

Agenda
Shady Cove Planning Commission Public Hearing
January 25, 2024
6:00 PM

<https://zoom.us/j/93365861409?pwd=dUh6K25XRGw2RUUpnaEhTWIE5Y1VFdz09>

Meeting ID: 933 6586 1409

Passcode: 533976

One tap mobile

+16694449171,,93365861409#,,,,*533976# US

+16699006833,,93365861409#,,,,*533976# US (San Jose)

I. Call to Order

A. Roll call.

B. Announcements by Presiding Officer.

1. This meeting is being digitally recorded.
2. The next regularly scheduled meeting & Public Hearing of the Planning Commission will be February 8, 2024, at 6:00 PM both in Council Chambers and via Zoom.
3. The meeting date is subject to change.

II. Public Hearing

A) Public Hearing to Consider a Variance located at 112 Orchard Lane.

Open Public Hearing.

A Public Hearing to accept public testimony and consider the request for a Variance to install an 8-foot privacy fence along a portion of the property line. The property is located at 112 Orchard Lane, Shady Cove, Oregon. Assessor's Map and Tax Lot: 34-1W-16DC 1716. Zoning is Low Density Residential (R-1-20).

Applicant/Owner: Thomas/Jane Ellis Family Trust

File Number: VAR 23-02

1. Read Public Hearing Opening Statement.
2. If you would like to speak before the Commission, please sign sheet on the back table or via Zoom raise your hand.
3. Jurisdiction Question.
4. Conflict of Interest.
5. Ex Parté Contact.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

6. Site Visit.
7. Staff Comments. (Fairfield)
8. Applicants' Testimony/Proponents Testimony/Commission Questions
9. Opponents' Testimony/Commission Questions.
10. Rebuttal.
11. Final Staff Comments.
12. Close/Continue Hearing.
13. Deliberations/Discussion/Decision

III. Old Business

None

IV. New Business

- A. Discussion Item – Review Section 90.02 Nuisances and Offenses

V. Department Reports

- A. Planning Technician Report

VI. Public Comment

VII. Commissioner Comments

VIII. Adjournment



**CITY OF SHADY COVE PLANNING COMMISSION PACKET
PLANNING FILE NO. VAR 23-02
REQUEST FOR A VARIANCE
PROPERTY LOCATED AT 112 ORCHARD LANE, SHADY COVE, OREGON**

PUBLIC HEARING: THURSDAY JANUARY 25, 2024, 6:00 P.M.

	INDEX	PAGE #
	Staff Report	4 – 8
	Application	9 - 14
	Request for Comments & Certificate of Mailing	15 – 18
	Notice of Public Hearing	19
	Comments returned	None



**City of Shady Cove
Type III Staff Report
Variance (Class C)**

Date: January 18, 2024

Applicant: Thomas/Jane Ellis Family Trust
Address: 112 Orchard Lane
Assessor's Map: 34-1W-16DC Tax Lot 1716
Planning File: VAR 23-02

Planning Commission Public Hearing Date: January 25, 2024

1.0 PROPOSAL

Request for a Variance to install an 8-foot privacy fence along a portion of the property line.

1.1 Attachments

Staff Report Map

2.0 AUTHORITY

Variances (Class C) are processed as a Type III procedure.

Per § 154.419 (D)(1) of the Shady Cove Code of Ordinances, a Class C Variance shall be processed using a Type III procedure. The Type III process is described in §154.379. Based upon the criteria and standards, the facts contained within the record, the evidence submitted and the testimony presented, the Planning Commission shall approve, approve with conditions, or deny the requested application for a Variance, or they may grant a continuance of the public hearing to a date and time certain.

A Class C Variance shall meet all of the approval criteria in § 154.419 (D)(2).

3.0 PROCEDURE and TIMELINE

- 3.1 **Submittal:** The applicant submitted their application on 12/1/2023, and it was deemed complete by city staff on 12/29/2023.
- 3.2 **Notice:** Adhering to § 154.379, on 1/5/2024 the property owners, neighbors within 200 feet, relevant agencies, and other invested stakeholders were mailed notice of this application and public hearing.
- 3.3 **Hearing:** The public hearing will be held on 1/25/2024, which is at least twenty (20) days after the mailed notice, as required by § 154.379 (C)(1)(a). On 1/10/2024, public notice was published in the *Upper Rogue Independent*.
- 3.4 **Appeal:** A Type III decision is made by the Planning Commission, and therefore may be appealed to the City Council, no later than 10 calendar days after the decision has been made. Appeals shall be processed in accordance with §154.455 through §154.462

4.0 PROPERTY CHARACTERISTICS

- 4.1 **Access:** From Orchard Lane
- 4.2 **Zoning:** Low Density Residential (R-1-20)
- 4.3 **Size:** 0.60 acres
- 4.4 **Current Land Use:** Residential
- 4.5 **Neighboring Land Uses:** Residential

5.0 CONTEXT FINDINGS

None.

6.0 CRITERIA FOR APPROVAL

Per § 154.419 (D)(2), in determining whether a Variance shall be approved, the Planning Commission shall find that all of the following criteria are met, can be met through specific conditions of approval, or are not applicable:

- 6.1** *The proposed variance will not be materially detrimental to the purposes of this chapter, to any other applicable policies and standards and to other properties in the same land use district or vicinity.*

Staff Response: Satisfied

Staff does not anticipate any adverse effects to the intents of the Zoning Ordinance or other applicable policies and standards.

- 6.2** *A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands or similar circumstances related to the property over which the applicant has no control and which are not applicable to other properties in the vicinity.*

Staff Response: Satisfied

Applicant wishes to construct a pool in the backyard, but wants to have more privacy in order to use the pool comfortably. Per their application, the neighbor's property is higher in elevation and the ground slopes downward to a drainage stream bed. The topography is creating a hardship to their reasonable use of the property.

- 6.3** *The use proposed will be same as permitted under the applicable zoning district and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.*

Staff Response: Satisfied

Fences are an allowed use in all zones.

- 6.4** *Existing physical and natural systems, such as, but not limited to, traffic, drainage, natural resources and parks will not be adversely affected by any more than would occur if the development occurred as specified by city standards.*

Staff Response: Satisfied

Staff does not anticipate any adverse effects to the systems listed above.

6.5 *The hardship is not self-imposed.*

Staff Response: Satisfied

6.6 *The variance requested is the minimum variance, which would alleviate the hardship.*

Staff Response: Satisfied

Applicant proposes the taller fence only along a portion of the northwest property line, where the topography is creating the hardship. The remaining portions of the fence would remain 6 feet tall, in compliance with the Municipal Code.

7.0 TESTIMONY

No comments were received before this staff report was submitted.
Comments can be submitted up to and during the public hearing.

8.0 CONCLUSION

Staff recommends **approval with conditions**.

9.0 CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval.

1. The Applicant shall apply for a fence permit when ready. Approval of this variance is not, in and of itself, a fence permit.
2. A fence over seven (7) feet tall requires a building permit. The Applicant shall submit structural plans and obtain the permit from Jackson County Development Services before construction.

Respectfully submitted on January 18, 2024,



Rowan Fairfield, Contract City Planner

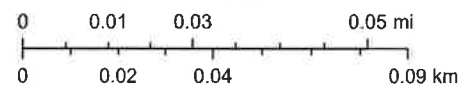
VAR 23-02 – Staff Report Map



1/18/2024, 1:33:03 PM

1:2,257

- World Hillshade
- Tax Lots
- Urban Growth Boundary
- City Limits
- County Boundary



Esri Community Maps Contributors, County of Jackson, OR, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS,

Jackson County - Public User

Data within this application may contain inaccuracies. Maps produced are not intended for legal purposes and do not substitute for a professional land survey. For more information, see ORS 8

CITY OF SHADY COVE
CLASS C
VARIANCE APPLICATION
SCMC §§154.415-154.420

APPLICATION NO. VAR 23-02 REC'D BY: DJermain DATE: 12-1-23

FEE: Class C \$ 500.00

AMOUNT PAID: \$500.00

RECEIPT NO: 27378

PUBLIC NOTICE MAILING FEE: \$ 75.00

PROPERTY OWNERS: Thomas / Jane Ellis Family Trust

PROPERTY STREET ADDRESS: 112 Orchard Ln, Shady Cove

MAP AND TAX LOT: Township 34, Range 1W Section 16DC Tax Lot 1716

CURRENT ZONING: R-1-20 ADJACENT ZONING: R-1-20

Variance §154.418
A Variance owing to the special and unusual circumstances related to the property
Literal application of the standards would create a hardship to development
Due to peculiar lot size and shape, topography, sensitive lands or other
Applicant has no control, and not applicable to other properties in the vicinity
Hardship cannot be self-imposed and no variance to a permitted use will be granted

SCMC § 154.418 CLASS C VARIANCE.

Class C variances are reviewed using a **Type III** procedure as governed by SCMC §154.379

Application for variance **must** include the following:

1. If you are not the property owner an Owners Authorization must be submitted.
2. 2 copies of property plat map.
3. 2 copies of the plot plan indicating existing property lines and proposed use.
4. 1 copy of metes and bounds description of the property.
5. A narrative statement explaining how the application satisfies each and all of the relevant criteria and standards; the reason for the request, alternatives considered and why the subject standard cannot be met without a variance. The narrative statement must contain sufficient detail for review and decision-making; (see page 3)

6. 1 copy of recorded covenants, conditions or deed restrictions concerning the present use of this property, if any.

7. ~~1 set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application (within 200 feet of the subject site). The records of the County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list.~~

~~[Alternatively, the applicant may pay a fee for the city to prepare the public notice mailing.]~~

CERTIFICATION

I hereby certify that the information given above and attached hereto is true and correct, that I am the property owner (or have provided owners authorization) and that falsification of fact will result in invalidation of the application. Further, I understand any approval given is valid for the specific project only and is subject to all applicable laws, regulations and conditions.

APPLICANT'S SIGNATURE: Jane Ellis DATE: 11/29/23

MAILING ADDRESS: 112 Orchard Ln SC 97539

HOME PHONE _____

CELL PHONE 541-519-9325

Email: tjojellis@centurylink.net

PURSUANT TO ORS 227, THIS APPLICATION IS CONSIDERED A COMPLETE APPLICATION WHEN REVIEWED, DATED, AND SIGNED BY THE CITY PLANNER OR HIS/HER DESIGNATE

Complete ✓ Incomplete _____

Letter sent _____

Signature [Signature] Date 12/29/2023

Criteria for approval- your narrative statement must address the following:

SCMC §154.419 - The city shall approve, approve with conditions or deny the application for a variance based on a finding that **all** of the following criteria are satisfied.

(a) The proposed variance will not be materially detrimental to the purposes of this chapter, to any other applicable policies and standards and to other properties in the same land use district or vicinity. **NO**

(b) A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands or similar circumstances related to the property over which the applicant has no control and which are not applicable to other properties in the vicinity. **NO**

(c) The use proposed will be same as permitted under the applicable zoning district and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land. **yes**

(d) Existing physical and natural systems, such as, but not limited to, traffic, drainage, natural resources and parks will not be adversely affected by any more than would occur if the development occurred as specified by city standards.

✓ (e) The hardship is not self-imposed. **NO**

(f) The variance requested is the minimum variance, which would alleviate the hardship. **yes**

And an impact study per 154.379 (A) (d).

State below the need for the variance:

Attach additional sheets as necessary

The variance requested is required due to proposed pool requires some level of privacy - ground slopes down in back to a water drainage stream bed. Side yard of neighbor is higher.
NOT materially detrimental to community.
2 sections of wood fencing eight feet high on side of neighbor @ 118 Orchard Ln. Existing six foot fence on property line is left intact. Added fence to rear of property will be within six foot ordinance requirements, ~~no~~ just on higher ground. Existing fence left intact on property line.
154.379 B 2 - not impactful to all pertinent ~~line~~ environment - no effect.
factors

SUPERIOR FENCING LLC / CCB # 165612 KEVIN BERNHARDT + CRAIG ROBINSON

North
↓

Jane Ellis
541-519-9325
HOUSE

SHED

SHED

Proposed
POOL
Area

*28' for

SHED

2 six feet
fences
wood planks

8' 12' 8' FENCE
8' 50' 8' FENCE
8' FENCE

FENCE

100

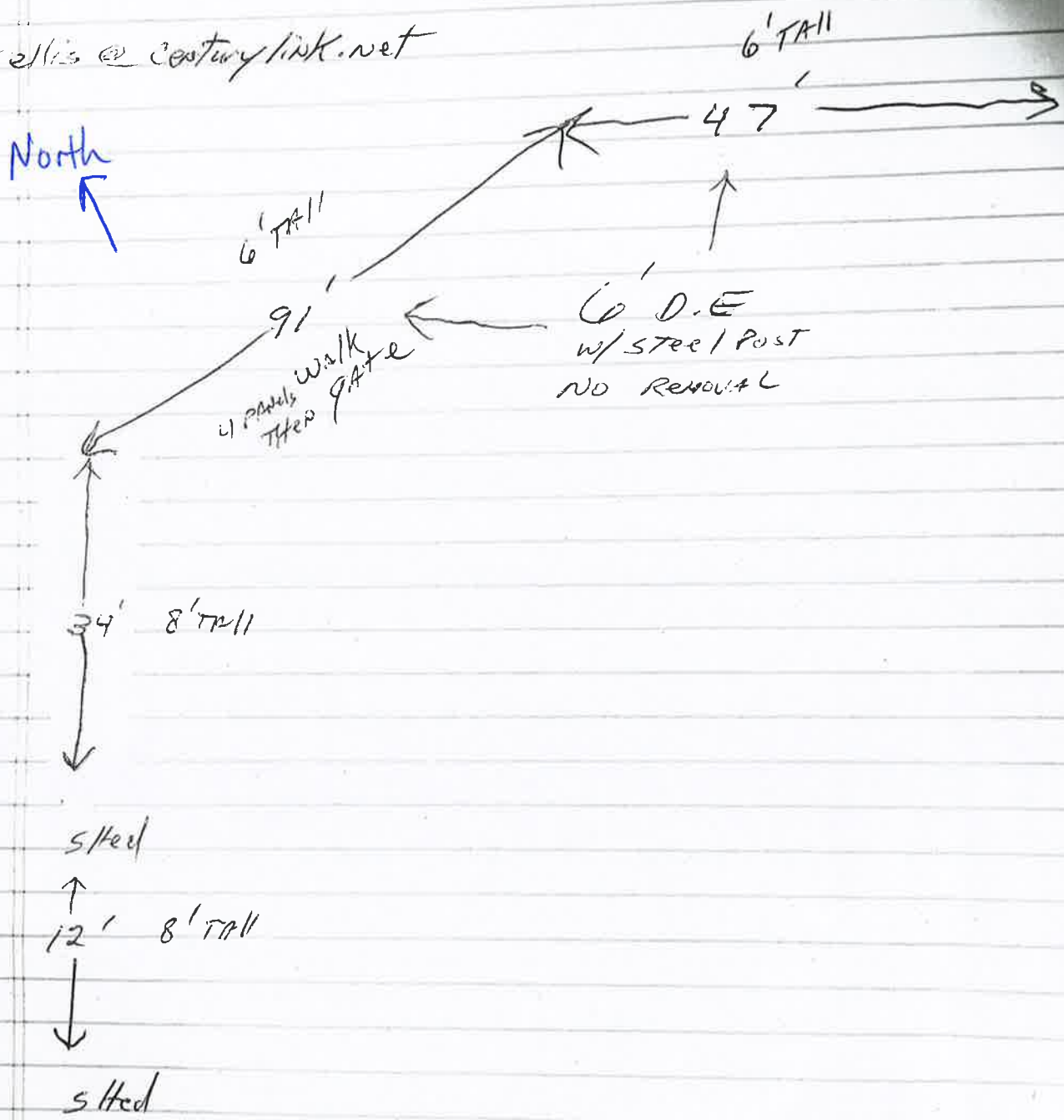
15'

112 Orchard Ln.¹²

JANE ELLI'S
1/2 ORCHARD
SHADY COVE OR
519-9325

From: Superior Fence LLC

TJOSellis @ centurylink.net



Fence
START
18' FROM
Back corner
OF house

From: Superior Fence LLC₁₃

↑
112 ORCHARD LN
tjojellis@centurylink.net JANE ELLIS 541-519-9325





Mayor
Jon Ball

Councilors
Kathy Nuckles
Paige Winfrey
Jim Hubbard
Steve Mitchell

CERTIFICATE OF MAILING

I hereby certify that on January 5, 2024 I provided a copy of the
NOTIFICATION OF ADJACENT USE PROPOSAL APPLICATION NO.
VAR 23-02 by first class mail to the following (list attached):

EMAIL:
Thomas Corrigan
City Administrator


Debby Jermain, Planning Technician

"The City of Shady Cove is an equal opportunity provider."

MILLER KLAUS W TRUSTEE ET AL
579 Melrose LN
SHADY COVE, OR 97539

MILLER MERRIDY DALE/CHEN SHUB
121 ORCHARD LN
SHADY COVE, OR 97539

WADE DAVID/HEIDI
107 RENE DR
SHADY COVE, OR 97539

BRESETTE LINDA K TRUSTEE ET A
149 ORCHARD LN
SHADY COVE, OR 97539

MYERS KATHERINE JUNE BOLING E
STRODTHOFF MICHELE LEE BOLING
PO BOX 381
SHADY COVE, OR 97539

MURDERS TANDA R/PLILER CHADWI
138 ORCHARD LN
SHADY COVE, OR 97539

DEBERRY BRYAN R ET AL
295 WALNUT LN
SHADY COVE, OR 97539

MURDERS TANDA R ET AL
138 ORCHARD LN
SHADY COVE, OR 97539

WICK REV LIVING TRUST ET AL
PO Box 427
SHADY COVE, OR 97539

BOGDANOFF DANIEL
124 ORCHARD LN
SHADY COVE, OR 97539

GRIEVE VERNON/AMY R
PO BOX 543
SHADY COVE, OR 97539

SHATSWELL LARRY P/SHARON L
118 ORCHARD LN
SHADY COVE, OR 97539

GRIEVE VERNON/AMY R
PO BOX 543
SHADY COVE, OR 97539

ELLIS THOMAS E TRUSTEE ET AL
112 ORCHARD LN
SHADY COVE, OR 97539

WALDRUM STEPHEN B TRUSTEE ET
PO BOX 527
SHADY COVE, OR 97539

KOSTY DOUGLAS C/CYNTHIA L
106 ORCHARD LN
SHADY COVE, OR 97539

HUTCHINGS STEVEN AND DONNA TR
6783 ROGUE RIVER DR
SHADY COVE, OR 97539

FARINO NICHOLAS V/JOANN R
109 ORCHARD LN
SHADY COVE, OR 97539

CITY OF SHADY COVE
PLANNING COMMISSION

NOTIFICATION OF ADJACENT PROPERTY USE PROPOSAL

DESCRIPTION OF PROPERTY: 34-1W-16DC, Tax Lot 1716, located at 112 Orchard Lane, Shady Cove

PROPOSAL: Variance Application No. VAR 23-02. The request is for a Variance to Section 154.038(D), allowing a taller fence. Zoning is Low Density Residential (R-1-20).

DATE AND TIME OF MEETING: Thursday, January 25, 2024 at 6:00 p.m.

LOCATION: City Hall Council Chamber, 22451 Highway 62 or via Zoom. RESPONSE DATE: January 17, 2024

APPLICANT/OWNER: Thomas and Jane Ellis Family Trust

The purpose of this notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application. You may also give oral testimony at the public hearing.

The Planning Commission shall make a Type III decision after addressing all of the relevant approval criteria. Based upon the criteria and standards; the facts contained within the record; the evidence submitted and the testimony presented, the Planning Commission shall grant a continuance of the public hearing, or they shall approve, approve with conditions, or deny the requested application for a Variance.

Failure to raise an issue at a hearing, in person or in writing, accompanied by statements or evidence sufficient to afford the decision maker and the applicant an opportunity to respond to the issue, shall preclude appeal to the Oregon State Land Use Board of Appeals based on that issue. All testimony and evidence must be directed towards the specific criteria.

A copy of the application, all documents and evidence submitted by the applicant, and applicable criteria and standards can be reviewed at City Hall at no cost, and copies will be provided at a reasonable cost. The Staff report will be available 7 days prior to the hearing. For more information please contact the Planning Department at City Hall, (541) 878-8204. Please mail comments to City of Shady Cove, PO Box 1210, Shady Cove, OR 97539. Public attendance is welcome.

* * REVIEW AND COMMENT * *

- ☐ No adverse effect.
- ☐ No comment.
- ☐ It has adverse effects as stated below.

REMARKS: _____

SIGNATURE: _____

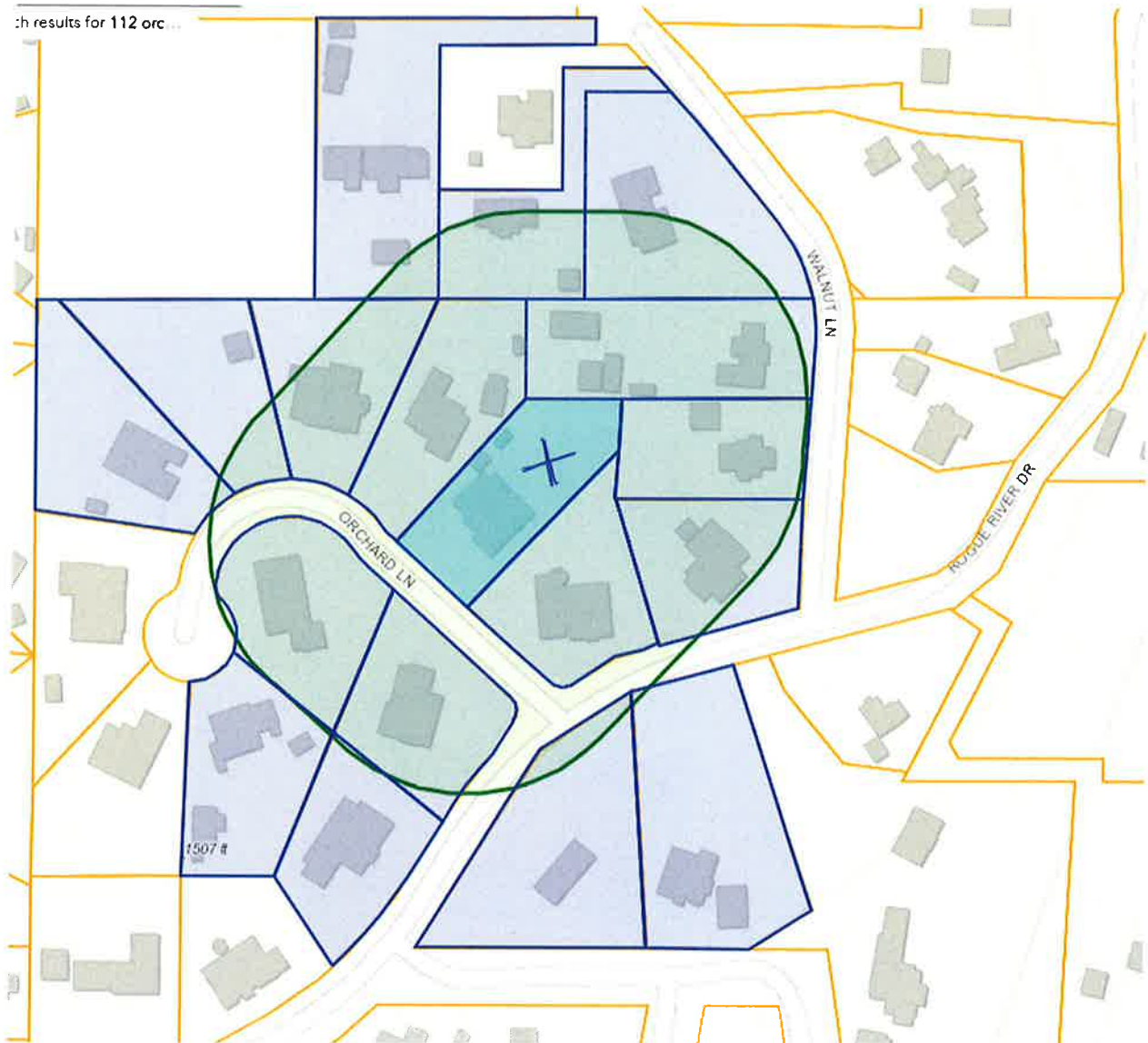
PRINTED NAME(S): _____

STREET AND MAILING ADDRESS: _____

"Notice to mortgagee, lien holder, vendor, or seller: The Shady Cove Zoning Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser."

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-8204. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

112 Orchard Lane





Mayor
Jon Ball

Councilors
Kathy Nuckles
Paige Winfrey
Jim Hubbard
Steve Mitchell

NOTICE OF PUBLIC HEARING

The City of Shady Cove Planning Commission will hold a Public Hearing at 6:00 p.m. on **Thursday, January 25, 2024**, at the Shady Cove City Hall Council Chambers, 22451 Highway 62, Shady Cove, Oregon or via Zoom for the following purpose:

To consider the request for a Variance to allow a taller fence at **112 Orchard Lane**. Said parcel is legally described as 34-1W-16DC, Tax Lot 1716, and is currently zoned Low Density Residential (R-1-20).

Owner/Applicant: Thomas and Jane Ellis Family Trust

File Number: VAR 23-02

Individuals may submit written comments relating to this planning action before the meeting or attend and comment in person at City Hall or via Zoom.

The applicable criteria and standards to be considered at the public hearing are found in the Shady Cove Code of Ordinances Chapter 154: Zoning

Please mail comments to City of Shady Cove, PO Box 1210, Shady Cove, OR 97539. The staff report and related material will be available for public review seven days prior to the Public Hearing at 22451 Highway 62, Shady Cove during regular office hours (Monday-Friday 8:00 am – 12:00 pm and 1:00 pm – 5:00 pm). Copies will be available for purchase. For more information please contact Planning at 541.878.8204.

Zoom Information:

<https://zoom.us/j/93365861409?pwd=dUh6K25XRGw2RUUpnaEhTWIE5Y1VFdz09>

Meeting ID: 933 6586 1409

Passcode: 533976

One tap mobile

+16694449171,,93365861409#,,,533976# US

+16699006833,,93365861409#,,,533976# US (San Jose)

Posted: 01/05/24
Published: 01/10/24
Remove from Posting: 01/26/24

"The City of Shady Cove is an equal opportunity provider."

22451 Highway 62 ♦ PO Box 1210 ♦ Shady Cove OR 97539 ♦ (541) 878-2225 ♦ FAX: (541) 878-2226
E-Mail: djermain@shadycove.org ♦ Web Site: www.shadycove.org

01/02/24 Through 01/18/24 Planning and Building Activities

YEAR Permit No.	DATE	NAME	BUILDING PERMITS		ADDRESS	MAP	TAX LOT
			TYPE				
24-01	1/12/24	RVSS	Sewer Mainline Repair		35 Maple St	15CC	1200
24-02	1/16/24	Smith/Brandon Creer	New Home		117 Hannahs Way	10CC	2402
24-03	1/18/24	Ruth Miller	Convert Carport to Storag		22074 Hwy 62	15BA	2600
PLANNING APPLICATIONS							
Paid	Property Action Log	Name			Comments due back	Staff report due back	Section/TL
		Address					

FLOODPLAIN CLEARANCE FOR PERMIT