

**NOTICE OF TYPE II DECISION  
ADJUSTMENT (VAR) 2009-00017  
YOUNG'S FUNERAL HOME VARIANCE**



120 DAYS = 2/12/2010

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** YOUNG'S FUNERAL HOME VARIANCE  
**CASE NO.:** **Variance (VAR)** **VAR2009-00017**  
Minor Modification (MMD) MMD2009-00029

**PROPOSAL:** The applicant is requesting a Minor Modification to re-locate and widen an existing access along SW Warner Avenue. A Variance to the access spacing standards of Chapter 18.705 is requested in order to reconstruct the access within the 150-foot influence area of an arterial street intersection. The proposed access is 94 feet from the intersection of Warner Avenue and Pacific Highway.

**OWNER:** Alderwoods (Oregon), Inc. **APPLICANT:** Harris McMonagle Associates, Inc.  
1929 Allen Pkwy. Steve Bloomquist  
P.O. Box 130548 8740 SW Scoffins St.  
Houston, TX 77219 Tigard, OR 97223

**LOCATION:** 11831 SW Pacific Highway; Washington County Tax Map 1S135DD, Tax Lots 500 & 600.

**ZONE:** C-G: General Commercial District. The C-G zoning district is designed to accommodate a full range of retail, office and civic uses with a City-wide and even regional trade area. Except where non-conforming, residential uses are limited to single-family residences which are located on the same site as a permitted use. A wide range of uses, including but not limited to adult entertainment, automotive equipment repair and storage, mini-warehouses, utilities, heliports, medical centers, major event entertainment, and gasoline stations, are permitted conditionally.

**APPLICABLE  
REVIEW**

**CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.390, 18.520, 18.705, and 18.795.

**SECTION II. DECISION**

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the above request for Variance and Minor Modification subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section IV.

## CONDITIONS OF APPROVAL

### THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the Design Review Engineer, Gus Duenas 503-639-4171, EXT 2470. The cover letter shall clearly identify where in the submittal the required information is found:

1. A Public Facility Improvement (PFI) permit is required for project work in the public right-of-way. Six (6) detailed public improvement plans shall be submitted for review to the Development Engineer. NOTE: these plans should only include sheets relevant to work within the public right-of-way. Public Facility Improvement permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page ([www.tigard-or.gov](http://www.tigard-or.gov)).
2. The PFI permit plan submittal shall include the exact legal name, address, and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Development Engineer will delay processing of project documents.
3. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during both the public and private improvement construction phases.
4. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to Clean Water Services Design and Construction Standards (Resolution and Order No. 07-20, Chapter 2).

### THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO FINAL APPROVAL OF THE SITE PERMIT IMPROVEMENTS:

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the Design Review Engineer, Gus Duenas 503-639-4171, EXT 2470. The cover letter shall clearly identify where in the submittal the required information is found:

5. Prior to final approval of the improvements constructed under the permit, the applicant shall complete the required improvements within the public right-of-way.
6. Provide final sight distance certification for the access from a professional engineer.

## SECTION III. BACKGROUND INFORMATION

### Vicinity & Site Information:

The .96 acre site consists of two parcels (tax lots 500 and 600) and is located west of Highway 217 at the corner of SW Warner Avenue and Pacific Highway. The site is zoned C-G (General Commercial), as are all surrounding properties. The site is developed with an 8,000 square foot building and attached drive through garage. Young's Funeral Home currently operates from the facility and is classified as a Personal Services use by the Tigard Development Code. Other sites in the area are developed with retail facilities, a bank, single and multi-family housing, and self-storage.

### Site History:

A search of City records shows a design approval for exterior remodeling of the funeral home was approved in 1976 (SDR21-76). A Minor Modification to construct a 1,740 square foot office addition was approved in 1994. Aerial photography shows that the addition was never constructed. No other land use cases were found affecting this parcel.

Proposal Description:

A recent Oregon Department of Transportation (ODOT) pedestrian improvement project along Pacific Highway resulted in the closure of three driveway entrances to the site. There are two remaining access points along Warner Avenue. The applicant states that both were designed to allow cars for exit only. The northernmost drive allows hearses to exit from the garage; while the southernmost access is only 18 feet wide.

The applicant is requesting to widen the southernmost driveway and relocate it to align with the parking lot drive aisle. Pacific Highway is classified as an arterial street. The minimum driveway setback from an arterial street intersection is 150 feet. The proposed location of the driveway is 94 feet from the intersection; therefore the applicant is requesting a variance to these standards.

**SECTION IV. COMMENTS FROM PROPERTY OWNERS WITHIN 500 FEET**

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, staff has posted a notice at the driveway to the site, visible from the street. Staff received no comments or letters from adjacent property owners.

**SECTION V. SUMMARY OF APPLICABLE REVIEW CRITERIA**

- A. Variances and Adjustments  
18.370
- B. Zoning Districts  
18.520 Commercial Zoning Districts
- C. Additional Applicable Development Code Standards  
18.360 (Site Development Review)  
18.705 (Access Egress and Circulation)  
18.795 (Visual Clearance)
- D. Impact Study  
18.390

**SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS**

**A. VARIANCES AND ADJUSTMENTS**

Section 18.370.010 provides standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.

Section 18.370.010 (C)(2) states that the Director shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:

- a. The proposed variance will not be materially detrimental to the purposes of this title, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;
- b. There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- d. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected any more than would occur if the development were developed as specified in the title; and
- e. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.



## **C. ADDITIONAL APPLICABLE DEVELOPMENT CODE STANDARDS**

### **Site Development Review (18.360)**

**Section 18.360.060 of the Tigard Development Code Site Development Review chapter, states; “any modification which is not within the description of a major modification as provided in section 18.360.050 shall be considered a minor modification.”**

The applicant is proposing to widen the southernmost driveway on Warner Avenue and relocate that same driveway closer to the Pacific Highway intersection. In addition, the applicant will create a landscape area within one of the closed driveways along Pacific Highway. Per a phone conversation with the applicant’s representative, there are currently users trying to exit the site via the closed driveway. The new landscape area will prevent this from happening.

**Section 18.360.050 states that the Director shall determine that a major modification(s) has resulted if one (1) or more of the changes listed below have been proposed:**

**1. An increase in dwelling unit density or lot coverage for residential development.**

The proposal does not involve residential property. Therefore, this standard does not apply.

**2. A change in the ratio or number of different types of dwelling units.**

This criterion is not applicable, as this request does not involve a residential development.

**3. A change that requires additional on-site parking in accordance with Chapter 18.765.**

The applicant has not proposed expanding the existing structure. There are 26 spaces on-site with an additional seven in the right-of-way along Hwy 217. No changes are proposed to the number or configuration of parking spaces. This standard has been met.

**4. A change in the type of commercial or industrial structures as defined by the Uniform Building Code.**

No change in the structural type of the buildings is proposed. This criterion is not applicable.

**5. An increase in the height of the building(s) by more than 20 percent.**

The applicant has not proposed any changes to the building. This criterion has been satisfied.

**6. A change in the type and location of accessways and parking areas where off-site traffic would be affected.**

Based on the submitted traffic report, the proposed relocation of the accessway will not adversely affect off-site traffic. This criterion is satisfied.

**7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed 100 vehicles per day.**

The proposal to modify the existing driveway will not increase traffic to and from the site. No changes are proposed to the existing use. This criterion is satisfied.

**8. An increase in the floor areas proposed for a non-residential use by more than ten percent excluding expansions under 5,000 square feet.**

No building expansions have been proposed. This standard is not applicable.

**9. A reduction in the area reserved for common open space and/or usable open space that reduces the open space area below the minimum required by the code or reduces the open space areas by more than ten percent.**

There are no areas reserved for common open space within this development. This standard does not apply.

10. **A reduction of project amenities (recreational facilities, screening; and/or, landscaping provisions) below the minimum established by the code or by more than ten percent where specified in the site plan.**

A reduction of project amenities is not proposed. The applicant will install additional landscaping within one of the closed driveway locations along Pacific Highway. This criterion is satisfied.

11. **A modification to the conditions imposed at the time of Site Development Review approval that is not the subject of criteria (B). 1 through 10 above this subsection.**

Staff has reviewed the previous Site Development Review (SDR21-76). This proposal does not modify or adversely affect any previously imposed conditions.

**FINDING:** The applicant has met the applicable minor modification criteria.

### **Access, Egress and Circulation (18.705):**

#### **Access plan:**

No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.

The applicant has provided a site plan showing access from SW Warner Avenue. Therefore, this standard has been satisfied.

#### **Joint access:**

Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and copies of the deeds, easements, leases or contracts are placed on permanent file with the City.

Joint access is not proposed with surrounding development. This standard is not applicable.

#### **Public street access:**

All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.

The proposed building will be accessible from SW Warner Avenue; a public street. Therefore, this criterion has been satisfied.

#### **Curbs cuts:**

Curbs cuts shall be in accordance with Section 18.810.030N: Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in this chapter and Section 15.04.080: Concrete curbs and driveway approaches are required; except where no sidewalk is planned, an asphalt approach may be constructed with City Engineer approval and Asphalt and concrete driveway approaches to the property line shall be built to City configuration standards.

#### **Walkways:**

On-site pedestrian walkways shall comply with the following standards: Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

No changes affecting pedestrian circulation are proposed.

#### **Access Management (Section 18.705.030.H)**

**Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.**

The applicant has submitted a preliminary sight distance certification stamped by a professional engineer stating that the proposed access point to the funeral home conforms to the sight distance requirements as stated in 18.705.030.H.1.

**Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.**

Neither the existing nor the proposed driveway locations meet the minimum City of Tigard setback requirements from an arterial; therefore the applicant has requested a variance to allow the proposed driveway to be located within the influence area of the Pacific Highway/Warner Avenue intersection. The proposed driveway is located 14 feet closer to Pacific Highway (measured from the centerline of the driveway) than the existing driveway. The applicant has provided a traffic analysis examining both the existing and proposed Warner Avenue access to the funeral home. Based on the traffic analysis with revisions as requested by City staff, the proposed driveway will be wide enough to provide efficient two-way access to the site, should improve traffic circulation within the site, and does not negatively impact traffic flow on Pacific Highway at its intersection with Warner Avenue. In addition, the traffic analysis report provides a letter from the ODOT Access Management Engineer stating that the traffic flow for vehicles exiting the highway to Warner Avenue will be improved by the proposed driveway location, given the existing building orientation on the site.

**Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.**

No new streets are proposed.

#### **Minimum Access Requirements for Commercial and Industrial Use:**

**Section 18.705.030.I provides the minimum access requirements for commercial and industrial uses: Table 18.705.3 indicates that the required access width for developments with 0-99 parking spaces is one 30-foot accesses with 24 feet of pavement. Vehicular access shall be provided to commercial or industrial uses, and shall be located to within 50 feet of the primary ground floor entrances; additional requirements for truck traffic may be placed as conditions of site development review.**

One access point is required for this project, which has 26 existing, on-site parking spaces. One 24-foot paved access drive is provided to Warner Avenue. Vehicular access ways are within 20 feet of this entrance; therefore this standard has been satisfied.

FINDING: Based on the analysis above, the access egress and circulation requirements have been met with the exception 18.705.030.H.2 for which the applicant has requested a variance.

**Visual Clearance Areas (18.795):**

Chapter 18.795 requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height (8) (trees may be placed within this area provided that all branches below eight (8) feet are removed). A visual clearance area is the triangular area formed by measuring a 30-foot distance along the street right-of-way and the driveway, and then connecting these two (2), 30-foot distance points with a straight line.

Based on the scaled site plan provided by the applicant, the visual clearance requirements are met.

**D. IMPACT STUDY**

Section 18.390.040.B.2.e states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

The proposed variance to the access/egress standards and site modifications will not affect water, sanitary and storm sewers, noise, or parks. A new driveway approach and curb cut are proposed. The proposed relocation of an existing driveway is not anticipated to have an impact on the amount of traffic entering and leaving the site. No adverse impacts to the transportation system are expected from the new driveway location based upon the Traffic Engineer's analysis.

**SECTION VI. OTHER STAFF COMMENTS**

The City Arborist and Tigard Police have reviewed the proposal and has no objections.

The application was also sent to the Community Development - Building Division, Public Works Department, but no comments were received.

**SECTION VII. AGENCY COMMENTS**

Tualatin Valley Fire and Rescue reviewed the proposal but had no comments or conditions insofar as fire apparatus access and firefighting water supplies are concerned.

Oregon Department of Transportation was sent a copy of the proposal, but no comments were received.

**SECTION VIII. PROCEDURE AND APPEAL INFORMATION**

Notice:

Notice was posted at City Hall and mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

**Final Decision:**

**THIS DECISION IS FINAL ON NOVEMBER 25, 2009 AND BECOMES EFFECTIVE ON DECEMBER 12, 2009 UNLESS AN APPEAL IS FILED.**

Appeal:


The decision of the Director (Type II Procedure) or Review Authority (Type II Administrative Appeal or Type III Procedure) is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. Of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

**THE DEADLINE FOR FILING AN APPEAL IS AT 5:00 PM ON DECEMBER 11, 2009.**

Questions:

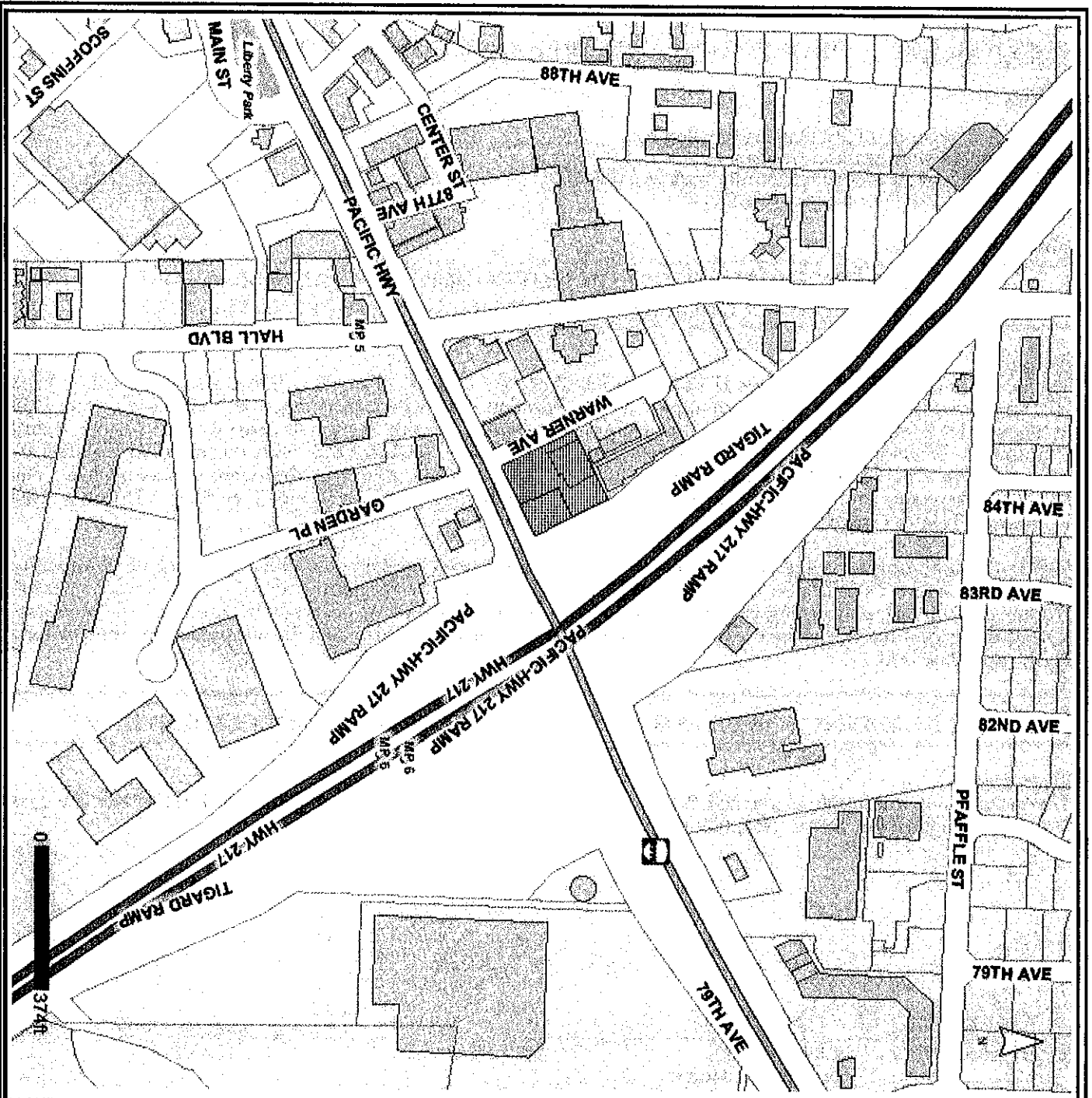
If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.

  
 PREPARED BY: Cheryl Caines  
 Associate Planner

November 25, 2009  
 DATE

  
 APPROVED BY: Richard H. Bowersdorff  
 Planning Manager

November 25, 2009  
 DATE

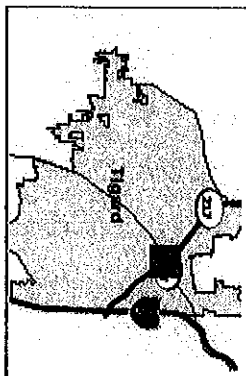


**VICINITY MAP**

VAR2009-00017  
 MMD2009-00029

**YOUNG'S FUNERAL HOME  
 VARIANCE**

 Subject Site



Information on this map is for general location only and should be verified with the Development Services Division.

Scale 1:4,499 - 1 in = 375 ft

Map printed at 28-Oct-09 01:36 PM

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