MINUTES

A. CALL TO ORDER

1. The meeting was called to order by Chairman Danny Horner at 7:00 p.m.

2. Roll Call
   The following members were present: Chair - Danny Horner
   Jose Valdes, Ph.D.
   Cindy Scheuerman
   Jim McIntyre

   Also Present: Associate Planner Brett Walker

3. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
   There were no changes to the agenda.

4. Reading of the statement of the documents to be entered into the record
   Chairman Horner stated that he enters into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

B. CONSENT CALENDAR

1. Approval of the minutes of October 24,2013

   Ms. Scheuerman moved to accept the Consent Calendar as presented; Dr. Valdes seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-50(a) pertaining to the location of a freestanding sign located adjacent to an arterial street and Section 16-9-50(e) pertaining to the distance separation between freestanding signs in the General Commercial (GC) zoning district – 1241 Main Street. Lot 2, Windsor Town Center II Subdivision. Mike Howland, property owner; Mike Long, DaVinci Signs, applicant – Brett Walker

   Dr. Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Mike Long with Davinci signs stated that they are asking for a 10ft setback for the New York Bagel freestanding sign because of visibility and landscaping

reasons. Mr. Long showed a few slides that illustrated their concerns with a 15ft setback.

Mr. Brett Walker stated that the applicant, Mr. Mike Long, DaVinci Signs, representing Mr. Mike Howland, Gib's NY Bagels, is requesting a variance from Municipal Code section 16-9-50(a) and 16-9-50(e). Mr. Walker stated that the applicant is requesting a variance to allow the proposed sign to be ten (10) feet from the Main Street property line and less than one hundred (100) feet from adjacent freestanding signs. Municipal Code (Code) Section 16-9-50(a) states the following:

> *Any freestanding sign that is located adjacent to an arterial street shall be set back and offset a minimum distance of fifteen (15) feet from the property line.*

Municipal Code Section 16-9-50(e) states the following:

> *Distance separation. Distance separation between freestanding signs shall be measured along the street frontages adjacent to the subject monument signs. Distance between freestanding monument signs located on different street frontages shall be measured along the street frontage to the point of intersection of both street frontages. Freestanding signs shall be separated by at least one hundred (100) feet.*

Mr. Walker explained that according to the applicant, he is requesting the ten (10) foot setback to be an equal setback to the neighboring freestanding sign (Oil Can Henry's) so the public can see the sign associated with the business. Mr. Walker continued explaining that the existing landscaping will cause the sign to be ineffective at the fifteen (15) foot setback. Mr. Walker stated that the applicant is requesting a variance from the distance separation because it is not possible to place a freestanding sign on the subject property and meet the one hundred (100) foot minimum separation required by the code. According to the site plan, the sign would be located sixty-one (61) feet from the *Windsor Town Center* multi-tenant sign east of the site.

Mr. Walker showed a picture of the property and explained that the subject lot is seventy (70) feet wide. There are three existing freestanding signs in proximity to the subject lot. The *Wing Shack/Windsor Valley Car Wash* sign in located approximately one- hundred six (106) feet west of the proposed sign location. The *Oil Can Henry's* sign is located approximately one-hundred nineteen (119) feet east of the proposed sign, and the *Windsor Town Center* multi-tenant shopping center sign is located sixty-one (61) feet east of the proposed sign.

<u>Distance Separation</u>

Mr. Walker stated that given the existing freestanding signs on adjacent lots, the applicant is not able to meet the one- hundred (100) foot distance separation required by the Code. The applicant has chosen a location that

meets the distance separation from the sign to the west, and, according to the applicant, provides adequate visibility for vehicles traveling on Main Street. Additionally, the proposed sign location is approximately equal distance between two existing mature trees, which would likely reduce potential impacts to the trees root systems. The Town Forester, Ken Kawamura, visited the site to analyze potential impacts to the existing trees. Should the Board of Adjustment approve the applicant's request, staff recommends that the Board of Adjustment approve the sign to be located in a range of fifty-five to sixty-five (55-65) feet from the *Windsor Town Center* multi-tenant sign east of the site to ensure that the sign location does not harm the root systems of the existing trees.

Setback

Mr. Walked stated that the *Oil Can Henry's* sign is setback ten (10) feet from the Main Street property line, and was approved prior to the adoption of the current sign code. The *Wing Shack/Windsor Valley Car Wash* sign is located fifteen (15) feet from the Main Street property line. The *Windsor Town Center* multi-tenant shopping center sign is located approximately 23 feet from the Main Street property line. Mr. Walker stated that the proposed sign would be located approximately thirteen (13) feet from the back of the Main Street sidewalk and approximately twenty-six (26) feet from the Main Street travel lane.

Mr. Walker stated that during a site visit with the applicant, the applicant pointed out that locating the proposed sign at the fifteen (15) foot setback would require the removal of some landscaping on the northern edge of the drive-through aisle.

Recommendation:

Mr. Walker stated that Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured."

Distance Separation

Mr. Walker stated that staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The subject lot is not wide enough to allow placement of a freestanding sign on the lot and meet the one hundred (100) foot distance separation;
2. The applicant has chosen a location that meets the distance separation from the sign to the west. The sign location does not meet the

distance separation to the east, however, the *Oil Can Henry's* sign, which is located one hundred (119) feet east of the proposed sign, is the most visible sign to the east from the Main Street right-of-way.

3. The proposed sign location does not appear to result in a health or safety risk.

Setback

Mr. Walker stated that staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. Placing the sign at the fifteen (15) foot setback would require the removal of landscaping, as shown on the approved site plan, to accommodate the proposed sign;
2. Placing the sign at the fifteen (15) foot setback would result in obstructed views of the sign from vehicles travelling on Main Street which could result in a safety or traffic hazard due to motorists trying to read a sign that is set back an additional five (5) feet from the property line;
3. The proposed sign location does not appear to result in a health or safety risk.

Mr Walker listed the conditions.

Conditions of Approval

1. The applicant/developer shall mark the exact location of the dig area for the sign, and contact the Town Forester prior to any digging. The Town Forester will verify that the hole will not have negative impacts on the existing trees at the site.
2. The applicant/developer shall adhere to Town of Windsor Tree and Landscape Standards Part II, sections H (Tree Protection and Replacement) and I (Tree Protection Specifications).
3. The applicant/developer shall obtain sign permit approval from the Windsor Planning Department.
4. The applicant/developer shall obtain a building permit from the Windsor Planning Department for electrical work associated with the sign

Dr. Valdes questioned why the Windsor Town Center sign doesn't meet the distance requirements from the Oil Can Henry sign.

Mr. Walker stated that they did have to get a variance for that sign as well.

Dr. Valdes asked the applicant if they were prepared to follow all staffs conditions.

Mr. Long stated that he has discussed the conditions with town staff including the town forester and stated they will follow all conditions of approval if variance is approved.

Ms. Scheuerman moved to close the Public Hearing; Dr. Valdes seconded the motion. Motion carried unanimously.

Dr. Valdes moved to approve the request for a variance from Section 16-9-50(a) of the Municipal Code to allow the proposed freestanding sign location as presented and with all staff conditions; Mr. McIntyre seconded the motion. Motion carried unanimously.

Dr. Valdes moved to approve the request for a variance from Section 16-9-50(e) of the Municipal Code to allow the proposed freestanding sign location as presented and with all staff conditions; Mr. McIntyre seconded the motion. Motion carried unanimously.

2. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to building location of single-family dwellings in the Single Family Residential (SF-1) zoning district – 519 2nd Street, Lot 15, Block 2, Kerns Subdivision. Arlene and Rocky Clark, property owner's; Rick Hood, applicant's representative – Brett Walker

Dr. Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Rick Hood representing Rocky and Arlene Clark 1100 Valley Dr. Windsor, presented the desired plot plan for a new house and detached garage at 519 2nd Street. Mr. Hood explained that although the setbacks from the property line to the structures do not meet the 20ft setback
Requirement, there is approximately 20ft from the street to the structures on the 2nd Street side and 15ft from the street to the structure on the Oak Street side.

Mr. Walker stated that the applicants, Ms. Arlene and Mr. Rocky Clark, are requesting a variance from Municipal Code Section 16-12-40 (Building Location). Municipal Code Section 16-12-40 states the following:

> *Minimum **setback shall be twenty (20) feet.** Minimum offset shall be five (5)feet (emphasis added).*

Mr. Walker stated that the applicant is proposing to construct a new single family residence and detached garage on a corner lot. Mr. Walker explained that there is currently a residence located on the site; a detached garage was recently demolished. Mr. Walker continued explaining that the existing residence will be demolished to accommodate the proposed residence and detached garage. The applicant has proposed building setbacks along both 2nd and Oak streets that are less than the twenty (20) foot minimum. Mr. Walker stated that the proposed location of the single family residence is one (1) foot

from the 2nd Street property line and six and one-half (6 ½) feet from the Oak Street property line. The proposed detached garage is located four and one-half (4½) feet from the 2nd Street property line. The proposed structures meet the minimum side yard and rear yard offsets. Additionally, the 3,000 square foot minimum open space requirement would be met. The subject parcel is 8,833.97 sq ft (0.20± acres) and is zoned Single Family Residential (SF-1). The proposed residence is a one story ranch-style house that will be less than twenty feet in height.

Residence 2nd Street Setback

Mr. Walker stated that the proposed residence is forty-three and one-half (43 ½) feet wide by seventy-nine (79) feet long. The subject lot is approximately fifty (50) feet wide by one-hundred seventy-five (175) feet deep. Mr. Walker continued stating that the lot width and depth is typical of residential lots located in central Windsor. The buildable width of the lot, based on minimum setbacks and offsets is twenty-five (25) feet. As shown on the plot plan submitted with the application, the residence would be located approximately five and one-half (5 ½) feet from the east property line, one (1) foot from the west property line, and sixteen and one-half (16 ½) feet from the back of the 2nd street sidewalk. There is currently not a sidewalk along the entire 2nd Street frontage, but Town Engineering standards require a sidewalk to be installed with the construction of a new residence. Mr. Walker explained that the existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings vary from twelve (12) to twenty-four (24) feet. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Street flow-line width is measured from curb to curb. Based on a twenty-five (25) foot developable area (per zoning code), the right-of-way width and street width, the 2nd Street setback does not appear to result in a health or safety risk, and will not overcrowd the neighborhood.

Residence Oak Street Setback

Mr. Walker stated that the proposed residence is forty-three and one-half (43 ½) feet wide by seventy-nine (79) feet long. The property owner is requesting a six and one-half (6 ½) foot setback from the Oak street property line. Mr. Walker stated that the proposed setback is twenty (20) feet from the back of the sidewalk. Building setbacks on surrounding Oak Street lots from the back of sidewalk to buildings vary from approximately seventeen (17) to thirty-two (32) feet. Typically, the Town requires a minimum of twenty (20) feet between the back of the sidewalk and garages to ensure that a vehicle can park in the driveway and not impede pedestrian movement on the sidewalk. Mr. Walker stated that based on the property owner's site plan, there is twenty (20) feet between the south elevation of the residence with attached garage and back of the Oak Street sidewalk. The Oak Street right of way width is seventy-five (75) feet, and the street flow-line width is approximately forty (40) feet wide. The typical street right-of-way width in contemporary subdivisions for local streets is sixty (60) feet. Based on the distance between the south elevation fronting Oak Street and the back of sidewalk, along with the street right of way width,

the proposed Oak Street setback does not appear to result in a health or safety risk and will not overcrowd the neighborhood.

Mr. Walker stated that based on the site conditions described above, staff recommends the following condition of approval:

1. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the Oak Street sidewalk and the south elevation of the residence with attached garage.

Detached garage 2nd Street Setback

Mr. Walker stated that the property owner has proposed to construct a thirty (30) foot by thirty (30) foot detached garage. The detached garage is proposed to be located four and one-half (4 ½) feet from the west property line, ten (10) feet from the north property line, and approximately fifteen and one- half (15 ½) feet from the east property line. The garage is proposed to be located over forty (40) feet from the proposed residence. The detached garage is located twenty (20) feet from the back of the 2nd Street sidewalk. Existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings vary from approximately twelve (12) to twenty-four (24) feet. The proposed garage setback is within the range of existing building setbacks on neighboring 2nd Street properties. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Based on the right-of-way and street width, the detached garage 2nd Street setback will not overcrowd the neighborhood and doesnot appear to result in a health or safety risk.

Mr. Walker stated that based on the site conditions described above, staff recommends the following condition of approval:

1. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the 2nd Street sidewalk and the west elevation of the detached garage.

Recommendation

Residence 2nd Street Setback

Mr. Walker stated, regarding the variance request to allow the residence to be setback one (1) foot from the 2nd Street property line, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;

2. The proposed one (1) foot setback is within a range of residential setbacks on neighboring lots and would not result in an overcrowding of land;
3. The proposed location of the residence does not appear to result in a health or safety risk.

Residence Oak Street Setback

Mr. Walker stated, regarding the variance request to allow the residence to be setback six and one-half (6 ½) feet from the Oak Street property line, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending conditional approval of the variance request based upon the following findings of fact:

1. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the proposed location of the residence to meet the *spirit* of the zoning code setback regulation;
3. Based on the proposed location of the residence, there is adequate distance between the south elevation of the residence and attached garage and the back of the Oak Street sidewalk to not impede pedestrian movement.

Detached garage 2nd Street Setback

Mr. Walker stated, regarding the variance request to allow the detached garage to be setback four and one-half (4½) feet from the 2nd Street property line, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The subject parcel is similar in size and shape of neighboring lots within the Kerns Subdivision and lots in the central Windsor area;
2. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the detached garage location to meet the spirit of the zoning code setback regulation;
3. Based on the location of the detached garage, there is adequate distance between the west elevation of the detached garage and the back of the 2nd Street sidewalk to not impede pedestrian movement;
4. The proposed location of the detached garage does not appear to result in a health or safety risk.

Mr. Walker stated further, based on the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, subject to the following conditions:

1. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the Oak Street sidewalk and the south elevation of the residence with attached garage.

2. The applicant shall provide a minimum of a twenty (20) foot distance between the back of the 2nd Street sidewalk and the west elevation of the detached garage

Dr Valdes moved to close the Public Hearing; Mr. McIntyre seconded the motion. Motion carried unanimously.

Dr. Valdes moved to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow the proposed detached garage to be located one (1) foot from the 2nd Street property line; Mr. McIntyre seconded the motion. Motion carried unanimously.

Ms. Schuerman moved to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow the proposed detached garage to be located six and one-half (6 ½) feet from the Oak Street property line subject to the aforementioned condition of approval; Dr Valdes seconded the motion. Motion carried unanimously.

Ms. Schuerman moved to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow the proposed residence to be located four and one-half (4 ½) feet from the 2nd Street property line subject to the aforementioned condition of approval; Mr. McIntyre seconded the motion. Motion carried unanimously.

3. Public Hearing – Variance of Municipal Code Section 16-12-30 pertaining to minimum lot area, Section 16-12-40 pertaining to building location, and Section 16-12-50 pertaining to open space for single-family dwellings in the Single Family Residential (SF-1) zoning district – 128 Chestnut Street, Lot 15, Block 13, Kerns Subdivision. Linda Johnson, property owner; Patrick Glasco, applicant's representative – Josh Olhava

Mr. Patrick Glasco 1498 Waterwood Dr. Windsor, stated that the property owner is asking for a setback of 15ft from 2nd Street, a lot size of 4,137sf, and open space at 1740sf.

Mr. Walker stated that the applicant, Ms. Linda Johnson, is requesting a variance from Municipal Code Section 16-12-30 (Density), Section 16-12-50 (Open Space), and Section 16-12-40 (Front Setback) to facilitate a minor subdivision to create two buildable lots at 128 Chestnut Street, located on the northeastern corner of Chestnut and 2nd Streets. Mr. Walker continued stating that the subject lot is 8,837.5 square feet according to the enclosed property survey site plan. The zoning at the site is Single Family Residential (SF-1). The existing single family residence is located on the southern portion of the lot.

Density

Municipal Code Section 16-12-30 states the following:

> *Minimum lot area per dwelling unit shall be six thousand (6,000) square feet.*

The applicant is requesting a Variance from Section 16-12-30 to subdivide the property into two lots that are less than the six thousand (6,000) square foot minimum. The southern lot with the existing home and detached shed will be approximately 4,700 sq. ft., and the new lot to the north would be approximately 4,137 sq. ft., according to the attached site plan. The proposed minor subdivision would be in compliance with Windsor Municipal Code Section 16-8-40(b) (Basic location regulations), which states the following:

> *"One (1) building per lot. Except as otherwise provided for multifamily dwellings and planned unit developments, only one (1) principal residence structure shall be permitted on a lot."*

Utilities will need to be re-routed to serve both new lots. Sewer service extends along the Alley Way on the north and will need to be re-routed to serve the southern lot, and water service extends along Chestnut Street on the south and will need to be extended to serve the northern lot. Staff visited with the applicant and came to the decision that a Right-of-Way Encroachment Permit will need to be obtained from the Engineering Department to route both the Sewer and Water services within the public right-of-way as depicted on the enclosed plat. Additionally, easements will need to be obtained during the subdivision process to allow the utilities to cross one another to serve the properties.

The proposed lot split is consistent with other residential lots located in central Windsor that are located on the corner lots. The proposed lot sizes, in relation to the improved areas on the lots, do not appear to result in a health or safety risk, and will not overcrowd the neighborhood. By drawing a real building envelope on the proposed north lot, the applicant has shown that the lot split will create two buildable and livable lots.

Setback

Municipal Code Section 16-12-40 states the following:

> *Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet*

The proposal to subdivide the subject property into two lots will create one lot to the south that is already improved and a second lot to the north that is unimproved. The applicant is requesting a variance from Section 16-12-40 for the unimproved lot to the north to build a home five (5) feet from the west property line. The new home would meet all offset requirements and the setback

variance would allow for a usable backyard to the east of the proposed building footprint.

Existing building setbacks on surrounding 2nd Street lots from the back of sidewalk to buildings varies from approximately twelve (12) to twenty (20) feet. The 2nd Street right-of-way width is one-hundred (100) feet and the street flow-line width is approximately fifty-nine (59) feet wide. Street flow-line width is measured from curb to curb. Additionally, the sidewalk along 2nd Street is an attached sidewalk and the distance from the east edge of the sidewalk to the property line (all within the 2nd Street right-of-way) is approximately twenty (20) feet. Based on the right-of- way width and street width, the 2nd Street setback does not appear to result in a health or safety risk and will meet the character of the neighborhood and surrounding properties.

Open Space

Municipal Code Section 16-12-50 states the following:

> *As a part of the minimum lot area of six thousand (6,000) square feet per dwelling unit, a minimum of three thousand (3,000) square feet thereof shall be livable open space.*

The applicant is proposing to subdivide the subject property into two lots and is requesting a Variance from Section 16-12-50 for one of the lots. The southern lot with the existing home and detached shed will be approximately 4,700 sq. ft., and will meet the minimum Open Space requirements of the Municipal Code. The new lot to the north would be approximately 4,137 sq. ft. as proposed with an Open Space area of 2,347 sq. ft. The proposed open space areas, in relation to the improved areas on the lots, do not appear to result in a health or safety risk. By drawing a real building envelope on the proposed north lot, the applicant has shown that the lot split will create two buildable and livable lots with adequate Open Space to meet the spirit of the zoning code

Recommendation:

Section 16-6-60(b) of the Municipal Code states that, “Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship” and that, “Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.”

Density

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The proposed Density for the two lots would be consistent with other lots in the core of Windsor;
2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope on the north lot, the two lots would meet the spirit of the zoning code density regulation by creating two buildable and livable lots;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

> *Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards."*

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the proposed density of the two proposed lots, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall maintain a minimum lot size of 4,700 square feet on the south lot with the existing buildings to meet the minimum open space requirements of the Municipal Code. The applicant shall maintain a minimum lot size of 4,137 square feet on the north lot and meet the requirements and determination of the Open Space variance request.

<u>Open Space</u>

Regarding the open space variance request for the proposed north lot, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The proposed Open Space on the north lot would be consistent and proportional to other lots in the core of Windsor;

2. Based on the location of the existing property line on the west relevant to the location of the sidewalk along 2nd Street, and the proposed building envelope; there is adequate open space on the proposed north lot to meet the spirit of the zoning code open space regulation;
3. The proposed lot split and development is consistent with the Overall Land Use Goal and Policy #4 of the Town of Windsor Comprehensive Plan which states:

> *"Infill development of all types of land uses should be encouraged, to ensure more efficient use of infrastructure, strengthen existing neighborhood connections, preserve the economic viability of the Town Center, and meet all Town Development Standards."*

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the open space on the proposed north lot, as shown on the site plan survey, subject to the following conditions of approval.

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.

The applicant shall maintain an open space minimum of 3,000 square feet on the proposed south lot with the existing buildings and a minimum of 2,250 square feet on the proposed north lot.

<u>Setback</u>

Regarding the variance request for the setback along 2nd Street for the proposed north lot, staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. Based on the minimum setbacks and off sets as defined by Windsor Municipal Code Section 16-12-40, the proposed lots would meet all offset requirements;
2. The proposed Setback along 2nd Street for the new north lot would be consistent with other properties along 2nd Street, including the adjacent existing homes to the north and south;

3. Based on the location of the existing property line relevant to the location of the sidewalk; there is adequate distance between the proposed location of the residence to meet the spirit of the zoning code setback regulation;
4. Based on the proposed location of the attached garage, there is adequate distance between the west elevation of the garage and the back of the 2nd Street sidewalk to meet the spirit of the zoning code setback regulation, and not impede pedestrian movement.

Therefore, based upon the aforementioned findings of fact, staff recommends approval of the variance request for the 2nd Street building location setback, as shown on the site plan survey, subject to the following conditions of approval:

1. The applicant shall complete the Town's Minor Subdivision application within six (6) months of the Board of Adjustment approval of this variance request. The Minor Subdivision Plat shall show the proposed building envelope on the north lot to meet all setbacks and open space variance requests, and shall show all necessary easements for the crossing of Water and Sewer service lines serving the two new lots.
2. Concurrently with the Minor Subdivision application, the applicant shall apply for and obtain a Right-of-Way Encroachment Permit from the Town's Engineering Department to allow the Sewer and Water service lines serving the two new lots to be built in the Public Right-of-Way.
3. The applicant shall provide a minimum of a twenty (20) foot setback between the back of the 2nd Street sidewalk (east side) and the west elevation of the proposed detached garage. The applicant shall provide to the Town a survey, stamped by a CO State licensed professional land surveyor or professional engineer, that confirms that there is a minimum twenty (20) foot setback between the back of the 2nd street sidewalk (east side) and the west elevation of the proposed garage. The applicant shall provide said survey prior to issuance of building permits.

Dr Valdes moved to close the Public Hearing; Mr. McIntyre seconded the motion. Motion carried unanimously.

Dr. Valdes moved to approve the request for a variance from Section 16-12-30 of the Municipal Code to allow the minimum density on the two proposed lots to be less than the 6,000 square foot requirements, subject to staff's conditions of approval; Ms. Schuerman seconded the motion. Motion carried unanimously.

Ms. Schuerman moved to approve the request for a variance from Section 16-12-50 of the Municipal Code to allow the minimum open space on the proposed north lot to be less than the 3,000 square foot

minimum, and subject to staff's conditions of approval; Dr Valdes seconded the motion. Motion carried unanimously.

Ms. Schuerman moved to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow the proposed residence to be located five (5) feet from the 2nd Street property line and the proposed garage to be located no closer than ten (10) feet from the west property line subject to staff's conditions of approval; Mr. McIntyre seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

Communications from the Board Members

Mr. McIntyre asked if all signs in the town will need a variance with the current sign code and asked if it may be time to look into changes to the sign code.

Mr. Walker stated that town staff will look into this.

Mr. Horner asked if there was anything on the agenda for January.

Mr. Walker stated that there was nothing for January at this time.

Communications from staff

There were no communications from staff.

E. Adjourn

Upon a motion duly made by Mr. McIntyre, and seconded by Dr. Valdes, the meeting was adjourned at 8:40 p.m. Motion carried unanimously.

CERTIFICATION

Approved by the Board of Adjustment/Appeals this 27th day of February 2014.

Joy Liberty-Anglado

Permit Technician