



City of Mill City

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MILL CITY PLANNING COMMISSION AGENDA Regular Meeting

Tuesday, April 16, 2019 6:30 p.m.

City Hall – 444 S. First Avenue

MILL CITY, OREGON 97360

SITE VISIT – Tuesday, April 16, 2019 at 4:30 PM 769 SW Ivy Street

Prior to the meeting, available members of the Planning Commission will conduct a site visit on SW Ivy Street from 4:30 p.m. to 5:00 p.m. to familiarize them with the partition site to be considered during the public hearing.

- 1. Call to Order and Flag Salute – 6:30 p.m.** Chair Ann Carey
- 2. Approval of Minutes:** April 2, 2019
- 3. Public Comment:**

We welcome you to today's special 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. 2019-01 & 2019-02
Applicant: Scott Baughman
Proposal: Minor Partition (Combine 2 parcels & redivide into 3 lots)
Site Plan Review (Duplexes on Proposed Lots)
Location: 230/272 SW Ivy Street

This hearing was continued from March 19, 2019

A supplemental information packet will be provided prior to the continued hearing.

File No. 2019-06
Applicant: Lee & Vicki Fleming
Proposal: Variance to allow an Accessory Dwelling Unit addition as part of a single-family residence.
Location: 769 SW Ivy Street

5. Presentations: None scheduled

6. Old Business

- a. 2019 Work Program Accepted by City Council on 3-26-2019
- b. Nuisance Ordinance – Noise Amendments Adopted by City Council 4-09-2019
- c. Other

7. New Business

- a. Accessory Dwelling Units – Zoning Code Amendment
- b. Other

8. Informational Items

- a. City Recorder Report
- b. Planning Consultant Time Report
- c. TIGER Grant Agreement Status
 - i. Transfer of Jurisdiction – 1st Ave & N. Santiam River Bridge Approved by City
 - ii. TIGER Grant Agreement Executed by USDOT & Linn County
- d. Skate Park Design Plans – 90% drawings submitted to City for skate park area. Comments returned to Dreamland. Designers must complete site plan for north portion of site and ROW areas on SW 2nd & SW Cedar Street before presenting to the PC and City Council.
- e. New Applications:
 - i. 2019-07 Schenck – Setback Variance NW 7th & NW Sunset Place
- f. Prospective Application:
 - i. 2019-xx Sportsman Center – Site Plan Review (future gas station)
 - ii. 2019-xx Subdivision – SE 6th & SE Hazel Neighborhood

9. Other Business

10. Adjournment

Upcoming Planning Commission Meetings (All meetings at City Hall)

Tuesday, May 21, 2019	4:30 PM	Site Visit – NW 7 th & NW Sunset Place
	6:30 PM	Regular Meeting & 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
- 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

Variance

The applicable substantive criteria upon which this case will be decided are found in the Mill City Comprehensive Plan and the Mill City Zoning Ordinance sections which are listed in the staff reports. The property is located in the R-1 Single-Family Residential Zone. A variance is requested to Section 17.12.020 "Permitted Uses" to allow an accessory dwelling unit as part of a single-family home at 769 SW Ivy Street. The applicants propose to construct a 24' x 30' addition with a separate kitchen, living area and bathrooms. The addition will be occupied by a parent as a separate living area. Variance criteria are found in Chapter 17.56 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.

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 #2019-06, a variance to Section 17.12.020 of the Mill City Zoning Code to allow an accessory dwelling at 769 SW Ivy Street. The applicant, Lee and Vickie Fleming, propose to build a 24' x 30' addition onto their home with a kitchen area, living space and bathrooms. They request a requests a variance to allow for a second living area as part of a single-family home for occupancy by a parent.

A copy of the agenda and hearing procedures for this meeting is on the back counter. 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 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, 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.

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 March 19, 2019**

The meeting was preceded with site visits to Mill City Falls Park and 475 SE Kingwood Avenue (Well Site) at 4:30p.m.

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

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

City Council Representatives: None.

Agency Representatives: Bryce Foster, Pacific Power and Alan Meyer, Pacific Power.

Citizens: Carol Cree, Cheryl Lundquist, Roel Lundquist and Carrie Peterson.

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

APPROVAL OF MINUTES: *Denny Chamberlin moved, seconded by Woody Koenig to approve the minutes of March 19, 2019. The motion carried, (6:0).*

Mrs. Cook said that Commissioner Frances Villwock sent an email submitting her resignation, effective immediately due to health issues. This item will be on next week's Council agenda for acceptance and to declare position vacant. However, this is one of the seats expiring June 30th which have already been advertised, therefore there is no reason to re-advertise for the position.

PUBLIC COMMENT: None.

PUBLIC HEARING: File No. 2019-05
Applicant: City of Mill City
Proposal: Public Works Shop Building Site Plan Review
Location: 475 SE Kingwood Avenue

Chair Carey read the hearing procedures for tonight's hearing processes, asked for conflicts of interest, bias or ex parte contact and opened the hearing at 6:35 p.m.

STAFF REPORT: Mr. Kinney said that design drawings were provided for review by the Planning Commission for the new public works shop building proposed at the well site property, 475 SE Kingwood Avenue. The building is proposed to be directly north of the pump building. There are two houses west of the pump building.

The City needs to maintain a 100' separation between the well head and the face of the shop building. The plans propose a 105' separation to ensure this is met.

A site plan review is required for the new building on this property. A map showing the approximate location of the building, fuel storage enclosure and paved area was included in the

packet. There will need to be removal of three trees for this work to be done, which is denoted on the architect's site plan. However, after review this afternoon, it has been determined that they trees likely will not survive. Therefore, new trees will need to be purchased and installed along the west side of the property. The site plan also shows a new fence along the west property line to SE 4th Avenue as well as along the northern property line. Staff would recommend revision of this element to remove the section of fence along the west line to SE 4th Avenue in order to ensure site view for trucks moving in and out of the site.

The City can require street improvements with developments such as this. The City Engineer, Planner and staff reviewed streets a year or so ago and determined that this section of street not have full development as property develops adjacent to it.

The Planning Commission can require additional fencing and buffering and additional lighting. The staff conclusion is that the proposed site development complies with the City's zoning code and that the site plan should be approved as presented with the following modifications:

1. Do not replant trees; purchase new.
2. Modify location of fence to not extend out to SE 4th Avenue.

The conditions of approval for the application are recommended to be:

1. Site plan shall expire on March 31, 2020.
2. City Recorder and Planning Consultant may make minor modifications to the site plan in order to comply with City engineering and building code requirements.
3. Site plan shall comply with the following requirements:
 - a. Provide minimum 105' distance to the well #1 wellhead from front of PW shop building.
 - b. Provide 15' +/- setback to north property line.
 - c. All driveway and parking area shall be paved as shown on the site plan including one ADA parking space (striped and signed) east of water pump station and; 55' x 65' paved area for a minimum of four vehicles in front of bay doors.
 - d. Provide gravel access area and curbed fuel storage tank area.
 - e. Install chain link fence as shown on site plan, with modification of not fencing the west side to SE 4th Avenue.
 - f. Provide shielded lighting, directed down on side of building.
 - g. Trees and landscaping shall be installed by November 1, 2019.
4. Final civil engineering plans shall be submitted to City for approval prior to issuance of building permit. Civil plans shall show existing public utilities and proposed water, sewer, storm drainage and underground utilities. As-builts shall be provided to City within three months of issuance of certificate of occupancy.

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: None.

GENERAL TESTIMONY: Roel Lundquist, SW Linn Blvd., said that the overall color scheme

should be one that does not impact the area, such as a forest green. Mr. Lundquist also noted that he has concerns with having a diesel fuel storage in an unfenced area that would deter theft.

Cheryl Lundquist asked if it is traditional not to fence and gate areas that important to a City. Mr. Kinney said that there is not an exterior storage, which is what generally spurs the fencing in some cities. Mr. Kinney said that he would not recommend fencing the entire site at this time but this may change under health authority requirements in the future.

PLANNING COMMISSION QUESTIONS OF CLARIFICATION: Grant Peterson said that he would like to see fencing along the entire property to deter kids from entering the site. There is no light on the fuel storage end of the building and if fueling at night it would be a wise thing to have. There needs to be a provision for handling the rain water that will go into the fuel storage area, particularly if there is a fuel overflow. A full circular turn around area within the site and a drive through fueling station should be considered. Mr. Peterson asked where employee parking will be on the site. Mr. Kinney said that it would be an easy add to include parking to the east of the well building.

STAFF SUMMARY: Mr. Kinney said that the following items should be added to the conditions of approval:

1. Two additional paved employee parking to the east of the existing paved area at the well site.
2. Civil engineering for storm drainage need to address the fuel storage area.
3. Exterior security lighting needs to be added near the fuel storage area.
4. Fencing needs to be added around the fuel storage area.
5. Modify fencing as discussed above.

Dave Leach asked about electricity and heating stating that with the south facing building this would be a great place for solar panels.

CLOSE OF HEARING: Chair Carey closed the hearing at 7:03 p.m. and called for deliberation.

PLANNING COMMISSION DELIBERATION: *Marge Henning moved, Denny Chamberlin seconded by to approve the City of Mill City Public Works Shop Building site plan, File 2019-05, subject to the modified conditions of approval and to adopt the findings of fact in the staff report. The motion carried, (6:0).*

PUBLIC HEARING: File No. 2019-04
Applicant: City of Mill City
Proposal: Electric Vehicle Charging Station Site Plan Review
Location: Mill City Falls Park, 128 NE Wall Street

Chair Carey opened the public hearing at 7:06 p.m. No conflicts of interest, bias or ex parte contact were stated. Chair Carey called for the staff report.

STAFF REPORT: Alan Meyer, Pacific Power, said that Pacific Power is trying to provide vehicle electrification within their service area. One area that is a prime location is the North

Santiam Canyon. There are three types of electric chargers, levels one through three. The proposal is for four level three stations. This is a DC fast charge which provides a 30 to 60 minute charge time.

Several of these stations will be built within Pacific Power service areas. This is an economic development opportunity as well because when people stop to charge they will normally spend money during the wait time. The charging stations will be on GPS units and maps so people with electric vehicles know that they are available for use.

Bryce Foster, Pacific Power, said that the electrical infrastructure has been pulled as close to the property line as possible to get it out of the line of site and a wood enclosure was added around it. A gravel maintenance area was also added near the parking spaces.

Mr. Chamberlin asked where the next charging stations will be to either side of Mill City. Mr. Foster said that to the east it will be Bend and to the west it will be Otis.

Mr. Kinney asked about the size of the chargers. Mr. Foster said that they are 7'4" T x 2'4" W x 1'4" D.

Mr. Kinney asked why the Mill City Falls Park site was identified for these stations. Mr. Bryce said that they look for areas that will provide opportunities for those using the charges. This site has restrooms, easy accessibility to restaurants as well as the necessary power already in place.

Carol Cree, North Santiam Historical Society, said that the sidewalk that goes up to the restaurants is in terrible shape and would need to be addressed. There are also concerns about parking and congestion in this area. The Historical Society would like to follow an historic theme as the park develops.

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: Cheryl Lundquist, SW Linn Blvd, said that she is not opposed to charging stations but she is opposed to the site plan. The current purpose does not provide compatibility with the Master Parks Plan. Mrs. Lundquist said that if there is a way to integrate the charging stations so that they are more compatible with the park plan.

Roel Lundquist, SW Linn Blvd, seconded Mrs. Lundquist's opinion. There is not an ability for pedestrians to come from the upper parking to get to the park area without having conflict with these stations. There is a structure involved as well, which has now been proposed along the property line, but still needs to be camouflaged. In addition, the vehicular access that the City needs to get to the pump station needs to be looked at. Mr. Lundquist said that there are other sites in town that may or may not be as economically beneficial to Pacific Power. This development is not economically in the best interest of the City.

Mr. Kinney said that there was written testimony provided by a few citizens and read two (Forward, Thomas) into the record. Those include David Forward, Frances Thomas and Carol Cree.

Mr. Forward's statement said that his concerns are that the charging stations do not fit with the historic theme in the area, they will cause congestion at the restrooms and park access, the number proposed seems high for actual use, especially since they would be away from the main highway, and the charging station at the laundromat is rarely, if ever, used.

Mrs. Thomas's statement said that the development would have a negative impact on the aesthetics of Wall Street, it does not follow the Master Park Plan, it won't bring people into downtown as downtown is now on the Linn County side of the car bridge, it is not an appropriate site as it does not blend with the historic railroad bridge or the two buildings owned by the Historical Society and the technology is evolving and may be obsolete very shortly. Mrs. Thomas provided other locations that could be considered.

Mr. Meyer said that the charging stations won't be obsolete as they will be able to be modified to meet technology as it changes. It is not the stations that are an issue, it is the battery technology. The proposed charging stations will be much more efficient than the one at the laundromat.

GENERAL TESTIMONY: None.

STAFF SUMMARY: Mr. Kinney said that the criteria for this are similar to those for the prior hearing. Storm drainage and ingress/egress for vehicles and pedestrians will need to be taken into account. One of the biggest issues seen on the proposed site plan is integration with the Master Parks Plan and the ability for pedestrians and ADA accessibility in and out of the park site. The difficulty with this site is that there is one location where these grades can be met and it is near the proposed location for the charging stations.

Another consideration is that there is a potential for parking to be developed to the east. Mr. Kinney would recommend continuing this hearing to the May meeting to give time for Mr. Meyer, the City and the property owner to the east, Mike Erdman, to meet to discuss how we might integrate the two sites.

QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION: David Leach asked if the spaces are only for electric vehicles. Mr. Foster said that the signage would state that the spaces are electric vehicles preferred. Mr. Meyer said that he does not believe there is a rule that a gas vehicle could not park there briefly.

Mr. Kinney asked if there could be an option to phase in the charging stations as use calls for it. Mr. Foster said that it is better for Pacific Power to install all of the stations at the same time in order to have the same pedestals and technology.

Mr. Kinney asked what demand was used in order to determine how many charges should be installed. Mr. Meyer reiterated that these stations will be shown on GPS mapping, which will create a higher demand for them, and eventually, the possibility for more.

Mr. Chamberlin said that he does not see plug in hybrids using these stations because it is not a good economic value. There are many days during the summer when this area is highly used and

these spaces will likely be filled as well, which will mean that electric vehicles will not be able to use them. Mr. Chamberlin said that the sidewalk behind the museum would need to be improved before it could be considered as an option to get to the restaurants above. There are concerns about taking valuable green space for charging stations in such a great park location.

Mr. Meyer said that these stations will increase the foot traffic to the museum as well as to the restaurants in the area and puts Mill City on the map in a way with people who have never ventured off of the highway.

Chair Carey continued the public hearing to May 21, 2019 at 6:30 p.m. to allow time for staff to meet with Pacific Power and the neighboring property owner to review options for revisions to the parking locations as well as to determine how pedestrian access may be incorporated into the overall design.

PRESENTATIONS: None.

OLD BUSINESS:

2019 Work Program: The Council accepted the 2018-2019 work program, including the recommendation to continue with the update to the Comp Plan and to apply for the Marion County Community Grant for the capacity study.

NEW BUSINESS: None.

INFORMATIONAL ITEMS:

TIGER Grant Agreement: The jurisdictional transfer agreement has been signed and completed and the TIGER grant agreement has been as well.

The MOU for the roles of the City and County needs to be signed still as does the maintenance agreement.

BUSINESS FROM THE PLANNING COMMISSION: None.

OTHER BUSINESS: None.

The meeting was adjourned at 8:27 p.m.

Prepared by:

Stacie Cook, MMC City Recorder

Minutes approved by the Planning Commission on the 2nd day of April, 2019

David W. Kinney
Community Development Consultant
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Office: (503) 769-2020 Cell: (503) 551-0899
Email: dwwkinney@wvi.com

To: Mill City Planning Commission
From: David W. Kinney, Planning Consultant
Staff Report Date: April 8, 2019
Hearing Date: April 16, 2019
File No. 2019-06 Variance to Mill City Zoning Code— Section 17.16.060 - Setbacks
Applicant: Lee and Vickie Fleming
Owner: Lee and Vickie Fleming
Location: 769 SW Ivy Street, Mill City
Linn County Assessor's Map T09S R3E Section 31AB, Tax Lot 02600

Enclosures:

- A. Application & Proposed Site Plan Showing Accessory Dwelling Unit Addition
- B. Building Plans showing floor layout and exterior entry/exits to the home
- C. Notice of Public Hearing

I. Proposal & Background Information

A. Applicant's Proposal

The City has received a land use application from Lee and Vickie Fleming requesting a variance to Section 17.12.020 of the Mill City Zoning Code to allow them to construct a 24' x 30' addition (720 sf) to their home at 769 SW Ivy Street in Mill City. The applicants request a variance to use the addition as an accessory dwelling unit for an elderly parent. The addition will be an independent living area with separate kitchen facilities, restroom and living space. An accessory dwelling unit is not currently permitted in the R-1 Single-family residential zone.

The applicant provided the following explanation for the request:

The purpose of this variance request is to allow a mother-in-law [accessory dwelling unit] ADU for my elderly mother to live close. She is elderly, widowed and on a fixed income. She recently moved to Oregon to be near her daughter. In order to provide a safe, independent living environment that is self-contained will require a cooking area. This variance will provide that independent opportunity while providing safety and security. Her daughter and husband work six days a week and she will need a stove to maintain a healthy independent life-style.

B. MCMC Code Sections Requiring A Variance: Section 17.20.050

17.04.030 Definitions

Dwelling, Single-Family. "Single-family dwelling" means a building designed and occupied exclusively by one related family. The building may have only one kitchen.

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.

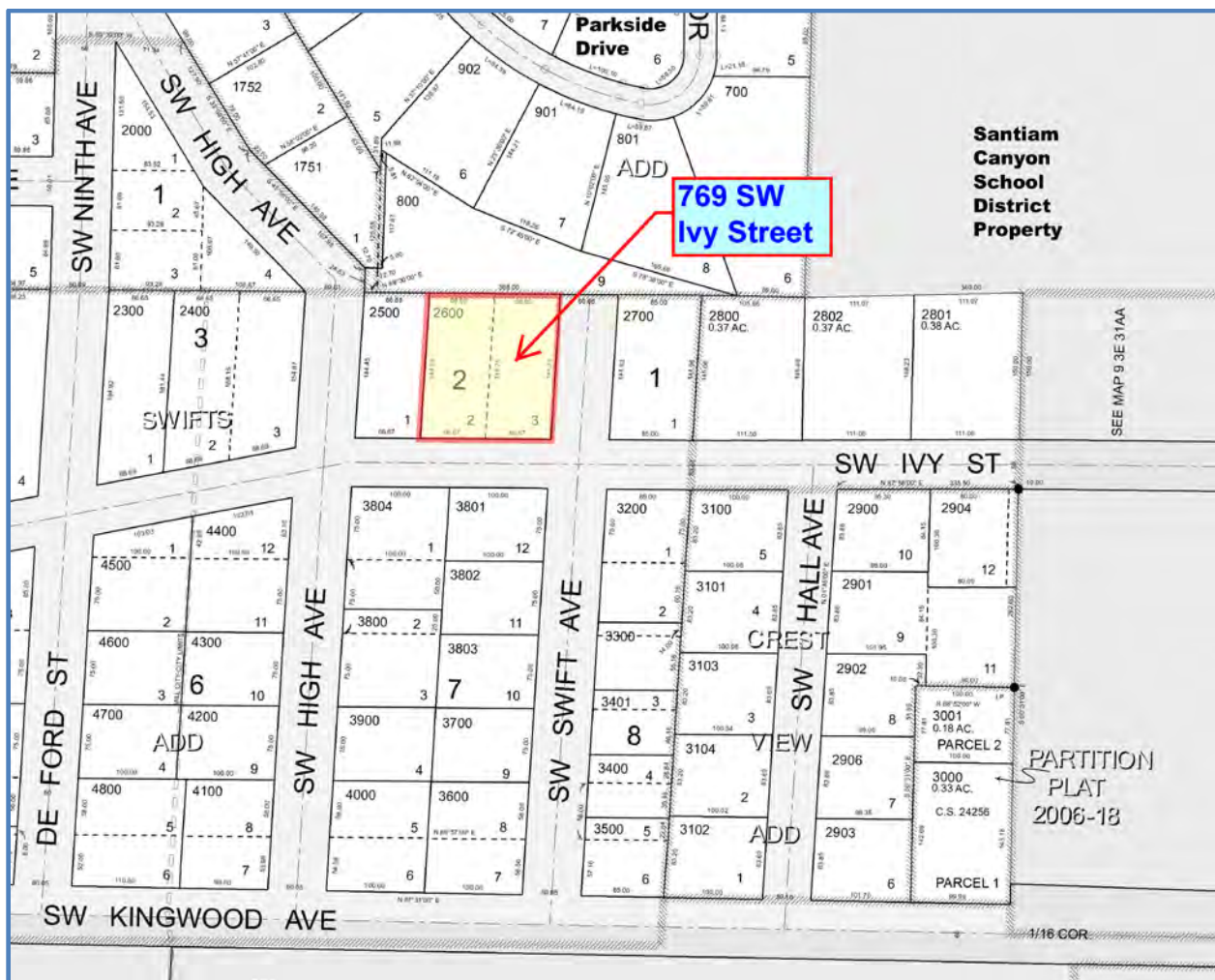
17.12.020 Uses permitted outright.

In an R-1 zone, the following uses and their accessory uses are permitted outright:

- A. Detached single-family dwellings, subject to the following development standards:

The purpose of the zoning requirement is to prevent the conversion of a single-family dwelling into a multiple-family dwelling with separate living units. The applicant seeks to add a separate living unit, but maintain the use as a dwelling occupied “exclusively by one related family”. A variance is requested to allow the separate accessory dwelling unit.

Map 1
Tax Lot 02600 – 769 SW Ivy Street, Mill City, Oregon



C. Existing Conditions & Surrounding Properties:

The subject property is a 0.51-acre lot at 769 SW Ivy Street. The property has a 1,720-sf single-family dwelling plus a 676-sf garage. The home site is flat at the 860' elevation. The north half of the lot slopes down to an elevation of 855'. The lot to the north has steep slopes down to Parkside Drive. The aerial photo (Map 2) shows nearby homes and streets.

Surrounding properties have the following characteristics:

- NORTH: Vacant parcel with steep slopes.
- EAST: 778 SW Swift Unimproved ROW and single-family dwelling.
- SOUTH: 724 & 732 SW Ivy Single-family residence.
- WEST: 775 SW Ivy Single-family residence.

Map 2
Surrounding Uses – 769 SW Ivy Street, Mill City, Oregon



D. Utilities & Public Improvements:

City Utilities: The property is already served by City of Mill City water and sewer services and private utilities.

Water: 8" Water Main in SW Ivy Street. Fire Hydrant w/in 100' No new water services are proposed.

Sewer: 4" Sewer Main in SW Ivy Street. Existing sewer interceptor tank on east side of lot. No new sewer service is proposed.

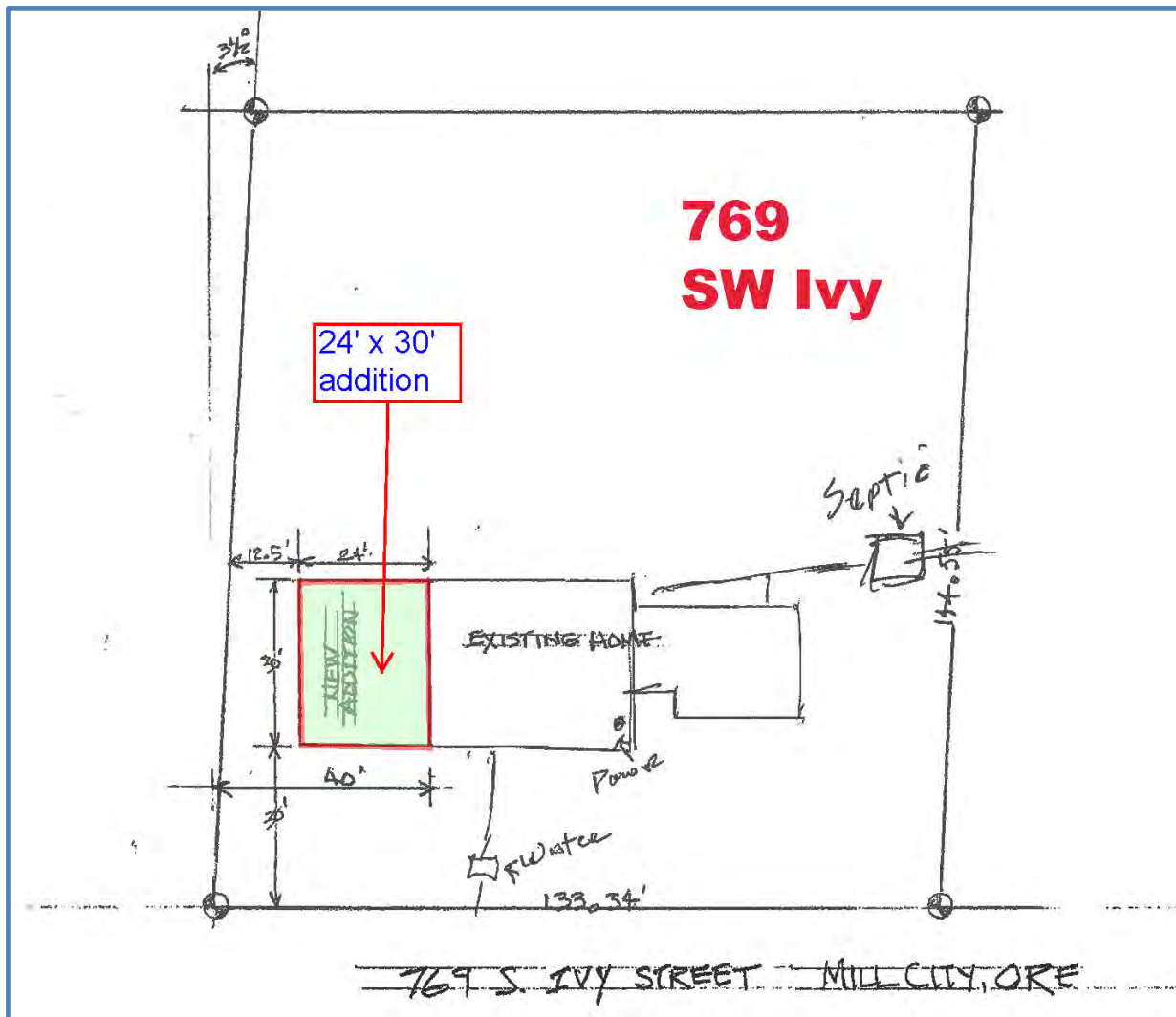
Storm: There is not a storm sewer in the vicinity of the project site. On-site storm drainage will be needed.

Street: NW Ivy Street is a 20'+/- wide turnpike style streets with AC pavement and gravel shoulders. Building addition does not require street improvements.

Private Utilities: The existing home is served by private utilities.

Map 3

Proposed Building Addition and Utilities at 769 SW Ivy Street, Mill City, Oregon



- E. **Agency Comments:** Agency comments were solicited from the Mill City Rural Fire Protection District and private utilities. The City requested comments be submitted by April 11, 2019. All agency comments received prior to or at the public hearing will be included in the record of the proceedings.

Mill City Rural Fire Protection District: Chief Ohrt and Justin Merrill provided the following comments:

Will accessory dwelling have separate entrance, or will it be accessed from the existing home? We have a lot of issues responding to addresses and told “No emergency here”, must be apartment in garage/shed out back. If service entrance needs a separate address if allowed.

If there are two addresses on a parcel, will the Fire District want to have both addresses posted on the buildings so they are clearly visible from the street?

Yes absolutely, it gets very confusing when they are not easily seen.

- F. **Neighbor Comments:** Notices were sent to property owners within 100’ of the applicant’s property soliciting written comments and informing them of the public hearing. All comments received prior to or at the public hearing will be included in the record of the proceedings.

II. Review of Zoning and Variance Criteria

- A. **Zoning & Comp Plan Designations:** The property has the following plan designations and zoning:

Property Location	Comp Plan Designation	Zoning
769 SW Ivy	Residential	Single-Family Residential

- B. **Chapter 17 Mill City Zoning Code:**

The following sections of the Mill City Zoning Code apply to the proposal:

17.12.020 Uses permitted outright.

In an R-1 zone, the following uses and their accessory uses are permitted outright:

- A. Detached single-family dwellings, subject to the following development standards:

17.44.020 Accessory uses.

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

17.44.020.H “RV or MH for Medical Hardship” as a temporary residence

17.56.010 Authorization to grant or deny variances.

The planning commission may authorize variances from the requirements of this title, where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be created to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

- 17.12 Single-Family Residential (R-1) zone.** In the R-1 zone, a single-family dwelling is a permitted use. The existing home is a permitted use. Under the definition for an SFR dwelling in Section 17.04.030, a separate living unit with a 2nd kitchen is not allowed.

17.04.030 Definitions

Dwelling, Single-Family. "Single-family dwelling" means a building designed and occupied exclusively by one related family. *The building may have only one kitchen.*

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.

A variance is required to Section 17.12.020 if an addition is built with a separate living unit for another family member.

17.12.020 Permitted Uses. A single-family dwelling is an outright permitted use, subject to compliance with the lot size, area, setback, building height and design standards.

17.12.040 Lot size, width and coverage. Minimum lot size is 5,000 sf., with 50' average width. The existing 0.51-acre parcel exceeds the minimum size requirements. Buildings may not occupy more than 40% of the site. The proposed buildings will occupy about 14% of the site.

17.12.050 Building Height. Maximum building height is 35'. The existing home and addition will be one-story, 16' high or less.

17.12.060 Setbacks. The following table shows the required and proposed setbacks.

Setback	Required	Proposed
Front	15'	30' +/-
Rear	5'	85' +/-
Side	5'	12.5'

17.12.070 Parking. Two off-street parking spaces are required. A building addition does not require additional parking.

Findings: The site plan shows the 24' x 30' building addition will comply with the basic zoning requirements (lot size, lot coverage, building height, yard requirements and parking) in Sections 17.12.030 to 17.12.070.

The proposal does not comply with the SFR dwelling definition, which does not permit a 2nd kitchen as part of a single-family dwelling; therefore, the applicant requests a variance to the requirements in Section 17.12.020. If the variance is approved, the City Planning Consultant finds the use is an allowed use and the applicant can comply with the basic zoning requirements.

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 is located in the R-1 zone. All building additions must comply with the R-1 zone use, height and setback requirements.
2. The applicant has submitted a site plan showing the location of the proposed 24' x 30' building addition. As noted above under MCMC 17.12.030 to 17.12.070, the addition will comply with the basic lot size, lot coverage, building height and setback requirements. No garage is proposed.
3. The applicant submitted the following explanation on why the proposal is an unusual circumstance:

"This property is a double-lot and will not intrude on any views or easements. There is no need to add a driveway as the existing driveway will be shared. The roofline will remain constant and conform to city standards. [e.g. building code requirements]."
4. The property will be occupied by one related family unit: the homeowners and ___ mother.
5. In 2017, the Oregon Legislature adopted SB 1051 mandating that Oregon cities (larger than 2,500 persons) allow an accessory dwelling unit (ADU) to a single-family dwelling in a single-family residential zone. The City of Mill City has not adopted code amendments to allow ADUs.

Conclusions: The staff concludes the following unusual circumstances exist:

1. The applicants propose to retain the use as a single-family dwelling for a related family member. The allowance of a kitchen in the building addition will not create a duplex, but will retain the SFR dwelling use.
2. The proposed building addition will comply with basic zoning requirements.
3. 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 Planning Commission will consider an ADU amendment to the zoning code in 2019.

The Planning Consultant concludes allowance of a second living unit for an elderly family member is consistent with the intent of an SFR dwelling unit, even if a second kitchen area is added to the home.

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.

2. The applicant submitted the following explanation on why the proposal preserves a property right similar to the property rights enjoyed by other property owners in the R-1 zone:

“This variance will allow affordable and safe independent living for my elderly mother. Allowing a cooking area to this unit will improve the value of the neighborhood, maintain tax assessments and provide for the continued enjoyment to the extended family residence for generations as other family members expect.”

Conclusion: The Planning Consultant concludes the dwelling addition the inclusion of a second kitchen area as part of the building addition will not change the use of the property from a single-family residence to a multi-family residence. The building plans show the units will be connected internally and the occupant of the addition will share the remainder of the home with other family members, but may have an independent area for themselves.

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-1 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-1 zone requirements.
4. The Mill City Zoning Code allows temporary use of a recreational vehicle or manufactured home for the care of an elderly family member, as a medical hardship under MCMC 17.44.020.H.
5. The Mill City Zoning Code does not have a similar provision to allow for a stick-built addition to a dwelling to allow for care of an elderly family member.
6. In 2017, the Oregon Legislature has adopted HB 1051 as a statewide policy to require cities with populations greater than 2,500 to allow accessory dwellings in a single-family residential zone. HB 1051 was adopted to create affordable housing opportunities and to enable family units to live together.
7. The applicant submitted the following statement:

“The property will remain the same single-family owner-occupied [dwelling] with family use and no intent of renting or altering street appearance. General purpose of this property is for the continuation as a single-family residence which will be maintained with this variance.”

“This variance will be consistent with the future plans for providing affordable housing to the elderly and maintaining family values of taking care of family. This will provide a growth and development platform to show what can be possible if executed in good faith to property owners in collaboration with the city government.”

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. The proposal to build a stick-built addition for the care of an elderly family member is similar to MCMC Section 17.44.020.H and also complies with the Oregon legislature’s policy direction to cities in HB 1051 to provide more opportunities for affordable housing.

III. Recommendation and Conditions of Approval

The Planning Consultant recommends the Planning Commission approve a variance to Section 17.12.020 to permit the accessory dwelling unit addition to the existing home at 769 SW Ivy Street, including a 2nd kitchen area and living unit in the 24' x 30' building addition.

The Planning Consultant also recommends the Planning Commission and City Council move forward with an amendment to the Mill City Zoning Code to permit accessory dwelling units, as an allowed use in the R-1 and R-2 zones. Inclusion of clear standards and criteria for an accessory dwelling unit is more appropriate than grant "variances" to the existing code.

Conditions of Approval:

If the Planning Commission approves the variance, the staff recommends the following conditions of approval:

1. The building addition shall comply with the basic zoning requirements in the R-1 zone.
2. The building addition will not have a separate entry/exit, or
If the building addition will have a separate entry/exit, the applicant shall obtain a second address for the ADU unit and the applicant shall post address numbers for each dwelling unit that are clearly visible from SW Ivy Street.
3. The applicant shall apply for a building permit by April 30, 2020. If no building permit application is filed by April 30, 2020 at 4:00 p.m., the variance approval will expire.

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:

Approval: To grant the variance to Lee and Vickie Fleming, File No. 2019-06, subject to the conditions of approval and to adopt the findings of facts and conclusions in the staff report dated April 5, 2019.

Modified: To grant the variance to Lee and Vickie Fleming, File No. 2019-06, subject to the modified conditions of approval and to adopt the findings of facts and conclusions in the staff report dated April 5, 2019.

Denial: 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."

Exhibit A

Variance Application to Zoning or Subdivision Regulation

TYPE OF APPLICATION:	Application Fee
<input type="checkbox"/> Pre Application Conference with Planner	\$ 200 .00
<input type="checkbox"/> Variance	
<input checked="" type="checkbox"/> Variance to Zoning Regulation	\$ 500.00
<input type="checkbox"/> Variance to Subdivision Regulation	\$ 500.00

I understand 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: _____

Lee Fleming
Property Owner or Authorized Agent

1. BRIEFLY DESCRIBE PROPOSAL:

- Variance to Mill City Zoning Code, Section _____
- Variance to Mill City Subdivision Code, Section _____

Describe the variance requested: To allow a fully self-sufficient kitchen

2. APPLICANT:

Name: Lee & Vickie Fleming

Address: 769 SW Ivy st

City/State/Zip: Mill City Oregon 97360

Phone:

Work (503) 383 - 6968 Home: () 971-218-7881

Fax () - Email:

- Owner of Record
- Authorized Agent or Representative

DO NOT WRITE BELOW THIS LINE

Application received by: _____ Date: _____ Fee Paid: \$ _____ Receipt No. _____

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

3. OWNER'S AUTHORIZATION (Complete if applicant is not owner of record)

I am (We are) the owner(s) of record of the subject property described in this application and authorize _____ to represent my (our) interests in any and all hearings regarding this application.

Signature: *Lee Fleming* Printed Name: Lee Fleming

Signature: *Vickie Fleming* Printed Name: Vickie Fleming

Mailing Address: 769 SW Ivy st

City/State/Zip: Mill City Oregon 97360

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: 769 SW Ivy st

Closest Intersecting Streets: Swift + SW Ivy

Assessor's Map & Tax Lot Number:

T9S R3E _____ Tax Lot(s): _____

T9S R3E _____ Tax Lot(s): _____

Size of Property: .688 acres or _____ square feet.

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

Lot No.: 2 & 3 Block No.: 2 Subdivision: 2600

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."

5. Existing Zoning: R-1

6. Current Use of the Property: Single Family - Owner Occupied-Multi Generational Family

VARIANCE APPLICATION

The Mill City Planning Commission may authorize variances from the requirements of the zoning code or subdivision code, where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be created to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

The Planning Commission will use the information provided by the applicant below to analyze the merits of this application. A decision to approve or deny the application is made based on how well the applicant meets the standards and criteria set forth in the Mill City Zoning Code or Subdivision Code. Please provide the following information in full. This application will not be accepted unless all required information is provided.

GENERAL INFORMATION:

1. Current Use of the Property: Single Family home for 3 generations.

2. Proposed Use of the Property: An Adu unit for my elderly and widowed mother,who recently moved from
from Maryland to Oregon. She is on a fixed income and wants her independence for as long as she can have it while being
safe in a new enviroment

3. Code Section for which the variance is requested: ADU code

4. Existing Code Requirement: _____

5. Describe the Proposed Variance and Reasons for the Request (additional info may be attached):
The purpose of this variance request is to allow a mother in law (ADU) for my elderly mother to live close
She is elderly, widowed and, on a fixed income. She recently moved to Oregon to be near her daughter.
In order to provide a safe, independent, living enviroment that is self contained ,will require a cooking area.
This variance will provide that independant opportunity while providing safety and security. Her daughter and
husband work six days a week and she will need a stove to maintain a healthy and independent life-style.

DECISION CRITERIA:

In order for the planning commission to approve a variance the applicant must demonstrate all of the following criteria have been addressed:

1. Explain why 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 have no control.

This property is a double-lot and will not intrude on any views or easements. There is no need to add a driveway as the existing driveway will be shared. The roofline will remain constant and conform to city standards.

2. Explain why 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.

This variance will allow affordable and safe, independent, living for my elderly mother. Allowing a cooking area to this unit will improve the value in the neighborhood, maintain tax assessments and provide the continued enjoyment to the extended family residence for generations as other property owners expect.

3. Describe how the variance is not in conflict with the general purpose and intent of this title, or to property in the same zone or vicinity in which the property is located.

The property will remain the same Single Family owner occupied with family use and no intent of renting or altering street appearance. General purpose of this property is for the continuation as a single family residence which will be maintained with this variance.

4. Explain how the existing or proposed use of the property will be consistent with the goals and policies in the comprehensive plan if the variance is approved.

This variance will be consistent with the future plans for providing affordable housing to the elderly and
maintaining family values of taking care of family. This will provide a growth and development platform to
show what can be possible if executed in good faith to property owners in collaboration with the city government.

15. **CONSULTANTS:** Please list below any planning and engineering consultants.

PLANNING

Name

Firm

Street Address

City State Zip

(____) _____ - _____
Work Phone

(____) _____ - _____
FAX

E-mail

ENGINEERING

Name

Firm

Street Address

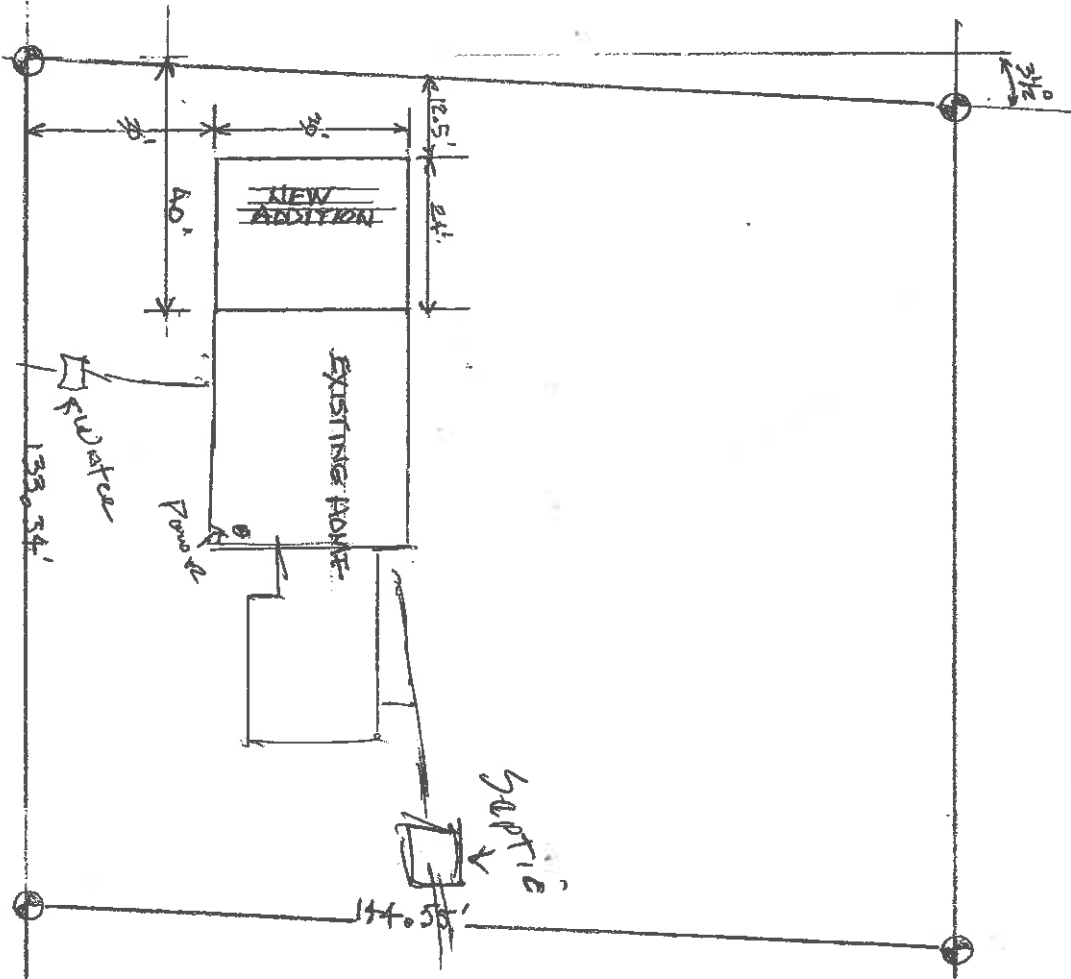
City State Zip

(____) _____ - _____
Work Phone

(____) _____ - _____
FAX

E-mail

PLOT PLAN SCALE 1" = 20'
AD MOTHER-IN-LAW APT TO EXISTING HOME
MARY MILLER
DRAWN DEWIS/SHAW
11-23-18



769 S. IVY STREET MILL CITY, ORE

Exhibit B - Floor Plan

Applicant will bring building plans to PC Hearing

Exhibit C

Notice of Public Hearing before the Mill City Planning Commission

Tuesday, April 16, 2019 6:30 p.m.
City Hall, 444 1st Avenue, Mill City

March 19, 2019

**Proposal: Variance to Permitted Uses in a Single-Family Residential Zone
Allow an Accessory Dwelling Unit as part of a single-family home.**

Name of Applicant: Lee & Vickie Fleming
Property Owner: Lee & Vickie Fleming
Location of Request: 769 SW Ivy Street, Mill City, Oregon
Assessor's Map #: Linn County -- T9S, R3E, Section 31AB, Tax Lot 02600

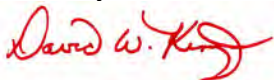
TO: Adjacent Property Owners

The City has received a land use application from Lee and Vickie Fleming requesting a variance to Section 17.12.020 of the Mill City Zoning Code to them to construct an addition to their home at 769 SW Ivy Street in Mill City. The applicants request a variance to use the addition as an accessory dwelling unit for an elderly parent. The addition will be an independent living area with separate kitchen facilities, restroom and living space. An accessory dwelling unit is not currently permitted in the R-1 Single-family residential zone.

A public hearing concerning the matter will be held before the Planning Commission on Tuesday, April 16, 2019 as part of the regularly scheduled Planning Commission meeting which begins at 6:30 p.m. at the City Hall, 444 1st Avenue in Mill City. The Planning Commission will make its decision based on criteria found in the Mill City Zoning Code, Section 17.56.030. The Searchable City Code can be viewed under "Documents" at the City of Mill City website: <http://www.ci.mill-city.or.us/>. The zoning code is Title 17.

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