

MILWAUKIE PLANNING COMMISSION  
MINUTES  
TUESDAY, NOVEMBER 22, 1994

**COMMISSIONERS PRESENT**

Carolyn Tomei, Chair  
Debi Linn  
Scott McClure  
Bill Johnson  
Gordon Jones  
Don Trotter

**STAFF PRESENT**

Maggie Collins,  
Community Dev. Dir.  
Jim Crumley,  
Associate Planner  
Paul Roeger,  
Civil Engineer  
Shirley Richardson,  
Hearings Recorder

1.0 CALL TO ORDER

**Chair Tomei** called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES -- November 8, 1994

**Debi Linn** moved to approve the minutes of November 8, 1994, as presented. **Scott McClure** seconded. MOTION CARRIED 5-0. (Gordon Jones arrived after vote)

4.0 PUBLIC COMMENT

Speaking: Allen Jones, 11426 SE 31st Street, Milwaukie

**Mr. Jones** stated that he had received written information that tonight's meeting would include discussion of the Tier One Light Rail Recommendation Resolution. It does not appear on the agenda. **Maggie Collins** explained that this notice was in error. The Light Rail issue will not be considered until December 13, 1994.

5.0 PUBLIC HEARINGS

- 5.1 Applicant: Donald and Carole Stevens  
Property Owner: Donald and Carole Stevens  
Location: 2840 SE Balfour  
Proposal: Creation of one additional buildable lot out of existing corner lot at SE 29th and Balfour within the R-7 Zone (MLP-94-10 and VR-94-08)

**Chair Tomei** explained the public hearing format. She then opened the public hearing on Setback and Lot Size Variances and a Minor Land Partition in an R-7 Zone. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if there were any Commissioners who visited the site; four hands were raised. **Don Trotter** explained that on his visit to the site he noticed an existing deck, which appeared to be more than 18 inches above the ground running between the existing house and existing garage. There is no mention of this deck in the Staff Report. He will be asking questions about this deck later in the hearing. None of the other Commissioners who raised their hands noticed anything different from what is stated in the Staff Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

**Jim Crumley** explained that the proposal is to allow an 80% variance for side yard setback for the existing garage (allowing a 2-foot sideyard setback instead of the required 10-foot side yard); a 20 percent variance for lot size (allowing two 5,625 square foot lots to be created where the R-7 Zone requires 7,000 square foot minimum lot sizes), and a 6 percent variance for lot depth (allowing a 75-foot lot depth where an average lot depth of 80 feet is required). The Applicants have also filed a Minor Land Partition for concurrent review. The 2-foot sideyard setback is a variance of over 25 percent of the standard, which brings this matter to the Planning Commission. This application is contingent upon approval of VR-94-08, but will be processed concurrently.

The findings are listed in the Staff Report. Criteria for variances are those of Section 702 of the City Zoning Ordinance. The Applicant feels that an unnecessary hardship may be imposed upon the property owners if the variance is not granted. The Applicants feel there are no reasonable alternatives open to them. The request for a 2-foot sideyard setback could be eliminated if the Applicant removed the garage.

Staff feels that all criteria have been satisfactorily addressed for the Variance requests according to the findings and conditions listed in the Staff Report.

The Applicant is proposing a 2-parcel Minor Land Partition on property zoned R-7. Each parcel complies with R-7 standards other than lot depth. Staff feels that the partition meets applicable submission standards and can be approved subject to conditions and contingent upon final approval of VR-94-08.

**Jim Crumley** explained that he had not reviewed the site, that this proposal was started by Dave Krogh. He did not know about the existing deck mentioned by Don Trotter. If the deck is within 20 feet of the proposed rear lot line, a variance will be required for a reduction in the rearyard setback. Or, a condition will need to be added for removal of the deck.

#### APPLICANT'S PRESENTATION

Speaking: Carole Stevens, 5815 SE Harrison, Milwaukie

**Mrs. Stevens** explained that she and her husband owned the property on 29th and Balfour. They are planning to put a fence across the property and the deck will have to be moved and changed to comply with City Ordinances.

TESTIMONY IN FAVOR OF THE APPLICATION -- None

QUESTIONS OR COMMENTS -- None

TESTIMONY IN OPPOSITION TO THE APPLICATION -- None.

APPLICANT'S CLOSING COMMENTS -- None.

#### DELIBERATION AMONG COMMISSIONERS

**Chair Tomei** closed the public portion of the hearing and opened the hearing to deliberations by the Commissioners.

**Don Trotter** suggested a condition for the deck, "The existing structure in the back yard of parcel B will have to meet the requirements of the Zoning Ordinance, Section 401.13H." The rear porch may have to be modified as well as the deck to meet this standard.

**Don Trotter** voiced concern about the existing garage. The Applicants, in their written narrative, indicate as their third choice to reduce the garage width by 8 feet, which will eliminate the need for a variance altogether. He feels that the 13 feet from the garage to the

property line is non-conforming. An alternative is possible. He is opposed to granting a variance for the garage.

**Don Trotter** asked if the garage was modified, would it then have to meet requirements for frontyard setbacks? **Jim Crumley** stated that if the garage was removed, there are no longer two off-street parking spaces, a situation which would require approval of a variance from that standard.

**Gordon Jones** voiced concern about the sideyard setback for the garage being only two feet and the size of the lots. He asked if there had been any consideration for rezoning this area to R-5; and how do you justify recommending reduction in lot size to that degree? **Maggie Collins** explained that the Comprehensive Plan encourages infill and its policies accommodate people who wish to divide property. When the minimum lot size does not fit the amount of property the owner has, it becomes a matter of accommodating the Applicant with the minimum number of variances possible. Character of the neighborhood and number of requested lots are considered.

**Gordon Jones** asked if a one-hour firewall was considered for fire, life, and safety concerns? **Jim Crumley** stated that the Building Official and the Fire Marshall both had concerns about the garage being that close to the property line. The Applicants will be required to bring the garage up to current fire codes.

**Debi Linn** stated that she too was concerned about the lot sizes, but after viewing the area and seeing that it is on a dead-end street, she feels it is a good idea. Because of the situation, the smaller lots are okay. All criteria have been met.

**Don Trotter** stated that this R-7 Zone is one-block away from a R-3 Zone. This makes a unique situation. When the site is not in the middle of a R-7 Zone, he does not have a problem with the lot sizes.

**Chair Tomei** stated that she is concerned about the garage being so close to the street and not having enough walking space for pedestrians. She has no concerns with the lot sizes. She asked Staff if there is a possibility for a sidewalk? **Jim Crumley** stated that there is room for a sidewalk in the right-of-way. If a car were parked in front of the garage, it would extend into the sidewalk.

**Scott McClure** stated that he did not have any concerns with the pedestrian safety. This is in a quiet area and there is room to walk on the street without any problems. He does have a concern with the lot sizes and the big garage. Infill standards need to be discussed by the Planning Commission to insure more consistency in decisions on infill applications.

**Don Trotter** moved to approve VR-94-08 with the findings and three conditions as stated in the Staff Report; adding a fourth condition, "Any existing structures in the rear of Lot A conform to the requirements in Section 401.1H." **Bill Johnson** seconded. MOTION CARRIED 6-0.

**Bill Johnson** moved to approve MLP-94-10 with the findings and five conditions as stated in the Staff Report; adding a sixth condition, "That the proposed lot on Parcel A be in compliance with the conditions of the Fire Marshall."

- 5.2 Applicant: City of Milwaukie  
Location: Various properties throughout the City  
Proposal: Apply City Plan Designations to certain properties; and rezone properties within Milwaukie City limits from County zone classifications to City zone classifications (CPA-94-04 and ZC-94-01)

**Chair Tomei** opened the public hearing on a Comprehensive Plan Amendment and Zone Change. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if there were any Commissioners who visited the site since the last hearing. There were none. None of the Commissioners who raised their hand noticed anything different from what is stated in the Staff Report. No one in the audience challenged the impartiality of any Commission Member or the jurisdiction of the Planning Commission to hear this matter.

**Jim Crumley** explained that a letter regarding this hearing on Zone Changes, had been received this afternoon from Col. James N. Murray requesting that it be read into the record. The letter was read. **Jim Crumley** reported that in response to a previous letter, a memo was written answering the specific questions in Mr. Murray's letter. Also requested was a 120 day continuance to this hearing, copies of traffic reports, surveys, and wildlife studies. These reports do not exist.

Staff did prepare copies of information on the application and criteria, copies of the Zoning Ordinance, copies of the Comprehensive Plan, and background information. GIS maps were requested, but not prepared. Mr. Murray has requested over \$110.00 worth of information. It is not the policy of the Community Development Department to deliver COD information of that magnitude. There was no telephone number on any of Mr. Murray's correspondence, and there was no listing with information. Mr. Murray was told today that information had been prepared for him and it would be available to him if he

wanted to pick it up this evening. The GIS maps would have cost \$70.00 and Staff was not sure Mr. Murray would want to incur such expenses. Mr. Murray was not present tonight.

City Council is scheduled to take action on these changes on January 17, 1995. This would give Mr. Murray an opportunity to receive the information, if he wants to pay for it, and give testimony at the City Council Hearing. Staff does not feel a 120 continuance is in order, and recommended that the Planning Commission conclude deliberations and make a decision on the Application.

**Don Trotter** asked if the City Attorney had reviewed this letter? **Jim Crumley** stated that he had received the letter this afternoon, he has not had time to pass it on to the City Attorney. **Maggie Collins** stated that Mr. Murray is not a resident inside the City of Milwaukie, he is an adjacent County property owner, and his property is not part of this rezoning project. There were no people listed in his letter who may be a part of the rezoning project. Legal notice was given; 908 public notices were mailed out, and only one was returned.

It was the consensus of the Commission that there was no mention by name anyone Mr. Murray was representing that is a property owner in this rezoning project. Legal notice has been given and a copy of the Staff Report has been available in the library for the past seven days. The Planning Commission decision will only be a recommendation to City Council and the Council hearing is scheduled more than a month away. That City Council meeting will be a de Novo hearing and testimony will be accepted at that time. It is for these reasons that the Planning Commission will hear this application tonight.

**Maggie Collins** read into the record a Community Development Department memo proposed to be sent to Mr. Murray in response to his correspondence. This letter explains the information prepared and the costs involved.

It was decided by the Planning Commission that a letter be drafted for Chair Tomei's signature, indicating that the Planning Commission has discussed this matter and feels that an extension is not warranted. A hearing will be conducted, a decision made, and Council action on this decision will be heard on January 17, 1995.

**Jim Crumley** reviewed the Staff Report with the Commission. He explained that the subject properties were within the City limits, but under the jurisdiction of the County Zoning Ordinance. The City has full jurisdiction over the land use, but City Zoning Codes are not applicable. The approval of this proposal will unify all properties within the City of Milwaukie under a single zoning ordinance.

Each parcel has been assigned an individual site number for identification purposes. Each parcel has also been included within one of four "subareas" based on geographic location. Subarea #1 is north of Johnson Creek Boulevard between 55th Avenue and Flavel Drive. There are six vacant parcels and six existing nonconforming residential homes. The remainder are a mix of commercial and industrial uses. The commercial uses will become nonconforming once the M-Zone has been applied. All legally established nonconforming uses will be permitted to remain in operation pursuant to Section 800 of the Milwaukie Zoning Ordinance. All of Subarea #1 will require a Comprehensive Plan Amendment and a rezone.

Subarea #2 is located generally north of King Road and west of Stanley Avenue. All parcels within Subarea #2 are currently under the City's Low Density Residential (LD) designation in the Comprehensive Plan. This plan designation would allow for a zone of either R-7 or R-10. Staff recommends that the zone be changed to R-7. The R-7 zone would be consistent with adjacent properties in the City.

Subarea #3 is located southwesterly of the intersection of King Road and Linwood Avenue. Subarea 3A consists of Wichita Center Shopping Center. Staff recommends changing the zone to C-G (General Commercial). This is the most comparable zone and no uses will become nonconforming as a result of this change. Subarea 3B consists of three developed residential lots and a full developed mobile home park. Staff is recommending a change in zone to the most comparable City zone, R-3.

Subarea #4 consists of the Kellogg Lake Apartment complex. Staff is recommending a change in zone to the most comparable City zone, R-1.

Findings are listed in the Staff Report. Staff has determined that CPA-94-04 and ZC-94-01 are consistent with the provisions of the Comprehensive Plan and Zoning Ordinance and recommends approval as provided in Exhibits #1 through #5.

TESTIMONY IN FAVOR OF APPLICATION -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Rebecca Underwood, 5770 SE Westfork, Milwaukie

**Ms. Underwood** stated that she doesn't see the point for rezoning of these properties. She asked if her property taxes would be affected by this rezone project? She does not approve

of tighter regulations these properties. **Chair Tomei** read from Staff's response to Mr. Murray's letter, question #1. "There will be no immediate change in assessment as a result of this zone change. Properties which are not divisible under the current zone and would be divisible under the proposed zone, MAY be appraised at a greater value during the normal 6-year valuation review for this area depending on comparable sales of similar properties." **Bill Johnson** informed Ms. Underwood that she does not reside within the City limits, and this rezoning project will not effect her property.

#### DELIBERATION AMONG COMMISSIONERS

**Chair Tomei** closed the public hearing portion of the meeting and opened the meeting to deliberations by the Commissioners.

**Gordon Jones** moved to recommend to City Council approval of CPA-94-04 based on the findings as stated in the Staff Report. **Debi Linn** seconded. MOTION CARRIED 6-0.

**Debi Linn** moved to recommend to City Council approval of ZC-94-01 based on the findings as stated in the Staff Report. **Scott McClure** seconded. MOTION CARRIED 6-0.

6.0 WORKSESSIONS -- None.

7.0 CONSIDERATION ITEMS -- None.

8.0 OLD BUSINESS -- None.

9.0 OTHER BUSINESS

9.1 Community Development Report

**Maggie Collins** passed out information on upcoming Comprehensive Plan Text and Map and Zoning Ordinance Text and Map Amendments. Staff has prepared two sets of amendments and map changes. Map changes relate to the County Rezone project. The text change adds a new policy to the Open Spaces, Scenic Areas, and Natural Resources Element to confirm that the City will participate in the implementation of the Elk Rock Island Natural Area Management Plan.

A proposed text change to the Subdivision Ordinance is to delete 17.32.40F, eliminating the exclusion of the access strip and paved turnaround area from the calculations of a buildable lot. These items will be included in the Commission's packet for the next worksession scheduled on December 13, 1994.

9.2 Don Trotter's Resignation

**Don Trotter** submitted to the Commission his resignation from the Milwaukie Planning Commission; a letter of resignation has been sent to Mayor Lomnicki. He thanked commissioners and staff for helping him stay enthusiastic during his years on the Planning Commission. He stated that he is looking forward to continuing to work with the City during his term of office as a City Councilor in making Milwaukie an even more livable community.

**Chair Tomei** read the letter into the record. The Commissioners thanked him for the 14 years of service on the Planning Commission.

9.3 Worksession on infill

It was suggested that a worksession be held to work on infill standard text so that it can be more specific on actions taken for infill as stated in the Comprehensive Plan.

10.0 NEXT MEETING - December 13, 1994

**Bill Johnson** moved to adjourn the meeting of November 22, 1994. **Debi Linn** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 8:22 p.m.

  
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Carolyn Tomei, Chair

  
\_\_\_\_\_  
Shirley Richardson, Hearings Reporter

**AGENDA**  
**MILWAUKIE PLANNING COMMISSION**  
Milwaukie Center, 5440 Kellogg Creek Drive  
Tuesday, November 22, 1994  
6:30 p.m.

**1.0 Call to Order**

**2.0 Procedural Questions**

**3.0 Consent Agenda**

- 3.1 Planning Commission Minutes: November 8, 1994  
City Council Minutes: October 18, 1994 (upon approval by Council)

**4.0 Public Comment**

This is an opportunity for the public to comment on any item not on the agenda.

**5.0 Public Hearings**

- 5.1 Applicant: Donald and Carole Stevens  
Property Owner: Donald and Carole Stevens  
Location: 2840 SE Balfour  
Proposal: Creation of one additional buildable lot out of the existing corner lot at SE 29th and Balfour within the R-7 Zone (MLP-94-10 and VR-94-08)

- 5.2 Applicant: City of Milwaukie  
Property Owner: N/A  
Location: Various properties throughout the City  
Proposal: Apply City Plan Designations to certain properties; and rezone properties within Milwaukie City limits from County zone classifications to City zone classifications (CPA-94-04 and ZC-94-01)

**6.0 Worksessions - None**

**7.0 Consideration Items - None**

**8.0 Old Business - None**

**9.0 Other Business**

- 9.2 CD Report - Oral

**10.0 Next Meeting - December 6, 1994 - City Hall**

- 10.1 Elk Rock Island Public Hearing (JC)  
10.2 Johnson Creek Blvd. Improvement Program (DB)  
10.3 Tier I Light Rail Recommendation Resolution (MC)  
10.4 CD Report

**The Milwaukie Planning Commission welcomes your interest in these agenda items. Feel free to come and go as you please.**

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**Milwaukie Planning Commission Mission Statement**

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan.

## **Public Hearing Procedure**

1. Staff Report
2. Correspondence
3. Applicant's presentation
4. Public testimony from others in support of application
5. Comments or questions from interested person who are neither proponents nor opponents
6. Public testimony from those in opposition to the application
7. Questions from the Planning Commission
8. Rebuttal testimony from Applicant
9. Closing of public hearing
10. Commission discussion/action

**The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Community Development Department office at 652-4410.**

### **Milwaukie Planning Commissioners**

Carolyn Tomei, Chair  
Scott McClure, Vice-Chair  
Don Trotter  
Gordon Jones  
Bill Johnson  
Debi Linn

### **Community Development Department Staff**

Maggie Collins, Community Development Director  
Debbie Bischoff, Senior Transportation Planner  
Dave Krogh, AICP, Associate Planner  
Jim Crumley, Associate Planner  
Jeanne Garst, Office Assistant  
Marcia Hamley, Office Assistant  
Diana Myrvang, Public Involvement Coordinator  
Shirley Richardson, Recording Secretary  
Mark Jonson, Intern

**CITY OF MILWAUKIE**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
**STAFF REPORT**

**DATE: November 22, 1994**  
**FILE: VR-94-08/MLP-94-10**

**APPLICATION:**           **Setback and Lot Size Variances and Minor Land Partition in an R-7 Zone**

**APPLICANT:**           **Donald and Carole Stevens**

**PROPERTY OWNER:**   **Donald and Carole Stevens**

**LOCATION:**             **2840 SE Balfour**  
                              **(Tax Lot 7600 of Tax Map 11E25CA)**

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**PROPOSAL**

To allow creation of one additional buildable lot out of this existing SE 29th and Balfour corner lot within the R-7 Zone.

**DISCUSSION**

The Applicants own this flat 11,250 square foot lot at 2840 SE Balfour. They reside elsewhere and allow a family member to use the house. This house is located in the extreme north end of the lot with the entire south end vacant and potentially available for additional development. The Applicants desire to divide the property into two lots and place a new manufactured home on the second lot, to be occupied by another family member.

The existing house has a detached garage just south of the lot's half-way point. That garage would be located on the proposed new lot for the manufactured home. The Applicants would construct a new detached garage for the existing house (Exhibit 1). The existing house would access SE Balfour and the new unit would access SE 29th. Both public sewer and water are available to the site.

Variations to lot size, lot depth, and setback standards for the existing garage are required and will be discussed in the findings section. The Applicants have also filed a minor land partition for concurrent review.

### **FINDINGS FOR VR-94-08**

1. The proposal is to allow an 80% variance for side yard setback for the existing garage (allowing a 2 foot sideyard setback instead of the required 10 foot side yard); a 19.6% variance for lot size (allowing two 5625 square foot lots to be created where the R-7 Zone requires 7000 square foot minimum lot sizes), and a 6% variance for lot depth (allowing a 75 foot lot depth where an average lot depth of 80 feet is required). The existing garage is already nonconforming in regards to street side setback (13 feet instead of the required 20 feet of the R-7 Zone). However, this setback is pre-existing and not of issue as part of this variance request.
2. One of these variances qualifies for processing by Minor Quasi-judicial process as per Section 1011.3 of the City Zoning Ordinance. Therefore, all variances will be processed concurrently following the Minor Quasi-judicial process.
3. The Applicant has also filed for a minor land partition (MLP-94-10). This application is contingent upon approval of VR-94-08 but will be processed concurrently at the Applicant's request. Findings for MLP-94-10 will be provided separately.
4. Parcel A is currently developed with a single family house on site. Parcel B is proposed for placement of a single family dwelling to be occupied by a family member. Access for Parcel A will be off of SE Balfour and a new garage will be constructed at that location to service the existing house. The pre-existing garage accesses SE 29th and will serve the proposed manufactured home on Parcel B.
5. Criteria for variances are those of Section 702 of the City Zoning Ordinance. Section 702 states:

A variance may be granted only when the Planning Commission or Community Development Director finds that practical difficulty, or unnecessary hardship, which is inconsistent with the spirit and intent of the Comprehensive Plan and of this Ordinance for the applicable zone, would be created by a strict and literal interpretation of its provisions with respect to the property in question.

The Applicant feels that an unnecessary hardship may be imposed upon the property owners if the variance is not granted. The variance is intended, in this case, to allow an adequately sized, vacant rear lot area to be partitioned from the whole as a separate

**CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT**

**STAFF REPORT - Donald and Carole Stevens (VR-94-08/MLP-94-10)**

**November 22, 1994**

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buildable lot. Without this variance, the owner would be left with well over 5000 square feet of vacant, unbuildable and underutilized space within the R-7 Zone. In addition, the Applicant feels support for infill also exists within the Comprehensive Plan Residential Land Use and Housing Element. The Housing Choice Objective therein promotes infill where feasible. Finally, the proposed new lot and manufactured home would be used by a family member, solving a current family housing need.

6. Section 702.1.A requires satisfaction:

Whether the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.

The Applicant's narrative (Exhibit 2) states that the existing house location will easily accommodate an equal lot division. The existing house was constructed prior to purchase by the Applicants. The original platting pattern utilizes long, rectangular lots that are difficult to develop more density through time without some variance from the standards that now exist. The Applicants also feel they cannot continue to maintain this size lot (11,250 square feet) and by dividing it can satisfy a housing need for a member of their family.

7. Section 702.1.B requires satisfaction:

That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.

The Applicants feel there are no reasonable alternatives open to them. They could apply for a conditional use for a secondary dwelling unit, however, they do not desire the existing house to be expanded into a two-unit structure. The design of the house is more conducive to that of single family. In addition, one of their primary problems is size of their lot and the vacant area at the south end of the lot that they can't maintain. Placing a second dwelling on the vacant end of the lot would provide a measure of compatibility with the neighborhood, where single family dwelling units on individual lots are the norm. Four other lots similar to that proposed are located 1 block to the north of this site. Therefore, the proposal is similar to that existing in other portions of the immediate neighborhood.

8. Section 702.1.C requires satisfaction:

That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

**CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT**

**STAFF REPORT - Donald and Carole Stevens (VR-94-08/MLP-94-10)**

**November 22, 1994**

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The Applicant has not identified any adverse effects. The proposal will not encroach upon any setbacks with adjacent properties. The new manufactured home proposed will be comparable to that now existing directly across the street (SE 29th) from this property with the exception that this new unit will utilize a detached garage instead of a carport.

The Applicant has also responded that this is a situation where the full potential for infill development of this property cannot be achieved without the variances.

9. The City Office Engineer has indicated that this proposal would not impact City utilities and services. City water and sanitary sewer lines already serve the existing house on proposed Parcel A and are available for extension to Parcels B. Other discussion is included in the Civil Engineer's Memo.
10. The City Building Official notes no potential conflicts with the Uniform Building Code at this time. Permits for grading, erosion control and building will be required prior to any site construction.
11. The South Metro Fire Marshal has responded that no conflicts are evident for this proposal with the Uniform Fire Code.

**CONCLUSION FOR VR-94-08**

All criteria have been satisfactorily addressed according to the findings above, provided conditions of approval are attached.

**RECOMMENDED CONDITIONS OF APPROVAL FOR VR-94-08**

1. VR-94-08 is to be implemented by MLP-94-10 and follow the design as depicted in Exhibit 1 (site plan).
2. VR-94-08 allows the following variances: lot size of 5625 square feet per parcel instead of 7000 as required by R-7; lot depth for both parcels of 75 feet instead of the R-7 average depth of 80 feet; and side setback of 2 feet for the existing garage (on Parcel B) instead of the normal side setback of 10 feet in R-7.
3. As per Section 1013, this variance is in effect for a period of six months unless substantial progress has been made in completing MLP-94-10. If no action has taken place in six months from the end of the appeal period for this approval, or if a written request for extension has not been submitted by that date, then this approval shall expire.

**FINDINGS FOR MLP-94-10**

1. The Applicant is proposing a 2-parcel minor land partition on property zoned R-7. Each parcel complies with R-7 standards as follows:

	R-7	Parcel A	Parcel B
Lot Area (Sq. Ft.)	7000	5625*	5625*
Minimum Lot Width (Feet)	60	75	75
Average Lot Depth (Feet)	80	75*	75*

\*As requested by VR-94-08

2. Submission standards for minor land partitions are those of Section 7.02 of the City Subdivision Ordinance. The Applicant has submitted a partition site plan which clearly shows the parcel configurations, physical features and utility locations. Utilities and street standards are also discussed in the Civil Engineer's memo.
3. The Civil Engineer's memo also identifies utility and street requirements. Water and sewer extensions will be required for the new house. The existing house is already served. Roof drains for the proposed new house will need to be run to a drywell. An erosion control plan will also be required as part of the building review process for Parcel B.
4. The South Metro Fire Marshal has provided comments. The proposed partition does not conflict with fire standards.
5. The final partition plat must meet standards of ORS 92.050 and be reviewed and recorded by the Clackamas County Surveyor's Office. Two recorded copies of the final plat must be provided to the Milwaukie Community Development Department as verification of recording.
6. This application is being processed concurrently with VR-94-08 as a Minor Quasi-Judicial review as per Section 1011.3 of the City Zoning Ordinance.
7. This application is contingent upon the approval of variance VR-94-08.

**CONCLUSION FOR MLP-94-10**

MLP-94-10 meets applicable submission standards and can be approved subject to conditions and contingent upon final approval of VR-94-08.

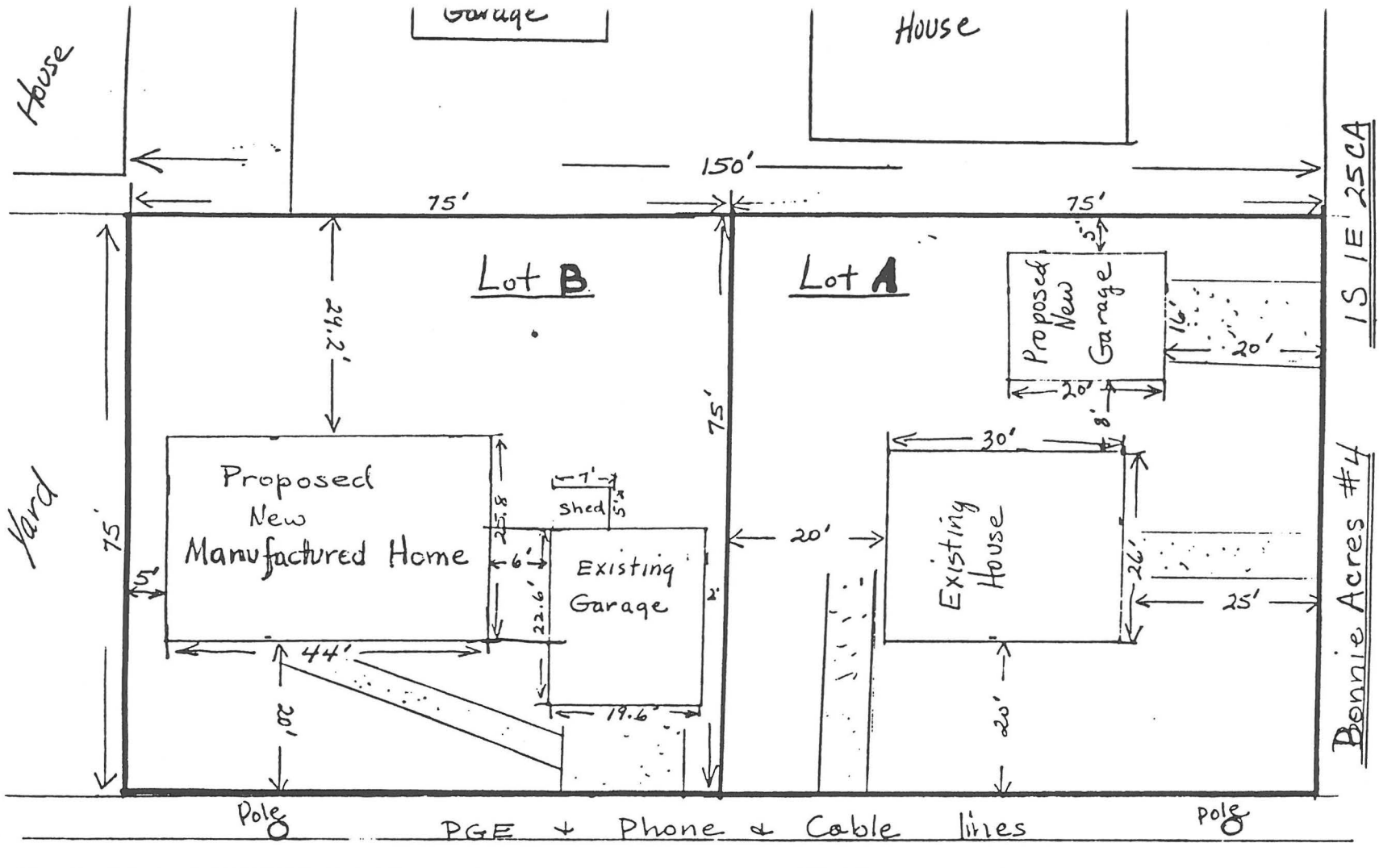
**RECOMMENDED CONDITIONS OF APPROVAL FOR MLP-94-10**

1. The final plat must meet requirements of ORS 92.050 and must be submitted to the City Community Development Department for review prior to submission to the County Surveyor's Office for recording. Two recorded copies must be provided to the City Community Development Department as verification of recording.
2. The partition configuration shall be as in Exhibit 1 except that Community Development Department staff may authorize minor changes.
3. Utility and street improvements are as stated by the City Civil Engineer and will be required as part of development proposals for Parcels A. and B.
4. Building and Fire Code provisions will be addressed as part of Parcel A and B development via the building permit process.
5. This approval is contingent upon the approval of VR-94-08.

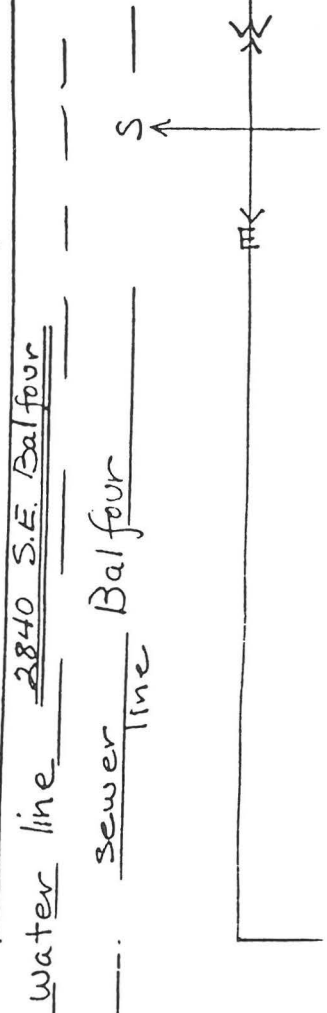
**EXHIBITS**

1. Site Plan
2. Narrative
3. Parcel A Plan
4. Parcel B Plan
5. Vicinity Map
6. Civil Engineer's Memo

DK:jpg



scale: 1/4" = 5'



sewer line 29th sewer line  
 water line

Donald K. Stevens  
 5815 S.E. Harrison  
 Milwaukie OR 97222  
 503-659-6424  
 Date: 11 Oct 1994

EXHIBIT #	1
DATE	11/22/94
SUBMITTED BY:	Applicant
# OF PAGES	1
FILE #	VR-94-08
α	MLP-94-16

Donald K. Stevens  
5815 S.E. Harrison  
Milwaukie, OR 97222  
(503) 659-6424

VARIANCES AND MINOR LAND PARTITION

PROPOSAL:

We are asking for variances on the property at 2840  
S.E. Balfour as follows:

1. Cut the property, which is currently 75 feet by 150 feet, in half which would make two lots of 75 feet by 75 feet each, reducing lot size to 5625 square feet instead of 7000 square feet, which is code.

2. We need a second variance for the depth of the lots which would be 75 feet instead of 80 feet which is in the code. Properties would be completely fenced at dividing line: 6 feet tall with 2 inch slats for privacy.

3. The third variance is concerning the existing garage which would be only 2 feet off the new property line. The new property line would be 20 feet from the existing house. If this is not acceptable, then we would propose an alternative of either: 1) a fire wall on the north side of the garage, or 2) make the new lot 76' by 75' and the front lot 74' by 75' which would make a minor variance for the garage of 3' from the line and the back yard 19' from the existing house, or 3) reduce the garage width by 8 feet, thereby making the 10 feet distance from the new property line.

EXHIBIT #	<u>2</u>
DATE	<u>11/22/94</u>
PREPARED BY:	<u>Applicant</u>
# OF PAGES	<u>3</u>
FILE #	<u>VR-94-08</u>

OR M.L.P. - 94-111

We would like to divide the property at 2840 S.E. Balfour for the purpose of putting in a manufactured home. The property is 150 feet long and 75 feet wide. The front 75 feet by 75 feet has a small house on it that our daughter lives in.

The divided lot is currently used for a garden. We have another daughter and family that have recently returned to the Portland/Milwaukie area and we would like to make a home for them in Milwaukie.

We have lived in Milwaukie since 1961 and our eight children have been raised and went to school here. Our roots are here and we would like our grandchildren to also go to school in Milwaukie and be close to us.

This daughter and her husband are hard-working but are not in a position to purchase a home and would be hard-pressed to do so in the future.

Establishing a manufactured home on the present lot would give them their own place and do much to improve the neighborhood.

The lot is located on a "dead end" street at the end of 29th. It is quiet and well tended with several young families and children.

My husband had a stroke eight years ago and has enjoyed the garden as good therapy. His health is such that it is becoming more difficult for him to maintain that large a place. Rather than let the property go dormant and become

an eye-sore. we would like to make a new home for our daughter and her family.

The new manufactured home would add to the neighborhood and create new taxes and usage for the City of Milwaukie.

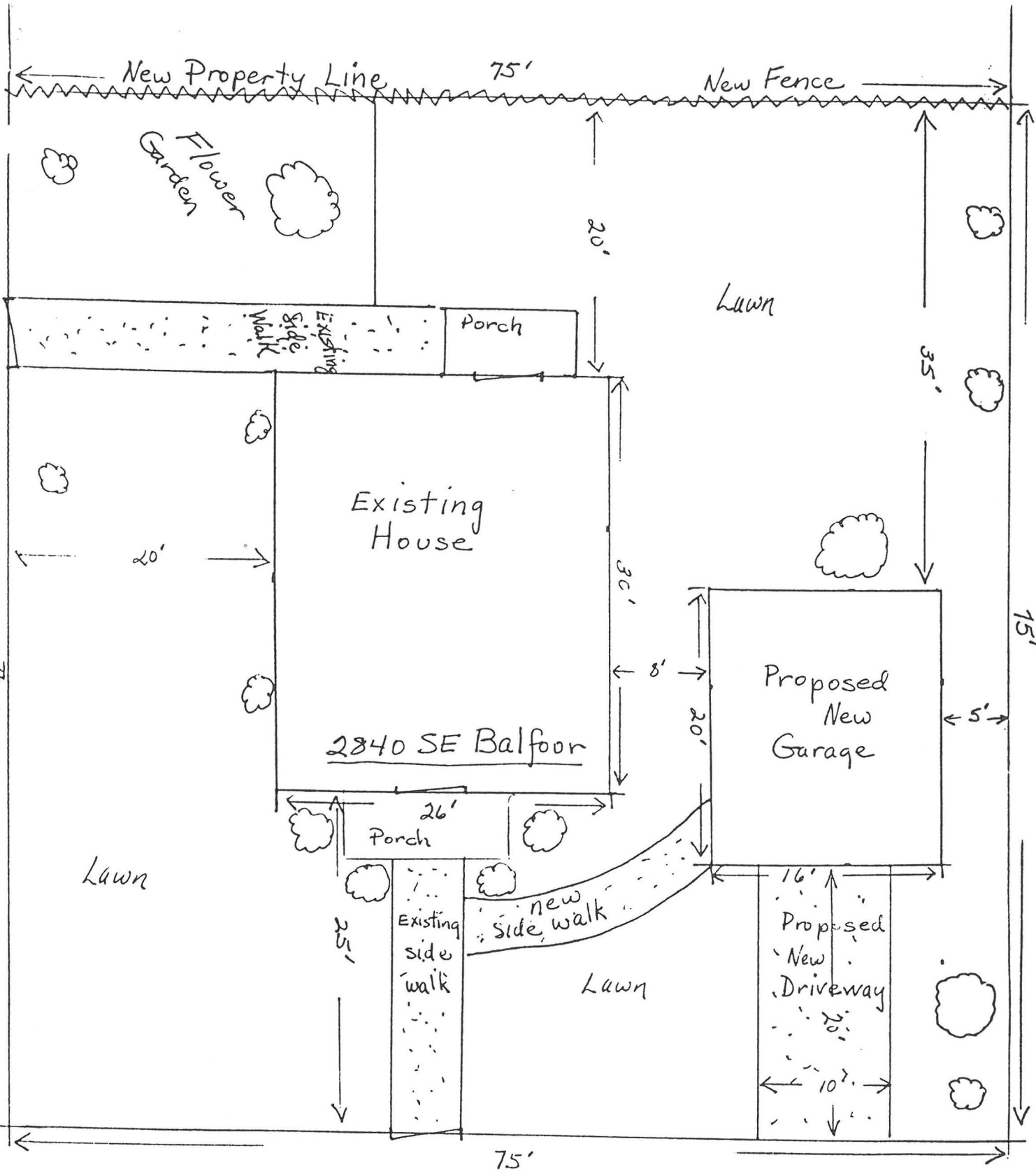
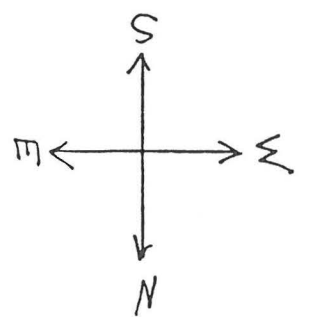


EXHIBIT # 3  
 DATE 11/22/94  
 SUBMITTED BY: Applicant  
 # OF PAGES 1  
 FILE # VR-94-08

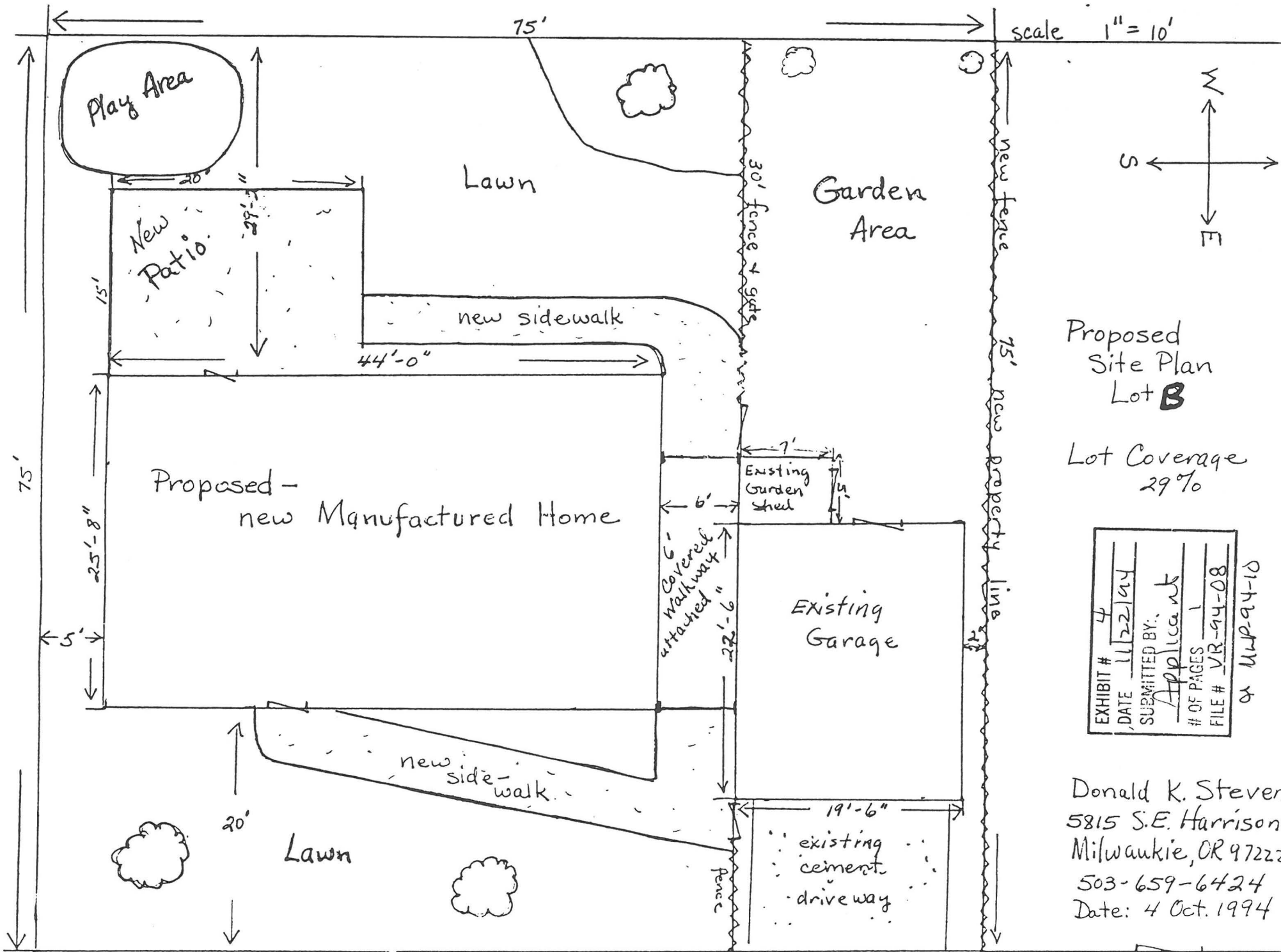
11-MLR 94-10  
 even  
 son  
 7722  
 794

Balfour

Proposed Site Plan Change and Existing House with new garage.  
 Lot A  
 Lot Coverage 20%



Scale 1" = 10'



Proposed  
Site Plan  
Lot **B**

Lot Coverage  
29%

EXHIBIT #	4
DATE	11/22/94
SUBMITTED BY:	Applicant
# OF PAGES	1
FILE #	VR-94-08

or MRP-94-10

Donald K. Steven  
5815 S.E. Harrison  
Milwaukie, OR 97222  
503-659-6424  
Date: 4 Oct. 1994



MEMORANDUM

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger *PR*  
Civil Engineer

RE: MLP-94-10 and VR-94-08  
2840 S.E. Balfour Street

DATE: October 25, 1994

The existing house is connected to City sanitary sewer and water on Balfour Street. City sanitary sewer and water are also available on 29th Avenue for the proposed lot and manufactured home. Both are of adequate size to serve the proposed additional unit. System development charges for sanitary sewer, water, and storm drainage are due and payable on the new manufactured home at the time the building permit is issued. The City must now also collect a Parks and Recreation SDC for the North Clackamas Parks District.

An erosion control plan and application must be submitted along with the building permit.

Balfour Street and 29th Avenue are both narrow existing asphalt streets with no curb or sidewalk. The property owner must sign a Developers Agreement for future improvements to Balfour Street and 29th Avenue before the mylar for the plat split will be signed by the City and sent to the County Surveyor's office.

Roof drains for the existing house and all other existing and proposed structures must be run to a drywell. Each lot will be required to have a separate drywell. Drywell sizes will be determined at the time the building permit application is reviewed.

EXHIBIT #	<u>6</u>
DATE	<u>11/22/94</u>
SUBMITTED BY:	<u>Staff</u>
# OF PAGES	<u>1</u>
FILE #	<u>VR-94-08</u>

u. MLP-94-11

**\*\*\*MEMORANDUM\*\*\***

**COMMUNITY DEVELOPMENT DEPARTMENT  
NOVEMBER 15, 1994**

**TO: PLANNING COMMISSION PACKET RECIPIENTS**

**FROM: JEANNE GARST, OFFICE ASSISTANT**

**RE: COUNTY REZONE STAFF REPORT**

**Due to unforeseen circumstances the staff report for CPA-94-04 and ZA-94-01 (County Rezone Project) is not available in time for distribution in your packet.**

**The Staff Report will be delivered to you when it is completed later in the week. We apologize for any inconvenience this delay may cause. If you have any questions concerning this report please feel free to contact Jim Crumley or myself.**

# CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT  
PUBLIC WORKS

6101 S.E. JOHNSON CREEK BLVD.  
MILWAUKIE, OR 97206

TELEPHONE: 652-4410  
FAX: 774-8236

November 8, 1994


To: Milwaukie City Council  
From: Milwaukie City Planning Commission

The purpose of this letter is to recommend that the City take decisive action to rezone the downtown and adjacent developable areas in order to be in step with Metro's designation of Milwaukie as a "Regional Center," and to encourage vigorous mixed-use development with appropriate design guidelines that take maximum advantage of Milwaukie's waterfront, historic buildings, physical characteristics, and current development opportunities.

A great deal of time and effort has been devoted by the City leaders and staff to position Milwaukie to take advantage of Metro's regional planning efforts. We are now on the threshold of realizing the benefits of those efforts. Our concern as a Planning Commission is that we stay ahead of the development pressures that are certain to come, by carefully and expeditiously guiding what that development will look like. With rezoning the downtown area to allow more creative mixed-use development, there is a very real danger that small developers or freestanding retailers will consume key properties, resulting in the lost opportunity that now exists to assemble economically obsolete properties and develop magnet projects that will substantially increase all property values. Property in the core areas will have a much higher value if assembled and redeveloped according to a horizontally and vertically integrated plan that mixes retail, office, and residential uses in a pedestrian-friendly neo-traditional cityscape.

We strongly recommend that the City Council initiate an action plan that will result in an overlay zone for the downtown Milwaukie retail core including the waterfront, and perhaps a similar zone for the area around the new Public Safety Building and the Milwaukie Marketplace. With an ambitious and well-conceived plan, Milwaukie will have the tools to attract better quality developers and could consider participating in the infrastructure and public amenity portion of larger projects. A bond measure to acquire waterfront property for open space or build a town square with a clock tower, for example, would be much easier to pass if the residents of Milwaukie could see the economic and quality-of-life benefits resulting from a significant private investment that is dependent on City participation.

The Planning Commission stands ready to assist the Council in any capacity that will help move this project forward.

  
Carolyn Tomei, Chair  
Milwaukie Planning Commission