



## **City of Mill City**

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### **MILL CITY PLANNING COMMISSION AGENDA Regular Meeting**

**Tuesday, November 19, 2019 6:30 p.m.**

*City Hall – 444 S. First Avenue  
MILL CITY, OREGON 97360*

1. **Call to Order and Flag Salute – 6:30 p.m.** Chair Ann Carey
2. **Approval of Minutes:** October 15, 2019 pp. 11-18

3. **Public Comment:**

*We welcome you to today's meeting of the Mill City Planning Commission. This is an open meeting of the Commission and you are invited to observe the meeting.*

*If you wish to speak to the Planning Commission regarding an issue which is **not on the agenda**, the Commission provides time at the beginning of each meeting to listen to public comments. The chairperson will ask for public comment. When you are recognized, please state your name, address and briefly explain the issue you wish to discuss. Depending on the nature of the issue, the Planning Commission may address the issue during this meeting, table the issue to a future meeting or may request that you speak with the City Recorder or Planning Consultant outside the meeting.*

4. **Public Hearings:**

File No.	2019-12	pp. 19-26
Applicant:	Spring Aerni	
Proposal:	Site Plan Review for Primary & Secondary Dwelling	
Location:	710 SE 3 <sup>rd</sup> Avenue, Mill City	

File No.	2019-02	pp. 27-38
Applicant:	Scott Baughman, SBC Construction	
Proposal:	Site Plan Review – SW Ivy Street Duplexes	
Location:	230-272 SW Ivy Street, Mill City	

5. **Presentations:** None scheduled

**6. Old Business** pp. 39-49

- a. 2018-04 SKATE: Review of Final Site Plan Design for Skate Park Facility  
(Separate handout of site plan including landscaping)
- b. Other

**7. New Business**

- a. 2019-18 Ratification of Approval of a Property Line Adjustment pp. 50-56  
Applicants: Rex Lucas  
Location: SE Remine Road, Mill City
- b. Other

**8. Informational Items**

- a. City Recorder Report
- b. Planning Consultant Time Report
- c. Prospective Applications:
  - i. Santiam Canyon School District - Site Plan Review for new school facilities
  - ii. Mill City Christian Church – Site Plan Review for a new church on SW Kingwood
  - iii. Sportsman Center – Gas Station and Drive-thru Coffee Shop
  - iv. SE Hazel Street – Property Line Adjustment and Setback Variance

**9. Other Business**

**10. Adjournment**

**Upcoming Planning Commission Meetings (All meetings at City Hall)**

Tuesday, December 17, 2019

6:30 PM

Regular Meeting – SCSD Public Hearing

## **Public Hearing Format for Land Use Hearings Before the Mill City Planning Commission**

- A. Opening of the Public Hearing & Rules of Conduct Chairperson
- B. Declarations of Ex Parte Contact, Conflicts of Interest or Bias
- C. Applicant's Presentation of the Application
- D. Staff Report Planning Consultant for the City
- E. Proponent's Testimony (Persons in Favor)
- F. Opponent's Testimony (Persons Opposed)
- G. General Testimony of Individuals or Organizations
- H. Questions of Clarification from the Planning Commission and Staff
- I. Applicant's Summary and Rebuttal
- J. Staff Summary

**At this point in the hearing, Chair Ann Carey may continue the public hearing to the December 17, 2019 regular Planning Commission meeting to allow the applicant an opportunity to provide additional information (if needed) and the staff to invite additional public testimony. New testimony will be accepted when the public hearing resumes.**

- K. Close of Public Hearing

### **Planning Commission Deliberation & Decision**

*No public testimony is permitted during the Planning Commission's deliberation. The Planning Commission will normally make a recommendation or a decision on an issue following a public hearing but may continue their deliberation to either a special meeting or the next regular meeting of the Planning Commission.*

### **Guidelines for Public Testimony:**

The Chair of the Planning Commission, as presiding officer, will recognize all speakers. If you wish to testify during the public hearing, please assist the Chairperson by abiding by the following rules:

1. State your name and address.
2. Indicate whether you support the application, oppose the application or wish to offer general testimony. Provide factual evidence and direct your testimony to the decision criteria.
3. Please keep your testimony brief and to the point. Limit comments to 3-5 minutes per person.
4. Direct any questions you have to the Chairperson. The Chairperson will direct your question to the applicant, city staff or other person who may be able to provide an answer.
5. The Chairperson may limit testimony when it is cumulative, repetitive, irrelevant or immaterial to the issues being considered.



## **SCRIPT TO BE READ AT COMMENCEMENT OF A QUASI-JUDICIAL LAND USE PUBLIC HEARING**

Good evening, [Introduce yourself and Commission members].

I will be presiding over this hearing.

### **Hearing #1 – File 2019-12      Spring Aerni**

This is a continuation of a public hearing to consider Land Use File 2019-12, a site plan for a secondary dwelling at 710 SE Third Avenue in Mill City. Section 17.16.020 of the Zoning Code requires the Commission to approve any site plan for multiple dwellings in the city's R-2 Multi-family Residential Zone. The applicant is Spring Aerni.

### **Hearing #2 – File 2019-02      Scott Baughman, SBC Construction**

This is a continuation of a public hearing to consider Land Use File 2019-02, a site plan for four duplexes in the 200 block of SW Ivy Street in Mill City. Section 17.16.020 of the Zoning Code requires the Commission to approve any site plan for multiple dwellings in the city's R-2 Multi-family Residential Zone. The applicant is Scott Baughman, SBC Construction.

A copy of the agenda and hearing procedures for this meeting is near the entry door. This hearing is now open.

Oregon land use law requires a statement be made available to those in attendance. The detailed Statement, with the information required under ORS 197.763(5), is printed and available.

The Planning Commission will consider the application, written and oral testimony and the criteria listed in the Mill City Zoning and Subdivision Codes when making a decision. All testimony, arguments and evidence received during this public hearing must be directed to the approval criteria, or to such other rule, law, regulation or policy which you believe to apply to this case.

If anyone has any questions or objections regarding the Statement or these proceedings, please raise those questions when it comes to your turn to speak during the hearing.

If you testify, please state your name, address, if you support the proposal, are opposed to the proposal or have questions. Please limit your testimony to 3-5 minutes.

## **Objections**

At this time, I would ask the audience if there are any objections:

- (1) Are there any objections to the notice that was sent in this case?
- (2) Are there any objections to the jurisdiction of the Planning Commission to hear and consider this case?

*[If there are no objections, announce "there are no objections".]*

## **Declarations of Conflict of Interest, Bias and Ex Parte Contact**

I will now ask the Planning Commission members if they are ready to consider the proposal:

- (1) Are there any declarations of conflict of interest; ex parte contact or bias by any members of this body?

*if there are declarations, have the Planning Commission member(s) state what the conflict, bias or ex parte contact is*

We are now ready for the applicant to present the proposal.

*At the completion of the hearing, the Planning Commission may close the hearing or continue the public hearing to the December meeting in order to solicit additional public testimony.*

*Follow the Hearing Agenda Format for the order of the staff report and public testimony.*

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## **CLOSING STATEMENT**

*At the close of the public hearing, please read:*

The Planning Commission's decision may be appealed to the City Council within 10 days of the mailing of the notice of decision by the City. The decision will be forwarded to the City Council for consideration at their next regularly scheduled meeting. The Council may either ratify the decision or call the matter up for a public hearing.





## **ORS 197.763(5) STATEMENT INFORMATION REGARDING PROCEDURES FOR LAND USE HEARING**

### **Minor Partition and Site Plan Review For Four Duplexes at 230/272 SW Ivy Street in Mill City**

The City has received a land use application from Scott Baughman. He proposes build four duplexes on property he owns in the 200 block of SW Ivy Street. The property is located in the Multi-family Residential (R-2) zone. The R-2 zone allows duplexes as an outright use subject to a site plan review and approval by the Planning Commission. The proposal must comply with the requirements of Chapter 17.16 Multi-family Residential (R-2) zone and the site plan review requirements in Chapter 17.76 of the zoning code.

All testimony, arguments and evidence received during this public hearing must be directed toward these approval criteria, or to such other rule, law, regulation or policy which you believe to apply to this case. An issue which may be the basis for an appeal shall be raised not later than the close of the record at or following the final evidentiary hearing on this case. Such issues shall be raised with sufficient specificity so as to afford this body, and the parties to this hearing an adequate opportunity to respond to each issue.

At the conclusion of the public hearing, the Planning Commission will make a decision to either approve or deny the application. An aggrieved party may appeal the Planning Commission decision by filing an appeal with the City Recorder within ten (10) days of the date the City issues a written notice of decision.

Notice of the planning commission decision to approve or deny an application for a minor partition will be sent to the city council. Within twenty-one (21) days of the date of the planning commission decision, the city council will review the decision and determine the need for further public hearings. If the city council determines that no further hearings are necessary, or if the planning commission decision is not appealed, the decision of the planning commission will become effective immediately.

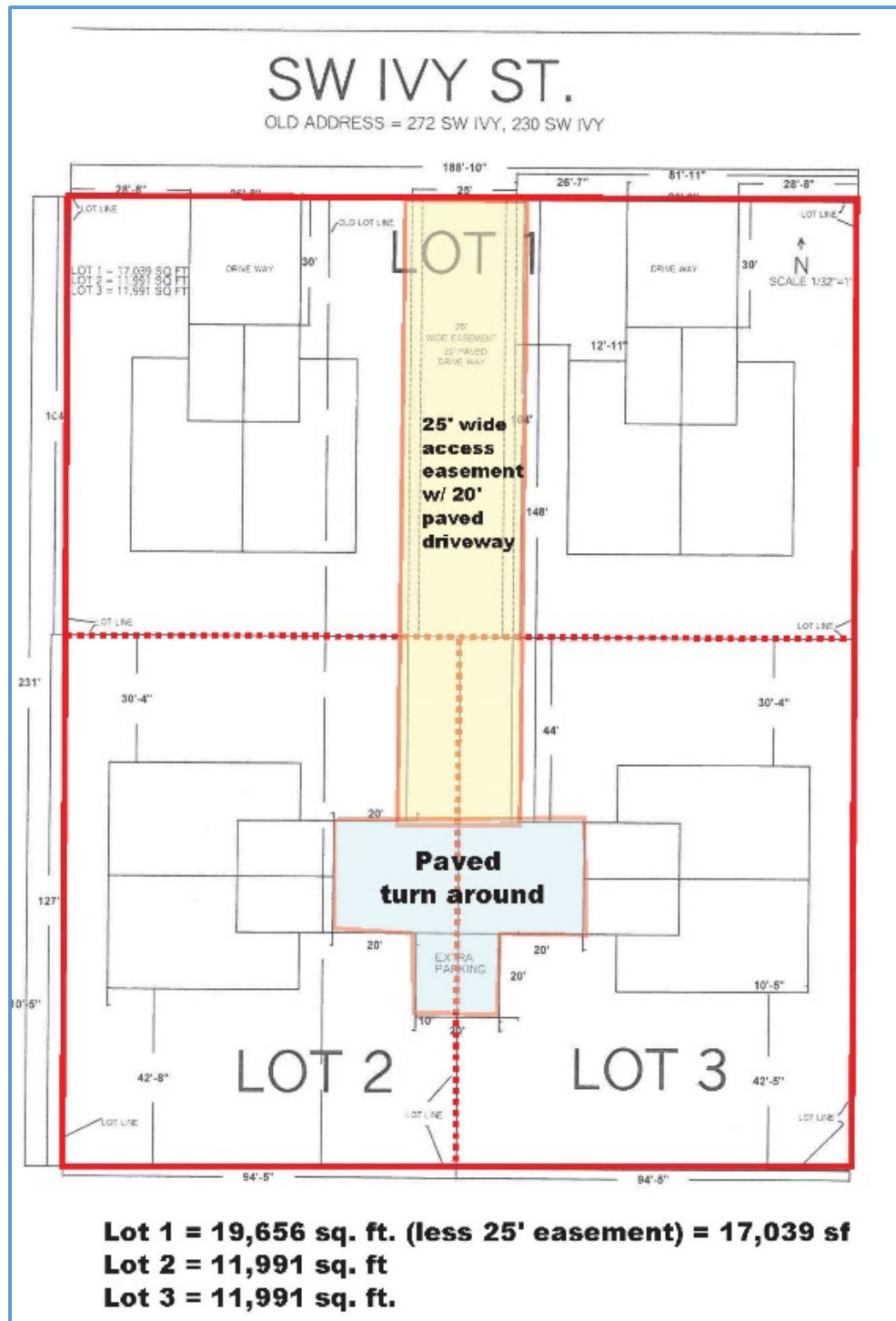
If the City Council either calls up the issue or hears an appeal in this case, the City Council's final action may be appealed within 21 days of mailing of notice of the decision to the Oregon Land Use Board of Appeals.

The Presiding Officer over the public hearing reserves the right to limit the time of any presentation. Please try to avoid repetition; if someone else has already expressed the same thoughts, it is perfectly alright to state that you agree with the statements of that previous speaker. If you have documents, maps or letters that you wish to have considered by this body, they must formally be placed in the record of this proceeding. To do that, either before or after you speak, please leave the material with Planning Staff who will make sure your evidence is properly taken care of.

Prior to the conclusion of the initial evidentiary hearing in this case, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application involved here. Continuances may take the form of holding an additional public hearing with oral testimony allowed or may consist of holding the evidentiary record open for a period of time designated by the City, for submittal from the public of written evidence.

If you have any questions regarding any of the information contained in this Statement, please voice those questions, or objections at the time you testify. If you do not wish to testify, your questions or objections may be submitted in writing and will be dealt with during the course of the hearing. Any written material must be presented prior to the closure of the record in this case.

Map 1  
**Minor Partition and Site Plan Proposal for Four Duplexes**  
**230/272 SW Ivy Street, Mill City**



# **Planning Commission Minutes**

## **October 15, 2019**

**MILL CITY PLANNING COMMISSION  
Meeting of October 15, 2019**

**The Planning Commission conducted site visits to 710 SE 3<sup>rd</sup> Avenue, 680 SW Parkside Drive and 1315 SW Spring Street the week of October 7-11, 2019.**

Planning Commission members present: Chair Ann Carey, Dennis Chamberlin, Marge Henning, Woody Koenig, David Leach, Sandy Lyness and Grant Peterson.

Staff in attendance: Planning Advisor David Kinney and City Recorder Stacie Cook.

City Council Representatives: None.

Agency Representatives: None.

Citizens: Gerardo Martinez, Donda Warriner and Kean Warriner.

The meeting was called to order at 6:30 p.m. Chair Ann Carey led the pledge of allegiance.

**APPROVAL OF MINUTES:** *Woody Koenig moved, seconded by Sandy Lyness to approve the minutes of September 3, 2019, as amended. The motion carried, (7:0).*

**PUBLIC COMMENT:** None.

**PUBLIC HEARING:** File No. 2019-16  
Applicant/Property Owner: Kean & Donda Warriner  
Proposal: Site Plan Review – New Home Land Use Action N. S. River  
Location: 1315 SW Spring St, Mill City  
Linn County Assessor's Map # 9S3E30CD Tax Lot 100

Chair Carey opened the public hearing at 6:38 p.m. Chair Carey read the procedures for land use hearing asking if there were objections to the notice that was sent in this case. None stated.

Chair Carey asked for any conflicts of interest, bias or ex parte contact. Being none, the applicant's presentation was called for.

**APPLICANT'S PROPOSAL:** Kean Warriner, applicant, said that the plan is to place a home on the property facing the road and roughly 60' from the river with a concrete deck 40'+ from the river bank. A 12' wide driveway will be installed. A detached garage is being constructed.

Mr. Warriner said that there will be a company coming in to remove noxious vegetation within the riparian area. This work will be done by hand. In addition, there will be native plants put in.

The neighboring property owner installed a chain link fence on the west boundary line. A chain link fence will be installed along the east boundary line as well.

The garage siding will match that on the home with a horizontal design.

**STAFF REPORT:** Planner Dave Kinney stated that the City code requires a site plan approval for any development abutting the N. Santiam River with a setback from the bank established during the review. There is a 12" overflow sewer line that runs down the east side of this property. The buildings on the property must be outside of this storm sewer easement to allow for the City to access the pipe should there be a need for maintenance.

Mr. Kinney said that the Fire Department provided a written comment requesting verification that the driveway is less than 150' in length to determine whether a turnaround would be required. The driveway is less than the 150' requirement for this. The second request is also to have an address sign installed at the end of the driveway so that the property is easily identifiable for emergency purposes. This has been added as a condition of approval.

Conditions of approval include:

1. Install new water service and meter box.
2. Execute and record a new sewer easement or verify a sewer easement has been recorded.
3. Obtain a plumbing permit and install a sewer interceptor tank.
4. Obtain driveway permit and pave driveway approach to City standards.
5. Storm drainage shall be detained or retained on site using low impact storm water management facilities directed toward SW Spring Street.
6. ROW Construction permit and compliance with Public Works Design and Construction Standards for all work within the right-of-way including water, sewer and storm.
7. The riparian easement shall be preserved and the property owner agrees to:
  - i. Not remove existing trees, native plants or riparian vegetation. This does not restrict removal of dead or hazardous trees or limbs, removal or management of noxious vegetation that might be harmful to the river ecosystem, existing fish habitat and wildlife or replant native plants.
  - ii. Not construct or maintain any man-made structure, fence, deck, or facility within the riparian to the top of bank as shown on the site plan.
8. Installation of an address sign at the end of the driveway at the street.
9. Issuance of the garage and house permit concurrently.

Permits for both the house and garage must be issued at the same time and within one year of approval by the Planning Commission.

**PROPONENT'S TESTIMONY:** None.

**OPPONENT'S TESTIMONY:** None.

**GENERAL TESTIMONY:** None.

**QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION:** Dennis Chamberlin asked if there is a requirement for vision when backing out of the driveway since the pump station building is there. Mr. Kinney said that there is not.

Chair Carey asked if the easement is fully on this property or if it straddles the neighboring property. Mr. Kinney said it is fully on this property. Chair Carey asked if the gate is sufficient to access the easement. Mr. Kinney said that it is.

Grant Peterson asked if there is any requirement for architectural features on the garage since it is the closest building to the street. Mr. Kinney said that there is not a requirement for this.

**APPLICANT'S REBUTTAL:** None.

**STAFF SUMMARY:** The only change to the staff summary is to include the address sign and concurrent building permits.

**CLOSE OF HEARING:** Chair Carey closed the hearing at 7:00 p.m.

**DELIBERATION:** *Grant Peterson moved, seconded by Dennis Chamberlin to approve the site plan for Kean and Donda Warriner at 1315 SW Spring Street, to direct the staff to modify the findings of fact and conclusions to reflect the Planning Commission's deliberations and adopt the conditions of approval for File No. 2019-16 as modified. The motion carried, (7:0).*

**PUBLIC HEARING:** File No. 2019-14  
Applicant/Property Owner: Gerardo Martinez  
Proposal: Variance to 7.5' Side Setback  
Location: 648 SW Parkside Dr, Mill City  
Linn County Assessor's Map # 9S3E31AB Tax Lot 600

Chair Carey opened the public hearing at 7:04 p.m. Chair Carey read the procedures for land use hearing asking if there were objections to the notice that was sent in this case. None stated.

Chair Carey asked for any conflicts of interest, bias or ex parte contact. Being none, the applicant's presentation was called for.

**APPLICANT'S PROPOSAL:** Gerardo Martinez, applicant, said that he purchased this house about a year and a half ago and plans to create a fully eco-friendly home. The plans for the home include a master bedroom above the garage with a deck overlooking the football field. The required 7.5' setback was new knowledge and is the reason for this variance application as there is only 5' available.

Mr. Kinney said that the south side of the garage only has one small window. A suggestion of adding a second window to balance the wall and make it more visibly appealing has been made. Mr. Martinez said that he thinks this is a good idea and should be easy to do.

Mr. Kinney asked if the construction of the second story will impact the neighboring property to the south. Mr. Martinez said that it will not impact the neighbor as there are no windows planned for the upper story to lessen privacy issues for both properties.

**STAFF REPORT:** Planner Dave Kinney stated that in order to grant a variance the Planning

Commission must demonstrate that there is compliance with three criteria; that there is a unique or extraordinary circumstance, that the variance is necessary to retain a property right which is the same that is enjoyed by property owners in the same vicinity and that the variance is not in conflict with the general purpose or intent of the zoning ordinance.

The house was built with a 5' setback, which is generally used for a remodel. The unique situation here is that the remodel includes a 7.5' setback for a second story. The home to the south is set back from the property line much further than normal.

Mr. Kinney said that this is an opportunity to rehab a derelict building, which is a positive for the community and the neighborhood. This improves the quality of the neighborhood and assists within improving the value of the homes in it.

Staff recommends approval with the inclusion of a requirement that there is an architectural relief on the south side of the structure by including additional windows on the garage.

Conditions of approval include:

1. Building remodel/addition shall be located 5' or more from the south property line. The applicant shall locate the property corners and verify the building addition will comply with the minimum 5' side setback requirement.
2. Building permits shall be applied for by October 30, 2020 at 4:00 p.m. The variance shall expire on October 30, 2020 at 4:00 p.m. if the application for a building permit has not been applied for.

**PROPONENT'S TESTIMONY:** None.

**OPPONENT'S TESTIMONY:** None.

**GENERAL TESTIMONY:** None.

**QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION:** None.

**APPLICANT'S REBUTTAL:** None.

**STAFF SUMMARY:** None.

**CLOSE OF HEARING:** Chair Carey closed the hearing at 6:24 p.m.

**DELIBERATION:** *Woody Koenig moved, seconded by Dave Leach to approve the variance with modified conditions of approval. The motion carried, (7:0).*

**PUBLIC HEARING:** File No. 2019-12  
Applicant/Property Owner: Spring Aerni  
Proposal: Site Plan Review – Primary & Secondary Dwelling  
Location: 710 SE 3<sup>rd</sup> Avenue, Mill City

Linn County Assessor's Map # 9S3E32BB Tax Lot 5200

Mr. Kinney said that there is additional information needed from the applicant. This has not been received and may be due to the request going to an email address that is rarely used.

Chair Carey opened the public hearing at 7:27 p.m. and continued the hearing to November 19, 2019 at 6:30 p.m.

**PRESENTATIONS:** None.

**OLD BUSINESS:**

*2019-08 Zoning Amendment – Accessory Dwelling Units (Review of City Council Discussion):*

Mr. Kinney said that he spoke with the Council last Tuesday at their meeting. The Council made a motion to table the ADU code for a number of reasons, including a number of outstanding and upcoming land use applications, which will be very time consuming.

There was also hesitancy that the City is not required to adopt the code amendments at this point since we are not at the population which requires it. There was concern about allowing ADU's within the single-family zone.

The Council did like the requirement that one of the dwellings must be owner occupied.

Mr. Kinney said that the topic was tabled, which allows the Council or Planning Commission to revisit it in the future. If the Planning Commission wishes to look at this further, a recommendation to look at only allowing ADU's in the multi-family zone could be made. A change to the code could also be made requiring that an ADU be attached to the main home.

*2018-04 – SKATE Skatepark Site Plan Design Review; November 19:* Mr. Kinney provided copies of the skate park site plan for review. This will be on the November 19 agenda for review and discussion.

**NEW BUSINESS:**

*2019-03 – Ratification of Approval of a Property Line Adjustment*

*Applicant: Jill & Jason Saari*

*Location: 680 SW High Street, Mill City*

Mr. Kinney said that the property owner has three lots at 680 SW High Street. The house extends over property lines and the applicants have requested adjustment to allow for a buildable lot on the south end of the side. The parcels must have individual interceptor tanks, which is the biggest concern with this application. The applicants received a letter of approval with the following conditions:

1. Verification of separate interceptor tanks meeting the 5' setback requirements for each lot.



2. Compliance with minimal 7,000 square foot lot for second parcel.

***Marge Henning moved, seconded by Dennis Chamberlin to ratify the approval of File No. 2019-13, Lot Line Adjustment for Jill and Jason Saari with the Conditions of a minimum 7,000 square foot parcel for the second parcel and separate interceptor tanks for both parcels.***

*2019-15 – Ratification of Approval of a Property Line Adjustment*

*Applicant: Pat & Cara Kelley/Dawn Conner*

*Location: 757 NE Santiam Hwy, Mill City*

Mr. Kinney said that the applicants have requested a lot line adjustment to complete a property exchange. In reviewing the application, Mr. Kinney found that one of the existing buildings sits over a property line. This must be remedied prior to approval of a new plat. The issue that the property owners must deal with is that the two parcels they own where the building sits are owned by different entities.

***Chair Carey moved, seconded by Grant Peterson to ratify the approval of File No. 2019-15, Lot Line Adjustment for Pat and Cara Kelly and Dawn Conner with the Condition of rectifying the building encroachment on Tax Lot 2700. The motion carried, (7:0).***

*2019-17 – Ratification of Approval of Property Line Adjustment*

*Applicant: Santiam Canyon School District*

*Location: 265 SW Evergreen Street (Jr/Sr High School Site)*

Mr. Kinney said that the Santiam Canyon School District has three parcels and a spur of an old railroad right-of-way on the Jr/Sr High School campus. The lot line adjustment will remove all property lines, allowing the District to place buildings anywhere on the property without having to deal with property lines. The small railroad spur shown is a mistake in mapping when the railroad right-of-way was turned over to the school.

***Dennis Chamberlin moved, seconded by Marge Henning to ratify the approval of File No. 2019-17, Lot Line Adjustment for Santiam Canyon School District. The motion carried, (7:0).***

*DLCD Planning Grant Application: WWTF Facility Analysis and Chapter 11 “Public Facilities” and Chapter 10 “Housing” Elements of the Mill City Comprehensive Plan:* Mr. Kinney said that he and City Recorder Stacie Cook discussed submitting a grant application to DLCD to request funding to complete Chapters 10, Housing and 11, Public Facilities of the Comprehensive Plan as well as to complete a Waste Water Facility Analysis. If awarded, this grant would pay for Mr. Kinney’s time and printing of the document.

**INFORMATIONAL ITEMS:** None.

**BUSINESS FROM THE PLANNING COMMISSION:** None.

**OTHER BUSINESS:** Mr. Chamberlin said that he is still concerned with the tiny house issue

and would like to continue to look at implementing a code to address them within the City.

The meeting was adjourned at 8:19 p.m.

Prepared by:

Stacie Cook, MMC City Recorder

Minutes approved by the Planning Commission on the 30<sup>th</sup> day of July, 2019

# **File 2019-12**

## **Spring Aerni**

Secondary Dwelling

710 SE 3<sup>rd</sup> Avenue

***David W. Kinney***  
*Community Development Consultant*  
791 E. Hollister St., Stayton, OR 97383  
Office: (503) 769-2020 Cell: (503) 551-0899  
Email: [dwkinney@wvi.com](mailto:dwkinney@wvi.com)

**To:** Mill City Planning Commission

**From:** David W. Kinney, Planning Consultant

**Staff Report Date:** November 12, 2019 (revised)  
October 15, 2019

**Hearing Date:** October 15, 2019, continued to November 19, 2019

**File No. 2019-12** Site Plan Review – Primary & Secondary Dwelling  
Variance to Mill City Zoning Code— Section 17.16.060

**Applicant/Owner:** Spring Aerni

**Location:** 710 SE 3rd Street, Mill City

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## **I. Proposal & Background Information**

### **A. Applicant's Proposal**

The City has received a land use application from Spring Aerni requesting a site plan review to allow for a primary residence and a secondary dwelling in the R-2 zone under Section 17.16.020 of the Mill City Zoning Code.

The applicants request the planning commission approve the use of the back half of the 24' x 30' shop building as a guest house/secondary dwelling unit, which will permit the owner to remodel the primary residence over the next two years. The guest house will be an independent living area with separate kitchen facilities (including stove), restroom and living space. A secondary dwelling unit is not currently permitted in the R-2 Single-family residential zone on a lot smaller than 8,000 sf.

A guest house is permitted in the R-2 zone for use by non-paying visitors. However, a guest house does not allow for full kitchen facilities. A variance to Section 17.44.020.B is required to allow a guest house with full kitchen facilities.

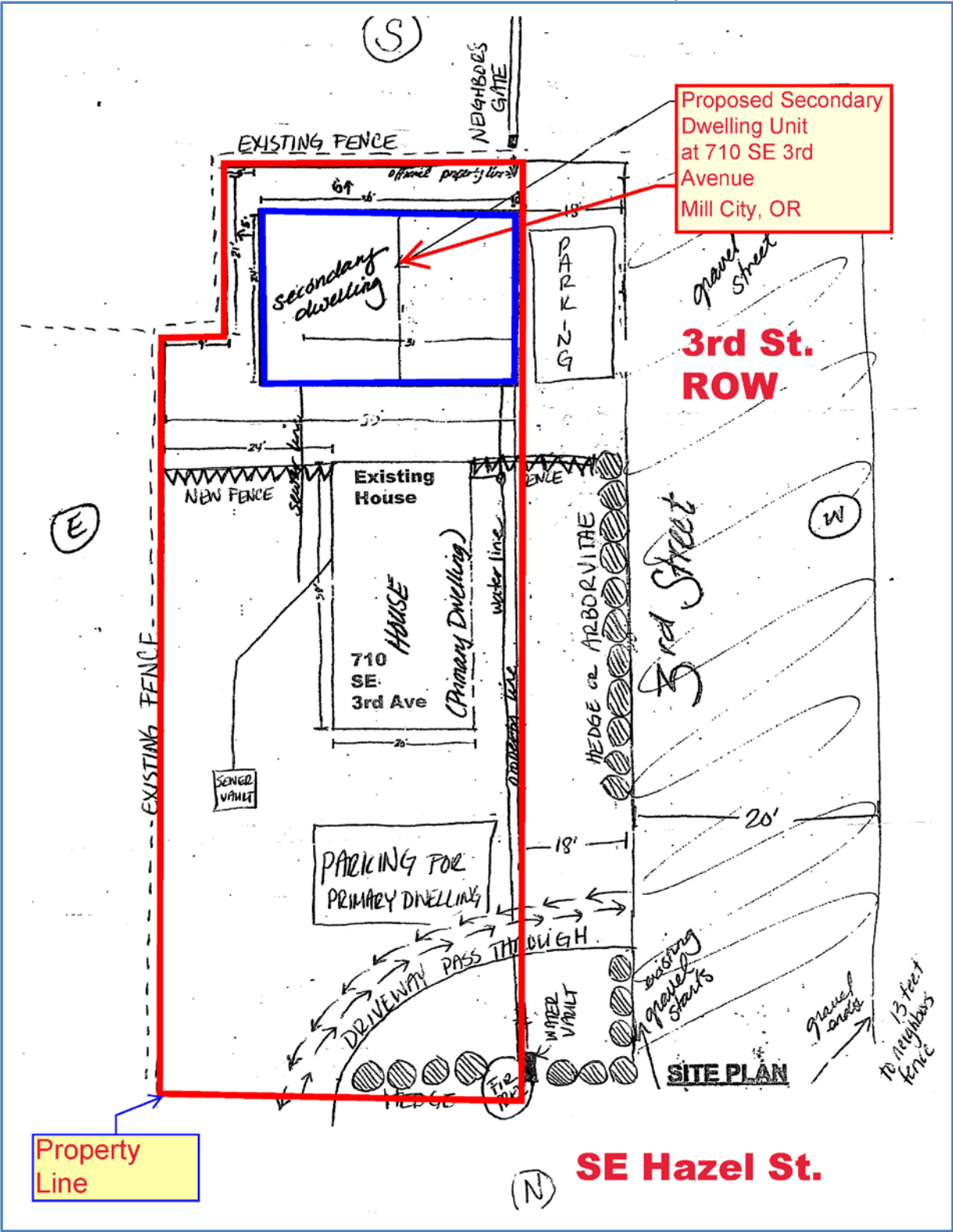
### **B. Site Plan**

The applicant provided a site plan showing the guest house/secondary dwelling at 710 SE 3rd Street.

1. The site has an existing house and a 24' x 30' accessory building. The rear half of the accessory building is proposed as a guest house / secondary dwelling area with full kitchen facilities, living area and bathroom. The building already exists. If approved a variance is approved, the applicant will obtain building/electrical permits to install a full cooking area (stove).
2. The applicant has requested the City permit her to landscape the ROW area on SW 3<sup>rd</sup> Avenue. The site plan shows planting of an arborvitae hedge on SE Third Street and at the corner of SE Hazel St. The Council has approved this request subject to issuance of a ROW permit.

3. The site plan shows an on-street parking space at the south end of SE Third Street and an additional off-street parking space north of the existing house.

Map 1  
Guest House - 710 SE Third Avenue, Mill City



**C. MCMC Zoning Code Requirements**

**17.04.030 Definitions**

Guest House. A "guest house" means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests.

**17.04.040 Compliance with title provisions.**

- A. No building shall be erected, enlarged or structurally altered, nor shall any land or building be used for any purpose other than is permitted in the zone in which said building or land is located.

**17.16.020 Uses permitted outright.**

In an R-2 zone, the following uses and their accessory uses are permitted outright:

- A. Single-family dwelling.  
C. Multiple family dwellings.

**17.16.040 Lot Size, Width and Coverage.**

- |               |   |          |
|---------------|---|----------|
| A. Lot Size:  | Single-family dwelling  | 5,000 sf |
|               | Two-family dwelling   | 8,000 sf |
| B. Lot Width: | Single-family dwelling  | 50' wide |
|               | Two-family dwelling   | 70' wide |
| C. Coverage:  | 40% coverage for single-family dwellings<br>50% for multi-family dwellings. |          |

**17.16.070 Parking and 17.44.060 Off-Street Parking**

- |                              |                                       |
|------------------------------|---------------------------------------|
| A. Single-family dwelling    | 2.0 parking spaces.                   |
| B. Multiple family dwellings | 1.5 parking spaces per unit (3 total) |

**17.44.020 Accessory Uses.**

An accessory use shall comply with all requirements for a principal use except where specifically modified by this chapter.

- B. A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.

**Discussion:**

Section 17.16.040 requires a minimum lot size of 8,000 sf for a duplex / two-family dwelling unit in the R-2 zone. The applicant's 5,600 sf lot is too small to permit construction of a duplex or multi-family dwelling.

Section 17.44.020.B allows for a guest house as an accessory use. A guest house can include a living area, bathroom and kitchenette, *but not a full kitchen area with a stove and refrigerator*. The applicant is requesting that the back half of the 24' x 30' shop area be used as a guest house/secondary dwelling.

***A variance is required to Section 17.44.020.B “Accessory Uses” to permit a guest house with full kitchen facilities.***

Spring Aerni is requesting that a variance be approved to allow for a full kitchen facility with a stove and that the building be usable as a secondary dwelling while the primary residence is being remodeled. If the variance is approved, the applicant must comply with the basic zoning requirements for the buildings (50% lot coverage) and provide a minimum of 2 off-street parking spaces.

**C. Zoning Code Variance Criteria:**

Section 17.56.030 of the Mill City Zoning Code contains the criteria for consideration of a variance. This section reads as follows:

**17.56.030 Variance Criteria.** The decision to approve or deny a variance shall be based on the following criteria.

1. Unique or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property, since the enactment of this title, have no control.
2. The variance is necessary for the preservation and enjoyment of the same property right as possessed by owners of other property in the same zone and vicinity.
3. The variance is not in conflict with the general purpose and intent of this title [the Mill City Zoning Code], or to property in the same zone or vicinity in which the property is located.
4. The variance is consistent with the goals and policies in the comprehensive plan.

**D. Findings of Fact and Conclusions:**

**Criteria 1:** Unique or extraordinary circumstances apply to property:

**Facts:**

1. The property at 710 SE Third Avenue is located in the R-2 zone. The R-2 zone allows single family dwellings and multi-family dwellings in the R-2 zone. The parcel is 5,600 sf in size. A single-family dwelling is permitted.
2. The existing buildings cover 1,272 sf for 22% lot coverage.
3. A guest-house is permitted in the R-2 zone, adjacent to an existing residence. The guest house may not have permanent cooking facilities. A guest house may be used for non-paying visitors.
4. The applicant has submitted a site plan showing the location of the existing 24' x 30' building which is proposed for use as a guest house, with full cooking facilities.
4. The applicant submitted the following explanation on why the proposal is an unusual circumstance:

*“The existing dwelling will be remodeled over the next two years. The guest house in the 24' x 30' accessory building will provide a place for someone to live on the property while the derelict house is remodeled.”*

**Conclusions:** The staff concludes the following unusual circumstances exist:

1. The applicants propose to retain the use of the existing house as a single-family dwelling. The 24' x 30' outbuilding is large enough to allow for a guest-house.
2. The addition of full kitchen facilities in the 24' x 30' outbuilding creates a secondary dwelling.
3. The existing lot complies with basic lot shape and dimensional requirements in the R-2 zone.
4. The City of Mill City has not adopted an amendment to the Mill City Zoning Code to permit accessory dwelling units in the R-1 zone. The City Council has elected not to consider an ADU amendment to the zoning code in 2019. Therefore, a variance is required for any guest house that includes full kitchen facilities.
5. Section 17.44.020.G allows for occupancy of an RV by either the owner or a contractor during construction of a new home.

The Planning Consultant concludes allowance of a guest house in the R-2 zone is permitted. The occupancy of the guest house during construction is also consistent with the city's policy to allow occupancy of an RV during construction. The applicant plans a full remodel of the house at 710 SE 3<sup>rd</sup> Avenue; the applicant indicates the home will not be available for occupancy during much of the remodel.

**Criteria 2:** The variance is necessary for the preservation of a property right the same as is enjoyed by other property owners in the vicinity.

**Facts:**

1. A single-family dwelling is an outright permitted use. The owner intends to continue the primary use of the property as a single-family dwelling once the remodel of the existing house at 710 SE Third Avenue is completed.
2. If the guest house variance is granted, the property will include two dwelling units and allow for continued residential use of the property during construction / remodel of the house.

**Conclusion:** The Planning Consultant concludes the inclusion of a second kitchen area as part of the 24' x 30' accessory building will not change the use of the property from a single-family residence to a multi-family residence.

However, the City does have concerns that if the property is sold by the applicant, it may be represented that the property that the two buildings (principal residence and guest house) are separate dwellings and may be occupied as a two-family dwelling.

The Planning Commission may consider requiring a deed covenant that stipulates the guest house approval shall be in effect as long as the guest house is occupied by either (1) the owner of record of the property; (2) member(s) of the immediate family of the occupants of the principal residence or (3) a contractor actively performing work to remodel the principal residence.

**Criteria 3/4:** The variance is consistent with the Mill City Comprehensive plan goals & policies and the variance is not in conflict with the general purpose and intent of the Mill City Zoning Code, or to property in the same zone or vicinity in which the property is located.

**Facts:**



1. The Mill City Zoning Code and Mill City Comprehensive plan allow for residential uses and accessory uses in the R-2 zone.
2. There are no comprehensive plan policies that address accessory dwelling units.
3. The Mill City Zoning Code allows SFR homes subject to the R-2 zone requirements.
4. The Mill City Zoning Code allows for guest houses, adjacent to a single-family dwelling.
5. The continued use of the principal residences as a single-family dwelling is consistent with the surrounding residential uses in the SE Hazel/SE Third avenue neighborhood.

**Conclusion:** The applicant's proposal is consistent with the purposes of the Mill City Comprehensive Plan and Zoning Code for the basic use of the property as a single-family dwelling.

### **III. Recommendation and Conditions of Approval**

The Planning Consultant concludes the Planning Commission may approve a variance to Section 17.44.020.B to permit a guest house 710 SE Third Avenue, including full kitchen facilities in the 24' x 30' accessory building.

#### **Conditions of Approval:**

If the Planning Commission approves a variance to Section 17.44.020.B, the staff recommends the following conditions of approval:

1. The applicant shall provide a minimum of two (2) off-street parking spaces on the property.
2. The applicant shall obtain a ROW permit from the City of Mill City and complete landscaping improvements on the site and in the SW 3<sup>rd</sup> Avenue right-of-way as shown on the approved site plan.
3. The applicant shall apply for building, electrical, plumbing permits by November 30, 2020 for the installation of the full kitchen/cooking facilities in the secondary dwelling. If no building permit application is filed by November 30, 2020 at 4:00 p.m., the variance approval will expire.
4. The applicant shall prepare and record a deed covenant in the Linn County Deed Records stipulating the guest house may be occupied by either (1) the owner of record of the property; (2) member(s) of the immediate family of the occupants of the principal residence or (3) a contractor actively performing work to remodel the principal residence.

## **IV. Planning Commission Decision**

### **A. Planning Commission Options:**

The Planning Commission may take any of the following actions after the close of the hearing:

Approval.	Approve the variance application as proposed.
Approval (Modified)	Approve the variance, with modified conditions of approval.
Denial.	Deny the variance

### **B. Motions:**

<b>Approval:</b>	<b>To grant the variance to Spring Aerni, File No. 2019-12, subject to the conditions of approval and to adopt the findings of facts and conclusions in the staff report dated November 11, 2019.</b>
<b>Modified:</b>	<b>To grant the variance to Spring Aerni, File No. 2019-12, subject to the modified conditions of approval and to adopt the findings of facts and conclusions in the staff report dated November 11, 2019.</b>
<b>Denial:</b>	<b>To deny the application because the applicant has not demonstrated the proposed request for a variance fails to meet the Criteria #1 “unusual circumstances apply to the proposal.”</b>

# **File 2019-02**

**Scott Baughman, SBC Construction**

**Site Plan Review – 4 Duplexes  
200 Block – SW Ivy Street**



City of Mill City

**David W. Kinney**  
*Planning Consultant for the City of Mill City*  
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## **MILL CITY PLANNING COMMISSION** **STAFF REPORT and FINDINGS**

**THE PLANNING CONSULTANT RECOMMENDS THE PLANNING COMMISSION OPEN THE PUBLIC HEARING, RECEIVE THE APPLICANT'S PRESENTATION AND THE PRELIMINARY STAFF REPORT. AND CONTINUE THE PUBLIC HEARING TO DECEMBER 17, 2019 to consider additional public testimony.**

**This will give the staff an opportunity to send the revised plans and a hearing notice to adjacent property owners at least 10 days before the continued public hearing.**

**STAFF REPORT DATE:** November 13, 2019

**HEARING DATE:** November 19, 2019 (continued public hearing)  
March 19, 2019 (initial public hearing)

**FILE NUMBER:** 2019-02 Site Plan Review – Duplexes on New Parcels

**APPLICANT/OWNERS:** Scott Baughman, SBC Construction,  
PO Box 943, Mill City, OR 97360

**PROPERTY:** 230 & 272 SW Ivy Street, Mill City, OR

Assessor's Map	Tax Lot	Account	Acres	Zoning	Address
T09S R3E 31AA	02700	10989	0.72	Residential (R-2)	230 SW Ivy
T09S R3E 31AA	02800	11037	0.33	Residential (R-2)	272 SW Ivy

**EXHIBITS:** EXHIBIT A Application – Site Plans (Included as Figure 3, on page 4)  
EXHIBIT B Notice of Public Hearing

**REQUEST:** Site Plan for Duplexes on newly created parcels

**CRITERIA:** **Mill City Municipal Code (MCMC) – Title 17 - Zoning**

- **Chapter 17.16** **Multi-Family Residential Zone (R-2)**
  - Section 17.16.020 Uses Permitted Outright
  - Section 17.16.040 Lot size, width and coverage
  - Section 17.16.060 Yard Requirements
  - Section 17.16 Site Design Standards

- **Chapter 17.64.150**
- **Chapter 17.76**

## Public Works Standards Site Plan Review

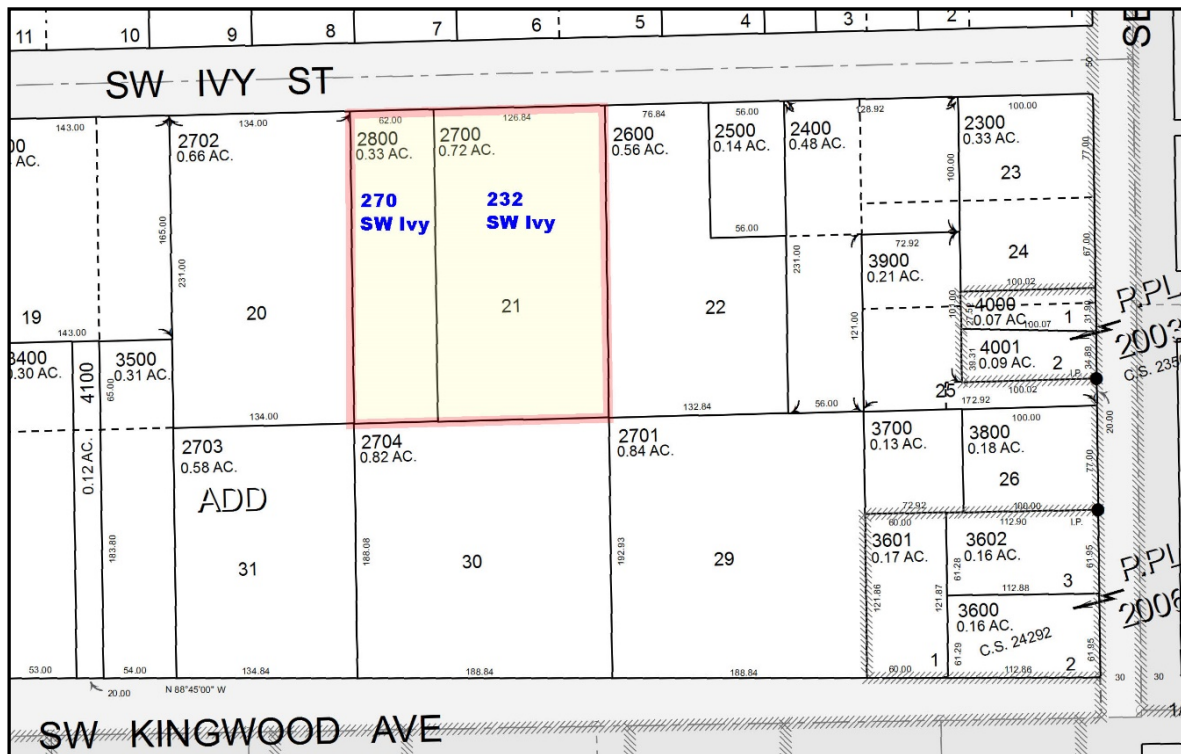
## I. Applicant's Proposal

In February 2019 the City received a land use application from Scott Baughman requesting the City approve a minor partition and site plans for construction of new duplexes on property located at 230 & 272 SW Ivy Street in Mill City (Tax Lots 02700 and 02800). The site is located in the Multi-Family Residential (R-2) zone which permits duplexes and apartments within the zone, subject to a site plan review.

The Planning Commission approved a minor partition of the property, but granted the applicant until October 15, 2019 to submit revised site plan and building plans for the duplex development. The applicant submitted a revised site development plan for the duplexes in October 2019.

The existing lots are shown in Figure 1. The aerial photo (Figure 2) shows there is an existing home on each parcel. The existing homes will be demolished.

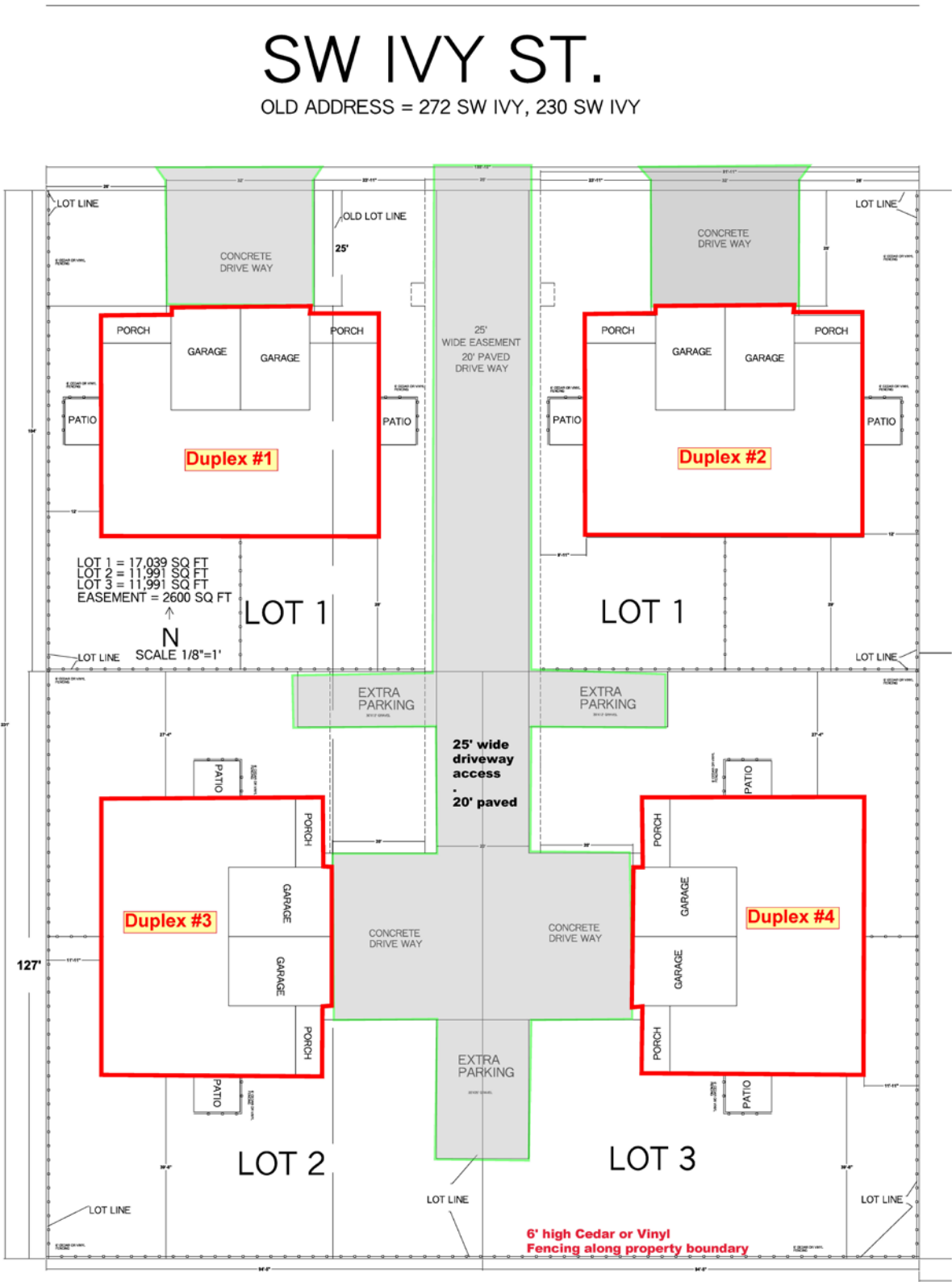
**Figure 1**  
**Project Site – 230 & 272 SW Ivy Street, Mill City**



**Figure 2**  
**Aerial Photo showing existing homes at 230 & 272 SW Ivy Street, Mill City**



**Figure 3**  
**Proposed Minor Partition and Duplex Site Development SW Ivy Street**



## **II. BACKGROUND INFORMATION**

### **A. Pre-Application Information and Application Submittals:**

The applicant filed an application with the City on January 25, 2019 and the fees were fully paid on February 12, 2019. The application for the minor partition was deemed complete on February 12, 2019. Therefore, the final local decision must be made by June 10, 2019, to comply with the "120 Day Rule".

The Planning Commission granted the applicant a time extension until October 15, 2019 to submit a revised site plan for the duplex development. The applicant submitted a revised site plan to the Planning Consultant in October 2019.

### **B. Application, Land Use Procedure and Review Requirements:**

Chapter 17.64 of the Mill City Municipal Code (MCMC) outlines the application, notice and review requirements for land use applications. A site review for a duplex/multi-family project requires a quasi-judicial review process.

The Mill City Planning Commission opened a public hearing on March 19, 2019 and continued consideration of the site plan review to a future meeting. The City granted a 6-month extension to the applicant to file supplemental materials for the application.

Since the staff report was not completed at least seven days prior to the public hearing, the Planning Commission will open the hearing, consider the staff report, applicant's presentation and any public testimony. The public hearing will be continued.

After the continued public hearing is closed, the Planning Commission will deliberate and make a decision to approve or deny the proposal. An appeal of the Planning Commission decision may be filed with the City Council. The City Council must review the Planning Commission's decision before it becomes final and the City Council has the option of calling the application up for a public hearing and further City Council review.

### **C. Burden of Proof:**

The burden of proof is on the applicant to present the application to the Planning Commission and to present information which shows that the application meets the criteria for approval. The Planning Commission must make a decision within 120 days of receipt of the application.

### **D. Public Hearing and Notices of Public Hearing:**

A public hearing concerning the matter will be held before the Planning Commission on Tuesday, March 19, 2019 as part of the regularly scheduled Planning Commission meeting that begins at 6:30 p.m. at the City Hall, 444 South First Avenue in Mill City, Oregon. The Planning Commission will make its decision based on the criteria found in the Mill City Subdivision Code, Chapter 17.32 and the Mill City Zoning Code, Chapters 17.16, 17.64 and 17.76. The Searchable City Code can be viewed under "Documents" at the City of Mill City website: <http://www.ci.mill-city.or.us/>.

Notice of any public hearings must be provided to affected governmental agencies and adjacent property owners. Written notice shall be mailed to owners of property within 100' of the subject property at least 20 days prior to the initial evidentiary hearing. Notice of the initial evidentiary hearing was mailed 20 days prior to the March 19, 2019 hearing. A revised notice will be mailed to property owners at least 10 days prior to the continued public hearing on December 17, 2019 hearing.



## E. Existing Conditions:

The two parcels at 230 SW Ivy Street and 272 SW Ivy Street total 1.05 acres. There are two existing homes. The site is located on a flat terrace at the 862'+/- elevation. The property slopes to the northwest to SW Ivy Street.

Adjacent uses are:

- EAST: A manufactured home has been removed from 216 SW Ivy St, but residential outbuildings remain on the 0.56-acre site.
- SOUTH: Single-family home at 211 SW Kingwood Avenue (0.88-acre parcel) with home and large shop at the north end of the site.
- WEST: Single-family home at 288 SW Ivy Street (0.66-acre parcel).
- NORTH: Single-family homes on the north side of SW Ivy Street.

## F. Utilities:

Existing utilities are shown on Figure 4. The property is currently served with city water and sewer services and by private utilities.

**Figure 4**  
**Location of Existing Public Utilities in SW Ivy Street**



1. Water: 8" water line in center of the street.  
4" water line on north side of street; existing services to 230/272 are connected.  
Any new services must be connected to the 8" water main.
2. Sewer: 4" south side of the street with stubs and sewer interceptor tanks to homes.  
New building sewers and tanks will be required for new structures, unless an inspection demonstrates the existing tanks are in satisfactory condition.
3. Easements: Sewer easements exist for both parcels.

4. Private Utilities: Private utilities will need to be extended to the building lots.
  - a. Pacific Power has power lines available. Underground power is required.
  - b. NWNG has a natural gas line on the south side of SW Ivy Street.

#### **G. Streets, Sidewalks and Storm Drainage:**

SW Ivy Street: SW Ivy Street is a turnpike style street with a 50'-wide right-of-way and a 20'-wide AC pavement width. There are no curbs, gutters or sidewalks in front of the applicant's property. SW Ivy Street is designated as a minor collector. The City plans for future urban improvements within the existing 50' ROW including curb, gutters, sidewalks and a 32'-36' pavement width.

Storm Sewer: There are no storm sewers in the vicinity.

ROW Construction Permit: The applicant will need to obtain a ROW construction permit for all street, driveway and utility work in the public right-of-way.

#### **H. Agency Comments and Public Testimony:**

1. Agency Comments. Agency comments were solicited from the following agencies: Pacific Power, NW Natural Gas, Frontier Communications, WAVE Broadband, Pacific Sanitation and the Mill City Rural Fire District. Responses were requested back by March 19, 2019.

**Mill City Rural Fire Protection District:** On March 7, 2019 the Fire District sent a response stating *"We have no issues with this land use action. We would like to see permanent address signage for Lots 2 & 3."*

As of March 18, 2019, the City had not received any other agency comments. Any other agency comments received prior to or during the public hearing will be made part of the record.

2. Public Testimony. The City sent notices of the public hearing to surrounding property owners. As of March 18, 2019, the City had not received any written testimony. Written testimony received prior to or during the public hearing will be made a part of the record. Oral testimony from the March 2019 public hearing is included in the meeting minutes.

### **III. FINDINGS**

The application was reviewed to determine whether the proposal complies with the applicable standards and criteria in Title 16-Subdivisions and Title 17-Zoning of the Mill City Municipal Code.

#### **A. Chapter 17.16 – Multi-Family Residential (R-2) District**

The following standards in the R-2 zone apply to this proposal. Design standards apply to new duplex dwelling proposals.

**17.16.020 Permitted Uses – R-2 Zone.** Duplexes are allowed as an outright permitted use, subject to site plan review.

**17.16.040 Lot Size, width and coverage.** In an R-2 zone, the minimum requirements are:

Lot Size – 8,000 sf per duplex	The proposed lots are 8,500 sf and 10,500 sf.
Lot Width – 70’ minimum.	The existing lots are 81’ wide and 95’ wide.
Maximum Lot Coverage – 50%	Duplex & garage sizes are not provided.

**17.16.050 Height.** In an R-2 zone, the building cannot exceed 35’ tall (3-stories). The new homes must comply with the height requirements.

**17.16.060 Yard Requirements.**

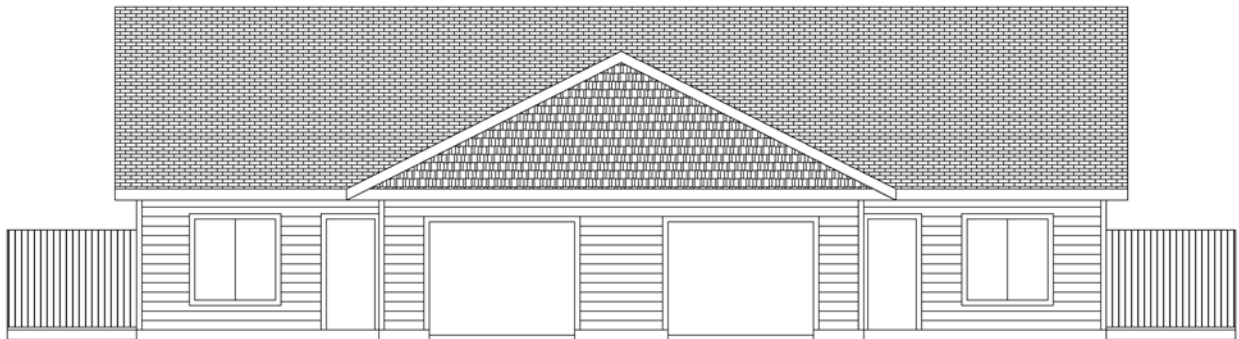
Yard	Requirement	Proposed Setbacks	
Front Yard	15 feet 20’ to garage	Duplex #1 & #2:	25’+ to SW Ivy Street ROW 25’ to face of garage
Side Yard	5 feet	Duplex #1 & #2:	10’ to edge of driveway easement 12’ to side property lines
		Duplex #3 & #4:	12’ to side property lines
Rear Yard	5 feet	Duplex #1 & #2	29’ to rear lot line
		Duplex #3 & #4	40’ to rear lot line

**17.16.070 Parking.** Two off-street parking spaces are required per dwelling unit. The site plans shows the following off-street parking for each duplex:

Duplex #1 & #2:	1 garage space and 1 off-street parking space for each unit
Duplex #3 & #4:	1 garage space and 3 off-street parking space for each unit

**17.16.080 Architectural Design Features.** New homes must have 4 architectural design features on the front of the home facing the street. The City Recorder reviews plans for each building to ensure compliance. No plans were submitted showing the architectural features.

**17.16.090 Architectural Front.** In an R-2 zone the architectural front of the house will be oriented to a street. Duplexes on Lot 1 face SW Ivy Street and the duplexes for Lots 2 & 3 will face the access driveway. The plans comply.



Front Elevation – Duplexes facing SW Ivy Street

**FINDINGS:** The R-2 residential zone allows duplexes subject to compliance with the standards in Chapter 17.16. The proposed homes can comply with the R-2 zoning requirements, but the applicant did not provide building plans demonstrating compliance with the architectural design requirements.

It appears the proposal can comply with the site plan requirements. Prior to the close of the public hearing or as a condition of approval, the applicant should submit a design plan for the homes and a more detailed site plan for the project in compliance with Chapter 17.76 site plan review.

#### **D. Chapter 17.76 – Site Plan Review Standards**

The applicant did not submit final building design plans or a final site plan for each lot, pending the initial review of the site plan by the Planning Commission.

***Findings to be inserted upon submittal of building design, elevation drawings, utility layout and landscaping plan.***

### **IV. CITY PLANNER CONCLUSION AND RECOMMENDATION**

#### **FILE 2019-02 --- SITE PLAN APPROVAL – 4 NEW DUPLEXES**

Based on the findings contained in this report, the City's Planning Consultant concludes the construction of four duplexes in the 200 block of SW Ivy Street is a permitted use, but the information provided is not sufficient to demonstrate compliance with the architectural design standards in Chapter 17.16 or the site plan review requirements in Chapter 17.76 of the zoning code.

The Planning Consultant recommends the public hearing be continued to December 17, 2019 to provide the applicant an opportunity to submit a building design plans, landscaping, utility and elevation drawings for the proposed duplex units.

#### **Prospective conditions of approval:**

- 1. Approved Site Plans:** The site plans for construction of four duplexes on the proposed Lots 1, 2 and 3 are approved as shown on the attached site plans and architectural building plans, dated & stamped approved by the City of Mill City Planning Department. [Pending final plan review & approval].
- 2. Issuance of Building Permits.** After city approval of the site plan, the City of Mill City may issue one building permit prior to the recording of the partition plat. No other building permits will be issued until the partition plat is filed and recorded in the Linn County Survey Records.
- 3. Expiration Date:** The approval of the site plan approval will expire on April 30, 2020 at 4:00 p.m. if the applicant does not file an application for a building permits for construction of new homes on Parcel 1 and Parcel 2 in the 100-200 block of SW Ivy Street.

**4. Public Works Requirements:**

- a. Water: Install new water service lines and meter boxes prior to or concurrently with the issuance of a building permit.
- b. Sewer: Obtain plumbing permits and install individual sewer interceptor tanks for each parcel, or obtain city inspection and approval to use the existing sewer interceptor tanks.
- c. Streets and Sidewalks: Install required curb and sidewalk improvements or execute and record a deferral/non-remonstrance agreement for future SW Ivy Street improvements.
- d. Storm Drainage: Storm drainage shall be detained or retained on site using low impact storm water management facilities.
- e. ROW Construction Permit and Compliance with Public Works Design and Construction Standards: The builder shall obtain a ROW permit from the City for all work within the public right-of-way including water, sewer, storm drainage and sidewalk work. All work shall comply with the city's public works design standards and construction specifications.

**5. Access Driveway Requirements**

- a. Construct a 20' wide paved driveway to Lots 2 & 3, including a paved turnaround area, as shown on Figure 3 and per PWDS Section 2.28 and 2.29.
- b. Provide a clear vision area on both sides of the 25' wide access easement at SW Ivy St per PWDS Section 2.22
- c. Install address signs SW Ivy Street for Lots 2 & 3.
- d. The edge of the driveways to the Lot 1 duplexes shall be at least 25' from the edge of the 25' joint access easement, as shown on Figure 3 and per PWDS Section 2.29.

**6. Site Landscaping and Fencing**

- a. The developer shall install landscaping and fencing as shown on the approved site plan.
- b. Landscaping shall be installed within six months of the issuance of a certificate of occupancy for each duplex. If landscaping is not completed, the City may withhold the issuance of buildings permits on the remaining lots in the partition.

## **IV. BURDEN OF PROOF**

The burden of proof is on the applicant to present the applications to the Planning Commission and to present information which shows that the application meets the criteria for approval of the City of Mill City subdivision code for a minor partition.

## VI. PLANNING COMMISSION OPTIONS

- A. Approval of the Site Plan for File 2019-02, four duplexes 230/272 SW Ivy Street and adoption of the proposed findings and the recommended conditions of approval.
- B. Approval and adoption of amended findings and conditions of approval to reflect the Planning Commission deliberations.
- C. Denial of the applications and to direct the City Planning Consultant to modify the findings to reflect the Planning Commission's deliberations that the proposal does not meet the applicable approval criteria.

***D. Continue the hearing, to December 17, 2019 at 6:30 pm.***

## VII. MOTIONS

Approval:	To approve the site plans for Scott Baughman, SBC Construction Inc., to construct four duplexes on Lots 1, 2 and 3 of the proposed Minor Partition in the 200 block of SW Ivy Street, to adopt the findings of fact, conclusions and recommended conditions of approval for File No. 2019-02.
Approval (modified):	To approve the site plans for Scott Baughman, SBC Construction Inc., to construct four duplexes on Lots 1, 2 and 3 of the proposed Minor Partition in the 200 block of SW Ivy Street, to direct the staff to modify the findings of fact, conclusions and recommended conditions of approval for File No. 2019-02.
Continue:	To continue deliberations to the next meeting of the Planning Commission on December 17, 2019 at 6:30 p.m.
Denial:	To deny the application because the applicant has not demonstrated the proposal complies with all of the Mill City Development Code criteria and to direct the staff to prepare a final order to reflect the Planning Commission's deliberations and conclusions.

# **File 2018-04**

## **SKATE**

Site Plan Review

Skate Park

SW 2<sup>nd</sup> & SW Cedar Street

***David W. Kinney***  
*Community Development Consultant*  
791 E. Hollister St., Stayton, OR 97383  
(503) 551-0899  
Email: [dwkinney@wvi.com](mailto:dwkinney@wvi.com)

**November 11, 2019**

**To: Chairman Ann Carey and Planning Commissioners**  
**From: David W. Kinney, Planning Consultant**  
**In RE: Old Business Items for October 4, 2019 Meeting**

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## **6. Old Business**

### **a. 2018-04 SKATE – Skate Park Site Review**

On July 5, 2018, the City issued a Notice of Decision to SKATE stating the Planning Commission approved the conceptual site plan for a skate park facility at the old fire hall site. A copy of the Notice of Decision is included in the PC Packet.

Dreamland and SKATE's landscape architect have submitted a final site plan and construction plan set to the City of Mill City and SKATE for construction of a skate park at the corner of SW 2<sup>nd</sup> and SW Cedar Street in Mill City. The staff provided Dreamland and its landscape architects with a number of comments during the preparation of the plans.

#### ***Planning Commission Review and Approval of Final Site Plan and Landscaping Plans***

**The revised site plan now addresses all of the conditions of approval** established by the Planning Commission in its decision. The Planning Commission agreed it would review the revised site plan before the City's approval becomes final. The plans include two plan sets:

- A. Skate Park Design – Detailed plans for the skate park elements.
- B. Landscape Design – Detailed plans for the north entry and plaza area between the skate park area and the Odd Fellows Lodge building.

SKATE representatives will be at the Planning Commission meeting to answer questions.

#### ***Design Issues (Not addressed in the Plans)***

There are three design elements that are not addressed in SKATE's plans, which are beyond their control:



- 1. Storm Drainage:** SKATE's plans show a storm sewer connection to an existing catch basin and storm line in SW 2<sup>nd</sup> Street. I expect the City will modify the storm sewer system in SW Cedar Street as part of a larger storm drainage improvement project in 2020.
- 2. Street Frontage Improvements:** SKATE's plans show the approximate location of sidewalk and curb improvements on SW 2<sup>nd</sup> and SW Cedar Street. The City does not have funding for these improvements. The detailed engineering design of curb, gutter and sidewalk improvements will not occur until the City obtains either an SCA or SRTS grant to upgrade streets in this area.
- 3. Restroom Improvements:** Sheet L4 shows a portable toilet in the NE corner of the site. This location can be used for a permanent restroom, if the City finds there is a need for a permanent public restroom on the site and funding is secured in the future.

### ***City Council Approval of the Design, Funding and Construction***

Planning Commission approval of the site plan and construction plans is a step forward for SKATE.

Once the Planning Commission approves the site plan, SKATE will meet with the City Council in December 2019 to discuss:

1. Funding: State Parks and foundation grants
2. Phasing: Elements included in Phase 1
3. Thresholds: How much funding must SKATE have committed before the City authorizes construction.
4. Legal Issues: BOLI Wage Rates and Who builds the project.

The City Council (as owner) must approve the construction plans and enter into a Development Agreement with SKATE. The Development Agreement will address these issues.

**Recommendation:**            **Review Notice of Decision and Design Plans**  
   **Motion to approve SKATE's Design Plans.**



## *City of Mill City*

P.O. Box 256  
Mill City, Oregon 97360  
Phone: 503-897-2302 ♦ Fax: 503-897-3499  
Email: [scook@ci.mill-city.or.us](mailto:scook@ci.mill-city.or.us)

July 5, 2018

City of Mill City  
PO Box 256  
Mill City, OR 97360

SKATE  
PO Box 494  
Mill City, OR 97360

Email Transmittal: [sckidsandtourism@gmail.com](mailto:sckidsandtourism@gmail.com)

**RE: Notice of Decision – Approval of Conceptual Site Plan for a Skate Park**  
Linn County Map No. 9 3E 30DD, Tax Lot 05400  
250 SW 2<sup>nd</sup> Avenue, Mill City, Oregon  
File No. 2018-04

Dear Melinda:

The site plan application to develop a skate park at 250 SW 2<sup>nd</sup> Avenue in Mill City, Oregon, as shown on the revised site plan has received “**conceptual approval**” from the Mill City Planning Commission.

The effective date of this decision is July 21, 2018 unless the decision is appealed to the City Council.

**A. Findings and Conclusions:**

The applicants have complied with the application requirements and decision criteria for a site plan review in the Central Commercial (CC) zone as outlined in the staff report dated June 19, 2018.

The Planning Commission granted conceptual approval for the skate park site plan, to allow for development in two phases. The Planning Commission concluded the site plan submittal and design did not have sufficient detail to grant a final approval for Phase 1 construction. Therefore, SKATE and City staff will need to work with Dreamland and the site designer to prepare a final site plan and construction plans for the project.

The Planning Commission encourages SKATE and DREAMLAND to meet with city staff to clearly identify the requirements of the final site plan and construction plans for the project.

**B. Permits and Expiration of Approval:**

If no appeal is filed, the applicant may proceed with the development of a final site plan and detailed construction plans for the property. This approval will expire on June 30, 2019 if no final site plan and construction plans for skate park facility are submitted to the City for Planning Commission review and approval. Prior to construction, the City Council must approve the final construction plans.

**C. Conditions of Approval:**

The “conceptual skate park site plan” is approved subject to the following conditions of approval.

1. **SKATE Site Plan Approval by the Planning Commission:** The Planning Commission has granted conceptual approval for the Mill City skate park facility at 250 SW 2<sup>nd</sup> Avenue as shown on:

- a. Exhibit “A” – Sheets 1, 2, and 3
- b. Exhibit “B” – Dreamland Skate Park Conceptual Plan

The site plans submittal shall be resubmitted to the City for Planning Commission review and approval. The revised submittal shall include a final design plan, including construction plans for the skate park facility and a site plan showing landscaping and all other site improvements for Phases 1 & 2. The revisions to the plan shall address all of the Planning Commission comments noted on Exhibit “C” – Planning Commission Review notes dated June 19, 2018.

2. **SKATE Site Plan Approval by the City Council:** As the owner of the site, the City Council is responsible for final approval of the skate park design and construction plans. The City Council shall review and approve the final site plan and the final construction plans prior to construction, in accordance with the existing agreement between SKATE and the City of Mill City.

Once the site plan is stamped approved by the City of Mill City, minor modifications to the site plan may be made in order to comply with city engineering requirements. Site plan approval will expire on June 30, 2019 if the Phase 1 plans have not been submitted to the City Council for their review and approval.

3. **SW 2<sup>nd</sup> & SW Cedar Street Frontage Improvements and Permit Requirements:** The City will design and construct street frontage improvements on SW 2<sup>nd</sup> and SW Cedar Street along the full lot frontage of the property.

**The Planning Commission recommends the City Council initiate the design of street improvements in conjunction with planned improvements for SW Cedar (2<sup>nd</sup>-3<sup>rd</sup>) and SW 2<sup>nd</sup> Avenue (Evergreen Street north to SW Broadway) and authorize the City Engineer to prepare the required engineering plans.**

4. **Summary of Other Public Works Requirements:** The following provides a summary of public works requirements for the project.
  - a. Water: Replace the existing water meter and box (if needed).

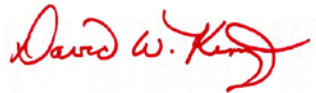
- b. Sewer: City inspect existing sewer interceptor tank. Verify the location and ensure interceptor tank is not affected by the skate park construction.
- c. Storm Drainage: Prepare and submit a storm drainage plan for the on-site drainage system within the skate park, including plans to address storm water piping/ conveyance, storm water quantity and quality.

**C. Right of Appeal:**

Any person aggrieved by this decision may file an appeal with City Council of the City of Mill City by filing an appeal in accordance with the appeal deadlines and requirements outlined in Mill City Municipal Code Section 17.64.050 and 17.64.060. The appeal must be filed within fifteen (15) calendar days of the mailing of this Notice of Decision, no later than 9:00 a.m., July 21, 2018.

If you have any questions regarding this decision, you may contact me at City Hall at 897-2302.

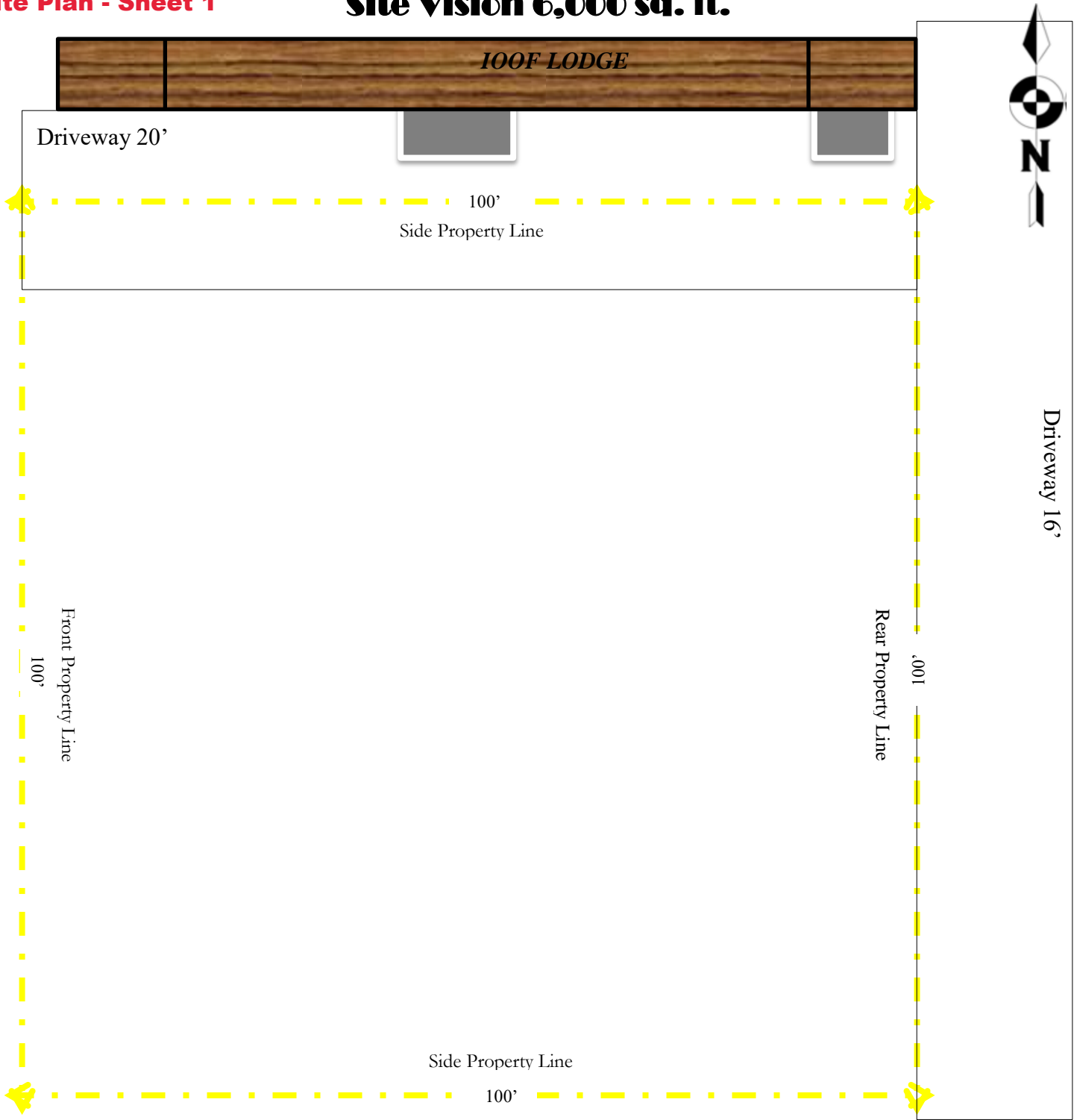
Sincerely,



David W. Kinney  
Planning Consultant for the City of Mill City

Encl. Exhibit "A" – Sheets 1 to 3 June 12, 2018 Conceptual Site Plan provided by SKATE  
Exhibit "B" – Sheet 1-Dreamland Skate Park facility layout  
Exhibit "C" dated June 19, 2018 SKATE Conceptual Site Plan with Planning Notes

cc: Stacie Cook, MMC, City Recorder  
City of Mill City – Land Use File 2018-04  
Mill City Planning Commission  
Mill City City Council

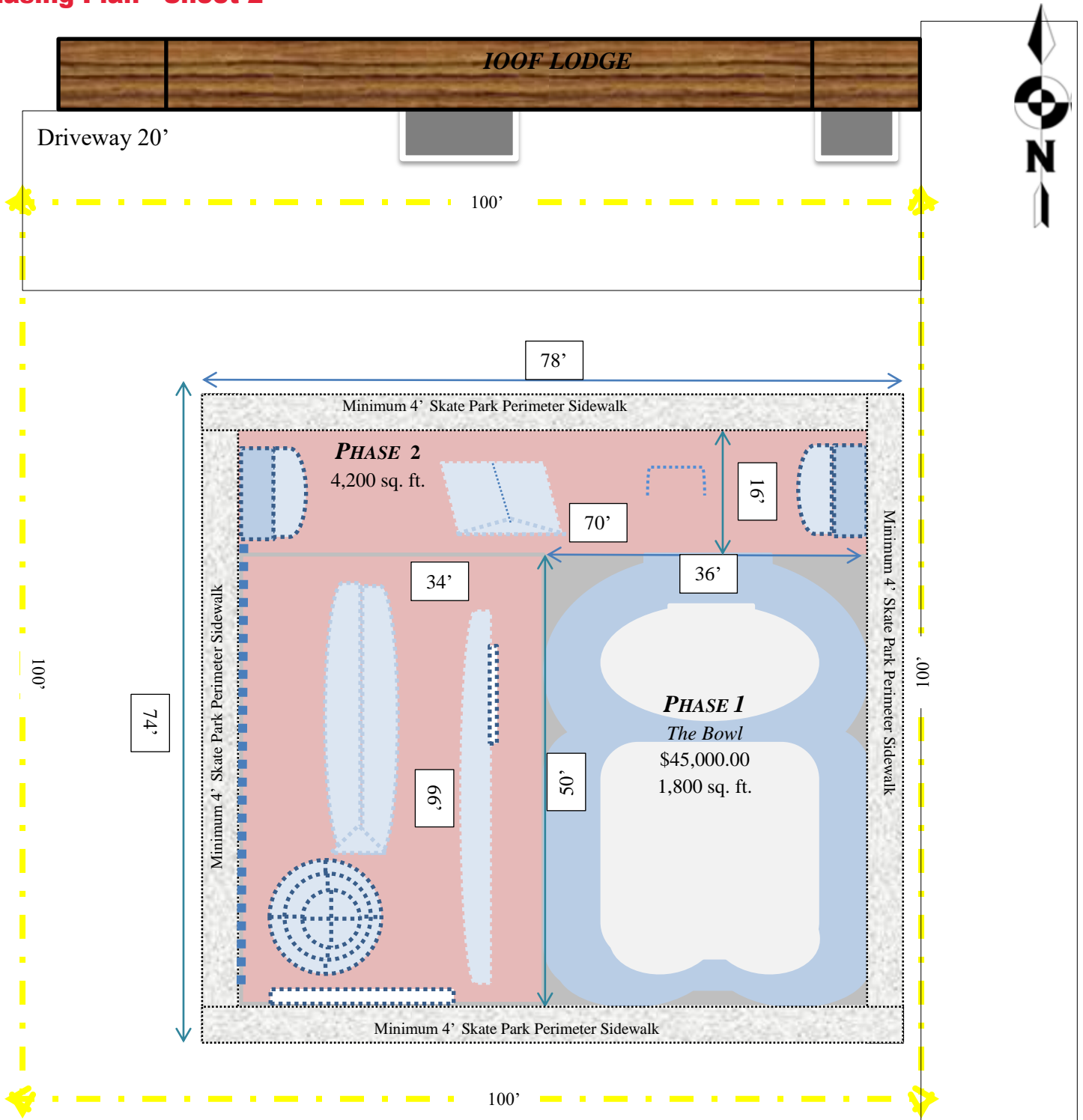


**SITUS ADDRESS**  
**250 SW 2ND AVE**

**Exhibit A**  
**Phasing Plan - Sheet 2**

**Mill City Skate Park**  
**Site Vision 6,000 sq. ft.**

Mill City Planning Commission Mtg - November 19, 2019  
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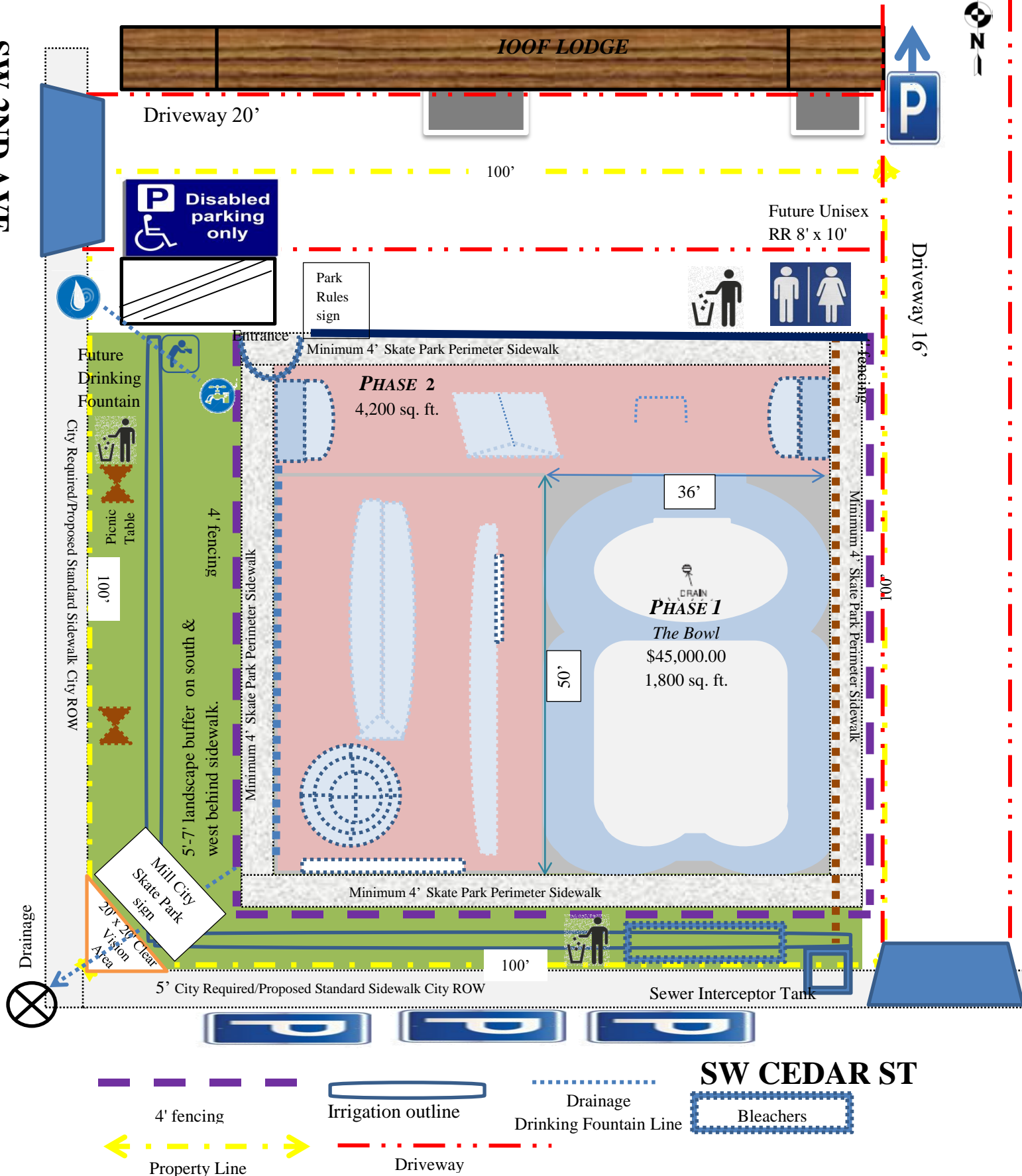
# Mill City Skate Park Site Vision 6,000 sq. ft.

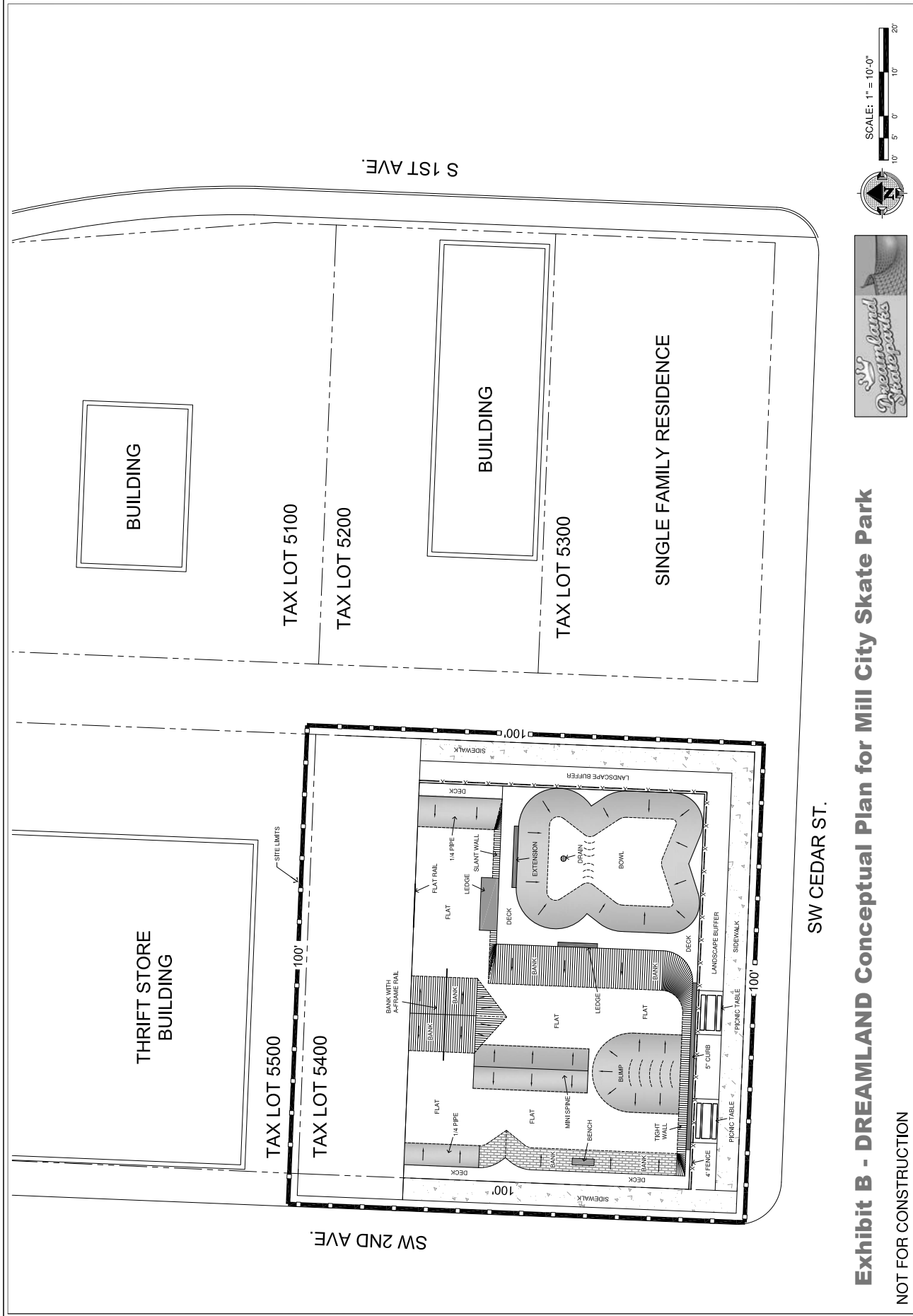
Mill City Planning Commission Mtg - November 19, 2019  
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**Exhibit A**

**Conceptual Plan - Sheet 3**

SW 2ND AVE





SCALE: 1" = 10'-0"

0 5 10 20



Plan Revisions Required  
by the City of Mill City

1. Move skate park area to east to provide landscape buffer on the west.
2. Add dimensions for skate park, landscaping, parking, etc.
3. Show on-street parking on SW 2nd & SW Cedar.
4. Show clear vision area.
5. Extend sidewalk to TL 5500.
6. Add ADA Parking space.
7. Show temporary Restrooms
8. Show future Restroom location at NE corner of site as part of Phase 2.
9. Show future location of Mill City Skate Park sign.
10. Phase 1: Show Phase 1 skate park area and remaining site improvements for the entire site as part of Phase 1.
11. Phase 2 - Provide a full site development plan for the entire site plus SW Cedar & SW 2nd ROW (sidewalks & curbs).
11. Provide a landscaping - plan for each Phase. Show grass/lawn areas w/ low maintenance shrubs or planting areas.
10. Eliminate driveway access from SW 2nd St.
11. Park Rules sign to be located near north entry.

20' x 20'  
clear vision  
area

TAX LOT 5500

TAX LOT 5400

Extend  
SW

Entry

Complete the site plan for the

entire parcel to show sidewalk, curbs,

landscaped area, picnic tables, entry walks,

trash receptacles, donor wall, etc. in this area.

Provide 1 ADA parking space for site.

Future  
Unisex RR  
8' x 10'

SITE LIMITS

100'

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A-FRAME RAIL

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# **File 2019-18**

**Lucas / City of Mill City**

**Property Line Adjustment  
SE Remine Road**



## City of Mill City

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**David W. Kinney**

*Planning Consultant for the City of Mill City*

791 E. Hollister St., Stayton, OR 97383

Office: (503) 769-2020 Cell: (503) 551-0899

Email: [dwkinney@wvi.com](mailto:dwkinney@wvi.com)

November 11, 2019

Stacie Cook, MMC, City Recorder  
PO Box 256  
Mill City, OR 97360

Rex A. Lucas  
1010 N. 4<sup>th</sup> Street  
Aumsville, OR 973

**RE: Notice of Decision – Approval of Property Line Adjustment**  
09 3E 29, Tax Lot 00200 and Tax Lot 300  
File No. 2019-18

Dear Rex:

The property line adjustment application to adjust the boundary for lots 00200 and 00300 as shown on the proposed map, attached as Exhibit “A” has been **approved** subject to the listed conditions of approval.

In accordance with MCMC Section 16.36.050 the Mill City Planning Commission will review the staff decision regarding the property line adjustment at their Tuesday, November 19, 2019 regular meeting at 6:30 p.m. at City Hall. The Planning Commission may concur with the staff recommendation to approve the property line adjustment or may call for a public hearing to consider the proposal.

**A. Proposal:**

The City of Mill City owns a 1.84-acre parcel (TL 300) adjacent to the North Santiam River east of Kimmel Park along the old railroad right-of-way. The parcel is landlocked and does not have a legal street access to SE Remine Rd.

Rex A. Lucas, owner of the adjacent 43.66-acre parcel (TL 200), proposes a land swap. Lucas will acquire a triangular area from the city that currently extends into his site. The acquisition will allow Lucas to proceed with a subdivision and enable him to create a street and parcel layout that complies with the MMC Title 16, the City of Mill City Subdivision Code.

The City will acquire a 10' PUE and recreational trail easement from the end of SE Remine Rd. (adjacent to the City of Mill City Wastewater Treatment Facility) extending north to the City's 1.84-acre parcel along the North Santiam River. The 10' PUE and recreational trail easement will enable the City or the developer of a future subdivision to provide a looped recreational trail to SE Fairview Street, as shown on the Canyon Journeys Recreational Trail Plan.

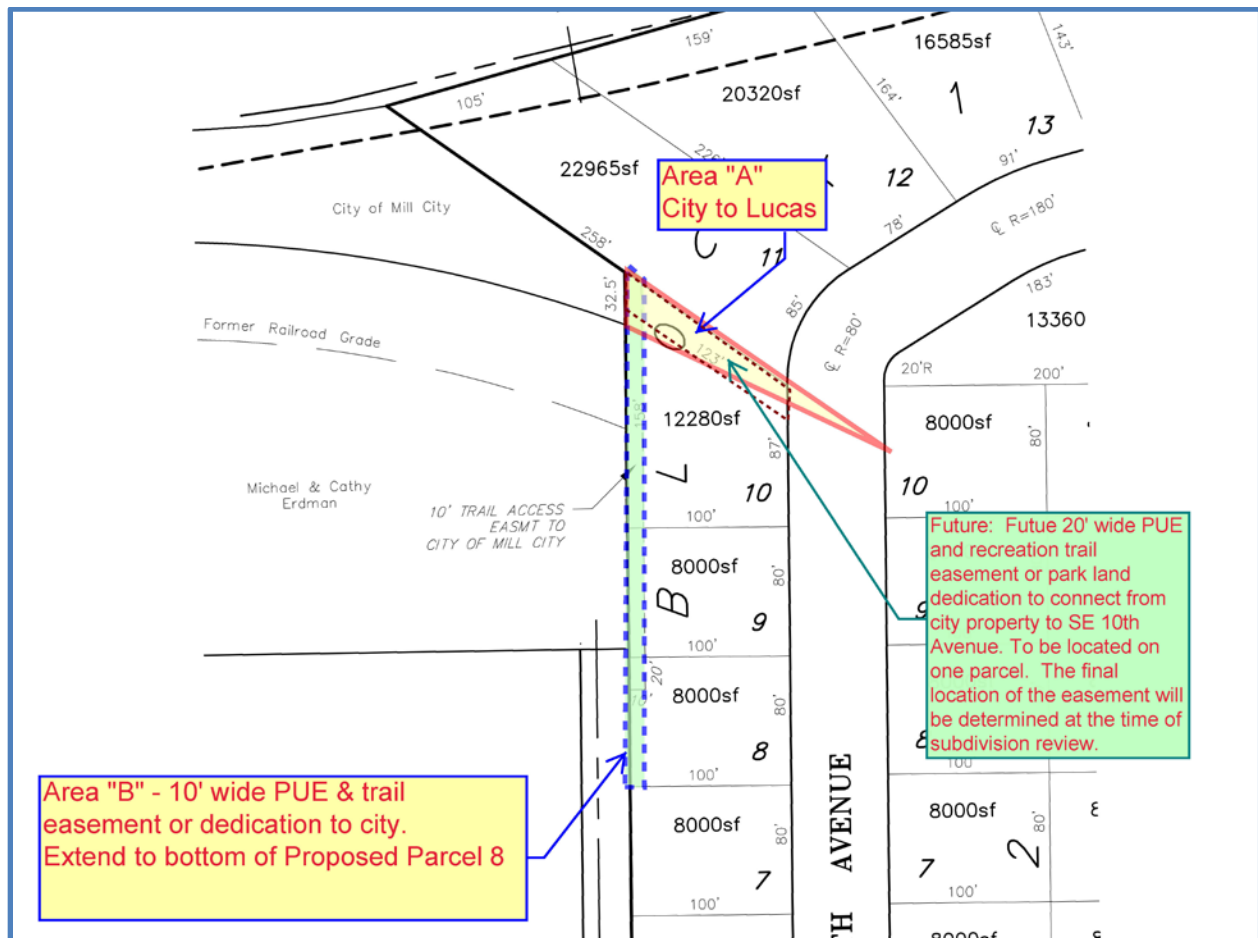
Table 1 identifies the parcels and the approximate amount of land to be exchanged. Map 1 shows the proposed Area 1 and Area 2 to be exchanged. Map 2 shows the existing parcels and location of the proposed property line adjustment and recreational trail easement. No new lots will be created.

Table 1  
**Proposed Property Line Adjustment**

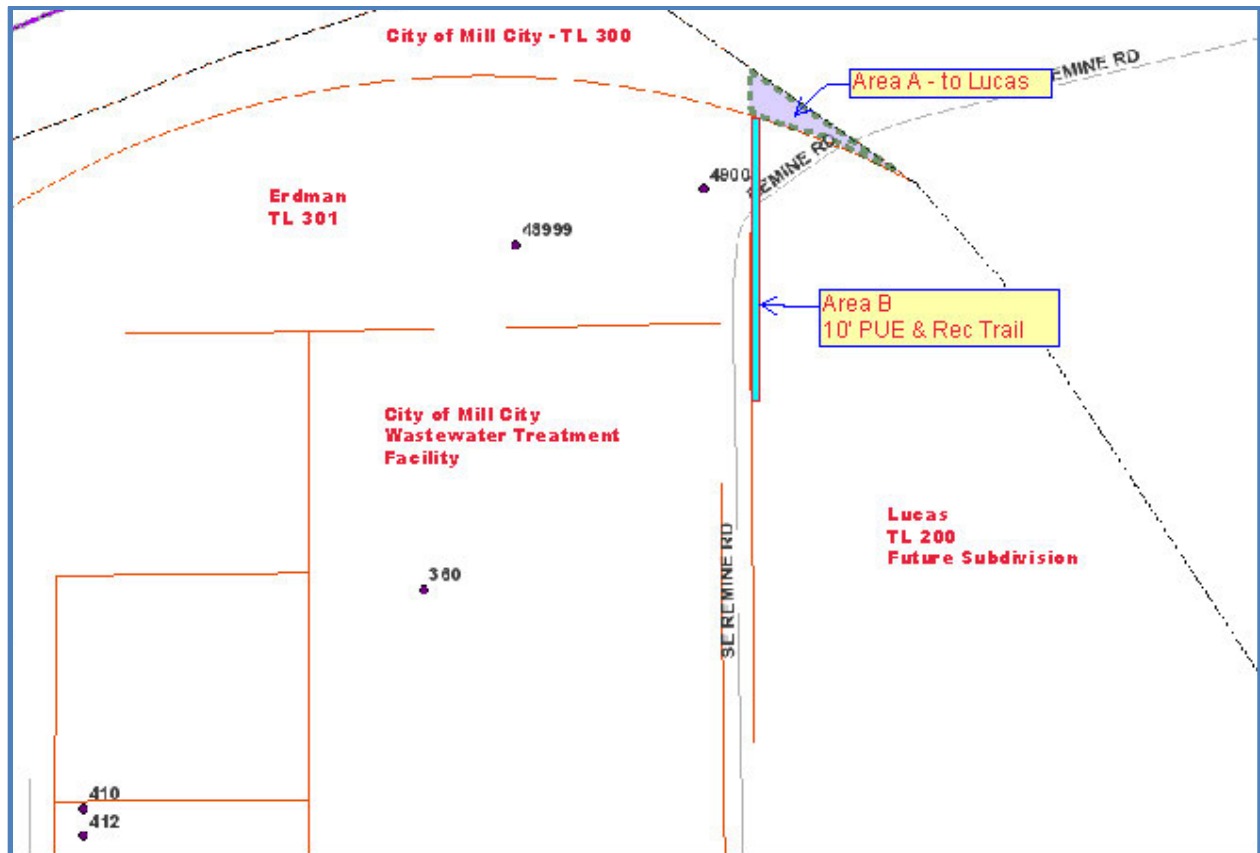
Owner	Existing Tax Lot #	Existing Use	Existing Lot Size (sf)	Land Swap Area
City of Mill City	093E29 00300	Park Site along N. Santiam River (former Railroad ROW)	1.84 acres	2,800 sf +/-
Rex A. Lucas	093E29 00200	Vacant Residential parcel	43.66 acres	2,600 sf +/-

## Map 1

### Proposed Lot Line Adjustment Proposal



**Map 2  
Existing Tax Lots**



**B. Findings and Conclusions:**

The applicants have complied with the application requirements and decision criteria for a property line adjustment set forth in Mill City Municipal Code Chapter 16.36.

*Criteria 1: The proposed lots meet minimum size, lot width and frontage requirements of the zone.*

Findings: The proposed lots will meet the minimum lot size, width and frontage requirements.

**City of Mill City Site (TL 00300)**

TL 00300 is a vacant park site along the N. Santiam River. It is a linear park extension from Kimmel Park on the west, that is located along the slope down to the N. Santiam River. The property line follows the old RR right-of-way. The parcel is not a developable parcel. It is planned for a recreational trail. There is no minimum parcel size or shape in a Public zone.

**Rex A. Lucas Site (TL 00200):**

TL 00200 is a 43.66-acre site located in the UGB. The property owner Rex A. Lucas has proposed a residential subdivision on the site and provided a tentative site development concept

to the city with this Property Line Adjustment proposal. The applicant proposes to adjust the lot lines to simplify future development of the site, as shown on Map 1. Consolidating the triangular piece owned by the City will allow for a subdivision layout with lots meeting the city's lot size and shape requirements.

***Conclusion: The proposal complies with Criteria 1.***

*Criteria 2. If, prior to the application, the lot did not meet lot size, width, or frontage standards, the property line adjustment shall not result in greater nonconformity with the applicable standards;*

Findings: As noted under Criteria 1, the City parcel is a public parcel. There are no street frontage requirements. The Lucas property has 500+' of frontage on SE Fairview Street.

***Conclusion: The proposal complies with Criteria 2.***

*Criteria 3. The amended lot lines do not encroach on the location of sewage disposal or water supply lines or easements. There is sufficient area and adequate location on both lots to meet sewage disposal requirements;*

Findings: The new parcel lines may encroach upon any existing city utilities (water, sewer or storm sewer) private utilities or easements of record. No new services are proposed to be constructed with the lot line adjustment but will be constructed when the lots are developed.

Sewer: There is not a city sewer system on either site.

Water: A 6" water main is located in SE Remine Rd. and extends north and east along the private street. It serves the homes at the east end of SE Remine Rd. outside the city limits. The existing water main easement needs to be shown on the lot line adjustment survey.

Streets: City streets are not affected by this proposal. The proposed PUE and recreational trail will provide pedestrian/bicycle access from SE Remine Rd. to the City's parcel along the river.

***Conclusion: The proposal can comply with Criteria 3 if the water main easement and the new PUE & Recreation Trail easement is provided.***

*Criteria 4: The property line adjustment does not create any additional parcels.*

Findings: No new parcels are created.

***Conclusion: The proposal complies with Criteria 4.***

*Criteria 5: The property line adjustment does not create any building encroachments into any specified setback area. In situations where there is an existing building encroachment, the adjustment will not result in a greater setback encroachment.*

Findings: There are no structures on either parcel.

***Conclusion:***     ***There will be no building encroachments; therefore, the proposal complies with Criteria 5.***

***Criteria 6:***     ***The property line adjustment does not eliminate vehicular access for any of the parcels and the new lots shall conform to the city's public works design standards and access management requirements.***

**Findings:** The primary purpose of the property line adjustment is to allow for future development consistent with the City of Mill City Subdivision Code requirements, while preserving an opportunity to construct a future pedestrian/recreation trail from a new subdivision to Kimmel Park.

At the time of future subdivision of the Lucas property, the City may establish the final location of a proposed recreational trail and review the future subdivision for compliance with the City's public works design standards.

***Conclusion:***     ***The proposal does not eliminate vehicular access to either site; therefore, the proposal complies with Criteria 6.***

***Criteria 7:***     ***Verification of ownership for each property must be presented to the city recorder.***

**Findings:** The Linn County Assessor's records show the two parcels are owned by the City of Mill City (TL 00300) and Rex A. Lucas (TL 00200). A copy of the County Assessor's records is in the file.

***Conclusion:***     ***The proposal complies with Criteria 6.***

## **Decision and Conditions of Approval:**

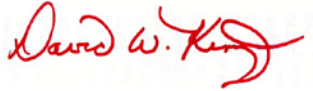
Based upon the above stated findings and conclusions, the City determines that the applicant's proposal for a property line adjustment can comply with all applicable requirements and decision criteria of the City of Mill City, Oregon and is hereby **approved**, subject to the following conditions of approval.

**All conditions of approval must be completed by November 1, 2020.** If conditions are not completed by that date, the approval is null and void unless a written extension is granted by the City.

1. Property owner Rex Lucas will prepare and record a lot line adjustment survey or partition plat map(s) with the Linn County Surveyor that comply with ORS 92 requirements. The applicant's surveyor shall comply with the requirements of the County Surveyor.
2. Easements: The survey will include the following easements:
  - a. Show the existing water main easement along SE Remine Rd.
  - b. Provide a 10' wide PUE and Recreational Trail Easement to the City of Mill City as shown on Map 1.
3. Final Survey or Plat Maps: A copy of the recorded survey or plat shall be provided to the City of Mill City.

Any person aggrieved by this decision may file an appeal with the City Council within twenty-one days of the effective date of this decision. If you have any questions regarding this decision, you may contact me at City Hall at 897-2302.

Sincerely,



David W. Kinney  
Planning Consultant

cc: Mill City Planning Commission  
Linn County Surveyor  
Scott Baughman, SBC Construction