

# STAYTON PLANNING COMMISSION

## AGENDA

7:00 pm

Monday, February 28, 2022

### **HYBRID MEETING**

The Stayton Planning Commission will be holding a hybrid meeting utilizing Zoom video conferencing software. The meeting will be in-person but can also either be "attended" virtually or watched on the live stream on the City of Stayton's YouTube account.

City officials request all citizens that are able, to join the meeting online from home. Social distancing is essential in reducing the spread of COVID-19. The City is using technology to make meetings available to the public without increasing the risk of exposure. If you would like to virtually participate in the meeting, please contact the Planning and Development Department at [dfleishman@staytonoregon.gov](mailto:dfleishman@staytonoregon.gov) to receive an invitation to the online meeting.

Watch the meeting live streamed on YouTube <https://youtu.be/2oh3rLXPjAo>

1. **CALL TO ORDER** **Chair Lewis**
2. **MEETING MINUTES – January 31, 2021**
3. **LAND USE FILE #1-02/22 –PUBLIC HEARING Application for Variance, Ellen Nunez, 901 E Jefferson St**
  - a. **Commencement of Public Hearing**
  - b. **Staff Introduction**
  - c. **Applicant Presentation**
  - d. **Staff Report**
  - e. **Questions from the Commission**
  - f. **Proponents' Testimony**
  - g. **Opponents' Testimony**
  - h. **Governmental Agencies**
  - i. **General Testimony**
  - j. **Questions from the Public**
  - k. **Questions from the Commission**
  - l. **Applicant Summary**
  - m. **Staff Summary**
  - n. **Close of Hearing**
  - o. **Commission Deliberation**
  - p. **Commission**
  - q. **Decision**
4. **OTHER BUSINESS**
5. **ADJOURN**

**DATE OF NEXT MEETING: Monday, March 28, 2022**



**STAYTON PLANNING COMMISSION  
MEETING MINUTES  
Monday, January 31, 2022**

**COMMISSIONERS:** Heidi Hazel, Vice-Chair  
Dixie Ellard  
Richard Lewis  
Larry McKinley

**STAFF MEMBERS:** Dan Fleishman, Planning & Development Director  
Windy Cudd, Office Specialist, Minutes

**OTHERS PRESENT:** Jeff Tross, Tross Consulting Inc, Mark Ferris, GFP Enterprises,  
William & Lynda Harrison

1. **CALL TO ORDER:** Vice Chair called the meeting to order at 7:02 pm.
2. **ELECTION OF OFFICERS FOR 2022:** Hazel moved, and Ellard seconded to nominate Lewis as Chair. Passed 4:0.  
Richard Lewis moved, and Ellard seconded to nominate Hazel as Vice Chair. Passed 4:0.
3. **INTRODUCTION OF NEW MEMBER:** The Commissioners introduced themselves to new Commissioner, Larry McKinley.
4. **APPROVAL OF MINUTES:** Hazel moved, and McKinley seconded to approve the minutes from November 29, 2021, as presented. The motion was approved 4:0.
5. **LAND USE FILE #15-1-20/21 PUBLIC HEARING- Application for Comprehensive Plan Map Amendment and Official Zoning Map Amendment, Freres Building Supply, 182 W Ida and 209 W Water ST**
  - a. **Commencement of Public Hearing-** Vice-Chair Hazel read the opening statement and opened the hearing at 7:04 pm. No objections were made from the audience to the notice on this case or the jurisdiction of this body to hear the case. There were no declarations of conflict of interest, *ex parte* contact, or bias by members of the Planning Commission.
  - b. **Staff Introduction-** Fleishman explained the application for Comprehensive Plan Map Amendment and Official Zone Map Amendment as applicant is requesting to change the Zoning for commercial use.
  - c. **Applicant Presentation-** Jeff Tross of Tross Consulting Inc, requesting committee to allow Zoning to change from HD to Commercial Retail, for a landlocked parcel of 1 acre to build a warehouse north of the existing Freres building.
  - d. **Staff Report-** Fleishman recommended to approve the application request as presented.
  - e. **Questions from Commission-** None
  - f. **Commission Decision-** Vice-Chair Hazel moved and Richard Lewis seconded to approve application adopting the draft order as presented. Passed 4:0.
  - g. **Close of Hearing-** Vice-Chair Hazel closed the hearing at 7:25 pm
6. **LAND USE FILE #16-12/21 -PUBLIC HEARING Application for Site Plan Review. GFP Enterprises, 1319 W Washington St.**

- a. **Commencement of Public Hearing-** Vice-Chair Hazel read the opening statement and opened the hearing at 7:27 pm. No objections were made from the audience to the notice on this case or the jurisdiction of this body to hear the case. There were no declarations of conflict of interest, *ex parte* contact, or bias by members of the Planning Commission.
- b. **Staff Introduction-** Fleishman informed the Commission that the application is for Site Plan Review for a vacant lot on W Washington St.
- c. **Applicant's Presentation-** Mark Ferris requesting Commission to review his site plan for a 3600 sq ft warehouse and 1200 sq ft office space. Use of the building will be fire training with daily operations, and maintenances on vehicles.  
Mr. Ferris is asking the Committee for approval of Site Plan Review.
- d. **Staff Report-** Fleishman Discussed the conditions of approval that came up.
  - 1. Street trees. Proposal of using Persian Ironwood Tree, not an approved tree.
  - 2. Trimming of the trees, maintenance of.
  - 3. Fence type -6ft Cyclone fence with barbed-wire top.Fleishman feels that the conditions of approval can be met without incident.  
Fleishman recommended that Commission approve revised draft order as presented.
- e. **Questions from the Commission-** None
- f. **Applicant Summary-** Ferris reassured the panel he is committed to maintain facilities & trees
- g. **Staff Summary-** Fleishman had nothing more to add.
- h. **Commission Decision-** Richard Lewis moved and McKinley seconded to adopt order for Site Plan Review. Passed 4:0.
- i. **Close of Hearing-** Vice-Chair Hazel closed the hearing at 7:48 pm.

7. **OTHER BUSINESS-** The Commission discussed having a Land Use training session at the February 28 meeting, as there is not expected to be a public hearing.

**ADJOURN:** Vice-Chair Hazel adjourned the meeting at 7:49 pm.



# City of Stayton

*Department of Planning and Development*

362 N. Third Avenue • Stayton, OR 97383  
Phone: (503) 769-2998 • Fax (503) 769-2134

dfeishman@staytonoregon.gov www.staytonoregon.gov

## MEMORANDUM

**TO:** Chairperson Ralph Lewis and Planning Commission Members

**FROM:** Dan Fleishman, Director of Planning and Development

**DATE:** February 28, 2022

**SUBJECT:** Variance Application of Ellen Nunez, 901 E Jefferson St

**120 DAYS ENDS:** June 3, 2022

---

### ISSUE

The issue before the Planning Commission is a public hearing on an application for a side yard setback variance.

### BACKGROUND

The applicant built a new home on a vacant lot in 2018. A March, 2020 aerial photo of the property is below:



In April 2021 the city became aware that an RV cover had been added to the west side of the house, where the RV appears in the photo above. Submission of the building permit application revealed that one of the support posts of the RV cover is too close to the side property line.

### ANALYSIS

This report presents the Planning Staff's summary and analysis concerning this application. It was developed with the input of other City departments and agencies.

# City of Stayton

Attached is an application for a variance from the minimum setback requirement from a property line. The application consists of the application form, application narrative, site plan and photos of the existing RV cover.

The Code, requires a minimum 5-foot setback between a structure and a side property line. The RV cover is supported by five posts on the west side. The rear post is 4 feet 7 inches from the property line.

The Code, in Sections 17.12.070.2 and 17.12.070.3, establishes it is the applicant's responsibility to provide adequate information to the Planning Commission that all the approval criteria have been or will be met.

The Code establishes seven criteria for the approval of a variance. Criterion b is that the variance is necessary to preserve a property right of the applicant. The applicant did not provide any information regarding this criterion. Criterion g is that the request is not the result of actions taken by the applicant. The applicant has stated that the need for the variance is due to their actions.

## **RECOMMENDATION**

The staff recommendation is to deny the application and is reflected in the draft order that is attached to the staff report.

It may be that the applicant presents information adequate to address the two criteria above either before or at the public hearing that results in a new recommendation. Also, there may be testimony at the public hearing that requires the draft order be modified to reflect that testimony.

## **OPTIONS AND SUGGESTED MOTIONS**

Staff has provided the Planning Commission with a number of options, each with an appropriate motion. The Planning Department recommends the first option.

### **1. Deny the application, adopting the draft order as presented.**

I move the Stayton Planning Commission deny the application for a variance of Ellen Nunez (Land Use File #1-02/22) and adopt the draft order presented by Staff.

### **2. Deny the application, adopting modifications to the draft order.**

I move the Stayton Planning Commission approve the application for a variance of Ellen Nunez (Land Use File #1-02/22) and adopt the draft order with the following changes...

### **3. Approve the application, directing staff to modify the draft order.**

I move the Stayton Planning Commission approve the application for a variance of Ellen Nunez (Land Use File #1-02/22) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the March 28, 2022 meeting.

### **4. Continue the hearing until March 28, 2022.**

I move the Stayton Planning Commission continue the public hearing on the application for a variance of Ellen Nunez (Land Use File #1-02/22) until March 28, 2022.

### **5. Close the hearing but keep the record open for submission of written testimony.**

I move the Stayton Planning Commission close the hearing on the application for a variance of Ellen Nunez (Land Use File #1-02/22) but maintain the record open to submissions by the

# City of Stayton

applicant until March 14, allowing 7 days for review and rebuttal and then an additional 7 days for the applicant to reply, with final closure of the record on March 28, 2022.

**6. Close the hearing and record, and continue the deliberation to the next meeting.**

I move the Stayton Planning Commission continue the deliberation on the application for a variance of Ellen Nunez (Land Use File #1-02/22) until March 28, 2022.







**CITY OF STAYTON  
APPLICATION FOR VARIANCE TO THE LAND USE AND DEVELOPMENT  
CODE**

PROPERTY OWNER: Ellen Nunez  
 Address: 901 E Jefferson St  
 City/State/Zip: Stayton OR 97383  
 Phone: (503) 851-6451 Email: enunez@wvi.com

APPLICANT: Ellen Nunez  
 Address: 901 E Jefferson St  
 City/State/Zip: Stayton OR 97383  
 Phone: (503) 851-6451 Email: enunez@wvi.com

APPLICANT'S REPRESENTATIVE: Ellen Nunez  
 Address: 901 E Jefferson St  
 City/State/Zip: Stayton OR 97383  
 Phone: (503) 851-6451 Email: enunez@wvi.com

CONSULTANTS: Please list below planning and engineering consultants, if any.

| PLANNING                 | ENGINEERING              |
|--------------------------|--------------------------|
| Name: _____              | Name: _____              |
| Address: _____           | Address: _____           |
| City/State/Zip: _____    | City/State/Zip: _____    |
| Phone: ( ) _____ - _____ | Phone: ( ) _____ - _____ |
| Email: _____             | Email: _____             |

Select one of the above as the principal contact to whom correspondence from the Planning Department should be addressed:

- owner    applicant    applicant's representative    planning consultant    engineer

LOCATION:

Street Address: 901 E Jefferson St Stayton OR 97383  
 Assessor's Tax Lot Number and Tax Map Number: map# 091W10DA00700  
 Closest Intersecting Streets: 10<sup>th</sup> Ave

ZONE MAP AND COMPREHENSIVE PLAN DESIGNATION: \_\_\_\_\_

LAND USE AND DEVELOPMENT CODE SECTION FROM WHICH A VARIANCE IS SOUGHT: encroachment

DESCRIBE THE PROPOSED VARIANCE REQUEST: I would like to be allowed to have a post on the RV cover be too close to the property line. 4 ft 7 in not 5 ft.

SIGNATURE OF APPLICANT: Ellen Nunez

DO NOT WRITE BELOW THIS LINE

Application received by: DBP Date: 2/2/22 Fee Paid: \$ 1,300 Receipt No. \_\_\_\_\_  
 Land Use File# 1-02/22

## Narrative Statement for Variance Application

Ellen Nunez  
901 E Jefferson St  
Stayton OR 97383  
503-851-6451  
Feb 1, 2022

Stayton Planning Commission:

I own the property at 901 E. Jefferson, Stayton Or. Last January, we constructed a RV cover to the side of our house to protect our new travel trailer. Our lot is a parallelogram with the structures built to be square to the E. Jefferson street. Because of this odd shape the support 4 x 4s for our RV structure are various lengths from the property line.

The first post is 12 ft 6 in, the second post is 10 ft 5 in, the third post is 8 ft 4 in, the fourth post is 6 ft 2 in and the last post is 4 ft 7 in from the property line. The last post is not the required 5 feet from the property line.

When the contractors poured the concrete footers they measured the distance to the property line and knew the five foot requirement. When they returned to build, somehow the post was placed too close to the fence and it is 5 inches too close.

I am requesting a variance for the encroachment of the last post of the RV Cover that does not meet the required 5 foot distance to the property line.

Thank you for your time and consideration,

Ellen Nunez

## Response Question for the Application for Variance to the Land Use and Development Code:

1. How is the property for which the variance is requested subject to extraordinary or exceptional circumstances.....?

Reply: One consideration that somewhat applies to this question is the fact that the lot that the RV structure is located on is not a square lot. It is a parallelogram with the structures on the property built square to the road. This is a consideration since the first 4 support 4 x 4s are ample distance from the property line. The first post is 12 ft 6 in, the second post is 10 ft 5 in, the third post is 8 ft 4 in, and the fourth post is 6 ft 2 in from the property line. It is only the last 4 x 4 post that is 4 feet 7 inches instead of the required 5 feet from the property line.

2. How is the variance necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district?

Reply: I am not sure how this question should be answered in regards to our situation.

3. How does the variance conform to the purposes of the zoning regulations and not create a significant adverse impact on other properties in the same zoning district or in the vicinity?

Reply: The RV cover was constructed to protect the RV from the weather and to do it as esthetically pleasing as possible. Ideally, we would have built the cover closer to the rear property line to "hide" the RV from the street view, but the shape of the lot made that impossible. It was never our intention to purposely violate the city codes. We did NOT want to put a large tarp over the RV since that would create an eyesore for our neighbors. We did supervise the measuring and pouring of the cement footers and made it clear that they needed to be 5 feet from the fence. When the contractors came back and continued to construct the cover, the placing of the post was moved, and the post was no longer 5 feet from the fence. It is 4 feet 7 inches.

4. Does the requested variance create an identifiable conflict with the provisions of the Comprehensive Plan?

Reply: None that I am aware of.

5. Why would granting the variance not have the same effect as a zone change on this property?

Reply: The conflict with the encroachment of the property line is an isolated violation and minimal when compared to the entire property or even the entire RV cover.

6. How is this variance the minimum relief available to alleviate the problem?

Reply: The Structural Engineer that is evaluating the structure for Marion County has said that it is sound and the only change we need to make is to add "Y" braces to the top of the support posts. If the last support post needed to be moved or revamped in some way, it would no longer have the same structural integrity. Esthetically it would be less appealing from the perspective of the neighbor that shares the property line and the neighbor across the street that looks directly at it. Currently the encroachment is only 5 inches, and when I spoke to both neighbors regarding the variance, they were not aware of the violation since it does not appear to be right on the property line due to the angle of the lot. If we moved the post it would no longer be a straight structure and would be visually odd.

7. Why would granting this variance not have the effect of granting a special privilege not shared by other property in the same zoning district:

Reply: I believe by definition, a variance, "the fact or quality of being different, divergent or inconsistent", states that the Commission is granting special permission to go against the norm. I do not believe this is a special privilege, but rather a special process to address issues that come up in the community.

8. How is this request not a self-imposed condition as a result of an action taken by the applicant or a prior owner?

Reply: It absolutely was self-imposed. An error was made with the placement of the support post for the RV cover. It was not a purposefully self-imposed action, but non the less it was something we created.

Ellen Nunez

901 E Jefferson St

Stayton OR 97383

503-851-6451





Daniel Gifford  
Shawna Gifford

859 E Jefferson St

Stayton Or 97383

January 31<sup>st</sup>, 2022

Planning Commission:

We currently reside at 859 E Jefferson St. We are adjacent to 901 E Jefferson St, and we share the property line that is in question with Ellen Nunez.

We were informed that she is seeking a variance for the RV structure that was constructed 5 inches too close to the property line last January. Our properties are parallelograms that have structures built square to E Jefferson St, so the first ~~three~~<sup>4</sup> support post are ample distance from the property line. However, the last 4 x 4 post of the RV structure is four feet 7 inches from our shared property line.

We support the granting of this building variance.

Signatures

Daniel Gifford  
Shawna Gifford

---

882 E Jefferson St

Stayton Or 97383

January 31<sup>st</sup>, 2022

Planning Commission:

I currently reside at 882 E Jefferson St. I am directly across the street from 901 E E Jefferson St. I look directly at 901 E Jefferson.

I was informed that Ellen Nunez is seeking a variance for the RV structure that was constructed 5 inches too close to the property line last January. Her property is a parallelogram that has structures built square to E Jefferson St, so the first <sup>4</sup>three support post are ample distance from the property line. However, the last 4 x 4 post of the RV structure is four feet 7 inches from the property line.

I support the granting of this building variance.

Signatures

  
Esther Borschowa  
Esther Borschowa



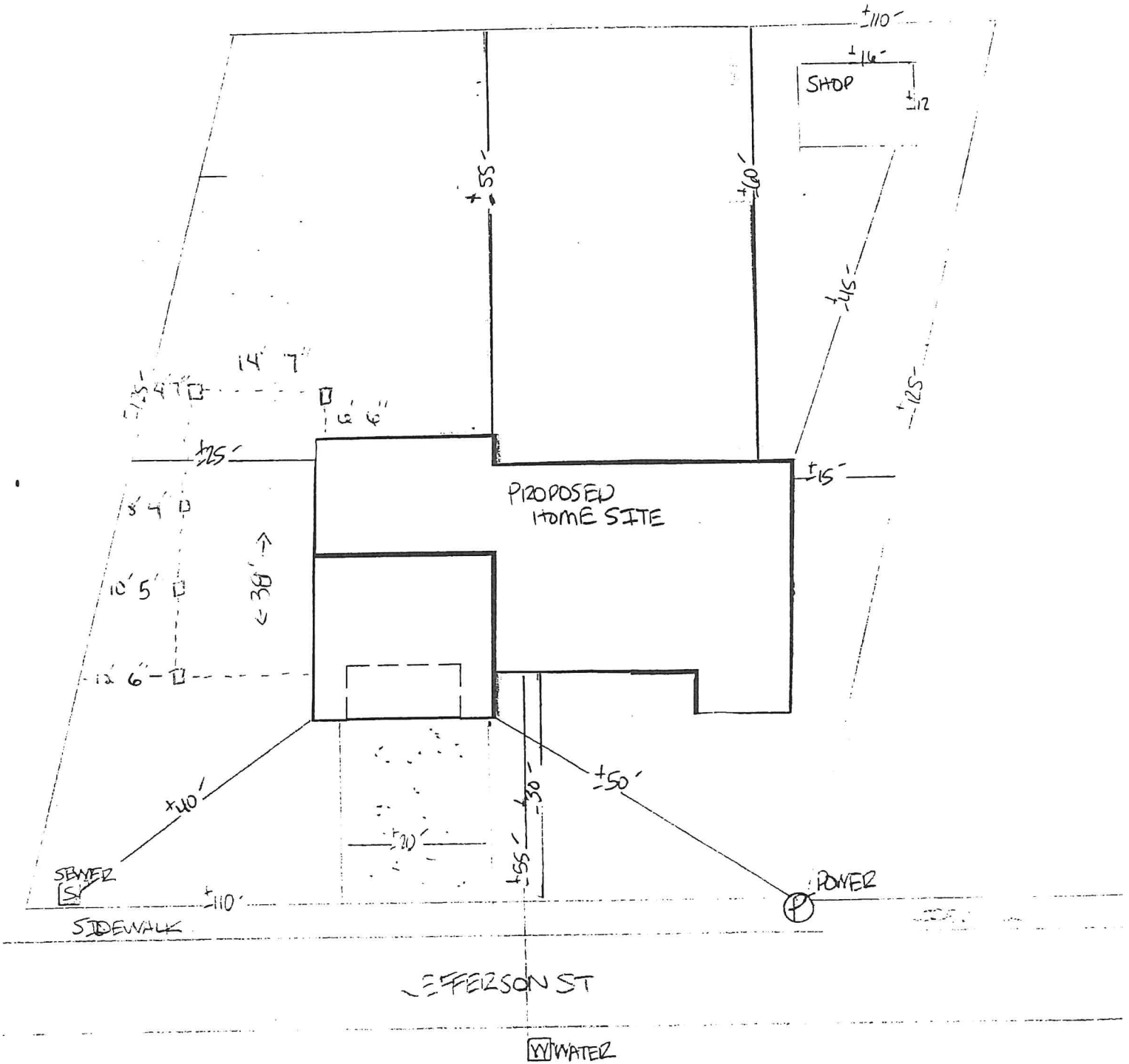
Ellen Nunez

503 851 6451

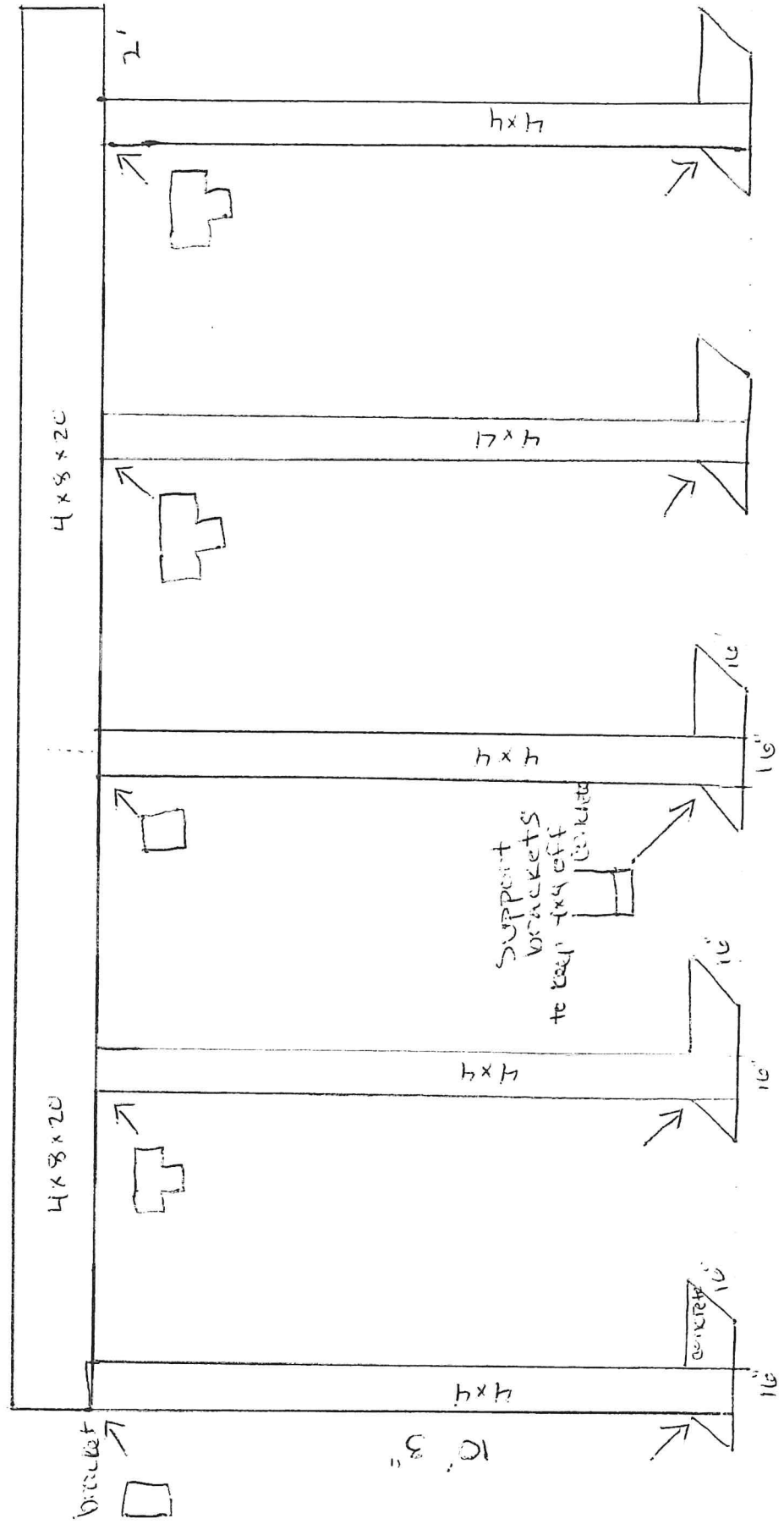
901 E Jefferson St

Stayton OR 97383

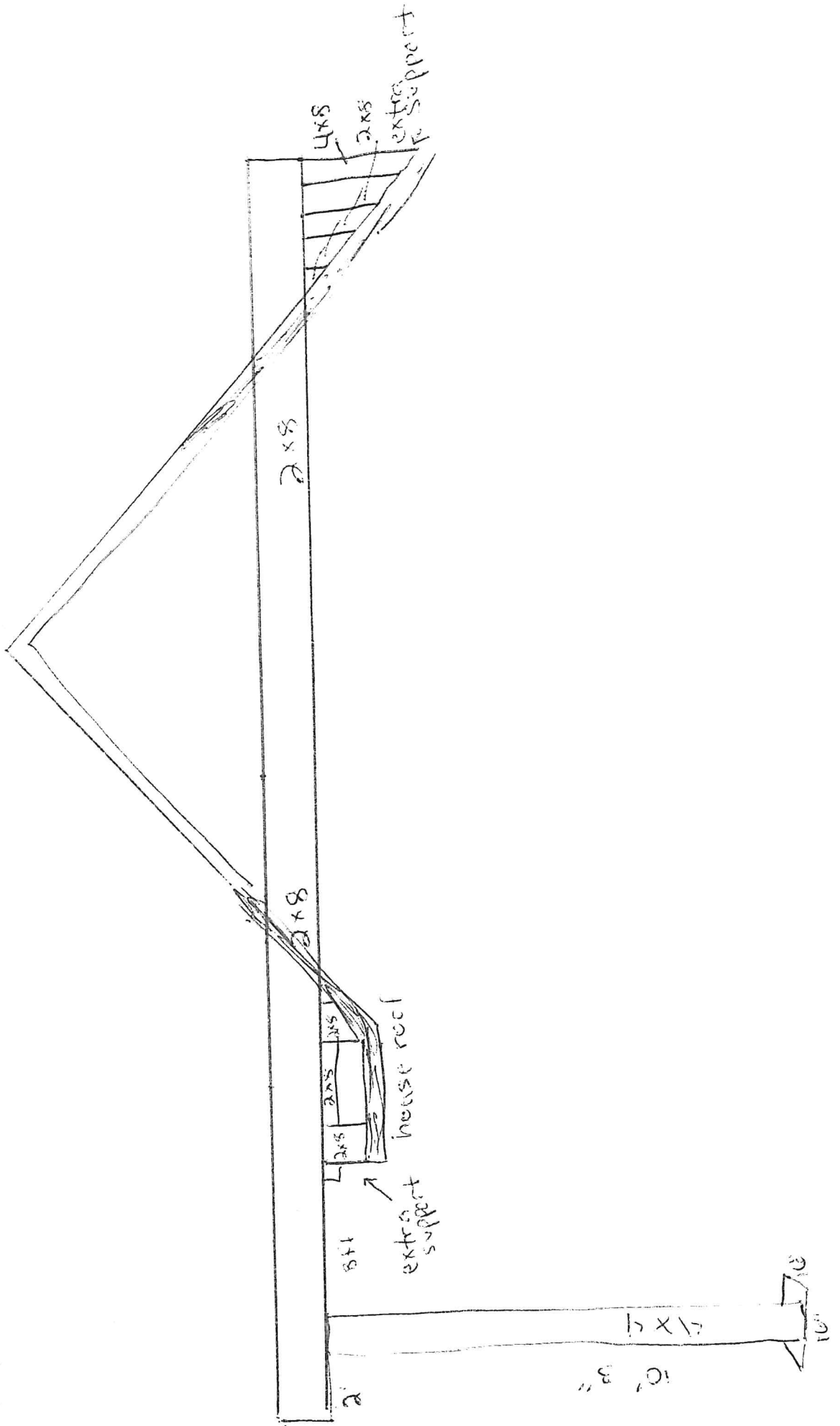
Map # 091W10DA00700 SCALE 1" - 20'



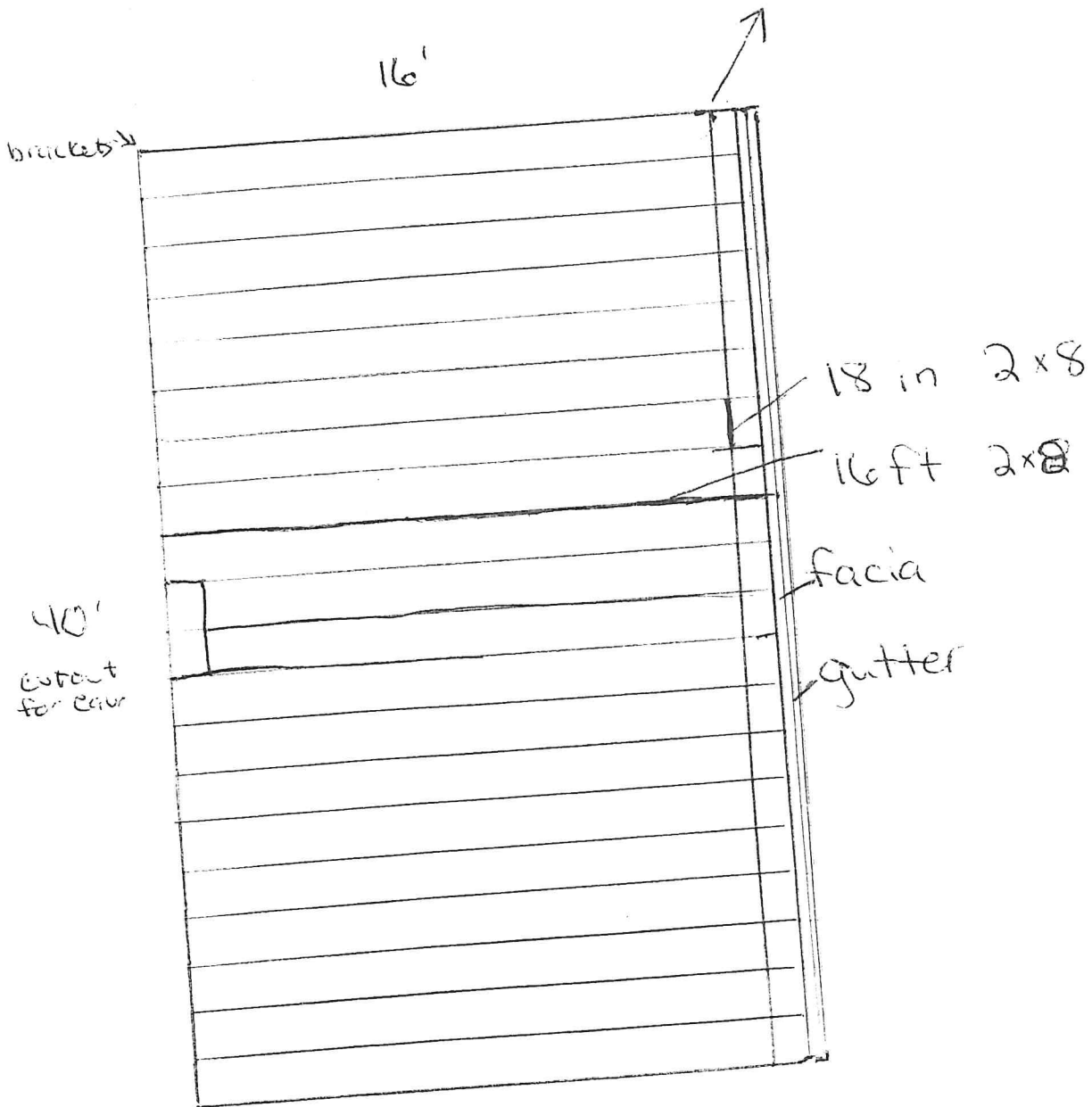
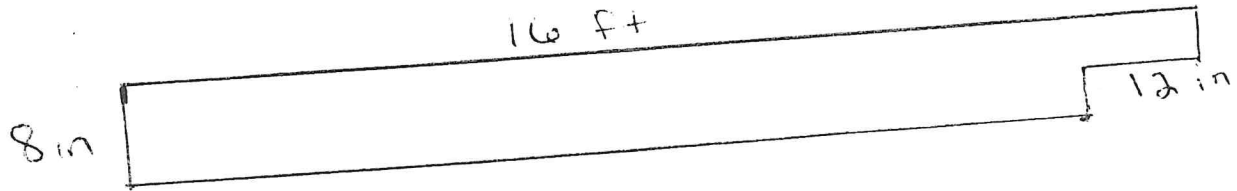
# exterior wall of RV cover






Roof of PV cover attaching to house



Looking up at the roof



# materials used

- 24 2x8x16 pressure treated
- 6 4x4x12 "
- 2 4x8x20 "
- 6 bags of concrete
- 6 mounting brackets for 4x4  for post
- 20 hanging brackets for 2x8  for rafter
- 6 4x4 brackets
- 15 sheets 4x8x1/2 plywood
- 40 ft gutter w down spout
- 2 rolls tar paper
- 2 squares composite roofing
- 70 ft  metal trim
- 2 2x6x20 fascia board



**BEFORE THE STAYTON PLANNING COMMISSION**

In the matter of  
The application of  
Ellen Nunez

)  
) Variance  
) File # 1-02/22  
)

**ORDER OF DENIAL**

**I. NATURE OF APPLICATION**

The applicant is requesting a variance to the minimum side yard setback to allow construction of a RV storage carport.

**II. PUBLIC HEARING**

A public hearing was held on the application before the Stayton Planning Commission on February 28, 2022. At that hearing the Planning Commission reviewed Land Use File #1-02/22, application for variance, and it was made part of the record.

**III. FINDINGS OF FACT**

**A. GENERAL FACTS**

1. The owner of the property and the applicant is the Ellen Nunez.
2. The property can be described as tax lot 700, Township 9, Range 1 West of the Willamette Meridian, Section 10DA.
3. The property is zoned Medium Density Residential (MD).
4. The property is located at 901 E Jefferson St.
5. The neighboring properties to the west, north and east are zoned MD and are developed with a single family detached dwellings. The properties to the south, across E Jefferson St, are zoned Low Density Residential and are developed with a single family detached dwellings.

**B. EXISTING CONDITIONS**

1. The property is approximately 13,560 square feet in area with 110 feet of frontage on E Jefferson St.
2. The property is developed with a single family detached dwelling, constructed in 2018. The owner subsequently constructed an RV storage carport on the west side of the house.
3. The carport is supported by five 4X4 posts. The rear post is 4 feet 7 inches from the side lot line.

### C. CODE REQUIREMENTS

Section 17.16.070.3.a of the Land Use and Development Code requires a structure to be setback at least 5 feet from a side property line.

### D. AGENCY COMMENTS

The following agencies were notified of the proposal: City of Stayton Public Works, Santiam Water Control District, Willamette Broadband, Stayton Cooperative, Pacific Power & Light, NW Natural Gas, Stayton Fire District, Stayton Police Department, Marion County Public Works and Marion County Planning Division. Stayton Police Department replied with no comments. Pacific Power responded that the proposal does not appear to affect the existing underground service or meter base location and that the customer must maintain required working space clearances around the meter base & maintain 24/7 unimpeded access to the meter base (no gates/fences).

### E. PUBLIC COMMENTS

The surrounding property owners were notified of a pending variance. No written comments were received prior to the public hearing.

### F. ANALYSIS

Variance applications are required to satisfy approval criteria contained within Stayton Municipal Code (SMC) Chapter 17, Section 17.12.200.6.

### G. APPROVAL CRITERIA

SMC 17.12.070.2 and 17.12.070.3 establish the responsibility of the applicant to provide evidence that each of the approval criteria have been or will be met. Pursuant to SMC 17.12.200.6 the following criteria must be demonstrated as being satisfied by an application for a variance:

#### *a. General Criteria Applicable to All Requests.*

- 1) *The granting of the variance would not be materially detrimental to the public health, safety, or welfare or the overall public interest of the citizens of the City as expressed within this title and the adopted Comprehensive Plan.*

**Finding:** The requested variance is for a support post to be five inches closer to the property line than permitted by the Code. The variance allows the carport to be square and perpendicular with the street. The variance is minimal enough to not be visually noticeable.

- 2) *The granting of the application complies with the applicable specific approval criteria as follows:*

#### *b. Specific Variance Criteria*

##### *1) Variance to Land Use Regulations*

- a. The property is subject to exceptional or extraordinary circumstances such as lot size, shape, topography, or other similar circumstances over which the*



*property owner has no control and which do not generally apply to other properties in the same zoning district and/or vicinity.*

Finding: The property is not rectangular in shape. The angle of the side property line results in the front of the carport far exceeding the minimum setback, while the rear impinges on the setback requirement.

*b. The variance is necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district.*

Finding: The application does not present any information regarding this criterion.

*c. The variance would conform to the purposes of the applicable zoning regulations and would not generate a significant adverse impact on the other property in the same zoning district or vicinity.*

Finding: The RV cover meets the other requirements of the Code and exceeds the minimum setback requirement for most of its length. Four of the five support posts meet the setback, with the front post being 12 feet 6 inches from the side property line. However, the rear post extends into the setback by 5 inches.

*d. Approval of the variance would not create an identifiable conflict with the provisions of the Comprehensive Plan or achieve the same conditions and a comprehensive plan amendment or zone change for the property.*

Finding: There are no policies in the comprehensive plan that address the situation. The RV cover will conform to all other requirements, except for its proximity to the side property line at the rear post.

*e. The variance being requested is the minimum relief available to alleviate the difficulty giving rise to the application.*

Finding: The requested variance is only 5 inches. This would maintain the structural integrity of the carport and allow it to be square with the house.

*f. The variance would not have the effect of granting a special privilege not generally shared by other property in the same zoning district.*

Finding: Most properties in the zoning district have lots with side lines close to perpendicular to the front and rear lines. This lot is a parallelogram that allows the front of the RV cover to greatly exceed the setback but the rear is too close to the side lot line.

*g. The request for the variance is not the result of an action taken by the applicant or a prior owner.*

Finding: The applicant has stated that the need for the variance is due to an action by them, though inadvertently.

**IV. CONCLUSION**

Based on the facts above, the Planning Commission concludes that the application meets the requirements established in SMC 17.12.200.6 except sections 17.12.200.6.b.1)b) and 17.12.200.6.b.1)g).

**V. ORDER**

Based on the conclusion above, the Planning Commission denies the application.

**VI. EFFECTIVE DATE**

This decision regarding this application is final but shall not become effective until the 15th day after the mailing of the Notice of Decision in this case, and then only if no appeal to the Stayton City Council is timely filed. In the event of a timely appeal to the City Council, this decision shall not become effective until the appeal is finally resolved, including any appeals from the decision of the City Council to the Oregon Land Use Board of Appeals.

**VII. APPEAL DATES**

The Planning Commission’s action may be appealed to the Stayton City Council pursuant to Stayton Municipal Code Section 17.12.110 APPEALS.

\_\_\_\_\_  
Ralph Lewis,  
Planning Commission Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dan Fleishman,  
Planning & Development Director

\_\_\_\_\_  
Date