

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
FEBRUARY 16, 2010**

CALL TO ORDER

Mayor Ferguson called the 2072nd meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Greg Chaimov and Councilors Deborah Barnes, Joe Loomis, and Susan Stone

Staff present: Acting City Manager Pat DuVal, City Attorney Tim Ramis, Library Director Joe Sandfort, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle, Human Resources Director Cynthia Trosino, Civil Engineer Brad Albert, and Assistant Planner Li Alligood

PLEDGE OF ALLEGIANCE

Boy Scout Troop 259 sponsored by Milwaukie Lutheran Church presented the Colors.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

National Scouting Month - Proclamation

Mayor Ferguson read a proclamation naming February 2010 as *National Scouting Month* in the City of Milwaukie, in recognition of the Boy Scouts of America for 100 years of service for youth in the Community and throughout the nation.

Milwaukie High School Music Program Spaghetti Serenade

Members of the Milwaukie High School Band announced the annual fundraising event on Thursday April 18, 2010 from 5.30 p.m. to 7.30 p.m. at the high school in the Commons.

Josh Cleary Eagle Scout

Mayor Ferguson introduced Josh Cleary and congratulated him on his outstanding achievement in earning his Eagle Scout Award. Mr. Cleary explained that he designed and built a Spiritual Garden at the Griffin Retreat Center next door to LaSalle High School.

Library Fine Amnesty Week

Mr. Sandfort, Ledding Library Director explained the Ledding Library Fine Amnesty Week event was scheduled from April 11th through April 17th in recognition of National Library Week. During Amnesty Week, library patrons with fines would have 50 cents waived for each nonperishable food item they donated to the Library. Lost materials, however, could not be paid through the program. All the food would then be donated to the Oregon Food Bank for distribution to local families. In the past, the program did not have a major impact on the General Fund revenues. Approximately \$1,000 per week was usually collected in fines, which decreased to about \$600-\$700 during the Amnesty Week. Given the current economic times, the food for fines concept would offer individuals with overdue fines a bit of a break, and further assist the community by providing a significant amount of food to local families. Last year, approximately 1,000 pounds of food was donated to the Oregon Food Bank.

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 1 of 10

CONSENT AGENDA

It was moved by Mayor Ferguson and seconded by Councilor Stone to approve the consent agenda as presented.

- A. Resolution No. 17-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Amending Resolution No. 37-2009 by establishing a Library Fine Amnesty Week from April 11, 2010 through to April 17, 2010 in Recognition of National Library Week.**

Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

- A. Continue Milwaukie Municipal Code Amendments 19.321.7 and 19.321.3 – Ordinance**

It was moved by Councilor Chaimov and seconded by Councilor Stone to continue the hearing on the proposed amendments to the regular City Council meeting of March 16, 2010. Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0]

- B. File: ZC-09-01, TFR-09-04**

Applicant: Tim Riley, Clunas Funding Group, Inc.

Owner(s): Clunas Funding Group, Inc.

Address: Undeveloped Lot at Bowman Street and Brae Street

Legal Description (Map & Tax lot): 22E06BC03100

NDA: Lake Road

Mayor Ferguson called the public hearing on the zone change filed by Tim Riley, Clunas Funding Group, Inc. to order at 7:23 pm. The request was considered by the Planning Commission at its January 26, 2010 hearing, and the Planning Commission recommended approval of the zone change. This was a de novo hearing, and all persons wishing to speak were recognized.

The purpose of the hearing was to consider the Milwaukie Planning Commission's recommendation to approve the request for a zone change to undeveloped property located at Bowman Street and Brae Street. The applicable standards to be considered included Milwaukie Municipal Code (MMC) Chapter 19.900, Amendments, and Subsection 19.1011.4, Major Quasi-Judicial Review.

City Attorney Ramis reviewed the procedure of the hearing.

Mayor Ferguson reviewed the conduct of the hearing.

City Attorney Ramis asked if any members of the City Council had visited the site.

Councilor Chaimov had visited the site but did not observe anything different from what was provided in the staff materials.

City Attorney Ramis asked if any member of the City Council wished to announce any ex-parte contacts or any actual or potential conflicts of interest. There were none. No members of the audience made any challenges to any Council member's impartiality or

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 2 of 10

ability to participate in the decision. There were no objections to the City Council's jurisdiction to consider the matter.

Staff presentation: **Ms. Alligood** presented the staff report. She reviewed the proposal showing the subject property on the map, images of the site and surrounding area. The Planning Commission recommended approval of the application at its January 26, 2010 meeting by a 3:2 vote. She related the comments of the Commissioners that supported and opposed the application. The City's required dedication would reduce the site to 23,600 sf, which was less than 30,000 sf required for the three requested lots. Public right-of-way dedication and improvements were larger than normal, and rezoning would offset the cost of improvements. She reviewed the zoning map amendment criteria. Staff had identified two key issues for further analysis. One was whether R-7 was appropriate from a land use perspective. She described the public area improvements, which would be required whether one, two or three lots were built, and how the proposed lot sizes on the site would relate to surrounding properties. The second issue was whether R-7 was appropriate from a neighborhood perspective. The City's policies treat R-7 and R-10 zones similarly. The primary difference would be the distance between the buildings. Traffic impact differences would be negligible. She displayed a graphic representation submitted by the Applicant to show the difference in scale between house sizes allowed in R-10 and R-7 zones, as well as the size differences in spaces between buildable areas on R-10 and R-7 sites.

Correspondence: None. **Ms. Alligood** noted that the draft January 26, 2010 Planning Commission minutes had been distributed to City Council via email earlier today. A hard copy was also provided to Council at the hearing.

Applicant testimony: **Tim Riley**, Clunas Funding Group Inc., Lake Oswego, provided more detail about how R-10 and R-7 zoning rules would affect the subject property. He displayed images of the site showing the differences with the two versus three lots given R-10 and R-7 zoning rules, including building placement, lot coverage, and remaining lot areas after the public dedication of right-of-way was removed. One important factor was that the 30% lot coverage rule applied to both R-10 and R-7, so going to R-7 would not mean the lot could have more building area. The maximum amount of lot coverage was the same; although the size of the proposed three lots would provide some flexibility as to where the buildings could be erected. The difference was that R-7 allowed the maximum building envelope to be within 5 ft of the property line on one side and within 10 ft on the other side. In theory, if buildings were erected right next to each other, the buildings in R-10 could be as close as 20 ft apart, while two R-7 lots with the 5-ft sides adjacent to each other would have buildings as close as 10 ft. Visual impact had arisen as an issue in during the Planning Commission hearing. Clunas Funding Group showed sample building designs from various angles, illustrating the difference between having two versus three homes. Both options would fit well in the neighborhood, but he noted specifically that R-7 zoning would not lead to a visual impact that was out of character with surrounding neighborhood. The biggest visual impact would be to go from no development to any development. He did not believe a zoning change had an appreciable impact.

Testimony in support of the application: None.

Testimony in opposition to the application:

Debbie Zeck, 13076 SE Pennywood Ct, Milwaukie said she had attended all four meetings on the application. She purchased a 2,400 sf home on Pennywood Court approximately 7½ years ago and was told that the lot was owned by Water Bureau and would not be built upon. Shortly thereafter, she understood there were negotiations to turn the lot into a park. Later, she learned two houses would be built on the lot and now the Applicant wanted to build three houses. Her objection was the same as the two

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 3 of 10

dissenters on the Planning Commission. The Applicant purchased the property in 2008 in the middle of one of the worst real estate crisis experienced in recent history. She asked why was due diligence not practiced? She had read that the Applicant was proposing three houses because his profit margin would narrow if he built two houses instead. She was bothered by the prospect that citizens could come before the City requesting a zone change based on monetary reasons. As a Pennywood resident, having two or three houses on the lot did make a difference because three houses would command less in value than two. She requested the application be denied because due diligence had not been followed. The proposed properties would negatively impact existing adjacent properties and property values would decline. Her property's value had already sustained a negative hit. As the Planning Commission stated, the real estate market would inevitably improve, and she did not believe they should be short sighted and allow the application to go through.

Mike Miller, 4206 SE Somewhere Dr, Milwaukie said he lived about four blocks west of the subject site. He reiterated that this was the fourth hearing held in relation to the property. He read a statement into the record. The first vote in which everyone was allowed to testify in person ended in a 2:2 tie. Commissioners Batey and Bresaw voted yes and Chair Klein and Commissioner Churchill voted no. At the second hearing, the Applicant submitted new information, which resulted in a third hearing. Citizens were only allowed to submit in writing new information in regard to the new information submitted by the Applicant. At the third hearing, Commissioner Wilson, who had not attended the first hearing, cast the deciding vote. The Applicant purchased the property knowing the R-10 zone applied. The property could be developed as two lots, without any change. He believed zone changes should be approved as a last resort, and not as a first option. The property could be developed under its present zone that was consistent with the neighborhood. It appeared the zone change was only being requested in order to maximize profit. Zone changes should not be approved for that sole purpose. No matter what the Council decided, two conditions of approval were needed: one to preserve the only tree on the property, and one for a walking path connecting the Bowman/Brae neighborhood to the Where Else neighborhood that had been used for many years. He requested that the City Council reject the application and leave the property in the R-10 zone.

Pam Michael, 13181 SE Pennywood Ct, Milwaukie, noted her property was located northwest of the red line depicted on the map. She agreed with both previous testimonies and wanted to reiterate the key points. The Planning Commission's decision was not unanimous and one Commissioner had to abstain because of his close proximity to the property. She believed he might have voted against. When Ms. Alligood presented the information at the other meetings, she made a profound point that the decision to approve or deny the application should not be based on financial loss or gain. The Clunas Funding Group's original presentation explained they wanted to change the zoning in order to make a financial gain or come out even because they received the property through foreclosure. She was unaware how that objective affected the Commissioners, but the financial stability of the company or business negotiations made prior to the current economy was not an acceptable reason to approve the request. Milwaukie residents should not have to endure three houses built closer together of less substance. Approval of the amendment would bring far more noise and disruption to the neighborhood that had been quiet for so many years. Changing from an R-10 to R-7 would also set a precedent for other builders or developers wanting to change any existing R-10 already established in that neighborhood. Once the City said yes to this development, how could it say no to others when the surrounding area had already been plotted as R-10? She emphasized the amendment should be denied because it was not suitable for the character of the neighborhood or its residents. She explained that her home was approximately 2,200 sq ft.

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 4 of 10

Linda McGavin, 13149 SE Pennywood Ct, Milwaukie, stated she had lived on her property adjacent to Ms. Michael for approximately 17 years and, like Ms. Michael, was one of the original property owners in the Pennywood neighborhood. Referring to the map, she noted the two lots on the end might be zoned R-7, but were substantially bigger. Dividing the site into two lots was a better option than three. Changing the zone would not benefit the character of the neighborhood, and would definitely have an adverse effect on the surrounding two homes and the larger homes to the south. The existing homes were very nice, large homes.

Neutral testimony: None.

Staff recommendation: **Ms. Alligood** recommended approval of the application and adoption of the findings of approval as presented.

Questions from City Council to staff:

Councilor Barnes wanted to ascertain the size of the homes adjacent to the property. She understood from the Ms. Michael and Ms. McGavin that the majority seemed to about 2,200 sq ft.

Ms. Alligood responded she did not know the size of the homes but noted Pennywood Ct was zoned R-7 and had a wide variety of lots ranging from approximately 7,000 sq ft to more than 10,000 sq ft. The area to the south was zoned R-10, also with a variety of lot sizes. She offered to further investigate the homes' sizes to assist Council in making its decision.

Councilor Barnes believed the information would be helpful because neighborhood character was an objective under the Comprehensive Plan, and for her, it came down to a house fitting into the character. She heard concerns that the proposed project would not fit into the neighborhood, but the three houses proposed by the developer were in the 2,400 to 2,200 sf range of nearby homes. She also heard that 3,000 sf homes existed, but she had not seen them. She asked if those homes were south of the site.

Ms. Alligood responded that R-10 zoned lots existed south of the site, but she could not confirm the size of those homes presently.

Applicant Rebuttal

Mr. Riley presented internet data from FastWeb, maintained by First American Title Company, about the existing homes' square footages, which was collected from county records. He noted the database showed the 2,400 to 2,200 sf homes, as 2,026 sf and 1,807 sf, respectively, adding that the size discrepancy might be because the garage size was not included in the square footage. Lot size information was not available. Homes in the Bowman Terrace Neighborhood to the east were smaller, ranging from approximately 1,600 sf to 900 sf. Two houses across the street from the site were listed as 1,300 sf and 1,326 sf. Two homes to the south of the site on Brae St were listed at 1,605 sf and 2,093 sf. Larger homes of approximately 3,300 sf and 3,100 sf were located on Where Else Lane on roughly one-acre parcels. Two other flag lot properties running along Kellogg Creek, but not shown on the map, had homes of 3,051 sf, and 3,500 sf. These larger homes were located on one-acre properties to the west. One flag lot was about 30,000 sf, so naturally it would have a much bigger house. In examining the three lot scenario, the Applicant chose the 1,800, 2,200 and 2,600 sf home sizes to provide a range similar to what was immediately around the site.

He confirmed the property was acquired in a foreclosure in 2008. The Applicant considered selling the land as it was, but there was absolutely no interest. Not many builders or developers remained, and no one was willing to take the risk on a bare piece of land. Clunas Funding Group decided to improve the land themselves, the first step being to divide the land into parcels for development. The Applicant discussed the

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 5 of 10

available options with staff and came up against the same issues regarding the public improvements as another developer who had wanted to divide the land into two lots in 2006. Not only was the cost of the public improvements a deterrent to development, but the required dedication made a three lot scenario impossible. After determining the street improvement, sidewalk and pedestrian connection to Where Else Ln, the remaining square footage only allowed for two lots. After discussions with staff, they realized it was reasonable to request a zone change from R-10 to R-7. It was pretty clear that a transition from R-10 to R-7 already existed between Lake Rd and Kellogg Creek. Concern was expressed about setting a precedent, but he believed that precedent had already been set, noting that three of the four residents opposed to the amendment actually resided in the Pennywood subdivision, which was already an R-7 subdivision. Their houses were built on lots approximately the same size as the three proposed properties. He noted the remaining undeveloped R-10 land on the map, adding that if the two owners wanted to sell or develop their property would also request a R-7 designation, mainly because the huge parcels located to the west had already been converted into R-7.

Councilor Loomis asked if the dedication of the right-of-way had shrunk the site down to where there could not be three houses.

Ms. Alligood responded the site was currently just over 30,000 sf, which would be three lots, but the dedication would take up about 21% of the area of the site. She confirmed that if the site were changed to R-7, the lots would be larger than standard, but there would not be enough square footage to put more than three houses on the site.

Councilor Stone noted that preserving the walking path was part of the neighborhood's concern and asked Ms. Alligood to indicate the actual location of the walking path on the map and how it would be changed. She also inquired about the request to save a lone tree on the lot.

Ms. Alligood pointed out the location of the current, informal pathway. Upon development, one of the public area requirements would be to formalize that path through a dedication of property and the construction of a bicycle and pedestrian path between those two streets. If the site were developed, the tree would be within the Bowman St right-of-way and part of the dedication. The Engineering Department expressed a willingness to save the tree if possible, and would be determine once a site plan was submitted.

Councilor Stone confirmed that the cost for the public area improvements would be the same whether the site was developed with one, two or three parcels, and asked what the actual cost would be.

Mr. Albert explained a good rule of thumb was \$200 per lineal foot for half-street improvements, which was a general average of all the standard improvements seen throughout the city. It was 25-ft wide by 200-ft long, and at \$200 per lineal foot, the cost would be roughly \$40,000.

Mr. Riley responded the Applicant had estimated the cost to be a little higher. He explained that those costs were absorbed into the sale price.

Councilor Stone noted the Pennywood lots north of the site on the aerial diagram appeared to be larger, so it seemed more appropriate to divide the subject property into two larger lots in order to fit what currently surrounded the site. The overall character of a neighborhood was not just about the structure, but also how much of the lot was covered.

Ms. Alligood said she was unsure of the lot sizes but could get the information online and provide it to the Councilors after a short recess.

Mayor Ferguson called for a brief recess and resumed the meeting at 8:21 p.m.

Ms. Alligood reported the home sizes and square footages of the lots directly north of the property, stating Ms. Michael's lot at 13181 Pennywood Ct was 8,757 sf with a 2,446 sf house, and 13182 Pennywood Ct had a 9,991 sf lot with a 2,197 sf house. As far as home sizes, she clarified that her figures regarded building footprint, which included any garage or structure attached to the house.

Councilor Stone asked how the lot sizes would compare if the parcel was divided into two versus three lots.

Ms. Alligood replied that dividing the parcel into two lots would result in 12,000 sf lots roughly, which was much larger than required. In the R-7 zone, the lots would range from 7,500 to 8,600 sf, and also considerably larger than required. If divided into three lots, the largest would be similar to the lot to the west, and the others would be smaller.

Councilor Stone inquired about the value of the homes in that neighborhood, because as outlined in the staff report, a citizen had concerns about their homes being devalued if smaller less expensive homes were built.

Ms. Alligood replied she was unfamiliar with the current market value of the surrounding homes, but an important point made by the Planning Commissioners and extensively discussed during their deliberations, was the zone of the property did not dictate the quality of the homes. She reiterated that because of the wide variety of property sizes and housing types in the area, it would be hard to get a definitive answer.

Councilor Stone asked what the Applicant expected the price to be of the proposed two homes versus three homes.

Mr. Riley replied he could better address square footage than pricing because right now pricing was low compared to the last six years. Clunas Funding Group determined the most appropriate home sizes for the site fit those on surrounding properties, namely, 1,800 sf on the low end for the far left, to approximately 2,600 sf on the right [east lot]. The farthest left lot had unobstructed western and southern exposure and was ideal for a smaller, more energy efficient, sustainable home. The 1,800 sf to 2,600 sf home sizes increased moving east, and best fit the lots. He could not guess the selling prices.

Councilor Stone guessed that a developer would have identified a profit benchmark and a projected sum to achieve.

Mr. Riley replied ideally, the public improvement costs would be divided among the two lots and expensive enough homes would be built so that the home building profit could make up for the improvements. However, homes of approximately 3,500 sf priced in the \$500,000-\$600,000 range would be needed. Such houses were not being built anymore. House sizes were being reduced to be more sustainable and energy efficient with less maintenance from a homeowner's point of view. The 1,800-2,500 sf size was the sweet spot for the existing site and enabled the developer to recoup the outlay for the public street improvements.

Councilor Stone emphasized that neighboring property owners were deeply worried about the proposal devaluing their properties. She wanted to ascertain whether the concerns were unfounded.

Mr. Riley suggested an objective solution would be to look at the real market value determined by the County. The Bowman Terrace homes, built in the early 1970s, had much smaller square footages and public records indicated they had an average market value of \$200,000-\$210,000. The homes closest to the site in Pennywood Court had a

real market value on average of \$320,000. For the two lots closest to the site to the south, 4214 Bowman St had a real market value of \$332,000 and 4248 Bowman St was valued at \$309,000. Homes built with similar square footages would have real market values in the low \$300,000 value range.

Closure of the public hearing: It was moved by Councilor Chaimov and seconded by Mayor Ferguson to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson closed the public testimony portion of the hearing at 8:37 p.m.

City Council discussion and decision:

Councilor Barnes understood individuals who had come forward in the past that were concerned about big houses being built in their neighborhoods. For example, the big house on Lake Road was gorgeous, but was an eyesore in the neighborhood; it did not fit. She was concerned about having houses that fit into neighborhoods. While Council could not dictate what homes the Applicant could build, he heard the neighbors' message. The easiest and best way to sell a house was word of mouth from neighbors. She understood the neighbors' concerns, but under the Neighborhood Element Objective, the property had to maintain the residential character of the designated neighborhood areas, and the questions from Councilor Stone and herself really did illustrate that the majority of the residents' homes would fit in with the same lot size and square footage as that proposed by the Applicant.

Councilor Chaimov agreed with Councilor Barnes.

Councilor Stone believed subdividing the site into three lots would be more fitting to the existing neighborhood, considering all the surrounding homes. After hearing further testimony and finding out that the lot sizes were similar or maybe larger than some of the surrounding homes, she believed changing to R-7 would not alter the character of the surrounding homes. She hoped the style of homes proposed would fit well into the surrounding neighborhood while preserving access to the walking path, which was a community use. She would have liked to see the land developed into a park and believed the neighbors would have preferred that as well. She believed if the development was carried out thoughtfully and taking into account opinions from the neighbors and maintaining a good relationship with the community during the development of the property, she would be in favor of seeing the zone changed to R-7.

Councilor Loomis agreed with the Councilors' comments. He noted the neighborhood association was neutral. He would have considered differently if the association requested that the land be developed into a park because more pocket parks were needed in that area. He did not believe it was fair for the City to require a developer to provide public area improvements that hindered their ability to build three rather than two homes. He supported the Applicant's proposal.

It was moved by Councilor Chaimov and seconded by Councilor Barnes for the first and second readings by title only and adoption of the ordinance amending the City of Milwaukie Zoning Map from "Residential Zone R-10" to "Residential Zone R-7" for Tax Lot 3100 on Clackamas County Assessor's Map 2S 2E A06BC (File #ZC-09-01, TPR-09-04). Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting 'aye.' [5:0]

City Attorney Ramis read the ordinance two times by title only.

Ms. DuVal polled the City Council: **Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting 'aye.' [5:0]**

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 8 of 10

ORDINANCE NO. 2012:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE ZONING MAP FROM "RESIDENTIAL R-10" TO "RESIDENTIAL R-7" FOR TAX LOT 3100 ON CLACKAMAS COUNTY ASSESSOR'S MAP 2S 2E A06BC (FILE #ZC-09-01, TPR-09-04)

City Attorney Ramis read the Land Use Board of Appeal rules into the record.

OTHER BUSINESS**A. Approve a Personal Services Agreement with A. Andrew Parks, CPA, GEL Oregon, for Interim Finance Director—Resolution**

Ms. Trosino, Human Resources Director, presented the staff report in which City Council was asked to approve a resolution authorizing the Interim City Manager to sign the personal services agreement for a six-month period not to exceed \$11,000 per month.

It was moved by Mayor Ferguson and seconded by Councilor Loomis to adopt the resolution authorizing the Interim City Manager to sign a personal services agreement with A. Andrew Parks, CPA, GEL Oregon, for Interim Finance Director services.

Councilor Barnes confirmed that the scope of Mr. Parks' work under the 2010 budget also included presentations and evening meetings, including the City Council meetings required for the entire budget process and asked why that was not specified in the scope of work contract.

Ms. Trosino advised those points were not specifically included in the contract because staff had focused on indicating that the role encompassed everything related to finalizing that budget process, including any evening meetings.

Motion passed with the following vote: Councilors Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye" and Councilor Barnes voting "no." [4:1].

RESOLUTION NO. 18-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A PERSONAL SERVICES AGREEMENT WITH A. ANDREW PARKS, CPA, GEL OREGON, FOR INTERIM FINANCE DIRECTOR SERVICES.

Andrew Parks asked the Councilors to review and identify dates on the proposed budget calendar that did not work with their schedules and pass that information on to Ms. DuVal. In facilitating and developing the City's \$40 to \$50 million budget, he believed it would be very helpful to himself, the management team and perhaps Council, to get a better understanding of Council's goals and what might need to be traded off to accomplish higher priority items. It was no secret that the City had real financial challenges given the recession and the citizens' expectations. The City had to figure out how to address the General Fund deficit and balance the budget in a way to achieve the City's goals, while minimizing any negative impacts to ongoing development within the community. He concluded that he looked forward to working with the Council.

Councilor Chaimov welcomed Mr. Parks on board.

Councilor Barnes explained she was impressed by his qualifications, but was concerned how the \$11,000 per month would impact the community.

CITY COUNCIL REGULAR SESSION – FEBRUARY 16, 2010

MINUTES

Page 9 of 10

Councilor Stone responded that while it was a big chunk of change, it appeared to be in the ballpark with everyone else.

B. Council Reports

Councilor Barnes announced she had been appointed by the governor to a Career and Technical Education Task Force that was looking into workforce development for the future. She would be attending meetings for the remaining school year and into December when the legislative report would have to be ready for the legislature.

Mayor Ferguson described the Code Red Emergency Notification System and encouraged all Milwaukie citizens to register at the City's website at www.cityofmilwaukie.org by clicking on the Code Red icon at the bottom right hand corner of the site. The reverse 911 calling system was designed to dial 50,000 phone numbers per hour or approximately 1,000 numbers per minute. With only about 20,000 residents, all Milwaukie residents could be notified of an emergency situation in a matter of minutes.

He reminded the public that the Portland/Milwaukie Light Rail Open House was scheduled for February 20, 2010 at the Milwaukie High School from 4:30 pm to 7:30 pm. The regular monthly Light Rail meeting would be held February 22, 2010 at Bridge City Church.

Mayor Ferguson called for a motion to adjourn the regular session and return to Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding to current litigation or litigation likely to be filed. He confirmed that City Council would not return to regular session.

ADJOURNMENT

It was moved by Councilor Stone and seconded by Councilor Loomis to adjourn the regular City Council meeting. Motion passed unanimously with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Stone and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 8:52 p.m.



Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL FEBRUARY 16, 2010

MILWAUKIE CITY HALL

10722 SE Main Street

2072ND MEETING

REGULAR SESSION – 7:00 p.m.

1. **CALL TO ORDER**
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
3. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)* 1
 - A. **Establish Fine Amnesty Week at Ledding Library in Recognition of National Library Week April 11 – 17, 2010 – Resolution** 2
4. **AUDIENCE PARTICIPATION** *(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)*
5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)* 4
 - A. **Continue Milwaukie Municipal Code Amendments 19.321.7 and 19.321.3 – Ordinance**
Staff: City Attorney Monahan
 - B. **File: ZC-09-01, TFR-09-04** 5
Applicant: Tim Riley, Clunas Funding Group, Inc.
Owner(s): Clunas Funding Group, Inc.
Address: Undeveloped Lot at Bowman Street and Brae Street
Legal Description (Map & Tax lot): 22E06BC03100
NDA: Lake Road
Staff: Li Alligood, Assistant Planner

6. OTHER BUSINESS *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)* **151**

- A. Approve a Personal Services Agreement with A. Andrew Parks, CPA, GEL Oregon, for Interim Finance Director – Resolution** **152**
Staff: Cynthia Trosino, Human Resources Director; Pat DuVal, Interim City Manager
- B. Council Reports**

7. INFORMATION

8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session pursuant to ORS 192.660.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email ocr@ci.milwaukie.or.us at least 48 hours prior to the meeting.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3.

CONSENT AGENDA



TO: MAYOR AND CITY COUNCIL
FROM: JOE SANDFORT, LIBRARY DIRECTOR
DATE: JANUARY 26, 2010
RE: RESOLUTION AMENDING RESOLUTION NO. 54-2008
ESTABLISHING A FEE SCHEDULE FOR THE CITY OF
MILWAUKIE BY APPROVING A LIBRARY FINE AMNESTY FOR
THE WEEK OF APRIL 11 THROUGH APRIL 17, 2010 IN
RECOGNITION OF NATIONAL LIBRARY WEEK

ACTION REQUESTED

Adopt the resolution establishing Fine Amnesty Week at the Ledding Library in recognition of National Library Week, April 11 – 17, 2010.

BACKGROUND

The City Council annually adopts a resolution establishing a fee schedule for various City services. Included in the resolution are various fees and charges for the Library, including fines for overdue material. Resolution No. 54-2008, adopted on June 17, 2008 and effective on July 1, 2008 set the overdue fine for all material at \$0.25 per day with a maximum of \$3.00.

In recognition of National Library Week the Library proposes to waive \$0.50 of a patron's fine for each can or package of food that they donate. The food collected would then be distributed to the Oregon Food Bank for local distribution.

FINANCIAL IMPACT

There is no way to accurately predict the financial impact of the proposed fine amnesty. For the year ended June 30, 2009 the total fines collected amounted to \$58,756, or approximately \$1,130 per week. The amount budgeted was \$57,000.

RECOMMENDATION

Joe Sandfort, Library Director, recommends this action. It is a visible way in which to both recognize the City's Ledding Library and the contributions of the Library and its patrons to the community.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION NO. 37-2009 BY ESTABLISHING A LIBRARY FINE AMNESTY WEEK FROM APRIL 11, 2010 THROUGH APRIL 17, 2010 IN RECOGNITION OF NATIONAL LIBRARY WEEK

WHEREAS, the City Council adopted Resolution No. 37-2009 on June 16, 2009 to be effective on July 1, 2009; and

WHEREAS, Resolution No. 37-2009 established a schedule of fees and charges for all City services, including overdue library fines in the amount of \$0.25 per day for all materials with a maximum of \$3.00; and

WHEREAS, April 11, 2010 through April 17, 2010 is National Library Week, and in recognition thereof the Library Director has proposed a waiver of a patron's accumulated library fines in the amount of \$0.50 for each can or package of food donated; and

WHEREAS, the food collected will be distributed to the Oregon Food Bank for distribution to those in need; and

WHEREAS, the fine waiver is for a limited period of time and is a visible way in which to demonstrate and recognize the Ledding Library's contributions to the community during National Library Week.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, that:

Section 1. That Resolution No. 37-2009 be amended to permit a waiver of a patron's accumulated overdue library fines in the amount of \$0.50 for each can or package of consumable food donated by the patron during the week of April 11, 2010 through April 17, 2010 in recognition of National Library Week.

Section 2. This Resolution is effective immediately.

Introduced and adopted by the City Council on February 216, 2010.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

Resolution No. _____

5.
PUBLIC HEARING



To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenny Asher, Community Development and Public Works Director
Katie Mangle, Planning Director

From: Li Alligood, Assistant Planner

Subject: File: ZC-09-01, TFR-09-04
Applicant: Tim Riley, Clunas Funding Group, Inc.
Owner(s): Clunas Funding Group, Inc.
Address: Undeveloped lot at Bowman St and Brae St
Legal Description (Map & Taxlot): 22E06BC03100
NDA: Lake Road

Date: February 9, 2010, for February 16, 2010, Public Hearing

Action Requested

Approve application ZC-09-01, TFR-09-04, and adopt the draft Findings in Support of Approval (Attachment 1 Exhibit A). City Council approval of these applications would result in a Zoning Map amendment to change the designated zone of Tax Lot 22E06BC03100 from Residential Zone R-10 to Residential Zone R-7.

History of Prior Actions and Discussions

None.

Definitions

Some of the terms used in the staff report and findings of approval are specific to the Zoning Ordinance. The following terms will be used frequently throughout the staff report:

Residential Zone R-10: Generally, lots in the R-10 Zone must have a minimum lot size of 10,000 square feet. Structures on the lot (i.e. houses, garages, outbuildings, etc.) cannot cover more than 30 percent of the lot area and must be set back at least 20 feet from the front and rear property lines, and at least 10 feet from the side property lines. A lot in the R-10 zone must be at least 70 feet wide and 100 feet deep.

Residential zone R-7: Generally, lots in the R-7 Zone must have a minimum lot size of 7,000 square feet. Structures on the lot (i.e. houses, garages, outbuildings, etc.) cannot cover more than 30 percent of the lot area and must be set back at least 20 feet from the front and rear property lines, and at least 10 feet from one side property line and 5 feet from the other. A lot in the R-7 Zone must be at least 60 feet wide and 80 feet deep.

Frontage improvements: Transportation improvements occurring along the portion of a property that abuts a public or private street. In this case, the frontage of the subject property is along Bowman St.

Background

The applicant proposes to change the zoning designation of the subject property from Residential zone R-10 to Residential zone R-7. This would allow for future partitioning of the property into 3 parcels rather than the 2 parcels allowed by current zoning.

Proposal

The applicant is seeking land use approval for a Zoning Map amendment to change the zoning of the subject site from Residential zone R-10 to Residential zone R-7. See Attachment 3 for the applicant's application materials. This would enable the applicant to divide the site into 3 parcels and develop them with single family detached dwellings. Although the application materials include information about potential future land division and site development, this application is for the zone change only.

The site, as currently configured, is 0.69 acres or just over 30,000 square feet in area. Upon development, the City would require dedication of 25 ft along the site's frontage, totaling 6,339 sq ft. This represents 21 % of the site's current area and reduces the site's area below 30,000 sq ft, which is the minimum area necessary to create 3 lots in the R-10 Zone. Rezoning the site from R-10 to R-7 would partially offset the costs, which are higher than average, of the required right-of-way dedication and frontage improvements when the site develops in the future. Staff recognizes that the area required to be dedicated to public right-of-way is significantly larger than is typical for the development of 2 lots and has impeded the development of this site under its present zoning, and supports the applicant's request.

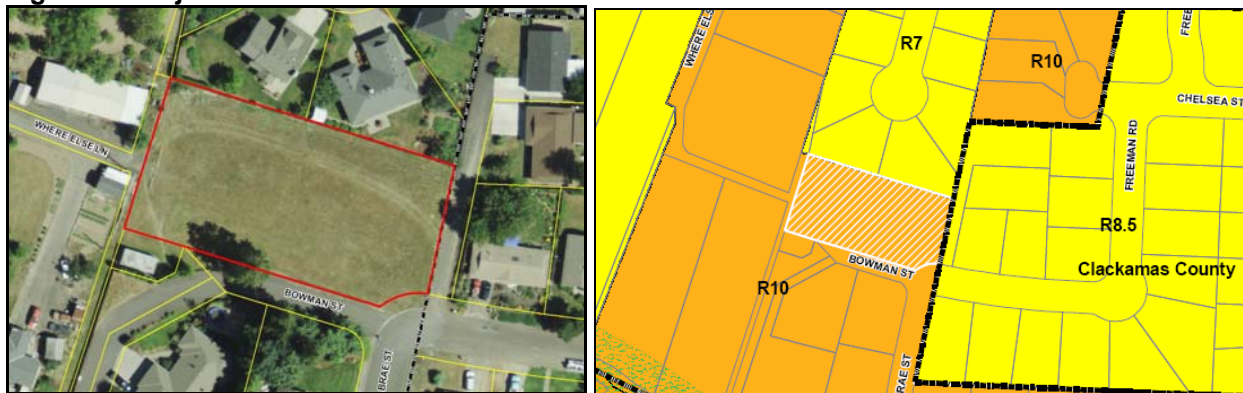
Site and Vicinity

The site is located at the intersection of Bowman St and Brae St in the Lake Road neighborhood, adjacent to the southeastern city boundary. See Attachment 2 for a

series of maps that graphically show the Site's location and existing zoning and land use designations. The 0.69-acre site is vacant and contains no slope, trees, public facilities, natural hazards, natural areas, or historic sites. Access to the site is provided by an existing half street extension of Bowman St and an unimproved extension of Where Else Lane (see Figure 1 and Attachment 2B). The site currently functions as an informal pedestrian connection between Where Else Lane and Bowman and Brae Streets.

The areas to the north, east, and south of the site are fully developed at R-7 Zone and R-10 Zone densities. The predominant land use in the area is single family detached residential, i.e. single family homes. There are no formal open spaces or significant features, with the exception of a few large, undeveloped lots west of Where Else Lane. These lots are zoned R-7 but are currently developed to a much lower density than the zoning allows.

Figure 1. Subject Site



Source: Metro RLIS 2009

A non-operational Oak Lodge Water District pump station is located directly to the southwest of the site. The subject property is bordered by the Pennywood Subdivision, zoned R-7, to the north; a narrow band of the City's R-10 Zone to the west; 3 flag lots, zoned R-10, to the southwest; the Kellogg Crest Subdivision, zoned R-10, to the south; and the Bowman Terrace Subdivision, zoned R-8.5, in Clackamas County to the east (see Attachment 2 for site maps).

Policy Background

Milwaukie's Comprehensive Plan designates both R-10 and R-7 zones as Low Density (LD) Residential uses. The City of Milwaukie is composed primarily of these low-density residential neighborhoods. The differences between these zones are explained under Key Issue A below.

The City's adopted zoning and land division policies support the incremental development of a connected street and pedestrian system for the benefit of community residents. One means of developing this system is requiring public right-of-way

dedication and construction of public improvements at the time of land division or development. This dedication can be for the purpose of widening or creating public streets, creating connectivity between existing streets, installing sidewalks or bicycle lanes, or otherwise bringing the transportation system up to the standards identified in the Transportation System Plan (TSP).

The City will require substantial public right-of-way dedication and improvements upon development of the site. Because the site is currently vacant and undeveloped, the property owner or developer will be responsible for the full cost of improvements. To offset the significant cost of these improvements, the applicant is requesting the application of the R-7 Zone to the site. Staff has concluded that this is a reasonable request. The application of the R-7 Zone to this site would result in low density residential development, with lots that are larger than required by the R-7 zone; would provide a transition between the abutting R-10, R-8.5, and R-7 zones; and would make development financially feasible for the applicant or future owners.

Analysis of Key Issues

Key Issue A: Is the R-7 Zone appropriate in this location from a land use perspective?

Staff has concluded that the R-7 Zone is appropriate for this location, meets the Comprehensive Plan and Zoning Ordinance criteria, and is legal and defensible. As shown in Attachment 2A, the subject site is contiguous to the R-7 Zone, or its equivalent, to the north and east.

From a policy perspective, there is little difference between the existing zone and the proposed zone. The Comprehensive Plan designates both the R-10 and the R-7 Zones as Low Density Residential (LD) uses, with an average development density of 4.0 to 6.2 units per net acre. Both zones allow single-family homes outright and duplexes as conditional uses.

The Zoning Ordinance differentiates between the R-10 and R-7 Zones in a number of ways. The R-10 Zone requires newly created lots to be 10,000 square feet or greater in size, with minimum dimensions of 70 ft wide and 100 ft deep. The R-7 Zone requires newly created lots to be 7,000 square feet or greater, with minimum dimensions of 60 ft wide by 80 ft deep. In practical terms, homes in the R-7 Zone are generally smaller than those in the R-10 Zone and closer to each other due to the differences in lot coverage and setback standards on smaller lots. Furthermore, as shown in Table 1, the R-10 Zone allows for fewer units per net acre. The proposed development of 3 lots on the site would have a density of 5.5 dwelling units per acre.

Table 1. Residential Zone R-7 and R-10 Development Standards

| Development Standard | R-7 Zone | R-10 Zone |
|-------------------------|--|-----------------------------------|
| Outright Permitted Uses | Single family detached dwelling, residential home, agricultural or horticultural use | |
| Conditional Uses | Single family attached dwelling (duplex), senior and retirement housing, Type 2 Accessory Dwelling Units | |
| Comp Plan Designation | Low Density Residential | |
| Minimum Lot Size | 7,000 sq ft <i>Proposed: 7,500 to 8,600 sq ft</i> | 10,000 sq ft |
| Minimum Lot Dimensions | 60 ft x 80 ft <i>Proposed: 75 x 100 to 80 x 100 ft</i> | 70 ft x 100 ft |
| Minimum Setbacks | 20 ft (front, rear), 5/10 ft (side) | 20 ft (front, rear), 10 ft (side) |
| Height Restriction | 2½ stories or 35 ft | |
| Lot Coverage | 30% max. | |
| Minimum Vegetation | 35% min. | |
| Frontage | 35 feet | |
| Density | 5.0-6.2 units/net acre <i>Proposed: 5.5 units/net acre</i> | 3.5-4.4 units/net acre |

The following is a summary of what would *change* if the site were rezoned as proposed:

- The owner could create 3 new lots instead of 2, due to the differences in density and lot size requirements between the zones. This would allow for the future development of 3 single family homes instead of 2.
- Approximately 10 additional vehicular trips per day would be added to the local street network if the site was developed with 3 rather than 2 single family homes.

The following is a summary of what would remain *unchanged* if the site were rezoned as proposed:

- Low Density (LD) Comprehensive Plan designation.
- Allowable housing types, i.e. detached single-family residential.
- Most development standards, i.e. height, lot coverage, frontage requirement, front and rear yard setbacks.
- Right-of-way dedication and improvement requirements.
- Orientation of future development to the street and neighborhood.
- Location of right-of-way in relation to future development.
- Application of design standards to future development.

Due to the small size of the site, staff believes that the net effect of these differences is negligible, especially when reviewed against the list of all that would remain unchanged.

Key Issue B: Is the R-7 Zone appropriate in this location from a neighborhood perspective?

Staff believes the slight difference in density would not be visible to the casual observer. This is in part because small density differences are not as noticeable on small sites and also because the existing homes adjacent to this site are oriented away from where the additional lot/home would be located. Approval of the proposed zone change would allow for partitioning of the site into 3 parcels varying from 7,500 square feet to 8,643 square feet, and the future construction of 3 single-family homes. The proposed lot sizes are larger than the R-7 zone minimum lot size of 7,000 square feet. The subsequent development would be low density single-family residential and would be visually very similar to the existing building patterns in the vicinity. The proposed density of 5.5 units per net acre would be comparable to that of the adjacent area, which is fully developed to densities from 4.51 to 5.11 units per net acre.

Though the Lake Road NDA is not opposed to the application, some residents of surrounding properties have submitted comments voicing concerns including: the impact of an additional home on the subject site on the properties to the south; the quality and price of future homes built on the site; and the appropriateness homes to be built in the R-7 Zone within the context of the surrounding neighborhood.

Many of the City's residential standards, such as lot coverage and setbacks, are related to lot size. Generally, the larger a lot is, the larger the structure that can be built on it. For instance, the maximum footprint of homes that could be built on the subject site in the R-10 Zone is between 3,273 and 3,850 square feet; the maximum footprint of homes that could be built on the site in the R-7 Zone is between 2,250 square feet and 2,593 square feet.

Conclusions

The applicant's request for a zone change is a reasonable request that meets the City's criteria for a zone change. Approval of the zone change would allow additional development on the subject property, but staff's analysis is that such development would blend in with the surrounding lots in the neighborhood, which features low density residential lots developed at a wide range of lot sizes.

Staff recommendation to the City Council is as follows:

1. Approve the land use application for the Zoning Map amendment and application of the R-7 zone to the subject site. This will result in potential future partition of the site into up to 3 parcels and development of up to 3 single-family homes on the site.

2. Adopt the attached Findings of Approval.

Concurrence

The Planning Commission recommended City Council approval of the application at the January 26, 2010, public hearing; the motion was passed with a vote of 3-2. The 2 commissioners opposing the application voiced concerns about the effect of an additional home on neighborhood context, and the negative impact an additional home on the site might have on surrounding properties. The 3 commissioners supporting the application pointed to the wide range of lot sizes in the surrounding area, stated that any homes built on the site will be required to meet City standards but that their quality cannot be dictated by the zone, and pointed out that the proposed lot sizes were larger than the minimum allowed in the R-7 zone. See Attachment 7 for minutes from the Planning Commission hearings on this application.

The application was forwarded to the following City departments for review and comment: Community Development, Engineering, Fire, and Building. No objections to or concerns about the proposed zoning map changes have been received from any City departments. It was also forwarded to the Lake Road Neighborhood District Association (NDA). The Lake Road NDA Land Use Chair submitted a comment requesting consideration of the old growth evergreen within the proposed Bowman St right-of-way. Several neighboring property owners submitted comments on the application, both at the public hearings and in separate written comment. See Attachment 6 for all written comments received as of February 3, 2010. Oral testimony on the application is documented in Attachment 7, Planning Commission minutes.

Fiscal Impact

There is potential for a small increase in tax revenue due to construction of an additional home on the site. System Development Charge (SDC) revenues of approximately \$8,600 would be collected upon construction of each new home.

Work Load Impacts

There are no work load implications to this decision. Staff will review development permits as part of their regular work load.

Alternatives

The application is subject to the following provisions of the MMC Title 19 Zoning Ordinance:

- MMC Chapter 19.900 Amendments
- MMC Subsection 19.1011.4 Major Quasi Judicial Review

The application is subject to major quasi-judicial review, which requires the City Council to conduct a public hearing and either deny or approve the application based on compliance with all applicable code provisions and regulations listed above.

The City Council has the following three decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Approve the application and adopt a modified ordinance and findings in support of approval. (Any modifications need to be read into the record.)
3. Deny the application and adopt findings in support of denial.

The final decision on these applications, which includes any appeals to the City Council, was originally due by January 20, 2010, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant has granted an extension of the decision period to April 1, 2010.

Attachments

1. Draft Ordinance
Exhibit A: Recommended Findings in Support of Approval
2. Site Information Provided by Staff
 - A. Existing Zoning Designations Map
 - B. Existing Land Use Designations Map
 - C. Aerial Photo of Surrounding Area
 - D. Map of Surrounding Street Patterns
3. Applicant's Narrative and Supporting Documentation dated October 5, 2009
 - A. Proposal
 - B. Proposed Public Street Improvements
 - C. Supplemental Narrative dated December 21, 2009
 - D. Supplemental Information dated January 30, 2010
4. Memo from DKS Engineering, the City's traffic engineer, dated October 20, 2009
5. Agenda and Staff Notes from August 20, 2002 Meeting of the Oak Lodge Water District
6. Comments Received
7. Planning Commission Public Hearing Minutes
 - A. November 24, 2009
 - B. January 12, 2010 (Draft)
 - C. January 26, 2010 (Draft)

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE ZONING MAP FROM “RESIDENTIAL ZONE R-10” TO “RESIDENTIAL ZONE R-7” FOR TAX LOT 3100 ON CLACKAMAS COUNTY ASSESSOR’S MAP 2S 2E A06BC (FILE #ZC-09-01,TPR-09-04).

WHEREAS, the City of Milwaukie desires to review, amend, and revise its Zoning Ordinance on a regular basis; and

WHEREAS, the property owner has made application to change the designation of the property from “Residential zone R-10” to “Residential zone R-7”; and

WHEREAS, the Planning Department evaluated the proposed amendment to the City’s zoning map in accordance with the Comprehensive Plan and applicable sections of the Municipal Code and recommended that the designation be changed to a Residential zone R-7 designation for the subject site; and

WHEREAS, legal and public notices of the Planning Commission hearing have been provided as required by law; and

WHEREAS, on November 24, 2009, the Milwaukie Planning Commission conducted a public hearing, as required by Zoning Ordinance Subsection 19.1101.4 Major Quasi-Judicial Review; and

WHEREAS, the public hearing was continued to allow for the submission of additional supporting information as well as citizen comments to address the new information, and

WHEREAS, on January 26, 2010, a majority of the Planning Commission voted to recommend that Council approve the proposed amendment; and

WHEREAS, legal and public notices of the City Council hearing have been provided as required by law; and

WHEREAS, the Milwaukie City Council conducted a public hearing on February 16, 2010, to consider the Planning Commission recommendation and finds that the proposed amendments are in conformance with the Comprehensive Plan, the Municipal Code and 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 proposed amendment(s) are attached as Exhibit A.

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 _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 1 - Exhibit A

Recommended Findings in Support of Approval

Casefile# ZC-09-01, TFR-09-04

Sections of the Milwaukie Municipal Code that are not addressed in these findings are found to not be applicable to the development proposal.

1. The applicant, Tim Clunas, on behalf of Clunas Funding Group, Inc, has applied for approval of a Zoning Map amendment to the property located at Bowman St and Brae St (Map 22E06BC; TLID 3100). The 0.69-acre site is currently zoned Residential zone R-10; the proposed zone is Residential zone R-7.
2. The applicant proposes a zone change from R-10, which is a designated low-density residential (LD) use in the City's Comprehensive Plan, to R-7, which is also a designated LD use. The proposed Zoning Map amendment does not require a Comprehensive Plan amendment. This zone change would allow the site to be divided into 3 parcels, which, in turn, would allow for the development of 3 single-family dwellings at this location.
3. A Zoning Map amendment is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - A. Chapter 19.900 Amendments
 - B. Subsection 19.1011.4 Major Quasi-Judicial Review
4. Public notice has been provided in accordance with MMC Subsection 19.1011.4 Major Quasi-Judicial Review. Notification was sent to property owners within 400 feet of the subject property at least 10 days in advance of the required public hearings. The Planning Commission held a public hearing on November 24, 2009; the public hearing was continued to allow for the submission of additional supporting information as well as citizen comments to address the new information. At the January 26, 2010, public hearing, the Planning Commission passed a motion recommending that the City Council approve the Zoning Map amendment. The City Council held a public hearing on February 16, 2010 and passed a motion approving the Zoning Map amendment.
5. MMC Chapter 19.900 Amendments sets out the procedures and requirements for Zoning Map amendments. The proposed Zoning Map amendment is consistent with this chapter as follows:
 - A. MMC 19.901 allows amendments to the zoning map to be initiated by the City Council, Planning Commission, or by the application of a property owner. The property owner has initiated the proposed amendment.
 - B. MMC 19.902 governs the procedures for processing amendments. The application is a zoning map amendment and has been processed in accordance with MMC 19.1011.4 Major Quasi-judicial Review. Notice was provided to the Oregon Department of Land Conservation and Development on October 12, 2009. Notice was provided to Metro on November 6, 2009, and a Functional Plan analysis was provided to Metro at least 15 days prior to the final hearing on the proposed change.
 - C. MMC 19.903 provides requirements for zoning map amendments. The applicant's submittal contains the information required by this subsection. See Attachment 3 for details.

- D. MMC 19.904 establishes requirements for zoning text amendments. The proposed zoning map amendment does not include text amendments. This subsection is not applicable.
- E. MMC 19.905 states the approval criteria for zoning map and text amendments. The proposed amendment complies with these criteria as follows:
 - i. MMC 19.905.1.A requires the proposed amendment to conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan, and applicable regional policies.

(a) Milwaukie Comprehensive Plan

Relevant Comprehensive Plan goals, policies, and objectives are found in Chapter 4—Land Use.

Residential Use and Housing Element

(1) Objective #2—Residential Land use: Density and Location

This objective states that Milwaukie is and will continue to be composed primarily of single-family neighborhoods. Policy 1 identifies both zones R-10 and R-7 as Low Density residential zones, which allow up to 6.2 units per net acre and a typical density of 4.0 to 6.2 units per net acre. A net acre figure is obtained by subtracting 25% of the site area for public improvements. The subject property is 0.69 acres; after subtracting dedication for public area improvements, the net acreage of the site is 0.55 acres. Approval of the zone change request would allow the site to develop at a development density of 5.5 units per net acre, which is within the typical density range identified by the Comprehensive Plan.

The current and proposed zones encourage the provision of low-density single family development by requiring Planning Commission review for other uses.

(2) Objective #4—Neighborhood Conservation

The objective of this section is to maximize the opportunities to preserve, enhance, and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

Policy 4 encourages the rehabilitation of older housing in Low Density areas, and the construction of single family detached houses. The site is currently vacant, and Policy 4 is not applicable.

Policy 5 directs new projects to maintain a single family building bulk, scale and height when abutting existing single family areas. The proposal to rezone the site would not change the housing types (i.e. single-family detached homes) or uses (i.e. residential) allowed at this location. Since many of the R-10 and R-7 development standards that help to regulate bulk, scale, and height of single-family homes are the same (i.e. setbacks, height, and lot coverage standards), any future development would be compatible with the surrounding neighborhood.

Neighborhood Element

(3) Objective #1—Neighborhood Character

The stated goal of this objective is to maintain the residential character of designated neighborhood areas. Policy 4 requires new residential development to be consistent in type, style, and density with that existing in the neighborhood area.

The current R-10 zoning would allow the construction of 2 single family homes on the site, resulting in a residential density of 3.7 units per acre; this density falls below the Low Density (LD) use of 4.0 to 6.2 units per net acre anticipated by the Comprehensive Plan. Approval of the proposed zone change would allow for the division of the site into 3 parcels varying from 7,500 square feet to 8,643 square feet, and the construction of 3 single-family homes on site. The proposed density of 5.5 units per net acre is comparable to the development densities of surrounding sites: 5.1 units per net acre in the R-7 Pennywood Subdivision to the north; 4.95 units per net acre in the R-8.5 Bowman Terrance Subdivision to the east; and 4.51 units per net acre in the R-10 Kellogg Crest Subdivision to the south. An exception is found among the R-10 lots directly to the west of the site, which have a development density of 2.2 units per net acre. This is well below the minimum density range identified by the Comprehensive Plan and is expected to increase in the future.

The building patterns of development in the R-7 Zone are very similar to the building patterns in the R-10 Zone and the development adjacent to the site; a difference would not be visible to the casual observer.

(4) Objective #2—Neighborhood Needs

This objective ensures the needs of neighborhood areas for public facilities and services are met. Policy 3 instructs the City to provide for an adequate level of public facilities, services, and the maintenance thereof, to all neighborhood areas.

The proposed zone change would not affect the City's requirements for public right-of-way dedication or public improvements. At the time of any future development of the subject site, the City will require public area improvements including: public dedication of land for half-street improvements to widen and extend Bowman St; installation of sidewalks and a parking strip; and dedication of land for and construction of a pedestrian and bicycle path connecting Bowman St to Where Else Ln (see Attachment 3B for details). These public facilities would increase connectivity within the neighborhood and would be required at the time of any development, whether under the current R-10 zoning or the proposed R-7 zoning.

Policy 6 encourages improved neighborhood circulation to reduce congestion. This section of the Lake Road neighborhood is fairly disconnected, with a number of cul-de-sacs and unimproved rights-of-way. According to the City traffic engineer's traffic impact study, the public area improvements required upon development of the site would improve neighborhood connectivity and would not cause congestion.

(5) Neighborhood Area 3

This area includes the Lake Road neighborhood. The predominant land use in this area is single family residential.

(i) Guideline #1—Single Family Character

The intention of this guideline is to maintain the predominately single family character of the neighborhood by encouraging the rehabilitation of older and neglected structures, and by improving the quality of new housing development.

The proposed zone change would not alter the site's ability to comply with this guideline. There are no existing structures on the site. New single family housing development on the site would be required to comply with single-family residential design standards. Single-family homes are allowed outright in both the current R-10 Zone and the proposed R-7 Zone.

(b) City Ordinances

As described in Findings 5 and 6, the proposed Zoning Map amendment complies with all applicable City ordinances.

(c) Metro Functional Plan

(1) Title 8: Compliance Procedures establishes the process for determining whether city or county comprehensive plans and land use regulations comply with the requirements of the Functional Plan. The City's comprehensive plan and land use regulations comply with these requirements.

(2) Title 12: Protection of Residential Neighborhoods helps implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services. The proposed zone change triggered a Transportation Impact Study, which concluded that any increase in traffic as a result of the zone change would be minimal and would not require mitigation. The proposed zone change and any future development will complement the existing neighborhood and will not affect air and water pollution or noise and crime.

(d) Regional Policies

No regional policies are anticipated to apply to the proposed rezone of the parcel. Therefore, the proposed amendment complies with this criterion.

- ii. MMC 19.905.1.B requires that the anticipated development meet the intent of the proposed zone, taking into consideration the following factors: a) site location and character of the area; b) the predominant land use pattern and density of the area; c) the potential for mitigation measures adequately addressing development effects; d) any expected changes in the development pattern for the area; e) the need for uses allowed by the proposed zone amendment; and f) the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

(a) Site location and character of the area.

The site is located within the City's R-10 Zone, adjacent to the City's R-7 and R-10 Zones in the Lake Road neighborhood. The R-10 Zone is a low-density

residential zone comprised primarily of single family residential uses. The Lake Road neighborhood is primarily residential, and the zoning in the subject area is a mix of R-7 and R-10. There is a variety of architectural styles in the Lake Road neighborhood and many newer homes; 34% of the homes within ¼ mile of the site have been built since 1990 and 81% of the homes within ¼ mile of the site have been built since 1950.¹

- (b) The predominant land use pattern and density of the area.

The predominant land use pattern of the area is low-density residential. The immediate area consists of single family residential land uses with a smattering of undeveloped or minimally developed lots. As shown in Figure 1, the primary differences between the R-7 and R-10 Zones are the minimum lot sizes and dimensions, which affect the allowed development density.

Figure 1. Residential Zone R-7 and R-10 Development Standards

| Standard | R-7 | R-10 |
|-------------------------|--|--|
| Outright Permitted Uses | Single family detached dwelling, residential home, agricultural or horticultural use | |
| Conditional Uses | Single family attached dwelling (duplex), senior and retirement housing, Type 2 ADUs | |
| Comp Plan Designation | Low Density Residential | |
| Minimum Lot Size | 7,000 sq ft | 10,000 sq ft |
| Minimum Lot Dimensions | 60 ft x 80 ft | 70 ft x 100 ft |
| Minimum Setbacks | 20 feet (front, rear), 5/10 feet (side) | 20 feet (front, rear), 10 feet (side) |
| Height Restriction | 2½ stories or 35 feet | |
| Lot Coverage | 30% max. | |
| Minimum Vegetation | 35% min. | |
| Frontage | 35 feet | |
| Density | 5.0-6.2 units/net acre | 3.5-4.4 units/net acre |

In the R-10 Zone, the site could be developed with 2 single family dwellings; in the R-7 Zone, the lot could be development with 3 single family dwellings. The proposed density of 5.5 units per net acre (3 units on the subject site) is within the LD comprehensive plan density of 4.0 to 6.2 units per net acre, and is comparable to the development densities of surrounding sites: 5.1 units per net acre in the R-7 Pennywood Subdivision to the north; 4.95 units per net acre in the R-8.5 Bowman Terrance Subdivision to the east; and 4.51 units per net acre in the R-10 Kellogg Crest Subdivision to the south.

The existing density of developed sites within ¼ mile of the subject property ranges from 0.28 to 7.22 units per acre. This range reflects the number of large

¹ Source: Metro 2009 Regional Land Information System (RLIS) data.

sites to the west of the site that have not yet been developed to capacity, as well as a number of denser subdivisions in the area.

Figure 2 shows the development densities possible on the site under the current and proposed zoning and the current site area.

Figure 2. Development Densities on Site before Dedication

| Zone | Site Area | Lot Dimensions | Lot Area (sf) | Density Per Net Acre | # of Dwelling Units |
|------|-----------|----------------|---------------|----------------------|---------------------|
| R-10 | 0.62 ac | 125 x 80 ft | 10,000 | 4.4 | 3.0 |
| R-7 | 0.62 ac | 125 x 60 ft | 7,500 | 5.8 | 4.0 |

Figure 3 shows the development densities possible on the site under the current and proposed zoning after required public right-of-way dedication.

Figure 3. Development Densities on Site after Dedication

| Zone | Site Area | Lot Dimensions | Lot Area (sf) | Density Per Net Acre | # of Dwelling Units |
|------|-----------|----------------|---------------|----------------------|---------------------|
| R-10 | 0.55 ac | 100 x 126 ft | 12,600 | 3.6 | 2.0 |
| R-7 | 0.55 ac | 100 x 71 ft | 7,100 | 5.5 | 3.0 |

As these figures show, the maximum number of parcels possible on this site with an R-7 zoning designation is 3; each of these parcels would exceed the minimum dimension requirements of the R-7 Zone and would, in fact, also meet the minimum dimension requirements of the R-10 Zone as shown in Figure 1.

- (c) The potential for mitigation measures adequately addressing development effects.

Per the City traffic engineer’s analysis, the potential increase in traffic would not be significant enough to require mitigation. Any development of the site would require on site stormwater treatment, mitigating runoff into the public right-of-way.

- (d) Any expected changes in the development pattern for the area.

No changes in the development pattern for the area are expected. The area is zoned for low-density single family residential uses and is expected to continue to develop in this way. Many sites in the area are not developed to their full capacity and could be redeveloped at higher densities as allowed by current zoning.

- (e) The need for uses allowed by the proposed zone amendment.

The proposed use is single family residential, which is also a current permitted use. The proposed zoning map amendment would provide for the creation of 3 new lots and the construction of 3 single family dwellings rather than the 2 allowed by current zoning.

- (f) The lack of suitable alternative sites already appropriately zoned for the intended use or uses.

Milwaukie has very few vacant and buildable residential lots. According to Metro RLIS data, there are approximately 101 vacant R-7 properties in Milwaukie. Of

those properties, 34 are developable² and 7 are dividable. Of these 7 dividable sites, one is located in the Lake Road neighborhood. Although several sites to the west of the subject site are zoned R-7, the narrow lot configurations and lack of public access to the sites are significant development barriers.

The proposed zone change and development that may occur as a result meet the intent of the proposed zone. The zone will remain a Low-Density Residential land use and will permit the development of up to 3 single-family homes on the site.

- iii. MMC 19.905.1.C requires that the proposed amendment will meet or can be determined to reasonably meet applicable regional, state, or federal regulations.

No regional, state or federal regulations are anticipated to apply to the proposed rezone of the parcel from R-10 to R-7. Therefore, the proposed amendment complies with this criterion.

- iv. MMC 19.905.1.D requires that the proposed amendment demonstrate that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area. A transportation impact study may be required subject to the provisions of MMC Chapter 19.1400.

Since the proposed zone change would intensify the use on the site, a Transportation Impact Study (TIS) was required pursuant to MMC 19.1400. The TIS determined that existing public facilities and services can accommodate the anticipated development of the subject site without restricting potential development within the affected service area. Public transportation is available approximately 0.37 miles to the north of the site, at Lake Rd. Although there are no exclusive bicycle lanes along roads in the project vicinity and sidewalks are intermittent, the TIS concluded that, due to the residential nature of the surrounding neighborhood, the bicycle and pedestrian facilities would be adequate.

- v. MMC 19.905.1.E requires that the proposed amendment be consistent with the functional classification, capacity, and level of service of the transportation system.

The adjacent streets, Bowman St and Brae St, are classified as local streets in the City's Transportation System Plan. The TIS indicated that the proposed zone change would result in an increase of 10 daily trips, and concluded that the increase would be negligible and no meaningful impact to the functional classification of adjacent roadways was anticipated.

The Planning Commission finds that the criteria of MMC 19.900 are met.

6. Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Planning Building, Engineering, and Community Development Departments; Clackamas County Fire District #1; Lake Road Neighborhood District Association; and Metro. The following is a summary of the comments received by the City as of February 3, 2010. See Attachment 6 for further details.

- **Paul Hawkins, Land Use Chair, Lake Road NDA:** Neutral. Supports preservation of the tree within the Bowman St right-of-way. He also expressed concern about the property owners to the west of the site, who currently provides access to the property through their driveway.

² For the purpose of this analysis, “developable properties” are defined as non-CSU properties, without environmental overlays or restrictions, of 7,000 square feet or larger, and with public site access.

Staff Response: Preservation of the tree will be considered upon receipt of a building permit application. A portion of the driveway of the property owners to the west is located within unimproved Where Else Ln, which is public right-of-way.

- **Mike Miller, 4206 SE Somewhere Dr, Milwaukie, OR 97222:** Photos provided with the applicant's supplemental narrative were not useful and did not accurately represent the proposed housing density of the subject site or distance between proposed homes, due to additional setbacks required for end lots.

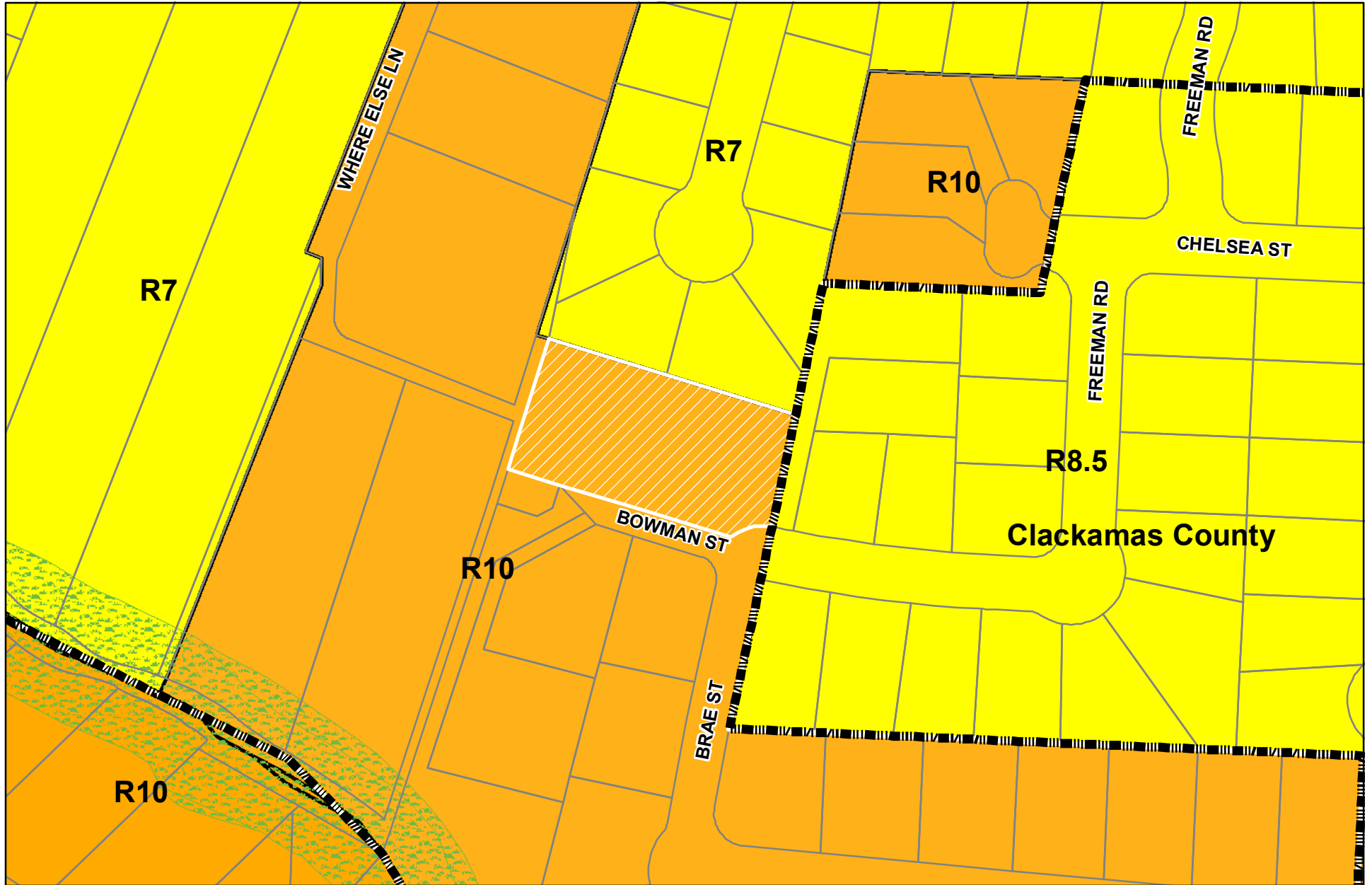
Staff Response: The zoning ordinance does not consider any of the proposed lots on the site a "corner lot," which is defined as "a lot abutting on 2 or more streets, other than an alley, at their intersection," and none of the proposed lots would be subject to additional side yard requirements.

- **Pamela Michael, 13181 SE Pennywood Ct, Milwaukie, OR 97222:** Changing the existing zoning from R-10 to R-7 would set a precedent for home developers which would not be in keeping with the character of the current surrounding neighborhoods.
- **Melanie Phillips, 13230 SE Where Else Ln, Milwaukie, OR 97222:** The applicant was aware of the zoning when they purchased the property and is interested only in making a profit rather than what is best for the neighborhood. Homes built on the subject site should be similar in character to the homes located south of the property in the R-8.5 and R-10 zones.

Staff Response: The applicant did not purchase the property. They financed the purchase of the property by the most recent owner. The owner of the property defaulted on the loan and the applicant received the property back in foreclosure.

- **Vincent Alvarez, 12671 SE Where Else Ln, Milwaukie, OR 97222:** The existing improved Bowman St right-of-way is sufficient to provide access to one additional house. The applicant is requesting the zone change in order to have a profitable project after completing the required public area improvements. Widening the road will exacerbate runoff issues. The Planning Commission should provide relief for the applicant by reducing the public area requirements.

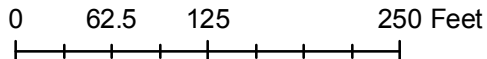
Staff Response: To do this, the applicant would need to apply for a variance to the City's street standards.



Existing Zoning

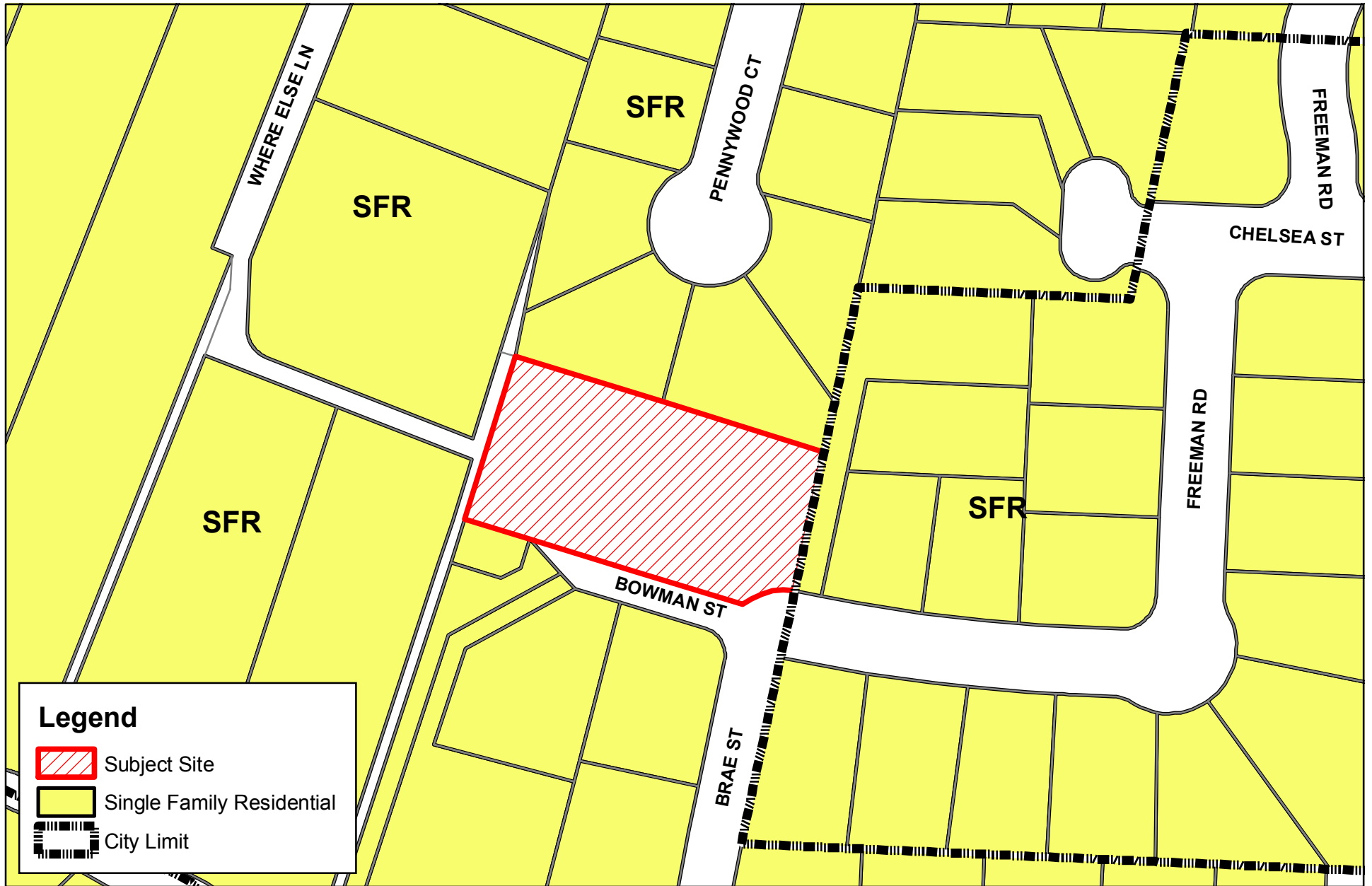


1 inch equals 125 feet



Author: City of Milwaukie Planning Department, December 2009
Source: City of Milwaukie GIS, Clackamas County GIS,
Metro Data Resource Center
All data depicted is approximate.
Not suitable for building or engineering purposes.

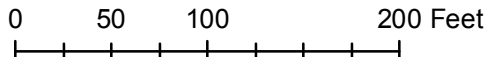




Existing Land Use



1 inch equals 100 feet

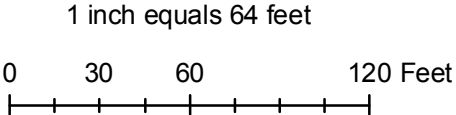


Author: City of Milwaukie Planning Department, October 2009
Source: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
All data depicted is approximate.
Not suitable for building or engineering purposes.



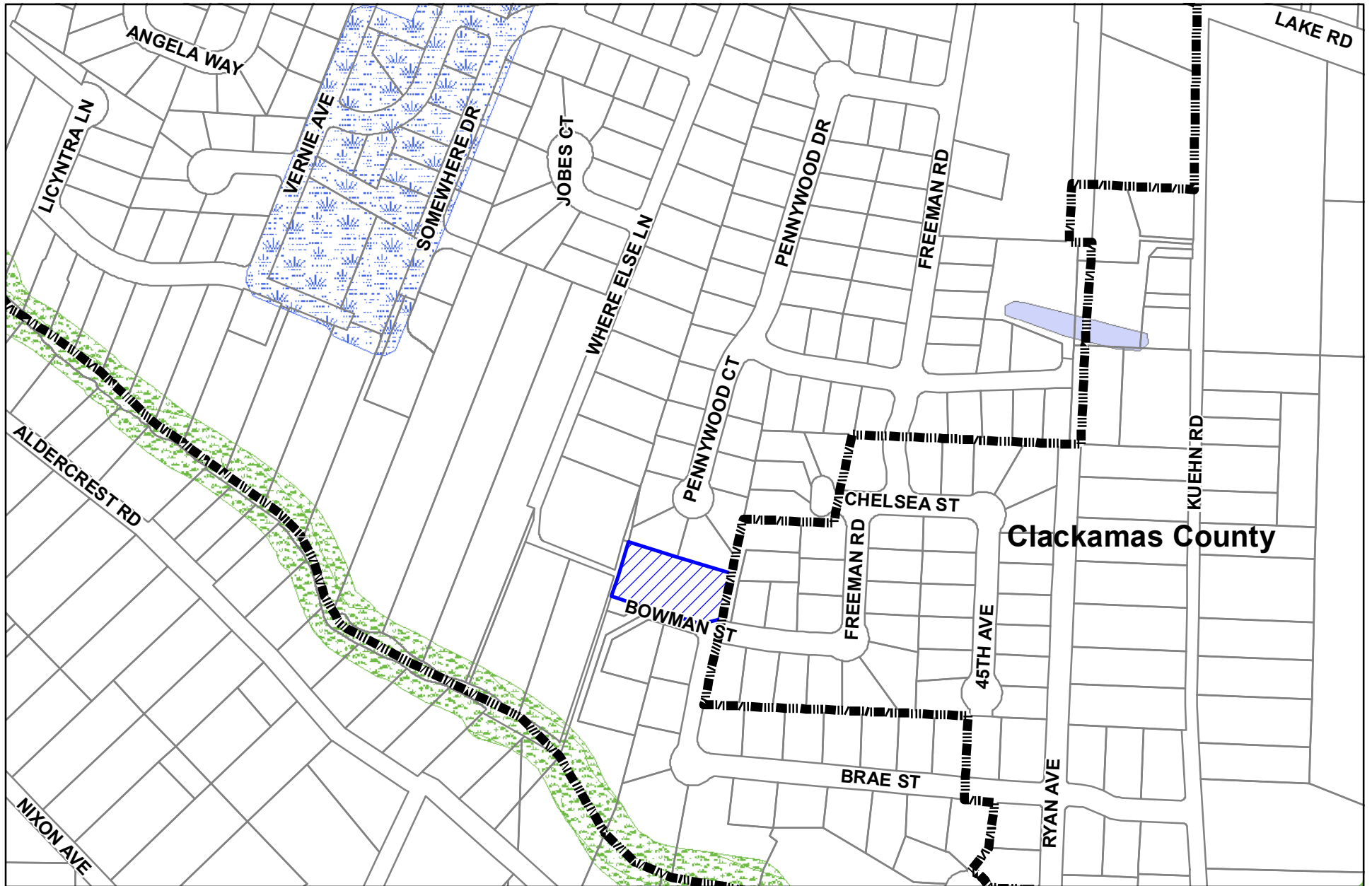


Aerial Photo



Author: City of Milwaukie Planning Department, September 2009
 Source: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
 All data depicted is approximate.
 Not suitable for building or engineering purposes.

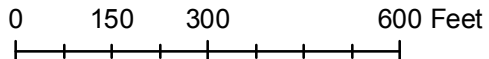




Surrounding Street Patterns



1 inch equals 300 feet



Author: City of Milwaukie Planning Department, October 2009
Source: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
All data depicted is approximate.
Not suitable for building or engineering purposes.





PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

ATTACHMENT 3A

Application for Land Use Action

Application Type: ZONE MAP AMENDMENT

Admin. I Minor QJ Leg.
 Admin. II Major QJ

RESPONSIBLE PARTIES: (Please print or type)

| | |
|--|----------------------------|
| APPLICANT(S): <u>TIM RILEY - CLUNAS FUNDING GROUP, INC.</u> | Phone: <u>503-636-1964</u> |
| Address: <u>201 B AVE, SUITE 270, LAKE OSWEGO, OR</u> | Zip: <u>97034</u> |
| PROPERTY OWNER(S): <u>CLUNAS FUNDING GROUP, INC. PSP+T</u> | Phone: <u>503-636-1964</u> |
| Address: <u>201 B AVE, SUITE 270, LAKE OSWEGO, OR</u> | Zip: <u>97034</u> |

SITE INFORMATION:

Address: SE BOWMAN + SE BRAE, MILWAUKIE, OR Map & Tax Lot(s): 252E 068C 03100

Comprehensive Plan Designation: LD Zoning: R10 Size of property: 30,082 SQ. FT.

PROPOSAL (describe briefly):

CHANGE ZONING DESIGNATION OF SUBJECT LOT FROM R10 TO R7.

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: LAKE ROAD LUC Chair: _____ Phone: _____

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: *Tim Riley* Date: 8/24/09

THIS SECTION FOR OFFICE USE ONLY:

| | | | |
|---------|---------|----------|-------------|
| File #: | Fee: \$ | Rcd. by: | Date stamp: |
| Notes: | | | |

SEE REVERSE SIDE FOR APPLICATION CHECKLIST

Application Type: ZONE MAP AMENDMENT

APPLICATION CHECKLIST

THE FOLLOWING REQUIRED ATTACHMENTS ARE TO BE PROVIDED AT COUNTER:

General requirements:

- Submission Requirements checklist (please note that additional submission requirements may be contained in applicable code sections below)
- Site Plan Checklist
- Submission Requirements for Fire Protection & Access

Application-specific requirements:

- | | |
|--|--|
| <input type="checkbox"/> Review Procedures: | <input type="checkbox"/> Applicable Code sections: |
| <input type="checkbox"/> Type I Administrative (Section 19.1011.1) | <input type="checkbox"/> <u>19.900</u> |
| <input type="checkbox"/> Type II Administrative (Section 19.1011.2) | <input type="checkbox"/> <u>19.903</u> |
| <input type="checkbox"/> Minor Quasi-Judicial (Section 19.1011.3) | <input type="checkbox"/> <u>19.905</u> |
| <input checked="" type="checkbox"/> Major Quasi-Judicial (Section 19.1011.4) | <input type="checkbox"/> <u>19.1400</u> |
| <input type="checkbox"/> Legislative (Section 19.1011.5) | <input type="checkbox"/> <u>19.500</u> |
| | <input type="checkbox"/> |
| | <input type="checkbox"/> |

Underlying zone requirements:

- Code section for applicable zone: R10 = 19.301 R7 = 19.302
- Minimum Vegetation worksheet N/A
- Lot Coverage worksheet N/A
- Floor Area worksheet N/A

Preapplication conference:

A preapplication conference may be desirable or required for this action. Please discuss with Planning staff.

Public notification (by City of Milwaukee):

- Administrative process:
 - Type I: No notification required
 - Type II: Notify property owners and/or residents within 300 feet of site. (If a public hearing is requested, follow notification for Minor Quasi-Judicial below.)
- Minor/Major Quasi-Judicial process:
 - Notify property owners and/or residents within 300 feet (Minor) or 400 feet (Major) of site.
 - Advertise public hearing in local newspaper.
 - Post sign at site 10 or more days prior to public hearing.
- Legislative process
 - Advertise public hearing in local newspaper.
- Other notifications as may be required.

Other requirements:



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

Application for Land Use Action

TRANSPORTATION PLAN REVIEW

- Admin. I Minor QJ Leg.
 Admin. II Major QJ

Is an adjustment or exception requested? Yes No

RESPONSIBLE PARTIES:

(Please print or type)

| | |
|---|----------------------------|
| APPLICANT(S): <u>TIM RILEY - CLUNAS FUNDING GROUP, INC.</u> | Phone: <u>503-636-1964</u> |
| Address: <u>201 B AVE, SUITE 270, LAKE OSWEGO, OR</u> | Zip: <u>97034</u> |
| PROPERTY OWNER(S): <u>CLUNAS FUNDING GROUP, INC PSP+T</u> | Phone: <u>503-636-1964</u> |
| Address: <u>201 B AVE, SUITE 270, LAKE OSWEGO, OR</u> | Zip: <u>97034</u> |

SITE INFORMATION:

| | |
|--|---|
| Address: <u>SE BOWMAN + SE BRAE, MILWAUKIE</u> | Map & Tax Lot(s): <u>2S 2E 06BC 03100</u> |
| Comprehensive Plan Designation: <u>LD</u> | Zoning: <u>R10</u> Size of property: <u>30,092 SQ. FT</u> |

PROPOSAL (describe briefly):

CHANGE ZONING DESIGNATION OF SUBJECT LOT FROM R10 TO R7.

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: LAKE ROAD LUC Chair: Phone:

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: [Signature] Date: 8/24/09

THIS SECTION FOR OFFICE USE ONLY:

| | | | |
|---------|---------|----------|-------------|
| File #: | Fee: \$ | Rcd. by: | Date stamp: |
| Notes: | | | |

SEE REVERSE SIDE FOR APPLICATION CHECKLIST

TRANSPORTATION PLAN REVIEW

APPLICATION CHECKLIST

THE FOLLOWING REQUIRED ATTACHMENTS ARE TO BE PROVIDED AT COUNTER: *

General requirements:

- Submission Requirements checklist (please note that additional submission requirements may be contained in applicable code sections below)
- Site Plan Checklist
- Submission Requirements for Fire Protection & Access

Application-specific requirements:

- | | |
|--|--|
| <input type="checkbox"/> Review Procedures: <ul style="list-style-type: none"><input type="checkbox"/> Type I Administrative (Section 19.1011.1)<input type="checkbox"/> Type II Administrative (Section 19.1011.2)<input type="checkbox"/> Minor Quasi-Judicial (Section 19.1011.3)<input checked="" type="checkbox"/> Major Quasi-Judicial (Section 19.1011.4)<input type="checkbox"/> Legislative (Section 19.1011.5) | <input type="checkbox"/> Applicable Code sections: <ul style="list-style-type: none"><input type="checkbox"/> 19.400 Supplementary Regulations<input type="checkbox"/> 19.500 Off-Street Parking and Loading<input type="checkbox"/> 19.1400 Transportation Planning, Design Standards, and Procedures<input type="checkbox"/> Transportation Design Manual<input type="checkbox"/> Other: _____ |
|--|--|

Underlying zone requirements:

- Code section for applicable zone: R10-19.301 R7-19.302
- Minimum Vegetation worksheet NA
- Lot Coverage worksheet NA
- Floor Area worksheet NA

Preapplication conference:

A preapplication conference may be desirable or required for this action. Please discuss with Planning staff.

Public notification (by City of Milwaukee):

- Administrative process:
 - Type I: No notification required
 - Type II: Notify property owners and/or residents within 300 feet of site. (If a public hearing is requested, follow notification for Minor Quasi-Judicial below.)
- Minor/Major Quasi-Judicial process:
 - Notify property owners and/or residents within 300 feet (Minor) or 400 feet (Major) of site.
 - Advertise public hearing in local newspaper.
 - Post sign at site 10 or more days prior to public hearing.
- Legislative process
 - Advertise public hearing in local newspaper.
- Other notifications as may be required.

Other requirements:


ALL ITEMS SUBMITTED AS PART OF ZONE MAP AMENDMENT APPLICATION

Authorization Statement for Application for Land Use Action

I, Gary Clunas, as Trustee of Clunas Funding Group, Inc. Profit Sharing Plan and Trust, owner of Lot 2S 2E 06BC 03100, hereby authorizes Tim Riley of Clunas Funding Group, Inc. to make application for any land use action relating to Lot 2S 2E 06BC 03100.

Dated: August 14, 2009

Clunas Funding Group, Inc. Profit Sharing Plan & Trust

By: 
Gary Clunas, Trustee



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

For Land Use Applications

Submissions Requirements


All applications for land use action must be accompanied by this form and the information listed below. Failure to submit the information below may result in the application being declared incomplete for the purposes of the Milwaukie Zoning Ordinance and Oregon Revised Statutes.

1. Detailed and comprehensive narrative description of existing and proposed uses, including all activities by type of use and other information that would facilitate public review of the application. *(Conditional Use, Community Service Overlay, Variance, and Exception applications have special approval criteria that require very detailed and comprehensive description of the proposed use.)*
2. Detailed written statement that demonstrates how the application meets all applicable approval criteria and land use regulations. Planning staff can help identify applicable criteria on request.
3. All materials identified on the Planning Department forms—*Site Plan Checklist, Preliminary Plat Checklist and Procedures, or Final Plat Checklist and Procedures* as appropriate.
4. All materials identified on the *Submission Requirements for Fire Protection & Access*.
5. A report indicating how staff comments from any preapplication conference on the project have been incorporated into the plan or submission materials.
6. A detailed narrative description of existing uses, including an analysis of applicable zoning regulations. All nonconformities and prior zoning approvals are to be identified. The description is to include identification of all uses, floor areas, and parking.
7. All required application forms and fees are due at the time of submission. *Applications submitted without required forms and fees are declared incomplete and will not be accepted.*
8. A statement certifying that the applicant owns all real property that is shown in the submitted plans. Where the applicant is not the owner of all real property shown in the proposed plans, a statement of the property owner authorizing the applicant to make application for land use action shall be required. *Applications will not be accepted if this statement is omitted.*
9. City of Milwaukie community involvement policies are implemented through its Neighborhood District Associations (NDAs). Applicants are strongly encouraged to meet with the NDA before the land use application is submitted. Planning staff can provide information for contacting NDA representatives. The applicant shall submit minutes of the NDA meeting that was attended for the purpose of presenting the proposal. *(Failure to meet with the NDA may result in delays in the processing of the application but will not result in the application being deemed incomplete.)*

SubmissionRqmts—Rev. 9/25/08

10. Signature of the applicant in the space provided below.

As the authorized applicant I, (print name) TIM RILEY, attest that all required application materials have been submitted in accordance with City of Milwaukie specifications unless officially waived by Planning staff as indicated below. I understand that any unauthorized omission of required items may constitute grounds for a determination that the application is incomplete for the purposes of the Milwaukie Zoning Ordinance Section 1004 and the Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is found to be incomplete.

In agreement with the above, (applicant signature) ,
(date) 8/24/09, (phone number) 503-636-1964.

Please contact Milwaukie Planning staff at 786-7630 for any questions or help with this form.

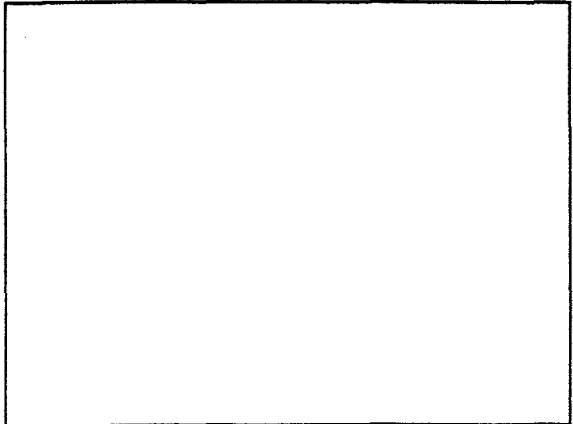
Official Use Only

Date Received
(date stamp)

Submission Waivers

- None
- As listed below

Waivers _____



Waiver authorized by _____ (Planning staff)

Application received by _____



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

For Land Use Applications

Site Plan Checklist

All applications for land use action require submission of a site plan. Site plans shall consist of the following information. In special cases certain items listed below may not be required and can be waived by Planning staff. All items below must be submitted except when waived by staff and authorized by staff signature at the end of the form.

All plans must be drawn to an appropriate scale, have accurate measurements, and be of appropriate graphic quality. Errors, omissions, or poor quality may result in an application being declared incomplete, pursuant to the Milwaukie Zoning Ordinance and Oregon Revised Statutes.

⁵
1. ~~12~~ ⁵ copies of a plan showing existing conditions including the following:

- a. Street and property lines, curbs, edges of pavement, sidewalks, easements, rights-of-way, and access or utility easements.
- b. Location, dimensions, and setbacks of all existing buildings, parking, structures, walls, fences, utility facilities such as fire hydrants, storm drains, light or electric poles, subsurface electric and cable lines, and other similar features.
- c. The location of all trees greater than 6 in. in diameter at breast height, wetlands, waterways, surface drainage ways, and intermittent streams.
- d. All features located within the adjoining right-of-way including traffic controls, trees, catch basins, hydrants, and telephone, cable, and electric lines.
- e. The location of all flood hazard area and floodway boundaries (per National Flood Insurance Rate Maps) and a note indicating the map panel number and flood zone.
- f. Existing topographic contours at no more than a 5-ft. vertical interval. A lesser contour may be required for lots within special flood hazard areas.
- g. North arrow, scale, date (and revisions dates if any), title block, and the name and signature of the person that prepared the plan.

⁵
2. ~~12~~ ⁵ copies of a detailed plan showing the proposed development including the following:

- a. Location, dimension, and setbacks of all proposed buildings, structures, walls, and fences.
- b. Location and specifications for all stormwater management facilities including catch basins, drywells, drainage swales, subsurface piping, and the like.
- c. Location and dimension of all parking and loading spaces, circulation aisles, curb cuts, sidewalks, and ADA access provisions.
- d. Approximate location of all proposed utility lines including water, gas, electricity, and sewer.
- e. Existing and proposed topographic contours at not more than a 2-ft. vertical interval.
- f. Estimated volume of cut and fill.

8 Front St
Tuesen
Public Street
Improvements

SitePlanCkList—Rev. 9/25/08

- g. Location, size, and type of proposed trees and landscaping, and boundaries of areas of natural vegetation that will not be disturbed.
 - h. Location, type, design, shielding, power, and hours of operation of all proposed lighting.
 - i. Dimensioned architectural plans of all floors and exterior elevations showing the design of interior space, exterior architectural materials, color, and height. The floor plans are to show dimensions and proposed uses of all areas.
 - j. An 8½- by 11-in. graphic reduction, or other appropriately sized reduction of the site development plan.
 - k. Location of wetlands, waterways, flood hazard area boundaries, and flood hazard area base flood elevation.
 - l. Construction plan and details of all improvements to be constructed within the public right-of-way such as utilities, sidewalk, roadway, and fire hydrants.
 - m. All information specified on the City form "Submission Requirements for Fire Protection & Access."
3. ⁵ **12 copies of a location plan** drawn to an appropriate scale (on no larger than 8½- by 11-in. paper) showing nearest cross streets, drives opposite the site, and location of buildings and parking areas on adjoining lots.
4. ^{1/2} **A detailed narrative description** of the proposed uses, including a zoning analysis demonstrating that the proposal meets all applicable zoning design standards (setbacks, height, parking, etc.) and other zoning criteria.
5. ^{1/2} **One set of floor plan worksheets** showing all interior spaces dimensioned and labeled as to proposed use. Floor areas for all uses, and the method by which floor areas were calculated, shall be provided. Floor area shall be measured in accordance with Zoning Ordinance Section 100-Definitions. A sample method for measuring floor area is available from the Planning Department.
6. ^{1/2} **A worksheet showing how "vegetated area" was determined.** Vegetated areas shall be consistent with the definition of "vegetation" in Zoning Ordinance Section 100.

Please contact Milwaukie Planning staff at 786-7630 for any questions or help with this form.

Tim Riley
Applicant Name

[Signature]
Applicant Signature

8/14/09
Date

Waived Items

Signature of
Milwaukie Planner

Date



Submission Requirements for Fire Protection and Access

The following information shall be provided with all applications for land use filed with the City of Milwaukie. Applications that do not include this information will not be accepted. For any item not submitted, written waiver by the Fire District shall be submitted with the application. Only Clackamas County Fire District #1 can waive these items. Please contact the Fire District at 503-742-2660 for further information about these requirements.

Development plans and supporting information submitted for City approval shall include the following.

- a. Existing fire hydrant locations within 500 feet of any part of the site.
- b. Documentation of existing fire hydrant flow calculations.
- c. Proposed new water lines (for fire protection).
- d. Water flow calculations in new water lines (for fire protection).
- e. Proposed hydrant locations and calculations for flows.
- f. Fire Department Connection (FDC) locations.
- g. Vault detail if applicable.
- h. Documentation of fire alarm system evaluation for proposed occupancy if applicable.
- i. Documentation of fire sprinkler density calculation and evaluation if applicable.
- j. Fire department access detail to include: surface, width, turning radius, construction detail, parking restrictions, grade of road, vertical clearance, and gates or other obstructions.
- k. Proposed building use including specification of potentially hazardous materials, the means of storage, and processes that employ them.

**Submission Requirements for SE Bowman and SE Brae Zone Map Amendment and
Transportation Facilities Review**

- 1) Detailed and comprehensive narrative description of existing and proposed uses:

The existing use of lot 2S 2E 06BC 03100 is vacant land zoned R-10. The proposed use is to partition the land into three vacant land parcels and construct single family detached housing on each parcel, assuming the Zone Map Amendment to R-7 is approved. Housing details will be provided with the building permit applications.

- 2) Detailed written statement that demonstrates how the applicant meets all applicable approval criteria and land use regulations:

Milwaukie Municipal Code:

19.1400 Public Facility Improvements

19.1404 Transportation Impact Evaluation

19.1404.1 TIS Determination

A transportation impact study (TIS) is required for the Zone Map Amendment.

19.1404.2 TIS General Provisions

The TIS general provisions have been followed, and the completed TIS is included in the application materials.

19.1404.3 TIS Requirements

All TIS requirements in this section have been met. A letter from DKS Associates, dated July 20, 2009, confirmed the TIS adequately addressed the required scope items to address the impacts of the proposed rezone. The DKS letter is included in the application materials.

19.1404.4 Mitigation

The TIS concludes that no mitigation is required due to the negligible impact of the rezone. The full conclusion states, “*The increase in trip generation by the proposed Bowman-Brae rezone is so negligible that no meaningful impact to the functional classification of adjacent roadways is anticipated. The impact*

is only one P.M. peak hour trip. Therefore, the Bowman-Brae site can be adequately served by the existing access and adjacent transportation system and meets the TPR requirements.

Public transportation is available to the site approximately 0.37 miles to the north along SE Lake Road and is within a reasonable walking and bicycling distance. Although there are no exclusive bicycle lanes along adjacent roadways in the project vicinity, since the area is residential in nature, shared roadways with bicycles are adequate. Sidewalks are intermittent within the surrounding neighborhood. Due to low residential traffic volumes and wider street widths (32 feet), these pedestrian facilities should be adequate.”

19.1405 Rough Proportionality

Since the TIS concluded no mitigation is required to the surrounding transportation systems, rough proportionality did not need to be considered.

19.1408 Transportation Facility Requirements

19.1408.1 General Street Requirements and Standards

Requirements for frontage, connectivity and right-of-way dedication have been met by providing for a 25 foot right-of-way dedication for the extension of SE Bowman Street. Details surrounding the length of the extension, turnaround requirements and preservation of a large tree will be finalized when the final partition plat is submitted.

19.1408.2 Street Design Standards

As part of the pre-application conference, the Engineering Staff recommended half-street improvements, beginning at centerline of the right-of-way after full dedication is completed, as follows:

- 14-foot wide paved roadway
- 6-inch curb
- 5.5-foot wide landscape strip
- 5-foot wide setback sidewalk

These recommendations have been incorporated in the Public Street Improvements plan included with the application.

19.1408.3 Sidewalk Requirements and Standards

A sidewalk has been incorporated as part of the extension and half-street improvement of SE Bowman Street.

19.1408.4 Bicycle Facility Requirements and Standards

No additional bicycle facilities were recommended by the TIS or by Engineering Staff.

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A pedestrian/bike path, including right-of-way dedication, is required to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. 15 feet of right-of-way will be dedicated for a pedestrian/bicycle access way, and a 10-foot wide concrete sidewalk will be constructed to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. The sidewalk is shown on the Public Street Improvements plan included with the application.

19.1408.6 Transit Requirements and Standards

No additional transit facilities were recommended by the TIS or by Engineering Staff.

19.1409 Public Utility Requirements

Adequate water and sewer connections are available to the property. Connection details will be finalized at the time of the building permit application. A storm water management plan will be provided at the time of the building permit application.

19.903 Requirements for zoning map amendments.

19.903.1 Proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

A. Applicable requirements of Section 19.1003;

The requirements of Section 19.1003 (Form of petitions, applications, and appeals) have been followed.

B. Reasons for requesting the zoning map amendment;

The Zone Map Amendment is being requested to make development of the subject lot financially feasible. To develop the lot, public dedication of land for a 1/2 street improvement of SE Bowman Street is required. The resulting reduced lot area would allow partitioning into only two parcels. The estimated cost of the required improvements could not be recovered by developing two parcels. If

the zoning designation is changed to R-7, the lot can be partitioned into three parcels which enables recovery of the cost of the required improvements.

- C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;

The existing site consists of one 30,082 square foot vacant lot at the NW corner of the intersection of SE Bowman Street and SE Brae Street. The lot is zoned R-10. Public access to the lot is provided by an existing 1/2 street extension of SE Bowman Street adjacent to the south property line of the lot. The lot is flat and contains no trees, public facilities, natural hazards, natural areas or historic sites. For more detail, please refer to the Existing Conditions Plan and Location Map.

- D. Description of the intended use or uses;

The proposed use is to partition the land into three vacant land parcels ready for construction of single family detached housing. This assumes the Zone Map Amendment to R-7 is approved.

- E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety or welfare within the community.

The Existing Conditions Plan shows all relevant existing conditions. The Public Street Improvements Plan shows the proposed parcels, assuming R-7 zoning, and detail of the public dedication area which was a requirement identified during the pre-application process. This includes:

- **14-foot wide paved roadway**
- **6-inch curb**
- **5.5-foot wide landscape strip**
- **5-foot wide setback sidewalk**
- **10-foot wide pedestrian/bicycle path**

- F. The approval criteria of Section 19.905. (Ord. 1854 (part), 1999)

19.905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:

A. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.

- **Metro Functional Plan:**

Title 8 (Compliance Procedures) - The purpose of this section is to establish a process for determining whether city or county comprehensive plans and land use regulations comply with requirements of the Urban Growth Management Functional Plan.

It is assumed the City of Milwaukie Comprehensive Plan complies with requirements of the Urban Growth Management Functional Plan.

Title 12 (Protection of Residential Neighborhoods) – Existing neighborhoods are essential to the success of the 2040 Growth Concept. The intent of Title 12 of the Urban Growth Management Functional Plan is to protect the region’s residential neighborhoods. The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services.

R-10 and R-7 zones allow for the same uses. The residential character of the surrounding neighborhoods would be preserved. In addition, any subsequent development of the three proposed parcels would require public dedication of land for a 1/2 street improvement of SE Bowman Street to the City of Milwaukie as well as connection from SE Bowman Street to SE Where Else Lane via a pedestrian/bicycle path. Both these improvements would provide better connection of the existing neighborhoods.

- **City of Milwaukie Comprehensive Plan**

Land Use – Residential Land Use and Housing Element – Objective 2 – Residential Land Use: Density and Location – Policy #1

Policy #1 states how the Comprehensive Plan residential densities are determined. The Comprehensive Plan density designation for the subject property is Low Density. Low Density can be made up of R-7 and R-10 zones and allows up to 6.2 housing units per net acre. If one housing unit were to be built on each of the three proposed parcels, the resulting housing unit density would be 5.5 (3 units on 23,743 sq. ft. equals 5.5 units on 43,560 sq. ft. or one acre).

Land Use – Residential Land Use and Housing Element – Objective 3 – Residential Land Use: Design – Policy #6 - In all cases, existing tree coverage will be preserved whenever possible, and areas of trees and shrubs will remain connected particularly along natural drainage courses.

One large tree is located just south of the subject property. The Public Street Improvements plan shows the tree being removed in order to accommodate the extension of SE Bowman Street. The City Engineering Department is open to an alternative street design that would allow preservation of the tree in the center of the roadway.

Land Use – Residential Land Use and Housing Element – Objective 4 – Neighborhood Conservation – Policy #4 - Within Low Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. When projects involve the destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations. The predominant type of new housing in Low Density areas will be single family detached. Single family attached units will be allowed based on location criteria in the Zoning Ordinance. A public hearing is required.

The subject property is a vacant lot and will not require destruction of older housing. The subject property is surrounded by single family detached housing on all sides. The proposed zone map amendment and subsequent partitioning of the lot into three parcels would accommodate three new single family detached homes.

Land Use – Residential Land Use and Housing Element – Objective 4 – Neighborhood Conservation – Policy #5 - Within Low Density areas, new projects will maintain a single family building bulk, scale and height when abutting existing single family areas, or when abutting a street where existing single family houses face the project.

The proposed zone map amendment to R-7 and subsequent partitioning of the lot into three parcels would accommodate three new single family detached homes with similar building bulk, scale and height of the abutting Pennywood subdivision to the north.

Land Use – Neighborhood Element – Objective 1 – Neighborhood Character – Policy #1- Encourage home and yard maintenance programs.

The existing vacant lot is made up of weeds and grasses. Partitioning and development of single family detached homes would improve the appearance of the neighborhood.

Land Use – Neighborhood Element – Objective 1 – Neighborhood Character – Policy #4- Require new residential developments to be consistent in type, style, and density with that existing in the neighborhood area, unless as otherwise designated on the land use plan map.

The proposed zone map amendment to R-7 and subsequent partitioning of the lot into three parcels would accommodate three new single family detached homes consistent in type, style, and density with that existing in the neighborhood area, particularly with the abutting Pennywood subdivision to the north.

Land Use – Neighborhood Element – Objective 1 – Neighborhood Character – Policy #5- Encourage differing residential types to develop in like areas, and, provide buffers where differing types do intermix.

While the proposed zone map amendment to R-7 would result in lots and single family detached homes most similar to the Pennywood subdivision to the north, development would also help tie in the differing single family detached housing styles to the east and south of the subject property.

Land Use – Neighborhood Element – Objective 2 – Neighborhood Needs – Policy #3- Provide for an adequate level of public facilities, services, and the maintenance thereof, to all neighborhood areas.

Any subsequent development of the three proposed parcels would require public dedication of land for a 1/2 street improvement of SE Bowman Street to the City of Milwaukie as well as connection from SE Bowman Street to Where Else Lane via a pedestrian/bicycle path. Both these improvements would provide better connection of the existing neighborhoods.

Land Use – Neighborhood Element – Objective 2 – Neighborhood Needs – Policy #6- To improve neighborhood traffic circulation in order to reduce congestion.

Due to the required 1/2 street improvement to extend SE Bowman Street, traffic flow would not be impaired and congestion would not become worse as a result of the proposed zone map amendment to R-7 and subsequent partitioning of the lot into three parcels.

Land Use – Neighborhood Element – Objective 2 – Neighborhood Needs – Policy #7- To more adequately maintain existing City streets, and to solve the problem of surface flooding and ponding.

Due to the required 1/2 street improvement to extend SE Bowman Street, including new curbs and gutters, overall street maintenance and water control would improve.

Land Use – Neighborhood Element – Neighborhood Area 1 – Guideline #1 – Single Family Character- To maintain the single family character of designated single family areas by encouraging maintenance and rehabilitation of older structures, and by improving the quality of new residential development.

The proposed zone map amendment to R-7 and subsequent partitioning of the lot into three parcels would accommodate three new single family detached homes. Given the variety of homes in the immediate area and the current economic conditions, the most likely homes to be built would be high quality yet affordable with listing prices in the \$300,000 range.

B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

1. Zoning Comparison: The regulations for R-7 and R-10 zones are very similar. The differences are as follows:

- a. **Lot Size – 7,000 sq. ft. minimum vs. 10,000 sq. ft. minimum.**
- b. **Lot Width – 60 feet minimum vs. 70 feet minimum.**
- c. **Side Yard – 5 feet less on one side for R-7.**
- d. **Minimum Vegetation Area – 30% vs. 35%.**

The anticipated development of the three proposed parcels is single family detached housing which meets the intent of an R-7 zone. The effect of the proposed zone change is shown on the two versions of the Location Map. Location Map R-7 shows how the subject lot could be partitioned if the zoning change is approved. Location Map R-10 shows how the subject lot could be partitioned if the zoning change is not approved.

2. Surrounding Land Uses:

- a. **A pump station is located on adjacent Tax Lot 3200 to the south. It is unclear if the pump station is operational.**

- b. **Adjacent residential land to the south is zoned R-10 with single family detached homes on lots in the 10,000 sq. ft. to 15,000 sq. ft. range.**
 - c. **Adjacent land to the north is the Pennywood subdivision. This area is zoned R-7 with single family detached homes on lots in the 7,000 sq. ft. to 10,000 sq. ft. range.**
 - d. **Adjacent land to the east is outside of the Milwaukie City Limits. This area is zoned R-8.5 (equivalent to city zone R-7) with single family detached homes on lots in the 7,000 sq. ft. to 10,000 sq. ft. range.**
 - e. **Adjacent land to the west (roughly between subject property and SE Where Else Lane) is zoned R-10 and is basically undeveloped land with single family detached homes on lots in the 20,000 sq. ft. to 40,000 sq. ft. range.**
 - f. **Land just to the west of SE Where Else Lane is zoned R-7 and is basically undeveloped land with single family detached homes on lots in the 85,000 sq. ft. to 95,000 sq. ft. range.**
- 3. Existing Development Pattern:**
- a. **The development pattern to the north and east is typical of suburban developments with local connecting streets and cul-de-sacs. With the exception of one flag lot adjacent to the subject property, the lots are standard shape with lot sizes in the 7,000 sq. ft. to 10,000 sq. ft. range.**
 - b. **The development pattern to the south includes a couple of large flag lots and generally has larger homes on larger lots than the areas to the north and east. Lot sizes are in the 10,000 sq. ft. to 18,000 sq. ft. range.**
 - c. **The development pattern to the west, along SE Where Else Lane, is the least dense of the surrounding areas with largely undeveloped lots in the 40,000 sq. ft. to 95,000 sq. ft. range. There is no street connectivity from the surrounding areas north, east and south of the subject property to SE Where Else Lane to the west.**
- 4. Potential Future Development Pattern:**
- a. **Surrounding areas to the north, east and south appear to be fully developed.**
 - b. **The surrounding area to the west looks to have the most potential for future development. Large tracts of land just west of SE Where Else Lane have already been zoned R-7. Given Metro's recent recommendation to cut back on Urban Growth Boundary (UGB) expansions and concentrate on increased density within the UGB, the tracts of land immediately west of the subject property, currently zoned R-10, would be likely candidates to become R-7 zoned should the owners ever decide to pursue partitioning**

and development. Development to the west would require significant improvements and additions to the street network. The first step would probably be to improve SE Where Else Lane and connect it to SE Bowman Street.

C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

See item A. of this section. Any future development will comply with the City's code and Comprehensive Plan, which comply with regional, state and federal regulations.

D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

1. **The TIS concludes that no mitigation is required due to the negligible impact of the rezone. The full conclusion states, "*The increase in trip generation by the proposed Bowman-Brae rezone is so negligible that no meaningful impact to the functional classification of adjacent roadways is anticipated. The impact is only one P.M. peak hour trip. Therefore, the Bowman-Brae site can be adequately served by the existing access and adjacent transportation system and meets the TPR requirements. Public transportation is available to the site approximately 0.37 miles to the north along SE Lake Road and is within a reasonable walking and bicycling distance. Although there are no exclusive bicycle lanes along adjacent roadways in the project vicinity, since the area is residential in nature, shared roadways with bicycles are adequate. Sidewalks are intermittent within the surrounding neighborhood. Due to low residential traffic volumes and wider street widths (32 feet), these pedestrian facilities should be adequate.*"**
2. **Requirements for frontage, connectivity and right-of-way dedication have been met by providing for a 25 foot right-of-way dedication for the extension of SE Bowman Street. Details surrounding the length of the extension, turnaround requirements and preservation of a large tree will be finalized when the final partition plat is submitted.**
3. **As part of the pre-application conference, the Engineering Staff recommended half-street improvements, beginning at centerline of the right-of-way after full dedication is completed, as follows:**
 - 14-foot wide paved roadway
 - 6-inch curb
 - 5.5-foot wide landscape strip
 - 5-foot wide setback sidewalk

These recommendations have been incorporated in the Public Street Improvements plan included with the application.

- 4. A pedestrian/bike path, including right-of-way dedication, is required to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. 15 feet of right-of-way will be dedicated for a pedestrian/bicycle access way, and a 10-foot wide concrete sidewalk will be constructed to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. The sidewalk is shown on the Public Street Improvements plan included with the application.**
- 5. Adequate water and sewer connections are available to the property. Connection details will be finalized at the time of the building permit application. A storm water management plan will be provided at the time of the building permit application.**

E. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

- 1. A TIS is required and has been completed. The TIS is a comparison between the potential traffic impacts of the maximum use of the existing zoning and proposed zoning. The proposed rezoning would result in an increase of 10 daily, 1 A.M. peak hour and 1 P.M. peak hour trips. The TIS concludes this increase is so negligible that no meaningful impact to the functional classification of adjacent roadways is anticipated. Similarly, bicycle and pedestrian facilities should be adequate.**
- 2. Immediate neighbors of the site will experience increased vehicle traffic as a result of the rezone. Without the rezone, and assuming maximum use of the existing zoning, immediate neighbors along SE Bowman Street and SE Brae Street would experience an average of 19 additional vehicle trips per day. With the rezone, the average would increase to 29 vehicle trips per day.**

3) All materials identified on the Planning Department forms:

The Site Plan Checklist applies. The following are included:

- a) Existing Conditions Plan**
- b) Public Street Improvements drawing showing how the requirements of the pre-application conference would be implemented**
- c) Location Maps (R-7 and R-10) with an overlay of the proposed parcels and public dedication**

The following items are on the Site Plan Checklist but not applicable:

- a) **Proposed Development Plan – There is no specific development proposed other than creating three vacant land parcels. The Public Street Improvements drawing shows how the requirements of the pre-application conference would be implemented.**
 - b) **Detailed Narrative – Covered by items 1) and 2) above.**
 - c) **Floor Plan Worksheets – Building plans will be available after the lot has been partitioned.**
 - d) **Vegetation Worksheet - Building plans will be available after the lot has been partitioned.**
- 4) All materials identified on the Submission Requirements for Fire Protection & Access:

Water supply and access have already been approved by the Fire Marshall as part of the pre-application conference. Applicable fire protection details are shown on the Existing Conditions Plan and Public Street Improvements drawing.

- 5) A report indicating how staff comments from any pre-application conference on the project have been incorporated into the plan or submission materials:
- a. **Requirements for frontage, connectivity and right-of-way dedication have been met by providing for a 25 foot right-of-way dedication for the extension of SE Bowman Street. Details surrounding the length of the extension, turnaround requirements and preservation of a large tree will be finalized when the final partition plat is submitted.**
 - b. **As part of the pre-application conference, the Engineering Staff recommended half-street improvements, beginning at centerline of the right-of-way after full dedication is completed, as follows:**
 - **14-foot wide paved roadway**
 - **6-inch curb**
 - **5.5-foot wide landscape strip**
 - **5-foot wide setback sidewalk**

These recommendations have been incorporated in the Public Street Improvements plan included with the application.
 - c. **A pedestrian/bike path, including right-of-way dedication, is required to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. 15 feet of right-of-way will be dedicated for a pedestrian/bicycle access way, and a 10-foot wide concrete sidewalk will be constructed to link the west extension of SE Bowman Street to the east end of SE Where Else Lane. The sidewalk is shown on the Public Street Improvements plan included with the application.**
 - d. **Adequate water and sewer connections are available to the property. Connection details will be finalized at the time of the building permit**

application. A storm water management plan will be provided at the time of the building permit application.

- 6) A detailed narrative description of existing uses, including an analysis of applicable zoning regulations. All nonconformities and prior zoning approvals are to be identified. The description is to include identification of all uses, floor areas and parking:

Items 1) and 2) above cover existing uses and zoning. It appears that the adjacent Pennywood subdivision to the north had a prior zoning approval to go from R-10 to R-7.

- 7) All required application forms and fees are due at the time of submission:

All forms and fees were provided at the time of submission.

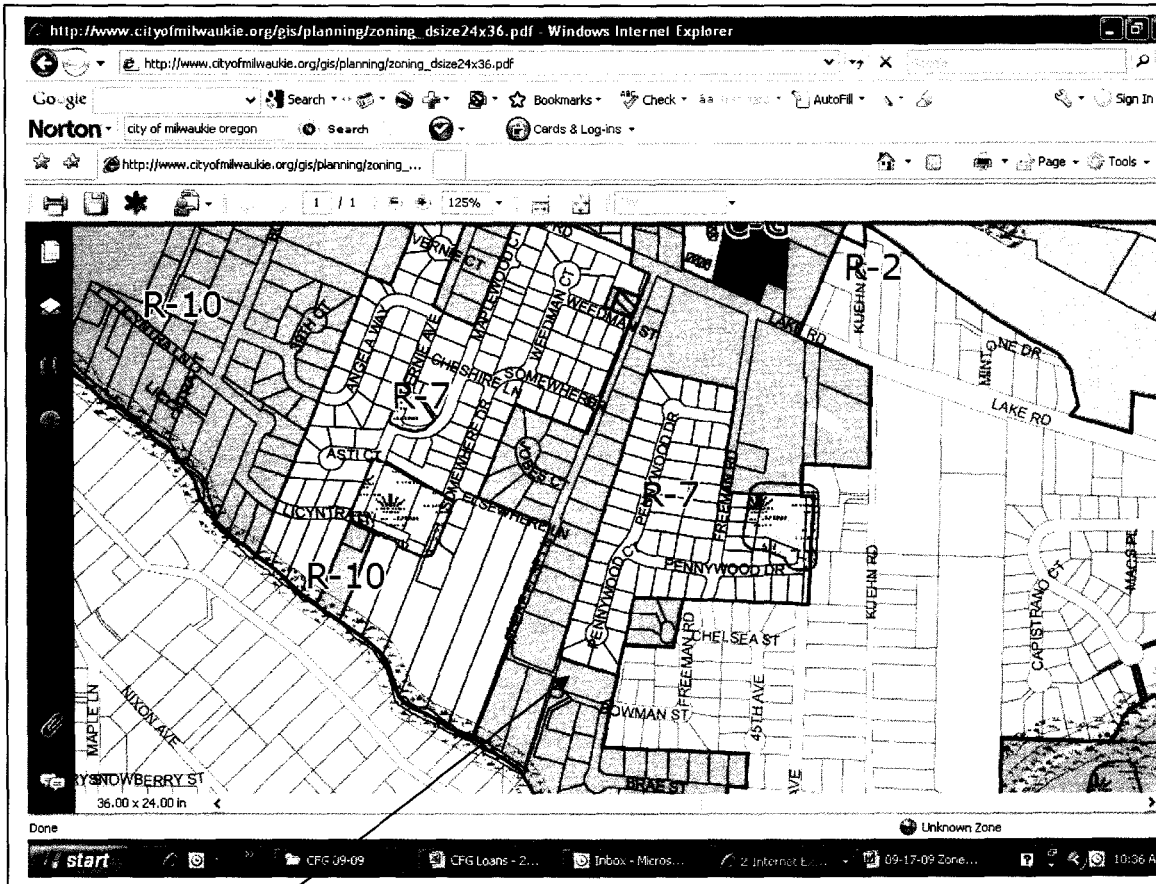
- 8) Applicant authorization:

A signed statement from the property owner authorizing the applicant to make the application for land use action is included.

- 9) NDA Meeting:

A meeting with the Lake Road NDA occurred 9/9/09. The meeting minutes will be available once they are approved at the next meeting in October.

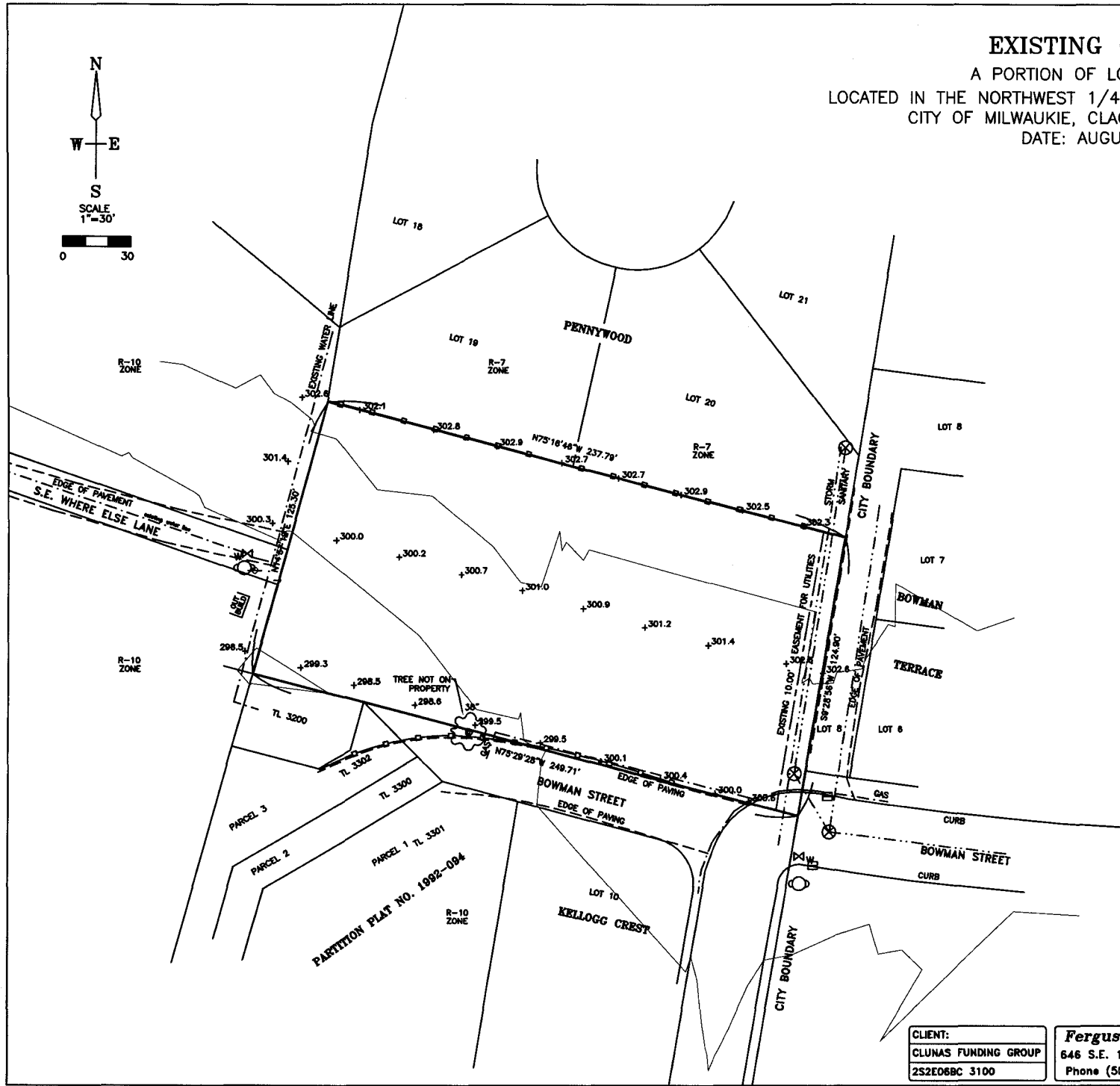
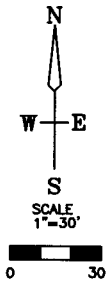
Surrounding Zoning



Subject Property

EXISTING CONDITIONS

A PORTION OF LOT 13, "ATKINSON",
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 6, T.2S., R.2E., W.M.,
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON,
 DATE: AUGUST 21, 2009



- SYMBOLS**
- ⊕ = POWER POLE
 - ⊙ = GUY ANCHOR
 - ⊖ = WATER METER
 - ⊕ = GAS METER
 - ⊖ = ELECTRIC METER
 - ⊕ = WATER VALVE
 - ⊖ = GAS VALVE
 - ⊕ = MANHOLE
 - ⊖ = CLEAN OUT
 - ⊕ = CATCH BASIN
 - ⊖ = FIRE HYDRANT
 - * = DOWN SPOUTS
 - W — = WATER LINE
 - G — = GAS LINE
 - E — = ELECTRIC LINE
 - S — = SAN. SEWER
 - ⊕ = DECIDUOUS
 - ⊖ = CONIFER
 - ⊖ = ROOT PROTECTION ZONE

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

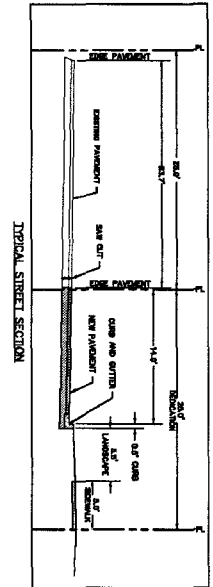
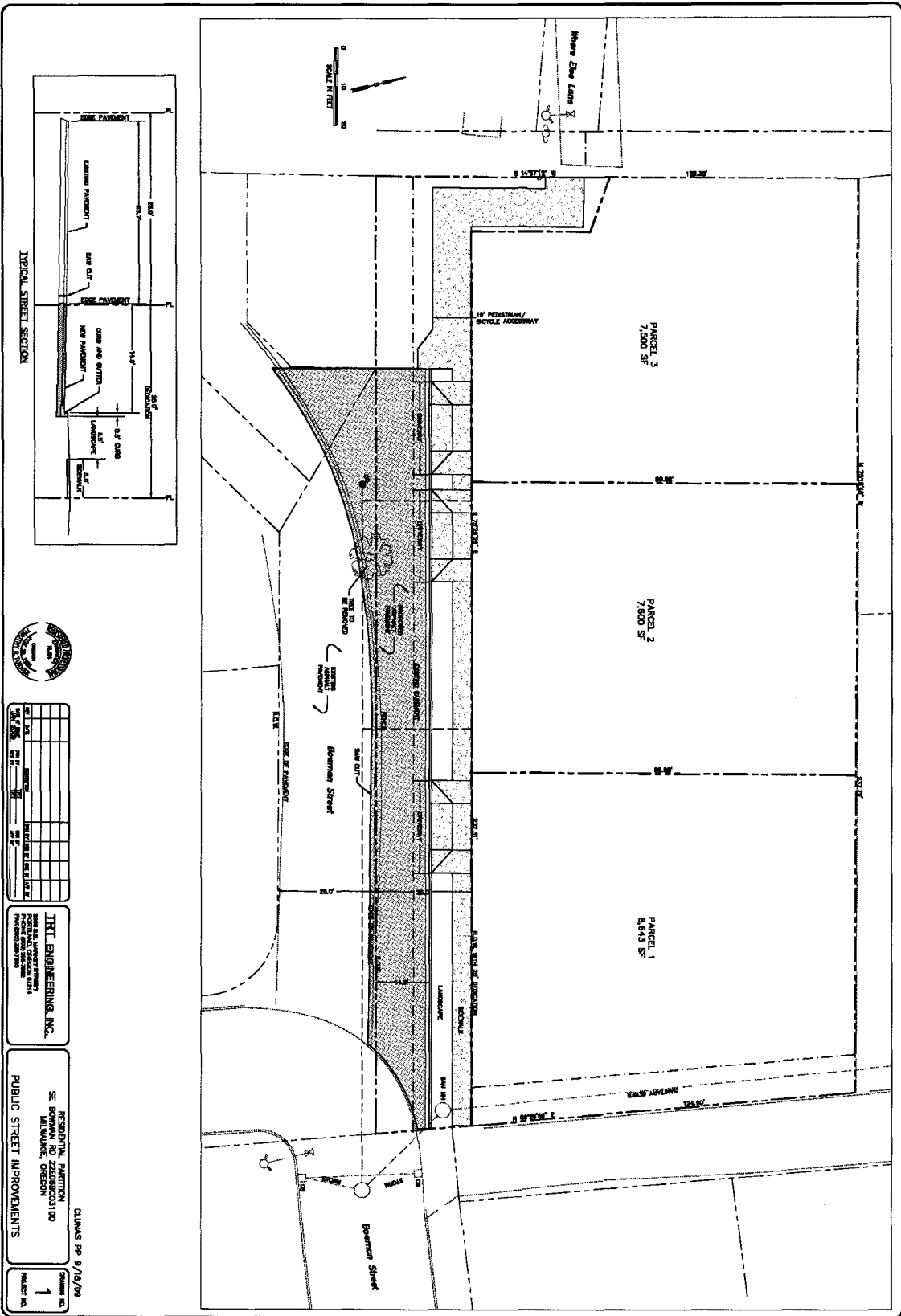
OREGON
 JULY 25, 1990
 JOE H. FERGUSON
 2445
 RENEWAL DATE 12/31/09

CLIENT:
 CLUNAS FUNDING GROUP
 2S2E08BC 3100

Ferguson Land Surveying, Inc.
 646 S.E. 106TH AVENUE, PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602

SHEET NO. 1 OF 1
 JOB NO. 08-125 0 EC
 DRAFTED: 8/21/09 MW

RS PAGE 51



| | | | |
|----------|-------------------|----------|----------|
| DATE | DESCRIPTION | BY | CHECKED |
| 08/18/09 | ISSUED FOR PERMIT | J. TRACY | J. TRACY |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

TRT ENGINEERING, INC.
 1000 N. 10TH AVENUE, SUITE 100
 DENVER, CO 80202
 (303) 733-1100
 www.trt-engineering.com

RESISTANCE DEPARTMENT
 SE. BROWN STREET
 MILWAUKEE, OREGON
PUBLIC STREET IMPROVEMENTS

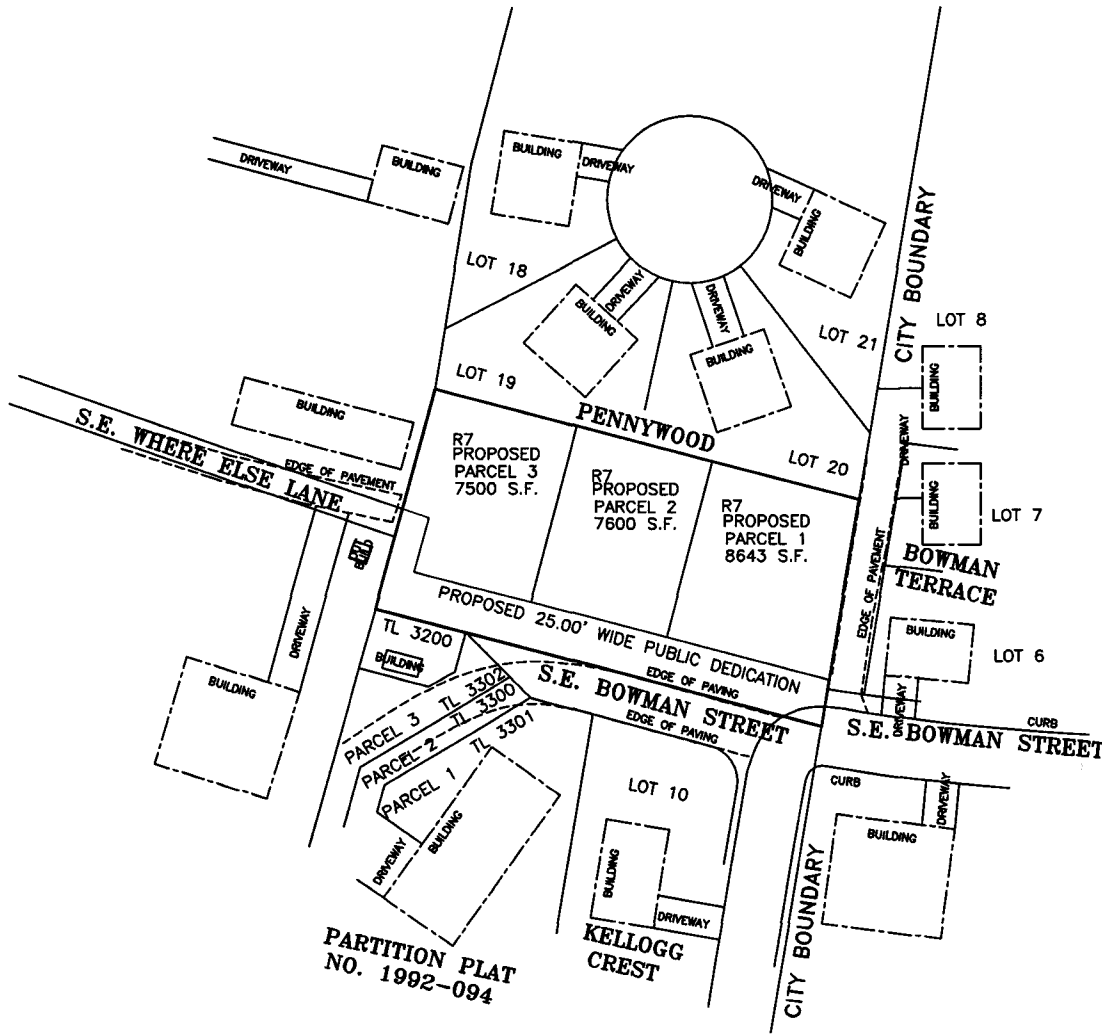
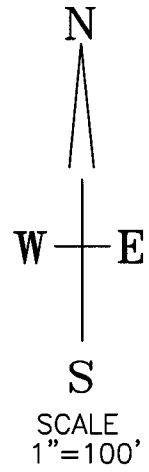
CLAIMS PP 8/18/09
 SHEET NO. 1
 PROJECT NO.

LOCATION MAP R7

A TRACT OF LAND

LOCATED IN THE NORTHWEST 1/4 OF SECTION 6, T.2S., R2E., W.M.,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON.

DATE: AUGUST 21, 2009



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
JOE H. FERGUSON
2445

RENEWAL DATE 12/31/09

CLIENT: CLUNAS
FUNDING GROUP

Ferguson Land Surveying, Inc.
646 S.E. 106TH AVENUE, PORTLAND, OR 97216
Phone (503) 408-0601 Fax (503) 408-0602

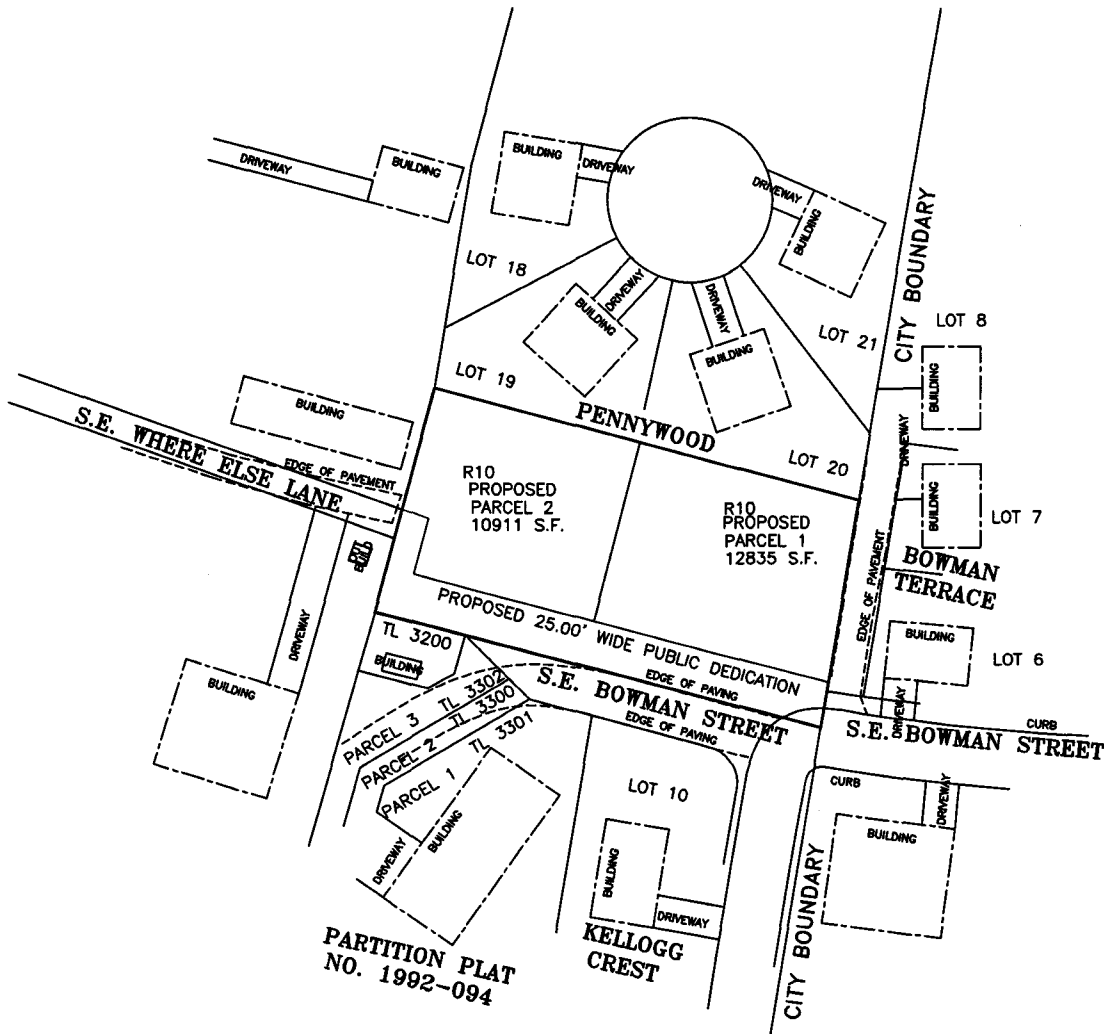
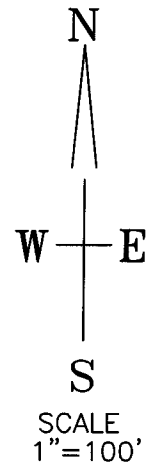
SHEET NO. 1 OF 1
JOB NO. 08-125 B LP
DRAFTED: 8/21/09 MW

LOCATION MAP R10

A TRACT OF LAND

LOCATED IN THE NORTHWEST 1/4 OF SECTION 6, T.2S., R2E., W.M.,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON.

DATE: AUGUST 21, 2009



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
JOE H. FERGUSON
2445

RENEWAL DATE 12/31/09

CLIENT: CLUNAS
FUNDING GROUP

Ferguson Land Surveying, Inc.
646 S.E. 106TH AVENUE, PORTLAND, OR 97216
Phone (503) 408-0601 Fax (503) 408-0602

SHEET NO. 1 OF 1
JOB NO. 08-125 B LP
DRAFTED: 8/21/09 MW

CITY OF MILWAUKIE

PreApp Project ID #: 09-005PA

PRE-APPLICATION CONFERENCE REPORT

This report is provided as a follow-up to a meeting that was held on 4/16/2009 at 10:00 AM

Applicant Name: TIM RILEY
Company: CLUNAS FUNDING GROUP, INC.
Applicant 'Role': Other
Address Line 1: 201 B AVENUE, SUITE 270
Address Line 2:
City, State Zip: LAKE OSWEGO OR 97034

Project Name:

Description:

ProjectAddress: SE Bowman & SE Brae

Zone: Residential R-10

Occupancy Group:

ConstructionType:

Use: Low density

Occupant Load:

AppsPresent: Tim Riley & Joe H. Ferguson

Staff Attendance: Brett Kelper, Brad Albert & Mike Boumann

BUILDING ISSUES

ADA:

Structural:

Mechanical:

Plumbing:

Plumb Site Utilities:

Electrical:

Notes: Grading Permit may be required at time of public improvements.

Dated Completed: 4/30/2009

City of Milwaukie DRT PA Report

Page 1 of 7

Please note all drawings must be individually rolled. If the drawings are small enough to fold they must be individually folded.

FIRE MARSHAL ISSUES

Fire Sprinklers:

Fire Alarms:

Fire Hydrants:

Turn Arounds:

Addressing:

Fire Protection:

Fire Access:

Hazardous Mat.:

Fire Marshal Notes: See attached.

PUBLIC WORKS ISSUES

Water: Clackamas River Water District (CRW) provides water service in the area of the proposed development. Check with CRW for public water main location and connection requirements. The water system development charge will be assessed and collected by CRW at the time of building permit.

Sewer: A public 8-inch wastewater main on the east side of the proposed development property is available to serve the proposed development. The applicant shall provide a 4-inch wastewater service to each new lot. Wastewater services crossing private property require a private utility easement.

Wastewater System Development Charge (SDC) is triggered when application for a building permit on a new lot is received. Currently, the wastewater SDC for a Single-Family Residence is \$893.00. The wastewater SDC is due at issuance of building permits.

Storm: Submission of a storm water management plan by a qualified professional engineer is required as part of any proposed development. The plan shall conform to Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards. The storm water management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing storm water management facilities serving the development property. Also, the plan shall demonstrate compliance with water quality standards. The City of Milwaukie has adopted the City of Portland 2008 Stormwater Management Manual for design of water quality facilities. All new impervious surfaces, including replacement of impervious surface with new impervious surfaces, are subject to the water quality standards. See City of Milwaukie Public Works Standards for design and construction standards and detailed drawings.

The storm SDC is based on the amount of new impervious surface constructed at the site. One storm SDC unit is the equivalent of 2,706 square feet of impervious surface. The storm SDC is currently \$1130.22 per unit. The storm SDC will be assessed and collected at the time the building permits are

issued.

Street:

SE Bowman Road is classified as a local road with an existing 25-foot wide right-of-way. The existing street has an inverted crown with a paved width of approximately 20 feet. Currently, there are no curb or sidewalk improvements on SE Bowman Road fronting the proposed development.

Frontage:

Chapter 19.1400 of the Milwaukie Municipal Code, herein referred to as the Code, includes standards for transportation planning and design. Partitions are subject to the requirements of Chapter 19.1400. As a result, the applicant is responsible for construction of street improvements to serve the proposed development.

According to Code Table 19.1409.3 and the Transportation Design Manual, street cross sections include the following:

LOCAL STREET

- 10-foot travel lanes
- 8-foot parking strip with curbs
- 5-foot landscape strips
- 5-foot setback sidewalks

The applicant may request to reduce or eliminate a frontage improvement requirement as follows:

- **Adjustment:** In accordance with Code Section 19.1404(C) an adjustment is required to reduce the design standards to the minimum allowed dimensions of Code Table 19.1409.3.
- **Variance:** In accordance with Code Section 19.700 a variance is required to reduce the design standards below the minimum allowed dimensions of Code Table 19.1409.3.

The applicant is responsible for providing the adjustment and variance criteria as part of the land use application. Please check with Engineering and Planning staff prior to submitting for an adjustment or variance.

Code Section 19.1409.2(C)(5) states that where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed. As a result, SE Bowman Street must be extended to the west boundary line of the proposed development.

The applicant is responsible for a half-street improvement fronting the proposed development on SE Bowman Street. Staff recommends half-street improvements, beginning at centerline of the right-of-way after full dedication is completed, as follows.

- 14-foot wide paved roadway
- 6-inch curb
- 5.5-foot wide landscape strip
- 5-foot wide setback sidewalk.

19.1409.5(B)
According to Code Section 19.1009.3(E), pedestrian/bicycle accessways shall be required to provide mid-block connections between blocks that exceed 600 feet or link the end of a cul-de-sac with a nearby activity center. The applicant is required to provide an access way to connect the west extension of SE Bowman Street to east end of SE Where Else Lane abutting the proposed development.

The applicant shall dedicate 15 feet of right-of-way for the pedestrian/bicycle accessway and construct a 10-foot wide concrete sidewalk in accordance with Code Section 19.1410.4.

Right of Way:

As stated in the Transportation System Plan and Code Table 19.1409.3, SE Bowman Street is

designated as a local road with a right-of-way width requirement of 50 feet. A right-of-way dedication of 25 feet fronting the south side of the proposed development is required.

The applicant shall dedicate 15 feet of right-of-way for the pedestrian/bicycle accessway connecting the west end of SE Bowman Street to the east end of SE Where Else Lane.

Driveways:

Code Section 19.1413.1(D) states that access to private property shall be permitted with the use of driveway curb cuts and driveways shall meet all applicable guidelines of the Americans with Disabilities Act (ADA).

According to Code Section 19.1413.2, the new driveway approach shall be 7.5 feet from the property line. Code Section 19.1413.3(C)(1) states that for single-family uses, the driveway approach width shall be between 9 feet and 18 feet.

Erosion Control:

Per Code Section 16.28.020(C), an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding five hundred square feet.

Code Section 16.28.020(E) states that an erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, Section 16.28.020(B) states that an erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit.

Traffic Impact Study:

Code Section 19.1408.2(B) states that the City will determine whether a transportation impact analysis is required under the threshold scoring method described in the Transportation Design Manual. The proposed zone change does score over the required 100 points under the threshold scoring method necessary to require a transportation impact analysis. As a result, a transportation impact analysis is required as part of the proposed zone change. Once the scope of the proposed development is determined and a deposit of \$1000.00 is paid, the City of Milwaukie will provide a detailed transportation impact study (TIS) scope for the traffic study.

When the traffic impact study is completed in accordance with the TIS scope, the applicant shall schedule a second pre-application meeting with Milwaukie Engineering Staff. The second pre-application meeting will allow Engineering staff to review and comment on the applicant's traffic impact study prior to submission of any land use applications. The fee for the second pre-application meeting is \$75.00 and a deposit of \$2500.00. Upon completion of the second pre-application meeting, the applicant may submit their land use applications.

PW Notes:

TRANSPORTATION SDC

The Transportation SDC is based on the increase in trips generated per the Trip Generation Handbook from the Institute of Transportation Engineers. The SDC for transportation is \$1599.77 per trip generated. Credit is applied to any demolished structures and is based upon the existing use of the structures. The Transportation SDC is assessed and collected at the time the building permits are issued.

PLANNING ISSUES

Setbacks:

The minimum front and rear yard setbacks in the residential R-7 zone are 20 feet. The side yard setbacks are 5 feet on one side and 10 feet on the other, with a street side yard setback of 20 feet for corner lots. For corner lots, the front lot line is defined as the line separating the lot from the street on which the proposed development will face. Milwaukie Municipal Code (MMC) Subsection 19.1409.2.F establishes additional setbacks from major streets: neither SE Bowman nor SE Brae is considered a

major street and so neither requires additional setbacks.

Accessory structures may not be located in the required front yard and must be at least 5 feet from side and rear lot lines (but 20 feet from a street side boundary) and at least 6 feet away from the nearest point of the main dwelling.

Landscape:

A minimum of 30% of the total lot area must remain open for landscaping or vegetation—this can include areas beneath roof overhangs or eaves. Lot coverage is limited to 30% of total lot area. Eaves and overhangs as well as patios or decks over 18 inches tall must be counted in calculating lot coverage. For partitions of vacant lots, the lot coverage and minimum vegetation standards will be addressed at the time of submission for building permit.

Parking:

MMC 19.503.9 requires that a detached single-family dwelling provide a minimum of 2 off-street parking spaces, at least one of which is covered. MMC 19.503.21 provides additional requirements for off-street parking in residential zones, including a minimum space dimension of 9 feet by 20 feet. Off-street parking must be located on the same lot as the dwelling it serves. Required spaces must have a durable and dust-free hard surface and may not be located in side yard setbacks.

Transportation Review:

MMC 19.1400 addresses transportation planning. A Transportation Plan Review (TPR) application will be required in conjunction with any proposed partition as well as with construction of any new dwelling. See the Public Works/Engineering notes for more information about applicability of the standards, adequacy of facilities, and what specific improvements may be required.

Application Procedures:

The requirements for a map amendment or "Zone Change" (ZC) are outlined in MMC 19.903. Zone changes require a major quasi-judicial process, which makes the City Council the final decision maker as per MMC 19.1011.4. First, the Planning Commission will hold a public hearing and either deny the request or make a recommendation for approval to the City Council. A denial can be appealed to the City Council under the standard appeal process in MMC 19.1002. If the Planning Commission recommends approval, a hearing will be scheduled with the City Council for the final decision. For both hearings, public notice will be provided to Metro as well as to property owners within 400 feet of the subject property. Approval criteria for zone changes are found in MMC 19.905 and include conformance to applicable parts of the comprehensive plan. The ZC application requires a concurrent Transportation Plan Review (TPR) application to evaluate the effect of the proposed zone change on the transportation system and may trigger the need for a formal transportation impact analysis. See the Public Works notes for more information on this issue.

An application for Minor Land Partition (MLP) is subject to the Type-II administrative review process. The MLP application has a fee and requires an additional reserve deposit in case the application is raised to the level of a Planning Commission hearing or becomes otherwise complicated. The MLP application requires a concurrent TPR application (distinct from the one needed for the zone change) to evaluate the need for site-specific street improvements related to the partition. In the standard Type-II process, a tentative notice of decision will be issued approximately three weeks after a complete application has been referred to relevant City departments, the neighborhood association, and any other relevant jurisdictions. The tentative notice of decision will be sent to the Applicant as well as to all property owners within 300 feet of the subject property, with 14 days to comment. The tentative decision becomes final unless any comments are received that warrant changes and a reissuing of the decision. Once the decision is final, there is a 15-day period during which the decision may be appealed to the Planning Commission. A separate application for Final Plat will be required once the preliminary plat has been approved. The final plat must be completed before building permits can be issued for any of the partitioned lots.

For two or more applications filed concurrently, the most expensive one is charged the full fee and all others are charged at half-price. Reserve deposits are collected in full. For the initial submission, the

Applicant should provide five (5) copies of all materials and information identified on the Submission Requirements checklist and the Site Plan Checklist (for the ZC application) or Preliminary Plat Checklist and Procedures sheet (for the MLP application). Upon a determination of completeness, additional copies must be provided for referral to and review by other departments and neighborhood groups. Staff will advise the applicant as to how many additional copies are needed once the application has been deemed complete.

The ZC application (and its accompanying TPR application) must be submitted prior to the MLP application (and its accompanying TPR application). If the zone change is approved by City Council, parties with standing have 21 days to appeal the decision to the Land Use Board of Appeals (LUBA) as provided by state law. Staff would accept submission of the MLP application before the LUBA appeal period had ended, but this would be at the applicant's own risk and with the understanding that further processing of the MLP application would be suspended if a LUBA appeal was filed. For example, if an LUBA appeal were to be filed and the applicant decided to withdraw the MLP application after staff had already started to work on it (review for completeness, refer out for comments, etc.), the City may not refund all application fees.

A timeline for the ZC application, from the date when the City deems the application complete to the end of the LUBA appeal period, is approximately 14 to 15 weeks. A timeline for the MLP application, from the date when the City deems the application complete to the end of the Planning Commission appeal period, is approximately 7 to 8 weeks. Oregon law gives the City 30 calendar days in which to determine completeness, though it is the City's goal to review an application for completeness within 10 working days of receipt. The applicant should take this completeness-review period into consideration when calculating project timelines.

Natural Resource Review: The site is not located within a designated natural resource area.

Lot Geography: The lot is rectilinear in shape, though its southeastern corner is slightly irregular where SE Brae Street makes a curving corner.

Planning Notes: The minimum lot size in the R-7 zone is 7000 square feet. Lot width must be at least 60 feet and lot depth must average at least 80 feet. See Public Works notes for information about required street dedications that might affect calculations of lot size and lot depth, as well as for any requirements for vehicle turnarounds.

The subject property is bordered by the city's R-10 zone to the west and south, by the city's R-7 zone to the north, and by the county's R-8.5 zone to the east. The city's assigned zoning designation for R-8.5 properties is R-7 as per MMC 19.1504.1.E.

The subject property is within the boundaries of the Lake Road Neighborhood District Association (NDA). Staff strongly encourages the applicant to present the proposed zone change and partition to the NDA and/or its Land Use Committee, as well as to the immediate property owners. The Lake Road NDA meets on the second Wednesday of each month at 6:30pm at Rowe Middle School (3606 SE Lake Road). Visit the website <http://www.ci.milwaukie.or.us/nda/lakeroad.html> for contact information.

ADDITIONAL NOTES AND ISSUES

County Health Notes:

Other Notes:

Dated Completed: 4/30/2009

City of Milwaukie DRT PA Report

Page 6 of 7

This is only preliminary preapplication conference information based on the applicant's proposal and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT

**Tom Larsen - Building Official - 503-786-7611
Bonnie Lanz - Permit Specialist - 503-786-7613**

ENGINEERING DEPARTMENT

**Gary Parkin - Engineering Director - 503-786-7601
Brad Albert - Civil Engineer - 503-786-7609
Zach Weigel - Civil Engineer - 503-786-7610
Jason Rice - Associate Engineer - 503-786-7605
Brenda Schleining - Associate Engineer - 503-786-7602**

COMMUNITY DEVELOPMENT DEPARTMENT

**Jeanne Garst - Administrative Supervisor - 503-786-7655
Marcia Hamley - Admin Specialist - 503-786-7656
Blanca Marston - Admin Specialist - 503-786-7600
Alicia Stoutenburg - Admin Specialist - 503-786-7600**

PLANNING DEPARTMENT

**Katie Mangle - Planning Director - 503-786-7652
Susan P. Shanks - Senior Planner - 503-786-7653
Brett Kelder - Associate Planner - 503-786-7657
Ryan Marquardt - Associate Planner - 503-786-7658
Li Alligood - Assistant Planner - 503-786-7627**

CLACKAMAS FIRE DISTRICT

Doug Whiteley - Lieutenant Deputy Fire Marshal - 503-742-2692



For Office Use Only:

- Phone Meeting Pre-App PR Other
- TI NC Sub/Par Other _____

**Clackamas County Fire District #1
Fire Prevention Office**

PROJECT CONTACT/ACTION SUMMARY

Project Name Partition into 3 Parcels Date April 16th, 09
 Contact Name _____ Phone _____
 Address SE Bowman & SE Brae Occup _____
 File No _____ Fire Marshal Bowman

| Applicable Items: | | | |
|--|-------------------------------------|--|--------------------------------|
| <input checked="" type="checkbox"/> Water Supply | <input type="checkbox"/> Sprinklers | <input checked="" type="checkbox"/> Access | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Alarm Systems | <input type="checkbox"/> Haz Mat | <input type="checkbox"/> FLS | <input type="checkbox"/> _____ |

Notes

Access & Water Supply

Access & Water Supply approved as shown

Page / of /

MEMORANDUM

DATE: July 20, 2009
TO: Brad Albert, City of Milwaukie
FROM: Chris Maciejewski, P.E.
SUBJECT: Milwaukie SE Bowman Road and SE Brae Street TIS Checklist Review

Per your request of July 6, 2009, we have reviewed the traffic analysis submitted for the proposed zone change for the property located at the intersection of SE Bowman Road and SE Brae Street to determine if the study provided adequate information to comply with the required transportation impact study scope (completed May 21, 2009 by DKS Associates). Based upon our review, we find that the study adequately addressed the required scope items to address the impacts of the proposed rezone.

If you have any questions, please feel free to call me.

1400 SW Fifth Avenue
Suite 500
Portland, OR 97201

(503) 243-3500
(503) 243-1934 fax
www.dksassociates.com



H. Lee & Associates

Traffic Engineering, Transportation Planning, and Intelligent Transportation Systems

MEMORANDUM

*P.O. Box 1849
Vancouver, WA 98668
Phone: (360) 567-3002
Fax: (360) 567-3005*

To: City of Milwaukie Staff

From: Hann Lee, P.E.

Date: June 26, 2009

Subject: Bowman-Brae Rezone Traffic Analysis

Page 1 of 3

INTRODUCTION

Per the City of Milwaukie's requirements, H. Lee & Associates has undertaken a traffic analysis to assess the transportation impacts related to the proposed rezoning Bowman-Brae site. The project site is located on the northwest corner of the SE Bowman Street/SE Brae Street intersection and is comprised on tax lot 2S2E06BC03100. The surrounding land uses are all residential. Figure 1 shows the project vicinity.

The existing site zoning is R10 which allows the site to be developed with two detached single family residential units. The proposal is to rezone the site to R7 which allows for the development of three detached single family residential units. Figure 2 shows the proposed site plan.

The intent of the traffic study is twofold. First, the traffic study is a comparison between the potential traffic impacts of the maximum use of the existing zoning and proposed zoning. Second, the traffic study will demonstrate that pursuant to the applicable Statewide Planning Goal 12 and the Transportation Planning Rule (TPR), the traffic impact of the rezone proposal of the Bowman-Brae site can either be adequately served by the existing access and adjacent transportation system or impacts can be adequately mitigated to meet the Milwaukie's standards.

EXISTING STREET NETWORK

SE Brae Street is a two-lane local roadway with a speed limit of 25 mph. Sidewalks generally exist along both sides of the roadway. The roadway is 32 feet wide.

SE Bowman Street is a two-lane local roadway with a speed limit of 25 mph. The roadway is 32 feet wide with curb and gutter. No sidewalks exist along the roadway.

ACCIDENT HISTORY

Accident data was obtained from the Oregon Department of Transportation (ODOT) for the five year period between January 1, 2003 and December 31, 2007. The data includes total accidents

and accidents by severity (i.e. fatal, injury or property damage only). The accident data obtained from ODOT is attached to this memorandum for reference as Attachment 1. Based on this data, there were no historical accidents occurring near the project site vicinity.

TRANSIT SERVICE

Tri-Met provides public transit service in the City of Milwaukie and surrounding Portland Metro area. The closest bus route to the project site is approximately 0.37 miles north along SE Lake Road. SE Lake Road is served by Route 29-Lake/Webster Road. The major destinations of Route 29 are Clackamas Town Center Mall and Milwaukie Transit Center where transfers can be made to regional destinations. Weekday service is provided every 62 to 82 minutes from approximately 6:30 a.m. to 7:30 p.m. No weekend service is provided on Saturday and Sunday.

TRIP GENERATION

Estimates of daily, A.M. peak hour, and P.M. peak hour trips generated by the Bowman-Brae property were developed from rates published in "Trip Generation, 7th Edition" (Institute of Transportation Engineers, 2003) and are shown in Table 1. A detached single family residential (ITE Code 210) trip generation rate was used to estimate trip generation for both the existing (R10) and proposed (R7) zoning.

The Bowman-Brae property is expected to generate 19 daily, 1 A.M peak hour (0 in, 1 out), and 2 P.M. peak hour trips (1 in, 1out) with the existing zoning. With the proposed rezoning, the Bowman-Brae property is expected to generate 29 daily, 2 A.M peak hour (0 in, 2 out), and 3 P.M. peak hour trips (2 in, 1 out). The proposed rezoning would result in an increase of 10 daily, 1 A.M. peak hour (0 in, 1out), and 1 P.M. peak hour trips (1in, 0 out).

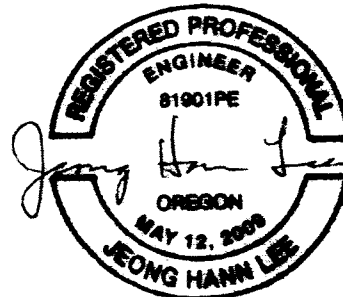
Table 1. Trip Generation for the Bowman-Brae Rezone

| Land Use | Amount | Average Daily | AM Peak | | | PM Peak | | |
|---|---------|------------------|---------|------|-------|---------|------|-------|
| | | | In | Out | Total | In | Out | Total |
| Existing Zoning – R10 (Single Family Residential – ITE Code 210) | | | | | | | | |
| Rate per unit | | 9.57 | 0.19 | 0.56 | 0.75 | 0.64 | 0.37 | 1.01 |
| Trips | 2 units | 19 | 0 | 1 | 1 | 1 | 1 | 2 |
| Proposed Zoning – R7 (Single Family Residential – ITE Code 210) | | | | | | | | |
| Rate per unit | | 9.57 | 0.19 | 0.56 | 0.75 | 0.64 | 0.37 | 1.01 |
| Trips | 3 units | 29 | 0 | 2 | 2 | 2 | 1 | 3 |
| Increased Trips due to Rezone | | | | | | | | |
| | | 10 | 0 | 1 | 1 | 1 | 0 | 1 |

CONCLUSION

The increase in trip generation by the proposed Bowman-Brae rezone is so negligible that no meaningful impact to the functional classification of adjacent roadways is anticipated. The impact is only one P.M. peak hour trip. Therefore, the Bowman-Brae site can be adequately served by the existing access and adjacent transportation system and meets the TPR requirements.

Public transportation is available to the site approximately 0.37 miles to the north along SE Lake Road and is within a reasonable walking and bicycling distance. Although there are no exclusive bicycle lanes along adjacent roadways in the project vicinity, since the area is residential in nature, shared roadways with bicycles are adequate. Sidewalks are intermittent within the surrounding neighborhood. Due to low residential traffic volumes and wider street widths (32 feet), these pedestrian facilities should be adequate.



Sign
6/26/09

RENEWS 12/31/2010

Bowman-Brae Rezone TIA
Milwaukie, Oregon

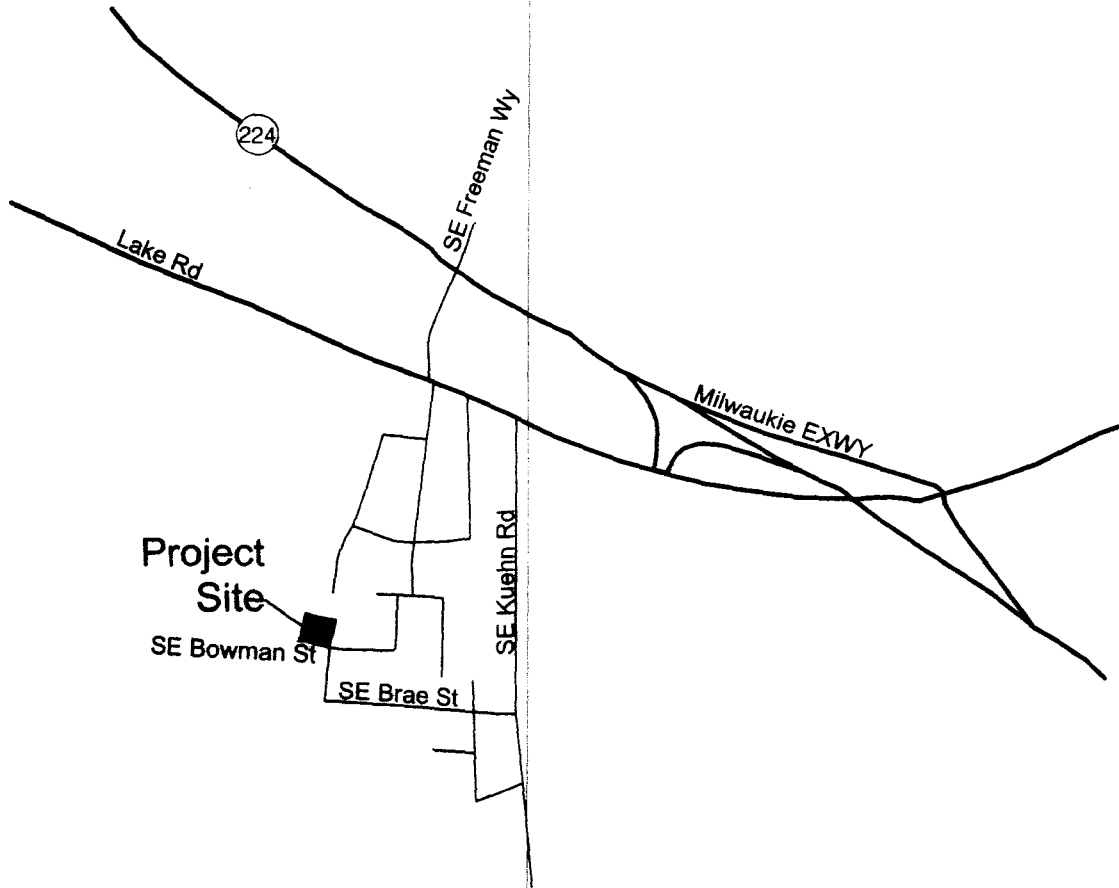


FIGURE 1
Site Vicinity Map

NOT TO SCALE

Bowman-Brae Rezone TIA
Milwaukie, Oregon

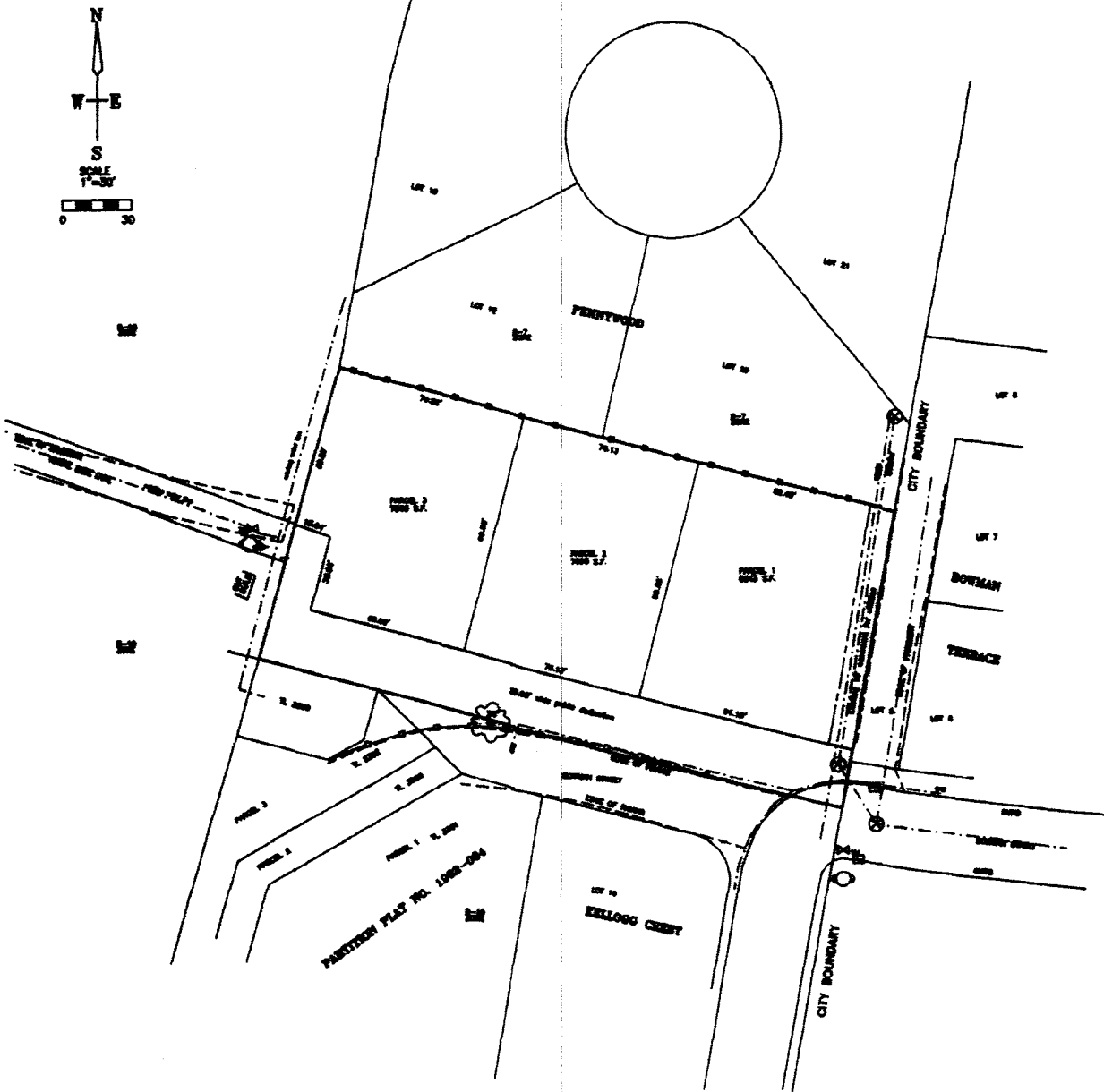


FIGURE 2
Site Plan

NOT TO SCALE

**ATTACHMENT 1
ACCIDENT DATA**

Hann Lee

From: WARD Kimberlee S [Kimberlee.S.WARD@odot.state.or.us]
Sent: Friday, June 12, 2009 12:09 PM
To: hlee@hleeassociates.com
Cc: VOGEL Sylvia M
Subject: Crash Data
Attachments: kw.HLeeStanleyAve@KingRd_CDS150.pdf;
kw.HLeeStanleyAve@RailroadAve_CDS150.pdf;
kw.HLeeStanleyfromKingtoRailroad_CDS150.pdf;
kw.HLeeBowmanBraeplus200ft_CDS150.pdf

<<kw.HLeeStanleyAve@KingRd_CDS150.pdf>> <<kw.HLeeStanleyAve@RailroadAve_CDS150.pdf>>
<<kw.HLeeStanleyfromKingtoRailroad_CDS150.pdf>> <<kw.HLeeBowmanBraeplus200ft_CDS150.pdf>>

Hi Hann,

Attached are the summary and PRC reports you requested for the period of January 1, 2003 through December 31, 2007 in the city of Milwaukie. No crashes were reported.

Thank you for your request and have a nice weekend,

Kim

Kim Ward
Crash Reporting Technician
Crash Analysis and Reporting Unit
Transportation Data Section
555 13th Street NE, Suite 2
Salem, Oregon 97301-4178
ph: (503) 986-4237
fax: (503) 986-4249
mailto: kimberlee.s.ward@odot.state.or.us

OREGON DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANALYSIS AND REPORTING UNIT
CRASH SUMMARIES BY YEAR BY COLLISION TYPE

SE Bowman Road @ SE Brae Street plus 200 feet in all directions
January 1, 2003 through December 31, 2007

| COLLISION TYPE | FATAL CRASHES | NON- FATAL CRASHES | PROPERTY DAMAGE ONLY | TOTAL CRASHES | PEOPLE KILLED | PEOPLE INJURED | TRUCKS | DRY SURF | WET SURF | DAY | DARK | INTER- SECTION | INTER- SECTION RELATED | OFF- ROAD |
|----------------|------------------|--------------------------|----------------------------|------------------|------------------|-------------------|--------|-------------|-------------|-----|------|-------------------|------------------------------|--------------|
|----------------|------------------|--------------------------|----------------------------|------------------|------------------|-------------------|--------|-------------|-------------|-----|------|-------------------|------------------------------|--------------|

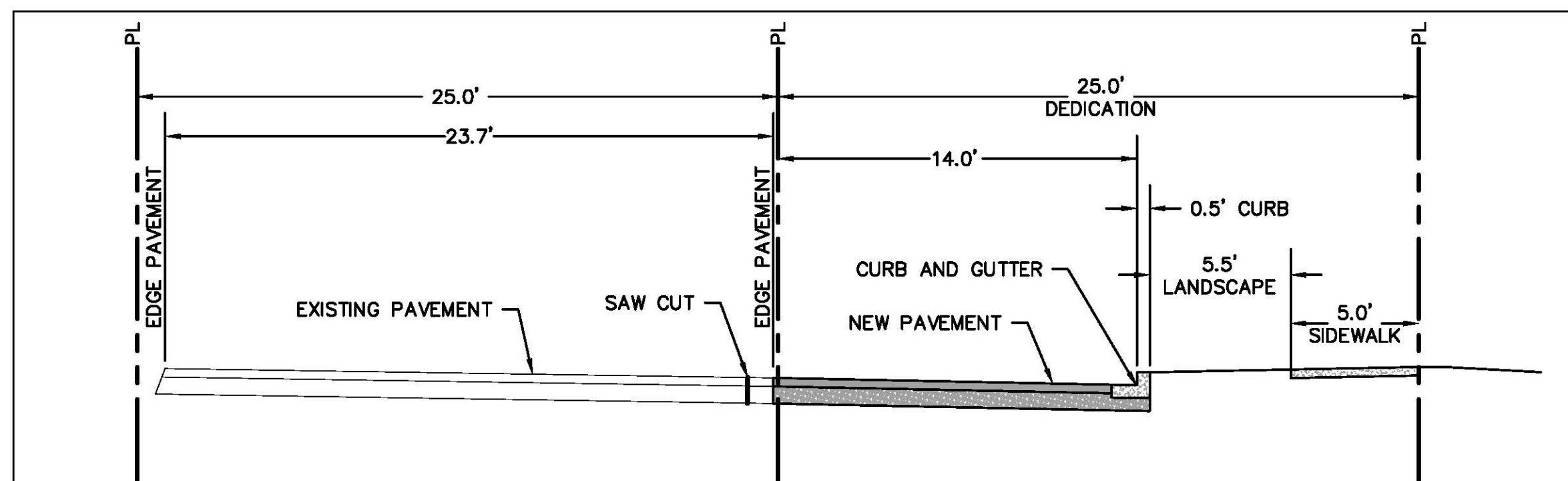
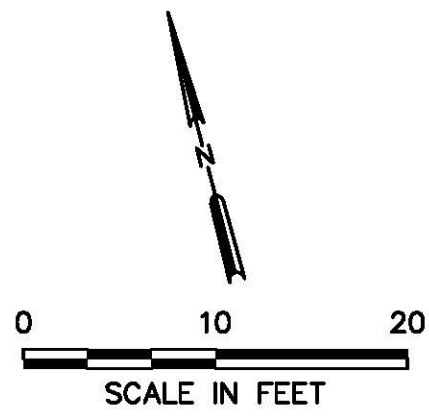
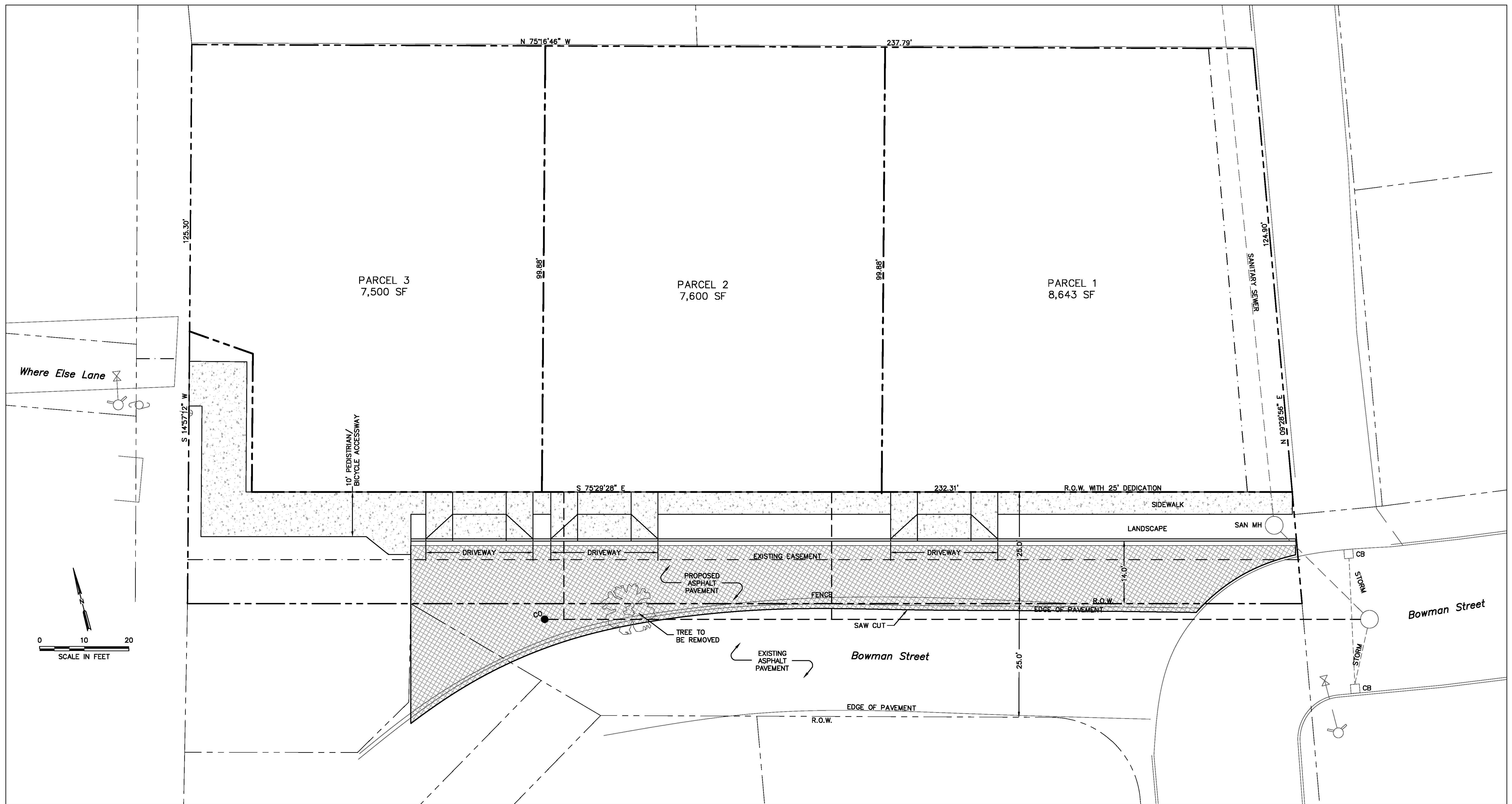
YEAR:

TOTAL

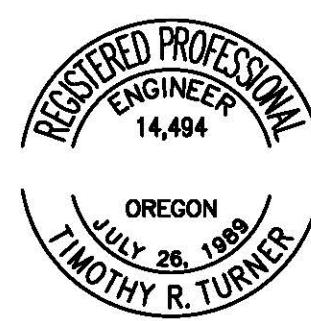
FINAL TOTAL

Note: Legislative changes to DMV's vehicle crash reporting requirements, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

RS PAGE 71



TYPICAL STREET SECTION



| REV | DATE | DESCRIPTION | DWN BY | DES BY | CHK BY | APP BY |
|-----|------|-------------|--------|--------|--------|--------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

DATE OF ISSUE: JAN 2009
 DWN BY: TRT
 DES BY: TRT
 CHK BY:
 APP BY:

TRT ENGINEERING, INC.
 2836 S.E. MARKET STREET
 PORTLAND, OREGON 97214
 PHONE (503) 235-7592
 FAX (503) 235-7593

RESIDENTIAL PARTITION
 SE BOWMAN RD 22E06BC03100
 MILWAUKIE, OREGON

PUBLIC STREET IMPROVEMENTS

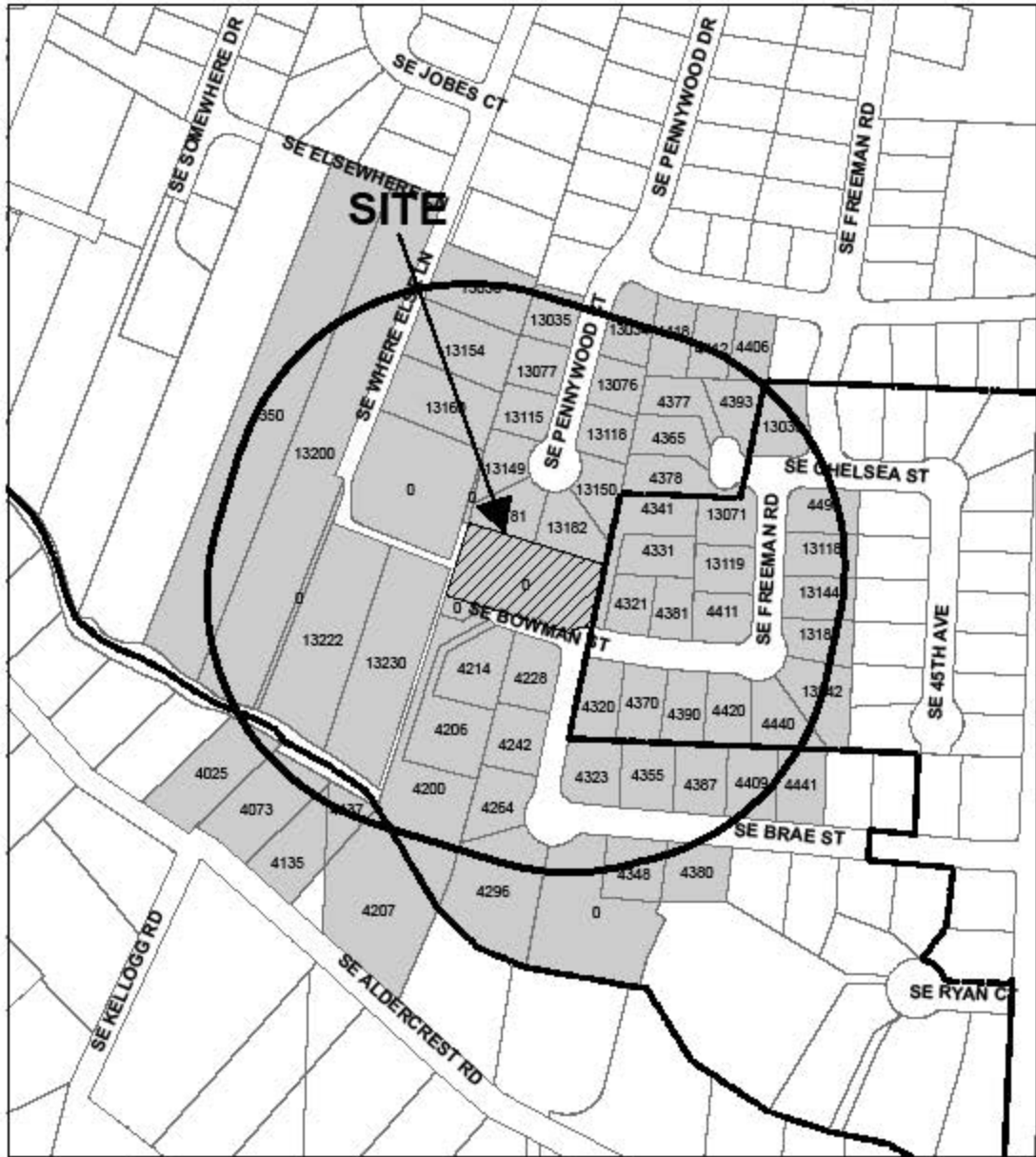
DRAWING NO.
1
 PROJECT NO.

CLUNAS PP 9/18/09

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7

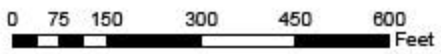
“Neighborhood Appropriateness”

ZC-09-01 and TFR-09-04
 SE Bowman/SE Brae Zoning Change to R7



Site Map
SE Bowman and SE Brae
(22E06BC03100)
File #ZC-09-01, TFR-09-04

- Legend**
- 400-foot buffer
 - ZC-09-01 Site
 - City Limit
 - City of Milwaukie Tax Lots
 - City of Milwaukie Notices
 - Clackamas County Notices



Site Map with Addresses

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7

13115-13035 SE Pennywood Ct
(Pennywood)



4228-4242 SE Brae St
(Kellogg Crest)

Aerial View of Surrounding Neighborhoods

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Most Likely Construction with R7 Zoning
(similar to 13115-13035 SE Pennywood Ct)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Most Likely Construction with R10 Zoning
(similar to 4228-4242 SE Brae St)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



R7



R10

Most Likely Construction R7 vs. R10 Zoning
(Visual impact comparison)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7

Is R7 zoning of the subject site appropriate for the neighborhood?

- The subject site is adjacent to three residential neighborhoods (Pennywood, Bowman Terrace and Kellogg Crest).
- With an R7 zoning classification, the most likely construction on the site would be very similar to that of the Pennywood neighborhood.
- The construction would be of better quality and larger, in terms of square footage, than that of the Bowman Terrace neighborhood.
- The construction would be of similar quality and square footage to the homes in Kellogg Crest closest to the site.
- The same public area improvements will be required whether one, two or three homes are built on the site.
- The applicant believes the density of the construction would not be significantly different, in terms of visual impact, to what would most likely be built with an R10 zoning classification.
- **The applicant believes R7 zoning of the subject site is appropriate for the neighborhood(s).**

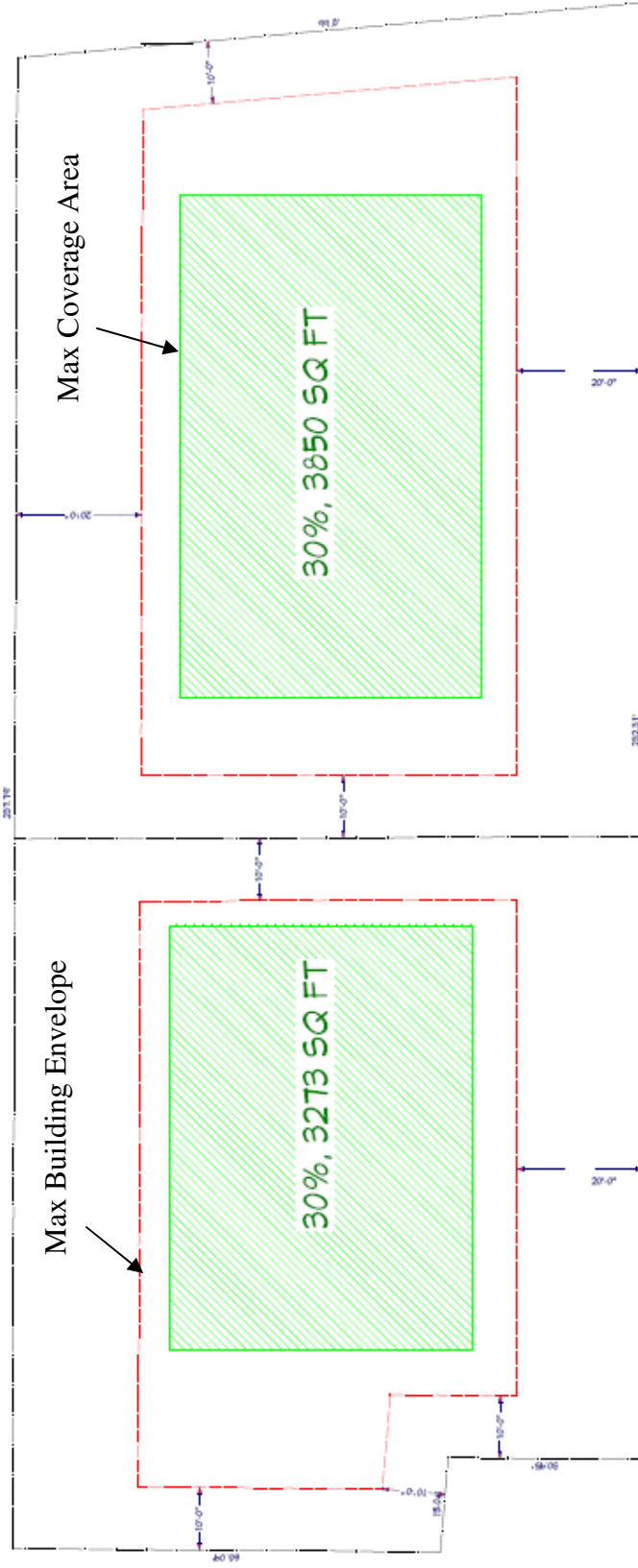
ZC-09-01 and TFR-09-04

R10/R7

Building Envelopes
Coverage Areas
Housing Models

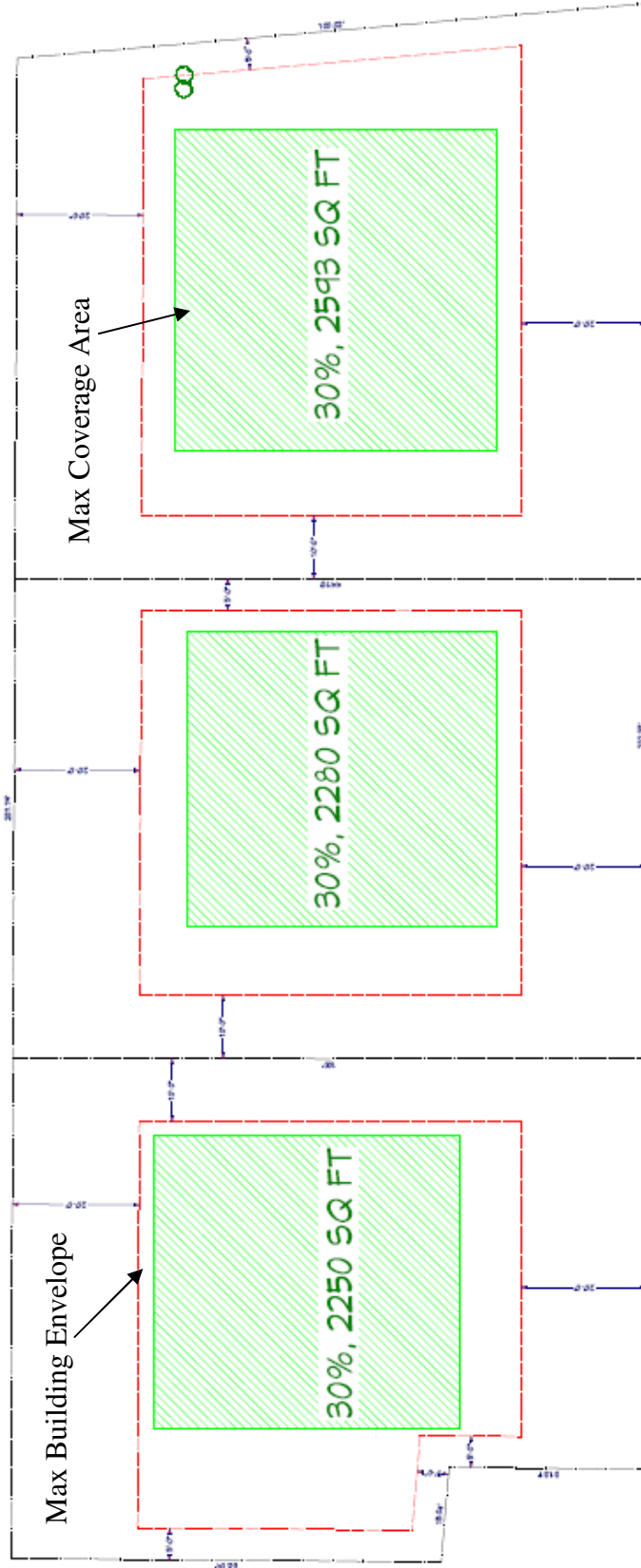
ZC-09-01 and TFR-09-04

Maximum Building Envelope and Maximum Coverage Area
Bowman/Brae Site – R10



R10 – Two Lots
Side Setbacks = 10 Feet
Front/Back Setbacks = 20 feet

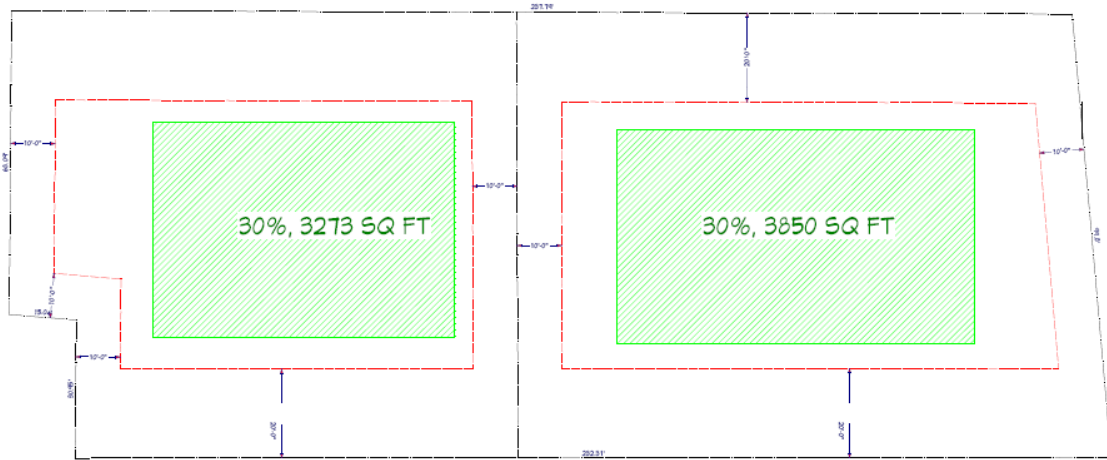
ZC-09-01 and TFR-09-04
Maximum Building Envelope and Maximum Coverage Area
Bowman/Brae Site – R7



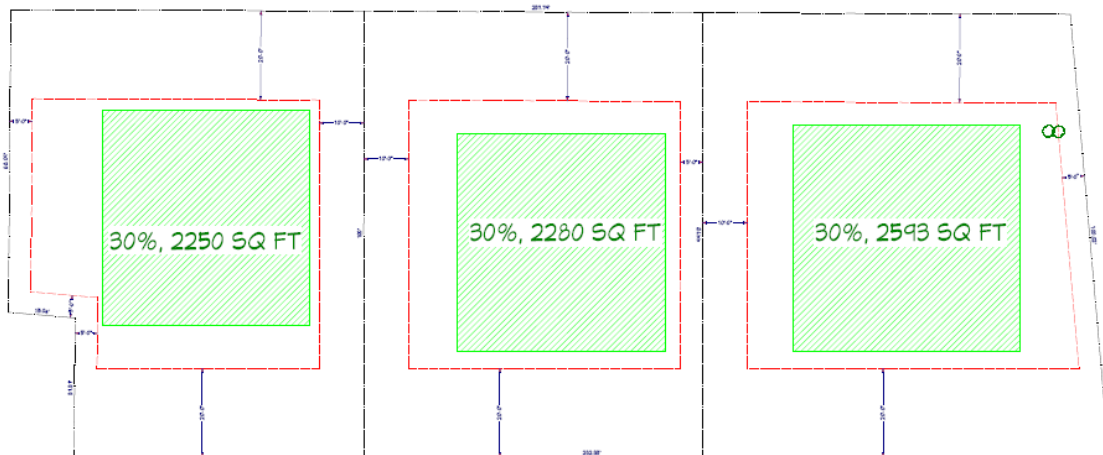
R7 – Three Lots
Side Setbacks = 5/10 Feet
Front/Back Setbacks = 20 feet

ZC-09-01 and TFR-09-04

Maximum Building Envelope and Maximum Lot Coverage Comparison Bowman/Brae Site



R10 – Two Lots
Side Setbacks = 10 Feet
Front/Back Setbacks = 20 Feet



R7 – Three Lots
Side Setbacks = 5/10 Feet
Front/Back Setbacks = 20 Feet

Bowman/Brae Site – 01/30/10

Models of Homes on Two Lots
Bowman/Brae Site – R10



Front View



View from Bowman/Brae Corner

Models of Homes on Three Lots
Bowman/Brae Site – R7

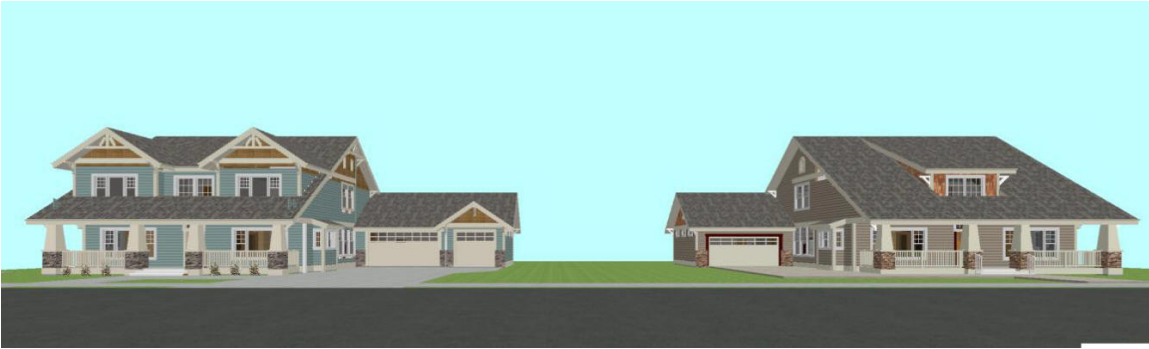


Front View



View from Bowman/Brae Corner

Bowman/Brae Site – Two and Three Lot Model Comparisons



2 Lots – Front View



3 Lots – Front View



2 Lots – View from Bowman/Brae Corner



3 Lots - View from Bowman/Brae Corner

ATTACHMENT 4



MEMORANDUM

DATE: October 20, 2009

TO: Brad Albert, City of Milwaukie

FROM: Chris Maciejewski, P.E.

SUBJECT: Milwaukie SE Bowman Road and SE Brae Street Rezone TIS Review

P09094-001

Per your request, I have reviewed the traffic impact study (dated June 26, 2009) submitted by H. Lee & Associates for the proposed rezone located at the intersection of SE Bowman Street/SE Brae Street (tax lot 2S2E06BC03100). The submitted traffic impact study provides adequate information to meet City of Milwaukie study requirements. This review includes comments and recommended mitigation measures as summarized in the following sections.

Transportation Planning Rule (TPR) Analysis

The traffic impact study documents an analysis of the proposed rezone with applicable sections of OAR Section 660-12-0060. Based on the proposed rezone, the reasonable worst-case scenario for the site would increase the development potential of the site by one household (three single-family homes instead of two single-family homes). The increased trip potential for the site would be one trip in each of the AM and PM peak hours and a daily trip increase of 10 trips. This level of increased trip generation would not significantly impact the surrounding transportation system. In addition, the proposed rezone would not require a change in functional classification to the study area roadways (local streets). Therefore, the proposed rezone would meet the requirements of the TPR analysis for consistency with the City's Transportation System Plan.

Adequate Public Facilities

The proposed rezone does not require a land use submittal review for a proposed site plan. However, to assure adequate public facilities for the rezone, the applicant reviewed crash history in the study area, pedestrian facilities, bicycle facilities, and transit connections. Crash history records do not indicate safety concerns at the intersection of SE Bowman Street/SE Brae Street. Transit service exists on SE Lake Road approximately 0.37 miles north of the site. Pedestrian facilities are provided near the site on SE Brae Street to the south and west of the site. Pedestrian facilities from the site toward the public transit on SE Lake Road are partially provided by sidewalks on SE Freeman Road (gaps exist on SE Brae Street and SE Freeman Road between SE Brae Street and SE Chelsea Street) and by sidewalks on SE Where Else Lane (gaps exist south of SE Jobs Court to the project site). A pedestrian/bicycle path is proposed to connect the site to SE Where Else Lane upon development of the site. While there are gaps in the pedestrian network near the site, the intensity of the proposed rezone and the types of nearby land use (residential) and corresponding volume/speed characteristics of the local streets would not trigger off-site improvements pedestrian improvements to provide adequate public facilities. Bicycle lanes are not required on study area roadways (local streets).

Conclusions

The information provided in the traffic impact study for the proposed site identifies that the proposed rezone will have minimal impacts on the surrounding transportation system. With the measures that the City will require during land use development to construct frontage improvements, we have found that City of Milwaukie standards can be met.

If you have any questions, please feel free to call me.

ATTACHMENT 5



OAK LODGE WATER DISTRICT

Oak Lodge Water District
 Regular Meeting Agenda
 14496 SE River Road, Milwaukie
 August 20, 2002
 (A light dinner will be served)

5:30 p.m. Work Session

(5:30 – 6:45) Water Rights Permit Extension Rules Update – Dan Bradley

7 p.m. General Board Meeting (or immediately following Work Session)

Members of the public are welcome to testify for a maximum of three minutes on each agenda item.

- 1) Call to Order
- 2) (5 min) Public Comment
- 3) (5 min) Approval of Minutes
- 4) (20 min) Where Else Lane Property Use
- 5) (5 min) View Acres Painting Contract Award
- 6) (15 min) Aldercrest Engineering Proposal
- 7) (10 min) Regional Water Providers Consortium
- 8) (15 min) Field Program Presentation
- 9) (15 min) Business from the Manager
 - a) Monthly Financial Report
 - b) Clackamas Water Providers
 - c) NCCWC Issues
 - d) Other Business
- 10) (15 min) Business from the Board
- 11) (5 min) Correspondence

if
 Late →
 (849-4131)

(CRBC representative, Sanitary Survey, IGA session date, Caryn Tilton follow at next regular meeting)

9 p.m. Adjourn

For special assistance due to disability, please call the Oak Lodge Water District 48 hours prior to the meeting date at 503-654-7765.

Aug. 16, 02

For Board Meeting of: August 20, 2002

Agenda Item: Number 4

To: Chair Knapp and OLWD Board Members

From: Katherine Willis, General Manager

Where Else Lane Property

Issue

To address the Lake Road Neighborhood Association's proposal to use district property at Where Else Lane as a park.

Recommendation

It is recommended the Board direct staff to work with City of Milwaukie staff to outline possible use levels for district property at Where Else Lane.

Background

The District owns $\frac{3}{4}$ of an acre on Where Else Lane. The property was historically used for a pump station to pump water from the Portland system into Oak Lodge Water District. This pump station is no longer in service.

Facts and Findings

The Lake Road Neighborhood Association has requested the district consider allowing development of this area as a park. The association chair has proposed that the City of Milwaukie enter into an agreement with the district to allow this development.

Staff has informally discussed this proposal with citizens for and against park development, and with representatives of the City of Milwaukie.

Further exploration of issues would address the potential for usage as follows:

- 1) Maintain property as is – No structures for community use are currently on the property.
- 2) Higher use – Add picnic tables and benches.
- 3) Highest use – Installation of playground equipment.

The property is shown in the attached aerial photograph.

Pump Station - no longer used
Mowed

Used as a Park informally

20 yr CIP - has linkage to reconnect to PDX
Not likely that we would do this

- Don't do anything that can't be undone

kw - Issue is how do people in neighs want to see it used

- Liability - if kids get hurt

- Lines run along western edge

- Only small chunk of public road.

- NDA → grants from city - park benches

- vehemently opposed to formalizing

- close to Creek - kids wander down

- No parking for lot

- End of deadend road - changes character of what we bought.

- neighborhood child killed on their lot - sued.

- Rather have two houses than a park

- This year District took over maintenance

- Mother wrote letter

- 150' buffer from Creek (fences not allowed)

District Admin Bldg

Oak Lodge Water Board
Oak Grove Oregon
August, 7, 2002

The Milwaukie Pilot recently indicated that your pumping station land that borders 45th and Brae and my acre on Where Else Lane is being considered for a future park governed by the city of Milwaukie. For the past ten years plus the neighborhood families have made use all year as a playfield for the children and families. There is no open land for the children in the three large housing developments to play other than that field.

Until my husband, Jim Downs' death two years ago he kept the field mowed year round for the neighborhood families to enjoy. The field is now very well maintained by Oak Lodge water department. My primary concern is for the liability for the surrounding areas because of Kellogg Creek in our back yards. Until now there has never been a child or family destructive to the surrounding homes or properties because they live among us and respect their personal neighborhood.

My second concern is upkeep knowing the shortage of funds the city has to work with. Would Oak Lodge Water District continue to expend the monies for upkeep or would the park look like the Nature Conservancy that borders my property under the Milwaukie Marketplace?

We have given right of way for your main trunk line to follow my property line and were told that the pumping station would be activated at anytime, I believed you, has this been changed? Please notify me because I would appreciate your input.

Sincerely yours,



Alice M. Downs
13222 SE Where Else Lane
Milwaukie, OR. 97222

PLEASE SIGN IN

Date: 8-20-02
 Meeting Event: OLWD Reg Board Mtg

Indicate if you intend to speak on agenda item(s).

Page of

| Print Name | Address /City /Zip | Phone | Speaking | | Write Item(s) Addressing (MAXIMUM 3 ITEMS) |
|------------------------|--|------------------|----------|----|--|
| | | | Yes | No | |
| Elizabeth Carlson | OLWD | | | | |
| Katherine Willis | OLWD | | | | |
| DAN BRADLEY | DR. WATSON VILL, COUNCIL | | | | |
| Roy J Smith | OLWD | | | | |
| Paul Savas | | | | | |
| PAUL SAVAS | OLWD | | | | |
| Carolyn Dickman | OLWD | | | | |
| Joe Jaska | OLWD | | | | |
| Full name | OLWD | | | | |
| Barbara Kemper | Clackamas, OR 97015 17673 SE 130th Ave, | 503- 655-2601 | | ✓ | |
| Scott Forrester | 2030 NW 7th Place, Gresham | 492-1593 | ✓ | | water rights work session - 5:30pm |
| Dave Phillips | 13230 whereElse Ln Milw. | 653 1251 | ✓ | | park on Water Dist Property |
| Melanie Downs-Phillips | " " | " " | ✓ | | " " |
| John Herrigel | 10722 SE Main St, Milw | 786-7508 | ✓ | | " " |
| DEBBY PATTEN | 11880 SE 34th AVE MILW | 653-7908 | ✓ | | |
| Jim Knapp | OLWD | | | | |
| Paul NEUMANN | 4775 S.E. Concord | 658-2787 | ? | ? | |

RS PAGE 93

To: Li Alligood

RE: Code Section 19.1009.3 (E)
ON PAGE 3 OF DRT PA Report

Be advised that the property to the West is 100% private. So far the owners have graciously allowed the neighborhood to use their driveway as a pathway.

Thank you for taking into consideration the Old Growth Evergreen.

Paul Hawkins
LAKE Rd. LAND USE

January 19, 2010

To the Milwaukie Planning Commission Board:

I am writing to you regarding the undeveloped lot at the northwest corner of Bowman St. and Brae St. A few months back, I spoke with Tim Riley regarding his company's intentions on this property. Mr. Riley and his company were fully aware when they purchased this property that it was zoned R-10. However, for his company to make money off this property he stated that they would need to have it rezoned, R-7. I believe this company is not looking out what is best for this older Milwaukie neighborhood, but to make a profit from this property and walk away. The homes built on this undeveloped lot should be similar in character to the homes located south of the property. These homes were built over sixteen years ago, zoned R-8.5 and larger, and fit in well with the existing neighborhood.

Sincerely,

Melanie Phillips

13230 SE Where Else Lane

Milwaukie, Oregon 97222

From: Alligood, Li
Sent: Wednesday, January 13, 2010 4:11 PM
To: 'Immiller7@juno.com'
Cc: Mangle, Katie
Subject: RE: Land Use File #ZC-09-01, zone change at SE Bowman and SE Brae
[Hello Mike,](#)

[Thank you for submitting a comment about Land Use File #ZC-09-01; your comment will be shared with the Planning Commission.](#)

[Also, you make a good point about additional side yard setback requirements for corner lots. However, I would like to make a clarification: in this case, the zoning ordinance does not consider any of the proposed lots on the site a "corner lot," which is defined as "a lot abutting on 2 or more streets, other than an alley, at their intersection," and none of the proposed lots would be subject to additional side yard requirements.](#)

[Regards,](#)

Li Alligood
Assistant Planner
City of Milwaukie
6101 SE Johnson Creek Blvd
P 503/786-7627
F 503/774-8236
alligoodl@ci.milwaukie.or.us

From: Immiller7@juno.com [<mailto:Immiller7@juno.com>]
Sent: Wednesday, January 13, 2010 2:34 PM
To: Alligood, Li
Subject: Re: Land Use File #ZC-09-01, zone change at SE Bowman and SE Brae

I am writing this letter to affirm my opposition to the zone change request on the Bowman --Brae property. I also know that I can only comment on the new information from last nights meeting.

the first new information presented was a series of pictures used to show similarities to neighborhood properties. They did not help in showing how the property would look with two houses on it as opposed to three. A drawing of both would have been much more useful. Secondly the pictures of the R7 lots with houses were taken in the middle of a block instead of the end. Two of the lots proposed will be end lots which will be totally different because they are end lots and have different rules on set backs. This will require the three houses to be much closer together. Keeping the R10 zone will allow two houses to be built which will be a greater asset to the neighborhood.

The desire to have this property as a neighborhood park is still a desire for some of us , however it was not a desire of the closest neighbors and therefore was sold to the highest bidder. I believe its current owner is not the original owner and acquired it because of hard economic times. I also do not see what this has to do with the current zone change request.

thanks for you consideration of his matter

Mike Miller

[Nutrition](#)

[Improve your career health. Click now to study nutrition!](#)

From: pmichaelor@aol.com
Sent: Monday, January 18, 2010 3:21 PM
To: Alligood, Li; ronanddebby@juno.com; paul.hawkins@daimler.com; debbiezecic@msn.com; Immiller7@juno.com; mphillips159@comcast.net
Cc: tim@clunasfunding.com; Mangle, Katie
Subject: Re: Land Use File #ZC-09-01, zone change at SE Bowman and SE Brae
To the Milwaukie Planning Commission Board Members;

This email is in reference to Land Use File #ZC-09-01 and a comment regarding the information distributed at the January 12, 2010 Planning meeting: specifically packet 5.2.

Based on the Existing Zoning map; Attachment 3, of 5.2 Page 51, I submit that to change the existing zoning R10 to R7 would set a precedent for home developers which would not be in keeping with the character of the current surrounding neighborhoods.

Respectfully submitted,

Pamela Michael
13181 SE Pennywood Ct.
Milwaukie, OR 97222

In a message dated 1/13/2010 10:50:03 A.M. Pacific Standard Time, AlligoodL@ci.milwaukie.or.us writes:

Hello Interested Parties,

Please see the attached memo regarding additional information submitted at the January 12, 2010, public hearing of the Planning Commission regarding Land Use File #ZC-09-01.

As a result of this new information, the written comment period has been extended to **5:00 PM on Tuesday, January 19**; the hearing has been continued to Tuesday, January 26, 2010. Any written comments must address **only the new information** submitted at the January 12 public hearing.

Feel free to contact me with any questions.

Sincerely,

Li Alligood
Assistant Planner
City of Milwaukie
6101 SE Johnson Creek Blvd
P 503/786-7627
F 503/774-8236
alligoodl@ci.milwaukie.or.us

PUBLIC RECORDS LAW DISCLOSURE:

This e-mail is a public record of the City of Milwaukie and is subject to public disclosure unless exempt from disclosure under Oregon Public Records law. This email is subject to the State Retention Schedule.

Alligood, Li

From: Alvarez, Vincent M. [vincent.alvarez@unisys.com]
Sent: Tuesday, January 19, 2010 5:06 PM
To: Alligood, Li
Subject: About the zoning change proposal for File: ZC-09-01, TFR-09-04

The road that exists to service the present 3 houses is more than sufficient to service one additional house. This road is capable of allowing two cars to pass each other, it is more than wide enough. I drove my SUV into the road as one of the residents was leaving in their truck. Not even a tight squeeze.

The only reason the applicant is asking for the change is to be able to make enough profit after completing the extensive road work the city is requiring.

I do not understand why the Planning commission can not use its extensive knowledge to see that an exception can be made to the "hard and fast"

Requirements the city has put in place for roads. Why have a planning commission if the allowance for common sense is not available. Why do we need to place more and more pavement over our soil? This exacerbates run off issues and is just not necessary in this case. I can understand having standards to which we would like to have the city adhere to, I also understand that allowances can and should be made when conditions warrant.

Vincent Alvarez | Customer Engineer | Global Outsourcing and Infrastructure Services

Unisys | 12671 SE Where Else Ln. | Milwaukie, Oregon 97222 | 503-358-1041



THIS COMMUNICATION MAY CONTAIN CONFIDENTIAL AND/OR OTHERWISE PROPRIETARY MATERIAL and is thus for use only by the intended recipient.
If you received this in error, please contact the sender and delete the e-mail and its attachments from all computers.

ATTACHMENT 7A

CITY OF MILWAUKIE PLANNING COMMISSION MINUTES

Milwaukie City Hall
10722 SE Main Street
TUESDAY, November 24, 2009
6:30 PM

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman
Lisa Batey
Scott Churchill
Teresa Bresaw

STAFF PRESENT

Katie Mangle, Planning Director
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Brad Albert, Civil Engineer
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Paulette Qutub
Chris Wilson

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:34 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 October 13, 2009

Commissioner Batey believed Lines 147 and 148 on 2.1 Page 5 cited the wrong intersection.

Ms. Mangle clarified that Washington St and 28th Ave was the right intersection, but amended Lines 147 and 148 for clarification as follows: "Milwaukie sites were close to bus lines, especially some of, *for example*, the smaller storefront businesses at Washington St and 28th Ave."

Commissioner Bresaw moved to approve the October 13, 2009, Planning Commission meeting minutes as corrected. **Commissioner Batey** seconded the motion, which passed 4 to 0 to 1 with **Commissioner Churchill** abstaining.

3.0 Information Items—None.

4.0 Audience Participation—This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: CSU major modification of NCSD administrative offices
Applicant/Owner: Garry Kryszak/North Clackamas School District
Address: 4444 SE Lake Rd
File: CSU-09-11, TFR-09-05
Staff Person: Ryan Marquardt

Chair Klein called the hearing to order and read the major quasi-judicial hearing format into the record.

Ryan Marquardt, Associate Planner, cited the applicable approval criteria of the Milwaukie Municipal Code (MMC) as found on 5.1 Page 8 of the packet, which was entered into the record. Copies of the report were made available at the sign-in table.

Chair Klein asked if any Commissioners had any ex parte contacts to declare.

Commissioner Bresaw noted that she lived in the Lake Road neighborhood and that Debbie Patten, Lake Road Neighborhood District Association (NDA) Chair, mentioned that the hearing was coming up. The project was also discussed at the Lake Road NDA meeting.

Chair Klein declared he was a member of the Community Advisory Commission (CAC) for the oversight for the North Clackamas School Board, although he had missed the last 3 meetings in the past 9 months.

All the Commissioners had visited the site, but no Commissioner declared a conflict of interest, bias, or conclusion from a site visit. No Commissioner's participation was challenged by any member of the audience.

Ryan Marquardt, Associate Planner, presented the staff report via PowerPoint.

- He clarified where new parking would be installed and that the gray area on the displayed map indicated the parking area to be repaved.

Brad Albert, City Civil Engineer, reviewed how the Applicant proposed to best solve the site access spacing issue on Lake Rd.

- He believed that the lot near Lake Rd was open for public parking with most of the employee parking located in the area behind the building. He deferred to the Applicant to provide additional information.

Mr. Marquardt noted that written testimony received from Paul Hawkins of the Lake Road NDA was included in the packet. Mr. Hawkins asked about the rationale for placing modular buildings on the site and if the North Clackamas School District (District) had considered alternatives.

- Phone calls were also received from 3 surrounding property owners regarding the application. One call regarded the general placement of the 2 modular buildings on the site. Other concerns involved overflow parking on Freeman Rd during school district board meetings.
- He noted the expanded parking area would provide more parking on site and would hopefully alleviate some of that overflow parking. Additionally, posting "No Parking" signs could be considered on the Freeman Rd frontage because it was not wide enough to support 2-way travel as well as parking.

Staff responded to questions from the Commission as follows.

- **Mr. Marquardt** stated that Code did allow manufactured homes on single-family residential lots within the city.
- He also confirmed that 5.1 Page 3 noted 16 additional parking spaces would be installed, expanding the parking area from 63 to 79 parking spaces.
 - **Commissioner Batey** noted Page 8 of the findings, 5.1 Page 17 of the packet, showed calculations indicating that the application was definitely at the lower end of the off-street parking range required for the proposed use.
- **Mr. Albert** confirmed the applicant performed a preliminary stormwater analysis for

all the runoff from the site and the site met the requirements for runoff. Any additional overflow from the site would connect into the existing stormwater drainage system.

- Two stormwater infiltration facilities would be installed and any overflow would be directed to the existing stormwater facility that ran along Freeman Rd. All runoff from the new impervious area would be captured and directed into the catch basins. A small rain garden also existed as part of the Lake Rd improvements.
- He confirmed the catch basins did not currently exist and would be new to the site.
- **Mr. Marquardt** explained that staff had not considered the relative heights of the existing adjacent buildings. The Community Service Use (CSU) allows a maximum building height of 50 ft, and the proposed buildings of 16-ft to 17-ft high, or even 22-ft high given the site's elevation, were well below that maximum.
- Setback requirements also depended on building height, and the proposed setbacks exceeded the minimum setback requirements for both a 17-ft and 22-ft high building. He agreed that analysis would factor into the public benefits test.

Chair Klein confirmed that no other correspondence had been received regarding the application and called for the Applicant's presentation.

Ron Stewart, Assistant Superintendent, North Clackamas School District, 4444 SE Lake Rd, Milwaukie, OR, introduced his team and reviewed the history leading to the proposed project, noting that the District had outgrown its administrative building, which was built in 1967.

- An open house had been held. While the neighbors wanted to keep the grassy area, they also wanted the District to stay because an apartment complex or condominiums could be built if the District left since the parcel was zoned R-10.
- Regarding concerns about parking on Freeman Rd, District records showed that the extent of the daytime parking involved 6 to 8 cars parked on Freeman Rd for a half-a-day per month during the District Board meeting. Board meetings did not typically cause parking overflow onto Freeman Rd, although the District was aware that 3 meetings had over the last year.
 - Again, the proposal would add parking, which would minimize the parking overflow concern. He believed that 18 (16 is referenced above on line 98?) parking spaces were being added, and noted only 7 to 10 staff positions would be added, some positions were temporary.
 - Alternate building locations on the site were considered on the site as discussed by staff. Existing underground utilities were also a factor.

Rick Givens, Planning Consultant, 204 SE 10th Ave, Canby, OR 97013 stated staff did a thorough job in their report. He reviewed the site plan drawing displayed before the Commission **and entered into the record as Exhibit 1** with the following additional comments:

- The parking expansion would require the removal of 2 trees, but all other existing vegetation would remain untouched.
- The most westerly access to Lake Rd would be closed, with traffic rerouted to allow for visitor parking above and staff parking below.
- One pedestrian access would be provided; an additional access was also indicated that was not shown well on the rendering.
- The conditions of approval required one additional access point on Lake Rd, which was a problem due to grade changes between the road and site. The applicant would work with staff to determine if a stairway could be installed or an

- access point provided at another location that had less grade change.
- The Code was not specific about requiring access for each frontage, but stated “total frontage,” so it was possible that 3 accesses would be required for the 628 ft of frontage on the site. Again, the applicant would work with staff to meet that condition of approval as well.
- Significant improvements would be made to the site to ensure stormwater would be managed as not to impact neighboring properties.
- Another display board, **entered into the record as Exhibit 2**, depicted the proposed architectural changes as required in the conditions of approval. The primary change was the addition of an eave around the perimeter of each new structure, matching the architectural design of the existing building.
 - The structures were not mobile homes, but structures built to full Uniform Building Code (UBC) requirements that were manufactured elsewhere and moved to the site.
 - The elevations were revised to include horizontal siding elements. The applicant was willing to address the 12% glazing on the front elevation.
 - The existing arborvitae hedge would block the view of the building from the adjoining property. The arborvitae was about 15 ft high and only about 5 ft of the building would be seen above the hedge.
 - A foundation structure would be built for the modular building and skirting was proposed. The structure would be attractive once modifications and site improvements were completed.
- Foundation footings would be constructed underneath to level where the ground sloped several feet from front to rear and he assumed they would backfill against those footings.

Commissioner Batey:

- Asked if modular buildings were proposed rather than an addition to the main building because the District intended a limited duration at the site.
 - **Mr. Givens** replied the District had a very limited budget to address a pressing need for facilities’ improvements. He assumed the District would love to have a new facility as a long-range plan, but it was not possible at this time.
- Asked if the existing school board space in the existing building would be reconfigured to create workspace for employees being added.
 - **Mr. Stewart** responded the intent was to make the existing building less cramped. Human Resources was located partly in a hallway and part of the boardroom was utilized for a large copy machine. The existing boardroom would be converted into the Human Resources office, opening other spaces in the building. The intent was not to create a bigger boardroom, but to use the space as a multi-functional room that combined the conference rooms and boardroom.
 - The ideal, long-range solution was to build a new building that consolidated all the business functions, which was not possible until the economy improved. Adding onto the building was too expensive and might not be a good investment as a temporary fix.

Commissioner Bresaw:

- Asked for the general cost expected for the proposed improvements.
 - **Bill Weston, JJ Henri Co, Inc., 4554 Wildwood St, Lake Oswego, OR**, replied that the cost to purchase and place the modular buildings was more than \$200,000 and the proposed site modifications cost a little more than \$200,000. The total cost for entire project was a bit more than \$1 million and included the

- cost for the interior modifications of the existing building.
- Regarding the fill brought in to level the building footprint areas to a 115-ft elevation, he explained that a pad would be constructed from the existing asphalt grade and built up as the grade sloped, so the modulares would be accessed from the existing grade.
- Requested information about the maintenance costs for the modulares since they were considered temporary buildings and how long the applicant planned to keep them on the site.
 - **Mr. Stewart** responded the modular buildings were built to the same standards as a house, so he anticipated less maintenance being required than for the existing 30-year-old administration building.
 - **Mr. Weston** stated the specifications were not finalized pending approval, but the modulares' quality was comparable to conventional construction. The District did not want to bring in typical modular buildings, so upgrades included additional rooflines and higher quality materials to match the existing building.
- Asked what kind of warranty the manufacturer offered.
 - **Mr. Stewart** suspected it was the same one-year warranty as a brand new school building. Clackamas had modulares that were more than 20 years old; other districts had some older than 30 years.

Commissioner Batey asked if the electrical access would be buried.

- **Mr. Weston** responded that all new electrical service would be underground. He was uncertain about the one existing overhead line that fed the lights.

Janelle Brannan, HPR, 205 SE Spokane St., Ste. 300, Portland, OR 97202

reviewed the site improvements using the site plan (Exhibit 1) displayed before the Commission.

- Currently, stormwater flowed off into the grassy area; no piped private system existed at this time. Infiltration basins were proposed to collect and manage stormwater runoff to avoid saturating the entire grassy area, but only certain designated areas.

Chair Klein commented that the area was open grassland and should be able to absorb stormwater. However, it currently drained off the back of the property and with the proposed improvements; it would simply drain off into a nicer area, and then drain off the back again.

- **Ms. Brannan** explained that the infiltration basins were designed to have 18 in of growing medium with 1 ft of rock below those plantings for storage. Water would go through the growing medium and into the rock storage area if it did not infiltrate quickly enough into the native soils. Infiltration tests completed on the site were relatively good for the area. She was confident that the stormwater would drain.

Commissioner Bresaw asked if HPR was also involved with the stormwater facility on Lake Rd.

- **Ms. Brannan** stated the applicant was required to meet current stormwater management requirements, which meant treating and detaining runoff from the new impervious areas. A small infiltration planter was located onsite with any overflow collected in a catch basin and routed to the public stormwater system across the street. She was not certain how that infiltration basin fit into the Lake Rd frontage improvements, but she was coordinating with the engineer on that project.

Chair Klein clarified that the stormwater runoff currently collected along the back of the property line and ran into the natural ravine that extended past that area into the subject property and across the Christmas tree farm and the vegetable farm.

Commissioner Churchill:

- Asked how the bioswales were designed and if they were intended to screen the buildings. Trees and low growing native plantings in the bioswales could be utilized to screen the site from neighboring properties.
 - **Ms. Brannan** responded that the applicant was required to screen the parking lot from the neighborhood's view. The bioswales located at the south end of the site would be planted with attractive native plantings with some trees on the outskirts.
 - A planting plan was in progress, but was not included in the packet.
 - **Ms. Mangle** suggested that Commissioner Churchill look at the plan provided by Ms. Brannan. **A copy of the plan would be entered into the record (Exhibit).**
- Stated that seeing the planting plan helped because it was drastically different than what was presented on Exhibit 1.

Vice Chair Newman recalled that the District originally planned to sell the property and asked if the applicant had proceeded to talk to anyone about buying the facility.

- **Mr. Stewart** replied that the District had hired Norris, Beggs & Simpson, commercial real estate agent, who had completed an appraisal and talked with developers about options for selling the site. The District did not have money to pay for a move unless they leased a different building. There was a possibility the facility could be sold and additional funds borrowed, but there still would not be enough money.

Chair Klein:

- Confirmed that Norris, Beggs & Simpson had looked at the viability of selling it as a commercial site.
 - **Mr. Stewart** added commercial was the highest and best use of the property.
- Stated if the modular buildings were installed and the economy improved in the future, then potentially the modular buildings would be part of the commercial site.
 - **Mr. Givens** responded that the underlying zoning was R-10 with a CSU overlay, which allowed the school district facility. To approve the site for future commercial use, the Comprehensive Plan and a zone change would have to be approved. The current application before the Planning Commission made no commitments regarding the possible future commercial use of the site.
 - **Mr. Stewart** noted that potential buyers had discussed demolishing the buildings and starting over, so he did not think a buyer would purchase the property for the modular buildings.

Commissioner Bresaw requested a comparison between the costs of adding onto the existing building versus installing a modular building.

- **Mr. Weston** responded that the District had considered several different options of adding on, and it was not only cost, but the lot size was not adequate to allow attaching an addition to the existing building. Additional trees would also have to be removed. Building a new, separate building was not considered.
 - Preliminary estimates indicated it would cost twice as much to build it new as it would for the modulares. The square footage of the previously considered new building was 30,000 sq ft, which was later reduced to 23,000 sq ft. The existing building was 9,000 sq ft and 3,700 sq ft of modular buildings were proposed for a total of less than 13,000 sq ft.

- The challenge was whether paying a higher price for a temporary plan was a good investment since it was not a long-term solution.

Chair Klein understood many options were considered on the site, but the District owned other sites. He asked why this particular site was proposed for the consolidation, particularly since the District had considered selling it.

- **Mr. Stewart** responded that the Applicant looked at all the options, including new construction and leasing. The site located 2 miles away was leased for \$25,000 per year, so purchasing a modular as proposed would save \$25,000 per year. With all the existing functions at the present site, it did not make sense to expand anywhere else.
- He clarified that the old Wichita Elementary School did not provide enough space because it was 40% filled with existing programs. The District had committed to that neighborhood to make the Wichita facility more of a community center, not an administrative center.
- The Wichita facility would also require remodeling the school into offices and updating the systems, which was extremely expensive due to the age of the building.

Commissioner Churchill explained that he wanted to understand the logic of placing a modular versus not adding onto the existing building. He clarified that the overall project would run about \$1 million, which included \$200,000 for site improvements and an additional \$200,000 for the Lake Rd frontage, leaving about \$600,000 for structures.

- **Mr. Weston** noted that site improvements, including onsite parking and infiltrations, would still be required even with a building addition.
- He assured the District would have added onto the building if it was the same price as the modular option.

Chair Klein called for public testimony in favor of, opposed, and neutral to the application.

Dedi Juhala, 12845 SE Where Else Ln, stated that a major concern was stormwater runoff. She had water problems because the developer built the houses on 3 ft of fill. Her property was located in the low part behind the District property. An underground creek flowed through the area and many people on Where Else Ln had sump pumps. She strongly urged that water drainage be addressed; otherwise houses behind the bioswales would have problems.

- She inquired how the oil from cars in the new parking area would be separated from the water runoff going into the bioswales.
- Regarding the bioswale and infiltration basin, the engineer stated that about 3 ft of gravel and planting medium would be used for storage, but the water table was only 2 ft at her house. She had a lake in her side yard all the time.
- She was also concerned about traffic because she already sat for 5 minutes each time she tried to get out onto Lake Rd. She had not been aware that a center turn lane was proposed and asked if it would extend to the east past Freeman Rd.

Mr. Albert clarified that the Applicant was building half the turn lane. The Lake Road Multimodal Improvements project had a center turn lane down Lake Rd from Where Else Ln to Oatfield Rd. The City would consider providing a turn lane all the way to Freeman Wy on the other right-of-way section across from the District property if the required street improvements were built by the Applicant. This should help with left turn lane movements on and off the side streets and driveway accesses along Lake Rd.

- He explained that the center turn lane would end at Freeman Rd. The Lake Road Multimodal Improvements project ended at Where Else Ln. If the application was approved, the Applicant would build the street improvements on their frontage to Freeman Rd before the Multimodal Improvements project began and was completed. Then the City would be able to connect from Where Else Ln to the District site and complete that block; only 90 ft of frontage would be left to complete to Freeman Rd.
 - He confirmed that the center turn lane would not extend east of Freeman Rd, so cars traveling westbound on Lake Rd, turning left into Freeman Rd would not have a center lane to queue into, so the same stack up would occur east of Freeman Rd.
 - The City's right-of-way jurisdiction ended approximately 200 ft east of Freeman Rd before Kuehn Rd. The Lake Road Multimodal Improvements project would no longer extend to Kuehn Rd, but would now stop at Where Else Ln because of funding issues.

Commissioner Churchill confirmed the left turn center lane feeding onto Freeman Rd would not help the westbound traffic from Lake Rd to Freeman Rd under the subject application. It would not solve the problem because it addressed traffic west of Freeman Rd and did not solve the left turn issue into the site.

Chair Klein agreed, adding the idea was that the applicant would pay for the extra 100 ft, since the Multimodal Improvements project was stopping at Where Else Ln.

Ms. Mangle noted that the rendering presented by the Applicant to address conditions in the staff report was different from the proposal. She asked the Applicant to consider how to link the renderings to the staff report because it was not yet submitted into the record.

David Philips, 13230 SE Where Else Ln, stated he lived in the last house on the creek.

- He opposed having modulares on the site because they would degrade the nature of the neighborhood. Based on tonight's testimony, the modulares were on permanent foundations and were not temporary. The District would be better served building buildings on the site.
- Staff stated that having modulars buildings were possible on lots in the neighborhood, and he did not want people getting that idea in the neighborhood. It would have a horrible impact on the existing homes if modulars were moved in on the few remaining lots or any that were subdivided.
- He was concerned because the property dropped off fairly severely at what seemed to be more like an 8 to 10 ft drop and when the modulars were placed on the leveled ground it would be difficult to shield them from the neighborhood with landscaping.
- He was also concerned about stormwater drainage, which had been a problem since the Pennywood development was constructed. The stormwater issues had never been addressed over the years, and the stormwater problems, including sink holes, had gotten worse each year in his backyard.

Commissioner Churchill confirmed that the parking lot south of the existing building was at a 115 ft grade level and at Lot 4 the edge was about 100 ft at natural grade, resulting in a 15 ft difference from the parking level to the lot line.

Chair Klein noted a "North Clackamas School District Modular Building" drawing also indicated the topography, which at the end of the building was 107 ft, resulting in a drop of 7 ft to the back of the building, and about 109 ft to the back of the site.

Commissioner Churchill understood it was coming in at grade at the parking lot.

Chair Klein said he understood the concern.

Mr. Philips stated that if the grade was pulled back, the modular would be sitting at the top of the fence of the adjoining property, with everything going up from there.

Linda Patterson, 4535 SE Pennywood Dr, stated she lived south of the Christmas tree farm. She agreed that the meetings took place once or twice per month.

- Her biggest concern was parking and construction if the application passed. She noted that the picture did not indicate the elevation changes of Freeman Rd. When traveling south on Freeman Rd, the road was on an incline and cars parked on the side of the road made it difficult to see oncoming cars. Not everyone adhered to the 25 mph speed limit.
- She was new to the Pennywood neighborhood, which was a nice neighborhood and she preferred not seeing modulares. She asked if the District planned to build other schools. If so, more employees would have to be hired and she questioned whether the proposed buildings were adequately sized for the future. She did not want the District to spend \$1 million on a project that would be filled to over capacity in 3 years.
- She clarified that parking seemed a problem when 8 to 10 cars were parked once or twice a month during school board meetings between 3:00 to 4:00 p.m. and sometimes on into the night.
- She noted that she was employed and did not travel Freeman Rd at all hours.

Diane Quick, 12694 SE Where Else Ln, stated she lived adjacent to the site and that the 15-ft high arborvitaes mentioned earlier were hers. She had attended the District meeting last week and had looked at the drawings.

- She believed the District needed to reconsider what they were proposing. The project would disrupt the neighborhood and the District did not know how long it would be at the facility. The District had discussed selling the property.
- She questioned what the \$1 million project would accomplish. The adjacent neighbors had severe stormwater problems, and no one was sure that those problems would be addressed.
- The District needed to decide what they were going to do. Would they have the building for the next 5 or 10 years, or not? It would be easier to add onto the building and sell the property, or scale down the proposal and install a modular in the parking lot at the end of the existing building where it would sit low and where an access door already existed for their staff.
- This was the first time she had ever opposed the District, and it pained her to speak against them, but she felt that this was wrong. Making temporary arrangements was fine, but it was ludicrous to ask the community to live permanently with a temporary fix while the District might not be there in another year or 2.
- It was interesting that staff said the modulares could not be placed near Lake Rd because it was not aesthetically appropriate to those driving by. She agreed. The modulares were not aesthetically appropriate for the people in the neighborhood either.

Mike Miller, 4206 SE Somewhere Dr, stated his background was in horticulture and plant science. He circulated a picture to the Commission showing 2 unique sweetgum

trees that the District wanted to remove for the proposed parking area.

- He was not opposed to District's efforts to get more space, though he was not certain the proposal was the right approach to obtain it.
- The District's literature identified the 2 sweetgum trees as oak trees, which was false. The rationale for removal was that the drip line was too big to be saved; however, there were large trees preserved in parking lots all over the city with much larger canopies than the impervious areas surrounding them.
 - Sweetgum trees were unique in that they retain their fall colors longer than deciduous trees, making them an asset to the community late into the fall. The picture taken yesterday from Freeman Rd illustrated how the sweetgum trees had retained their leaves while other trees had lost their leaves.
- He asked the Commission to condition the application to require saving the sweetgum trees and reconfiguring the parking lot to protect and preserve them.
- He clarified that he chose not to speak about the modular buildings, although he did understand the problem with them. Modulares were installed as temporary at schools but became permanent. They had their use, but in a residential neighborhood he was not sure they were an appropriate use.
- He confirmed that the proposed island surrounded by parking area did not contain the 2 gum trees. His picture showed oak trees in the background, which he indicated on Exhibit 1. He clarified that the remaining trees on Exhibit 1 shown on the east side off Freeman Rd were all add-ons; no other trees actually existed because it was an open space.

Ms. Mangle entered the photo submitted by Mr. Miller into the record as Exhibit F3.

Vincent Alvarez, 12671 SE Where Else Ln, stated he lived across the street from Ms. Quick and owned the historical property shown as the crosshatched area on Exhibit 1. He knew that neighbors further down had water issues, but he did not foresee such problems on his property.

- He was working to restore the stone house to a presentable condition while retaining the historical aspects of the property. He noted that the proposed modulares would be visible from his property.
 - The arborvitae across the street was mostly shorter and the taller ones closer to Lake Rd were scheduled for removal because of storm damage. Most of the arborvitae at the north edge of the property were in horrible condition. Ms. Quick's arborvitae looked good.
- He suggested lowering the elevation of the modulares with a slightly sloped sidewalk down to them from the parking lot.
- The 2 trees in front near the existing building looked terrible and he suggested adding onto the building in that location rather than spending \$1 million on modular buildings. A second story would significantly increase the square footage, and extending it in this way was also an option. He understood it would cost more. Had the District sought \$3 to \$4 million a few years ago to expand the facility, rather than \$1 million, they probably would have got it.
- He did not want to see modulares on the site. He walked his dogs there often using an existing walkway.
- Though other options might cost more, he noted that he had to abide by City requirements when remodeling his house without consideration of expense. He did not believe modulares were the best way to go for the neighborhood.

Debbie Zecik, 13076 SE Pennywood Ct, expressed concern about the parking issues

already mentioned and added that the only access to the neighborhood was Freeman Rd. Employees and visitors would still park in the residential area even with a "No Parking" sign added along the east side of Freeman Rd, and with the added parking spaces since there will be additional employees and parking was not allowed on Lake Rd.

- She was also concerned because Freeman Rd was the only access she had out of her neighborhood. If the northwestern parking access was closed, about 80 cars would be exiting at one spot at quitting time to go up Freeman Rd.
- Others had addressed the unsightliness of the modular buildings. Though current zoning allowed modulars on residential properties in the neighborhood, she also noted that the neighborhood's strict covenants, conditions, and restrictions (CC&Rs) would not allow modulars. She had purchased a home in Pennywood because of such restrictions.

Chair Klein believed the CC&Rs applied only to the specific Pennywood area.

Mr. Marquardt clarified that the regulation regarding modular homes applied to the city generally and any CC&Rs would override that and be specific to the subdivision

Ms. Zecik agreed that was her understanding of CC&Rs.

- She did not believe the modulars were compatible with the area.
- She was also concerned about the District's response in giving a generalization that adding onto the building would cost more. She wanted the specific cost figures. The District also said they had looked into selling the property with Norris, Beggs & Simpson, but she had not heard that the property was actually put up for sale or that the District had seriously considered selling the building.
- There did not seem to be a lot of guidelines as far as what the District was doing.
- The District owned numerous buildings, perhaps Board meetings could be temporarily held in an auditorium, a cafeteria, or at numerous other sites to satisfy the need for additional space.
- She added that numerous residents south of the Pennywood Dr cul de sac, near the District site had sump pumps and she was concerned how the project would affect drainage because it was one hill going all the way down and numerous houses in that corridor had sump pumps.
- The area was all clay soil. She believed the water table might be less than 2 ft.

Pam Michael, 13181 SE Pennywood Ct, said she lived at the very end of Pennywood, which could not be seen on the displayed map, and that she had one of the original homes in the development.

- She had the same concerns as expressed by others. She appreciated the astute questions asked by the Commission, but was concerned about words used such as, "could," "possibly," "might," which were not definite terms. Timing, access, and other items were still very questionable.
- She was concerned that the slide presentation noted the project would allow more community use at the school district building, which would mean more traffic.
 - The neighborhood had tolerated the District's overflow parking on Freeman Rd. Each time she drove by, day or night, she was concerned about having 3 cars fit on the narrow Freeman Rd with the drop off onto the Christmas tree farm. She was surprised more accidents had not occurred.
- There were far more than 8 to 10 cars parking on Freeman Rd for the big meetings; they often came and parked clear down onto the Pennywood Dr. Adding 16 extra

parking spaces would not help when extra employees were added.

- She disagreed with the Assistant Superintendent who said there were only 3 instances in the last several years when cars parked on Freeman Rd, because it had easily happened 3 times in 3 months, if not more frequently.
- She was also concerned about stormwater runoff and did not understand what water sitting in 1 ft of storage would do, except to help it flood more quickly if it did overflow.
- She expressed concern about using Freeman Rd as the main ingress and egress into the District's administration buildings. Many people lived down behind Freeman Rd, and she did not feel a business access should be placed there.
- She was concerned about the modulares. She worked for a school district and temporary modulares do become permanent, which she believed would happen in this case.
- She confirmed that neighbors around her had sump pumps and no basements.

The Commission took a brief recess and reconvened at 8:32 p.m.

Chair Klein requested additional comments from staff.

Mr. Albert clarified that the infiltration swales were designed to capture all the stormwater runoff from the site as it was now as well as the entire new impervious surface area. Currently, the stormwater flowed over the grassy area, which was not really designed to infiltrate all the stormwater runoff from the site. The new facilities should be a significant improvement for capturing all the impervious surface area stormwater from the site, which he did not believe was captured at this time. The improvements should only help the sites to the south of the District office.

- Regarding traffic, the traffic study looked at the intersection of Freeman Rd and Lake Rd. The increased traffic volume from the modular buildings was very small in comparison to the traffic currently generated from the site, presently operating at Level of Service (LOS) B, which was fully functional. The traffic study did not indicate that a left turn lane was needed onto Freeman Rd, which was operating at a high-level of efficiency.

Chair Klein asked about the legal ramifications regarding stormwater runoff, for example, from a parking lot.

- **Bill Monahan, City Attorney** responded that it was the property owner's responsibility to take care of runoff created on their property and divert it into a system as opposed to diverting it onto another person's property. Developers were obligated to handle stormwater runoff. If they created a situation that caused more runoff onto adjacent properties, then there could be a cause for civil action between property owners

Commissioner Batey:

- Asked if a condition of approval could require future testing of how much water flowed from the catch basins with a requirement to upgrade if necessary.
 - **Mr. Albert** clarified that none of the overflow systems were designed for more than a 10-year event, but stormwater from the parking lot, existing building, and the new buildings would be directed to the infiltration basins with the overflow going into the public system on Freeman Wy. All runoff from the impervious area was captured and going into the new infiltration basins. The new parking areas would be contoured to collect all water in a single-point catch basin and piped to

- the infiltration swales. Currently, there was some collection ability on site, but some sheet flow also existed. With the improvements, there would be no more sheet flow off the site. Water would be directed to new water quality facilities.
- **Ms. Mangle** added that it was part of Mr. Albert's job at the time a building permit was pulled to review the topography and design to ensure it met City standards. It was possible to require a future test to be sure the system was performing properly.
 - **Mr. Albert** agreed that it might be possible to require a future test, but asked how a baseline rain event for the year could be established to test in future years. It was difficult to determine whether the test would indicate runoff from the site or just groundwater from that year.
 - Asked if anything could be done along the fence lines before construction begins to measure rain fall between now and when construction begins.

Commissioner Churchill stated that although the site documents were not fully engineered, the parking addition on the southeast corner showed topographic changes proposed around it, but no topographic changes were noted around the pads of the 2 modular units. Full engineering was not available on the infiltration ponds, but the project did appear to push the limit of the site, which was very close to residential. The slope of the land would be increased, so it would be helpful to understand more before the project could be supported.

Chair Klein clarified that he did not believe the site currently caused flooding in the Pennywood area. The water issues were caused when the trout pond, which was the natural retention area, was removed for construction of the Pennywood development. He did not blame the District for having a building that had been there for more than 45 years when the development came in 15 years ago. He was concerned about the immediate neighbors, who he believed would be impacted by the project.

Mr. Marquardt stated that part of the parking on Freeman Rd could be addressed. He asked the Applicant to clarify whether board meetings could be held at times when employees were not at the site, and how many cars would likely be parked during those meetings. The increase of parking spaces onsite should hopefully alleviate the problem of parking on Freeman Rd. Signage that prohibited parking where pavement was not wide enough could also be required on Freeman Rd as part of the project if the Commission believed it necessary.

- The Applicant could have an overflow parking agreement with the Christmas tree farm. Based on the square footage and types of uses, the project fell within the minimum required parking for the site, so based on the Parking Code, they would not be required to find shared parking. However, if having such a contingency would help with the approval, an agreement could be entered into with another private property owner.

Chair Klein asked about the possibility of having street improvements on Freeman Rd, considering the elevation differences.

- **Mr. Albert** responded that the District side was already improved to the full cross-section. Any development on the Christmas tree farm site would require street improvements along that frontage and any engineering features to accommodate the slope. He did not foresee the City doing the street improvements. Any street improvements would more than likely be upon development.

Commissioner Churchill:

- Asked about Sheet 1 NCS 04, the rendering of the modular buildings, which indicated that from the parking lot into the 2 modular buildings would be straight in off-grade with no drop in elevation. He was unable to confirm the elevation of the finished floor level of the modular buildings.
 - **Mr. Marquardt** deferred to the Applicant.
- Believed it was within 1 ft of the parking lot level adjacent at 115-ft grade, which was what the renderings seemed to indicate.
 - **Ms. Mangle** reminded the renderings were different than the plans originally submitted.
 - **Mr. Marquardt** stated that from his reading of the plans, it looked like the northern portion of the buildings was essentially at grade with the parking area at 115 ft or 114 ft.
- Noted that topographic information around the edges of the modulares was not available, only around the parking lot. The grade would drastically change along the western edge of the modular. Some fill would fall at least 5 ft away toward the adjoining residence.
 - **Mr. Marquardt** replied that was illustrated on the recently submitted landscape plan (**Exhibit**), which indicated some of the grading information, and again deferred to the Applicant.
 - **Ms. Mangle** explained the elevations in the original proposal showed the doors elevated from the ground, which was different from the illustration presented tonight. The intent was to address the concerns but because the revised proposal was not available to review ahead of time, staff was not sure how the two different plans were related.
- Raised the concern that while it was good the Applicant was responding to comments from staff, the staff and the Commission had not had time to look at the application prior to approval or denial.

Mr. Marquardt stated that if the Commission decided to move ahead with approval, the staff wanted to modify the conditions as written to reflect what was shown on the renderings shown on the display boards (**Exhibits 1 and 2**), which better addressed the design intent staff was trying to achieve through the conditions of approval.

Chair Klein asked if the renderings showed a significant enough change from what was submitted with the application that staff would be comfortable with a decision tonight, or was more information needed.

- **Ms. Mangle** replied that was a decision for the Commission to make.

Vice Chair Newman asked for clarification regarding whether the detention ponds would handle the necessary amount of stormwater.

- **Mr. Albert** replied that the water quality swales were required to hold runoff from the increased impervious surface. Runoff from the site could not increase as a result of the site's development. The swales were sized for the amount of impervious surface and the runoff for rain events.
- He agreed the swales would handle the impervious surface, but did not address the inherent groundwater table, which was a problem based on neighborhood testimony.
- He clarified the basic requirement was to address the increase in impervious surface. The applicant's proposed stormwater plan indicated both basins would address all the parking lot runoff area.

Chair Klein:

- Asked who could buy the District structure if the Commission dictated the type of business that could be there under the CSU. Residential was allowed, but a new owner would have to meet the CSU requirements for a commercial application.
 - **Mr. Marquardt** replied any future commercial use would require a zoning change, and the CSU would be a nonissue.
 - **Ms. Mangle** agreed residential development was an outright allowed use of the site. Any other use would require City approval through a new CSU, a new conditional use, or a zone change. Otherwise, without Planning Commission and possibly City Council approval, it would be a residential development and probably not use the existing building.
- Said the logical conclusion was that the site would convert to residential use, if sold.
 - **Mr. Monahan** clarified if a buyer wanted to speculate and purchase the property with the condition that they could get a rezone to General Commercial, like the property across the street, they would have to comply with the approval criteria or a Comprehensive Plan amendment, which would take significant effort.
- Asked if the Commission had enough information to come to a decision tonight. He believed many questions were still unanswered.
 - **Mr. Monahan** stated one option was to identify the gaps in the application and then ask the Applicant to provide additional information. The Commission could continue the application or allow the Applicant the opportunity for rebuttal.
 - He advised that the Commission proceed with asking questions, and then let the Applicant decide if they wanted to address questions tonight or ask for a continuance.

Commissioner Churchill said he was very concerned about “connecting the dots.” As discussed, the proposed rendering was deceptive regarding elevation, though not intentionally, and did not show the 10-ft drop in grade from one corner of the site to the parking lot, or the drop off behind one modular structure. He requested more accurate and detailed site and topographical information, particularly around the basins and the 2 modular structures, to understand the proposed grade changes.

Commissioner Bresaw understood that generally speaking it was less expensive to install the 2 modular buildings, but asked the Applicant to consider just one modular. She sought more facts and financial details about how the Applicant came to the current decision. She was concerned about the future property value for the District. She also wanted clarification about whether the sweetgum trees could be saved.

Vice Chair Newman stated that his questions had already been voiced.

Commissioner Batey asked if **16** new parking spaces were enough, because that was at the lower end of the range required by Code. She also wanted to clarification about preserving the sweetgum trees.

Chair Klein questioned whether this was the best site in the District’s portfolio for expansion. He requested rebuttal from the Applicant.

Mr. Stewart responded that with regard to parking concerns on Freeman Rd, the project would not increase parking demand. The Applicant proposed adding **18** additional parking spaces and only 8 to 10 employees during the workday. During the evening, employees were not there and the added parking spaces would relieve parking on

Freeman Rd.

- Using Exhibit 1, he noted 5 stormwater drain pipes from neighboring properties that flowed from private property onto the District's property. The stormwater issue regarded water coming from the neighboring properties, not from the subject site.

Commissioner Churchill noted the Applicant was also building a boardroom with 64 seats and standing room, which should be factored into the parking calculations.

- **Mr. Stewart** replied he was not sure more people would come to board meetings because of the added seating space. The Applicant hoped the additional **18** parking spaces would help.

Mr. Monahan asked if the Commission wanted to close the public hearing and pose questions for the Applicant to address at the next meeting during rebuttal. The public hearing would have to be reopened for comment on any new information submitted by the Applicant.

Mr. Givens said he was sure the Applicant would want to submit more information for the record and public comment should be allowed at the next meeting.

Mr. Monahan agreed it was good to be transparent and allow for public comment. He suggested that if the public hearing was left open, the Commission should allow for the introduction of new information at the beginning of the next meeting, public comment, and a full rebuttal from the Applicant. The Commission could either restrict public comment to the new information or allow any and all public comment, which would include allowing people who did not participate tonight to testify.

Chair Klein wanted to restrict testimony to new material submitted for the record. Public concerns regarding stormwater runoff and parking issues were understood.

Commissioner Churchill supported keeping the public hearing open for all public comment. Combining comments in a group did not always indicate the depth of the concern. Given the scale of concern in the neighborhood, he wanted to hear everyone's comments.

Mr. Marquardt confirmed that the 120-day clock ended February 6, 2010, allowing time for a continuation. However, not enough time was available to prepare for the December 8th meeting. January 12, 2010, was the next possible date for a continuance.

Following discussion about time restraints given the holiday schedule and time required for any appeal and hearing at City Council, it was suggested that the 120-day land use clock be extended to March 1, 2010.

Mr. Givens agreed to extend the 120-day land use clock to March 1, 2010.

Ms. Mangle noted that audience members who provided contact information would be notified about the application.

Commissioner Churchill moved to continue CSU-09-11; TFR-09-05 to January 12, 2010 date certain. Commissioner Batey seconded the motion, which passed unanimously.

- 5.2 Summary: Zone change from R-10 to R-7
Applicant/Owner: Tim Riley/Clunas Funding Group, Inc.
Address: SE Brae & SE Bowman
File: ZC-09-01, TFR-09-04
Staff Person: Li Alligood

Chair Klein called the public hearing to order at 9:14 p.m. and read the major quasi-judicial hearing format into the record.

Li Alligood, Assistant Planner, cited the applicable approval criteria of the Milwaukie Municipal Code (MMC) as found on 5.2 Page 7 of the packet, which was entered into the record. Copies of the report were made available at the sign-in table.

Chair Klein asked if any Commissioners had any ex parte contacts to declare.

Vice Chair Newman noted the subject property was adjacent to his own, but he was uncertain if the proposed development could be profitable or harmful to his property. He declared it was best to recuse himself from the hearing and left the dais at this time.

All Commissioners visited the site, but no Commissioner declared a conflict of interest, bias, or conclusion from a site visit. No Commissioner's participation was challenged by any member of the audience.

Ms. Alligood presented the staff report via PowerPoint.

- She clarified that the photographs displayed from the Lincoln Land Institute with regard to density were intended as a broad illustration and that the photograph selection was limited. It was noted that the photos were taken at different elevations and the houses appeared larger. Larger houses were allowed in R-10 zone.

Staff responded to comments and questions from the Commission as follows:

- **Ms. Alligood** clarified that the condition requiring a sizable right-of-way dedication was not part of the zone change, but would be required upon development of the site regardless of the zone. The Applicant's proposed right-of-way was so narrow because only a half-street improvement was required on Bowman St.
 - **Ms. Mangle** reminded that Milwaukie had many strange configurations of streets and lots that had occurred over time. This project was just one example.
- The gray area on the displayed site map indicated a 25-ft dedication for the required half-street improvements.
 - **Mr. Albert** explained that under MMC 19.1400, partitions of any kind were required for right-of-way dedication and street improvements, and only half of the right-of-way is deeded to the City. The City would gain the additional 25 ft for a standard cross-section for street improvements through that area.
- **Ms. Alligood** explained that the dedication was needed because Where Else Ln was a public right-of-way, but very narrow and unimproved. It currently functioned as a walkway, providing driveway access to the 2 sites west of the property. No vehicular access was actually provided to the subject site.
 - **Ms. Mangle** clarified that while the impact of accessing the proposed lots via Where Else Ln did not seem huge, widening Where Else Ln involved impacting other properties, while widening Bowman St only affected the applicant's property, which was an important consideration. Where Else Ln would remain unchanged in the proposed application.

- **Ms. Alligood** noted that the street improvements would be addressed during the building permit application and were somewhat unrelated to the number of parcels on the site.

Commissioner Batey noted the City had just enacted the policy of having development improve streets and provide sidewalks.

Commissioner Churchill believed the core of the application regarded economic interest, creating 3 lots rather than 2, which could in theory have access from Where Else Ln.

- **Ms. Alligood** clarified the question before the Commission was whether to approve the lot partition. The street improvements were the one constant in the scenario.

Commissioner Batey asked about Page 7 of the findings on 5.2 Page16 of the packet where a Metro Regional Land Information System (RLIS) report was quoted, "Of these 7 dividable sites, one is located in the Lake Road neighborhood."

- **Ms. Alligood** clarified that she was referring to the Applicant's property.
- **Ms. Mangle** added that Metro RLIS was the GIS mapping data provided by Metro and not a separate report.

Chair Klein confirmed that no other correspondence had been received other than that noted in staff's presentation. He called for the Applicant's comments.

Tim Riley, Clunas Funding Group, Inc., 201 B Ave, Suite 270, Lake Oswego, OR, representing the Applicant stated he had no additional presentation materials. The staff report did a good job presenting the information. He responded to questions from the Commission as follows:

- If approved, construction would begin during the next building season, starting in May, but he was not sure how many homes could be built.
- The application targeted the selling price per house at about \$300,000. The applicants were not builders, but consulted with other builders who did not believe that higher prices would sell well today or in the foreseeable future.
 - Based on feedback from developers, it would be more difficult to sell 2, more expensive houses on 2 lots. After researching the dedication and costs involved in dividing the lot into 2 parcels, they decided, after learning what was left over after dedication, that R-7 zoning would leave room for 3 lots. There were developers interested in working with 3 lots, but not 2 lots. The decision related to what selling price the area could support.
- While \$300,000 appeared to be on the lower end of the market for that area, recent experience showed that in the current market, prices had to be lowered 25% to 30% from 2-year-old comparable sales.
- The Applicant had talked to developers, but no commitment had been made yet. The feeling was that it would be difficult to continue with two lots, particularly with the cost of the public improvements.
- He explained that the property was taken back in deed in lieu of foreclosure in August 2008. They began working with staff about a year ago on possible options and subdividing the property.

Chair Klein called for public testimony in favor, opposed, and neutral to the application.

David Philips, 13230 Where Else Ln, stated he lived on the one-acre property west of

the subject site. He indicated that most lots in the neighborhood were larger lots, and R-7 was not consistent with the nature of the neighborhood. R-7 lots were too small and would not fit in with existing lots in the area.

- The reasons given for the zone change request did not warrant the zone change. The Applicant's financial gain should be irrelevant.
- Houses in that neighborhood were valued far above \$300,000. His property was valued at \$500,000, as was one adjacent to him. Dick Newman's house was for sale for more than \$600,000. The quality of homes in the neighborhood was much more than \$300,000, and approving the application would bring the neighborhood's home values down.
- R-7 lots were too small for families. Not enough space was available to provide a play area. His property was a liability. Being on a creek in a natural resources zone, he was unable to fence it and it was difficult keeping people, namely kids, out of his yard.

Chair Klein asked if Mr. Phillips objected to there being 2 lots as allowed by R-10 zoning, and if he would see impacts if the lots were accessed via Where Else Ln.

- **Mr. Philips** responded that he would love to see the lot developed. He would be impacted if access was provided via Where Else Ln.
- He noted the point at which Where Else Ln stopped, and where private property then extended. He accessed his property through an easement on an adjacent private lot, previously owned by the Oak Lodge Water District (Water District). It was not a public road at this time.

Debbie Zecik, 13076 Pennywood Ct, stated when she purchased her home, she was told the lot would not be developed because it belonged to the Water District; though circumstances had changed.

- She preferred seeing no houses on the lot, but if it was developed, keeping it to the minimum of 2 houses was desired. For the neighbors immediately north of the parcel, it was inconvenient to have it developed when they assumed it would remain vacant.
- As a realtor, she stated that the \$300,000 price range did not exist in that area because the minimum for a house on Pennywood Ct was \$400,000, even in this market.
- She was also concerned that building a lower cost house would not fit the architecture of the rest of the neighborhood.

Pam Michael, 13181 SE Pennywood Ct, stated when she bought her lot, the realtor assured her that the Water District property would never be developed.

- She believed building 3 houses on the lot would substantially change the makeup and privacy of the neighborhood. She understood that it had to be developed, but asked that the R-10 zoning remain because R-7 was incompatible for the neighborhood.
- She was concerned about \$300,000 being the high base price for the homes when other homes were certainly higher in value and were beautiful homes. She was concerned about the quality of housing the Applicant wanted to build.
- She was also concerned about privacy. The setbacks due to the widening of Bowman St would push the houses closer to the Pennywood area. Children playing in the backyards would be quite close to her property.
- She asked the Commission to oppose the zoning change request.

Mike Miller, 4206 Somewhere Dr, opposed the zone change because the applicant knew the R-10 zone applied when they assumed the property through foreclosure.

- The property could be developed without change and remain consistent with the neighborhood. Variances and zone changes should be used as a last resort, not a first option. It appeared the change was only being requested to maximize profit, and zone changes and variances should not be used for this purpose.
- He expressed concern about a large cedar tree in the right-of-way of Bowman St.
- He was also concerned about connectivity between Where Else Ln and Bowman St.
- He confirmed that the property would not come before the Planning Commission again when it was developed.
 - As an outright permitted development, it would go through the normal building permit process. This public hearing was the last opportunity for the neighborhood to provide input on the process.
- He urged the Commission to reject the application and allow 2 R-10 zoned lots on the Applicant's property.

Dedi Juhala, 12845 SE Where Else Ln, stated she had not heard about the project until this evening. She confirmed there would be no vehicular extension from Bowman St to Where Else Ln, only a pedestrian and bicycle sidewalk connection. She asked if the City had a long-term plan to make a connection from Bowman St through to Where Else Ln and Somewhere Dr.

Ms. Mangle stated a street connection was possible if all of the lots on the west side developed, but that connection was not shown as a connection the City was actively seeking in the Transportation Systems Plan (TSP). Such a connection would not result from a City project, but it was possible if many of the lots were developed, for example into a subdivision, over time.

Chair Klein added that there were many substantial lots back there and any property owner could break their 50,000 sq ft lot into smaller lots, which was how the Pennywood neighborhood was developed.

Ms. Juhala said she knew properties could be condemned for the common good and remembered seeing a long-range, 40-yr or 50-yr plan that showed all those roads connected.

Ms. Alligood reiterated that it would require a great deal of development in the surrounding sites before that would happen.

Ms. Mangle assured that connection was not shown in the TSP.

Chair Klein called for additional comments from staff.

Staff made comments and answered questions as follows:

- Although Where Else Ln was undeveloped and very narrow, it was currently a public right-of-way. The City did not have plans to develop it at this time, but it is publicly owned.
 - Where Else Ln continued to the elbow and officially ended at this property. It was not private property from the Applicant's property to the end.
- Properties west of the Applicant's site were sparsely developed, but were zoned for much higher development. Under the current zoning, there was potential for much

denser development in the area. The larger R-7 lots were single-family sites, but were dividable and developable at much higher densities.

- **Ms. Alligood** did not know what the Water District used the property for or if the existing pump house south of the site was functioning. She did not know why the Pennywood subdivision was not able to use the property, which would have extended Pennywood Ct.
 - **Commissioner Bresaw** recalled the Lake Road NDA wanted to make the Water District property into a park about 7 years ago, but it was sold to a private developer.
- The public comment expressing concern that the zone change was being requested strictly for financial reasons was submitted anonymously. The commenter had appeared publicly to present his concern.
- Using Attachment 2B, staff explained that vehicles would access Parcel 3 from Bowman St, not from Where Else Ln due to the street improvements and narrow 15 ft wide right-of-way on Where Else Ln, which was too small to allow for increased traffic. Improving the street to TSP standards would involve other properties as well as the Applicant's property.
- The shading on the slide titled Key Issue #1 was incorrect. At the corner, the new paving would end at Dick Newman's property.
- Staff clarified how the street would function as a typical 2-lane street section and verified the location of existing and new paving.
 - Engineering and site improvement decisions were actually applied at the time of permit application, whether 2 or 3 homes were constructed.
- Three flag lots currently took access off the end of Bowman St.
- **Ms. Mangle** clarified that Where Else Ln did not exist for the purposes of the application and was essentially a gravel driveway. It was right-of-way, but met the standards for a bike path, not a street.

Chair Klein called for the Applicant's rebuttal.

Mr. Riley explained that the motivation for requesting the zone change was the degree of public improvement required to develop the site, which was more than anticipated or more than was typical for lot development. The Applicant was not motivated by money and decided to pursue a tighter zone change regardless.

- The Applicant talked with staff about whether it was appropriate to change to R-7. The property to the north was R-7 and equivalent R-7 to the east, so it made sense that pursuing the zone change would not alter the character of the neighborhood.
- The approximate selling price was the Applicant's guess as to what they could sell a home for today.
- If development proceeded, building permits would be required and single-family design standards would have to be met, helping to ensure the project fit the neighborhood's character.
- The Applicant's intent was to move forward in developing the site, and the R-7 zone change appeared to make the most sense at this point.

Commissioner Bresaw asked if the Applicant would hire a developer to do the development, but still maintain control over the property until it was developed and built.

- **Mr. Riley** replied that the Applicant was not successful in selling the vacant land, so was looking to maintain ownership while working with a developer to develop the vacant land that was otherwise not marketable at this time.

Commissioner Churchill asked if the property was purchased without the Applicant realizing the degree of public area improvements that would be required.

- **Mr. Riley** answered yes, and clarified the Applicant actually got the property back in a foreclosure. In researching development options, they realized the extent of public area improvements and determined that a zone change was necessary to minimize their loss. R-7 would allow for 3 lots to balance the public area improvements costs against the sale price of the properties. No developers were interested in working on a 2-lot solution because of the public area improvements required up front, but there was interest in developing 3 lots.

Chair Klein closed the public testimony portion of ZC-09-01 and TFR-09-04. Since it was past 10:00 p.m., he confirmed the Commission could come to a conclusion and the meeting time was extended.

Planning Commission Discussion

Commissioner Churchill believed that the application request was financially motivated. As noted, the Commission expected the City to require public area improvements. He considered the Applicant's parcel as the gateway into the character of the neighborhood to the south. He did not support the zone change request and wanted to leave the site as R-10 with 2 parcels because of the neighborhood character and because the rezoning was only financially driven.

Commissioner Bresaw disagreed, although she loved large lots. She lived near the subject property, which had been vacant for a long time, probably because of the economic climate. She preferred 2 houses on the lot, but wondered how long it would sit vacant. She believed 3 houses would work if done well.

Commissioner Churchill did not believe many developers would consider developing the property even with 3 lots. Sometimes one had to look past the immediate return and see what was good for the quality of a neighborhood.

Commissioner Bresaw reiterated that the lot had been vacant a long time and that she would like to see some improvement.

Commissioner Batey supported the application. It was a transitional area with varying sizes of homes and lots on all sides. She did not see a third house versus 2 houses as a significant burden on the road or the Pennywood neighborhood. Even if the zoning change request was financially driven, that should not be a reason to deny it.

Commissioner Churchill believed the premise and core issue was to not use financial motivation as a reason for a zoning change or variance.

Chair Klein noted, as mentioned by Mr. Miller, the Applicant's financial hardship should not necessarily play a part in the application. What was the point of having zoning if it was not enforced?

Commissioner Batey:

- Asked if the staff report included the Code language.
 - **Ms. Mangle** replied the findings were in the staff report. She clarified the financial hardship criteria was part of the variance criteria, not the zoning criteria. While

- financial hardship certainly could be a factor and a possible reason for denial, it was not the only factor.
- **Ms. Alligood** cited MMC19.905.1.B, on 5.2 Page 13, which stated the requirement "that the anticipated development must meet the intent of the zone" and listed 5 subsections. It was not the only criteria listed.
 - Stated the City was receiving a benefit from the street improvements and the improved pedestrian and bike connection between Bowman St and Where Else Ln. Although the public benefits would happen whether 2 or 3 lots were developed, if making 3 lots meant the development was more likely to occur, that was worth the rezoning.

Chair Klein noted the Applicant was looking to minimize their loss, but he preferred that they maximize their profit. It seemed the Applicant needed to sell the property to get it out of their portfolio. A \$300,000 home was not typical of the area, but would likely be constructed. He preferred the Applicant target the \$500,000 range, which would not happen on an R-7 lot.

- He recalled previous applicants wanting to build a quality product, but that was not the final result.
- Unfortunately, building designs were not available for zoning change requests; otherwise the Commission could confirm that the Applicant proposed a great project. However, the Commission was not looking at a great project, but rather how the property could be divided and then left at the mercy of the builder.
- He noted the Commission still seemed to be at a tied vote.

Mr. Monahan stated a motion would be appropriate. If no majority of the Commission voted to approve or deny, the application could go to City Council with no recommendation from the Commission. If a majority decision was not possible, the meeting could be continued and one or both of the absent qualified members of the Commission would be expected to review the record and participate in another vote.

Commissioner Batey said that she would not be at the next meeting.

Mr. Monahan noted Commissioner Batey's absence was a consideration if the Commission continued the meeting.

Commissioner Churchill moved to deny ZC-09-01 and TFR-09-04. Chair Klein seconded the motion. Chair Klein, Aye; Commissioner Churchill, Aye; Commissioner Bresaw, Nay; Commissioner Batey, Nay. Motion failed due to a tied vote.

Commissioner Bresaw said the Commission could assume the owner would develop the property nicely with 2 houses or the property could sit vacant for a long time.

Chair Klein stated he felt safer leaving the zoning as it was. .

Commissioner Churchill agreed that leaving the parcel as is was better than having the density of 3 houses with unknown designs. That risk was higher with 3 lots than 2, and would change the character of the immediate neighborhood to the south.

Chair Klein added that having 2 lots would force the Applicant to consider the significant street improvements and build a quality house that they could still profit from. There was

a reason the parcel had not been developed for a very long time.

Commissioner Churchill believed the market would come back and support 2 higher quality homes.

Commissioner Batey noted the Code language on 5.2 Page 13, MMC 19.905.1.B stated, "taking into consideration the following factors:..." but did not provide much of an argument for denial of the application. Some could be argued either way. Given factor a) "the site location and character of the area," bigger houses and bigger lots were on one side of the parcel while the other side had comparable sizes of houses and lots to what is being discussed.

Chair Klein asked what the point was of having zoning on any property if those criteria could be used for this area. Would it not just come before the Planning Commission if someone wanted to build R-7 or R-10? They could decide not to build the lot for any reason.

Commissioner Batey believed that zoning designations should not be seen as the "Holy Grail" and irreversible. Zoning designations were reversed all the time, such as in the Gramor subdivision. She disagreed with Mr. Miller's comment that zoning designations should always be a last resort. She did agree with him about variances, however, because the variance language stated that no feasible alternatives could be available. That was not what the subject Code language stated.

Chair Klein did not believe better quality houses, ones representative of the neighborhood, would be built by making the lots smaller.

Commissioner Batey pointed out that the Commissioners were not developers.

Commissioner Churchill said there was the issue of site location and character of the area. Increasing the density of parcels on a piece of land would change the character of that land.

Commissioner Batey agreed that in principle Commissioner Churchill was correct, but this parcel was between 2 different areas. It was not like an R-7 island was being built in a whole R-10 area.

Commissioner Churchill stated the parcel touched 2 pie-shaped lots in Pennywood to the north. There was enough density in adjacent neighborhoods, but not the Bowman St neighborhood, which the parcel was a part of.

Commissioner Batey agreed, but noted the length of Bowman St to the east must be considered, not just the density across Bowman St.

Commissioner Churchill said he viewed the creek side parcels as their own density and their own neighborhood character. Therefore, 2 lots respected the character of that neighborhood better than 3 lots.

Chair Klein agreed.

Commissioner Bresaw did not believe the Commissioners would change their votes.

Chair Klein agreed, adding that he did appreciate the discussion. He asked if the application should go to City Council since the vote appeared to remain tied.

Mr. Monahan replied that the Code did not specify sending it to City Council, although the Commission had that ability. The Commission could also continue the hearing to a date when the present Commissioners could attend along with one other member who was not currently present.

Ms. Mangle believed that the Commission had to recommend approval. She referenced MMC 19.1011.4.d, "Upon a recommendation of approval of the proposed amendment by the Planning Commission, a report recommending approval shall be provided to the City Council." She believed the Commission was at a deadlock.

Mr. Monahan said that the Commission had to make every effort to allow for a decision by the Planning Commission. If a tied vote resulted, even with the other members present, then alternatives had to be discussed. It was not a denial because there was not a consensus. He believed the Commission would then have to consider taking the application to City Council. He suggested the Commission determine available dates when the present Commissioners could attend, along with one or both of the other members, who could review the application and the record.

Chair Klein expressed concern about having a Commissioner make a decision when they were not present to see all the materials and hear all the testimony in person.

Commissioner Bresaw suggested the other Commissioners could listen to the tape.

Chair Klein agreed being present at the hearing said it all, and asked for opinions from the Commission. Noting the time, the meeting was extended another 15 minutes.

Commissioner Batey stated if another Commissioner was willing to review the materials and the record, the Commission might be able to give a resolution to the City Council.

Chair Klein offered that if the Commission sent the application to City Council at this time, fresh ears would hear the issue.

Commissioner Batey understood that the application could not go to Council with a tie vote.

Mr. Monahan clarified that the Code language preferred that the decision be made by the Planning Commission. The opportunity existed for a decision because the 2 absent Commissioners could provide a majority vote in one direction or another. He recommended the Commission make the effort to do that. The Code did not address a split decision being made, but the best alternative to no decision was to send it to City Council. Either way, an extension of the 120-day clock was needed from the Applicant.

Ms. Mangle explained that a decision tonight would go to City Council within the 120-day land use clock, which expired January 20, 2010. Continuing the hearing beyond tonight would require an extension of the 120-day land use clock by the Applicant; but that could not be required. If the Applicant chose not to waive the 120-day land use clock that would force the application to City Council.

Mr. Monahan added if the Applicant did not extend the 120-day land use clock, it could force the Commission to make a decision. Ms. Mangle's interpretation was that a denial would not get the application to City Council, unless there was an appeal.

Chair Klein surmised that the Commission needed to determine whether the absent Commissioners were interested in participating in a decision, and when all 4 of the Commissioners present would be available for a continued hearing.

Mr. Monahan responded that the Commission could not decide at this point whether one or both of the other Commissioners would be present. The best option was for the 4 Commissioners present to decide which meeting they all expected to attend. The application would be continued to that meeting and provide the information and direction to the other 2 Commissioners that it was up to them to get up to speed.

Ms. Mangle recommended continuing the application to January 12, 2010, which would require delaying the Riverfront Park hearing. The application could always be moved if needed.

Chair Klein said that because Commissioner Batey would not be present at the next meeting, an extension was needed from the Applicant. He asked the Applicant if they were willing to extend the 120-day clock to March 1, 2010.

Mr. Riley agreed to extend the 120-day land use clock to March 1, 2010.

Commissioner Batey moved to continue ZC-09-01 and TFR-09-04 to a date certain of January 12, 2010. Commissioner Bresaw seconded the motion, which passed unanimously.

Mr. Monahan explained that the Commission would pick up during the meeting with deliberations because the public hearing was closed. No additional testimony would be accepted. The Commissioners would be asked about any ex parte contacts, so he advised that the Commissioners present also refrain from such contacts.

6.0 Worksession Items –None.

7.0 Planning Department Other Business/Updates-None.

8.0 Planning Commission Discussion Items

Chair Klein noted he had sent the Commissioners a memo about food carts, which was interesting. He had discussions with people who said food carts did not actually build value in the downtown area, and would actually hurt people investing in a downtown restaurant. The argument was sound and he would bring it up for discussion at a later date.

Commissioner Batey asked what was happening with the Lake Road Multimodal Improvements project. She thought it would be built by now. She understood the project was funded to Where Else Ln.

Ms. Mangle said that because of the federal funding, the project had to go through environmental review. The federal funding did not fund 100% of the original plan but did

fund the stretch that Mr. Albert indicated earlier on the diagram.

Mr. Albert added that the project was at about 50% design and pushing forward to 70% design plans, which should be seen soon. Building would probably not begin this summer due to the acquisition of rights-of-way along Lake Rd. He believed the project was slated to begin in 2011.

9.0 Forecast for Future Meetings:

- | | |
|------------------|--|
| December 8, 2009 | 1. Public Hearing: MLP-08-02 et al 4033 SE Howe St. partition |
| January 12, 2010 | 1. Public Hearing: DR-09-01 Riverfront Park 2. Public Hearing: A-09-03 ROW Annexation for NE Sewer Extension |

Meeting adjourned at 10:45 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for
Alicia Stoutenburg, Administrative Specialist II


Jeff Klein, Chair

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 12, 2010
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Lisa Batey
Teresa Bresaw
Chris Wilson
Scott Churchill (arrived during CSU-09-11)

STAFF PRESENT

Katie Mangle, Planning Director
Brett Kелver, Associate Planner
Bill Monahan, City Attorney
Li Alligood, Assistant Planner
Brad Albert, Civil Engineer

COMMISSIONERS ABSENT

Dick Newman, Vice Chair
Paulette Qutub

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:35 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 November 11, 2009

Commissioner Batey noted that the agenda should note the November 10, 2009 minutes.

Commissioner Batey moved to approve the minutes for November 10, 2009 as written. **Commissioner Wilson** seconded the motion, which passed 3 to 0 to 1 with **Commissioner Bresaw** abstaining.

3.0 Information Items—None

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: CSU major modification of NCSD administrative offices. Hearing will be continued to February 9, 2010.

43 Applicant/Owner: Garry Kryszak/North Clackamas School District
44 Address: 4444 SE Lake Rd
45 File: CSU-09-11 *continued from 11/24/09*
46 Staff Person: Ryan Marquardt
47

48 **Chair Klein** called the public hearing for CSU-09-11 to order at 6:39 p.m.
49

50 Commissioner Churchill arrived at this time.
51

52 **Katie Mangle, Planning Director** stated that the school district requested the hearing
53 be continued to February 9, 2010 to allow time to address some of the issues raised by
54 the Commission and the neighborhood. The applicant had submitted preliminary revised
55 plans and an additional waiver to extend the 120-day clock. Staff supported the request
56 for additional time.
57

58 **Commissioner Bresaw moved to continue CSU-09-11 to February 9, 2010.**

59 **Commissioner Churchill seconded the motion, which passed unanimously.**
60

61 5.2 Summary: Zone change from R10 to R7
62 Applicant/Owner: Tim Riley/Clunas Funding Group, Inc.
63 Address: SE Brae & SE Bowman
64 File: ZC-09-01 *continued from 11/24/09*
65 Staff Person: Li Alligood
66

67 **Chair Klein** reopened the public hearing for ZC-09-01 to order and read the conduct of
68 major quasi-judicial hearing format into the record.
69

70 **Li Alligood, Assistant Planner** cited the applicable approval criteria of the Milwaukie
71 Municipal Code as found on 5.2 Page 4 of the staff Report, which was entered into the
72 record. Copies of the report were made available at the sign-in table.
73

74 **Chair Klein** asked if any Commissioners had a conflict of interest or any ex parte
75 contacts to declare.
76

77 All Commissioners had visited the site, but no Commissioner declared a conflict of
78 interest, bias, or conclusion from a site visit. No Commissioner's participation was
79 challenged by any member of the audience, nor was the jurisdiction of the Planning
80 Commission to hear the application

81

82 **Mr. Monahan** suggested that this was the appropriate time for Commissioner Wilson to
83 address how he had prepared for the hearing since he did not attend the prior meeting,
84 where the vote was tied 2 to 2. In order to participate, it was important for all parties to
85 hear that Commissioner Wilson had availed himself of the opportunity to become familiar
86 with the application materials, staff report, and public input received to date.

87

88 **Commissioner Wilson** stated that he had familiarized himself with the issue utilizing the
89 meeting packet and rough draft of the meeting minutes, as well as visiting the site,
90 listening to the audio recording of the hearing, and speaking with a member of the
91 planning staff.

92

93 **Chair Klein** asked if Commissioner Wilson had questions for the applicant regarding the
94 materials he had studied so far.

95

96 **Commissioner Wilson** responded no, not at this time. He noted that when visiting the
97 site, he did not notice any inconsistencies with the materials he had reviewed.

98

99 **Debbie Zecic, 13076 SE Pennywood Ct, Milwaukie** asked about procedure, stating
100 that many of the neighbors were not present tonight because they were told that no
101 further testimony would be accepted. There would simply be a straight vote. She asked if
102 more information was going to be provided.

103

104 **Mr. Monahan** responded that the direction at the end of the prior meeting was that the
105 application was continued to the current meeting for deliberations; however, if new
106 information had been submitted, it could be discussed and the Commission could
107 determine if there was reason to continue the meeting to allow further opportunity for
108 public comments.

109

110 **Commissioner Batey** recalled that at the prior meeting, it was stated that there was a
111 potential for new information, and if so, the applicant would be able to speak and public
112 comment would be allowed.

- 113 • **Ms. Mangle** said it was the Commission's decision.

114

115 **Chair Klein** clarified that if the application was reopened to public testimony, only new
116 information brought forward would be discussed.

117

118 **Ms. Zecic** understood that if anything new were brought forward this evening, the
119 hearing would be a continued to some future date.

120

121 **Chair Klein** answered no, a decision would most likely be reached this evening.

122

123 **Ms. Zecic** said she did not object to a decision tonight, but did object because both she
124 and the person with her had both understood the same thing; that it was specifically
125 stated that there would be a straight vote and that would be it.

126

127 **Chair Klein** replied unless new information was brought forward, and if so, the
128 Commission had to allow that new information to come before the applicant.

129

130 **Commissioner Churchill** recalled the discussion had indicated that public testimony
131 would be closed with deliberation allowed only among the Commissioners; however new
132 information was presented, which might warrant more public input.

133

134 **Mr. Monahan** clarified that if new evidence was presented that required the opportunity
135 for public review and a continuance was requested, then the Commission was bound by
136 statute to allow that continuance.

137

138 **Ms. Alligood** reviewed the staff report via PowerPoint, with the following additional
139 comments:

- 140 • The applicant submitted a supplemental narrative that provided visual and value
141 comparisons that clarified some concerns presented by the Commission and
142 residents about the type of development that would be seen on an R7 versus R10

- 143 lot. However, not all the concerns raised in the November 24, 2009 hearing were
144 addressed.
- 145 • Additional background information about the site was distributed to the Commission
146 before the hearing. Commissioner Wilson had requested additional information about
147 the Lake Road Neighborhood District Association (NDA) exploring the option of a
148 park on the site years ago. The yellow, 5-page handout described the meeting where
149 the City discussed the possibility of a park with the Oak Lodge Water District.
 - 150 • The supplemental material did not change the staff analysis as the proposal
151 continued to meet criteria for the zone change. Staff recommended that the Planning
152 Commission recommend approval of the zone change application to City Council.
 - 153 • She was not certain the supplemental narrative or yellow handout would be
154 considered new information. The applicant's narrative clarified information already
155 included in the application and staff report. The new information about the Oak
156 Lodge Water District meeting was from 2002, but was not previously included in the
157 record. The supplemental narrative was included in the staff report published online,
158 but the water district information was not.

159
160 **Chair Klein** asked if the additional information would justify [reopening \[vs opening up\]](#)
161 the public testimony portion of the hearing.

162
163 **Commissioner Bresaw** did not believe the information warranted opening the hearing
164 for additional public testimony.

165
166 **Commissioner Churchill** stated he was not clear where the supplemental information
167 came from when he received the packet, so he appreciated learning that it came from
168 the applicant. He believed the supplemental information was somewhat deceptive and
169 did not really address the issues.

- 170 • He cited the image on page 5 that said, "Most likely Construction with R10 Zoning"
171 versus an R7 Zone shown on page 4. The photographs did not represent the
172 conditions, even massed at that site. The information was new, but did not answer
173 questions regarding the scale and mass of the properties.
- 174 • Citing Item D on page 3 of the staff report, he agreed that an additional home on the
175 subject site would impact properties to the south, but the entire neighborhood would
176 be impacted as well. The mass and scale proposed on the lots had to be considered.

177 • Noting staff's comment under Item D stating, "the visual impact of an additional home
178 on the subject site would be insignificant," he said he [disagreed with—](#)

179

180 **Chair Klein** [interjected and](#) asked if the new information was important enough to open
181 to public testimony, knowing that only the new photographs and Oak Lodge Water
182 District notes could be addressed. The information was worthy for discussion, but the
183 Commission had to determine if the discussion should be opened to the public.

184

185 **Commissioner Churchill** said the new information presented a massing that was
186 appropriate to understand the site. Clarification would be something else, and he
187 believed the public should have the opportunity to comment.

188

189 **Commissioner Batey** stated that Item D addressed one of the issues being debated at
190 the last meeting. She did not believe the supplemental information from applicant was
191 useful. The information regarding Oak Lodge Water District had more influence on her,
192 and she considered it to be [more "new information" but not a lot.](#)

193

194 **Chair Klein** stated he was inclined to allow public testimony only on topics within the
195 yellow handout and the supplement to the staff report.

196

197 **Mr. Monahan** suggested taking a few minutes to allow the public to review the new
198 documents, and then have the applicant explain the significance of the new information
199 before allowing public comment.

200

201 The Commission took a brief recess and reconvened at 7:05 p.m.

202

203 **Chair Klein** called for the applicant's testimony.

204

205 **Tim Riley, Clunas Funding Group, 201 B Ave, Suite 270, Lake Oswego**, explained
206 that the supplemental material was submitted to address public concerns regarding the
207 visual impact on the neighborhood of two versus three homes on the site. For visual
208 comparison, photographs were presented of existing properties on R7 and R10 parcels
209 in the same neighborhood with similar frontage dimensions as the subject site. The idea
210 was to imagine placing the homes pictured on the vacant subject site.

- 211 • The R7 photo showed three homes on Pennywood Dr at an angle because all
212 three would not fit if the picture were taken directly in front. The Brae St photo
213 was taken just south of the site to offer a visual comparison of an R10 parcel.
214 • As staff mentioned at the previous hearing, the main difference between R7 and
215 R10 was that the houses were closer together. The applicant believed the photos
216 provided the best way to see both zones side by side.
217 • The value of the proposed homes was also a big discussion at the prior hearing. The
218 applicant planned to construct houses that fit in the neighborhood, similar to those
219 pictured. The visual impact comparison provided the best representation of how the
220 applicant believed things would look, and was the reason for the supplemental
221 material.
222 • The last page of the supplement noted bullet points that had already been covered,
223 essentially stating the visual impact would not be significant.
224

225 **Commissioner Bresaw** asked for the lot dimensions of the three lots pictured from the
226 Pennywood subdivision and the proposed lots for comparison.

- 227 • **Mr. Riley** responded that the total width of the three Pennywood lots was
228 approximately 240 ft with each lot being approximately 75-ft to 80-ft wide. The R10
229 lots were roughly 220 ft to 240 ft wide. The subject site was 251-ft wide, but the
230 required improvements had to be accommodated, which would narrow the width,
231 resulting in proposed lots of approximately 70-ft to 80-ft wide by 100-ft deep.
232

233 **Commissioner Churchill:**

- 234 • Noted the view of the Pennywood properties was looking northwest, and the total lot
235 corners were located way past the photo's edges.
236 • **Mr. Riley** replied that the edge of the far lot was not much further than the
237 building, though it was outside the picture.
238 • Stated the photograph on 5.2 page 17 appeared deceptive and did not actually
239 address density. The photograph was taken to make the R7 and R10 densities
240 appear similar, but they were not. The lot line differences between the Brae St and
241 Pennywood properties were radically different. A better representation showing
242 where the approximate mass of the buildings would fall on the property would
243 indicate quite a difference in density.

- 244 • **Chair Klein** understood the concern about the photo, but believed that the
245 comparison regarded frontages of 240 ft versus 240 ft, which the project was
246 confined to.
- 247 • Clarified his concern was that when the right of way adjustments were taken out and
248 the parcel subdivided into the three lots, the site would be even more dense, which
249 was not shown in the photos. As noted in Item D, he believed there would be impact
250 to houses to the south.
- 251 • Asked why the applicant did not show the frontage of the R7 property lines. The R10
252 photograph showed the frontages as well as additional property to the right.
- 253 • **Mr. Riley** explained he chose the best angle he believed would be consistent
254 with each. The angle needed to capture the whole Pennywood frontage would
255 have been so severe, the middle house would probably not been seen nor how
256 close the homes were. In the R10 photograph, the two houses were about as
257 close together as the two houses in the R7 photograph.
- 258 • Stated that it did not appear so from the aerial photograph, which was his challenge.
259
- 260 **Chair Klein** called for public testimony in favor of, opposed and neutral to the application
261 with regard to the new information presented.
262
- 263 **Debbie Zecic** agreed that the pictures were entirely deceptive. The applicant neglected
264 to photograph the lot on the corner that was quite large. Various sizes of lots existed in
265 the neighborhood.
- 266 • She reiterated her procedural concern, again noting that the Commission indicated at
267 the last meeting that they would only vote tonight and there would be no further
268 public testimony. That was why more people did not attend, especially her neighbors.
- 269 • She did not know if what was stated would sway the Commission's decision, but she
270 was troubled by the procedure.
- 271 • The minutes indicated it was a clear cut case, that one additional Commissioner was
272 needed to read the minutes and break the tie vote. Testimony was only being given
273 by herself and the developer, and the public was being short-changed if they shared
274 the same understanding.
275
- 276 **Chair Klein** clarified that generally if new information was brought forward, then that
277 portion was opened to public testimony.

278

279 **Ms. Mangle** offered to find the draft copy of the minutes from the prior meeting.

280

281 **Mr. Monahan** believed it was worthwhile to review the minutes.

282

283 The Commission took a brief recess and reconvened at 7:23 p.m..

284

285 **Chair Klein** stated that in the November 24, 2009 meeting minutes, Mr. Monahan did
286 say that no public testimony would be taken at the next meeting.

287

288 **Mr. Monahan** explained that some of the new information was new evidence, and thus
289 he took Ms. [Zecic's](#) comments as a request for an opportunity for public comment on
290 that new evidence, including people who were not present tonight.

- 291 • ORS 197,763 Section 6c, stated that in a continuance hearing, if new evidence was
292 submitted, then there is the opportunity for public response, and during that period,
293 the record was left open.
- 294 • He recommended the Commission hold the record open for written submission of
295 comments on the new information for seven days. At the end of that time, any new
296 written information should be provided to the applicant. At the next meeting, the first
297 order of business should be to provide the applicant the opportunity to rebut any new
298 written information received during that seven-day period, followed by deliberations
299 by the Commission.
- 300 • During the applicant's rebuttal to new written comments, if any new evidence was
301 submitted, it would have to be addressed. He cautioned the applicant to avoid adding
302 new evidence. If no written comments were received in the next seven days, there
303 was no need for rebuttal.
- 304 • Applicants always have the right to bring in new evidence, but run the risk of running
305 afoul of the Commission being given the opportunity to make a decision. He also
306 recommended that the applicant be allowed to comment on anything stated by [Ms.](#)
307 [Zecic](#).

308

309 **Ms. Mangle** added that if the Commission proceeded as discussed, staff would contact
310 all the neighbors who attended the last hearing to be sure they were aware of the new
311 information [and continued hearing](#).

312

313 **Commissioner Batey** stated that it was also contingent on all the Commissioners
314 present being able to attend the next meeting.

315

316 **Mr. Monahan** agreed the scheduling of the continuation should be for a time when the
317 five Commissioners present could attend.

318

319 **Chair Klein** confirmed that all the Commissioners present could attend the next meeting
320 in two weeks. He confirmed the applicant did not want to give rebuttal to comments
321 received tonight.

322

323 **Mr. Monahan** clarified that the only rebuttal allowed at the next meeting would be to the
324 written public comments received by 5:00 p.m. on Tuesday, January 19, 2010. There
325 would be no opportunity for public comment at the next meeting, providing the Applicant
326 presented no new evidence.

- 327 • He reminded the Commission that it was a two-step process. If anyone felt that
328 everything was not discussed today and the application was approved and sent to
329 the City Council, there would be additional opportunity then for comments.

330

331 **Pam Michael, 13181 SE Pennywood Ct**, asked when staff would mail notification to the
332 public to allow enough time for written comment to be received within 7 days from
333 tonight. She was also concerned about the surrounding neighborhood being notified, not
334 just those who testified at prior hearings.

335

336 **Ms. Mangle** replied that staff would use the best contact information available and hand
337 deliver, call, or email neighbors. The public in attendance was the best conduit to get the
338 word out to the neighborhood.

- 339 • She clarified the testimony was limited to the two pieces of new information
340 presented tonight. The hearing would not be started all over again.

341

342 **Ms. Michael** suggested it might be advisable to notify the entire neighborhood, because
343 they may not have been able to attend the previous meeting.

344

345 **Chair Klein** agreed the information was public, but two meetings had already been held.
346 Anyone with concerns that was unable to attend one of the two meetings at this point,
347 needed to get written testimony sent in on time.

348

349 **Commissioner Batey** added that anyone not able to attend the initial meeting could still
350 have submitted written comment and staff would have their contact information.

351

352 **Ms. Mangle** said that staff would also post a sign on the site with updated information.

353

354 **Ms. Michael** said the sign was down for a few days and then went up again.

355

356 **Commissioner Churchill** asked if Ms. Michael was asking for list of neighbors within
357 the 300-ft radius that she could contact instead of staff. It sounded as though she
358 preferred a re-notice for the 300-ft radius.

- 359
- **Ms. Michael** asked that anyone affected by the application should be notified.
 - **Ms. Mangle** confirmed the list of notification was public record was public information, so Ms. Michaels could pick up a list and notify neighbors. Also, information would be provided to the Lake Road NDA for their meeting tomorrow night. Staff would use the information and time to make the best effort in contact the public. She was open to further suggestions.
 - She confirmed Ms. Michaels if staff could cross her off the notification list since she was present at this meeting.

367

368 **Mr. Monahan** clarified that the Commission should formally continue to a date certain of
369 Tuesday, January 26, 2010 after leaving the record open until 5:00 p.m. on Tuesday,
370 January 19, 2010, for written comments only about the new evidence submitted by the
371 applicant as part of the staff report tonight.

372

373 **Commissioner Batey moved to continue ZC-09-01, TFR-09-04 to a date certain of**
374 **January 26, 2010, leaving the record open until 5:00 p.m. on January 19, 2010, only**
375 **for written comments restricted to the two items of new evidence submitted**
376 **tonight. Commissioner Churchill seconded the motion, which passed**
377 **unanimously.**

378

379 5.3 Summary: Minor Land Partition
380 Applicant/Owner: Planning Resources, Inc./Garry Suazo
381 Address: 4033 SE Howe St.
382 File: MLP-08-02, TPR-08-03, VR-08-01
383 Staff Person: Brett Kelper

384

385 **Chair Klein** called the public hearing for MLP-08-02, TPR-08-03, VR-08-01 to order at
386 7:36 p.m. and read the minor quasi-judicial hearing format into the record.

387

388 **Brett Kelper, Associate Planner** noted the applicable approval criteria of the Milwaukie
389 Municipal Code as found on 5.3 pages 7 and 8 of the staff report, which was entered into
390 the record. Copies of the report were made available at the sign-in table.

391

392 **Chair Klein** asked if any Commissioners had a conflict of interest or any ex parte
393 contacts to declare.

394

395 All Commissioners had visited the site, but no Commissioner declared a conflict of
396 interest, bias, or conclusion from a site visit.

397

398 **Commissioner Wilson** declared that he had talked with the owner during his site visit,
399 which was some time ago. He could not remember his conversation with the owner.

400

401 **Ms. Mangle** advised that if Commissioner Wilson recalled something specific about his
402 conversation with the owner during the meeting, he could share the information at that
403 time.

404

405 No Commissioner's participation was challenged by any member of the audience, nor
406 was the jurisdiction of the Planning Commission to hear the application. There were no
407 other ex parte contacts

408

409 **Mr. Kelper** presented the staff report via PowerPoint, noting that while such applications
410 were normally done as a Type 2 administrative review, staff brought this application
411 before the Planning Commission because of the variances requested.

412 • He clarified that the 18-ft access was a proposed easement for access to all three

413 parcels off 40th Ave rather than Howe St, though that would not necessarily occur.
414 The existing house was currently accessed via Howe St.
415 • The carport or detached garage pictured in one drawing located behind the house on
416 Parcel 1 would provide the required covered parking, [and would be accessible](#)
417 [through here](#).

418

419 **Chair Klein** noted that access for the three lots was not pertinent to subdivision
420 application, but would be reviewed by staff at a later date.

421 • **Mr. Kelper** agreed, adding that access details for the all the lots would be would
422 be worked out during the building permit process for Parcels 2 and 3. Parcel 1
423 would need to establish a clear access as well.

424

425 **Commissioner Churchill** replied [that access \[stated it\]](#) did help clarify the impact of the
426 public area improvements. He was trying to understand the special public improvements
427 on 40th Ave. The [one access](#) required under the application seemed reasonable.

428

429 **Chair Klein:**

430 • Asked if there was an overlay that showed the location of the trees that could be
431 reviewed to be sure the access area would not damage the trees.
432 • **Mr. Kelper** replied he did not have a slide showing both the trees' location and
433 proposed access. He might be able to show where the proposed access would
434 be located over the proposed compound shared lot line.
435 • Reiterated that the access was proposed, so was not pertinent to tonight's decision
436 on the subdivision. There might be three accesses to site, but that would be
437 addressed at a later date.

438

439 **Commissioner Churchill** responded that [three accesses](#) would dramatically change his
440 decision regarding public area improvements, though technically part of the site
441 development plan application.

442

443 **Mr. Kelper** concluded the staff report, noting that 120-day clock had already been
444 extended to a full year, with a deadline of March 3, 2010. Although the timeline was tight,
445 he believed there was time for a continuance to two weeks from tonight to allow time for
446 an appeal to the City Council.

447

448 Staff responded to questions and comments from the Commission as follows:

449 • **Mr. Kelper** stated that one condition assured the preservation of the trees in the
450 right-of-way as much as practical when construction of the sidewalks began. A tree
451 preservation restriction of sorts would be placed on the plat requiring the homeowner
452 to submit a report to the Planning Director for review before anything could be done
453 to the trees. As the property changed hands, the restriction would continue to protect
454 the trees.

455 • He also clarified that the access easement was on Parcels 2 and 3. The
456 proposed new property line between Parcels 2 and 3 was indicated on the map
457 as a solid jogging line. The Code had standards for allowing a maximum amount
458 of jog and the proposal met it for both parcels. Part of the easement was on
459 Parcel 2 and the square footage indicated the total for Parcel 2. The easement
460 did not come into play when determining the lot area because it was like an
461 overlay.

462 • He confirmed that if Parcel 1 took its primary access from 40th Ave, then it would
463 function a bit like a flag lot. Currently, the house fronted Howe St.

464 • **Brad Albert, Civil Engineer** confirmed that minimum spacing standards applied
465 between driveways, but the proposal was for a shared access for all three parcels,
466 which seemed to make the most sense. Technically, Parcel 2 could continue to take
467 access from Howe St, but access for Parcel 3 was very limited, due to stormwater
468 drainage, and would probably have to share access with Parcel 1.

469 • While having a shared access for all three sites would reduce stormwater runoff
470 due to the reduced square footage of paving, the real positive was that the
471 ingress/egress for three sites would be at just one conflict point. While each
472 parcel could have its own access on either Howe St or 40th Ave, it was beneficial
473 to have one access point, [especially with the view corridor created by the trees](#).

474 • There was no particular advantage in having access to the parcels off Howe St
475 rather than 40th Ave because both were classified as local streets at this
476 intersection. Howe St was a collector starting a couple of blocks away and from
477 the south, 40th Ave was labeled as a neighborhood route. The Street
478 Classification slide was shown to aid in understanding. If Howe St was a higher
479 class street at the site, the applicant would be required to take access off 40th
480 Ave, but at this point the choice was the applicant's.

- 481 • **Ms. Mangle** noted that a site plan showing the tree locations, access easement and
482 the lots was included in the applicant's material as Attachment 3.b.iii Sheet 3/3.
- 483 • **Mr. Kelper** confirmed that one tree would have to be removed to allow for paving.
484 The other trees could probably be saved.
- 485 • He understood concerns about **the applicant changing** the orientation of **the**
486 **existing** house and clarified that staff was evaluating Parcel 1 for width and depth
487 as it faced Howe St. He utilized the displayed maps to indicate the required front,
488 rear, and side yard, setbacks, and where a 6-ft high fence would be allowed.
- 489 • He noted that additional correspondence had been received by staff and
490 distributed an email from Dinnelle Wright, who lived a couple of lots south at
491 9731 40th Ave. She raised concerns about the variance requests, which
492 described. He had responded to her comments via email. He confirmed that she
493 agreed with staff's recommendations.
- 494
- 495 **Chair Klein** called for the applicant's testimony.
- 496
- 497 **Dan Jung, Planning Resources, Inc, 17690 Boones Ferry Rd, Lake Oswego** thanked
498 staff for their help during the application process.
- 499 • Overall, the applicant and property owner agreed with staff's findings and conditions
500 of approval, except that they requested that the Planning Commission consider the
501 requested variance for delaying the improvements on SE Howe St. As a corner
502 property, dedication and improvements were required on two streets.
- 503 • Because the current width of 40th Ave was 20 ft, the improvements would be very
504 minimal and pertinent, providing an immediate benefit, especially the asphalt in
505 that location.
- 506 • SE Howe St, however, was a uniform 40-ft width and the improvements were
507 also uniform for the most part. It was functioning for vehicles. Putting in additional
508 asphalt and sidewalk improvements along the applicant's frontage now did not
509 appear to really benefit anyone, because no other parcels on the street would
510 have a sidewalk.
- 511 • The applicant proposed to sign and record a waiver of non-remonstrance for a
512 future local improvement district (LID) instead of completing improvements now.
- 513 • He clarified that the access easement was shown to give the property owner options
514 for future development. He was hesitant to say that they wanted to condition the

515 access easement, because two off-street parking spaces were required. With the
516 one access, getting two parking spaces to each lot might be difficult, but he was not
517 sure. Again, the access easement was just a consideration of future development.
518 While recording a plat, it seemed a good time to also record the easement.

519

520 There were no questions for the Applicant.

521

522 **Chair Klein** called for public testimony.

523

524 **Steve Males, 4034 SE Howe St, Milwaukie**, noted his property's location on the
525 displayed map across the street from the subject property where he has lived for 22
526 years. He asked that the trees be saved. He heard the comments about the tree on the
527 corner where the sidewalk would be located and did not believe **visibility** would be an
528 issue if the speed limit was followed.

- 529 • He supported improvements that made sense, but did not want sidewalks on Howe
530 St because the proposed sidewalk would dead end into a fence or tree.
- 531 • He asked if the Commissioners had noticed the corner of 40th Ave and Olsen St
532 during their site visit. Houses on 40th Ave were too close to the street to allow for
533 widening.
- 534 • The City needed a game plan [**about the sidewalk's continuation**] before having a
535 partial sidewalk installed. He indicated on the displayed map a corner lot on 40th Ave
536 that had no room for a sidewalk. Sidewalk corners on Olsen St did not even closely
537 meet where sidewalks would extend down 40th Ave heading north. It did not seem
538 feasible to require someone to pay that much money for all that work until a game
539 plan existed. The improvements should be done all at one time.
- 540 • He added he did not want sidewalks going out into the street to avoid trees, like the
541 one on Olsen St that caused traffic problems in the snow.
- 542 • He had talked with the property owner several times who shared he did not want to
543 get out of doing anything, but he did not want to do foolish things or do something
544 twice.
- 545 • He believed the application was a good plan and he hoped it would go forward. He
546 noted the applicant had no room for a sidewalk at the end house on Howe St. The
547 sidewalk would serve no purpose.

548

549 **Chair Klein:**

- 550 • Noted sidewalk existed on that corner where it came down 42nd Ave, but not down
551 Howe St.
- 552 • **Mr. Males** asked if there was a definite plan for the street. The picture showing
553 40th St toward Olsen St was very deceiving because the street narrowed and two
554 vehicles could not pass there.
- 555 • [Explained that more right-of-way would be available than currently existed. \[Tape 1B](#)
556 [29:40\]](#) He understood not wanting to put the car before the horse. However, good
557 street design standards had already been set, to ensure the desired design was
558 achieved as development occurs; essentially a master plan was in place about what
559 would happen on a particular street. Although when those other improvements would
560 happen was another issue.
- 561 • **Mr. Males** responded that to run sidewalks the way the City wanted meant that
562 some homes would have to wait for sidewalks until they were torn down and
563 rebuilt.
- 564 • Agreed that was an unfortunate reality sometimes.
- 565 • **Mr. Males** reiterated that doing the sidewalks like that did not make sense. He
566 drove along that street each day and could see what would happen.
- 567 • Reiterated that he understood Mr. Males' concern.

568

569 The photograph looking east down Howe St was displayed. No view looking the other
570 direction was available.

571

572 **Chair Klein** called for any additional comments from staff.

573

574 **Mr. Albert** verified that the City did want incremental improvements to occur with
575 development, especially on a corner lot, which would start whatever improvements were
576 needed.

- 577 • He believed that with the start of the subject project, the City had a game plan for
578 40th St heading north and east on Howe St. The City had always required that the
579 applicant or developer do the improvements at the time of development, but a non-
580 remonstrance agreement put the improvements on the future homeowners of the
581 partition.

582

583 **Chair Klein** called for the applicant's rebuttal or additional comments, which was
584 declined. He closed the public testimony portion for MLP-08-02, TPR-08-03, and VR-08-
585 01 at 8:25 p.m.

586

587 **Planning Commission Discussion**

588

589 **Commissioner Wilson:**

590 • Opposed the tree protection restrictions. He did not know if it increased or decreased
591 the value of a property, which was not the issue, but it did establish more rules and
592 regulations that were not desirable. He asked if the tree protection restrictions would
593 go into effect if there was a delay.

594 • **Ms. Mangle** responded that once in place, the tree protection would not be
595 permanent, but would impose the same kind of restrictions as if the trees were in
596 the City's right-of-way. The homeowner would have to obtain City permission
597 through a right-of-way tree permit to remove the trees if they were diseased or
598 had other problems.

599 • Understood about the trees in the right-of-way, but was concerned about restrictions
600 involving the other trees.

601 • **Ms. Mangle** replied the restrictions regarded trees that would be in the right of
602 way, but were still on private property unless the variance was approved. [36:19]

603 • **Chair Klein** clarified that the right-of-way would include the trees now, but if the
604 variance moved the right-of-way from 25 ft to 20 ft, the trees would be outside of
605 the right-of-way and not subject to a review if the homeowner wanted to remove
606 them at a later date. He asked staff for input on Ardenwald and the existing tree
607 ordinance.

608 • **Ms. Mangle** explained that the City's tree ordinance only protected trees in the
609 right-of-way or water quality resource areas, but not on private property. The
610 main comments submitted from the Ardenwald NDA regarded protecting the
611 trees.

612 • Stated that private property is private property, and though the right-of-way was
613 public, putting restrictions on private property was not fair.

614 • Favored delaying the improvements on Howe St. He agreed it did not make sense
615 because the sidewalk would end at an existing fence.

616

617 **Commissioner Batey** disagreed on both counts. The incremental improvements issue
618 had come up often and was debated hotly in her neighborhood. She was sensitive to
619 concerns about placement of the sidewalks in areas where houses were built 5 ft from
620 the right-of-way, which was a recurring issue.

- 621 • She was not concerned about a sidewalk ending at a fence, because through the
622 years the City had seen infill and sidewalks connected. Both 40th Ave and 42nd Ave
623 did have developed sidewalk systems, so Howe St was a natural connector that
624 should be encouraged. This was heard in comments from the NDA and from Ms.
625 Wright. She supported staff's recommendations to not delay the improvements on
626 Howe St.
- 627 • The recommendations about the trees were a fair compromise given that the 5 extra
628 feet were not being required for the right-of-way.

629

630 **Commissioner Bresaw** also favored staff's recommendations. It was worthwhile to put
631 a sidewalk on Howe St because the property was 145 ft wide, and people would use it.

- 632 • Protecting trees was very important, though she would not want very tall trees next to
633 her house due to safety issues. However, the trees had been there a long time and
634 would hopefully remain longer. If there was a safety issue, the homeowner would be
635 allowed to remove them. She planned to vote in favor of the application.

636

637 **Commissioner Churchill** stated that the site was very unique in Milwaukie and added
638 character. He was reminded of many challenged arterials or even local streets in Mill
639 Valley, Larkspur, and Corte Madera, CA that had a lot of character.

- 640 • The trees added the ultimate traffic-calming device and interesting character to the
641 street. Without them, the street would appear like any other average street in
642 suburban USA, so he liked staff's plan to work around the existing trees.
- 643 • He was torn about Howe St after listening to the applicant and neighbors.
644 Connecting the improvements to 42nd Ave would be the ultimate challenge. However,
645 he supported staff in asking for the improvements now. He wondered if it was
646 possible to transition at the eastern edge of the parcel, so the sidewalk did not run
647 into the fence.
- 648 • He complimented staff for the successful compromise on 40th Ave.

649

650 **Chair Klein** preferred sidewalks today rather than in the future, so he saw no reason to

651 delay. He understood it was not desirable to have sidewalks that did not connect, but the
652 requirement had been City policy for years. If the desired improvements were not
653 implemented, then they would never be completed; therefore unusual adjustments to the
654 applicant's property were required **now** to allow for the improvements **for the future**. He
655 supported staff's recommendations.

656 • Knowing the Ardenwald NDA's strong point of view regarding trees, he saw no
657 reason to oppose staff recommendations. The trees added value and character to
658 the neighborhood. He walked the street often, so having some pedestrian access
659 would be great.

660

661 **Commissioner Churchill** confirmed that staff had not considered stopping street
662 improvements short of a condition like a fence in the past, but went right up to the
663 property line.

664

665 **Commissioner Wilson** clarified that he loved trees, but asked if precedence was being
666 established to implement tree restrictions on private property or if similar situations
667 happened on other lots.

668 • **Mr. Kelper** responded that he had discussed that question with Mr. Monahan as
669 research for writing the conditions, because staff was concerned about getting into a
670 taking situation that might require more than was warranted.

671 • The special circumstance was that the applicant was requesting a variance, so this
672 was not a normal implementation of the rules. The applicant was asking for some
673 variation from those rules. One criterion was to determine if anything could be done
674 to mitigate the impacts of the variance. It seemed appropriate to require some
675 protection for the trees in exchange for dedicating 20 ft instead of 25 ft.

676 • **Ms. Mangle** added that with the variance, essentially the public was giving up the
677 ability to protect the trees. If the applicant had not requested a variance or the
678 variance was not approved, the public would be able to protect the trees.

679

680 **Chair Klein** added that the applicant was in support of that condition.

681

682 **Mr. Kelper** noted the following two housekeeping language revisions because the
683 findings were not reissued for the meeting:

684 • In Finding 4, the date of the public hearing should state, "~~December 8, 2009~~

685 **January 12, 2010.”**

- 686 • Because an easement granted permission, Condition 3B, which related to trees
687 should note the restriction. Sentence 1 of Condition 3B was amended to state, "A
688 ~~public conservation easement~~ **tree conservation restriction** shall be
689 provided..."
- 690 • He asked if Ms. Wright’s written comment received today was best included in the
691 findings or referenced as an exhibit.

692

693 **Mr. Monahan** replied that the comment from Ms. Wright just needed to be part of public
694 record. The findings remained as presented unless the Commission found reason to
695 modify them because of something within the testimony.

696

697 **Ms. Mangle** confirmed that the applicant agreed to the changed wording.

698

699 **Commissioner Bresaw moved to approve MLP-08-02 and TPR-08-03 allowing the**
700 **partitioning, and the variance request to dedicate 20 ft to the public right-of-way**
701 **on 40th Ave; and to deny the variance request to eliminate the on-street parking**
702 **strip on 40th Ave and eliminate the required street improvements to Howe St; to**
703 **adopt the recommended findings and conditions in support of approval found in**
704 **the attachments with Finding 4 changed to January 12, 2010, and Condition 3B**
705 **amended to reflect tree preservation easement. The motion was seconded by**
706 **Commissioner Churchill and passed 4 to 1 with Commissioner Wilson opposing.**

707

708 **Chair Klein** read the rules of appeal into the record.

709

710 **6.0 Worksession Items – None**

711

712 **7.0 Planning Department Other Business/Updates**

713 7.1 Planning Commission Notebook page updates

714 **Ms. Mangle** distributed additional items to the Planning Commission to go with
715 Notebook page updates of the republished Code mailed earlier. The update was a
716 customer service project that would make the Code easier for applicants and the public,
717 and would help staff and the Commission as well. Marcia Hamley put a large amount of
718 work into the project and was continuing to do so.

- 719 • She reported that the Harmony Mini Storage application, which required a
720 Conditional Use when annexed into the City, had been caught up in financing and
721 other development problems, then started to come together last month. However the
722 application did not have enough time to be substantially complete within the time limit
723 allowed by Code. The applicant was working closely with Susan Shanks and
724 submitted an application this week for a two-year variance from the time limit
725 requirement to allow time for construction.
- 726 • The applicant requested a one-year variance, but staff advised that before going
727 through the process he should be sure the variance allowed enough time to build
728 a bridge and substantially complete the work, meaning everything except for the
729 trees and striping in the parking lot. The intent was to encourage the applicant to
730 just complete the project.
- 731 • She requested preliminary reactions to the variance before a lot of work was put into
732 it. The intent was to not have to bring the two-year variance back before the
733 Commission. Pre-application activity was high, but Harmony Mini Storage was the
734 only large commercial project happening in the City right now.

735

736 **Commissioner Batey** commented that improvements were needed for the wetlands if
737 nothing else.

738

739 **Chair Klein** noted it was important to remember what could be built on the site versus
740 what was proposed. The Harmony Mini Storage had a very limited impact for the zoning
741 on the site. He did not want another project started on the site. It would be nice if the
742 applicant would break ground, but he did not have a problem with the two-year
743 extension.

744

745 **Commissioner Churchill** commented that developers who have an opportunity to delay
746 something often bring the project right up to the time limit again, perhaps selling later.
747 However, a decision had to be made whether the entire process started again or the
748 time variance was approved. He suggested having a progress milestone.

- 749 • **Ms. Mangle** replied that a milestone could be explored to nudge the applicant along.

750

751 **Commissioner Batey** asked about the house conversion on Harmony Rd.

752

753 **Ms. Mangle** replied that the house conversion was going forward, but instead of a minor
754 remodel of the residence to office space, the house would be torn down for a new
755 building. The applicant wanted to do the project right instead of fussing around with the
756 old house. She did not believe the project would return to the Planning Commission,
757 [because the project would only require a building permit](#)

758

759 **8.0 Planning Commission Discussion Items**

760 **Commissioner Batey** confirmed with Marcia Hamley that the blank #10 of the
761 republished Code handout could be removed from the Notebook because it was
762 superseded by the Public Works Standards.

763

764 **Commissioner Bresaw** noted that the grade of the house on Vernie Ave, was high
765 compared to the next lot. She asked how it would tie into the Lake Rd widening and
766 sidewalk improvements.

767

768 **Mr. Albert** answered that the Lake Rd improvements were consistent with the Lake Rd
769 Multimodal Plan. The Vernie Ave sidewalk ended at a keystone wall. Any improvements
770 further down would require fill and a retaining wall. The sidewalk would remain straight.

771

772 **9.0 Forecast for Future Meetings:**

773 January 26, 2010 1. Public Meeting: CSU-08-05 post-decision requirement
774 to review Pond House parking and uses

775 2. Worksession: Planning Commission Bylaws

776 3. Worksession: Light Rail briefing Part 1

777

778 February 9, 2010 1. Public Hearing: CSU-09-11 NCSD administrative offices
779 *cont'd from 1/12/10*

780

781 **Ms. Mangle** reviewed the upcoming meeting schedule, noting that the January 26
782 meeting agenda might need adjusted depending on the length of the Bowman St/Brae St
783 hearing that was just continued. The Bylaws might be postponed to another meeting.

- 784 • The DLC would have a similar Light Rail briefing on January 27, 2010. A Light Rail
785 meeting was planned for March 9, 2010 as a joint worksession with the Planning

786 Commission and Design Landmarks Committee (DLC). TriMet would be presenting
787 more specific details about the proposal for the Milwaukie area. Design review
788 meetings would be held eventually.

789

790 **Chair Klein** believed the January 26 Light Rail briefing was very important because if it
791 was moved to February 9th, it conflicted with the Ardenwald NDA meeting. He wanted
792 the NDA to have the opportunity to attend.

793

794 **Ms. Mangle** updated that Mr. Marquardt was working hard with JoAnn Herrigel and her
795 consultants on the Riverfront Park application. The plan was to place it on the agenda
796 for the February 23rd meeting. DLC had recommended approval of the design review
797 portion of the application with some conditions and post-approval review. The Water
798 Quality Resource application was the difficult part. Staff had reviewed and requested
799 more information from David Evans & Associates. The application was not quite ready
800 for the Planning Commission, but hopefully it would be by February 23rd.

801

802 Meeting adjourned at 8:58 p.m.

803

804

805

Respectfully submitted,

806

807

808

809

810

Paula Pinyerd, ABC Transcription Services, Inc. for
Alicia Stoutenburg, Administrative Specialist II

811

812

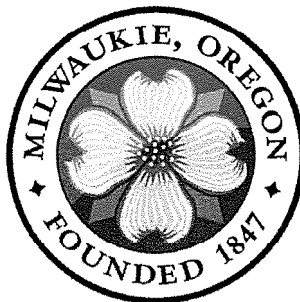
813

814

815

816 _____
Jeff Klein, Chair

6.
OTHER BUSINESS



To: Mayor and City Council
From: Cynthia Trosino, Human Resources Director
Pat DuVal, City Recorder
Subject: Personal Services Agreement for Interim Finance Director
Date: February 8 for February 16, 2010 Regular Session

Action Requested

Adopt the resolution authorizing the Interim City Manager to sign a personal services agreement with A. Andrew Parks, CPA, GEL Oregon, for a 6-month period in an amount not to exceed \$11,000 per month.

History of Prior Actions and Discussions

August 2009: Senior Administrative Specialist retires from Records and Information Management Department. The Finance Director assumes the duties of risk management.

December 2009: Finance Director resigns. The City Manager assumes those duties.

January 2010: The City Council does not to renew the City Manager's employment contract which terminates February 28, 2010.

January 2010: Human Resources discontinues the recruitment for the regular finance director position due to the change in City Manager position and begins identifying available resources for an interim finance director.

Background

In addition to performing services consistent with the finance director job description, specific areas identified in the scope of work including:

- Finalize the 2007/2008 financial report and audit
- Finalize the 2008/2009 financial report and audit
- Support implementation of the temporary wastewater surcharge

- Support departments in completion of 2010/2011 budget including the Capital Improvement Plan and meet all requirements of ORS 294 related to the adoption of local budgets
- Ensure ongoing compliance with risk management functions
- Provide support for the collective bargaining process
- Ensure the ongoing day-to-day operations of the finance department and be available to staff for support and questions.

A variety of sources were utilized to identify potential interim finance directors including review of individuals listed with the League of Oregon Cities for interim assignments and discussions with finance directors from West Linn, Albany, and Clackamas County. The current City of Milwaukie audit firm Grove Mueller and executive staffing agencies Prothman and Robert Half were also contacted. In addition, the Finance Officers Group sent an email on behalf of the City of Milwaukie notifying its members of the opportunity.

From these various resources, several individuals were contacted. The Finance Director from the City of West Linn volunteered to serve in an advisory capacity, at least two individuals were unavailable or uninterested in the nature of the assignment, and three expressed interest. The three that expressed interest were Andrew Parks, CPA, GEL Oregon, Nancy McClain, N. McClain Consulting Company, and Robert Gazewood, Gazewood Financial Management Services. Robert Half staffing agency identified a temporary resource as well.

The City reviewed the background, experience, availability, and costs of Mr. Parks, Ms. McClain and Mr. Gazewood, extending an invitation to each of them for further discussions regarding the assignment.

Concurrence

Mr. Parks was interviewed by City Councilor Deborah Barnes, Budget Committee Chair David Aschenbrenner, Police Chief Bob Jordan, Community Development and Public Works Director Kenny Asher, Library Director Joe Sandfort, Human Resources Director Cynthia Trosino, and City Recorder Pat DuVal. Other staff members had worked with Mr. Parks at various times and also provided input.

Based on experience and availability to meet the needs related to this assignment, it was the consensus of all those involved with the process that Mr. Parks would provide the technical expertise needed in an interim finance director.

Fiscal Impact

Based on the Finance Director's total monthly compensation package, the \$11,000 per month rate would be expense neutral.

Work Load Impacts

An effective and experience interim finance director would facilitate staff's departmental budget preparation for Budget Committee consideration, bring the City's financial statements up to date, and ensure risk management compliance.

Alternatives

Staff would continue its search for a suitable interim finance director if this personal services agreement were not approved.

Attachments

1. Resolution
2. Personal Services Agreement Scope of Work
3. Proposed 2010/2011 Proposed Budget Calendar (Draft for Discussion Purposes)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A PERSONAL SERVICES AGREEMENT WITH A. ANDREW PARKS, CPA, GEL OREGON, FOR INTERIM FINANCE DIRECTOR SERVICES.

WHEREAS, the City of Milwaukie is seeking interim finance director services for a period of 6 months and a month-to-month basis thereafter while recruiting the city manager and finance director; and

WHEREAS, the intent is that an agreement be executed that is expense neutral to the City budget and be commensurate with the salary and benefits of the finance director position if it were filled; and

WHEREAS, staff utilized a variety of resources to identify suitable individuals for the interim finance director position; and

WHEREAS, A. Andrew Parks of GEL Oregon is a senior level executive with over 20 years experience in municipal finance organizations; and

WHEREAS, A. Andrew Parks of GEL Oregon has submitted a Scope of Work that adequately defines the City's interim finance director service needs; and

WHEREAS, based on background, experience, availability, and costs A. Andrew Parks was deemed able to provide needed interim finance director services;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie authorizes the Interim City Manager to sign a personal services agreement with Andrew Parks, CPA, GEL Oregon for a 6-month period in an amount not to exceed \$11,000 per month for Interim Finance Director Services.

Introduced and adopted by the City Council on February 16, 2010.

This resolution is effective on February 16, 2010.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

EXHIBIT A

SCOPE OF WORK

Executive Summary

Mr. Andy Parks, of GEL Oregon, Inc. will perform the requested duties of the Interim Finance Director position for the city of Milwaukie Oregon.

Mr. Parks is a senior level executive with nearly twenty years experience evaluating municipal finance organizations and their workflow processes.

Scope of Services

A. Andrew Parks, CPA shall perform services consistent with the job description for the finance director position (see attachment). Mr. Parks will be on-site (i.e., at city hall or other locations in and around Milwaukie as required to attend to the duties of the position, e.g., library, other city facilities, and other jurisdictions or meeting locations) an average of four to five days per week. Additionally, Mr. Parks will be available to city staff during normal city business hours and to Interim City Manager Pat DuVai as needed via cell or office phone. Identified priorities for the balance of fiscal year 2010 (February – June 2010) include but are not limited to the following:

1. Finalize fiscal year 2008 financial report and audit
2. Finalize fiscal year 2009 financial report and audit
3. Support implementation of utility billing surcharge
4. Support Department Directors to complete Fiscal year 2010 budget
5. Complete 2010 budget
6. Ensure on-going compliance of Risk Management functions
7. Provide support for collective bargaining process
8. Ensure the on-going day to day operations of the finance department and be available to staff for questions and support
9. Make additional improvements to internal controls as identified

Cost

The finance services included above will be performed for a lump sum of \$11,000.

Billing

GEL will submit progress billings no more than monthly with billings to include progress on each of the tasks noted in the scope above. Invoices are due and payable upon receipt.

Term

The term of this agreement shall extend to August 31, 2010 and be month-to-month thereafter. Either party may terminate this addendum with thirty (30) days notice.

Compensation

The services included in this agreement shall be compensated in the amount of \$11,000 per month.

Interim City Manager, City of Milwaukie, Oregon

President/CEO GEL Oregon, Inc.

ATTACHMENT 3
City of Milwaukie, Oregon
Proposed Budget Calendar
Fiscal Year 2010-11
(Draft for Discussion Purposes)

| Description | Parties | Proposed Date | Latest Date |
|---|--|---------------------------------------|--|
| Estimate 2010-11 year-end revenue and expenditures (ORS 294.361 and 294.352) | Dept heads | Feb 26 | March 5 |
| Review December 2009 financials, preliminary year-end estimates, and budget process with Budget Committee | Dept heads | March 2 (prior to Council meeting) | March 16 (prior to Council meeting) |
| <i>Goal setting – see attached memo</i> | Council with Dept head | | March 19 |
| Requested budget prepared and provided to finance Dept meetings with City Manager and Finance Director | Dept heads Dept heads, staff and City Mgr | March 19 Week of March 29 | March 29 April 9 |
| Budget narratives completed | Dept heads | April 9 | April 16 |
| Update year-end revenue and expenditure estimates | Dept heads | April 16 | April 23 |
| Publish “Notice of Budget Committee Meeting” (ORS 294.401) | Finance Dir | April 16 | April 30 |
| Publish “Second Notice of Budget Committee Meeting” (ORS 294.401) | Finance Dir | April 23 | May 7 |
| Provide Proposed Budget to Budget Committee (ORS 294.396) | Finance Dir | April 30 | May 14 |
| First Budget Committee meeting (ORS 294.401) | Budget Committee and dept heads | May 4 (prior to Council meeting) | May 18 (prior to Council meeting) |
| Additional Budget Committee meetings (ORS 294.406) | Budget Committee and dept heads | Week of May 10 | Week of May 24 |
| Budget Committee approves budget (ORS 294.406) | Budget Committee and dept heads | No later than May 13 | No later than May 27 |
| Publish “Notice of Budget Hearing” (ORS 294.413, 416, 418) | Finance Dir | May 21 | June 18 |
| City Council holds public hearing; adopts budget; levies taxes (ORS 294.430, 435) | City Council | June 1 | June 30 |
| Adopted Budget goes into effect | City-wide | July 1 | July 1 |
| Adopted Budget submitted to County Assessor and Department of Revenue (ORS 294.555) | Finance Dir | | |

Note: The Clackamas Review is utilized as Newspaper of Record for publication of notices. The Clackamas Review is published weekly on Fridays.