

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, JULY 11, 2006

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Catherine Brinkman
Scott Churchill

COMMISSIONERS ABSENT

None

STAFF PRESENT

Katie Mangle,
Planning Director
Zach Weigel,
Civil Engineer
Bill Monahan,
Legal Counsel
Brian Rockhardt,
Engineer
Shirley Richardson,
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:40 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- May 23, 2006

Commissioner Bresaw moved to approve the minutes of May 23, 2006 as presented. Commissioner Batey seconded the motion.

Ayes: Commissioner Bresaw, Brinkman, Churchill, Newman, Klein

Nays: None

Abstentions: Batey

The motion carried 5-0 with one abstention; Commissioner Batey had not read the minutes.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings

- 6.1 Applicant: Canby Business Park LLC
Owner: Clackamas Education Service District (CESD)
Location: 4011 SE Lake Road
Proposal: To allow a church use and expansion of the existing building on the property.
File Numbers: CSO-06-02 / TPR-06-04
NDA: Lake Road

Chair Klein opened the hearing on Community Service Overlay 06-02 and Transportation Planning Review 06-04, a Minor Quasi-Judicial hearing to consider a church use and expansion of the existing building. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.301, Residential Zone R-10; Section 19.321, Community Service Overlay Zone; Chapter 19.500, Off-Street Parking and Loading; Chapter 19.1400, Transportation Planning, Design Standards and Procedures and Section 19.1011.3 Minor Quasi-Judicial Review.

Chair Klein asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Brinkman** stated that she is excusing herself from this issue because the law firm she works for handled the sale of this property to the Clackamas Education Service District (CESD). She recently participated in arbitration that informally, but directly involved one of the applicant's consultants. **Chair Klein** excused her from the meeting and she left the council chambers.

Commissioner Bresaw stated that she is a member of the Lake Road Neighborhood Association and lives two blocks from the site. She does not feel this will affect her ability to vote on this issue.

Chair Klein asked if any member of the Planning Commission visited the site; 5 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report.

Chair Klein stated that he spoke with a family member of his, asking where the Educational Service District was located. He explained the location. He does not feel this conversation will affect his ability to vote on this issue. There were no other conflicts of interest or ex-parte contacts declared.

No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Katie Mangle passed out information to the Commissioners that included two new tables reflecting new information on traffic impacts and updated site renderings of the building. Susan Shanks, Associate Planner, originally prepared the staff report; she is on vacation this week. She has been involved with a lot of meetings with the applicant and feels confident about her presenting this case. She introduced other City staff on the case, Zach Weigel, Civil Engineer and Brian Rockhardt, DKS Traffic Engineer (consultant to the City).

The building on the site was originally built as a church and is now occupied by CESD. The 9.77 acre site is zoned R10 & R-7. The proposal is a two-story addition on the north side of the site. This extension of the chapel will allow for seating of 1200 church members. The applicant is currently renting the New Hope Church in Clackamas; they would like to have a home of their own. Mass is scheduled for Tuesday and Friday evenings and afternoon Sunday services. Otherwise the site would be used for meetings and office work. There are currently 233 parking spaces; the applicant is proposing an additional 167 spaces. There is an easement proposed for public access to what is considered a public park, but is actually on private CESD land.

Key issues

- Do the benefits to the public outweigh the potential adverse impacts of the use? Criteria to be met are: standards of the underlying zone must be met; specific standards for churches must be met and the hours and level of operation must be adjustable so it is compatible with the neighborhood.

Benefits of the use include a meeting space for local community organizations; preservation of private open space for public use; retention of most views from the site and creation of a visually prominent, architecturally design building. A picture was shown of the private park that will be maintained.

Adverse impacts include noise and lighting trespass related to church events; expansion of the existing parking lot; traffic impacts on SE Lake Road and SE 37th Avenue; the addition would block some of the existing views; the size of the proposed addition is out of scale with the neighborhood and a church use continues the tax-exempt status of the site. A picture was shown of the view from the open space area to the north of the site.

- Should the height of the proposed addition be allowed to be 50-feet tall?

This application was initiated when the old CSO regulations were in affect; public and private institutions were allowed a height limitation of 50-feet and churches were limited to the height of the underlying zone (30-feet). The revisions to the

zoning ordinance provided a height limitation of 50-feet (effective July 20, 2006) for public, private and religious institutions and other facilities not covered by other standards. The applicant would be able to apply for a minor modification to their approval to increase the building height to 50'. This would not come before the Planning Commission and will be an administrative decision.

There is a possibility that the building will go higher. A picture was shown comparing the 30-foot height limit and what it would look like as a 50-foot building as proposed. Staff does not feel this structure would block any views by being higher. The structure of the building may be more of a benefit to the City as a landmark building.

- Have the future traffic impacts been adequately and appropriately mitigated?

The site has two access points; one on the south side of Lake Road and one on 37th Avenue. On Lake Road, the traffic study shows that a left turn lane is warranted on Tuesday and Friday evenings and Sunday afternoons; however it did not meet the threshold of warranting a left-turn lane. To mitigate that impact, staff is suggesting the widening of Lake Road and the construction of a left-turn pocket on Lake Road. The City has adopted the Lake Road Multimodal Plan and this proposal does fit into this Plan.

Required frontage improvements; half street improvements along Lake Road frontage and the applicant requested an exception to pay funds in lieu of improvements. Staff is asking that the left-turn pocket be constructed in conjunction with the pocket. A picture was shown of the proposed pocket.

On SE 37th Avenue traffic will increase on Tuesday and Friday evenings and Sunday afternoons and traffic will decrease other days (Monday, Wednesday, and Thursday evenings). Because of increased traffic on 37th, staff recommends mitigation for increased traffic and to construct sidewalks on the east side of 37th Avenue. The code requires the applicant to address proportionality; the applicant claims mitigation would be disproportionate to impacts. The applicant was concerned that 800 feet of sidewalk is disproportionate to the impacts. Two tables were previously handed out which are from the applicant in an effort to show disproportion.

Speaking: Zack Weigel, Civil Engineer, City of Milwaukie

Mr. Weigel reported that the proportionality depends on time period; while the weekly impact would be an increase of 1.3%, Friday only the impact is 32%, and operational peak hour of the site on both a weekday and Sunday the impact is

around 85-90%. Staff has not determined what adequate proportionality would be for this site.

Chair Klein asked if the numbers are representative of what actually generates out of the site today. **Ms. Mangle** stated that the numbers from Kittelson and Associates were probably projections at the time of the ESD application rather than an actual count.

- Is it okay that some, but not all of the existing non-conforming parking lot will be brought into conformance?

Ms. Mangle reported that the proposed improvements meet most standards and address impact to neighbors; increasing the amount of interior landscaping and trees, increasing the perimeter landscaping and screening, a condition is required that the lighting be 0-foot candles at the property line with no light trespassing on adjacent properties, adding a pedestrian access within the lot and adding bicycle parking. Staff feels the applicant is meeting development criteria for parking.

Staff feels the applicant meets criteria for CSO with the conditions of approval. The conditions address lighting, building design, parking lot screening and landscaping for CSO-06-02 and addresses the impacts to Lake Road and 37th Avenue making the transportation facilities adequate for TPR-06-04.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Batey indicated that the building height is 50 feet and the tip of the proposed building is about 63 feet; she asked if the calculations are from the roof. **Ms. Mangle** stated that the building height is measured from the midpoint along the slope between the top and the eaves of the roof.

Commissioner Batey asked if there was an exception for churches regarding windows. **Ms. Mangle** said no, the standards for residential Zone R-7 and R-10 would apply to all applications.

Ms. Mangle stated that they have talked to the applicant regarding the visual impacts of the front blank wall facing the street. Staff feels it is important that the north face of the building does not present a blank wall to the community. Staff feels this is an important consideration.

Commissioner Churchill asked if the code allowed religious institution existing structures to fall into the standards of other churches in the area. **Ms. Mangle** stated that the building height is the same for all religious institutions under the code; religious institutions are allowed many spires, which is something that is not allowed for public and private institutions to exceed the height. It is not relevant on this application because the spire meets the 35-foot standard.

CORRESPONDENCE

Chair Klein asked if there had been any correspondence received since the mailing of the packet. **Ms. Mangle** stated there was no additional correspondence.

APPLICANT PRESENTATION

Speaking: Trina Whitman, Planner on behalf of Immovable Foundation Church, WRG Design, Portland, Oregon

Ms. Whitman introduced Bob Dant, applicant representative, Chris Stanley, Dunn Engineering; Norm Dull, Dull, Olson, Weekes Architects and their Civil Engineer.

Ms. Whitman stated that they have read the staff report and agree with all the conditions and requirements. They will meet the sidewalk requirements. They feel this is a better proposal with all the positive input from the staff.

This site originally was a church; it has been used by CESD for a number of years. Their proposal is to construct a 14,000 sq.ft. addition to the 18,000 sq.ft. existing building. They will also be enhancing the parking lot area, providing landscaping and maintaining the existing park.

Speaking: Bob Dant, 711 NW 94th Terrace, Portland

Mr. Dant stated that he has been in this business for 33 years; he has been a planning commissioner and city councilman. This application process has been smooth; it included 2 pre-application conferences, 2 post application conferences, a number of emails and voice mails, discussions at 5 neighborhood association meetings, several prior meetings with adjacent neighbors and the CESD. They have tried to get to a win/win situation.

Last year, CESD was planning to add on to the north end of the building; it was not economical and decided to merge this use with another use, move into a larger building and sell this property. CESD will be merging with Marylhurst and moving to the Sunnybrook area.

Mr. Dant stated that they considered doing 33 single-family residences and continue the existing building as an office use. At a meeting with the neighborhood association where 80 people attended, there were concerns about what this housing would mean to them (loss of views and increased traffic). Several churches contacted them about this property. They evaluated the concerns, the property and the alternatives to bring it back to a church. The

Immovable Foundation Church has been meeting with New Hope Church for the past decade; they are familiar with the area. It was decided to make the application to turn this site back into a church.

The two-acre park did not have to continue; they felt that it would be a wonderful amenity for the church and for the community. They will be building one row of parking along the west side on Monroe; the rest will remain as it is. The gated entrances will stay in place. There have been discussions with neighbors on the south working on agreements for lighting and landscaping. The south side neighbors are requesting more landscaping; a written agreement regarding the landscaping is being negotiated to make that happen outside this proposal. The CESD doesn't believe they should be a part of that request.

Mr. Dant stated that the applicant doesn't believe they have a reason for the left turn lane (one hour a week is it warranted for a left turn lane); however, they will build the left turn lane. They concur with everything in the staff report and asked that the Commission approve the application.

Literally 30 minutes ago, the sidewalk figures went from 800 feet to 205 feet. The issue is proportionality; they are creating 15 additional weekly trips. The 15 trips are a result of 10 staff people accessing the church during the week. The traffic impact will be Tuesday and Friday nights and Sundays. They are doing the curb cut on the north end of 37th Avenue and the same on the other side. They ask that the Commission adopt the findings of facts and conditions as proposed.

Mr. Weigel indicated that the sidewalk improvement would be an additional 800 feet. This would include sidewalks on 37th all the way down to Highway 224. **Mr. Dant** stated he would like to discuss the 800-foot issue further.

Speaking: Chris Stanley 5723 NE 10th Avenue, Portland (Traffic Engineer for the applicant)

Mr. Stanley stated that a standard traffic study was done for this site according to city criteria for intersections. The study was done to look at the impacts of the proposed church; the result was that the proposal met all the City criteria with one condition; to provide a left turn lane off Lake Road. Typically, traffic studies are based on weekday peak hours. From a systems standpoint this is a great use for the site; very little traffic will occur during weekday peak periods.

For this traffic study, because there are no measurable trips generated during the weekday hours, their peak generating time period was analyzed for Tuesday and Friday evenings and Sunday. Out of that came the concern for a left-turn lane off Lake Road. Typically, left turn lanes are based on rural highways and the proposed site met that need during some of the peak time periods; but not regular

enough to meet and warrant for a left-turn lane. The left-turn issue has been resolved and it is consistent with the roadway.

A review was done on the sidewalk on 37th. The existing CESD trips generated 315 trips; this concurs with Kittelson figures done previously. During the weekday peak hours, the CESD generates significantly more trips than the church's estimated 80 trips during peak hours. The proposed church will generate between 5 and 35 trips using the IT Trip Generation Manual. This church does not have a large staff or daycare. During the pm peak hour the proposed use is generating less use than the current use.

It is his conclusion that the proposal meets all city standards and standards for the development. It is his understanding that the road operates acceptably. It is not appropriate for a development to build improvements until they are generating unacceptable numbers. There are indications of low accidents and low pedestrian counts; the intersections are operating well and safe. Based on the review of the proposed development, the traffic on 37th Avenue is within city standards and pedestrian counts are low; it is difficult to tie the development to a left turn lane. The applicant will build the off-site improvements (sidewalk).

Speaking: Norm Dole, Dole, Cole and Reese Architects, 319 SW Washington, Portland

Mr. Dole stated that they have been working with the Immovable Foundation Church to create a sanctuary addition to the existing building. The existing plans have a similar footprint as the plan that they have come up with for this building. They are trying to create some interest by the way the building will look from Highway 224. The building has a large mass. Sketches were shown of the massing of the proposed building. The 35-foot restriction will cause difficulty because they need the volume within the sanctuary space; 50-feet are needed to add volume and visual interest. The apparent mass increases the footprint significantly; the volume is for acoustical considerations and the balcony. This will benefit the visual look of the building itself. Any increase step would be better than none. From the south side looking north, the actual impact from the neighbors to the south is minimal.

The stepping up concept creates versatility so that the building does not appear as a big blank wall. They have worked really hard at developing the north façade seen from Highway 224 and hopefully it will become a building of a significant landmark in a good way.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Newman asked if there were different construction codes used for a church. **Mr. Cole** stated that they use the International Building Code and that this was standard construction. The building is more volume than mass and shouldn't create an expense or difficulty.

Commissioner Bresaw asked if the width of the front of the addition could not be as wide, thus making the height less. **Mr. Cole** stated that the width is needed in order to seat 800 on the ground level and the additional balcony seating. The width is no larger than the existing building, but the addition will be a semi circle in order to accommodate the circular seating.

Commissioner Bresaw asked **Mr. Dant** asked if it was less expensive to do the addition than new construction. **Mr. Dant** stated that it was about the same as new construction; they will take out the north wall and extend with new construction. The building materials will change.

Ms. Whitman stated that they have additional materials that may address additional issues from the Commission.

Chair Klein asked if the attendance numbers will change; eventually if the attendance increased, it would result in a change of the traffic impact of the church. He asked if there is anything that will prevent the addition of daycare in the future which will bring in more traffic at that time. **Mr. Dant** stated that the applicants don't have daycare now; the attendance is between 500-600 people now and they rent space and want to own. First you will see half the impact and the numbers will increase as time goes on. They will have seating for 1200 people; however, that is the number they would like to be prepared for.

Commissioner Churchill asked if a school or daycare could be applied for in the future. **Ms. Mangle** stated that the approval is based on specific hours of operation (times of masses). Other uses can be addressed in a condition of approval.

Chair Klein asked if the Church could put on additional masses in the future. **Mr. Monahan** stated that the type of use will be considered; it may trigger an additional impact on traffic that is different from what is being proposed tonight. **Ms. Mangle** stated that there could be more language added to Condition #6(D) "use the site in a manner substantially similar to what's been proposed and approved ... including hours and levels of uses and services. The major functions for events shall occur with the existing office building ... Tuesdays, Fridays and Sundays..." She feels this should cover concerns regarding hours of use.

Mr. Dant stated that the church currently does not have school or a daycare at the present location; they do have daycare only during services. There is no separate childcare or school anticipated at this point.

Commissioner Churchill asked for the actual trip numbers generated at peak hour for this site at each entrance (Lake Road and 37th Avenue). **Mr. Stanley** stated that during the Sunday departures (greatest impact) at 4:00-5:00 p.m. on Lake Road there are approximately 200 cars and on 37th Avenue approximately 207 cars. In the traffic study dated in April on Figure 14 (page 28) indicates the trips based on actual counts for 1200 members using IFC calculations.

Commissioner Churchill asked for trip figures using the left turn lane. **Mr. Stanley** stated that the proposed left turn lane on Lake Road is about 20 feet long and will hold 3-4 vehicles. The turn lane focus is at 1:30-2:30 p.m. with 55 cars going eastbound into the driveway and approximately 170 cars will be going in the westbound direction. These figures are based on the current congregation and where they live. The left turn is prohibited coming from Highway 224 on to 37th Avenue; there are about 5 cars exiting and 288 entering. The chance of queuing up gets greater. Assuming everyone arrives evenly it would be about one car every minute; the opposing flow is low at that time.

Chair Klein noted that another church is located on Lake Road and asked if their traffic counts were taken into consideration of these counts. **Mr. Stanley** stated that the other church's traffic is accounted for in the survey. **Zach Weigel** stated that the original church was built in 1990; it was taken over by CESD in 2000 and Kittelson did their study in 2002. There are 314 trips out of the current facility now; other studies have been done regarding their expansion. A post-occupancy study was done.

Chair Klein stated that from the number of vehicles he has witnessed in the past 314 seems high. **Commissioner Batey** agreed that 314 seemed to be a high number.

Commissioner Bresaw asked what level of service the left turn lane would be. **Zach Weigel** stated that depending on numbers, the level would be "C" or better.

Ms. Mangle quoted from a 2002 technical memorandum from Kittelson and Associates, done in February, that it appears to respond to one condition of approval of verified traffic data; Table 2 lists intersection 1989 estimated trips compared to 2002 actual trips; across the board, actual trips were less than estimated. Actual counts were done.

TESTIMONY IN FAVOR

Speaking: Hors Brashnoff, 2014 SW Ridgewood Lane, Lake Oswego

Mr. Brashnoff stated that he is a member of the Immovable Foundation Church and represents the music area as the choir director. He has been with the church for the last 12-13 years. When the church started there was a growth spurt; they needed a new area. They purchased the Lutheran Church on Stanley Street in Milwaukie. They realized such a growth spurt that they sold their church and rented with the New Hope Church in Clackamas; this has worked for them.

He feels that the church has plateaued though the membership may fluctuate. They live in this area and would like to be able to attend church in their own neighborhood. There are inconveniences of sharing a church and they want to have a church of their own. Where ever they locate, the surrounding area will benefit; they are good people. Ten members raised their hands as supporters for this application. There are about 700 people currently attending the church.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Bresaw asked what denomination the church is. **Mr. Brashnoff** stated that they were non-denominational. Immovable Foundation Church started about 14 years ago.

QUESTIONS OR COMMENTS

Beth Wasco, 12122 SE 39th Avenue, Milwaukie

Ms. Wasco read a statement regarding traffic into the record. This could be a more pedestrian friendly town if there were more through streets. The report is misleading because people don't walk because it is not safe. She asked the Commission to consider reducing the speed from 40 to 25 MPH from Highway 224 to Rowe Elementary School. There has been consideration to reducing the speed to 30 MPH and making it a non-through street.

Ms. Wasco stated that she is concerned that if she doesn't say this now, she will miss her chance. She asked if a step is being missed by not having the Design Review Committee reviewing this application. Some neighbors are un-informed because of the expeditious process. Two lengths of her property north and east are adjacent to the property and she will feel the impact of any changes made at the site. She feels it will directly impact their property and her property values. She asked that the Commission approach this application with care because the design review process has not been done.

She would like to have some discussion with a desire to come to some agreement on:

- Setback and landscaping remediation. Currently, there are not 20-ft. setbacks from either of these lengths of property line; now that the property is changing hands it should be revised. She would like an opportunity to address conditions that will be used to rectify the setback landscaping requirements.
- The lighting in general is invasive when used to her side yard. It is not currently in use but it is her understanding that peripheral lighting will be in affect when the church goes into operation. The original lighting was to be on 10-foot poles; but they actually installed 30-ft. poles at 400 wattages. This could be reduced and still provide adequate lighting for safety.
- The original request to extend the height of the building has changed. She is not clear on how much she will be impacted but she will be able to see the 50ft.-structure to the north of her property, which concerns her. The proposal to meet the standards of design review and neighborhood compatibility has not been met.
- The cross or signage that will come; this property is in view of her back yard and the eastern Milwaukie neighborhoods. She would prefer that the cross or signage not be lighted, large or exceed the average signage requirements of the City ordinance to not impact her view or views of the neighbors. The current location of the Immoveable Foundation Church has a large lit sign you see from Highway 205; this is a different situation as Highway 224 and Highway 205 are not parallel.
- The size of the congregation for space and parking is a concern. She asks that the Commission consider parking. Since this is a growing congregation she would like to see capacity and such issues addressed now instead of later. She would like a condition that if anything changes, there should be some process to revisit the issue to make future agreements that have been reviewed by the Commission.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Bresaw stated that the speed had been changed to 30 MPH on Lake Road and asked if Ms. Wasco wants the road closed and the speed changed to 25 MPH. **Ms. Wasco** stated that she would like to have the speed changed to 25 MPH from Highway 224 to Rowe Elementary School.

Commissioner Batey asked if Ms. Wasco attended the neighborhood association meeting. **Ms. Wasco** stated that the neighborhood was relieved after first hearing that the site would not be developed with homes. Neighbors went out with a petition to see where the support was for a development. Over 90% of the residents preferred that it was not developed into a subdivision. Following that

meeting, when they were informed that it was going to become a church, people stopped attending the neighborhood meetings because they were no longer worried about it becoming another neighborhood. The overwhelming approval referred to by the applicant is the neighbors not wanting the site to become a new neighborhood, not because they were in overwhelming approval of the church. The neighborhood has not been petitioned regarding this church.

Commissioner Batey asked staff for clarification of the 20-ft setbacks. **Ms. Mangle** stated that the Lake Road speed limit will be addressed during the Transportation System Plan process coming up in November. Design review is only being addressed in the downtown area. There is design review for residential development but it does not apply in this case. Condition 2(J) requests that the applicant submit elevation drawings demonstrating that the building does not impact views of community.

The 20-ft. setback applies to the building; the parking lot is within the 20-foot setback and it is not considered a building. The conditions for landscaping should help address some of this concern. Signage would require a separate sign permit; this is not included in this application. The applicant will have to conform to a 16 sq.ft. sign. The residential standard for signs limits the applicant to one freestanding sign and one wall sign limited to 16 sq.ft. to comply with residential zones. **Mr. Weigel** stated that he will look into the sign issue.

Commissioner Churchill asked Ms. Wasco how her views, vistas and corridors would be most impacted by increased mass of the structure. **Ms. Wasco** pointed out on the overhead how the increased structure will decrease the light and sky views that she sees from her home.

Speaking: Becky Ives, 12223 SE 41st Court

Ms. Ives pointed out her property on the site map. This structure will have a major impact on her views. She is not opposed to the project, but has comments on the architecture. She feels the structure is entirely overbuilt. The building becomes a monument unto itself. The new auditorium takes over double the size; it will block her view. She invited the architect, church members, Council and staff to come stand on her deck to see the impact. This will affect their property values.

Currently they work with the caretaker of CESD because the blackberries get so high. There are many architectural choices that could be considered. She doesn't feel this does anything for the public image of Milwaukie or is an architectural element from Highway 224. Professionally she is a landscaping designer and has listened to details of landscaping which will obstruct more views. Photinia is a

large bush that will obstruct views; smaller bushes should be considered. The Lord does not need a monument, he only needs devotion.

QUESTIONS FROM THE COMMISSION

Commissioner Batey asked if there will be a difference in views between the 35-ft. height and the 50-ft. height. **Ms. Ives** stated that her views will be blocked by the eastern movement and the height movements. She now has a view of the downtown buildings of Portland. She was unaware of the church application until just recently.

Commissioner Churchill asked if Ms. Ives' deck was above parking lot level. **Ms. Ives** said yes she was above the parking lot level by 8-10 feet; she has a downhill view. Her development has been here for 14 years; she has been here for 6 years.

OPPOSITION TO APPLICATION

Speaking: Robert Kimble, 12340 SE 21st Court, Milwaukie

Mr. Kimble stated that he is concerned about traffic and parking. There have been discussions about peak hours and church hours; what happens during the other hours when residents are trying to get out of their subdivision. 41st is approximately 150-200 feet from exit on Lake Road; they need traffic controls of some kind. He is not against the church; he would like more control so residents can get out. He doesn't come out at any special time except to play golf; there are lots of people who live in that neighborhood who come out when they have a reason. He used to walk that area (church property) for exercise. The traffic engineer is quoting 200 in one direction and 55 in the other direction to attend church services; yet there are only 400 parking spaces. There are more cars than spaces. Will they park on Lake Road or neighborhood streets?

QUESTIONS FROM THE COMMISSIONERS -- None

Speaking: William T. Buckley, 38 Center Point Drive, Lake Oswego
Megan Rochae, 19000 Evergreen Parkway, Hillsboro

Mr. Buckley, representing Mr. and Mrs. Favorite, pointed out their home. He has been discussing and communicating at some length with staff, lighting experts, WRG, landscape architects, and the applicant regarding the negotiation of a lighting plan (previously submitted to the Commissioners) and a landscaping plan. There is substantial agreement that these proposals be conditions of approval. He asked that the Commission preserve his client's right to appeal if

the lighting plans and landscaping plans are not added to conditions of approval by the Planning Commission.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Churchill asked where his position is with the applicant on the landscaping issues. **Mr. Buckley** stated that the understanding was that there was substantial agreement on both of the proposed documents. The designs will be helpful to the entire neighborhood.

Speaking: Polly May, 3175 NE Mallory, Portland

Ms. May stated that the plans only address the areas adjacent to the client's property. The landscaping plan has several species of plants; however, it is a conceptual design. The plants are described as evergreen, dense barrier, etc. for headlights and are to be strategically placed in order to not obstruct views.

Recess was called at 9:00 p.m. and the meeting reconvened at 9:20 p.m.

ADDITIONAL COMMENTS FROM STAFF

Speaking: Brian Rockhardt, Transportation Engineer, DKS Associates,
City of Milwaukie Traffic Consultant

Mr. Rockhardt reported that the City's Transportation System Plan calls for sidewalks on the segment between Highway 224 and the site. ODOT is building a project at that intersection that provides sidewalk improvements; that leaves a deficiency between the site and the south side of Highway 224. This site will generate traffic during peak hours during the day; that traffic is going to create pedestrian conflicts. The more traffic conflicts, the more pedestrian conflicts. It has been stated that there is no accident data with pedestrians; he agrees. The City does not want to wait until there are accidents involving pedestrians to start installing improvements. The applicant and the City need to work out an agreement as to what is a proportionate share.

The speeds on the street are controlled by Oregon Administrative Rules and anytime you want to change the speed a study must be submitted to ODOT. Speeds are based on an actual speed survey of the actual traffic. There are other choices that can be used to lower the speed.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Newman stated that he doesn't see how there hasn't been an accident on Lake Road. He is concerned that there are no bicycle paths on 37th

Avenue. **Mr. Rockhardt** stated that there is adequate area on 37th for there to be a bicycle lane on one side; however, they don't feel comfortable with pedestrians walking next to traffic with no sidewalk.

Commissioner Batey asked who owns the property between the edge of the property and the roadway. **Mr. Weigel** stated that it is all ODOT right-of-way. The current plan for coming out of the CESD property is a right only onto Lake Road. The traffic study shows that by removing the left-turn lane the intersection would still comply with the City's level of service standards. Site distance calculations were included in the traffic study and showed fine at that intersection. The peak hours are outside typical church hours; the Sunday services are in the afternoon; other churches in the area are morning services. There is no sight distance issue coming out of the site onto Lake Road. The right turn only was a condition for CESD.

The condition for the left-turn pocket requires that it be done before occupancy (road widening and stripping). The applicant is required to do frontage improvements on 37th, frontage improvements on Lake Road and the left-turn pocket. The code states that frontage improvements do not mitigate impacts of the development offsite. It is not a valid argument to not do sidewalks because they are offsite; the impacts to the roadway have to be mitigated. Since the applicant is adding traffic to 37th Avenue, there is some proportionate mitigation that needs to be done. Mitigation is required any time you add trips to a street. Staff has come up with three options to be considered:

- Find that the added traffic to 37th Avenue is negligible; no additional sidewalk is required to be constructed as part of this application
- Find that 37th Avenue is impacted by the development on Tuesdays, Fridays and Sundays and that a portion of the sidewalk is to be constructed per the figures in Table 1; responsible for 30% of 800-ft. of sidewalk.
- Find that 37th Avenue is impacted by development during the operational peak hours of the church and the applicant is fully responsible for the construction of the sidewalk offsite between highway 224 and their site.

Mr. Weigel stated that staff would need more time to look at current traffic data and similar uses in the area comparing frontage to come up with a recommendation for proportionality.

Ms. Mangle stated that the number of spaces that are being proposed in the application is the maximum allowed for the site. The City has a minimum required and maximum allowed; the applicant is supplying the maximum. Staff recognizes that there may be a problem if the membership grows to capacity; there will be more traffic coming to the site than can be accommodated. One of the conditions requires the applicant pursue an aggressive carpooling program and parking management program internally and investigate options for parking

offsite (Rowe Middle School and Freeman Way). Condition 2(E) states that the applicant will submit a parking management plan prior to submission of the building permit. The Commission could add a condition of approval to assure that the applicant will follow through on the parking management.

Commissioner Bresaw asked what the percentage of hard surface is, compared to permeable surface. **Ms. Mangle** stated that the applicant can only cover 30% of the site and they are only covering 7.5%; that includes the additional building expansion. One of the development standards that apply specifically to churches requires 15% minimum vegetation on the site; this site has 48%.

The decision before the Commission is whether to approve the CSO for the site. The Planning Commission is given some leeway on any conditions they want to impose on this Community Service Use. Staff believes the application meets the requirements of the Community Services Use, the requirements of the underlying zone and residential zones, the standards for churches, hours and levels of operations (which can be adjusted), and the public benefits test.

Staff feels that as conditioned, the benefits outweigh the impacts. It is the Planning Commission's discretion to impose suitable conditions to assure compatibility of this use with other uses in the vicinity to include lighting, setbacks, heights, location of the building, designated access points, etc.

The application now is for a building height proposal of 35-feet. Because the standard is changing, the applicant has agreed to share their plans to go to 50-feet. At either height, it is the Planning Commission's discretion to impose limits to address potential impacts to views or neighbors. Massing concerns were well addressed by the applicant.

Discussion followed on design review. **Ms. Mangle** reported that Condition 2(J) addresses design review in that it requires that elevation drawings of the proposed addition demonstrates that the building is not presenting a blank face to the community. The Planning Commission has the authority to edit that language and other things can be added.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

Commissioner Batey asked if the condition for the easement for the use of the park is filed on the deed. **Mr. Monahan** stated that it could be on the deed; it depends on the intent of the condition. In the past it has been stated in a Memorandum of Understanding or contract on the use of the property. If the easement is recorded on the deed it has a longer effect than a contract.

APPLICANT'S CLOSING COMMENTS

Mr. Dant indicated that the Neighborhood Association is fully aware of the 50-foot height proposal; they have been a completely open book and open process. The applicant is in agreement with the Favorite's request; it can be included as conditions and exhibits. They would be willing to accept a deed restriction on the use of the park. He asked that the Commission consider the 30% option for the sidewalk construction from Highway 224 and Lake Road; they are not adding any traffic but they will support the 30%. They will work with Ms. Wasco on the landscaping and lighting.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Churchill asked if the applicant is willing to accept a deed restriction. **Mr. Dant** said yes that is their intent. There is an existing intergovernmental agreement; they will accept that agreement to define a specific area and have it on the deed.

Commissioner Churchill asked staff what sidewalk costs are per foot. **Mr. Weigel** stated that the cost of sidewalk is probably \$3-\$4 sq.ft. **Mr. Dant** stated that he has heard a figure as high as \$160,000 which include saw cutting 3-4-ft. of asphalt, curb and gutter, sidewalk, storm drainage facilities, retention systems, etc. At the post application conference there was discussion about raised buttons and stripping. There is 35-ft. of asphalt, plenty asphalt to make this happen.

Chair Klein closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

Chair Klein stated that he believes the community service benefits test has not been met with this application nor does the benefit to the public outweigh possible adverse impacts of the use. There was a church there originally; he would much rather see a housing development because this is a losing situation for the City; losing tax revenue and increasing traffic. Traffic is being dumped into Milwaukie. He has sympathy for the neighborhood wanting to reserve open space. Housing is a need in Milwaukie and land is available; this is a perfect spot. Putting this church, which is 500 yards from another church, which is 500 yards from another church on a street that is already busy, is not good.

Commissioner Bresaw stated that she believes the church should go in; the neighborhood would be happy with a church and the green space is valuable.

Chair Klein noted that a housing development could generate revenue to put in nice quality walking paths. There will be impacts to the houses in the area by the

proposed application; the massive building size, no tax base and the devaluing of homes in the surrounding area. This could meet Metro's requirements for density.

Commissioner Churchill stated that he is concerned about the massing and the height. He wished that there was a design review for the building.

Commissioner Newman stated that the traffic impact would be worse with a development; 314 trips versus 947 trips, 617 at one time in a two-hour window.

Commissioner Batey stated that she would rather see a tax-generating base in this location than a non-tax building. The neighbors quickly rallied against the housing development. Some of the concerns about the view and some may be rethinking the housing development but she feels there will be significant opposition to the housing development. She is more concerned about traffic; there is a problem on Lake Road at peak hours on work days and Sundays will be a big problem however, this site will not add to the people commuting. She is inclined to find that the public interest has been met and request that they build the entire sidewalk. Sunday afternoons are when people are out walking their dogs, out with their kids, etc. It is the prime time for biking or walking.

Commissioner Bresaw stated that she walks on that road and she doesn't particularly feel unsafe because it is not well traveled; it is a wide road. It would be nice to have sidewalks; she would prefer it. There is a point where there is a dangerous curve where the street narrows that could use improvements but she doesn't feel the entire sidewalk is needed.

Discussion followed on the sidewalk issue. This road is not well traveled now, but when the church is in use, people going to the church may want to use that roadway to walk to church. People using the bus would want to use the sidewalk as well as neighborhood pedestrian and bike use. Building 30% of the sidewalk only gets people 30% down the roadway safely and then there is nothing. It would be better to not encourage people with a partial sidewalk to walk that direction and not have a sidewalk.

Mr. Rockhardt stated that 37th is a needed pedestrian walking route connecting 37th Avenue across the highway to Lake Road. The 75-ft. left turn pocket is based on the projection of the traffic study that at the peak was 57 left turns. All the traffic will not come at once. Basically you provide coverage for 90 percentile of the need; there are going to be time periods where it's actually going to be worse than 75 feet but that's the design standard. Based on the calculations from their numbers 75-ft. was the 90 percentile. There will be 1 car per minute and with a level C usage, it results in a 25-second delay with 170 cars heading westbound. It was the consensus of the Commission to require full sidewalks. Other issues discussed were:

- Having the Planning Director seek consultation with Design and Landmarks Commission on materials, finishes and mass for design consistency recommendations
- Deed restrictions for the open space area
- Holding on to the old standard of a 35-ft height limit and giving the Planning Director latitude for increased height decision
- Easement
- Sidewalk
- Incorporate Favorite settlement

Recess was taken at 10:30 p.m. and the meeting reconvened at 10:55 p.m.

Staff proposed the following changes to the findings and conditions:

- Page 17, 11(A), new paragraph inserted before the last paragraph, "SE 37th Avenue experiences an 83% increase in traffic on a weekday and 94% increase in traffic on Sunday during operational peak hours of the proposed development. Increase in traffic on S.E. 37th Avenue will occur during peak hours on Tuesday, Friday and weekend peak periods as a result of the proposed development. The Planning Commission finds that 100% of the offsite sidewalk improvements on S.E. 37th Avenue are roughly proportional to the impacts of the development during the operational peak hours of the proposed development."
- Page 26, add Condition 2(F), add Condition 2(F)(4), "Landscape plans submitted by Buckley along the Favorite's property line."
- Page 27, add Condition 2G(4), "Lighting plan submitted by Buckley."
- Page 27, add Condition 2G(5), "Throughout the parking area all single twin head luminaries shall be changed to single 250-watts or demonstrate an alternative."
- Page 27, add to Condition 2(I) a new sentence, "Planning Director shall consider massing of building architectural features and views from neighboring properties prior to submission of a building permit."
- Page 28, Condition 4(C) revised to read, "Provide the City with a recorded copy of easement providing for public use of open space and the maintenance agreement required in Condition 2(C)."
- New Condition 1(A), "If applicant submits for minor modification the Design and Landmarks Committee will conduct a limited review to provide guidance to the Planning Director on design details for the building."
- New Condition 1(B), "If no minor modification is sought the Planning Director shall consult with the Design and Landmarks Committee with regards to design features." Renumber the conditions.
- Condition 6(D), replace the last word in the paragraph from "Mondays" to "Sundays."

Commissioner Churchill moved to approve applications CSO-06-02 and TPR-06-04 and adopt the recommended findings and conditions as revised tonight by staff. Commissioner Newman seconded the motion.

Ayes: Batey, Commissioner Bresaw, Churchill, Newman

Nays: Klein

Motion carried 4-1.

7.0 WORKSESSION ITEMS -- None.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

Ms. Mangle informed the Commission that the Spring Park Master Plan application will come with Community Service Overlay application on September 12, 2006. This is a CSO for constructing a playground and address Comprehensive Plan amendments.

11.0 NEXT MEETING -- July 25, 2005

Commissioner Bresaw moved to adjourn the meeting of July 11, 2006. **Commissioner Batey** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 11:16 p.m.



Jeff Klein, Chair



Shirley Richardson, Hearings Reporter

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, JULY 11, 2006 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Matters If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. Thank You.	
3.0 3.1	Planning Commission Minutes May 23, 2006 Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	Motion Needed
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0	Public Hearings Type of Hearing: Minor Quasi-Judicial Applicant: Canby Business Park LLC Owner: Clackamas Education Service District Location: 4011 SE Lake Road Proposal: To allow a church use and expansion of the existing building File Numbers: CSO-06-02 / TPR-06-04 NDA: Lake Road Staff Person: Katie Mangle	Discussion and Motion Needed For These Items
7.0	Worksession Items	
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	Information Only Review and Comment
11.0	Next Meeting: July 25, 2006 The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

Forecast for Future Meetings:

8, 2006 – Walker Subdivision - SE Linwood/SE 63rd Ave.

Milwaukie Planning Commission Statement

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

Public Hearing Procedure

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.

Milwaukie Planning Commission:

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Catherine Brinkman
Scott Churchill

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Associate Planner
Brett Kelter, Assistant Planner
Ryan Marquardt, Assistant Planner
Jeanne Garst, Office Supervisor
Karin Gardner, Administrative Assistant
Marcia Hamley, Administrative Assistant
Shirley Richardson, Hearings Reporter



To: Planning Commission

Through: Katie Mangle, Planning Director *KM*
Paul Shirey, Engineering Director *PS*

From: Susan P. Shanks, Associate Planner *SPS*
Zachary John Weigel, P.E., Civil Engineer *ZJW*

Date: July 11, 2006

File: CSO-06-02 and TPR-06-04

Applicant: Canby Business Park LLC

Site Address: 4011 SE Lake Road

NDA: Lake Road

Action Requested

Approve applications CSO-06-02 and TPR-06-04 and adopt the recommended findings and conditions in support of approval.

Project Description

The applicant proposes a community service use, namely a church, for the 9.77-acre property at 4011 SE Lake Road. The site is zoned R-10 and R-7 and currently contains an existing 2-story office building with a building footprint of approximately 18,000 square feet. The applicant proposes to build a 2-story addition onto the north side of this building that will serve as a chapel for up to 1,200 church members of the Immovable Foundation Church. The proposed footprint of this addition is approximately 14,000 square feet, and the proposed gross floor area is approximately 21,300 square feet. No additional changes are proposed to the existing structure.

The Immovable Foundation Church is an established church that has been leasing space from New Hope Church in Clackamas County for the past ten years since outgrowing their church space on SE Stanley Avenue in Milwaukie. Their proposed schedule of church activities and services is as follows:

Table 1: Immovable Foundation Church Proposed Schedule

Day of the Week	Event	Event Hours	Estimated Number of People Attending
Monday	Choir Practice	7 p.m. to 9 p.m.	50 – 60
Tuesday	Mass	7 p.m. to 9 p.m.	45 – 55% of Sunday Attendance
Wednesday	Band Practice	7 p.m. to 9 p.m.	12 – 16
Thursday	Choir Practice	7 p.m. to 9 p.m.	50 – 60
Friday	Mass	8 p.m. to 10 p.m.	60 – 75% of Sunday Attendance
Saturday	---	---	---
Sunday	Mass	2 p.m. to 4 p.m.	1,000 – 1,200

In addition to the above schedule of events, the church will host traditional church functions such as weddings, funerals, and religious holiday events. The church is also willing to provide meeting space for neighborhood organizations provided that such meetings do not conflict with regular church events or overload the parking lot. The church's staff of approximately 10 –15 people will work on site Mondays through Fridays from 10 a.m. to 5 p.m.

The existing parking lot contains 233 parking spaces. The applicant proposes to add 167 parking spaces, for a total of 400 parking spaces. The existing parking lot contains a number of nonconformities, and the applicant proposes to bring some of these nonconformities into conformance with current standards.

Pursuant to an intergovernmental agreement between the City of Milwaukie and the current property owner, the public is allowed to use the existing open space in the northwest corner of the site. The applicant proposes to retain the majority of this area as open space and to allow the public to continue to use it in a similar manner as does the current property owner, through an access easement and maintenance agreement.

Background Information

The property at 4011 SE Lake Road has been used for community service uses since 1989, when the City approved a Seventh Day Adventist church to use the site. The building was subsequently converted to offices when Clackamas Educational Service District purchased the property and the City approved their administrative offices as a use in 2000.

Key Issues

1. Is the proposed community service use in the general public interest and do the benefits to the public outweigh the potential adverse impacts of the use?
2. Should the height of the proposed addition be allowed to be 50 feet tall if the recently approved code changes that would allow this increase in height go into effect before the applicant submits for a building permit?

3. Have the future traffic impacts generated by the proposed use been adequately and appropriately mitigated?
4. Is it reasonable to require the applicant to bring some, but not all, of the existing nonconforming parking lot situations into conformance?

Analysis of Key Issues

Key Issue #1 – Is the proposed community service use in the general public interest and do the benefits to the public outweigh the potential adverse impacts of the use?

This proposal for a 1,200-member church at 4011 SE Lake Road includes construction of a chapel on the north side of the existing building and the expansion of the existing parking lot from 233 spaces to 400 spaces. In most other respects, the overall site configuration would remain the same. The site would primarily be used in the evening hours and on Sunday afternoons. Consequently, this is when most of the impacts to the neighborhood would occur.

The proposed church use would potentially have the following adverse impacts on the surrounding neighborhood:

- Vehicular noise and lighting trespass before, during, and after evening church events would increase the ambient noise and light impacts to neighboring residences.
- Expansion of the existing parking lot would increase the amount of lighting trespass onto adjacent properties from vehicles and parking lot lighting.
- The amount of new vehicle trips generated by the proposed use would contribute to traffic congestion on SE Lake Road and SE 37th Avenue and would create additional safety hazards for pedestrians where sidewalks do not exist.
- The proposed addition would block some of the existing views to downtown Portland and Mount Hood currently enjoyed by parks users and adjacent property owners.
- The size of the proposed addition to the existing building would be disproportionate to the scale of the surrounding neighborhood.
- Approving the site for use as a church would continue the site's tax-exempt status, precluding an opportunity to increase the City's tax base through private development.

The proposed church use would provide the following public benefits:

- Construction of a worship space for church members to practice their religion in community with others.
- Preservation of meeting space for local community organizations.
- Preservation of the existing private open space for public use and enjoyment.
- Retention of most existing views from the site to downtown Portland and Mount Hood for the enjoyment of park users, church members, and adjacent property owners.
- Creation of a visually prominent, architecturally designed building.

Staff believes that most of the adverse impacts mentioned on the previous page can be mitigated through the adoption of the following conditions:

- Submit a photometric study demonstrating 0 foot-candle readings along the site's western, southern, and eastern property lines. Revise the site's lighting plan, if necessary, to achieve these results.
- Install a continuous vegetative screen that would reach a minimum height of six feet upon maturation along the site's southern and western property lines where new parking spaces are proposed. Install a similar vegetative screen along the site's eastern property line or, alternatively, demonstrate that existing plantings, fencing, and/or topography effectively screen the parking lot from the adjacent properties to the east.
- Widen the pavement on SE Lake Road and install an eastbound left turn lane.
- Construct curb and sidewalk along the property's frontage on SE 37th Avenue and along SE 37th Avenue to the north where it intersects with Hwy 224.
- Design the façade of the proposed addition so as to not present a blank face to the community

Staff believes that the benefits to the public outweigh the potential adverse impacts of the proposed use, especially since many of the adverse impacts can be mitigated.

Key Issue #2 – Should the height of the proposed addition be allowed to be 50 feet tall¹ if the recently approved code changes that would allow this increase in height go into effect before the applicant submits for a building permit?

City Council recently adopted modifications to Section 19.321 of the Milwaukie Municipal Code (MMC), and the amended version will be effective on July 20, 2006. One of the changes involves increasing the height limit for religious institutions to be consistent with the height limit for public and private community service institutions. If the applicant requests approval of a Community Service Use minor modification when they submit their building permit, the City can apply the newly approved code change to the proposed addition at that time. Minor modification review criteria are objective in nature, and it is likely that the applicant would be able to meet them.

Staff does not believe that there is any reason to impose a height limit different from the height limit prescribed by either the existing code language (35 feet) or soon-to-be effective code language (50 feet). Staff supports this assertion with the following statements:

- An addition that is 50 feet tall would not impact existing views any more than the proposed 35-foot tall addition.
- An addition that is 50 feet tall would increase the length of the shadow it casts. However, given the location of the addition on the north side of the existing building and in the northern portion of the site, increased shadowing would not

¹ Building height is defined as the vertical distance between the average finished grade of the building and the mean height level between the eaves and the ridge of the roof.

impact any adjacent property owners, because none are located north of the proposed addition.

- Allowing a height of 50 feet would enable the applicant to design a more architecturally proportioned church building. Increasing the vertical height would help the existing structure overcome its width and horizontal massing.

Key Issue #3 – Have the future traffic impacts generated by the proposed use been adequately and appropriately mitigated?

As conditioned, the future traffic impacts generated by the proposed use have been adequately and appropriately mitigated.

The results of the applicant's Traffic Impact Study showed that the number of vehicles turning left into the site from SE Lake Road would surpass the threshold at which a left-turn lane is warranted. Left-turn lane warrants would be met during all three periods studied, which correspond to the three proposed church services on Tuesday and Friday evenings and Sunday afternoons. As a result, staff recommends that the applicant construct an eastbound left-turn lane on SE Lake Road at the site access with a 75-foot storage pocket to mitigate the impacts of the proposed development. Because the left-turn lane would only serve the proposed development, the required mitigation is roughly proportional to the impacts of the proposed development.

The portion of SE Lake Road west of the proposed development access is 70 feet in width and can easily accommodate a three-lane street (two travel lanes plus the left-turn lane). The portion of SE Lake Road east of the proposed development access is 60 feet in width. The *Lake Road Multimodal Plan*, the City's concept plan for pedestrian and bicycle improvements to SE Lake Road, includes a three-lane typical cross section (two travel lanes, a center turn lane, bike lanes, and sidewalks) that fits within the 60-foot right-of-way. Where Lake Road right-of-way is 60 feet wide, a center turn lane will be substituted for planting strips on each side of the street. Therefore, the warranted left-turn lane on SE Lake Road will fit within the existing right-of-way and will be in keeping with the *Lake Road Multimodal Plan*.

The proposed development would increase the amount of traffic on SE 37th Avenue between the site access and Highway 224. Staff recommends that the applicant construct a curb tight sidewalk on the northeast side of SE 37th Avenue to mitigate impacts to pedestrian safety resulting from the increase in traffic. Also, staff recommends that the applicant construct frontage improvements on SE 37th Avenue, including street widening, landscape strip, and sidewalk improvements.

The City has yet to complete the design to implement the *Lake Road Multimodal Plan*. As a result, staff recommends granting an exception to allow the applicant to pay a fee-in-lieu of construction for frontage improvements on SE Lake Road, excluding the warranted left turn lane. The money can then be used as part of the Lake Road improvements once the project scope and design has been determined.

Key Issue #4 – Is it reasonable to require the applicant to bring some, but not all, of the existing nonconforming parking lot situations into conformance?

Off-street parking and loading standards apply to all development, remodeling, and changes of use that increase parking and loading demand. The existing building and parking lot were originally designed and built for a chapter of the Seventh Day Adventist Church. The applicant proposes to add approximately 21,300 square feet of gross floor area to the existing building. Increasing the building size increases the number of parking spaces required by the zoning code. Additionally, the projected size of the congregation will increase the demand for parking on the site.

The existing parking lot was approved in 1989. Due to code changes since 1989, several aspects of the design of the lot are legally nonconforming. These are detailed in Attachment 1 (Findings). Overall, however, the parking lot substantially conforms to current development standards. It contains mature, well-maintained landscaping, the paving is in good condition, and it has served the site adequately for 17 years.

The applicant proposes to modify the existing lot to bring it closer to conformance with the City's current standards. The applicant proposes to provide one additional accessible parking space to bring the parking lot into compliance with the Americans with Disabilities Act. The applicant also proposes to provide the required number of bicycle parking spaces and to extend an existing pedestrian walkway to better facilitate safe pedestrian access through the parking lot. The applicant does not propose to bring any of the other existing nonconformities into compliance with current off-street parking standards. A requirement of full conformance would necessitate substantial reconfiguration of the existing parking lot. Given the nature and extent of the existing nonconformities, staff does not recommend full conformance as a condition of approval.

There are, however, a number of nonconforming situations that can be brought into conformance without a major overhaul of the existing parking lot, and they are as follows:

- Installation of trees in existing medians and islands. Staff is not recommending the construction of new medians or islands, rather that existing medians and islands without trees be planted with the required number of trees.
- Screening of the parking lot from adjacent properties. Staff recommends that a continuous screen of plant materials be planted along the site's eastern property line, unless the applicant can demonstrate that existing plantings, fencing, and/or topography effectively screen the existing parking lot from adjacent properties to the east.
- Installation of wheel stops or additional pedestrian walkway paving. Staff recommends adding either wheel stops for the southernmost 37 parking spaces or widening of the pedestrian walkway immediately to the west of these parking spaces by two feet so as to provide a minimum of 5 feet of unobstructed walkway width for pedestrians traveling to or from SE Lake Road and the southern end of the parking lot.

In summary, staff believes that it is reasonable to require partial conformance at this time and recommends adoption of the conditions requiring additional landscaping, additional screening, and pedestrian walkway improvements. As conditioned, staff believes the application meets the intent of the off-street parking and loading requirements contained in MMC Chapter 19.500.

Code Authority and Decision Making Process

City of Milwaukie Zoning Ordinance references:

1. Section 19.301 – Residential Zone R-10
2. Section 19.321 – Community Service Overlay Zone
3. Chapter 19.500 – Off-Street Parking and Loading
4. Chapter 19.1400 – Transportation Planning, Design Standards, and Procedures
5. Section 19.1011.3 – Minor Quasi Judicial Review

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has the following options:

1. Approve the applications and adopt the recommended findings and conditions in support of approval.
2. Adopt additional findings and conditions in support of approval to comply with the Milwaukie Municipal Code.
3. Deny the applications upon a finding that they do not meet approval criteria.

The final decision on this application, which includes any appeals to the City Council, must be made by September 27, 2006, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

Comments

City departments, state and regional agencies, the neighborhood district association, and interested parties reviewed the applicant's proposal. The following is a summary of the comments received by the City. See the corresponding attachments for further details.

1. C.S. Maciejewski, P.E., DKS Associates. Mr. Maciejewski reviewed the applicant's Transportation Impact Study on behalf of the City. See Attachment 6 (Comments) for his analysis and recommendations.
2. Tom Larsen, City Building Official. See Attachment 6 (Comments) for more detail. The Building Official has no recommended conditions of approval. See Attachment 6 (Comments) for building permit submittal requirements.

3. Ron Schumacher, Deputy Fire Marshal for Clackamas County Fire District #1. The Fire Marshal has no recommended conditions of approval as the applicant has met the aerial access requirement. See Attachment 6 (Comments) for more detail.
4. Sonya Kazen, Development Review Planer for Oregon Department of Transportation (ODOT). ODOT has no recommended conditions of approval. See Attachment 6 (Comments) for more detail.
5. David Zagel, Project Manager with Tri-Met. Tri-Met recommended that the applicant construct two accessible bus stop landing areas (or provide fee-in-lieu of construction) for the two bus stops closest to the proposed development. See Attachment 6 (Comments) for more detail.
6. Lake Road Neighborhood District Association (NDA). The NDA Land Use Committee's comments are summarized below. See Attachment 6 (Comments) for more detail.

- The amount of traffic generated by the proposed use, given the size of its congregation, will have a negative impact on the traffic congestion already present on SE Lake Road. Visitors to the site should be encouraged to use the site's SE 37th Avenue access point to avoid overloading SE Lake Road.

Staff Response: Traffic impacts generated by the proposed use are addressed in Key Issues #1 and #3 and in Attachments 1 (Findings) and 2 (Conditions). Staff is recommending traffic mitigation pursuant to the findings and analysis made by the City's traffic engineer.

- The applicant should be required to build all required public improvements along their frontage on SE Lake Road and SE 37th Avenue. An exception to these requirements is not supported.

Staff Response: Public improvement requirements are addressed in Key Issue #3 and in Attachments 1 (Findings) and 2 (Conditions). Staff is recommending approval of the exception request for funds-in-lieu-of construction for the property's SE Lake Road frontage and is recommending denial of the exception request for the property's SE 37th Avenue frontage.

- There is no reason to raise the height limitation for churches from 35 feet to 50 feet.

Staff Response: The height of the proposed addition is addressed in Key Issue #2 and Attachments 1 (Findings), 2 (Conditions), and 3 (Zoning Compliance Report). Public and private institutions that are community service uses are currently allowed to exceed the height limitation of the underlying zone up to a maximum height of 50 feet. Staff supports allowing religious institutions to do the same, and new language to that effect was approved by the City Council on June 20, 2006. This new provision is expected to go into effect July 20, 2006. Regardless of the maximum height allowed, the Planning Commission may impose a lower building height if they find that a higher height would be incompatible with other adjacent uses.

7. Phil and Anne Favorite, neighboring property owners at 12293 SE 40th Avenue. Their comments are summarized below. See Attachment 6 (Comments) for more detail.

- Phil and Anne Favorite claim ownership by adverse possession of a portion of the property included in this land use application. They object to this land use application on the grounds that they have not consented to its submission.

Staff Response: Phil and Anne Favorite's claim has not been legally established as of the writing of this report. Consequently, the City cannot recognize their ownership claim to a portion of the property located at 4011 SE Lake Road. This, of course, does not prevent them from pursuing an adverse possession claim through appropriate legal channels. However, it does invalidate their objection to the submission and consideration of this land use application on the grounds that they claim partial ownership of the subject property.

- Approval of this land use application should include conditions that require all parking lot lighting to be deflected and/or screened with landscaping so as to avoid light trespass onto adjacent properties.

Staff Response: Lighting impacts generated by the proposed use are addressed in Key Issue #1 and Attachments 1 (Findings) and 2 (Conditions). Staff is recommending a number of conditions to minimize light trespass, include landscape screening and a photometric study.

- Location of new parking spaces should be evaluated so as to have the least impact on adjacent properties.

Staff Response: Parking lot impacts generated by the proposed use are addressed in Key Issue #1 and Attachments 1 (Findings) and 2 (Conditions). Staff is recommending that a continuous landscape screen be installed along the site's property line to the west and south of all new proposed parking spaces.

Attachments

1. Findings in Support of Approval
2. Conditions in Support of Approval
3. Zoning Compliance Report
4. Applicant's Narrative and Supporting Documentation (to Planning Commission only)
5. Site Plans and Drawings (to Planning Commission only)
6. Comments

ATTACHMENT 1

Recommended Findings in Support of Approval

1. The applicant proposes a community service use, namely a church, for the 9.77-acre property at 4011 SE Lake Road. The site is zoned R-10 and R-7 and currently contains an existing 2-story office building with a building footprint of approximately 18,000 square feet. The applicant proposes to build a 2-story addition onto the north side of this building that will serve as a chapel for up to 1,200 church members of the Immovable Foundation Church. The proposed footprint of this addition is approximately 14,000 square feet, and the proposed gross floor area is approximately 21,300 square feet. No additional changes are proposed to the existing structure.

The Immovable Foundation Church is an established church that has been leasing space from New Hope Church in Clackamas County for the past ten years since outgrowing their church space on SE Stanley Avenue in Milwaukie. Their proposed schedule of church activities and services is as follows:

Table 1: Immovable Foundation Church Proposed Schedule

Day of the Week	Event	Event Hours	Estimated Number of People Attending
Monday	Choir Practice	7 p.m. to 9 p.m.	50 – 60
Tuesday	Mass	7 p.m. to 9 p.m.	45 – 55% of Sunday Attendance
Wednesday	Band Practice	7 p.m. to 9 p.m.	12 – 16
Thursday	Choir Practice	7 p.m. to 9 p.m.	50 – 60
Friday	Mass	8 p.m. to 10 p.m.	60 – 75% of Sunday Attendance
Saturday	---	---	---
Sunday	Mass	2 p.m. to 4 p.m.	1,000 – 1,200

In addition to the above schedule of events, the church will host traditional church functions such as weddings, funerals, and religious holiday events. The church is also willing to provide meeting space for neighborhood organizations provided that such meetings do not conflict with regular church events or overload the parking lot. The church's staff of approximately 10 –15 people will work on site Mondays through Fridays from 10 a.m. to 5 p.m.

The existing parking lot contains 233 parking spaces. The applicant proposes to add 167 parking spaces, for a total of 400 parking spaces. The existing parking lot contains a number of nonconformities, and the applicant proposes to bring some of these nonconformities into conformance with current standards.

Pursuant to an intergovernmental agreement between the City of Milwaukie and the current property owner, the public is allowed to use the existing open space in the northwest corner of the site. The applicant proposes to retain the majority of this area as open space and to allow the public to continue to use it in a similar manner as does the current property owner, through an access easement and maintenance agreement.

2. Applications CSO-06-02 and TPR-06-04 have been processed and public notice has been provided in accordance with Milwaukie Municipal Code (MMC) Section 19.1011.3 – Minor Quasi-Judicial Review.
3. The property located at 4011 SE Lake Road is split-zoned. The majority of the site is zoned Residential Zone R-10. The remainder is zoned Residential Zone R-7. Since the majority of the site and all of the existing and proposed development is located in the R-10 portion of the site, the applicant has agreed to meet the R-10 zone development standards, which are the more stringent of the two zones. As demonstrated by Attachment 3, Zoning Compliance Report, the applicant's proposal either complies with or will comply with all Residential Zone R-10 development standards found in MMC Section 19.301.
4. The proposed church use is a community service use and is not an outright permitted use in the R-10 zone. Community service uses may be permitted in any zone provided that they meet the relevant criteria contained in MMC Section 19.321 – Community Service Overlay Zone.
 - A. Per MMC Section 19.321.4.A, an application for a community service use may be allowed if:
 1. The requirements of the underlying zone are met;
 2. Specific standards for the uses found in subsections 19.321.7—19.321.10 are met; and
 3. The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses.

As demonstrated by Attachment 3, Zoning Compliance Report, the applicant's proposal either complies with or will comply with all development standards of the underlying zone and all specific standards for churches. As conditioned, the Planning Commission finds that the application will comply with MMC Sections 19.231.4.A (1) and (2).

With regard to MMC Section 19.321.4.A (3), the Planning Commission finds that, as conditioned, the application will comply with this section. See Finding 4.B. below for more detail.
 - B. Per MMC Section 19.321.4.D, an application for a community service use may be allowed if the Planning Commission finds that the establishment of the community service use is in the general public interest and that the benefits to the public outweigh the possible adverse impacts of the use. In permitting a community service use or the modification of an existing one,

4.

Community Service Overlay Zone

the Planning Commission may impose suitable conditions which assure compatibility of the use with other uses in the vicinity.

SUMMARY OF BENEFITS AND IMPACTS

The proposed church use would provide the following public benefits:

- Construction of a worship space for church members to practice their religion in community with others.
- Preservation of meeting space for local community organizations.
- Preservation of the existing private open space for public use and enjoyment.
- Retention of most existing views from the site to downtown Portland and Mount Hood for the enjoyment of park users, church members, and adjacent property owners.
- Creation of a visually prominent, architecturally designed building.

The proposed church use would potentially have the following adverse impacts on the surrounding neighborhood:

- Vehicular noise and lighting trespass before, during, and after evening church events would increase the ambient noise and light impacts to neighboring residences.
- Expansion of the existing parking lot would increase the amount of lighting trespass onto adjacent properties from vehicles and parking lot lighting.
- The amount of new vehicle trips generated by the proposed use would contribute to traffic congestion on SE Lake Road and SE 37th Avenue and would create additional safety hazards for pedestrians where sidewalks do not exist.
- The proposed addition would block some of the existing views to downtown Portland and Mount Hood currently enjoyed by parks users and adjacent property owners.
- The size of the proposed addition to the existing building would be disproportionate to the scale of the surrounding neighborhood.
- Approving the site for use as a church would continue the site's tax-exempt status, precluding an opportunity to increase the City's tax base through private development.

The Planning Commission finds that the establishment of the proposed church use is in the general public interest and that benefits to the public outweigh the potential adverse impacts of the proposed use. With the exception of view impacts, the Planning Commission finds that all of the above impacts can be mitigated. Since the views to downtown Portland and Mount Hood would not be completely obstructed, the Planning

4. Community Service Overlay Zone

Commission finds that this is an acceptable impact of the proposed development.

With regard to the visual prominence of the existing building due to its location on a ridge to the south and above Hwy 224, the applicant shall design the façade of the proposed addition so as to be a positive addition to the urban landscape of the city. In other words, the proposed addition shall not present a blank face to the community.

To mitigate parking lot impacts, a photometric study shall be submitted that demonstrates the absence of lighting trespass onto adjacent properties where parking areas abut residential properties. If lighting trespass is present, the applicant shall deflect, relocate, or otherwise modify the existing and/or proposed lighting to ensure a measurement of 0 foot-candles along the property's western, southern, and eastern property lines. Continuous vegetative screening along the site's southern and western property lines where new parking spaces are proposed shall also be required to screen the parking lot and vehicle headlights from adjacent properties.

To mitigate traffic impacts, the applicant shall (1) widen the paving on SE Lake Road in order to install an eastbound left turn lane on SE Lake Road at the property's site access, (2) improve SE 37th Avenue along the property's frontage and, (3) install curb and sidewalk along the east side of SE 37th north of the property's site access to where it intersects Hwy 224.

As conditioned, the application will meet the community service use public benefits test of MMC Section 19.321.4.D.

POTENTIAL HEIGHT INCREASE

The City Council recently approved changes to the Community Service Overlay Zone that would allow, among other things, for churches to exceed the height limitation of the underlying zone up to a maximum height of 50 feet², excluding spires. If this code change goes into effect before the applicant submits for a building permit, the applicant could request a minor modification to this land use approval to increase the height of the proposed addition up to 50 feet. In order for staff to approve a minor modification to an existing land use decision, the applicant must demonstrate that the criteria contained in MMC Section 19.321.4.C have been met.

Assuming that the applicant can meet the minor modification criteria, the Planning Commission finds that there is no reason to impose a height limit different from the height limit prescribed by either the existing code

² Building height is defined as the vertical distance between the average finished grade of the building and the mean height level between the eaves and the ridge of the roof.

4. Community Service Overlay Zone

language or soon-to-be effective code language. The Planning Commission makes the following statements in support of this finding:

- An addition that is 50 feet tall would not impact existing views any more than the proposed 35-foot tall addition.
- An addition that is 50 feet tall would increase the length of the shadow it casts. However, given the location of the addition on the north side of the existing building and in the northern portion of the site, increased shadowing would not impact any adjacent property owners because none are located north of the proposed addition.
- Allowing a height of 50 feet would enable the applicant to design a more architecturally proportioned church building. Increasing the vertical height would help the existing structure overcome its width and horizontal massing.

5. Transportation Plan Review applies when a proposal is subject to the provisions contained in MMC Chapter 19.1400 – Transportation Planning. MMC Chapter 19.1400 applies to non-residential redevelopment proposals when the estimated value of the construction improvements exceeds \$225,102 and/or requires a transportation impact study.

In this case, a transportation impact study was required and the estimated value of the proposed addition exceeds the value threshold. The application, therefore, needs to comply with all relevant provisions contained in MMC Chapter 19.1400, which are addressed in detail in Findings 6 – 16 below. As conditioned, the applicant's proposal will comply with all relevant transportation requirements.

6. MMC Section 19.1404.D authorizes the Engineering Director to approve exceptions to transportation facility design standards.

The applicant requests to pay a fee-in-lieu of construction in accordance with MMC Subsection 19.1404.D.2 for all required public improvements on SE Lake Road and SE 37TH Avenue.

The Engineering Director recommends the applicant build required public improvements on SE 37TH Avenue and the warranted left turn lane on SE Lake Road. However, the scope and design of the Lake Road multimodal improvements has not yet been determined. As a result, the Engineering Director recommends approval of the applicant's request to pay a fee-in-lieu of construction for all public improvements on SE Lake Road fronting the proposed development, excluding construction of the left turn lane.

The Planning Commission denies the request to pay a fee-in-lieu of construction for required public improvements on SE 37TH Avenue and the warranted left turn lane on SE Lake Road.

The Planning Commission approves the request to pay a fee-in-lieu of construction for required public improvements on SE Lake Road, excluding the

warranted left turn lane. The Engineering Director will determine the fee at the time of building permit application.

7. MMC Section 19.1405.5 establishes approval criteria for transportation review applications.

The Planning Commission finds that the proposed development, as conditioned, meets the approval criteria of MMC Section 19.1405.5 for decisions made under MMC Chapter 19.1400.

8. MMC Section 19.1406 requires the applicant to provide an assessment and recommend mitigation of local street impacts when any non-residential development adds more than twenty-five (25) through vehicles per day to an adjacent residential local street.

The applicant conducted a Neighborhood Traffic Analysis as part of the Traffic Impact Study for the proposed development. The analysis found that no more than 25 through vehicle trips would be added to any local residential street as part of the proposed development. As a result, mitigation of impacts to adjacent local residential streets is not required.

The Planning Commission finds that the proposed development will not impact the adjacent local neighborhood streets.

9. MMC Section 19.1407 requires streets, sidewalks, and transportation facilities to be safe, convenient, and adequate to accommodate the impacts of new development.

The applicant proposes to dedicate 1.5 feet of right-of-way on SE Lake Road and 6 feet of right-of-way on SE 37TH Avenue fronting the proposed development.

Staff recommends the applicant construct a left turn lane on SE Lake Road accessing the proposed development property.

Staff recommends the applicant construct a half-street improvement on SE 37TH Avenue fronting the proposed development (a length of approximately 205 feet). The half-street improvement consists of a 5-foot setback sidewalk, a 5-foot landscape strip, a 6-inch curb, a 6-foot bike lane, and two 10-foot travel lanes.

Staff recommends the applicant construct a 6-foot wide curb tight sidewalk on the northeast side of SE 37TH Avenue between the proposed development access and Highway 224.

Planning Commission approved an exception for the applicant to pay a fee-in-lieu of construction of required public improvements on SE Lake Road fronting the proposed development, excluding the warranted left turn lane.

All of the intersections within the traffic study area of the proposed development will operate within City of Milwaukie level of service standards.

The Planning Commission finds that the proposed development, as conditioned, will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.

10. MMC Section 19.1408.1 and 19.1408.2 requires submission of a transportation impact analysis documenting the development impacts on the surrounding transportation system.

The proposed development scores over the 100 points necessary to require transportation impact analysis in accordance with the Transportation Design Manual. The applicant's traffic consultant, Dunn Traffic Engineering, submitted a traffic impact analysis with the land use application in accordance with MMC Section 19.1408. Staff has hired DKS Associates to conduct an independent review of the submitted transportation impact analysis.

The Planning Commission finds that the applicant's transportation impact analysis adequately complies with MMC Section 19.1408.

11. MMC Section 19.1408.3 and 19.1408.4 requires that transportation impacts of the development be mitigated and that the mitigation be roughly proportional to the impacts of the development.

A. SE 37TH Avenue Impacts and Mitigation:

The applicant's traffic impact analysis indicates that there will be a substantial increase in traffic on SE 37TH Avenue between the site access and Highway 224. The analysis estimates an additional 340 vehicle trips on weekdays and an additional 617 vehicle trips on Sundays using SE 37TH Avenue. The applicant does not propose mitigation of these impacts, stating that there are no residential homes fronting this section of SE 37TH Avenue and, therefore, no impacts to mitigate.

The City of Milwaukie traffic consultant, DKS Associates, reviewed the traffic impact analysis on SE 37TH Avenue. DKS states that without separate pedestrian facilities, the increase in traffic on SE 37TH Avenue between the site access and Highway 224 will create safety concerns for pedestrians. Pedestrian safety would be enhanced on SE 37TH Avenue by providing sidewalks between the site access and Highway 224.

The Transportation System Plan identifies SE 37TH Avenue between SE Lake Road and Highway 224 as part of the City of Milwaukie's walkway network. Staff recommends that the applicant construct a 6-foot wide curb tight sidewalk on the northeast side of SE 37TH Avenue between the site access and Highway 224 to mitigate the increase in vehicular traffic on SE 37TH Avenue, a neighborhood route. The length of sidewalk improvement is approximately 800 lineal feet. The Oregon Department of Transportation (ODOT) is in the process of constructing sidewalk at the intersection of Highway 224 and SE 37TH Avenue. Staff recommends the applicant construct sidewalk to the limits of the ODOT sidewalk improvements.

The proposed development fronts Highway 224 for approximately 1150 feet. This frontage length is less than the length of warranted off-site sidewalk improvements on SE 37TH Avenue. Public improvements on Highway 224 are not required by the Oregon Department of

Transportation. Due to (1) the site's limited frontage relative to its vehicular capacity, (2) limited amount of required public improvements along the property's frontage, and (3) the need for safer pedestrian connections to the proposed development, the required offsite sidewalk improvements are roughly proportional to the impact of the proposed development.

The Planning Commission finds that the impacts of the proposed development on SE 37TH Avenue, as conditioned, are mitigated and that the mitigation is roughly proportional to the impacts of the proposed development.

B. Right-Turn Warrant Analysis at the Intersection of the Proposed Development's Lake Road Access at SE Lake Road:

The applicant's traffic impact analysis identifies that the right-turn peak-hour volume warrant on SE Lake Road at the intersection of the Lake Road site access is met. However, the other 6 right-turn warrants are not met. The applicant does not recommend that a right-turn lane at this location be constructed at this time.

The City of Milwaukie traffic consultant, DKS Associates, reviewed the right-turn warrant analysis submitted by the applicant. DKS agrees with the applicant's findings and does not recommend a right-turn lane on SE Lake Road at the intersection of the Lake Road site access be constructed as part of the proposed development.

The Planning Commission finds that a right-turn lane at the intersection of the Lake Road site access and SE Lake Road is not warranted as part of the proposed development.

C. Left-Turn Warrant Analysis at the Intersection of the Proposed Development's Lake Road Access at SE Lake Road:

The applicant's traffic impact analysis identifies that a left-turn lane is warranted at two of the three periods of study, namely Sundays and PM Peak Hour Friday. The applicant's traffic engineer suggests that shifting the Friday service start time from 7:00 p.m. to 8:00 p.m. may reduce the vehicular impact on SE Lake Road during the peak hour. However, the applicant does not provide adequate traffic volume information to demonstrate that this shift in schedule would achieve the reduction of traffic volumes on SE Lake Road necessary to not meet the left-turn lane warrants.

The City of Milwaukie traffic consultant, DKS Associates, reviewed the left-turn lane warrant analysis submitted by the applicant. DKS Associates conducted a left-turn lane warrant analysis using the data submitted in the applicant's traffic impact analysis. DKS Associates found that the left-turn lane is warranted at all three of the periods of study: Sundays, PM Peak Hour Weekday, and PM Peak Hour Friday. Even if the applicant can show that the left-turn lane warrants are not met by rescheduling the

Friday service, the left-turn lane is still warranted during the two other study periods.

Staff recommends the applicant construct an eastbound left-turn lane on SE Lake Road at the site access with a 75-foot storage pocket to mitigate the impacts of the proposed development. Because the left-turn lane is for proposed development access only, the required mitigation is roughly proportional to the impacts of the proposed development.

Construction of the left-turn lane will require the applicant to widen SE Lake Road approximately 12 feet, to the east and west of the proposed development access, tapering back to existing pavement width within approximately 150 feet. The portion of SE Lake Road west of the proposed development access is 70 feet in width and can easily accommodate a three-lane street. The portion of SE Lake Road east of the proposed development access is 60 feet in width. The *Lake Road Multimodal Plan* includes three-lane cross sections with bike lanes and sidewalks that fit within the 60-foot right-of-way. As a result, the warranted left-turn lane on SE Lake Road will fit within the existing right-of-way and will be in keeping with the *Lake Road Multimodal Plan*.

The Planning Commission finds that an eastbound left-turn lane on SE Lake Road at the site access is warranted as part of the proposed development.

The Planning Commission finds that the impacts of the proposed development on SE Lake Road, as conditioned, are mitigated and that the mitigation is roughly proportional to the impacts of the proposed development.

12. MMC Section 19.1409 establishes standards for street design and improvement.

The applicant proposes to dedicate 1.5 feet of right-of-way on SE Lake Road and 6 feet of right-of-way on SE 37TH Avenue fronting the proposed development.

Staff recommends the applicant construct a left turn lane on SE Lake Road accessing the proposed development property.

Staff recommends the applicant construct a half-street improvement on SE 37TH Avenue fronting the proposed development. The half-street improvement consists of 5-foot setback sidewalk, 5-foot landscape strip, 6-inch curb, 6-foot bike lane, and two 10-foot travel lanes.

Staff recommends the applicant construct 6-foot wide curb tight sidewalk on the northeast side of SE 37TH Avenue between the proposed development access and Highway 224.

Planning Commission approved an exception for the applicant to pay a fee-in-lieu of construction of required public improvements on SE Lake Road fronting the proposed development, excluding the warranted left turn lane.

Staff recommends no signs, structures, or vegetation in excess of three feet in height be placed in "vision clearance areas" at intersections of streets, driveways, and alleys.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1409.

13. MMC Section 19.1410 establishes standards for pedestrian facilities.

Staff recommends the applicant construct a 5-foot wide setback sidewalk fronting the proposed development on SE 37TH Avenue.

Staff recommends the applicant construct 6-foot wide curb tight sidewalk on the northeast side of SE 37TH Avenue between the proposed development access and Highway 224. Due to the existing topography on the northeast side of SE 37TH Avenue, staff recommends a curb tight sidewalk instead of a setback sidewalk with a landscape strip.

Planning Commission approved an exception for the applicant to pay a fee in lieu of construction of required public improvements on SE Lake Road fronting the proposed development, excluding the required left turn lane.

For additional detail, refer to Finding 27, which addresses pedestrian access through on-site vehicular parking areas.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1410.

14. MMC Section 19.1411 establishes standards for bicycle facilities.

Staff recommends the applicant locate the new curb and sidewalk on SE 37TH Avenue to provide for future bike lane along the required sidewalk alignment.

Staff recommends the applicant maintain the existing bike lane fronting the proposed development on SE Lake Road.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1411.

15. MMC Section 19.1412 establishes standards for transit facilities.

City of Milwaukie staff referred the application to Tri-Met for comment. Tri-Met recommended that the applicant construct two accessible bus stop landing areas (or provide fee-in-lieu of construction) for the two bus stops closest to the proposed development.

The City will incorporate accessible bus stop landing areas in its Lake Road multmodal improvements. The Planning Commission therefore finds that the proposed development is consistent with MMC Section 19.1412.

16. MMC Section 19.1413 establishes standards for access management.

The applicant submitted an Access Study in accordance with MMC Section 19.1413.1(C) for the site access onto SE Lake Road. The existing access is located across from SE Vernie Avenue and will function as a standard four-leg intersection.

The applicant is proposing to remove the existing left turn restriction at the access location to allow left turn movements from the site onto SE Lake Road. The applicant's access study indicates that the driveway with the left turn restriction lifted will operate at a level of service C, well within City of Milwaukie level of service standards.

The City of Milwaukie traffic consultant, DKS Associates, reviewed the applicant's access study. DKS Associates agree with the applicant's findings and recommend the left turn restriction at the SE Lake Road access be eliminated.

The existing site access on SE 37TH Avenue prevents left-turn movements from the site onto southbound SE 37TH Avenue due to the limited site distance created by surrounding topography. The traffic impact analysis submitted by the applicant indicates that the increase in trips to and from the site will be from Highway 224. As a result, there is little demand for left-turn movement out of the site onto southbound SE 37TH Avenue. The applicant proposes to preserve the left-turn restriction from the site access to southbound SE 37TH Avenue.

The driveway approach must be 10 feet from the property line.

The allowed driveway approach width for the proposed development is between 12 feet and 36 feet in width.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1413.

17. Per MMC Chapter 19.500 Off-Street Parking and Loading, the standards and procedures of this chapter shall apply to all development, remodeling, and changes of use that increase parking and loading demand. MMC Section 19.502.B adds that where nonconforming parking and loading facilities exist, the applicant shall attempt to bring them into conformance when remodeling or changes in use occur.

The applicant is proposing to remodel an existing building that would result in the addition of approximately 21,300 square feet of gross floor area, which would increase the demand for on-site parking. The application, therefore, needs to comply with all relevant provisions contained in MMC Chapter 19.500 and to attempt to bring all nonconforming parking facilities into conformance. The relevant provisions of MMC Chapter 19.500 are addressed in detail in Findings 18 – 31 below. As conditioned, the application will comply with all relevant off-street parking requirements.

18. MMC Section 19.503.2 – Shared Parking. Shared parking shall be permitted for two or more uses when there is no conflict in operating hours.

Shared parking is proposed for the different uses on the site. Church office uses, which would occur during the day between Monday and Friday, would not conflict with church events and activities in the evenings and on weekends. Non-church use of the site by neighborhood organizations would be upon church approval

and scheduled so as not to conflict with church parking demand. As conditioned, the application will comply with MMC Section 19.503.2.

19. MMC Section 19.503.3 – Minimum Number of Required Parking Spaces and Maximum Allowable Parking.

The applicant proposes to add 167 new parking spaces for a total of 400 parking spaces. The maximum allowed number of parking spaces is 1 space for every 3 seats. The applicant proposes to construct a chapel that would seat 1,200 people, which means that 400 parking spaces is the maximum number of parking spaces allowed outright for this development proposal. As proposed, the application complies with MMC Section 19.503.3

20. MMC Section 19.503.10 – Off-Street Parking Space Standards. A minimum of fifty percent of spaces shall be regular-sized spaces and a maximum of fifty percent can be compact spaces. Accessible spaces shall meet federal and state requirements.

The applicant proposes to provide 211 standard spaces, 189 compact spaces, and the required number of accessible parking spaces. As proposed, the application complies with MMC Section 19.503.10

21. MMC Section 19.503.11 – Paving and Striping. Paving and striping shall be required for all maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all- weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways.

The applicant proposes to pave all new parking space areas with a durable and dust-free surface, strip all new parking spaces, and provide appropriate directional markings. As proposed, the application complies with MMC Section 19.503.11

22. MMC Section 19.503.12 – Curb Cuts. Curb cuts to parking areas shall be the minimum number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Curb cuts shall comply with the access spacing standards of Chapter 19.1400.

All curb cuts are existing and no changes are proposed. As proposed, the application complies with MMC Section 19.503.12.

23. MMC Section 19.503.13 – Aisles. Aisles shall be required in parking areas greater than three spaces. Parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.

The applicant proposes to construct all new parking areas with the required minimum width aisle dimension. Some of the existing aisles are legally nonconforming as to width, and the applicant does not propose to bring them into conformance with current standards. The Planning Commission finds that the existing nonconforming aisles are in safe and usable condition. Conformance with current standards is not required. As proposed, the application complies with MMC Section 19.503.13.

24. MMC Section 19.503.14 – Connections. Parking areas shall be designed to connect with parking areas on adjacent sites to eliminate the use of the street for cross movements.

There are not adjacent sites to which this site would connect. This section is not applicable.

25. MMC Section 19.503.15 –Lighting. Lighting of a parking area shall be required and shall be designed to enhance safe access for vehicles and pedestrians on the site. Parking area lighting shall be situated to avoid glare and be deflected so as not to shine on adjacent property.

The applicant proposes to use and augment the site's existing lighting. The Planning Commission has concerns that lighting trespass onto adjacent properties may occur as a result of the expansion of the parking lot or as a result of poorly located or deflected existing lighting. The applicant therefore shall submit a photometric study that demonstrates that no light trespass onto adjacent properties would occur as a result of this development proposal. As conditioned, the application will comply with MMC Section 19.503.15

26. MMC Section 19.503.16 – Drainage. All areas used for circulation and parking shall meet city standards for surface water runoff.

The applicant proposes to have post-development surface runoff flows not exceed pre-development surface runoff flows. To ensure that this requirement is met at the time of construction, the applicant shall submit a stormwater management plan at the time of building permit submittal. As conditioned, the application will comply with MMC Section 19.503.16.

27. MMC Section 19.503.17 – Pedestrian Access. Pedestrian access through parking areas shall be attractive, separated from vehicular circulation and parking, lighted, and provide direct access. Walkways shall be required in parking areas over twenty spaces and shall be buffered by landscaping or a curb.

The applicant proposes to extend an existing pedestrian walkway through the site to provide safer pedestrian circulation through the parking lot. The existing pedestrian walkway along the southernmost portion of the site is nonconforming as to width per MMC Section 19.1410.3.E, and the applicant does not propose to bring it into conformance with current standards. The installation of wheelstops in the 37 southernmost parking spaces or the addition of 2 feet of pavement width to the existing walkway would bring this walkway into conformance. The Planning Commission finds that it is reasonable to require the applicant to bring this walkway into conformance with current standards. As conditioned, the application will comply with MMC Section 19.503.17 and MMC Section 19.1410.3.E.

28. MMC Section 19.503.18 – Park-and-Ride Facilities. Park-and-ride facilities may be encouraged or required as part of development review for uses along transit routes. These uses have days and hours not in conflict with weekday use (e.g.,

churches, fraternal organizations) and may be encouraged or required to allow a portion of their parking area to be used for a park-and-ride lot.

The applicant does not propose a park-and-ride facility, and Tri-Met does not need a park-and-ride facility at this location. As proposed, the application complies with MMC Section 19.503.18.

29. MMC Section 19.503.19 – Landscaping. Parking area landscaping shall be required in all districts and for all uses other than single-family and duplex residences. Landscaping shall be based on the following standards.

- A. Perimeter landscaping shall be required between parking lots and adjacent properties, other site uses, and right-of-way. Continuous vegetative screening is required when parking lots abut adjacent properties.

The existing parking lot is nonconforming with regard to perimeter landscaping. The applicant does not propose to bring these landscaping nonconformities into conformance. The Planning Commission finds that perimeter landscaping is unnecessary in all but one of these nonconforming areas, namely along the site's eastern property line. As conditioned, the application will comply with perimeter landscaping requirements.

Most of the proposed new parking areas are on the edges of the existing parking lot, triggering new perimeter landscaping requirements. The Planning Commission finds that landscaping along the following perimeters is contraindicated: (1) the area along the site's northern property line where new parking spaces abut Hwy 224, and (2) the area to the west of the westernmost new parking spaces where they abut the open space area. While normally required around all perimeters, perimeter landscaping in these areas would interfere with existing views and/or not serve the purpose that they were intended to serve.

The Planning Commission finds that perimeter landscaping, specifically continuous vegetative screening, is necessary along the site's southern and western property lines where new parking spaces are proposed. To ensure that these requirements are met at the time of construction, the applicant shall submit a revised landscape plan at the time of building permit submittal. As conditioned, the application will comply with perimeter landscaping requirements.

- B. Interior landscaping of parking areas shall be required.

The existing parking lot partially conforms to interior landscaping standards. The applicant does not propose to bring any existing nonconformities into conformance. The Planning Commission finds that where there is an existing median, interior island, or terminal island without an existing tree, the applicant shall plant at least one tree in these areas. As conditioned, the application will comply with interior landscaping requirements.

The proposed new parking areas contain the required number of islands and trees. As conditioned, the application will comply with interior landscaping requirements.

- C. Parking bumpers or wheel stops, of a minimum of four inches in height, shall be provided at parking spaces to prevent vehicles from encroaching on the street right-of-way, adjacent landscaped areas, or pedestrian walkways.

The applicant proposes wheel stops for all new parking spaces in their narrative, but these wheel stops are not shown graphically on any of their site plans. To ensure that this requirement is met at the time of construction, the applicant shall submit a revised parking plan at the time of building permit submittal. As conditioned, the application will comply with MMC section 19.503.19.

- 30. MMC Section 19.504.1.A – Off-Street Loading Areas. Off-street loading shall be required for commercial, industrial, public, and semipublic uses, as appropriate, for the receipt or distribution of merchandise by vehicles. Such uses shall have one or more spaces for standing, loading, and unloading of vehicles. Off-street loading is not required in the downtown storefront and downtown office zones.

Off-street loading areas are not required for the proposed use, and the applicant does not propose any loading areas. This section does not apply.

- 31. MMC Section 19.505 – Bicycle Parking. Bicycle parking shall be provided for all new commercial, business industrial (BI), community service (CSO), and multifamily development.

- A. MMC Section 19.505.2 – Number of Spaces. The number of bicycle parking spaces shall be at least ten percent (10%) of the required automobile parking for the use. In no case shall less than two (2) spaces be provided.

The applicant is proposing 24 bicycle parking spaces, which equals ten percent of the minimum required number of parking spaces. As proposed, the application complies with MMC Section 19.505.2.

- B. MMC Section 19.505.3 – Dimensional Requirements. The dimension of each bicycle parking space shall be a minimum of two and one-half (2 1/2) by six (6) feet. A 5-foot-wide access aisle must be provided. If spaces are covered, seven (7) feet of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and one wheel to be locked to a rack using a high security, U-shaped, shackle lock.

The applicant proposes to install the required number of bicycle parking spaces per the dimensional requirements outlined above. As proposed, the application complies with MMC Section 19.505.3.

- C. MMC Section 19.505.4 – Location. Bicycle parking facilities shall be:

1. Located within fifty (50) feet of the main building entrance;
2. Closer to the entrance than the nearest automobile parking space;
3. Designed to provide direct access to a public right-of-way;
4. Dispersed for multiple entrances;
5. In a location that is visible to building occupants or from the main parking lot;
6. Designed not to impede pedestrians along sidewalks or public rights-of-way; and
7. Separated from vehicle parking areas by curbing or other similar physical barriers.

The applicant proposes to install the required number of bicycle parking spaces per the location requirements outlined above. As proposed, the application complies with MMC Section 19.505.4.

- D. MMC Section 19.505.5 – Covered or Enclosed Bicycle Parking. Covered or enclosed bicycle parking shall be provided when ten percent (10%) or more of automobile parking is covered. If more than ten (10) bicycle parking spaces are required, then a minimum of fifty percent (50%) of the bicycle spaces shall be covered and/or enclosed (lockers).

The applicant proposes to cover and/or enclose 12 bicycle parking spaces, which equals fifty percent of the total number of bicycle parking spaces required. As proposed, the application complies with MMC Section 19.505.5.

- E. MMC Section 19.505.6 – Lighting. Lighting shall be provided in bicycle parking areas to illuminate facilities at least as well as automobile parking areas.

The applicant proposes to light the bicycle parking areas as least as well as vehicle parking areas. The required photometric study would confirm this. As proposed, the application complies with MMC Section 19.505.6

32. Title 16 of the Milwaukie Municipal Code requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities. As conditioned, the application will comply with MMC Title 16 – Erosion Control.

ATTACHMENT 2

Recommended Conditions in Support of Approval

1. Final site and architectural plans shall be in substantial conformance with the plans approved by this action—except as otherwise modified by these conditions—which are the architectural plans, site plans, and application submission materials stamped received May 30, 2006 and June 5, 2006 by the Milwaukie Planning Department.
2. At the time of submission of a building permit, the applicant shall:
 - A. Provide a narrative describing all actions taken to comply with these conditions of approval.
 - B. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
 - C. Submit an Easement Plan and Maintenance Agreement for the open space area in the northwest corner of the site.
 - D. Submit a revised Parking Plan that includes the following:
 - (1) Covered and/or enclosed bicycle parking detail.
 - (2) Wheel stops on all new parking spaces.
 - (3) Wheel stops on the 37 southernmost existing parking spaces or an additional 2 feet of paving on the existing pedestrian walkway immediately west of these parking spaces.
 - E. Submit a Parking Management Plan that describes how the church will address their growing congregation's parking demand when the proposed 400-space parking lot reaches capacity.
 - F. Submit a revised Landscape Plan that includes the following:
 - (1) Continuous vegetative screening along the site's eastern property line unless it can be demonstrated that the existing fencing, plantings, and/or topography effectively screens the parking lot from the adjacent property owners to the east.
 - (2) Continuous vegetative screening along the site's western and southern property lines where new parking spaces are proposed.
 - (3) Trees in all existing terminal islands and in all proposed islands and medians.
 - G. Submit a Photometric Study that demonstrates the following:
 - (1) 0 foot-candle readings along the site's western, southern, and eastern property lines.

- (2) A minimum of 0.05 foot-candle readings along the main pedestrian walkway through the site.
 - (3) Similar foot-candle readings for bicycle parking lighting and vehicle parking lighting.
 - H. If the Photometric Study demonstrates that the parking lot lighting does not meet any of the standards outlined in Condition G above, submit a revised parking lot Lighting Plan and/or other relevant documentation that demonstrates how Condition 2.G will be met.
 - I. Submit a request for a minor modification showing that MMC Section 19.321.4.C criteria have been met if the applicant wants to take advantage of the new height limit for churches³.
 - J. Submit elevation drawings of the proposed addition that demonstrates that the building is not presenting a blank façade to the community.
3. Prior to issuance of a building permit, the applicant shall:
- A. Submit full-engineered plans for the following required and warranted public improvements to the City of Milwaukie Planning Department for review and approval.
 - (1) Half-street improvements on 37th Avenue along the property's frontage. See Condition 4.G for more detail.
 - (2) Curb tight 6-foot wide sidewalk on the northeast side of 37th Avenue at the site access to where SE 37th Avenue intersects Hwy 224. Coordinate this sidewalk improvement with Oregon Department of Transportation (ODOT) so that it connects with ODOT sidewalk improvements in the area.
 - (3) Eastbound left turn lane on SE Lake Road at the site access with a 75-foot storage pocket and street pavement widening as necessary to accommodate the left turn lane and tapering.
 - B. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
 - C. Provide a payment and performance bond for 100 percent of the cost of the public improvements prior to the start of construction.
 - D. Provide an erosion control plan and obtain an erosion control permit.
 - E. Obtain an Oregon Department of Transportation Miscellaneous Permit for all work in the highway right-of-way, if necessary.
 - F. Provide a detailed storm water management plan. The report shall detail pre- and post- construction flows in sufficient detail to demonstrate flows into the city storm system.

³ The new ordinance goes into effect July 20, 2006. The request for a minor modification must be submitted after this date.

- G. Obtain an ODOT Drainage Permit for proposed discharge/connection to state highway drainage facilities as shown in the hydrology study.
 - H. Dedicate 1.5 feet of right-of-way on SE Lake Road fronting the proposed development.
 - I. Dedicate 6 feet of right-of-way on SE 37TH Avenue fronting the proposed development.
 - J. Pay a fee-in-lieu of construction for all public improvements on SE Lake Road fronting the proposed development, excluding the warranted left turn lane. The Engineering Director will determine the fee at the time of building permit application.
4. Prior to issuance of a Certificate of Occupancy, the applicant shall:
- A. Install all required parking lot landscaping, including all proposed landscaping and all landscaping required by Condition 2.F, or post a performance bond with the City. If a performance bond is posted, landscaping shall be installed within six months of the posting or the bond will be foreclosed and plant materials installed by the City. Vegetative screening must reach a minimum height of six feet upon maturation.
 - B. Install all proposed parking spaces.
 - C. Provide the City with a recorded copy of the Maintenance Agreement required in Condition 2.C.
 - D. Submit approved public improvement Mylar "As Constructed" plans to the City of Milwaukie Planning Department.
 - E. Construct curb and 6-foot wide curb tight sidewalk on the northeast side of SE 37TH Avenue between the site access and Highway 224. Locate curb and sidewalk to provide for future bike lane along the new sidewalk alignment.
 - F. Construct an eastbound left-turn lane on SE Lake Road at the site access with a 75-foot storage pocket and street pavement widening as necessary to accommodate the left turn lane and tapering.
 - G. Construct a half-street improvement on SE 37TH Avenue fronting the proposed development. The half-street improvement consists of 5-foot setback sidewalk, 5-foot landscape strip, 6-inch curb, 6-foot bike lane, and two 10-foot travel lanes.
 - H. Trim and/or remove all signs, structures, or vegetation in excess of three feet in height on the proposed development property at all vision clearance areas. Limb trees and trim tree branches located in the vision clearance area to a height of 8 feet.
 - I. The City of Milwaukie shall install all street signs, relative to traffic control and street names. The applicant shall be responsible for the costs of all

street signing for the proposed development. Necessary street signage shall be determined as part of the public improvements design review.

5. Construction Requirements:

- A. Construct all public improvements to City of Milwaukie standards for construction.
- B. Construct sidewalk and driveway approaches to meet all applicable guidelines of the Americans with Disabilities Act.
- C. Construct driveway approaches 10 feet from the property line.
- D. All driveway approaches for the proposed development are to be between 12 feet and 36 feet in width.

6. After issuance of a Certificate of Occupancy, the applicant shall:

- A. Maintain perimeter landscaping in good and healthy condition in order to minimize impacts to adjacent property owners.
- B. Maintain parking lot landscaping in good and healthy condition.
- C. Maintain parking lot lighting in reasonable repair so as to avoid glare onto adjacent residential properties.
- D. Use the site in a manner substantially similar to what has been proposed and approved through this land use action, including the hours and levels of proposed activities and services. No major function or event shall occur within the existing office building when masses are held on Tuesdays, Fridays, and Mondays.
- E. Maintain the left-turn restriction from the SE 37TH Avenue site access to southbound SE 37TH Avenue.

ATTACHMENT 3

Zoning Compliance Report

Residential Zone R-10 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	10,000 SQFT	425,501 SQFT	Complies with standard.
2. Minimum Lot Width	70 feet	600 feet (approximate)	Complies with standard.
3. Minimum Lot Depth	100 feet	900 feet (approximate)	Complies with standard.
4. Minimum Setbacks	20 feet (front & rear) 10 feet (side)	65 feet (front) 60 feet (rear) 130 feet (west side) 285 feet (east side)	Complies with standard.
5. Off-Street Parking and Loading	Yes	167 new spaces proposed for a total of 400 spaces	As conditioned, application will comply.
6. Height Restriction	2-1/2 stories or 35 feet	35 feet (excluding steeple)	Complies with standard.
7. Lot Coverage	30% max.	17,816 SQFT (existing) 14,081 SQFT (proposed) 31,897 SQFT (total) = 7.5% lot coverage	Complies with standard.
8. Minimum Vegetation	35% min.	48%	Complies with standard.
9. Frontage	35 feet	70 feet (approximate)	Complies with standard.
10. Density	3.5 – 4.4 units/net acre	No dwelling units proposed	Not Applicable.
11. Transportation Requirements	Yes	Requesting exceptions to frontage improvements	As conditioned, application will comply.

Community Service Use: Specific Standards for Churches			
Standard	Required	Proposed	Staff Comment
1. Church Spire Height	No height limit	50 feet	Complies with standard.
2. Minimum Setbacks	2/3 height of the building	See #4 and #6 in table above	Complies with standard.
3. Minimum Vegetation	15%	48%	Complies with standard.
4. Off-Street Parking	Yes	167 new spaces proposed for a total of 400 spaces	As conditioned, application will comply.

MEMORANDUM

DATE: June 14, 2006
TO: Zach Weigel, City of Milwaukie
FROM: C.S. Maciejewski, PE
SUBJECT: 4011 SE Lake Road Immovable Foundation Church – TIS Review
P05280-004-000

Per your request of May 25, 2006, I have reviewed the traffic impact study material submitted for the Immovable Foundation Church (located at 4011 SE Lake Road) by Dunn Traffic Engineering in April 2006 and supplemented May 18, 2006. This memorandum summarizes my review comments.

Project Trip Generation and Assignment

The analysis conducted for the proposed project has adequately met the traffic impact study scope requirements for estimating the trip generation for the proposed church by utilizing surveys at similar sites. The trip distribution methodology utilizes a zip-code survey of existing congregation members and is adequate for the purposes of this study.

Intersection Operations Analysis

Intersection operations analysis was conducted with the proposed project for the weekday PM peak hour (site peak and surrounding roadway peak) and the weekend peak (Sunday entering and existing scenarios). The analysis found that each of the study intersections would operate at level of service (LOS) C or better with the proposed project traffic, which meets City of Milwaukie operations standards (LOS D or better) and ODOT's performance standards at Hwy 224/37th Avenue. No capacity based mitigation measures are recommended.

ODOT staff has also reviewed the operations analysis and has submitted comments to the City.

Intersection Sight Distance Analysis

The information provided in the traffic impact study documents adequate existing sight distance at the proposed access points.

Potential Mitigation Measure: Restrict landscaping, monuments, or other obstructions within the sight distance triangles at the access points to maintain adequate sight distance on Lake Road and 37th Avenue.

Site Access for All Modes

The traffic impact study notes that pedestrian and bicycle connectivity to the site will be provided as part of the Lake Road improvement project. Existing transit service on Lake Road serves the site during weekdays. The study does note that a continuous pedestrian connection should be provided between the main building entrance and Lake Road.

Potential Mitigation Measure: Provide a continuous pedestrian pathway (per City of Milwaukie standards) from Lake Road to the main building entrance.

Access Management

The traffic impact study includes an access management plan for Lake Road that is adequate to meet the City of Milwaukie study requirements. As noted in the study, although the site access does not meet access spacing standards, it does align with Vernie Road to the south. In addition, no significant safety or operations issues were identified with the proposed access location. Removing the previously conditioned left-turn out restriction would not cause the site access to have operational (capacity) issues, as the peak period for vehicles exiting the site does not correspond to peak periods on Lake Road. Therefore, the proposed access configuration does not require further mitigation.

Neighborhood Impacts

The traffic impact study included the identification of neighborhood street impacts to 37th Avenue north of the site. The proposed project proposes to maintain the left-turn out restriction at the site access onto 37th Avenue, which mitigates potential impacts on 37th Avenue south of the site access. Removing the site access to 37th Avenue would have undesirable impacts to the operation of the site access on Lake Road. Therefore, it is recommended that the access to 37th Avenue be maintained. However, the increase of traffic to 37th Avenue to create neighborhood impacts to a street without separate pedestrian facilities. Pedestrian safety could be enhanced on 37th Avenue by providing sidewalks between the site access and Hwy 224 (as identified by City staff).

Potential Mitigation Measure: Provide curb and sidewalk on 37th Avenue from the site access to Highway 224.

Traffic Signal Warrant Analysis

Peak hour traffic signal warrants were conducted at the unsignalized study intersections during peak hours. As no warrants were met, no mitigations are recommended.

Right Turn Lane Warrants

Right turn lane warrants were conducted at the site access point on Lake Road during each of the peak analysis periods. The traffic impact study found that volume warrants would be satisfied during the weekday and weekend periods when vehicles are entering the site. However, the construction of a right-turn lane at this location would have significant impacts to fronting properties on Lake Road. The City Engineer would ultimately be required to determine if this location is desirable for a right-turn lane improvement. Given the vehicle speeds on Lake Road (posted 30 mph), it is unlikely that providing a deceleration lane for right-turning vehicles would provide significant safety enhancements.

Left Turn Lane Warrants

Left-turn lane warrants were conducted at the site access point during peak study periods. Although the study finds that a left-turn lane would only be warranted on Friday evening and Sunday afternoon when vehicles are entering the site for a service, our analysis found that a left-turn lane would also be warranted during the mid-week period when vehicles are entering the site (warrants would be met up to 3 times per week). The traffic study proposes moving the Friday service to a start time of 8:00 PM to mitigate the need for a left-turn lane; however, the study does not include adequate traffic volume information to demonstrate that this shift in schedule would achieve the reduction in traffic volumes on Lake Road. Even if a shift in schedule would mitigate the need for a left-turn lane during the week, a left-turn lane would still be warranted on Sunday.

Potential Mitigation Measure: Provide an eastbound left-turn lane on Lake Road at the site access with adequate storage for 3 vehicles (75-foot storage pocket). Coordinate with the City of Milwaukie to determine the how the construction of a left-turn lane should be integrated with the Lake Road Improvement Project.

Parking Supply


The proposed site plan provides a total of 400 parking spaces on site. The analysis for parking demand (which accounts separately for choir members driving alone to the site) found that at peak attendance (1,200 persons), 510 parking spaces would be needed (demand exceeds supply by 110 parking spaces). The applicant recommends a carpool program be implemented when parking lot becomes 95% utilized. However, a more comprehensive parking management plan should be completed that considers developing agreements with nearby uses to share parking during peak periods, as a carpool program alone is unlikely to achieve a 28% reduction in parking demand.

Potential Mitigation Measure: Prior to final occupancy permits, complete a parking management plan to adequately address site parking needs for full occupancy (1,200 attendees). The plan may include a carpool program, but should also include agreements with neighboring uses that have under-utilized parking lots during peak church hours (e.g. Rowe Middle School and the office development at Lake/Freeman) to provide approximately 100 additional parking spaces. The parking management plan should also identify shuttle service between the site and the auxiliary parking areas, if needed.

If you have any questions, please feel free to call me.

**CITY OF MILWAUKIE
BUILDING
DEPARTMENT**

Memo

To: Susan Shanks, Associate Planner
From: Tom Larsen, Building Official 
Date: June 9, 2006
Re: CSO-06-02 etc.- Immovable Foundation Church

1. The structure is a Special Occupancy Structure per ORS 455.447. A site-specific seismic hazard investigation is required (OSSC Section 1802.4.2).
2. At the time of building permit application, the applicant shall provide a plumbing fixture count – both water and sewer – in order to properly size the utility services for the building (Oregon Plumbing Specialty Code).
3. The plans submitted show the appropriate number of accessible parking spaces, however, at the time of building permit application, the applicant shall show an accessible route from the parking spaces into and throughout the structure (OSSC Sections 1103.1 & 1108.1.1.1).

Clackamas County Fire District #1

Fire Prevention Office



E-mail Memorandum

To: Susan Shanks, City of Milwaukie Planning Dept
From: Ron Schumacher, Deputy Fire Marshal, Clackamas County Fire District #1
Date: 6/30/2006
Re: CSO-06-02, TPR-06-04; Church Expansion; 4011 SE Lake Rd

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

COMMENTS:

The fire department has no additional comments because applicant has met the aerial access requirement.

Attachment 6



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation

ODOT Region 1

123 NW Flanders St

Portland, OR 97209 - 4037

Telephone (503) 731-8200

FAX (503) 731-8259

TO: Sonya Kazen – Associate Planner

FROM: Joseph Auth, PE – Transportation Analyst

DATE: June 5, 2006

RE: **Proposed Immovable Foundation Church – Milwaukie, OR**
Traffic Impact Study Review

ODOT Region 1 Traffic has reviewed the *Transportation Impact Analysis Report: The Immovable Foundation Church* prepared by Dunn Engineering in April 2006. The applicant proposes to construct a new church with a maximum seating capacity of 1,200 seats. Please note that Dunn Engineering did not contact ODOT Region 1 Traffic to help with the scope of work for the TIS. Our office makes the following findings for the local land use approval:

Findings

According to the 1999 *Oregon Highway Plan*, the OR224 / SE Edison Street intersection has a maximum volume-to-capacity (v/c) ratio standard of 0.99 for the 30th-highest hour. The report refers to this intersection as the OR224 / SE 37th Avenue intersection. Upon reviewing the report, its methodology does not comply with the *Application Oregon Highway Plan Mobility Standards* because the correct traffic signal timing was not employed in the v/c ratio analysis. The report should have used ODOT existing coordinated traffic signal timing for the weekday PM peak and Sunday peak hours. However, based on my own v/c ratio analysis utilizing the correct methodology, I find that the maximum v/c ratio standard is met for the weekday PM peak and Sunday peak hours with the site generated traffic.

The report did a 95th-percentile queue analysis to address safety concerns. As stated in the previous paragraph, the report did not use the correct traffic signal timing. In my own evaluation of queues using the correct traffic signal timing, the Milwaukie Expressway Preservation Project's proposed westbound left-turn storage length striping at the OR224 / SE Edison Street intersection should be able to accommodate the 95th-percentile queues in the Sunday peak hour.

If you have any questions, feel free to contact me at (503) 731-8225.



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation

ODOT Region 1
123 NW Flanders St
Portland, OR 97209 - 4037
Telephone (503) 731-8200
FAX (503) 731-8259

Date: 6/9/2006

ODOT Response to Local Land Use Notification

Project Name: Immovable Foundation Church	Applicant: Canby Business Park
Jurisdiction: City of Milwaukie	Case #: CSO-06-02
Site Address: 4011 SE Lake	Legal Description: 11E36 Tax Lot(s) 800 ,4500 ,
State Highway: OR 224 at Lake Road	Mileposts: 1.3- 1.4

The site is adjacent to the referenced state highway. ODOT has permitting authority for the state highway and an interest in ensuring that the proposed land use is compatible with its safe and efficient operation.

TRAFFIC IMPACTS

Please see the attached review of the applicant's traffic impact analysis by Joseph Auth, PE, Traffic, ODOT R1. We concur that OR 224, with improvements scheduled to be constructed by ODOT this summer has the capacity to accommodate site generated traffic.

ODOT RECOMMENDED LOCAL CONDITIONS OF APPROVAL

- ☒ An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way.
- ☒ An ODOT Drainage Permit is required for proposed discharge to/connection to state highway drainage facilities as shown in the hydrology study.
- Please direct the applicant to contact L. Kieffer at ODOT 2B to determine permit requirements, application and fee information.

Please send a copy of the Notice of Decision including conditions of approval to:
ODOT Region 1 Planning - Development Review
123 NW Flanders St.
Portland, OR 97213

Signed: Sonya Kazen Development Review Planner	Phone: (503) 731-8282
Traffic: Joseph Auth, PE	Phone: (503) 731-8225
District 2B: Loretta Kieffer, Engineering Coordinator	Phone: (503) 353-8975

Attachment 6

Planning Commission
6101 S.E. Johnson Creek Blvd.
Milwaukie, Ore. 97206

RECEIVED 6-9-06

JUN 12 2006

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

Susan Shanks,
Regarding ESD-Immovable Foundation Church.

Siting of a church with this large a congregation and only 2 ingress and egress corridors is a big problem. Changing the Right turn only on Lake road is not going to solve any of the increased numbers of cars on Lake Road. More extensive use of the 37th street entrance would help considerably, as it does not contribute to the over load that can occur on Lake road.. Asking exemption from the improvements that are mandated at both 37th and Lake Road areas should not be allowed as they are both needed for safety and updating.

Forris Frick Land use Committee Chair



Shanks, Susan

From: Zagel, David [ZagelD@trimet.org]
Sent: Thursday, June 29, 2006 4:20 PM
To: 'shankss@ci.milwaukie.or.us'
Subject: Development application review of file: CSO-06-02, TPR-06-04 (401 1 SE Lake Road)



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DSCN1872.JPG

Susan,

I examined the pair of bus stops in the immediate vicinity of the above development application. Neither side of Lake Road at this location has a curbed sidewalk. Therefore neither the westbound bus stop on the north side of Lake Road nor the eastbound bus stop on the south side are considered accessible per the Americans with Disabilities Act (ADA).

I would think it appropriate for the applicant to either:

1. Provide, at a minimum, a curbed sidewalk along its property frontage along the north side of Lake Road, including an accessible bus stop landing area (according to specifications that we would provide), or
2. In lieu of item number 1 above, provide some financial contribution to the City so that when the City improves Lake Road, it can more readily incorporate these sidewalk and bus stop accessibility improvements.

I have attached photographs of the westbound and eastbound stops near the site.

Thank you for taking these considerations into account as you consider this development application. Please let me know if you have any questions.

David Zagel

Project Planner
TriMet Capital Projects & Facilities
710 NE Holladay Street
Portland, OR 97232
Ph: 503-962-2139
Fax: 503-962-2281
trimet.org

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June 5, 2006

Susan Shanks
Milwaukie, City of
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

RECEIVED

JUN 8 5 2006

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

**RE: CSO—06-02 and TPR-06-04
Supplemental Information**

Dear Susan,

As indicated in our land use narrative, the Applicant is proposing to submit two schematic elevations for consideration by the Planning Commission. The first elevation with a 35 foot height limit was submitted May 30, 2006 with the overall application. The second elevation, with a 50 foot height limit, is attached.

At this time, the development code restricts the height of the structure to 35 feet. However the Applicant understands that the City is contemplating revising the development code to permit an increase in the height to 50 feet. The Applicant is submitting two elevations that meet each of these height requirements, sheets A4 and A4A for preliminary review. It is the Applicants understanding that if the code is changed, the Applicant can submit the alternate elevations for building permit review with a Type I application that goes before staff to confirm that the alternate building elevations of 50 feet meet the current guidelines. By providing both elevation alternatives at this time, both the Commission and the public will be aware of the two elevation scenarios that may be constructed and are available for comment at this time.

If you have any questions or require additional information, please do not hesitate to contact me at 503/419-2500.

Sincerely,
WRG Design, Inc.

Alisa Pyszka
Alisa Pyszka, AICP
Planning Project Manager

cc: Bob Dant, Canby Business Park
Paul Bondarenko, IFC
Jeff Johansen, DOW
John Howorth, WRG
CBP5882.D2

6-9-06
See no reason to raise the height for immovable foundation church request. Or any other church.

Gobbin Gnack
Rike Road Road Alre
Chair.

RECEIVED

JUN 12 2006

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

Attachment 6



DEVELOPMENT
SERVICES



LAND
PLANNING



CIVIL
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LANDSCAPE
ARCHITECTURE



LAND
SURVEY

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JUN 26 2006

CITY OF MILWAUKIE
 PLANNING DEPARTMENT

William T. Buckley, Attorney at Law
 Laura J. Brady, Attorney at Law
 Megan D. Roché, Law Clerk
 Cathy M. Bateman, Legal Assistant

June 26, 2006

Via email to planning@ci.milwaukie.or.us and regular mail

City of Milwaukie Planning Department
 Katie Mangle, Planning Director
 Johnson Creek Facility
 6101 SE Johnson Creek Blvd.
 Milwaukie, OR 97206

City of Milwaukie Planning Department
 Susan Shanks, Associate Planner
 Johnson Creek Facility
 6101 SE Johnson Creek Blvd.
 Milwaukie, OR 97206

Re: Immovable Foundation Church Land Use Application
Submitted: May 30, 2006

Dear Ms. Mangle and Ms. Shanks:

Our firm represents Mr. Phillip Favorite and Mrs. Anne Favorite. Our clients' property is located at 12293 SE 40th Avenue, Milwaukie, Oregon which shares a common boundary with the Clackamas ESD's property (Tax Lot 4500, or more commonly known as 4011 SE Lake Road, Milwaukie, Oregon). Our clients wish to inform you that our clients claim ownership by adverse possession to a portion of the property included in the above-referenced land use application.

Please see attached map, Exhibit "A" drawn by our clients which illustrates the portion of the Clackamas ESD's property that our clients claim by adverse possession. (This map is simply a drawing which is not drawn to scale and should not be relied upon. A specific legal description will replace this map as soon as the survey is completed.) The portion of Tax Lot 4500 adversely possessed by our clients includes more or less the westerly 20 feet of the southern half of the property. The adversely possessed property includes the westerly portion of our clients' driveway, a sprinkler system, a split rail fence, a grape orchard, a lavender bed, etc. You may also note the split rail fence, the driveway to our client's property, and the sprinkler head are noted in the above-referenced land use application in Exhibit A, Survey C1, Existing Conditions; Survey C3, Site Plan; Survey C5, Fire Access; and Survey C11, Easement Plan. The driveway to our clients' property is also clearly shown on Survey L2, Landscape Plan and Survey L4, Area Calculation.

In regard to the portion of the property claimed by our clients, our clients object to any land use application which may be contemplated for the Immovable Foundation Church land use submission. Our clients have not given their consent to any land use submission as to the

June 26, 2006

Page 2

property our clients' adversely possess. Our clients request that this information be taken into account in your department's review of the land use application.

Please call us if you have any questions.

Very Truly Yours,

BUCKLEY LECHEVALLIER, P.C.



William T. Buckley
Attorney at Law

Enclosures

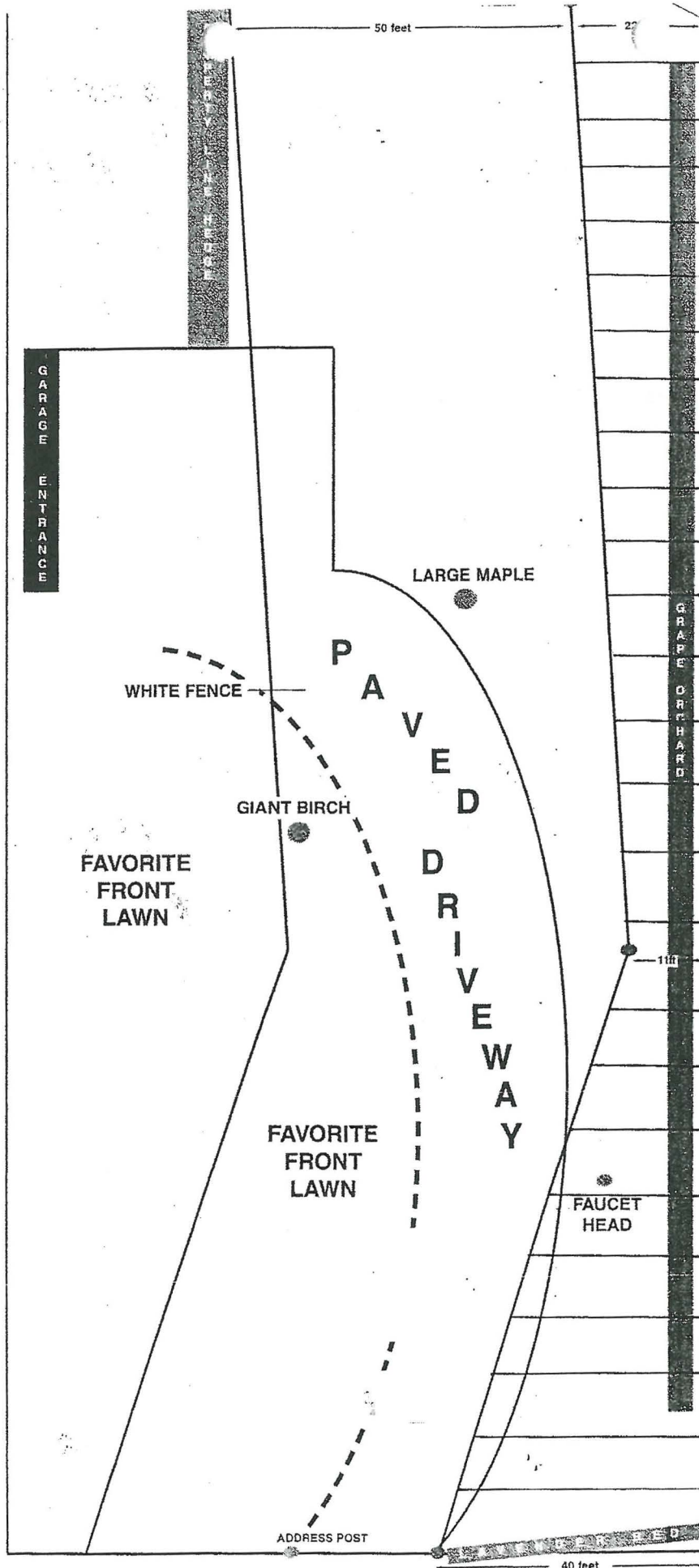
WTB/mdr

Cc: Steven Moore, Stoel Rives, LLP

James Zupancic, David Wright Tremaine

Client

Exhibit "A"
 Immovable Foundation
 Church Land Use Application
 Letter from Phil and
 Anne Favorite
 June 26, 2006



Clackamas ESD
 Property
 Tax Lot 4500

*Disclaimer: This map is not drawn to scale and is for general illustrative purposes only. This map should not be relied upon for accuracy and will be replaced by a professional survey/legal description.



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William T. Buckley, Attorney at Law
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Megan D. Roché, Law Clerk
Cathy M. Bateman, Legal Assistant

June 27, 2006

Via fax and regular mail

City of Milwaukie Planning Department
Susan Shanks, Associate Planner
Johnson Creek Facility
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

CITY OF MILWAUKIE
PLANNING DEPARTMENT

JUN 27 2006

RECEIVED

**Re: Immovable Foundation Church Land Use Application (the "Application")
Lighting and Parking Impact on Neighborhood**

Dear Ms. Shanks:

As you are aware, our firm represents Mr. Phillip Favorite and Mrs. Anne Favorite. Our clients' property is located at 12293 SE 40th Avenue, Milwaukie, Oregon which shares a common boundary with the Clackamas ESD's property (commonly known as 4011 SE Lake Road, Milwaukie, Oregon) (the "Property"). Our clients would like to comment on the Immovable Foundation Church's (the "Church") Land Use Application in regard to a number of issues that impact the community in general and issues that specifically affect their property. This letter will focus on preliminary issues regarding lighting and parking. Another letter regarding these topics and other issues will follow by the end of this week.

Upon review of the Application and in light of current issues with use of the Clackamas ESD property, our clients have experience with or foresee the following issues:

1. Lighting

1.1. Hours of Operation Impact the Hours of Lighting

1.1.1. The Church activities and services are proposed to take place very late into the evening which means that the lights in the parking areas will be on during those activities and services (the Application, page 6). The Church proposes to turn off the parking lot lighting one hour after the end of the day's last on-site event (the Application, page 6). Given the impact of the lighting using only the parking lot lights closest to the building (see Section 1.2.1 herein), having the lights on for a full hour after the day's last event will create a hardship on our clients and their use of their property. Having all the parking lot lights on until 10pm or 11pm will create

an inordinate amount of light pollution onto our client's property and our clients request that the effects of this light pollution be mitigated.

1.2. Type of Lighting Used and Light Pollution Caused

1.2.1. It is our clients' understanding that the current parking lot lighting is comprised of 30-foot commercial lighting as opposed to 10-foot residential lighting. The current lighting scheme being used by the Clackamas ESD is to mainly use only the parking lot lights that are closest to the building and to not turn on those parking lot lights which are located further from the immediate building area. The effect of the current lighting scheme (only using the parking lot lights closest to the building) is that an immense amount of light crosses into our clients' residence even through window treatments. The current use's light pollution extends across our clients' property and into the residence. If the current use is expanded to utilize all of the parking lot lights each weekday evening, our clients' use and enjoyment of their property will be greatly impaired. Perhaps it would be possible for the Church to evaluate the evening events which will have a less significant attendance and then the Church could not turn on the parking lot lights furthest from the building only as those lights would not be needed.

Our clients wish to support the parking lot lighting and create safe access to the property however there should be a balance struck which ensures safety in the parking lot while lowering the impact of the light pollution into neighboring properties, i.e. shielding lights, zone lighting, lower voltage, landscaping barriers, etc.

1.3. Lack of Adequate Buffer for Lighting Utilized

1.3.1. Given the large amount of light pollution that currently exist and will be greatly increased, the ways in which to buffer the light become increasingly important.

1.3.1.1. The parking lot lights should have deflectors on them to minimize the impact of glare so as not to shine on adjacent property pursuant to City of Milwaukie Municipal Code §19.503.15 (hereinafter referred to as the "Milwaukie Code"). In the Application, the Church refers to the Lighting Plan in Exhibit A however Survey Map C9, Lighting Plan, does not include the types of existing lighting already in place or the types of proposed lighting to be installed. As the types of parking lot lighting are not specified it is difficult to accurately determine the impact of that lighting or to determine the ways in which the impact of the lighting could be lessened as to adjacent properties.

1.3.2. Landscaping could lessen the impact of glare from the parking lot lights and the moving and parked automobile headlights onto the adjacent properties. Currently, according to the Application Survey L2 Landscaping, there are only deciduous trees placed between the proposed parking on the Southerly portion of the Property as well as bordering the current parking on the most Southerly tip of the Property. Deciduous trees only provide a buffer during the seasons which they have leaves

and so create an inadequate buffer. Additionally, the deciduous trees have significant spaces in between which do not provide a good light pollution buffer. Pursuant to Application Survey L2 Landscaping, the Church does not provide for any additional landscaping in the form of trees or shrubbery to act as a buffer to lessen the impact of the light pollution.

- 1.3.3. The setback from the proposed parking on the Southerly portion of the Property should be evaluated as to its effectiveness at buffering the light pollution from the parking lot lights, moving and parked automobile headlights. The dimensions of that setback are difficult to determine in the Application and therefore the effectiveness of the setback in buffering the light pollution is unclear.

2. Parking

- 2.1. The Property currently contains 233 parking stalls. In the Application page 15, the Church proposes an additional development to a gross floor area of 21,300 square feet which includes 1,200 seats. The Church has proposed adding parking stalls to total 400 parking stalls (the Application, page 16) which is the maximum number of allowable parking stalls according to Milwaukie Code Table 19.503.9. Our clients understand the Church's wish to provide for expansion and planning the parking stalls accordingly however the impact of the additional parking on the adjacent properties should be considered. Additional parking lot lighting, traffic, and moving and parked automobile headlights will all increase the light pollution on our client's property (see Section 1 herein for further discussion). Perhaps your department would evaluate which additional parking has the least impact on the adjacent properties and can balance the Church's need for additional parking spaces with the adjacent property owners' use and enjoyment of their properties.


The above issues are impacted by the hours and level of operation of the Immovable Foundation Church. The operational hours and the levels of operation must be "compatible with surrounding uses" (Milwaukie Code §19.321.3(A)(3)). The residents who live in the community surrounding the Property will be impacted by the lights, noise, and traffic caused. Our clients request that these operational hours and the levels of operation take into account the adjacent property owners' use and enjoyment of their properties. Pursuant to Milwaukie Code §19.321.4(B), the planning commission may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. Our clients respectfully request that your department consider the issues of the adjacent property owners in regard to the Application and assist all parties in finding equitable solutions.

Our clients request that this information be taken into account in your department's review of the Application. We would encourage the City of Milwaukie to provide solutions for these issues and incorporate such solutions into the staff report being prepared for the July 11, 2006 Planning Commission hearing.

Please call us if you have any questions.

Very Truly Yours,

BUCKLEY LECHEVALLIER, P.C.



William T. Buckley
Attorney at Law

WTB/mdr

Cc: Steven Moore, Stoel Rives, LLP

James Zupancic, David Wright Tremaine

Client

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: July 11, 2006

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
✓ Robert Kimmel	12340 SE 41 st Ct. 97222	503-659-7936	<input type="checkbox"/> 6.1
Lee Roth	12410 SE 43 97222	503-653-5773	<input type="checkbox"/> 6.1
✓ NORM DILL	319 SW WASHINGTON #200 PORTLAND OR 97204	503.226.6950	<input type="checkbox"/> 6.1
Angela Burger ?	SE 42.		<input type="checkbox"/> 6.1
✓ William The Paper Phil 3 Centropoint Dr L O OR 97035		503-690-8900	<input type="checkbox"/> 6.1
✓ Bud Wasko	12122 SE 39th Ave Milwaukie	503 653 5340	<input type="checkbox"/> 6.1
BOB DANT	711 NW 94th Terrace. PORTLAND 97229	452-4344	<input type="checkbox"/> 6.1
Philip J. Favorite	12293 SE 40th Ave. Milwaukie	794-5688	<input type="checkbox"/> 6.1 phil/favorite@news.oregonian.com
✓ Becky Ives	12223 SE 41st Ct. Milw.	849.9086	<input type="checkbox"/> 6.1
			<input type="checkbox"/> 6.1