

MILWAUKIE PLANNING COMMISSION  
MINUTES  
TUESDAY, SEPTEMBER 14, 1993

COMMISSION PRESENT

Pat Lent, Chair  
Bill Johnson  
John Littlehales  
Scott McClure  
Don Trotter  
Carolyn Tomei

STAFF PRESENT

Maggie Collins,  
Community Dev. Dir.  
Dave Krogh,  
Associate Planner  
Tim Corbett,  
Pubic Works Director  
Mark Jonson,  
Community Dev. Intern  
Shirley Richardson,  
Hearings Reporter

COMMISSIONERS ABSENT

Gordon Jones

1.0 CALL TO ORDER

Chair Lent called the meeting to order at 6:32 p.m.

2.0 PROCEDURAL QUESTIONS - None.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES - August 24, 1993

Carolyn Tomei moved to approve the minutes of August 10, 1993, as presented. John Littlehales seconded. MOTION CARRIED 6-0.

4.0 PUBLIC COMMENT - None.

5.0 PUBLIC HEARINGS

5.1 Applicant: Eagles Wings Ministries  
Property Owner: Same  
Location: 10902 SE Garrett Drive  
Proposal: Community Service Overlay Review to recognize current Church operations and allow modification of the Church basement for a parsonage (apartment) within the R-7 zone.

Chair Lent explained the public hearing process. She then opened this hearing for a Community Service Overlay Review to allow modification of a Church basement for a parsonage 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.

**Dave Krogh** then reviewed the Community Service Overlay Review application (CSO-93-04) with the Commission. He stated that this was a review to recognize the current Church operations of Eagles Wings Ministries and to allow modification of the Church basement for a parsonage.

This is a pre-existing church. It was previously owned and operated as the Church of the Nazarene. The Applicant is purchasing the Church via contract and continuing the use for Church oriented activities. The minister currently resides off site and receives a stipend from the Church. In order to save money, they are requesting permission to convert the Church basement area into an apartment for the pastor and his wife.

Prior to 1984, churches were reviewed via Conditional Use permits; as of 1984 they became subject to Community Service Overlay review. The only prior planning action in the files was a Conditional Use Permit for improvements to the parking lot in 1977.

**Dave Krogh** showed slides of the church interior, exterior, and the surrounding subject property. Since this Church has not been through Community Service Overlay review in the past, the Community Development Director did not feel the authorization for the conversion of this basement could be made administratively as a minor modification.

Findings are listed in the Staff Report. There have been several responses from neighbors this past week on this proposal. The primary concern is about noise. The Police Department was contacted and they reported that there have been no recent complaints about noise.

Staff recommends approval with five conditions as outlined on page six of the Staff Report. Exhibits 6 and 7 include comments and conditions from the Building Official and Fire Marshall.

The new city Sign Ordinance requires that community service uses receive consideration of their signs at the time of the review. Staff has reviewed the application in regards to the Sign Ordinance and feel it meets scale, location, and layout consistent with other churches in the area.

It was recommended that within 60 days of the basement conversion, the parking lot be striped and a re-evaluation of the parking adequacy be done. The Applicant has indicated that there are 42 adult members in the church. The parking is adequate now, but if there is expansion, the parking would need to be reviewed.

The Pastor has indicated that at some time in the future, he and his wife would like to purchase a house. At that time, the basement would be converted back into multi-purpose Church activity use. Since this is less of a concern than the apartment use, no review will be necessary at that time.

Staff requested a one-year time limit to provide encouragement for completion of the project.

#### QUESTIONS FROM THE COMMISSIONERS

**Carolyn Tomei** asked about the safety aspect of the fire escape; in the slides there seemed to be a wire fence on the landing. **Dave Krogh** stated that the building will be inspected at completion; the fire escape will be reviewed again at that time.

**Chair Lent** asked for the definition of apartment. **Dave Krogh** stated that an apartment is a dwelling unit within a larger structure. An apartment complex is defined as four or more units within one single building.

#### APPLICANT'S PRESENTATION

Speaking: Pastor Wright, Eagles Wings Ministries, 10902 SE Garrett Dr. Milwaukie 97222

**Pastor Wright** stated that there will be very little modification made to the basement area. He stated that he and his wife are close to 60 years old and they are very quiet. In reference to the noise concern, there will only be he and his wife living in the parsonage; no children and no partying. He feels by their living in the basement it will lend itself to more security in the area.

**Pastor Wright** then explained the modifications planned; a loft-type apartment. An open room with partitions for the bedroom area. There are currently two bathrooms and they plan to remove one commode and put in a shower.

Speaking: Charles Thompson, 125 NE 135th #47, Vancouver WA 98684

**Mr. Thompson** stated that he is a member of the congregation and is the major contractor at the Church.

On a recent fire inspection, the fire escape was acceptable on the basis that it be rebuilt within one year.

**Mr. Thompson** stated that the only complaints that he knows of have been during evening hours, during services. They have been in this structure for over a year now, and during that year he has been sound-proofing the south walls near the property line. This sound-proofing is 90 percent done. The job should be completed shortly and there should be no more noise problems with the neighbors.

**Mr. Thompson** stated that the Staff Report reflected what was to be done. The Building Inspector and Fire Department came and left an extensive list of things to be completed. He is in process of doing them. They are now waiting for a decision on this hearing before implementing these requests.

QUESTIONS FROM THE COMMISSIONERS:

**Don Trotter** asked if there were additional restrooms in the building, besides the ones on the basement level? **Mr. Thompson** stated that there are two restrooms on the main floor and one on the third floor with the pastor's offices. The restroom on the third floor could be converted for public use.

**Don Trotter** asked if the Building Official commented on whether the restroom facilities were adequate for the building? **Mr. Thompson** stated that the Building Official said the restroom facilities were adequate.

**Chair Lent** asked if the sign had a different name for the Church and asked what the name was? **Mr. Thompson** stated that the name is Eagle Wings Prophetic Training Center.

**Chair Lent** asked if the sign indicated a publishing and sound recording company? **Mr. Thompson** indicated that the Church does their own publications. The pastor and his wife are authors, and both write books. The office staff types, reproduces, and sells these publications under the tax name of Majesty Publications.

**Pastor Wright** stated that all of the publications were offshoots of the ministry. They are a church, but they also do training. Mainly the bookstore is for the congregation; most of it is mail-order.

**Chair Lent** asked if the training involved training of ministers strictly for their Church? **Pastor Wright** stated that they are non-denominational. All ministers are trained in the local church. Classes and prayer meetings are held for training of these ministers. The Church then helps these ministers go out and get established. The listing under the sign is nothing more than other ministries in the church.

**Chair Lent** asked if there was a charge for the training? **Pastor Wright** stated that there was not.

**Don Trotter** asked for a listing of the activities of the church. **Pastor Wright** stated that there are evening classes Tuesday and Thursday evenings until 10:30 p.m. These are strictly classes and there is no music.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS ON THE APPLICATION - None.

TESTIMONY IN OPPOSITION

Speaking: Ben Boggess, 4721 SE Ada Lane, Milwaukie

**Mr. Boggess** stated that the pastor gave the church address and asked if the pastor had another address. **Dave Krogh** reported that the Pastor is currently residing elsewhere; he will be moving into the church upon approval of CSO-93-04.

**Mr. Boggess** stated that he was not sure what Eagles Wings Ministries is; according to documentation they may be operating as a Church and as a business. They are recording this loud music and selling it to the public; is this not a business?

**Mr. Boggess** stated that he has lived here 28 years and he has had to ask them to be quiet several times over the last couple of months. The Police Department should have records of the complaints. The very loud noise, drums, etc. can be heard in his living room, over the TV sound, as late as 11:00 p.m.; sometimes later.

On Sundays, in the parking lot, activities are loud. There is clapping, hooting and hollering. He cannot use his back yard for social functions because of the noise level of the activities.

**Mr. Boggess** expressed concern that the zoning will be affected. He lives on the south side of the building. He realizes the building is pre-existing and the non-conforming setback is allowed. He feels that the establishment of the apartment in the basement and relocating activities to the upper levels will create more noise for the neighbors.

If this living arrangement is only going to be for one year; what money is being saved? They will have the cost of remodeling and undoing the remodeling.

**Mr. Boggess** also expressed concern about the items for sale at the church. Is this only open to members or to everyone?

**Mr. Boggess** asked if the Church gets an override on property taxes? **Dave Krogh** reported that upon inspection of the facility, a small gift shop was noted and Staff inquired about its tax status. The Church provided Staff with a 1993 Annual Report which they provide to the State of Oregon Corporation Division. The Church is listed as a non-profit religious organization; they do not pay taxes.

**Mr. Boggess** asked if the tax status will change when the apartment is added? **Dave Krogh** reported that the County Assessor's Office would have to answer that question. There are many churches that have parsonages on the premises. This does not necessarily change the tax status.

**Mr. Boggess** stated that he was very concerned about this church. If it were the Nazerine Church, he'd have no problems. He stated that this Church is different; he is not sure what they are, who they are, and what services they provide. He is not sure this is a church, and does not want to have something going on that is allowed to continue without a church status being verified.

#### QUESTIONS FROM THE COMMISSIONERS

**Chair Lent** asked Staff to comment on the 8-foot, 9-inch setback. **Dave Krogh** stated that this non-conforming setback was legally grandfathered in because it is a pre-existing structure. There will be no change to the exterior structure; only an internal modification.

**Carolyn Tomei** asked Mr. Boggess to explain more about his concerns and problems with this application? **Mr. Boggess** stated that he was very concerned about the use, more people living on the facility, more apartments within the building, and an increase in the problems he has had with these new owners.

**Don Trotter** asked Mr. Boggess to point out his lot on Exhibit 2. **Mr. Boggess** indicated that he lived on Lot 7800.

**Don Trotter** asked Mr. Boggess to elaborate on the noise concerns. **Mr. Boggess** stated that the noise probably was worse on Sunday nights, late. He has called Milwaukie Police four or five times. They said they would go out and take care of it. If there is no record, he is not sure why.

**Chair Lent** asked for more information on the games in the parking lot? **Mr. Boggess** stated that there is activities going on in the parking lot, he is not sure what is going on. There is flag waving, jumping, yelling, hollering, clapping, etc. It goes on for quite some time. It prevents him from having company over for a barbecue, or other social functions in his back yard.

Speaking: Donnelle Young, 4789 SE Ada Lane, Milwaukie

**Ms. Young** indicated on Exhibit 2 that they were at Lot 8100. She too voiced concern about the noise. She stated that her property adjoins the grass area of the church. There have been two volleyball games late into the night and they are very disturbing.

**Ms. Young** stated that she agrees that they are doing things to keep the sound down inside the building, but it will not make a difference. They play cassette recordings outside on the property. They are outside with flags until 10:00 p.m. and after. With her doors and windows closed on Sundays, she can still hear the activities inside her home. She too is unhappy with this activity. On Sundays, Wednesdays, or anytime activity is going on, they can hear it. There are cymbals, drums, and trumpets.

She believes that ministers should be trained in their church, but the Staff Report indicates that this Church is not affiliated with anyone else. If ministers are being trained here and if they are not affiliated to anyone else, where are these ministers going? This Church has not had a church elsewhere, where have they come from?

The members are well-dressed and conduct themselves mannerly and she believes should worship as they want, but not to the disturbance of others.

She agrees that churches have parsonages, but most of them are a separate dwelling. They are not a part of the Church. She feels this apartment facility will be used for overnight guests (late training sessions), or business associates. Having a living area would allow for more activities for their own social functions.

**Ms. Young** stated that throughout the neighborhood, everyone has complained and they know that complaints have been formally made. There is a lot of activity during the week, a lot more than other churches. The Church is not physically pushing its beliefs on others, but the presence of the loud music and outdoor activities is a form of imposing a religion.

On Friday nights, activities go way into the night. The parking lot is full and there have been cars leaving after 11:00 p.m. **Ms. Young** asked if the time and days of the activities could be curtailed to show consideration to the neighbors. This is a drain on the neighborhood facilities, more and more use of services that the neighbors pay taxes on.

**Ms. Young** voiced concern about zoning. There is a lot of property around the church. There is a duplex on Garrett. She is afraid the church would buy more property and then change the zoning. This will increase the activity that is going on there now. The traffic on Ada is quite fast and dangerous now. With more kids walking to school, their safety must be considered.

Speaking: Kate Kepp, 4794 SE Ada, Milwaukie

**Ms. Kepp** indicated that she was Tax Lot 8200 on Exhibit 2. She asked if pastor Wright is going to bring anyone else into the apartment besides him and his wife.

**Ms. Kepp** stated that she came to the site to get information about the church. She was told that she wouldn't like it because church services last from 10:00 a.m. to 3:00 p.m.

As a neighbor across the street, she can hear the drums and trumpets. The games go on very late on Sundays. She agrees with noise concerns already expressed.

**Ms. Kepp** asked about the tax status and what effect this has on the neighbors. She expressed concern with the increased traffic. With more kids walking to and from school because of budget cuts, these church activities could impact them.

**Ms. Kepp** told of an incident where her children were riding bikes through the parking lot and were rudely asked to leave. If this is private property, and the children are not to use it, it should be posted.

#### QUESTIONS FROM THE COMMISSIONERS

**Carolyn Tomei** asked if **Ms. Kepp** had talked directly to a church representative? **Ms. Kepp** stated that at the time of the incident, she was not sure who asked them to leave, whether it was a church official or not. She stated that she had gone to the Church several times to ask questions; she did receive literature about their services, but has not been there at a time when the Church was open.

**Dave Krogh** stated that his request to the Police Department was for current complaints. He was not aware that the complaint problems went further back. He clarified his statement that, in the recent past, the Police Department had no complaints of noise.

**Dave Krogh** reminded the Commission that the application did not focus on the church operation; religious doctrine is beyond the purview of the Planning Commission. Consideration is to be made, however, on the hours of operation, potential effects to neighborhood, and how the addition of an apartment will affect operation.

**Dave Krogh** reported that the gift shop/business activity of the Church is allowed within limits. He stated that he did not observe advertising of commercial use to public. Staff feels that this activity is a very minimal part of the church operation.

Speaking: Jan Boggess, 4721 SE Ada Lane, Milwaukie

**Mrs. Boggess** asked why the recording of audio/video cassettes is not a business?

**Chair Lent** asked if Staff has inquired as to how many people will be living in the apartment? **Dave Krogh** stated that it has been indicated by Mr. Wright that only he and Mrs. Wright will be occupying the apartment. Additional units, or any other changes to the use, or modification of interior would be subject to another review. The Community Development Director would have the authority to make a decision about classifying a modification as major, in which case, another Planning Commission review would be necessary.

**Chair Lent** asked if the Applicants can be conditioned that any further modification would require Planning Commission review? **Maggie Collins** explained that any change in intensity in use requires review by the Community Development Department. A condition can be imposed that adjacent property owners are notified prior to an administrative action.

#### APPLICANT'S CLOSING COMMENTS

Speaking: Pastor Wright, 10902 SE Garrett Drive, Milwaukie

**Pastor Wright** stated that it was his understanding that they were here only to consider the modification of the basement of the church. Other complaints, he feels should be directed to him.

**Paster Wright** stated that there have been two volley ball games on their parking lot; none of the neighbors talked to him. Because of heat, drama practice has been moved to the outside. He was unaware that it was disturbing to the neighbors and will move them back inside.

Office hours are posted on the door of the Church: Tuesday through Friday, 9:00 a.m. to 3:00 p.m. He asked that the neighbors come to the Church with their concerns; they are more than happy to work with them.

Several months ago, the police did come. They were unaware the noise was bothering anyone. When the police came the activity was immediately taken downstairs. Since that time, there have been no incidents concerning noise.

On the matter of children not being allowed in the parking lot, **Pastor Wright** stated that he doesn't know who could have asked them to leave. They don't usually ask people to leave. Neighbors use the parking lot for walking and other uses. There is no reason for the children to be asked to leave, other than safety. If there is going to be a meeting soon and cars will be coming into the lot, they could be asked to leave. Services are from 10:00 a.m. to 1:00 p.m. on Sundays.

#### QUESTIONS FROM THE COMMISSIONERS

**Scott McClure** asked if at some point in the future other people would be living in the apartment. **Pastor Wright** stated that the apartment is only for he and his wife. If they have an occasional visitor in their home, he or she may stay one or two days.

**Don Trotter** asked Pastor Wright what type of activities produce the loud music and at what times these activities are held? **Pastor Wright** stated that they don't have a piano or organ, they have an orchestra. The evening services always start with music. The music portion is generally over by 8:30 p.m. at the latest. There is usually some talking between members after the services, both in the church and in the parking lot.

**Carolyn Tomei** asked if he had received any phone calls or visits from neighbors. **Pastor Wright** stated that to his knowledge, there have been no phone calls or visits. **Mr. Thompson** stated that the police had been out to the Church twice; both on Wednesday nights, once at 10:15 p.m. and once at 8:45 p.m. It was explained to him that the music noise must be quiet at 7:00 p.m.

**Carolyn Tomei** asked if the noise will be greater by moving the activities from the basement. **Pastor Wright** stated that the instruments will not change places; only classes and fellowship have been in the basement.

**Carolyn Tomei** asked **Pastor Wright** to explain the extent of the Majesty Publication, the sound video recording business. **Pastor Wright** explained that all services are taped. These tapes are reproduced and made available for sale. Some teachings are copied and spiral bound. There are some special books available in the gift shop.

**Don Trotter** stated that the Staff Report indicated that the Applicant's narrative did not address the issue of hours of operation. He asked **Pastor Wright** for listing of normal weekly activities for the Church. **Pastor Wright** stated that a normal week would include:

Sunday Morning 10:00 a.m. - 1:00 p.m.

Two Sunday Evenings a month - ministry training class - no music; 6:30 - 9:30 p.m. Tuesday & Thursday Evenings - courses/classes 7:30 - 9:30/7:30 - 10:00 p.m.; no music. On occasion: drama classes, except on Wednesday nights 7:00 - 10:00 p.m. - occasional music.

Special Meetings: Guest Minister conducting a special meeting Sunday or Monday, once a month; every other month - start with music.

No services on Monday; Friday, once in a while.

**Pastor Wright** voiced concern that the only issue tonight is the apartment approval; he did not see where the neighborhood complaints were relevant. **Chair Lent** stated that part of the application was to recognize the existing Church facility. All neighborhood concerns must be addressed to deem the continuing use appropriate.

**Don Trotter** asked when the property was purchased and what was the time period between the last church services of the Nazarine Church and the first services of the Eagles Wings Ministries? **Pastor Wright** stated that he thinks the Church was vacant for six months. The property was purchased July 16, 1992, and the first service (a wedding) was held July 30, 1992.

**Chair Lent** asked the Applicant what efforts were made to soundproof the sanctuary? **Pastor Wright** stated that he physically went outside to hear the noise. Insulation and wallboard have been replaced on the whole south side.

All the complaints have come when there has been music on the third floor. **Mr. Thompson** stated that the ceiling on the third floor is not insulated; that's why the noise can be easily heard from there. He personally went around and apologized to neighbors and explained they are trying to correct the problem.

**Chair Lent** asked how many were in the Church membership. **Pastor Wright** indicated there were 42 adult members; on Sunday there can be about 70 people, including children.

**Dave Krogh** asked the Applicant if they anticipate allowing neighborhood associations or public use of the Church for meetings? **Pastor Wright** stated that he does not anticipate any public use.

**Chair Lent** asked how many people attend the training sessions? **Pastor Wright** stated that the Tuesday class is an 8-week course; there are about 20 students. On Thursday night there are about 30 students.

When there are special meeting with guest speakers, there are sometimes as many as 100 people in the sanctuary.

**Chair Lent** asked Staff if parking is adequate for 100 people? **Dave Krogh** stated that using the standard 1 parking space/8' of bench space, 33 parking spaces are required. He counted 38 spaces on site. Staff suggestion of re-striping would be a benefit to the church.

#### DELIBERATION AMONG COMMISSIONERS

Discussion followed on whether the recording/publishing business constituted a commercial operation. It was a consensus that this was not a commercial operation.

The major concern with this application is noise. In this situation, with a pre-existing building with an 8-foot, 9-inch setback in lieu of the requirement (2/3rds of the height of the structure), the noise issue is much more critical. **Don Trotter** cited Chapter 8.08 of the Municipal Code which is an exemption clause for churches regarding Church activities. Because the setback is substantially less than normal, he suggested that a condition be attached indicating that the noise levels be conducted in conformance with the Decibel Chart For Noise Sensitive Areas (8.08.90). This chart specifies maximum daytime 55 dba; evening 50 dba. This reading would be measured from the property line.

**Chair Lent** encouraged neighbors to discuss concerns with the church before making complaints. It is the Church's responsibility to be good neighbor and they have expressed a willingness to cooperate with the neighborhood.

Staff was directed to make sure that the review of fire, life, safety review issues address the fire escape issue and concern.

**John Littlehales** moved to approve CSO-93-04 with the ten findings and five conditions as stated in the Staff Report. Further, that three other conditions be added: Condition #6, "Noise levels shall comply with Chapter 8.08 of the Milwaukie Municipal Code, specifically because of the non-conforming setback. The table found in Section 8.08.090 shall apply. Condition #7, "The parsonage occupancy shall be limited to single family." Condition #8, "Routine evening hours of operation shall not extend past 10:30 p.m." **Carolyn Tomei** seconded.

**Scott McClure** expressed concern over using references from the Municipal Code and suggested that the City attorney look over the language in Condition #6 before it is finalized. **Maggie Collins** stated that she will review the language with the City attorney to see if it is the best way to get at the condition that is being requested.

**Dave Krogh** suggested changing Condition #6, "Noise levels shall comply with Table 8.08.09 within Chapter 8 of the Milwaukie Municipal Code because of the pre-existing non-conforming setback." **Carolyn Tomei** concurred. MOTION CARRIED 6-0.

Recess was taken at 8:50 p.m. and the meeting reconvened at 9:03 p.m.

6.0 CONSIDERATION ITEMS - None.

8.0 OTHER BUSINESS

8.1 Community Development-Public Works Coordination Roles and Responsibilities Worksession (continued)

**Tim Corbett**, Public Works Director, reviewed his memo to the Planning Commission on assessment and recommendations regarding Planning Commission Conditions. Issues resolved:

- A final recommendation from Public Works will be included in the conditions of the Community Development Staff Report.
- Public Works will have a staff person present when any type of significant development is scheduled for a public hearing at a Planning Commission meeting.
- Public Works does have the authority to require off-site improvements when there are documented off-site impacts.

**Chair Lent** asked if historic improvements should be included in Exempt Situations, Article III in Ordinance 1645. Discussions followed on whether Public Works would be involved in these issues. **Tim Corbett** stated that he feels there is enough flexibility in the Ordinance to address Historic Resource properties.

It was the consensus that both Public Works and the Planning Commission need concurrent effort, not joint effort; both parties need to know what is needed. Views from both sides are valuable.

Discussion followed on the Case Study on the Corrections Center application. The Planning Commission had conditioned curbs and sidewalks for the Correction Center and this condition was not completed. **Tim Corbett** pointed out two problems; there were no final detailed site plans submitted with the application, and the condition for a sidewalk was not coupled with half street improvements.

**Tim Corbett** stated that he will be meeting with Clackamas County on another matter later this week and would bring up the subject of the street improvements and see if the County is willing to work out some solution for the curbs and gutters.

Based on the procedures being worked out through these worksessions with Public Works and the Planning Commission, it is hoped that these types of cases will be reduced.

7.0 OLD BUSINESS

7.1 Planning Commission Letter to City Council

Commission reviewed the second draft of a letter to City Council regarding the Milwaukie Riverfront Masterplan/Vision Statement. It was the consensus of the Planning Commission that Staff prepare a final letter for Pat Lent's signature. It will then be passed on to City Council.

7.2 Citizen Involvement Program Report

**Maggie Collins** submitted a packet to the Commissioners which included the revised boundary map (from last worksession), a set of bylaws, description and key issues and concerns of each proposed district, and a draft explanatory piece for public information if/when this issue is ready for public meetings.

Also included is a memo to City Council stating that the Planning Commission has agreed to the formation of land use district groups and that neighborhood groups can also be involved in land use issues. The first step in the Citizen Involvement Program is to revise the five districts currently existing. The second page of the memo contains a description of a vision of a district program for nine new districts.

**Maggie Collins** asked that the Commission review the packet materials and the memo for changes or input. Discussion followed on whether another worksession is necessary before review by City Council and it was decided

that the Commission needed more time to review the material and give input. The worksession was continued until September 28, 1993.

Staff was requested to communicate to City Council that the Planning Commission is reviewing the draft bylaws, admission statement, etc. and will have comments after further discussion and review.

**Maggie Collins** informed the Commission that Mark Jonson was available tonight to answer questions on the revised boundary maps from the last work session. He is also available to answer any questions from the Commissioners if something comes up before the next worksession. **Mark Jonson** stated that the draft bylaws were not based on a specific set of bylaws, they were started from scratch. These bylaws were written to meeting the requirements of the Comprehensive Plan and the Statewide Planning Goals.

Staff was asked to provide a copy of the City of Portland's "Bylaws of a Sample Neighborhood Association" to all the Commissioners.

#### 9.2 CD Report

**Maggie Collins** passed out copies of a press release for a Kellogg Sewerage Treatment Plant meeting on Monday, September 20, 1993.

#### ISSUES FOR STAFF

**Milwaukie Glass.** **Dave Krogh** stated that he had inspected the property and reviewed the signage. Some of the signs did not go through a review process. On September 8, 1993, Milwaukie Glass was sent a warning letter; they have until September 30, 1993, to respond.

**Mill End Store.** **Don Trotter** stated that Staff has informed him that the landscaping at the Mill End Store, when installed, would be per drawing. He has seen a series of four or five feet diameter cones four feet high with one tree is not what was requested. **Maggie Collins** stated that the landscaping is not yet completed. The trees were put in the culverts as a means of storage; they will be placed later. The landscaping requirement should be completed by the end of September.

10.0 NEXT MEETING: September 28, 1993

10.1 Legal Issues Training Session


10.2 CD Report

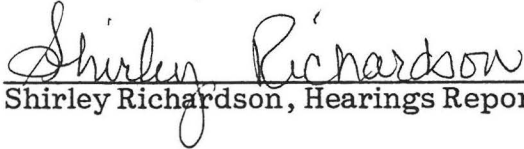
**Carolyn Tomei** moved to adjourn the meeting of September 14, 1993. **John Littlehales** seconded. MOTION PASSED UNANIMOUSLY.

CITY OF MILWAUKIE PLANNING COMMISSION  
MINUTES OF SEPTEMBER 14, 1993  
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Under the authority of ORS 192.660, **Chair Lent** called the Milwaukie Planning Commission into Executive Session. She informed the audience that the meeting would not reopen after the Executive Session.

The meeting adjourned at 10:16 p.m.

  
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Pat Lent, Chair

  
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Shirley Richardson, Hearings Reporter

**AGENDA**  
**MILWAUKIE PLANNING COMMISSION**  
Milwaukie Center, 5440 S.E. Kellogg Creek Dr.  
Tuesday, September 14, 1993, at 6:30 p.m.

- 1.0 Call to Order**
- 2.0 Procedural Questions**
- 3.0 Consent Agenda**
  - 3.1 Planning Commission Minutes: August 24, 1993
  - 3.2 City Council Minutes: August 17, 1993 (upon approval by Council)
- 4.0 Public Comment**

This is an opportunity for the public to comment on any item not on the agenda.
- 5.0 Public Hearings**
  - 5.1 Applicant: Eagles Wings Ministries  
Property Owner: Same  
Location: 10902 SE Garrett Drive  
Proposal: Community Service Overlay Review to recognize current Church operations and allow modification of the Church basement for a parsonage (apartment) within the R-7 zone
- 6.0 Consideration Items - None**
- 7.0 Old Business**
  - 7.1 Planning Commission letter to City Council
  - 7.2 Citizen Involvement Program Report
- 8.0 Other Business**
  - 8.1 Community Development-Public Works Coordination Roles and Responsibilities Worksession (continued)
  - 8.2 CD Report
- 9.0 Next Meeting: September 28, 1993**
  - 9.1 Legal Issues Training Session
  - 9.2 CD Report

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

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**Milwaukie Planning Commission Mission Statement**

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

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**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.

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**Milwaukie Planning Commissioners:**

Patricia Lent, Chair  
Carolyn Tomei, Vice Chair  
John Littlehales  
Don Trotter  
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: September 14, 1993  
File: CSO-93-04

Application: Community Service Overlay Review to recognize current Church operations and allow modification of the Church basement for a Parsonage (Apartment) within the R-7 Zone

Applicant: Eagles Wings Ministries

Property Owner: Eagles Wings Ministries (Contract Purchaser)

Location: 10902 SE Garrett Dr.  
(Tax Lots 6700, 6800, 6900 and 10600 of Tax Map T1S, R2E, 31BA).

\*\*\*\*\*

PROPOSAL

Eagles Wings Ministries recently purchased the former Church of the Nazarine at 10902 SE Garrett Dr. They desire to have their existing facilities recognized and to be allowed to convert the existing church basement into a parsonage (apartment).

DISCUSSION

Prior to 1984, churches required a conditional use permit for new construction or additions. From 1984 on, these uses were covered by the Community Service Overlay review. No prior applications are on file for the original construction of this church. However, a conditional use permit was approved in 1977 (C-77-13) for parking lot improvements. The Community Development Director has determined that a new Community Service use review would be required for this basement conversion proposal.

The existing church, paved parking and lawn area are contained on Tax Lots 6700, 6800 and 6900. Tax Lot 10600 is currently vacant but tree-covered and may be disposed of at some time for R-7 Zone residential development or held for future church expansion. The property is flat to gently sloping. Primary access is onto SE Garrett Dr. Exhibit 1 shows a site plan for the portion of property immediately surrounding the church building. Exhibit 2 shows the entire ownership. Exhibit 3 shows the map and tax lot configuration of the church property.

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT - Eagles Wings Ministries  
CSO-93-04 - September 14, 1993  
Page 2

The Eagles Wings Ministries is Christian-oriented and not affiliated with other established churches. Besides providing church services, this organization also provides religious training programs, musical outreach programs, counseling, youth activities, a religious gift shop, and publishing. All Church services and musical events are recorded on audio and video cassettes and copies are sold to the public. The publishing portion of Eagles Wings Ministries is called Majesty Publications. The religious training portion is called the Eagles Wings Prophetic Training Center.

The church building has a basement, a main floor, and a second floor. The basement currently includes rest rooms, storage facilities, a large kitchen and a multipurpose room. A floor plan of the proposed conversion is shown in Exhibit 4. The main floor includes a small gift shop, a large sanctuary room, entry room, washrooms and offices. The second floor includes a second sanctuary used primarily for musical programs, a multipurpose room, costume rooms and classrooms.

The minister currently lives offsite but would move into the parsonage apartment if approved. Church staff have indicated that the parsonage conversion may not be permanent and that a future return of this space to church activity use may occur based on future Church space needs. However, at this time, living allowance savings would be incurred by the church if this space conversion is allowed.

The congregation at present includes 42 adult members with about 10 other nonmembers regularly attending services. In the main sanctuary staff counted 21 bench seats (12 feet long each). According to Section 500 of the Zoning Ordinance, one parking space is required for each 8-feet of bench space. This means 32 parking spaces are required for this size of seating area. Although faded, parking lot striping includes 38 marked parking spaces. Parking lot area is currently underutilized and restriping could result in additional spaces.

Signage consists of two attached unlit plastic face/wood frame signs located at the northwest corner of the site and a square wall sign next to the front entrance. The site signs are each approximately 7-feet tall with a per face dimension of 5 by 6 feet (30 square feet each). The wall sign is approximately 4 by 4 feet in face area (16 square feet). Staff did not notice a sign for the gift shop at the church. This shop is not staffed except as needed by the single church office staffperson who is on duty during the week.

## FINDINGS

1. Churches and their accessory uses require community service overlay review for new construction and additions as per Section 321.2A.6 of the Zoning Ordinance.

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT - Eagles Wings Ministries  
CSO-93-04 - September 14, 1993  
Page 3

2. Eagles Wings Ministries has purchased the existing church facility at 10902 SE Garrett. This site has contained a church for several years and Eagles Wings Ministries is maintaining a church operation here as well.
3. Eagles Wings Ministries is proposing a modification in the form of a conversion of basement multipurpose area into a parsonage apartment (Exhibit 4).
4. Criteria for the community service overlay review process are those of Section 321.4A.1-3 of the Zoning Ordinance. These are addressed in subsequent findings.
5. Section 321.4A.1 requires:

"The requirements of the underlying zone are met."

The entire church ownership is zoned R-7. The church structure is pre-existing and proposed modifications are internal. Exhibits 1 and 2 clearly show R-7 setbacks and lot coverage as being met. R-7 requires 20 foot front and rear yards, 5-feet on one side and 10-feet on the other side. These setbacks are greatly exceeded as shown on Exhibit 2. The 30% lot coverage of R-7 is also in conformance as actual lot coverage by the church and a small storage structure is approximately 8.8% (+/- 6500 square feet out of a total lot size of 73909.2 square feet).

Page 3 of the Applicant's narrative (Exhibit 5) has assumed zone standards do not need to be addressed for internal improvements. This is not entirely true as the Planning Commission may impose conditions of approval to insure all criteria are met.

Off-street parking requirements are met. As described in the "Discussion" section of this report, 38 parking spaces have been provided and 32 parking spaces are required by Section 500 of the Zoning Ordinance. Restriping the parking lot could produce additional spaces.

Because half of the church property is currently vacant, the 30% vegetation coverage requirement of the church is easily met.

6. Section 321.4A.2 requires:

"Specific standards for the uses found in subsections 321.7-321.10 are met."

Of these subsections, only 321.9 is specific to churches. The Applicant's narrative (Exhibit 5) again assumes this subsection is not applicable because the proposed modification is internal to a pre-existing structure. Staff, therefore, will address Subsection 321.9 as follows:

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT - Eagles Wings Ministries  
CSO-93-04 - September 14, 1993  
Page 4

- a. Subsection 321.9A. discusses church spires. No spires are proposed, therefore this provision is not applicable.
- b. Subsection 321.9B. requires all required yards to be equal to at least two thirds of the height of the principal structure.

No new external construction is proposed. This church was constructed prior to 1977 and therefore pre-dates this 1984 provision. The current church height is approximately 25 feet. This would mean all setbacks should be at least 16.5 feet in distance. This is actually the case except for the 8 feet 9 inch south side setback. However, this setback is pre-existing and is considered a legal nonconforming setback. (Note: this is one case where the 5-foot side yard allowed by the R-7 Zone is actually superseded by another standard.)

- c. Subsection 321.C. requires adequate public facilities and street capacity. Public Works has indicated facilities and streets are adequate for this proposal (Exhibit 6).
  - d. Subsection 321.D. requires 15% of the total site is to be landscaped. Finding 5 (above) indicates over 50% of the site is already in vegetation. Of the developed portions of the church ownership (Tax Lots 6700, 6800 and 6900), approximately 25,000 square feet is landscaped (in lawn or shrubs), greatly exceeding the 15% landscaped area standard.
  - e. Subsection 321.E. requires parking provisions of Section 500 be met. Adequate numbers of spaces are provided as discussed in Finding 5 (above).
7. Section 321.4A.3 requires:

"The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses."

The Applicant's narrative did not address this issue because of the assumption that operation of the Church is a pre-existing situation. Basically, the church has Sunday service which runs from 10:30 am to approximately 1 pm. Evening classes are held Tuesday through Thursday nights until approximately 10:30 pm. The church office is open Tuesdays through Fridays from 9 am to 3 pm. Occasional (once or twice a month) evening prayer meetings are held.

No complaints have been received to date from neighbors about church operations at this site and no concerns have been received from City Police. The location of the church entry on the northwest side of the

church tends to provide separation of church entry, exit and parking lot activity from adjacent residences to the south. The close proximity of SE Garrett Dr. and the wide separation between the church and residences to the north also acts as a buffer.

8. The Applicant has applied for a Change of Occupancy permit (93-317). As part of the permit processing, the facility was inspected by both the City Building Official and the South Metro Fire Marshal. Internal modifications will be required for compliance with the Uniform Building and Fire Codes (Exhibits 7 and 8).
9. Signs installed on the property have been placed without permit. Section 14.08.090 of the City Sign Ordinance requires signs for conditional or community service uses to be reviewed by the Planning Commission at the time of public hearing for the use. The Planning Commission has full authority to review these signs as to size, height and location.

Two signs are already in place. These are a 4 by 4 foot wall sign near the front entrance and a double-faced free-standing sign approximately 7-feet high with a per face area of 6 by 5 feet. These signs are unlit, wood framed and plastic surfaced. A diagram of these signs is shown as Exhibit 9.

10. The Applicant is not proposing a covered parking space because Section 500 of the Zoning Ordinance does not require covered parking for apartments. In addition, there is a possibility the basement parsonage may be reverted to church multipurpose use in the future which would certainly not require the existence of covered parking.

### CONCLUSIONS

The existing and proposed church activities comply with applicable criteria, provided conditions are applied according to the findings above. The signage, which is already installed, is of a size and location appropriate for the church activity it portrays.

### RECOMMENDATIONS

That the existing church operations be recognized and deemed appropriate for continued church use of the site. That the basement conversion for a parsonage apartment be allowed. That the existing signage is appropriate for this site and the uses thereupon. That the following conditions of approval be required:

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT - Eagles Wings Ministries  
CSO-93-04 - September 14, 1993  
Page 6

1. City building permit requirements will be met for conversion of the basement. Comments of the Building Official and Fire Marshal in Exhibits - and - shall be met as part of permit compliance.
2. A City sign permit shall be obtained for existing signage. The current signage configurations and locations may remain as is. This permit must be obtained prior to occupancy of the unit.
3. Within 60 days of basement conversion, the parking lot shall be restriped. Prior to restriping, a restriping plan shall be submitted to City Community Development Department staff for approval with the intent that additional spaces be provided if feasible.
4. Future reconversion of the parsonage apartment back to church multipurpose use may be allowed upon review by the Community Development Director as a minor modification.
5. A one-year time limit is imposed for purposes of converting the basement for a parsonage apartment. This time limit may be extended for an additional year by the Planning Commission if a written request is submitted prior to September 14, 1994.

EXHIBITS

1. Site Plan
2. Aerial Map
3. Tax Lot Map
4. Floor Plan
5. Narrative
6. Office Engineer's Memo
7. Fire Marshal's Memo
8. Building Official's Memo
9. Sign Diagram

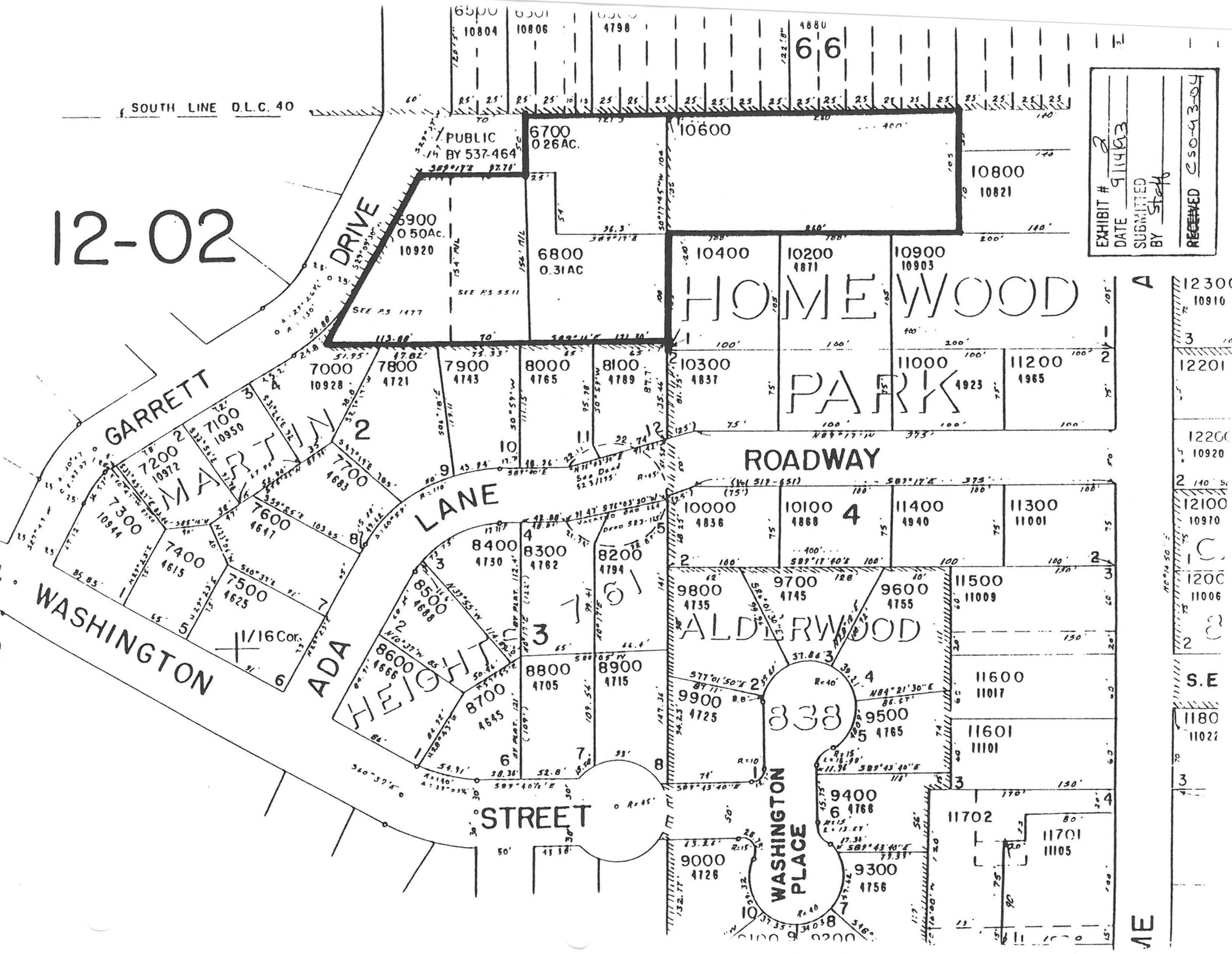
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12-02

SOUTH LINE O.L.C. 40

EXHIBIT #	2
DATE	9/14/63
SUBMITTED BY	Steff
RECEIVED	C50-4304



A

ME

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3	12201
2	12200
1	10920
2	12100
1	10970
2	12000
1	11006
2	11800
1	11066
3	1180
4	11021

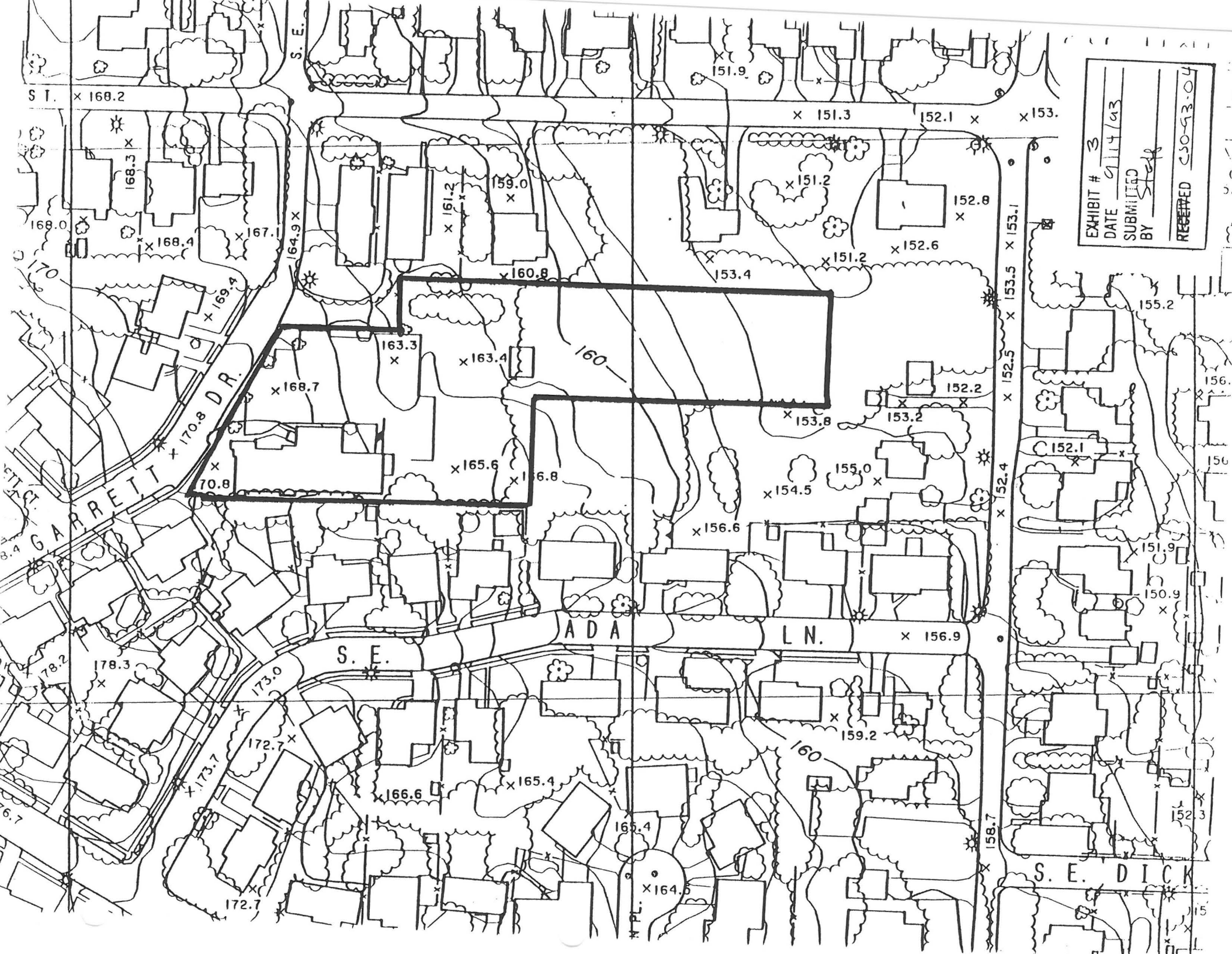


EXHIBIT # 3  
 DATE 9/14/93  
 SUBMITTED BY Staff  
 RECEIVED C3093-04

S. T. x 168.2

x 151.3 152.1 x 153.

168.3 x  
 169.0 x  
 x 168.4 x 167.1  
 x 169.4

x 161.2  
 x 159.0  
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x 151.2  
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x 153.1  
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 x 152.5

160  
 x 168.7  
 x 163.3  
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 x 165.6  
 x 168.8  
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 x 152.2  
 x 153.2  
 x 154.5  
 x 155.0  
 x 156.6  
 x 153.4  
 x 151.2

GARRETT DR.  
 x 170.8  
 x 170.8  
 x 170.8

x 152.4

178.2  
 178.3  
 x 173.0  
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S. E. ADA LN. x 156.9

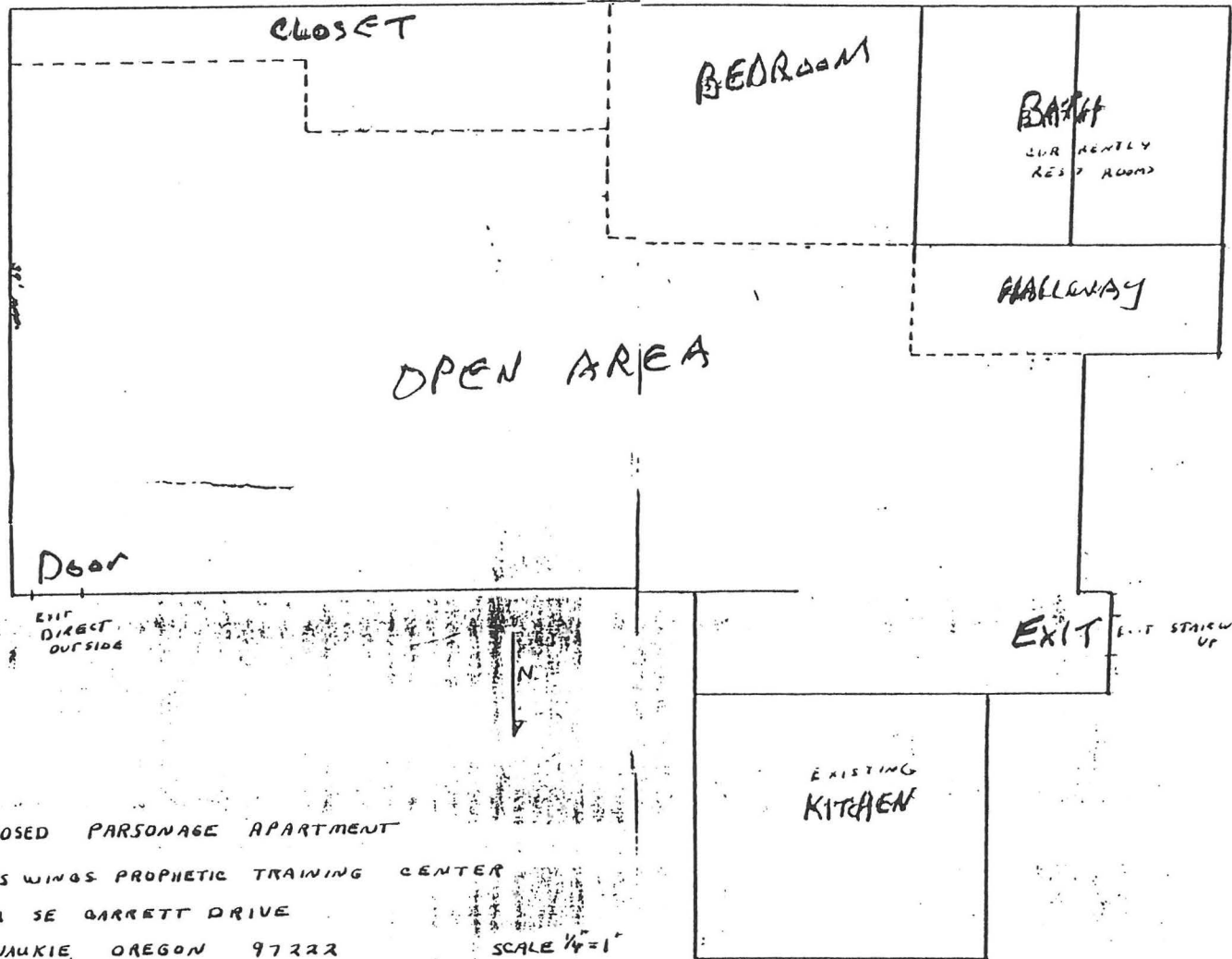
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 x 152.2  
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 x 155.0  
 x 156.6

x 158.7

S. E. DICK

x 152.3

x 15



PROPOSED PARSONAGE APARTMENT

EAGLES WINGS PROPHETIC TRAINING CENTER

10902 SE GARRETT DRIVE

MILWAUKIE, OREGON 97222

SCALE 1/4" = 1'

EXHIBIT #	4
DATE	9/14/93
SUBMITTED BY	Applicant
RECEIVED	CSO-43-04

Sec 321.4

1. See sec. 302.3 attached
2. See sec. 321.9 attached

3Aa Hours of operation--N/A

b Traffic --N/A

c Litter Patrol --N/A

d Noise--Noise will not exceed the required levels according to  
8.08 of the Milwaukie Municipal Code

e Storage --N/A

f After-hour use --N/A

g Glare --N/A

h Materials Handled --N/A

- 3C1 This change will not increase the intensity of use but will add to the density of Residential use
- 2 This change meets all requirements of underlying zone and specific standards
  - 3 This change will not affect adjacent property or use, will not cause any deterioration or loss of any natural features or open space, nor significantly affect any public facility
  - 4 This change does not affect any prior conditions specifically placed on this development.

EXHIBIT #	5
DATE	9/14/93
SUBMITTED BY	Applicant
	3 pages
RECEIVED	CSO-93-04

Land Use Action For  
Eagles Wings Prophetic Training Center

Page 2 of 3

Sec 321.9

- |                       |       |
|-----------------------|-------|
| A. Church spire       | --N/A |
| B. Lot size           | --N/A |
| C. Public facilities  | --N/A |
| D. Landscape          | --N/A |
| E. Off street parking | --N/A |

Sec 302.3

- A. Lot size N/A
- B. Front yard N/A
- C. Side yard N/A
- D. Rear yard N/A
- E. Yard abutting major street N/A
- F. Off street parking--Meet standards in sec. 502.28
- G. Height restriction N/A
- H. Lot coverage N/A
- I. Minimum Vegetation N/A
- J. Access Requirement N/A

MEMORANDUM

RECEIVED  
AUG 17 1994  
PLANNING

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger *PR*  
Office Engineer

RE: CSO-93-04  
10902 S.E. Garrett Drive

DATE: August 17, 1994

The existing church is connected to City sanitary sewer and water. Garrett Drive is a 30-foot curbed street with sidewalk along the frontage of the church and to the south. There is no sidewalk north of the church.

If no additional plumbing fixtures are planned, no additional system development charges will be due for either sewer or water. All remodeling is proposed to be interior. Therefore, no changes will be made to the storm water drainage system, nor will there be a need for an erosion control plan.

Public Works has no objection to the approval of this request.

EXHIBIT #	<u>6</u>
DATE	<u>9/14/93</u>
SUBMITTED BY	<u>Staff</u>
RECEIVED	<u>CSO-93-04</u>

RECEIVED

AUG 19 1993

PLANNING

SOUTH METRO FIRE PREVENTION OFFICE  
"SERVING MILWAUKIE & CLACKAMAS COUNTY F.D. #1"  
15711 S.E. 90th  
Clackamas, Oregon 97015

---

Business - 655-8537

FAX - 655-8880

Voice Mail - 655-8537

---

TO: Dave Krogh (Milwaukie Community Development)

FROM: Fire Marshal Martin Goughnour

SUBJECT: CSO-93-04

DATE: August 19, 1993

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I have reviewed the application for Land Use Action and believe that it does not present a conflict with the Uniform Fire Code adopted by the City of Milwaukie. A site visit was made to 10902 SE Garrett Drive with the Milwaukie Building Official on July 27, 1993 to determine the items that will need to be addressed in order to change the occupancy. The change from assembly to residential was outlined in one document including both the building and fire code requirements (see attached) and mailed to the occupant on July 29, 1993.

Yours in Fire and Life Safety,

*Martin E. Goughnour*

Martin E. Goughnour  
Fire Marshal

EXHIBIT #	7
DATE	9/14/93
SUBMITTED BY	Staff
RECEIVED	CSO-93-04

# CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT  
PUBLIC WORKS

6101 S E JOHNSON CREEK BLVD  
MILWAUKIE, OR 97206

TELEPHONE 652-4410  
FAX 774-8235

July 29, 1993

Richard A. Wright  
Eagles Wings Prophetic Training Center  
10902 SE Garrett Drive  
Milwaukie, OR. 97222

Re: Change of Occupancy Investigation, Permit# 93-317

Mr. Wright:

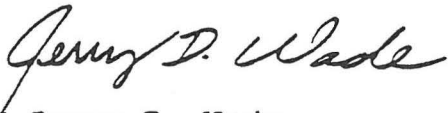
On July 27, 1993, an inspection was conducted at 10902 SE Garrett Drive. The following items will need to be addressed in order to change the use of the church's basement from an assembly to a resident occupancy.

1. Smoke detector system shall be installed in the basement of the building. The system shall be wired into the electrical source for the building. (OSSSC R-215.1)
2. Provide at least one window to the outside for emergency exit or rescue, openable from the inside without the use of separate tools. Minimum net clear openable area shall be five (5) square feet, height 24 inches, width 20 inches with a finished sill height not more than 44 inches above the floor. (OSSSC R-210)
3. Install a tight-fitting solid wood door 1 3/8 inches in thickness, having a fire-protection rating of not less than twenty (20) minutes that is UL approved in the entry way of the basement. (OSSSC R-503D)
4. Provide fire blocking to form an effective barrier against fire spread in the floor-ceiling assembly in the basement storage room "A". Install 5/8 inch gypsum wall board to the ceiling of the storage room. (OSSSC R-2516f, R-1704b)
5. Install a tight-fitting solid wood door 1 3/8 inches in thickness, having a fire-protection rating of not less than twenty (20) minutes that is UL approved in the doorway to the mechanical room in the basement. (OSSSC R-503D)
6. Securely install 5/8 inch gypsum wall board for fire-resistive ceiling assembly in the kitchen located in the basement. (OSSSC R-1704b)
7. Provide key box for immediate access for life-saving or fire-fighting purposes. Apply for key box through South Metro Fire Marshal's office. (UFC 10.302)

EXHIBIT #	8
DATE	9/14/93
SUBMITTED BY	Staff
	2 pages
RECEIVED	CSO-97-04

8. Provide approved numbers eight (8) inches in height and shall be positioned as to be plainly visible and legible from the street on two (2) sides of the building. Said numbers shall contrast with their color background. (UFC 10.301a)
9. A Building Permit Application will be needed on a permit issued prior to any work starting on a remodel of the basement area. See attached application and paper work.
10. Please check with the city Planning department for any further requirements and Zoning Ordinance. Contact Dave Krogh

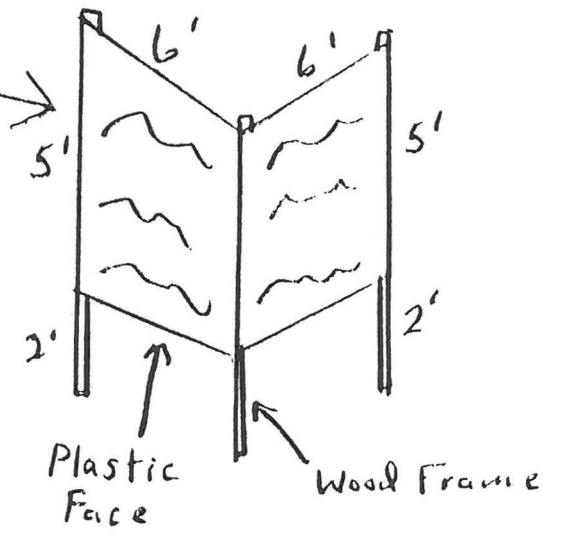
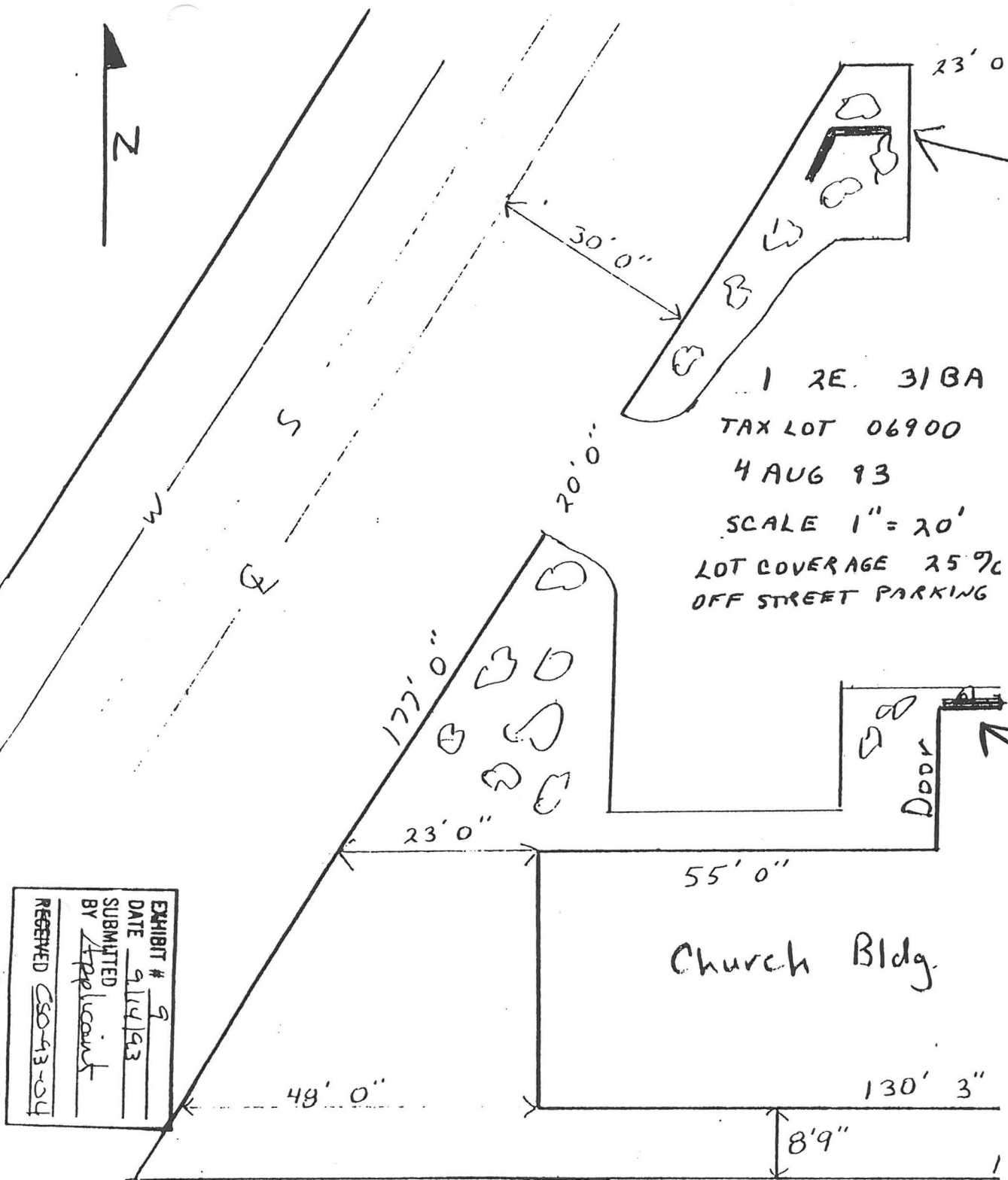
If you have any questions, or if I can be of any further assistance in this matter, please feel free to call me.



Jerry D. Wade  
Building Official

Martin Goughnour  
Fire Marshal

Code Enforcement/C.O.B./7-93



SIGNS NOT  
TO SCALE

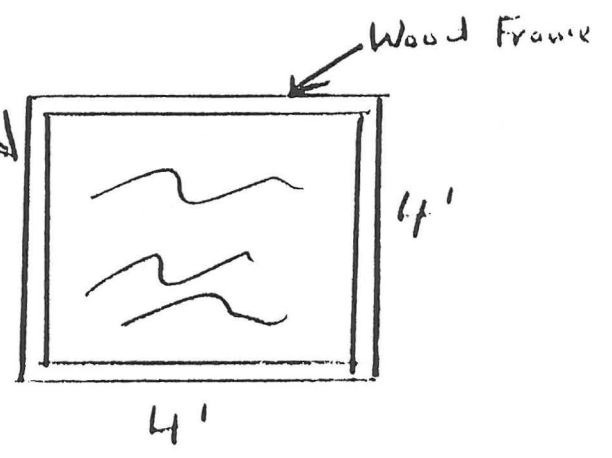


EXHIBIT # 9  
DATE 9/17/93  
SUBMITTED BY Applicant  
RECEIVED CSO-93-04

SIGNAGE / CSO-93-04

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

COMMUNITY DEVELOPMENT DEPARTMENT  
City of Milwaukie  
September 7, 1993

To: Milwaukie Planning Commission  
From: *MC* Maggie Collins, Community Development Director  
Re: Draft Land Use District Boundaries

Action Requested

Review the attached public information sheet, the revised Land Use District map, the written description of the nine proposed Land Use Districts, and proposed Bylaws for formation of Land Use District Committees.

Background

Attached is a revised draft of the output from your last worksession on August 24th on this project. Staff is still formulating the best days for setting up public meetings. The final draft of the text for the public meeting would of course go out on Milwaukie letterhead.

Unless there are major problems, and except for the proposed Bylaws, we would like to have this be the last review of the other pieces before going out for public comment.

cc: Dan Bartlett

# DRAFT

September \*\*\*\*\*, 1993

## PROPOSED LAND USE DISTRICTS

The Milwaukie Planning Commission is proposing to designate nine land use districts for the City of Milwaukie. They are shown on the attached map. The Milwaukie Comprehensive Plan currently authorizes five districts.

## PURPOSE OF THE PROPOSAL

Revision of the City's land use district boundaries is the first step in development of a revitalized citizen involvement program for land use review and decision-making within the City. The Comprehensive Plan contains a full chapter of policy and guidance, but it needs updating. The Planning Commission believes that its proposed revision best fits the land use pattern of the City as a whole.

## FUNCTION OF LAND USE DISTRICTS

Land Use Districts are considered the smaller unit for which relevant land use applications and an orderly localized review and referral system can be set up. The attached by-laws suggest how a district committee might be structured.

Within a Land Use District, several distinct neighborhood groups might exist or be formed. These would have a responsibility to use the Land Use District structure regarding planning and/or zoning review for applications in their areas.

## GENERAL CRITERIA FOR LAND USE DISTRICT BOUNDARY FORMULATION

Elementary School District Boundaries. Whenever possible, the Planning Commission used these as a starting point for distinguishing different residential areas within Milwaukie.

Major Streets or Roadways, Topographic Points. Hwy 224, for example serves as a key divider between land uses in the City.

Major Land Uses. To the best extent possible, the Planning Commission tried to acknowledge the inherent differences between major land uses.

(Please See Other Side)

REQUEST FOR PUBLIC INPUT

Two public meetings are scheduled to gather input from the community about this proposal. They are scheduled as follows:

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

Following the public meetings, the Planning Commission will review the input and hold a worksession with the City Council. A final proposal will then be set up for formal public hearings before both the Planning Commission and City Council.

MORE INFORMATION

If you need more information, or are aware of a neighborhood area that should be notified of this proposal, please contact the Milwaukie Community Development Department at 652-4410.

## CITY OF MILWAUKIE PROPOSED LAND USE DISTRICT BOUNDARIES

### District 1 (Waverly/Downtown)

Access from McLoughlin and future Downtown development actions are the dominant themes of this area. The residential component is isolated from other residential areas of the City by McLoughlin Boulevard, 17th Avenue and Johnson Creek.

#### KEY ISSUES AND CONCERNS

1. Downtown/Riverfront/Willamette Greenway Development
2. Light Rail
3. High Density Residential and Commercial Land Use Mix
4. Low Density Residential/High Density Residential Transition
5. Needs of Educational Institutions
6. Development Infill
7. McLoughlin Blvd. Corridor\*
8. 17th Avenue Corridor\*

### District 2 (Island Station)

Although this area has important linkages with issues and concerns identified in District #1, the Island Station residential neighborhood has developed a set of issues over time that are unique to that area, including residents' interest in Elk Rock Island and improvements to the Kellogg Creek Sewerage Treatment Plant. Island Station also has a historic tradition as a neighborhood.

#### KEY ISSUES AND CONCERNS

1. Kellogg Treatment Plant
2. Elk Rock Island/Spring Park Management
3. Light Rail
4. Historic Resource Values
5. McLoughlin Blvd. Corridor\*
6. Willamette River Greenway
7. Kellogg Lake

### District 3 (Lake Road)

Highway 224 is considered a boundary between commercial development to the north and the residential character of this area to the south. This area has seen the most residential development in the recent past, and concerns and interests are connected to Lake Road as the primary transportation route that bisects the area.

#### KEY ISSUES AND CONCERNS

1. Lake Road Corridor\*
2. Kellogg/Mt. Scott Creeks
3. North Clackamas Park Maintenance and Future Development
4. Light Rail
5. Hwy 224 Corridor\*
6. Infill Development

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

District 4 (Linwood)

These boundaries parallel those of Linwood Elementary School. Hwy 224 effectively separates this area from the largely industrial area to the south.

KEY ISSUES AND CONCERNS

1. Light Rail
2. City Limits and Expansion Eastward
3. Urban Growth Boundary
4. Railroad/Harmony Corridor\*
5. North Clackamas Aquatic Center
6. Linwood Corridor\*

District 5 (Campbell)

These boundaries parallel those of Hector Campbell Elementary School. Hwy 224 effectively separates this area from the largely industrial area to the south.

KEY ISSUES AND CONCERNS

1. Light Rail
2. Residential Infill
3. Railroad/Harmony Corridor\*
4. 37th Avenue Intersection

District 6 (Lewelling)

These boundaries parallel those of Lewelling Elementary School. The Milwaukie northern City Limits line divides this area from Southeast Portland neighborhoods.

KEY ISSUES AND CONCERNS

1. Johnson Creek Blvd. Corridor\*
2. Residential/Industrial Use Compatibility
3. Johnson Creek
4. Springwater Corridor Development
5. City Limits and Expansion Eastward
6. Urban Growth Boundary
7. Nonconforming Uses

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

District 7 (Ardenwald)

These boundaries parallel those of Ardenwald Elementary School. The Milwaukie northern City Limits line divides this area from Southeast Portland neighborhoods.

KEY ISSUES AND CONCERNS

1. 32nd Avenue Corridor\*
2. Redevelopment Areas and Opportunities
3. Johnson Creek Boulevard Corridor\*
4. Residential Infill
5. Light Rail
6. Environmental Concerns
7. Oak/Railroad Intersection

District 8 (McLoughlin Industrial)

This area is the City's oldest industrial sector and is planned and zoned for manufacturing and industrial uses.

KEY ISSUES AND CONCERNS

1. Nonconforming Land Uses
2. Light Rail
3. McLoughlin Boulevard Corridor\*
4. 17th Avenue Corridor\*
5. Johnson Creek
6. Springwater Corridor

District 9 (Milwaukie Business/Industrial)

Composed of business parks and commercial shopping points, this area has several business park associations in place. It is bounded by Hwy 224 and Railroad Avenue.

KEY ISSUES AND CONCERNS

1. Employee Intensive Issues
2. Light Rail
3. Hwy 224 Corridor\*
4. Environmental Issues
5. Natural Resource Issues
6. 37th Ave/International Way/Hwy 224 Intersection
7. Industrial/Residential Transition Issues

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

CITY OF MILWAUKIE  
LAND USE DISTRICT COMMITTEES  
MODEL BYLAWS

ARTICLE I: GOAL

The goal of these Bylaws is to provide a framework with which Land Use Districts may execute smooth, coordinated, fair and timely participation in land use planning processes and to facilitate communication for other purposes. The requirements represented by these Bylaws are minimum requirements that citizen groups must meet in order to establish and maintain official recognition by the City Council.

ARTICLE II: PURPOSE

- A. To provide a channel for two-way communication between land use planning officials or other City officials and neighborhoods.
- B. To bring together citizens in each Land Use District who have an interest in shaping and maintaining the quality of life in their neighborhoods.
- C. To assist neighborhoods in preserving and enhancing their existing natural and other resources.

ARTICLE III: GEOGRAPHIC REPRESENTATION

The City Council will offer recognition to one group that meets the minimum requirements of these bylaws in each of the nine designated Land Use Districts (see the attached map, Exhibit #1).

ARTICLE IV: MEMBERSHIP

- A. Non-voting membership requirements:

Anyone of voting age is a member of a designated Land Use District who is:

1. A resident within the designated geographic area; or
2. A property owner whose property is located within the geographic area; or
3. A business owner whose business is located within the designated area; or
4. A designated representative of a business, corporation, or trust located within the geographic area; or
5. A designated representative of a non-profit business or group located within the geographic area.

- B. Voting Membership Requirements:

To vote on Land Use District business or to vote in the elections of Land Use District representatives or officers, a member must:

1. Comply with the Membership Requirements of Article IV, Section A, above; and

2. Have registered and participated at one, or more, previous Land Use District meetings during the past 12 months where District business was conducted.

ARTICLE V: REPRESENTATION OF DISTRICTS AND DUTIES OF REPRESENTATIVES AND OFFICERS:

A. Fair representation of District residents:

Land Use District Committees will be responsible to actively seek and encourage membership that represents a broad cross-section of their districts. Broad representation includes racial, cultural, economic, social and professional diversity.

B. The voting membership of each District shall elect 5-7 designated, at-large representatives who will represent the District for the purpose of land use planning processes and for other purposes as well. Representative bodies will meet to discuss and facilitate District Committee management and planning, to vote on land use issues or other business, and to perform other reasonable duties. Representative District composition shall meet the following criteria:

1. Only voting members may be elected to representative positions;
2. No more than two persons or representatives of businesses who are engaged in the business of buying, selling or developing real estate for profit, or who are related or associated to anyone so engaged, shall serve as representative simultaneously;
3. Representative bodies shall represent a broad cross-section of their districts;
4. No representative shall serve two consecutive terms.

C. The representative bodies shall elect a President and Secretary by majority vote from the membership of the representative body. The duties of the President and Secretary are outlined below:

1. The President's duties shall include management and direction of the efforts of all Land Use District activities, ensuring adequate performance, and ensuring that the District Committee complies with all tenants of these Bylaws.
2. The secretary's duties shall include keeping accurate minutes of all regular, special and Representative and Officer meetings or to ensure that such minutes are kept. The Secretary shall also keep attendance registration of all regular and special meetings. The Secretary shall maintain attendance reports and minutes and make them available for review by anyone who so asks. The Secretary shall be responsible for forwarding minutes and registration lists of all meetings to the City of Milwaukee. The Secretary shall also send current and updated officer lists to the City of Milwaukee.

D. Other Officer positions may be defined and created by a majority vote of representative bodies. Such positions shall be subject to the same membership, and election requirements of the President and Secretary posts.

ARTICLE VI: ELECTIONS OF REPRESENTATIVES AND OFFICERS

- A. Terms of office for all District Committee representatives shall be one year.
- B. Election of representatives shall be held during the same regular meeting each year, and shall be well publicized at least 2 months in advance both to the District organization and to the public.

ARTICLE VII: MEETING REQUIREMENTS

A. Regular and Special meetings

- 1. Land Use District Committees shall hold at least six regular meetings during each calendar year. No two regular meetings will be held in the same month. Regular meetings will be scheduled in advance each year and will be held at on the same day and time of the month. One general meeting will be held during the same month of each year to facilitate election of Committee members.
- 2. Land Use District Committees may hold special meetings to facilitate timely review of Land Use District business issues, to provide additional meeting time for more in-depth review of issues at the request of planning organizations under deadline pressures, or for any other purpose.

B. Meetings of elected Representatives and Officers:

Elected District Committee members are encouraged to hold meetings before or after regular meetings. They may hold separate meetings that are well publicized in advance to both their general and voting memberships and to the public.

C. Businesslike manner:

Meetings will be conducted in a businesslike manner according to recognized parliamentary procedures (for guidelines, refer to Roberts' Rules of Order).

D. Minutes and attendance registration:

The secretary shall keep minutes and attendance registration of all regular and special meetings as indicated in Article V, section C 2 above.

E. Open meetings:

All regular and special meetings shall be unqualified open meetings where anyone may attend. Anyone attending regular and special meetings may be included in meeting agendas for commentary purposes.

F. Public notice:

All meetings of Land Use District Committees, including regular and special meetings shall be open and well publicized in accordance with ORS 192.610-650. In order to comply with this statute, all meetings must be sufficiently publicized to the membership in advance and must be noticed to the public as well.

ARTICLE VIII: ACTION BY LAND USE DISTRICT COMMITTEES

- A. Action by Land Use District Committees for commentary on land use or other issues shall be by majority vote of elected members at regular or special meetings.
- B. For regular and special meetings, quorum shall consist of five Committee members of whom one is the elected President, or an officer designated by the President.
- C. Land Use District Bylaws shall be approved by a majority of voting membership during a regular meeting. Changes to Land Use District Bylaws shall be by a majority of voting membership at a regular meeting upon notice to voting and non-voting membership as well as the public, at least two regular meetings in advance.

ARTICLE IX. RECOGNITION:

Recognition of groups officially representing each District will be extended by invitation at the discretion of the Milwaukie City Council to groups who meet the minimum requirements set forth in these bylaws.

ARTICLE X. NEIGHBORHOOD GROUP FORMATION AND RECOGNITION REQUIREMENTS

A. Purpose:

The purpose of Neighborhood Groups is to provide an avenue for addressing specific issues that affect smaller areas of officially designated Land Use Districts. Neighborhood Groups are not meant to provide an avenue for disgruntled factions to circumvent the Land Use Committee structure, but are meant to provide people in smaller areas with official recognition concerning special issues of concern.

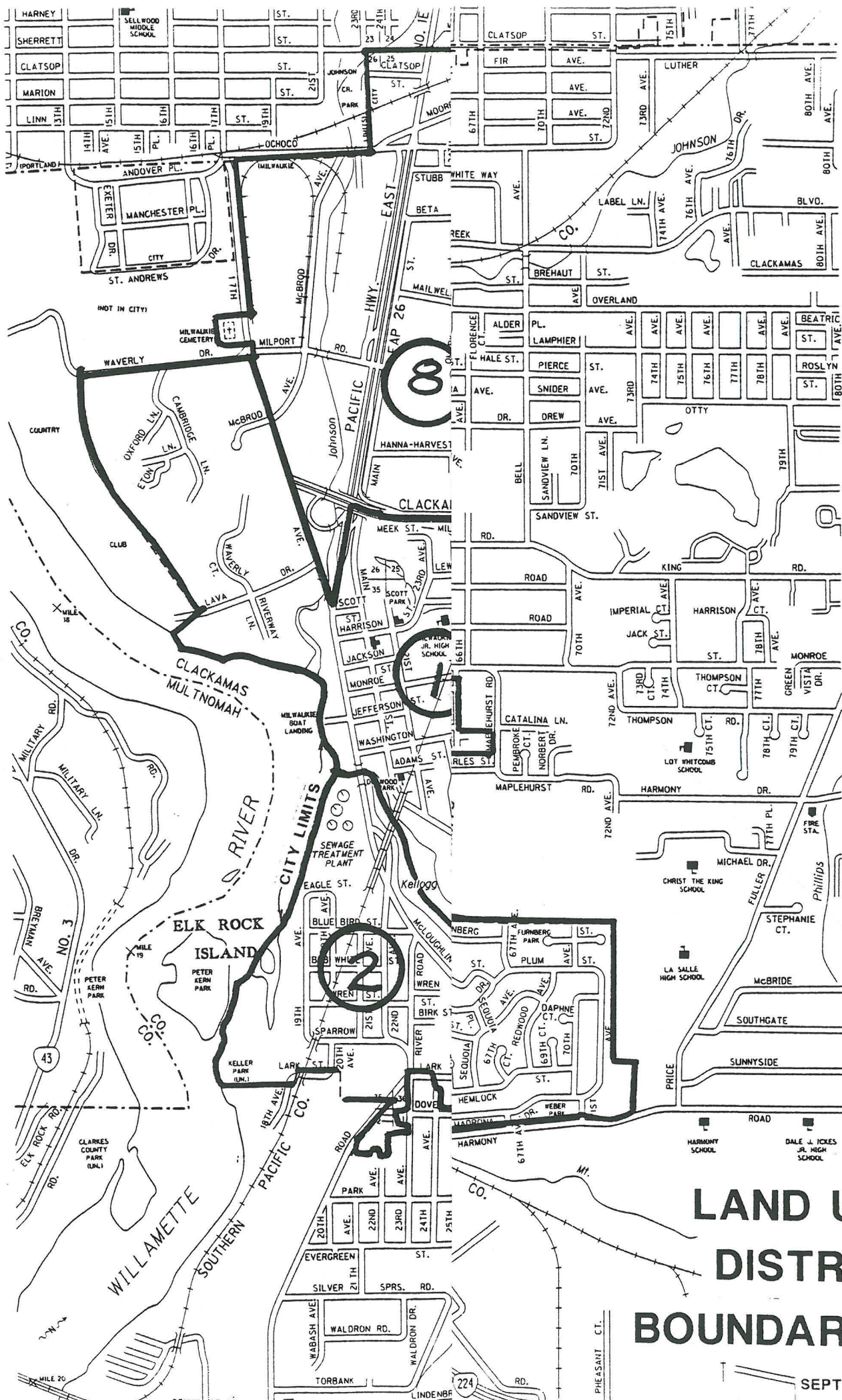
B. Requirements of Neighborhood Groups.

Neighborhood Groups must:

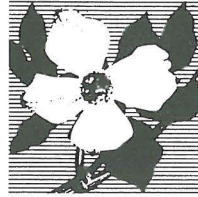
- 1. Elect or designate a chairperson and a secretary.
- 2. Coordinate with the Land Use District Committee as to representation for the purpose of land use application review.
- 3. Hold regular meetings.

ARTICLE XI: MODEL BYLAW CHANGES:

The City Council may alter or redraft these model bylaws at its discretion.



# LAND USE DISTRICT BOUNDARIES



## MEMORANDUM

TO: Planning Commission

THRU: Maggie Collins, Community Development Director

FROM: Tim Corbett, Public Works Director *TC*

SUBJECT: Report: Recommendations Regarding  
Planning Commission Conditions Concerns

DATE: August 16, 1993

### ACTION REQUESTED

For your information.

### BACKGROUND

Each issue that was discussed in a work session with the Planning Commission on August 9, 1993 is included below. Based on the work session, Public Works staff has redefined both issues and solutions as a result of the August 9th discussion. presented in an earlier memo.

### ISSUE IDENTIFICATION

1. **Problem:** Differing understanding of the roles of the Planning Commission and Public Works staff as to the authority of each. Engineering staff currently makes recommendations about improvements to public facilities. By forwarding recommendations rather than specific requirements, Public Works may give the Planning Commission the impression that standards are not firm, or that the Planning Commission has responsibility for public improvements in the right-of-way that are under the Public Facilities Improvement Ordinance.

#### **Solution(s):**

a) Referral responses to CDD staff and the Planning Commission will specifically indicate if street and utility or right-of-way improvements are requirements or recommendations of the Public Works staff and, how they are authorized by the City Public Facility Improvements Ordinance. Requirements would be included as a condition(s) in the CD staff report.

b) When any type of significant development is scheduled for a public hearing at a Planning Commission meeting, CDD staff will request that Public Works be represented at the meeting to answer Planning Commission questions.

2. **Problem:** Lack of clarity as to the Planning Commission's authority to levy conditions on public land or dedicated right-of-way.

**Answer:** The Planning Commission can levy conditions of approval on private or public lands which are subject to a Planning Commission review (for example: conditional use or community service use review). Conditions applied are supposed to be in keeping with specific criteria for that given review process or to implement specific standards within the City Zoning or Subdivision Ordinances (such as street widths, cul de sac lengths, etc.).

Generally, most street and utility improvement requirements are monitored by Public Works as part of the implementation of the Public Facility Improvements Ordinance and are stated as part of the Plat review process. The Planning Commission's authority is more limited however, on single family residential construction reviews, unless the specific criteria listed for the type of application authorize conditions.

The Planning Commission has requested follow up to discuss this issue in greater detail.

3. **Problem:** As pointed out in a work session involving the Planning Commission and the Public Works Director, miscommunication often occurs when the Planning Commission adds to or changes Public Works conditions that involve Public Works staff follow-up.

**Solution:** As discussed previously, when any type of significant development is scheduled for a public hearing at a Planning Commission meeting, CDD staff will request that Public Works be present at the meeting to answer Planning Commission questions.

4. **Problem:** Whether the City has the ability to require off-site improvements (especially in regards to streets and utilities).

**Answer:** Public Works has the authority to require off-site facilities improvements through Article V, Section 3 of the City Public Facility Improvements Ordinance (Ord. #1645). The process and criteria for imposing such requirements are listed in the ordinance which is attached.

As to the Planning Commission, there are some plan policies that appear to give the Planning Commission the authority to address off-site facilities needs as part of the "big picture" approach. This authority, however, is not universal.

This issue will also be discussed in greater detail in follow up work sessions.

5. **Problem:** There is the perception that the Building Division does not always ensure PC conditions are reviewed at the time of final inspection.

**Solution:** CDD staff will attach copies of the conditions of approval to each of the sets of plans within the file. One copy will be stamped "File" and the other will be stamped "Site". That will ensure one copy will go to the customer (contractor) and one will stay with the file plans for staff use. This ensures that the Building Inspectors have the conditions available at the time of final inspection.

6. **Problem:** Manufactured homeowners often seem unfamiliar with conditions of approval.

**Solution:** Specific conditions will be stapled to the plans (CDD already has an information sheet with zoning conditions included that can be used). Also, Building staff will develop a manufactured home placement checklist to help keep track of conditions and inspection compliance. Finals will not be issued until all conditions are met.

attachments

RTC/rtc

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 15 OF THE MILWAUKIE CODE BY ESTABLISHING REGULATIONS FOR UPGRADING PUBLIC FACILITIES WHEN CONSTRUCTION OR EXPANSION OF STRUCTURES OCCURS.

WHEREAS, the Legislature of the State of Oregon has, in ORS 227.215, delegated to local government the responsibility for adopting regulations for the development of land, and

WHEREAS, the City of Milwaukie is required by the Comprehensive Plan to ensure that adequate levels of public facilities and services are provided to City residents, and

WHEREAS, a mechanism is required to allow consideration of public facilities needs on a property by property basis,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact and conclusions are adopted:

1. The City of Milwaukie Comprehensive Plan requires public facility improvements to occur as specifically described in the following Comprehensive Plan sections:

A. Neighborhood Element:

- 1) Neighborhood Area 1: Objective 4, Community Open Space  
Objective 8, Walkways  
Objective 9, Streets and Drainage
- 2) Neighborhood Area 2: Objective 2, Tree Preservation  
Objective 3, Neighborhood Maintenance  
Objective 7, Walkways  
Objective 8, Streets and Drainage
- 3) Neighborhood Area 3: Objective 3, Community Open Space  
Objective 7, Streets and Drainage
- 4) Neighborhood Area 4: Objective 2, Housing Quality  
Objective 5, Walkways  
Objective 6, Streets and Drainage

- 5) Neighborhood Area 5: Objective 2, Housing Quality  
Objective 3, Land Use  
Coordination  
Objective 8, Streets and  
Drainage

B. Transportation Element:

- 1) Table 4-A, Design Criteria for Urban Streets
- 2) Objective 3, Roadway Construction & Improvements
- 3) Objective 6, Local Transit Opportunities
- 4) Objective 8, Pedestrian/Bikeway

C. Public Facilities and Services Element:

- 1) Objective 3, Community Development
- 2) Objective 4, Water Service
- 3) Objective 5, Sanitary Sewer Service
- 4) Objective 6, Drainage and Streets
- 5) Objective 12, Utilities
- 6) Facilities Review Report

D. Energy Conservation Element:

- 1) Objective 1, Land Use
- 2) Objective 2, Transportation System
- 3) Objective 4, Site and Building Design

- 2. This ordinance provides a mechanism to implement public facilities improvements required by the Comprehensive Plan.
- 3. Establishing procedures to require public facilities improvements when on-site development occurs is a common practice of most cities and counties.

Section 2. Ordinance. The Public Facilities Improvements Ordinance is adopted as new Milwaukie Code Chapter 15.32 as follows:

ARTICLE I  
STATEMENT OF PURPOSE AND OBJECTIVES

Section 1. Statement of Purpose. It is the purpose of this ordinance to provide for the orderly construction of needed public facilities by provisions designed to:

- A. Meet City Comprehensive Plan requirements for public facility improvements;
- B. Minimize the expenditure of public moneys for public facilities improvements;
- C. Identify public facilities improvements necessary for given property development proposals;
- D. Allow actual improvements of public facilities to occur at a time appropriate for the improvements needed; and
- E. Provide an equitable and consistent method of requiring public facilities improvements.

ARTICLE II  
DEFINITIONS

Section 1. Interpretation.

- A. Unless specifically defined below, words or phrases used in this ordinance are intended to be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- B. Specific words, phrases, or standards, other than as specifically defined below, may be interpreted by the Public Works Director based upon the finding that such interpretation shall be in keeping with the intent of this ordinance.

Section 2. Definitions as Used in this Ordinance.

CHANGE IN LAND USE: A change in the primary existing use or the addition of other use(s) for a specific real property. A proposal to change a land use may require other land use processes including rezone, conditional use, community service overlay, etc.

CITY: The City of Milwaukie, Oregon.

**CONSTRUCTION:** The development, building, remodeling, adding or improvement of structures for a specific real property.

**DEVELOPER'S AGREEMENT:** A notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees: to construct or provide public facilities improvements specifically identified in the document, or, (in cases where Local Improvement District or Project Formation is necessary) to share in the cost of necessary public facilities improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of Local Improvement District or Project Formation. This may consist of such determination methods as street frontage percentage, lot square footage and/or standard per lot assessment.

**MINOR DAMAGE:** Damages incurred by a structure or structures by either man-made or natural means where the cost of repair is 25% or less than the current assessed valuation of the total of all onsite improvements before the damage occurred.

**NEW CONSTRUCTION:** Construction occurring on vacant property or construction occurring as part of reconstruction or redevelopment of an existing developed site.

**ONSITE IMPROVEMENTS:** All structures or improvements on a specific real property which would require a building permit prior to construction, but not including the following: driveways, walkways, parking areas, fences, retaining walls, landscaping, and ground-level patios/decks. Onsite improvements also refers to public facility improvements occurring on the subject property or within adjacent public right-of-way or utility easements.

**PUBLIC FACILITIES:** Facilities intended to serve the public and consisting of either City owned or other public service agency owned streets, right-of-way, storm drainage systems, water systems, bus stops, sanitary sewer systems, street lighting, sidewalks, bicycle paths, street trees, public accessways, utility easements, and traffic controls.

**PUBLIC WORKS DIRECTOR:** The Public Works Director for the City of Milwaukie, Oregon, or an assigned designee.

ARTICLE III  
GENERAL PROVISIONS

Section 1. Situations to which this Ordinance Applies.

This ordinance shall apply for all situations within the jurisdiction of the City of Milwaukie described as:

- A. New construction, including residential, commercial, industrial, or other;
- B. Construction resulting in an increase in occupancy;
- C. Construction resulting in increased traffic;
- D. Creation of new parcels and lots by minor land partition, major land partition, subdivision, and planned development; and
- E. A change in land use.

Section 2. Exempt Situations.

This ordinance shall not apply to the following situations within the City of Milwaukie:

- A. Construction not subject to the provisions of Sections 1.B., C. and E. above and where the improvement value is 25% or less than the current assessed valuation of the total of existing onsite improvements; or
- B. Construction consisting of re-roofing, re-siding, window installation, minor damage repair, or interior remodeling not subject to provisions of Section 1.B. above.
- C. New construction (not subject to the provisions of Section 1.B above) for the purposes of replacing or remodeling a single family dwelling damaged by a fire, flood, or other casualty.

Section 3. Compliance.

No structure or land shall hereafter be constructed, located, converted, altered, or occupied, as indicated in Section 1, without full compliance with the terms of this ordinance and other applicable regulations. In cases of non-compliance, the City may take enforcement action, terminate City water service, establish property liens, or use other methods to ensure ordinance compliance.

ARTICLE IV  
ADMINISTRATION

Section 1. Public Facility Improvements Review.

All situations to which this ordinance applies shall be reviewed by the City Public Works Department based upon established review standards in order to determine the adequacy of public facilities for the use intended and whether or not new public facilities or expansion of existing public facilities is required.

Section 2. Designation of Public Works Director.

The Public Works Director is hereby appointed to administer and implement this ordinance.

Section 3. Duties and Responsibilities of the Public Works Director.

Duties of the Public Works Director shall include, but not be limited to:

A. Permit Review.

1. City Public Works Department, Community Development Department, and Structural Safety Division shall submit copies of non-exempt land use and building permit applications to the Public Works Director for review.
2. The Public Works Director shall respond within 10 working days with an indication of ordinance applicability along with proposed conditions (if any) for compliance with this ordinance.
3. Conditions proposed for compliance with this ordinance shall be attached to the application, if approved.

B. Review Standards.

Review standards for public facilities shall be those standards currently in effect, or as modified, and identified in such public documents as the Comprehensive Plan of the City of Milwaukie, the City Sewerage Master Plan, the City Water Master Plan, the Roadway and Traffic Safety Management Plan for the City of Milwaukie, City of Milwaukie Public Works Design Standards, Standard Specifications and Drawings for Public Works Construction by the American Public Works Association Oregon Chapter, the City Zoning Ordinance, and City Subdivision Ordinance.

Section 4. Appeals Procedure.

A. Appeals.

Appeals of a decision or interpretation of the Public Works Director must be filed on forms prescribed by the City and accompanied by the appropriate filing fee within 15 days of the decision of the Public Works Director.

B. Appeal Review.

The City Manager for the City of Milwaukie shall review and decide requests for appeals of the requirements of this ordinance.

C. Appeal Review Procedure.

Appeals to the requirements of this ordinance shall be scheduled for consideration of the City Manager during normal City Hall business hours.

D. City Council Review.

A decision of the City Manager may be appealed to the City Council for consideration within 15 days of the action date. The appeal must be on forms prescribed by the City and accompanied by the appropriate filing fee.

E. Appeal Criteria.

An appeal of a decision or condition of approval for actions provided for in this ordinance shall be granted if conformance is shown to one of the following criteria:

1. That the proposal is not, in fact, a situation to which this ordinance applies; or
2. That reasonable alternatives to conditions or interpretations applied can be substituted while still maintaining ordinance purpose.

ARTICLE V  
PROVISIONS FOR PUBLIC FACILITIES IMPROVEMENTS

Section 1. Improvement Methods.

If, upon review of the development proposal by the Public Works Director, the affected street or other public facility does not meet applicable standards, the property owner shall provide the improvement or other action necessary to satisfy the applicable standards. The Public Works Director may select, from the following, the most appropriate method:

- A. Construction by the property owner subject to Public Works inspection approval;
- B. Payment in lieu of construction, either in the form of a trust account or posted bond; or
- C. Developer's Agreement committing the property owner to not remonstrate against the City for the necessary improvements and to pay the assessment for such improvements. In approving this method, the Public Works Director may require a temporary improvement at a lesser standard appropriate to the circumstances.
- D. Reimbursement agreements may be authorized for off-site facilities improvements fronting other properties.

Section 2. Onsite Facilities Improvement Requirements.

Any situation to which this ordinance applies shall be required to complete or make provision for completion of improvements to public facilities following the improvement method selected from Section 1. Method C will be used when immediate construction of public facilities is not feasible or practical from an engineering standpoint.

Section 3. Off-Site Facilities Improvement Requirements.

Off-site facilities improvements shall be required for construction or development proposals which would result in detrimental effects to existing public facilities or cause existing public facilities capacity problems. Improvements shall follow the methods identified in Section 1.

*Read condition.*  
*fno*  
*sidewalks*  
*conditions*

Section 4. Off-Site Facilities Improvement Criteria.

Off-site facilities improvement requirements shall be based upon an analysis by the Public Works Director that the development proposal will result in one of the following:

- A. Exceed the design capacity of the facility;
- B. Exceed other generally accepted standards;
- C. Create a potential safety hazard; or
- D. Create an ongoing maintenance problem.

Section 5. Facilities Oversizing.

Public facilities improvements required by the Public Works Director shall be at sizes specified in City standards documents. Oversizing may be required in anticipation of additional systems demand. Oversizing proposed by the property owner may be allowed at the property owner's expense. The Public Works Director may authorize a reduction in systems development charges or a reimbursement agreement for developments where oversizing of facilities is required.

Section 6. Monitor Progress.

The Public Works Director shall monitor the progress of all public facilities improvements required to ensure project completion and compliance. Follow-up action, such as facilities inspection, bond release, and enforcement shall be considered a part of the monitoring process.

Section 7. Public Facilities Design.

Construction projects shall meet design standards for public facilities installation or improvements as identified by the Public Works Director or City design standards. The property owner is responsible for providing engineered facility plans to the Public Works Director for review.

Section 8. Formation of Local Improvement Districts.

As developer's agreements are collected to a sufficient majority for a given area, or, as needs for facilities improvements arise, the Public Works Director shall organize Local Improvement Districts and solicit additional funds, as necessary, to allow facility construction to completion.

Section 9. Coordination.

The Public Works Director shall coordinate with other public service agencies to ensure that public facility improvements required reflect the full range of public facilities, and not just City provided services.

Read the first time on April 5, 1988, and moved to second reading by 3-2 vote of the City Council.

Read the second time and adopted by the City Council on April 19, 1988.

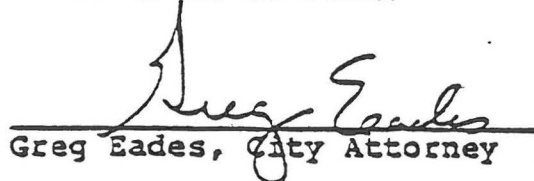
Signed by the Mayor on April 19, 1988.

  
Roger A. Hall, Mayor

ATTEST:

  
Jerri Widner, City Recorder

APPROVED AS TO FORM:

  
Greg Eades, City Attorney

M E M O

From: Dave Krogh, AICP *Dave*  
Associate Planner

To: Maggie Collins  
Community Development Dir.

CC: Tim Corbett  
Public Works Dir.

Date: Thu Aug 26 1993

Subject: Authorization for Planning Commission Use of Conditions

You and Tim have indicated the Planning Commission desired clarification (at their meeting of August 10) as to their authorization and ability to condition Planning Commission approvals. I have researched this matter and have determined that the Zoning Ordinance does allow the Planning Commission the ability to set conditions in most cases. Findings and applicable code references are as follows:

<u>Review Type</u>	<u>Onsite Conditions Allowed &amp; References</u>	<u>Offsite Conditions Allowed &amp; References</u>
C-CS Review	Yes; Section 1011.3E	Yes*; Section 315.3
CSO Review	Yes; Section 1011.3E	Yes**
NR Review	Yes; Section 1011.3E	Yes*; Section 322.14
Transition Area	Yes; Section 1011.3E	Not referenced
Conditional Use	Yes; Sections 1011.3E and 601.3	Implied in Section 601.3
Variance	Yes; Section 1011.3E	Implied in Section 701
Nonconforming Use	Yes; Section 1011.3E	Not referenced
Zone Change	Yes; Section 906	Implied in Sections 905.10 & 906
Subdivision	Yes; Section 1011.3E	Not referenced

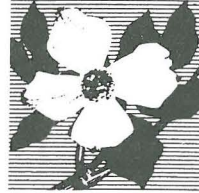
\* With limitations

\*\* With limitations depending upon the type of use proposed

Section 1011.3E is part of the procedural discussion for the Minor Quasi-Judicial review process. This section authorizes the Planning Commission to "render a decision on the matter including findings, conclusions, and conditions, if necessary...". Section 1011.3E covers all reviews mentioned above except the Zone Change.

Conditions of approval for offsite improvements (see above) are either specific to certain situations, implied in certain review types, or not referenced.

# CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT  
PUBLIC WORKS

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

TELEPHONE: 652-4410  
FAX: 774-8236

## MEMORANDUM

TO: Planning Commission

THRU: *MC* Maggie Collins, Community Development Director

FROM: Tim Corbett, Public Works Director

SUBJECT: Assessment and Recommendations Regarding  
Planning Commission Conditions  
CASE STUDY

DATE: August 16, 1993

### ACTION REQUESTED

Review and comment on this memo. It is presented as follow-up to a request that the Corrections Center application be used as a case study to discuss difficulties in following through on Planning Commission conditions.

### BACKGROUND

The County Corrections Center was developed with a condition for a sidewalk constructed to Ochoco Street. This condition was met by adding 4 feet of asphalt and a fog line as a vehicle/pedestrian separator to the existing street. It is clear that this was not the intent of the Planning Commission when the condition was formulated.

### DISCUSSION

In order to determine why there was a breakdown in communication regarding this condition, staff reviewed the file and outlined the key points related to the development of the Corrections Center and the formulation of the condition. These key points have been put into a "problem" and "solution" framework to ensure that conditions are carried out as the Planning Commission intends in the future.

**Problem:** As noted in page 2 of the Planning Commission minutes from July 23, 1991, the proposal was unusual in that "there are no final plans submitted to the Commission tonight." By allowing the applicant to have the development considered for approval without final plans, PW staff and the Planning Commission did not have the necessary details to allow a common understanding of the applicants' proposal from the onset. Normally, the developer would work with Public Works and incorporate some level of public improvements into the final plans to be submitted to the Planning Commission. This allows for a more focused conversation on what additional conditions should be added.

**Recommendation:** Final plans should be submitted for all projects being considered for approval.

**Problem:** The condition for sidewalks was not coupled with half street improvements. This is an unusual situation and Public Works staff were not present at the public hearing to understand the full intent of the condition. There was some discussion at the Public Works staff level about how this could be accomplished from a technical standpoint.

When reviewing the file it is clear that the Planning Commission minutes are more specific about the Planning Commission's intent than the condition incorporated in the Notice of Decision. The minutes come out after the Notice of Decision, and are not usually reviewed by PW staff.

On page 12 of the Planning Commission minutes (attached), condition 4 states "full street improvements are not needed but sidewalks should be provided...".

On page 13 of the minutes (attached), a new condition #9 was added which is more clear. "Minimum sidewalks and curbs will be provided."

Condition #9 (attached) as stated in the Notice of Decision states that "Street Improvements shall conform to Public Works standards and shall include the extension of sidewalks ...." The final condition makes no reference to the curbs.

As pointed out in a work session involving the Planning Commission and the Public Works Director, miscommunication often occurs when the Planning Commission adds to or changes Public Works conditions that involve Public Works staff follow-up. It was also noted that Public Works was concerned that when conditions are formulated that have no definite standards, such as requiring sidewalks without a corresponding half street improvement, miscommunication is more likely to occur.

Solution: Public Works has already agreed to have staff present when any type of significant development is scheduled for a public hearing at a Planning Commission meeting. Community Development staff will request that Public Works be represented at the meeting to answer Planning Commission questions or provide input at the appropriate time. This effort is in addition to the routine Public Works review and comments that are incorporated into the Community Development Department staff report.

attachments

RTC/rtc

Chairman Littlehales opened the public hearing. He asked if there were any conflicts of interest or ex-parte contacts to declare. There were none.

Jim Crumley reported that this was an application from the Clackamas County Community Corrections Department to replace an existing 40-bed work-release facility with an 80-bed work-release facility. Jim then made the following corrections: Page 1, delete the word "metal" and replace with "wood," so it reads, "...Work Release wood modular facility;" and Page 6, last line, "This facility be limited to number of a maximum of 114 persons," delete "persons" and replace with "residents."

Jim read the purpose statement supplied by the Applicant in the Staff Report. The proposed facility would be approximately 19,000-20,000 square feet of wood-frame construction. The County intends to construct this facility as a design-build project. The detailed plans, elevation drawings, and floor plans will not be available until the County selects a design-build contractor and proceeds with the finalization of the design. Under this arrangement, the final site plan showing exact building and parking layout and final landscape and enhancement plans will also not be available until the design-builder has been selected.

The project is located on the westly 1.87 acres of Tax Lot 100 between McBrod Avenue and Johnson Creek, bordered on the north by Portland Traction Railway and to the south by Milport Road. The entire site and surrounding properties are currently zoned M and have an I (Industrial) designation on the Comprehensive Plan. The site is subject to the 100-year flood plain, and falls under the regulations of the Natural Resource Overlay Zone. The surrounding properties are principally developed as industrial use with the exception of single family homes on the north side of Ochoco Avenue. There is also approximately an acre and a half of undeveloped industrial land immediately east of Johnson Creek and west of the existing OLCC offices and warehouses.

\* This proposal is unusual in that there are no final plans submitted to the Commission tonight. The County's representative, Rob Barrentine of Barrentine, Bates, and Lee, has informed the City that the design-build concept is not cost effective without first obtaining a conceptual approval of site development from the City of Milwaukie. Staff has worked out a development envelope which will meet the design criteria specified in the various sections of the Zoning Ordinance. Exhibit 1 shows the conceptual envelope for structures and improvements on the site. It does not,

operation, he is in agreement with that request. He feels confident that the mitigation imposed at that time will be fair.

Pat Lent voiced concern about the change in the use of the facility. She would like to see the Applicant come back to the Commission at the time of the change of use of the existing facility. Don Trotter explained that because of the uniqueness of this application, the Applicant needs to know if the uses are possible before they can design-build the structure.

Carolyn Tomei asked that a condition be imposed that the drunk tank users be escorted from the facility by a responsible person and not just released in the morning.

The Commission then reviewed the conditions and made the following changes:

\* Condition #4 The Commission is in agreement that full street improvements are not needed but sidewalks should be provided to McLoughlin from the north end of the subject site. They could be tied in with the Ochoco improvements.

Condition #7 Should the entire contents of the handbook be under review? Jim Crumley indicated that he felt that if the entire book is submitted, Staff could review the revisions and changes and make sure that they were in compliance with City concerns.

Condition #8 The condition is ambiguous. What is the intent of this condition? Jim Crumley indicated that the intent is to indicate the size of sign and sign copy. Small signs: "Don't go down to the bank," "Don't get in the water," "Stay away from the edge of the bank," etc can be used. The purpose is to restrict the recreational use of the natural resource within the Boundary Line.

Condition #2 Maggie Collins suggested rewording to say, "...Community Corrections Division. Corrective programs must be residential in nature and may include both work-release and alcohol and drug treatment."

Chairman Littlebailes moved to approve CSO-91-04 with the findings for the Community Service Overlay as presented, the Flood Hazard Zone as presented, the Natural Resource Overlay Zone as presented except with Finding #3 to change the response to read, "The finalized plan shall comply with the above requirement with the emphasis on screening as opposed to obscuring," and following with Section 3.27-07.B with the

response, "That the existing pathway may be improved but not expanded." Conditions as follows:

Condition #1 as proposed changing 114 "persons" to "residents."

Condition #2 as amended, "...Correction programs must be residential in nature and encompassing work-release and drug and alcohol counseling."

Condition #3 as proposed.

Condition #4 as proposed in A; B, adding the phrase, "as per Exhibit 6."; Section D, adding the phrase, "...in accordance with Section 5 of the Zoning Ordinance; and deleting E.

Condition #5, adding the phrase, "...as per Exhibit 6." and

Condition #6 as proposed.

Condition #7 adding a phrase, "...specific sections of the handbook to be agreed between Corrections Division and City Staff.

Condition #8 modified, "...restricts the land within the boundary for recreational use."

New Condition #9, "Street improvements will include sidewalks to the northerly boundary of the property and will comply with the Public Facilities Ordinance. Sidewalks may be reduced to four feet in width. Minimum sidewalks and curbs will be provided. The layout of the sidewalks be coordinated with the proposed ODOT improvements on Ochoco."

New Condition #10, "Any changes to the basic program of work-release and resident drug and alcohol treatment shall be submitted to Community Development Department for review of compliance with this CSO approval. Don Trotter seconded.

Carolyn Tomei suggested the addition of a new Condition #11, "Sobering facility be reviewed after six months of operation and a report submitted to the Planning Commission; and that users of this facility be provided escorted transportation from the facility." The second, Don Trotter, concurred.

Pat Lent voiced concern about lighting of the proposed sidewalks. She suggested amending Condition #4-E, "Staff shall review the lighting plan of both ODOT and the Corrections facility to insure that the proposed sidewalks

9. Street improvements shall conform to Public Works standards and shall include the extension of sidewalks from the western edge of the Johnson Creek bridge on Ochoce Street to the northern most parking lot of the facility on McBrod Avenue. The sidewalk along McBrod Avenue may be reduced in width to four feet with the concurrence of the Office Engineer.
10. Any change to the basic Work-Release or Drug and Alcohol Counseling resident programs shall be submitted to the Community Development Department for review for conformance to this CSO approval.
11. If sobering rooms are included in the final design of this facility persons shall not be released from the "sobering facility" without assured, or escorted, transportation from the area. Sobering operations shall be reviewed after a 6 month duration and a report presented to the Planning Commission.

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

COMMUNITY DEVELOPMENT DEPARTMENT  
CITY OF MILWAUKIE

September 7, 1993

To: Milwaukie Planning Commission  
From: *MC* Maggie Collins, Community Development Director  
Re: Community Development Department Report for September 14,  
1993 Meeting

Action Requested

For your information.

Discussion

- A. WEIKO WAY SITE REPORT. The property owner is now under permit for grading that is taking place onsite. At this time, the owner states that he is leveling the property only. The owner is aware that he must work with Planning for any change of use.
- B. MILWAUKIE GLASS. Staff will have a report to present at the 9/14/93 meeting.
- C. MILWAUKIE HIGH SCHOOL RETAINING WALL REPORT. The dimensions of the wall were part of the site plan approved by the Planning Commission. An additional 4-foot concrete wall at the edge of the parking area has been added as a safety feature. This additional wall produces a larger concrete feature than was originally thought; the added four feet of concrete does not change the landscaping requirements, according to Staff.
- D. CHEVRON LOT LANDSCAPING REPORT. The plantings have been completed as stipulated on the approved landscaping plan. It will take some time for the species to resemble the final mature state shown on the approved plan.

cc: C.D. Staff  
Dan Bartlett

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

COMMUNITY DEVELOPMENT DEPARTMENT  
City of Milwaukie  
September 7, 1993

To: Milwaukie Planning Commission  
From: *MC* Maggie Collins, Community Development Director  
Re: Draft Land Use District Boundaries

Action Requested

Review the attached public information sheet, the revised Land Use District map, the written description of the nine proposed Land Use Districts, and proposed Bylaws for formation of Land Use District Committees.

Background

Attached is a revised draft of the output from your last worksession on August 24th on this project. Staff is still formulating the best days for setting up public meetings. The final draft of the text for the public meeting would of course go out on Milwaukie letterhead.

Unless there are major problems, and except for the proposed Bylaws, we would like to have this be the last review of the other pieces before going out for public comment.

cc: Dan Bartlett

# DRAFT

September \*\*\*\*\*, 1993

## PROPOSED LAND USE DISTRICTS

The Milwaukie Planning Commission is proposing to designate nine land use districts for the City of Milwaukie. They are shown on the attached map. The Milwaukie Comprehensive Plan currently authorizes five districts.

## PURPOSE OF THE PROPOSAL

Revision of the City's land use district boundaries is the first step in development of a revitalized citizen involvement program for land use review and decision-making within the City. The Comprehensive Plan contains a full chapter of policy and guidance, but it needs updating. The Planning Commission believes that its proposed revision best fits the land use pattern of the City as a whole.

## FUNCTION OF LAND USE DISTRICTS

Land Use Districts are considered the smaller unit for which relevant land use applications and an orderly localized review and referral system can be set up. The attached by-laws suggest how a district committee might be structured.

Within a Land Use District, several distinct neighborhood groups might exist or be formed. These would have a responsibility to use the Land Use District structure regarding planning and/or zoning review for applications in their areas.

## GENERAL CRITERIA FOR LAND USE DISTRICT BOUNDARY FORMULATION

Elementary School District Boundaries. Whenever possible, the Planning Commission used these as a starting point for distinguishing different residential areas within Milwaukie.

Major Streets or Roadways, Topographic Points. Hwy 224, for example serves as a key divider between land uses in the City.

Major Land Uses. To the best extent possible, the Planning Commission tried to acknowledge the inherent differences between major land uses.

(Please See Other Side)

REQUEST FOR PUBLIC INPUT

Two public meetings are scheduled to gather input from the community about this proposal. They are scheduled as follows:

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

\*\*\*\*\*  
\*\*\*\*\*  
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Following the public meetings, the Planning Commission will review the input and hold a worksession with the City Council. A final proposal will then be set up for formal public hearings before both the Planning Commission and City Council.

MORE INFORMATION

If you need more information, or are aware of a neighborhood area that should be notified of this proposal, please contact the Milwaukie Community Development Department at 652-4410.

## CITY OF MILWAUKIE PROPOSED LAND USE DISTRICT BOUNDARIES

### District 1 (Waverly/Downtown)

Access from McLoughlin and future Downtown development actions are the dominant themes of this area. The residential component is isolated from other residential areas of the City by McLoughlin Boulevard, 17th Avenue and Johnson Creek.

#### KEY ISSUES AND CONCERNS

1. Downtown/Riverfront/Willamette Greenway Development
2. Light Rail
3. High Density Residential and Commercial Land Use Mix
4. Low Density Residential/High Density Residential Transition
5. Needs of Educational Institutions
6. Development Infill
7. McLoughlin Blvd. Corridor\*
8. 17th Avenue Corridor\*

### District 2 (Island Station)

Although this area has important linkages with issues and concerns identified in District #1, the Island Station residential neighborhood has developed a set of issues over time that are unique to that area, including residents' interest in Elk Rock Island and improvements to the Kellogg Creek Sewerage Treatment Plant. Island Station also has a historic tradition as a neighborhood.

#### KEY ISSUES AND CONCERNS

1. Kellogg Treatment Plant
2. Elk Rock Island/Spring Park Management
3. Light Rail
4. Historic Resource Values
5. McLoughlin Blvd. Corridor\*
6. Willamette River Greenway
7. Kellogg Lake

### District 3 (Lake Road)

Highway 224 is considered a boundary between commercial development to the north and the residential character of this area to the south. This area has seen the most residential development in the recent past, and concerns and interests are connected to Lake Road as the primary transportation route that bisects the area.

#### KEY ISSUES AND CONCERNS

1. Lake Road Corridor\*
2. Kellogg/Mt. Scott Creeks
3. North Clackamas Park Maintenance and Future Development
4. Light Rail
5. Hwy 224 Corridor\*
6. Infill Development

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

District 4 (Linwood)

These boundaries parallel those of Linwood Elementary School. Hwy 224 effectively separates this area from the largely industrial area to the south.

KEY ISSUES AND CONCERNS

1. Light Rail
2. City Limits and Expansion Eastward
3. Urban Growth Boundary
4. Railroad/Harmony Corridor\*
5. North Clackamas Aquatic Center
6. Linwood Corridor\*

District 5 (Campbell)

These boundaries parallel those of Hector Campbell Elementary School. Hwy 224 effectively separates this area from the largely industrial area to the south.

KEY ISSUES AND CONCERNS

1. Light Rail
2. Residential Infill
3. Railroad/Harmony Corridor\*
4. 37th Avenue Intersection

District 6 (Lewelling)

These boundaries parallel those of Lewelling Elementary School. The Milwaukie northern City Limits line divides this area from Southeast Portland neighborhoods.

KEY ISSUES AND CONCERNS

1. Johnson Creek Blvd. Corridor\*
2. Residential/Industrial Use Compatibility
3. Johnson Creek
4. Springwater Corridor Development
5. City Limits and Expansion Eastward
6. Urban Growth Boundary
7. Nonconforming Uses

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

District 7 (Ardenwald)

These boundaries parallel those of Ardenwald Elementary School. The Milwaukie northern City Limits line divides this area from Southeast Portland neighborhoods.

KEY ISSUES AND CONCERNS

1. 32nd Avenue Corridor\*
2. Redevelopment Areas and Opportunities
3. Johnson Creek Boulevard Corridor\*
4. Residential Infill
5. Light Rail
6. Environmental Concerns
7. Oak/Railroad Intersection

District 8 (McLoughlin Industrial)

This area is the City's oldest industrial sector and is planned and zoned for manufacturing and industrial uses.

KEY ISSUES AND CONCERNS

1. Nonconforming Land Uses
2. Light Rail
3. McLoughlin Boulevard Corridor\*
4. 17th Avenue Corridor\*
5. Johnson Creek
6. Springwater Corridor

District 9 (Milwaukie Business/Industrial)

Composed of business parks and commercial shopping points, this area has several business park associations in place. It is bounded by Hwy 224 and Railroad Avenue.

KEY ISSUES AND CONCERNS

1. Employee Intensive Issues
2. Light Rail
3. Hwy 224 Corridor\*
4. Environmental Issues
5. Natural Resource Issues
6. 37th Ave/International Way/Hwy 224 Intersection
7. Industrial/Residential Transition Issues

\* The term "corridor" denotes a set of planning issues that affect public rights-of-way, including multi-modal needs, landscaping, and traffic management as well as vehicular travel.

CITY OF MILWAUKIE  
LAND USE DISTRICT COMMITTEES  
MODEL BYLAWS

ARTICLE I: GOAL

The goal of these Bylaws is to provide a framework with which Land Use Districts may execute smooth, coordinated, fair and timely participation in land use planning processes and to facilitate communication for other purposes. The requirements represented by these Bylaws are minimum requirements that citizen groups must meet in order to establish and maintain official recognition by the City Council.

ARTICLE II: PURPOSE

- A. To provide a channel for two-way communication between land use planning officials or other City officials and neighborhoods.
- B. To bring together citizens in each Land Use District who have an interest in shaping and maintaining the quality of life in their neighborhoods.
- C. To assist neighborhoods in preserving and enhancing their existing natural and other resources.

ARTICLE III: GEOGRAPHIC REPRESENTATION

The City Council will offer recognition to one group that meets the minimum requirements of these bylaws in each of the nine designated Land Use Districts (see the attached map, Exhibit #1).

ARTICLE IV: MEMBERSHIP

- A. Non-voting membership requirements:

Anyone of voting age is a member of a designated Land Use District who is:

1. A resident within the designated geographic area; or
2. A property owner whose property is located within the geographic area; or
3. A business owner whose business is located within the designated area; or
4. A designated representative of a business, corporation, or trust located within the geographic area; or
5. A designated representative of a non-profit business or group located within the geographic area.

- B. Voting Membership Requirements:

To vote on Land Use District business or to vote in the elections of Land Use District representatives or officers, a member must:

1. Comply with the Membership Requirements of Article IV, Section A, above; and

2. Have registered and participated at one, or more, previous Land Use District meetings during the past 12 months where District business was conducted.

ARTICLE V: REPRESENTATION OF DISTRICTS AND DUTIES OF REPRESENTATIVES AND OFFICERS:

A. Fair representation of District residents:

Land Use District Committees will be responsible to actively seek and encourage membership that represents a broad cross-section of their districts. Broad representation includes racial, cultural, economic, social and professional diversity.

B. The voting membership of each District shall elect 5-7 designated, at-large representatives who will represent the District for the purpose of land use planning processes and for other purposes as well. Representative bodies will meet to discuss and facilitate District Committee management and planning, to vote on land use issues or other business, and to perform other reasonable duties. Representative District composition shall meet the following criteria:

1. Only voting members may be elected to representative positions;
2. No more than two persons or representatives of businesses who are engaged in the business of buying, selling or developing real estate for profit, or who are related or associated to anyone so engaged, shall serve as representative simultaneously;
3. Representative bodies shall represent a broad cross-section of their districts;
4. No representative shall serve two consecutive terms.

C. The representative bodies shall elect a President and Secretary by majority vote from the membership of the representative body. The duties of the President and Secretary are outlined below:

1. The President's duties shall include management and direction of the efforts of all Land Use District activities, ensuring adequate performance, and ensuring that the District Committee complies with all tenants of these Bylaws.
2. The secretary's duties shall include keeping accurate minutes of all regular, special and Representative and Officer meetings or to ensure that such minutes are kept. The Secretary shall also keep attendance registration of all regular and special meetings. The Secretary shall maintain attendance reports and minutes and make them available for review by anyone who so asks. The Secretary shall be responsible for forwarding minutes and registration lists of all meetings to the City of Milwaukie. The Secretary shall also send current and updated officer lists to the City of Milwaukie.

D. Other Officer positions may be defined and created by a majority vote of representative bodies. Such positions shall be subject to the same membership, and election requirements of the President and Secretary posts.

ARTICLE VI: ELECTIONS OF REPRESENTATIVES AND OFFICERS

- A. Terms of office for all District Committee representatives shall be one year.
- B. Election of representatives shall be held during the same regular meeting each year, and shall be well publicized at least 2 months in advance both to the District organization and to the public.

ARTICLE VII: MEETING REQUIREMENTS

- A. Regular and Special meetings
  - 1. Land Use District Committees shall hold at least six regular meetings during each calendar year. No two regular meetings will be held in the same month. Regular meetings will be scheduled in advance each year and will be held at on the same day and time of the month. One general meeting will be held during the same month of each year to facilitate election of Committee members.
  - 2. Land Use District Committees may hold special meetings to facilitate timely review of Land Use District business issues, to provide additional meeting time for more in-depth review of issues at the request of planning organizations under deadline pressures, or for any other purpose.
- B. Meetings of elected Representatives and Officers:

Elected District Committee members are encouraged to hold meetings before or after regular meetings. They may hold separate meetings that are well publicized in advance to both their general and voting memberships and to the public.
- C. Businesslike manner:

Meetings will be conducted in a businesslike manner according to recognized parliamentary procedures (for guidelines, refer to Roberts' Rules of Order).
- D. Minutes and attendance registration:

The secretary shall keep minutes and attendance registration of all regular and special meetings as indicated in Article V, section C 2 above.
- E. Open meetings:

All regular and special meetings shall be unqualified open meetings where anyone may attend. Anyone attending regular and special meetings may be included in meeting agendas for commentary purposes.
- F. Public notice:

All meetings of Land Use District Committees, including regular and special meetings shall be open and well publicized in accordance with ORS 192.610-650. In order to comply with this statute, all meetings must be sufficiently publicized to the membership in advance and must be noticed to the public as well.

ARTICLE VIII: ACTION BY LAND USE DISTRICT COMMITTEES

- A. Action by Land Use District Committees for commentary on land use or other issues shall be by majority vote of elected members at regular or special meetings.
- B. For regular and special meetings, quorum shall consist of five Committee members of whom one is the elected President, or an officer designated by the President.
- C. Land Use District Bylaws shall be approved by a majority of voting membership during a regular meeting. Changes to Land Use District Bylaws shall be by a majority of voting membership at a regular meeting upon notice to voting and non-voting membership as well as the public, at least two regular meetings in advance.

ARTICLE IX. RECOGNITION:

Recognition of groups officially representing each District will be extended by invitation at the discretion of the Milwaukie City Council to groups who meet the minimum requirements set forth in these bylaws.

ARTICLE X. NEIGHBORHOOD GROUP FORMATION AND RECOGNITION REQUIREMENTS

A. Purpose:

The purpose of Neighborhood Groups is to provide an avenue for addressing specific issues that affect smaller areas of officially designated Land Use Districts. Neighborhood Groups are not meant to provide an avenue for disgruntled factions to circumvent the Land Use Committee structure, but are meant to provide people in smaller areas with official recognition concerning special issues of concern.

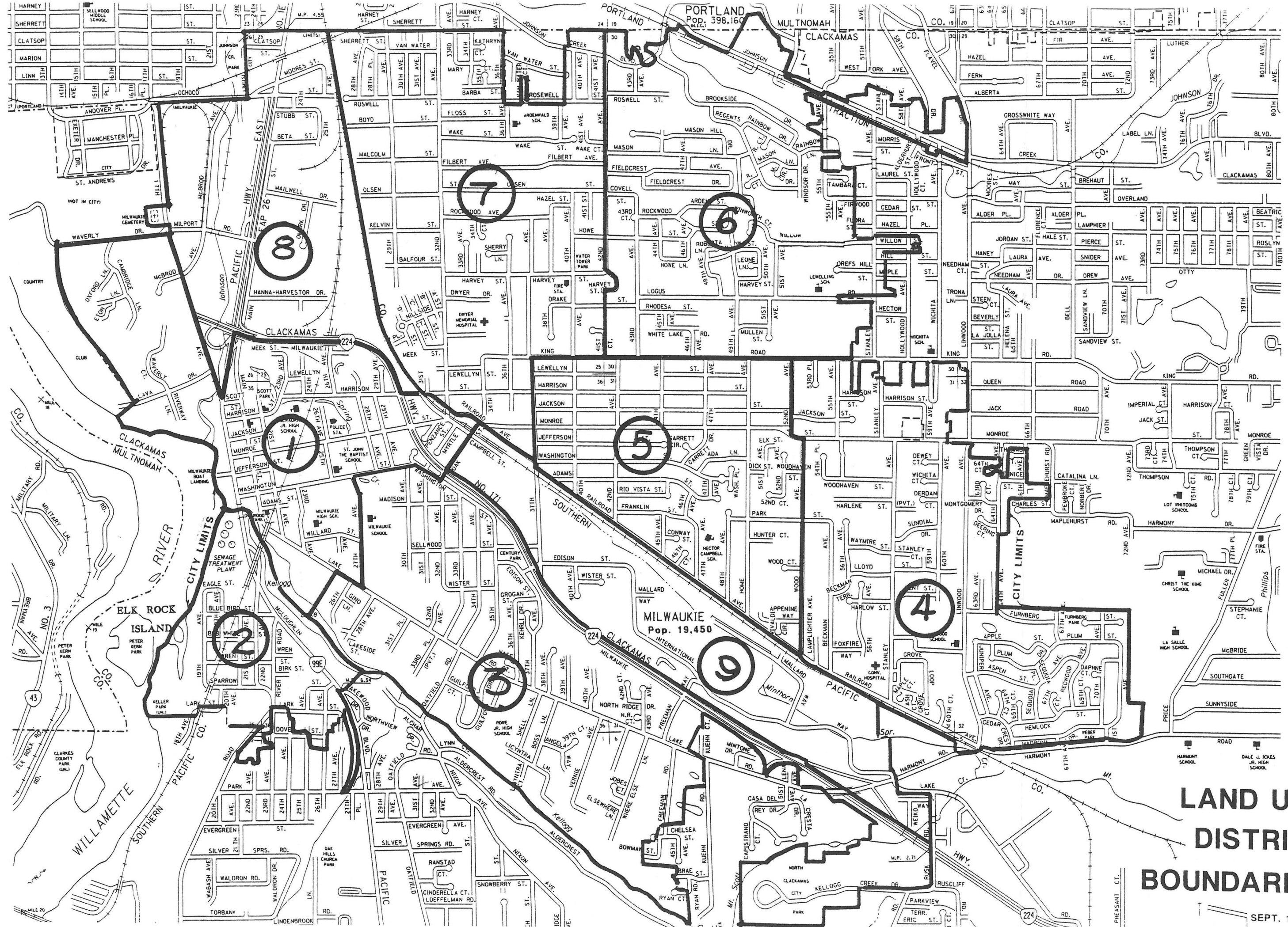
B. Requirements of Neighborhood Groups.

Neighborhood Groups must:

- 1. Elect or designate a chairperson and a secretary.
- 2. Coordinate with the Land Use District Committee as to representation for the purpose of land use application review.
- 3. Hold regular meetings.

ARTICLE XI: MODEL BYLAW CHANGES:

The City Council may alter or redraft these model bylaws at its discretion.



# LAND USE DISTRICT BOUNDARIES

# CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT  
PUBLIC WORKS

6101 S.E. JOHNSON CREEK BLVD

TELEPHONE: 652-4410

## MEMORANDUM

TO: Planning Commission

THRU: Maggie Collins, Community Development Director

FROM: Tim Corbett, Public Works Director *TC*

SUBJECT: Report: Recommendations Regarding  
Planning Commission Conditions Concerns

DATE: August 16, 1993

### ACTION REQUESTED

For your information.

### BACKGROUND

Each issue that was discussed in a work session with the Planning Commission on August 9, 1993 is included below. Based on the work session, Public Works staff has redefined both issues and solutions as a result of the August 9th discussion. presented in an earlier memo.

### ISSUE IDENTIFICATION

1. **Problem:** Differing understanding of the roles of the Planning Commission and Public Works staff as to the authority of each. Engineering staff currently makes recommendations about improvements to public facilities. By forwarding recommendations rather than specific requirements, Public Works may give the Planning Commission the impression that standards are not firm, or that the Planning Commission has responsibility for public improvements in the right-of-way that are under the Public Facilities Improvement Ordinance.

#### **Solution(s):**

a) Referral responses to CDD staff and the Planning Commission will specifically indicate if street and utility or right-of-way improvements are requirements or recommendations of the Public Works staff and, how they are authorized by the City Public Facility Improvements Ordinance. Requirements would be included as a condition(s) in the CD staff report.

b) When any type of significant development is scheduled for a public hearing at a Planning Commission meeting, CDD staff will request that Public Works be represented at the meeting to answer Planning Commission questions.

2. **Problem:** Lack of clarity as to the Planning Commission's authority to levy conditions on public land or dedicated right-of-way.

**Answer:** The Planning Commission can levy conditions of approval on private or public lands which are subject to a Planning Commission review (for example: conditional use or community service use review). Conditions applied are supposed to be in keeping with specific criteria for that given review process or to implement specific standards within the City Zoning or Subdivision Ordinances (such as street widths, cul de sac lengths, etc.).

Generally, most street and utility improvement requirements are monitored by Public Works as part of the implementation of the Public Facility Improvements Ordinance and are stated as part of the Plat review process. The Planning Commission's authority is more limited however, on single family residential construction reviews, unless the specific criteria listed for the type of application authorize conditions.

The Planning Commission has requested follow up to discuss this issue in greater detail.

3. **Problem:** As pointed out in a work session involving the Planning Commission and the Public Works Director, miscommunication often occurs when the Planning Commission adds to or changes Public Works conditions that involve Public Works staff follow-up.

**Solution:** As discussed previously, when any type of significant development is scheduled for a public hearing at a Planning Commission meeting, CDD staff will request that Public Works be present at the meeting to answer Planning Commission questions.

4. **Problem:** Whether the City has the ability to require off-site improvements (especially in regards to streets and utilities).

**Answer:** Public Works has the authority to require off-site facilities improvements through Article V, Section 3 of the City Public Facility Improvements Ordinance (Ord. #1645). The process and criteria for imposing such requirements are listed in the ordinance which is attached.

As to the Planning Commission, there are some plan policies that appear to give the Planning Commission the authority to address off-site facilities needs as part of the "big picture" approach. This authority, however, is not universal.

This issue will also be discussed in greater detail in follow up work sessions.

5. **Problem:** There is the perception that the Building Division does not always ensure PC conditions are reviewed at the time of final inspection.

**Solution:** CDD staff will attach copies of the conditions of approval to each of the sets of plans within the file. One copy will be stamped "File" and the other will be stamped "Site". That will ensure one copy will go to the customer (contractor) and one will stay with the file plans for staff use. This ensures that the Building Inspectors have the conditions available at the time of final inspection.

6. **Problem:** Manufactured homeowners often seem unfamiliar with conditions of approval.

**Solution:** Specific conditions will be stapled to the plans (CDD already has an information sheet with zoning conditions included that can be used). Also, Building staff will develop a manufactured home placement checklist to help keep track of conditions and inspection compliance. Finals will not be issued until all conditions are met.

attachments

RTC/rtc

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 15 OF THE MILWAUKIE CODE BY ESTABLISHING REGULATIONS FOR UPGRADING PUBLIC FACILITIES WHEN CONSTRUCTION OR EXPANSION OF STRUCTURES OCCURS.

WHEREAS, the Legislature of the State of Oregon has, in ORS 227.215, delegated to local government the responsibility for adopting regulations for the development of land, and

WHEREAS, the City of Milwaukie is required by the Comprehensive Plan to ensure that adequate levels of public facilities and services are provided to City residents, and

WHEREAS, a mechanism is required to allow consideration of public facilities needs on a property by property basis,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact and conclusions are adopted:

1. The City of Milwaukie Comprehensive Plan requires public facility improvements to occur as specifically described in the following Comprehensive Plan sections:

A. Neighborhood Element:

- 1) Neighborhood Area 1: Objective 4, Community Open Space  
Objective 8, Walkways  
Objective 9, Streets and Drainage
- 2) Neighborhood Area 2: Objective 2, Tree Preservation  
Objective 3, Neighborhood Maintenance  
Objective 7, Walkways  
Objective 8, Streets and Drainage
- 3) Neighborhood Area 3: Objective 3, Community Open Space  
Objective 7, Streets and Drainage
- 4) Neighborhood Area 4: Objective 2, Housing Quality  
Objective 5, Walkways  
Objective 6, Streets and Drainage

- 5) Neighborhood Area 5: Objective 2, Housing Quality  
Objective 3, Land Use  
Coordination  
Objective 8, Streets and  
Drainage

B. Transportation Element:

- 1) Table 4-A, Design Criteria for Urban Streets
- 2) Objective 3, Roadway Construction & Improvements
- 3) Objective 6, Local Transit Opportunities
- 4) Objective 8, Pedestrian/Bikeway

C. Public Facilities and Services Element:

- 1) Objective 3, Community Development
- 2) Objective 4, Water Service
- 3) Objective 5, Sanitary Sewer Service
- 4) Objective 6, Drainage and Streets
- 5) Objective 12, Utilities
- 6) Facilities Review Report

D. Energy Conservation Element:

- 1) Objective 1, Land Use
- 2) Objective 2, Transportation System
- 3) Objective 4, Site and Building Design

2. This ordinance provides a mechanism to implement public facilities improvements required by the Comprehensive Plan.

3. Establishing procedures to require public facilities improvements when on-site development occurs is a common practice of most cities and counties.

Section 2. Ordinance. The Public Facilities Improvements Ordinance is adopted as new Milwaukie Code Chapter 15.32 as follows:

ARTICLE I  
STATEMENT OF PURPOSE AND OBJECTIVES

Section 1. Statement of Purpose. It is the purpose of this ordinance to provide for the orderly construction of needed public facilities by provisions designed to:

- A. Meet City Comprehensive Plan requirements for public facility improvements;
- B. Minimize the expenditure of public moneys for public facilities improvements;
- C. Identify public facilities improvements necessary for given property development proposals;
- D. Allow actual improvements of public facilities to occur at a time appropriate for the improvements needed; and
- E. Provide an equitable and consistent method of requiring public facilities improvements.

ARTICLE II  
DEFINITIONS

Section 1. Interpretation.

- A. Unless specifically defined below, words or phrases used in this ordinance are intended to be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- B. Specific words, phrases, or standards, other than as specifically defined below, may be interpreted by the Public Works Director based upon the finding that such interpretation shall be in keeping with the intent of this ordinance.

Section 2. Definitions as Used in this Ordinance.

CHANGE IN LAND USE: A change in the primary existing use or the addition of other use(s) for a specific real property. A proposal to change a land use may require other land use processes including rezone, conditional use, community service overlay, etc.

CITY: The City of Milwaukie, Oregon.

**CONSTRUCTION:** The development, building, remodeling, adding or improvement of structures for a specific real property.

**DEVELOPER'S AGREEMENT:** A notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees: to construct or provide public facilities improvements specifically identified in the document, or, (in cases where Local Improvement District or Project Formation is necessary) to share in the cost of necessary public facilities improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of Local Improvement District or Project Formation. This may consist of such determination methods as street frontage percentage, lot square footage and/or standard per lot assessment.

**MINOR DAMAGE:** Damages incurred by a structure or structures by either man-made or natural means where the cost of repair is 25% or less than the current assessed valuation of the total of all onsite improvements before the damage occurred.

**NEW CONSTRUCTION:** Construction occurring on vacant property or construction occurring as part of reconstruction or redevelopment of an existing developed site.

**ONSITE IMPROVEMENTS:** All structures or improvements on a specific real property which would require a building permit prior to construction, but not including the following: driveways, walkways, parking areas, fences, retaining walls, landscaping, and ground-level patios/decks. Onsite improvements also refers to public facility improvements occurring on the subject property or within adjacent public right-of-way or utility easements.

**PUBLIC FACILITIES:** Facilities intended to serve the public and consisting of either City owned or other public service agency owned streets, right-of-way, storm drainage systems, water systems, bus stops, sanitary sewer systems, street lighting, sidewalks, bicycle paths, street trees, public accessways, utility easements, and traffic controls.

**PUBLIC WORKS DIRECTOR:** The Public Works Director for the City of Milwaukie, Oregon, or an assigned designee.

ARTICLE III  
GENERAL PROVISIONS

Section 1. Situations to which this Ordinance Applies.

This ordinance shall apply for all situations within the jurisdiction of the City of Milwaukie described as:

- A. New construction, including residential, commercial, industrial, or other;
- B. Construction resulting in an increase in occupancy;
- C. Construction resulting in increased traffic;
- D. Creation of new parcels and lots by minor land partition, major land partition, subdivision, and planned development; and
- E. A change in land use.

Section 2. Exempt Situations.

This ordinance shall not apply to the following situations within the City of Milwaukie:

- A. Construction not subject to the provisions of Sections 1.3., C. and E. above and where the improvement value is 25% or less than the current assessed valuation of the total of existing onsite improvements; or
- B. Construction consisting of re-roofing, re-siding, window installation, minor damage repair, or interior remodeling not subject to provisions of Section 1.3. above.
- C. New construction (not subject to the provisions of Section 1.3 above) for the purposes of replacing or remodeling a single family dwelling damaged by a fire, flood, or other casualty.

Section 3. Compliance.

No structure or land shall hereafter be constructed, located, converted, altered, or occupied, as indicated in Section 1, without full compliance with the terms of this ordinance and other applicable regulations. In cases of non-compliance, the City may take enforcement action, terminate City water service, establish property liens, or use other methods to ensure ordinance compliance.

ARTICLE IV  
ADMINISTRATION

Section 1. Public Facility Improvements Review.

All situations to which this ordinance applies shall be reviewed by the City Public Works Department based upon established review standards in order to determine the adequacy of public facilities for the use intended and whether or not new public facilities or expansion of existing public facilities is required.

Section 2. Designation of Public Works Director.

The Public Works Director is hereby appointed to administer and implement this ordinance.

Section 3. Duties and Responsibilities of the Public Works Director.

Duties of the Public Works Director shall include, but not be limited to:

A. Permit Review.

1. City Public Works Department, Community Development Department, and Structural Safety Division shall submit copies of non-exempt land use and building permit applications to the Public Works Director for review.
2. The Public Works Director shall respond within 10 working days with an indication of ordinance applicability along with proposed conditions (if any) for compliance with this ordinance.
3. Conditions proposed for compliance with this ordinance shall be attached to the application, if approved.

B. Review Standards.

Review standards for public facilities shall be those standards currently in effect, or as modified, and identified in such public documents as the Comprehensive Plan of the City of Milwaukie, the City Sewerage Master Plan, the City Water Master Plan, the Roadway and Traffic Safety Management Plan for the City of Milwaukie, City of Milwaukie Public Works Design Standards, Standard Specifications and Drawings for Public Works Construction by the American Public Works Association Oregon Chapter, the City Zoning Ordinance, and City Subdivision Ordinance.

Section 4. Appeals Procedure.

A. Appeals.

Appeals of a decision or interpretation of the Public Works Director must be filed on forms prescribed by the City and accompanied by the appropriate filing fee within 15 days of the decision of the Public Works Director.

B. Appeal Review.

The City Manager for the City of Milwaukie shall review and decide requests for appeals of the requirements of this ordinance.

C. Appeal Review Procedure.

Appeals to the requirements of this ordinance shall be scheduled for consideration of the City Manager during normal City Hall business hours.

D. City Council Review.

A decision of the City Manager may be appealed to the City Council for consideration within 15 days of the action date. The appeal must be on forms prescribed by the City and accompanied by the appropriate filing fee.

E. Appeal Criteria.

An appeal of a decision or condition of approval for actions provided for in this ordinance shall be granted if conformance is shown to one of the following criteria:

1. That the proposal is not, in fact, a situation to which this ordinance applies; or
2. That reasonable alternatives to conditions or interpretations applied can be substituted while still maintaining ordinance purpose.

ARTICLE V  
PROVISIONS FOR PUBLIC FACILITIES IMPROVEMENTS

Section 1. Improvement Methods.

If, upon review of the development proposal by the Public Works Director, the affected street or other public facility does not meet applicable standards, the property owner shall provide the improvement or other action necessary to satisfy the applicable standards. The Public Works Director may select, from the following, the most appropriate method:

- A. Construction by the property owner subject to Public Works inspection approval;
- B. Payment in lieu of construction, either in the form of a trust account or posted bond; or
- C. Developer's Agreement committing the property owner to not remonstrate against the City for the necessary improvements and to pay the assessment for such improvements. In approving this method, the Public Works Director may require a temporary improvement at a lesser standard appropriate to the circumstances.
- D. Reimbursement agreements may be authorized for off-site facilities improvements fronting other properties.

Section 2. Onsite Facilities Improvement Requirements.

Any situation to which this ordinance applies shall be required to complete or make provision for completion of improvements to public facilities following the improvement method selected from Section 1. Method C will be used when immediate construction of public facilities is not feasible or practical from an engineering standpoint.

Section 3. Off-Site Facilities Improvement Requirements.

Off-site facilities improvements shall be required for construction or development proposals which would result in detrimental effects to existing public facilities or cause existing public facilities capacity problems. Improvements shall follow the methods identified in Section 1.

*Read condition*  
*gno* *sidewalks*  
*conditions* 9

Section 4. Off-Site Facilities Improvement Criteria.

Off-site facilities improvement requirements shall be based upon an analysis by the Public Works Director that the development proposal will result in one of the following:

- A. Exceed the design capacity of the facility;
- B. Exceed other generally accepted standards;
- C. Create a potential safety hazard; or
- D. Create an ongoing maintenance problem.

Section 5. Facilities Oversizing.

Public facilities improvements required by the Public Works Director shall be at sizes specified in City standards documents. Oversizing may be required in anticipation of additional systems demand. Oversizing proposed by the property owner may be allowed at the property owner's expense. The Public Works Director may authorize a reduction in systems development charges or a reimbursement agreement for developments where oversizing of facilities is required.

Section 6. Monitor Progress.

The Public Works Director shall monitor the progress of all public facilities improvements required to ensure project completion and compliance. Follow-up action, such as facilities inspection, bond release, and enforcement shall be considered a part of the monitoring process.

Section 7. Public Facilities Design.

Construction projects shall meet design standards for public facilities installation or improvements as identified by the Public Works Director or City design standards. The property owner is responsible for providing engineered facility plans to the Public Works Director for review.

Section 8. Formation of Local Improvement Districts.

As developer's agreements are collected to a sufficient majority for a given area, or, as needs for facilities improvements arise, the Public Works Director shall organize Local Improvement Districts and solicit additional funds, as necessary, to allow facility construction to completion.

Section 9. Coordination.

The Public Works Director shall coordinate with other public service agencies to ensure that public facility improvements required reflect the full range of public facilities, and not just City provided services.

Read the first time on April 5, 1988, and moved to second reading by 3-2 vote of the City Council.

Read the second time and adopted by the City Council on April 19, 1988.

Signed by the Mayor on April 19, 1988.

Roger A. Hall  
Roger A. Hall, Mayor

ATTEST:

Jerri Widner  
Jerri Widner, City Recorder

APPROVED AS TO FORM:

Greg Eades  
Greg Eades, City Attorney

M E M O

From: Dave Krogh, AICP *Dave*  
Associate Planner

To: Maggie Collins  
Community Development Dir.

CC: Tim Corbett  
Public Works Dir.

Date: Thu Aug 26 1993

Subject: Authorization for Planning Commission Use of Conditions

You and Tim have indicated the Planning Commission desired clarification (at their meeting of August 10) as to their authorization and ability to condition Planning Commission approvals. I have researched this matter and have determined that the Zoning Ordinance does allow the Planning Commission the ability to set conditions in most cases. Findings and applicable code references are as follows:

<u>Review Type</u>	<u>Onsite Conditions Allowed &amp; References</u>	<u>Offsite Conditions Allowed &amp; References</u>
C-CS Review	Yes; Section 1011.3E	Yes*; Section 315.3
CSO Review	Yes; Section 1011.3E	Yes**
NR Review	Yes; Section 1011.3E	Yes*; Section 322.14
Transition Area	Yes; Section 1011.3E	Not referenced
Conditional Use	Yes; Sections 1011.3E and 601.3	Implied in Section 601.3
Variance	Yes; Section 1011.3E	Implied in Section 701
Nonconforming Use	Yes; Section 1011.3E	Not referenced
Zone Change	Yes; Section 906	Implied in Sections 905.10 & 906
Subdivision	Yes; Section 1011.3E	Not referenced

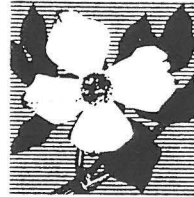
\* With limitations

\*\* With limitations depending upon the type of use proposed

Section 1011.3E is part of the procedural discussion for the Minor Quasi-Judicial review process. This section authorizes the Planning Commission to "render a decision on the matter including findings, conclusions, and conditions, if necessary...". Section 1011.3E covers all reviews mentioned above except the Zone Change.

Conditions of approval for offsite improvements (see above) are either specific to certain situations, implied in certain review types, or not referenced.

# CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT  
PUBLIC WORKS

6101 S E JOHNSON CREEK BLVD  
MILWAUKIE, OR 97206

TELEPHONE: 652-4410  
FAX: 774-8236

## MEMORANDUM

TO: Planning Commission

THRU: *MC* Maggie Collins, Community Development Director

FROM: Tim Corbett, Public Works Director

SUBJECT: Assessment and Recommendations Regarding  
Planning Commission Conditions  
CASE STUDY

DATE: August 16, 1993

### ACTION REQUESTED

Review and comment on this memo. It is presented as follow-up to a request that the Corrections Center application be used as a case study to discuss difficulties in following through on Planning Commission conditions.

### BACKGROUND

The County Corrections Center was developed with a condition for a sidewalk constructed to Ochoco Street. This condition was met by adding 4 feet of asphalt and a fog line as a vehicle/pedestrian separator to the existing street. It is clear that this was not the intent of the Planning Commission when the condition was formulated.

### DISCUSSION

In order to determine why there was a breakdown in communication regarding this condition, staff reviewed the file and outlined the key points related to the development of the Corrections Center and the formulation of the condition. These key points have been put into a "problem" and "solution" framework to ensure that conditions are carried out as the Planning Commission intends in the future.

**Problem:** As noted in page 2 of the Planning Commission minutes from July 23, 1991, the proposal was unusual in that "there are no final plans submitted to the Commission tonight." By allowing the applicant to have the development considered for approval without final plans, PW staff and the Planning Commission did not have the necessary details to allow a common understanding of the applicants' proposal from the onset. Normally, the developer would work with Public Works and incorporate some level of public improvements into the final plans to be submitted to the Planning Commission. This allows for a more focused conversation on what additional conditions should be added.

**Recommendation:** Final plans should be submitted for all projects being considered for approval.

**Problem:** The condition for sidewalks was not coupled with half street improvements. This is an unusual situation and Public Works staff were not present at the public hearing to understand the full intent of the condition. There was some discussion at the Public Works staff level about how this could be accomplished from a technical standpoint.

When reviewing the file it is clear that the Planning Commission minutes are more specific about the Planning Commission's intent than the condition incorporated in the Notice of Decision. The minutes come out after the Notice of Decision, and are not usually reviewed by PW staff.

On page 12 of the Planning Commission minutes (attached), condition 4 states "full street improvements are not needed but sidewalks should be provided...".

On page 13 of the minutes (attached), a new condition #9 was added which is more clear. "Minimum sidewalks and curbs will be provided."

Condition #9 (attached) as stated in the Notice of Decision states that "Street Improvements shall conform to Public Works standards and shall include the extension of sidewalks ...." The final condition makes no reference to the curbs.

As pointed out in a work session involving the Planning Commission and the Public Works Director, miscommunication often occurs when the Planning Commission adds to or changes Public Works conditions that involve Public Works staff follow-up. It was also noted that Public Works was concerned that when conditions are formulated that have no definite standards, such as requiring sidewalks without a corresponding half street improvement, miscommunication is more likely to occur.

Solution: Public Works has already agreed to have staff present when any type of significant development is scheduled for a public hearing at a Planning Commission meeting. Community Development staff will request that Public Works be represented at the meeting to answer Planning Commission questions or provide input at the appropriate time. This effort is in addition to the routine Public Works review and comments that are incorporated into the Community Development Department staff report.

attachments

RTC/rtc

Chairman Littlehales opened the public hearing. He asked if there were any conflicts of interest or ex-parte contacts to declare. There were none.

Jim Crumley reported that this was an application from the Clackamas County Community Corrections Department to replace an existing 40-bed work-release facility with an 80-bed work-release facility. Jim then made the following corrections: Page 1, delete the word "metal" and replace with "wood," so it reads, "...Work Release wood modular facility;" and Page 6, last line, "This facility be limited to number of a maximum of 114 persons," delete "persons" and replace with "residents."

Jim read the purpose statement supplied by the Applicant in the Staff Report. The proposed facility would be approximately 19,000-20,000 square feet of wood-frame construction. The County intends to construct this facility as a design-build project. The detailed plans, elevation drawings, and floor plans will not be available until the County selects a design-build contractor and proceeds with the finalization of the design. Under this arrangement, the final site plan showing exact building and parking layout and final landscape and enhancement plans will also not be available until the design-builder has been selected.

The project is located on the westly 1.87 acres of Tax Lot 100 between McBrod Avenue and Johnson Creek, bordered on the north by Portland Traction Railway and to the south by Milport Road. The entire site and surrounding properties are currently zoned M and have an I (Industrial) designation on the Comprehensive Plan. The site is subject to the 100-year flood plain, and falls under the regulations of the Natural Resource Overlay Zone. The surrounding properties are principally developed as industrial use with the exception of single family homes on the north side of Ochoco Avenue. There is also approximately an acre and a half of undeveloped industrial land immediately east of Johnson Creek and west of the existing OLCC offices and warehouses.

\* This proposal is unusual in that there are no final plans submitted to the Commission tonight. The County's representative, Rob Barrentine of Barrentine, Bates, and Lee, has informed the City that the design-build concept is not cost effective without first obtaining a conceptual approval of site development from the City of Milwaukie. Staff has worked out a development envelope which will meet the design criteria specified in the various sections of the Zoning Ordinance. Exhibit 1 shows the conceptual envelope for structures and improvements on the site. It does not,

operation, he is in agreement with that request. He feels confident that the mitigation imposed at that time will be fair.

Pat Lent voiced concern about the change in the use of the facility. She would like to see the Applicant come back to the Commission at the time of the change of use of the existing facility. Don Trotter explained that because of the uniqueness of this application, the Applicant needs to know if the uses are possible before they can design-build the structure.

Carolyn Tomei asked that a condition be imposed that the drunk tank users be escorted from the facility by a responsible person and not just released in the morning.

The Commission then reviewed the conditions and made the following changes:

\* Condition #4 The Commission is in agreement that full street improvements are not needed but sidewalks should be provided to McLoughlin from the north end of the subject site. They could be tied in with the Ochoco improvements.

Condition #7 Should the entire contents of the handbook be under review? Jim Crumley indicated that he felt that if the entire book is submitted, Staff could review the revisions and changes and make sure that they were in compliance with City concerns.

Condition #8 The condition is ambiguous. What is the intent of this condition? Jim Crumley indicated that the intent is to indicate the size of sign and sign copy. Small signs: "Don't go down to the bank," "Don't get in the water," "Stay away from the edge of the bank," etc can be used. The purpose is to restrict the recreational use of the natural resource within the Boundary Line.

Condition #2 Maggie Collins suggested rewording to say, "...Community Corrections Division. Corrective programs must be residential in nature and may include both work-release and alcohol and drug treatment."

Chairman Littlehales moved to approve CSO-91-04 with the findings for the Community Service Overlay as presented, the Flood Hazard Zone as presented, the Natural Resource Overlay Zone as presented except with Finding #3 to change the response to read, "The finalized plan shall comply with the above requirement with the emphasis on screening as opposed to obscuring," and following with Section 3.27-07.B with the

response, "That the existing pathway may be improved but not expanded." Conditions as follows:

Condition #1 as proposed changing 114 "persons" to "residents."

Condition #2 as amended, "...Correction programs must be residential in nature and encompassing work-release and drug and alcohol counseling."

Condition #3 as proposed.

Condition #4 as proposed in A; B, adding the phase, "as per Exhibit 6."; Section D, adding the phrase, "...in accordance with Section 5 of the Zoning Ordinance; and deleting E.

Condition #5, adding the phase, "...as per Exhibit 6." and

Condition #6 as proposed.

Condition #7 adding a phrase, "...specific sections of the handbook to be agreed between Corrections Division and City Staff.

Condition #8 modified, "...restricts the land within the boundary for recreational use."

New Condition #9, "Street improvements will include sidewalks to the northerly boundary of the property and will comply with the Public Facilities Ordinance. Sidewalks may be reduced to four feet in width. Minimum sidewalks and curbs will be provided. The layout of the sidewalks be coordinated with the proposed ODOT improvements on Ochoco."

New Condition #10, "Any changes to the basic program of work-release and resident drug and alcohol treatment shall be submitted to Community Development Department for review of compliance with this CSO approval. Don Trotter seconded.

Carolyn Tomei suggested the addition of a new Condition #11, "Sobering facility be reviewed after six months of operation and a report submitted to the Planning Commission; and that users of this facility be provided escorted transportation from the facility." The second, Don Trotter, concurred.

Pat Lent voiced concern about lighting of the proposed sidewalks. She suggested amending Condition #4-E, "Staff shall review the lighting plan of both ODOT and the Corrections facility to insure that the proposed sidewalks

9. Street improvements shall conform to Public Works standards and shall include the extension of sidewalks from the western edge of the Johnson Creek bridge on Ochoce Street to the northern most parking lot of the facility on McSrod Avenue. The sidewalk along McSrod Avenue may be reduced in width to four feet with the concurrence of the Office Engineer.
10. Any change to the basic Work-Release or Drug and Alcohol Counseling resident programs shall be submitted to the Community Development Department for review for conformance to this CSO approval.
11. If sobering rooms are included in the final design of this facility persons shall not be released from the "sobering facility" without assured, or escorted, transportation from the area. Sobering operations shall be reviewed after a 6 month duration and a report presented to the Planning Commission.

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

COMMUNITY DEVELOPMENT DEPARTMENT  
CITY OF MILWAUKIE

September 7, 1993

To: Milwaukie Planning Commission  
From: *MC* Maggie Collins, Community Development Director  
Re: Community Development Department Report for September 14,  
1993 Meeting

Action Requested

For your information.

Discussion

- A. WEIKO WAY SITE REPORT. The property owner is now under permit for grading that is taking place onsite. At this time, the owner states that he is leveling the property only. The owner is aware that he must work with Planning for any change of use.
- B. MILWAUKIE GLASS. Staff will have a report to present at the 9/14/93 meeting.
- C. MILWAUKIE HIGH SCHOOL RETAINING WALL REPORT. The dimensions of the wall were part of the site plan approved by the Planning Commission. An additional 4-foot concrete wall at the edge of the parking area has been added as a safety feature. This additional wall produces a larger concrete feature than was originally thought; the added four feet of concrete does not change the landscaping requirements, according to Staff.
- D. CHEVRON LOT LANDSCAPING REPORT. The plantings have been completed as stipulated on the approved landscaping plan. It will take some time for the species to resemble the final mature state shown on the approved plan.

cc: C.D. Staff  
Dan Bartlett