



**Staff Report Presented to the Planning Commission**

**REQUEST:** The applicant is seeking a variance to allow for a 3-foot front yard setback to the carport (Larch Street), a 19-foot setback from the street side (22<sup>nd</sup> Avenue) and to allow for 2 instead of 4 off-street parking spaces aside from the carport. The subject property is zoned Commercial Highway (C-2). The Comprehensive Plan Designation is High Density Residential (R-3). Per the SHMC amendments approved on July 25, 2023, duplexes shall be allowed as a permitted use in the C-2 zone, effective August 24, 2023. The minimum setbacks in the C-2 Zone are as follows: front yard 20 feet and street side 20 feet [SHMC 17.20.050]. Two off-street vehicle parking spaces required for a duplex [SHMC 17.44.060(A)].

- APPLICANT & PROPERTY OWNER:** James Hurley and Daren Clowser
- FILE NUMBER:** VR23-03
- PROPERTY LOCATION:** 1307 22<sup>nd</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor’s Map as 13S01E32BC Tax Lot 2700.
- REVIEW AND DESIGN CRITERIA:** Sweet Home Municipal Code Section(s) 17.20.020, 17.20.050, 17.44.060, and 17.106.060
- HEARING DATE & TIME:** September 7, 2023 at 6:30PM
- HEARING LOCATION:** City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386
- STAFF CONTACT:** Angela Clegg, Associate Planner  
 Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov
- REPORT DATE:** August 31, 2023

**I. PROJECT AND PROPERTY DESCRIPTION**

**ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:**

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Commercial Highway (C-2)	High Density Residential
Property North	Commercial Highway (C-2)	High Density Residential
Property East	Commercial Highway (C-2)	High Density Residential
Property South	Residential High Density (R-3)	High Density Residential
Property West	Commercial Highway (C-2)	High Density Residential

**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject property is not in the Special Flood Hazard Area.

**Wetlands:** The subject property does not have wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

**Access:** The subject property has access from 22<sup>nd</sup> Avenue and Larch Street.

**Water and Sewer Services:** The subject property has access to City water services in 22<sup>nd</sup> Avenue and in the alley abutting the north property line of the subject property. The subject property has access to City sewer services in the alley abutting the north property line of the subject property.

**TIMELINES AND HEARING NOTICE:**

Application Received: July 26, 2023

Application Deemed Complete: July 27, 2023

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: August 2, 2023

Notice Published in New Era Newspaper: August 9, 2023

Date of Planning Commission Hearing: July 6, 2023

120-Day Processing Deadlines: December 7, 2023

**II. COMMENTS**

**CEDD Engineering:** No comments as of the mailing of this notice.

**Public Works Division:** No comments as of the mailing of this notice.

**Building Division:** No comments as of the mailing of this notice.

**Chief Tyler  
Sweet Home  
Fire District:**

I would like more information on how this would affect fire access to that residence and to the neighboring homes.

You have access from 3 locations: 22<sup>nd</sup> Avenue (60' wide) to the west, Larch Street (60' wide) to the South, and an Alley (15' wide) to the north. The homes to the north are across the alley, the homes to the south are across Larch Street, the homes to the west are across 22<sup>nd</sup> Avenue, and there is 1 home to the east abutting the property line. (AP Clegg)

**Public Comments:** No comments as of the mailing of this notice.

### III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

The Planning Commission may allow a Variance from a requirement or standard of this Development Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance. [17.106.060(A)]**

Applicant's Comments: In order to build to current setback requirements, I need two variances to obtain proper setbacks on current foundation on side, a 3-foot variance on the left corner of the carport and a variance on 2 off-street parking. The lot is only 68' deep.

Staff Findings: The subject property is in the Commercial Highway (C-2) zone. Duplexes in the C-2 zone are subject to the requirements of the R-3 zone, SHMC 17.14 (approved via Ordinance Bill No. 14 for 2023, Ordinance No 1321, approved July 25, 2023). The minimum setbacks in the R-3 zone are 15 feet front yard, 20 feet to the entrance of a garage or carport, 5 feet per story for interior side yard, 15 feet street side yard, and 15 feet rear yard [SHMC 17.14.060]. *Off-street parking.* Uses identified in the zone shall comply with provisions in Chapter 17.44 [SHMC 17.20.060(A)]. Per SHMC 17.44.060(A) two total off street vehicle parking spaces are required for a duplex.

The front yard, by definition, is the lot line abutting Larch Street. (**FRONT YARD.** A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard. [SHMC 17.04.020]). Per SHMC 17.14.060, the minimum front yard setback in the R-3 zone is 15 feet and the minimum setback to the garage or carport is 20 feet. The subject property is a pre-existing, nonconforming smaller lot. The applicant is asking for a variance to allow a 3-foot setback from the front property line to the carports.

Per SHMC 17.44.060(A) only 2 off-street parking spaces are required for a duplex. The applicant is showing 2 off-street parking spaces off 22<sup>nd</sup> Avenue, and therefore will not need a variance.

- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.**

Applicant's Comments: Yes, with the variance the property can be built on and clean up the current eye sore for the neighbors.

Staff Findings: Per the applicant's comments, the variance to the front setback is necessary to allow for the construction of 2 carports on a pre-existing, nonconforming lot. The request shall allow the applicant to comply with the R-3 off-street parking requirements [SHMC 17.14.070(A)].

- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.**

Applicant's Comments: No, current area is a residential area bringing in another residential living space.

Staff Findings: Staff finds that the variance will not be materially detrimental to the public welfare or injurious to the property in the vicinity or district in which the property is located. Currently Larch Street residents park in the public right-of-way. The carports and off-street parking spaces help alleviate some of the on-street parking issues along Larch Street. The variance does not conflict with the objectives of any City plan or policy.

**D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).**

Applicant's Comments: Yes and no. yes, would like to build on the current foundation in minimize construction in the area. No, obtaining front setback requirements with garage is not an advantage to any build with lot size.

Staff Findings: Staff finds that the variance is self-imposed. The subject property is in the C-2 zone. SHMC 17.20.020(A-X) lists the permitted uses in the C-2 zone. The applicant purchased the property in the current condition and with the knowledge that it is a pre-existing, nonconforming lot. The applicant has a variety of other uses that could be developed listed in SHMC 17.20.020 or could design a duplex that conforms to the lot standards of the R-3 Zone.

**E. The variance requested is the minimum variance which would alleviate the identified hardship.**

Applicant's Comments: Yes, we are wanting minimum variance to build on a current foundation to work within zoning/building requirement.

Staff Findings: Staff finds that there is no identified hardship due to the variance being self-imposed. The applicant has alternative uses that could be developed to current development standards.

**F. All applicable building code requirements and engineering design standards shall be met.**

Applicant's Comments: yes, will be designed to meet codes.

Staff Findings: If approved, the applicant shall comply with the standards in Sweet Home Municipal Code 17.14 Residential High Density (R-3) Zone.

#### **IV. STAFF RECOMMENDATION**

Staff finds the applicant has not met criteria D and E listed above in Section III. Staff has not recommended any Conditions of Approval.

#### **V. PLANNING COMMISSION ACTION**

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning

Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

1. Move to approve application VR23-03 and thereby permit the variance for the subject lot located at 1307 22<sup>nd</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E32BC Tax Lot 02700; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR23-03 and thereby deny the request for a variance for the subject lot located at 1307 22<sup>nd</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E32BC Tax Lot 02700; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

## **VI. ATTACHMENTS**

- A. Subject Property Map
- B. Site Plan
- C. Application VR23-03 submitted May 18, 2023
- D. Appendix M with Narrative

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays.



SUBJECT PROPERTY

C2

MAIN ST

LARCH ST

22ND AVE

Subject Property Map  
VR23-03

Date: 8/2/23



1 inch = 43 feet



July 31  
Sep 7



**City of Sweet Home**  
Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

**Land Use Application**

- Adjustment
- Annexation
- Comprehensive Plan Map Amendment
- Conditional Use
- Home Occupation
- Interpretations
- Nonconforming Uses
- Partition
- Property Line Adjustment
- Site Development Review
- Subdivisions and Planned Developments
- Text Amendments
- Variance
- Zone Map Amendment

Date Received: 07.26.23  
 Date Complete: 07.27.23  
 File Number: VR23-03  
 Application Fee: 350.00  
 Receipt #: 5350  
 Planning Commission Hearing Date: 09.07.23  
 City Council Hearing Date: —

Within 30 days following the filing of this application, the Planning Department will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

Applicant's Name: James Hurley Daren Clowser  
 Applicant's Address: Po box 903 Albany OR 97321  
541-730-1698

Applicant's Phone Number: \_\_\_\_\_  
 Applicant's Email Address: \_\_\_\_\_

**Property A**

Owner's Name: James Hurley Daren Clowser  
 Owner's Address: Po box 903 Albany OR 97321  
 Owner's Phone Number: James Hurley office@hurleypaint.com  
 Owner's Email: 1307 22nd ave  
 Property Address: 323C / 2700  
 Assessor's Map and Tax Lot: 3484 32BC/2700  
 Property Size Before: 3,949 SF Property Size After: 3,949 SF  
 Zoning Classification: C-1 Comprehensive Plan: R-3

**Property B**

Owner's Name: \_\_\_\_\_  
 Owner's Address: \_\_\_\_\_  
 Owner's Phone Number: \_\_\_\_\_  
 Owner's Email: \_\_\_\_\_  
 Property Address: \_\_\_\_\_  
 Assessor's Map and Tax Lot: \_\_\_\_\_  
 Property Size Before: \_\_\_\_\_ Property Size After: \_\_\_\_\_  
 Zoning Classification: \_\_\_\_\_ Comprehensive Plan: \_\_\_\_\_

**Nature of Applicant's Request**

Narrative describing the proposed land use action: Brief description on this form and attach extra sheets if needed.  
To obtain reasonable setbacks to build on a non conforming lot

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature: \_\_\_\_\_  
 Property Owner's Signature: \_\_\_\_\_  
 Property Owner's Signature: \_\_\_\_\_  
 Property Owner's Signature: \_\_\_\_\_

Date: 21 Jul 2023  
 Date: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Date: \_\_\_\_\_

## Land Use Application Checklist:

- All applicable sections of the Land Use Application have been filled in.
- The Land Use Application has been signed and dated by all applicable parties.
- I have received the applicable criteria for the Land Use Action that I am applying for.
  - Appendix A: Adjustments**
    - Chapter 17.100 Adjustments; and
    - Applicable Zoning Criteria
    - Chapter 17.124 Type II Applications and Review Procedures (optional)
  - Appendix B: Annexations**
    - Chapter 17.118 Annexations; and
    - Applicable Zoning Criteria
    - Chapter 17.128 Type IV Applications and Review Procedures (optional)
  - Appendix C: Comprehensive Plan Map Amendment**
    - Chapter 17.112 Comprehensive Plan Map Amendment; and
    - Applicable Zoning Criteria
    - Chapter 17.128 Type IV Applications and Review Procedures (optional)
  - Appendix D: Conditional Use**
    - Chapter 17.104 Conditional Use; and
    - Applicable Zoning Criteria
    - 2019 OR Structural Building Code, Section 419, Live/Work Units (if applicable)
    - Chapter 17.126 Type III Applications and Review Procedures (optional)
  - Appendix E: Home Occupation**
    - Chapter 17.94 Home Occupation; and
    - Chapter 17.68 Home Occupations
    - Applicable Zoning Criteria; and
    - 2019 OR Structural Building Code, Section 419, Live/Work Units
    - Chapter 17.122 Type I Application and Review Procedures (optional)
    - Appendix D: Conditional Use (if applicable)
  - Appendix F: Interpretations**
    - Chapter 17.96 Interpretations; and
    - Applicable Zoning Criteria
    - Chapter 17.122 Type I Application and Review Procedures (optional)
  - Appendix G: Nonconforming Uses**
    - Chapter 17.108 Nonconforming Uses; and
    - Applicable Zoning Criteria
    - Chapter 17.126 Type III Applications and Review Procedures (optional)
  - Appendix H: Partitions**
    - Chapter 17.98 Partitions
    - Applicable Zoning Criteria
    - Chapter 17.124 Type II Applications and Review Procedures (optional)
  - Appendix I: Property Line Adjustment**
    - Chapter 17.92 Property Line Adjustment
    - Applicable Zoning Criteria
    - Chapter 17.122 Type I Application and Review Procedures (optional)

- Appendix J: Site Development Review**
  - Chapter 17.102 Site Development Review
  - Applicable Zoning Criteria
  - Chapter 17.126 Type III Applications and Review Procedures (optional)
  
- Appendix K: Subdivisions and Planned Developments**
  - Chapter 17.110 Subdivisions and Planned Developments
  - Applicable Zoning Criteria
  - Chapter 17.126 Type III Applications and Review Procedures (optional)
  
- Appendix L: Text Amendments**
  - Chapter 17.116 Text Amendments
  - Applicable Corresponding Chapter
  - Chapter 17.128 Type IV Applications and Review Procedures (optional)
  
- Appendix M: Variance**
  - Chapter 17.106 Variance
  - Applicable Zoning Criteria
  - Chapter 17.126 Type III Applications and Review Procedures (optional)
  
- Appendix N: Zone Map Amendment**
  - Chapter 17.114 Zone Map Amendment
  - Applicable Zoning Criteria
  - Chapter 17.128 Type IV Applications and Review Procedures (optional)



**APPENDIX M**

**VARIANCE**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard. [SHMC 17.106.010]

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126. [SHMC 17.106.030]

An application for a Variance shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126. [SHMC 17.106.030]

**SHMC 17.106.040 SUBMITTAL REQUIREMENTS**

*The applicant is required to submit a summary for each of the following applicable criteria and submit the summary as a narrative with the Land Use Application. (Attach extra sheets, if needed)*

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

- A. The following general information shall be shown on the site plan:
  - Vicinity map showing all streets, property lines and other pertinent data to locate the proposal.
  - North arrow and scale of drawing.
  - Tax map and tax lot number or tax account of the subject property.
  - Dimensions and size in square feet or acres of the subject property.
  - Location of all existing easements and City utilities (water, sanitary sewer, storm drainage) within the property.
  - Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - A site plan or other information clearly indicating the proposed variance, including dimensions if applicable.

B. Do any of the criteria in SHMC 17.106.050 apply?  Yes  No  
If the applicant answered yes, the proposal does not qualify for a variance.

C. Is the variance necessary? Does the subject Development Code provision not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses? Explain:  
yes, In order to build To set back's current setback Requirements  
I need 2 variance To obtain Proper setback on current foundation on Side  
I need 3 variance on the front left corner of carport,  
I need variance on 4 off st parking, lot only 68' deep

D. Is such variance necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district? Explain:

Yes, with the variance the property can be built on and clean up a current life sore for the neighbors

E. Will the authorization of such variance be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy? Explain:

No, current area is a residential area bringing in another residential living spaces

F. Is the need for the variance self-imposed by the applicant or property owner? Explain:

yes/no  
yes would like to build on current foundation to minimize construction in the area  
no - obtaining front setback requirements with garage is not advantages to any build with lot size

G. Is the variance requested the minimum variance which would alleviate the identified hardship? Explain:

yes, we are just wanting minimum variance to build on current foundation to work within zoning/building requirement

H. Are all applicable building code requirements and engineering design standards met? Explain:

yes, will be designed to meet codes

**Linn County**  
**2022 Real Property Assessment Report**  
 Account 258893

Map 13S01E32-BC-02700  
 Code - Tax ID 05501 - 258893

Tax Status Assessable  
 Account Status Active  
 Subtype NORMAL

Legal Descr WEDDLE'S ADDITION TO SWEET HOME  
 Block - 7 Lot - 9 10

Mailing HURLEY JAMES & CLOWSER DAREN  
 230 LYON ST S STE 15  
 ALBANY OR 97321

Deed Reference # 2023-4627  
 Sales Date/Price 04-20-2023 / \$45,000  
 Appraiser VANDERWOOD, LISA

Property Class 101 MA SA NH  
 RMV Class 101 04 03 002

Site Situs Address	City
1307 22ND AVE	SWEET HOME

Value Summary						
Code Area		RMV	MAV	AV	RMV Exception	CPR %
05501	Land	39,220		Land	0	
	Impr	3,190		Impr	0	
<b>Code Area Total</b>		42,410	11,530	11,530	0	
<b>Grand Total</b>		42,410	11,530	11,530	0	

Land Breakdown									
Code Area	ID #	RFPD	Ex	Plan Zone	Value Source	Trend %	Size	Land Class	Trended RMV
05501	1	<input checked="" type="checkbox"/>			Residential Site	106	3,468 SF		39,220
<b>Code Area Total</b>							3,468 SF		39,220

Improvement Breakdown									
Code Area	ID #	Year Built	Stat Class	Description	Trend %	Total Sqft	Ex%	MS Acct	Trended RMV
05501	1		318	GP SHED	120	192			3,190
<b>Code Area Total</b>						192			3,190

**Comments** Has been: " HABU residential lot 5/93 kr "  
 2014mx: See email attached to account. If the structures are still there next year, consider valuation. 8/19/14 JLS  
 2015MX: WAIT FOR PERMIT. VERY LOW VALUE AND BELOW THRESHOLD ANYWAY. USE NOT CONSISTENT WITH ZONING. 3/7/16 JLS  
 2020: Left card at gate in regards to future plans for site. Structural foundation set since 2015, GPS on site. No response. Changed P/C and RMV class to 101 HBU for now, added GPS as Exception.  
 2021: CYCLE RE-APPRAISAL. 6/21 LV