

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, JULY 26, 2005

COMMISSIONERS PRESENT

Brent Carter, Vice Chair
Lisa Batey
Catherine Brinkman
Jeff Klein
Teresa Bresaw

COMMISSIONERS ABSENT

Dick Newman
Donald Hammang

STAFF PRESENT

John Gessner,
Planning Director
Gary Firestone,
Legal Counsel
Keith Jones,
Associate Planner
Shirley Richardson,
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:32 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

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Norm Scott
Owner: Norm and Marilyn Scott
Location: 8555 SE 28th
Proposal: Applicant is requesting approval of a Subdivision, Transportation Plan Review, Variance, Water Quality Review, and a Street Vacation to re-plat a two-acre parcel into 4 lots. The existing house would be on one lot, three attached homes would be on three lots, and a new detached home on the other lot. A new road and hammerhead turnaround is proposed.

Also proposed is a street vacation to vacate 15-feet of 28th Avenue and 10-feet of Rockvorst Avenue adjacent to the site. A tract of land containing a wetland is proposed to be conveyed to the City of Milwaukie

File Numbers: S-04-04/TPR-04-10/VR-04-12/WQR-04-04/SV-04-01

NDA: Ardenwald

Vice-chair Carter opened the hearing on Community Service Overlay CSO-05-01 a minor quasi-judicial hearing to consider approval of allowing a 4-lot re-plat, a street construction variance and a street vacation. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.303 - Residential R-5 Zone; 19.322 - Water Quality Resource Regulations; 19.700 - Variance Exceptions and Home Improvement Exceptions; 19.1011.3 - Minor Quasi Judicial Review; 19.1400, - Transportation Planning Design Standards and Procedures; as well as the Land Division Ordinance Title 17; and Oregon Revised Statute ORS 271.

Vice-chair Carter asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 3 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

Keith Jones reviewed the staff report with the audience. A site map was shown of the subject site and surrounding area. Key issues include:

- Plan Revisions (Townhouses Removed)
- Street Vacation (Petitions Withdrawn) -- a vacation request requires 2/3rds of the property owners in the affected area to agree to sign a petition. The applicant secured the signatures, but later the city received letters that they did not approve the project. Staff is suggesting that the Planning Commission not recommend approval of the vacation to City Council.
- Road Design (Variance for 28th Avenue Curb and Sidewalk) -- The applicant has made a request to not install sidewalk and curb on 28th Avenue. Staff suggests improvements further up the slope (pavement sidewalk and retaining wall in lieu of no sidewalk and curb). This will accommodate the restraints of the side and provide street improvements.

Gary Firestone noted that, under Noland and Dolan, to require a developer to provide improvements staff has to demonstrate there is a direct impact of the development on the facility and what is being asked is directly proportional to the impact. By putting in a couple of lots it's not clear that people from this area would use that way to access the trail. If they are not using it there is no direct relationship

between the impact of the development and what the applicant is being asked to do. If there is a direct relationship, it could be possible.

Commissioner Batey asked if the traffic impact of five new residences accessing this area presents an impact? People who will be in this development will be using the roads. What's their proportionate share of the costs? **Mr. Firestone** stated that there are provisions that say that if you are not adding traffic to a particular location, there is no relationship. It is unclear if it can be established that these houses would be adding pedestrian traffic in these locations. The impact has to be a present impact of this development, not something that could occur in the future or the assumption that people in this development would be creating pedestrian traffic.

- Road Design (Rockvorst & Depot Street) - The applicant is requesting waiver of requirements to build street on undeveloped Rockvorst Avenue and Depot Street indicating that the existence of wetlands and no developable land west and south of the project make construction of a street impractical or infeasible. Depot Street is part of the wetlands and Rockvorst will only go so far. The remaining part of the right-of-way could be a connection but it would require wetland fill and through an area the City-owned land that is being preserved as a storm water wetland area. The code requires that the applicant request a variance and staff concurs that the street not be constructed.
- Road Design (Right-of-Way Variance on Rockvorst Avenue) -- The applicant is requesting a reduction of right-of-way from 50 to 40 feet on Rockvorst Avenue; the standard is 50 feet. The criteria to be considered are that the property has unusual conditions out of the applicant's control; there are no feasible alternatives; or that there are no adverse affects that are mitigated.

Mr. Jones reported that not all of the applicant's requests for street vacations and narrowing of right-of-ways on Rockvorst Avenue were approved and pointed out the street areas that will remain unchanged on the site map. No property is being vacated for these improvements. The street is being designed specifically to allow fire department access. There are grade limitations and turning movement requirements that are fulfilled by this proposed layout. There is no street there now.

Vice-chair Carter asked for clarification of Tract A. **Mr. Jones** stated that Tract A is a wetland tract; the final map will say it is a wetland tract and not for development. The property at the bottom of the tract is owned by the railroad.

- Road Adjustments (narrow sidewalk) -- The applicant is requesting to reduce the sidewalk from the required 6 feet to 5 feet and not install the 5-foot parking or planter strip. The steep slope is justification to install a 5-foot curb-tight sidewalk (6-foot sidewalk with 5-foot planter strip is required). Staff agrees; the steep terrain makes installing a 6-foot sidewalk with 5-foot planter strip infeasible and potentially hazardous.

Speaking: **Brenda Schleining**, City Associate Engineer, pointed out that 5-feet is better than 6-feet. The additional width needed would create a steep drop off at the end of the sidewalk since the road would need to be built further out onto the slope that exists between the existing road on Rockvorst Avenue and the house.

Mr. Jones stated that the criteria for granting the adjustment are consistency with the transportation requirements of the code, protection of resource, done in the interest of safety, and compliance is not feasible due to engineering limitations.

- Tree Removal for Road Construction - In the staff report there is a picture of three trees on the corner; one has the potential of being saved. The applicant will be required to hire an arborist to demonstrate that it can be saved. A condition will be included that requires this of the applicants.
- Wetlands (Water Quality Resource Regulations) - The applicant did a delineation report and the project will be outside the edge and will require a vegetative buffer. Division of State Lands has concurred with the wetland study report. At the end of Rockvorst Avenue staff would like to see a grade that would allow temporary access into the area in case there is need to bring city maintenance in. They would like to see a gate to allow access and staff has recommended a condition addressing that issue. There is no requirement for mitigation in the buffer.
- Sewer Pumps - There is no gravity sewer. Each home will have individual sewer pumps that will feed into the street facility. The Public Works Department has indicated that a central pump station would not be feasible.
- Lot Design (Odd-Shaped Lots) - Proposed lot #2 is an odd shaped lot due to the configuration of the existing property that abuts the Springwater Corridor and 28th Avenue. The average lot depth is 90 feet; the R-7 zone requires that each lot have an average lot dept of 80 feet. It is staff's recommendation to establish the front, rear and side of this lot as indicated in the staff report. This will preclude the applicant from placing the front of the house on other sides.

The analysis is that there be no impacts north of Sherrett were based on the assumption that all of the lots would have access from Rockvorst. If there is access from what is marked as lot #2 off of 28th Avenue, there would be justification for getting half street improvements to the property line.

- Neighbor Concerns - A neighbor raised concerns about the poor site distance and requested a stop sign. Brenda Schleining looked at the situation and feels it would be good to put a stop sign at that location.
- Neighbor Concerns - Another concern was about streetlights shining into the windows of a neighbor's house; a condition was recommended that cut offs go around the street lamps to keep the light from shining into neighbor's property.

Staff is recommending approval of the subdivision replat and that the Planning Commission recommend denial of the street vacation. Recommended findings and conditions are listed in Attachment 1 of the staff report. **Mr. Jones** pointed out a typographical error on Page 8, Issue 7, second sentence should read, "The R-5 zone requires..."

QUESTIONS FROM THE COMMISSIONERS

Commissioner Batey asked about the purpose of the guardrail on 28th Avenue. **Brenda Schleining** stated that she recommended the guard rail because a car could drive over that edge and the existing fence keeps people from seeing that dangerous edge. It looks like a hazard to her and she is requesting the fence removal and construction of a guardrail.

Commissioner Bresaw asked about setbacks. **Mr. Jones** stated that in the R-5 zone there is a sliding scale; the height of the house determines the setbacks. The maximum height is 35 feet.

Commissioner Batey asked if the overall footprint of the house met the lot coverage requirements? **Mr. Jones** said yes it met the requirements; the footprint covers about 30-35% of the lot.

Mr. Jones reported that there were two letters received after the staff report that were distributed to the commissioners; one from Brian Scott dated July 26th and the other from James Sanders.

APPLICANT'S PRESENTATION

Speaking: Paul Roeger, Civil Engineer, 15702 SE Cordova Court, Milwaukie
Norm Scott, 8555 SE 28th Avenue, Milwaukie

Mr. Roeger stated that they are pleased with not requiring the curb and sidewalk on south side of Rockvorst. As much as Mr. Scott would like the street vacation, he understands the withdrawal of people who signed application; they still intend to go ahead with development. Mr. Scott will have to pencil out some of the costs associated with the conditions of approval and determine if he still can move forward to do the improvements required and come out ahead on the project. If this doesn't seem economical, he will come back with another proposal.

Mr. Scott stated that he moved into this residence in 1997 and has made improvements to the house. They have added over 2,000 sq.ft. to the house. He has invested a lot of effort in making it a nice house.

The house faces the opposite direction of the street; his back yard fronts 28th Avenue. There is not a lot of room; there is a fence that gives them a little privacy. He is opposed to tearing down the fence and ruining this portion of his yard. Because of the contour of the land it is only important to him. He talked to his neighbors and they don't want the street improvements on 28th Avenue; they like it the way it is.

This project has nothing to do with 28th Avenue. Van Waters is the street everyone uses; very few people would use 28th. To make him do something that the neighbors don't want; to ruin his property; to put a huge retaining wall that brings the road closer to his house would ruin the project; and is unfair to ask.

He proposes not doing any street improvements on 28th; the project will not increase traffic flow. There will be more foot traffic in this area but it will be because of the 3-bridges project. In the report the street vacation is a separate issue; he doesn't need the street vacation for the approval of this subdivision. Neighbors were opposed to it because they thought it would stop the development. It was something that he wanted to include so that it wouldn't have to be done later.

Mr. Scott stated that he was hoping to include a donation to the city; there is a wonderful potential for a wetland park in this area. He would have liked to see that happen; he will hang on to his wetlands until possibly after development.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Batey stated that she didn't understand his position; is he going to reconsider the proposal because of the required street improvements or is he not going to build at all. **Mr. Scott** stated that he didn't think the street improvements should be required. This will detract from his property and he has to sit down and think it out whether or not this proposal will happen. He can't tell right now if he will develop if he has to do street improvements. **Mr. Roeger** stated that improvements and the retaining wall are expensive and Mr. Scott will have to reconsider to see if it is economically feasible to move forward with the project.

Commissioner Batey noted that the City could ask Mr. Scott to remove the fence now because it is in the right-of-way. That improvement has nothing to do with this proposal. **Commissioner Brinkman** asked if the improvements he made to the house were built in the right-of-way? **Mr. Scott** said no, the portion of the house that is in the right-of-way was there when he purchased the property. He explained the improvements he made to the home were to tear down of the roof and add a 2,000 sq.ft. addition. He resided the garage, however, the garage is on the right-of-way and it was built by someone else, about 30 years ago. Discussion followed on the house remodel.

Commissioner Batey asked about access from 28th Avenue. **Mr. Scott** stated that development access is intended from Rockvorst. He does not want to close down

28th Avenue for access to his property. The person who purchases the property of lot #2 cannot use this as access, however, the owner wants to continue to use it as an access.

John Gessner stated that if there are any existing rights of access, they would have to be established legally. The people who manage the corridor are very protective of that corridor. The property owner is not in the decision making position to continue that access if the City of Portland intervenes and uses that right-of-way for the corridor. **Gary Firestone** stated that local government has the ability to close access as long as an alternative access remains.

Commissioner Brinkman asked if the applicant could, require a provision in the sale of his properties that the access be from Rockvorst? **Gary Firestone** said no, however there can be a condition that there shall be no direct access from Lot 2 to 28th Avenue; all vehicular access shall be through Rockvorst. **John Gessner** stated that building permits that come in for a new home would be reviewed against terms of the approval; thereafter it would be enforceable should any contrary action be taken.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION

Clair Putnam, 2776 SE Van Water, Milwaukie 97222 stated that she owns the duplex across the driveway from Norm. Mr. Scott is the best neighbor anyone could have, but she doesn't want 5 additional homes next to her and she doesn't want them using her driveway. This driveway was built by the person she purchased her apartments from in 1986; now all of a sudden that driveway is called Rockvorst. Mr. Scott and his family use it and she does; that's fine. This driveway is only wide enough for one car; there is no way to widen that driveway. She doesn't want to use up the lawn she has and Mr. Scott has a fence all along there and he doesn't want to take it down. There is no way it can be used as two-way driveway, no way. She purchased this property for the isolation, and the peace and quiet she gets; she would hate the intrusion of five additional homes.

Ms. Putnam stated that the five trees proposed for removal belong to her. She doesn't want the trees removed. She needs them for the shade.

QUESTIONS FROM THE COMMISSIONERS -- None

Judy Barstad, 2822 SE Sherrett Street, stated that she is across from the one and a half story house with a garage. She doesn't want additional traffic in her area. She doesn't want to have a sidewalk; she doesn't want to give up a portion of her property

for a sidewalk and doesn't want the people coming and going. A lot of people use this turnaround. She has lived there for six years and has seen the traffic there. She lives there for peace and quiet and isolation too, and doesn't want the traffic.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Klein asked if her traffic concerns were from the pedestrian or vehicular traffic, or the trail users? This is a combination of both pedestrian and vehicular traffic. People park along the fence to use the trail with bikes; they park in front of her property and take her space. She doesn't like any of the intrusion.

Victoria Potter, 2807 SE Sherrett Street, stated that she lives by the subject's garage. She agrees that Mr. Scott is a great neighbor, however, she doesn't think it is a good idea to increase the homes in that area. This affects her quality of life and the amount of traffic will cause pollution. The trail is drawing people from inside and outside the neighborhood to come and park by her home to access the trail. Since the word has been out about the Three Bridges, there has been even more people and questions about the new bridge. When they sit out in their yard and people see them they are constantly questioned on how to get around the tracks and answering questions about the bridge project.

Ms. Potter voiced concern about the train and how often it goes by. These proposed home will be very close to the train and will have to take a lot of noise and shaking of their homes. She feels the best use for this property would be a great Norm Scott Park to go along with the nature trail. Mr. Scott could keep his fence and everyone else can keep their sanity.

QUESTIONS FROM THE COMMISSIONERS -- None

Ralph Jordan, 8524 SE 28th Avenue, across the street from the subject site. When he looks out of his front door he sees his fence. He understands why Mr. Scott wants to develop his property but he doesn't want a sidewalk in front of his house on his side of the street. He has lived there 25 years and he believes this proposal will result in more traffic to the area as a result of the homes being built and the bridge going in inviting foot, bike, and traffic to the neighborhood.

People now park in front of his house on his side of the street. If there is a sidewalk, they won't be able to park there because the road will not be wide enough. **Commissioner Batey** noted that the current proposal does not put the sidewalk on Mr. Jordan's side of the street. **Mr. Jordan** stated that the sidewalk would be on Mr. Scott's side of the street; it is his development and has nothing to do with him. **Gary Firestone** stated that the application as presented by the applicant was to put the sidewalk on Mr. Scott's side of the street.

QUESTIONS FROM THE COMMISSIONERS -- None.

Mike Mandez, 2807 SE Sherrett Street stated that he lives where the subject's garage is. If the sidewalk is going to be on the west side of 28th, maybe it is a good idea that it continue through to the corridor trail for the foot traffic. This will eliminate the increased use of the driveway; he does not want to lose access to his garage. He does not think pedestrian traffic on the driveway is a good idea.

QUESTIONS FROM THE COMMISISONERS - None.

Phyllis Beck, 8625 SE 28th Avenue, voiced concern that it is not fair for the neighborhood to have to deal with the additional traffic. There are a lot of kids, dogs and people walking to and from the trail. The sidewalk should accommodate the entire portion, not just what he wants to accommodate. The trees help keep the temperature in that general area cool during the summer. There should be some sort of tree mitigation for these trees.

QUESTIONS FROM THE COMMISISONERS - None

There were no other audience members who expressed interest in testifying on this matter.

ADDITONAL COMMENTS FROM STAFF - None

John Gessner asked Mr. Jones to explain the street improvements required and how would it impact Mr. Jordon's side of the street. **Mr. Jones** stated that the existing paved width is about 10-feet wide. The right-of-way line would not impact the street parking, it would extend the pavement to 18 feet with a sidewalk. The fence will be taken out and the pavement put in. There will be quite a bit of distance still from the right-of-way line and the street edge on Mr. Jordon's side of the street; there would be no change.

Commissioner Bresaw asked how the sidewalk would impact other portions of the street. **Mr. Gessner** stated that with the sidewalk on the west side with an 18-foot cross-section there would be a no-parking restriction along that side of the street. There would be no parking on the west side because of the curb; it would still allow Mr. Jordon and other property owners to continue parking on the east side of that street.

QUESTIONS FOR CLARIFICATION OF TESTIMONY

Vice-chair Carter asked if there was an overlay that shows the infringement on the existing property of the development of Rockvorst and the hammerhead and what is being removed? **Mr. Jones** showed a grading map showing the existing site. The commissioners reviewed the map.

APPLICANT'S REBUTTAL - None.

Vice-chair Carter closed the public testimony portion of the hearing and opened it to deliberation among the commissioners.

Vice-chair Carter stated that he is concerned about the street development. He feels there should be a master plan from Sherrett and 28th Avenue to Depot Street. This project is disturbing the residents in this area and now they are involved in street improvements. The master plan should have previously been looked at and devised and the whole area notified that if development occurs, things could possibly change. Several people have stated that they don't want this development and some of the properties are on the right-of-way. Rockvorst needs to be developed as a proper street. Improper phasing could come out ugly; this is a quick fix.

Commissioner Bresaw stated that she feels some street improvements are necessary especially with the trail.

Commissioner Klein stated that the street improvements on 28th Avenue are as important as the impact to the surrounding neighborhood. Sidewalks are an improvement to the neighborhood as a whole regardless of the neighbor's desire to have them. He feels the street improvements should go all the way to the Springwater Corridor. He walked the entire area, and he has no idea how a fire truck will get down into this turnaround.

Discussion followed on the line of sight and the safety factor of the trees. **John Gessner** stated that the city does not authorize the Commission to impose the cutting of trees.

Gary Firestone stated that issues of consideration are lot size, setback considerations, transportation planning review impacts, street improvements (requested variance to standards), water quality review (staying out of the area), street vacation (don't meet standard), subdivision standards, transportation standards, and variance standards.

Mr. Firestone stated that if a condition is imposed that there is no access to lot 2, once the plat is recorded there is no access to lot #2. There would be no access to the applicant's lot also. **Mr. Gessner** stated that the access now is only feasible because of the use of the Springwater Corridor. There is a change in elevation from 28th Avenue directly into the lot. Discontinuing that use would result in significant changes in the site to get from 28th into the new lot #2.

Mr. Firestone stated that the code states that access can only be from a public street; not from a trail and the R-5 zone requires 30-foot frontage on the street. Code

prohibits the construction of a house that does not have access on the frontage of a public street.

Commissioner Klein suggested adding to the existing condition that the street improvements on 28th Avenue continue to the Springwater Corridor. **Mr. Firestone** stated that if there is no direct access from the proposed lot #2 to 28th because of slope, consideration would have to be given to the part from Sherrett north as to whether this development has an impact on that section of road. If people from this development will be going out of Sherrett or Van Water there is a question as to whether there is an impact from this development on that street. If the answer is no, under Nolan and Dolan it cannot be required. If there would be access to lot #2 from 28th, then yes it can be imposed. There has been testimony from the applicant that access to lot #2 will be from Rockvorst not 28th Avenue. The existing use of passage on 28th cannot be continued after the development goes in. The applicant's use of 28th is not an impact of development, it is the increase in vehicular use that is considered under Nolan and Dolan.

Commissioner Brinkman moved to modify the conditions to remove the sidewalk requirement on the west side of Rockvorst fronting along parcels #3 and #4 and move it to 28th Avenue to connect the proposed improvements to the Springwater Trail. **Commissioner Batey** seconded the motion.

Recess was taken at 8:45 p.m. and the meeting reconvened at 8:50 p.m.

Commissioner Klein stated that in talking with Brenda Schleining it was noted that removing the sidewalk would cause problems with the drainage system as the water coming down the hill needs a place to flow. Removing the sidewalk would allow the water to drain directly into the property.

Gary Firestone reviewed the proposed changes:

- Page 17, Condition #5: Delete the portion of the heading that says between Sherrett and Rockvorst.
- 2nd Paragraph, First Sentence: Add, "Standard seat curb and 5-foot sidewalk on the west side of the roadway from Rockvorst to the Springwater Corridor."
- 2nd sentence, add "...additional paving to fill the gap between the existing edge of pavement and the new curb to provide for a total of 18 feet of pavement width."
- Next page, 1st sentence, add after north side of the roadway "...between 28th Avenue and the portion of Rockvorst within the subdivision."

- 2nd paragraph, on page 18, add "...the portion of Rockvorst within the subdivision shall be on 40 feet of right-of-way with 24 feet of pavement and 5-feet of sidewalk on the east side and a curb on the west side."
- Rewritten condition proposed on sidewalks to 28th Avenue, "The curb requirement and sidewalk design may be modified as needed to address drainage for dimensional constraints within the right-of-way and access to the existing garage at the end of 28th shall be maintained."
- Trees shall be preserved to the greatest extent possible.

The maker of the motion (Commissioner Brinkman) and the second (Commissioner Batey) agreed with the proposed changes of the conditions and incorporated them into their motion.

Ayes: Carter, Batey, Bresaw, Brinkman, Klein

Nays: None

The motion carried 5-0.

Discussion followed on whether to allow access at all on 28th Avenue.

Commissioner Brinkman moved to approve S-04-04, TPR-04-10, VR-04-12, WQR-04-04 and SV-04-01 as stated in the staff report with the recommended findings and conditions and changes to those conditions made at tonight's meeting. Commissioner Batey seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Carter

Nays: Klein

The motion to approve carried 4-1.

Commissioner Brinkman moved to recommend to City Council denial of the vacation a portion of 28th Avenue and Rockvorst Avenue. Commissioner Klein seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Carter, Klein

Nays: None.

The motion to deny vacation carried 5-0.

7.0 WORKSESSION ITEMS -- None.

8.0 DISCUSSION ITEMS

Commissioner Klein asked for an update on the appeal on the North Clackamas Park application. **John Gessner** reported that the appeal will be held on August 16th. There has been no formal appeal; staff is expecting it tomorrow. There have been conversations with the Friends of North Clackamas Park to come up with minor

modifications to the plan that meets the needs of the Friends of Clackamas Park and the sports groups. The appeal is to object to the plan as approved, but to modify it so everyone is in agreement with it. **Gary Firestone** stated that the Parks District will also appeal. The Parks District has an approval of a particular plan now; if there was no appeal they would have to follow that plan; the appeal will allow them to submit a revised plan that the Park District finds acceptable. Some of the changes include:

- Putting the soccer field in the outfield of the larger one
- Reduction in total number of parking spaces by 43
- Creating strong public entry
- Equestrian area may be reduced in size
- Increasing the width of access drive to equestrian area
- Truck storage in back of equestrian area
- Increase hammerhead for truck parking
- Elimination of the storage on the parking lot to create additional surface detention areas
- Creating additional surface detention areas
- Smaller soccer field (8 and under) -- moving some soccer facilities off-site
- Dropping lighting on soccer field (use lighting on larger ball field where soccer field will be moved)

Commissioner Brinkman asked if commissioners were allowed to speak at Council meetings on issues they have heard. **Mr. Firestone** stated that if a commissioner had not participated in a decision, then they can testify at a Council meeting as a private citizen. As a decision-maker in a hearing, a commissioner can be delegated as a representative of the Planning Commission to speak on behalf of the Commission in support of their recommendation. This is a precaution because cases can be remanded back to the Commission for additional consideration.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

John Gessner reported that there is a new Community Development Director. Kenny Asher comes to Milwaukie from the Portland Development Commission.

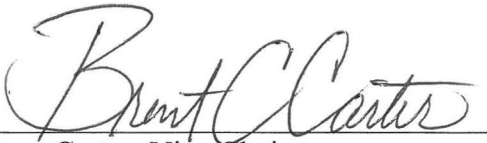
Mr. Gessner reported that there will be two planners hired; interviews began today.

11.0 NEXT MEETING -- August 9, 2005

11.1 CU-05-01, Royal Mark Re-roof – 5555 SE King Road

Commissioner Bresaw moved to adjourn the meeting of July 26, 2005. **Commissioner Brinkman** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:35 p.m.


Brent Carter, Vice Chair


Shirley Richardson, Hearings Reporter

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, JULY 26, 2005 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Matters	
3.0	Planning Commission Minutes	Motion Needed
3.1	Planning Commission minutes from meetings held on 4/26; 5/10; 5/24; and 6/14 will be provided under separate cover at a later date. Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0	Public Hearings	Discussion and Motion Needed For These Items
6.1	This hearing is continued from 1/25/05 and 2/8/05 Type of Hearing: Minor Quasi-Judicial Applicant: Norm Scott Owner: Norm and Marilyn Scott Location: 8555 SE 28th Proposal: Applicant is requesting approval of a Subdivision, Transportation Plan Review, Variance, Water Quality Review, and Street Vacation to replat a two-acre parcel into 4 lots. The existing house would be on one lot, three attached homes would be on three lots, and a new detached home on the other lot. A new road and hammerhead turnaround is proposed. Also proposed is a street vacation to vacate 15-feet of 28 th Avenue and 10-feet of Rockvorst Avenue adjacent to the site. A tract of land containing a wetland is proposed to be conveyed to the City of Milwaukie. File Numbers: S-04-04 / TPR-04-10 / VR-04-12 / WQR-04-04 / SV-04-01 NDA: Ardenwald Staff Person: John Gessner	
7.0	Worksession Items	
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	Information Only Review and Comment
10.1	Matters from the Planning Director	
10.2	Design and Landmark Committee Report	
11.0	Next Meeting: August 9, 2005	
11.1	CU-05-01 – Royal Mark Re-roof – 5555 SE King Rd The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

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:

John Gessner, Planning Director
Lindsey Nesbitt, Associate Planner
Keith Jones, Associate Planner
Jeanne Garst, Office Supervisor
Marcia Hamley, Office Assistant
Shirley Richardson, Hearings Reporter



To: Planning Commission

Through: John Gessner, Planning Director

From: Keith Jones, Associate Planner

Date: July 26, 2005

Subject: Files: S-04-04, TPR-04-10, SV-04-01, VR-04-12 and WQR-04-04
Applicant: Norman Scott
Address: 8555 SE 28th Avenue
NDA: Ardenwald-Johnson Creek

Action Requested

- Approve 4-lot replat and variance and adopted recommend findings and conditions.
- Recommend denial to the City Council of the request to vacate a portion of 28th Avenue and Rockvorst Avenue.

Key Issues

1. Plan Revisions

The applicant has revised the proposal as a 4-lot replat. Townhouses on individual lots are no longer proposed.

2. Support for Street Vacation Withdrawn.

Eight property owners signed a petition to withdraw their consent for the street vacation.

3. Road Design

The applicant requests a variance and transportation adjustment to waive and/or modify street construction requirements. A half-street is proposed on Rockvorst Avenue. Staff believes the applicant has demonstrated compliance and recommends approval of these requests.

4. Tree Removal

Three large trees within the public street right-of-way are proposed to be removed for construction of Rockvorst Avenue.

5. Wetlands

The applicant has submitted a wetland study in conformance with City Water Quality Regulations. Construction within the wetlands or wetland buffers is not proposed. The applicant proposes to deed the wetland property to the City.

6. Sewer Pumps

The applicant proposes individual private sewer pumps for the new lots. Sewage would be pumped uphill to the 28th Avenue sewer line.

7. Zoning and Land Division Ordinance Compliance

Staff believes the applicant has demonstrated compliance with lot size and dimensional requirements of the R-5 zone and Land Division Ordinance. However, Lot 2 has an odd shape and requires Planning Commission interpretation for lot depth and building setbacks.

8. Neighbor Concerns

A neighbor has stated concern with sight distance for traffic leaving the site on Rockvorst Avenue and street lighting shining into their windows. Staff recommends installing a stop sign on Rockvorst for traffic leaving the site and street light shields or cutoffs to address these concerns.

Project Description and Background

1. Existing Conditions

The 1.5 acre site is bounded by the Springwater trail corridor to the north, residential development to the south and east; the Union Pacific Railroad tracks to the west and wetlands and natural areas to the southwest.

The site slopes to the west dropping from 28th Avenue and then flattens out in a wetland area. There is a stream feed by a spring at the north end of the property which also collects stormwater and drains to the wetland area. The undeveloped street right-of-way of Rockvorst Avenue and Depot Street bound the southern edge.

2. Land Use History

The site is located in Burley Acres, an 18-lot subdivision that was platted in 1927 and is north of the large Ardenwald subdivision platted in 1909. The house was likely constructed shortly after the lots were created.

The following land use approvals were granted in 1999:

- Natural Resource Review¹ approval to place 1,500 cubic yards of fill.
- 6-foot variance to the 15-foot side street setback for construction of a dining room.
- 10-foot variance to the 20-foot front yard setback to build a covered patio.

3. Proposal

The applicant proposes 3 new building lots with the existing house situated on a 4th lot. Also proposed is a 16,630 square foot tract containing the wetland area, to be deeded to the City.

Rockvorst Avenue will be reconstructed with a turnaround, 5-foot attached sidewalk on the north side and 5-foot attached sidewalks on both sides of the turnaround area. Partial improvements are proposed along 28th Avenue. (See Key Issue #3 below.)

Stormwater from the street will be diverted to both ends of the street turnaround and treated with oil water separator catch basins and then sent to two infiltration trenches. Water will infiltrate into the ground and seep to the wetland area at the low end of the site. The stormwater system for the streets will be publicly maintained. Each lot will have flow-through planter boxes² that will be maintained by each homeowner.

Each lot will have a private sewer pump and will send sewage uphill to 28th Avenue.

Analysis of Key Issues

1. Revised Plans

The Planning Commission held a public hearing on January 25, 2005. The applicant was advised that townhouses are not permitted in the R-5 zone. The applicant then revised the plans from a 5-lots to a 4-lots, townhomes are no longer proposed.

2. Street Vacation

Some property owners who signed the applicant's petition have withdrawn their consent. The applicant no longer has the needed signatures to approve the vacation. State Law ORS 271.120 requires that 2/3rds of the affected area consent to the request. For this reason, staff recommends that the Planning Commission recommend denial of the vacation to the City Council. Also, public right-of-way is very difficult and expensive to reestablish after it has been vacated. Staff does not believe the applicant has demonstrated that a compelling public purpose exists that justifies approving the request. Staff believes the application can be approved with conditions without the vacation approval.³

¹ The Natural Resource Regulations were changed in 2003 and are now referred to as Water Quality Resource Regulations.

² Planter boxes are used in the City of Portland for roof runoff treatment. Downspouts are diverted to planter boxes that collect the water and treat it.

³ Proposed Lot 1 would be 13,359 square feet with vacation and 10,365 without vacation. Proposed Lot 4 would be 11,697 with and 10,223 without.

3. Road Design Modification Request

The applicant requests the following approvals to modify road design:

a. Variance

Variances are subject to the following summary of criteria:⁴

- The property has unusual conditions out of the applicant's control.
- There are no feasible alternatives.
- The adverse affects are mitigated.

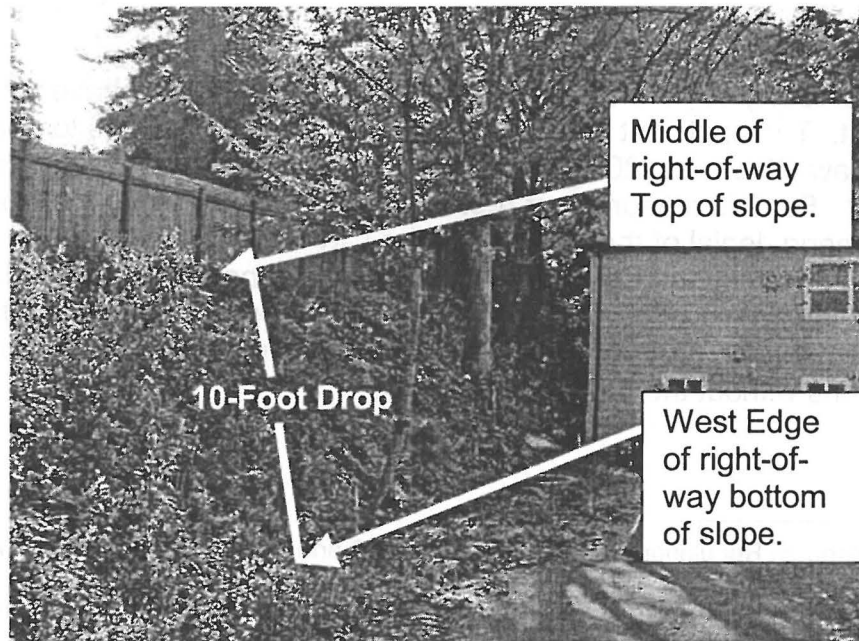
Applicant's request

- (1) Waive curb and sidewalk on 28th Avenue.

Staff Recommendation: Approve variance subject to requiring that the applicant build limited road improvements as stated below.

Applicant Justification: The steep slope of the property on the 28th Avenue frontage makes building the road difficult. A 10-foot retaining wall would be required to widen the street at the existing right-of-way edge. Because the applicant did not plat the subdivision or grade the roadway, these conditions are not within the applicant's control. Since access will not be taken from 28th Avenue there are no adverse effects.

Staff Analysis: As shown in the picture below, the western portion of the right-of-way that abuts the applicant's property has a steep slope that drops about 10 feet. Building street improvements in the west half of the right-of-way will require a large retaining wall, removal of 4 to 5 mature trees and a portion of the house that encroaches 6.5 feet into the right-of-way.



⁴ MMC 19.702

Given these limitation, staff agrees with applicant that building full-street improvements is not feasible or practical. However, staff believes that some improvements must be installed since the existing improvements are not adequate. To mitigate for not installing curb and sidewalk on 28th Avenue, the applicant has proposed sidewalk on the east side of the road. However, part of the sidewalk crosses private property and an easement has not been obtained. Staff believes that sidewalk would work best on the west (applicant's) side of the road. Staff recommends the following improvements:

- 5-foot concrete sidewalk and curb from Rockvorst Avenue to Sherrett Street.
 - 18-feet of pavement width (current width is 10 feet).
 - A retaining wall that would be needed approximately 5 feet tall.
 - Guardrail at the edge of the sidewalk to prevent vehicles from driving over the edge.
 - Fence that is located in the right-of-way removed.
- (2) Waive requirements to build street on undeveloped Rockvorst Avenue and Depot Street.

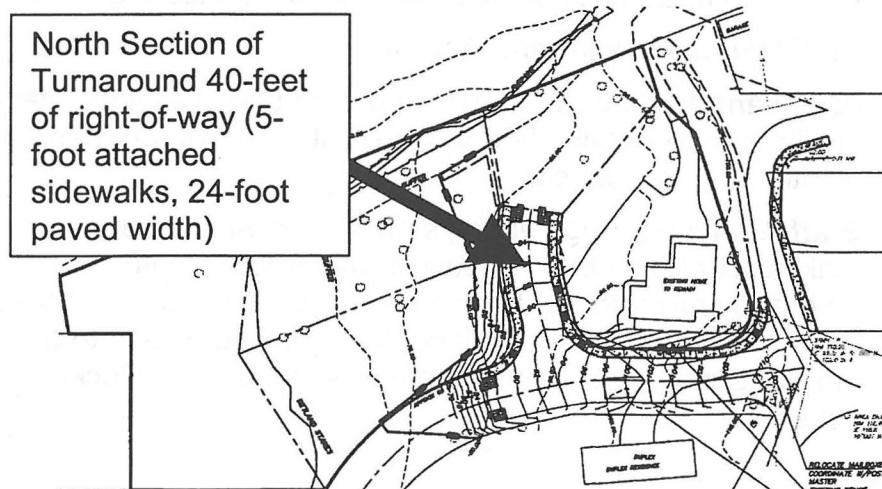
Staff Recommendation: Approval

Applicant Justification: The applicant indicates that existence of wetlands and no developable land west and south of the project make construction of a street impractical or infeasible.

Staff Analysis: Staff concurs with the applicant.

- (3) Reduction of right-of-way from 50 to 40 feet on Rockvorst Avenue. The standard is 50 feet.

The applicant is requesting to reduce right-of-way width on the north/south section of turnaround as shown in graphic below.



Staff Recommendation: Approval

Applicant Justification: The excessive slope of the site and the existence of the wetlands are physical constraints that make a wider right-of-way not feasible. These constraints as well as the fact that the owner did not plat the original subdivision are not within the applicant's control. The site will have adequate access therefore any adverse effects are mitigated.

(See Applicants Narrative Attachment 3 for further clarification.)

Staff Analysis: Staff does not agree that building a 50-foot right-of-way is infeasible since there is room to construct the full 50-foot roadway. However, the section of the roadway is only 85-feet long and will not serve as a future through street connection. Also, the site is steeply sloped and the extra width would require more fill and add additional paving and impervious surface. Staff recommends approval of the 40-foot right-of-way since it is adequate to serve the development.

The applicant has also requested that the right-of-way be reduced on both 28th Avenue and Rockvorst in conjunction with the street vacation request. Since the vacation request cannot be approved as stated above these variances cannot be approved.

b. Adjustment

The applicant requests an adjustment to narrow sidewalk from the required 6 feet to 5 feet and not install the 5-foot parking or planter strip.

Transportation adjustments must comply with the following summary of the criteria⁵:

- Request is consistent with City transportation requirements.
- Protects a resource.
- Done in the interest of safety.
- Compliance is not feasible due to engineering limitations.

Staff Recommendation: Approval

Applicant Justification: The applicant claims that the steep slope is justification to install a 5-foot curb-tight sidewalk (6-foot sidewalk with 5-foot planter strip is required).

Staff Analysis: Engineering staff agrees with the applicant. The steep terrain makes installing a 6-foot sidewalk with 5-foot planter strip infeasible and potentially hazardous. The additional width needed will create a steep drop off at the end of the sidewalk since the road would need to be built further out onto the slope that exists between the existing road on Rockvorst Avenue and the house.

⁵ 19.1404 (C)

c. Half Street Improvements

The applicant is proposing to install partial street improvements on Rockvorst Avenue. Half-street improvements with a minimum of 20 feet of pavement may be approved when the opposite side of the street has the potential to redevelop.⁶ This ensures that the other side of the street will be built with future development.

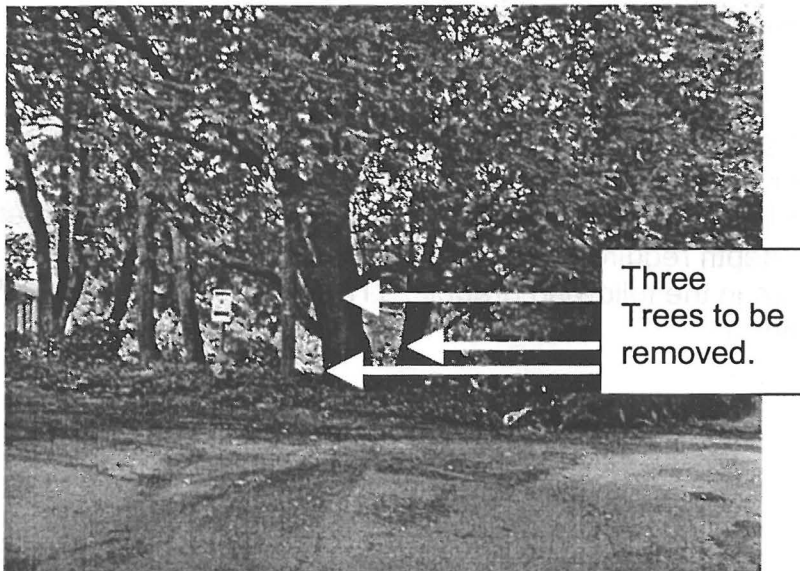
Staff Recommendation: Approval

Applicant Justification: The applicant proposes a half street with 28 feet of pavement width and sidewalk on the development (north) side. The applicant claims that the south side of the street has redevelopment potential that will allow the sidewalk on the south side to be completed in the future

Staff Analysis: With the exception of a potential of one additional house, most of the south side of the street is developed. Therefore it is unlikely that the south side of the street would be completed with future development. However, the City Attorney advises against requiring a full street. The City Attorney does not believe that there is connection or nexus between the proposal and requiring a full-street since the applicant would not directly benefit from improvements that do not front their development.

4. Tree Removal for Road Construction.

Three trees are proposed to be removed for construction of Rockvorst Avenue as show in the picture below. The applicant is required to apply for a tree permit to remove the trees since they are located in the public street right-of-way. From the engineering plans it appears that one of the trees may be able to be saved by paving around the tree roots or through other design alternatives. Staff recommends that the applicant be conditioned to hire an arborist to look into the feasibility of saving the tree.



⁶ MMC Section 19.1409.2 (C) (3).

5. Wetlands (Water Quality Resource Regulations)

Staff Recommendation: Approval

Staff Analysis:

a. Resource Impacts

The applicant does not propose to construct within the wetlands and buffers. The water quality resource regulations do not require mitigation when construction will not take place within the buffers or wetlands.

b. Buffers (Vegetated Corridors)

The applicant proposes a 50-foot buffer from the wetland on the west end of the property and a 15-foot buffer from the drainage along the north end in compliance with water quality resource regulations. The Oregon Division of State Lands has reviewed the wetland study and agrees with the wetland boundaries.

c. Wetland Access

Staff recommends that a removable gate be installed and the area graded at the end of Rockvorst Avenue to allow vehicle access to the wetland area for future maintenance and wetland restoration.

6. Sewer Pumps

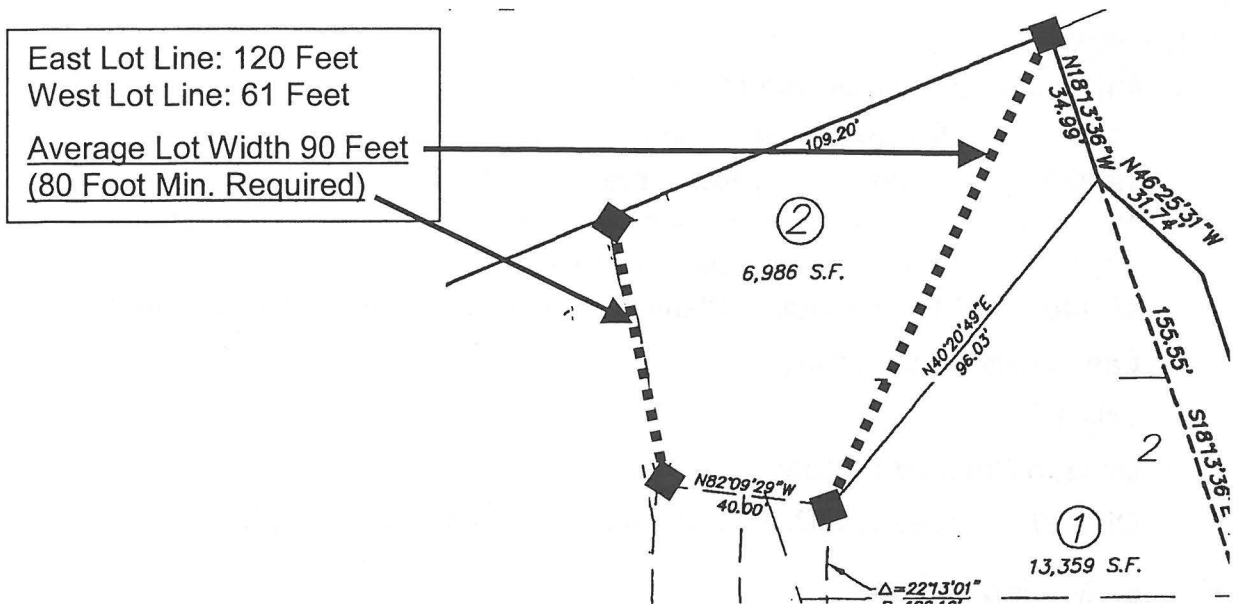
Each house will have its own private sewer pump since the property is downhill from the gravity sewer main. The Building Official requires that the pumps be designed by an engineer to ensure that they will operate correctly. The pumps will have a reservoir and backflow prevention device⁷ installed. This will allow the sewer to work for a few days in the event the power goes out. An alternative to a private system would be to install a public pump station. City engineering staff does not recommend a public system due to maintenance cost to the City.

7. Lot Design

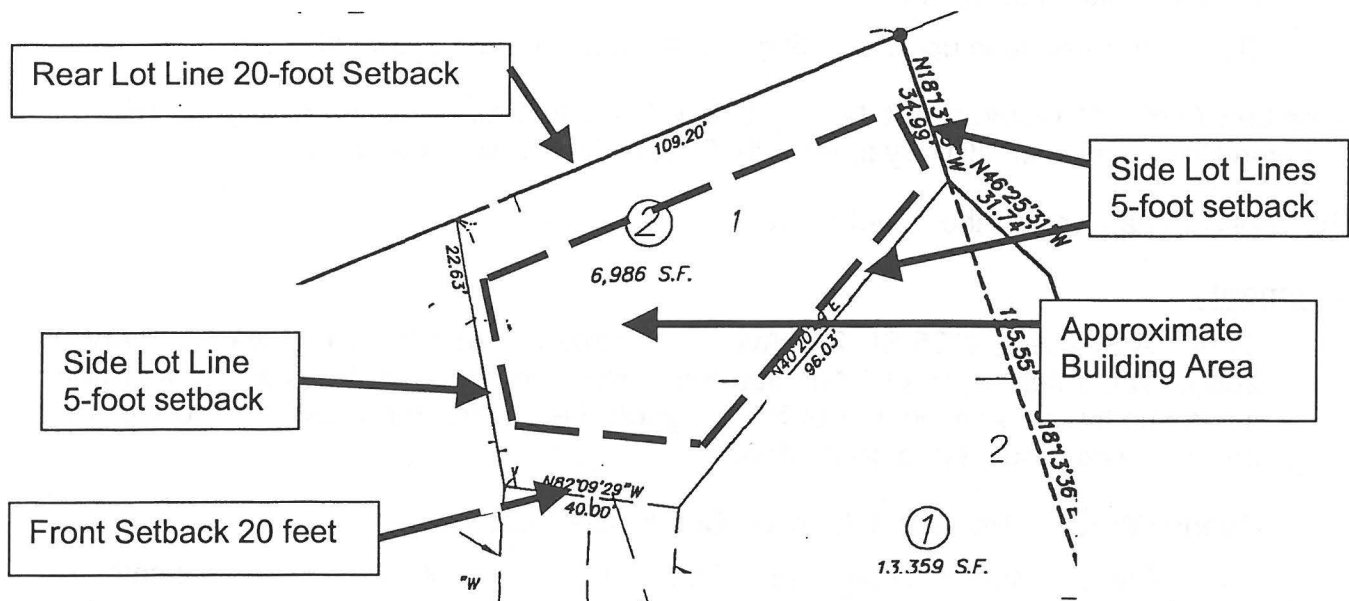
Proposed Lot 2 is an odd shaped lot due to the configuration of the existing property that abuts the Springwater Corridor and 28th Avenue. The R-7 zone requires that each lot have an average lot depth of 80 feet.⁸ The odd shape requires interpretation of the 80-foot average lot depth requirement. Staff recommends interpreting the average lot depth as shown in the following graphic. (This is similar to how a cul-de-sac lot would be determined.)

⁷ A back flow prevention device is installed in the sewer line to prevent sewage from flowing back into the houses.

⁸ Section 19.303.3



Interpretation is also needed for building setbacks for Lot 2. The front, side and rear lot lines must be determined in order to determine setbacks. Staff recommends the Planning Commission interpret front, side and rear property lines as shown in the following graphic.



Code Authority

Milwaukie Zoning Ordinance Section

- 19.303 Residential R-5 Zone
- 19.322 Water Quality Resource Regulations
- 19.700 Variance, Exceptions, and Home Improvement Exceptions
- 19.1011.3 Minor Quasi-Judicial Review
- 19.1400 Transportation Planning Design Standards and Procedures

Land Division Ordinance

Title 17

Oregon Revised Statues

ORS 271 Use and Disposition of Public Lands Generally; Easements

Decision Making Process

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 application and adopt the recommended findings in support of approval.
2. Adopt additional findings and conditions in support of approval needed to comply with the Milwaukie Municipal Code.
3. Deny the application upon a finding that it does not meet approval criteria.

State Law ORS 271 requires that the City Council decide street vacation requests. The Planning Commission is advisory to the City Council for the street vacation.

The applicant has waived the 120-day processing deadline.

Comments

1. James A Sanders, 8725 SE 28th Avenue commented in a letter received January 14, 2005. The letter states that Mr. Sanders misunderstood that the property was going to be subdivided and would not have signed the petition for vacation if he knew the property was proposed to be divided.
2. Charles Wilkins, Ardenwald/Johnson Creek NDA Land Use Chair
 - a. The tax map indicates 28th Street and the applicant's plans indicate 28th Avenue; this should be corrected.
 - b. The street vacation request appears to be acceptable.

- c. Tract A proposed to be dedicated to the City, may become a dumping area for yard debris and difficult for the City to manage.
 - d. The lots along the Springwater Trail should have the responsibility of fencing along their property line.
 - e. The development of the 28th Avenue access point to the Springwater Trail should be coordinated with development of this project.
 - f. The neighborhood was noticed of the revised application and indicated that they did not have additional comments.
3. Phyllis Beck and John Van Buskirk submitted a letter dated January 14, 2005 indicating the following:
- a. They signed the petition for partial street vacation but were not told that the signing was for a subdivision proposal.
 - b. The owner placed fill in the wetland area last year.
 - c. The proposal will increase traffic and further degrade the pavement condition of Van Water Street.
 - d. Steep grade at the proposed access will create a sight distance problem.
 - e. A lot of pedestrian and bicycle traffic uses 28th Avenue and some street improvements should be made to 28th Avenue.
 - f. The proposed development will block view of downtown Portland.
4. A handwritten letter was submitted by Vera Alcoset dated January 17, 2005, stating that they signed a petition for a street vacation but not told by the owner that they intended to develop the property.
5. The Engineering Department commented in a memo dated April 22, 2005 (see Attachment 7).
6. David Anderson wrote a letter dated January 13, 2005. The letter raised concerns about, stormwater, wetland impacts, traffic and noise.
7. Victoria Potter wrote a letter that was received at the January 25, 2005 hearing. The letter stated concern the owner misrepresented his intent when he asked neighbor to sign the street vacation petition. A stop sign should be installed at the top of the hill. Pedestrians, bicyclist, pets and children who use the Springwater Trail should be considered in this proposal.
8. Ron Schumacher commented in a memo dated January 5, 2005 and in an email dated January 6, 2005 and made the following comments:
- a. Provide address numbering that is clearly visible from the street and from which the address is provided.
 - b. "No parking" signs are required on one side of the access road.
 - c. No new fire hydrants are required.

- d. Mr. Schumacher reviewed the revised plans and stated in an e-mail dated April, 20, 2005 that he had no additional comments.
9. Tom Larsen, Building Official, made the following comments:
 - a. Grading and Erosion Control Permit Required.
 - b. Geotechnical Report Required.
 - c. The sewage pumping system shall be designed by an engineer and reviewed at time of grading permit.
10. Jill Myatt of the Division of State Lands (DSL) responded in a letter dated May 11, 2005 that the State concurs with the wetland boundaries indicated in the applicant's wetland study.

Attachments

1. Recommended Findings and Conditions
2. Zoning Compliance Report
3. Applicant's Narrative
4. Air Photo
5. Site Plans
6. Letter from Jim Sanders, 8725 SE 28th Avenue
7. Engineering Memo dated June 9, 2005
8. Letter from Phyllis Beck and John Van Buskirk dated January 14, 2005
9. Letter from Vera Alcoset dated January 17, 2005
10. Letter from David Anderson dated January 13, 2005
11. Letter from Victoria Potter

ATTACHMENT 1

Recommended Findings and Conclusions in Support of Approval of the Replat; and Recommended Findings for Denial of the Street Vacation to the City Council.

1. The applicant proposes to replat⁹ the 1.5-acre site at 8555 SE 28th Avenue into 4 residential lots and on wetland tract. The existing single-family house will remain on one lot and 3 new building lots created.
2. The following land use approvals are requested:
 - a. Replat for 4 lots and one wetland tract.
 - b. Variance to not construct road improvements on Depot Street, 28th Avenue and parts of Rockvorst Avenue, as follows.
 - c. Water Quality Resource review since the proposed subdivision contains a protected water feature.
 - d. Transportation Plan Review with Transportation Adjustment to not install a landscaping strip and narrow the required sidewalk width from 6 feet to 5 feet.
 - e. Street vacation request to vacate 10 feet of right-of-way on Rockvorst Avenue and 15 feet on 28th Avenue.
 - f. Variance to reduce the right-of-way width on 28th Avenue from 50 feet to 35 feet and on Rockvorst from 50 feet to 40 feet in conjunction with the vacation request.
3. Applications S-04-04, TPR-04-10, SV-04-01, VR-04-12 and WQR-04-04 have been processed and public notice has been provided in accordance with Milwaukie Municipal Code (MMC) Section 19.1011.3- Minor Quasi-Judicial Review.
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - a. Title 17 Land Division
 - b. Title 19.303 R-5 Zone
 - c. Title 19.322 Water Quality Resources
 - d. Title 19.700 Variances, Exceptions, and Home Improvement Exceptions
 - e. Title 19.1400 Transportation Planning Design Standards and Procedures
5. R-5 Zone Standards
The proposal complies with the R-5 zoning standards (Section 19.303) as follows:
 - a. Three parcels including the parcel that will contain the exiting house exceed the 10,000 square foot minimum lot size for single-family detached and one lot exceeds the minimum 5,000 square feet for single-family detached.

⁹ A replat is for existing subdivision plats that are being reconfigured. The property is within two existing plats, Ardenwald and Burley Acres.

- b. Compliance with R-5 dimensional standards is reviewed at the time of building permit.
- c. The front lot line for proposed Parcel 2 is the 40-foot line separating the lot from the street. The rear line is the north property line shown as 109.20 feet. The 3 other lot lines are side lot lines.

6. Subdivision and Replat

The proposal is consistent with Land Division Ordinance Section 17.12.040 approval criteria for preliminary plat as follows:

- a. All parcels comply with standards of the R-5 zone.
- b. The land division allows reasonable development of the site and does not create any need for future variances.
- c. The plat name will not duplicate another plat name.
- d. The street network is already established in the area and the plat conforms with the surrounding street network.
- e. The applicant has submitted a detailed narrative describing how the proposal meets applicable design standards.

7. Street Vacation

The applicant is required by ORS 271.080 (2) to obtain written consent of 2/3rds of the property owners in the affected area. The affected area is 415,833 square feet. Eight property owners who originally signed the petition withdrew their support in writing. The applicant currently has signatures for 248,368 square feet or 59.7%. Therefore the Planning Commission recommends denial of the street vacation request to the City Council since needed signatures have not been gathered. Further, the Planning Commission does not find a compelling public interest to vacate the right-of-way given that it may be needed in the future.

8. Transportation Plan Review

The proposal is consistent with Chapter 1400 Transportation Planning Design Standards and Procedures which requires compliance with the approval criteria of Section 19.1405.5 as follows:

- a. The proposed street improvements comply with applicable standards. The applicant has been approved for an adjustment and variance where the proposal differs from standard as demonstrated in Sections 9 and 10 below.
- b. A traffic impact study was not required.
- c. The proposal will not result in a hazardous or unsafe traffic condition or unacceptable level of service.

9. Variance Requests

The applicant has made the following variance requests:

- a. Variance to not install street improvements on the site frontage on 28th Avenue. The proposal complies with Section 19.700 approval criteria as follows:
- (1) The variance is warranted due to the unusual condition of the property being that there is a steep slope within the street right-of-way.
 - (2) Constructing improvements at the right-of-way line would require a large retaining wall and removing part of the house which is not a feasible alternative.
 - (3) Site access is not required from 28th Ave. and therefore there are no adverse impacts. The applicant is proposing to install sidewalk on the east side of the street. An easement has not been obtained for the proposed sidewalk that crosses private property. The applicant must install improvements on the applicant's side as follows:
 - 5-foot concrete sidewalk and curb from Rockvorst Avenue to Sherrett Street.
 - 18-feet of pavement width (current width is 10 feet).
 - A retaining wall that would be needed approximately 5 feet tall.
 - Guardrail at the edge of the sidewalk to prevent vehicles from driving over the edge.
- b. Variance to not install street improvements on Depot Street and a portion of Rockvorst Avenue where the undeveloped right-of-way crosses a wetland area. The proposal complies with Section 19.700 approval criteria as follows:
- (1) The variance is warranted due to the unusual condition of the property being that the streets are platted over wetland areas that should not be developed.
 - (2) Constructing improvements would require filling the wetlands which is not a feasible alternative.
 - (3) Not constructing the improvements preserves the wetlands which mitigates adverse impacts.
- c. Variance to the right-of-way width to reduce the 50-foot required right-of-way on Rockvorst Avenue to 40 feet and 35 feet on 28th Avenue.
- The applicant does not have the required signatures needed to approve the street vacation request. Therefore, the variance request to reduce the right-of-way cannot be approved for the existing right-of-way for Rockvorst and 28th Avenue. However, the applicant proposes new 40-foot wide right-of-way that will head north from existing Rockvorst Avenue and dead end. The new 40-foot right-of-way complies with Section 19.700 approval criteria as follows:
- (1) The variance is warranted due to the unusual condition of the steep slopes of the property.

- (2) Constructing a wider street would push the road further toward the wetlands and is not feasible.
- (3) The roadway is adequate to serve the proposed lots and therefore the adverse affects are mitigated.

10. Transportation Adjustment Request

MMC 19.1404 (C) allows adjustment to street improvement standards when an engineering limitation exists and/or when installing required improvements would result in a hazardous or unsafe condition. The applicant is required to install a 6-foot sidewalk with 5-foot planter strip. The applicant has demonstrated that the steep slope of the site creates an engineering limitation to installing the full width roadway. Also, a wider road would create a drop off at the edge of the sidewalk creating a hazardous condition. Therefore, the applicant's request for an adjustment to install a 5-foot curb-tight sidewalk is approved.

11. Water Quality Resource Review

The applicant has demonstrated compliance with MMC 19.322 and will not be impacting the required vegetative corridors (wetland buffers). The applicant submitted stormwater calculations that demonstrate that stormwater flows from the development will not exceed predevelopment flows as required by 19.322.10 (L). The applicant has proposed a restrictive covenant for wetland protection that must be reviewed and approved by the City.

12. The Fire Marshal reviewed the plans and indicated that as conditioned the proposal complies with Fire District regulations.
13. The Building Official reviewed the proposal and as conditioned does not have concerns with the proposal.

Recommended Conditions of Approval

Prior to any earth disturbing activity and construction of public improvements:

1. Erosion control and construction barriers shall be installed and inspected in accordance with an approved erosion control and grading plan, the wetland and stream buffer flagged, and existing vegetation to remain protected and marked. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent wetland and buffer. Existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the water quality resource area.
2. As part of the grading permit application the applicant shall submit plans for a sewage ejector pump system for each lot for review and approval by the Building Department. The system shall be designed by an engineer licensed in the State of Oregon.

3. A geotechnical report shall be submitted to the Building Department. The report shall include recommendations for on-site disposal of stormwater from the roof drains, footing drains and low-point drains for the proposed houses.
4. A final plat application and fee including full-engineered plans for all the public improvements and a narrative stating how the proposal complies with the conditions of approval shall be submitted within 6 months from when the appeal period ends on this preliminary decision (Title 17.24.040). The final plat shall be in compliance with Title 17.24 of the Land Division Ordinance.
5. The engineering plans and final plat shall be consistent with the plans prepared by Buckel Associates dated March 25, 2005 except as modified by this approval.

Required improvements shall include the following:

Sanitary Sewer Improvements

The developer must install a new 3-inch sanitary sewer force main in the new street to serve the new lots. Separate private laterals and sewer pumps must be installed to serve each of the new lots. Private sewer pumps must be reviewed by the Building Department as stated above.

Water System Improvements

A new 4-inch water main must be constructed in the new street to serve the four new lots with a 2-inch blow-off at the end for maintenance. One-inch service lines must be constructed to each lot with meter setters and meter boxes. The City will install the meters at the time of home construction after all fees are paid.

Street Lighting Rockvorst Avenue

Street lights must be installed to City of Milwaukie Public Works standards. Street lights must have cutoffs so light is shown down to the street and not at neighboring properties.

28th Avenue Improvements (between Sherrett and Rockvorst)

The applicant is proposing to construct 5-foot sidewalk and curb on the east side of the street. An easement is needed since the sidewalk crosses private property and has not been provided. However, the frontage improvements must be installed on the west side of the street as follows:

Standard "C" curb and 5-foot wide sidewalk on the west side of the roadway. Additional paving to fill the gap between the existing edge of pavement and the new curb to provide for a total of 18 feet of pavement width. A retaining wall will need to be built to support the sidewalk and a portion of the roadway. Engineering plans and calculations must be submitted for final approval of the retaining wall. A guardrail must be installed to prevent vehicles from traveling over the steep portions of the roadway. The fence shall be removed from the right-of-way.

Rockvorst Avenue

28-foot paved roadway with a 2-foot gravel shoulder on the south side must be installed. The west end of the roadway must be graded and a removable gate installed to allow vehicle access into the wetland area for maintenance purposes.

Standard "C" curb and 5-foot wide sidewalks shall be provided on the north side of the roadway. The applicant will need to provide a driveway connection to the existing residence on the south side of the roadway. A guardrail must be installed along 28th Avenue and Rockvorst Avenue to prevent cars from going over the steep slope. The existing wood fence shall be removed from the right-of-way.

The applicant shall submit a report prepared by a licensed arborist demonstrating whether some or all of the trees proposed to be removed at the southwest corner of Rockvorst and 28th Avenue can be saved. If recommended by the report, the applicant shall have the arborist on-site during construction to ensure compliance with any recommendations made.

Signage

A stop sign is required at the intersection of Rockvorst and 28th Avenue for traffic heading east from the site. The applicant shall install all signage in the public right-of-way to accommodate the proposed public improvements and meet standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD) and relevant Oregon supplements. The applicant shall reimburse the City of Milwaukie for any costs associated with the installation.

6. A pre-construction meeting must be held with the contractor and an inspection fee of 5 ½ percent of the public construction cost paid.

Prior to Approval of the Final Plat:

1. A final plat application shall be submitted within 6 months after the appeal period ends on this application and plat recorded with Clackamas County within one year or this preliminary approval shall expire and a new preliminary approval shall be required. An extension of 6 months may be granted (Title 17.04.050).
2. All public improvements shall be constructed in accordance with approved engineering plans or bonded with a 20% contingency per MMC Section 17.24.06.
3. The wood fence located in the 28th Avenue right-of-way shall be removed.

Prior to issuance of a building permit for the new house:

1. The applicant shall submit a copy of the recorded subdivision plat to the Planning Department.
2. All system development charges (SDC) shall be paid.

On-going Conditions

1. Lights from the houses shall not shine directly into the wetland area as required by MMC Section 19.322.10 (I)

ATTACHMENT 2

Zoning Compliance Report

1. Residential R-5 Zone (Section 19.303 Compliance)

a. 19.303.1 – Outright Uses Permitted

Staff Response: Detached and attached single-family lots proposed and complies with this requirement.

b. 19.303.2 – Conditional Uses

Staff Response: None proposed at this time.

c. 19.303.3 – Standards

(1) Lot Size

The proposal complies as demonstrated in the following table:

Lots	Minimum Lot Size		Average Lot Depth		Minimum Lot Width ¹⁰	
	Proposed ¹¹	Min ¹² Req.	Proposed	Min. Req.	Proposed	Min. Req.
Lot 1	10,364 s.f.	10,000 s.f.	115 ft.	80 ft.	104.91 ft.	30 ft.
Lot 2	6,986 s.f.	5,000 s.f.	90 ft.	80 ft.	60 ft.	50 ft.
Lot 3	14,625 s.f.	10,000 s.f.	155 ft.	80 ft.	86 ft.	30 ft.
Lot 4	10,223 s.f.	10,000 s.f.	153 ft.	80 ft.	55 ft.	30 ft.

(2) Setbacks

Staff Response: Setbacks will be verified at the time of building permit. Setbacks of existing house are not impacted.

(3) Off-Street Parking

Staff Response: Parking will be verified at time of building permit.

(4) Lot Coverage and Minimum Vegetation

Staff Response: To be verified at the time of building permit. The existing house will cover 18.5 percent of the proposed Lot 1 and will have 47 percent landscaping and complies with this requirement.

¹⁰ 30-foot minimum width for single-family attached and 50-foot minimum width for single-family detached

¹¹ Sizes shown without proposed street vacation.

¹² 5,000 SF minimum for single-family and 10,000 SF minimum for single-family attached (duplex) lot

(5) Frontage Requirements

Staff Response: Each lot has a minimum of 35 feet of public street frontage and complies with this requirement.

(6) Minimum Density

Staff Response: The net acreage of the site is 36,698 square feet when slopes in excess of 25%, wetlands and public right-of-way are excluded. Six units including the existing house are proposed. The proposal complies with the minimum 7 units per acre required.

2. **Water Quality Resource Regulations Development Standards (Section 19.322.10)**

- a. 19.322.10- A through D - The water quality resource area shall be restored and maintained. Existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage. Where existing vegetation has been removed, the site shall be revegetated as soon as practicable. Prior to construction, the water quality resource area shall be flagged, fenced or otherwise marked until the end of construction and shall remain undisturbed

Staff Response: The applicant has provided a wetland delineation report and mitigation plan that demonstrates that no work will be conducted in the wetland or buffers. The application is conditioned to comply with this requirement.

- b. 19.322.10-E – Stormwater pre-treatment facilities:

Staff Response: No proposed in the wetland buffers.

- c. 19.322.10-F – Existing lawful structures.

Staff Response: Not applicable

- d. 19.322.10-G – Off-site mitigation prohibited.

Staff Response: Off-site mitigation not proposed.

- e. 19.322.10-H – Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent water quality resource area.

Staff Response: The application has been conditioned to comply.

- f. 19.322.10-I – Site Lighting

Staff Response: Applicant is conditioned to comply and not shine lighting into stream buffer.

- g. 19.322.10-J – Trails and rest points.

Staff Response: Not applicable.

- h. 19.322.10-K - Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the

proposed development and the natural resource, provide opportunity for food, water and cover for animals located within the water quality resource.

Staff Response: The applicant is not proposing any work in the wetland or buffers. The wetland tract is contiguous to other existing wetland areas.

- i. 19.322.10-L - Storm water flows shall not exceed pre-development flows.

Staff Response: The applicant has provided a stormwater report that demonstrates compliance with this provision.

- j. 19.322.10-M - Road crossings will be minimized.

Staff Response: Not applicable

- k. 19.322.10-N - The construction done to safeguard the resource.

Staff Response: The applicant is conditioned to comply.

3. Variance (Section 19.700 Compliance)

Staff Response: The applicant has demonstrated compliance with the applicable criterion as explained in the Key Issues section of this report.

4. Transportation (Section 19.1400 Compliance)

Criteria for decision under Chapter 19.1400 are as follows:

- a. **19.1405.5 – A** – The proposed development and related transportation improvements comply with procedures, requirements, and standards of Chapter 19.1400 and the Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.

The application is subject to the following standards:

- (1) 19.1403 - Applicability

Staff Response: Transportation Plan Review is required.

- (2) 19.1404 (C) - Adjustments

Staff Response: The applicant has applied for an adjustment, see Key Issues section of this report.

- (3) 19.1404 (D)- Exception

Staff Response: Not applicable

- (4) 19.1404 (E) – Variances

Staff Response: A variance has been requested to not install street improvements on 28th Avenue. (See Key Issues Section of this report.)

- (5) 19.406 - Neighborhood Through-trip Study

Staff Response: Not applicable.

- (6) 19.1407 - Adequate Transportation Facility Required

Staff Response: To be installed prior to occupancy, conditioned to comply.

- (7) 19.1408 - Transportation Impact Analysis

Staff Response: No required.

- (8) 19.1409 – Street Requirements and Design Standards

1. General Street Design Standards (Section 19.1409.3)

Street Lighting

Staff Response: The Engineering Department has requested street lighting, the applicant is conditioned to comply.

- b. 19.1405.5 – B & C– Traffic Impact Analysis

Staff Response: Transportation impact analysis not required.

- c. 19.1405.5 – D - The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.

Staff Response: No hazardous or unsafe conditions identified that are not address through proposed street improvements.

5. Land Division Ordinance

- a. 17.12.040 – Approval Criteria for preliminary plat. Complies with Title 19 and other applicable law, lot design allows for reasonable development without variance, plat name is not a duplicate, streets are designed to integrated with surrounding streets.

Staff Response: Proposal complies with this requirement.

- b. 17.16.060 – Application Requirements for Preliminary Plat

Staff Response: The applicant has submitted the required information.

- c. 17.20 – Preliminary Plat

Staff Response: The applicant has submitted a preliminary plat prepared by a licensed surveyor in compliance with this section.

- d. 17.28.040 – General Lot Design

Staff Response: Proposal complies with this requirement.

- e. 17.32 - Improvements

Staff Response: The applicant has been conditioned to construct required improvements in accordance with this section including, curbs, sidewalks, drainage, underground utilities, street lights, street signs, monuments and water improvements.

ATTACHMENT 3

Paul H. Roeger, P.E.
Municipal Engineering Specialist

6.1 Page 23

March 24, 2005

Keith Jones
Associate Planner
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RECEIVED
MAR 25 2005
CITY OF MILWAUKIE
PLANNING DEPARTMENT

Re: Subdivision at 8555 SE 28th Avenue
S-04-04/TPR-04-10/VR-04-12/WQR-04-04

The applicant, Mr. Norm Scott, has chosen to revise the plans so that each detached single-family lot is at least 5,000 square feet and that each single-family attached lot (duplex lot) has at least 10,000 square feet, rather than apply for a Planned Development.

Appropriate revisions have been made to the plans to show two vacant lots on the western portion of the property that exceed the 10,000 square foot requirement for duplexes, one lot in excess of 5,000 square feet for a single-family detached home at the north end of the hammerhead, and the lot for the existing house.

As previously discussed, this is really a re-plat of portions of two subdivisions. No additional application was required, just the marking of the appropriate box on the application.

Please see the responses to the additional concerns stated in your letter of February 17, 2005 on the attached sheet. Let us know if it is still necessary to fill out another variance request application.

If you have any questions, I can be reached at 503-657-8677, or Mr. Scott can be reached at 503-654-9293.

Respectfully,



Paul H. Roeger, P.E.
Civil Engineer

Response to Expressed Concerns

1. **Right-of-way vacation** - In order to reduce the non-conforming building setback situation with the Scott's house being on public right-of-way, it is necessary to request vacation of a portion of 28th Avenue and a portion of Rockvorst Street. The requested west 15.0 feet of 28th Avenue from Rockvorst Street north to the Springwater Corridor has been shortened to leave the full existing right-of-way width north of Sherrett Street to allow for future trail head development for the Springwater Corridor. The requested vacation area on 28th Avenue is entirely on the steep bank below the existing 28th Avenue pavement and the proposed additional pavement requested by the Planning Commission. The vacation of the north 10.0 feet of Rockvorst Street from 28th Avenue west to Depot Street is still necessary to allow some setback for the existing house. This leaves adequate room for the proposed 28-foot street, which will allow parking on both sides.
2. **No street improvements on 28th Avenue** – New curb and sidewalk are now being proposed on the east side of 28th Avenue from Rockvorst Street to Sherrett Street and the existing pavement will be widened to a minimum of 18-feet as requested. Mr. Scott has talked with the property owner on the southeast corner of 28th Avenue and Sherrett Street and she has no objection to giving an easement for the installation of sidewalk across the corner of her property. This will be provided before the final plat is submitted for approval.
3. **Construction of improvements on the south side of Rockvorst Street** – Per the Milwaukie Municipal Code (MMC) chapter 19.1409.2.C.3, half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.

28-feet of street is now being proposed along with the curb and sidewalk on the north side of the Rockvorst Street. This addresses the concern about adequate overflow on-street parking. Parking is permitted on both sides of a 28-foot street. Curb can be installed on the south side of the street when the duplex property is re-developed.

VI. TWO VARIANCE REQUESTS

A recent survey verified the fact that the applicant's house is partially in the 28th Avenue right-of-way and a porch on the south side of the house is partially in the Rockvorst Street right-of-way.

In order to eliminate this non-conforming situation the Scott's have requested vacation of the west 15.0 feet of 28th Avenue from Rockvorst Street north to the Springwater Corridor, and the vacation of the north 10.0 feet of Rockvorst Street from 28th Avenue west to Depot Street. The vacation will leave 35-feet of right-of-way for 28th Avenue and 40-feet of right-of-way for Rockvorst Avenue. Per Table 19.1409.3 the right-of-way width required for a local residential street is 50-feet. A variance to this right-of-way width standard for local residential streets is required to develop this subdivision. A variance to leave both street right-of-way widths as vacated will allow the applicant to have some setback from the right-of-way line to the house and the use of his property in a manner substantially the same as others in the surrounding area. A 28-foot street with curb and sidewalk can still be constructed within the 40-foot wide Rockvorst Avenue right-of-way.

A variance is also being requested in order to not construct or fund street improvements along the frontage of 28th Avenue as required under section 17.32.020 and Chapter 19.1400.

Section 19.702 allows a variance if the property has unusual conditions over which the applicant has no control. The existing house was not built by the applicant. The applicant had no control over its physical location. The physical location of the existing street within the 28th Avenue right-of-way and the excessive slope of the land between the edge of the existing pavement and the right-of-way line are also beyond the control of the applicant. He did not plat the original subdivision nor grade the first roadway within the 28th Avenue platted right-of-way. The roadway is on the eastern half of the right-of-way and the extreme slope is on the western half of the existing right-of-way.

There are no feasible alternatives to the variance. No access will be taken from 28th Avenue. In order for curb and sidewalk to be constructed on 28th Avenue a 10-foot high retaining wall would be needed. Therefore, it is not practicable to construct curb and sidewalk improvements on 28th Avenue abutting this property.

There are no adverse effects upon other properties as a result of approval of a variance to not construct curb and sidewalk improvements in 28th Avenue. No access will be taken to 28th Avenue and the fence will remain in place.

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VII. Lot Coverage

House = 1981 sq. ft.

Deck = 465 sq. ft.

Total area = 2446 sq. ft.

Lot area = 13,208 sq. ft.

Lot coverage = $2446/13208 = 18.52\%$

VIII. Vegetated Area

House = 1981 sq. ft.

Deck = 465 sq. ft.

Asphalt = 4,528 sq. ft.

Total Covered Area = 6974 sq. ft.

Lot area = 13,208 sq. ft.

Vegetated area = $13,208 - 6974 = 6234 = 6234/13208 = 47.20\%$

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JAN 14 2004

Minimum Density Variance RequestCITY OF MILWAUKIE
PLANNING DEPARTMENT

L. Minimum density: Minimum development densities for subdivision, planned development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 to 8.7 dwelling units per net acre.

Section 19.7.01 Variances.

The planning commission, design and landmarks commission as provided in Section 19.312.7H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

Section 19.7.02 Circumstances for granting variances.

A variance may be granted only when the planning commission or planning director finds all of the following criteria are satisfied.

19.702.1 Criteria for Granting Variances.

- A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.

Response: The existing lot configuration includes large portions of four of the lots within a wetlands or wetlands buffer area. The fifth lot is the lot with the existing house. Because of the location of the existing house, the steep slopes, the configuration of the property, and the wetlands, the required 7.0 to 8.7 dwelling units per net acre cannot be met.

We are requesting a variance to allow this five lot subdivision as proposed which gets only 4.64 dwelling units per net acre.

- B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.

Response: The site restraints, namely the wetlands, property configuration, steep slopes and location of the existing house prevent getting even one more lot.

- C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible. (Ord. 1849 (part), 1999)

Response: There are no adverse effects upon other properties as a result of allowing this variance.

Section 19.7.03 Administrative variance.

A variance of up to ten percent of the standard required may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type II Administrative Review, shall be followed. Findings as specified in Section 19.702 shall be made. (Ord. 1849 (part), 1999)

Response: This variance request is for more than ten percent variance, therefore Administrative variance is not allowed.

Section 19.7.04 Variance procedure.

Variance requests in excess of ten percent from the standard required shall require forms and procedures outlined in Sections 19.1003-19.1010 and subsection 19.1011.3, Minor Quasi-Judicial Review. Findings as specified in Section 19.702 must be made. (Ord. 1849 (part), 1999)

Response: This variance request is for more than ten percent variance from the standard. Application forms have been included and submittal procedures are being followed as outlined.

Street Improvements
Depot Street and Rockvorst Avenue

Depot Street: Street improvements are not being proposed on Depot Street because it is located in the wetlands.

Rockvorst Avenue: Proposed street improvements on Rockvorst Avenue only extend far enough west to provide for a turnaround that complies with the Fire Marshal's requirements. To extend a roadway further west would be meaningless. The roadway cannot be extended through to any street because of the existing wetlands, and all new buildable lots are provided with an improved street frontage as required by code.

CRYSTAL SPRINGS ESTATES

Response to Pre-Application Conference

1. **Building Issues** – All new construction will comply with the Oregon one and two family dwelling code. Grading and erosion control permit applications will be submitted before starting construction. A geotech report will be supplied by the builder.
2. **Fire Marshall Issues** – All applicable Fire Code requirements will be met, including address numbering that is clearly visible from the street from which access is provided. The Fire Marshall also states that the proposal complies with access and hydrant standards for CCFD#1.
3. **Public Works Issues**
 - A. **Water** – A new 4-inch main will be installed in the newly constructed street and hammerhead extension into the site to serve all new lots.
 - B. **Sewer** – The existing sanitary sewer main on 28th Avenue is not deep enough to allow each new residence to discharge to it by gravity. In fact, the existing house has its own pump that pumps sewage to the main in 28th Avenue. The developer is proposing that the new residences pump their sewage to a newly constructed force main in Rockvorst Avenue which will discharge into the existing manhole at the intersection of 28th Avenue and Rockvorst Avenue. Initial construction will include the force main and a lateral to each new lot with a valve at the property line. When each residence is constructed a grinder pump will be installed at the low point of gravity system in the residence that will pump the sewage to the lateral. These systems include a wet well, a grinder pump, discharge line, and backflow preventor.
 - C. **Storm** – The Stormwater Design Report proposes detention and water quality improvement with sump catch basins and infiltration trenches.
 - D. **Street and Frontage** – Street improvements proposed within the Rockvorst Avenue right-of-way include curb on the north side, 24-feet of paving to be crowned at 14-feet from the curb, a 5-foot sidewalk adjacent to the curb, and a berm on the south side to direct storm water to the catch basin at the west end. An application for adjustment is included with the preliminary plat to allow a 5-foot wide curb-tight sidewalk with no planter strip due to the excessive slope. The adjustment application is also requesting the same 5-foot wide sidewalk and no planter strip on the west side of the hammerhead extension into the site and no sidewalk on the east side of the extension.

A variance is also being requested to not require construction of improvements nor funding of improvements on the frontage of 28th Avenue due to the existing location of the pavement and the steep slope west of the existing pavement.

E. Right-of-way – A street vacation application is also included with this preliminary plat to vacate the west 15-feet of 28th Avenue abutting this property and the north 10-feet of Rockvorst Avenue.

F. Driveways – Driveways for the new lots will be dealt with at the building permit application stage of development. The new driveway for Mr. Scott's existing house will be shown on the construction plans and will not exceed 18-feet.

G. Erosion Control – An erosion control plan is included in the construction plans that have been submitted. The contractor will obtain an erosion control permit before starting work.

H. Traffic Impact Study – No traffic impact study is required for this application.

4. Planning Issues

A. Setbacks – R-5 setbacks will be met on all new lots.

B. Landscape – Landscaping and lot coverage on the new lots will be dealt with at the building permit phase of this project. Landscaping of the existing lot is at 47 percent, exceeding the 25 percent requirement. Lot coverage of the existing lot is 18.5 percent, well under the 35 percent maximum.

C. Parking – The existing lot has well over two parking spaces. All new lots will have a minimum of two parking spaces and driveways will be between 9 and 18-feet.

D. Transportation Review – A transportation plan review application is included. A traffic study is not required. Frontage improvements will be made as stated above in the Public Works "Street and Frontage" section with the stated adjustments and variance requested. No roadway improvements are being proposed in the wetland. Vision clearance will be met per 19.1409.2. Discussions have occurred with the Engineering Department regarding Title 19.1400.

E. Application Procedures – The application is not a "Planned Development". The applicant is prepared to have the proposed development reviewed by the Planning Commission as well as have the street vacation request reviewed by City Council.

F. Natural Resource Review – Pacific Habitat Services, Inc. has prepared a wetland and stream delineation report and submitted it to DSL for their review. Storm water flows and pre-treatment proposals are included in the Stormwater Design Report. Buffers are shown on the preliminary plat and discussed in the Water Quality response.

G. Lot Geography - The proposed lots are not rectilinear because of the street radius of Rockvorst Avenue and the existing lot shape makes rectilinear lots impossible. The new lot lines do not run at right angles to the street upon which the lots face because of the slope and shape of the existing lot. The rear lot lines are not parallel to the street because of the wetlands and the existing lot shape.

The property is zoned R-5. Under MMC section 19.303.1 Outright Uses Permitted; both single-family detached dwellings and single-family attached dwellings are permitted. The existing house is a single-family detached dwelling. This proposal will add one lot for a single-family detached dwelling at the northeast end of the hammerhead turnaround extended into the site. On the west side of the hammerhead extension into the site will be three attached single-family dwellings.

All lots will be a minimum of 5,000 square feet per section 19.303.3 Standards. For single-family attached dwellings the lot area shall be an average of at least 5,000 square feet per dwelling unit lot. This proposal will have all three lots a minimum of 5,000 square feet.

Also under section 19.303.3 Standards, the lot width shall be at least 50-feet, and for interior single-family attached dwellings the lot width shall be at least 30-feet. This standard will also be met, with the middle lot being 30-feet wide, the south lot being a minimum of 50-feet wide and the north lot exceeding the 50-foot width. Average lot depth will exceed the 80-foot minimum requirement.

Front and rear yards will be at least 20-feet per section 19.303.3. For interior single-family attached dwellings side yards are not required. Other side yards must be 5-feet except on corner lots a side yard shall be at least 15-feet. The north lot will have a minimum of a 5-foot side yard and the south lot will have a minimum of a 15-foot side yard abutting Rockvorst Avenue.

Height requirements, lot coverage, and minimum vegetation for the new lots will be dealt with when a building permit application is made. The lot with the existing house will have 18.52% lot coverage, well under the 35% allowable, and 47.20% vegetated area, well over the 25% minimum requirement. The existing house is two and one-half stories, approximately 35-feet in height.

Per section 19.303.3 each lot shall abut a public street other than an alley for at least 35-feet, except for lots for interior single-family attached dwelling units shall abut a public street for at least 20-feet. The interior lot will have a public street frontage of more than 30-feet. The south attached dwelling lot will have frontage on both Rockvorst Avenue and the northerly extension of the hammerhead into the site. The north attached dwelling lot and the detached dwelling lot will have a minimum of 35-feet on the northerly extension of the hammerhead into the site.

The minimum density requirement is not met due to the wetlands, topography, and shape of the parcel.

The applicant is proposing to dedicate the wetlands to the City.

H. Planning Notes – All noted items have been included. This is not an application for a planned development.

CRYSTAL SPRINGS ESTATES

Preliminary Plat
Petition for Street Vacation
Transportation Plan Review
Water Quality Resource Review
Variance Request

Property owner and applicant: Norm and Marilyn Scott
8555 SE 28th Avenue
Milwaukie, OR 97222
503-654-9293

Applicant's assistant: Paul H. Roeger
15702 SE Cordova Court
Milwaukie, OR 97267
503-657-8677

Surveyor: Ray Buckel
Buckel Associates, Inc.
14631 S. Livesay Road
Oregon City, OR 97045
503-655-4506

Engineer: Clayton Queen, P.E.
Buckel Associates, Inc.
14631 S. Livesay Road
Oregon City, OR 97045
503-655-4506

Wetlands consultant: Jennifer Goodridge
Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070
503-570-0800

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NOV 24 2004

CITY OF MILWAUKIE
PLANNING DEPARTMENT

I. REQUEST

The applicant, Norm Scott, is requesting Land Use approval for a single-family R-5 residential subdivision, including vacation of portions of two streets, Water Quality Resource Review, Transportation Plan Review, and a variance. The subject site is approximately 1.54 acres in size and is located at 8555 SE 28th Avenue (Tax map 1-1E-25BA, tax lots 3400, 3600, and 3700).

The applicant is requesting that approval of the vacation of the west 15-feet of 28th Avenue abutting the property, and approval of the vacation of the north 10-feet of Rockvorst Avenue abutting the property be given and then the subdivision approval be given contingent on approval of the street vacation by the City Council.

II. SITE DESCRIPTION

Location and Parcel Description:

The site is generally located on the north edge of the City of Milwaukie at the northwest corner of the intersection of 28th Avenue and Rockvorst Avenue in the Ardenwald Neighborhood. The property is part of two subdivisions, Lots 1-3 and Tract A, Block 2 of BURLEY ACRES, and Lots 1-3, Block 3 of ARDENWALD, also described as Tax Lots 3400, 3600, and 3700 of Tax map 1-1E-25BA.

The site is bordered on the north by the Springwater Corridor, a regional bike and pedestrian path; on the west by the Union Pacific Railroad tracks; on the east by 28th Avenue, a local residential street; and on the south by Rockvorst Avenue and Depot Street, unconstructed local residential streets. The site slopes toward the west with a very steep slope from 28th Avenue to the first level, then continuing to slope toward flat wetlands on the westerly 100 to 150 feet of the property. There is also a small perennial stream along the north side of the property that originates to the east on a bank along the Springwater Corridor and drains westerly to the wetlands. During a storm event drainage from 28th Avenue is also carried by this stream. There is an existing single-family residence located in the southeast corner of the property that is partially within the 28th Avenue right-of-way and partially within the Rockvorst Avenue right-of-way.

Site access:

Current access to the existing residence is by a driveway in the unconstructed Rockvorst Avenue and access from the north end of 28th Avenue across the Springwater Corridor. This access will be abandoned when lot 4 is developed. Proposed access will be from a new street constructed within the Rockvorst Avenue right-of-way with a hammerhead at the west end with an extension north into the site. This proposed hammerhead turnaround will meet Fire District standards.

III. PROPOSAL SUMMARY

The project is designed to provide four new building lots, one lot for the existing house, and a natural resource tract of land on the westerly portion of the property. Three of the new building lots will be on the west side of the northerly extension of the roadway into the property. These three lots will have attached single-family residences. The other new building lot will be located at the northeast end of the northerly extension of the roadway. The existing house will be on a lot bordered by 28th Avenue, Rockvorst Avenue, and the northerly extension of the roadway into the site. The natural resource tract is located on the westerly 100 to 150 feet of the property, and will be donated to the City.

The attached single-family residences will take advantage of the slope of the land and will probably have daylight basements.

Transportation

A Transportation Impact Analysis was not required for the proposed project.

The existing paved street within the 28th Avenue right-of-way is on the easterly half of the existing 50-foot right-of-way. An existing wood fence is located near the west edge of the pavement above a steep bank sloping down into the property. The requested 15-foot vacation will put the east side of the existing house entirely on private property and provide some setback from the new right-of-way line.

This section of 28th Avenue abutting the site is a local residential street with only one house that actually fronts on it. No counts have been done, but Mr. Scott believes that vehicular use is less than 50 cars per day. It does provide access to the Springwater Corridor, however, that is for pedestrians and bicyclists. The narrowing of the right-of-way will have no effect on the current use of 28th Avenue. It is not possible to use any of the requested vacation area for construction of a future street or sidewalk without constructing a substantial retaining wall. From the roadway to Mr. Scott's house the drop exceeds 10-feet. Therefore, Mr. Scott is requesting a variance for relief from the requirement to construct frontage improvements on 28th Avenue.

Rockvorst Avenue only has a driveway to the existing house on this site and a driveway to a duplex on the south side of Rockvorst Avenue. The requested 10-foot vacation of the north side of the Rockvorst Avenue 50-foot right-of-way will put the south side of the existing house entirely on private property and provide some setback from the new right-of-way line.

Roadway improvements to be constructed in Rockvorst Avenue include curb and sidewalk on the north side only, abutting the property from 28th Avenue west to a hammerhead turnaround, 24-feet of asphalt paving crowned at 14-feet to provide for an eventual 28-foot street when the south side is developed. The hammerhead

turnaround will include a 24-foot wide northerly extension into the site to provide access to all of the new lots. The existing house will take access off of the hammerhead turnaround extension into the site near Rockvorst Avenue. The driveway for the duplex on the south side of Rockvorst Avenue will be reconstructed to the extent necessary to provide access to the garages.

There is potential for at least one other buildable lot to the west of the duplex. Access will be available from the hammerhead turnaround.

We are also suggesting renaming this section of Rockvorst Avenue to Van Water Street, since it is an extension of Van Water Street and there is a short section of Rockvorst Street north off of Roswell Street that would add confusion to parties trying to find a residence. All new houses would be then addressed off of Van Water Street.

Water Quality

Please see the "Vegetated Corridor Analysis for the Crystal Springs Estates in Milwaukie, Clackamas County, Oregon" report prepared by Pacific Habitat Services, Inc. included with this application. The applicant proposes a 15-foot buffer from the stream along the north side of the property and a minimum of 25-feet from the wetland.

The water quality facilities are designed to filter the storm water through drain rock and the existing soil before entering the wetlands. In addition there will be sumps in the catch basins to settle out the solids.

Storm Design

An existing wetland is located on the westerly portion of the property. The storm drainage system is designed to detain a 25 year storm and release it at a 5-year pre-development rate.

Water

A new 4-inch public water main will be installed in Rockvorst Avenue and the northerly extension into the site for domestic water service. According to the Fire Marshal, the existing fire hydrant at the southwest corner of 28th Avenue and Rockvorst Avenue is sufficient for fire protection. No flow information is available for that hydrant. However, a hydrant at 29th and Roswell, also on the same loop system, has a static pressure of 72 psi, residual of 60 psi, pito of 44, and a flow of 954 gpm at the 60 psi. Each new residence will be served with a separate meter.

Sanitary Sewer

The existing sanitary sewer main on 28th Avenue is not deep enough to allow each new residence to discharge to it by gravity. In fact, the existing house has its own pump that pumps sewage to the main in 28th Avenue. We are proposing that the new residences pump their sewage to a newly constructed force main in Rockvorst Avenue which will discharge into the existing manhole at the intersection of 28th Avenue and Rockvorst Avenue. Initial construction will include the force main and a lateral to each new lot with a valve at the property line. When each residence is constructed a grinder pump will be installed at the low point of gravity system in the residence that will pump the sewage to the lateral. These systems include a wet well, a grinder pump, discharge line, and backflow preventor.

Neighborhood District Association

We made a presentation of the proposal, including the street vacation request, to the Ardenwald Neighborhood Association on November 9, 2004. Discussion included protection of the wetlands, curb and sidewalk location, sanitary sewer service, and design of the new homes. No negative comments were received.

IV. ZONING ANALYSIS

The property is zoned R-5. Under MMC section 19.303.1 Outright Uses Permitted, both single-family detached dwellings and single-family attached dwellings are permitted. The existing house is a single-family detached dwelling. This proposal will add one lot for a single-family detached dwelling at the northeast end of the hammerhead turnaround extended into the site. On the west side of the hammerhead extension into the site will be three attached single-family dwellings.

All lots will be a minimum of 5,000 square feet per section 19.303.3 Standards. For single-family attached dwellings the lot area shall be an average of at least 5,000 square feet per dwelling unit lot. This proposal will have all three lots a minimum of 5,000 square feet.

Also under section 19.303.3 Standards, the lot width shall be at least 50-feet, and for interior single-family attached dwellings the lot width shall be at least 30-feet. This standard will also be met, with the middle lot being 30-feet wide, the south lot being a minimum of 50-feet wide and the north lot exceeding the 50-foot width. Average lot depth will exceed the 80-foot minimum requirement.

Front and rear yards will be at least 20-feet per section 19.303.3. For interior single-family attached dwellings side yards are not required. Other side yards must be 5-feet except on corner lots a side yard shall be at least 15-feet. The north lot will have a minimum of a 5-foot side yard and the south lot will have a minimum of a 15-foot side yard abutting Rockvorst Avenue.

Two off-street parking spaces for each lot will be provided per section 19.500 of the MMC.

Height requirements, lot coverage, and minimum vegetation for the new lots will be dealt with when a building permit application is made. The lot with the existing house will have 18.52% lot coverage, well under the 35% allowable, and 47.20% vegetated area, well over the 25% minimum requirement. The existing house is two and one-half stories, approximately 35-feet in height.

Per section 19.303.3 each lot shall abut a public street other than an alley for at least 35-feet, except for lots for interior single-family attached dwelling units shall abut a public street for at least 20-feet. The interior lot will have a public street frontage of more than 30-feet. The south attached dwelling lot will have frontage on both Rockvorst Avenue and the northerly extension of the hammerhead into the site. The north attached dwelling lot and the detached dwelling lot will have a minimum of 35-feet on the northerly extension of the hammerhead into the site.

The minimum density requirement is not met due to the wetlands, topography, and shape of the parcel.

V. FLOOD HAZARD AREAS

A portion of the wetlands on this property is within Flood Zone "B" on FEMA map Community Panel Number 410019 0001B, effective date of June 18, 1980. Zone "B" is defined as: areas between the 100 year and 500 year flood levels.

A development permit shall be obtained before construction or development begins within any "special flood hazard" or "flood management area" established in Section 18.04.050.

Section 18.04.030, Definitions, defines "Area of special flood hazard" as the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. That means the 100 year floodplain.

"Flood management areas" means all lands contained within the one hundred-year floodplain, and floodway as shown on the Federal Emergency Management Agency Flood Insurance Rate Maps and Floodway Maps, and the areas of inundation for the February 1996 flood as shown on the Metro Water Quality and Flood Management Area Maps.

Since this property is only in the 500 year floodplain, no development permit is required for work in the 500 year floodplain. In addition, all the work on this property will be well above the 500 year floodplain elevation.

VI. VARIANCE REQUEST

A variance is being requested in order to not construct or fund street improvements along the frontage of 28th Avenue as required under section 17.32.020 and Chapter 19.1400.

Section 19.702 allows a variance if the property has unusual conditions over which the applicant has no control. The physical location of the existing street within the 28th Avenue right-of-way and the excessive slope of the land between the edge of the existing pavement and the right-of-way line are beyond the control of the applicant. He did not plat the original subdivision nor grade the first roadway within the 28th Avenue platted right-of-way. The roadway is on the eastern half of the right-of-way and the extreme slope is on the western half of the existing right-of-way.

There are no feasible alternatives to the variance. No access will be taken from 28th Avenue. In order for curb and sidewalk to be constructed on 28th Avenue a 10-foot high retaining wall would be needed. Therefore, it is not practicable to construct curb and sidewalk improvements on 28th Avenue abutting this property.

There are no adverse effects upon other properties as a result of approval of a variance to not construct curb and sidewalk improvements in 28th Avenue. No access will be taken to 28th Avenue and the fence will remain in place.

VII. Lot Coverage

House = 1981 sq. ft.
Deck = 465 sq. ft.
Total area = 2446 sq. ft.
Lot area = 13,208 sq. ft.

Lot coverage = $2446/13208 = 18.52\%$

VIII. Vegetated Area

House = 1981 sq. ft.
Deck = 465 sq. ft.
Asphalt = 4,528 sq. ft.
Total Covered Area = 6974 sq. ft.
Lot area = 13,208 sq. ft.

Vegetated area = $13,208 - 6974 = 6234 = 6234/13208 = 47.20\%$

VI. Approval Standards:

Section 19.3.22 Water Quality Resource Regulations.

19.322.1 Purpose, General Policies and Declarations.

A. Many of the city's original wetland and riparian resources have been adversely affected by historical development. These regulations seek to minimize additional adverse impacts and restore and improve resources where possible while balancing property rights and development needs of the city.

B. It is the intent of this chapter to ensure protection of the functions and values of water quality resource areas at the time of development.

C. It is not the intent of this chapter to:

1. Impose any obligation on property owners for the restoration of existing developed sites to pre-development or natural condition.
2. Impose any hardship or limitation against the continued maintenance of existing legal site conditions.
3. Restrict activities that do not constitute development or to apply to activities that do not affect the water quality resource areas. Normal lawn and yard planting and maintenance does not include planting of invasive non-native or noxious vegetation.
4. Prohibit normal lawn and yard landscape planting and maintenance.

This chapter is to be interpreted consistently with this intent.

D. Relief from the strict application of this section is afforded through 19.322.11 variance provisions and 19.322.12 modification of the Water Quality Resource Area boundaries.

E. This chapter provides protection for natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5 and Metro Urban Growth Management Functional Plan Title 3.

F. This chapter establishes the water quality resource area regulations. The Milwaukie Water Quality Resource Area Map is incorporated by reference as part of this chapter.

G. The water quality resource area regulations allow development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.

H. Implementation of this chapter is in addition to and shall be coordinated with Milwaukie Municipal Code Title 19 Zoning Ordinance, Title 18 Flood Hazard Regulations and Chapter 16.28 Erosion Control.

I. Conditions legally existing as of December 17, 2002, that are inconsistent with this chapter are declared legal non-conforming situations.

J. Evidence of physical conditions for sites existing at the time this chapter was adopted shall consist of city, county and Metro records, aerial photography and other information that may be available.

K. The planning director shall produce and maintain the Milwaukie native plants list.

19.3.22.2 Coordination with the Willamette Greenway Overlay.

A. For properties along the Willamette River, nothing in this chapter shall prohibit the maintenance of view windows authorized under the Milwaukie Zoning Ordinance 19.320 Willamette Greenway Zone.

B. Except as provided for in Section 19.322.2(A), provisions of this chapter shall apply where they are more restrictive than Chapter 19.320 Willamette Greenway Zone.

Response: This proposal is not located along the Willamette River, therefore this section does not apply.

19.3.22.3 Applicability.

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections 19.322.6 Application Requirements and 19.322.10 Development Standards.

Response: The perennial stream along the north property line is not mapped on the Water Quality Resource Map. However, the Vegetated Corridor Analysis proposes a 15-foot buffer to protect it.

The wetlands on the western portion of the property is also not mapped. However, it is part of the larger wetlands to the south owned by the City of Milwaukie. The Vegetated Corridor Analysis suggests a 15-foot buffer, however, the applicant is proposing a 25-foot buffer with deed restrictions.

The two vegetated corridors on-site have two separate vegetative communities. Adjacent to the wetland, Plant Community A consists of a mowed lawn with scattered trees. Plant community B, located adjacent to the drainage, consists of a monoculture of Himalayan blackberry.

The on-site vegetated corridor can be characterized on the basis of differing proportions of dominant native species; percent canopy cover, and invasive plant cover. Plant Community A is in a "Degraded" condition because of the low percent cover of native plants (25%), low percentage of tree canopy cover (20%), and percentage of noxious/invasive plants (25%).

Plant Community B is also in a "Degraded" condition because of the low percent cover of native plants (0%) and low tree canopy cover (0%), and the high percentage of noxious/invasive plants (100%).

See the Vegetated Corridor Analysis for the Crystal Springs Estates for additional information.

These wetlands are indicated on Existing Conditions Plan.

19.3.22.4 Activities Permitted Outright.

The following activities are permitted outright in the water quality resource area and therefore do not require approval under the provisions of this chapter except if they result in direct stormwater discharges to the water quality resource area:

- A. Stream, wetland, riparian and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the planning commission.
- B. Farming practices or farm uses, excluding buildings and structures except if such activities or uses increase direct discharges to water resources.
- C. Change of use where there are no exterior alterations to buildings or structures, or increases in floor area, impervious surfaces or storage areas.
- D. The normal maintenance and repair of existing structures, utilities, access, streets, driveways and parking improvements including asphalt overlays.
- E. Temporary emergency procedures necessary for the safety or protection of property.
- F. Landscape planting and maintenance that does not involve invasive non-native or noxious vegetation.
- G. Maintenance of public and private storm drainage facilities in accordance with a management plan approved by the planning commission.
- H. Other activities similar to the above that are determined by the planning director to be consistent with the purpose and policies of this chapter and which have also been found to have no appreciable impact to the water quality resource area.
- I. Removal of invasive or non-native plant species.

Response: The proposed project intends to avoid all impacts to the wetlands, therefore mitigation for the site development is not required.

19.3.22.7 Activities Permitted Under Minor Quasi-Judicial Review.

The following activities are allowed within the water quality resource areas subject to approval by the planning commission under 19.1011.3 minor quasi-judicial review and compliance with Section 19.322.10 Development Standards:

- A. Any activity allowed in the base zone, other than those listed in Sections 19.322.4 (A) through 19.322.4 (C).
- B. Roads to provide access to protected water features or necessary ingress and egress across water quality resource areas.
- C. New public or private utility facility construction.
- D. Walkways and bike paths.
- E. New stormwater detention, retention or pre-treatment facilities.
- F. Widening an existing road adjacent to, or running parallel to a water quality resource area.
- G. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint or disturbed area within the water quality resource area.
- H. Natural resource management plans and stormwater management plans.
- I. Partitions and subdivisions that contain protected water features or water quality resource areas.

Response: No activities are being proposed in the wetlands or stream.

19.3.22.8 Prohibited Uses.

- A. Following adoption of this chapter, new structures, development or activity other than those allowed in subsections 19.322.4 through 19.322.7 are prohibited in the water quality resource area.
- B. Uncontained areas of hazardous materials. This prohibition shall not be effective until the planning director has adopted administrative measures for its implementation, which shall be no later than June 1, 2003.

Response: No activities will occur in the water quality resource area.

19.3.22.9 Application Requirements.

Applications for Type II and minor quasi-judicial review shall provide the following information in addition to the information required for the base zone:

- A. A topographic map of the site at contour intervals of five (5) feet or less showing a delineation of the water quality resource area, which includes areas shown on the Water Quality and Flood Management Area map, and that meets the definition of water quality resource areas in Table 1.

Response: A topographic map of the site with two (2) foot contour intervals that shows the delineation of the water quality resource area is included on the existing conditions plan.

- B. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six (6) inches diameter at breast height (DBH), natural drainages on the site, springs, seeps, and outcroppings of rocks or boulders within the water quality resource area.

Response: The existing conditions are indicated on the existing conditions plan (sheet 2).

- C. Location of wetlands. Where wetlands are identified, the applicant shall follow the division of state lands wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist and will be accepted only after approval by the Oregon division of state lands.

Response: The determination and delineation of the wetlands was prepared by Pacific Habitat Services, professional wetlands specialists. There is no intended impact to the resource area. DSL has a copy of the delineation report for their review.

D. An inventory and location of existing debris and noxious materials.

Response: Pacific Habitat Services, Inc, professional wetlands specialists, performed the site investigation. The two vegetated corridors on-site have two separate vegetative communities. Adjacent to the wetland, Plant Community A consists of a mowed lawn with scattered trees. Plant community B, located adjacent to the drainage, consists of a monoculture of Himalayan blackberry.

The on-site vegetated corridor can be characterized on the basis of differing proportions of dominant native species; percent canopy cover, and invasive plant cover. Plant Community A is in a "Degraded" condition because of the low percent cover of native plants (25%), low percentage of tree canopy cover (20%), and percentage of noxious/invasive plants (25%).

Plant Community B is also in a "Degraded" condition because of the low percent cover of native plants (0%) and low tree canopy cover (0%), and the high percentage of noxious/invasive plants (100%).

See the Vegetated Corridor Analysis for the Crystal Springs Estates for additional information.

These wetlands are indicated on Existing Conditions Plan.

E. An assessment of the existing condition of the water quality resource area in accordance with Table 2.

Response: As required by the City of Milwaukie regulations a vegetated corridor analysis was done for the site. See the report.

F. An inventory of vegetation, including percentage ground and canopy coverage.

Response: Please see "D" above and the Vegetated Corridor Analysis report.

G. Alternatives analysis demonstrating that:

1. No practicable alternatives to the requested development exist that will not disturb the water quality resource area; and

- **Response:** No disturbance of the water quality resource area is planned.

2. Development in the water quality resource area has been limited to the area necessary to allow for the proposed use; and

Response: No disturbance of the water quality resource area is planned.

3. The water quality resource area can be restored to an equal or better condition in accordance with Table 2; and

Response: No disturbance of the water quality resource area is planned.

4. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.

Response: No disturbance of the water quality resource area is planned.

- I. A water quality resource area mitigation plan that contains the following information:

1. A description of adverse impacts that will be caused as a result of development.

Response: No disturbance of the water quality resource area is planned.

2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 2.

Response: No disturbance of the water quality resource area is planned.

3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.

Response: The responsible persons include:

Owners: Norm and Marilyn Scott
8555 SE 28th Avenue
Milwaukie, Oregon 97222
(503) 654-9293 Telephone

Applicant: Norm and Marilyn Scott
8555 SE 28th Avenue
Milwaukie, Oregon 97222
(503) 654-9293 Telephone

Assistant: Paul H. Roeger
15702 SE Cordova Ct.
Milwaukie, OR 97267
503-657-8677 Telephone

Surveyor/
Engineer: Buckel Associates, Inc
14631 S. Livesay Road
Oregon City, Oregon 97045
(503) 655-4506 Telephone
(503) 655-4510 Fax

4. A map showing where the specific mitigation activities will occur.

Response: No mitigation activities are planned.

5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

Response:

Construction

The anticipated start of construction for the project is Summer of 2005.

Mitigation

No mitigation is planned, since no disturbance is planned.

- J. All information contained in the application submission requirements and site plan checklist forms prescribed by the planning director.

Response: All information required for application submission, including site plan checklist forms are included in the submitted project documents.

- K. The application fee as adopted by the city council.

Response: The required application fee has been submitted.

19.3.22.10 Development Standards.

Applications for development or land disturbance on properties that contain water quality resource areas shall demonstrate compliance with the following standards:

- A. The water quality resource area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 2.

Response: No disturbance is planned in the Water Quality Resource area.

- B. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the water quality resource area.

Response: Vegetation protection and erosion control measures will be implemented as shown on the Erosion Control Plan, sheet 3 of 6, to insure that the existing vegetation and water quality resource area is protected. A sediment control fence will be installed at the perimeter of the water quality area to control erosion and damage to the water quality resource area.

- C. Where existing vegetation has been removed, the site shall be re-vegetated as soon as practicable.

Response: Existing vegetation will be removed only in areas of construction.

- D. Prior to construction, the water quality resource area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as may be allowed by this chapter. Such markings shall be maintained until construction is complete.

Response: As described above, a sediment control fence will be installed to mark the water quality resource area. This fencing will remain in place until construction is complete.

E. Stormwater pre-treatment facilities:

1. The stormwater pre-treatment facility may encroach a maximum of twenty-five (25) feet into the outside boundary of the water quality resource area of a primary water feature; and

Response: The stormwater pre-treatment facilities will be installed outside of the buffer areas.

2. The area of encroachment must be replaced by adding an equal area to the water quality resource area on the property.

Response: There will be no area of encroachment.

F. Additions, alterations, rehabilitation and replacement of lawful structures.

1. For existing structures, roadways, driveways, accessory uses and development which are nonconforming, this chapter shall apply in addition to the nonconforming use regulations of the city.
2. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to the protected water feature than the existing structures, roadways, driveways, accessory uses and development.

Response: This proposal does not include any additions, alterations, replacements or rehabilitation of existing structures.

G. Off-site Mitigation. Offsite mitigation shall not be used to meet mitigation requirements of this chapter.

Response: Off-site mitigation will not be used to meet mitigation requirements of this chapter.

H. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent water quality resource area.

Response: Vegetation protection and erosion control measures will be implemented as shown on sheet 3 of 6 to insure that the existing vegetation and water quality resource area is protected. A sediment control fence will be installed at the perimeter of the water quality area to control erosion and damage to the water quality resource area.

I. Where practicable, the types, sizes and intensities of lights must be placed so that they do not shine directly into the natural resource locations.

Response: No adverse impacts to the habitat is expected. Lighting on new homes will need to be addressed at the building permit phase of this development. The only anticipated street light will be at the junction of the hammerhead turnaround.

J. Where proposed, development of trails, rest points, viewpoints and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the resource.

Response: No trails, rest points, or viewpoints are proposed.

- K. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water and cover for animals located within the water quality resource.

Response: No disturbance of the natural resource is anticipated.

- L. Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed pre-development flows.

Response: Stormwater flows between the 5-year pre-development rate and the 25-year post development rate will be retained.

- M. Road crossings of major natural drainage courses will be minimized as much as possible.

Response: There will be no road crossings of the natural drainage course.

- N. The construction phase of the development must be done in such a manner to safeguard the resource portions of the site that have not been approved for development.

Response: Vegetation protection and erosion control measures will be implemented as shown on sheet 3 of 6 to insure that the existing vegetation and water quality resource area is protected. A sediment control fence will be installed at the perimeter of the water quality area to control erosion and damage to the water quality resource area.

19.322.11 Variances.

- A. The purpose of this section is to ensure that compliance with this ordinance does not cause unreasonable hardship. To avoid such instances, the requirements of this ordinance may be varied. Variances are also allowed when strict application of this ordinance would unreasonably deprive an owner of economically viable use of land.

- B. This section applies in addition to the standards governing proposals to vary the requirements of the base zone.

- C. A variance to avoid the unreasonable loss of economically viable use of a lot that contains protected water features is permitted. Applicants must demonstrate that without the proposed variance, the reasonable economic use of the property would be denied. The applicant must show that no other development proposal could result in permission for an economically viable use of the property.

- D. Variance Conditions.

The planning commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting relief from provisions of this chapter. If a variance is granted, it shall be subject to the following conditions:

1. The minimum width of the vegetated corridor shall be twenty-five (25) feet on each side of a primary protected water feature.
3. No more than twenty-five percent (25%) of the length of the water quality resource area for a primary protected water feature within a development site can be less than twenty-five (25) feet in width on each side of the water feature.

Response: The perennial stream was not mapped on the City's Water Resource map. Therefore, the Pacific Habitat Services has recommended a 15-foot buffer from the stream. No variance has been applied for.

19.322.12 Map Administration.

A. The purpose of this section is to provide a process for amending the Water Resource Quality Map to add water resources and correct the location of protected water features and the water quality resource areas.

B. Map Corrections, Deletions.

1. Improperly mapped water features shown on the Milwaukie Water Quality Maps may be deleted by administrative review in accordance with 19.1011.2 subject to the following criteria:
 - a. In the case of wetlands, submission of a wetland delineation prepared by a professional wetland scientist in accordance with the 1996 Oregon Freshwater Wetland Assessment Methodology demonstrating that the site does not contain wetlands.
 - b. In the case of drainages, submission of a hydrology report prepared by a professional engineer demonstrating that the drainage does not meet the definition of a protected resource.
2. The planning director shall confer with the department of state lands and metro to confirm delineation and hydrology reports as may be needed prior to issuing a notice of decision on a requested map deletion.
3. The city shall amend the Water Quality Resource Map if the wetland or hydrology report demonstrates:
 - a. That a primary protected water feature no longer exists because the area has been legally filled, culverted or developed prior to the adoption of this chapter; or
 - b. The boundaries of the water quality resource area have changed since adoption of the Water Quality and Flood Management Areas Map; or
 - c. An error in the original mapping has been demonstrated.

C. Map Correction, Additions and Modifications. Map corrections that require the addition of a protected water feature to the water quality map shall be made in accordance with 19.900 Amendments.

D. Modification of the water quality resource area. To modify the water quality resource area, the applicant shall demonstrate that the modification will offer the same or better protection of the protected water feature, water quality resource area and flood management area by:

1. Preserving a vegetated corridor that will separate the protected water feature from proposed development; and
2. Preserving existing vegetated cover or enhancing the water quality resource area sufficient to assist in maintaining or reducing water temperatures in the adjacent protected water feature; and
3. Enhancing the water quality resource area sufficient to minimize erosion, nutrient and pollutant loading into the adjacent protected water feature; and
4. Protecting the vegetated corridor sufficient to provide filtration, infiltration and natural water purification for the adjacent protected water feature; and
5. Stabilizing slopes adjacent to the protected water feature.

Table 1

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features ¹	< 25%	• Edge of bank full flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet

Primary Protected Water Features¹	> 25% for 150 feet or more ⁵	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	200 feet
Primary Protected Water Features¹	> 25% for less than 150 feet ⁵	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in > 25% slope) ³ , plus 50 feet. ⁴
Secondary Protected Water Features²	< 25%	• Edge of bankful flow or 2-year storm level • Delineated edge of Title 3 wetland	15 feet
Secondary Protected Water Features²	> 25% ⁵	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet

¹ Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.

² Secondary Protected Water Features include intermittent streams draining 50–100 acres.

³ Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).

⁴ A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

⁵ Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.

Table 2

WATER QUALITY RESOURCE AREA REQUIREMENTS

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS APPLICABLE TO PORTIONS OF THE WATER QUALITY RESOURCE AREA DISTURBED DURING DEVELOPMENT OR LAND DISTURBANCE
Good Existing Corridor: Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.	Submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including: sediments, temperature and nutrients; sediment control; temperature control or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ' s 303 (d) list. Inventory and remove debris and noxious materials.

Marginal Existing Vegetated Corridor: Combination of trees, shrubs and groundcover are 80% present, and 25--50 percent canopy coverage in the vegetated corridor.	Vegetated disturbed and bare areas with non-nuisance plantings from Native Plants List. Inventory and remove debris and noxious materials. Revegetate with native species using a city approved plan developed to represent the vegetative composition that would naturally occur on the site. Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.
Degraded Existing Vegetated Corridor: Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any non-native species.	Vegetate disturbed and bare areas with appropriate plants from Native Plants List. Remove non-native species and revegetate with non-nuisance plantings from Native Plants List. Plant and seed to provide 100 percent surface coverage. Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List. Inventory and remove debris and noxious materials.

(Ord. 1912, 2002; Ord. 1712 (part), 1991)

Section 19.503 Off-street parking standards.

19.503.3 Minimum Number of Required Parking Spaces and Maximum Allowable Parking.

- A. Parking shall be provided for all uses in accordance with specifications of Table 19.503.9. Where a use is not named in Table 19.503.9, determination of applicable parking standards shall be made in accordance with subsection 19.503.5.

Response: A minimum of two off-street parking spaces will be provided for each lot.

- B. Except as provided herein, parking provided shall not be less than "minimum parking required" nor shall parking provided exceed "maximum allowable parking" as shown in Table 19.503.9.

Response: There is no maximum in residential zones.

Chapter 19.1400 Transportation Planning, Design Standards, and Procedures

Section 19.1401 Purpose.

The purposes of this Chapter include the following:

- A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional and state transportation system plans.
- B. Implement performance measures to protect the functional classification, capacity and level of service of transportation facilities.
- C. Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.
- D. Assure that transportation improvements are designed and connected to accommodate multiple modes of travel, including pedestrian, bicycle, transit and auto. (Ord. 1893 (part), 2001)

Section 19.1403 Applicability.

- A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.
- B. Application Required. All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.

Response: The proposed project is new construction and is required to submit application for transportation review. This application is included in the submittal package.

Section 19.1404 Exception, adjustment, or variance.

- A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.
- B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2-Type II-Administrative Review procedures concurrent with the application for land use approval.
- C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgement and accepted engineering practices:
 - 1. In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;
 - 2. The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;
 - 3. Strict compliance with the design standard will result in a potentially hazardous condition;
 - 4. Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or
 - 5. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.

Cost of required improvements shall not be a basis for granting an adjustment.
- D. Exceptions. The City Engineer may waive compliance with transportation facility design standards for improvements located in the right-of-way in the following cases:
 - 1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;

2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or

3. A local improvement district, which includes the development site, has been approved.

E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700-Variance, Exceptions, and Home Improvements. (Ord. 1893 (part), 2001)

Response: The applicant is requesting an adjustment to the required setback sidewalk and planter strip to allow installation of a 5-foot wide curb-tight sidewalk due to the excessive slope on the north side of Rockvorst Avenue from the new street down to the existing house. This same adjustment is requested on the west side of the hammerhead into the site due to excessive slope. Strict compliance is not feasible due to the excessive slope. Substantial retaining walls would need to be constructed.

Sidewalk is only being proposed on the west side of the hammerhead extension into the site due to only serving four new lots. Three of the lots are on the west side.

A variance is being requested in order to not construct or fund street improvements along the frontage of 28th Avenue as required under section 17.32.020 and this section.

Section 19.702 allows a variance if the property has unusual conditions over which the applicant has no control. The physical location of the existing street within the 28th Avenue right-of-way and the excessive slope of the land between the edge of the existing pavement and the right-of-way line are beyond the control of the applicant. He did not plat the original subdivision nor grade the first roadway within the 28th Avenue platted right-of-way. The roadway is on the eastern half of the right-of-way and the extreme slope is on the western half of the existing right-of-way.

There are no feasible alternatives to the variance. No access will be taken from 28th Avenue. In order for curb and sidewalk to be constructed on 28th Avenue a 10-foot high retaining wall would be needed. Therefore, it is not practicable to construct curb and sidewalk improvements on 28th Avenue abutting this property.

There are no adverse effects upon other properties as a result of approval of a variance to not construct curb and sidewalk improvements in 28th Avenue. No access will be taken to 28th Avenue and the fence will remain in place.

Section 19.1405 Development Review Process.

A. The development review process used to confirm compliance with Chapter 19.1400 varies depending on the review procedure applicable to the proposed development.

19.1405.3 Minor or Major Quasi-Judicial Review. Review procedures for Minor and Major Quasi-Judicial Review are set forth in Sections 19.1011.3 and 19.1011.4, respectively. A separate application and fee is required for the Chapter 19.1400 compliance review; however, the application will be consolidated and reviewed concurrent with the Minor or Major Quasi-Judicial Review.

19.1405.4 Notice and Coordinated Review.

A. Specific notice requirements. In addition to the general notice provisions set forth in Chapter 19.1100, the City shall provide notice of applications submitted for Chapter 19.1400 review as outlined below:

1. Notice to the Oregon Department of Transportation (ODOT) if the proposed development generates more than two hundred (200) vehicle trips per day, is within two hundred (200) feet of a State highway, or is within one thousand three hundred twenty (1,320) feet of a State highway interchange ramp.
2. Notice to Metro and Clackamas County if the proposed development is within two hundred (200) feet of a designated arterial or collector roadway, as identified in Figure 6.1 of the Milwaukie Comprehensive Plan.
3. Notice to Metro if the proposed development is within two hundred (200) feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.
4. Notice to Tri-Met if the proposed development (excluding single family development on an existing lot) is within two hundred (200) feet of an existing transit route.

B. Maps of areas subject to notice. The Transportation Design Manual includes maps that outline the areas subject to the specific notice requirements described above.

C. Coordinated review. The City shall coordinate the development application review and conditions with the agencies listed above. If there is a deadline for agency submittal of comments and suggested conditions, it shall be included in the original notice provided by the City. The agency shall indicate if additional permits or approvals are required for access or transportation improvements separate from the City of Milwaukie requirements.

19.1405.5 Approval Criteria. Criteria for decisions under Chapter 19.1400 are as follows:

A. The proposed development and related transportation improvements comply with procedures, requirements, and standards of Chapter 19.1400 and the Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.

Response: An adjustment and a variance have been requested under section 19.1004.

B. If a transportation impact analysis is required, the findings of the analysis ensure that the development will provide transportation improvements and mitigation in rough proportion to the identified impacts of the development.

Response: A transportation impact analysis is not required.

C. All required improvements identified under city review of a transportation impact analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4-Mitigation.

Response: No transportation mitigation is required.

D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated. (Ord. 1907 (Attach. 2), 2002; Ord. 1893 (part), 2001)

Response: Four new homes will generate only about 40 trips per day. Most of these trips will use Van Water Street to access 32nd Avenue.

Section 19.14.06 Neighborhood Through-trip Study.

Any non-residential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:

A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the existing counts for the same streets.

B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3-Rough Proportionality and 19.1408.4-Mitigation.

This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B-Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study. (Ord. 1893 (part), 2001) Section 19.14.07 Adequate Transportation Facility Requirement.

Response: This is a residential development.

19.1407.1 Purpose. The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan, Transportation System Plan, and Capital Improvement Plan.

19.1407.2 Adequacy Requirement.

Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site. The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.

Response: Since no transportation impact analysis was conducted, there are proposed transportation facilities proposed that do not abut the site.

19.1407.3 Definition of Necessary Improvements. As used in 19.1407.2, "necessary improvements" are:

- A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or
- B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.

19.1407.4 Definition of Adequacy. As used in 19.1407.2, "adequate" means the following:

- A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:
 - 1. Level of Service F for the first hour of the morning or evening two-hour peak period; and
 - 2. Level of Service E for the second hour of the morning or evening two-hour peak period; and
- B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:
 - 1. Right-of-way width;
 - 2. Functional classification cross section;
 - 3. Transportation facility design standards;
 - 4. Pedestrian, bicycle and transit standards; and
 - 5. Access management standards.

19.1407.5 Determination of Level of Services. Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.

19.1407.6 Definition of Timely. As used in 19.1407.2, "timely" means the following:

A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or the developer shall provide the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:

1. Final city inspections for occupancy approval; and/or
2. Recording of the plat in the case of a subdivision or partition; and/or

B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued. (Ord. 1893 (part), 2001)

Section 19.14.08 Transportation Impact Analysis.

19.1408.1 Intent. A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.

19.1408.2 Applicability.

A. All projects that require development review under Chapter 19.1400 shall schedule a pre-application conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.

B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual.

C. The City may also require a pre-application conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.

D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.

E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.

F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.

G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.

H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.

I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.

Response: No transportation impact analysis was required for this development.

19.1408.3 Rough Proportionality.

A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the

development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.

B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.

C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgement and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:

1. Condition and capacity of existing facilities within the impact area in relation to city standards.
2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.
3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.
4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.
5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.
6. Accident history within the impact area.
7. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.
1. Other considerations as may be specified in the development review process and communicated in writing by the City.

Response: A transportation impact analysis was not required for this development, therefore there is no mitigation of impact required.

19.1408.4 Mitigation.

A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.

B. Mitigation options include, but are not limited to, the following:

1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.
2. Demand management programs may be used as mitigation when applied as conditions of land use approval.
3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.
4. Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements. (Ord. 1893 (part), 2001)

Response: A transportation impact analysis was not required for this development, therefore there is no mitigation of impact required.

Section 19.14.09 Street Requirements and Design Standards.**19.1409.1 General Provisions.**

- A. Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

Response: Streets have been designed and will be improved in accordance with the standards of this Chapter and the Design Manual, except as approved by adjustment and variance.

- B. Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.

Response: All streets abutting this site are local residential streets and shall be improved as such.

- C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1408.

Response: No transportation impact analysis was required for this development.

- D. No development permit shall be issued unless the development has frontage or approved access to a public street. For lots that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.

Response: The development has frontage on both 28th Avenue and Rockvorst Avenue. However, access will only be taken from Rockvorst Avenue. No access easements are necessary.

- E. All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.

Response: The proposed improvements along Rockvorst Avenue are designed as outlined in this Chapter as well as the Transportation Design Manual, and as approved by adjustment and variance.

- F. Cross sections for street improvements by functional classification are included in the Transportation Design Manual.

Response: All improvements are on local residential streets.

- G. Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.

Response: A variance is being requested in order to not construct or fund street improvements along the frontage of 28th Avenue as required under section 17.32.020 and Chapter 19.1400.

Section 19.702 allows a variance if the property has unusual conditions over which the applicant has no control. The physical location of the existing street within the 28th Avenue right-of-way and the excessive slope of the land between the edge of the existing pavement and the right-of-way line are beyond the control of the applicant. He did not plat the original subdivision nor grade the first roadway within the 28th Avenue platted right-of-way. The roadway is on the eastern half of the right-of-way and the extreme slope is on the western half of the existing right-of-way.

There are no feasible alternatives to the variance. No access will be taken from 28th Avenue. In order for curb and sidewalk to be constructed on 28th Avenue a 10-foot high retaining wall would be needed. Therefore, it is not practicable to construct curb and sidewalk improvements on 28th Avenue abutting this property.

There are no adverse effects upon other properties as a result of approval of a variance to not construct curb and sidewalk improvements in 28th Avenue. No access will be taken to 28th Avenue and the fence will remain in place.

- H. Transportation facility design standards shall be provided in accordance with the dimensions shown as "required" on Table 19.1409.3.

Response: Street improvements are designed to meet the requirement of Table 19.1409.3, with the requested adjustments and variance approval.

Section 19.503 Off-street parking standards.

19.503.3 Minimum Number of Required Parking Spaces and Maximum Allowable Parking.

- A. Parking shall be provided for all uses in accordance with specifications of Table 19.503.9. Where a use is not named in Table 19.503.9, determination of applicable parking standards shall be made in accordance with subsection 19.503.5.

Response: A minimum of two off-street parking spaces will be provided for each lot.

- B. Except as provided herein, parking provided shall not be less than "minimum parking required" nor shall parking provided exceed "maximum allowable parking" as shown in Table 19.503.9.

Response: There is no maximum in residential zones.

- I. Under provisions of Section 19.1404-Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions in Table 19.1409.3.

Response: An adjustment to the sidewalk and planter strip requirements has been requested to include a 5-foot curb tight sidewalk. See request under section 19.1404 above.

19.1409.2 Street Functional Classification and Improvement Standards.

- A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.

Response: Right-of-way improvements will be installed to meet the requirements of Table 19.1409.3 and the Transportation Design Manual, with the adjustments and variance approved by the Planning Commission and City Council.

- B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for

improvements identified as needed by the Milwaukee Transportation System Plan or a transportation impact analysis conducted under Section 19.1408.

Response: Additional right-of-way is being dedicated for the hammerhead turnaround extension into the site to serve the four new lots.

C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.

Response: The development has the required frontage and access to Rockvorst Avenue.

1. Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.

Response: Additional street dedication is being done for the hammerhead turnaround extension into the site to provide access to the four new lots.

1. New development shall be connected to the street network by a paved street.

Response: The development is connected to the street network.

2. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.

Response: A 24-foot wide half-street improvement is proposed on Rockvorst Avenue, to be completed when property to the south is improved.

3. To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a Transportation Impact Analysis.

Response: A transportation impact was not required for this development, therefore no off-site improvements will be done.

5. Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:
 - a. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.
 - b. A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.
 - c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.
 - d. In order to assure the eventual continuation or completion of the street, reserve strips may be required.
 - e. Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.

Response: The street system adjacent to the property is fully developed, this section is not applicable.

D. Traffic calming may be required in the design of a proposed street through the development review process or through the Neighborhood Traffic Management Program for existing streets. Traffic calming devices shall be designed to the standards in the Transportation Design Manual.

Response: Traffic calming design is not required for this development.

E. Vision Clearance. No signs, structures, or vegetation in excess of three feet in height shall be placed in "vision clearance areas" at intersections of streets, driveways, and alleys based on the guidelines in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" (Green Book). The City Engineer may vary sight distance standards in the interest of preserving significant vegetation, or other valued features, where the variance will not cause undue safety hazards.

Response: We will maintain the vision clearance areas at the intersections and driveways, in specific, the on-site landscaping will be regularly maintained to insure that adequate sight distance is required.

F. Additional Setbacks from Major Streets. Yards abutting a major street are subject to additional yard requirements. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of a building shall be in accordance with Table 19.1409.2.

Response: The site does not abut a major street.

19.1409.3 General Street Design Standards.

Response: The standards are not applicable to this project.

19.1409.4 General Intersection Design Standards.

A. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

Response: No new public street intersections are proposed in conjunction with this site development. The hammerhead will have the required turning radii required by the Fire District.

B. Street and intersection alignments for local streets should facilitate local circulation but avoid alignments that encourage non-local through traffic.

Response: No new public street intersections are proposed in conjunction with this site development.

C. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the City Engineer has approved a special intersection design.

Response: No new public street intersections are proposed in conjunction with this site development.

D. New streets shall intersect with existing street intersections so that centerlines are not offset, except as provided in Table 19.1409.1. Where existing streets adjacent to a proposed development

do not align properly, conditions may be imposed on the development to provide for proper alignment. (Ord. 1893 (part), 2001)

Response: No new public street intersections are proposed in conjunction with this site development.

Section 19.14.10 Pedestrian requirements and Standards.

19.1410.1 General Provisions.

- A. Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

Response: New sidewalks are proposed along the north side of Rockvorst Avenue and on the west side of the hammerhead extension into the site, according to the requested adjustment.

- B. Goals, objectives and policies relating to walking are included in Chapter 5 of the Milwaukee Comprehensive Plan and provide the context for the pedestrian requirements and standards. Figure 3.1 of the Comprehensive Plan illustrates the Walkways Network Master Plan and Figure 3.2 illustrates the Walkways Action Plan.

Response: Walkway improvements are not indicated along this property frontage in the Walkways Network Master Plan, nor the Walkways Action Plan

- C. Americans with Disabilities Act (ADA) requirements for pedestrian facilities shall apply where there is a conflict with City standards.

Response: Public sidewalks that meet the Americans with Disabilities Act (ADA) and the Transportation Design Manual standards will be installed as required. There is no conflict between the City standards and ADA requirements.

19.1410.2 Public sidewalks.

- A. Requirement. Public sidewalks are required on the public street frontage of all new development (including detached and attached single family dwellings on existing lots), all land divisions, and substantial redevelopment of commercial, industrial, multifamily and institutional uses. Public sidewalks are generally constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within an easement with the approval of the City Engineer.
- B. Design Standards. Standards and cross section details for the location, width and design of public sidewalks are included in the Transportation Design Manual.
- C. Maintenance. Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.

Response: Public sidewalks that meet the Transportation Design Manual standards will be installed and maintained as required, with the approval of the requested adjustment.

19.1410.3 On-site walkways and circulation.

- A. Requirement. All new development (excluding single family) and substantial redevelopment of commercial, industrial, multifamily and institutional uses shall provide a system of walkways that encourage safe and convenient pedestrian movement within the site and connections to off-site destinations. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

Response: On-site walkways are not required in residential development.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

Response: On-site walkways are not required in residential development.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

Response: On-site walkways are not required in residential development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

Response: On-site walkways are not required in residential development.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a seven foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

Response: On-site walkways are not required in residential development.

19.1410.4 Pedestrian/bicycle accessways.

A. Intent. Pedestrian/bicycle accessways are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses are unavailable.

Public street connections for cars, pedestrians and bicycle circulation are preferable to accessways. Pedestrian/bicycle accessways should only be used to ensure connectivity to nearby neighborhood activity centers in areas where no other public street options are available.

Response: Pedestrian/bicycle accessways are not required for this development.

- B. Requirement. Pedestrian/bicycle accessways shall be required in the following situations:
1. In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by four hundred feet or more, and by at least fifty percent over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.
 2. In commercial and community service overlay districts where addition of an accessway would reduce walking or bicycling distance by two hundred feet, and by at least fifty percent over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.

3. For purposes of 1 and 2 above, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface and is unobstructed.
4. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.

Response: The proposed development does not meet any of the above criteria. Public street connections are provided.

Section 19.14.11 Bicycle Requirements and Standards.

19.1411.1 General Provisions.

- A. Bicycle facilities, including on-street bike lanes, off-street bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.

Response: N/A

- B. Goals, objectives and policies relating to bicycling are included in Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.

Response: N/A

19.1411.2 Bike Lanes and Bikeways.

- A. Requirement. Bike lanes and bikeways shall be provided in accordance with the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.
- B. Timing of Construction. To assure continuity and safety, bike lanes and bikeways will generally be constructed as part of the construction or improvement of collector and arterial streets.
- C. Design Standards. Bike lanes shall be 6 feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.

Response: N/A

19.1411.3 Bicycle Parking. Bicycle parking requirements are set forth in Chapter 19.500. (Ord. 1893 (part), 2001)

Section 19.14.12 Transit Requirements and Standards.

19.1412.1 General Provisions.

- A. Transit facilities, including bus stops, shelters and related facilities, shall be designed and improved in accordance with Tn-Met standards and the requirements and standards of this Chapter and the Transportation Design Manual.
- B. Goals, objectives and policies relating to transit are included in Chapter 5 of the Milwaukie Comprehensive Plan.

19.1412.2 Transit Facilities.

A. Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.

B. Factors Determining Transit Requirements. The factors that determine the level of transit facility requirements include but are not limited to street classification, existing and planned level of transit service in adjacent streets, block length, proximity of major pedestrian destinations, existing and anticipated ridership, and transit needs of a development. Required improvements may include provision of an easement for a bus stop, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lights. The required improvements shall reflect a reasonable and proportionate share of the impacts of the development.

C. Location of Transit Facilities. Transit facilities shall be located at controlled street intersections, where possible. A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route. Where a bus stop has already been established within 500 feet of the affected development, a new bus stop shall only be provided if recommended by Tri-Met and required by the Director. Otherwise, the developer shall upgrade the existing stop through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).

Response: N/A

19.1412.3 Building Orientation to Transit. The following requirements apply to all new multifamily, commercial, office, and institutional development within 500 feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

Response: N/A

Section 19.1413 Access Management Standards.

19.1413.1 General Provisions.

A. Access permit required. Access to a public street requires an access permit in accordance with the following:

1. Permits for access to City streets shall be subject to review and approval by the City Engineer based on the adopted City standards contained in this Chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to State highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the City or Clackamas County. Decisions regarding access permits to State highways shall be based on access standards adopted by ODOT.

ODOT has been working in collaboration with the project development team to review the proposed site-access driveways and potential off-site improvement needs that could impact ODOT facilities. No access permits to State highways are being requested in conjunction with site development and it appears no off-site improvements requiring ODOT permits will be necessary.

3. Permits for access to County highways shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Decisions regarding access permits to County highways shall be based on access standards adopted by Clackamas County.

Response: Permits will be obtained for all the driveways.

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public, and/or private), driveways, and easements shall be as set forth in other sections of these

Design Standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway. Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

Response: This is a dead end local residential street. Spacing is not an issue.

C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty feet of the adjacent property. The access study shall include the following:

1. Review of site access spacing and design.
2. Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.
3. Review of all modes of transportation to the site.
4. Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the City Engineer or designee.

Response: Spacing is not an issue with this development.

D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.

Response: All driveways will be 18-feet wide and meet the ADA requirements.

TABLE 19.1413.1 Access Spacing Targets.

Street Classification	Minimum feet
Arterial	600
Collector	300
ODOT Facilities (ORE 99E, ORE 224)	Per Appendix C of Oregon Highway Plan

E. Access study requirements. The City or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.

Response: An access study is not required for this development.

F. Authority to restrict access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the City Engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:

1. Cause or increase existing hazardous traffic conditions;
2. Provide inadequate access for emergency vehicles; or

3. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

Response: These are not congested streets. No restrictions will be necessary.

G. Conditions of approval. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

Response: The current northerly access to the existing house will be closed when Lot 2 is developed because it crosses lot 2.

19.1413.2 Location of Driveway Access.

A. Double frontage. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

Response: All streets are residential. Access will be taken from Rockvorst because of the excess grade to get to 28th Avenue.

B. Distance from property line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and a half feet from the property line in residential districts and at least ten feet from the property line in all other districts.

Response: Access to the new lots will be determined at the time of building permit review. The existing house will access the hammerhead extension into the site just north of Rockvorst.

D. Backing into the right-of-way prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single family uses on local streets.

Response: These are single-family attached and detached homes. Backing into the right-of-way will be a common occurrence.

E. Minimum distance from driveway to intersection curb return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:

1. For local and neighborhood streets, driveways for detached or attached single family residential shall be located at least forty-five feet from the intersection curb return, or located as far away from the curb return as possible.
2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred feet from the intersection curb return.
3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred feet for arterials and three hundred feet for collectors, whichever is greater.

Response: Access to Lot 1 will be fairly close to the curb return of the hammerhead because of the grade change. Final determination will be made during street construction.

19.1413.3 Number and Size of Driveways.

- A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.

Response: These are local streets. Only one driveway will be installed per lot.

1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.
2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty feet may request an additional driveway, if needed.

Response: Only one driveway will be installed per lot.

B. Shared driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.

Response: This is a single-family zone. No shared driveways are anticipated.

C. Driveway size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This Chapter does not apply to requirements for flag lots, which are found in Title 17.

6. Industrial uses shall have a minimum driveway width of fifteen feet, and a maximum width of forty-five feet.

Maximum driveway widths for commercial and industrial uses may be increased if the City Engineer determines that more than two lanes are required based on the number of trips generated or the need for turning lanes. (Ord. 1893 (part), 2001)

Response: This is single-family development. Maximum driveway width will be 18-feet.

Land Division Ordinance (Title 17 of the City of Milwaukie Municipal Code)

Section 17.04.010 Title and structure.

- A. Title. The ordinance codified in this title shall be known and may be cited as the "land division ordinance" of the city of Milwaukie.
- B. Structure. This title is divided into chapters and sections. Chapter divisions are denoted by the two digit number following the title number. Section divisions are identified by the three digit number following the chapter division. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.020 Authority.

- A. The planning director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the planning director regarding a requirement of this title may be made to the planning commission under provisions of Chapter 19.1000.
- B. The engineering director shall have the authority to accept, conditionally accept or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.030 Consistency with municipal code.

All land divisions and property boundary changes shall be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.040 Approval required.

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way shall be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division or property boundary change. A person desiring to partition, subdivide, replat, consolidate or change property boundaries, shall submit application for approval as provided in this title and state law. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.050 Time limit on approval.

- A. Expiration of Approval. All decisions on boundary changes and land divisions shall expire one year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.
- B. Extensions. Approvals may be extended up to six (6) months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed six (6) months will be granted provided that:
 1. No changes are made on the original plan as approved;
 2. The applicant can show intent of recording the land division or boundary change within the six-(6)- month extension period; and
 3. There have been no changes in the ordinance provisions on which the approval was based. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.060 Reduction of land below minimum standards.

No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.070 Correction of improper land division or boundary change.

Improper land divisions or boundary changes shall be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This section shall not preclude enforcement against violations of this title. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.080 Form of applications.

All applications provided for in this title shall be made on forms prescribed by the planning director. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.090 Fees.

A fee as established by resolution of the city council shall be paid to the city upon the filing of an application. Such fees shall not be refundable. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.100 Amendments.

Legislative amendments to this title shall be made in accordance with Chapters 19.900 and 19.1000. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.110 Determinations of legal status.

A. All requests for determination of the legal status of parcels or lots shall be submitted in writing to the planning director and shall be accompanied by the following:

1. The fee for director determinations as adopted by the city council;
2. Title report including related instruments of conveyance; and
3. A detailed written request specifically identifying what information is being sought.

B. On review of the request, the planning director may require additional information as needed to respond to the request. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.120 Recording.

A. Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the county surveyor within six (6) months of city approval.

B. Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the planning director for a determination of consistency with city code and required approvals.

C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the county surveyor.

D. Subdivision and partition plats, and replats, must be recorded by plat.

E. A copy of the recording instruments shall be submitted to the planning director no later than fifteen (15) days after filing with the county surveyor. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.130 Monumentation and survey.

A. Monuments are required in accordance with Oregon Revised Statutes Chapter 92.

B. Monumentation surveys shall be filed with the county surveyor in accordance with Oregon Revised Statutes Chapters 92 and 209. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.140 Violation--Penalties.

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title shall be two hundred dollars (\$200.00). The cost of completing or correcting any improvements required by this title and incurred by the city may be assessed to persons as part of the civil infraction judgment. Each day a violation continues shall be considered a separate violation. (Ord. 1907 (Attach. 1), 2002)

Section 17.04.150 Appeals.

Appeals on actions authorized under this title shall be made in accordance with Chapter 19.1000. (Ord. 1907 (Attach. 1), 2002)

Section 17.12.010 Purpose.

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

Section 17.12.020 Application procedure.

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Minor Quasi-Judicial procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The planning director may modify the procedures identified in Table 17.12.020 as follows:

1. Minor Quasi-Judicial review may be changed to Type II review, or a Type II review may be changed to a Type I review upon finding the following:
 - a. The proposal is consistent with applicable standards and criteria;
 - b. The proposal is consistent with the basis and findings of the original approval; and
 - c. The proposal does not increase the number of lots.
2. Minor Quasi-Judicial review may be required in the following situations:
 - a. When the planning commission approved the original land use action; and
 - b. The proposed change is inconsistent with the original approval.

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds three (3).

Response: The proposed Land Division will result in a decrease in the number of lots within the original boundary. The land division will result in a decrease in the number of lots from seven (7) to six (6), one lot with the existing house, four (4) new building lots, and a natural resource lot. The land division shall be reviewed as a subdivision replat.

D. Partitions.

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1011.2, Type II Administrative Review. Should any associated application subject to Minor Quasi-Judicial review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1011.3 Minor Quasi-Judicial review.
2. Full compliance with all requirements for subdivision may be required if the planning commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds two (2) acres and within a year is being partitioned into more than two (2) parcels, any one of which is less than one (1) acre.

Response: As outlined above, the application will be reviewed as a subdivision replat as described below.

E. Subdivisions. Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1011.3 Minor Quasi-Judicial review.

Response: This is an application for a subdivision replat preliminary plat and shall be processed in accordance with Section 19.1011.3.

F. Final plats. Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1011.1 Type I Administrative Review.

Response: The application for the final plat will be processed subsequent to the approval of the preliminary plat and in accordance with Section 19.1011.1.

Table 17.12.020 Boundary Change Review Procedures

Boundary Change Action	Type I	Type II	Minor Judicial	Quasi-
1. Lot Consolidation Other Than Replat				

a. Legal lots created by deed.	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with the Oregon Revised Statutes and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
3. Partition Replat			
a. Any modification to a plat that was decided by the planning commission.			X
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
4. Subdivision Replat			X

(Amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

Section 17.12.030 Approval criteria for lot consolidation, property line adjustment, and replat.

A. Approval Criteria. The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located. (Ord. 1907 (Attach. 1), 2002)

Response: The Land division is a subdivision replat and will comply with this title and Title 19 of this code. The boundary change will allow reasonable development of the affected lots. All lots will exceed the square footage requirement of the zone in which they are located. However, the applicant is requesting relief from constructing or funding street improvements on 28th Avenue.

Section 17.12.040 Approval criteria for preliminary plat.

A. Approval Criteria. The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

Response: The proposed preliminary plat complies with Title 19 of the Milwaukie municipal code as outlined in the Approval Criteria Narrative that accompanies this document.

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

Response: The proposed Land Use application site design that accompanies this Preliminary plat shows that reasonable development will be accommodated within the subdivision. There will, however, be a need for a variance to get relief from the requirement to construct improvements on 28th Avenue as result of the subdivision.

3. The proposed plat name is not duplicative and the plat otherwise satisfies the provisions of Oregon Revised Statutes 92.090(1).

Response: Based on available records, the proposed plat name of Crystal Springs Estates is not duplicative. The plat satisfies the provisions of ORS 92.090 (1)

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.

Response: Existing Rockvorst Avenue, abutting the south property line, is being used with a new short hammerhead turnaround extending north into the site.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

Response: This attached narrative demonstrates how the proposal conforms to the applicable code sections and design standards.

B. Conditions of Approval. The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. (Ord. 1907 (Attach. 1), 2002)

Response: An access control strip will not be required for this proposed development.

Section 17.12.050 Approval criteria for final plat.

Following the Type I procedure, the planning director and the engineering director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
- B. The preliminary plat has not lapsed.
- C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
- E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
- F. The plat complies with the zoning ordinance and other applicable ordinances and regulations.
- G. Submission of signed deeds when access control strips are shown on the plat.
- H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060 and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. survey or giving two (2) or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

Response: The final plat will be submitted for approval subsequent to the approval of the preliminary plat.

Section 17.16.010 Application required.

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter. (Ord. 1907 (Attach. 1), 2002)

Section 17.16.020 Determination of completeness.

- A. Consistency with submission requirements. The planning director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Chapter 19.1000 of this code. The planning director shall provide to the applicant notice of

whether an application is complete or incomplete in accordance with Oregon Revised Statutes 227.178 and Chapter 19.1004.

B. Time allowed to complete submission. If the planning director finds that the application submission is not complete, the applicant has fifteen (15) calendar days from the date of the director's notice to provide the missing information. If the missing information is not provided within fifteen (15) days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

C. Reactivation of rejected applications may only be made by new submission of a complete application and fee. (Ord. 1907 (Attach. 1), 2002)

Section 17.16.030 Waiver of submission requirements.

A. Certain application submission requirements may be waived at the discretion of the planning director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and
3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form and plan checklist;
2. Property owner's authorization for application to be made;
3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
4. Required plans, maps, and drawings.

C. Application fees may only be waived by action of the city council. (Ord. 1907 (Attach. 1), 2002)

Response: The applicant is not requesting the Waiver of any submission requirements.

Section 17.16.040 Lot consolidation and property line adjustment.

The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the city council;
- C. Narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application check list; and
- E. A plan drawn to scale showing the following details:
 1. Scale, north arrow and date of map;
 2. Tax map and lot number identifying each property involved in the application;
 3. Adjacent rights-of-way, with width shown;
 4. Location, width and purpose of any recorded easements and/or plat restrictions;
 5. Proposed property lines and dimensions of the affected lots;
 6. The area of each lot;
 7. Location of existing structures to remain and proposed structures if any, with setbacks shown to all existing and proposed lot lines;
 8. Deeds of the properties involved; and
 9. Application fee as adopted by the city council. (Ord. 1907 (Attach. 1), 2002)

Response: This is not an application for a lot consolidation or property line adjustment.

Section 17.16.050 Replat.

The following shall accompany applications for a replat:

- A. Completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the city council;
- C. A narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application checklist; and
- E. Additional information including full submission requirements for preliminary plat as may be required by the planning director upon review of the proposal. (Ord. 1907 (Attach. 1), 2002)

Response: The required documentation is included in the attached narrative.

Section 17.16.060 Preliminary plat for partition and subdivision.

The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the city council;
- C. Completed and signed "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- D. All information specified on the "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

Response: The required documentation is included in the attached narrative.

Section 17.16.070 Final plat for partition and subdivision.

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the city council;
- C. Completed and signed "submission requirements" and "final plat checklist" forms;
- D. All information specified on the "submission requirements" and "final plat checklist";
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria.

Response: This is not an application for a Final plat.

Section 17.16.080 Preliminary review of proposal.

After submission of a preliminary plat by the subdivider, the public works director shall send the preliminary plat to appropriate affected agencies. Sufficient time shall be given for such agencies to provide a response. Such agencies may include the school district, State Highway Department and Clackamas County. (Ord. 1440 § 3.08, 1979)

Section 17.16.090 Approval.

Preliminary plat submittals shall be processed according to Section 10.05(C) of the Zoning Ordinance, Minor Quasi-judicial Review. (Ord. 1620 § 5 (part), 1987; Ord. 1440 § 3.09, 1979)

Section 17.20.010 Submission of plans.

Applicants for partition, subdivision, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

Response: The improvement plans are included with the application.

Section 17.20.020 Scale.

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

Section 17.20.030 General information to be shown on the preliminary plat.

- A. Preliminary plats shall be prepared by an Oregon registered land surveyor.

Response: The preliminary plat has been prepared by Ray Buckel, an Oregon registered land surveyor.

B. The following general information shall be submitted with the preliminary plat:

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the county surveyor in accordance with Oregon Revised Statutes Chapter 92;
2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;
9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe specified on application forms and checklists prescribed by the planning director.

Response: The required information is included on the preliminary plat.

C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within four hundred (400) feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

Response: The site is located adjacent to existing local streets, 28th Avenue (constructed) and Rockvorst Avenue (unconstructed). The nearest arterial street is Johnson Creek Blvd./Tacoma Street in the City of Portland. The nearest collector street is 32nd Avenue, more than 1,000 feet to the east. The vicinity map shows the relationship of the lot to these streets and surrounding area within 1,000 feet.

Section 17.20.040 Building lines prohibited.

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat. (Ord. 1907 (Attach. 1), 2002)

Response: No Building lines will be included on the final plat.

Section 17.20.050 Existing conditions.

The following shall be shown on the preliminary plat:

- A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, city boundary lines, and monuments.
- B. Contour lines related to an established benchmark or other datum approved by the engineering director, with intervals at a minimum of two (2) feet for slopes up to ten percent (10%) and five (5) feet for slopes over ten percent (10%).
- C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.

- D. Zoning and existing uses within the tract and two hundred (200) feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.
- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on city adopted natural resource and Title 3 maps.
- F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.
- G. Floodway and floodplain boundary.
- H. Areas containing slopes of twenty-five percent (25%) or greater. (Ord. 1907 (Attach. 1), 2002)

Response: The required information on existing conditions is included on an existing condition map.

Section 17.20.060 Proposed conditions.

- A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:
 1. Date, north point, scale, address, assessor reference number, and legal description;
 2. Name and address of the record owner or owners and of the person who prepared the site plan;
 3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
 4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
 5. Location of existing structures, identifying those to remain in place and those to be removed;
 6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
 7. Existing development and natural features for the site and adjacent properties, including those properties within one hundred (100) feet of the proposal, showing buildings, mature trees, topography, and other structures;
 8. Elevation and location of flood hazard boundaries;
 9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the city; if roads will continue beyond the plat; and existing and proposed grade profiles.

Response: The required information is included on the preliminary plat.

- B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian access ways, and new street development.

Response: This preliminary plat application accompanies a Land Use application for a subdivision replat that will fully develop the site. There are no access issues relating to the development of this site. Because of the wetlands on the westerly portion of the property, additional development of the site is not possible. The parcel to the south could be more densely utilized, as shown on the plat. The existing Rockvorst Avenue right-of-way will be used for access to any new lots.

- C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title and Title 19 and city design standards including the Milwaukie Transportation Design Manual.

Response: This preliminary plat application accompanies a Land Use application for a subdivision replat that will be developed on the site. Title 19 criteria and city design standards, including the Milwaukie Transportation Design Manual, relating to the development are fully discussed in the narrative for the Chapter 19 criteria.

- D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title and Title 19 and city design standards including the Milwaukie Transportation Design Manual.

Response: Complete plans and drawings are included with the application. These drawings demonstrate compliance with the applicable criteria.

- E. A drainage summary report and plan that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.

Response: Existing wetlands are located on the westerly portion of the site. An existing year around stream flows along the northerly boundary of this site. The perennial stream flow is due springs on the bank of the Springwater Corridor to the east of the site. During a storm event this stream also carries storm water from 28th Avenue. See the "Preliminary Storm water Design Report" included with the plans.

- F. Proposed deed restrictions, if any, in outline form.

Response: Deed restrictions will be placed on the wetlands in the form the City desires. The wetland report has some samples of deed restrictions.

- G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval. (Ord. 1907 (Attach. 1), 2002)

Response: Complete narrative, plans and drawings of the proposed improvements are included with the application. These documents are sufficient in detail to demonstrate compliance with the applicable criteria.

Section 17.20.070 Bond.

- A. The subdivider shall file with the notice, to assure his full and faithful performance, one of the following:

1. An agreement to make improvements in a form approved by the city attorney;
2. A letter of credit;
3. Cash.

- B. Such assurance of full and faithful performance shall be for a sum determined by the public works director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of city inspection.

- C. If the subdivider fails to carry out said improvements and the city has unreimbursed costs or expenses resulting from such failure, the city may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the city, the city shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the city, the subdivider shall be liable to the city for the difference. (Ord. 1440 § 4.07, 1979)

Response: Public improvements proposed as a result of this subdivision will be completed or bonded before the final plat is signed.

Section 17.20.080 Filing.

The subdivider shall, within thirty days, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within thirty days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the city. (Ord. 1440 § 4.08, 1979)

Response: The final plat will be submitted and recorded as required.

Note: The following criteria are included for reference only. Compliance with the Final Plat criteria will take place once the preliminary plat is approved:

Section 17.24.010 Required plat information.

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;*
- B. Legal description of the tract boundaries;*
- C. Name of the owner(s), applicant(s), and surveyor.*
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:*
 - 1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;*
 - 2. Adjoining corners of adjoining subdivisions;*
 - 3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.*
- E. The exact location and width of streets and easements intersecting the boundary of the tract.*
- F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the county surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.*
- G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to the centerline dimensions, the radius and central angle shall be indicated.*
- H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.*
- I. Lot numbers beginning with the number "1" and numbered consecutively.*
- J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.*
- K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.*
- L. The following certificates, which may be combined where appropriate:*
 - 1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;*
 - 2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;*
 - 3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor. (Ord. 1907 (Attach. 1), 2002)*

Section 17.24.020 Additional required information.

The following shall accompany the final plat application:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
- B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:
 - 1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
 - 2. The computation of all distances, angles, courses and lot areas shown on the final map;
 - 3. Ties to existing monuments, adjacent subdivisions and street corners;
 - 4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.
- C. A copy of any deed restriction applicable to the subdivision.
- D. A certificate by the engineering director certifying that the applicant has complied with one of the following alternatives:
 - 1. All improvements have been installed in accordance with these regulations and with preliminary plat approval.
 - 2. An agreement has been executed as provided in Chapter 17.32 of this title to assure completion of all required improvements. (Ord. 1907 (Attach. 1), 2002)

Section 17.24.030 Approval of final plat.

Approval of the final plat shall be indicated by signature of the planning director and engineering director. (Ord. 1907 (Attach. 1), 2002)

Section 17.24.040 Filing.

Within six (6) months of city approval the applicant shall submit the final plat for city signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within thirty (30) days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the city. (Ord. 1907 (Attach. 1), 2002)

Section 17.24.050 Notice for improvements.

Before approval is certified on the final plat, the applicant shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or file with the engineering director a notice, specifying the period within which required improvements and repairs will be completed. In either case, the applicant shall reimburse the city for the cost of inspection by the city at a rate established by the city council. All required improvements shall be guaranteed and bonded as provided in Chapter 17.32 of this title. (Ord. 1907 (Attach. 1), 2002)

Section 17.24.060 Bond.

- A. The applicant shall file with the notice one of the following to assure his full and faithful performance:
 - 1. An agreement to make improvements in a form approved by the city attorney;
 - 2. A letter of credit;
 - 3. Cash.
- B. Such assurance of full and faithful performance shall be for a sum determined by the public works director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of city inspection.
- C. If the applicant fails to carry out said improvements and the city has unreimbursed costs or expenses resulting from such failure, the city may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the city, the city shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the city, the applicant shall be liable to the city for the difference. (Ord. 1907 (Attach. 1), 2002)

Design Standards:

Section 17.28.010 Conformity of subdivision.

Partitions and subdivisions shall conform with any development plans of the city and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the city. (Ord. 1907 (Attach. 1), 2002)

Response: The subdivision does not have relevance to any documented development plans of the city.

Section 17.28.020 Streets.

- A. General. Requirements and standards for the layout, design and improvement of streets, pedestrian facilities, bicycle facilities, and transit facilities are included in Chapter 19.1400 and the Milwaukie Transportation Design Manual are applicable to all land divisions.

Response: Existing Rockvorst Avenue right-of-way is being used to access this subdivision, along with a new short hammerhead extension north into the site. The design of the improvements to the existing streets and the hammerhead and pedestrian facilities are outlined in the narrative for the proposed development. No bicycle facilities or transit facilities are proposed for development of this site, since these are local streets and no public transit is adjacent to the site.

- B. The location, width, and grade of streets shall be considered in relation to existing and planned streets, topographic conditions, public convenience and safety, and the proposed use of the land served by the street. The street system shall assure an adequate traffic circulation and connectivity to existing streets or planned streets. Intersection angles, grades, tangents, and curves shall be appropriate for the traffic to be carried and the terrain. Where their location is not shown in a development plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate extension of existing streets in surrounding areas; or
2. Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical. (Ord. 1907 (Attach. 1), 2002)

Response: The existing Rockvorst Avenue right-of-way is wide enough for the proposed improvements. The new grade will not exceed 15 percent. The existing wetland to the west prohibits the construction extension of Rockvorst Avenue westerly along its existing right-of-way. The Springwater Corridor and industrial area to the north does not permit extension of a street to the north, either. There are no other planned streets in the vicinity of this site. The proposed hammerhead will meet Clackamas County Fire District No. 1 standards. The design of the improvements to the existing streets and pedestrian facilities are outlined in the narrative for the proposed development.

Section 17.28.030 Easements.

- A. Utility Lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be at least ten (10) feet wide and centered on rear or side lot lines.

Response: Utility line easements are not necessary for this development. Storm, sanitary sewer, water mains, electrical lines and other public utilities are shown on the proposed construction plans. All will be in the existing right-of-way of Rockvorst Avenue and the new hammerhead extension.

- B. Watercourses. If a subdivision is traversed by a watercourse such as a drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including

construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major watercourses may be required. (Ord. 1907 (Attach. 1), 2002)

Response: A small stream traverses the north side of the site. Deed restrictions will be provided to meet City requirements.

Section 17.28.035 Closed-end street systems prohibited.

New subdivisions located on any closed-end street system that is created after the effective date of the ordinance codified in this section shall not result in more than twenty single-family lots, or the resulting number of lots upon which twenty dwelling units may be developed under the regulations of the zoning district in which the subdivision is located. This provision shall not apply in cases where topography; barriers including railroads, freeways, or existing development; or environmental constraints including, but not limited to, wetlands or water features, prevent extension of a through street. For the purpose of this section, "existing development" means built improvements including streets, associated utilities, and permanent residential, commercial, or institutional structures. (Ord. 1878 §3 (Exh. 1) (part), 2000)

Response: The subdivision is only five lots and a natural resource area. Existing wetlands prohibit extension of Rockvorst Avenue to the west and the Springwater Corridor prohibits extension of the street to the north.

Section 17.28.040 General lot design.

- A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19. This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature.

Response: The size and shape of the lots, including width and orientation are sized to accommodate the terrain, including the wetlands to the west and the stream on the north. The lots range in size from 5010 S.F. to 13,208 S.F which meet the R-5 standards. All lot widths are 50-feet except the interior single-family attached lot which is 30-feet, as required. All lot depths exceed 80-feet.

- B. Rectilinear Lots Required. Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

Response: The proposed lots are not rectilinear because of the street radius of Rockvorst Avenue and the existing lot shape makes rectilinear lots impossible. The new lot lines do not run at right angles to the street upon which the lots face because of the slope and shape of the existing lot. The rear lot lines are not parallel to the street because of the wetlands and the existing lot shape.

- C. Limits on Compound Lot Line Segments. Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding ten percent (10%) of the distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

Response: The change in direction of the compound lot line segment between lots 3 and 4, and between lots 4 and 5, is less than 10 percent. The lateral change in direction of both lines is approximately 4-feet which is less than ten percent of the distance between opposing lot corners of 169.08 feet and 164.35, respectfully. No other compound lot line segments are proposed.

- D. Adjustments to Lot Shape Standard. Lot shape standards may be adjusted subject to Section 19.700, Variances, Exceptions and Home Improvement Exceptions.

Response: The applicant is not proposing any adjustments to the Lot Shape Standard.

- E. Double Frontage. Double frontage and reversed frontage lots should be avoided except where essential to provide separations of residential development from railroads, traffic arteries, adjacent nonresidential uses or to overcome specific disadvantages of topography and orientation. (Ord. 1907 (Attach. 1), 2002)

Response: The proposed plat has two double frontage lots, lots 1 and 2, due to the excessive change in grade from 28th Avenue to the buildable portion of the lots and the existing house on lot 1.

Section 17.28.050 Flag lot development and future access.

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, planning commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 1907 (Attach. 1), 2002)

Response: The proposed plat does not include any new flag lot development.

Section 17.28.060 Flag lot design standards.

A. Consistency with the Zoning Ordinance. Flag lot design shall be consistent with Chapter 19.425.

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than two (2) flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than two (2) flag lots are prohibited. (Ord. 1907 (Attach. 1), 2002)

Response: The proposed plat does not include any new flag lot development.

Section 17.28.070 Flag lot limitations.

Flag lots are prohibited in subdivisions. (Ord. 1907 (Attach. 1), 2002)

Response: The proposed plat does not include any new flat lot development.

Section 17.28.080 Public open spaces.

A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the comprehensive plan or master plan adopted by the city is located in whole or in part in a subdivision, the planning commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the planning commission, and where the comprehensive plan or adopted master plan of the city does not indicate proposed public use area, the planning commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

- D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within eighteen (18) months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.
- E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.
- F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same. (Ord. 1907 (Attach. 1), 2002)

Response: Open space will be dedicated for Water Quality Resource in the wetlands.

Section 17.32.010 Improvement procedures.

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option shall conform to the requirements of this title and to improvement standards and specifications followed by the city. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the city.

Response: Plans for all work will be prepared in accordance with the requirements of the city and work will not begin until such plans have been reviewed and approved by the City.

- B. Work shall not begin until the city has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the city is notified.

Response: Notification will be made to the City prior to the start or resumption of any work.

- C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

Response: The City will be given notification of work on improvements and will be given full access for inspection purposes. Changes to typical sections and details will be complied with if required by the City.

- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.

Response: All public utility work will be constructed prior to any street surfacing. Utility stubs will be extended as required to avoid disturbance to new street improvements.

- E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city. (Ord. 1907 (Attach. 1), 2002)

Response: An as-built document showing all public improvements will be filed with the City upon completion of the improvements and will be prepared in accordance with City requirements.

Section 17.32.020 Required improvements.

If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the applicant:

- A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the

city in Chapter 19.1400, the Transportation Design Manual, and other standards as may be adopted by the engineering director. Existing streets that abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the approval authority with the advice of the engineering director.

Response: The new street extension (hammerhead) into the property and existing Rockvorst Avenue are proposed to be improved in accordance with the requirements of the Engineering Director. A variance is being requested to not build or fund improvements in 28th Avenue due to physical conditions beyond the control of the applicant.

B. Curbs. Curbs shall be constructed in accordance with standards adopted by the city.

Response: New curbs along the property frontage of Rockvorst Avenue and the hammerhead extension into the site will be constructed in accordance with the applicable City standards.

C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the city.

Response: New sidewalks are proposed to be constructed along the west side of the hammerhead extension into the site and along the north side of Rockvorst Avenue from the hammerhead east to 28th Avenue in accordance with the applicable City standards.

D. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the city.

Response: Each lot will have a separate service. The existing house is served by a private pump to 28th Avenue. The four new lots will be served by connecting individual pumps at each house to a force main in the hammerhead extension which is connected to the existing manhole at 28th Avenue and Van Water Street. All work will be done in accordance with the City standards.

E. Drainage. Drainage of surface water shall be provided as determined by the approval authority with the advice of the engineering director.

Response: The site is located near a wetland and a stream that drains some springs in the Springwater Corridor. During a storm event the spring also carries drainage from 28th Avenue. The minutes from the pre-application conference did not require detention, however, the engineer used infiltration trenches to provide detention and absorb storm water into the soil in two locations. See the construction plans for details.

F. Underground Utility and Service Facilities. All utility lines, including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or above. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

Response: All utility lines will be placed underground except transformers and meters as allowed. The applicant will coordinate required work with the utility providers.

G. Street Light Standards. Street light standards shall be installed in accordance with regulations adopted by the city.

Response: Street lights will be installed as required.

- H. Street Signs. Street name signs shall be installed at all street intersections and dead-end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the city. Other signs may be required upon the recommendation of the engineering director.

Response: New street signage will be installed as required.

- I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, and intermediate points. Monuments shall be of such material, size and length as required by state law and city standards. Any monuments that are disturbed before all improvements are completed shall be replaced to conform to the requirements of state law. Centerline monuments wells shall meet the specifications of, and be installed as required by the county surveyor.

Response: Monuments will be placed and replaced as required.

- J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the city. (Ord. 1907 (Attach. 1), 2002)

Response: A new public water main will be constructed on Rockvorst Avenue and the hammerhead extension to provide domestic water service. Fire protection will be provided from the existing fire hydrant at the southwest corner of 28th Avenue and Rockvorst Avenue. Each lot will be served with a separate meter and service line for domestic service.

Section 17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) year following acceptance by the city. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the engineering director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060 of this title. (Ord. 1907 (Attach. 1), 2002)

Response: All improvements will be guaranteed as to workmanship and material for a period of one (1) year following the acceptance by the city. The guarantee will be secured by bond and shall comply with the terms and conditions of Section 17.24.060.

Section 17.32.040 Flag lots.

Flag lots may be created by partitioning provided the following standards are met. In reviewing a flag lot application, the lot size, lot dimension, setback, lot coverage, minimum vegetation, and height limit requirements of the underlying zone shall be applied. Additionally, specific site development criteria adopted for the Neighborhood District Association in which the site is located shall apply.

A. Future Development. Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, consideration will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. Flag lot partitioning shall not preclude the development of surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, planning commission review, as specified in Section 17.32.050, shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way will be required as part of final plat approval.

B. Lot Size. The area of the access easement (flagpole) shall be deducted from the gross acreage of the flag lot. The "flag" or development portion of the lot shall be equal to or greater than the square footage of the underlying zone.

C. Front Yard. The front yard of the flag lot shall be measured from the front lot line. The front lot line is the line that is most parallel and closest to the street, excluding the pole portion of the flag lot. If this standard is not practical due to placement of structures on the subject or adjacent lots, topography, lot

configuration, or similar reasons, then the front lot line will be the other property line that abuts the access portion of the flag or easement.

D. Parking. No parking shall be permitted along the access easement (flagpole) portion of any flag lot or within the improved turnaround area for emergency vehicle access.

E. Screening and Buffering. A five foot wide visual and noise buffer shall be provided along the property line of the adjacent property that abuts the access for the flag lot. This buffer is intended to protect the affected dwelling(s) located on adjacent parcels and must extend from the rear lot line to the required front yard setback for the adjacent lot. This buffer shall consist of:

1. A minimum five foot high site-obscuring wooden fence or masonry wall; and/or,
2. A vegetative landscape screen consisting of trees and shrubs of sufficient size to provide effective screening within two years of planting. Trees shall be a minimum two inches caliper, and shrubs shall be a minimum of five gallons at time of planting. All required vegetation must be maintained and survive for a minimum of two growing seasons.

In addition, the rear and side yards of the development area (flag) shall be screened from adjacent property with a six foot tall wood or masonry fence.

F. Tree Mitigation. All trees six inches or greater in diameter, as measured at the lowest limb or four feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be planted at an appropriate ratio as mitigation for tree removal. At planting, deciduous trees shall be a minimum of two inches caliper and evergreen trees shall be a minimum of five feet tall. This standard shall control until the city adopts an Urban Forestry Ordinance to supercede this provision.

G. Access. For any flag lot, the minimum width of the access strip will be twenty feet, twelve feet of which must be paved for the full length of the access strip. The entire length of the access strip shall be kept clear of obstructions to access. Access to flag lots shall be consolidated into a single shared driveway wherever practical, including consolidation of the access of the parent lot. These minimum standards may be increased if the planning director determines such is necessary to guarantee adequate and safe access. A paved turnaround area, or other requirements intended to provide for emergency accessibility or reduced fire potential, may be required by the fire marshal to meet provisions of the Uniform Fire Code. In such a case, turnaround standards, or other requirements of the fire marshal, shall be provided by the fire marshal.

H. Where two flag lots will have abutting access strips, the combined width of the two access strips shall not be less than thirty feet. A joint access easement shall be created for the two flag lots, which extends to the deepest lot for the full width of the combined access strips. Within the joint access strip, a common driveway with a maximum paved width of twenty feet shall be provided which extends from the street to the deepest parcel. At the end of the joint access easement, a paved turnaround area, or other requirements intended to provide for emergency accessibility or reduced fire potential, may be required by the fire marshal to meet provisions of the Uniform Fire Code. In such a case, turnaround standards, or other requirements of the fire marshal, shall be provided by the fire marshal.

I. Proposed flag lots shall be referred to the public works department and the fire marshal's office for review and recommendation or decision on appropriate fire and traffic safety improvements, and other requirements to be provided by the applicant. At a minimum these shall include recommendations on: vertical clearance for fire equipment; sewer lines and pumps; water meters and lines for adequate flows and pressures; fire hydrants; special post for display of house numbers at street entrance to access easement; street lights; and assurance of clear vision conditions at access entrance. Additional improvement recommendations such as: paved access driveways constructed to residential street standards; special additional easements for utilities; necessary traffic safety devices, or half-street, curb and sidewalks; may also be required.

J. The planning commission shall discourage development of three or four flag lots in which there are more than two lots in depth from a public street. When requested, such proposals must be considered by the planning commission under the variance procedure. Increased standards for improvements in such cases shall be as determined by the planning commission with advice from public works and other departments as appropriate. (Ord. 1849 § 4 (part), 1998: Ord. 1769 § 3 (part), 1994: Ord. 1440 § 7.04, 1979)

Response: The proposed plat does not include any new flag lot development.

Section 17.32.050 Planning commission approval.

If the location or type of land has not been defined for routine administrative approval or if the proposed partitioning does not comply with the requirements for routine administrative approval, the site plan and concept plan shall be submitted to the planning commission for determination that the proposal will be compatible with the comprehensive plan. The planning commission may require dedication of land and easements and may specify conditions or modifications in the site plan and concept plan necessary to carry out the comprehensive plan. In no event, however, shall the planning commission require greater dedication or conditions than could be required if the parcel were subdivided. If the partitioning provided in the site plan and concept plan results in complete accomplishment of those parts of the comprehensive plan which could be affected by partitioning of the parcel, the planning commission shall state on the concept plan that future partitioning within the area shown on the concept plan may occur without submission for approval of the planning commission. In this case, administrative review, pursuant to Zoning Ordinance Section 1011.2, shall be required to complete the future partitioning. (Ord. 1849 § 4 (part), 1998; Ord. 1440 § 7.05, 1979)

Response: The proposed plat will be reviewed by the planning commission.

Section 17.32.060 Compliance with subdivision requirements.

Full compliance with all requirements for subdivision may be required if the planning commission should determine that the entire parcel being partitioned is in the process of being divided into smaller parcels. This provision applies if the parcel of land to be partitioned exceeds two acres and within a year is being partitioned into more than two parcels, any one of which is less than one acre. (Ord. 1849 § 4 (part), 1999; Ord. 1440 § 7.06, 1979)

Response: The proposed plat complies with the requirements for a subdivision as outlined above.

Section 17.32.070 Filing of plan.

When a site plan has been approved, all copies shall be marked with the date and conditions, if any, of approval. One copy shall be returned to the applicant, and one copy shall be retained by the planning commission director. Submission of the final plat for recordation with the Clackamas County surveyor's office shall follow the provisions of Section 17.20. (Ord. 1849 § 4 (part), 1998; Ord. 1440 § 7.07, 1979)

Response: The filing procedure will be adhered to.

Section 17.36.010 Improvement procedures.

In addition to other requirements, improvements installed by the subdivider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this title and to improvement standards and specifications followed by the city. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the city.
- B. Work shall not begin until the city has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the city is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. Provision for all underground utilities, including, but not limited to, water, sanitary sewers and stormdrains, installed in streets by the subdivider shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.

E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city. (Ord. 1440 § 8.01, 1979)

Response: Compliance with the requirements is outlined above under Section 17.32.010.

Section 17.36.020 Required improvements.

If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the subdivider:

A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the city in Chapter 19.1400 of the Zoning Ordinance. Existing streets which abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the planning commission with the advice of the public works director.

B. Curbs. Curbs shall be constructed in accordance with standards adopted by the city.

C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the city.

D. Sanitary Sewers. When the subdivision is within two hundred feet of an existing public sewer main, sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the city. When the subdivision is more than two hundred feet from an existing public sewer main, the planning commission, with the advice of the public works director may approve alternate sewer disposal systems.

E. Drainage. Drainage of surface water shall be provided as determined by the planning commission with the advice of the public works director in accordance with the development plans of the city.

F. Underground Utility and Service Facilities. All utility lines, including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground services.

G. Street Light Standards. Street light standards shall be installed in accordance with regulations adopted by the city.

H. Street Signs. Street name signs shall be installed at all street intersections and dead-end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the city. Other signs may be required upon the recommendation of the public works director.

I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of such material, size and length as required by state law or with standards. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced to conform to the requirements of state law.

J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the city. (Ord. 1893 Exhibit 3 (part), 2001: Ord. 1440 § 8.02, 1979)

Response: Compliance with the requirements is outlined above under Section 17.32.020.

Section 17.36.030 Guarantee.

All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the city. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the public works director. Said cash or bond shall comply with the terms and conditions of Section 17.20.070 of this title. (Ord. 1440 § 8.03, 1979)

Response: All work will be provided with the required guarantee.

Section 17.40.010 Environmental protection.

Developments approved through this title must conform to the requirements of the environmental protection subpart of the community development ordinance (Title 16 of this code). Particular note should be made regarding requirements relating to excavation in landslide-prone areas. (Ord. 1440 § 9.01, 1979)

Response: The improvements will comply with environmental protection regulations per Title 16.

Section 17.40.020 Solar energy.

Street and orientation of lots shall be designed to take maximum advantage of solar energy potential. (Ord. 1440 § 9.02, 1979)

Response: The proposed subdivision does not meet the Solar energy standards. The lots are not oriented north to south to take advantage of solar energy potential. Because of the slope of the lot from east to west exceeds 15 percent from 28th Avenue to the wetlands a road that meets Fire District Standards cannot be built on Rockvorst Avenue to access lots that would be oriented north-south. Therefore, the lots must be oriented east-west. Per Section of 19.1303.5 of the City Code the Director shall reduce the percentage of lots that must comply with subsection 19.1303.3, to the minimum extent necessary, if he or she finds the portion of the site for which the adjustment is sought has a natural grade that is sloped ten percent or more and is oriented greater than forty-five degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor. The site plan, done by a professional land surveyor, shows the area west of the hammerhead exceeds ten percent.

Section 17.44.010 Variance.

A variance of any provision of this title may only be granted in accordance with Chapter 19.700. (Ord. 1907 (Attach. 1), 2002)

Response: The applicant is requesting a variance under Chapter 19.702. See the attached narrative.

Section 17.44.020 Variance--Application.

When necessary, the community development director or the planning commission may authorize variances to standards within the subdivision ordinance following the criteria of Chapter 19.700 of the zoning ordinance. In granting a variance, the planning commission or community development director may attach conditions which they find necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1893 Exhibit 3 (part), 2001; Ord. 1769 § 3 (part), 1994; Ord. 1620 § 5 (part), 1987; Ord. 1440 § 11.02, 1979)

Response: The applicant is willing to accept conditions on the variance approval.

Section 17.48.010 Appeals.

An interested person may appeal a decision of the planning commission per the provisions in Section 10.02 of the Zoning Ordinance, Ordinance 1438. The city council shall hold a hearing on the appeal. The city council may affirm, overrule or modify the decision or requirement made by the planning commission if the decision of the council complies with the intent of this title. The disposition of the appeal shall be final. (Ord. 1620 § 5 (part), 1987)

19.701 Variances

The planning commission, design and landmarks commission as provided in Section 19.312.7H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the

impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

Section 19.7.02 Circumstances for granting variances.

A variance may be granted only when the planning commission or planning director finds all of the following criteria are satisfied.

19.702.1 Criteria for Granting Variances.

A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.

B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.

C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible. (Ord. 1849 (part), 1999)

Response: The excessive slope of the property and the boundary configuration are the unusual conditions over which the applicant has no control. There are no feasible alternatives to the variance requested and it is the minimum to allow the applicant to use his property in a manner substantially the same as others in the surrounding area. There are no adverse effects upon other properties as a result of the approval of this variance. See attached narrative.

Section 19.7.03 Administrative variance.

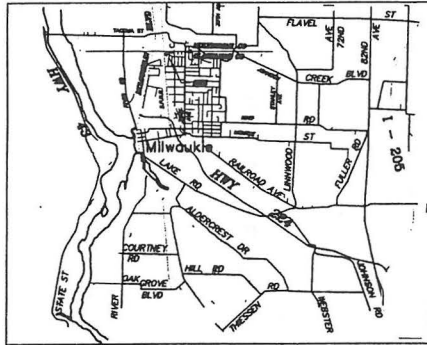
A variance of up to ten percent of the standard required may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type II Administrative Review, shall be followed. Findings as specified in Section 19.702 shall be made. (Ord. 1849 (part), 1999)

Section 19.7.04 Variance procedure.

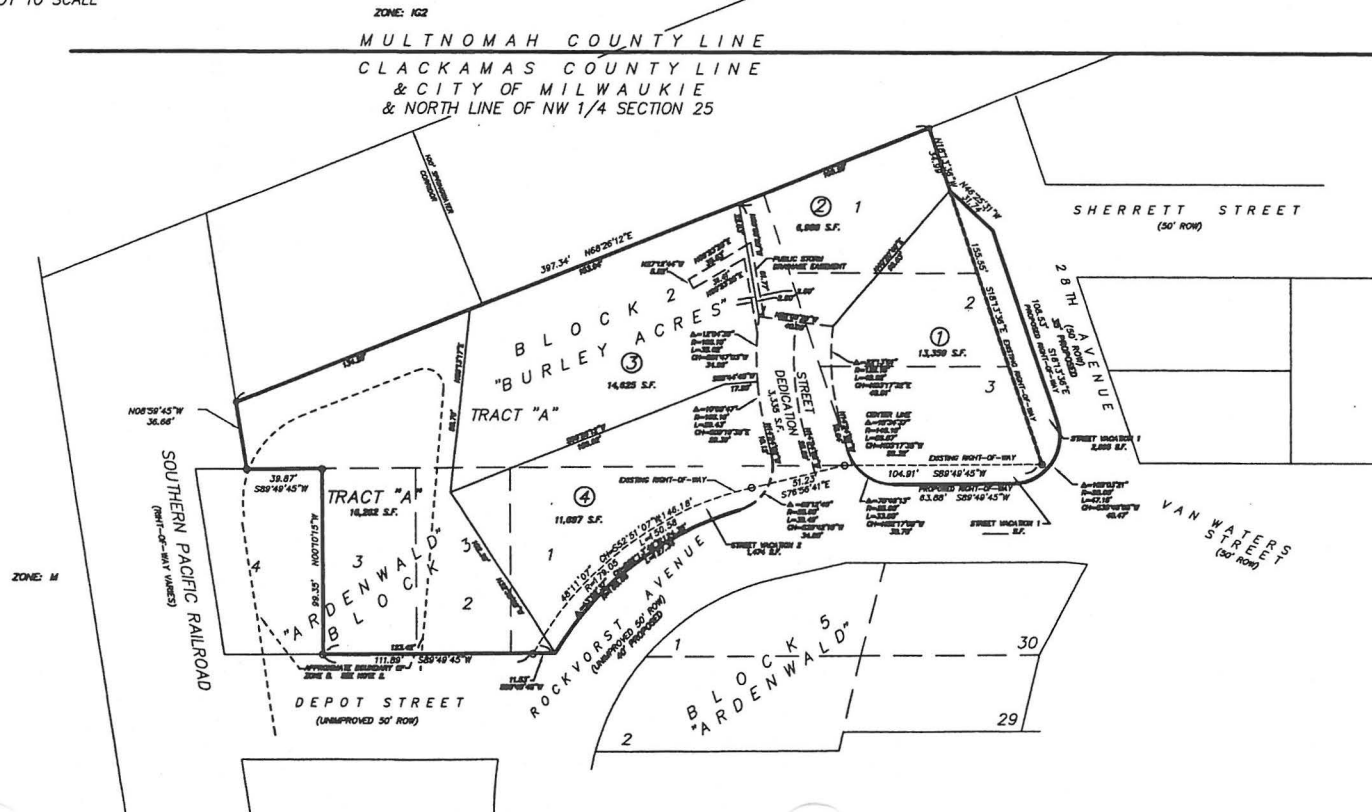
Variance requests in excess of ten percent from the standard required shall require forms and procedures outlined in Sections 19.1003-19.1010 and subsection 19.1011.3, Minor Quasi-Judicial Review. Findings as specified in Section 19.702 must be made. (Ord. 1849 (part), 1999)

Response: See the attached forms and narrative.

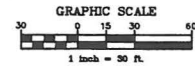




AREA MAP
NOT TO SCALE



A REPLAT OF
ALL OF LOTS 1 THRU 3 AND TRACT A OF BLOCK
2 OF "BURLEY ACRES" AND ALL OF LOTS 1 THRU 3 OF
BLOCK 3 OF "ARDENWALD", SITUATED IN THE NORTHWEST
QUARTER OF SECTION 25, T. 1 S., R. 1 E., W.M.,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
STATE PLAT
BATHING 1, BUCKEL
8419
JUNE 15-18

ASSESSOR'S INFORMATION

MAP 1 RE 2584, LOTS 4204, 3904, 3700

ADDRESS
8055 SE 28TH AVENUE, MILWAUKIE, OREGON 97222

LEGAL DESCRIPTION

TRACT "A" AND LOTS 1, 2 AND 3, BLOCK 2, "BURLEY ACRES" IN THE CITY OF MILWAUKIE, OREGON, AND LOTS 1, 2 AND 3, BLOCK 3, "ARDENWALD" IN THE CITY OF MILWAUKIE, OREGON

OWNER

NORMAN SCOTT AND MARVIN SCOTT, AS TENANTS BY THE ENTIRETY

AREAS

LOT 1: 13,300 SQUARE FEET
LOT 2: 14,625 SQUARE FEET
LOT 3: 11,697 SQUARE FEET
LOT 4: 14,625 SQUARE FEET
TRACT "A": 3,338 SQUARE FEET
TOTAL: 54,585 SQUARE FEET

NOTES:

- THE ELEVATIONS FOR THIS PROJECT ARE BASED UPON CLACKAMAS COUNTY OFFICIAL RECORDS IN THE CITY OF MILWAUKIE, AND ADJUSTED TO THE 1985 DATUM. ELEVATION 4' BRASS BENCHMARK AT THE NORTH 1/4 CORNER OF SECTION 25. ELEVATION = 144.00.
- A RECONSTRUCTED PORTION OF THIS PROPERTY IS WITHIN ZONE 4, DEPICTED ON FEMA FLOOD INSURANCE RATE MAPS (FIRM 17000, EFFECTIVE DATE OF JUNE 16, 1993).
- ZONE 4 EXTENDS TO AREAS BETWEEN LINES OF THE 100-YEAR AND 500-YEAR FLOODS. ON CERTAIN AREAS SUBJECT TO 100-YEAR FLOODING WITH AN AVERAGE DEPTH LESS THAN 1 FOOT OR WHERE THE CONTRIBUTING DRAINAGE AREA IS LESS THAN ONE SQUARE MILE OR AREAS PROTECTED BY LEVEES FROM THE FLOOD PLAINS.

NO.	BY	DATE	REVISIONS



PREPARED FOR:
NORM SCOTT
8055 SE 28TH AVENUE
MILWAUKIE, OREGON
97134-4293

PRELIMINARY PLAT
CRYSTAL SPRINGS ESTATES
8535 SE 28TH AVENUE
MILWAUKIE, OREGON

Project: 04111
Position: CVD
Drawn: JLD
Checked: CVD
Date: MARCH 23, 2001

Keith Jones
Community Development:

I have lived at 8725 SE. 28th. Ave. for 24 years. I also own 8645 SE. 28th. Ave. I obviously enjoy the area very much. At this point, it is an exceptional place to live. The fact that 28th. Ave. is not a through street, keeps the traffic down to a minimum. Basically, residents only. Which in turn makes it a safe place for children and pets. I also love the fact that it is basically a rural setting in a small town. My house borders the Roswell Detention Pond. I can't tell you how enjoyable it is to see ducks, geese, nutrea, racoons, squirrels etc. flourishing in an environment that is protected by the city. In the Spring, the calming sound of frogs enhances the beauty of a wonderful clear night. At the West end of the Corridor bike/walk path there is a bench that overlooks the property in question. The thought of standing there and seeing a subdivision on that exceptionally beautiful land is extremely disturbing to me. Which brings me to the "crux" of the situation-----

As you can tell from my previous paragraph, I would never sign a piece of paper that would eventually lead to the subdividing of this property. Mr. Scott approached me with the proposal that he needed to get a "variance" from the city in order to get his property line in order so he could build a deck on his house. Decks are a beautiful addition to a home. I have one myself. He assured me, that was all he was going to do. I feel that he misrepresented his intentions at the signing.

Unfortunately, I will be out of town at the date of the meeting, or I would most whole-heartedly be there in person to voice my feelings of protest. Thank you for your time and consideration in this extremely sensitive matter.

Sincerely,



James A. Sanders
8725 SE. 28th. Ave
Milwaukie, Or. 97222
503-659-7472

RECEIVED
JAN 14 2005
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Community Development Department

THROUGH: Paul Shirey, Director of Engineering

FROM: Brenda Schleining, Civil Engineer
Jack R. Ostlund Jr., Associate Engineer

RE: Norm Scott Subdivision, 8555 SE 28th Avenue
S-04-04, TPR-04-10, VR-04-12, WQR-04-12

DATE: June 9, 2005

Subdivide existing site into 4 lots. A new road and hammerhead turnaround is proposed. Also proposed is a street vacation to vacate 15 feet of 28th Avenue and 10 feet of Rockvorst Avenue adjacent the site. A tract of land containing a wetland is proposed to be conveyed to the City of Milwaukie.

Public Facilities and Services

Sanitary Sewer System

Sanitary sewer service is available on 28th Avenue from an 8-inch main. Since lots will be located lower than sanitary main, pumps are being proposed for all lots. Under this proposal, each lot would have a separate lateral, pump, and backflow device. From the house sewage would be pumped into a public 3" PVC force main. The system would have private and public ownership in the typical manner with private ownership being everything behind and including the tee at the mainline. The remaining portion being publicly maintained.

One SDC unit will be assessed with each lot with the exception of the lot with the existing house. The current sewer SDC charge is \$893/unit.

Water System

Water is available in 28th Avenue. Under this proposal, a 4" ductile iron pipe will be extended from 28th Avenue to serve these lots. A 2" blowoff will be assembled at the end of the line for maintenance. One-inch service lines must be constructed to each lot with meter setters and meter boxes. The City will install the meters at the time of home construction after all fees are paid.

An existing fire hydrant exists at the intersection of 28th Avenue and Rockvorst. The present plan indicates that this would be adequate for fire protection within the

subdivision. The location may need to be adjusted to fit the proposed street location.

One water SDC unit will be assessed with each lot with the exception of the lot with an existing house. The current system development charge (SDC) for water for a new single-family residence is \$1,095.00. SDCs and meter costs will be assessed at the time the building permit is issued.

Storm Drainage System

The impervious surface generated by the asphalt from the roadway would be captured by catch basins. The storm water would then enter an infiltration trench. The infiltration trench will contain a 12" perforated pipe with drain rock and geotextile fabric. According to the storm calculations using the soils maps provided by Clackamas County, the soils in this area are adequate for a trench of this type. The catch basins and infiltration trench will be publicly maintained.

The preliminary storm water design report dated November 23, 2004, uses the 5-year pre-development and the 25-year post-development. Please revised report to reflect 25-year pre-development and 25-year post-development

One storm water SDC will be charged for each lot, except the lot with an existing house. The current SDC rate for storm water for a single-family residence is \$473. The storm water runoff needs to be calculated using the 25-year pre and post storm water.

Street Improvements and Right-of-Way Requirements

The proposed four-lot subdivision will generate approximately 31 trips per day based upon data available from the Institute of Transportation Engineers Trip Generation Handbook (7th Edition). A traffic impact study was not required for this subdivision because it did not meet minimum threshold requirements in the Transportation Design Manual.

Per Municipal Code Section 19.1407.2, all rights-of-way (ROW), streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner. The proposed project has frontage along two local streets, 28th Avenue and Rockvorst Avenue, and one new local street street/cul-de-sac. The standard for a local street (per Table 19.1409.3) is:

- 50-feet of ROW
- 10-foot travel lanes

- 8 feet of on-street parking
- 6-foot setback sidewalks

28th Avenue is an existing local street that lacks curb and sidewalk on both sides. The paved roadway varies in width from 10-17 feet and is located on the east side of the existing 50-foot ROW. The narrowest 10-foot section of the roadway doesn't allow for safe two-way traffic and vehicles often drive on the grassy shoulder adjacent to the existing fence on the west side of the roadway. The corner of the existing residence is about 6.5 feet into the 28th Ave. ROW, and the existing fence along the 28th Avenue is well into the ROW. A steep bank exists immediately west of the existing fence.

Minimum standards for road and sidewalk width may be reduced by approval of a transportation adjustment Section 19.1404 (C). In order to be approved the Engineering Director (In this case the Planning Commission) must determine the proposal complies with the following criteria:

1. *In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;*
2. *The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;*
3. *Strict compliance with the design standard will result in a potentially hazardous condition;*
4. *Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and storm water facilities; and/or*
5. *Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.*

Cost of required improvements shall not be a basis for granting an adjustment.

The Director of Engineering will support an adjustment to the standard for a local street and support construction of a 5-foot curbtight sidewalk along the west side of 28th Avenue from Rockvorst to Sherrett Street. The steep terrain in the project area makes it infeasible and potentially hazardous (section 19.1400) to construct 6 foot setback sidewalks. The additional cross section required for the planter strip will create a steeper drop-off at the edge of the sidewalk.

Additional paving to fill the gap between the existing edge of pavement and the new curbline would provide for a total of 18 feet of pavement. The existing transportation facilities are inadequately sized. A portion of this sidewalk appears to be on private

property and this section will require an easement from the property owner. A guardrail will be required on the SE side of the property due to the steep drop off. This is shown in the redlined plans.

The applicant's proposal for a 28-foot paved roadway with a 2-foot gravel shoulder on Rockvorst is acceptable, provided the west end of the roadway is graded to allow vehicle access into the wetland area for maintenance purposes. A 5-foot curbtight sidewalk on the north side of the roadway is acceptable. The steep terrain in the project area makes it infeasible and potentially hazardous (section 19.1400) to construct 6-foot setback sidewalks. The additional cross section required for the planter strip will create a steeper drop-off at the edge of the sidewalk. No parking will be allowed on the south side of the roadway. The private 6-foot wood fence needs to be removed from the public ROW.

Streetlights must be installed as part of the public improvements. PGE or a private electrical contractor can provide a design for the developer, to be submitted to Engineering for review and approval. Streetlight location should light up the street intersections.

Plan and Permit Requirements

Full-engineered plans for all the public improvements must be submitted to the Planning Department as part of the Final Plat application for review and approval before any building permits are issued. Construction of the improvements must be completed before the City will approve occupancy of the buildings. An inspection fee for these improvements must be paid at the time of the required pre-construction conference with the contractor. An itemized engineer's estimate of the cost of the public improvements must also be provided, or the actual itemized bid from the contractor doing the work, in order for the City to calculate the inspection fee.

An erosion control plan and permit application must be submitted along with the engineered plans for public improvements. Additionally, an erosion control plan and permit application will be required along with each building permit.

System Development Charges

The transportation SDC for a single-family residence is \$1,562.62 per additional unit (1.01 pm peak trips rate x \$1,511.50/trip). The City uses the 7th Edition of the Trip Generation Handbook from the Institute of Transportation Engineers. All system development charges for water, sanitary sewer, storm drainage, and transportation must be paid at the time the building permit is issued for each new building.

The Parks and Recreation SDC is currently \$1,817 per single-family residence.

Conditions of Approval

Staff recommends the following conditions of approval:

1. The developer must install a new 3-inch sanitary sewer force main in the new street to serve the new lots. Separate laterals and pumps must be installed to serve each of the new lots.
2. A new 4-inch water main must be constructed in the new street to serve the three new lots. One-inch service lines must be constructed to each lot with meter setters and meter boxes. The City will install the meters at the time of home construction after all fees are paid.
3. All system development charges for the new houses must be paid at the time the building permits are issued.
4. Install guardrail on SE corner of property as shown on red line plans.
5. Remove private fence from the public right of way.
6. Full-engineered plans for all the public improvements must be submitted to the Planning Department as part of the Final Plat application for review and approval before any construction begins.

The applicant shall construct public improvements in substantial compliance with the City of Milwaukie Transportation Design Manual. An erosion control plan must be part of the engineered plans. An inspection fee of 5 ½ percent of the construction cost of the public improvements must be paid before construction begins and the contractor must have a pre-construction conference with the City before construction begins.

28th Avenue Improvements (between Sherrett and Rockvorst)

Standard "C" curb and 5-foot wide sidewalk on the west side of the roadway. Additional paving to fill the gap between the existing edge of pavement and the new curbline to provide for a total of 18 feet of pavement. A retaining wall will need to be built to support the sidewalk and a portion of the roadway. Engineering plans and calculations must be submitted for final approval of the retaining wall.

Rockvorst Avenue

The applicant will construct a 28-foot paved roadway with a 2-foot gravel on the south side of the roadway. The west end of the roadway must be graded to allow vehicle access into the wetland area for maintenance purposes. Standard "C" curb and 5-foot wide sidewalks shall be provided on the north side of the roadway. The applicant will need to provide a driveway connection to the existing residence on the south side of the

roadway. No parking signage will be installed on the south side of the roadway.

Extension north of Rockvorst)

The applicant shall construct a 24-foot roadway with 5-foot curbtight sidewalks along both sides of the roadway (including the existing residence frontage). No parking signage will be installed on the west side of the roadway. Final sidewalk configuration will be coordinated with proposed driveway locations during final design. Width of driveway access points will be between 9 and 18 feet.

7. Streetlights must be installed as part of the public improvements.
8. The public improvements must be installed or they must be fully funded, with a 20 percent contingency, before the City will sign the subdivision plat. This in addition to an 18-month maintenance bond for the public improvements.
9. The applicant shall install all signage in the public right-of-way to accommodate the proposed public improvements and meet standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD) and relevant Oregon supplements. The applicant shall reimburse the City of Milwaukie for any costs associated with the installation.

Mr. Keith Jones
City of Milwaukie
Community Development Department
6101 SE Johnson Creek Blvd.
Milwaukie, Oregon 97206

Jan. 14, 2005

RECEIVED
JAN 18 2005
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

There are some issues that I have in regard to the proposed development at 8555 SE 28th Ave.

When Mr. Scott asked us to sign a petition for the partial vacation of SE 28th Ave and SE Rockvorst Ave it was so he could build 2 decks. The proposed partitioning and subsequent buildings were not mentioned. Therefore it is my understanding that Mr. Scott solicited the signatures with false representation to the purpose of the petition. Also, I would like my signature removed from the petition.

Mr. Scott has levelled the westerly portion of his land including the addition of 50cy to 60cy of dirt. The area that he affected included some "wetland" like area. This activity occurred during the early part of 2004. I did not want to create adverse neighbour relations and therefore did not mention said activity at the time it occurred.

The proposal of high density housing in a single unit community with unimproved right-of-ways will decrease the longevity of the existing paved areas, and increase the amount of traffic in a limited access neighbourhood. The existing surface on SE 28th Ave and on SE Van Water is a strip of asphalt with gravel shoulders. The existing asphalt is showing signs of deterioration and with anticipated construction traffic it will deteriorate more. Also, there is an asphalt driveway in the right of way on SE Rockvorst that has a steep grade at the intersection of 28th Ave and has a limited site distance for entering an uncontrolled four-way intersection. Along SE 28th Ave from Roswell to the north there is a lot of pedestrian and bicycle traffic that uses the existing paved surfaces when going to or from the Springwater Corridor; with the limited sight distance it possess great concern for the safety of this neighbourhood. Mr. Scott should be held responsible for some right-of-way development in conjunction with the construction of houses. Also, with the development of Mr. Scott's property the potential for future development that may occur should be addressed with consideration to right-of-way improvements along SE Rockvorst

The construction of three attached homes near the west end of Mr. Scott's property will adversely affect the value of my property by removing the view I have of downtown Portland, creating backyard neighbours, increasing traffic on limited access low maintained street surfaces, and the construction of high density dwellings. New curb and sidewalk should be required with the anticipation of additional housing on the 2-acre parcel and future right-of-way conditions.

Thank you for your time and consideration.

Sincerely,
Phyllis K. Beck
John N. Van Buskirk

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Aerial Photo

2003 / '02 / '01 / '00 / '98 / '96

6" / 2' / 4' / 10' / 20'

Streets: [On](#) / [Off](#)

Lots: [On](#) / [Off](#)

Dot: [On](#) / [Off](#)



01 ————— 187 FT

City of Portland, Corporate GIS

1/14/2005

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LEVELLED & ADDED DIRT

Monday Jan. 17 2005

Dear Sins:

I live at 8712
SE 28th Ave,

a few weeks
ago I signed and
had notarized my
OK for a deck
expansion on the
property of 8555 SE
28th.

Had I known
additional housing
was intended, I
would not have
done so.

Vera Alcoset

Vera Alcoset

JAN 18 2005

Keith Jones
Community Development
6101 SE Johnson Creek
Milwaukie, OR 97206

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

David Andersen
8826 SE 28th AVE
Milwaukie, OR 97222

1/13/05

Dear Mr. Jones,

I am writing this letter in response to a discussion I recently had with my neighbors. It has come to my attention that a local landowner is proposing to subdivide property not previously available for that purpose. I have seen the plot layout and must admit to having serious doubts and questions.

The following is a list of viable questions and concerns I have:

- *Already inadequate drainage and run off capacity will be greatly reduced.
- *Important wetland areas will be further encroached upon by this housing development
- *Increased traffic (perhaps up to 10 cars) in an environmentally sensitive area
- *Increased pesticide, fertilizer, herbicide residue runoff from the proposed homes and yards directly into adjacent wet lands
- *New houses, streets and driveways will create an umbrella over land essential for overflow water absorption.
- *Building new homes on unsettled fill over swampland and/or perched water table sounds like a disaster waiting to happen
- *There are noise concerns for new homes backed up against the railroad tracks
- *Has there been an impact study done on this site?
- *What is the history of this property and the intent of the landowner?
- *Some neighbors brought up questions regarding the manner in which the property information has been distributed

Due to my schedule I will not be able to attend the scheduled meetings but you may call me if you have any questions (503)794-1207. Thank you for considering this letter, sincerely,



David Andersen

Received *by* at PC Meeting
1/25/05

To whom it may concern,

My name is Victoria Potter and I live at 2807 SE Sherrtte ST
I am writing in concern to the proposed development at 8555 SE 28th.
I feel that Mr. Scott falsely represented the plans for his property. He told myself and me fiancé Mike Mendez that he only wanted to build two decks and possibly two homes. He came to us with a petition to sign and a person he introduced as a notary. I felt very pressured to sign it right there on the spot, but instead I told Norm that I wanted to sleep on it and that I would consider going to my notary in the morning. I did have the petition notarized and I trusted Norm Scott. After that, I learned that he really wanted to build three row homes and a single family home which, including his own, would bring the total possible families living on the small property to eight. I feel this is a high-density housing project and I am not sure that area is ideal for such a project. Another concern I have is the amount of traffic this will cause on our unimproved roads. I feel if this project moves forward the city should consider a stop sign at the top of the new "street" that will have to be put in if the plans continue. I have seen many people driving very fast around the corner of 28th and with the amount of traffic that the proposed project would involve I think a stop sign could help prevent accidents. Since there is an entrance to the Spring Water trail near the proposed project there are many people who walk, ride their bikes, children, and dogs all of these parties need to be considered as well. I think that with the right planning and some compromise, we as a community can come to a mutual decision.

Thank you for your time and consideration.

Sincerely,

Victoria Potter
Mike Mendez