



Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

AGENDA

City Hall Council Chambers, 10501 SE Main Street
 & Zoom Video Conference (www.milwaukieoregon.gov)

AUGUST 6, 2024

Council will hold this meeting in-person and by video conference. The public may come to City Hall, join the Zoom webinar, or watch on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. For Zoom login visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-376>. Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov.

Note: agenda item times are estimates and are subject to change. **Page #**

NEW: beginning with the August 6 Council meetings, work sessions will be two hours long and regular sessions will begin at 6:30 p.m. The time estimates listed below reflect this change.

1. **CALL TO ORDER** (6:30 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**
2. **ANNOUNCEMENTS** (6:33 p.m.) **2**
3. **PROCLAMATIONS AND AWARDS**
 - A. **National Farmers Market Week – Proclamation** (6:35 p.m.) **5**
 Presenter: Celebrate Milwaukie, Inc. (CMI)
4. **SPECIAL REPORTS**
 - A. **Clackamas County Stabilization Center – Update** (6:40 p.m.) **7**
 Presenter: Adam Brown, Clackamas County
 - B. **Clackamas County Recovery Center – Update** (7:00 p.m.) **28**
 Presenters: Gary Schmidt & Cindy Becker, Clackamas County
 - C. **Support for Oregon Nurses Association (ONA) – Resolution** (7:20 p.m.) **29**
 Presenters: Will Anderson & Adam Khosroabadi, City Councilors
5. **COMMUNITY COMMENTS** (7:30 p.m.)
 To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed at the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**
6. **CONSENT AGENDA** (7:35 p.m.)
 Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
 - A. **Approval of Council Meeting Minutes of:** **32**
 1. **June 11, 2024, study session,**
 2. **July 9, 2024, special session & retreat, and**
 3. **July 14, 2024, Council dinner.**

7. **BUSINESS ITEMS**
 - A. **Solid Waste Rates Adoption and Fees Update – Resolutions** (7:40 p.m.) **39**
Staff: Michael Osborne, Finance Director
8. **PUBLIC HEARINGS**
 - A. **Neighborhood Hubs Adoption – Ordinance, 2nd Reading** (7:50 p.m.) **106**
Staff: Vera Kolias, Senior Planner, and
Adam Heroux, Associate Planner
 - B. **Appeal of Planning Commission Approval of Land Use File #VR-2024-003 – Addition at 11932 SE 35th Avenue – Final Order** (8:00 p.m.) **168**
Staff: Vera Kolias, Senior Planner
9. **COUNCIL REPORTS** (9:00 p.m.)
10. **ADJOURNMENT** (9:15 p.m.)

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2407th Meeting

MINUTES

AUGUST 6, 2024

Council Present: Councilors Will Anderson, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Acting Assistant City Manager Michael Osborne, Finance Director
 Ryan Burdick, Chief of Police Emma Sagor, Acting City Manager
 Justin Gericke, City Attorney Jason Wachs, Community Engagement Coordinator
 Vera Kolas, Senior Planner Laura Weigel, Planning Manager
 Nicole Madigan, Deputy City Recorder

Mayor Batey called the meeting to order at 6:33 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including summer concerts and activities in the parks, a city manager candidates community forum, and a Johnson Creek clean-up event. **Council President Massey** noted a library fundraiser event.

Mayor Batey read a summer concert-themed haiku poem.

3. PROCLAMATIONS AND AWARDS

A. National Farmers Market Week – Proclamation

Tim Taylor and **Frank Winetraub**, Celebrate Milwaukie, Inc. (CMI) Board Members, introduced the proclamation and commented on the importance of the market. **Mayor Batey** proclaimed August 4-10, 2024, to be National Farmers Market Week in Milwaukie.

4. SPECIAL REPORTS

A. Clackamas County Stabilization Center – Update

Adam Brown and **Mary Rumbaugh**, with Clackamas County Health, Housing & Human Services (H3S), provided an update on the county's work to open a stabilization center in the North Milwaukie Innovation Area (NMIA) to provide behavioral health and housing support services. They reported that the county intended to develop a good neighbor agreement (GNA) with the city and other community partners and reviewed the timeline for opening the center in the coming months.

Councilor Anderson, **Rumbaugh**, and **Brown** discussed how the center would be financially supported by Medicare and the Oregon Health Authority (OHA).

Council President Massey and **Rumbaugh** commented on what type of health care providers would be involved in staffing the center.

Councilor Khosroabadi, Rumbaugh, and Brown remarked on the county’s goal to have staff dedicated to groups like veterans and the center’s plans to support anyone who comes to the center. They noted how the county would work to provide additional extended support services through community partners.

Councilor Stavenjord, Brown, and Rumbaugh discussed the coordination of housing and health services at centers across the county and working with third-party service providers. They remarked on how the Milwaukie center would be set-up to provide private spaces and temporary storage for patients. **Malcolm McDonald**, Clackamas County Sheriff’s Office (CCSO), and **Stavenjord** commented on how the county’s services would work with the county’s planned law enforcement deflection system.

Mayor Batey, Rumbaugh, and Brown noted what “post-settlement” meant in the process for funding the center through government budget processes, and what community outreach the county would be doing as the center opens. **Batey, McDonald, and Brown** noted the historical flooding issues at the site and how CCSO and county staff would be addressing flood concerns. **Batey** encouraged the county to provide naloxone training at the Ledding Library.

Sagor and Rumbaugh clarified that individuals sent to the center from other communities would be transported back to their communities, and that the center would primarily serve Clackamas County residents. **Councilor Stavenjord and Rumbaugh** noted an opportunity to do a joint recruitment for health services providers.

B. Clackamas County Recovery Center – Update

Ben West, Clackamas County Commissioner, remarked on the county’s recovery-oriented system of care approach to providing housing and behavioral health services, and remarked on plans to open a recovery center in unincorporated Clackamas County. **West** encouraged Council to adopt a resolution in support of the recovery center.

Cindy Becker, Clackamas County H3S, provided an overview of the planned recovery center, the services that would be provided at the center, and how the county’s service centers would coordinate patient care.

Mayor Batey, Sagor, and Becker noted the addition of a presentation about the center had been added to the meeting record and that there was currently no scheduled update on the center to the Clackamas Board of County Commissioners (BCC).

Councilor Anderson, Becker, and West remarked on substance abuse services that would be provided at the recovery center.

Council President Massey and Becker noted the center was likely to open in two years.

Councilor Khosroabadi and West commented on how the city and county could work together on the services provided by the recovery center.

Councilor Stavenjord, West, and Becker remarked on whether the county would fund medically assisted treatments at the center and possible future uses of the county’s scattered housing sites.

Councilor Stavenjord and Mayor Batey expressed support for a Council resolution in support of the county’s recovery center.

C. Support for Oregon Nurses Association (ONA) – Resolution

Councilors Anderson provided a brief update on changes to the resolution text.

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to approve the resolution calling for a fair and just settlement of negotiations with Oregon Nurses Association nurses at Providence Milwaukie Hospital, a community hospital owned by Providence St. Joseph Health. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Resolution 40-2024:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR A FAIR AND JUST SETTLEMENT OF NEGOTIATIONS WITH OREGON NURSES ASSOCIATION NURSES AT PROVIDENCE MILWAUKIE HOSPITAL, A COMMUNITY HOSPITAL OWNED BY PROVIDENCE ST. JOSEPH HEALTH.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the public comment procedures. **Sagor** reported on action taken by staff in response to July 16 comments about solid waste rates and noted staff responses to correspondence received since July 16 regarding Highway 99E and Highway 224 pedestrian crossings. No audience member wished to address Council.

6. CONSENT AGENDA

Councilor Anderson noted several errant references to former Councilor Shane Abma in the minutes and the group agreed that staff would clean-up the minutes after adoption.

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to approve the Consent Agenda as presented with the noted minutes correction.

A. City Council Meeting Minutes:

1. June 11, 2024, study session,
2. July 9, 2024, special session & retreat, and
3. July 14, 2024, Council dinner.

Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

7. BUSINESS ITEMS

A. Solid Waste Rates Adoption and Fees Update – Resolutions

Osborne provided an overview of the proposed solid waste rate changes, and the group noted Council would discuss franchise agreements at a future meeting.

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to approve the resolution adopting solid waste service rates effective September 1, 2024. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Resolution 41-2024:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING SOLID WASTE SERVICE RATES EFFECTIVE SEPTEMBER 1, 2024.

Osborne and Sagor explained the need to revise public works related fees.

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to approve the resolution adopting a revision to the Fiscal Year (FY) 2025 Fee Schedule effective September 1, 2024. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Resolution 42-2024:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A REVISION TO THE FISCAL YEAR (FY) 2025 FEE SCHEDULE EFFECTIVE SEPTEMBER 1, 2024.

8. PUBLIC HEARING

A. Neighborhood Hubs Adoption – Ordinance, 2nd Reading

Call to Order: Mayor Batey called the continued public hearing on the proposed neighborhood hubs code adoption, to order at 8:14 p.m.

Purpose: Mayor Batey announced that the purpose of the hearing was to conduct the second reading and final vote on the hubs ordinance.

Conflict of Interest: No Council member declared a conflict of interest.

Sagor read the ordinance one time by title only.

Madigan polled the Council with Councilors Anderson, Khosroabadi, Massey, and Stavenjord voting “aye,” and Mayor Batey voting “no.” [4:1]

Ordinance 2245:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN COMMERCIAL LAND USE DESIGNATIONS, MUNICIPAL CODE (MMC) TITLE 11 MISCELLANEOUS PERMITS, TITLE 19 ZONING ORDINANCE, TITLE 14 SIGNS, AND THE ZONING MAP FOR THE PURPOSE OF IMPLEMENTING NEIGHBORHOOD HUBS (PRIMARY FILE #ZA-2024-001).

Mayor Batey recessed the meeting at 8:16 p.m. and reconvened at 8:28 p.m.

B. Appeal of Planning Commission Approval of Land Use File #VR-2024-003 – Addition at 11932 SE 35th Avenue – Final Order

Call to Order: Mayor Batey called the public hearing on the appeal of the Planning Commission’s decision to approve Land Use File #VR-2024-003 to order at 8:27 p.m.

Opening and Purpose: Mayor Batey reviewed the hearing process and explained the purpose of the hearing was to take comment, consider the evidence, and adopt a final order.

Applicable Standards: Koliias cited the applicable standards to be considered.

Procedures: Mayor Batey reviewed the order of business for the hearing.

Site Visits: It was noted that Council members had visited the site.

Ex-Parte Contacts and Conflicts of Interest: Council members reported no ex-parte contacts or conflicts of interest.

Jurisdiction: No audience member challenged Council's ability to conduct the hearing.

Staff Presentation: **Kolias** provided an overview of the Type III land use application and appeal processes, noting the proposal for a 13-foot addition to an existing attached garage which had been approved by the Planning Commission, the relevant approval criteria for such applications, and the appeal arguments made by the appellant, Barbara Allan, the Lake Road Neighborhood District Association's (NDA's), and others.

Kolias reviewed Council's decision options and clarified that the Planning Commission had concluded that two of the three required criteria had been met by the proposal.

Conduct of Hearing: **Mayor Batey** reviewed the testimony procedures.

Applicant Testimony: **Kristina Fedorovskiy** discussed why the home addition had been proposed, confirmed that the home addition work would conform to Milwaukie Municipal Code (MMC) requirements, and suggested the project construction would have a minimal impact, and the expanded home would be well maintained.

Testimony in Support of the Applicant: none.

Neutral Testimony: none.

Appellant Testimony: **Barbara Allan**, the appellant, **Mayor Batey**, and **Kolias** clarified that Allan was the appellant to Council. **Allan** opposed the proposal to expand the applicant's garage, citing concerns about the visual appeal of an extended garage wall and safety issues due to limited site lines. **Councilor Anderson** and **Allan** remarked on whether the proposed wall would respond to existing lines as required by the code.

Testimony in Support of the Appellant:

Teresa Bresaw, Lake Road NDA representative, expressed concern about how public notices and hearing materials for land use actions were distributed, commented on appeal hearing rules and the Planning Commission's reliance on planning staff, and opposed the proposed garage wall extension citing maintenance issues and a lack of visual appeal. **Bresaw** believed the applicant had not met the approval criteria.

Paul Hawkins, Lake Road NDA Land Use Committee member, suggested the Planning Commission's decision would have been different if Commissioners had visited the site.

Mara Indra, Portland resident, objected to the proposed garage wall extension, citing the impacts of the extended wall on the neighboring property, and believed that the applicant had not met the approval criteria or yard setback rules.

Mathew Baxter, Milwaukie resident, noted neighborhood concerns about the proposed garage extension, and expressed concern about future redevelopment of properties in the area into more dense housing types. **Mayor Batey** noted that state law allowed for all residential areas to be redeveloped into more dense housing.

Staff Response to Testimony: **Kolias** clarified that the materials Bresaw had referenced had been included in the record for the Planning Commission and Council hearings, and that staff reviewed each variance request on a case-by-case basis.

Mayor Batey and **Kolias** noted that the applicant did not have to show that alternatives to the wall extension had been considered.

Applicant Rebuttal and Final Remarks: **Fedorovskiy** addressed concerns raised in testimony, noting that there was no requirement to address future construction, and reiterated that the impacts of construction on the site would be minimal.

Fedorovskiy remarked on why adding on to the house in other spots did not make sense and believed the Planning Commission had made the right conclusion on the application.

Close Public Hearing: **It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to close the public comment part of the hearing. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]**

Council Discussion:

Councilor Anderson remarked on the proposed garage wall extension and suggested the applicant had met the criteria.

Council President Massey commented on the approval criteria, the importance of side yard setbacks, and the impact of adding on to a structure that did not meet current standards. **Massey** expressed support for upholding the appeal.

Councilor Khosroabadi remarked on the approval criteria, public benefit of the proposed wall extension, the inability to apply current rules on previously built structures and possible future construction and suggested the applicant had met the criteria.

Councilor Stavenjord commented on the approval criteria and challenges of applying the code to real situations, the importance of the hearing process, and expressed support for upholding the Planning Commission’s decision.

Mayor Batey and **Sagor** noted the time, and that the Council did not need to vote to extend the meeting past 10:00 p.m. as there was a hearing on the agenda.

Gericke clarified that Council would be voting to approve or deny the application.

Mayor Batey remarked on the importance of encouraging dialogue between neighbors, how the Planning Commission had considered the application, and concluded that enough of the criteria had been met by the applicant. **Batey** suggested the situation pointed out potential land use code changes for Council to consider in the future.

Mayor Batey suggested there was a Council majority in support of approving the application. The group discussed modifying the approval order to address the public benefit criterion and Council’s approval options.

Councilor Stavenjord noted the county offered neighbor dispute mediation services.

Council Decision: **It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to modify the Planning Commission decision to approve the variance requested by Kristina Fedorovskiy for an addition to the attached garage at the property located at 11932 SE 35th Avenue, Land Use Application #VR-2024-003.**

It was moved by Mayor Batey and seconded by Councilor Khosroabadi to amend the motion to note that Council was approving only Criteria #1. Councilor Stavenjord accepted the amendment and noted that the motion was to modify the Planning Commission decision to remove reference to a condition of approval regarding the fence and to approve the variance requested by Kristina Fedorovskiy for an addition to the attached garage at the property located at 11932 SE 35th Avenue, Land Use Application #VR-2024-003.

Motion passed with the following vote: with Councilors Anderson, Khosroabadi, Stavenjord and Mayor Batey voting “aye,” and Councilor Massey voting “no.” [4:1]

Mayor Batey reviewed the state Land Use Board of Appeals (LUBA) appeal process.

9. COUNCIL REPORTS

Mayor Batey reintroduced the community comment regarding bicycle and pedestrian safety issues on Hwy 224. The group discussed how the city could approach the Oregon Department of Transportation (ODOT) about safety concerns and **Briglio** agreed to initiate the conversation with the state.

Councilor Stavenjord reported on recent Clackamas County Coordinating Committee (C4) meetings, including statewide housing and houseless services efforts, a letter from cities regarding transit systems. The group discussed how Council could consider and possibly participate in the county deflection center conversation via email.

Council President Massey reported on recent North Clackamas Watershed Council (NCWC) work including ongoing sediment testing in Kellogg Lake. The group commented on the status of the Kellogg Dam removal project.

10. ADJOURNMENT

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to adjourn the Regular Session. Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Mayor Batey adjourned the meeting at 10:34 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder

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RS Agenda Item

2

Announcements

Mayor's Announcements – August 6, 2024



Meet the Candidates



SIGN-UP TODAY!

Annual Johnson Creek Clean-up!

August 17th, 2024
8:45am-1pm

Get in the creek to help pick up trash!
Join community members for a free lunch!

- **Lewelling Concerts in the Park – Wednesday, Aug. 7, 14, 21 and 28 (6:30 PM)**
 - Ball-Michel Park, 9781 SE Stanley Ave.
- **Ardenwald-Johnson Creek Concerts in the Park – Thursday, Aug. 8, 15 and 22 (6:30 PM)**
 - Ardenwald Park, 3667 SE Roswell St.
- **Oregon Coast Aquarium (Tidepool Animals Program) – Thu., Aug. 8 (10:30 AM)**
 - Milwaukie Ledding Library's Fun in the Park Series
 - Free lunch at Ardenwald Elementary from 11:30 – 12:30 PM
 - Ardenwald Park, 3667 SE Roswell St.
- **Meet the City Manager Candidates – Mon., Aug. 12 (5-6:30 PM)**
 - Community invited to meet the four candidates being considered by city council to be the city's next city manager.
 - City Hall, 10501 SE Main Street.
- **2024 Johnson Creek Clean-Up – Sat. Aug. 17 (8:45 AM – 1 PM)**
 - Volunteers will get in the creek and get out the trash.
 - Free lunch provided!
 - Art contest to design this year's t-shirts for the event.
 - Learn more and register at jwcw.org/events/johnson-creek-clean-up
- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555f**

Withering summer

but wait—drums in the distance?

The concerts cometh.

— *Steve Smith, Ardenwald Resident*

Share your Milwaukie Haiku!
Email yours to bateyl@milwaukieoregon.gov



RS Agenda Item

3

Proclamations & Awards

PROCLAMATION

WHEREAS farmers markets are an integral part of Oregon’s food system and agricultural economy, and are important sales outlets for farmers and food business owners, generating revenue that supports the sustainability of family farms and the revitalization of rural communities, and

WHEREAS farmers markets provide residents of all income levels with access to healthful, locally produced foods through the Milwaukie Farmers Market and over 70 other Oregon markets that accept supplemental nutritional assistance program (SNAP) benefits and other critical food access programs, and

WHEREAS the Milwaukie Farmers Market is celebrating 26 years as a cornerstone of our community, well-loved by customers and vendors who come from Milwaukie and far beyond.

NOW, THEREFORE, I, Lisa Batey, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, with the consent of the City Council do hereby proclaim the week of **AUGUST 4th to 10th, 2024**, as **FARMERS MARKET WEEK**, and do call upon all Milwaukians to celebrate and support the Milwaukie Farmers Market and other area farmers markets.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 6th day of August 2024.

Lisa Batey, Mayor

ATTEST:

Nicole Madigan, Deputy City Recorder



RS Agenda Item

4

Special Reports

Policy Session Worksheet

Presentation Date: July 30, 2024 **Approx. Start Time:** 1:30 pm **Approx. Length:** 30 minutes

Presentation Title: Stabilization Center Update & Program Design Plan

Department: Health, Housing & Human Services

Presenters: Rodney Cook, Director, Health, Housing & Human Services

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Health, Housing & Human Services is seeking to provide the Board with an update on the development of the Clackamas County Stabilization Center. It is also seeking Board approval of its preliminary program design and site management plan for operations of the facility.

EXECUTIVE SUMMARY:

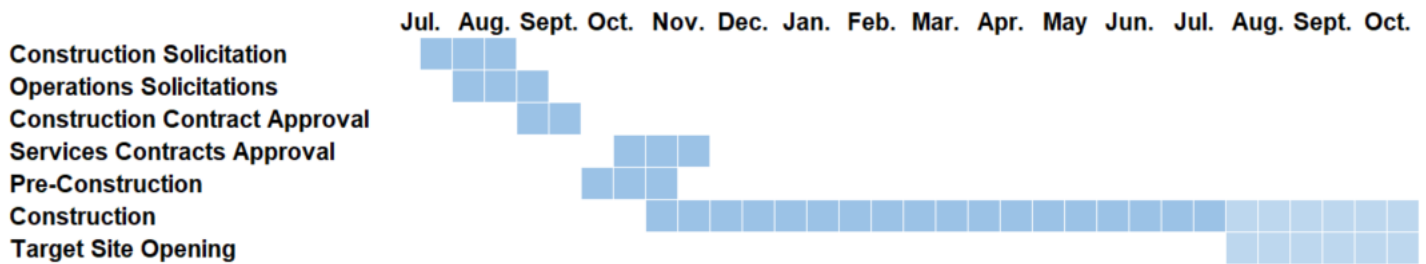
In response to community need for rapid behavioral health assessment and crisis stabilization, the Health, Housing & Human Services Department and the Clackamas County Sheriff's Office have partnered to develop a stabilization center in the former Women's Center building at 9200 SE McBrod Avenue in Milwaukie. This is part of Clackamas County's effort to increase access points for services within its Recovery-oriented System of Care. Other access points in development include:

- The recovery center in Clackamas (addictions focused)
- The resource center in Oregon City (housing services focused)
- The transitional housing village in Clackamas (housing services focused)
- Recovery-oriented scattered site homes (various, including recovery housing and medical respite)
- Access centers in Estacada and Molalla (housing services focused)

In December 2023, the Board approved the one-time and ongoing funding plan for the Stabilization Center and approved staff to proceed with solicitations for construction and program delivery services. Shortly after Board approval of the funding plan, the Oregon Legislature allocated \$4.0 million for the one-time capital renovation of the site. This will allow the county to reallocate most of the previously approved one-time capital funds, which includes \$1.0 million in Community Mental Health Program (post-settlement) funds and \$2.8 million of Supportive Housing Services funds.

Project Timeline

Since December, staff have worked with County Facilities and the architectural and engineering team to finalize the site design for the construction solicitation. That solicitation was released on July 22 and will be open for four weeks. The solicitations for program delivery services will be released in early August, with separate solicitations for behavioral health crisis stabilization and housing stabilization. All of the vendors are expected to be selected by the end of September and contracts are anticipated to come to the Board for approval between September and November. The current project timeline is as follows:



Program Design

Currently, Clackamas County community members experiencing a behavioral health crisis do not have enough support resources to get back on their feet. Behavioral health includes mental health and wellbeing, and related behavior may include substance addiction. Often, these community members draw the attention of law enforcement and are taken to jail or the emergency room. Emergency departments and local jails are not equipped to provide the type of support they need, though that need is increasing.

The Clackamas County Stabilization Center, which will include two complimentary programs in the north and south halves of the building, will serve adults primarily referred by law enforcement, health providers, and mobile crisis responders. The program will build on the successful neighborhood relationships of the Clackamas County's Corrections Center that has existed at the site for more than 25 years. The Stabilization Center will be a comfortable and safe place for community members who need short-term support, coping skills and connections to resources to manage a crisis.

The building's north half will operate a 24/7 schedule to provide short-term, drop-in behavioral health crisis stabilization services. The building's south half will provide short- and medium-term housing stabilization to people experiencing homelessness through referrals from the county's Coordinated Housing Access system. The two programs will be complimentary, ensuring close coordination and collaboration between the county's behavioral health and housing systems. The site will be operated by one or more community-based organizations experienced in delivering related services.

Behavioral Health Crisis Stabilization Program

The north half of the Stabilization Center will be a behavioral health crisis stabilization program that operates 24 hours a day, seven days a week. The services will support adults experiencing the acute phase of a behavioral health crisis under a 23-hour care model. The 23-hour care model means that it is designed to provide less than 24 consecutive hours of care to people who do not require in-patient treatment. Supportive service will include:

- A safe, supportive environment and compassionate care to address behavioral needs in the moment.
- A thorough evaluation by a multidisciplinary team.
- Stabilization and connection to medium- and long-term supportive services.
- Opportunity to address other barriers to health and well-being, including addictions and housing insecurity or homelessness.
- Rest, safety, and hygiene.
- Transportation assistance upon leaving the facility.

Services will be offered on a walk-in basis and for voluntary drop-off by community-based organizations, mobile crisis teams, and law enforcement agencies across the county, providing much-needed diversion from jail or emergency departments. The core objectives are to provide voluntary assessment and stabilization, reduce reliance on jail and hospital beds, develop effective care plans, clearly define measurable interventions, and provide connection to the appropriate level of care on site and going forward. The anticipated capacity is services for up to eight participants at a time.

Housing Stabilization Program

The south half of the Stabilization Center will be a housing stabilization program. It will operate 24 hours a day, seven days a week to provide semi-congregate safety off the streets for up to 12 adults at a time referred through the county's Coordinated Housing Access system. The average length of stay is anticipated to be between 30 and 60 days. Supportive services provided to program participants will be recovery-oriented and based on individual needs, which will include:

- Development of an individualized recovery-oriented service plan that identifies barriers to be overcome and goals to be achieved during program participation and toward successfully obtaining permanent housing.
- Access to case management, peer support specialists, housing navigation and placement services, and behavioral and physical health services.
- Access to resources that provide next steps or permanent housing solutions.
- Access to other support service networks that include physical health services, mental health treatment, substance use treatment, counseling, peer support, financial education, Rent Well courses, and other workshops and resources intended to increase self-sufficiency.
- Community meetings and events.
- Conflict resolution and mediation.
- 24/7 on-site staff.

Site Management

The current plan is for one or more service providers to carry out both site management and program delivery. Site management includes property management, safety and security, and responsiveness to the surrounding community. The following is a high-level overview of site management activities:

Property Management

This will include maintenance, repairs, materials and supplies, landscaping, housekeeping, cleaning, and ensuring that the overall condition of the property and its infrastructure are maintained and meet standards defined by the county. It will also include maintaining a Site Manual for housing stabilization program participants that outlines things like the program purpose, services offered, governance, participation guidelines, room inspections, policies, and values.

Safety & Security

Health, Housing & Human Services will work with the service provider(s) to ensure that site safety and security, both for program participants and the surrounding community, is a top priority. It will contain security cameras and be well-lit. Staff will be on-site 24/7 and carry out regular perimeter walks (for cleaning and security). Drug and alcohol use will not be allowed. Weapons will not be allowed. Camping outside of the property will not be allowed. Individuals seeking access to the housing stabilization program must be referred by the county's Coordinated Housing Access system - walk-up services will not be offered.

Responsiveness to the Surrounding Community

The county is committed to ensuring that the presence of the Stabilization Center will benefit the community overall. It recognizes that the success of this program will be contingent upon responsiveness to community concerns, collaborative problem solving, and engaging the community to meet shared goals. The county and the service provider(s) will continue to work with stakeholders in the surrounding community to:

- Initiate and maintain open, transparent, and proactive communications.
- Develop clear expectations and procedures for resolving problems.
- Enhance neighborhood safety and livability while promoting access to services.

- Foster positive relationships between the site neighbors.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? One-time Capital Improvements: Approximately \$4.0 million, based on current estimates. Ongoing program operations: approximately \$3.0 million, based on current estimates.

What is the funding source? One-time capital funding is from the Oregon Legislature, through a direct allocation in House Bill 5204, and Trillium Community Health Plan. Ongoing program operations funding from Health Share and Supportive Housing Services.

Funding Source	Behavioral Health Stabilization	Short-term Respite	Total
One-time Capital Improvements			
Oregon Legislature (HB 5204)	2,000,000	2,000,000	4,000,000
Trillium Community Health Plan	179,607	-	179,607
Community Mental Health Program (Post-settlement)	1,000,000	-	1,000,000
Supportive Housing Services*	820,393	2,000,000	2,820,393
Total One-Time Capital	2,179,607	2,000,000	4,179,607
Ongoing Program Operations			
Health Share	1,500,000		1,500,000
Supportive Housing Services		1,500,000	1,500,000
Total Ongoing Operations	1,500,000	1,500,000	3,000,000

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?
 - This item aligns with the following Department strategic priorities:
 - Assist individuals and families in need to be healthy and safe
 - Increase self-sufficiency
 - Increase community safety and health
 - Continually improve the efficiency and effectiveness of services
- How does this item align with the County’s Performance Clackamas goals?
 - This item aligns with the following County strategic priorities:
 - Ensure safe, healthy and secure communities
 - Grow a vibrant economy
 - Build a strong infrastructure
 - Build public trust through good government

LEGAL/POLICY REQUIREMENTS:

N/A.

PUBLIC/GOVERNMENTAL PARTICIPATION:

This proposed project was included in the Shelter and Housing Projects Plan & Board Engagement Strategy approved by the Board during the Policy Session on December 7, 2022. It was also the subject of Policy

Sessions with the Board on April 19 and December 5, 2023, in addition to being included in discussions over the past year about one-time and limited-term uses of the Supportive Housing Services carryover balance. The Sheriff's Office and Health, Housing & Human Services have led engagement with City of Milwaukie Officials. The City of Milwaukie is supportive of this project and the project team will continue engagement with the City over the coming months, including a briefing with the City Council on August 6.

OPTIONS:

1. Approve the preliminary program design and site management plan.
2. Modify the preliminary program design and site management plan.
3. Reject the preliminary program design and site management plan.

RECOMMENDATION:

Staff respectfully recommend Option 1, Approve the preliminary program design and site management plan.

ATTACHMENTS:

- Attachment 1: Stabilization Center renderings
- Attachment 2: Stabilization Center floor plans
- Attachment 3: Communications materials (one pager and postcard)

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact _____ @ 503- _____



RS12



RS13



RS14



RS15





RS17



RS18



RS19

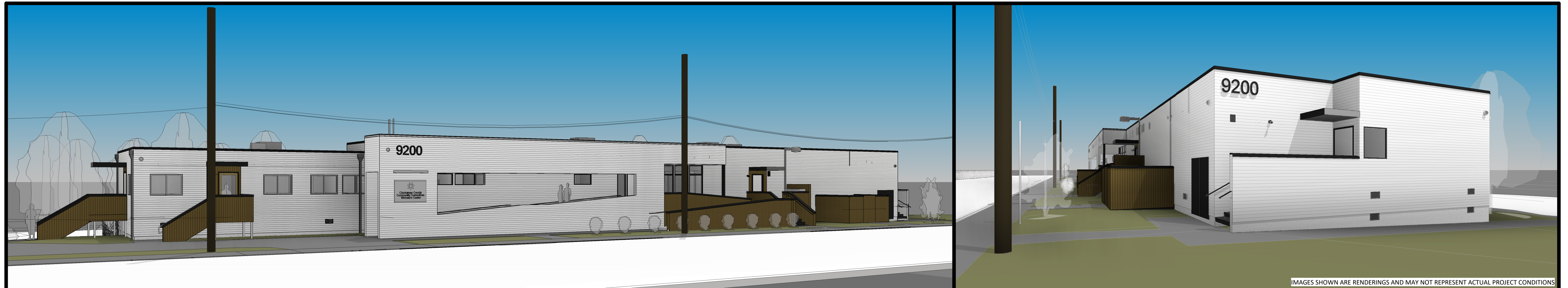
MCBROD CRISIS CENTER

9200 SE MCBROD AVENUE, MILWAUKIE, OR 97222

BIDDING DOCUMENTS

TENANT IMPROVEMENT | AUGUST 01, 2024

ISSUED TO:
OWNER/CLIENT
BIDDERS



architecture and planning
1001 se sandy blvd, portland or 97214
503.544.7210 erik@emarchitecture.net

BUILDING/LIFE SAFETY CODE ANALYSIS

JURISDICTIONAL AUTHORITY: CITY OF MILWAUKIE

APPLICABLE CODES: SEE G001

OCCUPANCY (CHAPTER 3):
GROUND FLOOR R-4 RESIDENTIAL; B, OFFICE

ACCESSORY OCCUPANCIES (SECTION 508.2):

ACCESSORY OCCUPANCIES ARE ANCILLARY TO THE MAIN OCCUPANCY. ACCESSORY OCCUPANCIES SHALL NOT OCCUPY MORE THAN AN AGGREGATE 10% OF THE FLOOR OF THE STORY IN WHICH THEY ARE LOCATED. THE ALLOWABLE BUILDING HEIGHT AND NUMBER OF STORIES OF THE BUILDING SHALL BE IN ACCORDANCE WITH THE MAIN OCCUPANCY. THE ALLOWABLE AREA OF THE BUILDING SHALL BE BASED ON THE MAIN OCCUPANCY OF THE BUILDING.

SEPARATION OF OCCUPANCIES (SECTION 508.2.4):

NO SEPARATION IS REQUIRED BETWEEN ACCESSORY OCCUPANCIES AND THE MAIN OCCUPANCY.

NONSEPARATED OCCUPANCIES (SECTION 508.4):

TABLE 508.4 REQUIRES SEPARATION BETWEEN B AND R OCCUPANCIES IS 2 HOURS IN AN UNSPRINKLERED BUILDING.

CONSTRUCTION TYPE (CHAPTER 6): TYPE V-B

FIRE RESISTIVE REQUIREMENTS (TABLE 601)

STRUCTURAL FRAME	0 HOURS	EXTERIOR NON-BEARING WALLS & PARTITIONS	0 HOURS
EXTERIOR BEARING WALLS	0 HOURS	INTERIOR NON-BEARING WALLS & PARTITIONS	0 HOURS
INTERIOR BEARING WALLS	0 HOURS	ROOF CONSTRUCTION	0 HOURS
FLOOR CONSTRUCTION	0 HOURS		

AUTOMATIC SPRINKLER SYSTEMS (SECTION 903.3.1.1): THIS BUILDING IS NOT SPRINKLERED.

OCCUPANT LOAD (TABLE 1004.5): SEE CODE PLANS THIS DRAWING.

REQUIRED EGRESS WIDTH BASED ON OCCUPANT LOAD (1005.3):

STAIRWAY WIDTH SHALL BE CALCULATED BY MULTIPLYING THE OCCUPANT LOAD BY 0.3 INCHES
THE WIDTH OF OTHER EGRESS COMPONENTS SHALL BE CALCULATED BY MULTIPLYING THE OCCUPANT LOAD BY 0.2 INCHES.

EXIT ACCESS TRAVEL DISTANCE (EATD) (TABLE 1017.2): R-4 & B (WITHOUT SPRINKLERS): 200' MAX ALLOWED

ACCESSIBLE PARKING FACILITIES (SECTION 1106.1):

17 TOTAL PARKING SPACES PROVIDED IN LOT = INCLUDING 1 VAN ACCESSIBLE SPACE REQUIRED & PROVIDED.

ROOF ASSEMBLY FIRE CLASSIFICATION (TABLE 1505.1): CONSTRUCTION TYPE V-B = CLASS C ROOF COVERING IS REQUIRED.

PLUMBING FIXTURES (TABLE 2902.1):

FOR CALCULATIONS INVOLVING MULTIPLE OCCUPANCIES, SUCH FRACTIONAL NUMBERS FOR EACH OCCUPANCY SHALL FIRST BE SUMMED AND THEN ROUNDED UP TO THE NEXT WHOLE NUMBER. FOR THE PURPOSES OF THIS BUILDING, THE TWO SIDES (23 HR CARE AND 30-60 DAY CARE), WILL ALWAYS BE SEPARATE. THE DOOR BETWEEN THE TWO IS FOR STAFF ONLY AND LOCKED AT ALL TIMES.

B, BUSINESS: 19 OCC/2 = 9 MALE, 10 FEMALE. REQ'D W/C = 1 PER 25 OCCS; REQ'D LAV = 1 PER 40 OCCS.

W/C: 10 OCC/25 = 0.40 W/C REQUIRED PER SEX; 2 PUBLIC, 1 STAFF WC PROVIDED - ALL SINGLE-USER
LAV: 10 OCC/40 = 0.25 LAV REQUIRED PER SEX; 2 PUBLIC, 1 STAFF LAV PROVIDED - ALL SINGLE-USER

R-4, CONGREGATE LIVING: 24 OCC/2 = 12 MALE, 12 FEMALE. REQ'D W/C = 1 PER 25 OCCS; REQ'D LAV = 1 PER 40 OCCS; REQ'D DRINKING FOUNTAIN = 1 PER 100 OCCS.

W/C: 12 OCC/25 = 0.48 W/C REQUIRED PER SEX; 3 PUBLIC, 1 PRIVATE, 1 STAFF WC PROVIDED - ALL SINGLE-USER
LAV: 12 OCC/40 = 0.30 LAV REQUIRED PER SEX; 3 PUBLIC, 1 PRIVATE, 1 STAFF LAV PROVIDED - ALL SINGLE-USER
DF: 24 OCC/100 = 0.24 DF REQUIRED; 1 PROVIDED

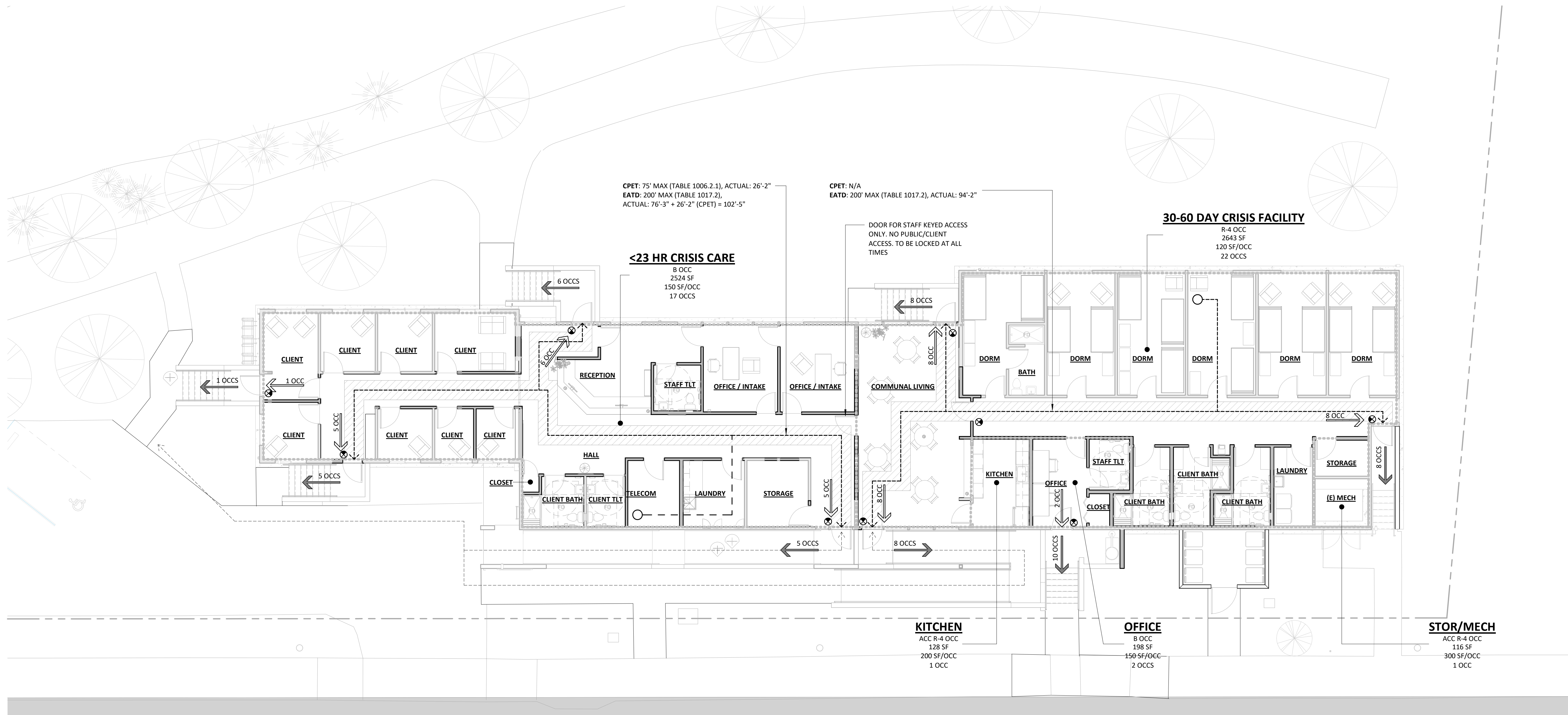
AREA NAME	OCC GROUP	AREA (NSF)	LOAD FACTOR	# OF OCCUPANTS
<23 HR CRISIS CARE	B OCC	2524 SF	150 SF/OCC	17
STOR/MECH	ACC R-4 OCC	116 SF	300 SF/OCC	1
KITCHEN	ACC R-4 OCC	128 SF	200 SF/OCC	1
OFFICE	B OCC	198 SF	150 SF/OCC	2
30-60 DAY CRISIS FACILITY	R-4 OCC	2643 SF	120 SF/OCC	22
TOTALS		5609 SF		43

DRAWING NOTES

- SEE G001 FOR PROJECT DESCRIPTION, PROPERTY DATA, AND CODE REQUIRED SIGNAGE.
- SEE DWG 8001 FOR DOOR SCHEDULE + DOOR HARDWARE NOTES.
- SEE A100 SERIES FLOOR PLAN DWGS FOR DIMS + ACCESSIBILITY CLEARANCES AT DOORS, FIXTURES, APPLIANCES, ETC.
- SEE A601 FOR DIMS + ACCESSIBILITY CLEARANCES/REQUIREMENTS FOR TOILETS AND BATHROOMS.

LEGEND

- (N) UNRATED WALL
- (E) UNRATED WALL
- (2) HR. RATED FIRE WALL - (E) TO BE CONVERTED TO 2-HR
- PROPERTY LINE
- ROOM/SPACE AREA BOUNDARY LINE
- # OCC. EXIT GROUP
- # OCC. EXIT DISCHARGE
- FIRE EXTINGUISHER MOUNTED WITH HANDLE 15"-48" A.F.F. - FINAL LOCATION TO BE DETERMINED BY FIRE MARSHAL
- EXIT SIGN
- EXIT ACCESS TRAVEL DISTANCE (EATD) - INCLUDES CPET
- COMMON PATH OF EGRESS (CPET)
- EGRESS PATH - MIN 36" WIDE SHALL BE CLEAR AND UNOBSTRUCTED AT ALL TIMES. PROVIDE EGRESS LIGHTING ENTIRE WIDTH OF EGRESS PATH, MIN LIGHT LEVEL OF 1 FOOTCANDLE MEASURED AT FLOOR LEVEL. PROVIDE WITH BATTERY BACKUP THAT CAN ILLUMINATE PATH FOR A DURATION OF 90 MINS AFTER A POWER OUTAGE
- XXX ROOM NAME
- R-2 OCC. ROOM OCCUPANCY
- XXX SF. TOTAL ROOM SF
- 200 SF/OCC. OCCUPANT LOAD FACTOR
- 8 OCC. TOTAL NO. OCCUPANTS
- PUBLIC WAY/ACCESSIBLE ROUTE



DRAWING REVISIONS

NO.	DATED	DESCRIPTION



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503.544.7210 erik@emarchitecture.net

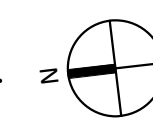
MCBROD CRISIS CENTER
9200 SE MCBROD AVENUE

BIDDING DOCUMENTS
08.01.2024

CODE ANALYSIS

2 GROUND LEVEL CODE PLAN

1/8" = 1'-0"



DEMOLITION LEGEND

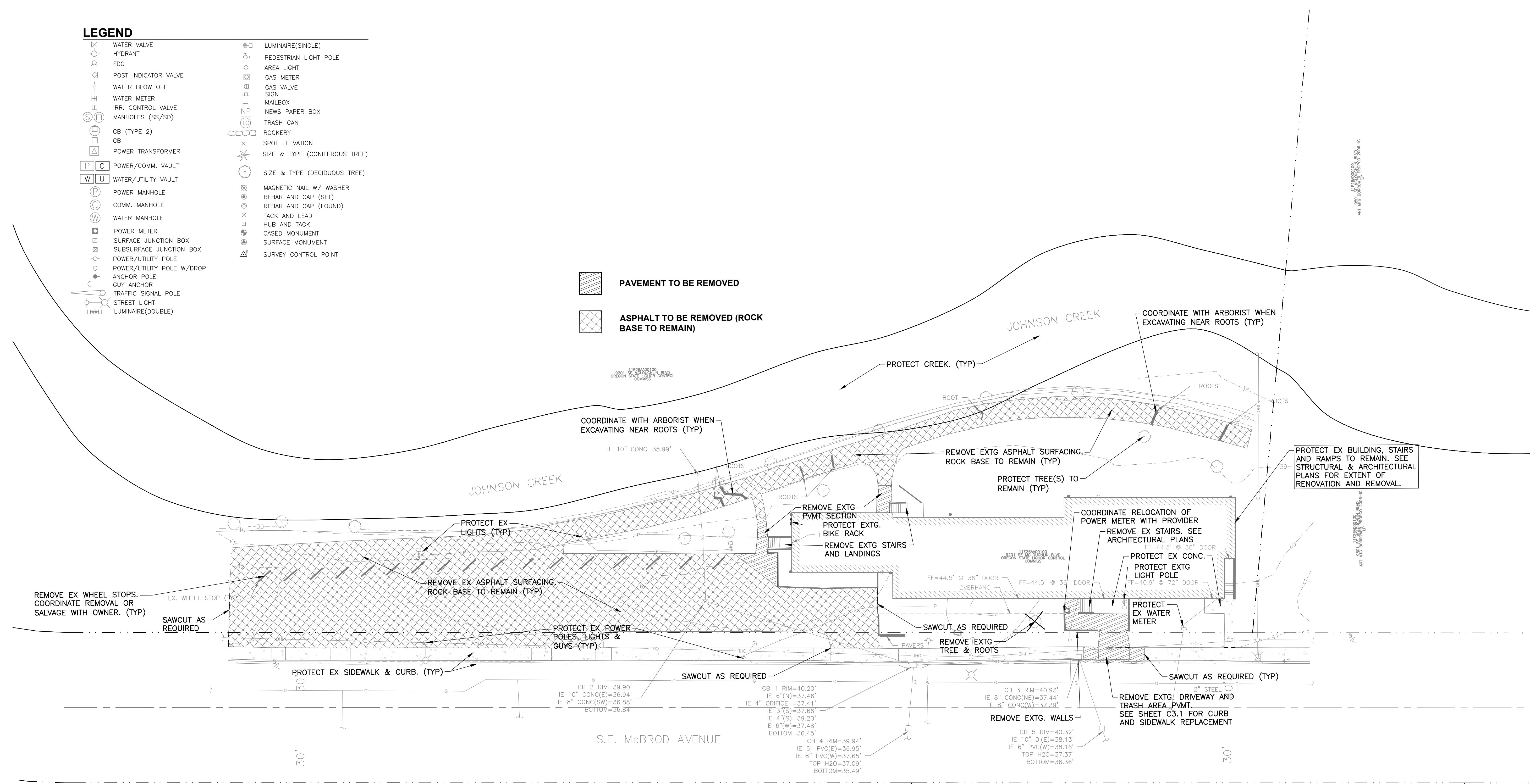
ASPHALT PAVEMENT TO BE REMOVED

LEGEND

- WATER VALVE
- HYDRANT
- FDC
- POST INDICATOR VALVE
- WATER BLOW OFF
- WATER METER
- IRR. CONTROL VALVE
- MANHOLES (55/SD)
- CB (TYPE 2)
- CB
- POWER TRANSFORMER
- POWER/COMM. VAULT
- WATER/UTILITY VAULT
- POWER MANHOLE
- COMM. MANHOLE
- WATER MANHOLE
- POWER METER
- SURFACE JUNCTION BOX
- SUBSURFACE JUNCTION BOX
- POWER/UTILITY POLE
- POWER/UTILITY POLE W/DROP
- ANCHOR POLE
- GUY ANCHOR
- TRAFFIC SIGNAL POLE
- STREET LIGHT
- LUMINAIRE (DOUBLE)
- LUMINAIRE (SINGLE)
- PEDESTRIAN LIGHT POLE
- AREA LIGHT
- GAS METER
- GAS VALVE
- SIGN
- MAILBOX
- NEWS PAPER BOX
- TRASH CAN
- ROCKERY
- SPOT ELEVATION
- SIZE & TYPE (CONIFEROUS TREE)
- SIZE & TYPE (DECIDUOUS TREE)
- MAGNETIC NAIL W/ WASHER
- REBAR AND CAP (SET)
- REBAR AND CAP (FOUND)
- TACK AND LEAD
- HUB AND TACK
- CASED MONUMENT
- SURFACE MONUMENT
- SURVEY CONTROL POINT

PAVEMENT TO BE REMOVED

ASPHALT TO BE REMOVED (ROCK BASE TO REMAIN)



DRAWING REVISIONS

NO.	DATED	DESCRIPTION
01	03/27/2024	PERMIT DRAWINGS

PACE
ENGINEERS
 PACE Engineers
 4500 Kruse Way, Suite 250
 Lake Oswego, OR 97035
 p. 503.597.3222
 www.paceengrs.com



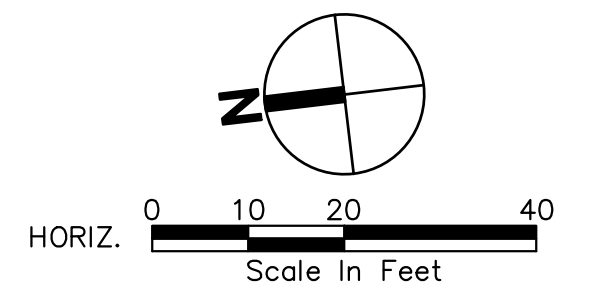
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 503.544.7210 ext@emarchitecture.net

MCBROD CRISIS CENTER
 9200 SE MCBROD AVENUE

CONSTRUCTION DOCUMENTS
 Existing Conditions & Demo Plan

C1.0

CALL BEFORE YOU DIG 811
 UNDERGROUND SERVICE (USA)



DRAWING NOTES

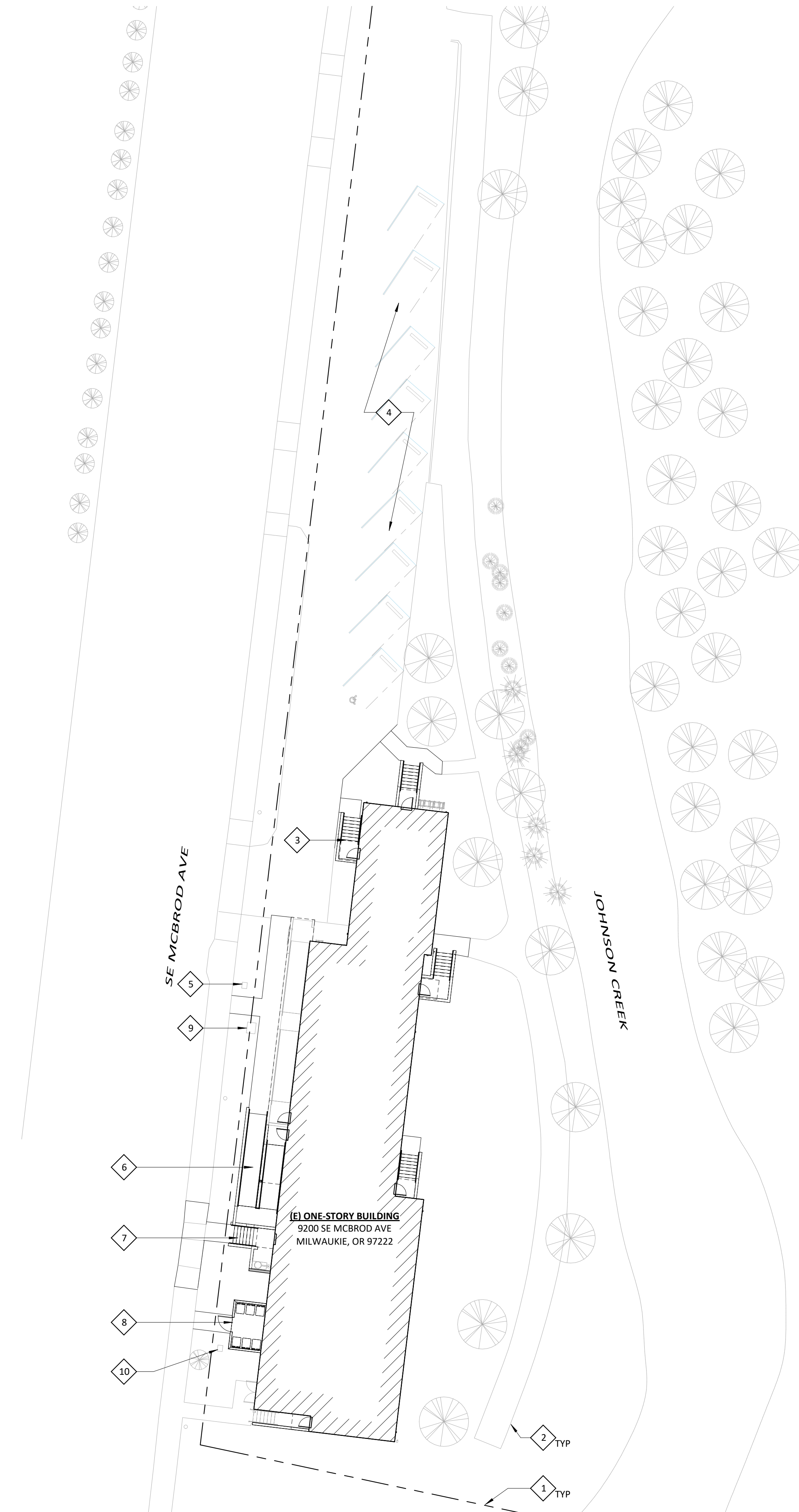
- SEE CIVIL DRAWINGS FOR INFORMATION ON TOPOGRAPHY, FLOOD PLAIN, IMPERVIOUS SURFACES, ETC.

DRAWING LEGEND

--- PROPERTY LINE ---

KEYNOTES

- PROPERTY LINE, TYP
- (E) SIDEWALK/PATH
- (N) STAIR AND ENTRANCE, SEE A700 SERIES
- (E) PARKING TO BE RESURFACED - SEE CIVIL DRAWINGS
- (E) FIRE HYDRANT
- (N) RAMP, SEE A700 SERIES
- (N) STAIR TO (E) DOOR
- (N) WASTE+RECYCLING ENCLOSURE AND ACCESS FOR ROLL CART WASTE RECEPTACLES
- (E) LOW VOLTAGE
- (E) WATER METER



DRAWING REVISIONS

NO.	DATED	DESCRIPTION



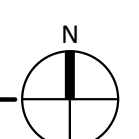
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MCBROD CRISIS CENTER
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SITE PLAN

1 SITE PLAN
1" = 20'-0"



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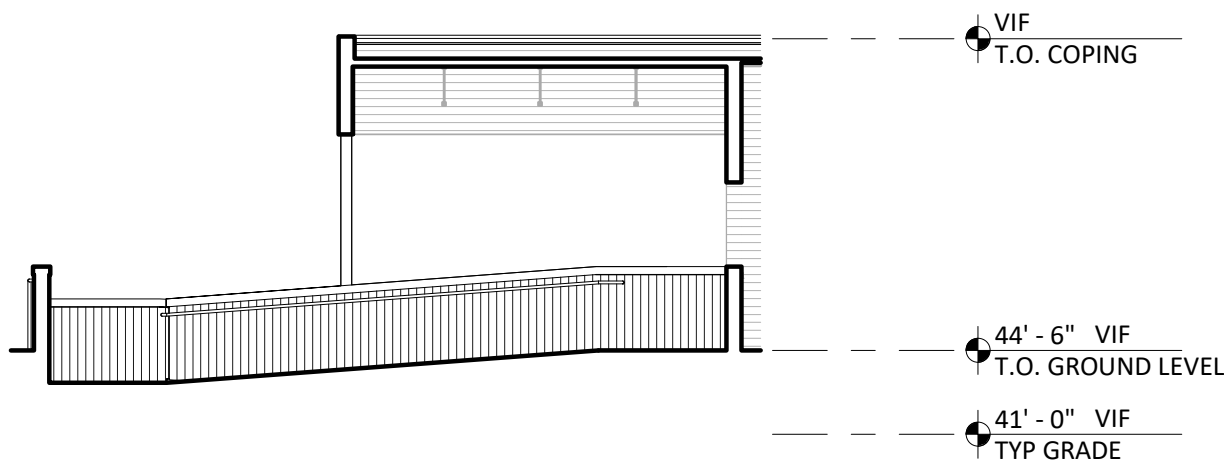
A090

DRAWING NOTES

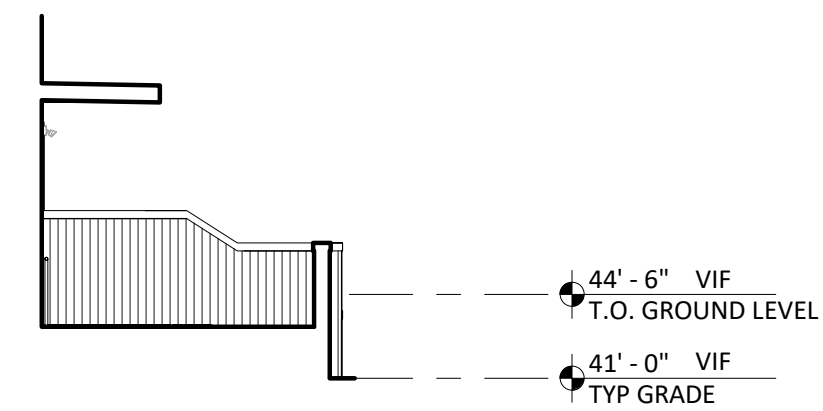
1. SEE A301 FOR FINISHES + MATERIALS

KEYNOTES #

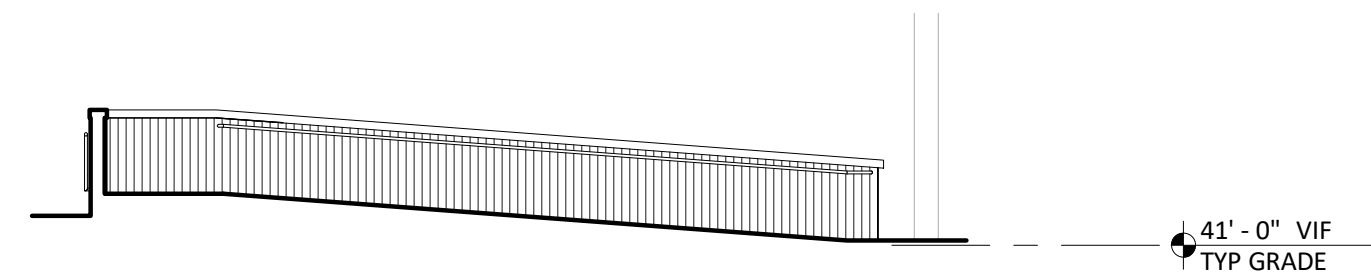
- 1 (N) PRE FINISHED METAL COPING
- 2 (N) TRASH ENCLOSURE
- 3 (E) VINYL SIDING - CLEAN AND REPAIR AS NEEDED
- 4 (N) METAL CANOPY
- 5 (N) DOOR IN (E) WINDOW OPENING
- 6 (E) FOUNDATION VENT, TYP.
- 7 (E) GRADE
- 8 (N) VERTICAL T+G CEDAR SIDING, 4"
- 9 (E) COLUMN WITH (N) METAL PRE FINISHED TRIM
- 10 (E) EXT. LIGHT FIXTURE
- 11 (N) CEDAR T&G SIDING AROUND DOOR OPENING
- 12 (E) SECURITY CAMERA, TYP
- 13 (E) WALL PLAQUE
- 14 (E) ROOF ACCESS LADDER
- 15 (E) SCUPPER AND DOWNSPOUT
- 16 AREAS OF (E) SIDING REQUIRING REPAIR/REPLACEMENT



9 EXTERIOR ELEVATION
1/8" = 1'-0"



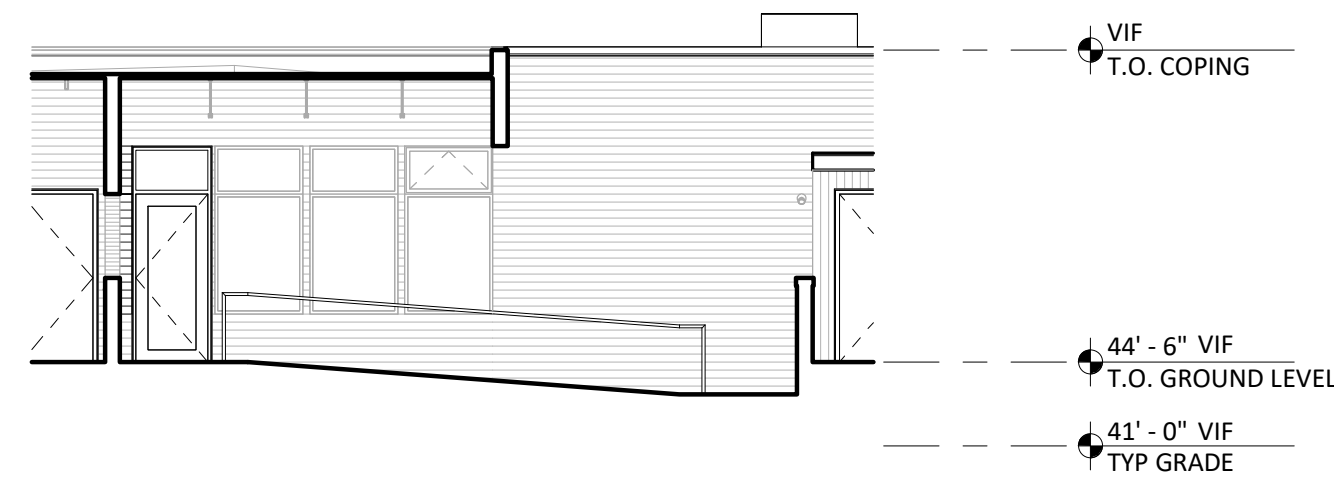
8 EXTERIOR ELEVATION
1/8" = 1'-0"



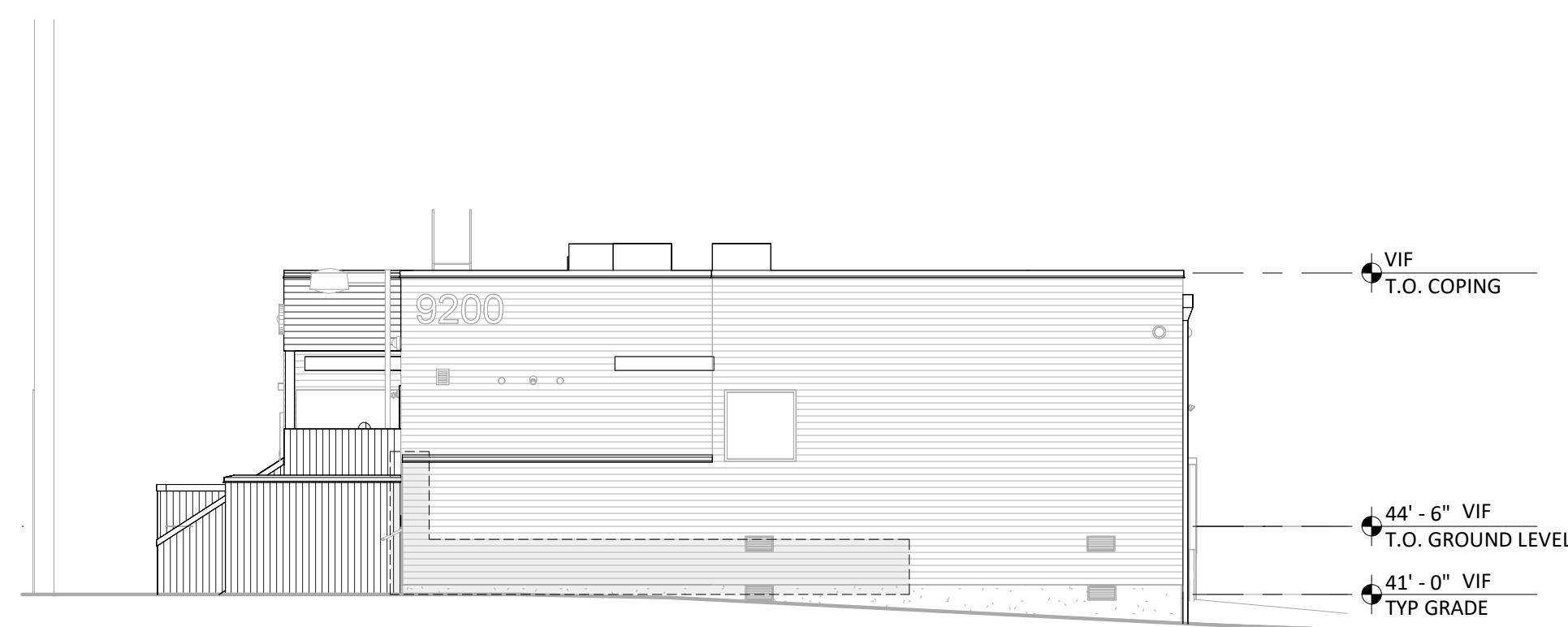
7 EXTERIOR ELEVATION
1/8" = 1'-0"



6 EXTERIOR ELEVATION
1/8" = 1'-0"



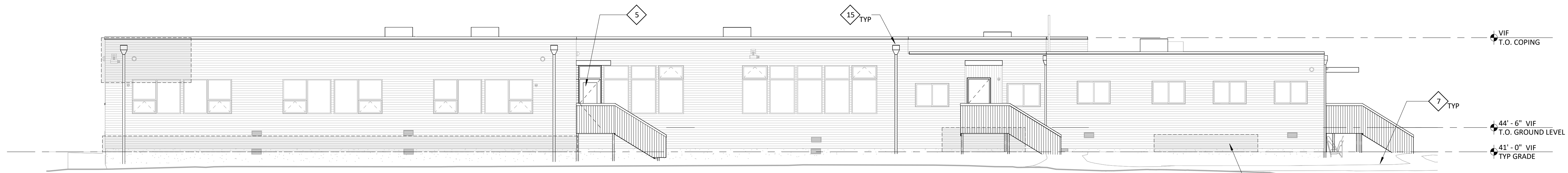
5 EXTERIOR ELEVATION
1/8" = 1'-0"



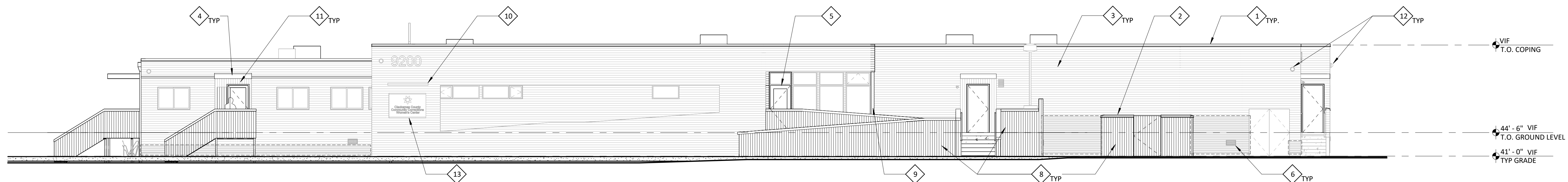
4 SOUTH ELEVATION
1/8" = 1'-0"



3 NORTH ELEVATION
1/8" = 1'-0"



2 EAST ELEVATION
1/8" = 1'-0"



1 WEST ELEVATION
1/8" = 1'-0"

DRAWING REVISIONS

NO.	DATED	DESCRIPTION



1001 se sandy blvd, portland or 97214
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MCBROD CRISIS CENTER
9200 SE MCBROD AVENUE

BIDDING DOCUMENTS
08.01.2024

EXTERIOR ELEVATIONS

A301

Clackamas County Stabilization Center

Short-term behavioral health support and recovery

Clackamas County and the Clackamas County Sheriff's Office are partnering in the development of a behavioral health stabilization and short-term care center. Behavioral health includes mental health and wellbeing, and related behavior may include substance addiction.

Currently, Clackamas County community members experiencing a behavioral health crisis do not have sufficient resources for crisis support to get back on their feet.

Often, these community members draw the attention of law enforcement and are taken to jail or the emergency room. Emergency departments and local jails are not equipped to provide the type of support they need, though that need is increasing.

The Clackamas County Stabilization Center will serve adults who are referred by law enforcement, health providers, and mobile crisis responders. The program will build on the successful neighborhood relationships of the Clackamas County's Corrections Center that has existed at the site for more than 25 years. The Stabilization Center will be a comfortable and safe place for community members who need short-term support, coping skills and connections to resources to manage a crisis.

Frequently Asked Questions

Q: What is behavioral health? What is a behavioral health crisis?

A: Behavioral health is an umbrella term that includes mental health and wellbeing, and how that affects behavior. Examples of behavioral health disorders and symptoms include anxiety, depression, schizophrenia, eating disorders and addictive behaviors.

A behavioral health crisis is a situation where someone's behavior puts them at risk of hurting themselves or others or prevents them from being able to care for themselves. This could include, for example, panic, anxiety, agitation, or hearing voices.

Q: What services will be provided at this center?

A: Services will include but are not limited to:

- Rest, safety and hygiene
- Connections to treatment
- Referrals to healthcare, food, disability services, substance use, mental health and employment services.
- Benefits sign up
- Help accessing permanent housing, including removal of housing barriers, providing vouchers and rent assistance, and housing search assistance.
- Help with emotional regulation and coping skills

Q: Who will the Stabilization Center serve?

A: The Clackamas County Stabilization Center is a program for members of the Clackamas County community experiencing a behavioral health crisis who need short-term support. The Stabilization Center will primarily take referrals from Clackamas County law enforcement and mobile crisis responders.

Q: What other behavioral health and housing resources are available from the county?

A: Our list of behavioral health services is at <https://www.clackamas.us/behavioralhealth>

Our list of housing services is at <https://www.clackamas.us/guide/housing-resources>

Q: What is the timeline for this project?

A: Construction is scheduled to begin in late 2024, and the center will open in fall 2025.

Stabilization Center Postcard

Draft v1, 05.29.24

Size: 4x6, or 5x7

Front Side of the Postcard

Community Announcement: Stabilization Center Coming Soon!

We're excited to share important news about a new resource that will benefit our community. The Clackamas County Stabilization Center is being built at 9200 SE McBrod in Milwaukie, to support community members experiencing a behavioral health crisis.

Back Side of the Postcard

Why?

Currently, community members experiencing a behavioral, mental or substance use crisis do not have an accessible 24/7 resource for support. This new center will provide that support, helping people get back on their feet.

Benefits

- Provides immediate and accessible crisis support
- Reduces the burden on emergency departments and jails
- Enhances community safety and well-being
- Offers a safe space for people in crisis to stabilize and receive the help they need

This center is an important step toward improving mental health resources in our community. Together, we can ensure those in need receive the right support at the right time. For more information, visit [website, QR code].



Clackamas County Recovery Center Overview

Last April 2023, the Board approved a resolution focused on recovery for individuals with substance use disorder (SUD) or mental illness challenges who are houseless. As a result of the alarming drug crisis – fueled by fentanyl and other dangerous drugs – the Board decided to focus its attention on substance use disorders for people who are housed or houseless. This framework evolved into a call to action that led to the Board hosting the Clackamas Addictions Recovery Summit last fall with experts from Oregon, Canada, California, and Texas. A great variety of community stakeholders participated in the Summit.

A key recommendation from the panelists was to create a Recovery Center for individuals with SUD.

VISION

Clackamas County envisions recovery for all individuals struggling with substance use.

MISSION

To ensure that individuals struggling with substance use receive timely person-centered support, treatment, and resources to help them achieve and sustain long-term recovery.

RECOVERY CENTER OPERATING MODEL

- Services will be co-located in one or more buildings
- There will be multiple pathways to enter services
- Services will be delivered by provider agency(s) with relevant experience and expertise
- Peers will be an integral part of the model and processes from initial assessment to treatment, navigation, and reintegration back into the community
- Natural supports, including family and friends, will be engaged whenever possible
- Strong partnerships with public safety and medical providers will be built into the model to divert individuals from inappropriate jail or emergency rooms and support individuals back to the community.
- Services will be voluntary
- A hub and spoke model will be created to reach out to rural and underserved communities
- A phased approach will be used to minimize risk and build a model that reflects opportunity and need.
- NOTE: The Recovery Center is not a shelter or drop-in location.

FUNDING

- One-time start up for construction and development: SHS, Coordinated Care Organizations and others
- On-going operational: Medicaid- Coordinated Care Organizations; Uninsured – state funds

NEXT STEPS

The Board is considering purchasing a 6+-acre property currently owned by the North Clackamas Parks and Recreation District. The address is 15301 SE 92nd Ave. in Clackamas.

Community outreach will be conducted – including a community meeting on July 25th – before a final decision is made.

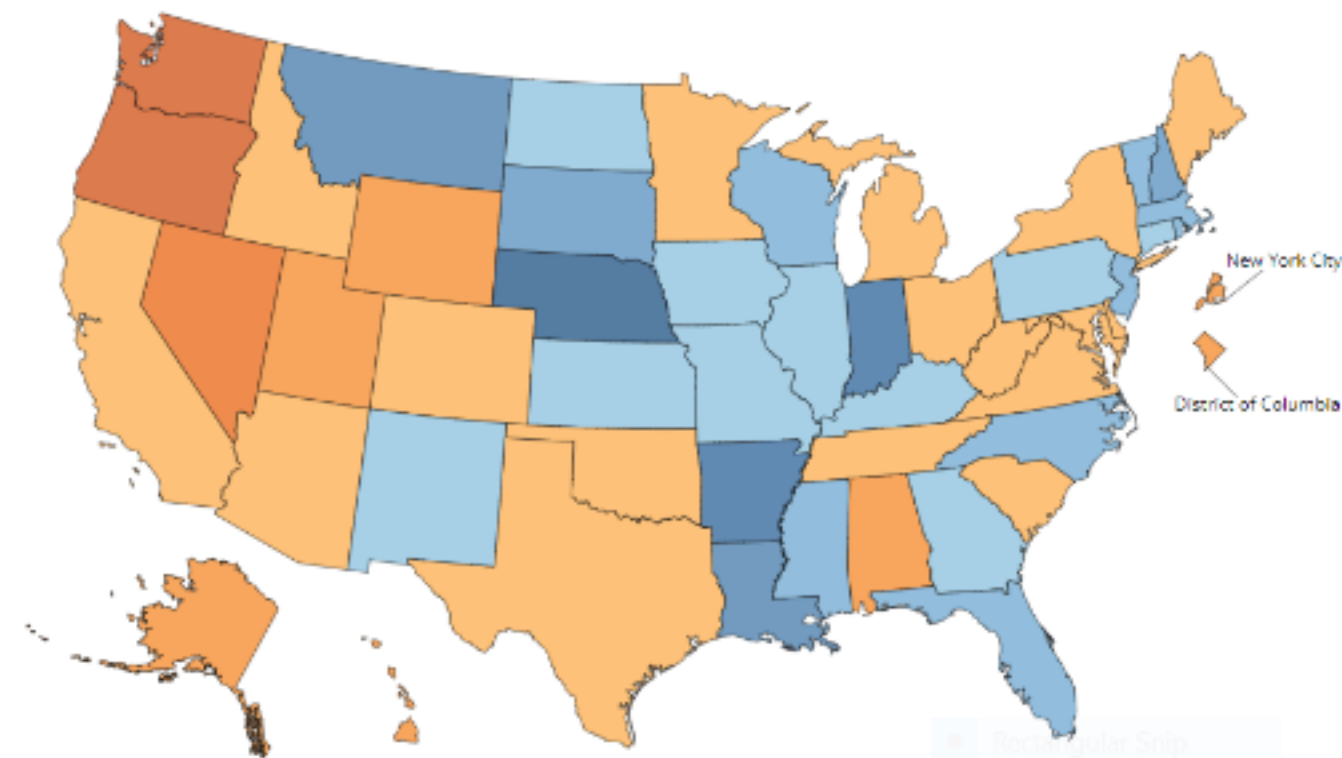


Recovery Center

SUBSTANCE USE DISORDER DATA: INDICATORS OF NEED

A Wake-Up Call

Percent Change in Predicted 12 Month-ending Count of Drug Overdose Deaths, by Jurisdiction: July 2022 to July 2023¹



Percent Change for Oregon

34.15% ▲

- Oregon now ranks 2nd in the country for substance use disorders
- Oregon ranks 1st in prescription opioid misuse
- Oregon ranks 1st in methamphetamine use

¹National Survey on Drug Use and Health, conducted by the Substance Abuse and Mental Health Services Administration (SAMHSA), 2020

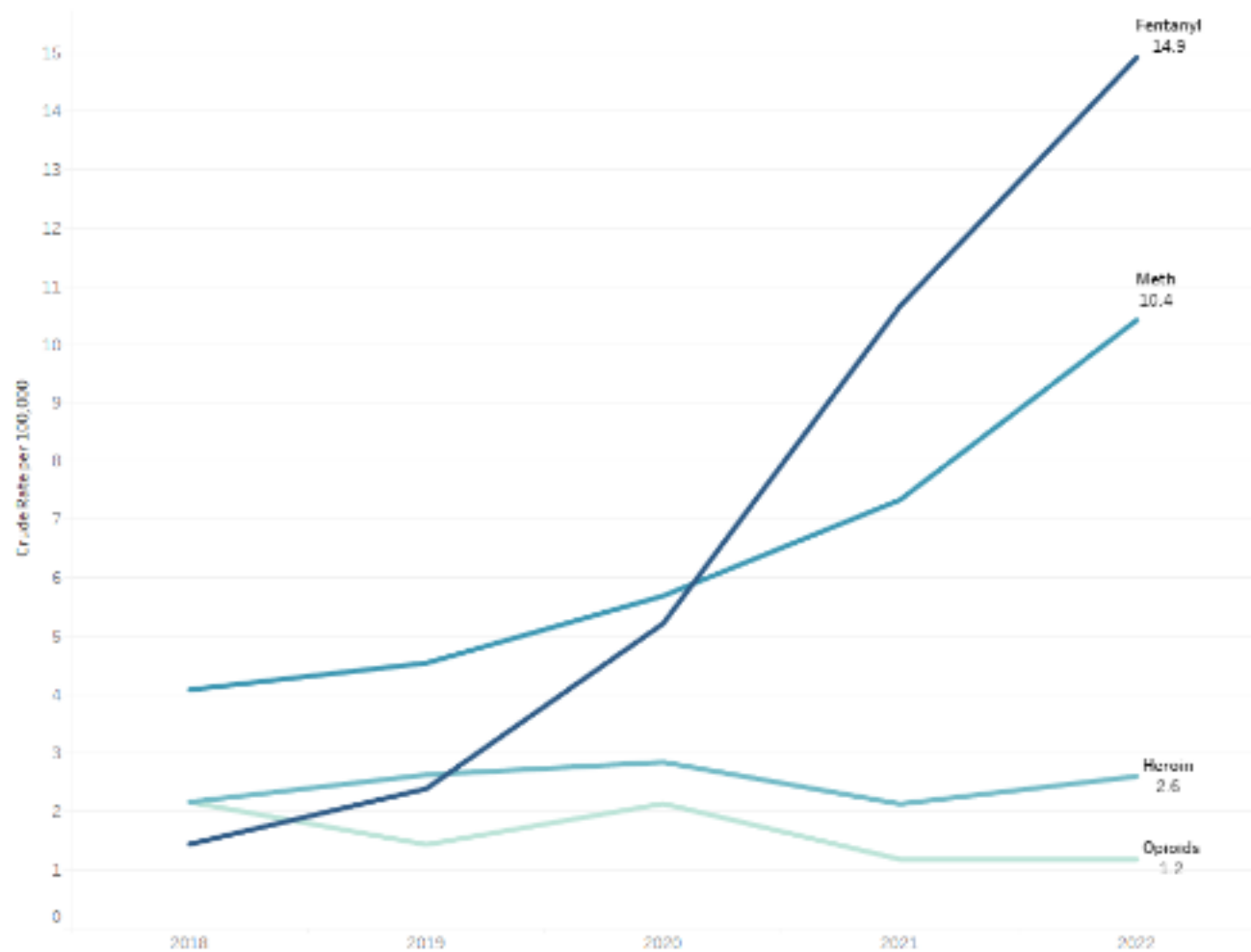


Prevalence

Estimate of SUD Prevalence & Treatment need in Clackamas County:

- SUD Prevalence: 66,471 individuals (age 12 and up) estimated with an SUD in the past year
- Unmet SUD Treatment Needs: 65,960 individuals needing but not receiving treatment in a specialty facility for SUD in the past year.
- Overall service gap is 68% meaning that 68% of services are missing out of the total number recommended for the County.

From 2022 OHSU and PSU Prevalence & Treatment Study



Rate of Yearly Drug-Induced Fatalities among Clackamas County Residents by Drug Type (CC Public Health)

Overdose related events by census tract

Overdose-related events by census tracts that intersect the Milwaukie, OR city limits

Census Tract	OD 911 Calls*	OD Deaths**
208	28	9
209	17	9
210	23	0-4
211	22	7
212	36	5
214	39	0-4
215	20	0-4
216.01	49	5
216.02	29	7

* January 1, 2022 – July 13, 2024

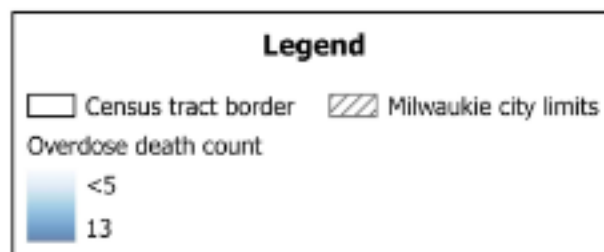
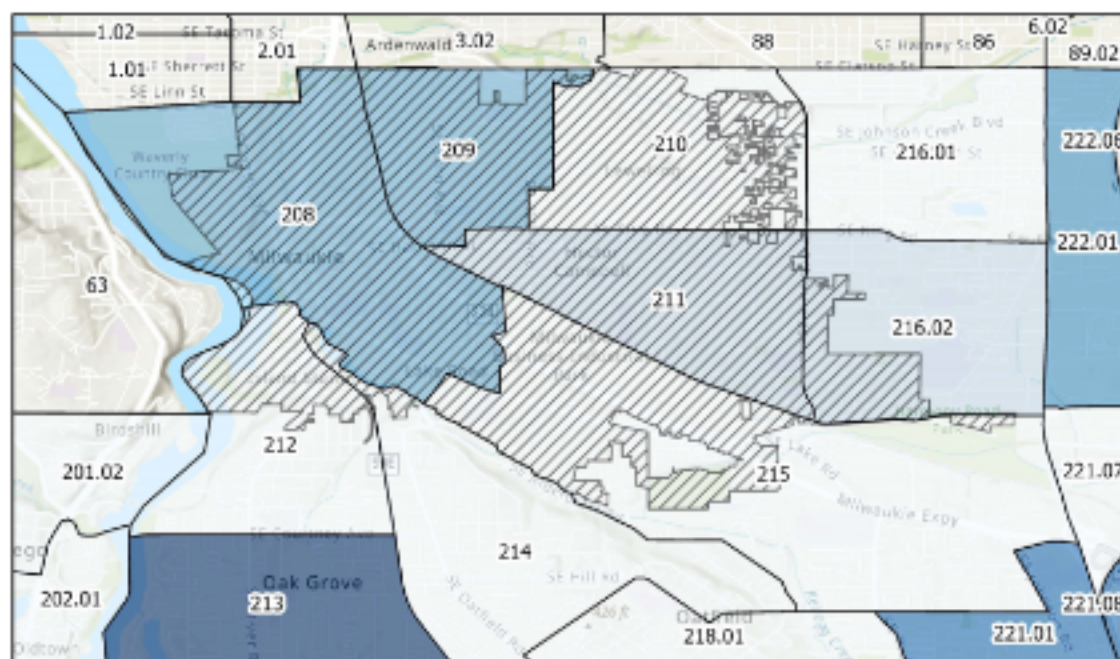
** January 1, 2019 – June 30, 2024

Over-dose related deaths by census tract

Milwaukie and surrounding area:

January 1, 2019 – June 30, 2024

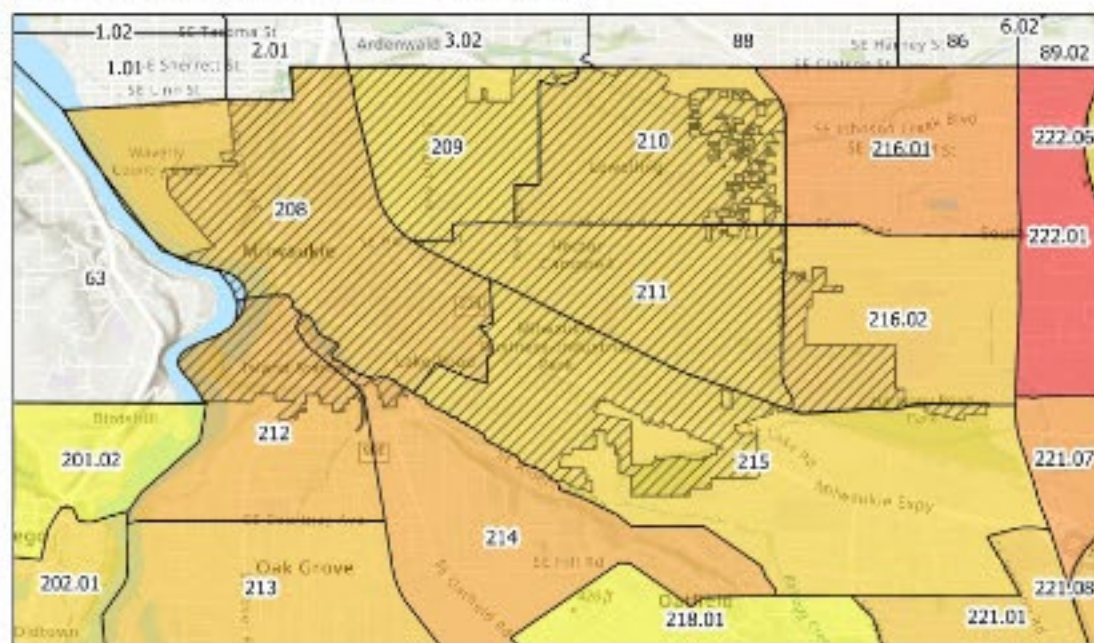
Confirmed or suspected overdose-related deaths by census tract, Milwaukie, OR and surrounding area (Jan. 1, 2019 - Jun. 30, 2024)



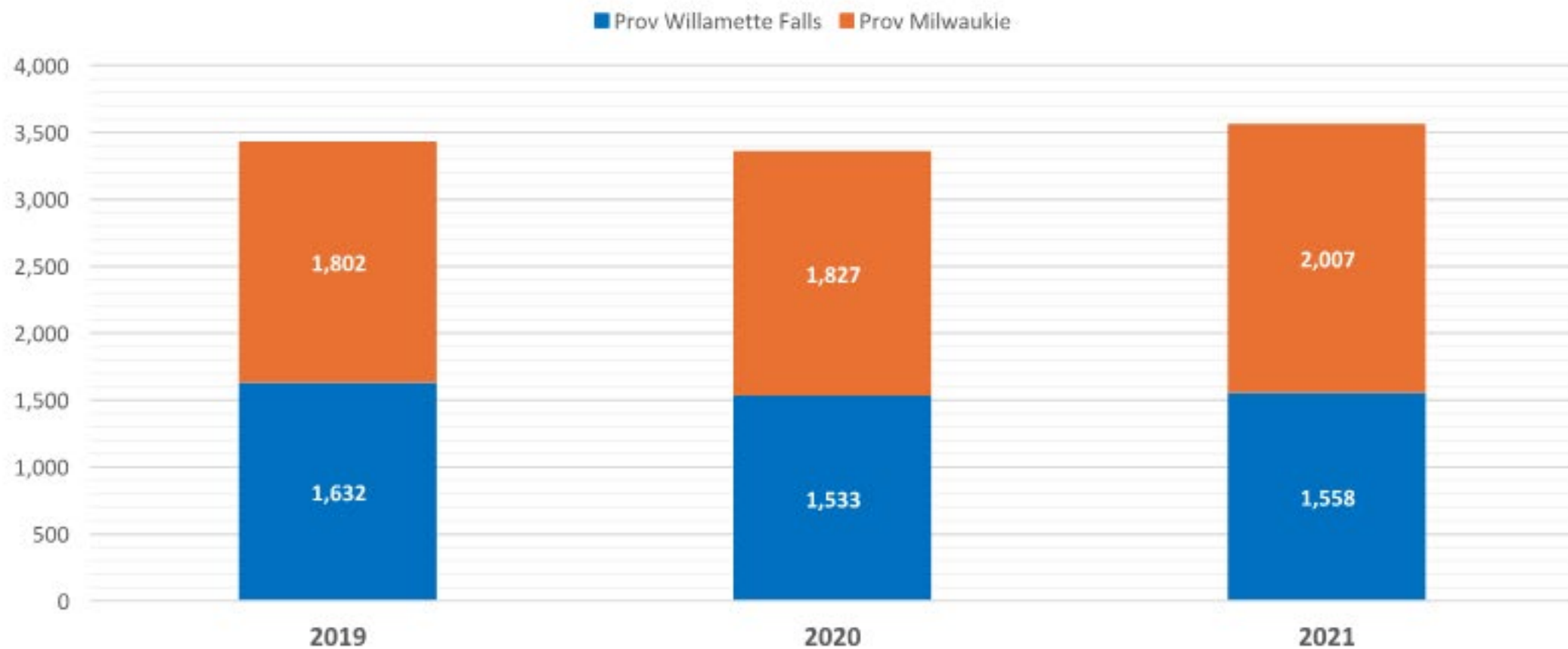
Unintentional Overdose-Related 911 Calls by Census Tract

Milwaukie and surrounding area:
January 1, 2022- July 13, 2024

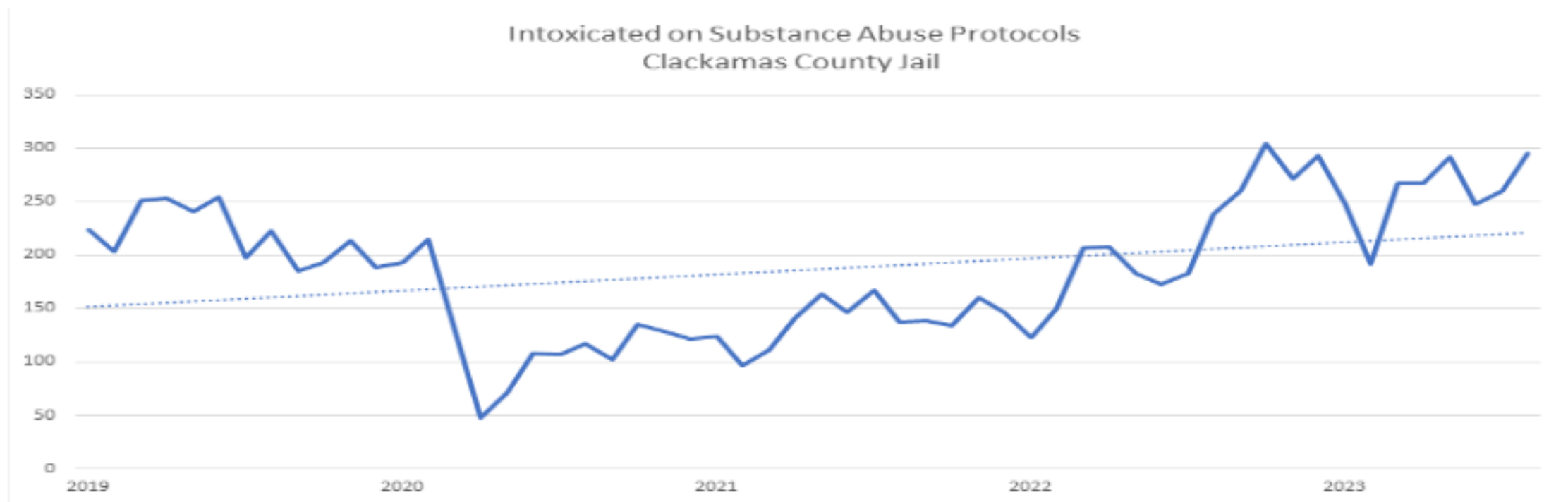
Unintentional overdose-related 911 call count by census tract, Milwaukie, OR and surrounding area (Jan. 1, 2022 - Jul. 13, 2024)



SUD –Related Emergency Department Visits



SUD in Clackamas Jail



On any given day, 19 Adults in Custody are on substance abuse protocols

Identified Needs

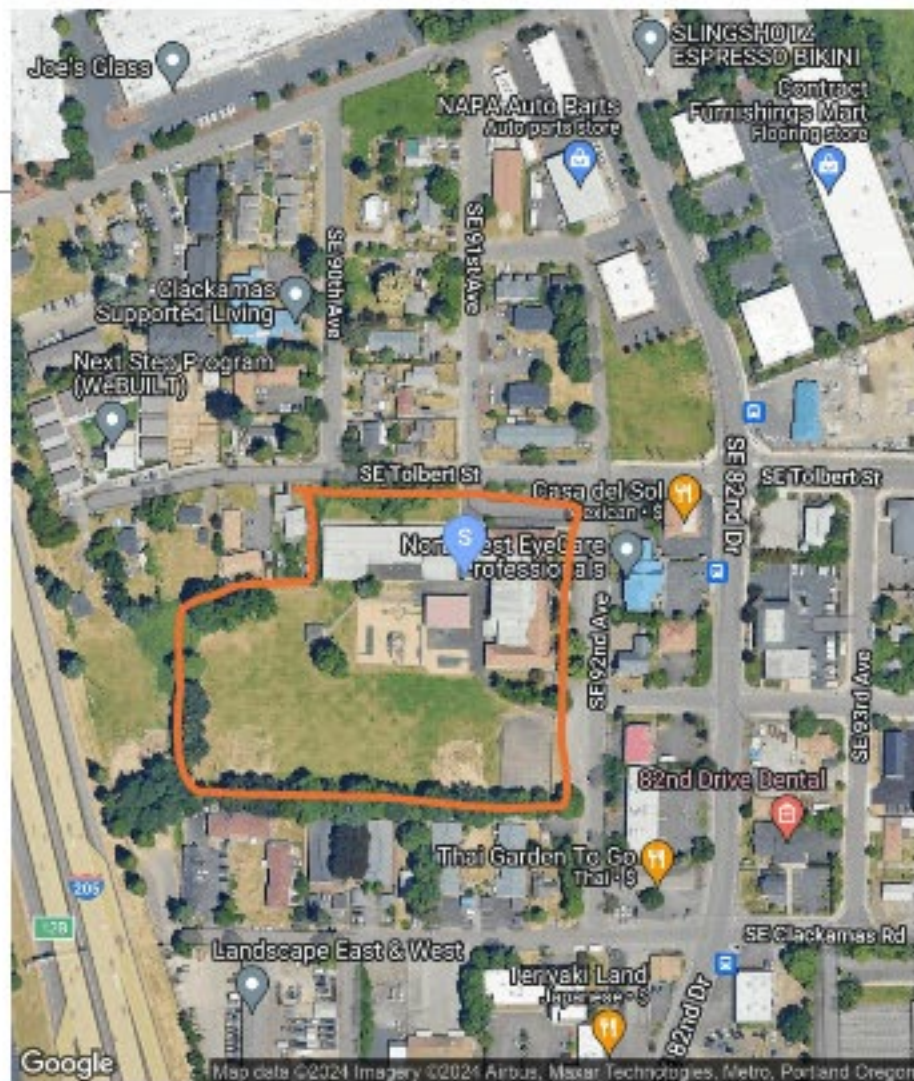
Top services needs identified by Addictions Summit Panelists, County & Community Providers, H3S Staff, and External studies:



Next Steps

The Board is considering purchasing a 6+-acre property currently owned by the North Clackamas Parks and Recreation District. The address is 15301 SE 92nd Ave. in Clackamas.

A meeting with surrounding residents and businesses is scheduled at the site on July 25 at 6:00 pm.



End of Presentation

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR A FAIR AND JUST SETTLEMENT OF NEGOTIATIONS WITH OREGON NURSES ASSOCIATION NURSES AT PROVIDENCE MILWAUKIE HOSPITAL, A COMMUNITY HOSPITAL OWNED BY PROVIDENCE ST. JOSEPH HEALTH.**

WHEREAS nurses at Providence healthcare facilities have always been essential to the health, well-being, and safety of Oregonians, and adequate nurse staffing keeps nurses at the bedside, reduces turnover, saves lives, and improves the quality of patient care, and

WHEREAS the COVID-19 pandemic certainly highlighted the workforce crisis for nurses and allied healthcare workers in hospitals, but understaffing was already the status quo causing nurses to leave the bedside due to short staffing, exhaustion, burnout, and moral injury — Oregon Nurses Association (ONA) nurses in a survey reported turnover rates in their units to be as high as 36-54%¹, twice the national average, and

WHEREAS in 2023 the Oregon State Legislature passed House Bill 2697, a bill brought forth to bring meaningful, long-term improvements to nurse workforce retention and to the quality of care by implementing minimum nurse-to-patient ratios, and

WHEREAS nurses are demanding urgent action, involving safe staffing, health insurance, and fair wages, culminating in nurses at Providence Milwaukie engaging in a strike lasting from June 18th, 2024 to June 20th 2024.

NOW THEREFOR BE IT RESOLVED that the City Council of the City of Milwaukie, Oregon expresses its solidarity with nurses and healthcare personnel in their efforts to secure an agreement that addresses safe staffing issues, affordable healthcare plans, and increased benefits for nurses and healthcare personnel, as well as fair wages representative of the competitive wage environment.

AND BE IT FURTHER RESOLVED that the Milwaukie City Council respects the authority of all unionized workers, and on this occasion especially those of the ONA, to exercise their right to strike and withhold labor.

AND BE IT FINALLY RESOLVED that the Milwaukie City Council urges Providence and the ONA to bargain in good faith through contract negotiations to reach an agreement and avoid putting the community at risk of not receiving the highest quality of care for both them and their families.

¹ ONA Statewide Survey Summary 2022 <https://www.oregonrn.org/page/staffingreports20221201>

Introduced and adopted by the City Council on **August 6, 2024**.

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney



RS Agenda Item

6

Consent Agenda

COUNCIL STUDY SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

JUNE 11, 2024

Council Present: Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Acting Assistant City Manager Scott Stauffer, City Recorder
Emma Sagor, Acting City Manager

Mayor Batey called the meeting to order at 5:18 p.m.

1. New Business Introduction: New Seasons Market – Report

Joe McCarthy, Derek Yates, and Katie Schoen with New Seasons Market provided an overview of the New Seasons Market company, the new store at the Milwaukie Marketplace, and the company's approach to providing community-based sustainable and local grocery products.

Councilor Stavenjord and McCarthy remarked on New Seasons Market's "B-Corporation" status for meeting social and environmental standards, the company's preference for supporting local products and non-profit organizations and causes.

The group discussed the successful opening and projected growth of the new Milwaukie store and the impact of the new store on nearby New Season Market stores and other tenants at the Milwaukie Marketplace. They also noted plans for addressing the amount of paved area in the parking lot at the Milwaukie store.

2. 3-Dimensional (3D) Printed Homes – Report

Ron Dillon with Carbonic Heat and **Shawn McKay** with Layerline 3D provided an overview of the use of large-scale 3D printers and carbonic heat technology to build houses and other structures, in part to address Oregon's need for more housing.

Councilor Khosroabadi noted that the United States Department of Defense (DoD) had started to use [carbonic-heat3D printed technologies](#).

Mayor Batey and McKay remarked on whether 3D printed homes would get cheaper as more were built in the future.

Councilor Khosroabadi suggested the city work with Clackamas County to build 3D printed homes on the city-owned Sparrow Site to provide transitional housing. **McKay** expressed interest in working on housing projects. The group noted that Layerline 3D had worked with local and state building officials for a project in Ontario, Oregon.

3. Clackamas Workforce Partnership – Report

Bridget Dazey with Clackamas Workforce Partnership (CWP) provided an overview of CWP and the statewide workforce partnership and the solutions they provide, including service coordination, advocacy, and oversight.

Council President Massey and Dazey remarked on the number of construction workers in the Portland metro region and the quality and quantity of jobs available in the area.

The group noted the trends in transition from a demand for entry-level positions to professional career growth tracks jobs and what the city can do to advocate for and support job growth. There was Council interest in the city informing municipal court customers about CWP's monthly records expungement clinics.

Mayor Batey and **Dazey** commented on how CWP connects employers, workers, and cities to provide skillset development and support services.

4. Council Reports

Council President Massey provided an update on recent Regional Water Consortium meetings dealing with per- and polyfluoroalkyl substances (PFAS) regulations, and infrastructure and cybersecurity projects.

The group noted the city was hosting a Clackamas Cities Association (CCA) dinner on June 13 and that several Council members were attending the Clackamas County Coordinating Committee (C4) retreat June 14-15.

The group thanked Councilor Abma for serving as an interim appointee, noting that Abma's term would end with the swearing-in of an elected Councilor at the June 18 regular session. **Councilor Abma** thanked staff and Council for their work.

5. Adjourn

Mayor Batey adjourned the meeting at 7:33 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL SPECIAL SESSION & RETREAT

City Hall Community Room, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

JULY 9, 2024

Council Present: Councilors Will Anderson, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Acting Assistant City Manager
Matt Deeds, Assistant Finance Director
Justin Gericke, City Attorney
Dan Harris, Events & Emergency Management Coordinator

Brent Husher, Library Director
Brandi Leos, Human Resources Director
Michael Osborne, Finance Director
Emma Sagor, Assistant City Manager
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 5:21 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

Councilor Khosroabadi arrived at 5:22 p.m.

2. ANNOUNCEMENTS

Mayor Batey noted upcoming community activities; see packet for details.

3. PROCLAMATIONS AND AWARDS

A. None Scheduled.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Batey noted the comment procedures. **Sagor** reported on comments from the June 18 meeting regarding the use of the Metro South Transfer Station by waste haulers who operate in the city and a community member request for a Council proclamation on the Palestinian conflict. No audience member wished to speak to Council.

6. CONSENT AGENDA

It was moved by Councilor Anderson and seconded by Council President Massey to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. May 21, 2024, work session, and
2. May 21, 2024, regular session.

B. Resolution 38-2024: A resolution of the City Council of the City of Milwaukie, Oregon, adopting an updated Natural Hazard Mitigation Plan (NHMP).

C. An Oregon Liquor and Cannabis Commission (OLCC) Application for Pietro's Pizza, 11050 SE Oak Street – Limited On-Premises Sales.

D. An OLCC Application for Taqueria Portland, 5821 SE Johnson Creek Blvd – Full On-Premises Sales.

Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

Councilor Anderson noted that a resolution in support of an ongoing Oregon Nurses Association (ONA) labor negotiation would be on the July 16 regular session agenda.

Councilor Stavenjord reported on a Homeless Solutions of Clackamas County meeting and the grand opening of a new day center in Oregon City.

Council President Massey thanked staff and the community for putting on great Juneteenth and Pride events.

Councilor Khosroabadi reported on a site tour of the Clackamas County Children’s Commission that the Clackamas County Community Advisory Board (CAB) had gone.

Mayor Batey discussed the city’s role in Metro’s proposed supportive housing services (SHS) bond measure. **Batey** and **Councilors Stavenjord and Khosroabadi** commented on possible responses to the community member request for a Council proclamation on the Israeli-Palestinian conflict.

10. ADJOURNMENT

Mayor Batey announced that after the special session Council would hold a retreat.

It was moved by Councilor Khosroabadi and seconded by Council President Massey to adjourn the special session. Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Mayor Batey adjourned the meeting at 5:38 p.m.

Mayor Batey called the retreat to order at 5:46 p.m.

COUNCIL RETREAT

1. Council Norms and Working Agreements – Discussion

The group participated in various discussions about Council meetings and group logistics, including the Council Communication Agreement and committee assignments.

Mayor Batey recessed the retreat at 8:08 p.m. and reconvened at 8:15 p.m.

2. Financial Stability Strategy – Discussion

Sagor and **Osborne** provided an overview of the city's financial circumstances and the group discussed strategies for stabilizing revenue sources.

3. Looking Forward – Discussion

The group discussed previously identified Council projects and objectives for the Council's winter retreat.

4. Adjourn

Mayor Batey called the retreat to order at 9:05 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL DINNER

Councilor Anderson's Residence
11337 SE 30th Avenue (www.milwaukieoregon.gov)

MINUTES

JULY 14, 2024

Council Present: Councilors William Anderson, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Acting Assistant City Manager

Mayor Batey called the meeting to order at 5:30 p.m.

Council and staff participated in a social dinner. No city business was discussed, and no action was taken.

Mayor Batey adjourned the meeting at 9:15 p.m.

Respectfully submitted,

Joseph Briglio, Acting Assistant City Manager



RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Date Written: July 29, 2024

Reviewed: Matthew Deeds, Assistant Finance Director

From: Michael Osborne, Finance Director

Subject: **Adoption of Solid Waste Rates & Updated Fees for Fiscal Year (FY) 2025**

ACTION REQUESTED

Council is asked to approve two resolutions adopting the proposed solid waste rates for FY 2025 and approve the update to the Utility Section of the FY 2025 Fee Schedule.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[May 17, 2022](#): Council approved rate increases for known and measurable costs incurred by waste haulers, including the Metro TIP fee increase of 7.3% that accounted for 61% of the overall increases. Rates for residential services increased between 1.6% to 4.4%. Rates for commercial services increased between 1.2% to 3%. Rates for drop boxes increased from 2.1% to 3.1%.

[July 18, 2023](#): Council approved rate increases for residential collection rates by an average of 4.2% - an increase of \$1.50 per month. Commercial collection rates were increased by an average of 3.7% - an increase of \$1.26 per collected yard. The rate increases were due to Metro's TIP fee of \$14.21 per ton increase for waste disposal and the new union agreement between Waste Management (WM) and the Teamsters union.

[July 16, 2024](#): Council discussed the proposed rate increases for FY 2025.

ANALYSIS**FY25 Rate Adjustments**

The city has contracted with Chris Bell of Bell & Associates (Bell) for the past five years. Bell works with Clackamas County along with several other local cities to analyze solid waste rates and provide a recommendation of acceptable rate increases. The city currently has franchise agreements with three haulers: WM, Kahut Waste Services (Kahut) and Clackamas Garbage. The first two haulers serve most of the customers in the city, >95%.

Based on the financial data submitted by WM and Kahut for calendar year 2023, Bell has proposed the following increases in city solid waste rates.

- **Residential:** Proposed residential services rate increases range from 5.4% to 6.2% depending on the size of the cart. 57% of Milwaukie residents have a 35-gallon cart and would expect a 5.8% increase or a \$2.23 monthly increase.
- **Commercial:** Proposed commercial services rate increases range from 5.1% to 6.0% depending on the yard size.
- **Drop boxes:** Proposed drop box rate increases including a \$7 hauling fee increase, a \$5 delivery fee increase, and a \$.30 mileage fee increase.

These fee increases are due to several economic factors. The two biggest factors are the Metro TIP fees and union labor increases. On July 1, 2024, Metro TIP fees increased \$16.39 to \$154.65, a 11.94% increase. These Metro TIP fees, the cost to haulers to dispose of solid waste at Metro transfer stations, have increased 57% over the past four years. The rate charged by Metro for organic waste disposal increased 8%. Union driver wages increased 3.13% from the previous year. Council discussed these rate proposals at the July 16 work session. They indicated support for the rate proposal for FY25, but did remark on the following as potential areas for future work, analysis, and advocacy:

- Council members expressed concern about the significant increase in Metro TIP fees over the past four years and suggested Metro area cities could consider speaking up on this issue.
- Council members asked about the cost impact of allowing food waste to be collected curbside with yard waste, and expressed interest in exploring whether changing this could save costs in the future.
- Council members asked whether there is an opportunity to develop a more equitable rate structure in the future.

Future of Solid Waste Franchise Agreements

In addition to the proposal for FY 2025 solid waste rates, Council is aware that the [solid waste franchise agreements for the three franchisees](#) listed above expire in March 2025. Staff will come back to Council later this Fall to have a discussion on the direction on how to proceed with the upcoming franchise expiration. We have identified three possible paths forward:

- 1) Extend the current franchise agreements for one year as is, with no changes.
- 2) Extend the current franchise agreements for one year but negotiate changes to terms based on Council feedback and priorities.
- 3) Publish a request for proposals (RFP) for new franchise agreements and seek new proposals from solid waste haulers.

Staff looks forward to having a discussion with Council about their perspective on these three options in October.

Updates to the FY 2025 Fee Schedule

In addition to updating the solid waste rates in the 2025-26 consolidated fee schedule, staff have identified minor errors in the recently adopted fee schedule document that we would like to clean up. Staff has updated the Utility Section of the FY 2025 Fee Schedule (page 41) to revise the Congregate Care (per unit) fee from \$1.25 to \$1.24 for SSMP, and \$1.35 to \$1.32 for SAFE. This revision is correcting minor errors in the previously adopted version. In addition, the second footnote on page 41 is being updated to reflect the new maximums of \$395.81 for SSMP and \$520.21 for SAFE.

BUDGET IMPACT

The city will continue to receive franchise fees based on gross revenues from the three haulers. For fiscal year ending June 30, 2023, the city received approximately \$290,000 in revenues from the three haulers. For fiscal year ending June 30, 2024, we expect \$300,000 in revenues based on the previous year's rate increase.

CLIMATE IMPACT

The proposed fee changes may have a positive impact as rate increases may encourage customers to reduce the amount of materials they dispose of and increase reuse, supporting the city's materials management goals within the climate action plan.

EQUITY IMPACT

Any increase in rates does have a disproportionate impact on residents living on low or fixed incomes. The city recognizes this impact and can explore through future franchise negotiations and development if there are any ways to mitigate this impact.

WORKLOAD IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

City staff and the consultant, Chris Bell, are in concurrence.

STAFF RECOMMENDATION

Staff recommends that solid waste rates be adjusted as shown in Bell & Associates *Solid Waste & Recycling Rate Review Report for 2023*.

ALTERNATIVES

Council could decide to defer the rate adjustment to a later date.

ATTACHMENTS

1. Resolution – Solid Waste Rates
2. Resolution – Update to FY 2025-26 Fee Schedule
3. Updated FY 2025-26 Fee Schedule

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING SOLID WASTE SERVICE RATES EFFECTIVE SEPTEMBER 1, 2024.

WHEREAS Milwaukie Municipal Code (MMC) Chapter 13.24(2) states “[r]ates shall be adequate to provide an expected operating margin for the subsequent rate year equal to 10% of composite city-wide gross revenues; however, the City shall not be required to change rates if the expected operating margin in the current year falls between 8% and 12% of gross revenues;” and

WHEREAS costs have increased due to global and local policy changes; and

WHEREAS without a rate increase the projected operating margin falls below the acceptable rate of return; and

WHEREAS in accordance with the MMC it is anticipated that the proposed rate increases will result in a projected overall rate of return that will be within the targeted range.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the solid waste service rates will be adjusted, and the rates in the attached Rate Schedule are effective on September 1, 2024.

Introduced and adopted by the City Council on **August 6, 2024.**

This resolution is effective on **September 1, 2024.**

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A REVISION TO THE FISCAL YEAR (FY) 2025 FEE SCHEDULE EFFECTIVE SEPTEMBER 1, 2024.**

WHEREAS it is the policy and practice of the city to require the discernment and recovery of certain city costs from fees and charges levied in providing various services, products, and regulations, and

WHEREAS City Council adopted the FY 2025/26 Consolidated Fee Schedule in June 2024, establishing certain city fees and charges for the upcoming two fiscal years, and

WHEREAS upon review, staff identified minor edits needed in the Utility section for accuracy, and

WHEREAS staff recommend that the changes to the FY 2025 Fee Schedule, noted below, be put into place with an effective date of September 1, 2024.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that:

SECTION 1. The City of Milwaukie "Fees" document included as Attachment A to this resolution is hereby adopted with the following changes:

- a. Update the Utility section (page 41) to reflect the new maximums of \$395.81 for SSMP and \$520.21 for SAFE.
- b. The Congregate Care (per unit) for SSMP Fees is revised from \$1.25 to \$1.24.
- c. The Congregate Care (per unit) for SAFE Fees is revised from \$1.35 to \$1.32.

SECTION 2. This resolution supersedes previously adopted fee resolutions.

Introduced and adopted by the City Council on **August 6, 2024**.

This resolution is effective on **September 1, 2024**.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

Attachment 7. A. 3.

Updated Fee Schedule

COVER PLACEHOLDER



City of Milwaukie, Oregon

The City of Milwaukie provides a full range of municipal services to the community, including police protection, traffic control and improvement, street maintenance and improvement, water, wastewater, and surface water management services, planning and zoning regulation, building inspection and regulation, and community library services. This Fee Schedule consolidates all City fees and charges adopted by City Council resolution for the various services that the city provides. Typically, it is updated annually and reflects all fee resolutions passed by Council during the year.

Fee Variance and Waiver Statement

Based upon an unusual circumstance or event, past practices, demonstrated hardship, or public benefit, the City Manager is authorized to waive or decrease a fee(s) or charge(s) in a matter or establish a fee not yet authorized in this schedule. When a new fee is established by the City Manager it shall be incorporated into this document, and it shall be included and specified during the next update to this document.

A waiver or reduction request must be in writing and communicated to Council to allow opportunity for comment. If the City Manager or their designee agrees to said waiver or reduction, he/she shall inform the City Council, in writing, of the request and his/her decision, except in minor matters (defined as waivers or reductions valued at \$1,000 or less).

Effective Dates and Resolutions

The FY 2025 and FY 2026 Fee Schedule fees are effective as of July 1, 2024 with the adoption of Resolution #R27-2024, adopted by City Council on June 4, 2024, unless otherwise noted.

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1. ADMINISTRATION

a. Billable Hourly Rates

The City employee billable hourly rate shall be calculated as 2.5 times step 4 of the employee's job classification, to the nearest \$5 increment, unless otherwise specified. The classification schedule can be found on the City of Milwaukie website under Human Resources.

This calculation shall be used to recover costs for those services billed on an hourly basis, including, but not limited to professional services such as planning, engineering, public works, utility, financial, legal, and police services. The use of a multiplier of 2.5 is intended to recover all overhead, training, benefits, and other costs associated with a city employee's time. Any work performed during overtime hours shall be billed as the calculated hourly rate multiplied by 125 percent. The City Manager and/or department directors are authorized to adjust calculated billings to reflect the impact of unusual circumstances or situations.

2. BUILDING

Building fees include structural, mechanical, plumbing, and electrical charges. Fees are applicable to residential, commercial, and industrial properties unless otherwise specified.

a. Structural Permits¹

Valuation will be calculated in accordance with OAR 918-050-0100.

Residential / Commercial / Industrial:

Permit Size	Fiscal Year 2025 Base Fee	Plus each additional \$1,000 over base fee	Fiscal Year 2026 Base Fee	Plus each additional \$1,000 over base fee
\$1 to \$5,000	\$150.75	\$0.00	\$150.75	\$0.00
\$5,001 to \$25,000	\$150.75	\$15.50	\$150.75	\$15.50
\$25,001 to \$50,000	\$460.75	\$11.50	\$460.75	\$11.50
\$50,000 to \$100,000	\$748.25	\$7.80	\$748.25	\$7.80
Over \$100,000	\$1,138.25	\$6.50	\$1,138.25	\$6.50
Minimum permit fee	\$150.75	\$0.00	\$150.75	\$0.00

Stand-alone Fire Suppression Systems (requires a backflow device when connected to potable water installed by licensed plumbing contractor or person exempt from licensing):

Permit Size	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
0 sq. ft. to 2,000 sq. ft.	\$157.80	\$157.80
2,001 sq. ft. to 3,600 sq. ft.	\$236.90	\$236.90
3,601 sq. ft. to 7,200 sq. ft.	\$296.15	\$296.15
7,201 sq. ft. and greater	\$551.45	\$551.45

Fire and Life Safety Plan Review Fee

Commercial properties only; 50% of the structural permit fee.

Essential Facilities Hazard Report Review

Commercial properties only; 1% of the structural and mechanical fees.

Initial Structural Plan Review Fees

75% of the permit fees.

Third-Party Plan Review

For transfer of a plan review to a third party; 10% of the permit fee, \$65 minimum.

¹ Permit fees are calculated based on the total valuation and square footage of the improvements.

BUILDING *continued***b. Mechanical Permits****Residential:**

Fees per current Mechanical Permit Application:

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Minimum permit fee	\$155.90	\$155.90
HVAC – for the installation of air handling unit including ducts		
Up to 10,000 cfm	\$27.40	\$27.40
Over 10,000 cfm	\$32.45	\$32.45
Air conditioning/heat pump (site plan required)	\$50.35	\$50.35
Alteration of existing HVAC system	\$23.40	\$23.40
Mini split system	\$23.40	\$23.40
Furnace install/relocate/replace including ductwork and vent		
Up to 100,000 BTU/h	\$23.40	\$23.40
Over 100,000 BTU/h	\$27.60	\$27.60
Vent for other than furnace	\$23.40	\$23.40
Hydronic Piping System	\$23.40	\$23.40
Install/relocate/replace heaters (room, suspended, wall/floor-mounted)	\$23.40	\$23.40
Environmental Exhaust and Ventilation – for the installation of		
Appliance vent	\$19.15	\$19.15
Dryer exhaust	\$15.50	\$15.50
Range hood/ other kitchen equipment	\$13.15	\$13.15
Each hood that is served by a mechanical exhaust or air conditioning	\$13.15	\$13.15
Exhaust system and single duct (bath fan) each	\$10.75	\$10.75
Exhaust system apart from heating or air conditioning	\$15.50	\$15.50
Fuel Piping and Distribution/LPG-NG-Oil fuel piping		
Up to four outlets (including gas tag)	\$27.60	\$27.60
Each additional outlet over four	\$2.95	\$2.95
Other Listed Applications		
Decorative fireplace or insert	\$44.40	\$44.40
Woodstove/pellet stove	\$58.75	\$58.75
Water heater/flue vent	\$23.40	\$23.40
Chimney-liner-flue -vent w/o appliance	\$23.40	\$23.40
Oil tanks/gas/diesel generators	\$23.40	\$23.40
Barbeque	\$23.40	\$23.40
Radon mitigation	\$23.40	\$23.40
Pool or spa heater/kiln	\$23.40	\$23.40

BUILDING *continued***Mechanical Permits *continued*****Commercial/Industrial:**

Valuation shall be calculated on the value of the equipment and installation costs. Use this section for commercial installation, replacement or relocation of non-portable mechanical equipment, or mechanical work not covered previously. Indicate the value of all mechanical labor, materials, and equipment.

Permit	FY 2025 Base Fee	Plus each additional over the base fee	FY 2026 Base Fee	Plus each additional over the base fee
Minimum permit fee	\$155.90	\$0.00	\$155.90	\$0.00
\$1 to \$5,000	\$155.90	\$0.00	\$155.90	\$0.00
\$5,001 to \$10,000*	\$155.90	\$2.50	\$155.90	\$2.50
\$10,001 to \$100,000**	\$280.90	\$19.15	\$280.90	\$19.15
Over \$100,000**	\$2,004.40	\$13.00	\$2,004.40	\$13.00
*Permit category stipulates additional over each \$100.				
**Permit category stipulates additional over each \$1,000.				

Initial Mechanical Plan Review Fees for Residential and Commercial/Industrial

50% of the permit fees.

BUILDING *continued***c. Plumbing Permits**

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Minimum permit fee (Residential/Commercial/Industrial)	\$155.90	\$155.90
Utilities per 100 feet (Residential/Commercial/Industrial)	\$120.00	\$120.00
Catch basin	\$52.75	\$52.75
Drywells, each	\$118.45	\$118.45
Rain drain connector	\$52.75	\$52.75
Manholes, each	\$103.20	\$103.20
Addition, alterations, and repairs for Residential/Commercial/Industrial (per fixture)	\$33.60	\$33.60

Residential:

Fees per current Plumbing Permit Application:

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Total bathrooms per dwelling		
1 bath dwelling (includes 1 kitchen)	\$654.90	\$654.90
2 bath dwelling (includes 1 kitchen)	\$723.65	\$723.65
3 bath dwelling (includes 1 kitchen)	\$860.00	\$860.00
Additional bathroom/kitchen	\$342.35	\$342.35
Manufactured home utilities	\$135.65	\$135.65
*Includes the first 100 ft. of water piping, wastewater and storm water lines, hose bibs, icemakers, under floor low point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system.		
Interior Piping (water or sewer) (per floor)		
First floor	\$103.20	\$103.20
Each additional floor	\$35.90	\$35.90
Multipurpose or Continuous Loop Suppression Systems		
0 sq. ft. to 2,000 sq. ft.	\$165.75	\$165.75
2,001 sq. ft. to 3,600 sq. ft.	\$248.85	\$248.85
3,601 sq. ft. to 7,200 sq. ft.	\$311.15	\$311.15
7,201 sq. ft. and greater	\$579.25	\$579.25

BUILDING *continued***Plumbing Permits *continued*****Commercial/Industrial:**

Valuation shall be calculated on the value of the equipment and installation costs. Fees per current Plumbing Permit Application:

Permit	Fiscal Year 2025 Base Fee	Plus each additional over the base fee	Fiscal Year 2026 Base Fee	Plus each additional over the base fee
Interior Piping (per fixture)	\$33.60	\$0.00	\$33.60	\$0.00
Initial plumbing plan review fees	30% of the plumbing permit fees			
Medical Gas permits				
\$1 to \$6,500	\$155.90	\$0.00	\$155.90	\$0.00
\$6,501 to \$10,000*	\$155.90	\$1.90	\$155.90	\$1.90
\$10,001 to \$100,000**	\$222.40	\$11.25	\$222.40	\$11.25
Over \$100,000**	\$1,234.90	\$7.80	\$1,234.90	\$7.80
Minimum permit fee	\$155.90	\$0.00	\$155.90	\$0.00
*Permit category stipulates additional over each \$100.				
**Permit category stipulates additional over each \$1,000.				

d. Electrical Permits**Residential/Commercial/Industrial:**

Fees per current Plumbing Permit Application:

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Minimum permit fee	\$155.90	\$155.90
New Residential single or multifamily houses, includes attached garage:		
1,000 square feet or less	\$315.15	\$315.15
Each additional 500 square feet or portion	\$64.40	\$64.40
Limited energy - single family (per dwelling)	\$127.55	\$127.55
Limited energy - multi-family (per floor)	\$127.55	\$127.55
Protective Signaling-multi-family (per floor)	\$127.55	\$127.55

BUILDING, Electrical Permits *continued***Residential/Commercial/Industrial:**

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Services or feeders installation, alterations, and/or relocation		
200 amps or less	\$188.45	\$188.45
201 amps to 400 amps	\$249.40	\$249.40
401 amps to 600 amps	\$378.85	\$378.85
601 amps to 1,000 amps	\$564.40	\$564.40
Over 1,000 amps or volts	\$1,032.15	\$1,032.15
Temporary services or feeders installation, alteration, and/or relocation		
200 amps or less	\$110.00	\$110.00
201 amps to 400 amps	\$234.10	\$234.10
401 amps to 600 amps	\$315.15	\$315.15
601 amps to 1,000 amps	\$463.05	\$463.05
Over 1,000 amps or volts	\$877.25	\$877.25
Branch circuits		
Branch circuits without service or feeder, 1 st circuit	\$105.35	\$105.35
Branch circuits without service, each additional circuit	\$14.45	\$14.45
Branch circuits with service, each circuit	\$14.45	\$14.45
Miscellaneous (service or feeder not included)		
Each manufactured or modular dwelling, service, and/or feeder	\$127.60	\$127.60
Reconnect only	\$127.60	\$127.60
Pump or irrigation circle	\$127.60	\$127.60
Sign or outline lighting	\$127.60	\$127.60
Signal circuit(s) or limited energy panel, alteration or extension (commercial/industrial only)	\$127.60	\$127.60
Each additional inspection over the allowable	\$99.45	\$99.45
Renewable Electrical Energy		
5 kva or less (2)	\$162.70	\$162.70
5.01 kva to 15 kva (2)	\$194.25	\$194.25
15.01 kva to 25 kva (2)	\$316.45	\$316.45
Greater than 25 kva – 25 kva + each add'l kva to 100 kva (max)	\$12.65	\$12.65
For Wind generation system		
25.01 kva to 50 kva (2)	\$632.95	\$632.95
50.01 kva to 100 kva	\$1,265.85	\$1,265.85
Master Electric Permit Application	\$100.00 one-time application fee	
Master Electric Permit Inspections	\$110.00 per hour	
Initial Electrical Plan Review Fees	25% of electrical permit fee	
Third-Party Plan Review	\$110.00	

BUILDING *continued***e. Manufactured Homes**

All jurisdictions in the Tri-County area shall charge a single fee for the installation and set-up of manufactured homes. This single fee shall include the concrete slab, runners, or foundations when they comply with the prescriptive requirements of the Oregon Manufactured Dwelling standard, electrical feeder and plumbing connections, and all cross-over connections.

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Permit fee	\$445.00	\$445.00
Manufactured dwelling parks and mobile home parks fee ¹	Per current State Permit Fee	
Statewide Code Development, Training and Monitoring Fee	\$30.00	\$30.00

f. In-fill and Grading

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
In-fill and Grading Permit and Plan review fees for each		
1 to 50 cubic yards	\$100.00	\$100.00
51 to 100 cubic yards	\$150.00	\$150.00
101 to 1,000 cubic yards ⁵⁴	\$200.00	\$200.00
1,000 to 10,000 cubic yards	\$250.00	\$250.00
10,001 cubic yards or more	Total hourly cost ²	

¹ O.A.R. 918-600-0030.

² Costs include supervision, overhead, hourly wages and benefits of employees involved.

BUILDING *continued***g. Permit Related Fees**

Permit	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
State surcharge shall be collected in an amount as required by State law		
Building Moving/Demolition permits:		
2,000 square feet or less	\$110.00	\$110.00
Each additional 1,000 square feet or portion	\$40.00	\$40.00
Plan Review Fee	75% of the permit fee	75% of the permit fee
Prescriptive Solar PV Installation	\$100.00	\$100.00
Non-prescriptive Solar PV Installation per current structural fee by validation	See building valuation table	
Recreational Parks and Organizational Camps	Per current State Permit Fee	
Administrative fee for simple refunds	\$35.00	\$35.00
Administrative fee for simple refunds	\$250.00	\$250.00
Administrative fee for changing contracts simple	\$35.00	\$35.00
Administrative fee for changing contracts complex	\$250.00	\$250.00
Floating structure permit – follow the structural permit fee schedule		
Permit changes outside of normal scope	\$110.00 per hour	
Plan review fees required/requested changes, additions and revisions.	\$110.00 per hour	
Re-inspection fees	\$110.00	\$110.00
Replacement sheets (each)	\$23.00	\$23.00
Re-instatement fee	\$110.00	\$110.00
Investigation fee	\$110.00 per hour	
Inspections outside of normal business hours (min. 2 hours)	\$110.00 per hour	
Earthquake – restraint bracing	\$135.00	\$135.00
Plan reviews not designated elsewhere	30% of the permit fee	
Certificate of Occupancy	\$180.00	\$180.00
Temporary Certificate of Occupancy	\$180.00	\$180.00
Change of use/Occupancy	\$180.00	\$180.00
Technology fee – applies to all programs unless specified	5% of the permit fee	
Deferred Submittal fee (per Deferred Submittal)	70% of permit fee calculated using the value of the deferred portion with a minimum of \$300	
Phased permit fee (per phase)	\$300.00 + 10% of total project permit fee (not to exceed \$1,500.00 per phase)	

3. BUSINESS REGISTRATION

Business Registration is required annually for all businesses doing business in the City.

Permit	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Standard Base Fee	\$175.00	\$175.00
New Business Commencing between July 1 and December 31	\$88.00	\$88.00
Change in Business Ownership	\$15.00	\$15.00
Fee for each FTE	\$10.00	\$10.00
Temporary Business (2 weeks or less)	\$30.00	\$30.00
Delinquent Registration	10% of the original business tax plus interest at 9% per annum from the due date until full payment is received.	

Metro Business License versus City Business Registration or Both:

Instead of obtaining separate business licenses/registrations within each Portland-area city that you conduct business in, you can purchase a single license from Metro to construct, alter, and repair structures in 20 cities that have licensing/registration requirements in the metropolitan area, excluding Portland. The license covers all construction trades, both commercial and residential, as well as all landscape contractors. Exception: if your principal place of business is inside the City of Milwaukie, the business is required to apply for a City of Milwaukie Business Registration in addition to the Metro license.

For Metro applications, contact Metro at 503.797.1620 or visit their website at:

<https://www.oregonmetro.gov/tools-working/regional-contractors-business-license>

4. DOWNTOWN PARKING

Downtown employees can purchase a permit for designated permit spaces. Customers and visitors to downtown Milwaukie can use the short-term parking spaces.

Parking Permit Fees ¹	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Daily	\$7.00	\$7.00
Monthly	\$100.00	\$100.00
Quarterly	\$275.00	\$275.00
Discount for Bulk Pass Purchase (>10) ²	10%	10%
Replacement Pass (each)	\$7.00	\$7.00
Parking Variance Fee ³	\$40.00	\$40.00

Downtown Parklet Use Fees

Downtown parklets are reviewed through Engineering. Additionally, Parklets incur a use fee for the parking spaces which are due upon application approval.

Engineering Fees	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
New parklet application fee	\$150.00	\$150.00
New parklet right-of-way fee	\$150.00	\$150.00
Parklet renewal application fee	\$50.00	\$50.00
Parklet renewal right-of-way fee	\$95.00	\$95.00
Parklet plan review	\$150.00	\$150.00
Monthly Use Fee Per Parking Space		
Private seasonal platform	\$20.00	\$20.00
Hybrid parklet (25% discount from private)	\$15.00	\$15.00
Public parklet	No fee for parking space use	
Additional incurred costs (if applicable)	TBD based on location	
Signage for public and hybrid parklets	\$95.00	\$95.00

¹ For parking fines refer to Section 9.

² Does not apply to daily permits.

³ Parking variance is subject to City approval for events and/or construction parking. Fee is charged per parking space and would be issued for no longer than a two-week period.

5. ENGINEERING

Engineering fees consist of plan review, inspections, permits, printed and electronic maps, and erosion control review.

Inspections and Permits	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Right-of-Way Permit Application¹		
Construction permit application	\$275.00	\$275.00
Sidewalk permit	\$55.00	\$55.00
Temporary street use	\$55.00	\$55.00
Use permit application	\$55.00	\$55.00
Parking closure downtown (per month, per space)	\$55.00	\$55.00
Lane closure (per week, per lane/block)	\$110.00	\$110.00
Road closure (per week, per block)	\$275.00	\$275.00
Major encroachment permit application	\$165.00	\$165.00
Minor encroachment permit application	\$55.00	\$55.00
Recording fee	\$113.00	\$113.00
Right-of-way re-inspection (beyond standard of 2)	\$105.00	\$105.00
Painted intersection permit	\$55.00	\$55.00
Subdivision construction inspection	5.5% of total construction cost (\$500.00 minimum)	
Public improvement construction inspection	5.5% of total construction cost (\$500.00 minimum)	
Street opening deposit	\$25.00 per sq. ft./\$1,500.00 minimum	
Street opening surcharge (under 5-year moratorium)	\$50.00 per sq. ft./\$3,000.00 minimum	
5-year moratorium surcharge		
1 st year of moratorium	\$250.00 per sq. ft.	\$250.00 per sq. ft.
2 nd year of moratorium	\$200.00 per sq. ft.	\$200.00 per sq. ft.
3 rd year of moratorium	\$150.00 per sq. ft.	\$150.00 per sq. ft.
4 th year of moratorium	\$100.00 per sq. ft.	\$100.00 per sq. ft.
5 th year of moratorium	\$50.00 per sq. ft.	\$50.00 per sq. ft.
Grading permit		
Minor (0 to 100 cy)	\$165.00	\$165.00
Major (100+ cy)	\$275.00	\$275.00
Flood plain review	Actual costs	
Flood plain inspection	Actual costs	
Building permit plan review – minor	\$85.00	\$85.00

ENGINEERING *continued*

Inspections and Permits	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Building permit plan review – major	\$165.00	\$165.00
Street vacation/rename request	\$2,750.00 deposit (actual cost billed per hourly rate)	
Request for stormwater rate reduction	\$75.00 deposit (actual cost billed per hourly rate)	
Franchise permit application	No charge	
Traffic control device request	No charge	
Engineering request	No charge	
ADA request for service	No charge	
Transportation fee review application	\$85.00 deposit (actual cost billed per hourly rate)	
Appeal to City council ²	\$330.00	\$330.00
Sewer dye test	\$110.00	\$110.00
Moving buildings ³	\$220.00 + \$85.00/hr. staff time + \$1,000.00 deposit	
Materials		
Public Works Standards	\$30.00	\$30.00
Sewer TV inspection tape	\$25.00	\$25.00
Electronic Drawing		
Paper – all sizes	\$6.00	\$6.00
Other format (plus \$45.00/hr. for additional work)	\$8.00	\$8.00
Reproduction charges (\$0.10 for additional pages)	\$1.00	\$1.00
Printed and electronic maps (GIS)		
Standard selection of GIS maps		
Full sheet (34" x 44")	\$50.00	\$50.00
½ sheet (22" x 34")	\$40.00	\$40.00
1/4 sheet (17" x 24")	\$30.00	\$30.00
1/8 sheet (11" x 17")	\$17.00	\$17.00
Electronic file (via electronic mail in PDF, JPG, GIF, or TIF formats)	\$17.00	\$17.00
Electronic file (for mailed media, which includes postage, handling, and media charges)	\$25.00	\$25.00
Aerial maps		
Full sheet (34" x 44")	\$55.00	\$55.00
½ sheet (22" x 34")	\$45.00	\$45.00
1/4 sheet (17" x 24")	\$35.00	\$35.00
1/8 sheet (11" x 17")	\$25.00	\$25.00
Electronic file (via electronic mail in PDF, JPG, GIF, or TIF formats)	\$17.00	\$17.00

ENGINEERING *continued*

Inspections and Permits	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Aerial Maps <i>continued</i> Electronic file (for mailed media, which includes postage, handling, and media charges)	\$25.00	\$25.00
Custom Maps Flat charge per hour plus cost of materials	\$60.00	\$60.00
Electronic file (for mailed media, which includes postage, handling, and media charges)	\$8.00	\$8.00
<u>Erosion Control:</u> Erosion Control permit required when disturbing over 500 sq. ft. of soil or as determined by MMC 16.28. Permit fees include one (1) plan review, one (1) initial inspection fee, and one (1) final inspection fee. Development sites may require more than one permit depending on project size, staging and requested phasing of occupancy. An erosion control permit may include demolition, clearing, grading and/or construction phases of development.		
Permit Review Fees – includes one (1) plan review, one (1) initial inspection and one (1) final inspection.		
Erosion Control Permit Consultation Fee (up to 30 min consultation)	\$50.00	\$50.00
Discount for Certified Erosion and Sediment Control Lead (CESCL) assigned project staff	25% permit review fee reduction	25% permit review fee reduction
Discount for qualified affordable housing One or more units meeting MMC 3.60.050	25% permit review fee reduction	25% permit review fee reduction
Residential – Minor Site Disturbance: For small projects adding no additional building footprint. Must be less than 1000 sq. ft. total soil disturbance	\$100.00	\$100.00
Residential - Single Family Home For single detached units and/or detached additional dwelling units.	\$250.00	\$250.00
Residential – Duplex, Triplex, Quadplex	\$500.00	\$500.00
Residential - Townhouses Attached single units, one unit per taxlot	\$500.00	\$500.00

ENGINEERING *continued*

Inspections and Permits	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Residential - Cottage Cluster Three (3) to twelve (12) units per cluster, one cluster per permit	\$500.00	\$500.00
Residential – Multi-unit Housing Five (5) or more attached units in one building, fee applies per building	\$750.00	\$750.00
Residential – Multi-phase development Large site for phased development, including grading, subdivision, right-of-way improvements, and site utility work. Fee is in addition to phased individual site permits.	\$500.00	\$500.00
Residential 1200 CN plan review fee	\$50.00	\$50.00
Commercial/Industrial – Minor Site Disturbance		
For small projects adding no additional building footprint. Must be less than 1000 sq. ft. total soil disturbance	\$100.00	\$100.00
Commercial – Multiunit Housing Five (5) or more attached units in one building, fee applies per building	\$750.00	\$750.00
Commercial - < 30,000 sq. ft. disturbed	\$750.00	\$750.00
Commercial - ≥ 30,000 sq. ft. to < 1 acre	\$750.00	\$750.00
Commercial - ≥ 1 acre but < 5 acre	\$900.00	\$900.00
Commercial – > 5 acres	\$400.00	\$400.00
Industrial - < 30,000 sq. ft. disturbed		
Industrial - < 30,000 sq. ft. to < 1 acre	\$800.00	\$800.00
Industrial - ≥ 30,000 sq. ft. to < 1 acre	\$800.00	\$800.00
Industrial - ≥ 1 acre but < 5 acre	\$900.00	\$900.00
Industrial – > 5 acres	\$400.00	\$400.00
Permit reissuance fee (no significant site changes, no changes to submitted EC plan,)		
	\$50.00	\$50.00
Erosion Control Inspection Fees		
Residential Re-Inspection Fee (Initial, Final)	\$60.00	\$60.00
Residential Routine Inspection Fee	\$20.00	\$20.00

ENGINEERING *continued*

Inspections and Permits	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Commercial Re-Inspection Fee (Initial, Final)	\$80.00	\$80.00
Commercial Routine Inspection Fee	\$30.00	\$30.00
Industrial Re-Inspection Fee (Initial, Final)	\$80.00	\$80.00
Industrial Routine Inspection Fee	\$40.00	\$40.00
Non-compliance Inspection Fee	\$120.00	\$120.00
Erosion Control Violation Fees		
Erosion Control Violation (MMC 16.28)	\$300.00/day	\$300.00/day
Illicit Discharge Violation (MMC 13.14)	\$1,000.00/day	\$1,000.00/day

¹ Performance bond amount at discretion of City Engineer.

² Certification requires four (4) hours of training in erosion control every two (2) years.

6. FEES IN LIEU OF CONSTRUCTION (FILOC)

FILOC (Residential/Commercial/Industrial)	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Transportation¹ maximum per lineal foot of site frontage. Actual fee may be less depending on site conditions and actual improvements required.	\$340.00	\$340.00
Collectors, arterials, and public area requirements	Actual cost + 50%	
Water² – per lineal foot of site frontage	\$375.00	\$375.00
Stormwater³ – per lineal foot of site frontage	\$265.00	\$265.00
Wastewater⁴ – per lineal foot of site frontage	\$250.00	\$250.00
Stormwater Management⁵ – per square foot of new or changed	\$14.00	\$14.00

FILOC may be available as an alternative to construction of minimum required improvements in accordance with MMC 13.32. FILOC for Transportation, Water, Stormwater, Wastewater, and Stormwater Management Facilities are established by City Council based on impact of development on the infrastructure serving the proposed use. FILOC for Transportation, Water, Stormwater, and Wastewater are based on historical costs to construct the facility per lineal foot of frontage. FILOC for Stormwater Management Facilities is based on historical costs to construct a facility per square foot of added or changed impervious area draining to the public system. FILOC is indexed for inflation annually using the Engineering News-Record Construction Cost Index (CCI) for Seattle, WA (Resolution #79-2016), based on a 5-yr. running average.

¹ Transportation FILOC is based on the historical cost to construct the minimum standard improvements for a local street.

² Water FILOC is based on the historical cost to construct the minimum standard water main.

³ Stormwater FILOC is based on the historical cost to construct the minimum standard storm main.

⁴ Wastewater FILOC is based on the historical cost to construct the minimum standard sanitary sewer main.

⁵ Storm Water Quality FILOC is based on the historical cost to construct the minimum required water quality facility for impervious surfaces created that drain to a public storm system without treatment.

7. LIBRARY

The Library collects fines for overdue books, lost or damaged items, and photocopying services.

Overdue Fines	Fiscal Year 2025 and 2026 Fee	Fiscal Year Maximum
Adult	\$0.10	\$1.00
Juvenile	\$0.10	\$1.00
Library of Things	\$1.00 per day	Replacement cost

Fees and Charges	Fiscal Year 2025 and 2026
Printing and Copies, per side	
Black and white	\$0.10
Color	\$0.50
Microfilm copies	
Lost or damaged items	Up to Replacement Cost
Non-district citizen library use (annual pass)	\$95.00

8. MISCELLANEOUS

Fees and Charges	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Document printing and copying Black and white Color	\$0.10 \$0.50	\$0.10 \$0.50
Lien docket searches	\$35.00	\$40.00
Filming permit – fee varies based upon production budget and time to review application. Fee may be waived under certain conditions.	\$2,400.00	\$2,400.00
South Downtown Plaza Reservations – Fee applies to full or partial closure of the South Downtown Plaza & festival street. Fee may vary based on size of event and staff involvement required. Fee may be waived at the discretion of the city manager or designee.	\$400.00	\$400.00
Temporary event permit – fee may be charged to cover costs incurred by the City for assisting with an event. Staff time will be based upon billable hourly rates.	No application fee	
Use of parking stall(s) in the right-of-way during a temporary event – City reserves the right to charge for required staff time if inspection is needed.	\$30.00	\$30.00
Maximum credit card transaction is \$10,000. All transactions greater than \$10,000 must be paid via cash, check, money order, or electronic funds transfer (EFT). This includes building permits, court fines, and other licensing or administrative services provided by the city.		

9. MUNICIPAL COURT

Milwaukie Municipal Court collects fines for traffic citations, parking violations, and miscellaneous programs approved by the Judge. Traffic fine amounts are set by State legislature based on the offense classification.

Fees and Charges	Fiscal Year 2025 Base Fee	Fiscal Year 2026 Base Fee
Payment plan installment fee	\$25.00	\$25.00
Failure to appear	\$40.00	\$40.00
Reinstatement fee	\$15.00	\$15.00
Suspension packet fee	\$15.00	\$15.00
Returned check fee	\$30.00	\$30.00
Boot release fee	\$50.00	\$50.00
Seat belt class fee	\$50.00	\$50.00
Collection processing fee	\$30.00	\$30.00
Audio CD – Court session	\$25.00	\$25.00
Trial cancellation fee	\$25.00	\$25.00
Young driver diversion fee		
Class B	\$200.00	\$200.00
Class C	\$100.00	\$100.00
Dismissal fee		
Class D	\$50.00	\$50.00
Deferred sentencing fee		
Class B	\$265.00	\$265.00
Class C	\$165.00	\$165.00
Class D	\$115.00	\$115.00

Traffic Fines				
Penalty	Presumptive Fine	Special Zone Fine ¹	Minimum Fine	Maximum Fine
Fiscal Year 2025 Fees				
Class A	\$440.00	\$875.00	\$225.00	\$2,000.00
Class B	\$265.00	\$525.00	\$135.00	\$1,000.00
Class C	\$165.00	\$165.00	\$85.00	\$500.00
Class D	\$115.00	\$115.00	\$65.00	\$250.00
Fiscal Year 2026 Fees				
Class A	\$440.00	\$875.00	\$225.00	\$2,000.00
Class B	\$265.00	\$525.00	\$135.00	\$1,000.00
Class C	\$165.00	\$165.00	\$85.00	\$500.00
Class D	\$115.00	\$115.00	\$65.00	\$250.00

¹ Special zones include highway work zones, school zones, and safety corridors.

MUNICIPAL COURT *continued***Parking Fines**

Per Milwaukie Municipal Code §10.20.090E, parking fine amounts may increase by 50% when a registered vehicle owner has received four (4) or more previous citations for the same parking violation within a rolling 365-day timeframe. If bail is not posted by the court date, the fine will be doubled. (Ord. #2005, adopted 2009, Ord. #1997, adopted 2009, Ord. #1728, adopted 1993, and Ord. #1361, adopted 1977).

Parking Fines	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Abandon vehicle	\$80.00	\$80.00
Angle parking	\$40.00	\$40.00
Bicycle lane	\$80.00	\$80.00
Blocking driveway	\$50.00	\$50.00
Block rule	\$40.00	\$40.00
Blocking disabled parking space	\$250.00	\$250.00
Bus zone/taxi zone	\$50.00	\$50.00
Double parking	\$50.00	\$50.00
During prohibited times	\$50.00	\$50.00
Emergency/safety zone	\$80.00	\$80.00
Fire hydrant	\$80.00	\$80.00
Five or more unpaid violations	\$60.00	\$60.00
Head-in only parking	\$50.00	\$50.00
Loading zone	\$50.00	\$50.00
No parking zone/tow away zone	\$80.00	\$80.00
On crosswalk/sidewalk	\$80.00	\$80.00
Over one foot from curb	\$60.00	\$60.00
Over space line	\$60.00	\$60.00
Overtime parking	\$60.00	\$60.00
Permit only parking ¹	\$60.00	\$60.00
Traffic hazard	\$80.00	\$80.00
Trucks – 2-hour limit	\$50.00	\$50.00
Disabled parking space	\$450.00	\$450.00
Wrong side of street	\$50.00	\$50.00
Where prohibited	\$80.00	\$80.00

¹ For parking permit fees see Section 4.

10. PLANNING

The City Planning Department oversees land use applications, annexations, special requests, and procurement of City maps and master plans.

Standard Land Use Applications

The following standard fees apply to all land use applications¹ not listed below. Some applications may require additional fees as described below under Additional Application Fees on page 22.

Review Type	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Type I Administrative review	\$200.00	\$200.00
Type II Administrative review	\$1,000.00	\$1,000.00
Type III Quasi-judicial review	\$2,000.00	\$2,000.00
Type IV Quasi-judicial review	\$5,000.00	\$5,000.00
Type V Legislative review	\$5,000.00	\$5,000.00

Other Land Use Applications

Applications	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Community service use – minor modification (Type I)	\$50.00	\$50.00
Final plat (Type I)	\$200.00	\$200.00
Historic resource designation (Type IV)	\$150.00	\$150.00
Lot consolidation (Type I)	\$200.00	\$200.00
Minor land partition, including Middle Housing or Expedited Land Division – preliminary plat review (Type II)	\$2,000.00	\$2,000.00
Natural Resource ²		
Boundary verification (Type I)	No charge	No charge
Construction management plan (Type I)	No charge	No charge
Natural resource management plan (Type I)	No charge	No charge
Tree removal request (Type I) ³	No charge	No charge
Tree removal request (Type III) ⁴	\$500.00	\$500.00
All other type I, II, or III Natural Resource applications ⁵	See fee for standard land use applications above	

¹ For a complete list of land use application types, see Milwaukie Municipal Code Table 19.901.

² Res. #77-2011, adopted August 16, 2011.

³ See MMC 19.402.6.A for Type I tree removal. For tree removal in the right of way see Section 5.

⁴ Required for any tree removal that is not Type I (MMC 19.402.8.A) or exempt (MMC 19.402.6.A). For tree removal in the right of way see Section 5.

⁵ Fees waived for applications that meet all three of the following criteria: (1) the application involves only a habitat conservation area (HCA) and not a water quality resource (WQR), (2) the property is used for residential purposes, and (3) the current owner was the owner prior to September 15, 2011.

PLANNING *continued*

Applications	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Planned development – preliminary plan review (Type III)	\$2,000.00	\$2,000.00
Planned development – final plan review (Type IV) ¹	\$5,000.00	\$5,000.00
Property line adjustment (Type I)	\$650.00	\$650.00
Property line adjustment (Type II)	\$1,000.00	\$1,000.00
Subdivision – preliminary plat review (Type III) ³	\$4,400.00 + \$100.00 per lot over 4 lots	
Subdivision for Middle Housing or Expedited Land Division (Type II)	\$2,000.00	\$2,000.00
Temporary structure (Type I)	\$50.00	\$50.00
Variance to fence height (Type II)	\$500.00	\$500.00
Annexations		
Annexation (expedited)	\$150.00	\$150.00
Annexation (Non-expedited: No zone change or comp plan amendment)	\$150.00	\$150.00
Annexation (Non-expedited: Zone change only)	\$500.00	\$500.00
Annexation (Non-expedited: Zone change and comp plan amendment)	\$3,500.00	\$3,500.00
Appeals		
Appeal to Planning Commission – per Oregon Statute (ORS 227.175 (10)(b)) ^{1,2}	\$250.00	\$250.00
Appeal to City Council ²	\$1,000.00	\$1,000.00

¹ Fee includes the zone change to apply the PD symbol to the zone map. Any change to the base zone requires an additional Type IV application and fee.

² A subdivision application fee is required for any subdivision that is being reviewed as part of a planned development.

PLANNING *continued***Additional Application Fees**

Fee Type	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Measure 56 Notice (for zoning map or text amendment)	Actual cost (\$1.00 per affected property, \$35.00 minimum)	
Reserve deposit	\$500.00	\$500.00
Technical report review ¹ Scope of work preparation Reserve deposit	Actual cost \$1,500.00	Actual cost \$1,500.00
Review of technical report (Res. #77-2011)	Actual cost	
Other reserve deposit		
Traffic	\$2,500.00	\$2,500.00
Natural resources	\$3,000.00	\$3,000.00
All other	\$1,000.00	\$1,000.00
Multifamily design review (Type I or II)	See fee for standard land use applications above.	
Downtown design review (type I, II, or III)	See fee for standard land use applications above.	
Discounts for Land Use Applications		
Two or More Applications (no discount for most expensive application). This discount applies to applications which relate to the same unit of land and which will be reviewed and decided concurrently.	25%	25%
Seniors must be at least 65 years of age and must be the property owner. Applicant may only receive one discount; the senior discount or the low-income discount.	25%	25%
Low-Income Residents may qualify for reduced fees by filing the same application used to apply for reduced sewer and water rates.	25%	25%
NDA-sponsored Land Use Applications Related to Parks	Fees waived	

¹ Actual cost to be determined by Planning Manager or City Engineer by estimating the cost of city staff time and resources dedicated to the project. See more information under Deposit Information.

² Fees are waived for NDA-sponsored appeals, pursuant to Resolution #26-1999.

³ The cost of completing or correcting any improvements required by the title in question and incurred by the City may be assessed to persons as part of the civil infraction judgment. Each day a violation continues will be considered a separate violation.

PLANNING *continued***Deposit Information**

In some cases, reserve deposits are collected to ensure that the City's actual expenses are covered. Deposits will be refunded relative to actual costs, and additional money may be required if actual costs exceed the deposit amount. This applies only to reserve deposits—base fees are nonrefundable.

Early Assistance

Pre-application Assistance for Minor Applications	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Pre-application meetings ¹		
First meeting	No charge	No charge
Second meeting	\$50.00	\$50.00
Third and subsequent meetings (per meeting fee)	\$100.00	\$100.00
Pre-application conference ²	\$200.00	\$200.00
Pre-application assistance for major applications:		
Pre-application meetings ¹		
First meeting	No charge	No charge
Second meeting	\$100.00	\$100.00
Third and subsequent meetings (per meeting fee)	\$200.00	\$200.00
Pre-application conference ²	\$400	\$400

Minor Applications typically include:

- Type I applications
- Type II applications for projects that would result in;
 - four or fewer residential units, or
 - construction of 10,000 sq. ft. or less of new or additional floor area.
- Type III applications for variances on sites with four or fewer residential units.

Major Applications typically include:

- Multiple applications packaged together.
- Type II applications that result in:
 - more than four residential units, or
 - construction of more than 10,000 sq. ft. of new or additional floor area.
- Type III applications, except for variances on sites with four or fewer residential units.
- Type IV or V applications

¹ Applies to optional meetings attended by a maximum of two City staff. No written notes provided.

² Applies to required or optional meetings that require three or more City staff. Written summary notes provided two weeks after meeting.

PLANNING *continued*

Notes: Staff will use the above lists as a general guide for distinguishing minor and major applications and reserve the right to make a final determination. City Manager (or designee) may reduce the fee for Early Assistance for a major application where it can be demonstrated that the level of staff effort required will be similar to what would be required for a Minor Application.

Special Requests	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Claims (pertaining to Measures 37 or 49) ¹	\$1,515.00	\$1,515.00
Significant Modification of Complete Land Use Application	\$500.00	\$500.00
Reschedule of Public Hearing at Applicant's Request (when re-notification is required)	\$500.00	\$500.00
Temporary Occupancy Request	\$100.00	\$100.00
Time Extension of Previously Granted Land Use Approval (Title 17 only)	\$50.00	\$50.00
Zoning Confirmation (General)	\$50.00	\$50.00
Zoning Confirmation (DMV Permit, LUCS) ²	\$25.00	\$25.00

Permit Review and Inspections	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Zoning Confirmation (DMV Permit, LUCS) ² Building Permit Review and Inspections (Minor; e.g., Demolition or Erosion Control)	\$25.00	\$25.00
Building Permit Review and Inspections (Major)	\$200.00	\$200.00
Additional Planning Inspection Fee	\$50.00	\$50.00
Modifications to Building Permit during review ³	\$100.00	\$100.00
Original Art Mural	\$100.00	\$100.00
Sign Permit Review (per sign)	\$100.00	\$100.00
Sign Permit Review (daily display or "sandwich board" sign)	\$150.00	\$150.00

Materials

Most materials are available online for free or contact Planning for additional information: <https://www.milwaukieoregon.gov/planning/planning-documents-ordinances-plans-and-guidelines>

The fee for a copy of any planning document (e.g. comprehensive plan, zoning ordinance, ancillary plans, etc.) shall be charged based on the number of copied pages. The standard City copy fee shall apply; refer to Section 8 of this document.

¹ Fee will be refunded if applicant prevails. If claim is denied, additional money may be required to cover contract-attorney or appraiser costs, as determined by city manager.

² Waived for LUCS for emergency sewer connection.

³ Fee applies to site plan revisions generated by applicant, not those required by staff during review process.

11. TREES IN THE CITY

Trees are considered valuable urban infrastructure that should be nurtured and protected as a community asset. The Milwaukie Municipal Code Chapter 16.32 Tree Code, Council Ordinance 2197 is to establish, maintain, and increase the quantity and quality of tree cover on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

Per the City of Milwaukie Tree Code, a right-of-way (ROW) tree removal permit is required for all trees that are over 2” DBH (diameter at breast height) that are located in the ROW or on city property. A tree is in the ROW if any portion of its trunk falls in the ROW. A pruning permit is required if more than 20% of the tree’s live crown is going to be removed or if roots within a radial distance of six times the tree’s DBH will be impacted. To prune or remove a tree that is in the ROW, an ROW permit application must be submitted along with a \$50.00 application processing fee. A permit application is typically approved if the tree is invasive, dead/dying, diseased, has significant infrastructure impacts that cannot be reasonably mitigated, or poses an unreasonable risk to public safety. Replanting a street tree from Milwaukie’s approved Street Tree List is a condition of permit approval.

Public Trees	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Public Tree Removal or Major Pruning Application Fee	\$50.00	\$50.00
Public Tree Planting Permit	No charge	No charge
Healthy Public Tree Removal Fee		
Less than 2” DBH	\$40.00	\$40.00
2” to less than 4” DBH	\$60.00 per inch DBH	\$60.00 per inch DBH
4” to less than 8” DBH	\$80.00 per inch DBH	\$80.00 per inch DBH
8” to less than 14” DBH	\$100.00 per inch DBH	\$100.00 per inch DBH
14” to less than 20” DBH	\$150.00 per inch DBH	\$150.00 per inch DBH
20” or greater DBH	\$200.00 per inch DBH	\$200.00 per inch DBH
Public Tree Planting and Establishment Fee (in lieu of planting)	\$675.00 per tree	\$675.00 per tree
Public Tree Enforcement/Restoration Fee		
Failure to Replant	2X Planting and Establishment Fee	2X Planting and Establishment Fee
Damaged Tree	\$225.00 per inch DBH	\$225.00 per inch DBH
Removed Tree or Tree Topping	\$450.00 per inch DBH	\$450.00 per inch DBH

TREES IN THE CITY *continued*

On April 19th, 2022, residential tree code (Ord. 2216) was adopted unanimously by city council as a way to complement the comprehensive plan housing and parking code updates while preserving and enhancing tree canopy in Milwaukie. Being a primarily residentially zoned community, the majority of Milwaukie's tree canopy is located on private property. To meet the established canopy goals of 40% canopy cover by 2040, Milwaukie adopted residential tree protections as a way to preserve existing trees and require the replanting of trees if another is removed. Development sites must also meet robust tree standards to ensure that new housing units are constructed with the community's canopy goals in mind.

Effective May 19th, 2022, trees that are greater than 6" DBH on residentially zoned private properties are regulated by the Milwaukie Tree Code (MMC 16.32.042). Property owners looking to remove a tree in a non-development situation must apply for a Type 1 or Type 2 tree permit before removal. Type 1 tree permits are for removal circumstances where the tree is dead, dying, hazardous, or impacting infrastructure or public safety in ways that cannot be mitigated. Type 1 tree permit applications are available at no cost to the applicant, and no removal fees are required. Type 2 tree permits are for the elective removal of healthy trees. Type 2 tree permits incur a \$50.00 application fee and if approved, applicants must pay healthy tree removal fees. Replanting is a condition of approval for most permitted tree removals.

The development tree code applies when new or additional housing units are constructed on residentially zoned properties, or when a property is being subdivided with the intention of constructing new housing units. The development tree code includes standards for tree preservation, tree planting, tree protection and soil volume requirements which must be met or mitigated for. Milwaukie's urban forest staff work with the city's community development department and engineering department, as well as the developers themselves, to meet the standards of the new tree code and integrate the requirements with the existing land use code and Public Works standards to create development sites that achieve the city's housing, parking and canopy goals.

TREES IN THE CITY *continued*

Private Non-Development Tree Fees	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Residential Tree Permit Application Fee (Type 1)	\$0.00	\$0.00
Residential Tree Permit Application Fee (Type 2)	\$50.00	\$50.00
Healthy private tree removal fee beyond one tree per 12-month period ¹ Measurements are in diameter at breast height (DBH). 6 to <12" DBH (approx. 19" – 38" circumference) 12 to <18" DBH (approx. 38" -57" circumference) 18" to <24" DBH (approx. 57" -75" circumference) 24" to <30" DBH (approx. 75" -94" circumference) 30" to <36" DBH (approx. 94" -113" circumference) 36" or greater (greater than 113" circumference) Rare or Threatened Tree Removal	\$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH	\$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH
Planting and Establishment Fee in lieu of Replanting for Non-Development Private Residential Trees	\$675.00 per tree	\$675.00 per tree

Private Enforcement and Restoration Fees	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Violation Review Fee (Development)	\$200.00	\$200.00
Damaged Private Tree	\$225.00 per inch DBH	\$225.00 per inch DBH
Tree Protection Violation Zone Fee	\$225.00 per inch DBH	\$225.00 per inch DBH
Unpermitted Private Tree Removal Fee (Development)		
6" to <12" DBH	\$2,000.00 per tree	\$2,000.00 per tree
12" to <18" DBH	\$167.00 per inch DBH	\$167.00 per inch DBH
18" to <24" DBH	\$200.00 per inch DBH	\$200.00 per inch DBH
24" to <36" DBH	\$250.00 per inch DBH	\$250.00 per inch DBH
36" or greater DBH	\$300.00 per inch DBH	\$300.00 per inch DBH
Unpermitted Private Tree Removal or Tree Topping (Non-Development)	2 x healthy private tree removal fee + \$250.00	2 x healthy private tree removal fee + \$250.00
Failure to Replant a Tree (Non-Development)	2 x Fee in Lieu	2 x Fee in Lieu

¹ No removal fee for 1st tree less than 12" DBH removed under type 1 permit.

TREES IN THE CITY *continued*

Private Development Tree Fees	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Residential Construction Tree Plan Review Fee	\$300.00	\$300.00
Site Inspection Fee	\$50.00	\$50.00
Site Re-inspection Fee	\$175.00	\$175.00
<p>Fee in lieu of preservation standard in residential development <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i></p> <p>Fee in lieu of preservation standard for eligible residential affordable housing <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i></p>	<p>\$4,000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction.</p> <p>Remaining site canopy <30%-22.5%: \$4,000.00 <22.5%-15%: \$4,000.00 <15%-7.5%: \$4,000.00 <7.5%-0%: \$4,000.00</p> <p>\$2,000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction.</p> <p>Remaining site canopy <30%-22.5%: \$2,000.00 <22.5%-15%: \$2,000.00 <15%-7.5%: \$2,000.00 <7.5%-0%: \$2,000.00</p>	<p>\$4,000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction.</p> <p>Remaining site canopy <30%-22.5%: \$4,000.00 <22.5%-15%: \$4,000.00 <15%-7.5%: \$4,000.00 <7.5%-0%: \$4,000.00</p> <p>\$2,000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction.</p> <p>Remaining site canopy <30%-22.5%: \$2,000.00 <22.5%-15%: \$2,000.00 <15%-7.5%: \$2,000.00 <7.5%-0%: \$2,000.00</p>

TREES IN THE CITY *continued*

Other Tree Types	Fiscal Year 2025	Fiscal Year 2026
Significant Tree Credits		
<i>Retained significant trees in diameter at breast height (DBH)</i>		
Retained significant tree 12" to <20" DBH	125% existing or future canopy multiplier	125% existing or future canopy multiplier
Retained significant tree >20" DBH	150% existing or future canopy multiplier	150% existing or future canopy multiplier
Retained significant tree >36" DBH	175% existing or future canopy multiplier	175% existing or future canopy multiplier
Rare or Threatened Tree Removal Fee	\$250.00 per inch DBH	\$250.00 per inch DBH
Fees in Lieu of Planting Standard	\$5.00 per square foot of canopy necessary to meet 40% site coverage	\$5.00 per square foot of canopy necessary to meet 40% site coverage
Bonding Requirements		
Tree Protection	\$3,500 per protected tree held for 3 years	\$3,500 per protected tree held for 3 years
Post Development	\$3,500.00 per newly planted tree held for 5 years	\$3,500.00 per newly planted tree held for 5 years

12. POLICE

Milwaukie Police Department collects fees for permits, licenses, and other miscellaneous services listed below:

Fees and Charges	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Permits/Licenses		
Adult business	\$372.00	\$372.00
Alarm permit – residential	\$25.00	\$25.00
Alarm permit – (65+)	\$10.00	\$10.00
Alarm permit – business	\$50.00	\$50.00
Gun background check	\$100.00	\$100.00
Liquor license (Original application)	\$100.00	\$100.00
Liquor license (Name or other change)	\$100.00	\$100.00
Liquor license (Renewal application)	\$150.00	\$150.00
Liquor license (Temporary license)	\$35.00	\$35.00
Police Reports		
Body worn camera footage	\$50.00 for 1 st 15 minutes to pull footage, \$50.00 for each add'l hour to complete request	
Video copy	\$35.00	\$35.00
Police report	\$15.00	\$15.00
Photo CD	\$15.00	\$15.00
Traffic citation discovery	\$10.00	\$10.00
Additional research charges may apply for unusual/complex requests		

Police Services	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
First false alarm response	No charge	
Second false alarm response		
Residential	\$25.00	\$25.00
Commercial	\$50.00	\$50.00
Third false alarm response		
Residential	\$50.00	\$50.00
Commercial	\$150.00	\$150.00
Fourth false alarm response		
Residential	\$150.00	\$150.00
Commercial	\$250.00	\$250.00
Fifth false alarm response		
Residential	\$250.00	\$250.00
Commercial	\$500.00	\$500.00
False alarm past fifth	No response	

POLICE *continued*

Police Services <i>continued</i>	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Good conduct background letter	\$5.00	\$5.00
Vehicle impound	\$160.00	\$160.00
Loud party response – first response	Warning	
Loud party response – second response and/or each subsequent response in a 24-hr. period	\$50.00	\$50.00
Fire and emergency services fee (Ord. #1764, adopted 1994)	Actual cost	

13. SDC & CONSTRUCTION EXCISE TAX

System Development Charges (SDC) fees for Water, Stormwater, and Transportation shall be indexed for inflation annually using the Engineering-News Record Construction Cost Index (CCI) for Seattle (Resolution #40-2007). The CCI increase is 5.64%. Based on Oregon State Statute (ORS 223.304), the charges are broken down into three components; (1) reimbursement (to recover existing facility capacity available for growth), (2) improvement (to recover planned capacity improvements for growth), and (3) administration (to recover direct costs).

Water System Development Charges

Fiscal Year 2025 Fee				
Meter	Reimbursement	Improvement	Compliance	Total
3/4"x3/4"	\$525.00	\$4,682.00	\$396.00	\$5,603.00
1"	\$874.00	\$7,804.00	\$661.00	\$9,339.00
1.5"	\$1,749.00	\$15,608.00	\$1,321.00	\$18,678.00
2"	\$2,798.00	\$24,972.00	\$2,114.00	\$29,885.00
3"	\$5,596.00	\$49,944.00	\$4,229.00	\$59,769.00
4"	\$8,744.00	\$78,038.00	\$6,607.00	\$93,389.00
6"	\$17,489.00	\$156,075.00	\$13,214.00	\$186,779.00
8"	\$27,982.00	\$249,721.00	\$21,143.00	\$298,846.00
10"	\$40,225.00	\$358,973.00	\$30,393.00	\$429,591.00
12"	\$88,538.00	\$790,132.00	\$66,898.00	\$945,567.00

Fiscal Year 2026 Fee				
Meter	Reimbursement	Improvement	Compliance	Total
3/4"x3/4"	\$525.00	\$4,682.00	\$396.00	\$5,603.00
1"	\$874.00	\$7,804.00	\$661.00	\$9,339.00
1.5"	\$1,749.00	\$15,608.00	\$1,321.00	\$18,678.00
2"	\$2,798.00	\$24,972.00	\$2,114.00	\$29,885.00
3"	\$5,596.00	\$49,944.00	\$4,229.00	\$59,769.00
4"	\$8,744.00	\$78,038.00	\$6,607.00	\$93,389.00
6"	\$17,489.00	\$156,075.00	\$13,214.00	\$186,779.00
8"	\$27,982.00	\$249,721.00	\$21,143.00	\$298,846.00
10"	\$40,225.00	\$358,973.00	\$30,393.00	\$429,591.00
12"	\$88,538.00	\$790,132.00	\$66,898.00	\$945,567.00

SDC & CONSTRUCTION EXCISE TAX *continued***Scalable SDC by House Size**

	EDUs	Max. Water SDC
Single-Family Residential		
<500 sq ft (use ADU rate)	0.60	\$3,362.00
500-800 sq ft	0.70	\$3,922.00
800-1,799 sq ft	0.90	\$5,043.00
1,800-2,999 sq ft	1.00	\$5,603.00
3,000- 3,799 sq ft	1.10	\$6,164.00
≥3,800 sq ft	1.20	\$6,724.00
Accessory Dwelling Unit	0.60	\$3,362.00

Wastewater System Development Charges

A wastewater unit is equal to 16 fixture units derived from Table 7-3 of the Oregon Plumbing Specialty Code. Each residential dwelling unit is one (1) wastewater unit. Accessory Dwelling Units (ADU) and duplex units are assumed to have a lesser impact and will be charged at 65% of the EDU rate. Multi-family over (2) two units and all other development will be charged based on actual number of plumbing fixture units.

Fiscal Year 2025 Fee				
Wastewater SDC	Reimbursement	Improvement	Compliance	Total
Single-family dwelling	\$1,004.43	\$148.06	\$24.30	\$1,176.79
Duplex, ADU (per dwelling)	\$652.88	\$96.24	\$15.80	\$764.92
Other (per EDU)	\$1,004.43	\$148.06	\$24.30	\$1,176.79

Fiscal Year 2026 Fee				
Wastewater SDC	Reimbursement	Improvement	Compliance	Total
Single-family dwelling	\$1,061.07	\$156.41	\$25.67	\$1,243.15
Duplex, ADU (per dwelling)	\$689.70	\$101.66	\$16.69	\$808.05
Other (per EDU)	\$1,061.07	\$156.41	\$25.67	\$1,243.15

SDC & CONSTRUCTION EXCISE TAX *continued***Stormwater System Development Charges**

A stormwater unit is equal to 2,706 square feet of impervious surface on the property. Each single-family residential property is one (1) stormwater unit.

Fiscal Year 2025 Fee				
Stormwater SDC	Reimbursement	Improvement	Administration	Total
Single-family property (lot)	\$0.00	\$1,147.25	no charge	\$1,147.25
All other (per DRU)	\$0.00	\$1,147.25	no charge	\$1,147.25

Fiscal Year 2026 Fee				
Stormwater SDC	Reimbursement	Improvement	Administration	Total
Single-family property (lot)	\$0.00	\$1,211.95	no charge	\$1,211.95
All other (per DRU)	\$0.00	\$1,211.95	no charge	\$1,211.95

Transportation System Development Charge

Trip generation rates for each land use type are derived from the Institute of Transportation (ITE) report Trip Generation (10th Edition, 2017). Trip rates are expressed as vehicle trips entering and leaving a property during the p.m. peak travel period.

Fiscal Year 2025 and 2026 Fee				
Transportation SDC	Reimbursement	Improvement	Administration	Total
Single-family dwelling (per unit)	\$124.65	\$2,485.65	no charge	\$2,609.30
Duplex, ADU (per unit)	\$81.34	\$1,616.29	no charge	\$1,697.63
All other (per trip)	\$124.65	\$2,485.65	no charge	\$2,609.30

SDC & CONSTRUCTION EXCISE TAX *continued***Parks and Recreation System Development Charge**

This charge is set by the North Clackamas Parks and Recreation District (NCPRD). Rates are updated as changes are adopted by NCPRD's governing board. ADUs are charged half the rate of a single-family. Visit <https://ncprd.com/sdcs> for information on Parks SDC, including calculation of employees.

System Development Charge	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Single-Family Residential (fee per dwelling unit)	\$3,985.00	\$3,985.00
Multifamily Residential (fee per dwelling unit)	\$3,608.00	\$3,608.00
Nonresidential (fee per employee)	\$60.00	\$60.00

School Construction Excise Tax

This charge is set by the North Clackamas School District. Rates herein are updated as changes are adopted by their governing board.

School Construction Excise Tax	Fiscal Year 2025 Fee²	Fiscal Year 2026 Fee³
Residential (fee per sq. ft.)	\$1.45	\$1.45
Commercial ¹ (fee per sq. ft.)	\$0.72	\$0.72

Metro Construction Excise Tax

This charge is set by Metro. Rates are updated as changes are approved by their governing board.

Permits for construction projects valued at \$100,000 or less will be exempted from this tax as well as permits for development of affordable housing units and permits issued to 501(c)(3) nonprofit organizations for other projects aimed at serving low-income populations. Permits for construction valued at more than \$10 million will be assessed a flat \$12,000 fee (0.12 percent of \$10 million).

Metro Construction Excise Tax	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Metro Construction Excise Tax (fee per \$100.00 of permit value)	\$0.12	\$0.12

¹ Total commercial fee capped at \$36,100² per project. Private schools, public improvements, low-income (HUD) housing, hospitals, religious facilities, and agricultural buildings are exempt. Construction under 1,000 sq. ft. is exempt.

² Pending NCSD approval in June 2022. Subject to change.

³ Rates to be determined in 2023. Subject to change.

SDC & CONSTRUCTION EXCISE TAX *continued***Bancroft Financing for Commercial System Development Charges**

Bancroft Financing provides the opportunity for property owners of single family, multi-family, not-for-profit, public organizations, and commercial properties, to finance system development charge(s) over a ten-year period, or less at the desire of the property owner, subject to the following interest rate (Ordinance 2108, adopted November 17, 2015):

Commercial System Development Charges	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Bank Prime Rate	Subject to change as published by the Federal Reserve System ¹	Subject to change as published by the Federal Reserve System ¹
Administration	5.00%	5.00%
Total	Current prime rate plus administration	Current prime rate plus administration

Construction Excise Tax for Affordable Housing (CET-AH)

Construction Excise Tax for affordable housing will be assessed at 1 percent (1%) of permit value. Permits for construction projects valued at \$100,000 or less will be exempted from this tax as well as permits for development of affordable housing units at or below 80% Median Family Income (MFI), public Improvements under public contracting code, schools, hospitals, places of worship, agriculture, non-profit care, affordable for-sale single family housing—at or below 80 percent MFI, and Accessory Dwelling Units for five (5) years from time of adoption. (Ordinance 2154, adopted November 21, 2017)

¹ The bank prime rate established by the Federal Reserve is updated periodically as determined by the Federal Reserve Board. The current bank prime rate can be found on the Federal Reserve website under "bank prime loan."

14. UTILITIES

City of Milwaukie provides water, wastewater, stormwater, and street maintenance service to residents. These services are billed monthly at the following rates¹:

Water

Water	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Water Volume Charge (per CCF of consumption)		
0-3 Units (residential only)	\$4.34	\$4.44
4 or more units (residential or all multi-family/commercial)	\$4.50	\$4.64
Low Use Discount		
Single Family Residential low use discount (3 or less CCF per month)	\$(5.00)	\$(5.00)

Residential & Commercial Meters – Fixed Charge²

Meter Size	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
5/8" – 3/4"	\$9.35	\$9.53
1"	\$14.60	\$16.06
1 1/2"	\$24.07	\$27.08
2"	\$38.23	\$43.96
3"	\$94.25	\$108.38
4"	\$162.01	\$186.31
6"	\$239.01	\$274.86

Standby Service for fire Flow Purposes – Fixed Charge

Meter Size	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
2"	\$15.23	\$15.74
4"	\$58.67	\$67.47
6"	\$92.85	\$116.06
8"	\$151.23	\$226.84
10"	\$191.07	\$286.60
12"	\$230.91	\$346.36

¹ The Citizens Utility Advisory Board reviews the existing rate structure and capital improvement plan to advise City Council on utility rates.

² Customers participating in the City's Low-Income Utility Assistance program are exempt from the monthly fixed charge.

UTILITIES *continued***Wastewater**

Account Type	Treatment (per EDU)	Billing and Administration (per account)	Volume ¹ (per CCF of water consumption)
	Fiscal Year 2025 and 2026 Fee		
Residential	\$34.36	\$4.35	\$3.99
Low Income	\$17.18	\$2.18	\$1.99
Multi-family/Commercial – 3/4” ²	\$34.36/\$74.68	\$10.23	\$3.99
Multi-family/Commercial – 1”	\$34.36/\$74.68	\$18.74	\$3.99
Multi-family/Commercial – 1 1/2”	\$34.36/\$74.68	\$25.64	\$3.99
Multi-family/Commercial – 2”	\$34.36/\$74.68	\$32.54	\$3.99
Multi-family/Commercial – 3”	\$34.36/\$74.68	\$46.34	\$3.99
Multi-family/Commercial – 4”	\$34.36/\$74.68	\$60.14	\$3.99
Multi-family/Commercial – 6”	\$34.36/\$74.68	\$87.75	\$3.99

Stormwater

Fiscal Year 2025 Fee			
Account Type	Single Family Residential	Low Income	Commercial (per 2,706 sq. ft. of impervious area)
Stormwater	\$29.47	\$14.73	\$29.47
Fiscal Year 2026 Fee			
Account Type	Single Family Residential ³	Low Income	Commercial (per 2,706 sq. ft. of impervious area)
Stormwater	\$29.47	\$14.73	\$29.47

¹ Residential wastewater volume charges are determined by the average monthly water usage from November to February (winter average). The winter average is adjusted annually on March 31st.

² Based upon water meter size. Multi-family EDU is billed per unit. A commercial EDU is equivalent to 10 CCF of usage.

³ Where an ADU is on the property, fee is only charged to the primary residence.

UTILITIES *continued***Transportation - Street Maintenance & SAFE Rates for All Categories**

Account Type	Fiscal Year 2025 Fees SSMP	Fiscal Year 2026 Fees SSMP
Single Family Residential	\$6.06	\$6.40
Low Income	Exempt	
Commercial per daily trip generated ^{1,2}	\$0.62	\$0.66
Multi-Family Residential (per unit)	\$5.01	\$5.29
Elderly Housing/Mobile Homes (per unit)	\$2.49	\$2.63
Congregate Care (per unit)	\$1.24	\$1.32

Account Type	Fiscal Year 2025 Fees SAFE	Fiscal Year 2026 Fees SAFE
Single Family Residential	\$6.75	\$7.11
Low Income	Exempt	
Commercial per daily trip generated ^{1,2}	\$0.66	\$0.70
Multi-Family Residential (per unit)	\$5.41	\$5.71
Elderly Housing/Mobile Homes (per unit)	\$2.70	\$2.85
Congregate Care (per unit)	\$1.32	\$1.43

Other Charges

Water	Fiscal Year 2025 Fee	Fiscal year 2026 Fee
Connect Service 5/8" or 3/4" Residential Service	\$1,030.00 shortside / \$1,120.00 long side	\$1,030.00 shortside / \$972.00 long side
Connect Service 1"	\$1,237.00 shortside / \$1,312.00 long side	\$1,237.00 shortside / \$1,312.00 long side
Connect Service 1 1/2"	\$2,400.00 shortside / \$2,530.00 long side	\$2,400.00 shortside / \$2,530.00 long side
Connect Service 2"	\$4,175.00 shortside / \$4,750.00 long side	\$4,175.00 shortside / \$4,750.00 long side
3/4" Meter Equipment	\$300.00	\$300.00
1" Meter Equipment	\$450.00	\$450.00
1 1/2" Meter Equipment	\$700.00	\$700.00
2" Meter Equipment	\$1,500.00	\$1,500.00
Hydrant Meter Deposit (refundable less water usage)	\$2,500.00	\$2,500.00
Hydrant Meter usage Fee per CFF	\$9.25	\$9.25

¹ Cost per commercial account are determined by type of use. Visit www.milwaukieoregon.gov/commercialfee for a detailed breakdown.

² Commercial daily trip generated is calculated based on type of use and building square feet. Some uses have monthly caps that are adjusted annually for CPI published by the Bureau of Labor Statistics. Current maximums are \$395.81 for the SSMP and \$520.21 for the SAFE programs as applicable. Visit www.milwaukieoregon.gov/commercialfee for more information.

UTILITIES, Other Charges *continued*

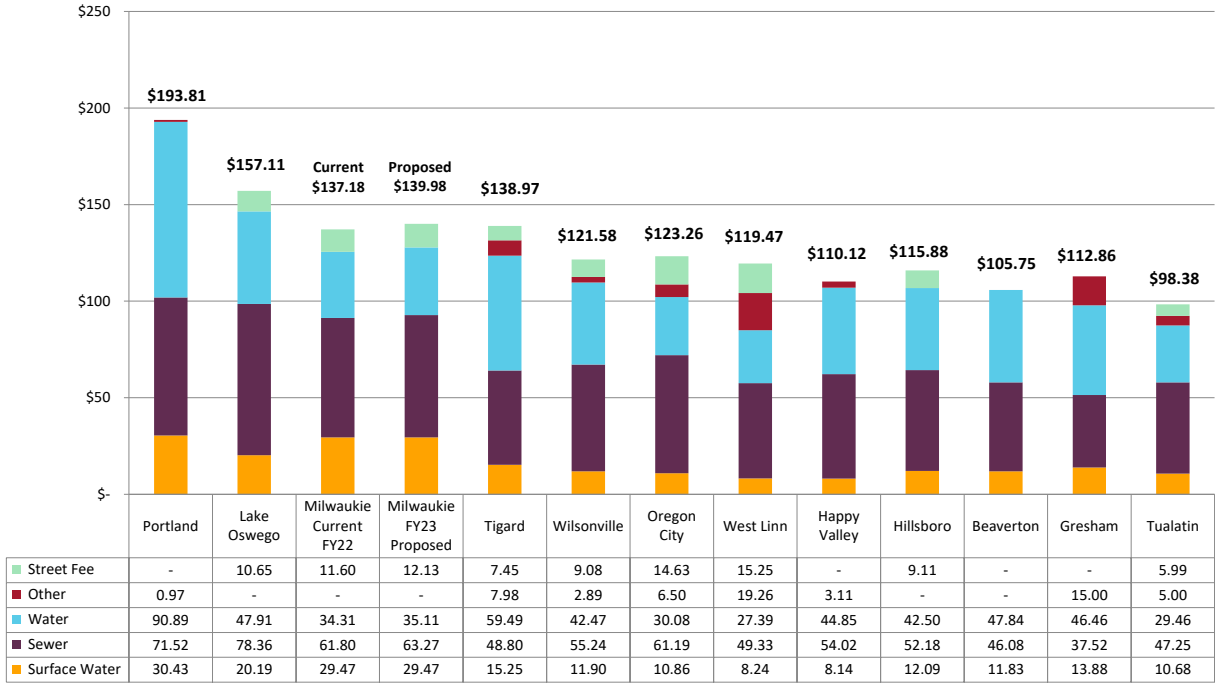
Sewer Connection	Fiscal Year 2025 Fee (per EDU)	Fiscal Year 2026 Fee (per EDU)
A fee charged to the City by Clackamas County and collected to recover invoiced costs for each new connection to the public sanitary sewer system.	\$9,100.00	\$9,100.00
A fee charged to the City by City of Portland and collected to recover invoiced costs for each new connection to the public sanitary sewer system.	Calculated on a tiered rate structure by multiplying the net new number of Drainage Fixture Units (DFU) by the rate published in City of Portland's annual rate ordinance for the appropriate occupancy tier.	
Miscellaneous	Fiscal Year 2025 Fee	Fiscal year 2026 Fee
Delinquent Account – Past Due Notice	\$8.00	\$8.00
Delinquent Account – Notice of Termination	\$15.00	\$15.00
Shut-off/Turn-on	\$35.00	\$35.00
Tamper Fee	n/a	\$150.00
After-hours Restoration of Service ²	\$110.00	\$110.00
Reimbursement District Fee	To be determined by the scope of project	

¹ An EDU or "equivalent dwelling unit" is a unit of measurement of sewer usage that is assumed to be equivalent to the usage of an average dwelling unit.

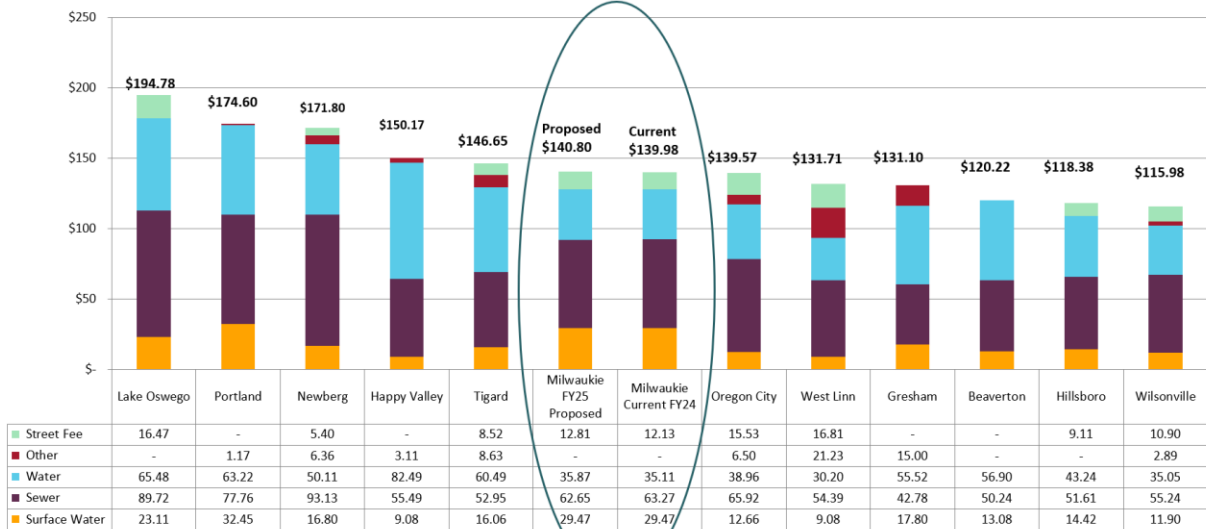
² After-hours service is Monday-Friday 3:00-8:00 p.m.; Saturday and Sunday 8:00 a.m.-8:00 p.m.

UTILITIES *continued*

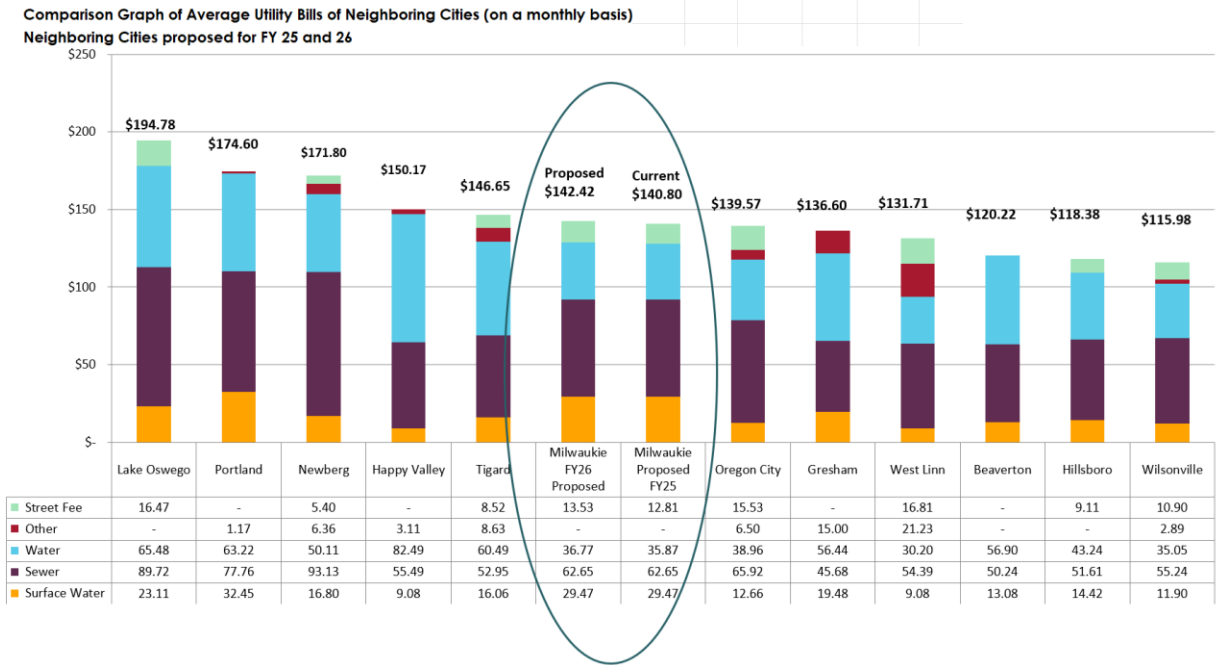
Comparison Graph – Single Family Residential for FY 2025 and FY 2026



Comparison Graph of Average Utility Bills of Neighboring Cities (on a monthly basis)
Neighboring Cities proposed for July 1, 2024



UTILITIES *continued*



These graphs compare the average utility bills for the neighboring cities surrounding Milwaukie. As some cities bill monthly, some bill every two months, and some bill every three months, these amounts are converted to average monthly amounts, so they are comparable to Milwaukie. Also, cities increase different rates at different times during the year; therefore, this graph is simply a picture in time reflecting the rates at the time that the survey was conducted. And finally, cities have different average water consumption amounts per household; so for the sake of this comparison, these rates are computed using an average 6ccfs of water used per month to be comparable to Milwaukie's overall average. Below are Milwaukie's calculations:

	July 1 2023			July 1 2024			July 1 2025		
	Increased	avg. bill		Increased	avg. bill		Increased	avg. bill	
Water Service Fee									
Base	1.87%	0.17	\$ 9.25	1.08%	0.10	\$ 9.35	1.93%	0.18	\$ 9.53
Plus per 6ccf	2.50%	0.63	25.86	2.55%	0.66	26.52	2.71%	0.72	27.24
<i>Avg water per house (6ccfs)</i>			35.11			35.87			36.77
Sewer Service Fee									
Base fee	2.51%	0.84	34.36	0.00%	-	34.36	0.00%	-	34.36
Plus per 6ccf	2.23%	0.63	28.91	-2.14%	(0.62)	28.29	0.00%	-	28.29
<i>Avg sewer per house</i>			63.27			62.65			62.65
Storm Water Management Fee	0.00%	-	29.47	0.00%	-	29.47	0.00%	-	29.47
Street Maintenance Fee									
SSMP	4.55%	0.25	5.74	5.57%	0.32	6.06	5.61%	0.34	6.40
SAFE	4.58%	0.28	6.39	5.63%	0.36	6.75	5.63%	0.38	7.13
<i>Avg street per house</i>			12.13			12.81			13.53
<i>Average bill per residence</i>	2.04%	\$ 2.80	\$ 139.98	0.59%	\$ 0.82	\$ 140.80	1.15%	\$ 1.62	\$ 142.42
Maximum SSMP	0.046	16.48	374.68	0.0564	21.13	395.81	0.0564	22.32	418.14
Maximum SAFE	0.046	21.66	492.43	0.0564	27.77	520.21	0.0564	29.34	549.54

15. RIGHT-OF-WAY UTILITY LICENSE

The following fees apply to anyone using the City’s Rights-of-way (ROW) in accordance with Resolution 3-2019.

Right-of-Way Licenses	Fiscal Year 2025 Fee	Fiscal year 2026 Fee
ROW application	\$50.00	\$50.00
ROW License (5 year)	\$250.00	\$250.00
Electric & Natural gas utility providers	8% of gross revenue	8% of gross revenue
Communications (other than Small Cell Wireless)	7% of gross revenue	7% of gross revenue
Cable Systems (franchise required)	5% of gross revenue	5% of gross revenue
Use of the City’s ROW for any purpose other than generating revenue ¹	\$4.52 per linear foot or \$6,149.38 per year, whichever is greater	\$4.52 per linear foot or \$6,149.38per year, whichever is greater
Attachments to facilities within the City’s ROW other than Small Cell Wireless ¹	\$6,149.38 per attachment	\$6,149.38per attachment
Small Cell Wireless Attachment	\$270.00 per attachment	\$270.00 per attachment
Small Cell Wireless ROW licensing and application fee	\$500+\$100 per site over 5 sites	\$500+\$100 per site over 5 sites

¹ This fee shall increase 3% annually on July 1 of each year beginning July 1, 2020.

16. VIOLATIONS OF THE MUNICIPAL CODE

Violation of the Milwaukie Municipal Code (MMC) may result in the following fees or penalties. Each day that a violation exists is a separate offense.

General Code Violations		Fiscal Year 2025	Fiscal Year 2026
General penalty (applies to any Municipal Code violation where no other penalty is specified) ¹		\$150.00 - \$500.00	\$150.00 - \$500.00
Third or subsequent violation (applies to any Municipal Code violation) ¹	Maximum	\$1,000.00	\$1,000.00
Nuisance violation ²		\$500.00	\$500.00
Shopping cart retrieval programmatic violation ³		\$500.00	\$500.00
Noise control violation ⁴		\$500.00	\$500.00
Adult business code violation ⁵		\$500.00	\$500.00
Public urination or defecation ⁶	Up to	\$750.00	\$750.00
Curfew violation ⁷	Up to	\$300.00	\$300.00
Failure to retrieve shopping cart within 72 hours ⁸		\$50.00	\$50.00
Solid waste regulation/un-franchised violation ⁹	Up to	\$500.00	\$500.00
Abatement ¹⁰ (applies to any Municipal Code violation citation) ¹¹		\$50.00	\$50.00
Building Penalties		Fiscal Year 2025	Fiscal Year 2026
Violation of vacant building standards ¹²	Up to	\$300.00	\$500.00
Interference with fire control device ¹³	Up to	\$750.00	\$750.00
Swimming pool barrier violation ^{14,18}	Up to/per week	\$100.00	\$100.00
Building relocation violation ¹⁵	Not less than	\$1,000.00	\$1,000.00
Failure to comply with stop work order ¹⁶	Up to	\$1,000.00	\$1,000.00
Any violation of Title 15 for which a specific penalty has not been expressly provided ¹⁷	Up to	\$1,000.00	\$1,000.00

¹ Ord. #1935, adopted 2004, Ord. #1758, adopted 1994, and Ord. #1591, adopted 1986.

² Ord. #1503, adopted 1981, and Ord. #1028, adopted 1964.

³ Ord. #1980, adopted 2008.

⁴ Ord. #1528, adopted 1982.

⁵ Ord. #1533, adopted 1982.

⁶ Ord. #1953, adopted 2005.

⁷ Ord. #1503, adopted 1981, and Ord. #995, adopted 1963.

⁸ Ord. #1980, adopted 2008.

⁹ Ord. #1955, adopted 2005, Ord. #2092 adopted 2015.

¹⁰ All MMC violations are additionally subject to Code Enforcement abatement fee, additional state and county assessments, and general penalty for third or subsequent violations.

¹¹ Ord. #1998, adopted 2009, Ord. #1758, adopted 1994, and Ord. #1659, adopted 1989.

¹² Ord. #1464, adopted 1980.

¹³ Ord. #1515, adopted 1982.

¹⁴ Ord. #1430, adopted 1979.

¹⁵ Ord. #1952, adopted 2005.

¹⁶ Ord. #1881, adopted 2000.

¹⁷ Ord. #2011, adopted 2010.

¹⁸ Each week that this violation exists is a separate offense.

VIOLATIONS OF THE MUNICIPAL CODE *continued*

Motor Vehicle Fuel Tax Penalties¹	Fiscal Year 2025 Fee	Fiscal year 2026 Fee
Failure to secure motor vehicle fuel sales permit	200% penalty on tax owed + \$250.00	200% penalty on tax owed + \$250.00
Failure to file monthly motor vehicle fuel sales report	10% penalty on tax owed + \$50.00	10% penalty on tax owed + \$50.00
Late payment of motor vehicle fuel sales tax (depending upon length of delinquency)	1% or 10% of tax	5% of gross revenue

Specialty Code Penalties	Fiscal Year 2025	Fiscal Year 2026
Violation of various Specialty Codes: building, plumbing, mechanical and electrical ²	Up to/per week	\$1,000.00
	Maximum	\$5,000.00
Appeal of Specialty Code violation ³	Up to	\$200.00

¹ Ord. #1970, adopted 2007.

² Ord. #1814, adopted 1997, and Ord. #2011, adopted 2010.

³ Ord. #2011, adopted 2010.

VIOLATIONS OF THE MUNICIPAL CODE *continued*

Engineering Penalties		Fiscal Year 2025	Fiscal Year 2026
Violation of capital improvement regulations ¹	Up to	\$500.00	\$500.00
Basketball hoop regulation violation ²	Up to	\$250.00	\$250.00
Vegetation too low in the right-of-way ³	Up to	\$100.00	\$100.00
Clear vision violation ⁴	Up to	\$250.00	\$250.00
Failure to repair sidewalk ⁵	Up to	\$250.00	\$250.00
Sidewalk bench violation ⁶	Up to	\$100.00	\$100.00
Failure to remove street bench after permit termination ⁷		\$25.00	\$25.00
Flood hazard violation ⁸	Up to	\$1,000.00	\$1,000.00
Access management violation ⁹	Up to	\$250.00	\$250.00
Right-of-way encroachment ¹⁰	Up to	\$250.00	\$250.00
Erosion control violation ¹¹	Up to	\$300.00	\$300.00
Unpermitted tree cutting in the public right-of-way ¹²		\$1,000.00	\$1,000.00

¹ Ord. #1707, adopted 1991.

² Ord. #1503, adopted 1981, and Ord. #1405, adopted 1978.

³ Ord. #1999, adopted 2009.

⁴ Ord. #1679, adopted 1990.

⁵ Ord. #1697, adopted 1991.

⁶ Ord. #1503, adopted 1981, and Ord. #1289, adopted 1974.

⁷ Ord. #1289, adopted 1974.

⁸ Ord. #1983, adopted 2008, and Ord. #1899, adopted 2002.

⁹ Ord. #2004 adopted 2009.

¹⁰ Ord. #2004 adopted 2009, and Ord. #1866 adopted 2000.

¹¹ Ord. #1899 adopted 2002.

¹² (Title 16) Ord. #1836, adopted 1998.

VIOLATIONS OF THE MUNICIPAL CODE *continued*

Police Penalties		Fiscal Year 2025	Fiscal Year 2026
Weapon discharge violation ¹	Up to	\$750.00	\$750.00
Public consumption of alcohol ²	Up to	\$250.00	\$250.00
Failure to pay Fire and Emergency Services Fee ³	Up to	\$300.00	\$300.00
Security Alarm Violation ⁴	Maximum	\$500.00	\$500.00
Traffic violation penalty ⁵	At least 50% of maximum under Oregon Statute		

Planning Penalties		Fiscal Year 2025	Fiscal Year 2026
Violation of Sign Ordinance ⁶	Up to	\$100.00	\$100.00
Violation of land Division Ordinance ⁷		\$200.00	\$200.00
Violation of Zoning Ordinance ⁸	Up to	\$200.00	\$200.00

Utility Penalties		Fiscal Year 2025	Fiscal Year 2026
Low-income utility rate violation ⁹	Up to	\$200.00	\$200.00
Water, wastewater, or storm system regulation violation ¹⁰		\$25.00 - \$500.00	\$25.00 - \$500.00
Sewer violation ¹¹	Maximum	\$500.00	\$500.00
Fats, oils, and grease violation ¹²	Maximum	\$500.00	\$500.00

Business Registration Penalties		Fiscal Year 2025	Fiscal Year 2026
Violation of business registration requirements ¹³	Up to	\$200.00	\$200.00
Violation of "Milwaukie Junk Dealers, Secondhand Dealers, Pawnbrokers and Transient Merchants Ordinance" ¹⁴	Up to	\$300.00	\$300.00

¹ Ord. #1515, adopted 1982.² Ord. #1746, adopted 1993.³ Ord. #1767, adopted 1994, and Ord. #1764, adopted 1994.⁴ Ord. #1568, adopted 1984.⁵ Ord. #1922, adopted 2003.⁶ Ord. #1965, adopted 2006, and Ord. #1733, adopted 1993.⁷ Ord. #1907, adopted 2002.⁸ Ord. #2025, adopted 2011.⁹ Ord. #1424, adopted 1979.¹⁰ Ord. #1418, adopted 1978, Ord. #1548, adopted 1986 and Ord. #1755, adopted 1994.¹¹ Ord. #1548, adopted 1983.¹² Ord. #1990, adopted 2008, Ord. #1985, adopted 2008, and Ord. #1972, adopted 2007.¹³ Ord. #1863, adopted 1999, and Ord. #1349, adopted 1976.¹⁴ Ord. #1552, adopted 1983.

17. SOLID WASTE RATES

Weekly collection includes recycling and yard debris service. Recycling carts and bins and yard debris carts must be placed at the curb.

Uniform Monthly Residential Rates:	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
20-gallon can (mini-can): 1 can/cart (1 time/week) <i>Weekly collection includes recycling and yard debris service</i>	\$32.95	\$32.95
32-gallon can/cart: 1 can/cart (1 time/week) 2 cans/cart (1 time/week) Each additional can/cart Extra can of garbage (occasional)* Extra can of yard debris (occasional) Court apartments – recycling only (1 time/week) <i>*This rate is for the first extra can collected, each additional at the stop is \$3.00.</i> <i>Maximum weight for a 20 or 32 gal. can/cart is 60lbs.</i> <i>Additional stops per week are charged at 100% of the first stop per week rate.</i>	\$38.20 \$76.40 \$38.20 \$6.90 \$4.65 \$31.50	\$38.20 \$76.40 \$38.20 \$6.90 \$4.65 \$31.50
Roller carts: 60-gallon cart (1 time/week) 90-gallon cart (1 time/week) Extra can of yard debris (occasional) Cart deposit (Refunds will be made after return of cart or after five years – whichever comes first.) Redelivery charge (redelivery within one year, regardless of reason) <i>Additional stops per week are charged at 125% of the first stop per week rate.</i> Maximum weight for 60 gal. cart is 100lbs and for 90 gal. cart is 120lbs.	\$49.80 \$59.00 \$4.65 \$31.20 \$10.00	\$49.80 \$59.00 \$4.65 \$31.20 \$10.00
Monthly and On Call service: Monthly On call <i>Monthly service includes recycling but not yard debris service.</i> <i>Monthly and on call customers must subscribe for one year in advance for yard debris service.</i> <i>On call customers must provide hauler with 24 hours' notice.</i>	\$19.00 \$19.80	\$19.00 \$19.80

SOLID WASTE RATES *continued*

Weekly collection includes recycling and yard debris service. Recycling carts and bins and yard debris carts must be placed at the curb.

Uniform Monthly Commercial Rates	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
32-gallon can/cart: 1 can/cart (1 time/week) 2 cans/cart (1 time/week) Each additional can/cart Extra can of garbage (occasional)* <i>Additional stops per week are charged at 100% of the first stop per week rate.</i>	\$32.65 \$65.30 \$27.50 \$5.75	\$32.65 \$65.30 \$27.50 \$5.75
Roller carts: 60-gallon cart (1 time/week) 90-gallon cart (1 time/week) Cart deposit (Refunds will be made after return of cart or after five years – whichever comes first.) Redelivery charge (redelivery within one year, regardless of reason) <i>Additional stops per week are charged at 125% of the first stop per week rate.</i>	\$46.20 \$51.50 \$31.20 \$10.00	\$46.20 \$51.50 \$31.20 \$10.00
Compacted Containers: 2.2 times the loose container rate <i>Containers weighing in excess of 500 lbs. per cubic yard will be charged this rate plus disposal for the excess weight.</i> <i>Compactors furnished by the customers shall be compatible with the equipment of the collector. If the collector agrees to furnish the compactor, the collector may charge a reasonable rental rate based on the value of the compactor and the cost of repair and maintenance.</i>		

SOLID WASTE RATES *continued*

Uniform Monthly Drop Box Rates	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Loose material: 10/20 yards 30 yards 40 yards	\$170.00 \$180.00 \$190.00	\$170.00 \$180.00 \$190.00
Lidded/Specialized box that cannot be exchanged: 10/20 yards <i>*Plus disposal costs</i> <i>An additional \$40.00 per drop box may be charged for one-stop service (plus disposal costs).</i> <i>Deposits of no more than \$500.00 may be charged for each drop box.</i>	\$170.00	\$170.00
Compacted material: Under 25 cubic yards 25-34 cubic yards 34+ cubic yards <i>*Plus disposal costs</i> <i>Rental rate for permanent boxes hauled at least weekly is \$50.00 per month. Rental rate for occasional boxes after 48 hours on location is \$6.30 per day or \$63.00 a month, whichever is less, if less than one load per week is hauled. Monthly Equipment Fee of \$20.00 for Lidded/Specialty Drop Boxes. Mileage charge of \$4.70 per mile (over 18 miles round-trip from shop or Metro South). Deadhead round trip for boxes that cannot be exchanged: \$25.00.</i>	\$170.00 \$209.00 \$238.00	\$170.00 \$209.00 \$238.00
Special Wastes delivered to an appropriately permitted landfill 10/20 yards 30 yards <i>*Plus disposal, monthly rental, mileage and monthly specialty drop box fees.</i>	\$181.00 \$198.00	\$181.00 \$198.00

SOLID WASTE RATES *continued*

Uniform Rates for Misc. Services – Commercial and Residential	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Hourly fee: Truck + 1 person Truck + 2 people	\$90.00 \$130.00	\$90.00 \$130.00
Other Miscellaneous: Furniture and recyclable appliance pick-up Tire pick-up (off rim) Tire pick-up (on rim) Over 18 inches <i>*Plus \$30.00 freon removal charge</i> <i>**Plus disposal</i>	\$5.70 to \$30.35 \$3.00** \$6.00** Special handling rate	\$5.70 to \$30.35 \$3.00** \$6.00**
Clean-up Containers: 1 st collection Each additional collection	33% of regular container rate + \$17.25 handling charge 33% of regular container rate	33% of regular container rate + \$17.25 handling charge 33% of Regular Container Rate
Rent of container after 5 working days (M-F) with no collection: 1-2 yards 3 yards 4 yards <i>Rent not to exceed \$20.00 per container in a 30-day period.</i>	\$3.00/day \$4.00/day \$5.00/day	\$3.00/day \$4.00/day \$5.00/day

Non-Customer Services	Fiscal Year 2025 Fee	Fiscal Year 2026 Fee
Recycling only: Weekly curbside collection of recyclables Yard debris subscription service annual rate must be paid in full in advance of service 60-gallon cart Extra can of yard debris <i>Monthly rates are for weekly service.</i> <i>This service is provided only within the Urban Growth Boundary.</i> <i>The subscriber is required to pay for one year of service in advance.</i>	\$7.70 \$6.50 \$4.90 \$3.85	\$7.70 \$6.50 \$4.90

SOLID WASTE RATES *continued***ANY OTHER TYPE OF SERVICE**

If due to changes in technology or needs of residents and businesspeople of Milwaukie, additional or other types of services are needed, the charge for the service shall not be discriminatory, shall be reasonable by being commensurate with the fees above, and shall not exceed the fees most generally applicable in the Portland Metropolitan area.

Commercial container fees as of July 1, 2022, and effective through June 30, 2023. Fees include garbage and recycling services. Collector shall furnish the container. Overweight charge for containers over 300 lbs. per cubic yard determined through mutual agreement between hauler and customer. Container cleaning, if required more than twice in 12 months, will be charged the actual cost of cleaning.

Stops/ Week	Size in Cubic Yards					
	1	Add'l	1 1/3	Add'l	1.5	Add'l
1	\$112.28	\$97.84	\$140.31	\$122.15	\$150.43	\$132.28
2	\$216.80	\$189.57	\$272.91	\$239.18	\$293.11	\$257.12
3	\$321.34	\$279.88	\$405.48	\$355.19	\$435.81	\$382.50
4	\$425.86	\$373.05	\$538.07	\$471.82	\$578.46	\$507.08
5	\$530.41	\$463.36	\$670.65	\$587.83	\$721.15	\$635.32
6	\$634.93	\$555.71	\$803.24	\$703.16	\$863.82	\$759.31

Stops/ Week	Size in Cubic Yards					
	2	Add'l	3	Add'l	4	Add'l
1	\$191.92	\$168.82	\$264.87	\$233.93	\$339.97	\$302.43
2	\$376.09	\$331.82	\$517.28	\$457.95	\$667.53	\$593.75
3	\$560.28	\$494.03	\$769.70	\$682.61	\$995.07	\$884.21
4	\$744.47	\$653.90	\$1,022.13	\$909.34	\$1,322.61	\$1,172.07
5	\$928.66	\$821.14	\$1,274.57	\$1,132.42	\$1,650.14	\$1,466.49
6	\$1,112.84	\$981.58	\$1,526.97	\$1,352.19	\$1,977.70	\$1,757.24

Stops/ Week	Size in Cubic Yards					
	5	Add'l	6	Add'l	8	Add'l
1	\$412.76	\$388.01	\$478.46	\$449.99	\$598.12	\$565.11
2	\$811.89	\$763.10	\$943.31	\$888.50	\$1,182.61	\$1,117.26
3	\$1,211.04	\$1,136.05	\$1,408.14	\$1,320.71	\$1,767.11	\$1,669.63
4	\$1,610.14	\$1,510.65	\$1,872.99	\$1,759.45	\$2,351.60	\$2,219.99
5	\$2,009.31	\$1,888.24	\$2,337.84	\$2,197.80	\$2,936.11	\$2,763.39
6	\$2,408.43	\$2,268.38	\$2,802.69	\$2,629.97	\$3,520.60	\$3,319.72

SOLID WASTE RATES *continued*

Commercial container fees as of August 1, 2023, and effective through June 30, 2024. Fees include garbage and recycling services. Collector shall furnish the container. Overweight charge for containers over 300 lbs. per cubic yard determined through mutual agreement between hauler and customer. Container cleaning, if required more than twice in 12 months, will be charged the actual cost of cleaning.

Container Size	Stops per Week					
	1	2	3	4	5	6
1 yard	\$ 117.74	\$ 227.71	\$ 337.71	\$ 447.68	\$ 557.69	\$ 667.66
Add'l Cont.	103.30	200.48	296.25	394.87	490.64	588.44
1-1/3 yard	147.57	287.42	427.25	567.09	706.93	846.78
Add'l Cont.	129.41	253.69	376.96	500.84	624.11	746.70
1-1/2 yard	158.61	309.48	460.36	611.19	762.07	912.92
Add'l Cont.	140.46	273.49	407.05	539.81	676.24	808.41
2 yard	202.83	397.91	593.01	788.12	983.22	1,178.31
Add'l Cont.	179.73	353.64	526.76	697.55	875.70	1,047.05
3 yard	281.24	550.01	818.80	1,087.60	1,356.41	1,625.17
Add'l Cont.	250.30	490.68	731.71	974.81	1,214.26	1,450.39
4 yard	361.79	711.18	1,060.54	1,409.90	1,759.26	2,108.64
Add'l Cont.	324.25	637.40	949.68	1,259.36	1,575.61	1,888.18
5 yard	440.04	866.45	1,292.88	1,719.26	2,145.71	2,572.10
Add'l Cont.	415.29	817.66	1,217.89	1,619.77	2,024.64	2,432.05
6 yard	511.19	1,008.78	1,506.34	2,003.93	2,501.51	2,999.10
Add'l Cont.	482.72	953.97	1,418.91	1,890.39	2,361.47	2,826.38
8 yard	641.77	1,269.90	1,898.05	2,526.19	3,154.34	3,782.48
Add'l Cont.	608.76	1,204.55	1,800.57	2,394.58	2,981.62	3,581.60

Commercial Recycling for Drop Box and Roll Off Compactor Customers

Stops/Week	1	2	3	4	5
1 to 4 yards	\$ 67.00	\$ 133.00	\$ 200.00	\$ 267.00	\$ 333.00
5 to 8 yards	92.00	185.00	277.00	369.00	461.00

Multi-Family Recycling for Roll Off Compactor Customers

Rate per Unit \$ 3.00

SOLID WASTE RATES *continued*

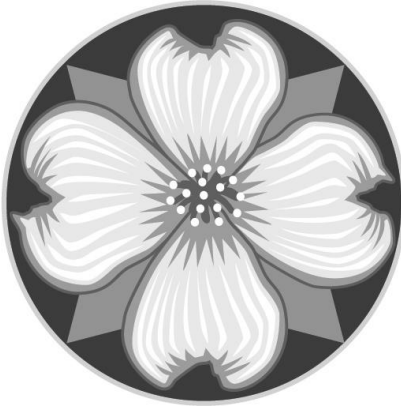
Bio-Medical Services Fees	Fiscal Year 2025 & 2026 Fee	
	Tub Rates per gallon	
	20/21	35/48
Number of units:		
1	\$81.45	\$83.25
2	\$61.85	\$63.50
3	\$54.30	\$56.00
4	\$49.35	\$51.00
5	\$46.35	\$48.00
6	\$44.35	\$46.00
7	\$41.85	\$43.50
8	\$40.40	\$42.00
9	\$37.35	\$39.00
10	\$35.85	\$37.50
11	\$34.75	\$36.50
12	\$33.25	\$35.00
13	\$32.75	\$34.50
14	\$32.00	\$33.75
15	\$31.25	\$33.00
16	\$26.30	\$28.00
17	\$26.30	\$28.00
18	\$26.30	\$28.00
19	\$26.30	\$28.00
20	\$26.30	\$28.00
60	\$17.90	\$18.75
75	\$17.45	\$18.05
90	\$12.80	\$13.10



City of Milwaukie
10501 SE Main Street
Milwaukie, OR 97222

503.786.7555

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RS Agenda Item

8

Public Hearings

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Reviewed: Joseph Briglio, Acting Assistant City Manager
Laura Weigel, Planning Manager

From: Vera Kalias, Senior Planner

Subject: **Neighborhood Hubs Code Amendments, 2nd Reading**

Date Written: Aug. 2, 2024

ACTION REQUESTED

Council is asked to finish the public hearing for land use file #ZA-2024-001, amendments to Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 14 (Signs), Zoning map, Comprehensive Plan Land Use Designations, and Comprehensive Plan Land Use map.

The second public hearing, held on [July 16, 2024](#), included the final Council deliberation and a 4:1 vote of approval of the of the first reading of the ordinance by title only. As the Council vote was not unanimous, a second reading at a separate meeting is required for final adoption of the ordinance as required by MMC 2.04.330.

The requested action on August 6 is for Council to hear the second and final reading of the ordinance by title only and conduct a roll call vote to adopt the ordinance and associated findings and code amendments found in Attachment 1.

NEXT STEPS

Upon adoption of the ordinance code amendments will become effective in 30 days. Staff will return to Council on October 1, 2024, to discuss a potential Phase 3 of Neighborhood Hubs work.

BUDGET IMPACT

The Neighborhood Hubs project has been accounted for in the planning department budget. Future Council discussions on the scope of any potential Phase 3 Hubs work may have budgetary impact if other work is not re-prioritized.

CLIMATE IMPACT

Neighborhood Hubs are intended to provide more services within neighborhoods and be accessible by bike and walking. Changes to our code could result in additional, yet still very low, density in historically low-density neighborhoods, making neighborhoods more compact and energy efficient. Improved bike and pedestrian infrastructure are a key factor in the success of decarbonization efforts as they relate to the Neighborhood Hubs project. Creating new spaces for gathering and connecting between neighbors makes people more resilient in responding together to climate instability. Recent wildfires, intense winter storms, and the COVID-19 pandemic have all demonstrated the value of neighbors banding together to support one another in times of crisis.

EQUITY IMPACT

Staff engaged directly with property and business owners in the Hubs in this phase of the project to identify ways the code might be amended to help businesses grow in the Hubs identified in the 2020 Report. It should be noted that in previous phases of Hubs work there was not an emphasis on reaching out to underrepresented communities that staff is aware of.

While the focus of the engagement for this phase of the project was primarily around specific geographic Hubs and those business and property owners, the project team recognizes the need to engage underrepresented community members who might want to grow or start businesses that may or may not be in Hubs. This outreach will be a key component of the economic development grant assistance program which will be developed over the next few years.

Staff is also in the process of developing a potential Phase 3 of the Hubs work which includes researching the possibility of allowing Accessory Commercial Units (ACUs) and auditing the current home occupation code to remove barriers/costs of starting micro home businesses. This work, if it moves forward, will stress the importance of reaching out to underrepresented communities who may want to expand a home-based business or start a new one.

The current proposed amendments include revisions to the code related to temporary commercial uses to allow additional flexibility for pop-up activities and pilot projects to test new uses in other areas of existing neighborhoods, including outdoor seating, food carts, or other temporary businesses. This will provide more opportunity for small business owners who might be typically priced out of more traditional brick and mortar business locations. The pending economic development grant program combined with the proposed package of amendments sets the stage for opportunities and improvements for current Neighborhood Hubs, including financial assistance for current and future, small and local businessowners. The amendments also aim to reduce confusion in code language and make it more accessible.

Gentrification and displacement may result from the development of Hubs and the city overall as improvements are made over time. Increased access to desirable amenities will increase livability which could increase property values and rents for housing and commercial spaces. To reduce the likelihood that improved livability leads to displacement, the city could explore anti-displacement strategies city-wide.

COORDINATION, CONCURRENCE, OR DISSENT

The community development department assisted in preparing the code amendments.

STAFF RECOMMENDATION

The Planning Commission voted unanimously to recommend approval of the amendments.

ALTERNATIVES

Not applicable.

ATTACHMENTS

1. Ordinance
 - a. Findings in support of approval
 - b. Proposed code amendments (underline/strikeout format)
 - c. Proposed code amendments (clean)
 - d. Proposed zoning map amendments
 - e. Proposed comprehensive plan and map amendments



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN COMMERCIAL LAND USE DESIGNATIONS, MUNICIPAL CODE (MMC) TITLE 11 MISCELLANEOUS PERMITS, TITLE 19 ZONING ORDINANCE, TITLE 14 SIGNS, AND THE ZONING MAP FOR THE PURPOSE OF IMPLEMENTING NEIGHBORHOOD HUBS (PRIMARY FILE #ZA-2024-001).

WHEREAS it is the city’s intent to support and promote small areas of commercial and civic activity in residential neighborhoods, known as Neighborhood Hubs; and to streamline processes and simplify the code where possible; and

WHEREAS the proposed code amendments implement several of the goals and policies of the city’ comprehensive plan related to urban design and land use, namely the opportunity for Neighborhood Hubs; and

WHEREAS legal and public notices have been provided as required by law, and multiple opportunities for public review and input has been provided; and

WHEREAS on March 12, 2024, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The MMC, the Milwaukie Comprehensive Plan, the Zoning Map, and the Land Use Map are amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

Findings in Support of Approval
File #ZA-2024-001; CPA-2024-001; ZC-2024-001
Neighborhood Hubs Code Amendments

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, proposes to amend the zoning map, comprehensive plan, and make code amendments to Titles 11, 14 and 19 related to Neighborhood Hubs. The intent is to implement Section 8 of the city's comprehensive plan. The land use application file numbers are ZA-2024-001, CPA-2024-001, and ZC-2024-001.
2. The proposed amendments relate to implementation of Section 8, Policy 8.1.4 of the Comprehensive Plan related to identified Neighborhood Hubs located in several locations in the city within residential zones. Providing opportunities for the development of neighborhood commercial services and the provision of amenities and gathering places for residents in the surrounding areas has been a goal for the community. The adopted Comprehensive Plan policies call for expanded commercial and civic opportunities in the city's residential areas and consolidation of zones where possible to simplify the code.
3. Amendments are proposed in several titles of the municipal code, as follows:
 - Milwaukie Comprehensive Plan
 - Comprehensive Plan Commercial Land Use Designations
 - Municipal Code – Title 11 Miscellaneous Permits
 - Section 11.05 – Temporary Permits, Uses, and Regulations
 - Municipal Code - Title 19 Zoning Ordinance
 - Chapter 19.100 – INTRODUCTORY PROVISIONS
 - Section 19.107 Zoning
 - Chapter 19.300 – BASE ZONES
 - Section 19.303 Commercial Mixed Use Zones
 - Section 19.305 Neighborhood Commercial Zone C-N
 - Section 19.306 Limited Commercial Zone C-L
 - Chapter 19.1100 ANNEXATIONS AND BOUNDARY CHANGES
 - Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes
 - Municipal Code - Title 14 Signs
 - 14.16.030 Neighborhood Commercial Zone
 - 14.16.040 Commercial Zones
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures

5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.
6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on March 12, 2024, May 7, 2024, July 16, 2024, and August 6, 2024 as required by law.
7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

The amendments were formally initiated by the Planning Manager on January 5, 2024.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
 - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided as follows:

The project team conducted a variety of engagement activities prior to the formal hearing process to get feedback from the public to help hone the final proposed amendment language. These efforts included: meetings with all NDAs, an online survey on the Engage Milwaukie platform, stakeholder interviews, and a series of in-person workshops.

The Planning Commission had a work session about the proposed code amendment language in January and the City Council had a work session in December 2023. The current version of the draft amendments has been posted on the application webpage since February 6, 2024. On February 12, 2024 staff e-mailed NDA members and stakeholders with information about the hearing and a link to the draft proposed amendments. On February 14, 2024, a Measure 56 notice was sent to all properties affected by the code amendments and a notice to all properties within 300 ft of those properties was also sent.

- (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

A notice of the Planning Commission's March 12, 2024 hearing was posted as required on February 8, 2024. A notice of the City Council's May 7, 2024 hearing was posted as required on April 4, 2024.

- (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The proposed amendments will apply to several discrete geographic areas. Notices were sent to all affected property owners on February 14, 2024.

- (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on February 6, 2024

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on February 6, 2024

- (6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments will apply to properties deemed to be Neighborhood Hubs and propose changes to permissible uses on the properties. However, the vast majority of the changes increase the number of permitted uses and/or streamline or eliminate land use review processes. Notice was sent to all affected property owners on February 14, 2024.

- (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on March 12, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 7, 2024, July 16, 2024, and August 6, 2024 and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.3 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.3.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on March 12, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 7, 2024, July 16, 2024, and August 6, 2024, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.3.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.

- (a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

The only amendments proposed to the text of the comprehensive plan are in the section related to commercial land use designations. The proposed amendments reflect the proposed zoning map amendments that affect Neighborhood Hubs, a stated goal in the Comprehensive Plan.

- (b) MMC Subsection 19.902.3.B.2 requires that the proposed amendment is in the public interest with regard to neighborhood or community conditions.

The proposed amendments reflect the community's desire for policies and regulations that provide opportunities for the development of neighborhood commercial services and the provision of amenities and gathering places for residents of the surrounding area. As noted above, the only text amendment to the comprehensive plan reflects the creation of a new small-scale mixed use zone that reflects the proposed zoning map amendments.

- (c) MMC Subsection 19.902.3.B.3 requires the public need be best satisfied by this particular proposed amendment.

The proposed amendments confirm the community's vision for provision of areas of commercial and civic activity in residential neighborhoods. As noted above, the only text amendment to the comprehensive plan reflects the creation of a new small-scale mixed use zone that reflects the proposed zoning map amendments.

- (d) MMC Subsection 19.902.3.B.4 requires that the proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes Title 12: Protection of Residential Neighborhoods, the intent of which is to protect neighborhoods from air and water pollution and also address provision of adequate levels of public services. Section 3.07.1230 is the most relevant section to review given the proposed amendments related to Neighborhood Hubs.

- (a) Section 3.07.1230 Access to Commercial Services

The proposed amendments expand opportunities for convenient locations of commercial activities within established residential neighborhoods. By identifying these Neighborhood Hubs and allowing more commercial uses and areas of activity, the city strives to reduce air pollution and traffic congestion.

- (b) Title 7 Housing Choice

The proposed amendments also reduce barriers to the development of mixed use buildings that will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. Additional findings specific to the UGMFP are included with these findings. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

- (e) MMC Subsection 19.902.3.B.5 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

DLCD has not identified any areas where the proposed amendments are inconsistent with State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.

- b. MMC 19.902.4 establishes requirements for amendments to the maps of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.4.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on March 12, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 7, 2024, July 16, 2024, and August 6, 2024, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.4.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.

- (a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

Changes to the maps of the Milwaukie Comprehensive Plan must be evaluated against the approval criteria in Subsection 19.902.3.B. A quasi-judicial map amendment shall be approved if these criteria are met. A legislative map amendment may be approved if these criteria are met.

The findings for compliance with MMC 19.902.3.B apply to the findings for these map amendments as well. Refer to the findings above for compliance with this code section.

9. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
- a. MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on March 12, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 7, 2024, July 16, 2024, and August 6, 2024, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (1) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.

- (b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The goals and policies of the Comprehensive Plan support the amendments to re-zone and/or expand permitted uses in identified Neighborhood Hubs.

- (c) Section 8 – Urban Design and Land Use:

Promote the design of private development and public spaces and facilities to enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

- (a) Policy 8.1.4 Neighborhood Hubs

a) Provide opportunities for the development of neighborhood commercial services and the provision of amenities and gathering places for residents of the surrounding area.

b) Ensure that new development is compatible with the height, massing and building form allowed by zoning on adjacent residential properties. A hub development need not be identical to the height, massing or form of buildings allowed by nearby zoning for a finding of compatibility.

c) Ensure new development contributes to a pedestrian friendly environment along the property frontage.

- d) Encourage development of multi-season outdoor seating areas and pedestrian plazas.
- e) Provide for a high level of flexibility in design and incentives to accommodate a variety of start-ups, temporary uses and incremental expansions and explore innovative techniques for waiving or deferring full site development and parking requirements.
- f) Provide a process to allow start-up and temporary uses that take advantage of incentives and deferral programs to make a smooth transition to status as a permanent use.

The proposed amendments implement this section of the comprehensive plan related to Neighborhood Hubs. The amendments propose to do a number of things to encourage and allow a wider variety of commercial and civic activities in residential neighborhoods, including: upzone commercial areas currently zoned Limited Commercial (C-L) to Neighborhood Mixed Use, and upzone commercial areas currently zone Neighborhood Commercial (C-N) to a new zone called Small-Scale Mixed Use. The proposed amendments include revisions to the code section related to temporary uses to allow additional flexibility in pop-up activities and pilot projects to test new uses in other areas of existing neighborhoods, including outdoor seating, food carts, or other temporary businesses.

- (d) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes Title 12: Protection of Residential Neighborhoods, the intent of which is to protect neighborhoods from air and water pollution and also address provision of adequate levels of public services. Section 3.07.1230 seems to be the most relevant section to review given the proposed amendments related to Neighborhood Hubs.

- (a) Section 3.07.1230 Access to Commercial Services

The proposed amendments expand opportunities for convenient locations of commercial activities within established residential neighborhoods. By identifying these Neighborhood Hubs and allowing more commercial uses and areas of activity, the city strives to reduce air pollution and traffic congestion.

- (b) Title 7 Housing Choice

The proposed amendments also reduce barriers to the development of mixed use buildings that will support Metro's policies for expanding housing choice with a needed housing type in Milwaukee.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. Additional findings specific to the UGMFP are included with these findings. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

- (e) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCDD) for comment. The DLCDD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.

- (f) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear and objective review process for middle housing development in the residential zones.

- b. MMC 19.902.6 establishes requirements for amendments to the Zoning Map. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.6.A states that changes to the Zoning Map shall be evaluated through either a Type III or a Type V review.

The Zoning Map amendments involve all properties zoned C-L, C-N, and a portion of a property zoned R-HD, as well as properties zoned NMU for allowance of live theatre and playhouses. The amendments are legislative in nature and subject to Type V review.

The Planning Commission held a duly advertised public hearing on March 12, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 7, 2024, July 16, 2024, and August 6, 2024, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.6.B contains approval criteria for changes to the Zoning Map.

- (a) The proposed amendment is compatible with the surrounding area based on the following factors:

- i. Site location and character of the area.

The proposed zoning map amendments:

- Rezone properties zoned C-L to NMU
- Eliminate the C-L zone
- Rezone properties zoned C-N to a new SMU zone (Small-Scale Mixed Use)
- Eliminate the C-N zone
- Rezone a property located at 4107-4117 SE Harrison St to NMU

- ii. Predominant land use pattern and density of the area.

As noted above, the proposed zoning map amendments predominantly affect the C-L and C-N zones, which are already commercial zones. The proposed amendments expand some permitted uses, streamline land use review, correct existing non-conformities, and simplify the zoning code by eliminating and consolidating zones.

- iii. Expected changes in the development pattern for the area.

Given that the amendments affect existing commercially-zone properties, the change in development pattern in some areas may include a modest increase in intensity of use. The amendments implement goals and policies established in the comprehensive plan for Neighborhood Hubs.

- (b) The need is demonstrated for uses allowed by the proposed amendment.

Per the City's 2020 comprehensive plan, the city anticipates working with local residents, property owners, businesses, and others to create a series of neighborhood hubs intended to improve neighborhood livability by providing ready access to places to eat, drink, shop, gather, and play. "Neighborhood hubs" is a concept that emerged during the development of Milwaukie's Community Vision and Action Plan and aims to enhance livability and provide residents with access to amenities and services close to where they live. Design and future development or redevelopment of these hubs will vary and will reflect the scale and needs of the adjacent neighborhoods.

- (c) The availability is shown of suitable alternative areas with the same or similar zoning designation.

Staff has interpreted this criterion to mean that the finding shall show that there is no suitable alternative area with the same or similar zoning designation.

As noted above the proposed zoning map amendments would consolidate some commercial zones, and upzone others, to simplify the code, provide opportunities for commercial and civic activities in residential neighborhoods, and make adjustments to streamline land use review.

- (d) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The public transportation facilities, public utilities, and services in the existing neighborhood-scale commercial areas are adequate to support the proposed amendments. The subject properties are already being used for, or are zoned for, smaller scale commercial development. The proposed amendments may increase the demand on the facilities, utilities, or services in the area, which have been planned for.

- (e) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The proposed amendment may intensify the development potential of some of the identified Hub areas. Any increase in development will be modest and not result in a failure level of service on the city's transportation system. The city's TSP anticipates neighborhood-scale development in these zones and the TSP is being fully revised in 2024-2025.

- (f) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The subject areas are designated for commercial development and will continue to be designated as such. The goals and policies of the Comprehensive Plan for Neighborhood Hubs development are noted above in Finding 9 and the primary purpose of the amendments is to implement the comprehensive plan as it relates to Neighborhood Hubs. The proposed amendment is consistent with those goals and policies.

- (g) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

See Finding 8.a.(1)(d) above.

- (h) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

See Finding 8.a.(1)(e) above.

UGMFP Findings for Milwaukie Code Amendments for Neighborhood Hubs

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 14 code titles with policies and compliance procedures.

Metro requires "substantial compliance" with requirements in the UGMFP. Per the definition in Title 10, "substantial compliance" means that the City's zoning code conforms with the purposes of the performance standards in the functional plan "on the whole." Any failure to meet individual performance standard requirements is considered technical or minor in nature.

Based on the findings described below, the proposed code amendments related to Neighborhood Hubs substantially comply with all applicable titles of the Urban Growth Management Functional Plan.

Title 12: Protection of Residential Neighborhoods

Finding:

Title 12 is designed to protect existing neighborhoods from air and water pollution and also address provision of adequate levels of public services. Under Title 12, the City is required to ensure that its Comprehensive Plan and implementing ordinances include strategies to reduce air pollution and traffic congestion by making commercial retail services more accessible to residents of neighborhoods (3.07.1230).

The local code findings state that the proposed amendments expand opportunities for convenient locations of commercial activities within established residential neighborhoods. The proposed amendments affect existing neighborhood-scale commercial areas and expand existing uses and/or streamline land use review processes by eliminating Conditional Use review. By identifying these Neighborhood Hubs and allowing more commercial uses and areas of activity, the city strives to reduce air pollution and traffic congestion.

The proposed code amendments are the result of an evaluation of the existing zoning ordinance and extensive community outreach and engagement to reduce barriers to and encourage the development of properties with small-scale commercial and civic activities in existing residential areas.

Based on the findings above, the proposed amendments are consistent with Title 7.

Title 8: Compliance Procedures

Finding: Title 8 establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the City comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the City provided notice to Metro as required by section 3.07.820(a). The City of Milwaukie provided Metro a set of draft code amendments on February 6, 2024, which was more than 35 days prior to the first evidentiary hearing, held on March 12, 2024.

Based on the findings above, the proposed amendments are consistent with Title 8.

Statewide Findings for Milwaukie Plan and Code Amendments – Neighborhood Hubs

This memo summarizes the consistency of the proposed code amendments with the following statewide goals, as well as key Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs):

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 10: Housing
- Goal 9: Economic Development
- Goal 11: Public Facilities
- Goal 12: Transportation
- Goal 13: Energy
- Goal 14: Growth Management

Other Statewide Planning Goals are not directly applicable to the proposed code amendments. Goals related to agriculture and forestry do not apply to land intended for future urbanization within the urban growth boundary. Additionally, the proposed amendments do not involve land or resources designated as part of Oregon’s coastal zone.

Consistency with the applicable goals is a requirement for any amendment to a City’s land use ordinances.

Based on the findings described below, the proposed code amendments comply with the applicable Statewide Goals and associated ORS and OAR provisions.

Goal 1: Citizen Involvement

Finding: Goal 1 requires the City to employ an appropriately-scaled involvement program to ensure the opportunity for meaningful public involvement throughout the land use planning process. Goal 1 requires the City to incorporate six key components in its public involvement program:

- Citizen Involvement: An officially-recognized committee for public involvement broadly representative of geographic areas and interests related to land use and land-use decisions to provide for widespread public involvement;
- Communication: Mechanisms for effective two-way communication between the public and elected/appointed officials;
- Influence: Opportunities for the public to be involved in all phases of the planning and decision-making process including developing, evaluating, and amending plans;

- **Technical Information:** Access to technical information used in the decision-making process, provided in an accessible and understandable format;
- **Feedback Mechanisms:** Programs to ensure that members of the public receive responses from policy-makers and that a written record for land-use decisions is created and made accessible; and,
- **Financial Support:** Adequate resources allocated for the public involvement program as an integral component of the planning budget.

Following is a summary of activities undertaken by the City to support the proposed code amendments related to Neighborhood Hubs.

Community Engagement

The project team used several methods to communicate about the project, share information, and learn more about the goals for Hubs from those most interested or affected. This included:

ACTIVITY	DESCRIPTION
<p>Engage Milwaukie</p> <ul style="list-style-type: none"> • <i>1,215 page visits, 35 new EM registrations, 99 engagements</i> • <i>Business/Property Owner Survey</i> • <i>22 stakeholder survey responses</i> 	<p>Created and maintained a project webpage as a place for people to learn more about the project, ask questions of the team, set up the initial property owner/tenant survey, and to set the stage for the fall workshops including an online workshop.</p>
<p>Milwaukie Pilot</p> <ul style="list-style-type: none"> • <i>Published 5 project updates</i> 	<p>Published and mailed project updates in April, May, October, November, and December 2023.</p>
<p>Milwaukie Farmers Market</p>	<p>Promoted the project at the market on 3 occasions.</p>
<p>Equity Steering Committee</p> <ul style="list-style-type: none"> • <i>Attended 3/23; Sent updates 11/22</i> 	<p>Collected feedback on community engagement and provided a progress report on equity considerations.</p>
<p>Neighborhood District Associations (NDAs)</p> <ul style="list-style-type: none"> • <i>79 participants in Spring meetings</i> 	<p>Staff met with all 7 NDAs in the spring to provide a project update and learn more about the goals and desires for each of their Hubs.</p>
<p>Stakeholder interviews</p>	<p>Staff engaged property and business owners in direct interviews to identify potential partners interested in</p>

<ul style="list-style-type: none"> • 18 interviews, 23 participants (9 were survey participants) 	hub development and identify current barriers. List below.	
<ul style="list-style-type: none"> • K. Marie • Naphtali’s • NW Family Services • Sunny Corner Market • Chapel Theater • 2 Sisters Play Café • Eric’s Market 	<ul style="list-style-type: none"> • River Roadhouse Grill • Central Planning • Clackamas Community College • Milwaukie Floral • Milwaukie Lutheran • The Vital Element 	<ul style="list-style-type: none"> • Milwaukie Café +Bottle Shop • Valerie Hunter (9391 SE 32nd Ave) • Paul Lisac (9250 SE 32nd Ave) • North Clackamas School District • Peter Perrin (9616 SE Stanley) • Lisa Dorn Design
<p>Fall workshops</p> <ul style="list-style-type: none"> • 123 participants – 74 in-person, 49 online. • 83% support, 10% neutral, 7% oppose 	Hosted six in-person workshops and one online to provide residents, businesses, and property owners opportunities to shape proposed code changes that can help Hubs grow. The online workshop asked about safety walking and biking. On average, very few participants opposed the proposed changes.	

Planning Commission and City Council Updates

City staff conducted two work sessions with the City’s Planning Commission and City Council to review the status of the work and solicit feedback on key issues. These meetings also were open to the public and were recorded and available for public viewing after the meetings.

The specific proposed code language was posted with a code commentary on the City’s website on February 7, 2024. Specific notice of the draft amendments and the March 12, 2024 public hearing was as follows: Measure 56 notices mailed to all affected properties; public notice mailed to all properties within 300 ft of the affected properties; and email notices were sent to all Neighborhood District Association members and stakeholders identified during the earlier engagement efforts.

An article with information about the proposed amendments and links to the draft code language was published in the March edition of the city’s monthly newsletter, which is mailed to all addresses in the city. The current version of the draft amendments have been posted on the application webpage since February 7, 2024.

Based on the findings above, the Zoning Code update is consistent with Oregon Statewide Planning Goal 1.

Goal 2: Land Use Planning

Goal 2. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Goal 2 requires the City to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed plan and code amendments are related directly to implementation of the city's comprehensive plan as it relates to Neighborhood Hubs (Goal 8, Policy 8.1.4).

The proposed Zoning Code update is consistent with Oregon Statewide Planning Goal 2.

Goal 9: Economic Development

Goal 9: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Goal 9 requires the City to have a comprehensive plan and policies that "...contribute to a stable and health economy in all regions of the state." The City of Milwaukie is already in compliance with Goal 9 regarding adequate provision of commercial and industrial land. The proposed code amendments make modest changes to existing commercially-zoned properties to expand the opportunity for neighborhood-scale commercial and civic activities.

The proposed Zoning Code update is consistent with Oregon Statewide Planning Goal 9.

Goal 11: Public Facilities

Goal 11: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Goal 11 requires the City to "plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." The City of Milwaukie coordinates with several other local service providers to ensure timely, orderly and efficient arrangement and provision of public services to serve development within the City of Milwaukie and its planning area between the city limits and UGB. The City of Milwaukie provides planning and zoning services inside the city limits, as well as provision of water, conveyance of wastewater, transportation facilities on city-owned facilities, law enforcement, and library services. The City is already in compliance with Goal 11 and the preparation and adoption of updated specific facility master plans for water, wastewater and stormwater are underway at this time.

Goal 11 is not applicable to the proposed code amendments related to Neighborhood Hubs.

Goal 12: Transportation

Goal 12: To provide and encourage a safe, convenient and economic transportation system.

Finding: Goal 12 and the State Transportation Planning Rule (TPR; OAR 660, Division 012) require cities to provide and encourage a safe, convenient, and economic transportation system. Together, they require the City to develop and maintain a Transportation System Plan (TSP),

which must be incorporated as part of the Comprehensive Plan. A local TSP acts as a guiding policy document for long-term transportation planning and presents the City's goals and policies while outlining and prioritizing proposed improvements for pedestrian, bicycle, public transit, motor vehicle, and freight systems; downtown parking; and neighborhood traffic management.

The city was in compliance with Goal 12 prior to these code amendments and with the planned update to the TSP in 2024-2025 reflecting the proposed code amendments for Neighborhood Hubs, the proposal is consistent with Goal 12 Transportation and the Transportation Planning Rule.

Goal 13: Energy

Goal 13: To conserve energy.

Finding: Goal 13 requires that any spatial changes to future patterns of allowed land uses must conserve energy.

The city's Comprehensive Plan is already in compliance with Goal 13 and the proposed code amendments provide greater opportunities for more compact development and efficient use of land which will result in a reduction in energy consumption, including in transportation and utilities.

The proposed code amendments, related to Neighborhood Hubs, are consistent with Statewide Planning Goal 13.

Goal 14: Growth Management

Goal 14: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The entirety of the city and its Municipal Planning Area (MPA) is located within the Urban Growth Boundary (UGB). As such, the proposed amendments will not result in the transition of any land from rural to urban uses or result in population or employment growth outside of the UGB.

The proposed amendments are directly related to Neighborhood Hubs which will enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

Goal 14 does not directly apply to the proposal but the amendments are consistent with Goal 14.

Underline/strikeout Amendments

TITLE 11 MISCELLANEOUS PERMITS

11.05 TEMPORARY USES, PERMITS, AND REGULATIONS

11.05.010 USES

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as:

A. Seasonal sales uses on private property and on land owned by the City of Milwaukie. These activities include, but are not limited to, the sale of produce, rental of recreational equipment, provision of recreational lessons, or sale of products at a park owned by the City of Milwaukie.

B. Temporary real estate offices;

C. Construction parking;

D. Construction trailers;

E. Construction offices;

F. Shelters for warming, cooling, or hazardous air quality, subject to the Milwaukie and Clackamas Fire District Joint Policy for Temporary Emergency Shelters;

G. Outdoor dining and seating areas, on private property and where not permitted by right

H. Food carts where not permitted by right

I. Play equipment and sporting events

J. Bicycle parking, such as a bike corral or bike station

K. Other temporary uses similar to those listed above as determined by the City Manager.

Approval may be granted provided such uses are consistent with the intent of the underlying zoning district. ~~and comply with other provisions of this code~~ These activities are intended to be in use for a limited duration and shall not become a permanent part of a site. (Ord. 2198 § 2, 2021; Ord. 2168 § 2, 2019)

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-MD
Residential	R-HD
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU
<u>Small Mixed Use</u>	<u>SMU</u>
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

19.302 HIGH DENSITY RESIDENTIAL ZONES

19.303 COMMERCIAL MIXED-USE ZONES

19.304 DOWNTOWN ZONES

~~19.305-NEIGHBORHOOD COMMERCIAL ZONE C-N~~ Hold for future use

~~19.306-LIMITED COMMERCIAL ZONE C-L~~ Hold for future use

19.303 COMMERCIAL MIXED-USE ZONES

19.303.1 Purpose

A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.

B. The Neighborhood Mixed Use Zone is intended to recognize certain established areas 32nd and 42nd Avenues as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

C. The Small-Scale Mixed Use Zone is intended to allow for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity. This zone supports neighborhood hubs, which are gathering places where residents have easy access to goods and services close to their homes. They are places where neighbors create meaningful relationships with each other.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the commercial mixed-use zones are listed in Table 19.303.2 with a “P.” These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as “CU” are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the commercial mixed-use zones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and G below, are prohibited. Uses listed with an “N” in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards.

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

G. Similar Uses

The Planning ~~Manager~~ Director, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2				
Uses Allowed in Commercial Mixed-Use Zones				
Uses and Use Categories	GMU	NMU	<u>SMU</u>	Standards/Additional Provisions
Residential				
Single detached dwelling	N	CU	<u>CU</u>	Subsection 19.505.1 One- to Four-Unit Residential Development Section 19.905 Conditional Uses
Rowhouse <u>Townhouses</u> ¹	P	CU	<u>CU</u>	Subsection 19.505.5 Rowhouses <u>Townhouses</u>
<u>Duplex, Triplex, Quadplex</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
Multi-unit housing	P	CU	<u>CU</u>	Subsection 19.505.3 Multi-Unit Housing
Cottage cluster housing	P	CU	<u>CU</u>	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	P	<u>P</u>	Subsection 19.505.7 Nonresidential Development
Live/work units	P	P	<u>P</u>	Subsection 19.505.6 Live/Work Units
Accessory dwelling units	N	CU	<u>CU</u>	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Boarding house	CU	CU	<u>CU</u>	Section 19.905 Conditional Uses
Commercial^{3, 4}				

Production-related office Professional and administrative office	P	P	<u>P</u>	Subsection 19.303.6.C Marijuana testing and research facilities
Drinking establishments Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption. Examples include taverns, bars, or cocktail lounges.	P	CU <u>P</u>	<u>CU</u>	Section 19.905 Conditional Uses
Eating establishments Eating establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. Eating establishments may include incidental sales of alcoholic beverages. Examples include restaurants, delicatessens, retail bakeries, coffee shops, concession stands, and espresso bars.	P	P	<u>P</u>	
<u>Mobile food trucks and food carts on private property</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Indoor recreation Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature. Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; and <u>movie theaters, live theaters, and playhouses.</u>	P	P	<u>P</u>	
Retail-oriented sales	P	P	<u>P</u>	

<p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>				
<p>Marijuana retailer</p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p>	P	P	<u>N</u>	Subsection 19.303.6.A Marijuana retailers
<p>Vehicle sales and rentals⁵</p> <p>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</p>	P	N	<u>N</u>	
<p>Personal/business services</p> <p>Personal/business services are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing</p>	P	P	<u>P</u>	

<p>Repair-oriented</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers.</p>	<p>P</p>	<p>P</p>	<p><u>P</u></p>	
<p>Vehicle repair and service⁶</p> <p>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</p> <p>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</p>	<p>P</p>	<p>CU</p>	<p><u>N</u></p>	<p>Section 19.905 Conditional Uses</p>
<p>Day care⁷</p> <p>Day care is the provision of regular child care, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before- and after-school care</p>	<p>P</p>	<p>P</p>	<p><u>P</u></p>	

facilities, and child development centers.				
<p>Commercial lodging</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments.</p>	P	P	<u>CU</u>	
<p><u>Automobile parking facility</u></p> <p>Parking facilities provide <u>automobile parking</u> that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</p> <p>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</p>	N	CU	<u>N</u>	Section 19.611 Parking Structures
Manufacturing and Production				
<p>Manufacturing and production⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; marijuana</p>	P	P	<u>P</u>	Subsection 19.509.2 Security and odor control for certain marijuana businesses

processors; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys. Marijuana production is prohibited.				
<u>Within the SMU, the following manufacturing and production uses are also prohibited: marijuana processing, automotive manufacture and assembly, and auto-repair shops.</u>				
Institutional				
Community service uses	CSU	CSU	<u>CSU</u>	Section 19.904 Community Service Uses
Accessory and Other				
Accessory use	P	P	<u>P</u>	Section 19.503 Accessory Uses
Home occupation	P	P	<u>P</u>	Section 19.507 Home Occupation Standards
Short-term rentals	P	P	<u>P</u>	Section 19.507 Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive ~~rowhouses~~ townhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.

2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.

4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King

Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.

5. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).
6. Vehicle repair and service uses are permitted in the commercial mixed-use zones only when conducted within a completely enclosed building.
7. Day care and child care uses are limited to 5,000 sq ft.
8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Table 19.303.3 summarizes some of the development standards that apply in the commercial mixed-use zones. Development standards are presented in detail in Subsection 19.303.4.

Table 19.303.3				
Commercial Mixed Use Zones—Summary of Development Standards				
Standard	GMU	NMU	SMU	Standards/ Additional Provisions
A. Lot Standards				
1. Minimum lot size (sq ft)	1,500	1,500	<u>1,500</u>	
2. Minimum street frontage (ft)	25	25	<u>25</u>	
B. Development Standards				
1. Minimum floor area ratio	0.5:1	0.5:1	<u>0.5:1</u>	Subsection 19.303.4.A Floor Area Ratio

2. Building height (ft) a. Base maximum b. Maximum with height bonus	45 57– 69	45 Height bonus not available	<u>35</u> <u>Height bonus not available</u>	Subsection 19.303.4.B Building Height Section 19.510 Green Building Standards Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
3. Street setbacks (ft) a. Minimum street setback b. Maximum street setback c. Side and rear setbacks	0–15 ¹ 10– 20 ² None	None 10 None	<u>10</u> <u>15</u> <u>5/10</u>	Subsection 19.303.4.C Street Setbacks Section 19.501.2 Yard Exceptions
4. Frontage occupancy	50%	None	<u>None</u>	Subsection 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	85%	<u>85%</u>	
6. Minimum vegetation	15%	15%	<u>15%</u>	Subsection 19.504.6 Minimum Vegetation
7. Primary building entrances	Yes	Yes	<u>Yes</u>	Subsection 19.303.4.E Primary Building Entrances
8. Off-street parking required standards	Yes	Yes	<u>Yes</u>	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	Yes	<u>Yes</u>	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	Yes	<u>Yes</u>	Subsection 19.504.5 Transition Area Measures
C. Other Standards				
1. Residential density requirements (dwelling units per acre) a. Stand-alone residential (1) Minimum	 25	 11.6	 <u>7.0</u>	Subsection 19.202.4 Density Calculations Subsection 19.303.4.F Residential Density

(2) Maximum b. Mixed-use buildings	50 None	14.5 None		Subsection 19.501.4 Density Exceptions
2. Signs	Yes	Yes	<u>Yes</u>	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.
2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The minimum FAR in Table 19.303.3 applies to all nonresidential building development.
- b. Required minimum FAR shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed-use developments, residential floor space will be included in the calculations of FAR to determine conformance with minimum FAR.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

a. The base maximum building height in the GMU Zone is ~~3 stories or 45 ft., whichever is less.~~ Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.

b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.

c. The maximum building height in the NMU Zone is ~~3 stories or 45 ft., whichever is less.~~ No building height bonuses are available in the NMU Zone.

d. The maximum building height in the SMU Zone is 35 ft. No building height bonuses are available in the SMU Zone.

19.303.5 Standards for Residential Street Edges

For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting an ~~R-3 or R-5~~ residential zone, the following standards apply:

A. A minimum setback of 15 ft shall apply.

B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Avenue and Monroe Street shall provide a step back of at least 15 ft for any portion of the building above 35 ft.

C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

~~19.305 NEIGHBORHOOD COMMERCIAL ZONE C-N~~

~~In a C-N Zone the following regulations shall apply:~~

~~19.305.1 Uses Permitted Outright~~

~~In a C-N Zone the following uses and their accessory uses are permitted outright:~~

~~A. No uses permitted outright.~~

~~19.305.2 Conditional Uses Permitted~~

~~In a C-N Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:~~

~~A. A food store not exceeding 2,500 sq ft of floor area;~~

~~B. A store providing convenience goods and services for a local area;~~

~~C. Laundry;~~

~~D. Eating establishment;~~

~~E. Any other use similar to the above and not listed elsewhere.~~

~~19.305.3 Standards~~

~~In a C-N Zone the following standards shall apply:~~

~~A. Lot size. Lot area shall be at least 5,000 sq ft but not greater than 25,000 sq ft. Lot width shall be at least 50 ft. Average lot depth shall be at least 80 ft.~~

~~B. Front yard. A front yard shall be at least 15 ft.~~

~~C. Side yard. A side yard shall be at least 5 ft, and there shall be additional 1 ft of side yard for each 3 ft of height over 2 stories or 25 ft, whichever is less, except on corner lots a side yard shall be at least 15 ft on the side abutting the street.~~

~~D. Rear yard. A rear yard shall be at least 10 ft.~~

~~E. Off-street parking and loading. As specified in Chapter 19.600.~~

~~F. Height restriction. Maximum height of a structure shall be 2.5 stories or 35 ft, whichever is less.~~

~~G.— Lot coverage. Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 40% of the total area of the lot.~~

~~H.— Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, etc., shall be 20% of the total area of the lot.~~

~~I.— Screening. Neighborhood commercial uses must be screened from adjacent residential uses.~~

~~J.— Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft.~~

~~K.— Transportation requirements and standards. As specified in Chapter 19.700.~~

~~19.305.4 Prohibited Uses~~

~~The following uses and their accessory uses are prohibited:~~

~~A.— Adult entertainment business. (Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)~~

~~19.306 LIMITED COMMERCIAL ZONE C-L~~

~~In a C-L Zone the following regulations shall apply:~~

~~19.306.1 Uses Permitted Outright~~

~~In a C-L Zone the following uses and their accessory uses are permitted outright:~~

~~A.— Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature.~~

~~B.— Offices for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.~~

~~C.— Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf goods inventory.~~

~~D.— Personal/business services such as a barber shop, tailor shop, or laundry and dry cleaning pickup station.~~

~~E. Eating establishments, provided the floor area does not exceed 3,250 sq ft and the use does not include drive-through facilities.~~

~~F. Marijuana retailer subject to the standards of Subsection 19.509.1.~~

~~G. Bed and breakfast.~~

~~H. Vacation rental.~~

~~I. Short-term rental when associated with a legally permitted dwelling unit.~~

~~J. Any other use similar to the above and not listed elsewhere.~~

~~19.306.2 Conditional Uses and Community Service Uses Permitted~~

~~A. In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:~~

~~1. Funeral home;~~

~~2. Marina and boat sales;~~

~~3. Parking facility;~~

~~4. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;~~

~~5. Financial institution;~~

~~6. Trade or commercial school;~~

~~7. Single unit detached dwelling;~~

~~8. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock. Marijuana production is not permitted as an agricultural use;~~

~~9. Middle housing or multi-unit housing;~~

~~10. Adult foster/care home;~~

~~-~~

~~11. High-impact commercial, except adult entertainment businesses;~~

- ~~12. Hotels and motels;~~
- ~~13. Eating establishments that exceed 3,250 sq ft in floor area;~~
- ~~14. Any other use similar to the above and not listed elsewhere.~~

~~B. In a C-L Zone the following community service uses and their accessory uses are permitted subject to the provisions of Section 19.904:~~

- ~~1. Residential care facility.~~

~~19.306.3 Standards~~

~~In a C-L Zone the following standards shall apply:~~

~~A. Lot size. None, except as follows for dwelling. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,000 sq ft. Lot width shall be at least 50 ft. Lot depth shall be at least 80 ft.~~

~~B. Front yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.~~

~~C. Side yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.~~

~~D. Rear yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.~~

~~E. Transition area. A transition area shall be maintained according to Subsection 19.504.6.~~

~~F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft except as permitted under the Land Division Ordinance.~~

~~G. Off-street parking and loading. As specified in Chapter 19.600.~~

~~H. Height restriction. Maximum height of any structure shall be 3 stories or 45 ft, whichever is less.~~

~~I. Open use. A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than 6 ft high.~~

~~J. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15% of the total area of the lot.~~

~~K. Transportation requirements and standards. As specified in Chapter 19.700.~~

~~L. Offices for marijuana research or testing shall be subject to the security and odor control standards of Subsection 19.509.2.~~

~~19.306.4 Prohibited Uses~~

~~The following uses and their accessory uses are prohibited:~~

~~A. Adult entertainment businesses. (Ord. 2224 § 2, 2022; Ord. 2168 § 2, 2019; Ord. 2140 § 2, 2017; Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2094 § 2, 2015; Ord. 2089 § 2, 2015; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)~~

19.505.4 Cottage Cluster Housing

C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

Table 19.505.4.C.1 Cottage Cluster Development Standards		
Standards	R-MD	R-HD, GMU, NMU, SMU

CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
MR2	R-HD	High density residential
PMD	R-HD	High density residential

HDR	R-HD	High density residential
SHD	R-HD	High density residential
C3	C-G	Commercial
OC	C-L NMU	Commercial
RTL	C-L NMU	Commercial
PC	C-CS	Commercial
LI	BI	Industrial
GI	M	Industrial
BP	BI	Industrial
OSM	R-MD/CSU	Public

**TITLE 14
SIGNS**

CHAPTER 14.16 Sign Districts

14.16.030 ~~NEIGHBORHOOD COMMERCIAL~~ SMALL-SCALE MIXED USE ZONE

No sign shall be installed or maintained in a ~~C-N~~ SMU Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.030.

Table 14.16.030 Standards for Signs in Neighborhood Commercial Zones C-N <u>Small-Scale Mixed Use Zone SMU</u>				
Sign Type	Area	Height	Number	Illumination¹
Freestanding signs	1.5 SF per lineal ft. of street frontage, not exceeding 40 SF per display surface and 80 SF overall.	May not project over the top of a building or max. 20 ft., whichever is less.	1 permitted. ²	External only
Wall signs ²	Max. 20% of building face. ³	Cannot extend above roofline or top of a parapet wall, whichever is higher.	Dictated by area requirements. ⁴	External only
Awning signs	Max. 25% of surface of	No higher than the point where	1 per frontage per occupancy.	External only

	awning, not to exceed 20% of building face.	the roofline intersects the exterior wall.		
Hanging sign suspended beneath awning or other portion of the building	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to the lowest portion of awning or suspended sign.	1 hanging sign per awning.	External only
Projecting sign	Max. 20% of face of building to which the sign is attached ⁵ .	Min. clearance 8 ft. from ground level to the lowest portion of projecting sign.	1 projecting sign per building face	External only
Daily display signs ⁶	Max. 8 SF per display surface and 16 SF overall.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination must be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

² ~~In addition to one wall sign.~~

² Location: limited to the building surface or surfaces facing the public right-of-way.

³ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign will be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

⁴ Wall signs are permitted in addition to one freestanding sign.

⁵ If a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces must not exceed 20% of the face of the building.

⁶ Must not be located within required landscaped area, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

⁷ Existing freestanding or roof signs in the SMU zone established prior to XXX, 2024, the effective date of Ordinance XXX, are allowed to remain and may be re-faced and/or repaired, so long as the size or height of the sign does not increase.

(Ord. 2078 § 2 (Exh. B), 2014; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1733 § 1(1) (Exh. A), 1993)

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040 Standards for Signs in Commercial Zones C-L, C-CS, NMU, and GMU					
Sign Type	Area	Height	Location	Number	Illumination¹
Freestanding signs	1.5 sq ft per lineal ft. of street frontage and 1 additional sq ft per each lineal ft. of frontage over 100 ft ²	Max. 25 ft from ground level, 14 ft min. clearance below lowest portion of a sign in any driveway or parking area.	Not permitted on any portion of a street, sidewalk, or public right-of-way. ³	1 multifaced sign per street frontage. ⁴	Permitted
Wall signs	Max. 20% of building face. ⁵	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted

Clean Amendments**TITLE 11 MISCELLANEOUS PERMITS****11.05 TEMPORARY USES, PERMITS, AND REGULATIONS****11.05.010 USES**

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as:

- A. Seasonal sales uses on private property and on land owned by the City of Milwaukie. These activities include, but are not limited to, the sale of produce, rental of recreational equipment, provision of recreational lessons, or sale of products at a park owned by the City of Milwaukie.
- B. Temporary real estate offices;
- C. Construction parking;
- D. Construction trailers;
- E. Construction offices;
- F. Shelters for warming, cooling, or hazardous air quality, subject to the Milwaukie and Clackamas Fire District Joint Policy for Temporary Emergency Shelters;
- G. Outdoor dining and seating areas, on private property and where not permitted by right
- H. Food carts where not permitted by right
- I. Play equipment and sporting events
- J. Bicycle parking, such as a bike corral or bike station
- K. Other temporary uses similar to those listed above as determined by the City Manager.

Approval may be granted provided such uses are consistent with the intent of the underlying zoning district. These activities are intended to be in use for a limited duration and shall not become a permanent part of a site. (Ord. 2198 § 2, 2021; Ord. 2168 § 2, 2019)

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-MD
Residential	R-HD
Downtown Mixed Use	DMU
Open Space	OS
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU
Small Mixed Use	SMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

19.302 HIGH DENSITY RESIDENTIAL ZONES

19.303 COMMERCIAL MIXED-USE ZONES

19.304 DOWNTOWN ZONES

19.305 Hold for future use

19.306 Hold for future use

19.303 COMMERCIAL MIXED-USE ZONES

19.303.1 Purpose

A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.

B. The Neighborhood Mixed Use Zone is intended to recognize certain established areas as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

C. The Small-Scale Mixed Use Zone is intended to allow for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity. This zone supports neighborhood hubs, which are gathering places where residents have easy access to goods and services close to their homes. They are places where neighbors create meaningful relationships with each other.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the commercial mixed-use zones are listed in Table 19.303.2 with a "P." These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as "CU" are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the commercial mixed-use zones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and G below, are prohibited. Uses listed with an “N” in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards.

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

G. Similar Uses

The Planning Manager, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2				
Uses Allowed in Commercial Mixed-Use Zones				
Uses and Use Categories	GMU	NMU	SMU	Standards/Additional Provisions
Residential				
Single detached dwelling	N	CU	CU	Subsection 19.505.1 One- to Four-Unit Residential Development Section 19.905 Conditional Uses
Townhouse ¹	P	CU	CU	Subsection 19.505.5 Townhouses
Duplex, Triplex, Quadplex	CU	CU	CU	Section 19.905 Conditional Uses
Multi-unit housing	P	CU	CU	Subsection 19.505.3 Multi-Unit Housing
Cottage cluster housing	P	CU	CU	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	P	P	Subsection 19.505.7 Nonresidential Development
Live/work units	P	P	P	Subsection 19.505.6 Live/Work Units
Accessory dwelling units	N	CU	CU	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Boarding house	CU	CU	CU	Section 19.905 Conditional Uses
Commercial^{3, 4}				
Production-related office Professional and administrative office	P	P	P	Subsection 19.303.6.C Marijuana testing and research facilities
Drinking establishments Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption. Examples include taverns, bars, or cocktail lounges.	P	P	CU	Section 19.905 Conditional Uses
Eating establishments	P	P	P	

<p>Eating establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. Eating establishments may include incidental sales of alcoholic beverages.</p> <p>Examples include restaurants, delicatessens, retail bakeries, coffee shops, concession stands, and espresso bars.</p>				
<p>Mobile food trucks and food carts on private property</p>	P	P	P	
<p>Indoor recreation</p> <p>Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature.</p> <p>Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; movie theaters, live theaters, and playhouses.</p>	P	P	P	
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>	P	P	P	

<p>Marijuana retailer</p> <p>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</p>	P	P	N	Subsection 19.303.6.A Marijuana retailers
<p>Vehicle sales and rentals⁵</p> <p>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</p>	P	N	N	
<p>Personal/business services</p> <p>Personal/business services are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing</p>	P	P	P	
<p>Repair-oriented</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers.</p>	P	P	P	
<p>Vehicle repair and service⁶</p>	P	CU	N	Section 19.905 Conditional Uses

<p>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</p> <p>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</p>				
<p>Day care⁷</p> <p>Day care is the provision of regular child care, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before- and after-school care facilities, and child development centers.</p>	P	P	P	
<p>Commercial lodging</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments.</p>	P	P	CU	
<p>Automobile parking facility</p> <p>Parking facilities provide automobile parking that is not</p>	N	CU	N	Section 19.611 Parking Structures

<p>accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</p> <p>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</p>				
<p>Manufacturing and Production</p>				
<p>Manufacturing and production⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; marijuana processors; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys. Marijuana production is prohibited.</p> <p>Within the SMU, the following manufacturing and production uses are also prohibited: marijuana processing, automotive manufacture and assembly, and auto-repair shops.</p>	<p>P</p>	<p>P</p>	<p>P</p>	<p>Subsection 19.509.2 Security and odor control for certain marijuana businesses</p>

Institutional				
Community service uses	CSU	CSU	CSU	Section 19.904 Community Service Uses
Accessory and Other				
Accessory use	P	P	P	Section 19.503 Accessory Uses
Home occupation	P	P	P	Section 19.507 Home Occupation Standards
Short-term rentals	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive townhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.

2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.

4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.

5. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).

6. Vehicle repair and service uses are permitted in the commercial mixed-use zones only when conducted within a completely enclosed building.

7. Day care and child care uses are limited to 5,000 sq ft.

8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Table 19.303.3 summarizes some of the development standards that apply in the commercial mixed-use zones. Development standards are presented in detail in Subsection 19.303.4.

Table 19.303.3				
Commercial Mixed Use Zones—Summary of Development Standards				
Standard	GMU	NMU	SMU	Standards/ Additional Provisions
A. Lot Standards				
1. Minimum lot size (sq ft)	1,500	1,500	1,500	
2. Minimum street frontage (ft)	25	25	25	
B. Development Standards				
1. Minimum floor area ratio	0.5:1	0.5:1	0.5:1	Subsection 19.303.4.A Floor Area Ratio
2. Building height (ft)				Subsection 19.303.4.B Building Height
a. Base maximum	45	45	35	Section 19.510 Green Building Standards
b. Maximum with height bonus	57–69	Height bonus not available	Height bonus not available	Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
3. Street setbacks (ft)				Subsection 19.303.4.C Street Setbacks
a. Minimum street setback	0–15 ¹	None	10	Section 19.501.2 Yard Exceptions
b. Maximum street setback	10–20 ²	10	15	
c. Side and rear setbacks	None	None	5/10	
4. Frontage occupancy	50%	None	None	Subsection 19.303.4.D Frontage Occupancy Requirements

				Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	85%	85%	
6. Minimum vegetation	15%	15%	15%	Subsection 19.504.6 Minimum Vegetation
7. Primary building entrances	Yes	Yes	Yes	Subsection 19.303.4.E Primary Building Entrances
8. Off-street parking required standards	Yes	Yes	Yes	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	Yes	Yes	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	Yes	Yes	Subsection 19.504.5 Transition Area Measures
C. Other Standards				
1. Residential density requirements (dwelling units per acre)				Subsection 19.202.4 Density Calculations
a. Stand-alone residential				Subsection 19.303.4.F Residential Density
(1) Minimum	25	11.6	7.0	Subsection 19.501.4 Density Exceptions
(2) Maximum	50	14.5		
b. Mixed-use buildings	None	None		
2. Signs	Yes	Yes	Yes	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.

2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The minimum FAR in Table 19.303.3 applies to all nonresidential building development.
- b. Required minimum FAR shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed-use developments, residential floor space will be included in the calculations of FAR to determine conformance with minimum FAR.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is 45 ft. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- c. The maximum building height in the NMU Zone is 45 ft. No building height bonuses are available in the NMU Zone.
- d. The maximum building height in the SMU Zone is 35 ft. No building height bonuses are available in the SMU Zone.

19.303.5 Standards for Residential Street Edges

For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting a residential zone, the following standards apply:

- A. A minimum setback of 15 ft shall apply.
 - B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Avenue and Monroe Street shall provide a step back of at least 15 ft for any portion of the building above 35 ft.
 - C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.
-

19.505.4 Cottage Cluster Housing

C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

Table 19.505.4.C.1 Cottage Cluster Development Standards		
Standards	R-MD	R-HD, GMU, NMU, SMU

CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
MR2	R-HD	High density residential
PMD	R-HD	High density residential
HDR	R-HD	High density residential
SHD	R-HD	High density residential
C3	C-G	Commercial
OC	NMU	Commercial
RTL	NMU	Commercial
PC	C-CS	Commercial
LI	BI	Industrial
GI	M	Industrial
BP	BI	Industrial

OSM	R-MD/CSU	Public
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**TITLE 14
SIGNS**

CHAPTER 14.16 Sign Districts

14.16.030 SMALL-SCALE MIXED USE ZONE

No sign shall be installed or maintained in a G-N SMU Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.030.

Table 14.16.030 Standards for Signs in Small-Scale Mixed Use Zone SMU				
Sign Type	Area	Height	Number	Illumination¹
Wall signs ²	Max. 20% of building face. ³	Cannot extend above roofline or top of a parapet wall, whichever is higher.	Dictated by area requirements. ⁴	External only
Awning signs	Max. 25% of surface of awning, not to exceed 20% of building face.	No higher than the point where the roofline intersects the exterior wall.	1 per frontage per occupancy.	External only
Hanging sign suspended beneath awning or other portion of the building	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to the lowest portion of awning or suspended sign.	1 hanging sign per awning.	External only
Projecting sign	Max. 20% of face of building to which the sign is attached ⁵ .	Min. clearance 8 ft. from ground level to the lowest portion of projecting sign.	1 projecting sign per building face	External only
Daily display signs ⁶	Max. 8 SF per display surface and 16 SF overall.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination must be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

² Location: limited to the building surface or surfaces facing the public right-of-way.

³ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign will be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

⁴ Wall signs are permitted in addition to one freestanding sign.

⁵ If a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces must not exceed 20% of the face of the building.

⁶ Must not be located within required landscaped area, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

⁷ Existing freestanding or roof signs in the SMU zone established prior to XXX, 2024, the effective date of Ordinance XXX, are allowed to remain and may be re-faced and/or repaired, so long as the size or height of the sign does not increase.

(Ord. 2078 § 2 (Exh. B), 2014; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1733 § 1(1) (Exh. A), 1993)

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040 Standards for Signs in Commercial Zones C-CS, NMU, and GMU					
Sign Type	Area	Height	Location	Number	Illumination ¹
Freestanding signs	1.5 sq ft per lineal ft. of street frontage and 1 additional sq ft per each lineal ft. of frontage over 100 ft ²	Max. 25 ft from ground level, 14 ft min. clearance below lowest portion of a sign in any driveway or parking area.	Not permitted on any portion of a street, sidewalk, or public right-of-way. ³	1 multifaced sign per street frontage. ⁴	Permitted

Wall signs	Max. 20% of building face. ⁵	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted
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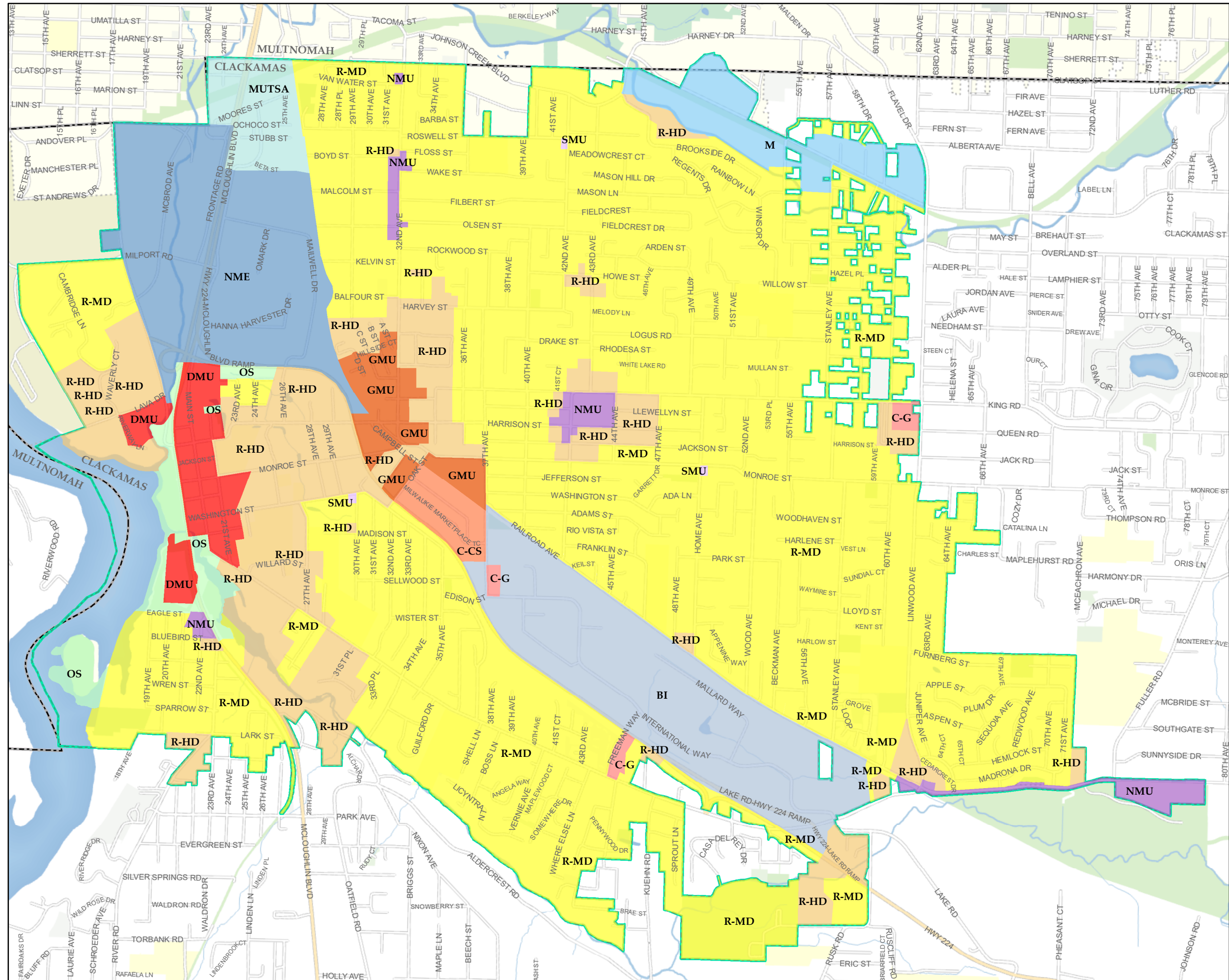


Exhibit D

CITY OF MILWAUKIE

Proposed Milwaukie Zoning

- MUTSA
- BI
- GMU
- C-CS
- DMU
- C-G
- NMU
- SMU
- OS
- M
- NME
- R-MD
- R-HD
- City of Milwaukie
- County Boundary



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Monday, June 24, 2024

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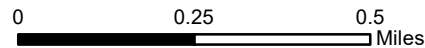


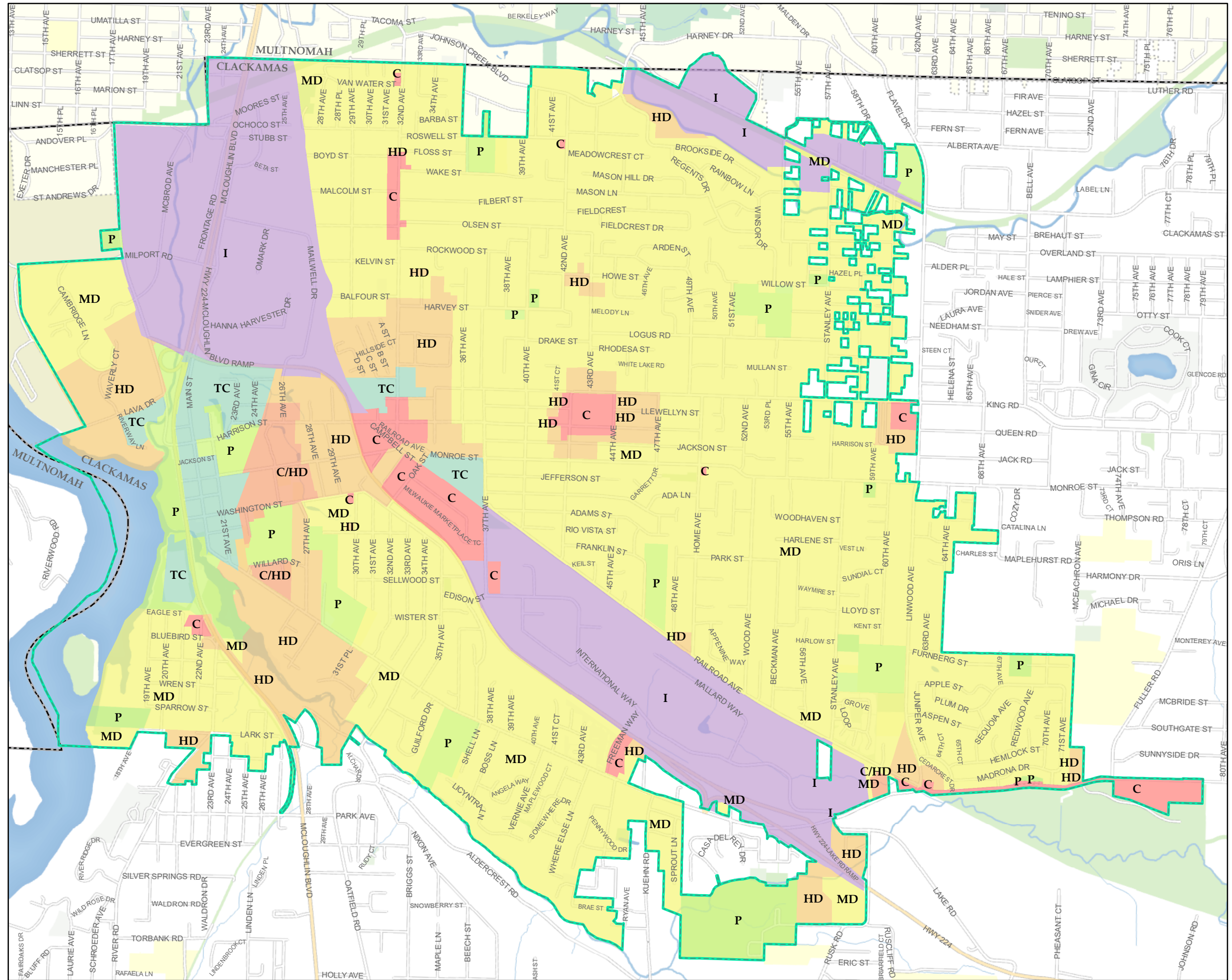


Exhibit E

CITY OF MILWAUKIE

Proposed Milwaukie Comprehensive Plan

- C
- C/HD
- HD
- I
- MD
- P
- TC
- City of Milwaukie
- County Boundary

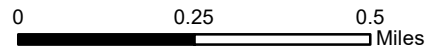


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COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Date Written: August 1, 2024

Reviewed: Laura Weigel, Planning Manager, and
Justin Gericke, City Attorney

From: Vera Kalias, Senior Planner

Subject: **Appeal of Planning Commission’s Decision to Approve Land Use File #VR-2024-003 – Addition at 11932 SE 35th Ave**

ACTION REQUESTED

Council is asked to confirm, modify, or reverse the Planning Commission’s approval of a variance requested by Kristina Fedorovskiy for an addition to the attached garage at the property located at 11932 SE 35th Ave (land use application #VR-2024-003). The Council should evaluate all existing evidence, testimony, and arguments in the record and any new testimony and arguments at a public hearing as they pertain to the case. The hearing is “on the record” so new evidence is not permitted.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[June 11, 2024](#): The Planning Commission approved application VR-2024-003. The Commission’s Findings and Conditions of Approval are in the Notice of Decision dated June 12, 2024. This document is part of the appeal record and is included as part of Attachment 3. This action approved a one-story 13-foot addition to the existing attached garage with a 0.5-foot side yard setback.

ANALYSIS**A. Site and Vicinity**

The site is located at 11932 SE 35th Ave. The site contains a single detached home on a 7,160-square foot lot. To the south of the subject property is a developable lot upon which is currently an existing garage. To the north of the subject property is a vacant lot also owned by the applicant, upon which middle housing (a duplex) is planned to be built. The existing home meets the required minimum 5-foot side yard setback to the north, but has a pre-existing, nonconforming side yard setback of 0.5 foot on the south, rather than the minimum 10 foot required. A 3-foot fence along the portion of the boundary where the garage addition will be built currently marks the boundary between the subject property and the adjacent property to the south.

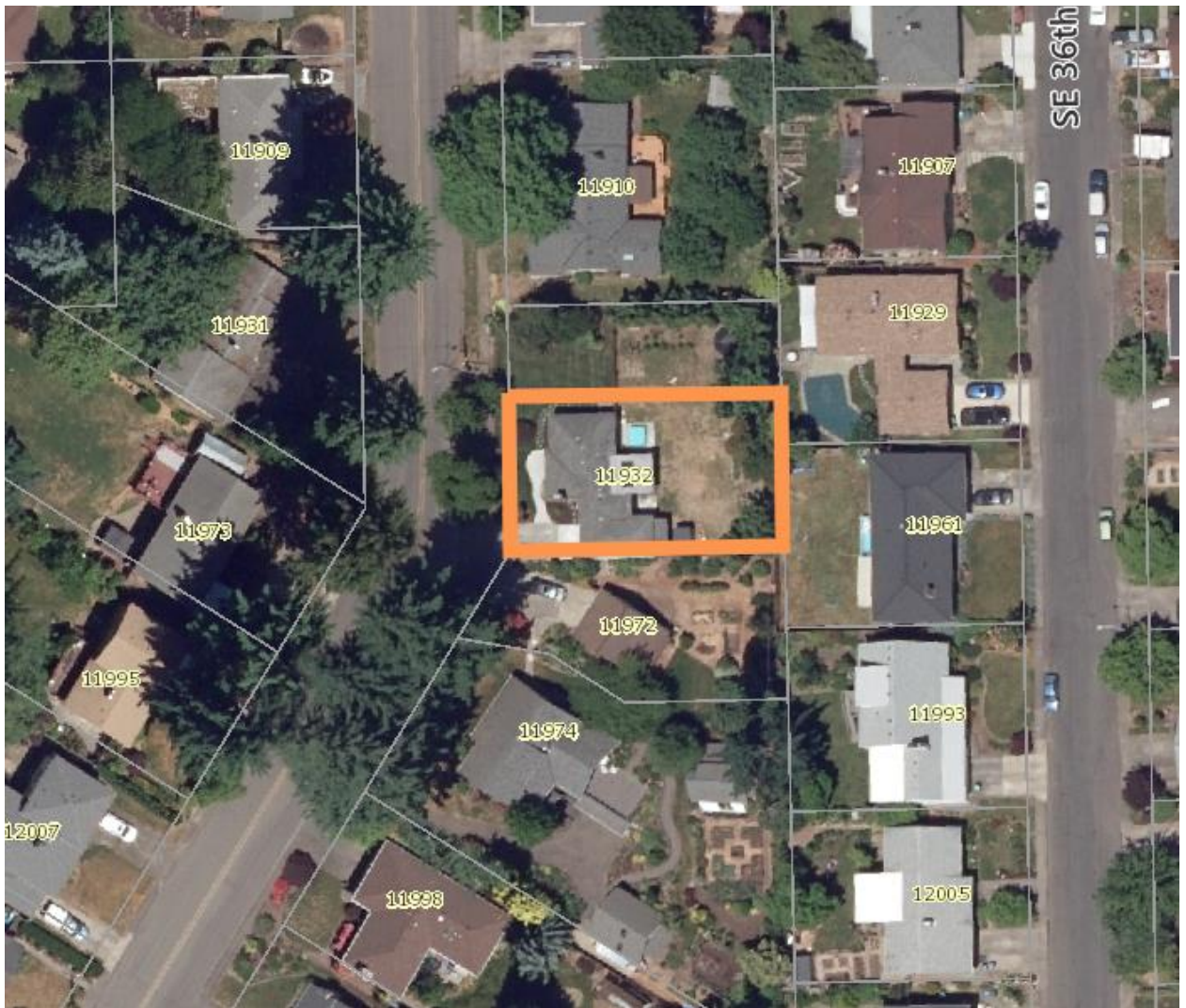


Figure 1. Site area and vicinity

B. Zoning Designation

The site is in the Moderate Density Residential Zone (R-MD).

C. Comprehensive Plan Designation

Moderate Density - MD

D. Land Use History

- **R-2023-003; FP-2023-007:** A Type II application to divide the property to create a 4,138-square foot developable property for a duplex. This application is not relevant to and has no bearing on the current application.

E. Proposal

The applicant is seeking a variance to allow the construction of a 13-foot addition to an existing attached garage. The home was originally built in 1949 and has an existing 0.5-foot side yard setback where the attached garage is located. The applicant wishes to remodel a portion of the existing garage into a bedroom and bathroom to increase the living space in the house. Doing that, however, would not leave the applicant with usable garage space. The 13-foot addition will provide usable garage space and will match the home's existing front yard setback by aligning with the front wall of the house. The proposal will meet all development standards except for the minimum side yard setback. See Figures 2-6.

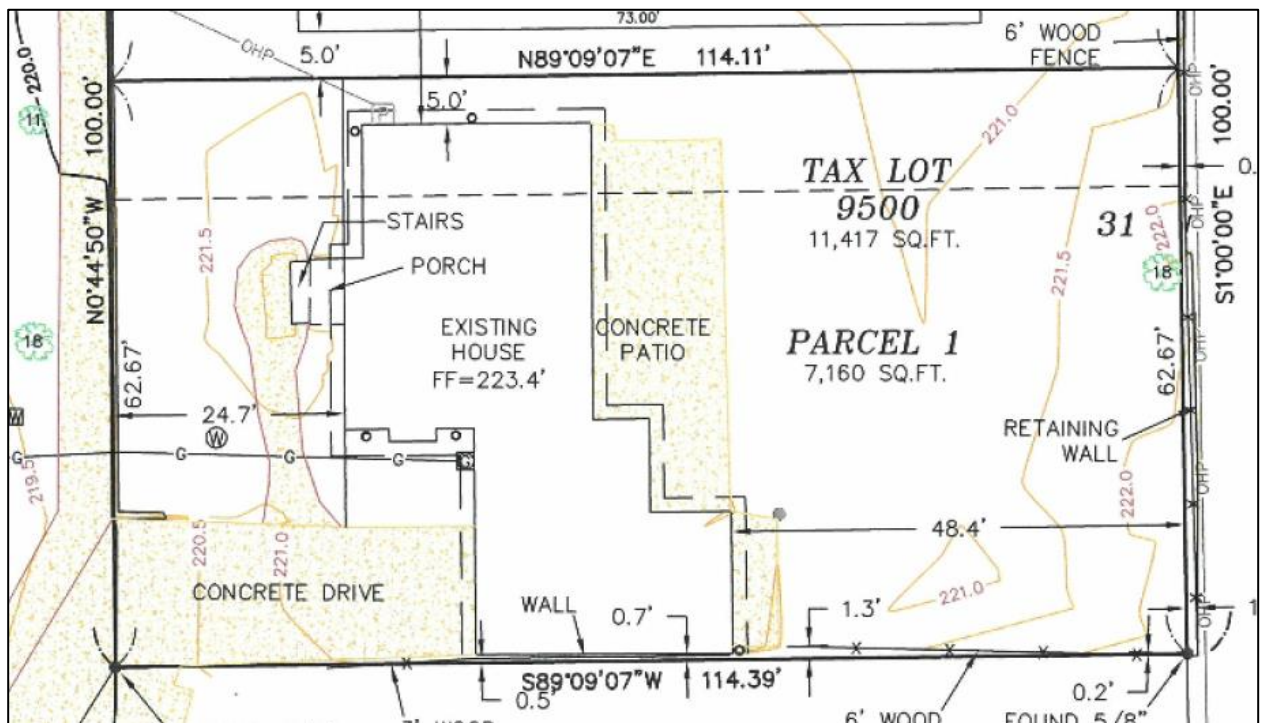


Figure 2. Existing conditions – site plan.

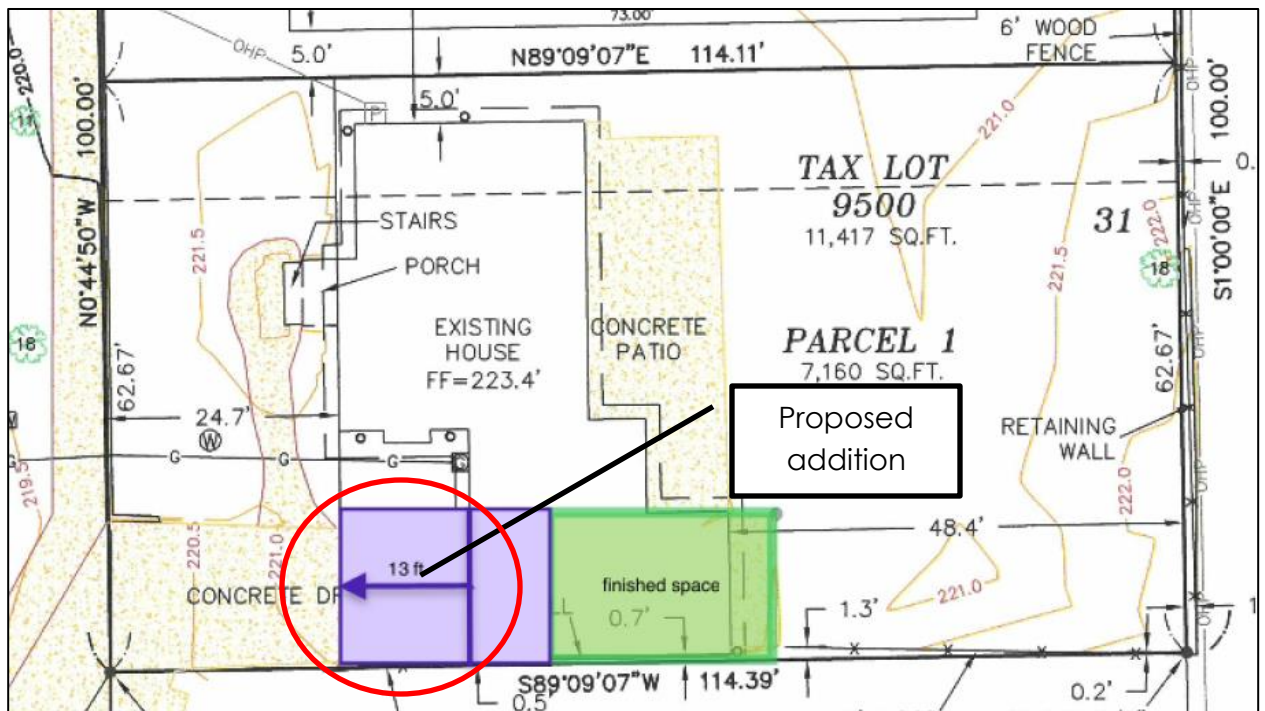


Figure 3. Proposed development – site plan

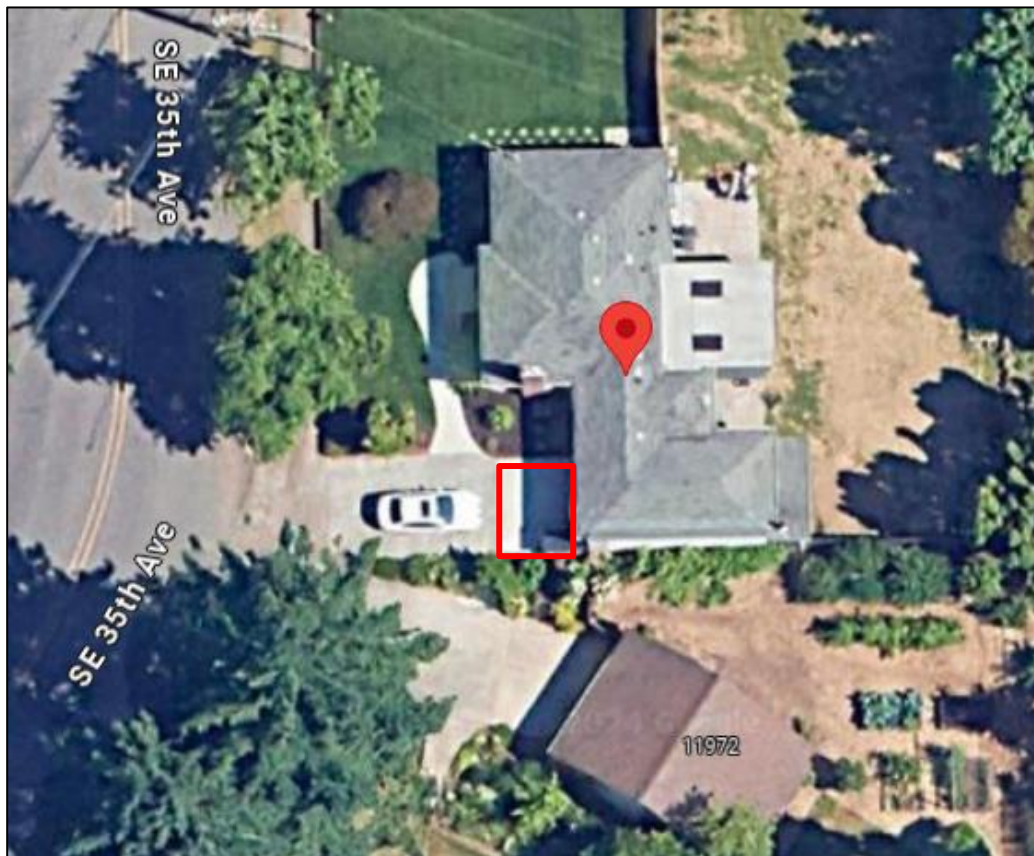


Figure 4. Aerial photo of property with the approximate location of the proposed addition outlined in red



Figure 5. Street view of existing development with location of proposed addition



Figure 6. Elevation with proposed addition projection shown.

The subject property is considered pre-existing nonconforming for the side yard setback to the south. Extending the garage forward by 13 feet extends the non-conformity and requires a Type III variance to the standard:

1. VR-2024-003: Type III Variance (minimum side yard setback)

Analysis

The appellants, Barbara Allan, 11972-11974 SE 35th Ave, and Teresa Bresaw, on behalf of the Lake Road Neighborhood District Association (NDA), provided the following arguments as a basis for the appeal (see Attachment 1):

The appellant states that the basis for the appeal is that the approval criteria have not been met:

- The requested variance for the proposed addition does not avoid or minimize impacts to the adjacent property. The addition extends an “unsightly wall” from 27 feet to 40 feet which would be visible from the home at 11974 SE 35th Ave and from a future home on 11972 SE 35th Ave.

(Please refer to Attachment 1 for the full appeal application).

The appellant has challenged the Planning Commission’s decision to approve the application based on the approval criteria for a Type III variance (see Attachment 2). Staff notes that the code requires that only one of the criteria in Section 19.911.4.B.1.b is required to be met, not all three. The appeal narrative also includes a brief history of the adjacent property to the south, a perceived relationship between staff and the applicant related to the prior land partition application noted above, and information about the visual appearance of the existing south-facing cinder block garage wall.

Significant time is spent by the appellant discussing the condition and aesthetics of the existing garage wall, perceived maintenance issues, and the perceived structural soundness of the existing garage wall. However, as the variance is specifically requested for a 13-foot extension to the existing garage, these arguments are not relevant to the application. It appears that much of the issue surrounding the appellant’s objection to the variance is related to the appearance of the existing garage. Because the existing garage wall is not part of the existing application, staff will organize the analysis around the arguments related to the criteria applicable to the requested extension only – the subject of the variance approval.

The appellant also includes mention of the minor land partition noted above that created a new buildable lot to the north of 11932 SE 35th Ave. That partition was approved earlier this year and has no bearing on the variance application for the proposed addition. Any evidence related to the partition, such as setbacks or alternative development plans not considered by the applicant prior to the partition, likewise have no bearing on the variance application as both are now considered existing conditions on the property.

As noted above, the existing home has a nonconforming side yard setback. The nonconforming side yard is for an attached garage that is adjacent to the neighboring property with the existing garage (11972 SE 35th Ave). Alteration or expansion of a nonconforming development is permitted subject to a Type III variance as described in MMC 19.804.1.B.1. A 3-foot fence approximates the shared property line and there is existing landscaping on the neighboring property along the fence (see Figure 6). The structure located at 11972 SE 35th Ave is a large garage with a front yard setback of approximately 40 feet – much larger than the minimum 20 feet.

The proposed addition to the applicant's existing garage would maintain the existing front yard setback of 24.7 feet and would align the garage with the front wall of the house. The proposed addition would occupy a portion of the existing driveway, so no landscaping would be lost because of the addition. Given the existing design and construction of the house, it would be effectively impossible to construct the addition and still meet the required 10-ft setback. The proposed addition is modest in size, maintains the existing front yard setback, and would be immediately adjacent to the driveway and existing landscaping on the neighboring property. Staff has not identified any impacts from the proposed one-story, 13-foot addition on the abutting property, including to any future development as the addition will be located solely on the applicant's property. However, the owner of the abutting property has also expressed concern about the visual impacts of the proposed addition on the view as seen from the property to the south of the abutting property. To mitigate any perceived visual impact to the non-abutting property, staff suggested a condition requiring that a 6-foot sight impervious fence be installed along the property line to screen the proposed addition.

As expressed in the variance application process and at the Planning Commission hearing, comments from the appellant and the Lake Road NDA oppose the variance and include comments stating that there is no way to construct the addition without accessing the appellant's property. Although this issue is not relevant to the approval criteria, and has no bearing on the requested variance, staff confirmed with the building official that there is more than one way to construct the addition without entering the adjacent property.

Discretionary Relief Criteria

The Planning Commission findings identify how the proposal meets the applicable approval criteria as follows:

a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The Planning Commission findings state that the analysis of the impacts and benefits of the requested variance compared to the baseline requirements is adequate and that this criterion is met. The existing home has a side yard setback of 0.5 feet. Building an addition that meets the minimum 10-foot setback would not be possible given the layout of the existing home. The purpose of the one-story addition is to remodel a portion of the existing garage into living space and add the smallest amount needed to maintain a usable one-car garage.

Without the variance, the garage space would not accommodate a vehicle after the remodel. This side of the existing home is adjacent to the neighboring uninhabited property; the

neighbor's home on the next lot to the south is set back approximately 26 feet from the street, so there are no impacts to the appellant's home or use of the front yard area.

b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

(1) The proposed variance avoids or minimizes impacts to surrounding properties.

The Planning Commission findings state that the proposed one-story addition extends an existing nonconforming 0.5-foot side yard setback by 13 feet. The addition would match the front wall of the house, with a front yard setback of 24.7 feet, which is larger than the minimum setback of 20 feet. The proposed addition would be located on a portion of the existing driveway, so no landscaping will be removed to accommodate the construction. The adjacent property is developed with a garage with a 40-foot front yard setback, and a driveway is located immediately adjacent to the subject property. Therefore, the proposed addition would not impact the use and enjoyment of the neighboring property. The proposed addition can be built without needing to access the adjacent property, so construction impacts would be minimized.

(2) Impacts from the proposed variance will be mitigated to the extent practicable.

The Planning Commission findings state that the proposed 13-foot addition is modestly sized; it is one-story and would align with the front wall of the house, resulting in a larger than required front yard setback of 24.7 feet. The addition would be located on a portion of the existing driveway, so no landscaping will be removed. The proposed addition would be adjacent to the neighboring property with a garage and side yard landscaping, so there would be no impacts to the neighbor's use and enjoyment of the front yard area. The neighboring garage is set back approximately 40 feet, and it is not living space, so there would be no impacts on the garage by the proposed addition. The proposed addition provides for usable garage space for one vehicle, thereby maintaining two parking spaces on the subject property.

A new 6-foot sight-obscuring fence could be constructed to replace the existing 3-foot fence or within the setback area to provide a buffer between the proposed addition and the neighboring property. This condition was included in the final decision.

The Planning Commission found that the requested variance was reasonable and approvable.

Appeal Process

Appeal of a Type III application must be an on-the-record de novo hearing. Pursuant to Milwaukie Municipal Code (MMC) Subsection 19.1010.3.B, an on-the-record de novo hearing only allows the presentation of evidence considered by the Planning Commission in reaching its decision. New testimony is allowed, but testimony and any new arguments must be based on evidence and testimony that is already in the record. The scope of the hearing is not limited to issues raised by the appellants. The standard of review for an on-the-record de novo hearing is a new evaluation of existing evidence, new and existing testimony, and new and existing arguments.

Unless the applicant extends the time period within which the city must make a decision, the final decision on this application must be made within 120 days after the application was deemed complete in accordance with the Oregon Revised Statutes (ORS) and the MMC. The 120-day deadline for this application is August 27, 2024.

Comments

Notice of the appeal was given to the following agencies and persons: property owner, appellant, Lake Road NDA, property owners and residents within 300 feet of the property, and VR-2024-003 interested parties. Comments were received from the following individuals in opposition to the variance and in support of the appeal (see Attachment 4):

- Karen Kersey (no address provided)
- Margueritte Kosovich, 12012 SE 35th Ave, Milwaukie, OR 97222
- Teresa Bresaw, Lake Road NDA

BUDGET, CLIMATE, EQUITY, & WORKLOAD IMPACTS

Not applicable.

COORDINATION, CONCURRENCE, OR DISSENT

The city attorney has reviewed the staff report and attachments.

STAFF RECOMMENDATION

The Planning Commission approved the land use application with conditions, as detailed in the Notice of Decision (see Attachment 3). Staff recommends that Council affirm the Planning Commission Decision as issued on June 12, 2024.

ALTERNATIVES

Council has 4 decision-making options as follows:

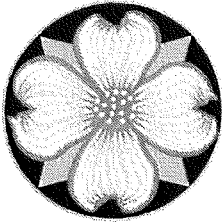
1. Affirm the decision under appeal for application VR-2024-003 with the Findings and Conditions of Approval from the June 12, 2024, Notice of Decision issued by the Planning Commission.
2. Modify the decision under appeal for VR-2024-003 with modified Findings and Conditions of Approval. Any modifications not included in the findings must be read into the record. This option may require that the final decision be delayed, and that the applicant provide a waiver to the 120-day clock¹.
3. Continue the hearing to a specific date. This option requires that the applicant provide a waiver to the 120-day clock.
4. Reverse the decision under appeal for application VR-2024-003 with new findings supporting denial. All new findings must be read into the record.

The final decision on this application must be made by August 27, 2024, in accordance with the ORS and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

¹ Oregon State law requires a final local decision within 120 days of complete application. Applicants always retain the right to postpone the decision or to waive the 120-Day Rule but are not required to do so.

ATTACHMENTS

1. AP-2024-001: Appeal of a Land Use Decision – full application
2. Approval Criteria for Type III Variance
3. Appeal Record
4. Comments submitted



MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503.786.7630
 planning@milwaukieoregon.gov
 CITY OF MILWAUKIE
 PLANNING DEPARTMENT

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JUN 24 2024

Appeal of Land Use Decision

File #AP- 2024-001

APPEAL INFORMATION:

Appeal of File # <u>VR-2024-003</u>	Site Address: <u>11932 SE 35th Ave</u>
Review Type of Decision: <input type="checkbox"/> I <input type="checkbox"/> II <input checked="" type="checkbox"/> III	
Appeal Type: <u>Unrestricted De Novo</u>	<u>On the Record De Novo</u>
Map & Tax Lot(s): <u>11E36DB09500</u>	Zoning: <u>R-MD</u>
Comprehensive Plan Designation: <u>MD</u>	Size of property: <u>7,160 sq ft.</u>

RESPONSIBLE PARTIES:

APPELLANT: <u>Barbara Allan</u>
Mailing address: <u>11974 SE 35th Ave Milwaukie Zip: 97222</u>
Phone(s): <u>971-401-4317</u> Email: <u>plantlassie@gmail.com</u>
APPELLANT'S REPRESENTATIVE (if different than above): <u>Teresa Bresaw Lake Rd NDA</u>
Mailing address: <u>12744 SE Weedman Ct Milwaukie Zip: 97222</u>
Phone(s): <u>503-786-4690 L.L.</u> Email: <u>tbresaw50@gmail.com</u>

STANDING FOR APPEAL (check applicable box):

Applicant or applicant's representative from Type I, II, or III decision Barbara Allan, Teresa Bresaw

Person or organization adversely affected or aggrieved by Type II decision

Person or organization that participated or provided testimony or evidence on the record for Type III Hearing decision. List the date and briefly describe the form of participation, testimony, or evidence: June 11, 2024
May 8 Lake Rd NDA meeting members voted to reject non-conforming extension of setback. 4 neighbors submitted letters, 2 Land Use members letters, 2 testimonies at Hearing

BASIS OF APPEAL (attach a detailed statement describing the basis of the appeal):

Identify which approval criterion or development standard is believed to have been overlooked or incorrectly interpreted or applied and/or which aspect of the proposal is believed to have been overlooked or incorrectly evaluated.

For appeal of a Type II decision, identify either an error as described above or the manner in which the person filing the appeal was adversely impacted or aggrieved by the decision.

SIGNATURE: Barbara Allan Teresa Bresaw Lake Rd NDA 6/24/2024

ATTEST: I have standing to appeal the land use decision identified on this application and have provided the necessary items and information for filing an appeal per Milwaukie Municipal Code (MMC) Subsection 19.1010.1. To the best of my knowledge, the information provided within this appeal package is complete and accurate.

Submitted by: Teresa Bresaw Date: 6/24/2024

IMPORTANT INFORMATION ON REVERSE SIDE

Attach required statement describing basis of appeal.

183-1701

APPEAL HEARINGS (excerpted from MMC Subsections 19.1001.5 and 19.1010.3):

Appeals of Type I and II decisions:

Appeals of Type I and II decisions are heard by the Planning Commission. The appeal hearing is an unrestricted de novo hearing, which means that new evidence, testimony, and argument that were not introduced in the original decision can be introduced in the appeal. The standard of review for the Planning Commission is whether the initial decision has findings and/or conditions that are in error as a matter of fact or law. The Planning Commission's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

Appeals of Type III decisions:

Appeals of Type III decisions are heard by the City Council. The appeal hearing is an on-the-record de novo hearing, which means that new evidence that was not introduced in the original decision cannot be introduced in the appeal. New testimony is allowed. New argument is also allowed that is based on evidence already in the record and on testimony that is new or already in the record. The standard of review for the City Council is a new evaluation of existing evidence, new and existing testimony, and new and existing arguments. The City Council's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

DECISIONS NOT SUBJECT TO LOCAL APPEAL:

The initial hearing for Type IV and V decisions is held by the Planning Commission. The Planning Commission does not issue a decision on these types of review and, instead, issues a recommendation to the City Council. This recommendation is not a final decision and is not appealable.

The review authority for Type IV and V decisions is the City Council. Since there is no higher authority within the City, the City Council's decisions on these types of reviews are the City's final decision on the land use application. Appeals of these types of applications may be made to the Oregon Land Use Board of Appeals or other court.

Downtown Design Review applications are considered at a public meeting by the Design and Landmarks Committee. The Design and Landmarks Committee does not issue a decision on these types of review and, instead, issues a recommendation to the Planning Commission. This recommendation is not a final decision and is not appealable.

THIS SECTION FOR OFFICE USE ONLY:

	FILE NUMBER	FEE AMOUNT*	DATE STAMP
APPEAL FILE:	AP-2024-001	\$ <i>0</i> NDA SPONSOR	RECEIVED JUN 24 2024 CITY OF MILWAUKIE PLANNING DEPARTMENT
TOTAL AMOUNT RECEIVED:		\$	
RECEIPT #:			
RCD BY:			
Associated application file #s (appeals, modifications, previous approvals, etc.):			VR-2024-003
Neighborhood District Association(s):			LAKE ROAD
Notes:			

1971
1972

1973-76

1977-80

1981-84

CITY OF MILWAUKIE
 NEIGHBORHOOD DISTRICT ASSOCIATION (NDA)
 MEETING MINUTES

Lake Rd NDA
 May 2024

According to the Oregon Public Meeting and Records Laws, meeting minutes shall include at least the following:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- results of all votes
- the substance of any discussion on any matter; and
- subject to the Public Records Laws, a reference to any document discussed at the meeting.

RECEIVED
 JUN 24 2024
 CITY OF MILWAUKIE
 PLANNING DEPARTMENT

Minutes do not have to be a verbatim transcript.

NDA: Lake Road	DATE: May 8, 2024
BOARD MEMBERS PRESENT:	
<input type="checkbox"/> Chair: Carla Bantz	<input type="checkbox"/> Secretary: Debby Patten (via zoom)
<input type="checkbox"/> Co-Chair:	<input type="checkbox"/> Treasurer: Alex Cotgreave
<input type="checkbox"/> Public Safety Advisory Committee (PSAC) Representative: Christine Giatti	<input type="checkbox"/> Land Use Committee (LUC) Chair: Paul Hawkins
<input type="checkbox"/> Communications: Kate Houston	LUC Member: Teresa Bresaw
NDA GENERAL MEMBERSHIP PRESENT:	
Mary Weisensee	Barbara Allen (?) planklassie@gmail.com
Jeff Woodard	Ryan Burdick, Captain MPD
Margueritte Kosovich	Karen Kersey
Kelli Keehner	Tanya Walker (tauwnja@hotmail.com)
Albert Chen	Tony Leed
Tony Lewis	

ITEM DISCUSSED:	DATE:
<p>Discussion points: home on se 35th wants to extend the garage, but it would encroach on the next door neighbor's house.</p> <p>jeff wood made motion for nda to write letter, teresa seconded. </p> <p style="text-align: right; font-size: 1.5em;">1 of 3</p> <p style="text-align: right; font-size: 1.5em;">see back side</p>	
RS182	

VOTING

Motion: *passed, zero no, two abstains*

Vote: Passed Failed

Number of Attendees Who Voted Yes:

Number of Attendees Who Voted No:

Kelly Keehner Event this weekend at Milwaukie Floral, great opportunity for Hub

Chief Burdick: three officers have been released, so MPD is working on getting new officers. Four are being trained. Sat May 18 is Cpl Diffy Fund Pancake Breakfast. Records Dept is retiring. Two Traffic units out. Neighborhood Watch - how to start. Cpt Burdick advises calling the non-emergency number. Average 3.5 minutes per call for high priority calls.

Fire Dept - no show

Chair notes: per Jason Wachs, a virtual option is required by state law, NDAs encouraged to follow. recommended that laptops be purchased.

Upcoming Budget meeting on May 11th, please take the water survey. Training and Orientation for new Officers in June. Farmers market sign up, Duck Race is July 13th at Milwaukie Bay Park.

Washington St update from Jason Wach's notes. Minthorn Open House, Library opening 2 hours early on Sunday for summer, closing early on Monday. Plant sale is 11th, 12th.

Dogwood Photo submission May 19th, Bike Milwaukie May 18th. Linwood Garage Sale Jun 1.

PSAC - no meeting last month, from 10-2 every Tuesday, Love One is there to help folks with driver's licenses, getting shelter info, etc. Washington St construction has started doing utility/storm pipe work in roadway. Road closure impacts through Mar 2025.

★ Land Use - 13200 SE WhereElse lane at dead end, vacant lot. three lots, potential development. ★ SE 35th garage extension request. Long discussion on this. Jun 11 is Planning Commission meeting. Neighbor will not agree to this variance but will be out of town for the meeting. *Note*

Halloween potential opening for Bowman/Brae park

2 cleanups : Sundays 10-12

10/20/24, 4/13/25

Need estimate on signs by 5/31 for Alex. Carla to give Alex that.

Picnic is tentatively set for Saturday, Aug 3

People interested: Tanya and Jeff

Where Else lane doesn't have a pass through

2 of 3

Lake Rd May 2024

ITEM DISCUSSED:		DATE: May 8, 2024
Discussion points: The minutes were reviewed prior to the meeting by the membership.		
Motion was made by Christine Giatti to accept the Minutes from the April 10, 2024 Lake Road Neighborhood meeting. The motion was seconded by Jeff.		
VOTING		
Motion: <i>passed</i>		
Vote: <input type="checkbox"/> Passed <input type="checkbox"/> Failed		
Number of Attendees Who Voted Yes:		Number of Attendees Who Voted No:

ITEM DISCUSSED:		DATE: May 8, 2024
J e f	Discussion points: Officer Elections	
	Co-Chair Carla and Debby (debby will do secretary unofficially)	
	Christine Giatti - PSAC	
	Kate - Communications	
	Alex - Treasurer	
	Paul and Teresa - Land Use	
	Jeff motioned, Tanya seconded, Tony abstained	
	another year!!!	

3 of 3

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VOTING	
---------------	--

Motion:

Vote: <input type="checkbox"/> Passed <input type="checkbox"/> Failed
--

Number of Attendees Who Voted Yes:	Number of Attendees Who Voted No:
---	--

MEETING START TIME: 638	MEETING ADJOURN TIME: 6
	750

NAME OF MEETING RECORDER: Debby Patten	DATE:05/08/24
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**CITY OF MILWAUKIE
NEIGHBORHOOD DISTRICT ASSOCIATION
(NDA)
MEETING MINUTES**

*June 12 2024
Lake Rd NDA*

According to the Oregon Public Meeting and Records Laws, meeting minutes shall include at least the following:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their deposition;
- results of all votes
- the substance of any discussion on any matter; and
- subject to the Public Records Laws, a reference to any document discussed at the meeting.

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JUN 24 2024

Minutes do not have to be a verbatim transcript.

CITY OF MILWAUKIE
PLANNING DEPARTMENT

NDA: Lake Road	DATE: June 12, 2024
BOARD MEMBERS PRESENT:	
☐ Chair: Carla Bantz	☐ Secretary: Debby Patten
☐ Co-Chair:	☐ Treasurer: Alex Cotgreave
☐ Public Safety Advisory Committee (PSAC) Representative: Christine Giatti	☐ Land Use Committee (LUC) Chair: Paul Hawkins
☐ Communications:	LUC Member: Teresa Bresaw
NDA GENERAL MEMBERSHIP PRESENT:	
Susanna Pai	Sue Richardson
Jeff Woodard	Ryan Burdick, Captain MPD
Margueritte Kosovich	Colleen Rockwell
Virginia Pai	
Albert Chen	
Karen Kersey	

ITEM DISCUSSED:	DATE:
Discussion points:	
Chief Burdick stabbing at Axletree, school is out, please be careful Library, teenage boy harassing teenage girls Catherine Meier getting red lab for K9, Flora PSF funded position, shout out to them, Dave Hedges Suspicious item left by food carts Suspect from shooting came from Hillsboro and was arrested Working on an IT product to communicate better	

VOTING
Motion: Pass meeting minutes from may Teresa motioned, Christine seconded motion pass Treasury Report 7205.10 Picnic Saturday Aug 3, 11-1

RS186

*see back
side
1 of 3*

PSAC Christine didn't attend, meeting hasn't happened yet. May meeting TSP (advisory committee). Gave info about performance measures. System completeness, access to transit, bicycle level of traffic stress, no meeting till august. Needs gap analysis at that meeting. Striping on SE Lake Road is an issue brought up by neighbor. Railroad tracks brought up, Union Pacific owns it.

Land Use Where Else Lane approved, SE 35TH was approved. The owner wants to appeal, Lake Road will support the appeal.

Jeff motioned, Christine seconded and the appeal motion passed. We could show up in addition to the letter. We will email when we get that info.

Ranch style house wants to partition behind business on 27th/SE Lake and put up another house. No issues with this.

Old City Hall being gutted and should open in Spring 2025

Food carts on Main St/Scott

Cloud Pine restaurant is closing, but there might be another restaurant coming in.

Milwaukie is second city in Oregon with Pollinator Pathway on Main St and 21st. Colleen Rockwell spoke on this subject; it's in it's third way. The more plants, the more pollinators. Officially on the agenda in September.

Lisa Batey, fireworks prohibited signs will be ready next week. Milwaukie Parks Foundation handouts. Milwaukie Bay Park: at least 20 years, Two phases have been built. Phase Three – amphitheater, bigger bathroom, play area, splash pad. N Clack Park District took over design and engagement. Picked design 9.6 million price tag. Comm Paul Savas pulled it off in agenda in 2021 based on the idea that Milwaukie was considering leaving the Parks District. Our state parks and fed grants are on the verge of expiring. Let's pressure the County Commissioners to get our park finished! We do have system development charges on new developments that should be able to fill the funding gap.

Status of leaving the Parks District: no movement yet

Sue Richardson: proposal for NDA to have crossing signage painted bet se 43rd and 41st at Freeman due to increase in damage of medians and walls and accidents. Request going to PSAC.

Admin School Building has overgrown weeds and bushes. They would provide supplies if the NDA was willint to do some yardwork.

Debby to contact Code Enforcement.

CERT grant \$150 print flyers for Emergency

Christine motioned, Jeff seconded.

Picnic – Jeff volunteered to get some info

Committee Carla, Debby, Jeff, Mary, Tanya, Susanna. Meet in the next few weeks.

June 20 24

~~*~~ note

~~*~~ Land use

Luke H.

June

Lake Hd NDA

Pass meeting minutes from may

Teresa motioned, Christine seconded

Vote:	<input checked="" type="checkbox"/> X Passed	<input type="checkbox"/> Failed	
Number of Attendees Who Voted Yes: all		Number of Attendees Who Voted No:	

ITEM DISCUSSED:		DATE: June 12, 2024	
Discussion points:			
VOTING			
Motion: Support appeal of house on SE35th Jeff motioned, Christine seconded		<i>* note</i>	
Vote:	<input checked="" type="checkbox"/> X Passed	<input type="checkbox"/> Failed	
Number of Attendees Who Voted Yes:		Number of Attendees Who Voted No:	

	ITEM DISCUSSED:	DATE: May 8, 2024
J		
e		
f		

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PAGE #:

VOTING

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Motion:

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Vote: Passed Failed

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Number of Attendees Who Voted Yes:

Number of Attendees Who Voted No:

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MEETING START TIME: 631	MEETING ADJOURN TIME:
NAME OF MEETING RECORDER: Debby Patten	DATE: June 12, 2024

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JUN 24 2024

To Milwaukie City Council and the Planning Dept

CITY OF MILWAUKIE
PLANNING DEPARTMENT

I am representing the Lake Road neighborhood (NDA) and Barbara Allan who is the neighbor to the south of the above address. I have been a member of the neighborhood for many years and have served on the Planning Commission for 8 years. I have spent hours reading Milwaukie's comprehensive plan and community vision along with the many codes governing decisions. The 7 neighborhoods are officially recognized as the voice of the neighborhood and the basic building blocks of democracy in Milwaukie. The process is somewhat stacked once the Planning Department has approved the applicant's request unless you hire an attorney. The Planning Commission who are volunteers try to make good decisions but there is pressure to back the planning staff as they think the planners are the experts. Three out of five commission members mentioned maintenance on the cinder block wall as a concern, but Milwaukie's codes don't seem to mention that (checked code compliance etc). There were 3 criteria to approve the application and only 1 is enough to approve. Two commissioners said the criteria were subjective. Commissioner Fuenmayer had concerns about the 6" setback and she abstained from the vote.

Background of applicant property

Last year the applicant working with Paul Roeger , a retired Milwaukie city engineer, helped to get their lot divided into two. They chose to put 5 ft as a setback on the north side of their house in order to get a lot large enough for a 2 story duplex lot. The applicant chose 10 ft to be on the south side of the lot. Ms. Allan had no problem with this since this had no impact on her property or the outlook from her property. Ms Allan was unaware that there could even be the possibility of a variance for a non conforming wall to be extended.

Now the applicant wants to add a bedroom and bathroom to the back of the garage and extend the garage out toward the front another 13 ft. The existing cinder block wall is only 6" from Barbara's property line and is in need of repair. She can see the current wall from her living room window and her backyard.

Ms. Allan and her husband looked for over a year to find a large property where they could garden and plant trees. They divided up their large parcel into two with the intent of building a small home for her mother-in-law. She needed more care and ended up moving into their home (deceased now). The address for the newer lot is 11972 (garage to be demolished and future home built) directly south of applicant's lot. Her home address is 11974 and she has a car port directly behind her house along with a detached garage on the south side of her lot behind the house which were necessary prior to the lot split in 2007.

To be fair looking from the street, a person would think maybe that would be okay as you see 2 garages and 2 separate driveways. However once you walk Barbara Allan's property one gets a whole new perspective! There has been no maintenance on the cinder block wall that is "supposed" to last 100 yrs. It has a crack going down the middle. Things go wrong and 6" does not allow for access around this property without going onto Ms. Allan's property. Apparently there is no design regulation for the required firewall or cinder block in residential construction or regulation for maintenance.

Since a working relationship is built between the applicant and planning staff that started with their lot division there is a well intentioned goal of helping the applicant further and bringing money to the city.

The Lake Road neighborhood has seen many changes over the years and we want our city government to respect property rights and the rules the city has put in place specifically with setbacks. A pre-existing setback of 6" on the side lot of the 1947 house is not a good reason to extend the non-conformance. Yes, it would make it cheaper for the applicant, but the applicant could have added onto the north side, added a second story or added onto the back of the house.

The proposed 6 ft wood fence to mitigate visual impact is not a good idea. The building will extend above the six foot fence, Wood needs maintenance, a fence on the property line is a poor choice for determining ownership of the fence and how does one maintain either the wall or the fence in the six inch space between them. There is a 3 ft fence that is Barbara's fence and she does not want it replaced! She gardens on both lots and wants the air circulation, light and visual space for her plantings. With hotter temperatures she does not want a tall wall (faces south) to reflect heat on her plantings. The extension of the block wall can be built from the inside of applicant's property and a sealer needs to be applied since water can infiltrate and damage the wall. However, what about the crack and how does that get checked out? Should a structural engineer check this out? I would assume the city and the owner wouldn't want a problem with the existing structure or for it to get worse. What about the site inspections by the city or county?

The "proposed" variance does not avoid or minimize impacts to Barbara's 2 lots. It extends out the non-conforming garage unsightly wall from 27 ft to 40 ft visible from her living room window at 11974 and to the new future home at 11972.

The "proposed" variance does not have desirable public benefits as it benefits the applicant and not the neighbors.

The "proposed" variance does not respond to the existing built or natural environment in a creative or sensitive manner, but rather for the sole benefit of the applicant.

If the neighbors agreed to this variance then that would be another matter. The Lake Road NDA wholly support her refusal to allow this! Setbacks are important to maintain each individual property and to intensify this non-conformity is a bad precedent unless the impacted neighbors agree! The existing unsightly wall has not had maintenance and why would it change with the extension?

Teresa Bresaw <tbresaw50@gmail.com>

6/23/2024 2:30 PM

To holmanch <holmanch@comcast.net>

VR-2024-003

VR-2024-003 11932 SE 35th Ave

Code Authority and Decision-Making Review

~~MMC 19.508 Downtown and Building Design Standards~~

~~The cinder block wall with no positive design elements should not be visible from the sidewalk. It is visible.~~

MMC 19.804 Alteration of Nonconforming Uses and Development Provisions

"A nonconforming use shall not be moved in whole or in part to any portion of the site other than that occupied by the nonconforming use, except as allowed per subsection ..."

"No additional development or physical alterations associated with the nonconforming use shall occur except as allowed per subsection..."

"No intensification of the nonconforming use shall occur except as allowed per subsection..."

Land Use Review Required

"The applicant shall demonstrate that the proposed move, alteration, or intensification would result in no more of a detriment to surrounding properties than the existing nonconforming use."

The subsection refers to exceptions granted by the Planning Commission. After reading codes the gist was, that all rules could be granted "an exception" with an appeal to the Planning Commission.

Not all of the commissioners visited the site.

At public hearings normally an organization has 5 minutes at least to present testimony. The hearing on June 11th allotted 3 minutes to Teresa Bresaw for Lake Road NDA.

The neighbor Barbara Allan, who would be affected by this variance was also limited in her testimony.

Bending the rules can be done but it needs approval of the "neighbors". It is easy to say it is for the public benefit, but the Lake Road NDA and the nearby neighbors to the property say no. It is for the benefit of the applicant! Rules are important for visual aesthetics. Milwaukie does not have design guidelines for residential firewalls per Stephanie in Milwaukie's Building Department. They can be built with cinder block and I do not know if it even has to be coated to block water infiltration, painted or maintained, when there is only 6" for the side setback (completely impractical). There's already a problem with the wall and I would hope there would be care in preserving what's there before it fails.

The applicant's house is attractive as is and extending out the garage will not make it more so. Actually it will block light where they have a window next to the garage.

The 13 ft extension rather will be a further detriment to Barbara Allan and the future new owner of the lot where the garage is currently.

I would invite Planning staff and Councilors to visit the site and walk on Barbara Allan's properties to get a full view (with her permission of course).

Unfortunately the procedure has a bias to help the applicant without getting a full picture.

Each of you should ask yourselves, would you want this view of a 27 ft cinder block wall to extend for a total 40 ft to be yours with a 6" setback that is not allowed?

Sent from my iPad

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JUN 24 2024
CITY OF MILWAUKIE
PLANNING DEPARTMENT

Math 1.01

1. The number of students in a school is 1,200. This is 20% more than the number of students in a smaller school. How many students are in the smaller school?

2. A store is having a sale on shirts. A shirt that normally costs \$20 is now \$16. What is the percent of the discount?

3. A car is sold for \$15,000. This is 10% less than the original price. What was the original price of the car?

4. A store is having a sale on shoes. A pair of shoes that normally costs \$80 is now \$64. What is the percent of the discount?

5. A store is having a sale on jackets. A jacket that normally costs \$120 is now \$96. What is the percent of the discount?

6. A store is having a sale on pants. A pair of pants that normally costs \$40 is now \$32. What is the percent of the discount?

7. A store is having a sale on sweaters. A sweater that normally costs \$30 is now \$24. What is the percent of the discount?

8. A store is having a sale on hats. A hat that normally costs \$25 is now \$20. What is the percent of the discount?

9. A store is having a sale on gloves. A pair of gloves that normally costs \$15 is now \$12. What is the percent of the discount?

10. A store is having a sale on scarves. A scarf that normally costs \$10 is now \$8. What is the percent of the discount?

Appeal
✓R-2024-003

RECEIVED

JUN 24 2024

CITY OF MILWAUKIE
PLANNING DEPARTMENT

MMC 19.911 Variances criteria

The proposed variance of an unsightly firewall extension 6" (garage) from the property line another 13 ft to be a total of 40' DOES IMPACT negatively 2 lots to the south and There are no design rules for attractive exterior finishes for cinder block or CMU (concrete masonry unit).

The proposed variance does not have desirable public benefits as it benefits the applicant only and not the general public and definitely not the owner to the south. The variance does not respect the wishes of the Lake Rd NDA who support higher standards.

The proposed variance does not respond to the existing built or natural environment in a creative or sensitive manner but rather is the cheapest for the applicant. There were other options for the applicant but they chose to divide up their large lot last year and chose 5' as a setback on the north side and 10' on the south side where the garage sits 6 inches from the property line!!. The home is 1805 Sq ft and has 4 bedrooms and 2 bathrooms. This is a 95% variance request. A five ft side setback which is the minimum for middle housing would have been reasonable. A 13 ft extension with a 6" setback is not close to reasonable.

The existing wall is an eyesore with a crack down the middle and peeling paint! There was no concern shown at the hearing by the applicant other than they didn't build it and they only have control over the extension. They own the garage and maintenance is important!

Pre-existing doesn't mean the city should intensify the non-conforming use. It lowers the quality of the neighborhood!

The decision to approve this request was in error as apparently no one walked around to get a better view of this intrusive wall or reached out to the neighbor, Ms Allan to get her perspective.

No one wants to rock the boat and vote against the planning staff's recommendations, since they all work together. Everyone tried to be fair but I think the decision was made before the public hearing and as I said the process is stacked against the neighborhood.

Lake Rd NDA
Teresa Bresaw
Land Use

11

Type 3 Variance Proposal File#VR-2024-003

Re: 11932 SE 35th Ave.

RECEIVED

JUN 24 2024

CITY OF MILWAUKIE
PLANNING DEPARTMENT

I am the owner of the land at 11972 SE 35th Ave. Milwaukie 97222, and at 11974 SE 35th Ave, 2 side by side lots.

I am writing to express my objection to the requested variance by the owner of the property at 11932 SE 35th Ave. with whom I share a property line.

The proposal requests a variance of a nine and a half feet encroachment into the setback on the South property line at 11932 SE 35th Ave. to construct garage space. This would extend a wall, that was grandfathered in during the 1940s, a further thirteen feet and only 6" from our shared property line.

In opposition to this variance, there is no precedent that something that was "grandfathered" in an earlier era should support a continuation of this unfortunate lack of foresight and the practical need for adequate setbacks. Milwaukie has had a subdivision ordinance since 1967.....57 years! I think it's fair to assume today's codes serve our residents in a more thoughtful, practical manner.

I understand that new zoning laws have created a moderate density zone within which the properties sit. In striving to provide needed housing a great many changes have been made to the zoning laws and requirements. I would point out however that the setbacks for a seven thousand square feet lot(10ft/5ft) remained unchanged despite huge changes in new zoning laws. Obviously in developing new codes, the need for setbacks between properties was still found to be important both for the quality of living and for access to property for maintenance, This would not be possible with a six-inch setback. How would it even be possible to construct a further building without access onto my property?

On reviewing the narrative accompanying the application there are some points that I would like to clarify.

It is presumptive to assume that a 13-foot wall where there is now open space, has no impact on my home or my living space, Furthermore, my property at 11972 SE 35th Ave. Is forty-one feet wide at its narrowest point east of the sidewalk an added 13-foot wall may seriously limit future development of this property as well as provide a formidable visual barrier on the north side of my property. In reference to the proposed remodel having great visual appeal this is certainly subjective depending on who is looking at it and the viewing angle, and I can assure you for me looking out of my living room window at a cinder block wall is not an attractive view, the extension of this wall by thirteen feet will detract from my outlook and have consequences on the devalue my property with an unsightly cinder block wall.

Incidentally, I would add that the properties do not “share a driveway” I have a well established garden bed and a fence on my property line which does and always has distinctly separated the two properties.

I trust that the city of Milwaukie seeks to provide comfortable, visually appealing neighbourhood's for all its citizens including me. Clearly in rezoning the city saw the importance of retaining the building code maintaining the ten feet/five feet setbacks on properties seven thousand square feet or greater, in moderate density areas new codes identify garages of less significant importance. Since zoning allows for on street parking there is no requirement in building codes to provide garage space. When looking at present codes this application is requesting a variance to the side setback of a required ten feet down to six inches which is 95% non compliant for the purpose of providing garage space. In reality because of code changes some people in Milwaukie have given up their garages to provide extended living place. This is certainly a choice in this situation, removing the need for a thirteen feet extension within 6 inches of the property boundary. My neighbor actually parks in their driveway now so it would not affect the environment to leave the building as is, better to see an intermittent vehicle than a solid wall.

I have lived in Milwaukie for 20 years, I know it is a wonderful place to call home, my husband and I worked to maintain and improve our property in a manner always compliant with building codes and considerate of our 6 neighbors on 35th Ave. and 36th Ave with whom we share a property boundary. I follow local affairs and have an understanding of many of the challenges that housing presents the community today. I had no opposition to the division of the property at 11932 in 2023 because it follows the present building code. However, this variance proposal does not provide any new housing, it will detract from the visual appeal of the present neighborhood and more specifically my own visual outlook. The 13 feet extension serves only to satisfy the perceived needs of one property owner to the detriment of another and is out of compliance with today's building codes. It is my personal feeling that my needs and property boundaries, which follow clearly defined codes are equally important. I ask you - will negating the 10ft setback to allow the building of a garage in moderate density neighbours become available to all residents of Milwaukie who would like a little more space than their four bedroom home affords? Is this the intent of our revised city codes? I am asking that the planning commission thoughtfully consider my objection and protect compliance for the interest of my property.

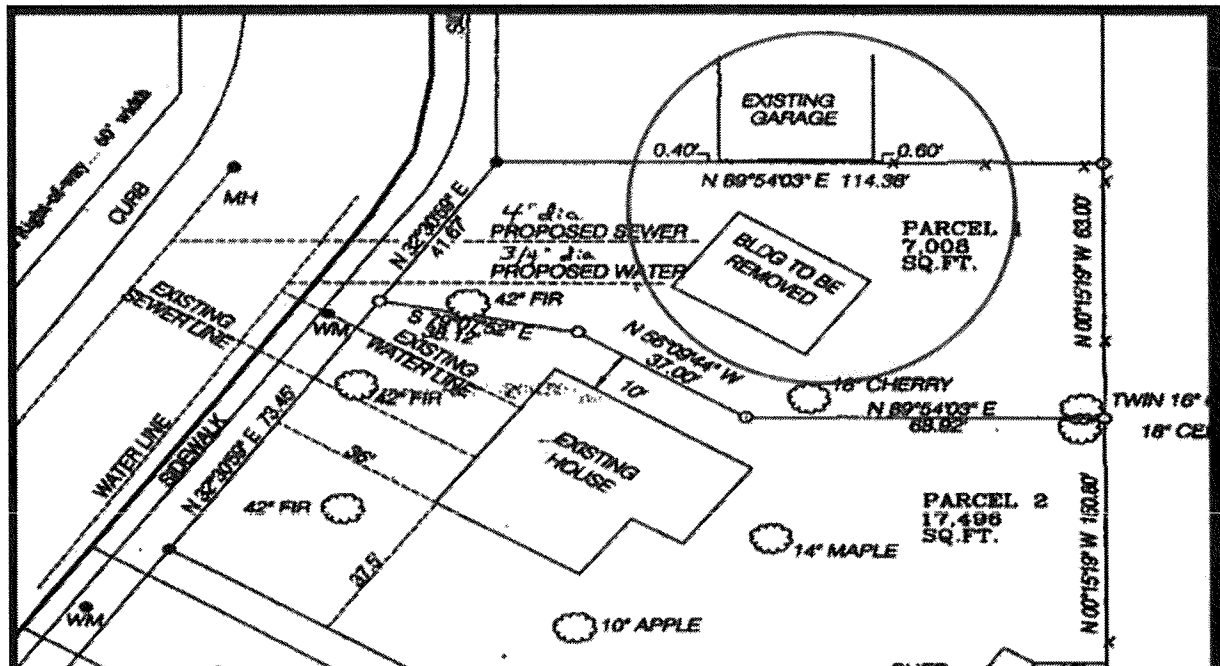
Respectfully,

Barbara Allan

Addendum

These are issues I was not able to raise at the initial hearing due to time constraints. (Only 3 minutes of time allotted to me to speak).

The picture below is a copy of a document introduced to the appeal by Vera Kolas, Senior Planner, City of Milwaukie.



I include it now because as she rightly points out on the document, when this land is developed this building, the present garage, will have to be deconstructed since the land cannot have a building where the lot is narrower than 60 feet wide. Pictures submitted by the applicant tell the story her team seeks to portray however there are missing elements. Right now this building (garage to be deconstructed) is a substantial barrier to viewing the cinder block wall from the east side of my property and that is what the applicant's pictures show. This barrier will be gone when the lot is developed. The lot is 42 feet wide where the applicant is asking to place a 13ft garage wall in addition to the 27ft wall that is nonconforming and sits 6" from the property line. This creates a

solid 40 ft long wall which the occupants at both 11972 and 11974 will have to look at daily. The lot at 11972 has existed since 2007 and in planning it deserves consideration for its future visual appeal and the spatial awareness. It has the potential to provide a beautiful home site in Milwaukie in the future. If the variance is approved there will be significant visual impact on any home built on the land at 11972 as well as even more negative visual impact to my home at 11974.

One other point I would like to revisit since it was alluded to by Jacob Sherman, Chair of the Planning Commission. It is very troubling to me that if this variance is approved it will set a precedent allowing the applicant to pursue another variance in the future to extend her present home again just 6" from the property line on the east side of her house when she needs even more space for her family.

Not one member of either the planning department or commission have reached out to me to visit the property, it may have been viewed from the road and the applicants property but that is only part of the assessment and doesn't include the effect this increasingly long wall will have on my property. Surely as a resident of Milwaukie my property is entitled to the same considerations that other properties in the neighbourhood enjoy.

Planning includes foresight and consideration of the ramifications of new building for everybody involved. I would like to ensure this includes the future visual appeal and the financial value of the property at 11972 SE Avenue.

Respectfully,

Barbara Allan.

RECEIVED

JUN 24 2024

CITY OF MILWAUKIE
PLANNING DEPARTMENT

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 19.911 Variances

(Ord. 2025 § 2, 2011; Ord. 2036 § 3, 2011; Ord. 2051 § 2, 2012; Ord. 2106 § 2 (Exh. F), 2015; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2140 § 2, 2017; Ord. 2170 § 2, 2019; Ord. 2218 § 2 (Exh. B), 2022; Ord. 2226 § 2, 2023; Ord. 2229 § 2, 2023; Ord. 2235 § 2, 2023)

§ 19.911.4 Approval Criteria.

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.
3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.
4. Impacts from the proposed variance will be mitigated to the extent practicable.
5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32 (when applicable).

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

1. Discretionary Relief Criteria
 - a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
 - b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
 - (1) The proposed variance avoids or minimizes impacts to surrounding properties.
 - (2) The proposed variance has desirable public benefits.
 - (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
 - (4) The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32.

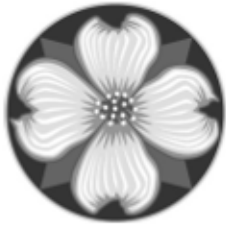
- c. Impacts from the proposed variance will be mitigated to the extent practicable.
- 2. Economic Hardship Criteria
 - a. Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district.
 - b. The proposed variance is the minimum variance necessary to allow for reasonable economic use of the property.
 - c. Impacts from the proposed variance will be mitigated to the extent practicable.

Attachment 3.

APPEAL RECORD

Fedorovskiy Addition (AP-2024-001) (Hyperlinks and attachments included)
Appeal ([AP-2024-001](#)) of the approval of an addition to the existing attached garage at
11932 SE 35th Ave.
Type III Variance application
[VR-2024-003](#)

1. **VR-2024-003 APPLICATION MATERIALS**
 - a. **Applicant's Narrative and Supporting Documentation received 4/29/2024**
 - i. [Application form, narrative, and site plans](#)
2. **VR-2024-003 REFERRAL AND PUBLIC NOTICE**
 - a. [Application Referral Cover Sheet 02/28/19](#)
 - b. [300-ft public notice](#)
3. **[PC HEARING 06/11/2024](#)**
 - a. [Meeting Packet: staff report, recommended findings and conditions of approval, comments](#)
 - b. [Meeting Video](#)
4. **PC NOTICE OF DECISION – VR-2024-003**
 - a. [Planning Commission Notice of Decision](#)



MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Primary File #: **VR-2024-003**

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|---|--|---|
| <input type="checkbox"/> Amendment to Maps and/or | <input type="checkbox"/> Land Division: | <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Comprehensive Plan Map Amendment | <input type="checkbox"/> Final Plat | <input type="checkbox"/> Residential Dwelling |
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Lot Consolidation | <input type="checkbox"/> Manufactured Dwelling Park |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Manufactured Dwelling |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Temporary Dwelling Unit |
| <input type="checkbox"/> Community Service Use | <input type="checkbox"/> Replat | <input type="checkbox"/> Transportation Facilities Review** |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Subdivision | <input checked="" type="checkbox"/> Variance: |
| <input type="checkbox"/> Development Review | <input type="checkbox"/> Mixed Use Overlay Review | <input type="checkbox"/> Use Exception |
| <input type="checkbox"/> Director Determination | <input type="checkbox"/> Modification to Existing Approval | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Downtown Design Review | <input type="checkbox"/> Natural Resource Review** | <input type="checkbox"/> Willamette Greenway Review |
| <input type="checkbox"/> Extension to Expiring Approval | <input type="checkbox"/> Nonconforming Use Alteration | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Historic Resource: | <input type="checkbox"/> Parking: | Use separate application forms for: |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Quantity Determination | Annexation and/or Boundary Change |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Quantity Modification | • Compensation for Reduction in Property |
| <input type="checkbox"/> Status Designation | <input type="checkbox"/> Shared Parking | • Value (Measure 37) |
| <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Structured Parking | Daily Display Sign |
| | | • Appeal |

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Kristina Fedorovskiy

Mailing address: 11932 SE 35th Ave Milwaukie OR 97222 State/Zip:

Phone(s): 503-739-1032 Email: kristina.ifed@gmail.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: State/Zip:

Phone(s): Email:

SITE INFORMATION:


Address: 11932 SE 35th Ave. Milwaukie OR 97222 Map & Tax Lot(s): 11E36DB09500

Comprehensive Plan Designation: Zoning: R-MD Size of property: 7,160 sq ft

PROPOSAL (describe briefly):

Maintain current .5 ft setback on south side of property line while extending garage 13 feet forward.

SIGNATURE: I attest that I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by:  Date: 4/29/2024

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.
 ** Natural Resource and Transportation Review applications may require a refundable deposit.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

DEPOSITS:

Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	VR-2024-003	\$ 2,000			
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR/TFR only)			<input type="checkbox"/> Deposit Authorization Form received		
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Lake Road					
Notes:					

Type III Variance Proposal
11932 SE 35th Ave. Milwaukie OR 97222
Narrative

The purpose of this application is to apply for a variance of 9.5 feet pertaining to the setback on the south property line at 11932 SE 35th Ave. Milwaukie OR 97222 to construct an addition to the house.

Current conditions:

- The south side of the house sits .5 ft off the property line as an original constructed feature. The current development standards require the setback to be 10 feet.

Proposal:

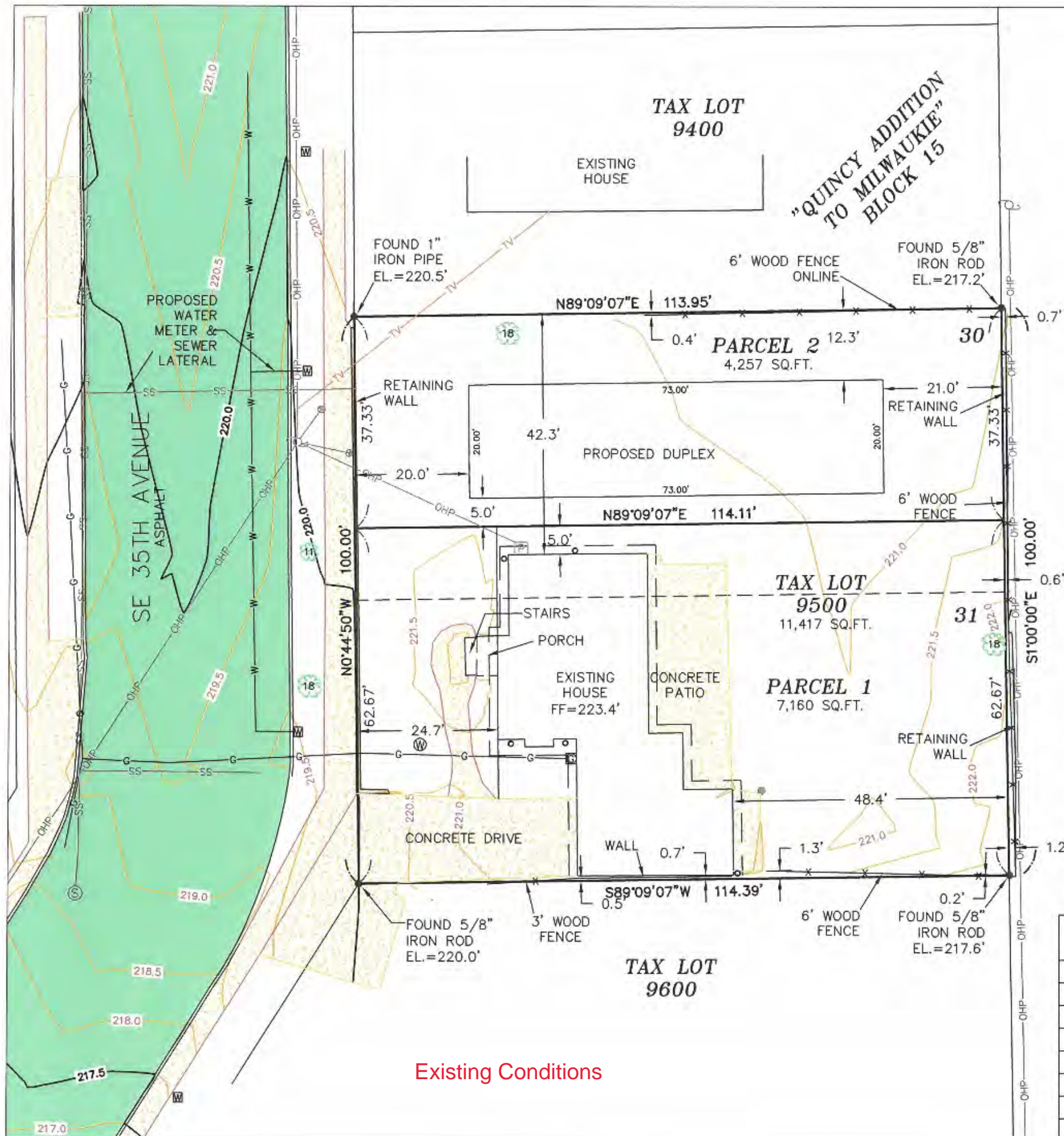
- Proposing to maintain the current setback as is (0.5 ft) while extending the garage 13 feet towards the front yard/street. It will be a one-story addition.

Purpose:

- The current garage has existing plumbing in the rear of the garage for a bathroom, which was there originally when we purchased the house. We would like to finish the bathroom and finish a portion of our garage into a bedroom for personal use. It would allow for a more comfortable main level space for our family of 5. In order to not lose the majority of our garage space, we would like to extend it forward a total of 13 feet allowing us to keep some useable garage space.

Approval Criteria:

- The proposal will maintain the current 0.5 ft set back for 13 more feet. As already grandfathered, it would not make design sense or financial sense to meet the setback as it would make for an irregularly-shaped garage, and make a useless "pocket" that is not through, since the rest of the house side already doesn't maintain a setback. Since currently the setback is 0.5 feet, standards would require a 10 ft setback on this property line, making our desired remodel infeasible.
- The lot coverage for the site will still be maintained under 30% in accordance with R-MD development standards and the addition will not impact any vegetated areas.
- The proposal will comply with design standards by not extending past the rest of the front facing house footprint and will comply with the front yard setback of at least 20 ft (27 ft). The proposed variance avoids all impacts to surrounding properties. The proposed variance has no impact to surrounding properties as the next door neighbor has their driveway and a detached garage adjacent to our garage. The addition will not impact their home or living space. The extension will not protrude into any driveways or affect the shared driveway of the next door neighbor. The proposed remodel will have great visual appeal and a new roof. The proposed variance responds to the existing built or natural environment in a creative and sensitive manner because it will maintain a consistent setback with the existing house. No trees or natural resources will be disrupted or affected by this remodel because the addition will occupy the existing driveway.
- The proposed variance would have no affect on any existing tree, and no affect on the opportunity to plant new trees. The extension protrudes only on a currently paved area.
- Impacts from the proposed variance will be mitigated to the extent possible. During the development we will minimize any effects on surrounding environment as much as possible.



LEGEND

- # EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- ⊠ EXISTING ELECTRIC METER
- ⊕ EXISTING POWER POLE
- ⊙ EXISTING GUY ANCHOR
- OHP— EXISTING OVERHEAD POWER LINES
- ⊠ EXISTING WATER METER
- ⊙ EXISTING DRY WELL
- W— EXISTING UNDERGROUND WATER
- ⊠ EXISTING GAS METER
- G— EXISTING UNDERGROUND GAS LINE
- ⊙ EXISTING SANITARY MANHOLE
- EXISTING CLEANOUT
- SS— EXISTING SANITARY SEWER LINE
- X— EXISTING FENCE
- TV— EXISTING CABLE TV LINE
- EXISTING DOWN SPOUTS
- FOUND MONUMENTS
- EXISTING CONCRETE
- EXISTING ASPHALT

NOTES

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING CONDITIONS FOR 11932 SE 35TH AVENUE.
2. THE BASIS OF BEARINGS WAS PER THE PLAT OF "QUINCY ADDITION TO MILWAUKIE" CLACKAMAS COUNTY RECORDS.
3. LOCAL DATUM WAS ESTABLISHED PER MANHOLE RIM ELEVATION ON CITY OF MILWAUKIE SEWER ASBUILTS.
4. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF KRISTINA FEDOROVSKIY.
5. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS, A RECORDED PARTITION PLAT WILL BE FILED AT A DATE TO BE DETERMINED.
6. ALL UTILITY LOCATIONS ARE SHOWN BY ABOVE GROUND FEATURES AND LOCATION OF PAINT MARKS SUPPLIED BY THE LOCAL UTILITY COMPANIES. CMT TAKES NO RESPONSIBILITY OF UNDERGROUND LOCATION. PLEASE NOTIFY THE UTILITY NOTIFICATION CENTER BEFORE ANY DIGGING 1-800-332-2344.



SCALE 1" = 20'

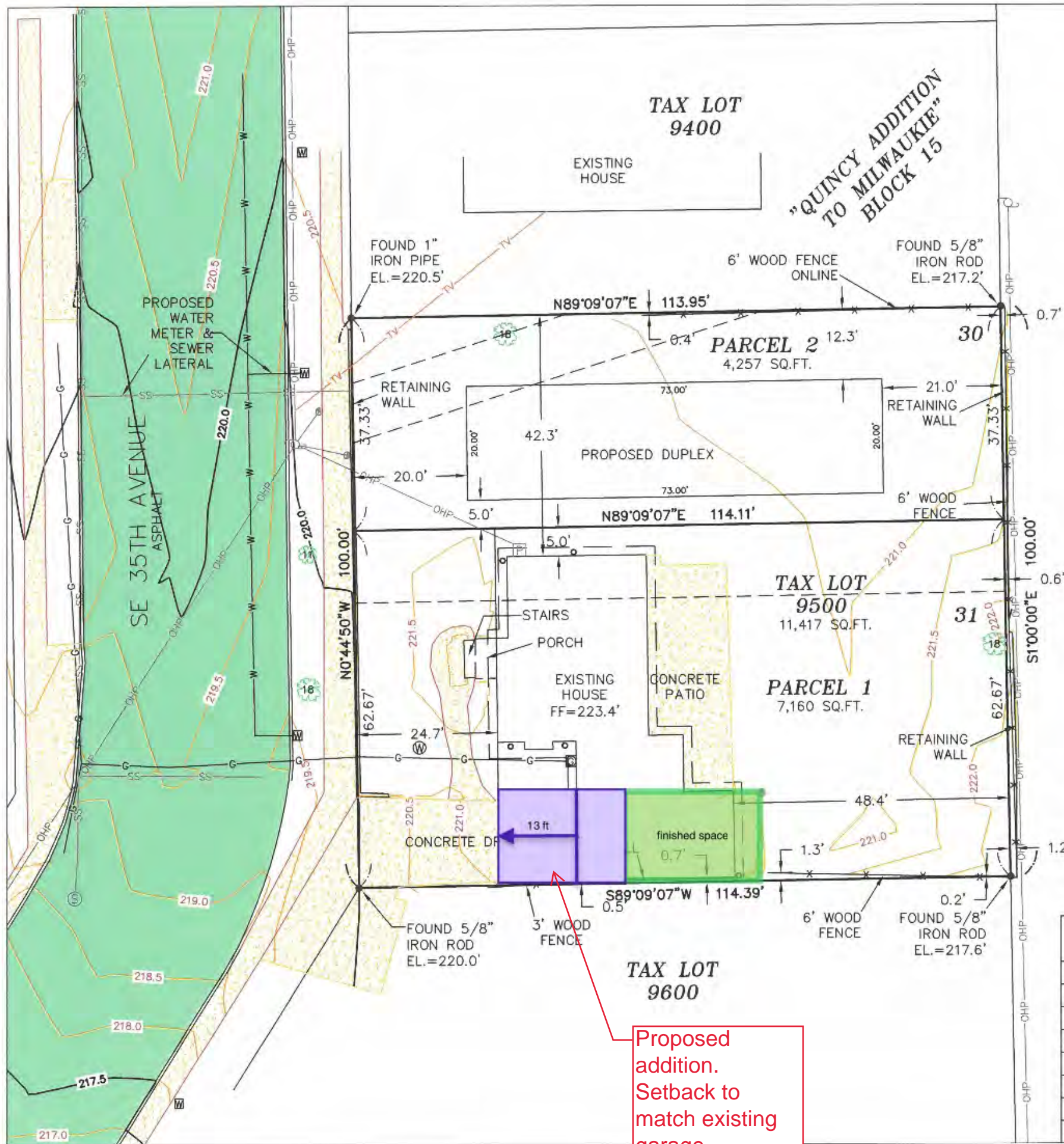
REGISTERED PROFESSIONAL LAND SURVEYOR

David Roeger

OREGON
SEPTEMBER 11, 2018
DAVID ROEGER
86811

EXPIRES DECEMBER 31, 2024

EXISTING CONDITIONS & PROPOSED REPLAT	11932 SE 35TH AVENUE
SE 1/4 SEC 36, T1S, R1E, W.M.	
CITY OF MILWAUKIE CLACKAMAS COUNTY, OREGON APRIL 19, 2023	
DRAWN: JMR CHECKED: DMR SCALE 1"=20' ACCOUNT #500-1349	CMT SURVEYING AND CONSULTING
Y: \500-1349\DWG\5001349BASE	20330 SE HIGHWAY 212 DAMASCUS, OR 97089 PHONE (503) 850-4672 FAX (503) 850-4590



Proposed addition. Setback to match existing garage.

LEGEND

- ## EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- ⊞ EXISTING ELECTRIC METER
- ⊞ EXISTING POWER POLE
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- EXISTING DOWN SPOUTS
- FOUND MONUMENTS
- ⊞ EXISTING CONCRETE
- EXISTING ASPHALT



SCALE 1" = 20'

REGISTERED PROFESSIONAL LAND SURVEYOR


David Roeger

OREGON
SEPTEMBER 11, 2018
DAVID ROEGER
86811

EXPIRES DECEMBER 31, 2024

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EXISTING CONDITIONS & PROPOSED REPLAT	11932 SE 35TH AVENUE
SE 1/4 SEC 36, T1S, R1E, W.M.	
CITY OF MILWAUKIE	
CLACKAMAS COUNTY, OREGON	
APRIL 19, 2023	
DRAWN: JMR CHECKED: DMR	
SCALE 1"=20' ACCOUNT #500-1349	
Y:\500-1349\DWG\5001349BASE	
	 CMT SURVEYING AND CONSULTING 20330 SE HIGHWAY 212 DAMASCUS, OR 97089 PHONE (503) 850-4672 FAX (503) 850-4590





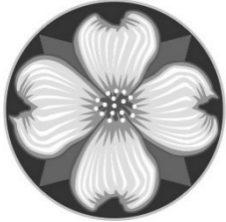
RS213



RS214



width of addition



MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503.786.7630
 planning@milwaukieoregon.gov

Application Referral

DATE SENT: May 1, 2024	PLANNING COMMISSION HEARING
COMMENTS DUE: May 15, 2024	TENTATIVE DATE: June 11, 2024
Site location: 11932 SE 35 th Ave	Review type: Type III
Applicant: Kristina Fedorovskiy	File #(s): VR-2024-003
Applicant phone: 503-739-1032	Application type(s): Variance
Application webpage: http://www.milwaukieoregon.gov/planning/VR-2024-003	

TO:

- CD Director
- Engineering Dev. Rev. Planning Manager
- Building Official Police Chief
- PW Director
- City Manager City Attorney
- CFD#1: Shawn Olson
- NDA Chair (hard copy & email)* & All LUC members:
Lake Road
- NDA Program Manager

- Clackamas County Engineering Review
- Metro: Land Use Notifications
- ODOT: ODOT R1 Development Review
- TriMet: Transit Development Group
- Other: NW Natural

FROM:

Vera Kolas, Senior Planner, 503-786-7653
 kolasv@milwaukieoregon.gov
 Planning Department
 10501 SE Main St
 Milwaukie OR 97222
 PHONE: (503) 786-7630
 planning@milwaukieoregon.gov

- On-Call NR Consultant
- North Willamette Watershed Dist., ODFW
- Anita Huffman, DSL Wetlands & Waterways
- Oregon Parks & Recreation
- North Clackamas School District
- Jessica May, NCPRD

*All referrals are sent by email only unless otherwise noted.

PROPOSAL:

ZONE: R-MD

An addition expanding the existing garage to provide additional living space. The one-story addition would add 13 ft toward the front lot line and would follow the existing building line with a 0.5 ft side yard setback rather than the minimum 10 ft required. A variance to the minimum side yard setback is required.

Please comment on the following applicable code sections (if no comment, please respond in kind to kolasv@milwaukieoregon.gov):

- MMC 19.301 – Moderate Density Residential Zone
- MMC 19.700 – Public Facility Improvements
- MMC 19.911 – Variances
- MMC 19.1006 – Type III Review



CITY OF MILWAUKIE

NOTICE OF PUBLIC HEARING

Date mailed: May 22, 2024

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

You are receiving this notice because development has been proposed in your neighborhood. The proposal requires a public hearing by the Milwaukie Planning Commission and notice to the property owner; applicant; and all property owners, residents, and neighborhood district association(s) within 300 feet of the subject property. The proposal and information on how to respond to this notice are described below.

The Milwaukie Planning Commission will hold a public hearing on the proposal at a meeting beginning at 6:30 p.m. on Tuesday, June 11, 2024, at Milwaukie City Hall, 10501 SE Main Street.

File Number(s):	VR-2024-003
Location:	11932 SE 35 th Ave 11E36DB09500 <i>A map of the site is located on the last page of this notice.</i>
Proposal:	The proposal is a one-story addition that would expand the existing garage toward the street by 13 ft. The purpose of the addition is to create more interior living space and still have a garage. The existing home has a 0.5 ft side yard setback rather than the required 10 ft. A variance is required to construct the addition with the existing non-conforming setback. No existing vegetation would be impacted.
Applicant/Primary Contact Person:	Kristina Fedorovskiy 11932 SE 35 th Ave, Milwaukie, OR 97222 503-739-1032; kristina.ifed@gmail.com
Owner(s):	Same as above.
Staff contact:	Vera Kolias, Senior Planner City of Milwaukie Planning Department 10501 SE Main St. Milwaukie, OR 97222 503-786-7653, koliasv@milwaukieoregon.gov
Neighborhood District Association(s):	Lake Road NDA, contact Debby Patten, 503-806-5860; lakeroadndachair@gmail.com Carla Bantz, lakeroadndacochair@gmail.com

Applicable Criteria:	<ul style="list-style-type: none">• MMC 19.301 – Moderate Density Residential Zone• MMC 19.700 – Public Facility Improvements• MMC 19.804 – Nonconforming Uses and Development• MMC 19.911 – Variances• MMC 19.1006 – Type III Review Copies of these criteria are available upon request and can also be found at www.qcode.us/codes/milwaukie/ .
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To learn more about a proposal: Call the staff contact assigned to the proposal or visit the project webpage at <http://www.milwaukieoregon.gov/planning/VR-2024-003>. The staff report on the proposal will also be available for public viewing on **Tuesday, June 4, 2024**, at the following locations:

- Planning Department, City Hall, 10501 SE Main St (open weekdays 8:00 a.m. to 5:00 p.m.)
- Ledding Library, 10660 SE 21st Ave (call 503-786-7580 for current hours)
- City website, <http://www.milwaukieoregon.gov/meetings>

Copies of information in the file can be obtained for a reasonable fee. Copies of applicable City ordinances and the Comprehensive Plan are also available for review at the locations listed above.

To comment on a proposal: You are invited to attend this hearing or submit comments in writing before the meeting time. You may send written comments in advance to the staff contact listed above, or you may submit your comments in person at the hearing. If you want to present verbal testimony, either pro, con, or to raise questions, you will be invited to speak following the applicant’s testimony. Testimony and comments at this hearing must be directed towards the criteria identified. If you submit a written comment or comment in person at the hearing, you will be sent a copy of the decision or recommendation. All written and verbal comments become part of the permanent record.

The **Neighborhood** District Association, listed on the first page of this notice, may take a position on the proposal and may have scheduled an open meeting prior to providing comment to the Planning Commission. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

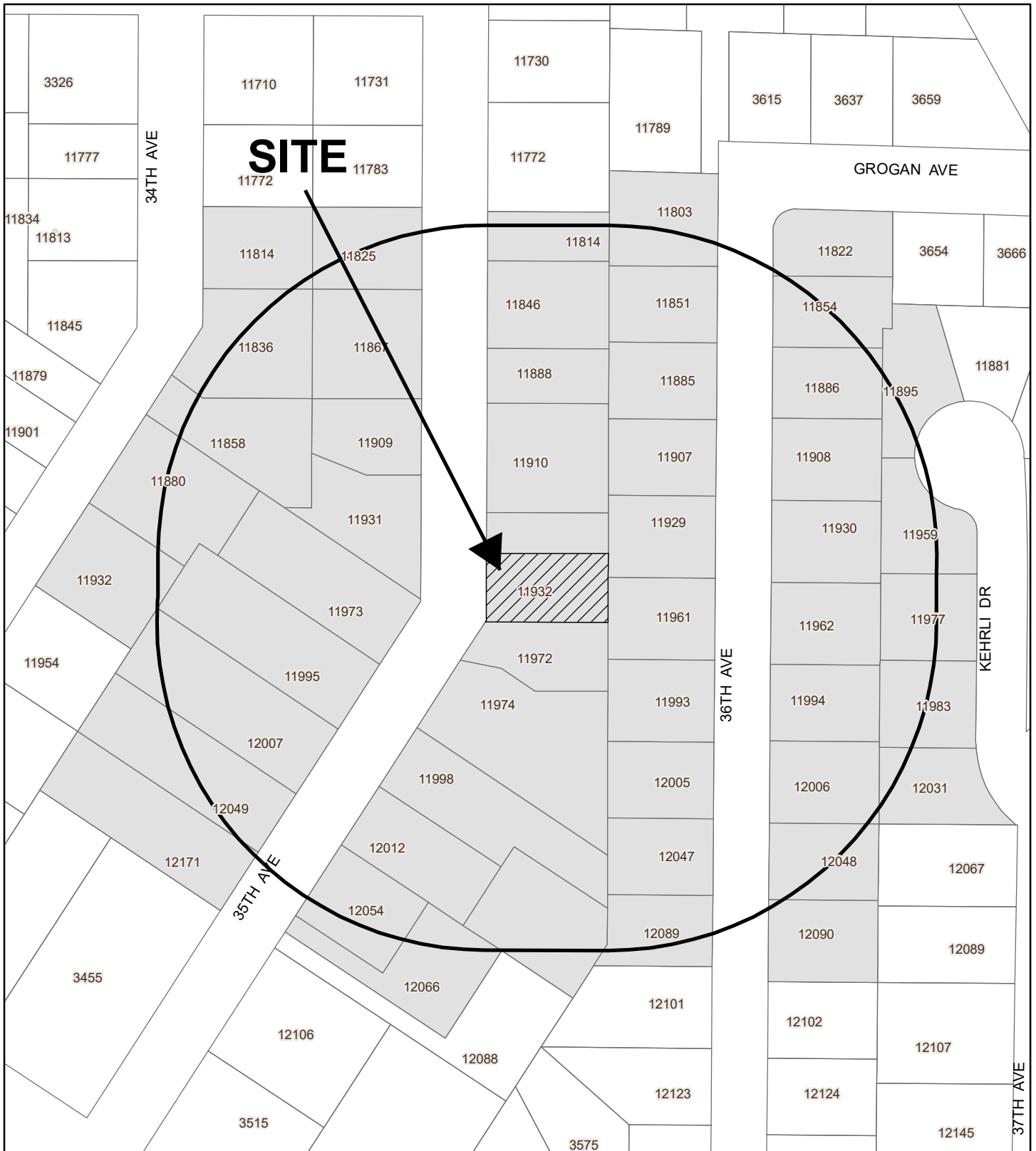
To appeal a decision: Any decision may be appealed to City Council by a person with standing. In order to establish standing, you must do at least one of the following: submit written comments to the staff contact before the hearing date; attend the hearing and sign in; or attend the hearing, sign in, and make a verbal comment. Any issue that is intended to provide a basis for appeal must be raised in writing on or before the hearing date with sufficient specificity to afford the responsible parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity and accompanied by statements or evidence sufficient to afford the responsible parties an opportunity to respond to the issue will preclude any appeal on that issue to the Land Use Board of Appeals (LUBA).

*The City of **Milwaukie** is committed to providing equal access to information and public meetings per the Americans with Disabilities Act (ADA). If you need special accommodations, please call 503-786-7600 at least 48 hours prior to the meeting.*

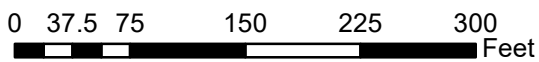
Notice of Public Hearing—File #VR-2024-003
Fedorovskiy addition, 11932 SE 35th Ave
Planning Commission hearing date: June 11, 2024

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER:

THE MILWAUKIE MUNICIPAL CODE REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT SHALL BE PROMPTLY
FORWARDED TO THE PURCHASER.







Site Map
11932 SE 35th Ave
(11E36DB09500)
File# VR-2024-003



RS220

Legend

-  VR-2024-003 property
-  300-ft buffer
-  Properties receiving notice
-  Tax Lots



CITY OF MILWAUKIE

To: Planning Commission
Through: Laura Weigel, Planning Manager
From: Vera Koliás, Senior Planner
Date: June 4, 2024, for June 11, 2023, Public Hearing
Subject: **File:** VR-2024-003
Applicant: Kristina Fedorovskiy
Owner(s): Kristina Fedorovskiy
Address: 11932 SE 35th Ave
Legal Description (Map & Tax Lot): 11E36DB09500
NDA: Lake Road

ACTION REQUESTED

Approve application VR-2024-003 and adopt the Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a 13-ft addition to the existing attached garage with a 0.5-ft side yard setback.

BACKGROUND INFORMATION

A. Site and Vicinity

The site is located at 11932 SE 35th Ave. The site contains a single detached home on a 7,160-sq ft lot. The property is surrounded by single detached homes except for the adjacent lot to the north, which is vacant and will be developed with a duplex. The existing home meets the required minimum 5-ft side yard setback to the north, but has a pre-existing, nonconforming side yard setback of 0.5 ft on the south, rather than the minimum 10 ft required. A fence marks the boundary between the subject and adjacent properties.



Figure 1. Site area and vicinity

B. Zoning Designation

The site is in the Moderate Density Residential Zone (R-MD).

C. Comprehensive Plan Designation

Moderate Density - MD

D. Land Use History

- **R-2023-003; FP-2023-007:** A Type II application to divide the property to create a 4,138-sq ft developable property for a duplex.

E. Proposal

The applicant is seeking a variance to allow the construction of a 13-ft addition to the existing attached garage. The home was originally built in 1949 and has an existing 0.5-ft side yard setback where the attached garage is located. The applicant wishes to remodel a portion of the garage into a bedroom and bathroom to increase the living space in the house. Doing that, however, would not leave the applicant with usable garage space. The 13-ft addition would match the home's existing front yard setback by aligning with the front wall of the house. The proposal would preserve garage space for the homeowner while still meeting all development standards, except for the minimum side yard setback. See Figures 2-6.

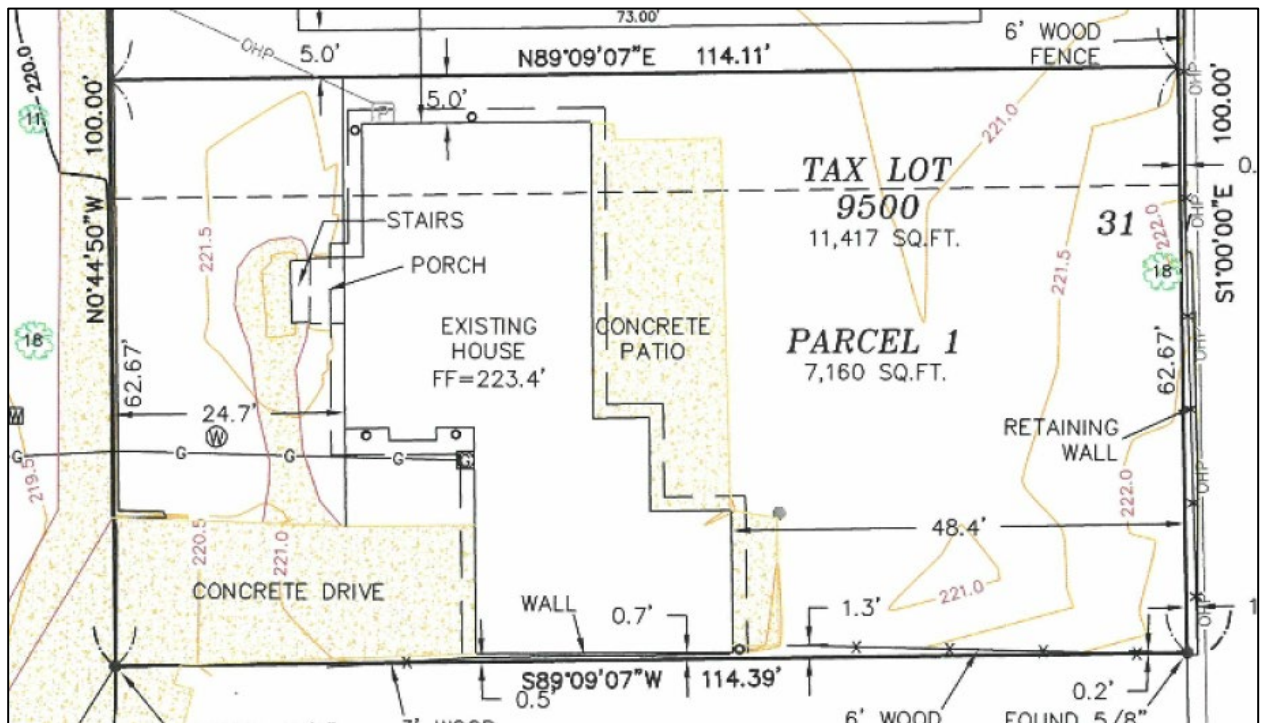


Figure 2. Existing conditions – site plan.

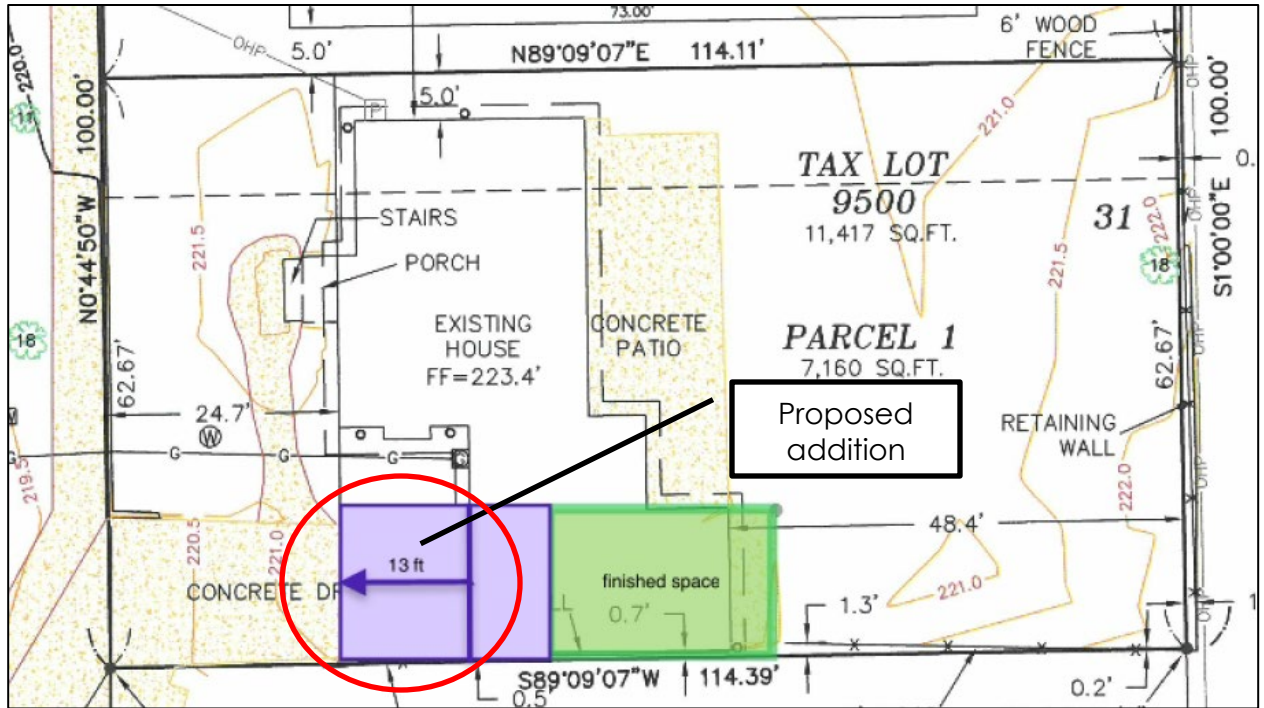


Figure 3. Proposed development – site plan

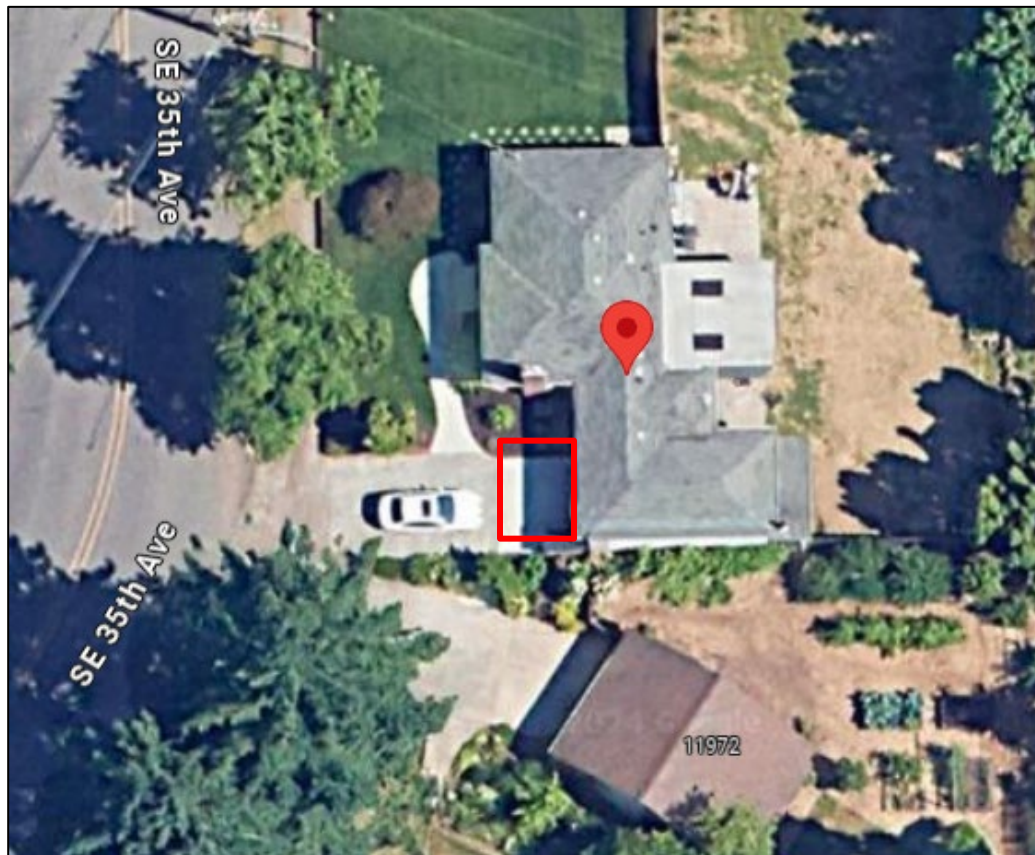


Figure 4. Aerial photo of property with the location of the proposed addition outlined in red



Figure 5. Street view of existing development with location of proposed addition



Figure 6. Elevation with proposed addition projection shown.

The project requires approval of the following applications:

1. VR-2024-003: Type III Variance (minimum side yard setback)

Analysis

The subject property is considered pre-existing nonconforming for the side yard setback. Extending the garage forward by 13 ft extends the non-conformity and requires a Type III variance to the standard.

Staff has identified the following question for the Commission’s deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion.

A. Is the request for the side yard setback variance reasonable and approvable?

As noted above, the existing home has a nonconforming side yard setback. The nonconforming side yard is for an attached garage that is adjacent to the neighbor’s driveway at 11972 SE 35th Ave. A 3-ft fence identifies the shared property line and there is existing landscaping on the neighbor’s property along the fence (see Figure 4). The structure located at 11972 SE 35th Ave is a large, detached garage serving the home located at 11974 SE 35th Ave. It is built with a front yard setback of approximately 40 ft – much larger than the minimum 20 ft – and is fronted with a large garage door.

The proposed addition would maintain the existing front yard setback of 24.7 ft and would align the garage with the front wall of the house. The proposed addition would occupy a portion of the existing driveway, so no landscaping would be lost as a result of the addition. Given the existing design and construction of the house, it would be effectively impossible to construct the addition and still meet the required 10-ft setback. The proposed addition is modest in size, maintains the existing front yard setback, and would be adjacent to the neighbor’s driveway – not adjacent to their home or usable yard space. Staff has not identified any impacts from the proposed one-story, 13-ft addition on the adjacent property. However, owner of the abutting property has expressed concern about the visual impacts of the proposed addition on their property. Staff suggests a condition requiring a 6-ft sight impervious fence be installed along the shared property line to mitigate these impacts.

Comments from the neighbor and the Lake Road NDA oppose the variance and include comments stating that there is no way to construct the addition without accessing the neighbor’s property. Staff has confirmed with the building official that there is more than one way to construct the addition (without eaves) without entering the adjacent property.

CONCLUSIONS

A. Staff recommendation to the Planning Commission:

1. Approve the Variance application. This will result in the development of a one-story, 13-ft addition to the existing structure with the existing 0.5-ft side yard setback.
2. Adopt the attached Findings and Conditions of Approval.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC 19.301 Moderate Density Residential Zone
- MMC 19.508 Downtown Site and Building Design Standards and Guidelines
- MMC 19.804 Alteration of Nonconforming Uses and Development
- MMC 19.911 Variances
- MMC 19.1006 Type III Review

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public meeting.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by August 28, 2024, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes will be provided prior to the public hearing to the following agencies and persons: City of Milwaukie Engineering, Building, and Public Works Departments, Clackamas Fire District #1, and the Lake Road Neighborhood District Association (NDA). Notice was also sent to all properties within 300 ft of the site.

Comments in opposition to the requested variance were received from:

- Lake Road NDA
- Barbara Allan: 11972-11974 SE 35th Ave
- Mary Kay Doane: 11973 SE 35th Ave
- Matthew Baxter
- Margueritte Kosovich, 12012 SE 35th Ave
- Paul Hawkins, Lake Road NDA

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation received April 29, 2024.				
a. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Site plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Comments Received	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to PC at the time of application referral.

PC Packet = paper materials provided to PC 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the PC meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-121>.

ATTACHMENT 1
Findings in Support of Approval
File # VR-2024-003 – Fedorovskiy Addition

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Kristina Fedorovskiy, has applied for approval to construct an addition to the existing attached garage on the property located at 11932 SE 35th Ave. This site is in the R-MD Zone. The land use application primary file number is VR-2024-003.
2. The proposal is to construct a one-story, 13-ft addition to the existing attached garage. The existing home has a pre-existing nonconforming side yard setback of 0.5 ft rather than the minimum 10 ft required. A variance is requested to allow the extension of the nonconforming side yard setback.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Title 12: Streets, Sidewalks, and Public Places
 - MMC Section 19.301 Moderate Density Residential Zone
 - MMC Chapter 19.700 Public Improvements
 - MMC Section 19.804 Nonconforming Uses and Development
 - MMC Section 19.911 Variances
 - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing with the Planning Commission was held on June 11, 2024, as required by law.

4. MMC Title 12 Streets, Sidewalks, and Public Places
 - a. MMC Chapter 12.08 – Street & Sidewalk Excavations, Construction, and Repair

This will apply to all construction that is completed in the right of way including, but not limited to, all public utilities, accessways, and all pedestrian/bicycle facilities including those located within public sidewalk easements. The public improvement process will follow MMC 12.08.020.

No changes to the existing sidewalk is proposed as part of this development.

As proposed, this development meets the requirements of MMC 12.08.
 - b. MMC Chapter 12.16.040 – Access Requirements and Standards

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including accessway design. New or updated accessways must meet all applicable standards of the Americans with Disabilities Act, and the Public Works Standards.

No changes to the existing accessway is proposed as part of this development. Any changes, upgrades, or repairs to the existing shared accessway would require conformance to MMC 12.16.

As proposed, the Planning Commission finds that the proposed development is consistent with the applicable standards of MMC 12.16.

5. MMC Section 19.301 Moderate Density Residential Zone (R-MD)

MMC 19.301 establishes standards for the Moderate Density Residential (R-MD) zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed outright in the R-MD zone, including single detached dwellings, middle housing types (duplexes, triplexes, quadplexes, townhouses, and cottage clusters), accessory dwelling units (ADUs), and residential homes.

The subject property is developed with a single detached dwelling with an attached garage. The existing and proposed uses are permitted outright in the R-MD zone.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-MD zone. The applicable standards are addressed and met as described in Table 4-b below.

Table 4-b Applicable R-MD Development Standards (for lots 7,000 sq ft and larger)		
Standard	R-MD Requirement	Subject Property
Lot Area	7,000 sq ft	7,160
Lot Width	60 ft	62.67 ft
Lot Depth	80 ft	114.11 ft
Public Street Frontage	35 ft	62.67 ft
Front Yard	20 ft	24.7 ft
Side Yard	5 ft/10 ft	5 ft/0.5 ft (Requested variance, see Finding 8 for discussion of setback reduction)
Rear Yard	20 ft	48.4 ft
Maximum lot coverage	30%	28%

Minimum vegetation	30%	> 50%
Front Yard Minimum Vegetation	40%	> 60%

As proposed and with the variance approved as discussed in Finding 8, the applicable development standards of these subsections are met.

As proposed and with the variance approved as discussed in Finding 8, the Planning Commission finds that the proposed development meets all applicable standards of MMC 19.301. This standard is met.

6. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702.2 establishes the applicability of the provisions of MMC 19.700 for single detached residential expansions based on the combined gross floor area of all structures.

The proposed addition has a combined gross floor area of all structures by less than 800 square feet. Per MMC 19.702.2 none of Chapter 19.700 applies.

As proposed, the development does not trigger any public facility improvements of MMC 19.700.

The Planning Commission finds that the proposed development meets the applicable public facility improvement standards of MMC 19.700.

7. MMC Section 19.804 Alteration of Nonconforming Uses and Development

MMC Chapter 19.800 establishes requirements for the continuation, alteration, and rebuilding of nonconforming uses and development. Nonconforming uses and development are uses and development that do not conform to the City’s current land use and development regulations, either because they were established prior to the regulations’ enactment or because they conformed when they were established but the applicable regulations have since changed.

Most nonconforming uses and development may be maintained, but may not be altered, without land use review. Nonconforming uses and development may be rebuilt if destroyed in some instances. In general, however, nonconforming uses and development shall be brought into conformance with applicable land use and development regulations when redevelopment occurs.

MMC 19.804 establishes provisions related to the alteration of nonconforming uses and development, with MMC Subsection 19.804.2 specifically applicable to nonconforming development.

a. MMC Subsection 19.804.2.A Provisions

Alterations or expansions that increase or extend the nonconformity are not allowed unless a variance is approved pursuant to Section 19.911.

As noted above in Finding 5, the existing single detached home has a pre-existing nonconforming side yard setback of 0.5 ft rather than the minimum 10 ft. The applicant is proposing to extend the attached garage toward the street by 13 ft. The proposed development is an extension of the nonconforming development, so land use review is required.

The applicant has requested a Type III variance to allow the addition to be constructed following the existing wall line with a side yard setback of 0.5 ft.

Subject to approval of the requested variance, the Planning Commission finds that this standard is met.

The Planning Commission finds that the proposed development meets the applicable standards of MMC 19.804 for alteration of a nonconforming use.

8. MMC Section 19.911 Variances

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

The applicant has requested a variance from the minimum side yard setback to allow for the construction of an addition to the existing single detached dwelling.

The requested variance meets the eligibility requirements.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

The requested variance is not eligible for Type II review; it is subject to the Type III review process.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. For Type III variances, MMC Subsection 19.911.4.B.1 provides approval criteria related to

discretionary relief and MMC Subsection 19.911.4.B.2 provides approval criteria related to economic hardship.

(1) MMC Subsection 19.911.4.B.1 Discretionary Relief Criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The variance requested is for a reduction to the minimum required side yard setback of 10 ft. The existing home was built with a 0.5 ft side yard setback; the proposed addition would extend that nonconformity by 13 ft.

The existing home has a side yard setback of 0.5 ft. Building an addition that meets the minimum 10 ft setback would not be possible given the layout of the existing home. The purpose of the one-story addition is to remodel a portion of the existing garage into living space and add the smallest amount needed to maintain a usable one-car garage.

Without the variance, the garage space would not accommodate a vehicle after the remodel. This side of the existing home is adjacent to the neighbor's driveway; the neighbor's home is set back approximately 40 ft from the street, so there are no impacts to the neighbor's home or use of the front yard area.

The Planning Commission finds that the analysis of the impacts and benefits of the requested variance compared to the baseline requirements is adequate. This criterion is met.

- (b) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
- The proposed variance avoids or minimizes impacts to surrounding properties.
 - The proposed variance has desirable public benefits.
 - The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The proposed one-story addition extends an existing nonconforming 0.5-ft side yard setback by 13 ft. The addition would match the front wall of the house, with a front yard setback of 24.7 ft, which is larger than the minimum of 20 ft. The proposed addition would be located on a portion of the existing driveway, so no landscaping will be removed to accommodate the construction. The adjacent property is developed with a single detached home with a 40-ft front yard setback, and a driveway is located adjacent to the subject property. Therefore, the proposed addition would not impact the use and enjoyment of the neighboring property. The proposed addition can be built without needing to access the adjacent property, so construction impacts would be minimized.

The Planning Commission finds that the requested variance is reasonable and appropriate and that it meets one or more of the criteria provided in MMC Subsection 19.911.B.1.b.

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

The proposed 13-ft addition is modestly sized; it is one-story and would align with the front wall of the house, resulting in a larger than required front yard setback of 24.7 ft. The addition would be located on a portion of the existing driveway, so no landscaping will be removed. The proposed addition would be adjacent to the neighbor's driveway and side yard landscaping, so there would be no impacts to the neighbor's use and enjoyment of the front yard area. The neighbor's home is set back approximately 40 ft, and is fronted by a garage, not living space, there would be no impacts on the home by the proposed addition. The proposed addition provides for usable garage space for one vehicle, thereby maintaining two parking spaces on the subject property.

If necessary, a new 6-ft sight-obscuring fence could be constructed to replace the existing 3-ft fence to provide a buffer between the proposed addition and the neighbor's driveway.

The Planning Commission finds that the requested variance could result in a visual impact to the abutting property. A condition requiring a fence is required as mitigation. This criterion is met.

As proposed, the Planning Commission finds that, as conditioned, the requested variance meets the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

The Planning Commission finds that the requested variance is allowable as per the applicable standards of MMC 19.911.

9. The application was referred to the following departments and agencies on January 24, 2024:
- Milwaukie Engineering Department
 - Milwaukie Building Department
 - Milwaukie Public Works Department
 - Lake Road Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
 - Clackamas Fire District #1 (CFD)
 - NW Natural

Public notice was sent to all properties within 300 ft of the site on January 24, 2024. Comments in objection to the requested variance were received from:

- **Lake Road NDA**
- **Barbara Allan, 11972-11974 SE 35th Ave**

- **Mary Kay Doane, 11973 SE 35th Ave**
- **Matthew Baxter**
- **Margueritte Kosovich, 12012 SE 35th Ave**
- **Paul Hawkins, Lake Road NDA**

ATTACHMENT 2
Recommended Conditions of Approval
Primary File #VR-2024-003, 11932 SE 35th Ave Addition

Conditions

1. At the time of submittal of the associated development permit application(s), the following must be resolved:
 - a. Final plans submitted for development permit review must be in substantial conformance with the plans and drawings approved by this action, which are the revised plans and drawings received by the City on April 29, 2024, except as otherwise modified by these conditions of approval.
 - b. Final plans submitted for development permit review must include a 6-ft sight-obscuring fence along the affected side property line, per MMC 19.502.2.B.
 - c. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.

Additional Requirements

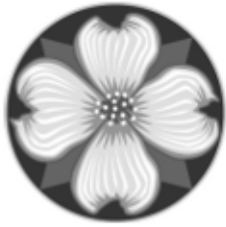
The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code (MMC) and Public Works Standards that are required at various points in the development and permitting process.

1. Prior to commencement of any earth-disturbing activities, the applicant must obtain a City erosion control permit.

2. Expiration of Approval

As per MMC Subsection 19.1001.7.E, the land use approval granted with this decision will expire and become void unless the following criteria are satisfied. For proposals requiring any kind of development permit, the development must complete both of the following steps:

- a. Obtain and pay for all necessary development permits and start construction within two years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within four years of land use approval.



MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Primary File #: **VR-2024-003**

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|---|--|---|
| <input type="checkbox"/> Amendment to Maps and/or | <input type="checkbox"/> Land Division: | <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Comprehensive Plan Map Amendment | <input type="checkbox"/> Final Plat | <input type="checkbox"/> Residential Dwelling |
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Lot Consolidation | <input type="checkbox"/> Manufactured Dwelling Park |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Manufactured Dwelling |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Temporary Dwelling Unit |
| <input type="checkbox"/> Community Service Use | <input type="checkbox"/> Replat | <input type="checkbox"/> Transportation Facilities Review** |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Subdivision | <input checked="" type="checkbox"/> Variance: |
| <input type="checkbox"/> Development Review | <input type="checkbox"/> Mixed Use Overlay Review | <input type="checkbox"/> Use Exception |
| <input type="checkbox"/> Director Determination | <input type="checkbox"/> Modification to Existing Approval | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Downtown Design Review | <input type="checkbox"/> Natural Resource Review** | <input type="checkbox"/> Willamette Greenway Review |
| <input type="checkbox"/> Extension to Expiring Approval | <input type="checkbox"/> Nonconforming Use Alteration | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Historic Resource: | <input type="checkbox"/> Parking: | Use separate application forms for: |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Quantity Determination | Annexation and/or Boundary Change |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Quantity Modification | • Compensation for Reduction in Property |
| <input type="checkbox"/> Status Designation | <input type="checkbox"/> Shared Parking | • Value (Measure 37) |
| <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Structured Parking | Daily Display Sign |
| | | • Appeal |

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Kristina Fedorovskiy

Mailing address: 11932 SE 35th Ave Milwaukie OR 97222 State/Zip:

Phone(s): 503-739-1032 Email: kristina.ifed@gmail.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: State/Zip:

Phone(s): Email:

SITE INFORMATION:


Address: 11932 SE 35th Ave. Milwaukie OR 97222 Map & Tax Lot(s): 11E36DB09500

Comprehensive Plan Designation: Zoning: R-MD Size of property: 7,160 sq ft

PROPOSAL (describe briefly):

Maintain current .5 ft setback on south side of property line while extending garage 13 feet forward.

SIGNATURE: I attest that I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by:  Date: 4/29/2024

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.
 ** Natural Resource and Transportation Review applications may require a refundable deposit.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

DEPOSITS:

Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	VR-2024-003	\$ 2,000			
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR/TFR only)			<input type="checkbox"/> Deposit Authorization Form received		
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Lake Road					
Notes:					

Type III Variance Proposal
11932 SE 35th Ave. Milwaukie OR 97222
Narrative

The purpose of this application is to apply for a variance of 9.5 feet pertaining to the setback on the south property line at 11932 SE 35th Ave. Milwaukie OR 97222 to construct an addition to the house.

Current conditions:

- The south side of the house sits .5 ft off the property line as an original constructed feature. The current development standards require the setback to be 10 feet.

Proposal:

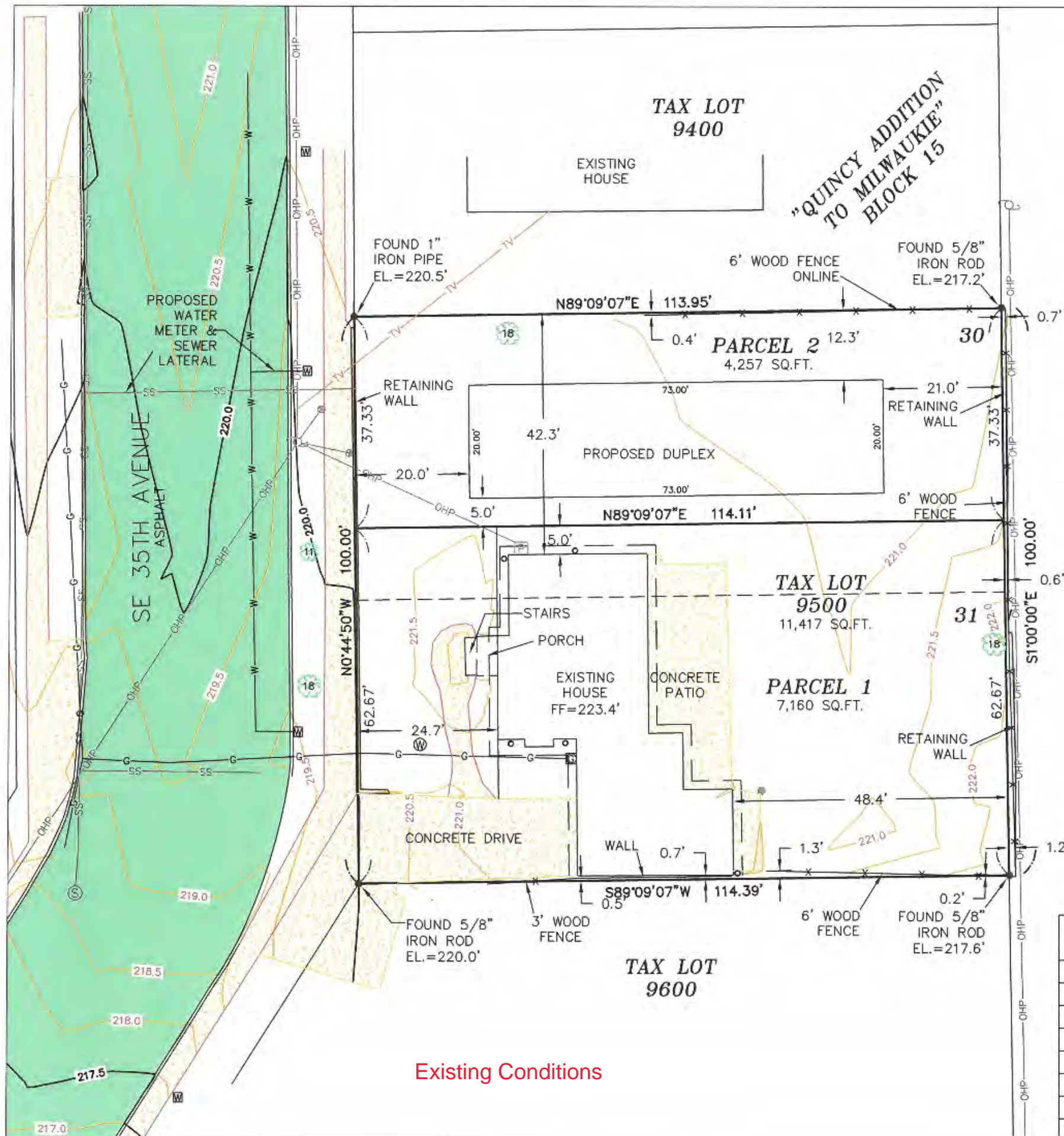
- Proposing to maintain the current setback as is (0.5 ft) while extending the garage 13 feet towards the front yard/street. It will be a one-story addition.

Purpose:

- The current garage has existing plumbing in the rear of the garage for a bathroom, which was there originally when we purchased the house. We would like to finish the bathroom and finish a portion of our garage into a bedroom for personal use. It would allow for a more comfortable main level space for our family of 5. In order to not lose the majority of our garage space, we would like to extend it forward a total of 13 feet allowing us to keep some useable garage space.

Approval Criteria:

- The proposal will maintain the current 0.5 ft set back for 13 more feet. As already grandfathered, it would not make design sense or financial sense to meet the setback as it would make for an irregularly-shaped garage, and make a useless "pocket" that is not through, since the rest of the house side already doesn't maintain a setback. Since currently the setback is 0.5 feet, standards would require a 10 ft setback on this property line, making our desired remodel infeasible.
- The lot coverage for the site will still be maintained under 30% in accordance with R-MD development standards and the addition will not impact any vegetated areas.
- The proposal will comply with design standards by not extending past the rest of the front facing house footprint and will comply with the front yard setback of at least 20 ft (27 ft). The proposed variance avoids all impacts to surrounding properties. The proposed variance has no impact to surrounding properties as the next door neighbor has their driveway and a detached garage adjacent to our garage. The addition will not impact their home or living space. The extension will not protrude into any driveways or affect the shared driveway of the next door neighbor. The proposed remodel will have great visual appeal and a new roof. The proposed variance responds to the existing built or natural environment in a creative and sensitive manner because it will maintain a consistent setback with the existing house. No trees or natural resources will be disrupted or affected by this remodel because the addition will occupy the existing driveway.
- The proposed variance would have no affect on any existing tree, and no affect on the opportunity to plant new trees. The extension protrudes only on a currently paved area.
- Impacts from the proposed variance will be mitigated to the extent possible. During the development we will minimize any effects on surrounding environment as much as possible.



LEGEND

- # EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- ⊠ EXISTING ELECTRIC METER
- ⊕ EXISTING POWER POLE
- ⊙ EXISTING GUY ANCHOR
- OHP— EXISTING OVERHEAD POWER LINES
- ⊠ EXISTING WATER METER
- ⊙ EXISTING DRY WELL
- W— EXISTING UNDERGROUND WATER
- ⊠ EXISTING GAS METER
- G— EXISTING UNDERGROUND GAS LINE
- ⊙ EXISTING SANITARY MANHOLE
- EXISTING CLEANOUT
- SS— EXISTING SANITARY SEWER LINE
- X— EXISTING FENCE
- TV— EXISTING CABLE TV LINE
- EXISTING DOWN SPOUTS
- FOUND MONUMENTS
- EXISTING CONCRETE
- EXISTING ASPHALT

NOTES

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING CONDITIONS FOR 11932 SE 35TH AVENUE.
2. THE BASIS OF BEARINGS WAS PER THE PLAT OF "QUINCY ADDITION TO MILWAUKIE" CLACKAMAS COUNTY RECORDS.
3. LOCAL DATUM WAS ESTABLISHED PER MANHOLE RIM ELEVATION ON CITY OF MILWAUKIE SEWER ASBUILTS.
4. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF KRISTINA FEDOROVSKIY.
5. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS, A RECORDED PARTITION PLAT WILL BE FILED AT A DATE TO BE DETERMINED.
6. ALL UTILITY LOCATIONS ARE SHOWN BY ABOVE GROUND FEATURES AND LOCATION OF PAINT MARKS SUPPLIED BY THE LOCAL UTILITY COMPANIES. CMT TAKES NO RESPONSIBILITY OF UNDERGROUND LOCATION. PLEASE NOTIFY THE UTILITY NOTIFICATION CENTER BEFORE ANY DIGGING 1-800-332-2344.




SCALE 1" = 20'

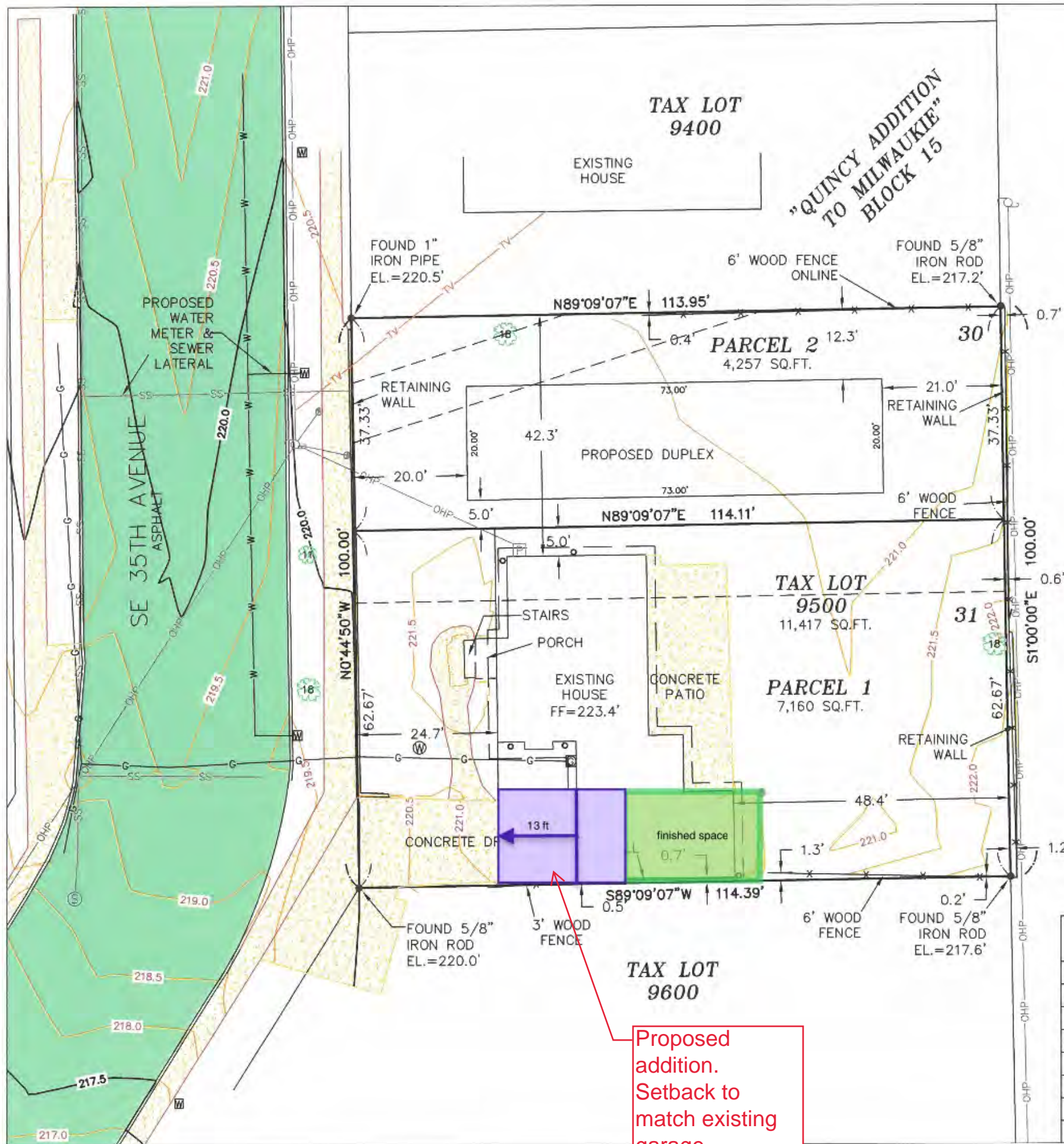
REGISTERED
PROFESSIONAL
LAND SURVEYOR

David Roeger

OREGON
SEPTEMBER 11, 2018
DAVID ROEGER
86811

EXPIRES DECEMBER 31, 2024

EXISTING CONDITIONS & PROPOSED REPLAT	11932 SE 35TH AVENUE
SE 1/4 SEC 36, T1S, R1E, W.M.	
CITY OF MILWAUKIE	
CLACKAMAS COUNTY, OREGON	
APRIL 19, 2023	
DRAWN: JMR CHECKED: DMR	
SCALE 1"=20' ACCOUNT #500-1349	
Y: \500-1349\DWG\5001349BASE	
	 CMT SURVEYING AND CONSULTING 20330 SE HIGHWAY 212 DAMASCUS, OR 97089 PHONE (503) 850-4672 FAX (503) 850-4590



LEGEND

- ⊕ EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- ⊞ EXISTING ELECTRIC METER
- ⊞ EXISTING POWER POLE
- ⊙ EXISTING GUY ANCHOR
- OHP— EXISTING OVERHEAD POWER LINES
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- FOUND MONUMENTS
- ⊞ EXISTING CONCRETE
- EXISTING ASPHALT



SCALE 1" = 20'

REGISTERED
PROFESSIONAL
LAND SURVEYOR


David Roeger

OREGON
SEPTEMBER 11, 2018
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EXISTING CONDITIONS & PROPOSED REPLAT	11932 SE 35TH AVENUE
SE 1/4 SEC 36, T1S, R1E, W.M.	
CITY OF MILWAUKIE	 CMT SURVEYING AND CONSULTING 20330 SE HIGHWAY 212 DAMASCUS, OR 97089 PHONE (503) 850-4672 FAX (503) 850-4590
CLACKAMAS COUNTY, OREGON	
APRIL 19, 2023	
DRAWN: JMR CHECKED: DMR	
SCALE 1"=20' ACCOUNT #500-1349	
Y:\500-1349\DWG\5001349BASE	





RS243



RS244



width of addition

From: [Teresa Bresaw](#)
To: [Vera Kolia](#)
Cc: [Paul Hawkins](#)
Subject: 11932 SE 35th Ave
Date: Thursday, May 9, 2024 2:55:19 PM

This Message originated outside your organization.

Hi, Vera!

The owner (Kristina) of the above property did not come to the Lake Rd NDA meeting. We did talk to Barbara Allan, the neighbor to the South.

Lake Road NDA did approve that we support Barbara in her refusal to accept her neighbor's variance request to extend out the garage 13 ft. I did send her the application for review.

Setbacks have a specific purpose and continuing a 6" setback further extends the infringement and should not be done without the approval of the neighboring property.

The look of pier block for the firewall is not a desired view.

Important note: the construction of the garage can NOT be done without accessing Barbara's property (another reason why setbacks are necessary).

The subject property has a 5 ft setback to the north since they got approval for a duplex lot and 10 ft was "supposed to" or was chosen to be on the south side. The fact of the garage being 6" from the property line does not mean everyone can ignore the 10 ft setback.

I love my 5 and 10 ft side setbacks and glad that the city has them in place!

Sincerely

Teresa Bresaw

Lake Rd NDA

Land-use member

From: [Teresa Bresaw](#)
To: [Vera Kolia](#)
Subject: 11932 SE 35th Ave variance request
Date: Sunday, May 26, 2024 11:55:10 AM

This Message originated outside your organization.

Vera,
Please add this photo for the record for Planning Commission hearing.
Picture of existing firewall.

Sincerely
Teresa Bresaw
Lake Rd NDA Land Use



Type 3 Variance Proposal File#VR-2024-003

Re: 11932 SE 35th Ave.

Dear Vera Kolas, Senior Planner
and Planning commission members

I am the owner of the land at 11972 SE 35th Ave. Milwaukie 97222,
and at 11974 SE 35th Ave 2 side by side lots.

I am writing to express my objection to the requested variance by
the owner of the property at 11932 SE 35th Ave. with whom I share
a property line.

The proposal requests a variance of a nine and a half feet
encroachment into the setback on the South property line at 11932
SE 35th Ave. to construct garage space. This would extend a wall,
that was grandfathered in during the 1940s, a further thirteen feet
and only 6” from our shared property line.

In opposition to this variance, there is no precedent that something
that was “grandfathered” in an earlier era should support a
continuation of this unfortunate lack of foresight and the practical
need for adequate setbacks. Milwaukie has had a subdivision
ordinance since 1967.....57 years! I think it’s fair to assume today’s
codes serve our residents in a more thoughtful, practical manner.

I understand that new zoning laws have created a moderate density
zone within which the properties sit. In striving to provide needed
housing a great many changes have been made to the zoning laws
and requirements. I would point out however that the setbacks for a
seven thousand square feet lot(10ft/5ft) remained unchanged
despite huge changes in new zoning laws. Obviously in developing
new codes, the need for setbacks between properties was still found
to be important both for the quality of living and for access to
property for maintenance, This would not be possible with a six-inch

setback. How would it even be possible to construct a further building without access onto my property?

On reviewing the narrative accompanying the application there are some points that I would like to clarify.

It is presumptive to assume that a 13-foot wall where there is now open space, has no impact on my home or my living space. Surely as a resident of Milwaukie my property is entitled to the same considerations that other properties in the neighbourhood enjoy. Furthermore, my property at 11972 SE 35th Ave. Is forty-one feet wide at its narrowest point east of the sidewalk an added 13-foot wall may seriously limit future development of this property as well as provide a formidable visual barrier on the north side of my property. In reference to the proposed remodel having great visual appeal this is certainly subjective depending on who is looking at it and the viewing angle, and I can assure you for me looking out of my living room window at a cinder block wall is not an attractive view, the extension of this wall by thirteen feet will devalue my property with an unsightly cinder block wall.

Incidentally, I would add that the properties do not “share a driveway” I have a well established garden bed and a fence on my property line which does and always has distinctly separated the two properties.

I trust that the city of Milwaukie seeks to provide comfortable visually appealing neighbourhood's for all its citizens including me. Clearly in rezoning the city saw the importance of retaining the building code maintaining the ten feet/five feet setbacks on properties seven thousand square feet or greater, in moderate density areas it identifies garages of less significant importance. Since zoning allows for on street parking there is no requirement in building codes to provide garage space. When looking at present codes this application is requesting a variance to the side setback of a required

ten feet down to six inches which is 95% non compliant for the purpose of providing garage space. In reality because of code changes some people in Milwaukie have given up their garages to provide extended living place. This is certainly a choice in this situation, removing the need for a thirteen feet extension within 6 inches of the property boundary. My neighbor actually parks in their driveway now so it would not affect the environment to leave the building as is.

I have lived in Milwaukie for 20 years, I know it is a wonderful place to call home, my husband and I worked to maintain and improve our property in a manner always compliant with building codes and considerate of our 6 neighbors on 35th Ave. and 36th Ave with whom we share a property boundary. I follow local affairs and have an understanding of many of the challenges that housing presents the community today. I had no opposition to the division of the property at 11932 in 2023 because it follows the present building code. However, this variance proposal does not provide any new housing, it will detract from the visual appeal of the present neighborhood and serves only to satisfy the perceived needs of one property owner to the detriment of another. It is my personal feeling that my needs and property boundaries, which follow clearly defined codes are equally important. I ask you - will negating the 10ft setback to allow the building of a garage in moderate density neighbours become available to all residents of Milwaukie who would like a little more space than their four bedroom home affords? Is this the intent of our revised city codes? I am asking that the planning commission thoughtfully consider my objection and protect compliance for the interest of my property.

Respectfully,

Barbara Allan.

From: [Paul Hawkins](#)
To: [Petra Johnson](#)
Cc: [Vera Kalias](#)
Subject: Re: VR-2024-003 Notice of Type III Land Use Proposal and Referral
Date: Wednesday, May 1, 2024 6:06:30 PM

This Message originated outside your organization.

Petra,

Re:VR-2024-003

I rode my bike to 11932 SE 35th today and visited with the neighbor next to the garage. They are definitely not in favor of allowing a building six inches from their property to be extended. And; I agree with them.

Thank you,
Paul Hawkins
Lake Rd Neighborhood Land Use

On Wed, May 1, 2024 at 1:58 PM Petra Johnson <JohnsonP@milwaukieoregon.gov> wrote:

Greetings,

Please see the link below to find the Notice of Type III Land Use Proposal and Application Referral for land use application VR-2024-003 for site location 11932 SE 35th Ave. If you have any questions, please feel free to contact Senior Planner Vera Kalias at 503-786-7653 or kaliasv@milwaukieoregon.gov.

<https://www.milwaukieoregon.gov/planning/vr-2024-003>

Thank you,

Petra Johnson

Administrative Specialist II

she • her • hers

503.786.7603

City of Milwaukie

10501 SE Main St • Milwaukie, OR 97222

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd.**

From: [Vera Kolas](#)
To: [matthew baxter](#)
Subject: RE: 11932 se 35th ave
Date: Tuesday, May 28, 2024 6:39:00 AM

Good morning Matthew,

Thank you for your comments. They will be made part of the record and will be shared with the applicant.

Please note that the 6-inch setback is the existing non-conforming setback for the existing attached garage. The application is to extend that garage by 13 ft, thereby extending the existing non-conforming setback.

-Vera

VERA KOLIAS, AICP

Senior Planner
she • her

503.786.7653
City of Milwaukie
10501 SE Main St • Milwaukie, OR 97222

Please note that my work schedule is Monday – Thursday from 6 a.m. – 4:30 p.m.

-----Original Message-----

From: matthew baxter <skipdanish@gmail.com>
Sent: Tuesday, May 28, 2024 6:36 AM
To: Vera Kolas <KolasV@milwaukieoregon.gov>
Subject: 11932 se 35thave

This Message originated outside your organization.

I do not agree with a less than 5 ft set back for the garage project, if I read it correctly they only want a 1/2 foot setback ? Allowing that would be setting a terrible precedent, next will be apartment complexes being able to do 1/2 ft setbacks from single family homes.

Sent from my iPhone

May 22, 2024

Vera Kolas, Senior Planner
Milwaukie Planning Department
10501 SE Main St
Milwaukie, OR 97222

Subject: Type III Variance Proposal File No. VR-2024-003
11932 SE 35th Ave, Milwaukie, OR 97222
Applicant: Kristina Fedorovskiy

Dear Ms. Kolas,

This letter is to register my objection to the subject variance request. After reading the Application Referral and reviewing the attached photos and maps, I have several concerns concerning this request. They are as follows:

Applicants Statements	My Concerns
<ul style="list-style-type: none">• Current setback of 0.5 ft is grandfathered.• Avoids all impacts to surrounding properties.• Neighbor's garage is adjacent.• Will not impact the neighbor's home or living space.• Great visual appeal.	<p>An inappropriate building of the garage within 0.5 ft of the neighboring property doesn't seem right to give license to continue with the offense.</p> <p>Continuing 13 ft out from the garage at 0.5 ft of the property line does impact the neighboring property in an unattractive and invasive manner. This suggests that the two garages are extremely close or touching which is not the case.</p> <p>The existing unattractive cinder block wall being extended an additional 13 ft would likely not be a nice site for the neighbor. I disagree.</p>

The existing 3 ft wood fence and shrubs are all on the neighbor's property at 11972/11974. The proposed wall and the construction to extend the garage into living space would likely cause trampling onto the fence and shrubs causing damage in the neighboring yard.

I also have safety concerns for the neighbor when backing out of their garage and driveway with the proposed 13 ft wall. This would impact the visibility of 35th

Ave traffic heading southbound as well as pedestrian walking on the eastside of 35th Ave. The applicant's vehicles (3) are always parked in the street and driveway causing more blockage of traffic and pedestrian view.

Based on the map provided, there is an existing concrete patio in the back of the applicant's house that appears to attach to the backside of the existing garage. There is also substantial land in the backyard that possibly be a good candidate for expanding the house without causing an impact on the neighbor at 11972/11974.

Thank you in advance for considering my concerns about this requested variance. I hope that you will give consideration to the negative impact I believe this request will have on their neighbor.

Thank you.

Sincerely,

Mary Kay Doane
11973 SE 35th Ave
Milwaukie, OR 97222

May 25, 2024

Vera Kolias, Senior Planner

City of Milwaukie Planning Department
10501 S. E. Main Street
Milwaukie Oregon 97222

RECEIVED
MAY 28 2024
CITY OF MILWAUKIE
PLANNING DEPARTMENT

Re: File Number VR-2024-003
Location: 11932 SE 35th Avenue

Dear Vera Kolias:

I am the owner of the property at 12012 SE 35th Avenue, Milwaukie and I regularly attend the Lake Road NDA meetings. At our meeting on 5-08-24 I learned of a neighbor's request for a variance to the city building code. Today I received the "Notice of Public Hearing" on this proposal.

I have talked at length with my neighbor Barbara Allan at 11972 SE 35th whose property would be impacted by the approval of a variance. Having seen the location in question I can now see that the changes proposed by her neighbor could impact both her enjoyment of her property at the present and the options for use of her property in the future. I am writing to support her opposition to the variance.

I do fully support the new zoning laws that provide for a moderate density zone in our area in order to create additional housing. The neighbors requesting the variance have already planned for a division of their property in order to build a duplex at the site. Hopefully they will find an alternative way to expand their existing living space without negatively impacting a neighbor.

I hope that you will uphold the city building codes and deny the variance. Thank you for your consideration

Sincerely,

Marguerite Kosovich

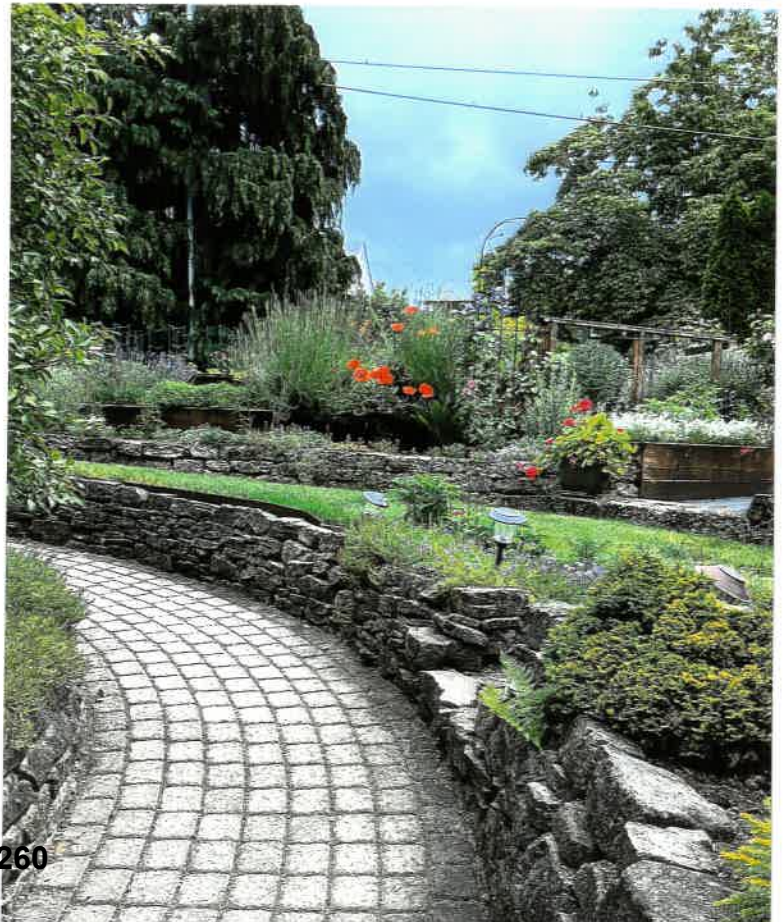
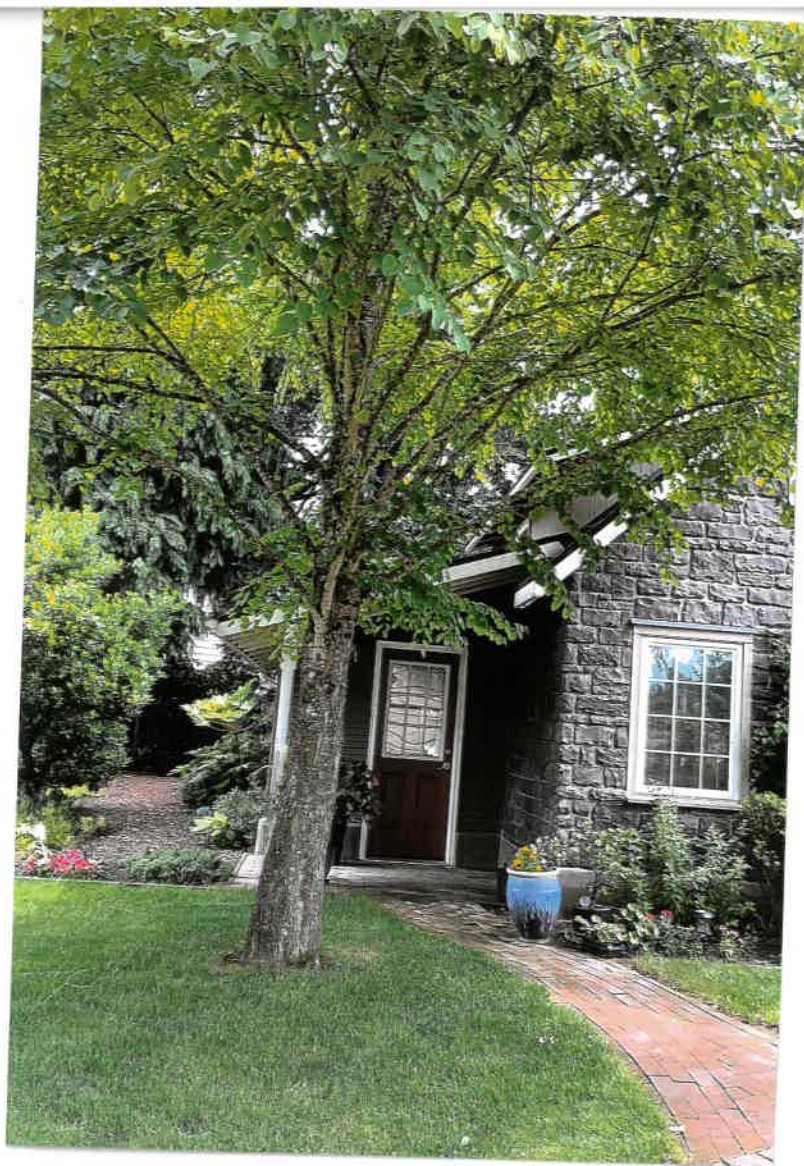
Marguerite Kosovich
12012 SE 35th Avenue
Milwaukie, OR 97222



RS258



RS259



RS260



VR-2024-003

**11932 SE 35th Ave
Addition**

Planning Commission

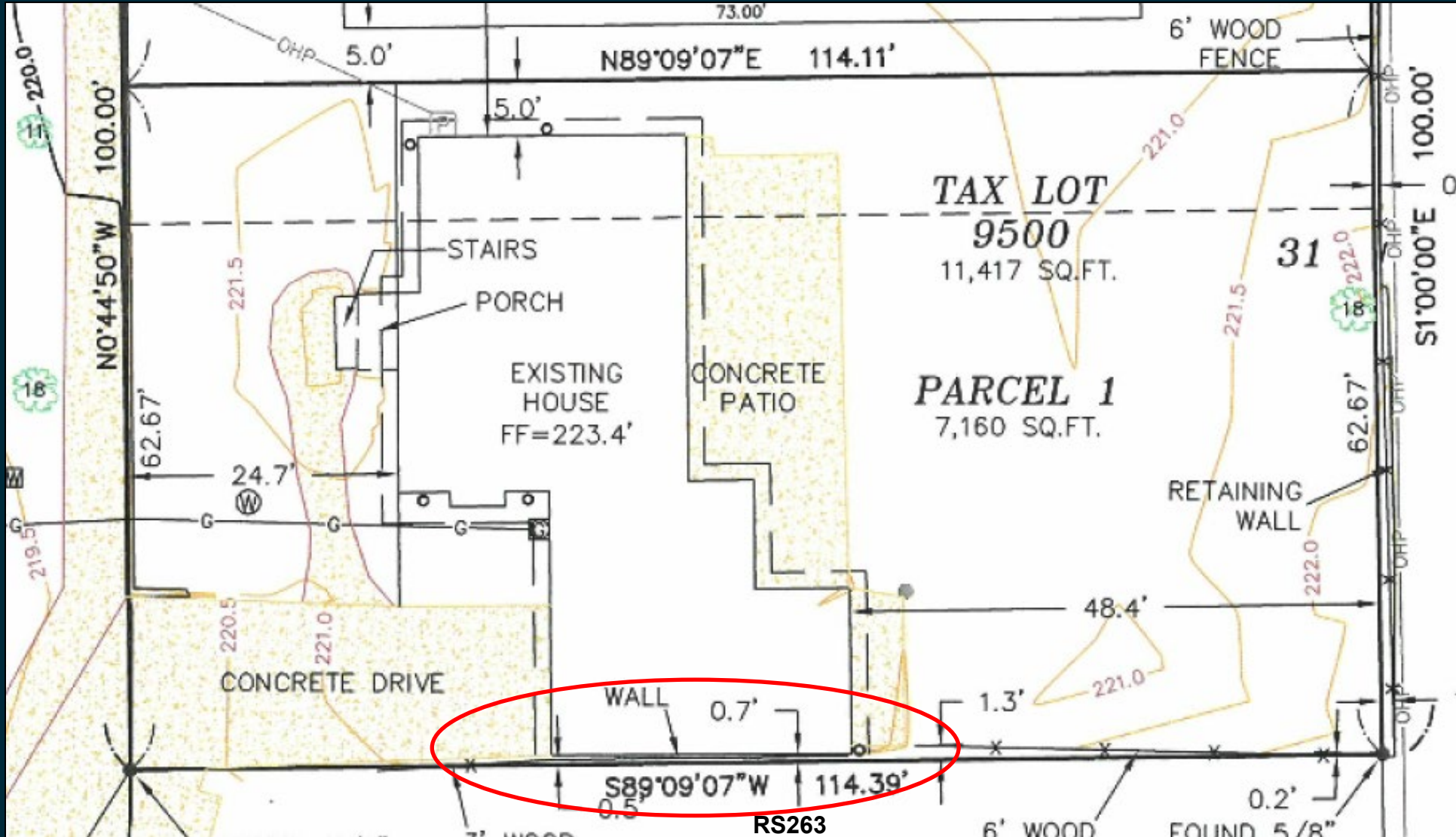
June 11, 2024

Vera Koliass, Senior Planner

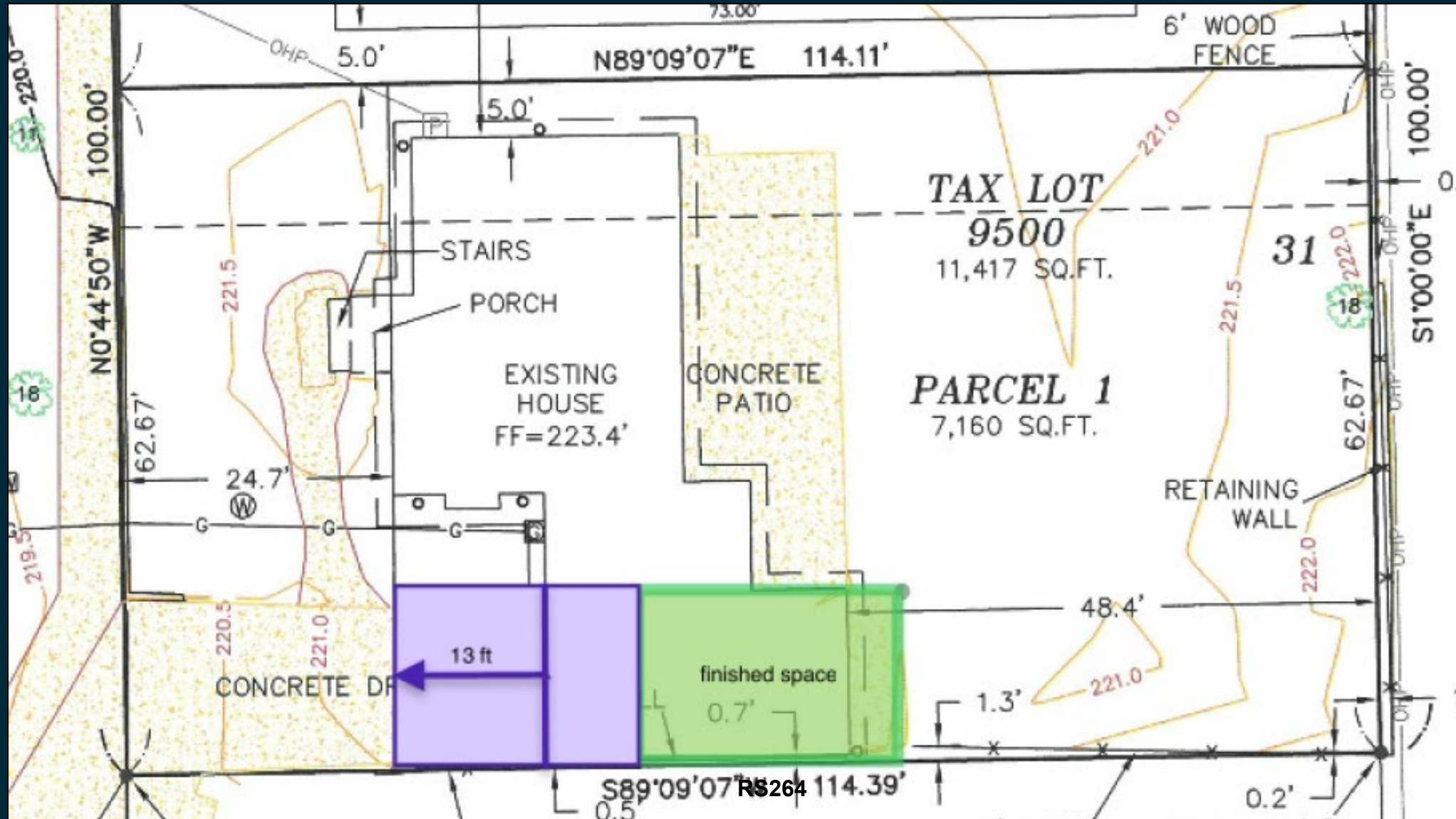
SITE



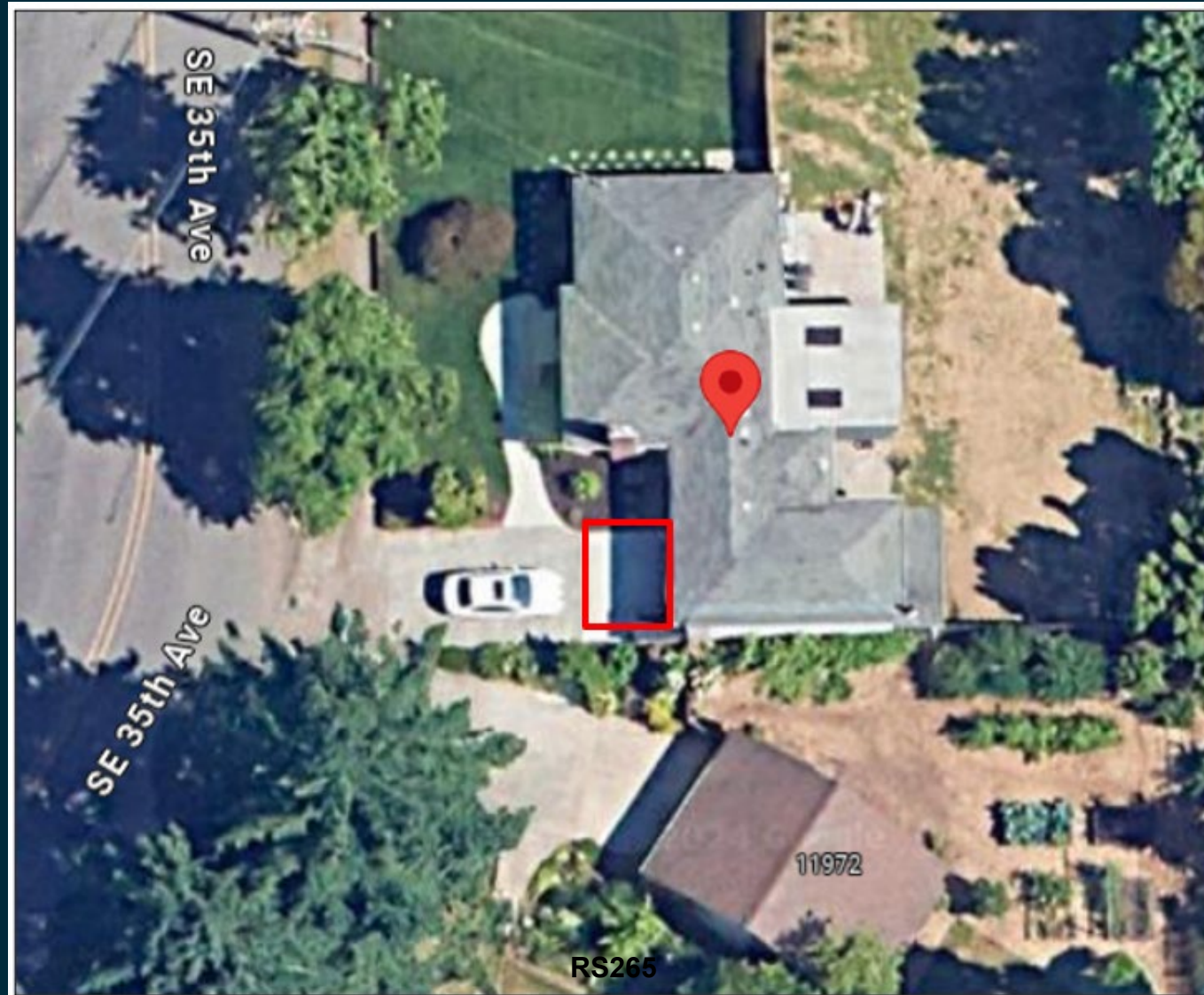
PROPOSAL – Existing Conditions



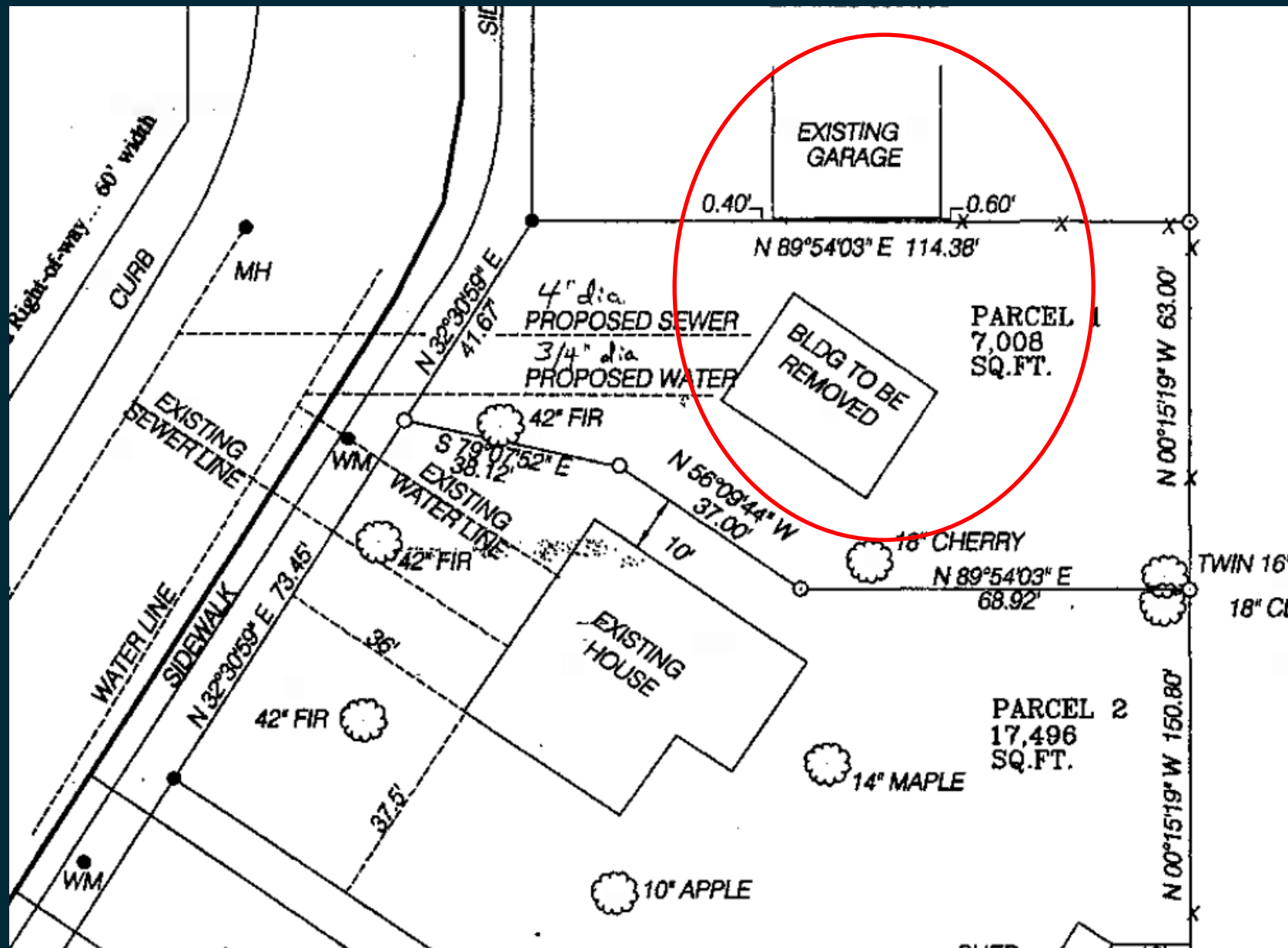
PROPOSAL



PROPOSAL



PROPOSAL



PROPOSAL



RS267

PROPOSAL



RS268

19.911– APPROVAL CRITERIA

Type III Variance – Discretionary Relief Criteria

a. The applicant's alternatives analysis provides, at a minimum, an **analysis of the impacts and benefits** of the variance proposal as compared to the baseline code requirements.

b. The proposed variance is determined by the Planning Commission to be both **reasonable and appropriate**, and it meets one or more of the following criteria:

(1) The proposed variance **avoids or minimizes impacts** to surrounding properties.

(2) The proposed variance has desirable public benefits.

(3) The proposed variance **responds to the existing built or natural environment in a creative and sensitive manner**.

Is the request for the side yard setback variance reasonable and approvable?

- Existing home is nonconforming
- All other development standards met
- Addition is one-story
 - Located on driveway
 - No loss of landscaping
- Adjacent detached garage has a 40-ft front yard setback
- Addition would be adjacent to a driveway
 - No impact to use and enjoyment of front yard
 - Visual impact noted by neighbor – recommend fence to mitigate
- NOTE: construction would NOT require access to neighbor's property

Comments received from:

- Lake Road NDA – in opposition
- Paul Hawkins, Lake Road NDA – in opposition
- Barbara Allan, 11972-11974 SE 35th Ave – in opposition
- Matthew Baxter – in opposition
- Mary Kay Doane, 11973 SE 35th Ave – in opposition
- Marguerite Kosovich, 12012 SE 35th Ave – in opposition

RECOMMENDATION

Decision-making options

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

Staff recommendation

Recommend approval of the application with conditions.

**QUESTIONS OR
COMMENTS?**



RS274



CITY OF MILWAUKIE

June 12, 2024

Land Use File(s): VR-2024-003

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on June 11, 2024.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

Applicant(s):	Kristina Fedorovskiy
Location(s):	11932 SE 35 th Ave
Tax Lot(s):	11E36DB09500
Application Type(s):	Variance
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 Moderate Density Residential Zone• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.804 Nonconforming Uses and Development• MMC Section 19.911 Variances• MMC Section 19.1006 Type III Review Milwaukie Municipal Code: <ul style="list-style-type: none">• MMC Title 12: Streets, Sidewalks, and Public Places
Neighborhood(s):	Lake Road

Appeal period closes: 5:00 p.m., June 27, 2024

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, City Hall, 10501 SE Main St. Please contact Vera Kolias, Senior Planner, at

503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at <https://www.milwaukieoregon.gov/planning/vr-2024-003>.

This decision may be appealed by 5:00 p.m. on June 27, 2024, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

1. At the time of submittal of the associated development permit application(s), the following must be resolved:
 - a. Final plans submitted for development permit review must be in substantial conformance with the plans and drawings approved by this action, which are the plans and drawings received by the City on April 29, 2024, except as otherwise modified by these conditions of approval.
 - b. Final plans submitted for development permit review must include a 6-ft sight-obscuring fence along the new addition along the affected side property line, per MMC 19.502.2.B.
 - c. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.

Additional Requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code (MMC) and Public Works Standards that are required at various points in the development and permitting process.

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

1. Prior to commencement of any earth-disturbing activities, the applicant must obtain a City erosion control permit.



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Kristina Fedorovskiy, 11932 SE 35th Ave
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Jennifer Garbely, City Engineer (via email)
Jeff Tolentino, Assistant City Engineer (via email)
Engineering Development Review (via email)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Shawn Olson, CFD#1 (via email)
Code Enforcement (via email)
NDA(s): Lake Road (via email)
Interested Persons

Land Use File(s): VR-2024-003

ATTACHMENT 1
Findings in Support of Approval
File # VR-2024-003 – Fedorovskiy Addition

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Kristina Fedorovskiy, has applied for approval to construct an addition to the existing attached garage on the property located at 11932 SE 35th Ave. This site is in the R-MD Zone. The land use application primary file number is VR-2024-003.
2. The proposal is to construct a one-story, 13-ft addition to the existing attached garage. The existing home has a pre-existing nonconforming side yard setback of 0.5 ft rather than the minimum 10 ft required. A variance is requested to allow the extension of the nonconforming side yard setback.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Title 12: Streets, Sidewalks, and Public Places
 - MMC Section 19.301 Moderate Density Residential Zone
 - MMC Chapter 19.700 Public Improvements
 - MMC Section 19.804 Nonconforming Uses and Development
 - MMC Section 19.9111 Variances
 - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing with the Planning Commission was held on June 11, 2024, as required by law.

4. MMC Title 12 Streets, Sidewalks, and Public Places
 - a. MMC Chapter 12.08 – Street & Sidewalk Excavations, Construction, and Repair

This will apply to all construction that is completed in the right of way including, but not limited to, all public utilities, accessways, and all pedestrian/bicycle facilities including those located within public sidewalk easements. The public improvement process will follow MMC 12.08.020.

No changes to the existing sidewalk are proposed as part of this development.

As proposed, this development meets the requirements of MMC 12.08.
 - b. MMC Chapter 12.16.040 – Access Requirements and Standards

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including accessway design. New or updated accessways must meet all applicable standards of the Americans with Disabilities Act, and the Public Works Standards.

No changes to the existing accessway is proposed as part of this development. Any changes, upgrades, or repairs to the existing shared accessway would require conformance to MMC 12.16.

As proposed, the Planning Commission finds that the proposed development is consistent with the applicable standards of MMC 12.16.

5. MMC Section 19.301 Moderate Density Residential Zone (R-MD)

MMC 19.301 establishes standards for the Moderate Density Residential (R-MD) zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed outright in the R-MD zone, including single detached dwellings, middle housing types (duplexes, triplexes, quadplexes, townhouses, and cottage clusters), accessory dwelling units (ADUs), and residential homes.

The subject property is developed with a single detached dwelling with an attached garage. The existing and proposed uses are permitted outright in the R-MD zone.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-MD zone. The applicable standards are addressed and met as described in Table 4-b below.

Table 4-b Applicable R-MD Development Standards (for lots 7,000 sq ft and larger)		
Standard	R-MD Requirement	Subject Property
Lot Area	7,000 sq ft	7,160
Lot Width	60 ft	62.67 ft
Lot Depth	80 ft	114.11 ft
Public Street Frontage	35 ft	62.67 ft
Front Yard	20 ft	24.7 ft
Side Yard	5 ft/10 ft	5 ft/0.5 ft (Requested variance, see Finding 8 for discussion of setback reduction)
Rear Yard	20 ft	48.4 ft
Maximum lot coverage	30%	28%

Minimum vegetation	30%	> 50%
Front Yard Minimum Vegetation	40%	> 60%

As proposed and with the variance approved as discussed in Finding 8, the applicable development standards of these subsections are met.

As proposed and with the variance approved as discussed in Finding 8, the Planning Commission finds that the proposed development meets all applicable standards of MMC 19.301. This standard is met.

6. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702.2 establishes the applicability of the provisions of MMC 19.700 for single detached residential expansions based on the combined gross floor area of all structures.

The proposed addition has a combined gross floor area of all structures by less than 800 square feet. Per MMC 19.702.2 none of Chapter 19.700 applies.

As proposed, the development does not trigger any public facility improvements of MMC 19.700.

The Planning Commission finds that the proposed development meets the applicable public facility improvement standards of MMC 19.700.

7. MMC Section 19.804 Alteration of Nonconforming Uses and Development

MMC Chapter 19.800 establishes requirements for the continuation, alteration, and rebuilding of nonconforming uses and development. Nonconforming uses and development are uses and development that do not conform to the City’s current land use and development regulations, either because they were established prior to the regulations’ enactment or because they conformed when they were established but the applicable regulations have since changed.

Most nonconforming uses and development may be maintained, but may not be altered, without land use review. Nonconforming uses and development may be rebuilt if destroyed in some instances. In general, however, nonconforming uses and development shall be brought into conformance with applicable land use and development regulations when redevelopment occurs.

MMC 19.804 establishes provisions related to the alteration of nonconforming uses and development, with MMC Subsection 19.804.2 specifically applicable to nonconforming development.

a. MMC Subsection 19.804.2.A Provisions

Alterations or expansions that increase or extend the nonconformity are not allowed unless a variance is approved pursuant to Section 19.911.

As noted above in Finding 5, the existing single detached home has a pre-existing nonconforming side yard setback of 0.5 ft rather than the minimum 10 ft. The applicant is proposing to extend the attached garage toward the street by 13 ft. The proposed development is an extension of the nonconforming development, so land use review is required.

The applicant has requested a Type III variance to allow the addition to be constructed following the existing wall line with a side yard setback of 0.5 ft.

Subject to approval of the requested variance, the Planning Commission finds that this standard is met.

The Planning Commission finds that the proposed development meets the applicable standards of MMC 19.804 for alteration of a nonconforming use.

8. MMC Section 19.911 Variances

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

The applicant has requested a variance from the minimum side yard setback to allow for the construction of an addition to the existing single detached dwelling.

The requested variance meets the eligibility requirements.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

The requested variance is not eligible for Type II review; it is subject to the Type III review process.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. For Type III variances, MMC Subsection 19.911.4.B.1 provides approval criteria related to

discretionary relief and MMC Subsection 19.911.4.B.2 provides approval criteria related to economic hardship.

(1) MMC Subsection 19.911.4.B.1 Discretionary Relief Criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The variance requested is for a reduction to the minimum required side yard setback of 10 ft. The existing home was built with a 0.5 ft side yard setback; the proposed addition would extend that nonconformity by 13 ft.

The existing home has a side yard setback of 0.5 ft. Building an addition that meets the minimum 10 ft setback would not be possible given the layout of the existing home. The purpose of the one-story addition is to remodel a portion of the existing garage into living space and add the smallest amount needed to maintain a usable one-car garage.

Without the variance, the garage space would not accommodate a vehicle after the remodel. This side of the existing home is adjacent to the neighbor's driveway; the neighbor's home is set back approximately 40 ft from the street, so there are no impacts to the neighbor's home or use of the front yard area.

The Planning Commission finds that the analysis of the impacts and benefits of the requested variance compared to the baseline requirements is adequate. This criterion is met.

- (b) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
- The proposed variance avoids or minimizes impacts to surrounding properties.
 - The proposed variance has desirable public benefits.
 - The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The proposed one-story addition extends an existing nonconforming 0.5-ft side yard setback by 13 ft. The addition would match the front wall of the house, with a front yard setback of 24.7 ft, which is larger than the minimum of 20 ft. The proposed addition would be located on a portion of the existing driveway, so no landscaping will be removed to accommodate the construction. The adjacent property is developed with a single detached home with a 40-ft front yard setback, and a driveway is located adjacent to the subject property. Therefore, the proposed addition would not impact the use and enjoyment of the neighboring property. The proposed addition can be built without needing to access the adjacent property, so construction impacts would be minimized.

The Planning Commission finds that the requested variance is reasonable and appropriate and that it meets one or more of the criteria provided in MMC Subsection 19.911.B.1.b.

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

The proposed 13-ft addition is modestly sized; it is one-story and would align with the front wall of the house, resulting in a larger than required front yard setback of 24.7 ft. The addition would be located on a portion of the existing driveway, so no landscaping will be removed. The proposed addition would be adjacent to the neighbor's driveway and side yard landscaping, so there would be no impacts to the neighbor's use and enjoyment of the front yard area. The neighbor's home is set back approximately 40 ft, and is fronted by a garage, not living space, there would be no impacts on the home by the proposed addition. The proposed addition provides for usable garage space for one vehicle, thereby maintaining two parking spaces on the subject property.

If necessary, a new 6-ft sight-obscuring fence could be constructed to replace the existing 3-ft fence to provide a buffer between the proposed addition and the neighbor's driveway.

The Planning Commission finds that the requested variance could result in a visual impact to the abutting property. A condition requiring a fence is required as mitigation. This criterion is met.

As proposed, the Planning Commission finds that, as conditioned, the requested variance meets the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

The Planning Commission finds that the requested variance is allowable as per the applicable standards of MMC 19.911.

9. The application was referred to the following departments and agencies on January 24, 2024:

- Milwaukie Engineering Department
- Milwaukie Building Department
- Milwaukie Public Works Department
- Lake Road Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Clackamas Fire District #1 (CFD)
- NW Natural

Public notice was sent to all properties within 300 ft of the site on January 24, 2024. Comments in objection to the requested variance were received from:

- **Lake Road NDA**
- **Barbara Allan, 11972-11974 SE 35th Ave**

- **Mary Kay Doane, 11973 SE 35th Ave**
- **Matthew Baxter**
- **Margueritte Kosovich, 12012 SE 35th Ave**
- **Paul Hawkins, Lake Road NDA**

Attachment 8. B. 4.

From: [Karen KERSEY](#)
To: [Vera Koliias](#)
Subject: Hearing Date Aug 6
Date: Tuesday, July 30, 2024 8:02:50 AM

This Message originated outside your organization.

Vera,

I wanted to express my support for Barbara Allan and hope the planning Commission denies approval of the proposed addition to the existing garage.

I realize the garage property was grandfathered in but it is already situated over the acceptable distance from the property line. Allowing an even closer distance will further complicate maintenance issues, create a unsightly appearance from the street, and encroach on their neighbors setback/side yard. I would think the city has a minimum amount of feet required for all structures and their property lines and should not make an exception!

Karen Kersey

July 28, 2024

Vera Kolias, Associate Planner
City of Milwaukie Planning Department
10501 S. E. Main Street
Milwaukie, Oregon 97222

Re: File Number: AP-2024-001
Location: 11932 S. E. 35th Avenue

RECEIVED
JUL 31 2024
CITY OF MILWAUKIE
PLANNING DEPARTMENT

Dear Ms. Kolias:

I have received the Notice of Public Hearing concerning the above referenced property. I am a neighbor and I wrote a letter in May voicing my objection to the variance to the building code that was requested at that time. I understand that the City Council will only evaluate existing evidence and testimony that were presented to the Planning Commission before.

I will not repeat my previously stated concerns. However, I do believe that it is difficult to fully understand and evaluate the full impact that a variance would have on the appellant's property without having a visual reference. I understand that photos of the property were provided to the Planning Commission at the previous hearing, but that they may not be part of the record. I hope that the City Council members will have access to this material.

Thank you for your consideration.

Sincerely,



Marguerite Kosovich
12012 S. E. 35th Avenue
Milwaukie, Oregon
mkosovich@hotmail.com

Ap-2024-001
11932 SE 35th Ave

RECEIVED
By Vera Koliias at 1:38 pm, Jul 31, 2024

Mayor and Councilors:

Thank you for taking the time to study the details of these 4 lots: 2 owned by the applicant and 2 owned by Barbara Allan to the south. Side setbacks were chosen by the applicant to be 5' on the north side of her house so a duplex lot could be created. 10' was chosen to be on the south side of her house, which really should mean that any new addition should be 10 ft from the south property line. The garage which is 6" from the boundary line can be left as is. It is a non-conforming garage that is allowed to exist and rebuilt if destroyed, but NOT to be increased in size according to Milwaukie's code. The new bedroom and bathroom can be added to the back of the house WITH the required 10 ft side setback.

The addition would not need a stacked concrete wall, since the 10 ft setback does not require a firewall. There would be space to walk around for normal exterior maintenance. There is no exterior maintenance on the existing firewall as evidenced by a picture previously submitted! The existing garage needs to remain or be converted back to a garage!

The Planners and Commissioners erred in their analysis of the options for the applicant and did not fully understand the repercussions to Ms Allan's 2 lots. The planners did not even consider past deferred maintenance or future maintenance!

The empathy they have for the applicant is biased and and disregards the negative consequences to the 2 lots to the south. And completely disregards the importance of maintaining a home by having access around it!

Only 1 Commissioner visited the site and the commissioners mentioned maintenance as a concern since impossible to walk around the existing garage which is in disrepair. One Commissioner wisely abstained from the vote.

The emphasis was 2 driveways and 2 garages side by side. The applicant's driveway would need to be cut and a footing installed below the frost line 16" wide to support this new firewall. Joints have to be smoothed out and waterproofing applied. How is it possible to do this without trespassing on Barbara Allan's property? A 3 ft high fence (16 ft long) that was built by Mr Allan separates the 2 properties. Ms Allan does not give approval to replace it with a 6 ft high fence. There is landscaping (garden) next to her fence as evidenced in the staff report. She does not want them damaged, does not want a tall south facing wall to reflect heat on her plants, and she does not want her 2 lots devalued.

Easy to say that a 13 ft extension is no more of a detriment than the existing wall, but NOT true as the current 27' is an eyesore and 40' total would be even worse and impact the views from both lots to the south.

Public benefit means a benefit to the public at large rather than to just the applicant! The neighbors and Lake Rd NDA firmly believe that approving this non conforming extension is substantially reducing the quality of the neighborhood. Is this the precedent the city wants, that it doesn't matter what your NDAs believe, but what the Planners have decided in advance of the hearing? Lots are getting smaller and setback rules become more important for visual aesthetics, maintenance and space.

The purpose of the variance is to not impose undue hardship, while ensuring that the interest of each development standard is met...the planners were mainly concerned about front and back

setbacks. The side setbacks were not even considered as important! The side setbacks are just as important as it ensures the functionality of the building so one can access all four sides! Variances shall not be granted that may be detrimental to public health, safety or welfare. If this variance is allowed to stand, then the city is in affect taking Ms Allan's property rights (welfare) and lowering her property values of a future home (welfare) and Ms. Allan's home as well.

To allow a bedroom and bathroom to be built behind an unmaintained cracking wall could affect the health and safety of the occupants as water infiltration has repercussions. The variance to extend out the unsightly garage another 13 ft shows extreme disregard for the practical aspect of homeowner maintenance and for all protesting neighbors. Think 6 inches, when legally it is supposed to be 10 ft. That is an extreme variance!

I am to the point of believing that not only does city government not care about their residents but actively is trying to thwart transparency, common sense and real democracy.

Sincerely

Teresa Bresaw

Milwaukie's Lake Rd NDA

Land Use

RS 8. B. 8/6/24
Presentation

Appeal of VR-2024-003 (11932 SE 35th Ave Addition)

Appeal File #AP-2024-001

City Council
August 6, 2024
Vera Koliass, Senior Planner



APPLICATION PROCESS

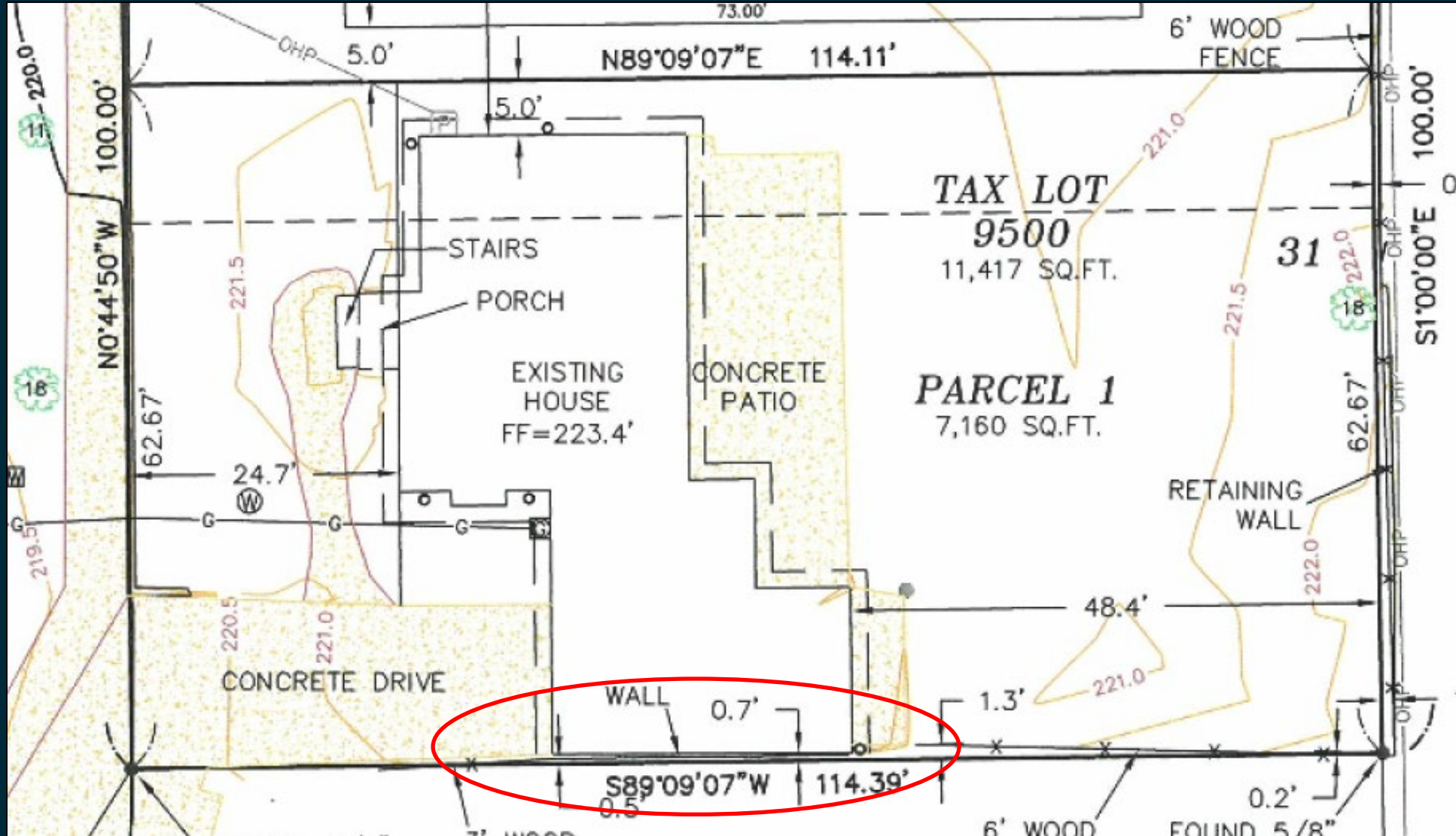
Basic Type III land use application process:

- Pre-application meeting or conference
 - Discuss proposal with code information; required application components
 - Determination of Planning Department recommendation
- Application submittal and review
 - \$2,000 fee and Completeness review & determination
- Application Notice
 - Referrals
 - 20-day public notice
- Staff report: recommended findings and conditions of approval
- Public Hearing
- NOD

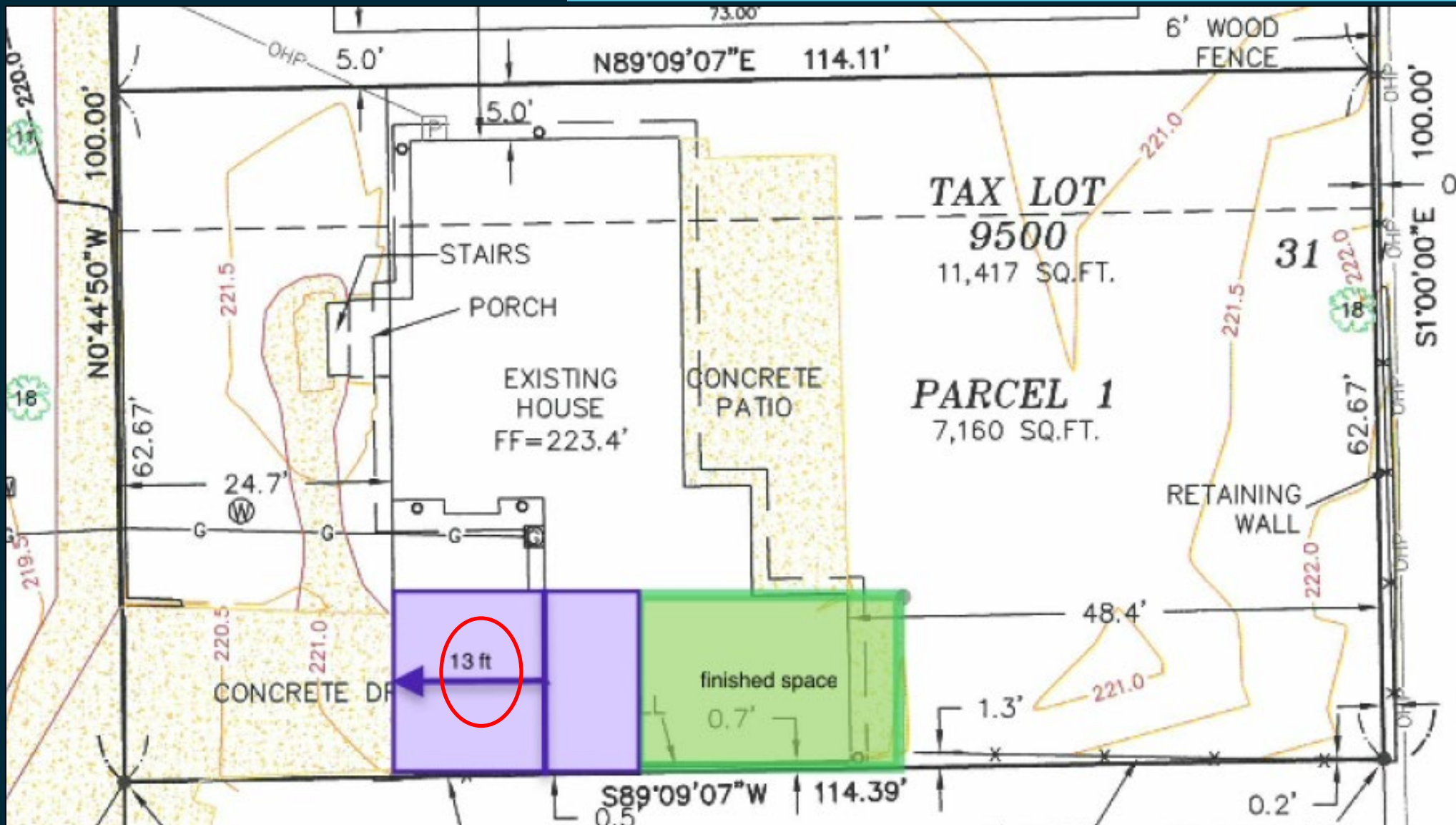
SITE



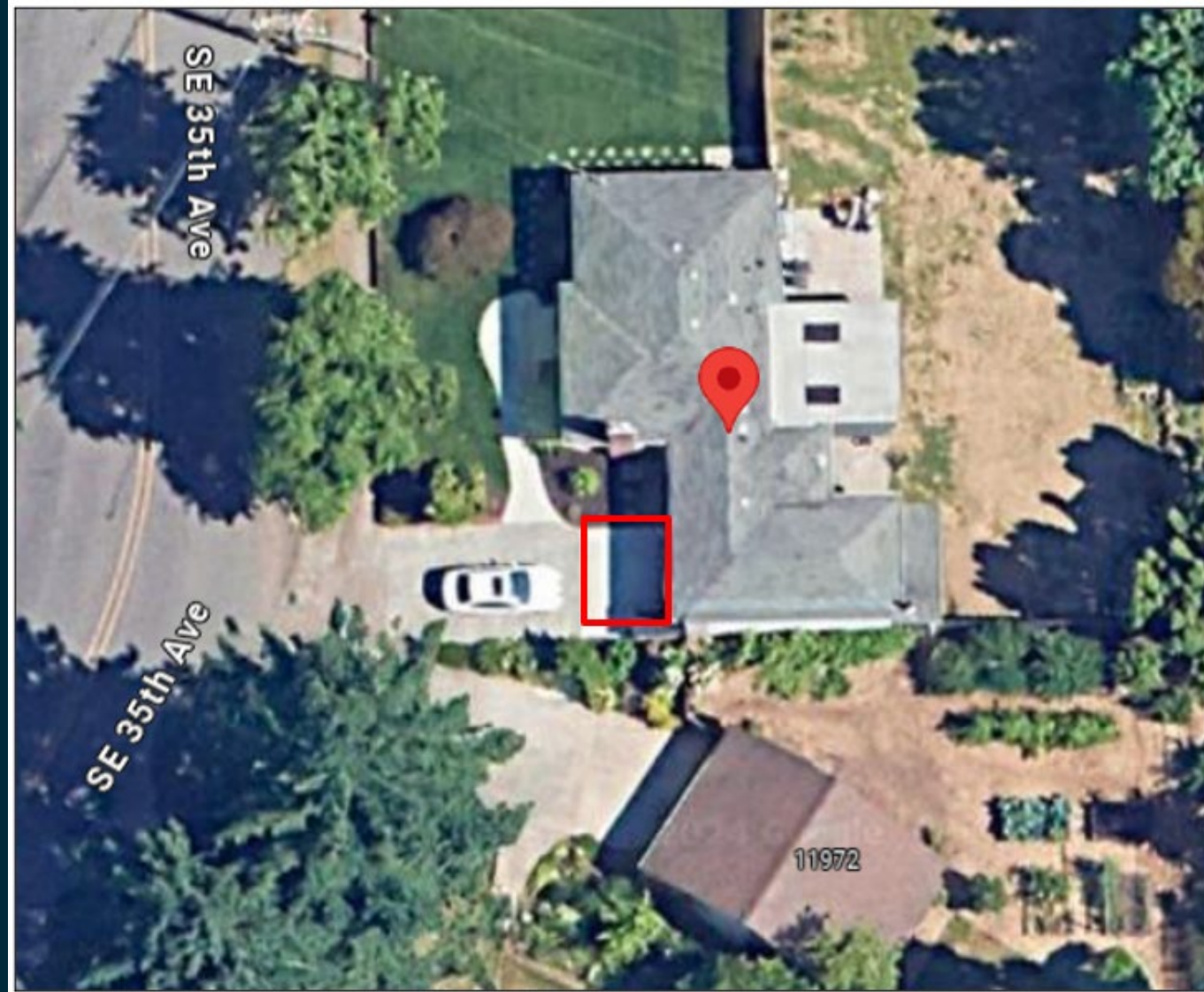
PROPOSAL – Existing Conditions



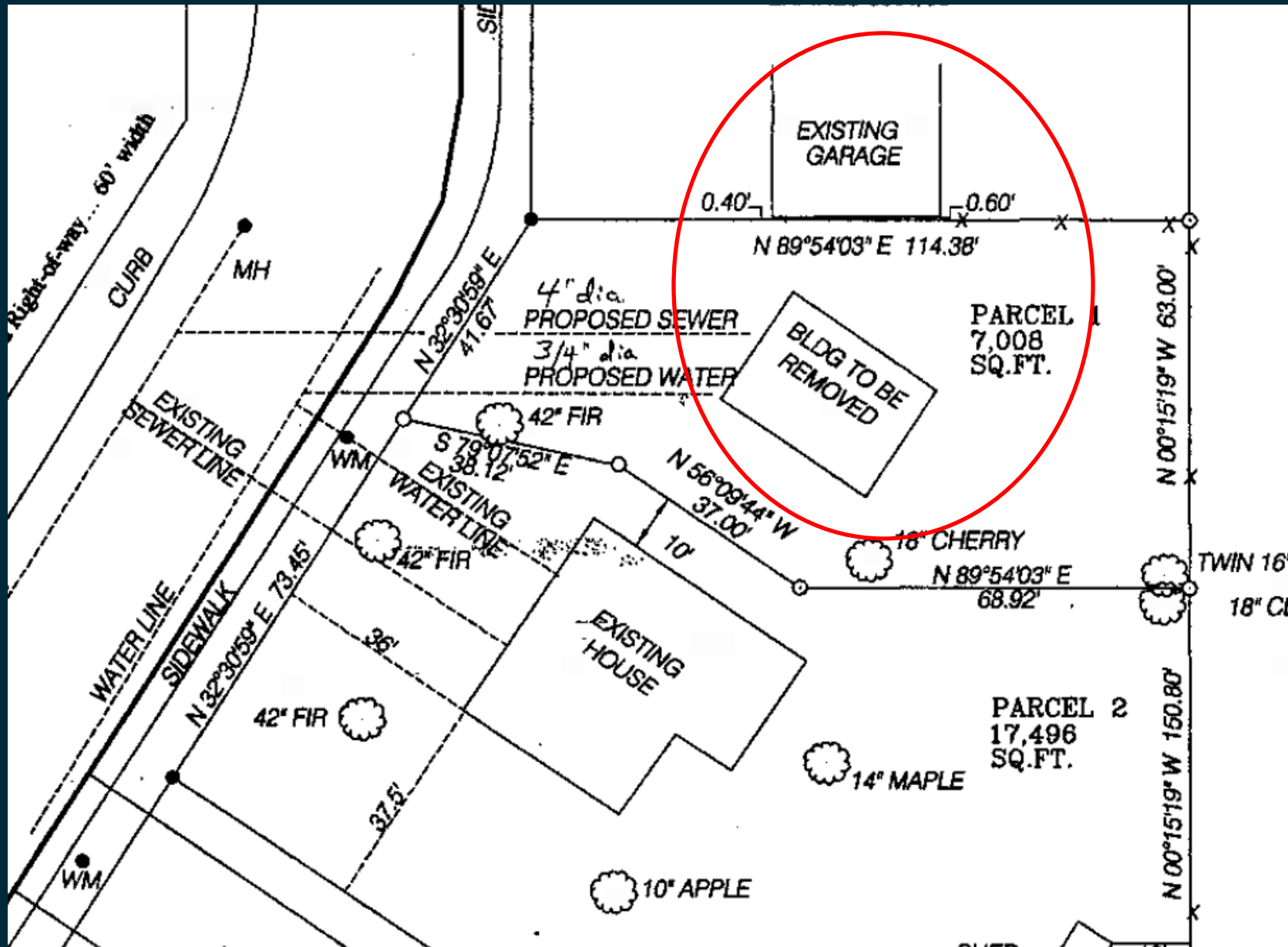
PROPOSAL



PROPOSAL



PROPOSAL



PROPOSAL



PROPOSAL



FILING AN APPEAL

An appeal application must contain the following information:

- Detailed statement describing the basis of the appeal:
 - Which approval criterion or development standard is believed to have been overlooked, incorrectly interpreted, or applied; and/or
 - Which aspect of the proposal is believed to have been overlooked or incorrectly evaluated.

BASIS OF APPEAL

The appellant states that the basis of appeal are:

- Variance approval criteria are not met
 - Aesthetics of the existing garage wall
 - Only the addition is the subject of the variance
 - Visual impacts not mitigated
 - Constructability of the addition
 - Has no bearing on the variance
 - Minimum setbacks should be met
 - 2024 partition has no bearing on the application

19.911– APPROVAL CRITERIA

Type III Variance – Discretionary Relief Criteria

a. The applicant's alternatives analysis provides, at a minimum, an **analysis of the impacts and benefits** of the variance proposal as compared to the baseline code requirements.

b. The proposed variance is determined by the Planning Commission to be both **reasonable and appropriate**, and it meets one or more of the following criteria:

(1) The proposed variance **avoids or minimizes impacts** to surrounding properties.

(2) The proposed variance has desirable public benefits.

(3) The proposed variance **responds to the existing built or natural environment in a creative and sensitive manner**.

Is the request for the side yard setback variance reasonable and approvable? Does the proposed variance avoid or minimize impacts to surrounding properties?

- Existing home is nonconforming
- All other development standards met
- Avoids and minimizes impacts
 - Modest addition – portion of existing garage is still garage
- Responds to built environment
 - Addition is one-story to match existing home
 - Addition located on driveway
 - No loss of landscaping
 - No increase in impervious surface

Are impacts from the proposed variance mitigated to the extent practicable?

- Neighboring garage developed with a 40-ft front yard setback
- Addition would be adjacent to a driveway
 - No impact to use and enjoyment of front yard
 - Visual impact noted by neighbor – recommend fence to mitigate
- NOTE: construction would NOT require access to neighbor's property

The Planning Commission found that the requested variance was reasonable and approvable.

Comments in opposition received from:

- **Teresa Bresaw, Lake Road NDA**
- **Karen Kersey**
- **Margueritte Kosovich, 12012 SE 35th Ave, Milwaukie**
- **Debby Patten, 11880 SE 34th Ave, Milwaukie**
- **Jonathan Heppner, 3815 NE 8th Ave, Portland**
- **Mara Indra, 3815 NE 8th Ave, Portland**

RECOMMENDATION

Staff recommendation

Affirm the Planning Commission to approve the variance.

Decision-making Options:

1. Affirm the decision under appeal for VR-2024-003 with existing Findings of Approval.
2. Affirm the decision under appeal for VR-2024-003 with modified Findings of Approval.
3. Reverse the decision under appeal for VR-2024-003 with new Findings supporting denial.
4. Continue the hearing to a specific date.

**QUESTIONS OR
COMMENTS?**



To: Vera Kolas, Senior Planner and Members of the Planning Commission

City of Milwaukie Planning Department
10501 SE Main Street
Milwaukie, Oregon 97222

Re: File Number VR-2024-003
Location: 11932 SE 35th Avenue

Esteemed Planners,

I oppose the approval of this project and associated variance, and join the Lake Road Neighborhood District Association, local residents, and other members of the community who have clearly stated their opposition to the project.

As a registered AIA Oregon architect with 25 years of design, planning and zoning experience in the area I recommend this variance is rejected. In discussion with the neighbor, Barbara Allen, review of the Milwaukie Community Vision, the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code, and observance of the prior public hearing pertaining to the application, I see no corresponding merit for the Planning Commission's approval of this application.

The proposed variance is unreasonable, inappropriate, and does not meet the following criteria:

- **It does not** avoid or minimize impact to surrounding properties.

The proposed variance:

- directly contradicts the criteria in its placement in the legal setback,
- prominently situates a solid wall at the top of a hill on a bend in the street, amplifying its proposed presence in the neighborhood,
- crowds the adjacent property and reduces its development potential for single family housing,
- recommends a 6ft fence directly in front of the proposed 13ft wall further reducing sitelines to and from the street presenting risk to traffic and pedestrian visibility.
- prioritizes an increase of area on the property for enclosed vehicle storage over increased potential housing opportunities.

This variance request forces the unwilling adjacent property owner, (current and future), to bear shared responsibility for further reduction in:

- light,
- air,
- street sitelines and visibility,

- construction and maintenance access,
- required fire and life safety characteristics,

By its nature it invites rather than minimizes impact to surrounding properties.

- **It does not** have desirable public benefits.

The proposed variance:

- is for the sole benefit of the applicant,
- detracts from the character of the neighborhood,
- inequitably burdens the neighboring property's current or future owners.

- **It does not** respond to the existing built or natural environment in a creative or sensitive manner.

The proposed variance:

- uncreatively seeks to appropriate 95% of the required legal setback presenting no benefit to the neighborhood.
- expands the existing non-conforming, insensitive, inclement, and structurally compromised lot line wall associated with the existing attached garage.

As a prospective resident and developer in this neighborhood, I am troubled by the Planning Commission's silent dismissal, ignoring all opposition raised by the Lake Road Neighborhood District Association, community members, and adjacent property owner, without a single letter of support for the application. The appearance is that there is an effort to approve the Applicant's variance, supported by the Planning Commission, with disregard for the community's input.

This proposal for variance is not in alignment with the Milwaukie Community Vision, the Milwaukie Comprehensive Plan for growth and plainly does not meet the Milwaukie Municipal Code, or the support of its neighborhood. I recommend its rejection.

Respectfully,
Jonathan Heppner, Architect
3815 NE 8th Avenue
Portland, OR 97212

RECEIVED

By Vera Kolas at 11:27 am, Aug 05, 2024

Vera Kolas, Senior Planner
City of Milwaukie Planning Department
10501 SE Main Street
Milwaukie, Oregon 97222

Date: 08/01/2024

Re: File Number VR-2024-003
Location: 11932 SE 35th Avenue
Letter in support of AP-2024-001

Dear Planners, Commissioners & City Council Members,

I oppose the approval of the proposed Variance request to build a non-conforming addition along the property line to accommodate a single car. The proposal does not meet standards as outlined in the Milwaukie Municipal Code or principles outlined in the Milwaukie Comprehensive Plan and City of Milwaukie Community Vision Statement. I join the Lake Road Neighborhood District Association, local residents, and other members of the community in opposition of the Variance.

I am an Owner of a Residential Construction company who performs work in Milwaukie and surrounds. My opposition is based on 26 years working in the field of architecture and construction as well as being a prospective Milwaukie resident and potential developer.

My family currently lives in Portland, but we hope to become Milwaukie residents. We have been investigating properties for purchase/development and have targeted Milwaukie for many reasons. Milwaukie is midway between our offices and our daughter is interested in becoming a Mustang. We also appreciate that Milwaukie Vision and Zoning encourages and supports thoughtful development.

My company did some work at the property at 11974 SE 35th for Owner, Barabara Allan. She shared her intent to downsize and sell her properties in the near future, due to the recent passing of her husband. The property at 11972 SE 35th is a great opportunity to add needed dwellings. We've been conducting some due diligence/feasibility study of development potential for the property.

The variance proposal to construct a new non-conforming addition along the shared property line was brought to my attention. I reviewed the:

- Video of the June 11th hearing
- Complete Planning Commission packet
- City of Milwaukie Comprehensive Plan
- Milwaukie Municipal Code, sections referenced in Staff Report
- City of Milwaukie Community Vision Statement

Observations & Concerns with the Planning Commission Hearing:

- I am surprised the Planning Commission approved the proposal on June 11th, without thorough consideration of concerns from the multiple parties in opposition, including the neighborhood association and fellow commissioners.

- There were 6 letters provided in opposition. One from the Lake Road Neighborhood District Association acts as a representative of the local community. There was not a single letter provided in support of the variance.
- References to the impact to the adjacent property in the application, Staff report and Commission discussion only noted the existing detached garage, despite the note on the plans that it is “to be removed”. It did not take into consideration the impact to any future dwelling on the property.
- The concern of the proposed addition’s negative impact on the adjacent property’s value was not directly addressed.
- The general feasibility of construction* along a property line without imposing on the adjacent property and long-term maintenance impact of the proposed addition without access was not addressed.
 - *While the constructability of the proposal falls to the Building Department, permit review process and Oregon Residential Specialty Code, I believe there are core goals that are inter-related with the Vision and Principles outlined in the Milwaukie Community Vision Statement, The Milwaukie Comprehensive Plan and the Milwaukie Municipal Code.
 - An immediate example of future construction issues is the existing non-conforming industrial looking concrete block wall is in disrepair and presents some access challenges. This was not addressed in the hearing.
 - While some construction may be possible from one side of a property line, other considerations that might impact the adjacent property will be erosion control, excavation area required for proper footing construction, potential soil amendment, footing drains for stormwater runoff, roof drainage and parapet height if gutters are not provided, weather proofing upkeep, painting and general long-term maintenance.
- The proposed 6’-0” tall fence cited as a condition of approval is not feasible in terms of long-term maintenance. Such a solution does not actually solve the concerns increasing the built mass on the property line has quality of the living space potential for the adjacent property. A solid wall to cover a wall does not meet standards for a sensitive and creative approach to a non-conforming and obtrusive addition.
- Zoning standards are created in part to promote good neighbor relations. One purpose of setbacks is to: establish fair boundaries between personal space; provide a buffer for living without interference; provide access for maintenance and for emergency evacuation or fire-rescue; create equity for property Owners in choices for development of property and best architectural site location on a property considering daylight, views, noise, natural ventilation, quality of indoor and outdoor living space.
- This variance suggests breaking important zoning code regulations of setbacks. This sets a dangerous precedent for future properties.
- The approval of this would be in conflict with the zoning values of preserving and building community as outlined in the Milwaukie Community Vision and Milwaukie Comprehensive Plan “Place” themes.

Conditions of Approval:

Section 8. MMC Section 19.911 Variances

c. MMC Sub Section 19.911.4 Approval Criteria

1. Discretionary Relief Criteria.

b. The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:

- **The proposed variance avoids or minimizes impacts to surrounding properties.**

RESPONSE- PROPOSAL DOES NOT MEET STANDARD.

- The applicant references the existing detached garage on the property. They do not address impacts to a future home built on the adjacent property.
- The extension of the non-conforming building, height and proximity of the addition at the property line directly and negatively impacts the future development considerations of the adjacent property. This negatively impacts the value of the property for the existing Owner.
 - The location along the wall requires a future owner to sacrifice the optimal location of a new building to avoid proximity to the obtrusive massive non-conforming structure.
 - If a new building on the adjacent property is built 5'-0" from the property line per code, that proximity is invasive, intrusive, reduces access to natural daylight, views from inside the building, natural ventilation, greenspace and outdoor living space opportunity. Please consider what your home would be like with a 40' wall only 5 feet from your dwelling.
 - The extension further reduces the visual access to and from the narrow adjacent property from the street frontage.
- Life-safety access is reduced in the case of a natural disaster and emergency response.
- The new addition will require long-term maintenance, stormwater runoff management, and vegetation management. The burden falls to the current and future owner to manage this issue with the applicant, which may impact future undesired conflict.

- **The proposed variance has desirable public benefits.**

RESPONSE - PROPOSAL DOES NOT MEET STANDARD.

- The addition of a single vehicle garage proposal benefits the property owner only. It does not provide public benefits.

- **The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.**

RESPONSE - PROPOSAL DOES NOT MEET STANDARD.

- The applicant references the existing detached garage on the property. They do not address impacts to a future home built on the adjacent property.

- The proposed addition diminishes the access to the natural environment for the adjacent property. See above regarding natural daylight, natural ventilation, views, indoor and outdoor living quality, connection to the public right-of-way.
- The Applicant's note that the "The proposed remodel will have great visual appeal and a new roof". Architecturally, there are limitations for finishes, articulation and details as such features would require access to construct and future maintenance. This would imply the resulting design would be minimal. No gutters for access or overhangs will require a very tall parapet, increasing the mass of the structure at the front of the site. One hour rating required for structures on the property line further impacts the material choices.

The proposed variance does not meet the conditions for approval in the Milwaukie Municipal Code. It is not in alignment with the Milwaukie Community Vision Plan or Milwaukie Comprehensive Plan long-term Principles for thoughtful development. The variance proposal to accommodate a single car should not take priority over the concerns and wellness of the current and future community. I oppose the variance.

Thank you for your consideration,

Respectfully,

A handwritten signature in black ink that reads "Mara Indra". The signature is written in a cursive, flowing style.

Mara Indra

Portland, OR 97212

From: [First Chair](#)
To: [OCR](#)
Cc: tbresaw50@gmail.com
Subject: AP-2024-001
Date: Monday, August 5, 2024 2:20:25 PM

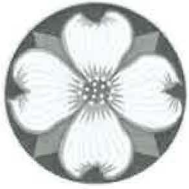
This Message originated outside your organization.

As the decision will be far too late for me to attend, I hope you will consider my thoughts:

I live in an older house that was extended next to the neighbor's driveway many years prior to rules and regulations. Through the open window of my bedroom, I can hear the neighbor's car doors opening and closing, the car coming and going, and the garbage and recycling being rolled down to the street every Monday night. I can hear every front yard conversation.

If you approve this request, this annoyance will be commonplace. I have spent 26 years being glad that there are rules in place to prevent it happening to others. Please do not undo all the good work and chip away at our livability.

Debby Patten
11880 SE 34th Ave
Milwaukie, OR
503-806-5860



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have appeal standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

8/6/2024

RS 8. B. Appeal of Planning Commission Approval for Addition at 11932 SE 35th Avenue

Land Use File No. VR-2024-003

NAME	ADDRESS	PHONE	EMAIL
Tim Taylor	5806 SE Willow St	541-760-9090	timt@24@gmail.com
Terese Bresaw	12744 SE Weed road		
Margueritte Kosovich	12012 S.E. 35th Ave. Milw	503 501-7943	mkkosovich@hotmail.com
BARBARA ALAN	11974 SE 35 th Ave	971-401-4817	plantlassie@gmail.com
Jane Jones			
MARK BRACKEN	SE 35 th Milw	503.515.1339	mbracke102@gmail.com
MARA INDRA	3815 NE 8 th AVE	503-737-5259	mara@rentalrepairs.com
PAUL HAWKINS	4350 SE ELSEWHERE LN.	503-970-0880	phawk4350@gmail.com
Theresa Hawkins	4350 SE Elsewhere	503 816 0045	THAWK28@MSN.COM
KAREN SCHILLER	4365 SE Somewhere	503-454-5556	Landtschiller@gmail.com
RANDY NELSON	11929 SE 36 th Ave	503 539 7608	NR84@comcast.net
Karen Kersey	12089 SE 36 th Ave	503-702-2059	Krsy2@comcast.net
MATTHEW BAXTER	12005 SE 36 Ave	971-645-7777	skipdznish@gmail.com



**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Card

The City of Milwaukie encourages all residents to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

Name: MATTHEW ROSE

Address:

Organization:

Phone:

Email:

Meeting Date: 8/6/24

Topic: Universe

Agenda Item You Wish to Speak to:

You are Speaking...

#5 Community Comments

in Support

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

in Opposition

#7 Other Business, Topic: _____

from a Neutral Position

#8 Public Hearing, Topic: _____

to ask a Question

Comments:



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Name: MARA INDRA

Address: 3815 NE 8th AVE

Organization:

Phone: 503-737-5257

Email: mara@rentalrepairs.com

Meeting Date: 08/06/24

Topic: AP-2024-001

Agenda Item You Wish to Speak to:

#5 Community Comments

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

#7 Other Business, Topic: _____

#8 Public Hearing, Topic: _____

You are Speaking...

in Support

in Opposition

from a Neutral Position

to ask a Question

Comments:



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Name: Teresa Brosaw Address: 12744 SE Weedman Ct
Organization: Lake Rd NDA Phone:
Email:

Meeting Date: 8/6/24 Topic: _____

Agenda Item You Wish to Speak to:

#5 Community Comments

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

#7 Other Business, Topic: _____

#8 Public Hearing, Topic: AP-2024-001

Comments:

You are Speaking

in Support of Appeal

in Opposition

from a Neutral Position

to ask a Question



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Name: BARBARA AUAN

Address:

Organization:

Phone:

Email:

Meeting Date: 8/6/2024 **Topic:** _____

Agenda Item You Wish to Speak to:

You are Speaking...

#5 Community Comments

in Support

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

in Opposition *to decision of appeal*

#7 Other Business, Topic: _____

from a Neutral Position

#8 Public Hearing, Topic: _____

to ask a Question

Comments: