*AGENDA*

City of Aurora
PLANNING COMMISSION MEETING
Tuesday, July 05, 2011, 7:00 p.m.
Council Chambers
21420 Main Street N.E., Aurora, Oregon

**1. Call to Order of Planning Commission Meeting:**

**2. Consent Agenda**

All matters listed within the Consent Agenda have been distributed to each member of the Aurora Planning Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the consent Agenda and placed on the Regular Agenda by request.

**Minutes**

- Aurora Planning Commission Meeting –June 07, 2011
- City Council – May 10 , 2011

**Correspondence**

**I. Email about process of guideline change**

**3. Visitor**

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Council could look into the matter and provide some response in the future.

**4. New Business**

**5. Unfinished Business**

**A. Aurora State Airport Master Plan Review Update**
**B. Discussion and or Action on Historic Review Guideline (update from Councilor Sahlin)**
**C. Discussion and or Action on the TGM Workshop Update.**

**6. Commission Action/Discussion**

A. City Planning Activity (in Your Packets)
Status of Development Projects within the City.

**7. Adjourn**

This is a public meeting and all interested citizens are invited to attend. The meeting place is not handicapped accessible; those needing assistance should contact the city Office three (3) working days before regularly scheduled meetings. The minutes of this and all public meetings are available at City Hall during regular business hours. All meetings are audio taped and may be video taped
C:\msword\planningcommission111032009

# CONSENT AGENDA

Meeting Minutes

Correspondence

Financials

Other Items

**Minutes**
**Aurora Planning Commission Meeting**
Tuesday, June 07, 2011 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

| | |
|---|---|
| **COMMISSIONERS PRESENT:** | **Nick Kaiser, Joseph Schaffer**<br>**Rob Graham, Bud Fawcett** |
| **COMMISSIONERS ABSENT:** | **Jonathan Gibson, Steven Braun, Bill Graupp** |
| **STAFF PRESENT:** | Melinda Hessel, Admin Assit<br>**Renata Wakeley, City Planner** |
| **VISITORS PRESENT:** | Gary Lovell, Aurora |

## 1. Call to Order of Planning Commission Meeting

The meeting was called to order by Planning Chair Nick Kaiser at 7:00 p.m.

## 2. Consent Agenda

### Minutes

- **Planning Commission Meeting –** May 03, 2011
- **City Council –** April 12, 2011

### Correspondence

- **LCDC Meeting Notice** there was no discussion.
- **Email from Oregon Dept Aviation**

A motion to accept the consent agenda for May 03, 2011 was made by Commissioner Fawcett and seconded by Commissioner Graham. Motion Passes Unanimously.

## 3. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Planning Commission could look into the matter and provide some response in the future.

No one spoke during this time.

## 4. New Business

**NONE**

## 5. Unfinished Business

### A. Aurora State Airport Master Plan Review Update

- Meeting was tonight @5:30 Nick Kaiser and Robert Graham attended
- Displaced runway not funded by FAA

- There are two more PAC meetings.

**B. Discussion and or Action on Historic Review Guidelines**

- Jason Sahlin is currently working on this and since he is not in attendance we will discuss at the next meting

**C. Discussion and Update of Senate Bill 904**

- Currently this doesn't look like it will move forward.

**D. Discussion and or Action on the FEMA Update**

- Joseph Schafer presented (& Emailed) information as to what WA is doing now. Oregon will probably follow.
- Strict restrictions on areas with habitat value. Schafer suggested the City inventory existing structures in areas without habitat value before new guidelines are adopted. Restrictions will not be as severe in these areas.
- Visitor Gary Lovell joined in the discussion
- Pudding and Mill Creek are on the list of habitat streams.

**E. Discussion and or Action on the TGM Workshop Update.**

- City Planner, Wakeley presented information on the TGM Workshop
- June 30th is the deadline for consultant to submit draft
- Wakeley hopes to have information available for the next PC meeting.

## 6. Commission Action/Discussion

**A. City Planner Activity Sheet (not in your packets)**
**Status of Development Projects within the City: Attached.**

City Planner Wakeley read her report.

- TGM –Outreach, ODOT has selected OTAC
- New Code will be available soon in electronic format or hard copy
- Heid submitted house plans.
- Crash information available for Aurora
- Geo-spacial data available

## 9. Adjourn 8:15 P.M.

**A motion to adjourn the June 07, 2011 meeting is made by Commissioner Schaefer and seconded by Commissioner Fawcett. Motion Passes Unanimously.**

_____

Nick Kaiser, Chairman

**ATTEST:**

_____

Melinda Hessel, Administrative Assistant

Minutes
Aurora City Council Meeting
Tuesday, May 10, 2011 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Bob Southard, Public Works Superintendent
Kelly Richardson, City Recorder,
Brent Earhart, Chief of Police
Jan Vlcek, Finance Officer
Otis Phillips, Waste Water Operator
Renata Wakeley, City Planner

STAFF ABSENT: NONE

VISITORS PRESENT: Rob Weick, DEQ
Jessica Brotherton
Joni Hammond, DEQ
Greg Patzer, Aurora
Annie Kirk, Aurora
Raymond Bartlett, EFA
Bud Fawcett, Aurora

1. Call to Order of Regular Meeting

The meeting was called to order by Mayor Jim Meirow at 7:00 p.m.

2. City Recorder does Roll Call

Councilor Taylor –Present
Councilor Roberts – Present
Councilor Sahlin – Present
Councilor Brotherton - Absent
Mayor Meirow – Present

**3. Consent Agenda**

I. City Council Meeting Minutes – April 12, 2011, Special Meeting April 28, 2011, Joint Workshop Minutes April 28, 2011
II. Planning Commission Meeting Minutes – April 05, 2011
III. Historic Review Minutes – March 24, 2011

**Correspondence**

I. Meeting Notice from DLCD on the Citizen Involvement Advisory Committee
II. DLCD Administrative Rule possible change

A motion to approve the consent agenda was made by Councilor Taylor and seconded by Councilor Roberts. Motion Passes Unanimously.

4. **Visitor**

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

Bill Graupp 14129 Ehlen Road, asked Council when the work on the water line at or near Ehlen would be fixed.

5. **Public Hearing Called to Order at 7:14**

**A.** Legislative Amendment 11-01 (LA-11-01) request to amend sections of the Aurora Municipal Code to allow seating and display on public sidewalks.

- Applicants are present
- City Planner Wakeley states there were 4 language changes proposed by Planning Commission.
- The changes meet the Comp Plan Provision and are allowing extended usage in the Commercial Zone.
- Wakeley summarizes her report and exhibits as attached.
- Councilor Taylor asks what if any liabilities will the City have; Wakeley shows the Council the language that covers that and the agreement each applicant will need to sign.

Tara McKnight the applicant spoke in support of the Code Revision as she felt it would help the City become even more known for its friendly atmosphere.

Joseph Schaefer 15140 Park spoke in support however brought up a point in regards to other sections of the Commercial zone that may need looked at. This point really didn't have a lot to do with this particular hearing at this time.

Bill Graupp was in support of this however wanted to know Chief Earhart's comments. Earhart stated that when he worked for Mt. Angel they had allowed this very thing and as long as they secured the items that were left outdoors they had no problems. Therefore he did not anticipate any problems here in Aurora. Wakeley lets Council know that in exhibit 10 B it is stated that all items except the tables and chairs must be taken in at night.

No one spoke against this change and there were no final comments.
**Public Hearing closed at 7:32pm**

A motion to accept option A to adopt the staff report and direct staff to prepare an ordinance approving Legislative Amendment 11-01 was made by Councilor Jason Sahlin and seconded by Councilor Taylor. Motion Passes Unanimously.

6. **Discussion with the Parks Committee**

   a. **Parks Committee Report (in packet)**

   b. **Minutes April 19, 2011**
      - Letter to Council from Kristen Ramstad, Oregon Dept of Forestry, has offered to help us identify the trees and to help us in the park.

A motion to approve Kristen Ramstad to help us identify tree care and or problems was made by Councilor Jason Sahlin and seconded by Councilor Roberts. Motion Passes Unanimously.

- Site Visit Report, along with Phellinus Pini fungus report
- April 19, 2011 Recommendations from Judy Roger, Oregon Mycological Society.

Councilor Sahlin lets the rest of the council know that some tilling of the baseball field occurred before the sand was laid down and a few sprinkler heads were damaged.

7. **Discussion with Traffic Safety Commission**

   a. **Traffic Safety Report (not Included in your packet)** Chief Earhart let the Council know that the TSP had a lengthy discussion on a quiet zone for the railroad. The TSP is asking permission to be able to draft a letter to Marion County to start the process of discussion with the railroad.

Councilor Sahlin makes a motion to approve the request for TSP to draft a letter to Marion County and it was seconded by Councilor Roberts 3-1 Motion Passes.

8. **Reports**

   A. **Police Chief's Report –** (included in your packet)

Chief Earhart summarizes his report to the Council.

- Mayor Meirow did ask Earhart about the six agency assists that he reported. Mayor Meirow wanted to know if we were being assisted in return, Chief Earhart state yes and my policy is that our officers must be asked to assist they cannot just show up. The Council and Mayor Meirow were please by Chief Earhart's response.

There were no more questions of the Chief.

   B. **Finance Officer's Report – Financials** (included in your packets)

      1. Revenue & Expense Report

- Currently we should be at 83.3% spent and there are a few funds at 100% so we will need to look at those funds.
- The Budget Committee did approve the budget at the meeting.

- Council did discuss whether or not to renew the Park Reserve Fund for next year or not. They did decide they would by Resolution at the June meeting.
- Vlcek let the Council know that the 980 projected population numbers were in correct the census says we are at 920. The cigarette tax that has been forecasted reflects that.

There were no other questions from the Council.

C. **Public Works Department's Report –** ( included in your packet)

1. **Oregon Public Works Emergency Response Cooperative Assistance Agreement.**

A motion to renew the Emergency Response Cooperative Assistance Agreement with Oregon Public Works was made by Councilor Taylor and seconded by Councilor Sahlin. Motion Passes Unanimously.

2. Monthly Status Report (Storm Water)

- The lake Liberty quote is 5900.00 along with boring 4500.00
- The Mayor thinks that if someone were to go out and dig a ditch and try it first before we go out and spend 5900 dollars. It is the Council discussion to go out and dig a ditch first to see if that works first before we spend the 5900 dollars.
- The extra power has been put into the park to handle the extra loads desired and needed.

A. Waste Water Treatment Plant Update (from Otis Phillips)

Everything looks good, no violations. Preparing the plant for irrigation a lot of mowing and weed eating to get the ground prepared.

Phillips gave and example of GEO thermal bags for solids management instead of sludge control. Mayor believes that we need to keep looking into this and get a quote for one bag a year by the next meeting.

There were no more questions from the Council.

B. **City Recorder's Report** (included in your packet)

Gives a brief over view of the monthly report as attached.

- Making sure all areas will be covered during my absence @ training.
- Been working on the code inserts to update the code.

No questions from the Council.

C. **City Attorney's Report –** (not Included in your packet)

City Attorney Koho was excused from the meeting and was not in attendance.

**9. Ordinances and Resolutions**

**10. Old Business**

A. **Discussion on the T-Mobil Lease Agreement** contract (as revised) did not agree to 1,000 a month as Council suggested at the last meeting, T-Mobil agreed to 3 percent a year for the next 20 years. Going from 747 to 816 then 3 percent a year.

A motion to accept the amended T-Mobil Lease Agreement was made by Councilor Jason Sahlin and seconded by Roberts. Passes Unanimously.

**B. Discussion and or Action on Council discussion or direction taken for the Historic Review Guidelines.**

- At the joint workshop it was discussed that HRB needed to look at the Design Guidelines to make more user friendly and I think we need PC to look at them.
- It was recommended by the PC to take and active role in looking at the guidelines and asked City Planner, Wakeley to get a quote together for her time.

Mayor Meirow asks that before we go to Renata (City Planner)for price I would like the PC to look at this and do some revisions and or changes and then present it to Council and then onto Renata.

**I would like to see this topic on the PC agenda for the next two to three months for discussion.**

C. **Fred Netter donation of property DK & Associates** The Mayor gave a handout for donating the easement and Netter wasn't really willing to pay for the surveying. Netter pointed out prior that this pipe is in the wrong place. DK & Associates confirmed that it is about 18 feet outside of the easement and so it is not where it is supposed to be. We need a quote for a new survey done and legal description for the easement. (so far the Mayor has spent 670.00 to find this information out)

**D. Health Hazard Abatement ORS 222.840 to 222.915 DEQ issue. In regards to the 3 drywells that DEQ wants us to take care of.**

Basically according to ORS 222.840 to 222.915 that this is a health risk and as such we could force them to annex into the city however, hopefully the homeowners will work the City.

- Can we provide services to them because they are out of the city limits? Mayor Meirow states yes you could potentially provide service.

- Two of the property owners so far have stated that they are not interested in connecting to city services so (they are saying you (city) pay the half million to fix the problem.

- We (the City) may be forced to annex them in and then they would connect. I think the easiest would be connecting them to city services. City even said we would give them free water until they annex and this is a pretty good deal.

- Are we going to file a tort claim against Marion County, Mayor Meirow thought we should try the other alternative first.

Mayor is asking council for permission to have Koho look at these ORS and give us a report of his findings.

**It was the Consensus of the Council that we send this off to the City Attorney for Review.**

## 11. New Business

A. **Discussion and or Action on changes to current contract with Coverall Cleaning services for City Hall cleaning.** Council would like a new agreement written and signed so it is official that we will be spending 100.00 dollars for cleaning services on City Hall a savings of 118.00 for the upcoming year.

B. **Memo from Historic Review Board,** Recommendation of James Frackowiak to the open board position.

A motion to accept James Frackowiak to the HRB was made by Councilor Taylor and seconded by Councilor Sahlin. Motion Passes Unanimously.

C. **Discussion and or action on Liquor License Application for "The Corner House" 21668 99E.**

A motion to approve the liquor license at the Corner House Café was made by Councilor Taylor and seconded by Councilor Roberts. Motion Passes Unanimously.

## 12. Adjourn

A motion to adjourn the May 10, 2011 meeting at 8:50 pm was made by Councilor Roberts and seconded by Councilor Taylor. Motion Passes Unanimously.

Jim Melrow, Mayor

ATTEST:

Kelly Richardson, City Recorder

## recorder

**From:** recorder
**Sent:** Wednesday, June 22, 2011 4:11 PM
**To:** 'Dennis Koho'; 'Greg Taylor'; 'James Meirow'; 'Jason Sahlin'; 'Scott Brotherton'; 'Terri Roberts'
**Cc:** 'Wakeley, Renata'; 'Karen Townsend'; 'Bill Graupp'; 'Bud Fawcett'; 'Johnathan Gibson'; 'Joseph Schaefer'; 'Nick Kaiser'; 'Robert Graham'; 'Stephen Braun'
**Subject:** HRB Guidelines Updates

I received a phone call today from Karen Townsend she had read in the Council minutes that Planning Commission would be leading the HRB Guidelines updates and was wondering how that is possible because it's not their jurisdiction it would be up HRB to make those updates and submit them to Council for approval was her understanding of the process.

Which they wanted Council to know that they are moving forward with that, one item mentioned was a Historic Property Inventory so that is why they approached SHIPPO to lend a hand with that process. And they agreed to do for free.
Karen also felt the City Attorney should be more familiar with the HRB Guidelines and to as how they are written/interpreted and is better able to see how they are applied. She really felt that reading bits and pieces is not grasping the entire intent of how they were written and applied to property owners unless you read the entire document, it simply is not written the same as the Muni Code is. This is a Guide and really is quite lenient in many scenarios. Karen also asked about a budget for HRB, I had told her that they did have a few dollars and she said that it was worth it to her to have that money go to the City Attorney for his review of the entire document.

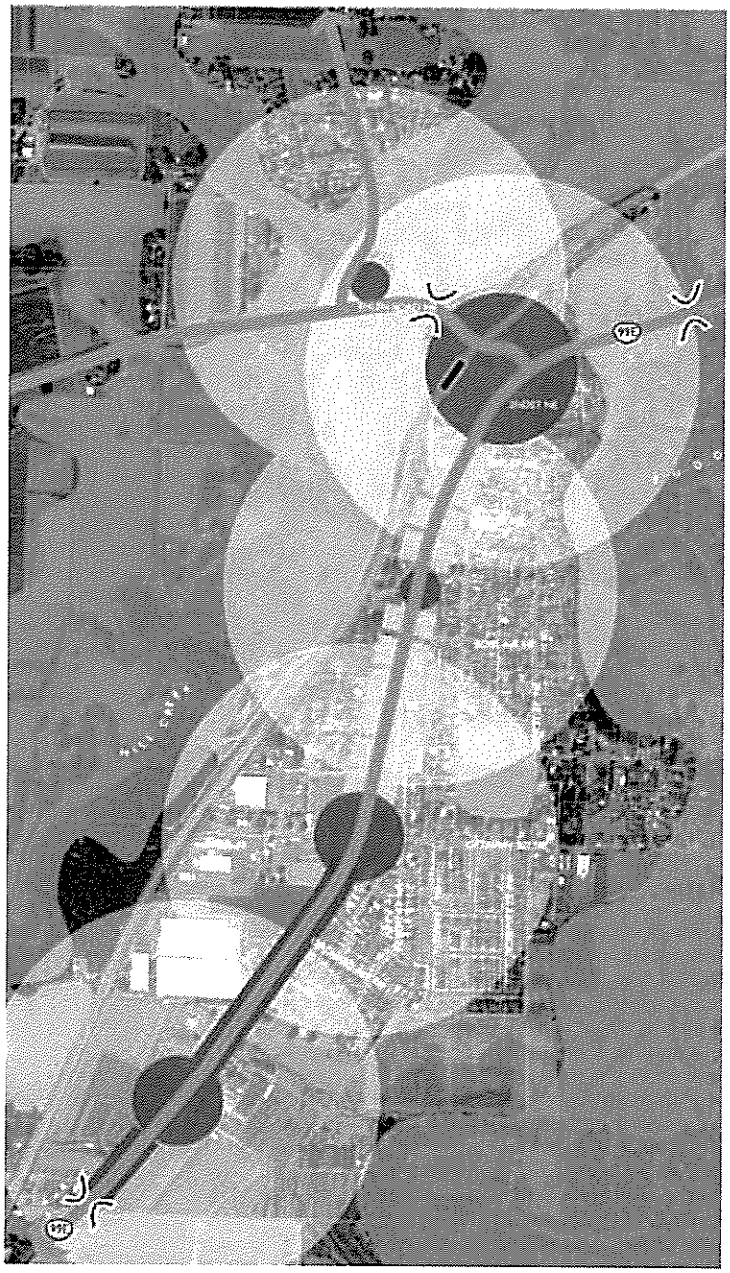
Thank you just passing this along which I hope is written adequately and addresses each concern.

*Kelly Richardson*
*City Recorder*
*City of Aurora*
*21420 Main St. NE*
*Aurora, Oregon 97002*
*503-678-1283*

# NEW BUSINESS

# OLD BUSINESS

# AURORA SOUTHERN GATEWAY



## PUBLIC WORKSHOP

Project Report • June 2011

# PLANNING ACTION/DISCUSSION

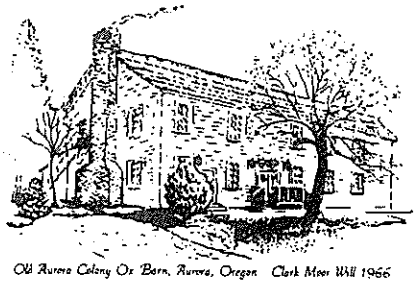
# July 2011 Update

## LAND USE APPLICATIONS

| Project | Status |
|---|---|
| Building Permits | 14830 Seal Rock (Cam); 21553 Liberty (Church); 21344 Liberty Street (Heid); 20983 Filbert (Morris) |
| Sign Permits | |
| Manufactured Home Permit | |
| Land Use Applications | |

## ADDITIONAL PLANNING

| Project | Status |
|---|---|
| Transportation System Plan | Memo regarding street reclassification/additions submitted to Southard on June 2nd |
| TGM Outreach Workshop | Final documents provided June 16, 2011. |
| Urban Renewal District Feasibility Study | |
| Development Code/HRB updates | • May 10th Council meeting minutes state that Mayor wants to see HRB updates on the PC agendas. Councilor Sahlin will draft proposed changes.<br>• New AMC packets |
| Water Master Plan | |
| Newsletter/Community Updates | Website updates to be included in upcoming newsletter. |
| Misc. | |




# City of Aurora

FOUNDED 1856

"National Historic Site"

June 27, 2011

Angela Morris
20983 Filbert Street
Aurora, OR 97002

Re: Building Code Violation

**STOP WORK ORDER**

This letter is to inform you that we have not received a building permit application or site plan for the improvements and building that you are currently doing on your lot therefore we are issuing **a stop work order** until such a time that you can provide us with proper application/documents.

Please come by City Hall as soon as possible or within the next 72 hours to discuss your project and to make sure all of the proper paper work has been filed with the City and the County.

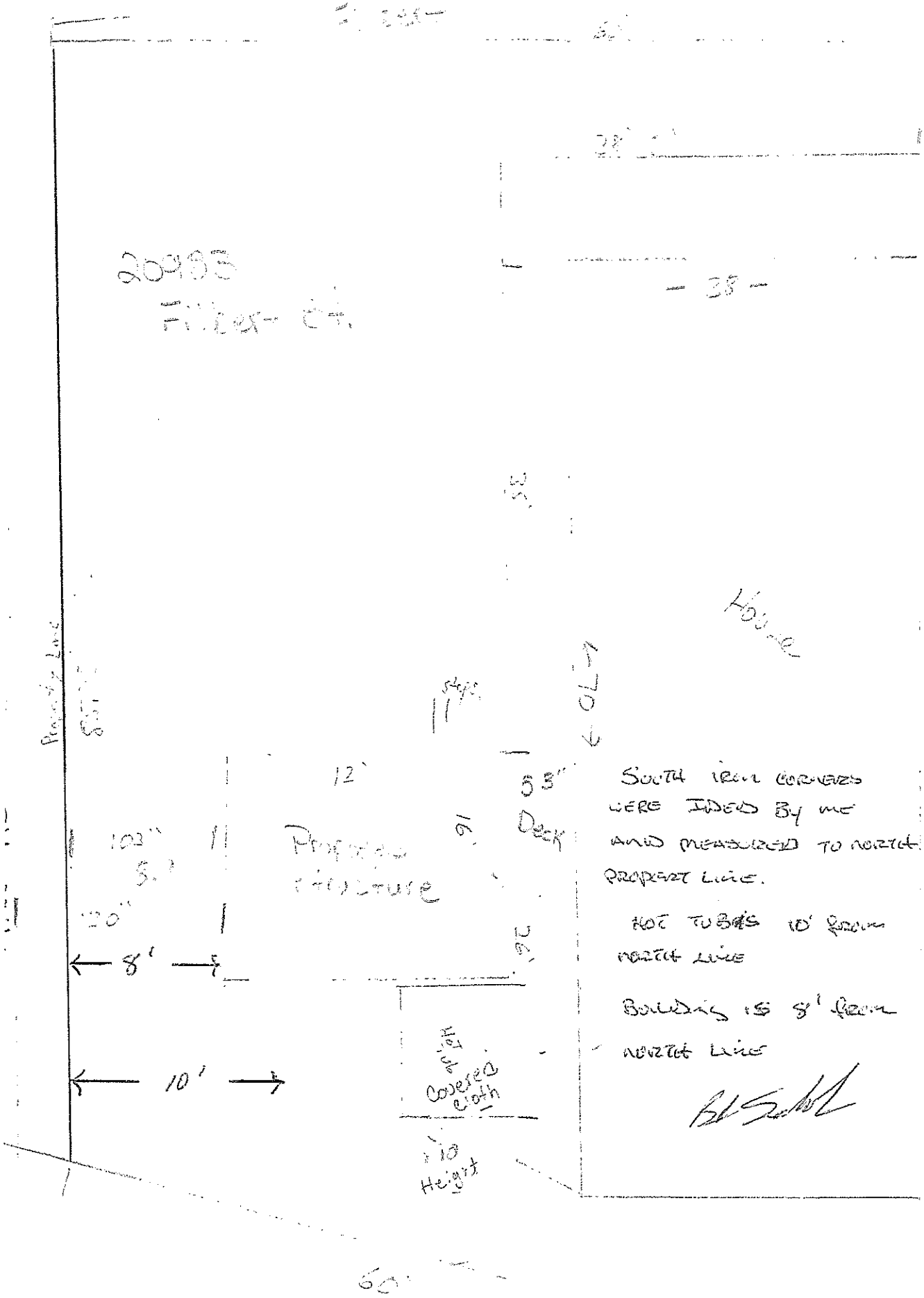
If you have any questions please call City Hall 503-678-1283.

Sincerely,

Kelly A Richardson

Kelly Richardson
City Recorder

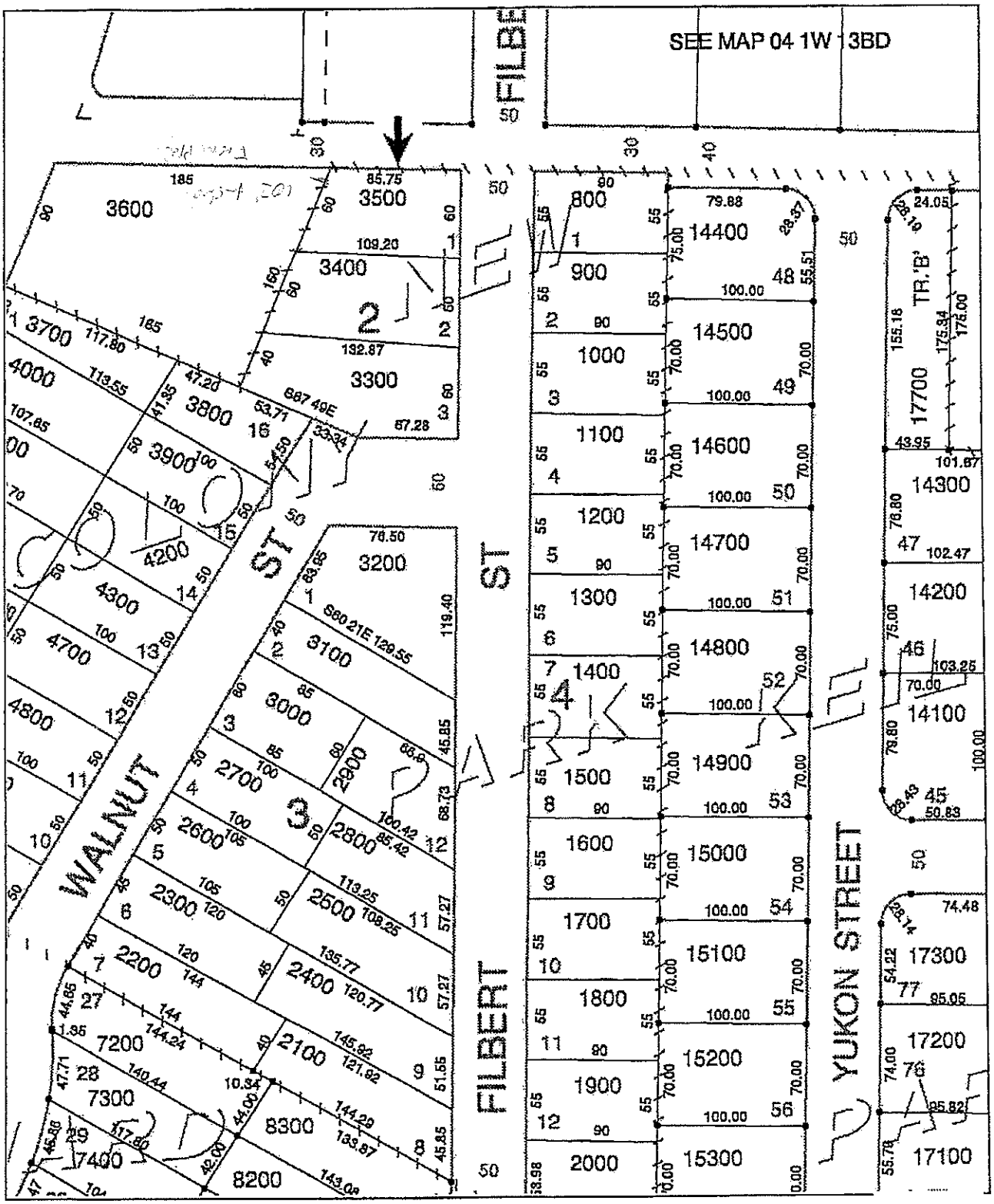
21420 Main Street • Aurora, OR 97002 • (503) 678-1283 • Fax (503) 678-2758




SOUTH IRON CORNERS WERE FOUND BY ME AND MEASURED TO NORTH PROPERTY LINE.

HOT TUBS 10' FROM NORTH LINE

BUILDING IS 8' FROM NORTH LINE




THIS MAP IS FURNISHED AS A CONVENIENCE BY MID-WILLAMETTE VALLEY TITLE GROUP

This sketch is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.

MAP # 041W13CA03500

## LEGEND

### LINE TYPES

TAX LOT BOUNDARY — OLD PROPERTY LINE

ROAD RIGHT-OF-WAY — VACATED RIGHT-OF-WAY

RAILROAD — RAILROAD RIGHT-OF-WAY

STREAM, LAKE, ETC. TAX LOT BOUNDARY — STREAM, LAKE, ETC. NON-BOUNDARY

SUBDIVISION BOUNDARY — PARTITION PLAT ETC.

TAX CODE BOUNDARY — EASEMENT

### SYMBOL TYPES

D.L.C.

CONTROL POINTS

SURVEY MONUMENTS

G.L.O. CORNERS

SECTION — 1/4 SEC — 1/16 SEC

### NUMBERS

TAX CODE NO.

000 00 00 0

ACREAGE – ALL ACREAGES EXCLUDE ANY PORTION THAT MAY LIE WITHIN THE INDICATED PUBLIC RIGHT OF WAYS.

TICK MARKS – WHEN A TICK MARK IS INDICATED ON THE EXTENSION OF A LINE, THEN THE DIMENSION GOES TO THE TICK MARK. GENERALLY THIS IS USED WHEN DIMENSIONS GO INTO PUBLIC RIGHT OF WAYS.

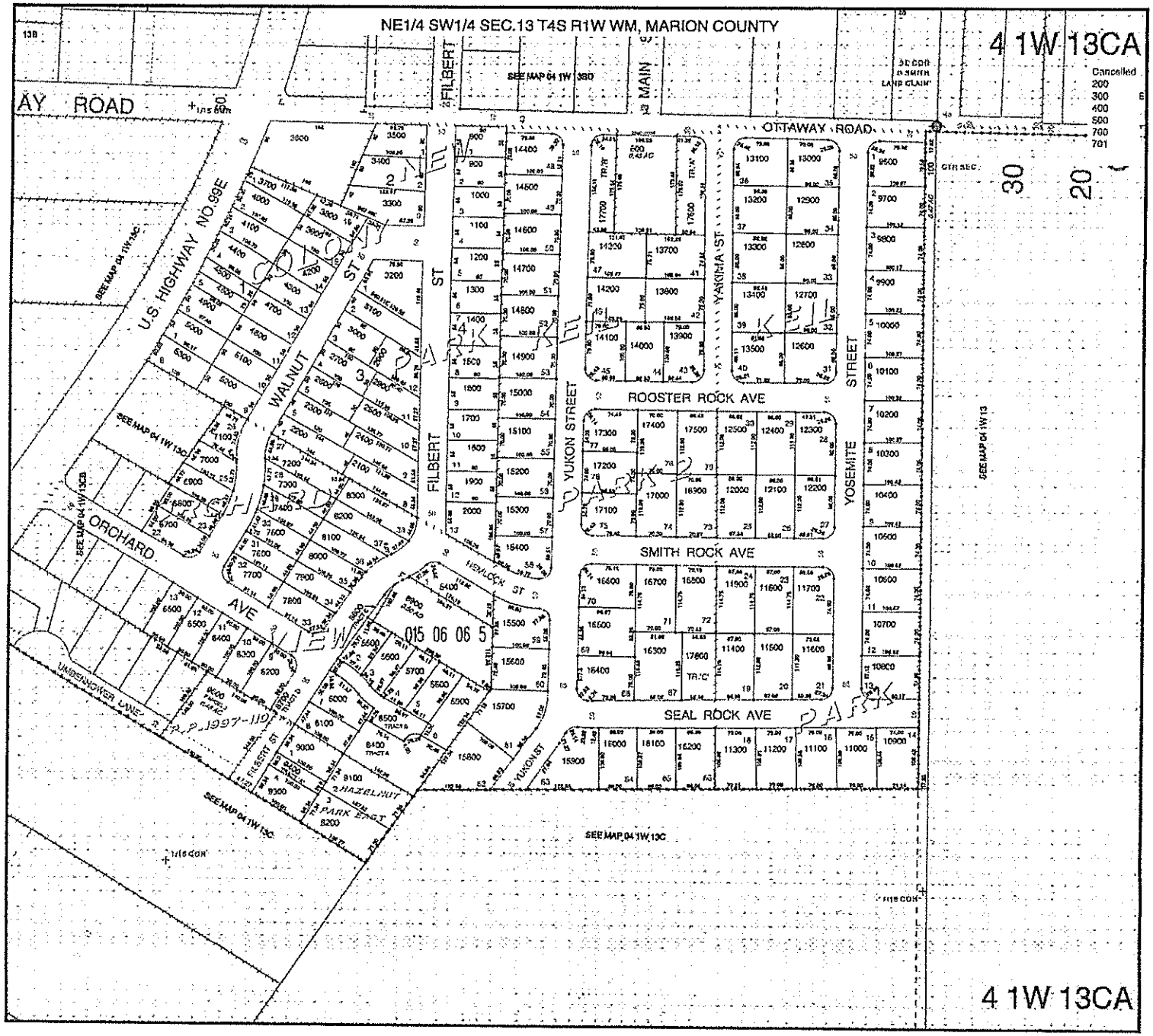
ARROWS ARE USED WITH DIMENSIONS IN AREAS OF GREATER COMPLEXITY.

**NOTICE: This map was created for Assessor's Office use ONLY.**

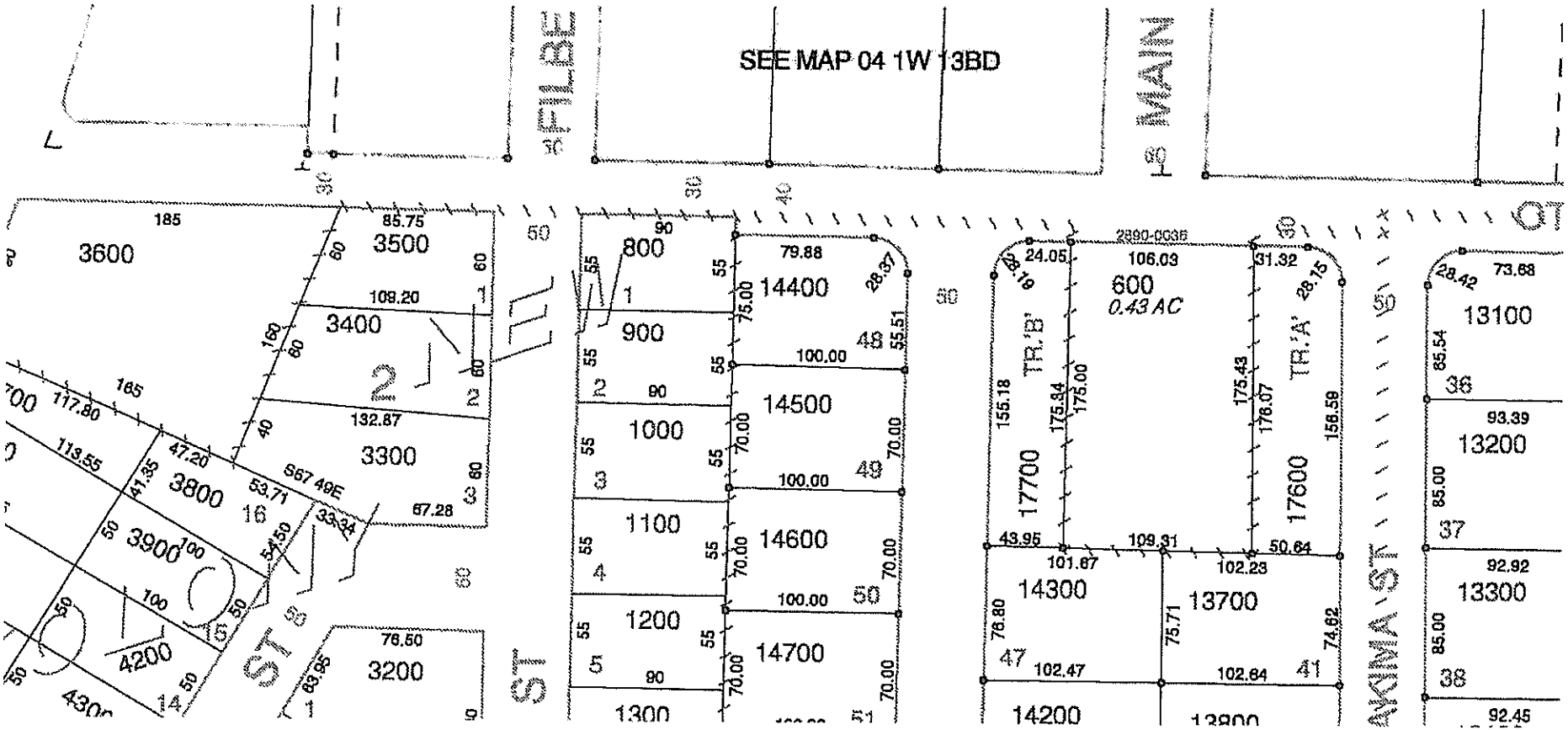
Assessor "We Care" GIS Geographic Information System

SCALE 1" = 100'
or 1:1200

Plot file created: January 24, 2008




4 1W 13CA


SEE MAP 04 1W 13BD
FILBE
MAIN
ST
AKIMA ST
3600
3500
3400
3300
3200
3800
3900
4200
800
900
1000
1100
1200
1300
14400
14500
14600
14700
17700
17600
600
0.43 AC
TR.'B'
TR.'A'
14300
13700
14200
13900
13100
13200
13300
2890-0036

# Memorandum

**MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS**
**105 HIGH STREET S. E. SALEM, OREGON 97301-3667**
TELEPHONE: (503)588-6177 FAX: (503)588-6094

TO: Mr. Neer, 20983 Filbert Street, Aurora, OR 97002
FROM: Renata Wakeley, City Planner
RE: Review of accessory structure for 20983 Filbert Street
DATE: July 5, 2011

I have reviewed the above referenced site plan for the accessory structure and would like to provide you with the following information:

A. The Aurora Municipal Code (AMC) section 16.02.060 states, "upon approval of any development permit or any land use approval of any property which abuts or is served by an existing substandard street or roadway, the applicant shall make the necessary right-of-way dedications for the entire frontage of the property to provide for minimum right-of-way widths according to the adopted Aurora transportation system plan…". AMC 16.04 defines development permit as "any document or permit that authorizes an applicant to commence construction or development activities".

   While you are not applying for a development permit or land use application at this time, the City felt it was important to inform you that any such future actions may result in a needed right-of-way dedication which would make the proposed accessory structure in violation of setback requirements and/or potentially requiring removal. I have attached a copy of the Marion County Assessor's map showing your property in relation to Ottaway Road. Ottaway Road is identified as a collector street in the 2009 Aurora Transportation System Plan requiring, at a minimum, fifty (50) feet of right-of-way and, potentially, up to sixty-five (65) feet of right of way. This could result in a need for ten (10) to fifteen (15) feet of right-of-way dedication for your property.

B. AMC 16.13- Accessory Structures has been attached for your reference. Accessory buildings not subject to building permits requirements are still subject to other requirements of 16.13 unless specifically exempted.

C. Appendix G (attached) provides standards set by Marion County for Swimming Pools, Spas, and Hot Tubs. An approved cover for the Hot Tub may also be acceptable but we would encourage you to contact the Marion County building inspection office at 503-588-5147 to ensure you meet safety standards.

Regards,

Renata Wakeley, City Planner

# APPENDIX G

# SWIMMING POOLS, SPAS AND HOT TUBS

## SECTION AG101
## GENERAL

**AG101.1 General.** The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one- and two-family dwelling.

## SECTION AG102
## DEFINITIONS

**AG102.1 General.** For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

**ABOVE-GROUND/ON-GROUND POOL.** See "Swimming pool."

**BARRIER.** A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

**HOT TUB.** See "Swimming pool."

**IN-GROUND POOL.** See "Swimming pool."

**RESIDENTIAL.** That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

**SPA, NONPORTABLE.** See "Swimming pool."

**SPA, PORTABLE.** A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

**SWIMMING POOL.** Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

**SWIMMING POOL, INDOOR.** A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

**SWIMMING POOL, OUTDOOR.** Any swimming pool which is not an indoor pool.

## SECTION AG103
## SWIMMING POOLS

**AG103.1 In-ground pools.** In-ground pools shall be designed and constructed in accordance with ANSI/NSPI-5 as listed in Section AG107.1.

**AG103.2 Above-ground and on-ground pools.** Not adopted by the State of Oregon.

## SECTION AG104
## SPAS AND HOT TUBS

**AG104.1 Permanently installed spas and hot tubs.** Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section AG107.

**AG104.2 Portable spas and hot tubs.** Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section AG107.

## SECTION AG105
## BARRIER REQUIREMENTS

**AG105.1 Application.** The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

**AG105.2 Outdoor swimming pool.** An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).
2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

6. Maximum mesh size for chain link fences shall be a 1.25-inch (32 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).
8. Access gates shall comply with the requirements of Section AG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:
   - 8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and
   - 8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:
   - 9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
   - 9.2. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 9.1 described above.
10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:
   - 10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or
   - 10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section AG105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

**AG105.3 Indoor swimming pool.** All walls surrounding an indoor swimming pool shall comply with Section AG105.2, Item 9.

**AG105.4 Prohibited locations.** Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

**AG105.5 Barrier exceptions.** Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section AG107, shall be exempt from the provisions of this appendix.

## SECTION AG106
## ABBREVIATIONS

**AG106.1 General.**

ANSI—American National Standards Institute
25 West 43rd Street, New York, NY 10036

ASTM—American Society for Testing and Materials
1916 Race Street, Philadelphia, PA 19103

NSPI—National Spa and Pool Institute
2111 Eisenhower Avenue, Alexandria, VA 22314

## SECTION AG107
## STANDARDS

**AG107.1 General.**

**ANSI/NSPI**

ANSI/NSPI-3 Standard for Permanently Installed Residential Spas . . . . . AG104.1

ANSI/NSPI-4 Standard for Above-ground/On-ground Residential Swimming Pools . . . . . AG103.2

ANSI/NSPI-5 Standard for Residential In-ground Swimming Pools. . . . . AG103.1

ANSI/NSPI-6 Standard for Residential Portable Spas . . . . . AG104.2

**ASTM**

ASTM F 1346-91 Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs . . . . . AG105.2, AG105.5