



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)



## NOTICE OF ADOPTED AMENDMENT

09/18/2012

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Glendale Plan Amendment  
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, October 04, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Betty Stanfill, City of Glendale  
Gordon Howard, DLCD Urban Planning Specialist  
Josh LeBombard, DLCD Regional Representative

<paa> YA

FORM **2****DLCD****Notice of Adoption**

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

<b>DATE STAMP</b>	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	<b>DEPT OF</b>
	<b>SEP 14 2012</b>
	<b>LAND CONSERVATION AND DEVELOPMENT</b>
For Office Use Only	

Jurisdiction: **City of Glendale**Local file number: **01-2013**Date of Adoption: **9/10/2012**Date Mailed: **9/13/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: **8/2/2012**☐ Comprehensive Plan Text Amendment☒ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☒ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

This amendment changes the zoning of a single parcel from Residential to Commercial to allow an existing closed gas station to reopen under a Conditional Use Permit in a Commercial Zone.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Residential**to: **Commercial**Zone Map Changed from: **Residential**to: **Commercial**Location: **107 Sether Avenue, Glendale, OR 33S 6W 4BB**Acres Involved: **0.22**

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No**DLCD file No.** 002-12 (19446) [17168]



Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Glendale

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Local Contact: **Betty Stanfill, City Recorder**

Phone: **(541) 832-2106** Extension:

Address: **PO Box 361**

Fax Number: **541-832-3221**

City: **Glendale**

Zip: **97442-**

E-mail Address: **glendale@tymewyse.com**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**CITY OF GLENDALE  
ORDINANCE 01-2013**

**AN ORDINANCE ADOPTING AN AMENDMENT TO THE FUTURE COMPREHENSIVE  
PLAN MAP FOR THE CITY OF GLENDALE AND DECLARING AN EMERGENCY**

The City of Glendale ordains as follows:

**SECTION 1. AMENDMENT TO FUTURE LAND USE MAP.**

This ordinance amends the Future Land Use Map of the Comprehensive Plan for the City of Glendale by changing the land use designation of the below described property from Residential to Commercial:

**DOUGLAS COUNTY ASSESSOR'S MAP TOWNSHIP 33S, RANGE 6W, SECTION 4BB, TAX LOT 2600**, commonly known as 107 Sether Avenue, Glendale, Oregon

**SECTION 2. FINDINGS OF FACT.**


Findings of fact attached as Exhibit A supporting the decision are hereby adopted.

**SECTION 3. DECLARING AN EMERGENCY.**

As the City Council deems the prompt passage of this Ordinance necessary to the public health, safety and welfare of the citizens of the City of Glendale, Oregon, an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon its passage by the Council.

**PASSED BY THE GLENDALE CITY COUNCIL** this 10<sup>th</sup> day of September, 2012.

**APPROVED** this 10<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
Fred Jensen, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Betty Stanfill, City Recorder

**TO:** Betty Stanfill, City Clerk  
Mayor Fred Jensen and the Glendale City Council

**FROM:** Crystal Shoji, AICP / Planner  
Glendale Planning Consultant / Shoji Planning, LLC

City of Glendale staff, Betty Stanfill and Ned Dausel provided information to the planner following their site visit; the information has been incorporated into this staff report.

**DATE:** August 31, 2012

**HEARING DATE** September 10, 2012

**SUBJECT:** Staff Report including Attachments, Findings and Recommendations

**APPLICATION:** Consolidated application to amend the Glendale Comprehensive Plan Map and the Glendale Zoning Map - proposed amending Ordinance 01-2013; and for a conditional use permit to allow a gas station on the site. Approval of the proposed commercial designations of subject property on the Comprehensive Plan and zoning maps will allow the approval of the conditional use permit for the gas station.

**APPLICANTS/OWNERS:** Thomas L. Schmeltz and Jason S. King  
dba Cow Creek Station  
624 Rattlesnake Creek Road  
Glendale, OR 97442

**SUBJECT PROPERTY:** 107 Sether Avenue at the southeast intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale; Assessor's Map # Township 33S, Range 6W, Section 4BB, Tax Lot 2600.

**COMPREHENSIVE PLAN MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is designated as Residential in the Comprehensive Plan. The proposed designation is Commercial.

**ZONE MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is zoned Urban Residential, R Zone on the Zone Map. The proposed zoning is Community Commercial, C Zone on the zoning map.



## BACKGROUND:

The site was previously operated as a gas station for more than 40 years, but the gas station closed following the adoption of the Comprehensive Plan and zoning, which designated the property as future residential. The residential designation was likely because of the location of subject property, which does not border on other commercially designated property, although it lies at a busy and easily accessible intersection. Due to the residential designation the gas station became a nonconforming use. The current Zoning and Land Development Ordinance (ZLDO), Chapter 7, Section 7.0.20, Continuance of a Nonconforming Use or Structure states:

*A nonconforming use or structure may be continued and the extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of the passage of this ordinance, is not considered enlargement or expansion of a nonconforming use under this ordinance.*

ZLDO Chapter 7, Section 7.0.40, Discontinuance or Change of a Nonconforming Use, (A) states:

- A. When a nonconforming use has been discontinued for a period of twelve (12) months, it shall be terminated.*

The former gas station use became a nonconforming use, which was discontinued for more than a year. The former gas station has remained empty, and in spite of the residential designations, subject property has not been utilized for residential use as was envisioned in 1983 when the Comprehensive Plan was adopted. At this time, the owner and applicant would like to again utilize subject property for a gas station in that it is organized and suited for such use. In order to do so, the proposed map designation amendments need to be approved along with a conditional use permit for the gas station use.

## APPLICABLE CRITERIA:

### **City of Glendale Zoning and Land Development Ordinance (ZLDO) and the City of Glendale Zoning Map**

ZLDO Chapter 2, Commercial C Zone, Sections 2.3.10 – 2.3.40

ZLDO Chapter 4, Supplementary Provisions, Sections 4.0.10 – 4.0.20, 4.0.70 and 4.0.80

ZLDO Chapter 5, Conditional Use Permit

ZLDO Chapter 8: Administrative Provisions and Amendments, Sections 8.0.10 and 8.0.20 (B), (E) and (G) – 8.0.50, 8.0.70 – 8.0.90, and 8.0.120 – 8.0.160, 8.0.180

### **Comprehensive Land Use Plan, City of Glendale, Oregon and the City of Glendale Land Use Map**

## ANALYSIS AND FINDINGS OF COMPLIANCE:

Within this report, words quoted from the Glendale Zoning and Land Development Ordinance (ZLDO) are provided in *italics*. Information that has been prepared or paraphrased by the planner is provided in regular font (not italicized).

**ZLDO 8.0.10 Purpose.**

*The purpose of this chapter is to provide mechanisms for gathering facts and assuring that all interests are represented and to comply with state law in the land use decision-making process. The City of Glendale is establishing standard notification and public hearing procedures that will enable the City, the applicant, and the public to participate in a timely and effective manner.*

The City complied with ZLDO, Section 8.0.70, which provides notice procedures for first class Mailed notice, newspaper notice for quasi-judicial hearings, and timelines for the public hearing

A copy of the notice that was sent to property owners and the owners of record within 250 feet of the property 20 days prior to the date of the public hearing is included as Attachment A.

A copy of the newspaper notice that was published in the Grants Pass Courier at least 10 days prior to the date of the hearing is included as Attachment B.

Notice was also provided to the Department of Land Conservation and Development on August 2, 2012.

The application was deemed complete as required by ZLDO, Section 8.0.50 on August 7, 2012.

**ZLDO 8.0.20 Administration.**

- B. Conditional Use Permits and Variances are quasi-judicial decisions that are made by the Planning Commission following public notice and a public hearing.*
- E. Quasi-judicial amendments to the text of this ordinance and to the zoning map are made by the Planning Commission, following public notice and a public hearing before the Planning Commission.*
- G. All amendments to the Comprehensive Plan, the City of Glendale Zoning Ordinance text or to the official zoning map adopted by the City shall be by ordinance (ORS 227.)*

ZLDO Definitions, Section 1.1.20 defines “Quasi-judicial”:

*A decision/hearing/land use action concerned with the application of law or policy to a specific property or a limited number of properties as on an application for a conditional use, variance, planned unit development, partitioning, subdivision, an appeal of a quasi-judicial decision, or rezone of property within a single or very limited number of ownerships.*

The scope of proposals included within this consolidated application are quasi-judicial in nature in that they are limited, applying to one 9,583 square foot property (subject property). Subject property has an existing structure that is proposed to be utilized for a gas station -- the same use that was formerly grandfathered on subject property prior to its closure.

The City has determined that the Statewide Planning Goals do not have broad application to the Comprehensive Plan Amendment due to the limited scope of the proposed change that will allow the revival of a single use that existed on subject property for a number of years.

“Conditional use permit” is identified in Section 8.0.20 as a quasi-judicial decision. Ordinance 01-2013 is proposed to adopt the amendments to the Comprehensive Plan Map and the official zoning map.

The City of Glendale does not have a Planning Commission at this time, and it is appropriate for the governing body, the City Council to hold a public hearing following all of the required public notice.

***ZLDO 8.0.30 Authorization to Initiate Amendments to Zoning Ordinance and Zoning Map.***  
*An amendment to the text of this ordinance or to the zoning map may be initiated by the City Council, the Planning Commission, by application of a single property owner as per Section 8.0.50(A), or by a number of property owners in the affected area as per Section 8.0.50(G).*

The Comprehensive Plan and zoning map amendments and the have been initiated by the property owners of a single property.

***ZLDO 8.0.40 Consolidated Application Procedure.***

*If a proposed development requires more than one application for a permit or zone change, the applicant may choose to apply for all necessary applications at the same time. In this case, the Planning Commission shall consolidate its review of all necessary applications, including any reviews which are to be carried out by the City Council. This consolidated application procedure shall be subject to the requirements of this chapter and ORS 227. Hearings shall comply with this chapter and ORS 197.*

This application is a consolidated application and the following applications are included as Attachments to this staff report.

- Application for a Comprehensive Plan Map or Text Amendment (Map Amendment), Attachment C.
- Application for a Zoning Amendment (Map Amendment), Attachment D.
- Application for Conditional Use Permit, Attachment E.
- E-mail communications from the applicant’s planner, Ron Schofield to clarify the request for the conditional use permit: E-mails dated August 7 and August 20, 2012, Attachment F.

***ZLDO 8.0.80 Public Hearing Procedures for Quasi-Judicial Hearings.***

*A. All documents or evidence relied upon by the applicant shall be submitted to the City, and shall be made available to the public.*

*B. Any staff report used at the hearing shall be available at least seven days prior to the hearing.*

*C. At the commencement of a hearing, a statement shall be made which lists the applicable criteria for the decision, states that evidence and testimony must be directed toward such criteria or other criteria in the Comprehensive Plan and Zoning and Subdivision Ordinance which the person believes to apply to the decision, and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue*



*precludes appeal to the Land Use Board of Appeals based upon that issue. The Planning Commission Chair shall poll the Planning Commission relative to ex parte contact, pre-hearing bias, or other factors which would preclude an individual decision maker from making an impartial decision.*

*D. Prior to the conclusion of the initial hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. Any hearing may be continued by oral pronouncement prior to the close of the hearing, and such announcement shall serve as sufficient notice to applicants, adverse parties, and interested persons without recourse to the form and manner of the public notice as provided in this section. The time, date, and location of any continued meeting shall be clearly specified in the oral pronouncement. The Planning Commission shall continue the hearing as set forth in ORS 197 to be held at a stated date, time and place at least seven days from the date of the initial hearing, or leave the record open for seven (7) days to allow for additional written evidence or testimony or to allow for responding to the new written evidence. Such continuance shall not be subject to the limitations of ORS 227.*

*E. When a quasi-judicial proceedings record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.*

*F. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. The Commission shall set forth in the record the facts which it has found to be evidence in supporting its conclusions. These conclusions shall include, but not be limited to the requirements of the Zoning and Subdivision Ordinance and the Comprehensive Plan.*

*G. For each mailing of notice, the City Manager/Recorder shall file an affidavit of mailing in the record. The failure of a person to receive the notice provided pursuant to this section shall not invalidate the proceedings of the hearing if the City can demonstrate by affidavit that the required notice was given.*

*H. The failure of a property owner to receive notice shall not invalidate proceedings if the City can demonstrate by affidavit that notice was given as set forth in Section 8.0.70 (G) and ORS 197.*

It is the City of Glendale's intent to comply with all of the requirements of ZLDO, Section 8.0.80 at the public hearing, and in processing this application.

This staff report provides suggested conclusions and facts and analysis that can be used for evidence to support approval of the application.

#### ***ZLDO 8.0.90 Burden of Proof.***

*The burden of proof is upon the proponent. The more drastic the change or the impact of the proposal, the greater is the burden of the proponent. Such burden shall be to prove that the public interest is best carried out by approving the application for the proposed action, and that the application complies with more specific criteria which may be stated within this ordinance.*

The applicant has provided applications that include findings for three approvals that are proposed under the consolidated application.

This staff report will address compliance with the criteria of ZLDO, Section 8.0.120 Standards for Amending the Zoning Text or Map and the Comprehensive Land Use Plan, City of Glendale,

Oregon for the proposed map amendments. This staff report also addresses compliance with ZLDO, Sections 5.0.30 and 5.0.40 for the proposed conditional use permit.

***ZLDO 8.0.120 Standards for Amending the Zoning Text or Map.***

*The following standards and procedures shall be followed in applying for and acting on an amendment to modify or change the zoning text or map:*

*A. The change does not conflict with the City of Glendale Comprehensive Land Use Plan.*

The Application for the Comprehensive Plan Amendment proposal to change the map from residential to commercial for subject property provides analysis and findings of compliance with all of the Statewide Planning Goals. The findings provided by the applicant are sufficient to determine that the Comprehensive Plan Amendment is appropriate. The findings provided by the applicant within the application are sufficient to determine that the proposal is in compliance with all of the Statewide Planning Goals and in the interest of the public.

At such time as the Comprehensive Plan map is amended, it is appropriate to amend the zoning map so that the zoning designation remains consistent with the Comprehensive Land map. The Application for Zoning Amendment provides all of the findings sufficient to determine that the Zone Map Amendment will be consistent with the City of Glendale Comprehensive Plan and the Comprehensive Plan Land Use Plan Map when the consolidated application is approved.

*B. If the proposed change is not in accord with the City of Glendale Comprehensive Land Use Plan, the Planning Commission and City Council shall seek to determine that alteration of the Plan can be justified on the basis that there has been substantial change in the character of the area since the Plan's adoption, thus warranting a change in the plan, that there is demonstrated public need, that the Plan was adopted in error, or that the controlling state law has changed.*

The amendments and future use for subject property are being proposed through a consolidated application. The findings provided by the applicant determine that the alteration of the Comprehensive Plan map is justified. The justification for the change is that there has not been the substantial change in the character of the area since the Plan's adoption that was envisioned when subject property was proposed for future residential. While the Plan map anticipated that the City of Glendale would be better served by disallowing the continuation of a gas station on subject property if and when the gas station that existed closed, that assumption has not proven to be correct. In fact, the City of Glendale will be well-served by having a gas station, and subject property that was formerly used for the gas station is a logical site due to the existing infrastructure and the location at a busy intersection. For this reason, it appears that the assumptions of the Plan that was adopted were in error, and that the public can be best served by allowing the gas station in the existing facility.

**CITY OF GLENDALE  
ORDINANCE 02-2013**

**AN ORDINANCE ADOPTING AN AMENDMENT TO THE ZONING MAP FOR THE  
CITY OF GLENDALE AND DECLARING AN EMERGENCY**

The City of Glendale ordains as follows:

**SECTION 1. AMENDMENT TO THE ZONING MAP.**

This ordinance amends the Zoning Map for the City of Glendale by changing the land use designation of the below described property from Urban Residential to Community Commercial:

**DOUGLAS COUNTY ASSESSOR'S MAP TOWNSHIP 33S, RANGE 6W, SECTION 4BB, TAX LOT 2600**, commonly known as 107 Sether Avenue, Glendale, Oregon

**SECTION 2. FINDINGS OF FACT.**

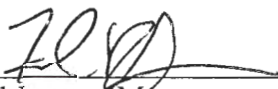
Findings of fact attached as Exhibit A supporting the decision are hereby adopted.

**SECTION 3. DECLARING AN EMERGENCY.**

As the City Council deems the prompt passage of this Ordinance necessary to the public health, safety and welfare of the citizens of the City of Glendale, Oregon, an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon its passage by the Council.

**PASSED BY THE GLENDALE CITY COUNCIL** this 10<sup>th</sup> day of September, 2012.

**APPROVED** this 10<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
Fred Jensen, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Betty Stanfill, City Recorder



**TO:** Betty Stanfill, City Clerk  
Mayor Fred Jensen and the Glendale City Council

**FROM:** Crystal Shoji, AICP / Planner  
Glendale Planning Consultant / Shoji Planning, LLC

City of Glendale staff, Betty Stanfill and Ned Dausel provided information to the planner following their site visit; the information has been incorporated into this staff report.

**DATE:** August 31, 2012

**HEARING DATE** September 10, 2012

**SUBJECT:** Staff Report including Attachments, Findings and Recommendations

**APPLICATION:** Consolidated application to amend the Glendale Comprehensive Plan Map and the Glendale Zoning Map - proposed amending Ordinance 01-2013; and for a conditional use permit to allow a gas station on the site. Approval of the proposed commercial designations of subject property on the Comprehensive Plan and zoning maps will allow the approval of the conditional use permit for the gas station.

**APPLICANTS/OWNERS:** Thomas L. Schmeltz and Jason S. King  
dba Cow Creek Station  
624 Rattlesnake Creek Road  
Glendale, OR 97442

**SUBJECT PROPERTY:** 107 Sether Avenue at the southeast intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale; Assessor's Map # Township 33S, Range 6W, Section 4BB, Tax Lot 2600.

**COMPREHENSIVE PLAN MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is designated as Residential in the Comprehensive Plan. The proposed designation is Commercial.

**ZONE MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is zoned Urban Residential, R Zone on the Zone Map. The proposed zoning is Community Commercial, C Zone on the zoning map.

## **BACKGROUND:**

The site was previously operated as a gas station for more than 40 years, but the gas station closed following the adoption of the Comprehensive Plan and zoning, which designated the property as future residential. The residential designation was likely because of the location of subject property, which does not border on other commercially designated property, although it lies at a busy and easily accessible intersection. Due to the residential designation the gas station became a nonconforming use. The current Zoning and Land Development Ordinance (ZLDO), Chapter 7, Section 7.0.20, Continuance of a Nonconforming Use or Structure states:

*A nonconforming use or structure may be continued and the extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of the passage of this ordinance, is not considered enlargement or expansion of a nonconforming use under this ordinance.*

ZLDO Chapter 7, Section 7.0.40, Discontinuance or Change of a Nonconforming Use, (A) states:

*A. When a nonconforming use has been discontinued for a period of twelve (12) months, it shall be terminated.*

The former gas station use became a nonconforming use, which was discontinued for more than a year. The former gas station has remained empty, and in spite of the residential designations, subject property has not been utilized for residential use as was envisioned in 1983 when the Comprehensive Plan was adopted. At this time, the owner and applicant would like to again utilize subject property for a gas station in that it is organized and suited for such use. In order to do so, the proposed map designation amendments need to be approved along with a conditional use permit for the gas station use.

## **APPLICABLE CRITERIA:**

### **City of Glendale Zoning and Land Development Ordinance (ZLDO) and the City of Glendale Zoning Map**

ZLDO Chapter 2, Commercial C Zone, Sections 2.3.10 – 2.3.40

ZLDO Chapter 4, Supplementary Provisions, Sections 4.0.10 – 4.0.20, 4.0.70 and 4.0.80

ZLDO Chapter 5, Conditional Use Permit

ZLDO Chapter 8: Administrative Provisions and Amendments, Sections 8.0.10 and 8.0.20 (B), (E) and (G) – 8.0.50, 8.0.70 – 8.0.90, and 8.0.120 – 8.0.160, 8.0.180

### **Comprehensive Land Use Plan, City of Glendale, Oregon and the City of Glendale Land Use Map**

## **ANALYSIS AND FINDINGS OF COMPLIANCE:**

Within this report, words quoted from the Glendale Zoning and Land Development Ordinance (ZLDO) are provided in *italics*. Information that has been prepared or paraphrased by the planner is provided in regular font (not italicized).

***ZLDO 8.0.10 Purpose.***

*The purpose of this chapter is to provide mechanisms for gathering facts and assuring that all interests are represented and to comply with state law in the land use decision-making process. The City of Glendale is establishing standard notification and public hearing procedures that will enable the City, the applicant, and the public to participate in a timely and effective manner.*

The City complied with ZLDO, Section 8.0.70, which provides notice procedures for first class Mailed notice, newspaper notice for quasi-judicial hearings, and timelines for the public hearing

A copy of the notice that was sent to property owners and the owners of record within 250 feet of the property 20 days prior to the date of the public hearing is included as Attachment A.

A copy of the newspaper notice that was published in the Grants Pass Courier at least 10 days prior to the date of the hearing is included as Attachment B.

Notice was also provided to the Department of Land Conservation and Development on August 2, 2012.

The application was deemed complete as required by ZLDO, Section 8.0.50 on August 7, 2012.

***ZLDO 8.0.20 Administration.***

- B. Conditional Use Permits and Variances are quasi-judicial decisions that are made by the Planning Commission following public notice and a public hearing.*
- E. Quasi-judicial amendments to the text of this ordinance and to the zoning map are made by the Planning Commission, following public notice and a public hearing before the Planning Commission.*
- G. All amendments to the Comprehensive Plan, the City of Glendale Zoning Ordinance text or to the official zoning map adopted by the City shall be by ordinance (ORS 227.)*

ZLDO Definitions, Section 1.1.20 defines “Quasi-judicial”:

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The scope of proposals included within this consolidated application are quasi-judicial in nature in that they are limited, applying to one 9,583 square foot property (subject property). Subject property has an existing structure that is proposed to be utilized for a gas station -- the same use that was formerly grandfathered on subject property prior to its closure.

The City has determined that the Statewide Planning Goals do not have broad application to the Comprehensive Plan Amendment due to the limited scope of the proposed change that will allow the revival of a single use that existed on subject property for a number of years.



“Conditional use permit” is identified in Section 8.0.20 as a quasi-judicial decision. Ordinance 01-2013 is proposed to adopt the amendments to the Comprehensive Plan Map and the official zoning map.

The City of Glendale does not have a Planning Commission at this time, and it is appropriate for the governing body, the City Council to hold a public hearing following all of the required public notice.

***ZLDO 8.0.30 Authorization to Initiate Amendments to Zoning Ordinance and Zoning Map.***  
*An amendment to the text of this ordinance or to the zoning map may be initiated by the City Council, the Planning Commission, by application of a single property owner as per Section 8.0.50(A), or by a number of property owners in the affected area as per Section 8.0.50(G).*

The Comprehensive Plan and zoning map amendments and the have been initiated by the property owners of a single property.

***ZLDO 8.0.40 Consolidated Application Procedure.***  
*If a proposed development requires more than one application for a permit or zone change, the applicant may choose to apply for all necessary applications at the same time. In this case, the Planning Commission shall consolidate its review of all necessary applications, including any reviews which are to be carried out by the City Council. This consolidated application procedure shall be subject to the requirements of this chapter and ORS 227. Hearings shall comply with this chapter and ORS 197.*

This application is a consolidated application and the following applications are included as Attachments to this staff report.

- Application for a Comprehensive Plan Map or Text Amendment (Map Amendment), Attachment C.
- Application for a Zoning Amendment (Map Amendment), Attachment D.
- Application for Conditional Use Permit, Attachment E.
- E-mail communications from the applicant’s planner, Ron Schofield to clarify the request for the conditional use permit: E-mails dated August 7 and August 20, 2012, Attachment F.

***ZLDO 8.0.80 Public Hearing Procedures for Quasi-Judicial Hearings.***  
*A. All documents or evidence relied upon by the applicant shall be submitted to the City, and shall be made available to the public.*  
*B. Any staff report used at the hearing shall be available at least seven days prior to the hearing.*  
*C. At the commencement of a hearing, a statement shall be made which lists the applicable criteria for the decision, states that evidence and testimony must be directed toward such criteria or other criteria in the Comprehensive Plan and Zoning and Subdivision Ordinance which the person believes to apply to the decision, and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue*

*precludes appeal to the Land Use Board of Appeals based upon that issue. The Planning Commission Chair shall poll the Planning Commission relative to ex parte contact, pre-hearing bias, or other factors which would preclude an individual decision maker from making an impartial decision.*

*D. Prior to the conclusion of the initial hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. Any hearing may be continued by oral pronouncement prior to the close of the hearing, and such announcement shall serve as sufficient notice to applicants, adverse parties, and interested persons without recourse to the form and manner of the public notice as provided in this section. The time, date, and location of any continued meeting shall be clearly specified in the oral pronouncement. The Planning Commission shall continue the hearing as set forth in ORS 197 to be held at a stated date, time and place at least seven days from the date of the initial hearing, or leave the record open for seven (7) days to allow for additional written evidence or testimony or to allow for responding to the new written evidence. Such continuance shall not be subject to the limitations of ORS 227.*

*E. When a quasi-judicial proceedings record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.*

*F. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. The Commission shall set forth in the record the facts which it has found to be evidence in supporting its conclusions. These conclusions shall include, but not be limited to the requirements of the Zoning and Subdivision Ordinance and the Comprehensive Plan.*

*G. For each mailing of notice, the City Manager/Recorder shall file an affidavit of mailing in the record. The failure of a person to receive the notice provided pursuant to this section shall not invalidate the proceedings of the hearing if the City can demonstrate by affidavit that the required notice was given.*

*H. The failure of a property owner to receive notice shall not invalidate proceedings if the City can demonstrate by affidavit that notice was given as set forth in Section 8.0.70 (G) and ORS 197.*

It is the City of Glendale's intent to comply with all of the requirements of ZLDO, Section 8.0.80 at the public hearing, and in processing this application.

This staff report provides suggested conclusions and facts and analysis that can be used for evidence to support approval of the application.

#### ***ZLDO 8.0.90 Burden of Proof.***

*The burden of proof is upon the proponent. The more drastic the change or the impact of the proposal, the greater is the burden of the proponent. Such burden shall be to prove that the public interest is best carried out by approving the application for the proposed action, and that the application complies with more specific criteria which may be stated within this ordinance.*

The applicant has provided applications that include findings for three approvals that are proposed under the consolidated application.

This staff report will address compliance with the criteria of ZLDO, Section 8.0.120 Standards for Amending the Zoning Text or Map and the Comprehensive Land Use Plan, City of Glendale,

Oregon for the proposed map amendments. This staff report also addresses compliance with ZLDO, Sections 5.0.30 and 5.0.40 for the proposed conditional use permit.

***ZLDO 8.0.120 Standards for Amending the Zoning Text or Map.***

*The following standards and procedures shall be followed in applying for and acting on an amendment to modify or change the zoning text or map:*

*A. The change does not conflict with the City of Glendale Comprehensive Land Use Plan.*

The Application for the Comprehensive Plan Amendment proposal to change the map from residential to commercial for subject property provides analysis and findings of compliance with all of the Statewide Planning Goals. The findings provided by the applicant are sufficient to determine that the Comprehensive Plan Amendment is appropriate. The findings provided by the applicant within the application are sufficient to determine that the proposal is in compliance with all of the Statewide Planning Goals and in the interest of the public.

At such time as the Comprehensive Plan map is amended, it is appropriate to amend the zoning map so that the zoning designation remains consistent with the Comprehensive Land map. The Application for Zoning Amendment provides all of the findings sufficient to determine that the Zone Map Amendment will be consistent with the City of Glendale Comprehensive Plan and the Comprehensive Plan Land Use Plan Map when the consolidated application is approved.

*B. If the proposed change is not in accord with the City of Glendale Comprehensive Land Use Plan, the Planning Commission and City Council shall seek to determine that alteration of the Plan can be justified on the basis that there has been substantial change in the character of the area since the Plan's adoption, thus warranting a change in the plan, that there is demonstrated public need, that the Plan was adopted in error, or that the controlling state law has changed.*

The amendments and future use for subject property are being proposed through a consolidated application. The findings provided by the applicant determine that the alteration of the Comprehensive Plan map is justified. The justification for the change is that there has not been the substantial change in the character of the area since the Plan's adoption that was envisioned when subject property was proposed for future residential. While the Plan map anticipated that the City of Glendale would be better served by disallowing the continuation of a gas station on subject property if and when the gas station that existed closed, that assumption has not proven to be correct. In fact, the City of Glendale will be well-served by having a gas station, and subject property that was formerly used for the gas station is a logical site due to the existing infrastructure and the location at a busy intersection. For this reason, it appears that the assumptions of the Plan that was adopted were in error, and that the public can be best served by allowing the gas station in the existing facility.



**TO:** Betty Stanfill, City Clerk  
Mayor Fred Jensen and the Glendale City Council

**FROM:** Crystal Shoji, AICP / Planner  
Glendale Planning Consultant / Shoji Planning, LLC

City of Glendale staff, Betty Stanfill and Ned Dausel provided information to the planner following their site visit; the information has been incorporated into this staff report.

**DATE:** August 31, 2012

**HEARING DATE** September 10, 2012

**SUBJECT:** Staff Report including Attachments, Findings and Recommendations

**APPLICATION:** Consolidated application to amend the Glendale Comprehensive Plan Map and the Glendale Zoning Map - proposed amending Ordinance 01-2013; and for a conditional use permit to allow a gas station on the site. Approval of the proposed commercial designations of subject property on the Comprehensive Plan and zoning maps will allow the approval of the conditional use permit for the gas station.

**APPLICANTS/OWNERS:** Thomas L. Schmeltz and Jason S. King  
dba Cow Creek Station  
624 Rattlesnake Creek Road  
Glendale, OR 97442

**SUBJECT PROPERTY:** 107 Sether Avenue at the southeast intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale; Assessor's Map # Township 33S, Range 6W, Section 4BB, Tax Lot 2600.

**COMPREHENSIVE PLAN MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is designated as Residential in the Comprehensive Plan. The proposed designation is Commercial.

**ZONE MAP DESIGNATION AND PROPOSED DESIGNATION:**  
Subject property is zoned Urban Residential, R Zone on the Zone Map. The proposed zoning is Community Commercial, C Zone on the zoning map.

## **BACKGROUND:**

The site was previously operated as a gas station for more than 40 years, but the gas station closed following the adoption of the Comprehensive Plan and zoning, which designated the property as future residential. The residential designation was likely because of the location of subject property, which does not border on other commercially designated property, although it lies at a busy and easily accessible intersection. Due to the residential designation the gas station became a nonconforming use. The current Zoning and Land Development Ordinance (ZLDO), Chapter 7, Section 7.0.20, Continuation of a Nonconforming Use or Structure states:

*A nonconforming use or structure may be continued and the extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of the passage of this ordinance, is not considered enlargement or expansion of a nonconforming use under this ordinance.*

ZLDO Chapter 7, Section 7.0.40, Discontinuance or Change of a Nonconforming Use, (A) states:

*A. When a nonconforming use has been discontinued for a period of twelve (12) months, it shall be terminated.*

The former gas station use became a nonconforming use, which was discontinued for more than a year. The former gas station has remained empty, and in spite of the residential designations, subject property has not been utilized for residential use as was envisioned in 1983 when the Comprehensive Plan was adopted. At this time, the owner and applicant would like to again utilize subject property for a gas station in that it is organized and suited for such use. In order to do so, the proposed map designation amendments need to be approved along with a conditional use permit for the gas station use.

## **APPLICABLE CRITERIA:**

### **City of Glendale Zoning and Land Development Ordinance (ZLDO) and the City of Glendale Zoning Map**

ZLDO Chapter 2, Commercial C Zone, Sections 2.3.10 – 2.3.40

ZLDO Chapter 4, Supplementary Provisions, Sections 4.0.10 – 4.0.20, 4.0.70 and 4.0.80

ZLDO Chapter 5, Conditional Use Permit

ZLDO Chapter 8: Administrative Provisions and Amendments, Sections 8.0.10 and 8.0.20 (B), (E) and (G) – 8.0.50, 8.0.70 – 8.0.90, and 8.0.120 – 8.0.160, 8.0.180

### **Comprehensive Land Use Plan, City of Glendale, Oregon and the City of Glendale Land Use Map**

## **ANALYSIS AND FINDINGS OF COMPLIANCE:**

Within this report, words quoted from the Glendale Zoning and Land Development Ordinance (ZLDO) are provided in *italics*. Information that has been prepared or paraphrased by the planner is provided in regular font (not italicized).

**ZLDO 8.0.10 Purpose.**

*The purpose of this chapter is to provide mechanisms for gathering facts and assuring that all interests are represented and to comply with state law in the land use decision-making process. The City of Glendale is establishing standard notification and public hearing procedures that will enable the City, the applicant, and the public to participate in a timely and effective manner.*

The City complied with ZLDO, Section 8.0.70, which provides notice procedures for first class Mailed notice, newspaper notice for quasi-judicial hearings, and timelines for the public hearing

A copy of the notice that was sent to property owners and the owners of record within 250 feet of the property 20 days prior to the date of the public hearing is included as Attachment A.

A copy of the newspaper notice that was published in the Grants Pass Courier at least 10 days prior to the date of the hearing is included as Attachment B.

Notice was also provided to the Department of Land Conservation and Development on August 2, 2012.

The application was deemed complete as required by ZLDO, Section 8.0.50 on August 7, 2012.

**ZLDO 8.0.20 Administration.**

- B. Conditional Use Permits and Variances are quasi-judicial decisions that are made by the Planning Commission following public notice and a public hearing.*
- E. Quasi-judicial amendments to the text of this ordinance and to the zoning map are made by the Planning Commission, following public notice and a public hearing before the Planning Commission.*
- G. All amendments to the Comprehensive Plan, the City of Glendale Zoning Ordinance text or to the official zoning map adopted by the City shall be by ordinance (ORS 227.)*

ZLDO Definitions, Section 1.1.20 defines “Quasi-judicial”:

*A decision/hearing/land use action concerned with the application of law or policy to a specific property or a limited number of properties as on an application for a conditional use, variance, planned unit development, partitioning, subdivision, an appeal of a quasi-judicial decision, or rezone of property within a single or very limited number of ownerships.*

The scope of proposals included within this consolidated application are quasi-judicial in nature in that they are limited, applying to one 9,583 square foot property (subject property). Subject property has an existing structure that is proposed to be utilized for a gas station -- the same use that was formerly grandfathered on subject property prior to its closure.

The City has determined that the Statewide Planning Goals do not have broad application to the Comprehensive Plan Amendment due to the limited scope of the proposed change that will allow the revival of a single use that existed on subject property for a number of years.



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The City of Glendale does not have a Planning Commission at this time, and it is appropriate for the governing body, the City Council to hold a public hearing following all of the required public notice.

***ZLDO 8.0.30 Authorization to Initiate Amendments to Zoning Ordinance and Zoning Map.***

*An amendment to the text of this ordinance or to the zoning map may be initiated by the City Council, the Planning Commission, by application of a single property owner as per Section 8.0.50(A), or by a number of property owners in the affected area as per Section 8.0.50(G).*

The Comprehensive Plan and zoning map amendments and the have been initiated by the property owners of a single property.

***ZLDO 8.0.40 Consolidated Application Procedure.***

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This application is a consolidated application and the following applications are included as Attachments to this staff report.

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*A. All documents or evidence relied upon by the applicant shall be submitted to the City, and shall be made available to the public.*

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*C. At the commencement of a hearing, a statement shall be made which lists the applicable criteria for the decision, states that evidence and testimony must be directed toward such criteria or other criteria in the Comprehensive Plan and Zoning and Subdivision Ordinance which the person believes to apply to the decision, and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue*

*precludes appeal to the Land Use Board of Appeals based upon that issue. The Planning Commission Chair shall poll the Planning Commission relative to ex parte contact, pre-hearing bias, or other factors which would preclude an individual decision maker from making an impartial decision.*

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*E. When a quasi-judicial proceedings record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.*

*F. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. The Commission shall set forth in the record the facts which it has found to be evidence in supporting its conclusions. These conclusions shall include, but not be limited to the requirements of the Zoning and Subdivision Ordinance and the Comprehensive Plan.*

*G. For each mailing of notice, the City Manager/Recorder shall file an affidavit of mailing in the record. The failure of a person to receive the notice provided pursuant to this section shall not invalidate the proceedings of the hearing if the City can demonstrate by affidavit that the required notice was given.*

*H. The failure of a property owner to receive notice shall not invalidate proceedings if the City can demonstrate by affidavit that notice was given as set forth in Section 8.0.70 (G) and ORS 197.*

It is the City of Glendale's intent to comply with all of the requirements of ZLDO, Section 8.0.80 at the public hearing, and in processing this application.

This staff report provides suggested conclusions and facts and analysis that can be used for evidence to support approval of the application.

#### ***ZLDO 8.0.90 Burden of Proof.***

*The burden of proof is upon the proponent. The more drastic the change or the impact of the proposal, the greater is the burden of the proponent. Such burden shall be to prove that the public interest is best carried out by approving the application for the proposed action, and that the application complies with more specific criteria which may be stated within this ordinance.*

The applicant has provided applications that include findings for three approvals that are proposed under the consolidated application.

This staff report will address compliance with the criteria of ZLDO, Section 8.0.120 Standards for Amending the Zoning Text or Map and the Comprehensive Land Use Plan, City of Glendale,

Oregon for the proposed map amendments. This staff report also addresses compliance with ZLDO, Sections 5.0.30 and 5.0.40 for the proposed conditional use permit.

***ZLDO 8.0.120 Standards for Amending the Zoning Text or Map.***

*The following standards and procedures shall be followed in applying for and acting on an amendment to modify or change the zoning text or map:*

*A. The change does not conflict with the City of Glendale Comprehensive Land Use Plan.*

The Application for the Comprehensive Plan Amendment proposal to change the map from residential to commercial for subject property provides analysis and findings of compliance with all of the Statewide Planning Goals. The findings provided by the applicant are sufficient to determine that the Comprehensive Plan Amendment is appropriate. The findings provided by the applicant within the application are sufficient to determine that the proposal is in compliance with all of the Statewide Planning Goals and in the interest of the public.

At such time as the Comprehensive Plan map is amended, it is appropriate to amend the zoning map so that the zoning designation remains consistent with the Comprehensive Land map. The Application for Zoning Amendment provides all of the findings sufficient to determine that the Zone Map Amendment will be consistent with the City of Glendale Comprehensive Plan and the Comprehensive Plan Land Use Plan Map when the consolidated application is approved.

*B. If the proposed change is not in accord with the City of Glendale Comprehensive Land Use Plan, the Planning Commission and City Council shall seek to determine that alteration of the Plan can be justified on the basis that there has been substantial change in the character of the area since the Plan's adoption, thus warranting a change in the plan, that there is demonstrated public need, that the Plan was adopted in error, or that the controlling state law has changed.*

The amendments and future use for subject property are being proposed through a consolidated application. The findings provided by the applicant determine that the alteration of the Comprehensive Plan map is justified. The justification for the change is that there has not been the substantial change in the character of the area since the Plan's adoption that was envisioned when subject property was proposed for future residential. While the Plan map anticipated that the City of Glendale would be better served by disallowing the continuation of a gas station on subject property if and when the gas station that existed closed, that assumption has not proven to be correct. In fact, the City of Glendale will be well-served by having a gas station, and subject property that was formerly used for the gas station is a logical site due to the existing infrastructure and the location at a busy intersection. For this reason, it appears that the assumptions of the Plan that was adopted were in error, and that the public can be best served by allowing the gas station in the existing facility.

***ZLDO 2.3.30 Conditional Uses.***

*The following conditional uses are allowed in the C zone subject to the provisions of Chapter 5 and other applicable development standards within this ordinance.*

*A. Automobile service stations or garages; car washes and laundries other than those utilizing automatic or steam cleaning equipment.*



The Commercial – C Zone, Section 2.3.30, Conditional Uses (A) provides automobile service stations or garages as conditional uses subject to development standards and a conditional use permit. The proposed use is subject to a conditional use permit.

***ZLDO 2.3.40 Development Standards for Permitted and Conditional Uses.***

- A. *New and Expanded Structures.* *All new structures or those that are being expanded by more than 15% of their existing footprint in the C zone shall be subject to site plan review by the Planning Commission. Site plan review shall be carried out using Section 5.0.50, Application and Hearing Procedure for a conditional use permit, but shall not be subject to site plan requirements set forth in Section 5.2.10. The Planning Commission may place specific conditions upon the development using the criteria set forth in Section 5.0.40 (A-L).*

The application states:

“As noted above, all improvements necessary to allow the station to re-open and operate again are in place, including the station building itself, the canopy-covered [sic] service island and fuel pumps, underground fuel storage tanks, and a DEQ-approved ground monitoring system to detect any underground fuel leaks.”

“The applicants do not anticipate any new or substantial structural improvements, nor do they otherwise plan to introduce new or significantly different commercial activities from those that have taken place on the property for many decades.”

Based upon the applicant’s statement that there will not be new or expanded structures the site plan requirements of Section 5.2.10 do not apply.

- B. *Lot Size.* The minimum lot area shall be 1,000 square feet. The minimum lot frontage shall be twenty-five (25) feet for commercial uses.

The 9,583 square foot lot with 134 feet of lot frontage exceeds the lot size requirements.

- C. *Lot Coverage.* *Maximum lot coverage shall be 100%, including parking and any necessary buffer area.*
- D. *Setbacks/Yards.*
- 1. The minimum yard adjacent to the R zone shall comply with the standards of the R zone in Section 2.2.40 and Vision Clearance in Section 4.0.20 as if the lot were in the R zone.*
  - 2. Except for those properties which are adjacent to properties in the R zone, there shall be no minimum front yard depth and no minimum side yard width, and no minimum rear yard depth.*

Subject property is adjacent to Reuben Road on the west, and Sether Avenue on the north. Subject property is adjacent to R zoned property on the south and east. The applicant has provided findings regarding existing structures and existing setbacks in an e-mail dated August 20, 2012. The applicant justifies the location of the existing roofline of the canopy that exists within the area that is required for setback under today’s code, although the canopy does not involve any structural elements on the ground. In that the canopy exists from a previous use, and

the City had not had complaints about the location of the canopy over the years, it is appropriate to allow the use of the existing canopy.

*E. Building Height. The maximum building height shall be forth (40) feet.*

The applicant states that the existing gas station building and canopy do not exceed 20 feet in height; therefore there is compliance with the building height requirements.

*F. Vision Clearance. Vision Clearance shall comply with Section 4.0.20.*

ZLDO Section 4.0.20 states:

*A vision clearance area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad as follows:*

*A. A vision clearance area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this ordinance, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of each is a line across the corner of the lot joining the non-intersecting ends of the other two sides.*

*B. A vision clearance area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction that impairs visibility exceeding three and one-half (3½) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in the clear vision area provided all branches and foliage are removed to a height of eight (8) feet above the grade.*

*C. In a residential zone the minimum vision clearance distance shall be twenty (20) feet, except at intersections including an alley, the minimum vision clearance distance shall be ten (10) feet.*

*D. In all other zones where yards are required, the minimum vision clearance distance shall be fifteen (15) feet, excepting in the following circumstances:*

- 1. At intersections including an alley, vision clearance distance shall be ten (10) feet.*
- 2. When the angle of intersection between streets other than an alley is less than 30 degrees, the vision clearance distance shall be twenty-five (25) feet.*

The canopy does not affect vision clearance as set forth in ZLDO, and no vision clearance concerns have been identified.

*G. Fences. Fences shall comply with Supplementary Provisions, Section 4.0.50.*

No additional fencing is proposed. Existing fencing complies with Section 4.0.50.

*H. Signs. Signs shall comply with Section 4.0.70.*

No free-standing signs are proposed; the applicant states, “. . . any new signs will likely be flush-mounted wall signs attached to an exterior wall of the gas station building.”

Any signs that are proposed at a later date must comply with Section 4.0.70 Sign Requirements.  
**(Condition 1)**

*I. Parking. Parking and loading shall comply with Section 4.0.80.*

Applicable parking provisions of Section 4.0.80 are addressed in the next section of this report.

*J. Outdoor Storage. Outdoor Storage shall be screened with a sight-obscuring fence.*

No outdoor storage has been proposed.

*L. Overlay Protection Areas. Development in flood and slope hazard areas and in riparian habitat setback areas and shall comply with the provisions of Chapter 3.*

Subject property does not include flood, slope hazard, or riparian habitat setback areas. The overlay protection provisions do not apply.

***ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements.***

***A. General Provisions.***

- 1. At the time a new structure is erected or the use of an existing structure is changed or enlarged, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this ordinance.*

Off-street parking spaces, loading areas and access thereto apply in that the proposal is for a use that does not currently exist within an existing structure and also utilization of a facility that currently exists, but is not currently utilized.

- 2. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials, or for the parking of trucks used in conducting the business or use.*

The requirement is pertinent in that storage or parking for trucks on the site is not appropriate. Subject property is to be utilized for the gas station, and storage and truck parking is not proposed.

- 4. Requirements for buildings and uses not specifically listed within this ordinance shall be determined based upon the requirements of comparable uses listed.*

The gas station use requirements are provided in the following section.

- 8. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill*



*the requirements of this ordinance may be used for loading and unloading operations during periods of the day when the space is not required for parking.*

The gas station will likely receive materials by truck. The size and configuration of the lot, and the gas station facilities provide for all of the operations of loading and unloading on the lot. Off-street parking is not proposed to fulfill the requirements of the ordinance.

**B. Design and Surfacing Standards**

1. *Each required parking space shall be of usable shape and accessible from a public street. Where access drives are necessary, they shall be no less than eighteen (18) feet in width for non-residential and multiple family developments, and no less than nine (9) feet for residences.*

Parking spaces and accesses are not defined but the applicant has indicated that there is 134 feet available for access, and that the gas station will utilize the site as it was used in the past. The applicant provides a description of access to and from the station including expected utilization of the lot frontage (e-mail dated August 7, 2012: Ron Schofield to Crystal Shoji). The applicant states:

“The canopy over the service island extends outward toward the street curb, effectively blocking any street access along the central portion of the parcel’s frontage. Consequently, and as a practical matter, customers purchasing fuel have always entered and exited the site at the far easterly and far westerly ends of the property in order to facilitate parallel ‘pull-through’ servicing on each side of the pump island. Inasmuch as there will be no physical alteration to the current layout and configuration of the existing improvements on the site, future ingress and egress will function exactly as it has for the past forty years.”

The City does not have any record of complaints about the former access to the site, so it is appropriate to determine that the existing frontage is adequate for the commercial service station use.

2. *All parking areas, except residential parking for six (6) spaces or less, shall provide a minimum width of nine (9) feet and a minimum length of eighteen (18) feet not including access driveways and turn-around areas sufficient to permit a standard automobile to be parked in and removed from the space without the necessity of moving other vehicles.*

The site plan submitted by the applicant does not define parking spaces or suggest that striping will mark the parking spaces. A site plan will be necessary to show compliance with the ordinance. **(Condition 2)**

3. *All areas used for parking and maneuvering of vehicles shall be surfaced with screened gravel, crushed rock at a minimum, and shall provide for suitable drainage or surface water on the site. Water shall not drain across public sidewalks.*

The entire lot is paved except for the southeast corner, which appears to be gravel with weeds.

4. *If access is gained from an improved street within a commercial zone, that portion of the access in the public right of way shall be paved.*

All access to the property is currently paved.

5. *Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high.*

For any parking spaces that are designated along the outer boundaries, it is appropriate to require the parking bumpers addressed by ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements, (B)(5). **(Condition 2)**

6. *Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or in any adjacent dwelling, and shall not create a hazard to the traveling public on any road.*

Existing lighting appears to comply with the requirements. No lighting changes or additional lighting are proposed.

7. *Commercial or industrial parking areas shall be screened from adjacent residential districts consistent with Section 4.0.50 by means of a sight obscuring screen or fence not less than five (5) nor more than six (6) feet in height, except where vision clearance is required.*

Chain link fencing exists along the east and south property lines of the subject parcel, adjacent to residential properties. Adding slats or other sight-obscuring measures to this fencing or requiring specific landscaping and maintenance will be appropriate to comply with this section. **(Condition 3)**

D. Off-Street Parking Space Requirements

<i>Automobile service station and repair, garage, car wash</i>	<i>One space per 2,000 square feet lot area</i>
--	---

Subject property is 9,583 square feet, which would require 4.79 parking spaces. It is appropriate to require the applicants to provide a site plan to the City that designates the required parking spaces, and also shows where the applicants will construct any bumpers required by ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements, (B)(5). **(Conditions 2 and 4)**

While it appears that maneuvering areas are adequate, the site plan should also show how the space complies. Where more gravel or paving is required to update the surfacing of the lot and comply with ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements it should be required. **(Conditions 2 and 5)**

#### **ZLDO 5.0.10 Conditional Use.**

*Conditional uses are designated within the land use districts in Chapter 2. A conditional use shall be permitted, altered, enlarged, or denied in accordance with the standards and procedures of this chapter.*

*A. In the case of an existing development where an alteration of use is classified as a conditional use, the change in use shall conform to the requirements for a conditional use whether or not there is structural change or new construction.*

*B. In the case of a conditional use existing prior to the effective date of this ordinance, any expansion of significant elements of the site plan shall conform with the requirements of this chapter.*

The conditional use permit that is proposed will be approved as part of the consolidated application. The conditional use permit will not actually authorize a “new use,” but rather a reopening of a use that previously existed as a nonconforming use. The conditional use will, however, authorize a change in the current use of the property. The change in the current use is an expansion because the property is not currently being used at all. The requirements of this chapter apply.

#### **ZLDO 5.0.20 Authorization to Grant a Conditional Use Permit.**

*Before a new conditional use or a modification of an existing conditional use is allowed, the Planning Commission shall conduct a public hearing on the application for the conditional use permit. Notice and conduct of hearing shall be in accordance with Chapter 8 of this ordinance. The Planning Commission is authorized to conduct a site review in order to be informed about any proposed or existing conditional use permit, recognizing that a group site review is subject to public meetings notice, and minutes shall be maintained.*

*A. In approving or altering a conditional use, the Planning Commission shall establish findings based on the criteria set forth in Sections 5.030 and 5.040 of this ordinance.*

*B. The Planning Commission as a condition of approval may impose any or all of those conditions set forth in Sections 5.040 which it finds necessary to carry out the purposes of this ordinance, the Comprehensive Plan and other applicable policies of the City.*

Notice and public hearing procedures set forth in ZLDO, Chapter 8 have been previously addressed within this staff report.

#### **5.0.30 Criteria for Conditional Use Permit Approval.**

*A conditional use permit may be granted only when the following criteria have been deemed to be met, deemed by the Planning Commission to be not applicable, or can be met by complying with conditions required by the Planning Commission. The approval or denial shall be accompanied by a statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the applicable criteria, standards and facts.*

*A. The proposal will be consistent with the Comprehensive Plan and the objectives of this ordinance and with other applicable policies of the City.*

*B. The property in question is reasonably suited for the use requested in regards to location, topography and other physical features, safe and efficient access, adequate area to provide for off-street parking and loading, and available utilities and services.*

This conditional use permit application is one part of a three-part consolidated application. Consideration of the conditional use permit for the gas station has been merged with consideration of the Comprehensive Plan and zoning map amendments to assure that all of the proposals are reviewed within the context of the final land use action on the conditional use permit, which approves the use and how it operates on the site.

Because the use that is proposed is also the past use of the property, the use is suited for the site in regards to the location, physical features, safe and efficient access, available utilities and services, and adequate area for off-street parking and loading.

***ZLDO 5.0.40 Supplemental Approval Criteria.***

*In addition to the criteria for conditional use permit approval set forth in Section 5.0.30, the following additional elements shall be considered, and requirements to deal with such elements may be attached to any approval to assure that the development avoids detrimental impacts and protects the best interests of the surrounding properties and the community as a whole. It is recognized that all of the following considerations will not likely be applicable to any specific proposal.*

*A. Limit, or otherwise designate, the number, size, location, height and lighting of signs.*

Signs were addressed under ZLDO 2.3.40 Development Standards for Permitted and Conditional Uses.

*B. Limit the time a certain activity may take place, and/or require restraints to minimize such environmental effects as noise, air pollution emissions, odor, vibration, dust, glare, heat, fire hazards, wastes, traffic generation and visual impact.*

The applicant states, “. . . DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational.” It is the responsibility of the city to require paperwork showing compliance with all applicable DEQ requirements. **(Condition 6)**

The intersection of Sether Avenue, Gilbert Avenue and Reuben Road is an appropriate location for the commercial use because the streets are classified as collector streets. Attachment G. Limiting hours of operation may be appropriate in that adjacent zoning and uses are residential. **(Condition 7)**

*C. Limit the location and intensity of outdoor lighting and require shielding of outdoor lighting from neighboring residential properties.*

Existing lighting appears to comply and no additional lighting is proposed.

*D. Limit the height of a building or other structure or the location of mechanical roof facilities to protect view privacy or access to sunlight of neighboring properties.*

No structural changes are proposed.

*E. Require sidewalks to be installed.*



On their site visit, staff determined that sidewalks are not applicable at this site.

*F. Require diking, berming, screening, fencing or landscaping to protect adjacent or nearby property, and designate standards for its size, height, installation and maintenance.*

Fencing, screening and landscaping has previously been addressed within this report.

*G. Establish a special yard or other open space dimension to serve as a buffer.*

Special yards, open space and additional buffers are not applicable to this site except as previously addressed within this report.

*I. Impose measures to ensure protection, preservation or enhancement of existing trees over twelve inches in diameter as measured with calipers, riparian vegetation, water or other significant natural resources, and wildlife habitat; require a revegetation program where appropriate.*

No trees, riparian areas, natural water resources or wildlife habitat exist on the subject property.

*J. Designate the size, location, screening, drainage, surfacing or other improvements within the street right-of-way in accordance with street standards.*

The entire street frontage of this property, which currently exists, is paved vehicle access without curbs.

*K. Designate the size, number, location and nature of vehicle access points including requiring the combining of accesses into commercial and industrial development.*

*L. Limit or prohibit direct residential access onto arterial and collector streets.*

The requirement is not applicable in that no residential access is proposed.

*M. Consider the development on the property in relation to existing and planned streets for the City of Glendale.*

Property is fully developed and no structural changes are proposed. Existing streets are adequate to serve the proposed use of subject property.

**ZLDO 5.0.60 Time Limit on Conditional Use Permit.**

*Authorization of a Conditional Use Permit shall be void after six months unless the use requested has commenced operation or unless substantial construction pursuant thereto has taken place. However, the applicant may request an extension of time for an additional six months if it can be shown in writing that sufficient circumstances exist that would cause delay of the project. The Planning Commission will review this request at a regular meeting and grant or deny the extension based upon the facts presented. (Condition 8)*

**ZLDO 8.0.130 Notice of Action or Decision.**

- A. *Notice of the action or decision of the City Council made upon the recommendation of the Planning Commission or at any quasi-judicial hearing shall be provided in writing to the applicant and all individuals who provided oral or written testimony. The notice may be served personally, or sent by first class mail addressed to the person at the address shown on the application. The notice shall be deemed served at the time it is deposited in the United States Mail.*

It is the City's intent to provide notice of the decision to the applicant and all individuals who provide oral or written testimony.

**ZLDO 8.0.140 Final Action on Applications for Permits, Zone Change Requests and Consolidated Applications.**

*The City shall take final action on an application for a permit, zone change request, or consolidated action including a zone map or text amendment, including resolution of all local appeals, within 120 days after the application is deemed complete. All who submitted comments shall receive notice of the final decision and of their appeal rights. This 120 day period may be extended for an additional six months at the request of the applicant. This 120 day period does not apply to an amendment to an acknowledged comprehensive plan or land use regulation as set forth in ORS 227.178 and ORS 227.179.*

**ZLDO 8.0.150 Effective Date of Final Decision.**

*The effective date of a decision of the Planning Commission or City Council is the date that the decision is made, except when the decision-making body specifically states that written minutes or findings be completed and approved by the Council before the decision is final. A final decision is one made by the Planning Commission or City Council that stands unless an appeal is filed.*

Although the decision that is made is the Council's final decision, the appeal period set forth in ZLDO 8.0.180 (C ), Appeal to City Council Decision is applicable. Therefore the applicant should not proceed in good faith under the approval until such time as the appeal period has past.

**ZLDO 8.0.180 Appeals**

**B. Appeal to Planning Commission Decision**

*Any action or ruling of the Planning Commission pursuant to this ordinance which does not automatically go forward to the City Council for a decision may be appealed to the City Council within 10 working days of the date that the decision was made by the Planning Commission. If the appeal is not filed within this 10 day period, the decision of the Planning Commission shall be final.*

- 4. Failure to participate in public hearing proceedings by raising an issue in person or in writing in sufficient specificity to allow the decision maker to respond to the issue nullifies appeal to the Glendale City Council and the Land Use Board of Appeals on that issue.*

**C. Appeal to City Council Decision**

*A City Council decision may be appealed to the Land Use Board of Appeals within twenty-one (21) days of the final decision of the City Council.*

As stated previously in this report, the City of Glendale does not have a Planning Commission at this time. Therefore the only appeal body for the Council's decision is the Land Use Board of Appeals, and there is a twenty-one (21) day appeal period. An appeal to the Land Use Board of Appeals can only be raised by the applicant or a person who has participated with sufficient specificity to allow the Council to respond to the issue in public hearing proceedings through written or oral comment.

***ZLDO 8.0.160 Action by City Council.***

*Any action or decision of the City Council on proceedings arising under this ordinance, excepting reference back to the Planning Commission and continuance of a hearing shall be final.*

**Staff Recommendations:**

If it pleases the Council, please select from the following options to proceed with making and justifying your decision:

- A. Approve the consolidated application as presented by adopting the Staff Report and its attachments, including all of the staff findings and the conditions that are set forth below, and clarifying the conditions where necessary.
- B. Modify the findings by providing additional wording, or removing wording, and adjusting the language to reflect the understanding and/or concerns of the City Council. Findings should reflect the reasoning of the City Council, by applying the criterion to facts and perceptions. Facts and perceptions can be gathered from observations and testimony. City Council members show the reasoning process that leads to the decision so that it is part of the record.
- C. Carry over the public hearing, and request additional information. If the public hearing is carried over, the date and time for the continuation of the hearing should be announced at the September 10, 2012 public hearing so that further public input can be taken; by announcing any continuation date, no new notice of the continued public hearing will be required.

**Staff Recommended Conditions:**

**Condition 1:** Any signs that are proposed at a later date must comply with ZLDO Section 4.0.70 Sign Requirements.

**Condition 2:** The applicant should be required to provide a site plan so that the City can approve the location of parking spaces and other site requirements. Parking spaces that are designated along the outer boundaries require parking bumpers addressed by ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements, (B)(5).

**Condition 3:** Where chain link fencing exists along the east and south property lines of the subject parcel, adjacent to residential properties, slats or other sight obscuring measures can provide for compliance with ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements (B) (7). The specific measures to be applied must be specified by the City Council to clarify this condition of approval.

**Conditions 2 and 4:** Subject property is 9,583 square feet, which would require 4.79 parking spaces. It is appropriate to require the applicants to provide a site plan to the City that designates the required number of parking spaces as determined by the City Council, and shows where the applicants will construct any bumpers required by ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements, (B)(5).

**Conditions 2 and 5:** While it appears that maneuvering areas are adequate, the site plan should show how the space complies. The Council should clarify by specifying where more gravel or paving is required to update the surfacing of the lot and comply with ZLDO 4.0.80 Off-Street Parking and Off-Street Loading Requirements.

**Condition 6:** The applicant indicates that DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational. It is the responsibility of the city to require paperwork showing compliance with all applicable DEQ requirements as part of this approval.

**Condition 7:** ZLDO requires limitations on the location and intensity of outdoor lighting and require shielding of outdoor lighting from neighboring residential properties. While existing lighting appears to comply, and no additional lighting is proposed, the City Council may wish to limit the hours of operation to protect the residential character of the neighborhood.

**Condition 8:** Authorization of a conditional use permit shall be void after six months unless the use requested has commenced operation or unless substantial construction pursuant thereto has taken place. However, the applicant may request an extension of time for an additional six months if it can be shown in writing that sufficient circumstances exist that would cause delay of the project. The City Council would then review any extension request at a regular meeting and grant or deny the extension based upon the facts presented.



## PUBLIC NOTICE

On September 10, 2012 at 6:00 PM at Glendale City Hall, 124 Third Street, Glendale Oregon the Glendale City Council will hold a public hearing to consider a Consolidated Application for a Comprehensive Plan Map Amendment, a Zoning Map Amendment and a Conditional Use Permit. The subject property is commonly known as 107 Sether Avenue, and this change is initiated by the owners of this parcel, Thomas L. Schmeltz and Jason S. King. Notice to mortgagee, lien holder, vendor or seller: The City of Glendale Zoning Ordinance requires that if you receive this notice, it shall be promptly forwarded to the purchaser.

The amending ordinance 01-2013 will amend the Glendale Comprehensive Plan Map and the Glendale Zoning and Land Development Map by changing the zoning designation of Tax Lot 2600 in Township 33S, Range 6W, Section 4BB from Residential to Commercial. Approval of the Conditional Use Permit will allow the owners to re-open the business as a gas station, which is a conditional use in a commercial zone. The property was previously operated as a gas station for more than 40 years, but because it ceased operation for more than one year, the existing residential zoning uses now apply.

A copy of the application, the proposed Ordinance, the staff report and all supporting documents will be available for public inspection at Glendale City Hall after September 1, 2012. Copies of same are available for purchase at a reasonable cost. Oral or written testimony on the proposed zone change and/or conditional use is invited. Written testimony must be received at City Hall prior to 5:00 PM on September 10, 2012. Testimony and evidence must be directed towards the criteria applying to this application as follows:

City of Glendale Zoning and Land Development Ordinance (ZLDO):

ZLDO Chapter 8, Administrative Provisions and Amendments, Sections 8.0.10 and 8.0.20 (B), (E) and (G) - 8.0.50, 8.0.70 - 8.0.90, and 8.0.120; ZLDO Chapter 4, Sections 4.0.10 – 4.0.20, 4.0.70, 4.0.80; ZLDO Chapter 5; Comprehensive Plan of the City of Glendale.

Oregon land use law prohibits the appeal of issues not previously raised at a public hearing. If you fail to raise an issue at a public hearing, then you may be prohibited from further appeal on the issue if you do not agree with the decision that is made. Notice of the decision will be provided to all individuals who provided testimony.

For further information, contact Betty Stanfill at Glendale City Hall, 541-832-2106.

Grants Pass  
**Daily Courier**

P.O. Box 1468, 409 S.E. 7th Street • Grants Pass, Oregon 97528

## AFFIDAVIT OF PUBLICATION

State of Oregon            )  
County of Josephine    )   ss.

I, William G. Parker, being first duly sworn, depose and say that I am the manager of Courier Publishing Co., printer of the Grants Pass Daily Courier, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Grants Pass, in the aforesaid county and state; that the LEGAL NOTICE, a printed copy of which is herein enclosed, was published in the entire issue of said paper, for one insertion, on the following date:

**August 16, 2012.**

*William G Parker*

Subscribed and sworn to before me this  
sixteenth day of August, 2012.

*[Signature]*

Notary Public of Oregon

My commission expires the thirteenth day of  
April, 2015.



### LEGAL NOTICE

### PUBLIC NOTICE

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For further information, contact Beth Stanfill at Glendale City Hall, 541-832-2106



# City of Glendale

RECEIVED  
JUL 27 2012

BY: \_\_\_\_\_

P.O. BOX 361 • GLENDALE, OREGON 97442 • PHONE (503) 832-2106

## APPLICATION FOR COMPREHENSIVE PLAN MAP OR TEXT AMENDMENT (INCLUDING URBAN GROWTH BOUNDARY AMENDMENTS)

City File No. 13-02 Date Application Received: 7-27-12 Fee Paid: 200

Please complete this application and return it to City Hall with the correct application fee. If you are unsure about any item on this application, feel free to call or stop by City Hall for assistance. This application must be evaluated for completeness before it can be processed, so please provide all the requested information before returning it to City Hall. Thank you for helping the City of Glendale achieve its community enhancement goals.



### Nature of Comprehensive Plan Amendment Requested:

☐ Text ☒ Map ☐ Both

#### 1. Applicant for the Comprehensive Plan Amendment

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 660-3082

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Titleholder of Subject Property

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Contract Purchaser, Lessee, or Other Party with interest in Subject Property

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### 2. Directions to the Property (to allow City officials to view the site, if needed):

The subject parcel is located at 107 Sether Avenue, which is on the southeast corner at the intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale.

#### 3. Assessor's Description of Property

Township: 33 South Range: 06 West Section: 4BB Tax Lot No.: 2600

Tax Account No(s): R42790



4. **Present Parcel Size and Use:** The subject parcel contains 0.22 acres (9,583 square feet). The property is developed with a gas station that is presently not operating. DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational. All improvements necessary to allow the gas station to operate are in place.
5. **Existing Structures:** The property contains an existing gas station building with a gas pump island and canopy. As noted above, DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational.
6. **Existing Physical Characteristics of the Subject Property**  
Road Frontages and Access: The parcel has 134 feet of frontage on Sether Avenue.  
Parcel Dimensions: The parcel is 500 feet wide along its rear boundary, and is 85 feet deep.  
Utilities and Infrastructure: All city services and utilities are presently in place to serve the parcel.  
Topography and Slopes: The parcel is at street level on flat ground with no topographical constraints.  
Stormwater Drainage: The parcel is served by the City's existing stormwater collection system.  
Streams, Ponds, and Wetlands: There are not streams, ponds or wetlands on the subject parcel.  
Dominate Ground Cover: The parcel is fully developed with a gas station with an all weather surface.  
Neighboring Land Uses: Surrounding properties are all developed with single-family dwellings.
7. **EXISTING Comprehensive Plan (Future Land Use) Map Designations by Parcel:**  
The subject parcel is presently designated for Residential use on the Comprehensive Plan map.
8. **PROPOSED Comprehensive Plan (Future Land Use) Map Designations by Parcel:**  
The applicants are requesting the Comprehensive Plan designation be changed to Commercial.
9. **Does the proposed Comprehensive Plan Map Amendment include a change in the existing Urban Growth Boundary (UGB)? If so, how many additional acres will the UGB contain if the proposed amendment is adopted?** This request does not involve a change to Glendale's UGB.
10. **For Proposed Comprehensive Plan Text Amendments (if applicable), provide the exact text of the existing language which you want the City to remove or replace, along with the appropriate references for location that text in the Comprehensive Plan. Then provide the exact language which you are proposing as a substitute for the removed text. If you propose to insert text only, provide a line or two of the existing text on either side of the insertion point (for context), underline or bracket the new text, and provide appropriate references for locating that text in the Comprehensive Plan.**

This request does not involve any proposed changes to the text of the Comprehensive Plan.

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11. Explain clearly how the requested Comprehensive Plan amendment will not adversely impact adjacent properties, your neighborhood, or the City in general.

The proposed Plan amendment is intended to recognize the actual historic use of the subject property. The amendment is not intended to allow the introduction of a new or different use from that which has existed on the property, and which has co-existed with the surrounding uses in the neighborhood for many decades. The existing gas station and its related improvements represents a significant economic investment in the property and it is unlikely that those improvements will simply be demolished and removed in order to allow a house to be built at that location. Furthermore, the applicants must obtain a Conditional Use Permit (CUP) from the City prior to re-opening and operating the gas station. The CUP review process will ensure that potential adverse impacts are identified so that the City can impose limitations and conditions on the business to ensure that any such impacts are adequately mitigated.

12. Give specific reasons why you believe the requested Comprehensive Plan amendment is in the public interest.

Presently, there are no operating gas stations in Glendale. The nearest station is located several miles away near I-5 Exit 80. Allowing the existing gas station to re-open will be of significant economic and social benefit to the entire Glendale community. The existing gas station now sits idle and provides no economic benefit to either the owners or community. If the requested Plan amendment is not approved in order to permit the station to re-open and operate, it will eventually become blighted and thus represent more of a detriment to the surrounding neighborhood than would a well run and maintained business operation. Allowing the gas station to re-open and contribute to the economic and social welfare of the community is clearly in the public interest.

13. Under Oregon Law and the ordinances of the City of Glendale, no Comprehensive Plan amendment (either text or map) can be approved unless the applicant demonstrates that the proposed change is consistent with the Statewide Planning Goals, the goals and policies of the Glendale Comprehensive Plan, and the corresponding City ordinances which are designed to impalement the Comprehensive Plan. The burden is on the applicant to show that this requirement has been met, and to provide the evidence necessary to support Finding of Consistency on all relevant points. (City staff and the Umpqua Regional Council of Governments can provide information and assistance to help you complete this section of the application.) Listed below (in simplified form) are the key topic areas against which a Comprehensive Plan amendment must be evaluated. For each topic area listed, describe in detail how your proposal is consistent with each applicable goal, policy, or standard contained in the Statewide Planning Goals, the Glendale Comprehensive Plan, and the City's implementing ordinances. **ALL APPLICABLE REQUIREMENTS FROM THESE DOCUMENTS MUST BE ADDRESSED BEFORE THE APMENDMENT CAN BE LAWFULLY APPROVED.**

For your convenience, the key topic areas are listed below with some space provided for your responses. This list is not intended to be all-inclusive. It is only intended to provide a convenient format for considering the issues embedded with the laws and standards, and for composing your response to the issues. It is the applicant's responsibility to provide all the information that may, and to meet all requirement within the Statewide Planning Goals, the Glendale Comprehensive Plan, and the City's implementing ordinances. Therefore, it would be to your advantage to become familiar with these documents. You may need additional space to complete this portion of the application. If so please indicate (on as many attaché sheets as necessary) which of the items listed below you are addressing. Reference attached maps and diagrams as necessary.

**13 (1). Regarding Oregon's Statewide Planning Goal 3, and Glendale's Natural Resources Goals: Describe the agricultural lands (if any) with and adjacent to your property boundaries, and list the likely impacts of your proposal on them.**

There has previously been a legislative determination by the City of Glendale via adoption of its Comprehensive Plan that the subject site is not agricultural land. This finding is validated by the fact that the site is fully developed and irrevocably committed to urban use, and by the fact that the site is within the Glendale city limits and urban growth boundary, and accordingly, has been given an urban land use designation. Consequently, neither the Statewide Agricultural Goal nor Glendale's natural resource goals pertaining to agricultural lands are applicable to this proposed Plan amendment.

**13 (2). Regarding Oregon's Statewide Planning Goal 4, and Glendale's Natural Resources Goals: Describe the forest lands (if any) with and adjacent to your property boundaries, and list the likely impacts of your proposal on them.**

There has previously been a legislative determination by the City of Glendale via adoption of its Comprehensive Plan that the subject property is not forest land. This finding is validated by the fact that the site is fully developed and irrevocably committed to urban use, and by the fact that the site is within the Glendale city limits and urban growth boundary, and accordingly, has been given an urban land use designation. Consequently, neither the Statewide Forest Lands Goal nor Glendale's natural resource goals pertaining to forest lands are applicable to this proposed Plan amendment.

**13 (3). Regarding Oregon's Statewide Planning Goal 5, and Glendale's own Comprehensive Plan Goal 5 (*Open Space, Scenic and Historic Areas, and Natural Resources*): Describe the natural, historic, and ecological feature of the land within and adjacent to your property boundaries, and the likely impact of your proposal on them.**

Statewide Goal 5 addresses a variety of resources that are not specifically covered in other goals and sets out a process requiring inventory and evaluation of those resources. Steps in the process require that the level of significance of identified resources be determined, and if an identified resource appears to be significant, further evaluation is required. Such evaluation may lead to alternative courses of action, including fully protecting the identified resource. All of the Glendale urban area,

including the subject property, has previously been subjected to extensive surveys intended to inventory and evaluate Goal 5 resources. These inventories, which are incorporated into Glendale's Comprehensive Plan, have previously received acknowledgment of compliance with Statewide Goal 5 by the Land Conservation and Development Commission. The subject property has not been included in any inventory of needed open space or scenic areas as defined by Goal 5, nor has it been identified in the Comprehensive Plan as having any historic, cultural or natural resources which need to be preserved and/or protected. The applicant has, therefore, concluded that the proposed Comprehensive Plan amendment will not conflict with any Goal 5 resources.

**13 (4). Regarding Oregon's Statewide Planning Goal 6, and Glendale's own Comprehensive Plan Goal 6 (*Air, Water, and Land Resources Quality*): Describe your proposed means of controlling air, surface water, ground water, and solid waste pollution.**

Statewide Goal 6 requires that air, land and water resources of the state be maintained and improved by assuring that future development, in conjunction with existing development, does not violate applicable state and federal environmental quality standards, and does not exceed the carrying capacity of local air sheds, degrade land resources or threaten the availability of such resources. There has been a previous legislative determination by the City of Glendale that urban development activities on the subject property will not result in degradation of air, water and land resources within the Glendale urban area or the state of Oregon. The subject property is already fully developed with an urban use and is situated in an area where the full range of urban services is available, including public water and public sewer service (see discussion of public facilities and services under Statewide Goal 11, below). Furthermore, both the City of Glendale and the State of Oregon have sufficient regulatory measures in place so as to ensure that both existing and future development and use of the site will not result in deleterious or unanticipated impacts on the community's air, water and land resources. The requested amendment is being evaluated in a manner that assures full compliance with both Statewide Goal No. 6 and Glendale's Comprehensive Plan policies concerning air, water and land quality.

**13 (5). Regarding Oregon's Statewide Planning Goal 7, and Glendale's own Comprehensive Plan Goal 7 (*Areas Subject to Natural Disasters and Hazards*): Describe the areas of natural hazard that exist on your property (e.g. floodplain, floodway, steep slopes, or unstable soils), and explain how you propose to deal with them.**

The subject property has not been identified in any inventory of areas which have the likely potential to be subjected to natural disasters and hazards. The elevation of the site puts it well above the flood plain and any danger of flooding from Cow Creek, which is located more than 500 feet to the north. The subject site is fully developed and was employed in commercial use for many years as a gas



station. The site is not impacted by steep slopes nor is it composed of unstable soils. The flat topography of the site does not represent a hindrance to its future commercial use in conformance with the requested Commercial Plan designation. The requested amendment will not conflict with the purpose and intent of Statewide Goal No. 7, nor with Glendale's Comprehensive Plan policies concerning areas subject to natural disasters and hazards.

**13 (6). Regarding Oregon's Statewide Planning Goal 8, and Glendale's own Comprehensive Plan Goal 8 (*Recreational Needs*): Will your proposal help satisfy the need for recreational opportunities? How?**

There has been a previous legislative determination by the City of Glendale through its comprehensive planning process that the subject property is not needed for recreational facilities or opportunities. Identified recreational needs have been provided for on other sites in the Glendale community. The site is not adjacent to any designated recreational areas or park, nor will the proposed use of the property otherwise impact existing or planned future recreational and park facilities. As previously noted, there is presently no operating gas station in Glendale. The nearest station is located several miles away near I-5 Exit 80. Allowing the existing gas station to re-open will be of significant economic and social benefit to the entire Glendale community. Not only will it provided a need service to the local citizens, it will serve to attract visitors from other areas who wish to spend time in and around Glendale in pursuit of the area's many recreational opportunities. The proposed amendment will not conflict Statewide Goal No. 8, nor with Glendale's Comprehensive Plan policies concerning the community's recreational needs.

**13 (7). Regarding Oregon's Statewide Planning Goal 9, and Glendale's own Comprehensive Plan Goal 9 (*Economy*): Describe the likely economic impacts of your proposal. Include specific estimates of job creation and job loss, if possible.**

The Statewide Economic Development Goal is intended to be applied on an urban area-wide basis and requires that future economic growth be accommodated, in part, by ensuring that there is sufficient suitable land planned and zoned for commercial and industrial uses. Goal 9 specifically requires that local land use plans "provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies."

Within the Glendale urban area, commercial zoning has been applied to developed lands containing existing commercial uses, as well as to a limited amount of undeveloped land that is intended to accommodate future commercial development. The Glendale Comprehensive Plan contains specific policies to ensure that opportunities for economic development are enhanced within the community. The proposed Plan amendment is intended to recognize the existing commercial development and



actual historic commercial use of the subject property. The amendment is not intended to allow the introduction of a new or different use from that which previously existed on the property for many decades. Presently, there are no operating gas stations in Glendale. The nearest station is located several miles away near I-5 Exit 80. Allowing the existing gas station to re-open will be of significant economic and social benefit to the entire Glendale community. The existing gas station now sits idle and provides no economic benefit to either the owners or community. Allowing the gas station to re-open and contribute to the local economy would be wholly consistent with both the Statewide Economic Development Goal and the economic development policies contained in the Comprehensive Plan.

**13 (8). Regarding Oregon's Statewide Planning Goal 10, and Glendale's own Comprehensive Plan Goal 10 (*Housing*): Describe the likely impacts of your proposal on housing stock. Include specific estimates of the number and type of housing units which will be added and/or lost.**

As previously noted, the proposed Plan amendment is intended to acknowledge the commercial use that has existed on the site for many years, and to allow that pre-existing commercial use to resume. Although the parcel is presently designate for Residential use by the Comprehensive Plan, there has been <sup>NO</sup> residential use of the property for forty years or more. Consequently, no existing dwellings will be removed or otherwise displaced by the Plan amendment and subsequent zone change to Commercial. As also previously explained, the existing commercial development on the parcel represents a significant economic investment that is not likely to be demolished or removed simply to accommodate a dwelling as currently anticipated by the Comprehensive Plan. In any case, due to the small size of the site, its removal from Glendale's inventory of land designated for residential use will reduce the community's inventory of residentially-zoned land to an insignificant degree. The proposed Plan amendment will not, therefore, conflict with the purpose and intent of either the Statewide Housing Goal or the housing policies set out in the City's Comprehensive Plan.

**13 (9). Regarding Oregon's Statewide Planning Goal 11, and Glendale's own Comprehensive Plan Goal 11 (*Public Facilities and Services*): Describe the public services which will be needed under your proposal (water, sewer, electricity, gas, cable TV, telephone, firefighting, school capacity, etc.), and how you expect them to be provided and paid for. What specific contributions will you make to ensure the timely provision of adequate public services?**

Public facilities and services in Glendale are provided by the city. Policies concerning the coordination, timing and location of public facilities and services in Glendale are contained within the Comprehensive Plan. The full range of urban services necessary and appropriate for the subject property's proposed Commercial designation is presently in place and can be provided in a timely,

orderly and efficient manner consistent with the purpose and intent of both Statewide Goal No. 11 and the Public Facilities policies set out in the Plan. In as much as the subject property is already fully developed with a gas station which the applicants intend to operate substantially the same way it operated for several decades while receiving all necessary city services, no new services, nor any extension of existing services, will be required to accommodate the re-opening and operation of the business. Consequently, the requested Plan amendment will not adversely impact the present or future provision of public facilities and services in the community, nor otherwise conflict with the City's Public Facilities policies.

**13 (10). Regarding Oregon's Statewide Planning Goal 12, and Glendale's own Comprehensive Plan goal 12 (Transportation):** Describe the location and design of transportation facilities under your proposal. Provide estimated traffic counts for your proposal (from the ITE Trip Generation Manual), and explain how traffic safety (automobile, bicycle, and pedestrian) will be ensured under your plan.

The intent of Statewide Goal 12 is implemented on a site-specific basis by the Transportation Planning Rule (TPR) which requires that " Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility". Additionally, specific transportation-related policies are included in Glendale's Comprehensive Plan. In order to determine whether a proposed Plan amendment will significantly affect a transportation facility, the TPR establishes a set of specific criteria against which the proposed amendment is to be evaluated. The TPR states that "a plan or land use regulation amendment significantly affects a transportation facility if it:

- a) Changes the functional classification of an existing or planned transportation facility;
- b) Changes standards implementing a functional classification system;
- c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

To determine if a land use amendment may alter a particular property's potential impact on nearby transportation facilities, a comparison of the number of potential daily and peak hour vehicle trips is usually made between the present and proposed land use designation, based on expected trip generation rates. With respect to the Residential land use Plan designation and zoning currently applied to the subject 9,583 square foot parcel, a maximum of three dwellings could theoretically be

developed (if developed as multi-family dwellings at the maximum permitted density). Based on commonly-accepted standards, a multi-family can be expected to generate an average of about 6.5 vehicle trips per day, or a total of about 20 trips for all three potential dwellings. For a gas station, trip generation is principally determined by the number of pumps. There are many different factors that determine the actual number of ADTs that will be generated by each pump, including the size of the market area and population served the number of competing gas stations with the market area, and hours of operation of the station. Consequently, it is difficult to assign a specific ADT value to gas stations in general. However, some general assumptions can be made.

As explained previously, there are no gas stations presently operating in the city of Glendale. The nearest operating station is located several miles away near I-5 Exit 80. That station, which is operated by the applicants, currently serves an average of about 100 vehicles per day, the majority of which come from Glendale and the surrounding rural area. It can therefore be assumed that many of vehicles now stopping for fuel at the I-5 Exit 80 gas station will begin patronizing the station on the subject site after it re-opens. A reasonable estimate of the number of daily vehicle trips that will be generated by the gas station on the subject parcel would be about fifty, or roughly the same number of vehicle trips generated by five single-family dwellings – a relative insignificant number when compared to existing background traffic volumes on the community's street system.

The subject property fronts on, and gains direct access from Sether Avenue, which is classified in the Comprehensive Plan as an arterial street that is designed and maintained to accommodate a high volume of local and through traffic. Consequently, the proposed Plan amendment will not result in a change in the functional classification of existing or planned transportation facilities serving the area, nor will it result in changes to any existing development standards or alter the functional classification of existing or planned transportation facilities in the community. Neither will it allow types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of near-by transportation facilities, or otherwise reduce the performance standards of existing and planned transportation facilities below minimum acceptable levels.

Based on the functional classification and existing service levels of adjacent and nearby transportation facilities, the applicants have concluded that the proposed Comprehensive Plan amendment will be consistent with the identified function, capacity, and performance levels of existing transportation facilities.



**13 (11). Regarding Oregon's Statewide Planning Goal 13, and Glendale's own Comprehensive Plan Goal 13 (*Energy Conservation*): Describe the energy efficiency features of your proposal (e.g. compact urban form, support for alternative forms of transportation, etc.).**

The statewide energy conservation goal is intended to assure that land and uses developed on land are managed and controlled so as to maximize the conservation of all forms of energy based upon sound economic principals. The subject property is situated within the Glendale urban area where its subsequent development will promote the efficient energy-related use of existing and planned transportation facilities. All necessary public facilities and services are already in place and connected to the existing commercial development on the site, thus avoiding any energy-related inefficiencies that would otherwise be associated with extending such services. Furthermore, specific energy conservation policies and development standards are included within the City's land use and development ordinances, as well as in the State building code, to ensure that the statewide energy conservation goal is implemented when the existing gas station is again operational. The proposed Plan amendment will not conflict with either the Statewide Energy Conservation Goal or with the City's energy conservation policies.

**13 (12). Regarding Oregon's Statewide Planning Goal 14, and Glendale's own Comprehensive Plan Goal 14 (*Urbanization*): Will the proposal require increase urban services capacity or a change in the Urban Growth Boundary? If so, describe in detail what is required.**

The statewide urbanization goal provides the standards and procedures for establishing or expanding Glendale's Urban Growth Boundary (UGB). The urbanization goal requires that land within the UGB "...shall be considered available over time for urban uses." As previously noted, the subject site is within Glendale's city limits as well as the UGB. Consequently, the proposed Comprehensive Plan amendment will have no effect on the present status of the urban growth boundary, nor will it otherwise conflict with the purpose and intent of the statewide urbanization goal.

#### **FOR URBAN GROWTH BOUNDARY AMENDMENTS**

If you are proposing an Urban Growth Boundary amendment, describe the following in detail: (1) Why the projected population growth cannot be accommodated by reasonable development of the existing vacant lands within the current Urban Growth Boundary; and (2) Why the land offered in your proposal is the best candidate for inclusion in an amended Urban Growth Boundary. Attach additional pages as needed to provide complete explanations.

This request does not involve a change to Glendale's Urban Growth Boundary.



**14. Please attach the following required items to this application:**

- ☐ Assessor's map(s) showing the entire property, outlined in bold or otherwise highlighted.
- ☐ A complete or partial copy of the Glendale Future Land Use Map showing all proposed changes to 1) Comprehensive Plan land use designations; 2) incorporated city limits; 3) Urban Growth Boundary; 4) local street network; and 5) water, sewer, and storm drainage.
- ☐ A Site Plan (drawn to scale) which accurately depicts the location and dimensions of the following features: property lines, street frontage, driveways, existing structures, utility and access easements, proposed new structures or additions, building and sign setbacks from property lines, proposed utility lines and hookups, steep slopes, drainage ways, and other features which together depict the full extent and impact of the proposal.
- ☐ Copies of any letters or permits from agencies or special districts which show you are ready and able to develop your land if the Comprehensive Plan amendment is adopted (e.g. Douglas County Public Works for access permits, the Division of State Lands and the Army Corps of Engineers for wetlands and fill/dredge permits, DEQ for sewer or septic system approval, etc.).
- ☐ A letter from the City Public Works Department demonstrating that sufficient excess capacity exists in the City's water and sewer systems to serve the property without negatively impacting existing users.
- ☐ A complete mailing list containing the names and mailing addresses of all property owners whose land lies entirely or partly within 250 feet of your property lines (500 feet for Urban Growth Boundary amendment proposals).

**SIGNATURE REQUIRED**

We, Thomas L. Schmelts and Jason S. King, are the title holders or contract purchasers (under a duly executed written contract) of the property described in this application and hereby certify that the statements and information contained herein are in all respects true, complete, and correct to the of our knowledge and belief. We understand that the any application fee must be paid to the City before this application will be processed, and that any additional costs incurred by the City in processing this application are our responsibility. We hereby agree to pay all application processing costs in full, and within the time specified by the City (or within 30 days of the billing date if no time is specified).

SIGNED: \_\_\_\_\_

Thomas L. Schmelts

DATE: \_\_\_\_\_

7-26-12

SIGNED: \_\_\_\_\_

J S/K

DATE: \_\_\_\_\_

7-26-12

Owners of tax lots within 250 feet of Tax Lot 330604BB02600:

Glen Villa Properties LLC, 142 Mountain Springs Drive, Grants Pass, OR 97527

Rex & Frankie Morningstar, 2892 Mt. Reuben Rd., Glendale, OR 97442

Kenneth & Shirley Yarbrough, P.O. Box 13, Glendale, OR 97442

William & Kim Howell, 1264 Mt. Reuben Rd., Glendale, OR 97442

Bruce & Barbel Donovan, 8874 Williams Hwy., Grants Pass, OR 97527

Adam Jones & <sup>Caroline</sup>~~Cardine~~ Lydon, P.O. Box 934, Glendale, OR 97442

Marthalyne Webb, P.O. Box 667, Glendale, OR 97442

Oscar & Rosalie Hillman, P.O. Box 261, Glendale, OR 97442

Swanson Group Mfg. LLC, P.O. Box 250, Glendale, OR 97442

<sup>PO Box 498 City</sup>  
~~Nancy Miles & Joe Chavez, 4401 Sellers Ave., Brentwood, CA 94513~~

John Lynch, P.O. Box 332, Glendale, OR 97442

Mary Ann Gossett, Trustee of the Ada O. Place Living Trust, P.O. Box 456, Glendale, OR 97442

Aaron & Jenny Knott, 126 Gilbert Ave., Glendale, OR 97442

Jason King & Thomas Schmeltz, 624 Rattlesnake Rd., Glendale, OR 97442

Church of Christ of Glendale, P.O. Box 74, Glendale, OR 97442

<sup>PO Box 509</sup>  
Schofield & Associates, ~~548 SE Jackson St., Suite 14~~, Roseburg, OR 97470

DEQ, Attn: John Gasik, 221 Stewart Ave, Ste 201, Medford, OR 97501

Do. Co. PLANNING Dept., 1036 SE Douglas, Roseburg, OR 97470

Do. Co. Bldg. Dept, 1036 SE Douglas, Roseburg, OR 97470

Glendale Rural Fire District, PO Box 777, Glendale, OR 97442

Glendale Ambulance District, PO Box 495, ~~XXXX~~ Glendale, OR 97442

Douglas Co. Commissioners, 1036 SE Douglas, Rm. 217, Roseburg, OR 97470



**Douglas  
County, Oregon**

## Assessment Information

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[Real Property](#)

[Personal Property](#) NEW

[Property Tax](#) NEW

[Estimator](#)

### Property Details for Property ID: R42790

[Printer Friendly](#)

#### Owner Information :

(click ? for explanation of information) ?

Owner Name: SCHMELTZ, THOMAS L &  
Owner Address #1: KING, JASON &  
Owner Address #2: COW CREEK STATION >DBA  
Owner Address #3: 624 RATTLESNAKE  
ROAD  
Owner City/State/Zip: GLENDALE, OR 97442

Alternate Account #: 85522.00

Account Status: A

#### Property Information :

Township: 33  
Range: 06W  
Section: 04  
Quarter: B  
Sixteenth: B  
Maintenance Area: C3  
Year Built: 1960  
Bedrooms:  
Exemption Code:  
MFD Home ID:

Situs Address: 107 SETHUR AVE  
GLENDALE, OR 97442  
Map ID: 330604BB02600

County Property Class: 201  
Legal Acreage: 0.22  
Code Area: 07701  
Neighborhood Code: CX3  
Living Area: 0  
Baths:  
Exemption Desc.:

#### Value Information : 2011-2012 Certified Value and Tax Information

Improvement Appr. Value: \$5,880.00	Total Appr. Value: \$34,629.00
Land Appr. Value: \$28,749.00	Exemption Value: \$0.00
Land Market Value: \$28,749.00	Total Assessed Value: \$34,629.00
Total Real Market Value: \$34,629.00	Taxes Imposed: \$470.23

#### Sales Information :

Deed No: 2011-12179  
Sale Price: \$25,000.00

Tax Rate Information: [Tax Code Rate For 07701](#)  
Sale Date: 8/19/2011

#### Images :

[Zoning Information](#)

[Surveyor Data](#)

[GIS Mapping](#)

1999-2000 Aerial: [View 1999-2000 Aerial \(.jpg format\)](#)

2004 Aerial: [View 2004 Aerial \(.jpg format\)](#)

Platmap: [View Platmap \(.tif format\)](#) [Problems viewing?](#)

Satellite Map: [View Map](#)

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Number of Searches: 27552

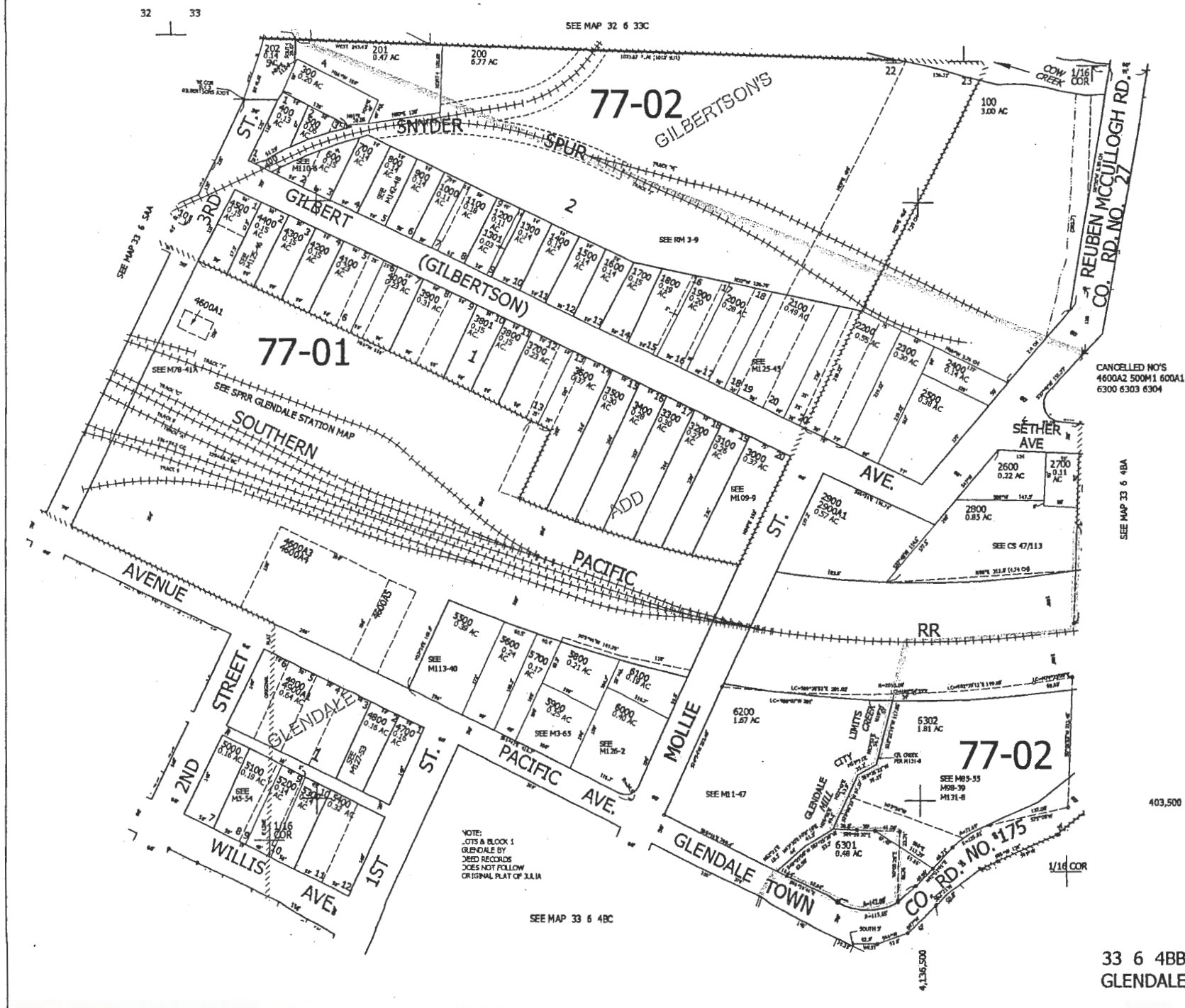
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This Page was last updated: Sunday, October 23, 2011 at 5:37:59 PM

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY.

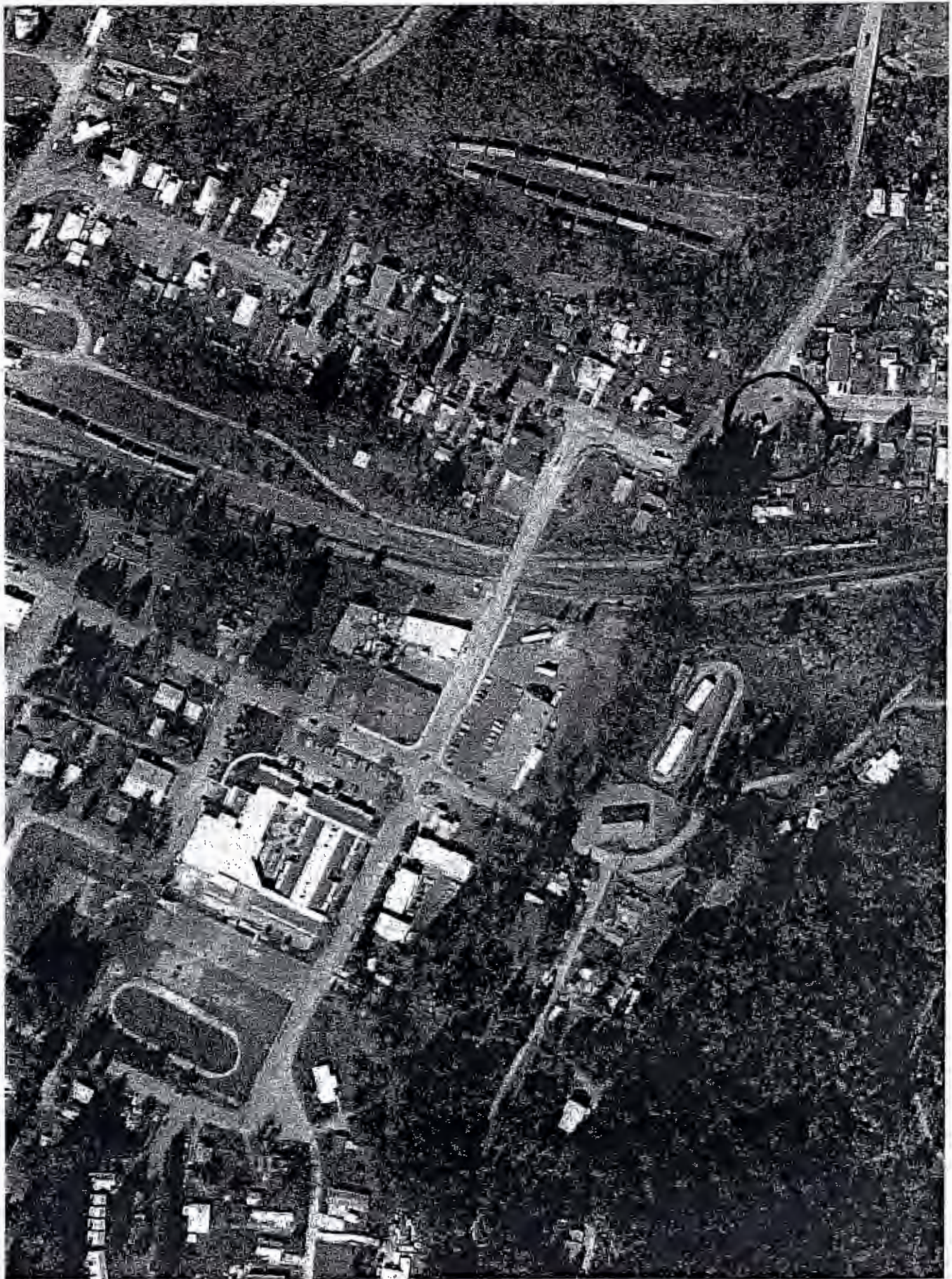
NW1/4 NW1/4 SEC.4 T33S. R.6W. W.M.  
DOUGLAS COUNTY  
1" = 100'

REVISED ON  
3-11-11

33 6 4BB  
GLENDALE









SETH RVE.

N  
SCALE: 1"=20'

DRIVEWAY ACCESS ALONG  
ENTIRE LENGTH OF STREET  
FRONTAGE

WEST 79.0'

STOP  
SIGN

LIGHT  
POLE

GILBERT AVE.

538°18'W 100.0'

7.4'

28'x24'  
CANOPY

6.5'

45.1'

3' OVERHANG  
TYP. 3 SIDES

EXIST.  
BLDG

NORTH 74.0'

0.9'

N 88° E 140.9'

25.5'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Nicholas Ray Stanfill*  
OREGON  
DECEMBER 16, 2009  
NICHOLAS RAY STANFILL  
74216

EXPIRES: 6-30-2012

SITE SKETCH  
107 SETH RVE.  
GLENDALE, OR.  
TAX LOT 33-06W-04BB-2600

THIS SKETCH IS ONLY INTENDED TO  
COMPLY WITH A CONDITIONAL USE  
PERMIT APPLICATION. THIS IS NOT A  
BOUNDARY SURVEY OR ALTA SURVEY.

DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2011-012179

After Recording Return to:  
Barry Rubenstein  
PO Box 10567  
Eugene, OR 97440



\$46.00

DEED-TRUD Cnt=1 Stn=13 CAROL  
\$10.00 \$11.00 \$15.00 \$10.00

08/22/2011 09:07:48 AM

Until a change is requested all tax statements  
shall be sent to the following address:

624 Rattlesnake Creek Rd  
Glendale, OR 97440

TRUSTEES' DEED

Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996, Grantor, conveys, without warranty, to Thomas L. Schmeltz and Jason King, doing business as Cow Creek Station, Grantees, the following real property located in Douglas County, Oregon and described on the attached Exhibit A, subject to easements, conditions, restrictions of record, environmental condition of the property, and any use restrictions and regulations of the Oregon Department of Environmental Quality.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$25,000.

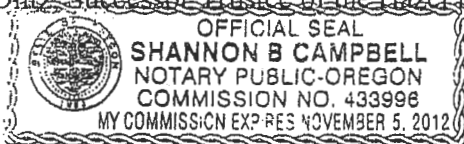
Dated this 19 day of Aug, 2011.

Hazel E. Whaley Family Trust dated December 5, 1996

By Lynne M. Diltz  
Lynne M. Diltz, Successor Trustee

STATE OF OREGON: Douglas County; SS.)

This instrument was acknowledged before me on Aug 19, 2011, by Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996



Shannon B Campbell  
Notary Public for Oregon

706024

EXHIBIT "A"

PARCEL 1:

Beginning at a point 55.0 feet West of the Northwest corner of Lot 1, Block 1 of CLARA ADDITION to the City of Glendale, Oregon, and Section 4, Township 33 South, Range 6 West of the Willamette Meridian; thence West 79.0 feet along the South line of Sether Avenue; thence South  $38^{\circ} 18'$  West 100.0 feet along the East line of a City Street; thence North  $38^{\circ}$  East 140.9 feet; thence North 74.0 feet to the place of beginning.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04EB TL2600

PARCEL 2:

A tract of land situated in the Northwest quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, also being in the City of Glendale, and more particularly described as:

BEGINNING at a point located 109 feet North of the intersection of the West line of the Northeast quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, with the North line of the Oregon & California Railroad Company right of way in said Section 4; thence North along said West line a distance of 90 feet to a point on the South line of Sether Avenue in said City of Glendale, Oregon; thence West, along said South line, a distance of 55 feet to a point; thence South a distance of 90 feet to a point; thence East 55 feet to the place of beginning, all lying in said City of Glendale, Douglas County, Oregon.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04EB TL2700

END OF DOCUMENT



**Exhibit A**

A tract of land in the northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, being more particularly described as follows:

Commencing at the northwest corner of Lot 1, Block 1 of Clara Addition to the City of Glendale, a duly recorded subdivision in said county, said corner being also a point on the south right of way line of Sether Avenue;

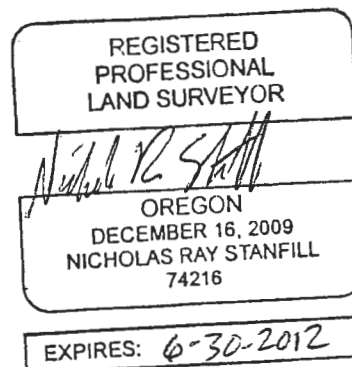
thence West, along said right of way line, a distance of 55.0 feet to the true POINT OF BEGINNING;

thence West, along said right of way line, a distance of 79.0 feet to the intersection of said right of way line and the southeast right of way line of Gilbert Avenue;

thence South  $38^{\circ}18'$  West, along said right of way line, a distance of 100.0 feet;

thence North  $88^{\circ}$  East a distance of 140.9 feet to a point 55.0 feet distant from, when measured at right angles to, the west line of Lot 1, Block 1 of the aforementioned Clara Addition;

thence North, parallel with said west line, a distance of 74.0 feet, more or less, to the POINT OF BEGINNING.





# City of Glendale

124 Third St. PO Box 361 Glendale, OR 97442

Ph 541-832-2106 Fx 541-832-3221

glendale@tymewyse.com

RECEIVED  
JUL 27 2012

BY: .....

## APPLICATION FOR ZONING AMENDMENT

City File No.: 13-02 Date Application Received: 7-27-12 Fee Paid: 200.<sup>00</sup>

Please complete this application and return it to City Hall with the correct application fee. If you are unsure about an item on this application, feel free to call or stop by City Hall for assistance. This application must be evaluated for completeness before it can be processed, so please provide all the required information before returning it to City Hall. Thank you for helping the City of Glendale achieve its community enhancement goals.

### Nature of Zoning Ordinance Amendment Requested:

☐ Text ☒ Map ☐ Both

#### 1. Applicants

Name: Thomas L. Schmelts & Jason S. King dba Cow Creek Station Phone: (541) 660-3082

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Titleholder of Subject Property

Name: Thomas L. Schmelts & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Contract Purchaser, Lessee, or Other Party with interest in Subject Property

Name: Thomas L. Schmelts & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### 2. Subject Property Address and direction to Property:

The subject parcel is located at 107 Sether Avenue, which is on the southeast corner at the intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale.

#### 3. Assessor's Description of Property

Township: 33 South Range: 06 West Section: 4BB Tax Lot No.: 2600 Tax Acct #: R4279

4. Present Parcel Size and Use: The subject parcel contains 0.22 acres (9,583 square feet). The property is developed with a gas station that is presently not operating. DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational. All improvements necessary to allow the gas station to operate are in place.

5. Existing Structures: The property contains an existing gas station building with a gas pump island and canopy. As noted above, DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational.

6. Existing Physical Characteristics of the Subject Property

Road Frontages and Access: The parcel has 134 feet of frontage on Sether Avenue.

Parcel Dimensions: The parcel is 500 feet wide along its rear boundary, and is 85 feet deep.

Utilities and Infrastructure: All city services and utilities are presently in place to serve the parcel.

Topography and Slopes: The parcel is at street level on flat ground with no topographical constraints.

Stormwater Drainage: The parcel is served by the City's existing stormwater collection system.

Streams, Ponds, and Wetlands: There are not streams, ponds or wetlands on the subject parcel.

Dominate Ground Cover: The parcel is fully developed with a gas station with an all weather surface.

Neighboring Land Uses: Surrounding properties are all developed with single-family dwellings.

7. EXISTING Zoning Map Designations by Parcel:

The subject parcel is presently zoned Residential.

8. PROPOSED Zoning Map Designations by Parcel:

The applicants are requesting the zoning map designation be changed to Commercial.

9. The zoning designation (such as Urban Residential\_ for any given lot on the Zoning Map should coincide with the most appropriate designation on the Comprehensive Plan Map (i.e. Residential). Because of the need to maintain logical correspondence between the Zoning and Comprehensive Plan Maps, most zone changes require both a Zoning Map amendment and a Comprehensive Plan Map amendment. Answer the following two questions to see if your map amendment proposal requires a Comprehensive Plan Map amendment in addition to a Zoning Map amendment.

- a. Will your proposed Zoning Map amendment create or perpetuate an inconsistency between the revised Zoning Map designation and the existing Comprehensive Plan Map designation for the same lot(s)?

This Zone Change request has been submitted concurrently with an application to amend the Comprehensive Plan Map designation from Residential to Commercial to ensure continuity between the Comprehensive Plan Map and the Zoning Map.

- b. Will the proposed Zoning Map amendment affect land which is outside the present Urban Growth Boundary?

This request does not involve a change to Glendale's UGB.

*If the answer to either question is YES, you will also need to complete an application for a Comprehensive Plan amendment. Check with City staff for verification.*



10. For Proposed Zoning Ordinance Text Amendments (if applicable), provide the exact text of the existing language which you want the City to remove or replace, along with the appropriate references for location that text in the Comprehensive Plan. Then provide the exact language which you are proposing as a substitute for the removed text. If you propose to insert text only, provide a line or two of the existing text on either side of the insertion point (for context), underline or bracket the new text, and provide appropriate references for locating that text in the Ordinance.

This request does not involve any proposed changes to the text of the Zoning Ordinance.

NOTE: The Zoning and Land Development Ordinance is a principal implementation tool of the Comprehensive Plan. Any text change which creates an inconsistency between the Zoning and Land Development Ordinance and the Comprehensive Plan will trigger the requirement for a corresponding Comprehensive Plan amendment. *If the proposed text change is likely to cause such an inconsistency, you will also need to complete an application for a Comprehensive Plan amendment.* City staff can help you determine whether a Comprehensive Plan amendment will be required.

EXISTING Language: This request does not propose to change the text of the Zoning Ordinance.

PROPOSED Language: This request does not propose to change the text of the Zoning Ordinance.

11. Explain exactly why the requested Zoning Ordinance map or text amendment is consistent with the Comprehensive Plan. Reference the specific goals and policies of the Comprehensive Plan for which complete consistency is at all uncertain.

This Zoning Ordinance map amendment application has been submitted to the City concurrently with an application to also amend the subject property's current Comprehensive Plan map designation from Residential to Commercial. If the Comprehensive Plan map is changed from Residential to Commercial as proposed by the applicants, the requested Zoning Ordinance map amendment from Residential to Commercial will remain consistent with the Comprehensive Plan. As is thoroughly discussed in the applicants' accompanying Comprehensive Plan amendment application (and incorporated here by reference), the requested land use designation change from Residential to Commercial on the subject parcel will not conflict with any of the goals and policies of the goals and policies contained in the Comprehensive Plan.

12. Explain clearly how the requested Zoning Ordinance amendment will not adversely impact adjacent properties, your neighborhood or the City in general.

The proposed Zoning Ordinance map amendment is intended to recognize the actual historic use of the subject property. Changing the subject property's zoning from Residential to Commercial will not allow the introduction of a new or different use from that which has previously existed on the property, and which has co-existed with the surrounding uses in the neighborhood for many decades. The existing gas station and its related improvements represents a significant economic investment in the property and it is unlikely that those improvements will simply be demolished and removed in order to

allow a house to be built at that location. In conjunction with the Comprehensive Plan amendment application mentioned above, the applicants have also submitted a concurrent application for a Conditional Use Permit (CUP). In addition to having the property's Plan designation and zoning changed to Commercial, the applicants must also obtain a CUP from the City prior to re-opening and operating the gas station. The CUP review process will ensure that potential adverse impacts are identified so that the City can impose limitations and conditions on the business in order to ensure that any such impacts are adequately mitigated.

13. Give specific reasons why you believe the requested Zoning Ordinance amendment is in the public interest.

Presently, there are no operating gas stations in Glendale. The nearest station is located several miles away near I-5 Exit 80. Allowing the existing gas station to re-open will be of significant economic and social benefit to the entire Glendale community. The existing gas station now sits idle and provides no economic benefit to either the owners or community. If the requested Plan amendment is not approved in order to permit the station to re-open and operate, it will eventually become blighted and thus represent more of a detriment to the surrounding neighborhood than would a well run and maintained business operation. Allowing the gas station to re-open and contribute to the economic and social welfare of the community is clearly in the public interest.

14. Please attach the following required items to this application:

- ☐ Assessor's map(s) showing the entire property, outlined in bold or otherwise highlighted.
- ☐ A true and legal description of the property proposed to be rezoned.
- ☐ A complete or partial copy of the current Glendale Zoning Map on which all proposed changes are clearly indicated.
- ☐ A complete mailing list containing the names and mailing addresses of all property owners whose land lies entirely or partly within 250 feet of your property lines.

**SIGNATURE REQUIRED**

We, Thomas L. Schmeltz and Jason S. King, are the title holders or contract purchasers (under a duly executed written contract) of the property described in this application and hereby certify that the statements and information contained herein are in all respects true, complete, and correct to the of our knowledge and belief. We understand that the any application fee must be paid to the City before this application will be processed, and that any additional costs incurred by the City in processing this application are our responsibility. Theses costs may include, but are not limited to, costs of legal publication, planning services, staff reports, engineering costs and attorney services incurred by the City or required for the protection of the City's interests in the processing of this application. We hereby agree to pay all application processing costs in full, and within the time specified by the City (or within 30 days of the billing date if no time is specified).

We acknowledge that the City, in its sole discretion, has the option of providing an estimate of the projected costs and require a deposit in advance from the applicant to cover those costs.

SIGNED: Thomas L. Schmeltz DATE: 7-26-12

SIGNED: J-S-K DATE: 7-26-12



Owners of tax lots within 250 feet of Tax Lot 330604BB02600:

Glen Villa Properties LLC, 142 Mountain Springs Drive, Grants Pass, OR 97527

Rex & Frankie Morningstar, 2892 Mt. Reuben Rd., Glendale, OR 97442

Kenneth & Shirley Yarbrough, P.O. Box 13, Glendale, OR 97442

William & Kim Howell, 1264 Mt. Reuben Rd., Glendale, OR 97442

Bruce & Barbel Donovan, 8874 Williams Hwy., Grants Pass, OR 97527

Adam Jones & Cardine Lydon, P.O. Box 934, Glendale, OR 97442

Marthalyne Webb, P.O. Box 667, Glendale, OR 97442

Oscar & Rosalie Hillman, P.O. Box 261, Glendale, OR 97442

Swanson Group Mfg. LLC, P.O. Box 250, Glendale, OR 97442

Nancy Miles & Joe Chavez, 4401 Sellers Ave., Brentwood, CA 94513

John Lynch, P.O. Box 332, Glendale, OR 97442

Mary Ann Gossett, Trustee of the Ada O. Place Living Trust, P.O. Box 456, Glendale, OR 97442

Aaron & Jenny Knott, 126 Gilbert Ave., Glendale, OR 97442

Jason King & Thomas Schmeltz, 624 Rattlesnake Rd., Glendale, OR 97442

Church of Christ of Glendale, P.O. Box 74, Glendale, OR 97442



**Douglas  
County, Oregon**

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### Property Details for Property ID: R42790

[Printer Friendly](#)

#### Owner Information :

(click ? for explanation of information) ?

Owner Name: SCHMELTZ, THOMAS L &  
Owner Address #1: KING, JASON &  
Owner Address #2: COW CREEK STATION >DBA  
Owner Address # 3: 624 RATTLESNAKE ROAD Alternate Account #: 85522.00  
Owner City/State/Zip: GLENDALE, OR 97442 Account Status: A

#### Property Information :

Township: 33 Situs Address: 107 SETHUR AVE  
Range: 06W GLENDALE, OR 97442  
Section: 04 Map ID: 330604BB02600  
Quarter: B County Property Class: 201  
Sixteenth: B Legal Acreage: 0.22  
Maintenance Area: C3 Code Area: 07701  
Year Built: 1960 Neighborhood Code: CX3  
Bedrooms: Living Area: 0  
Exemption Code: Baths:  
MFD Home ID: Exemption Desc.:

#### Value Information : 2011-2012 Certified Value and Tax Information

Improvement Appr. Value: \$5,880.00 Total Appr. Value: \$34,629.00  
Land Appr. Value: \$28,749.00 Exemption Value: \$0.00  
Land Market Value: \$28,749.00 Total Assessed Value: \$34,629.00  
Total Real Market Value: \$34,629.00 Taxes Imposed: \$470.23

#### Sales Information :

Deed No: 2011-12179 Tax Rate Information: Tax Code Rate For  
Sale Price: \$25,000.00 07701  
Sale Date: 8/19/2011

#### Images : Zoning Information Surveyor Data GIS Mapping

1999-2000 Aerial: [View 1999-2000 Aerial \(.jpg format\)](#)  
2004 Aerial: [View 2004 Aerial \(.jpg format\)](#)  
Platmap: [View Platmap \(.tif format\)](#) [Problems viewing?](#)  
Satellite Map: [View Map](#)

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#### DISCLAIMER

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Number of Searches: 27552

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This Page was last updated: Sunday, October 23, 2011 at 5:37:59 PM

32                      33

SEE MAP 32 & 33C

77-02

77-01

77-02

403,500







SETHUR AVE.



DRIVEWAY ACCESS ALONG  
ENTIRE LENGTH OF STREET  
FRONTAGE

WEST 79.0'

STOP  
SIGN

GILBERT AVE.

S 38° 18' W 100.0'

3' OVERHANG  
TYP. 3 SIDES

28' x 24'  
CANOPY

LIGHT  
POLE

EXIST.  
BLDG

N 88° E 140.9'

25.5'

NORTH 74.0'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Nicholas Ray Stanfill*  
OREGON  
DECEMBER 16, 2009  
NICHOLAS RAY STANFILL  
74216

EXPIRES: 6-30-2012

SITE SKETCH  
107 SETHUR AVE.  
GLENDALE, OR.  
TAX LOT 33-06W-04BB-2000

THIS SKETCH IS ONLY INTENDED TO  
COMPLY WITH A CONDITIONAL USE  
PERMIT APPLICATION. THIS IS NOT A  
BOUNDARY SURVEY OR ALTA SURVEY.

DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2011-012179

After Recording Return to:

Barry Rubenstein  
PO Box 10567  
Eugene, OR 97440



\$46.00

DEED-TRUD Cnt=1 Stn=13 CAROL  
\$10.00 \$11.00 \$15.00 \$10.00

08/22/2011 09:07:48 AM

Until a change is requested all tax statements  
shall be sent to the following address:

624 Rattlesnake Creek Rd  
Glendale, OR 97442

TRUSTEES' DEED

Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996, Grantor, conveys, without warranty, to Thomas L. Schmeltz and Jason King, doing business as Cow Creek Station, Grantees, the following real property located in Douglas County, Oregon and described on the attached Exhibit A, subject to easements, conditions, restrictions of record, environmental condition of the property, and any use restrictions and regulations of the Oregon Department of Environmental Quality.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$25,000.

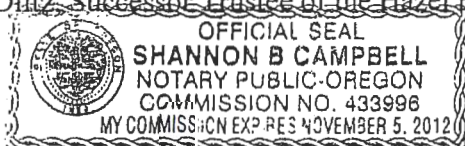
Dated this 19 day of Aug, 2011.

Hazel E. Whaley Family Trust dated December 5, 1996

By Lynne M. Diltz  
Lynne M. Diltz, Successor Trustee

STATE OF OREGON: Douglas County; SS.)

This instrument was acknowledged before me on Aug 19, 2011, by Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996



Shannon B Campbell  
Notary Public for Oregon

EXHIBIT "A"

PARCEL 1:

Beginning at a point 55.0 feet West of the Northwest corner of Lot 1, Block 1 of CLARA ADDITION to the City of Glendale, Oregon, and Section 4, Township 33 South, Range 6 West of the Willamette Meridian; thence West 79.0 feet along the South line of Sether Avenue; thence South  $38^{\circ} 18'$  West 100.0 feet along the East line of a City Street; thence North  $38^{\circ}$  East 140.9 feet; thence North 74.0 feet to the place of beginning.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04EB TL2600

PARCEL 2:

A tract of land situated in the Northwest quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, also being in the City of Glendale, and more particularly described as:

BEGINNING at a point located 109 feet North of the intersection of the West line of the Northeast quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, with the North line of the Oregon & California Railroad Company right of way in said Section 4; thence North along said West line a distance of 90 feet to a point on the South line of Sether Avenue in said City of Glendale, Oregon; thence West, along said South line, a distance of 55 feet to a point; thence South a distance of 90 feet to a point; thence East 55 feet to the place of beginning, all lying in said City of Glendale, Douglas County, Oregon.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04EB TL2700

END OF DOCUMENT

## Exhibit A

A tract of land in the northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, being more particularly described as follows:

Commencing at the northwest corner of Lot 1, Block 1 of Clara Addition to the City of Glendale, a duly recorded subdivision in said county, said corner being also a point on the south right of way line of Sether Avenue;

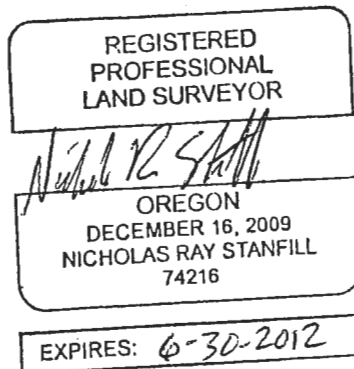
thence West, along said right of way line, a distance of 55.0 feet to the true POINT OF BEGINNING;

thence West, along said right of way line, a distance of 79.0 feet to the intersection of said right of way line and the southeast right of way line of Gilbert Avenue;

thence South  $38^{\circ}18'$  West, along said right of way line, a distance of 100.0 feet;

thence North  $88^{\circ}$  East a distance of 140.9 feet to a point 55.0 feet distant from, when measured at right angles to, the west line of Lot 1, Block 1 of the aforementioned Clara Addition;

thence North, parallel with said west line, a distance of 74.0 feet, more or less, to the POINT OF BEGINNING.







# City of Glendale

124 Third St. PO Box 361 Glendale, OR 97442

Ph 541-832-2106 Fx 541-832-3321

glendale@tymewyse.com

RECEIVED  
JUL 27 2012

## APPLICATION FOR CONDITIONAL USE PERMIT

BY: .....

City File No.: 13-02 Date Application Received: 7-27-12 Fee Paid: 100.<sup>00</sup>

Please complete this application and return it to City Hall with the correct application fee. If you are unsure about an item on this application, feel free to call or stop by City Hall for assistance. This application must be evaluated for completeness before it can be processed, so please provide all the required information before returning it to City Hall. Thank you for helping the City of Glendale achieve its community enhancement goals.

### Nature of Proposed Conditional Use:

☐ Public or Semi-Public    ☐ Residential    ☒ Commercial    ☐ Industrial    ☐ Other

#### 1. Applicants

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 660-3082

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Titleholder of Subject Property

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### Contract Purchaser, Lessee, or Other Party with interest in Subject Property

Name: Thomas L. Schmeltz & Jason S. King dba Cow Creek Station Phone: (541) 450-8489

Address: 624 Rattlesnake Creek Road, Glendale, OR 97442

#### 2. Subject Property Address and direction to Property:

The subject parcel is located at 107 Sether Avenue, which is on the southeast corner at the intersection of Sether Avenue, Gilbert Avenue and Reuben Road in Glendale.

#### 3. Assessor's Description of Property

Township: 33 South Range: 06 West Section: 4BB Tax Lot No.: 2600 Tax Acct #: R4279

#### 4. Current Land Use

Comprehensive Plan Residential\* City Zoning Residential\* Overlays or Special Zones \_\_\_\_\_

\* This CUP application has been submitted concurrently with a Comprehensive Plan and Zoning Ordinance map amendments to changes the property's current designations to Commercial.

5. Lot Size and Use: The subject parcel contains 0.22 acres (9583 SF), and is developed with a gas station which is presently not operating. The requested CUP, in conjunction with the Comprehensive Plan and Zoning Ordinance map amendment application that have been submitted concurrently with this request, will allow the existing gas station to re-open and resume operations.
6. Existing Structures: The property contains an existing gas station building with a gas pump island and canopy. As noted above, DEQ-approved underground fuel storage tanks and ground monitoring equipment is in place and operational.
7. Describe specifically what conditional use is proposed and how it will operate. Include complete descriptions of any structures to be erected or placed on the site, proposed auto and pedestrian access, and signs. For uses other than single or multi-family residential, include the following: Exact activities proposed, hours of operation, the number of people expected to visit the site and when, type of equipment and materials to be stored on site, etc. Attach additional pages to this application if needed to fully describe your proposal. Refer to Chapter 2 of the Glendale Zoning and Land Development Ordinance 01-2005, as amended, for descriptions of "Conditional Uses Permitted".

As explained elsewhere in this CUP application document, the subject property is fully developed with a gas station that has existed on the site for many decades. Several years ago, the previous owner of the property closed the business and placed the property on the market. The applicants subsequently purchased the property with the intent of re-opening and operating the business. For reasons that are not entirely clear, the City changed the zoning on the property from Commercial to Residential, consequently changing the status of the existing gas station to a non-conforming use. So long as the business remained in operation, the use did not legally conflict with its new Residential zoning designation; however, after the business was closed and remained closed for more than one year, the business lost its nonconforming legal status and was thus precluded from re-opening so long as the property remained zoned for Residential use. As noted above, all improvements necessary to allow the station to re-open and operate again are in place, including the station building itself, the canopy-covered service island and fuel pumps, underground fuel storage tanks, and a DEQ-approved ground monitoring system to detect any underground fuel leaks. All of these existing improvements on the property represent a substantial, but presently unused, economic investment in the property. As has also been explained, there are no operating gas stations in Glendale. The nearest station, which is owned and operated by the applicants, is located several miles away near I-5 Exit 80. Allowing the existing gas station on the subject site to re-open will be of significant economic and social benefit to the entire Glendale community. The station presently sits idle and provides no economic benefit to either the owners or to the community. Once the station is re-opened, the applicants anticipate that it will operate substantially in the same manner it has operated in the past. The applicants do not anticipate any new or substantial structural improvements, nor do they otherwise plan to introduce new or significantly different commercial activities from those that have taken place on the property for many decades.

8. Describe in detail how the conditional use will be served by water, sewer, electricity and other utilities. All necessary services, including water, sewer, electricity and other utilities are already in place and connected to the existing gas station. No new services will need to be installed. Future operation of the gas station as proposed by the applicants will not require any greater level of service from City utilities than was being provided when the business was previously operating. The requested conditional use will have no material impact on existing public service and utility systems.

9. Explain clearly how the proposed conditional use will not adversely impact adjacent properties, your neighborhood, or the City in general.

The requested conditional use permit is intended to recognize the actual historic use of the subject property and to allow that existing use to operate. The requested will not allow the introduction of a new or different use from that which has previously existed on the property for many decades, and which co-existed with the surrounding uses in the neighborhood without adverse impacts to those uses. The existing gas station and its related improvements represents a significant economic investment in the property and it is unlikely that those improvements will simply be demolished and removed in order to allow a house to be built at that location. The CUP review process will ensure that potential adverse impacts are identified so that the City can impose limitations and conditions on the business in order to ensure that any such impacts are adequately mitigated.

14. Please attach the following required items to this application:

- ☐ Assessor's map(s) and a Glendale Zoning Map excerpt showing the entire subject property outlined in bold or otherwise highlighted.
- ☐ Site Plan (drawn to scale) which accurately depicts the following features: Property lines, street frontage and driveways, existing structures, proposed new structures or additions and their intended use, building and sign setbacks from property lines, utility and access easements, proposed utilities lines and hookups, and any proposed façade treatments, signs, parking and landscaping..
- ☐ Evidence that all additional agency approvals required for this use have been or will be obtained (e.g. County Building Dept., DEQ, Oregon Health Division, Fire District).
- ☐ A complete mailing list containing the names and mailing addresses of all property owners whose land lies entirely or partly within 250 feet of your property lines.



**SIGNATURE REQUIRED**

We, Thomas L. Schmeltz and Jason S. King, are the title holders or contract purchasers (under a duly executed written contract) of the property described in this application and hereby certify that the statements and information contained herein are in all respects true, complete, and correct to the of our knowledge and belief. We understand that the any application fee must be paid to the City before this application will be processed, and that any additional costs incurred by the City in processing this application are our responsibility. Theses costs may include, but are not limited to, costs of legal publication, planning services, staff reports, engineering costs and attorney services incurred by the City or required for the protection of the City's interests in the processing of this application. We hereby agree to pay all application processing costs in full, and within the time specified by the City (or within 30 days of the billing date if no time is specified).

We acknowledge that the City, in its sole discretion, has the option of providing an estimate of the projected costs and require a deposit in advance from the applicant to cover those costs.

SIGNED: Thomas L. Schmeltz DATE: 7-26-12

SIGNED: J-S King DATE: 7-26-12

Owners of tax lots within 250 feet of Tax Lot 330604BBo2600:

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Kenneth & Shirley Yarbrough, P.O. Box 13, Glendale, OR 97442

William & Kim Howell, 1264 Mt. Reuben Rd., Glendale, OR 97442

Bruce & Barbel Donovan, 8874 Williams Hwy., Grants Pass, OR 97527

Adam Jones & Cardine Lydon, P.O. Box 934, Glendale, OR 97442

Marthalyne Webb, P.O. Box 667, Glendale, OR 97442

Oscar & Rosalie Hillman, P.O. Box 261, Glendale, OR 97442

Swanson Group Mfg. LLC, P.O. Box 250, Glendale, OR 97442

Nancy Miles & Joe Chavez, 4401 Sellers Ave., Brentwood, CA 94513

John Lynch, P.O. Box 332, Glendale, OR 97442

Mary Ann Gossett, Trustee of the Ada O. Place Living Trust, P.O. Box 456, Glendale, OR 97442

Aaron & Jenny Knott, 126 Gilbert Ave., Glendale, OR 97442

Jason King & Thomas Schmeltz, 624 Rattlesnake Rd., Glendale, OR 97442

Church of Christ of Glendale, P.O. Box 74, Glendale, OR 97442

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County, Oregon****Assessment Information**[Search](#) | [Site Map](#) | [Home](#) | [Community Links](#)[Departments](#) [Online Information](#) [Codes & Policies](#) [Employment](#) [About](#)[Assessor Home](#)[Assessment Search](#)[Database Downloads](#)[Forms & Circulars](#)[FAQ's](#)[County Info. & Stats.](#)[District Value](#)[Summations & Tax Data](#)[Maps Online](#)[Sales Search](#)[Links](#)[Manufactured Structures](#)[Activities](#)[Real Property](#)[Personal Property](#) NEW[Property Tax](#) NEW[Estimator](#)**Property Details for Property ID: R42790** [Printer Friendly](#)**Owner Information :**

(click ? for explanation of information) ?

Owner Name: SCHMELTZ, THOMAS L &amp;

Owner Address #1: KING, JASON &amp;

Owner Address #2: COW CREEK STATION &gt;DBA

Owner Address # 3: 624 RATTLESNAKE  
ROAD

Alternate Account #: 85522.00

Owner City/State/Zip: GLENDALE, OR 97442

Account Status: A

**Property Information :**

Township: 33

Situs Address: 107 SETHUR AVE  
GLENDALE, OR 97442

Range: 06W

Map ID: 330604BB02600

Section: 04

County Property Class: 201

Quarter: B

Legal Acreage: 0.22

Sixteenth: B

Code Area: 07701

Maintenance Area: C3

Neighborhood Code: CX3

Year Built: 1960

Living Area: 0

Bedrooms:

Baths:

Exemption Code:

Exemption Desc.:

MFD Home ID:

**Value Information : 2011-2012 Certified Value and Tax Information**

Improvement Appr. Value: \$5,880.00

Total Appr. Value: \$34,629.00

Land Appr. Value: \$28,749.00

Exemption Value: \$0.00

Land Market Value: \$28,749.00

Total Assessed Value: \$34,629.00

Total Real Market Value: \$34,629.00

Taxes Imposed: \$470.23

**Sales Information :**

Deed No: 2011-12179

Tax Rate Information: [Tax Code Rate For](#)  
07701

Sale Price: \$25,000.00

Sale Date: 8/19/2011

**Images :**[Zoning Information](#)[Surveyor Data](#)[GIS Mapping](#)1999-2000 Aerial : [View 1999-2000 Aerial \(.jpg format\)](#)2004 Aerial : [View 2004 Aerial \(.jpg format\)](#)Platmap : [View Platmap \(.tif format\)](#) [Problems viewing?](#)Satellite Map : [View Map](#)**Subscription Area : Login or Register to view this info.****Login or Register to view information in this area.**[New Search](#)[Return to Search Results](#)**DISCLAIMER**

The information provided here is for convenience ONLY. The records located at the Douglas County Assessors Office are the one and only legal instruments for recording purposes. Although reasonable attempts are made to maintain this information as accurate as possible, this information is being provided as an informational convenience ONLY.

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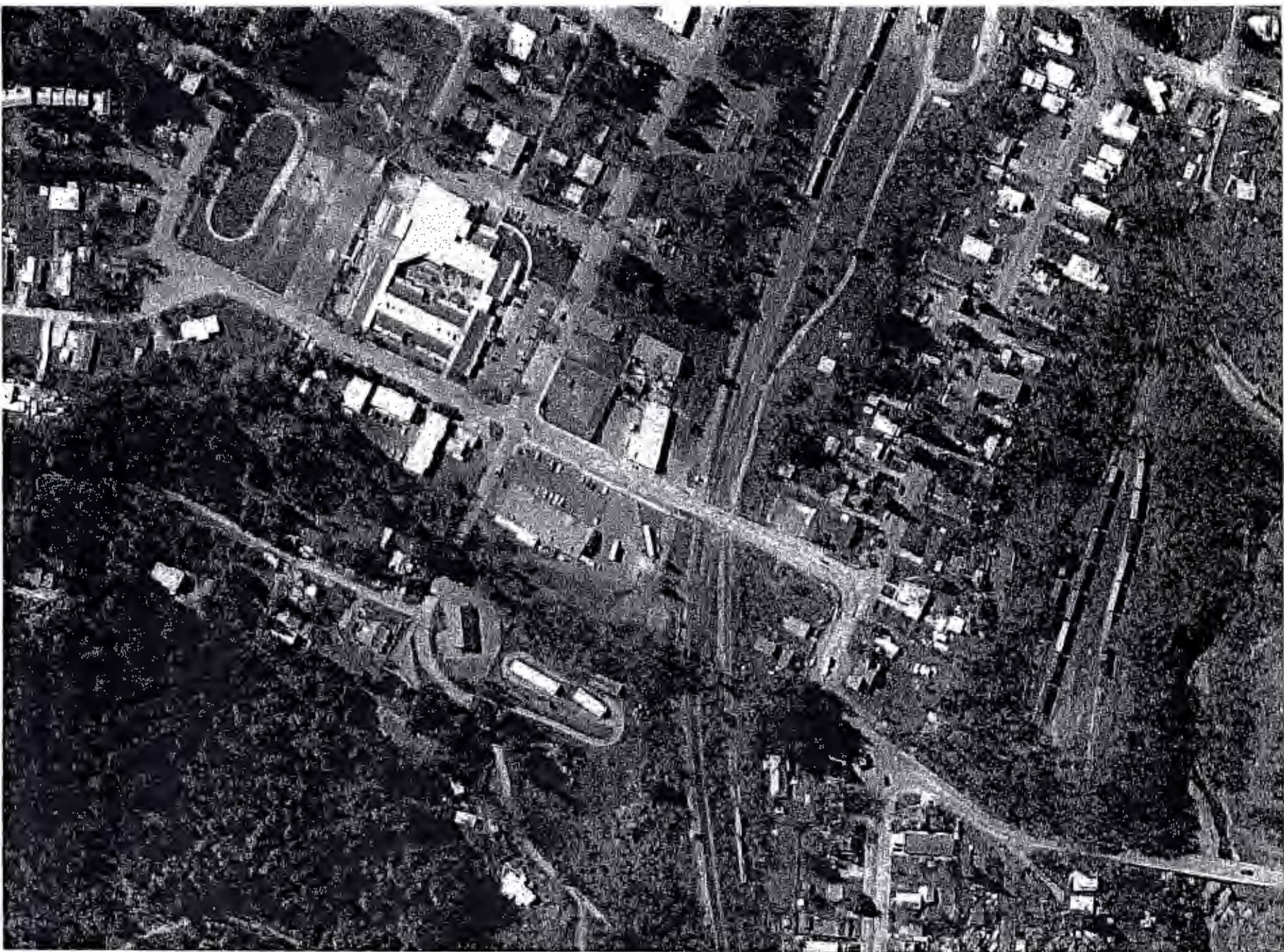
Number of Searches: 27552

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This Page was last updated: Sunday, October 23, 2011 at 5:37:59 PM











GILBERT AVE.

$538^{\circ}18'W$  100.0'

DRIVEWAY ACCESS ALONG  
ENTIRE LENGTH OF STREET  
FRONTAGE

STOP  
SIGN

7.4'

28'x24'  
CANOPY

3' OVERHANG  
TOP 3 SIDES

0.9'

$N 88^{\circ} E$  140.9'

SETHER AVE.

WEST 79.0'

EXIST.  
BLDG

45.1'

NORTH 74.0'

LIGHT  
POLE

25.5'



SCALE: 1"=20'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Nicholas Ray Stanfill*  
OREGON  
DECEMBER 16, 2009  
NICHOLAS RAY STANFILL  
74216

EXPIRES: 6-30-2012

SITE SKETCH  
107 SETHER AVE.  
GLENDALE, OR.  
TAX LOT 33-06W-04BB-2600

THIS SKETCH IS ONLY INTENDED TO  
COMPLY WITH A CONDITIONAL USE  
PERMIT APPLICATION. THIS IS NOT A  
BOUNDARY SURVEY OR ALTA SURVEY.



DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2011-012179

After Recording Return to:  
Barry Rubenstein  
PO Box 10567  
Eugene, OR 97440



\$46.00

DEED-TRUD Cnt=1 Stn=13 CAROL  
\$10.00 \$11.00 \$15.00 \$10.00

08/22/2011 09:07:48 AM

Until a change is requested all tax statements  
shall be sent to the following address:

624 Rattlesnake Creek Rd  
Glendale, OR 97440

TRUSTEES' DEED

Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996, Grantor, conveys, without warranty, to Thomas L. Schmeltz and Jason King, doing business as Cow Creek Station, Grantees, the following real property located in Douglas County, Oregon and described on the attached Exhibit A, subject to easements, conditions, restrictions of record, environmental condition of the property, and any use restrictions and regulations of the Oregon Department of Environmental Quality.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$25,000.

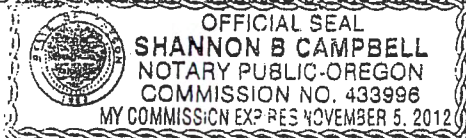
Dated this 19 day of Aug, 2011.

Hazel E. Whaley Family Trust dated December 5, 1996

By Lynne M. Diltz  
Lynne M. Diltz, Successor Trustee

STATE OF OREGON: Douglas County; SS.)

This instrument was acknowledged before me on Aug 19, 2011, by Lynne M. Diltz, Successor Trustee of the Hazel E. Whaley Family Trust dated December 5, 1996



Shannon B Campbell  
Notary Public for Oregon

706024

EXHIBIT "A"

PARCEL 1:

Beginning at a point 55.0 feet West of the Northwest corner of Lot 1, Block 1 of CLARA ADDITION to the City of Glendale, Oregon, and Section 4, Township 33 South, Range 6 West of the Willamette Meridian; thence West 79.0 feet along the South line of Sether Avenue; thence South 38° 18' West 100.0 feet along the East line of a City Street; thence North 38° East 140.9 feet; thence North 74.0 feet to the place of beginning.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04BB TL2600

PARCEL 2:

A tract of land situated in the Northwest quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, also being in the City of Glendale, and more particularly described as:

BEGINNING at a point located 109 feet North of the intersection of the West line of the Northeast quarter of the Northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, with the North line of the Oregon & California Railroad Company right of way in said Section 4; thence North along said West line a distance of 90 feet to a point on the South line of Sether Avenue in said City of Glendale, Oregon; thence West, along said South line, a distance of 55 feet to a point; thence South a distance of 90 feet to a point; thence East 55 feet to the place of beginning, all lying in said City of Glendale, Douglas County, Oregon.

FOR INFORMATIONAL PURPOSES ONLY, THE FOLLOWING IS INCLUDED:

T33S, R06W, S04BB TL2700

END OF DOCUMENT

**Exhibit A**

A tract of land in the northwest quarter of Section 4, Township 33 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, being more particularly described as follows:

Commencing at the northwest corner of Lot 1, Block 1 of Clara Addition to the City of Glendale, a duly recorded subdivision in said county, said corner being also a point on the south right of way line of Sether Avenue;

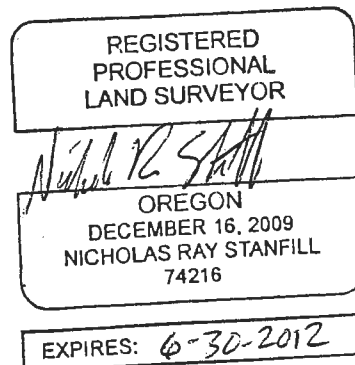
thence West, along said right of way line, a distance of 55.0 feet to the true POINT OF BEGINNING;

thence West, along said right of way line, a distance of 79.0 feet to the intersection of said right of way line and the southeast right of way line of Gilbert Avenue;

thence South  $38^{\circ}18'$  West, along said right of way line, a distance of 100.0 feet;

thence North  $88^{\circ}$  East a distance of 140.9 feet to a point 55.0 feet distant from, when measured at right angles to, the west line of Lot 1, Block 1 of the aforementioned Clara Addition;

thence North, parallel with said west line, a distance of 74.0 feet, more or less, to the POINT OF BEGINNING.





**City of Glendale**

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**From:** "Ron Schofield" <ronschofield@cmspan.net>  
**To:** <crystal@shojiplanning.com>  
**Cc:** <glendale@tymewyse.com>  
**Sent:** Monday, August 06, 2012 9:38 PM  
**Subject:** Schmeltz & King CPA, ZC & CUP Applications  
**RE:** In the matter of the applications of Thomas Schmeltz and Jason King requesting a Comprehensive Plan Amendment, Zone Change and Conditional Use Permit on a 0.22 acre parcel located at 107 Sether Avenue in Glendale; Assessor's Account No. R42790.

The following supplemental information is submitted on behalf of the applicants for the purpose of clarifying the status of both street access and vision clearance for the subject property, as well as the applicants' intent with respect to any future signage for the proposed business.

As stated in the previously submitted application documents, the subject property has historically been used as a gas station and presently remains fully developed for that intended purpose and use. If the applicants' land use applications are approved by the City, they (or their successors) intend to re-open and operate the business in substantially the same manner as the business was operated for nearly four decades. The subject parcel fronts along the south side of Sether Avenue along the entire width of the property, with the gas station building, canopy and pump island located generally in the center of the parcel and oriented toward Sether Avenue. The canopy over the service island extends outward toward the street curb, effectively blocking any street access along the central portion of the parcel's frontage.

Consequently, and as a practical matter, customers purchasing fuel have always entered and exited the site at the far easterly and far westerly ends of the property in order facilitate parallel "pull-through" servicing on each side of the pump island. Inasmuch as there will be no physical alteration to the current lay-out and configuration of the existing improvements on the site, future ingress and egress will function exactly as it has for the past forty years. There is no evidence to indicate, nor are the applicants otherwise aware of, any impediments to the continued use of the existing ingress and access points, nor do they anticipate any changes that will result in modification of the established internal and external traffic circulation pattern on and adjacent to the site as a consequence of the existing gas station being re-opened and operated. There are no structural or topographical features at or in line with the two existing primary ingress and egress points that would in any way interfere with necessary clear-vision zones along Sether Avenue, or that would otherwise cause a traffic hazard in the area.

The applicants do not anticipate erecting any free-standing signs on the property. Any new signs placed or erected in conjunction with re-opening and operating the gas station business will most likely be flush-mounted wall signs attached to an exterior wall of the gas station building. In any case, the applicants (or their successors) will be required to comply with all applicable City regulations pertaining to the placement of signs on the property, including any building, mechanical or electrical permits that might be required.

## **City of Glendale**

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**From:** "Crystal Shoji" <shoji@uci.net>  
**To:** "Ron Schofield" <ronschofield@cmspan.net>  
**Cc:** "Betty Stanfill" <glendale@tymewyse.com>  
**Sent:** Thursday, August 16, 2012 4:04 PM  
**Subject:** Glendale Service Station Application

Hello Ron,

We appreciate the thorough findings for the Comprehensive Plan and zone change.

As we progress with the review of the consolidated application conditional use permit for the gas station in Glendale, further information from you and/or the owners would be helpful. The C zone has a number of development requirements for Conditional Uses (ZLDO, Section 2.3.40). It would be helpful to have a request from the applicants for variances from specific setbacks that are adjacent to a residential area on the south where it appears that the setbacks cannot be met or where other development requirements may not be logical due to the existing layout.

Another example is that parking is required, and the site likely has all the space that is needed, but if there is no intent to mark spaces etc. to comply with City engineering standards. A request for a modification from any such requirements would be helpful. I'm sure that the building height complies, but the application does not state that there is compliance and I do not see the height markings on the site plan.

Finally, we have Google maps in the application, but it would be helpful to have the copy of the map with the property marked that could go into the packet. For anyone who is not highly familiar with the property, the unmarked map is not useful.

A request that recognizes that all components do not fit the requirements, and that special considerations are appropriate due to the existing layout would expedite the review and leave less to be explained at the hearing.

Please call me if you have questions or concerns.

Crystal (Glendale Planning Consultant)  
Crystal Shoji, AICP  
Shoji Planning, LLC  
P.O. Box 462  
Coos Bay, OR 97420  
Phone: 541-267-2491



[www.shojiplanning.com](http://www.shojiplanning.com)

## City of Glendale

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**From:** "Ron Schofield" <ronschofield@cmspan.net>  
**To:** <crystal@shojiplanning.com>  
**Cc:** <glendale@tymewyse.com>  
**Sent:** Monday, August 20, 2012 4:58 PM  
**Subject:** Schmeltz & King CPA, ZC & CUP Applications - Supplemental Information  
 RE: In the matter of the applications of Thomas Schmeltz and Jason King requesting a Comprehensive Plan Amendment, Zone Change and Conditional Use Permit on a 0.22 acre parcel located at 107 Sether Avenue in Glendale; Assessor's Account No. R42790.

The City of Glendale has requested the applicants to provide additional information addressing site development standards for the proposed gas station on the above referenced property, including required building setbacks from adjacent properties in the Residential zone, compliance with off-street parking requirements for the proposed use, and compliance with building height limitations.

Inasmuch as the applicants are requesting that the zoning on the subject property be changed from Residential to Commercial, the site development standards of the Commercial zone are applicable to the proposed use of the property as a gas station. Section 2.3.40 of the zoning ordinance (Development Standards for Permitted and Conditional Uses) requires that all new structures or those that are being expanded by more than 15% of their existing footprint in the Commercial zone shall be subject to site plan review. As is explained in some depth in the Comprehensive Plan Amendment, Zone Change and CUP applications that were previously submitted to the City, the applicants are neither proposing to construct a new structure or to expand an existing structure on the subject parcel, nor is the requested land use change intended to allow the introduction of a new or different use from that which has existed on the property for many decades. The applicants simply intend to re-open and operate the existing gas station in its present configuration. Consequently, it is not entirely clear that the site development standards set out under Section 2.3.40 are applicable to the existing structure. Although the applicants acknowledge that because the gas station has remained closed for more than two years it has lost its legal status as a pre-existing nonconforming use, it does not seem reasonable or logical that the city's zoning regulations would require the existing gas station building to be demolished and a new gas station constructed in order to comply with current property development standards.

The property development standards for uses in the Commercial zone, as set out in Section 2.3.40, require the lot area to be at least 1,000 square feet. The subject property contains approximately 9,500 square feet, and thus exceeds the minimum lot size requirement.

The Commercial zone requires a minimum lot frontage of twenty-five feet for commercial uses. The subject property has 134 feet of frontage along the south side of Sether Avenue, and thus exceeds the minimum frontage requirement.

The Commercial zone provides that the maximum lot coverage shall be 100%, including parking and any necessary buffer area. The existing improvements on the property do not exceed 100% of the lot area.

The minimum yard requirements (building setbacks) in the in the Commercial zone when adjacent to the Residential zone shall be the same setbacks distances required of structures in the adjacent Residential zone. Properties adjoining to the east side and rear of the subject parcel are zoned Residential; consequently the setbacks requirements of the Residential zone will be applicable to the subject property, even though it will be zoned Commercial. In the Residential zone the minimum front yard setback is 15 feet, while the minimum side yard and rear yard setback distance is ten feet. The subject property has only one side yard that adjoins a residential to the east. The existing gas station building is located at least 12 feet from the property's east (side) property boundary and ten feet from its south (rear) boundary, and thus complies with the side and rear yard setback requirement of the adjacent Residential zone. At its closest point, the gas station building sit back about 30 feet from the right-of-way line of Sether Avenue and thus complies with the front yard setback requirement of the adjacent Residential zone; however, the roofline of the free-standing canopy that covers the service island extends to about 10 feet from the street-right-of way line (front property line), and thus is about five feet closer than the required front yard setback for structures in the Residential zone. It should be noted, however, that the vertical supports for the canopy, as well as the service island itself, are setback more than the 15 foot minimum requirement and thus comply with the front setbacks of the adjacent Residential zone. Inasmuch as the projection of the existing canopy into the required front yard setback area does not involve any structural elements on the ground, the applicants believe it would be reasonable and logical for the city to conclude that, as a practical matter, the free-standing canopy complies with the intent of the prescribed front yard setback



The Commercial zone establishes a maximum permitted building height of 40 feet. The existing gas station building and the free-standing canopy do not exceed 20 feet in height, and therefore comply with the maximum prescribed building height standard of the Commercial zone.

Off-street parking requirements for commercial uses are set out in Section 4.0.80 of the zoning ordinance and require gas stations to provide one parking space for each 2,000 square feet of lot area. The subject property contains approximately 9,500 square feet, thus requiring four designated and marked parking spaces. It is not clear whether the ordinance includes the vehicle parking zones adjacent to the service island as part of the business's required off-street parking. In any case, there is ample vacant area adjacent to the west side of the building, as well as between the canopy and the parcel's east property line to accommodate more than the minimum number of designated parking spaces. As a condition of the Conditional Use Permit for the proposed gas station, the applicants will be required to submit a detailed site plan that includes a plan showing the location and layout of the required off-street parking spaces.

Notwithstanding the supplemental information provided above demonstrating that the existing improvements on the subject parcel are substantially in compliance with all applicable property development standards, the applicants respectfully request that the City Council make a determination and finding that the proposed use conforms with the purpose and intent of those standards, and that it will not be necessary for the applicants to remove or reconstruct the existing structures and improvements on the property in order to further comply with those standards.



CITY OF GLENDALE  
124 THIRD ST.  
P.O. BOX 361  
GLENDALE, OR 97442



DEPT OF  
SEP 14 2012  
LAND CONSERVATION  
AND DEVELOPMENT

Attn: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol St. NE, Suite 150  
Salem, OR. 97301-2540

