

MILWAUKIE PLANNING COMMISSION
MINUTES
TUESDAY, JUNE 22, 1993

COMMISSION PRESENT

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

COMMISSIONERS ABSENT

None

STAFF PRESENT

Maggie Collins,
Community Dev. Dir.
Dave Krogh,
Associate Planner
Shirley Richardson,
Hearings Reporter

OTHERS

Karen O'Dowd, MDDA Director
George Hudson, Project Manager,
Portland Bureau of Parks

1.0 CALL TO ORDER

Chairwoman Lent called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS - None.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES - June 8, 1993

Carolyn Tomei moved to approve the minutes of June 8, 1993, as corrected. **Don Trotter** seconded. **MOTION CARRIED 7-0.**

4.0 PUBLIC COMMENT - None.

5.0 PUBLIC HEARINGS

5.1 Applicant: Mr. and Mrs. Eugene Breed
Property Owner: Mr. and Mrs. Eugene Breed
Location: 4487 SE Pennywood Drive
Proposal: Modify basement as secondary dwelling unit for family member

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Madam Chair explained the public hearing process. She then opened this hearing for a Conditional Use to allow for a secondary dwelling unit within the R-7 Zone. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if there were any Commissioners who visited the site. Five hands were raised. None of the Commissioners who raised their hands spoke to anyone at the site or noticed anything different from what is stated in the Staff Report. No one in the audience questioned the impartiality of any Commission member.

Dave Krogh reviewed Conditional Use CU-93-03 with the Commission. He stated that the Applicant proposes to convert the daylight basement area of their newly constructed home to a self-sufficiency unit for the applicant's mother. The R-7 Zone only allows single-family residential homes. There is a provision under Conditional Use provisions for an addition or internal modification for a secondary dwelling unit. The intent of that provision is not necessarily for family member use.

The house is under construction. The Applicant was in the process of having the basement converted without a structural permit when the inspector brought to his attention the need for a permit. The Applicant applied for the permit and Staff was informed that the conversion was for a family member, not a rental.

Criteria for this Conditional Use is found in Section 601.2 and 602.12 of the Milwaukie Zoning Ordinance. These criteria have been adequately addressed by the Applicant and Staff recommends approval with the two conditions listed in the Staff Report.

There was a question brought up about the deck on the site plan. The building permit on file was checked and the deck was not shown as part of that permit. The deck is for the main floor; it is at grade with the front of the house. From the back of the house, the deck takes on the configuration of a second floor deck, or a covered patio. The deck measures approximately 10'x20' and conforms with the setback and lot coverage requirements for the R-7 Zone. The Building Official will be contacting the Applicant for submittal of plans for the deck.

Applicant's narrative is attached to the Staff Report as Exhibit II and the current floor plan of the basement is Exhibit IV. The only difference in the floor plan would be that the wet bar will be converted into a kitchen area with a stove. Conversion from wetbar to kitchen will require a permit.

Phone calls were received inquiring about the proposal and concerns were raised that this can be turned into a full-time rental. The Applicant is agreeable to placing

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a deed restriction on his home to assure that it will not be used as a rental. A deed restriction is being requested in Condition #1 to provide a basis for enforcement action. Condition #2 requests that the Applicant provide the deed restriction prior to the issuance of the permit for the conversion of the wetbar into a kitchen.

QUESTIONS FROM THE COMMISSIONERS

Bill Johnson asked if there was an internal stairway that allowed access to the second floor of the house? **Dave Krogh** reported that the stairway inside connects both the upper and lower level of the house. The Applicant desires that this access continue to be connected for use by family members.

Don Trotter asked when the deed restriction will be required and how it will be incorporated in the conditions. **Dave Krogh** explained that Staff is recommending that the deed restriction occur prior to the issuance of the conversion permit to change the wetbar to a kitchen. Condition #2 refers to the issuance of this permit.

Madam Chair asked if the deck would affect the lot coverage for R-7 Zone. **Dave Krogh** explained that the deck is within the 35% lot coverage for the zone. It will be checked for conformity when final dimensions are supplied.

APPLICANT PRESENTATION

Speaking: Eugene Breed, 2151 SE Maple Street, Milwaukie

Mr. Breed stated that originally, at the beginning of construction of the house, it was not his intention to have his mother live with them. His mother's circumstances changed and it is his desire that she live with him. In order for her to have her own living quarters, it is necessary to make these internal changes to his basement. Externally the character of the house will look the same whether converted or not.

Mr. Breed stated that they are trying to follow all the necessary steps for meeting the laws and conditions for converting his home for his mother's use. The house has the character of all other houses in the area. He is not opposed to having the deed restriction on the house. He has no intention of renting this house out and hopes that the Planning Commission will allow him to make this conversion.

QUESTIONS FROM COMMISSIONERS - None.

TESTIMONY IN FAVOR

Speaking: Elaine Kelley, 6115 SE Taylor Ct., Portland

Ms. Kelley stated that Eugene Breed is her brother. There are three children in their family and they are all helping to support their mother. She explained that the mother now is living in a small apartment and the rent is becoming beyond their ability to continue to pay. Her mother is 75 years old.

Ms. Kelley stated that her mother has problems with the stairs at her apartment; her brother's house will have exterior access, so she will not have this problem. Her brother has four children and this would provide companionship for their mother. She stated that she hoped that the Planning Commission will approve the application.

COMMENTS OR QUESTIONS - None.

TESTIMONY IN OPPOSITION - None.

DELIBERATION AMONG COMMISSIONERS

Don Trotter stated that he felt this type of situation was the reason for drafting this portion of the Ordinance. He feels this is an appropriate use and commended the Applicant for following the rules necessary for this conversion.

Gordon Jones expressed opposition to requiring a deed restriction on the Applicant's home when others in the area do not have deed restrictions. The living space is not structurally separate from the house and he sees no need for the Applicant to have to have a permit to let his mother live in his basement.

He feels the intent of the Ordinance is to protect the privacy and buffer the neighbors, not to prevent renting to family or friends. It is out of line to require a deed restriction on someone's property. The criteria is being imposed selectively on one property owner; it would be different if all owners in the zone were required to have a deed restriction.

Madam Chair indicated that these criteria are required on any structure that is being used as a secondary living unit.

Dave Krogh stated that the phone calls received were neighbors voicing concern about a rental unit being constructed in a single-family residential area. If others

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in the area change their homes into rental units, they too would have to come to the City for a permit. If there is a rental situation and there is no permit, the City would treat it as a violation and enforcement action would be necessary.

Bill Johnson stated that there was no stipulation in the criteria that stated that the units had to be occupied by a member of the family. He feels that the deed restriction is unnecessary. **Dave Krogh** confirmed that there is no stipulation that the secondary dwelling unit must be occupied by a family member. There have been concerns in the past that single family units could be turned into "duplexes." This is a concern in the R-7 and R-10 zones because they are strictly single-family dwelling areas.

John Littlehales stated that criteria are needed to protect the character and integrity of the neighborhood. The impact of rentals in a residential zone are more cars and more people in a neighborhood. This particular application is not a concern, but rentals are a major concern for those in the area. He feels the deed restriction is appropriate.

Don Trotter stated that this proposed conversion will become a separate dwelling unit including full kitchen, bath, bedroom, and living area. This is different from renting out a bedroom and sharing kitchen and bath facilities.

Don Trotter moved to approve CU-93-03 based on the findings listed in Staff Report, subject to conditions #1 and #2 as listed in the Staff Report. **John Littlehales** seconded.

Discussion followed on the merits of the deed restriction condition.

Gordon Jones moved to continue hearing until Staff has had an opportunity for City Attorney review of a deed restriction. **Carolyn Tomei** seconded.

The Applicant was asked if continuing the meeting would cause a problem with his time allowances. **Mr. Breed** stated that he must have his mother moved by the end of this month. He stated that he is willing to accept the requirement for the deed restriction, but he would rather not have it on his house; it imposes something on him that others in his neighborhood do not have. He is doing what he needs to do to have his mother live with him.

Dave Krogh stated that the Applicant is actively completing the downstairs portion of his house. Without the permit, he could complete the downstairs without a

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kitchen and the mother could move in. The earliest Staff could get an answer back from the City Attorney to the Commission would be at the July 13th meeting.

Gordon Jones withdrew his motion to continue and moved to amend the motion for approval. He moved to change Condition #1 to read, "Secondary dwelling unit shall remain integral to the house and shall not be used as a separate rental." Further, that Condition #2 is changed by removing the second sentence. **Carolyn Tomei** seconded.

Don Trotter stated that the motion to change Conditions #1 and #2 impacts the intent of the original motion. Staff has found that the Applicant has met the criteria and the deed restriction is the only concern. The reason for the deed restriction is to address neighbor concerns and to maintain neighborhood integrity. The neighbors were notified; there are concerns that rental properties not be allowed in this area. The Applicant has complied with the criteria and the application should be approved as written.

The Commission voted on the motion to approve CU-93-03 as written. MOTION FAILED 3-4. Scott McClure, Carolyn Tomei, Bill Johnson, and Gordon Jones were in opposition.

Gordon Jones moved to approve CU-93-03 with the following changes: Condition #1 to read, "Secondary dwelling unit shall remain integral to the house and shall not be used as a separate rental. Internal access shall remain open between all floors." Further, Condition #2 is changed to read, "A building permit for a final conversion of the secondary dwelling unit shall be obtained by the Applicant." **Carolyn Tomei** seconded.

Don Trotter stated that he did not feel it was prudent to not enforce ordinances because other people may not follow them. As long as the ordinance is in place, there should be compliance. He has difficulty with the reasoning that if other people do not follow the ordinances, the ordinance should not be imposed. He is not voting in favor of this motion.

Madam Chair stated that she does not see any way to enforce the "no renting" portion of the motion should the family situation change or if someone else buys the property. She is not voting in favor of this motion.

John Littlehales stated that enforcement is difficult as it is, and this motion is taking out the one tool which enables enforcement on the rental possibility. Having the deed restriction at this point does not limit the property owner; it is intended for

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when new owners take over the property. The deed restriction is appropriate given the history of this particular development to maintain conformity and a sense of neighborhood. He is not voting in favor of this motion.

The Commission voted on the motion to approve CU-93-03 with changes to Condition #1 and #2. MOTION CARRIED 4-3. Chair Lent, Don Trotter and John Littlehales were in opposition.

Recess was taken at 7:50 p.m. and the meeting reconvened at 8:05 p.m.

6.0 CONSIDERATION ITEMS - None.

9.0 OTHER BUSINESS

9.1 Milwaukie Downtown Development Association (MDDA) 1993 Program - Karen O'Dowd

Madam Chair opened the floor for a presentation from the Milwaukie Downtown Development Association.

Speaking: Karen O'Dowd, MDDA Manager, 10952 SE 21st Street, Milwaukie

Ms. O'Dowd passed out the latest MDDA Newsletter and other information on the Association. She reviewed with the Commission her background in economic development for the past 15 years. She has been primarily involved in city, county, and governmental agencies. This is the first time she has been a manager of a downtown association.

She has written several documents for master plans and spoke at many public meeting. Plans she has written have been adopted and constructed and one has been nationally recognized. She has written millions of dollars of grants for historic areas and waterfront plans. She has conducted many public meetings for design guidelines.

Ms. O'Dowd stated that she is a firm believer in the main-street approach. Her strengths are in economic restructuring and design. The business mix and composition of business in the downtown area makes it a viable place for people to shop and want to do business.

Downtown Milwaukie needs "identity." She asked that the Planning Commission help with the process of "identity." Last month the Association contracted with a small firm to put together a Downtown Business Directory. This directory will list

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current businesses, their phone numbers and addresses. It will include a walking tour and points of interest as well. This is a commercial/retail tool to inform the people coming into Downtown Milwaukie about the variety and composition of all the different businesses in the City. The directory is scheduled to be available on July 10, 1993.

A parent association, the Oregon Downtown Development Association, provides services to help improve towns. This includes economic restructuring, business mix, business help, and attention to existing businesses. One project being considered is putting up a map which will shade businesses by type. You will be able to see at a glance the composition of business in the downtown area and it can be used as a recruitment guide for types of business and best locations for businesses.

Ms. O'Dowd stated that she would like to see Milwaukie get a "sense of place." She would like to see a design committee working with the community to develop guidelines for the City. This committee would consist of property owners, businesses in the downtown area, a member of the Planning Commission, Staff, and development firms.

8.0 NEW BUSINESS

8.1 Worksession: Springwater Corridor Master Plan

Madam Chair opened the worksession on the Springwater Corridor Master Plan. **Maggie Collins** stated that the Springwater Corridor Master Plan had been distributed last winter, but other activities have prevented review of the document until now. There is a portion of the Springwater Corridor in the Johnson Creek Boulevard area that was just annexed. She introduced George Hudson, Portland Parks Bureau, to the Commission.

Speaking: George Hudson, Portland Parks Bureau

Mr. Hudson presented copies of the monthly newsletter to the Commission. He stated that it contained current information on the Corridor, including times of the monthly walking tour.

The corridor is unique in that it passes through six jurisdictions. It is under the one ownership, City of Portland/Parks and Recreation. A door-to-door survey was taken to get concerns and issues from the residential properties in the area. 77% of the adjacent residential properties supported development in the corridor for recreation. Of the 23% that opposed, 89% of that group stated they would use the

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development if it occurred. The Master plan document is a result the information received from the survey and many public meetings discussing the issues.

The corridor is 17 miles long, extending from McLoughlin Boulevard to Boring. The Master Plan was 100 percent public driven by public need. The Master Plan was completed in October, 1992. A major funding source is ISTEPA, Intermodal Surface Transportation Efficiency Act; with a grant of \$2.75 million for development of the Corridor. The Master Plan covers phasing; Phase I is to be developed. Land acquisition is not included in this grant. They are hoping to acquire the land at the western end, across from McLoughlin Blvd. Additional funding is being applied for the east corridor to Boring.

The corridor continues from Boring, in the State Park's hands, to Estacada. There is a citizens group in Estacada that is supporting development of the section of the corridor in Estacada. Mount Hood National Forest is coming out with a line called the Oregon Links Trail, that will go from Estacada to the Pacific Crest Trail. The trail will be open to the public next summer from McLoughlin to Gresham.

John Littlehales asked if they were affiliated with the Rails to Trails? **Mr. Hudson** stated that the Rails to Trails is a group based in Washington DC and The Springwater Corridor is a member. They are strictly an advisory group and they have come out and toured the Corridor and offered assistance.

Don Trotter stated that Appendix F was not in his copy of the Master Plan. He asked about the adoption dates by jurisdictions? **Mr. Hudson** stated that METRO adopted the Master Plan by resolution that it was in compliance with the Trail portion of the Main Spaces Master Plan. The City of Portland adopted the Springwater Master Plan through an ordinance as the guiding document involving Springwater Corridor in November, 1992. Multnomah County and Gresham adopted the Master Plan in November, 1992. Clackamas County and City of Milwaukie are the last two remaining jurisdictions that have not adopted the Master Plan.

Bill Johnson asked if the Springwater Corridor included the railroad property between the Steel Bridge and Oregon City? **Mr. Hudson** stated that Portland Traction Company still has an active line through a portion of the Springwater Corridor. It is used for amusement purposes right now. Discussions will be underway to get joint usage of this line with the owner. This active right-of-way would allow for a trail as a western connection into downtown Portland, southward towards Milwaukie is being considered. Much of the line is through residential property.

Don Trotter asked for a copy of the Scenic Resources Protection Plan mentioned in the Master Plan. **Maggie Collins** stated that she would make sure that a copy would be made available to the Commissioners.

Don Trotter asked what type of intergovernmental agreement is proposed for Milwaukie and what kinds of things it would cover? **Mr. Hudson** stated that it would depend on the level of involvement Milwaukie would like to have with the project. The intergovernmental agreement covers the relationship that is developed that allows for corridor development, utilities, maintenance, and funding.

Don Trotter stated that he was surprised at the extent of the equestrian facilities. **Mr. Hudson** stated that the request for equestrian facilities was 80 percent in Portland/Gresham area.

Carolyn Tomei asked about enforcement? **Mr. Hudson** stated that there is a designated policeman to cover the corridor; he is an officer with the City of Portland. He has been coordinating with other police jurisdictions to handle calls. There will also be a Citizens Foot Patrol on duty.

7.0 OLD BUSINESS

7.1 Draft Executive Summary/Common Goals: Willamette River Corridor Coordination Project

Madam Chair opened discussion on the Willamette River Corridor Coordination Project. **Maggie Collins** reminded the Commission that the background report in the Commission packet will be used as a base for the joint worksession to be held on this issue with the City Council on Tuesday, July 6, 1993, at 5:45 p.m.

She asked that the Commission to file this information for later use with the Willamette River Master Corridor file.

Madam Chair informed the Commission that the field trip for this project on June 26 conflicts with "Festival Daze." **Maggie Collins** suggested rescheduling the tour for 6:30 p.m on June 29th. Commissioners will meet at the boat ramp.

9.3 Community Development Department Report

Springwater Corridor **Maggie Collins** indicated that Gresham has a mile and a half of trail developed. Receptivity and usage of this small portion is great; when this project is completed, it will be used. A lot of developed trails already in existence are being used for walking, jogging, running, and cycling.

It is Milwaukie's intent to adopt this Springwater Corridor Master Plan as an auxiliary document to the Comprehensive Plan. The Council has indicated favorably on a donation of \$10,000 of bikeway money to be used for the City of Milwaukie's stretch. Milwaukie must give a 20% match for the ISTEA funds. Maggie Collins stated that a revised copy of the Master Plan including all the appendixes will be distributed to the Commission members.

Citizen Involvement Maggie Collins indicated that City Council will be reviewing the Citizen Involvement Program on July 6th and it is hoped that authorization will be given to work on the formation of the Citizens Involvement Committee.

A draft document is being prepared for the Commission and will be presented as soon as it is completed.

Worksession With Public Works Department Maggie Collins reminded the Commission that Tim Corbett and Paul Roeger will be present at the next meeting for a worksession on pending issues.

Sign Ordinance Don Trotter informed the Commission that the City of Portland is involved with a lawsuit for obstruction in walkways regarding business signs and the blind. He asked that Staff review our Sign Ordinance to see how this issue is addressed.

METRO Representative Districts Don Trotter indicated that the new METRO representative districts have Milwaukie joined with Portland; it is not in the Clackamas County district. He asked how this will effect planning efforts of Milwaukie?

9.2 Planning Commission Advanced Training Notes

Madam Chair reviewed with the Commission notes she had taken at the Advanced Training Session for Planning Commissioners. She pointed out some areas to consider for discussion at another meeting:

- Legislative hearings can be a time for setting a vision and then creating a legislative policy to reflect the values of that vision. Every commissioner has a right to exercise his or her personal values, politically, in a legislative hearing. This is not possible in a quasi-judicial hearing.
- The Planning Commission should set standards for neighborhood compatibility in the Zoning Ordinance. From a legal standpoint, it would

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- be beneficial to set out criteria that is easy for applicants to interpret; set specific descriptions, and increments.
- Adult entertainment cannot be kept in any particular zone unless you move all your entertainment to that zone.
 - Clear language should be used for criteria (from a layman's point) for zoning ordinances.
 - When there is a question over testimony, specific criteria takes precedent over general criteria.
 - Each commissioner should read the Comprehensive Plan in total and be familiar with the ordinances.
 - Review and revise counter handouts; the Planning Commission is responsible for the community having available an understandable document.
 - The applicant has the burden of proof on findings; all Commissioners should go into hearing with a "no" in mind.
 - No decision is final until a final order is signed by the Planning Commission Chair and the appeal period has passed.
 - If there are any questions of Staff after Deliberation, the hearing should be reopened, have Staff make the comment, then close for Deliberation again. This will assure the question gets into the minutes.
 - The Applicant can be asked questions after the deliberation as long as no new evidence is brought up. If new evidence is presented, the hearing must be reopened for applicant presentation, testimony, and deliberation.

Madam Chair stated that she found the session very informative and recommended that the City purchase the handout, "Land Use Law Smorgasbord, Legal Tidbits for the Experienced Planning Commissioner."

10.0 NEXT MEETING: July 13, 1993

Gordon Jones moved to adjourn the meeting of June 22, 1993. Carolyn Tomei seconded. MOTION PASSED UNANIMOUSLY. Meeting adjourned at 9:45 p.m.



Pat Lent, Chair



Shirley Richardson, Hearings Reporter

AGENDA
MILWAUKIE PLANNING COMMISSION
Milwaukie Center, 5440 S.E. Kellogg Creek Dr.
Tuesday, June 22, 1993, at 6:30 p.m.

- 1.0 Call to Order
- 2.0 Procedural Questions
- 3.0 Consent Agenda
 - 3.1 Planning Commission Minutes: June 8, 1993
 - 3.2 City Council Minutes: May 18, 1993 upon approval by CC
- 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: Mr. and Mrs. Eugene Breed
Property Owner: Mr. and Mrs. Eugene Breed
Location: 4487 SE Pennywood Drive
Proposal: Modify basement as secondary dwelling unit for family member
- 6.0 Consideration Items - None
- 7.0 Old Business
 - 7.1 Draft Executive Summary/Common Goals: Willamette River Corridor Coordination Project
- 8.0 New Business
 - 8.1 Worksession: Springwater Corridor Master Plan
- 9.0 Other Business
 - 9.1 Milwaukie Downtown Development Association (MDDA) 1993 Program - Karen O'Dowd
 - 9.2 Planning Commission Advanced Training Notes - Pat Lent
 - 9.3 Community Development Department Report
- 10.0 Next Meeting:
 - 10.1 July 13, 1993

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

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

Date: June 22, 1993
File No.: CU-93-03

Application: Conditional Use to Allow a Secondary Dwelling Unit Within the R-7 Zone

Applicant: Mr. and Mrs. Eugene Breed

Property Owner: Mr. and Mrs. Eugene Breed

Location: 4487 SE Pennywood Dr.
 (Tax Lot 704 of Tax Map T2S R2E 6BB)

PROPOSAL

The Applicants propose to modify the basement of their newly constructed home as a secondary dwelling unit for a family member.

SITE DESCRIPTION

The site in question is located in the Pennywood Subdivision (Lot 3) at 4487 SE Pennywood Drive. A new house is in the process of being constructed on the site. The lot slopes downhill from south to north. The main floor is at grade with Pennywood Drive; however, because of lot slope, the rear of the house contains a daylight basement where the secondary dwelling unit is proposed. Behind this lot to the north is a drainage ditch which separates the Pennywood Subdivision from the North Clackamas School District #12 Administration property.

The site is accessed via Pennywood Drive to Freeman Road to Lake Road. Onsite parking consists of a built-in two-car garage and driveway parking for two additional vehicles. The site is fully served by City utilities and services.

PROCESS DESCRIPTION

The City has not received a request for a secondary dwelling unit since 1987. The secondary dwelling unit provisions within the Zoning Ordinance (Sections 103 and 602.12) allow either the conversion or addition of space to an existing dwelling unit for an additional dwelling unit. "Dwelling unit" means a living unit containing living space, bathroom and kitchen areas, which can be occupied by individuals or a family unit.

Typically, secondary dwelling unit requests have been for family members. The intent has been for family member(s) to be allowed to live semi-independently, but be close to other family members for living assistance. The primary concern that has always been raised with such requests is what might happen to a second dwelling space when the family need for use ceases. There is the potential that such a unit could become a rental unit. In higher density zoned areas, the rental concern may be less of an issue than in a lower density single family area. However, Section 602.12 does allow conditions of approval and deed restrictions which could preclude the rental use. In general, each request needs to be evaluated on its own merits and conditioned accordingly.

FINDINGS

1. This proposal is to allow conversion of existing basement space within a new house located at 4487 SE Pennywood Drive for a secondary dwelling unit within the R-7 Zone.
2. This proposal requires a conditional use permit as per Section 302.2D. (R-7 conditional uses) within the Zoning Ordinance. Criteria for allowing a secondary dwelling unit are those of Sections 601.2 and 602.12. These criteria will be addressed with separate findings.

3. Section 601.2A. requires:

The use meets the requirements of a conditional use in the zone currently applied to the site.

Secondary dwelling units are specifically referenced as a conditional use within the R-7 Zone in Section 302.2D.

4. Section 601.2B. requires:

The use meets the standards for the underlying zone.

The house construction has already been evaluated as for R-7 standards as part of Building Permit 93-208. Exhibit 1 shows R-7 setbacks being met. In addition, lot coverage is just under 30%, which is also the limit for lot coverage without a variance. Since this proposal involves conversion of existing interior space, the setback and other lot standards of the R-7 Zone will not be affected.

5. Section 601.2C. requires:

The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.

The proposal satisfies the following objectives and policies of the Residential Land Use and Housing Element of the Comprehensive Plan:

Goal Statement---The Applicants' narrative (Exhibit 2) states the existing dwelling and secondary dwelling will meet a specific housing need while preserving and enhancing local neighborhood quality and identity as indicated in the Goal Statement.

Objective #4, Policy 5---Since the secondary dwelling unit is a conversion of space within an existing dwelling, a single family dwelling unit size will be maintained, in keeping with the standards and lines of neighboring residences.

Objective #5, Policy 1---The Applicants state that the proposed secondary dwelling will create an attractive living environment while reducing costs for the Applicants' mother. Objective #5 encourages the building of adequate housing and utilizing resources to meet the needs of all segments of the population. The Applicants' mother is a member of a large and growing segment of elderly citizens who are in need of adequate housing while facing fixed, limited incomes. The Applicants' mother is at age where employment is not possible; her income is solely from social security benefits. Family members are not in a financial position to provide for a residence in a retirement community and the Applicants' mother is no longer able to meet the constantly rising cost of apartment rental. Residence in a secondary dwelling unit would allow for adequate housing and care. Additionally, because she would be in residence as a dependent, she would be eligible for health and medical benefits under the Applicants' health insurance.

6. Section 601.2D. requires:

The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

The site was created as Lot 3 of the Pennywood Subdivision for the express purpose of development with a single family residence. The main and upper level of the dwelling has been under construction following proper building permit procedures. The topography of the site allows for the utilization of a daylight basement as a secondary unit. This unit will not be visible from the front (street side) of the structure. The main and upper levels of the house conform and are comparable with other neighborhood residences.

7. Section 601.2E. requires:

The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

All public services and utilities are in place and adequate to serve both the dwelling and secondary unit. Sidewalks are to be provided as part of the house construction. No other provisions are noted in the City Office Engineer's memo of May 26, 1993 (Exhibit 3).

8. Section 602.12A.1. requires the unit be in conformance with the site development requirements of the underlying zone. This has already been addressed in Finding 4 (above).
9. Section 602.12A.2. requires one off-street parking space to be provided for the secondary unit in addition to the required parking for the primary dwelling.

Section 500 of the Zoning Ordinance requires two parking spaces (one, of which, must be covered) for the primary dwelling. Currently, the house has a two-car garage and two spaces within the driveway for parking. This exceeds the primary and secondary parking requirements by one space.

10. Section 602.12A.3. requires a garage or carport not be converted into a secondary dwelling unit unless parking requirements are met.

This criterion is not applicable. No carport or garage conversion is being proposed.

11. Section 602.12A.4. requires public facilities be adequate to serve both units.

Public Works has verified all facilities as adequate for the proposal. A memo has also been provided (Exhibit 3) indicating no additional requirements or concerns with the secondary dwelling unit proposal.

12. Section 602.12A.5. requires one unit to be occupied by the property owner.

The owners are applying for this permit to allow their mother to live in the secondary unit. The owners will reside in the primary unit.

13. Section 602.12A.6. allows the Planning Commission to impose conditions intended to protect the privacy of the neighbors, and other conditions deemed necessary.

Since the proposal converts existing space within the primary dwelling, staff has not identified conditions that might be necessary for purposes of neighbor privacy. The Applicants have stated, however, they have no desire to convert the secondary dwelling unit into a rental and would willingly comply with reasonable conditions to prevent rental conversion. These conditions could include deed covenants or conditions imposing enforcement if the secondary unit is converted to a rental.

14. Section 602.12A.7. authorizes conditions of approval to be imposed as part of deed restrictions.

This section gives the Commission the authority to impose a restriction on use of the secondary dwelling unit as a rental unit by notation as a deed restriction. This restriction would show up on a title report and future sale of the property with a rental unit would be hindered by this restriction.

15. Section 602.12A.8. indicates no more than one additional unit is allowed.

The Applicants are proposing only one secondary dwelling unit.

16. Section 602.12B.1. requires the converted space cannot exceed 50% of the existing structure.

The main and upper floors of the primary dwelling measure approximately 3008 square feet. The secondary unit conversion area is approximately 1140 square feet, at 38%, considerably less than 50% of the primary dwelling living quarters.

17. Section 602.12B.2. requires that each unit be a minimum of at least 250 square feet in area.

The proposed secondary unit is approximately 1140 square feet in area, greatly exceeding the 250 square feet minimum.

18. Section 602.12B.3 requires that no fire escape or exterior stair for access to an upper level may be located on the front of a building.

Access to the secondary unit is through an exterior rear door, and an interior main stairwell door. No front accesses are proposed to the secondary dwelling unit. Additionally, the secondary unit will be equipped with fire and smoke alarms.

19. The South Metro Fire Marshal has responded (in file) that the proposed plan does not appear to have any difficulties in meeting Fire Codes.
20. Construction of the secondary dwelling unit commenced prematurely but was stopped by City building staff. The Applicants then filed for a permit to convert the basement into living and recreation space (no kitchen) pending the outcome of CU-93-03. Exhibit 4 shows the currently approved floor plan. The "wet bar" area would be converted to a full kitchen area upon approval of CU-93-03.
21. The Applicants' narrative (Exhibit 2) has been submitted in a similar format to the Staff Report. Staff has referred to the narrative and borrowed findings from it, when appropriate, for inclusion within staff's findings.

CONCLUSION

The findings above and the attached exhibits indicate the proposed secondary dwelling unit meets applicable criteria and can be approved subject to conditions.

RECOMMENDATION

For approval of CU-93-03 based on the above findings and subject to the following conditions of approval:

1. The secondary dwelling unit shall not be used as a rental once the family need for the unit ceases. A deed restriction shall be developed by the Applicant for approval by City staff which clearly indicates the non-rental restriction. The document containing the deed restriction shall be recorded by the Applicant, upon City staff approval, with Clackamas County; and one recorded copy shall be provided to the City as verification of recording.
2. A building permit for the final conversion of the secondary dwelling unit shall be obtained by the Applicant. Condition 1 shall be met prior to issuance of the permit.

EXHIBITS

1. Site Plan
2. Applicants' Narrative
3. Office Engineer's Memo
4. Floor Plan
5. Vicinity Map

NORTH CLACKAMAS DISTRICT PROPERTY

SCHOOL

TREES

NORTH

SLOPE

DRAINAGE DITCH

71.5'

SLOPE

DECK

5.5'

56.0'

10.0'

DECK

ADJACENT LOT

99.6'

38.0'

PROPOSED LIVING AREA

ADJACENT LOT

108.68'

GARAGE

PORCH

22.6'

EUGENE + SHARON BREED
4487 PENNYWOOD DR
22-2E-68B-704
SCALE 3/16" = 3'

DRIVEWAY

EXHIBIT # 1
DATE 6/22/93
SUBMITTED BY Applicant
RECEIVED CU-93-03

WATER MAIN

11.39'

16.12'

PGE

48.09'

SEWER
PGE
WATER LINE
GAS

PENNYWOOD DRIVE

Eugene Breed

Date: May 16, 1993
Application: Conditional Use in R-7
Applicant: Eugene and Sharon Breed
Property Owner: Same as above
Location: 4487 S.E. Pennywood Drive, Milwaukie, OR 97222
Tax Lot R22E 6BB 704

Proposal:

This proposal is to construct an additional dwelling unit as part of the single-family unit at the above site. Purpose of the additional unit is to provide housing for an elderly family member. Owners have no intention of utilizing the additional unit for rental purposes at this time or at anytime in the future. The secondary unit will be a self-sufficient apartment-type unit to be occupied by the Applicant's mother, located in the lower day-light basement of the above dwelling. Access to the apartment will be through an exterior rear door as well as through a stairwell to the main floor of the house.

601.2A Does the use meet the requirements of a conditional use in the zone currently applied to the site?

Yes, pursuant to Section 302.2 D. Secondary-dwelling unit

601.2B Does the use meet the standards for the underlying zone?

Yes, the site plan provided meets the standards required for R-7 zoning

601.2C Does the proposal satisfy the goals and policies of the Comprehensive Plan which applies to the proposed use?

Yes.

- A. Dwelling and secondary dwelling will meet a specific housing need while preserving and enhancing local neighborhood quality and identity as stated the in Goal statement of the Plan.
- B. As mentioned in Objective #4, Policy Paragraph #5, the dwelling and secondary unit will maintain a single-family building size, it will not be overly large, or visually imposing in anyway but will maintain the standards and lines of other community residences.

| | |
|--------------|-----------|
| EXHIBIT # | 2 |
| DATE | 6/22/93 |
| SUBMITTED BY | Applicant |
| | 4 pages |
| RECEIVED | CU-93-03 |

C. Referring to Objective #5, Policy Paragraph #1, the proposed secondary dwelling will create an attractive living environment while reducing costs for the Applicants' mother. Objective #5 encourages the building of adequate housing and utilizing resources to meet the needs of all segments of the population. Applicants' mother is a member of a large growing segment of elderly citizens who are in need of adequate housing while facing fixed, limited incomes. Applicants' mother is at an age where employment is not possible; her income is solely from social security benefits. Family members are not in a financial position to provide for residence in a retirement community and applicant's mother is no longer able to meet the constantly rising cost of apartment rental.. Residence in the secondary dwelling unit would allow for adequate housing and care. Additionally, because applicants' mother would be in residence as a dependant, she would be eligible for health and medical benefits under applicants health insurance.

601.2D Are the characteristics of the site suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features?

Yes. Please refer to Site Plan. The main and upper level of the dwelling has already been granted all required permits and is in compliance with all codes. The topography of the site allows for the utilization of a daylight basement as the secondary unit which from the front of the dwelling is not visible. The main and upper levels of the dwelling conform in all respects to the other neighborhood residences.

601.2E Is the proposed use timely considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use?

Yes. All main services—electricity, water, sewer, gas, telephone, garbage, cable television are provided. Mass transit transportation is available one block north of Pennywood Drive on Lake Road. Service is provided to Downtown Portland as well as to the Milwaukie Transit Center.

602.12

A1. Is the Unit in conformance with the side development of the underlying zone?

Yes. Please refer to above 601.2B, the site plan provided meets the standards required for R-7 zoning

602.12

A2. Is off-street parking provided for the secondary unit in addition to the required parking for the primary dwelling?

Yes, Two parking spaces are provided in the garage, two spaces are provided in the driveway and two spaces are provided on the street. However, Applicants' mother does not drive and does not own a vehicle; she will utilize the transportation system mention above.

602.12

A3. This section is not applicable to variance.

602.12

A4. Are public facilities adequate to serve both dwelling units as determined by the Public Works Department?

Yes. The secondary dwelling unit is self-contained with the respect to the following: separate gas water heater attached to the primary unit's gas line, separate electricity which is fed from primary unit's main meter base, separate gas furnace which is fed from the primary unit's gas line.

602.12

A5. Is one unit occupied by the property owner?

Yes, property owners occupy the primary dwelling, however, residence should be considered a single-family dwelling since secondary unit will be occupied by applicants' dependant mother. The secondary dwelling will not at any time in the future be utilized for rental purposes; the residence will remain a single-family dwelling.

602.12

A6 May the Planning Commission impose conditions regarding height modification, landscaping, buffering and orientation of the secondary unit to protect privacy of neighbors, and other conditions deemed necessary.

Yes. Applicants are willing meet reasonable conditions imposed by the Planning Commission.

602.12

A7. Will conditions of approval be a part of the deed restrictions?

Yes. Applicants are willing meet reasonable conditions.

602.12

A8. Is more than one additional unit being applied for?

No. The secondary dwelling unit proposed herein is the only unit planned; there are no future plans for additional dwelling units.

601.12B Requirements for conversion of existing space

B1. Does the conversion exceed 50% of the existing structure:

No. The main and upper floors of the primary dwelling measures approximately 3008 sq. ft. The secondary unit measures approximately 1140 sq. ft.

B2. Is each unit a minimum of 250 sq. ft.

Yes, please refer to approximate measurement above.

B3. Is a fire escape or exterior stair for access to an upper level located on the front of the building?

No. Access to the secondary unit is through an exterior rear door, and an interior main stairwell door. Additionally, the secondary unit is equipped with fire and smoke alarms.

MEMORANDUM

RECEIVED

MAY 26 1993

PLANNING

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger *PR*
Office Engineer

RE: CU-93-03
4487 S.E. Pennywood Drive

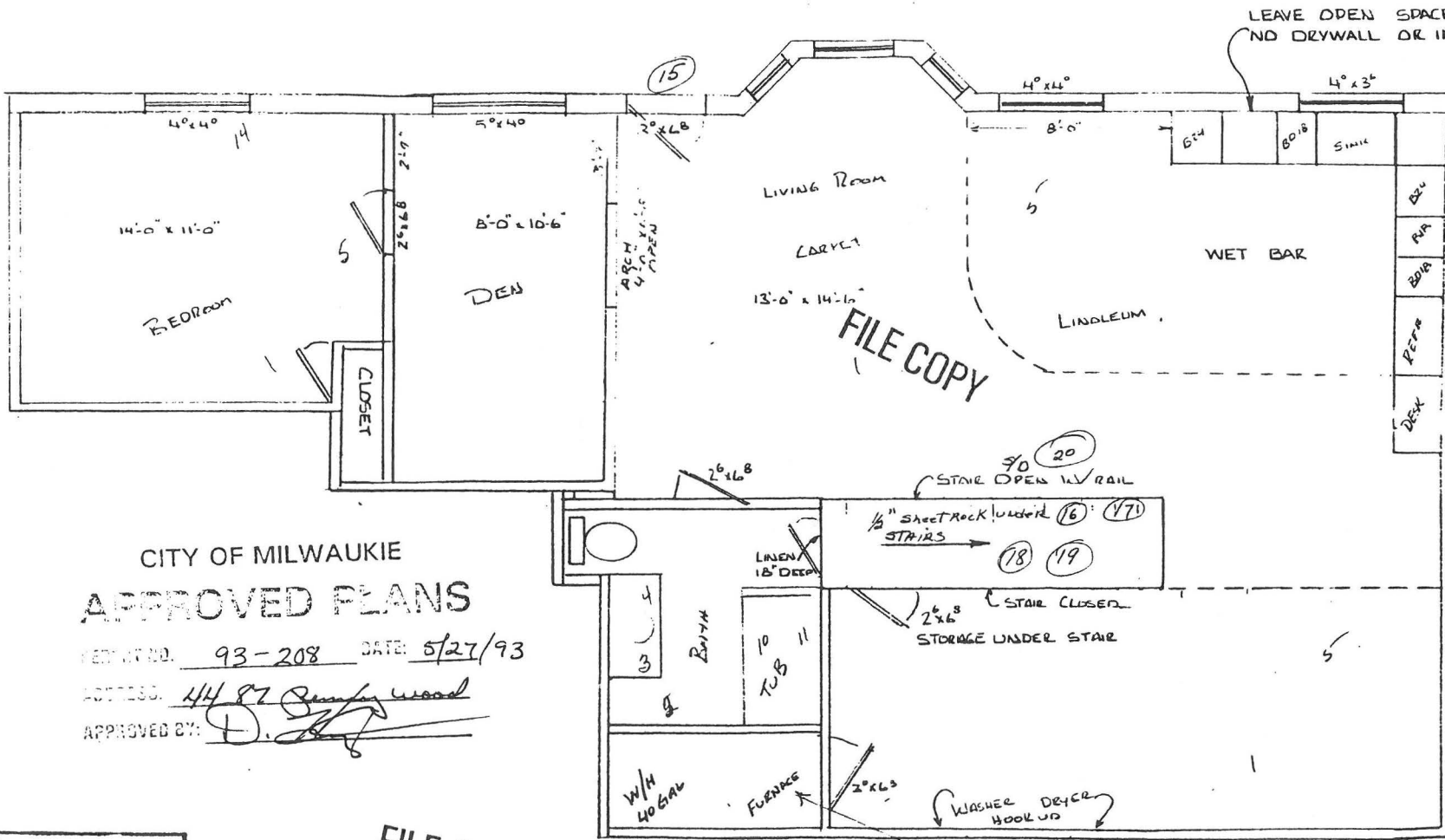
DATE: May 26, 1993

City sanitary sewer and water are available to the new house. The addition of the additional living unit will not change the connection to City utilities. Only one unit will be used to calculate the system development charges since this is not a separate rental unit and has direct access to the remainder of the house.

No additional requirements will be made by Public Works on this applicant. All Public Works requirements were placed on the original building permit.

Public Works has no problem with approval of this conditional use application.

| | |
|--------------|-----------------|
| EXHIBIT # | <u>3</u> |
| DATE | <u>6/22/93</u> |
| SUBMITTED BY | <u>Staff</u> |
| RECEIVED | <u>CU-93-03</u> |



CITY OF MILWAUKIE
APPROVED PLANS

PERMIT NO. 93-208 DATE: 5/27/93
 ADDRESS: 4487 Ramsey Road
 APPROVED BY: [Signature]

FILE COPY

Revised Plans

| | |
|----------|--------------|
| RECEIVED | EXHIBIT # |
| CI-93-03 | 4 |
| | DATE |
| | 6/22/93 |
| | SUBMITTED BY |
| | Applicant |

SCALE 1/4" = 1'-0"
 Combustion AIR to be in accordance with Chap-15-CH60

P-2965

VICINITY MAP

D. L. C.

NW 1/4 NW 1/4 SEC. 6 T.2S. R.2E. W.M.
CLACKAMAS COUNTY

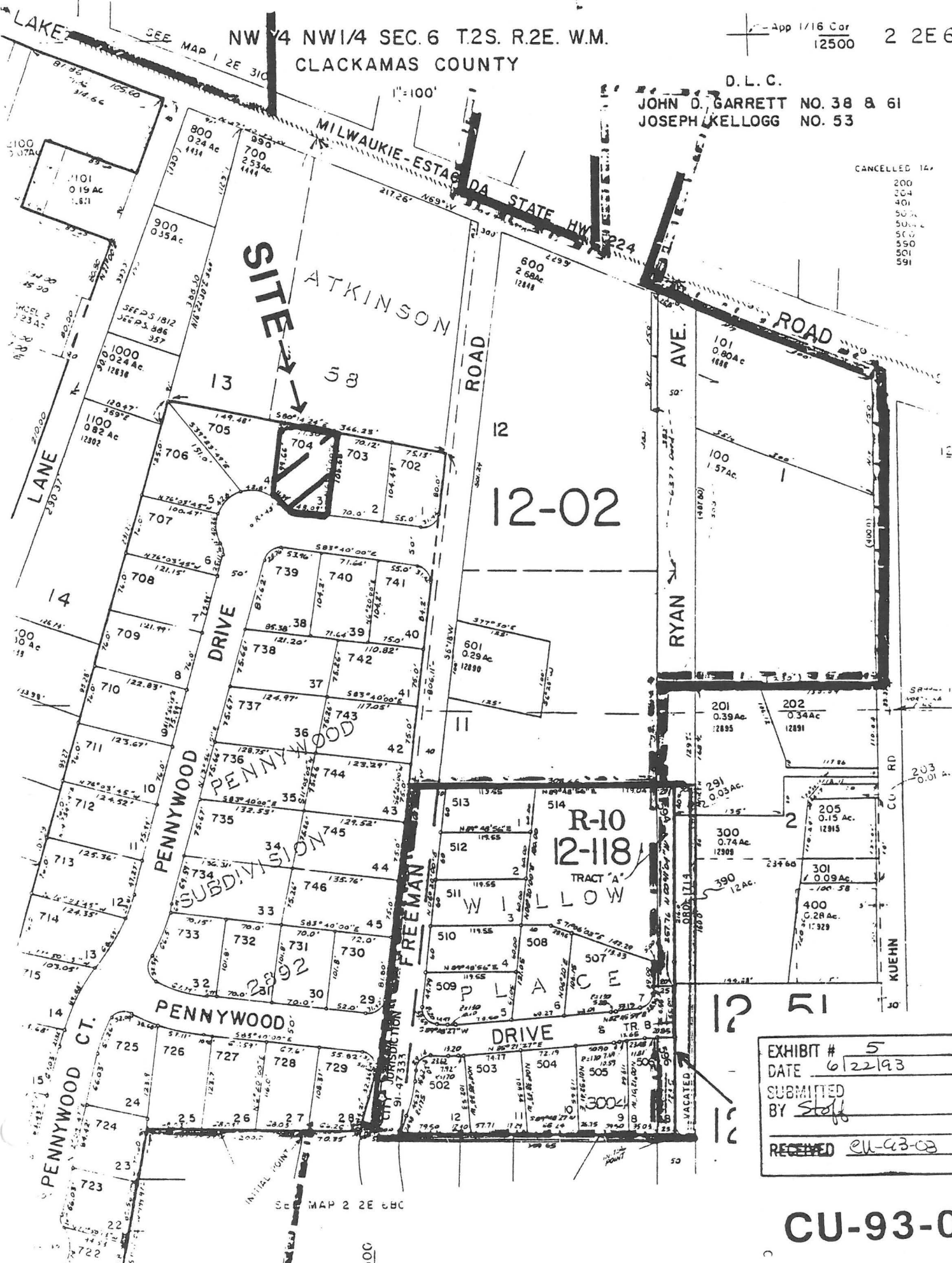
App 1/16 Cor
12500 2 2E 68E

D. L. C.

JOHN D. GARRETT NO. 38 & 61
JOSEPH KELLOGG NO. 53

CANCELLED 147

- 200
- 204
- 401
- 501
- 502
- 503
- 504
- 505
- 506
- 507
- 508
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- 515



| | |
|--------------|----------|
| EXHIBIT # | 5 |
| DATE | 6/22/93 |
| SUBMITTED BY | Staff |
| RECEIVED | eu-93-03 |

CU-93-03

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

June 15, 1993

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

Action Requested

For your information.

Background

1. SPRINGWATER CORRIDOR MASTER PLAN. This is a reminder to bring your copy of the Plan to the next meeting.
2. Willamette River Corridor Master Plan. Attached are the executive summary and proposed common goals parts of the document. **A JOINT WORKSESSION WITH THE CITY COUNCIL IS SCHEDULED FOR:**

**Tuesday, July 6, 1993
5:45 p.m.
Milwaukie Center**

We discussed a two-hour field trip prior to that worksession. Most people were agreeable to a Saturday morning. The only available Saturday is June 26th. Other options are to meet in the early evening (6 p.m.) on a Tuesday or Thursday. We will finalize this date at the June 22nd meeting.

3. Attached are materials that Pat Lent received at the Advanced Planning Commissioners Training Workshop. They are to be discussed as Agenda Item 9.2.

4. In keeping with the principle of "complete packet review", you will receive the final Streets/Road vacation procedure and additional comments on the escrow procedures at the next worksession with Public Works. Due to the special 90th Anniversary celebration last week, the Council review of the Milwaukie Tree Committee structure is delayed. A short oral report on this and on the Citizen Involvement Program will be given next meeting.

cc: C.D. Staff
Dan Bartlett

DRAFT

WILLAMETTE RIVER CORRIDOR COORDINATION PROJECT

BACKGROUND REPORT

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WILLAMETTE RIVER CORRIDOR COORDINATION PROJECT

-- EXECUTIVE SUMMARY --

The Willamette River Corridor Coordination Project is an interjurisdictional, interagency study of the Willamette River from the Clackamas County/City of Portland line upriver to the confluence of the Tualatin River in West Linn. The participants include the cities of Milwaukie, Lake Oswego, Oregon City, West Linn, and Clackamas County and the Division of State Lands. The State Marine Board, Oregon Department of Fish and Wildlife, and State Parks have also been active in this study.

The result of this study will be a set of Common Goals shared by all jurisdictions, identified projects and programs to achieve those goals, and strategies for implementation. To date, the Common Goals have been drafted for review by each of the participating jurisdictions and the Division of State Lands. Projects, programs, and implementation strategies are still to be developed.

COMMON GOALS

The following Common Goals were developed with the considerations that competing goals need to be balanced and that different options make sense in different parts of the river.

1. Reduce Conflicts among Water and Land Uses.
 - reduce conflict among major water users
 - reduce riveredge landowner concerns while increasing stewardship
2. Restore and enhance the Willamette River as a natural resource.
3. Promote responsible management and development of the Willamette River and shoreline.
 - identify local community access points and destinations
 - identify public facility, business, and tourism opportunities

MAJOR FINDINGS

A coordinated assessment of the river and adjacent land was conducted to determine the major land use and water use issues. Through a series of information gathering interviews, the issues of many of the user groups on the Willamette were identified. These groups included anglers, motorized and nonmotorized boaters, residents, commercial river traffic, business boosters, visitor services, and environmental interests.

1. General knowledge of boating safety rules and courtesy is weak. This is compounded with a lack of licensing requirements and the common practice of drinking alcoholic beverages while boating.
2. Competition for limited water surface leads to conflicts among the various users. Typically, there is conflict between all major user groups depending on area of use, time of year, day of week, and time of day.

3. There are few public parks, facilities, and access points along the river. Those that are available are heavily used.
4. There is growing concern among the public that the number of private docks, log rafts, and other in-water structures are proliferating. The result is less water surface available for public and wildlife use.
5. The requirements to preserve vegetation in the Willamette River Greenway ordinances are poorly heeded. Many residents have removed the riparian vegetation and some have armoured the banks, thereby diminishing the natural resource values and wildlife habitat of the river.
6. Riveredge residents receive many benefits from living on the water, but also experience problems such as trespass, noise, and theft.
7. There are important wildlife corridors and habitat areas that need protection and restoration.
8. There are opportunities to develop visitor facilities and connect river attractions to expand tourism businesses.

COMMON GOALS

Overall considerations for goals:

- Balance competing goals
- Seek the optimum combination
- Determine what makes sense for different parts of the river

GOAL AREA I. CONFLICT RESOLUTION AMONG WATER AND LAND USES

A. WATER USERS

Problem Statement: Many conflicts exist among users of the Willamette River. The major users include anglers, nonmotorized and motorized recreational boaters, commercial river traffic, and personal watercraft users (such as jet skiers). The conflicts among these groups vary by season, time of day, and type of use. The limited usable water surface area further compounds the problem.

Goal: Reduce the conflicts among the major water users.

Example Objectives to achieve Goal:

- * identify and agree upon general areas and times of usage for the river
- * develop water safety training
- * preserve river areas for public use with no or limited development

B. RIVEREDGE RESIDENTS AND BUSINESSES

Problem Statement: The adjacent residential properties on the Willamette River experience the benefits of the river and many associated problems. Trespass on private property, inappropriate behavior by river users, and excessive noise from motorized boats and jet skis are the most common complaints from this community. Conversely, the public using the river also feels imposed upon by riveredge property owners when in-water development such as docks and log rafts occupy river surface that would otherwise be used by the public.

Goal: Reduce riveredge landowner concerns while at the same time fostering a greater sense of river stewardship among all users.

Example Objectives to achieve Goal:

- * increase police patrols of the river
- * develop a neighborhood river watch and reporting system
- * identify areas where in-water development and fills will have no or limited impact on other water users and the conditions under which certain types of developments will be permitted

GOAL AREA II. STRENGTHEN THE RIVER AS A NATURAL RESOURCE

Problem Statement: Many of the natural resource values of the Willamette River Greenway have been damaged by development and need restoration and protection. Fill and removal, armouring the riverbank, and in-water structures diminish natural values. Many property owners in the Greenway do not follow the proper riparian edge requirements.

Goal: Restore and enhance the Willamette River as a natural resource.

Examples of Objectives to achieve Goal:

- * Strengthen enforcement of Greenway ordinances to prevent further degradation
- * Develop a revegetation program for the Greenway
- * Restore fish habitats
- * Protect urban wildlife (i.e. Blue Heron rookeries)
- * Identify areas of conservation
- * Identify in-water projects that conserve and/or restore the fish, wildlife, riparian edge, and wetland values.

GOAL AREA III. RESPONSIBLE MANAGEMENT AND DEVELOPMENT OF THE WILLAMETTE RIVER AND SHORELINE

Problem Statement:

The shoreline of the Willamette (beaches, islands, and riverbank) in the study area is the point where the various values, needs and benefits of the river intersect. The shoreline includes opportunities for local access, expanded recreation, commercial, and industrial development. These must be carefully balanced with the needs of the natural environment, river users, and residents. The cities, county, and state and federal agencies can work together in partnership to achieve balance in shoreline and in-water development.

A. LOCAL COMMUNITY ACCESS

Goal: Identify what types of local access and recreational development opportunities are suitable and practical in the Willamette River study area

Examples of Objectives to achieve Goal:

- * Develop local neighborhood parks and facilities
- * Create destinations along the river for boaters, anglers

B. BUSINESS, PUBLIC FACILITIES AND TOURISM

Goal: Identify what types of business, public facilities, and tourism development opportunities are suitable and practical in the Willamette River study area

Examples of Objectives to achieve Goal:

- * Identify what development makes sense and where
- * Identify benefits and trade-offs of development
- * Develop facilities to support fishing tourism
- * Identify new funding sources

FINDINGS

The following three information sources were used to collect findings for the study.

FOCUS GROUPS

Group interviews, or focus groups as they are commonly called, are groups of approximately 6–10 people that meet one time with a facilitator to discuss a selected topic. Group interviews are not statistically valid and do not purport to represent the larger population. The purpose is to gather information, both objective and subjective, from people who have knowledge or a stake in that subject area. Questions are designed to be open ended with limited "prompting" from the facilitator. This encourages free and spontaneous input which helps identify key issues that may not otherwise surface within a structured, closed question format. Another key element of group interviews is interaction between participants. Ideas are shared and new ones are developed from the different perspectives and experiences the participants bring to the interview.

For the Willamette River Corridor Coordination Project, several subject areas were identified by the Technical Advisory Committee. These included anglers, motorized and non-motorized boaters, residents, commercial river traffic, businesses boosters, and visitor services. Participants were identified through various sources and were chosen to represent diversity within the subject area they were asked to discuss.

EXPERT INTERVIEWS

Experts in several subject areas related to the Willamette River Corridor were individually interviewed to gather objective information. Experts were consulted in the areas of environmental resources, surface water management, fish and wildlife, sheriff patrol, fishing guides, wetlands, and economic development.

MAP INFORMATION

Much information was available in mapped form from the Army Corps of Engineers, Oregon Department of Fish and Wildlife, the State Marine Board, the Division of State Lands, and from the land use plans of participating jurisdictions. Findings from these visual information forms are incorporated into the findings in the related subject area.

Pages 6–30 are the summaries of the findings from these three information sources.

PLANNING COMMISSION ADVANCED TRAINING
NOTES

- I. LEGAL PERSPECTIVES & ATTORNEY'S ADVICE (JEFFREY CONDIT, LK.OSWEGO CITY ATTORNEY)
 - A. LEGISLATIVE : SET A VISION AND MAKE POLICY TO REFLECT COMMUNITY VALUES. EXERCISE PERSONAL VALUES POLITICALLY.
 - B. GOAL 5 (NATURAL AND HISTORICAL RESOURCES): "ENDLESS PROCEDURE WITH NO POLICY."
 1. IDENTIFY, ESEE (NO MINIMUM QUALIFICATIONS FOR SOMEONE TO DO THIS), ADOPT POLICY.
 2. LAKE OSWEGO'S PROCEDURE: MAKE A LIST, ALLOW THEM TO GET OFF, AND DO IT CASE BY CASE.
 - C. STATE LAWS AND PC'S AUTHORITY TO FOLLOW THEIR VISION.
 1. APPLICANT MUST HAVE CLEAR CRITERIA TO MEET, AND, IF APPLICANT CARRIES OUT THE CRITERIA, SHOULD BE AWARDED.
 2. PC SHOULD SET STANDARDS FOR NEIGHBORHOOD COMPATIBILITY (FOR INSTANCE):
 - a. SAME RELATIVE SIZE LOT
 - b. % TRAFFIC INCREASE
 - c. % NOISE INCREASE (IN dB'S)
 - d. DELINEATE AESTHETICS
 - D. ADULT ENTERTAINMENT CANNOT BE KEPT IN PARTICULAR ZONE, UNLESS ALL ENTERTAINMENT IS KEPT TO THAT SAME ZONE.
 - E. FASANO VS. WASHINGTON COUNTY
 1. SET THE PRECEDENT FOR DUE PROCESS
 - a. PRESENT : APPLICANT, PROPONENT, NEUTRAL, OPPONENT
 - b. REBUTTAL ONLY ON ISSUES RAISED. (ANYTHING NEW BROUGHT UP SHOULD BE OPEN FOR PROPONENT, NEUTRAL, OPPONENT)
 2. CALLED FOR IMPARTIAL DECISION MAKER
 - a. EX PARTE, BIAS, CONFLICT OF INTERESTS.
 - b. WHEN IN DOUBT, ANNOUNCE. (CONFLICT OR BIAS)
 - c. IF OPPORTUNITY TO CHALLENGE PC'S NOT TAKEN WHEN OFFERED, THE AUDIENCE CAN'T CHANGE THEIR MINDS LATER.
 - F. CRITERIA
 1. IS IT APPLICABLE? IS IT COMPLETE?
(HAS STAFF LEFT OUT ANYTHING?)
 2. IS IT CLEAR LANGUAGE? (IF WE CAN'T UNDERSTAND IT, PUBLIC PROBABLY CAN'T EITHER).
 3. STAFF SETS CRITERIA AND RECOMMENDS
 4. PC USES CRITERIA, ADDS TO, INTERPRETS IN LIGHT OF TESTIMONY.
 5. SPECIFICS TAKE PLACE OVER GENERAL CRITERIA. INTERPRETATION WITH NO CONFLICT TAKES PRECEDENT OVER INTERPRETATION WITH CONFLICT

G. PROCEDURAL HINTS:

1. IF SOMETHING IS LEFT OUT OF THE STAFF REPORT, THE APPROPRIATE TIME TO BRING IT UP IS AFTER STAFF PRESENTATION.
2. IF CONDITIONS ARE APPLIED TO ONE CASE, FROM THAT POINT ON THEY SHOULD APPLY TO ALL (BONDING, FOR EXAMPLE)
3. ANY QUESTIONS AFTER CLOSURE FOR STAFF, SHOULD REOPEN, COMMENT, AND RECLOSE. QUESTIONS FOR APPLICANTS, OR OTHERS TESTIFYING ARE OK AFTER CLOSURE, UNLESS NEW EVIDENCE IS PRESENTED IN THE ANSWER. IN THAT CASE, SHOULD REOPEN FOR TESTIMONY PRO, NEUTRAL, AGAINST, REBUT, AND THEN AGAIN RECLOSE.
4. ALL DECISIONS MUST BE SIGNED BY THE COMMISSION CHAIR AND BE THROUGH THE APPEAL PERIOD BEFORE THE DECISION IS FINAL.

H. CONFLICTING TESTIMONY:

1. REASONABLE AND SUBSTANTIAL FROM EXPERTS, TAKE THE ONE YOU BELIEVE.
2. NOT EXPERTS, IGNORE BOTH.

I. TAKINGS

1. NOT AN ISSUE TO BE CONSIDERED BY THE PC.
2. UPON APPEAL, APPLICANT MUST PROVE ALL ECONOMIC VALUE IS GONE.

II. TOOLS

- A. READ COMP PLAN IN TOTAL. BE VERY FAMILIAR WITH THE ORDINANCES.
- B. ABOVE DOCUMENTS MUST BE AVAILABLE FOR INSPECTION.
- C. COPIES CAN BE SOLD AT REASONABLE CHARGE THAT IS COST RELATED.
- D. PC IS RESPONSIBLE FOR COMMUNITY HAVING AVAILABLE AND UNDERSTANDABLE DOCUMENTS.
- E. POSSIBLE PC PROJECT: REVIEW AND REVISE HANDOUTS AT COUNTER.

III. FINDINGS

- A. APPLICANT HAS BURDEN OF PROOF. THIS MEANS A COMMISSIONER SHOULD GO INTO A HEARING WITH A 'NO' TILL THE APPLICANT PROVES OTHERWISE.
- B. FINDINGS SHOULD PROTECT PC FROM ARBITRARY DECISIONS (SHOULD NOT BE BASED ON FEELINGS)
- C. THE FINDINGS MUST BE FACTUAL AND THE FACTS MUST MATCH
- D. PC SHOULD EXPLAIN THOUGHT PROCESS IN MAKING HIS/HER DECISION, BY QUOTING THE FINDINGS THAT WERE PERSUASIVE.
- E. DON'T ARGUE POINTS MADE. THAT IMPLIES PC'S MIND HAS BEEN MADE UP.
 1. DON'T BE A PROSECUTING ATTORNEY.
 2. YOU ARE THERE TO L-I-S-T-E-N.
 3. THREE STEPS TO REACHING YOUR DECISION:
 - a. STATE ULTIMATE FACT "THERE IS A PUBLIC NEED TO CHANGE FROM RESIDENTIAL TO COMMERCIAL"

b. STATE FACTS THAT SUPPORT THE ULTIMATE FACT "THERE IS NO PROPERTY ZONED COMMERCIAL WITHIN A 5 MILE RADIUS; MARKET RESEARCH INDICATES A NEED"

c. STATE REASONS WHY THE FACTS SUPPORT THE ULTIMATE FACT. "AS A RESULT OF TESTIMONY STATING LACK OF COMMERCIAL PROPERTY IN A 5 MILE RADIUS, AND THE MARKET RESEARCH, I'M CONVINCED THERE IS A PUBLIC NEED TO CHANGE FROM RESIDENTIAL TO COMMERCIAL"

III. STATE LEGISLATION PENDING

A. LOCAL GOVERNMENT MANDATES, LAND USE PLANNING ISSUES, AGRICULTURAL/RESOURCE ACTIVITY, ANNEXATION / BOUNDARY COMMISSIONS, COMP PLAN REQUIREMENTS, ENERGY FACILITIES SITING, FARM AND FOREST ZONES, HISTORIC AND CULTURAL RESOURCES, HOUSING, LAND USE BOARD OF APPEALS, LCDC RESTRUCTURING, LCDC URBAN GROWTH MANAGEMENT STUDY IMPLEMENTATION, LAND DIVISIONS, SECONDARY/MARGINAL LANDS, SPECIAL DISTRICTS, TAKINGS, URBAN GROWTH BOUNDARY EXPANSION, ZONING. ATTACHMENTS.

B. FOR PARTICULAR DETAILS OF HB/SB #'S CONTACT THE LEAGUE OF OREGON CITIES OR THE ASSOCIATION OF COUNTIES.

IV. NEW TOOLS

A. COMMUNITY VISIONING

B. THE EVERGREEN SPECIFIC PLAN

C. NEOTRADITIONAL TOWN PLANNING

1993 OREGON LEGISLATURE
MAJOR BILLS RELATED TO LAND USE PLANNING

LOCAL GOVERNMENT MANDATES

HB 2465 [State Pay for Mandates on Local Government]
Bill Summary: Requires State of Oregon to pay usual and reasonable costs incurred by local governments in carrying out programs or increased level of program services required by state. Requires enactments that establish such programs to carry appropriation for purpose of paying costs.
Sponsor/Requestor: Interim Committee on Government Mandates

LAND USE PLANNING ISSUES

ADULT BUSINESSES

SJR 29 [Allow Local Regulation of Nude Dancing]
Bill Summary: Proposes constitutional amendment to allow prohibition or regulation of nude dancing in public places and places of business. Submits resolution to people at next general election.
Sponsor/Requestor: Senator Kennemer; others

HJR 57 [Allow Local Regulation of Adult Material]
Bill Summary: Proposes constitutional amendment to allow city or county to adopt zoning ordinance that prohibits location of adult-oriented materials or services business within 1,400 foot radius of school zone or residential neighborhood. Submits resolution to people at next general election.
Sponsor/Requestor: Not Listed

HB 3494 [Regulate Zoning of Adult Businesses]
Bill Summary: Allows city or county to adopt zoning ordinance regulating adult-oriented materials or services business. Takes effect on effective date of House Joint Resolution 57.
Sponsor/Requestor: Not Listed
[See Also: Zoning]

AGRICULTURAL/RESOURCE ACTIVITY

SB 116 [Limits Lawsuits, City Authority over Agricultural Activity]
Bill Summary: Protects agricultural activities on specified lands from certain civil actions and local government ordinances.
Sponsor/Requestor: State Department of Agriculture

HB 3196 [Protects Resource Activities from Suit, Nuisance]
Bill Summary: Prohibits certain public and private rights of action and claims for relief by nonresource interests that would impact resource activities on specified lands.
Sponsor/Requestor: Larry Trosi, Oregon Farm Bureau

ANNEXATION / BOUNDARY COMMISSIONS

SB 267 [Effective Date of Boundary Change]
Bill Summary: Specifies effective date of boundary changes for voting purposes.
Sponsor/Requestor: Secretary of State, Oregon Association of County Clerks

SB 659 [Remove Water/Sanitary Facilities After Annexation]
Bill Summary: Allows city, after annexation, to remove facilities of sanitary authority or water supply authority from annexed area without need for finding by county governing body that authority cannot provide adequate service to area within reasonable time.
Sponsor/Requestor: Roger Westensee, Mayor of Central Point

HB 2217 [Establish New Annexation Plan Method of Annexation]
Bill Summary: Provides additional procedure for annexation of territory to city or district from within urban growth boundary. Provides procedures for adoption of annexation plan by city or district and for submission of annexation plan to electors of city or district and territory to be annexed.
Sponsor/Requestor: DLCD
[See Also: DLCD Urban Growth Management Study Implementation]

HB 2530 [Any City Get Service from District without Annexation]
Bill Summary: Deletes conditions currently required for annexation of city to district for purpose of receiving service from district. Allows initiation of such annexation proceeding at discretion of city governing body.
Sponsor/Requestor: Tillamook Rural Fire Protection District

HB 2533 [Some Double/Triple Majority Annexations to Voters]
Bill Summary: Allows "double-majority" and "triple-majority" city and district annexations to be submitted to electors in affected territory when that territory is within jurisdiction of local government boundary commission.
Sponsor/Requestor: Not Listed *prop owners, electors,*

HB 2534 [Procedure to Establish Urban Service Boundary Between Cities]
Bill Summary: Creates procedure for establishing urban services boundary between cities. Requires election in affected territory prior to establishment of urban services boundary
Sponsor/Requestor: Not Listed

HB 3181 [Abolishes Lane County Boundary Commission]
HB 3316 [Abolishes Lane County Boundary Commission]
HB 3411 [Abolishes Lane County Boundary Commission]
Bill Summary: Abolishes local government boundary commission in Lane County. Terminates proceedings pending before commission. Distributes commission funds on pro rata basis to cities, counties and districts that paid assessments levied by commission for fiscal year beginning July 1, 1992. Takes effect January 1, 1994. All bills have identical content.
Sponsor/Requestor: HB 3316, Harold Chapman; HB3181 and HB 3411, Not Listed

HB 3229 [Abolishes Boundary Commissions]
Bill Summary: Abolishes local government boundary commissions exercising jurisdiction in Clackamas, Lane, Multnomah and Washington Counties. Terminates proceedings pending before boundary commission on effective date of Act. Transfers remaining funds to General Fund on effective date of Act. Takes effect on June 30, 1995.
Sponsor/Requestor: Not Listed

HB 3470 [Water District Pay SDCs for Withdrawn Area]
Bill Summary: Requires that withdrawn water district transfer to annexing city sum equal to moneys paid by property owners as SDC to district.
Sponsor/Requestor: Springfield Utility Board

COMPREHENSIVE PLANNING REQUIREMENTS

SB 97 [Periodic Review Transfer to 91 Process]
Bill Summary: Terminates temporary Dept. of Land Conservation and Development periodic review procedure for local government land use plans. Transfers all pending periodic reviews to system enacted in 1991.
Sponsor/Requestor: DLCD

SB 122 [Coordinated Planning; Service Agreements with Special Districts]
Bill Summary: Allows coordinated planning for urban growth to be required by Land Conservation and Development Commission in certain instances. Provides cooperative means for provision of urban services by coordination agreements.
Sponsor/Requestor: Governor Roberts
[See Also: DLCD Urban Growth Management Study Implementation; Special Districts]

SB 378 [Needed Housing Include Accessory Dwelling Units]
Bill Summary: Defines "accessory dwelling unit." Expands definition of needed housing to include accessory dwelling units.
Sponsor/Requestor: Oregon Manufactured Housing Association
[See Also: Housing]

SB 908 [Include Schools in Comprehensive Plan, State Grants]
Bill Summary: Requires school facility plan in comprehensive plan for high growth areas. Appropriates money from General Fund to DLCD for grants to assist with school facility plans.
Sponsor/Requestor: Beaverton School District
[See Also: Special Districts]

ENERGY FACILITIES SITING

SB 1016 [Limit Review of Energy Facility Siting]
Bill Summary: Excludes certain energy facilities from requirement to obtain site certificate from Energy Facility Siting Council. Modifies process for obtaining energy facility site certificate. Consolidates process for obtaining permits and licenses for energy facility. Consolidates appeals process for approval or denial of permit or license for energy facility.
Sponsor/Requestor: Various Utilities

FARM AND FOREST ZONES

SB 891 [Single-Family Dwelling on Any Lot]
Bill Summary: Guarantees right to establish single-family dwelling on any lot of record. Defines "lot of record".
Sponsor/Requestor: Senator Bunn; Others

HB 2594 [Expands Authority for Replacement Dwelling in Farm Zone]
Bill Summary: Expands instances in which replacement dwellings are allowed in farm zones.
Sponsor/Requestor: Oregonians in Action

HB 2613 [Land Division Allows Farm Dwelling]
Bill Summary: Allows establishment of farm dwelling by allowing land division in broader circumstances.
Sponsor/Requestor: Oregonians in Action

HB 2688 [Adds Authorized Dwellings in EFU Zone]
Bill Summary: Modifies establishment of single-family residential dwellings on certain land zoned for farm use.
Sponsor/Requestor: Oregon Lands Coalition

HB 3527 [Single-Family Dwelling in Farm/Forest Land]
Bill Summary: Establishes procedure for approval of single-family dwellings on lots of record or lands zoned for farm or forest use. Defines "lot of record."
Sponsor/Requestor: Not Listed

HISTORIC AND CULTURAL RESOURCES

SB 480 [Refuse Historic Property Designation]
Bill Summary: Allows certain property owners to refuse to consent to form of historic property designation.
Sponsor/Requestor: Dennis Goecks, Yamhill Co. Commissioner

HB 2007 [Owner Refuse Historic Property Designation]
Bill Summary: Allows specified property owners to refuse to consent to any form of historic property designation.
Sponsor/Requestor: Yamhill County Board of Commissioners

HB 2124 [Modifies Historic Property Tax Break]
Bill Summary: Modifies special tax assessment law with respect to certain historic properties. Creates Historic Assessment Review Committee.
Sponsor/Requestor: State Historic Preservation Office

HOUSING

SB 333 [Raises Threshold Definition of Mobile Home Parks]
Bill Summary: Changes definition of "manufactured dwelling park" and "mobile home park".
Sponsor/Requestor: Senator Dwyer

SB 378 [Needed Housing Include Accessory Dwelling Units]
Bill Summary: Defines "accessory dwelling unit." Expands definition of needed housing to include accessory dwelling units.
Sponsor/Requestor: Oregon Manufactured Housing Association
[See Also: Comprehensive Planning Requirements]

SB 957 [New Development Have Bikepath to School]
Bill Summary: Requires certain residential developments to have bicycle and pedestrian routes to schools.
Sponsor/Requestor: Senator Roberts

HB 2747 [Preempts Vacation Rental Ban Ordinance]
Bill Summary: Prohibits governing body of city from enacting ordinance prohibiting rental of vacation dwellings. Provides exception for vacation dwellings in low-density residential areas designated by governing body. Allows governing body of city to enact ordinance establishing procedures for regulating rental of vacation dwellings.
Sponsor/Requestor: Not Listed

HB 2752 [Prohibits Ban on Renting Parts of House]
Bill Summary: Limits city or county authority to prohibit owner of single-family home from renting portion of home to another.
Sponsor/Requestor: Not Listed

HB 2835 [Manufactured Home in Single-Family Zone]
Bill Summary: Require certain land zoned for single-family residences to allow manufactured homes.
Sponsor/Requestor: Oregon Manufactured Housing Association; Oregon State Tenants Association; Mobile Home Owners Association
[See Also: Zoning]

HB 2914 [Prepare Housing Cost Impact Statement]
Bill Summary: Requires preparation of housing cost impact statement when local governments or certain agencies or special districts propose rule or ordinance for adoption.
Sponsor/Requestor: Oregon State Home Builders Association

LAND USE BOARD OF APPEALS

HB 2020 [LUBA Awards Attorneys Fees]
Bill Summary: Directs Land Use Board of Appeals to award attorney fees and expenses to prevailing party.
Sponsor/Requestor: Jerald M. Powell, Goose Hollow Planning Committee

HB 2028 [Increases LUBA Filing Fee]
Bill Summary: Increases Land Use Board of Appeals filing fee.
Sponsor/Requestor: LUBA

HB 2595 [Modifies LUBA Review]
Bill Summary: Modifies proceedings of Land Use Board of Appeals concerning review of decisions.
Sponsor/Requestor: Oregonians in Action

LCDC RESTRUCTURING

HB 2715 [Limits LCDC Authority, Planning/Zoning to Local Government]
Bill Summary: Limits authority of LCDC to matters of statewide concern. Defines "matters of statewide concern." Subjects planning and zoning matters of local significance to authority of local governments.
Sponsor/Requestor: Oregonians in Action

HB 2735 [Regional Land Use Advisory Board, Public Hearing Before Rule]
Bill Summary: Modifies composition of LCDC. Creates regional advisory committees. Expands hearing requirements before rule is adopted.
Sponsor/Requestor: Not Listed

HB 2926 [Elect LCDC by Congressional District]
Bill Summary: Increases number of members of Land Conservation and Development Commission. Provides for election of members by congressional districts. Provides first election at November 1994 general election.
Sponsor/Requestor: Not Listed

HB 3525 [City/County Members on LCDC]
Bill Summary: Expands and prescribes membership of Land Conservation and Development Commission.
Sponsor/Requestor: Not Listed

HB 3526 [Limits LCDC Appeal of Local Decisions]
Bill Summary: Limits authority of DLCD to appeal certain local government decisions.
Sponsor/Requestor: Not Listed

LCDC URBAN GROWTH MANAGEMENT STUDY IMPLEMENTATION

SB 221 [Coordinated Planning; Service Agreements with Special Districts]
Bill Summary: Allows coordinated planning for urban growth to be required by Land Conservation and Development Commission in certain instances. Provides cooperative means for provision of urban services by coordination agreements.
Sponsor/Requestor: Governor Roberts
[See Also: Comprehensive Planning Requirements; Special Districts]

HB 2217 [Establish New Annexation Plan Method of Annexation]
Bill Summary: Provides additional procedure for annexation of territory to city or district from within urban growth boundary. Provides procedures for adoption of annexation plan by city or district and for submission of annexation plan to electors of city or district and territory to be annexed.
Sponsor/Requestor: DLCD
[See Also: Annexation/Boundary Commissions]

LAND DIVISIONS

SB 246 [Procedures to Approve Faulty Lots/Parcels]
Bill Summary: Allows city or county to approve creation of certain purported lots or parcels under certain conditions.
Sponsor/Requestor: Real Estate Section, Oregon State Bar

HB 2190 [Removes Appeal Procedure]
Bill Summary: Removes certain appeal requirements under delegation by city or county to planing commission concerning subdivisions and partitions. Removes certain fees charged for appeal of planning decisions.
Sponsor/Requestor: DLCD

HB 2384 [Expands Definition of Easements]
Bill Summary: Expands definitions relating to easements.
Sponsor/Requestor: Real Estate Section, Oregon State Bar

HB 2792 [Plat Exceptions]
Bill Summary: Provides exception to partition plat recording requirement for parcels created in excess of 10 acres, unless city or county enacts ordinance requiring recording. Provides that private easements are not extinguished by sale of lot or parcel. Provides that replat does not serve to vacate public street or road.
Sponsor/Requestor: Not Listed

HB 3403 [Survey Requirement for Government Partition]
Bill Summary: Removes state requirement for survey of partition. Allows local government to impose survey requirement.
Sponsor/Requestor: Dick Briggs

HB 3490 [Revise Subdivision Plat Approval]
Bill Summary: Requires subdivision plats to be approved by chairperson of county governing body instead of by majority of members of governing body.
Sponsor/Requestor: Multnomah County

SECONDARY / MARGINAL LANDS

SB 130 [Repeals Marginal Lands]
Bill Summary: Repeals marginal lands provisions. Makes related changes.
Declares emergency, effective on passage.
Sponsor/Requestor: DLCD

SB 612 [Repeal Marginal Land, Expand Non-Farm Dwelling]
Bill Summary: Repeals marginal lands provisions. Expands opportunities to site nonfarm dwellings in eastern Oregon. Makes related changes. Declares emergency, effective on passage.]
Sponsor/Requestor: Committee on Agriculture & Natural Resources

HB 2758 [Repeal Marginal Lands, Requires Certain Zoning]
Bill Summary: Establishes criteria for zoning secondary land, high value farmland and primary forestland. Repeals marginal lands. Designates responsible government entity for land classification. Defines terms.
Sponsor/Requestor: Oregonians in Action

HB 3511 [Repeals Marginal Lands]
Bill Summary: Repeals marginal lands provisions. Makes related changes.
Declares emergency, effective on passage.
Sponsor/Requestor: Not Listed

SPECIAL DISTRICTS

SB 221 [Coordinated Planning; Service Agreements with Special Districts]
Bill Summary: Allows coordinated planning for urban growth to be required by Land Conservation and Development Commission in certain instances. Provides cooperative means for provision of urban services by coordination agreements.
Sponsor/Requestor: Governor Roberts
[See Also: Comprehensive Planning Requirements; DLCD Urban Growth Management Study Implementation]

SB 908 [Include Schools in Comprehensive Plan, State Grants]
Bill Summary: Requires school facility plan in comprehensive plan for high growth areas. Appropriates money from General Fund to DLCD for grants to assist with school facility plans.
Sponsor/Requestor: Beaverton School District
[See Also: Comprehensive Planning Requirements]

SB 1001 [Create Police Service Districts]
Bill Summary: Allows creation of police service districts as municipal corporations to provide police protection and other law enforcement services. Establishes duties and powers of district and board of directors. Provides that police department and police officers of district are municipal police department, municipal police officers, and peace officers for purposes of specified state laws.
Sponsor/Requestor: Mike Storey

HB 2340 [Municipal Water from Districts]
Bill Summary: Allows irrigation district to provide water for domestic, municipal, and industrial purposes, providing district service of furnishing water for irrigation is not impaired. Subjects district furnishing water to municipality to approval by municipality.
Sponsor/Requestor: Oregon Water Resources Congress

HB 2511 [District Contract for City Police/Fire]
Bill Summary: Allows domestic water supply district to contract with contiguous city for police and law enforcement services for inhabitants of district. Allows district moneys to be used to pay for services.
Sponsor/Requestor: City of Manzanita

HB 2689 [Repeals Sunset on Soil Water District Property Taxes]
Bill Summary: Continues beyond January 1, 1996, authority of certain soil and water conservation districts to assess, levy and collect ad valorem taxes on real property. makes such taxing power permanent.
Sponsor/Requestor: Not Listed

HB 3191 [Consolidation of Some School Districts]
Bill Summary: Requires noncontiguous school district territory having at least 100 students to become part of contiguous district by school board action by September 1, 1996, or by boundary board action effective March 1, 1997.
Sponsor/Requestor: Jennings Lodge Organization for Quality Localized Education

HB 3233 [Adds Law Enforcement District to BPSST Laws]
Bill Summary: Adds county service district authorized to provide enhanced law enforcement services to definition of "law enforcement unit." Adds member or officer of county service district authorized to provide enhanced law enforcement services to definition of "police officer."
Sponsor/Requestor: Not Listed

HB 3520 [Create Joint Sanitary/Water District]
Bill Summary: Establishes procedures for creation of joint water and sanitary authority. Provides that board of joint water and sanitary authority consists of five or seven members elected from authority at large. Allows petition or resolution for formation of water or sanitary authority to declare that some or all of existing districts within proposed authority are dissolved upon formation of proposed authority. Includes other provision.
Sponsor/Requestor: Special Districts Association of Oregon

TAKINGS

SB 829 [Compensation for Certain Takings]
Bill Summary: Requires compensation to be paid by regulating entities for certain types of restrictions on use of private property. Specifies exception. Applies to regulation adopted after January 1, 1994
Sponsor/Requestor: Senator Johnson; others

HB 2408 [Compensate Property Owners for Land Use "Taking"]
Bill Summary: Allows local government, special district, or state agency to compensate property owner for loss of value based on land use decision that deprives property owner of reasonable economic use of any portion of land.
Sponsor/Requestor: Representative Bill Markham

HB 2935 [Attorney General Adopt Guidelines on Takings]
Bill Summary: Requires Attorney General to adopt guidelines relating to constitutional "takings" issues. Requires Attorney General's office to review agency action that has "takings" implications.
Sponsor/Requestor: West Amazon Basin Landowners Association

HB 3087 [Require Compensation for Takings]
Bill Summary: Requires compensation be paid by regulating entities for certain types of regulation affecting private property. Applies to regulations adopted after January 1, 1994.
Sponsor/Requestor: Not Listed

HB 3128 [Compensation for Regulation]
Bill Summary: Requires compensation to be paid by regulating entities for certain types of regulation on private property. Applies to regulations adopted after January 1, 1994.
Sponsor/Requestor: Senator Rod Johnson

URBAN GROWTH BOUNDARY EXPANSION

SB 837 [No UGB on Specially Assessed Land Without Service]
Bill Summary: Provides certain land subject to special farm use assessment may be considered when determining whether or expand urban growth boundary.
Sponsor/Requestor: Jon Chandier, Common Ground

HB 3501 [Inventory Some Land Uses, Expand Urban Growth Boundary]
Bill Summary: Requires certain land use goal inventory by June 1, 1994.
Requires UGB to be expanded under certain specified circumstances.
Sponsor/Requestor: Not Listed

WETLANDS

HB 3328 [Conforms Wetland Definition to Federal Law]
Bill Summary: Conforms state "wetlands" definition to federal provisions.
Sponsor/Requestor: Oregon Association of Realtors

HB 3502 [Limits Removal Permit Comment, State Wetland Regulations]
Bill Summary: Specifies certain requirements pertaining to certain official comments made by state agencies. Directs establishment of consistent wetlands regulations.
Sponsor/Requestor: Not Listed

ZONING

HB 2835 [Manufactured Home in Single-Family Zone]
Bill Summary: Require certain land zoned for single-family residences to allow manufactured homes.
Sponsor/Requestor: Oregon Manufactured Housing Association; Oregon State Tenants Association; Mobile Home Owners Association
[See Also: Housing]

HB 3285 [Allow Alteration of Non-Conforming Use Property]
Bill Summary: Requires city ordinance relating to land use planning or zoning to allow alteration of nonconforming use of property.
Sponsor/Requestor: John Draneas

HB 3494 [Regulate Zoning of Adult Businesses]
Bill Summary: Allows city or county to adopt zoning ordinance regulating adult-oriented materials or services business. Takes effect on effective date of House Joint Resolution 57.
Sponsor/Requestor: Not Listed
[See Also: Adult Businesses]

[See Also: Bills under the "Farm and Forest Zone" and "Secondary/Marginal Lands" Categories]

JWC:
4/23/93

ments, which would narrow the scope of the authority, are being proposed and are expected to be heard in the near future.

- ▶ Senate Bill 301, a bill that creates the offense of using vehicle accident reports for commercial purposes and that imposes a maximum civil penalty of \$1,000 for violations, was approved on Friday by the Senate Judiciary Committee, chaired by Sen. Dick Springer (D-Portland). The bill applies to accident records and reports submitted to the Motor Vehicles Division, as well as to records and reports compiled or retained by police agencies. Sen. Bill Dwyer (D-Springfield), sponsored the bill because of some attorneys (and others) who use accident reports to generate contact lists for new business. The original bill would have prohibited law enforcement agencies from releasing the reports to "any person who intends to use the information for commercial purposes," but the League was concerned that it is difficult to know what a person's intent might be. Sen. Dwyer agreed to an amendment that would allow the agency to rely on a written certification of intent signed by the person requesting release of the report, and the amendment was approved by the Committee. SB 301 will be printed in the B-engrossed version and forwarded to the floor of the Senate in the next two weeks.

House Action

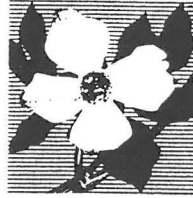
- ▶ On Tuesday, the full House passed a bill directing cities and counties to allow siting of manufactured housing units in all single-family zones. H.B. 2835, which exempts historic districts, passed by a margin of 53-5. The bill has been sent to the Senate where it awaits assignment to a Senate Committee. Voting against the land use mandate were Representatives Bill Markham (R-Riddle); Chuck Norris (R-Hermiston); Carolyn Oakley (R-Albany); John Schoon (R-Rickreall); Bob Shiprack (D-Beavercreek). Rep. Lee Beyer (D-Springfield) was excused. The League wishes to thank these members for their assistance.
- ▶ The House Committee on General Government, chaired by Rep. Cedric Hayden (R-Lyons) acted Thursday to send two land use bills, opposed by

CWC

cities, on to the floor of the full House. H.B. 2533 would require a public vote on all double and triple majority annexations. Provisions of the bill would apply only within Boundary Commission areas. The cities of Portland, Eugene, Beaverton as well as the League had expressed opposition to the bill. Committee members approved the bill by a 6-2 margin; Representatives Carl Hosticka (D-Eugene) and Sharon Wylie (D-Gresham) provided the two "no" votes. The Committee also acted on H.B. 2534 which establishes an exclusive method of establishing urban service boundaries within Boundary Commission Areas. The bill requires a single city, which is proposing a boundary, to place the proposed boundary on the ballot. If more than one city is proposing an urban service boundary, then the two or more city proposals are placed on a single ballot for a joint election. Voters living within the proposed boundary area - but not city residents - would vote on the measure. If no proposal receives a majority vote, no boundary is established and cities are prohibited from proposing another boundary for one year. The bill invalidate any urban service boundary adopted after January 1, 1993 and takes effect on passage. Discussion among the committee members suggested that there is some confusion about the constitutional and statutory authority required to implement this process and about exactly how the procedures established by the bill would actually work. Nevertheless, following the discussion, members voted 7-1 (Hosticka) to forward the bill to the House floor. Floor action is likely to occur early in the week of May 17th.

- ▶ The House Commerce Committee, chaired by Rep. Eldon Johnson (R-Medford), held work sessions on parental and family medical leave bills this week. HB 2879 was amended to include the provisions of HB 2661, which clarifies that the use of paid sick leave during parental leave is determined by the provisions of the employer's policy or the collective bargaining agreement, and passed out of committee to the House. HB 2009 (clarifying that family medical leave is only available if the employer has 50 or more full-time employees) was passed out of committee on Monday, and subsequently referred back to the Labor Subcommittee on Thursday. Further work is expected on this bill in the near future.

CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT
PUBLIC WORKS

6101 S.E. JOHNSON CREEK BLVD

TELEPHONE: 652-4410

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF MILWAUKIE

June 25, 1993

To: Milwaukie City Council
Thru: Dan Bartlett, City Manager
From: *MC* Maggie Collins, Community Development Director
Re: Joint City Council-Planning Commission Worksession:
Willamette River Corridor Coordination Project

Action Requested

For your information.

Discussion

Attached is an executive summary of the data and information thus far generated out of this multi--jurisdictional project. Funded by Community Development Block Grant monies and matching contributions from five local jurisdictions, the participants include the cities of Milwaukie, Lake Oswego, Oregon City, West Linn and Clackamas County and the Oregon Division of State Lands. The State Marine Board, Oregon department of Fish and Wildlife and State Parks have also been active in this project.

The study area includes the Willamette River from the Clackamas County/City of Portland line upriver to the confluence of the Tualatin River in West Linn; and the land area within the Willamette River Greenway boundary along the banks of this segment of the Willamette River.

Clackamas County staff will present this and other material at the worksession. The purpose of this meeting is to share information gathered so far about the River and how it is used; and to make sure that opportunities and obstacles affecting the local jurisdictions along the River's banks are clearly identified.

WILLAMETTE RIVER CORRIDOR COORDINATION PROJECT

-- EXECUTIVE SUMMARY --

Purpose: The Willamette River Corridor Coordination Project is an interjurisdictional study of the urban portion of the Willamette River and its shore in Clackamas County. This project looks at the river as a regional resource, rather than as components separated by jurisdictional boundaries. The study area includes Lake Oswego, Milwaukie, West Linn, Oregon City, and unincorporated Clackamas County (Oak Lodge). Additionally, the project is coordinating its inventory and planning with the Division of State Lands.

Participants: Two committees are guiding the project. The Policy Advisory Committee is composed of one elected official and two citizen representatives appointed by each jurisdiction. The Technical Advisory Committee includes staff from each jurisdiction and one representative for environmental interests, fishing, non-motorized boating, motorized boating, and business. Agency involvement includes the Division of State Lands, Marine Board, Oregon Department of Fish and Wildlife, and State Parks.

Product: The result of this study will be a Masterplan for the river and its shore. The plan will contain Common Goals shared by all jurisdictions and projects and programs to achieve those goals. The Masterplan will address general project feasibility and strategies for implementation. Funding and implementation, however, will occur primarily at the local level after the Masterplan's approval.

Progress to Date: The inventory phase is nearly complete. Interviews have been conducted with a variety of user groups and experts to identify the issues and opportunities in the study area. These will provide the basis for prioritizing projects and programs to be incorporated in the Masterplan. Common Goals have been drafted. These were developed from the major issue and opportunity areas and reflect the strong sentiment among the Policy Advisory Committee that a balance of uses is essential. Meetings with all jurisdictions and the Division of State Lands are being held in June to ensure that the project is on track.

Next Steps: In July the Policy Advisory Committee will begin to identify projects and programs to be included in the draft Masterplan. Two public meetings will be held in early fall to gather public input on the draft. A final Masterplan will be presented to the cities and County in late fall for approval. Certain elements of the plan, such as ordinance changes, may also be adopted by the jurisdictions at that time.

-- MAJOR FINDINGS --

The Willamette River in Clackamas County is the third most used waterway in the State. Combined with the predominately residential development along its banks, there are many opportunities for interaction between both land and water users. In order to assess the scope and magnitude of issues on the Willamette, several group and individual interviews were conducted. Findings from anglers, motorized and nonmotorized boaters, residents, commercial river traffic, business boosters, visitor services, and environmental subjects were collected. These groups included both factual and subjective information, as well as ideas on how to address problems. Participants were not asked to consider costs, feasibility, or funding at this stage of input. These will be addressed at the project/program identification phase.

One of the overriding findings is that there are conflicting opinions on how the river should be used. There is no one idea or vision that users have for the river. However, a number of points were heard over and over again in the interviews.

1. General knowledge of boating safety rules and courtesy is limited. This is compounded with a lack of licensing requirements and the common practice of drinking alcoholic beverages while boating.
2. Competition for limited water surface leads to conflicts among the various users. Typically, there is conflict between all major user groups depending on area of use, time of year, day of week, and time of day.
3. There are few public parks, facilities, and access points along the river. Those that are available are heavily used.
4. There is growing concern among the public that the number of private docks, log rafts, and other in-water structures are proliferating. The result is less water surface available for public and wildlife use.
5. Much of the riparian vegetation needed for wildlife and erosion control is being lost along the Willamette. Many residents have removed the riparian vegetation and some have armoured the banks, thereby diminishing the natural resource values and wildlife habitat of the river. The Willamette River Greenway ordinances have not prevented these losses.
6. Riveredge residents enjoy living on the water, but also experience problems such as trespass, noise, and theft.
7. There are important wildlife corridors and habitat areas that need protection and restoration.
8. There are opportunities to develop visitor facilities and connect river attractions to expand tourism businesses.

-- ISSUES AND OPPORTUNITIES --

Issues and opportunities were sorted from the findings and placed into general subject areas. A broad range of issues were identified in the findings. The breadth of these issues goes beyond the ordinary scope of land use regulatory control and beyond the scope of what the jurisdictions can affect. At this stage, however, all issues and opportunities heard in the interviews were recorded.

| ISSUE AREA | OPPORTUNITIES (partial listing) |
|--|---|
| <u>Water Surface Usage:</u> conflicts between boaters of all types, lack of boating safety, overcrowding, unsafe personal watercraft boating practices | Provide more education, require training and/or licensing, zone the water surface, limit uses in certain areas, increase law enforcement, limit boat docks and in-water structures, develop better communication and signage, enforce lower speed limits and noise limits, develop management program to deal with high use days, impose user fees |
| <u>Environment, pollution, solid waste:</u> protection of riparian vegetation, environmentally important sites and species, water quality, surface water management, noise pollution, solid waste and natural debris, cultural resources | Protect and restore wildlife corridors, fish habitat, and critical natural areas and uplands; develop program to restore riparian vegetation and educate property owners, acquire natural areas, designate water surface areas where no development should occur, develop a model Greenway ordinance, develop public restrooms, institute an annual trash cleanup, protect cultural resources (historic homes, steamboat landings, and key Native American sites) |
| <u>Local Community Access:</u> limited boat access, pedestrian and non-boater access, and visual access, lack of public facilities for local boaters | Develop bathrooms, public parks, and picnic areas, redevelop inadequate boat launches, provide facilities for small, non-motorized boats, develop community use areas accessible from the shore, develop trail networks with physical and visual access, develop street ends (unused ROW's), require DSL lessees to provide public access, develop bank access spots for fishing |
| <u>Safety and Security:</u> policing and enforcement needs, inappropriate behavior by boaters, private property trespass, natural and manmade hazards for river users | Increase patrols of river and riveredge parks, develop a community policing program, better signage of public areas, provide facilities for river users, deemphasize boating in hazardous areas |

Future Development and Tourism Opportunities: visitor oriented activities, fishing, tourism, redevelopment

Develop a string of attractions and public docks along the river, encourage riverboat tours, develop wildlife viewing stations, promote fishing, provide more fishing access and fishing related business, improve transportation to riverfront facilities, provide sufficient parking

Coordination, Community Involvement, Social Issues: many agencies involved with the river, communication and coordination are difficult, community "ownership", changing economics of residents

Create a central organization to represent river communities, access and work with existing programs, work with schools to use river as a science lab for education

-- COMMON GOALS --

Common goals were developed with the Technical Advisory Committee and reviewed by the Policy Advisory Committee. A guiding factor in the development of these Goals is the need to balance a variety of users and uses on both land and water. Three considerations were outlined in formulating the goals:

- * Balance competing goals
- * Seek the optimum combination
- * Determine what makes sense for different parts of the river

GOAL AREA I. CONFLICT RESOLUTION AMONG WATER AND LAND USES

A. WATER USERS

Problem Statement: Many conflicts exist among users of the Willamette River. The major users include anglers, nonmotorized and motorized recreational boaters, commercial river traffic, and personal watercraft users (such as jet skiers). The conflicts among these groups vary by season, time of day, and type of use. The limited usable water surface area further compounds the problem.

Goal: Reduce the conflicts among the major water users.

Example Objectives to achieve Goal:

- * identify and agree upon general areas and times of usage for the river
- * develop water safety training
- * preserve river areas for public use with no or limited development

B. RIVEREDGE RESIDENTS AND BUSINESSES

Problem Statement: The adjacent residential properties on the Willamette River experience the benefits of the river and many associated problems. Trespass on private property, inappropriate behavior by river users, and excessive noise from motorized boats and jet skis are the most common complaints from this community. Conversely, the public using the river also feels imposed upon by riveredge property owners when in-water development such as docks and log rafts occupy river surface that would otherwise be used by the public.

Goal: Reduce riveredge landowner concerns while at the same time fostering a greater sense of river stewardship among all users.

Example Objectives to achieve Goal:

- * increase police patrols of the river
- * develop a neighborhood river watch and reporting system
- * identify areas where in-water development and fills will have no or limited impact on other water users and the conditions under which certain types of developments will be permitted.

GOAL AREA II. STRENGTHEN THE RIVER AS A NATURAL RESOURCE

Problem Statement: Many of the natural resource values of the Willamette River Greenway have been damaged by development and need restoration and protection. Fill and removal, armouring the riverbank, and in-water structures diminish natural values. Many property owners in the Greenway do not follow the proper riparian edge requirements.

Goal: Restore and enhance the Willamette River as a natural resource.

Examples of Objectives to achieve Goal:

- * Strengthen enforcement of Greenway ordinances to prevent further degradation
- * Develop a revegetation program for the Greenway
- * Restore fish habitats
- * Protect urban wildlife (i.e. Blue Heron rookeries)
- * Identify areas of conservation
- * Identify in-water projects that conserve and/or restore the fish, wildlife, riparian edge, and wetland values.

GOAL AREA III. RESPONSIBLE MANAGEMENT AND DEVELOPMENT OF THE WILLAMETTE RIVER AND SHORELINE

Problem Statement:

The shoreline of the Willamette (beaches, islands, and riverbank) in the study area is the point where the various values, needs and benefits of the river intersect. The shoreline includes opportunities for local access, expanded recreation, commercial, and industrial development. These must be carefully balanced with the needs of the natural environment, river users, and residents. The cities, county, and state and federal agencies can work together in partnership to achieve balance in shoreline and in-water development.

A. LOCAL COMMUNITY ACCESS

Goal: Identify what types of local access and recreational development opportunities are suitable and practical in the Willamette River study area

Examples of Objectives to achieve Goal:

- * Develop local neighborhood parks and facilities
- * Create destinations along the river for boaters, anglers

B. BUSINESS, PUBLIC FACILITIES AND TOURISM

Goal: Identify what types of business, public facilities, and tourism development opportunities are suitable and practical in the Willamette River study area

Examples of Objectives to achieve Goal:

- * Identify what development makes sense and where
- * Identify benefits and trade-offs of development
- * Develop facilities to support fishing tourism
- * Identify new funding sources

Willamette River Corridor Coordination Plan Study Area Map

