on the east side of the site with the perimeter walkway along I-5.
  - Walkway connection between the Radiant Drive walkway and the front of Anchor A.
  - Walkway connections between restaurant and retail pads and the adjacent street sidewalks, such as Pads B, E and F, the hotel, the office building, Anchor B, and Majors 5 and 6.
  - Walkway connection between Anchor 1 and Anchor A.
- 2. Walkway Location and Design.** Walkway(s) shall be located so that a pedestrian can conveniently walk between a transit street and the entrance(s) to a building(s). Except where it crosses a driveway, a walkway shall be separated by a raised curb or other physical barrier from the auto travel lane and parking. If a raised path is used the ends of the raised portions must be equipped with curb ramps which comply with Oregon State Building Code Requirements.

**FINDINGS:** While transit service is ultimately anticipated, route locations and stops have not been established. Clustering uses near the streets, as required above, will facilitate future transit use by creating more activity and easier pedestrian access.

- 3. Additional Street Access. A walkway from a building entrance to a public street shall be provided for every 300 feet of street frontage.**

**FINDINGS:** Majors 5 and 6 on Road A and the hotel do not meet this criterion. Majors 5 and 6 have an extensive frontage on Road A with little pedestrian accommodation. Improved pedestrian access must be provided from these buildings to Road A. The hotel is relatively isolated from the street and other uses by its location in the middle of a site surrounded by parking. The hotel is recommended to be moved closer to the street, the park, and other complementary uses, such as restaurants. A walkway from the hotel entrance shall connect to the street sidewalk and park (in addition to the perimeter walkway as mentioned above).

- 4. Driveway Crossings. Driveway crossings shall be a maximum of 36 feet in width. Where the pedestrian system crosses driveways, parking areas and loading areas, the system must be clearly identifiable through the use of elevation changes, a different paving material, texture, or other similar method.**

**FINDINGS:** The driveways all appear to meet this standard except for the driveway associated with Anchor B at Road A. Pedestrian crossings at streets, driveways and parking areas shall be constructed with a different paving material and texture. .

- 5. Lighting. Lighting shall be provided for all walkways. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers.**

**FINDINGS:** The general lighting proposed for the site will provide appropriate illumination for the development. Special attention is required to provide safety at the pedestrian undercrossing located at Tepper and the Railroad. Security lighting shall be provided which provides secure illumination of the undercrossing, while being directed away from the residential areas that are adjacent.

- 6. Walkway Coverage.**

- a. Any portion of a walkway located within three feet of a building frontageshall be covered with awnings or building overhangs. The minimum vertical clearance shall be 9 feet for awnings and building overhangs. The maximum vertical clearance shall be 15 feet.**

- b. In the EG zone, Any portion of a walkway located within three feet of a building frontage shall be covered with awnings or building overhangs as provided in Subsection a, except for buildings, which have greater than 300 feet of lineal frontage, where this requirement shall apply to at least 33 percent of the building frontage. The maximum vertical clearance shall be 15 feet.**

**FINDINGS:** The design concepts for some of the buildings are provided on Sheets AO7-9. These comply with this criterion. Compliance with this standard must be confirmed during the building permit review.

- 7. Dimensions. Walkways shall be at least five feet in paved unobstructed width. Walkways that serve multiple uses or tenants shall have a minimum unobstructed width of eight feet.**

**FINDINGS:** At scales of 1" = 60' or 1" = 100', this is difficult to determine, but the preliminary plans appear to be consistent with this criterion. All sidewalks within the Keizer Station Village Center are intended to serve multiple use destinations for pedestrians. In order to be consistent with the standards set in the Development Standards for walkway design all sidewalks shall be a minimum of eight feet.

- 8. Stairs or ramps shall be in place where necessary to provide a direct route between the transit street and the building entrance. Walkways without stairs shall comply with the accessibility requirements of the Oregon State Building Code.**

**FINDINGS:** This will be evaluated during building permit review.

- 9. Access to Adjacent Property. If the proposed development has the potential of being a significant attractor or generator of pedestrian traffic, potential pedestrian connections between the proposed development and existing or future development on adjacent properties other than connections via the street system shall be identified.**

**FINDINGS:** The pedestrian connections shall be improved as noted above. In order to meet the criterion, improved pedestrian connection leading between the center of this project and the baseball stadium to the north is required. This would support the objective of the Keizer Station Plan to "provide a gateway to sports activities". Additional amenities shall be required to support the pedestrian uses such as seating, public art and other points of interest.

- 10. The building permit application or Development Standards Alternative application shall designate walkways and pedestrian connections on the proposed site plan. If the applicant considers walkways are infeasible or proposed findings shall be submitted demonstrating that the walkway or connection is infeasible. The findings will be evaluated in conjunction with the building permit or Development Standards Alternative process.**

**FINDINGS:** This will be performed as part of building permit review.

**2.315.08.B. Building Design**

**1. Ground floor windows**

- b. In the EG zone, one elevation of any building with more than 100,000 square feet of floor area, which contains permitted uses listed under Sections 2.119.05 F, G, H, I, J, and K, shall have no less than 33 percent of the ground floor wall area, defined from the ground to the height of the awning, with windows or window facsimiles or other architectural features that simulate windows, display areas or doorway openings.**

**FINDINGS:** Conceptual elevations (Sheets AO7-9) for several of the proposed buildings appear to meet this standard, but compliance will need to be confirmed during permit review.

**2. Building facades**

- b. In the EG zone, facades facing a public street shall extend no more than 60 feet without providing a variation of building materials for buildings over 20,000 square feet. In the EG zone, no building facade shall extend for more than 400 feet without a pedestrian connection between or through the building, provided that there is a pedestrian purpose being served.**

**FINDINGS:** The concept drawings and plans comply with this criterion, and compliance will need to be confirmed during the building permit review. Specific conditions shall be addressed later in this report to ensure that the proposed design and massing of the buildings are established as a requirement.

- 3. Awnings – Awnings or canopies, shall be provided along building storefronts abutting a public sidewalk. Awnings and canopies shall be constructed of canvass, acrylic fabric, laminated vinyl, metal or similar standard material. Awnings and canopies of corrugated fiberglass or polycarbonate roofing shall be prohibited. Awnings and canopies shall not be back lit.**

**FINDINGS:** The concept drawings and plans indicate compliance with this criterion, and compliance will need to be confirmed during the building permit review.

**4. Materials and Texture**

- a. Building Materials.**

1. **All buildings shall have wood, brick, stone, or stucco siding, or vinyl siding made to look like wood siding. Metal siding as described in this section shall be allowed. (5/98) In the EG zone, all buildings shall have wood, brick, stone, architectural block, slump stone, architectural concrete or stucco siding, or vinyl siding made to look like wood siding.**
2. **Metal siding other than corrugated or reflective material are allowed except for residential buildings housing 3 or more dwellings and buildings within the EG zone metal siding is allowed with the exception of corrugated or reflective metal.**
3. **Plain concrete block, plain concrete, plywood and sheet press board may not be used as exterior finish materials.**

**FINDINGS:** The concept drawings and plans indicate compliance with this criterion, and which will be confirmed during the building permit review.

- b. **Trim Material. Building trim shall be wood, brick, stone, stucco, vinyl siding material made to look like wood, or metal.**

**FINDINGS:** The concept drawings and plans indicate compliance with this criterion, and compliance will need to be confirmed during the building permit review.

- c. **Roofing Material. Any roofing material is allowed including metal roofs.**

**FINDINGS:** The concept drawings and plans indicate compliance with this criterion, and compliance will need to be confirmed during the building permit review.

- d. **Foundation Material. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 3 feet.**

**FINDINGS:** The concept drawings and plans indicate compliance with this criterion, and compliance will need to be confirmed during the building permit review.

## **SECTION 2.419**

## **SERVICE STATIONS**

**Where permitted as a special use, gasoline service stations shall meet the following use and development standards.**

- A. **Lot area and dimensions.** Minimum lot size 10,000 square feet, minimum of 100 feet of street frontage for an interior lot and minimum of 120 feet of frontage on each street abutting a corner lot.

**FINDINGS:** The application complies with this requirement.

- B. Yard Exceptions for Service Stations.** Free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Ordinance.

**FINDINGS:** The pumps and islands are proposed to be in an interior portion of the service station site.

- C. Gasoline Pumps.** Gasoline pumps and pump islands shall not be located so that any part of a vehicle being served will extend into any public right-of-way, alley or private drive used for access or egress. Further, gasoline pumps or pump islands shall not be built within 10 feet of a property line.

**FINDINGS:** The pumps and islands are proposed to be in an interior portion of the service station site, and this criterion is met.

- D. Screening.** The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall, or hedge.

**FINDINGS:** As noted above, this entire development is well screened from the residential neighborhoods located on the west side of the railroad.

- E. Lighting.** Outdoor lighting shall be directed away from residential property.

**FINDINGS:** As noted above, the lighting plan demonstrates that light and glare will not go beyond the boundaries of the development. In addition, the railroad right-of-way provides additional distance for any light to dissipate before reaching residences.

## **SECTION 2.420     AUTOMOTIVE SERVICES**

Where permitted as a special use, automotive services are subject to the following development requirements.

- A. Outdoor Storage.** Outdoor storage of material, parts and equipment shall be prohibited.

**FINDINGS:** No outdoor storage areas are proposed.

- B. Screening.** The property shall be screened from every abutting residential zone or use by a 6 foot sight-obscuring fence or wall.

**FINDINGS:** The automotive services are not adjacent to the residential area, being separated by the Railroad and Road A.

## **KEIZER STATION PLAN DESIGN STANDARDS**

- A. Development Standards:** KDC Section 2.315 *Development Standards* requires new development to apply for Development Review and to comply with standards identified in KDC Section 2.315.08 as part of the building permit approval process. These standards are intended to be objective and to serve as a guide to designers of developments. A building permit shall be issued when the proposal:

1. Is consistent with the Development Standards of KDC Section 2.315; and
2. Is in substantial conformity to the approved Master Plan.

**FINDINGS:** These standards shall be addressed in the building permit approval process and will be binding on all structures. In addition, the Master Plan process allows flexibility for the city to apply more stringent requirements than those found within this section.

- B. Additional Design Standards:** Development throughout Area A – Village Center will also be controlled by a set of design standards aimed at establishing an environment that promotes a coordinated approach to developing the entire 95 acres. The intent is to establish design standards in addition to the standards identified in KDC Section 2.315 that will guide future development in a manner that will achieve the development objectives for Area A – Village Center. The following Design Standards shall also apply to new development in Area A – Village Center area as part of the Master Plan approval process:

1. Gateway. In order to achieve the objective of making Area A – Village a gateway to Keizer, a gateway feature visible from I-5 shall be provided.

**FINDINGS:** This will be achieved by the proposed landscaping on the perimeter of the site and the “Welcome to Keizer” monument sign located near the Chemawa interchange.

2. **Weather protection.** Weather protection for pedestrians, such as awnings, canopies and arcades, shall be provided at building entrance(s). Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

**FINDINGS:** The building concepts presented for Majors 2 through 7 and Retail 2 and 3 (Sheets AO7-9) show that the applicant intends to provide these amenities. This will need to be confirmed during the building permit review process along with confirmation for all other buildings.

3. **Landscaping.** All required yards, except driveways, are required to be landscaped; that portion within the required yard, which is landscaped, may be included in the calculation to meet minimum landscape area requirements. Landscaping shall meet all applicable standards identified in Section 2.309 of the Code. In addition to landscaping provisions identified in Section 2.309, landscaping for properties within the EG zone shall be defined as follows: (2/03)

“Landscaped Area” must be native or non-native trees, vegetation, ponds, rocks, ground cover, bark chips, cinders, terraces, vegetable or flower gardens, trellises, pathways, or structural features including but not limited to fountains, reflecting pools, outdoor art work, screen walls, fences and benches, which reasonably requires and continues to reasonably require human management to distinguish the area from a natural area. (2/03)

Within the EG zone, landscape area requirements may be determined by the City Council to have a portion of landscaped or streetscaped area within the right-of-way to be included within the minimum landscape area requirement.

**FINDINGS:** The application shows a variety of significant areas that are landscaped and includes such things as a water feature at the intersection of Road A and Road B. Other features, which are not shown, but which will be a condition of approval will include other structural features such as benches, trellises, screen walls and outdoor art.

4. **Streetscaping.** Streetscaping is defined as pedestrian oriented improvements to property outdoors. Streetscaping may include, but not limited to, walkways with varied materials (other than plain concrete or asphalt), art features, water features, planters, benches, hanging plant baskets, and plazas. (2/03)



- (a) In accordance with Section 3.113 Keizer Station Master Plan Review, at the time of master plan approval by the Council, the Council may determine if streetscaped areas may be included in the minimum landscape area for a proposed development.

**FINDINGS:** In keeping with the intent of the overall design of the Village Center, special attention is required for the pedestrian circulation system. The application shows that pedestrian crossings at streets and parking areas are distinguished from vehicular traffic with the use of distinct patterns and different materials such as colored and patterned concrete at those crossing areas. This will be a condition of the Master Plan approval.

## **KEIZER STATION PLAN TRANSPORTATION SYSTEM**

- A. Streetscape.** Radiant Drive is relocated to bisect Area A – Village Center and will provide a landscaped entry as well as providing a direct connection into Area A – Village Center. The design of Radiant Drive and internal streets shall include landscape features identified in KDC Section 2.119.10.A.4

**FINDINGS:** The area along the new location of Radiant Drive as well as the entry of the Keizer Station Plan at Lockhaven shall be landscaped according to these requirements, and shall be made a condition of approval.

- B. Access.** Access from Radiant Drive to adjoining property shall be controlled. The intent of Radiant Drive is to provide efficient through traffic. Signalized access connections will be located at least 600 feet apart, except where approved by the City Traffic Engineer. Additional access connections on Radiant Drive should be limited and designed to maximize the flow of traffic. All internal signalized intersections on Radiant Drive will operate at a V/C standard of 0.87 or better.

**FINDINGS:** Traffic signals on Radiant at Roads A and B are slightly less than 600 feet, however, this design has been approved by the City Traffic Engineer. Non signalized access is limited and available evidence indicates that the volume-to-capacity ratio is met.

**C. Pedestrian circulation:**

- 1. The on-site pedestrian circulation system shall be continuous, connecting the ground-level entrances of primary structure(s) to the following:**
  - a. Streets abutting the site;**
  - b. Parking areas;**
  - c. Shared open spaces and play areas;**
  - d. Abutting transit stops;**
  - e. Any pedestrian amenity such as plazas, resting areas and viewpoints; and**
  - f. Adjacent buildings.**

**FINDINGS:** As discussed previously in this report, there are two related issues. One relates to providing the appropriate walkways for safe and convenient pedestrian connections. With the amendments to the walkway system listed in the conditions of approval, this pedestrian circulation issue will be addressed. The second issue is locating and orienting destinations (hotel, restaurants, retail, public spaces) to reduce walking distances. Clustering these activity areas along Radiant Drive would do much to improve the pedestrian “friendliness” of Keizer Station Village Center. By adjusting the building envelope locations, this can be accomplished.

- 2. There shall be at least one pedestrian connection to an abutting street frontage for each 300 linear feet of street frontage.**

**FINDINGS:** This criterion is satisfied with the modifications noted in the conditions of approval.

### **KEIZER STATION PLAN UTILITIES**

**In addition to the development standards of Utility Lines and Facilities – Section 2.307 the following standard shall apply to new utilities:**

- A. All utilities located adjacent to Radiant Drive and connecting transportation facilities shall be located underground.**
- B. All other new utility connections and lines shall be located underground where practicable.**

**FINDINGS:** Utilities are proposed to be underground. This will be assured through the building permit and other permit review requirements.

### **KEIZER STATION PLAN PARKING**

**Parking standards for Area A – Village Center shall follow the standards located in the corresponding base zone as well as Off-Street parking and Loading – Section 2.302. In addition to these standards, the following shall also apply:**

- A. Location of parking – If the building is located within 20 feet of the Radiant Drive right-of-way, there shall be no parking or maneuvering between the building and the right-of-way.**

**FINDINGS:** All of the buildings shown on the plans comply with this criterion.

## **KEIZER STATION PLAN LANDSCAPE**

In addition to the development standards of Site and Landscape Design – Section 2.309 the following standards shall apply:

- A. A coordinated landscape plan shall be provided for the frontage portion of the Village Center along I-5 with the request for master plan approval.**
- B. Restriction on Tree Removal. From the date of adoption of this ordinance, no trees shall be removed from any property within Area A - Village Center without approval from the City. The City recognizes that factors such as disease and safety concerns or other practical considerations may require the approval to remove such trees. The City otherwise may determine existing trees to remain on the property.**

**Upon application for master plan approval, the applicant shall submit a tree inventory of all existing trees and trees removed since the date of this ordinance.**

**FINDINGS:** A preliminary landscaping plan (Sheets L01-L04) has been provided indicating a comprehensive landscaping concept for the entire site, including the frontage along I-5 and Chemawa Road. As noted herein, landscaping plan details will be refined during the building permit review process. A tree inventory has been submitted by the applicant, which shows the majority of the existing trees cannot be saved due to the extensive change this proposal means for the property. The City Council finds the extent of the tree removal justified, and that rather than modifying the proposal to save a few more trees, it will be more productive to focus on the quality of the new trees to be planted. This is why an increase of the caliper for the new trees from 1 ¼ inches to 2 inches is recommended.

## **SECTION 3.113.04.C DEVELOPMENT STRATEGIES FOR AREA A – VILLAGE CENTER**

### **1. Pedestrian Access, Safety and Comfort**

- a. To ensure safe, direct, and convenient pedestrian circulation, development in the EG zone, shall provide a continuous pedestrian and/or multi-use path system.
- b. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas wherever possible.
- c. Pathways with developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets and parking areas.

- d. For all developments subject to Master Plan review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.
- e. Recessed entries, canopies, and/or similar features shall be used at the entries to a building in order to create a pedestrian scale.
- f. For driveways that service more than 100 parking spaces, such driveway intersections with Radiant Drive shall not have any parking within twenty-five feet of the driveway intersection. This area shall be landscaped in accordance with Section 2.309 of the Keizer Development Code.
- g. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

**FINDINGS:** With the recommended conditions of approval, these criteria are met.

## **2. Vehicular Movement**

- a. **Encourage traffic to enter and exit the development at locations other than Tepper Lane.**

**FINDINGS:** With the closure of Tepper Lane to vehicular traffic as a condition of the railroad to allow the new Radiant Drive underpass, this criterion will be satisfied.

## **3. Crime Prevention and Security**

**Crime prevention shall be considered in the site design through application of all of the following guidelines:**

- a. **Territoriality – All proposed building entrances, parking areas, pathways and other elements are defined with appropriate features that express ownership. For example, landscaping, fences, pavement treatments, art and signs are some physical ways to express ownership through design. Such features should not conflict with the need for natural surveillance, as described in b.; and**
- b. **Natural Surveillance – The proposed site layout, building and landscape design promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site. For example, window placement, the use of front porches or stoops, use of low or see-through walls, and appropriate use of landscaping and lighting can promote natural surveillance. Sight-obscuring shrubs and walls should be avoided, except as**

necessary for buffering between commercial uses and lower density residential districts, and then shall be minimized; and

- c. **Activity Support** – The proposed site layout and building design encourage legitimate activity in public spaces. For example, locating outdoor seating in areas that are visible from inside a restaurant helps to discourage crime and supports the activity of dining; and
- d. **Access Control** – By properly siting and designing entrances and exits (i.e., in clear view from the store), and through the appropriate use of lighting, signs and/or other features, the proposed plan controls access in ways that discourage crime; and/or
- e. **The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.**

**FINDINGS:** The proposed plan is generally consistent with the above criteria. As discussed above, clustering uses to a greater degree along Radiant Drive and providing additional pedestrian connections as noted is required.

Regarding the natural surveillance issue, the proposed park locations are poorly integrated and significantly removed from the surrounding activities. The park and plaza along the central I-5 frontage is adjacent to Radiant Drive, parking lots, and the I-5 right-of-way. Because this area will be created around an existing wetland, it obviously cannot be moved. However, the opportunity clearly exists to shift building and parking lot locations around the park plaza to make the park an easily accessible amenity.

The open space in the far northeast corner of the property identified as Tower Park is completely isolated from other activities proposed here and the ballpark to the north. It is recommended that this area be used for parking, landscaping or other amenities to the development and the open space trails system be improved to a more significant level and which is more easily accessible to and integrated with the other activity area in the development.

#### **4. Reduced Parking**

**Reduce or waive minimum off-street parking standards.** The applicant may request a reduction to or waiver of parking standards based on a parking impact study. The study allows the applicant to propose a reduced parking standard based on estimated peak use, reductions due to easy pedestrian accessibility; availability of transit service, and likelihood of car pool use; and adjacent on-street parking. The parking study is subject to review and approval or modification by the City.

**FINDINGS:** The parking requirements must be met and calculations must be provided as part of the Master Plan approval. The applicant has not requested a reduction or waiver.

## **5. Creating and Protecting Public Spaces**

- a. The development provides an appropriate amount of public space as determined by the City Council in addition to sidewalks and landscaping.
- b. Public space may be a landscaped open space or plaza with pedestrian amenities, as approved by the City Council.

**FINDINGS:** The applicant is proposing an appropriate amount of public spaces and park, however, the staff recommends amending the site plan to better integrate the two parks along I-5 with the rest of the development to enhance their value as amenities and to create more defensible and crime-free areas.

## **6. Human Scaled Building Design**

**Building facades are designed to a human-scale, for aesthetic appeal, pedestrian comfort, and design character of a development. The City Council may determine architectural character, continuity of building sizes, roof forms, rhythm of window and door spaces and the general relationship of buildings to public spaces such as street, plazas, other open space and public parking.**

**FINDINGS:** The proposal indicates typical elevations which are varied in texture, building materials and showing an attractive human scale in blocking and human scale design elements. The plan shows no more than fifteen feet between varied vertical elements and building materials, an average height of 23 feet punctuated frequently with various architectural accents no greater than 22 feet in width and no higher than 28 feet to the eave line. The plan shows a variety of roof lines and that a variety of materials are intended to be used which are indicated in the submitted materials, which shows cultured stone, five varieties of split face Concrete Mortar Units (CMU), as well as smooth faced CMU walls. The colors indicate compliance with the Development Standards. These details shall be made part of the conditions of the Master Plan Approval.

7. The Village within Area A shall contain a public improvement design to include a promenade/sidewalk design that may vary in width to meet a minimum width of 8 feet on both sides of Radiant Drive. The promenade/sidewalk shall be separated from the street with a landscape belt, to include decorative lighting and trees.

**FINDINGS:** The walkway facilities along Radiant Drive are generally consistent with this criterion. An extension of this walkway beyond Road B is noted above. Design constraints have led to a walkway on one side of Radiant Drive under the railroad and Road B. To enhance Radiant Drive as a primary pedestrian entry into Keizer Station Village Center, the staff recommends that the city and developer work together to provide design amenities to enhance the aesthetic appearance and pedestrian functionality of the two underpasses. Finish materials,

landscaping, and lighting of these underpasses Should all contribute in this regard. Finish materials shall be consistent with that of the buildings in the Village Center.

## **VI. FINDINGS - SUBDIVISION**

### **Introduction**

Normally, a subdivision is subject to a Type II procedure (KDC 3.101.02), which includes a quasi-judicial review by the Hearings Officer. However, Keizer Development Code provides that the Master Plan process includes subdivision and partitions. Therefore, this matter is properly before the Council as a Type II-B action.

The criteria that apply to a subdivision include lot size and orientation, provision of utilities, and circulation details. The subdivision application provides the information required by the KDC.

The applicant is proposing to divide the 95.7 acres into 15 developable lots and 3 open space tracts as follows:

Lot number	Area	Proposed buildings within lot	Proposed uses within lot
1	1.99 acres	Pad E, Pad G	Commercial
2	3.86 acres	Pad B, Pad F, Pad H, Pad I	Industrial
3	5.99 acres	Pad A, Shops A, Shops B	Commercial
4	.75 acres	Pad A	Commercial
5	11.80 acres	Anchor 1	Commercial
6	16.24 acres	Major 1, Major 2, Major 3, Major 4, Anchor 2	Commercial
7	1.29 acres	Retail 1	Industrial (Flex)
8	1.84 acres	Retail 2, Retail 3	Commercial
9	10.39 acres	Anchor 3	Commercial
10	1.0 acres	Restaurant 1	Industrial
11	6.91 acres	Major 5, Major 6, Major 7	Commercial
12	7.88 acres	Hotel, Restaurant 5, Restaurant 4, Restaurant 2, Restaurant 3, Retail 4, Retail 5	Industrial (w/flex space)
13	2.97 acres	Anchor B, Shops C, Pad C	Commercial
14	5.60 acres	Pad D, Commercial Office Building	Industrial
Tract A	1.25 acres	Central Park	
Tract B	1.05 acres	Open Space	
Tract C	1.58 acres	Open space	

## **Findings**

- A. The Review Criteria for a Subdivision is listed in Section 3.108.04 of the Keizer Development Code. The criteria and findings are listed below:

**3.108.04.A The proposal shall comply with the applicable development standards in Section 2.405 and Section 2.3 as appropriate, including provisions for streets and utilities.**

Section 2.405 contains development standards for manufactured home parks and are therefore, not applicable in this situation. Section 2.3 of the Keizer Development Code contains the policies and standards, which guide all development approvals within the City of Keizer. Listed below are only the applicable development standards contained in Section 2.3, which are pertinent to subdivision approval:

Section 2.302	Street Standards
Section 2.303	Off-Street Parking and Loading
Section 2.305	Transit Facilities
Section 2.306	Storm Drainage
Section 2.307	Utility Lines and Facilities
Section 2.308	Signs
Section 2.309	Site and Landscaping Design
Section 2.310	Development Standards for Land Divisions

**FINDINGS:** Consistency with the above KDC sections is addressed in the earlier section related to the standards under the EG zone for the Keizer Station Plan, with the exception of requirements in Section 2.310 specifically related to subdivisions. These requirements are addressed below.

**SECTION 2.310 - DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

- B. **Minimum lot area.** Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

**FINDINGS:** Section 2.119.09 specifies the dimensional requirements for lots within the EG zone. For commercial lots, at least 80% must have a minimum lot size of 20,000 square feet, with a minimum average width and depth of 100 feet. The remainder 20% must have a minimum lot size of 10,000 square feet, with a minimum average width and depth of 75 feet. Of the seven lots that have exclusively commercial uses, all are over 20,000 square feet in size and all have average width and depths of over 100 feet. The commercial uses meet the code criteria.

For industrial lots, at least 80% must have a minimum lot size of 3 acres, with a minimum average width and depth of 350 feet. The remainder 20% must have a minimum lot size of one acre, with a minimum average width and depth of 150 feet.



C. **Lot width and depth.** The depth of a lot or parcel shall not be more than 3 times the width of the parcel, with the following exceptions:

1. **Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet with no dimension less than 6 feet of semi-private outdoor living space for each unit.**
2. **Individual lots for single-family attached dwelling units shall be designed so that lot depth is not greater than 3 1/2 times lot width.**
3. **Parcels created for public utility uses or in zones where there is no minimum lot area requirement shall be exempt from width to depth ratio provisions.**

**FINDINGS:** The depth of each lot averages less than three times the width of each lot. This criterion is met.

D. **Access.** All lots and parcels created after the effective date of this Ordinance shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone.

**FINDINGS:** All lots provide a minimum street frontage.

E. **Lot Lines.** The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line.

**FINDINGS:** The side lines of the lots run at right angles to the right-of-way lines upon which the lots face for almost all of the lots. The one exception is the side lines of lots 5 and 6 which follows the driveway. The rear lot lines are not less than 1/2 the dimension of the front lot line in any case. This criterion has been met.

F. **Utility Easements.** Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width as specified in Section 2.302.04 of this Code.

**FINDINGS:** Section 2.302.04 states that utility easements shall be between five and 10 feet adjacent to the right of way. The width may be increased as determined by the Department of Public Works on a case by case basis. The width of the utility easements range from 15 feet to 50 feet within each lot, based on the preliminary plat provided by the applicant. The Department of Public Works comments state that "all easements to be located in the appropriate locations based on

actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations."

#### **2.310.04 Additional Design Standards For Subdivisions**

##### **A. Standards for Blocks**

- 1. General:** The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic; and recognition of limitations and opportunities of topography.
- 2. Sizes:** Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

**FINDINGS:** The realignment of Radiant Drive and the construction of the three new roads will be to arterial standards in terms of structural section and geometric configuration. The distance between the intersections is more than 600 feet and less than 1,800 feet. The blocks have been laid out to provide adequate building sites for the proposed uses, convenient access and circulation, and safety of traffic signals. Multiple entrances off the streets are provided within each block to serve the various uses proposed. These entrances are adequately spaced to provide convenient access and circulation. Entrances into the blocks are located away from street intersections and should not provide conflicts with the intersections.

- B. Traffic Circulation.** The proposed subdivision shall be laid out to provide safe and convenient vehicle, bicycle and pedestrian access to nearby residential areas, transit stops, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe and convenient traffic circulation. At a minimum, "nearby" is interpreted to mean uses within ¼ mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably be expected to be accessed by bicyclists.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.B and Section 2.315.08A.1. The criterion has been met with conditions.

- C. Connectivity.** To achieve the objective in B., above, the Director may require the following:

1. **Stub Streets:** Where the potential exists for additional residential development on adjacent property.
2. **Pedestrian/Bicycle Accessways:** Public accessways to provide a safe and efficient connection from a residential area to nearby residential areas, transit stops, neighborhood activity centers, including schools, parks, shopping centers, other community services and other commercial and industrial areas when such connections are not available by streets and when a pedestrian must go at least one quarter of a mile out of his or her way to make that connection using the street system.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.315.08A.1 and Section 2.315.08.A.9. The criterion has been met with conditions.

**D. Design Standards.** Pedestrian/bicycle accessways shall meet the following design standards:

1. **Minimum dedicated width: 10 feet**
2. **Minimum improved width: 10 feet**
3. **Maximum length: 250 feet. A clear line of vision for the entire length of the accessway shall be required.**
4. **Lighting shall be provided illuminating any walkway exceeding 150 feet in length to a level where the system can be used at night. Lighting shall be included in the lighting district(s) established for the subdivision.**
5. **The accessway shall be designed to prohibit vehicle traffic.**

**FINDINGS:** At scales of 1" = 100', this is difficult to determine, but the pathway along Interstate 5 and along Radiant Drive appear to be consistent with the criterion. The pathway along Interstate 5 appears to be 12 feet wide and the bike and pedestrian access along Radiant Drive appear to be 18 feet wide. The pathway running through Chemawa Park connecting Chemawa Road and Road A to Road B appears to be 8 feet. This pathway should be increased to be 12 feet wide, consistent with the pathway along Interstate 5. The pathways shall be designed to prohibit vehicle traffic and shall include lighting.

**2.310.06 - Improvement Requirements - Subdivisions**

- A. **Frontage Improvements.** Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.303 of this Code. Such improvements shall be designed to match with

existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.A. The criterion has been met with conditions.

**B. Project Streets.** All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302. The criterion has been met with conditions.

**C. Monuments.** Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

**FINDINGS:** This is a development requirements and a condition of subdivision approval.

**D. Bench Marks** Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure.

**FINDINGS:** This is a development requirements and a condition of subdivision approval.

**E. Surface Drainage and Storm Sewer System.** Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.306. The criterion has been met with conditions.

**F. Sanitary Sewers.** Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.D. The criterion has been met with conditions.

**G. Water System.** Water lines with valves and Fire District approved fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed and operating prior to start of combustible construction.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.B. The criterion has been met with conditions.

**H. Sidewalks.** Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision.

**FINDINGS:** Sidewalks are proposed along both sides of Radiant Drive, Road A, Road B, and Road C. Tepper Lane is recommended by the Public Works Department to be constructed as a ¼ width street and therefore is proposed to have sidewalks on one side of the street only. However, separated bicycle and pedestrian lanes are required as stated on page 14 (Future Extension of Streets) of these findings. Additional sidewalks are proposed as conditions of approval as noted in Section III, Keizer Station Master Plan, findings for Section 2.315.08.A.

**I. Street Lights.** The installation of street lights is required at locations determined to be appropriate by the City and shall be of a type required by City standards.

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.307.02.E. The criterion has been met with conditions.

**J. Street Signs.** The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits.

**FINDINGS:** This is a condition of subdivision approval. No building permits will be issued until all required street signs are installed.

**K. Public Works Requirements.** All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works.

**FINDINGS:** This is a condition of subdivision approval. Public Works comments are included under *Recommendations and Conditions* of the Keizer Station Master Plan section of this staff report. These comments are applicable to the subdivision application.

**L. Curb Cuts.** Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.

**FINDINGS:** All curb cuts and driveway installations shall be constructed according to City standards.

**M. Street Trees.** Street tree planting is mandatory where a planting strip is part of the street design. Plantings shall conform to Section 2.302.03 (M).

**FINDINGS:** This criterion has been addressed under Section III, Keizer Station Master Plan, findings for Section 2.302.M. The criterion has been met with conditions.

**N. Grading and Fills.** All grading which results in fill in excess of 3 feet located within the identified building envelope on a subdivision lot or parcel must be engineered.

**FINDINGS:** This is a development requirement and a condition of subdivision approval.

**SECTION 3.108.04.B** Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved.

Section 2.119.9 of the Keizer Development Code contains the dimensional standards and density standard for the EG zone.

**FINDINGS:** Consistency with KDC Section 2.119.9 is addressed in Section III, Keizer Station Master Plan, findings for section 2.119 and this section, findings for section 2.310.

**SECTION 3.108.04.C** Adequate public facilities shall be available and shall serve the existing and newly created parcels.

**FINDINGS:** Public sewer and water are available and will be extended to serve the subdivision. Section 2.301.03 requires the following public facilities to be provided: fire hydrants, street improvements, water hook-up, sewer hook-up, storm drain, and street lights. No development permit, including building permit, shall be approved or issued unless the improvements are provided prior to occupancy or operation.

## **1. FINDINGS - MAJOR VARIANCE**

A. The Review Criteria for a Major Variance is listed in Section 3.105.05 of the Keizer Development Code. The criteria and findings are listed below.

**1. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.**

**FINDINGS:** The subject property is zoned EG. In general, the surrounding uses are commercial/retail. The placement of restaurants and most office type uses are permitted within the EG zone. The setback requirements for Industrial Uses within the EG zone are to provide for and ensure compatibility with adjacent uses, provide areas for outdoor storages, incidental sales,

and access for the transport of bulk materials where the noises, lights, odors, and traffic hazards associated with permitted uses will not conflict with local and collector streets. The applicant is requesting to reduce the maximum setback for industrial uses to approximately 12 to 14 feet for "Pad A and C", and "Rest 1, 2, 4 and 5". In addition, an increase is requested to the minimum ten foot setback for commercial uses to approximately 31 to 33 feet for "Shops A" and "Anchor B".

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 AND 5":**

The surrounding uses are commercial/retail in general. The uses proposed on the subject properties are permitted within the IG zone, however they are more commercial related than industrial. Normally, the access requirements for industrial type uses are greater than those required for commercial/retail uses. However, many permitted industrial uses are also found within the permitted commercial/retail uses whose access and storage requirements are not as great as the majority of industrial uses. This is the case within this area as the proposed use for these building pads is for restaurants. Therefore, the setback requirements do not meet the needs of the proposed businesses. The variance is the minimum necessary for this use. This criterion is met.

**MAJOR VARIANCE FOR "SHOP A":**

The applicant's statement indicates that there is a overhead power line easement along the north side of the building. The applicant's subdivision plat shows a 100 foot easement running east and west along the north side of the property. Seventy five feet of the easement is within the right of way leaving an additional twenty-five feet of easement within the parcel containing "Shop A" reducing the building lot frontage by twenty-five feet. Due to this, this criterion is met.

**MAJOR VARIANCE FOR "ANCHOR B":**

The applicant's statement indicates that the request for a 31 foot setback along the northerly and easterly side of this pad is to accommodate a bank drive thru. This pad is located at a major intersection within "Area A" and does not meet the "pedestrian friendly environment" nor maintain the stated purposes of the Keizer Station Plan. Unlike the previous variance requests, there is no justifiable position for the variance. This criterion is not met.

2. **The applicant in good faith is unable to comply with the standard without undue burden. The applicant must demonstrate that the burden is substantially greater than the potential adverse impacts caused by the proposed variance.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A":**

**FINDINGS:** At staff's request, the right of way was expanded in "Area A" to accommodate future needs as well as maintaining the purpose of the Keizer Station Plan. The applicant states that this requirement is a burden placed upon the applicant and that allowing this variance will provide a more pedestrian friendly appearance. This criterion is met.

**MAJOR VARIANCE FOR "ANCHOR B":**

**FINDINGS:** The applicant has not shown why the standard imposes an undue burden, nor has it been shown that it is greater than the impacts the variance would cause. This criterion has not been met.

3. **The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property.**

**MAJOR VARIANCE FOR "PAD A AND C", AND "REST 1, 2, 4 5" AND "SHOP A":**

**FINDINGS:** The surrounding properties are zoned EG which allows a mixture of Commercial and Industrial Uses. The uses proposed are permitted within the EG zone, however they are more retail related than industrial. Since the surrounding areas are being developed as commercial/retail and will have similar setback requirements, the approval of this variance will not be unreasonably detrimental to property or improvements in the neighborhood. The structures will be located outside of any vision clearance areas. Therefore, staff finds this request can satisfy the above criterion.

**MAJOR VARIANCE FOR ANCHOR B:**

**FINDINGS:** The intent and purpose of the set back is to give a buffer for aesthetic purposes. The drive-thru proposed for Anchor B will cause the loss of effective buffer. This criterion is not met.



4. **There has not been a previous land use action approved on the basis that variances would not be allowed.**

**MAJOR VARIANCE FOR “PAD A AND C”, AND “REST 1, 2, 4 5”AND “SHOP A” AND ANCHOR “B”:**

**FINDINGS:** There are no prior land use actions, which expressly prohibit the granting of this variance. Therefore, the proposed variance can comply with this criterion.

5. **The variance will not significantly affect the health or safety of persons working or residing in the vicinity.**

**MAJOR VARIANCE FOR “PAD A AND C”, AND “REST 1, 2, 4 5”AND “SHOPS A”, AND “ANCHOR B”:**

**FINDINGS:** Staff cannot find any significant affects upon the health or safety of persons working or residing in the vicinity if the variance request is granted. This criterion is met.

6. **The variance will be consistent with the intent and purpose of the provision being varied.**

**MAJOR VARIANCE FOR “PAD A AND C”, AND “REST 1, 2, 4 5”AND “SHOP A”:**

**FINDINGS:** The intent and purpose for the setback requirements for Industrial Uses within the EG zone is to ensure their compatibility with adjacent uses, to provide areas for outdoor storage, incidental sales, and access for the transport of bulk materials where the noises, lights, odors, and traffic hazards associated with permitted uses will not conflict with local and collector streets. The surrounding uses are commercial/retail in general. The uses proposed are permitted uses within the IG zone; however they are more retail related than industrial. The access requirements are not as great as a majority of industrial uses therefore the setback requirements do not meet the needs of these businesses. Since the surrounding area is being developed as commercial/retail and will have similar setback requirements there will be no adverse impacts. The structure will be located outside any vision clearance areas. Therefore this request can satisfy the above criterion.

## **XII. FINDINGS – SIGN VARIANCE**

- A. The Review Criteria for a sign variance is listed in Section 2.308.10 of the Keizer Development Code. The criteria and findings are listed below:

1. **There are unique circumstances of conditions of the lot, building or traffic pattern such that:**

- a. **The existing sign regulations create an undue hardship;**

- b. **The requested variance is consistent with the purpose of this chapter as stated in Section 2.308.01; and**
- c. **The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this chapter.**

**FINDINGS:** The location of such a major development along the I-5 corridor creates special needs which the limitation of the freestanding signs to 20' in height would create an undue hardship for visibility at speeds anticipated on the interstate highway. By developing an over-all signage program which limits other freestanding signs throughout the complex the intent of the sign code will be met to provide attractive, visible, and useful signage throughout the complex. By allowing an increase in size and height of a location sign and restricting the freestanding signs elsewhere, compensation for those conditions will achieve the purposes of the sign code.

- 2. **The granting of the variance shall not:**
  - a. **Decrease traffic safety nor detrimentally affect any other identified items of public welfare.**

- a. **Result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance.**
- b. **Be the result of a self-imposed condition or hardship.**

**FINDINGS:** The need of height increase along I-5 is comparable to the same needs experienced by the nearby Volcanoes Stadium, as well as the regional mall at the City of Woodburn. In both circumstances, the needs for visibility were thoroughly evaluated and limited in height to 50'. By granting a variance greater than 50' this would create an advantage for this development that is not enjoyed by a neighboring property. Therefore the height should be limited to 50' in height. By granting a variance in height to a maximum of 50' while granting the requested signage area, the applicant would be treated equitably with others.

**CONDITIONS FROM MASTER PLAN/SUBDIVISION/MAJOR VARIANCE CASE  
NO 2004-21.**

The Master Plan/Subdivision, remaining Major Variance and Sign Variance requests are GRANTED subject to the following conditions:

**PUBLIC WORKS CONDITIONS:**

**SANITARY SEWERS:**

The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is \$7,460.00 per gross acre prior to platting of the subdivision. The acreage fee applied will be the fee in place at the time of development of the property. The Master Sewer Plan provides for a sewer trunk line to be constructed through the subject property with adequate size and depth to provide for additional capacity for areas located within the original sewer district west of the BNSF railroad. Additionally, Area D, south of Chemawa Road shall be served with a sewer trunk line to be constructed along with the proposed under crossing of Chemawa Road. A review of the construction plans for the subject property will be required to assure that capacity of the master plan sewer trunk lines is not exceeded. Additionally, the following conditions shall be applied:

1. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the Department of Public Works for review and approval. The plan shall include proposed rim and invert elevations. The entire project shall be served by an existing 18" trunk sewer line adjacent to Keizer Stadium.
2. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area.
3. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.
4. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.
5. It will be the responsibility of the developer's engineer to locate any existing wells (including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be resolved by the developer prior to issuance of public works construction permits.

### **WATER SYSTEM:**

6. The developer has submitted a master water system plan showing proposed routes of public water mains, fire hydrants and individual services. The master plan is generally acceptable to the Public Works Department, however, prior to submittal of final construction plans the developer's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines located outside of proposed right of ways. Final location of all meters to be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNRR right of way, and any other off-site construction required to provide required peak flows to the proposed development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Dedication of property to the City shall be required for any wells or storage facilities developed. Any system development charges for water system improvements will be those in place at the time of individual service connections.
7. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.
8. It will be the responsibility of the developer to abandon all existing wells prior to site grading in accordance with the rules of the Oregon State Water Resources Department unless the City has determined that water rights are available in some cases that could be transferred to municipal use by the city.

### **STORM DRAINAGE IMPROVEMENTS:**

9. The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge.
10. Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces. Where on-site detention is planned, adequate covenant, conditions and restrictions (CCR) shall be recorded to alert future

owners/developers that detention and/or treatment shall be required to be constructed to the standards in effect at the time of building permit application.

11. A grading and drainage plan shall be developed and approved for the subject property including proposed lot corner elevations. Details shall include adequate conveyance of storm water from adjacent property across the subject property.
12. If it is anticipated that the property will develop in phases, prior to any development, a phasing plan shall be submitted to indicate how the storm water management will be developed to provide service to each area.
13. The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site and shall provide adequate protection for existing vegetation. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.
14. The drainage plan for the project includes a proposed storm drain pump station for a portion of the realigned Radiant Drive. The street section requiring pumping shall be minimized to the fullest extent possible. The Department of Public Works shall determine the criteria for design of the station. The developer's engineer shall provide three sets of an approved operation and maintenance manual for the station including a provision for emergency or standby operation. The developer shall also submit a plan for financing the annual operation and maintenance expense of the station.

#### **TRANSPORTATION:**

15. The proposed development requires construction of an underpass under the BNRR as well as an underpass of Chemawa Road. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include but are not limited to, construction of an extension of Radiant Drive from the BNRR tracks South Westerly through Area B to Lockhaven Drive and continuing to Chemawa Road to a point north of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian undercrossing of the BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area D development, ODOT and the Keizer Community Development Department. The path shall be of Portland Concrete Cement and constructed to a width of 12 feet.
16. All new public streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. Tepper Lane shall be terminated at the Railroad and shall be constructed as a  $\frac{3}{4}$  width street designed to Collector Street standards with an

appropriate turnaround at the west end accommodating emergency vehicles. In addition, Tepper Lane shall have facilities to safely accommodate eastbound and westbound bicycle and pedestrian traffic. The sidewalk on the south side of Tepper Lane should be separated from vehicular traffic. All other streets shall be designed to arterial standards in terms of structural section and geometrical configuration. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed.

17. The developer's engineer shall submit detailed traffic signal plans indicating phasing, recommended inter-ties, materials to be used, etc. to the City of Keizer Department of Public Works for approval prior to construction. All traffic signal plans shall be designed to City of Salem/ODOT Standards where appropriate.

**GENERAL:**

18. Adequate access shall be provided that meets the needs of Keizer Stadium and the KSP transportation system.
19. A queuing plan for Phase 1 of the Development (assuming 2008 build out of Areas A and D) shall be submitted to the department of Public works for approval prior to Construction Plan Review. This analysis will determine the needed lane configurations.
20. Phase 1 improvements will require the closure of Ridge Drive at Chemawa Road and Chemawa Road at Lockhaven Drive. A suitable connection between Ridge Drive and the intersection at Chemawa Road and McLeod Lane will be required. Figure 17 in the April 2004 final Transportation Impact Analysis indicates a connection suitable to the Department of Public Works. The Department of Public Works will consider other alternative street alignments depending on Area C development patterns.
21. A separate Railroad sensitivity analysis is required for Phase 1 improvements (assuming 2008 build out of Areas A and D) as outlined in the TIA dated April 2004 on page 21.
22. A street lighting master plan shall be developed. A street lighting district shall be created while under the control of the developer to provide for adequate street lights along the frontage of all street rights of way. Decorative lighting approved by the Department of Public Works shall be used.
23. Construction permits are required by the Department of Public Works prior to any public facility construction. Contact the City Engineer's office at 390-7402 for the necessary permit information that is required.

24. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.
25. Street opening permits are required for any work within the City right-of-way that is not covered by a Construction Permit.
26. Facility phasing plans shall be approved by Keizer Department of Public Works. Arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council.
27. All easements are to be located in the appropriate locations based on actual approved plans. No final plat shall be approved prior to approval of construction plans including easement widths and locations.
28. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place prior to construction permits being issued or the final subdivision plat approval.

**KSP and KDC COMPLIANCE:**

29. Prior to approval of any building permits, the applicant shall submit a phasing plan for Community Development Director approval.
30. The landscaping and pathway improvements along Chemawa Road and I-5 and a "Welcome to Keizer" monument sign in the northwest quadrant of the I-5/Chemawa Road interchange shall be provided as shown in the application or as modified by the conditions of approval. The final landscaping and pathway plans shall be approved by the Community Development Director prior to installation. These landscaping and pathway improvements and the "Welcome to Keizer" sign shall be provided in conjunction with the first building permit approved for the development.
31. The land area devoted to industrial and commercial uses, as required in KDC 2.119 EG Zone shall be met and maintained within Area A - Village Center. The land area calculation shall be based upon the land area of the subdivision lots and the uses occupying them. Commercial and industrial uses shall not jointly occupy a single lot.
32. Except as approved in the variance application, all KDC dimensional requirements for building heights, lots, and setbacks shall be met.
33. Anchor stores 1 and 2 and Major store 1 shall provide a pedestrian crosswalk to cross Road B next to Retail 1. Anchor 3 shall provide a walkway connecting to the perimeter pathway along the I-5 right-of-way.



34. Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No final plat shall be released without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names shall also receive approval of the City Council.
35. Street trees shall be planted with 30-foot spacing using one or more of 13 identified varieties. A minimum caliper of 2 inches shall be used for street trees and all other trees in areas subject to damage near pathways, walkways and streets. A final street tree planting plan shall be approved by the Community Development Director prior to planting. All the other landscaping standards of the KDC shall be met.
36. Ground cover and shrubbery shall be planted in conformity with the KDC and industry standards as approved by the Community Development Director, and shall reach full coverage by the third year of growth.
37. Parking shall be provided as required by KDC 2.303. Parking driveway aisles shall be a minimum of 24 feet wide. A plan documenting compliance with parking requirements shall be provided as part of the Master Plan approval for the Community Development Director's Master Plan approval. Verification shall be provided during building permit review.
38. Bicycle parking shall be provided as required by KDC 2.303.08. In addition, the bicycle rack design shall provide secure support for bicycles and the ability to lock bicycles securely. The bicycle rack design, installation, and locations shall be approved by the Community Development Director prior to installation.
39. Sufficient paved areas and designated loading areas shall be provided in accordance with KDC 2.303.10.
40. Pavement shall be provided for all driveway, loading, and parking areas as required by KDC 2.303.11.
41. A tree shall be planted for every eight lineal parking spaces not located adjacent to a building in accordance with KDC standards.
42. A minimum of 15% of the gross land area for Commercial uses and 20% for Industrial uses shall be devoted to landscaping in commercial developments. This requirement shall be satisfied for development within each of the individual lots of the proposed subdivision. To provide for adequate vision clearance the landscaping material shall be selected to provide for the maintenance of adequate site distance.
43. Buffering shall be provided along the western edge of the project, in a manner, which is consistent with the proposed preliminary landscaping plan (Sheets LO1-4.). Electric and mechanical equipment shall be screened with vegetation and

fencing. The final landscaping plan shall be approved by the Community Development Director prior to planting.

44. Irrigation system plans shall be submitted for approval as part of the building permit review process. Approved irrigation systems shall be installed prior to issuance of an occupancy permit.
45. The site plan shall be amended to locate the hotel, commercial office building, restaurants, retail pads, parks, and plazas closer together with an orientation to Radiant Drive. Of primary importance will be to locate buildings within 10 to 25 feet of Radiant Drive and to locate active uses adjacent to and buildings oriented toward Central Park (Tract A). Central Park must be adjacent to active areas and/or visually accessible from adjacent buildings. The amended plan shall be approved by the Community Development Director.
46. Tower Park (Tract B) is of virtually no open space value. The applicant shall provide plans for Community Development Director approval to provide off-setting open space, plaza, area, and/or public amenities in more advantageous locations within the development. The amenities to be provided shall include, but not be limited to, seating, pedestrian gathering places, public art, plaza connections, exercise stations, and other points of interest.
47. The following pedestrian connections and improvements shall be provided in addition to what is shown on the Pedestrian Pathways Plan (Sheet AO3) for Community Development Director approval:
  - a. A crosswalk and easterly extension of the sidewalk on Radiant Drive across Road B to the driveway near Anchor B.
  - b. A crosswalk for the perimeter pathway at Road B.
  - c. A sidewalk connection between the Chemawa Road/I-5 interchange and the Road B sidewalk.
  - d. Walkway connections between the buildings on the east side of the site with the perimeter walkway along I-5.
  - e. Walkway connection between the Radiant Drive walkway and the front of Anchor A.
  - f. Walkway connections between restaurant and retail pads and the adjacent street sidewalks, including, but not limited to the hotel, the office building, Anchor B, and Majors 5 and 6. \* This condition has been amended. Please see the findings outlining the changes in the staff report.
  - g. Pedestrian crosswalks at streets, driveways and parking lots must be constructed with colored, stamped concrete pavement treatment (or equivalent as approved by the Community Development Director to clearly identify all crosswalks).
  - h. Public amenities shall be installed to support pedestrian uses including those along the multi-use path. The amenities to be provided shall include, but not be limited to, seating, pedestrian gathering places, public art, plaza connections, exercise stations, and other points of interest.
  - i. Walkway connection between Anchor 1 and Anchor A.

48. The Village within Area A shall contain a public improvement design to include a promenade/sidewalk design that meets a minimum sidewalk width of 8 feet. The promenade/sidewalk design may vary in width to meet a minimum width of 8 feet on both sides of Radiant Drive. The area of Radiant Drive which is depressed below grade shall be installed with the sidewalk on one side only. All promenade/sidewalks shall be separated from the street with a landscape belt, to include decorative lighting and trees.
49. Majors 5 and 6 shall provide improved pedestrian access to Road A in accordance with KDC 2.315.08.A.3.
50. Driveway crossings shall be a maximum of 36 feet wide.
51. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers. The lighting plan shall be approved by the Community Development Director.
52. The proposed site lighting will not cast any light or glare toward the residential properties to the west.
53. Building design elements including ground floor windows, facades, awnings and materials shall satisfy KDC 2.315.08.
54. The elevations of all buildings shall be varied in texture, building materials and shall create a very human scale in blocking and incorporate human scale design elements. Elevations of all buildings shall incorporate no more than fifteen feet between varied vertical elements (such as scoring, patterns and textures), punctuated frequently with various architectural features (such as columns, projections, and differing planes), with no greater than 22 feet between such features. A variety of materials, varied at the same frequency as the architectural elements, shall be used and shall conform to the samples in the submitted materials. These materials shall incorporate cultured stone, five varieties of split face Concrete Mortar Units (CMU's), as well as smooth faced CMU walls. The colors used shall be in compliance with the Development Standards. (As amended by MP/SUB/Sign Var/Maj Var Amendment Case No. 2004-44)
55. The application includes design concepts for some of the buildings within the development. Final building designs shall conform with the design concepts submitted with the application, and shall be reviewed by the Community Development Director for compliance with applicable KDC design standards as part of the building permit review.
56. The city and developer shall work together to provide design amenities to enhance the aesthetic appearance and pedestrian functionality of the two underpasses. Finish materials, landscaping, and lighting shall be consistent with that of the buildings in the Village Center.

57. Streetscape features shall be constructed and shall include seating, outdoor art, a significant water feature at the intersection of Road A and Road B as shown on the application materials, awnings and trellises, and interesting bicycle facilities.
58. Maintenance of the open space tracts, plazas, and pathways shall be the responsibility of an association of all property owners of the Village Center.
59. Construction specifications (e.g., base rock, pavement thickness) for the separate pathways shall be subject to Public Works Department approval in accordance with Keizer City Standards.
60. Maintenance of the "Welcome to Keizer" sign shall be the responsibility of the City of Keizer.
61. The Plan shall conform to the requirements of all other State and Special District requirements.
62. During construction, residential properties shall be protected from impacts of noise at unreasonable hours, unreasonable dust, and safety concerns, and shall conform to Keizer city requirements regulating such impacts.
63. The development of the Village Center shall comply with all conditions of the Development Disposition Agreements and all other contractual obligations to the City of Keizer.
64. The applicant shall work with the Transit District to ensure compliance with the requirements found in Section 2.305 of the KDC.
65. In addition to the development standards of Utility Lines and Facilities - Section 2.307 the following standard shall apply to new utilities: A.) All utilities located adjacent to Radiant Drive and connecting transportation facilities shall be located underground. B.) All other new utility connections and lines shall be located underground where practicable.
66. A sight and sound obscuring wall shall be constructed of Concrete Masonry Units or equivalent between the residential properties and the northern border of Area B.
67. Car wash and any automobile service station uses are allowed only as a special permitted use.
68. A portion of Road C shall be located in a public easement, constructed to City of Keizer road standards, and maintained by the City of Keizer.
69. The applicant shall be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master

Plan. These shall be submitted to the Community Development Director for verification and final approval.

**CONDITIONS FOR MAJOR VARIANCE APPLICATION** for “Pad C”, and “Rests 1, 2, 4, 5” and “Shop A” \* This condition has been amended. Please see the findings outlining the changes in the staff report.

70. Unless otherwise specifically modified by this decision, development of structure shall comply with the remaining requirements of the Keizer Development Code.
71. The applicant shall meet all requirements of the Marion County Building Division.
72. The applicant shall locate the proposed structures substantially as indicated on the submitted site plan and shall maintain a minimum setback of 12 to 14 feet from the property line adjacent to Radiant or “Road B”.
73. The construction of the structures must be completed within one year of the final date of this decision. \* This condition has been amended. Please see the findings outlining the changes in the staff report.

**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 other restrictions or conditions thereon.

**TRANSFER OF VARIANCE:** This variance 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.

**CONDITIONS FOR SIGN VARIANCE APPLICATION**

74. Unless otherwise specifically modified by this decision, development of the structure shall comply with the remaining requirements of the Keizer Development Code.
75. The applicant shall meet all requirements of the Marion County Building Division.
76. The signage of the Keizer Station, Area A Village Center shall be limited to the signage indicated in Exhibit 5 and the related specific drawings.
77. The height of the locational sign shall be limited to 50 feet in height; area of signage shall be allowed up to 400 sq ft on this sign. All other freestanding signs shall be limited to those size and heights as indicated on the plans submitted.

**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.

**TRANSFER OF VARIANCE:** The 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.

78. Unless expressly specified otherwise within these conditions, the on-site and off-site improvements shall be constructed in substantial conformance with the attached Exhibits and their related documents:
  1. Building Envelope Plan
  2. Site Plan (Site Area by Use)
  3. Public Improvement Plans
  4. Landscape Plans
  5. Signage Site Plans
79. This land use action is approved on the basis that no future variances will be allowed.
80. Unless expressly stated otherwise with these conditions, no building permits shall be issued until all conditions have been met or the applicant has demonstrated with certainty in the City's discretion the ability to meet such conditions. For example, no building permit shall be issued until contracts have been let for all infrastructure. Building permits may also be held until sufficient infrastructure is completed to support the requested development.

#### **CONDITIONS FOR SUBDIVISION**

81. The City Engineer, Keizer Fire District; City of Salem Public Works Department; Marion County Surveyor's Office; and, Portland General Electric submitted a list of development requirements. The requirements are necessary to ensure public health and safety. Staff recommends these as conditions of approval.
82. The Keizer Development Code requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs.
83. The City's System Development Charge for park development shall be the fees in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and storm drainage, will apply to this request.

84. The Keizer Development Code establishes specific development and processing requirements. These requirements are mandatory and in many cases cannot be modified even through the variance or adjustment process. These requirements are included for the benefit of the applicant.
85. Completion, submittal and recording of the final subdivision plat shall comply with the requirements contained in the Keizer Development Code.
86. Unless otherwise required by this decision, development of the individual lots shall comply with the applicable requirements of the Keizer Development Code and building requirements of the Marion County Building Inspection Division.
87. The applicant shall be responsible for all costs associated with public facility improvements, including all applicable system development charges and shall comply with established City rules and regulations in effect at the time of the final approval of the Subdivision Plat.
88. Minimum lot area shall conform to the requirements of KDC 2.310 and 2.119.09.
89. The Chemawa Park pathway shall be increased to be 12 feet wide, consistent with the pathway width along Interstate 5. The pathways shall be designed to prohibit vehicle traffic and shall include lighting.
90. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.
91. Elevation benchmarks shall be set at intervals established by the City Engineer. The benchmarks shall consist of a brass cap set in a curb or other immovable structure.
92. No building permits will be issued until all required street signs are installed.
93. All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works.
94. All curb cuts and driveway installations shall be constructed according to City standards.
95. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits.