

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, AUGUST 24, 2004

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Teresa Bresaw
Brent Carter
Jeff Klein

STAFF PRESENT

John Gessner,
Planning Director
Shirley Richardson,
Hearings Recorder

COMMISSIONERS ABSENT

Howard Steward

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None

4.0 INFORMATION ITEMS - City Council Minutes
City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT - None.

6.0 PUBLIC HEARINGS

6.1 Applicant: Phillip Reich
Owner: Phillip Reich
Location: 5650 SE King Road
Proposal: Applicant is requesting a six-month extension to provide additional time to record the final plat for his land partition.
File Numbers: MLP-03-01/VR-03-02/TPR-03-01
NDA: Linwood

Chair Hammang opened the minor quasi-judicial hearing for Minor Land Partition MLP-03-01, Variance Request VR-03-02 and Transportation Planning Review TPR-03-01 to consider a request for a six-month extension to provide additional time to record the

final plat for his land partition. The criteria to be addressed can be found Subdivision Ordinance Municipal Code, Title 17.

Chair Hammang 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; 5 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

John Gessner reviewed the staff report with the Commission. The Commission approved Application MLP-03-01 on August 12, 2003 for the division of a 1.06 acre parcel of land into 3 lots and the construction of a half street. The applicant has not submitted the final plat application for city signatures and therefore has not filed the final plat with Clackamas County. Land division approvals expire one year after the date of approval. If final plat is not recorded by February 28th, 2005, the preliminary approval will expire and become void. The applicant will have to start the entire process over again; submission of a new applications, fees, and compliance of any regulations in effect at the time of application.

Staff is recommending approval of the extension. This is a procedure matter of allowing additional time to record the plat.

CORRESPONDENCE -- None.

APPLICANT PRESENTATION

Speaking: Phillip Reich, 5650 SE King Road, Milwaukie

Mr. Reich stated that he is having economical difficulties with the financing of the street. He is aware of the preliminary approval expiration date and will try to comply.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Dolly Mackin Hambright, Chair, Linwood Neighborhood Association

Ms. Macken Hambright stated that as a representative of the Linwood Neighborhood Association she has had a request from neighbors surrounding the area to ask that the extension not be granted. Partially because it has been a year of staff time spend on a zero result. The feeling is that there may be ordinance changes which would benefit the neighbors in the future that may not apply to the application as it stands now.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY - None.

APPLICANT'S CLOSING COMMENTS

Mr. Reich stated that he was not aware that the neighborhood had concerns. He asked whether this had any bearing on his application? He asked if there were any proposed planning changes that may happen this year? **Chair Hammang** stated that he was not aware of any planning changes that would apply to this application. He does not feel that pending planning changes is applicable to this matter. The important factor is that everyone is aware of the time limits and the implications of not meeting those time limits.

DISCUSSION AMONG THE COMMISSIONERS

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

Commissioner Bresaw voiced concern about a project that is incomplete and if this is something that the neighbors should be concerned about. **Chair Hammang** stated that the applicant is aware of the timelines and should be afforded the opportunity to comply.

Commissioner Carter moved to approve a six month extension to provide additional time for the applicant to record the final plat for his land partition in applications MLP-03-01, VR-03-02 and TPR-03-01. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 5-0.**

Ayes: Borden, Bresaw, Crites, Miller, Hammang; Nays: None.

7.0 WORKSESSION ITEMS

7.1 King Road Update

John Gessner reported that there would be no verbal report tonight on the status of the staging of traffic and roadway improvements. This item will be brought back to the Commission at a later time.

7.2 Home Occupations—Eliminate Application Requirement

John Gessner stated that staff plans on addressing their approach to simplifying the home occupation application process at the September 7 City Council meeting. During the budget process department heads are asked to identify those areas where the City can change practices to provide cost savings. After administering the home occupation requirements for a number of years, staff has found that the application process is largely a paper shuffle. In the renewal process, 99% of the home occupations are functioning very well and are compatible with the neighborhood. The application fee adds time and cost to the city and applicants. There could be a less-burdensome administrative process and still have the same results from the home-occupation program itself.

Staff is suggesting changing the way in which home occupations are administered rather than change the way in which the regulations apply to home occupations. Staff is looking for guidance or suggestions for reducing the annual workload.

Discussion followed on the application process, renewal process. **John Gessner** stated there are several options being considered:

- Make most or all categories of home occupations by right use; this way no application is required. The City would rely upon neighbors concerns when something is not working.
- Send out an annual mailer explaining the dos and don'ts for home occupation businesses.
- Only new businesses submit a one-time application and eliminate the renewal process.

Suggestions from Council included:

- Require a certification form from each business stating that they are in compliance with the bulleted code requirements and sign the form to be kept on file.
- Tap into the state's records as to businesses in the City of Milwaukie that may be registered with the state and not having a business license in the City of Milwaukie.

John Gessner stated that staff will incorporate the Commission and Council suggestions with the review of the application process and come up with an effective program.

7.3 Undersized Lots

John Gessner stated that the zoning ordinance provision was researched back to 1968 code. In the 60's there was a court case or change in statutes that clarify that lots platted prior to the adoption of zoning ordinances, which might be restrictive and eliminate the development potential, are protected from those changes.

The policy question in this case is what the right size of lot to protect is. In Milwaukie, large parts of Lake Road, Hector Campbell, and Historic Milwaukie neighborhoods were platted in late 1800/1900's based on 25x100-foot lots. A large part of the city developed without the help of zoning in 5,000 sq.ft. lot configurations by combining two 2,500 sq.ft. lots. They have found lots that are 10,000 sq.ft. made up of four 25 x 100 or three lots creating 7,500 sq.ft. lots. As land becomes scarcer, property owners and developers are able to go back to configure whatever number of lots that are necessary to meet zoning requirements that were subsequently adopted. There are patterns of dividing land into 25X100 lots throughout the city.

In 1968 Council decided that the lots to be protected are 3,000 sq.ft. The Zoning Ordinance states that lots platted prior to the adoption of the city zoning ordinance, individual or aggregate holdings, may be put to use provided that no lot shall be created with a size less than 3,000 sq.ft. There can be a 3,000 sq.ft. lot in the R-5 Zone.

Another question to consider is whether the relationship of the minimum lot size is based upon the existing zone or a uniform number. What is the appropriate size for the absolute minimum that a lot should be developed on. Staff is asking the Planning Commission for feedback on undersized lots.

Commissioner Bresaw stated that her understanding from reading the ordinance was that there could be no building on a lot that is less than 3,000 sq.ft.; it does not say that the zone is R-5. **John Gessner** stated that the legal interpretation that was applied is if there is a legal prior existing or aggregate of lots equaling at least 3,000 sq.ft., you can build a single-family residence subject to the other requirements of the zone (setbacks, minimum landscaping, building height, maximum footprint). Density refers to duplexes or multi-family.

Chair Hammang voiced concern that scattering of small lots will ruin the street- scape of the neighborhoods. **John Gessner** stated that as part of the next steps staff will take an inventory to find out where there is an excess land supply that might result in lots of 3,000-3,500 sq.ft. being developed. Lot line adjustments cannot be done today to come up with a 3,000 sq.ft. lot. The lot must have existed at a time prior to adoption of the ordinance. Many times developers are looking for opportunities to do lot line adjustments, but based on attorney's interpretation, the lot must be as it was configured at the time the ordinance was adopted.

Chair Hammang asked about the Ardenwald area. **Mr. Gessner** stated that Ardenwald is largely oversized lots. They have a different platting pattern; typically 72+ X 220-440 lots. This has resulted in Ardenwald being the target of many flag lots.

Staff will review meeting minimum lot size requirements that are meaningful throughout the city, with an occasional exception of a grandfathered lot.

Speaking: Dave Ashenbrenner, 11505 S.E. Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he is the chair of the Hector Campbell Neighborhood Association. He would like to see a minimum standard set. When this development happened they knew nothing about it; it was allowed. The difficulty was not knowing what was going on; he asked that there is notification when this type of thing happens, letting the residents know what is going on.

Tax lots do not show what the plot size of the land is. It is confusing from a resident's perspective as to whether a large lot is large or small. The tax lot is not necessarily the same as what was plotted. He likes the direction of a minimum zone for a neighborhood.

John Gessner pointed out in drawing examples a platted lot and a grouping of single tax lots.

7.4 Garages in Front of the Houses

John Gessner asked the Commission for their comments and input on situations where the only location for placement of a garage is in front of the house. There could be a design review process, architectural standards can be established, and it could be approached from a design perspective as opposed to outright prohibitions. The city cannot require the property owner to provide parking for existing older lots that do not have covered parking.

Some suggestions were:

- This should be a design issue instead of saying a person cannot have a garage.
- Alternate designs -- Shared garage on the property line with a common wall and garage in front of the house built into the hillside.
- Permanent zoning requirements with design standards for garages.
- Require a garage for new construction.
- Eliminate carports.

Speaking: Dave Ashenbrenner, 11505 S.E. Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he agrees with the design aspects of placing of garages. He would like to see the garages match the existing house as close as possible and meets the character of the existing house.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director -- None.

10.2 Design and Landmark Commission Report

Brent Carter reported that tomorrow night will be a hearing for the Murray Lyndon house to change the historic designation to "contributing."

11.0 NEXT MEETING -- September 14, 2004

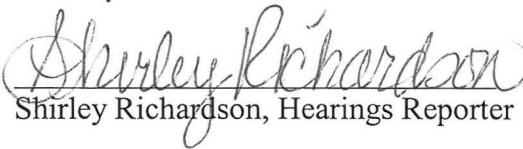
11.1 Designation of Wetland at North Clackamas Park

11.2 Public Hearing on Code Change Converting DLC to a Committee

Commissioner Bresaw moved to adjourn the meeting of August 24, 2004. **Commissioner Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:05 p.m.


Donald Hammang, Chair


Shirley Richardson, Hearings Reporter

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA Tuesday, August 24, 2004 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Questions	
3.0	Planning Commission Minutes No minutes were available for distribution with this packet. Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	Motion Needed
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0 6.1	Public Hearings Type of Hearing: Minor Quasi-Judicial Applicant: Phillip Reich Owner: Phillip Reich Location: 5650 SE King Road Proposal: Applicant is requesting six-month extension to provide additional time to record the final plat for his land partition. File Numbers: MLP-03-01 / VR-03-02 / TPR-03-01 NDA: Linwood Staff Person: Lindsey Nesbitt	Discussion and Motion Needed For These Items
7.0 7.1 7.2 7.3 7.4	Worksession Items King Road Update [verbal] Home Occupations – Eliminate Application Requirement Undersized Lots [this information was originally provided on 5/25/04 – item #7.4]* Garages in front of houses [this information was originally provided on 5/25/04 – item #7.4]* *If you need a copy of this report please let Jeanne Garst know at 503-786-7655.	
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 10.1 10.2	Other Business/Updates Matters from the Planning Director Design and Landmark Commission Report	Information Only Review and Comment
11.0 11.1 11.2	Next Meeting: September 14, 2004 Designation of Wetland at North Clackamas Park (work session) Public Hearing on Code Change Converting DLC to a Committee The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

Forecast for Future Meetings:

9/10/04 – North Main Street Code Amendments
3 Bridges Revised Conditions of Approval – re: construction hours.

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

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
Judith Borden, Vice Chair
Teresa Bresaw
Brent Carter
Jeff Klein
Howard Steward

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 *JG*

From: Lindsey Nesbitt, Associate Planner *LN*

Date: August 24, 2004

Subject: Files: MLP-03-01, VR-03-02, & TPR-03-01
Applicant: Mr. Philip Reich
Address: 5650 SE King Road
NDA: Linwood

Action Requested

Approve a six month extension to provide additional time for the applicant to record the final plat for his land partition.

Background Information

The Planning Commission approved application MLP-03-01 on August 12, 2003. The approval authorized the division of a 1.06-acre parcel of land into 3 lots and the construction of a half street.¹

Staff conducted a preliminary review of the final plat application and returned redline comments to the applicant. The applicant has not submitted the final plat application for city signatures and therefore has not filed the final plat with Clackamas County. See Attachment 3 - Application Timeline.

Land division approvals expire one year after the date of the approval.² If the final plat is not recorded by August 29, 2004, the preliminary approval will expire and become void.

¹ A Notice of Decision was issued on August 14, 2003, and the appeal period ended August 29, 2003.

² The reactivation of an expired decision may only be made by submission of a new application and related fees.

Applicant's Extension Request

Land division approvals may be extended up to six months upon submission of a formal request to the original decision making authority. One extension of the approval period not to exceed 6 months will be granted provided the applicant demonstrates the following:

1. No changes are made on the original plan as approved.
2. The applicant can show intent of recording the land division within the 6-month extension period.
3. There have been no changes in the ordinance provisions on which the approval was based.

The applicant has submitted a written request addressing the extension criteria (See Attachment 1). Staff has reviewed the applicant's request and has conducted a preliminary review of the final plat application and believes the applicant has demonstrated compliance with the approval criteria. Staff recommends the Commission grant the six-month extension for the following reasons:

1. Staff's preliminary review of the final plat application confirmed no changes have been made to the proposal.
2. The applicant has submitted a request for the extension stating their intent to record the plat (See Attachment 1).
3. Staff believes the applicant intends to record the final plat within the requested 6-month extension.
4. If the extension is granted no further extensions may be approved.
5. If the final plat is not recorded with Clackamas County by February 28, 2005, the approval will become void. Reactivation of an expired decision may only be made by submission of a new application and related fees.

Decision Making Process

The Commission has the following options:

1. Approve the applicants request and grant a six-month extension.
2. Modify the applicant's request and limit the extension to less than six months.
3. Deny the applicants request upon a finding that it does not meet extension criteria.

Attachments

Attachment 1 – Applicant's Request

Attachment 2 – August 14, 2003 Notice of Decision

Attachment 3 – Application Timeline

Attachment 1

6.1 Page 3

RECEIVED

JUL 29 2004

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

From: Philip Reich
5650 SE King Road
Milwaukie, OR 97222

TO: Lindsey Nesbitt, Associate Planner
City of Milwaukie Planning Department
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

DATE: 07/28/2004

RE: request for 6-month extension to complete Minor Land Partition at 5650 SE King Road

As mentioned in your letter of 7/22/2004, I am requesting a 6-month extension of the final approval of the minor land partition of my property at 5650 SE King Road. By my calculation, the 6-month extension would terminate on or about January 29th, 2005.

Per your letter you state the following requirements must be met in order for the extension to be granted. I have answered each requirement below:

1. ***No changes are made on the original plan as approved.*** I have made no changes to the plan
2. ***The applicant can show intent of recording the land division and boundary changes within the six-month extension period.*** Work on the project has been delayed due to the cost involved in developing the street prior to the final approval and filing of the plat as required by the decision. I have been working on developing partnerships with other parties to do this development in order to secure adequate funding for the project. The requested engineering and survey revisions have been put on hold until this has been accomplished. I want the partners to be involved in the further review and revision process as they would be involved in the development.

I have no doubt that this project can be completed, as the value of the two new developed lots well exceeds the approximately \$80,000 dollars needed to develop the street and to bring services to the lots. It is just taking time to get the deal lined up.

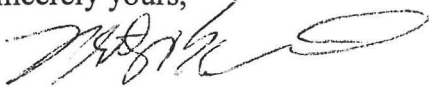
There has been a great deal of time and expense involved in getting the project to this point. This alone should "show intent" of completing the project as all the moneys spent so far for fees, engineering and survey work would be money wasted if the project was abandoned.

Further intent can be seen in that I had a promising deal with one contractor that has had to back out due to his over-filled schedule, and am now negotiating with several others to move the project forward. If this narrative is not sufficient to "show intent" noted above, please contact me and let me know what additional information will be needed.

3. *There have been no changes in the ordinance provisions on which the approval was based.* There are none that I am aware of, or have been notified of by the planning department.

Please let me know if this letter is sufficient to process my request for a 6-month filing extension of this minor land partition.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Philip Reich', with a large, sweeping flourish extending to the right.

Philip Reich



MILWAUKIE
CENTENNIAL
1903~2003

August 14, 2003

File(s): MLP-03-01, VR-03-02, & TPR-03-02

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on date August 12, 2003.

Applicant(s): Mr. Phillip Reich
Location(s): 5650 SE King Road
Tax Lot(s): 12E30DC04100
Application Type(s): Minor Land Partition, Variance, & Transportation Review
Decision: Approved
Review Criteria: Milwaukie Zoning Ordinance:

- 302- Residential Zone R-7
- 700- Variances, Exceptions, and Home Improvement Exceptions
- 1011.3- Minor Quasi Judicial Review
- 1400- Transportation Planning, Design, and Procedures

Milwaukie Subdivision Ordinance (Last revised Ord. 1880, 9/19/02)
Neighborhood(s): Linwood

The Planning Commission's decision on this matter may be appealed to the Milwaukie City Council. An appeal of this action must be filed within 15 days of the date of this notice, as shown below.

Appeal period closes: 5:00 p.m., August 29, 2003

Appeals to the City Council must be accompanied by the appeal fee, be submitted in the proper format, address applicable criteria, and be made on forms provided by the Planning Department. Milwaukie Planning staff (503-786-7630) can provide information regarding forms, fees, and the appeal process.

COMMUNITY DEVELOPMENT DEPARTMENT

Engineering • Operations • Planning • Building • Fleet • Facilities

6101 S.E. Johnson Creek Blvd., Milwaukie, Oregon 97206

Phone: (503) 786-7600 • Fax: (503) 774-8236 • Web Site: www.cityofmilwaukie.org

Celebrating 100 years of service to the citizens of Milwaukie!

Notice of Decision for MLP-03-01, VR-03-02, TPR-03-01
Reich Minor Land Partition
August 14, 2003
Page 2 of 5

Findings and Conclusions in Support of Approval

1. The applicant has submitted a partition application to divide a 1.06-acre lot into 3 parcels. The proposal includes the following:
 - a. Access to parcels 2 and 3 will be gained from a dedicated half street with a width of 26 feet 6 inches, with a 20-foot travel surface, and a curb tight 6-foot sidewalk on a 7-foot easement along the west side of the street.
 - b. A hammerhead turnaround at the southern end of the street.
 - c. Request for a variance of the 80-foot lot depth to 73.5 feet.
2. In order to meet minimum street design standards, the applicant is requesting a variance to reduce the lot depth from 80 feet to 73.5 feet for parcel 2. The applicant has submitted a variance application to lot depth standards for parcel 2 in accordance with Milwaukie Municipal Code (MMC) Section 19.700- Variances, Exceptions, and Home Improvement Exceptions.
3. Public notice has been provided in accordance with the Milwaukie Zoning Ordinance Section 19.1011.3-Minor Quasi Judicial Review. A public hearing was held on June 10, 2003 and August 12, 2003 as required by law.
4. The Planning Commission held a public hearing on October 22, 2002 and denied application MLP-02-07. The applicant filed an appeal in accordance with Milwaukie Zoning Ordinance Section 19.1002 on November 6, 2002.
5. The Milwaukie City Council held a public hearing to hear the appeal on February 18, 2003. The Council conditionally denied the appeal of the Planning Commission's action on the partition application. The denial of the appeal would be voided if the applicant submitted a revised application that included provisions for street dedication and a vehicle turnaround as described in the October 22, 2002 Planning Commission staff report.
6. As directed by the City Council, the applicant submitted new applications (MLP-03-01, TPR-03-01, & VR-03-02). A public hearing was held June 10, 2003 where the Planning Commission granted an extension provided the applicant submit a revised application that demonstrates compliance with minimum street design standards as outline in the October 22, 2003 Engineering Director's memorandum. The applicant submitted a revised application as directed by the Planning Commission on June 10, 2003 that includes the following:
 - a. 26.5-foot right-of-way dedication.
 - b. 26-foot street surface, including two 10-foot travel lanes, and one 6-foot parking lane.
 - c. 6-foot curb tight sidewalk on a 7-foot easement in addition to the right-of-way dedication.
6. The original application (MLP-02-07) was submitted July 8, 2002. In August 2002 regulations governing partitioning and other development changed. The Planning Commission denied application MLP-02-07 in October 2002.

The applicant appealed the Commission's decision, and while City Council upheld the Commission's decision, Council did allow the applicant the opportunity to resubmit a new

application. Council also ruled that the new application would be subject to the version of the code that was effective the date the application was first submitted. Therefore, the proposal is subject to the provisions of the Milwaukie Zoning Ordinance and Subdivision Ordinance as follows:

- a. 19.302 Residential R-7 Zone
 - b. 19.700 Variances
 - c. 19.1011.3 Minor Quasi Judicial Review
 - d. 19.1400- Transportation Planning, Design standards and procedures
 - e. 17.32- Partitioning
7. The applicant submitted a Transportation Plan Review (TPR) application (TPR-03-01) requesting an adjustment to transportation design standards. The applicant failed to demonstrate compliance with the adjustment criteria and on June 10, 2003 the Commission directed the applicant to submit a revised application that demonstrates compliance with street dedication and emergency vehicle turn around standards. The applicant submitted a reviewed application that proposes adequate street dedication therefore the TPR application is not required.
 8. MMC Section 19.302-Residential R-7 Zone requires a 20-foot front yard setback. The proposal includes the construction of a sidewalk on a 7-foot easement. Section 19.503.21 (D)- Off-street parking in residential zones requires a minimum paved driveway width of 9 feet and a parking space dimension of 9 feet by 20 feet. In order to allow enough room for vehicles to park off the street without encroaching onto the sidewalk the building setback must be from the edge of easement. As conditioned the proposal is consistent with the standards of MMC Section 19.302 Residential R-7 Zone and Section 19.500- Off-street Parking and Loading.
 9. MMC Section 19.100 defines the front property line as the lot line separating the lot from the street. The rear lot line is defined as the lot line that is opposite and most distant from the front lot line. A side lot line is defined as any lot line that is not a front or rear lot line. The front property line for parcel 3 shall run along the entire portion of the hammerhead and the rear lot line shall be the property line that abuts the property located to the west. As conditioned the application complies with MMC Sections 19.103- Definitions and 19.302- Residential R-7 Zone yard setbacks.
 10. The Uniform Fire Code requires an adequate fire access turnaround be provided for dead end streets that are over 150 feet in length. The applicant has submitted a plan that demonstrates an adequate hammerhead turnout or cul-de-sac as required by the Milwaukie Municipal Code and the Uniform Fire Code Section 6.1-Dead Ends as shown in Attachment 8- Fire District Design Options.
 11. As conditioned application MLP-03-01 is consistent with MMC 19.1400 Transportation Planning, Design Standards, and Procedures.
 12. Title 16 of the MMC requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities as conditioned the application complies with the Milwaukie Municipal Code Title 16- Erosion Control.

Notice of Decision for MLP-03-01, VR-03-02, TPR-03-01
Reich Minor Land Partition
August 14, 2003
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Conditions of Approval

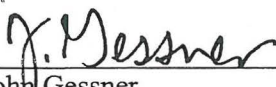
1. The final plat application shall be submitted in accordance with the Land Division Ordinance. All related materials shall be submitted to the Planning Director under a single, comprehensive application submission.
2. Prior to submission of the final plat application, the following shall be resolved:
 - a. Provide a narrative description of all actions taken to comply with conditions of approval.
 - b. Provide a narrative description of all changes made that are not related to conditions of approval.
 - c. Street and utility construction plans shall be prepared in accordance with city standards. Engineered plans for all public improvements must be submitted to the Planning Director for review and approval. Required public improvements include the following:
 1. An 8-inch sanitary sewer main in the new street to serve the new lots. Separate laterals must be extended from the main to each of the new lots.
 2. A new 6-inch water main must be constructed in the new street to serve the two new lots and provide fire protection. A fire hydrant shall be located near the new street intersection. Exact location will be determined at the time of construction plan review. The water main may be reduced to a 4-inch main beyond the fire hydrant location. One-inch service lines must be constructed to each lot with meter setters and meter boxes.
 3. The existing driveway approach must be replaced with an ADA accessible approach. The new driveway approaches must be ADA accessible.
 4. Catch basins with sumps must be placed on each side of the new street and piped to a pollution control manhole and then piped to the drywell.
 5. Streetlights.
 - d. The plat shall be in conformance with the applicant's site plan submitted July 8, 2003, except as modified by conditions of this approval.
 - e. Right-of-way dedication of 6.5-feet is required to provide for the new 6-foot setback sidewalk and 6-foot planter strip along the entire frontage of King Road. Dedication of rights-of-way along King Road and the new street shall be in a form acceptable to the City Attorney and shall be submitted with the final plat application.
 - f. A note shall be placed on the plat indicating that the partition is subject to requirements of City of Milwaukie Applications MLP-03-01 and VR-03-02.
 - g. The fire access turn around must comply with fire vehicle turn around options and must be approved by the Fire Marshal.
 - h. An erosion control plan and permit application must be submitted along with the engineered plans for public improvements.
3. Prior to recording the final plat, public improvements must be completed or funded with a 20 percent contingency before the city will sign the final subdivision plat. An inspection

fee for these improvements must be paid at the time of the required pre-construction conference with the contractor.

4. Parking is prohibited in the fire access and vehicle turnaround.
5. Prior to issuance of certificates of final completion and any occupancy of structures placed on the approved lots, the curbs along the turnaround must be painted red to indicate that, along with signs posted that state "NO PARKING ANYTIME – TOW-AWAY ZONE".

Other Requirements and Advisory Notes

1. Separate drywells must be installed for the existing house and garage, and the new houses, as well as a separate drywell for the new street. This requirement will be implemented at the time building permits are issued.
2. All system development charges for the new houses must be paid at the time the building permits are issued.
3. An erosion control plan and permit application will be required along with each building permit on each individual lot.
4. The City will install water meters at the time of home construction and only after all fees are paid.



John Gessner
Planning Director

cc: Applicant
Planning Commission
Alice Rouyer, Community Development/Public Works Director
Paul Shirey, Engineering Director/City Engineer
Paul Roeger, P.E., Civil Engineer
Tom Larsen, Building Official
Bonnie Lanz, Permit Specialist
Ron Schumaker, Fire Marshal
NDA: Linwood
Interested Persons
File(s): MLP-03-01
VR-03-02
TPR-03-01

Attachment 3**Application Timeline**

July 8, 2002	Application MLP-02-07 submitted (Original application).
July 18, 2002	Application was deemed incomplete and a letter was sent to the applicant.
August 6, 2002	Received revised application materials.
August 6, 2002	Application was deemed complete and a letter was sent to the applicant.
October 9 th & 15 th	Revised site plans received.
October 22, 2002	First Planning Commission hearing, the application was denied.
October 23, 2002	Notice of Decision sent, Appeal Period ends November 7, 2002
November 6, 2002	Applicant submitted appeal request to City Council.
January 7, 2003	First City Council Appeal hearing. The hearing was continued to January 21, 2003 and then to February 18, 2003.
February 18, 2003	City Council denied the appeal, but allowed the applicant to submit a new application subject to conditions.
February 20, 2003	Notice of City Council Decision was mailed.
March 13, 2003	New application was submitted, MLP-03-01, TPR-03-01, & VR-03-02.
March 24, 2004	Application MLP-03-01 was deemed incomplete and a letter was sent to the applicant.
April 2, 2003	Comments on revised application were sent to applicant addressing missing application materials.
April 13, 2003	Received revised materials from applicant.
June 10, 2003	Planning Commission hearing. Staff recommended denial for failure to uphold City Council's conditions. The applicant on record stated he would revise the application as required by direction of the City Council at the February 18, 2003 hearing. The Planning Commission continued the public hearing to August 12, 2003. Applicant requested a waiver of 120-day clock.
June 18, 2003	Staff sent the applicant a letter specifying needed application materials per the Planning Commission's extension. The letter gave the applicant a deadline of July 8, 2003 to submit required materials.

July 8, 2003	Revised site plan and application materials were received.
August 12, 2003	Planning Commission approved applications MLP-03-01, TPR-03-01, & VR-03-02.
August 13, 2003	A Notice of Decision was mailed and the appeal period ended August 29, 2003.
February 18, 2004	Staff sent the applicant a letter notifying him of upcoming deadlines. The letter outlined the 6-month deadline to submit a final plat application (February 29, 2004) as well as the 1-year time limit on approval deadline (August 29, 2004).
February 29, 2004	Final Plat application was submitted.
March 29, 2004	Redline review of final plat application were ready for the applicant to pick up. Staff called the applicant and notified him that redlines were ready. The redlines were left in the "will call" box at the applicant's request.
End of April	Redlines were still in the will call box waiting for the applicant to pick them up. Staff again phoned the applicant and informed him that his redlines had been in the will call box.. A few days later the applicant picked up the redlines.
July 22, 2004	Staff sent the applicant a second letter notifying him of the upcoming 1-year deadline August 29, 2004. If the final plat is not filed with Clackamas County by August 29, 2004, the approval will become void. Staff informed the applicant of the option to request a six-month extension. A deadline of July 29, 2004 was given to the applicant to request an extension.
July 29, 2004	The applicant submitted a formal written request for a six-month extension on approval of application MLP-03-01.
August 24, 2004	Planning Commission hearing regarding the six month extension.

August 13, 2004

Milwaukie City Planning Commission.

In regards to the six-month extension of the final plat approval for MLP-03-01, located at 5650 SE King Road:

It is our understanding that this is the final time extension that can be requested for this application. This application began October, 2002, in which we feel Philip Reich has had ample time to complete the final plans for his property.

As property owners at 5640 SE King Road, this has been a long process. During this time, we still would like it to be known we are still opposed to the Minor Land Partition being requested.

Evelyn Knutsen
Dan & Karen Liebert
5640 SE King Road
Milwaukie, Oregon 97222

Evelyn Knutsen owner

RECEIVED

AUG 18 2004

CITY OF MILWAUKIE
PLANNING DEPARTMENT



To: Planning Commission

From: John Gessner, Planning Director 

Subject: Simplify Home Occupation Application Process

Date: August 24, 2004

Action Requested

Provide feedback on the staff proposal to simplify the home occupation application process by eliminating application requirements for some or all uses.

Background

Staff proposed reforming home occupation application requirements as a cost and workload reduction measure in the 2004-2005 budget process. Each year the City processes approximately 325 to 350 home occupation applications, as city code requires annual renewal of all home occupations applications. Based on experience over the last five years staff believes that the application process can be eliminated or significantly modified without risk of neighborhood impacts.

Staff is in the process of discussing the proposal with Code Enforcement and other city departments. Additional information may be made available at the August 24, 2004 Commission meeting.

Key Issues

1. A random sample of home occupations shows the following distribution:¹
 - a. Professional or Business Office 33%
 - b. Contractor's Office 23%
 - c. Child and Adult Day Care 17%
 - d. Manufacturing & Production 12%
 - e. Miscellaneous Other 15%

¹ 180 records from 2003 and 2004 were inspected.

2. Home occupations are subject to performance standards that reduce the potential for neighborhood impact. Site inspections are rarely needed prior to staff approvals and applications are almost never denied.
3. The estimated average minimum processing time per application is 15 minutes, resulting in 81 to 87.5 hours dedicated.
4. The purpose of the proposal is workload and cost reduction.
5. The proposal would not affect how the home occupation regulations are applied; it would affect how they are administered.

Alternatives

Alternatives for reforming administration of home occupation applications include the following:

- Eliminate the application and renewal requirements for all home occupations.
- Eliminate the application and renewal requirements for certain classes of home occupations.
- Keep the application process for new home occupations but eliminate the renewal process.

Next Steps

Staff seeks Commission input, which will be forwarded to the City Council for its direction.



To: Planning Commission
From: John Gessner, Planning Director *J.G.*
Date: May 25, 2004
Subject: Small Lot Development
Garages Built in Front of Houses

Action Requested

Review the information below and provide direction to staff.

Background

The Planning Commission recently heard neighborhood concerns about small lot development and the appearance of garages constructed in front of existing houses. These concerns arise from a single-family development project located on Monroe Street.

Key Issues

- A long standing zoning provision allows residential development on legally platted lots not less than 3,000 square feet when created prior to the adoption of the zoning ordinance.
- There are large parts of Hector Campbell and Lake Road neighborhoods that were platted in 25' x 100' lots that now result in the potential for development of lots less than the predominant R-5 and R-7 zoning.
- As oversize existing lots are being separated, carports and garages are being relocated to meet covered parking requirements. The Hector Campbell NDA has expressed concern with the streetscape impacts of these structures being built in front of existing houses.

Analysis of Key Issues*Undersized Lots, Zoning Ordinance Section 412*

Portions of the Hector Campbell and Lake Road neighborhoods were subdivided in the late 1800's in a continuous pattern of 25' x 100' lots. This ensured a high degree of flexibility on the part of homebuilders and individuals in selecting the desired location and lot size. As the area developed with homes, the 2,500 square foot lots were assembled in various combinations resulting in occupied lots typically ranging from 5,000 square feet to 10,000 square feet. In addition, over the years there have been many property line adjustments and land conveyances that split the original platted 25' x 100' lot.

Zoning Ordinance 412 protects legally platted lots from zoning changes by allowing residential development on lots or combination of lots of no less than 3,000 square feet. The code section is shown below:¹

"If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand (3000) square feet, or with no frontage on a public street. This section shall not apply in the downtown zones."

Section 412 raises the following questions:

- Should undersized lots be developed in established neighborhoods that have been historically developed at larger lot sizes?
- Given that most new homes will be built on in-fill sites, what would the effect be of limiting land supply by making the minimum lot size more restrictive?
- How many undersized lots exist and what is the scale of the potential problem?
- What legal issues apply?

Garages and Carports, Section 503.9

The Zoning Ordinance requires two parking spaces, one of which must be a covered parking space for single-family development. It was customary in years past to build detached garages for new residential development. As land supply diminishes in the City, oversized lots are being separated to allow development. These lot separations may meet minimum lot area requirements or may not as described above. There have

¹ This code provision first appeared in the City's 1967 Zoning Ordinance.

been a number of cases where a detached garage has been demolished to allow lots to be separated. This requires that covered parking be provided on the parent lot. The Commission heard concerns about the effect of new garages or carports built on lots with existing homes and the architectural character of the site and neighborhood.

Section 503.9 raises the following questions:

- Should additional design and location standards for parking structures be created?
- To what extent should variances of location standards be supported when the placement of the existing home is restrictive?
- Are there options to the covered parking requirement?

Design Standards for Accessory Structures, Section 401.

Design standards for accessory structures including garages and carports were recently adopted; they include:

- Maximum height and floor area.
- Prohibition against metal siding.
Prohibition on flat roofed structures with a floor to ceiling height greater than 9 feet.
- Minimum roof pitch for gabled roofs.

Section 401 raises the following questions.

- What are the desired outcomes with regards to garage and carport architecture and location?
- Should additional standards be created?

Next Steps

Staff seeks Commission feedback and direction on the issues raised in this memo.

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: August 24, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #	
Doug Macken-Hombright	12258 SE Grove Lp 97222	503 659-8908	☐ 6.1	☐ 7.2
			☐ 7.1	☐ 7.3
			☐ 7.4	
Karen Liebert	5640 SE King Rd Milwaukie 97222	503 771 0216	☒ 6.1	☐ 7.2
			☐ 7.1	☐ 7.3
			☐ 7.4	
			☐ 6.1	☐ 7.2
				☐ 7.3
			☐ 7.1	☐ 7.4
			☐ 6.1	☐ 7.2
				☐ 7.3
			☐ 7.1	☐ 7.4
			☐ 6.1	☐ 7.2
				☐ 7.3
			☐ 7.1	☐ 7.4