



# Scio Planning Commission

Scio City Hall - 38957 NW 1<sup>st</sup> Avenue, Scio, Oregon

## **AGENDA**

April 29, 2020 (7:00 PM)

### **REVISED - ELECTRONIC MEETING**

The Scio Planning Commission will be meeting electronically and not hold a live meeting at the Scio City Hall due to the COVID-19 pandemic. The public may submit public comments on agenda items by email to [cityofscio@smt-net.com](mailto:cityofscio@smt-net.com) prior to 4:00 p.m. on April 29.

The public can join the meeting from a computer or other electronic device by logging onto <https://us02web.zoom.us/j/223915050> or dial in by phone US: 1.346.248.7799 Webinar ID: 223-915-050

*Chairman - Beau Buganski*

*Commissioner Richard Androes  
Commissioner Ron Loewen*

*Commissioner Katrina Clouse  
Commissioner John Whalen*

*Commissioner Ellie Ferguson  
Commissioner Nicole Zedwick*

## **7:00 P.M. REGULAR SESSION**

### **CALL TO ORDER:**

### **ROLL CALL:**

### **APPROVAL OF PLANNING COMMISSION MINUTES:** February 26, 2020 Minutes

### **CORRESPONDENCE:**

### **BUSINESS:**

1. Public Hearing: *PL2020-03 Reich* – Variance Section 3.040 – Street Building Setback

### **ADJOURNMENT:**

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### **NEXT SCHEDULED PLANNING COMMISSION MEETING(S)**

- Wednesday, May 27, 2020, 7:00 p.m. Scio City Hall
- Wednesday, June 24, 2020, 7:00 p.m. Scio City Hall
- Wednesday, July 29, 2020, 7:00 p.m. Scio City Hall



**SCIO PLANNING COMMISSION MEETING MINUTES**  
**WEDNESDAY, February 26, 2020**

**7:00 PM**

**CALL TO ORDER:** Planning Chairman Beau Buganski called the Scio Planning Commission to order at 7:02 p.m.

**COMMISSION MEMBERS PRESENT:** Commissioners Richard Androes, Katrina Clouse, Ellie Ferguson, and Nicole Zedwick. Ron Loewen asked to be excused, John Whalen was absent.

**STAFF PRESENT:** Dave Kinney – Planning Consultant and Cathy Martin – Administrative Assistant

**APPROVAL OF MINUTES:** The minutes of the January 29, 2019 meeting were reviewed.

*Commissioner Clouse moved, Commissioner Androes seconded, to approve the January 29, 2020 as presented. Motion passed 5/0.*

**CORRESPONDENCE:** None

**BUSINESS:**

**1. Public Hearing: PL2020-02 – Ferebee Variance Section 3.040 Building Street Side Setbacks – Presented by Dave Kinney, Planning Consultant –**

Chairman Buganski opened the public hearing on the Application of Sara & Terry Ferebee for a Variance to Scio Zoning Ordinance Section 3.040 Building Street-Side Setbacks, Application number PL2020-02. The planning commission members introduced themselves to the audience.

Buganski read the statement required under ORS 197.763(5). There were no questions or objections to the statement.

Buganski asked the planning commission members for declaration of Conflicts of Interest, Bias or Ex Parte Contact.

Planning Consultant, Dave Kinney presented the staff report (see attached). Kinney stated that the report does not include recommendation, however sample motions were given.

Buganski asked if the applicants had anything to add. They did not.

Buganski asked for proponents. There were none.

Kinney asked if anyone had any questions of the staff.

Clouse commented that sometimes having a layout, does not work.

Ferguson asked about locations of windows.

Buganski asked about the existing floor plan.

Ferebee stated that with the existing floorplan it is ideal to go toward street. They will have to put in new roof, as it will require a change to the roofline.

There were no further questions.

Kinney did not have anything further to add

Buganski closed the public hearing at 7:21 p.m.

***Commissioner Androes moved, Commissioner Clouse seconded, to adopt the findings of fact as prepared and to recommend approval of the application of Sarah and Terry Ferebee for a variance to street-side setback requirements for a building addition at 38621 SE Ash Street in Scio. Motion passed 5/0***

**2. Flood Ordinance Revisions – Presented by Dave Kinney, Planning Consultant -**

Mr. Kinney stated at previous meeting the commission members spent time going through the proposed revisions from the state on the new Oregon Model Code. Next step is for staff to contact DLCD representatives to have them review a couple of the proposed sections to make sure Scio's proposed language is acceptable.

Kinney shared with the commission that a land use planning consultant from Corvallis had contacted him regarding development of a parcel in the SW area of the city and that an application may be forthcoming.

Next proposed meeting is March 25, 2020, at 7:00 p.m. The meeting will only be held if there any applications or assignments from the city council which would require a meeting.

Meeting Adjourned at 7:30 p.m.

Cathy Martin

Administrative Assistant

**David W. Kinney**  
Community Development Consultant  
791 E. Hollister St.  
Stayton, OR 97383  
Office: (503) 769-2020 ♦ Fax (503) 769-4111 ♦ Cell: (503) 551-0899  
Email: dwkinney@wvi.com

**To:** Scio Planning Commission  
**From:** David W. Kinney, Planning Consultant for the City of Scio  
**Date:** April 22, 2020  
**Hearing Date:** April 29, 2020 @ 7:00 p.m.  
**File No.:** Scio File #: 2020-03  
**Application:** **Variance Section 3.040 – Street Building Setback**  
Location: 38636 SW Filbert St., Scio, OR  
Applicant: Jordan Reich  
Property Owner: Jordan Reich  
T10S R1W 18BD, Tax Lot 02300

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**Exhibits:**

A.	Site Plan	Attached as Exhibit “A”
B.	Aerial Photo	Figure 1 on page 3
C.	Application	in file
D.	Notices of Public Hearing	in file
E.	Proposed Building Plans	in file

## I. Background Information

**A. Applicant’s Proposal:**

The applicant, Jordan Reich, request a variance to the setback requirements of the Scio Zoning Ordinance, Section 3.040. The applicant proposes to construct a 26’ x 13’ garage/shop building next to his home at 38636 SW Filbert Street. The purpose of the new shop is to provide for storage and workshop. He requests that the required street side setback be reduced from 15’ to 10’ adjacent to SW 3rd Avenue.

The property is zoned Residential. All buildings are subject to density, setback and development standards in the R-1 zone. Under the Scio Zoning Ordinance Section 3.040.B, a structure in the R-1 zone requires a minimum 15’ setback from the side of the house to the street property line. A variance to the City’s zoning requirements must be approved for the addition to be located closer than 15’ to the property line.

The burden of proof is on the applicant to present the application to the City and to present information that shows the application meets the criteria for approval of a conditional use permit.

Figures 1, 2 and 3

**Proposed Setback Variance for New Shop Building  
38636 SW Filbert Street, Scio, Oregon**



*Figure 1 - Proposed Setback Variance for New Shop Building*



*Figure 2- 38636 SW Filbert St. (Front Yard)  
View is looking west from the SW 3<sup>rd</sup> St. and  
SW Filbert St. intersection.*



*Figure 3 – 38636 SW Filbert St. (Rear Yard)  
View is looking over the fence into the back yard.  
The new shop building will be located  
in the lawn area (foreground) just behind the fence.*





*Figure 4 – View west on SW 3<sup>rd</sup> St (to south side of the street)  
The new shop will be located behind the fenced area in the rear yard. A new driveway approach will be installed.*



*Figure 5 -- View from SW 3<sup>rd</sup> St (to north side of street).  
The new shop will be located across the street from this fence and the City of Scio Sewer Pump Station.*

**B. Existing Conditions:**

The home at 38636 SW Filbert Street is located on the corner SW 3rd Avenue and SW Filbert Street. The property is a 0.24-acre (10,450 sf) parcel. The existing house is a single-story dwelling built in 2017.

**C. Surrounding Uses:**

- EAST: Single family homes on the east side of SW Filbert Street.
- NORTH: Single family home at 38654 SW Filbert Street. The back-yard fence on SW 3rd Avenue and the City of Scio sewer pump station for the Thomas Creek Estates development are directly across the street from the applicant's back yard.
- WEST: 3.42-acre rural single-family home site outside the city limits. The applicant's property abuts the rear field of this site.
- SOUTH: Single-family home at 38630 SW Filbert Street.

**D. Utilities:** The property is currently served with city utilities.

**E. Streets:** SW 3rd Avenue and SW Filbert Street are local city streets.

**F. Agency Comments:** Agency comments were solicited from all utilities and the Scio Rural Fire Protection District. Any comments submitted prior to the meeting will be presented to the Planning Commission and will be included in the record.

**G. Public Comments:** The City sent notices of the public hearing to surrounding property owners. Any written testimony received prior to the public hearing and any oral testimony presented at the public hearing will be included in the record.

H. **Zoning Requirements:**

**3.210 Residential (R-1) Zone.** The existing home is an allowed use in the R-1 zone.

**3.210.C Setback Requirements.** The setback requirements for the main dwelling are those required for residential uses in the R-1 zone (Section 3.040):

**Table 1 – Setbacks for 38636 SW Filbert Street**

Setback Location	R-1 Zone Required Setbacks	Existing Setbacks @ 38636 SW Filbert
Front (SW Filbert)	20'	25'
Side (South)	5'	15'+
Rear (West)	5'	50'+/-
Street-Side (SW 3 <sup>rd</sup> )	15'	20' to house 10' proposed to shop

Findings: The existing home is an allowed use in the Residential (R-1) zone. The existing house complies with all setback requirements. The proposed shop will require a variance to be placed as shown on the applicant's site plan.

## **II. Variance Criteria**

Occasionally, a piece of property cannot be developed under the requirements of the zone in which it is located. Variances from lot size, setbacks, height restrictions, and other dimensional standards in this ordinance can allow the property owner to use the property as provided by this ordinance.

Article 9 – “Variances” sets forth the procedures and criteria for the review and decision on a variance request. The decision criteria in Section 9.050 are used by the Planning Commission when making a decision to either approve or deny a variance request.

**Section 9.050. Criteria for Approval or Denial of a Variance.** The decision to approve a variance shall be based upon a determination that the following criteria can be met:

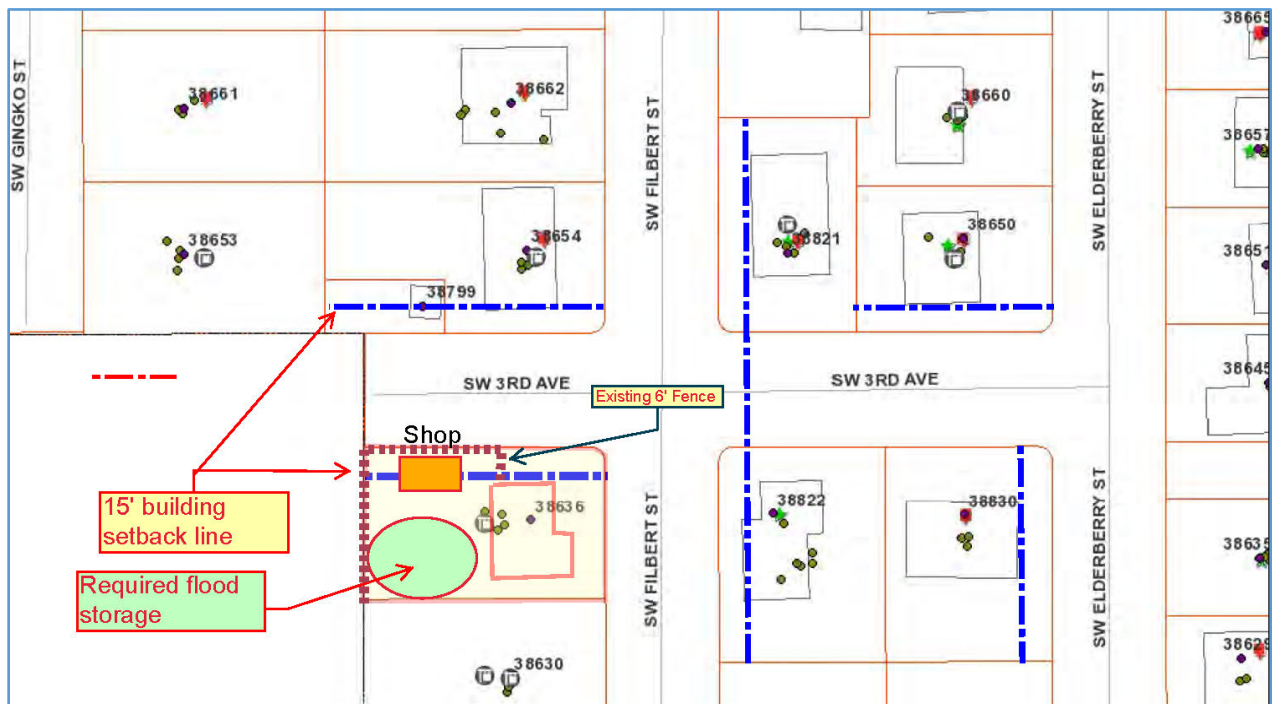
- A. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- C. The authorization of the variance shall not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.
- D. The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship.

The staff reviewed the application based on the listed criteria and makes the following findings and conclusions:

A. Exceptional or extraordinary circumstances apply to the property that do not apply general to other properties in the same zone or vicinity.

Findings: The existing single-family dwelling at 38636 SW Filbert Street complies with setback requirements. The variance proposed by the property owner will reduce the street-side setback from 15' to 10'. The applicant cannot construct the addition in the rear yard due to the city's requirement that the balance of the rear yard be used for flood storage (as part of the subdivision's balance cut & fill requirement), as shown on the following diagram. The applicant proposes to place the new building behind the existing 6' fence that is on the SW 3<sup>rd</sup> Avenue property line.

Figure 5  
**Location of Proposed Shop Building & 15' setback line**  
**38636 SW Filbert Street, Scio, Oregon**



The house across the street at 38650 SW Filbert Street has a 12'+/- setback from the 3<sup>rd</sup> St. property line and the city's sewer pump station directly across the street from the shop location has a <10' setback.

The applicant provided the following explanation:

*"This variance will allow us to comfortably fit a 26' x 13' shop within the raised section of the property without encroaching on the flood zone while leaving a comfortable amount of room for moving around the shop. This size is necessary to accommodate the purpose of the building."*

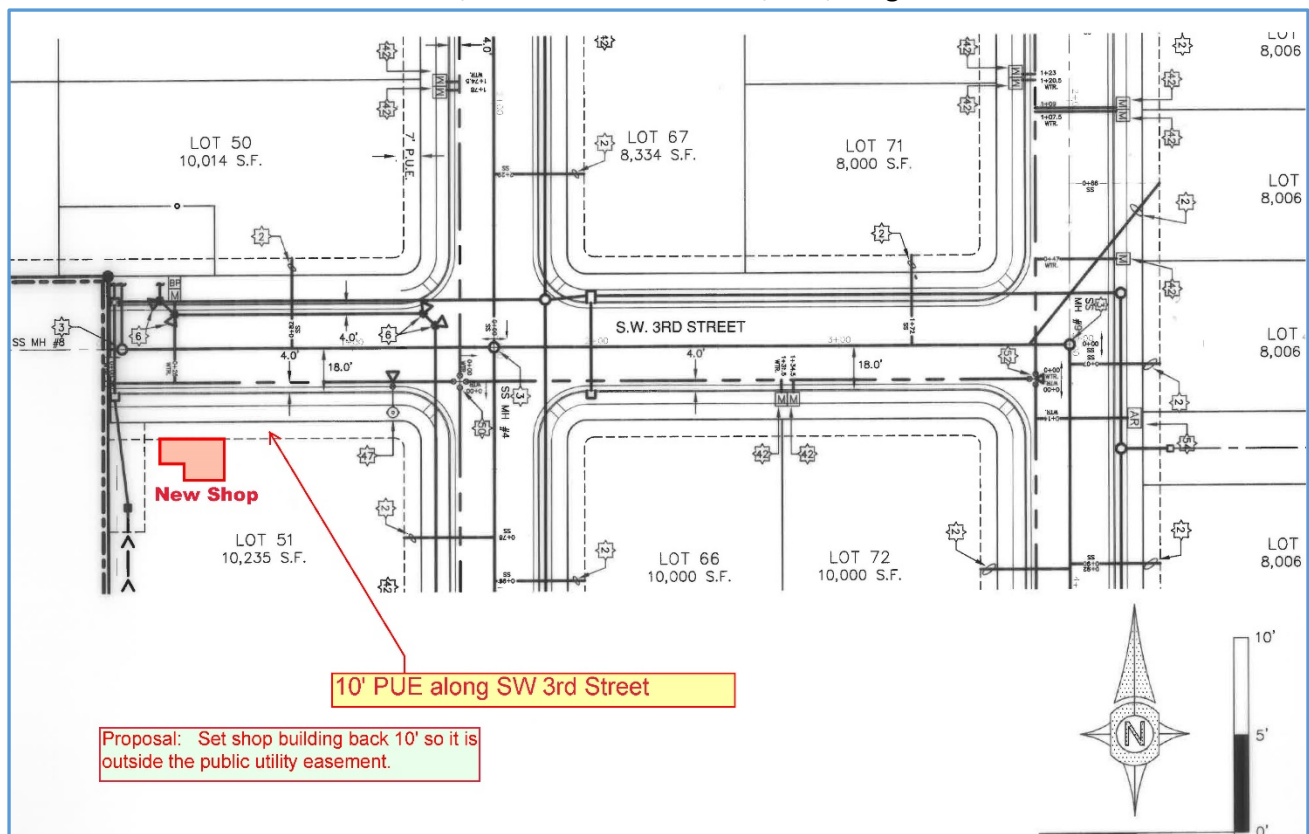


The staff finds the existing of the storm water/flood detention area limits the usable building space on the site and the only buildable area is at the north end of the back yard adjacent to SW 3<sup>rd</sup> Avenue.

There is a 10' public utility easement on the property next to SW 3<sup>rd</sup> Avenue. The City cannot approve a building encroachment over an existing PUE. In order to avoid the PUE, the applicant proposes to place the new shop building at the edge of an existing 10' PUE, as shown Figure 6.

The staff concludes the proposal complies with Criteria A.

Figure 6  
As-Built Utility Plans, Thomas Creek Estates Subdivision  
Lot 51, 38636 SW Filbert Street, Scio, Oregon



B. The variance is necessary for the preservation of a property right substantially the same as other property owners in the Residential zone or vicinity.

Findings: There are five nearby homes and the City sewer pump station that have street-side setbacks along SW 3rd Avenue, SW Filbert St. and SW Elderberry Street:

- |  |              |
|--|--------------|
| • 38799 SW 3 <sup>rd</sup> Avenue – Sewer Pump Station                           | 8' setback   |
| • 38650 SW Filbert Street – across SW 3 <sup>rd</sup> St. from applicant's home. | 12' setback  |
| • 38821 SW 3 <sup>rd</sup> Avenue  | 17+' setback |

- 38822 SW 3<sup>rd</sup> Avenue – across SW Filbert St. from applicant’s home. 15’ setback
- 38830 SW 3<sup>rd</sup> Avenue 15’ setback
- 38650 SW Elderberry 15+’ setback

The two structures across SW 3<sup>rd</sup> do not have a 15’ setback to SW 3<sup>rd</sup> Avenue. Granting of the variance will not affect the Reich’s “property rights” or the property rights of any other property owners in the R-1 zone or in the SW Filbert Street residential neighborhood.

The staff concludes the proposal complies with Criteria B.

C. *The authorization of the variance will not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the Residential zone or vicinity or to any development plan or policy of the City of Scio.*

Findings: The Residential zone allow for single-family homes and their accessory uses. The Reich property on SW Filbert Street is located in the Thomas Creek Estates residential neighborhood, with homes on all sides of their property.

The parcel to the west may be developed in the future when the site is annexed to the City of Scio. The property owner has no plans for development in the near future. When the property is annexed and developed, the property owner will need to provide a balance cut and fill for the development, including provision that the flood storage areas in the Thomas Creek Estates will continue to function correctly. The placement of an accessory building behind the applicant’s fence and close to the SW 3<sup>rd</sup> Street property line will not impact a future development or affect the developer’s ability to provide flood storage for the new residential development.

The City has notified affected private utilities to determine if the project will impact underground gas, electric or telecommunication facilities. The City’s Thomas Creek Estates as-builts do not show any public utilities will be affected by the project.

On April 5, 2020 the applicant provided the following information:

*“I spoke with both neighbors on either side of me. Neither neighbor has any issues with the addition of the shop or that it will be closer to the road than the current setback distance. The neighbor on 3rd Ave that would be most impacted by the change had no issues with it and offered his help as he has nothing to do over the next month or so. So, I think we are looking good for a neighborhood standpoint.”*

The staff concludes the proposed variance is consistent with the basic allowed use in the zone and will not be injurious to residential uses in the neighborhood. The proposal complies with Criteria C.

D. *The variance is the minimum variance to relieve the hardship.*

Findings: The applicant requests a variance to reduce the setback from 15’ to 10’ and build the 26’ x 13’ shop, driveway and driveway approach as shown in Exhibit “B”.

The City’s zoning code allows a home and accessory buildings to occupy 40% of the 10,450 square foot site = 4,180 square feet.

Existing home -	2,600 sf
Proposed Shop	283 sf
Total Lot Coverage	2,883 sf

The proposed buildings will comply with the lot coverage requirements in the R-1 Residential zone. As discussed under Criteria A, the applicant is required to preserve the flood storage area in the rear yard. In order to build a shop that complies with setback requirements from SW 3<sup>rd</sup> Avenue would be to turn the shop so the garage faces north. Doing so would encroach into the flood storage area, which is not permitted.

The property owner has located the proposed shop so it avoids the flood storage area and the 10' PUE on the north edge of the site. The new shop does not have a garage door entry; it only has a man-door to the back yard/garden area. The applicant proposes to construct a new driveway entry from SW 3<sup>rd</sup> Avenue, which is permitted on a corner lot. This will enable the property owner to pull in vehicles and a boat trailer to be maneuvered into a storage space between the fence and the new shop.

The staff concludes the proposal complies with Criteria D.

### **Conclusion:**

The City's Planning Consultant finds the proposal complies with Criteria A to D in Section 9.050.

### **Conditions of Approval**

The Planning Commission may impose conditions of approval when granting a variance. If a setback variance is granted to Jordan Reich, the following conditions of approval are recommended.

1. Expiration Date. The variance approval will expire on May 1, 2021 if a building permit for the shop building has not been filed with the City of Scio.
2. Architectural Design. The siding and roof materials on the shop building shall be better than or equal to the materials on the existing home. The color of the siding on the shop building shall match the colors on the home.
3. Public Works Requirements. If the applicant constructs a driveway approach onto SW 3<sup>rd</sup> Avenue, the applicant will obtain a permit from the City of Scio for construction of the driveway approach. The driveway approach shall be no more than 22' wide and shall be constructed in compliance with the City of Scio Public Works Design Standards and Construction Specifications.

## IV. Recommendations and Decision

**A. Planning Commission Options:** The Planning Commission may either:

1. Continue the Public Hearing until (date & time).
2. Close the Public Hearing but hold the Written Record Open until (date and time)
3. Close the Public Hearing and Decide to Approve/Deny the Conditional Use Permit

**Approval:** Approve File 2020-03, a setback variance for construction of a shop building at 38636 SW Filbert Street in Scio if it finds the proposal complies with the applicable criteria.

**Denial:** Deny the application if it finds the application does not comply with all of the applicable comprehensive plan policies.

**B. Recommendation:** The Planning Consultant recommends approval of the variance, with the requirement that the variance approval with expire if a building permit is not applied for by May 1, 2021.

**C. Motions:**

**Approval:** Motion to adopt the findings of fact as prepared and to recommend approval of the application of Jordan Reich for a variance to allow a 10' street-side setback for a 26' x 13' shop building at 38636 SW Filbert Street in Scio subject to compliance with the recommended conditions of approval.

**Denial:** Motion to recommend denial of the application of Jordan Reich, Scio, File No. 2020-03, because the applicant failed to demonstrate that the proposal fully complies with the variance Criteria A.

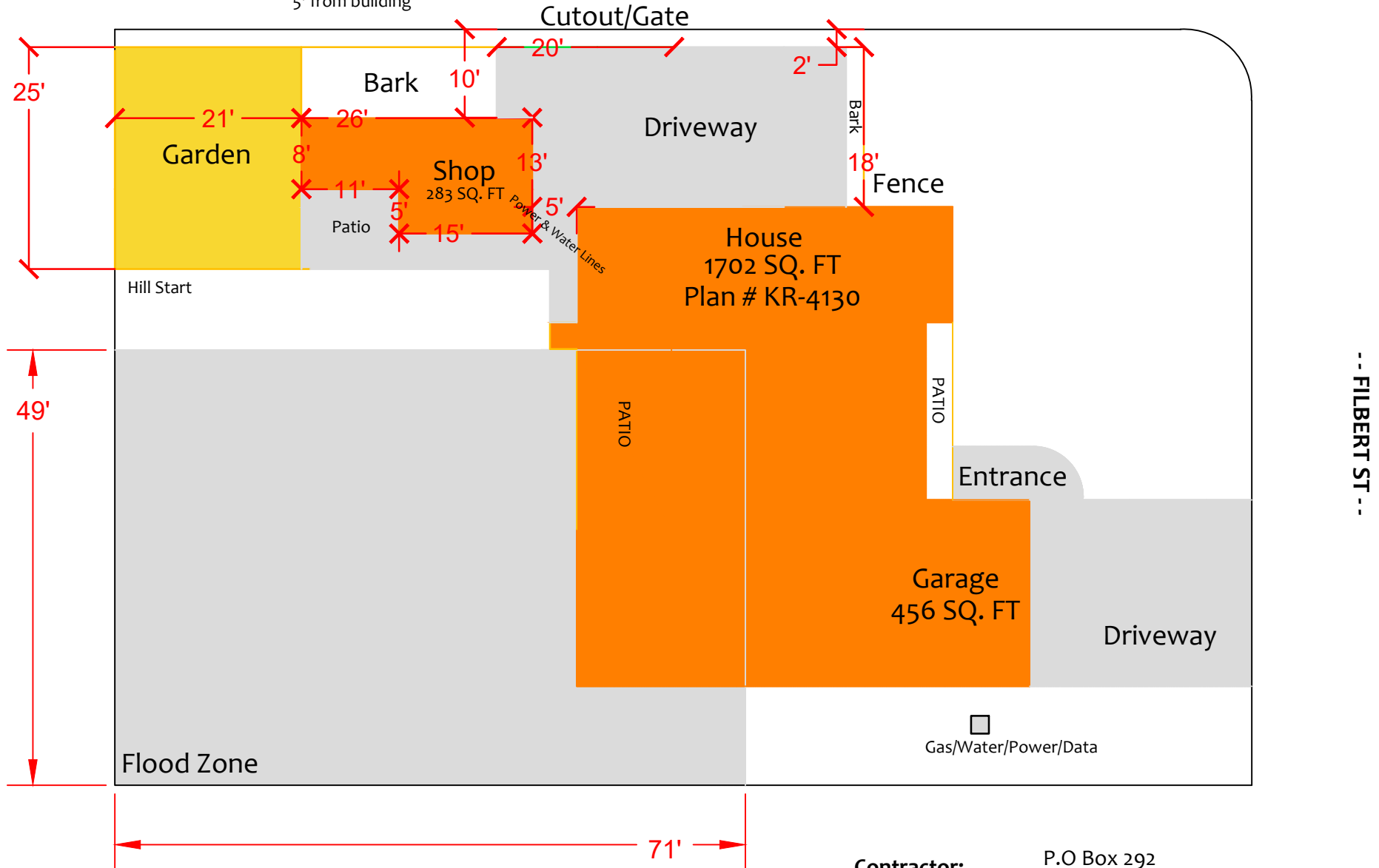
**D. Appeal:**

The Planning Commission's decision may be appealed to the Scio City Council. An appeal must be filed within 15 days of the date the Notice of Decision is mailed by the City to the applicant. Any appeal shall comply with requirements in Article 12, Section 12.040.

**Site Address:**  
38636 SW Filbert St  
Scio, OR 97374  
10S-01W-18-BD-02300  
Lot # 51

**3rd Ave Setbacks:**  
15' City of Scio  
10' PUE  
**House Setbacks:**  
5' from building

**NORTH**



**All measurements taken  
from property pins**

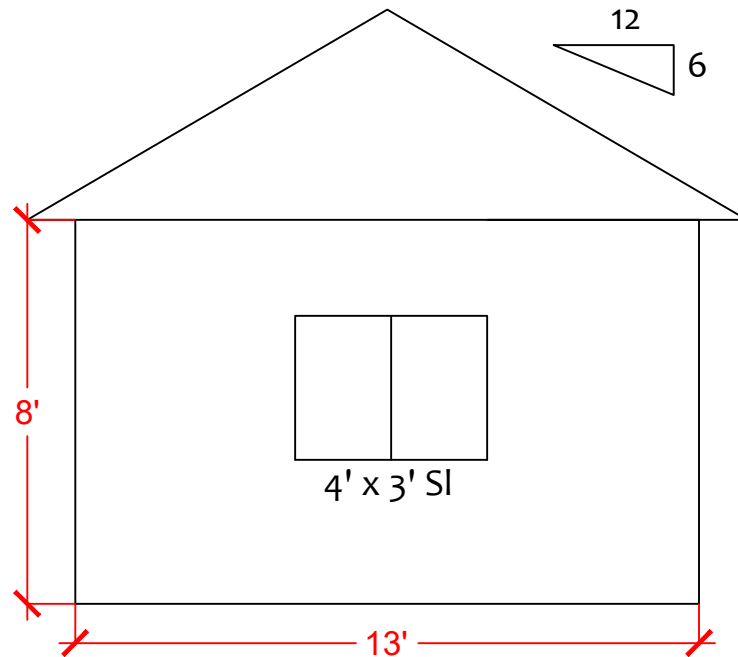
**Contractor:**  
KT Reich Inc  
Kerry Reich  
CCB # 137331

P.O Box 292  
Jacksonville, OR 97530  
541-899-4497  
541-890-0253  
kerry@ktreich.com

**Scale:**  
1/16" = 1'-0"



--- North



East View

$\frac{1}{4}'' = 1'$

**KT Reich Inc**

541-899-4497

541-890-0253

**Property Owner:**

Jordan Reich

541-531-6393

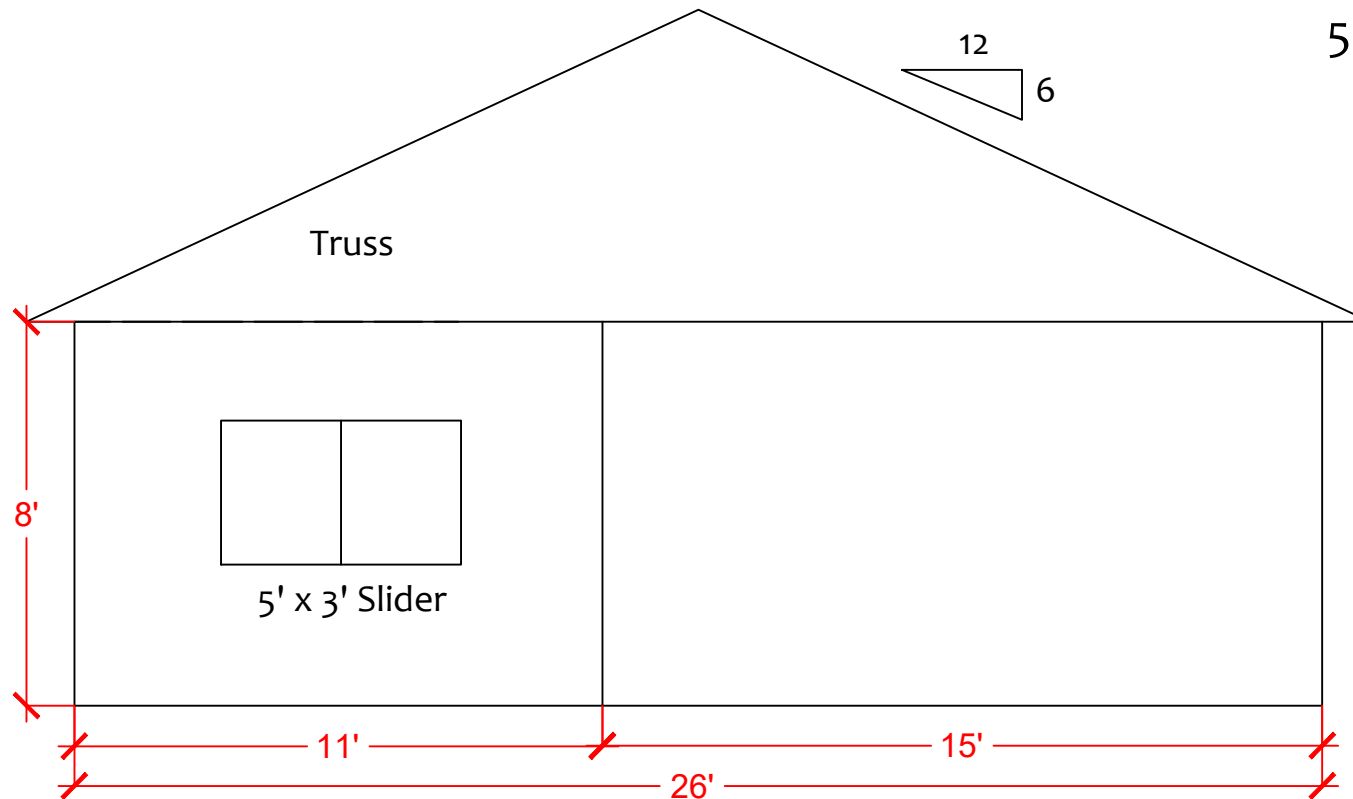
Truss roof. North side has no windows. Door on South Side. T-1-11 on all sides.

North



**KT Reich Inc**  
541-899-4497  
541-890-0253

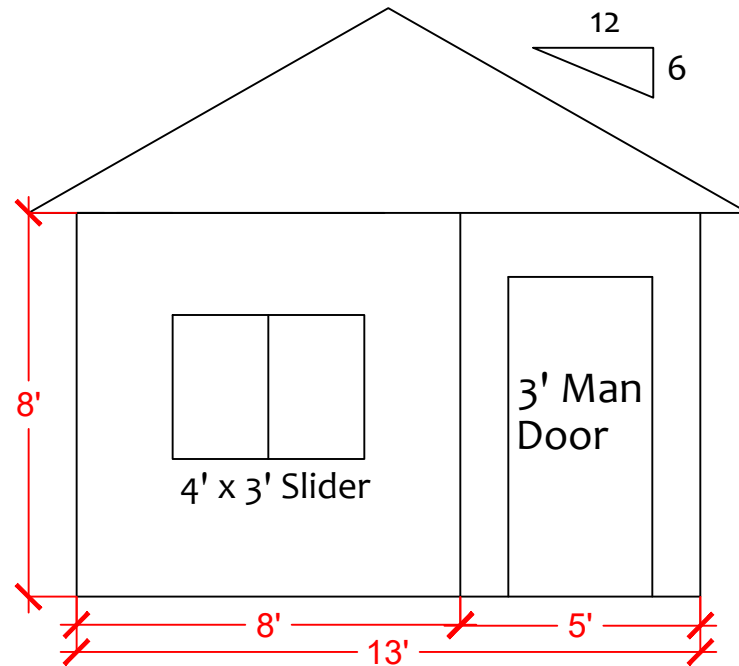
**Property Owner:**  
Jordan Reich  
541-531-6393



South View

**KT Reich Inc**  
541-899-4497  
541-890-0253

North ----



West View

$\frac{1}{4}" = 1'$

**Property Owner:**  
Jordan Reich  
541-531-6393

Gutter drain to road

**KT Reich Inc**

541-899-4497

541-890-0253

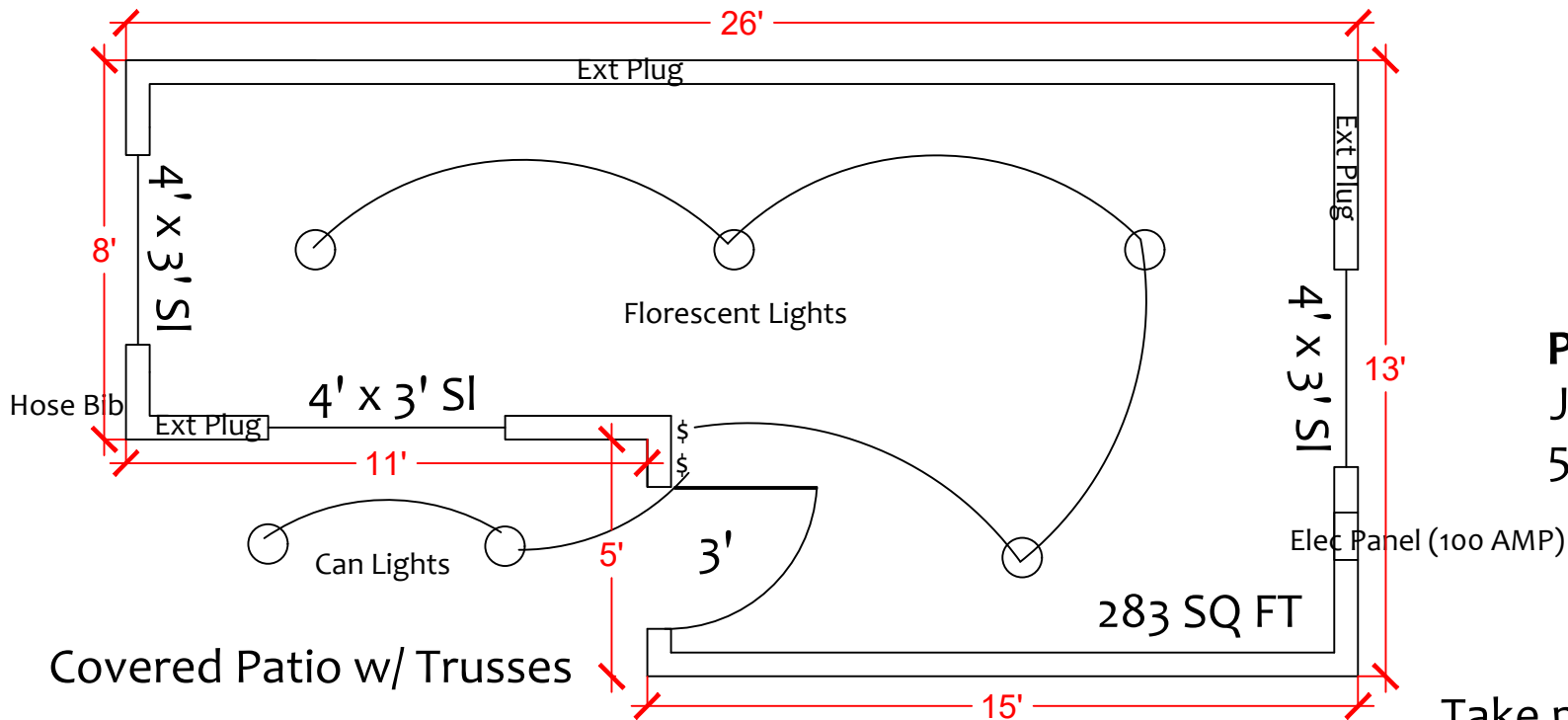
North  
|

**Property Owner:**

Jordan Reich

541-531-6393

Take power/water  
out of NW corner of  
the house



Covered Patio w/ Trusses

Plan View

1/4" = 1'

B4. Map/Panel Number	B5. Suffix	B6. FIRM Index Date	B7. FIRM Panel Effective/ Revised Date	B8. Flood Zone(s)	B9. Base Flood Elevation(s) (Zone AO, use base flood depth)
41043C0253	G	September 29, 2010	September 29, 2010	AE	311.2