

MILWAUKIE PLANNING COMMISSION
PUBLIC HEARING
TUESDAY, FEBRUARY 13, 1990

COMMISSIONERS PRESENT

Chairman Littlehales
Angus Anderson
Betty Fulmore
Carolyn Tomei
Don Trotter
Bob Vial

STAFF PRESENT

Maggie Collins
Community Dev Director
Dave Krogh,
Assistant Planner
Paul Roeger,
Office Engineer
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Patricia Lent

1.0 CALL TO ORDER

Chairman Littlehales called the meeting to order at 6:43 p.m.

2.0 PROCEDURAL QUESTIONS - Chairman Littlehales explained the hearing format. He asked the audience if there were any questions. There were none.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES: January 23, 1990

Angus Anderson moved to approve the Minutes of January 23, 1990. Don Trotter seconded. MOTION PASSED 5-0.

4.0 PUBLIC COMMENT -- None

5.0 PUBLIC HEARINGS

5.1 APPLICANT: William Hoesly
PROPERTY OWNER: William Hoesly
LOCATION: 3920 S.E. Roswell (Tax Lot 700 of Tax Map T1S,
R1E, 25AD)
PROPOSAL: Setback Variance in R-7 (VR-89-05)

Chairman Littlehales opened the hearing and explained the public hearing process. He then asked the audience for

objections to consideration of the proposal. There were none. Commissioners were asked if they needed to declare any ex parte contact or conflicts of interest. There were none.

Dave Krogh reported that this was a request for a side yard setback variance on either side of a 40-foot wide lot. The R-7 zoning normally requires a 5-foot setback on one side and 10 feet on the other. The applicant is requesting a 25% variance on either side. The request was originally processed as a Type II Administrative process. However, concerns from neighbors prompted Staff to schedule a quasi-judicial hearing on the request. Staff reviewed the criteria for this application and responded to some concerns presented by neighbors. Staff feels that the variance is warranted; however, analysis has shown that a 1-foot variance is more appropriate. Staff also requested that the applicant present some sort of house plan so that neighbors could get an idea of the type of home that would be constructed. Staff recommends approval of a smaller sized variance with the conditions as outlined in the Staff Report.

Dave Krogh then showed some slides of the subject property.

APPLICANT PRESENTATION

Speaking: William Hoesly, 4224 S.E. Jefferson, Milwaukie

Mr. Hoesly stated that the objective of this project was to have an attractive one-story home with an attached two-car garage. He presented a general plan of how the home would be laid out. Because of the narrowness of the lot, it was hard to find a workable plan. He would like to place the home towards the front of the lot so that the backyard area will be useable.

Don Trotter asked why the existing home was being torn down? Mr. Hoesly stated that it was a matter of choice. They could have remodeled the existing house or build a new one. They chose to rebuild for marketing purposes.

TESTIMONY IN FAVOR OF APPLICATION - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION OF APPLICATION

Speaking: Greg Eibel, 4016 Roswell, Milwaukie

Mr. Eibel stated that he thought there was a 7,000 square foot minimum for single-family residences in his area. This property is 5,680 square feet and a variance would have to be filed for building any structure on this lot. Mr. Eibel then informed the Commission about the percentage that the residences occupy on the properties adjacent to the subject property. The Withrow residence occupies 10% of the property; the Eibel's home occupies 9% of the property; and the Hunt's home occupies 12% of their property. With the required setbacks, the Hoesly's proposed home would occupy 52% of their property. He feels this scale would be out of character with the rest of the neighborhood.

Mr. Eibel indicated that the granting of this variance would be inappropriate. He stated that the existing home is an adequate two-bedroom home and should remain. The house would be marketable as it is now.

Dave Krogh reported that this was in fact a non-conforming lot, and that the lot-line adjustment predated the zoning that is now in effect. There is a section within the Zoning Ordinance that does allow undersized lots to be built upon provided they meet the setback requirements of the zoning in place.

The area outlined by Mr. Eibel, that would occupy 52% of the property, is only an area on paper where the building could exist. The R-7 Zone only allows 30% lot coverage, therefore the structure would have to conform to that figure. This application is only regarding setbacks, not lot coverage requirements.

Speaking: Margaret Hunt, 3916 S.E. Roswell, Milwaukie

Ms. Hunt stated that because of the uniqueness of the property, the house should fit the lot. A large home on a small lot would stick out on the street and be out of character with the other homes on the street.

Speaking: Pat Boyd, 8836 S.E. 40th, Milwaukie

Ms. Boyd asked what the square footage home would be for a home on the property. Chairman Littlehales indicated that a 1,700 square foot lot coverage would be the maximum allowable for that size lot.

Ms. Boyd stated that most of the homes in this area are large homes on large lots. She feels that this lot requires a small home and feels the proposed structure would stick out in front. She also expressed concern over the fact that the proposed two-car garage would directly face her property.

Speaking: Frank Withrow, 4084 S.E. Roswell, Milwaukie

Mr. Withrow stated that the house has been empty for years and he feels it has been drawing down his property value. Now the applicant is proposing a house with a garage in front that will cover most of the front yard. Mr. Withrow feels this will be an eyesore to the neighborhood and should not be allowed.

CLOSING COMMENTS - None.

DELIBERATION AMONG COMMISSIONERS

Don Trotter asked whether a garage would have to be added if the existing structure was remodeled. Dave Krogh stated that there was a provision in the Zoning Ordinance that requires at least one covered parking space for all residential uses within the City. The house right now is non-conforming. The applicant would either have to conform or come in for a non-conforming use permit.

It was noted that most of the testimony tonight was in opposition of the front yard setback of 20 to 25 feet. The applicant has not asked for a variance from the required front yard setbacks.

Testimony also indicated concern of the garage being in front of the house. According to City Code, the existing house should have a garage and the proposed house is required to have a garage. Either way, a garage must be on the property. The placement of the garage is up to the applicant.

Variance criteria has been reviewed adequately and minimum setbacks are a reasonable response to such a small lot. A smaller house would not fit in the neighborhood with larger existing homes.

Carolyn Tomei asked if there were any codes that dictated the design of a home. Dave Krogh stated that the Ordinance only covered the footprint, or area for the proposed building, not the design of the house.

Don Trotter moved to approve VR-89-05 and grant variance of one foot from the ten foot side yard setback in accordance with the Staff findings as presented in the Staff Report. The other setback shall be as required. Conditions 1, 2, 3, 4, and 5 as proposed by Staff shall be incorporated in the motion. Carolyn Tomei seconded. MOTION CARRIED 6-0.

Recess was taken at 7:35 p.m. and the meeting reconvened at 7:45 p.m.

5.2 APPLICANT: David and Cherie Feb
PROPERTY OWNER: David and Cherie Feb
LOCATION: Where Else Lane, south of Lake Road (Tax Lot 2102 of Tax Map T2S, R2E, 6BB)
PROPOSAL: Minor Land Partition in R-10 (MLP-89-06)

Chairman Littlehales opened the hearing and explained the public hearing process. He then asked the audience for objections to consideration of the proposal. There were none. Commissioners were asked if they needed to declare ex parte contact or conflicts of interest. There were none.

Dave Krogh presented correspondence received this afternoon from Phil Scoles, Scoles Associates, Inc. which also included a letter dated February 12, from Milton Palm, a neighbor to the subject property.

Dave Krogh reported that this was a minor partition request for 3.3 acres of property south of Lake Road. The zoning is R-10. The applicant is proposing to create a 12,414 square foot parcel, a 10,000 square foot parcel, and a large 3 acre parcel.

This request was originally processed as a Type II Administrative process. However, concerns from neighbors prompted Staff to schedule a quasi-judicial hearing on this request. The primary concern of neighbors was that of drainage. The applicant has presented information indicating that the two small parcels have no drainage problems; drainage can be handled on site. There was some concern about wetlands. Division of State Lands did some research and based on soils information, this property was not determined to be a wetland. The two smaller parcels are not affected. However, the larger parcel will need to have a specific drainage plan when it is submitted for redevelopment into a subdivision. The applicant has

provided an ultimate subdivision plan for reference and reassurance to the City that they are looking at future development capabilities, traffic networking, etc.

Dave Krogh then showed some slides of the subject property. Correspondence was presented to the Commission that was received earlier in the evening.

APPLICANTS PRESENTATION

Speaking: John Middleton, Zarosinski-Tatone Engineers, Inc., 3737 S.E. 8th, Portland

Mr. Middleton stated that Mr. Feb called their office and informed him that he would not be able to attend the public hearing and asked that someone from their firm represent him. Mr. Middleton said he had read the Staff Report and agrees with all of the report except for the first condition regarding Tax Lot 2103. Staff has researched and found that this is not a legally created lot. Mr. Feb may not be aware of this and may want to have some input.

Dave Krogh reported that a tax lot is not a stand-alone entity. It does not imply that it is a buildable lot. Tax Lot 2103 is not a separate entity. In order to make this partition legal, it must be attached to 2101 as part of Parcel I.

TESTIMONY IN FAVOR OF APPLICATION - None.

QUESTIONS OR COMMENTS

Speaking: Mart Hughes, 3006 S.E. Washington, Milwaukie

Mr. Hughes stated that he was testifying in behalf of The Wetlands Conservancy. He indicated that he had not inspected the site, but The Wetlands Conservancy would like to ask that there be a condition imposed that there be a determination of any wetlands that may exist at this site. The report from Mr. Scoles does indicate a number of indicator species; there may be in fact a wetland there. Bureau of State Lands is overwhelmed and are not able to put the staff into the field at this time. The City of Milwaukie has studied wetlands conditions in the past and that has worked well for both property owners and the City. His request is that a consultant be retained by the developer to make a wetland determination.

Chairman Littlehales asked if this site was discussed as a potential wetland during Comprehensive Plan review. Mr. Hughes stated that it was not a part of the review.

Speaking: Fred Jerrard, 12179 S.E. 37th, Milwaukie

Mr. Jerrard stated that he owned the subject property several years ago and sold it about eight years ago. During the time that he owned it, it was truck farmed and there was absolutely no water on the property. There is agricultural tile drainage on the property.

Mr. Jerrard expressed concern about an agreement to an easement for a mutual driveway on the property. Is it still in effect? Dave Krogh reported that the agreement was on file. On the revised partition map a 15-foot easement has been included.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION OF APPLICATION - None.

CLOSING COMMENTS

Speaking: John Middleton, Zarosinski-Tatone Engineers, Inc., 3737 S.E. 8th, Portland

Mr. Middleton indicated that parcels 2 and 3 are not wetlands. Mr. Scoles, in his letter about wetlands, is not specific as to which property he was inspecting. There are wetlands in the area, but not on parcels 2 or 3. Parcel 1 may be a wetland, but it is unlikely.

DELIBERATION AMONG COMMISSIONERS

The Scoles letter indicated he inspected property at 4182 S.E. Lake Road. Don Trotter asked where this property was in relation to the proposed site. Paul Roeger reported that it was west of Tax Lot 200, bordering Vernie on the east side; not on parcels 1, 2, or 3.

Don Trotter asked if the wetland issue impacts the decision of whether the minor land partition is granted, or if it would be an issue at the subdivision stage. Maggie Collins stated that granting a minor land partition would not impact possible wetland values on the remainder of the property. Dave Krogh indicated that any redevelopment of parcel 1, via subdivision process, would require a detailed soils study.

Carolyn Tomei moved to accept the Staff's recommendation for approval of MLP-89-06 with Staff conditions one through four, as well as a Condition 5, that a wetland determination shall be conducted for Parcel #1 prior to development. Bob Vial seconded. MOTION CARRIED 6-0.

Recess was taken at 10:00 p.m. and the meeting reconvened at 10:10 p.m.

5.2 APPLICANT: Dick Close
PROPERTY OWNER: David and Sharon Greene
LOCATION: McLoughlin Blvd at Kellogg Lake (Tax Lots 2800,
3000, and 3100 of Tax Map T1S, R1E, 36CB)
PROPOSAL: Boat sales and Repair (CPA-89-02; ZC-89-04; CU-
89-06; CU-89-07)

Chairman Littlehales opened the hearing and explained the public hearing process. He then asked the audience for objections to consideration of the proposal. There were none. Commissioners were asked if they needed to declare ex parte contacts or conflicts of interest. Betty Fulmore explained that she knew too much about the property and would not be able to render an unbiased decision. She then joined the audience for this public hearing.

Dave Krogh reported that there were four separate applications. CPA-89-02 is a Comprehensive Plan Amendment; it would modify the Comprehensive Plan Map from moderate density residential to a commercial designation. ZC-89-04 is a zoning map amendment request, changing from R-5 zoning to limited commercial (CL Zone). CU-89-06 is a conditional use request for boat sales and repair in the Limited Commercial zone. CU-89-07 is a request for a Willamette Greenway conditional use permit.

Dave Krogh then showed slides of the subject property. This request would change the property to a commercial designation which could allow many different commercial uses. The findings provided by the applicant did not adequately address public need. There was no market study or inventory of other available properties.

Some of the pertinent goals and policies, i.e. Willamette Greenway or public access, have not been adequately addressed. A traffic study was provided, however, The State Highway Division has some concerns regarding access.

Staff does not feel that the plan amendment criteria have been adequately addressed. Public facilities, transportation

and access, is very inadequate. State Highway Division has recommended a 500 foot sight distance requirement.

The zone change request is contingent upon approval of the Comprehensive Plan Map amendment. There is a lack of detail, there are access concerns, and the site plan does not have adequate detail to review for applicable standards. Based on review of the application, Staff does not recommend approval.

Dave Krogh reported that he was contacted by phone by Jan Fitzgerald, 2506 S.E. Lake Road, Milwaukie. She expressed her opposition to this proposal, stating that she felt it was detrimental to Kellogg Lake and its aesthetics.

Pictures were submitted by Mildred Kern. She is a member of the Friends of Kellogg Lake. These dated pictures give a history of use along the Lake.

APPLICANT'S PRESENTATION

Speaking: Dick Close, Consultant, 555 N.W. Riverview Place, Gresham

Mr. Close indicated that he was representing Mr. and Mrs. Greene in this application. Mr. Greene purchased a boat sales and repair operation in the city of Mollala. That is not a good location for his business. He is looking to relocate this business in an area where there is a ready market for his product. He purchased this site in August of last year. He felt that being close to a launching ramp would be a good site for his business.

This is a small business and much research and studies cannot be done unless the applicant is reasonably sure this development will occur. Traffic studies were done and a reasonable location for access to the property and solution to the traffic problem were identified. The traffic engineer states that there is a sight distance of approximately 480 feet. The traffic study was based on worst-case conditions.

Mr. Close indicated that in his years of experience in planning he has yet to see retail development succeed where they approach the density of development that Staff might recommend. One to four ratio is reasonable for retail space versus parking and open space and landscaping. It is not the intent of Mr. Green to create a shopping center on this location.

Mr. Close stated that the property is not suitable for single-family residential development. Apartments would have a negative impact on McLoughlin Blvd. traffic. This small boat sales and repair business is ideal for this location.

Mr. Close also offered to the City a possibility for a deed restriction on the property that would eliminate the high-traffic generating type of commercial uses. Mr. Greene does own the bed of the Lake on his property.

Mr. Close stated that there were some issues in the Staff Report that he had not been aware were of concern. If he had known, he would have worked with Staff earlier to come to some solution. Several issues of concern were voiced by Mr. Close. The photo provided by Ms. Kern shows there is nothing natural about the site relative to the Significant Natural Area designation. They learned late in the application that this site had been filled. They would not restrict public access on the property. The visual aesthetics of the property would be altered regardless of what development would take place, and would impact the open space character of the site. If the City doesn't want any development on the site, then there may be an issue of "taking." Detailed soils analysis will be done at the time of permits. Pedestrian access had not been relayed to them as an issue of concern. Mr. Close reported that the applicant has addressed every issue raised on their correspondence with the City. He feels there is a market for this business and it is this market that Mr. Greene is looking to for this location.

Speaking: David Greene, 11610 S.W. 116th Avenue, Tigard

Mr. Greene reported that being close to a boat ramp is a definite advantage to selling boats because some customers like to try the boats out and test drive them before buying. In his study of the market he found that in Portland there is a three week wait for boat repair. Also, these businesses only repair the boats that they sell. He plans to sell boats on consignment. Maybe in the future he will have a line of new boats. There are no plans for development on the lake; no docks or ramps.

Don Trotter asked if the traffic analysis was only based on the boat business which opens at 9:00 a.m., or whether it also dealt with any other business that would possibly be open earlier during the morning commute. Mr. Close indicated that the study was only for the boat business.

TESTIMONY IN FAVOR OF APPLICATION - None.

QUESTIONS OR COMMENTS

Speaking: Dale Harlan, 2244 S.E. Lake Road, Milwaukie

Mr. Harlan reported that he had lived on the other side of Kellogg Lake since 1976 and had an office adjoining his home for sixteen years. From his memory, he recollected that the fill occurred illegally on a Labor Day weekend about ten years ago. Huge dump trucks started coming in the Friday of that weekend and it took a lot of calling to get it stopped. No follow-up was done for removing this fill. A substantial part of the site was under water, so the 2.4 acres includes under the stream.

Mr. Harlan stated that he was not in opposition to this development but he is concerned with the traffic problems on McLoughlin for any development. He would like to see it well shielded by greenery on both the McLoughlin Road side and on the Lake side. He would like to see an actual condition that there be no docks or intentional use of the Lake in any way. Operating hours should also be a condition restricting open times to after 9:00 a.m.

Speaking: Mack Woods, Realtor involved in selling this property.

As a matter of accuracy, he wanted to report that the plat map was accurate and there are approximately 4.5 acres on the site.

TESTIMONY IN OPPOSITION OF APPLICATION

Speaking: Gary Michael, 11907 S.E. 19th, Milwaukie

Mr. Michael indicated that the traffic was a major concern of his. He uses this route every day. The traffic report suggested that southbound traffic would turn off McLoughlin on 22nd, left on Bluebird, then a right, and then a sharp left to get back into McLoughlin. There is a cross-over of two northbound traffic lanes to get into the site. This is a very dangerous situation, especially for people driving a car with a trailer and boat attached.

Mr. Michael stated that the detriments to the area far outweigh any benefits that will be received by this application. If the Commission is considering a zone change, they should seriously consider the aesthetics of the area and what a boat business would bring.

Speaking: Mart Hughes, 3006 S.E. Washington, Milwaukie

Mr. Hughes hopes that Staff strengthens their denial based on the public need for open spaces. Recreation in this area can play an important role in the North Clackamas Area. This should be addressed in the zone change consideration.

Don Trotter asked for more information on the recreation needs of the area. Mr. Hughes indicated that there are three major needs: public facilities, natural areas and open spaces, and development of an interconnecting trail system.

APPLICANT'S CLOSING COMMENTS

Speaking: Dick Close, Consultant, 555 N.W. Riverview Place, Gresham

Mr. Close indicated that they have no objection to providing appropriate landscaping. This should alleviate the problem of large expanses of pavement and can be used to create an environment that is attractive. Opening at 9:00 a.m. is not a problem. Mr. Greene expected traffic concerns and the traffic study reasonably addressed the access considerations. They will provide the trail system through the property as part of the 40-mile loop. If the highest and best use for this site is open space, then the public jurisdiction should purchase it. There has to be some rational use for the property.

Carolyn Tomei asked if the 2.3 acres of upland property included the illegal land fill. Mr. Close showed the Commission a copy of the assessor's map indicating sections of the property that contained illegal land fill. A large portion of the acreage does have illegal land fill.

Don Trotter asked Mr. Close to elaborate on the deed restriction mentioned earlier. Mr. Close stated that they would work with the traffic engineer to come up with a list of uses that would be high-traffic uses. A deed restriction would then be filed with the City limiting the kinds of businesses that could locate on the property.

Recess was taken at 10:25 p.m and reconvened at 10:35 p.m.

DELIBERATION AMONG COMMISSIONERS

There is a difference of opinions on the traffic studies. The traffic engineer feels there is 480 feet clear sight

distance if some limbs are removed from some trees. Are these trees in the right-of-way or on private property? Dave Krogh indicated that the vegetation would probably need to come off private property as well as right-of-way.

Don Trotter asked Staff to comment on the applicant's proposal to a deed restriction to limit high-traffic uses. Maggie Collins expressed concern over a deed restriction that would condition zoning. Such instruments are only enforceable in Oregon under civil courts.

Don Trotter indicated that there has been no testimony or written presentation on why there is a lack of commercially designated property in the City or why there is a surplus of residential property in the City. Both are essential to demonstrate that there is a need for change from residential to commercial. The State Highway Department indicated that this particular use would work on this site. The City has no method for conditioning a Comprehensive Plan Amendment. The traffic concerns are numerous. He feels there is no justification for the requested plan amendment change and without the plan amendment change, the other three requests are not applicable.

Angus Anderson reported that in the Roadway and Traffic Safety Management Plan for the City of Milwaukie there were several interesting conclusions. 21.2 percent of the accidents during the period of '74 and '77 occurred on the 1.6 mile McLoughlin corridor. Of the 910 total accidents, 193 were on McLoughlin. The most frequent day of occurrence was on Friday; second, on Saturday; and fourth, on Sunday. These are days that most of the boating or recreation activities would occur. He is extremely concerned about the traffic considerations for this site.

Carolyn Tomei stated that she is very concerned over the traffic issue.

Angus Anderson moved to deny CPA-89-02 based on the findings presented in the Staff Report together with testimony heard this evening, particularly in support of the fact there has not been a demonstrated public need for the change and that the change does adversely affect the health, safety, and welfare of the community. Bob Vial seconded. MOTION TO DENY CARRIED 5-0.

Chairman Littlehales moved to continue ZC-89-04 until either the expiration of the appeal period for CPA-89-02, if not

appealed, or until such time as City Council has ruled on the appeal of CPA-89-02. Don Trotter seconded. MOTION CARRIED 5-0.

Chairman Littlehales moved to continue CU-89-06 until either the expiration of the appeal period for CPA-89-02, if not appealed, or until such time as City Council has ruled on the appeal of CPA-89-02. Don Trotter seconded. MOTION CARRIED 5-0.

Chairman Littlehales moved to continue CU-89-07 until either the expiration of the appeal period for CPA-89-02, if not appealed, or until such time as City Council has ruled on the appeal of CPA-89-02. Don Trotter seconded. MOTION CARRIED 5-0.

Commissioner Betty Fulmore returned back to the proceedings and Bob Vial had to leave. A quorum still existed.

6.0 CONSIDERATION ITEMS

6.1 APPLICANT: Milwaukie Christian Church
PROPERTY OWNER: Milwaukie Christian Church
LOCATION: 5197 S.E. King Road
PROPOSAL: Church sign in R-5
(Continued from January 23, 1990)

Dave Krogh reported a letter was sent to Steve Burleson summarizing the concerns raised by the Commission on the proposed sign. The general consensus was that the second monument sign was okay; the main concern was with the bulk, height and size of the proposed sign.

Speaking: Steve Burleson, Oregon Sign Company.

Mr. Burleson presented some pictures of other church signs in the Milwaukie area for comparison. He also presented a picture, that had been superimposed, of how the proposed sign would look on the site.

Speaking: Steve Simonson, Trustee/Chairman of the Board, Milwaukie Christian Church, 5197 S.E. King Road, Milwaukie

Mr. Simonson indicated that they would be negotiable to reducing the height of the brick base. Reference was made in the letter to reducing the brick base to about half its height. That would be fine with them.

Don Trotter moved that the sign for the Milwaukie Christian Church proposal of 40 square feet of sign face would be acceptable with the existing monument base which is to be reduced in height to four brick courses. Carolyn Tomei seconded. MOTION CARRIED 5-0.

7.0 OLD BUSINESS - None.

8.0 OTHER BUSINESS

8.1 Metro Growth Conference Report

Maggie Collins presented to the Commission a summary of the Metro Growth Conference.

Maggie Collins also reported that the Oregon Planning Association will be having its annual conference in Sunriver. As part of this conference, the Bureau of Governmental Research is putting on an annual planning commission training session. If any member is interested in attending, please let Staff know.

8.2 Density Information for Stanley/Linwood Worksession

Don Trotter requested information from Staff on the County zones with allowable and conditional uses within those zones, and information on the densities for residential zones county-wide with the same allowable uses.


9.0 NEXT MEETING: February 27, 1990

9.1 Stanley/Linwood worksession

Betty Fulmore moved to adjourn the meeting of February 13, 1990. Don Trotter seconded. MOTION PASSED UNANIMOUSLY 5-0. Meeting adjourned at 11:40 p.m.



John Littlehales,
Chairman



Shirley Richardson,
Hearings Reporter

AGENDA
MILWAUKIE PLANNING COMMISSION
MILWAUKIE CENTER, 5440 S.E. KELLOGG CREEK DR.
TUESDAY, FEBRUARY 13, 1990, AT 6:30 P.M.

ITEM

- 1.0 CALL TO ORDER
- 2.0 PROCEDURAL QUESTIONS
- 3.0 CONSENT AGENDA
- 3.1 PLANNING COMMISSION MINUTES: January 23, 1990
- 3.2 CITY COUNCIL MINUTES: January 16, 1990

- 4.0 PUBLIC COMMENT - THIS IS AN OPPORTUNITY FOR THE PUBLIC TO COMMENT ON ANY ITEM NOT ON THE AGENDA
- 5.0 PUBLIC HEARINGS (see Public Hearing Procedure to the right)
- 5.1 APPLICANT: William Hoesly
PROPERTY OWNER: William Hoesly
LOCATION: 3920 SE Roswell (Tax Lot 700 of Tax Map T1S, R1E, 25AD)
PROPOSAL: Setback Variance in R-7 (VR-89-05)
- 5.2 APPLICANT: David and Cherie Feb
PROPERTY OWNER: David and Cherie Feb
LOCATION: Where Else Lane, south of Lake Rd. (Tax Lot 2102 of Tax Map T2S, R2E, 6BB)
PROPOSAL: Minor Land Partition in R-10 (MLP-89-06)
- 5.3 APPLICANT: Dick Close
PROPERTY OWNER: David and Sharon Greene
LOCATION: McLoughlin Blvd. at Kellogg Lake (Tax Lots 2800, 3000, and 3100 of Tax Map T1S, R1E, 36CB)
PROPOSAL: Boat sales and Repair (CPA-89-02; ZC-89-04; CU-89-06; CU-89-07)

- 6.0 CONSIDERATION ITEMS
- 6.1 APPLICANT: Milwaukie Christian Church
PROPERTY OWNER: Milwaukie Christian Church
LOCATION: 5197 SE King Rd.
PROPOSAL: Church Sign in R-2
(continued from January 23, 1990)

- 7.0 OLD BUSINESS* - None.
- 8.0 OTHER BUSINESS
- 8.1 Metro Growth Conference Report
- 9.0 NEXT MEETING: February 27, 1990
- 9.1 Stanley/Linwood worksession

THE MILWAUKIE PLANNING COMMISSION WELCOMES YOUR INTEREST IN THESE AGENDA ITEMS. FEEL FREE TO COME AND GO AS YOU PLEASE.

<u>COMMISSIONERS:</u> JOHN LITTLEHALES, CHAIRMAN ANGUS ANDERSON BETTY FULMORE PATRICIA LENT CAROLYN TOMEI DON TROTTER BOB VIAL	<u>STAFF:</u> MAGGIE COLLINS, COMMUNITY DEVELOPMENT DIRECTOR ANNE NICKEL, DEVELOPMENT COORDINATOR DAVE KROGH, ASSISTANT PLANNER SHIRLEY RICHARDSON, HEARINGS REPORTER
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* INFORMATION REQUEST SHEETS - DELIVERED AT MEETING.

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 659-5171.

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: February 13, 1990
FILE NO.: VR-89-05

APPLICATION: SETBACK VARIANCE IN R-7

APPLICANT: WILLIAM HOESLY

PROPERTY OWNER: WILLIAM HOESLY

LOCATION: 3920 SE ROSWELL (TAX LOT 700 OF TAX MAP T1S-R1E-25AD)

PROPOSAL

Variance to reduce setbacks by 25% for new house construction in the R-7 Zone. One side would be reduced from 5 feet to 3.75 feet (25%). The other side would be reduced from 10 feet to 7.5 feet (25%).

SITE

This property is a narrow lot, 40 feet wide by 142 feet deep, zoned R-7 and fronting SE Roswell Street. A small house currently located on the site would be demolished and replaced. The site location is 3920 SE Roswell. The plan designation is Low Density Residential.

The surrounding area is also zoned R-7 and developed with single family residential uses. Adjacent lots to this site are wide (exceeding 70 feet) and contain single family residences in the 1000 to 1500 square foot range. Side setbacks for the adjacent residences greatly exceed the normal R-7 requirement although an adjacent garage on Tax Lot 600 is close to the subject site's property line.

BACKGROUND

This request was originally reviewed via a Type II Administrative review process (from Section 10.05(B) of the City Zoning Ordinance). A Notice of Decision was issued on December 12, 1989. This notice stated the Department's intent to approve this request following a 10 day citizen review period. During that review period staff received concerns and a request for hearing from a citizen, Margaret K. Hunt. Attached to the request for hearing statement was a state-ment of concerns signed by Ms. Hunt and 6 other citizens (see Exhibit 5).

Because of the request for hearing and the concerns raised, staff felt this matter should be submitted to the Planning Commission as per Section 10.05(B)2. of the Zoning Ordinance. This new review will follow Minor Quasi-Judicial review procedures of Section 10.05(C).

CRITERIA/FINDINGS

A. Criteria for variances are those of Section 7.02 of the City Zoning Ordinance. As part of this review process, staff has addressed approval criteria as follows:

1. **Whether the property in question has unique, exceptional, or extraordinary conditions which do not apply generally to other properties in the vicinity. Such conditions shall relate to the land or physical characteristics of the development as distinct from uses allowed in the zone, or from the personal conditions or economic circumstances of the applicant.**

The subject site is 40 feet wide, 20 to 30 feet narrower in width than adjacent lots. According to County Assessor maps for this area, lot widths generally range from 60 to 70 feet. The narrowness of this lot is clearly a unique feature not characteristic of other properties within the area.

2. **Whether the requested variance is the minimum necessary to permit the applicant to enjoy the use of his property in a manner substantially the same as others in the same zone, so that the applicant will not be granted a special privilege.**

The existing structure is small and obsolete and out of character with surrounding development. Housing in the area is generally larger in bulk and scale than could ordinarily occur on this lot without a variance.

Without a variance, this lot could support a new structure with a floor plan generally limited to 25 feet width or less. With a variance, a 28 foot wide house plan could be constructed. The Applicant states that a variance will allow much greater floor plan flexibility and provide an overall bulk and scale more comparable to neighboring houses. Maintaining comparable bulk and scale with neighboring housing will also help in the maintenance of housing and property values for the area.

No special privileges are being granted. Sideyard setbacks, although 25% less, are still being required, and all other zoning and building permit requirements are still in effect.

3. **Whether there are feasible alternatives which would obviate the need for the variance, or overcome the difficulty with less adverse effects upon other properties.**

Building a smaller sized house would be an alternative. Maintaining the existing obsolete dwelling is also an alternative. However, the Applicant desires to rebuild with a strong floor plan, and with building bulk and scale comparable with surrounding housing. (Refer to Finding 4 regarding the question of adverse effects.)

4. **Whether the variance would have benefits to the applicant which would outweigh its adverse effects upon other properties or the public welfare.**

Granting a sideyard variance would allow the Applicant greater flexibility with house design and floor plans. This will enable the Applicant to better provide a new house of comparable features to those within the area. Maintaining this comparability will, in the long term, help to keep property and housing values stable within this area. The minor nature of the variance (a 25% setback deviation) does not pose an adverse effect for adjacent properties since reasonable setbacks are still required.

- B. Any new house construction must meet R-7 zoning standards. In this case, setback and lot coverage review (following the conditions of this variance action) will normally occur at the building permit stage.

Lot size of the property is 5,680 square feet. This is undersized for R-7 regulations which require 7,000 square feet per dwelling unit. However, Section 4.09 of the Zoning Ordinance does allow pre-existing undersized lots the ability to be used for a single family dwelling units provided public access is available and the lot is not less than 3,000 square feet in area. Therefore, this lot would comply with those standards.

- C. Other requirements are identified as follows:

1. The City Building Official has indicated roof overhangs and projections must not extend to within 36 inches of the side property lines in order to meet building code limits (see Exhibit 3). Review of this standard would also occur at the building permit review stage.
2. The City Office Engineer has indicated public facilities availability and requirements (see Exhibit 4). These will be considered as part of Public Works' implementation of the Public Facilities Improvements Ordinance at the building permit review stage.

- D. Concerns raised by other citizens have been included in Exhibit 5. They will be discussed as follows:
1. Exhibit 5 includes 3 "procedural objections" (page 2). These will be discussed individually as follows:
 - a. Item 1 suggests that "the impartiality of the public comment and hearing process has been impaired" because of the nature of the administrative review process (including an intent to approve prior to public comments).

Staff disagrees. By nature an administrative review does not involve a public hearing and, therefore, staff would not be privy to other citizen concerns or findings until the decision notice is given. Milwaukie's Type II Administrative review process grants citizens with concerns the possibility of a public hearing prior to final approval. It is totally improper to imply the Planning Commission would be swayed by staff's administrative intent to approve prior to the receipt of public testimony at a public hearing.
 - b. Item 2 indicates a misunderstanding of the Public Works comments (Exhibit 4). Section 4.10.3 (Table 1) of the City Zoning Ordinance requires front yard setbacks to consider future street expansion. Table 1 shows Roswell Street as ultimately having a right-of-way of 25 feet from center-line to edge (for a total right-of-way of 50 feet). Currently, at this location the right-of-way is only 40 feet. This means, as the Public Works memo clearly indicates, an additional 5 feet of right-of-way dedication will have to be obtained from either side of the street. This 5 feet, added to the 20 feet front yard setback of the R-7 zone, produces a setback of 25 feet. Right-of-Way dedication would come at a later stage as per Exhibit 4. A proposed site plan must meet the R-7 standard for front yards (20 feet) and all required dedications.
 - c. Item 3 indicates a general objection to the process by which the notice of decision follows. This process is a legally adopted part of the Milwaukie Zoning Ordinance (#1438). Section 10.05(B) identifies the specific process that was followed. This process was adopted by the City Council on March 17, 1987 by Ordinance #1620.
 2. Exhibit 5 also includes an "objection on the merits" section which staff will address as follows:
 - a. Item 1 (page 3 of Exhibit 5) indicates the property is not "unique..." because a prior lot line adjustment occurred reducing the lot to its present 40 foot width.

Staff has checked City files and no record of prior lot line adjustment activity is noted for this property. Neither the Applicant nor the citizen respondents have provided a title report or other factual information to indicate such activity has occurred. If such activity did occur, it most probably would have been many years past, pre-dating the R-7 zoning for the area. (Such a lot reduction would have required an R-7 lot size variance if R-7 zoning were in effect at the time.)

The fact of the matter remains, however, that the existing lot is 40 feet wide. Alone, a 40-foot wide lot of 5,680 square feet in an area of many 73-foot wide lots of 10,366 square feet each is unique.

- b. Item 2. (Page 4 of Exhibit 5) deals with the issue of the minimum variance necessary.

The Applicant provided a site plan (Exhibit 1) showing proposed setbacks, not a proposed building configuration as suggested in Item 2. The requested setback variances for the sides would allow a 28.75 foot wide house to be constructed on the lot, as opposed to a 25 foot wide house without the variance.

While the Applicant did not provide a specific house construction plan for the proposal, assumptions can still be made without a plan. The reason for this request is to allow the Applicant flexibility in choosing a workable design for the lot.

For comparison purposes, 25 feet is 1 foot wider than a double-wide mobile home (24 feet) and 3 feet wider than a typical 2-car garage (22 feet wide). The existing house now is approximately 22 feet wide and, compared with the other housing of the area, appears extremely small and out-of-place. Existing houses of the area are bulkier and include 1-1/2 story, ranch, and other styles. Square footages (building footprint) by visual estimations appear to range from 1000 to 1500 square feet for housing in the area. The existing house on the lot in question appears to be roughly 800 square feet in floor area.

Staff did discuss this matter with the City Building Official. Based upon his experience in plans review, the more restricted the house size, the less flexibility is available in floor plan configuration or design. The Building Official stated 26 feet as being the minimum house width he has seen where reasonable flexibility remains regarding design. Staff can verify that there is a builder in the area who does construct housing of this size (26 foot width). City officials have approved workable house designs of 26 feet in width.

Based on the above, without actual and specific designs to review, a variance of 1 foot (allowing a 26 foot wide house) appears at this time to be the minimum necessary, even though the Applicant has requested extra footage to provide maximum design flexibility.

- c. Item 3 deals with the issue of feasible alternatives. The term "substantial" referenced in Item 3 relates to the bulk and scale (size) of a potential new house for this lot. Limiting new construction to a 25 foot width would (according to the Applicant) reduce his ability to provide a new house of similar character and bulk of those of the neighborhood. Property values will also tend to be more stable if new construction on this lot is comparable to that of the area (neighborhood consistency).

This is another situation where having several designs/floorplans to compare would have been helpful. Staff's attempt at the administrative level was to allow the owner design flexibility. In light of the neighbor concerns, however, it appears a specific design is the only way to address those concerns while at the same time ensuring compatible construction will occur.

- d. Item 4 deals with adverse effects versus benefits. Multiple points are raised and will be addressed as follows:
 - 1) Item 4.a. discusses fire separation and building standards. These are not zoning variance issues. The City Building Official has the authority to require fire walls be constructed, etc., based on Uniform Fire and Uniform Building Codes. This type of determination is usually made at the building permit review stage.
 - 2) Item b. implies a front yard setback variance is being provided. This is false. A 25 foot minimum front yard setback will be required regardless of the outcome of VR-89-05.
 - 3) Item c. is in error. As per finding D.1.b., if Roswell is ultimately widened, only 5 additional feet of this lot would be affected. This is the reason for a 25 foot setback; so the front yard will still be at least 20 feet as required by the R-7 zone.
 - 4) Item d. is pure speculation. The R-7 zone only allows 30% lot coverage and does require at least 30% vegetation. Therefore, almost one-third of the lot will be available for yard or other landscaping.

- 5) Item e. is in error. As previously mentioned, R-7 only allows a lot coverage of 30%. That means the first floor construction (including garage or carport) could only be as large as 1704 square feet in area, not the 2900 square feet as mentioned in item e.
- 6) Item f. is also speculative. Staff regularly refers applications to other City officials for comments. In this case, the City Building Official routinely comments on fire, life, and safety issues. No such concerns were noted in his referral response (Exhibit 3).
- 7) Item g. is, again speculative. Staff has already clarified that the Applicant cannot construct a "massive" structure on this lot. The setback variance requested is also only a 25% deviation from the norm per side. This is hardly a "blank check".

It is Staff's conclusion that, a nicely constructed new house on this lot of comparable bulk and scale to those in the area will protect the property values and livability within the neighborhood better than limiting the Applicant to retaining and remodeling the existing small house on this lot.

CONCLUSION

Staff believes this proposal could be conditioned to comply with all applicable concerns as discussed above.

RECOMMENDATIONS

Because of the several concerns raised by neighbors, staff has requested the Applicant bring sample plans for the Commissioner's review. This is not a suggestion for a design review, but rather, that the Applicant show workable designs for this narrow lot.

Based on the prior findings and discussion, Staff recommends that a reduced setback variance of 1 foot be approved (or larger, depending upon a review of plans by the Commission). This will allow the Applicant the ability to construct at least a 26 foot wide dwelling, with side setbacks of 9 feet and 5 feet (as opposed to the normal R-7 side yard requirements of 10 feet and 5 feet respectively).

Staff also suggests the following conditions be applied:

1. Side yard setbacks shall be no less than 9 feet and 5 feet respectively (assuming a 1 foot variance is granted).

2. The front yard setback shall be 25 feet as per Public Works memo (Exhibit 4).
3. The new house shall be oriented so that primary entry into the house shall not be via the 5 foot side yard.
4. Proper City permits shall be obtained prior to demolition or construction activity on the subject property.
5. New construction on this property shall comply with applicable requirements of City Zoning, Building, and Public Facilities Improvement Ordinances.

EXHIBITS

1. Application
2. Area Map
3. Building Official Memo
4. Office Engineer (Public Works) Memo
5. Citizen Concerns
6. Notice

30 DAY

FILE NO. VA-89-0

Milwaukie Planning Commission
10722 S.E. Main Street
Milwaukie, OR 97222
Phone: (503) 659-5171

TYPE II
ADMINISTRATIVE
VARIANCE
APPLICATION

~~SIGN DEPOSIT~~ \$
APPL. FEE \$ 175-

APPLICATION IS TO BE SUBMITTED
IN BLACK PEN OR TYPEWRITTEN ONLY

PLEASE READ CAREFULLY. Application will be processed when all questions are answered and accurate site plan is submitted in accordance with Planning Department guidelines. If you have any questions, contact the Planning Department at 659-5171.

I HEREBY REQUEST A VARIANCE from the provisions of the Zoning Ordinance on property described below. With this application, I am furnishing 5 * copies of a legibly drawn SITE PLAN showing exact dimensions and arrangement of the proposal as well as elevation drawings and any other drawings, topographic surveys, photographs or other material essential to the understanding of the proposed use and its relationship to the surrounding properties as may be required by staff and/or Planning Commission. On the reverse side of this application, I am explaining circumstances for granting my request for a variance. * If site plan is larger than 8½x11, 10 copies are needed

APPLICANT: (Print) WILLIAM HOESLY Date: 11/13/89

Mailing Address: 4224 SE JEFFERSON MILW ZIP 97222 Phone: 6521616

PROPERTY OWNER(S): (Print) WILLIAM HOESLY Phone: 6521616

Mailing Address: 4224 SE JEFFERSON MILW. OR ZIP 97222

REQUEST: TO REDUCE SIDE YARD SETBACK TO 3.75 feet on
A SIDE AND TO REDUCE TO 7.5 feet on THE OPPOSITE SIDEYARD

ZONE CLASSIFICATION: R-7 COMP PLAN: _____

Legal Description: Township 1 S Range 1 E Section 25 AD Tax Lot(s) ~~00700~~ 00700
(Submit metes and bounds description upon request)

Property Location: 3920 ROSWELL near (cross street) _____

Meeting Date: _____

In granting a variance, conditions may be attached which are found necessary to lessen the impact of the variance on nearby property, protect the general welfare of the City, and achieve the purpose of the Zoning Ordinance.

I CERTIFY that the information contained in this application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application.

Signature W. J. Hoosly Date: 11/13/89

FOR OFFICE USE

Approved: _____ Denied: _____ Continued: _____ Appealed: _____

EXHIBIT # 1
DATE 2/13/90
APPROVED Applicant
3 pgs
VR-89-05

CIRCUMSTANCES FOR GRANTING A VARIANCE
(Sections 7.01, 7.02, 7.03, 7.04, 7.07, 7.08 of Zoning Ordinance)

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

The burden is on the applicant(s) to show how his/her/their request satisfies the circumstances for granting a variance. The following are to be thoroughly answered for staff review and Planning Commission consideration: [If you need more space, use a separate sheet]

1. For your property, explain the unique, exceptional or extraordinary conditions which do not apply generally to other properties in the vicinity. These shall relate to the land or physical characteristics of the development as distinct from uses allowed in the zone, or your personal conditions or economic circumstances.

The majority of area lots have widths in excess of 50 feet. The narrow scale of this lot creates a unique situation.

2. Explain how the requested variance is the minimum necessary to permit you to enjoy the use of your property in a manner the same as others in this zone, so that a special privilege is not granted.

The existing structure is obsolete and should be replaced with a new building. Existing setbacks on a 40' lot precludes being able to create a floor plan that satisfies modern code and user satisfaction.

3. Explain feasible alternatives which would make the need for a variance unnecessary or which would have less adverse effects upon other properties.

*Building a substandard building would be possible. ~~also~~
Maintaining status quo is a possibility, however both choices have greater negative impact on the area than a home with a strong floor plan.*

4. Explain how the variance has benefits to you which would outweigh its adverse effects on other properties or the public welfare.

Granting of a Variance will allow for the removal of a building that is making a negative contribution to the neighborhood

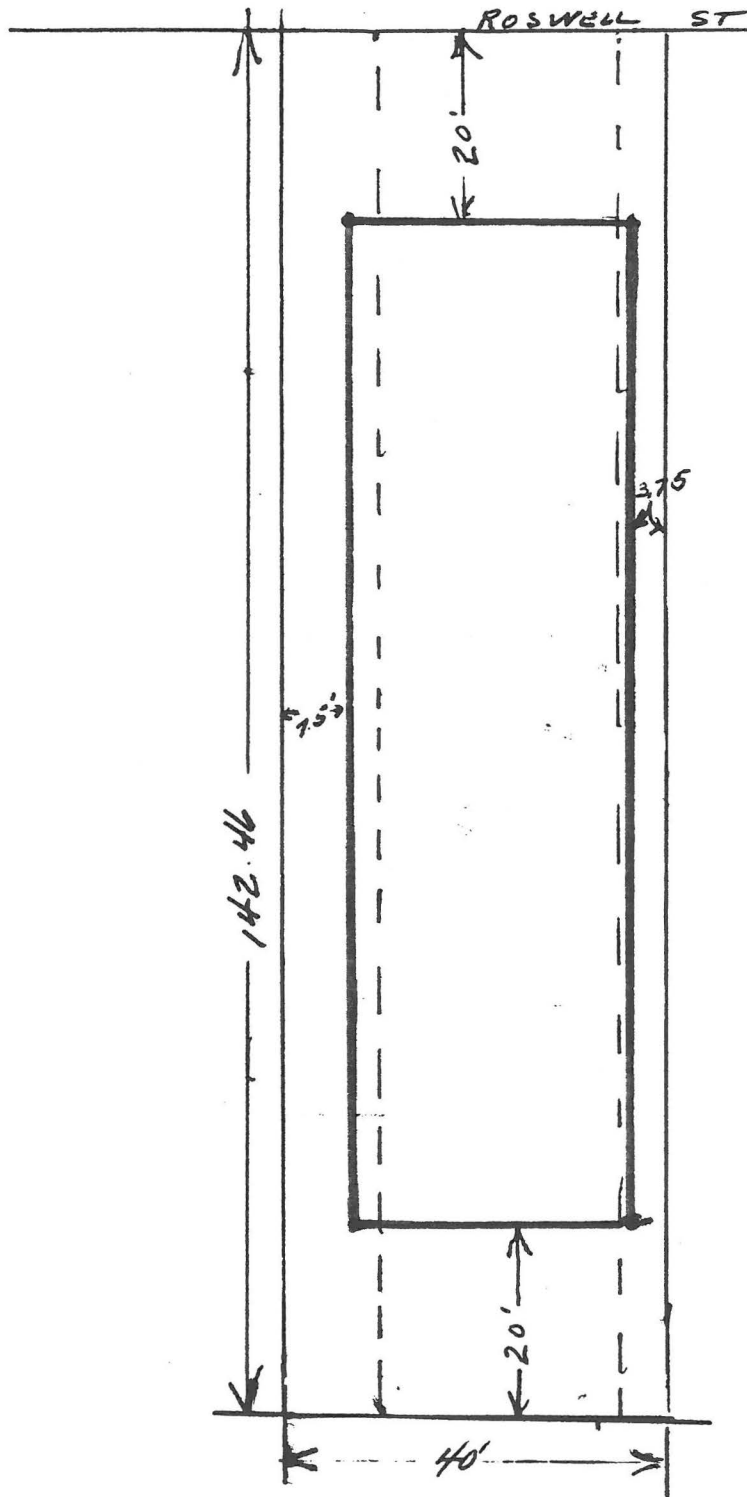
Any action or ruling of the Planning Commission may be appealed to the City Council within 15 days after the Commission has rendered its decision. Written notice of the appeal shall be filed with the City Recorder. If the appeal is not filed within the 15-day period, the decision of the Planning Commission shall be final.



1" = 20'

--- LINE? PRESENT
SET BACK

— PROPOSED
SET BACK



22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



OSWELL

PORTLAND CITY
MILWAUKIE CITY

CC. RD. NO. 1107

3 LINE M950V M450

ST

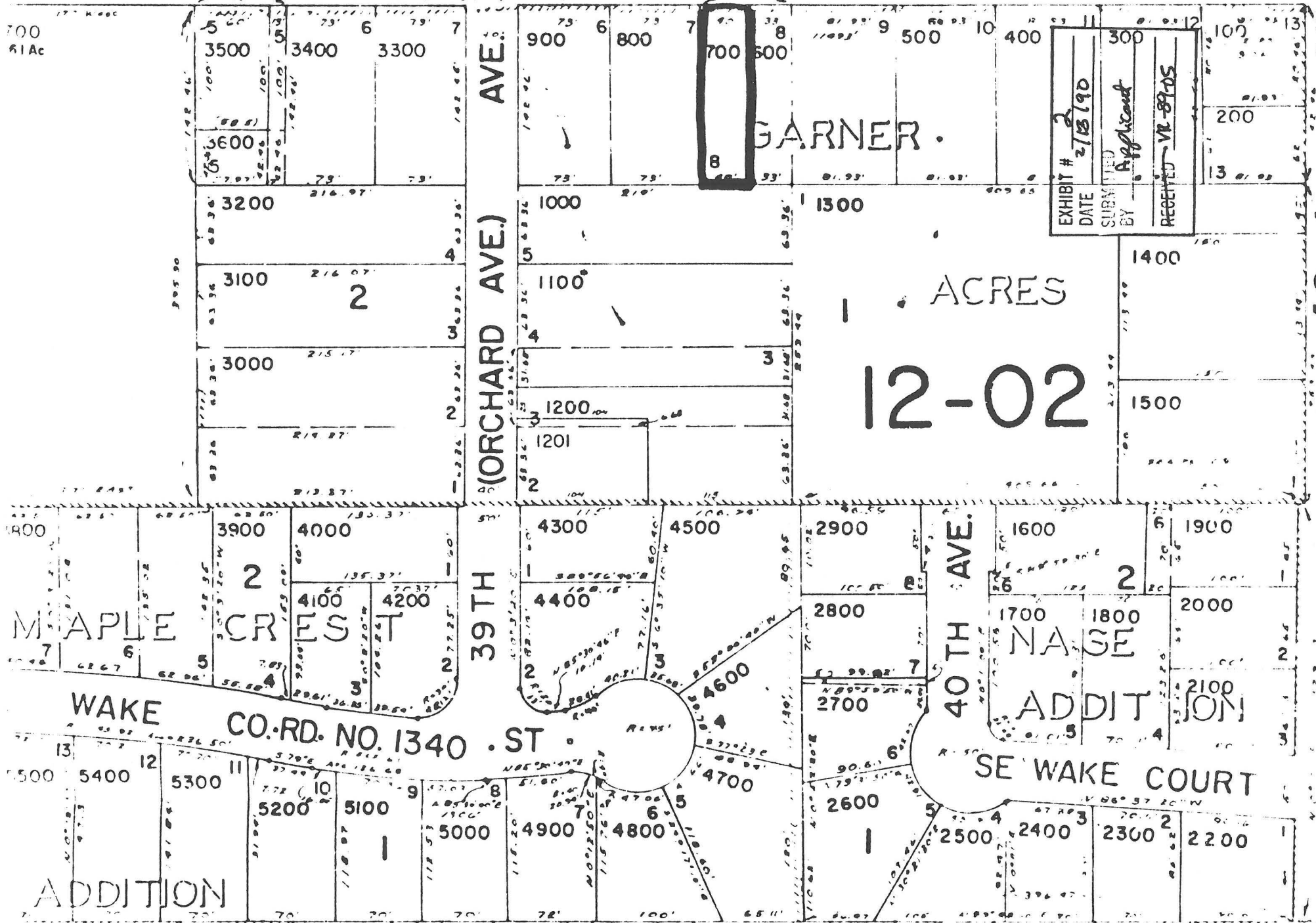


EXHIBIT #	2
DATE	2/13/90
SUBMITTED BY	Applicant
RECEIVED	VE-89-05

1 ACRES
12-02

NO. 77
 RD. 42nd
 NO. 58
 DLC NO 58
 WEST LINE GEORGE WILLS
 WEST LINE GEORGE WILLS
 DLC NO 42

6600 6700 6800
THOMAS R. WEST SUBDIVISION

TO: PLANNING

FROM: Jim Mishler
Building Official

RE: VR-89-05

DATE: December 4th, 1989

The setbacks shown on the plot plan are within building code limits for residential construction, but the roof overhangs or other projections will not be allowed within 36" of the side property line.

Jim Mishler

RJM/cjl

EXHIBIT #	3
DATE	2/13/90
SUBMITTED BY	Building
RECEIVED	VR-89-05

RECEIVED

DEC 01 1989

TO: PLANNING
FROM: Paul Roeger *PHR*
Office Engineer
RE: VR-89-05
3920 SE Roswell Street
DATE: December 1, 1989

PLANNING

The existing house is connected to City sanitary sewer and water.

Roswell Street is an asphaltic concrete street without curb or sidewalk. The existing right-of-way of Roswell Street is 40 feet, and pavement width is only about 20 feet. Under Section 4.10.3 of the Supplementary Regulations of the Zoning Ordinance, Table 1, setback on Roswell Street is 25 feet from the centerline plus the 20 foot front yard setback. This means the future plan calls for a 50 foot right-of-way. Therefore, Public Works will require a developer's agreement for future dedication of right-of-way and street improvement, including curb & gutter, sidewalk, storm drainage and appurtenances.

Roof drains for the new house will need to be run to a drywell.

PHR/cjl

EXHIBIT #	4
DATE	2/13/90
RECEIVED BY	Public Works
FILED	VR-89-05

In re: File No VR-89-05

12/20/89

I request a public
hearing on this matter.

Thank you.

Margaret Hunt
3916 SE Roswell
Melbourne, OR
97222

RECEIVED

DEC 20 1989

PLANNING

EXHIBIT #	<u>5</u>
DATE	<u>2/13/90</u>
BY	<u>Margaret Hunt</u>
	<u>11 pgs</u>
RECEIVED	<u>VR-89-05</u>

RECEIVED

DEC 20 1989

PLANNING

CITY OF MILWAUKIE

In re: Variance Request of)
 William Hoesley)
)
 File No.: VR-89-05)
)
 Location: 3920 SE Roswell)
 (Tax Lot 700 of)
 Tax Map T1S-R1E-25AD))

NEIGHBOR'S COMMENTS
ON AND OBJECTIONS TO
REQUEST FOR VARIANCE

I. STATEMENT OF ISSUE.

Applicant William Hoesley (hereafter the "Developer") has made an application for a zoning variance on a substandard sized lot in an R-7 Zone. From the City of Milwaukie, Community Development Department Staff Report (the "Staff Report"), the proposal is described as a reduction in the side yards from 5 feet to 3.75 feet and from 10 feet to 7.5 feet. Although the proposal makes no reference to a front yard setback, the Staff Report exhibits suggest that a front yard setback is also being considered by the City. See, Exhibit "2" (detailing the site plan) and Exhibit "4" (report from Paul Roeger, Office Engineer, 12/1/89) .

These comments and objections to the request for variance are submitted by the adjacent property owners, Robert and Margaret Hunt ("Neighbors Hunt") and Greg Eibel ("Neighbor Eibel"). Neighbors Hunt own and live in the residence to the west of the subject property. Neighbor Eibel is the owner of and is resident at the property immediately to the east of the subject site. Other residents in the neighborhood have joined in these comments and objections. (See, Exhibit "A"). All persons who have joined in these objections are referred to collectively as "the neighbors."

As the following comments make clear, the "findings" of the Staff Report are based on incorrect assumptions and incomplete information. Moreover, the Staff Report fails to consider reasonable alternatives to the variance request. The neighbors in the area submit that the request for the variance should be denied.

II. PROCEDURAL OBJECTIONS.

The neighbors have the following objections to the procedure employed with respect to this variance request.

1. The "Notice of Decision" states that "following a 10 day comment period, this application will be approved." [emphasis supplied]. The emphasized language suggests that a decision on the application has already been made, regardless of the nature or content of public comment, and the degree of neighborhood opposition. If this conclusion is correct, then the impartiality of the public comment and hearing process has been impaired.

2. The application only requests side yard variances, but the exhibits to the Staff Report suggest that a front yard variance is also being considered. (Compare, Staff Report Exhibit "1" with Exhibits "2" (site plan) and "4" (P. Roeger report). Action on a front yard variance, with no application on file for it, is improper.

3. Neighbors reserve all objections as to the form, content, and manner of service of the Notice of Decision.

III. OBJECTIONS ON THE MERITS.

The Staff Report, dated December 12, 1989, sets forth four separate "Findings" which neighbors submit are incorrect, are based

upon improper assumptions, and have been reached without consideration of available alternatives. A response to each of the Staff's findings is set forth below, numbered in the same sequence employed in the Staff Report.

1. The property in question is not unique, exceptional, or extraordinary.

The Staff Report characterizes this 5,680 square foot lot as being "extremely narrow." In fact, a variety of residential lots can be found in Milwaukie and throughout the Portland metropolitan area which, notwithstanding their width of 40 feet, accommodate existing residential structures without modification of the setback requirements. The existing residential structure now on the property bears witness to this fact.

Moreover, the Staff Report ignores the history of this property. It is clear that this lot was originally platted to be a full 73 feet in width, like many of the neighboring properties on the street. At one point in the property's history, however, the previous owner agreed to divide it. The eastern portion of the property, 33 feet in width, was placed or kept in common ownership with the adjacent lot to the east, now owned by Neighbor Eibel and designated as tax lot 600. The Developer's property was designated as tax lot 700. (See, Staff Report, Exhibit "2", plat of neighborhood).

Thus, to the extent that this property is "unique", its dimensions are a direct consequence of actions of the previous owner of the property in voluntarily agreeing to division of the

lot in this fashion. At the time at which that division occurred, it was clearly understood by the owner of the Developer's property that it would be best served by a residence of more modest size. Again, the existing residential structure corroborates the intent of the previous owner in this regard.

The Developer of the property should not be heard to complain of the so-called "unique" features of this lot when those features are a direct consequence of decisions made by his predecessor in title.

2. Based on present information, the requested variance is far in excess of minimum requirements.

Criterion No. 2 in the Staff Report relates to whether the requested variance is the minimum necessary to permit the applicant to enjoy substantially similar use of his property as other property owners in the same zone. The Staff Report makes no specific conclusion regarding this criterion. Moreover, it is clear that the City staff made its findings on this criterion without the benefit of complete information.

For example, the staff concludes that, "Without a variance this lot can only support a narrow structure of limited floor plan" and that a variance would allow "greater floor plan flexibility." Of critical importance, however, is the fact that the Developer has not disclosed what floor plan he wishes to use on the property. It appears from the sketch (Staff Report, Exhibit "2", site plan) that the Developer plans to build a structure 28.25 feet in width by 102 feet in length. This yields a square footage, for the first

floor alone, of over 2900 square feet. With the addition of a second story (and ignoring the possibility of an excavated basement) the Developer could well be planning to construct a 5800 square foot residence on this property. This would be two to three times the finished square foot area of other houses in the neighborhood.

At minimum, before allowing a variance, the Developer should be required to submit detailed, architect's drawings showing actual floor plans and the profile of the structure he wants to build on the property, along with alternatives which show what type of structure might be built within existing zoning requirements, without a variance. This would allow consideration of reasonable alternatives, to ensure that (a) a variance is in fact reasonably necessary; and (b) that any proposed building would be consistent with other residences in the area, rather than being a massive, out-of-place structure.

3. Whether feasible alternatives exist can only be determined by requiring plans for the proposed structure.

The Staff Report concludes that there is no feasible alternative to the variance "considering the Applicant's desire for a strong floor plan and building bulk and scale comparable with surrounding housing." Again, this conclusion has been made in a vacuum, without consideration of the floor plan of the structure which the Developer actually wishes to build, as well as alternative configurations.

The neighbors have no doubt that a good architect could build a properly scaled--not "substandard" house--on this lot that would be an attractive addition to the neighborhood, and still meet existing setback requirements.

4. The adverse effects of the variance outweigh any benefits.

The Staff Report's conclusion that the proposed variance is of "a minor nature" and would not have an adverse effect on the adjacent properties is incorrect. Rather, consideration of a number of facts not noted in the Staff Report reveal that the variance may have an adverse impact on the entire character of the neighborhood, and a substantial impact on the adjacent property owners, Neighbors Eibel and Hunt. Some of the key points which the Staff Report fails to note are set forth below.

a. The property of Neighbor Eibel, immediately adjacent to the subject property on the east side, is improved by a garage which has been there for many, many years. That garage has been constructed on, or perhaps a bit over, the Developer's property line. That garage overlaps the end of the structure as set forth on the proposed site plan. Thus, the garage and the building which the Developer wishes to construct may be separated by an extremely narrow space, 3.75 feet or less. The Staff Report does not require a firewall for the new structure, thus posing a significant risk of transmittal of a fire in the new residence to the existing garage on the Eibel property.

b. If a front yard setback is granted, this will clash with the appearance of the rest of the street. The existing structures generally have a relatively uniform setback.

c. If Roswell Street, which provides access to the property, is improved in the future, the front yard will almost be entirely eaten up by widening of the street, curbs, a parking strip, and sidewalks. The front of the property will virtually border on the sidewalk, which will damage the appearance of the neighborhood.

d. Even if Roswell Street is not improved in the future, neither the proposed front nor the back yard of the property (and certainly not the narrow alleyways in the side yards) provide an adequate place for children to play or for other home activities, such as gardening, to take place. Thus, if the residence is ever occupied by children, they will inevitably seek more room in the only immediately adjacent open area: the street.

e. As noted above, the proposed variance would allow construction of a building, on the first floor alone, of 2900 square feet. This could easily be doubled by construction of a second story. The Developer's actual plans are unknown, given the fact that plans and architect's drawings have not been submitted. Since most of the other residences in the neighborhood are 2,000 square feet or less, the Developer would be at liberty to build a massive structure, not at all consistent with the bulk and scale of existing housing in the neighborhood.

f. Neighbors Eibel and Hunt also question the adequacy of access to the structure by fire fighting equipment. Given the

extremely narrow proposed side yards, it may be difficult, if not impossible, to fight a fire at the structure. There is already an existing fence along the entire property line between Neighbors Hunt and the Developer. A partial fence exists on the Eibel property line. The presence of the Eibel garage on or over the property line has already been noted. Construction of additional fencing along the entire property line between Neighbor Eibel and the Developer is possible. The extremely narrow side yard requested will place fire fighters at peril in this area.

g. Neighbors Hunt and Eibel are of the opinion that construction of this property, with extremely narrow side, front and back yards, would detract from their property values, creating a pocket of densely built, crowded structures. This is exacerbated by the "blank check" the Developer wants to have, which can allow him to construct a massive structure, bigger than any other residence in the area.

Neighbors Hunt believe that they would not have bought their existing residence if the Developer's property had had an existing structure on it with limited setbacks of the type requested.

In addition, other neighbors who have joined in these comments and objections submit that it is their opinion that the variance will damage their property values as well.

IV. CONCLUSION.

In the final analysis, the Developer knowingly purchased a smaller lot, bearing an existing residence of correspondingly modest size. None of the persons joining in these comments objects

to development of the property, provided that any structure built on this location be properly scaled and have front, side, and back yards in keeping with the physical limitations of the lot and the character of the neighborhood. Based on the presently available information, there are too many unknowns in the Developer's plans. The request for a variance should be denied.

DATED: 12/19/89 Robert Hunt
Robert Hunt

DATED: Dec. 19, 1989 Margaret K. Hunt
Margaret Hunt

DATED: Dec 19, 1989 Gregory A. Eibel
Gregory Eibel

(Signatures of other neighbors shown on Exhibit "A").

[sb/512/gmg/hunt.var]

Applicant: William Hoesley
 Property Owner: William Hoesley
 Location: 3920 SE Roswell (Tax Lot 700 of Tax Map T1S-R1E-25AD)

We, the undersigned, having read the comments and objections of Neighbors Hunt and Eibel to the proposed variance referenced above, hereby join in and state our agreement with those comments and objections.

Name

Address

Patricia L Boyd

8836 S.E. 40th Milwaukee Or 972

Mellin F Ross

" " " "

Franklin D Withrow

4084 S.E. ROSWELL MILWAUKIE OR 97222

Della Stultz

4118 SE Powell St Milwaukee

EXHIBIT "A"

CITY OF MILWAUKIE



January 24, 1990

File #VR-89-05

NOTICE OF PUBLIC HEARING

To: Property Owners and Residents
On: Tuesday, February 13, 1990, beginning at 6:30 p.m.
At: Milwaukie Center
5440 S.E. Kellogg Creek Dr.

The Milwaukie Planning Commission will consider a request by William Hoesly (applicant and property owner) for approval of a setback variance in the R-7 Zone on the property located at 3920 S.E. Roswell (Tax Lot 700 of Tax Map T1S, R1E, 25AD).

The site is shown on the reverse of this letter.

The criteria which will be used by the Planning Commission in reaching a decision are shown on the attached sheet(s). Testimony and comments must be directed at this hearing towards the criteria identified.

Interested persons are invited to attend this hearing or to submit comments in writing prior to the meeting time. Written testimony may be submitted in advance to the Community Development Department or in person at the hearing. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak following the applicant's testimony.

A copy of the application and all documents and evidence relied upon by the applicant are available for public review at the Community Development Department located at City Hall. Copies of these can be provided at reasonable cost. A Community Development Staff Report will be available for public review at the Ledding Library, local information shelf, after 5:00 p.m., Tuesday, February 6, 1990, and at City Hall in the Community Development Department, Tuesday, February 6, 1990, after 4:00 p.m. Copies of applicable City ordinances and the Comprehensive Plan are also available for review at these locations.

If you have any questions, please call the Community Development Department at 659-5171.

EXHIBIT #	6
DATE	2/13/90
SUBMITTED BY	Staff
RECEIVED	3:00 p.m.
	VR-89-05

VARIANCE CRITERIA

Milwaukie Ordinances

Section 7

Section 7.01 Variances, Exceptions, Special Variances, and Plan Review. The Planning Commission or Planning Director may authorize variances from the standards and requirements of this Ordinance within the limitations prescribed in Section 7.02. In granting a variance, the Planning Commission or Planning Director may, in addition to the time limitations of Section 10.07, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the City, and achieve the purposes of this Ordinance.

Section 7.02. Circumstances for Granting Variances. A variance may be granted only when the Planning Commission or Planning Director finds that practical difficulty, or unnecessary hardship which is inconsistent with the spirit and intent of the Comp Plan and of this Ordinance for the applicable zone, would be created by a strict and literal interpretation of its provisions with respect to the property in question. The Planning Commission shall consider and make findings with respect to each of the following:

1. Whether the property in question has unique, exceptional or extra-ordinary conditions which do not apply generally to other properties in the vicinity. Such conditions shall relate to the land or physical characteristics of the development as distinct from uses allowed in the zone, or from the personal conditions or economic circumstances of the applicant.
2. Whether the requested variance is the minimum necessary to permit the applicant to enjoy the use of his property in a manner substantially the same as others in the same zone, so that the applicant will not be granted a special privilege.
3. Whether there are feasible alternatives which would obviate the need for the variances, or overcome the difficulty with less adverse effects upon other properties.
4. Whether the variance would have benefits to the applicant which would outweigh its adverse effects upon other properties or the public welfare.

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: February 13, 1990
FILE NO.: MLP-89-06

APPLICATION: MINOR LAND PARTITION

APPLICANT: DAVID & CHERIE FEB

PROPERTY OWNER: DAVID & CHERIE FEB

LOCATION: WHERE ELSE LANE South of Lake Road (Tax Lot 2102; Tax Map T2S,
R2E, 6BB)

PROPOSAL:

Minor Land Partition for property zoned R-10 to create two parcels of 12,414 and 10,000 square feet and a 3.33 acre remainder.

SITE:

The site in question is designated Low Density Residential and zoned R-10. The site is relatively flat except for portions directly adjacent to Lake Road, vacant, and bordered by suburban residential properties generally on 10,000 square foot and larger lots. A stone house occupies Tax Lots 2100 and 2101 which abut Where Else Lane and serve as a "wedge" of separate ownership around which the Feb property encircles. Access is via Where Else Lane which has a substandard right-of-way and surface (see Exhibit 2a). Normal required configuration for local streets is a 50 foot right-of-way and 32 feet of pavement curb to curb. Tax Lot 2102 has the potential for additional development as evidenced by a future subdivision plat included within the file.

BACKGROUND:

This request was originally reviewed via a Type II Administrative review process (from Section 10.05 (B) of the City Zoning Ordinance). An intent to approve was issued on December 11, 1989, with approval scheduled for December 21st, following a 10 day citizen review process. During that review process staff received concerns from three different citizens and from Public Works staff.

An adjacent property owner (Tax Lots 2100 and 2101), Fred W. Jarrard, aired concerns over an access easement that was granted to him by the prior owners, of Tax Lot 2102, Byron and Peggy Root. This easement was not reflected on the partition plan for MLP-89-06.

A second citizen, Milton Palm, provided written concerns regarding drainage and wetness (see Exhibit 5). Public Works staff also expressed verbal concerns over the issue of wetlands.

A third citizen, Hugo Benson, expressed general opposition to the proposal (Exhibit 11).

Because of the concerns raised, Staff felt this matter should be submitted to the Planning Commission as per Section 10.05(B)2. of the Zoning Ordinance. This new review will follow Minor Quasi-Judicial review procedures of Section 10.05(C).

FINDINGS:

- A. Compliance with Section 7.02 of the Subdivision Ordinance ("Submission" requirements for partitioning) is provided.
1. The Applicants have provided a partition map. This map is attached as Exhibit 1 and clearly shows the parcels in question, dimensions, utilities, topography, street configuration, uses, and significant features.
 2. The applicants have also provided a larger area map within the file showing a future subdivision and street configuration plan.
- B. Conformance is provided to R-10 zone standards. Both new parcels (II and III) are 10,000 square feet or over in area and meet R-10 dimension requirements. R-10 requires a minimum width of 70 feet and an average depth of 100 feet. All parcels exceed those standards as per Exhibit 1.
- The remainder of the lot (Parcel I) exceeds 3 acres in size and, therefore, contains adequate land area to meet R-10 standards in the future.
- Zoning setbacks and other standards will be reviewed as part of site construction (building permit) review.
- C. Other standards are as indicated in memos received:
1. The City Office Engineer has provided comments relative to the Applicants complying with provisions of the City's Public Facilities Improvements Ordinance (see Exhibits 2a and 2b).
 2. The City Building Official has responded that he has no concerns at this time (see Exhibit 3). For informational purposes, however, construction activities on these parcels will require City permits.

D. Concerns raised will be addressed as follows:

1. Fred Jarrard - The Applicants have entered into an agreement with Mr. Jarrard (see Exhibit 4). The proposed partition map currently shows this access easement on the southern side of Tax Lots 2100 and 2101.
2. Milton Palm - Ronald Tatone, P.E., engineer for the Applicants has provided a drainage narrative and diagram for Parcels II and III. Parcel I drainage will be addressed at the time of subdivision (see Exhibit 7).
3. Public Works - Staff has received a copy of a letter sent to the Applicants by the Division of State Lands. This letter indicates the subject property is not an identified wetlands area (see Exhibit 6).

E. Staff has reviewed tax records and noted that Tax Lot 2103 is under common ownership with Tax Lot 2102. This means that Tax Lot 2103 should be shown on the partition map as being part of Parcel I.

Tax Lots, by themselves, are not indicators of separate buildable lots. Mr. Jarrard's property (Tax Lots 2100 and 2101) is an example. Two tax lots are indicated, yet neither is a buildable lot alone.

The notion that tax lots are "stand alone" entities is a common misunderstanding. Mitch Rohse, in his book "Land Use Planning In Oregon" (1987, Oregon State University Press) provides a good definition for "Tax Lot" as follows:

"Tax Lot. A unit of land defined by the county tax assessor for the purpose of assessing and taxing real property. One should not infer that each tax lot is a separate legally created lot or parcel. Suppose, for instance, that Sam Slick offers to sell you two acres of suburban land. He hands to you the tax assessor's map of the property, which clearly shows two adjoining 1-acre lots numbered 101 and 102. And he declares, "You can buy the 2 acres, and then sell off one of those lots to help you pay for building your house". The existence of two separate tax lots should not be taken as proof that Sam is right. It may only indicate that half the property lies in one school district, and half in another. Whether the property has been legally divided - or can be - cannot be necessarily determined from the tax assessor's maps. Check with your local planning department."

Staff has done a background check on Tax Lot 2103. Tax Lot 2103 was originally proposed as a separate parcel as part of M-84-5, a major partition. A public street (Hedgestone Lane) was to be built as part of this partition. The street was never built and M-84-5 subsequently expired.

In 1988, a new partition was proposed but never completed (MLP-88-01) by Gordon Judd in conjunction with the owner at the time (Byron Root). Tax Lot 2103 was included in MLP-88-01 as part of the large Parcel I.

Tax assessor records show that both Tax Lots 2102 and 2103 were recently conveyed to the Applicants by the Roots. Tax Lot 2103 has not been created by an approved land division process and is under contiguous ownership with Tax Lot 2102. Tax Lot 2103, therefore, is not a separate buildable lot and must be included on the partition map as part of Parcel I. (Note: If Tax Lot 2103 is not included as part of Parcel I, it would become a separate parcel by virtue of not having been included in MLP-89-06. This would result in 4 parcels being created by partition, a technical violation of City and State subdivision laws.)

- F. The Applicants ultimately propose a subdivision of this site to include adjacent Tax Lot 200 (T2S, R1E, 1AA). Tax Lot 200 is the former Wagonet ownership and has been purchased by relatives of the Applicants, Roy and Clara Weedman. An ultimate subdivision development plan has been included in the file and excerpts of this are indicated in dash lines on the partition map. This plan would include a connection to Vernie Avenue, providing a needed outlet for Where Else Lane and Vernie, which are both currently dead-end streets.
- G. Section 7.06 of the Subdivision Ordinance prohibits multiple partitioning as a means of avoiding the subdivision process. Further parcelization of this site beyond that allowed by MLP-89-06 will have to occur via subdivision process. Street and drainage improvements would also occur at that time as per Public Work's memo (Exhibit 2b).
- H. This parcel configuration is slightly different from that originally submitted by the Applicants. (Note initial partition map - Exhibit 8). Both configurations follow the future subdivision plan on file.

CONCLUSION:

This minor land partition meets appropriate partition and zoning standards and can, therefore, be approved.

RECOMMENDATION:

Staff recommends approval of MLP-89-06 with the following conditions:

1. The surveyed partition map provided shall be updated to include Tax Lot 2103 as part of Parcel I. This shall then be recorded with the County Surveyor's Office and a copy provided to the City.

2. Surveyor-prepared legal descriptions for all parcels shall be provided for City approval. These shall be incorporated into the deeds transferring ownership of the parcels.
3. Compliance is required with other City review processes and provisions as described in findings C.1. and 2. above.
4. As per Section 7.06 of the Subdivision Ordinance, no additional minor partitioning is allowed for Parcel I. Subsequent parcelization must occur via the subdivision process of Section 3 for the remaining property identified as Tax Lots 2102 and 2103.

EXHIBITS:

1. Partition Map (large copy to PC Members only)
2. Office Engineer's Memos (2a & 2b)
3. Building Official's Memo
4. Jarrard Easement Agreement
5. Palm Letter
6. Division of State Lands Letter
7. Tatone Drainage Narrative
8. Prior Partition Map
9. Application/Narrative
10. Notice of Public Hearing
11. Hugo Benson Comments

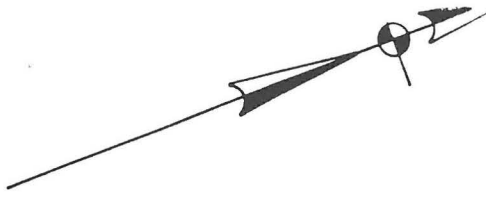
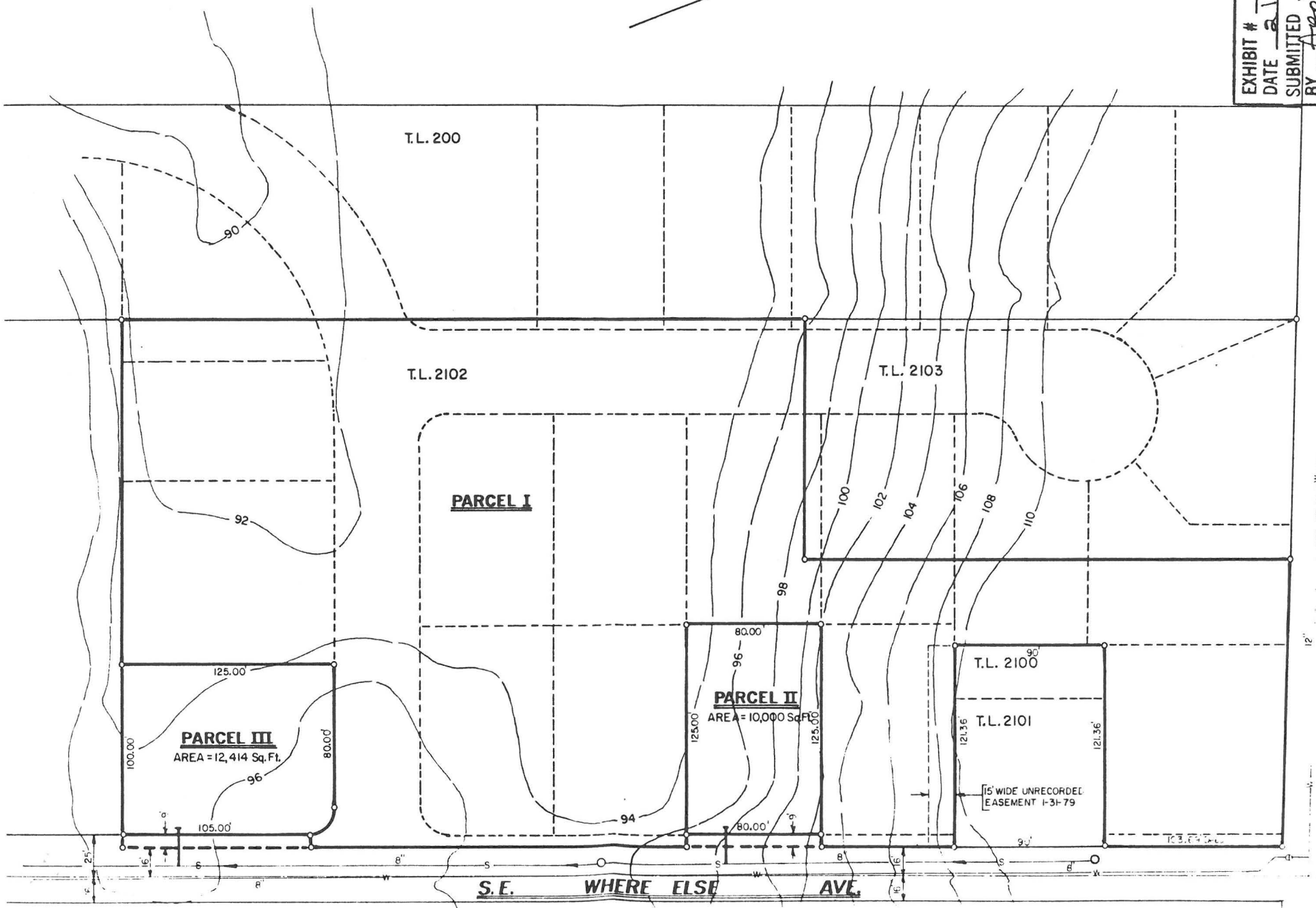


EXHIBIT #	1
DATE	2/13/90
SUBMITTED BY	Applicant
RECEIVED	MWP-89-06



S.E. LAKE ROAD

S.E. WHERE ELSE AVE.

RECEIVED

DEC 07 1989

PLANNING

TO: PLANNING
FROM: Paul Roeger *PR*
Office Engineer
RE: MLP-89-06
Where Else Lane
David & Cherie Feb
DATE: December 8, 1989

City water and sanitary sewer are available in Where Else Lane. A sewer lateral and a water service must be run to Parcels II & III.

Where Else Lane is presently a 32 foot right-of-way with an 18 foot oil mat street and no storm drainage. The proposed nine foot dedication adjoining Parcels II & III is adequate. However, additional dedication will be required on Parcel I when it is developed. An escrow account will be needed for street improvement of Where Else Lane adjacent to Parcels II & III.

Roof drains will need to be run to the curb once the curb and storm drainage are installed.

PHR/cjl

EXHIBIT #	<u>2a</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Staff</u>
RECEIVED	<u>MLP-89-06</u>

TO: PLANNING
FROM: Paul Roeger *PRH*
Office Engineer
RE: MLP-89-06
Where Else Lane/Feb
DATE: January 10, 1990

RECEIVED
JAN 10 1990
PLANNING

City sanitary sewer and water are available in Where Else Lane.

Where Else Lane is a 15 foot wide oil-mat surfaced street without a developed storm drainage system.

This partition is a preview of an eventual subdivision of the entire parcel. A number of concerns have been brought to my attention. These relate more to the eventual subdivision, but should be brought up now.

First, according to a Soils Survey of Clackamas County from the U.S. Dept. of Agriculture, Soils Conservation Service, the main limitations of this area for homesite development are "slow permeability, wetness, and low soil strength. Drainage is needed if roads and buildings are constructed. Wetness is reduced by installing drain tile around footings. Roads and buildings should be designed to offset the limited ability of the soil in this unit to support a load." Also, "The water table is at a depth of 24" to 36" in winter and early in spring."

Therefore, pursuant to Ordinance #1645, we must require that the developer have a soils engineer evaluate the soil strength in order to design the street section. In the subdivision development, detention of the storm water will be required in order to run it into the current swales to the west. If a storm line is run all the way to Kellogg Creek, detention will not be required.

Drainage for the two proposed building lots must be set up to drain into the eventual subdivision drainage system.

Also, pursuant to Ordinance #1645, the developer and owner must guarantee the construction of street improvements, storm drainage, and appurtenances adjacent to the two building lots when the remainder of the property is subdivided by signing a developer's agreement prior to issuance of building permits on these lots.

One other concern that was brought up was the possibility of wetlands on the site. However, I am in receipt of a copy of a letter to David Feb from the Division of State Lands stating they have no indication of possible wetlands on this site.

PHR/cjl

EXHIBIT #	<u>26</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Staff</u>
RECEIVED	<u>MLP-89-06</u>

TO: PLANNING

FROM: Jim Mishler
Building Official

RE: MLP-89-06

DATE: December 4th, 1989

The Structural Safety Division has no requirements or conditions to set regarding the approval of this minor land partition.

Jim Mishler

RJM/cjl

EXHIBIT # <u>3</u>
DATE <u>2/13/90</u>
SUBMITTED BY <u>Steph</u>
RECEIVED <u>MLP-89-06</u>

AGREEMENT

DATED: 1-3-90

This agreement between David Feb, Cherie Feb and
states that David Feb and Cherie Feb grant to
a shared driveway in order to provide service at
Where Else Lane, Milwaukie, OR 97222, County of Clackamas, State of Oregon.

Fred W Tarrard
Fred W & Patricia A. Tarrard
Tax lot 2101 Clackamas County, Oregon

David A Feb
DAVID FEB

Cherie Feb
CHERIE FEB

Fred W Tarrard

EXHIBIT #	<u>4</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Applicant</u>
RECEIVED	<u>MWP-89-06</u>

EXHIBIT #	5
DATE	2/13/90
SUBMITTED BY	Staff
	4 pages
RECEIVED	MLP-89-06

RECEIVED

DEC 20 1989

PLANNING

Dec 20 1989

①
3

Maggie Collins

Department of Community Development
City of Milwaukie Oregon.

Our response to the request of the applicant, David and Cherie Feb for a minor partition of some 3.3 acre parcel of proposed planned development on where Else lane. South of Lake Road.

Your file # 89-06 and schematic exhibit prepared by Zarosinski - Totone

We are not in favor of this partition or the propose plan for development

Argument:

The area south of Lake Road. From Rusk Road To Boss Lane is historically Wet lands.

of Water bearing fine silts Sands and black sand lenses. The underground free water is close to the surface and pressurized by a hydraulic head.

The soil general has a Ph in the acid range. The earths ground fields are quite noticeable and measurable

The land was cleared and evend to be used for shallow root farming.

Such sensitive soils are undesirable support of orderly planned development and liveability.

Dec 20 1989

Ecology Theory and practice spells the hazards both health and financial to the use of such lands.

The partition becomes a negative value to solution of areas land use. This is evident by the construction of the Holly Orchard parcel.

The subject matter has been discussed before city of Milwaukee and its permit process many times in past years.

The assessors office has had request for tax relief for reason of burden caused by the Citys permit process.

The review process has listend to much false testimony presented by professional people. Their speech is a work of tergiversation.

Since the areas in historical wet lands and is of considerable acreage, we feel that the City could better school its self.

Orderly development is past present and future. a residence's life is for sometime and an asset to the area.

The prospective owner should not be required to appeal to a protective agency by city fault.

A land partition lessens the area of and increases the burden on the remaining acreage.

Dec 20 1989

We feel that the project's proposer bring bring more factual information and a more imaginative scheme of land use for study and argumention before you.

Your decission must some way protect the property owners some 10 years or more hence. as orderly developmet of the area.

Resp. sub

Milton H Palm

2 1E 01AA 00700
Milton Harley Palm
& Eunice B
4182 SE Lake Rd
Milwaukie, OR 97222

2 1E 01AA 00300
Milton H Palm
& Eunice
4182 SE Lake Rd
Milwaukie, OR 97222

2 1E 01AA 01300
Earl L Kopp
& Milton H Palm
4182 SE Lake Rd
Milwaukie, OR 97222

2 1E 01AA 01200
Earl L Kopp
& Milton H Palm
4182 SE Lake Rd
Milwaukie, OR 97222

1- Encl

June 12, 1982

Delmar Eisert, Inc.
1817 S.W. Stephenson
Portland, Oregon 97219

Gentlemen:

I am writing at the request of Mr. Milton Palm to appraise you of my knowledge of Mr. Palm's capabilities in dealing with problems involving microfine soils particles, high water tables and the problems associated with building on and stabilizing semi-suspended materials.

In 1968, while employed at the General Foods Corporate plant in Woodburn, Oregon, I was responsible for portions of the installation of the activated sludge waste disposal system at the plant. This facility was located in an area of fine marshy soil in back of the existing plant. Plans called for excavating some 10-12 feet, and building a berm around the aeration chamber and settling ponds. A contract was let and work began early in the spring, since the facility would be required for our fall pack.

In subsequent weeks, little was accomplished other than much time spent pulling equipment out of the mud, and it became obvious the time and cost would both be unacceptable. At that stage, the contractor was dismissed and Milt Palm retained to complete the excavation and berm construction on a time and material basis. He subsequently completed the project utilizing almost all the on-site material. The use of imported fill to build the berm was held to a minimum and concrete work began immediately. The system is still in use and has experienced no significant problems with the berms and concrete liner to my knowledge.

At a subsequent time, Milt was retained on a bridge project by a client, and that work was also competently and expeditiously completed.

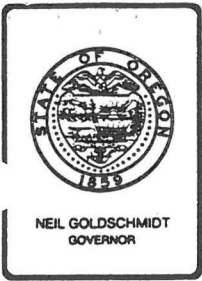
I consider Milt Palm to be both knowledgeable in theory and with a great deal of practical experience in working with difficult soils problems. I would not hesitate to use his services or recommend him to clients.

Very truly yours,



M. Skip Breshears, P.E.

DAVE



Division of State Lands

1600 STATE STREET, SALEM, OREGON 97310 PHONE (503) 378-3805

OREGON STATE
LAND BOARD

NEIL GOLDSCHMIDT
Governor

BARBARA ROBERTS
Secretary of State

ANTHONY MEEKER
State Treasurer

January 5, 1990

Mr. David Feb
12932 SE Vernie Avenue
Milwaukie, OR 97222

Re: Wetlands on Tax Lot 2102, T2S, R2E; File # MLP-89-06

Dear Mr. Feb:

I have reviewed the information provided concerning your proposed land partition for property within the city of Milwaukie. Based on the topographic mapping, soils mapping and National Wetlands Inventory mapping, there have not been any wetland areas identified on your property, nor are there indicators that wetlands would likely occur on your property. Restriction of development outside the floodplain will ensure that no wetlands or other waters of the state of Oregon are affected.

Thank you for your inquiry. If you have any questions concerning this letter, please feel free to call.

Sincerely,

Kenneth F. Bierly
Wetlands Program Manager

KFB/baw
ken:6

cc: Paul Roeger, City of Milwaukie
Bryan Lightcap, Corps of Engineers

EXHIBIT #	6
DATE	2/13/90
SUBMITTED BY	Staff
RECEIVED	MLP-89-06

DRAINAGE NARRATIVE

GENERAL

Parcels I, II and III are located in an area of Milwaukie which does not have clearly defined drainageways or a readily available storm drainage system to collect the runoff from the proposed improvements.

The native soil is Woodburn silt loam as shown on the Clackamas County Soil Survey.

This soil has a moderate permeability in the top 38" and slow below that depth.

The parcels projected for development at this time, Parcel II and III, will need to be provided with temporary stormwater disposal systems until the future development of Parcel I which will include the construction of a stormwater collection system for the area including Parcels II and III.

PARCEL III

Jobe's Addition, an existing subdivision, abuts Parcel III on the South side. Construction of this subdivision included the improvement of the frontage on S.E. Where Else Ave. 120' of this improvement drains to the North and storm water collected along the gutter line flows onto the area designated as Parcel III.

The runoff from this portion of S. E. Else Where Ave. is from public improvements and should be addressed separately from the runoff proposed to be generated by development of Parcel III. Ideally this runoff would be addressed by the public agency but with no defined collection system in place this does not appear likely to happen.

It is proposed to construct a ditch from the end of the improvements on S. E. Where Else Ave. along the easterly frontage of Parcel III and onto the portion of Parcel I within the future road right-of-way. This shallow ditch would be constructed within the future right-of-way to daylight at contour 92 and follow the natural drainage. This ditching is seen as a temporary solution until the future construction of a stormwater collection system in the future right-of-way and the installation of a gravity storm drainage collection system.

Runoff from the improvements on Parcel III are proposed to be collected on-site, to be dispersed in a drainfield, and overflow pipe from the drainfield to the proposed ditch installed.

EXHIBIT #	<u>7</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Applicant</u>
	<u>6 pages</u>
RECEIVED	<u>MLP-89-06</u>

The anticipated area of impervious surface from development of Parcel III is 5,000 ft.².

It is proposed to provide sufficient storage to allow for the difference in runoff between a 10 year storm developed and a 5 year storm undeveloped.

This computes to 99 ft.³.

It is proposed to install 125' - 12" perforated PVC drain pipe in drain trench with 6" overflow to ditch.

PARCEL II

Parcel II does not have the problems with off-site runoff encountered on Parcel III.

It is proposed to install a subsurface disposal system similar to Parcel III with an overflow connected to an existing brick drainage structure on Parcel I about 30' South of the S.E. corner of Parcel II.

The anticipated impervious area from Parcel III development is 4,000 ft.².

Proposed storage computes to be 70.5 ft.³, i.e. 90' - 12" perforated PVC drain pipe in drain trench with 6" overflow.

FOOTING DRAINS

Footing drains from Parcels II and III are to be connected past the detention system to prevent back up around the footings.

DRAINAGE CALCULATION

CALCULATE STORAGE BETWEEN 10 YEAR
DEVELOPED STORM & 5YR UNDEVELOPED.

PARCEL III - 40% OF LOT IMPERVIOUS = 5,000 FT²,
UNDEVELOPED C = 0.25 T_L = 7 MIN.
$$Q_5 = 0.25 \times 2.08 \times \frac{5,000}{43,560}$$
$$= \underline{0.06 \text{ cfs.}}$$

DEVELOPED C = 0.9 A = $\frac{5,000}{43,560}$ AC
CA = 0.103

REQU'D DETENTION = 99 FT³. (SEE SH. 2)
125' - 12" DIA.

PARCEL II 40% OF LOT IMPERVIOUS = 4,000 FT²
C = 0.25 T_L = 5 MIN
$$Q_5 = 0.25 \times 2.47 \times \frac{4,000}{43,560} = \underline{0.057 \text{ cfs}}$$

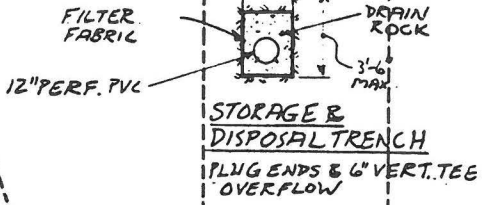
DEVELOPED C = 0.9 A = $\frac{4,000}{43,560}$ AC
CA = 0.083

REQU'D DETENTION = 70.5 FT³. (SEE SH. 3)

90' - 12" DIA.

STORM DRAINAGE SYSTEM

T.L. 200



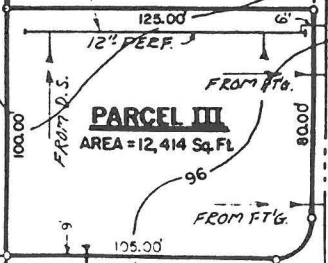
T.L. 2102

T.L. 2103

PARCEL I

100
102
104
106
108
110

STORAGE & SUB SURFACE DISPOSAL



PARCEL III
AREA = 12,414 Sq. Ft.

PARCEL II
AREA = 10,000 Sq. Ft.

EXIST. STRUCTURE

T.L. 2100

T.L. 2101

15' WIDE UNRECORDED EASEMENT 1-31-79

S.E. LAKE ROAD

S.E. WHEATFIELD AVE

ST. CURB

12"

12"

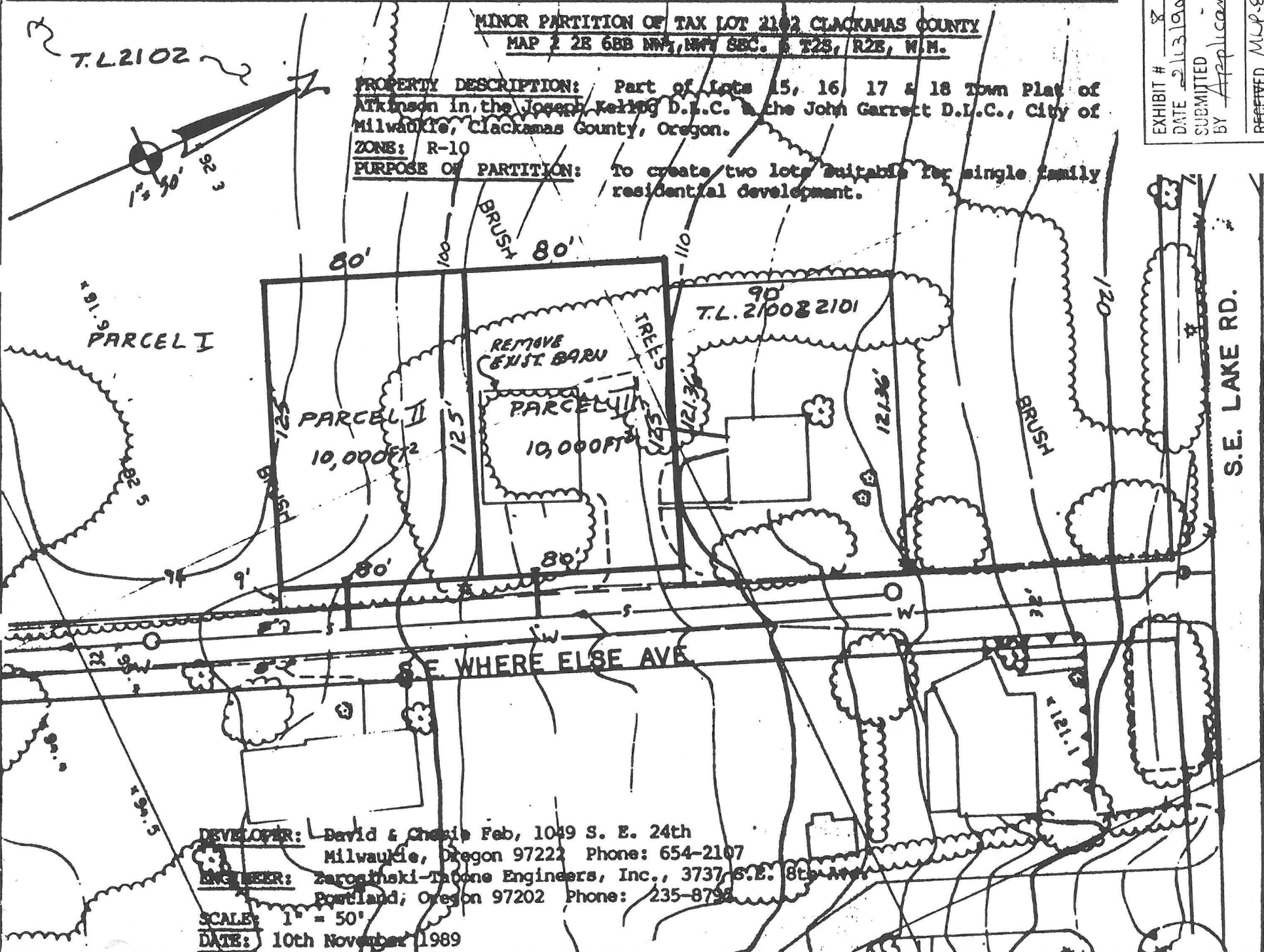
**MINOR PARTITION OF TAX LOT 2102 CLACKAMAS COUNTY
MAP 2 2E 68B NW1, NW2 SEC. 5 T2S, R2E, W.M.**

PROPERTY DESCRIPTION: Part of Lots 15, 16, 17 & 18 Town Plat of Atkinson in the Joseph Kellogg D.L.C. & the John Garrett D.L.C., City of Milwaukie, Clackamas County, Oregon.

ZONE: R-10

PURPOSE OF PARTITION: To create two lots suitable for single family residential development.

EXHIBIT # 8
DATE 2/13/90
SUBMITTED BY Applicant
RECEIVED MLP-89-06



DEVELOPER: David & Cherie Feb, 1049 S. E. 24th
Milwaukie, Oregon 97222 Phone: 654-2107
ENGINEER: Zaroginski-Tabone Engineers, Inc., 3737 S.E. 8th Ave.
Portland, Oregon 97202 Phone: 235-8798
SCALE: 1" = 50'
DATE: 10th November 1989

Milwaukie Planning Commission
 10722 S.E. Main Street
 Milwaukie, OR 97222
 Phone: (503) 659-5171

MINOR LAND PARTITION
 APPLICATION

APPLICATION IS TO BE SUBMITTED
 IN BLACK PEN OR TYPEWRITTEN ONLY

FOR OFFICE USE ONLY
 No. MLP-89-06
 Fee \$ 200-

PLEASE READ CAREFULLY. Application will be processed when all questions are answered and accurate material is submitted in accordance with the Planning Department guidelines. If you have questions, contact the Planning Department at 659-5171.

With this application I am furnishing 4 copies of a legibly drawn sketch map, 8 1/2 x 11 inches in size (or to be determined by the Planning Department). Upon approval, 2 copies shall be returned to me and 2 copies retained by the Planning Department. I understand that it is my responsibility to see that the partition is recorded with Clackamas County.

APPLICANT(S): (Print) DAVID FEB & CHERIE FEB Date: Nov. 14, 1989
CONTRACT PURCHASER

Mailing Address: P.O. Box 22886 Portland, Oregon ZIP 97222 Phone: 781-9399

PROPERTY OWNER(S): (Print) BYRON L. ROOT & PEGGY A. ROOT Phone: _____

Mailing Address: 16000 S. E. Norma Rd., Milwaukie, Oregon ZIP 97222

Signature(s) of Owner(s) _____

ENGINEER OR SURVEYOR: ZAROSINSKI-TATONE ENGINEERS, INC. Phone: 235-8795

Mailing Address: 3737 S. E. 8th Ave., Portland, Oregon ZIP 97202

Date of Survey: In Progress

PROPERTY LOCATION: Lake Road near (cross street) Where Else Lane

LEGAL DESCRIPTION: Township 2 S. Range 2 E. Section 6 B B Tax Lot(s) 2102
 (Submit metes and bounds description upon request)

Present Zone: R-10 Number of total Lots Proposed 3 Approx. Acres 3.79

EXISTING USE AND SITE CONDITIONS Vacant with existing barn

PROPOSED USE Single family residence on two parcels

Code-required minimum	Area: <u>10,000</u> sq ft	Width: <u>70</u> ft	Depth: <u>100</u> ft
Parcel 1 measurements	Area: <u>10,000</u> sq ft	Width: <u>80</u> ft	Depth: <u>125</u> ft
Parcel 2 measurements	Area: <u>10,000</u> sq ft	Width: <u>80</u> ft	Depth: <u>125</u> ft
Parcel 3 measurements	Area: <u>3.33 Ac. xxxx</u>	Width: <u>315</u> ft	Depth: <u>688.85</u> ft

I CERTIFY that the information contained in this application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application.

Signature _____ Date: _____

FOR OFFICE USE

Approved: _____ Denied: _____ Continued: _____ Appealed: _____

EXHIBIT # 9
 DATE 2/13/90
 SUBMITTED BY Applicant
2 pages
 RECEIVED MLP-89-06

MINOR PARTITION TAX LOT 2102
NW $\frac{1}{4}$, NW $\frac{1}{4}$, SEC. 6, T.2.S., R.2E., W.M.

NARRATIVE:

The site is located South of Lake Road and contiguous to Where Else Ave.

Tax lot 2102 was created out of lots 15, 16 and 17 of the recorded Plat of ATKINSON, having an area of 3.79 acres.

David and Cherie Feb are purchasing under contract from Byron L. Root and Peggy A. Root all of tax lot 2102.

The accompanying application is for the purpose of minor partitioning tax lot 2102 into three (3) parcels. The proposed plan is to create two (2) 10,000 square foot parcels with the remaining area as tax lot 2102.

Parcel III has an existing barn. The barn is to be razed to allow for construction of a single family residence.

Tax lot 2100 and 2101 are contiguous to the North boundary of the proposed Parcel III. Tax lot 2101 is served by an existing driveway for access to and from Where Else Lane that encroaches on Parcel III.

A common driveway serving Parcel III and tax lot 2101 may be required.

The site is served by a sanitary sewer lateral located in Where Else Ave. An 8 inch water main in Where Else Ave. provides domestic and fire service.

The site slopes from North to South at a grade of approximately 10%.

CITY OF MILWAUKIE



January 24, 1990

File #MLP-89-06

NOTICE OF PUBLIC HEARING

To: Property Owners and Residents
On: Tuesday, February 13, 1990, beginning at 6:30 p.m.
At: Milwaukie Center
5440 S.E. Kellogg Creek Dr.

The Milwaukie Planning Commission will consider a request by David and Cherie Feb (applicants) and Byron L. and Peggy A. Root (property owners) for approval of a 3-parcel minor land partition in an R-10 zone on the property located at Where Else Lane south of Lake Rd. (Tax Lot 2102 of Tax Map T2S, R2E, 6BB).

The site is shown on the reverse of this letter.

The criteria which will be used by the Planning Commission in reaching a decision are shown on the attached sheet(s). Testimony and comments must be directed at this hearing towards the criteria identified.

Interested persons are invited to attend this hearing or to submit comments in writing prior to the meeting time. Written testimony may be submitted in advance to the Community Development Department or in person at the hearing. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak following the applicant's testimony.

A copy of the application and all documents and evidence relied upon by the applicant are available for public review at the Community Development Department located at City Hall. Copies of these can be provided at reasonable cost. A Community Development Staff Report will be available for public review at the Ledding Library, local information shelf, after 5:00 p.m., Tuesday, February 6, 1990, and at City Hall in the Community Development Department, Tuesday, February 6, 1990, after 4:00 p.m. Copies of applicable City ordinances and the Comprehensive Plan are also available for review at these locations.

If you have any questions, please call the Community Development Department at 659-5171.

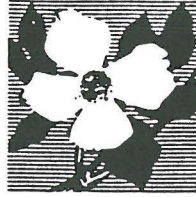
EXHIBIT #	LC
DATE	2/13/90
SUBMITTED BY	Staff
RECEIVED	3 pages M&P-89-06

Compliance is required with Section 3.01.3. of the Zoning Ordinance (R-10 Zone standards) and the following section from the Subdivision Ordinance:

Section 7.02. Submission. There shall be submitted to the Planning office four copies of a sketch map 8½ x 11 inches, or 18 x 24 inches in size with the following information:

1. The date, north point, scale, and sufficient description to define the location and boundaries of the parcel to be partitioned and its location. Topography of land within 250 feet of all boundaries.
2. The name and address of the record owner or owners and of the person who prepared the sketch map.
3. The approximate acreage of the parcel under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partitioning.
4. For land adjacent to and within the parcel to be partitioned, the locations, names and existing widths of all streets and easements-of-way: location, width, and purpose of all other existing easements; and location and size of sewer and water lines, drainage ways, and power poles.
5. The location of existing structures to remain in place.
6. The lot layout, showing size and relationship to existing or proposed streets and utility easements.
7. Such additional information as required by the Planning Commission.

CITY OF MILWAUKIE



DEC 18 1989

F. W. W. W. W.

NOTICE OF DECISION

File Number: MLP-89-06
Applicant: David and Cherie Feb
Location: Where Else Lane (South of Lake Road)
Proposal: Minor Land Partition in R-10

This is your notice that following a 10 day comment period, this application will be approved on Thursday, December 21, 1989. Following that approval, a 15 day appeal period will be in effect, expiring on Friday, January 5, 1990, at 5:00 p.m. If no appeal is filed, this approval will then become final.

Findings and conditions of approval are attached. For further information, contact the Community Development Department at 659-5717.

*I am against this Minor Land Partition in R-10
File # MLP-89-06*

*Hugo J. Benson
12708 SE. VERNIE
MILWAUKIE, O.R.
97222*

EXHIBIT #	11
DATE	2/13/90
SUBMITTED BY	Staff
RECEIVED	MLP-89-06

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: February 13, 1990
FILE NO.: CPA-89-02
 ZC-89-04
 CU-89-06
 CU-89-06

APPLICATION: Comprehensive Plan Map Amendment, Zoning Map Amendment,
 Conditional Use and Willamette Greenway Permit

APPLICANT: Dick Close

PROPERTY OWNER: David and Sharon Greene

LOCATION: McLoughlin Blvd. near River Road (Tax Lots 2800, 3000, 3100;
 Tax Map T1S, R1E, 36CB)

PROPOSAL

A Comprehensive Plan Map Amendment from Moderate Density Residential to Commercial designation (CPA-89-02), a Zoning Map Amendment from R-5 to C-L (ZC-89-04), a Conditional Use for boat sales and repair in C-L (CU-89-06) and a Willamette Greenway Conditional Use Permit (CU-89-07). Reference Exhibit 2 for proposal data.

SITE

This site contains approximately 2.4 acres lying between McLoughlin Blvd. (on the west) and Kellogg Lake (on the East), in south Milwaukie. The site is vacant, flat, and consists mostly of fill placed by the previous owner, Kronberg Brothers.

This site currently does not have legal access. Access permits would have to be obtained from the State Highway Division prior to any development occurring on this site. (Reference Public Works comments on Exhibit 2.)

This site has received fill in the past. The City Building Official has indicated (see Exhibit 3) he has no record of this fill activity; that the fill activity may have predated City fill permit requirements. Staff has, however, requested comments from the Oregon Division of State Land (DSL) who also regulates fill activity. DSL has responded (see Exhibit 6) that they were aware of fill activity in 1972 but noted no violations at the time.

The Comprehensive Plan currently designates this site as Moderate Density Residential. This is implemented by the existing R-5 Zone.

Access is potentially available to this site from the northbound lanes of McLoughlin Blvd. Concrete center barriers currently prevent access from southbound McLoughlin Blvd.

Physically, the site is a flat benched area with steep downslopes along the Kellogg Lake frontage. The surface material is very gravelly with small chunks of concrete visible. Surface vegetation includes weed varieties and blackberries. The blackberries are located primarily at the edge of the leveled area and on adjacent downslopes.

The site is partially within 100 year floodplain (see Public Works memo, Exhibit 3).

SURROUNDING PROPERTY

To the northwest is a Southern Pacific Railroad line and overpass. To the northeast, across Kellogg Lake, is residential property zoned R-1-B and designated Mixed Use - Commercial/High Density Residential. West of this property (across McLoughlin Blvd.) is the Kellogg Creek Sewage Treatment Plant site, Zoned C-L and designated Commercial. To the south are residential properties zoned R-5 and designated Moderate Density Residential.

This site is included within the Willamette Greenway boundary which extends east from the Willamette River to encompass Kellogg Lake. This site is not within the new McLoughlin Corridor Overlay Zone which does include properties to the north of the Southern Pacific Railroad line and the sewage treatment plant to the west of McLoughlin Blvd.

FINDINGS

1. Four separate actions are proposed. These are: a Comprehensive Plan Map Amendment from Moderate Density Residential to Commercial designation (CPA-89-02), a Zoning Map Amendment from R-5 to C-L (ZC-89-04), a Conditional Use for boat sales and repair in C-L (CU-89-06) and a Willamette Greenway Conditional Use Permit (CU-89-07).
2. Several of these actions are contingent upon each other. These are: ZC-89-04 cannot be approved unless CPA-89-02 is first approved, and, CU-89-06 cannot be approved unless ZC-89-04 is also approved.
3. Findings for all four actions will be addressed separately.
4. For CPA-89-02, criteria are those of pages 4 and 5 of the 1979 City of Milwaukie Comprehensive Plan.

Since this application was submitted on December 5, 1989, prior to the effective date of the newly updated Comprehensive Plan (December 7, 1989), requirements and standards of the 1979 Comprehensive Plan must be used.

The Applicant has provided findings in favor of this request in Exhibit 2, consisting of a 2-page Plan Map Amendment discussion and 6 pages of Plan policies discussion.

SECTION I - CPA-89-02 COMPREHENSIVE PLAN MAP AMENDMENT

The Applicant must address the following criteria for a change to the Comprehensive Plan Map.

- A. Conformance with the Comprehensive Plan goals, policies, and spirit;
- B. Public need for the change;
- C. Public need is best satisfied by the particular change; and
- D. The change will not adversely affect the health, safety, and welfare of the community.

This Staff Report will discuss each criterion separately.

- A. **"Conformance with the Comprehensive Plan goals, policies and spirit."**

Comments: The Applicant addressed Economic Development and Opportunity Objectives, Commercial Land Use - District Centers Goal and Policies, Downtown Office Center Policies, McLoughlin Boulevard Objective and Policy, and Willamette River Greenway Goal Statement and Land Use Objective as Comprehensive Plan elements where conformity exists between the proposal and the Plan. Staff review has identified several Plan elements that must also be addressed regarding this proposal. They are as follows:

1) Natural Hazards Element

Applicable Sections:

- a. Objective #1 - Floodplain, Policies 1-4

Comments: Portions of this site lie within the 100-year floodplain as identified in the Public Works memo (Exhibit 3). Requirements of Public Works Flood Hazard Protection Ordinance must be addressed at the building permit review stage. According to the Public Works memo, the portion of the site proposed for development (according to the site plan) is above the 100-year floodplain.

b. Objective #3 - Weak Foundation soils, Policy 1

Comments: Because of the fill activity on the site (reference the City Building Official's memo - Exhibit 4), a soils report will be required prior to construction. Special construction techniques may be required because of the type of materials (cement and organic debris) included within the fill. If approved, the Applicant must comply with Policy 1.

2) Open Spaces, Scenic and Historic Areas, and Natural Resources Element.

Applicable Sections:

a. Objective #1 - Ecologically Significant Natural Areas, Planning Concepts and Policies 1-11.

Comments: This site is adjacent to Kellogg Lake/Creek and is a designated "significant natural" area. Compliance with the City's Environmental Protection Ordinance is required because this proposal was submitted prior to the effective date (December 7, 1989) of the recent Plan update/Periodic Review process. Environmental Protection Ordinance compliance is required at the building permit stage. In this case, most of the concerns are focused on riparian (lake bank) protection. No lake bank development has been proposed except for a pier and access to Kellogg Lake. Whether this will include a boat ramp/launch or not, has not been specified. Therefore, adverse affects by the development to riparian areas cannot be determined at this time, nor can specific mitigation measures be identified.

b. Objective #2 - Open Space, Planning Concepts and Policies 2, 3, and 5.

Comments: Open space and significant natural areas along Kellogg Lake/Creek are "of special importance to all city residents" (from Policy 3). Encouragement is to be provided to property owners for conservation of open space. A continuous pedestrian connection from the Willamette River to North Clackamas Park is proposed. Because of the open space and visual values of this site, the City's urban renewal planning process did consider it for park development. Reference Exhibit 5, Parks and Recreation memo.

The proposed development would likely include security fencing which may preclude pedestrian lake access. This would conflict with the City's prior requirement for

public pedestrian access at the Kellogg Lake Apartments site. The visual aesthetics of this site will also be dramatically altered once this site is developed, eliminating its current open space character.

Lack of detail concerning the development proposal for the subject site precludes conclusions on adverse effects and mitigation related to this objective.

c. Objective #3 - Scenic Area, Policy 1

Comments: This site currently affords scenic views of Kellogg Lake (upstream) and Kellogg Creek (downstream) and their associated riparian areas. Viewers east of Kellogg Lake see this site as undeveloped open space, blending with the natural lakefront riparian area.

Commercial development of the site could preclude public viewing of the lake from this location and dramatically alter the visual composition for viewers east of the lake.

3) Residential Land Use and Housing Element.

Applicable Sections:

a. Objective #1 - Buildable Lands, Planning Concepts and Policies 1 and 2.

Comments: Since this site includes fill materials and riparian area, special consideration will be required for construction on this site. Detailed soils analysis and environmental review will be required at the building permit stage. Inadequate information exists at this time for either an environmental or soils assessment.

4) Economic Base and Industrial/Commercial Land Use Element

Applicable Section:

a. Objective #1 - Economic Development, Policies 1 and 2

Comments: This site has public sewer and water available to it. Development of the site could provide new employment opportunities, if the owner intends to expand beyond his current level of operations in Mollala. Development of the site will also contribute to the City's tax base.

b. Objective #2 - Employment Opportunity, Policies 1 and 2

Comments: These policies promote businesses providing new employment opportunities, particularly in professional and service-oriented industries. The Applicant's proposal states the possibility of 6-8 service-oriented jobs in the future. When these jobs come on line or whether they are new or existing jobs cannot be determined from the application.

c. Objective #10 - McLoughlin Boulevard, Planning Concepts and Policies 2, 3, and 4.

Comments: This site is not located within Milwaukie's downtown area due to location and separation by the Southern Pacific Railway line and overpass. The site does abut McLoughlin Blvd. and would be providing both sales and services.

Visual relationships to the Willamette River, Kellogg Lake and Creek, downtown and McLoughlin Blvd. have not been discussed by the Applicant. Pedestrian access has also been ignored, although it is a major consideration of these policies. Considering the type of development proposed (boat sales and repair with outdoor display), it is difficult for staff to picture how visual amenities could be improved and pedestrian access provided.

5) Recreational Needs Element

Applicable Sections:

a. Objective #6 - Riverfront Recreation, Planning Concepts and Policy 6.

Comments: The concept of a pedestrian access between the Willamette River and North Clackamas Park applies here. Only residential, recreational, or recreationally oriented commercial uses are encouraged for shoreland and waterway areas. A recreational boat sales and repair facility would be a recreationally oriented commercial use. It does directly support boating as a recreational activity. Other commercial uses of the C-L zone would not conform to this objective.

Regarding the public access issue, the City has already required Kellogg Lake Apartments to provide a public easement for pedestrian access. That requirement, for consistency, will have to be made for this site as well.

6) Willamette Greenway Element

Applicable Sections:

a. Objective #3 - Land Use, Policies 2, 3, and 4.

Comments: Until a Greenway Design Plan is established, development proposals must follow the Greenway conditional use process. The applicant is following this process (file CU-89-07). Setbacks from waterways can be established (as part of this review) for uses not dependent upon being at the water's edge.

Policies 3 and 4 refer to evaluation of Greenway changes of use through a conditional use permit process. The Applicant's narrative (Exhibit 2) has not addressed the Willamette Greenway conditional use criteria. Staff's analysis has identified problems relating to site access, pedestrian access, and visual impacts. Without additional information, compliance with the Greenway conditional use criteria cannot be established (also see Staff discussion under CU-89-07).

b. Objective #4 - Recreation, Policy 2

Comments: This policy requires coordination with the Recreational Needs Element. See previous discussion under Item 5).

c. Objective #5 - Public Access, Policies 1 and 3.

Comments: Public access and visual access will be of concern for any site development within the Greenway. The Applicant's narrative (Exhibit 2) has not addressed either issue. Public access is discussed under Item 5)a. Visual access is also discussed under item 4)c. Generally, site development as proposed by the Applicant will impact the visual character (open space) of the area.

d. Objective #6 - Maintenance of Private Property, Policy 1.

Comments: This policy is intended to help protect individual property rights. Although not specified, the intent appears to provide emphasis for public access dedications as opposed to City or State condemnation processes.

In this case, the City would like to see an access easement provided along Kellogg Lake, ultimately connecting with the pedestrian easement crossing the Kellogg Lake Apartments property. This is consistent with other Plan policies (reference Item 2)b.).

7) Neighborhood Element

Applicable Sections:

Neighborhood Area 1

a. "Objective #4 - Community Open Space

•Public access to and appreciation of the natural assets of Johnson Creek and Kellogg Creek and Lake should be encouraged.

•Natural areas should be preserved and protected.

•Substantial trees should be preserved throughout the neighborhood."

Comments: The Applicant's narrative has not addressed any of the above considerations. Public access and other open space factors have been addressed in Item 2)b. Problems have been noted in this and other related findings, primarily due to a lack of adequate information.

Few trees are currently on the site because of its history of fill activity. However, according to the State Highway Division's memo (see Exhibit 8), a 500 foot clear vision area is required for northbound McLoughlin Blvd., south of the proposed site entrance. Because of the curve in McLoughlin Blvd. south of this site, vegetation and tree removal would be required on two adjacent properties in addition to the McLoughlin Blvd. right-of-way. This would eliminate a considerable amount of vegetation currently buffering lake front properties from highway noise and providing wildlife habitat for many lake-oriented species within the area.

8) Transportation

Applicable Sections:

a. Goal Statement

Comments: The Goal Statement encourages safe transportation measures and easy access. The access area for this site is not easy because of its location at the bottom of a long hill and around a blind curve. Clear sight distance as such (from the closest edge of the vegetated curve edge to the proposed site entrance) is only about 150 feet. The Applicant has provided a traffic study proposing short (+ 100 feet) deceleration/acceleration lanes on either side of the entrance and no access for southbound traffic.

The State Highway Division, who governs access to McLoughlin Blvd., has responded (see Exhibit 8) that the proposed access improvements for this site would be adequate only for the proposed use, provided a 500 foot clear vision area is provided proceeding (south of) the access. This would entail vegetation removal, at an angle, across adjacent properties and State right-of-way. State Highway Engineer, Ron Failmezger, told staff that the State would have serious concerns regarding safe access if the boat sales/repair facility were somehow replaced by a more intensive commercial use as allowed by the C-L Zone. He suggested "conditional rezoning" as a safeguard, if feasible.

9) Public Facilities and Service Element

Applicable Section:

a. Objective #6 - Drainage and Streets, Policy 3.

Comments: This policy requires storm drainage controls be provided onsite. Public Works (Exhibit 3) has indicated an onsite storm drainage collection system will be provided. This policy is implemented by the City's Public Facilities Improvement Ordinance, administered by Public Works.

B. "Public need for the change."

Comments: The Applicant's narrative has addressed the issue of public need as follows:

"Public need for this change relates to the substantial expansion of boating and fishing as a major recreational outlet. The substantial increases in boat registration are both state wide and in Clackamas County."

The above comments are conclusionary in nature. No facts or figures have been provided to substantiate public need.

Increases in boat registration is not, by itself, an adequate determinate of public need. The Applicant could have supplemented this with an inventory of similar uses (boat sales and repair facilities) within the area and information as to the level of business experienced by these other businesses. Questions that should be raised and addressed include:

- 1) Are there an adequate number of boat sales and repair facilities in the area? (There are several facilities in the area already; Metro Marine and Mastercraft in Milwaukie and several others along McLoughlin Blvd. south of Milwaukie.)

- 2) What are the operation levels of these other facilities?
(How's business?)
- 3) Has a market study been completed to justify the need for another boat sales/repair facility in this area?

Without the above specific information, staff is uncertain as to how public need could be established. Therefore, this criteria has not been adequately addressed.

C. "Public need is best satisfied by this particular change."

Comments: This criterion is site-oriented. The Applicant has addressed this criterion as follows:

"The public need may best be met at this site due to its proximity to the launching ramp, the downtown district, and its visible location yet being screened from the river by the railroad trestle. It further meets standards better than other more remote sites because it represents a filling in of fully served by passed land, it will provide a needed choice in the marketplace, and it supports and reinforces the state supported concept of efficiently using lands within the urban area in order to reduce development pressure on rural agricultural land."

The above statements are conclusionary and have not been substantiated by factual information. To best determine the appropriateness of one site over others, a marketing study and available sites inventory are required. Neither of these has been provided for this proposal.

The visibility of other boat sale/repair facilities in the Oak Grove area tends to indicate that proximity to the City's Boat Ramp and Milwaukie's downtown are not as important siting factors as site visibility and access. Examples of these include:

- Ducksworth Boat Co., 15555 SE McLoughlin Blvd.
- Major's Sports Center, 18500 SE McLoughlin Blvd.
- Nixon's Performance Marine, 15555 SE McLoughlin Blvd.
- Stevens Marine Inc., 18630 SE McLoughlin

All of the above are on level, open locations, easily visible and accessible from both directions of traffic (north and south).

The site in question is not accessible because of a concrete traffic divider and only partly visible to southbound McLoughlin Blvd. traffic because of the short sight distance (+ 250 feet) between the Southern Pacific Railroad overpass and vegetative screening on adjacent property to the south. Access is potentially available to the site for northbound traffic only (provided access is granted by

the State Highway Division). This means traffic exiting the site would also have to be northbound. Southbound traffic wishing to access the site would have to exit onto River Road and enter northbound McLoughlin Blvd. via SE Bluebird Street.

Given the more limited access and visibility for this site and the lack of comparison provided to other sites, this criterion is not met.

D. "The change will not adversely affect the health, safety, and welfare of the community."

Comments: The Applicant's narrative addresses this criterion as follows:

"From a health standpoint, the proposed use is a clean, non polluting use that will not have an adverse effect on community health.

The traffic engineer has analyzed access to the site and shown how the use could be safely located on the property, and the Fire Marshall initially has expressed no concern that the operation of the use would create any out of the ordinary fire hazard.

The general welfare of the community will be positively supported in several ways. There will be added employment opportunities, additional tax revenue, and the boating public will have an additional convenient choice in the marketplace as to where they want to do business."

Staff agrees that the use proposed should provide no adverse health affects. There may be small amounts of hazardous materials (oil, gasoline, solvents) stored onsite. However, the City Fire Marshall is aware of this and will provide inspections to insure that City and State requirements are met.

The Applicant's traffic report has provided justification for a right turn in/right turn out only access configuration. This is subject to review and action by the State Highway Division which has jurisdiction over access to State Highways such as McLoughlin Blvd.

Staff is concerned, however, over sight distance for this property. Northbound McLoughlin Blvd. traffic, for example, proceeds down a long hill with fairly thick vegetation along the Kellogg Lake (east) side of the highway. At the hill bottom (near Bluebird Street) the highway curves to the right. Just north of this curve is a short (+ 250 foot) open stretch where this site is located. With a right in/right out access placed within the middle of this open stretch, there is only about 100 feet of site visibility (after rounding the curve) prior to the proposed site entrance location.

Since cars and trucks with boats on trailers will be utilizing this site, the short sight distance may cause problems for other traffic as they round the highway curve just to the south of the site's entrance. There is a short (100 foot) lane proposed on either side of the driveway for acceleration and deceleration purposes; however, 100 feet is short when considering that traffic coming off the hill to the curve next to this site are traveling 40-45 mph. Therefore, traffic safety is an ongoing concern for this site.

This concern was evidently shared by State Highway Division staff who have indicated that at least 500 feet of sight vision distance would be required. In addition, the right in/right out configuration is adequate, they feel, for the proposed use, but may not be adequate for other, more intensive commercial uses allowed by the C-L Zone. (Reference State Highway Division comments in Exhibit 8).

Regarding the issue of welfare, as long as safety measures are followed in the development and operation of this site, adverse affects to the public may not be of concern.

Summary:

The Applicant has proposed a Plan Map Change from Moderate Density Residential to Commercial for the subject site and has addressed specific Plan goals and policies, public need generally and specifically, and public health, safety, and welfare aspects. These statements must be evaluated in terms of all applicable Plan goals and policies. Moreover, public need data must be sufficient to warrant a clear conclusion that the proposed change is in the best interests of the Community as a whole. In balance, Staff review finds the Applicant's submittal sufficient to establish a general rationale for a change from residential use to recreation-related commercial use on the subject site. However, the Commercial Map designation does not distinguish between a range of permitted commercial activities and the particular physical attributes of this subject property. The existing Comprehensive Plan designation offers the possibility of developing the subject site, which is part of a "significant natural" area, in concert with values and attributes identified in the Comprehensive Plan for natural areas within the City.

Staff finds the Applicant's rationale insufficient to address how the proposed Plan Designation of Commercial will complement and achieve preservation of open space, visual amenities, Willamette Greenway objectives, adequate public access, and public need for the specific recreation-related commercial use envisioned on the subject site.

SECTION II - ZC-89-04 ZONING MAP AMENDMENT

For ZC-89-04, criteria are those of Section 9.03 of the City Zoning Ordinance. The Applicant has provided findings in favor of this rezone in Exhibit 2, consisting of a 2-page Zoning Map Amendment Criteria Discussion. The request is for rezoning the subject site from R-5 (Residential) to C-L (Limited Commercial).

Staff will discuss the criteria as follows:

- A. **"The proposed rezoning must be to the maximum Comprehensive Map designation, unless proof is provided by the applicant that development at full intensity is not possible due to physical conditions such as topography, street patterns, public service, existing lot arrangements, etc.)."**

Comments: The Applicant states the following:

"First, the proposed zone change must be to the maximum Comprehensive Plan Map designation. This requested change is to commercial which is the maximum requested in the accompanying plan amendment request."

The above statement indicates a misunderstanding of the intent of this criterion. The first rezone criterion relates to Residentially designated properties which are not zoned to the maximum density allowed by a specific plan designation. This is substantiated by Policy 4, Objective 5 (Housing Choice) of the Housing and Residential Land Use Element of the Comprehensive Plan which says "Although not all residential lands will be immediately zoned for maximum permissible densities, the rezoning of these lands will be approved when adequate facilities, as specified in the Public Facilities Review Report, have been provided or can be provided by the property owner or developer".

This criterion is, therefore, not applicable to commercial rezone proposals because residential density is not a factor of commercial zoning.

- B. **"Public facilities to be on the site are adequate to serve the proposed land uses allowed by the designation, are presently available or can be reasonably made available consistent with the Comprehensive Plan Public Facilities Policies, by the time the proposed use qualifies for a certificate of occupancy or completion from the Building Department. For the purpose of this requirement, public facilities include:**
- a. **Water service**
 - b. **Sanitary sewers**
 - c. **Storm sewers**
 - d. **Streets**

- e. Police and fire protection
- f. Schools

Where public utilities are required to be installed or improved by the applicant, a performance contract or bond, assuring their installation to specified standards, is required."

Comments: The Applicant addressed this criterion in Exhibit 2. Staff will respond as follows:

- 1) Water service is available to the site from an 8 inch water line to the south (see Public Works' memo, Exhibit 3).
- 2) Sanitary sewer service is available through Clackamas County Sewer District #1 which has a 48 inch interceptor sewer line crossing the property according to the Public Works' memo.
- 3) City storm sewer is not available, therefore, the Applicant would have to design an onsite system as per Public Works' requirements. This normally occurs at the construction review (building permit) phase.
- 4) Access must be provided by the State Highway Division for this site. Access and traffic concerns are evident (see Items A.8), C. and D. of previous section). These concerns could be expanded if for some reason the Applicant received the C-L rezone but desired to develop a more intense commercial use (such as a convenience market) instead of the proposed boat sales and repair facility. Currently the City has no conditional rezoning mechanism except for Section 9.03.2. where public facilities improvements are required.

Both a short acceleration and deceleration lane (+ 100 feet each) has been proposed on either side of the site access. There is a shortage of sight distance, however, as the site is only open for a distance of + 250 feet between a vegetated curve edge (of the highway) and a Southern Pacific Railroad line overpass. This may pose a problem since traffic approaches the site off of a steep hill and around a vegetated curve at speeds of 40-45 mph.

The State Highway Division (see Exhibit 8) has indicated a 500 foot sight distance is required. This would entail removal of vegetation from State Highway Right-of-Way and private properties to the south, east of McLoughlin Blvd. Whether the Applicant could receive permission for this vegetation clearance is not known at this time.

- 5) City police and fire service are available to this site in close proximity due to their location in or near the downtown core area.

6) Schools are not affected since this is a commercial proposal.

Public facilities appears adequate except for the question of public access. Safety concerns are still evident regarding access.

C. Comprehensive Plan conformity is also considered for Zoning Map Amendments. This has already been addressed as part of Section I.

Summary:

Rezone criteria are adequately addressed except for access and transportation safety items. If access were to be granted by the State Highway Division, all stipulated improvements would have to be accomplished to achieve adequacy of this factor.

As stated at the beginning of this Staff Report, an approval for rezoning the subject site from R-5 to C-L cannot occur without a change of the Comprehensive Plan Map from Moderate Density Residential to Commercial.

**SECTION III - CU-89-06 CONDITIONAL USE PERMIT FOR
BOAT SALES AND REPAIR IN A LIMITED COMMERCIAL ZONE**

Criteria for this request are listed in Section G.01.2. of the City Zoning Ordinance. The Applicant has addressed the five Conditional Use criteria within Exhibit 2.

Staff will address these criteria as follows:

A. **"The use meets the requirements of a Conditional Use in the zone currently applied to the site."**

Comments: Regarding the above, the Applicant's narrative states the following: "This request is listed as a conditional use under Section 3.10.2.c. Marina and Boat Sales." This statement is incomplete. The criterion above is really referring to Section 6.02 (Standards Governing Conditional Uses) within the Zoning Ordinance. Within Section 6.02, several identified conditional uses have additional standards listed which must be met as part of this process. "Marinas and Boat Sales" are not one of the uses listed within Section 6.02, therefore, this criterion is not applicable.

B. **"The use meets the standards for the underlying zone."**

Comments: The Applicant (in Exhibit 2) addressed this criterion as follows: "The other standards of the Limited Commercial Zone C-L relating to height, setbacks, landscaping, parking, etc., can all be met in the development process, which is the second criteria." This statement is not supported by fact.

Staff has analyzed this proposal from information provided on the site plan - Exhibit 1 relative to C-L zone requirements from Section 3.10.3 of the Zoning Ordinance. This analysis is provided on the following table:

	<u>C-L Standard</u>	<u>Proposal</u>
Lot Size (sq. ft.)	None for Commercial Use	+ 104,544
Front Yard (ft.)	None*	90
Side Yard (ft.)	None*	50
Rear Yard (ft.)	None*	50 (to back)
Height	3 stories	1 story
Vegetation (min.)	15%	?

*Except where street right-of-way expansion is anticipated for street facing yards.

The table shows selected C-L standards met except for minimum vegetation requirements. This is not known at this time because the site plan lacks adequate detail to make this determination. A landscape plan has also not been provided yet.

Other standards of the C-L zone that need to be met are transition area (subsection 3.f.), access (subsection 3.g.), parking (subsection 3.h), and open use (subsection 3.j.).

The transition area requires a review of buffering measures between this commercial use and lower density residential uses (such as the adjacent R-5 area to the south). The transition area review (reference Section 4.13 of the Zoning Ordinance) is intended to take place closer to the actual development stage when site and landscaping plans are firm. Concerns of this review (buffers) would be met at that time.

Access provisions of Section 3.10.3.g. include a requirement that "entrances from a public street to properties in this zone shall be located to minimize traffic congestion ...". Access concerns have already been raised by staff as part of the analysis of CPA-89-02 and ZC-89-04.

Parking provisions are those of Section 5 of the Zoning Ordinance. The proposed uses would require one parking space per 550 sq. ft. of gross bldg. floor area (as per Section 5.01.3.b). With a 4,000 sq. foot. building proposed, 8 parking spaces would be required. The site plan (Exhibit 1) shows an asphalted area, however, parking spaces are not delineated.

Display area for sale of boats/trailers is not shown on the site plan. This area must also be paved. In addition, 10 percent of the required landscaping must be provided within the parking area (as per Section 5.03.8.b.). No landscaping plan has been provided as yet, although required as part of Section 4.14, also within the Zoning Ordinance.

The open use provision of the C-L Zone (Section 3.10.3.j) requires uses not contained within a building (such as outside display) facing or abutting a residential zone to be screened. This affects the south property line where adjacent properties are zoned R-5. This provision can be further reviewed as part of the transition area review process prior to actual site development.

In summary, additional information is required relative to landscaping, access, and parking before staff can determine that C-L Zone standards are met.

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

Comments: This criterion was previously addressed in Sections I and II of this Report. As presented, the proposed use and accompanying site plan are information inadequate.

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

Comments: The Applicant has addressed this criterion as follows:

"The fourth criteria is that the characteristics of the site are suitable for the proposed use considering size (2.34 ac.), shape (standard), location (on an arterial within three blocks of a launching facility), topography (flat), improvements and natural features (utilities available with a lake and dock on one side of the site)."

The above discussion is inadequate to fully address the concerns of this criterion. Staff will further discuss this as follows:

- 1) Size of site - The property is 2.34 acres in size. The C-L zone requires 15% of the total site area (.35 acres) to be vegetated (landscaping or open space). The Applicant's site plan gives no indication at this time as to location or area of the vegetated portion. Similarly, the Applicant's narrative and site plan do not give an indication of the extent of the business use of the site. Therefore, site size adequacy cannot be determined.

- 2) Shape of site - The property is roughly rectangular in shape. This is a standard configuration for property and no concerns are evident regarding property shape.
- 3) Location of site - The location of the site as being on an arterial street is significant and apropos. Most retail/service oriented businesses prefer to locate on arterials for purposes of exposure and accessibility. This is because arterials by nature carry more traffic than lesser streets.

In this case, location and access on the arterial must also be considered. As previously discussed in Sections I and II of this report, limited access is potentially available for northbound traffic. Sight distance, however, is a major problem.

Regarding the Applicant's statement of the site's proximity to the City boat ramp, this is not an adequate justification of site location. As previously discussed, proximity to the City boat ramp is not a necessity because boat sales businesses do exist on McLoughlin Blvd. to the south of this area. They are not close to a boat ramp. Therefore, such a locational factor is a desirable but not a necessary consideration.

- 4) Topography of site - The site consists of a considerable amount of fill material which has been flattened into a level bench with steep banks leading down to Kellogg Lake. Development shown on the site plan would be toward the middle of the benched area and away from the embankments.
- 5) Existence of improvements - Public utilities are available to the site. No site improvements exist other than the fill. This fill, according to the City Building Official, Jim Mishler, contains construction debris (concrete). This type of material would pose construction problems on the site.
- 6) Natural features - Prior fill activity on the site over time has eliminated most natural features. The site currently appears as a leveled bench area with a short, steep embankment down to Kellogg Lake (on the east). Vegetation is primarily weeds and grass varieties on the benched area and blackberries on the embankment. The entire site is designated "significant natural" by the 1979 Comprehensive Plan, however, this designation only pertains to the embankment where riparian values are most critical. The "significant natural" designation requires a review of development activities impact on natural features at the building permit review stage.

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

Comments: The Applicant has addressed the above criterion in Exhibit 2, Paragraph 3 of the Conditional Use Criteria discussion. This is repeated as follows:

"The final criteria is the timely application to use the site. This site has all the necessary support facilities at or near the site. It should be put to use to make efficient use of an urban, ready to develop site."

The above statement is overly brief and conclusionary. Staff can agree that public utilities are adequate (as per Public Works' memo, Exhibit 3). Transportation systems (re: access) is still a concern, considering issues already raised in Findings 4.D. and 5.B.4).

Summary: Access concerns, lack of detail relative to site operation, parking and landscaping are both significant items and items where lack of information makes it impossible to recommend appropriate conditions.

SECTION IV - CU-89-07 WILLAMETTE GREENWAY CONDITIONAL USE PERMIT

Criteria are those of Section 3.19.5.a.-i. of the City Zoning Ordinance.

Comments: The Applicant's narrative (Exhibit 2) has not addressed Section 3.19.5.a-i. at all. Rather, on Page 6 of the narrative, the Applicant addressed the goal statement for the Willamette River Greenway (from Page 48 of the 1979 Comprehensive Plan) as follows:

"WILLAMETTE RIVER GREENWAY GOAL STATEMENT

To protect, conserve, enhance, and maintain natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

COMMENT: Although this site is more than 150 feet from the Willamette River, it is on Kellogg Lake, a related waterway, and therefore included. One of the principal stated purposes of the greenway is to protect and enhance recreational opportunities. This request is a natural extension of that purpose. Recreational boating on the Willamette River has shown a steady increase over the past decade, and is expected to continue to increase, due to a cleaner river and more people living in the area."

The Applicant's statement above only relates to the recreational aspects of the Willamette River Greenway goal. This brevity does not adequately address either the goal statement or specific criteria of Section 3.19.5.

Staff will address the criteria of Section 3.19.5. as follows:

A. "Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan."

Comments: The State Willamette River Greenway Plan is umbrellaed by the Statewide Planning Goals. By definition, this site is committed to urban use because it is not designated for farm or forest use and does lie within an acknowledged urban growth boundary (the Metropolitan UGB). The State Willamette River Greenway Plan identifies specific areas designated for Greenway use. This site has not been identified in the State's Plan for Greenway acquisition as evidenced by the comments from the Oregon State Parks who administer the Willamette Greenway program (see Exhibit 7).

B. "Compatibility with the scenic, natural and recreational character of the River."

Comments: Since Kellogg Lake and a portion of Kellogg Creek is included within the Willamette Greenway boundary, the above criterion also applies to the subject property.

The Applicant's narrative has not addressed the issue of development compatibility with natural characteristics. The proposal will result in the development of this benched area overlooking Kellogg Lake with a large metal clad building, asphalt parking with outdoor boat storage/sales, and perimeter security fencing. A small dock on the lake has also been indicated. No landscaping has been proposed as yet.

Development of this site in the above use will impact the compatibility of the present site to Kellogg Lake and Creek. Kellogg Lake currently does not front any commercial uses. No landscaping or vegetation plan has been provided and there is lack of detail regarding the operation on the site, number of boats, etc. It is hard to measure compatibility when site development and operations are not clear. The security fencing and site development as proposed will preclude public access to the lake and provide visual impacts to the lake. The dock proposed may lead to adverse environmental effects if the lake is subsequently used for boat motor testing.

Therefore, compatibility for the site with proposed development is not evident at this time.

C. "Protection of views."

Comments: As stated above, no other commercial development is located on Kellogg Lake. This proposal will impact views of the lake both from McLoughlin Blvd. to the west and from properties across the lake to the east. No landscape plan has been provided to indicate how visual mitigation could occur for this site.

The City Parks and Recreation Coordinator, Don Robertson, has also indicted various concerns including highway visual impacts (see Exhibit 5). This site for northbound traffic is at a "gateway" point for entering Milwaukie's downtown/riverfront area. Visual concerns are evident, therefore, for not only the Greenway/Kellogg Lake but the downtown as well.

Without additional detail on site development and landscaping, visual impacts cannot be adequately addressed.

D. "Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable."

Comments: As previously mentioned, the Applicant's narrative has not addressed Willamette Greenway conditional use criteria or the issue of landscaping. The site will include outside boat display surrounded by security fencing. This will provide a distraction to the current aesthetics of Kellogg Lake. Landscaping may help to mitigate aesthetic concerns directly adjacent to the lake frontage, but will do little to enhance the proposed developable areas of the site. Again, inadequate information is provided for staff to favorably address this criterion.

E. "Public access to and along the river, to the greatest possible degree, by appropriate legal means."

Comments: The Applicant's narrative has not addressed this criterion. The site development plan as submitted, does not show provision for public access to Kellogg Lake or Creek. This site (as mentioned in the Park and Recreation Coordinator's memo, Exhibit 5) was reviewed as the potential location for a "gateway" park as part of the City's recent riverfront development planning process. This process and the accompanying urban renewal plan were not subsequently adopted by the City. The Comprehensive Plan, however, does speak to Greenway access. the Planning Concepts section of Objective 6 - Riverfront Recreation of the Recreational Needs Element specifically references a proposed trail system connecting the City's riverfront to North Clackamas Park. This pedestrian access has already been accommodated by the City's approval of the Kellogg Lake Apartments, which added a public access easement as a condition of approval (reference CU-87-06 and 07). To be consistent with that prior action, the City will need to accommodate pedestrian access to the Greenway for this site as well.

F. "Emphasis on water-oriented and recreational uses".

Comments: The Applicant's narrative (Exhibit 2, Page 6) implies the proposed use is "a natural extension of that purpose" (i.e. the recreational qualities promoted by the Greenway). This statement is inadequate to meet the criterion.

The criterion relates to water oriented uses and recreational uses. Boat sales and repair is clearly not a recreational use. Rather, it is a commercial use supportive of recreation.

Regarding water oriented uses, this is defined by the Statewide Planning Goals document (1985 edition) as: "A use whose attraction to the public is enhanced by a view of or access to coastal waters." The use proposed is not a water oriented use because it is not dependent upon site location on a water body. As previously related, several other boat sales facilities do operate in the Oak Grove area along McLoughlin Blvd.

Therefore, this use is neither water oriented nor recreational.

G. "Maintenance and increase of views between the Willamette River and downtown."

Comments: This criterion was not addressed by the Applicant's narrative. It also does not appear to be applicable in this case because the site location is not between the Willamette River and downtown. The site is not visible from the downtown, as is, because of a raised railroad grade and overpass along the north side of the property.

H. "Protection of the natural environment according to regulations in the Environmental Protection Ordinance."

Comments: The Environmental Protection Ordinance requires a review of natural resource considerations at the time of building permit review. Relative to this site, a 15 foot setback will be required from the mean bank line and natural riparian vegetation will have to be maintained or enhanced within that setback area.

Again, the Applicant's narrative did not address this criterion. Normally, compliance with this criterion is made a condition of approval to a Greenway conditional use permit even though compliance review comes at the building permit stage.

I. "Advice and recommendations of the Design Review Committee, as appropriate."

Comments: Although not addressed by the Applicant, this criterion is not applicable because the City has no Design Review Committee in place at this time.

Summary:

The Applicant has not addressed the approval criteria for CU-89-07. Staff review has indicated the items and factors that must be addressed before an appropriate review of a Willamette Greenway Conditional Use Permit can be conducted.

ADDITIONAL COMMENTS

Referral responses and comments have been received from potentially affected agencies/individuals as follows:

- A. City Public Works (Exhibit 3) - indicates utilities are available to the site. Storm water must be contained on-site and piped to Kellogg Lake. Access must be approved by the State Highway Division. Most of the site is above the 100-year flood plain.
- B. City Building Office (Exhibit 4) - states little record exists of prior fill activity on the site, except that he is aware concrete and organic debris was included. Complete soils tests will be required prior to construction.
- C. City Parks and Recreation (Exhibit 5) - identifies several concerns including public access to Kellogg Lake, visual impacts and dock use on Kellogg Lake.
- D. The Oregon Division of State Lands (DSL) (Exhibit 6) - have been aware of fill activity on the site dating to 1972. No violations were noted, however, and no concerns are provided at this time.
- E. The Oregon State Parks and Recreation Division (Exhibit 7) - have indicated they feel this proposal would not adversely affect the Willamette River Greenway.
- F. The Oregon State Highway Division (Exhibit 8) - has provided information relative to obtaining access permits. They have also received the Applicant's traffic study and have reviewed it. They agree that a right in/right out access configuration with acceleration/deceleration lanes is adequate for this type to use (boat sales and repair). They are concerned about access if other uses of C-L were developed instead of the proposal. A 500 foot vision clearance area will be required south of the access onto McLoughlin Blvd.

Access permits have not been represented as yet but would have to address the above concerns.
- G. A twenty day public notice and two newspaper notices were provided for all four applications (see in Exhibit 10).

CONCLUSIONS

- 1. CPA-89-02: The findings provided by the Applicant are conclusionary and incomplete. Staff's findings indicate public need has not been established and the site (without adequate marketing and other information) does not best serve the Applicant's perceived need.

CITY OF MILWAUKIE - COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT - Dick Close

CPA-89-02, ZC-89-04, CU-89-06, CU-89-07 February 13, 1990

2. ZC-89-04: The Applicant's findings are conclusionary. Access is perceived as a potential major transportation problem. Comprehensive Plan goals and policies have not been adequately addressed. Problems identified could be compounded if other, more intensive, commercial uses (as allowed by C-L) are constructed on the site.
3. CU-89-06: The Applicant's findings are incomplete. Landscaping, access, and Comprehensive Plan issues are unresolved.
4. CU-89-07: The Applicant has not addressed Willamette Greenway Conditional Use criteria. Problems have been noted by Staff regarding access, visual impacts, and compatibility.

RECOMMENDATION

Because of problems as identified above and the lack of specific information to justify findings for approval, Staff must recommend the following:

For denial of CPA-89-02 based on Staff findings.

For denial of ZC-89-04 based on Staff findings.

For denial of CU-89-06 based on Staff findings.

For denial of CU-89-07 based on Staff findings.

EXHIBITS

1. Site Plan (large copy to PC members only)
2. Applicant's Narrative
3. Public Works' Memo
4. Building Official's Memo
5. Parks and Recreation Memo
6. Division of State Lands Memo
7. State Parks and Recreation Memo
8. State Highway Division Memo
9. Traffic Study
10. Notice
11. Application forms

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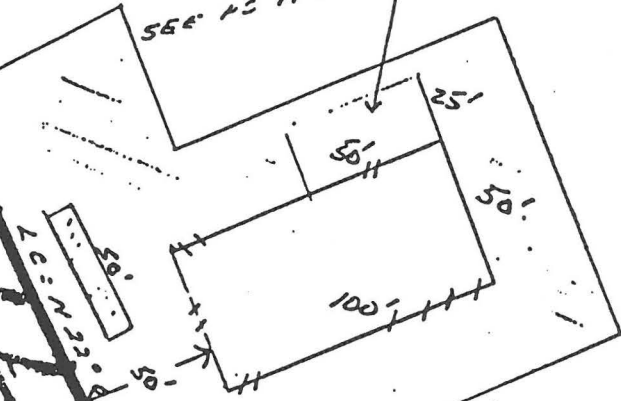
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BOAT STORAGE

BOAT SALES

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50' DOCK
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KELLOGG

EXHIBIT #	1
DATE	2/13/90
SUBMITTED BY	Applicant
RECEIVED	CPA-8702 et al

4500

(385.2)

GREENE NARRATIVE

This site of about 2.35 upland acres lies between McLoughlin Blvd. and Kellogg Lake immediately south of the Southern Pacific overpass at the south end of downtown.

The site itself is generally level, being a fill placed by a previous owner. There is little vegetation on the site other than grass. Kellogg Lake on the east border of the site is a shallow lake of limited utility. The bed of the lake adjacent to the site is under the same ownership for the most part.

A major sanitary sewer line is at the site. An eight inch waterline is on the east side of McLoughlin Blvd. a short distance south of the site.

The purpose of the plan and zone changes and the conditional use request is to allow use of the site for boat display, sales and repair. Proximity to the river and other water bodies is a desirable adjunct to the business. The Willamette River with a launching ramp and marina is within three blocks of the site creating a mutually advantageous relationship.

The four requests submitted (a comprehensive plan change to commercial, a zone change to light commercial, a conditional use to allow the boat sales and a conditional use to allow the use in the Willamette River Greenway) are intended to be a package providing assurance to the city and state the proposed use will be appropriate.

Several Goals and Policies found in the Comprehensive Plan apply to this request. Following is an identification of those items which apply and a statement of how this proposal fits:

EXHIBIT #	<u>2</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Applicant</u>
	<u>12 pgs</u>
RECEIVED	<u>CPA-89-02</u>
	<u>et al</u>

Greene Narrative

OBJECTIVE #1 ECONOMIC DEVELOPMENT

The city will encourage an increase in the overall economic development activity within the city.

POLICIES

1. The city will ensure that there is adequate land available with public services provided to meet the need for economic growth and development.
2. The city will actively and aggressively encourage new economic development which provides an increased tax base, and employment opportunities.

COMMENT: Development and utilization of this fully served by-passed land will have a positive result for the city and county. This use will infill lands inside the urban growth boundary and provide complementary service to the city waterfront development. It will be a positive addition to the city tax base and provide local opportunities for employment.

OBJECTIVE #2 EMPLOYMENT OPPORTUNITY

To continue to support a wide range of employment opportunities for Milwaukie citizens.

POLICIES

1. The city will encourage new and existing industries, businesses and employment centers that provide primary, head of household jobs as well as opportunities for a second income sources within households.
2. The city will encourage new professional and service-oriented employment opportunities to meet the diverse needs of city residents.

Greene Narrative

COMMENT: This use is an existing business located in Mollala. It will be moved to this location so it may grow and expand to serve the boating public. As it grows and expands, employment opportunities will become available to people in the community. At present the business has one full time operator and a part time assistant. By relocating in a larger market area in close proximity to a significant recreation area utilizing their products and services, additional employment opportunities in the areas of sales, repair, mechanical, and general labor may be created as the business expands. The total numbers will depend entirely on the success of the business, but could range as high as six to eight additional job opportunities, the majority of which will be in the secondary job category (a likely ratio would be seven secondary to one head of household).

OBJECTIVE #7 COMMERCIAL LAND USE: DISTRICT CENTERS

To provide maximum convenience to city residents for regular and convenience shopping needs by concentrating commercial uses into selected commercial clusters.

POLICIES

2. The city will cooperate with interested property owners and business persons to ensure that streets and other facilities, conveniences and amenities are adequate.

COMMENT: Because this is a targeted service commercial use, location near the market it serves is a critical element in the success of that business. The targeted portion of the market is the small boat enthusiast who pulls his/her boat on a trailer, utilizing launching ramps to put in.

Greene Narrative

Examples of this type use may be routinely found near ramps, such as at Sellwood, Oregon City, Multnomah County's 47th Street ramp, etc. The growth or stagnation of this type business relies to a great degree on this relationship. At the same time it is not the type of business that should be in the middle of a district center. The site proposed, on the fringe of downtown and near the water seems ideally situated to complement and support downtown.

The site is fully served by all utilities plus McLoughlin Blvd., a major four lane state highway. It is precisely the type location where the state through LCDC is encouraging development.

OBJECTIVE #9 DOWNTOWN OFFICE CENTER

To emphasize downtown Milwaukie as a district commercial center with the major concentration of office and service uses in the city.

POLICIES

3. A mix of office and commercial uses is encouraged in individual structures downtown, as long as retail uses are contiguous to existing retail development. Figure six shows lands designated for downtown commercial and office uses.
5. The city will review previous plans for downtown improvements and will develop with affected property owners and business persons, an improvement and management program for the area. Various methods for local and outside funding will be explored for improvements deemed necessary such as parking, street lighting, landscaping, street furniture, paving and traffic management.

Greene Narrative

COMMENT: This is a special service commercial use related to the particular needs of a segment of the community which utilizes the river for recreation. Proximity to the river is important as is its special relationship to downtown.

The site is directly across the street from the developed commercial sites at River Road. Its location on the fringe of downtown is a solid, workable solution to add strength to downtown without utilizing higher value lands in the core.

The site is fully developed with water, sewer and storm drainage available at the site. As a fully developed by-passed parcel it is precisely the type of development the city and state are encouraging. The infilling or development of a more compact urban form has been a long term goal of the state since the 1973 planning law was passed.

OBJECTIVE #10 McLOUGHLIN BOULEVARD

To provide for highway service uses along McLoughlin Boulevard while improving the visual and pedestrian-oriented linkages between downtown and the Willamette River.

POLICIES

1. The city will work with the Oregon Department of Transportation and MSD during their transportation planning programs to identify appropriate land uses and access arrangements along McLoughlin Boulevard. The city will integrate its own downtown improvement plans and waterfront plans with these regional transportation planning programs.

Greene Narrative

COMMENT: Although this is identified as a city responsibility, the proposed use of this property fits well with the concept of maximizing the amenity of the Willamette River as it passes. A service commercial use oriented to the recreational needs of the boating public is a natural adjunct to increased activity along the river.

WILLAMETTE RIVER GREENWAY GOAL STATEMENT

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

COMMENT: Although this site is more than 150 feet from the Willamette River, it is on Kellogg Lake, a related waterway, and therefore included. One of the principal stated purposes of the greenway is to protect and enhance recreational opportunities. This request is a natural extension of that purpose. Recreational boating on the Willamette River has shown a steady increase over the past decade, and is expected to continue to increase, due to a cleaner river and more people living in the area.

OBJECTIVE #3 LAND USE

To encourage, in the long term, only residential, recreational or recreationally oriented commercial use (emphasis added) within the Willamette River Greenway boundary.

POLICY 5. In areas designated for non-residential use within the boundary, any intensification of uses, changes of use or development of new uses must be water oriented.

COMMENT: This objective and policy is fully supported by this proposal and clearly underscores the appropriateness of this application.

Greene Narrative

SUMMARY

This site, because of its location in relationship to downtown and the Willamette River is well suited for the use proposed. It supports downtown without creating congestion, and it complements recreation activity occurring on the river.

Some employment opportunities will result from this relocation, plus additional tax revenue and money circulating through the community.

The request conforms with several objectives and policies of the comprehensive plan and the goals and guidelines established by the state. It further makes more efficient use of existing capital improvements, utilized by passed land, and tends to reduce pressure to expand urban development on to lands outside the urban growth boundary.

For the reasons shown, the proposals should be approved.

PLAN MAP AMENDMENT

There are four criteria by which a comprehensive plan change request is judged. Conformance with the Comprehensive Plan goals, policies and spirit, public need for the change, which is best met by this particular change, and finally that change will not adversely affect the health, safety and welfare of the community.

The narrative statement has clearly identified the ways which this proposal conforms with the comprehensive plan. Included with the narrative is an analysis by a professional traffic engineer identifying the impact of the proposal on traffic and how this development can be built with a minimum effect on McLoughlin Blvd., due to the typical non peak, counter flow access.

Public need for this change relates to the substantial expansion of boating and fishing as a major recreational outlet. The substantial increases in boat registration are both state wide and in Clackamas County.

The public need may best be met at this site due to its proximity to the launching ramp, the downtown district, and its visible location yet being screened from the river by the railroad trestle. It further meets standards better than other more remote sites because it represents a filling in of fully served by passed land, it will provide a needed choice in the marketplace, and it supports and reinforces the state supported concept of efficiently using lands within the urban area in order to reduce development pressure on rural agricultural land.

The final criteria by which a request is evaluated is will the proposal adversely affect the health, safety and welfare of the community.

Plan Amendment Criteria

From a health standpoint, the proposed use is a clean, non polluting use that will not have an adverse effect on community health.

The traffic engineer has analyzed access to the site and shown how the use could be safely located on the property, and the fire marshall initially has expressed no concern that the operation of the use would create any out of the ordinary fire hazard.

The general welfare of the community will be positively supported in several ways. There will be added employment opportunities, additional tax revenue, and the boating public will have an additional convenient choice in the marketplace as to where they want to do business.

The criteria by which a plan change is judged provide a guide to analysis of a request. This proposal meets that test as has been demonstrated, therefore the request should be approved.

ZONING MAP AMENDMENT CRITERIA

Two criteria are used to evaluate a proposed zoning map amendment. They are found in section 9.03 of the ordinance on page 87.

First, the proposed zone change must be to the maximum Comprehensive Plan Map designation. This requested change is to commercial which is the maximum requested in the accompanying plan amendment request.

The conditional use request has the effect of limiting the site to a water oriented recreational use in conformance with the Willamette River Greenway plan.

The package of applications submitted has the overall effect of supporting the comprehensive plan, zoning the Neighborhood and Greenway plans.

The second criteria relates to the adequacy of public facilities including water, sewers, storm drainage, streets, police and fire protection and schools.

Water service is located on the east side of McLoughlin a short distance south of the site. It will be extended to serve this site for domestic water and fire protection.

Sanitary sewers are at the site and will be connected.

Storm drainage is to Kellogg Lake and hence the Willamette River.

McLoughlin Blvd. is a fully developed, state maintained highway. The traffic engineer has recommended a deceleration lane to make entry into the property safer. This will be done as part of the project.

Police protection is by city police and county sheriffs, neither of which will have to do anything different.

Page 2

Zoning Map Amendment

Fire protection is provided by two stations on either side of the site. There are no out of the ordinary problems with this proposal from that perspective. A small one story building is all that is contemplated.

Schools will be positively impacted by the change. There will be no school children coming from this site, and substantial more tax revenue will result.

CONDITIONAL USE CRITERIA

Five criteria are used to judge the suitability of a conditional use request. The request must meet the requirements of the particular conditional use zone applied to the site. This request is listed as a conditional use under Section 3.10., 2.c. Marina and boat sales. The other standards of the Limited Commercial Zone C-L relating to height, setbacks, landscaping, parking, etc., can all be met in the development process, which is the second criteria. The third criteria is a check to see if the proposal satisfies the goals and policies of the Comprehensive Plan which apply. The accompanying materials submitted show how the proposal complements and supports the Comprehensive Plan.

The fourth criteria is that the characteristics of the site are suitable for the proposed use considering size (2.34 ac.), shape (standard), location (on an arterial within three blocks of a launching facility), topography (flat), improvements and natural features (utilities available with a lake and dock on one side of the site).

The final criteria is the timely application to use the site. This site has all the necessary support facilities at or near the site. It should be put to use to make efficient use of an urban, ready to develop site.

COMMUNITY DEVELOPMENT

12/13/89

TO: PLANNING
FROM: Paul Roeger *PR*
Office Engineer
RE: ZC-89-04; CPA-89-02; CU-89-06; CU-89-07
McLoughlin Boulevard at Kellogg Lake & RR trestle
DATE: December 13, 1989

City sanitary sewer is available through the CCSD#1 48" interceptor sewer on the site.

City water is available from an 8" main to the south on the east side of McLoughlin Blvd. at River Road. This line must be extended north to the site with fire hydrants installed per Fire Department requirements.

Storm water must be contained on-site and piped to Kellogg Lake.

Access is from McLoughlin Blvd., which is under State jurisdiction. ODOT requirements must be met for access.

The 100-year flood elevation of the Willamette River and Kellogg Lake is 32.8 feet above sea level according to the USC&GS adjustment of 1927. The majority of the site is above this elevation. All floors of buildings constructed on this site must be one foot above the 100-year flood elevation or be flood proofed.

PHR/cjl

EXHIBIT #	<u>3</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Public Works</u>
RECEIVED	<u>CPA-89-02</u> <u>et al</u>

TO: PLANNING

FROM: Jim Mishler
Building Official

RE: ZC-89-04, CU-89-06, CU-89-07 & CPA-89-02
Kronberg property
McLoughlin @ Kellogg Lake

DATE: December 19, 1989

There is no written record on the Kronberg site; when I started working for the City in 1968, fill permits were not required.

I do remember talking with Mr. Kronberg over the years, as the site was being filled, about the types of material he was allowing to be brought in. On numerous occasions, trucks would come in with large slabs of concrete which were indiscriminately dropped off at the site. The fill also included tree limbs, brush, and other organic debris. I advised Mr. Kronberg that standard building design would not be compatible with the type of fill he was allowing on his property.

Complete soils tests will be required on the building site to determine the types of footings, piles, or buildings which could be placed on the property.


Jim Mishler

JM/cjl

EXHIBIT #	4
DATE	2/13/90
SUBMITTED BY	Building
RECEIVED	CPA-89-02 et al

RECEIVED
JAN 11 1990
PLANNING

MEMORANDUM

TO: DAVE KROGH 
FROM: DON ROBERTSON, PARK & RECREATION COORDINATOR
DATE: JANUARY 11, 1990
SUBJ: PROPOSED BOAT SALE AND REPAIR BUSINESS

The section of land proposed to be used for a boat sale and repair business has been placed under consideration in the past for park usage.

Currently the Comp Plan makes reference to public access of rivers, lakes and streams. Along this line, references are made to a walking trail connecting Downtown to North Clackamas Park via Kellogg Creek.

Previous urban renewal plans refer to this parcel as an area to be used for such things as "Gateway" parks to the City and bridge areas to downtown.

My biggest concern, given the history of the various proposed uses of this land is to ensure:

- A) Public access to and along Kellogg Lake
- B) Sensitivity to the visual impact upon entering the City from the South along McLoughlin Blvd.
- C) The appropriateness and/or uses and abilities to place docks on Kellogg Lake.
- D) The realization that the boat ramp that exists, is for the use of the public as a launching and landing facility, not boat sales or storage.

Ref: DR-393

EXHIBIT #	<u>5</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>Parks + Rec.</u>
RECEIVED CPA-89-02 et al	

CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT
in the City Hall • phone 659-5171

APPLICATION REFERRAL

RECEIVED

JAN 03 1990

PLANNING

TO: Oregon Division of State Lands

FROM: MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT
DAVE KROGH, ASSISTANT PLANNER

SUBJECT: FILE NO. CAA-89-02, 2C-89-04, CU-89-06 + 07

DATE: 12/5/89

PLEASE RESPOND BY: 12/1/89

HEARING DATE: 1/9/89; ATTENDANCE REQUESTED: Optional NO YES

NATURE OF PROPOSAL: Develop a former fill site for boat sales and repair. See attached site plan.

PLEASE COMMENT ON THE FOLLOWING: Concerns (if any) over development of this site. Do you have records of the prior fill activity that has occurred here?

RESPONSE (PLEASE ADD PAGES IF NECESSARY): _____

Possible violation at this location reported in August, 1972. DSL investigated, found work was not within jurisdiction of removal/fill law.

Dana Siegfried
1-2-90

EXHIBIT #	<u>6</u>
DATE	<u>2/13/90</u>
SUBMITTED BY	<u>DSL</u>
RECEIVED	<u>CAA-89-02 et al</u>

RECEIVED
DEC 28 1989
STATE PARKS DIVISION



CITY OF MILWAUKIE

COMMUNITY DEVELOPMENT
in the City Hall • phone 659-5171

APPLICATION REFERRAL

RECEIVED

TO: State Parks and Recreation Division

JAN 03 1990

FROM: MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT
DAVE KROGH, ASSISTANT PLANNER

PLANNING

SUBJECT: FILE NO. CPA-89-02/2C-89-04/CH-89-06787

DATE: 12/22/89

PLEASE RESPOND BY: 1/8/90

HEARING DATE: 1/23/90; ATTENDANCE REQUESTED: NO YES

NATURE OF PROPOSAL: Develop a former fill site for boat sales and repair. Site is within Willamette Greenway. See attached materials.

PLEASE COMMENT ON THE FOLLOWING: Site development concerns re. Willamette Greenway, Kellogg Lake, environmental effects, etc.

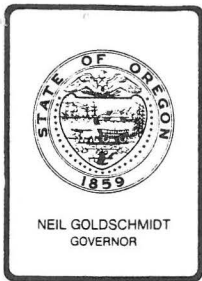
RESPONSE (PLEASE ADD PAGES IF NECESSARY): _____

This project would not adversely affect the Willamette River Greenway.

Jim Payne PCI

- AC
- 01
- 02
- 03

EXHIBIT # 7
 DATE 2/13/90
 SUBMITTED BY State Parks + Rec
 RECEIVED CPA-89-02 et al



Department of Transportation

HIGHWAY DIVISION

Region I

9002 SE McLOUGHLIN, MILWAUKIE, OREGON 97222 PHONE 653-3090

RECEIVED

JAN 29 1990

PLANNING

January 25, 1990

In Reply Refer To
File No.:


Dave Krogh, Assistant Planner
City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222

Subject: Access Proposal
Boat Sales and Repair at Kellogg Lake in Milwaukie
McLoughlin Boulevard

After reviewing the traffic report for the subject development and reviewing the conditions in the field for proposed right-in right-out access to McLoughlin Boulevard, it was found that the State Highway Division would not have any opposition to the proposal. The unanswered question was will a zone change open up the potential for traffic problems in the future. In reviewing the information concerning C-L Zone and R-5 Zone allowable developments, it shows that a boat sale would be a conditional use of the C-L Zone. If the zone change is conditioned to the boat sales use, the traffic generation would not be in excess of what could be handled with a right-turn in right-out access point.

The final permit for an access would be processed through the district maintenance office: Art Louie, District Maintenance Supervisor at 9200 SE Lawnfield Road, Clackamas, Oregon 97015, telephone 653-3086.

The things the state would be looking for for a final access permit approval would be that the driveway be a right-in right-out with 500 feet of sight distance and a design that would control wrong movements in and out of the site. This proper design would include the pork chop island directing the right-in right-out traffic at the driveway throat and the extension of the curb to median island further to the north to prevent wrong way movements.


Ronald W. Failmezger, P.E.
RWF:cay

cc: Dennis Carlson

EXHIBIT #	8
DATE	2/13/90
SUBMITTED BY	State Hwy. Div.
	Spgg
RECEIVED	CPA 89-02 dcl

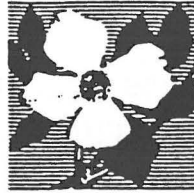
RECEIVED

DEC 1 1989

PLANNING

COMMUNITY DEVELOPMENT
in the City Hall • phone 659-5171

CITY OF MILWAUKIE



RECEIVED

APPLICATION REFERRAL

NOV 07 1989

TO: State Hwy Div. - Ron Failmezege
FROM: MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT
DAVE KROGH, ASSISTANT PLANNER

TRAFFIC OPERATIONS

SUBJECT: FILE NO. CPA-89-02, ZC-89-04, CU-89-06 & 07

DATE: 12/5/89

PLEASE RESPOND BY: 12/15/89

HEARING DATE: 1/9/89; ATTENDANCE REQUESTED: optional NO YES

NATURE OF PROPOSAL: Develop a former fill site for boat sales and repair. See attached site plan.

TOS FILE ALL
RTIS SM-T SM-2

PLEASE COMMENT ON THE FOLLOWING: Access. Will state Hwy. Div. grant access? If so, what conditions will be required?

RESPONSE (PLEASE ADD PAGES IF NECESSARY): 12/7/89

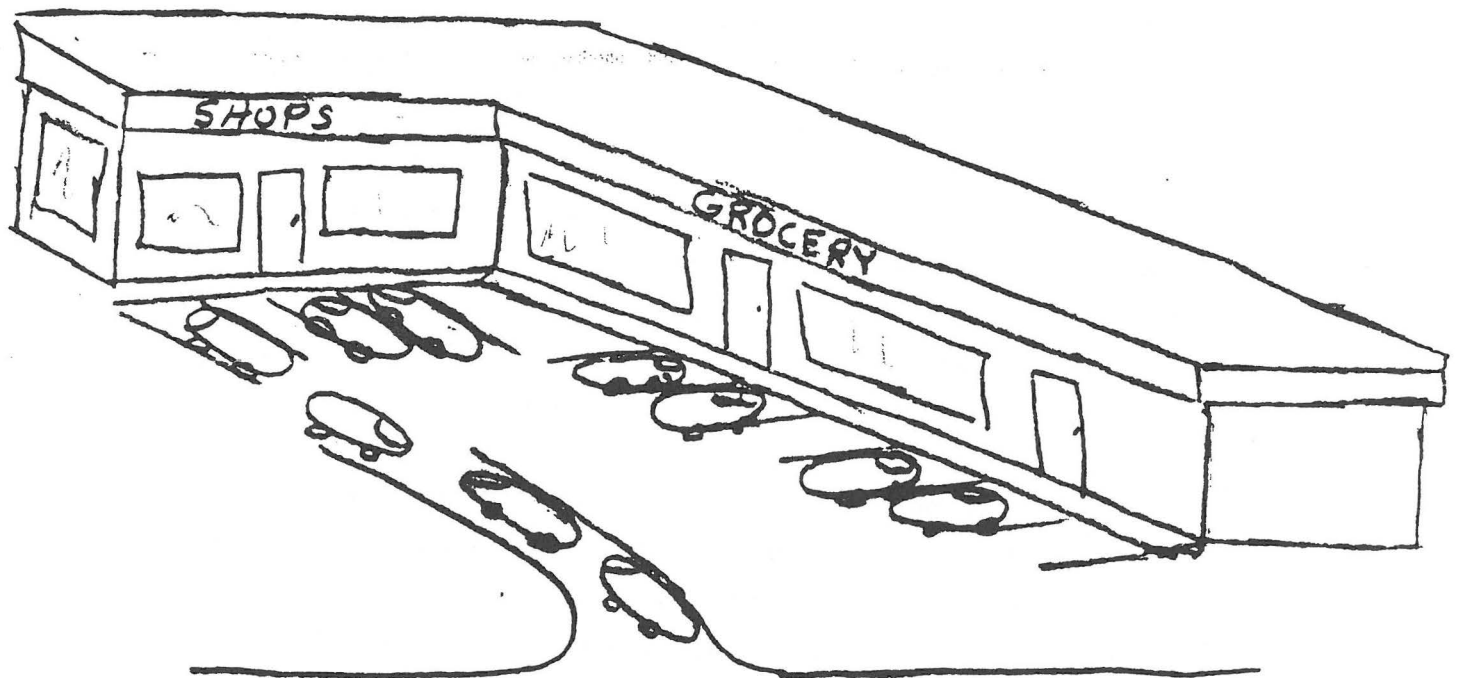
Attached is a 3 page summary of requirements. The state is waiting for the traffic study.

Ron Failmezege

DID YOU KNOW . . .



THAT A LAND USE CHANGE
AND/OR REDEVELOPMENT . . .



WILL NEED A NEW DRIVEWAY PERMIT ?

Read on . . .

A circular signature stamp with the name 'TONE' and the year '1987'.

GENERAL INFORMATION ABOUT ACCESS PERMITS
TO STATE OF OREGON HIGHWAYS

*Having an existing access (driveway) to a State highway does not guarantee that that access will be approved for use if use of the property changes.

*A change in the use of the property requires a new access permit. This permit is issued by the State Highway Division at the local District Maintenance Supervisor's (DMS) office.

*In order to determine the access needs, for a change in use and/or new development, a traffic impact study may need to be prepared. The need for a traffic impact study will be determined by the DMS.

*Some sections of highway have designated or deeded access points. If it is determined that these designated driveways do not meet the requirement for the new use, there needs to be a study made of their value based on location and width called an "indenture of access". There is a cost involved in the study. If the property is found to be worth more with new or revised accesses than when the designated accesses were granted, a fee amounting to the difference in values, plus an appraisal fee, will be charged. Also required is a nominal fee for each access permit issued.

*An access is not approved until a new or revised permit is issued. This is done only after the review of all safety considerations are made for the access location and size. All costs for the permit process and for any traffic control and road improvements required to issue the permit are at the expense of the permittee.

OREGON STATE HIGHWAY
MINIMUM REQUIREMENTS FOR TRAFFIC REPORT
Proposed Developments

The following are minimum considerations to be dealt with by Professional Traffic Engineering Consultants in their analysis of traffic impacts resulting from new developments adjacent to state highways.

1. The analysis shall include alternates other than what the developer originally submits as a proposal for access to state highways, city streets, and county roads.
2. The analysis of alternate access proposals shall include:
 - a. Existing daily and appropriate design peak hour counts, by traffic movements, at intersections which would be affected by traffic generated by the development (use traffic flow diagrams).
 - b. Projected daily and appropriate design peak hour volumes for these same intersections and at the proposed access points after completion of the development. If the development is to be constructed in phases, projected traffic volumes at the completion of each phase should be determined (use traffic flow diagrams).
 - c. Trip Generation shall be by the Institute of Transportation Engineers "TRIP GENERATION - 4th Edition" or other, more current, and/or applicable information (include appendix of calculations).
 - d. A determination of the need for traffic signals based on warrants in the "Manual on Uniform Traffic Control Devices."
3. The recommendations made in the report should be specific and shall be based on a minimum level of service "D" when the development is in full service. As an example, if a traffic signal is recommended, the recommendations should include the type of traffic signal control and what movements should be signalized. If a storage lane for right turns or left turns is needed, the recommendations should include the amount of storage needed. If several intersections are involved for signalization, and an interconnect system is considered, specific analysis should be made concerning progression of traffic between intersections.
4. The internal circulation of parking lots must be analyzed to the extent that it can be determined whether the points of access will operate properly.
5. The report shall include an analysis of the impacts to neighboring driveway access points and adjacent streets affected by the proposed new development driveways.
6. The report should include a discussion of bike and pedestrian usage and the availability of mass transit to serve the development.

RECEIVED

DEC 04 1989

PLANNING

BOAT SALES AND REPAIR

TRAFFIC IMPACT STUDY

MILWAUKIE, OR.

SUBMITTED BY
TOM R. LANCASTER, P.E.

NOVEMBER, 1989

EXHIBIT #	9
DATE	2/13/90
SUBMITTED BY	Tom Lancaster, P.E.
	28 pgs
RECEIVED	PA-89-02 et al

TOM R. LANCASTER, P.E.

Transportation Engineering

Traffic Studies
Planning
Safety

Union Station, Suite 206
800 N.W. 6th Avenue
Portland, OR 97209
(503) 248-0313

BOAT SALES AND REPAIR

Traffic Impact Study

Milwaukie, Oregon



November, 1989

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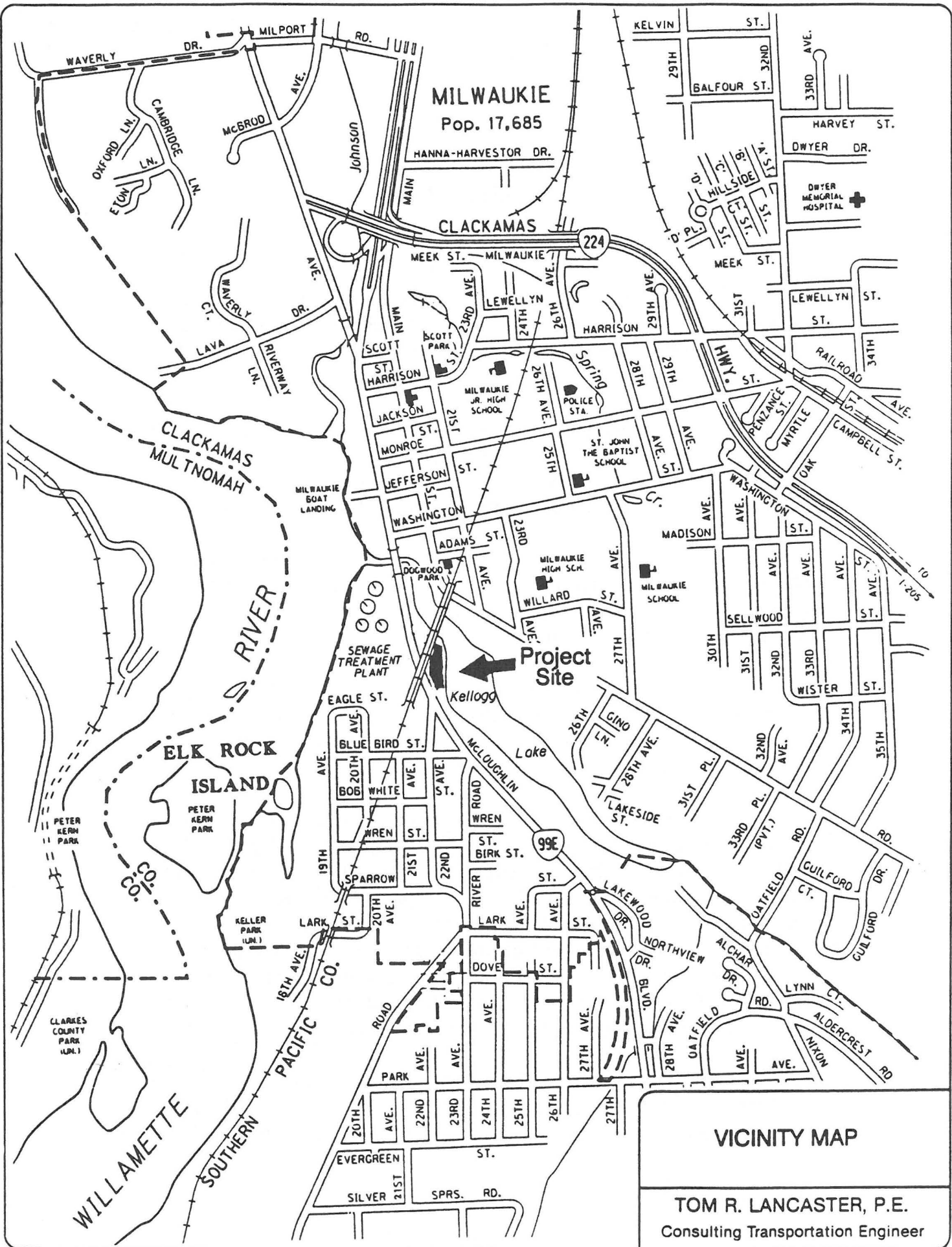
INTRODUCTION

A boat sales and repair business has been proposed for a location on the east side of McLoughlin Boulevard near Kellogg Lake in Milwaukie. Although a site plan has not yet been developed, it is expected that a building about 50 feet by 100 feet will be constructed.

A zone change will be required for this development. The present zone for this property, which is residential, would be changed to a zone permitting limited commercial development.

The purpose of this study is to estimate the traffic impact of the proposed project. This will be accomplished by estimating the number of trips to be generated, the directional distribution of the trips, and the level of service at the driveway to the development. This analysis will be made for the existing permitted land use, the proposed boat sales and repair use, and other uses that would be permitted under the requested zone change.

Detailed information on the manual traffic count and the capacity calculations, as well as a description of levels of service, is included in the appendix to this report.



VICINITY MAP

TOM R. LANCASTER, P.E.
 Consulting Transportation Engineer

SITE DESCRIPTION

The proposed boat sales and repair development will be located on a 2.34-acre site on the east side of McLoughlin Boulevard just south of the Southern Pacific Railroad overpass. The east side of the site is bordered by Kellogg Lake. The only access to the site is from McLoughlin Boulevard.

There is a frontage along McLoughlin of about 300 feet. There is a concrete barrier about 150 feet in length on the east side of McLoughlin which serves as a guardrail for the concrete pier of the railroad overpass. About 50 feet of this barrier extends to the south of the north end of the development site.

Tentative plans call for a building on the site which will be about 50 feet by 100 feet to house boat sales, repair, and storage. There would also be a covered area of about 25 feet by 50 feet. In addition, paved areas around the building would provide space for boat sales and storage.

There may, in the future, be docks constructed along the Kellogg Lake frontage. However, there is no navigable connection between the lake and the Willamette River, so the usage of the docks is not expected to result in significant additional vehicular traffic to and from the site.

McLoughlin Boulevard in the vicinity of the site is signed as Oregon Route 99E, and is under the jurisdiction of the Oregon State Highway Division. It carries four lanes of traffic, and is speed zoned for 45 mph. Pedestrian facilities along this section of McLoughlin are unimproved, but there are gravel and dirt pathways along both sides. South of the site there is a shoulder area that could be used by pedestrians, but tree branches have extended out to the edge of the traffic lane, making the shoulder unusable by pedestrians. The nearest traffic signals are at Washington Street to the north, and River Road to the south. There are no signed or marked bicycle lanes on this section of McLoughlin.

There is a raised median in McLoughlin which extends from just south of River Road to just south of the railroad overpass. This median prevents any left turns onto or off of this section of McLoughlin except at the median break at

River Road. Because the median barrier and the shoulder barrier at the railroad overpass overlap by about 50 feet, no left turns into or out of the development property are possible as long as the median and shoulder barriers remain in place.

The River Road intersection on McLoughlin, about 400 feet south of the south property line of the development site, is controlled by a three-phase fully-actuated traffic signal. The northbound left turn on McLoughlin is a protected movement. If the pedestrian signal for the crosswalk across McLoughlin is actuated, the resulting exclusive pedestrian movement adds a fourth signal phase.

The intersection channelization at River Road provides an acceleration lane in the median of McLoughlin to permit the left turn from River Road to McLoughlin northbound to occur without stopping northbound traffic on McLoughlin. The only time northbound McLoughlin traffic faces a red signal indication is when the pedestrian signal is actuated. Field observation indicates that many of the northbound vehicles in the left lane of McLoughlin will move into the right lane prior to reaching the River Road intersection to facilitate the merging movement from River Road. It was also observed that although the signal indication for northbound traffic on McLoughlin is normally green, the northbound traffic generally is highly platooned due to the traffic signal at Park Avenue to the south.

The 1988 average daily traffic volume on this section of McLoughlin was 41,400 vehicles per day. A manual count was made of northbound traffic at the development site during the evening peak period, and it was found that the peak hour occurred from 4 to 5 PM, and from 4:15 to 5:15 PM. During each of these one-hour periods, the northbound volume was 1137 vehicles. The volume was nearly evenly split between the left and the right lanes.

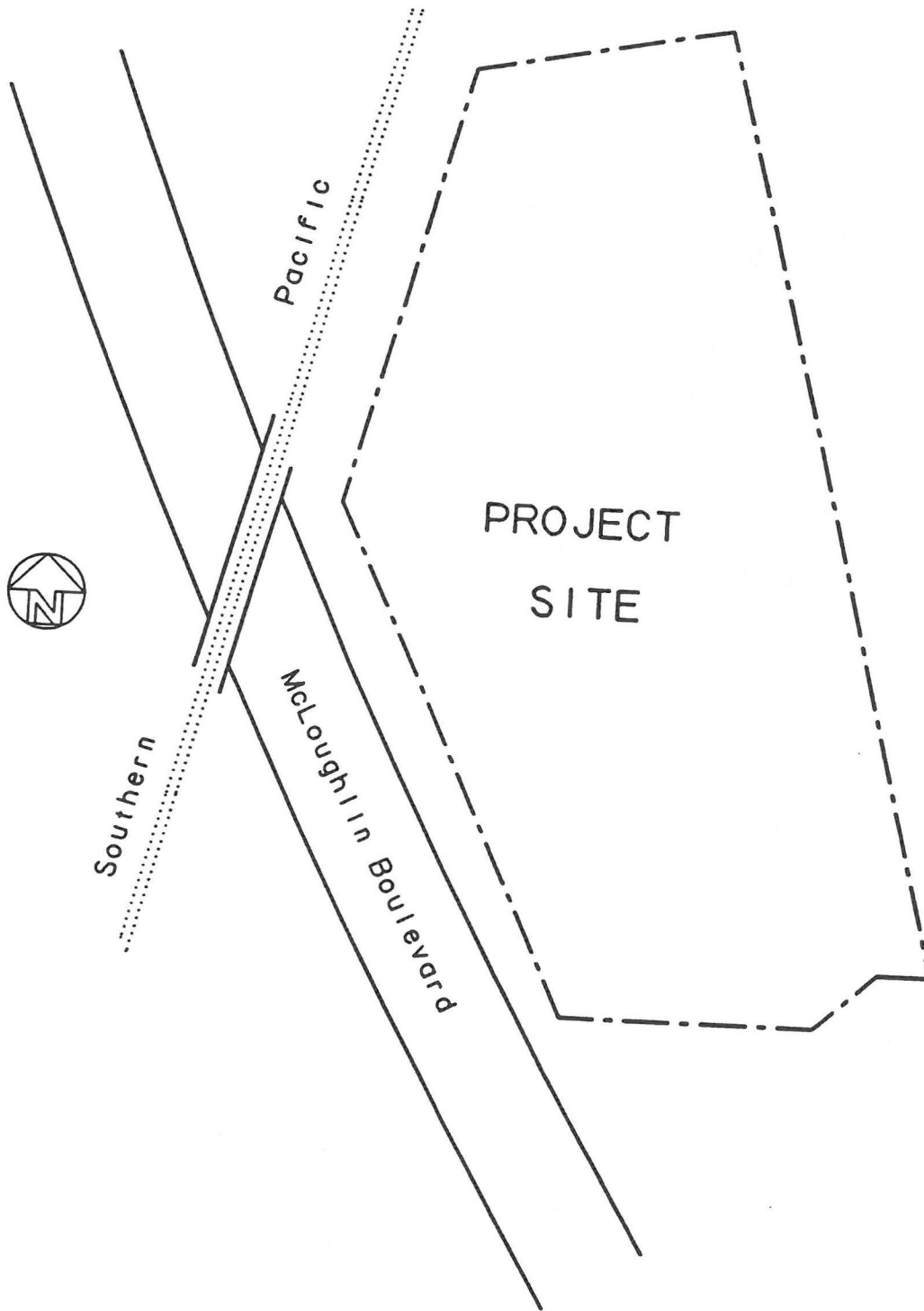
The morning peak traffic period was not counted because the proposed business is not expected to be open before 8 AM, when the peak hour is expected to occur. Southbound traffic was not counted because the raised median island prevents left turns to or from the southbound direction.

This section of McLoughlin Boulevard is served by Tri-Met bus routes 33 and 34. Route 33 has 20-minute service during peak periods and 60-minute service off-peak. Route 34 has 30-minute service during peak periods, and 60-minute service off-peak.

The roadside development along McLoughlin is typically commercial. On the west side of McLoughlin between the railroad overpass and River Road is a tavern and restaurant and an antique and upholstery shop. The east side between the overpass and River Road is presently undeveloped. The section between River Road and the south boundary of the development site is below the grade of the highway, which may tend to discourage development.

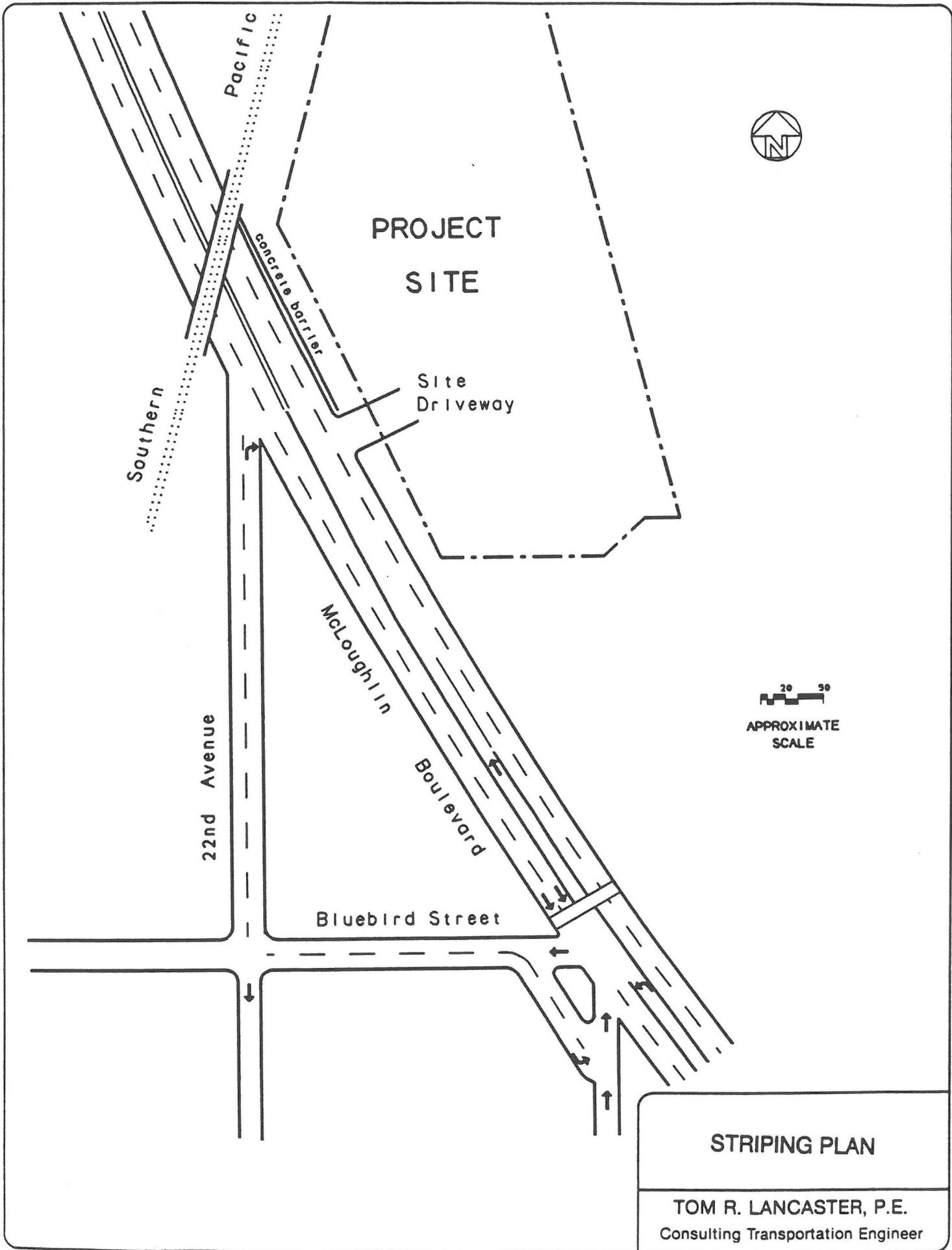
To the north of the overpass, on the west side of McLoughlin, is a sewage treatment plant. To the north of that is the downtown commercial area of Milwaukie.

The development parcel is presently zoned for single-family residential development. This could accommodate approximately 13 houses. The proposed new zoning would be for limited commercial development. This would permit office or retail development. Assuming that about 20 percent of the parcel could be occupied by retail space (reduced from the typical 25 percent because some of the parcel is covered by Kellogg Lake), about 20,400 square feet of retail space could be constructed under the proposed zoning.



SITE LOCATION

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer



PROJECT
SITE

Southern

Pacific

concrete barrier

Site
Driveway

McLoughlin
Boulevard

22nd Avenue

Bluebird Street



20 30
APPROXIMATE
SCALE

STRIPING PLAN

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer

TRIP GENERATION

The TRIP GENERATION manual does not provide trip generation estimates for the type of development that is proposed for this site. To estimate the number of trips that would be generated, the types of services to be offered by the proposed development were analyzed.

One aspect of the business will be boat sales. The sales area will be located within the main building. Initially, all boat sales will be on a consignment basis. It is possible that in the future, a boat dealership will be obtained. In any case, the boats offered for sale are expected to be relatively small, with a maximum length of about 22 feet. Boats of this size are typically pulled on a trailer by a car.

There will also be a boat repair shop. This will probably be in a two-bay garage located within the main building. There are no plans for a marina.

It is expected that the hours of operation will be from 9 AM to 6 PM Monday through Saturday. On Sunday the hours would probably be from noon to 6 PM. There is not expected to be a peak traffic hour, although boats would typically be brought in for repair during the morning hours. There will probably be about two employees plus the owner on the premises.

The owner estimates that on a typical weekday, there may be 10 to 15 customers arriving. Weekends are expected to be heavier, with 20 to 25 customers arriving per day. In addition, there would be some trips for deliveries of parts and supplies.

Assuming that there would be 20 customer arrivals per weekday, plus two employees and the owner, plus five miscellaneous deliveries, there would be a total of 28 arrivals and 28 departures per day, for a total of 56 trips per day. Assuming that 15 percent of the trips would occur during the evening peak traffic hour, there would be four entering and four exiting peak-hour trips from the site.

Under the proposed new zoning, it would be legally permissible to construct about 20,400 square feet of commercial retail space. It appears unlikely that such a development would be attracted to the site due to the prohibition of left turns into and out of the site, but it will be analyzed as a worst case situation.

Based on data in *TRIP GENERATION*, fourth edition, published by the Institute of Transportation Engineers, it is estimated that 20,400 gross square feet of retail area would generate about 2644 trips per weekday. During the evening peak traffic hour, there would be about 148 trips entering the site and 154 trips exiting the site. Of these trips, about 45 percent would be pass-by traffic, which are trips that presently exist on McLoughlin. The remaining 55 percent would be new trips added to McLoughlin or diverted to the site from other roadways.

An estimate was also made of the number of trips that would be generated under the presently permitted use of the property. Again based on the *TRIP GENERATION* manual, it is estimated that about 131 trips per weekday would be generated by 13 single-family dwelling units. There would be about eight entering trips and five exiting trips during the evening peak hour.

Although Tri-Met bus service is available on McLoughlin, the transit modal split is not likely to be significant for any of the three land uses which have been discussed. For this reason, no reduction in the trip generation estimates will be made for transit usage.

Summaries of the trip generation calculations for the housing and retail land uses are shown on the following two pages.

TRIP GENERATION CALCULATIONS

Land Use Code: 210
 Land Use: Single Family Detached Housing
 Variable: Dwelling Units

VARIABLE: 13

	AM PEAK HOUR			PM PEAK HOUR		
RATE	0.75			1		
	ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
DIRECT. DISTRB.	0.27	0.73	-	0.63	0.37	-
TRIPS	3	7	10	8	5	13

	WEEKDAYS			SATURDAY		
RATE	10.1			10.1		
	ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
DIRECT. DISTRB.	0.5	0.5	-	0.5	0.5	-
TRIPS	66	66	131	66	66	131

Source: TRIP GENERATION, 4th Edition

**TRIP GENERATION
Residential**

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer

TRIP GENERATION CALCULATIONS

Land Use Code: 820
 Land Use: Shopping Center
 Variable: Gross Leasable Area (1,000 sq ft)

VARIABLE: 20.4

	TOTAL VOLUME	PERCENTAGE ENTERING	ENTERING VOLUME	PERCENTAGE EXITING	EXITING VOLUME
Weekday	2644	50%	1322	50%	1322
AM Peak	67	70%	47	30%	20
PM Peak	302	49%	148	51%	154
Saturday	3429	50%	1714	50%	1714
Saturday Peak Hour	344	51%	175	49%	168
Sunday	4310	50%	2155	50%	2155

PASS-BY TRIPS: 45 Percent

Source: TRIP GENERATION, 4th Edition

**TRIP GENERATION
Retail**

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer

TRIP DISTRIBUTION

Under any of the existing and proposed land uses, the prohibition of left turns into and out of the site is likely to remain. For this reason, all trips entering the site will be from the south on McLoughlin, and all trips exiting the site will be to the north.

Southbound traffic on McLoughlin destined to the site could turn south onto 22nd Avenue, then east onto Bluebird Street, then north onto River Road, and then onto McLoughlin northbound through the traffic signal. Drivers must merge with traffic in the left lane on McLoughlin, then quickly change to the right lane. An alternative route would be to proceed south to the signal at Park Avenue, then west to River Road, then north on River Road. Some drivers will probably choose to turn around at other locations.

Traffic exiting the site destined to the south on McLoughlin could proceed north on McLoughlin, turn east on Washington, then north on Main Street, then west on Jefferson to enter McLoughlin at the traffic signal.

The out-of-direction travel required by the left-turn prohibitions will probably not discourage drivers destined to the particular business proposed for this site, but it may discourage drivers from patronizing general retail businesses on this site.

The following traffic flow diagrams show existing and projected traffic volumes at the site. Volumes are shown for each of the three analyzed land uses. No attempt was made to estimate volumes using alternative turn-around routes to and from the south. The diagrams include a reduction factor for McLoughlin traffic to reflect pass-by trips for the retail alternative. The traffic flow diagrams are as follows:

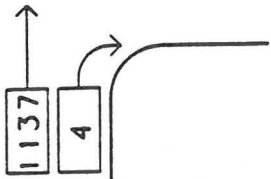
1. PM Peak: Existing plus Site Traffic
2. Daily: Existing plus Site Traffic



PROJECT SITE

BOAT SALES

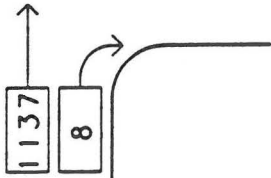
4



PROJECT SITE

RESIDENTIAL

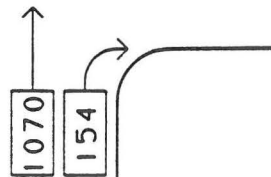
6



PROJECT SITE

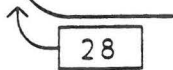
RETAIL

154



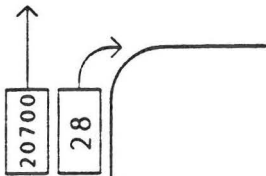
TRAFFIC VOLUMES
Existing + Site Traffic
PM Peak Hour

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer



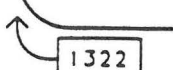
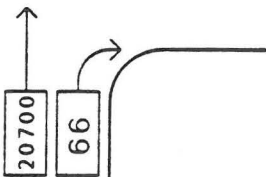
PROJECT
SITE

BOAT SALES



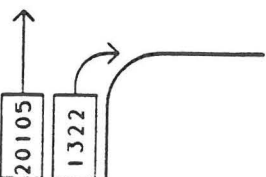
PROJECT
SITE

RESIDENTIAL



PROJECT
SITE

RETAIL



TRAFFIC VOLUMES
Existing + Site Traffic
Daily

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer

CAPACITY CALCULATIONS

To evaluate traffic conditions at the development site, a capacity analysis was made for the evening peak hour using existing traffic volumes on McLoughlin and projected volumes on the site driveway. The analysis was made for each of the land-use alternatives.

The only movement at the site driveway that is subject to capacity control is the right-turning exiting movement. The capacity analysis indicates that for both residential and boat sales uses of the property, the driveway would operate at level of service A during the evening peak hour. For retail use of the property, the driveway would operate at level of service B. The driveway was not evaluated for the morning peak period because neither the boat sales nor the retail uses would be in operation during the morning peak hour.

This analysis indicates that there would be no significant delays for exiting vehicles during the evening peak hour for any of the uses of the property. This conclusion is confirmed by field observations which indicate that there are large gaps in the northbound traffic flow created by upstream traffic signals.

OPERATIONAL ANALYSIS

Sight Distance

McLoughlin Boulevard forms a gradual curve in the vicinity of the development site. On the inside of the curve, south of the site, there are trees with branches extending across the shoulder to the edge of the traffic lane. These branches create a sight distance restriction for drivers attempting to exit the site. The available sight distance increases as the driveway location is moved toward the north.

The northernmost location for a site driveway is at the south end of the shoulder barrier on the south side of the railroad overpass. At this point, the sight distance to the south is about 480 feet. The measurement was made from a point ten feet from the edge of the traffic lane, and was made to a point in the right northbound traffic lane about four feet to the right of the lane line. The measurement was made when the leaves were on the leaves on the tree branches.

The AASHTO design manual requires a minimum sight distance of 400 feet for traffic moving at 45 mph. Another sight distance criterion, as suggested by the Highway Capacity Manual, is a minimum of a six-second travel time distance, which would be 396 feet. The available sight distance exceeds both of these criteria. This indicates that a driveway located at the south end of the shoulder barrier would meet the minimum safety requirements. However, to increase the level of driver comfort, it is recommended that the trees to the south of the site be trimmed as much as possible to maximize the available sight distance. In addition, tree trimming will permit use of the shoulder by pedestrians. The trees should be observed periodically (once per year) and retrimmed as necessary.

The sight distance to the north is restricted by the concrete piers of the railroad overpass. Although the sight distance to the north from the south end of the shoulder barrier was not measured, it is probably less than the required 400 feet. For this reason, it is not recommended that left turns from the site onto

McLoughlin southbound be permitted. Permitting left turns into the site from McLoughlin southbound is also not recommended due to the absence of a left-turn lane.

Driveway Design

Because the boats that will be sold or repaired on the site are expected to be no greater than 22 feet in length, and can be towed on a trailer by a car, the standard commercial driveway width of 30 feet should be adequate. However, the driveway radii should provide a minimum inside radius of ten feet and a minimum outside radius of 26 feet. These are the minimum turning radii for a car and trailer recommended by AASHTO.

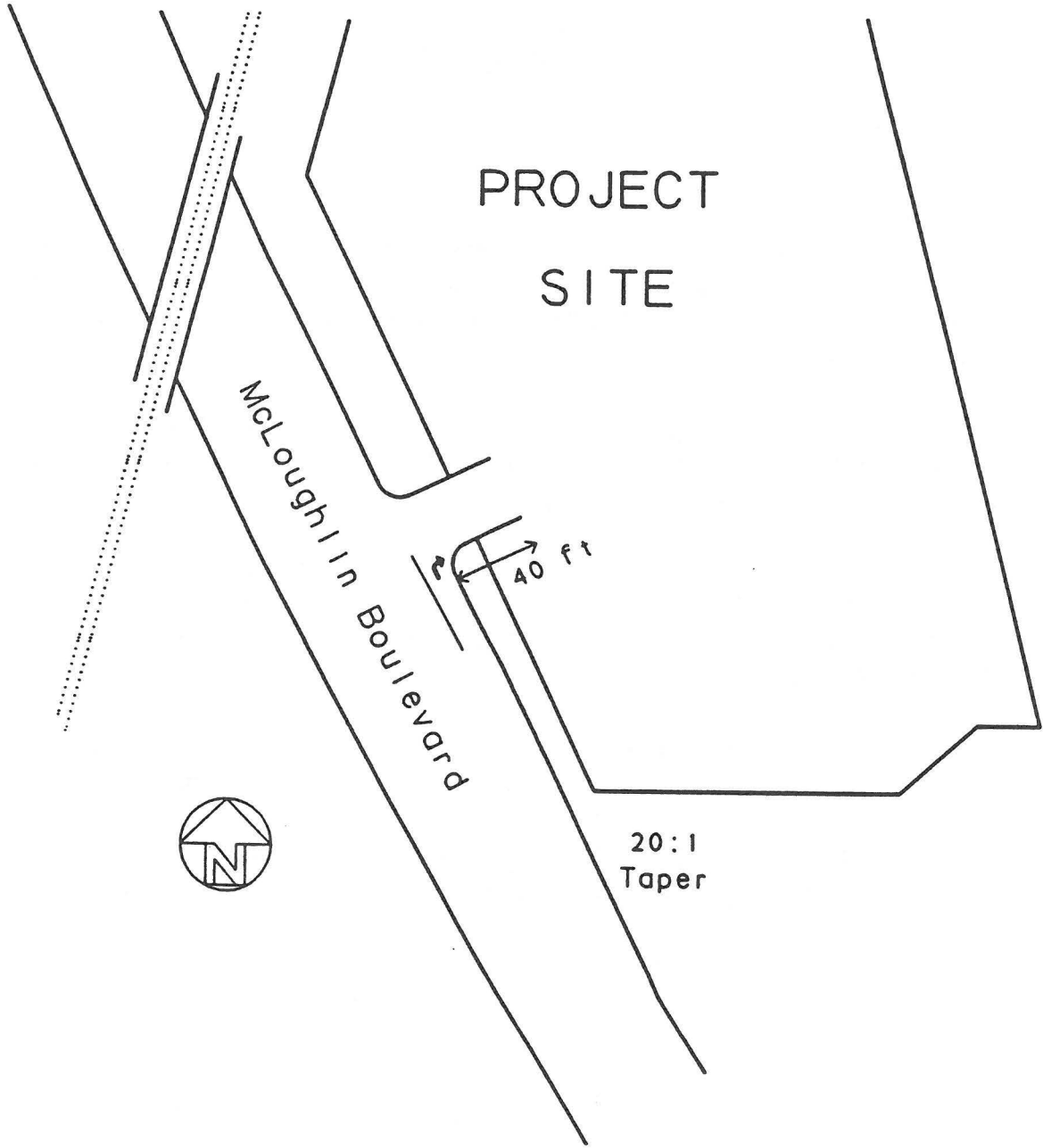
Because vehicles entering the site must decelerate to a very slow speed as they enter the driveway, and because of the high traffic speeds and restricted sight distance, a deceleration lane is recommended. The length of the full-width lane need not be greater than the length of one car and trailer (about 40 feet). The desirable taper rate would be 20 to one, but topographical constraints may require a somewhat greater rate.

An acceleration lane for vehicles exiting the site and turning north onto McLoughlin is not recommended. The shoulder barrier and the railroad overpass piers will not permit the widening that would be required for an acceleration lane.

Internal Circulation

A preliminary site plan is not yet available. However, when a plan is developed, the driveway should extend a sufficient distance onto the site to prevent entering traffic from backing onto McLoughlin. A minimum distance of 40 feet without interference from other on-site traffic should be adequate. This would create space for one car and trailer in the driveway plus a car and trailer on the deceleration lane without interfering with McLoughlin traffic.

PROJECT
SITE



DRIVEWAY DESIGN

TOM R. LANCASTER, P.E.
Consulting Transportation Engineer

SUMMARY

1. The proposed boat sales and repair development would require a zone change. The existing permitted land use is residential. A land-use change to limited commercial to accommodate the proposed development would also permit retail development.

2. Traffic exiting a boat sales and repair development would operate at level of service A. Residential development traffic would also operate at level A, and a retail development would operate at level B.

3. If the site driveway is located as far to the north as possible, the sight distance to traffic approaching from the south will be adequate. It is recommended, however, that trees south of the site be trimmed to increase the existing sight distance.

4. Due to the limited sight distance, the high speeds, and high traffic volumes, a deceleration lane for traffic entering the site is recommended.

5. Removal of the existing median island to permit left turns into and out of the site driveway is not recommended due to restricted sight distance to the north.

APPENDIX

LEVEL OF SERVICE

Level of service is used to describe the quality of traffic flow. Levels of service A to C are considered good, and rural roads are usually designed for level of service C. Urban streets are typically designed for level of service D. Level of service E is considered to be the limit of acceptable delay. Here is a more complete description of levels of service:

Level of service A: Very low delay at intersections, with all traffic signal cycles clearing and no vehicles waiting through more than one signal cycle. On highways, low volume and high speeds, with speeds not restricted by other vehicles.

Level of service B: Operating speeds beginning to be affected by other traffic; short traffic delays at intersections. Higher average intersection delay than for level of service A resulting from more vehicles stopping.

Level of service C: Operating speeds and maneuverability closely controlled by other traffic; higher delays at intersections than for level of service B due to a significant number of vehicles stopping. Not all traffic signal cycles clear the waiting vehicles. This is the recommended ideal design standard.

Level of service D: Tolerable operating speeds; long traffic delays occur at intersections. The influence of congestion is noticeable. At traffic signals many vehicles stop, and the proportion of vehicles not stopping declines. The number of signal cycle failures, for which vehicles must wait through more than one signal cycle, are noticeable.

Level of service E: Restricted speeds, very long traffic delays, and traffic volumes near capacity. Flow is unstable so that any interruption, no matter how minor, will cause queues to form and service to deteriorate to level of service F. Traffic signal cycle failures are frequent occurrences.

Level of service F: Extreme delays, resulting in long queues which may interfere with other traffic movements. There may be stoppages of long duration, and speeds may drop to zero. There may be frequent signal cycle failures. Level of service F will typically result when vehicle arrival rates are greater than capacity. It is considered unacceptable to most drivers.

LOCATION: McLoughlin at driveway

NAME: Boat Sales

HOURLY VOLUMES

N>

Major street: McLoughlin

N= 2 <---V5--- 0
 Grade 1137---V2---> v---V4--- 0
 0% 4---V3---v N= 0

Date of Counts: 1989
 Time Period: PM Peak
 Approach Speed: 45
 PHF: 0.85
 Population: 1000000

VOLUMES IN PCPH

<---V5--- 0
 ---V2---> v---V4--- 0
 ---V3---v

< | >
 V7 | V9
 0 | 4

VOLUME ADJUSTMENTS

Movement no.	2	3	4	5	7	9
Volume (vph)	1137	4	0	0	0	4
Vol (pcph), see Table 10.1	XXXXXXXX	XXXXXXXX	0	XXXXXXXX	0	4

STEP 1 : RT From Minor Street /-> V9

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 Actual Capacity, Cm

1/2 V3+V2= 2 + 569 = 571 vph(Vc9)
 Tc= 6 secs (Tab.10.2)
 Cp9= 500 pcph (Fig.10.3)
 Cm9=Cp9= 500 pcph

STEP 2 : LT From Major Street v-- V4

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 % of Cp utilized and Impedance Factor
 Actual Capacity, Cm

V3+V2= 4 + 1137 = 1141 vph(Vc4)
 Tc= 5 secs (Tab.10.2)
 Cp4= 332 pcph (Fig.10.3)
 (V4/Cp4)x100= 0% P4= 1
 Cm4=Cp4= 332 pcph

STEP 3 : LT From Minor Street <- \ V7

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 Actual Capacity, Cm

1/2 V3+V2+V5+V4=
 2 + 1137 + 0 + 0 = 1139 vph(Vc7)
 Tc= 7.5 secs (Tab.10.2)
 Cp7= 125 pcph (Fig.10.3)
 Cm7=Cp7xP4= 125 x 1 = 125 pcph

SHARED LANE CAPACITY SH = (V7+V9)/((V7/Cm7)+(V9/Cm9)) if lane is shared

MOVEMENT	V (PCPH)	CM (PCPH)	CSH (PCPH)	CR (CM-V)	CR (CSH-V)	LOS CM	LOS CSH
7	0	125	500	125	496	D	A
9	4	500	500	496	496	A	A
4	0	332		332		B	

LOCATION: McLoughlin at driveway

NAME: Residential

DAILY VOLUMES

Major street: McLoughlin

N>

N= 2
 Grade 1137---V2---> <---V5--- 0
 0% 8---V3---v v---V4--- 0
 N= 0

Date of Counts: 1989
 Time Period: PM Peak
 Approach Speed: 45
 PHF: 0.85
 Population: 1000000

< | >
 V7 | V9 | X STOP
 0 | 5 | YIELD

Minor Street: driveway
 Grade: 0%
 N= 1

VOLUMES IN PCPH

---V2---> <---V5---
 ---V3---v v---V4--- 0
 < | >
 V7 | V9
 0 | 6

VOLUME ADJUSTMENTS

Movement no.	2	3	4	5	7	9
Volume (vph)	1137	8	0	0	0	5
Vol (pcph), see Table 10.1	XXXXXXX	XXXXXXX	0	XXXXXXX	0	6

STEP 1 : RT From Minor Street

/-> V9

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 Actual Capacity, Cm

1/2 V3+V2= 4 + 569 = 573 vph(Vc9)
 Tc= 6 secs (Tab.10.2)
 Cp9= 499 pcph (Fig.10.3)
 Cm9=Cp9= 499 pcph

STEP 2 : LT From Major Street

v-- V4

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 % of Cp utilized and Impedance Factor
 Actual Capacity, Cm (Fig.10.5)

V3+V2= 8 + 1137 = 1145 vph(Vc4)
 Tc= 5 secs (Tab.10.2)
 Cp4= 330 pcph (Fig.10.3)
 (V4/Cp4)x100= 0% P4= 1
 Cm4=Cp4= 330 pcph

STEP 3 : LT From Minor Street

<- \ V7

Conflicting Flows, Vc
 Critical Gap, Tc
 Potential Capacity, Cp
 Actual Capacity, Cm

1/2 V3+V2+V5+V4=
 4 + 1137 + 0 + 0 = 1141 vph(Vc7)
 Tc= 7.5 secs (Tab.10.2)
 Cp7= 125 pcph (Fig.10.3)
 Cm7=Cp7xP4= 125 x 1 = 125 pcph

SHARED LANE CAPACITY

SH = (V7+V9)/((V7/Cm7)+(V9/Cm9)) if lane is shared

MOVEMENT	V(PCPH)	CM(PCPH)	CSH(PCPH)	CR (CM-V)	CR (CSH-V)	LOS CM	LOS CSH
7	0	125	499	125	493	D	A
9	6	499	499	493	493	A	A
4	0	330		330		B	

LOCATION: McLoughlin at driveway

NAME: Retail

HOURLY VOLUMES

Major street: McLoughlin

N= 2
 Grade 1070---V2---> <---V5--- 0
 0% 148---V3---v v---V4--- 0
 N= 0

Date of Counts: 1989
 Time Period: PM Peak
 Approach Speed: 45
 PHF: 0.85
 Population: 1000000

<	V7	V9	X STOP YIELD
	0	154	

Minor Street: driveway
 Grade 0%
 N= 1

VOLUMES IN PCPH

<---V5--- 0
 ---V2---> v---V4--- 0
 ---V3---v

<	V7	V9
	0	154

VOLUME ADJUSTMENTS

Movement no.	2	3	4	5	7	9
Volume (vph)	1070	148	0	0	0	154
Vol (pcph), see Table 10.1	XXXXXXXX	XXXXXXXX	0	XXXXXXXX	0	154

STEP 1 : RT From Minor Street

/-> V9

Conflicting Flows, Vc	1/2 V3+V2= 74 + 535 = 609 vph(Vc9)
Critical Gap, Tc	Tc= 6 secs (Tab.10.2)
Potential Capacity, Cp	Cp9= 474 pcph (Fig.10.3)
Actual Capacity, Cm	Cm9=Cp9= 474 pcph

STEP 2 : LT From Major Street

v-- V4

Conflicting Flows, Vc	V3+V2= 148 + 1070 = 1218 vph(Vc4)
Critical Gap, Tc	Tc= 5 secs (Tab.10.2)
Potential Capacity, Cp	Cp4= 299 pcph (Fig.10.3)
% of Cp utilized and Impedance Factor	(V4/Cp4)x100= 0% P4= 1
Actual Capacity, Cm	Cm4=Cp4= 299 pcph

STEP 3 : LT From Minor Street

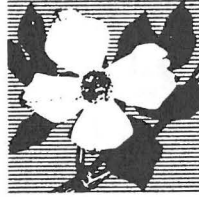
<- \ V7

Conflicting Flows, Vc	1/2 V3+V2+V5+V4=
	74 + 1070 + 0 + 0 = 1144 vph(Vc7)
Critical Gap, Tc	Tc= 7.5 secs (Tab.10.2)
Potential Capacity, Cp	Cp7= 124 pcph (Fig.10.3)
Actual Capacity, Cm	Cm7=Cp7xP4= 124 x 1 = 124 pcph

SHARED LANE CAPACITY SH = (V7+V9)/((V7/Cm7)+(V9/Cm9)) if lane is shared

MOVEMENT	V(PCPH)	CM(PCPH)	CSH(PCPH)	CR (CM-V)	CR (CSH-V)	LOS CM	LOS CSH
7	0	124	474	124	320	D	B
9	154	474	474	320	320	B	B
4	0	299		299		C	

CITY OF MILWAUKIE



January 24, 1990

Files #CPA-89-02, ZC-89-02,
CU-89-06, CU-89-07

NOTICE OF PUBLIC HEARING

To: Property Owners and Residents
On: Tuesday, February 13, 1990, beginning at 6:30 p.m.
At: Milwaukie Center
5440 S.E. Kellogg Creek Dr.

The Milwaukie Planning Commission will consider a request by Dick Close (applicant) and David F. and Sharon F. Greene (property owners) for approval of a Comprehensive Plan Map amendment from Moderate Density Residential to Commercial designation (CPA-89-02), a rezone from R-5 to C-L (ZC-89-04), a conditional use in the C-L Zone for boat sales and repair (CU-89-06), and a Willamette Greenway conditional use permit (CU-89-07). The property is located at McLoughlin Blvd. and Kellogg Lake (Tax Lots 2800, 3000, and 3100 of Tax Map T1S, R1E, 36CB).

The site is shown on the reverse of this letter.

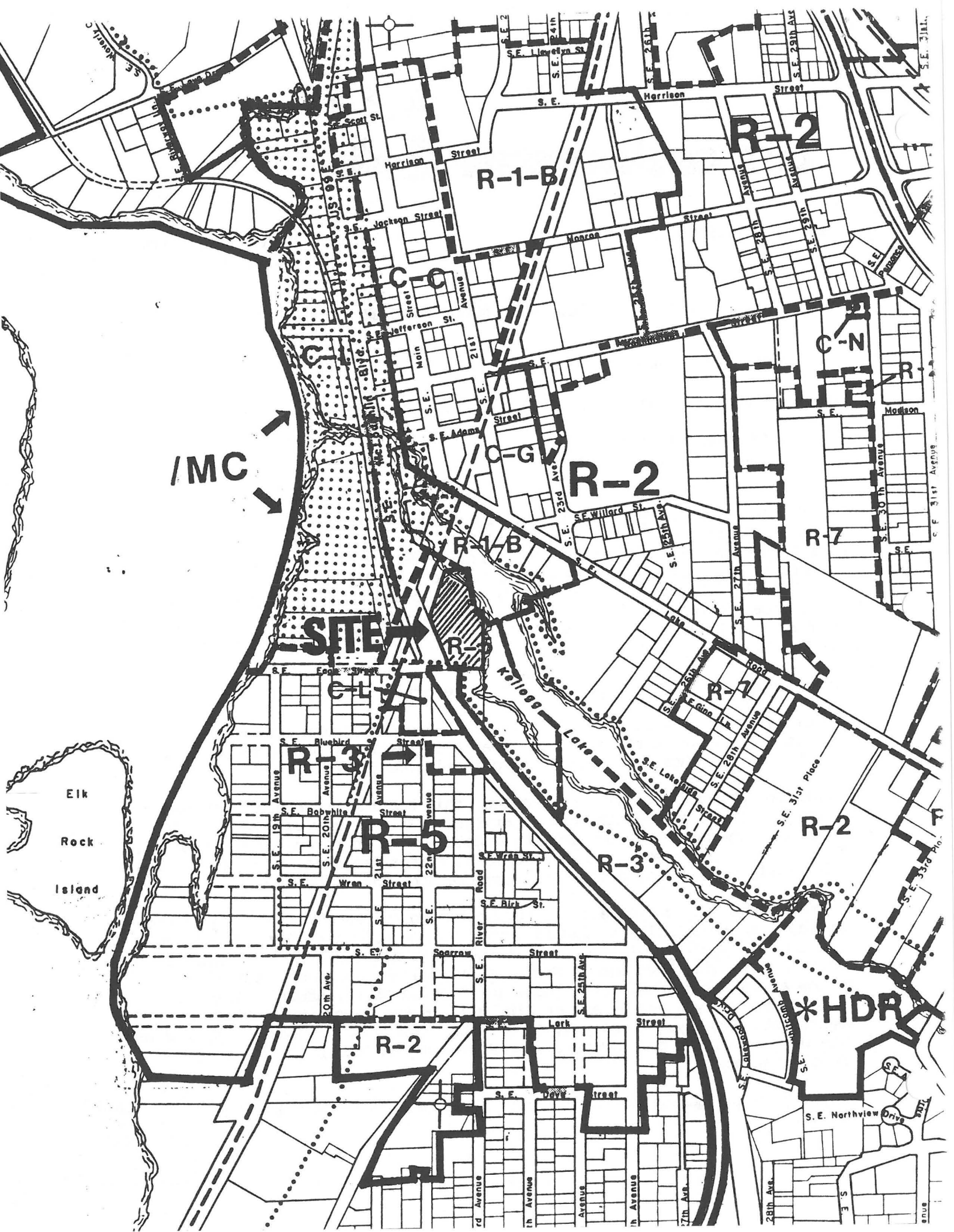
The criteria which will be used by the Planning Commission in reaching a decision are shown on the attached sheet(s). Testimony and comments must be directed at this hearing towards the criteria identified.

Interested persons are invited to attend this hearing or to submit comments in writing prior to the meeting time. Written testimony may be submitted in advance to the Community Development Department or in person at the hearing. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak following the applicant's testimony.

A copy of the application and all documents and evidence relied upon by the applicant are available for public review at the Community Development Department located at City Hall. Copies of these can be provided at reasonable cost. A Community Development Staff Report will be available for public review at the Ledding Library, local information shelf, after 5:00 p.m., Tuesday, February 6, 1990, and at City Hall in the Community Development Department, Tuesday, February 6, 1990, after 4:00 p.m. Copies of applicable City ordinances and the Comprehensive Plan are also available for review at these locations.

If you have any questions, please call the Community Development Dept. 659-5171.

EXHIBIT #	10
DATE	2/13/90
SUBMITTED BY	Staff
	4992
RECEIVED	CPA 89-02 et al



Section 9.03 - Zoning Map Amendment Criteria (from p. 87 Zoning Ordinance)

The following criteria will be applied to a proposal for change to the Zoning Map. Two conditions must be met before upzoning may be approved. If conditions are completely met, the rezoning request will be approved. The conditions are:

1. The proposed rezoning must be to the maximum Comprehensive Map designation, unless proof is provided by the applicant that development at full intensity is not possible due to physical conditions (such as topography, street patterns, public service, existing lot arrangements, etc.)
2. Public facilities to be on the site are adequate to serve the proposed land uses allowed by the designations, are presently available or can be reasonably made available consistent with the Comprehensive Plan Public Facilities Policies, by the times the proposed use qualifies for a certificate of occupancy or completion from the Building Department. For the purpose of this requirement, public facilities include:
 - a. Water service
 - b. Sanitary sewers
 - c. Storm sewers
 - d. Streets
 - e. Police and fire protection
 - f. Schools

Where public utilities are required to be installed or improved by the applicant, a performance contract or bond, assuring their installation to specified standards, is required. (Added by 1465 - 6 - 80)

Comprehensive Plan Amendment Criteria (from pp. 4-5 Comprehensive Plan)

When considering proposed modifications to the Comprehensive Plan, the city will evaluate the proposals based on the following criteria:

- * Conformance with the Comprehensive Plan goals, policies and spirit
- * Public need for the change
- * Public need is best satisfied by this particular change
- * The change will not adversely affect the health, safety and welfare of the community

WILLAMETTE GREENWAY CRITERIA

5. Criteria. The following shall be taken into account in the consideration of a conditional use:
- a. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan.
 - b. Compatibility with the scenic, natural and recreational character of the River.
 - c. Protection of views.
 - d. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable.
 - e. Public access to and along the River, to the greatest possible degree, by appropriate legal means.
 - f. Emphasis on water-oriented and recreational uses.
 - g. Maintenance and increase of views between the Willamette River and downtown.
 - h. Protection of the natural environment according to regulations in the Environmental Protection Ordinance.
 - i. Advice and recommendations of the Design Review Committee, as appropriate.

from Section 6. Conditional Uses

2.. APPLICANT'S RESPONSIBILITIES:

At the public hearing the Applicant shall provide evidence that all requirements of this ordinance relative to the proposed use are satisfied, and demonstrate that the proposed use also satisfies the following criteria:

- a. The use meets the requirements of a Conditional Use in the zone currently applied to the site.
- b. The use meets the standards for the underlying zone.
- c. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.
- d. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.
- e. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

No. CPA-89-02

COMPREHENSIVE PLAN MAP AMENDMENT APPLICATION

Fee \$ _____

This request will be heard at a public hearing
before the Milwaukie Planning Commission.

Date : _____

APPLICANT:

Name Dick Close
Address 555 NW Riverview Pl.
City Gresham State Or Zip 97030 Phone 665-2298

PROPERTY OWNER:

Name David F. and Sharon F. Greene
Address 11610 S. 5. 116th Ave.
City Tigard State Or Zip 97223 Phone 639- 7509(H) 829-4365(W)
Signature [Signature]

SITE LOCATION:

McLoughlin Blvd. @ RXR near (cross street) River Rd.

LEGAL DESCRIPTION: Tax Map 1 1E 36CB Tax Lot(s) 3000, 3100, & part 2800

PRESENT ZONE:

Low Density & Office REQUESTED ZONE: Light Commercial (Conditional Use)

PRESENT COMPREHENSIVE PLAN DESIGNATION:

Low Density & Office

REQUESTED COMPREHENSIVE PLAN DESIGNATION:

Light Commercial (CU)

EXISTING LAND USE:

vacant PROPOSED LAND USE Boat sales

The applicant shall submit 5 copies of the following information:

1. Site Plan drawn to scale including: existing and proposed uses, structures, easements, utilities (sewer, water, storm), lot dimensions and area and structures on adjacent lots which may be affected. If the Site Plan is larger than 8 1/2" x 11" then 10 copies are necessary.
2. Narrative including:
 - a. description of request.
 - b. indicate how request meets the appropriate Comprehensive Plan goals and policies.
 - c. indicate how public need is best satisfied by this change.
 - d. indicate how this change will not adversely affect the health, safety and welfare of the community.
 - e. indicate that either the existing public facilities are adequate for the proposed density or that they can be reasonably made available.

If the signature of the property owner is not available, then the applicant must have written authority to apply on his or her behalf.

I CERTIFY that the information contained in the application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application. Signature: _____

EXHIBIT #	<u>11</u>
DATE	<u>4/3/90</u>
SUBMITTED BY	<u>Applicant</u>
RECEIVED	<u>CPA-8902 dca</u>

No. 2009-04

ZONE CHANGE APPLICATION

Fee \$ _____

**This request will be heard at a public hearing
before the Milwaukie Planning Commission.**

Date : _____

APPLICANT: Name Dick Close
Address 555 N.W. Riverview Pl.
City Gresham State Or Zip 97030 Phone 665-2298

PROPERTY OWNER: Name David F. and Sharon F. Greene
Address 11610 S.W. 116th Ave
City Tigard State Or Zip 97223 Phone 639-7509(H) 829- 4365(W)
Signature *David F. Greene*

SITE LOCATION: McLoughlin Blvd. @ RXR near (cross street) River Rd.
LEGAL DESCRIPTION: Tax Map 1 1E 36CB Tax Lot(s) 3000, 3100, Part 2800

PRESENT ZONE R-5 & Office **REQUESTED ZONE** Light Commercial (CU)

EXISTING LAND USE: Vacant **PROPOSED LAND USE:** Boat sales & repair

The applicant shall submit 5 copies of the following information:

1. Site Plan drawn to scale including: existing and proposed uses, structures, easements, utilities (sewer, water, storm), lot dimensions and area and structures on adjacent lots which may be affected. If the Site Plan is larger than 8 1/2" x 11" then 10 copies are necessary.
2. Narrative including:
 - a. description of request.
 - b. indicate how request meets the appropriate Comprehensive Plan goals and policies.
 - c. indicate that either the existing public facilities are adequate for the proposed density or that they can be reasonably made available.

If the signature of the property owner is not available, then the applicant must have written authority to apply on his or her behalf.

I CERTIFY that the information contained in the application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application. Signature: _____

Milwaukie Planning Commission
10722 S.E. Main Street
Milwaukie, OR 97222
Phone: (503) 659-5171

CONDITIONAL USE APPLICATION

FOR OFFICE USE ONLY

No. C4-89-06

Fee \$ _____

APPLICATION IS TO BE SUBMITTED
IN BLACK PEN OR TYPEWRITTEN ONLY

PLEASE READ CAREFULLY. Application will be processed when all questions are answered and accurate site plan is submitted in accordance with Planning Department guidelines. If you have questions, contact the Planning Department at 659-5171.

I HEREBY REQUEST A CONDITIONAL USE on property described below. With this application, I am furnishing _____ copies of a legibly drawn SITE PLAN showing exact dimensions and arrangement of the proposal as well as elevation drawings and any other drawings, topographic surveys, photographs or other material essential to the understanding of the proposed use and its relationship to the surrounding properties as may be required by staff and/or Planning Commission. On the reverse side of this application, I am addressing the criteria for granting the CONDITIONAL USE request.

APPLICANT(S): (Print) David F. and Sharon F. Greene Date: NOVEMBER 7, 1989
639-7509(H)
Mailing Address: 11610 SW. 116th Ave. Tigard, Or ZIP 97223 Phone: 829-4365(W)

PROPERTY OWNER(S) (Print) As above Phone: _____
Mailing Address: _____ ZIP _____

REQUEST: To allow use of this property for boat sales and repair

Zone Classification: Low density & office Comp Plan Designation: Low Density and Office

Legal Description: Township 1S Range 1E Section 36CB Tax Lot(s) 3000, 3100, part 2800
(Submit metes and bounds description upon request)

Property Location: McLoughlin Blvd. E. of RXR near (cross street) River Rd.

The Planning Commission may attach conditions and restrictions to any Conditional Use approved. The setbacks and limitations of the underlying district shall be applied to the Conditional Use, unless specifically varied by the Commission. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds and other conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon adjoining properties which may result by reason of a Conditional Use being allowed.

* If the applicant is not the property owner, written authorization from the property owner is necessary to process this application.

CONDITIONAL USE

Please demonstrate that the proposed use satisfies the following criteria:

- A. The use meets the requirements of a Conditional Use in the zone currently applied to the site.
- B. The use meets the standards for the underlying zone.
- C. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.
- D. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.
- E. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Date of Meeting: _____

I CERTIFY that the information contained in this application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application.

Signature W. O. Thomas Date: 11-7-89

FOR OFFICE USE

Approved: _____ Denied: _____ Continued: _____ Appealed: _____

Milwaukie Planning Commission
10722 S.E. Main Street
Milwaukie, OR 97222
Phone: (503) 659-5171

GREENWAY
CONDITIONAL USE APPLICATION

FOR OFFICE USE ONLY
No. CY-89-07
Fee \$ _____

APPLICATION IS TO BE SUBMITTED
IN BLACK PEN OR TYPEWRITTEN ONLY

PLEASE READ CAREFULLY. Application will be processed when all questions are answered and accurate site plan is submitted in accordance with Planning Department guidelines. If you have questions, contact the Planning Department at 659-5171.

I HEREBY REQUEST A CONDITIONAL USE on property described below. With this application, I am furnishing _____ copies of a legibly drawn SITE PLAN showing exact dimensions and arrangement of the proposal as well as elevation drawings and any other drawings, topographic surveys, photographs or other material essential to the understanding of the proposed use and its relationship to the surrounding properties as may be required by staff and/or Planning Commission. On the reverse side of this application, I am addressing the criteria for granting the CONDITIONAL USE request.

APPLICANT(S): (Print) David F. and Sharon F. Greene Date: NOVEMBER 7, 1989
Mailing Address: 11610 S.W. 116th Ave, Tigard, Or ZIP 97223 Phone: 639-7509 (H)
829-4365(W)

* PROPERTY OWNER(S) (Print) As above Phone: _____
Mailing Address: _____ ZIP _____

REQUEST: This request is to operate a boat sales and service from this site

Zone Classification: R-5& Office Comp Plan Designation: Low Density & Office

Legal Description: Township 1S Range 1E Section 36CB Tax Lot(s) 3000, 3100, & Part 2800
(Submit metes and bounds description upon request)

Property Location: McLoughlin Blvd E of RXR near (cross street) River Rd.

The Planning Commission may attach conditions and restrictions to any Conditional Use approved. The setbacks and limitations of the underlying district shall be applied to the Conditional Use, unless specifically varied by the Commission. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds and other conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon adjoining properties which may result by reason of a Conditional Use being allowed.

* If the applicant is not the property owner, written authorization from the property owner is necessary to process this application.

GREENWAY
CONDITIONAL USE

Please demonstrate that the proposed use satisfies the following criteria:

5. Criteria. The following shall be taken into account in the consideration of a conditional use:
- a. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan.
 - b. Compatibility with the scenic, natural and recreational character of the River.
 - c. Protection of views.
 - d. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable.
 - e. Public access to and along the River, to the greatest possible degree, by appropriate legal means.
 - f. Emphasis on water-oriented and recreational uses.
 - g. Maintenance and increase of views between the Willamette River and downtown.
 - h. Protection of the natural environment according to regulations in the Environmental Protection Ordinance.
 - i. Advice and recommendations of the Design Review Committee, as appropriate.
6. Setbacks. On a case-by-case basis, uses that are not water dependent or water-related shall be evaluated according to criteria of Subsection 3.19.5 above so that they are directed away from the river. Existing and proposed uses that are water-dependent and water-oriented may be permitted near or at the water's edge subject to review of criteria in Subsection 3.19.5 above. (Added by 1465 - 6 - 80)

Date of Meeting: _____

I CERTIFY that the information contained in this application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application.

Signature *David L. Lawrence* Date: 11-7-89

FOR OFFICE USE

Approved: _____ Denied: _____ Continued: _____ Appealed: _____

CITY OF MILWAUKIE



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

February 13, 1990

To: Milwaukie Planning Commission
Thru: *MC* Maggie Collins, Community Development Director
From: Dave Krogh, Assistant Planner *Dave*
Re: Sign Request for Milwaukie Christian Church

This matter was continued from January 23, 1990. Please refer to your staff memo for that date.

Staff has informed the Applicant of the continuance and of concerns raised by the Commission on January 23. Please refer to the attached letter for your review.

The Applicant or a representative will be in attendance on February 13 to answer questions.

Although a consideration item does not require neighbor notice, actions of the Commission for consideration items are subject to appeal to the City Council following Section 10.02 of the Zoning Ordinance. The Commission should, therefore, follow normal voting procedures for action on this consideration item.

Exhibit:

1. Letter to Steve Burleson, dated January 30, 1990.

CITY OF MILWAUKIE



January 30, 1990

Steve Burleson
Oregon Sign Co.
4644 S.E. 17th Ave.
Portland OR 97202

Re: Sign Proposal for Milwaukie Christian Church

Dear Steve:

This is in response to our telephone conversation last Friday (January 26). As I indicated, the Planning Commission reviewed your sign proposal for Milwaukie Christian Church on January 23 and made the following observations:

1. The proposed new sign (utilizing the existing brick pedestal) appears to be too high (7 1/2 ft. above grade). A sign this high seems out of character with the residential nature of the area. The brick base should be lowered by (at least) half.

The Commission has not yet indicated any concerns over the sign face or proposed lighting. (The lighting must be on a timer as per Section 3.01.4 of the City Sign Ordinance and must be "off" between the hours of midnight and 7:00 a.m.)

2. The Commission generally felt that the other monument sign already in place (with carved wood face) could remain in its present location.

The Commission indicated that they will take action on your request at their next meeting on February 13, 1990.

In addition, at your request I contacted Planning Commission Chair John Littlehailes to clarify the intent of the Commission in this matter. Mr. Littlehailes indicated the Commission's observations (from their January 23 meeting) should not be construed as reflecting what their final decision will

EXHIBIT #	1
DATE	2/13/90
SUBMITTED BY	Staff
	Zapp
RECEIVED	Sign Review - Milw. Christian Church

Letter Dave/Burleson

Re: Sign Proposal for Milwaukie Christian Church
January 30, 1990

be. He fully anticipated additional discussion will occur prior to a Commission decision on the proposed sign. Mr. Littlehales suggested your attendance (or someone from the church) at their February 13 meeting would be helpful to the Commission in dealing with questions regarding the proposed sign.

Please feel free to contact me if you have questions regarding the above.

Sincerely,

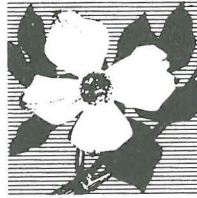
Dave Krogh mit

Dave Krogh
Assistant Planner

DK/mgh

cc: Maggie Collins, Community Development Director
Planning Commission members
Milwaukie Christian Church, 5197 S.E. King Rd.

CITY OF MILWAUKIE



*****MEMORANDUM*****

COMMUNITY DEVELOPMENT DEPARTMENT
February 13, 1990

To: Milwaukie Planning Commission
From: *MC* Maggie Collins, Community Development Director
Re: Summary of Comments - METRO 1990 Regional Growth Conference,
January 10, 1990

The Metro Urban Growth Boundary involves three counties, 24 cities, and over 60 special districts in regional growth management policies and actions. Milwaukie plays its role as one of the regional entities.

Attached is my summary of remarks by key speakers at METRO's January 10th Conference. The theme was "Planning of a Livable Future: Growth Strategies for the 21st Century."

MC/jpg

Attachment

SUMMARY OF COMMENTS

FROM "Planning a Livable Future: Growth Strategies for the 21st Century"

METRO 1990 Regional Growth Conference — January 10, 1990

Conference Speakers

1. **John DeGrove**, Director, Florida Atlantic University/Florida International University Joint Center for Environmental and Urban Problems

"Growth management" now translates to preservation of quality of life. This seems apparent in the "second wave" of statewide land use activity occurring in various parts of the country. The first wave of adopted state programs (Florida, Colorado, Oregon, Hawaii) were driven by concern for the environment. States now involved in establishing a second wave of statewide programs focus on a desirable quality of life package. Second wave programs also appear to add "pay as you grow" components.

Financing for all state mandated land use programs is the biggest concern across the country. New EPA regulations will heavily impact all jurisdictions in the future, including Oregon. Having not paid enough attention to how to finance growth in the past, Oregon now finds itself in the unenviable position of carrying a heavy backlog of infrastructure problems into the 90's and beyond. Other states, in reviewing the efforts of "pioneer land use states" like Oregon, have concluded that effective land use programs must carry a pay-as-you-grow mechanism, because simply stated, if you don't pay, the place will be a mess.

Another concept gaining popularity nationwide is: growth management protects a jurisdiction against irresponsible actions from neighbors and state agencies. On the other hand, one still hears several "red herring" arguments against land use planning, the most popular being:

- (1) We can't do this because we don't have home rule;
- (2) Land use control is an invasion of private property rights;
- (3) Land use programs work against provision of affordable housing; and
- (4) Land use control produces negative economic impacts.

Concerning the METRO planning process, it is important to build new consensus; set visions; undertake strategic planning; and do it!

Florida is now working through a different approach to its original planning laws set up in the early 70's. Now the keystone for local responsibilities and state overview is "concurrency". Concurrency describes a land management system where new development infrastructure is paid for and built as approval is given. Also, local jurisdictions have responsibilities to address backlog infrastructure needs. Local governments establish service levels, and new development may not "further degrade" desired and designated service levels. If a development proposal does this, the appropriate permits can be denied. The State also has set up five water management districts with several intra-jurisdictional water management responsibilities.

It is important to note that METRO's desired compact urban form may be in jeopardy. Underdevelopment of the outer fringe should be carefully monitored, for it has a propensity to cause development leapfrogging. The exception lands around the METRO UGB pose a threat to desirable urban forms in this region.

2. **Arnold Cogan**, Cogan, Sharpe, Cogan and former Director of the Department of Land Conservation and Development

METRO is the only regional government in the country whose governing board is elected. Today, there are over 1.3 million people in the METRO region; 1990 forecasts are for that to reach 1.4 million. METRO's original UGB was approved in 1979. Since that time, only one percent additional land has been added through amendments to the Boundary. The Boundary itself affects 24 cities, 3 counties and over 60 special districts.

Several observations can be made about the METRO UGB at this time:

- (1) Little public support exists for increasing densities within the boundary;
- (2) There is more than a little proliferation of large lot development outside the UGB; and
- (3) Washington County contains a reasonably large amount of buildable land for future growth accommodation.

In the series of local workshops sponsored by METRO before this Conference, the main issues that emerged were concerns about affordable housing; location of housing close to jobs versus a regional framework in which to allocate both employment spots and housing; and concerns about how well we are doing in providing multimodal transportation options.

Other concerns expressed quite often were maintaining a sense of certainty by consistent growth management actions; retaining the sense of place that is the Portland Metropolitan region; providing room for everyone to live and work here who wants to; and involving the community in ongoing programs and activities.

3. **Mike Ragsdale**, President, METRO Council and Vice-President, Grubb & Ellis

A balance will need to be struck between the types of second generation land use updates undertaken in the METRO region and the "certainty" principle. New businesses locating in the region often cite the factor of knowing who their neighbors are going to be as one of their key locational factors. The other side of this issue is continued questioning about residential transition, how dense it is, and where it occurs. Along with these two items is the continued regulatory inconsistencies between jurisdictions.

As we move ahead, we will need to acquire more sophistication in the ways we tie transportation and land use planning together. Another issue to be addressed consists of new housing problems: those of housing needs for single parents, who are usually renters and need affordable child care; and the location of affordable housing nearer work centers. METRO should develop and deliver a strategy on these.

Thus far, the land use management system in the METRO region has not established a policy about the limited amount of land available for retail and large (1,000 acre) developments. This is an area that METRO needs to address. METRO should also re-examine commercial mixes and industrial land types to assure that availability is matched as well as it can be to marketplace options. These issues maybe point to revisiting Goal 9 as well.

Practitioners of regional policies need to constantly think about daily actions and decisions and their implications. In this way, we in the METRO region will continue to have a growth management framework that works, and is visionary at the same time.

4. **Henry Richmond**, Director, 1000 Friends of Oregon

Here are some questions we should be asking ourselves:

1. Will the UGB process continue to be managed in a careful, honest way? At this time, METRO enjoys an excellent quality of administration.

2. Will METRO undertake to develop and implement a greenbelt concept? Will we maintain the current land base? Will we revisit the METRO housing rule?
 3. How will we address the nearly 120,000 acre exception area just outside the METRO area?
 4. What sort of quality of life do we envision within the UGB? Will we have improved design? More parks? Infrastructure improvements?
 5. How will we connect land use and transportation policy so that fair and efficient development can occur?
 6. Should METRO have an enlarged role in the funding of necessary transportation facilities; this is, an enlarged responsibility under Goal 12?
 7. Because density in urban areas is both critical and ongoing, should we lobby the state to produce new funding mechanisms that will help cities achieve their stated Plan densities?
 8. Finally, we need to look at the structure of the citizen involvement process to include more grassroot thought and comment, to make sure there is ongoing dialogue, to focus on the policy side of things, and to point out when we all aren't doing what we should be doing.
5. **Earl Blumenauer**, Commissioner, City of Portland and former State Legislator

This is my definition of growth: "Growth is not a positive unless it is well-managed and accomplishes what the community wants it to." The 1990's may well be the Decade of Candor, when all those things that we have hoped growth management policy and the Boundary will do, actually occur. METRO region has yet to really be "squeezed" by growth, but there are now signs that this will occur. Some of the issues with which METRO has been dealing include transportation funding. We could do this because the large boundary has allowed us the luxury of not having to implement too closely. Boundary leakages at this point have been of the "grand-person" type. As the growth hits METRO, we have some management tools we think will work. We have parking lids, vehicle emission inspection programs, light rail, and Metropolitan Service District programs. We also have the media to tell our story.

In order for the METRO story to be told successfully in the 21st century, we will need courage, political will, and stamina. The main thing that this growth management program is about is quality of life preservation. We will see many hidden costs of development which have been ignored in the past rear up to be faced. And we will surely be judged on effectiveness with our answer to the question, "How serious are we about infill?"

Memo to Planning Commission
1990 METRO Regional Conference on Growth

Here are things that need to be done:

1. Examine our transportation operations and ways to make property tax a more flexible tool.
2. Build the regional light rail transit system in 150 months.
3. Use environmentalism as an economic strategy - say no to polluting firms and promote our clean image.
4. Concentrate growth and support growth for those players who will fit the region's requirements through local and METRO policies.
5. Continue to invent better tools for citizen involvement and education.
6. Demand that our federal government respond to our needs and to our carefully thought-out program.

MC/jpg
1/30/90