

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, OCTOBER 26, 2004

COMMISSIONERS PRESENT

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

STAFF PRESENT

John Gessner,
Planning Director
Lindsey Nesbitt,
Associate Planner
Brion Barnett,
Civil Engineer
Mike Baker,
Engineering Consultant
Alison Ray,
Wetland Biologist
Gary Firestone,
Legal Counsel
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT - None.

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA - Planning Commission Minutes

Commissioner Bresaw moved to approve the minutes of August 24, 2004 as revised. Commissioner Borden seconded the motion. MOTION CARRIED 5-0 with one abstention; Lisa Batey was not at that meeting.

Ayes: Borden, Bresaw, Carter, Klein, Hammang; Nays: none; Abstentions: Lisa Batey.

Commissioner Klein moved to approve the minutes of September 14, 2004 as revised. Commissioner Carter seconded the motion. MOTION CARRIED 6-0.

Ayes: Borden, Batey, Bresaw, Carter, Klein, Hammang; Nays: none.

Commissioner Borden moved to approve the minutes of September 28, 2004 as presented. Commissioner Klein seconded the motion. MOTION CARRIED 6-0.

Ayes: Borden, Batey, Bresaw, Carter, Klein, Hammang; Nays: 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: North Clackamas Parks & Recreation District
Owner: City of Milwaukie
Location: North Clackamas Park
Proposal: Determine whether recently found wetland pockets should be rezoned for resource protection. Planning Director recommends against a resource designation.
File Numbers: NA
NDA: Ardenwald

Chair Hammang opened the advisory hearing to determine whether wetland pockets should be rezoned for resource protection, continued from September 28, 2004.

STAFF REPORT

John Gessner reported that under city regulations, wetlands should be zoned for resource protection. It was reported by the wetland scientist and hydrologist at the last meeting that these two recently found areas did not warrant resource protection because they failed to have functions and values characteristic of wetlands that do warrant protection. The wetlands were found to be small in size, disconnected from other water bodies, and surrounded by active ball fields that would interfere with the buffer requirements.

The Planning Commission requested that staff and the wetland scientist review the two areas to get a basis for these areas to be protected or not protected. It is staff's belief that the previous recommendation is sound and asked that the Planning Commission find that the wetlands do not warrant protection. Further acknowledge that these wetlands do provide some function and value and those values should be protected by mitigation to other resource areas on the site.

Mr. Gessner stated that staff is aware of the proposal for ball fields and this will come separately before the Planning Commission. At that time, the Commission can specify mitigation for loss of values as part of the development proposal.

Commissioner Bresaw asked what mitigation is being considered? **Mr. Gessner** stated that there are significant resources on the site associated with perennial drainage east and

north of the Kellogg Center and Kellogg Creek. Mt. Scott flows through the site. There are a number of possible restorations of existing resources that can be part of the mitigation efforts. By taking the values from these two small wetlands and connecting them with the existing riparian corridors, the overall site will be improved. The mitigation would be made only at this site; not any other location on the watershed.

The main portion of the site is subject to resource protection. The Community Service Overlay provides protection and the public usage and public benefits outweigh any adverse impacts. Restoration adds to the value of the site and is a necessary component of any development. The proportional replacement will have to be determined at replacement.

Overheads were shown which were submitted by Michelle Healy:

Area #1 (Faces southeast) This area's location and adjoining uses do not go well with mitigation here. If determined to be a wetland a 50-foot buffer will be added to the site. The qualities seen here and the surrounding area, plus the impact of the buffer, does not add value; this site does not warrant protection. The original site probably had significant wetland resources; those have been lost to agriculture, park use, and settlement.

Area #3 (Next to fence, facing south) This wetland area is a depression where years of use have resulted in a low-lying area. A good portion of the site that is in the dip had been filled, except for a small pocket; it did play a role in the natural site condition that has been lost to development. Consideration of relocating this and the other wetland to existing riparian area will result in a better condition for the watershed and the site.

Commissioner Bresaw asked what is behind Area 3? **Mr. Gessner** stated that it was a formal lawn field; now it is grown over with weeds, small trees and shrubs. This is not open drainage, but he believes there are wetland soils here. There is no significant value; he checked with county and they do not apply any Title III resource protection to this site.

Mr. Gessner introduced Alison Ray; she had no comments at this time. She stated that Mr. Gessner did a good job summarizing the site.

PUBLIC TESTIMONY

Speaking: Lorrie Cook, 3808 SE Aldercrest Road, Milwaukie

Ms. Cook stated that she had concerns about the soil and the adjacent property. She gave a brief history of the wetlands, stating that she had talked with Jim Scholls, who has been involved with these wetlands since the 50's. Mr. Schools has stated that there were wetlands on this site; there was a large pond and the neighbors were concerned about it. Much of this was filled in to put the current ball fields in.

If you look at the soils map for North Clackamas Park, you will see that the depth of the ditch on the side of the road is the same depth as the other side which is designated wetlands. This wetland is a 50-foot long area; the soils on one side are mapped differently than on the side of the wetland. It is her contention that the whole side is wetland soil. Mitigation will result in digging into the natural resource area. The Division of State Lands requires that a permit be applied for Area #3. The permit is required when you are moving more than 50 cubic yards of soil. The Army Corps of Engineers also require a permit for bringing in fill. Mt. Scott Creek has endangered species, waterways and a tributary. Anything done in that creek will have to have a Corps of Engineers environmental impact statement. These two wetlands cannot be left out of the picture.

These wetlands play an important role as there are really large drainage problems on this property. There is not much going on adjacent to the wetlands. There is a stream mapped as wetlands; this area provides a large drainage area for the park property. In a normal condition (showing a picture of last winter) the park property has water going through it, even to the horse arena. If you walk through the park in the winter time you have to wear boots. There is severe flooding from Mt. Scott Creek, and Kellogg Creek to adjacent neighborhoods; all the neighbors have pumps. All this area is in the flood plain; this is not an insignificant wetland, it is part of a larger drainage area. She doesn't believe that mitigation for these wetlands will be included as a part of a larger natural resource area. Just because these areas are not mapped, does not mean they are not important.

This wetland is an important drainage area. The mitigation proposed is really drainage in a ball field. Soils mapping should be reviewed to see if this side of the park has different soil than the other side of the park; this would be the basis of whether they are wetlands.

The road is all wet (pictures were shown of areas of water on the parkland and neighboring property last winter), there is standing water in the park from flooding of Mt. Scott Creek. This picture was taken last winter. There is significant impact from the flooding water. Adjacent wetlands are also a part of this larger drainage area. There is a natural spring there which drains down into the smaller wetlands into the adjacent properties. The mitigation should look at an overall plan, what are they talking about. Staff will find that when they apply for permits, they won't be able to cut off smaller wetlands that will be impacted.

Commissioner Batey asked if both wetlands are 500 feet in area? There is shown flooding on both sides of Mt. Scott Creek. There is a natural spring along the southern boundary and there are three creeks that border this property.

Speaking: Dick Schook, 4815 SE Casa Del Ray Drive, Milwaukie

Mr. Schook stated that he wanted to talk about the 1996 flood and what it did to the park. He brought photos to showing the Commission water from the foot bridge at the north

end of park, all of the north end of park, and looking towards the south. These photos were submitted to show how much flood exposure the park has. He could not wade across from the south side to the north.

Speaking: Jean Luvine, 13122 SE Capistrano Court, Milwaukie

Ms. Luvine stated that she has lived here for 25 years and has experience with this site. She participated in the first mitigated area when the lights went up and soil was added. When that happened, because of underground water, the stream on the south end extended further onto the adjacent property; it ruined a good portion of their property. When she was talking to Charlie about the soil that was put into the ball diamond, they had problems because of property drainage.

There has to be certain criteria to determine wetlands (soil analysis, pastures in the area, location of wetlands, etc.). Just because these wetlands are in segregated areas, does not mean they are not wetlands. You have to follow the criteria set forth by government in terms of preservation. The wet area of the park cannot be walked through; it's flooded whether or not there is flooding. That area was designated as wetland; so why is it still being questioned.

There was a representative of the Park District present and they had no comments.

John Gessner stated that there were many excellent points brought up about flooding, soil, and resource conditions. These areas brought up are not under consideration by Planning Commission tonight. The nature of flooding problems is part of the natural geography of the area. This 12,000 sq.ft. of isolated wetlands will not have adverse impacts on the remaining system if this is developed. Many concerns must be addressed in the future land use and permitting actions before the city, state, federal government. The action staff is asking for is to make a determination if these two small wetlands should have protection, which includes a 50-foot buffer to be placed beyond these areas. They do not amount to resources that warrant that level of protection based on Metro's criteria in determining what resources should be provided. One of the criteria for determining metro wetlands is that they have demonstrated wetland functions and values; Ms. Ray conducted the wetland assessment. She will comment on that evaluation.

Speaking: Alison Ray, Post Office Box 7499, Aloha

Ms. Ray stated the question is not whether these sites have met the wetland criteria, are designated, or meet any other criteria. The question is whether these sites are significant enough to be protected. The Oregon Fresh Water Assessment was used to determine the value of these sites (necessary functions included high marks in flow and wildlife habitat) and it was found that none of the functions rated high, one function rated moderate for flood flow. Neither site provided wildlife habitat, water quality, and didn't meet state criteria. They are definitely wetland, just not significant wetlands.

The soil surveys done in the 70's do not represent what is there now. The continuation of these small wetlands was not affected in 1996 flooding; there was flooding everywhere.

Commissioner Bresaw asked how big area 3 is? **Mr. Gessner** stated that 12,000 sq.ft. could be exaggerated; it is probably 30'x17' and the roadway 1-1/2' wide in the channel itself. The fill area in Area 3 is about 2-3 feet tall. Without resource protection this could be filled in without any further planning approvals. If the volume to fill is 50 cubic yards or more, it will be subject to Division of State Lands permitting requirements. Staff fills it will take less than 50 cubic yards to fill Area 3.

The Park District is seeking a commission decision through staff as to whether the two pocket wetlands warrant protection of the water resource regulations. If staff is directed to undertake a rezoning; the decision is a no action choice (do not take any further action on the wetlands).

Chair Hammang stated that he has been involved with Milwaukie wetland issues for many years. If the wetlands are not significant and it is possible to get mitigation to other portions of the site, it would be a good deal for the park. These areas are going to be mitigated, the multiplier could be determined later. There are other areas in the park that could benefit from the mitigation. **Judith Borden** noted that any development to these areas will require review before being done.

Chair Hammang stated that a no-action decision tonight would only cover the two little areas that were discussed tonight. **Commissioner Bresaw** stated that she does not want to see area #3 developed and without protection it could be developed. **Commissioner Batey** voiced concern that if there was a no-action vote, the wetlands would be filled in.

Commissioner Carter was concerned that if they did not ask for mitigation now it could not be asked for later. The issue is focusing on two little areas, when the question is the entire development of the park. Mitigation should be there to cover future action. The whole park has water on it and moving and adding of soil will be a detriment to the park. He feels it should not be open and he advises for mitigation.

Chair Hammang stated that there is some resource value on exchange for these sites. If there is development on these wetlands there will be numerous reviews. This decision does not give leverage for development.

Gary Firestone stated that the decision tonight is whether or not to designate these two areas for protection under city code; they do have protection otherwise. The question before the commission is do they get placed on the list or not. There is no requirement for mitigation if they are not on the list. If they are on the list nothing will be done until development is proposed. Pass motion of consent but nothing is required.

John Gessner stated that a letter can be sent with the recommendation from the Commission that articulates the concerns of the Planning Commission and the community. The Park District's approach is to understand what restraints are in place before consideration of the design of the ball field project. With no action, they can design features on those areas. The park district will be relying on the Planning Commission decision tonight for their future design of the ball field project.

Commissioner Carter moved to take no action with the expressed understanding with the Park District that there is to be mitigation for that the two wetland areas (12,000 sq.ft.) on that site. Commissioner Borden seconded the motion. MOTION CARRIED 6-0.

Ayes: Borden, Batey, Bresaw, Carter, Klein, Hammang; Nays: None.

John Gessner stated that notice would be provided to property owners 300 feet within the subject site and anyone else that contacts the Planning Office to be put on the notice list.

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

6.2 Applicant: Panattoni Development Company
 Owner: Monte and Susan Greer
 Location: 5831 SE Harmony Road
 Proposal: Construct an industrial development with 5 buildings
 ranging in size from 14,175 to 20,025 square feet.
 File Numbers: S-04-02/TPR-04-06/VR-04-09WQR-04-03
 NDA: Business Industrial & Linwood

Chair Hammang opened the minor quasi-judicial hearing for Subdivision S-04-02, Transportation Planning Review TPR-04-06, Variance Request VR-04-09 and Water Quality Review WQR-04-03 to consider the construction of an industrial development with 5 buildings ranging in size from 14,175 to 20,025 square feet. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19322 - Water Quality Resource Regulations; 19.324 - Business Industrial Zone; 19.500 - Off-Street Parking and Loading; 19.700 - Variance, Exceptions, and Home Improvement Exceptions; 19.1011.3 - Minor Quasi-Judicial Review and 19.1400 - Transportation Planning Design Standards and Procedures.

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

Keith Jones reviewed the staff report with the Commission. A site map was displayed showing the subject site and the surrounding area. The applicant is requesting four approvals.

- Subdivision – 5 industrial lots
- Transportation Plan Review – traffic impact study review
- Variance – reduce landscaping width and driveway spacing
- Water Quality Resource Review – road crossing of Minthorn Creek

Five industrial buildings (14,000-20,000 sq.ft.) are proposed with associated offices. The buildings will share parking and access with an access agreement. The road crossing is at Minthorn Creek; access will come from International Way and Harmony Road. The requested variance is for the width at the flag stem.

The Transportation Plan Review includes level of service, site access, proportional share, street improvements, and review of the International Way median.

The applicant has shown that levels of service are met. The applicant is proposing access points at International Way and a right only at Harmony Rd. Street improvements will occur proposing to reconstruct radius curve around International Way to allow slowing of traffic on the corner and improve traffic safety. Due to the safety of the International Way driveway and the existing driveway to the west, staff is requiring a median at this intersection. Proportional share is an area of the code where the applicant has to provide proportional share of development.

The Variance review insures that the property has unusual conditions out of the applicant's control, that there are no feasible alternatives. This variance is the minimum necessary, and any adverse effects are mitigated. Staff believes the applicant has met the criteria and recommends approved of the variance request.

Issues under the Water Quality Resource Review included wetland delineation mitigation, culvert design, retaining walls, storm water management, and alternatives analysis. On site is a small isolated wetland that is not on the site map; the applicant will preserve and provide a 50-foot buffer.

An 18-inch wide culvert road crossing with retaining walls is proposed in the 50-foot stream buffer. Working with the wetland consultant and engineering staff, a different storm water plan using a dissipater system and oil water separator will provide a smoother flow to the wetland area as opposed to channeling through filtration swales. The applicant needs to justify that they have looked at alternatives of spanning the creek with a bridge or culvert. The cost of doing the bridge not economical for them and the culvert was the best alternative. Oregon Fish & Wildlife have reviewed the applicant's proposal and agree with the design of the culvert.

Neighbors have expressed concerns about noise, increased traffic at the Railroad Avenue Intersection, the railroad spur, drainage, the widening of Harmony Road, and native plantings and tree preservation

The Grove Neighborhood Association wrote a letter requesting a conditional approval addressing predevelopment noise and testing noise during construction. The development building faces south and will be dug into the hillside. There will be no activity on north end; sound should travel to south. There were no other comments received except for the northern neighbors.

There were some neighborhood comments about the median and concerns expressed about the increased traffic from Railroad Avenue; however staff feels that most of the traffic will come in from Hwy 224 to the site and would not go into the Railroad Avenue.

The applicant is not planning to use the railroad spur. Drainage will be released into the creek, not north towards the railroad track. Concerns were raised about widening Harmony Road but there is no money at this time to widen, and widening is not in the plans at this time.

Ms. Linn Sharp, Linnwood Neighborhood Association, provided comments in regard to native plantings and tree preservation. There is no tree preservation outside the wetland buffer. She will make her concerns known to the applicant. There are two Fir trees that can be saved at the corner.

Staff is recommending approval with conditions as provided in the staff report with the additional conditions:

- Page 18 -- addressing reciprocal access easement sharing and consolidation of driveway access on Harmony Road. The applicant has proposed to grant an easement to neighbors as described in the staff report. Staff recommends removal of the brackets that affect tax lot 1300.
- Page 19 -- County Finding 13, remove last sentence in regard to tax lot 1300.
- Page 23 -- reference to tax lot 1300, bottom of H.
- Page 19 -- Finding 17, tax lot 1800 omitted, County Finding 7, was omitted; 13 erased and 1800 added

Staff is recommending a median on International Way as outlined on Page 20 prior to the issuance of the building permit (2b) and added the finding that the applicant shall install a median at the International Way neighboring driveway for approximately 75 feet, similar to finding on Page 18 #4.

Staff recommends approval with the proposed changes.

Brion Barnett, Engineering Department
Mike Baker, Traffic Consultant, David and Associates.

Brion Barnett displayed transparencies of the site. There are two access points proposed by the county; a right out only and one access point on International Way which will give a right in, a right out and left in movement. He showed a picture of what it looks like today pointing out the proposed access points. The access point is close to the intersection and signal; 95-feet from the International way access point.

International Way Access Issues:

- Proposed access point doesn't meet access spacing target of 300 feet.
- Intersection geometry and vehicle queues obstruct site lines.
- Proposed left-in movement difficult during the afternoon peak hour (4-6 PM)
- Potential collision issues at speeds above approximately 17 mph.
- Difficult to physically prohibit outbound lefts and preserve inbound lefts.

Kiddleson and Associates did a feasibility study of the overall site traffic ques. There is a site problem of seeing what is coming from the other lane (from Harmony to International Way) of traffic turning into the access point. Photographs were shown depicting the site distance shortage at that left turn into the access point. Knowing that it is difficult to leave the access point, alternatives were considered to provide safety. Staff believes the installation of a raised median on International Way past the access point should be considered.

There are two access options, construct a median on International Way or construct a median on International Way if there is a safety problem within 3 years.

Staff recommends a median on International Way to provide a high degree of safety and mitigate against potential vehicle collisions.

Commissioner Batey asked how the Hobart driveway will impact the routing to Highway 224? **Mr. Barnett** stated that people leaving would go on International Way and exit on Freeman or go down International Way and turn around at another point and going back in the other direction. If there was a shared access, people could go out onto Harmony to Highway 224.

Mr. Carter noted that currently there are trucks coming into this site and the fit is real tight and congested. He asked if there will be certain hours for truck traffic. **Mr. Barnett** stated this proposal will have deliveries; there will be incoming and outbound trucks. The applicant will address how that will operate. The existing radius and geometry would allow getting to International Way; the median would force them to go out onto International Way. There are no restrictions on the radius designed that would prevent access and egress on either point.

Keith Jones stated there was one other finding on Page 19, Item #15 from ODOT. Staff will review this statement and if they find that it is true, they may need to strike it.

CORRESPONDENCE

A letter was received from Jack Westfall indicating that he will be providing public testimony.

APPLICANT PRESENTATION

Speaking: Mike Wells, Panatton, 6650 SW Redwood Lane, Suite 370, Portland 97224
Chris Kramer, 610 SW Alder, ISO-700 PO 97275

Mr. Wells stated that he submitted the package on July 28 and he has been working on the issues raised. He has dealt with city departments, Clackamas County, State of Oregon, Oregon Department of Transportation and the Corps of Engineers. He feels they have a comprehensive package that meets the code and develops this parcel with market viable businesses.

Mr. Wells agrees to deed restrictions on location and types of equipment and Lynn Sharp's recommendations of having over 50% native plantings and saving two 24-inch plus trees by the driveway to Harmony and one tree at Harmony and International Way. He has addressed creek resources, narrowed up the proposed crossing and increased the span to stay away from wetlands and give a larger arch and clearance (8-feet) for larger animals. Staff recommended eliminating swales, and using underground treatment. The height of the retaining wall has been decreased to 2-feet for animals to get over. They will be planting 3,000 additional plants in that area on either side of creek.

There are a number of prospective buyers of buildings that are in Milwaukie now that are looking for expansion and the ability to own. There will be about 100 jobs located at this site. He is accepting of all the conditions recommended except the median. He urged the Commission to consider the alternative of seeing how the traffic flow operates for three years and he will build the median if there is found to be a need at that time. There are many times of the day where there is not much traffic at that intersection. Without the median the traffic can disburse easily through that area. Kiddleson and Associates looked at alternatives for this site and the current configuration is the best they can do at this point.

Mr. Wells urged consideration of not putting in the median; they have reviewed the site and feel the driveway will work safely. The concern is for the left-in movement and the feasibility of that being blocked during p.m. peak hours. There is not a significant volume of traffic that will be using that left turn. The possibility of a crash there is small. Over time the access to the site will change as the parcel on Harmony Road develops; it will provide a secondary option to access the site. They have met all the operating standards; the project is approvable.

QUESTIONS FROM THE COMMISSIONERS

Landscaping percentages were questioned for building 5. Overall the 30% will be exceeded because they come down near the edge of the creek. Landscaping will include the mitigation area as well as landscape around the building itself.

Speaking: Tara Lund, CEDA, Architectural, 4445 SW Barber Blvd, Suite-200, Portland

Ms. Lund stated that the staff report indicates that there are lots with 15% landscaping; that is incorrect. The Water Quality Resource is split between the two lots. The landscaping percentage for the lots is about 29%.

Chair Hammang questioned the strange proportion of 250 Douglas Firs and 12 Oregon Ash. **Mr. Wells** stated that it is odd to have more Fir than Ash. This was part of the intent to increase native plantings, to be flexible about this. Alison Ray may have some input on this. He has no objection to changing to Ash.

Chair Hammang stated that he is content with median on Harmony Road and asked if the applicant would escrow the median on International Way? **Mr. Wells** said yes.

Commissioner Batey asked for clarification of a tilt up building. **Mr. Wells** stated that it is a building where the wall panels are concrete cast on the floor, then a crane tilts them into position into vertical walls and they are welded together and fixed into position.

TESTIMONY IN FAVOR

Speaking: Dolly Mackin-Hambright, 112258 SE Grove Loop, Milwaukie

Ms. Mackin-Hambright stated that she is here representing the homeowner association and has talked to the applicants. They have said that they are willing to set up an association of building owners and tenants that would monitor traffic, dumpsters, and noise issues. She would like to see this made a part of the recommendations of approval. She is not sure how big of an issue the noise will be. Part of the Douglas fir issue was for noise mitigation.

QUESTIONS OR COMMENTS

Speaking: Forrris Frick, 11658 SE 35th Avenue, Milwaukie

Mr. Frick asked what happened to the 300-foot rule; this is a major access on the street and it is within 300 feet of another driveway. **Mr. Barnett** stated that the 300-foot access spacing target was mentioned and the city code has access spacing targets. In this case they would like to achieve that target; however, they only have 100-feet of frontage. They are proposing less than target.

The median is what staff sees as mitigation for that closeness. In consideration of the case, the median helps mitigate the constraints of the site. It is called a target, because in a build out condition, the target may not be achieved.

It was stated that the September 10th comments did not recommend the city should wait a period of time for the median on International Way. He concurs that it should be installed the opening day, not waiting.

Commissioner Batey asked how the shared access would work? **Mr. Barnett** stated that the shared access would be an agreement between the applicant and the adjacent business. The 300-foot rule is used to give the driver time to make a decision before accessing. **John Gessner** specifically recommended to the Planning Commission and the City Council the 300-foot rule to avoid (infill community) spacing of driveways. There are driveways less than 300 feet; this is a flexible standard. If no access is permitted, there would be a "taking" claim. There needs to be an access.

Mr. Frick voiced concern that this situation is very close to a signalized intersection and close to the proximity of an intersection.

TESTIMONY IN OPPOSITION

Speaking: Chris Koback, Omark Industrial Park Association, Suite-2300, 1300 SW 5th Avenue, Portland 97201.

Mr. Koback stated that the employees of the existing businesses will have to navigate this intersection and it will be difficult. He has no quarrels with the applicant's proposals; just because it is the best that can be done doesn't mean it is safe and should be approved. This intersection allows cars to come through at great speeds. The distance he measured from the crosswalk to the beginning of the access is 65 feet. The proposed fix to restrict flow to make people drive slower may be more dangerous. By the time people realize there is a problem, they will be into the intersection. There is no time to stop; there is not 100 feet to react; he thinks it is more like 50-feet.

The restriction proposes a problem with large semi trucks getting off International Way onto Harmony Road. You cannot assume that the trucks (WB-50 truck) will be the size indicated in the Kittleson Report because they don't know who will be occupying the site. This restricts the larger trucks from getting to the other uses on International Way. When you add the median 2-3 feet will be lost and there will be further restriction on truck maneuverability.

Another problem with this intersection as designed is that staff has required a 6-foot bike lane on each side. The bike lane on the site map shows the truck in the bike lane. With two cars (F-1) going into the driveway, (F-2) a different angle, there is not enough room for another vehicle. If one truck is backed up and another truck is coming, the tail end

will stick out into the intersection and there will be a crash. A truck leaving Hobart will not be able to make that right out into International Way; it is a sharp turn.

There are safety issues on Harmony Road (county highway) regarding the bikeway; the applicant is proposing to jut out the curb, which comes right out into the bike lane. Bikers will come through and have to go out into the arterial to pass the driveway and then get back into the bike lane.

There is confusion of the site distance. Before it is approved, there should be one figure agreed upon. Cars are having problems at this intersection; this site distance cannot be met with a large truck.

Hobart people leave to the left when they can. All the people leaving to left now have to be forced to go down International Way. There should be an assessment of how this forced right-out maneuver will affect Harmony Road; cars already stack up here. The stacking is based on two lanes of traffic feeding into 22-feet of paved lane. The applicant is proposing 17-1/2 feet; the stacking information is going to be worse than it currently is.

Mr. Koback asked if the applicants will be allowed to use mitigation for landscaping? If this happens, the applicant can mitigate on back of site and put no trees in the front. Mitigation is mitigation and landscaping is landscaping; they are different and he is proposing something different. If this intersection is approved, it will be the worst intersection around.

Speaking: Jack Westfall, 14897 SE 172nd Avenue, Clackamas

Mr. Westfall stated that the Omark Property Owners Association absorbed the cost of constructing International Way. In 1985 they fixed the drainage into Minthorn Creek, installing three-inch pavement; it is still serviceable today. This year \$65,000 was spent to repair Mallard Way. They would like to continue to work with the City.

Mr. Westfall stated that he is concerned with all the traffic going down International Way to the west to get out. He owns the property that has a turn-around; if this is allowed his turnaround will be used as a traffic circle. As an owner, you have no control over the size of the vehicle that comes in for deliveries (30-60-ft.). There are a lot of undisclosed problems with this application.

Speaking: Jim Falls, Blount, 4909 SE International Way, Milwaukie

Mr. Falls passed out a letter expressing concerns of the safety of employees that report to work through that intersection and how stacked up that intersection on the way out will be, median there or not.

The proposed site access is too close to Harmony Road (P. 64); the recommendation, "...all this work makes the intersection as safe as practicable" does not say it is safe.

Traffic will be directed toward Freeman Way which is already stacked up and will affect Ballard and Mallard Way.

Speaking: Roger Glaser, Blount Inc., 4909 SE International Way, Milwaukie

Mr. Glaser submitted a letter and is here representing 1,000 employees. These employees see traffic congestion and other ongoing problems. There are traffic altercations at that intersection all the time. Some of the changes proposed will add to and increase exiting problems.

There are 790 estimated daily trips from this development that will cause congestion at Freeman Way and 37th. Blount relies heavily on truck traffic in and out of their site. The Kittleson Report and the County comments address larger trucks (WD-67).

This design is one of accommodation in that standards and safety have been ignored to accommodate this proposed development. It ignores existing operations, the requirements of existing tenants and will have impact on everyone that now uses International Way. These people pay taxes and have been there for a long time. The adverse affect mitigation is simply shifting the problem to the other owners on the road.

Speaking: Charles Bach, 5759 SE International Way,

Mr. Bach stated that they are adjacent to subject site. They have been there 25 years. He is concerned about limiting the right-hand turn with a median strip. They are going to lose their left-hand turn. He is concerned that the trucks that come into their property will not be able to make the turn with the medium.

Their concern is about the access. They have been turning left safely for 25 years. Now they will not be able to turn left into their property from International Way and he is concerned about losing delivery trucks turning left into their property. This will affect their customer base and employees. The existing traffic pattern has been established and there will be significant concerns. He is not sure the speed addressed can be mitigated enough to allow the turns safely. The 800 trip increase will impact the Freeman Way access and if this is the only way out it will be significant.

Speaking: Karl Kochendorfer, 5498 SE Monroe, Milwaukie

Mr. Kochendorfer stated that he is next to Jack Westfall. They are a light-medium industrial manufacturing facility. They receive 2-3 truck deliveries daily and they use Jack's driveway because he is land-locked.

To negotiate a left turn coming from west, the driver has to take part of the on-coming traffic lane. If this is extended, it will be impossible to access the site this way. The site study did not take into consideration coming in by International Way, trucks will have to wait and back up before they can come into International Way. Currently in the evening

hours there is backup trying to get onto Freeman Way. This will soon affect Lake Road and Harmony Road.

As residents in the area, he sometimes rides his bike and coming around the corner, east on to Harmony Road to International Way, and the traffic comes off so fast off Lake Road and Highway 224 you can get hit trying to make a right turn. Cars speed up to make the light at that intersection and cannot see if someone is making a right onto International Way. He is very concerned about someone getting nailed. He would like to see turning lanes developed and provisions for those going straight ahead. It is dangerous to try to get out at night. When the trains are going, it is backed up for miles; you could sit for 5-7 lights.

Freeman Way is backed up and there is not enough turning radius for trucks. There is one UPS driver that services the entire park. Currently he does not have to exit the industrial park to do all his deliveries. This proposed configuration will cause the delivery to go back onto the highway and go back around the other way.

Truck drivers from out of state cannot find International Way. There was an accident recently where a car was taken out because a truck did not know which way to go (there are 5 different street signs at this intersection).

Speaking: Ken Foshim, 2525 SE Mallard Way, Milwaukie 97322

Mr. Foshim stated that the applicant seems to be underestimating peak-time traffic in the afternoon. The traffic is backed up on Harmony Road in the afternoon. The congestion already exists; the three exit points should be resolved before putting more traffic in this area.

Speaking: John Rupp, 6708 SE Plum Drive, Milwaukie 97222

Mr. Rupp stated that he owns property in the Omark Industrial Park (325,000-feet) and he rents spaces of 3,000, 5,000 and 10,000 feet. He has been doing this for 35 years. He is in the park every working day; he knows what goes on in the park and he knows what trucks come and go.

Mr. Rupp says that he respects the researchers work, but 50-65 feet is not enough distance to access this site. Once trucks get on this site, they will not be able to get out. This is a big mistake. He managed the Omark Business Center and they had the worst vacancy record; sold 6 times in the last year. Trucks cannot get around in this business parcel. The trend now is for larger trucks because it is more economical. You cannot stop people from coming to your site, they are trying to get to the address they have been given. It is the people that buy the buildings that will be sorry; not the developer.

He commended the people on the planning of this site. Nothing makes it worth what they are going to do to the intersection of International Way and Harmony Road. There is no

good coming from this. He does not feel these changes should be made without a complete study of the traffic issues. He suggests that the applicant sell the property to the Jarmen people who have access to the creek, sell the property on the front adjacent to him and do what they want with what is left. None of the traffic improvement issues will then be needed.

Speaking: Danny Lukovich, 5771 SE International Way, Milwaukie

Mr. Lukovich stated that he has been on the property behind Cobart about 50 years. This will affect his business in that it will make the left turn a challenge; right turn is a little easier. In many instances, he can't get on the road because of the traffic; it is easier to make a left when there is no traffic. To take International Way will take 25 minutes to Harmony Road. The medium will create more traffic on International Way and Harmony Road. He does not want to see an easement. Omark Industrial Park is a jewel; let's keep it that way.

Speaking: Bob Warren, 5209 SE International Way, Milwaukie 97222

Mr. Warren stated that he owns Bob's Red Mill and he has the most trucks coming and going, double trucks, from all over the states. This is a difficult intersection with curves, trucks getting in and out. This entrance with medians will make it impossible for large trucks. Trucks range from 60-feet long with a tractor and sleeper do not maneuver very well.

Mr. Warren stated that there are intersections that are intolerable. It gets this way by approving what is being proposed here. He does not like what is being done on the bike lane and suggests a total careful study, with accurate dimensions, and realistic truck sizes. It needs to be shown that trucks and bicycles can make these angles of the road. He does not think it will work.

He is thankful for his success; however, this applicant is trying to do too many things. It needs to be done in such a way that it will be tolerable with the intersections. Send him back to the drawing board.

ADDITIONAL COMMENTS FROM STAFF

Recess was taken at 9:43 p.m. and the meeting reconvened at 9:55 p.m.

John Gessner suggested continuation to allow staff to address some of the concerns raised by public testimony tonight.

Commissioner Klein moved to continue the application for the Panattoni Development Company to November 9, 2004. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 6-0.**

Ayes: Borden, Batey, Bresaw, Carter, Klein, Hammang; **Nays:** None.

- 6.5. Type of Hearing: Legislative
Applicant: City of Milwaukie
Proposal: Amend Zoning Ordinance Section 424 by eliminating the requirement to renew home occupation permits.
NDA: All

John Gessner reviewed the staff report with the Commission. City Code now requires annual renewal of all home occupations. This proposal would eliminate the annual renewal process. Staff presented these code amendments to the Planning Commission and City Council and was advised to proceed for adoption.

Each year the City processes approximately 325 to 350 home occupation applications. Out of those home occupation renewals, there is a low rate of violations of compliance. This paper process has become intensive and of little value. The renewal process can be eliminated and the quality of home businesses can be maintained.

Mr. Gessner reviewed the proposed ordinance. He stated that after one year experience, if there are amendments needed, they can be done at that time. He is asking that the Planning Commission forward a recommendation to Council in support of eliminating annual application requirements for home occupations. This issue is scheduled for Council hearing on November 16, 2004.

Commissioner Batey asked how many renewals are received each year? **Mr. Gessner** stated that there is an 80% renewal rate.

Speaking: Forris Frick, 11658 SE 35th Avenue, Milwaukie

Mr. Frick stated that he was out of town the first time this came up. He does not feel it is true that it takes staff 15-25 minutes to check out the applications each year. With 325-350 businesses renewing each year at \$25 each, this is revenue for the City and will result in a loss of \$8,125-8,750 a year. According to his calculations this revenue results in \$5,300 profit; why are we getting rid of this? This is not the way to go.

This was done to protect the neighborhood; yet there is no protection because there is no inspection. No one is inspecting the premises; he feels there is some other reason for this change; not because this is losing money for the City.

John Gessner stated that he took care in preparing the proposal. With regards to the time it takes to review an application you have to take into consideration the total time involved with receiving applications, receiving funds, receipting funds, setting up files, reviewing application for completion and acceptance, returning applications to business owner, etc. If there is an inspection it is 45 minutes to an hour. Enforcement cases can take up to 15 hours and there is not as much money collected than expended work to collect funds.

The goal of having a fee was not to make money; only to recover costs. The per hour rate, salary plus benefits, and number of employees used figures into the calculations. The effort put into inspections do not provide benefit of quality of the product.

Mr. Frick asked why signage is allowed for home businesses. **Mr. Gessner** stated that the City tries to make the least amount of burden on applicants; if the business meets the size of the sign, it does not need inspection.

QUESTIONS FROM THE PLANNING COMMISSIONERS

Commissioner Klein declared a conflict of interest because he is a business owner in the city. Gary Firestone stated that the City Code is governed by state rules regarding the standard for actual or potential conflict of interest. If this affects a financial impact to you or a family member it could possibly be a conflict. Because he would receive no personal individual gain, it is Commissioner Klein's decision to participate or not.

Commissioner Batey moved to forward a recommendation to the City Council in support of eliminating annual application requirements for home occupations and adopt the proposed ordinance. **Commissioner Borden** seconded the motion. **MOTION CARRIED 5-0.**

Ayes: Borden, Bresaw, Crites, Klein, Steward, Hammang; Nays: None.

- 6.4 Applicant: City of Milwaukie Community Development
 Owner: N/A
 Location: N/A
 Proposal: A request by the Milwaukie Planning Director for a
 Planning Commission determination that required landscaping may
 not be used for parking by commercial and institutional use.
 NDA: All

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. 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. There is a neighborhood dispute on parking in a landscaped area. There is a matter before the municipal court for interpretation on this issue. He is requesting that the Planning Commission forward an interpretation to the Council of parking limitations in landscaped areas.

Mr. Gessner read Section 501 to the audience. The purpose of landscape is landscaping. There is a separate code section that applies to residential.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Carter asked if this goes through will parking requirements meet current standards or past code. Mr. Gessner stated that the legal non-conforming use is protected from the city coming back and requiring parking standards be updated.

CORRESPONDENCE - None.

APPLICANT PRESENTATION

Speaking: Ihor Levkin, 12670 SW Harlequin Drive, Beaverton

Mr. Levkin stated that he is a member of the Ukrainian Bible Church. They have received a citation for \$500 and he feels that the citation should be written to the owner of the car, not the church. When they received the letter, they informed the members not to park there. There is not enough parking for the membership of the church.

Speaking: Demitreo Deligose, 12776 SE 137th Drive, Clackamas 97015

Mr. Deligose stated that he is a member of this church. When the church was purchased there was no mention of parking on the grass. This neighbor was very angry about parking on grass. When they received the letter the church warned members not to park on grass.

The ticket was written at 1:00 p.m.; their church services are over at that time. They have contracted with Linwood School to use their parking lot until their improvements are done; after that time there is an agreement that both can use each other's parking lots.

Mr. Deligose feels that there could be another person parking on the landscaping that may not be a church member, or possibly it could be a person that did not hear the announcement to not park in the landscaping.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION - None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner stated that this will result in taking similar enforcement elsewhere. The matter is in front of the municipal court, waiting for municipal decision.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

APPLICANT'S CLOSING COMMENTS - None.

DISCUSSION AMONG THE COMMISSIONERS

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

Gary Firestone stated that the interpretation requested will not decide the case. The Commission is being asked to provide an interpretation of parking being allowed on landscaped areas or not (does the code currently prevent parking on landscaped areas). The Commission is not being asked to interpret who the right defendant is or the merits of any particular case.

Chair Hammang stated that he believes there is no appropriate action for this hearing. It was the consensus of the Commission to do nothing. If something comes from the court requiring an interpretation, it can be addressed at that time. No action was taken.

7.0 WORKSESSION ITEMS

8.0 DISCUSSION ITEMS - None.

9.0 OLD BUSINESS - None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

Commissioner Borden reported that she was resigning from the Commission and will be moving out of the city limits.

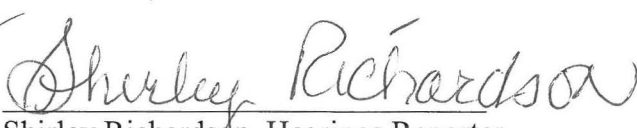
John Gessner reported that Teresa Bresaw will be unable to attend the Economic Development Committee meetings because they will be held in the daytime. November 16th will be the next meeting. Jeff Klein volunteered to serve on this committee.

11.0 NEXT MEEETING - November 9, 2004

Jeff Kline moved to adjourn the meeting of October 26, 2004. **Teresa Bresaw** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 11:15 p.m.


Donald Hammang, Chair


Shirley Richardson, Hearings Reporter

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA
TUESDAY, OCTOBER 26, 2004
6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Questions	
3.0	Planning Commission Minutes	Motion Needed
3.1	August 24, 2004	
3.2	September 14, 2004	
3.3	September 28, 2004	
	Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	
4.0	Information Items – City Council Minutes	Information Only
	City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	
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	Type of Hearing: Advisory Hearing continued from 9/28/04 Applicant: North Clackamas Parks & Recreation District Owner: City of Milwaukie Location: North Clackamas Park Proposal: Determine whether recently found wetland pockets should be rezoned for resource protection. Planning Director recommends against a resource designation. NDA: Lake Road Staff Person: John Gessner	
6.2	Type of Hearing: Minor Quasi-Judicial Applicant: Panattoni Development Company Owner: Monte and Susan Greer Location: 5831 SE Harmony Road Proposal: Construct an industrial development with 5 buildings ranging in size from 14,175 to 20,025 square feet. File Numbers: S-04-02 / TPR-04-06 / VR-04-09 / WQR-04-03 NDA: Business Industrial & Linwood Staff Person: Keith Jones	
6.3	Type of Hearing: Minor Quasi-Judicial Appellant: Candallee Weede for Dancevolve Owner: Dancevolve Location: 4252 SE International Way Proposal: The applicant is appealing a Planning Director's Determination that the appellant's dance business is not a 'trade school'. File Numbers: AP-04-01 NDA: Business Ind., Hector Campbell, Lake Rd. Staff Person: John Gessner	
6.4	Type of Hearing: Minor-Quasi Judicial Applicant: City of Milwaukie Proposal: A request by the Milwaukie Planning Director for a Planning Commission determination that required landscaping may not be used for parking by commercial and institutional uses. NDA: All Staff Person: John Gessner	
6.5	Type of Hearing: Legislative Applicant: City of Milwaukie Proposal: Amend Zoning Ordinance Section 424 by eliminating the requirement to renew home occupation permits. NDA: All Staff Person: John Gessner	
7.0	Worksession Items	
7.1	King Road Safeway Development Review and Construction Process [verbal]	
7.2	Ballot Measure 37 Information Sharing	
7.3	City Council Transit Center Decision	
8.0	Discussion Items	Review and Decision
	This is an opportunity for discussion by the Planning Commission for items not on the agenda.	
9.0	Old Business	
10.0	Other Business/Updates	Information Only
	Matters from the Planning Director Economic Development Committee Update	Review and Comment
11.0	Forecast for Future Meetings November 9, 2004: November 23, 2004: Providence Hospital Request for Office Use; Oak Street Rezoning December 14, 2004: North Main Street Redevelopment	
The above items are tentatively scheduled, but may be rescheduled prior to the meeting date.		

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.

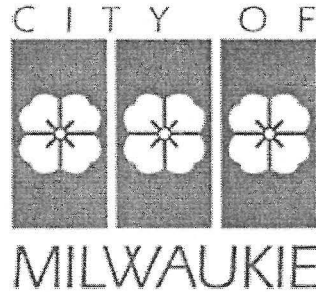
The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.

Milwaukie Planning Commission:

Donald Hammang, Chair
Judith Borden, Vice Chair
Lisa Batey
Teresa Bresaw
T. Carter
J. Klein
Edward 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
From: John Gessner, Planning Director *JK*
Date: October 26, 2004
Subject: Wetland Designation at North Clackamas Park

Action Requested

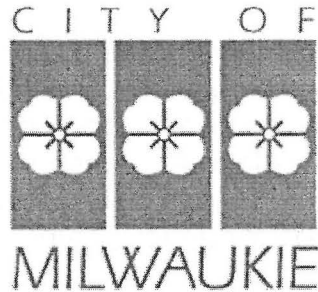
Direct staff with regards to the zoning status of two unmapped wetlands in North Clackamas Park.

Background

The Commission first heard this matter on September 28, 2004; a copy of that meeting's staff report is attached. The Commission deferred action to allow additional time for consideration.

The site was revisited to further evaluate the wetlands. Staff confirms the original recommendation that the wetland pockets should not be zoned for resource protection and continues to recommend that an appropriate measure be used to compensate the loss of the values associated with wetland sites at the time of the next park development. Details of that compensation would be determined at the time a future land use application is submitted. In testimony provided on September 28, 2004, the Parks District cited the combined wetlands measure 12,000 square feet.

See the attached September 28, 2004 staff report for additional information.



To: Planning Commission
From: John Gessner, Planning Director
Date: September 28, 2004
Subject: Wetland Designation at North Clackamas Park

Action Requested

Direct staff with regards to the zoning status of two unmapped wetlands in North Clackamas Park.

Background

On December 17, 2002, the City Council enacted the City's Water Quality Resource regulations and associated water quality resource maps. Under these regulations, lots that contain water resources as shown on the adopted maps are subject to development controls including buffers around mapped resources.

Sources used to identify water resources mapped in 2002, include the National Wetlands Inventory, the 1993 wetland determination report prepared for the City, staff knowledge, and the City's Comprehensive Plan wetland inventory. The city water quality resource map for the park shows certain watercourses and wetland areas. However, the map does not include the sites that are the subject of this review, which were not previously known to be wetlands.

The purpose of this review is to determine whether the newly identified wetland sites have sufficient value to be mapped and therefore made subject to resource protection. Staff advised the District on the process for resolution of this issue; their request was submitted accordingly. (See *Exhibit 1*)

The sites in question lie along the southerly fence line and along the Kellog Creek Drive between the two ball fields; these are shown as Wetland #3 and Wetland #1 on Figure 5 of the District's wetland report. (See *Exhibit 2*) Both wetlands are bounded by active recreational fields. Wetland #3 is bounded on the south by undeveloped properties.

A Wetland Determination and Delineation was conducted for the Parks District.¹ The report indicates that the site contains the needed hydrology, soils, and vegetation to qualify for wetlands determination. The report indicates that wetland #1 along the drive and wetland #3 along the southerly fence would meet the exemptions from state wetland permitting requirements under Oregon Administrative Rule 141-085-0015 for artificially created wetlands and roadside ditches.²

A notice of the public meeting on this matter was mailed on September 13, 2004, to owners of surrounding properties within 300 feet of the site

Key Issues

1. Historic aerial photography and site conditions suggest large portions of the site previously supported extensive wetland conditions. The park site has been significantly modified through artificial drainage, land clearing, and filling. The remaining stream and drainage corridors have significant resource value.
2. Wetlands qualify for city resource mapping when they are at least one half acre or otherwise have been determined to have an intact water quality function under the 1996 Freshwater Wetland Assessment Methodology.³ Both wetlands are significantly smaller than one half acre. The freshwater wetland assessment methodology has not been applied.
3. An independent wetland consultant was hired by the City to advise on this matter.

Conclusion

Staff believes that wetland #1 and wetland #3 lack the size, quality, and natural functions that would warrant rezoning for resource protection and recommends the Commission not direct that action. Both sites are too small in relation to surrounding conditions and activities to offer meaningful resource value. Minimal resource value is present and persistent park activity significantly constrains potential for restoration of natural resource values.

Alternatively, staff recommends that that proportional restoration of other on-site quality resources be provided should any future site development displace the wetlands.

The City's wetland consultant will be present on September 28, 2004 to address Commission questions.

¹ See Exhibit 2.

² This alone is not a basis for not protecting a resource.

³ In accordance with Milwaukie Municipal Code Section 322 and Metro Functional Plan Title 3.

Decision Making Alternatives

The Commission's action on this matter is advisory only. Accepting the staff recommendation would result in "no action" and subsequent park development proposals would not be subject to city resource protections for wetlands #1 and #3. The Commission has the following options:

- Accept the staff recommendation.
- Take no action.
- Initiate a rezoning.
- Refer the matter to the City Council for their consideration.

Exhibits

1. Letter of Charles Ciecko, Director, North Clackamas Parks and Recreation District, August 2, 2004.
2. Wetland Determination and Delineation for North Clackamas Park in Milwaukie, Oregon, Pacific Habitat Services, March 10, 2004.



To: Planning Commission

Through: John Gessner, Planning Director *JG*

From: Keith Jones, Associate Planner *KJ*

Date: October 26, 2004

Subject: Files: S-04-02, TPR-04-06, VR-04-09 and WQR-04-03
Applicant: Panattoni Development Company
Address: 5831 SE Harmony Road
NDA: Milwaukie Business & Industrial

Action Requested

Approve applications S-04-02, TPR-04-06, VR-04-09 and WQR-04-03 and adopt recommended findings in support of approval authorizing construction of five industrial buildings and related improvements.

Key Issues

1. The City Council approved annexation of the site for industrial development on July 20, 2004.
2. The applicant is proposing the following improvements:
 - a. Five tilt-up industrial buildings ranging in size 14,175 to 20,025 square feet.
 - b. 117 parking spaces.
 - c. New access to International Way and right-out only access to Harmony Road.
 - d. A road crossing of Minthorn Creek.
3. The following approvals are required:
 - a. Subdivision for 5 lots.
 - b. Variance to reduce landscaping width and driveway spacing at proposed Harmony Road access.

- c. Transportation Plan Review and Transportation Impact Study (TIS).
 - d. Water Quality Resource Review for a proposed road crossing of Minthorn Creek.
4. Coordinated Traffic Review
- Clackamas County has jurisdiction of Harmony Road and has requested the City adopt several findings and conditions regarding proposed right-out access to Harmony Road (see Attachment 9). ODOT has jurisdiction of Highway 224 and does not have concerns with the proposal.
5. Traffic & Transportation
- Staff believes that the applicant has demonstrated that all intersections will operate at an acceptable level of service and that the mitigation measures proposed are proportional to impacts. However, staff has concerns about the safety of the proposed International Way access and the closeness of the access to the Harmony/International/Lake intersection. Staff recommends installing a median in International Way that would restrict left turns in and out of the site and would also restrict lefts to the neighbor's property to the west.
6. City staff met with the property owners adjacent and west of the site on September 28, 2004. Attending the meeting was Danny Lukovich from Pattern Craft Inc., and George Bach and Charles Bach from Hobart. Also in attendance was Jose Vazquez representing Oregon Cutting Systems located at 4909 SE International Way. The neighbors expressed concerns with the closeness of the applicant's proposed driveway to their driveway and International Way. City staff informed them that a median was being considered that would restrict left turns in and out of both the applicant's proposed driveway and their driveway on International Way. City staff encouraged them to consider sharing access with the applicant.
7. Water Quality Resource Review
- Minthorn Creek crosses the site and there is a small wetland adjacent the creek. A culvert road crossing with retaining walls is proposed in the 50-foot stream buffer. The impacts to the buffer will be mitigated by adding buffer and enhancement.
8. Parking & Loading Compliance
- Five industrial buildings are proposed with associated offices. The applicant has proposed parking to accommodate this use, however, the Business Industrial (BI) zone allows uses that require more parking. Staff believes conditions should be imposed to limit uses that would overburden parking.
9. Variance Request
- The applicant has applied for a variance to reduce the required 8-foot landscaping width to 6 feet and 10-foot driveway setback to 6.5 feet along

the easterly site drive that accesses Harmony Road¹. Staff believes the applicant has demonstrated compliance with the variance criteria.

10. Business Industrial Zone

Staff believes the applicant has demonstrated compliance with the (BI) zone.

11. Noise

The Grove Home Owners Association has expressed concern with potential noise impacts to the neighborhood which is located to the north.

12. Lynn Sharp, a resident of the Linwood Neighborhood, has made suggestions to the applicant regarding tree preservation and native landscaping. (See Attachment 7).

Background Information/ Project Description

The site is located at the northeast corner of International Way and Harmony Road and is bounded by the Union Pacific Railroad to the north, Harmony Road/International Way to the south, industrial property to the west and a mix of underdeveloped and fully developed residential property to the east.

The site is undeveloped with the exception of a house and detached garage at the front of the property. Minthorn Creek crosses from east to west splitting the site with a third of the upland area at the north end. Mature trees are present near the creek and in some select locations. The remainder of the site is an open field.

Proposed improvements to the site include:

1. Five concrete tilt-up industrial buildings with 117 parking spaces. Specific tenants are not proposed at this time.
2. 37.5 percent of the site will be landscaped (19.5% site landscaping and 18% wetland buffer plantings).
3. 30-foot wide road crossing of Minthorn Creek using 2 to 10-foot tall rockery retaining walls, 18-foot wide bottomless arch culvert and fill.
4. Removal of noxious weeds and installation of native plantings within the stream buffer.
5. Street improvements as follows:
 - a. Curb, sidewalk, wheelchair curb drops and landscaping strip installed along the site frontage on Harmony Road and International Way.
 - b. New curb radius at the corner of International Way and Harmony Road to slow vehicles turning the corner. Trees and shrubs would be removed or trimmed to increase site distance.

¹ The driveway spacing is measured where the driveway enters the public right-of-way. The landscaping buffer is measured along the length of the driveway.

- c. Installation of a 450 foot long raised median on Harmony Road extending from the Harmony/International intersection east 25 feet past the proposed access to restrict left turns.
- d. "No Left Turn" sign installed at the proposed International Way access. (City staff believes a median should be installed to restrict all left turns).
- e. Cross-over easements granted to neighboring property to the east and west to allow for future driveway sharing.

Analysis of Key Issues

1. 5-lot Subdivision

Each building is proposed to be on its own lot with shared access and parking easements. The BI zone does not have a minimum lot size requirement nor does it require that lots have street frontage. Proposed lots range in size from 1 to 1.51 acres.

The BI zone requires that 15% of the "site" be landscaped². 15% landscaping is not provided for each lot, but the entire site will have 37.5% (19.5% site landscaping and 18% wetland buffer plantings). Since all lots share access and parking, staff believes the development functions as one site.

2. Coordinated Traffic Review

Oregon Department of Transportation (ODOT)

ODOT indicated that Highway 224 ramps will operate to ODOT standards. However, the westbound off-ramp will not meet city standard.

ODOT uses a performance standard that is different then the level of service used by the City. The City code defers to ODOT standards for Highway 99E but does not exempt Highway 224³. City staff believes that since the ramp is an ODOT facility, ODOT standards should apply.

Clackamas County

Harmony Road is County-controlled. The County indicates that right-out access can be granted, however, the access is likely temporary and could be closed and moved father east if and when neighboring properties redevelopment or Harmony Road is widened. A center median must be installed to prevent left turns into the site. The County requests that the City impose findings and conditions of approval as provided in the County Memo. (See Attachment 9).

² The Business Industrial (BI) zone references "site" landscaping where other zones require minimum vegetation within the "lot". Staff believes the intent of "site" in the BI zone is to encourage campus-style development and to allow shared landscaping, parking and access.

³ 19.1407.4

3. Traffic & Transportation

The following outlines the key components of the proposal:

A. Level of Service

The Transportation Impact Study (TIS) prepared by Kittelson & Associates indicates that all intersections will operate at an acceptable level-of-service⁴ (LOS)⁵.

The Railroad Ave./Linwood Ave. intersection operates within City standards before and after the development. The traffic study predicts that only 15 trips would use the intersection at the morning peak hour and none in evening peak. Restricted left turns out of the site and proximity to Highway 224 limits the need to use the intersection.

B. Site Access

Left-out prohibited access for International Way and right-out only access for Harmony Road is proposed. Staff believes that access to Harmony will operate safely but has concerns about the International Way access.

The applicant proposes to install the new International Way driveway as far from the intersection as possible, but limited room only allows for 100 feet to the intersection and 10 feet from the neighboring westerly driveway⁶. To mitigate for this constraint, the applicant proposes the following:

- Left turns out of the site would be prohibited by placing a "No Left Turn".
- Vegetation at the site corner will be removed to increase sight lines.
- Curb radius would be widened to slow traffic turning from Harmony Road to International Way.

Staff believes that even with the applicant's proposed mitigation the following safety issues remain:

- a. Cars will likely turn the corner at 20 to 25 mph, faster than 15 mph predicted by the applicant. 100 feet is provided between the intersection and the driveway, enough space to stop at 15 mph. However at 20 to 25 mph, 115 to 155 feet is needed to

⁴ The westbound off-ramp does not meet City standard, but meets ODOT standard as stated earlier in the report.

⁵ Level of service is a measure of intersection operating performance and vehicle delay. It is similar to a report card rating with a range from LOS A (little or no delay) to LOS F (high degree of congestion and delay).

⁶ Access spacing targets between the driveway and Harmony Road (an arterial street) is 600 feet (MMC Table 19.1413.1).

stop, and there is not enough distance provided to stop at this higher speed.

- b. Vehicles, especially trucks, waiting on International Way to clear the International/Harmony/Lake intersection have the potential to block the view of those behind looking to turn left into the site (see picture below, arrow indicates proposed driveway location).



Staff recommends requiring the applicant to install a median in International Way. The median should extend from the Harmony Road/International Way intersection south and west past the Hobart driveway (approximately 175 feet). The median would restrict access to right-in/right-out to the applicant's proposed driveway and the neighboring Hobart driveway to the west.

C. Proportional Share

The applicant must provide traffic improvements in proportion to traffic impacts. The following traffic improvements are proposed:

1. Install 450-foot long median barrier on Harmony Road to restrict left turns.
2. Realign International Way to eliminate the existing flare at the site corner on Harmony Road.
3. Provide cross-over access easements to the property to the west and east to allow future access consolidation.

Staff believes the proposed improvements adequately mitigate for proposed traffic impacts if a median is installed in International Way as described above. Also a reciprocal easement has not been provided to Tax Lot 1300 located adjacent at the northwest end of the site, the applicant must be conditioned to provide this easement.

D. Street Improvement Requirements

A 10-foot sidewalk and 5-foot planter strip is proposed on Harmony Road and 8-foot sidewalk and 5-foot planter strip on International Way, to City-standard.

4. Water Quality Resource Review

A road crossing over Minthorn Creek is proposed. Alison Rhea, Rhea Environmental Consulting was retained by the City to review the proposal. (See comments from Alison Rea Attachment 11).

Minthorn Creek crosses the site from west to east. The stream buffer has some mature cottonwood, red alder and large willows with shrubs consisting of small willows, red-oiser dogwood, Indian plum and blackberry. The applicant's wetland study finds that the buffer rates marginal to degraded due to missing tree canopy and invasive blackberry.

The following outlines the key components of the proposal:

A. Wetland Delineation & Mitigation

A 50-foot stream buffer is required from the edge of Minthorn Creek. Also proposed is a 25-foot wetland buffer around an isolated wetland adjacent to the creek. The wetland is not on the City's map of protected wetlands and therefore is not regulated by the City. The Oregon Division of State Lands (DSL) has concurred with the applicant's wetland delineation and has found the wetland is not under state jurisdiction. (See Attachment 14).

The applicant indicates that 6,920⁷ square feet of the buffer would be disturbed and approximately 4,000 square feet permanently removed. 10,600 square feet would be added outside the 50-foot buffer and enhanced for mitigation. (See Water Quality Resource Area Planting Plan Sheet P3 dated 9-1-04). The entire buffer will be enhanced by removing invasive plants and establishing natives.

The City's wetland consultant indicates that the planting plan should be field verified by the applicant's wetland scientist to ensure plants are placed at appropriate locations and mitigation provided within the wetland. Prior to issuance of a building permit, a more detailed plan must be submitted to further identify appropriate planting locations.

B. Culvert Design

An 18-foot wide by 9-foot tall bottomless arch culvert constructed of corrugated metal is proposed. Footings on each side of the creek will be poured, the culvert assembled on-site and then lifted into place from the south with heavy equipment. The City's wetland consultant and the Oregon Department of Fish & Wildlife indicate

⁷ The applicant's plans Sheet P2 indicates that 10,290 square feet would be disturbed, however, the bio-filtration swales are no longer proposed which would have disturbed 4,000 square feet.

that the design is large enough to allow passage of large animals and fish. The Oregon Division of State Lands (DSL) and the Army Corps permits are not required. (See Attachment 16 & 17).

C. Retaining Walls

The applicant is proposing rockery retaining walls to support the road and proposed grade which will lift the site approximately 6 feet at or near the 50-foot stream buffer on both sides of the creek. Walls will be 10 feet tall at the stream crossing and 2 to 6 feet tall elsewhere.

The applicant has revised plans to show 2-foot terraced walls that encroach into the stream buffer as opposed to higher walls that don't encroach. (See Sheet C9 dated 9-28-04.) The City's wetland consultant recommends that the smaller terraced walls be used because they allow for wildlife passage and can act as water quality treatment when planted with herbaceous vegetation.

D. Stormwater Management

The applicant originally proposed two bio-filtration swales within the wetland buffer. The City's wetland consultant has indicated swales are designed to treat phosphorous which is not prevalent in the Milwaukie area. An alternative plan was devised that uses oil water separator manholes and dissipater pipes. This system allows water to flow evenly and more naturally. (See Sheet C9 dated 9-28-04.) This system would require lower maintenance with the dissipaters needing no regular maintenance and the oil water separators cleaned annually by the applicant using a vactor truck⁸.

The applicant's stormwater report indicates that post development flows would not exceed existing flows with oversize pipes used for detention. (See Applicant's Stormwater Management Report dated revised October 12, 2004 attached by reference).

E. Alternatives Analysis

The applicant is required to provide justification for the selected design of the stream crossing.

The applicant indicates that the road crossing is needed because alternative access is not available with the north end isolated by the railroad and private property. Both spanning the creek with a bridge and providing a culvert were considered. A bridge span would have the least impact on the stream but is not proposed because a 150-foot span would cost approximately \$750,000 and result in raising the cost of the land to \$7.49 per usable square foot exceeding the market value of \$4.50. An 18-foot arch culvert was chosen because it is the largest culvert design that can still provide the clearance needed to allow utilities to pass underneath the roadbed and still

⁸ A vactor truck is a truck with a tank and vacuum hose that is commonly used to clean manholes.

clear the top of the culvert. A 24-foot wide roadway with 6-foot sidewalk was chosen because it was found to be the narrowest design that would allow two-way truck traffic.

Staff Response:

Staff believes that as conditioned the applicant has demonstrated compliance with the WQR regulations.

5. Off-street Parking and Loading

Although the applicant does not have specific users at this time, each building is proposed as an industrial use with 40% warehouse/distribution, 40% manufacturing and 20% office. As an industrial use, 81 spaces are required and the applicant proposes 117.

The maximum allow parking for industrial use is 1.25 spaces to 1,000 square feet or 102 spaces. Although the applicant is proposing excess spaces that exceed the maximum, the Business Industrial (BI) zone allows more parking intensive uses including standalone office. Also allowed are Accessory and Limited uses that can occupy up to 25% of a building to a maximum of 4,000 square feet and include such uses as restaurants, personal services and banks that serve the surrounding BI district.

Applicant Response:

The applicant indicates that the buildings are not designed for intensive office use and the limited parking makes the property unmarketable for office use. A small deli-type restaurant may be considered if parking is allocated to support it.

Staff Response:

Staff recommends that the approval specify that the minimum required parking be provided for all of the site. This may result in prohibition of certain occupancies depending on the overall mix of uses.

6. Variance Request

Right-out access to Harmony Road is proposed within a 30-foot wide flag stem at the east end of the site. Due to the narrow existing flag stem, a variance is requested to narrow the required 8-foot landscaping between the driveway and the property line to 6 feet; and narrow the 10-foot spacing required between where the driveway enters the road and the property line to 6.5 feet.

A variance may be granted when the Planning Commission finds that the following is met⁹:

- The property has unusual conditions out of the applicant's control.

⁹ Based on approval criteria for a variance Section 19.702.1

- There are no feasible alternatives to the requested variance and is the minimum necessary.
- Adverse effects as a result of the variance are mitigated.

Applicant Response:

The property is very close to the Harmony Road/International intersection requiring that left-outs be restricted on International Way, creating a unique situation. To allow efficient access to the transportation system, a right-out is needed on Harmony Road. The narrow 30-foot wide flag stem is proposed for access since it is located furthest from the intersection. The need for a wide driveway to accommodate and the narrow width of flag stem provide no feasible alternative. Additional screening and landscaping in excess of required is proposed to mitigate for lost width. Shared access easements to neighboring properties are proposed that would allow future driveway consolidation and increased spacing.

Staff Response:

Staff believes the applicant has demonstrated compliance with the variance criteria.

7. BI Zone Standards

The BI zone contains site and development standards as follows:

- Buildings placed in harmony with solar and natural surroundings.
- Building and landscaping designed for security surveillance.
- Buildings designed to enhance the character of the district including:
 - a. Use of color, materials, and architectural design to visually reduce the scale and impact of large buildings.
 - b. Use of materials and features that are durable and consistent with the proposed use and view by the public.
- Roof mounted equipment screened from view.
- Major service activity areas (e.g., loading, delivery and garbage collection, etc.) located away from major streets.
- Building arranged for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities.
- Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian amenities.

Applicant Response:

The proposed site layout orients the buildings along a north/south axis minimizing windows on the north and south elevations for improved energy efficiency. The buildings are facing a central circulation corridor for security

surveillance. The concrete tilt-up construction with accent stripes and reveals reduces visual scale. Corners will be provided with storefront glazing and additional articulation to highlight entrances. Roof top units are placed in the middle of the roof so they will not be visible from the road.

Staff Response

Staff believes the applicant has demonstrated compliance with the BI design standards.

8. Noise

The Grove neighborhood, located 120 feet north of the site, has expressed concern with potential noise impacts.

Applicant Response

The applicant indicates that the project will not exceed sound levels allowed by city code¹⁰. The design of the project will assist in mitigating noise as follows:

- Loading doors for buildings on north end will face south, away from the neighborhood.
- Buildings will be dug into the bank limiting access and activity on the north side of the buildings.
- Landscaping will be planted along the north side of the building to dampen sound.

The applicant also proposes the following:

- Deed restriction so noise intensive equipment and dumpers are not located on the north side of the building and roof top mechanical equipment does not exceed 75 decibels at the property line (maximum allowed under City Code).
- Man doors are required for fire exit on the north of the buildings so a sign stating "Please be considerate of our residential neighbors and minimize noise, particularly at night".

Staff Response

MMC Section 16.24 authorizes the Planning Director to impose conditions on a proposed development to mitigate noise impacts. The BI zone Section 19.324 (6) (L) requires that uses with regard to noise, vibration and other potential nuisances be compatible with surrounding uses and not create an off-site impact. The proposed development is similar to the surrounding BI zone but may be incompatible with neighboring residential to the north. In addition to the above measures, the applicant should be conditioned so that

¹⁰ Industrial cannot exceed 80 decibels during the day and 75 at night, MMC 8.08.090.

current noise levels do not increase at the south end of the neighborhood after the development is completed.

9. Lynn Sharp Neighbor Comments

Lynn Sharp, an ecologist and resident of the Linwood Neighborhood, has made suggestions to the applicant regarding use of native plants in the landscaping plan and preserving trees. The City does not have regulations regarding on-site tree preservation or using native plants outside the stream buffer. Staff encourages the applicant to use Ms. Sharp's recommendations. One suggestion is to save a large fir tree at the corner of International Way and Harmony Road. Staff believes the tree can be saved if the lower limbs are removed for traffic sight distance and the root zone is protected when installing the parking lot next to the tree.

Additional Issues & Needed Corrections

- 8-foot wide landscaping is required on both sides of the International Way driveway, the plans indicate 6-foot wide on the southeast side of the driveway (Section 19.503.19.A.4).
- Either wheel stops must be installed where landscaping is at the minimum 6-foot width at the head of the parking spaces or the parking spaces shorten by 1.5 feet and an additional 1.5 feet of landscaping width provided. (Section 19.503.19.C)
- Two bike parking spaces are provided per building with 5 buildings for a total of 10 spaces. 117 spaces are proposed and require 10% bike parking, therefore 2 additional spaces are required. (Section 19.505.2)

Code Authority

Milwaukee Subdivision Ordinance

Milwaukee Zoning Ordinance Section

19.322	Water Quality Resource Regulations
19.324	Business Industrial Zone
19.500	Off-street Parking and Loading
19.700	Variance, Exceptions, and Home Improvement Exceptions
19.1011.3	Minor Quasi-Judicial Review
19.1400	Transportation Planning Design Standards and Procedures

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 applications 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.

Comments

1. The Grove Homeowners Association commented in a letter dated September 7, 2004 and expressed concerns about noise, drainage, traffic, site access to the railroad spur and the potential for the project to result in widening of Harmony Road. (See Attachment 5).

2. The Building Official made the following comments in a memo dated October 4, 2004:

Review of the preliminary site plans submitted demonstrate that the proposed site layout complies with the requirements of the Building Code without site modification. However, each building will need to be reviewed in more detailed at the time construction level plans are submitted for building permits.

Prior to issuance of a building permit the applicant must:

- a. Submit detailed construction plans that detail compliance with the Oregon State Specialty Code in effect at the time of permit submittal (Electrical permits are issued by Clackamas County).
 - b. Demonstrate compliance with all Clackamas Fire District #1 requirements for access and firefighting water supply.
 - c. Structures and the site shall be accessible to persons with disabilities in accordance with Chapter 11 of the Oregon Structural Specialty Code. The applicant has submitted a site plan that appears to meet the criteria. The slope of the external accessible route will need to be verified at the time of building permit submittal.
 - d. Demonstrate that the footings for all buildings-specifically the west side of Buildings 2 and 3 comply with Section 315.1 of the Oregon Plumbing Specialty Code: *All trenches deeper than the footing of any building or structure and paralleling same shall be at least 45 degrees therefrom (1:1 slope) unless permission is otherwise granted by the Administrative Authority.*
 - e. Provide a Soil Report prepared in accordance with Section 1804 of the Oregon Structural Specialty Code.
3. The Fire Marshal commented in a memo dated August 8, 2004 and made comment (See Attachment 15.) After plan revisions were made, the Fire Marshal reviewed the site plan dated September 16, 2004 and commented in an e-mail dated September 30, 2004 that the site plan meets Fire District standards, however, the grasscrete area next to Building 5 to be used for

emergency fire truck access must provide a 30-foot turning radius. The applicant revised the site plan and this issue is now addressed.

4. The Police Chief did not have any comments on the proposal.
5. Charlie Violich, neighboring property owner at 5885 SE Harmony Road submitted a letter dated September 9, 2004 and indicated that he understood that a median would be installed limiting left turn access from his property. (See Attachment 6.)
6. The Division of State Lands commented in a letter dated September 28, 2004 indicating that the State concurs with the wetland report. A second letter was submitted dated September 30, 2004 that the proposed arch culvert design does not require a DSL permit.
7. The Army Corps of Engineers commented in a letter dated September 22, 2004 that the project does not involve work in navigable waters a Corp permit is not required.
8. Robert Hixson, Clackamas County made comments in a memo dated September 23, 2004 regarding Harmony Road (See Attachment 9.)
9. Sonya Kazen from ODOT provided a letter dated September 17, 2004 indicating that ODOT does not object to the proposal. (See Attachment 8.)
10. The Engineering Department commented in a memo dated September 28, 2004. (See Attachment 10.)
11. Metro was noticed and after repeated phone calls did not provide comment.
12. TriMet indicated in an e-mail from Adam Argo dated September 20, 2004 that TriMet did not have comments on the proposal.
13. Lynn Sharp, Milwaukie Resident and Ecologist commented in a letter dated September 30, 2004 that additional native plants should be used in site landscaping and provided a list of native species to use. The stream mitigation looks good but small-fruited bulrush (*Scirpus microcarpus*) should be added. Early and additional monitoring of the mitigation site is needed and plants should be protected from animals such as beaver and nutria with tubes netting and chicken wire. Ms. Sharp indicated that she would like to meet with the applicant on-site to look at potential ways the site plan could be modified to save trees proposed for removal. (See Attachment 7.)
14. Todd Alsbury, District Fish Biologist, Oregon Department of Fish & Wildlife commented the following in an e-mail dated October 1, 2004:

After review of the specs and detail sheet for the project, we (ODFW) agree that the culvert will provide unrestricted passage for adult and juvenile salmonids that may be present in Minthorn Creek. The span of the arch culvert (18') and the presence of a natural stream bottom will also allow for unrestricted movement of other aquatic species and wildlife that may use the culvert for movement up and down the Minthorn Creek riparian corridor

Attachments

- 1 – Recommended Findings and Conditions in Support of Approval
- 2 – Zoning Compliance Report
- 3 – Location Plan
- 4 – Site Plans & North Site Plan revised fire access
- 5 – Comments “The Grove Homeowners Association” dated September 7, 2004
- 6 – Letter neighboring property owner Charlie Violich dated September 9, 2004
- 7 – Letters from Lynn Sharp dated September 30, 2004 and October 6, 2004
- 8 – Oregon Department of Transportation Comments dated September 17, 2004
- 9 – Clackamas County Memorandum dated September 23, 2004
- 10 – Comments from the Engineering Department dated September 28, 2004.
- 11 – Comments S. Alison Rhea dated September 22, 2004
- 12 – Letter from Mike Baker, City Traffic Consultant dated September 10, 2004
- 13 – Letter from Mike Wells to Dolly Macken Hambright dated September 20, 2004
- 14 – Letter from Dana Field, DSL dated September 28, 2004
- 15 – Memo from Ron Schumacher, Deputy Fire Marshal dated August 16, 2004
- 16 – Letter from Lawrence Evans, Corps of Engineers dated September 22, 2004
- 17 – Letter from Lori Warner, DSL dated September 30, 2004
- 18 – The Applicant’s submittal is attached by reference as follows:
 - Applicant’s Traffic Study dated July 23, 2004 prepared by Kittelson & Associates
 - Applicant’s Narrative Updated September 2, 2004 prepared by CIDA
 - Plan Set dated 9/1/2004 prepared by CIDA
 - Minimum vegetation worksheet prepared by CIDA
 - Preliminary Plat drawings dated 9/1/2004 prepared by CIDA
 - Memorandum on from Chris Brehmer of Kittelson & Associates dated September 13, 2004
 - Revised Plan set dated 9/16/2004 prepared by CIDA
 - Project Memo “Response to Rhea Environmental Consulting, LLC” from Tara Lund, CIDA dated September 17, 2004
 - Project Memo “Response Memo of Determination of Completeness Letter” from Tara Lund, CIDA dated September 17, 2004
 - Stormwater Management Report prepared by Harper Hour Peterson Righellis Inc. dated September 17, 2004 and Revised October 12, 2004
 - Revised Stormwater Plan dated 9/28/2004 Sheet C9 prepared by CIDA
 - Revised North Site plan for fire turnaround dated 10/1/2004 prepared by CIDA

ATTACHMENT 1

Recommended Findings and Conclusions in Support of Approval

1. The applicant is proposing to develop the 6.5-acre parcel at 5831 SE Harmony Road. The existing single-family house and detached garage will be demolished and five new industrial buildings ranging in size from 12,967 to 20,025 square feet will be constructed with associated site and street improvements.
2. The following land use approvals are requested:
 - a. Subdivision for 5 lots.
 - b. Variance to reduce landscaping width and driveway spacing.
 - c. Transportation Plan Review with Transportation Impact Study (TIS)
 - d. Water Quality Resource review for a proposed road crossing of Minthorn Creek.
3. Applications S-04-02, TPR-04-06, VR-04-09 and WQR-04-03 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 16.24 Noise
 - b. Title 17 Land Division
 - c. Title 19.322 Water Quality Resources
 - d. Title 19.324 Business Industrial Zone
 - e. Title 19.500 Off-street Parking and Loading
 - f. Title 19.700 Variances, Exceptions, and Home Improvement Exceptions
 - g. Title 19.1400 Transportation Planning Design Standards and Procedures
5. Noise

The applicant has proposed measures to reduce noise including recording a deed restriction to limit noise. MMC Section 16.24 and 19.324.6(L) gives authority to the Planning Director to review plans for measures to reduce noise. The proposed must be conditioned so the development will not create additional noise over and above the noise level that presently exists at the south end of the Grove development.
6. Subdivision

The applicant has demonstrated compliance with MMC Title 17 Land Division Ordinance.

7. Water Quality Resource Area

The applicant has demonstrated that impacts to the stream buffer and wetland have been minimized as conditioned.

8. Business Industrial Zone

The applicant has demonstrated compliance with the standards of the BI zone. The BI zone allows the entire site to be used in determining the 15% landscaping required. Since the five lots share access and parking all lots combined are considered one site.

9. Off-street Parking and Loading

Parking intensive uses allowed in the BI zone that demand more parking then the proposed industrial use must not occupy more of the buildings then available parking can support.

10. Variance Request

The applicant requests a variance to reduce the required 8-foot landscaping width to 6 feet and 10-foot driveway spacing to 6.5 feet at the proposed Harmony Road access point and complies with MMC Section 19.700 as follows:

- a. The variance is warranted due to the unusual condition of the property being very close to the Harmony Road/International intersection requiring that left-outs be restricted on International Way. To allow efficient access to the transportation system a right-out is needed on Harmony Road. The narrow 30-foot wide flag stem is proposed for access since it is located furthest from the intersection.
- b. The 30-foot width of the access point is too narrow to allow for the required landscaping and a 16-foot driveway needed for truck movements and therefore there is no feasible alternative.
- c. Landscaping and buffering in excess of the required is proposed to mitigate for the narrower width. Reciprocal access easements are proposed to allow future driveway consolidation.

11. MMC Section 19.1400- Transportation

- a. MMC Section 1408.3 (B) requires that the applicant install improvements in proportion to impacts. Traffic mitigation measures include:
 1. 450-foot long median barrier on Harmony Road to restrict left turns to and from the Harmony Road.
 2. Realign International Way to eliminate the existing flare at the site corner on Harmony Road.
 3. Provide cross-over access easements to the property to the west and east (Tax Parcels 1400, 1401, 1600 and 1900 of

Tax Map 1S2E31D) to allow future access consolidation when neighboring properties redevelop. (A reciprocal easement is being required for Tax Lot 1300 as well).

4. MMC 19.1405.5 (D) requires that development proposals be mitigated so that the proposal does not create a hazardous or unsafe condition. MMC Section 19.1413.2 (G) gives authority to the City to place conditions of approval regarding driveway access in the interest of safety. The applicant must install a median in International Way and the median must extend from the Harmony Road/International Way intersection south and west past the Hobart driveway (approximately 175 feet) to the west to prevent left-in and left-out movements to the applicant's driveway and the Hobart driveway to the west. This requirement is based on the following safety concerns:

- A. The applicant indicates that autos will negotiate the corner at 15 mph after the new curb is installed at the site corner of International Way and Harmony Road. At 15 mph traffic would be moving just slow enough to stop within the 100-foot distance between the driveway and the intersection. However, because the proposed tighter curb must accommodate truck turns a 50-foot radius is proposed. Vehicles especially smaller cars are more likely to take the corner at 20 to 25 mph. At this higher speed, 115 to 155 feet is needed to stop in excess of the 100 feet provided between the driveway and the intersection and could result in a collision.
- B. The closeness of the proposed driveway to the existing Hobart driveway, approximately 10 feet to the east, is too close to the intersection leaving little margin for driver error when vehicles would be pulling in and out of both driveways. This makes the area confusing to drivers increasing the possibility of traffic accidents.
- C. During peak periods, the applicant's analysis indicates that southbound traffic stopped on International Way at Harmony Road will stack enough to block left-in access to the site. The line up of vehicles has the potential to block the view of those looking to turn into the site and could result in traffic accidents, potentially a head-on collision.

- b. Required mitigation measures and frontage improvements must be provided at the time of development. As conditioned, the proposal is consistent with MMC Section 19.1407.

- c. MMC Table 19.1409.3 establishes provisions for frontage improvements and required right-of-way dedication. The applicant is proposing frontage improvements that comply with these standards. The County may require additional right-of-way dedication for Harmony Road.
12. Clackamas County reviewed the proposal for County road standards for Harmony Road. Findings of fact were provided in the memo dated September 23, 2004 and are adopted by reference. The following findings have been modified by the City:
County Finding #7 – The County requests that the City require that the applicant provide 30-foot wide vehicular crossover easements to Tax Map 12E31D Tax Lots 1300, 1400 and 1401 to the west, 1600 generally to the south and 1900 to the east. The applicant proposes easements to all of these tax parcels with the exception of Tax Lot 1300. MMC Section 19.503.14 requires that parking areas be designed to connect with adjacent sites to avoid using the street for cross movements. Section 14.1413.1 (G) gives the City Authority to place conditions of approval to require reciprocal access easements and to allow for shared driveways. Therefore the applicant must be conditioned to provide a reciprocal easement to Tax Lot 1300.
County Finding #8 - The County requires that the applicant demonstrate that adequate site distance prior to approval of the Harmony Road access. If the sight distance cannot be met, the driveway cannot be approved by the County and the applicant would have to do significant redesign and a new land use review would be required.
County Finding #13 – The Highway 224 off-ramp is an ODOT facility and meets ODOT standards, therefore City defers to ODOT standards.
13. The Fire Marshal reviewed the plans and indicated that as conditioned the proposal complies with Fire District regulations.
14. The Building Official indicates that as conditioned the preliminary site plans submitted demonstrate that the proposed site layout complies with the requirements of the Building Code. Each building will need to be reviewed in more detailed at the time of building permit review.
15. The Oregon Division of State Lands (DSL) and the Army Corp of Engineers have reviewed the proposal and indicted that state and federal permits are not required.

Recommended Conditions of Approval

1. Prior to any earth disturbing activities:
 - a. Erosion control and construction barriers shall be installed and inspected in accordance with an approved erosion control 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 stream 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. Prior to issuance of a building permit:

- a. Unless modified by condition of approval, final plans shall be in substantial conformance with the plans and studies approved by this action as follows:
 - Applicant's Traffic Study dated July 23, 2004 prepared by Kittelson & Associates
 - Applicant's Narrative Updated September 2, 2004 prepared by CIDA
 - Plan Set dated 9/1/2004 prepared by CIDA
 - Minimum vegetation worksheet prepared by CIDA
 - Preliminary Plat drawings dated 9/1/2004 prepared by CIDA
 - Memorandum on from Chris Brehmer of Kittelson & Associates dated September 13, 2004
 - Revised Plan set dated 9/16/2004 prepared by CIDA
 - Project Memo "Response to Rhea Environmental Consulting, LLC" from Tara Lund, CIDA dated September 17, 2004
 - Project Memo "Response Memo of Determination of Completeness Letter" from Tara Lund, CIDA dated September 17, 2004
 - Stormwater Management Report prepared by Harper Hour Peterson Righellis Inc. dated September 17, 2004 and revised October 12, 2004.
 - Revised Stormwater Plan dated 9/28/2004 Sheet C9 prepared by CIDA
 - Revised North Site plan for fire turnaround dated 10/1/2004 prepared by CIDA
- b. Full-engineered plans for all the public improvements and stormwater system must be submitted to the Engineering Department for review and approval. Street and utility construction plans shall be prepared in accordance with City and County standards. The applicant shall provide an engineer's cost estimate to the City for the value of the public improvements associated with International Way.
- c. The applicant shall receive a right-of-way permit for work in the street right-of-way and submit required bond.

- d. A pre-construction meeting shall be held with the contractor and an inspection fee of 5.5% of the cost of the proposed public improvements shall be paid.
- e. A copy of the approval to construct on Harmony Road shall be submitted to the City Planning Department. Clackamas County provided comments in a memo dated September 23, 2004. The conditions are adopted by reference. The following summarizes the required conditions and places them in order prior to building permit issuance:
- Harmony Road frontage improvements shall meet Clackamas County Roadway Standards (Condition #1).
 - A professional survey shall be submitted to the County to verify adequate right-of-way width (Condition #2).
 - Obtain a Street Construction and Encroachment Permit from Clackamas County for road, driveway, curb, sidewalk, and drainage improvements on Harmony Road. Engineered plans shall include a profile data, sight lines and a detailed striping plan. (Condition #15c)
 - Harmony Road half-street improvements, curb & gutter, pavement widening, drainage facilities, sidewalk, temporary driveway, median curb, pavement tapers, 50-foot radius curb and curb/sidewalk ramps shall be indicated on engineering plans for County approval for Harmony Road. (Condition #5, 6 & 7).
 - An engineering cost estimate and surety bond shall be provided to the County. These conditions may be moved to prior to final occupancy at the digression of the County. (Condition #11 & 12).
 - County review of drainage shall only apply to Harmony Road, the City shall review drainage elsewhere. (Condition #8)

If the sight distance cannot be met, the driveway cannot be approved by the County and the applicant would have to do significant redesign. If the County denies access to Harmony Road, a new land use review shall be required.

- f. Provide a narrative description of all actions taken to comply with conditions of approval with description of all changes made that are not related to conditions of approval.
- g. A final grading and erosion control plan and permit application must be submitted that indicates compliance with wetland protection measures stated in Condition 1 of this decision.

- h. A final plat application shall be submitted within 6 months of the date of this approval in accordance with the Land Division Ordinance. The plat shall be in conformance with the applicant's preliminary plat dated September 1, 2004
- A note shall be placed on the plat indicating that the partition is subject to requirements of City of Milwaukie applications S-04-02, TPR-04-06, VR-04-09 and WQR-04-03.
- i. The Fire Marshal shall review and approve plans for consistency with Fire District regulations.
- j. Building plans shall meet the Oregon Structural Specialty Code. The footings for all buildings, specifically the west side of Building 2 and 3, shall comply with Section 315.1 of the Oregon Plumbing Code. A soil report shall be prepared in accordance with Section 1804 of the Oregon Structural Specialty Code.
- k. The final plans shall demonstrate that the site is assessable to persons with disabilities.
- l. Plans shall be revised to show the following:
- An 8-foot wide landscaping is required on both sides of the International Way driveway, the plans indicate 6-foot wide on the southeast side of the driveway (Section 19.503.19.A.4).
 - Either wheel stops must be installed where landscaping is at the minimum 6-foot width at the head of the parking spaces or the parking spaces shorten by 1.5 feet and an additional 1.5 feet of landscaping width provided. (Section 19.503.19.C)
 - Two additional bike parking spaces shall be provided or 12 total or 10% of the auto spaces. (Section 19.505.2)
- m. A revised wetland planting plans shall be submitted. The plans shall show where canopy exists and native vegetation exists and detail where and how plantings will be installed to preserve existing native species and restore missing tree canopy and under-story plant coverage in accordance with a good corridor condition per Table 2 of MMC 19.322.
- n. An acoustical engineer shall take early morning (6 am to 7 am) and nighttime (9 pm to 10 pm) pre-development noise readings. Noise readings shall be taken at the northeast corner of Railroad Ave. and Stanley Ave. The applicant shall submit a building design plan approved by an acoustical engineer that indicates that the mechanical equipment will be buffered so post development noise readings do not exceed pre-development readings at the northeast corner of Railroad Ave. and Stanley Ave.

3. Prior to issuance of certificate of occupancy:
 - a. Street improvements shall be installed by the applicant and approved by the City Engineering Department for International Way.
 - b. Street improvements on Harmony Road shall be installed by the applicant and approved by Clackamas County. The County provided comments in a memo dated September 23, 2004. The conditions in this memo are adopted by reference. The following summarizes the required conditions and places them in order prior to occupancy:
 - Grant an eight-foot wide sign, sidewalk and public utility easement along the entire site frontage of Harmony Road. (Condition #3).
 - Provide adequate intersection stopping and sight distance by removing objects that obstruct view in accordance with AASHTO standards. (Condition #9 & 10).
 - Install a 30-inch "STOP" sign at the Harmony Road access in conformance with the Manual of Uniform Traffic Control Devices. (Condition #13).
 - c. At the International Way access point, the applicant shall install and maintain a "STOP" sign and prohibited left turn sign in conformance with the Manual of Uniform Traffic Control Devices.
 - d. Documentation of approval and acceptance of the Harmony Road street improvements by Clackamas County shall be provided to the Planning Department.
 - e. Landscaping, parking, bicycle parking, site lighting and irrigation shall be installed and inspected by the Planning Director.
 - f. Submit a detailed narrative of actions taken to comply with all conditions and requirements of approval and demonstration of compliance of approved plans shall be submitted to the satisfaction of the Planning Director per MMC Section 19.1014.
 - g. Wetland plantings shall be field verified by the applicant's wetland scientist and installed at appropriate locations consistent with the wetland mitigation plans. After installation and/or during installation, the Planning Director with possible assistance by a wetland specialist shall inspect and approve the plantings to ensure that proper spacing and appropriate location of plantings.
 - h. Minimum 30-foot wide reciprocal access easements to the benefit of Tax Lots 1300, 1400, 1401, 1600, 1800 and 1900 shall be recorded with Clackamas County and copy provided to the Planning Department.

- i. With mechanical equipment operational, the applicant shall have an acoustical engineer take morning (6 am to 7 am) and nighttime (9 pm to 10 pm) post-development noise readings at the same location specified for pre-development noise readings. If the reading exceeds the pre-development reading, measures shall be taken to further dampen the noise level until it meets this standard.
 - j. Provide address numbering that is clearly visible from the street from which access is provided.
 - k. The applicant shall record a deed restriction with Clackamas County indicating that noise intensive equipment and dumpers are not located on the north side of the building and roof top mechanical equipment does not exceed 75 decibels at the property line (maximum allowed under City Code).
4. On-Going Conditions:
- a. The applicant has provided 36 additional parking spaces over the required 81 spaces needed for the proposed manufacturing use with 20% ancillary office use per building. These 36 spaces may be allocated to a more parking intensive use permitted in the BI zone. No use shall be allowed that exceeds the minimum parking requirements for all uses on-site.
 - b. After the certificate of occupancy has been issued for all buildings, the 3-year wetland mitigation monitoring plan shall be implemented. This shall consist of a report made to the Planning Department on a yearly bases on the survival of the mitigation plants. The monitoring plan outlined on sheet L3 dated 9/1/04 in the "Mitigation Notes" shall be followed.
 - c. The applicant shall be responsible for long-term maintenance of the stormwater system including cleaning oil water separators annually.
 - d. The types, sizes and intensities of lights shall continue to be placed so that they do not shine directly into the stream buffer.

Other Requirements and Advisory Notes

All system development charges (SDCs) for water, sanitary sewer, storm drainage, and transportation must be paid before the building permits will be issued for each building. Final SDCs will be determined at the time of building permit review.

The final plats shall be recorded within one year of the date of this decision. A 6 month extension may be approved (MMC 17.04.050).

ATTACHMENT 2

Zoning Compliance Report

1. Off-Street Parking (Section 19.500 Compliance)

- a. 19.503.3 – Minimum and Maximum Parking Standards
Complies, see Key Issues of this report
- b. 19.503.10 through 17 – Off-Street Parking Space Standards, paving and striping, aisles, lighting and drainage.
Complies.
- c. 19.503.17 – Pedestrian Access
Complies.
- d. 19.503.19 – Parking Lot Landscaping
 - 1. Perimeter Landscaping
Complies
 - 2. Interior Landscaping
Complies
 - 3. Parking Bumpers
Area where spaces have minimum landscaping width, landscaping must be extended by 1.5 feet and stall reduced or parking bumpers installed.
 - 4. 19.504.1 – Off-street Loading – General Provisions
Complies.
 - 5. 19.505.3 through 6 – Bike Parking
Complies, however 2 additional spaces are required so bike parking is provided at 10% auto spaces.
 - 6. 19.506 – Carpool and vanpool parking
Not applicable.

2. Variance (Section 19.700 Compliance)

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

3. 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
Transportation Plan Review is required.
2. 19.1404 - D- Exception
Not applicable
3. 19.1404.E – Variances
A variance has been requested to reduce 10-foot driveway spacing width. (See Key Issues Section).
4. 19.406 - Neighborhood Through-trip Study
Not applicable.
5. 19.1407 - Adequate Transportation Facility Required
Installed prior to occupancy, complies.
6. 19.1408 - Transportation Impact Analysis
A Transportation Impact Study (TIS) was provided. (See Key Issues Section).
7. 19.1408.3 – Rough Proportionality
The applicant indicates that the traffic study demonstrates that all intersections will operate at acceptable levels of service and therefore no capacity mitigation has been proposed (see Page 39 of the applicant's narrative dated September 2, 2004 for more details)
8. 19.1409.1.D – Approved Frontage
A shared access agreement is proposed to allow street access of to five lots proposed, complies.
9. 19.1409.2 – Street Improvement Standards
Harmony Road is an arterial and International Way is considered a Collector street, proposed improvements comply.
10. 19.1409.2.E – Vision Clearance
Complies.
11. 19.1409.2.F – Setbacks for Street Centerline
Complies

12. 19.1409.3.J – Railroad Crossings
Not applicable.
13. 19.1410 - Pedestrian Requirements and Standards
Complies
14. 19.1411 – Bicycle Requirements and Standards
Complies
15. 19.1412 – Transit
TriMet commented and had no concerns (See Comments)
16. 19.1413 - Access Management
The site does not meet access spacing targets but proposed driveways are spaces as far from the intersection as possible, complies.

- b. **19.1405.5 – 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.

The applicant provided rough proportionality analysis in their narrative dated September 2, 2004 prepared by CIDA. The Engineering Department has reviewed the Traffic Study and believes the applicant has demonstrated that the proposed improvements are roughly proportional to the impacts.

- c. **19.1405.5 – 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.

Mitigation measures in TIA are included as conditions of approval.

- d. **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 has concerns about left-in movements into International Way and is requiring a median be installed as outlined in the Key Issues Section of this Report.

4. 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

Applicant: Will comply, please see Wetland Delineation Consultant's report and mitigation plan.

Staff: Staff concurs with the applicant.

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

The applicant has proposed an alternative stormwater plan that does not place them in the buffer.

- c. 19.322.10-F – Existing lawful structures.

Not applicable

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

On-site mitigation 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.

The application has been conditioned to comply.

- f. 19.322.10-I – Site Lighting

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

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

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.

Applicant: Will comply, please see Wetland Delineation Consultant's report. Drawings show contiguous and continuously connected vegetated areas. Some vegetation is proposed to be removed with the construction of the roadway.

Staff: The application has been conditioned to comply.

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

Complies.

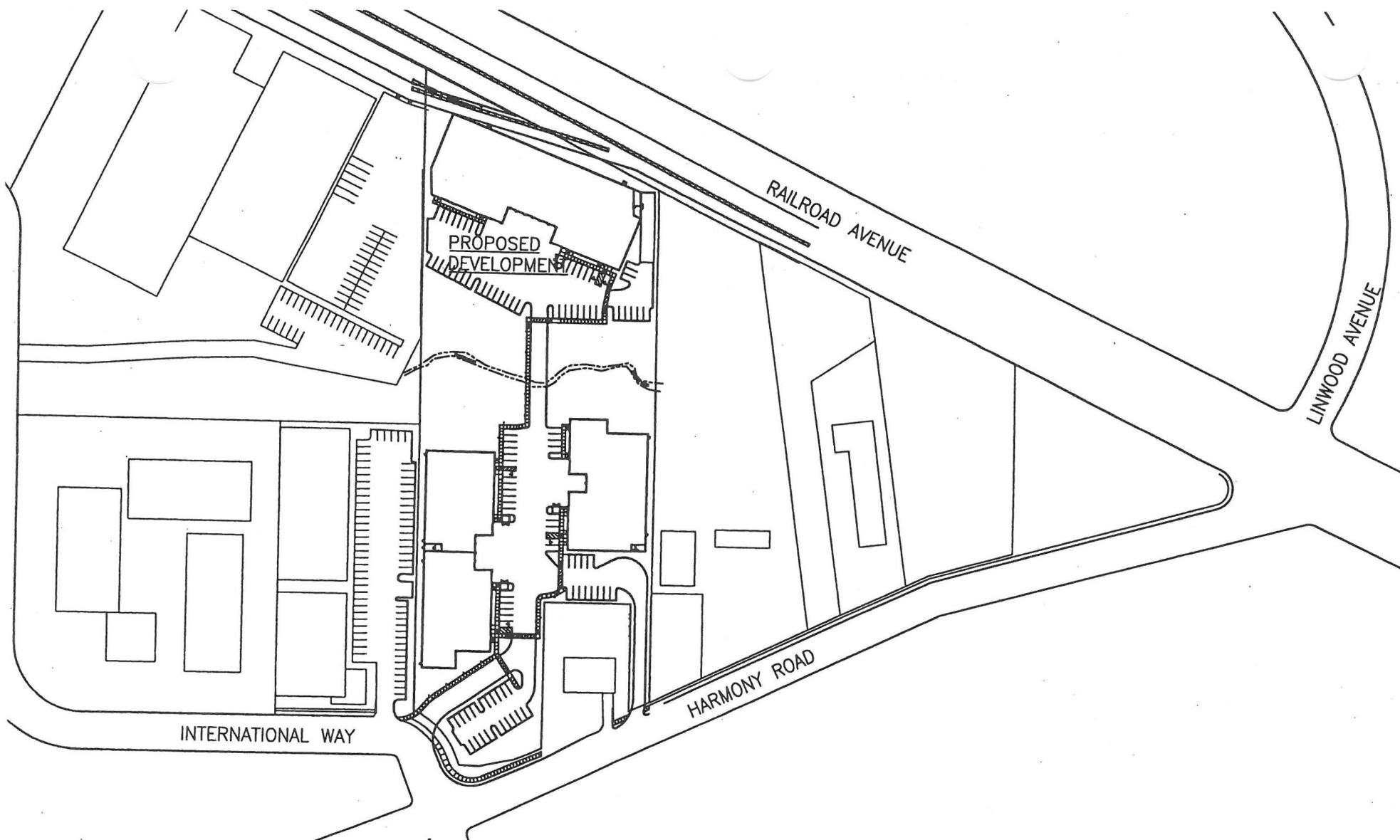
- j. 19.322.10-M - Road crossings will be minimized.
See Alternatives Analysis in Key Issues section of this report.
- k. 19.322.10-N - The construction done to safeguard the resource.
Conditioned to comply.

5. Business Industrial Zone Compliance.

- a. 19.324.2 Uses Permitted Outright.
The buildings are intend for warehousing/distribution, complies.
- b. 19.324.3 & 4 - Accessory & Limited Uses
Must comply with parking see Analysis of Key Issues section of this report.
- c. 19.324.5 - Conditional Uses
None proposed.
- d. 19.324.6 – Standards (Lot Size, Setbacks, Access, Height, Landscaping, Outdoor storage and Building Siting & Design).
Complies, see Key Issues Section of this report.

6. 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.
Complies
- b. 17.28.040 – General Lot Design
Complies.



INTERNATIONAL WAY BUSINESS CENTER MILWAUKIE, OREGON



4445 SW BARBUR BOULEVARD SUITE 200

PORTLAND, OREGON 97201

TEL: (503) 226-1285

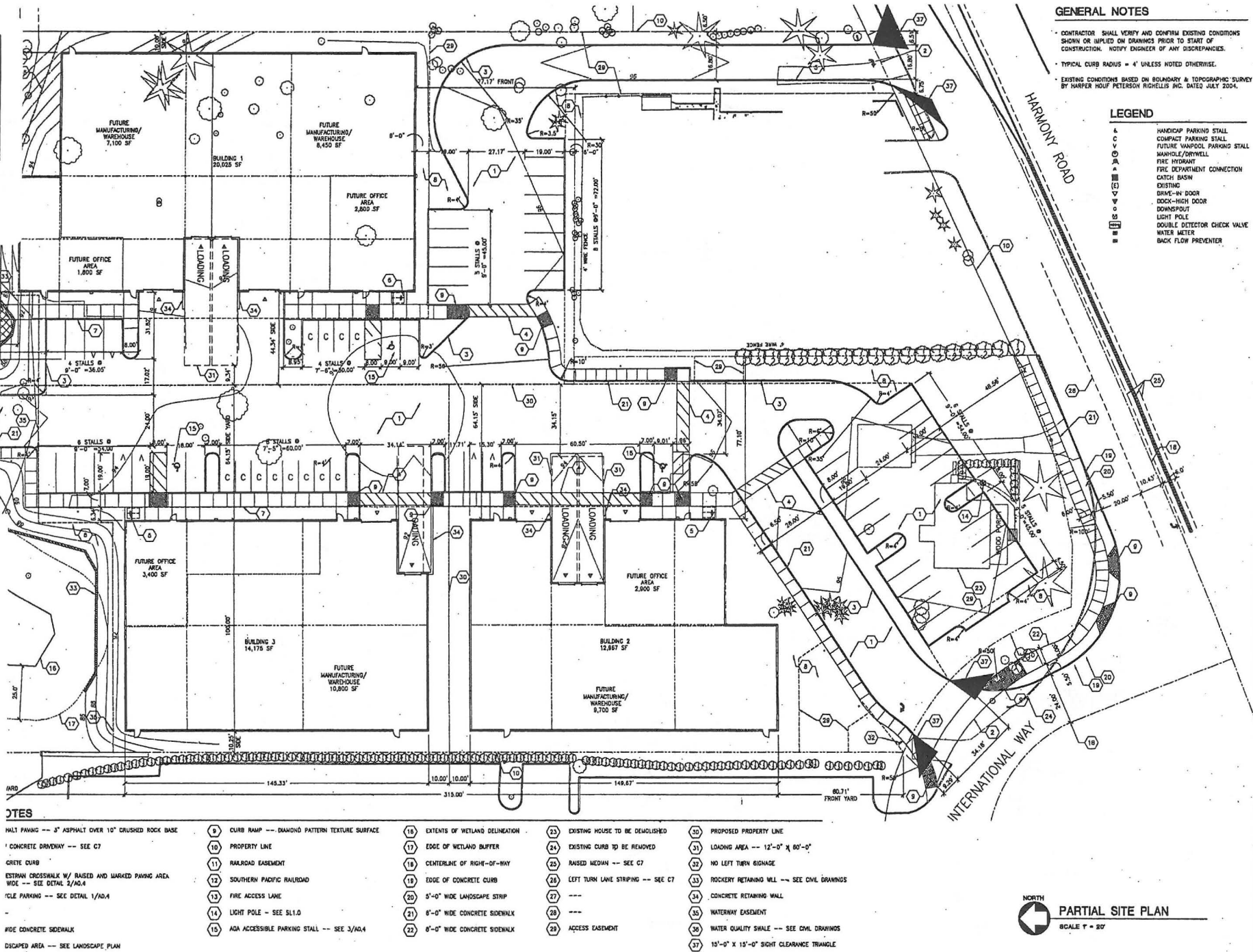
FAX: (503) 226-1670

ARCHITECTURE ♦ ENGINEERING ♦ PLANNING ♦ INTERIORS ♦ LANDSCAPE



LOCATION PLAN

1"=200'



GENERAL NOTES

CONTRACTOR SHALL VERIFY AND CONFIRM EXISTING CONDITIONS
MIN OR IMPLIED ON DRAWINGS PRIOR TO START OF
CONSTRUCTION. NOTIFY ENGINEER OF ANY DISCREPANCIES.
TYPICAL CURB RADIUS = 4' UNLESS NOTED OTHERWISE.

EXISTING CONDITIONS BASED ON BOUNDARY & TOPOGRAPHIC SURVEY
HARPER HOLF PORTERSON RIGHIELLS, INC. DATED JULY, 2004.

LEGEND

HANDICAP PARKING STALL
CONTACT PARKING STALL
MANHOLE/DRYWELL
FIRE HYDRANT
FIRE DEPARTMENT CONNECTION
CATCH BASIN
EXISTING DRIVE-IN DOOR
DOCK-HIGH DOOR
CONCRETE DOOR
LIGHT POLE
DOUBLE DETECTOR CHECK VALVE
WATER METER
BACK FLOW PREVENTER

KEYNOTES

- | | | | | |
|---|--|-----------------------------------|--------------------------------------|---|
| 1 ASPHALT PAVING -- 3" ASPHALT OVER 10" CRUSHED ROCK BASE | 9 CURB RAMP -- DIAMOND PATTERN TEXTURE SURFACE | 16 EXTENTS OF WETLAND DELINEATION | 22 EXISTING HOUSE TO BE DEMOLISHED | 30 PROPOSED PROPERTY LINE |
| 2 NEW CONCRETE DRIVEWAY -- SEE C7 | 10 PROPERTY LINE | 17 EDGE OF WETLAND BUFFER | 24 EXISTING CURB TO BE REMOVED | 31 LOADING AREA -- 12'-0" X 80'-0" |
| 3 CONCRETE CURB | 11 RAILROAD EASEMENT | 18 CENTERLINE OF RIGHT-OF-WAY | 26 RAISED MEDIAN -- SEE C7 | 32 NO LEFT TURN SIGNAGE |
| 4 PEDESTRIAN CROSSWALK W/ RAISED AND MARKED PAVING AREA
8'-WIDE -- SEE DETAIL 2/A0.4 | 12 SOUTHERN PACIFIC RAILROAD | 19 EDGE OF CONCRETE CURB | 28 LEFT TURN LANE STRIPING -- SEE C7 | 33 ROCKERY RETAINING WALL -- SEE CIVIL DRAWINGS |
| 5 BICYCLE PARKING -- SEE DETAIL 1/A0.4 | 13 FIRE ACCESS LAKE | 20 5'-0" WIDE LANDSCAPE STRIP | 27 --- | 34 CONCRETE RETAINING WALL |
| 6 --- | 14 LIGHT POLE -- SEE SL1.0 | 21 8'-0" WIDE CONCRETE SIDEWALK | 28 --- | 35 WATERWAY EASEMENT |
| 7 7' WIDE CONCRETE SIDEWALK | 15 ADA ACCESSIBLE PARKING STALL -- SEE 3/A0.4 | 22 8'-0" WIDE CONCRETE SIDEWALK | 29 ACCESS EASEMENT | 36 WATER QUALITY SHALE -- SEE CIVIL DRAWINGS |
| 8 LANDSCAPED AREA -- SEE LANDSCAPE PLAN | | | | 37 15'-0" X 15'-0" SIGHT CLEARANCE TRIANGLE |

NORTH
PARTIAL SITE PLAN
SCALE 1" = 50'

INTERNATIONAL WAY BUS. CENTER
5831 SE HARMONY ROAD
MILWAUKIE, OREGON

DRAWN BY: CMW
CHECKED BY: TWL

ISSUED DATE
DESIGN REVIEW
07/28/04
CITY O.R. COMMENTS
08/01/04

DRAWING TITLE
PARTIAL SITE PLAN

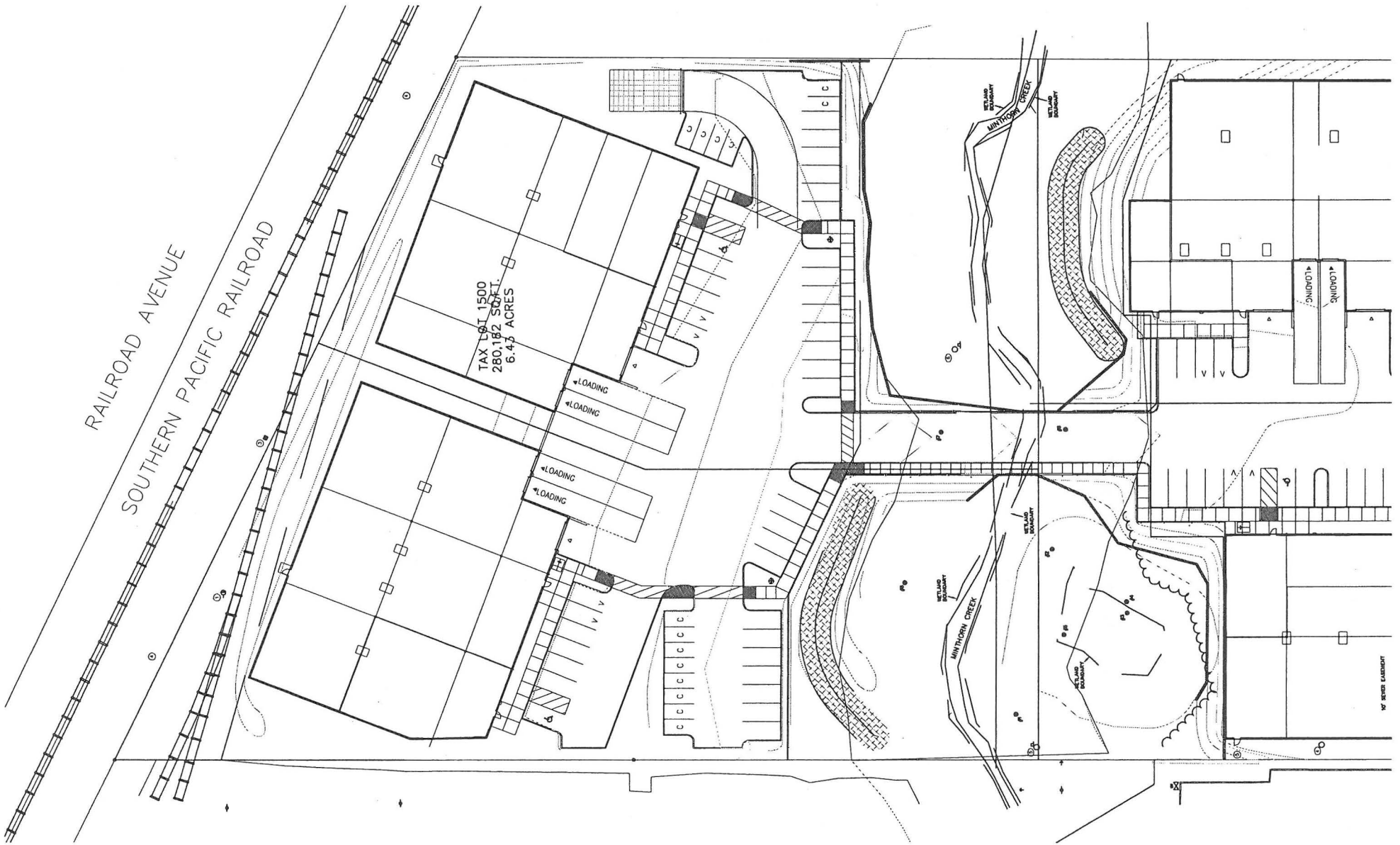
A0.3

JOB NO: 040078.01

CIDA

4445 SW HARMONY BLVD., SUITE 200
MILWAUKIE, OREGON 97131
TEL: 503.268.1878
FAX: 503.268.1870

ARCHITECTURE • ENGINEERING • PLANNING • INTERIORS • LANDSCAPE



INTERNATIONAL WAY BUSINESS CENTER
MILWAUKIE, OREGON



9/30/04

PARTIAL SITE PL

1" = 1'

CIDA

1445 SW RADIAN INDUSTRIAL, SUITE 300 PORTLAND, OREGON 97239 TEL: (503) 336-1385 FAX: (503) 336-1470

ARCHITECTURE ENGINEERING PLANNING INTERIORS LANDSCAPE

© 2004 CIDA, ALL RIGHTS RESERVED



RECEIVED

the GROVE HOMEOWNERS ASSOCIATION

SEP - 8 2004

Board of Directors

12242 SE Grove Loop

CITY OF MILWAUKIE
PLANNING DEPARTMENT
Milwaukie, Oregon 97222

September 7, 2004

Memo to: Keith Jones, Assoc. Planner, City of Milwaukie

Re: Panattoni Dev. Application for 5831 SE Harmony Rd., Milwaukie

File #TPR-04-06/WQR-04-03

Regarding the industrial park expansion including 3 concrete tilt-up buildings, we as a Homeowner's Assoc. directly adjacent to the site would like to make you aware of our concerns:

1. Noise: due to the close proximity of The Grove directly north across the UP tracks and Railroad Ave. we have a concern with noise in and around areas designated as "light industrial". This is not limited to manufacturing equipment noise, but also includes shift times, hauling noise such as back-up beepers on vehicles, loading and off-loading materials and equipment, vehicle engine noise, etc. Code allows a 73% increase in noise in The Grove due to the "industrial" designation.
2. Drainage: as we have pointed out in the past, specifically with regard to the increased hard-surface impact of the proposed Ukrainian Church on Stanley Ave., water is a major concern and the drainage to the north of this project near the creek, Railroad/Stanley Aves. and etc. is already at capacity during times of heavy rainfall. With less permeable area to absorb water, this area could contribute to less water absorption and possible flooding, not only on the surface but also underground, affecting the houses on the lower/southern portion of our neighborhood.
3. Traffic: according to the plan for this development, there are approximately 100+ parking spaces allotted for the three buildings. An addition of 100 cars, and the entry/exit as shown on the plans proposed for Harmony Dr. will have a significant impact on traffic in our area, especially at the intersection of Harmony/Linwood/Railroad and on Harmony Rd. between the UP tracks and the Industrial Way intersection. Traffic already backs up in all directions for train traffic and during certain times of nearly all days. Additional traffic will make this area that much more difficult for our neighborhood and the surrounding areas, and will increase traffic cutting through on Stanley Ave. and Linwood Elementary School to avoid that intersection. Traffic from the proposed Harmony exit of this planned development will not only add to the impact of traffic clearing said intersection but there are some safety concerns due to the curve and vision lines near the proposed entry/exit and the speeds with which people typically cross the tracks going south/southwest on Harmony Rd. Fire and other emergency vehicles will also be negatively impacted at this location.
4. Train Activity: the UP siding as shown on the plans should not be used. Today it is rusty and full of weeds, but if it again becomes usable to accommodate these new facilities, it will contribute significantly to noise and neighborhood disturbance, and therefore, should be permanently abandoned.
5. County: the proposed widening of Harmony Rd. between SE 82nd Ave. and Linwood Ave. has been "dropped" according to Mayor Bernard. It is hoped that this or any other development proposal in our area is not significant enough to bring this back onto the table.

Thank you.

Larry Bowlden, Grove Homeowners' Assoc. Secretary

Charlie Violich
5885 SE Harmony Rd
Milwaukie, OR 97222
(503)659-4578

RECEIVED
SEP 13 2004
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

September 9, 2004

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

Re: International Way Business Center

Dear Mr. Jones,

Mike Wells of Panattoni Development Company suggested I write this letter regarding the plan for improvements to Harmony Road adjacent to my property. I have seen the drawing depicting a median in Harmony Road that will impact my property. I understand that once it is installed it will not be possible to make a left turn out of my existing driveway.

Panattoni has agreed to grant two easements to my property. The first will be from my easterly property line onto the planned driveway to Harmony Road. Mike informed me Clackamas County has requested this easement in order that when and if my property is redeveloped, my existing driveway and Panattoni's planned driveway can be merged into a single curb cut to Harmony Road. The second easement will be from my westerly property line onto Panattoni's planned driveway to International Way.

Since I shall be out of town extensively this fall, my response may be slow. In any event, I'll be receiving mail sporadically.

Sincerely,



Charlie Violich

c: Mike Wells

ATTACHMENT 7

September 30, 2004

10906 SE 54th Place
Milwaukie, OR 97222
503-704-7172

Michael N. Wells, Partner
Panattoni Development Company, LLC
6650 SW Redwood Lane, Suite 370
Portland, OR 97224
(sent via email and fax)

Re: International Way Business Center Landscaping Comments

Dear Michael:

Thank you for giving me the opportunity to provide input on the landscaping plan for your International Way development site. I met this afternoon with Keith Jones of the City Planning Department. He shared the wetland mitigation plans with me and I am providing a few comments about those plans as well. As I mentioned on the phone earlier today, I will meet you at the site next Wednesday morning at 7AM for a site walk.

As to my qualifications to comment on these plans, I am an ecologist by profession, with a M.S. Degree in Zoology (wildlife), a certified Professional Wetland Scientist and a certified Professional Wildlife Biologist with over 30 years of experience. I have been involved in the design of wetland mitigation and wildlife habitat enhancement sites for many years in the Portland area, among other things.

Development Landscaping Plan Comments

As I mentioned during the neighborhood meeting, my main concern involves my hope that more native plant species would be used in the landscaping at your development. If you have ever been to the REI store in Jantzen Beach, all of the landscaping in front of the store is native plants, and I believe that it is very attractive. Natives have the added advantage that after they are established, they do not need irrigation during our summer drought. Irrigation is typically necessary, however, for the first 3 or 4 years after planting. This is also the case, by the way, for wetland mitigation plantings (see my comments below on the wetland mitigation plan).

The table below provides a list of native species that are of reasonably similar form and type (often the same genus) as those currently proposed in the landscaping plan for your development. Some of these species are not available at the larger nurseries in the Portland area, but they are available from a number of nurseries that specialize in native plants, such as Forest Farm, Sound Native Plants, and others, and in the sizes specified in the current plans. I would be happy to give you more information on potential nurseries.

Michael Wells
 September 30, 2004
 Page 2 of 4

In the hard copy of this letter, I will attach a publication about the importance of native trees to migrating songbirds, particularly those that nest here but winter in the tropics. In the Portland area, we could make a huge, positive difference by planting native species.

Suggested Native Substitutes for Proposed Landscape Species

Proposed Species, listed by common name only	Suggested Native Equivalents (common and scientific names)
Coniferous Trees	
Hinoki cypress	Douglas-fir (<i>Pseudotsuga menziesii</i>), grand fir (<i>Abies grandis</i>), Sitka spruce (<i>Picea sitchensis</i>), and/or Portland area native ponderosa pine (<i>Pinus ponderosa</i>),
Incense cedar: Native to Oregon but not the Portland area	
Western red cedar	Native!
Deciduous Trees	
Vine maple	Native!
Crimson king Norway maple	Bigleaf maple (<i>Acer macrophyllum</i>), red alder (<i>Alnus rubra</i>), Oregon white oak (<i>Quercus garryana</i>), native willows (<i>Salix scouleriana</i> , <i>S. lasiandra</i> , <i>S. piperi</i> , <i>S. sitchensis</i>)
Emerald green Norway maple	
Bowhall red maple	
Korean dogwood	Pacific dogwood (<i>Cornus nutallii</i>), cascara (<i>Rhamnus purshiana</i>)
Palmore ash	Oregon ash (<i>Fraxinus latifolia</i>)
Glenleven Little-leaf linden	Oregon white oak (<i>Quercus garryana</i>)
Broadleaf (Evergreen) Shrubs	
Edward Goucher abelia	Low Oregon grape (<i>Mahonia [Berberis] nervosa</i>), tall Oregon grape (<i>Mahonia aquifolium</i>), Western rhododendron (<i>Rhododendron occidentale</i>), greenleaf manzanita (<i>Arctostaphylos patula</i>), deerbrush (<i>Ceanothus sanguineus</i>), salal (<i>Gaultheria shallon</i>), western yew (<i>Taxus brevifolia</i> , a small tree, actually)
Red cluster barberry	
Convexa Japanese holly: NO! Holly is highly invasive and is on the Portland noxious weed list.	
Dwarf purple heavenly bamboo: Bamboo is also highly invasive and should not be planted.	
Mt. fire Japanese pieris	
Otto Luyken laurel	
Jean Marie rhododendron	Western rhododendron (<i>Rhododendron occidentale</i>)
Red-flowering currant (<i>this is actually a deciduous shrub</i>)	Native!
Yedda hawthorne	Black hawthorn (<i>Crataegus douglasii</i>)
David viburnum	

Spring boquet viburnum	Low Oregon grape (<i>Mahonia [Berberis] nervosa</i>), tall Oregon grape (<i>Mahonia aquifolium</i>), Western rhododendron (<i>Rhododendron occidentale</i>), greenleaf manzanita (<i>Arctostaphylos patula</i>), deerbrush (<i>Ceanothus sanguineus</i>), salal (<i>Gaultheria shallon</i>)
Deciduous Shrubs	
Rosy glow barberry	Snowberry (<i>Symphoricarpos albus</i>), mock orange (<i>Philadelphus lewisii</i>), nootka rose (<i>Rosa nutkana</i>), thimbleberry (<i>Rubus parviflorus</i>), osoberry (<i>Oemleria cerasiformis</i>), Native redosier dogwood (<i>Cornus stolonifera</i> , only in places where it can grow tall up to 8 ft or so, please don't prune it to 3 feet), Douglas spiraea (<i>Spiraea douglasii</i>), trailing blackberry (<i>Rubus ursinus</i>)
Argenteo marginata dogwood	
Isanti redbud dogwood	
Limemound spiraea	
Ornamental Grasses/Groundcovers	
Kinnikinnik	Native!
Blue oat grass	Tufted hairgrass (<i>Deschampsia caespitosa</i>), Blue wild rye (<i>Elymus glaucus</i>), spike bentgrass (<i>Agrostis exarata</i>), Oregon iris (<i>Iris tenax</i>), fireweed (<i>Epilobium angustifolium</i>)
Hamain dwarf fountain grass	
Emerald carpet bramble	Wild strawberries (<i>Fragaria virginica</i> , <i>F. vesca</i> , <i>F. chilensis</i>), streambank violet (<i>Viola glabella</i>), trailing blackberry (<i>Rubus ursinus</i>)
Blue dwarf periwinkle: <i>Vinca</i> is another highly invasive non-native on the Portland noxious weed list (or if it isn't yet, it should be)	

Mitigation Plan Comments

The species mixture and layout for the wetland mitigation and streamside area looks good. I would like to see one native emergent plant added -- small-fruited bulrush (*Scirpus microcarpus*) as it is common in the local area. My other comments relate to the "Mitigation Notes" section.

Timing of Monitoring: If the biologist monitoring the mitigation site waits until the end of August to monitor the site, it is likely that without irrigation, many of the plants will be dead. I recommend that the first mitigation site inspection take place in early July (or earlier or later, depending on the rainfall pattern of the particular year), and that the monitoring take place in mid-July. Regular visits may be necessary after that time if the weather is drying out, and I recommend that temporary irrigation be installed by mid-

Michael Wells
September 30, 2004
Page 4 of 4

July. In addition, with our summer drought, plants tend to begin senescence by August and monitoring data gathered in late August is not likely to represent peak growth.

Protection from Herbivory: Given this site's location along Minthorne Creek, and the presence of beaver, nutria, geese, and ducks, protection of woody wetland plants, and exterior and cross-fencing of the mitigation site (to prevent access by grazing waterfowl) may be necessary. Frequent monitoring (perhaps monthly) after planting and seeding should be conducted. In addition, I recommend that woody plants be planted at the start with appropriate protection, such as tubes, netting, or chicken wire. It's more expensive at the front end, but a lot less expensive than replanting.

Construction Observation: Please make sure that the wetland consultant who designed the mitigation plan is involved in monitoring mitigation site construction to ensure that it is performed correctly. This involvement avoids all kinds of problems that can lead to your mitigation site not meeting its performance standards. These problems include (but are not limited to) substitutions of inappropriate plant species, or other deviations from the plans by the landscaping installation contractor and contractor responsible for grading, without the approval of your wetland consultant. Also make sure that your mitigation and general construction contractor(s) have a copy of your wetlands 404/Removal-fill permits and are aware of the permit conditions they must adhere to. The U.S. Army Corps of Engineers, in particular, is out inspecting mitigation construction these days.

Proposed Tree Removals

After reviewing the tree removal plans, one of the purposes of my wanting to walk the site with you is to see whether minor adjustments to your project might result in saving a few more of the larger native trees that may be present at the site. For example, a 36-inch diameter coniferous tree, located to the southeast of the existing house and near International Way, is slated for removal. Keith Jones indicated that the reason for that removal was to provide sight distance for drivers going around the corner. Wouldn't it be possible to just remove the lower limbs of that tree (and all the shrubs around it) to provide that sight distance?

Thank you for this opportunity to provide input on your plan. I would be happy to discuss any of this with you or consultants. Just give me a call at 503-704-7172 or leave a message at 503-222-4546.

Sincerely,

Lynn Sharp

cc: Keith Jones, City of Milwaukie

October 6, 2004
10906 SE 54th Place
Milwaukie, OR 97222
503-704-7172

Michael N. Wells, Partner
Panattoni Development Company, LLC
6650 SW Redwood Lane, Suite 370
Portland, OR 97224
(sent via email)

Re: Follow Up to International Way Business Center Landscaping Comments

Dear Michael:

Thank you for giving me the opportunity to visit your International Way development site this morning. I would like to offer some follow up comments based on that site visit. I sincerely hope that you will include more native plants in your proposed landscaping, and would be happy to take the time to show you and your landscape designer specimens of many of them in the local area.

1. The 36-inch diameter conifer in the southwest corner of the site marked for removal is a native Douglas-fir. It is in the southwest corner of the lot for the existing house. This tree could and should be preserved if possible. It seems to me that if a few lower limbs were removed, and the shrubs around it were removed, that would provide sufficient sight distance for drivers coming down Harmony Road and turning into International Way.

2. There is another 34-inch diameter conifer, also a Douglas-fir, slated for removal along the eastern border of the property. This fir is located in the proposed landscaped strip adjacent to the eastern edge of the proposed entrance road. I believe that this tree should also be preserved.

Preservation of both of these trees will require careful attention by an arborist, who should ensure that their roots are protected from compaction by construction machinery.

3. The mitigation plan includes a statement that invasive species will be controlled before planting takes place in the wetland mitigation area. Non-native hawthorns, ivy, and blackberries are present in the mitigation area, and all should be removed before mitigation plantings occur. There are also, however, a number of native ferns present that should be preserved.

Thank you for your consideration. I would be happy to discuss this with you or consultants. Just give me a call at 503-704-7172 or leave a message at 503-222-4546.

Sincerely,

Lynn Sharp

cc: Keith Jones, City of Milwaukie



Oregon

Theodore R. Kulongoski, Governor

6.2a Page 41

Oregon Department of Transportation

ODOT Region 1

123 NW Flanders St

Portland, OR 97209

phone (503)731-8200

FAX (503)731-8259

ATTACHMENT 8

File code:

September 17, 2004

City of Milwaukie
Planning Department
10722 SE Main St.
Milwaukie, OR 97222

Attn: Keith Jones

Re: **S-04-01/TPR-04-3: Panattoni Industrial Development**
OR 224 and SE International Wy

Dear Mr. Jones

We have reviewed the applicant's proposal for a 5 lot industrial subdivision. The property is located within the interchange management area of OR 224-Harmony Road, and therefore ODOT has an interest in ensuring that the proposed land use is compatible with the safe and efficient operation of the Expressway.

ODOT Standards

According to the Oregon Highway Plan (1999), OR 224 is classified a Statewide Urban Expressway highway. The posted speed in this section is 50 miles per hour. Based on speed and classification, the access spacing standard for the first intersection is 1,320 feet, however the existing SE International Way intersection is located much closer to the interchange ramps. The mobility standard is 0.99 volume to capacity (v/c) ratio.

ODOT Recommendations

Based on our review of the Kittelson traffic impact analysis (*see attached technical memorandum by Joseph Auth, Traffic Analyst, ODOT Region 1*), we have determined that site generated traffic will not exceed ODOT's mobility standard for OR 224 or cause queuing problems.

However, the City' LOS D will be exceeded at the OR 224 ramps.

The City should consider City adopting the state and regional mobility standard for OR 224 within Milwaukie. It is also advisable for City, County and ODOT to assess whether anticipated development in the interchange area is likely to cause queuing problems on the OR 224 ramps, and if so, pursue adding interchange improvements to the RTP and

RECEIVED
SEP 22 2004
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

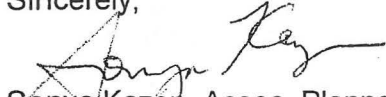
PLA9-2B -171
ODOT Case No: 1833

County planned Harmony Road Improvement Project (currently planned to only include the capacity increases on Harmony Road.)

At this time, ODOT has no objection to the proposal because it will not negatively impact mobility or queuing at the OR 224-Harmony Road interchange.

Please call me if you have questions regarding this matter. Please forward a decision when it has been issued.

Sincerely,



Sonya Kazen, Assoc. Planner

Cc: Joseph Auth, ODOT Region 1 Traffic
Ron Weinman, Clackamas County DTD
Robert Hixson, Clackamas County DTD

Encl. J. Auth memo, 9/17/04



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation

ODOT Region 1

123 NW Flanders St

Portland, OR 97209

Telephone (503)731-8200

FAX (503)731-8259

To: Sonya Kazen
Associate Planner

From: Joseph Auth
Traffic Analyst

Date: September 10, 2004

Re: International Way Business Center
Response to Application Packet

Upon review of International Way Business Center application packet submitted to the City of Milwaukie, ODOT Region-1 Traffic would like to inform the City that the OR-224 Westbound Off-Ramp Terminal at Harmony Road under total traffic conditions does not meet the City's adequacy requirements. The City defines adequacy in 19.1407 as "compliance with Level of Service D for all intersections." The Level of Service 'grade' is derived by delay calculations at intersections. The proposed development adds 90 through movement vehicles on Harmony Road, which increases the delay for left-turning vehicles from exiting off the ramp.

After many conversations with the applicant's traffic consultant, Kittelson & Associates, we determined the reported Level of Service has an incorrect letter grade and the intersection volume-to-capacity ratio to be low in their July 2004 Traffic Impact Analysis. The correct Level of Service is 'F' for the OR-224 Westbound Off-Ramp Terminal at Harmony Road with a 0.86 volume-to-capacity ratio. This Level of Service and volume-to-capacity ratio complies with the latest Highway Capacity Manual updates.

ODOT Region-1 Traffic will not request mitigation from the applicant for this ramp terminal since the volume-to-capacity ratio complies with the *Oregon Highway Plan*, Table 7 mobility standard of .99 v/c and the ramp has adequate deceleration length from the beginning of the ramp to the 95th-percentile queued traffic at the terminal. Accident history shows no trends of collision types at this ramp terminal.

ODOT Region-1 Traffic has no other concerns regarding this proposed development.

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

DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

Sunnybrook Service Center

RECEIVED

SEP 24 2004

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

Memorandum

TO: Keith Jones, Associate Planner
City of Milwaukie

FROM: Traffic Engineering and Development Review, Robert Hixson
Traffic Engineering and Development Review, Deana Mulder

DATE: September 23, 2004

RE: S-04-01/TPR-04-03/VR-04-09/WQR-04-03, Panattoni Development
T1S., R2E., Section 31D, Tax Lot 1500

Traffic Engineering and Development Review staff have visited the site and reviewed this application with the attached September 1, 2004 site plan. In addition, we have reviewed the Kittelson and Associates July 23, 2004, traffic impact analysis and other supplemental information. We have the following comments:

Facts and Findings:

1. The subject property is located adjacent to the northerly side of Harmony Road just northeast of International Way within the city limits of the City of Milwaukie. Harmony Road is classified as a major arterial roadway (*Comprehensive Plan* map V-2a) and is under the jurisdiction of Clackamas County. Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for major arterial roads. (*Comprehensive Plan* Chapter 5, Tables V-2, V-3, V-4, and V-5, and *Roadway Standards* Chapter 2, sections 210 through 240.11.2)
2. This portion of Harmony Road is a section of the Essential Pedestrian Network identified in the *Pedestrian Master Plan* 1996 and is also a part of the *Bicycle Master Plan* 1996. As such, Harmony Road will require bike lanes and unobstructed sidewalks. As the road will likely be under City of Milwaukie jurisdiction in the future, Clackamas County will defer the sidewalk requirement for width to City standards. (*Comprehensive Plan* Table V-3 and ZDO subsection 1007.05 B3)
3. *Clackamas County's Roadway Standards* indicate that three lane major arterial roads with bike lanes shall have a minimum right-of-way width of 70 feet with eight-foot wide sign, slope, utility, and sidewalk easements on each side of the roadway. However, due to the need for a median and associated shy distance, an 80-foot wide right-of-way will be required.
4. The applicant has proposed the construction of an industrial/office development in a City of Milwaukie industrial zone. However, the property has frontage on Harmony Road, a Clackamas County facility and has proposed access to

Harmony Road. The applicant is therefore subject to the provisions of *Clackamas County Zoning and Development Ordinance (ZDO)* section 1007, pertaining to frontage improvements and section 1008 pertaining to surface water management. Additionally, the applicant is subject to other ZDO requirements, the *Clackamas County Comprehensive Plan* and *Clackamas County Roadway Standards*.

5. Minimum frontage improvements on the Harmony Road frontage consistent with *Comprehensive Plan* Tables V-2, V-3, V-4, and V-5, and ZDO Section 1007 include, but are not necessarily limited to, up to a half-street improvement, pavement widening, and storm drainage facilities. In addition, standard curb or curb and gutter when curblane slope is less than one percent, driveway approach, an unobstructed sidewalk, meeting City of Milwaukie requirements, behind a minimum five-foot wide landscape strip and pavement tapers are required.
6. A 50-foot wide roadway section, curb to curb, is the minimum desirable width at this location and would be consistent with the *Clackamas County Roadway Standards* except in this case the required median and associated shy distance will increase the minimum pavement width to approximately 56 feet.
7. The County has adopted access control standards to provide positive impact on traffic safety and efficiency for county, state and city streets and roads. These standards promote shared access points to comply with access control and spacing standards. Applicable references include ZDO Section 1007, *Clackamas County Comprehensive Plan* Table V-2 and *Clackamas County Roadway Standards* Section 230. The owner of Tax Lot 1500 shall grant and record minimum 30-foot wide reciprocal crossover easements with Tax Lots 1300, 1400 and 1401 to the west, 1600 generally to the south, and 1900 to the east, at locations determined by the applicant and approved by City of Milwaukie. As these properties are industrial, wider crossover easements than the typical 24-foot wide easement, are appropriate. Neither the grading plan for this site, nor the construction of any structures shall preclude the future use of the crossover easements. While the crossover easements need to be recorded now for future use, the applicant may utilize the easements as desired until the adjacent lots redevelop and the easements become necessary for vehicular traffic. The crossover easements shall be recorded prior to final acceptance of the project and release of performance surety.
8. The proposed right-out only driveway to Harmony Road will be permitted by Clackamas County only if it provides adequate intersection sight distance and adequate stopping sight distance for both passenger vehicles and trucks in accordance with AASHTO requirements. The submitted speed study data indicating an 85th percentile approach speed of 35 miles per hour requires that a minimum of 592 feet of intersection sight distance be provided for a combination truck. Kittelson and Associates staff measured the existing sight distance and found it to be approximately 600 feet. Prior to approval of the proposed driveway, the applicant shall provide plan and profile drawings with sight lines illustrating adequate intersection sight distance and stopping sight distance for passenger vehicles and trucks using the proposed Harmony Road driveway. In addition, the driveway to

Harmony Road will be temporary in nature and shall be permanently closed when alternative access can be provided by a right-in/right-out driveway located easterly from this driveway when tax lot 1900 to the east redevelops and crossover easements can provide connectivity to tax lot 1500.

9. The September 1, 2004, plans illustrate a median and island on Harmony Road. The plans shall be modified, eliminating the island feature and extending the median curb, with appropriate lane tapers, generally consistent with the modified plan faxed September 9, 2004, to both CIDA and Kittelson and Associates from Clackamas County. This modification will allow additional deceleration distance for vehicles turning left into existing driveways beyond the easterly limit of the median. Two feet of shy distance shall also be provided on each side of the median. Visibility of the median will be an important issue to consider and the applicant shall propose the features that will be associated with the median that will enhance its visibility to drivers. The ultimate configuration of the median and any associated features to enhance visibility shall be approved in writing by Clackamas County Traffic Engineering staff prior to the issuance of a Street Construction and Encroachment permit for improvements to Harmony Road.
10. Plans submitted in anticipation of receiving permits shall include additional detail related to the intersection of Harmony Road/Lake Road/International Way. The additional detail shall include a striping plan illustrating the existing and proposed striping on each leg of the intersection for a sufficient distance to allow Traffic Engineering staff to determine the adequacy of the proposed striping and evaluate how well lanes line up on opposite legs of the intersection.
11. The proposed 50-foot radius for the northeasterly curb at the Harmony Road/Lake Road/International Way exceeds the minimum Clackamas County Roadway Standards requirement and is acceptable to Clackamas County as the larger radius is required to accommodate truck turning maneuvers.
12. Prior to the initiation of any construction activities on Harmony Road, the applicant shall submit plans and obtain a Street Construction and Encroachment permit for improvements to Harmony Road. The cost of the permit will be four percent of the approved cost estimate for the improvements to Harmony Road. A performance surety shall also be required in an amount equal to 125% of the approved cost estimate.
13. Clackamas County understands that the acceptable level of service for traffic operations by the City of Milwaukie is level of service "D". At least four communications received from ODOT, dating from June 9, 2004, to September 10, 2004, indicate that transportation facilities within the influence area of the proposed development are not currently operating at a level of service "D" or better and would be further impacted by approval of this use. Specifically, a communication dated September 10, 2004, indicates that the Highway 224 westbound ramp at Harmony Road operates at a level of service "E" under background conditions and level of service "F" under total traffic conditions.

Improvements to mitigate the substandard levels of service so that adequate levels of service could be provided have not been proposed by the applicant. City of Milwaukie staff, the applicant, and ODOT should address this issue to determine whether or not the proposed use meets City and ODOT requirements, and what mitigation, if any, would be appropriate or feasible.

Recommended Conditions of Approval:

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
- 2) The applicant shall verify by a professional survey that adequate right-of-way width exists along the entire site frontage, on the northerly side of Harmony Road to permit construction of the required roadway and frontage improvements or shall dedicate additional right-of-way as necessary to provide it. At a minimum, a 40-foot wide one-half right-of-way width is required on the northerly side of Harmony Road. Contact Deana Mulder for the dedication of right-of-way form and specifics of exhibits to be included with submittals. (*Clackamas County Roadway Standards* Table 2-4, ZDO subsections 1007.03 A and 1007.03 F)
- 3) The applicant shall grant an eight-foot wide sign, slope, sidewalk and public utility easement along the entire site frontage of tax lot 1500 on the northerly side of Harmony Road. Contact Deana Mulder for the grant of easement form and specifics of exhibits to be included with submittals. (*Roadway Standards* Table 2-4)
- 4) The applicant shall grant and record 30-foot wide reciprocal crossover easements with Tax Lots 1300, 1400 and 1401 to the west, 1600 generally to the south, and 1900 to the east, at locations determined by the applicant and approved by City of Milwaukie. Neither the grading plan for this site, nor the construction of any structures shall preclude the future use of the crossover easements. While the crossover easements need to be recorded now for future use, the applicant may utilize the easements as desired until the adjacent lots redevelop and the easements becomes necessary for vehicular traffic. The crossover easements shall be recorded prior to final acceptance of the project and release of performance surety. (ZDO subsection 1007.04B)
- 5) The applicant shall design and construct improvements along the entire site frontage of Harmony Road. These improvements shall consist of:
 - a) Up to a half-street improvement. Structural section for Harmony Road improvements shall consist of four inches of Level 3 Hot Mix Asphalt Concrete (HMAC), Performance Grade (PG) 64-22, ¾" dense or ½" dense placed in two lifts, consisting of two inches per lift, over four inches of ¾"-0 aggregate leveling course, over 10 inches of 1-1/2"-0 aggregate base course, over geotextile fabric. (ZDO sections 1007.03 A and 1007.03 F, *Roadway Standards* Tables 2-4 and 2-11, *Comprehensive Plan* Table V-3)

- b) Standard curb, or curb and gutter if curblane slope is less than one percent, and appropriate pavement widening to accommodate the necessary improvements of bike lanes, travel lanes, turn lanes, median, and associated shy distance. Lane widths, median widths, and shy distance shall be proposed by the applicant and shall be reviewed and approved by Clackamas County Traffic Engineering staff prior to the issuance of a Street Construction and Encroachment permit. Centerline of the right-of-way shall be established by a registered survey. (ZDO subsections 1007.03 A, 1007.03 F, *Roadway Standards* Table 2-4 and *Comprehensive Plan* Table V-3)
- c) Drainage facilities in conformance with Water Environment Services requirements, ZDO section 1008 and *Clackamas County Roadway Standards* Chapter 3.
- d) An unobstructed sidewalk with a width consistent with City of Milwaukie requirements behind a five-foot wide landscape strip. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc, when they are located within the limits of the sidewalk. Mailboxes shall be relocated or replaced in accordance with standards established by the local Post Office. Additional easement, as necessary, shall be granted to provide for any sidewalk eyebrows. Sidewalks at transit stops shall be a minimum of eight feet in width and curb tight. (*Comprehensive Plan* Table V-3 and ZDO section 1007.05 B3)
- e) One temporary driveway, generally in conformance with *Roadway Standards* Drawing D600, but modified to accommodate the turning maneuvers of combination trucks.
- f) One median curb generally in conformance with the modified plan faxed September 9, 2004, to both CIDA and Kittelson and Associates from Clackamas County. Appropriate tapers shall be provided for the median curb. Two feet of shy distance shall be provided on each side of the median curb. The ultimate configuration of the median, including features to enhance visibility, shall be approved in writing by Clackamas County Traffic Engineering staff prior to the issuance of a Street Construction and Encroachment permit for improvements to Harmony Road.
- g) Appropriate pavement tapers. More specifically, the taper shall be 10:1 for the transition from a narrower to a wider section of roadway and in accordance with *Roadway Standards* Section 240.7 for the transition from a wider to a narrower section of roadway.
- 6) The applicant shall design and construct one 50-foot radius curb at the northeast corner of Harmony Road and International Way in accordance with *Roadway Standards* subsection 240.4.1 and Table 2-7.
- 7) The applicant shall design and construct curb/sidewalk ramps at the northeast corner of Harmony Road and International Way.

Panattoni Development
September 23, 2004
Page 6

- 8) The applicant shall provide a copy of the City of Milwaukie and Water Environment Services approved drainage study and Engineer's detention calculations to DTD Engineering, Deana Mulder.
- 9) The applicant shall provide adequate intersection sight distance at the driveway intersection with Harmony Road in accordance with AASHTO standards for both passenger vehicles and combination trucks. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance for combination trucks, at the driveway intersection with Harmony Road, shall be 592 feet, easterly along Harmony Road, measured 15 feet back from the edge of the travel lane. Minimum intersection sight distance for passenger vehicles, at the driveway intersection with Harmony Road, shall be 390 feet, easterly along Harmony Road, measured 15 feet back from the edge of the travel lane. (*Roadway Standards* subsection 240.4.3, AASHTO Exhibit 9-55, and other AASHTO exhibits)
- 10) The applicant shall provide adequate stopping sight distance for vehicles approaching the Harmony Road driveway in accordance with AASHTO requirements.
- 11) The applicant shall provide an Engineer's cost estimate to Clackamas County Engineering, to be reviewed and approved, for the asphalt concrete, aggregates, curbs, sidewalks and any other required public improvement associated with Harmony Road.
- 12) The applicant shall provide Clackamas County a performance surety in an amount equal to 125% of the Clackamas County approved cost estimate for the Harmony Road improvements.
- 13) The applicant shall install and maintain a 30-inch "STOP" sign, behind the sidewalk, with the bottom of the sign positioned seven feet above the surface of the sidewalk, at the driveway intersection with Harmony Road. (*Manual on Uniform Traffic Control Devices*)
- 14) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- 15) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - a) Written approval from the local Fire District for the planned access, circulation, and fire lanes. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b) Written approval from City of Milwaukie for surface water detention facilities and erosion control measures.

- c) A set of street improvement construction plans for review, in conformance with *Clackamas County Roadway Standards* Section 130, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Street Construction and Encroachment Permit. The permit will be for road, driveway, curb, sidewalk, and drainage improvements. The permit fee is calculated at four percent of the approved cost estimate for the Harmony Road improvements. The submitted plans shall provide plan and profile data and sight lines illustrating adequate intersection sight distance and adequate stopping sight distance for passenger vehicles and combination trucks using the Harmony Road driveway and approaching the Harmony Road driveway. The submitted plans shall also include a detailed striping plan illustrating the striping on all four legs of the Harmony Road/International Way/Lake Road intersection. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.

MEMORANDUM

TO: Community Development Department

THROUGH: Paul Shirey, Director of Engineering

FROM: Brion Barnett, P.E., Civil Engineer
Ruthanne Bennett, P.E., Civil Engineer
Jay Ostlund, Associate Engineer
Brenda Schleining, Civil Engineer

RE: Panattoni Development,
File #(s): S-04-01, TPR-04-03, VR-04-09, WQR-04-03

DATE: September 28, 2004

Panattoni Development has proposed to build 5 tilt-up industrial buildings on a 6.5-acre site with 119 parking spaces. The buildings would be located at the northeast corner of the intersection of International Way and Harmony Road. The following summarizes Engineering staff's review of the Traffic Impact Study and details the adequacy of City public facilities to serve the proposed site.

Transportation Impact Study

Kittelson and Associates prepared a Transportation Impact Study (TIS) for the proposed Panattoni site in July 2004. The purpose of the TIS is to document the adequacy of the transportation system to serve the proposed use and the expected impact of the proposal on the surrounding transportation system. Staff reviewed the TIS materials in conjunction with the City's traffic consultant, David Evans and Associates (DEA). A technical memo from DEA is attached for reference.

The TIS focused on the existing site access point on International Way, the proposed access point on Harmony Road, and the intersections of International Way/Harmony Road, Harmony Road/Railroad Avenue/Linwood Avenue, Lake Road/OR 224 off-ramps (northbound and southbound). The following summarizes key findings and staff conclusions related to the submitted TIS:

- The data and methodology used in Kittelson TIS are adequate based on a comparison to standard traffic engineering practices.
- Analysis by Kittelson has shown that all study access points and intersections will operate at an acceptable level-of-service (LOS), with the exception of the OR-224 Westbound Off-Ramp (which operates at LOS

"F"). The City standard is LOS "D." Level of service is a measure of intersection operating performance and vehicle delay. It is similar to a report card rating with a range from LOS A (little or no delay) to LOS F (high degree of congestion and delay).

- The OR-224 off-ramp is within ODOT's jurisdiction and ODOT uses the volume to capacity (v/c) ratio to define roadway "adequacy." ODOT is not requiring mitigation because the existing v/c ratio of 0.86 is below ODOT's standard v/c ratio of 0.99.
- Existing City Code Section 19.1407.4 (Definition of Adequacy), says all facilities must be at or below LOS "D," with the exception of Highway 99E. The original intent of the code was to default to ODOT and/or regional standards at all ODOT and/or regional facilities, not just Highway 99E. Consequently, staff recommends revising the existing code section to conform to the original intent.
- The site has proposed access points on International Way and Harmony Road. Conservative trip generation estimates indicate that the new site will generate approximately 790 daily trips, 105 trips during the morning peak hour, and 160 trips during the evening peak hour.
- The applicant has proposed that the International Way access point be located approximately 80 feet from the intersection of Harmony Road/International Way. Staff and the City's traffic consultant (David Evans and Associates) are concerned that the proposed access limits sight distance towards Harmony Road, creating a potential collision issue for cars turning from Harmony onto International Way.
- To provide a high degree of safety and mitigate against potential vehicle collisions, staff recommends construction of a median on International Way from Harmony to just west of the adjacent property owner's driveway (approximately 175 feet).
- Clackamas County is recommending a number of conditions prior to development (see attached County memo). One of the most significant requirements is for construction of a median on Harmony Road from International Way to just east of the residential driveway (approximately 300 feet).

Trip Generation and Distribution

- Conservative trip generation estimates indicate that the new site will generate approximately 790 daily trips, 105 trips during the morning peak hour, and 160 trips during the evening peak hour.
- The applicant estimates that 50% of the inbound traffic will come to the site via Highway 224 (westbound); 30% from Highway 224 (eastbound); 5% from Lake Road (eastbound); 5% from International

Way (eastbound); 10% from the Harmony Road/Railroad Avenue/Linwood Avenue intersection.

- The applicant estimates that 55% of the outbound traffic will exit the site and use Highway 224 (eastbound); 35% at Highway 224 (westbound); 5% from Lake Road (eastbound); and 5% from International Way (westbound).

Access Issues

International Way

- Table 19.1409.3 of the Municipal Code classifies the roadway as a local street. However, International Way functions more like a collector. The access spacing target for a collector roadway is 300 feet.
- The applicant proposes an access along International Way located approximately 100 feet from Harmony Road and directly adjacent, with virtually no spacing, to another westerly commercial property. The access is proposed to be restricted to right-in, right-out, and left-in access only.
- The applicant has proposed to remove trees to increase sight lines and to reduce curb radii to slow traffic turning from westbound Harmony Road onto International Way.
- The City's consultant, DEA, outlined several reasons that the access point along International Way is "less than desirable." Staff concurs with this assessment and summarizes the concerns below:
 - a. Potential collision issue for cars turning from Harmony Road onto International Way at speeds above about 17 mph. The applicant has stated that it is reasonable to expect that the new 50-foot curb radius would limit vehicle speeds to 15 mph. Staff disagrees with this assumption and believes that it is more reasonable to expect vehicle speeds to be in the range of 20-30mph.
 - b. It's reasonable to expect that inbound site-oriented truck maneuvers could be slow in this area adding to the potential to back traffic up into Harmony. It would be very difficult to construct any physical improvements inside the driveway approach that would restrict outbound left turns while preserving inbound left turns.
 - c. Performing a left-in movement during the afternoon peak hour (4-6 PM) would be challenging due to existing vehicle queues. The applicant's analysis demonstrates that

southbound traffic stopped on International Way at Harmony Road will back up for 250 feet and periodically block access to the site. This standing queue has the potential to obscure the view of motorists seeking to turn left into the proposed site- posing a safety concern should motorists choose to attempt a left-in movement to the site without adequate site distance.

d. Motorists turning right from the proposed site onto International Way would tend to look for gaps in oncoming traffic in both directions along International Way. I believe there's potential to overlook traffic turning left or right from the adjacent westerly property access, which could reasonably result in conflicts.

- For the reasons stated above (a-d), staff and DEA believe that the a access point could be made as safe as practicable be restricting access to right-in-right-out only.
- To provide a high degree of safety and mitigate against potential vehicle collisions, staff recommends construction of a median on International Way from Harmony to just west of the adjacent property owner's driveway (approximately 175 feet).
- Other options that could be considered include granting the applicant their requested right-in, right-out, left-in only access and monitor safety for a period of three years of opening. If the City determines that a safety issue has developed that is correctable by eliminating left-in movements, the City could require the applicant install or pay for installation of, a raised median along International Way.

Another option would be for the City to try and broker a shared access easement with the adjacent westerly property owner to potentially alleviate the need for a raised median along International Way.

Harmony Road

- The applicant proposes a right-out-only access from their site onto Harmony Road approximately 250 feet east of the Harmony Road/International Way intersection.
- They further propose installation of a raised median along Harmony Road between International Way to a point 450 east to physically restrict any movements other than outbound right turns from the site.
- Staff believes the applicant has demonstrated that the access could support reasonably safe and efficient traffic operations.

- Staff concurs with the applicant's proposal to raise the Harmony Road approach/driveway approximately 1-foot to increase sight distance to the east.

Public Facilities and Services

Sanitary Sewer System

City sanitary sewer is available from a 15-inch line through the middle of the property near Minthorn Creek and an 8-inch line along Harmony Road. The current SDC charge for sanitary sewer is \$893 per connection unit. One connection unit equals sixteen fixture units as determined from Table 7-3 of the Uniform Plumbing Code.

Water System

City water from a 12-inch main in Harmony Road.

Additional SDCs for water will be based on the number of plumbing fixtures added to the building. The current SDC charge for water is \$1,095 per connection unit. One connection unit equals sixteen fixture units as determined from Table 7-3 of the Uniform Plumbing Code.

Storm Drainage System

Storm drainage for this site will need to drain to Minthorn Creek. An oil/water separator manhole with snout fitting is required upstream from discharge to Minthorn Creek. A bottomless diffusing arch on a rock base is required near the edge of the Minthorn Creek buffer instead of a vegetated swale.

SDCs for stormwater will be based on the impervious surface at the site. The storm SDC is currently \$473.00 per 2,706 square feet of impervious surface.

Street Improvements and Right-of-Way (ROW) Requirements

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 (Municipal Code Section 19.1407.2).

Harmony Road is a major arterial under the jurisdiction of Clackamas County and the existing ROW width ranges from 85-100 feet. It is curbed along the frontage of the property to International Way, but does not have sidewalk. Clackamas County has indicated that the existing ROW is sufficient and no dedication would be required. The County has deferred to the City regarding frontage improvements. The proposed 10-foot sidewalk and 5-foot planter strip along Harmony Road meets the frontage requirements for an arterial per Table 19.1409.3. The County is requiring construction of a median along Harmony to restrict dangerous crossing maneuvers and improve traffic flow.

International Way is under the jurisdiction of City of Milwaukie and lacks both curb and sidewalk. Although International Way serves a mix of land uses, Table 19.1409.3 of the Municipal Code classifies the roadway as a local street. Relative to frontage and ROW requirements, staff directed the applicant to treat the roadway as a collector. Per Table 19.1409.3, collectors require 60 feet of ROW. Since the existing ROW on International Way is approximately 100 feet, no dedication is required. The proposed 8-foot sidewalk and 5-foot planter strip along International Way meets the frontage requirements for a collector per Table 19.1409.3.

Plan and Permit Requirements

Full-engineered plans for all the public improvements must be submitted to the Engineering Department 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 building. 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. The inspection fee is currently 5.5% of the estimated cost of the public improvements.

An erosion control plan and permit application must be submitted along with the engineered plans for public improvements.

System Development Charges

No parks SDC will be charged for this type of use.

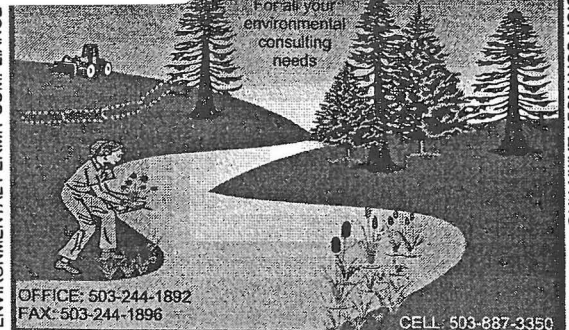
The Transportation SDC will be based on the increase in trips generated by the new use per the most recent edition of the Trip Generation Handbook from the Institute of Transportation Engineers. The current SDC for transportation is \$140 per trip generated. All system development charges for

water, sanitary sewer, storm drainage, and transportation must be paid at the time the building permit is issued. Credits will be given for any demolished structures.

Conditions of Approval

Staff recommends the following conditions of approval:

1. Full-engineered plans for all the public improvements must be submitted to the Engineering Department for review and approval. The applicant shall provide an Engineer's cost estimate for the value of the public improvements associated with International Way.
2. An inspection fee of 5.5% of the cost of the proposed public improvements must be paid at the time of the required pre-construction conference with the contractor.
3. Frontage improvements shall conform to the following:
 - International Way: New standard "C" curb, 8-foot wide sidewalk with a 5-foot planter strip. Raised concrete traffic separator/median with a minimum width of 16-inches shall be constructed from Harmony Road to just west of the adjacent property owner's driveway (approximately 175 feet).
 - Harmony Road: Per Clackamas County's Recommended Conditions of Approval letter dated September 23, 2004. Sidewalk width shall be 10-feet and the planter strip shall be 5-feet in width.
4. At the International Way access point, the applicant shall install and maintain "STOP" signage and signage prohibiting left turns from the site onto International Way. The signage shall be located behind the sidewalk on private property.
5. No certificate of occupancy shall be issued until all public improvements are complete to the satisfaction of the Director of Engineering.
6. All system development charges for water, sanitary sewer, storm drainage, and transportation must be paid at the time the building permit is issued



Memorandum

To: Keith Jones
Agency: City of Milwaukie Planning Department
CC: File
From: S. Alison Rhea, CPESC & PWS
Date: September 22, 2004
Re: Revised International Way Development

Keith:

Per your request, Rhea Environmental Consulting, LLC (REC) performed a cursory review of the revised development plans for the above referenced project, dated 09/16/04. As you are aware REC performed a similar review of the preliminary development plans in memo format on 08/31/04 and provided a summary of observations and/or suggestions related to the protection of natural resources, including the proposed stream crossing.

REC would like to commend the Applicant for their efforts to incorporate some of the previously provided suggestions detailed in the summary memo prepared by REC. In particular the vast improvements to the proposed stream crossing, including the enlarged 18 foot span, 8.9 foot rise bottomless arch-span as opposed to the 12 foot span, 6.25 foot rise bottomless arch-span crossing initially proposed. The enlarged arched-span crossing greatly improves the access corridor for wildlife species (*i.e.* small mammals) and provides a larger area for peak stream flows and reduces the overall negative impact to stream flow hydraulics. This is especially important given the flashy discharge events with increased volume and velocity, as is typical of most urbanized streams system. It is also applauded that the overall length of the arch-span crossing has been reduced from 40 feet in length or 32 feet.

In addition to modification to the stream crossing, the revised development plans included more detail regarding the stormwater management facilities and the landscape planting plan, furthering the evaluation process.

Although the revised development plans reduce the overall negative development - related impacts to existing natural resources, there are still some areas for improvement. It should be stressed, however, that the following suggestions are primarily intended to reduce and/or eliminate both temporal and long-term negative impacts to natural resources. In addition, as REC has experience with development-related construction

costs, the following suggestions are intended to be somewhat cost-effective and applicable to the specific conditions present on the proposed development site.

SUGGESTION	PRIMARY RATIONAL & RESULTS
Eliminate the two bio-swales and replace treatment needs with oil separator manholes	• The proposed Bio-swale design mimics the Clean Water Service swale design which is primarily intended to remove phosphorous (up to 65%) and secondarily to remove sediments. The phosphorous is a relative non-issue outside of the phosphorus rich Tualatin Basin and is not considered a water quality issue within the Clackamas basin. Following completion of the project soils are no longer exposed (<i>i.e.</i> covering of the soil surface with buildings, parking, etc) thus eliminating a significant sediment source, therefore sediment does not warrant a specific treatment facility in excess of the proposed pollution control manholes. • Elimination of grading and exposure of sediment near the stream. • Reduction of soil erosion potential during construction. • Elimination of the removal of and impact to established Riparian vegetation that currently provides thermal regulation and wildlife habitat. • Elimination of native plantings required within the riparian area post construction. • Elimination of the installation of swale vegetation. • Elimination of post construction monitoring requirements within the Riparian area. • Elimination of the required temporary irrigation system necessary for vegetation establishment. • Reduction of overall construction costs.

SUGGESTION	PRIMARY RATIONAL & RESULTS
Eliminate direct, point source, stormwater discharge into the stream generated from the Site via the proposed "natural channel" and replace discharge with an energy diffuser system installed at the outer limits (<i>i.e.</i> development side) of the riparian area. The diffuser system is intended to replicate "sheet flow" along the entire length of the riparian area and replace lost riparian water quality and flood flow attenuation functions.	• Current configuration enters stream at unnatural angles creating potential for under cutting of the opposite side stream bank. • Absent stormwater discharge calculations the proposed 1 foot deep by 4 foot wide "natural channel" that creates the potential of excessive and erosive discharge velocities entering the stream. • Reduction of stormwater discharge velocities within the stream reach. • Dampens the overall instantaneous discharge of stormwater into the stream channel that is currently generated upstream and downstream from the site. • Reduction of surface disturbance within the Riparian area during construction leading to reduced erosion potential near the waterway during construction; • Reduces the total disturbance area and resultant number of individual plant species necessary for restoration. • Restoration of Riparian flood flow attenuation and water storage functions. • Potentially eliminates the need for temporary irrigation within the riparian area by providing source or soil saturation. • Do not excavate and/or penetrate the system greater than four feet below the existing soil surface because the system would technically be considered an underground injection well subject to the regulations set forth by the Oregon Department of Environmental Quality (DEQ). • Reduction of overall costs including construction and long-term maintenance and operation costs of the swales. • Location provides access from the development side necessary for maintenance and reduces need to disturbed the riparian area.

In summary, the following suggestions are made relative to protection of natural resources prior to, during, and after construction:

- Eliminate the two bio-swales and replace treatment needs with oil separator manholes;
- Install dissipation system for stormwater discharge along the development side, or outer side, of the buffer;
- Install oil-sediment separator manholes upgradient of the stormwater discharge diffuser system;
- Replace, when practicable given geotechnical needs, the vertical retaining wall outside the limits of the stream crossing with terraced and vegetated walls;
- Field locate and hand install proposed riparian area enhancement species;
- Modify selected plant species to reflect sun/shade requirements; and,
- Install appropriate restoration and enhancement plantings in the delineated wetland area.

If you have any questions and/or comments regarding this memorandum please call me at 50.244-1892 (Office or 503-887-3350 (cell) or email at alisonrhea@earthlink.net

Thank you.

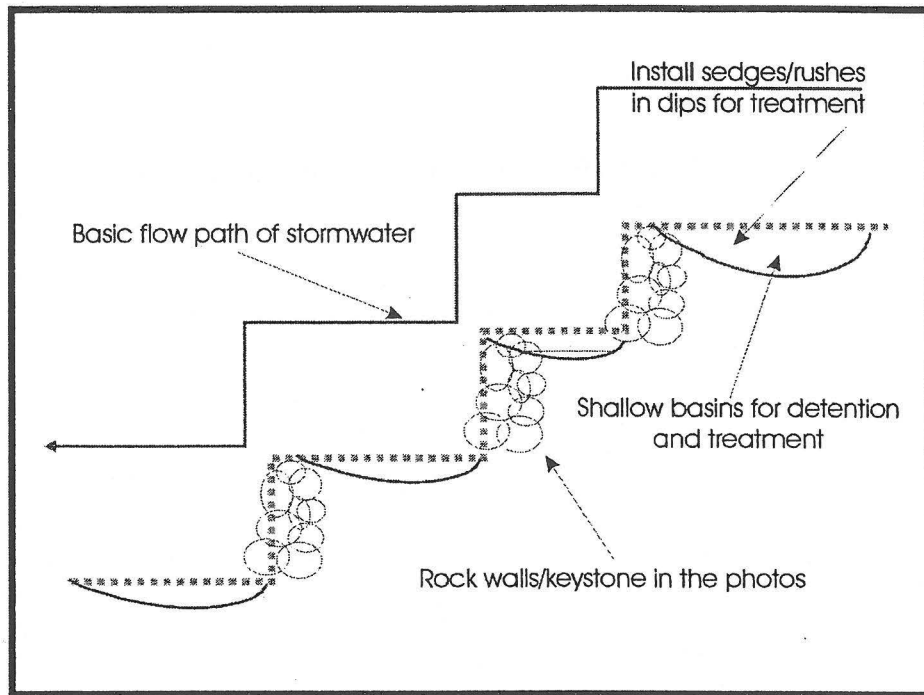


Figure 1: Typical terraced retaining wall with plantings

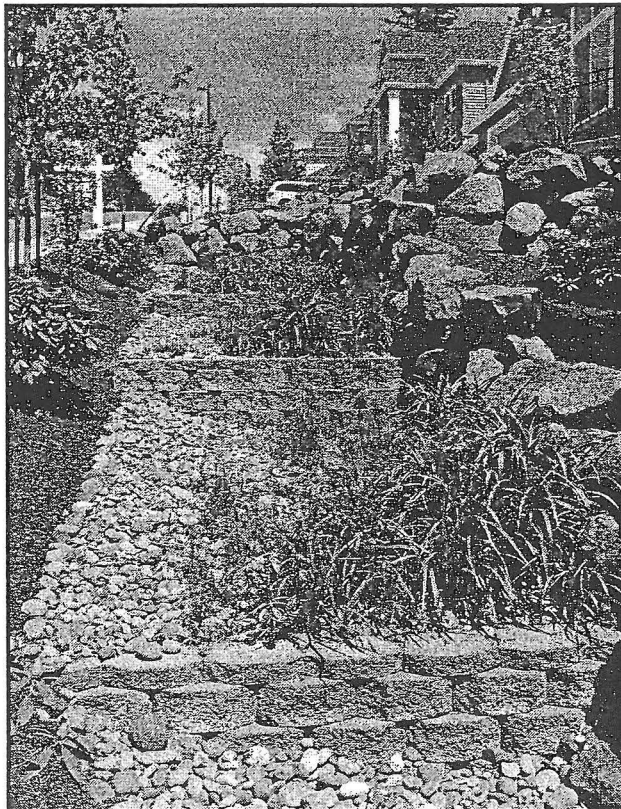


Photo 1: Typical terraced and planted system



DAVID EVANS
AND ASSOCIATES INC.

September 10, 2004

Mr. Brion Barnett, PE
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

SUBJECT: REVIEW OF PROPOSED INTERNATIONAL WAY BUSINESS CENTER

Dear Mr. Barnett:

In response to your request, David Evans and Associates, Inc. (DEA) has reviewed the newest available traffic information related to the proposed International Way Business Center (Panattoni Property) as prepared by Kittelson and Associates, Inc. The newest material consists of a memorandum dated September 9, 2004 relating to intersection sight distance along Harmony Way.

For consistency, I have retained my original review comments dated September 7, 2004 and added to them based on review of the newest information and based on city comments. Original traffic materials consisted of a traffic impact study (TIS) dated July 23, 2004, supplemental traffic memoranda dated August 26, 2004 and August 27, 2004, and a site plan.

The proposed project consists of a mix of general office space (16,325 square feet) and general light industrial space (65,300 square feet) to be located within a parcel located along International Way near the Harmony Road intersection in Milwaukie. The project proposes to take access via International Way and along Harmony Road.

Original Review Comments Dated 9-7-04

1. International Way Access

The applicant proposes an access along International Way located approximately 100 feet from Harmony Road and directly adjacent, with virtually no spacing, to another westerly commercial property. The access is proposed to be restricted to right-in, right-out, and left-in access only. Recognizing the difficulty in providing adequate site access via International Way from a traffic operations and safety perspective, the applicant has proposed the following mitigation with which I concur:

- left turns from the site onto International Way should be prohibited;
- within the northeast quadrant of the intersection, the applicant proposes to remove trees to increase sight lines and to reduce curb radii to slow traffic turning from westbound Harmony Road onto International Way.

Even with the above mitigation measure in place, the site would face several issues in my opinion as follows:

- a. Proximity of the proposed access limits sight distance toward Harmony Road to approximately 100 feet creating a potential collision issue for cars turning from Harmony Road onto International Way at speeds above about 17 mph. The minimum stopping sight distance needed for motorists turning from Harmony Road onto International Way is 115 feet for 20 mph maneuvers and 155 feet for 25 mph maneuvers. Given the need to accommodate large trucks, it appears questionable whether the curb radii on the northeast corner of Harmony Road can be reduced enough to reasonably limit turn speeds to 15 mph or lower;

Mr. Brion Barnett, PE
September 10, 2004
Page 2 of 5

- b. The proposed site access is simply located too close to Harmony Road for comfort. This project would undesirably concentrate the site access associated with two fairly sizable commercial properties within the influence area of the Harmony Road intersection. Doing so provides little margin against having site access maneuvers such as slow moving trucks or lapses in driver behavior back traffic up into the Harmony Road/International Way intersection.
- c. Associated with issue b. above, review of the applicant's truck turn templates suggests that truck access requires very exacting truck maneuvering. There is little margin for error and potential exists for truck encroachment into oncoming lanes along International Way and the site access driveway. Given this fact, it's reasonable to expect that inbound site-oriented truck maneuvers would be slow in this area adding to the potential to back traffic up into the Harmony Road intersection. It appears that any physical channelization (e.g., curbs) used within the driveway approach to restrict site access to right-in, right-out, and left-in only could hinder truck movements. I have not seen a proposed channelization plan to restrict outbound left turns while preserving inbound left turns. Installation of raised median along International Way to further restrict site access to right-in-right-out only would further restrict truck maneuverability. A typical median would likely be 1.5 to 2-feet wide and should include some shy distance on both sides. The applicant would need to demonstrate that they can accommodate the median if in fact the City will require the median;
- d. During peak periods, the applicant's analysis demonstrates that southbound traffic stopped on International Way at Harmony Road will back up for 250 feet and periodically block access to the site. This standing queue has the potential to obscure the view of motorists seeking to turn left into the proposed site- posing a safety concern should motorists choose to attempt a left-in movement to the site without adequate site distance. While it's incumbent upon motorists to ensure conditions are safe to make their maneuver, it's conceivable that some motorists within close proximity of the site access would be tempted to attempt the left-in maneuver on this corner before they can adequately see on-coming traffic. Collisions resulting from this driver error would tend to be head-on or angle collisions- two of the more severe types.
- e. Motorists turning right from the proposed site onto International Way would tend to look for gaps in oncoming traffic in both directions along International Way. I believe there's potential to overlook traffic turning left or right from the adjacent westerly property access, which could reasonably result in conflicts.

Recommendation

For the reasons cited above, the proposed access along International Way is less than desirable. I believe it could be improved and made as safe as practicable by restricting site access to right-in-right-out only through installation of a raised median along International Way that extends far enough west to also restrict the immediately adjacent property to right-in-right-out access. This treatment would address part or all of items b, c, d, and e. It would not address item a. and would introduce an access impact to the adjacent property owner that has full access today.

I believe the City has three options in addressing this issue:

- (1) grant the applicant their requested right-in, right-out, left-in only access and monitor safety. If at any time within three years of opening the City determines that a safety issue has developed that is correctable by eliminating left-in movements, the City reserves the right to have the applicant install or pay for installation of, a raised median along International Way as described above;

Mr. Brion Barnett, PE
September 10, 2004
Page 3 of 5

- (2) Condition approval of the land use action to include restriction of left-in movements on opening day as described above;
- (3) Seek to broker a shared access easement with the adjacent westerly property owner to potentially alleviate the need for a raised median along International Way.

2. Harmony Road Access

The applicant proposes a right-out-only access from their site onto Harmony Road approximately 250 feet east of the Harmony Road/International Way intersection. They further propose installation of a raised median along Harmony Road between International Way to a point 450 east to physically restrict any movements other than outbound right turns from the site. This access would serve as the primary egress point for site traffic including large trucks.

While right-out-only access tends to minimize impacts to surrounding traffic flow, there are issues with this access that need to be considered such as:

- a. The raised median along Harmony Road would effectively restrict two existing full access driveways to adjacent properties to right-in-right-out only access;
- b. The 485 feet of available sight distance at the proposed site access meets stopping sight distance requirements for passenger cars and large combination trucks as well as longer intersection sight distance requirements for passenger cars. It does not meet intersection sight distance requirements for large combination trucks. Practically speaking, this means that large trucks leaving the site would occasionally cause Harmony Road traffic to slow down well below posted speed to avoid colliding with the truck. This would have a disruption effect on Harmony Road traffic flow. Without knowing the truck activity levels, it's difficult to assess how often this issue would occur;
- c. During peak hours, the Harmony Road/International Way signal is expected to back traffic up to and beyond the proposed site driveway. When this occurs, the potential exists that Harmony Road motorists will create some gaps to accommodate motorists leaving the site (driver courtesy). This tends to increase the delay to Harmony Road motorists waiting for this movement to occur and is not reflected in the applicant's analysis. It's probably not enough of a factor to cause the intersection to operate outside of the City's level of service standard.

Recommendation

An access decision along Harmony Road is a Clackamas County decision since the road is under their jurisdiction. In my professional opinion, the applicant has demonstrated that the access could support reasonably safe and efficient traffic operations. With that said, I do believe the applicant should be required to look at feasible options to increase intersection sight distance such as vegetation removal or trimming or raising the elevation of their access to the extent feasible.

Mr. Brion Barnett, PE
September 10, 2004
Page 4 of 5

New Review Comments

The applicant submitted a September 9, 2004 memorandum in response to concerns raised by City and County staff regarding sight distance associated with a proposed new site access along Harmony Road near International Way. The following discussion relates to this newest information.

The principal issue relates to the available intersection sight distance for large trucks entering Harmony Road. The applicant states that trucks would be able to see for 600 feet looking east from the proposed access. This distance could be increased to 630 feet by raising the access approach by one foot. At 630 feet, the applicant would satisfy AASHTO guidelines calling for 620 feet of intersection sight distance for large trucks turning right onto the major road—slightly less than the 676 foot distance inadvertently reported by the applicant relating to left turns that will not be allowed from the access.

The applicant's analysis is based on the 40 mph posted speed along Harmony Road as validated through an abbreviated speed study conducted on September 9, 2004 that confirmed a 40 mph 85th percentile speed. AASHTO bases its guidelines on design speed rather than posted or 85th percentile speeds. Where design speed is not known, a reasonable assumption is 5 mph above posted speed. At a 45 mph design speed, the AASHTO intersection sight distance would increase to 695 feet. So, at 630 feet of available sight distance, Harmony Road drivers would occasionally need to slow to approximately 60 percent of posted speed to avoid colliding with a large truck entering Harmony Road from the proposed access. This does not introduce an unsafe or unduly restrictive condition on drivers in my opinion.

Recommendation

I recommend that, in cooperation with Clackamas County, the applicant pursue a raised approach to Harmony Road to achieve maximum intersection sight distance of approximately 630 feet as specified in their memorandum.

If you have any questions or need any further information concerning this review, please call me at .503.223.6663.

Sincerely,

DAVID EVANS AND ASSOCIATES, INC.

Mike Baker, PE
Senior Transportation Engineer

MJBA:pao



September 20, 2004

Dolly Macken Hambright
Vice Chair/Land Use Committee
dhambri698@aol.com
manx1342@uswest.net
Wanda Drendel
Vice Chair/Land Use Committee
wdrendel1@aol.com
Linwood Neighborhood Association

Re: International Way Business Center
Neighborhood Meeting

Dear Dolly and Wanda:

This letter is a follow-up to the neighborhood meeting on September 9, 2004. Thank you for the opportunity to communicate with your group about my proposed new business park in Milwaukie.

A number of questions were raised. I hope some were answered satisfactorily on Thursday evening. Following is additional information and responses.

Noise: Enclosed is a copy of section 8.08.070 of the City's code related to noise.

First, there are a number of prohibited noises. The dumpster banging you are currently experiencing looks to be covered by paragraph H- Loading, Unloading, Opening Boxes. External equipment operation is incorporated into paragraph O- Blowers and Compressors.

Second, the maximum number of decibels from an industrial property is 80 during the day and 75 at night. Also enclosed is a reference sheet of decibels for common items and events. For instance, washing machines and air conditioners range from 50-75 decibels.

Third, several features of the project as currently designed will be helpful in mitigating noise experienced by your neighborhood.

- The loading doors for northernmost Buildings 4 and 5 face south.
- These buildings will also be dug into the bank next to the rail limiting the ability for access around the north sides of the buildings.

Dolly Macken Hambricht
Wanda Drendel
September 20, 2004
Page 2

- Landscape plans depict 7-8' red cedars be planted along the northerly property line, dampening noise leaving the site.

Fourth, I propose for your response some extraordinary measures to reduce the chances for future owners and tenants of these buildings to cause excessive noise.

- Record a deed restriction for any equipment (such as compressors, air conditioners, dust collectors, etc.) or refuse containers to be located on the north side of any building. This should be particularly effective for Buildings 4 and 5 closest to your neighborhood.
- Record a deed restriction for any equipment to be on the roofs of Buildings 4 and 5 that operates in excess of 75 decibels at the property line between the project and the railroad tracks.
- Although fire exit doors are required in the north elevation of Buildings 4 and 5, placards will be installed on all doors opening north, east or west depicting "Please be considerate of our residential neighbors and minimize noise, particularly at night" or similar.

Graffiti: Enclosed is a copy of section 8.04.155 of the City's code related to graffiti. It states "...every property owner's duty to remove graffiti promptly..." The owner is to remove graffiti within 10 days after notice by the City.

Perhaps you can follow-up with the neighbor to the west. I have called to inform him of our discussions during the neighborhood meeting. Since the meeting I have seen the graffiti on the north side of that building.

The buildings I am developing will not have a canopy, on which the artists have climbed to spray the upper portion of the adjacent building probably most visible to many of your neighbors. Also, the painted walls on the new buildings will be easier to cover the graffiti than the neighbors natural concrete exterior finish. Perhaps the 7-8' red cedar trees and other landscaping will be a bit of a deterrent too.

However, I think the most effective tool to combat the graffiti will be regularly and quickly painting over it. Since the business owners in the buildings may not see the graffiti as soon as your neighbors, perhaps quick contacts to alert of new graffiti will be helpful.

Plant types: Lynn Sharp asked if the plantings will be native and to what extent they will be sustainable. I have a call into my landscape designer to learn more. In the meantime, I have mailed a copy of the landscape plans to Lynn and asked for her feedback.

Dolly Macken Hambright
Wanda Drendel
September 20, 2004
Page 3

Fire truck access: I have asked my civil engineer to discuss the fire truck access, especially to north buildings, with the fire marshal during a meeting scheduled later this week to discuss a couple of other fire code issues.

Railroad Ave storm: I was able to find the outlet for storm pipe crossing Railroad Avenue. The opening is located in the ditch between the tracks and Railroad Ave, approximately 60' west of the intersection of SE Stanley. I have enclosed a couple photographs.

From there the storm water appears to flow east in the ditch between the rail and Railroad Ave. I was not able to find any evidence of storm piping onto the subject site.

If you have any feedback or follow-up questions, then please contact me. I may see you and some of your neighbors at the planning commission hearing. Hopefully it will be on October 12, but final schedule is still pending.

Sincerely,



Michael N. Wells
Partner

c: John Gessner
Keith Jones
Tara Lund

Section 8.08.070 Prohibited noises--Designated.

The following acts are declared to be noises and unreasonable, excessive and unnecessary sounds in violation of this chapter:

- A. Horns, Signaling Devices, Etc. The sounding of any horn, or signaling device on any automobile, motorcycle, bus or other motor vehicle, except as a necessary signal required by the exigencies of regular or pedestrian traffic;
 - B. Radios, Phonographs, Etc. The playing, using or operation of any radio, musical instrument, phonograph, television set, tape recorder, or other machine or device for the producing or reproducing of sound in such a manner as to disturb any other person;
 - C. Loudspeakers, Amplifiers, Etc. The use or operation of any loudspeaker or sound amplifier, either stationary or mobile, in such a manner as to project sound upon private property owned by someone other than the owner or operator of the loudspeaker or sound amplifier;
 - D. Animals. The maintenance of any animal which causes noise of such type, volume or duration as to disturb any person;
 - E. Steam Whistles. The blowing of any steam whistle attached to any stationary boiler except as a warning of fire or danger or upon the request of proper city authorities;
 - F. Exhausts. The discharge into the open air of any exhaust of any steam engine, stationary internal combustion engine, motorboat, automobile, motorcycle, bus, or other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
 - G. Defect in Vehicle or Load. The use of any automobile, motorcycle, bus or other motor vehicle so out of repair, so loaded or in any otherwise unreasonable manner so as to disturb any person;
 - H. Loading, Unloading, Opening Boxes. The loading or unloading of any motor vehicle or the opening, closing or destruction of bales, boxes, crates or containers, so as to disturb any person;
 - I. Construction or Repair of Buildings, Streets, Etc. The construction of any building, property, building site, street, sidewalk, driveway, sewer or utility line during the night-time period;
 - J. Schools, Cemeteries, Churches, Hospitals. The creation of any noise on any street adjacent to any school, institution of learning, church, cemetery or funeral home, while the same is in use, or adjacent to any hospital, nursing home or other institution for the care of the sick or infirm, which interferes with the operation of the same or disturbs any person;
 - K. Pile Drivers, Hammers, Machinery, Etc. The operation during the night-time period of any pile driver, steam shovel, pneumatic hammer, derrick steam or electric hoist, or other construction equipment, machinery or tools;
 - L. Jake Brakes. Operating any motor vehicle with a dynamic braking device engaged except for the aversion of immediate danger;
 - M. Vehicle Testing and Repair. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat so as to disturb any person;
 - N. Explosives, Firearms and Similar Devices. The use of any explosives, firearms, or similar devices.
 - O. Blowers and Compressors. The operation of any blower, power fan, internal combustion engine, electrical motor or compressor, the operation of which disturbs any person;
 - P. Tampering. Removing, impairing or rendering inoperative by any person other than for purposes of maintenance, repair or replacement, of any muffler or noise control device, or noise label of any product, or use of a product which has a muffler, or noise control device or noise label removed or rendered inoperative, with knowledge that such action has occurred;
 - Q. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used out of doors in residential areas during the night-time period;
 - R. Vehicle Noise. Racing the engine of any motor vehicle or suddenly stopping or starting a vehicle unnecessarily.
- (Ord. 1528 § 4(B), 1982)

Section 8.08.090 Maximum permissible environmental noise and sound levels.

- A. In addition to the prohibited sounds listed in Section 8.08.070, no person shall cause or permit noise or sound to intrude into the property of another person, which noise or sound exceeds the maximum permissible noise levels set forth in this section.
- B. The sound limitations established in this section shall be measured at or within the property boundary of the receiving land use.
- C. No sound shall exceed any of the limits established in Table 8.08.090 by ten dBA at any point in time.

**New York:****50 Broadway, 6th Floor, New York, NY 10004****917-305-7700 (Voice) • 917-305-7999 (TTY) • 917-305-7888 (Fax)****Florida:****2800 W. Oakland Park Blvd., Suite 306, Oakland Park, FL 33311****954-731-7200 (Voice) • 954-731-7208 (TTY) • 954-485-6336****Noise Center****NOISE CENTER OF THE LEAGUE****1 888 NOISE 88****NOISE LEVELS IN OUR ENVIRONMENT FACT SHEET**

How Loud is Too Loud? Experts agree that continued exposure to noise above 85 dBA over time, will cause hearing loss. To know if a sound is loud enough to damage your ears, it is important to know both the loudness level (measured in decibels, dBA) and the length of exposure to the sound. In general, the louder the noise, the less time required before hearing loss will occur. According to the National Institute for Occupational Safety and Health (1998), the maximum exposure time at 85 dBA is 8 hours. At 110 dBA, the maximum exposure time is one minute and 29 seconds. If you must be exposed to noise, it is recommended that you limit the exposure time and/or wear hearing protection.

Measure Up and Turn it Down: Decibel Levels Around Us The following are decibel levels of common noise sources around us. These are typical levels, however, actual noise levels may vary depending on the particular item. Remember noise levels above 85 dBA will harm hearing over time. Noise levels above 140dBA can cause damage to hearing after just one exposure.

Points of Reference *measured in dBA or decibels

- 0 The softest sound a person can hear with normal hearing
- 10 normal breathing
- 20 whispering at 5 feet
- 30 soft whisper

D. The sound shall not exceed any of the limits established in Table 8.08.090 by five dBA for a cumulative total of greater than one minute, but less than five minutes in any ten-minute period.

E. The sound shall not exceed any of the limits established in Table 8.08.090 for a cumulative total of five minutes or more in any ten-minute period. (Ord. 1528 § 6, 1982)

Table 8.08.090

Sound Levels by Receiving Land use

Land Use Designation of the Property From Which the Source of the Sound is Measured.	Maximum Number of Decibels Permitted During the Daytime Period.	Maximum Number of Decibels Permitted During the Nighttime Period.
Noise-sensitive	55	50
Commercial	65	60
Industrial	80	75

- 50 rainfall
- 60 normal conversation
- 110 shouting in ear
- 120 thunder

Work**Recreation****Home**

- | | | |
|-------------------------------|---------------------------------------|--|
| • 50 refrigerator | • 40 quiet office, library | • 40 quiet residential area |
| • 50 - 60 electric toothbrush | • 50 large office | • 70 freeway traffic |
| • 50 - 75 washing machine | • 65 - 95 power lawn mower | • 85 heavy traffic, noisy restaurant |
| • 50 - 75 air conditioner | • 80 manual machine, tools | • 90 truck, shouted conversation |
| • 50 - 80 electric shaver | • 85 handsaw | • 95 - 110 motorcycle |
| • 55 coffee percolator | • 90 tractor | • 100 snowmobile |
| • 55 - 70 dishwasher | • 90 - 115 subway | • 100 school dance, boom box |
| • 60 sewing machine | • 95 electric drill | • 110 disco |
| • 60 - 85 vacuum cleaner | • 100 factory machinery | • 110 busy video arcade |
| • 60 - 95 hair dryer | • 100 woodworking class | • 110 symphony concert |
| • 65 - 80 alarm clock | • 105 snow blower | • 110 car horn |
| • 70 TV audio | • 110 power saw | • 110 - 120 rock concert |
| • 70 - 80 coffee grinder | • 110 leafblower | • 112 personal cassette player on high |
| • 70 - 95 garbage disposal | • 120 chain saw, hammer on nail | • 117 football game (stadium) |
| • 75 - 85 flush toilet | • 120 pneumatic drills, heavy machine | • 120 band concert |
| • 80 pop-up toaster | • 120 jet plane (at ramp) | • 125 auto stereo (factory installed) |
| • 80 doorbell | • 120 ambulance siren | |
| | • 125 chain saw | |

- 80 ringing telephone
- 80 whistling kettle
- 80 - 90 food mixer or processor
- 80 - 90 blender
- 80 - 95 garbage disposal
- 110 baby crying
- 110 squeaky toy held close to the ear
- 135 noisy squeeze toys
- 130 jackhammer, power drill
- 130 air raid
- 130 percussion section at symphony
- 140 airplane taking off
- 150 jet engine taking off
- 150 artillery fire at 500 feet
- 180 rocket launching from pad
- 130 stock car races
- 143 bicycle horn
- 150 firecracker
- 156 capgun
- 157 balloon pop
- 162 fireworks (at 3 feet)
- 163 rifle
- 166 handgun
- 170 shotgun

[LEAGUE HOMEPAGE](#) || [Noise Center](#) ||| [EMail](#)

© Copyright 1996-2003 LEAGUE FOR THE HARD OF HEARING

Section 8.04.155 Graffiti.

A. It is every property owner's duty to remove graffiti promptly from their property in a manner acceptable to the city. When graffiti is located upon private property, the city shall cause written notice to be posted on the property and served upon the owner of the property or person in charge of the property requiring removal of the graffiti. The notice shall include a statement of what action(s) are necessary to bring the property into compliance with this section. Unless additional time is granted by the city manager, due to a hardship in complying, the property owner or person in charge of the property shall have ten days after the date of the posting and service of the notice to remove the graffiti.

B. "Graffiti" means any unauthorized painting, writing, drawing, carving or inscription which can be seen from any public right-of-way, sidewalk, alley or park and which damages, defaces or destroys any real or personal property through the use of paint, spray paint, indelible marker, ink, knives or any similar method, regardless of the content of the message delivered or nature of the material used in the commission of the act. (Ord. 1722 § 1, 1992)







Oregon

Theodore R. Kulongoski, Governor

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 378-3805
FAX (503) 378-4844
www.oregonstatelands.us.

RECEIVED
SEP 30 2004
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

September 28, 2004

Michael Wells
Panattoni Development Company
6650 SW Redwood Lane, Suite 370
Portland, OR 97224

State Land Board

Theodore R. Kulongoski
Governor

Re: Wetland Delineation Report for Commercial site at 5831 SE Harmony
Road, Milwaukie, Clackamas County; T1S R2E Sec. 31D, Tax Lot 1500;
Det. #04-0427; App. #33302-NSP

Bill Bradbury
Secretary of State

Randall Edwards
State Treasurer

Dear Mr. Wells:

I have reviewed the wetland delineation report prepared by Schott & Associates for the project referenced above. Based on the information presented in the report, I concur with the wetland and waterway boundaries as mapped in Figure 3 of the report. The isolated stock pond is not subject to state jurisdiction because it was created in an upland. The wetlands adjacent to Minthorn Creek and the stream itself below the ordinary high water line are subject to the permit requirements of the state Removal-Fill Law. A state permit is required for fill or excavation of 50 cubic yards or more in a wetland area or below the ordinary high water line of a waterway.

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will review the report and make a determination of jurisdiction for purposes of the Clean Water Act at the time that a permit application is submitted. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review. The DSL permit coordinator for this site is Steve Morrow, Ext. 297.

This concurrence is based on information provided to the agency. The jurisdictional determination and delineation is valid for five years from the date of this letter, unless new information necessitates a change. Should additional information be brought to our attention or should site conditions change, we would consider the new information and re-evaluate the site and our jurisdictional determination, as needed. Circumstances under which the Department may change the determination and/or delineation and procedures for renewal of an expired determination are found in OAR 141-090-0045. Thank you for your report.

Sincerely,

Dana Field
Wetlands Planner

Approved by

Janet C. Morlan, PWS
Wetlands Program Manager

cc: Dale Gulliford, Schott & Associates
City of Milwaukie Planning Department (Maps enclosed for updating LWI)
John Barco, Corps of Engineers
Steve Morrow, DSL

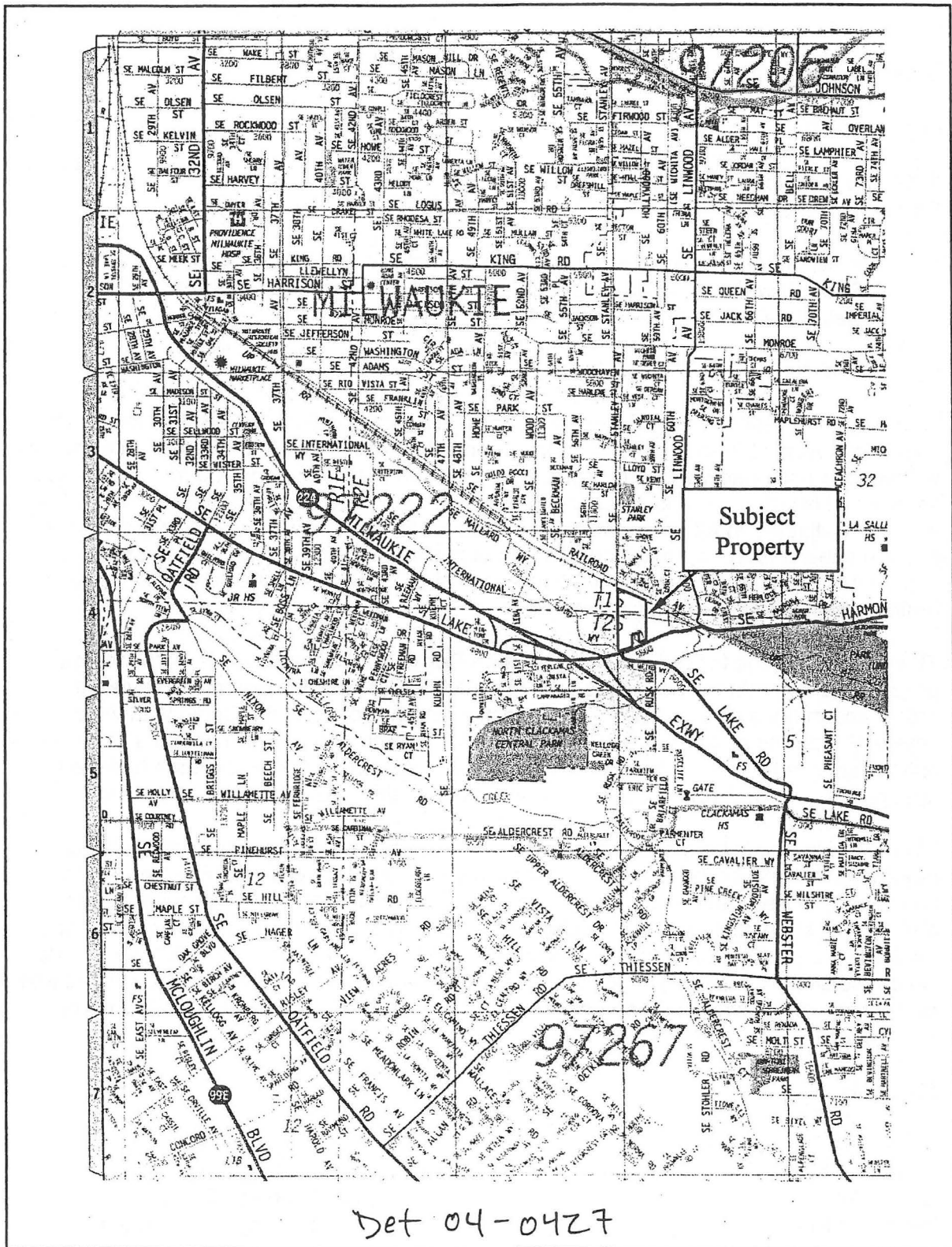
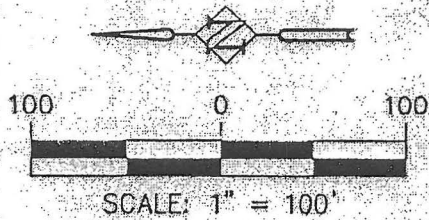


Figure 1. Site Vicinity Map
Panattoni – International Way

Schott & Associates
11977 S Toliver Rd.
Molalla, Oregon 97038
503-829-6318



Det 04-0427

- LEGEND**
- TEST PIT LOCATION
 - † WETLAND BOUNDARY MARKER

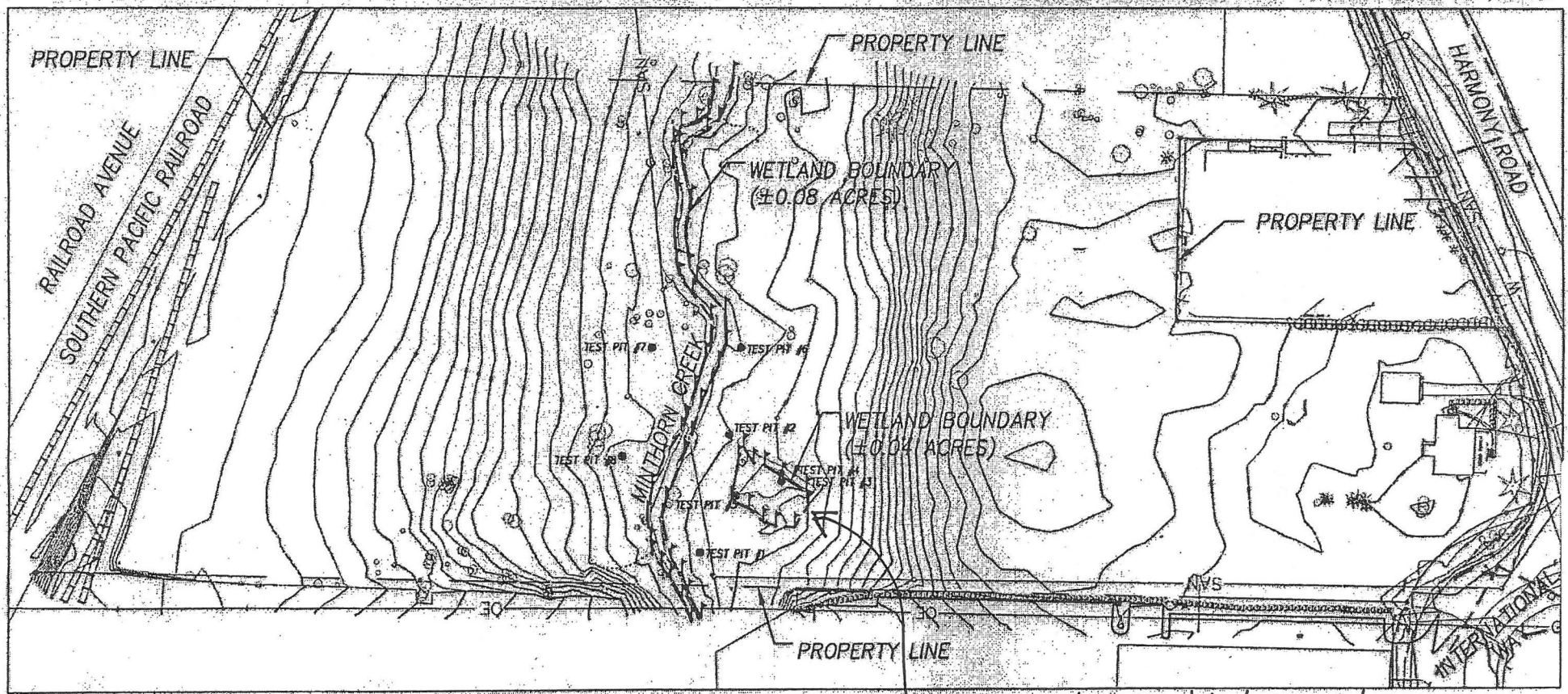
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian K. Henson

OREGON
JAN 20, 1998
BRIAN K. HENSON
#2855

EXP-6-30-02

WETLAND BOUNDARY SURVEY BASED ON MARKED
LOCATIONS PROVIDED BY SCHOTT & ASSOCIATES.
WETLAND BOUNDARIES ARE DRAWN POINT TO POINT.



INTERNATIONAL WAY BUSINESS CENTER - EXISTING CONDITIONS

Fig. 3



**CLACKAMAS COUNTY FIRE DISTRICT #1 • FIRE PREVENTION DIVISION
2930 SE OAK GROVE BLVD • MILWAUKIE OR 97267
OFFICE (503) 742-2660 • FAX (503) 742-2860**

Email Memorandum

To: Keith Jones, City of Milwaukie Planning Dept
From: Ron Schumacher, Deputy Fire Marshal, Clackamas County Fire District #1
Date: 08/16/2004
Re: 5831 Harmony Rd; Tara Lund; 3 Bldg Industrial Park

This review is based upon the Fire Code as adopted through resolution by the City of Milwaukie and Clackamas County Fire District #1 Board of Directors. The proponent must comply with all applicable Fire Code requirements. The following items are commonly required for this type of proposal:

- 1) Provide address numbering that is clearly visible from the street from which access is provided.
- 2) Provide and maintain Fire District access, turnarounds, and turnouts for any building or structure that is built on or moved into the Fire District. Access roads must be a minimum width of 20 feet. No part of a building may be more than 150 feet from an access road.
- 3) Provide an approved turnaround for dead end access roads exceeding 150 feet in length.
- 4) Access street widths of 28 feet or less but greater than 24 feet must have parking restricted to one side of the street. Access street widths of 24 feet in width and less must have parking restricted on both sides of the street.
- 5) Firefighting water supply must meet the fire protection water requirements of the Fire District for all structures. Provide fire hydrants to within 250 feet of all parts of the structure as approved by the Fire District. Maximum spacing between hydrants shall not exceed 500 feet. Additional fire hydrants may be required when the Fire District has determined that there are additional hazards present which can compromise fire and life safety.
- 6) The fire department connection (FDC) for any fire sprinkler system shall be placed as near as possible to the street, and within 75 feet of a fire hydrant.

- 7) Storage in excess of 12 feet (to top of storage) shall comply with the Article 81 of the Fire Code. If the IBC is utilized, then Chapter 23 of the IFC shall be applicable.
- 8) Access off of Harmony Road shall meet the 30' turn radius standard. If radius does not meet the standard, provide documentation to support that the access shall not be compromised by the acute angle at approach into the complex.
- 9) Provide 20' fire lane on the East side of building #3 to a point that is parallel with the North side of building #3.
- 10) The building(s) shall comply with the Fire Code requirements as well as requirements from the building, mechanical, electrical, and plumbing codes.
- 11) The applicant must obtain a stamp of approval from Clackamas County Fire District No. 1 that demonstrates Fire Code access and water supply requirements will be satisfied. Submit a final site plan to the fire district for approval.
- 12) The bridge over Minthorn Creek shall be rated at the fire department standard of 60,000 pounds.

ATTACHMENT 16

6.2a Page 83



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2946
PORTLAND, OREGON 97208-2946

September 22, 2004

REPLY TO
ATTENTION OF:

Operations Division
Regulatory Branch
Corps No.: 200400698

Panattoni Development Company
6650 Southwest Redwood Lane, Suite 370
Portland, Oregon 97224

Dear Sir or Madam:

The U.S. Army Corps of Engineers (Corps) has received your application to construct a road crossing over Minthorn Creek at 5831 Southeast Harmony Road, in Milwaukie, Clackamas County, Oregon. The proposed project is located in Section 31, Township 1 South, Range 2 East.

The Corps of Engineers has jurisdiction over water bodies under two statutory authorities: the River and Harbor Act and the Clean Water Act.

Under Section 10 of the Rivers and Harbors Act of 1899, the Corps has authority to issue permits for structures or work (including excavation) in or affecting navigable waters of the United States. Limits of jurisdiction extend to the mean high water mark in tidally influenced areas and to the ordinary high water mark in non-tidal but navigable waters.

Under Section 404 of the Clean Water Act, the Corps has authority to issue permits for the placement of fill or dredged material in waters of the United States. The term "waters of the United States" includes the territorial seas and tidally influenced waters up to the high tide line. "Waters" also include all other waters, up to their ordinary high water mark, that are part of a surface tributary system to and including navigable (non-tidal) waters of the United States. Wetlands adjacent to these waters are also "waters of the United States".

Since your project does not involve structures or work in navigable waters of the United States, or the discharge of fill or dredged material into other waters of the United States, a Department of the Army permit is not required.

If you have any questions regarding our regulatory authority, please contact Mr. Corrie Veenstra at the letterhead address or telephone (503) 808-4378.

Sincerely,




Lawrence C. Evans
Chief, Regulatory Branch

Copy Furnished:

Schott & Associates, Martin Schott
Oregon Department of State Lands, Cary
Environmental Protection Agency



Oregon

Theodore R. Kulongoski, Governor

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 378-3805
FAX (503) 378-4844
www.oregonstatelands.us.

September 30, 2004

STM02/33302

PANATTONI DEVELOPMENT
ATTN: MICHAEL WELLS
6650 SW REDWOOD LANE, SUITE 370
PORTLAND OR 97224

State Land Board

Theodore R. Kulongoski
Governor

Bill Bradbury
Secretary of State

Randall Edwards
State Treasurer

Re: State Application Number 33302-NSP
Minthorn Creek, International Way Business Center

Dear Mr. Wells:

We have received your application to place a bottomless arch culvert over Minthorn Creek at 5831 Southeast Harmony Road, Township 1S, Range 2E, Section 31D, Tax Lot 1500 in Clackamas County, Oregon. The Department of State Lands requires a permit if you plan to remove, fill or alter 50 cubic yards or more of material within the banks of most waters of the state or designated wetlands. State-designated Essential Salmon Habitat streams and State Scenic Waterways are exceptions in that any amount of removal, fill or alteration typically requires a permit.

Based on your application, your project involves **no** removal or filling of material in waters that are designated Essential Salmon Habitat. Therefore, a state removal-fill permit is not required.

You must also receive authorization, when required, from the U.S. Army Corps of Engineers and Clackamas County planning department before beginning construction.

If you have any questions, please call Steve Morrow at (503) 378-3805, extension 297.

Sincerely,

Lori Warner

Western Region Manager, Field Operations
Department of State Lands

cc: Todd Alsbury, Oregon Dept. of Fish and Wildlife
John Barco, Corps of Engineers, Portland District
Clackamas County Planning Dept.
Martin Schott, Schott & Associates
Monte Greer, Property Owner

LW:jr

J:\AttachmentAwestLAS\NSP No State Permit Required LAS\33302-NSP.doc



STAFF REPORT AMENDMENT

To: Planning Commission

Through: John Gessner, Planning Director *JG*

From: Keith Jones, Associate Planner *KJ*

Date: October 26, 2004

Subject: **Files:** S-04-02, TPR-04-06, VR-04-09 and WQR-04-03
Applicant: Panattoni Development Company
Address: 5831 SE Harmony Road
NDA: Milwaukie Business & Industrial

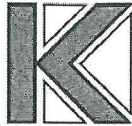
The following issues and corrections were identified after the staff report went to print:

1. Page 4 Key Issue 1 and Page 17 Finding 8 refer to "site" landscaping with the project meeting the required landscaping by using the entire site. The applicant's Minimum Vegetation Worksheet, indicates that each lot provides in excess of the required 15% landscaping as well as the entire site.
2. September 9 and September 15, 2004 memos from Kittelson & Associates, Inc. were not referenced in the staff report and are hereby made part of the record. (See Attached)
3. Page 6 Item C (1) and Page 17 Item 11(a)(2) make reference to the realignment of International Way. The curb radius is being rebuilt and the intersection is not being realigned.
4. Page 21 Item e refers to a condition #. This reference is made to the conditions requested by the County in their memorandum to the City and does not refer to the proposed City conditions.

5. Page 17 Item 4 refers to the "Hobart" driveway. This driveway includes Tax Lot 1400 and 1401 and is a shared driveway and is not solely Hobart's driveway.
6. Page 21 Item (e) 5th bullet states at the "digression" of the County and should read at the "discretion" of the County.
7. Page 6 Item C, Page 18 top of the page, Page 19 Finding 12 and Page 23 Finding 3(h) refer to the applicant granting an access easement to Tax Lot 1300. The City may require reciprocal easements to consolidate driveways. Granting an easement to Tax Lot 1300 would not further the purpose of consolidating driveways on Harmony Road. It would be beneficial for the subject property to gain access to International Way through Tax Lot 1300, however, Tax Lot 1300 is not part of this application and such an easement cannot be required. Granting access for Tax Lot 1300 to gain access through the subject site does not further the purpose of limiting access to Harmony Road, an arterial street since Tax Lot 1300 has access to International Way, a collector street.

Attachments:

1. Memorandum from Kittelson & Associates dated September 9, 2004
2. Memorandum from Kittelson & Associates dated September 15, 2004

**KITTELSON & ASSOCIATES, INC.**

TRANSPORTATION PLANNING/TRAFFIC ENGINEERING

610 SW ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

MEMORANDUM

Date: September 9, 2004**Project #:** 6768.0**To:** Tara Lund
CIDA, Inc.
4445 SW Barbur Boulevard, Suite 200
Portland, OR 97239**Cc:** Robert Hixson, Clackamas County
Keith Jones, City of Milwaukie
Michael Wells, Panattoni Development**From:** Chris Brehmer, P.E.
Julia Kuhn, P.E.**Project:** International Way Business Center, TPR-04-06 & WQR-04-03**Subject:** Proposed Harmony Road Driveway Sight Distance

This memorandum summarizes supplemental intersection sight distance information for the Harmony Road site-access driveway associated with the proposed International Way Business Center. In accordance with our discussions with city and county staff, we have conducted an additional review of the proposed site-access driveway.

First, a speed study was conducted on Harmony Road to assess the 85th percentile speed of free flow traffic on Harmony Road approaching the site-access driveway from Railroad Avenue. Based on a two-hour speed study conducted on September 9th, 2004, the 85th percentile free-flow speed *at the proposed site-access driveway location* was found to be 40 miles per hour as shown on the attachment¹. AASHTO design standards require 676 feet of intersection sight distance for a combination truck turning right onto a two-lane roadway with a posted speed of 40 miles per hour and 558 feet for a single unit truck.

The available intersection sight distance for trucks leaving the proposed Harmony Road site-access driveway was measured in the field and determined to be 600 feet based on a 7.6-foot driver eye height from the exiting truck cab (this is 15-feet more than that previously measured at

¹ The 85th percentile speeds may be slightly lower further to the north along Harmony Road due to the horizontal curve in the roadway alignment.

a 7-foot driver eye-height). The available sight distance is limited by a vertical curve on Harmony Road.

We believe the available intersection sight distance could be increased to approximately 630 feet by raising the approach to the proposed site-access driveway (15-feet back from the travel lane along Harmony Road) by approximately one foot. The resultant 630 feet of intersection sight distance would be approximately 46 feet short of the full AASHTO standard for a combination truck egress movement. As previously reported, single unit trucks are expected to be the primary delivery type vehicle using the site based on the proposed site plan and would have adequate intersection sight distance. Further, adequate stopping sight distance is available on Harmony Road approaching the driveway, meaning that vehicles could safely stop for a large tractor trailer exiting the site-access driveway if necessary.

Next Steps

We would appreciate your review of this additional material and then an opportunity to discuss potential next steps. In the interim, should you have any questions or need additional information, please call us at (503) 228-5230.

Attachment: Speed Study Results



16285 SW 85th Ave, Ste 105
Tigard, OR 97224
Ph:503-620-4242

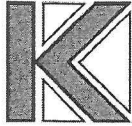
Location: On Harmony Rd 350 feet west of International Way
 Surveyor: Derek Cummings
 Date: 9/9/2004
 Time: 9:30 to 11:30am

85th Percentile is 40 mph

Observation #	MPH	Observation #	MPH	Observation #	MPH	Observation #	MPH	Observation #	MPH	
1	37	0	51	39	0	101	40	0	151	43
2	37	0	52	35	0	102	34	0	152	34
3	34	0	53	30	0	103	28	0	153	37
4	34	0	54	36	0	104	43	0	154	32
5	37	0	55	33	0	105	35	0	155	37
6	26	0	56	37	0	106	42	0	156	36
7	35	0	57	34	0	107	41	0	157	41
8	40	0	58	33	0	108	31	0	158	34
9	44	0	59	39	0	109	31	0	159	41
10	40	0	60	37	0	110	33	0	160	37
11	35	0	61	31	0	111	37	0	161	37
12	34	0	62	34	0	112	38	0	162	34
13	33	0	63	42	0	113	35	0	163	49
14	36	0	64	36	0	114	36	0	164	39
15	38	0	65	36	0	115	38	0	165	35
16	34	0	66	36	0	116	42	0	166	37
17	37	0	67	41	0	117	33	0	167	35
18	35	0	68	39	0	118	36	0	168	41
19	38	0	69	36	0	119	37	0	169	37
20	34	0	70	36	0	120	35	0	170	33
21	30	0	71	30	0	121	35	0	171	32
22	33	0	72	40	0	122	32	0	172	44
23	39	0	73	37	0	123	37	0	173	37
24	35	0	74	27	0	124	33	0	174	42
25	28	0	75	32	0	125	34	0	175	28
26	38	0	76	36	0	126	45	0	176	32
27	39	0	77	33	0	127	39	0	177	31
28	32	0	78	36	0	128	33	0	178	37
29	42	0	79	32	0	129	34	0	179	30
30	36	0	80	42	0	130	32	0	180	31
31	34	0	81	37	0	131	32	0	181	32
32	38	0	82	37	0	132	32	0	182	33
33	41	0	83	33	0	133	33	0	183	47
34	34	0	84	39	0	134	46	0	184	34
35	35	0	85	33	0	135	37	0	185	37
36	34	0	86	33	0	136	42	0	186	35
37	32	0	87	39	0	137	38	0	187	43
38	37	0	88	37	0	138	36	0	188	38
39	36	0	89	35	0	139	38	0	189	37
40	34	0	90	33	0	140	35	0	190	39
41	37	0	91	31	0	141	32	0	191	35
42	33	0	92	35	0	142	38	0	192	33
43	32	0	93	34	0	143	31	0	193	33
44	42	0	94	38	0	144	34	0	194	42
45	38	0	95	36	0	145	37	0	195	36
46	48	0	96	31	0	146	32	0	196	37
47	37	0	97	42	0	147	37	0	197	33
48	38	0	98	34	0	148	33	0	198	33
49	32	0	99	41	0	149	42	0	199	38
50	42	0	100	37	0	150	38	0	200	37

Speed	Total	
Less than 20	0	
20	0	0%
21	0	0%
22	0	0%
23	0	0%
24	1	0%
25	0	0%
26	1	0%
27	1	0%
28	3	1%
29	0	0%
30	4	2%
31	10	4%
32	20	9%
33	24	11%
34	22	10%
35	20	9%
36	20	9%
37	35	16%
38	15	7%
39	12	5%
40	6	3%
41	7	3%
42	13	6%
43	3	1%
44	2	1%
45	1	0%
46	1	0%
47	1	0%
48	1	0%
49	1	0%
50	0	0%
51	0	0%
	224	100%

85th Percentile is 40 mph

**KITTELSON & ASSOCIATES, INC.****TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

610 SW ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

MEMORANDUM

Date: September 15, 2004**Project #:** 6768.0**To:** Robert Hixson
Clackamas County
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015**Cc:** Tara Lund, CIDA, Inc.
Keith Jones, City of Milwaukie
Michael Wells, Panattoni Development**From:** Chris Brehmer, P.E.**Project:** International Way Business Center, TPR-04-06 & WQR-04-03**Subject:** Proposed Harmony Road Driveway Sight Distance

This memorandum summarizes supplemental intersection sight distance information for the Harmony Road site-access driveway associated with the proposed International Way Business Center. Specifically, this memorandum documents the results of a second speed study that was conducted on Harmony Road at your request.

Similar to the previous study, the second speed study was conducted on Harmony Road to assess the 85th percentile speed of free flow traffic on Harmony Road approaching the site-access driveway from Railroad Avenue. The location of this speed study was approximately 900 feet east of International Way. Based on the results of the two-hour speed study conducted on September 15th, 2004, the 85th percentile free-flow speed at the new location was found to be 35 miles per hour as shown on the attachment.

AASHTO design standards require 592 feet of intersection sight distance for a combination truck turning right onto a two-lane roadway with a posted speed of 35 miles per hour. As previously documented, the available intersection sight distance for trucks leaving the proposed Harmony Road site-access driveway was measured in the field and determined to be 600 feet based on a 7.6-foot driver eye height from the exiting truck cab.

We would appreciate your review of this additional material and then an opportunity to discuss anything else that you might need to complete your review. Please call me at (503) 228-5230 if you have any questions.

Attachment: Speed Study Results



16285 SW 85th Ave, Ste 105
Tigard, OR 97224
Ph:503-620-4242

Location: On Harmony Rd 900 feet east of International Way
Surveyor: Fatima Wegehaupt
Date: 9/15/2004
Time: 9:30 to 11:30am

85th Percentile is 35 mph

Speed	Total	
17 and under	0	0%
18	1	0%
19	0	0%
20	1	0%
21	4	1%
22	5	1%
23	2	0%
24	5	1%
25	10	2%
26	19	4%
27	12	3%
28	61	14%
29	31	7%
30	30	7%
31	38	8%
32	81	18%
33	48	11%
34	28	6%
35	21	5%
36	24	5%
37	16	4%
38	7	2%
39	3	1%
40	1	0%
41	1	0%
42	1	0%
43	0	0%
44	0	0%
45	0	0%
46	1	0%
47	0	0%
48	0	0%
49	0	0%
50	1	0%
51		0%
	451	100%



To: Planning Commission

From: John Gessner, Planning Director *JD*

Date: October 26, 2004

Subject: Appeal of Planning Director's Determination

File: AP-04-01 Dancevolve
4252 SE International Way

Action Requested

Rule that the appellant's business is a "commercial school" not a "trade school primarily serving the business community in the area", sustain the Planning Director's determination, and adopt recommended findings in support of denial.

Background

On September 3, 2004, the appellants submitted a building permit for improvements at a tenant space at 4252 SE International Way. The permit drawings were labeled as "Dancevolve Trade School". The appellant was contacted to determine the nature of the business as dance studios are not permitted uses in the Business Industrial Zone.

Subsequent communications with the appellant and investigations by staff resulted in the determination that the use is inconsistent with "trade schools" within the meaning of the Business Industrial zoning regulations. Accordingly, on September 10, 2004, a formal determination was issued. However, given the likely financial and business hardships that would be suffered by the appellant, staff authorized occupancy for 2 years as a means of deferred code enforcement. On September 30, 2004 the determination was appealed. (*See the attachment set for various related correspondence.*)

The Planning Director is authorized to interpret, apply, and enforce the Zoning Ordinance.¹ Director determinations maybe appealed to the Planning Commission.²

Key Issues

1. Dance schools are not allowed as a primary use in the Business Industrial Zone. Staff believes the appellant's business is classified as a dance school, which falls under the City's definition of commercial school. Commercial schools are permitted in the following zones: Residential-Office-Commercial, General Commercial, Limited Commercial, and Mixed-Use Overlay.
2. Of commercial schools, only trade schools, which primarily serve businesses in the industrial area, are permitted in the Business Industrial zone.³ Staff believes the use is not a trade school and that it does not primarily serve businesses in the area.
3. The Zoning Ordinance defines neither "dance studio" nor "trade school". Therefore, alternate resources must be considered in determining their characteristics.
4. Staff recommends the Commission deny the appeal.

Analysis of Key Issues

1. Dance studios or schools fall within the meaning of commercial school, which reads: "...a place where instruction is given to pupils in arts, crafts, trades, or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation."⁴ Staff believes the appellant's information strongly suggests that the business includes primarily education in dance.

The appellant argues that their business is not a dance studio [school]. Appellant communication includes the following; see attachment set for complete documents:

"Our business... was established as the foundation for the development of a performing arts academy." (Letter received September 30, 2004)

¹ Zoning Ordinance Section 1001.1 & 1001.4
² Zoning Ordinance Section 1001.1
³ Zoning Ordinance Section 324.2(A)(4)
⁴ Zoning Ordinance Section 100 Definitions

"...we are providing a form of secondary education for students who aspire to dance as a career choice and it is our long term goal to include not only our own art form but other art forms and trades as well." (Letter received September 30, 2004)

"Our Mission: to further the evolution of the dance arts, ourselves as individual artists, and our youth as developing artists by integrating the dance forms, and diversifying the performance venues. To instill in youth our own passion for the dance arts...." (Appellants Exhibit A)

2. The Business Industrial Zone allows "trade schools primarily serving the business community in the area". There are two tests that must be satisfied in order to find on behalf of the appellant:
 - That the use is a trade school; and
 - that the business primarily serves the business community in the industrial area.

Staff believes that the applicant has not demonstrated that the use is a trade school and that it primarily serves the business industrial community.

A internet search of "trade school" indicates that the term is customarily associated with business, technology, and construction enterprise. Distinguishing characteristics of the term include the focus on secondary level occupational training and skill development.

The purpose of the Business Industrial Zone is to provide for employee-intensive business and office uses.⁵ Therefore, it is consistent that trade schools that support industrial and business uses allowed in the zone are appropriate. Allowed businesses include manufacturing, research and development, printing and publishing and business offices. Therefore trade schools that support allowed uses would clearly qualify as permitted uses. It is not clear how the appellant's use support the zone's businesses.

The following definitions support the staff interpretation:

"trade: one's regular business work or work: occupation; an occupation requiring manual or mechanical skill; the persons engaged in business or industry...." (The New Merriam-Webster Dictionary, Merriam-Webster, Inc, Springfield, Massachusetts, 1989)

"trade: people who perform a particular kind of skilled work; ("he represented the craft of brewers"; "as they say in the trade") (the skilled practice of a practical occupation; "he learned his trade as an

⁵

Zoning Ordinance 324.1

apprentice") (*Cognitive Science Laboratory , Princeton University, www.cogsci.princeton.edu*)

"trade school: a secondary school teaching the skilled trades"
(*Cognitive Science Laboratory , Princeton University, www.cogsci.princeton.edu*)

Conclusion

Staff believes the applicant has not demonstrated that the use is a trade school and has not demonstrated that it primarily serves the business community located within the Business Industrial Zone. It is therefore recommended that the appeal be denied and that the findings and conclusion in Attachment 1 be adopted.

Code Authority and Decision-Making Alternatives

Appeals of Planning Director interpretations are considered by the Planning Commission under minor-quasi judicial proceedings in a public hearing.⁶ In such proceedings the Commission considers all testimony and evidence and decides accordingly. Commission decisions may be appealed to the City Council. The Commission has the following decision making options:

1. Approve the appeal and adopt appropriate findings.
2. Deny the appeal and adopt appropriate findings.
3. Refer the decision to the City Council.

The final decision on this matter must be made no later than January 18, 2005 in accordance with time limits specified by statute and city ordinance.

Attachments

1. Recommended Findings.
2. Determination Letter, September 10, 2004 with attachments.
3. Appellant Correspondence: September 8 e-mail; Letter received 9/27/04; Letter received September 30, 2004.

⁶ Zoning Ordinance 1001.4

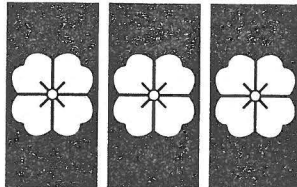
Attachment 1
Recommended Findings & Conclusion

Findings

1. On September 10, 2004, a Director's interpretation was made in accordance with Milwaukie Zoning Ordinance Section 1001 declaring that Dancevolve, located within the Business Industrial zone at 4252 SE International Way, is not a "trade school primarily serving the business community of the area" and therefore not permitted in the BI Zone. Milwaukie Zoning Ordinance 324.2(A)(4). On September 20, 2004, an appeal was received for Planning Commission consideration.
2. On October 26, 2004, the Planning Commission conducted a public hearing in accordance with Zoning Ordinance 1011.3, with public notice having been provided as required.
3. The appellant's business, "Dancevolve" is a commercial school, which provides education in the arts as specified in zoning definitions of Zoning Ordinance Section 100. Commercial Schools, other than "trade schools primarily serving the business community in the area," are not authorized in the Business Industrial zone.
4. The appellant has not demonstrated the following:
 - a. That the use is a trade school within customary usage of the term; and
 - b. that the use primarily serves the business community of the Business Industrial zone.

Conclusion

The Commission finds the business Dancevolve is not a trade school primarily serving the business community in the area, and therefore is not a permitted use in the Business Industrial zone. The appeal is therefore denied and the Planning Director's decision is affirmed.



Ms. Sara Manougian
13505 SE Meadowpark Drive
Portland, OR 97236

Re: DancEvolve Building Permit #040394
4252 SE International Way

Dear Ms. Manougian:

Please be advised that your building permit and use has been provisionally approved for zoning purposes. In your September 3, 2004 e-mail to Keith Jones, Associate Planner, you provide an argument that the use is a "trade school". Milwaukie Zoning Ordinance Section 324.2(A) allows "trades schools primarily serving the business community within the area". By common usage trade school involves secondary education for the skilled practice of a practical occupation typically including construction trades.

I have determined that DancEvolve is inconsistent with the common understanding of a "trade school" nor does it primarily serve the business community in the area. This determination is supported by a recent announcement in the Oregon Live Internet dance forum publicizing the opening of DancEvolve as a dance studio (copy attached).

I have received your e-mail from last night and after discussing the matter with Aaron Watts of Norris Stevens I am confident that there was legitimate misunderstanding in your interpretation of the zoning ordinance. Accordingly, occupancy will be allowed for a period of two years so as to not unduly burden DancEvolve with potential financial burden associated with immediately terminating the lease and subsequent relocation costs. Please be advised that the business will need to vacate the space no later than September 10, 2006.

The determination that DancEvolve is not a trade school within the meaning of the Zoning Ordinance is a formal ruling and may be appealed to the Planning Commission by written request and submission of the \$505 appeal fee no later than September 24, 2004. I regret that this action must be taken and offer my assistance in helping you with relocating elsewhere in Milwaukie. Please do not hesitate to contact me should you have any questions.

Sincerely,

John Gessner
Planning Director

copy: Aaron Watts, Norris Stevens

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

Gessner, John

From: l_manougian@comcast.net
Sent: Wednesday, September 08, 2004 9:24
To: GessnerJ@ci.milwaukie.or.us
Subject: Dancevolve

John,

Thank you for your concern on this matter. Months ago as we were searching for a home for our new business we ran across a space off of Lawnfeild Rd. that seemed perfect and all the elements of the lease agreement were reached with Norris and Stevens and the owner, but at the last minute an established larger company bid on and was given the space. We found this current space on International Way in late July. After negotiating the lease we were told that we needed the business license to fully execute the lease. Upon receipt of the license we met with the architect and Norris and Stevens to outline the needs of our new facility. We were then given the plans and told to submit them for permits. It was recommended that the business be described as a trade school. This made sense based on much of what Dancevolve's plans were. It was not until we heard from the city that we realized that there was a issue. During the past month we have invested over 25,000 dollars, countless hours, materials, and supplies in preparation for our upcoming opening. The non-profit portion of Dancevolve is looking forward to our association with Aldercreek Middle School and Sabin Skills Center. Our collaboration with these community schools will result in the development and production of regular media presentations. From the very beginning we have tried to follow all the necessary procedures to make sure that we have been responsible business owners in this community. Again we appreciate your advice and help in solving this issue. If you need any more information from us please let us know.

Sincerely,

Sara, Candalee, and Erin

Dancevolve

Gessner, John

From: Jones, Keith
Sent: Wednesday, September 08, 2004 4:48 PM
To: Gessner, John
Subject: FW: Dancevolve business description

-----Original Message-----

From: Sara Manougian [mailto:o2dancer@yahoo.com]
Sent: Friday, September 03, 2004 12:31 PM
To: jonesk@ci.milwaukie.or.us
Subject: Dancevolve business description

Dancevolve is a trade school with a non-profit production entity. We will be providing technical and educational support for the design and implementation of all varieties of media productions. We are not a dance studio. We will be using the space to create show concepts which may include dance.

We will be teaching adults as well as youth all the aspects of putting on a stage production. We will create these productions in this space and then implement them at a venue in the community. The space is meant to be a workshop for all arts including dance, set design, lighting, and theater arts. We differ from a dance studio in many ways. We are an educational institution for pre-professionals as well as professionals. There will never be large groups of children coming and going, or hanging out. There will only be small groups of people including youth who will come and use the facility in a professional manner. We are aware of the zoning in this area but we also know it should not be a problem as we are not a dance studio, school, or child care facility.

Do you Yahoo!?

New and Improved Yahoo! Mail - Send 10MB messages!
http://promotions.yahoo.com/new_mail

7690. NEW Studio Opening!*by dancEvolve, 8/28/04 18:47 ET*

I just wanted to pass on some information about a new Studio opening in Milwaukie!

It's called DancEvolve and it is located @ 4252 (H) SE International Way, Milwaukie.

Lots of classes are being offered including: Hip Hop, Jazz, Conditioning, Tap & Ballet. There are classes for all levels and the teachers are incredible!

The staff includes:

Candalee Wrede in Ballet (she is truly AWESOME!),

Miss Erin Lee for TAP & Hip Hop (OH MY! She ROCKS!),

Sara M. for Jazz (Yes, she can do fouettes while reading Shakespeare - she is THAT GOOD! LOL, sorry Sara - I couldn't resist!)

And they will be bringing in all sorts of guest teachers and choreographers from Rap1.

And if that's not enough - you may have the opportunity to be in their Holiday Show - which will be something to remember!

Don't miss out! Come check the new Studio on our Open Registration day which is:

Wednesday, September 8th from 12:00 Noon to 8:00 PM - you will have the opportunity to meet members of the faculty, view the facility and ask questions!

►RESPOND to This Message

Click to view these responses

1. [erin??? by dancengr175, 8/28/04](#)
 1. [Yes, that's her! by dancEvolve, 8/28/04](#)
2. [Drop ins... by 13ringItOn, 8/29/04](#)
 1. [Great Question! by dancEvolve, 8/29/04](#)
3. [For More Information by dancEvolve, 8/29/04](#)



**Inappropriate
Posts?**
Alert Us!

SEND THIS POST

- » [Forums Help](#)
- » [User Agreement](#)
- » [Privacy Policy](#)

[About Us](#) | [Help/Feedback](#) | [Advertise With Us](#)

Use of this site constitutes acceptance of our [User Agreement](#). Please read our [Privacy Policy](#).

©2004 OregonLive.com. All Rights Reserved.

To: John Gessner
Planning Director
Community Development Department
6101 SE Johnson Creek Blvd
Milwaukie, Oregon 97206

RECEIVED
SEP 27 2004
CITY OF MILWAUKIE
PLANNING DEPARTMENT

From: dancEvolve llc
Candalee Wrede, Managing Member

Re: dancEvolve llc Building Permit #040394
4252 SE International Way, Ste H
Milwaukie, Oregon

Subject: Points of Appeal

The following is an elaboration of the points cited in the initial intention to appeal letter filed on with the Community Development Department on Monday, September 20, 2004. These points provide more specific information in regards to that appeal.

1) To address the information attained on Oregon Live:

We did not post the information that appeared on Oregon Live. It was posted by one of our students and we did not know the content until it was pointed out to us by those who read it. We do not consider and would never describe ourselves as a "dance studio". We are the foundation business for the development of a performing arts school similar to Jefferson High School as that form of performing arts education is not offered in this area. In addition to educating youth in performing arts, we also want to support and provide hands on experience for the various trades that are involved in the complex scheme of preparing performances. To illustrate this point, we have included a copy of our mission, principles and commitment. (See Exhibit A)

2) To address qualifying as a trade school according to Sec 19.324.6, #4:

The program of education for dancers and choreographers follows most closely that education of construction, production etc workers, although it begins at a much younger age, usually four or five.

The program to become a professional dancer or choreographer or teacher is as follows:

- A) Ten or more years of practical training by attending as many dance classes as possible.
- B) When the faculty grades or judges the student as having reached an advanced level, they are then interviewed to decide the next course of study. If the goal is to be a professional dancer, the student either auditions for an amateur company or an apprenticeship in a professional company. If the goal is to be teacher, the student then becomes a teaching apprentice and is guided by the faculty while developing a personal style and program for educating other dancers. Teaching apprentices are used in most dance studios, performing arts schools and colleges and universities offering associate, bachelor and masters degree in dance. A choreographer may follow either or both of the above although they also must serve as an apprentice, submitting new pieces to be judged by their peers before they are hired to develop pieces on specific companies or groups of dancers. Only after many years of study and usually two or more years as an apprentice in their field of choice do they move on to become a professional. This course of training is considered enough of an education in the art form to qualify for an honorary teaching certificate in Oregon (information based on personal experience in 1992-93 when teaching for Sam Barlow High School).
- C) In many areas of the country, dance and choreography contracts are governed by the American Guild of Musical Artists, (copy of their webpage enclosed as Exhibit B) the union representing artists in the fields of opera, dance and concerts. Other unions that are involved in the dance profession are as follows:

Actor's Equity Association: represents American actors and stage managers

American Guild of Variety Artists: represents performers in Broadway, Off-Broadway, Cabaret productions, and theme park performers.

3) To address the general definition of a trade:

The Merriam-Webster definition of a trade is as follows:

Main Entry: ¹trade 🗨

Pronunciation: 'trAd

Function: *noun*

Etymology: Middle English, from Middle Low German; akin to Old High German *trata* track, course, Old English *tredan* to tread

3 a : the business or work in which one engages regularly : OCCUPATION b : an occupation requiring manual or mechanical skill : CRAFT c : the persons engaged in an occupation, business, or industry
 synonym see BUSINESS

We believe we qualify in this category of business definitions better than any other category provided.

- 4) To address if we qualify as defined in Sec 19.324.2, #4:
("Trade schools primarily serving the business community within the area.")

While it may be a secondary, rather than primary, service to the surrounding business community, we are of value to any employee in the area who is parenting a creatively talented and gifted child no longer able to pursue the arts within the school systems. We also provide an enjoyable means of exercise for a generation of children (which studies recently proved) who are or are being threatened by the health hazards of obesity. In addition, we have adult students who are pursuing the arts education that they did not receive as children or to aid in their comprehension of the effect on and experience of their own children.

We are capable of increasing memberships at Ballys and in turn, providing structured educational classes for the children of those parents who are already members. I taught my Advanced Ballet classes out of Ballys from September through June of last year and many people inquired about classes for their children. We do increase the use of the various eating establishments and the shopping center nearby, all of which is indirectly of benefit to the businesses surrounding us.

In regards to our full development, we have formed a non-profit production company (DancEvolve Performing Inc) which will provide opportunities for additional artists and trades personnel in the areas

of the technical aspects of productions (music, lights etc), scenery (construction), costume design (directly derived from the study of clothing design) theatrical make-up (directly derived from beautician training), and graphic artists, to name a few.

Summation:

In closing, we would appreciate your thorough review of the above points of appeal. We believe we have good cause to identify ourselves as a "trade school". We are not pursuing the path of a dance studio whose function is to provide a recreational and fun activity for all the children in the community. Our goal is to foster or further the training and education of the serious student whose talents and desires are leading towards the pursuit of dance as a their vocation (to become a professional dancer, choreographer and/or teacher).

Thank you for your review.

Sincerely,



Candalee Wrede
Director/Managing Member
dancEvolve llc
dancEvolve Performing Inc

Welcome to DanceEvolve llc with Rap 1 Inc
and

DanceEvolve Performing Inc, our nonprofit production company

"Through Spirit and Dance . . . Evolve"

DanceEvolve is located at 4252 (H) SE International Way, Milwaukie, Oregon 97222
(right next door to and on the same side of the street as the Milwaukie Ballys)

Our Mission:

To further the evolution of the dance arts, ourselves as individual artists and our youth as developing artists by integrating the dance forms and diversifying the performance venues.

To instill in youth our passion for the dance arts by inspiring them to be dedicated, disciplined and innovative in their pursuit and mastery of these art forms.

To promote and encourage the same passion and inspiration for all the art forms by supporting and including their integration into all we do.

Our Principles:

DanceEvolve is dedicated to providing excellent dance training and education for the serious student.

Our structure is based on the principles of Jacques d'Amboise, founder of the National Dance Institute, who believes in children so strongly that he demands everything from them and gives them total attention in return and the children he works to realize they are infinitely more capable than they thought.

We also believe this of children and provide the vision, the discipline and the training necessary for each child to discover their individual capabilities.

Our Commitment:

In return, we will share with our students total commitment, dedication, education and passion for the arts. By expecting the very best, we hope to instill in our students a desire for excellence that becomes a part of their journey for a lifetime.

To: John Gessner
Planning Director
Community Development Department
6101 SE Johnson Creek Blvd
Milwaukie, Oregon 97206

From: dancEvolve llc
Candalee Wrede, Managing Member

Re: dancEvolve llc Building Permit #040394
4252 SE International Way, Ste H
Milwaukie, Oregon

Subject: Basis for Appeal

Our business, dancEvolve llc was established as the foundation for the development of a performing arts academy in this area. When we investigated the possibility of leasing our present space, it was our understanding once we secured a business license from the City of Milwaukie, there would be no reason we could not proceed with a five year lease in Suite H of the Lincoln Business Center #573 and we began renovating as necessary for the space to be suitable for our needs.

On or about September 9, 2004, dancEvolve applied for a building permit. When we filled out the application, our description of our business was "a trade school". It most closely described the training process of our art form and the ultimate goals for our business.

On September 10, 2004, we received a written reply from Mr. John Gessner, Planning Director, stating "I have determined that DancEvolve is inconsistent with the common understanding of a "trade school" nor does it primarily serve the business community in the area". (Copy of letter enclosed as Exhibit 1)

As a result of Mr. Gessner's determination, we were "advised that your building permit and use has been provisionally approved for zoning purposes". This was related to an announcement on Oregon Live dance forum publicizing our business as a "dance studio". As we did not post this announcement, we have included this as one of our points of appeal. We would also like to invite you to visit our website as it is now available at www.dancEvolve.com.

RECEIVED
SEP 30 2004
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

We appreciated the fact that Mr. Gessner thoroughly discussed this matter with all involved and realized that it was not our intention to misrepresent the nature of our business in any way. He was also generous enough to grant us two year occupancy so our business would not go out of business due to the financial burden immediate termination would impose upon us. At this point in time, we have invested between \$20,000 and \$30,000 in renovations and labor to make it possible for us to conduct our classes here.

While I personally was aware of the educational process for dancers, choreographers and dance instructors as being very similar to the trades, I know that other people have no reason to consider this possibility. I am filing an appeal to ask you to reconsider our qualifications, (based on the facts included in our points of appeal statement) since we are providing a form of secondary education for students who aspire to dance as a career choice and it is our long term goal to include not only our own art form but other art forms and trades as well. It is our opinion that in a time when this is increasing absent from the regular school systems, it beneficial to the community at large as well as beneficial to the businesses within the area (as supported in detail by our points of appeal).

Therefore, we would like the opportunity to appeal the present determination at the public hearing being held on October 26, 2004.

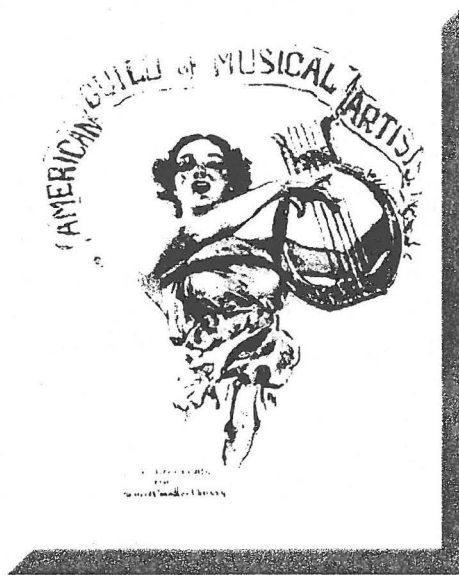
Sincerely,



Candalee Wrede
Director/Managing Member
dancEvolve llc and
dancEvolve Performing Inc

American Guild of Musical Artists

Affiliated with the AFL-CIO: Branch of Associated Actors and Artistes of America



THE LABOR ORGANIZATION THAT REPRESENTS THE MEN AND WOMEN WHO CREATE AMERICA'S OPERATIC, CHORAL, AND DANCE HERITAGE

Performing artists live to perform. But their talents, their skill and the beauty they create won't necessarily pay the rent, put food on the table or guarantee the necessities of life. Without forceful advocacy and defense of their rights, artists may be vulnerable to exploitation or illegal discrimination. They need protection.

They can find it by joining AGMA, the American Guild of Musical Artists





New Pacific Northwest Area Rep

[Back to Impc](#)

We are pleased to announce that
we have selected a new
Pacific Northwest Area Representative,

Martha Schmidt.

Martha is a Seattle-based lawyer with an extensive background in union affair in organizing.

Vice President George Scott and a committee of area members, assisted Northern California Area Rep Nora Heiber, interviewed numerous candidates with further input from Executive Director Alan S. Gordon and the Pers Committee, selected Martha.

Martha holds a BA degree from Vassar College, a JD degree from the Univ of Wisconsin and an LLM degree from the University of Washington.

Her employment background includes work as a labor and employment lawyer in private practice and for the AFofM, the IUE, and the Kings County AFL-CIO.

Martha begins working for AGMA on October 4 and will be responsible for assisting members throughout the Pacific Northwest Area, including those at Seattle Opera, Portland Opera and Pacific Northwest Ballet.

[Back to Impc](#)[HOME](#)[Important News](#)[Auditions](#)[Area Meetings](#)[Agreements](#)[Member Info.](#)[Board Info.](#)[Contacts](#)[Signatories](#)[AGMA Areas](#)



AGMA Area Locator

Return to AGMA Area Index

AGMA is a National Union, without a system of locals. However, AGMA does have an area structure for representation to the Board of Governors and a level of area administration. Many areas have an Area Executive Committee and an Area Chairperson. Members are encouraged to attend area meetings and other functions during the course of the year. A member's area is determined by their primary address on record at AGMA. In some cases where an artist lives in one area but perhaps has most of his or her employment in another area, that artist may designate a different area as their area. Mailings such as audition notices, meetings, and other important information is often based by areas. The composition of the Board of Governors is based on a formula of members in good standing (paid to date) for each of the following categories:

Soloist, Chorister, Dancer/Choreographer, Stage Manager/Stage Director.

To Locate your area, Look for your Zip Code in Right Column

AREA	Coverage	Coverage by Zip Code
01 New York	NY Area, New Jersey*, Connecticut, Outside US (except for Mexico)	06390-14905 07001-07999 08500-08906 06001-06910
02 Southern California	California* (Southern), Hawaii, New Mexico, Arizona and Mexico	90000-93699 96701-96898 87001-88441 85000-86556
03 Chicago	Ohio, Wisconsin, Kansas, Missouri, Illinois, North Dakota, South Dakota, Minnesota, Michigan, Nebraska, Indiana, Kentucky,	43001-45899 53001-54986 66002-67749 63001-65810 60001-62999 58001-58856 57000-57795 55001-56763 48001-49971 68001-69367 51510 46001-47997 40003-42788

	Iowa	50001-52809
04 Northern California	California* (Northern), Alaska, Nevada, Utah and Colorado	93700-9669 99501-99950 89001-89883 84001-84784 80001-81658
05 New Orleans	Alabama, Mississippi, Louisiana, Tennessee and Arkansas	35004-36925 38601-39776 70001-71496 37010-38589? 71601-72959
06 Philadelphia	Pennsylvania* and New Jersey*	16900-19612 08000-08499
07 Washington/Baltimore	Washington D.C., South Carolina, North Carolina, Virginia, West Virginia, Maryland, Georgia, Florida and Delaware	29001-29945 27006-28909 22001-24659 24701-26886 20601-21930 30001-37350 32004-34997 19701-19980
08 Pittsburgh	Pennsylvania* (Pittsburgh)	15001-16899
09 New England	New Hampshire, Maine, Massachusetts, Rhode Island, Vermont and New Brunswick	03031-03897 03901-04992 01001-02791 02801-06379
10 Texas Area	Texas and Oklahoma	73001-74966 75001-7999
11 Northwest	Washington, Oregon, Idaho, Montana and Wyoming	98001-99403 97001-97920 83201-83876 59001-59937 82001-83128

* Indicates states with more than one area.

Gessner, John

om: Jones, Keith
nt: Wednesday, September 08, 2004 4:48 PM
ro: Gessner, John
Subject: FW: Dancevolve business description

-----Original Message-----

From: Sara Manougian [mailto:o2dancer@yahoo.com]
Sent: Friday, September 03, 2004 12:31 PM
To: jonesk@ci.milwaukie.or.us
Subject: Dancevolve business description

Dancevolve is a trade school with a non-profit production entity. We will be providing technical and educational support for the design and implementation of all varieties of media productions. We are not a dance studio. We will be using the space to create show concepts which may include dance. We will be teaching adults as well as youth all the aspects of putting on a stage production. We will create these productions in this space and then implement them at a venue in the community. The space is meant to be a workshop for all arts including dance, set design, lighting, and theater arts. We differ from a dance studio in many ways. We are an educational institution for pre-professionals as well professionals. There will never be large groups of children coming and going, or hanging out. There will only be small groups of people including youth who will come and use the facility in a professional manner. We are aware of the zoning in this area but we also know it should not be a problem as we are not a dance studio, school, or child care facility.

Do you Yahoo!?
New and Improved Yahoo! Mail - Send 10MB messages!
http://promotions.yahoo.com/new_mail

Gessner, John

From: l_manougian@comcast.net
Sent: Wednesday, September 08, 2004 9:24
To: GessnerJ@ci.milwaukie.or.us
Subject: Dancevolve

John,

Thank you for your concern on this matter. Months ago as we were searching for a home for our new business we ran across a space off of Lawnfeild Rd. that seemed perfect and all the elements of the lease agreement were reached with Norris and Stevens and the owner, but at the last minute an established larger company bid on and was given the space. We found this current space on International Way in late July. After negotiating the lease we were told that we needed the business license to fully execute the lease. Upon receipt of the license we met with the architect and Norris and Stevens to outline the needs of our new facility. We were then given the plans and told to submit them for permits. It was recommended that the business be described as a trade school. This made sense based on much of what Dancevolve's plans were. It was not until we heard from the city that we realized that there was a issue. During the past month we have invested over 25,000 dollars, countless hours, materials, and supplies in preparation for our upcoming opening. The non-profit portion of Dancevolve is looking forward to our association with Aldercreek Middle School and Sabin Skills Center. Our collaboration with these community schools will result in the development and production of regular media presentations. From the very beginning we have tried to follow all the necessary procedures to make sure that we have been responsible business owners in this community. Again we appreciate your advice and help in solving this issue. If you need any more information from us please let us know.

Sincerely,

Sara, Candalee, and Erin

Dancevolve



To: Planning Commission

From: John Gessner, Planning Director 

Date: October 26, 2004

Subject: Interpretation of Parking Limitations in Landscaped Areas

Action Requested

Forward an interpretation to the City Council specifying that parking may only take place on improved parking areas.

Background

Staff is seeking a Commission interpretation that the Zoning Ordinance allows parking only on paved parking surfaces.¹ The interpretation is sought to resolve an existing neighborhood complaint. The recommendation will be forwarded to the City Council for final interpretation.

Key Issues

1. The purpose of the City's parking regulations is to ensure adequate off-street parking and loading. Relevant provisions of the Zoning Ordinance include the following:²
 - a. Areas used for off-street parking are required to have a "...durable and dust-free hard surface, [and] shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways."³

¹ For uses other than single-family residential.

² See code sections on page 3

³ Zoning Ordinance 503.11 – Parking and Striping

- b. All areas used for circulation and parking shall meet city standards for surface water runoff.⁴

Accordingly, staff believes that any area not meeting the above requirements cannot be used for parking. (See page 3 for related code sections.

2. On-site parking is required for all uses based upon parking rates specified in the Zoning Ordinance. A change in tenancy or use may increase the demand for parking. However, city code may not require that the number of parking spaces be increased. In some cases parking demand will exceed on-site supply and overflow parking might occur within on-site landscaped areas.
3. Staff believes that parking is a "use", the definition of which is "...the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained." Accordingly, landscaped areas provide open space, yard setbacks, and stormwater infiltration, none of which suggests that parking is allowed.
4. Milwaukie Municipal Code provides that no owner of real property may permit property, or any improvement thereon, to be used in a manner inconsistent with all state, county, or city land use and zoning regulations and decisions pertaining to the property.⁵
5. Areas not devoted to building footprint, improved parking, or other acknowledged and appropriate use may fall within the meaning of perimeter landscaping which means: "...an area around the edge of a lot that is devoted to a buffer area with plantings". Accordingly any area that is designated as perimeter landscaping could not be used for parking as it would be inconsistent with buffer requirements.⁶

Conclusion

Staff believes that parking is only allowed in areas designated for parking and which are consistent with paving and drainage requirements and seeks Commission concurrence.

Code Authority and Decision-Making Alternatives

The Commission has the following decision making options:

1. Adopt the staff recommendation and findings and forward a recommendation to City Council.
2. Reject the recommendation and forward a recommendation to City Council.

⁴ Zoning Ordinance 503.16 - Drainage

⁵ MMC Section 8.04.135 - Compliance with Zoning Regulations

⁶ Zoning Ordinance 100 - Definitions

3. Refer the decision to the City Council without Commission action.

Recommended Findings and Conclusion

1. The purpose of city parking regulations is to provide adequate off-street parking and loading on paved surfaces specifically designed to accommodate vehicles, pedestrian comfort and safety, and drainage.
2. Areas that are not consistent with paving and drainage requirements of Zoning Ordinance Section 503.11 and 503.16 may not be used to meet on-site parking demand.
3. Site areas that are specifically required for open space or landscaping in accordance with Section 500 or any other provision of the Zoning Ordinance may not be used for parking, unless specifically authorized.

Code Sections Relating to Parking and Landscaping

Section 100 Definitions

Landscaping means vegetation and materials including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

Perimeter landscaping means an area around the edge of a lot that is devoted to a buffer area with plantings.

Use means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Section 501 Offstreet Parking and Loading, Purpose

The purpose of this section is to provide adequate off-street parking and loading, to avoid congestion on the streets, to avoid unnecessary conflicts between vehicles and pedestrians, to encourage the use of bicycles and mass transit, and to facilitate access from streets to off-street parking lots and from structures to off-street parking and loading spaces.

Section 503.11 Parking and Striping

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

Section 19.503.16 Drainage.

All areas used for circulation and parking shall meet city standards for surface water runoff.



To: Planning Commission

From: John Gessner, Planning Director *JG*

Date: October 26, 2004

Subject: Elimination of Annual Application Process for Home Occupations

Action Requested

Forward a recommendation to the City Council in support of eliminating annual application requirements for home occupations and adopt the proposed ordinance.

Background

City code now requires annual renewal of all home occupations applications. The proposal eliminates the annual renewal process for home occupation applications. Staff presented these code amendments to the Planning Commission and City Council on August 24, 2004 and September 7, 2004 respectively and was advised to proceed for adoption.

This proposal was first presented to the Council during the FY 2004-2005 budget process as a means to reduce cost and workload. Each year the City processes approximately 325 to 350 home occupation applications within a two to three month period starting in December. The purpose of the home occupation renewal process is to provide annual oversight of home businesses to protect against neighborhood impacts.

Key Issues

1. Based on Council and Commission concerns, language has been added authorizing the Planning Director to condition or prohibit home occupations when failing to meet performance standards or when causing neighbor impacts. In addition, a fact sheet reminding home businesses of the "do's and don't" of operating a home based business will be distributed annually.

2. Home occupations are subject to performance standards that reduce the potential for neighborhood impact. Site inspections are rarely needed prior to staff approval and applications are almost never denied.
3. In the Planning Department, the estimated average minimum processing time per application is 15 to 25 minutes, resulting in a minimum of 81 to 146 hours dedicated to processing annual renewals. Time estimates for work associated with the Finance Department's processing of home occupations are minimal.
4. There are two types of cost associated with the renewal program as follows:
 - a. Direct costs of materials, postage, and staff time.
 - b. Opportunity costs. Each hour spent on the renewal process keeps staff from other work that needs to be done.
5. A 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%

Attachment: Proposed Ordinance

¹ 180 records from 2003 and 2004 were inspected.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS TO CHAPTER 19.424 HOME OCCUPATIONS

WHEREAS, the City of Milwaukie supports and encourages home based businesses that help support families and the local economy while preserving neighborhood residential character and livability; and

WHEREAS, the requirement to renew home occupation permits annually represents a time and cost burden to both businesses and the City; and

WHEREAS, the City seeks to reduce those costs while ensuring continuation of home businesses and neighborhood quality of life; and

WHEREAS, the Planning Commission conducted a public hearing on October 26, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 19.1000 and adopted a resolution recommending the City Council adopt the proposed code changes; and

WHEREAS, the City Council conducted a public hearing on November 16, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 and 19.1000; and

WHEREAS, the requested code amendments eliminate the home occupation annual permit renewal:

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Milwaukie Municipal Code Section 19.424 is hereby repealed.

Section 2. The Milwaukie Municipal Code is amended by adding a new Chapter 19.424 to read as shown in Exhibit 1. -

Section 3. The amendments contained herein are consistent with approval criteria for code amendments as demonstrated in Exhibit 2 Findings of Facts and Conclusions.

Read for the first time on _____ and moved to a second reading by _____ vote of the City Council.

Read for the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

James Bernard, Mayor

ATTEST

Pat Duval, City Recorder

APPROVED AS TO FORM
Ramis Crew Corrigan Baccrach, LLP

City Attorney

Ordinance No. _____

Exhibit 1

Amendments to Milwaukie Municipal Code Chapter 19.424²**19.424 Home Occupations**

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the city's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions-. No home occupation for a use which is not accessory and incidental to the residential use is allowed. All activities permitted under this section must be consistent with this section.

19.424.1 Home Occupation Use Standards

Home Occupation uses are allowed by-right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property;
- B. Maintain the residential character of the building and premises;
- C. Not have the outward appearance of a business;
- D. Not detract from the residential character of the neighborhood; and
- E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions

- A. Outside display or storage of merchandise, materials or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Creation of noise, odor, smoke, gases, fallout, vibration, heat or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.
- D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

²

- a. Underlined text is to be inserted and ~~strikethrough~~ text to be deleted.
- b. There shall be no change to unmarked existing text and to any text that is not specifically included herein.
- c. Explanatory notes that appear in this exhibit do not amend the code.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four square feet in area, shall not be illuminated, shall not exceed three feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Section 19.424.1:

- A. Number of on-site employees who are not members of the family residing on the premises.
- B. Use of the home to distribute or receive goods.
- C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces.
- D. The use of public streets for parking or storage.
- E. The time of day that home occupation activities may take place.
- F. Equipment or material storage, including vehicles and trailers.
- G. Noise, light, fumes, exhaust, and similar impacts.

19.424.5 Number of Home Occupation Businesses

Only one (1) home occupation is allowed per residence, except that two (2) may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

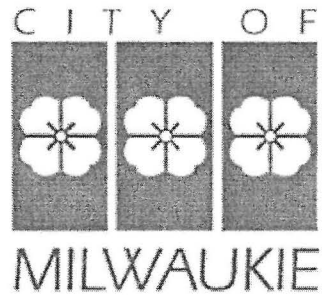
Ordinance No. _____

Exhibit 2**Findings and Conclusions**

1. The Planning Commission and City Council conducted work session on the proposed amendments on August 24, 2004 and September 7, 2004 respectively.
2. The proposed zoning map amendment is consistent with Milwaukie Municipal Code 19.1011.5 Legislative Actions:
 - a. Public notice was conducted in accordance with Section 19.1011.5(A).
 - b. The Planning Commission conducted a public hearing on October 26, 2004, and forwarded a recommendation to the City Council to approve the code changes in accordance with Milwaukie Municipal Code 19.1011.4(B).
3. The proposed amendments have been processed in accordance with Milwaukie Municipal Code Chapter 19.904 Amendments as follows:
 - a. The reason for the codes changes is to reduce the public and private time burden and expense of administering the annual renewal process.
 - b. There are no other directly related code provisions that require explanation of consistency as directed by Section 19.904.1(C).
4. The amendments have been evaluated in accordance with Milwaukie Municipal Code Section 19.905, which requires demonstration of the following:
 - a. Conformance to applicable comprehensive plan policies, consistency with provisions of city ordinances, the Metro Urban Growth Management Functional Plan, and applicable regional policies.

The public information and outreach process conducted through the Planning Commission and City Council worksession, and distribution of staff reports to the Neighborhood Association Districts is consistent with applicable citizen involvement policies of Milwaukie Comprehensive Plan Chapter 1.
 - b. The proposal does not change the zoning map. Therefore, Section 19.905.1(B) does not apply.
 - c. The proposal is consistent with Statewide Planning Goal 9- Economic Development and Goal 10-Housing. There are no known applicable regional or federal policies.
 - d. The proposal does not require public services be provided. Therefore Section 19.905.1(D) does not apply.
 - e. The proposal will not result in new demand for transportation facilities. Therefore Section 19.905.1(E) does not apply.

(End of Exhibit)



To: Planning Commission

From: John Gessner, Planning Director 

Date: October 26, 2004

Subject: Information on Ballot Measure 37

Ballot Measure 37 requires governmental compensation for claims for property value reductions due to land use restrictions. See various informational materials attached. City Attorney Gary Firestone will provide information at the 10/26/04 Commission hearing.

Proposed by Initiative Petition

MEASURE 37

GOVERNMENTS MUST PAY OWNERS, OR FORGO ENFORCEMENT, WHEN CERTAIN LAND USE RESTRICTIONS REDUCE PROPERTY VALUE

RESULT OF "YES" VOTE: "Yes" vote requires that governments pay owners, or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce owners' property value.

RESULT OF "NO" VOTE: "No" vote rejects requiring that governments pay owners or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce property value.

SUMMARY: Currently, Oregon Constitution requires government(s) to pay owner "just compensation" when condemning private property or taking it by other action, including laws precluding all substantial beneficial or economically viable use. Measure enacts statute requiring that when state, city, county, metropolitan service district enacts or enforces land use regulation that restricts use of private real property or interest thereon, government must pay owner reduction in fair market value of affected property interest, or forgo enforcement. Governments may repeal, change, or not apply restrictions in lieu of payment; if compensation not timely paid, owner not subject to restrictions. Applies to restrictions enacted after "family member" (defined) acquired property. Creates civil right of action including attorney fees. Provides no new revenue source for payments. Certain exceptions. Other provisions.

ESTIMATE OF FINANCIAL IMPACT:

The measure would require state administrative expenditures to respond to claims for compensation of between \$18 million and \$44 million per year.

The measure may require compensation to landowners. The amount of state expenditures needed to pay claims for compensation cannot be determined.

There is no financial effect on state revenues.

The measure would require local government administrative expenditures to respond to claims for compensation of between \$46 million and \$300 million per year.

The measure may require compensation to landowners. The amount of local government expenditures needed to pay claims for compensation cannot be determined.

The effect of the measure on local government revenues cannot be determined.

OFFICE OF THE SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION

JOHN LINDBACK
DIRECTOR

141 STATE CAPITOL
SALEM, OREGON 97310-0722

ELECTIONS — (503) 986-1518

March 17, 2003

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#36), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #36 was filed in our office on March 14, 2003, by Eugene Prete and Barbara Prete, for the General Election of November 2, 2004.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than April 7, 2003, in order for them to be considered in the review.

BILL BRADBURY
Secretary of State

BY: *Summer Davis*

Summer Davis
Compliance Specialist



The following provisions are added to and made a part of ORS chapter 197:

- (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.
- (2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.
- (3) Subsection (1) of this act shall not apply to land use regulations:
 - (A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;
 - (B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
 - (C) To the extent the land use regulation is required to comply with federal law;
 - (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or
 - (E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
- (4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.
- (5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land

mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

(B) "Land use regulation" shall include:

- (i) Any statute regulating the use of land or any interest therein;
- (ii) Administrative rules and goals of the Land Conservation and Development Commission;
- (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
- (iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
- (v) Statutes and administrative rules regulating farming and forest practices.

(C) "Owner" is the present owner of the property, or any interest therein.

(D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.

- (12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.
- (13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

RECEIVED
03 MAR 14 PM 3 34
BILL BRADBURY
SECRETARY OF STATE

November 2, 2004 General Election

Ballot Measure 37

Explanatory Statement:

Ballot Measure 37 adds a new statute to ORS chapter 197. As specified in the measure, the owner of private real property is entitled to receive just compensation when a land use regulation is enacted after the owner or a family member became the owner of the property if the regulation restricts the use of the property and reduces its fair market value.

If a property owner proves that a land use regulation restricts the use of the owner's property, and reduces its value then the government responsible for the regulation will have a choice: pay the owner of the property an amount equal to the reduction in value or modify, change or not apply the regulation to the owner's property.

The measure allows the state, county, city or metropolitan service district to adopt procedures for processing claims for compensation, but prohibits those procedures from being treated as a prerequisite to the filing of a claim in circuit court.

The measure does not apply to commonly and historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and regulations restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The measure specifies that compensation is due if the regulation remains in force 180 days after the owner makes written demand for compensation. After that time, the present owner may file an action in the circuit court in the county in which the property is located. The measure also specifies that the present owner is entitled to reasonable attorney fees, expenses, costs and other disbursements reasonably incurred to collect compensation.

The measure provides no new revenue source for payments, if any, required under this measure.

The measure defines several terms that are used in the statute including "family member" which is defined as wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

MEMORANDUM

DATE: July 19, 2004
TO: Lane Shetterly, Jim Brown
FROM: Richard Whitman, AIC Natural Resources Section
SUBJECT: Initiative Petition 36

This office has been contacted by a number of state agencies seeking guidance in preparing fiscal impact statements for Initiative Petition 36 (IP 36). IP 36 is a proposed initiative that would provide, by statute, a supplemental right to just compensation to owners of real property when:

- A state or local public entity *enacts or applies* a law that restricts the use of that real property, or any interest in that property; and
- The enactment or application of the law has the effect of reducing the fair market value of the property; and
- The governing body responsible for enacting the law in question does not modify, remove, or waive the law to allow the owner to use the property for a use permitted at the time the owner acquired the property.

The purpose of this memo is to provide limited preliminary legal guidance to state agencies that are preparing fiscal impact information concerning IP 36. I caution at the outset that there are some significant ambiguities in IP 36, particularly regarding its exemptions and under what circumstances public entities will have to pay compensation (as opposed to modifying or otherwise waiving the law that restricts the use of the property in question).

1. What Types of Laws May Require Compensation Under IP 36?

IP 36 defines what laws require compensation. The definition includes: *any* statute regulating the use of land or any interest therein; rules and goals of LCDC; local land use and transportation ordinances; certain enactments of Metro; and statutes and rules regulating farm and forest practices. The scope of IP 36 is further illustrated by the exceptions listed in the measure. Those exceptions include laws for protecting public health and safety (including building codes); laws restricting or prohibiting the use of property to sell pornography or for nude dancing; and laws restricting or prohibiting historically recognized nuisances. Thus, the

Jim Brown, Lane Shetterly
July 22, 2004
Page 3

7.2 Page 8

3. Waiver Versus Payment

Subsections (8) and (10) of IP 36 provides that

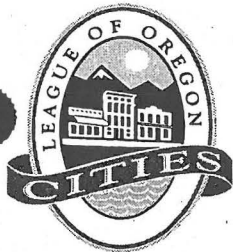
(8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the *governing body* responsible for *enacting* the land use regulation *may* modify, remove, or [act] not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.

* * *

(10) Claims made under this section shall be paid from funds, ~~not~~ specifically allocated by the legislature, city, county or metropolitan service district for payment of claims under this act. *Notwithstanding the availability of funds under this subsection*, a metropolitan service district, city, county, or state agency shall have *discretion to use available funds to pay claims or to modify, remove, or not apply a land use regulation or land use regulations* * * *. If a claim has not been paid within two years from the date on which it accrues, the owner shall be allowed to use the property as permitted at the time the owner acquired the property."

Read together, subsections (8) and (10) of IP 36 appear to require a public entity to waive or otherwise act to not apply a law that is the basis for a claim, unless funds have been appropriated by the legislative body for the entity for the specific purpose of paying claims. It should be noted, however, that subsection (8) only gives authority to waive a law to the *governing body responsible for enacting the law that gives rise to a claim*. Thus, for example, for *statutes* that restrict the use of private real property, only the state legislative could waive the law. Similarly, local governments would not have the authority to waive state statutes or rules that they are required to apply to their decisions. ORS 197.646.

The fact that IP 36 provides for claims against a public entity that applies a law, even if that entity did not enact that law, creates significant uncertainty about how the measure will be implemented. As a general matter, I recommend that state agencies assume that they would incur liability for statutes that they are responsible for administering. For administrative rules, where an agency is given the authority to waive under IP 36, my preliminary recommendation is that state agencies assume that they will be required to waive the law in the absence of any specific legislative appropriation. Thus, for state laws, agencies should assume no waiver of statutes, and that waiver of state rules is required unless the legislature acts to appropriate funds to pay claims under IP 36.



League of Oregon Cities
Local Government Center
1201 Court St. NE, Ste. 200
Salem, OR 97301-4194

P.O. Box 928
Salem, OR 97308-0928

(503) 588-6550 or 1-800-452-0338

Fax: (503) 399-4863

E-mail: loc@orcities.org

Web: www.orcities.org

OFFICERS:

President

Rob Drake
Mayor, Beaverton

Vice President

Phillip Houk
Councilor, Pendleton

Treasurer

Helen Berg
Mayor, Corvallis

Past President

Lou Ogden
Mayor, Tualatin

DIRECTORS:

Bob Austin
Mayor, Estacada

Dan Bartlett
City Manager, Astoria

Jim Fairchild
Mayor, Dallas

Jim Francesconi
Commissioner, Portland

Bud Hart
Councilor, Klamath Falls

Jim Key
Councilor, Medford

Gary Pape
Councilor, Eugene

Karl Rohde
Councilor, Lake Oswego

Sam Sasaki
City Manager, Newport

Mark Seltmann
Mayor, Athena

Jo Anne Sutherland
City Manager, Redmond

EXECUTIVE DIRECTOR

Ken L. Strobeck

To: Financial Impact Statement Committee Members

From: Linda Ludwig, League of Oregon Cities

RE: Estimated Financial Impact of Initiative 36

Date: July 28, 2004

The League has reviewed Initiative #36 in order to ascertain costs to local governments that would be associated with the initiative if it were to pass in the November election. **It is easy to see that the costs of Initiative #36 would be substantial** when comparing the initiative to methodology that was used to evaluate the local government fiscal impacts of a prior but essentially similar ballot measure, Measure 7.

We believe that, if passed, Initiative #36 will result in claim costs to local government resembling Measure 7's conservative estimates at \$3.8 billion per year. Additionally, the League has ascertained that there would be additional administrative costs to local governments in the range of \$162 - 830 million per year.

Essentially, the intent and the language of the measures is similar-creating a process for property owners to seek compensation when state or local regulations diminish property value. Although #36 provides additional exclusions and a waiver provision that was not explicit in #7, it allows for a broader set of potential claimants from multiple generations of family members of the current owner- likely resulting in costlier claims.

Additionally, as purveyors of good public policy, local governments will likely need to make an assessment of each claim, whether to pay or to waive, and the ramifications of both decisions. This process at a minimum would include ownership research, costs of an appraisal that makes multiple value determinations, staff reports, assessments of impacts to neighbors, assessments of collateral impacts to infrastructure investments, legal assistance and public hearings. The result would be significant costs to local governments even if the claim is waived or denied.

There would also potentially be costs to local governments that have been previously borne by developers, such as collateral costs when a local government waived a regulation that put additional unplanned capacity on infrastructure systems or open space requirements. Financing these costs often currently occur through system development

RESOLUTION NO. 31-2004**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON RECOMMENDING THE TILLAMOOK BRANCH LIGHT RAIL ALIGNMENT AND ALTERNATIVE 2.5 (KELLOGG LAKE) TRANSIT CENTER SITE**

WHEREAS, the on-street Milwaukie Transit Center adjacent to City Hall was designated as the temporary transit center in the early 1980s; and

WHEREAS, the Metropolitan Service District (herein Metro), the Tri-County Metropolitan Transportation District of Oregon (herein TriMet), and the City of Milwaukie (herein City) have been involved in examining transportation options in the South Corridor; and

WHEREAS, an environmental impact statement was prepared and public comment was heard; and

WHEREAS, the South Corridor Project Locally Preferred Alternative Report (herein Report) adopted by the Metro Council on April 17, 2003 designated "the I-205 Light Rail Project" as "Phase 1" of the South Corridor Project, including, among other things, "relocation of the existing on-street Milwaukie transit center to the Southgate area pending resolution of design and environmental issues;" and

WHEREAS, the Report designated a Portland to Milwaukie light rail alignment as "Phase 2" of the South Corridor Project, including designation of the "Southgate Crossover Design Option" as the preferred design option within the North Milwaukie Industrial District; and

WHEREAS, the City Planning Commission and City Council requested that a working group be designated to examine issues related to the Southgate Crossover Design Option and Southgate Transit Center location; and

WHEREAS, a process was initiated, and the alignment and transit center site designations were examined, refined, and analyzed by the Working Group, which consisted of North Milwaukie Industrial District representatives, members of the City's neighborhood associations, downtown representatives, and other interested stakeholders; and

WHEREAS, the Working Group recommended selection of the Tillamook Branch Design Option as its preferred light rail design option and a site west of and contiguous to Kellogg Lake (Alternative 2.5) as the preferred location for a transit center; and

WHEREAS, the new transit center would be constructed in two phases to address near-term replacement of the on-street transit center to be followed by the addition of light rail and a structured park-and-ride lot; and

WHEREAS, the Milwaukie Planning Commission conducted public hearings on February 24, 2004, March 9, 2004, and April 8, 2004 and adopted the recommendations of the Working Group; and

WHEREAS, the City Council conducted hearings on the Planning Commission recommendation on May 18, 2004, May 25, 2004, and June 21, 2004, whereupon, after hearing from those in attendance and wishing to speak, public input was closed, and Council deliberations were scheduled for September 21, 2004; and

WHEREAS, on September 21, 2004 the City Council elected to recommend to Metro and TriMet that the Tillamook Branch Design Option be designated as the City's preferred light rail design option and that the existing on-street Milwaukie Transit Center be relocated to the site designated as Alternative 2.5 (Kellogg Lake); and

WHEREAS, environmental analyses will be required and additional public comment will be solicited prior to amendment of the Report; and

WHEREAS, the City Council wishes its recommendations to be known to future decision makers who will be considering alignment and related decisions.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milwaukie, Oregon, that:

1. The Tillamook Branch Design Option light rail alignment through the North Milwaukie Industrial District is recommended to be designated in place of the Main Street and crossover alignment within the South Corridor Project as the preferred alternative;
2. The environmental studies required to amend the Report consistent with the recommendations contained in this Resolution be done;
3. Alternative 2.5 (Kellogg Lake) is recommended to replace Southgate as the preferred site for relocation of the existing on-street Milwaukie Transit Center, including the following mitigation and design considerations and direction to City staff as part of the continued project development process:
 - a. Mitigation and design elements related to the transit center relocation address adverse traffic impacts within the Milwaukie Historic and Ardenwald/Johnson Creek neighborhoods, and that the elements be developed with participation of neighborhood representatives and residents and City staff; and

- b. Mitigation and design elements, including but not limited to architecture, noise containment, landscaping, and lighting, address adverse impacts on the homes adjacent to Kellogg Lake and/or in close proximity to the recommended site, and that the elements be developed with participation of homeowners and/or residents and City staff; and
 - c. Mitigation and design elements address environmental concerns, including the loss of open space and potential environmental impacts on Kellogg Lake and adjacent properties, that open space enhancements be created where possible, and that the elements be developed with participation of the City's Riverfront Board, Parks and Recreation Board, interested citizens, and City staff; and
 - d. Mitigation and design features address law enforcement and public safety concerns, and that the features be developed with participation of the Milwaukie Police Department, neighboring residents, and Milwaukie High School staff, students, and parents; and
 - e. Staff explore the potential adverse impacts, if any, on City Hall and Farmers' Market operations, and that mitigation and design elements be developed as appropriate; and
 - f. Mitigation and design elements address issues arising from bus traffic in the downtown while preserving adequate transit options for Milwaukie residents, and that the options be developed with participation of neighborhood representatives, residents, transit users, downtown business representatives, and City staff; and
 - g. Staff initiate appropriate action at the appropriate time with respect to amendment of the *Milwaukie Comprehensive Plan* and the *Milwaukie Downtown and Riverfront Land Use Framework Plan*.
- 4. Development of the transit facilities be coordinated with other projects in central Milwaukie as schedules allow in order to minimize impacts, reduce costs, and achieve the best civic designs, consistent with the *Milwaukie Downtown and Riverfront Land Use Framework Plan*.
 - 5. Staff submit a monthly written activity report to the Council at its second meeting of the month with respect to the above recommendations and mitigation and design initiatives; and
 - 6. A copy of this resolution and recommendation be forwarded to the South Corridor Policy Committee for consideration in a modified LPA and to TriMet for consideration in advancing project development plans.

Introduced and adopted by the City Council on October 5, 2004

This resolution is effective upon adoption.


James Bernard, Mayor

ATTEST:

Pat DuVal
Pat DuVal, City Recorder

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP

Lang Fuestone
City Attorney

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: October 26, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
Laurey Cook	3800 SE Aldercrest Milwaukee, OR 97222	(503) 786 0751	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
DICK SHOOK	4815 SE CASA DEL Rey MILWAUKIE, OR 97222	503-654 4168	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
CHRIS BREHMER	KIMELSON & ASSOCIATES, INC. 610 SW ADAM, SUITE 700 PORTLAND, OR 97205	503-228 5230	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
FORAIS FACK	4458 SE 35th milwaukie	503 454 5205	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☒ 6.4 ☐ 7.3
Michelle Healy	9107 SE Sunnybrook Blvd Clackamas OR 97015	794-8004	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Charles Czeko	11	794-8003	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Dmitriy Telegov	Ukraine Bible Church	503 8053344	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☒ 6.3 ☐ 7.2 ☒ 6.4 ☐ 7.3
Mrs & Mrs Paul Benty	5900 SE Harmony Rd	659-9518	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: October 26, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
BOB MOORE	5209 SE INTERNATIONAL Way MILW OR 97222	503 6543210	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
ROGER GLASSER	4909 SE International Way Milw OR 97222	503 653-4428	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Jim Fawls	4909 SE International Way Milw OR 97222	503 653-4409	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Mike Wells	6650 SW Redwood Ln Ste 370 Portland 97224	503 - 345-0644	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
DAN HOUF	5200 SW Macadam, #580 PORTLAND, OR 97201	503 221-1131	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
CHRIS KOBACK	1300 SW 5th Ave PORTLAND, OR 97201	503 241-2300	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Dolly Macken-Hambright	12258 SE Grove Lp. Milwaukie, OR 97222	503 659-8908	☐ 6.1 ☒ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☒ 6.4 ☐ 7.3
Charles & Mary Bach	5759 SE International Way Milwaukie, OR 97222	503-653- 9950	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: October 26, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
JOHN RUPP	6708 S.E. PLUM DR MILWAUKIE, OR 97222	503 780-5690	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Jack Westfall	14897 S.E. 172nd. Clackamas OR 97015	503-720-6440	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Jana Lund / CIDA	4445 SW Barber #200 Portland, OR 97239	503-226-1285	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Ben Arst? Harper/Hof Petersen/Rigelli's	5200 SW macadam Ave Suite 580 Port., OR 97239	503-221-1131	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
AUSA Btic Ken Fosheim	16351 S. Hatten Rd. Oregon City, OR 97045	503-631-8590	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
X Jose Vazquez	8307 SE Barbara Webb Dr Portland 97236	503-761-6413	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
DANNY LUKOVICH	5771 SE International Milwaukie OR 97222	503 654-2930	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Molly Hawthorn	12014 SE 19th Milwaukie 97222	503 654-3587	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: October 26, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
DEBRA MCKRILL	13721 S.E. KUEHN RD Mil 97222	503 659 4482	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
BRUNNENHAUSE	13721 SE KUEHN RD. Mil 97222		☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Karl Kochendorfer	5498 SE Monroe Mil 97222	503-653-5516	☐ 6.1 ☐ 6.5 ☒ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Susan Shawn	13655 S.E. Briarfield Ct. Oak Grove, OR 97222	503-659- 9338	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Ihor Leukiv	12670 SW HARLEQUIN DR BEAVERTON, OR 97007	503-540-9709	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☒ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3

INTERESTED PERSONS SIGN-UP SHEET

PLANNING COMMISSION

Meeting date: October 26, 2004

PLEASE PRINT

Name	Address (including Zip Code)	Phone	Agenda Item #
Jan R. Hummer	Milw, OR 97222 4925 SE Caswell Hwy Dr	503 653-1823	☒ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Anne O'Donnell	13318 SE Kuehn Milwaukie, 97222	503/659-1277	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
Pat O'Donnell	13318 SE Kuehn Milwaukie, 97222	503/659-1277	☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3
			☐ 6.1 ☐ 6.5 ☐ 6.2 ☐ 7.1 ☐ 6.3 ☐ 7.2 ☐ 6.4 ☐ 7.3