



# City of Longview

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

## Agenda

### Appeal Board of Adjustment

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Tuesday, September 10,  
2019

4:30 PM

Longview Council Chambers

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1. CALL TO ORDER

2. APPROVAL OF MINUTES

19-000343 Minutes of the August 13, 2019 Appeal Board of Adjustment meeting.

3. AUDIENCE PARTICIPATION OF CORRESPONDENCE

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

5. PUBLIC HEARINGS

19-000328 ABA 2019-5 Request for a Fence Waiver to place a fence across unimproved public right of way for future Alaska street.

**RECOMMENDED ACTION:**

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

6. OTHER BUSINESS

7. ADJOURNMENT



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## Minutes

### Agenda

### Appeal Board of Adjustment

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Tuesday, August 13,  
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Longview Council Chambers

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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:** Member Mark Backstrom, Member Steven Dahl, Member Tracy Goldsmith, Member Roger Peters, Member Dan Petersen

**Absent:**

**Staff Present:** Adam Trimble, Planner; Sean Kelly, Assistant City Attorney; Ken Hash, City Engineer and Lisa Vertrees, Administrative Assistant.

2. **APPROVAL OF MINUTES**

**19-000292 Minutes of the June 11, 2019 regular meeting of the ABA**

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

*The motion passed unanimously.*

3. **AUDIENCE PARTICIPATION OF CORRESPONDENCE**

*No oral or written communication were rece*

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

*The reading of the Declaration of Ex-Parte Communications and Appearance of Fairness Doctrine was waived.*

5. **PUBLIC HEARINGS**

**19-000270 ABA 2019-4 SPECIAL PROPERTY USE REQUEST FOR A REDUCED FRONT YARD SETBACK IN THE R-4 ZONE PER LMC 19.20.030 (FOOTNOTE 3)**

**Recommended Action: Motion to adopt the findings of the staff report and grant a special property use permit for a reduced front yard setback of 10 feet at 268 16th Ave.**

*Adam Trimble reviewed the staff report, analysis and findings. There was one question received but no comments from adjoining neighbors.*

*The question was from Sharp Properties inquiring what was going on at the property in question,*

*Steve Dahl asked about future development on Arkansas St. Adam Trimble answered that Arkansas St. won't be widened or improved or built out as a large arterial.*

*Chairman Dahl opened the public hearing. Hearing no speakers, Chairman Dahl closed the public hearing.*

*A motion was made by Member Steven Dahl, seconded by Member Roger Peters, to adopt the findings of the staff report and grant a special property use permit for a reduced front yard setback of 10 feet at 268 16th Avenue.. The motion carried by the following vote:*

*Ayes: Member Mark Backstrom, Member Steven Dahl, Member Tracy Goldsmith, Member Roger Peters, Member Dan Petersen*

*Nays: None*

**6. OTHER BUSINESS**

*Adam Trimble reported a similar situations may come before the Appeals Board in the near future.*

**7. ADJOURNMENT**

*With no further business to discuss, the meeting of the Appeal Board of Adjustment was adjourned at 4:43 p.m.*



**STAFF REPORT**  
**To the**  
**LONGVIEW APPEAL BOARD OF ADJUSTMENT**

**PREPARED BY:** Adam Trimble, Planner

**HEARING DATE:** September 10, 2019

**APPLICATION NO.:** ABA 2019-5

**APPLICANT:** Stephen J Wilson (owner of 340 Oregon Way suite C)

**PROPERTY OWNER:** City of Longview

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

**LOCATION:** The property is undeveloped Alaska Street ROW between Oregon Way and 14<sup>th</sup> Ave [between the City shop and U-Haul locations].

**ASSOCIATED CASES:**

**ZONING DISTRICT:** Mixed Use Commercial/Industrial

**BACKGROUND AND PROPOSAL**

The property owner of 340 Oregon Way Suite C, which is home to the business United Site Services of Longview, has applied for a waiver to place a fence across unimproved Alaska Street right-of-way between the City Shop property (City of Longview) and U-Haul property at 346 Oregon Way. Exhibit A provides the application and Exhibits B and C show photos and aerial views of the 60' wide unimproved right of way for future Alaska Street where the fence is proposed. The nature of the Alaska Street Right of Way is that the City owns the entire underlying fee, meaning the land would not return to adjacent owners if vacated; it is essentially property of the City. Due to the unimproved nature of the right-of-way, applications for fence waivers can be made with the owner's permission, in this case, the City of Longview's permission. The applicant, Mr. Wilson, has applied for a fence waiver in accordance with chapter

16.48 of the Longview Municipal Code with permission of the owner, City of Longview. The application states that the unimproved street right-of-way already has two fences across it and is being used for storage and access by adjacent property owners. The proposed fence would establish an area to be used for storage of empty portable toilets which is part of the business of the tenant at 340 Oregon Way Suite C. The location of the proposed fence is adjacent to the U-Haul business but due to the construction of mini-storage units along the entire property line, the U-Haul property does not have any access to the unimproved Alaska Street to be fenced.

## **NOTICE**

All adjacent properties were mailed notice of this public hearing and the fence waiver request on Thursday September 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) and (b). There are no alleys in this industrial neighborhood and all the adjacent properties are other than rectangular in shape.

The applicant have asked permission of the owner to apply for the ability to use the unimproved street right-of-way until it is either improved by the City or vacated and sold by the City. Due to the proposed location of the fence a main consideration of this application is fairness. Objection by adjacent property owners must be weighed by the Appeal Board as the criteria for a fence waiver includes consideration of the surrounding neighborhood. Absent findings of harm to the surrounding neighborhood or the general welfare, approval of the waiver is unlikely to result in any harm to the prevention of fires, or public health and safety. Improvements such as paving must be approved under a right of way permit.

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. The lots adjacent to the request are other than rectangular in shape;
3. 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.

4. The fence as proposed will provide a barrier to pedestrians and vehicles from entering the property where private property may be stored.

## **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 may be built in the unimproved Right of Way in a location that is approved in writing by 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 9/5/2019



Exhibit A

## 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: ABA 2019-5

Related Case Number(s): \_\_\_\_\_

THIS SECTION FOR OFFICE USE ONLY:

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: There is already a fence there.

at Street: Alaska, City of Longview, Washington.

Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_ Subdivision/Addition: \_\_\_\_\_

Zoning District: \_\_\_\_\_

Applicant: (Stephen) Jeff Wilson Phone: 360-431-7864  
(Print All Information)

Contact Name: Jeff Wilson Fax: N/A

Mailing Address: PO Box 2885  
(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: adjacent

Property Owner: City of Longview Phone: 360-442-5080  
(Print All Information)

Mailing Address: PO Box 124  
(Street or PO Box)

City: Longview State: WA Zip: 98632

**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: \_\_\_\_\_

The area is useable for portable (empty) toilet storage, already an adjacent use

- 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: \_\_\_\_\_

There is already an existing fence and concrete wall. The city fenced the area off years ago

**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;

True - This is an unimproved area. No impact to public, and fire safety

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

The lot and proposed fence does not affect public safety or welfare

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

- 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:

no

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: \_\_\_\_\_

Signature of Property Owner: \_\_\_\_\_

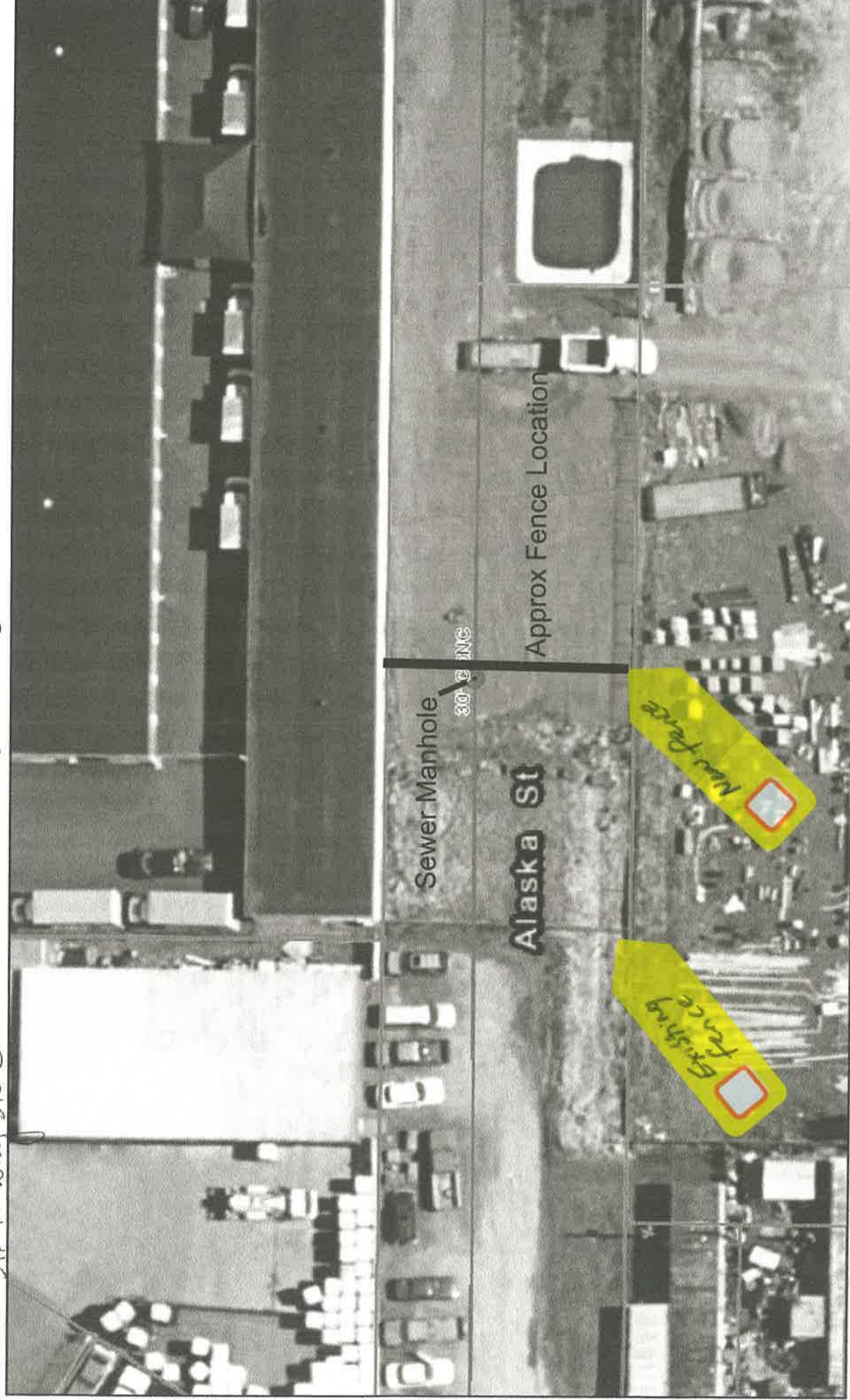
Date: \_\_\_\_\_

Signature of Property Owner's Agent: \_\_\_\_\_

Date: \_\_\_\_\_

(If different than property owner)

1470 Alaska  
340 DE WAY STE C



8/21/2019 1:56:21 PM

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0 0.01 0.02 Kr

City of Longview, GIS Section, Bureau of Land Management, State  
State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HEF,  
INCREMENT P, USGS, EPA, USDA, State of Oregon GEO, Esri, f  
City of Longview, GIS Section, DigitalGlobe

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



326 Oregon Way

View of unimproved Alaska Street

Exhibit B



Image capture: Jul 2018 © 2019 Google

Longview, Washington

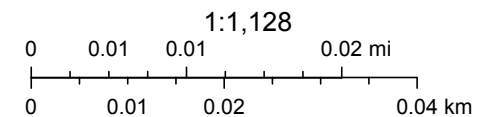
Google

Street View - Jul 2018



8/30/2019, 12:28:20 PM

Fence in ROW request: 340 Oregon Way suite C. Adding a fence behind an existing fence in unimproved Alaska St .



City of Longview, WA - GIS Section, Esri, HERE, Garmin, (c) OpenStreetMap contributors, City of Longview, GIS Section, Source: Esri, DigitalGlobe,



Exhibit D

**NOTICE OF PUBLIC HEARING  
Longview Appeal Board of Adjustment  
September 10, 2019 starting at 4:30 P.M.**

**Case No:** ABA 2019-5

**Applicant:** Jeff Wilson

**Location:** The property is undeveloped Alaska Street ROW between Oregon Way and 14<sup>th</sup> Ave [between the City shop and U-Haul locations].

**Request:** Fence Waiver per section §16.48.030 [Fences; General Requirements] of the Longview Municipal Code, to allow a private fence to encroach across unimproved Alaska Street ROW to expand an area to store portable toilets. The new fence will run from behind the existing U-Haul business storage units to the City of Longview shop storage yard.

**Why You Are Receiving This Notice:** You own real property located adjacent to or abutting the property affected by the Fence Waiver 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.

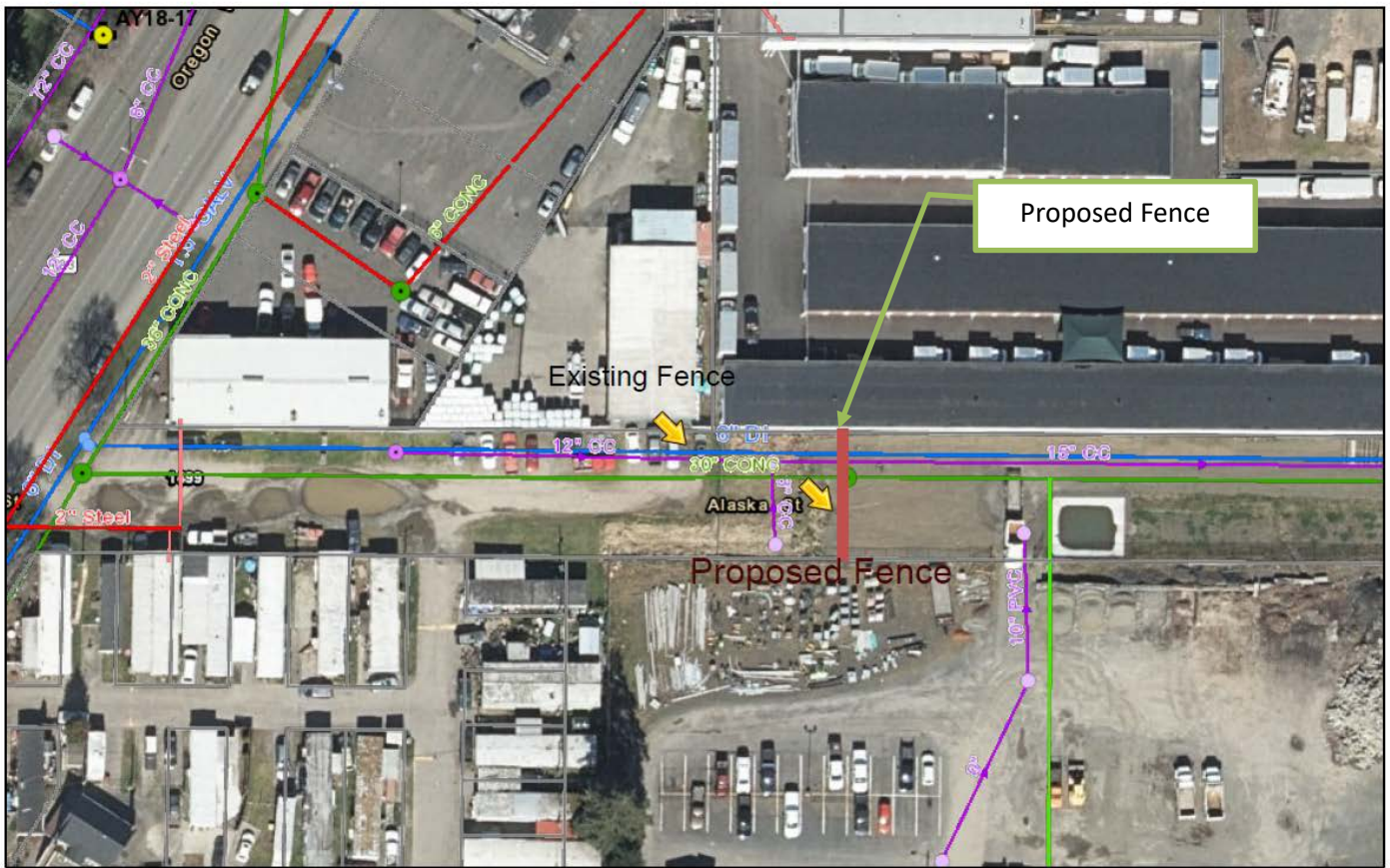
**Comments:** If you would like to provide comments in writing on this proposal, please submit them **no later than 4:00 p.m. Tuesday, September 10, 2019** to the City of Longview Community Development Department, PO Box 128, Longview, WA 98632, **ATTN: Adam Trimble, Planner**. For electronic submissions, provide your comments along with full name, address and contact information to [adamt@mylongview.com](mailto:adamt@mylongview.com) **RE: ABA 2019-5**

**Public Hearing:** You are invited to attend the Appeal Board of Adjustment public hearing scheduled for **4:30 p.m. on Tuesday, September 10, 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 2<sup>nd</sup> floor of City Hall at 1525 Broadway Street, Longview, Washington.

Attachment: Fence location site plan.

Date Mailed: 9/5/19

# City of Longview



8/30/2019, 12:28:20 PM

Fence in ROW request: 340 Oregon Way suite C. Adding a fence behind an existing fence in unimproved Alaska St .

