

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, JANUARY 24, 2006

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Brent Carter, Vice-Chair  
Lisa Batey  
Teresa Bresaw  
Catherine Brinkman  
Jeff Klein  
Dick Newman

**STAFF PRESENT**

Alice Rouyer,  
Acting Planning Director  
Susan Shanks,  
Associate Planner  
Gary Firestone,  
Legal Counsel  
Shirley Richardson,  
Hearings Reporter

**COMMISSIONERS ABSENT**

None

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT

Speaking: Ann Favorite, 12293 SE 40<sup>th</sup> Avenue, Milwaukie

**Ms. Favorite** stated that the Educational Service District (ESD) property on Lake Road is being sold. This was news to the Lake Road Neighborhood District Association on the January 11<sup>th</sup> at their meeting. Not everyone in the neighborhood was present, she found out because she lives right there. She spoke to ESD about what is going on and was told that they have two offers on the property. She wrote a letter to ask them to stop the sale. A copy of the letter was submitted to the Commission.

The letter asks that ESD stop the sale of the property and provide proper written public notice. It asks that there be a listing of the property to allow for other bids who may want to maintain or improve the natural space on the property; maintain open space buffers; and natural areas be considered for use of this property.

**Ms. Favorite** stated that she filed a formal complaint with the city today. She is here tonight to get to know the Commissioners and ask for help in dealing with this. The people who live in this area are the ones that have to live with the consequences of the actions of the ESD and the people who are making land use decisions are not the ones who have to live with the consequences.

#### QUESTION FROM THE COMMISSIONERS

**Chair Hammang** asked if they were doing anything physical to the site or putting the site up for sale? **Ms. Favorite** stated that they are putting the property up for sale.

**Commissioner Klein** asked where the site is located? **Ms. Favorite** stated that it is on top of the hill near Freeman.

**Commissioner Newman** asked if the entire site is being sold? **Ms. Favorite** stated that the entire 9.8 acres is for sale. ESD had land use agreements with the city and the neighborhood. A lot of the neighbors communicated with city on ESD's behalf to allow them to come into this space; now they should have some say in what happens to that property. One of the developers has expressed interest in changing the zoning for this site for high density residential. The neighbors would like to continue with the natural setting; they are working on a four-tier plan to make a bid outright with a variety of funding sources. They would like to maintain the natural setting and include green spaces and possibly a trail network.

**Chair Hammang** noted that if this site is purchased and the new owner wanted to change the zoning, there will be a substantial amount of communication with city. If the zoning is to be changed, it would have to come before the Commission for approval. **Alice Rouyer** stated that the property is currently zoned R-10, low density residential. **Ms. Favorite** said that a corner of the site is R-7. It is a conditional land use area.

Speaking: Forris Frick, 11658 SE 35<sup>th</sup> Avenue, Milwaukie

**Mr. Frick** stated that he was very much opposed to ESD when it was proposed; this is a large area of land to be kept off the tax roles. The neighbors were notified at the last meeting of the neighborhood association that they were selling the property and there were three people that were interested in it. There is possibility of 30-35 houses on this property. ESD established a part on 37<sup>th</sup> Street. Many people don't know the park is there. The park will be gone when they sell the property; the city has no right to keep the park. The city was keeping the park up; ESD only made the park so the city could use it.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: CIDA Inc, representing Panel Products LLC  
Owner: McLoughlin Industries LLOC  
Location: 12400 SE Freeman Way  
Proposal: The applicant is proposing to remodel an existing 2-story office building to use as an office building resulting in the addition of approximately 10,249 sq.ft. of leasable office area. No substantial change will be made to the footprint of the existing building or the size and configuration of the existing parking lot.  
File Numbers: TAR-05-02/TPR-05-06  
NDA: Lake Road

**Chair Hammang** opened the hearing on Transition Area Review TAR-05-02 and Transportation Planning Review TPR-05-06, a minor quasi-judicial hearing to consider approval of remodel an existing 2-story office building at 12400 SE Freeman Way. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.313 - General Commercial Zone; Section 19.416 - Transition Area; 19.500 - Off-Street Parking and Loading; and 19.1011.3 - Minor Quasi Judicial Review; 19.1400 - Transportation Planning, Design Standards and Procedures.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? **Commissioner Brinkman** stated that her law firm has represented one of the interest parties. There were no other conflicts of interest or ex-parte contacts declared.

**Chair Hammang** 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. 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

**Susan Shanks** reviewed the staff report with the Commission. She introduced Zach Weigel who works in the Engineering Department. This applicant is seeking approval to remodel an existing building. A site map was shown of the subject site and surrounding area. It is currently zoned general commercial and bounded on three sides by the R-10 zone with the exception of one side which is low density residential. As a result of the adjacent residential, the site is subject to transition area review, which mitigates the possible impacts of commercial development on adjacent residential properties.

A site map was displayed that showed existing and planned improvements. In 1987 State Farm Insurance received approvals to develop this site with the existing building and the parking lot. At that time the site was also subject to transitional area review. The building was sold in 2005 and the current applicant proposes to remodel the building to

enclose the ground floor area and convert it to office use. They will be increasing the office area on the site, but not the increase the building footprint. They will not alter in any way the parking lot other than to install the required handicap accessible parking spaces (five). As proposed, staff feels that the development meets the underlying general commercial zone.

In the 1987 transition area review, the Planning Commission approved 15 and 20 foot setbacks for the building. The building meets and exceeds the setbacks originally approved. The Planning Commission also approved the perimeter buffer around the site; photos were shown. Staff believes that maintaining the existing setbacks will allow the site to continue to meet the transition area review requirements.

The Engineering Department has determined that the existing right-of-ways, that this site abuts, met all width requirements with the exception of the sidewalk and landscape strip width. The sidewalk is a curb-tight sidewalk, no landscape strip between the curb and the actual sidewalk. There is a landscape buffer that runs parallel to the sidewalk in the right-of-way and staff feels that this section mitigates the landscape not being with the sidewalk. The applicant is requesting approval and adjustment so they can continue to use the existing sidewalk as is. If the sidewalk was shifted over so a landscape strip can be inserted and widened the one foot necessary to bring it up to compliance, it would require removal of a lot of material.

The parking lot was approved in 1987; it conforms to current code except for some non-conforming situations. The applicant is asking that they not be required to bring the parking lot up to conformance at that time; it would require major re-configuration of the parking lot. Since there is no change proposed for the parking, there is no need to change the non-conforming portion. Staff does not believe that the applicant should be required to bring the parking lot up to conformance at this time; however they do feel that the addition of requirements of bicycle parking spaces and carpool parking spaces would be the perfect thing to install and not require major reconfiguration of the parking lot.

Staff recommends approval of the application with conditions

- Removal of northernmost driveway
- Install required number of bicycle, carpool and handicapped accessible parking spaces (5 spaces each)
- Maintain perimeter and parking lot landscaping

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked if no landscaping is required on the Highway 224 side? **Ms. Shanks** stated that the property line on Highway 224 is ODOT property; they have a current plan to construct a sidewalk from their property line down. The applicant has a requirement that during remodel they cannot discharge any additional stormwater into the right-of-way.



**Commissioner Batey** asked how the appropriate number of parking places is calculated? **Ms. Shanks** stated that there is a formula staff uses that calculates the number of parking spaces per gross usable floor area. The figures were calculated using the figures under business professional office use. Even though they are within the required number of feet of a transit stop, they fall into the Type B transit calculations and the transit stop does not fall into the requirements for a parking lot. With the addition of the new office area, the applicant is 7 parking spaces over the maximum number allowed.

**Commissioner Batey** asked if this could later be used as a retail site without coming to the city for change in use? **Ms. Shanks** stated that someone coming in to reconfigure their existing space internally has to come in for a Tenant Improvement Permit (TI) and at that time they will need to address the parking. This site is zoned general commercial so the applicant would not have to come back before the city to change the use to retail. Retail is allowed in this zone.

Speaking: Zach Weigel, 6101 SE Johnson Creek, Milwaukie

**Mr. Weigel** stated that staff estimated the previous trips to be 154 trips generated per day for general commercial for their existing floor space based on square footage. Staff estimated that the applicant will generate an additional 75 vehicle trips per day, general office building with the addition of 6,800 sq.ft.; 60% of the previous number.

**Commissioner Newman** noted that the transportation impact analysis was done on the proposed use. He asked if some other business came into this area would a new transportation impact analysis be done. **Mr. Weigel** stated that if something other than general office use was proposed, a new trip generation calculation would be done for that use.

#### CORRESPONDENCE

**Chair Hammang** asked if there had been any correspondence received since the mailing of the packet. **Mr. Shanks** stated that there were none.

#### APPLICANT PRESENTATION

Speaking: Jennifer Beattie, 4445 SE Barber Blvd, Suite 200, Portland 97210  
David Welch, Inc. 4445 SE Barber Blvd, Portland 97210

**Ms. Beattie** stated that they are requesting land use approval for the remodel of an office building on 12400 SE Freeman Way. The existing building is 25,315 sq.ft.; there will be a conversion of 7,000 sq.ft. of service parking to office space. The project will revitalize an existing vacant building and remodel it to a quality general office building. The first-floor exiting open structure will be enclosed with storefront facing in such a manner to match and compliment the proposed administration. The internal will be remodeled to

have a multi-level entryway. Remodel will include removal of the northern access. ADA upgrades will be provided.

**Ms. Beattie** stated that they have reviewed the staff report and accepted the conditions of approval.

**Mr. Welch** stated that there are two things that drive this project from being non-retail. The first is location; it is situated in such a manner that it doesn't draw a retail user unless it is a specialty retail that takes orders. Highway 212, Highway 224 and Freeman do not have much available traffic to draw retail. Secondly, the way the building is designed it does not lend itself to retail use. Their business will take up a good portion of the first floor; the remaining portion will be leased out. The portion of the building that will be leased has no exposed parking; there is no parking along that side of the building. That too, will take it out of the retail component.

The building is being designed as a classy office building. It will be constructed of steel, concrete, brick and mortar. An overhead was shown of the area being enclosed and the improvements being made to the outside of the building. To get good lease rates, the building has to look classy. A central double doorway with a canopy for the tenants will replace the existing single door. The tenant space will have a separate outside entry.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked what type of products would be sold from this location?

Jim Jenkins, 4273 SE 43<sup>rd</sup>, Milwaukie

**Mr. Jenkins** stated that Panel Products has two plywood manufacturing mills in southern Oregon. Their office here in Milwaukie is the sale brokerage administrative site for the sale of plywood.

**Commissioner Klein** asked if there will be a showroom where people come to visit and purchase product? **Mr. Jenkins** stated that they want to have the entrance that give a very high-quality presentation. The clientele that come to them will be bankers, customers and potential buyers that purchase in large quantity. They sell construction grade plywood by the truckloads; there is no need to have a showroom floor as there is not much of a variety to look at. Presently they have offices on International Way and they wanted to find a building of their own in this area. They have five employees in the office, of which three live in Milwaukie.

**Commissioner Klein** pointed out that there is a flex car spot close by this building and asked if consideration could be given to the flex car being moved off the street into the excess parking they have available?

**Commissioner Bresaw** asked if there are any plans to change the Ivy in landscaping as it is an invasive plant? **Mr. Welch** stated that so far it is kept under control by maintenance; they can consider replacing it if the budget allows.

TESTIMONY IN FAVOR -- None.

#### QUESTIONS OR COMMENTS

Speaking: Forris Frick, 11658 SE 35<sup>th</sup> Avenue, Milwaukie

**Mr. Frick** stated that he is the chair of the Lake Road Land Use Association Land Use Committee. This site is zoned general commercial and as such anything can go in. One member of their Association has asked that there be some sort of condition that there cannot be a pornographic store in this building. Since the building is bounded on three sides by residential and it is in close proximity to a school, it is hoped that this stipulation can be addressed.

**Chair Hammang** called Anne Favorite; a member from the audience replied that Ms. Favorite and Beth Wasco had to leave but they wanted to submit their comments in writing read into the record.

**Chair Hammang** read the comments from Anne Favorite, 11293 SE 40<sup>th</sup> Avenue: "I would like to comment on the existing perimeter buffers, mature landscaping, evasive Ivy overload growing all over the nature scapes."

**Chair Hammang** read the comments from Beth Wasco, 12122 SE 39<sup>th</sup> Avenue: "Potentially to use the extra spaces of the parking lot for a park and ride so they can make use of excessive parking that would sort of help."

Speaking: Mona Hrapkowiec,

**Ms. Hrapkowiec** stated that she is representing owners of adjacent property to the east. They were not sure where they stood before the presentation; however, after seeing the presentation of the remodeling and staying within the existing footprint, they are in support of the proposal. They are better off having upgraded building and tax dollars than a vacant building.

Since they have the property up the hillside they have concerns about erosion control; if they do remove the Ivy they would like to see it replaced with some other form of vegetation so that the adjacent hillside does not start to erode.

**Ms. Hrapkowiec** asked that if the applicant proposes any construction in the future that the neighbors be notified.

There is a bus stop shelter in the vicinity; she doesn't know who is responsible for that shelter. If this application impacts the street by increased traffic, she would like to know who would be responsible for making sure that bus stop is maintained appropriately and public rider-ship is encouraged.

#### TESTIMONY IN OPPOSITION

Speaking: Eric Foxman, 12600 SE Freeman Way, Milwaukie

**Mr. Foxman** stated that there is one point he would like to address; it has to do with the entrance into the parking lot adjacent to the berm. He pointed out the area on the site map. The berm makes it difficult to see vehicles that are coming west on Lake road that might then be turning north onto Freeman.

**Mr. Foxman** presented a picture of his suggested improvement to that area. There may be vehicles trying to exit from parking lot from the existing nonconforming parking lot and because of the berm, unless you pull you vehicle out into Freeman Way to make a turn, you cannot see over the berm to see a vehicle that is coming around the corner. At the end of the day when a large number of vehicles are trying to exit the parking lot, there will be traffic already on the road and it is difficult to see that traffic until it is right on the exiting vehicle. If you have a vehicle waiting at the stop sign, and a vehicle is trying to exit the parking lot, there is no space for the vehicle to pull out and go behind the traffic. Part of their vehicle will be in the travel lane in order to see the oncoming traffic.

It is not feasible to take out the berm, nor is it economical to ask the applicant to reconfigure the parking lot to provide access further down the lot. He suggested instead of having access through the proposed two existing south and middle entrances consider making it a one-way entrance with appropriate signage. In the morning the traffic would be pulling in off of Freeman in the parking lot only. The other access would be exit only; being further from corner to allow traffic to have more site distance for safety. Signage would be a minimum expense.

**Mr. Foxman** stated that he is not opposed to the proposal; he feels it would be a great use of the building. The traffic problem at the corner is his main concern. He submitted his drawing to staff to be included in the record.

Speaking: Betty Chandler, 12600 SE Freeman Way #38, Milwaukie

**Mr. Chandler** voiced concern of additional traffic getting out onto the corner of Freeman Way and Lake Road. This proposal will bring additional traffic. They currently have a problem getting out of their parking lot. She is not against this proposal, but she does have concerns about the traffic. She would like to know what considerations are being made for the additional traffic?

## QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked what the traffic was like when State Farm was there? **Mr. Chandler** stated that the employees and customers came and went at different times; there was not a lot of traffic at peak hours. There were not that many people there. **Mr. Weigel** stated that the estimated State Farm trips were 154 trips per day; the current proposal is 225, an additional 75 trips per day for the office space.

**Commissioner Batey** asked how many of these trips would be going to Lake Road or Highway 224. **Mr. Weigel** stated that no study was done. A traffic study was not warranted for the State Farm development; they were at 90 points and 100 points are needed for the traffic study.

**Commissioner Newman** asked if the widening of Lake Road project will have any impact on this proposal? **Alice Rouyer** stated that the project has been extended to add bike lanes, sidewalks and left-turn pockets. It is possible that there may be additional left-turn capabilities at the intersection. **Commissioner Newman** stated that one of the problems with that intersection is that the way it is designed it is very hard to see very far to the left; you have to move out into the traffic to see what's coming.

Alecia Foxman, 12600 SE Freeman Way, Milwaukie

**Ms. Foxman** asked that the parking lot lighting be kept as is so there is no glare to the neighboring residential area. State Farm had a sign on Freeman Way that was 10-feet high facing Northridge Condominiums and it shined into their window; she asked that some attention be given to signage.

## ADDITIONAL COMMENTS FROM STAFF

**Susan Shanks** reported that in the general commercial zone adult entertainment businesses are prohibited; it would not be allowed at all.

In regards to future development of this site, if there is any additional building the neighboring residents will be notified and a similar process to this one will be followed.

TriMet submitted a comment that originally they asked the applicant to make sure that there was a bus stop located on the northwest corner of Lake Road and Freeman. There is currently no shelter or bench; the minimum requirement they are asking for is that it be ADA compliant. An 8-10 foot concrete pad is required for accessibility for rider-ship. The existing concrete pad is more than adequate. No additional requirements were asked of the applicant. There are no buses that stop on Highway 224; it is a commuter route.

Staff looked extensively at the driveway and discussed it with the city attorney and came to the conclusion that it is a legal non-conforming driveway. The zoning codes allow this to continue as a non-conforming use. The parking lot cannot be altered without coming

before the Planning Commission; the applicant is not intending to alter the parking lot in any way. She suggested that the applicant address this request.

This proposal did not generate enough additional trips to trigger a study to require improvements at Lake Road and Freeman. Off-site improvements can only be required when a transportation impact study is required and supports that conclusion.

The signage code for the general commercial zone does allow for internally illuminated signs up to a particular wattage. That is something the applicant can address and Planning Commission could impose conditions to mitigate the residents in the area. Because this is a Transitional Area Review other conditions can be placed on the applicant to mitigate the impact on the surrounding residential area.

**Ms. Rouyer** stated that the curb cut is a legally non-conforming. She noted that there were comments tonight regarding the curb cut. She asked if the applicant would be willing to close the curb-cut?

#### QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Batey** noted that Section 19.803 of the code states, "...if a non-conforming use is discontinued for a period of six months, further use of the property shall conform to this chapter." She asked if it is appropriate for the applicant to continue this non-conforming use when it has been vacant.

Discussion followed on whether this non-conforming use was legal or not; the city attorney is not present tonight. It was decided to see if this question needed an answer after the applicant's rebuttal regarding the use.

#### APPLICANT'S CLOSING COMMENTS

Speaking: David Welch

**Mr. Welch** stated that they have worked on this curb cut for three months. There are several issues involved. The slope of the site in general from Freeman and the parking lot is steep. He pointed out the curb cut on the site map. As you come out there needs to be a safe landing zone at the top so you don't have people trying to enter the traffic from the slope. A slope, 5% or less, is needed so people are not rocking back or speeding out into the intersection. This was not thoroughly reviewed back in 1988. The purpose of the deceleration ring is to prevent traffic from coming around the corner fast; controls have been built into this section to slow down the vehicles.

In an emergency situation, fire access is difficult; provisions have been made to allow for the egress and access to the site. The fire department has no issue regarding the curb cut.



Most of the traffic to this site will come from Highway 224; he pointed out the curb cut that will be predominantly used. It doesn't take people long to understand that it is more difficult to get into the queuing from this curb cut. The State Farm use was approved as a legal non-conforming use.

**Commissioner Klein** stated that he liked Mr. Foxman's suggestion. He is not asking the applicant to redesign the curb cut, just put a one-way sign there. The benefit of that sign would be is if the building is sold and retail does come in and it ups the amount of traffic coming in, the existing usage would be as it was as approved for the one-way sign. If a one-way sign is installed, then this traffic configuration will already be in place. **Mr. Welch** stated that they would propose making this a right-out, right-in and left in.

**Mr. Welch** stated that with the State Farm use there was more traffic during a 10-hour period; this use will concentrate traffic to the morning and afternoon. In theory there will be less traffic that will interfere with residential uses. **Ms. Beattie** stated that their use will not be putting that much traffic into the system. She feels that the 154 trips per day are extreme.

**Ms. Beattie** stated she couldn't image that there will be an illuminated pole sign for their use. If signage would be requested it would be a nice entry sign.

#### DISCUSSION AMONG THE COMMISSIONERS

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

Recess was taken at 8:05 p.m. and reconvened at 8:15 p.m.

**Alice Rouyer** stated that she needed to discuss the issue of the site being vacant for 6 months per Section 19.802 and whether it is still a legal non-conforming use with the city attorney to get to a definitive answer. There is room on the 120-day time limit to allow time for this review.

**Chair Hammang** asked if a determination is needed from the city attorney about the status of the non-conforming use before the condition can be added regarding the curb cut. **Ms. Rouyer** stated that the condition addresses safety issues and access control; it does not close it altogether or suggest relocation to make it conforming. It does not specifically answer the question about non-conformity.

Staff prepared an addition to Condition 2G to read, "Prior to issuance of a building permanent the applicant shall explore the feasibility of adding a right-in access control at the southern most Freeman access point. If determined to be feasible by the engineering director and building official, the applicant shall amend the site plan to include a right-in access control at the southern most Freeman access point."

**Commissioner Carter** stated that there may be a fire code requirement that there be more than one exit for this parking lot. He feels the right-in, right-out would be the better way of handling this issue.

**Commissioner Batey** stated that she feels that there is argument that Section 19.802 allows the Commission to do an alteration in the non-conforming use. She was not sure whether this would be done however with notice and a hearing. **Ms. Rouyer** stated given that staff does not have the answer tonight, she suggested continuing the hearing.

Discussion followed on rewording the condition to make it more general. It was decided to leave the specifics of the access control up to the building official and engineering director. **Ms. Shanks** noted that Transition Area Review give basis in code in terms of imposing conditions that mitigate the impact of this development on the surrounding area.

**Commissioner Bresaw** moved to approve applications TAR-05-02 and TPR-05-06 and adopt the recommended findings and conditions in support of approval with the additional access control condition added tonight:

“...Explore the feasibility of adding right-in only or right-in, right-out access control at the southern most Freeman access point and if determined to be feasible by the engineering director and building official, the applicant shall amend the site plan to include right-in only or right-in, right-out access control at the southern most Freeman access point.”

**Commissioner Carter** seconded the motion.

**Ayes:** Carter, Batey, Bresaw, Klein, Newman, Hammang

**Nays:** None

**Motion Carried 6-0.**

7.0 WORKSESSION ITEMS -- None.

8.0 DISCUSSION ITEMS -- None.

**Commissioner Klein** reported that the BMX bike racing use is going out of business.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 42<sup>nd</sup> Avenue Pedestrian and Storm Improvement Project Update

Speaking: Brenda Schleining,

**Ms. Schleining**, Engineering Department, stated that she is here to give an informational update on an ODOT Bike and Pedestrian Grant project, which the city applied for in 2002. The project was approved in 2003 and must be completed by October, 2008. The public information process was started a year ago to gather information from the public on their needs and desires. The scope of the project is from 42<sup>nd</sup> Avenue from Olson Street to Johnson Creek Blvd. This project connects two sidewalk projects that have been done in the past; most recently the Johnson Creek Blvd Project and several years prior the 42<sup>nd</sup> Avenue Project.

Originally when staff applied for the project, the construction costs were \$330,000; from 2002 to 2006 the construction costs have increased to \$500,000. There is \$200,000 grant and remaining \$300,000 will need to come from the city; looking to a combination of system development charges and gas tax money.

The engineering design firm, Hopper, Dennis, Jelison has been hired; \$50,000 of the grant will be used for engineering and \$450,000 for construction. They hope to start construction this next budget year.

The constraints of the site are that there is not much right-of-way. Typically there is 40 feet of right-of-way; no option for a planter strip, sidewalks or bike lanes. A cross section of the existing conditions was displayed on an overhead; gravel shoulders, 10-11-foot travel lanes, dirt paths. The proposed improvements include 6-foot curb tight sidewalks, curbs and a shared 13-foot bike lane.

There are very large Cedar trees that are in the way; the public has requested the trees remain. The project has been designed around the trees. In some areas the sidewalk will be shortened to 4-feet to accommodate the trees and 6-feet in the other sections. There are 50-feet of right-of-way in some sections; the design incorporates parking strips in these areas.

Staff has gone through a citizen involvement process in December 2004 and December 2005. Concerns were noted which included:

- Saving the trees
- Parking
- No increase in speeds
- Bike lanes
- Consideration for access to homes during construction
- Can individual driveways be widened
- Can they have two driveways
- Would there be a cost to the homeowners

Construction will start this summer. \$100,000 of the grant has been received and the other \$100,000 is the reimbursement amount.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Batey** asked for an update on the North Main Street Scape improvements. **Ms. Schleining** stated that this project was recently bid out at \$96,000. **Mr. Weigel** stated that the North Main Street Project went to bid this last week and came in at \$694,000, about \$45,000 over engineering estimate (\$650,000). The brick option was requested and will cost an additional \$31,000. The contract will be taken for award to City Council on February 7, 2006. The work will start with underground utilities from Scott Street to Jackson and Main Streets. The sidewalk and paving in front of city hall will be deferred until there is direction on Texaco and parking lot development.

**Commissioner Batey** asked about the traffic calming measures on Monroe and Washington Streets. The Island Station neighborhood is interested in similar devices for River Road; she asked that he put the plans and the budget on the website so they are available for everyone to see.

#### 10.2 Matters from the Planning Director

**Alice Rouyer** stated that there were concerns raised about the lateness of the Commission meetings. She explained that there is a time clock for each application and depending on the time left on that clock, the Commission has the ability to set time limits on meetings.

Discussion followed on the possibility of setting meeting time limit. **Ms. Rouyer** stated that staff could prepare a draft written policy on setting the meeting ending time at 10:00 p.m. or that the last hearing shall begin no later than 9:15 p.m. The Commission always has the discretion of extending the meeting after a set time based on circumstances. Staff will prepare draft language for the meeting ending time policy and bring it back before the Commission for review and discussion.

**Commissioner Carter** asked about the Design and Landmarks Committee. **Ms. Rouyer** stated that a meeting with the DLC may not be necessary; the application may be withdrawn. **Commissioner Carter** stated that one of his main goals being on that Committee was to expand the design guidelines from downtown development to design guidelines the entire city.

#### 11.0 NEXT MEETING -- February 14, 2005

#### 11.1 TriMet


CITY OF MILWAUKIE PLANNING COMMISSION

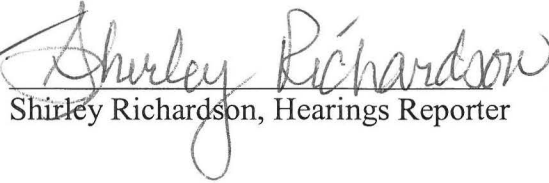
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**Commissioner Klein** moved to adjourn the meeting of January 24, 2006. **Commissioner Bresaw** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:20 p.m.

  
Donald Hammang, Chair

  
Shirley Richardson, Hearings Reporter

# MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

## AGENDA TUESDAY, January 24, 2006 6:30 PM

		ACTION REQUIRED
1.0	<b>Call to Order</b>	
2.0	<b>Procedural Matters</b> Please turn off all personal communication devices during meeting. Thank You.	
3.0	<b>Planning Commission Minutes</b>  Approved PC Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Motion Needed
4.0	<b>Information Items – City Council Minutes</b> City Council Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Information Only
5.0	<b>Public Comment</b> This is an opportunity for the public to comment on any item not on the agenda	
6.0 6.1	<b>Public Hearings</b> Type of Hearing: Minor Quasi-Judicial Applicant: CIDA Inc, representing Panel Products LLC Owner: McLaughlin Industries LLC Location: 12400 SE Freeman Way Proposal: The applicant is proposing to remodel an existing 2-story office building to use as an office building resulting in the addition of approximately 10,249 sq ft of leasable office area. No substantial change will be made to the footprint of the existing building or the size and configuration of the existing parking lot.  File Numbers: TAR-05-02/TPR-05-06 NDA: Lake Road  Staff Person: Susan Shanks	Discussion and Motion Needed For These Items
7.0	<b>Worksession Items</b>	
8.0	<b>Discussion Items</b> This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	<b>Old Business</b>	
10.0 10.1 10.2 10.3	<b>Other Business/Updates</b> 42 <sup>nd</sup> Avenue Pedestrian and Storm Improvement Project Update      Staff Person: Brenda Schleining Matters from the Planning Director Design and Landmark Committee Report	Information Only Review and Comment
11.0	<b>Next Meeting:</b> February 14, 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.	

ist for Future Meetings:



## 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.

**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:

Donald Hammang, Chair  
Brent Carter, Vice Chair  
Lisa Batey  
Teresa Bresaw  
Catherine Brinkman  
Jeff Klein  
Dick Newman

#### Planning Department Staff:

Alice Rouyer, Interim Planning Director  
Lindsey Nesbitt, Associate Planner  
Susan Shanks, Associate Planner  
Brett Kelter, Assistant Planner  
Jeanne Garst, Office Supervisor  
Marcia Hamley, Office Assistant  
Shirley Richardson, Hearings Reporter



**To:** Planning Commission

**Through:** Alice Rouyer, Interim Planning Director *ACP*

**From:** Susan P. Shanks, Associate Planner *SPS*

**Date:** January 24, 2006

**File:** TAR-05-02, TPR-05-06

**Applicant:** CIDA Inc. representing Panel Products LLC

**Site Address:** 12400 SE Freeman Way

**NDA:** Lake Road

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#### **Action Requested**

**Approve applications TAR-05-02 and TPR-05-06 and adopt the recommended findings and conditions in support of approval.**

#### **Project Description**

The applicant proposes to remodel an existing 2-story office building at 12400 SE Freeman Way. The remodel involves enclosing the ground floor parking area and converting it to office use, resulting in the addition of approximately 10,249 square feet of leasable office area. The applicant does not plan to substantially change either the footprint of the existing building or the size and configuration of the existing parking lot.

#### **Background Information**

The site was used as a source of fill materials prior to 1987, which is why it sits lower than adjacent properties to the east and west. In 1987, State Farm Insurance applied for and received a zone change to General Commercial (ZC-87-04). They simultaneously proposed and received approval for development of the existing building and parking lot, which was subject to transition area review (PR-87-02). This latter land use case reviewed and approved the setbacks, perimeter landscaping, and parking lot landscaping, configuration, and size that the site exhibits today. The lower density residential

areas surrounding the site have not significantly changed since this 1987 decision was rendered.

The existing building was built for State Farm Insurance in 1988 and operated by them as an automobile claim center until 2005, at which time the site was sold to Panel Products LLC. The building, paving, and landscaping appear to have been well maintained over the years. The site currently contains mature trees and shrubs. Given the site's size and ample off-street parking, the site is considered underutilized.

### **Key Issues**

1. Have the development standards of the underlying zone been met?
2. Do the proposed transition measures sufficiently buffer the proposed commercial development from surrounding lower density uses?
3. Is it reasonable to require the applicant to bring some, but not all, of the existing nonconforming parking lot situations into conformance?
4. Have the adjustment approval criteria been met?

### **Analysis of Key Issues**

1. The site is located in the General Commercial zone where professional office uses are permitted outright subject to the development standards of the underlying zone. Staff believes the proposal complies with lot size, setbacks, frontage, height restrictions, lot coverage, and minimum vegetation development standards of the Milwaukie Municipal Code (MMC) Section 19.313.3 General Commercial zone.
2. Transition measures are required when commercial development is proposed within 100 feet of areas designated for lower density development in order to minimize the impact on lower density uses. The site of the proposed commercial redevelopment abuts residential R-10 zoning on three sides—to the west, south, and east.

The applicant proposes to maintain the following previously approved<sup>1</sup> transition measures:

- a. 15-foot setbacks along the western, southern, and northern property lines, and the landscaping contained therein.
- b. 20-foot setback along the eastern property line, and the natural vegetation contained therein.

As conditioned, staff believes the application meets the intent of the transition area requirements as set forth in MMC Section 19.416.

<sup>1</sup> Prior to the construction of the existing building in 1988, the site was subject to transition area review. Refer to the 1987 land use decision (PR-87-02) for further details.

3. Off-street parking and loading standards apply to all development, remodeling, and changes of use that increase parking and loading demand. The existing building was originally designed for State Farm Insurance as an automobile claim center. The applicant proposes to convert the existing service parking and vehicle inspection areas on the ground floor to general office. The proposed change and intensification of use will increase parking and loading demand.

The size and configuration of the existing parking lot was approved in 1987 (PR-87-02). Due to code changes since 1987, the existing parking lot contains a number of legal nonconforming situations, which are detailed in Attachment 1. 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 almost twenty years.

The applicant proposes to provide three additional accessible parking spaces to bring the parking lot into compliance with federal regulations. 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 scope of the proposed remodel and the nature and extent of the existing nonconformities, staff does not recommend full conformance as a condition of approval.

There are, however, two nonconforming situations that can be brought into conformance without a major overhaul of the existing parking lot, namely the provision of the required number of bicycle and carpool/vanpool parking spaces. Staff believes that it is reasonable to require partial conformance at this time and recommends adoption of the condition requiring five bicycle and five carpool/vanpool parking spaces. As conditioned, staff believes the application meets the intent of the off-street parking and loading requirements as set forth in MMC Chapter 19.500.

4. Transportation review is required because the estimated value of the proposed remodel exceeds the adequacy requirements threshold.<sup>2</sup> As a result, streets, sidewalks, and other transportation facility design elements need to be safe, convenient, and adequate to accommodate impacts from the proposed development.<sup>3</sup>
  - a. The existing 5-foot sidewalks on SE Lake Road and SE Freeman Way meet the *minimum* but not the *required* width dimensions. Staff believes that both are in usable and safe condition and align with existing off-site improvements. Neither street has a landscape strip<sup>4</sup>

<sup>2</sup> MMC Section 19.1403 Applicability.

<sup>3</sup> MMC Section 19.1407 Adequate Transportation Facility Requirement.

<sup>4</sup> Landscape strips are those areas between the rear face of the curb and the front face of the sidewalk.

but both have a landscaped buffer area between the rear face of the sidewalk and the property line. The applicant is requesting an adjustment to the sidewalk and landscape strip dimensional requirements for SE Freeman Way and SE Lake Road. Staff supports this request as it meets the relevant approval criteria. With approval of the adjustment request, staff believes the existing rights-of-way and frontage improvements are adequate and comply with transportation facility design standards as set forth in the Transportation System Plan, Transportation Design Manual, and MMC Chapter 19.1400.

- b. The site currently has three access points along SE Freeman Way. The applicant proposes to remove the northernmost access point. The removal of this access point will bring the site into conformance with access management standards. As conditioned, staff believes the application complies with MMC Section 19.1413.3.
- c. The site's southernmost driveway on SE Freeman Way is located too close to SE Lake Road. The location of this driveway was approved in 1987 but does not meet current standards. It is, however, an existing legal nonconforming situation that is not being changed. Staff believes that the scope of the proposed remodel does not justify relocation of the driveway.

### **Code Authority and Decision Making Process**

City of Milwaukie Zoning Ordinance Sections:

1. 19.313 – General Commercial Zone
2. 19.416 – Transition Area
3. 19.500 – Off-Street Parking and Loading
4. 19.1011.3 – Minor Quasi Judicial Review
5. 19.1400 – Transportation Planning, Design Standards and Procedures

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 approval criteria 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 April 18, 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, and the neighborhood district association reviewed the applicant's proposal. The following is a summary of the comments that were received. See the corresponding attachments for further details.

1. Tom Larsen, City Building Official. See Attachment 2 (Recommended Conditions in Support of Approval) and Attachment 7 (Comments) for more detail.
2. Zach Weigel, City Engineer. See Attachment 4 (Engineering Memorandum) for more detail.
3. Sonya Kazen, Development Review Planner for Oregon Department of Transportation (ODOT). ODOT does not recommend frontage improvements along Highway 224. See Attachment 7 (Comments) for more detail.
4. David Zagel, Project Planner for Tri-Met. Tri-Met does not recommend any improvements to adjacent off-site bus stops. See Attachment 7 (Comments) for more detail.
5. Ron Schumacher, Deputy Fire Marshal for Clackamas County Fire District #1. The proposal complies with fire apparatus access and water supply standards. The fire marshal has no recommended conditions of approval.
6. Lake Road Neighborhood District Association. The neighborhood association has no concerns about or objections to the applications as proposed.

### **Attachments**

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



## ATTACHMENT 1

### Recommended Findings in Support of Approval

1. The applicant proposes to remodel an existing 2-story office building at 12400 SE Freeman Way. The remodel involves enclosing the ground floor parking area and converting it to office use. This will result in the addition of approximately 10,249 square feet of leasable office area. The applicant does not plan to substantially change the footprint of the existing building or the size and configuration of the existing parking lot.

Other minor changes include:

- a. Closure of the northernmost driveway leading into the ground floor parking area to be planted to match the existing on-site landscaping.
  - b. Remodel of the front entrance area to accommodate multiple tenants.
  - c. Addition of the required number of accessible parking spaces.
2. Applications TAR-05-02 and TPR-05-06 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 site is located in the General Commercial Zone (CG) where professional office uses are permitted outright provided that the development standards of the underlying zone are met. The proposal complies with lot size, setbacks, frontage, height restrictions, lot coverage, and minimum vegetation development standards as set forth in MMC Section 19.313.3.
4. Per MMC Section 19.416 Transition Area, transition measures are required when commercial development is proposed within 100 feet of areas designated for lower density development in order to minimize the impact on lower density uses. The site of the proposed commercial redevelopment abuts residential R-10 zoning on three sides—to the west, south, and east.

Prior to the construction of the existing building in 1988, the site was subject to transition area review. The related 1987 land use decision (PR-87-02) reduced the required 20-foot setback<sup>5</sup> to 15 feet along the western, southern, and northern property lines. Due to the changes in elevation in and around the site, it was determined that a 15-foot setback either adequately or more effectively screened the proposed commercial development from surrounding lower density residential uses than a 20-foot setback.

<sup>5</sup> Per MMC Section 19.416.1.B, open areas shall separate new structures from adjacent parcels. These areas shall be, at a minimum, equal to the required front yard areas of adjacent parcels. In this case, adjacent parcels are zoned R-10 and have a minimum front yard requirement of 20 feet.

The applicant proposes to maintain the following previously approved<sup>6</sup> transition measures:

- a. 15-foot setbacks along the western, southern, and northern property lines, and the landscaping contained therein.
- b. 20-foot setback along the eastern property line, and the natural vegetation contained therein.

As conditioned, the application meets the intent of the transition area requirements as set forth in MMC Section 19.416.

5. 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 existing building was originally designed for and operated by State Farm Insurance as an automobile claim center. The applicant proposes to convert the existing service parking and vehicle inspection areas on the ground floor to general office, resulting in an addition of approximately 10,249 square feet of leasable office area. The proposed change and intensification of use will increase parking and loading demand. Moreover, when reviewed against current standards, the site contains a number of nonconforming off-street parking and loading situations.

The applicant proposes to provide three additional accessible parking spaces to bring the parking lot into compliance with federal regulations. The applicant does not propose to bring any of the other existing nonconformities into compliance with current off-street parking standards. The size and configuration of the existing parking lot was approved in 1987 (PR-87-02). A requirement of full conformance would necessitate substantial reconfiguration of the existing parking lot.

Given the scope of the proposed remodel and the nature and extent of the existing nonconformities, the Planning Commission does not require full conformance as a condition of approval. As a result, the following nonconforming off-street parking and loading situations will not be required to comply with off-street parking and loading standards at this time.

- a. MMC Section 19.503.9 – Number of Required Off-Street Parking Spaces. The existing parking lot contains 110 parking spaces, and the proposed minor reconfiguration will result in no net loss or increase of parking spaces. The site is located within one-quarter mile of a transit bus stop; however, the bus line that serves that stop does not provide twenty-minute peak hour service. The site is therefore classified as

<sup>6</sup> Prior to the construction of the existing building in 1988, the site was subject to transition area review. Refer to the 1987 land use decision (PR-87-02) for further details.

Zone B for maximum parking calculation purposes. As demonstrated by the table below, the site currently exceeds the maximum number of parking spaces allowed by seven spaces.

Minimum and Maximum Number of Required Parking Spaces by Use<sup>7</sup>

Proposed Use	Minimum Spaces Required <sup>8</sup>	Maximum Spaces Required <sup>9</sup>	Existing Spaces
Professional Services	53	103	110

- b. MMC Section 19.503.10 – Off-Street Parking Space Standards. The existing parking spaces are 9 feet wide by 18 feet deep, which is one foot shy of the 19-foot parking space depth requirement.
- c. MMC Section 19.503.12 – Curb Cuts. The southernmost curb cut does not comply with MMC Section 19.1413 Access Management Standards. This will be discussed in more detail in the section on Chapter 19.1400.
- d. MMC Section 19.503.17 – Pedestrian Access. Pedestrian access through the existing parking lot is currently not separated from vehicular circulation and parking by either a landscaped buffer or a curb.
- e. MMC Section 19.503.19 – Landscaping. The existing parking lot landscaping is nonconforming in the following ways.
  - Six feet of landscaping, the minimum requirement, does not currently exist between the off-street parking area and the existing building (MMC Section 19.503.19.A.3).
  - A landscaped island is not provided for every eight parking spaces. A total of four landscaped islands would bring the existing configuration into conformance (MMC Section 19.503.19.B.1).
  - Only the two existing accessible parking spaces contain wheel stops. Wheel stops are required in order to prevent vehicles from encroaching onto adjacent landscaped areas (MMC Section 19.503.19.C).
- f. MMC Section 19.504 – Off-Street Loading Standards. There are currently no designated loading areas on the site. The applicant proposes to use the area parallel to and in front of the two garage doors that will remain on the north side of the building as a loading

<sup>7</sup> MMC Table 19.503.9

<sup>8</sup> MMC Table 19.503.9.G.7 – 1 space/370 s.f. of gross leasable area. The proposed remodeled building contains 19,618 s.f. of gross leasable area

<sup>9</sup> MMC Table 19.503.9.G.7 – 1 space/245 s.f. of floor area. The proposed remodeled building contains 25,315 s.f. of floor area

area. This area does not meet the minimum 30-foot depth dimensional requirements for a loading space regardless of whether the space is measured parallel or perpendicular to the existing garage doors. Moreover, a loading space in this location would potentially conflict with vehicles entering and exiting the garage area, which is prohibited by MMC Section 19.504.3.B. It therefore appears that the existing parking lot configuration is nonconforming with regard to off-street loading standards and will remain nonconforming until such time as the parking lot is more substantially reconfigured.

There are, however, two nonconforming situations that can be brought into conformance without a major overhaul of the existing parking lot, namely the provision of the required number of bicycle and carpool/vanpool parking spaces. The Planning Commission finds that it is reasonable to require partial conformance at this time.

- g. MMC Section 19.505 – Bicycle Parking. There are currently no bicycle parking spaces provided on the site. The code requires the number of bicycle parking spaces to be at least ten percent of the required vehicle parking for the site, which in this case is 5 bicycle parking spaces (10% of the 53 required vehicle parking spaces). A condition has been adopted requiring the installation of five bicycle parking spaces.
- h. MMC Section 19.506 – Carpool and Vanpool Parking. There are currently no parking spaces designated for carpool/vanpool parking on the site. The code requires commercial development with fifty or more employees to provide carpool/vanpool parking in the amount of at least ten percent of the required vehicle parking for the site, which in this case is 5 carpool/vanpool parking spaces (10% of the 53 required vehicle parking spaces). A condition has been adopted requiring the installation of five carpool/vanpool parking spaces.

As conditioned, the application meets the intent of the off-street parking and loading requirements as set forth in MMC Chapter 19.500.

- 6. Per MMC Chapter 19.1400 Transportation Planning, the standards and procedures of this chapter shall apply when the estimated value of commercial redevelopment exceeds a certain value threshold. In this case, the estimated value of the proposed remodel exceeds the value threshold, requiring the project to undergo transportation plan review (TPR). The potential impact of the proposed remodel did not, however, trigger a requirement for transportation impact analysis (TIA).

MMC Section 19.1407 requires that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate impacts of the proposed development. Transportation facilities shall be adequate at the time of development or made adequate in a timely manner.

- a. The site is surrounded on three sides by right-of-way: Highway 224 to the north; SE Freeman Way to the west; and SE Lake Road to the



south. Each of these rights-of-way meets the width requirement in MMC Table 19.1409.3; therefore, right-of-way dedication will not be required as a condition of approval.

- b. Right-of-way requirements for Highway 224 shall be determined by the Oregon Department of Transportation (ODOT).<sup>10</sup> ODOT will not be requiring frontage improvements on Highway 224 east of SE Freeman Way. Since no frontage improvements are required, a variance to waive frontage improvements is unnecessary. ODOT has plans to construct a sidewalk on SE Freeman Way from the site's northwestern property line to where SE Freeman Way meets Highway 224. This will result in a sidewalk along the entire length of the site on SE Freeman Way between SE Lake Road and Highway 224.
- c. SE Freeman Way has 10-foot wide travel lanes; 9-foot wide on-street parking lanes; 5-foot sidewalk abutting the site; 0-foot wide landscape strip abutting the site; and 5-foot wide landscaped buffer between the rear face of the sidewalk and the site's property line. All of these facilities meet the dimensional requirements of MMC Table 19.1409.3 and/or the Transportation System Plan, with the exception of the existing sidewalk and landscape strip. Per Table MMC 19.1409.3, a local road such as SE Freeman Way is required to have a 6-foot wide sidewalk (minimum width allowed is 4 feet) and a 5-foot wide landscape strip (minimum width allowed is 0 feet). The applicant has requested an adjustment to these two dimensional requirements. The City Engineer has found the request to be consistent with MMC 19.1404.C Adjustments, and Planning Commission approves the adjustment request.
- d. SE Lake Road has 12-foot wide travel lanes; 15-foot wide paved shoulder abutting the side; 5-foot sidewalk abutting the site; 0-foot wide landscape strip abutting the site; and 11- to 17-foot wide landscaped buffer between the rear face of the sidewalk and the site's property line. All of these facilities meet the dimensional requirements of MMC Table 19.1409.3 and/or the Transportation Design Manual, with the exception of the existing sidewalk and landscape strip. Per Table MMC 19.1409.3, an arterial road such as SE Lake Road is required to have a 10-foot wide sidewalk (minimum width allowed is 5 feet) and a 5-foot wide landscape strip (minimum width allowed is 0 feet). The applicant has requested an adjustment to these two dimensional requirements. The City Engineer has found the request to be consistent with MMC 19.1404.C Adjustments, and Planning Commission approves the adjustment request.

With approval of the adjustment request for relief from sidewalk and landscape strip dimensional requirements, existing rights-of-way and frontage improvements are adequate and comply with MMC 19.1407.

<sup>10</sup> MMC Table 19.1409.3, Footnote 2

7. MMC Section 19.1407 Adequacy Requirements also requires compliance with MMC Section 19.1413 Access Management Standards.
  - a. MMC Section 19.1413.3.A states that one access point per site frontage is the normal number allowed. However, the applicant may request an additional access point since the site's street frontage is greater than 150 feet. There are currently three curb cuts that provide access to the site from SE Freeman Way. The applicant proposes to close the northernmost curb cut. As conditioned, the application complies with MMC Section 19.1413.3.
  - b. MMC Section 19.1413.2.E.2 states that driveways for other than single-family residential uses shall be located at least 100 feet from the intersection curb return. The southernmost driveway on the site is approximately 30 feet from the intersection curb return. The location of this driveway was approved in 1987 but does not meet current standards. It is, however, an existing legal nonconforming situation, and the Planning Commission finds that the scope of the proposed remodel does not justify its relocation.

MMC Section 19.802 allows a nonconforming use to continue but not be altered unless the Planning Commission approves such alteration. The Planning Commission finds that the current nonconforming driveway is not altered by the remodel of the existing building and, as such, should be allowed to continue in its present location. If, however, a new building is constructed on the site or the parking lot is substantially reconfigured, such changes would constitute an alteration of the nonconforming driveway by association.

The existing nonconforming driveway currently functions as an auxiliary access point due to its distance from the existing building and Highway 224. Given the site's current layout, the addition of a new building would change how this driveway serves the site and, as such, would constitute an alteration of its use. Additionally, if the existing parking lot were substantially reconfigured, this would also constitute an alteration of the nonconforming driveway since it is physically and functionally connected to the parking lot.

Moreover, if a new building is proposed in the future, the nonconforming situation will be required to be brought into conformance per MMC Chapter 19.500.<sup>11</sup> A new building would further intensify the use of the site, thereby increasing the potential safety hazard and heightening the need for conformance.

8. Title 16 of the Milwaukie Municipal Code requires that the applicant obtain an erosion control permit prior to construction or commencement of any

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<sup>11</sup> Standards and procedures of MMC Chapter 19.500 apply to all new development, and MMC Section 19.503.12 requires curb cuts to comply with access spacing standards of Chapter 19.1400.



earth disturbing activities. As conditioned, the application complies 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, which are the architectural plans, site plans, and application submission materials stamped received December 19, 2005 by the Milwaukie Planning Department.
2. Prior to issuance of a building permit the applicant shall:
  - a. Provide a narrative describing all actions taken to comply with conditions of approval.
  - b. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to conditions of approval.
  - c. Submit full-engineered plans for all public improvements and obtain a right-of-way permit prior to construction of public improvements. Required public improvements include installation of:
    - (1) City of Milwaukie standard sidewalk and full-height curb at the location of the existing northernmost driveway approach that is slated for removal.
  - d. Submit revised site plans showing:
    - (1) Five bicycle parking spaces.
    - (2) Five carpool/vanpool spaces.
    - (3) The two accessible parking spaces, currently located near a future proposed building, relocated as close as practical to the existing building.
  - e. Provide an erosion control plan and obtain an erosion control permit, if necessary.
  - f. Pay all system development charges.
3. Prior to issuance of a certificate of occupancy the applicant shall:
  - a. Submit a narrative demonstrating compliance with conditions of approval.
  - b. Remove the northernmost driveway approach on SE Freeman Way and install all necessary public improvements as described in 2(c).
  - c. Install three additional accessible parking spaces (for a total of five accessible parking spaces), five bicycle parking spaces, and five carpool/vanpool parking spaces.

- d. Repair landscaped areas disturbed or damaged during construction activities.
  - e. Provide on-site storm improvements to collect and convey storm water from additional impervious areas created by the proposed development, if any, to the existing public storm system.
4. After issuance of a certificate of occupancy the applicant shall:
  - a. Maintain perimeter landscaping in good and healthy condition in order to satisfy ongoing transition measure requirements.
  - 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.
5. Sign permit applications shall be submitted in accordance with MMC Title 14 – Sign Ordinance.

#### **Other Requirements and Advisory Notes**

The Building Official has conducted a preliminary review of the application and has made the following comments:

1. The remodel of the existing office space is subject to ORS 447.241, which requires 25% of the remodeling budget to be used to remove architectural barriers.
2. The conversion of the vehicle inspection bays to office space is a change of use that is subject to Section 3406.1 of the Oregon Structural Specialty Code.
3. The conversion from a single-tenant office space to a multi-tenant office space requires the appropriate occupancy separations per Section 302.3 of the Oregon Structural Specialty Code.

## ATTACHMENT 3

### Zoning Compliance Report

#### GENERAL COMMERCIAL DEVELOPMENT STANDARDS

General Commercial Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum lot size	None	102,004 sq. ft.	Complies with development standard.
2. Minimum Lot Width	50 feet	130 feet	Complies with development standard.
3. Minimum Lot Depth	80 feet	588 feet	Complies with development standard.
4. Minimum Setbacks	None	15 feet (west side) 20 feet (north side) 60 feet (east side) 360 feet (south side)	Complies with development standard.
5. Transition Area	Yes	Maintain existing transition measures approved in 1987	Rights-of-way separate the site from adjacent properties on three sides; existing setbacks of 15-feet were approved in 1987; gradual density change does not apply to non-residential projects. See analysis of transition area approval criteria below.
6. Frontage	35 feet	718 feet	Complies with development standard.
7. Off-Street Parking and Loading	Yes	Reconfigure parking lot to add 3 additional accessible parking spaces and to accommodate front entrance remodel. Maintain existing legal nonconformities.	Given the scope of the proposed remodel and the nature and extent of the existing nonconformities, staff is recommending partial conformance. As conditioned, staff believes the application meets the intent of the off-street parking and loading requirements as set forth in MMC Chapter 19.500.
8. Height Restriction	3-stories or 45 feet	2-stories; 30-foot height	Complies with development standard.
9. Lot Coverage	85% max.	13%	Complies with development standard.
10. Open Use	N/A	N/A	N/A
11. Minimum Vegetation	15% min.	48%	Complies with development standard.
12. Transportation Requirements	Yes	Adjustment requested for relief from sidewalk and landscape strip dimensional requirements.	Staff recommends approval of adjustment request. See analysis of adjustment approval criteria below.

### TRANSITION AREA APPROVAL CRITERIA

Since the proposed project is commercial in nature and the site is within 100 feet of areas designated for lower density, transition measures are required in order to minimize the impact on lower density uses. Transition measures shall be subject to planning commission review at a public hearing per MMC Section 19.1011.3 and shall include one or a combination of the following. The planning commission may also apply additional conditions of approval as may meet the objectives of this section.

1. **Roadways separating projects.** The site's northern property boundary is not subject to transition measure requirements because the area to the north of the site is zoned Business Industrial. The site is adjacent to lower density residential areas on its remaining three sides—to the west, south, and east. Roadways currently separate the site from adjacent lower density residential areas on two of these sides—to the west and south. Installation of a roadway on the eastern side of the site is not feasible given the approximate 40-foot drop in elevation that occurs over a 50-foot distance along the site's eastern edge.
2. **Open areas separating new structures from adjacent parcels.** Prior to the construction of the existing building in 1988, the site was subject to transition area review. The related 1987 land use decision (PR-87-02) reduced the required 20-foot setback<sup>12</sup> to 15 feet along the western, southern, and northern property lines. Due to the changes in elevation in and around the site, it was determined that a 15-foot setback either adequately or more effectively screened the proposed commercial development from surrounding lower density residential uses than a 20-foot setback. This same decision required a 20-foot setback along the eastern property line.

The existing building either meets or exceeds the required setbacks as set forth in the 1987 decision. The applicant is not proposing to change the footprint of the existing building, which means that the proposed remodel will not encroach into any of the existing setbacks. The applicant intends to maintain the existing vegetative buffer along the site's western, southern, and eastern property lines, installation of which was required by the 1987 decision. The lower density residential areas surrounding the site have not significantly changed since the 1987 decision was rendered. Staff therefore believes that the setbacks, and the landscaping and natural vegetation contained therein, that were established by the 1987 decision serve as an effective transition measure and should be maintained as is.

<sup>12</sup> Per MMC Section 19.416.1.B, open areas shall separate new structures from adjacent parcels. These areas shall be, at a minimum, equal to the required front yard areas of adjacent parcels. In this case, adjacent parcels are zoned R-10 and have a minimum front yard requirement of 20 feet.

3. **Gradual density change.** This transition measure generally applies to proposals containing a residential component with the purpose being to effect a gradual density change between higher and lower zoned residential areas. The applicant's proposal does not contain a residential component, but the proposed remodel will result in an intensification of use on the site. The proposed intensification, however, was not so great as to have triggered a transportation impact analysis. Moreover, the site's lot coverage and minimum vegetation coverage is in keeping with lower density residential development.

### ADJUSTMENT APPROVAL CRITERIA

The site has existing curb-tight sidewalks on SE Freeman Way and SE Lake Road. The applicant is requesting an adjustment to sidewalk and landscape strip dimensional requirements for SE Freeman Way and SE Lake Road. Dimensional requirements can be reduced through the adjustment process when the dimensions requested do not go below the minimum dimensional requirements listed in MMC Table 19.1409.3.

- SE Freeman Way, a local street, is required to have a 6-foot sidewalk and a 5-foot landscape strip.<sup>13</sup> The minimum dimension allowed for a sidewalk is 4 feet and for a landscape strip is 0 feet. The existing 5-foot sidewalk and 0-foot landscape strip currently meet or exceed the minimum dimension allowed. Moreover, there is a 5-foot landscaped buffer between the rear face of the sidewalk and the property line that compensates for the nonexistent landscape strip.
- SE Lake Road, a minor arterial street, is required to have a 10-foot sidewalk and a 5-foot landscape strip. The minimum dimension allowed for a sidewalk is 5 feet and for a landscape strip is 0 feet. The existing 5-foot sidewalk and 0-foot landscape strip currently meet the minimum dimension allowed. Moreover, there is an 11- to 17-foot landscaped buffer between the rear face of the sidewalk and the property line that compensates for the nonexistent landscape strip.

An adjustment may be granted when the City Engineer finds it is consistent with the criteria in MMC Section 19.1404.C Adjustments. The City Engineer finds the following:

- The adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan.
- The adjustment serves to protect significant features such as, but not limited to, trees, historic buildings, and significant natural resources. The adjustment in this case serves to protect existing mature trees and landscaping along SE Freeman Way and SE Lake Road that would need to be removed if strict compliance was required.

<sup>13</sup> Landscape strips are those areas between the rear face of the curb and the front face of the sidewalk.



- Strict compliance is deemed infeasible. Realignment of the site's existing sidewalk on SE Lake Road would cause it to be out of alignment with the existing sidewalk immediately east of the site on SE Lake Road.
- The existing sidewalks are adequately sized and are in usable and safe condition.

**MEMORANDUM**

**TO:** Community Development Department  
**THROUGH:** Paul Shirey, Director of Engineering  
**FROM:** Zach Weigel, Civil Engineer  
**RE:** Building Remodel – 12400 SE Freeman Way  
TAR-05-02, TPR-05-06  
**DATE:** January 9, 2006

Enclose ground floor for additional office area and remodel existing building.

**PUBLIC UTILITIES****WASTEWATER SYSTEM**

A public 8-inch concrete wastewater main on SE Freeman Way currently serves the existing building. Additional wastewater fixtures installed as part of the building improvements can be served by the existing wastewater service line.

**WATER SYSTEM**

A public 12-inch ductile iron water main on SE Freeman Way currently serves the existing building. Additional water fixtures installed as part of the building improvements can be served by the existing water service line.

**STORM DRAINAGE SYSTEM**

A public storm system on SE Lake Road, SE Freeman Way, and Highway 224 currently serves the existing property of the proposed development. Storm water from addition of impervious area from the proposed development shall be collected and conveyed to the existing public storm system.

**STREET IMPROVEMENTS AND RIGHT-OF-WAY REQUIREMENTS****GENERAL STATEMENT**

According to Section 19.1403 of the Milwaukie Municipal Code (MMC), Chapter 19.1400 of the MMC applies to partitions, subdivisions, and new construction. The requirements of Chapter 19.1400 are not limited by Section 19.1403.1 of the MMC when the value of improvements is greater than \$225,100.00. As a result, Adequacy Requirements applies to the proposed development.

Adequacy Requirements states that right-of-way, necessary public improvements, and public transportation facilities located in the public right-of-way, abutting the

development site shall be adequate at the time of development or shall be made adequate in a timely manner.

### **TRANSPORTATION IMPACT ANALYSIS**

Per Section 19.1408.2 (B) of the MMC, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual. The proposed development does not score over the required 100 points under the "threshold scoring" system necessary to require a transportation impact analysis.

### **EXISTING CONDITIONS**

The proposed development fronts the south side of Highway 224. The existing street has a right-of-way width varies between 230 feet and 245 feet. The existing roadway does not have curb or sidewalk improvements.

The portion of SE Freeman Way fronting the proposed development has a right-of-way width of 60 feet and a paved width of 38 feet with 6-inch curb and 5-foot wide sidewalk.

The proposed development fronts the north side of SE Lake Road. The existing street has a right-of-way width of 70 feet with two 12-foot travel lanes. A 15-foot wide paved shoulder with 6-inch curb and 5-foot sidewalk fronts the proposed development property.

### **RIGHT-OF-WAY**

According to the Transportation System Plan the portion of Highway 224 fronting the proposed development is classified as a regional route. The Oregon Department of Transportation (ODOT) shall determine right-of-way requirements for regional routes. According to the attached ODOT memo, right-of-way dedication for Highway 224 is not required as part of the proposed development.

The Transportation System Plan classifies the portion of SE Freeman Way fronting the proposed development as a local road. Table 19.1409.3 of the MMC states that the required right-of-way width for a local road is 50 feet. The existing SE Freeman Way right-of-way of 60 feet is greater than required. As a result, right-of-way dedication on SE Freeman Way as part of the proposed development is not required.

The Transportation System Plan classifies the portion of SE Lake Road fronting the proposed development as an arterial road. Table 19.1409.3 of the MMC states that the required right-of-way width for an arterial road is 73 feet. Although the right-of-way width is less than the required, a 10-foot right-of-way dedication fronting the proposed development was made as some point in the past. As a result, an additional right-of-way for SE Lake Road fronting the proposed development shall come from property on the south side the roadway. As a result, right-of-way dedication on SE Lake Road as part of the proposed development is not required.

## TRANSPORTATION FACILITY DESIGN STANDARDS

Per Section 19.1409.1(H) of the Milwaukie Municipal Code (MMC), transportation facility design standards shall be provided in accordance with the dimension shown "as required" in Table 19.1409.3 of the MMC. Per Table 19.1409.3 of the MMC, the "required" dimensions for the designated roadways are as follows:

Regional Route (Highway 224)	Arterial Roadway (SE Lake Road)	Local Roadway (SE Freeman Way)
12-foot travel lanes	12-foot travel lanes	10-foot travel lanes
8-foot parking strips	8-foot parking strips	8-foot parking strips
10-foot sidewalks	10-foot sidewalks	6-foot sidewalks
5-foot landscape strips	5-foot landscape strips	5-foot landscape strips
6-foot bike lane	6-foot bike lane	6-foot bike lane

Per Section 19.1409.1(I) of the MMC, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions of Table 19.1409.3 of the MMC. According to Table 19.1409.3 of the MMC, the "minimum allowed dimensions for the designated roadways are as follows:

Regional Route (Highway 224)	Arterial Roadway (SE Lake Road)	Local Roadway (SE Freeman Way)
11-foot travel lanes	11-foot travel lanes	10-foot travel lanes
7-foot parking strips	7-foot parking strips	7-foot parking strips
5-foot sidewalks	5-foot sidewalks	4-foot sidewalks
No landscape strips	No landscape strips	No landscape strips
5-foot bike lane	5-foot bike lane	5-foot bike lane

## TRAVEL LANES

### Highway 224

The existing travel lane width of 12 feet on Highway 224 fronting the proposed development meets current width requirements as stated in Table 19.1409.3 of the MMC.

### SE Freeman Way

The existing travel lane width of 10 feet on SE Freeman Way fronting the proposed development meets current width requirements as stated in Table 19.1409.3 of the MMC.

### SE Lake Road

The existing travel lane width of 12 feet on SE Lake Road fronting the proposed development meets current width requirements as stated in Table 19.1409.3 of the MMC.

**PARKING STRIPS****Highway 224**

Highway 224 does not currently have parking strips fronting the proposed development. However, according to Section 19.1409.1(E) of the MMC, all transportation facilities shall be designed and improved in accordance with the Transportation Design Manual. The Transportation Design Manual does not recommend parking strips for arterial or collector roadways. As a result, parking strip improvements are not required on Highway 224 as part of the proposed development.

**SE Freeman Way**

The existing parking strip width of 9 feet on SE Freeman Way fronting the proposed development exceeds current width requirements as stated in Table 19.1409.3 of the MMC.

**SE Lake Road**

SE Lake Road does not currently have parking strips fronting the proposed development. As stated above, the Transportation Design Manual does not recommend parking strips for arterial roadways. As a result, parking strip improvements are not required on SE Lake Road as part of the proposed development.

**SIDEWALK****Highway 224**

Highway 224 does not currently have sidewalks fronting the proposed development. The Oregon Department of Transportation (ODOT) will be constructing a sidewalk improvement at the intersection of Highway 224 and SE Freeman Way in the summer of 2006. The sidewalk plans do not show extending sidewalk east of SE Freeman Way on Highway 224. There is no pedestrian connection or destination east of SE Freeman Way on Highway 224 for a new sidewalk to connect. As a result, sidewalk improvements fronting Highway 224 are not required as part of the proposed development.

**SE Freeman Way**

The existing sidewalk width of 5 feet on SE Freeman Way fronting the proposed development is less than the "required" dimension, but greater than the "minimum allowed" dimension of Table 19.1409.3 of the MMC. As a result, the applicant will need an adjustment from the sidewalk width standard for a local road. City of Milwaukie staff support the adjustment of the sidewalk width to 5 feet as allowed by the sections of 19.1404(C) of the MMC, as stated below.

1. Table 19.1409.3 of the MMC allows the sidewalk width to be reduced to a minimum of 4 feet for a local street. Also, the existing sidewalk meets current requirements of the Americans with Disabilities Act. As a result, the adjustment is consistent with the purposes of Chapter 19.1400 of the MMC and the Transportation System Plan.

2. Widening of the existing sidewalk will impact the adjacent landscaping. The adjustment serves to protect significant features.
5. The existing sidewalk is adequately sized and is in a usable and safe condition but does not meet a dimensional standard.

There is an approximately 170-foot section of sidewalk missing on SE Freeman Way fronting the proposed development from the intersection with Highway 224. As stated above, ODOT will be constructing a sidewalk improvement project, OR224: SE 17<sup>TH</sup> Ave to East Portland Freeway, which will fill in the section of missing sidewalk. Therefore, the applicant is not required to make sidewalk improvements on SE Freeman Way as part of the proposed development.

### **SE Lake Road**

The existing sidewalk width of 5 feet on SE Lake Road fronting the proposed development is less than the "required" dimension, but meets the "minimum allowed" dimension of Table 19.1409.3 of the MMC. The applicant will need an adjustment from the sidewalk width standard for an arterial road. City of Milwaukie staff support the adjustment of the sidewalk width to 5 feet as allowed by the sections of 19.1404(C) of the MMC, as stated below.

1. Table 19.1409.3 of the MMC allows the sidewalk width to be reduced to a minimum of 5 feet for an arterial road. Also, the existing sidewalk meets current requirements of the Americans with Disabilities Act. As a result, the adjustment is consistent with the purposes of Chapter 19.1400 of the MMC and the Transportation System Plan.
2. Widening of the existing sidewalk will impact the adjacent landscaping. The adjustment serves to protect significant features.
5. The existing sidewalk is adequately sized and is in a usable and safe condition but does not meet a dimensional standard.

### **LANDSCAPE STRIP**

#### **Highway 224**

As stated in the Sidewalk section of this report, sidewalks are not required on Highway 224 fronting the proposed development. As a result, landscape strips are not required on Highway 224 as part of the proposed development.

#### **SE Freeman Way**

There is not an existing landscape strip on SE Freeman Way fronting the proposed development. The applicant will need an adjustment from the landscape strip standard for a local road. City of Milwaukie staff support the adjustment to eliminate the landscape strip as allowed by the sections of 19.1404(C) of the MMC, as stated below.

1. Table 19.1409.3 of the MMC allows the landscape strip to be eliminated on a local road. The existing parking strip is wider than necessary and acts as a buffer between the sidewalk and the lane of travel, reducing conflict with



pedestrians. As a result, the adjustment is consistent with the purposes of Chapter 19.1400 of the MMC and the Transportation System Plan.

2. Installation of a landscape strip on SE Freeman Way will require relocation of the existing sidewalk, which will impact the adjacent landscaping. The adjustment serves to protect significant features.

### **SE Lake Road**

There is not an existing landscape strip on SE Lake Road fronting the proposed development. The applicant will need an adjustment from the landscape strip standard for a local road. City of Milwaukie staff support the adjustment to eliminate the landscape strip as allowed by the sections of 19.1404(C) of the MMC, as stated below.

1. Table 19.1409.3 of the MMC allows the landscape strip to be eliminated on an arterial road. The adjacent 15-foot wide shoulder acts as a buffer between the sidewalk and the lane of travel, reducing conflict with pedestrians. As a result, the adjustment is consistent with the purposes of Chapter 19.1400 of the MMC and the Transportation System Plan.
2. Installation of a landscape strip on SE Lake Road will require relocation of the existing sidewalk, which will impact the adjacent landscaping. The adjustment serves to protect significant features.

### **BIKE LANES**

#### **Highway 224**

The portion of Highway 224 fronting the proposed development does not include bike lanes. Section 19.1411.2(A) of the Milwaukie Municipal Code (MMC) states that bike lanes and bikeways shall be provided in accordance with the Transportation System Plan (TSP). The TSP does not identify the portion of Highway 224 fronting the proposed development as part of a bikeway network. As a result, bike lane improvements on Highway 224 are not required as part of the proposed development.

#### **SE Freeman Way**

The portion of SE Freeman Way fronting the proposed development does not include bike lanes. The Transportation System Plan does not identify the portion of SE Freeman Way fronting the proposed development as part of a bikeway network. As a result, bike lane improvements on SE Freeman Way are not required as part of the proposed development.

#### **SE Lake Road**

The Transportation System Plan identifies SE Lake Road as part of the bikeway network. The paved portion of SE Lake Road fronting the proposed development is wide enough to accommodate a future bike lane. Bike lanes shall be striped at a future date when a bikeway connection can be made to the east or west of the proposed development property on SE Lake Road.

## **ACCESS**

Section 19.1413.1(D) of the MMC states that driveways shall conform with all applicable guidelines of the Americans with Disabilities Act (ADA). The remaining driveway approach accesses to the proposed development comply with ADA standards.

According to Section 19.1413.2(E) of the MMC, the minimum distance from driveway to intersection curb return is 100 feet for commercial zoning on a local street. The southern most driveway on SE Freeman Way is less than 100 feet from the intersection curb return with SE Lake Road. However, the access is an existing non-conforming driveway. The increase in trip generation for the proposed development does not have significant impact to the existing driveway. Consequently, Staff does not recommend conditioning the applicant to relocate or close the existing southern most driveway as part of the proposed development.

Section 19.1413.3(A) of the MMC states that one driveway per sit frontage is the normal number allowed. In the event the street frontage for a commercial development is greater than 150 feet, the applicant can request an additional driveway, if needed. The applicant is proposing to close the northern most driveway access to the property, leaving the remaining two driveways for access to the site. With elimination of one of the driveways, the applicant will comply with the MMC.

Section 19.1413.3(C) of the MMC requires that for commercial uses the minimum driveway width is 12 feet and a maximum width of 36 feet. The two remaining driveways are both 30 feet in width, which complies with the MMC.

## **TRANSIT REQUIREMENTS**

Section 19.1412.2(A) of the MMC states that when development of commercial use, such as the proposed development, is proposed within 200 feet of an existing or planned transit route, notice shall be provided to Tri-Met. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.

Section 19.1412.1 of the MMC states that transit facilities shall be designed and improved in accordance with Tri-Met standards and the requirements and standards of Chapter 19.1400 of the MMC and the Transportation Design Manual.

Tri-Met has been notified of the proposed development and does not have any comments or conditions of approval.

## **PLAN AND PERMIT REQUIREMENTS**

Full-engineered plans for all public improvements must be submitted to the City of Milwaukie Planning Department for review and approval before any construction may begin. Construction of all public improvements must be completed prior to issuance of final occupancy. Due to the limited amount of public improvements, the City of Milwaukie will waive bonding requirements and allow the work to be construction under a right-of-way permit.

Per Section 16.28.020(C), an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding five hundred square feet.

Section 16.28.020(E) of the MMC states that erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, Section 16.28.020(B) states that an erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit.

## **SYSTEM DEVELOPMENT CHARGES**

### **WASTEWATER**

The wastewater System Development Charge (SDC) is assessed using a plumbing fixture count from Table 7-3 of the Uniform Plumbing Code. The wastewater SDC connection units are calculated by dividing the plumbing fixture count by sixteen. Wastewater SDC connection units will be credited for any demolished fixtures. The wastewater SDC is currently \$893.00 for each connection unit. The wastewater SDC will be assessed using added fixtures and collected at the time the building permits are issued.

### **WATER**

The water SDC is assessed the same as the wastewater SDC stated above. The water SDC is currently \$1095.00 for each connection unit. The water SDC will be assessed using added fixtures and collected at the time the building permits are issued.

### **STORM**

The storm SDC will be based on the added impervious surface to the site. One storm SDC unit is the equivalent of 2,706 square feet of impervious surface. Storm SDC unit credit will be given for demolished impervious area from the proposed development. The storm SDC is currently \$473.00 per unit. The storm SDC will be assessed and collected at the time the building permits are issued.

### **TRANSPORTATION**

The transportation SDC will be based on the increase in trips generated by the new use and increase in floor space per the Trip Generation Handbook from the Institute of Transportation Engineers. The transportation SDC is currently \$1511.50 per trip generated. Credits will be given for any demolished structures, which will be based upon the existing use of the structures. The transportation SDC will be assessed and collected at the time the building permits are issued.

### **PARKS AND RECREATION**

The parks and recreation SDC is not assessed for commercial uses.

## **APPROVAL CRITERIA**

The proposed development and all related transportation improvements comply with all of the approval criteria under Section 19.1405.5 of the MMC as conditioned below.

## **CONDITIONS OF APPROVAL**

Staff recommends the following conditions of approval:

1. The applicant shall provide on-site storm improvements to collect and convey storm water from an additional impervious area from the proposed development to the existing public storm system prior to final occupancy.
2. The applicant shall remove the northernmost driveway approach on SE Freeman Way and replace with City of Milwaukie standard full-height curb and sidewalk.
3. The applicant shall submit full-engineered plans for all public improvements to City of Milwaukie Planning Department for review and approval prior to the start of construction.
4. The applicant shall obtain a work in right-of-way permit prior to the start of construction of public improvements. The applicant shall construct all public improvements prior to final occupancy.
5. The applicant shall provide an erosion control plan and obtain an erosion control permit, if necessary, prior to the start of construction.
6. The applicant shall pay all System Development Charges at the time building permits are issued.

**CITY OF MILWAUKIE  
BUILDING  
DEPARTMENT**

# Memo

**To:** Susan Shanks, Associate Planner  
**From:** Tom Larsen, Building Official *TL*  
**Date:** December 28, 2005  
**Re:** Panel Products, 12400 SE Freeman Way

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The plans show (2) accessible parking spaces adjacent to the future building. As the building may or may not be built, all (5) required accessible spaces should be as close as practical to the existing buildings main entry (Section 1104.4.5).

The remodel of the existing office space is subject to ORS 447.241 which requires that 25% of the remodeling budget be set aside for the removal of architectural barriers.

The conversion of the inspection bays to office space is a change of use subject to Section 3406.1 of the Oregon Structural Specialty Code.

The applicant will need to provide the appropriate occupancy separations per Section 302.3 of the OSSC.

It is recommended that the applicant schedule a pre-submittal conference with the Building Official to discuss the required improvements.





# 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: 10/11/2005

### ODOT Response to Local Land Use Notification

<b>Project Name:</b> Panel Products Building	<b>Applicant:</b> CIDA
<b>Jurisdiction:</b> City of Milwaukie	<b>Case #:</b> Pre-appl 10/13/05
<b>Site Address:</b> 12400 SE Freeway Wy Milwaukie, OR	<b>Legal Description:</b> <b>Tax Lot(s)</b>
<b>State Highway:</b> OR 224	<b>Mileposts:</b> 1.89

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. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

ODOT has no concerns with the existing development as currently planned.

#### IMPACTS ON THE STATE HIGHWAY

☐ ODOT recommends that the applicant be required to submit a traffic impact analysis to assess the impacts of the proposed use on the State highway system. The analysis must be conducted by a Professional Engineer registered in Oregon.

☒ Private signs are not permitted in the State highway right of way (ORS 377.700-377.840).

☒ An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way.

☒ To install trees within the highway right of way, the applicant must submit an application for a *design exception* through the ODOT District office. If approved, the applicant must obtain an ODOT permit to install the trees.

☒ An ODOT Drainage Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way.

A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if:

1. Total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or
2. The improvements create an increase of the impervious surface area greater than 10,758 square feet.

#### ODOT RECOMMENDED LOCAL CONDITIONS OF APPROVAL

☐ Curb, sidewalk and bikeways shall be constructed consistent with the local Transportation System Plan and to current local, ODOT/ADA standards to provide pedestrian and bicycle access to the site.

☐ Right of way dedication as necessary to accommodate the planned cross section identified in the local Transportation System Plan shall be provided through deed to the Oregon Department of Transportation. The dedication must be to the State of Oregon, Oregon Department of Transportation. The ODOT District contact will assist in coordinating the dedication. ODOT should provide verification to the local jurisdiction that the dedication requirement has been fulfilled. The property owner must be the signatory for the dedication and will be responsible for a certified environmental assessment of the site prior to transfer of property to the Department.

<b>Signed:</b> Sonya Kazen <b>Development Review Planner</b>	<b>Phone:</b> (503) 731-8282
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<b>Traffic Contact:</b> Joseph Auth	<b>Phone:</b> (503) 731-8225
<b>District 2B Contact:</b> Loretta Kieffer	<b>Phone:</b> (503) 353-8975

DocC#: CP0-----

January 12, 2006

Via e-mail to: shankss@ci.milwaukie.or.us

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

**RE: Updated TriMet Comments on Application Referral File # TAR 05-02, TPR 05-06**

Dear Ms. Shanks:

Thank you for the opportunity to update my comments on the proposed redevelopment at the northeast corner of SE Freeman Way and Lake Road.

**Updated TriMet Staff Recommendation**

Since the nearby westbound bus stop that is just west of Freeman Way appears to meet the accessibility requirements of the Americans with Disabilities Act (ADA), I retract my previous request for a small widening of the sidewalk for accessibility needs.

Thank you again for the opportunity to comment on this proposal and supporting the needs of transit customers in Milwaukie. If you have any questions, please contact me at 503-962-2139.

Sincerely,

David Zagel  
Project Planner

C: DocC file