



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

Agenda

Appeal Board of Adjustment

Tuesday, March 12, 2019

4:30 PM

Longview Council Chambers

1. **CALL TO ORDER**

2. **APPROVAL OF MINUTES**

19-00049 Minutes from regular Appeal Board of Adjustment meeting on December 11, 2018.

3. **AUDIENCE PARTICIPATION OF CORRESPONDENCE**

4. **DECLARATION OF EX-PARTE COMMUNICATIONS AND APPEARANCE OF FAIRNESS**

5. **PUBLIC HEARINGS**

19-00048 ABA 2019-1 REQUEST FOR A FENCE WAIVER TO ALLOW A PRIVATE FENCE TO ENCROACH INTO UNIMPROVED RIGHT-OF-WAY BEHIND 1238 BALTIMORE STREET AND 1222 BALTIMORE STREET

6. **OTHER BUSINESS**

7. **ADJOURNMENT**



City of Longview

1525 Broadway
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Minutes - Final - Not Approved

Appeal Board of Adjustment

Tuesday, December 11, 2018

4:30 PM

Longview Council Chambers

1. Call To Order

Chairman Backstrom called the regular meeting of the Longview Appeal Board of Adjustment to order at 4:30 p.m. in the City Hall Council Chambers, 1525 Broadway, Longview, WA.

Present: 5 - Chairman Backstrom
Goldsmith
Peters
Petersen
Dahl

Staff Present: Adam Trimble, Planner; James McNamara, City Attorney; Craig Bozarth, City Engineer, John Brickey, Community Development Director/Building Official; and Nancy Vandehey, Administrative Assistant.

2. Approval of Minutes

[MN 18-0407](#)

Attachments: [MINUTES OF THE JULY 17 2018 MEETING OF THE APPEALS BOARD OF ADJUSTMENT](#)

A motion was made by Steven Dahl, seconded by Tracy Goldsmith, that the minutes be accepted and approved.

3. Audience Participation of Correspondence

3.1 Oral Communications

No oral communications were received.

Persons in the audience may discuss business not scheduled on this agenda or any item of interest within the jurisdiction of the Appeal Board of Adjustment. This Board will listen to all communication, but in compliance with the Washington Open Public Meetings Act, will not take any action on items that are not listed on the agenda.

3.2 Written Communications.

No written communications were received.

Correspondence for the Appeal Board of Adjustment received after preparation of this agenda.

4. Declaration of Ex-Parte Communications and Appearance of Fairness Doctrine

The Declaration of Ex-Parte Communications and Appearance of Fairness Doctrine was read into the record by Adam Trimble and there was no comments from the audience.

5. Public Hearings

[ABA 2018-3](#)

Request for a Fence Waiver to allow a 7' tall wrought iron picket fence in the front yard setback at 1332 Kessler Blvd.

Attachments: [ABA 2018-3 Staff Report for 1332 Kessler Blvd \(fence waiver\)](#)
[Exhibit A Application for fence waiver](#)
[Exhibit B site plan](#)
[Exhibit B Photos](#)
[Exhibit C NOTICE OF PUBLIC HEARING](#)

Adam Trimble presented the staff report, which included the following findings and recommendations:

-no improved alley exists at the rear of the lot of the applicant; and the lot of the applicant is other than rectangular in shape; the lot of the applicant contains more than one front yard as shown by the plat thereof; and the distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more.
-granting a waiver of the fencing requirements will not negatively affect safety and the public welfare, taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood. The fence as proposed will not impede visibility for any vehicles or pedestrians and will not block visibility of the front of the home to any greater degree than the existing landscaping. The property meets the criteria to apply for a waiver of the fence height limits and if granted will not create an unwanted precedent because the property configuration is relatively unique.

Staff recommends the appeal board of adjustment make a motion to approve the fence waiver subject to the following conditions:

-the applicant shall call for a utility locate prior to starting work.
-landscaping shall be maintained on the Kessler side of the fence in healthy condition.

Dan Petersen and Chairman Backstrom asked some clarification questions of Adam Trimble.

There was no audience participation.

A motion was made by Steven Dahl, seconded by Tracy Goldsmith, that a fence waiver be granted as written and recommended by staff.
The motion passed unanimously.

6. Other Business

7. Adjournment

With no further business to discuss, the meeting of the Appeal Board of Adjustment was adjourned at 4:45 p.m.



City of Longview

Agenda Summary

ABA 2019-1 REQUEST FOR A FENCE WAIVER TO ALLOW A PRIVATE FENCE TO ENCROACH INTO UNIMPROVED RIGHT-OF-WAY BEHIND 1238 BALTIMORE STREET AND 1222 BALTIMORE STREET

SUMMARY STATEMENT:

The owners of White River Development and St. Vincent DePaul have requested a waiver from the requirements for fences under LMC 16.48 to allow a private fence to be built in unimproved ROW behind their properties.

RECOMMENDED ACTION:

Motion to adopt the findings and recommendations of the staff report and grant a fence waiver with conditions to the applicants.

STAFF CONTACT:

Adam Trimble, interim Planning Manager

Attachments:

1. ABA 2019-1 Staff Report for 1222 & 1238 Baltimore St Fence
2. ABA 2019-1 Exhibit A application
3. Exhibit B- Aerial Photo
4. ABA 2019-1 Exhibit C
5. ABA 2019-1 Exhibit C2
6. ABA 2019-1 Exhibit D Adj Owners notice



STAFF REPORT
To the
LONGVIEW APPEAL BOARD OF ADJUSTMENT

PREPARED BY: Adam Trimble, Planner

HEARING DATE: March 12, 2019

APPLICATION NO.: ABA 2019-1

APPLICANT: White River Development & St. Vincent De Paul

PROPERTY OWNER: White River Development LLC & St Rose Conf Of St Vincent De Paul

REQUEST: Fence Waiver per §16.48.030 [Fences; General Requirements] of the Longview Municipal Code to allow a private fence to encroach into unimproved right-of-way of the City of Longview in the MU-C/I District.

LOCATION: The property is located at 1222 & 1238 Baltimore St, Longview, WA (Parcel Number 020900100 & 02090), described as CENTRAL MFG DIST 1 BLK:12 LOT:24,25, LOT:26,27, DESC: LOT 24,25,26,27,28,37A,38A ; & LOT 21,22, LOT:23 DESC: AKA TR 2 ROS 30/54

ASSOCIATED CASES:

ZONING DISTRICT: Mixed Use Commercial/Industrial

BACKGROUND AND PROPOSAL

The property owners White River Development and St. Vincent De Paul have applied for a waiver to place a fence in unimproved public right-of-way behind the site of a new industrial warehouse and parking lot, and existing warehouse operated as a food bank. The industrial development at 1238 Baltimore is next to an unimproved right-of-way, formerly used for rail access. Exhibit A provides the application and Exhibits B and C show photos and aerial views of the 50'-80' +/- wide unimproved right of way where the fence is proposed. Property owners on either side of unimproved right of way can request to use half the area adjacent to their property

until the right of way is improved and dedicated for public use. The application states that heavy equipment may be operated on the new industrial site and a fence is needed to secure the property and prevent the persons visiting the adjacent food bank from walking or driving into the area. The owner has applied for a fence waiver in accordance with chapter 16.48 of the Longview Municipal Code.

Written notice of the public hearing was mailed to the applicant and to the owners of all adjacent properties on Tuesday March 5, 2019 [Exhibit D].

SEPA DETERMINATION

SEPA review is not required for the scope of work described in the application.

CRITICAL AREA ORDINANCE REQUIREMENTS

There are no mapped critical area indicators on or near the property.

APPLICABLE CODE SECTIONS

1. The sections of the municipal code for which relief via a variance petition is being requested:

16.48.030 [Fences] General requirements.

- (1) No fence shall extend beyond the front, side or rear property lines of any lot or plot of land.
- (2) No fence shall be erected in the parking strip of any public street.
- (3) *Repealed by Ord. 2772.*
- (4) No fence shall be constructed or maintained so as to be a menace to life or limb of any person moving against it. Barbed stock-type wire fencing shall not be permitted in any congested residential district.
- (5) Every fence built along the alley property line or within the required rear yard, shall be provided with a gate at least three feet in width so as to provide accessibility to the rear of any building in case of any emergency. (Ord. 2772 § 3, 2000; Ord. 1038, 1960).

2. The specific criteria under which a variance may be granted by the Appeal Board of Adjustment:

16.48.040 Waiver or reduction of requirements.

- (1) Recognizing that there may be situations in which the height and location of fences do not affect safety or the public welfare, it is provided that notwithstanding any provisions in this chapter to the contrary, where any of the hereinafter specified conditions exist, the owner or tenant of real property may request the appeal board of adjustment to waive or reduce the requirements of this chapter. Such appeal board of adjustment, upon determining that any provision of this chapter shall be waived or reduced for any such applicant, may impose such restrictions as they deem necessary in view of the particular facts as represented by the owner or

tenant, taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood.

(2) The conditions under which the appeal board of adjustment may waive or reduce the requirements of this chapter are as follows:

- (a) Where no improved alley exists at the rear of the lot of the applicant; or
- (b) Where the lot of the applicant is other than rectangular in shape; or
- (c) Where the lot of the applicant contains more than one front yard as shown by the plat thereof; or
- (d) Where the distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more. (Ord. 3314 § 1, 2015; Ord. 1166 § 1, 1963).

STAFF DISCUSSION

Reviewing the criteria qualifying the property for a waiver, the property has condition (a). The rear and portions of the applicant's property is surrounded by an old railroad right of way and it does not have an alley.

The applicants have a right to use the unimproved right-of-way until it is either improved by the City or vacated and sold by the City. Improvements such as paving must be approved under a right of way permit. At this time the right of way contains sewer and water mains. Due to the unusual configuration of the property at 1238 Baltimore being separated into two pieces by the right-of-way, a fence is a reasonable measure to prevent persons from passing between the two pieces.

The City's Public Works Department, Fire Marshal, and Building Official have reviewed this request for a fence waiver and requested that conditions be added to any approval to prevent damage to any utilities in the vicinity. Local utilities have been provided opportunity to comment on the proposal and as of the writing of this report no comments have been received. Any further correspondence from utility companies will be discussed in a revised report when received.

STAFF FINDINGS

1. No improved alley exists at the rear of the lot of the applicant.
2. Granting a waiver of the fencing requirements will not negatively affect safety and the public welfare, taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood. The fence as proposed will prevent pedestrians and vehicles from entering the property where heavy equipment may be operated.

RECOMMENDATION

Staff recommends the appeal board of adjustment make a motion to approve the fence waiver subject to the following conditions:

1. The applicant shall call for a utility locate prior to starting work.
2. Fence posts may not be located on top of the City water or sewer lines and must maintain 5' of separation.
3. The fence shall be built within the 'underlying fee' area of the property or;
 - a. The fence may be built in the unimproved Right of Way in a location that is approved in writing by all affected property owners and the City of Longview.
4. The City of Longview and any authorized agent shall not be held responsible nor liable for damage to, or destruction of, any structures built within the right-of-way in the course of routine or emergency access to the right-of-way in question.
5. The property owner shall be responsible for all costs associated with removal, disposal, and replacement of any structures built within the right-of-way at such time that the unimproved ROW is improved.

EXHIBITS

- A. Fence Waiver Request
- B. Aerial photo
- C. Site Plan/Photos
- D. Adjacent owners notice

Staff Report Date 3/5/2019



Variance/Fence Waiver Application

Community Development Department ♦ 1525 Broadway, P.O. Box 128 ♦ Longview, WA 98632 ♦ 360.442.5086/Fax 360.442.5953

Application for a Fence Waiver per the Longview Buildings and Construction Ordinance (Title 16)

LMC 16.48

Application Number: _____

Related Case Number(s): _____

THIS SECTION FOR OFFICE USE ONLY:

City of Longview

FEB 25 2013

Community Development

I hereby apply for a **Fence Waiver** from the following section of the Longview Municipal Code (LMC):

16.48.030 (1) . The reason I am requesting a variance is because: We have a piece

of property surrounded by easement. Both St. Vincent De Paul

and White River want physical seperation. Public safety;

at Street: 1238 Baltimore St., City of Longview, Washington. protection of equipment.

Lot No. _____ Block No. _____ Subdivision/Addition: _____

Zoning District: _____

Applicant: White River Development LLC Phone: 360.957.4789
(Print All Information)

Contact Name: Brett Bates Fax: _____

Mailing Address: 1700 Hudson St. #105
(Street or PO Box)

City: Longview State: WA Zip: 98632

Is the applicant the property owner? ☒ YES ☐ NO If not, complete the following section.

Relationship to Owner: _____

Property Owner: _____ Phone: _____
(Print All Information)

Mailing Address: _____
(Street or PO Box)

City: _____ State: _____ Zip: _____

Justification: (attach additional sheets as necessary):

- a. Describe the physical conditions and circumstances of the property (lot shape, slope, building location, easements, etc.) and how they affect the project for which the variance is being requested: see attachment

- a. Explain how the requested variance will be in harmony with the purpose and intent of the fence ordinance, will not be injurious to the neighborhood, or detrimental to the public welfare:

see attachment

The conditions under which the zoning board of adjustment may waive or reduce the requirements of this chapter, are as follows: (respond if property meets the conditions)

- b. No improved alley exists at the rear of the lot of the applicant;

see attachment

- c. or The lot of the applicant is other than rectangular in shape;

see attachment

- d. or The lot of the applicant contains more than one front yard as shown by the plat thereof;

see attachment

- e. or The distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more:

see attachment

Justification:

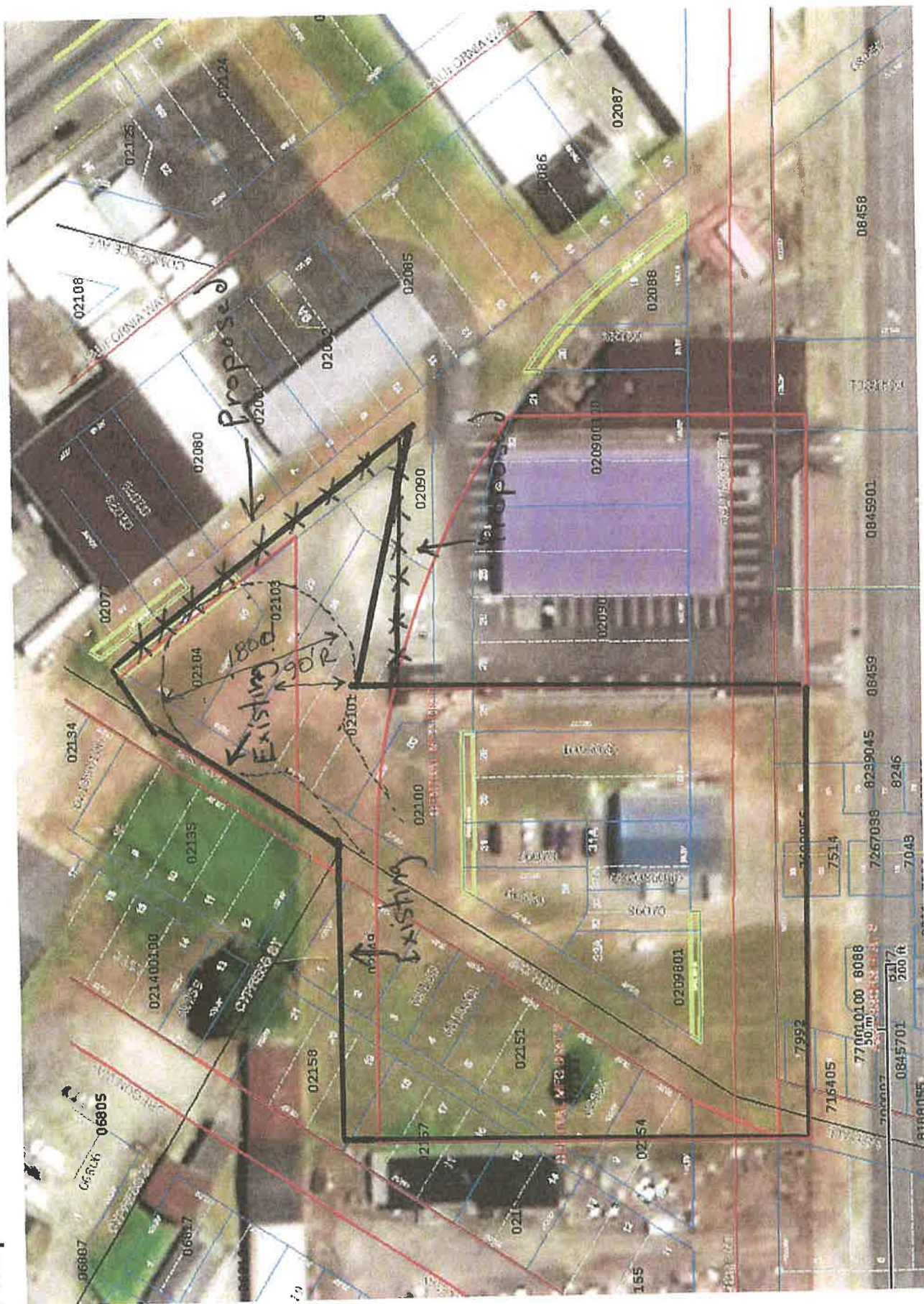
A. Attached is the lot shape and easements surrounding also outlining our proposed location of fence. The property is currently inaccessible from all sides with exception of through St. Vincent de Paul parking lot. There is no building located on this property. The property is already fenced on 2 sides. It is a triangular piece of property with easement on two sides.

AA. The fence variance will create a physical and safety barrier between St. Vincent De Paul and heavy equipment that will be moving around the property. Both neighboring properties (St. Vincent De Paul and Healthy Hound) are ok and happy with the fence variance we proposed. There is a lot of foot traffic on certain days at the food bank and it will not only secure the property but also keep the citizens safe from crossing unseen property lines.

B,C,D,E. The lot has no improved alley and is Triangle in shape with no front yard area as it has no connections to any streets.

Disclaimer: GIS maps do not carry legal authority to determine a boundary or the location of fixed works and are intended as a locational reference for planning, infrastructure and general information. Cowiitz County provides this information on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a purpose, and assumes no responsibility for anyone's use of this information.

Proposed	New	Fence	Location
XXXXX			



NOTICE TO APPLICANT:

According to the Longview Municipal Code, the Appeal Board of Adjustment may authorize the granting of a variance to the Building and Construction ordinance, Title 16, where compliance with the requirements of the ordinance are impractical or impossible. No application for a variance shall be granted unless the Board finds:

- (1) The height and location of the proposed fence does not affect safety or the public welfare; taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood.
- (2) The conditions under which the zoning board of adjustment may waive or reduce the requirements of this chapter, are as follows:
 - (a) Where no improved alley exists at the rear of the lot of the applicant; or
 - (b) Where the lot of the applicant is other than rectangular in shape; or
 - (c) Where the lot of the applicant contains more than one front yard as shown by the plat thereof; or
 - (d) Where the distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more. (Ord. 1166 § 1, 1963).

FILING FEES:

Public Hearing Fee:..... \$ 463.00

Total Fees: \$

Comments: _____

LONGVIEW APPEAL BOARD OF ADJUSTMENT:

Public Hearing Scheduled: Date: _____ 4:30 PM

Comments: _____

FOR STAFF USE:

- _____ Legal Description of Property.
- _____ Site Plan and/or building elevations, floor plans.
- _____ Copy of Deed Restrictions and Restrictive Covenants (CCR's).
- _____ Responses to the justification section addressing the nature of and reason for the variance, and information demonstrating that the requested variance conforms to the requirements contained in LMC 19.12.140.
- _____ Certificate of Appropriateness issued by the Historic Preservation Commission, if applicable.

Comments: _____

NOTES TO APPLICANT/OWNER:

1. If the Appeal Board of Adjustment or City Staff determine that additional and/or revised information is needed, and/or if other unforeseen circumstances arise, any dates outlined for processing the application may be rescheduled by the City.
2. All items shall be completed as determined by the Community Development Department prior to the application being deemed complete for processing.
3. All costs incurred by the City in reviewing this application shall be paid prior to any public hearings.
4. The applicant or authorized representative must attend the Appeal Board of Adjustment public hearing.

Comments: _____

SIGNATURES:

I/we understand that if it is determined the application is not complete, the City shall immediately reject the application and identify in writing what is needed to make the application complete for a public hearing. No public hearings will be scheduled on this application until all outstanding issues have been resolved and the application is considered complete.

I/we agree that the City of Longview staff may enter upon the subject property at any reasonable time to consider the merits of the application, to make assessments, take photographs and to post public hearing notices.

The information provided is "said to be true under penalty of perjury by the Laws of the State of Washington."

Signature of Applicant: _____

Date: 2/25/2019

Signature of Property Owner: _____

Date: 2/25/2019

Signature of Property Owner's Agent: _____

(If different than property owner)

Date: _____

SIGNATURES:

I/we understand that if it is determined the application is not complete, the City shall immediately reject the application and identify in writing what is needed to make the application complete for a public hearing. No public hearings will be scheduled on this application until all outstanding issues have been resolved and the application is considered complete.

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The information provided is "said to be true under penalty of perjury by the Laws of the State of Washington."

Signature of Applicant:

President

Date:

2-25-15

Signature of Property Owner:

John P. Gotschall
John P. Gotschall

Date:

2-25-15

Signature of Property Owner's Agent:

(If different than property owner)

Kevin Carlisle

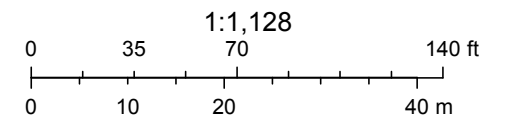
Date:

2-25-15

Exhibit B Aerial Photo- utilities



3/5/2019, 3:44:31 PM



City of Longview, GIS Section, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri,

Disclaimer: The City of Longview does not guarantee the accuracy, timeliness, adequacy, completeness or usefulness of any information. The City of Longview provides this information on an "as-is" basis without warranty of any kind.



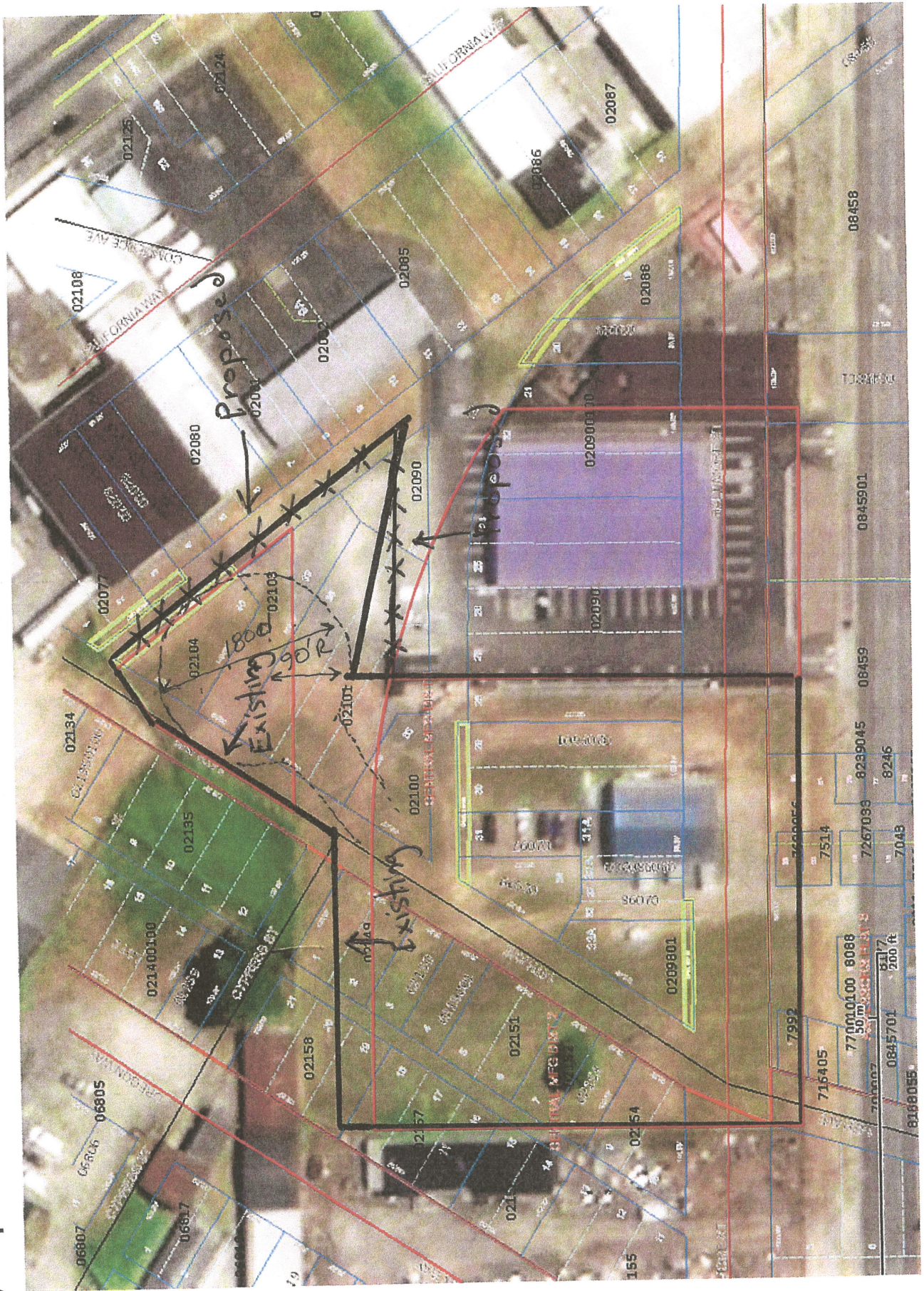
Disclaimer: GIS maps do not carry legal authority to determine a boundary or the location of fixed works and are intended as a locational reference for planning, infrastructure and general information. Cowlitz County provides this information on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a purpose, and assumes no responsibility for anyone's use of this information.

Cowlitz County NetMaps

Printed: Thursday, December 20, 2018 10:31:07 AM

My Map

xxxxx Proposed New Fence Location





**NOTICE OF PUBLIC HEARING
Longview Appeal Board of Adjustment
March 12, 2019 starting at 4:30 P.M.**

Case No: ABA 2019-1

Applicant: White River Development, LLC & St. Vincent De Paul

Location: The property is located at 1222 & 1238 Baltimore St, Longview, WA (Parcel Number 020900100 & 02090)

Request: Fence Waiver per section §16.48.030 [Fences; General Requirements] of the Longview Municipal Code, to allow a private fence to encroach into unimproved City right-of-way behind a new industrial warehouse in the mixed-use commercial/industrial zone.

Why You Are Receiving This Notice: You own real property located adjacent to or abutting the property affected by the Special Property Use request. The Longview Municipal Code requires all property owners owning real property located adjacent to or abutting a land use proposal subject to a public hearing to be notified of the proposal and of the hearing date, place, and time. Contact: Adam Trimble, Planner 360-442-5092

Copies of the Fence Waiver application are available for review at the City of Longview Community Development Department located at 1525 Broadway Street, between the hours of 7:00 a.m. to 6:00 p.m., Monday through Thursday, except holidays.

Comments: If you would like to provide comments in writing on this proposal, please submit them **no later than 4:00 p.m. Tuesday, March 12, 2019** to the City of Longview Community Development Department, PO Box 128, Longview, WA 98632, **ATTN: Adam Trimble, Planner**. For electronic submissions, provide your comments along with full name, address and contact information to adamt@mylongview.com **RE: ABA 2017-1**

Public Hearing: You are invited to attend the Appeal Board of Adjustment public hearing scheduled for **4:30 p.m. on Tuesday, March 12, 2019**. You may provide comments either for or against this petition at this meeting. The public hearing will be held in the Longview City Council Chambers, located on the 2nd floor of City Hall at 1525 Broadway Street, Longview, Washington.

Attachment: Fence location site plan.

Date Mailed: 3/5/2019

