

MILWAUKIE PLANNING COMMISSION
MINUTES
TUESDAY, APRIL 13, 1993

COMMISSION PRESENT

Chairman Trotter
Gordon Jones
Bill Johnson
John Littlehales
Scott McClure

STAFF PRESENT

Maggie Collins,
Community Dev. Dir.
Jim Crumley,
Associate Planner
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Pat Lent
Carolyn Tomei

1.0 CALL TO ORDER

Chairman Trotter called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS

Chairman Trotter explained the meeting format. He then asked the audience if there were any questions. There were none.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES - March 9, 1993

Gordon Jones moved to approve the minutes of March 9, 1993, as corrected. **Scott McClure** seconded. Motion Carried 4-0 with one abstention. Bill Johnson was not at that meeting.

4.0 PUBLIC COMMENT - None.

5.0 PUBLIC HEARINGS

5.1 Applicant: Frank R. Wood
Property Owner: First Baptist Church
Location: 10750 SE 42nd (Tax Lot 5500 of Tax Map T1S, R1E, 36AA and Tax Lots 4500, 7100, and 8000 of Tax Map T1S R2E, 31BB)
Proposal: Community Service Overlay Review to allow a church addition and parking lot expansion (CSO-93-01)
(continued from 3/9/93)

Chairman Trotter opened the hearing for a Community Service Overlay Review to allow for an addition to the existing church building and a new parking area. He asked if there were any conflicts of interest or ex-parte contacts to declare since the last meeting. There were none.

Jim Crumley reviewed the new Staff Report with the Commission. This Staff Report addresses the concerns raised at the last hearing: building height; landscape architecture; lot coverage and landscaping area figures; waiver to 120 day processing period; and justification for additional separate parking lots.

Staff pointed to three pieces of correspondence not included in the Staff Report: an engineering evaluation addressing building height, a memo from Dave Krogh regarding parking, and a memo from Mr. Wood regarding the parking needs assessment and use frequency.

An engineering letter was received March 16th stating that the height of the building is 25 feet, calculated under the definition of building height in the City's Zoning Ordinance. Staff agrees with these figures.

The Applicant has informed Staff that a landscape architect has not been engaged at this time; the engineer for the project will address the landscaping issue and the lot coverage and landscaping area figures.

The Applicant signed a waiver to the 120-day City processing period.

The Applicant submitted written information tonight which compiled the existing parking spaces and the proposed spaces after the extension is completed. It does not address the need for the additional parking spaces. The Staff Report indicates concern expressed by the Police Department about the amount of traffic and parking on the site. Church attendance often not only fills the onsite parking areas but produces considerable on-street parking along Monroe and Jackson.

The application meets the Zoning Ordinance standards for parking spaces. If Mr. Wood can substantiate that there is a need beyond what the Zoning Ordinance requires, he must do so. Staff does not feel it prudent to convert residential lots to parking spaces without a clear need to do so. There have been no complaints from surrounding neighbors about the existing parking situation.

Staff recommends modifying the application and approving the application and either deleting the second and third phases or requiring that the second and third phases not be implemented until a parking demand study has been completed and incorporated into the request involving additional parking lots.

QUESTIONS FROM THE COMMISSIONERS

Gordon Jones asked if the information received tonight was a parking needs assessment. **Jim Crumley** indicated that it was not; the information received did not substantiate the need for additional parking space.

Chairman Trotter asked if there would be parking on both sides of the street after street improvements are made? **Jim Crumley** stated that there would be parking on both sides of the street.

APPLICANT PRESENTATION

Speaking: Frank Wood, Post Office Box 151, Clackamas, Oregon 97015

Mr. Wood stated that he represented the church in this hearing. He is a consultant who worked with architects, engineers and the church to help create a development plan. He has 25 years experience in this type of development and has served as chairman of the Planning Commission in Estacada.

Mr. Wood pointed out on a drawing the calculations substantiating the building height. It is 34 feet at the ridge from the centerline of Jackson Street. The distance between the eave and the ridge is 27-1/2 feet; well under the 35 foot limitation.

There is a gentleman in the church who has the experience and ability to provide the landscaping as appropriate to the economic needs of the church. The amount and quality of the landscaping will not be affected, only the cost factor to the church. The church has maintained its property well in the past years. They will continue to do this.

The engineer has reported the size and location of the landscaping areas. The landscaping coverage of the parent site is 27,500 sq. ft. This represents 30 percent landscaping coverage exclusive of sidewalks. The parking lot to the west as undeveloped changes the figure to 26 percent; and completed as proposed, 31.5 percent. The landscaping plan will be developed according to City standards. This plan will be reviewed and approved by the City. The 15 percent City requirement is not only met, but exceeded.

Mr. Wood stated that he submitted the parking assessment information in an effort to prevent the \$2-3,000 cost for a traffic engineer report. He had hoped this was information would be adequate. There are 80 paved spaces on the main site, 36 on the west lot, and 55 spaces on a gravel area on the present church site. Monroe and Jackson Streets are not well developed at this time. Between the pavement and actual curbing there is a 20 foot strip that members have been parking diagonally. When this plan is developed, there will be curb and sidewalk on Monroe Street, eliminating the possibility of these parking spaces. The same thing is true on Jackson Street. There is a total of 196 parking spaces available at this time. The code requires 101 parking spaces.

When the site is reconfigured, parking spaces will be lost on the site, Monroe Street, and Jackson Street. There is an area proposed on the main parking lot that will allow for handicapped access. This too, will eliminate 17 parking spaces from the parking lot. The Institute of Transportation Engineers Manual refers to .43 spaces per attendee. In reality the church needs more parking space to meet its current congregational needs.

Mr. Wood asked that the Commission make a decision on the Application tonight. In order to meet the building season, they need to get the approval as soon as possible. If there is debate that needs to continue over the satellite parking lots, he asked that the Commission separate the approval of the main proposal from these lots; although, the Monroe Street parking lot should be included because it is adjacent to the main site.

QUESTIONS FROM THE COMMISSIONERS

Chairman Trotter asked about the differences stated. The original Staff Report indicated that the minimum landscaping requirement is 35 percent and Section 321.9(d) of the Zoning Ordinance states that 15 percent of the total site is to be landscaped. **Jim Crumley** indicated that Section 321.2 states, "Any community service development shall be subject to the provision of this section unless otherwise directed in the primary zone." The primary zone does direct 35 percent area landscaping.

Mr. Wood stated that according to the information given to him to use as a guide, reference was made to 15 percent area landscaping. He was unaware of any other requirements.

Jim Crumley stated that after reviewing the requirements in the various zones, the provision in Section 321.9(d) requiring 15 percent is consistent with the intent of the development standards. When considering uses and not development standards, the 15 percent requirement is more reasonable.

Chairman Trotter stated that the drawing showing the parking is different from Exhibit Five of the Staff Report. **Mr. Wood** stated that the numbers were based on the revised Staff recommended parking lot.

Chairman Trotter stated that the original Application asked for five years for completion of the two separate parking lots. If the need is so great now, why wait five years for the parking lots? **Mr. Wood** stated that because the church is a voluntary organization with contributions coming in from its membership, funds would have to be secured before the parking lots could be completed.

Chairman Trotter asked why the Applicant has not considered the parking on Monroe and Jackson Streets? When the streets are improved, there will be on-street parking on both these streets. **Mr. Wood** stated that it was his understanding that the church must provide its required parking on-site.

The church would be more than happy to take advantage of the parking when it is available.

Gordon Jones asked the Applicant if he were willing to go ahead with the main part of the proposal if the two satellite parking spaces were not approved? **Mr. Wood** stated that the church is committed to enhancing its facility by building the addition. The issues of parking will have to be addressed more creatively depending on how the Commission allows.

John Littlehales asked, if the sanctuary is not being expanded, would this addition allow for better use of the facility throughout the week? **Mr. Wood** stated that this is a multi-purpose facility that has the ability to provide recreational activities for the membership and neighbors. It also provides for some additional classroom and office space.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: Don Badley, 11647 SE 35th, Milwaukie

Mr. Badley stated that he went to two services this past Sunday. The parking lot is fairly full now and part of this parking lot will be used for the new structure. There were 25 cars parked diagonally on Monroe Street. When this goes to parallel parking, only 10-12 cars will be able to park there. As the church attendance grows, there will be more congestion on the streets.

The parking site on Monroe Street needs to be developed now. There is a building there that is proposed to be expanded to a garage for church vehicles.

QUESTIONS FROM THE COMMISSIONERS

Gordon Jones asked if the parking site that needs to be developed now is on Monroe Street? **Mr. Badley** stated that it was the lot referred to as Phase Two.

Scott McClure asked about the proposed garage; the drawings show this lot strictly for parking. **Mr. Badley** stated that plans have not been finalized but he thinks a structure will be provided to house the church vans.

QUESTIONS OR COMMENTS ON THE APPLICATION - None.

TESTIMONY IN OPPOSITION OF THE APPLICATION - None.

Speaking: Charles Powers, 4323 SE Jackson Street, Milwaukie

Mr. Powers stated that at the last meeting the Applicant indicated that the parking lots were full. He submitted pictures to the Commission showing the parking lot with very few vehicles. These pictures were taken a couple of weeks ago during a Sunday morning service, and it is this way all the time.

There is plenty of parking space; there is no need for phase three.

Mr. Powers stated that he is definitely against the parking lot. It is right next to his property.

Speaking: Gene Gernand, 9657 SE 44th, Milwaukie

Ms. Gernand stated that her main objection is to the parking lot. She is not in opposition to the expansion of the church. The parking lot will abut right up against her home. If you open the sliding door from the kitchen, you step right onto the proposed parking lot.

Activity is going on Sunday, Wednesday, and throughout the week. She does not like the idea of this activity being this close to her house. The church lot is three feet higher than her lot, and she is concerned about the drainage from their lot. She also voiced concern about the value of her home because of a parking lot being next door.

Speaking: Adelaide Powers, 4323 SE Jackson, Milwaukie

Ms. Powers stated that she wanted to voice her concern about Jackson Street. This is an older street and will not be able to take the increase in traffic. Neighbors got together, 46 years ago, in agreement with the County to have the street oiled. Nothing has been done to the street since. There are chuck holes and the street is in bad repair. It cannot take the heavy traffic that this expansion will create.

She too, voiced concern about having a parking lot adjacent to her property. She has observed the parking lot next to the church and she does not want these activities next to her property.

APPLICANT'S CLOSING COMMENTS

Speaking: Frank Wood, Post Office Box 151, Clackamas, Oregon 97015

Mr. Wood stated that the church would not go through the expense of these parking lots if there were not a need. In regards to the garage, the subject has been discussed in meetings, but the main idea is to have a building to house the larger vans.

The Applicant is asking for conceptual approval of the proposal. The church will be a good neighbor, it has been a good neighbor, and it is not the church's intention to encroach upon adjacent neighbors. All criteria will be followed and development will be in an appropriate manner.

DELIBERATION AMONG COMMISSIONERS

Chairman Trotter stated that the request is for a Community Service Overlay in accordance with Section 321.9 of the Zoning Ordinance.

The Applicant has submitted calculations of 122 parking places available on the existing property and the existing parking lot across street. This total does exceed the City code and is less than the 135 parking spaces that the Applicant indicated as a national standard. These numbers do not take into account parking potentially available on Monroe or Jackson Streets. Since parking does meet current codes, it seems the Applicant could at some future point show a need for using residential sites for parking.

Gordon Jones asked if parking lots are an allowed use in a residential zone? **Chairman Trotter** stated that it is an allowed use only in a CSO. The two satellite lots would have to be approved by a CSO review at another hearing.

John Littlehales stated that if existing parking was an issue, there would be more input from the Police Department and the neighbors that congestion is an issue. He is not convinced that residential housing potential should be reduced to allow for parking. The Applicant can use some creative solutions to the parking problems.

Chairman Trotter moved to approve Community Service Overlay CSO-93-01 for the addition to the existing building and the parking lot improvements on the 90,000 square foot parcel as demonstrated by Exhibit 5 of the Staff Report with the findings listed in the Staff Report, and with the additional finding that adequate information has not been demonstrated to show that the additional parking lots on Jackson and Monroe Streets would outweigh the Comprehensive Plan requirements for infill housing wherever possible in this particular density area. Further, that Conditions in the revised Staff Report, dated April 13, 1993; Condition 1 as proposed, Condition 2 deleted, Conditions 3, 4, 5 as proposed, Condition 6 deleted, Condition 7 as proposed, and Condition 8 delete. Language is to be changed to Number 3, second line, "If all phases have not of commenced construction by April 13, 1998." **John Littlehales** seconded.

During discussion, the motion was changed to reflect the following:

Condition 8 was be changed to reflect, "1996" and "3 years" in the first line of the sentence.

In addition to 1(a), add "as shown in Exhibit 5"

Condition 5, strike "for phase I"

Condition 7, strike "all phases"

Change Condition 8, second sentence "If construction has not commenced by April 13, 1996"

Second concurred. MOTION CARRIED 5-0.

Recess was taken at 8:08 p.m. and the meeting reconvened at 8:20 p.m.

6.0 CONSIDERATION ITEMS

- 6.1 Applicant: City of Milwaukie
Property Owner: City of Milwaukie
Location: 10808 SE McLoughlin Blvd
(Tax Lot 1100 of Tax Map T1S, R1E, 35AA)
Proposal: Landscape plans and follow-up to CSO-92-06, MC-92-01,
CU-92-04, and VR-92-14 (Chevron parking lot)

Chairman Trotter stated that when the parking lot was approved, there was a request that the final landscape plan come back to the Commission for review and approval.

Paul Roeger, Office Engineer, submitted the proposed landscape plan for the proposed parking lot on the corner of McLoughlin and Jackson. Included in the final site plan is a list of plantings and proposed work schedule.

Construction has began on the removal of the two driveways off McLoughlin for replacement with curbs and sidewalks. The easement documents addressing the east property line with adjoining property owners have been submitted to their attorney for review.

Landscaping will be installed immediately after construction of the parking lot as required under Condition #2. City maintenance crews will be cleaning the catch basins on a regular basis. Streets will be swept regularly.

The landscape plan will be a xeroscape plan submitted by the Environmental Learning Center. It will provide screening along McLoughlin without blocking total view of the parking lot.

Due to ADA requirements a change was made to the site plan. There must be one van accessible handicapped space. This space must be 9 feet wide and the isle must be 8 feet wide, instead of the 6 feet proposed. This space will be installed on the east row of parking stalls.

QUESTIONS FROM THE COMMISSIONERS

John Littlehales asked about the extent and type of paving proposed. **Paul Roeger** stated that the entire lot will be paved. A slurry seal will be put on the entire lot in the next fiscal year.

Gordon Jones asked about the drainage. **Paul Roeger** stated that the drains all slope towards the south and west. There are currently two basins; one on the southeast end of the lot, and the other to the southwest end. Extruded curbs will be completed around the lot to direct the water to the catch basins.

Chairman Trotter asked if the existing planter along McLoughlin will be removed? **Paul Roeger** stated that the planter will not be removed; shrubbery will be put in it.

Chairman Trotter asked about the plantings at the intersection of McLoughlin and Jackson. A question had been raised at another hearing whether the plantings on this corner would obstruct the view. If the stop light is removed, will these plantings be removed? **Paul Roeger** stated that the stop light will be removed, but there will be no left turn movement permitted. There will be no need to look for oncoming traffic.

Chairman Trotter asked for comments from the audience. There was no response. He asked for comments from the Commissioners. There was no response.

Gordon Jones moved to approve the landscaping proposal for the parking lot on McLoughlin Boulevard and Jackson Street as proposed. **Scott McClure** seconded. MOTION CARRIED 5-0.

Chairman Trotter complimented the City on a job well done to enhance a corner that is very visible in Milwaukie.

- 5.2 Applicant: City of Milwaukie
Property Owner: N/A
Location: N/A
Proposal: Zoning Ordinance amendment regarding bed and breakfast establishments and Historic Review Committee changes (ZA-93-01)

Chairman Trotter opened the hearing on Historic Review revisions to Section 3.3 of the Milwaukie Zoning Ordinance.

Jim Crumley stated that the main concern is that areas that are most likely to be developed as bed and breakfast areas are not on major or minor arterials; they are mainly in the Waverly area.

Three elements are proposed for amendment; to change the historic review body from "Committee" to "Commission," to have only one Planning Commission member on the Commission, and to permit these bed and breakfast facilities other than "on major or minor arterial streets."

Staff feels this amendment is well warranted and recommends that the Planning Commission recommend these zoning ordinance amendments (ZA-93-01) be forwarded to City Council for review and approval.

Chairman Trotter asked for comments from the audience. There were none.

Chairman Trotter stated that the reason the Planning Commission suggested that the Ordinance be revised was that originally the Planning Commission was very familiar with the process for the Historic Review Overlay and felt it was important to have two members from the Commission on that board to get it started and running.

Since that time, it has become more appropriate to have people on the Historic Review Committee who have more background and more interest in this area. Two members from the Commission became unnecessary.

The proposal is to add the statement, "...with the exception of bed and breakfast establishments, may be located on local streets." There are several street classifications in the City of Milwaukie. If it is appropriate for a bed and breakfast to be located on any street in Milwaukie regardless of classification, then the language should reflect that. He suggested proposed wording be, "...with the exception of bed and breakfast establishments which may be located on any street."

Maggie Collins reported that the intent of the change was to allow bed and breakfast establishments on any street. Bed and breakfast establishments are not an intensive commercial activity like art centers, music centers, craft shops, etc. They have little impact on traffic in terms of congestion. The commercial nature of a bed and breakfast is different from regular commercial activities.

John Littlehales moved to recommend to City Council to adopt the Zoning Ordinance amendments based on the analysis and the findings, and that the Zoning Ordinance criteria are met. The first paragraph on Page 2 changed to incorporate "any" street. **Bill Johnson** seconded. MOTION CARRIED 5-0.

7.0 OLD BUSINESS - None.

8.0 OTHER BUSINESS

8.1 Comprehensive Plan Designation Project

Jim Crumley stated that this project was to provide necessary follow-up in the form of Comprehensive Plan Amendments for actions that occurred this past year that affect designations within the Comprehensive Plan.

Chairman Trotter reported that in the information handed out as part of the Light Rail Study Program, there was a map prepared by David Evans and Associates on the significant natural resources, (Figure 9). This map showed all but three of the sites that are listed on the original Map 5 of the Natural Resources Area.

The (Figure 9) map gives a greater amount of detail in designating forest, meadow, wetland, riparian/forest habitat, etc. It does not include the Willamette Greenway Boundary. **Chairman Trotter** suggested that the David Evans Associates map be used as Map 5 in the Comprehensive Plan.

8.2 COMMUNITY DEVELOPMENT REPORT

MINTHORN LOOP COMPLETION FUNDING MECHANISM

Chairman Trotter asked Paul Roeger to respond to questions from the Commissioners on this project.

Gordon Jones asked for an update on the funding mechanism on Minthorn Loop; what is the City's intent and legality in regards to undeveloped property and the impact of traffic on the intersection of International Way, 37th Avenue and Highway 224?

There was an agreement with Hillman Properties that they pay the City \$100,000 for road development. This agreement was changed when Schnitzer proposed development. The \$100,000 was to be used for the road improvement at the leg of the Schnitzer construction. How was this agreement negotiated with the City? **Paul Roeger** stated that he believed the agreement involved the City Manager, City Attorney and the Director of Public Works.

Gordon Jones asked how Schnitzer was involved and what formula was used for this agreement? **Paul Roeger** stated that there was a total of \$300,000 for this section. There was no formula as to which properties would pay which portion. There was vacant property north of OECO, at the south end of 40th, and west of the credit union all of which were to have input on this dollar amount. Subtracted from this figure would be a traffic study to see what impact the proposed development would have on this property. There was no formula set aside at the time the agreement was made.

Gordon Jones asked if the property owners were made aware of this agreement? **Paul Roeger** stated that they were not.

Gordon Jones asked what would happen if the properties are developed and the road isn't built? **Paul Roeger** stated that he didn't think it would happen. City staff needs to establish a written formula for this development.

Chairman Trotter asked Paul Roeger to get back to the Commission with a report on the progress of this issue.

DARK HORSE COMICS

Maggie Collins stated that questions had been raised about the use occurring at the Hamilton Building. Can a mail order operation, including storage of mail order material, be interpreted as a permitted use occurring on this site? The other point is, does each site need to be looked at separately in any zone as to whether permitted uses are being complied with? If this mail order business is equated to warehousing or storage, it is not a permitted use. The whole business is a permitted use in the CG Zone, so does the fact that a part of the business is on another site and happens to have a storage use make it in violation of the CG Zone?

Speaking: Ray Bartel, 2515 SE Harrison Street, Milwaukie

Mr. Bartel stated that he is an Architect and worked with Dark Horse on several of their renovations downtown. He inspected the Hamilton Building prior to the Dark Horse occupancy for adequacy and integrity.

The type of retail function of Dark Horse is changing rapidly. As part of a long-range plan, they need additional space to expand. The mail order function that is going on in the Hamilton Building is on a short term basis. As needs dictate, expansion of their building is planned. They have several options; but there is nothing specific planned. There will be a need for additional writers, editor, ties with other institutions for use of the building for instructional purpose, etc. Business is expanding rapidly and cannot be defined.

There also need to be renovations to the heating, plumbing and electrical systems before much more use of the building can occur.

Chairman Trotter asked if the Applicant had looked at the Milwaukie Zoning Ordinance and could he tell the Commission how this use fits in CG Zone. **Ray Bartel** stated that there are two sections within the Zoning Ordinance. 312.1(C) refers to retail trade establishments. It does not define what type of store, just selling of merchandise. The second, 312.1(F), service or type of goods to be found in retail establishment. Section 312.1(I) allows for any of the above, not listed elsewhere.

Gordon Jones asked if the public was welcome to come in and buy or was the business strictly mail order. **Ray Bartel** stated that people could walk in off the street, but it is strictly mail order.

This is not a distribution center, it is a mail order operation for a small portion of the products that are handled by Dark Horse in all of its facilities in downtown Milwaukie. The Dark Horse distribution center is in Montreal, Canada. The product goes there. Hamilton Building activity is a retail operation, sales directly to the public. This makes it different from what happens at a distribution center.

Ray Bartel stated that Dark Horse has done nothing in violation to the intent of the Zoning Ordinance. Paper remains on the windows because there is no need for the public to look at the merchandise at this time. As the need arises, the paper will come down, the glass will come out, and the building will be renovated and improved.

Chairman Trotter stated that his main concern is the appearance of the building. The paper can come down and if there is a need for privacy, part of the window can be painted. This would be more presentable for the City of Milwaukie. It is the centerpiece of downtown Milwaukie, the largest building in downtown Milwaukie, adjacent to City Hall, adjacent to the major transit center, and a major focal point a lot of people in the downtown Milwaukie. A lot of things can be done without spending a lot of money.

Bill Johnson, Scott McClure and Gordon Jones each stated that they feel this is an appropriate use and agree with the Staff Report. **John Littlehales** stated that he is not persuaded that this is a retail outlet; distribution centers do not belong in downtown Milwaukie. **Don Trotter** stated that the evaluation of a site should not be based on another site in the same zone; each site should stand on its own merits. He doesn't feel this is an appropriate use for downtown area. The buildings that have been renovated by Dark Horse are an asset to the downtown area. He hopes this use is the beginning of a long-term plan for a facility on a major corner in downtown Milwaukie that is used by more than 6 people in the three stories. He would like to see more people in the downtown area to support the satellite businesses in the area. This is not an accessory use as defined in the Ordinance.

It was the consensus of the Commission that there is not enough concern to overturn the letter issued by the Planning Staff. **Scott McClure** suggested that this use be reviewed in the future for compliance.

LIGHT RAIL CORRIDOR

Maggie Collins submitted a copy of the resolution for the Light Rail Corridor. She reported that the final Light Rail decision for Phase I will be made on April 22, 1993.

Chairman Trotter complimented Maggie Collins on the efforts she has put forth on this Light Rail project.

PLANNING COMMISSION BYLAW REVISIONS

Copies of the revised Bylaws were distributed to the Commissioners. City Council will receive a copy as an informational item.

REVISED SIGN ORDINANCE

Copies of the revised Sign Ordinance were distributed to the Commissioners.

8.3 TREE ORDINANCE UPDATE

Maggie Collins presented Preston Beck to the Commission. He is a Planning Graduate Student and has been working with Community Development Department for several months. She submitted copies of a general research overview of Tree Ordinance possibilities.

Preston Beck reviewed the action plan for the proposed Tree Ordinance. He stated that he is in favor of a Urban Forestry Management concept. An actual Ordinance is the legal framework for authorizing the tree management

activities and only covers short-term goals. The Urban Forestry Management concept is more comprehensive. The components of the plan are urban forestry practices, new development, public properties, private properties, and trees of significance.

An Urban Forestry Management program would detail recommendations and procedures for tree maintenance within the City; site planning; maintenance; planting and replanting; removal recommendations; and flexibility in coordination, inspections, and recordkeeping. This program lends itself easily to public involvement. Much of the program will rely on public support.

The concept of an Urban Forestry Management program is mainly based on material from the California Department of Forestry. The program analyzes what you have, what you want, are you getting what you want, and feedback. This strategy helps to guide an adopted program.

The Commission will review the draft. Staff will put this item on the agenda for next meeting. Copies will be forwarded to Carolyn and Pat.

PENNYWOOD VARIANCE REQUESTS

John Littlehales asked for a status report on the three Pennywood variance requests. **Jim Crumley** stated that one application was withdrawn and reapplied for with a modified deck. Staff will look into the records and get back to the Commission.

COMPREHENSIVE PLAN REVIEW AND UPDATE

Chairman Trotter asked when the Comprehensive Plan Review and Update was scheduled. **Maggie Collins** stated that Periodic Review has not been completed. **Chairman Trotter** stated that The Neighborhood and Transportation Elements need to be reviewed.

HALF WAY HOUSE SIDEWALK

Chairman Trotter asked for the status of the Clackamas Corrections application. It was decided to review this application at the next meeting.


Chairman Trotter informed the Commission that he read in this morning's newspaper that Clackamas Corrections proposed to do something new with the facility. Has this proposal been discussed with the City? **Maggie Collins** stated that they have not informed the City. She will investigate.

MILL END STORE LANDSCAPING/PARKING LOT

Chairman Trotter asked for the status of the Mill End Store application. **Maggie Collins** will get information to the Commission by the end of the month.

- 9.0 NEXT MEETING: April 27, 1993
- 9.1 CPA-93-01 (Comprehensive Plan Designation Project) hearing
- 9.2 CSO-93-03 (Annie Ross House)
- 9.3 Election of Officers

Bill Johnson moved to adjourn the meeting of April 13, 1993. **Gordon Jones** seconded. MOTION PASSED UNANIMOUSLY 5-0. Meeting adjourned at 11:15 p.m.



Don Trotter, Chairman



Shirley Richardson, Hearings Reporter

AGENDA
MILWAUKIE PLANNING COMMISSION
Milwaukie Center, 5440 S.E. Kellogg Creek Dr.
Tuesday, April 13, 1993, at 6:30 p.m.

- 1.0 Call to Order
- 2.0 Procedural Questions
- 3.0 Consent Agenda
 - 3.1 Planning Commission Minutes: March 9, 1993
 - 3.2 City Council Minutes: March 16, 1993 *at March 2, 1993*
- 4.0 Public Comment

This is an opportunity for the public to comment on any item not on the agenda.
- 5.0 Public Hearings (see Public Hearing Procedure on reverse)
- 5.1 Applicant: Frank R. Wood
 - Property Owner: First Baptist Church
 - Location: 10750 SE 42nd (Tax Lot 5500 of Tax Map T1S, R1E, 36AA and Tax Lots 4500, 7100, and 8000 of Tax Map T1S, R2E, 31BB)
 - Proposal: Community Service Overlay review to allow a church addition and parking lot expansion (CSO-93-01) (continued from 3/9/93)
- 5.2 Applicant: City of Milwaukie
 - Property Owner: N/A
 - Location: N/A
 - Proposal: Zoning Ordinance amendment regarding bed and breakfast establishments and Historic Review Committee changes (ZA-93-01)
- 6.0 Consideration Items
- 6.1 Applicant: City of Milwaukie
 - Property Owner: City of Milwaukie
 - Location: 10808 SE McLoughlin Blvd (Tax Lot 1100 of Tax Map T1S, R1E, 35AA)
 - Proposal: Landscape plans and follow-up to CSO-92-06, MC-92-01, CU-92-04, and VR-92-14 (Chevron parking lot)
- 7.0 Old Business - None
- 8.0 Other Business
 - 8.1 CPA-93-01 (Comprehensive Plan Designation Project) worksession
 - 8.2 Community Development Department Report
- 9.0 Next Meeting: April 27, 1993
 - 9.1 CPA-93-01 (Comprehensive Plan Designation Project) hearing
 - 9.2 CSO-93-03 (Annie Ross House)
 - 9.3 Election of Officers

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

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 persons 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

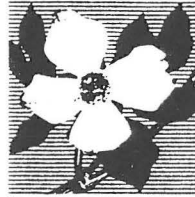
The Planning Commission's decision on these matters may be subject to further review or be appealed to the City Council. For further information, contact the Milwaukie Community Development Department office at 652-4410.

Milwaukie Planning Commissioners:

Don Trotter, Chair
Patricia Lent, Vice Chair
John Littlehales
Carolyn Tomei
Gordon Jones
Bill Johnson
Scott McClure

Community Development Department Staff:

Maggie Collins, Community Development Director
Dave Krogh, AICP, Associate Planner
Jim Crumley, Associate Planner
Jeanne Garst, Office Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Recording Secretary



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

April 13, 1993

TO: MILWAUKIE PLANNING COMMISSION

THRU: MAGGIE COLLINS, COMMUNITY DEVELOPMENT DIRECTOR

FROM: DAVE KROGH, AICP, ASSOCIATE PLANNER *DK*

RE: CONTINUATION OF CSO-93-01 (FIRST BAPTIST CHURCH)

PROPOSAL

The property owner proposes to construct a 10,000 square foot/3 level multi-purpose building attached to the east end of the existing First Baptist Church building at 10750 SE 42nd Avenue. Additional parking will be provided onsite east of the addition. Phased parking is proposed over a multi-year period on 2 residential lots across Jackson and Monroe Streets from the church. The phasing period is proposed to be a length of 5 years. Additional parking exists west of 42nd at Monroe and will continue to be utilized by the church.

BACKGROUND

The Planning Commission held a public hearing for this application on March 9, 1993. The property owner's representative, Mr. Frank R. Wood, was unable to attend due to transportation difficulties. In addition, Commission members had concerns about the following:

- Building height. The 30 foot height figure provided by the applicant needs to be confirmed. If the figure should, in fact, be higher than 30, then the building setback along Jackson Street may need to be widened.
- Landscape architecture. Commission members had general questions and desired to talk with the landscape architect.
- Lot coverage and landscaping area figures (in both square footage and percents) are requested.
- A waiver of the 120 day City processing period is requested.

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- Justification is also requested as to why the separate parking lots (Phase II and III sites) are necessary. A parking needs assessment and use frequency projections would assist the Planning Commission in establishing a parking need for the use of these detached sites.

Staff notified the applicant in person and by mail (dated March 10, 1993) of the concerns listed on Page 1 of this memorandum. Staff requested response to these by April 1, 1993, in order to allow adequate time for analysis and report preparation. As of the date of this report completion (April 5, 1993), the applicant has not responded to the concerns of the Planning Commission.

Staff will attempt to address the Commission's concerns and will contact the applicant in the hopes that the applicant will provide supplemental information by the April 13th continuation date.

1. Building Height. The applicant's narrative specified the addition was proposed to be 30 feet in height. Questions were raised as to the accuracy of this figure. To clarify the issue of building height, the definition of building height (from Section 103 of the Zoning Ordinance) must be referenced. This definition says:

"Building height: Means the vertical distance measured from the adjoining street centerline grade, as established by the City, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip, or gambrel roof, provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building."

For the church addition height, since the buildings are set back from the street line, the height is measured from the average elevation of the finished grade at the front of the building. The high point to be measured, since the roof is a standard gable roof, would be the mean (average) point between the eaves and ridge. Assuming the front of the building is the south side of the building (facing Monroe) where the main entry doors into the addition are located, the height would be 24 feet according to the elevation drawings provided by the applicant. If you measure from the average grade of the entire south side of the addition to the mean between the eaves and ridge, the building height is 28 feet. The applicant's 30 foot figure was based on a measurement from the finished grade of the existing church (which is addressed/fronTS on 42nd) to the roof peak. Therefore, the 30 foot figure provided by the applicant is wrong. In this case you do not measure to the top of the roof peak (ridge) but to the mean between the eaves and ridge. Assuming the front of the building to mean the side which is addressed (42nd side), then the building height is approximately 24 feet.

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Assuming a building height of 24 feet, this means required yards must have a minimum setback of 16 feet as per Section 321.9.B of the CSO section of the Zoning Ordinance. This exceeds the R-3 and R-5 street side setback requirements of 15 feet.

The 24 foot roof height figure appears deceiving. This is because the church addition has an exposed basement at its east end. However, as discussed on Page 2, the building height measurement process (in this case) does not look at the ground level to roof peak, and only looks at the front of the building.

2. Landscape Architecture. Staff is unable to determine landscaping area and percentages until the site plan is finalized. As already mentioned in the Staff Report for March 9, 1993, the parking lot east of the addition has to be modified because it does not meet required setbacks as stipulated by Section 503.1.F. of the Zoning Ordinance. Providing this setback will produce additional landscaping area of use to the applicant. The applicant's original narrative stated 15 % of the church site was landscaped.
3. 120 Day Processing Waiver. The applicant has signed a waiver to the 120 day processing requirement dated March 11, 1993. A copy of the waiver is on file.
4. Separate Parking Lot Justification. The applicant has not provided a parking needs assessment or use frequency projections which would help staff and the Planning Commission in establishing need for the use of detached parking lots (satellite parking lots). Therefore, staff will review the parking issue further, utilizing reference materials at hand.

As stated in the Staff Report dated March 9, 1993, the church requires at least 101 parking spaces as per Section 500 of the Zoning Ordinance. Currently the church has 116 paved parking spaces and approximately 80 more unmarked, graveled spaces. Even with approximately 196 parking spaces, staff has been informed by both City Police and other in-house staff, that church attendance often not only fills the onsite parking areas but produces considerable on-street parking along Monroe and Jackson. These observations lend speculation as to the adequacy of the Section 500 required parking space numbers.

Section 500 currently requires one parking space per 4 seats or 8 feet of bench length. The First Baptist Church has (according to the narrative from March 9) 810 feet of bench length for a seating capacity of 405 on benches. According to the Institute of Transportation Engineers (ITE) manual "Parking Generation-2nd Edition", peak parking space needs for a typical Sunday church service for 405 attendees would be an average of 174 parking spaces, at .43 parking spaces per attendee. This figure is based

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on survey samples done by the ITE of several different church parking situations. These figures vary greatly with Milwaukie's church parking requirements.

Staff also reviewed the American Planning Association bulletin "Off-street Parking Requirements" which includes parking requirements from a variety of jurisdictions for comparison. Of 7 samples given, 3 were more lenient than Milwaukie's, 2 were the same as Milwaukie's, and 2 were more restrictive. The ones that were more lenient cited walking to church and the availability of on-street parking as factors. These comparisons provide little guidance to the issue of justifying parking proposed for the First Baptist Church.

Staff will summarize parking proposed as follows:

- Approximately 196 spaces (both marked and unmarked) currently exist and 101 spaces are required by the Zoning Ordinance.
- Considering modifications to the parking lot east of the church addition (in order to provide the required street side setback), approximately 113 spaces would be available on the church site and on the existing lot west of SE 42nd (Phase I). The two satellite parking lots proposed as Phases II and III would add an additional 42 spaces for an overall total of 155 spaces.
- The ITE Parking Generation manual indicates their sampling shows an average of 174 spaces would normally be occupied during Sunday church services (assuming an attendance of 405 per service).

Based on the above, parking need will probably exceed both the 101 spaces required by the Zoning Ordinance and the 113 spaces that staff estimates would be available in Phase I. Therefore, it appears there is a definite need for the Phase II and III parking lots.

CONCLUSIONS/RECOMMENDATIONS

Since staff has not received the information from the applicant as yet to address the issues raised by the Planning Commission on March 6, and, since staff was unable to resolve all of these issues in this memo, staff recommends a further continuation to May 11, 1993, to allow adequate time for all issues to be resolved.

However, if the applicant does provide late materials to the Planning Commission for the April 13th hearing, and, if the materials satisfy all concerns of the

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Continuance of CSO-93-01 - First Baptist Church
April 13, 1993
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Commission, staff would then recommend approval of CSO-93-01 with the following conditions:

1. The applicant shall provide a revised site plan for Community Development Department staff approval which shows:
 - a. Revised parking east of the addition which meets required street side setbacks of at minimum 16 feet from Jackson.
 - b. Identified landscaped areas which are labeled with both square footages and percent of site total.
2. Landscaping plans for the Phase II and III satellite parking lots shall be provided to the Planning Commission as consideration items for approval prior to construction of these lots.
3. Street and utility improvements as identified by Public Works (Exhibit 3 to the March 9, 1993, report) shall be completed prior to occupancy of the proposed addition.
4. Parking lot lighting plans shall be provided to Community Development Department staff for review and approval prior to construction.
5. Required parking lot paving and landscaping for Phase I (Tax Lot 7100) shall be completed prior to occupancy of the addition.
6. Required parking lot paving and landscaping for Phases II and III shall be completed prior to parking use of these sites.
7. All phases will require erosion control, drainage and right-of-way permits (where applicable) prior to any clearing or construction activity onsite.
8. A 5-year time limit is placed on the commencement of site construction as allowed by this action. If all 3 phases have not commenced in construction by April 13, 1998, a new community service overlay review will be required. Likewise, requests by the church for major modification or deletion to any phase will also require a new community service overlay review.

Note: No exhibits are provided with this report. Please refer to your March 9, 1993, staff report for site plan and other relevant descriptive materials.

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

File No.: ZA-93-01
Date: April 13, 1993

Application: Amendments to Section 323 of the Milwaukie Zoning Ordinance

Applicant: City of Milwaukie

PROPOSAL

As proposed by the Milwaukie Historic Review Committee, three elements are being reviewed for amendment:

- (1) Amend all applicable subsections of Section 323 changing the name of the historic review body from "Committee" to "Commission";
- (2) Amend subsection 323.4(A) from two Planning Commissioners appointed to the Historic Review Committee to one Planning Commissioner; and
- (3) Amend subsection 323.9(B) to permit bed and breakfast facilities in historic structures when said structures are not located on major or minor arterial streets.

This is a legislative action as described in subsection 1011.5 of the Zoning Ordinance. The Planning Commission is required to hold a public hearing and make a decision based on compliance with applicable goals and policies of the Comprehensive Plan. The Planning Commission then forwards a recommendation to the City Council for final action.

The review criteria outlined in Sections 904 and 905 must be applied, as relevant, to the proposed changes.

BACKGROUND/DISCUSSION

At the January 18, 1993 meeting of the Historic Review Committee specific motions were approved to institute three changes.

Name Change - The Historic Review Committee is amending its Bylaws and the name change from "Committee" to "Commission" will make this group consistent with the usual title applied to other historic review bodies in the state.

Change in Committee Composition - The Planning Commission representative suggested that their participation be reduced to afford Planning Commissioners more time to concentrate on their own expanded work programs.

Change in Provisions for Bed and Breakfast - The Community Development Department has received a request to establish a bed and breakfast in the Waverly area. The Staff believes this is an area where a bed and breakfast would be an appropriate use; however, the use is not currently permitted under the Zoning Ordinance. Staff discussed this situation with the Historic Review Committee and it was determined that the Staff should submit an amendment to the zoning ordinance which would allow bed and breakfast establishments in any residential area under conditional use permit approval.

REQUIREMENTS FOR ZONING TEXT AMENDMENTS

Subsection 904.1 requires that written evidence that the following requirements are satisfied:

A. Applicable requirements of Section 1003.

A completed application was prepared and received as file No. ZA-93-01.

B. Reasons for requesting the proposed text amendments.

The reasons for the proposed amendments are outlined in the report and contained in the minutes of the January 18, 1993 meeting of the Historic Review Committee.

C. Explanation of how the proposed text amendment is consistent with other provisions of the Zoning Ordinance.

All proposed amendments are to a single section of the Zoning Ordinance, Section 323, the Historic Preservation Overlay Zone. The subsections proposed for amendment are not referenced elsewhere in the Zoning Ordinance.

D. The approval criteria of Section 905.

The criteria for approval for each element of the proposed amendments is followed below.

APPROVAL CRITERIA AND FINDINGS

Approval criteria for all amendments are set forth in Section 905.1 of the Zoning Ordinance.

- A. **The proposed amendment must conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provisions of City ordinances.**

Proposed amendment element 1 (membership), and element 2 (name change), are consistent with Objective #2 of the Historic Resources Element in that they promote and coordinate preservation activities. Element 3 (bed and breakfast) is consistent with Objective #2, Policy 4 of the Economic Base and Industrial/Commercial Land Use Element in that it supports home occupations which do not detract from the residential character of the area.

- 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 weight these factors in determining the intent of the proposed zone.**

This criteria is not applicable to elements 1 and 2.

As this criteria applies to element 3, the Planning Commission should note that the Zoning Ordinance currently provides for bed and breakfast establishments in historic properties provided that they are located on minor or major arterial roads. There are seven homes on the historic inventory which meet this criteria. However, only one or two could be suitably developed due to the size of the structures. Currently there are no bed and breakfast facilities in the City. The homes most ideally suited for bed and breakfast are located in the Waverly area and do not conform to the requirement that they be located on arterial roads. The proposed change does not eliminate the requirement that all bed and breakfast facilities remain conditional uses subject to approval by the Planning Commission.

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

Staff is unaware of any applicable regional or federal regulations which would apply to any of the amendment elements. Standard notification procedures have been completed with the State Department of Land Conservation and Development.

- D. The proposed development 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.

The proposed amendments will have no effect on public services or facilities.

CONCLUSION AND RECOMMENDATION

The above findings demonstrate that the criteria for approval have been addressed. Staff recommends that the Planning Commission recommend that these zoning ordinance amendments (ZA-93-01) be forwarded to the City Council for review and approval.

EXHIBITS

1. Strikeout/underline Section 323.
2. HRC Minutes - January 18, 1993

JC:jpg

323 HISTORIC PRESERVATION OVERLAY ZONE HP

In an HP Zone the following regulations shall apply:

323.1 Purpose

The intent and purpose of this Section is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of sites, structures, districts, objects, and buildings within the City that reflect the City's unique architectural, archaeological, and historical heritage and to facilitate preservation of such properties in order to:

- A. Safeguard the City's heritage as embodied and reflected in such resources;
- B. Encourage public knowledge, understanding, and appreciation of the City's history and culture;
- C. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- D. Promote the enjoyment and use of cultural resources appropriate for the education and recreation of the people of the City;
- E. Preserve diverse and significant architectural styles reflecting phases of the City's history, and encourage complementary design and construction relative to cultural resources;
- F. Enhance property value and increase economic and financial benefits to the City and its residents;
- G. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses;
- H. Integrate the management of cultural resources and relevant data into public and private land management and development processes; and
- I. Implement the goals and policies of the Comprehensive Plan.

323.2 Applicability

- A. Section 323 shall apply to all historic resources within the City as identified in the Historic Resources Element of the Comprehensive Plan.
- B. An historic resource may be designated HP on the Zoning Map and placed on the City Historic and Cultural Resources Inventory following the procedures of subsection 323.5 below.

323.3 Definitions

- A. Alteration, landmark: Means a change, addition, or modification of a landmark which affects the exterior of the landmark, excluding routine maintenance as defined in subsection 323.6 of this Ordinance.
- B. ~~Committee Commission~~ Commission: Means the City of Milwaukie Historic Review ~~Committee~~ Commission.

EXHIBIT #	<u>1</u>
DATE	<u>4/13/93</u>
SUBMITTED BY	<u>Staff - 10 pages</u>
	<u>EA-93-01</u>
DECISION	

- C. Contributing: Is an historic resource ranking whereby buildings, sites, structures, or objects are less significant examples of architecture or of lesser historical association. These, over time, may become a source for additional "Significant" resources. To be designated as "Contributing," an historic resource must receive a rating score level of 50% to 60% on the evaluation worksheet or score a high of 10 in at least one of the categories of the evaluation worksheet.
- D. Demolish: Means to raze, destroy, dismantle, deface, or in any other manner cause partial or total destruction of a designated resource or building in an historic district.
- E. Evaluation worksheet: Is a rating system used by the City to rank historic resources as to their historic, architectural, or environmental characteristics. The ranking system is numerical with a top score of 86 and is part of the Historic and Cultural Resources Inventory, located in the background paper.
- F. Historic or cultural resource or resource: Means any site, object, building, ensemble, district, or structure which is included in the Historic and Cultural Resources Inventory.
- G. Historic and Cultural Resources Inventory or Inventory: Means the 1988 Milwaukie Historic and Cultural Resources Inventory included as part of the Historic Resources Background Paper of the Comprehensive Plan.
- H. Landmark: Means a cultural resource that has been designated by the Milwaukie City Council as per subsection 323.4 of this Ordinance.
- I. Significant: Is an historic resource ranking whereby important buildings, sites, structures, or objects in Milwaukie are distinguished by outstanding qualities of architecture, relationship to environment, and/or historic associations. To be designated as "Significant," an historic resource must receive a rating score level of 60% or greater on the evaluation worksheet and be at least 50 years old, or score a high of 10 in at least two of the categories of the evaluation worksheet, or be listed on the National Register of Historic Places.
- J. Unrankable: Historic resources lack sufficient information to be ranked. When that information is available, those found to be "Significant" or "Contributing" shall be recommended by the Historic Review ~~Committee~~ Commission for designation as "Landmarks."

323.4 Historic Review ~~Committee~~ Commission

- A. Appointment and composition: ~~Two~~ One members of the Planning Commission and ~~three~~ four individuals to be appointed by the City Council shall comprise the Historic Review ~~Committee~~ Commission. Two of the appointed individuals shall have demonstrated special interest, experience, and/or knowledge in the field of historic preservation, architecture, history, or related disciplines. The third and fourth individuals appointed shall be a citizens-at-large. ~~The three~~ four individuals shall be appointed for a term of three years and may be reappointed to, or removed from, the ~~Committee~~ Commission at the discretion of the City Council.

- B. Duties and responsibilities: The ~~Committee~~ Commission shall be responsible for the following:
1. Carry out the duties described for it in this Section and otherwise assist the City Council on historic preservation matters.
 2. Review and make recommendations on all partitions and subdivisions of designated properties.
 3. Disseminate information to educate the public as to State and federal laws protecting antiquities and historic places.
 4. Act as a coordinator for local preservation groups such as the Milwaukie Historical Society, educational workshops, signing and monumentation projects, and other similar programs.
 5. Assist the Milwaukie Historical Society in advising interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.
 6. Review and make recommendation on all applications requesting designation or deletion of a landmark and placement or removal on the Cultural Resources Inventory, as provided under subsection 323.5.
 7. Review and make recommendation on all applications requesting designation or deletion of an historic district as provided under subsection 323.5.
 8. Review all development which proposes to alter a landmark, subject to the procedures and criteria set forth in this section.
 9. Review all demolition permits affecting landmarks, as provided under subsection 323.8.
 10. Review and make recommendation on all conditional use applications related to landmarks.
 11. Maintain an Historic and Cultural Resources Inventory and map of landmarks.
 12. Develop regulations for the protection of landmarks, such as design guidelines for adoption by the City Council.

323.5

Process for designation or deletion of a landmark

- A. Application request: The owner of record, contract purchase, or an agent of any of the foregoing, of property within the City of Milwaukie may make application for resource designation or deletion. The application shall be in such form and detail as the Community Development Director prescribes and will be the same as the Major Quasi-Judicial review process of subsection 1011.4 of this Ordinance, substituting the Historic Review ~~Committee~~ Commission for the Planning Commission. The application shall be submitted to the Community Development Director. The Historic Review ~~Committee~~ Commission or the City Council may also initiate such proceedings on their own motion.

- B. Historic Review Committee Commission: The Committee Commission, as described in subsection 323.4, shall conduct a public hearing to evaluate the request. The Committee Commission shall enter findings and make a written recommendation to the City Council.

For designation, the Committee Commission shall determine that the resource meets the ranking standards for resource designations (as defined in subsection 323.3) based on completion of the evaluation worksheet.

For deletion, the Committee Commission shall determine that the resource does not meet the ranking standards for resource designations.

The Committee Commission shall also determine whether the designation meets the goals and policies of the Comprehensive Plan.

- C. City Council: The City Council shall conduct a public hearing to consider the recommendation of the Historic Review Committee Commission on the request and shall either approve, approve with conditions, or deny the request.
- D. Pending permits: No new construction, exterior alteration, demolition, or removal permits for any improvement, building, or structure relative to a proposed landmark shall be issued while any public hearing or any appeal affecting the proposed action is pending.
- E. Interim measures: Upon a request for new construction, exterior alteration or demolition of a resource which is on the inventory but designated as "Unrankable" for lack of information regarding location, quality, or quantity, the applicant shall be required to first complete the designation process for the resource as outlined in subsection 323.5.

323.6 Alteration and development

- A. Review required: Any exterior alteration of a landmark shall be subject to review under the provision of subsection 323.6 herein. This review applies only to those resources determined to be "Significant" on the inventory. Resources designated "Unrankable" must complete the process referred to in subsection 323.5.
- B. Application Request: The application shall be submitted to the Community Development Director. The application shall be in such form and detail as the Community Development Director prescribes. Applications subject to subsection 323.6.C shall follow the Type I Administrative review process of subsection 1011.1.
- C. Administrative approval:
1. The Community Development Director shall approve alteration requests if:
 - a. There is no change in the appearance and materials of the existing landmark; or

- b. The proposed alteration duplicates the affected exterior building features as determined from an historic photograph, original building plans, or other evidence of original building features.
2. The following minor alterations are exempt from review provided these actions meet the above standards.
- a. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match the appearance of those that were typically used on similar style buildings;
 - b. Repairing, or providing a compatible new foundation that does not result in raising or lowering the building elevation;
 - c. Replacement of building material, when required due to deterioration of material, with building material that matches the appearance of the original material;
 - d. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof;
 - e. Application of storm windows made with wood, bronze, or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building;
 - f. Replacement of wood sashes with new woods sashes, or the addition of wood sashes when such is consistent with the original historic appearance;
 - g. Installation of solar equipment so that it complies with subsection 323.6.C.2.e; and
 - h. The installation of security doors and security lighting systems.
- D. Other requests: All requests that do not meet the provisions of subsection 323.6.C shall be forwarded to the ~~Committee~~ Commission. The ~~Committee~~ Commission's decision will be final after notice and public hearing held the same as subsection 1011.3 of this Ordinance (Minor Quasi-Judicial review), substituting the Historic Review ~~Committee~~ Commission for the Planning Commission. The ~~Committee~~ Commission shall approve or disapprove issuance of the permit. The ~~Committee~~ Commission may attach conditions to the approval for permit which must be adhered to for the permit to remain valid.
- E. Criteria and findings: Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

1. Retention of original construction: Distinguishing original qualities defining a resource's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.
2. Building Height: Existing building heights should be maintained. Alteration of roof pitches shall be avoided. Raising or lowering a building's permanent elevation when constructing a foundation shall be avoided, except as required by Building Code or floodplain development permit.
3. Horizontal additions: The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building. Contemporary design for alterations and additions is acceptable if the design respects the building's original design and is compatible with the original scale, materials, and window and door opening proportions of the building.
4. Windows: Window replacements shall match the visual qualities of original windows as closely as possible. Wood window frames are preferred in meeting this standard. However, if nonwood replacements exhibit similar visual qualities as their wooden counterparts, they may be acceptable. The original number of window panes shall be maintained or restored when replacements are required.
5. Restoration possible: Except where Building Code precludes it, new additions or alteration to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original building could be restored.
6. Signs and lighting: Signs, lighting, and other appurtenances, such as walls, fences, awnings, and landscaping, shall be visually compatible with the original character of the building.
7. Time period consistency: Buildings shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.
8. Visual integrity/style: Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or examples of skilled craftsmanship which characterize a building, shall be maintained or restored as far as is practicable.
9. Replacement or additional materials: Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, or an addition is proposed, new materials should match those of the original building, to the extent possible, in composition, design, color texture, and other visual qualities.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

10. Buffering: An appropriate buffer or screen, as provided under Section 413, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

F. Appeals: Appeals shall be heard by the City Council as per Section 1002 of this Ordinance.

323.7 Maintenance and repair

A. Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material, or appearance of such feature or which the Building Official shall certify is required for public safety due to an unsafe or dangerous condition.

323.8 Demolition

A. Notification of demolition request: If an application is made for a building permit to demolish all or part of a designated cultural resource, to the extent that the historic designation is affected, the Building Official shall, within seven days of the receipt of an application, transmit a copy of the application to the ~~Committee~~ Commission. This review applies to all resources determined to be "Significant" or "Contributing" on the inventory. Resources determined to be "Unrankable" shall first complete the process referred to in subsection 323.5.

B. Property owner action: For a period of not less than 30 days prior to the public hearing the property owner shall:

1. List the property for sale with a real estate agent for a period not less than 90 days with the intent of selling or relocating the resource intact. Such real estate agent shall advertise the property in local and state newspapers of general circulation in the area. This listing requirement can be reduced if the ~~Committee~~ Commission approves the demolition request.

2. The owner shall give public notice by posting a visible "For Sale" sign on the property which shall be in bold letters no less than 6" in height and shall read as a minimum: HISTORIC BUILDING FOR SALE - WILL BE DEMOLISHED UNLESS MOVED.

3. Prepare and make available any information related to the history and sales of the property to all individuals, organizations, and agencies who inquire.

C. Public hearing review: The ~~Committee~~ Commission shall hold a public hearing within forty-five days of application. The procedures shall be the same as those in subsection 1011.3, Minor Quasi-Judicial review, substituting the Historic Review ~~Committee~~ Commission for the Planning Commission.

D. Review criteria and findings: In determining the appropriateness of the demolition, as proposed in an application for a building permit, the ~~Committee~~ Commission shall consider the following:

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

1. All plans, drawings, and photographs as may be submitted by the applicant;
 2. Information presented at a public hearing held concerning the proposed work;
 3. The City of Milwaukie Comprehensive Plan, including the economic, social, environmental, and energy consequences;
 4. The purpose as set forth in subsection 323.1;
 5. The criteria used, and findings and decisions made, in the original designation of the landmark or historic district in which the property under consideration is located;
 6. The historical and architectural style, design, arrangement, materials, or its appurtenant fixtures; the relationship of such features to similar features of other buildings within the district and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area;
 7. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district which cause it to possess a special character or special historic or aesthetic interest or value; and
 8. Whether denial of the permit would involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this Ordinance.
- E. Approval of demolition request/appeals: The ~~Committee~~ Commission may approve the demolition request after considering the criteria under subsection 323.8.D, above. Action by the ~~Committee~~ Commission approving the issuance of permit for demolition may be appealed to the City Council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection 323.6.F. If no appeal is filed, the Building Official shall issue the permit in compliance with all other codes and ordinances of the City.
- F. Denial/stay of demolition:
1. The ~~Committee~~ Commission may reject the application for permit if it determines that in the interest of preserving historic values, the property should not be demolished. In that event, issuance of the permit shall be suspended for a period not exceeding thirty days from the date of public hearing. The ~~Committee~~ Commission may invoke an extension of the suspension period if it determines that there is a program or project under way which could result in public or private acquisition of the landmark, and that there is reasonable ground to believe that such program or project may be successful. Then the ~~Committee~~ Commission, at its discretion, may extend the suspension period to thirty days, to a total of not more than one hundred twenty days from the date of public hearing for demolition permit.

2. If all such programs or projects are demonstrated to the ~~Committee~~ Commission to be unsuccessful and the applicant has not withdrawn his application for demolition permit, the Building Official shall issue such permit, if the application otherwise complies with the codes and ordinances of the City.
3. Action by the ~~Committee~~ Commission suspending issuance of the permit for demolition may be appealed to the City Council by the applicant for the permit, by filling a notice of appeal in the same manner as provided in subsection 323.6.F.

323.9

Uses permitted

- A. Primary uses: A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this Section.
- B. Conditional uses: Except within low and moderate density residential designations, uses identified in subsection 323.9.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of subsection 323.6. Such uses may also be allowed in the low and moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on local streets. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 600 of the Zoning Ordinance (Conditional Uses).
- C. The following uses may be permitted after a public hearing conducted pursuant to subsection 1011.3 of the Zoning Ordinance:
 1. Art and music studios
 2. Galleries
 3. Offices/clinics
 4. Craft shops
 5. Bed and breakfast establishments
 6. Gift shops
 7. Museums
 8. Catering services
 9. Bookstores
 10. Boutiques
 11. Restaurants
 12. Antique shops
 13. Community centers for civic or cultural events

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

14. Other uses determined by the Planning Commission to be similar to those listed above.

MINUTES

Historic Review Committee
January 18, 1993
Johnson Creek Facility

6:30 PM

Members Attending

Gregg Newstrand, Chair
Pat Lent, Vice Chair
Margaret Parsons

Staff

Maggie Collins, Comm.
Development Dir.

I. OPENING OF MEETING

Gregg Newstrand opened the meeting at 6:45 PM. The Committee took a minute to recognize the significance of Martin Luther King Day, and to acknowledge Dr. King's leadership.

II. APPROVAL OF OCTOBER 19, 1992 MINUTES

Pat Lent moved to accept the 10/19/92 Minutes as corrected. Margaret Parsons seconded the motion. The motion passed unanimously.

A. Membership Continuation.

Before proceeding with the remainder of the Agenda, the Chair declared an Executive Session at 6:50 PM to consider members' desires to continue serving as a Committee. The Chair called the meeting back to order at 7:30 PM. Gregg Newstrand stated for the record that after considerable discussion and soul-searching, it was decided to continue on as HRC members. Mr. Newstrand stated, "Our enthusiasm has waned, but our decision is to stay for the time being."

B. Procedural Changes.

Pat Lent moved to change the regular meeting date to the third Monday of every other month beginning in January, 1993. These meetings will begin at 6:00 PM. Margaret Parsons seconded the motion. The motion passed, 3-0.

Margaret Parsons moved to cancel the meeting scheduled in February, 1993, because it conflicts with a holiday. Pat Lent seconded. The motion passed, 3-0.

EXHIBIT #	2
DATE	4/13/93
SUBMITTED BY	Staff
	4 pages
RECEIVED	BA-93-01

Gregg Newstrand set March 15, 1993 as the next regular HRC meeting. He requested that staff initiate the process for amendment of the HRC By-Laws to reflect the above actions.

IIa. REVIEW OF NOTES OF 1/11/93 JOINT MEETING OF HISTORIC REVIEW COMMITTEE AND THE MILWAUKIE CITY COUNCIL.

The Committee made minor changes and asked staff to clarify that Mike McKeever was listing concepts under Section 4.0, rather than issues that both bodies agreed upon. For example, Gregg Newstrand stated that he believes that both bodies should come to the same conclusion about 90% of the time, rather than 50% as stated in Item #4. Staff will make the recommended changes and send the notes on to City Hall.

III. OLD BUSINESS

A. Discussion of Council/HRC Communication Needs

Several ideas were discussed, summarized as follows: (1) When HRC items appear in front of the Council, an HRC representative should be present to further Council discussion; and (2) Be diligent about sending the HRC biannual report to City Council for review.

Pat Lent moved to endorse the above procedures. Margaret Parsons seconded the motion. The motion passed, 3-0.

B. Discussion of HRC-Staff Relationship.

The Committee stated some areas where they felt that staff support was less than adequate, citing the findings on the School District replacement windows request and the slowness of response on the October minutes, so that the Chair had to bring this to the Community Development Director's attention on 12/24/92. They hoped that they could have more consistent staff work in the future.

C. Review of Annual Report.

The Committee authorized Staff to do a report and send it to City Council for review.

D. HRC Resignation.

The record shows that the HRC received Betty Fulmore's letter of resignation on 11/18/92. That meeting was recessed; consequently, no formal action to accept Ms. Fulmore's resignation had been taken.

Pat Lent moved to accept Betty Fulmore's resignation from the HRC. Margaret Parsons seconded the motion. The motion passed, 3-0.

IV. NEW BUSINESS

A. Requests Requiring HRC Action.

HRC agreed to sponsor an amendment for allowing bed and breakfast establishments as a conditional use in residential zones. They stated that a bed and breakfast establishment was a reasonable exception in residential areas because it does not cater to walk-in customers as does a regular commercial use; a bed and breakfast establishment is not a major traffic draw.

Pat Lent moved that the HRC sponsor this amendment change. Margaret Parsons seconded the motion. The motion passed, 3-0.

B. The Committee agreed to ask that the Committee's name be changed from a "Committee" to a "Commission," as defined in Sections 323.3 and 323.4.

V. OTHER

A. Pat Lent stated that the Planning Commission is interested in an amendment to the Zoning Ordinance to reduce Planning Commission representation on the HRC from two to one. When the program was first set up, it was deemed necessary to have two Planning Commissioners to help support the historic resources program. Now, it would be more advantageous to have more representation from the community on the HRC. The HRC agreed to add such an amendment clause to a package as discussed earlier.

B. Election of Officers.

Pat Lent nominated Gregg Newstrand to a second term as HRC Chair. Margaret Parsons seconded the motion. The motion passed, 2-0, with Newstrand abstaining.

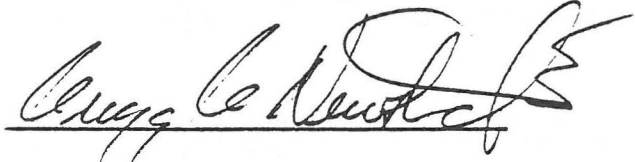
Margaret Parsons nominated Pat Lent to a second term as HRC Vice-Chair. Gregg Newstrand seconded the motion. The motion passed 2-0, with Lent abstaining.

Gregg Newstrand nominated Margaret Parsons as HRC Second Vice-Chair. Pat Lent seconded the motion. The motion passed, 2-0, with Parsons abstaining.

C. The Committee requested that Staff review and refine the Work Program for comment and review by July, 1993.

V. ADJOURNMENT

Pat Lent moved to adjourn the meeting. Margaret Parsons seconded the motion. The motion passed unanimously. Gregg Newstrand adjourned the meeting at 9:32 PM.



Gregg Newstrand, Chair



Maggie Collins, Recorder

MEMORANDUM

TO: MILWAUKIE PLANNING COMMISSION

FROM: Paul Roeger *PR*
Office Engineer

THRU: *MC* Maggie Collins
Community Development Director

RE: CSO-92-06, CU-92-04, VR-92-14, MC-92-01
Landscape Plan
Chevron Parking Lot

DATE: April 1, 1993

ACTION REQUESTED

Approve the landscape plan for the proposed City parking lot on the old Chevron Service Station property at the southeast corner of McLoughlin Blvd. and Jackson Street.

DISCUSSION

At a public hearing on January 26, 1993 the Planning Commission approved the construction of a parking lot on City-owned property at the southeast corner of McLoughlin Blvd. and Jackson Street with certain conditions; the main one being that the final landscape plan shall be submitted to the Planning Commission for review prior to construction.

Attached is a copy of the final site plan and work schedule for your information. Also attached is a copy of the final landscape plan and list of plants with sizes. Additional landscaping has been added by converting what was parking stall #24 at the south end of the center two rows of parking into landscaping. The site now totals 46 parking spaces, including two handicap spaces.

PLANNING COMMISSION CONDITIONS

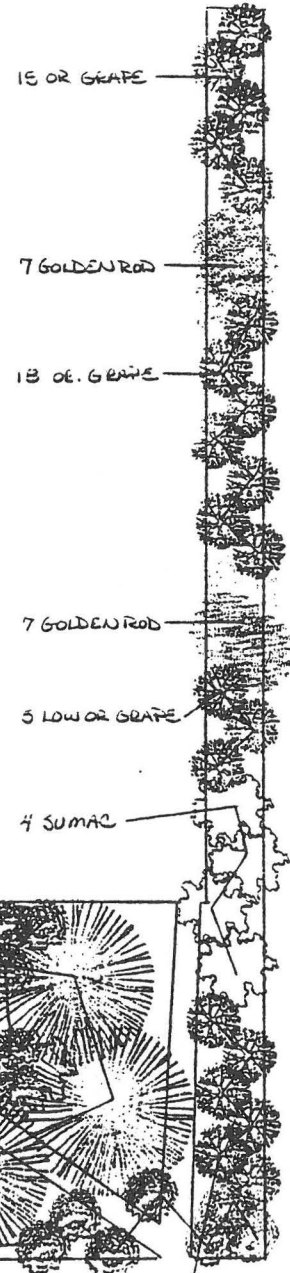
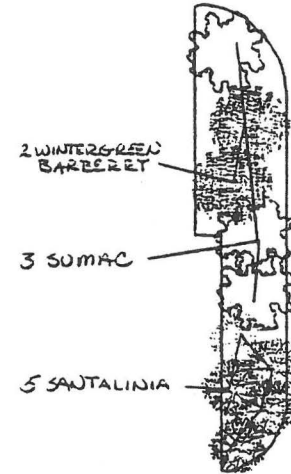
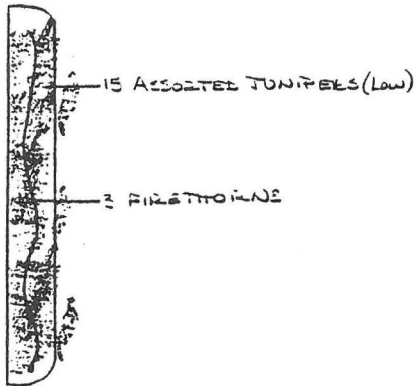
ODOT has approved the removal of the two driveway approaches on McLoughlin Blvd. and replacement of them with standard curb and sidewalk. Therefore, the barricades mentioned at the public hearing will not be installed as stated in condition #6 of the Planning Commission approval. The City has obtained a permit from ODOT to remove and replace the driveway approaches with curb and sidewalk and a contractor is ready to do the work. This work is determined to be necessary no matter what other design improvements and landscaping follow; initial site preparation to prepare for elimination of driveway approaches may begin prior to the April 13th Planning Commission meeting.

The easement rights for ingress and egress from the adjoining property owner to the east, which will provide full utilization of the easterly driveway opening on Jackson, should be finalized prior to the Planning Commission meeting to comply with condition #5 of the Planning Commission approval.

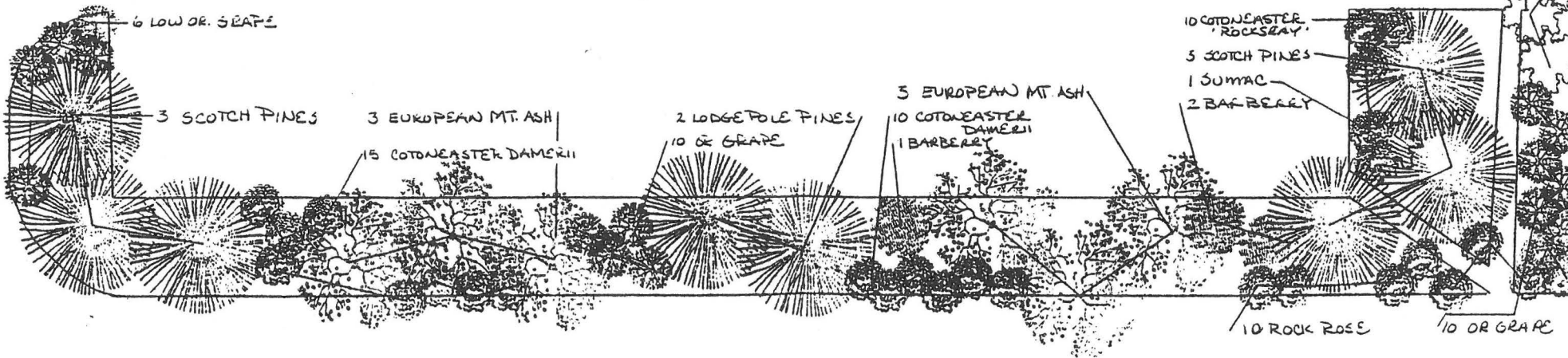
As you can see on the attached work schedule, the landscaping will be installed immediately upon completion of the parking lot construction as required in condition #2. As required under condition #3, the City maintenance crews will be cleaning the oil-separator catch basins on a regular basis in order to comply with EPA storm water quality regulations. Also, the street sweeper will be put on a regular schedule of sweeping the lot during his scheduled downtown sweeping to comply with condition #4.

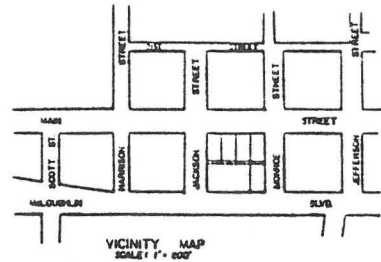
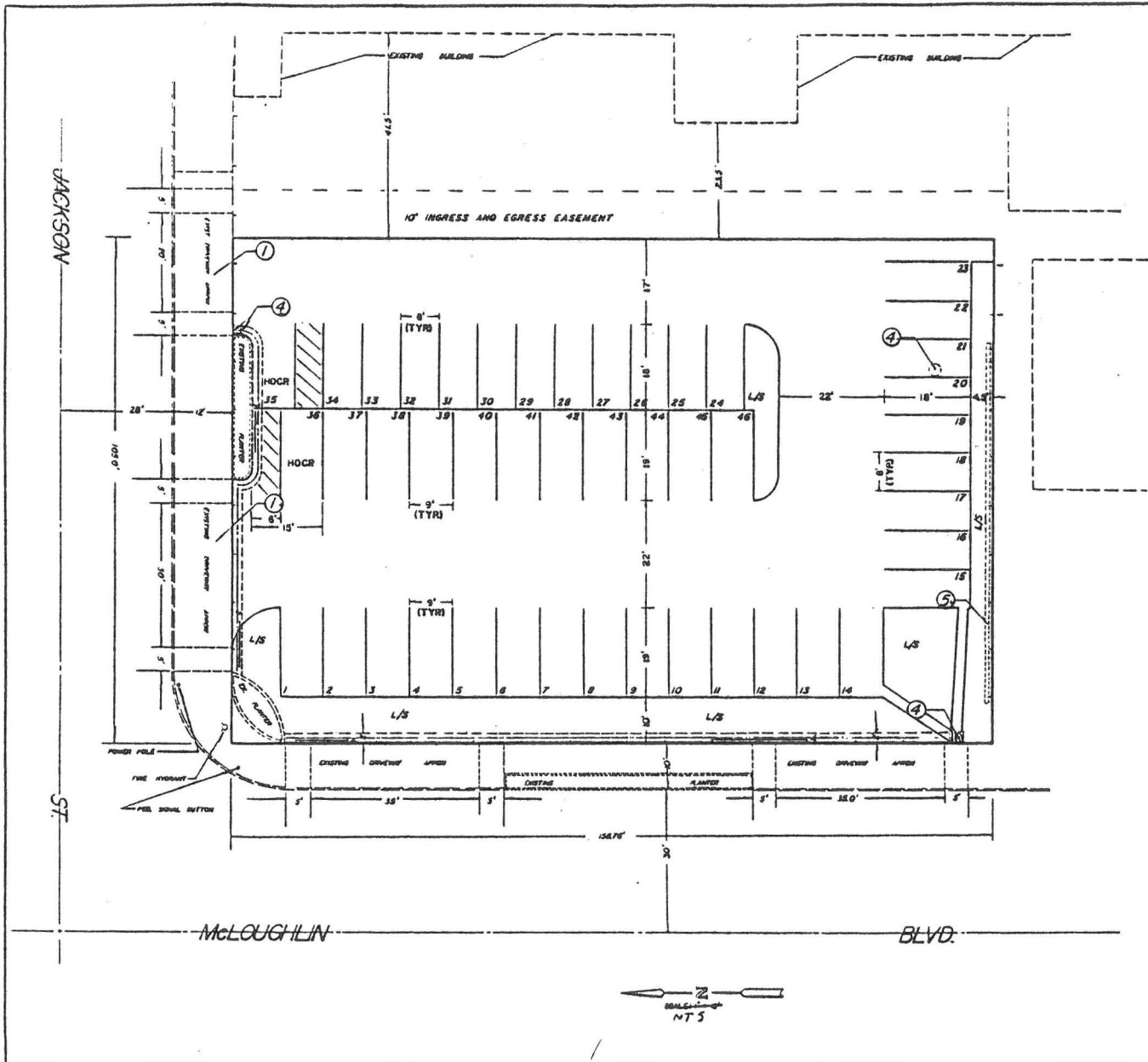
The landscaping plan we have chosen is a xeriscape plan submitted by the Environmental Learning Center of Clackamas Community College. As you can see on the plant list, the caliper of the trees will be 2 to 2-1/2 inches as required under condition #7. All plants will be watered the first summer and then will be able to survive under drought conditions thereafter. This landscape plan will provide an enhancement of the McLoughlin Blvd. frontage and provide screening of the parking lot without totally blocking view of the lot for security and safety reasons.

Attachments: Site Plan
Landscape Plan
Plant Listing
Work Schedule



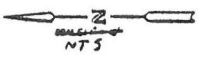
CITY OF MILWAUKEE
JACKSON ST/MC LOUGH-LIN PARKING LOT
SCALE 1" = 10'
← NORTH





CONSTRUCTION NOTES

- ① - EXIST. DRIVE APRON TO REMAIN IN PLACE.
- ② - EXIST. VALLEY GUTTER & CATCH BASINS TO REMAIN IN PLACE.
- ③ - EXIST. WOODEN BARRICADE TO REMAIN IN PLACE.



DESIGNED	APPROVED
DRAWN	SCALE
DATE	DATE
CHECKED	FILE
DATE	NO
REVISION	

CITY OF MILWAUKIE
MILWAUKIE, OREGON

PUBLIC WORKS DEPARTMENT

Ly 10193
M. Luaukie, City of

Plant List

- | | | |
|--|----------|--------------|
| 2 Lodgepole Pines
<i>Pinus contorta 'murrayana'</i> | 5-6' BB | 2-2 1/2" cal |
| 6 Scotch Pines
<i>Pinus sylvestris</i> | 5-6' BB | 2-2 1/2" cal |
| 6 European Mt. Ash
<i>Sorbus aucuparia</i> | 8-10' BB | 2-2 1/2" cal |
| 3 Furthorn
<i>Pyracantha</i> | 5 gal | |
| 8 Sumac
<i>Rhus</i> | 2-3 gal | |
| 11 Low OK Grape
<i>Mahonia repens</i> | 1 gal | |
| 53 OK Grape
<i>Mahonia aquifolium</i> | 1 gal | |
| 2 Wintergreen Barberry
<i>Berberis julianna</i> | 2 gal | |
| 3 Warty Barberry
<i>Berberis verruculosa</i> | 2 gal | |
| 25 Cotoneaster damerii | 1 gal | |
| 10 Cotoneaster rockspray | 1 gal | |

Revised
by 10/93

Plant List cont.

15 Cam juniper 1 gal.

10 Rock rose
Cetus 1 gal

5 Santalina 1 gal.

14 Goldenrod 1 gal

Mulch entire area 3" deep

State Mt Ash and Pine

Granular fertilizer

Labor, plants, mulch,
Soil amendments, fertilizer

TOTAL: \$5,729.40

CHEVRON PARKING LOT

WORK PLAN

FLOW CHART

Parking Lot Layout Plan
Complete by 3-30-93

Easements
By 4-2-93

R & R Drwys.
Begin Wk of
4-5-93

Landscape Plan
To Jim C. 3-30-93

PLANNING COMMISSION MTG.
4-13-93

Layout Landscape Area
Begin 4-14-93

Excavate & Backfill L/S Area
Begin 4-14-93

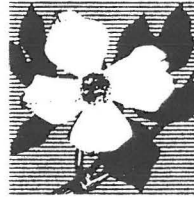
Plug Asphalt Area
Begin Wk. of 4-19-93

Install Extruded Curb
Begin Wk. of 4-26-93

Stripe Parking
Begin Wk. 5-3-93

Landscape
May '93

Install Wheel Stops
Begin Wk. of 5-3-93
After Striping



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT
April 13, 1993

TO: Milwaukie Planning Commission

THRU: *MC* Maggie Collins, Community Development Director

FROM: Dave Krogh, AICP, Associate Planner *Dave*

RE: Comprehensive Plan Designation Project (CPA-93-01);
Worksession

PROJECT DESCRIPTION

The intent of this project is to provide necessary follow-up in the form of Comprehensive Plan Amendments for actions that occurred this past year that affect designations within the Comprehensive Plan.

In this case, eight Natural Resource Reviews in 1992 and early 1993 resulted in Natural Resource Overlay Zone boundary refinements. These boundary refinements are to be reflected in property maps provided in Appendix 3 of the Milwaukie Comprehensive Plan.

Modifications to the Comprehensive Plan, whether they be in the form of map, text, or table modifications, require review and action by the City Planning Commission and City Council. Since this particular action involves map modifications for a limited number of properties, the process to be followed is that of the Major Quasi-Judicial review. This entails a public hearing before the Planning Commission with the Commission providing a recommendation for action (if for approval) to the City Council. The City Council would then hold a public hearing and adopt the refined NR boundary maps via Ordinance for insertion into Appendix 3 of the Comprehensive Plan.

PROPERTY DISCUSSION

The eight Natural Resource Reviews are summarized on the following table:

<u>File</u>	<u>Applicant</u>	<u>Zoning</u>	<u>Map/Tax Lots</u>
NR-93-01	Fitzgerald	R-2	11E36CB; 1900
NR-92-06	Cunningham	R-10	21E1AA; 2600
NR-92-05	Feb/Weedman	R-7	22E6BB; 2102 & 2103
NR-92-04	Hawkins	R-7	21E1AD; 200
NR-92-03	City of Milwaukie	R-10	22E6AC; 100
NR-92-02	Mortrud	R-5	21E35DD; 6700
NR-92-01	Clack. Chris. Ctr.	R-3/R-10	22E6AD; 600, 700, 900 & 901
NR-91-08	Wirtz	R-10	22E6BC; 3300

A brief discussion of each of these reviews is as follows:

1. NR-93-01 was heard by the Planning Commission on February 23, 1993. The applicants requested construction of a room addition onto their house. Their property required the NR review since it lies adjacent to Kellogg Lake. The Planning Commission adopted a refined NR boundary at the 100 year floodplain elevation of Kellogg Lake. This is at the 33 foot line (Exhibit 1).
2. NR-92-06 was heard by the Planning Commission on January 26, 1993. The applicants requested construction of a room addition onto their house. Their property required the NR review since it was adjacent to Kellogg Creek. The Planning Commission adopted a refined NR boundary at the 100 year floodplain elevation which Staff has identified at 36.5 feet (Exhibit 2).
3. NR-92-05 was heard by the Planning Commission on September 8, 1992. The applicants requested a phased subdivision proposal for the property. The NR review was required because a portion of the property fronts Kellogg Creek. The Planning Commission adopted a refined NR boundary based on an environmental assessment report. This boundary is uphill, above the 100 year floodplain, and includes wooded area up to the top of the slope down to the Creek (Exhibit 3).

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT

Memo to Planning Commission - CPA-93-01

April 13, 1993

Page 3

4. NR-92-04 was heard by the Planning Commission on September 22, 1992. The applicant requested demolition of an existing house in order to construct a new residence. The NR review was required because the property fronts Kellogg Creek. The Planning Commission felt this site to be essentially the same in feature as the site in NR-92-05, which is close to this site, and therefore adopted the top of the slope down to the Creek as the refined NR boundary (Exhibit 3).
5. NR-92-03 was heard by the Planning Commission on June 23, 1992. The City of Milwaukie proposed to expand the existing Milwaukie Center building at North Clackamas Park. The NR review was required because of the presence of Mt. Scott Creek and associated drainage ways within North Clackamas Park. The Planning Commission adopted a refined NR boundary for North Clackamas Park which coincides with 100 year floodplain and riparian areas (Exhibit 4).
6. NR-92-02 was heard by the Planning Commission on June 23, 1992. The applicant requested demolition of an existing dwelling in order to construct a new and larger dwelling. The NR review was required because of the property frontage on the Willamette River. The Planning Commission adopted a refined NR boundary coinciding with the 100 year floodplain elevation of 33 feet (Exhibit 5).
7. NR-92-01 was heard by the Planning Commission on July 28, 1992. The applicant proposed a church expansion project. The NR review was required because of the presence of Mt. Scott Creek and associated drainage area. The Planning Commission adopted a refined NR boundary for the church property coinciding with the 100 year floodplain elevation, which decreases from an elevation of 66 feet to 63 feet through this property (Exhibit 6).
8. NR-91-08 was heard by the Planning Commission on February 25, 1992. The applicant proposed a 3-parcel minor land partition to allow for future residential development. The NR review was required because of property frontage on Kellogg Creek. The Planning Commission adopted a refined NR boundary coinciding with the 100 year floodplain elevation which generally follows the 47 foot contour line at this site (Exhibit 7).

ADDITIONAL DISCUSSION

This project is limited to NR refinements that have taken place since the beginning of 1992. One annexation has recently occurred that will require amendments to apply City plan and zoning designations to newly annexed properties near Johnson Creek Blvd. and Linwood. These actions will be taken as part of a separate project. Similarly, no final actions have been taken that would require modification to the Historic Resources list within the Comprehensive Plan.

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT

Memo to Planning Commission - CPA-93-01

April 13, 1993

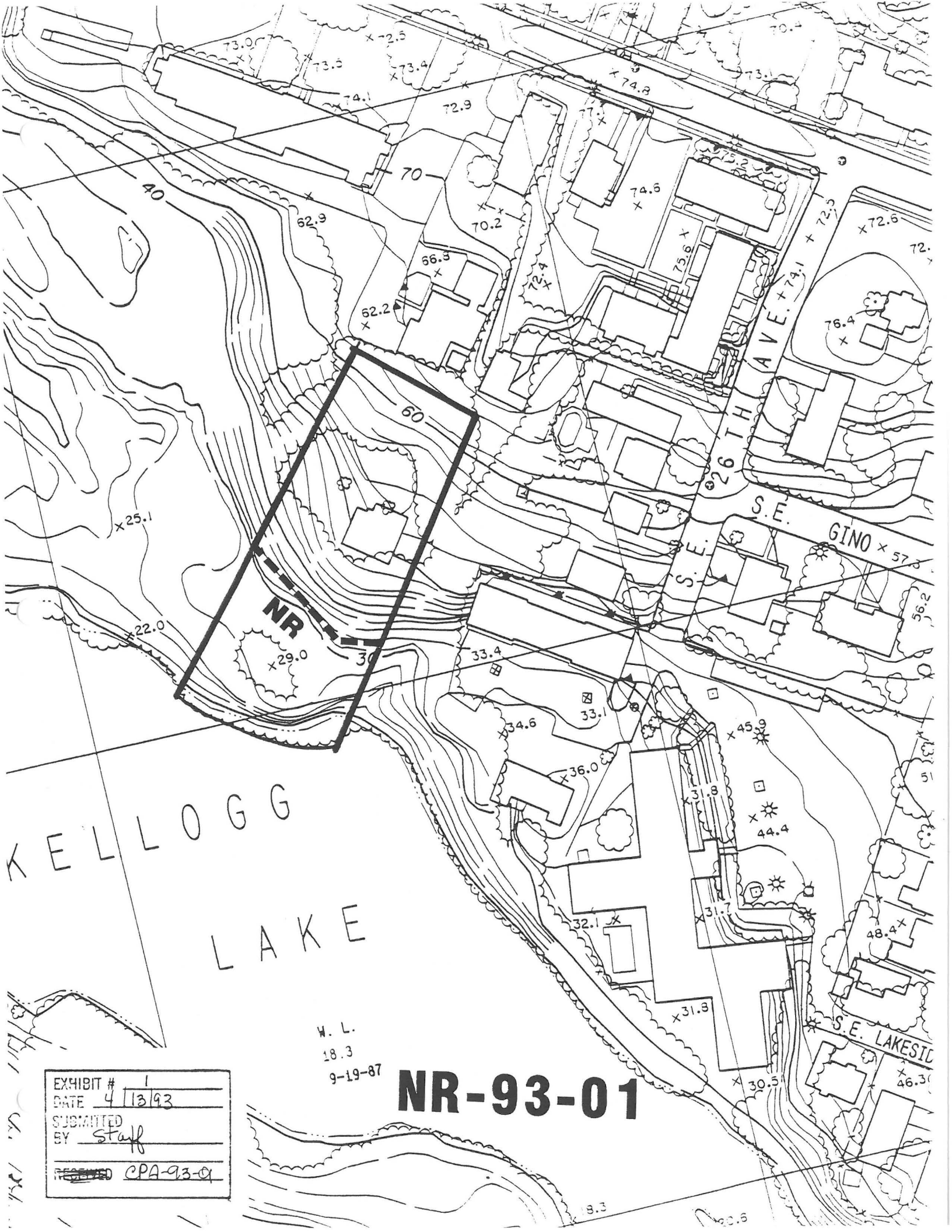
Page 4

This worksession is intended to provide background information. No action is requested of the Commission at this time. The Planning Commission public hearing for these changes is currently scheduled for April 27, 1993. At that time the Commission can determine if it wishes to recommend approval to the City Council. A public hearing by the City Council will follow, with a final action to adopt the changes by ordinance.

EXHIBITS

1. NR-93-01 Map
2. NR-92-06 Map
3. NR-92-04 and NR-92-05 Map
4. NR-92-03 Maps (3 pages)
5. NR-92-02 Map
6. NR-92-01 Maps (2 pages)
7. NR-91-08 Map

DK:jpg



KELLOGG
LAKE

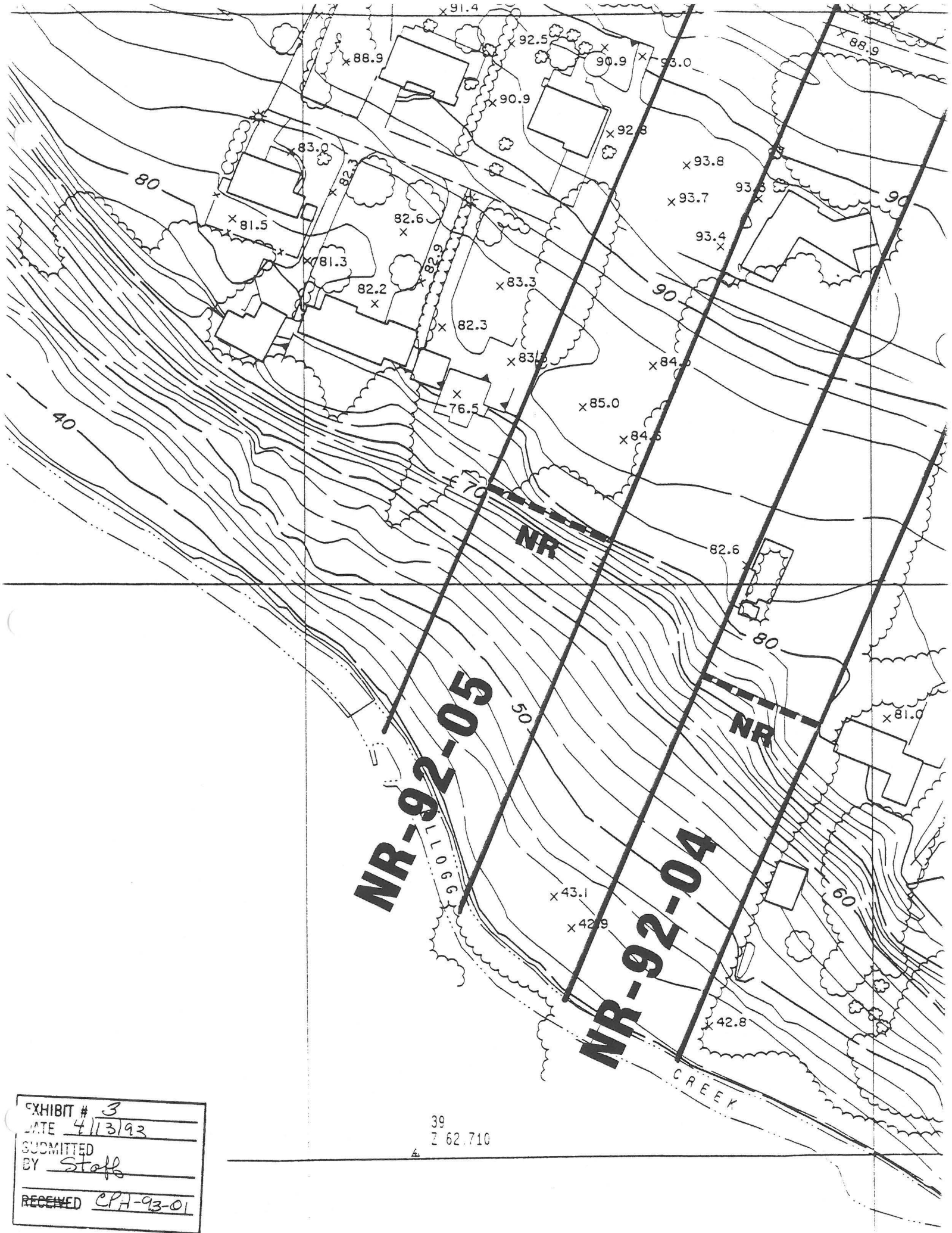
NR

26TH AVE.
S.E. GINO
S.E. LAKESIDE

H. L.
18.3
9-19-87

NR-93-01

EXHIBIT #	1
DATE	4/13/93
SUBMITTED BY	Staff
FILED	CPA-93-9



NR-92-05

NR-92-04

NR

NR

CREEK

EXHIBIT # 3
 DATE 4/13/93
 SUBMITTED BY Staff
 RECEIVED CPA-93-01

39
 Z 62.710

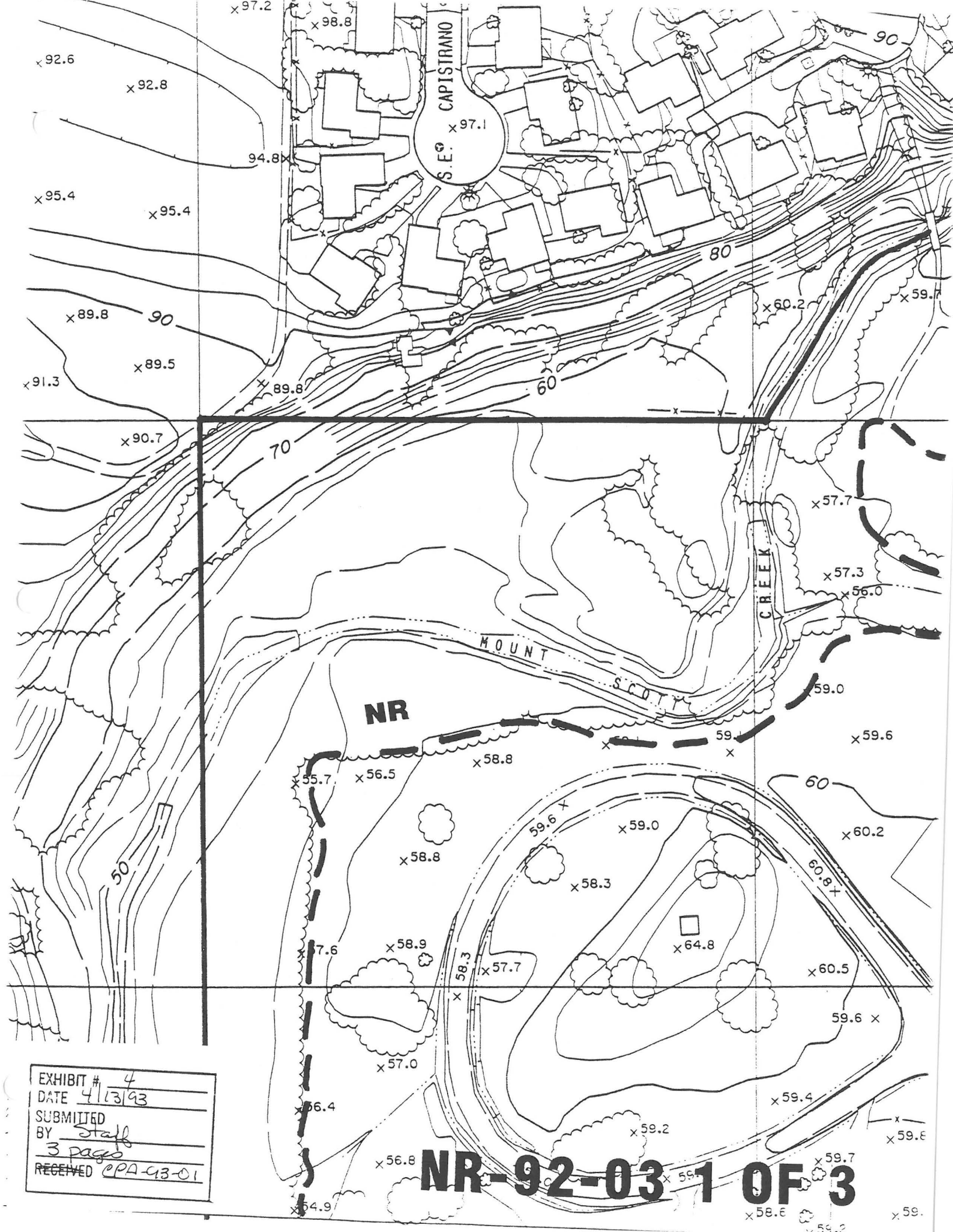
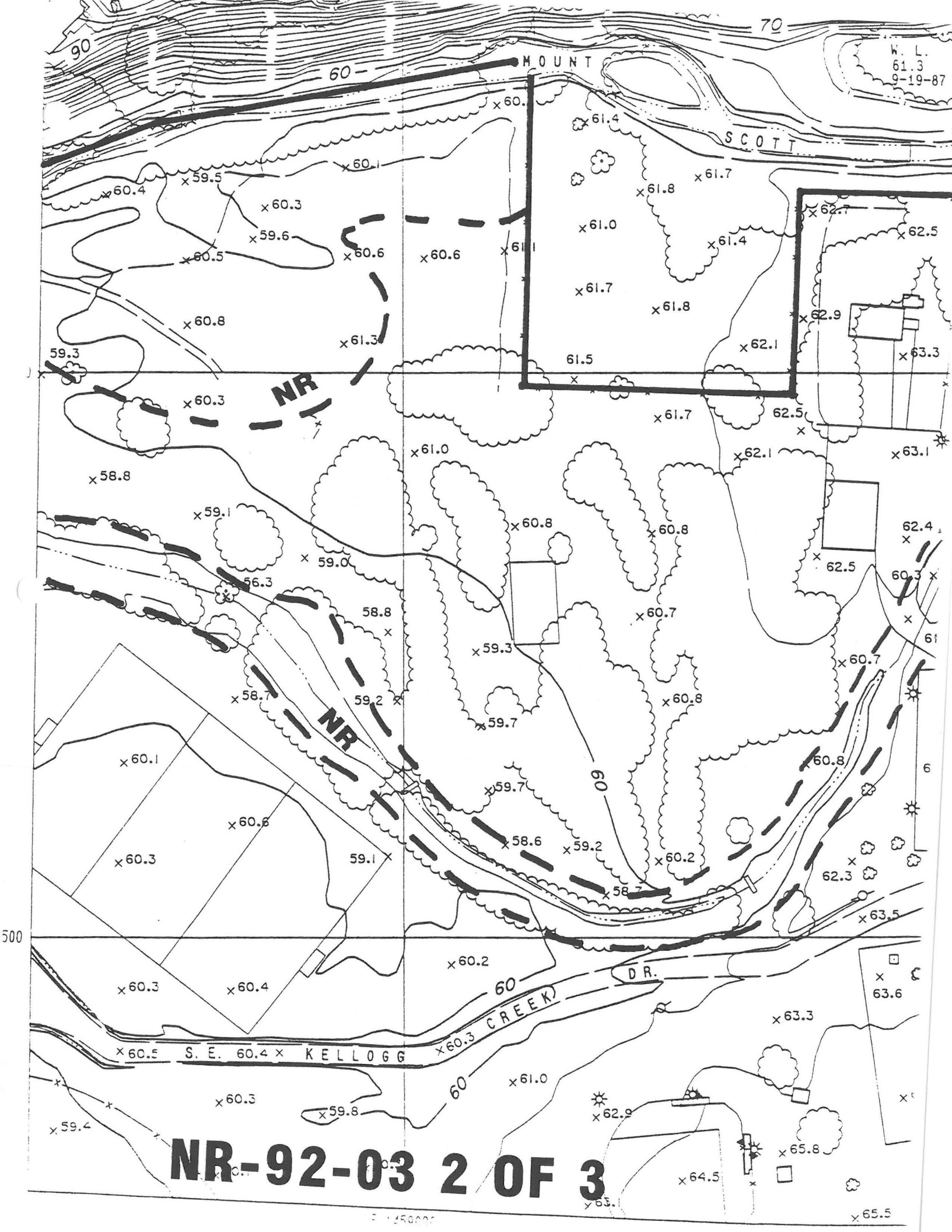


EXHIBIT # 4
 DATE 4/13/93
 SUBMITTED BY Staff
 3 pages
 RECEIVED CPA-93-01

NR-92-03 1 OF 3



W. L.
61.3
9-19-87

MOUNT

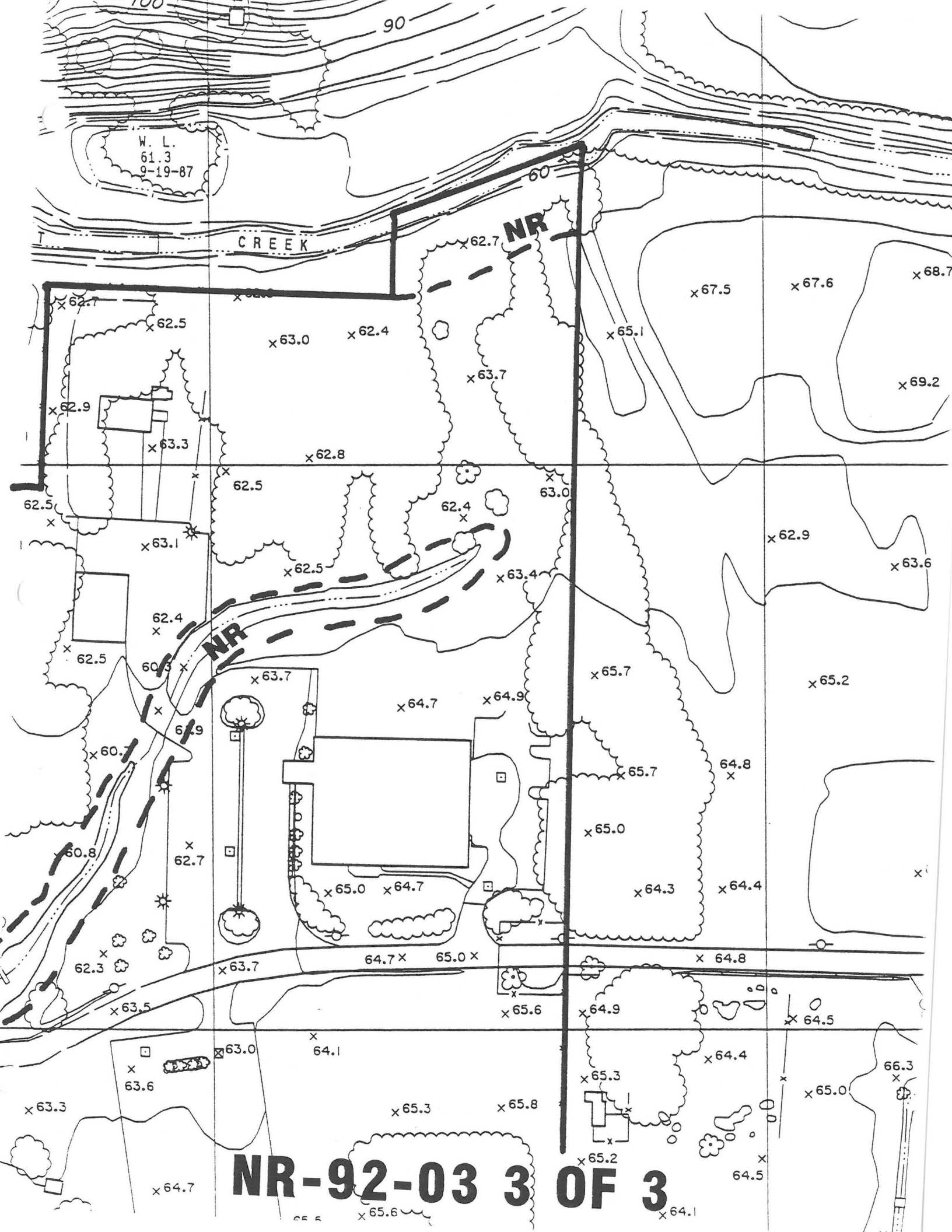
SCOTT

NR

NR

D.R.

NR-92-03 2 OF 3



W. L.
61.3
9-19-87

CREEK

NR

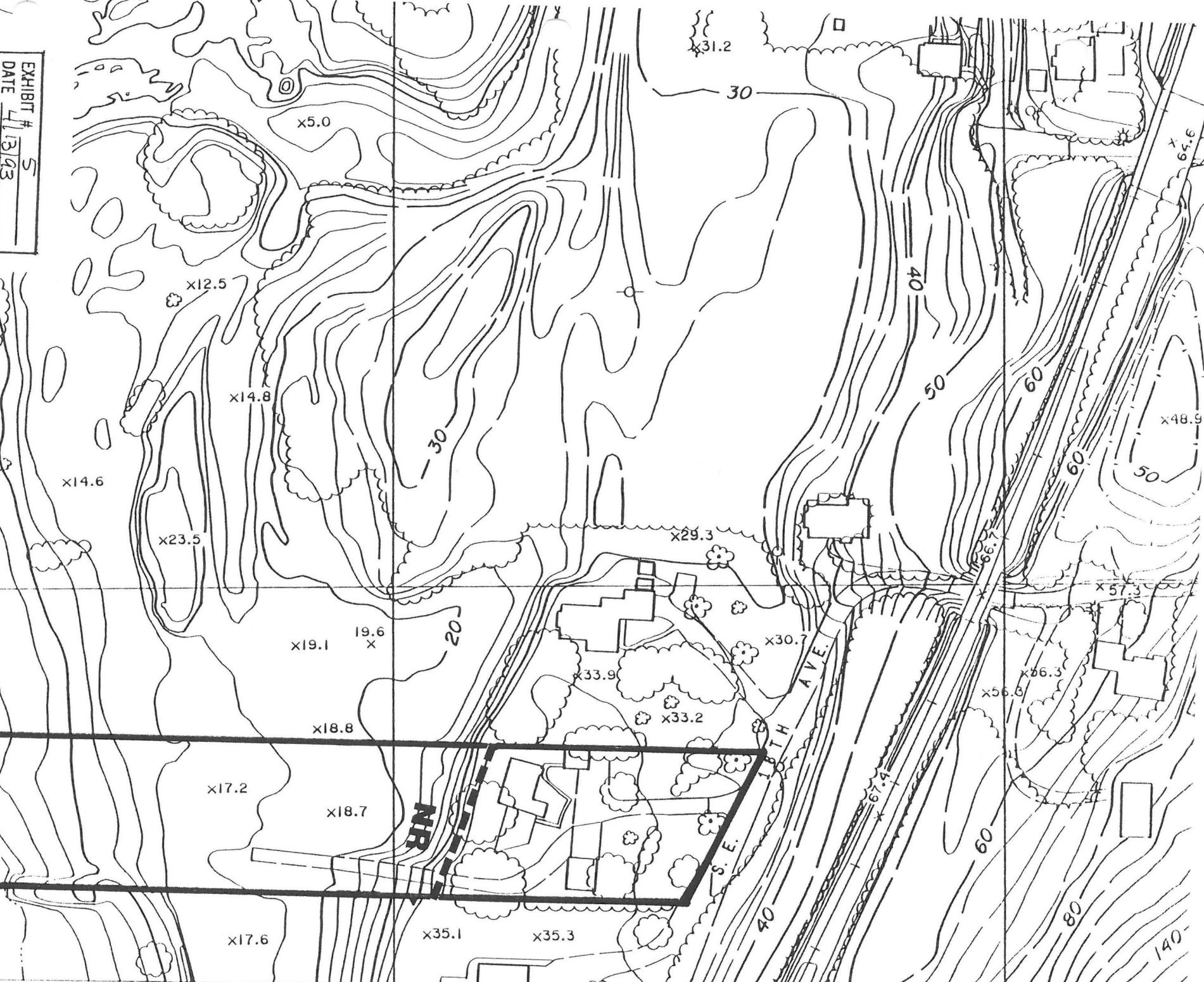
NR

NR-92-03 3 OF 3

62.7
62.5
63.0
62.4
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63.7
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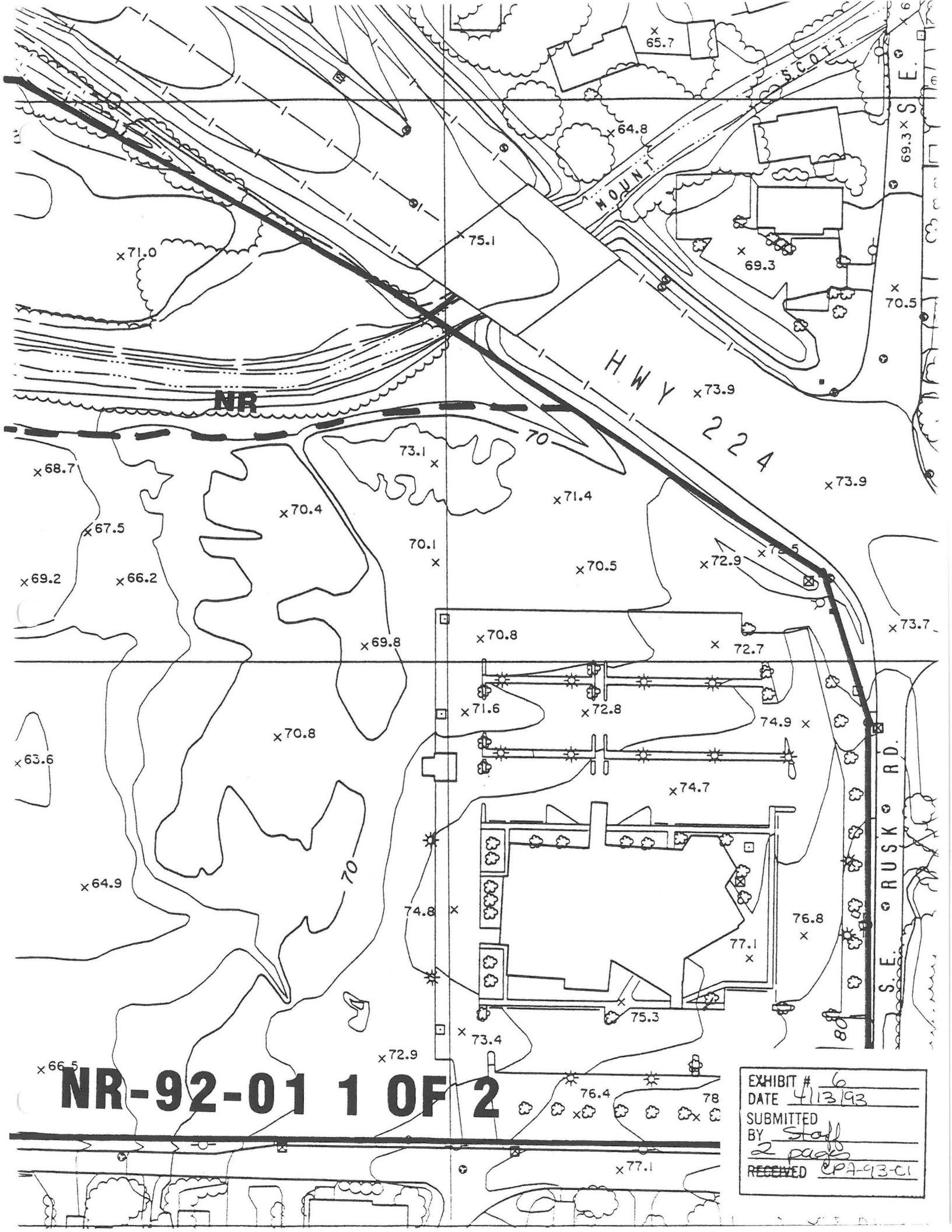
EXHIBIT # 5
DATE 4/13/03
SUBMITTED BY [Signature]
RECEIVED CDA-43-01

NR-92-02



E 1449500

E 1450000



NR-92-01 1 OF 2

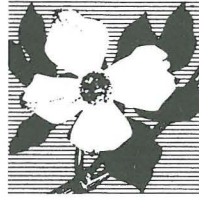
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DATE	4/13/93
SUBMITTED BY	Staff
	2 pages
RECEIVED	EPA-93-C1



NR-91-08

EXHIBIT #	7
DATE	4/13/93
SUBMITTED BY	Staff
RECEIVED	CPA-93-01

CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT
PUBLIC WORKS

6101 S.E. JOHNSON CREEK BLVD.

TELEPHONE: 652-4410

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

April 6, 1993

To: Planning Commission
From: Marcia Hamley, Office Assistant *MH*
Re: Community Development Department Report

The Community Development Department Report is not ready yet.
We will send it to you later this week.

MH/mgh

Enclosed is the CD Report for your packets for the April 13, 1993 Planning Commission meeting. Please add this to the information you received on Tuesday.

Thank you,

Jeanne Garst
Community Development Office Assistant

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

April 6, 1993

To: Milwaukie Planning Commission
From: *MC* Maggie Collins, Community Development Director
Re: Community Development Department Report

Action Requested

For your information.

Background

1. THANK YOU. A copy of a thank-you letter from your Chair to Betty Fulmore for her service on the Commission is attached.
2. LIGHT RAIL CORRIDORS. A copy of Resolution 1993-6, endorsing the Milwaukie/I-5 North Corridors for further study as a single high capacity transit corridor, is attached. The final action is scheduled by the Metro Council on April 22, 1993. Thank you for your special efforts in attending meetings and reviewing material on this topic.
3. P.C. BY-LAWS. A copy of the completed By-Laws is also attached. Please keep them in your operations file.
4. MINTHORN LOOP. A memo from Paul Roeger regarding the Minthorn Loop improvements is also attached. This was a question brought up at a previous meeting.
5. BICYCLE QUESTIONNAIRE. Compliance with the statewide Transportation Rule in two years will require a re-examination of the City's bikeway assumptions and plans for improvements. Earlier in the year, Community Development was asked to be aware of the activities of the Clackamas County Pedestrian and Bikeway Committee, who will participate in the County's review of its bikeway plan. The immediate request is to fill out the attached questionnaire as a sort of reopresentative sample of interest and participation in bicycle activities. Note you are asked to do so even if you are not an active cyclist at this time. Please bring your completed questionnaire to the April 13th meeting.
6. HAMILTON BUILDING REPORT. See attached memo and report.

cc: Dan Bartlett
C.D. Staff

CITY OF MILWAUKIE
RESOLUTION NO. 6-1993

A RESOLUTION RECOMMENDING PREFERRED HIGH CAPACITY TRANSIT CORRIDORS FOR FURTHER ANALYSIS.

WHEREAS, on May 19, 1992, the City of Milwaukie entered into an intergovernmental agreement with Metro to examine several high capacity transit corridor options in a Preliminary Alternatives Analysis Study; and

WHEREAS, the Preliminary Alternatives Analysis Phase I evaluates broad corridor options and selects Priority Corridor(s) for further evaluation of a smaller set of modal and alignment options to incorporate into a more detailed Alternatives Analysis and Draft Environmental Impact Statement stage; and

WHEREAS, the City of Milwaukie has participated in the development of methodology, data-gathering, selection of evaluation criteria, conceptual alternatives, and corridor evaluation throughout this Study; and

WHEREAS, the City of Milwaukie has participated in assessing public opinion about the feasibility of several corridor segments under consideration; and

WHEREAS, the technical data and public opinion have indicated that the Milwaukie Corridor and the I-5 North Corridor appear to be the most cost-effective corridors, considering projected transit ridership and cost-effectiveness; and

WHEREAS, on March 9, 1993, the Milwaukie Planning Commission, having reviewed technical data and considered nine decision-making criteria, recommended selection of the Milwaukie/I-5 North Corridors as the preferred corridors to take into the Alternative Analysis phase; and

WHEREAS, the Milwaukie/I-5 North Corridors comply with all policy elements in the Milwaukie Comprehensive Plan;


NOW, THEREFORE, BE IT RESOLVED by the City of Milwaukie, a municipality of the State of Oregon, that Milwaukie hereby endorses and recommends to the Metro Council that the Milwaukie/I-5 North Corridors be selected as the priority and preferred corridors for the Alternatives Analysis stage of the Regional High Capacity Transit Study.

PASSED this 16th day of March, 1993, by the City Council of the City of Milwaukie.



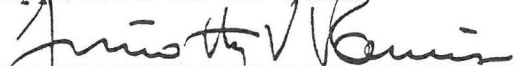
Craig J. Zomnicki, Mayor

Attest:



Pat DuVal, City Recorder

Approved as to form:



City Attorney

MILWAUKIE PLANNING COMMISSION BYLAWS

Adopted February 9, 1993

ARTICLE I - 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.

ARTICLE II - Membership

1. Refer to Municipal Code 2.16.020 (Appendix A)
2. If a member misses three meetings in a row or more than half of the meetings in a six month period, the membership in the Planning Commission may be reviewed by the Planning Commission for referral to the City Council for reassessment of the appointment.

ARTICLE III - Elections and Officers

1. A quorum of the Planning Commission (four members) shall elect a Chair and a Vice-Chair annually in April.
2. The term of office shall be one year with a limit of two terms.
3. In the event that an officer is unable to complete the specified term, an election shall be held for the completion of the term.
4. In the event the Chair cannot attend a scheduled meeting, the Vice-Chair shall act as presiding officer.

ARTICLE IV - Duties of Officers

1. The Chair or Vice-Chair, in addition to the duties in Article V shall preserve the order and decorum of the meeting.
 - A. At the beginning of the meeting, the Chair may assess the audience and, with the consent of the Commission, announce reasonable time limits.
 - B. At the conclusion of testimony, the Chair will summarize the issues to be addressed and the criteria to be applied.
 - C. At the conclusion of the hearing, the Chair will summarize the hearing results.

Milwaukie Planning Commission By-Laws

Page 2

2. The Chair will ask for response and opinion from the members of the Commission.
3. The Chair may mentor the Vice-Chair.
4. The Chair may appoint Commissioners to specific projects or committees.
5. The Chair or Vice-Chair shall confer with the Community Development Director on a regular basis outside scheduled meetings concerning the direction each expects of the Commission.
6. The Chair, or Vice-Chair if the Chair is absent, shall preside over the meeting, generally following the procedure outlined in the City of Milwaukie's Public Hearing Format (Appendix B) and parliamentary procedures based on Robert's Rules of Order.
7. The Chair, in conjunction with the Community Development Director, shall orient new members.

ARTICLE V - Duties of the Commission

1. Refer to Municipal Code 2.16.060 (Appendix A)
2. In order to give the appearance of equal treatment to all who come before the Planning Commission, members are encouraged to address all those by last name only, and common title (e.g. Mr., Mrs., Miss, Ms., etc.), not by first name.
3. If a member is unable to attend a meeting, it is that member's responsibility to inform the Community Development Staff and/or the Planning Commission Chair of that fact prior to the meeting to be missed.
4. Follow guidelines for ex-parte contact and conflict of interest as outlined in Appendix C.
5. Prior to Planning Commission meetings, Commissioners are encouraged to visit sites that are subjects for land use actions.

ARTICLE VI - Meetings and Public Hearings

1. The Commission shall meet at least once a month, on the second and/or fourth Tuesdays at 6:30 p.m. at a place designated by City Staff.
2. The above meetings may be set aside upon agreement of a majority of the Planning Commission.

Milwaukie Planning Commission By-Laws
Page 3

3. Refer to Municipal Code 2.16.050 (Appendix A) for procedures for special meetings.
4. If a quorum (four members) is not attained fifteen minutes following the scheduled time of call to order, the meeting may be cancelled by the majority approval of the members present.

ARTICLE VII - Goals and Objectives

1. The Planning Commission shall review the City Council goals annually for establishment of Planning Commission goals which enhance and augment those of the City Council.
2. The Planning Commission shall establish goals, at a minimum, annually.

ARTICLE VIII - Amendment of By-Laws

1. By-Laws shall be reviewed once a year in April by the Commission for changes, upgrades, and deletions.
2. By-Laws may be amended, repealed, or altered by a majority vote.

2.16.010

Chapter 2.16

PLANNING COMMISSION

Sections:

- 2.16.010 Created.
- 2.16.020 Membership—Terms of office—Vacancies.
- 2.16.030 Statements of economic interest.
- 2.16.040 Officers.
- 2.16.050 Meetings.
- 2.16.060 Duties.

2.16.010 Created.

There is created a planning commission for the city. (Ord. 1606 § 1, 1986)

2.16.020 Membership—Terms of office—Vacancies.

The commission shall consist of seven members appointed by the mayor, with the consent of the council. No more than two members may be nonresidents. No more than two members may engage principally in the buying, selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade, or profession and all members shall serve without compensation. Members shall hold office for four years. No person may serve more than two consecutive full four-year terms; provided, that the city council may waive this limitation if it is in the best interest of the city to do so. Any vacancy shall be filled by the mayor, with the consent of the council, for the unexpired portion of the term. A member may be removed from office

by the council, after a hearing, for misconduct or nonperformance of duty. (Ord. 1606 § 2, 1986)

2.16.030 Statements of economic interest.

Commissioners are required to file annual statements of economic interest as required by ORS 244.050 with the Oregon Government Ethics Commission. (Ord. 1606 § 3, 1986)

2.16.040 Officers.

The commission shall elect a chair and vice-chair who shall hold office at the pleasure of the commission. (Ord. 1606 § 4, 1986)

2.16.050 Meetings.

All meetings of the commission shall be subject to the requirements of ORS 192.610 to 192.690 (Open Meeting Law). Four members of the commission shall constitute a quorum. The concurrence of a majority of the members present shall be required to decide any matter. The commission may adopt rules consistent with the laws of the state and the Charter and ordinances of the city for the conduct of its business and shall meet at least once a month at a time and place to be established by the commission. Special meetings may be called at any time by the chair or by three members by written notice to each member at least twenty-four hours before the time set for the meeting. The commission shall provide for keeping of an accurate record of all commission proceedings. Commission members shall not participate in any commission proceeding where a conflict of interest would result, as defined in

ORS 227.035. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is taken. (Ord. 1606 § 5, 1986)

2.16.060 Duties.

The powers and duties of the planning commission include, but are not limited to the following:

A. To keep current the comprehensive plan and implementing ordinances for the city and urban growth boundary as applicable;

B. To prepare as necessary legislation that will implement the purposes of the comprehensive plan;

C. To recommend to the council and other public authorities plans for regulating the future growth, development and beautification of the city, and to review and recommend on regional issues and concerns;

D. To recommend and make suggestions to the council and to other public authorities concerning:

1. The laying out, widening, extending and locating of public thoroughfares, parking of vehicles, and relief of traffic congestion,

2. Betterment of housing and sanitation conditions,

3. Establishment of districts for limiting the use, height, area, bulk and other characteristics of buildings and structures related to land development,

4. Protection and assurance of access to incident solar radiation, and

5. Protection and assurance of access to wind for potential future electrical generation or mechanical application;

E. To recommend to the council and other public authorities plans for promotion, development and regulation of industrial

and economic needs of the community in respect to industrial pursuits;

F. To study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, conveniences and welfare of the city and of an area within six miles thereof;

G. To consider and conduct public hearings on comprehensive plans and zoning ordinances and similar matters which may include, but are not limited to, zone changes, conditional uses, variances, nonconforming uses, subdivisions, and partitions; and

H. To do and perform all other acts and things necessary to properly carry out the provisions of ORS Chapter 227 that are not specifically addressed by local ordinances and procedures. (Ord. 1726 § 1, 1992: Ord. 1606 § 6, 1986)

CITY OF MILWAUKIE PLANNING COMMISSION
PUBLIC HEARING FORMAT - QUASI-JUDICIAL HEARING

PRESIDING OFFICER'S GUIDE:

1. Open public hearing for _____ (Refer to Agenda) _____.
2. Does any member of the Planning Commission wish to abstain?
3. Does any member of the Planning Commission wish to declare a conflict of interest?
4. Will any Commissioner who has visited the site prior to this hearing please raise their hand.
5. Did any of those Commissioners who visited the site speak to anyone at the site or note anything different than what is indicated in the Staff Report for this application?
6. Are there any other ex-parte contacts to be declared by Commissioners?
7. Does anyone have any rebuttal to the ex-parte contacts declared by Commissioners?
8. Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?
9. Does any member of the audience wish to challenge the participation of any member of the Planning Commission?
10. Staff Report.
11. Comments from Applicant or their representative.
12. Anyone who wishes to speak in favor of this application?
13. Anyone who is neither in favor of or in opposition to the application, but who has questions or comments about the application?
14. Anyone who wishes to speak in opposition to the application?
15. Does the Applicant have any rebuttal or any additional comments in response to the public testimony?
16. Close Public Hearing.
17. Discussion by Commissioners/Decision.
18. Announce decision and appeal procedures.

CITY OF MILWAUKIE PLANNING COMMISSION
PUBLIC HEARING FORMAT - LEGISLATIVE HEARING

1. Open public hearing for _____ (Refer to Agenda) _____.
2. Does any member of the Planning Commission wish to abstain?
3. Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?
4. Staff Report.
5. Comments from Applicant or their representative.
6. Anyone who wishes to speak in favor of this application?
7. Anyone who is neither in favor of or in opposition to the application, but who has questions or comments about the application?
8. Anyone who wishes to speak in opposition to the application?
9. Does the Applicant have any rebuttal or any additional comments in response to the public testimony?
10. Close Public Hearing.
11. Discussion by Commissioners/Decision.
12. Announce decision and appeal procedures.

2/9/93

EX PARTE CONTACTS

Case law in Oregon has determined, specifically, that all parties to a judicial decision have the right to an impartial decisionmaker. The areas most often associated with the appearances that decisionmakers lack impartiality are ex parte contacts and conflicts of interests.

"Ex parte" means literally, from the side. In the context of land use decision making, it applies to individual contacts or information received outside of, or prior to, a public hearing which was not, at the same time, available to all interested parties.

The University of Oregon's Bureau of Governmental Research and Service explained the importance of disclosing ex parte contacts in their publication, "Local Planning Digest".

"Ex parte contacts are now viewed as an example of how impartiality might be violated, rather than an automatic violation of the impartial tribunal requirement. LUBA has reversed land use decisions when ex parte contacts were not sufficiently disclosed at the hearing to allow rebuttal. For example, a site visit, as well as the facts gained from the visit, must be made part of the record.

"When in doubt, disclose any communication on the record, and be sure to state the parties' right to rebut its substance.

"Your conversations with planning staff members are not considered ex parte contacts."

CONFLICTS OF INTEREST

In regard to Conflicts of Interest, the "Local Planning Digest" advises that "City and County Planning Commissioners are required by law to disqualify themselves from participating in proceedings where a potential conflict of interest exists - that is, proceedings in which they, their families, partners, or businesses have a 'direct or substantial financial interest'. But for elected officials, the course of action is not so clearly dictated: ORS 244.120 requires an elected official to '...announce publicly the nature of the potential conflict prior to taking any official action thereon'.

"While the law requires only disclosure and not abstention, the Attorney General has questioned whether government officials are not, nevertheless, under a statutory duty to disqualify themselves if a potential conflict of interest exists. ORS chapter 244 defines a potential conflict of interest as 'any transaction where a person acting in a capacity as a public official takes any action or makes any recommendation, the effect of which would be to the private pecuniary benefit or detriment of the person or a member of the person's household'."

City of Milwaukie Planning Commission Bylaws
Appendix C - Page 2

Planning Commissioners are reminded that ORS 227.090 specifically speaks to Planning Commissioners conflicts of interest activities:

"A member of a Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting or the Commission where the action is being taken."

JC:jpg:C.D.D.
3-3-93

MEMORANDUM

TO: PLANNING

FROM: Paul Roeger *PR*,
Office Engineer

RE; Minthorn Loop Completion
Funding Method

DATE: March 5, 1993

In a 1988 agreement with Hillman Powell Company, developer of the Milwaukie Market Place, they deposited \$100,000 for future construction of a relocated access for International Way to 37th Avenue. In 1990 Schnitzer Investment Corp. developed an industrial subdivision on the east side of 37th Avenue and the north side of International Way. As part of that subdivision they were required to construct a portion of that relocated access.

During the proposal stages of the subdivision the Public Works Director at that time, Dick Bailey, in coordination with the City Attorney's Office, approved release of the entire \$100,000 to Schnitzer Investment Corp. for construction of the north-south leg of the relocated access, now called Minthorn Loop.

Also, at that time it was determined that the construction of the remainder of Minthorn Loop to 37th Avenue would be funded by the developers of the remaining vacant ground to the east and south that would use 37th and International. This would include the vacant ground north of OECO, the other vacant parcels in Freeman Industrial Park and the vacant property at 40th Avenue and Edison Street.

There was no determination made at that time as to what percentage of the construction cost each property would contribute. The impact of each development would depend on the type of use that goes into the buildings. We would need to require a traffic study of each developer to determine the impact of their particular use.

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT
April 6, 1993

To: Milwaukie Planning Commission
From: *MC* Maggie Collins, Community Development Director
Re: Department letter to Dark Horse Comics dated 3/24/93

Action Requested

For your information and discussion.

Discussion

Attached are two items: (1) A Community development Department report dated March 11, 1993 about commercial activities occurring in the Hamilton Building; and (2) My letter to Dark Horse Comics dated 3/24/93. Recall that the Department report was the result of a question from Planning Commission members about the new commercial activity in the Hamilton Building.

Don Trotter requested that my interpretation of this activity be brought forward for Commission discussion. The questions that have been posed are: Should the mail-order operation, which includes storage of mail-order materia, be interpreted as connected to a permitted use occurring on a separate site? Or does Section 314.1 generally imply that any storage-related use be located ont he same site as the rest of an outright permitted use?

Along with discussion of my interpretation, I propose some follow-up actions:

- (1) The attached Department Report indicates an intent by Dark Horse to renovate Hamilton's for future retail trade or office space within the year. Staff should follow up with the property owners to more clearly identify that timeline
- (2) An interpretation be drafted about "storage" that applies to this occurrence, and for future reference in administering the C_G zone requirements. This interpretation should include guidelines about "storage" as a stand-alone business, "storage" as a percentage of some other permitted use, "storage" as a temporary activity, and other points about "storage" that the Commission feels should be covered.
- (3) It has also been recommended that perhaps there is need to review this activity as a Planning Commission Consideration Item, or to determine its status as a "similar use" in the C-G zone.

- The former Timm's Jewelers Store is part of this building and is being renovated as a design studio for Dark Horse Comics.
- Most of the actual story writing and art work is done offsite by free-lance or contract people and submitted to this site for edit.

Hamilton Building Site

- The Hamilton building consists of three floors: . basement, main, and second.
- Dark Horse Comics is primarily using the building main floor at this time. They do have a small amount of storage (a few hundred square feet at most) on the second floor. The main floor includes inventory storage (which is primarily boxes of comics), mailing facilities, and a shipping/receiving area. The building currently has two loading docks.
- The Hamilton building is in various stages of disrepair. Some electrical problems exist, the elevator is not working, the boiler (furnace) and two roof mounted air conditioners are also inoperable. Dark Horse Comics personnel estimate \$300,000 to \$500,000 would be needed to make necessary repairs and renovations.
- The inventory and shipping/receiving operations here are minimal to most of their operations. Currently, materials are printed at separate printer locations and shipped directly from the printers to market. Excess materials (materials that exceeded the sales demand) are sent to the Hamilton's site for redirection or mail order. Approximately 4-6 employees work at this site.
- Currently, Dark Horse Comics is using only about 35-40% of the total usable floor area of the Hamilton building. They are treating the use of the main floor as interim only and have preliminary plans to move their inventory and mail operation to the basement within the next year. Their ultimate plans are to renovate/remodel the entire building and convert the main and second floors into retail and/or office space. No specific timelines have as yet been established for any of this work.

Zoning Applicability

Both the Dark Horse Comics offices and the Hamilton building are located within the C-C (Central Commercial) Zone. The C-C Zone is intended primarily for office, retail and personal service uses. The office aspects of Dark Horse Comics are clearly in keeping with the office use provisions of the C-C Zone.

I also looked at other zones to determine if the kinds of uses that Dark Horse Comics undertakes were specifically referenced. Of these, the BI (Business Industrial) Zone probably comes the closest. The BI Zone permits outright such uses as publishing, business offices, warehousing and distribution. Superficially, these use types appear to describe Dark Horse Comics operations. However, the BI Zone does not clearly define the issue of scale for these uses.

Although Dark Horse Comics is a publishing company, none of the actual printing occurs in either of the buildings under their use. In addition, initial distribution of product also does not occur from these sites. Both printing and major distribution occur elsewhere. The office functions that are left do not have to be placed in the industrial business office category because the industrial activity they are associated with (the printing and production distribution) are occurring elsewhere.

The inventory storage and mail operations are uses that quite often are associated with commercial uses. For example, the C-C Zone allows department stores as an outright permitted use. Let's look at a typical department store, say "BEST". They have a shipping/receiving facility which includes one or more loading docks. They do advertising and catalog mailouts. They also have a large inventory area which stores materials for sale in boxes on shelves. These types of facilities are what Dark Horse Comics have at the Hamilton building right now. Upon seeing the inventory storage area it was quite apparent that I was not looking at a warehouse operation. The boxes are arranged on shelves, not pallets, and are in increments of a size to be easily moved about without the aid of a forklift. The materials on the shelves also are intended for short term storage only until they are sold. Such uses are not similar to traditional industrial warehousing in either scope or operation.

The uses occurring at the Hamilton building are accessory to the Dark Horse Comics operations located one block away at 10956 SE Main St.

Although I don't have actual square footage figures, the square footage of actual use is greater at the office site than at the Hamilton building due to its two full floors of operations. In addition, the office site employs approximately 80 people as opposed to 4-6 at the Hamilton building. The Zoning Ordinance does not specifically indicate that accessory uses must be limited to onsite uses. Therefore, it appears reasonable to link these sites together as primary and accessory uses to one larger operation.

Along similar lines to the above, Dark Horse Comics owns and operates the Pegasus and It Came From Outer Space book stores. One of the Pegasus stores is directly across Main Street from the Dark Horse Comics offices and one of the It Came From Outer Space stores is at Milwaukie Marketplace. Some of the inventory in the Hamilton building ends up at these retail outlets. Therefore, if you looked at the Dark Horse Comics operations in Milwaukie irrespective of location, you would see a full range of commercial uses including retail, inventory storage, mailing, and offices as part of their larger operation.

Conclusions

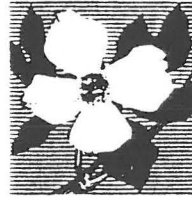
Dark Horse Comics' use of the main floor of the Hamilton building is interim in nature. The building needs extensive repair and renovation and Dark Horse Comics intends to return a large portion of it to retail and/or office use. Their use of the Hamilton building is not one of warehousing, but moreso in line with inventory storage and mail operations. This use is accessory to the Dark Horse Comics office and retail operations located at other, but nearby, facilities in the City.

Dark Horse Comics has expressed a willingness to cooperate with the City both in this analysis and in regards to downtown improvement plans.

Based on the above, no apparent zoning conflict is evident. Therefore, I strongly recommend the City inform Dark Horse Comics of this conclusion and offer to provide advice and/or process information to aid them in their renovation plans for the Hamilton building. Enlisting Dark Horse Comics' support at this time may provide benefits to the City in terms of near-future plan support for downtown upgrade and light rail planning efforts.

cc: Jim Crumley, Associate Planner

CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT
PUBLIC WORKS

3101 S E JOHNSON CREEK BLVD

TELEPHONE 852-4410

March 24, 1993

Dark Horse Comics
10956 SE Main St.
Milwaukie, Or. 97222

Attn: Tod Borleske

Re: Dark Horse Comics Use of Hamilton Building

As you are aware, City staff received a citizen's inquiry about warehouse operations being conducted in the former Hamilton Building. With your cooperation, Dave Krogh of the Community Development Staff conducted an evaluation which is now complete. This letter is intended to share the results of that evaluation with you.

According to the site evaluation, Dark Horse Comics is currently using about 30 percent of available floor area in the Hamilton Building, that area being a large portion of the main floor and a smaller portion of the second floor. The primary activities are temporary inventory storage and mailing operations.

As we understand the printing sector of your operation, actual printing and warehousing of Dark Horse publications occur offsite. The Hamilton Building is used for storage and mail-order processing of left-over copies of printings. Commercial orders for these residual printings are processed at the main Dark Horse building to the south.

Section 314.1 of the Milwaukie Zoning Ordinance indicates that warehousing is generally conducted in conjunction with manufacturing as primary activities on the same site. This is clearly not the case in the Hamilton building. Your storage of small-scale, left-over print inventory is connected with mail-order activities of that same print inventory. This is a much reduced storage and shipping operation than would be expected from a standard warehousing operation. Therefore, the City does not consider Dark Horse Comics inventory storage as fitting the City's definition of warehousing; and further, the City considers this inventory and mail order activity as a commercial accessory use to your main business operations conducted one block away.

The City is very interested in your plans for renovation of the Hamilton Building. We understand your preliminary intent is to move Dark Horse Comics inventory and mail order activities to the basement and to renovate the main and second floors for traditional commercial activities (retail trade and/or offices). If City staff can provide information to assist you, please do not hesitate to contact us.

Letter to Dark Horse Comics
March 24, 1993
Page 2

Again, thank you for your cooperation with this evaluation.

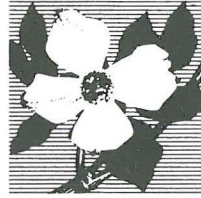
Sincerely,

A handwritten signature in cursive script that reads "Maggie Collins".

Maggie Collins
Community Development Director

cc: Dan Bartlett, City Manager
Dave Krogh, Associate Planner
Don Trotter, Planning Commission Chair

DK/jpg



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT
April 13, 1993

TO: MILWAUKIE PLANNING COMMISSION
THRU: MAGGIE COLLINS, COMMUNITY DEVELOPMENT DIRECTOR
FROM: DAVE KROGH, AICP, ASSOCIATE PLANNER
RE: ADDITIONAL PARKING DISCUSSION FOR CSO-93-01
(FIRST BAPTIST CHURCH)

One of the concerns raised by the Planning Commission at the March 9, 1993, public hearing for this application was that of what justification exists for the proposal of two separate off-site parking lots (Phases II and III). To address this and the other concerns of the Commission, staff presented a letter to Mr. Wood, in person, and mailed a copy to the First Baptist Church dated March 10, 1993. For the issue of parking, staff recommended the applicant provide a parking needs assessment and use frequency projections in order to assist the Commission in determining what parking need actually exists for the church.

The parking needs assessment and use frequency projections are based on actual observed parking use for various church activities at various times. For instance, observations should include a number of parking counts for Sunday services, evening services, and special activities. Based on these counts, estimations can be made (from attendance records) relative to holiday services (such as Easter, etc.). Observations should also include an analysis of onstreet parking to determine whether overflow is occurring out of the two parking lots the church is currently using.

Based on observed parking counts and estimated parking use for special events/services, and, knowing how many parking spaces are both currently available and potentially available for church use, a basis for establishing parking need would be provided.

Staff has already submitted a supplemental memo to the Planning Commission (dated April 13, 1993) which has addressed church parking in terms of what other jurisdictions and studies recommend. However, staff does not feel these alone are adequate to effectively establish church parking need. Therefore, staff recommends the First Baptist Church follow through with a parking needs assessment and use frequency projections as discussed above.

DK:jpg

cc: Jim Crumley, Associate Planner
File CSO-93-01



MSS Inc.

531 S.W. Fourth Street
Corvallis, Oregon 97333
Phone: (503) 753-1320
FAX: (503) 753-9422

BUILDING DESIGN
ENGINEERING CONSULTING
CONSTRUCTION MANAGEMENT
FINANCIAL SERVICES

March 16, 1993

BY FAX

IMF Development, Inc.
P.O. Box 151
Clackamas, OR 97015

Re: Milwaukie First Baptist Church
Response to Conditional Use Concerns Regarding CSO-93-01

1. Building height

- a) The building as designed is 25 ft. in height. This dimension is taken from the front driveway elevation to the point midway between ridge and eave lines.
- b) The ridge of the building is 34 ft. high with respect to the center line on Monroe and 32.5 ft. high with respect to the center line on Jackson Street opposite the new addition.

2. a) Landscaping coverage of the parent site 90,000 SF is 27,500 SF as per proposed development. This represents 30% landscaping coverage exclusive of sidewalks which are frequently included in such a calculation.


b) When the parking lot on the west side of 42nd Street is included, the % square footages changes as follows.

1) undeveloped as at the present

total lot area 105,000 SF, LS coverage 27,500 SF, 26%

2) as per proposed landscaping plan

total lot area 105,000 SF, LS coverage 33,225 SF, 31.5%


John Seaders

JS:kco

