



City of Mill City

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MILL CITY PLANNING COMMISSION AGENDA

Regular Meeting

Tuesday – February 21, 2017 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:** January 17, 2017 Regular Meeting

3. **Public Comment:**

We welcome you to today’s regular monthly 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.	2017-01
Proposal:	Conditional Use Permit Proposed Use of RV as a Temporary Residence (Medical Hardship)
Applicant:	Robert Carter / Sommer Carter
Location:	1079 SE 4 th Avenue, Mill City Map 9S 3E 32BC Tax Lots 00300

5. **Presentations:** Marion County Natural Hazards Mitigation Plan
Addendum for the City of Mill City
Kathleen Silva, Marion County Emergency Management

6. Old Business

- a. File 2016-09 Zoning Code Amendments – Update
- b. Other

7. New Business

- a. Training: Land Use Decisions – Ex Parte, Conflicts of Interest & Bias
- b. Other

8. Informational Items

- a. City Recorder Report
- b. Planning Consultant Time Report
- c. New and Prospective Applications
- d. Other

9. Adjournment

Upcoming Planning Commission Meetings (All meetings at City Hall)

Tuesday, March 21, 2017	4:00 PM	Baughman/Lucas Site Visit
	6:30 PM	Regular Meeting
		Public Hearing: Baughman/Lucas UGB & Annexation
Tuesday, April 21, 2017	6:30 PM	Regular Meeting
Tuesday, May 16, 2017	6:30 PM	Regular Meeting
Tuesday, June 20, 2017	6:30 PM	Regular Meeting

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 | |
| 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.

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

Conditional Use Permit – RV as a Temporary Residence

The applicant has requested a conditional use permit to allow for the temporary use of an RV as a residence due to a medical hardship. The property is located at 1079 SE 4th Avenue. The applicable substantive criteria upon which this case will be decided are found in the Mill City Zoning Ordinance sections which are listed in the staff reports. The property is located in the R-2 Residential Zone. A conditional use permit is requested to allow the temporary use of an RV as a residence due to medical hardship. The zoning code standards and criteria are found in Section 17.44.020.H, “Temporary RV Use Due to a Medical Hardship”, and Chapter 17.52 “Conditional Use Permits”

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.

The Planning Commission’s decision is final, unless it is appealed to the City Council. If the City Council 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.

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.

This is a public hearing to consider Land Use File #2017-01, a conditional use permit to allow the temporary occupancy of an RV as residence for a family member due to a medical hardship. Section 17.44.020.H of the Mill City Zoning Code permits the temporary occupancy of an RV in cases of a medical hardship to enable family members to care for another family member. The applicant, Robert Carter and Sommer Carter, propose to use the existing RV parked behind the home at 1079 SE 4th Avenue as a temporary residence.

A copy of the agenda and hearing procedures for this meeting are available. 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 Ordinance 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 none, announce "there are 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, have the Planning Commission member(s) state what the conflict, bias on ex part contact is]

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

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

CLOSING STATEMENT

At the close of the public hearing, please read:

The Planning Commission's decision action may be appealed to the City Council within 14 days of the mailing of the notice of decision by the City. If no appeal is filed, the decision is final.

MILL CITY PLANNING COMMISSION
Meeting of January 17, 2017

Planning Commission members present: Chair Ann Carey, Dennis Chamberlin, Marge Henning, David Leach, Woody Koenig and Frances Villwock.

Staff in attendance: Planning Advisor David Kinney.

City Council Representatives: None.

Citizens present: Spring Aerni.

The meeting was called to order at 6:30 p.m. Chair Ann Carey led the pledge of allegiance. Mrs. Carey announced the Council has appointed Woody Koenig and welcomed him to the Commission. She also announced that Allison Goodwin has resigned from the Planning Commission.

APPROVAL OF MINUTES:

The December 20, 2016 minutes were reviewed by Planning Commission. *Frances Villwock moved, seconded by Marge Henning, to approve the minutes of December 20, 2016 minutes as corrected. The motion carried unanimously (6:0).*

PUBLIC COMMENT: None.

PUBLIC HEARINGS:

File No. 2016-13

Proposal: Variance to Section 17.16.060 "Front Setback"
 New Shop/Office/Garage fronting SE Third Avenue

Applicant: Spring Aerni

Location: 710 SE Third Avenue, Mill City

Chair Ann Carey opened the public hearing at 6:35 p.m. Mrs. Carey read the opening statement. Mrs. Carey asked Planning Commissioners if they wished to declare any conflict of interest, ex parte contact or bias related to the proposal. There were no declarations. All members affirmed that could consider the application in an impartial manner.

Mrs. Carey asked if there were any objections to the public notices provided or participation by any member of the Planning Commission. There were no objections. She invited members of the public who wish to testify on the proposal to state their name and address and indicate whether they are in favor of or opposed to the proposal.

Applicant's Presentation:

Spring Aerni (PO Box 44, Mill City): Ms. Aerni is the owner of a dilapidated house at 710 SE Third Avenue. She proposes to demolish the existing garage that encroaches into the SE Third Avenue right-of-way and replace it with a new storage/shop building, secure the site and then remodel the existing house in the summer 2017. The proposed 24' x 36' storage/shop/office building will be located south

of the house at 710 SE Third Avenue. The applicant proposes to place the new building along the SE Third Avenue front property line and is requesting a variance to the city setback requirements. SE Third Avenue is an unimproved right-of-way south of SE Hazel Street.

Under Mill City Municipal Code (MCMC) Section 17.16.060 (R-2 Residential zone) a building is required to have a 20' setback from property line to the front of a garage and a minimum 15' setback from a street-side property line to any other part of a structure. Ms. Aerni requests a zero lot-line setback (0') from the front property line on SE Third Avenue.

Ms. Aerni addressed the following issues in your presentation:

- The proposed building is a 24' x 36' pre-designed structure, that includes engineering plans which can be submitted directly to the Linn County Building Official. No modifications are permitted to the structure without obtaining additional structural drawings or calculations.
- She explained the initial project will be to demolish the existing garage. Once the new storage/shop/office building is completed, they will use the new building to store materials in a secure structure. They will then begin a remodel of the home.
- The new building will not be used as a garage, but will be used for storage, a shop and an office.. It will not have a garage door facing the SE Third Avenue ROW.
- Ms. Aerni discussed the on-going cleanup of the site and removal of vehicles from the right-of-way. She stated that the home has been vandalized and items taken over the past year.
- Ms. Aerni indicated she may apply to the city for a partial vacation of the SE Third Avenue.
- Ms. Aerni stated she may install a new driveway from SE Hazel Street along the east property line to provide off-street parking.

Staff Report:

Mr. Kinney presented the staff report and entered the land use file into the record. He summarized the applicable criteria in Chapter 17.16 and Chapter 17.56 "Variances". He summarized the applicable criteria in Chapter 17.56.030 for a variance to the setback requirements in the R-2 zone. In order to approve a variance, the City must find there are:

- (1) Unique or extraordinary circumstances.
- (2) The variance is necessary to preserve a property right.
- (3) The variance does not conflict with the purpose and intent of the Zoning Code or to properties in the same zone or vicinity.
- (4) The variance is consistent with the goals and policies of the Mill City Comprehensive Plan.

Mr. Kinney summarized the findings that are included in the staff report that demonstrate the proposal complies with the four variance criteria. He recommended the application be approved, subject to the following conditions of approval:

1. **EXPIRATION DATE:** The variance will expire on January 31, 2018 at 5:00 p.m. if the applicant does not file an application for a building permit for the construction of a new garage at 710 SE Third Avenue.
2. **Right of Way Construction Permit:** The applicant will obtain a public works construction permit for installation of a 12' wide gravel driveway from SE Hazel Street to the front of the new building, with a minimum 20' wide clear area complying with fire code requirements.

Proponents: No citizens testified.

Opponents: No citizens testified.

General Testimony/Agency Comments:

Mr. Kinney indicated the Mill City Rural Fire District has submitted written comments and has expressed concerns about the condition of SE Third Avenue and lack of proper fire access to the rear of the properties at 710 SE Third Avenue and 289 SE Hazel Street due to the condition of the street and the parking of numerous vehicles in the right-of-way.

No other comments have been received.

Questions of Clarification from the Planning Commission and Staff:

Commission members asked questions about the location of the building, the location of the south property line, the use of the adjacent lot (directly south), the timing of the project and the recommended requirement for the 12' wide gravel access in the SE Third Avenue ROW.

Ms. Aerni responded to the questions posed by the Commission:

- The 24' x 36' storage/shop/office building will be located in the same location as the existing garage. The new building will be larger than the old garage.
- The new building will have a minimum 5' setback to the south property line and a 5' setback to the east property line.
- The adjacent residential lot to the south has a gate to SE Third Avenue. The owner parks a pickup truck in their grass yard at the base of the slope on their property and uses SE Third Avenue for access to the property.
- Ms. Aerni discussed the location of the SE Third Avenue property line.
- Ms. Aerni stated they will probably add a driveway from SE Hazel Street along the east property line. This was suggested by councilor Lundquist as an option.

Mr. Kinney briefly discussed the fire district's concerns with getting access to the rear of the Aerni's property and the back yard of 289 SE Hazel Street on the west side of the street right-of-way. The fire district requirements for a driveway are a 12' wide gravel driveway with 20' wide clear space.

Chair Ann Carey asked whether the Planning Commission will need to review the site plan if the applicant modifies the proposal. Mr. Kinney responded that the Planning Commission could add condition #3 stating "*A modification to the site plan that will relocate the proposed shop building within the required setback area will require review and approval by the Planning Commission.*"

Applicant's Summary and Rebuttal: Ms. Aerni did not provide a summary or rebuttal. She stated that the new storage/shop/office building will be located on the site of the existing garage, but understands the Planning Commission desire to review the site plan if the location of the building changes.

Staff Summary: Mr. Kinney stated he concludes the proposal complies with the city's requirements and he recommends approval, subject to the recommended conditions of approval.

Close of the Hearing: Chair Ann Carey closed the public hearing at 7:15 p.m. She stated the Planning Commission will deliberate on the issue and make a decision on the proposal. Mr. Kinney stated any members in the audience must refrain from making any comments during the Commission's deliberation.

Deliberation and Decision: The Planning Commission deliberated briefly on the proposal.

Variance to Section 17.16.060 – Setbacks: *Commissioner Frances Villwock moved, seconded by Commissioner David Leach, to approve the variance for Spring Aerni at 710 SE Third Avenue, to adopt the findings of fact, conclusions and recommended conditions of approval for File No. 2016-13. (Approved 6:0).*

Mr. Kinney announced that the staff will issue a Notice of Decision on the proposal. The decision will be forwarded to the City Council for ratification of the approval at the next regularly scheduled city council meeting on January 24, 2017. The City Council may elect to ratify the Planning Commission decision or call the issue up for a public hearing. If the City Council ratifies the Planning Commission decision, the decision will be final unless it is appealed to the City Council within 15 days of the date the Notice of Decision is issued by the City. If the notice of decision is mailed on Wednesday, January 18, 2017, the deadline for an appeal is Friday, February 3, 2017 at 4:00 p.m.

OLD BUSINESS:

File 2016-09 Zoning Code Amendments – Update

Mr. Kinney reported the City Council completed a first reading of the zoning code amendments ordinance at the December 27, 2016 regular council meeting. The City Council deferred final action until after they hold a public hearing in February 2017 to consider the Bed & Breakfast amendments to the zoning code that were recommended by the Planning Commission in November. Because the B&B amendments were substantive, the public will be given an opportunity to make comments on the revisions before adoption by the City Council.

Planning Commission Ordinance

Chair Ann Carey informed the Planning Commission that the City Council reviewed the City's ordinance regarding the Planning Commission duties and membership. No changes were made. The Commission briefly discussed the date and times of their meetings. Commissioner Villwock suggested the Planning Commission consider holding daytime meetings again. Commissioner Chamberlin had no objections, but stated evening public hearings provide opportunities for members of the public to attend. There was no further discussion.

NEW BUSINESS:

2016 Annual Report

The Planning Commission submits an annual report to the City Council in February of each year. The report summarizes the activities and decisions of the Planning Commission in the prior calendar year. Mr. Kinney presented the DRAFT 2016 Annual Report for consideration by the Planning Commission. Chair Ann Carey had provided a few corrections to the Planning Consultant. There were no other changes. Chairperson Carey will sign the report and submit it to the City Council.

2017-2018 Work Program

Mr. Kinney has previously provided the Planning Commissioners with copies of the 2015-2016 work program with updated notes dated November 2016. Chair Ann Carey said the Commission would review the work program and adopt a new one for 2017-2018. Commission discussion on work priorities will occur in March or April after the City Council reviews its goals and priorities for the year.

Linn County Transportation System Plan

On December 7, 2016 the Linn County Roads Department hosted an open house in Mill City to discuss the proposed update to the Linn County Transportation System Plan. DKS, the County's Transportation Planning consultant, and Chuck Knoll, Linn County Engineer, encouraged the City to submit formal comments on the plan. City Recorder Stacie Cook has prepared a letter from the City to Linn County requesting they include the following Mill City projects in the Linn County TSP.

1. SW Broadway Street Improvements – Linn County has agreed to a three-year plan for improvements
2. Canyon Journey Trail Improvements, including multi-modal river crossing at Kimmel Park
3. Storm Drainage Improvements
4. 1st Avenue Vehicle Bridge Maintenance/Improvements
5. Pedestrian Bridge Improvements
6. Coordination of Paving Projects for City Overlay Work

Orientation Session

The City Council will hold an orientation session for newly elected officials at 6:30 p.m. at the regular city council meeting on January 24, 2017. City Attorney Jim McGehee, a CCIS Risk Management representative and Mr. Kinney will participate in the orientation session.

OTHER BUSINESS:

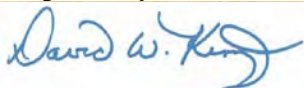
Planning Consultant Billing: Mr. Kinney provided copies of his November 2016 invoice.

Pending Applications: The City has received an application for use of an RV as a secondary residence for a family member due to a medical hardship. There will be a public hearing on February 21, 2017.

BUSINESS FROM THE PLANNING COMMISSION: None.

The next meeting of the Planning Commission will be February 21, 2017 at 6:30 p.m.
The meeting was adjourned at 8:05 p.m.

Prepared by:



David W. Kinney, Planning Advisor and
Stacie Cook, MMC, City Recorder/Planning Secretary

Minutes approved by the Planning Commission on the 21st day of February 2017.



City of Mill City

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MILL CITY PLANNING COMMISSION STAFF REPORT

STAFF REPORT DATE: February 13, 2017

HEARING DATE: February 21, 2017

FILE NUMBER: 2017-01

APPLICANT: Sommer Carter
1079 SE 4th Avenue, Mill City, OR 97360

PROPERTY OWNER: Robert Carter
1079 SE 4th Avenue, Mill City, OR 97360

PROPERTY: 1079 SE 4th Avenue, Mill City, OR

<u>Assessor's Map</u>	<u>Tax Lot</u>	<u>Account</u>	<u>Acres</u>	<u>Zoning</u>
T09S R3E 32BC	00300	14429	0.83	R-1 Single Family Residential

EXHIBITS: EXHIBIT A Application
EXHIBIT B Notice of Public Hearing
EXHIBIT C Mill City Rural Fire District comments dated January 31, 2017

REQUEST: Conditional Use Permit: Use RV as a secondary dwelling (Medical Hardship)

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

- **Chapter 17.12** **Single-Family Residential Zone (R-1)**
 - Section 17.12.020 Uses Permitted Outright
 - Section 17.12.040 Lot size, width and coverage
 - Section 17.12.060 Yard Requirements
- **Chapter 17.44** **Accessory Uses**
 - Section 17.44.020.H RV Use for a Medical Hardship

- **Chapter 17.52**
 - Section 17.52.020
 - Section 17.52.040
 - Section 17.52.060
- Conditional use permits (CUP)**
 Authorization to grant or deny a CUP
 Procedures for taking action on a CUP
 Time limit on an approved CUP

I. Applicant’s Proposal

The City has received a land use application from Sommer Carter requesting a conditional use permit to allow use of an existing RV as a secondary residence at 1079 SE 4th Avenue in Mill City due to the existence of a medical hardship. The existing RV is parked immediately behind the house.

The application states the RV will be used:

“... for sleeping and organization for Sommer Carter and her son Jonathan Wiese. The dwelling (RV) would be used mainly as an extension of the main home as a bedroom.”

Under Mill City Municipal Code (MCMC) Section 17.44.020.H a property owner may request temporary use of an RV as a secondary dwelling when there is medical hardship which requires a family member to provide on-going care for another family member. The applicant’s proposal is shown in Figure 1.



Figure 1- RV for Use as a Secondary Dwelling at 1079 SE 4th Avenue, Mill City

II. BACKGROUND INFORMATION

A. Pre-Application Information and Application Submittals:

The City Recorder met with the applicant prior to the submittal of an application. The applicant filed an application with the City on January 16, 2017. The application was deemed complete on January 19, 2017. Therefore, the final decision must be made by May 200, 2017 to comply with the “120-Day Rule”.

B. Application, Land Use Procedure and Review Requirements:

Chapter 17.44.020.E states that an RV may be used as a temporary residence in the event of a medical hardship. The RV use is considered an accessory use to an existing home

17.44.020 Accessory Uses.

- E. RV Use as a Temporary Residence. The use of a recreation vehicle as a temporary residence is permitted provided that a conditional use permit is approved granting the use of the recreational vehicle as a temporary secondary residence due to a medical hardship in accordance with subsection H of this section and Chapter 17.52 of this title.

Chapters 17.52 and 17.64 of the Mill City Municipal Code (MCMC) outline the application, notice and review requirements for a conditional use permit and all land use applications. A conditional use permit requires a quasi-judicial review process. The Mill City Planning Commission will hold a public hearing on February 21, 2017 and at the conclusion of the hearing 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.

C. Publics Hearing and Notices of Public Hearing:

A public hearing concerning the matter will be held before the Planning Commission on Tuesday, February 17, 2017 beginning 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 conditional use permit criteria found in the Mill City Zoning Code, Section 17.52.030. 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 provided to agencies on December 21, 2016, published on December 23, 2016 in the Canyon Weekly and mailed to property owners 20 days prior to the hearing.

D. Existing Conditions:

The building at 1079 SE 4th Avenue has an existing residence and several outbuildings. The lot is a large 0.83-acre parcel (36,150 sf). The existing structure is a 924 square foot one-story house with the front yard facing SE 4th Avenue. There is a garage and several small accessory buildings on the property.

The existing RV is parked immediately behind the house and has a deck constructed to the east of the RV.



This is a residential neighborhood comprised of single family homes. Surrounding uses are:

- EAST: Single family homes across the street in the 1000 block of SE 4th Avenue.
- SOUTH: A single family home at 1111 SE 4th Avenue.
- WEST: Back yards of single family homes that front SE Third Avenue.
- NORTH: Back yards of two single family homes at 356 and 380 SE Kingwood Avenue.

- E. Utilities:** The property is currently served with city services and private utilities.
- Water: The home is connected to city water. The RV is not.
- Sewer: The home is connected to the city sewer. The RV is not.
- F. Streets:** SE 4th Avenue is a local street with a 20' wide paved AC section with gravel shoulders.

G. Agency Comments and Public Testimony:

1. Agency Comments. Agency comments were solicited from the Fire District and school district. Public and private utilities will not be affected by this proposal.
 - a. Mill City Rural Fire Protection District: On January 31, 2017 the Fire District responded.

“As long as the occupants know when calling for emergency situations they will need to advise 911 if [the emergency assistance is needed] in the primary residence or temporary one, we have no issues with this land use issue.”

As of February 13, 2017, 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 February 13, 2017 the City had not received any written testimony. Any written public testimony received prior to or during the public hearing will be made a part of the record. Oral testimony will be 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 17-Zoning of the Mill City Municipal Code.

A. Chapter 17.12 – Single-Family Residential (R-1) District

The following standards in the R-1 zone apply to this conditional use permit request.

17.12.020 Permitted Uses: In an R-1 zone a single family home and related accessory uses are permitted. The house and existing accessory buildings are outright permitted uses.

17.12.040 Lot Size, width and coverage: In an R-1 zone, the minimum requirements are:

Lot Size – 7,000 sf	The existing lot is 36,150 sf.
Lot Width – 70' minimum.	The existing lot is 160' wide.
Maximum Lot Coverage – 40%	The existing buildings cover less than 1,500 sf, less than 5% of the total lot area.

17.12.060 Yard Requirements. A temporary RV must be located in the rear yard and must be separated from the main residence by at least 10' from the main dwelling. The existing RV is located behind the existing house and is more than 10' from the main dwelling.

FINDINGS AND CONCLUSIONS: The R-1 residential zone allows single family homes and accessory

structures. The existing lot and buildings comply with lot size, width and coverage requirements. The RV is currently parked behind the main house in the rear yard and is located more than 10' from the main house. The proposal complies with the R-1 zoning requirements.

B. Chapter 17.44.020 – Accessory Uses

17.44.020.H RV Use as a Temporary Residence (Medical Hardship): In an R-1 zone an RV may be used as a temporary residence if a conditional use permit is approved and the proposal complies with the standards and criteria listed in Section 17.44.020.H.

17.44.020.H. RV or Manufactured Home Use for a Medical Hardship.

Standards for a recreation vehicle or manufactured home to be occupied as a temporary residence due to a medical hardship in the R-1, R-1, CC and CH zones are as follows:

1. An application for a permit shall be filed with the city using forms furnished by the city. *(Also includes submittal requirements)*.
2. The planning commission shall consider the application in accordance with the conditional use permit requirements in Chapter 17.52 of this title.
3. The permit may be approved by the planning commission upon affirmative findings that:
 - a. There is a medical hardship and the granting of the permit will alleviate substantial personal hardship by providing a temporary residence where care or assistance will be provided to a dependent family member.
 - b. The temporary residence will be occupied by members of the immediate family who will either provide assisted living services and/or medical care to residents of the existing home or will receive assisted living services or medical care from residents of the existing home.
 - c. The placement of the temporary residence will comply with all other standards of this section.
 - d. The value, use and enjoyment of neighboring properties will not be adversely affected.
4. The temporary residence may not be occupied until after the permit has been issued by the city.
5. The permit will expire after one year, unless annual extensions are granted by the planning commission.
6. Annual Renewal. Each conditional use permit granted under this section shall be reviewed annually by the planning commission. The permit will expire unless an extension is granted by the planning commission. Upon written request from the applicant, the planning commission may grant an annual extension of the permit if it finds the hardship situation has not changed substantially.
7. The temporary residence will be served with electric, water and sewer utility service in compliance with building code requirements or city ordinances. No permanent electrical or sewer connections to a recreational vehicle will be permitted. All set-up and connections for a manufactured home must comply with applicable sections of the state of Oregon Manufactured Dwelling Code, state statutes and administrative rules and city ordinances.
8. The temporary residence shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet and shall be screened with fencing or landscaping from adjacent properties.
9. Upon the expiration of the permit, the applicant and property owner shall agree in writing to remove the temporary residence from the lot within sixty (60) days or the owner will store the recreational vehicle in accordance with Section 17.44.020(B) of this title.

The City reviewed the proposal for compliance with the standards listed in Section 17.44.020.H, specifically subsections 3, 7 and 8 above.

Criteria: Requirements for Use of an RV as a Secondary Dwelling in 17.444.020.H

Facts:

1. The applicant filed an application for the use of an RV as a secondary dwelling for two family members: Sommer Carter and her son Johnathon Wiese.
2. The application states the existing home is owned by Robert Carter. Residents are Robert Carter and his daughter Karen Carter. They occupy the two bedrooms in the home. Sommer Carter is Karen Carter's daughter.
3. The application states:

“Due to unforeseen circumstances Sommer and Johnathon relocated to Oregon and need to be close to the family.”

“Due to Johnathon's on going needs, Some needs family support and assistance in many ways”

“Financial limitations affect where the family resides as well as need assistance with Johnathon”

“Providing the use of the trailer will give the family extra space and provide Sommer and her son with space of their own.”
4. Emily Stanley, MA, for the Santiam Medical Clinic in Mill City, has provided a letter date October 28, 2016 that states:

“Patient Johnathon D. Wiese has been seen in our office 10/28/2016 and his mother have a medical hardship that requires them to stay in a trailer on their family's property so that they can have help from family.”
5. The existing RV is parked behind the home at 1079 SE 4th Avenue. The RV is more than 10' from the existing house. This RV will be used as the secondary residence. It is not connected to city sewer or water. The RV does have an electrical connection.
6. The RV location is 70' from the north property line, 140' from the west property line and 90' from the south property line. The RV is screened by existing accessory buildings to the west and north. There is no screening to the south; there is an expanse of lawn and two large trees.
7. The applicant submitted a statement regarding the RV impact on adjacent properties:

“The trailer has been on the property for two-three years already and has not adversely affected the neighbors to this point.”

FINDINGS AND CONCLUSION:

The applicant states they have a need for general care and support for Sommer Carter and her son Johnathon. Care and supervision will be provided by family members. The Santiam Medical Clinic staff has provided a letter stipulating there is a need for care. Unfortunately, HIPPA regulations limit the medical information which can be shared with the City. The proposal complies with Criteria 3a and 3b because the home will be occupied by family members of the property owner and there is medical hardship, attested to by a medical professional.

The RV does not have permanent city utility connections, but does have a power drop for a temporary electrical connection. The proposal complies with subsection 7.

The RV placement is behind the existing home at 1079 SE 4th Avenue, meets the locational standards in subsection 8 and the setback requirements in the R-1 zone. The RV is effectively screened from adjacent residential properties. The proposal complies with the site location requirements.

The other standards in Section 17.44.020.H require annual review and renewal of the medical hardship permit and either removal or parking of the RV in compliance with the city zoning standards. The annual review can be established as a condition of approval.

The city staff concludes the proposal complies with the city's requirements in Section 17.44.020.H.

C. Chapter 17.52 - Conditional use permits

Section 17.52.030 of the Mill City Zoning Code contains the criteria for consideration of a conditional use permit. This section reads as follows:

17.52.030 Criteria for granting a conditional use permit.

- B. The decision to approve or deny a conditional use shall be based on the following criteria.
 - 1. Development of the property as proposed in the application is generally compatible with existing development on abutting properties and in the surrounding neighborhood. It is also generally compatible with possible future development of the property in the surrounding neighborhood as indicated in the comprehensive plan. This criterion does not apply to manufactured home parks;
 - 2. The proposed development site has the physical characteristics needed to support the use considering factors such as steepness of slope and septic suitability;
 - 3. The proposed development will not unduly affect the capacity of current public facilities, including streets and utility systems;
 - 4. The proposed development is consistent with the goals and policies in the comprehensive plan.
- C. In approving a conditional use permit application, the planning commission may impose, in addition to those standards and requirements expressly specified by this title, additional conditions which the planning commission considers necessary to protect the appropriate development and best interests of the surrounding property, the neighborhood, and the city as a whole.

CUP Criteria B.1: Development is compatible with surrounding development.

Facts:

1. The existing house was built circa 1930. It is located in a residential neighborhood on SE 4th Avenue. Nearby parcels range in size from 1/3 acre to larger than 1-acre, with single family homes. The only exception is Al Ward's home, which includes his shops and logging equipment.
2. The aerial photo on page 2 shows the applicant's site and nearby homes. The existing lot is an 0.83-acre parcel. It has a small home (924 sf) and several accessory structures. The RV is parked behind the existing home. The home is located in the middle of the lot and has large setbacks to the north, west, and south. The south half of the site is a large grassy yard area.

Conclusions:

The use of the RV as a secondary dwelling does not alter the character of the residential neighborhood. The Carter's property is large enough that it could be redeveloped as a subdivision or large lot partition in the future. The staff concludes the proposal is compatible with the surrounding uses and does not affect future redevelopment of the site.

CUP Criteria B.2: **The site has the physical characteristics needed to support the use considering factors such as steepness of slope and septic suitability;**

CUP Criteria B.3: **The proposed development will not unduly affect the capacity of current public facilities, including streets and utility systems;**

Facts:

1. The subject property is zoned R-1 and is used for residential purposes. Permitted uses in an R-1 zone are single-family residences and accessory buildings. The RV is parked adjacent to the main driveway which has parking for 10+ vehicles, more than sufficient to serve the home, RV and accessory buildings.
2. The site is flat; the driveway has direct access to SE 4th Avenue. The RV use will add less than 10 vehicles trips
3. The existing home is connected to the City water and sewer systems. No permanent utility connections will be made to the RV.

Conclusion: The staff concludes there are no physical site characteristics which affect the existing use of the site for residential uses, including the secondary dwelling. The staff further concludes the proposed RV use will not affect existing streets, traffic safety, water or sewer systems.

CUP Criteria B.4: **The proposed development The proposed development is consistent with the goals and policies in the comprehensive plan.**

Facts:

1. The Mill City Zoning Code and Mill City Comprehensive plan allow for development of single family homes and accessory buildings in the R-1 zone.
2. The following Mill City Comprehensive Plan housing goals and policies apply to this case:

Goal LU-5: **To develop and maintain residential neighborhoods that are pleasant, safe, attractive and healthful.**

Goal LU-6: **To provide opportunities for a mix of housing types and lifestyles within the economic capabilities of the present and future citizens of Mill City.**

Housing Policy 4:

Mill City shall establish procedures which permit the use of a mobile home as a temporary residential housing unit for the purpose of taking care of family members who are unable to care for themselves.

Conclusion: The applicant's proposal is consistent with the purpose of the Mill City Comprehensive Plan goals to provide residential neighborhoods and an opportunity for a mix of housing types. Specifically, the proposal complies with Housing Policy 4 which anticipates the use of an RV/MH for a temporary dwelling for the care of family members.

IV. CITY PLANNER CONCLUSION AND RECOMMENDATION

Based on the findings contained in this report, the City's Planning Consultant concludes that the applicant's proposal for a conditional use permit to allow the use of an RV as a secondary dwelling for the care of an immediate family member per 17.44.020.H complies with the city's conditional use permit criteria.

The City Planner recommends the Planning Commission approve a conditional use permit for the occupancy of the existing RV by Sommer Carter and Johnathon D. Wiese at 1079 SE 4th Avenue as proposed by the applicant and property owner, subject to the following condition of approval.

1. **EXPIRATION DATE:** The conditional use permit will expire on February 28, 2018 at 5:00 p.m. unless an extension is granted by the planning commission.
2. **ANNUAL RENEWAL:** The applicant may request an annual extension of the conditional use permit for the continued occupancy of the RV by Sommer Carter and Johnathon D. Wiese, if the medical hardship has not changed substantially. The Planning Commission may grant the annual extension if circumstances have not substantially changed.

V. PLANNING COMMISSION OPTIONS

- A. Approval of the conditional use permit for Sommer Carter, 1079 SE 4th Avenue, File No. 2017-01 and adoption of the proposed findings and the recommended conditions of approval.
- B. Approval of the conditional use permit for Sommer Carter, 1079 SE 4th Avenue, File No. 2017-01 and adoption of amended findings and conditions of approval to reflect the Planning Commission deliberations.
- C. Denial of the conditional use permit proposal, File No. 2017-01, 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 a date and time certain, if additional information is needed to determine whether applicable standards and criteria are addressed.

VI. MOTIONS

Approval: To approve the conditional use permit for Sommer Carter at 1079 SE 4th Avenue, to adopt the findings of fact, conclusions and recommended conditions of approval for File No. 2017-01.

Approval (modified): To approve the conditional use permit for Sommer Carter at 1079 SE 4th Avenue, 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. 2017-01.

Continue: To continue deliberations to the next meeting of the Planning Commission on *(insert DATE and TIME)* so the parties may submit additional information.

Denial: To deny the application for a conditional use permit because the applicant has not demonstrated the proposal complies with all of the Mill City Development Code criteria and to direct the staff to modify the findings and prepare a final order to reflect the Planning Commission's deliberations and conclusions.

VII. FINAL ORDER AND NOTICE OF DECISION

A FINAL ORDER and a written NOTICE OF DECISION will be issued to the applicant and all participants of record within five (5) business days of the Planning Commission's decision.

VIII. APPEAL PERIOD

Any person aggrieved by the Planning Commission decision may appeal the decision to the City Council by filing a written appeal with the City of Mill City within fifteen (15) calendar days of the date the Notice of Decision is mailed by the City.

Exhibit A

Conditional Use Permit
Manufactured Home or Recreational Vehicle Use
as secondary residence in case of medical hardship

TYPE OF APPLICATION:

Application Fee

Conditional Use Permit: MH or RV Use as a Secondary Residence (Medical Hardship)

\$ 100.00

Section 17.44.020(H) of the Mill City Zoning Code allows for the use of an RV or Manufactured Home as a temporary residence in the R-1, R-2, CC and CH zones to allow for the care of an individual with a medical hardship. The application requirements for use of a recreational vehicle or manufactured home in case of a medical hardship are as follows:

- 1. A completed conditional use permit application, including written authorization from the property owners;
2. A site plan showing the proposed location of all buildings, including the temporary residence, proposed screening, fencing or landscaping and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
3. A written statement from the applicant describing the medical hardship, the individuals to be cared for and why no other alternative method of alleviating the hardship is readily available to the family;
4. A written statement from a medical physician licensed to practice in the state of Oregon. The physician's statement shall clearly state that the afflicted person needs daily supervision, care and/or assistance and the medical reasons for the need. The burden of proof showing medical need is required; financial hardship or a mere preference or unwarranted desire is insufficient justification for the application;
5. The temporary residence will be served with electric, water and sewer utility service in compliance with building code requirements or city ordinances. No permanent electrical or sewer connections to a recreational vehicle will be permitted. All set-up and connections for a manufactured home must comply with applicable sections of the state of Oregon Manufactured Dwelling Code, state statutes and administrative rules and city ordinances.
6. The temporary residence shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet and shall be screened with fencing or landscaping from adjacent properties.
7. Upon the expiration of the permit, the applicant and property owner shall agree in writing to remove the temporary residence from the lot within sixty (60) days or the owner will store the recreational vehicle in accordance with Section 17.44.020(B) of the zoning code.
8. A statement from the applicant certifying that the applicant will comply with all requirements of the zoning code.

I acknowledge that the application fee or deposit paid for this land use proceeding is in accordance with the current City of Mill City Land Use Fees Resolution. If the City incurs additional costs for engineering, legal, planning consultation, inspection fees or other direct costs related to this proposal, which are beyond the initial filing fee or deposit, then the city may require an additional deposit or fee to cover costs incurred. The additional fee shall be payable to the City upon receipt of a bill showing the documented City costs. If the property owner or applicant does not pay the additional fees which are invoiced, the City may withhold issuance of building permits, certificates of occupancy, utility service connections or subdivision/partition plats until the fees are paid. I agree to reimburse the City for the additional costs the City of Mill City may incur in reviewing and processing this application.

SIGNATURE OF AUTHORIZED APPLICANT:

[Handwritten Signature]

Property Owner or Authorized Agent

DO NOT WRITE BELOW THIS LINE

Application received by: _____ Date: _____ Fee Paid: \$ _____

1. BRIEFLY DESCRIBE PROPOSAL:

Use of trailer for sleeping and organization for Sommer Carter and her son Johnathon Weise. The dwelling would be used mainly as an extension of the main home as a bedroom.

2. APPLICANT:

Name: Sommer Carter

Address: 1079 SE 4th Ave

City/State/Zip: Mill City, OR 97360

Phone:

Work () -

Home: (425) 737-0594

Fax () -

Email: Sommercarter82@yahoo.com

If applicant is not the property owner, fill out Section 3.

3. LEGAL OWNERS: WE, the following (Please print or type full name, address, city, state, and zip code),

Print Name: Robert Carter

Print Name: _____

Signature: [Handwritten Signature]

Signature: _____

Street Address: 1079 SE 4th Ave

Street Address: _____

City, State & Zip: Mill City, OR 97360

City, State & Zip: _____

being owners of record, contract purchasers, or authorized agent of owners of the subject property respectfully petition the City of Mill City for permission to develop the property in accordance with this application and hereby authorize the applicant and/or authorized agents to represent us during any land use proceedings before the City of Mill City.

4. LOCATION: Identify the exact location of the property (street address or, if not addressed, the County Assessor's tax lot number, and the closest intersecting streets):

Street Address: 1079 SE 4th Ave, Mill City, OR 97360

Closest Intersecting Streets: Kingwood & 4th Streets

Assessor's Map & Tax Lot Number:

T9S R3E _____ Tax Lot(s): _____

T9S R3E _____ Tax Lot(s): _____

Size of Property: _____ acres or _____ square feet.

5. LEGAL DESCRIPTION (as it appears on the deed)

Lot No.: _____ Block No.: _____ Subdivision: _____

NOTE: If the application involves a fraction of a lot or a lot which is not within a platted subdivision, attach a full legal description in metes and bounds, marked "Exhibit A"

6. ZONING:

Existing Zoning: _____ Proposed Zoning: _____

Existing Plan Designation: _____ Proposed Plan Designation: _____

7. CURRENT USE OF THE PROPERTY: Robert Carter currently has a home and lives on the property.

7. Proposed Use of an RV or Manufactured Home as a temporary use in the case of a medical hardship:

a. The manufactured dwelling will be a second dwelling on a parcel with an existing residence. Yes. No.

EXPLANATION:

There is currently a home on the property, two bedrooms, one for Robert Carter and one for Karen Carter (Sommer Carter's mother.) Due to unforeseen circumstances Sommer and Johnathon relocated to Oregon and need to be close to family.

b. The manufactured dwelling will be temporary. Yes. No.

c. The manufactured dwelling will be occupied by family member(s) of the person(s) residing on the parcel.

Name of family member(s) to occupy manufactured dwelling: Sommer Carter & Johnathon Weise

Relationship(s) to applicant: granddaughter & great grandson

d. The occupant(s) of the manufactured dwelling is(are) partially dependent upon the person(s) residing on the parcel.

EXPLANATION:

Due to Johnathon's on-going needs, Sommer needs family support and assistance in many ways.

e. No alternative method of alleviating the hardship is readily available to the family.

EXPLANATION:

Financial limitations affect where the family resides as well as ~~meant~~ needing assistance with Johnathon.

f. The manufactured dwelling will be removed within 90 days after the hardship no longer exists. Yes. No.

g. The value, use and enjoyment of neighboring properties will not be adversely affected.

IDENTIFY ANY POTENTIAL IMPACTS ON NEIGHBORING PROPERTIES:

The trailer has been on the property for two-three years already and has not adversely affected the neighbors to this point.

h. The granting of the permit will alleviate substantial personal hardship for the family of occupancy.

EXPLANATION:

Providing the use of the trailer will give the family extra space and provide Sommer and her son with space of their own.

CONDITIONS. In granting the right to locate a manufactured dwelling or recreational vehicle for medical hardship reasons, the Planning Commission may impose conditions of approval. The placement of a manufactured dwelling is also regulated by other factors such as building code requirements, building permits, and health and sanitation codes.

ANNUAL REVIEW. Each temporary occupancy permit for a manufactured dwelling in a hardship situation shall be reviewed on a yearly basis by the Planning Commission. At the time of review, each permit holder shall be required to verify, in writing, that the hardship situation has not changed substantially, and that the bonding (if applicable) for the amount set by the Planning Commission is continuously in force.

SANTIAM MEDICAL CLINIC
Part of Santiam Hospital

Amy Sutkus, M.D. Thomas VanVeen, M.D. Bret Moore, PA-C

10/28/2016

Johnathon D. Weise
P O Box 501
Mill City, OR 97360

To whom it may concern:

Patient Johnathon D. Weise has been seen in our office 10/28/2016 and his mother have a medical hardship that requires them to stay in a trailer on their families property so that they can have help from family.

THANK YOU,



Emily Stanley, MA

Cc:

Enc:

Exhibit B**Notice of Public Hearing before the Mill City Planning Commission**

Tuesday, February 21, 2017 beginning at 6:30 p.m.
City Hall, 444 1st Avenue, Mill City

January 19, 2017

Proposal: RV Use as a Secondary Residence (Medical Hardship)
Name of Applicant: Robert L. Carter
Location of Request: 1079 SE 4th Avenue, Mill City, Oregon
Assessor's Map #: T9S, R3E, Section 32BC, Tax Lot 00300

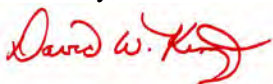
TO: Adjacent Property Owners

The City has received a land use application from Robert L. Carter requesting permission for a family member to live in an RV as a secondary dwelling. The RV is located behind the existing home at 1079 SE 4th Avenue. The applicant requests permission for his granddaughter Sommer Carter and her son to use the RV while receiving care and supervision from other family members. Section 17.44.020(H) of the Mill City Zoning Code allows property owners to use an RV as a temporary secondary dwelling in order to care for a family member who needs medical assistance or care by a family member in the primary residence.

A public hearing concerning the matter will be held before the Planning Commission on Tuesday, February 21, 2017 beginning at 6:30 p.m. at the City Hall, 444 1st Avenue in Mill City. The Planning Commission will make its decision based on the criteria for the use of an RV as a secondary residence in the case of a medical hardship. The criteria are found in Title 17 of the Mill City Zoning Code, Section 17.44.020(H). The Searchable City Code can be viewed under "Documents" at the City of Mill City website: <http://www.ci.mill-city.or.us/>.

The application, decision criteria and staff report will be available at City Hall seven days prior to the hearing. The Planning Commission may either approve, deny or approve the application with conditions or modifications. Any person wishing to provide testimony must address the decision criteria. Failure to raise an issue precludes appeal and failure to specify to which criterion the comment is directed precludes appeal based on that criterion. City Hall is accessible to persons with disabilities. Please call City Hall (503.897.2302) by noon the day before the meeting if you need an interpreter for the hearing impaired or any other special accommodation or if you have any questions related to the application.

Sincerely,



DAVID W. KINNEY
Planning Consultant



City of Mill City

P.O. Box 256
Mill City, Oregon 97360
Phone: 503-897-2302 Fax: 503-897-3499

NOTICE OF PROPOSED LAND USE ACTION

The City of Mill City has received the following land use application. We would appreciate your review of this request. In order for city staff to review the application in a timely manner, comments should be submitted to the Stacie Cook, City Clerk, City of Mill City by February 13, 2017 at 4:00 p.m. You are also invited to attend the public hearing to submit testimony.

The Mill City Planning Commission will hold a public hearing on this matter at 6:30 p.m. on Tuesday, February 21, 2017 at the City Hall, 444 1st Avenue, Mill City, Oregon.

Applicant: Robert L. Carter
Type of Application: RV as Secondary Residence City File Number: 2017-01
Street Address: 1079 SE 4th Avenue, Mill City Assessor's Map: Linn County T9S R3E Sect. 32BC, TL 00300
Existing Plan Designation: Single Family Residential Zoning: Single Family Residential (R-1)
Proposed Plan Designation: No change Proposed Zoning: No Change

Summary of Request:

The City has received a land use application from Robert L. Carter requesting permission for a family member to live in an RV as a secondary dwelling. The RV is located behind the existing home at 1079 SE 4th Avenue. The applicant requests permission for his granddaughter Sommer Carter and her son to use the RV while receiving care and supervision from other family members. Section 17.44.020(H) of the Mill City Zoning Code allows property owners to use an RV as a temporary secondary dwelling in order to care for a family member who needs medical assistance or care by a family member in the primary residence.

Comments: (Attach additional sheets as needed)

AS LONG AS ALL OCCUPANTS KNOW WHEN CALLING FOR EMERGENCY SITUATIONS THEY WILL NEED TO ADVISE 911 IF IN PRIMARY RESIDENCE OR TEMPORARY ONE, WE HAVE NO ISSUES WITH THIS LAND USE ACTION.

By: LELAND W. OULT Date: 1/31/17

Agency: MILL CITY RFPD

The decision criteria for these applications are found in the Mill City Municipal Code, Title 17 - Zoning Code. The Searchable City Code can be viewed under "Documents" at the City of Mill City website: http://www.ci.mill-city.or.us/ Failure to raise an issue in writing precludes appeal and failure to specify to which criterion the comment is directed precludes appeal based on that criterion. You may note your comments above or on an attached sheet and return them to the City of Mill City before the date mentioned above. A map depicting the parcel and surrounding land area is attached. The file is available for inspection at the Mill City City Hall

Notice provided to:

- City of Mill City: [x] PW Supervisor [] City Engineer
Linn County: [] Planning [] Parks [] Assessor [] Bldg [] Roads / PW [] Floodplain Adm [] Surveyor [] Sheriff
Marion County: [] Planning [] Parks [] Assessor [] Bldg [] Public Works [] Floodplain Adm [] Surveyor
Local Agencies: [] Pacific Power [] NWNG [] Frontier [] WAVE [] SCTC/Willamette Valley Internet [] Pacific Sanitation
State of Oregon: [x] Santiam Canyon Schools [x] MC RFPD
[] DLCD [] ODOT [] ODFW [] DSL [] Dept. of Forestry [] Other:

Enclosures: Site Plan &/or Assessor's Maps.

Making Land Use Decisions

Quasi-Judicial Function

What does "quasi-judicial" mean?

When a governmental body (such as a Planning Commission or City Council) applies law to a particular set of facts or circumstances to reach a decision, the decision is "quasi-judicial" because the governmental entity is taking an action similar to that taken by a judge. "Quasi" means nearly, almost or like. Traditionally, "court-like" procedures of government have come to be known as "quasi-judicial" because they are *like* those procedures used by courts.

An application for a land use decision (zone change, variance, site plan approval) is a *quasi-judicial* proceeding if it applies to a specific land use permit or piece of property. The City holds one or more public hearings, follows set rules of procedures, and determines if the proposal complies with the standards & criteria in the City's Comprehensive Plan, zoning and development ordinances.

How does one "act like a judge"?

1. The decision is based on the applicant's proposal, staff review and testimony (evidence) received at a hearing.
2. The decision is based on whether or not the applicant has complied with the city's development standards and met the approval criteria.
3. The decision is also based on whether or not the staff, agencies or opponents have provided testimony, findings and facts that the applicant's proposal and evidence do not meet the city development standards and criteria.
4. The decision is based on relevant evidence.

What can the applicant and the public expect from the City?

The hearings and proceedings must be fair. The elements that are used to determine the fairness of the hearing has been determined by the Oregon courts. They are:

1. All parties have a right to be heard.
2. Parties have a right to present and rebut evidence.
3. Parties have a right to an impartial hearing with no pre-hearing or ex-parte contacts determining the outcome.
4. Parties have a right to findings of fact.
5. Parties have a right to a record of the proceeding.

Ex Parte Contacts

What is an “ex parte” contact?

An “ex parte” contact is commonly understood as a meeting, personal conversation, written communication (including email, text or Tweet), or telephone conversation between a member of the hearing body and an interested party, outside of the public hearing process.

The scope of ex parte contacts is actually much broader. It encompasses any evidence, relating to a pending application relied on by a hearing body member in making a final decision that is not fully disclosed. It may include things such as newspaper articles, Internet research, blog posts and radio reports.

- Ex parte contact does not render a decision unlawful so long as there is full disclosure.
- Disclosure must occur at public meeting at the earliest possible time in the decision-making process. There are two components to full disclosure:
 - place the substance of the written or oral ex parte contact on the record, and (e.g. with whom & what was said)
 - disclose the ex parte contact at a public meeting.
- The public must be given an opportunity to rebut the substance of the ex parte contact.

What is the City’s advice to Planning Commissioners & Councilors?

1. Once a land use application is received by the City, do not discuss it with the applicant, neighbors or members of the public.
2. If a citizen wants to discuss the issue, explain you cannot discuss the matter outside a public meeting. Encourage the citizen to attend the hearing or submit written testimony to the City.
3. Communications with **staff, the city’s planning consultant and the City Attorney** are covered by statute and are exempt from ex parte rules.
4. Review the Comprehensive Plan, applicable ordinance standards and criteria and the staff reports. Feel free to ask staff to questions, research issues and ask the applicant, citizens or staff to present information at the public hearing so that all the decision makers have the same information.

If you do have an ex parte contact, you must disclose it. After the declaration you may continue to participate in the public hearing process. The chair may conclude the ex parte contact creates a conflict or bias and therefore ask you to step down and not participate in the hearing or decision process.

Bias

Actual bias means prejudice or prejudgment of the parties or the case to such a degree that the decision maker is incapable of being persuaded by the facts to vote another way. Bias may include:

1. Personal bias
2. Personal prejudice
3. An interest in the outcome

A city official is not expected to be entirely free of any bias. To the contrary, local officials frequently are elected or appointed in part because they generally favor or oppose certain types of development.

Local decision makers are expected, however, to (1) put whatever bias they may have to the side when deciding individual permit applications, and (2) engage in the necessary fact finding and attempt to interpret and apply the law to the facts as they find them so that the ultimate decision is a reflection of their view of the facts and law rather than a product of any positive or negative bias the decision maker may bring to the process.

What is the City's advice if you have Bias?

At the beginning of the public hearing, the chair will ask all members if you have had any ex parte contacts, conflicts of interest or bias that prevents you from making an impartial decision.

If you have a personal bias, prejudice or have pre-judged the issue and you are incapable of listening to the testimony and making an objective decision, then:

- Declare the bias openly in the meeting.
- Get up from your seat and go sit in the audience.
- Do not participate in the hearing process or in any subsequent decision.

Conflicts of Interest

Oregon's ethic laws discuss conflicts of interest requirements for public officials. Elected officials must be cognizant of:

1. *Actual conflict of interest.* Under ORS 244.020, an actual conflict of interest occurs when a decision or act by a public official would result in a "private pecuniary benefit or detriment".

An actual conflict extends not only to financial gain or loss to the individual public official but also to any relatives of the public official or any business with which the official or relative is associated. Relatives include, but are not limited to: spouse, children, parents, siblings & spouses, in-laws, etc.

2. *Potential conflict of interest.* A potential conflict of interest is distinguished from an actual conflict of interest in that the benefit or detriment “could” occur while in an actual conflict of interest situation, the benefit or detriment ‘would” occur.

What is the City’s advice if you may have a conflict of interest?

At the beginning of the public hearing, the chair will ask all members if you have any ex parte contacts, conflicts of interest or bias that prevents you from making an impartial decision.

Consultation

- Prior to the public meeting consult with the Mayor, Chair or City Attorney

Actual Conflict of Interest:

- Declare you or relative have an actual conflict of interest.
- Get up from your seat and go sit in the audience.
- Do not participate in the hearing process or in any subsequent decision.
- Fill out a form for inclusion in the public record.

Potential Conflict of Interest:

- Declare the potential conflict of interest at the hearing and every subsequent meeting when the issue is discussed.
- The City Attorney and/or Mayor (as presiding officer) may permit you to participate or may advise that you step away and not participate in the proceedings.

Commandments for Land Use Decisions

1. Parties must be notified of proposed land use actions.
2. The applicant and citizens must be given an opportunity to be heard
3. Decisions must be based on standards
4. Decisions must be based on evidence in the record
5. Burden of Proof is on the applicant.
6. Quasi-judicial decisions must be made impartially.
7. Ex parte contacts are prohibited.
8. Decisions must be supported by findings of fact
9. A written notice of decision must be provided.
10. A decision must be made in a timely manner (120 days in most cases).

David W. Kinney
 Community Development Consultant
 791 E. Hollister St.
 Stayton, OR 97383-1334
 Phone: 503-769-2020 * Cell: 503-551-0899
 E-mail: dwkinney@wvi.com

INVOICE

Client: **City of Mill City**
 P.O. Box 256
 Mill City, OR 97360

Project: Planning Services Job #: 1025

Billing Date: January 31, 2017

Professional Services rendered to the City of Mill City for the period January 1-30, 2017.

Planning & Administrative Services:

General

5.60 hours General Administration: Mtg w/ Jim McGehee; Prep Land Use Process info including ex parte, conflicts of interest, bias, etc.; Attend city council orientation workshop; city administrator workshop questions & discussion w/ Mayor Kirsch.

13.60 hours General Planning Services: Comp Plan goals & policies document; PC Packet Prep & PC Meeting, Review of Spindell LLA final maps; Contacts w/ Boneyard Bakery attorney re: cross access easement; consultations with Stacie Cook re: land use questions.

8.75 hours SOB – RR Bridge Project. Full committee mtg; Grant subcommittee meeting to identify potential grant sources; set up fundraising outline; Design/Construction subcommittee mtg – to prioritize project elements for Bob Hirte, Hofmann.

25.95 hours @ 70/hr\$ 1,816.50

Planning Applications

0.20 hours 2016-06 Dollar General – cross access easement

2.00 hours 2016-13 Spring Aerni, Variance @ 710 SE 3rd Avenue, Hrg & Decision

4.15 hours 2017-01 Carter – RV Use (Medical Hardship), SE 4th Ave, Staff Rpt, notices, etc.

6.35 hours @ 70/hr\$ 444.50

Subtotal – General Planning & Admin Personal Services \$ 2,261.00

No Charge

5.00 hours Miscellaneous items

Expenses

Mileage Charges @ .55 per mile – 55 miles \$ 30.25

Phone & Fax Charges \$ 0.00

Subtotal of Expenses\$ 30.25

Total Due: \$ 2,291.25

Remit to:

David W. Kinney
 Community Development Consultant
 791 E. Hollister St.
 Stayton, Oregon 97383

David W. Kinney
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Client: City of Mill City Month: January 2017

Land Use Applications

Date	Start Time	End Time	Total	Admin	SOB RR Bridge	Planning General	2016-06 Dollar General	2017-01 Medical Hrdship	2016-13 Aerni Variance	Zoning Code Amendmts	No Charge	Total	Work Activities	Miles
1/6/2017	9:20	9:30	0.15			0.15						0.15	PC Agenda Prep	
1/6/2017	3:00	3:15	0.20			0.20						0.20	Review Ord 241 and ORS 227 and respond to Chair Ann Carey's inquiry.	
1/6/2017	3:15	3:30	0.25			0.25						0.25	PC Packet - Aerni Variance Stf Report to Ann Carey for review.	
1/9/2017	9:30	12:00	2.50		1.50						1.00	2.50	Mtg w/ Anita Leach to discuss time line for SOB Committee	
1/9/2017	12:15	1:00	0.75	0.25							0.50	0.75	Mayor Kirsch & Stacie Cook re: orientation session for CC members	
1/9/2017	2:30	3:30	1.00			1.00						1.00	PC Packet Preparation	
1/9/2017	3:30	5:30	2.00			2.00						2.00	Comp Plan Goals & Policies Document - Update for City & Jeff Tross	
1/10/2017	12:30	1:45	1.25		1.25							1.25	Excel Spreadsheets for SOB's - Time Line and Grant Spreadsheet	
1/10/2017	11:00	12:30	1.50			1.50						1.50	PC Minutes and Packet Preparation;	
1/10/2017	1:45	2:00	0.25					0.25				0.25	PC Packet to Spring Aerni incl. Agenda and Staff Report	
1/11/2017	9:45	12:00	2.25		2.25							2.25	SOB Meeting at City Hall	36
1/13/2017	1:20	1:30	0.15			0.15						0.15	RADA Question re: Site Plan Review for parking lot modification; Aerni questions re: Street Vacation.	
1/16/2017	1:00	3:00	1.75			1.75						1.75	Prepare PC Annual Report	
1/17/2017	9:15	9:30	0.25			0.25						0.25	Call w/ Ann Carey re: Aerni Public Hearing issues & PC Annual Report	
1/17/2017	9:55	10:05	0.10	0.10								0.10	City Admin job description & profile to Stacie;	
1/17/2017	11:55	12:25	0.50			0.50						0.50	DRAFT PC Minutes template	
1/17/2017	1:20	2:20	1.00					1.00				1.00	Aerni Notice of Decision and Order of Approval	
1/17/2017	3:30	4:00	0.50								0.50	0.50	City Hall - Review items w/ Stacie Cook	
1/17/2017	4:00	4:30	0.50					0.50				0.50	Site visit 710 SE Third Avenue	
1/17/2017	5:00	6:00	1.00			0.25		0.75				1.00	Notices of Public Hearing; Site Visit for 1079 SE 4th Medical Hardship App	
1/17/2017	6:30	8:30	2.00			2.00						2.00	PC Meeting	
1/18/2017	10:15	11:45	1.50		1.50							1.50	SOB Grants Committee Meeting	19
1/18/2017	1:15	1:45	0.50			0.25		0.25				0.50	PC Followup: PC minutes to Stacie; Notice of Decision & Order to Spring Aerni	
1/19/2017	3:35	3:50	0.25					0.25				0.25	Notices of Public Hearing - 1079 SE 4th - Email to Stacie Cook, Canyon Weekly and MCRFD. Cert of Completeness to City.	
1/20/2017	9:00	10:00	1.00	1.00								1.00	Mtg w/ City Attorney Jim McGehee re: Orientation Session; Discuss topics for review	
1/20/2017	11:00	1:45	2.50	1.00							1.50	2.50	Research LOC Handbook; Ex Parte, Conflicts of Interest, Bias - Prepare Orientation session handout; Email to Jim & Stacie for review; Email to Ann Carey for use at PC Mtg in February 2017	
1/20/2017	2:00	4:00	2.00					2.00				2.00	CUP Staff Report; Carter Medical Hardship Staff Report	
1/23/2017	10:00	11:30	1.50					0.50			1.00	1.50	CUP Staff Report; Carter Medical Hardship & CUP format	
1/23/2017	11:30	11:40	0.20			0.20						0.20	2008-06-07 - Santiam High School Track Lights relocation. Complies with Variance & CUP as long as lights are 10' from west property boundary. Call w/ Stacie Cook	
1/23/2017	12:00	12:30	0.50					0.50				0.50	CUP Staff Report: Carter Medical Hardship Staff Report & CUP format	
1/24/2017	10:30	11:30	1.00	0.50							0.50	1.00	Prep for Council Workshop	
1/24/2017	12:45	1:25	0.65			0.65						0.65	Prepare PC Minutes for January 17, 2017 meeting.	

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Client: City of Mill City Month: January 2017

Land Use Applications

Date	Start Time	End Time	Total	Admin	SOB		Planning General	2016-06	2017-01	2016-13	Zoning Code			Work Activities	Miles	
					Dollar General	Medical Hrdship		Aerni Variance	Amendmts	No	Charge	Total				
1/24/2017	3:05	3:20	0.15				0.15							0.15	Call w/ Ann Carey & Edits to January 17, 2017 meeting minutes.	
1/24/2017	6:15	8:45	2.25	2.25										2.25	Council Orientation Workshop	
1/25/2017	1:35	1:45	0.15						0.15					0.15	Insert Pix and W/S Utility information into the staff report.	
1/26/2017	2:25	2:40	0.20					0.20						0.20	Review Cross Access Easement form	
1/26/2017	2:45	3:00	0.25				0.25							0.25	Review Spindell LLA map; Email comments to Greg Wilson, Barker Surveying and the City of Mill City.	
1/30/2017	9:45	12:20	2.25		2.25									2.25	Design/Constr Subcommittee Mtg - Prioritize elements for inclusion in project; Prepare for SOB committee meeting	
1/30/2017	12:30	1:00	0.50	0.50										0.50	Review audit; Discussion w/ Stacie Cook and Mayor Kirsch re: CC Work Session on City Administrator position	
														-		
														-		
														-		
														-		
														-		
			37.30	5.60	8.75	11.60	-	0.20	4.15	2.00	-	5.00	37.30			55

25.95

Hours	Rate	Total
32.30	70	2,261.00
55	0.55	30.25
		2,291.25