CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
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COMMUNITY DEVELOPMENT DEPT.

AGENDA
CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
313 COURT SREET
THE DALLES, OREGON 97058
CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, OCTOBER 4, 2012
6:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF AGENDA

IV. APPROVAL OF MINUTES

A. September 6, 2012

B. September 20, 2012

V. PUBLIC COMMENT (Items not on the Agenda)

VI. **QUASI-JUDICIAL HEARING**

Continuance of Public Hearing
Application Number: APL 23-12; Jennifer Blevins; Appeal of a land use interpretation of off-street parking requirements dated July 3, 2012. Property is located at 1215-1217 Blakely Drive, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 5 AA, tax lot 200. Property is zoned "RL"- Residential Low Density District.

VII. STAFF COMMENTS

VIII. COMMISSIONER COMMENTS/QUESTIONS

IX. NEXT SCHEDULED MEETING DATE
October 18, 2012

X. ADJOURNMENT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, September 6, 2012
City Hall Council Chambers
313 Court Street
The Dalles, OR 97058
Conducted in a handicap accessible room

CALL TO ORDER:
Chair Lavier called the meeting to order at 6:00 PM.

BOARD MEMBERS PRESENT:
Bruce Lavier, Mark Poppoff, Dennis Whitehouse, Mike Zingg, Jeff Stiles, Robert Raschio

BOARD MEMBERS ABSENT:
Chris Zukin

STAFF MEMBERS PRESENT:
Senior Planner Richard Gassman, Administrative Secretary Carole Trautman

APPROVAL OF AGENDA:
It was moved by Whitehouse and seconded by Zingg to approve the agenda as submitted. The motion carried unanimously, Zukin was absent.

APPROVAL OF MINUTES:
It was moved by Raschio and seconded by Stiles to approve the August 2, 2012 minutes as submitted. The motion carried unanimously, Zukin was absent.

PUBLIC COMMENT:
None

QUASI-JUDICIAL HEARINGS:
Application Number: ADJ 12-015, Robert and Pamala Kuenzinger; Request: Application for approval to place a home on a lot without meeting the building orientation requirements of the Land Use and Development Ordinance (LUDO). The property is located at 2031 Dry Hollow Road, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 10 AB, tax lot 7500. Property is zoned "RL" – Residential Low Density District.

Chair Lavier read the rules for conducting a public hearing. Lavier asked the Commissioners if they had any ex-parte contact, conflict of interest, or bias that would prohibit them from making an impartial decision in the matter. Commissioner Stiles stated that he was familiar with the applicants, but it would not hinder him from making an impartial decision on the application request.

Chair Lavier opened the public hearing at 6:07 PM.

Senior Planner Gassman presented his staff report and explained that no written comments had been submitted for or against this application. Gassman explained that this was the first application request submitted in this category regarding the orientation of a building. Gassman stated that this property met some of the criteria listed for relief of orientation. In addition, the property had a ridge running

along the back of the property at somewhat of an angle. In order to be completely parallel to the front of the property, Gassman explained, the applicants would need to do quite a bit of excavation work. However, the applicants could come close to the orientation requirement, Gassman reported. Placement would be substantially above the street level, Gassman said, which would give the applicants a better view to see street activities. Gassman stated that staff recommended approval based upon the conditions of the property site.

Chair Lavier stated that he appreciated the property pictures that were provided, and he thanked the applicants.

Commissioner Whitehouse asked if the applicants were requesting an adjustment from the requirement of the orientation of the front door being parallel to the street. Senior Planner Gassman explained that code states the front building line must be parallel to the street, and the applicants' proposed structure placement looked to be at an approximate 30 degree angle. Gassman also stated that the lot was good sized, but because of the back ridge and the elevation above the street level, the applicants were somewhat limited in placement options. The applicants also desired to build a garage on the lot that would have street access, Gassman said.

Commissioner Raschio asked if the proposed house placement was up against the edge of the ridge. Gassman stated that the back of the home would basically be placed up against a wall.

Chair Lavier stated it appeared the house would not quite be facing the street, but possibly one corner of the house would be facing the street. Senior Planner Gassman answered that the front of the house, as proposed, would not be completely hidden from the street.

Testimony
Proponents:
Robert Kuenzinger, 1805 East 12th Street, The Dalles, Oregon, stated he and his wife were the property owners that submitted the adjustment application request, and he was willing to answer any questions.

Commissioner Whitehouse asked if the front door of the house could be seen from the street. Mr. Kuenzinger referred the Board to the site plan. The building's front door could be seen from the street and would face directly southwest towards Dry Hollow Road, Kuenzinger stated.

Commissioner Poppoff asked if the front side of the house facing Dry Hollow would have any windows. Mr. Kuenzinger stated there would be two windows in the front 13 feet (foyer area of the front door), no windows in the center section, but two portal windows at the top, and two windows in the back to match the windows in the front. Kuenzinger also stated that the house placement would meet the requirements for water and sewer installation.

Commissioner Raschio asked if the house would be placed so that there would be a straight drop in the back down to the neighbor's home. Mr. Kuenzinger answered that the property line was 155 feet wide with a 30 degree slope from the site level, and the house would be set back to meet code requirements. Commissioner Raschio asked if LUDO required a setback from the slope. Senior Planner Gassman stated that LUDO had no such requirement, but building codes required a setback. Mr. Kuenzinger said that the property was governed by the National Scenic Area (NSA) setbacks, and code setback minimum was five feet from any ridge. Kuenzingers' proposed setback was 20 feet as illustrated in the site plan, he said. Kuenzinger also pointed out that exterior lighting would point downward, as required by the NSA, to be "neighbor friendly."

In closing, Mr. Kuenzinger thanked the Commission for taking the time to consider the application.

Opponents:
None.

Deliberation*:*
Commissioner Whitehouse asked if there were any Geohazard Zone requirements or the fact that the property was under NSA jurisdiction eliminated any geohazard requirements. Senior Planner Gassman stated there were none required by LUDO, and being in the NSA made no difference to the City. Gassman explained that if the property was in the Geohazard Zone, a geohazard study would be required, but the applicants' property was outside the Geohazard Zone.

Commissioner Zingg asked what provisions were being made for drainage off the back end of the house towards the neighbor's property. Mr. Kuenzinger answered that the length of the house would be guttered with downspouts, and yard drains would be installed to divert water to the driveway—away from the neighbor's property.

Mr. Kuenzinger stated that he ordered a geohazard study, and the report would be forthcoming. Kuenzinger had been told by the study technician that nothing on the property site had indicated a concern, and the area designated for placement of the house was the best spot, according to the technician. The placement would not be disturbing the area, Kuenzinger reported.

Commissioner Stiles asked the applicant if he had contacted the previous owner that conducted the excavation work to get any idea of issues at that time. Mr. Kuenzinger stated that the only comment from the previous owner was that he could remove the berm for $50,000.

Chair Lavier closed the public hearing at 6:24 PM.

Commissioner Raschio suggested adding a condition of final permitting for the applicant to submit a final geohazard study to Planning prior to the placement of the house. Senior Planner Gassman stated he believed the property was outside the Geohazard Zone area, but if it was inside the zone, the study would be required to be submitted during the permitting process.

The motion was made by Commissioner Stiles and seconded by Whitehouse to approve application #ADJ 12-015 as submitted, based on the findings of fact, and to include the conditions of approval as submitted in the staff report. The motion carried unanimously, Zukin was absent.

Chair Lavier placed on record that the Commission appreciated the documentation submitted by the applicants.

RESOLUTION:
Resolution No. P.C. 525-12, Robert and Pamala Kuenzinger, ADJ 12-015
It was moved by Whitehouse and seconded by Raschio to adopt Resolution No. P.C. 525-12 based on the findings of fact and the two conditions of approval as submitted in the staff report. The motion carried unanimously, Zukin was absent.

DRAFT

STAFF COMMENTS:
Senior Planner Gassman reported that there were three action items to be considered by the Planning Commission: 1) appoint a Planning Commission representative to the Urban Renewal Advisory Committee (URAC); 2) appoint a new Planning Commission Vice Chairman (to replace Vice Chair Ahlberg); and 3) appoint a Planning Commissioner to sit on an advisory committee to review applicants for appointment to the County Planning Commission.

After further discussion, the motion was made by Chair Lavier and seconded by Whitehouse to appoint the following Commissioners: 1) Commissioner Zingg as the Planning Commission representative to the URAC; 2) Commissioner Stiles as the Planning Commission representative to the County Planning Commission advisory committee; and 3) Commissioner Raschio as Vice Chair to the City of The Dalles Planning Commission. The motion carried unanimously, Zukin was absent.

COMMISSIONER COMMENTS/QUESTIONS:
Commissioner Zingg asked if there was an agenda for the September 20th Planning Commission meeting. Senior Planner Gassman stated there were two applicants on the agenda for the 20th.

Commissioner Poppoff asked if the Tree Committee was going to start up. Senior Planner Gassman said the committee would start up sometime in the future.

Commissioner Stiles brought to the Commission's attention a safety issue on Kelly Avenue in front of Garcia's gas station due to the volume of pedestrians crossing Kelly Avenue. Chair Lavier suggested the Traffic Safety Committee consider the installment of a crosswalk and asked Senior Planner Gassman to relay that request to the Traffic Safety Committee. Gassman stated he would relay the information to the committee.

Chair Lavier asked Administrative Secretary Trautman to send Vice Chair Raschio a digital copy of the rules for public hearings.

NEXT MEETING:
September 20, 2012

ADJOURNMENT:
The meeting was adjourned at 6:45 PM.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.

_____
Bruce Lavier, Chairman

DRAFT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, September 20, 2012
City Hall Council Chambers
313 Court Street
The Dalles, OR 97058
Conducted in a handicap accessible room

CALL TO ORDER:
Chair Lavier called the meeting to order at 6:00 PM.

BOARD MEMBERS PRESENT:
Bruce Lavier, Dennis Whitehouse, Chris Zukin, Mike Zingg, Jeff Stiles

BOARD MEMBERS ABSENT:
Mark Poppoff, Robert Raschio

STAFF MEMBERS PRESENT:
City Attorney Gene Parker, Community Development Director Dan Durow, Senior Planner Richard Gassman, and Administrative Secretary Carole Trautman

APPROVAL OF AGENDA:
It was moved by Zingg and seconded by Zukin to approve the agenda as submitted. The motion carried unanimously, Poppoff and Raschio were absent.

PUBLIC COMMENT:
None

QUASI-JUDICIAL HEARINGS:
Application Number: APL 23-12, Jennifer Blevins; Request: Appeal of a land use interpretation of off-street parking requirements dated July 3, 2012. Property is located at 1215-1217 Blakely Drive, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 5 AA, tax lot 200. Property is zoned "RL" – Residential Low Density District.

Chair Lavier read the rules for conducting a public hearing. Lavier asked the Commissioners if they had any ex-parte contact, conflict of interest, or bias that would prohibit them from making an impartial decision in the matter. None were noted.

Chair Lavier opened the public hearing at 6:06 PM.

Senior Planner Gassman presented his staff report and explained that no written comments had been submitted for or against this application. Gassman pointed out that there are no dimensional requirements for one and two family dwelling parking in the Land Use and Development Ordinance (LUDO). LUDO requires two parking spaces for single family dwellings and four parking spaces for duplexes for off-street parking. The key issue for this application was whether or not there was adequate space for four parking spaces at this property, Gassman said, and the driveway was the parking area. Without having specific parking dimension requirements, Gassman reported, it would be necessary to look at the amount of space that was there, determine the average size of a vehicle, and determine if there was sufficient room for the vehicles. Gassman stated that staff concluded there was

sufficient off-street parking space provided at the property. Gassman also emphasized that "helter skelter" parking, such as vehicles parked in such a manner that they were hanging out into the street area, was more of a parking violation issue, not a land use issue.

Mr. Gassman reviewed the property's parking area diagram and pointed out that there were portions of the area that were 25 to 27 feet in width and 35 feet and longer. If 15 feet was used as a typical length for a vehicle and 8 feet for the width, there would be enough room for three vehicles to park appropriately and enough room to stack cars two deep, Gassman commented. Gassman said it was clear there was sufficient room to park appropriately based on those figures.

In conclusion, staff recommended the Planning Commission uphold the Director's interpretation.

Commissioner Zukin asked if three vehicles could be parked at a 90 degree angle to the house and one vehicle parked parallel to the street in the driveway. Senior Planner Gassman said that code would allow such a configuration, but that would not necessarily be a logical way to park. Gassman stated that even if the vehicles were stacked one behind the other, there would be sufficient room.

Commissioner Whitehouse asked if there was a permitting process wherein the parking space requirements would have been addressed when the property was converted to a duplex. Gassman answered that the parking spaces would be addressed in a typical situation, but this property had a history of nonconformance where building permits were not acquired by previous property owners.

Commissioner Stiles stated it appeared one portion of the structure was farther back from the street than another portion. Stiles asked if stacked parking would work on the side that was farther back. Senior Planner Gassman said two cars would need to be parked very carefully on that side, the longest portion was in the center portion.

Testimony
Proponents:
Jennifer Blevins, 1212 Blakely Drive, The Dalles, Oregon presented her supporting summary letter dated September 20, 2012 (Exhibit 1) that outlined the history of the subject property located at 1215-1217 Blakely Drive, The Dalles, Oregon. In her summary, Blevins pointed out the history of former property owners' non-conforming development of the duplex structure over the years. Through the development of non-conforming additions to the structure, Blevins claimed that the additional living space resulted in traffic and parking impacts, and that the impacts of the increased density created an unreasonable interference with the rights of surrounding residents. The additional dwelling space not only increased the number of additional drivers to the residence, it removed one off street parking space in the garage, Blevins reported. In April of 2009, Blevins said, the City of The Dalles determined that four off street parking spaces would be required, but there was no documentation to support four off street parking spaces existed. The current owner, David Bustos, in his letter dated September 25, 2009, stated he would convert the garage addition back into a garage if he was awarded the foreclosure bid purchase of the 1217 property (see Exhibit 1, attachment #36). Mr. Bustos was, of course, awarded the purchase. To date, Blevins stated, Mr. Bustos had not provided documentation that showed the garage expansion had been converted back to a garage or documentation to support that said property provided four off-street parking spaces. Blevins later challenged the City on the determination of the four parking spaces, and the City sent Code Enforcement Officer John Dennee out to investigate. Mr. Dennee determined there were four parking spaces provided, and he provided a dimensional diagram of the parking area, Blevins stated. Community Development Director, Dan Durow, in his interpretation, supported Dennee's determination, and the City's position stated that the

garage expansion could remain as is, provided four standard-sized parking spaces (18 feet by 9 feet) existed in the driveway and that any vehicles extending into the public right of way should be reported to the police department, Blevins reported. Blevins purported the driveway lacked sufficient parking space because four standard sized vehicles project out into the public right of way, and there are no pedestrian buffers between the structure and stacked vehicles. In closing, Blevins requested the Planning Commission base its decision on the Non-Conforming Development chapter of the Land Use and Development Ordinance (LUDO).

Rich Williams, 1212 Blakely Drive, The Dalles, Oregon, stated that he wished to correct Senior Planner Gassman's statement regarding parallel parking to the street. Williams stated that LUDO required the off street parking to be perpendicular, and the code did not allow parallel parking. Williams stated that, over the years, because of the expansion of living space to the structure, as many as 10 vehicles at a time had been parked at the property causing unsafe traffic conditions. Williams stated that Blevins was led to believe by the City that Mr. Bustos would correct the problem. Williams pointed out that there are no dimensional vehicular parking requirements in LUDO for residential parking, and he brought out the point that LUDO only addressed commercial parking dimensions. Williams purported that the same vehicles parked at commercial sites would park in residential areas.

Commissioner Stiles asked Mr. Williams that, if the appeal issue was the parking and not the non-conforming structure, would the relocation of the mailbox (allowing the expansion of the driveway) alleviate the parking issue? Williams answered that the driveway was already over the allowed width, therefore the driveway could not be expanded.

Commissioner Zukin asked Mr. Williams if he knew what the requirements for ingress and egress were. Williams said the requirements could be obtained from the fire department, he did not know. LUDO requires that fire codes be considered for safety issues, Williams stated.

Commissioner Zingg asked staff if the center of the driveway was longer than 35 feet. Senior Planner Gassman stated the center of the driveway was more than 35 feet, the exact footage was unknown.

Opponents:
Michael Bustos, 2232 West 10th Street, The Dalles, Oregon stated he was the property owner's father, and he helped purchase the property for his son. Bustos stated he would like to see the letter his son signed stating the son would convert the garage addition back to a garage. At this point in the hearing Ms. Blevins showed a copy of the letter to Mr. Bustos. Mr. Bustos stated he was not aware of such a letter, but in defense of his son, all his son was trying to do was to improve the property. Bustos stated there was no staircase leading to the window in the structure. The staircase was to the right side, and there was an opening past the window to access the area below. His son reopened the opening to get access, Bustos said.

Rebuttal:
Jennifer Blevins stated there was no documentation to support what Michael Bustos testified concerning the staircase.

Commissioner Zukin stated he had questions on vehicles being stacked, perpendicular or parallel parking requirements, and ingress and egress requirements around the driveway area. Senior Planner Gassman said there were no code requirements regarding ingress and egress around cars. Regarding the stacking, there is only a provision in the code concerning allowing one and two family dwelling parked vehicles to back out onto a public right of way if there was a maximum of four parking spaces,

Gassman reported. The purpose, Gassman said, was to distinguish one and two family dwelling parking requirements from commercial parking requirements. Gassman referred to LUDO, Section 6.060.020.B.3, and pointed out that this section did not require that a vehicle be parked at a 90-degree angle, and it did not indicate that a car could not be parked at some other angle.

Commissioner Zukin asked City Attorney Parker if the history of the non-conforming structure had any bearing on the off street parking appeal. City Attorney Parker answered that, in his understanding, the other issues were not relevant to the appeal issue.

Discussion followed between Commissioners and staff regarding the average length of vehicles. Director Durow brought out the fact that the City of Portland determined the average car length as 13.5 feet. Chair Lavier stated he believed the average car length in The Dalles would be longer than in the Portland area. Commissioner Stiles asked if the driveway would still conform to the same width if the structure was a duplex. Senior Planner Gassman said code required a minimum width of 12 feet with a maximum width up to 24 feet if there was 51 feet of structure frontage. Gassman was uncertain of this property's frontage footage.

Chair Lavier asked City Attorney Parker what the consequences would be either way the Commission decided. Parker answered that, if the Commission affirmed Durow's interpretation, the appellant could file a further appeal; and if the Commission denied the interpretation, staff would need direction from the Planning Commission on what kind of interpretation would be considered by the Commission. Chair Lavier stated that he believed there were two possible issues that pertained to the appeal 1) the proper development of the structure—a matter which probably should be dealt with separately, and 2) the parking issue. Lavier said the first issue should not to be dealt with in this hearing.

Rich Williams urged the Planning Commission to take the time to review the appellant's documentation. City Attorney Parker suggested the Commission could close the hearing, review the documents, and reconvene at a later date to deliberate.

Commissioner Whitehouse asked what the next steps would be specifically if the Commission decided in favor of the appellant. Senior Planner Gassman said staff would look to the Planning Commission to determine what was adequate sizing for one and two family dwelling parking areas. Since no vehicular dimensions are required in residential areas by LUDO, staff would need help in determining dimensions, Gassman stated.

Commissioner Zukin emphasized it would be very helpful to have a detailed mapping of the driveway to determine if larger vehicles would fit in the existing parking area. After further discussion, it was determined City staff could map out the parking area, not the property owner.

Roxann Bustos, 2232 West 10th Street, The Dalles, Oregon, asked if this determination would set a precedent for all the other residential areas. Chair Lavier answered that the determination would only apply to this specific property. Ms. Bustos asked what size vehicle would be used for the drawing. Commissioner Zukin suggested the mapping would be a drawing of the largest sized vehicle that could fit in the parking space provided.

Jennifer Blevins stated that, in previous conversations with Mr. Parker, it was suggested to Mr. Parker to take four standard sized vehicles and show that they would fit in the parking area. If he would have done that, Blevins said, she would not have filed an appeal. Chair Lavier commented that the

Commission was trying to remove the past from the hearing and deal with the present. Commissioner Zukin stated that it was not Mr. Parker's responsibility to draw vehicle shapes and map parking areas.

It was moved by Whitehouse and seconded by Stiles to continue the public hearing to October 4 to allow time to receive additional evidence on the parking area mapping and to consider the width of the driveway. The motion carried unanimously, Poppoff and Raschio were absent.

Chair Lavier called a recess at 7:17 PM. Chair Lavier reconvened the meeting at 7:23 PM.

Application Number: ADJ 12-016; Spiro Sassalos; Request: Approval to place a home on a lot without meeting the front yard setback requirements of the Land Use and Development Ordinance (LUDO). Property is located at 1815 Nevada Street, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 11 BB, tax lot 8600. Property is zoned "RL/NC" – Low Density Residential with Neighborhood Center Overlay.

Chair Lavier asked if the Commissioners had any ex-parte contact, conflict of interest or bias that would hinder them from making an impartial decision in this matter. None were noted.

Chair Lavier opened the public hearing at 7:25 PM.

Senior Planner Gassman reviewed the staff report. Gassman stated that no comments were received on this case. Gassman also mentioned that staff assigned a new address to the subject property after some notices were sent out. Staff recommended approval of the adjustment application with a setback of 3 feet from the front property line and approximately 20 feet back from the sidewalk.

Proponents:
Spiro Sassalos, 30564 SW Haley Road, Boring, Oregon, stated he was the property owner, and he was very satisfied with staff's presentation.

Robert Correll, 2810 NE 22nd Court, Gresham, Oregon, thanked the Commission for considering the application, and if the Commission determined in favor of the application it would be a good use of the site.

There were no opponents.

Commissioner Whitehouse asked Mr. Sassalos if this property was going to be a rental property. Sassalos said the property would be for sale.

With no further questions, Chair Lavier closed the public hearing at 7:32 PM.

It was moved by Zingg and seconded by Zukin to approve application number ADJ 12-016, based on the findings of fact and to include the conditions of approval as listed in the staff report. The motion carried unanimously, Poppoff and Raschio were absent.

DRAFT

RESOLUTION:

P.C. Resolution No. 527-12; Spiro Sassalos, ADJ 12-016

It was moved by Whitehouse and seconded by Zukin to approve Resolution number P.C. 527-12, ADJ 12-016, to adjust the front property line setback from 5 feet to 3 feet, based on findings of fact and to include the conditions of approval as set forth in the staff report. The motion carried unanimously, Poppoff and Raschio were absent.

STAFF COMMENTS:

Senior Planner Gassman advised the Commission that there will be a Planning Commission meeting on October 4, 2012.

COMMISSIONER COMMENTS/QUESTIONS:

The Commissioners asked Senior Planner Gassman some follow up questions regarding the mapping of the Blakely Drive parking area.

NEXT MEETING:

October 4, 2012

ADJOURNMENT:

The meeting was adjourned at 7:45 PM.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.

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Bruce Lavier, Chairman

DRAFT

Exhibit 1

September 20, 2012

Jennifer Blevins
1212 Blakeley Drive
The Dalles, Oregon

RE : APL 23-12

The documentation will support that when The Dalles Land Use and Development Ordinance was adopted and became effective in 1998 , the structure at 1215-1217 Blakeley Drive was a non-conforming duplex. The non-conforming duplex is located in a neighborhood zoned RL Low Density Residential. The property is on the outside corner of a 32 ft. wide, 2 way street with no sidewalks. Across the street on the inside corner is a fire hydrant with a yellow no parking zone. At the time the property became a non-conforming, documentation supports the structure had a 1458 sq. ft. ground floor primary dwelling unit with a 400 sq. ft. basement. A interior egress door connected the primary unit to a 24 ft X 15 ft. garage and a room behind the garage. A exterior egress door to the garage and space behind the garage, was located on south side of structure under a exterior staircase. The mother-in-law apartment, measuring 702 sq. ft was located above the garage and

back room space. The upper unit was accessed by exterior staircase. The garage had a overhead garage door and this area was not living space. A driveway, over width as defined by code ordinance Section 6.060.020 (A)(1), occupied the area in front of the exterior staircase, the garage door and small section of lower primary unit.

There is 1 on street parking space. # 1 - 10

In September 2008, The City received information from a former tenant that the garage expansion contained kitchen facilities. #11

The property owner denied third unit and refused inspection. #12

October 2008 a Court ordered inspection , CASE NO. CE 8201, revealed the expanded garage space had been converted to living space with kitchen facilities, defining the structure by code ordinance a triplex. Section 5.010.020 does not allow a triplex as a permitted use within the zoning district. #13-18

Accordingly the former living space is the extent of the area entitled to non-conforming status.

Section 3.090.050 (A) of the City Code provides that (a) non-conforming use shall not be expanded or moved to occupy a different or greater area of land, buildings, or structures than the use at the time it became non-conforming.

While the code does recognize the potential for a "Change of Use" under Section 3.090.050 (C), it also provides that "no alterations {can be} made to structures, buildings or parking areas which would increase the nonconformity, and the approving authority approves the following:

1. Traffic impacts generated by the change are not increased.
2. Noise, dust, and any other nuisance conditions are not increased.

When the property owner converted the garage into living space, he expanded to occupy a different or greater area of land, buildings or structures than use of the time it became non-conforming.

The expansion is in violation of Section 6.150.030 (B) structures which are considered legal non-conforming in terms of current ordinance requirements shall not increase any non-conformance with a proposed physical change.

The conversion of the garage added two more bedrooms to the non-conforming duplex. This was an expansion or a change of use, from

non-living space to living space, resulted in traffic and parking impacts. The impacts of the increased density created an unreasonable interference with the rights of surrounding residents. Not only did the additional dwelling space provide for additional drivers, it removed 1 off street parking space in the garage.

October 24, 2008 To correct the land use violation the owner proposed installation of a interior staircase in the northwest corner of the upper unit living room connecting to the garage expansion. #19

October 30, 2008 the City drafted an Agreement that set forth actions needed to correct the violation, including the installation of an interior staircase. In the Agreement Section 2 (B) states The owner will submit a detailed site plan for the portion of the real property addressed 1217 Blakeley Drive. This site plan will include the location of an interior staircase to be installed by the owner, which will connect the upper and lower levels of the dwelling unit. Section 2 (C) states after completion of the interior staircase described in Section 2 (B) of this agreement, the owner shall arrange for inspection of the single dwelling unit for 1217 by the

Oregon State Building Code Division, and shall provide a written report to the City confirming that the single dwelling complies with all applicable building codes and is approved for habitation.

#20-24

The installation of a interior staircase is a alteration or expansion, violating the use at the time the structure became non-conforming and does not address the parking issues generated by the increased density.

There is no documentation to support the owner signed the Agreement or a permit approved to construct a staircase.
The owner submitted no detailed site plan and the State Building Code Department did not inspect the unit.

Jan 5, 2009 The property owner choses to sell the property and a local contractor is interested in obtaining the property.
The buyer intend to connect the main floor interior and make the upstairs a stand alone one bedroom. #25-26

February 27, 2008 I complained to the City the garage expansion, the illegal 3 unit, continued to be occupied in violation of the zoning. #27-28

April 13 2009 I enquired when enforcement proceedings would commence and what the precise nature of how the violation would be resolved. #29

April 15, 2009 It is The City's position that a separate dwelling unit exists on the property addressed 1217 Blakeley Drive, which includes the space in the upper floor area and the area which was formally a garage, provided the provisions of Section 3.090.070 (3) concerning the residential off street parking, and that 4 off-street parking spaces would be required.

This new decision is not what the Stipulated Judgement Granting Permanent Injunction stipulates and what the City represented to correct the zoning violation. #30

There is no documentation to support 4 off street parking spaces. #31

May 22, 2009 letter from Mr. Parker states that " in reviewing the permit approving the owners permit submitted in Jan 2001, it appears the permit did not specifically mention conversion of the garage space to residential living space."

Mr. Parker also states the permit approved by Mr. Paul does not indicate he considered the criteria under Section 3.090.070 (3) concerning compliance with off street parking requirements" #32-#33

September 2 09 letter from Mr. Parker to Attorney T. Peachey - The property owner notified the city he was selling the property and a prospect buyer was aware of the requirement to convert the garage expansion back to a garage, thereby bringing the property into compliance. #34-#35

Letter dated september 25 2009 - prospective property owner David Bustos states " I am writing this letter to inform you that if my offer gets accepted I plan on converting the 1217 address back to a garage. " #36

November 12-09 The City filed a "Stipulated Judgement Granting Permanent Injunction" - CC 09-73. Under terms and conditions in Section 2 [B] " The purchaser of the property will need to submit a floor plan to the plaintiff { City } showing the detail of his plan to convert the lower portion of 1217 Blakeley Drive into a garage, this plan will need to be approved by the Community Development Dept. Conversion of the area to a garage will need to comply with all applicable building code requirements." #37-38

There is no documentation to support that a detailed site plan, a necessary condition of approval, was received and approved by the Director. #39-42

Mr. Bustos does not honor his statement to convert the expansion back into a garage and provides no verifiable documentation to support the driveway can provide 4 off street parking spaces.

Dec 2011 I alerted the State Building Codes Dept. that construction activity was occurring in the garage expansion and that no permit was posted.

The State Building Codes Dept. contacted Mr. Parker and he reported that the work performed by Mr. Bustos did not need a permit. The owner had uncovered a existing staircase and was just working on the header. This uncovered staircase is located in front of the large window that replaced the overhead garage door.

The documentation does not support a staircase was present in this location. The photograph showing the condition of the property when it became non-conforming and clearly shows a overhead garage door directly under the large picture window in the upstairs mother in law apt. #43-46

A ~~2002~~ 2001 on-site inspection by Tenneson Engineering and the August 2008 City inspection mentions no evidence of interior staircase present. #13 & 47

The previous owner had proposed to install a interior staircase in the northwest corner of the living room space in the mother-in-law unit, but submitted no site plan and there is no documentation to support that LUDO development protocols were followed. #19

When I challenged the determination that the driveway had sufficient space to park 4 vehicles legally, Mr. Parker had Planning Code Compliance Officer J. Dennee investigate.

Mr Dennee used the typical dimensions of a parking space in the City of The Dalles parking lot (18 feet long and 9 feet wide) as guide when measuring the available parking space in the driveway at 1215- 1217 Blakeley Drive.

Mr.. Dennee determined that there was sufficient parking space to park 4 to 5 vehicles .

Mr. Durrow has also determined the driveway has sufficient room to park four standard sized vehicles.

The City's position is that the garage expansion can remain provided 4 standard sized parking spaces (18 x 9) exist in the driveway and that any vehicles extending into the public right of way should be reported to the police dept.

The documentation demonstrates the driveway lacks sufficient room to park 4 standard sized vehicles without projecting out into the public right of way, and when 4 vehicles are parked, the driveway does not provide pedestrian buffers between the

structure and the stacked vehicles, causing unsafe conflicts with on-site circulation. #48-76

The City erred when approving the permit in 2001 allowing the garage expansion. The permit did not consider the criteria under Section 3.090.070 (3) concerning compliance with off street parking.

It appears the City did not base its decision on the conditions of this nonconforming property including the restrictive Low Density zoning, configuration to adjacent streets and driveways, the location on a 32 ft. wide 2 way street with no sidewalks, and did not evaluate the impact of the increase density and that removal of the garage would eliminate 1 of the 4 off street parking spaces.

There is no evidence demonstrating the driveway can accommodated 4 to 5 standard size vehicles without projecting into the public right of way and provide pedestrian buffers for safe on-site circulation.

The evidence documenting the numerous parking violations demonstrate that regardless of property owners assurances to monitor the parking situation, vehicles frequently extend out into the street causing public safety issues.

From documentation presented it appears the the City has facilitated relief to the property owner at 1215-1217 Blakeley Drive by not following LUDO development protocols, the requirements the City stipulated to correct the zoning violation and by disregarded the evidence demonstrating parking issues. I request the Planning Commission to base their decision on the LUDO chapter about Non-Conforming Development , the location and condition of the use of the property when it became non-conforming, the street width, available on street parking, and failure by the Property owner to demonstrate that 4 standard size vehicle spaces are present that include pedestrian buffers between structure and stacked vehicles, and do not extend into the public right of way.

Jennifer Blevins Jennifer Blevins 9-20-2012

BUILDING DIAGRAM

Drawn by kl Date

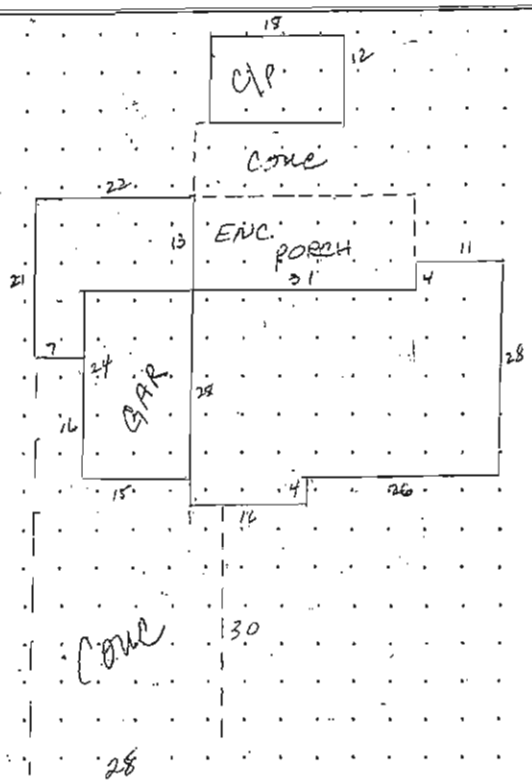
Checked by 25 Date 9-6-94

Checked by Date

ACCOUNT NO. #5444 (1)

1N305AA 200 121

1215 + 1217 Blakeley DR



7 X 21 = 147
13 X 15 = 195
16 X 28 = 448
15 X 24 = 360
11 X 28 = 308
1458 ☑

2nd Floor
7 X 21 = 147
13 X 15 = 195
15 X 24 = 360
702 ☑

1215-1217 Blakely Way

#2

ACCOUNT: 5444 DATE APPRAISED: 9/06/94 APPRAISER: 01 INSPECTION: N
AREA ADJUSTMENT: 1.00 YEAR APPRAISED: 1995 BASE YEAR: 1995

SAA 200

CHIN ALAN L MAP: 1N 13E ~~4BR 6100~~
1215 BLAKELEY DR SITUS: 1215 BLAKELEY DR 97058
THE DALLES, OR 97058 CLASS: 101 MA: 3 VA: 4 CODE: 121

APT OVER GARAGE

USE	R LOC	U ACCESS	A VIEW	A TOPOG	L STREET	P STR IMPS W
FRONTAGE	N WATER	P SANIT	P MISC	MISC	MISC	MISC

MARKET VALUE LAND

VA	TYPE	CLASS	SIZE	COST/UN	CLC	VALUE	ADJUST	CLS	YEAR	EXM	NI
304	RES		.18	14080.00	L	14080	0	101	1995		N
304	OSDM		.00	1000.00	L	1000	0	101	1995		N
				TOTALS:		15080	0				

APPRAISAL SUMMARY

GRP	APPRAISAL TYPE	PHYS	FUNC	MISC	LCM	CLS	VALUE
1	GARAGE	.66	1.00	1.00	.85	3	4,880
1	CARPORT	.66	1.00	1.00	.85	3	1,750
1	RESIDENCE	.66	1.00	1.00	.85	3	63,060
1	O/I CONC	.66		1.00			1,950
1	O/I WDFCHENC	.66		1.00			7,610
1	O/I 3'HCHLKF	.66		1.00			290

TOTAL IMPROVEMENTS: 79,560
TOTAL MARKET LAND: 15,080
TOTAL APPRAISAL: 94,640

#3

RESIDENTIAL APPRAISAL GROUP #: 1

FACTOR BOOK: 131 YEAR BUILT: 1949 EFFECTIVE YR: 1957 BASE APPR YR: 1995
YEAR APPRSD: 1995 APPR DATE: 9/06/94 APPRSR CODE: 01 REMODEL YEAR:
FCT BOOK YR: 1993 SHAPE: SIZE: INSPECT: N CONDITION: A+

ROOM GRID	SQ FT	CLS	LIV	BED	BTH	KIT	DIN	UTL	OTH	FP/W	COST/FT	QUAL%	RPL COST
1ST FLOOR	1458	3	1	2	2.0	1	1	0	0	0	38.33	1.11	62032
2ND FLOOR	702	3	1	2	1.0	1	1	0	0	0	32.57	1.11	25379
ATTIC . :											.00		0
BASEMENT:	400	3								1	33.84	1.11	15025

ATTIC FIN SQ FT: LOW COST SQ FT: UNFIN SQ FT:
BSMT FIN SQ FT: 400 LOW COST SQ FT: UNFIN SQ FT:

(BASE COST: 102436 + INVENTORY: 10013) x QUAL 1.00 x LCM .85 = 95582
(PHY DEPR: .66 x FNC DEPR: 1.00 x MSC DEPR: 1.00) = DEPR RPL COST: 63084
x PCT COMP: 1.00 x AREA ADJST: 1.00 = RESIDENCE TOTAL: 63080

CODE	CLS	AREA	COST/FT	QTY	W/CL	TOTAL	DESCRIPTION	DBC
10 01	3	1458	.00			0	CONCRETE FOUNDATIO	
20 17	3		.00			0	BEVEL SIDING	
30 06	3	1458	.00			0	HIP ROOF	
30 10	3	1458	.00			0	COMPOSITION SHINGL	
40 07	3	1458	.00			0	CARPET & RESILIENT	
40 09	3		.00			0	DRYWALL WALL COVER	
40 90	3		.00			1000	EXTRA KITCHEN	*
50 01	3		.00	1.0		550	APPL RANGE	
50 02	3		.00	1.0		130	HOOD & FAN	
50 04	3		.00	1.0		395	AVERAGE DISHWASHER	
50 06	3		.00	1.0		120	GARBAGE DISPOSER	
60 00	3		.00	3.0		4080	PLUMB FULLBATH	
60 10	3		.00	1.0		560	PLUMB KTCHSINK	
60 11	3		.00	1.0		490	PLUMB WTRHEATR	
60 13	3		.00	1.0	1.0	0	LAUNDRY HOOKUP	
70 01	3	2560	1.05			2688	FORCED AIR HEATING	

#4

CARPORT/GARAGE GROUP #: 1

GARAGE ATTACHED UNFINISHED
FCTR BK 138 FB YEAR 1993 x COST/FT 24.18 x SQ FT 360 = BASE COST 8705
FINISH SQ FT: 0 LOW COST SQ FT: 0 UNFIN SQ FT: 360 YR BLT:
+ INVENTORY: 0 x (QLTY 1.00 x LCM: .85 x AREA ADJ 1.00) = 7,399
(DEPR PHYS: .66 x FUNC: 1.00 x MISC: 1.00) = TOTAL VALUE: 4,880

CARPORT/GARAGE GROUP #: 1

CARPORT DETACHED FLAT ROOF
FCTR BK 135 FB YEAR 1993 x COST/FT 14.70 x SQ FT 212 = BASE COST 3116
FINISH SQ FT: 0 LOW COST SQ FT: 0 UNFIN SQ FT: 212 YR BLT:
+ INVENTORY: 0 x (QLTY 1.00 x LCM: .85 x AREA ADJ 1.00) = 2,649
(DEPR PHYS: .66 x FUNC: 1.00 x MISC: 1.00) = TOTAL VALUE: 1,750

IMPROVEMENT APPRAISAL GROUP #: 1

CODE	AREA	PHYS	USE%	LCM	COST/UNT	TOTAL	DESCRIPTION	DRC
90 01	1160	.66	1.00	.85	3.00	1950	O/I CONC	

IMPROVEMENT APPRAISAL GROUP #: 1

CODE	AREA	PHYS	USE%	LCM	COST/UNT	TOTAL	DESCRIPTION	DRC
90 07	403	.66	1.00	.85	33.65	7610	O/I WDPCHENC	

IMPROVEMENT APPRAISAL GROUP #: 1

CODE	AREA	PHYS	USE%	LCM	COST/UNT	TOTAL	DESCRIPTION	DRC
90 26	100	.66	1.00	.85	5.20	290	O/I 3'HCHLKF	

MAP NO. _____ PHOTO NO. _____

RESIDENTIAL APPRAISAL

CODE NO. 12.1 ACCT. NO. 1N 13 4BB T. L. NO. 6100

#5

1215-1217 BLAKELY WAY

VALUE SUMMARY

DWELLING—DEPRECIATED REPLACEMENT COST $ 53960
GARAGE—DEPRECIATED REPLACEMENT COST $ 1420
OTHER IMPROVEMENTS: D R C $ 4060
TOTAL DEPRECIATED REPLACEMENT COST $ 59440
OVER/UNDER IMPROVEMENT ____ %
DISTRICT DEPRECIATION ____ %
TOTAL ECONOMIC ADJUSTMENT ____ % $ ____

RECORD OF LAST APPRAISAL ORS 308.234

APPR FC DATE 4/18/84 APPRAISED VALUE $ 59440
APPR ____ DATE ____ APPRAISED VALUE $ ____
APPR ____ DATE ____ APPRAISED VALUE $ ____

BUILT 19 49 COST $ ____ MO RENTAL $ ____ SOLD 19 ____ AMOUNT $ ____ LIST PRICE $ ____
REVOLVING 19 ____ COST $ ____ TERMS: W.D. CONT. TRADE DN PMT $ ____
INT INSPECTED YES NO OWNER TENANT OTHER

					SQ FT (REVISED)		LUMP SUMS +	LUMP SUMS —
CLASS	CURVE	STORIES		BASE FACTOR $ 29.36				
RT 5 RZ	A B C D E F	1 1½ 2		SHAPE FACTOR ____ %				
FOUNDATION	CONC BLK BRICK STONE FRAME WD BLK							
EXTERIOR	CBD SGL DBL SIDING DRYCK RUSTIC VERT DAD SHAKE: WD ASB COMPO SHGL STUCCO BRICK VEN SOLID 1 1½ 2 STY STONE CONC BLK FT FURR STUCCO							
ROOF	GRB HIP FLAT PITCH LOW AVG STEEP SHINGLES: WD COMPO ASBM SHAKES: WD VERT DBL BUILT UP R RFG BAR TILE EXP RM							
1ST FLOOR	CBL SGL FR PLYWD HARD CONC TILE CARPET RMS: LIV DIN FAM KIT UTIL HALL 2 BATH 3 BR DEN							
PARTITIONS	PLASTER DRYWALL COMPO CLDAPA T&G PLYWOOD TRIM STN PTD WD PANELING							
OTHER INTERIOR CONST	CLASS. BUILT-INS TIN WD METAL CAB TOPS PLASTIC LINO 2 M17 APPLIANCES ELEC GAS OVEN RANGE DISHWASHER HOOD FAN QUAL F A G						500	
LIGHTING	CLASS: LGHT FIXT INTERCOM						120	
PLUMBING	CLASS. III LAVATORY I STALL SHOWER II SINK III FULL BATH WATER SOFT. III TOILET I SHOWER DOOR I LAUNDRY TUB ½ BATH II BATHTUB ½ WATER HEATER						1350	
HEATING	CLASS FURNACE FA GRAV FL W OIL GAS HARD FUEL ELEC. W UNITS BASEBD CL PAN CABLE CLG FL H.W.: BASEBD CONVEC RAD: FL CLG STOVE CHIMNEY TOTAL AREA HEATED 2510 SQ. FT. X $ 1.15 P S F						2886	
FIREPLACE	CLASS: NO FACE 2 STY ADL BKD STKD CIR NO. HEARTHS PLAIN ELAB							
BASEMENT	NONE FULL ¾ ½ ¼ 400 sq UNFIN WALLS: CONC BLK FL: CONC WOOD CLASS. DAYLIGHT FR ½ 1/3 ¼ CEIL: PLS DRYWALL COMPO PLYWD WALL CVR PLS DRYWALL KNOTTY WD PINE FLR CVR ASPH TILE CORK LINO RMS PLAY AUTO BATH LNDRY GAR NO RMS HEAT: 400 FIN SQ FT X $ 22.56						9024	
ATTIC OR UPPER STORIES	CLASS: NONE ¾ ½ ¼ 1X UNFIN FIN PLS DRYWALL COMP CLDAPA FLR SUB SGL FIR HARD ASPH TILE VINYL LINO CARPET SUBFLOOR ONLY RMS: 1 2 BAR BATH HALL NO RMS HEAT: 702 SQ FT X $ 22.21						15591	
SPECIAL	PORCH AD IN CONC							
RATING	HTG CLND P F A G FLRS UTIL P F A G APPEARANCE P F A G				TOTALS	+		
						—		

REMARKS:

VINYL AND FOR 4-20 IN MONTH

SUMMARY OF DWELLING COMPUTATION

NET COMP AND ADJUSTMENT $ 30611
DWELLING 1458 SQ FT. X ____ R2 UNITS = ____ SQ FT X $ 29.36 PSF = $ 42806
TOTAL BASE COST $ 73417
19 83 COST INDEX 5 % X QUALITY ADJ ____ % = 105 % MODIFIER X BASE COST = $ 77087
REPLACEMENT COST $ ____
DEPRECIATION: ____ % PHYSICAL X ____ % FUNCTIONAL = 70 % ODOO
DEPRECIATED REPLACEMENT COST (TRANSFER TO VALUE SUMMARY) $ 53960

EXHIBIT FORM 30-00 (REV 4-83) (11) OREGON DEPT OF REV

BUILDING DIAGRAM AND OUTBUILDINGS

REMARKS:

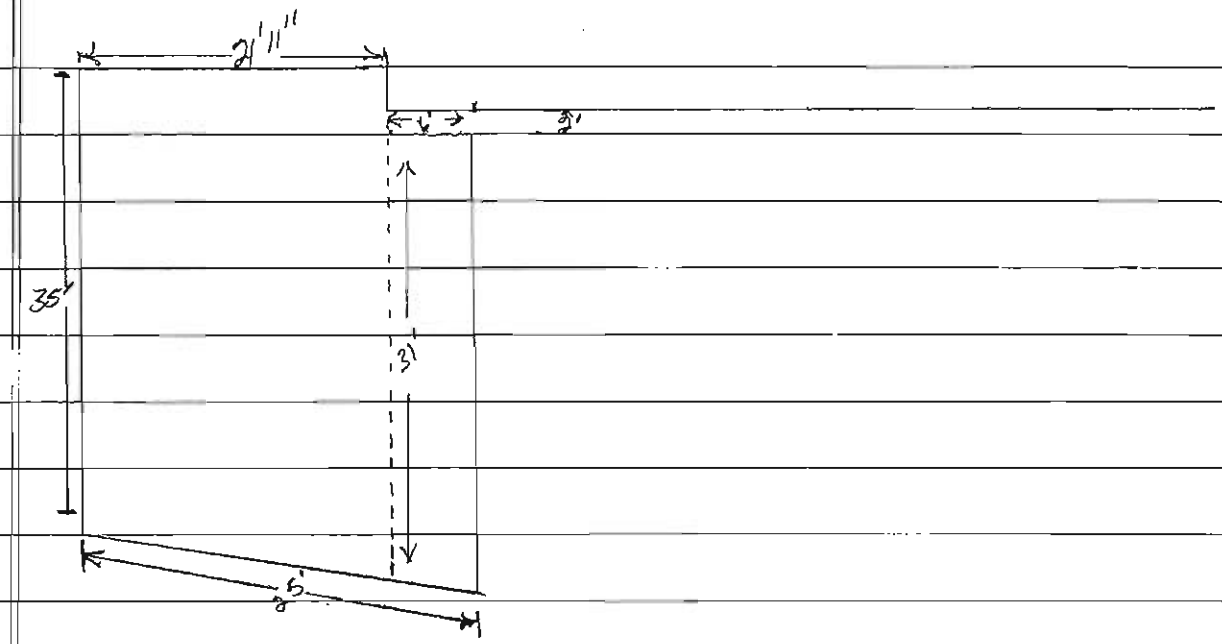
#6

NO	TYPE / USE	DESCRIPTION: FOUND	FLOOR	ROOF	WALLS	MISC.	DIMENSIONS	AREA S.F. BASE ADJ BASE	REPL. COST LUMP SUM TOTAL	QUAL. INDEX % MOF	REPL. COST	DEP. % PHYS % USE % GOOD %	DEPRECIATED REPLACEMENT COST
	GARAGE CLASS HRT ATTACHED BUILT YR BUILT						X	216					
				SHED	C		X	⊘					
		C	C	MTL	BLK		12 X 18	12.50	2700	105	2835	50	1417
1	OPEN						X	320					
							X	⊘					
	CONC						16 X 20	1.50	480	105	504	70	352
2	ENC CONC						X	403					
				SHED			X	⊘					
	DETIR	C	C	FG	FG		13 X 31	8.50	3425	105	3596	70	2517
3	CONC						X	848					
							X	⊘					
	DRIVE	C	C				28 X 30	1.50	1260	105	1323	90	1190
4							X						
							X						
							X						
5							X						
							X						
							X						
6							X						
							X						
							X						
7							X						
							X						
							X						
8							X						
							X						
							X						

TOTAL DEPRECIATED REPLACEMENT COST—OUTBUILDINGS AND OTHER IMPROVEMENTS (TRANSFER TO VALUE SUMMARY) $ 4059

1215 BLAKELY

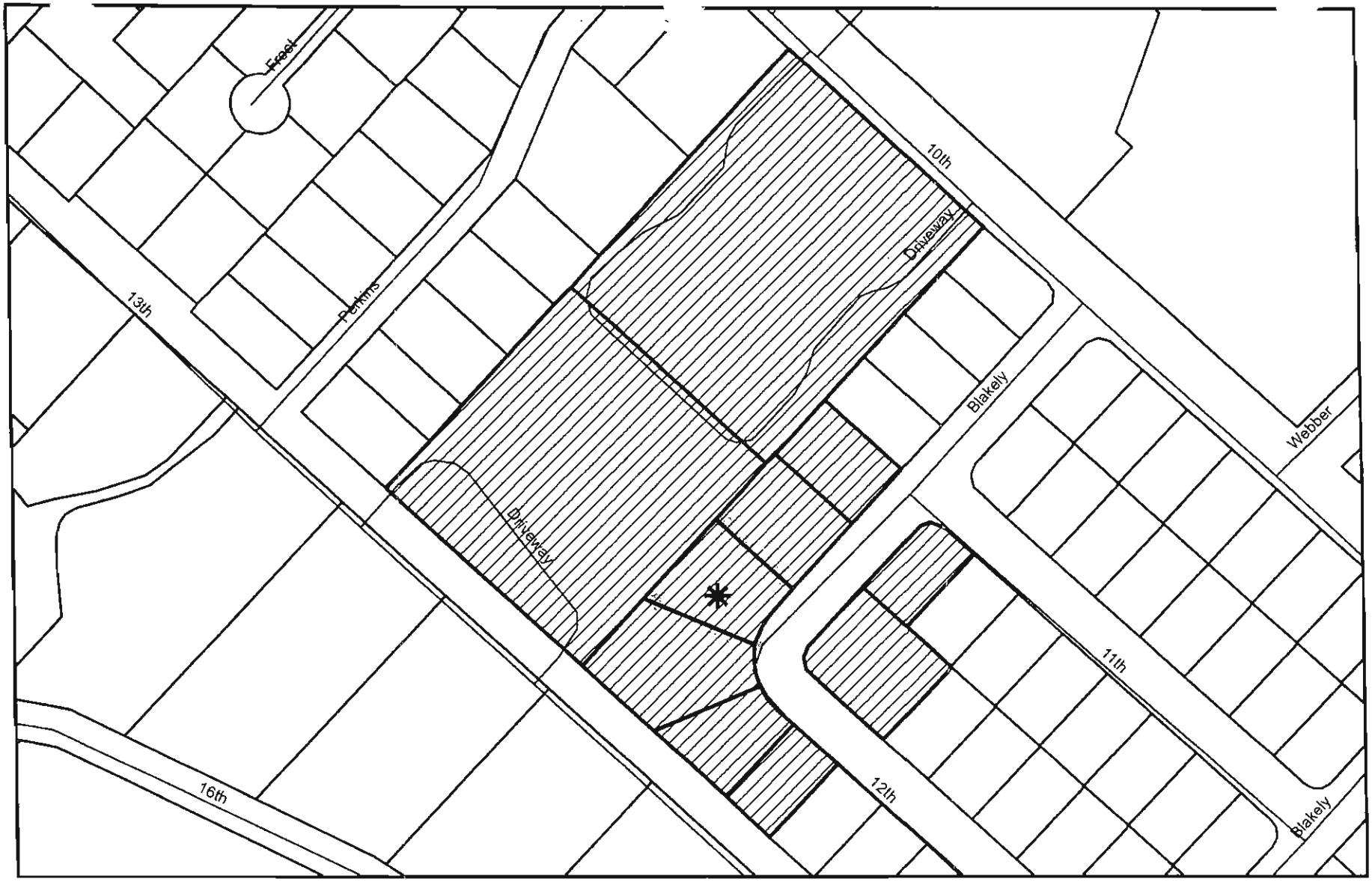
#7



#8

TABLE A-1
Street System Inventory
City of The Dalles

Roadway		Juris-diction	Classi-fication	ROW Width	Street Width	Number of Travel Lanes	Direction	On-Street Parking	Sidewalk	Bike Lan	Speed Limit
Laughlin St.	Jefferson St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Jefferson St.	Madison St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Madison St.	Kelly Ave.	City	Local	60	40	Unstriped	Two-way	Yes	Yes	No	25
Kelly Ave.	F St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
F St.	G St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
G St.	H St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
H St.	I St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
I St.	J St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
J St.	Clark St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Clark St.	Lewis St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Lewis St.	Dry Hollow Rd.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Dry Hollow Rd.	Oregon Ave.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
W of Thompson St.	Thompson St.	City	Local	50	36	Unstriped	Two-way	Yes	Intermittent	No	25
Thompson St.	E of Thompson St.	City	Local	40	24	Unstriped	Two-way	Yes	No	No	25
12th St.											
NW of Chinook St.	Chinook St.	County	Local	60	20	Unstriped	Two-way	Yes	No	No	25
Chinook St.	SE of Chinook St.	County	Local	60	18	Unstriped	Two-way	Intermittent	No	No	25
Blakeley Dr.	Blakeley Way	City	Local	50	32	Unstriped	Two-way	Yes	No	No	25
Jordan St.	Mount Hood St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Mount Hood St.	Bridge St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Bridge St.	Trevitt St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Trevitt St.	Garrison St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Garrison St.	Pentland St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Pentland St.	Lincoln St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Lincoln St.	Liberty St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Liberty St.	Union St.	City	Local	60	36	Unstriped	Two-way	Yes	Intermittent	No	25
Union St.	Court St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Court St.	Washington St.	City	Local	60-80	36	Unstriped	Two-way	Yes	Yes	No	25
Washington St.	Federal St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Federal St.	Laughlin St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Laughlin St.	Jefferson St.	City	Local	60	36	Unstriped	Two-way	Yes	Yes	No	25
Jefferson St.	Madison St.	City	Local	60	41	Unstriped	Two-way	Yes	Yes	No	25
Madison St.	Fork/Split	City	Local	60	30	Unstriped	Two-way	Intermittent	Yes	No	25
Fork/Split	Kelly Ave. (S)	City	Local	60	33	Unstriped	Two-way	No	Yes	No	25
Fork Split	Kelly Ave. (N)	City	Arterial	60	29	2	Two-way	No	Yes	No	25
Kelly Ave. (N)	F St.	City	Arterial	60	35	2	Two-way	Yes	Yes	No	25
F St.	G St.	City	Arterial	60	35	2	Two-way	Yes	Yes	No	25
G St.	H St.	City	Arterial	60	35	2	Two-way	Yes	Yes	No	25
H St.	I St.	City	Arterial	60	34	2	Two-way	Yes	Yes	No	25
I St.	J St.	City	Arterial	50	37	2	Two-way	Yes	Yes	No	25
J St.	Harris St.	City	Arterial	50	37	2	Two-way	Yes	Yes	No	25
Harris St.	Clark St.	City	Arterial	50	37	2	Two-way	Yes	Yes	No	25
Clark St.	Lewis St.	City	Arterial	50	37	2	Two-way	Yes	Yes	No	25
Lewis St.	View Ct.	City	Arterial	60	36	2	Two-way	Yes	Yes	No	25
View Ct.	Dry Hollow Rd.	City	Arterial	60	36	2	Two-way	Yes	Yes	No	25
Dry Hollow Rd.	Oregon Ave.	City	Arterial	60	40	2	Two-way	Yes	Yes	No	25
Oregon Ave.	Quinton St.	City	Arterial	60	37	2	Two-way	Yes	Yes	No	25
Quinton St.	Roberts St.	City	Arterial	60	36	2	Two-way	Yes	Yes	No	25
Roberts St.	Shearer St.	City	Arterial	60	36	2	Two-way	Yes	Yes	No	25
Shearer St.	Thompson St.	City	Arterial	60	36	2	Two-way	Yes	Yes	No	25
Thompson St.	Morton St.	City	Collector	60	24	2	Two-way	No	No	No	25
Morton St.	Richmond St.	City	Collector	60	24	2	Two-way	No	No	No	25
Richmond St.	E of Richmond St.	County	Collector	60	?	?	?	?	?	?	?
13th Pl.											
Riverview St.	Harris St.	City	Local	50	14	Unstriped	Two-way	No	No	No	25



Legend
HBP88-11
Taxlots.shp
roads

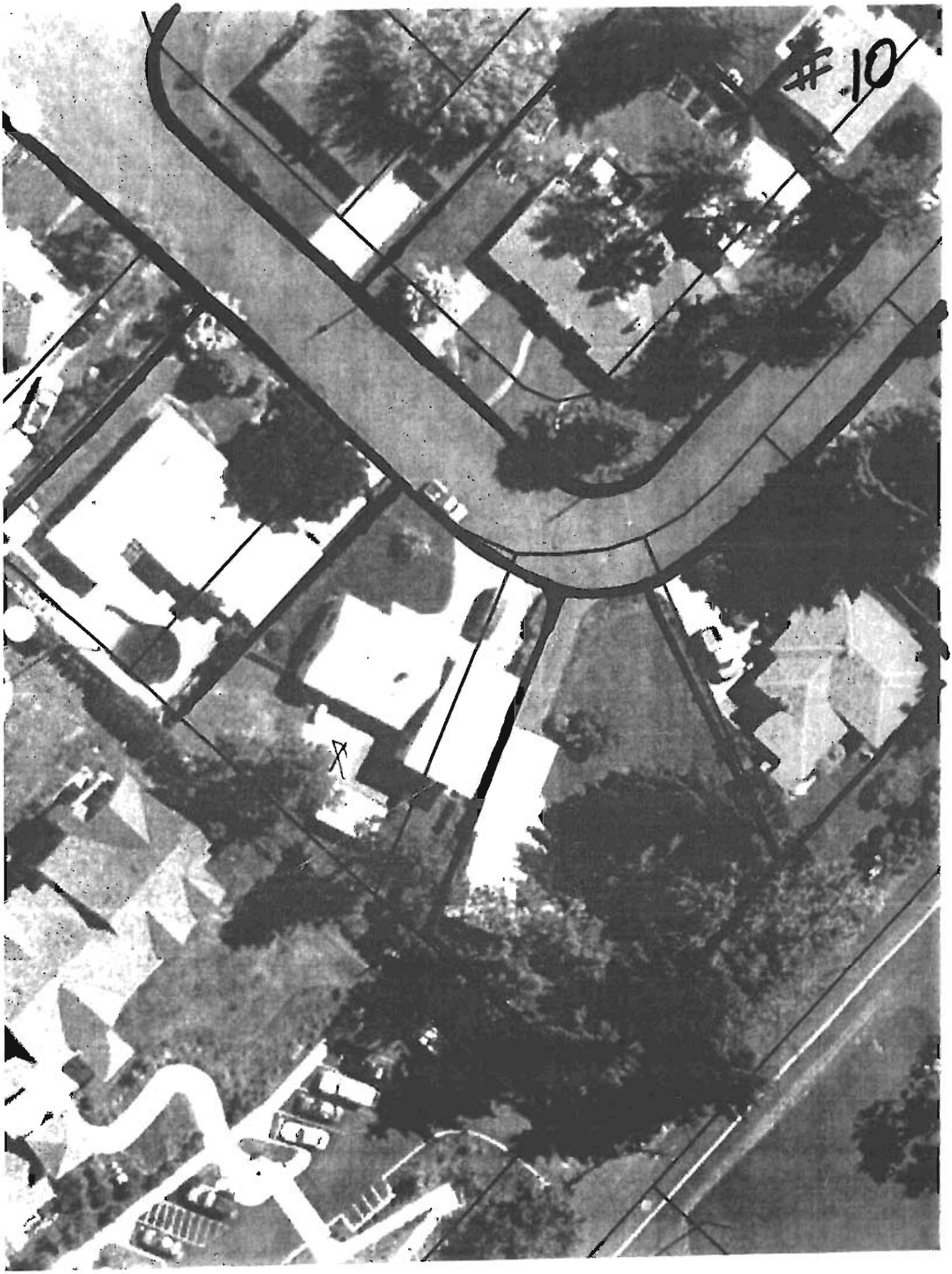
Properties Within 100 Feet of [redacted]

0 100 200 400 Feet

Community Development Dept.
January 2011

N

#9


#10

7/1/08 #11

[redacted]

Previous tenant came in & lived @ residence. Stove & microwave existed in residence.

No appliances were provided by tenant. All existed prior to tenant renting.

Mail box was shared (1817 Blakely) with upstairs neighbor

August 11, 2008

TO: City Attorney's Office & Court Clerk

FROM: Doug Kirchhofer

RE: Correspondence to Judge

Dear Judge:

I have been advised that on August 12th, 2008 the City Attorney will be presenting to you a request for an inspection warrant for property owned by me at 1215 and 1217 Blakeley Drive , The Dalles , Oregon 97058 . I object in the strongest terms to the issuance of this warrant and would like to be afforded an opportunity to be heard regarding its issuance.

My property has been subjected to at least four inquiries as well a physical inspection by a representative of the city after ALL remodeling had been completed to this property in 2001. I was given the impression by the city that a physical inspection would put this matter to rest so I granted this inspection in 2001. This property has been found by the City's own representatives to be in compliance with zoning requirements. No material changes have been made to this property since the last inspection.

Despite repeated requests for the source of the complaint or for specific zoning ordinances I am suspected of violating, the city planning department has not been forthcoming with this information. I believe some good cause must be shown before this Court authorizes random and too numerous intrusions into my property.

Thank you for your considerations of my concerns in this matter.

Sincerely,

Doug Kirchhofer

(541) 980-1055

8/12/8
signed
warrant

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

#13

August 4, 2008

Mr. Doug Kirchhofer
P. O. Box 1642
The Dalles, OR 97058

Re: Inspection of 1215 and 1217 Blakely Drive

Dear Mr. Kirchhofer:

On July 8, 2008, Mr. Dennee sent you a letter enclosing a consent form to authorize permission for the City to conduct an inspection of your property located at 1215 and 1217 Blakely Drive. The letter provided for a deadline of July 23, 2008, to return the consent form. The City did not receive the consent form by the stated deadline.

The City will be proceeding to apply for a inspection warrant of your premises. The application for the inspection warrant will be filed with the Municipal Court on August 12, 2008, unless prior arrangements have been made by 5:00 PM on August 11, 2008, for an inspection of the premises. If you will be representing yourself in this matter, you will need to contact the City Planning Department by the stated deadline to arrange for the inspection. If you have retained an attorney to represent you, your attorney will need to contact my office by the dated deadline to arrange fr the inspection.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

cc: John Dennee

14

IN THE MUNICIPAL COURT OF THE CITY OF THE DALLES

COUNTY OF WASCO, STATE OF OREGON

CITY OF THE DALLES, Plaintiff, vs. DOUGLAS KIRCHHOFER, Defendant.	)))))))))	CASE NO. CE8201 ADMINISTRATIVE WARRANT

IN THE NAME OF THE CITY OF THE DALLES:

TO THE CODE ENFORCEMENT OFFICER OF THE CITY OF THE DALLES, GREETINGS:

You are hereby authorized to execute this inspection warrant for the purpose of inspecting and investigating the conditions upon the premises located at 1215 and 1217 Blakely Drive, The Dalles, Oregon. The purpose of this inspection and investigation is to verify the number of rental units on the premises. You, and any contractor hired by the City to perform the inspection, or any employees of such a contractor, and any police officer, are authorized to enter the premises to conduct the inspection and investigation.

You are further directed to make return of this warrant to me within ten (10) days from the date of this warrant.

This warrant may be executed on any day of the week between the hours of 8:00 A.M. and 6:00 P.M.

Issued over my hand on 12 Oct, 2008, at 9:00 A.M.

Ronald M. Somers, Municipal Judge

City Attorney
313 Court Street
The Dalles, Oregon 97058
(541) 296-5481 ext. 1122

#15

1215 and 1217 Blakely Drive.

Beginning in 2000 we have had ongoing issues with a third unit at the above address. The property is zoned RL. The structure was probably originally built as a single family dwelling. It is not clear how it got to be a duplex, but that is not the current issue. The issue is a third unit. We have a note in the file from 7-21-2000 from Bob Paul who did a site inspection and noted what appeared to be a third unit. You were also involved in 2000 based on the notes and letters in the file.

Doug Kirchhofer purchased the property from Vurel Cloninger in 2000 or 2001 and still owns it. When he bought it he sent us a letter stating he had no intention of making three units out of the house. Lately, we have received information from two different sources that he has established a third unit in the area where the previous owner also tried to create a third unit. This unit has a full kitchen. After recent discussions with the owner and assurances that he did not put in a kitchen, when confronted with information that a kitchen was there, his response was the tenant must have put it in. Once willing to have us do an inspection whenever necessary and offering to provide proof that he had removed the 220 electrical service, none of which has happened, the owner now is calling our action harassment.

We have just received more information that a family has moved into this third unit.

Given the history, it does not seem that Mr. Kirchhofer is willing to cooperate with us in either eliminating the third unit or in allowing us to do an inspection.

It seems our only recourse is to refer this to you. We would like to find some way to eliminate the third unit once and for all.

Richard Gassman
Senior Planner
City of The Dalles
rgassman@ci.the-dalles.or.us
541-296-5481x1151

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

#16

September 4, 2008

Certified Mail
Return Receipt Requested

Mr. Doug Kirchhofer
P.O. Box 1642
The Dalles, OR 97058

Re: Notice of Land Use Violation
1215 and 1217 Blakely Drive

Dear Mr. Kirchhofer:

According to the Wasco County Assessor's Records, you are the owner of the real property described as Assessor's Map No. 1N 13E 5AA Tax Lot 200, located at 1215 and 1217 Blakely Drive in The Dalles. Pursuant to the administrative warrant issued by the Municipal Court, an inspection was conducted on the premises on August 20, 2008. The inspection indicated that the property is being used as a triplex. The property is located within the R-L Low Density Residential Zoning District. Section 5.010.020 does not allow a triplex as a permitted use within the zoning district.

You will need to contact the Community Development Department by 5:00 PM on September 19, 2008, to advise the Department of your plan to correct this violation. At a minimum, your plan will need to identify which one of the units on the property will no longer be used as a dwelling unit; and you must identify the steps that will be taken to ensure the unit will not be used as a dwelling unit, which would include but not be limited to, removal of one of the outside electrical meters, removal of all kitchen fixtures and appliances, and removal of any 220 electrical service for that unit. The plan will also need to include a provision that would allow the City to conduct inspections of the property upon 48 hours written notice to you, in the event the City has probable cause to believe that conditions constituting violations of the City's LUDO have returned. The right to conduct these inspections would continue for a period of three years from the date of approval by the City of your plan to correct the violations on the property.

Failure to contact the Community Development Department by the stated deadline will result in the initiation of enforcement proceedings to bring the property into compliance.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

cc: Community Development Department

00-34

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

#17

October 7, 2008

Mr. Doug Kirchhofer
P.O. Box 1642
The Dalles, OR 97058

Re: Land Use Violations
1215 and 1217 Blakely Drive

Dear Mr. Kirchhofer:

I have had an opportunity to review your letter of September 16, 2008, with representatives from the Community Development Department. It appears that the essence of your proposal to address the violation which exists on the property is to allow the City to have access to your rental agreements, and to have the ability to conduct periodic inspections based upon probable cause for a 36 month period.

Your proposal response does not appear to acknowledge that three dwelling units exist on the property. Under the City's Land Use and Development Ordinance, a "dwelling unit" is defined as "One or more rooms, with bathroom and kitchen facilities, designed for occupancy by one family". It is the City's position that the inspection conducted on August 20, 2008, confirmed that three separate dwelling units exist on the property. To correct the violation, one of the dwelling units will have to be modified or altered in such a manner that the unit can no longer be used as a separate dwelling unit. As I mentioned in my letter, such action will likely require the removal of one of the outside electrical meters, removal of all kitchen fixtures and appliances, and removal of any 220 electrical service for that unit. Any plan to correct the violation should include provisions for inspection, as outlined in my letter of September 4, 2008, with the additional provision that tenants would be provided 24 hours notice before the inspection occurred.

The City is willing to give you until 5:00 PM on October 24, 2008, to submit a revised proposal as to what steps you will take to ensure that one of the dwelling units on the

#18

property will no longer be used as a separate dwelling unit. I am hopeful that this matter can be resolved without the need to initiate enforcement proceedings to bring the property into compliance.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

cc: Community Development Department

COPY

19

October 24, 2008

RECEIVED
OCT 24 2008
The Dalles Community Development Dept.

TO: Community Development Department

FROM: Doug Kirchhofer

RE: Duplex at 1215-1217 Blakely Drive

To whom it May Concern:

Thank you for giving me an opportunity and the time to submit a revised proposal.

Addressing the original proposal initially, I had hoped more than just rental agreements and allowing inspections were made apparent. I wanted the City to also understand in 2001I did go through the expense of undoing electrical and HVAC work done by the previous owner to bring the property back into compliance. I also wanted it made apparent that I was renting to one party per address and willing to present evidence beyond rental agreements.

That being said and presuming it does not reach the acceptance level necessary from the city, here is a second proposal to meet the criteria set by City Attorney Gene Parker. He states:

"To correct the violation, one of the dwelling units will have to be modified or altered in such a manner that the dwelling can no longer be used as a separate dwelling unit."

In the same letter, Mr. Parker states the city conducted a second inspection of my property on August 20, 2008 (the first being done in 2001). This will make the modifications easier to explain in writing. I hope the inspectors agree it is obvious by physical inspection that 1215 has no issues requiring modification and the 1217 unit is the one requiring modification according to the 2008 inspectors.

As you might have noticed in the two-story 1217 unit, there is room for an interior staircase to be installed in the northwest corner of the upstairs living room leading to the lower level. I propose to install the staircase and convert the lower level rooms to bedrooms only. This will leave the lower level with only a master bedroom with master bath, a second bedroom and the utility room. The upper level will have the only living, only dining and only separate bathroom on either level of 1217. There will no longer be any interior disconnect from the top and bottom floors as this will be an open staircase with no door or any other separation.

Again I plead with the city to not single out my property as the only one I am aware that's prohibited from having more than one 220 outlet to an address. The upstairs kitchen is convenient because of the close proximity to the only dining area but is woefully small for a 3 bed-2 bath unit. The downstairs utility room provides extra kitchen storage, the only standard size oven and some degree of flexibility to compensate for the very small kitchenette upstairs. If a tenant chooses to go without, I can easily put a spare appliance in storage. Previously, the lack of interior access to each level gave the appearance of two separate dwellings despite one rental contract with this property. I hope the city agrees the installation of an interior staircase and finishing the downstairs to only have bedrooms should alleviate those concerns and meets Mr. Parker's criteria of 1217 not having two "separate dwelling units."

Please advise if this proposal is acceptable. I look forward to bringing this issue to a close.

Sincerely,

Doug Kirchhofer

20

Gene Parker

From: Richard Gassman
Sent: Friday, October 24, 2008 2:38 PM
To: Gene Parker
Cc: Daniel Durow; Denise Ball; Dawn Hert; Jim Schwinof; John Dennee
Subject: Latest K letter

Gene, here are my unsolicited comments on Mr. K's letter received 10-24-08.

Putting in stairs and making the two units into one is acceptable, but we need assurances that they will not be separated again. We could try to do this by prohibiting a door at either end of the stairs, but it might not work. My suggestion is that we figure out a way to get a document recorded that states very clearly that there are only two units allowed and specify damages if more than 2 suddenly appear. That way Mr. K and any future owner will be put on notice of a 2 unit maximum.

I continue to think that removal of the 220 from the portion of the unit without the kitchen should be required. Mr. K tries claims he is being singled out. He may be, but he is the only one we know who has 3 units and has been less than candid with us. For that, he deserves to be singled out.

I would also require Mr. K to obtain approval from the building codes folks that all areas used for living have been approved as habitable and we get a copy of their okay.

Denise suggested Mr. K provide us with a detailed floor plan. I think this is a good idea. In addition, I think we need to have Mr. K sign some kind of an acknowledgement that there are only 2 units allowed. Perhaps this could be the document that gets recorded. We need to put him on record as acknowledging the 2 unit maximum.

We need advance approval from Mr. K that we can inspect the property upon 24 hours notice at any time within the next 2 years.

Finally, I think we should push for a clause in the agreement that any use of the property for more than 2 dwelling units constitutes a violation of our agreement with him and he forfeits the rent for any units over two, and pays a fine to the City of double the rent (in essence treble damages) for as long as we can show more than 2 units have existed. I would insist this provision start on November 1, so that if he has 3 units still in existence (as we believe), he will owe the City 3 times the amount of rent paid for the third unit, whether that rent goes directly to Mr. K or goes to one of the other tenants. As Jim points out, if we do this we need to word it carefully as the rent for the third unit does not go to Mr. K directly apparently. However, it allows him to charge higher rents for unit #1 since part of it is offset by the renting out the third unit. He needs to be responsible for the total property, not try to hide behind one of his tenants.

Richard Gassman
Senior Planner
City of The Dalles
rgassman@ci.the-dalles.or.us
541-296-5481x1151

#234

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

October 30, 2008

Mr. Doug Kirchhofer
P.O. Box 1642
The Dalles, OR 97058

Re: Land Use Violations
1215 and 1217 Blakely Drive

Dear Mr. Kirchhofer:

Enclosed is a draft of an Agreement which proposes to resolve the land use violation for your property at 1215 and 1217 Blakely Drive. This Agreement sets forth the actions you will need to take to correct the violation, including the installation of an interior staircase, which you proposed in your letter of October 24, 2008. I have included a copy of a drawing of the type of exit lever which will need to be installed on the lower level doors, to prevent entry from the outside through these doors to the lower level portion of the single dwelling unit for 1217 Blakely Drive. If you accept the proposed Agreement, a copy of the Agreement will be recorded with the Wasco County Clerk.

In order to finalize the Agreement, we need to establish a deadline for the performance of the actions listed in Section 2. Please advise my office as to the deadline which you would propose for completing these actions.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa
Enclosures
cc: Community Development Department

#22

AGREEMENT

WHEREAS, Douglas E. Kirchhofer, hereinafter referred to as "Owner", is the owner of the real property located at 1215 and 1217 Blakely Drive, in The Dalles, Oregon, and which property is further described as follows:

> The South 15 feet of Lot 7, and all of Lot 8, Block 4, WEST PARK ADDITION SUBDIVISION, in the City of The Dalles, County of Wasco, and State of Oregon;

and

WHEREAS, on September 4, 2008, the City of The Dalles, hereinafter referred to as "City", issued a written notice of a violation to the Owner, alleging that the property was being used as a triplex, in violation of Section 5.010.020 of General Ordinance No. 98-1222, which is the City's Land Use and Development Ordinance; and

WHEREAS, the City and the Owner have reached an agreement whereby the Owner will take certain specific actions to correct the land use violation alleged in the September 4, 2008, notice; and

WHEREAS, the City and the Owner desire to enter into a written agreement and to have the Agreement recorded with the Wasco County Clerk's office;

NOW, THEREFORE, in consideration of the provisions set forth herein, it is mutually agreed as follows:

1. Owner acknowledges and agrees that the provisions of the City's Land Use and Development Ordinance provide that only two dwelling units are allowed upon the property located at 1215 and 1217 Blakely Drive.

2. Owner has agreed to take the following actions in order to correct the land use violation which exists upon the Owner's property, and to ensure that the property will remain in compliance with the City's Land Use and Development Ordinance in the future:

A. The Owner will remove one of the three outside electrical meters which currently exist on the property.

B. The Owner will submit a detailed site plan for the portion of the real property addressed as 1217 Blakely Drive. This site plan will include the location of an interior staircase to be installed by the Owner, which will connect the upper and lower levels of the dwelling unit located at 1217 Blakely Drive. The upper level will have the only living area, dining area, and separate bathroom for the dwelling unit located at 1217 Blakely Drive. The lower level of this dwelling unit will only have a master bedroom, a second bedroom, and a utility room. The Owner shall install an exit lever handle, approved by the City, on the inside of all lower level entry doors, to prevent access from the outside through these doors. Access to the upper level of the single dwelling unit for 1217 Blakely Drive shall be through the existing outside stairs.

C. After completion of the interior staircase described in Section 2(B) of this Agreement, the Owner shall arrange for an inspection of the single dwelling unit for 1217

#23

Blakely Drive by the Oregon State Buildings Code Division, and shall provide a written report to the City confirming that the single dwelling unit complies with all applicable building codes and is approved for habitation.

The deadline for the Owner to complete the actions listed in Section 2A, B, and C shall be the _____ day of _____, 200__.

3. The City shall have the right to conduct inspections of the Owner's property located at 1215 and 1217 Blakely Drive, in the event the City has probable cause to believe that the property is being used for more than two separate dwelling units, provided the City gives the Owner written notice 48 hours in advance of the inspection, and the City gives 24 hours notice in advance to the tenants residing on the Owner's property, which notice to the tenants may done verbally or in writing. The right to conduct these inspections shall continue for a period of three years from the date of this Agreement.

4. Owner understands and agrees the provisions of this Agreement shall be a covenant running with the land, and that the terms hereof shall be included in any deed or contract of sale purporting to convey any legal or equitable interest in the real property described above. This Agreement shall be legally binding upon the Owner's heirs, assigns, or successors in interest.

5. Owner understands and agrees that violation of any provision of this Agreement, including a failure to comply with the deadline set forth in Section 2 of this Agreement, will subject the Owner to enforcement proceedings which include the applicable penalties provided by the City's Land Use and Development Ordinance which are in effect at the time of commencement of the enforcement proceeding. Owner acknowledges that the City's Land Use and Development Ordinance presently provides for a fine of $500 for each day that a violation of the ordinance occurs.

Dated this _____ day of _____, 2008.

CITY OF THE DALLES

_____

Nolan K. Young, City Manager

STATE OF OREGON)
) ss
County of Wasco)

Personally appeared before me Nolan K. Young, acting as the City Manager for the City of The Dalles, Oregon, who acknowledged the foregoing instrument as his voluntary act and deed.

_____

Notary Public for Oregon
My commission expires: _____

OWNER

_____

Douglas E. Kirchhofer

STATE OF OREGON)
) ss
County of Wasco)

Personally appeared before me Douglas E. Kirchhofer, who acknowledged the foregoing instrument to be his voluntary act and deed.

_____

Notary Public for Oregon
My commission expires: _____

RECEIVED
NOV - 7 2008
The Dalles Community Development Dept.

#24

November 7, 2008

TO: Community Development Department

FROM: Doug Kirchhofer

RE: Duplex at 1215-1217 Blakely Drive

To whom it May Concern:

This week I received a draft of an agreement from City Attorney Gene Parker regarding the above property. I wanted to respond in a timely manner, so I am submitting this short letter before the weekend.

I am going to forward this draft to my attorney. I am also awaiting a return phone call from the office of Peachy, Foster and Young to schedule a consultation on this matter. I will have a written response to you after the consultation.

Sincerely,

Doug Kirchhofer

NOV 14 2008

#25

January 5, 2009

TO: Community Development Department

FROM: Doug Kirchhofer

RE: Duplex at 1215-1217 Blakely Drive

RECEIVED
JAN - 5 2009
The Dalles Community Development Dept.

To whom it May Concern:

Last fall, my attorney Tom Peachey advised me to consult bankruptcy attorney Carolyn Smale in Hood River regarding a Chapter 13 bankruptcy. After this consultation, I was advised to file and have paid a retainer fee. Originally it was thought to leave the duplex out of the Chapter 13 process but after a follow up legal consultation in December it was decided to include the property in the Chapter 13.

Please contact my attorney Carolyn Smale at 541-298-7333 with any questions regarding the property or the Chapter 13 process. Our intention is to get in contact with the bank trustee and update him on the situation regarding the property and the need to make adjustments. Also there is a local contractor interested in perhaps obtaining the property before the foreclosure process is completed. He is aware of the city's views regarding the property and wants to connect the main floor interior and make the upstairs a stand alone one bedroom if a purchase can be arranged with the bank trustee.

Sincerely,

Doug Kirchhofer

#26

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

January 6, 2009

Ms. Carolyn R. Smale
Attorney at Law
512 Cascade Avenue
Hood River, OR 97031

Re: Doug Kirchhofer
Property at 1215 & 1217 Blakely Drive

Dear Carolyn:

Mr. Kirchhofer has advised our office that you have been retained to represent him in a Chapter 13 bankruptcy proceeding. For your information, I am enclosing a copy of a letter dated October 30, 2008, concerning a land use violation proceeding for the property located at 1215 and 1217 Blakely Drive. Enclosed with this letter is a copy of a proposed settlement agreement, which the City has spent several months attempting to resolve with Mr. Kirchhofer. The violation continues to exist and needs to be resolved.

Mr. Kirchhofer has indicated his intention is to work with the bankruptcy trustee to attempt to arrange a sale of the property. He indicated there was a local contractor who had expressed interest in purchasing the property. However the property is disposed of in the bankruptcy proceeding, the land use violation must be corrected.

Please advise me as to the status of the property and the discussions with the bankruptcy trustee concerning a possible sale of the property.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

Enclosures

cc: Planning Department

#27

Jennifer Blevins
1212 Blakeley Drive
The Dalles, Or. 97058

February 27, 2009

Mr. Gene Parker
313 Court Street
The Dalles, Or. 97058

Re: 1215 Blakeley Drive, The Dalles, Oregon

Dear Mr. Parker:

City staff members inspected the duplex at 1215 Blakeley Drive in the fall of 2008. The inspection revealed that the converted garage area contains kitchen facilities which define it a dwelling unit. This is a violation under Section 3.090.070(A)(2) of the city's zoning ordinance. The property owner was given 2 - 30 day notices too correct the violation. Both deadline have expired and the property continues to be used as a tri-plex. When will enforcement action by the city be pursued under Section 15.080. of the city's zoning ordinance?

Sinerely

Jennifer Blevins

cc: Planning Department

28

Gene Parker

From: Carolyn Smale [crslaw@gorge.net]
Sent: Tuesday, March 03, 2009 11:12 AM
To: Gene Parker
Subject: Re: Doug Kirchhofer's Bankruptcy

Gene:
It has not been filed. I'm waiting on info from Mr. Kirchofer. I'll let you know as soon as it gets filed.
Carolyn

Carolyn R. Smale, Esq.
PO Box 620
Hood River, OR 97031
541-386-1600

This message and any files attached herewith are confidential and may contain privileged material for the sole use of the intended recipient. Any unauthorized review, distribution, disclosure, copying, use or dissemination, either in whole or in part is strictly prohibited. If you are not the intended recipient of the message, please notify the sender immediately by return e-mail or by telephone (541-386-1600), delete the original message including any attachments and destroy all hard copies. If you are the intended recipient, please be aware that since e-mails can be altered electronically, the integrity of this communication cannot be guaranteed.

---- Original Message ----
From: Gene Parker
To: crslaw@gorge.net
Sent: Tuesday, March 03, 2009 8:55 AM
Subject: Doug Kirchhofer's Bankruptcy

Carolyn: Can you advise me if the bankruptcy petition for Mr. Kirchhofer has been filed, and if it has, if you know the case number for the petition. If the petition has not been filed, I will proceed with an enforcement action to address the land use violation, as we continue to receive complaints from adjoining neighbors that this violation has not been addressed.

Gene E. Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058
Phone: (541) 296-5481 ext. 1123
Fax: (541) 296-6906 FAX
gparker@ci.the-dalles.or.us

Confidentiality Notice: This e-mail message may contain confidential and privileged information. If you have received his message by mistake, please notify us immediately by replying to this message or telephoning us. Thank you.

#29

REEVES, KAHN & HENNESSY

ATTORNEYS AT LAW
4035 SE 52nd AVENUE
P.O. BOX 86100
PORTLAND, OREGON 97286-0100

Please Reply To P.O. Box

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
PEGGY HENNESSY*
GARY K. KAHN*
JARED KAHN
MARTIN W. REEVES*

*Also Admitted in Washington

TELEPHONE (503) 777-5473
FAX (503) 777-8566

of Counsel:
PAUL NORR

March 16, 2010

Gene E. Parker
City Attorney
313 Court Street
The Dalles, OR 97058

Re: 1215-1217 Blakeley Drive - Nonconforming Use Expansion/Change

Dear Gene:

As you may recall, I represent Jennifer Blevins with respect to her interest in the above matter. It has come to our attention that there is a new owner of the subject property, and we would like to confirm that the City intends to limit the use of the property to a duplex. We would also like to confirm that use of the garage space as living space is still deemed to be a modification or enlargement of the recognized nonconforming use.

Based upon the foregoing, it is our understanding that the new owner will not be allowed to use the garage area as living space unless the new owner satisfies the requirements of Section 3.090.070 (3) of the City's Land Use and Development Code (including the off street parking provisions).

Last summer, the City suspended its code enforcement proceedings to allow completion of the sale of the property. Now that the sale has been completed, and it appears that the garage area is still being used as living space, please let us know whether the City will be reinstituting its enforcement proceeding against the new owner.

I look forward to your response.

Sincerely,

REEVES, KAHN & HENNESSY

Peggy Hennessy

Peggy Hennessy

PH:blb
cc: Client

Z:\Open Client Files\Land Use\Blevins, Jennifer-PH\2010\City Attorney Letter 5.Docx

MAR 17 2010

#30

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

April 15, 2009

Ms. Peggy Hennessy
Reeves, Kahn & Hennessy
Attorneys at Law
4035 SE 52nd Avenue
P.O. Box 86100
Portland, OR 97286

Re: 1215 and 1217 Blakely Drive

Dear Peggy:

Thank you for your letter of April 13, 2009. For your information, I am enclosing a copy of the building permit application submitted by Mr. Kirchhofer dated January 2, 2001. The application was approved by Bob Paul, a former Senior Planner with the Community & Economic Development Department, and reflects the Department's position that the structure located at 1215 and 1217 Blakely Drive has been treated as a non-conforming residential duplex.

It is my understanding that the City considers the properties located at 1215 and 1217 Blakely Drive as a non-conforming duplex, as there are two separate dwelling units located on the property. It is the City's position that a separate dwelling unit exists on the property addressed as 1217 Blakely Drive, which includes the space in the upper floor area and the area which was formally a garage The position which the City is taking in the enforcement action, which is pending in Wasco County Circuit Court Case No. CC 09-73, is that the nonconforming residential use of the property located at 1215 and 1217 Blakely Drive, as a duplex, can continue provided the provisions of Section 3.090.070, which provides an exception for non-conforming residential uses, are satisfied. This would include the requirement of Section 3.090.070(3)(c) concerning the residential off-street parking requirements. It is my understanding that four off-street parking spaces would need to be provided.

For your information, I am enclosing a copy of the provisions of the Settlement Agreement, which outlines the relief which the City is seeking to include as part of the injunctive relief which the City is requesting in the pending Circuit Court action.

Very truly yours,

Gene E. Parker

Gene E. Parker
City Attorney

RECEIVED
APR 16 2009
BY:

GEP/naa
Enclosures

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS
PEGGY HENNESSY*
GARY K. KAHN*
JARED B. KAHN
MARTIN W. REEVES*

*Also Admitted in Washington

REEVES, KAHN & HENNESSY
ATTORNEYS AT LAW
4700 S.W. MACADAM AVENUE, SUITE 201
P.O. BOX 86100
PORTLAND, OREGON 97286
Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

of Counsel
PAUL NORR

#30

May 20, 2009

Gene E. Parker
City Attorney
313 Court Street
The Dalles, OR 97058

Re: 1215-1217 Blakeley Drive - Nonconforming Use Expansion/Change

Dear Gene:

I spoke with my client, Jennifer Blevins, again, and she clarified the historic use of the property. It appears that at the time that duplexes became non-conforming uses, the living space behind the garage was actually part of the primary unit (1215). Accordingly, the nonconforming "duplex" consisted of the primary dwelling unit which included the living space behind the garage (1215), and a second dwelling unit above the original garage (1217). The garage was not living space.

The copy of the 2001 building permit application that you enclosed with your letter of April 15, 2009, does not specify that the garage will be converted to living space. Bob Paul's January 5, 2001 administrative approval merely states that there are "2 units only" and that there shall be "no exterior modification beyond utility work." Did this 2001 approval include conversion of the garage from non-living space to living space? Was there any consideration of the modification or expansion approval criteria under code section 3.090.070 (A) (3)?

It is our position that the conversion of the garage constitutes expansion or enlargement of a nonconforming use which would require compliance with the off-street parking requirements of section 3.090.070 (A) (3) (c). Here, the conversion eliminates parking space in the garage and adds living space which may, indeed, accommodate additional drivers, thereby exacerbating the parking problems in the neighborhood.

You indicated that the City's enforcement action will limit the use to two residential dwelling units and require provision of four off-street parking spaces. Please confirm that those parking spaces are available and established. If not, is the City prepared to require restoration of the structure to its condition at the time the duplex became nonconforming (e.g. return the garage space to garage use)?

Please let me know whether or when the City determined that it was permissible for 1217 to convert the garage and add living space to the upstairs dwelling unit. Also, please let me know whether or when the City applied the approval criteria of City Code Section 3.090.070 (3) to this expansion of the nonconforming duplex.

I look forward to hearing from you soon.

Sincerely,

REEVES, KAHN & HENNESSY

Peggy Hennessy

Peggy Hennessy

PH:pa
cc: Client

e:Z:\Open Client Files\Land Use\Blevins, Jennifer-PH\2009\City Attorney Letter 2.wpd

MAY 21 2009

#32

CITY OF THE DALLES
313 COURT STREET
THE DALLES OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

May 22, 2009

Ms. Peggy Hennessy
Reeves, Kahn & Hennessy
4700 SW Macadam Avenue
Suite 201
P. O. Box 86100
Portland, OR 97286

Re: 1215 & 1217 Blakely Drive
Nonconforming Use Expansion/Change

Dear Ms. Hennessy:

I have had an opportunity to review my file and the Planning Department's file concerning the issues related to the use of the properties at 1215 and 1217 Blakely Drive. As you may recall, the most recent concerns were initiated as a result of the application of Mr. Cloninger to create a triplex use on the properties. Mr. Cloninger's plans were to enclose the garage and make it part of the residential area including the studio apartment. The upstairs apartment and the residential area located at 1217 Blakely were to be separate residential dwelling units.

Mr Cloninger was advised that he would need to provide documentation concerning the establishment of three residential dwelling units on the property. Mr. Cloninger provided the City with a letter from a neighbor, who indicated that they had lived at 1209 Blakely Drive since 1953; and to their knowledge, the upstairs apartment was constructed in 1953, and the studio apartment behind the garage was constructed in the late 1950's.

As you are aware, Ms. Blevins challenged the City's approval of Mr Cloninger's proposed plans for a triplex. The City agreed to a remand of this matter from LUBA. Mr. Cloninger did not reapply and chose not to proceed with his development of the property

In reviewing the Planning Department's file concerning the approval of Mr. Kirchhofer's permit, submitted in January 2001, it appears the permit did not specifically mention conversion of the garage space to residential living space. It is my understanding that Mr. Kirchhofer did actually convert the garage space to residential living space The permit approved by Mr. Paul does not indicate that he considered the criteria under Section 3.090.070(3)(c) concerning compliance with off-street parking requirements.

RECEIVED
MAY 26 2009
BY:

#33

Mr. Kirchhofer's attorney has advised me that his client is in the process of selling the property located at 1215 and 1217 Blakely Drive, and that the transaction should be completed soon. I have advised Mr. Kirchhofer's attorney that the City will insist that any new purchaser bring the property into compliance with the City's LUDO, including the provisions of Section 3.090 070(3)(c) concerning the off-street parking requirements. We are continuing to work with Mr. Kirchhofer and his prospective buyer, to confirm that the new buyer will take the necessary action to bring the property into compliance.

Very truly yours,

Gene E Parker

Gene E Parker
City Attorney

GEP/naa

cc: Planning Department

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

#34

September 2, 2009

Mr. Thomas C. Peachey
Foster Peachey & Young
420 East Third Street
The Dalles, OR 97058

Re: City vs. Doug Kirchhofer
Wasco County Circuit Court Case No. CC09-73
Your Client: Dough Kirchhofer
Your File No.: 08-0825

Dear Tom:

I have received information from Mr. Bustos concerning his offer to purchase Mr. Kirchhofer's property, and his proposal to convert the area beneath the upstairs apartment located at 1217 Blakely Drive back to a garage. The City is willing to consider revising the terms of the Stipulated Judgment to include the concept proposed by Mr. Bustos. The terms of the revised stipulated judgment would be as follows:

1. The time for closing of the sale to Mr. Bustos would be extended to October 30, 2009. If the sale was not closed by this time, then effective November 1, 2009, Mr. Kirchhofer would be restrained and enjoined from using the property at 1215 and 1217 Blakely as a triplex. Mr. Kirchhofer would have to present a plan approved by the City, which could incorporate the elements of the settlement agreement proposed by the City on October 30, 2008; or it could include alternative methods to ensure that the property would not be used as a triplex.

2. Assuming the sale to Mr. Bustos is finalized, the following actions would need to occur:

   a. One of the three outside electrical meters which exist on the property will need to be removed.

   b. Mr. Bustos will need to submit a floor plan to the City showing the detail of his plan to convert the lower portion of 1217 Blakely to a garage, which plan will

#35

need to be approved by the Community Development Department. Conversion of the area to a garage will need to comply with all applicable building code requirements.

Please advise me if this proposal is acceptable to your client.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

#36

My name is David Bustos and I have put in an offer on the home owned by Doug Kirchofer on 1215 Blakley St. I am writing this letter to inform you that If my offer gets accepted I plan on converting the 1217 address back to a garage. I know that it is a tri-plex now and is only zoned for a du-plex. I have no intenions of having a tri-plex I will be converting it back to a duplex.

Thank you,
David Bustos

If you have any question feel free to call, 541-288-6152

X David Bustos

AUG 2 5 2009

#37

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF WASCO

CITY OF THE DALLES, an Oregon municipal corporation Plaintiff, vs. DOUGLAS E. KIRCHHOFER Defendant.	)	CASE NO. CC09-73 STIPULATION TO ENTRY OF JUDGMENT GRANTING PERMANENT INJUNCTION

COMES NOW the Plaintiff, by and through Gene E. Parker, City Attorney, and the Defendants, appearing by and through Thomas C. Peachey, pursuant to ORCP 67(F), and stipulate to the entry of a judgment granting a permanent injunction in favor of the Plaintiff and against the Defendant, which judgment shall include the following terms and conditions:

1. Plaintiff and Defendant acknowledge and agree the Defendant is currently in the process of attempting to close a transaction for the sale of Defendant's property located at 1215 and 1217 Blakely Drive, which property is further described as follows:

> The South 15 feet of Lot 7, and all of Lot 8, Block 4, WEST PARK ADDITION SUBDIVISION, in the City of The Dalles, County of Wasco, and State of Oregon;

In the event the transaction for sale of the Defendant's property has not been closed by November 30, 2009, then effective December 1, 2009, Defendant shall be restrained and enjoined from using the property located at 1217 Blakely Drive as a triplex. Defendant would then be required to present a plan approved by the Plaintiff, which would either

City Attorney
313 Court Street
The Dalles, Oregon 97058
(541) 296-5481 ext. 1122

#38

incorporate the elements of the settlement agreement proposed by Plaintiff on October 30, 2008, or other alternative methods to ensure the property would not be used as a triplex.

2. Assuming the transaction for sale of the Defendant's property is finalized prior to November 30, 2009, the following actions will need to occur:

A. One of the three outside electrical meters which exist on the property will need to be removed.

B. The purchaser of the property will need to submit a floor plan to the Plaintiff showing the detail of his plan to convert the lower portion of 1217 Blakely Drive to a garage, which plan will need to be approved by the Plaintiff's Community Development Department. Conversion of the area to a garage will need to comply with all applicable building code requirements.

3. Plaintiff and Defendant stipulate that the Plaintiff shall have the right to conduct inspections of the Defendant's property located at 1215 and 1217 Blakely Drive, in the event the Plaintiff has probable cause to believe the property is being used for more than two separate dwelling units, provided the Plaintiff gives the Defendant written notice 48 hours in advance of the inspection, and the Plaintiff gives 24 hours notice in advance to the tenants residing on the Defendant's property, which notice to the tenants may be done verbally or in writing.

4. Pursuant to the parties stipulation, no costs or disbursements shall be awarded as part of the judgment.

CITY OF THE DALLES	DEFENDANT
Gene E. Parker	T C Peachey
Gene E. Parker, City Attorney OSB No. 821024	Thomas C. Peachey OSB No. 783319
Date: 11-16-09	Date: 11-12-09

#39

REEVES, KAHN & HENNESS

ATTORNEYS AT LAW

4700 S.W. MACADAM AVENUE, SUITE 201
P.O. BOX 86100
PORTLAND, OREGON 97286

Please Reply To P.O. Box

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS
PEGGY HENNESSY*
GARY K. KAHN*
JARED B. KAHN
MARTIN W. REEVES*

*Also Admitted in Washington

TELEPHONE (503) 777-5473
FAX (503) 777-8566

of Counsel:
PAUL NORR

June 2, 2009

Gene E. Parker
City Attorney
313 Court Street
The Dalles, OR 97058

Re: 1215-1217 Blakeley Drive - Nonconforming Use Expansion/Change

Dear Gene:

After reviewing your May 22, 2009 letter with Ms. Blevins, we would like to clarify the City's current position regarding code compliance for the above property.

You indicated that, previously, Mr. Cloninger provided a letter from a neighbor (who has lived there since 1953) stating that the upstairs apartment and the studio apartment behind the garage were both constructed in the 1950s. Does this mean that the City is prepared to revisit the issue of whether there is a valid nonconforming use for ***three*** units? If so, we assume any owner would have to file an application to verify the nonconforming use.

As I understand the permit history, the City has no record of approving conversion of the garage to living space, and no property owner or occupant has ever applied for expansion of a nonconforming use under code section 3.090.070 (A) (3) with respect to the garage space. Does the City consider the addition of living space to be an expansion or enlargement of the existing nonconforming dwelling?

You indicated that you have informed Mr. Kirchhofer's attorney that the City will require any new purchaser to bring the property into compliance with the City's LUDO; however, the meaning of "compliance" is not clear to us. Does this mean that the "duplex" must be restored to its original size (without the use of garage parking space as living space) as of the time the two-unit dwelling became nonconforming?

Finally, please let us know the status of the current code enforcement proceeding. Has this been suspended based upon a possible sale of the property?

I look forward to your response.

Sincerely,

REEVES, KAHN & HENNESSY

Peggy Hennessy

Peggy Hennessy

PH:pa
cc: Client

e:Z:\Open Client Files\Land Use\Blevins, Jennifer-PH\2009\City Atty 3.wpd

JUN 03 2009

#40

Gene Parker

From: Denise Ball
Sent: Tuesday, July 28, 2009 1:52 PM
To: Gene Parker
Subject: RE: Doug Kirchhofer

I spoke with Mrs. Bustos and she said her son was in the process of trying to purchase the property. The Bustos' are aware the property can be used as a single family dwelling or a duplex – no triplex. As far as I am aware, nothing has been submitted or approved.

Denise Ball
Planning Tech.
Community Development Dept.
City of The Dalles, OR
541.296.5481 ext. 1130

From: Gene Parker
Sent: Tuesday, July 28, 2009 1:38 PM
To: Dawn Hert; Denise Ball
Subject: Doug Kirchhofer

Dawn and Denise: I am working on trying to agree with Mr. Kirchhofer on the terms of a stipulated judgment to resolve the pending case involving his duplex. His attorney has indicated that the City has approved some form of plans for the property submitted by the Bustos's. I checked your file and could not find any documentation referring to an application by the Bustos's or any discussion of their plans. Are either of you aware of any specific written proposal from the Bustos's that outline what they intend to do with the property? As far as I know the sale of the property has not been finalized.

Gene E. Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058
Phone: (541) 296-5481 ext. 1123
Fax: (541) 296-6906 FAX
gparker@ci.the-dalles.or.us

Confidentiality Notice: This e-mail message may contain confidential and privileged information. If you have received his message by mistake, please notify us immediately by replying to this message or telephoning us. Thank you.

#41

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

August 4, 2009

Mr. Thomas C. Peachey
Foster Peachey & Young
420 East Third Street
The Dalles, OR 97058

Re: City vs. Doug Kirchhofer
Wasco County Circuit Court Case No. CC09-73
Your Client: Dough Kirchhofer
Your File No.: 08-0825

Dear Tom:

I contacted the Planning Department, and they advised they did not have any documentation indicating they Bustos' had submitted a plan for the property which had been approved. Can you provide me with some detail concerning their proposed plan, so that I can determine if I would be willing to insert that proposed plan as an alternative to the items listed as 1(A), (B), and (C) on page 2 of the proposed Stipulated Judgment.

Very truly yours,

Gene E. Parker
City Attorney

GEP/naa

#42

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

FILE COPY

August 24, 2010

Mr. David J. Bustos
P.O. Box 113
The Dalles, OR 97058

Re: 1215 and 1217 Blakely Drive

Dear Mr. Bustos:

It is my understanding you recently purchased the property located at 1215 and 1217 Blakely Drive. As you may be aware, the City has approved the property for the use as a duplex as a non-conforming use. One of the conditions for the non-conforming use to continue is that the residential off-street parking requirements of the City's Land Use and Development Ordinance must be met. These requirements provide that four off-street parking spaces must be provided.

I have recently received concerns raised by local neighbors who are convinced that there is not sufficient room in the existing driveway to allow for the parking of four vehicles. The neighbors have claimed that they have observed the back part of certain vehicles hanging out into the street while they are parked in the driveway, which is a violation of the City's ordinances.

In order to address the neighbor's concerns, I would like to meet with you to discuss these concerns, and what your plans are to ensure that the off-street parking requirements will be satisfied. Please contact my office to schedule an appointment at your earliest convenience.

Very truly yours,

Gene E. Parker

Gene E. Parker
City Attorney

#43

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

December 2, 2011

Ms. Jennifer Blevins
1212 Blakely Drive
The Dalles, OR 97058

RE: Inquiry about interior work at 1215 Blakely Drive

Dear Ms. Blevins:

Rich Williams had contacted my office approximately 2 weeks ago inquiring about some work that appeared to be going on inside the area of the property at 1215 Blakely Drive, and whether that work was being done properly. The City's Code Enforcement Inspector has confirmed with Mr. Bustos that the work that is being done involves the texturing of walls which will be painted, and sanding and refinishing existing floors and other general maintenance, which does not require a building permit. It appears that the work Mr. Bustos is doing is consistent with the provisions of the City's Land Use Ordinance and does not appear to be in violation of any City ordinance or state building code requirements.

Very truly yours,

Gene E. Parker

Gene E. Parker
City Attorney

GEP/cmb

COPY

#44

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
Community Development Dept.

Memorandum

To: Gene E. Parker, City Attorney

CC: Daniel C. Durow, CDDD
Property File

From: John E. Dennee, Planning Code Compliance Officer

Date: December 08, 2011

Re: 1215 Blakely Drive Construction Info from Rich Williams

Below I have discussed the reasons why the circumstantial evidence given by Rich Williams is suspect and we will refrain from basically calling David Bustos a fabricator of the information given to us on the 1st day of this month.

The issue is that the work Mr. Bustos said he was doing does not require a permit. It is all inside work and according to City and Mid-Columbia staff no inspections are required. The secretary of Mid-Columbia Bld. Codes said that Mr. Bustos had called in and inquired as to the need of obtaining a permit for the work he was doing at 1215 Blakely Dr. And she informed him that none were needed. The staff at Mid-Columbia offered information about Mr. Bustos to the effect that in his business as a Building Contractor he was one of the most diligent and cooperative contractors they deal with and they didn't believe that he would jeopardize his Contractor's License by doing something as suggested by Mr. Williams.

I have driven by the residence weekly since the 15th of November without observing any signs of building materials, scrap material, debris in general, etc...

COPY

#45

CITY OF THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

December 8, 2011

Ms. Jennifer Blevins
1212 Blakely Drive
The Dalles, OR 97058

RE: Follow up to Inquiry about interior work at 1215 Blakely Drive

Dear Ms. Blevins:

Our Code Enforcement Inspector contacted the State Building Codes Office, and confirmed that the type of interior work, which Mr. Bustos indicated he was doing, as set forth in my letter of December 2, 2011, does not require a building permit. If Mr. Bustos installed an interior staircase in a portion of the duplex, he would be required to obtain a building permit, and the State Building Codes office indicated they had no records on file that Mr. Bustos had indicated he intended to build such a staircase. If he built the staircase without a building permit, he would be facing significant sanctions from the Buildings Code Office, including the possible loss of his contractor's license. The Building Codes Office indicated Mr. Bustos is a diligent and forthright contractor.

It does not appear there is sufficient or substantial evidence to indicate that Mr. Bustos is engaging in any activity, which violates the City's Land Use Ordinance, so we will not be pursuing any further investigation of this particular issue.

Very truly yours,

Gene E. Parker

Gene E. Parker
City Attorney

GEP/cmb

cc; John Dennee

COPY

#46

John Dennee

From: Gene Parker
Sent: Tuesday, December 13, 2011 8:47 AM
To: John Dennee
Subject: 1215 Blakely

John: After we talked last week, I received another phone call from Rich Williams, who is the boyfriend of Ms. Blevins, still expressing concern about the work that Mr. Bustos was doing inside of the property, and concerned that he was somehow doing work that was not allowed under our LUDO, or was in violation of the state building codes. I called the Building Codes Division, and they indicated that they would need to have Mr. Bustos's permission to go inside the residence to inspect the work he was doing before they could determine if there was a violation.

I called and left a message for Mr. Bustos and he returned my call. I explained to him that we were still receiving complaints about his work, particularly that an interior staircase had been installed. Mr. Bustos explained to me that there were headers for a staircase inside the property and apparently he has done some work on the headers, but this work apparently did not require a building permit. I asked Mr. Bustos if he would allow you to inspect the inside of the property to verify the work he is doing, and he indicated that he would agree to allow you to inspect the property. I was thinking it might be appropriate for me to come along with the inspection so that I can get a firsthand look at the work he is doing. Mr. Bustos indicated he was busy this week, but would be available next week. My schedule is open next week so whenever you can schedule the inspection, I should be available.

I think the source of the complaints is that Ms. Blevins and Mr. Williams seem to be under the impression that we were going to require Mr. Bustos to restore the area that used to be a garage, to a garage use, and that is not correct. As long as there is only one dwelling unit in the area where there was a staircase, I don't think there is a problem is the staircase is restored that connects the upper and lower area of the dwelling unit.

Gene

Gene E. Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058
Phone: (541) 296-5481 ext. 1123
Fax: (541) 296-6906 FAX
gparker@ci.the-dalles.or.us

Confidentiality Notice: This e-mail message may contain confidential and privileged information. If you have received his message by mistake, please notify us immediately by replying to this message or telephoning us. Thank you.

DRAFT

#47

TENNESON
ENGINEERING CORPORATION
CONSULTING ENGINEERS • SURVEYORS • PLANNERS

409 LINCOLN STREET
THE DALLES, OR 97058

PHONE (541) 296-9177
FAX (541) 296-6657

MEMO

Date: October 11, 2001

To: File - Doug Kirchhofer

From: Dan Meader

Re: Site Visit of October 11, 2001.

I arrived on-site at 1215 Blakely Drive at 7:30 a.m. and met with the owner.

Entered the lower level of the converted garage, into the laundry room which contained a furnace, cabinetry, under-the-cabinet microwave, washer and dryer, and a sink. There was no evidence of a 220 outlet for a range.

The next room appeared to be a living room with couch, t.v., etc.

The back room is a bedroom with an exterior door and a bath with shower. The upstairs level, accessed by an outside staircase, contained a living room, kitchen facilities including a stove, refrigerator, and sink, and a bedroom and bath.

Entered lower level main living unit. Separate apartment. Complete facilities with kitchen, etc.

Pictures are in the file.

Spoke with the owner a bit. At one point it had been used as a triplex. There are three electric meters. One, according to the owner, is inoperable. Suggested he remove it.

OCT 1 1 2001

#48

REEVES, KAHN, HENNESSY & ELKINS

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
PEGGY HENNESSY*
GARY K. KAHN*
JARED B KAHN
MARTIN W. REEVES*

*Also Admitted in Washington

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4035 SE 52nd AVENUE
P.O. BOX 86100
PORTLAND, OREGON 97286-0100

Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

direct e-mail:
phennessy@rke-law.com

February 22, 2011

Gene E. Parker
City Attorney
313 Court Street
The Dalles, OR 97058

Re: 1215-1217 Blakeley Drive, The Dalles, Oregon

Dear Gene:

Thank you for your help in communicating with the Planning Department regarding the Applicant's withdrawal of its Home Business Permit application regarding the above property. As you know, our office continues to represent Jennifer Blevins, who lives at 1212 Blakeley Drive.

While we appreciate that there will not be a home occupation operated at the property, we understand that the property may still be in violation of the City's off-street parking requirements set forth in section 3.090.070 (A) (3) (c) of the City's LUDO.

As I recall, in May of 2009, the City had a pending enforcement action to limit the use of the property at 1215-1217 Blakeley Drive to a duplex, ***and to require the provision of four off-street parking spaces***. The property was recognized as a nonconforming duplex, but conversion of the garage to living space had not been addressed. You indicated that there was a pending sale of the property at that time, and that any new owner would have to comply with existing code requirements, including provision of four off-street parking spaces for the property.

In June of 2009, you said that "[t]he City has temporarily suspended proceeding with the pending code enforcement to determine if the proposed sale of the property will be completed. If the transaction is not completed, the enforcement proceeding will be reinstituted."

Last March, you confirmed that the garage space for the duplex could be used as living space (as a modification or enlargement of a nonconforming residential use) only if the off-street parking requirements of the City's LUDO were satisfied. This would necessarily include the provision of four off-street parking spaces.

It is our understanding that four vehicles cannot be safely parked on the property. Please let me know the City's standards for determining the amount of space required for each vehicle, and safety requirements for ingress and egress from the property.

I look forward to hearing from you soon.

Sincerely,

REEVES, KAHN, HENNESSY & ELKINS

Peggy Hennessy

Peggy Hennessy

PH:blb
cc: Client

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FEB 23 2011

3-25-11 #49

Hi, My Name is David Bustos. I am the owner of the building across the street. I wanted to let you know the situation of this home. I bought this home a little less than a year ago. With in that time I have remodeled both units completely, painted the whole interior/exterior of the home, converted it from a tri-plex to a du-plex, did a lot of yard work outside with numerous dump loads, took out all the dead plants, planted roses and flowers, put bark down, along with my construction job. From what I have seen this house has turned around for the best and looks nice now. This is my first home and trying to do the best I can. It sounds like you have an issue with my parking. I met with the city yesterday and everything complies for 4 parking spots and that is why I had to make yellow lines and make it look like an apartment! I plan on this summer putting a new lawn and new concrete but would like to get this issue taken care of so I don't have to feel I'm being watched and taken pictures of all the time. I don't know If I did something to make you mad but If I did I am truely sorry and hope that we can get through this and become good neighbors. If you have any questions or concerns feel free to call my cell 5412886152 and well see if I can get it taken care of.

David Bustos

#50

Gene Parker

From: John Dennee
Sent: Thursday, April 22, 2010 5:00 PM
To: Gene Parker
Subject: 1215 Blakely Dr.

Gene,

I made contact with David Bustos today regarding his plans for the duplex at 1215 Blakely Drive. His plans are to do some remodeling and maintain it as a duplex. As reported to you this morning he had the third meter head removed by PUD in the past two or three weeks since he acquired the property. The present tenants have been notified that they are to vacate the premises within the next week or so. He said that there are at least five unrelated adults living in the one duplex. His intent is to have the new renters keep their vehicles on the parking area and not hanging out into the public right of way.

Ample space is available to park four vehicles, which is the minimum for the two dwelling units planned for the property.

I asked him to keep us in the loop and to give us a call if he has any questions.

John

#51

CITY OF THE DALLES
313 COURT STREET
THE DALLES OREGON 97058
(541) 296-5481 ext. 1122
FAX (541) 296-6906

RECEIVED
APR 29 2011

April 28, 2011

Ms. Peggy Hennessy
Reeves, Kahn, Hennessy & Elkins
4035 SE 52nd Avenue
P.O. Box 86100
Portland, OR 97286-0100

Re: 1215-1217 Blakely Drive

Dear Peggy:

Mr. Dennee, our Planning Code Compliance Officer, and I met with Mr. Bustos on the site this morning. We observed that there was some personal property (a garbage can, recycling containers, and a barbecue that were being stored next to the residence) which may be contributing to the problem of vehicles overhanging on the public street. Mr. Bustos agreed to remove those items. He is planning to make improvements to the driveway surface, which will include adding some additional width to a portion of the driveway. The City believes that his property is in compliance with the requirement to provide four off-street parking spaces. If a vehicle is observed parked in a manner where a portion of the vehicle is hanging over the street right-of-way, this is a matter for the police department to enforce, and if we receive those types of complaints, we will refer them to the police department.

Very truly yours,

Gene E. Parker

Gene E. Parker
City Attorney

cc: John Dennee

#52

REEVES, KAHN, HENNESSY & ELKINS

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
J. MICHAEL HARRIS
PEGGY HENNESSY*
GARY K. KAHN*
MARTIN W. REEVES*

*Also Admitted in Washington

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PORTLAND OREGON 97286-0100

Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

direct e-mail:
phennessy@rke-law.com

July 6, 2012

Jennifer Blevins
1212 Blakely Drive
The Dalles, Oregon 97058

Re: Jennifer Blevins – Petition for Enforcement of City Code
Failure to Provide Mandatory Off-Street Parking at 1215-1217 Blakely Drive
Appeal Deadline: July 15, 2012

Dear Jennifer:

I am enclosing a copy of Dan Durow's interpretation of the parking requirements under the City's Land Use Development Ordinance. As you can see, he finds that it is "possible" to park four cars on the site so there is no violation of the City's code.

According to Mr. Durow, because you could park six to eight Smart Cars in the parking area, and because the City has no size requirements for the four mandatory spaces, there is no violation of the requirement to provide four off-street parking spaces.

He appears to concede that the actual situation on the property violates other code provisions (e.g. prevention of vehicles from backing up into the flow of traffic); however, Mr. Durow states that this is a code enforcement issue and the basic site design is fine. The fact that there are no minimum parking space dimensions set forth in the code makes it challenging to show that four vehicles ***cannot*** be accommodated. Mr. Durow appears to believe that the general intent for off-street parking can be met by providing sufficient space for four Smart Cars even if you know that there will be full size pickup trucks parking on the site.

The Planning Director's decision can be appealed to the Planning Commission. Perhaps the Planning Commission will have a different view of the ***intent*** of the off-street parking requirements. The appeal would be due within ten (10) days of mailing the notice of decision. Gene Parker mailed the decision to me on July 5, 2012. So, to be safe, the appeal should be filed no later than July 16, 2012. I am enclosing a copy of the provisions governing an appeal to the Planning Commission for your information.

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If you believe the members of the Planning Commission are likely to rubber-stamp the Planning Director's decision, I would recommend against an expensive appeal. However, if you think there is a chance that the Planning Commission would interpret the code to require sufficient space for four standard vehicles (not Smart Cars), it may be worth pursuing.

A more certain approach may be to amend the City Code to include dimensional requirements for each space, but that would apply to future development – the duplex may be grandfathered in because it was there before the dimensional requirements existed. In any event, the choice you must make now is whether to appeal the Planning Director's decision to the Planning Commission by July 15, 2012.

Please let me know how you would like to proceed.

Sincerely,

REEVES, KAHN, HENNESSY & ELKINS

Peggy Hennessy

Peggy Hennessy

PH/blb
Enclosures

Z:\Open Client Files\Land Use\Blevins, Jennifer-PH\2012\Client Letter Docx

#54

Gene Parker

From: John Dennee
Sent: Tuesday, April 05, 2011 10:06 AM
To: Gene Parker
Subject: Emailing: March 31, 2011 001, March 31, 2011 002, March 31, 2011 003, March 31, 2011 004
Attachments: March 31, 2011 001.jpg; March 31, 2011 002.jpg; March 31, 2011 003.jpg; March 31, 2011 004.jpg

Gene,

Since discussing the possibility with David Bustos of painting appropriate spacing, as per the measurements of the City parking lot spaces, I visited the site and photographed the minimum spacing stripes that indicates the position of the 4-5 parking spaces available at the site.

Any questions, let me know?

John

The message is ready to be sent with the following file or link attachments:

March 31, 2011 001
March 31, 2011 002
March 31, 2011 003
March 31, 2011 004

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

#55

City can find compliance with the requirement to provide 4 off-street parking spaces based on the repeated and documented circumstances where the vehicles extend into the street and create traffic hazards.

You indicated that the Code Compliance Officer has had several discussions with the property owner regarding this issue - so, apparently, the Officer recognized the problem. However, no action has been taken to rectify the situation and vehicles continue to hang over into the street. Please provide us with documentation in the City records that is related to any reports or findings of the Code Compliance Officer, including findings in support of the conclusion that the off-street parking requirements are me.

I look forward to your response.
Peggy

On 2/22/2012 9:07 AM, Gene Parker wrote:

Peggy: I apologize that I did not respond previously to your letter of January 17, 2012. I thought I had prepared a letter and sent it to you, but I realized yesterday that I had not actually sent the letter. We do not have any detailed findings by the Planning Code Compliance Officer. He used the typical dimensions of a parking space in the City Hall Parking lot (18 feet long and 9 feet wide) as a guide when measuring the available parking space in the driveway for the property. He determined that there was sufficient parking space for four vehicles, as required by our land use ordinance. He has had several discussions with Mr. Bustos, the owner of the property concerning the requirement to provide four off street parking spaces which provide adequate room to ensure that vehicles are not overhanging into the public right-of-way.

As far as we know, there have not been any problems with on site circulation for the vehicles parking in the driveway. It is the City's position that Mr. Bustos's property is in compliance, and we do not believe there is sufficient evidence to pursue any enforcement action related to the requirement for four off street parking spaces.

Gene E. Parker
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--

Peggy Hennessy

REEVES, KAHN, HENNESSY & ELKINS

Post Office Box 86100

Portland OR 97286-0100

Phone: (503) 777-5473

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park four vehicles of 'standard size' and not violate the general intent in Section 6.060.020. This standard size would be a reasonable "anticipated" storage length needed to meet the general intent. Whether the residents in fact always park accordingly is an enforcement issue. If the four vehicles parking at this site were extended cab, duel-wheel, pickup trucks, then from a practical standpoint the general intent of this section may not be met because the vehicles could block the flow of traffic or cause some on-site safety issues. It is also reasonable to believe that as many as six or eight Smart Cars could park in this same space and not violate the general intent.

However, these situations do not change the fact that there is sufficient room for parking four vehicles of a more standard size or in various sizes to fit the spaces. Since there are no stated length or width standards for residential off-street parking, having sufficient room for standard size vehicles would be the correct and reasonable interpretation of the general intent stated in Section 6.060.020. The record shows that the general intent for off-street, residential parking provided at this two-family dwelling has been met.

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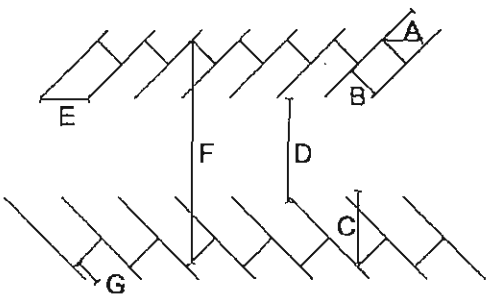
Figure 7-1

OFF-STREET SURFACE PARKING DIMENSIONS
Required Space and Aisle Dimensions in Feet

	COMPACT						STANDARD					
A	B	C	D	E	F	G	B	C	D	E	F	G
60°	8.0	17.0	14.0	9.20	44.0	2.5	9.0	19.0	16.0	10.4	54.0	2.5
							9.5	19.0	15.0	11.0	53.0	2.5
							10.0	19.0	14.0	11.6	52.0	2.5
90°	8.0	16.5	24.0	8.0	58.0	3.0	9.0	18.5	26.0	9.0	63.0	3.0
							9.5	18.5	25.0	9.5	62.0	3.0
							10.0	18.5	24.0	10.0	61.0	3.0

Stall width dimensions may be distributed as follows: 70% standard spaces, 30% compact spaces. All compact spaces shall be labeled as such.



A Parking Angle
B Stall Width
C Stall Depth (no bumper overhang)
D Aisle Width between stall lines
E Stall Width parallel to aisle
F Module Width (no bumper overhang)
G Bumper Overhang

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BUSTOS & HERNANDEZ

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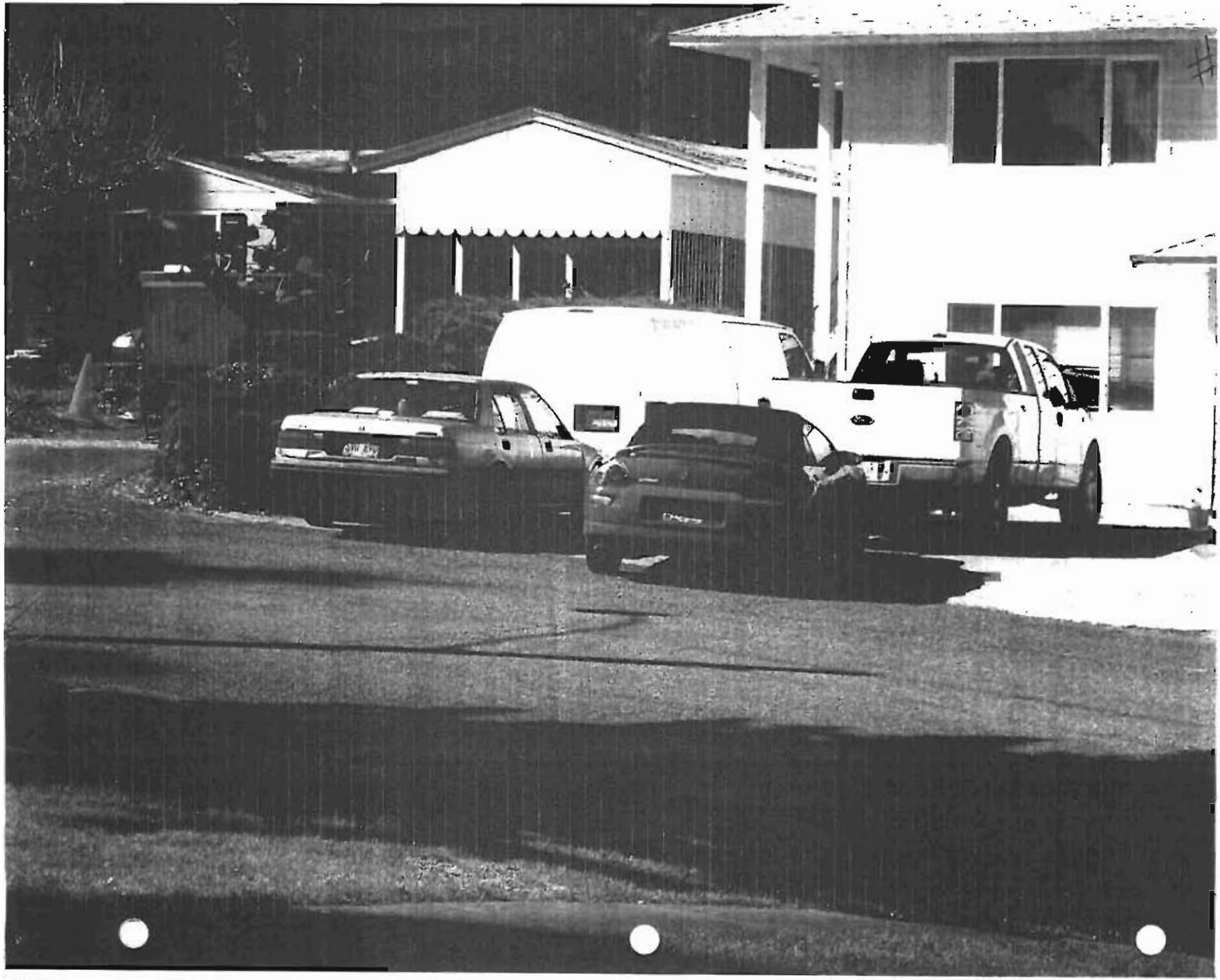

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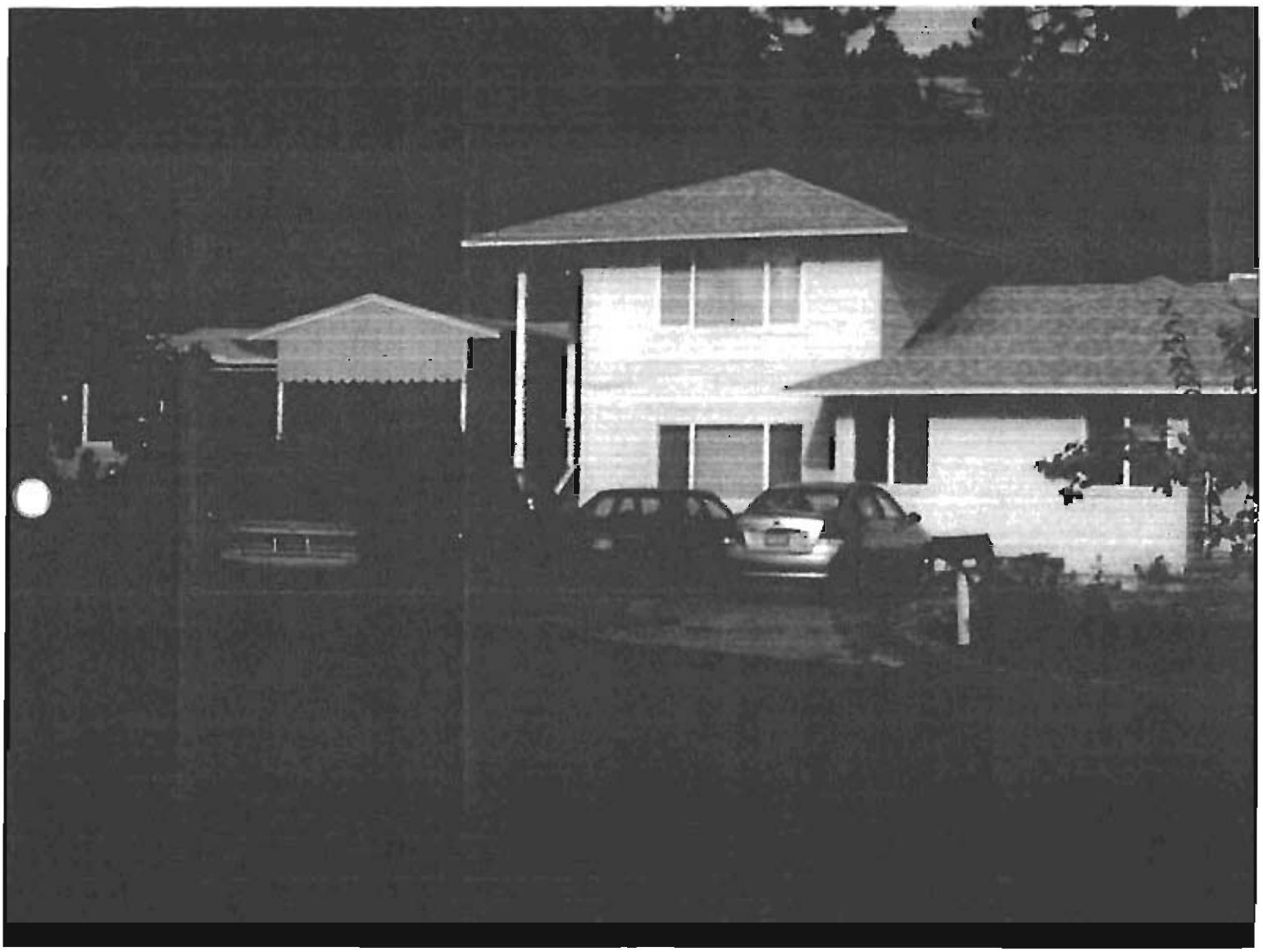

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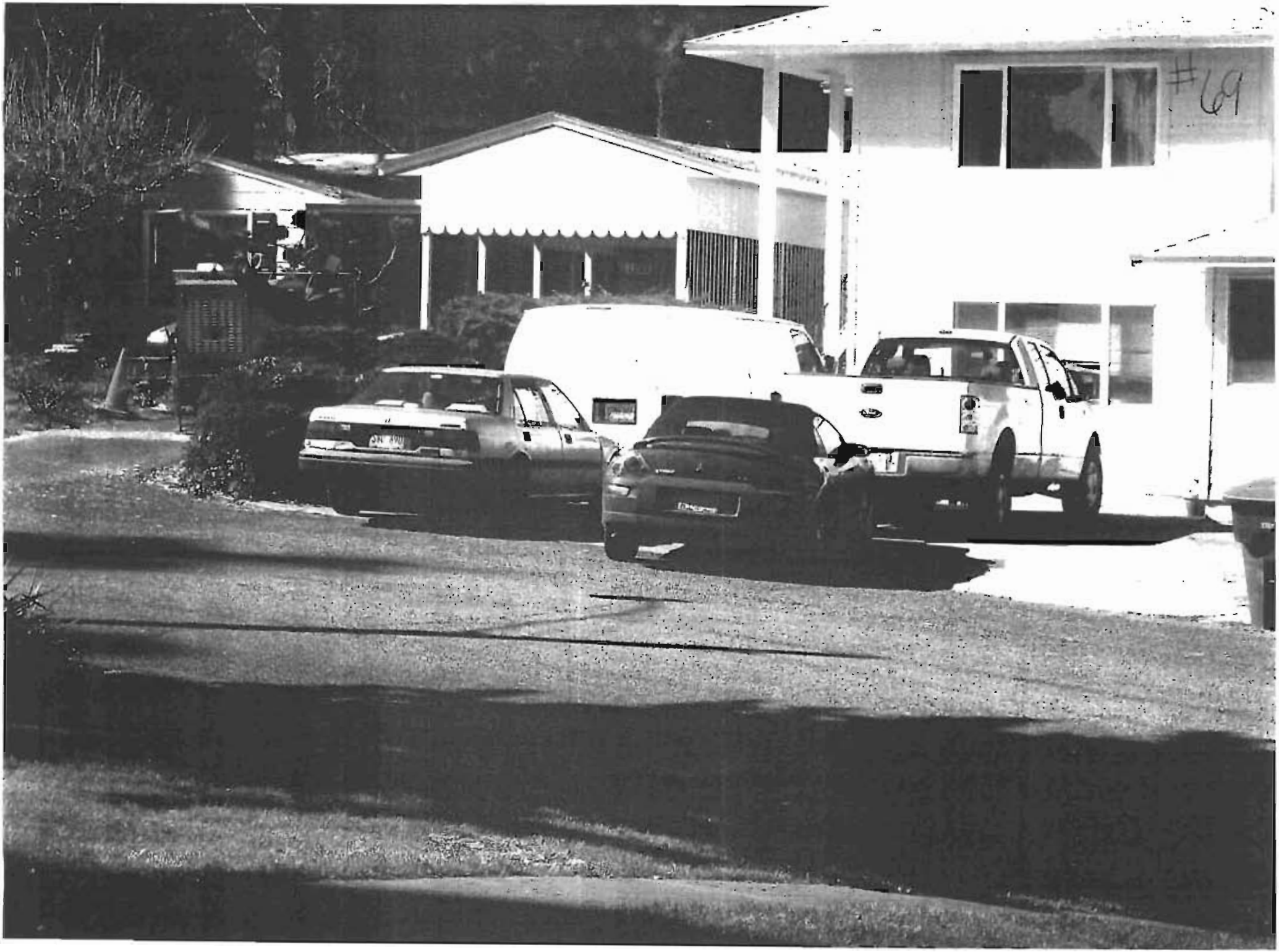
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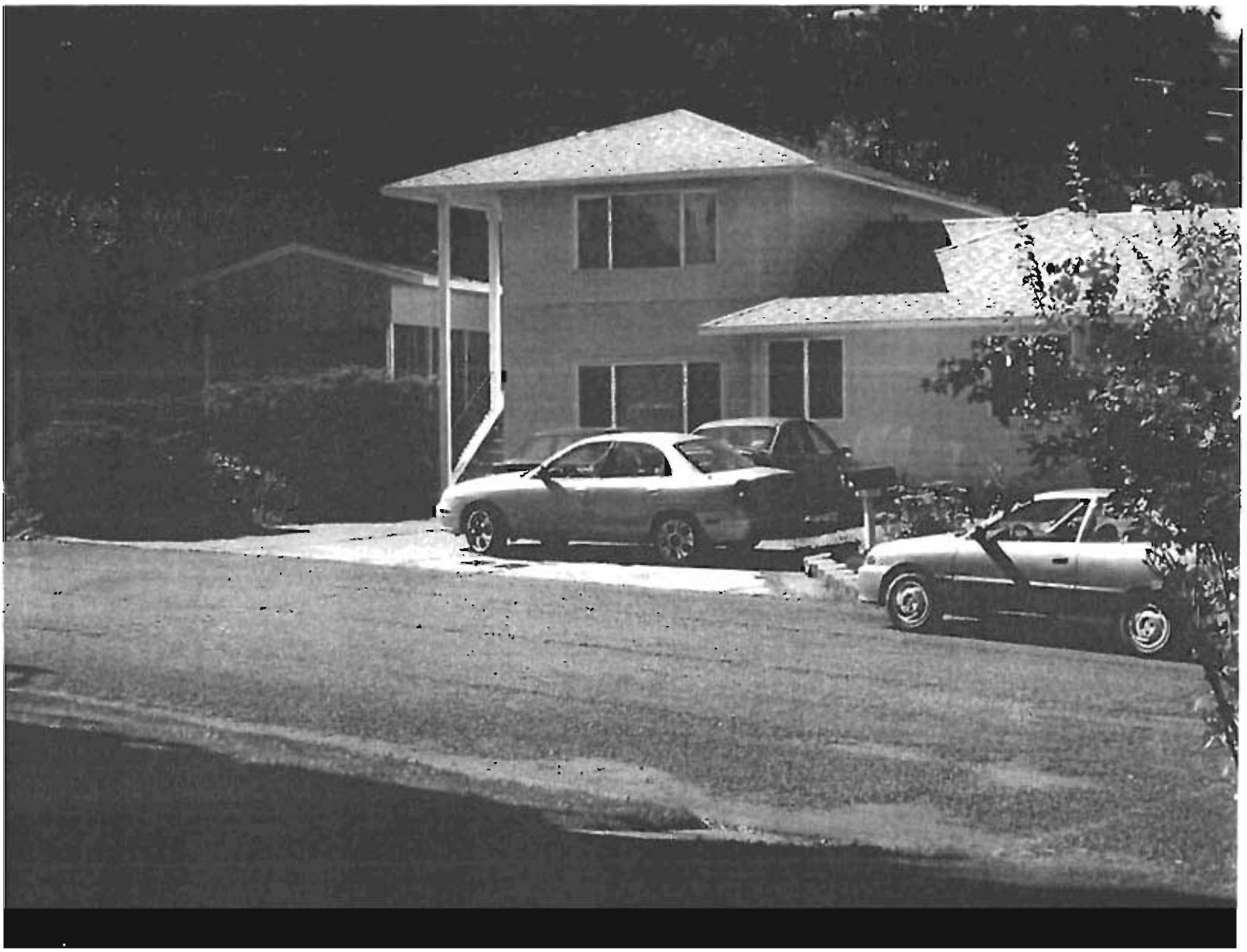

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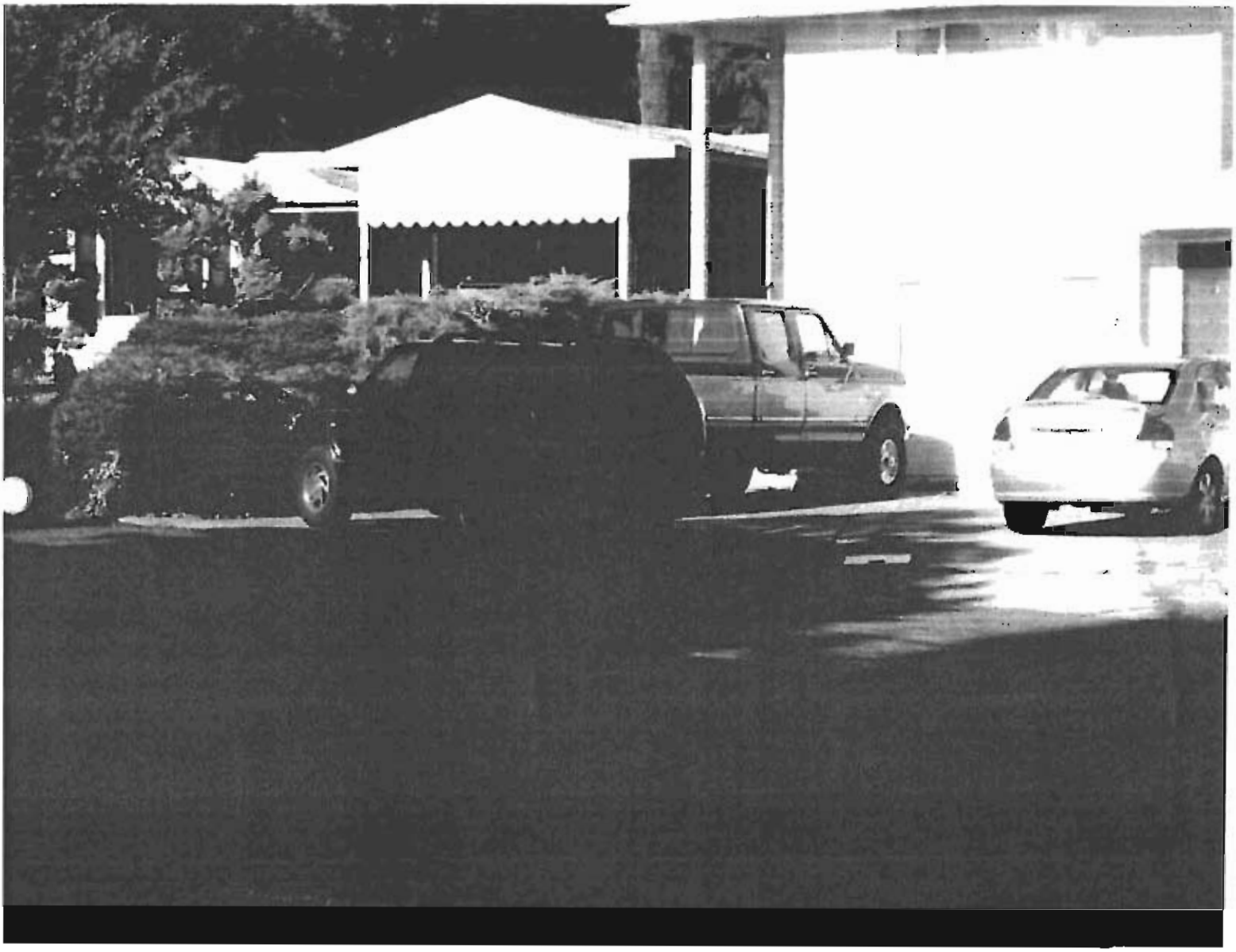

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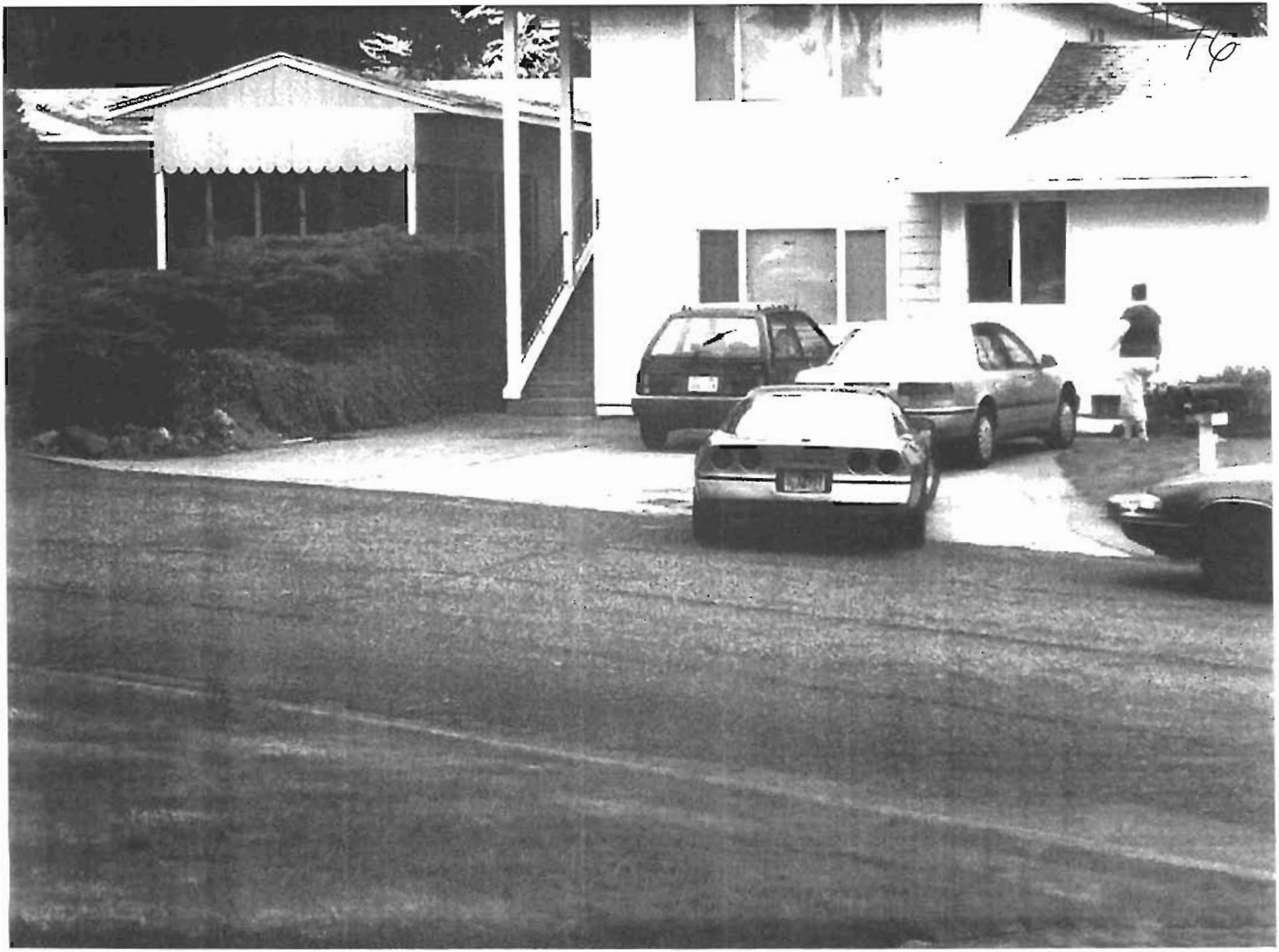
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