

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, JANUARY 12, 1999

COMMISSIONERS PRESENT

Michael Smith, Chair
Judith Borden
Barbara Cartmill
Tracy Cook
Donald Hammang
Mike Miller

COMMISSIONERS ABSENT

Howard Steward

STAFF PRESENT

Jim Crumley
Interim Plan Dir
Susan Heiser,
Contract Planner
John Gessner
Associate Planner,
Janet Wright,
Assistant Planner
Jim Brink,
Public Works Dir
Ali Safayi,
Associate Engineer

1.0 CALL TO ORDER

Vice-Chair Hammang called the meeting to order at 6:33 p.m. He announced that the public hearing for Agenda item 6.4, Richard Kassebaum, File Number MLP-98-07, has been postponed to the January 26, 1999, Planning Commission meeting.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, December 15, 1998

4.0 PLANNING COMMISSION MINUTES -- December 8, 1998

Mike Miller moved to approve the minutes of December 8, 1998, as presented.
Tracy Cook seconded. MOTION CARRIED 5-0.
Ayes: Borden, Miller, Hammang, Cook, Cartmill; Nays, 0.

5.0 PUBLIC COMMENTS -- None.

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6.0 PUBLIC HEARINGS

- 6.2 Applicant: Jamie Stangel and Rick Crivellone
Owner: Same
Location: Lot to north of 10317 SE 40th Avenue
Proposal: Consideration of a Conditional Use and Variance to construct a new duplex on a 13,175 sq.ft. lot where 14,000 sq.ft. is required.
File Number: CU-98-02/VR-98-09
NDA: Ardenwald

Vice-Chair Hammang opened the public hearing on a Conditional Use Approval, CU-98-02, to construct a duplex; and a Variance Request, VR-98-09, to the Lot Area Requirement. This hearing is continued from the December 8, 1998, Planning Commission meeting. Criteria to be addressed are found in Section 600 and 700 of the Milwaukie Zoning Ordinance and Chapter 4-Land Use of the Milwaukie Comprehensive Plan.

Vice-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; four 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

Janet Wright reviewed the Staff Report with the Commission. This item is continued from the 12/08/98 Planning Commission meeting. Testimony was taken at that meeting. Issues were discussed and Staff was directed to determine if there is a structure of a similar type in the vicinity. Staff found that there is one duplex identified in the area that is 211 feet from the subject site. An overhead map was shown of the subject site and the duplex in question.

The neighboring uses are residential and the proposal is compatible with the residential characteristics of the neighboring uses. The street access is from SE 40th Avenue and King. It provides adequate access to the subject site. This proposal does not cause traffic to move through any adjoining lower density areas. Staff finds the proposal meets the criteria outlined in Section 602.7 of the Milwaukie Zoning Ordinance.

QUESTIONS FROM THE COMMISSIONERS -- None.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Jamie Stangel, 4214 SE Bowman Road, Milwaukie

Mr. Stangel stated that he has read the Staff Report and is in agreement with it. He is here to answer any questions.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS

Speaking: Michelle Roberts, 13709 SE Laurie Avenue, Milwaukie

Ms. Roberts asked that the Commissioners take into consideration the Neighborhood Association's support for neighbors and any mitigating concerns that are voiced. As part of the neighborhood-visioning project, the neighborhood is strongly in favor of front porches and it might help the duplex fit more into the neighborhood.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN OPPOSITION

Speaking: Darlene Walsh, 3108 SE Kelvin Street, Milwaukie

Ms. Walsh stated that she is the Chairperson for the Ardenwald Neighborhood Association. She asked for a definition of what the Planning Commission considers "out of character" for a neighborhood. There are no duplexes along this street.

Staff has indicated that there is another duplex 211 feet from the site. She feels that the 11 feet is minimal and shows lack of support for the neighborhood. This 11 feet is a big issue for the neighbors.

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Ms. Walsh stated that the Applicant feels that the City planners have been in full support of this structure and disregard the fact that the Neighborhood Association is not in favor of this proposal. These builders live out of the neighborhood and cannot know what is "out of character" for this neighborhood.

The Neighborhood Association has worked hard on the visioning project that was requested by the City.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked if contact had been made with the Applicant to discuss a resolution to the Neighborhood Associations concerns about the proposal? **Ms. Walsh** reported that in September, 1998, the applicant came to a Neighborhood Association meeting. The proposal was not on the agenda, but the duplex was discussed. The Association expressed opposition at that time and no mitigation was offered by the Applicant.

In response to a definition for "out of character" for a neighborhood, **Gary Firestone** stated that the decision is made on the standards and criteria of the Code (Section 602.7), "The Planning Commission shall consider the relationship to neighboring uses." Character of the neighborhood is part of relationship to neighboring uses. There is no specific definition as to what constitutes a proper or improper relationship to other uses.

Susan Heiser explained that the language, "...duplex within 200 feet" is a consideration, not an absolute rule. The Planning Commission will hear testimony tonight that will help them make that decision. Staff's responsibility is to give facts, not to take a position.

Ms. Walsh stated that she objects to the Commission using the term "out of character" if there is no definition.

Speaking: Paul Hanson, 10317 SE 40th Avenue, Milwaukie

Mr. Hanson stated that he lives just south of the subject site. He submitted pictures of the site, another duplex owned by the Applicant, and pictures of the duplex that is approximately 200 feet away.

Mr. Hanson stated that he takes issue with the measurement. He understands that it is just a consideration. Whether or not it is 211 feet or 197 feet, consideration

should be given for the neighbors. He took a measuring tape and walked out the distance to 197 feet; he takes issue with that measurement.

Some of the pictures submitted address parking. The pictures that show a car up on blocks at a duplex 200 feet from his property and the other is a single-family residence off Jefferson, owned by the Applicant. The pictures depict parking problems at the Applicant's other property. Parking is a problem and can sometimes get out of control.

Mr. Hanson stated that a porch is an important element added to the property, regardless to the decision. He is the one that has to live next to this duplex and he is vehemently opposed to the proposal. He and his wife bought in this area because of the character of the neighborhood. He would rather see a single-family home go on this property that would enhance the character of the neighborhood.

In conclusion, **Mr. Walsh** stated that even though it is the Applicant's burden to prove that they meet the requirements for a variance, he feels that the burden of proof has been on the neighborhood to address the City with pictures, letters, and public testimony.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Amy Oatfield-Hanson, 10317 SE 40th, Milwaukie

Ms. Oatfield-Hanson stated that she has written a letter expressing her concerns about this proposal and it is attached to the Staff Report. She asked that this letter and her testimony from the last hearing be considered in determination of the variance.

No evidence has been presented that meet the variance criteria. The Applicant must show there are "no feasible alternatives." It is her position that a single-family detached home could be built on the subject site. There is no evidence that this type of building can not be built. This is not a "...special remedy to allow the use of the land where the owner would be deprived of all other use of that land." This is not the case. Without the variance criteria, the conditional use is not valid because the proposal does not meet the underlying requirements of the Comprehensive Plan.

Ms. Oatfield-Hanson stated that language from the Comprehensive Plan goals for the Ardenwald neighborhood, "...protect long-term residents while encouraging new development in the area." The interest is to protect the existing

properties. She asked that the Commission look at all the zoning requirements, the variance criteria, the underlying zoning requirements, and the Comprehensive Plan. The property that is being proposed has not taken into consideration any of the impacts that it would have on the neighboring property.

There are duplex properties on the fringes of the neighborhood, an R-5 Zone where this type of use is allowed. The subject site is not in that zone. The Commission was asked to require fencing, adequate parking, sufficient landscaping for screening and shielding, and architectural design alternatives.

QUESTIONS FROM THE COMMISSIONERS

Vice-Chair Hammang noted that Ms. Oatfield-Hanson's letter asked for design and landscaping requirements to protect the neighborhood. He asked if she had specific suggestions. **Ms. Oatfield-Hanson** stated that she would like to see a lot of screening as far as trees and shrubbery. She suggested that the Applicant be required to submit a landscaping and architectural plan that illustrates mitigation plans that address the impacts on adjoining properties.

Speaking: Adam Webb, 10167 SE 40th, Milwaukie

Mr. Webb stated that he lives two lots north of the subject site. He has lived here since 1987. His children grew up here with other people who also grew up here. This is not a transient neighborhood. If duplexes are allowed to continue to be built down 40th Avenue, it will affect the natural character of the neighborhood.

The traffic pattern has increased dramatically over the last three/four years. He has seen an increase in density; more people out walking on the road, walking their dogs, etc. There are no sidewalks, street improvements, etc. This is a direct intrusion against the natural character of the neighborhood.

Mr. Webb stated that this community is just families, and speaking from that point of view, he is opposed to the duplex.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Craig Mulby, 32149 SE Stephens Road, Corbett

Mr. Mulby stated that he is a property owner of a house at 3423 SE Olson. He has been active in attending land-use meetings.

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If the duplexes are allowed to continue, the neighborhood and R-7 Zoning will be beyond its visioning intent. Why was there time spent on a Comprehensive Plan when it is being disregarded. This is setting up a bad precedence.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Vince Clark, 9612 SE 40th, Milwaukie

Mr. Clark stated that both he and his wife feel that a duplex will not fit this neighborhood. Adequate parking will not fit on this lot. A single-family home would fit the criteria and the character of the neighborhood. He has lived at this residence for three years and wants to be on file that he is not in favor of this proposal.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

Janet Wright stated that the existing trees at the rear of the lot would remain. Two or three of the Holly trees at the front of the lot will be removed. In terms of "character," her intent was to compare housing structures in the area.

APPLICANT CLOSING COMMENTS

Speaking: Jamie Stangel, 4214 SE Bowman, Milwaukie

Mr. Stangel asked if the "character" issue takes into consideration that there are other rentals in the neighborhood. He is not sure if the concern is about the rental aspect or the look of the structure.

Pictures of the proposed structure and compromises have been made to address issues and concerns of the neighbors. **Mr. Stangel** re-iterated that the orchard in the back would remain. Only Holly trees will be removed in the front to allow for the driveway.

Mr. Stangel stated that he is concerned about this area because he is now a property owner. He would like to own this property for a long time and be proud of his purchase. He does not want his property to go down in value. He intends to put quality into his construction, put up fencing, doing landscaping, and provide adequate parking. There is an existing problem of cars parked on this street.

There is no basis for the concern that a duplex will degrade the neighborhood. He grew up on 28th and Harrison. His parents still live there and they have been there since the mid 50's. There are people coming into the area and they need a place to live. He would like to provide good rentals, quality construction, pleasing aesthetics, and adequate parking. This is not a bad thing.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Rick Crivellone, 1816 SE River Road, Milwaukie

Mr. Crivellone stated that the picture submitted is one of their duplexes. There is a Suburban and Volkswagen parked in front of it. He does not know who owns the vehicles that are in the picture.

Before purchasing this lot, they contacted the City to find out all the criteria for building. They were told that their best chance for this property would be a duplex. They purchased the property based on this information.

Mr. Crivellone stated that they are amenable to the neighbors concerns and they are willing to put in the fencing and extra parking, if wanted. Their intent is an investment yes, but also to provide some affordable, quality units for those who cannot buy.

DELIBERATION AMONG COMMISSIONERS

Vice-Chair Hammang closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

Mike Miller asked Staff the intent of the 200 feet distance issue. **Susan Heiser** stated that the intent is to not allow too many duplexes with close proximity to each other.

Judith Borden noted that a lot of the public testimony tonight was on interpretations of the criteria. She asked Staff for their interpretation.

-- The property in question has unusual conditions over which the Applicant has no control. Such conditions may only relate to physical characteristics of the property, the lot, the boundary configuration, or prior legally existing structures. Ms. Oatfield-Hanson interprets this that there has to be something physically peculiar about the property. **Gary Firestone** stated

that the "...unusual conditions over which the Applicant has no control," can mean something physical on the property; it can also mean existing lot size. If there is an existing lot that is short of what is required, this can be an "unusual condition." It is Staff's position that the Application meets this criterion because the lot cannot be increased in size.

There are no feasible alternatives to the variance. The variance is the minimum variance necessary to allow the Applicant the use of his own property. Ms. Oatfield-Hanson testifies that there is an alternative, just build one house on the lot. **Gary Firestone** stated that the ultimate decision on interpretation is up to the Commission. Both alternatives, one house or duplex, is a feasible alternative. Staff's position is that it is not possible to buy additional land to increase the lot size. There is no feasible alternative.

Allow the Applicant to use his property in a manner substantially the same as property in the surrounding area. **Gary Firestone** stated that "substantially" means that it does not have to be precisely the same as the others, but it has to be of the same general character.

Judith Borden asked if it was the practice of the Commission to grant these types of variances with Staff's interpretations? **Gary Firestone** explained that variances can be granted administratively for variances up to 10% of the standard. This Application is less than 10%, but because it involves a conditional use, it comes before the Planning Commission. This is a minor variance. **Susan Heiser** stated that there have been other lots that are similar in size that have been allowed to be split into two lots or have duplexes.

Michael Smith stated that in his opinion, the other duplex is too close; whether it is 197 feet or 211 feet. The intent of 200 feet is to allow spacing between duplexes and to protect the neighborhood. Economic feasibility is not criteria for a variance. This proposal would adversely effect the neighborhood.

Mike Miller stated he has listened to all of the testimony and has read all the Staff information. He cannot find any physical conditions that would preclude a single-family residence without a variance or a conditional use. There are no structures on the lot that would inhibit building a single-family residence. The lot is not configured in a way that would prohibit a single-family residence. There is a "feasible alternative," and that is building a single-family residence in a single-family neighborhood. He is not in favor of the duplex at this location.

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Michael Smith moved to deny CU-98-02 and VR-98-09 and directed Staff to draft denial findings for review and adoption on January 26, 1999. **Judith Borden** seconded. MOTION CARRIED 6-0.

Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

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

- 6.3 Applicant: Howard Thompson
Owner: Same
Location: 3406 SE Olsen
Proposal: Partition .80 acres into 3 lots to construct a single-family house on one lot at this time. A non-conforming use exists on this property.
File Numbers: MLP-98-06/NCU-98-04
NDA: Ardenwald

Chair Smith opened the public hearing on Minor Land Partition MLP-98-06 and Non-Conforming Use NCU-98-04 to allow the creation of three lots from an existing 34,091 sq.ft. lot. Criteria to be addressed are found in Section 1700 of the Milwaukie Zoning Ordinance and Chapter 4-Land Use, of the Milwaukie Comprehensive Plan.

Chair Smith asked if there were any other conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; five 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

Janet Wright reviewed the Staff Report with the Commission. Pictures and overheads were shown of the subject site and surrounding area. This application is a minor land partition to create three lots and a non-conforming use application to continue the use of an existing shop building for an auto restoration business on lot 1.

Since this Application was submitted subsequent to the November 17th changes, it is being reviewed under the old partitioning regulations. Staff is recommending

that the Commission approve the minor land partition with conditions and deny the continuation of the existing business on lot 1.

QUESTIONS FROM THE COMMISSIONERS

Tracy Cook asked if there were any DEQ issues on this lot? **Janet Wright** stated that during the Application process the property would probably be reviewed to certify that there are no hazardous materials on the site. A DEQ review could also be a condition of approval.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Howard Thompson, 3406 SE Edison, Milwaukie

Mr. Thompson stated that his business is very important to him, he does not want to lose his business and that is what Staff is recommending. He asked if he could change his Application to a two-lot division, instead of three lots. If he cannot keep his business, it is not worth partitioning.

Susan Heiser asked if Mr. Thomason was withdrawing his Application. **Mr. Thompson** stated that he no longer wants to divide into three lots. **Susan Heiser** stated that Staff would need a written withdrawal letter submitted tomorrow. She also explained that any new application would be under the requirements of the current partitioning standards.

Someone from the audience asked what the difference is between a two-lot application and the three-lot application? **Susan Heiser** stated that the 15-foot wide access drive would have to be widened to 20-foot, plus additional buffering requirements on the access. Also, the access would not be allowed as part of the minimum lot area. This is the only difference.

A member of the audience asked why the Applicant couldn't make this Application when he owns all the property being partitioned. **Gary Firestone** stated that Staff only made a recommendation that the business not continue. If the Application had not been withdrawn, the Planning Commission would have made a final decision based on evaluation of the applicable standards.

Chair Smith asked Staff what options this Applicant has at this point. **Susan Heiser** stated that if the Applicant withdraws, he would have to reapply and repay all the fees. A new application would be brought before the Planning Commission with the same issues, a non-conforming use, and a minor land partition. Another option may be for the Applicant to sign a 120-day Waiver. The Planning Commission can continue this hearing to allow time for the Applicant to revisit the issue with Staff and come up with a different proposal.

Mike Miller moved to continue Minor Land Partition MLP-98-07/NCU-98-04 to allow the Applicant time to revisit the Application with the Community Development Staff. Further that a 120-day Waiver will be signed by the Applicant. **Donald Hammang** seconded. MOTION CARRIED 6-0.

Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

Speaking: Greg Mulby, 3423 SE Olson

Mr. Mulby stated that he would like to see the partition of three lots. He does not want the garage to remain. There are 15 or more vehicles in the parking lot now; the use permit allows 10. There are engines and dismantled vehicles in the lot. The sign, which was taken down by the City, has been placed back up on the site. **Susan Heiser** stated that this was an enforcement issue and should be directed to Community Development staff.

- 6.1 Applicant: Criterion Supply Inc.
Owner: Same
Location: 4500 SE Mallard Way -- a.k.a. 4500 SE Criterion Court
Proposal: Consideration of a modification to NR-97-01 for additional grading and the construction of a retaining wall at the northeast corner of the site.
File Numbers: NR-98-07
NDA: Business Industrial/Hector Campbell

Chair Smith opened the public hearing on Natural Resources Overlay Review NR-98-07 to allow grading and construction of a retaining wall. This item was continued from the December 8, 1998, Planning Commission meeting. Criteria to be addressed are found in Section 322 of the Milwaukie Zoning Ordinance and Chapter 3-Environmental & Natural Resources, of the Comprehensive Plan.

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

STAFF REPORT

John Gessner reviewed the Addendum to the Staff Report with the Commission. The Application was continued to collect more information on items related to site plan compliance:

- Develop alternative for treatment of fill around the observation structure
- Location of erosion control fence
- Encroachment of fill in a Natural Resource area
- Address the status of the Natural Resource Management Plan.

The Applicant has presented five design options. Staff has no objection to Options A, B, C, or D, but does not support Option E because of fill encroachments within the wetland. Site plan compliance issues have been substantially resolved; maintenance and management of erosion control as well as certifying the location of the silt fence. The Management Plan was satisfactory and the No-Action Plan was accepted by Staff. **Susan Heiser** stated that the No-Action option included eradication of invasive species and some minimal site-work cleanup.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked how the viewing area is not in the Resource area? **John Gessner** stated that the actual property lines are extended well beyond the edge of development, across the wetland. The Natural Resource boundary was located by field determination of wetland soils. The bulge in the northeast corner where the observation deck is located in an area of previous fill activity. The wetland boundary was pushed out in that area because of prior fill. NR boundary was fixed by the extent of fill that existed on site prior to the Application going to the Commission.

When the Transportation Planning Review Application was submitted, there was a requirement that the NR boundary be surveyed. Based on what is in the file, the bulge would be accurate based on the materials that were submitted for the TPR Review.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Daniel Lajoie, Architect, Wasserberger, Benson Partnership

Mr. Lajoie reported that there are four items that they were asked to address as a continuance from the last meeting. All five options work and are reasonable. He reviewed Options A-E with the Commission. Option C, Landscape mats and plantings, seems to be the most sensitive. Installation of the mats will create the least amount of impact between the buildable portion of the site and the Natural Resource site.

The silt fence location, fill encroachments and erosion control issues have been rectified. The silt fence will remain until landscaping has taken hold so that it stabilizes the slope.

Mr. Lajoie stated that they were asked to accurately depict the edge of the Natural Resource boundary line. Lynn Sharp at Woodward Clyde planted flags long the boundary line. A surveyor then used these stakes to construct a line. Most of the buildable portion of the site was gravel. The Natural Resource boundary does not follow the property lines.

Speaking: Lynn Sharp, Woodward Clyde Consultants, Inc, 11 SW Columbia, Suite 900, Portland 97201

Ms. Sharp reported that her firm prepared the Natural Resource Management Plan. There was a bulge on the northeast corner of the site. This bulge was there when the delineation was done; her report includes this bulge. She pointed out the bulge in the Report.

The Plan describes a range of options of what could be done to manage the Natural Resource values of the site. The No-Action Option was to remove the evasive and undesirable non-native species on the site. If possible the Himalayan Blackberries will be removed from the upland areas. She reviewed the options with the Commission.

The owner, Cary Jackson, has contacted Ms. Sharp and requested that she make contact with entities that need wetland mitigation credits for fill projects in the

vicinity. Maybe some agreement can be made to implement restoration on the subject site.

QUESTIONS FROM THE COMMISSIONERS

Donald Hammang stated that it was his understanding that the construction would be limited to the gravel footprint. The bulge seems to be right off that gravel pad.

TESTIMONY IN FAVORS -- None.

QUESTION OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner noted that any of the recommended conditions of approval would apply equally to any of the design options for fill and stabilization. The application originated as an enforcement case against unauthorized fill in the Natural Resource area. The point of reference for determining the proper location of the natural resource boundary was file material from the prior NR and TPR reviews. When first aware of the violation staff instructed the property owner to survey the NR boundary. Staff has been using the survey prepared from the original enforcement action as their baseline for determining the location of the erosion control fence and observation deck.

Susan Heiser stated that after reviewing development approvals on this site, she found that a 6-foot high visual barrier was required. This was negotiated and an agreement was made for landscaping in this area instead of the fence. It was not the intent of the landscaping to become a visual barrier, but that compatible plantings be used that would allow viewing into the area and delineate the boundary between the commercial area and the wildlife.

APPLICANT'S CLOSING COMMENTS -- None.

DELIBERATION AMONG THE COMMISSIONERS

Donald Hammang asked that a mitigation plan be submitted for the boundary area where the fill occurred. This will remedy the disturbed edge and introduce some species diversity in this boundary.

Mike Miller stated that he is not in favor of the retaining wall; his preference would be Option C. This would remedy the need to stabilize the area.

Chair Smith voiced concern about installation of the block wall; he too prefers Option C. **Tracy Cook and Barbara Cartmill** are also in favor of Option C.

Donald Hammang moved to include a condition: "The Applicant be required to submit a Mitigation Plan to be approved by Community Development Staff that addresses the eastern and northern boundaries (areas disturbed by construction or inadvertent fill) of this site." **Mike Smith** seconded.

MOTION CARRIED 6-0.

Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

Mike Miller moved to approve Natural Resource Overlay for Modified Site Plan for NR-97-01, Design Option C, based on the findings and subject to the conditions as outlined in the December 8, 1998, Staff Report. **Donald Hammang** seconded. MOTION CARRIED 6-0.

Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

- 6.5 Applicant: City of Milwaukie
Owner: Same
Location: SE Johnson Creek Blvd and Brookside Drive
Proposal: Construct a sanitary sewer pump-station.
File Numbers: CSO-98-07
NDA: Lewelling

Chair Smith opened the public hearing on Community Service Overlay, CSO-98-07 to construct a sewer pump station. Criteria to be addressed are found in Sections 321 of the Milwaukie Zoning Ordinance and Chapter 4-Land Use, of the Milwaukie Comprehensive Plan.

Chair Smith 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; one hand was raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the Staff Report.

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

STAFF REPORT

John Gessner reviewed the Staff Report with the Commissioners. He explained that the Public Works Department is proposing to replace a sewer pump station decommissioned in 1996. Replacement is pursued rather than connecting to a nearby City of Portland sewer system due to cost considerations. The above-grade sewage pump will be located at the northeast corner of Brookside Drive and Johnson Creek Boulevard. Overheads were shown of the subject site and surround area.

Two amendments have come up since the Staff Report. The Public Works Department would like to install lighting so there will be adequate lighting on the site. This will not be flood lighting, but spotlights that will allow lighting only to a specific area. Lighting will be used only during periods of on-site maintenance; long-term lighting is prohibited.

This corner is subject to frequent accidents. The Director of Public Works has requested that the Application be amended to include a guardrail.

Staff requests that the Commission condition the Application that, "The location and type of lighting and the type and location of a guard rail be shown on the Plan."

QUESTIONS FROM THE COMMISSIONERS

Donald Hammang asked if the plantings along the guardrail could be something other than arbor vitae? **John Gessner** stated that once the structures are installed, there will be a careful selection of size and species of plants to mitigate the view impacts from all sides. Staff can work with Public Works to come up with plant mitigation.

Mike Miller asked where the antenna would be mounted? **John Gessner** stated that the antenna would be mounted near the electrical panels.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Ali Safayi, Associate Engineer, City of Milwaukie

Mr. Safayi stated that the antenna is 15-20 feet and will be mounted on the electrical panel on the building.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS

Speaking: Michelle Roberts, 13709 SE Laurie Avenue, Milwaukie

Ms. Roberts asked that Staff be a little more creative in their plantings.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

APPLICANT CLOSING COMMENTS -- None.

DELIBERATION AMONG COMMISSIONERS

Chair Smith closed the public portion of the hearing and opened the meeting to discussion among the Commissioners. It was decided that the following conditions be added to the Application:

- The location and type of lighting be shown on the Site Plan. Further, a notation be placed on the Site Plan that the light is to be on during maintenance, operations, and service only.
- The Site Plan modified to show a guard rail needed to protect the site from vehicular damage to the satisfaction of the Director of Public Works and the Planning Director.

An amendment to Condition #1, "Use of arbor vitae to be avoided to the greatest extent possible."

Mike Miller moved approve Community Service Overlay CSO-98-07, based on the findings contained in the Staff Report and subject to the conditions in Exhibit #1 and the modifications and additions to the conditions discussed tonight. **Tracy Cook** seconded. MOTION CARRIED 6-0.

Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

7.0 WORKSESSION -- None.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

10.0 OTHER BUSINESS

Jim Crumley, City of Happy Valley, invited the Planning Commissioners to attend a training workshop that he will be conducting on January 28, 1999, at 7:00 p.m. at the Happy Valley City Hall. The training will be presented by Maggie Collins, Jim Crumley, and the Happy Valley City Attorney.

10.1 **Historical Resources Commission Report** -- No report.

10.2 **Community Development Director Report**

Susan Heiser reported that Jim Crumley is the interim Planning Director. He will be taking over her duties until the position has been filled.

Susan Heiser reminded the Commission that there will be a Functional Plan Compliance Open House at the Public Safety Building on January 13, 1999, at 7:00 p.m. She invited all the Commissioners to attend.

11.0 Next Meeting -- January 26, 1999

11.1 CPA-98-05/ZA-98-02 -- Functional Plan Compliance


11.2 MLP-98-10/VR-98-12 -- Dadras

Barbara Cartmill moved to adjourn the meeting of January 12, 1999. **Donald Hammang** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:15 p.m.



Mike Smith, Chair

DONALD HAMMANG
VICE CHAIR



Shirley Richardson, Hearings Reporter

AGENDA
MILWAUKIE PLANNING COMMISSION
Milwaukie Community Meeting Room
3200 SE Harrison
Tuesday, January 12, 1999
6:30 pm

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Questions	
3.0	Information Items	
	City Council Minutes: December 15, 1998 (upon approval by Council)	Information Only
4.0	Planning Commission Minutes: December 8, 1998	Motion Needed
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0	Public Hearings	
6.1	This item is continued from the 12/08/98 Planning Commission meeting Applicant: Criterion Supply Inc Owner: Same Location: 4500 SE Mallard Way – a.k.a. 4500 SE Criterion Court Proposal: Consideration of a modification to NR-97-01 for additional grading and the construction of a retaining wall at the northeast corner of the site. File Number: NR-98-07 NDA: Business Industrial/Hector Campbell Staff Person: John Gessner	Discussion and Motion Needed
6.2	This item is continued from the 12/08/98 Planning Commission meeting Applicant: Jamie Stangel and Rick Crivellone Owner: Same Location: Lot to north of 10317 SE 40 th Ave (R11E25DD05401) Proposal: Consideration of a Conditional Use and Variance to construct a new duplex on a 13,175 sq ft lot where 14,000 sq ft is required. File Numbers: CU-98-02/VR-98-09 NDA: Ardenwald Staff Person: Janet Wright	Discussion and Motion Needed
6.3	Applicant: Howard Thompson Owner: Same Location: 3406 SE Olsen Proposal: Partition .80 acres into 3 lots to construct a single-family house on one lot at this time. A non-conforming use exists on this property. File Numbers: MLP-98-06/NCU-98-04 NDA: Ardenwald Staff Person: Janet Wright	Discussion and Motion Needed
6.4	Applicant: Richard Kassenbaum Owner: Same Location: 5005 SE Park Street Proposal: Partition one flag lot in back of existing house. File Numbers: MLP-98-07 NDA: Hector Campbell Staff Person: John Gessner	Discussion and Motion Needed
6.5	Applicant: City of Milwaukie Owner: Same Location: SE Johnson Creek Blvd and Brookside Drive Proposal: Construct a sanitary sewer pump-station. File Numbers: CSO-98-07 NDA: Lewelling Staff Person: John Gessner	Discussion and Motion Needed
7.0	Worksession – None	
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	
10.1	Historic Resources Commission Report	Information Only
10.2	Clackamas Regional Center Area Plan Report	Information Only
10.3	Community Development Report	Review and Comment

11.0	Next Meeting – January 26, 1999 CPA-98-05/ZA-98-02 – Functional Plan Compliance MLP-98-10/VR-98-12 – Dadras	

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 WHICH 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 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 CHAIR PERSON 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 CHAIR PERSON 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 COMMUNITY DEVELOPMENT DEPARTMENT DURING NORMAL OFFICE HOURS FOR INFORMATION ON THE PROCEDURES AND FEES INVOLVED.

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:

Michael Smith, Chair
Judith Borden
Barbara Cartmill
Tracy Cook
Donald Hammang, Vice Chair
Mike Miller
Howard Steward

Community Development Department Staff:

Martha Bennett, Community Development Director
Jim Crumley, Interim Planning Director
John Gessner, Associate Planner
Janet Wright, Assistant Planner
Jeanne Garst, Office Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT

ADDENDUM TO STAFF REPORT

120 Days: March 30 ,1999

Date: January 6, 1999

NDA: Milwaukie Business/Industrial

File No NR-98-08

Application: Natural Resources Overlay for Modified Site Plan
for NR-97-01

Applicant: Criterion Floor Coverings

Property Owner: Criterion Floor Coverings

Location: 4500 Criterion Court (formerly Mallard Way)
Tax Lot 1 2E 31C 00200, 00300, & 00500

Zone: BI-Business Industrial
NRO-Natural Resources Overlay

.....

BACKGROUND: The public hearing on this item was opened, with testimony being heard, on December 8, 1998. The Commission continued the item to January 12, 1999 for receipt of additional information. Following the public hearing staff forwarded a letter to the applicant identifying those concerns that must be addressed. See Exhibit 1, letter of John Gessner, Associate Planner to Dan Lajoie, WBPA dated 12/9/98. The applicant has responded to issues raised at the December 8 public hearing and the December 9 staff letter. See Exhibit 2, letter of Dan Lajoie, WBPA, 12/18/98.

The applicant was advised to address the following concerns for the January 12, 1999 public hearing:

1. Alternative retaining wall and fill designs
2. Protection against existing erosion potential
3. Management of the natural resource area
4. Location of erosion control fence
5. Encroachment of fill in Natural Resource area.

Design Options for Fill and Retaining Walls. See Exhibit 2.

Brief descriptions of the applicant's 5 design options are provided below. Staff has no objection to Options A, B, C, or D. Staff does not support Option E because of proposed wetland fill.

Option A Applicant's preferred option, same as presented on December 8. Low retaining wall located at the Natural Resources boundary. Includes fill in development setback buffer.

Option B Also presented at December 8 public hearing. Involves retaining walls located at the 5' development setback. No encroachments in the buffer. Wall height 4 ft. maximum.

Option C Use of landscape mats and plantings. No retaining walls. Fill encroachments within 5' development buffer. No encroachment in Natural Resource area.

Option D Use of staked bundled organic materials and landscape plantings. Fill encroachment within 5' buffer, no encroachment in Natural Resource area.

Option E Extend fill into Natural resource area. Maintain slope with plantings.

Status of Site Plan Compliance Issue

Silt Fence Location, Fill Encroachments, and Erosion Controls

On December 17, 1998 Staff received a letter from John W. Graves, Senior Project Manager, R&H Construction, indicating the silt fence had been restored to the location approved by staff in September and that unauthorized fill encroachments within the Natural Resources boundary area had been removed.

Staff conducted a site investigation on January 7, 1999 and found site conditions to be consistent with representations made by the applicant concerning silt fence location, installation, fill and grading. Based upon the investigation Staff can report that site plan compliance issues have been substantially resolved.

Management of Natural Resource Area

The applicant states that Planning Staff had approved a Natural Resources Management Plan identifying a number of options in March, 1998. Further, the applicant states that the no-action option was approved. See page 3 of Exhibit 2. Staff was unable to locate file materials related this matter. Further information and copies of the management plan will be available at the public hearing.

EXHIBITS:

1. Staff Follow Up to Applicant :
John Gessner, Associate Planner to Dan Lajoie, WBPA, 12/9/98
2. Letter, R&H Construction to Planning Staff, 12/17/98
3. Applicants Supplemental Submission, 12/18/98



By Facsimile and Standard Postal Service

Mr. Daniel Lajoie
Wasserberger Benson Partnership, Architects PC
1905 S.E. Tenth Avenue
Portland, OR 97214

Re: Continuation of Public Hearing Application NR-98-07

Dear Mr. Lajoie:

As you know the Planning Commission, at its December 8, 1998 meeting, continued the public hearing on the application of Criterion Floors to January 12, 1999 for receipt of additional information. The Commission deemed this information necessary for its deliberation of issues related to the present application. Accordingly, you are hereby advised to submit, or substantially respond to, the following items no later than December 31, 1998. Submission in advance of the January 12, 1999 meeting is necessary for staff evaluation and report preparation. Failure to submit by this date may jeopardize the ability of the item to be heard at the January 12, 1998 meeting.

1. Design alternatives for treatment of slopes around the observation structure. As you heard in the public hearing, the Commission is interested in alternatives that may not necessarily require retaining walls. Your response to this item should identify significant design constraints such as slope stabilization, protection of structural integrity of footings, and other as may apply. The proposed alternatives should also address concerns for long-term slope stabilization and protection against sedimentation of the abutting wetland. You may wish to consider use of non-erosible materials such as crushed stone on portions of the slope. This last suggestion is made with the reservation that the desire for plantings may limit the acceptability of this option. Any alternative submitted should specify associated plantings.
2. The Commission expressed concern about the existing and potential erosion of along sloped fill areas adjacent to the wetland. It is recommended a plan be submitted showing means to protect these slopes preferably through use of plant materials appropriate to slope and soil conditions and compatible with the adjacent wetland.

COMMUNITY DEVELOPMENT DEPARTMENT
Planning • Public Works • Facilities
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
PHONE: (503) 786-7600 • FAX: (503) 774-8236



City of Milwaukie Community Development Department

Title: CONTINUATION Submitted by: STAFF Date: 1/7/98 # Pages: 2 Exhibit #: 1
File Number: NR-98-07 Applicant: CRITERION FLOORS

Mr. Daniel Lajoie
December 9, 1998
page 2 of 2

3. A fair amount of discussion was given to management of the natural resource area. Please identify any actions that have already been, or are expected to be undertaken pursuant to any requirement for natural resource management that may have been required under either NR-97-01 or TPR 97-04. It is my understanding of the Commission's discussion that there is a desire to see enhanced plantings to meet the purposes of wetland resource management (pursuant to approval of NR-97-01) as well as may be associated with stabilization of the fill edge along the wetland boundary. Please address this matter and submit plans or other documentation in response.

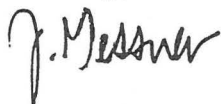
There are a couple of site plan compliance issues that need to be resolved immediately.

1. The silt fence must not encroach within the mapped natural resource area defined by the NR boundary. The present location of the fence must be confirmed and any encroachment corrected. Please have the location confirmed and corrected immediately. Notify me when this is accomplished so that we may conduct an inspection. The fence will be inspected for proper installation as well as location.
2. Any and all fill encroachments beyond the NR boundary that are found in relocating the fence must be corrected. Unauthorized fill is to be removed. However, the pre-existing vegetative layer that may exist beneath the fill should not be removed.

Be advised that staff will suspend enforcement action against unauthorized fill located in the 5' development buffer pending Commission direction to staff, or a decision on NR-98-01.

Do not hesitate to contact me to contact me at 786-7652 should you have any questions concerning this letter.

Sincerely,



John Gessner
Associate Planner

cc: Commission Members
Susan Heiser, Planning Director



1530 SW Taylor Street · Portland, Oregon 97205 · 503\228-7177 · FAX 503\224-3638

December 17, 1998

Mr. John Gessner
Associate Planner
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Re: Verification of location of silt fence and repair of same at 4500 SE Mallard Way

Dear Mr. Gessner:

This letter is made as a follow up to your recent discussions with Dan Lajoie, of The Wasserberger Benson Partnership, Architects PC, concerning verification and repair of the silt fence installation on the Criterion Supply Construction Project at 4500 SE Mallard Way, Milwaukie.

The purpose of this letter is to advise you that last week we confirmed the location of the silt fence and found that it is located per the original Sediment Fence Staking Plan done by Westlake Engineers. The fence is located in the same location that was forwarded to you in mid-September, which your office reviewed and approved (as referenced in your letter of 9/17/98).

The silt fence is installed at the Natural Resource Boundary. We have also repaired the sections of fence that were in disrepair, re-bedded the bottom 8" of the fence in soil on the project side, and cleaned up some construction debris and plastic that was in the area. This work was accomplished on 09/10/98.

Also, please note that the grading had already been returned to the natural grades at the Natural Resource boundary. We have completed all of the Landscape and Grading work behind the silt fence, per our permitted drawings, with the following exceptions.

- (1). The over-seeding of the lawn species areas can not be accomplished at this time due to weather not allowing any germination or growth to occur. We will complete this work in late spring.
- (2). On the North boundary, we have not completed the bush plantings, as we have been advised that these plantings may change depending upon the solution to the bank retention issues.
- (3). The areas immediately adjacent and approximately 30 west and south of the Observation Tower.

Other than that construction is completed per the permitted drawings. Thank you for your patience and assistance in this matter. If you have any other questions, please call me at # 248-5508.

Sincerely,

John W. Graves
John W. Graves
Senior Project Manager
R&H Construction

Cc: WBP, PRV, Mallard Way Bldg., LLC, File

City of Milwaukie Community Development Department

Title: R&H Letter Submitted by: STAFF Date: 1/7/98 # Pages: 1
File Numbers: NR-98-07 Applicant: CRITERION FLOORS Exhibit #: 2



Mr. John Gessner
Community Development Department
City of Milwaukie
6101 S.E. Johnson Creek Blvd.
Milwaukie, Or. 97206

December 18, 1998

Re: Continuation of Public Hearing Application NR-98-07
Mallard Way Building

In response to your letter dated December 9, 1998 regarding the Planning Commission's comments on our submittal, we offer the following information related to these particular items:

Response to Item 1. After meetings and discussions with our Civil and Landscape Architects, the General Contractor and the Owner, we propose the following design alternatives for the treatment of the slope around the observation area as outlined below.

Option A. This proposal was previously submitted to the Planning Commission for the December 8, 1998 hearing. (See attached drawing). It was indicated that other possible solutions should be examined before a determination was to be made by the Planning Commission. Because we believe that the spirit of the "buffer" zone is retained with this solution, we would request that the Planning Commission consider this once again. This proposal calls for a short retaining wall at 2 locations at the toe of the fill area (NR Boundary Line). The maximum height of the wall is 2 feet. At most locations, the wall is either 8" or 16" high. The wall itself is made from an interlocking keystone type block. A 2:1 maximum landscaped slope is created from the edge of the Observation deck down to the top of the retaining wall. We propose that the landscaping on this slope replicate the remainder of the buffer slope so that the result appears consistent throughout the entire length of buffer zone (see approved landscape plan).

Option B. This proposal was also previously submitted to the Planning Commission for the December 8, 1998 hearing. (See attached drawing). It was indicated that other possible solutions should be examined before a determination was to be made by the Planning Commission. This proposal calls for a higher retaining wall at 2 locations placed at the 5 foot landscaped setback line. The maximum height of the wall would be 4 feet. The wall would taper down from 4 feet to existing grade. A 2:1 maximum landscaped slope would be created where the length of the retaining wall ends. Although this proposal locates the retaining wall outside the 5 foot landscaped setback, the height of the wall will be much more significant. As a result, the wall will appear much more dominant within the overall landscape. We feel that the entire treatment of the 5 foot landscape buffer edge would best be served if the solution at the Observation Area be minimized visually.

Option C. This proposal relies on increasing the landscaped slope from a 2:1 maximum to approximately 1.9:1. To achieve this, a landscaping "Mat" is installed over the slope. (See attached drawing). Two types of mats are currently on the market. The first is a synthetic mat that decomposes over time as the landscaping on the slope matures. The second type of mat is made from natural materials such as coconut fibers. Not only has this type of mat been found to decompose easy than the synthetic types, but also, it decomposes as a "natural" material. The construction process is simple with no violation to the Wetland area. The mat is staked in, then seeded, and holes cut into the mat for shrub type installation. Once sufficient planting and groundcover is established, the mat decomposes and the stakes are removed. This option results in a buffer edge that is consistent in landscape nature throughout due to a consistent treatment along the entire edge. From the standpoint of costs, disturbance and construction in the area, we believe that this option may be the most appropriate solution given the desired effect.



Option D. This proposal also relies on increasing the landscaped slope from a 2:1 maximum to approximately 1.9:1. To achieve this, "wattles" or bundles of organic materials are utilized. (See attached drawing). The wattles are staked into the slope and planted with live cuttings which eventually roots in the soil and stabilize the slope. First, a trench is cut along the contours so that the wattles can be installed. The wattles are covered with soil leaving the top visible. The wattles also function as a barrier for erosion because it has the ability to trap sediment. The construction process is simple with no violation to the Wetland area. This option results in a buffer edge that is also relatively consistent in nature throughout due to its treatment along the entire edge.

Option E. This proposal relies on extending the 2:1 slope past the NR boundary in into the Wetland area. The immediate outcome would rely on the acceptance of the Army Corp of Engineers. Our feeling at the December 8, 1998 hearing is that adding fill to the Wetlands represented a direction that is not consistent with previously approved NR and TPR documents. (See attached drawing).

Response to Item 2. Regarding the Commission's concern about the existing and potential erosion along the sloped fill areas adjacent to the wetland, additional information needs to be added and elaborated upon. It should be noted that a minimal amount of topsoil was added along the entire sloped edge of the 5 foot landscape setback zone. The NR-97-01 Staff Report (dated June 24, 1997) indicates that a 5 foot development setback is required (page 5, item 2.) The document goes on to say that planting could be allowed within the 5 foot setback zone where site obscuring vegetation is desired (page 10, item 11.). Our submittal for permit purposes indicated the proposed vegetation. The addition of the topsoil itself was determined when our Landscape Architect felt that the existing gravel fill slope was unsuitable for establishing healthy, long term plant life. In their estimation, without the added topsoil the planting material would although, not die, it would merely exist and not fill out and flourish. Some topsoil at this area will, in the long run, create the desired landscape barrier effect. The very best way that that can be sensitively accomplished is by ensuring that the landscaping along the edge is plentiful, healthy and significant in nature. Below is an outline of the current and proposed situations at the North Edge, and along the East Edge. It should also be pointed out that an approved Landscape Plan was submitted for review during the Permitting Phase of this project. That Plan was approved for construction.

North Edge. The slope and landscaping along the entire north edge is currently not completed. It was noted by a number of the Commission members that not only the abruptness of the slope was not satisfactory but also the stabilization seemed questionable. Construction was halted on this area due to the past few months heavy rains. The contractor has advised us that the earliest that construction can effectively take place in this area is late spring. In the mean time, three precautions are being implemented. First, the silt fence will remain erect until the work is completed in this area. The silt fence will continue to fulfill its role by maintaining the NR edge and not allow erosion to sluff off into the Wetland area. Secondly, the sloping grade down to the Natural Resource edge will be adjusted by the Contractor so that erosion will be prevented. This entails fine grooming of the bark mulch as required along the entire edge so that abrupt or sharp slopes will be eliminated. After reviewing with the Owner and Landscape Architect, we also propose adding additional future landscaping along the entire edge by overseeding the 5 foot (minimum) edge. The proposed overseeding, as recommended by our Landscape Architect is to be a native mix for upland areas (Hobbs Hopkins Pro-Time 400 Native Grass Mix). This particular landscaping was found to be an acceptable landscaping material as described in the approved landscape list found in NR-97-01. Once again, we would like to emphasize that construction at the north edge is incomplete at this time and feel that the original plan should be able to come to fruition before any evaluations are made.

East Edge. The slope and landscaping along the entire east edge has been completed according to the construction documents. We have also observed along this edge however, that not only the abruptness of some areas of the slope was not satisfactory but also the stabilization at those areas seemed questionable. We propose that similar solution of that proposed to the north edge be considered. Namely, the silt fence is to remain until adequate planting and soil conditions are established, that the sloping grade along the edge be adjusted as required to negate steeper slopes and that additional overseeding occur. Once again, we

would like to emphasize that construction along the east edge is incomplete at this time since we propose to oversee. We feel that until that task is completed and able to come to fruition, any evaluations about its performance should be reserved.

Item 3. Much discussion regarding the Natural Resource Management Plan occurred during the Hearing. After reviewing our notes and previous submittals, we offer the current status of the Natural Resource Management Plan. A Natural Resource Management Plan was initiated by Lynn Sharp of Woodward Clyde (Portland) and subsequently submitted for approval. This submittal occurred prior to the Pre-App meetings. The Pre-App meeting itself included, but was not limited to the following people: Cary Jackson (Criterion Supply - Owner), Dan Maloney (Pacific Realty Ventures - Owner's Representative), Daniel Lajoie (WBP Architects), Lynn Sharp (Woodward-Clyde - Natural Resource Consultant), Dan Houf (Harper, Houf, Righellis - Civil Engineering Consultant), Susan Heiser (Community Development Department - City of Milwaukie), Jim Brink (Engineering Department - City of Milwaukie), Other members of individual Community Groups (including Donald Hammang, Hector Campbell Community Group and Linwood Community Group). The purpose of the Pre-App meeting was two-fold; first to review the buildable portion of the site and express concerns, etc. and secondly to review Woodward Clyde's submittal of the Natural Resource Management Plan. Discussion revolved around the possible Options (Options 1 through 5). The options outlined different scenarios that essentially ranged from Option 1 - No Action, to more elaborate restoration type schemes Options 2 through 5. It was voiced by the Owner that he intended on pursuing Option 1 - No Action. The option describes the site as "being left undisturbed except for manual removal of purple loosestrife. Himalayan blackberry could be removed mechanically, followed by application of herbicide, but without replanting with other vegetation, the area dominated by blackberry would simply be re-invaded." All the alternatives were accepted, knowing that no funding existed for any of the alternatives except Option 1. Some minor revisions were requested by the Planning department, but none that affected this option. Those revisions were completed by Woodward Clyde and resubmitted by the Owner. It was our understanding that this revised submission was **accepted and approved**.

From the hearing on December 8, 1998 and subsequent letter from John Gessner dated December 9, 1998, enhanced plantings within the Wetland area is suggested. We maintain that an approved Natural Resource Management Plan was accepted and adopted.

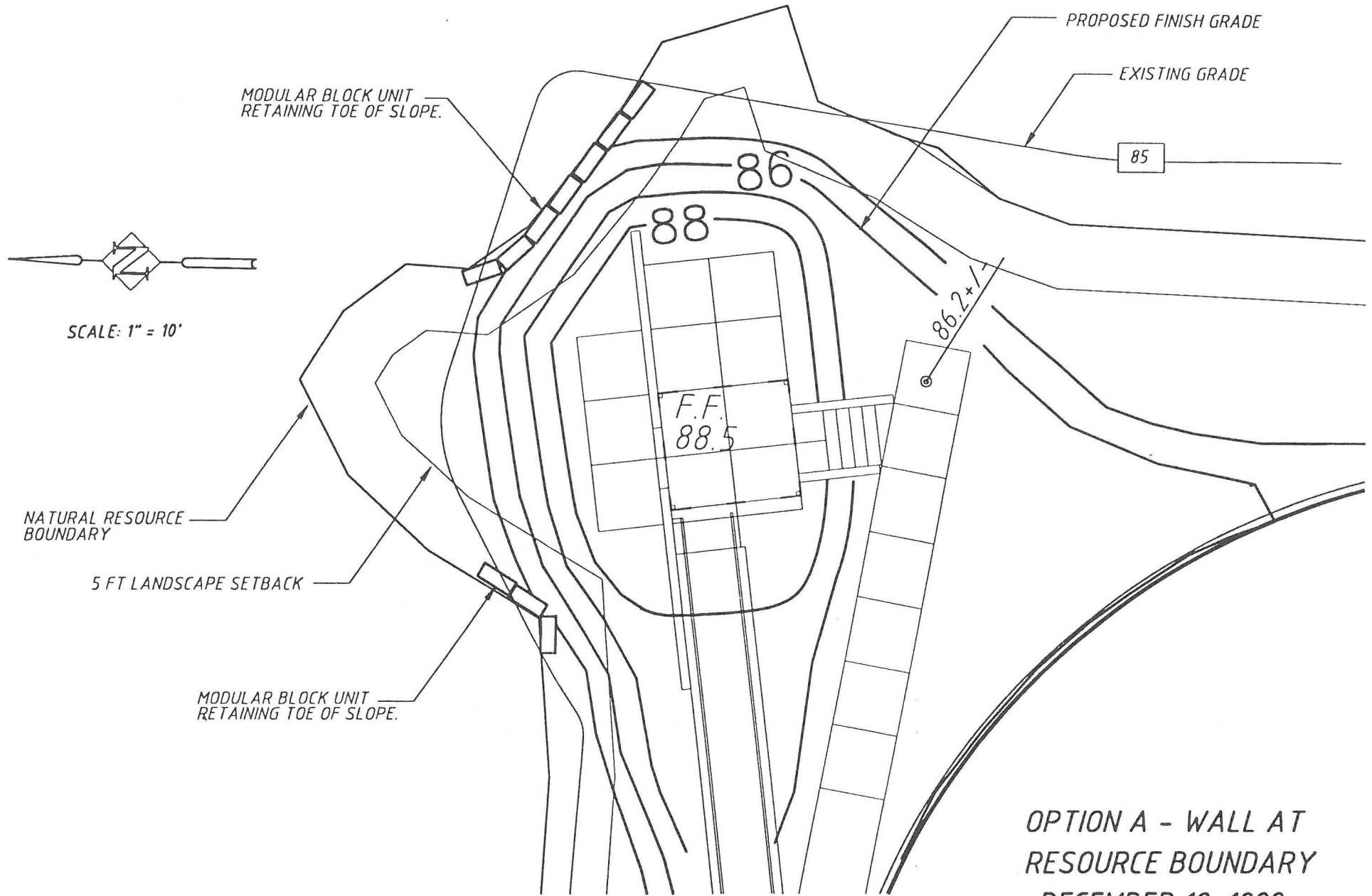
Response to Site Plan Compliance Issues:

Response to Item 1. In response to any silt fence encroachments and installation, we offer the following updates and proposals. As requested by the Planning Department letter, the General Contractor has confirmed the silt fence for its proper location and installation. The location is per the approved C1 and L1 documents and subsequently as approved by the Planning Department Inspector at the site. The General Contractor (John Graves - R&H Construction) has notified John Gessner that the silt fence is ready for his inspection to confirm the location. In addition, the area around the silt fence has been cleared of undesired debris such as papers, plastic, etc. It should be noted that the initial intent of the location of the silt fence was determined by the NR-97-01 report to be along the 5 foot landscape setback line. Upon further review, the best location was agreed upon by the Planning Department to be at the toe of the slope. The reason for this was twofold. First, that the amount of work completed by the Contractor to that point didn't warrant moving the silt fence to the toe of the fill. Secondly and more importantly, the silt fence functions best for capturing potential erosion if it is placed at the toe of the fill area rather than on top. It should also be noted that unwanted construction violations into the Wetlands would be minimized if the silt fence created a temporary barrier between it and the Wetlands.

Response to Item 2. The General Contractor has verified that all fill encroachments beyond the NR boundary that previously occurred have been removed. This also takes into account any fill encroachments due to an incorrect location of the silt fence. The pre-existing vegetative layer at previous areas of encroachment will be restored by the General Contractor. For proper germination purposes, the General Contractor has advised us that they are awaiting late spring weather to re-seed these areas.

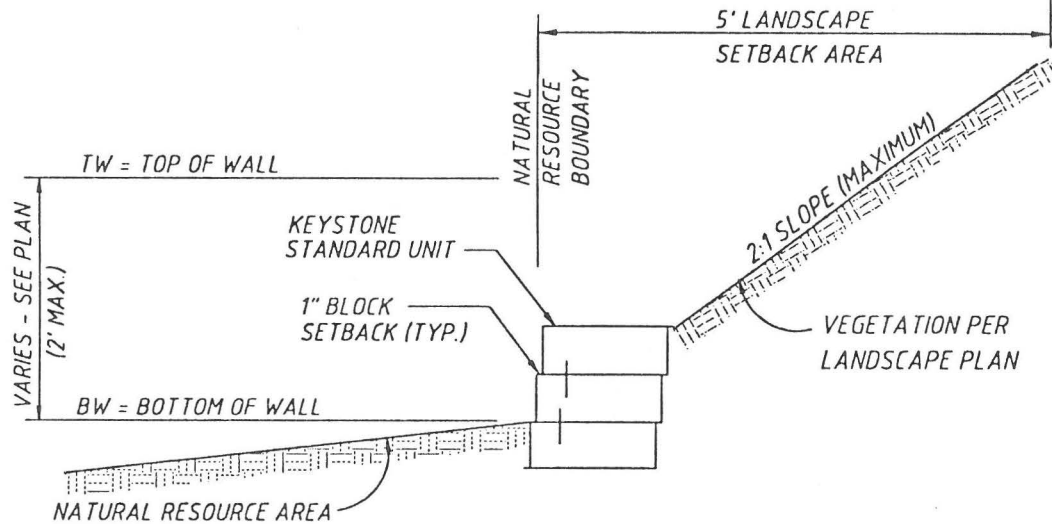
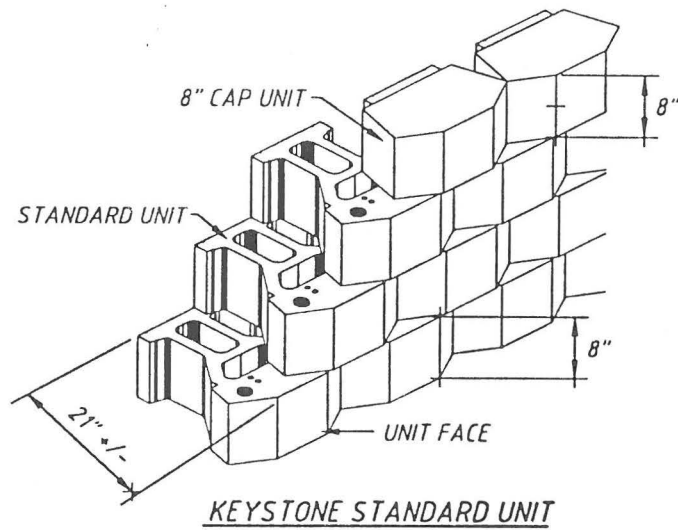
This concludes our report on the site related concerns to this point. We regret any and all

construction encroachments that may have inadvertently occurred and that they will be corrected. We would like to conclude by stating that the Owner of the entire property, Cary Jackson, is committed in ensuring a respect for the Wetland area that assures its natural state.



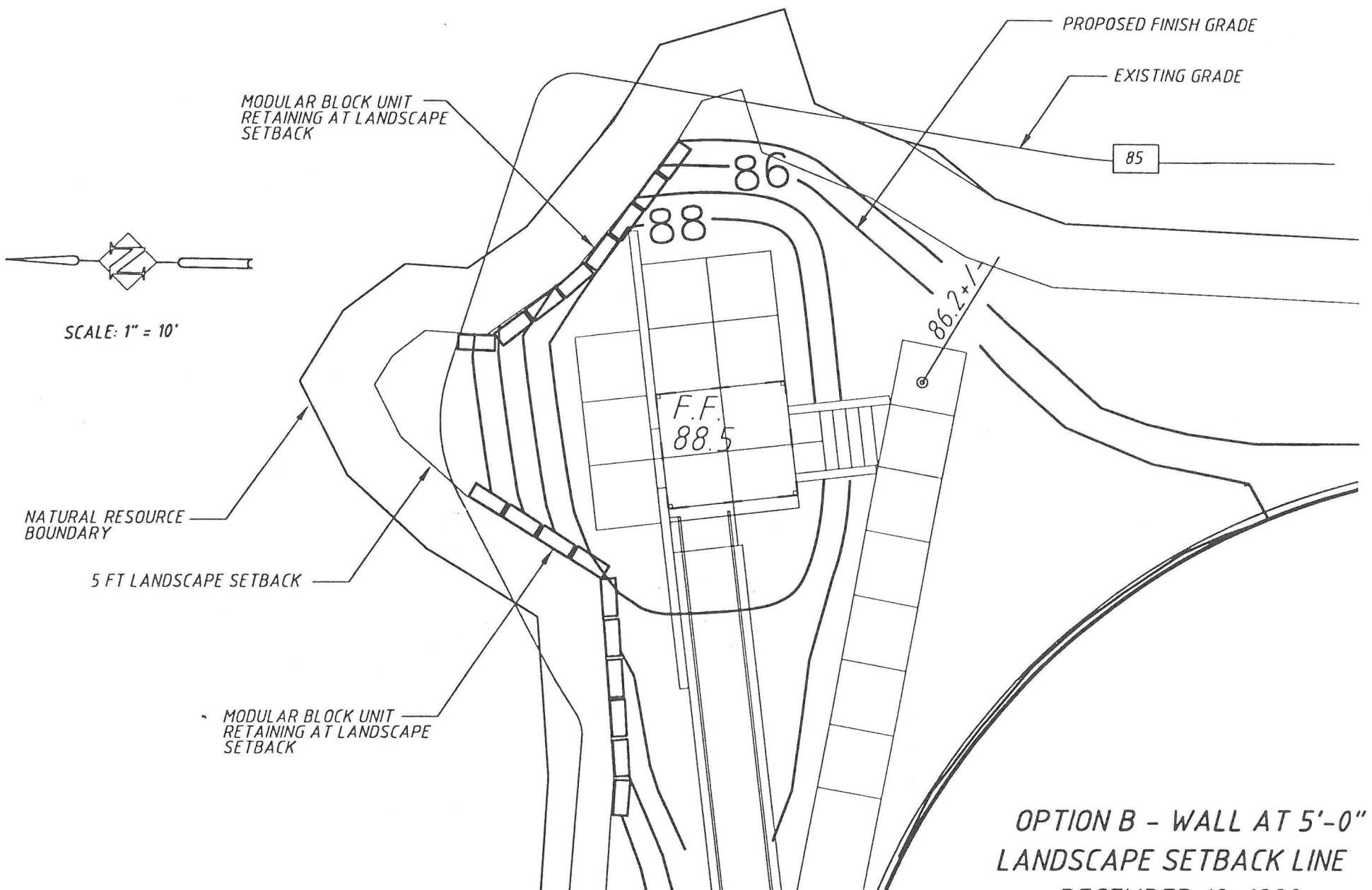
OPTION A - WALL AT
 RESOURCE BOUNDARY
 DECEMBER 18, 1998

ENLARGED PLAN



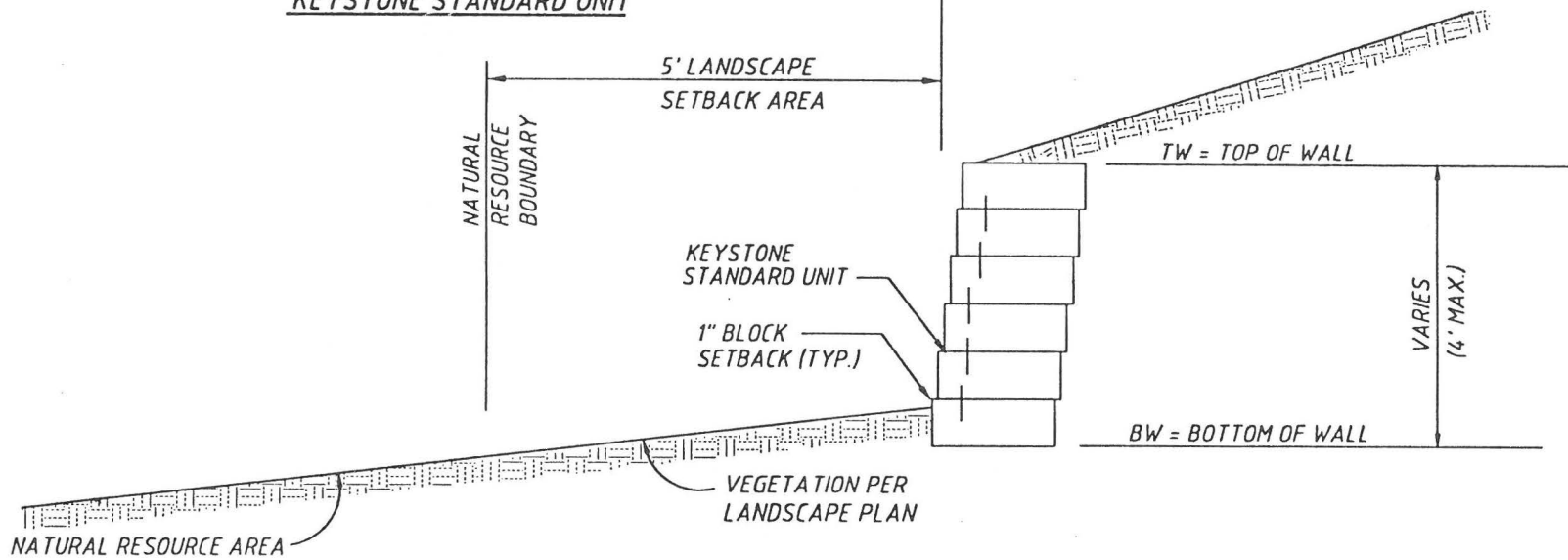
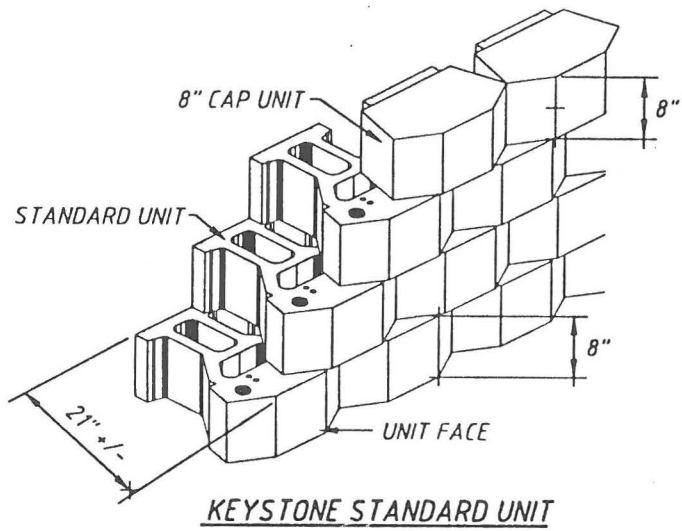
WALL SECTION
MODULAR BLOCK RETAINING WALL DETAIL
 N.T.S.

OPTION A - WALL AT
 RESOURCE BOUNDARY
 DECEMBER 18, 1998



OPTION B - WALL AT 5'-0"
LANDSCAPE SETBACK LINE
DECEMBER 18, 1998

ENLARGED PLAN



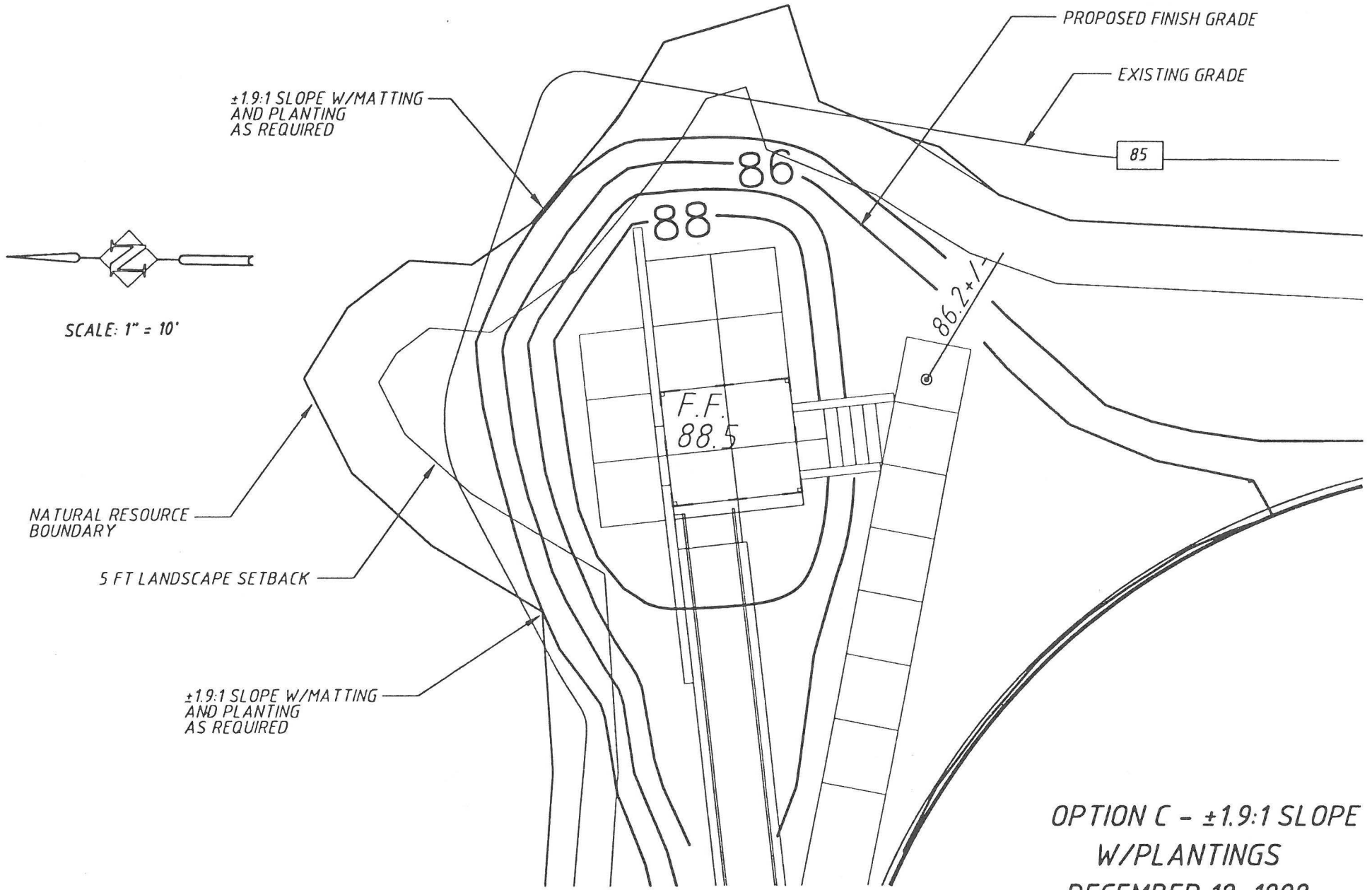
WALL SECTION

MODULAR BLOCK RETAINING WALL DETAIL

N.T.S.

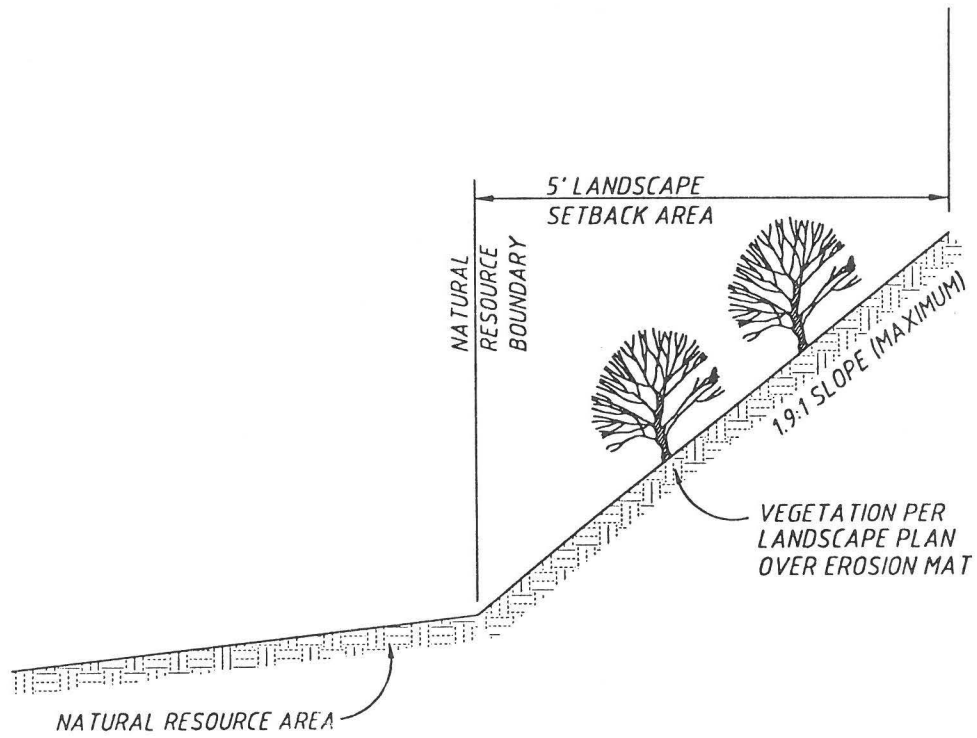
OPTION B - WALL AT 5'-0" LANDSCAPE SETBACK LINE

DECEMBER 18, 1998



OPTION C - ±1.9:1 SLOPE
W/PLANTINGS
DECEMBER 18, 1998

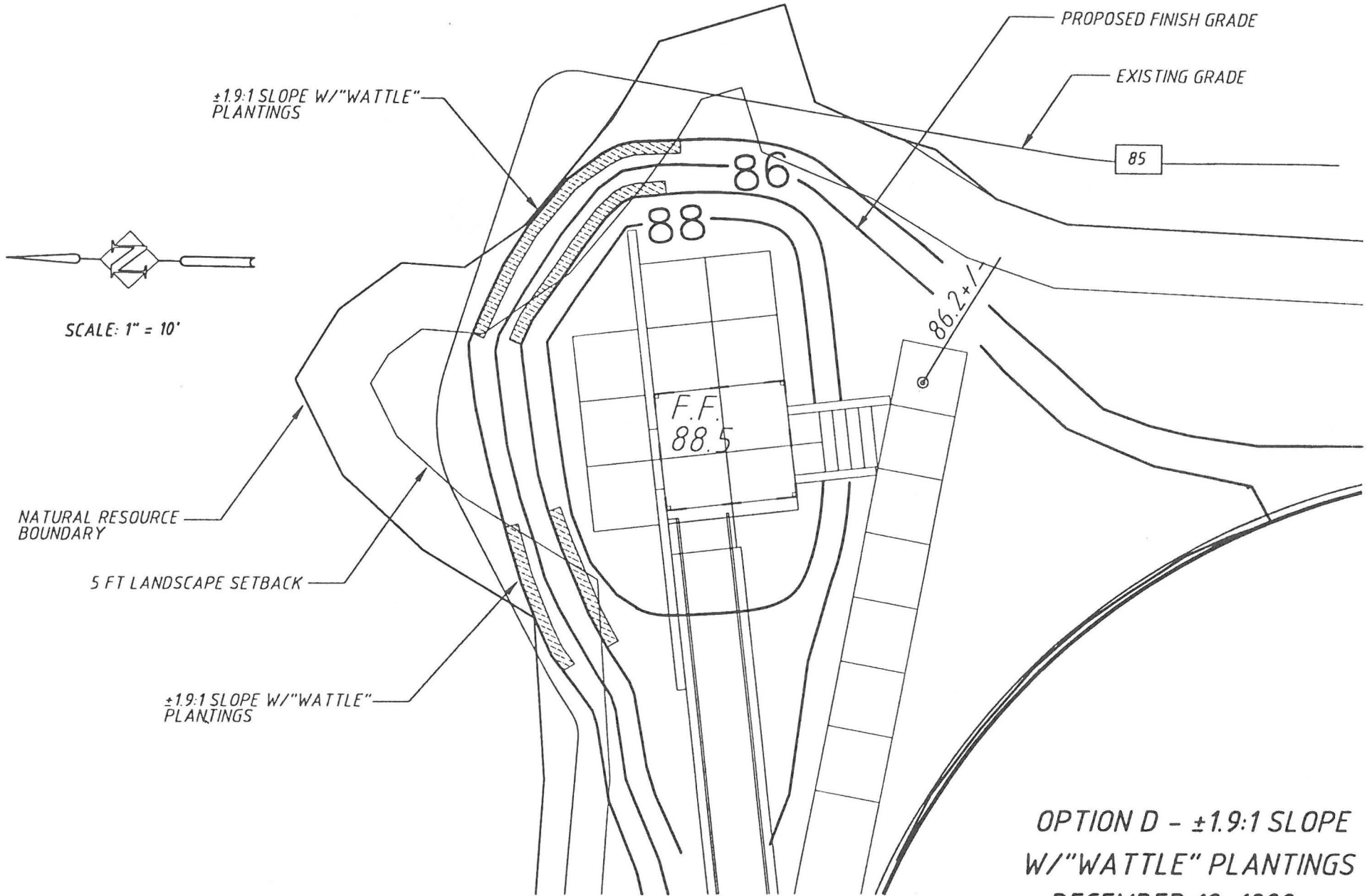
ENLARGED PLAN



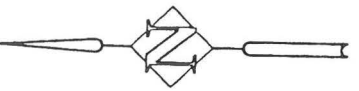
SECTION

N.T.S.

OPTION C - ±1.9:1 SLOPE
W/PLANTINGS
DECEMBER 18, 1998



SCALE: 1" = 10'



NATURAL RESOURCE BOUNDARY

5 FT LANDSCAPE SETBACK

±1.9:1 SLOPE W/"WATTLE" PLANTINGS

±1.9:1 SLOPE W/"WATTLE" PLANTINGS

PROPOSED FINISH GRADE

EXISTING GRADE

85

86

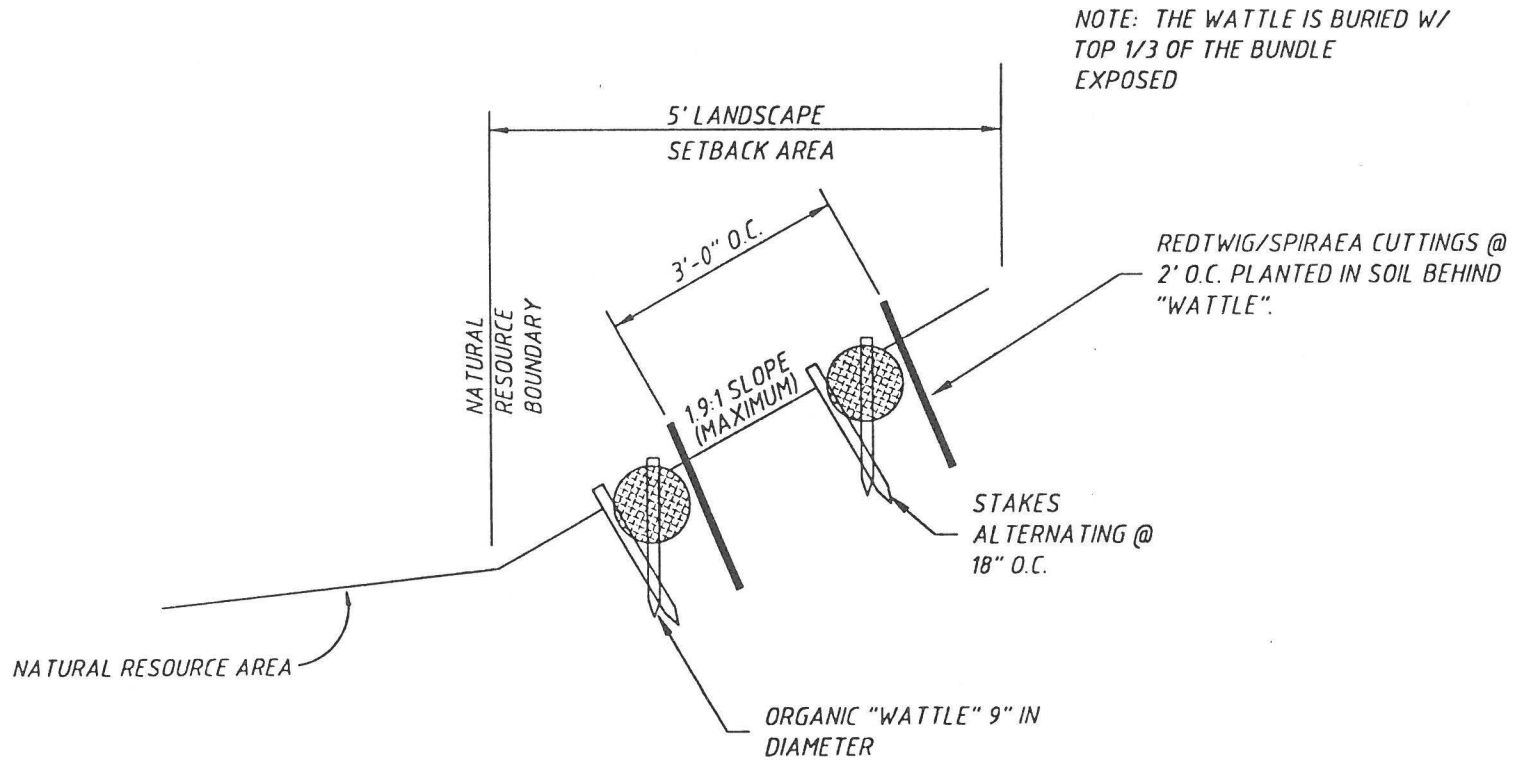
88

F.F.
88.5

86.2 ± 1'

OPTION D - ±1.9:1 SLOPE
W/"WATTLE" PLANTINGS
DECEMBER 18, 1998

ENLARGED PLAN



"WATTLE" PLANTINGS SECTION

N.T.S.

OPTION D - ±1.9:1 SLOPE
W/"WATTLE" PLANTINGS
DECEMBER 18, 1998

2:1 SLOPE W/
PLANTINGS

PROPOSED FINISH GRADE

EXISTING GRADE

85

86

88

86.2+1

F.F.
88.5



SCALE: 1" = 10'

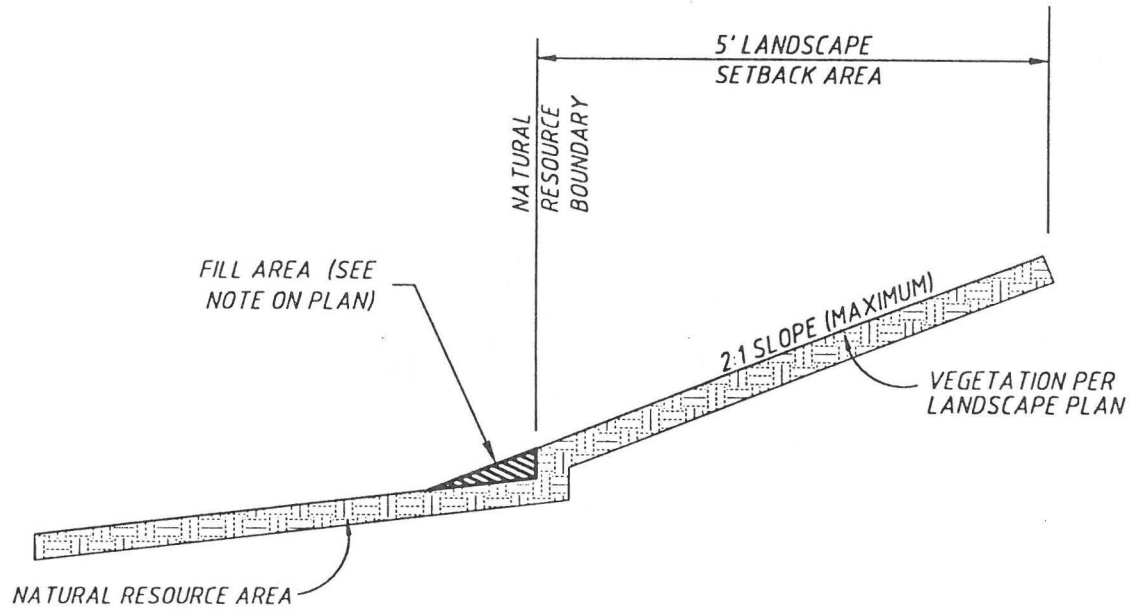
NATURAL RESOURCE
BOUNDARY

5 FT LANDSCAPE SETBACK

NOTE: ONLY 1/3 OF G.Y. OF FILL WOULD BE PLACED
OVER RESOURCE LINE (LESS THAN 8 S.F. OF AREA)
IF SLOPE INCREASES TO 1.9:1 NO FILL IN NATURAL
RESOURCE AREA IS REQUIRED.

OPTION E - EXISTING
GRADE PAST NATURAL
RESOURCE BOUNDARY
DECEMBER 18, 1998

ENLARGED PLAN



EXISTING SECTION

N.T.S.

EXISTING DESIGN SECTION

N.T.S.

OPTION E - EXISTING
 GRADE PAST NATURAL
 RESOURCE BOUNDARY
 DECEMBER 18, 1998

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

120 Days: March 30, 1999
NDA: Milwaukie Business/Industrial

Date: November 30, 1998
File No: NR-98-07

Application: Natural Resources Overlay for Modified Site Improvements
of NR-97-01 Approval

Applicant: Criterion Floor Coverings

Property Owner: Criterion Floor Coverings

Location: 4500 Criterion Court (formerly Mallard Way)
Tax Lot 1 2E 31C 00200, 00300, & 00500

Zone: BI-Business Industrial
NRO-Natural Resources Overlay

.....
RECOMMENDATION

It is recommended the Planning Commission approve NR-98-07 based on the findings of this report and subject to the conditions of contained in Exhibit 1.

PROPOSAL

The applicant is seeking approval for construction of retaining walls and placement of fill within the required 5' natural resource boundary buffer established by condition of approval of NR-97-01. The area of proposed fill and wall construction is located at the north east corner of the site north of the existing concrete observation structure. See Exhibit 2, Applicant's narrative proposal description of consistency with the zoning ordinance. See also Exhibit 4, Construction Plans. The footing of the observation structure is located quite close to the 5' development setback. The elevation of the deck is 4' (+/-) above the elevation of existing grade.

The applicant is proposing fill and retaining walls be used to make the transition between the observation structure and the natural resources boundary. Approval of the proposal requires modification of the approval of NR-97-01. Construction plans shows 2 retaining walls for a total length of approximately 30' to be located at the Natural Resource boundary. Walls are proposed not to exceed 2' in height and are to be constructed of modular concrete blocks. A shallow trench is to be

dug by hand for the placement of the first course of block. No machine use or access is required for construction of the block wall and placement of fill accordingly to the applicant. The plans show fill to be placed along 50' (approx.) of the development setback. Less than 50 yards of fill are expected to be required.

BACKGROUND

NR-97-01

On June 24, 1977 the Commission approved NR-97-01 for conceptual development at 4500 SE Mallard Way. A specific development plan showing building design and location and other site improvements was not reviewed at that time. A specific site development plan was approved as TPR-97-04. Under NR-97-01, the natural resource boundary was established by soils, hydrology, and plant survey. Upland habitat and wetland riparian resources are contained within the natural resource boundary. Review of NR-97-01 was based upon development standards in Zoning Ordinance Section 322.7.A.2, which requires that the resource site be protected by a development setback. Accordingly, a 5' setback was required and is referenced in Finding #2 of the decision. The approval required a continuous 5' buffer be established and maintained along the natural resource boundary within the permitted construction envelope. See Page 5 of Exhibit 4, the NR-97-01 staff report. Condition #11 of the decision prohibits site disturbance within the 5' buffer.

Cause for this Application

Sometime during late August the Planning Department received a report of potential fill violation at the site. During the investigation it was discovered that fill associated with the observation structure, but not yet placed, would violate the restriction against disturbance within the buffer. It was also discovered that the plans upon which the building permit was based showed fill encroachments within the buffer and the natural resource area. The property owner was notified of the potential violation and was advised that any encroachment would require Commission approval. At the time, the alternative of a retaining wall constructed at the 5' setback, thereby eliminating any encroachment, was discussed with the property owner's representatives. Although a retaining wall located at the 5' setback is feasible the applicant prefers the option shown in this application. Staff is presently working with the applicant to finalize site improvements.

Site Conditions in Work Area

The deck, vertical concrete panels, overhead ironwork of the observation deck, and sidewalks are in place now. Site grading and landscape planting has been completed up to the work area.

Army Corps of Engineers & Oregon Division of State Lands Approvals

The applicant was required by Planning staff to submit DSL and Army Corps reviews prior to the matter being heard by the Planning Commission. DSL has determined a permit is not required. The Army Corp of Engineers has issued Nationwide Permit #98-1365 authorizing construction of retaining walls as shown in this application (see Exhibit 5).

Some explanation of the Army Corps permit is warranted. The Corps regulatory wetland boundary is the same as the Milwaukie natural resource boundary. The permit authorizes placement of less than 5 cubic yards and requires site restoration. The allowable fill volume (5 yd³.) refers to the retaining walls only; it does not include earth fill. According to Mary J. Headley, Army Corps Project Manager, the permit was issued on the assumption that incidental disruption of the wetland would occur because the walls are located right on the wetland boundary. Fill placed behind the retaining walls does not require an Army Corps of Engineers permit because it does not extend into the wetland boundary (per phone conversation with Mary J. Headley, A.C.E 11/30/98). The permit includes extensive conditions concerning site preparation and mitigation requirements. See Exhibit 6 Army Corps Nationwide Permit.

DISCUSSION

Compliance with the Milwaukie Comprehensive Plan

The staff report on NR-97-01 stated the project was in compliance with Comprehensive Plan Chapter 3, Natural Resources Element, Objective 2, Policies 1,2,3,and 4. Specifically, the project was found to be consistent with the Plan for the proposed riparian buffer and storm water management plan. The referenced sections of the Comprehensive plan and discussion of the consistency of the project with follows.

Objective #2- Natural Resource Areas, Policies

1. *Protect designated natural resource areas and their associated values through preservation, intergovernmental coordination, conservation, mitigation and acquisition of resources.*

- *Notify and coordinate review of development proposals and plans within natural resource areas with affected state, local, and federal regulatory agencies.*

Staff Response: The application has been reviewed by Oregon Department of State Lands and the Army Corps of Engineers; required approvals have been granted.

- *Develop a review process for development in natural areas, which requires mitigation or other means of preservation of natural resource values.*

Staff Response: Section 322 Natural Resources Overlay implements this policy.

- *The City shall pursue funding for the acquisition, protection, or enhancement of natural resource areas through private environmental groups, federal or state agencies, or local groups.*

Staff Response: Not applicable

- *Regulate activities in natural resource areas, which may be detrimental to the provision of food, water, and cover for wildlife.*

Staff Response: No long-term disturbance of the mapped natural resource area is proposed. Short-term construction impacts are to be mitigated and restored.

2. *Provide protection to important wetland and water body areas through designation of riparian area buffer between natural resources and other urban development activities. Restrict non-water dependent development within the riparian buffer area.*

Staff Response: It has been inferred from the record on NR-97-01 that the Commission deemed the 5' buffer between the natural resource boundary and the development envelope satisfies this policy. There is insufficient information in the file record that would identify the Commission's considerations that would assist in determining consistency of the proposal with the original decision. It is suggested that the proposal may be evaluated for its potential impacts (to the buffer and natural area) separate from an evaluation of consistency with the prior decision and this section of the Comprehensive Plan. It is further suggested that certain encroachments of the buffer may be permitted without diminishing

its overall value in meeting policy objectives of the Comprehensive Plan. Staff defers to the Commission in making this determination.

3. *Maintain and improve water quality of wetlands and water bodies through regulating the placement and design of storm water drainage facilities.*

Staff Response: The proposal does not affect approved stormwater drainage

4. *Protect existing upland areas and values related to wildlife habitat, groundwater recharge, and erosion control.*

- *Encourage the development of open spaces and increased vegetation for wildlife habitats.*
- *Protect steep slopes from erosion through the use of vegetation.*
- *Provide protection between the resource and other urban development.*

Staff Response: The proposal will not appreciably differ from the approved plan with regards to the elements of this policy and is therefore consistent.

Compliance with the Milwaukie Zoning Ordinance

Compliance with Zoning Ordinance Section 324 - BI Business-Industrial Zone. There are no specific regulations of the BI Zone that govern or affect the proposal.

Compliance with Zoning Ordinance Section 322 - Natural Resources Overlay. Development Standards: NR-97-01 was reviewed according to the standards of 322.7.A. The approved development envelope is entirely outside of the natural resource area. Staff suggests that this application be reviewed according to standards of Sec. 322.A. and Section 322. B because the proposal may result in minor short-term impacts to the natural resource area. The relevant sections of the regulations and staff's response follows.

Sec. 322.7 A. Development activities within a designated Natural Resource Site, which is adjacent to or outside of the specific natural resource location, may show by on-site survey that the boundary of the NR Overlay Zone should exclude the activity site, but in any event, must comply with the following:

1. *Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent natural resource location.*

Staff Response: Site preparation and construction when mitigated will comply.

2. *A development setback, which adequately protects the resource site, is required.*

Staff Response: Please refer to discussion of this item in discussion of the Comprehensive Plan

3. *Development consisting of vehicle maneuvering and parking areas, outside storage and display areas, and trash collection areas shall also be screened from the natural resource location by sight-obscuring vegetation or fencing.*

Staff Response: Not applicable

4. *Outdoor activities, including open fabrication or operations which create large amounts of noise, dust, or glare, except for river-related and river-dependent uses, are not allowed due to their higher potential for adverse impacts on adjacent natural resource locations.*

Staff Response: Not applicable

5. *The types, sizes, and intensities of lights must be placed so that they do not shine directly into the natural resource locations.*

Sec. 322.7.B. *Development activities within a natural resource location shall comply with the following:*

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

Staff Response: Not applicable

2. *Development in areas of dense standing trees will be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch diameter or greater at a 5-foot. height) shall be removed without a one-for-one replacement with comparable*

species. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and where and what type of tree replacement (if applicable) is to occur.

Staff Response: Not applicable

3. *Harvesting of uncultivated timber is not permitted, except as allowed by subsection 322.7.B.2 above.*

Staff Response: Not applicable

4. *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 natural resource location, and to protect the visual amenity values of the natural resource.*

Staff Response: Not applicable.

5. *Natural riparian vegetation along streams and drainage ways will be maintained and preserved, except where mitigation is approved. Such vegetation will be maintained for a minimum distance of 15 feet from the normal high water line in those areas with slopes of 10 percent or less. Where slopes exceed 10 percent, an additional foot of vegetation should be preserved for each additional percent of slope increase. Selective cutting, trimming, and thinning may be allowed as necessary for access to the waterway.*

Staff Response: Not applicable

6. *Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed natural flows as determined by the City Public Works Department.*

Staff Response: The proposed plan should not appreciable differ from the approved plan.

7. *Construction practices for all projects, private and public, will include steps to ensure that land cuts are not exposed to storm water. Land and trenches will be graded to allow direct flow into natural drainage courses. Grading shall not expose unprotected surfaces to water flows and possible erosion.*

Staff Response: Not applicable

8. *The development will be designed to have the least amount of impact on the natural features/values of the site as possible. The design should look at alternatives (design and location) to mitigate the impact.*

Staff Response: Though staff is of the opinion that the impact of the proposal will not differ significantly from NR-97-01, the Commission may wish to consider the comparative impacts of an alternative plan which has the retaining walls constructed at the 5' setback.

9. *Road crossings of major natural drainage courses will be minimized as much as possible.*

Staff Response: Not applicable

10. *The construction phase of the development must be done in such a manner to safeguard the portions of the site within the Natural Resource Overlay Zone that have not been approved for development. The effect of this is that construction equipment, construction materials, excess fill, runoff, etc. will not ultimately harm the natural resource area.*

Staff Response: Any construction will be subject to mitigation measures such as erosion and sedimentation control and would therefore comply with standard.

11. *A mitigation plan shall be required for development activities that would adversely impact the natural resource values of the site, as per subsection 322.10.*

Staff Response: Same as #10 above.

COMMENTS

Public Works

All Public Works requirements under NR-97-01 have been met. Public Works has no concerns regarding grading and the installation of the retaining wall at the northeast corner of the site. However, the erosion control measures must remain in place until the project is completed and permanent vegetation is re-established. (Exhibit 7 memo of Paul Roeger, P.E. dated November 23, 1998)

Hector Campbell Neighborhood District Association

It looks like it's necessary for the protection of the adjacent wetland. See Exhibit 8 Hector Campbell NDA Comments)

Oregon Division of State Lands

See Exhibit 5 letter of Tami Hubert, Natural Resource Coordinator dated November 16, 1998

U.S. Army Corps of Engineers

See Exhibit 6 Permit #98-1365 by Mary J. Headley, Project Manager dated November 19, 1998.

CONCLUSION

In terms of physical effect proposal represents a relatively minor change to NR-97-01. The Commission's specific considerations concerning the need and/or desirability of the required setback are not clearly evident in the file record of NR-97-01. Consequently staff is reluctant to recommend approval without first allowing the Commission to make its own determination of the acceptability of encroachment within the required buffer. In addition, staff is uncomfortable giving unconditional support to this application without consideration of possible alternatives. Staff does believe however, that sufficient information is available to allow the Commission to determine consistency with applicable policies and development standards. The conditions of approval itemized below are equally applicable to the proposal or an alternative of similar scope. The stated position of staff is not intended to imply or suggest opposition to the proposal.

EXHIBIT 1 CONDITIONS OF APPROVAL

Should the Commission approve NR-98-07 it is recommended it be subject to the following conditions:

1. That barrier fencing be placed within the natural resource area in closest practical proximity to the natural resource boundary to prevent excessive encroachment and site disturbance.
2. That erosion controls be installed prior to any excavation or placement of fill and that the installed controls be inspected and approved by staff prior to any excavation or placement of fill.
3. That the applicant submit a natural resource area restoration plan to the satisfaction of the Planning Director prior to any excavation or placement of fill.
4. That the landscaping plan be modified as necessary to be compatible modified grading. Plantings that are suitable for specific soil and slope conditions should be provided.
5. That a final plan and section showing wall location, height, and final grades be submitted to the satisfaction of the Planning Director prior to any excavation or placement of fill.

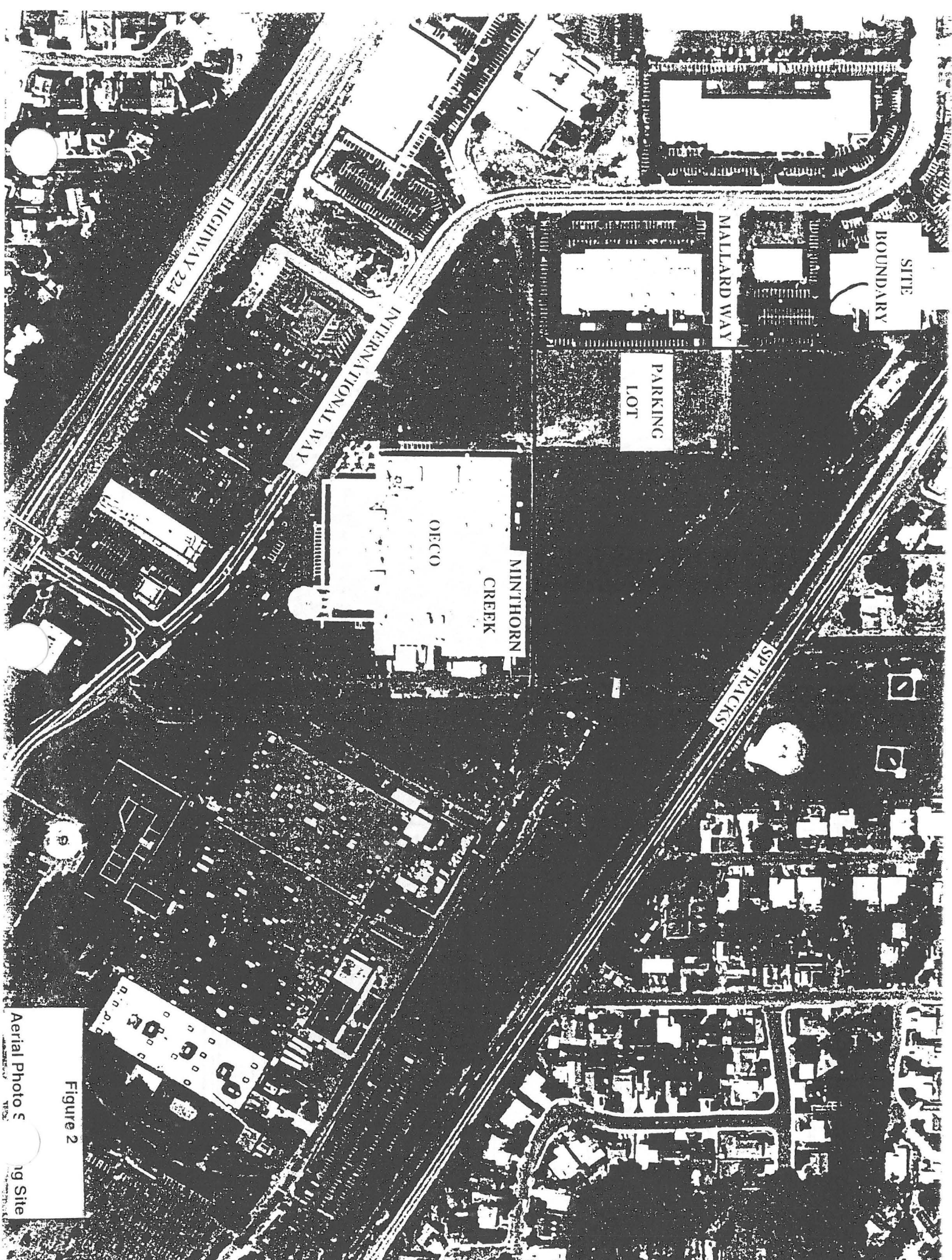
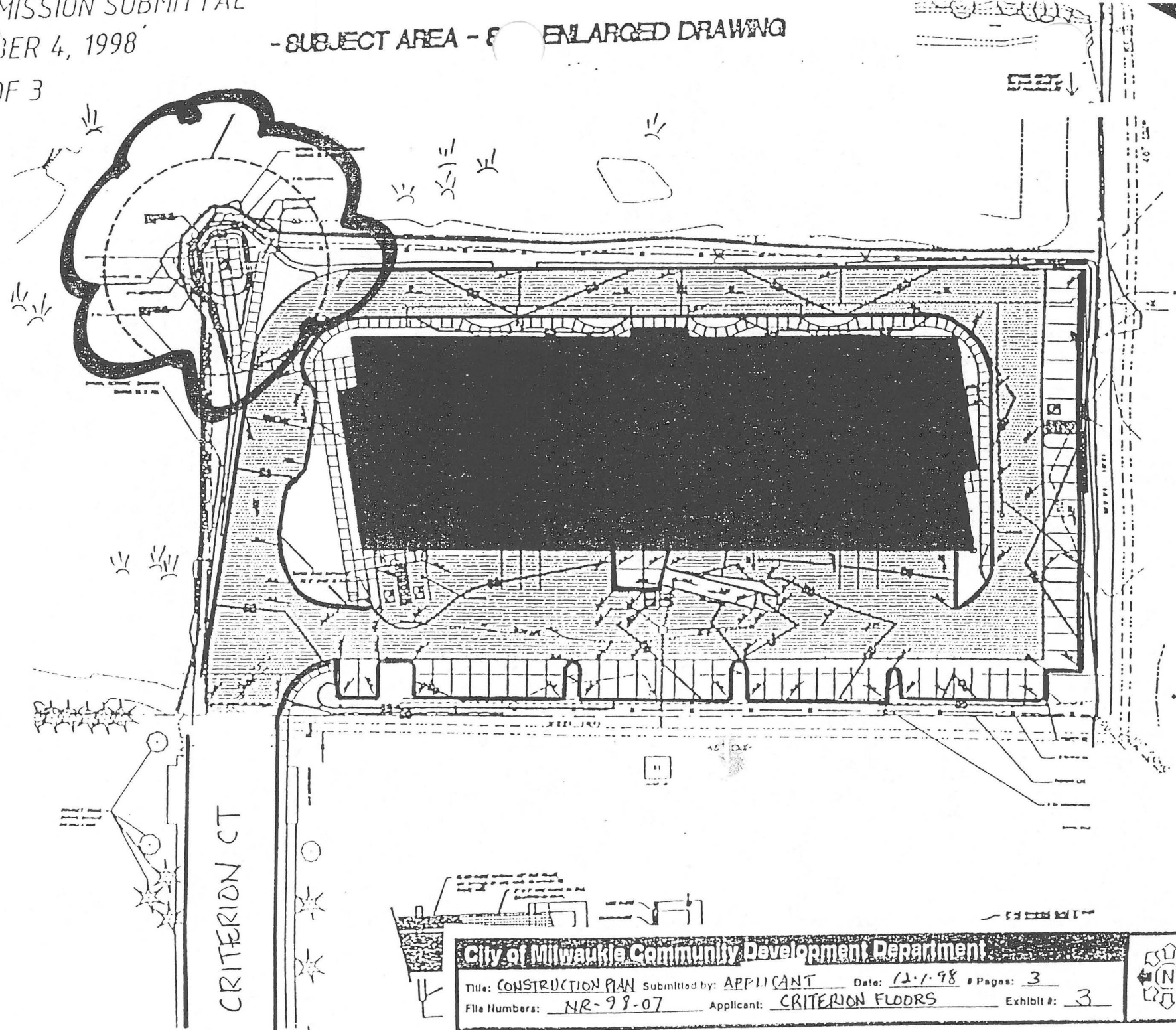


Figure 2
Aerial Photo of Mining Site

NOVEMBER 4, 1998

1 OF 3

- SUBJECT AREA - ENLARGED DRAWING



CRITERION CT

City of Milwaukee Community Development Department

Title: CONSTRUCTION PLAN Submitted by: APPLICANT Date: 12-1-98 # Pages: 3
File Numbers: NR-98-07 Applicant: CRITERION FLOORS Exhibit #: 3



NR-98-07

PHOTO INDEX



SCALE: 1" = 10'

MODULAR BLOCK UNIT
RETAINING TOE OF SLOPE.
SEE SHEET 3 OF 3 FOR
DETAILS.

PROPOSED FINISH GRADE

EXISTING GRADE

85

88

86

86.2+1

F.F.
88.5

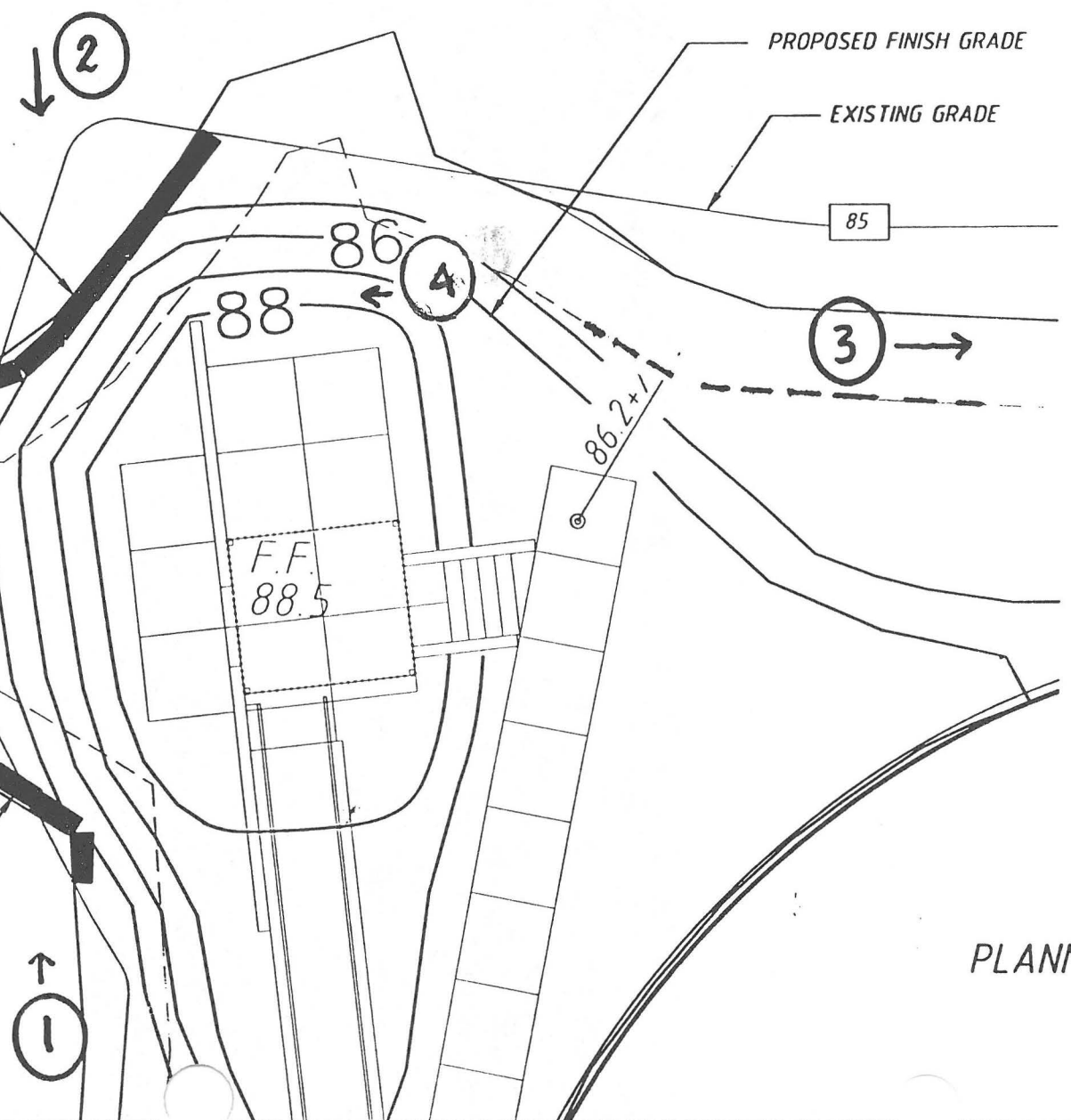
NATURAL RESOURCE BOUNDARY

5 FT LANDSCAPE SETBACK

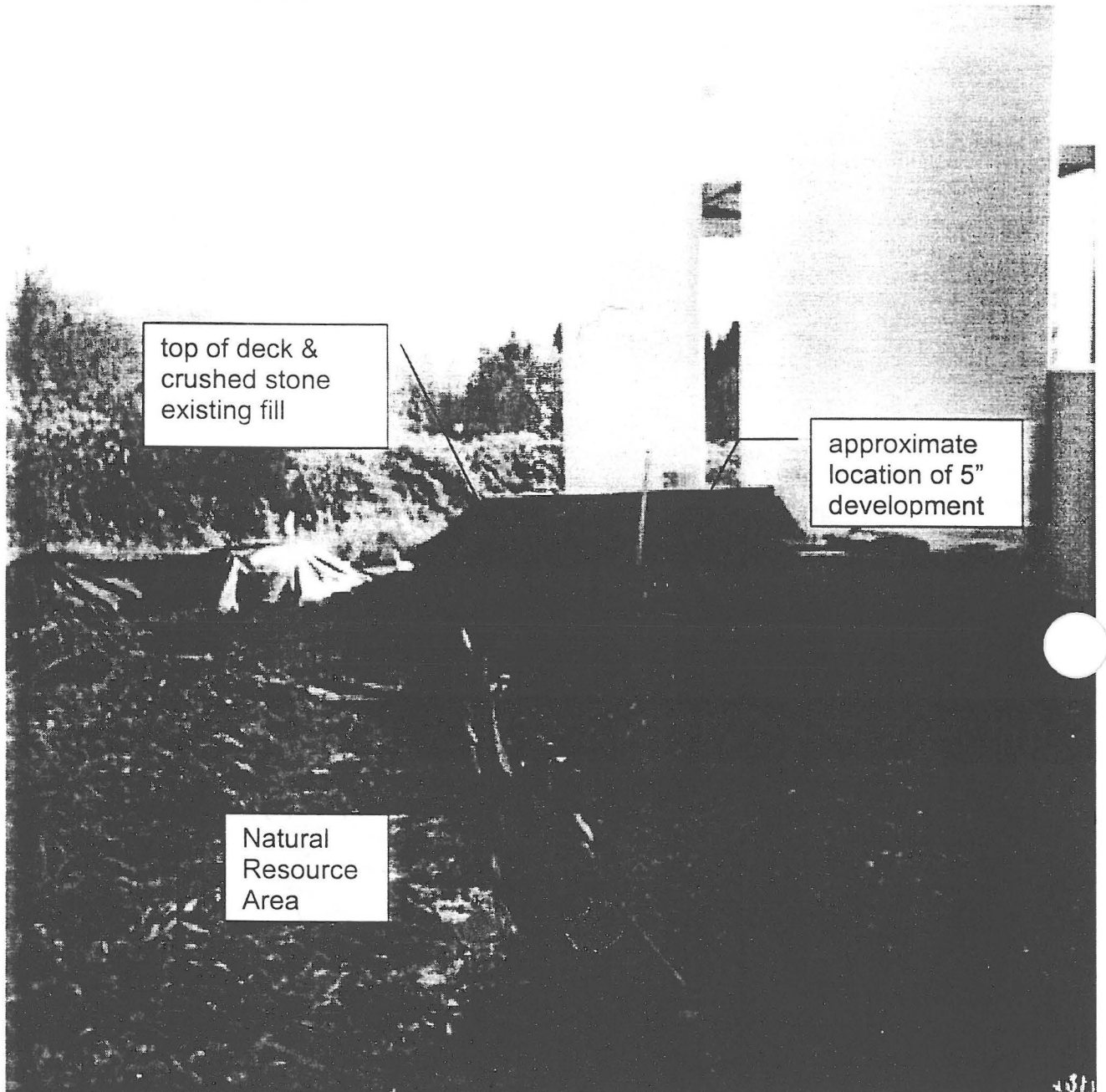
MODULAR BLOCK UNIT
RETAINING TOE OF SLOPE.
SEE SHEET 3 OF 3 FOR
DETAILS.

PLANNING

ENLARGED PLAN

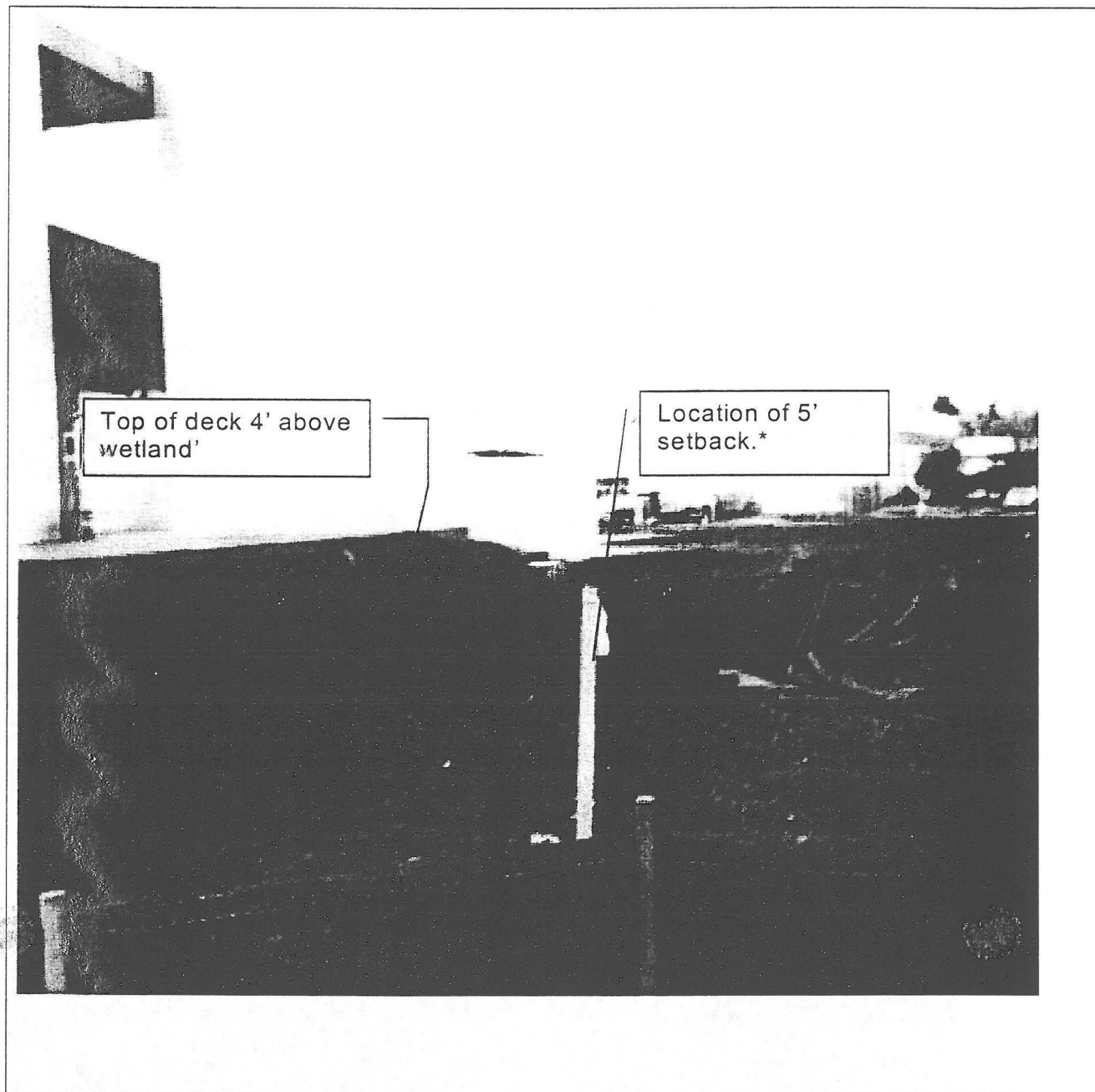


PHOTOGRAPH #1



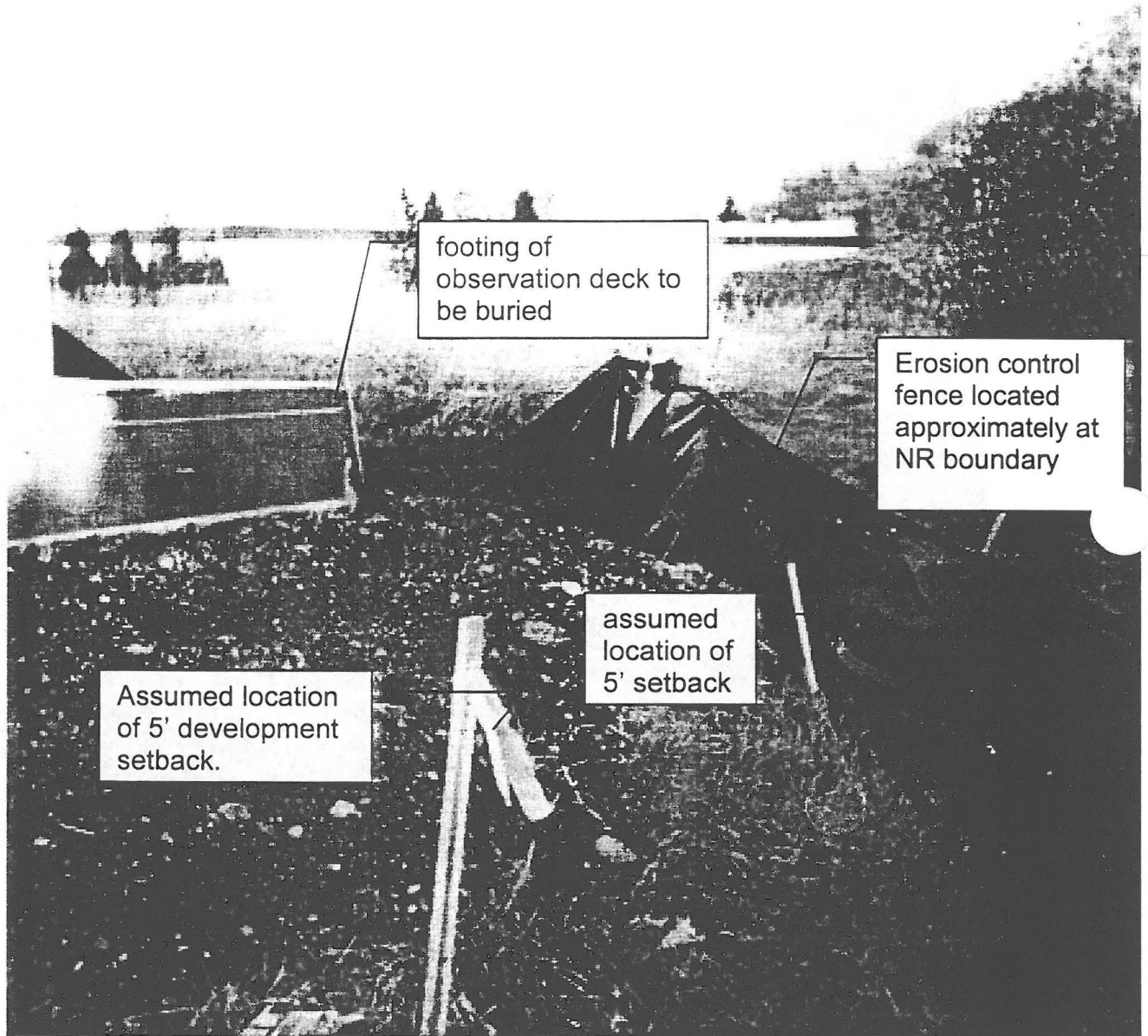
VIEW: West of observation deck looking east along NR boundary.

PHOTOGRAPH #2



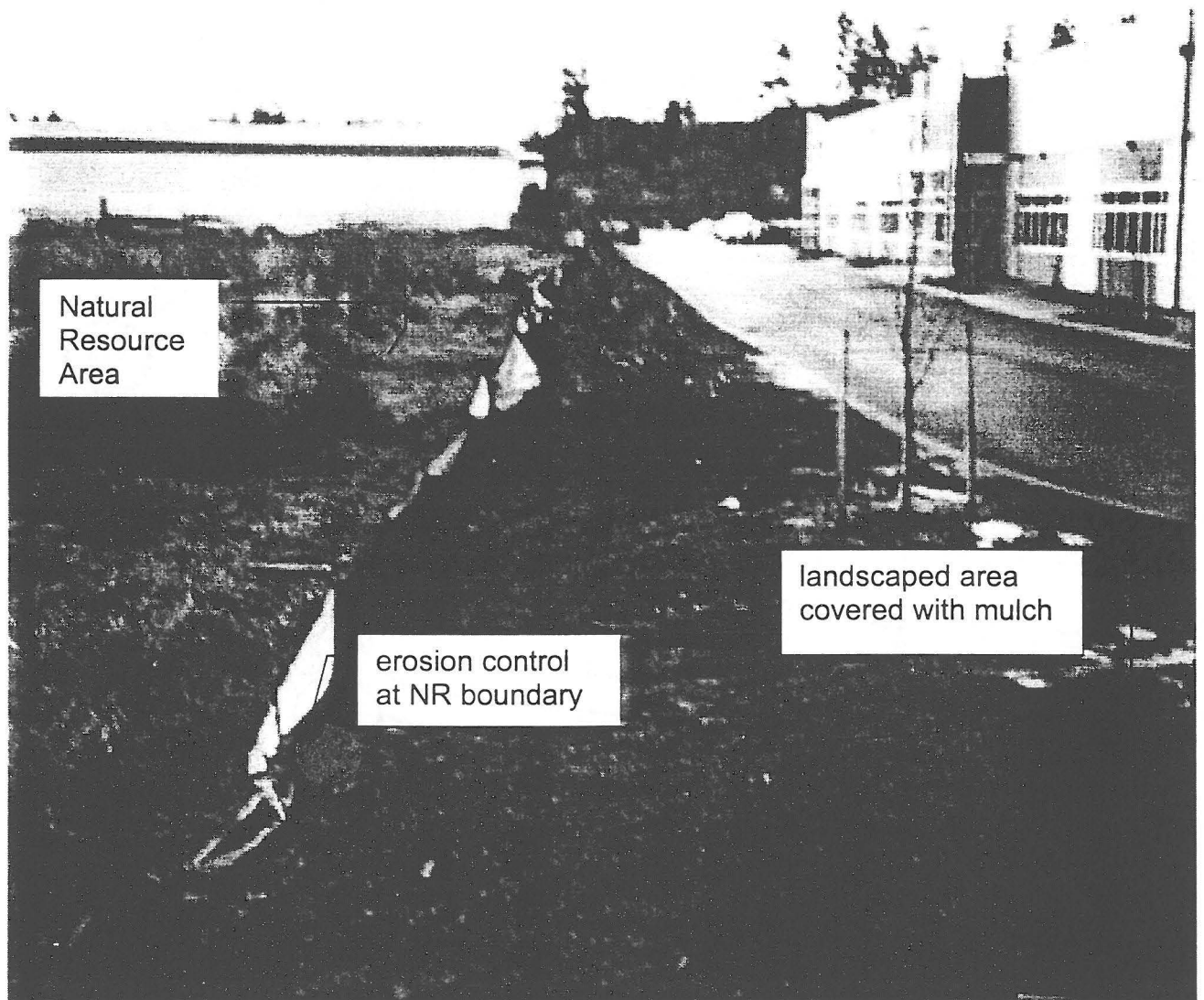
VIEW: North east corner of site looking south along property line. Stake in foreground is believed to be 5' development setback.

PHOTOGRAPH #3



VIEW: North, northeast corner of site looking northwest.

PHOTOGRAPH #4



VIEW: South of observation deck looking south along NR boundary.

NR-98-07

PHOTO 1' X



SCALE: 1" = 10'

MODULAR BLOCK UNIT
RETAINING TOE OF SLOPE.
SEE SHEET 3 OF 3 FOR
DETAILS.

PROPOSED FINISH GRADE

EXISTING GRADE

85

3

88

86

4

86.2+1

F.F.
88.5

NATURAL RESOURCE BOUNDARY

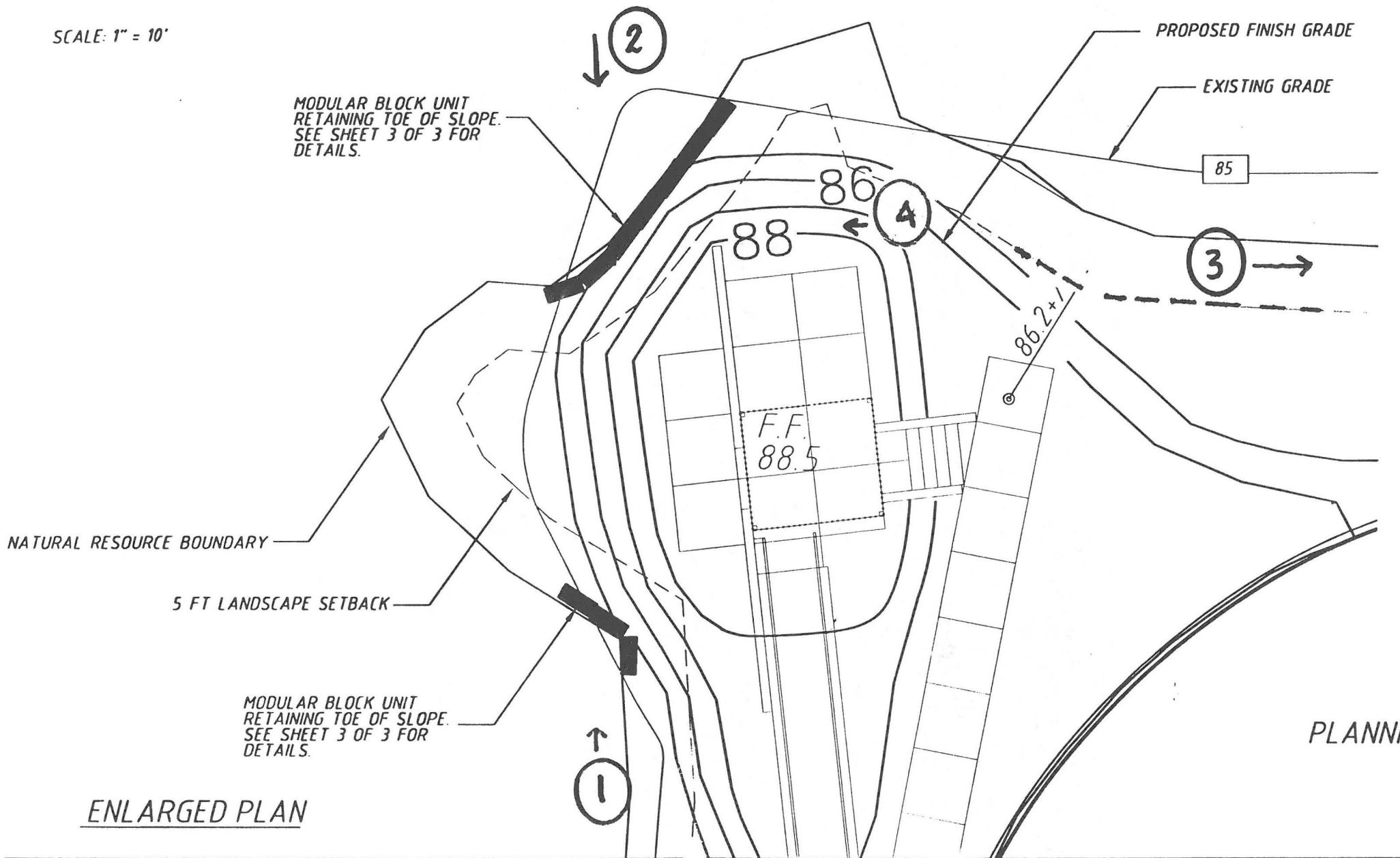
5 FT LANDSCAPE SETBACK

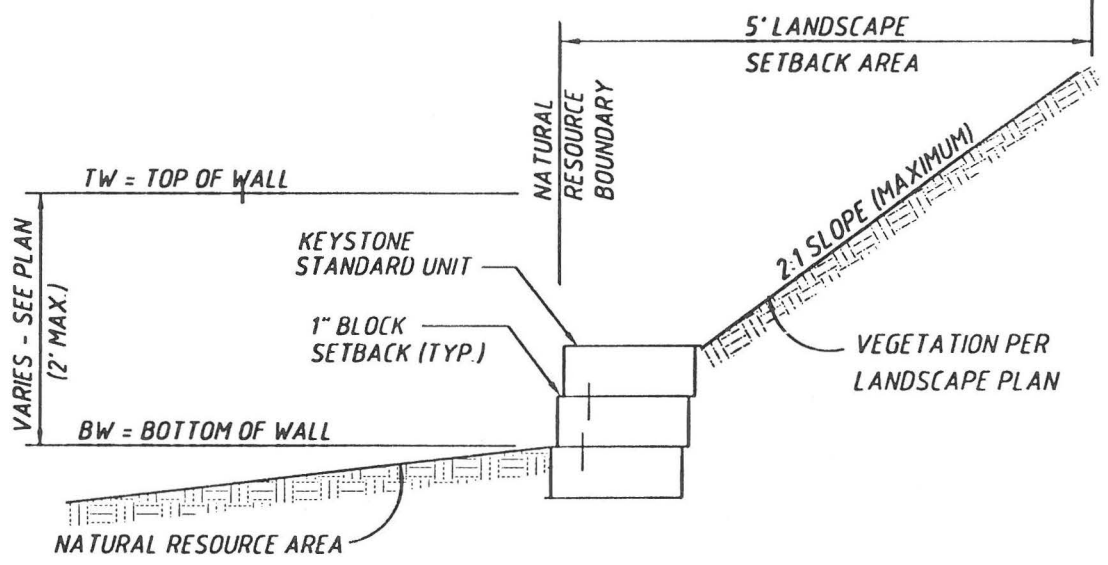
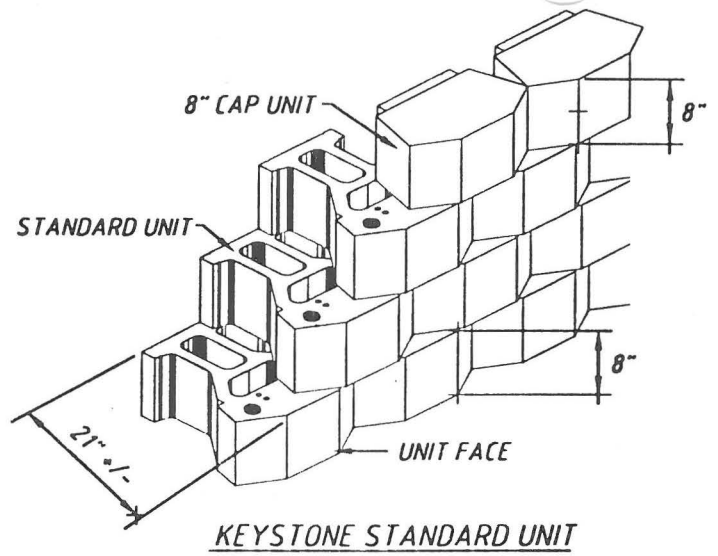
MODULAR BLOCK UNIT
RETAINING TOE OF SLOPE.
SEE SHEET 3 OF 3 FOR
DETAILS.

1

PLANNING

ENLARGED PLAN





WALL SECTION
MODULAR BLOCK RETAINING WALL DETAIL

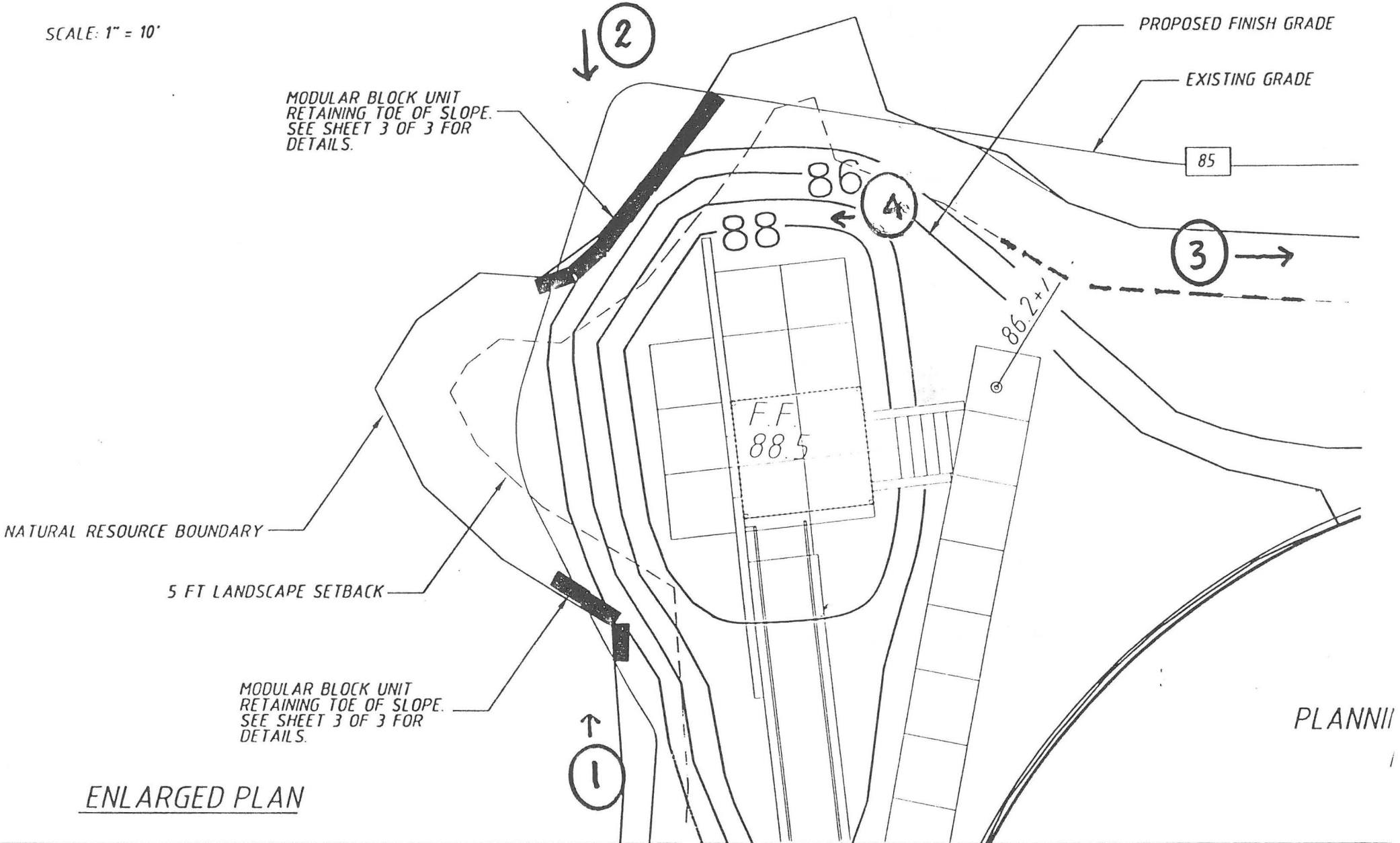
N.T.S.

NR-9B-07

PHOTO 11 X



SCALE: 1" = 10'



ENLARGED PLAN



DATE: January 5, 1999
TO: Planning Commission
FROM: Janet Wright, Planner
RE: CU-98-02/VR-98-09 Approval to Construct a Duplex and Variance to Lot Area

.....

Attached with this memorandum is additional information that was requested by the Commission regarding the above referenced land use application(s):

Duplex Properties within 200 feet of the parcel: In response to the Commission's questions regarding existing duplex units within 200 feet of the duplex proposed by the applicants, staff is submitting the following information. Section 602.7 Single family attached dwellings; The Commission shall consider:

1. Whether a structure of a similar type is within 200 feet.
2. Relationship to neighboring uses.
3. Street Access.
4. Terrain of the site. The project will not cause traffic to move through the adjoining lower density areas.

Attached as Exhibit 1 is a map showing the surrounding land uses that are within 200 feet of the subject parcel. The map provided is an aerial map showing the uses in the vicinity surrounding the parcel at a scale of 1" = 100'. Staff also conducted a site visit and could not find other structures that are considered duplexes within 200 feet of the parcel.

The map shows that there is a duplex identified in the area that is 211 feet from the parcel. That parcel is identified on the map as Tax Lot(s) 11500 and 11400. The structures on this site are connected and the appearance is that of a one-story duplex. The proposal meets the requirements of this criterion.

The neighboring uses are residential and the proposal is compatible with the residential characteristics of the neighboring uses. The proposal has adequate street access from SE 40th Ave. The terrain at the site is somewhat flat and poses no hazard to adjoining properties from erosion or elevation perspectives. The proposal does not cause traffic to move through any adjoining lower density areas. All access to the parcel is from SE 40th Ave.

Conclusion

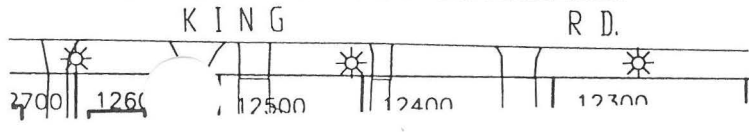
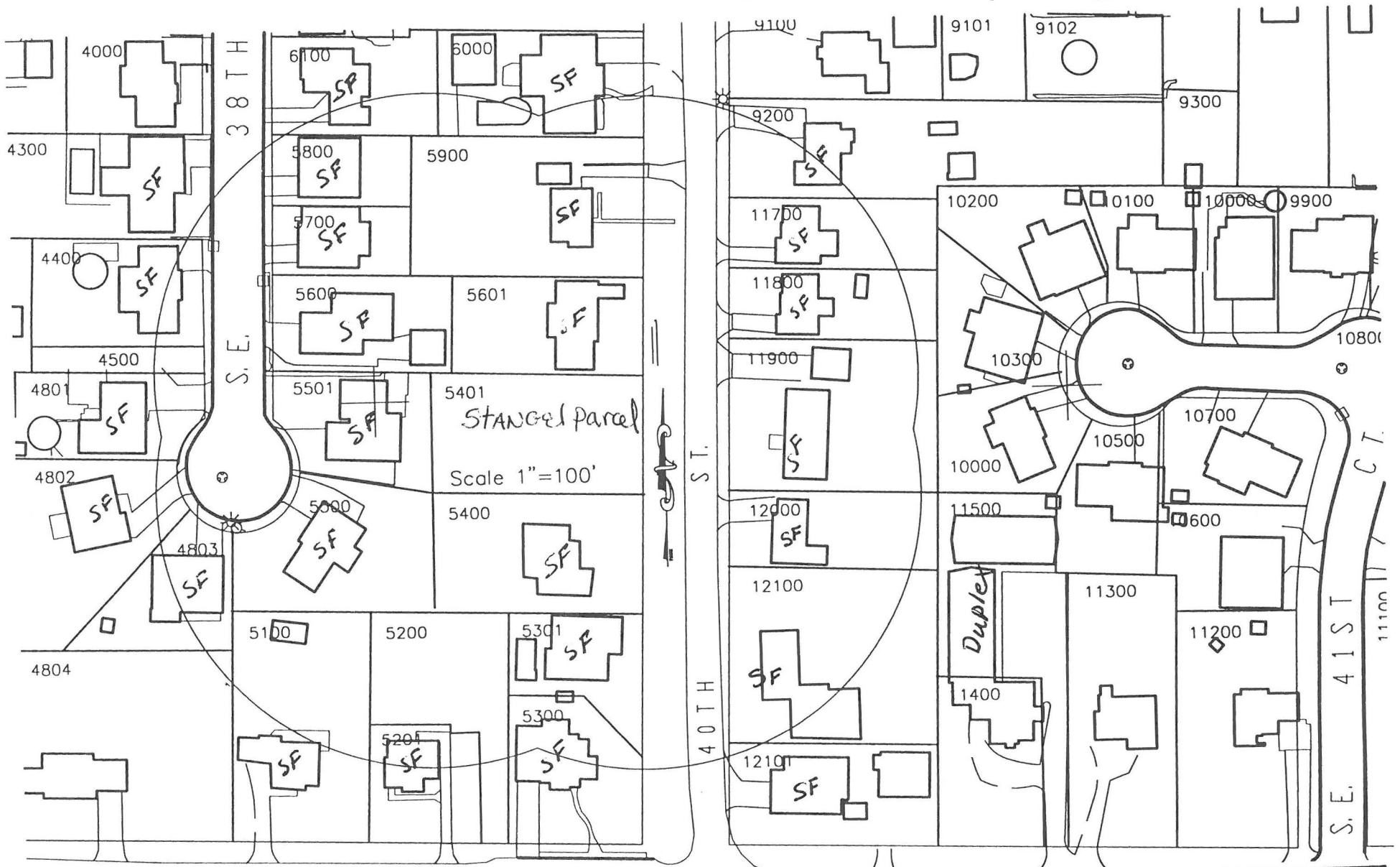
Staff finds that the proposal meets the criteria outlined in Section 602.7 of the Milwaukie Zoning Ordinance.

Attached, as Exhibit 2 is correspondence that was received on December 31, 1998, from Amy Oatfield Hanson regarding the proposal.

EXHIBITS

Exhibit 1	Aerial Map
Exhibit 2	Letter Dated 12/31/98 - Hansen

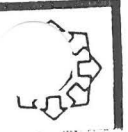
SF = Single Family Dwelling



City of Milwaukee Community Development Department

Title: Aerial N Submitted by: CD Date: 1/5/99 # Pages: 1

File Numbers: DU-98-02/UR-98-04 Applicant: Stangel Exhibit #: 1



RECEIVED

DEC 31 1998

CITY OF MILWAUKIE
BUILDING DIV.

10317 S.E. 40th Ave.
Milwaukie, OR 97222
(503) 353-8932

December 31, 1998

HAND DELIVERED

City of Milwaukie Planning Commission
Community Development Department
6101 S.E. Johnson Creek Blvd.
Milwaukie, OR 97206

Re: CU-98-12/VR-98-09 for 10271 S.E. 40th Ave.
Construction of Duplex in Residential Zone R-7

Dear Members of the Planning Commission:

This letter responds to the evidence that was provided at the public hearing on December 8, 1998, and to the concern that was raised by commissioners about the above-captioned Variance and Conditional Use Permit application. In addition to the reasons enumerated and discussed in my earlier correspondence and memorandum, the application should be denied for the following reasons:

- **There Are Duplex Properties Within 200 Feet of the Project Site.** On the map that the City provided with the public notice, there is a flag lot with access from King Road. The property is behind property fronting 40th Avenue and directly across from the project site. The buildings on the flag lot are duplex structures. Contrary to the City records, pictorial evidence will be provided at the public hearing scheduled for January 12, 1999 that the property has duplex structures present on it. The distance from the project site to the duplex structures is under 200 feet by our calculation. We urge you to consider this factor in evaluating the application.
- **Applicants Cannot Meet Several Required Criteria.** The application still does not meet several of the required criteria. Specifically, applicants failed to present any evidence that there are no feasible alternatives to building a duplex on the property. Applicants concede that it is feasible to build a detached home on the property, but contend that it is not economical.

The criterion for a variance is not met if there is a feasible alternative to the variance that allows use of the property in a manner substantially the same as others in the surrounding area. The evidence at the hearing was that all of the properties surrounding the project site have only single family detached homes present. The closest site with duplex properties is not directly adjacent to the property and is located in a different zoning area. Moreover, the

City of Milwaukie Community Development Department

Title: Letter 07/12/31/98 Submitted by: HANSON Date: 1/5/99 # Pages: 2
File Numbers: CU-98-12/VR-98-09 Applicant: STANGLE Exhibit #: 2



fact that it may not be the most economical use of the property for applicants is not relevant in meeting the variance criteria.

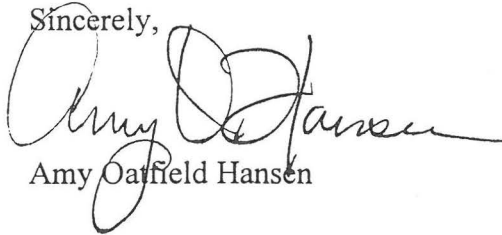
The purpose of variances is to allow a property owner the ability to make use of land otherwise unuseable, in a manner similar to surrounding properties. Because a variance can only be granted when *all* of the criteria are satisfied, the application should be denied.

- **Our Concerns About Adverse Effects Have Not Been Addressed.** Although we have expressed a willingness to discuss this matter with the applicants, we have not met, and none of our concerns have been addressed. If the application is granted, we request that the Planning Commission impose design and landscaping requirements on the property to protect the neighboring properties from the adverse effects of the duplex.

We look forward to further discussing our concerns regarding this application at the public hearing scheduled for January 12, 1999.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Oatfield Hansen". The signature is fluid and cursive, with a large initial "A" and "H".

Amy Oatfield Hansen

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

Hearing Date: January 12, 1999

120-Days: April 12, 1999

NDA: Ardenwald NDA

Date: January 6, 1999

File No.: MLP-98-06/
NCU-98-04

Application: Minor Land Partition to create 3 lots and a Non-Conforming Use Application to continue the use of an existing shop building for an auto restoration business on Lot 1.

Applicant: Howard Thompson

Property Owner: Same

Location: 3406 SE Olsen Street, Milwaukie, Map 11E Section 25DB, TL 900 (See Exhibit 2)

Zone: Residential Zone R-7

.....

PROPOSAL:

The applicant is requesting approval of a minor land partition to create three (3) lots from an existing 34,091 square foot lot (.78 acres). Lot 1 consists of 18,062 sq.ft., Lot 2 is proposed at 9,000 sq. ft. and Lot 3 is 7,029 sq.ft. The proposed partition is located in an R7-Residential Zone and is part of the Ardenwald Neighborhood Association. *See Exhibit 3.*

The proposal also consists of an application for the continuation of a Non-Conforming Use to continue the use of a shop building that houses an auto restoration business. A Non-Conforming Use was previously approved for this property on May 18, 1998 (*See Exhibit 7-Revised Notice of Director's Determination -Type I Administrative Review*).

BACKGROUND:

This Minor Land Partition application was submitted prior to the adoption of the new partitioning criteria on November 17, 1998. Therefor this application must be reviewed under the prior criteria (*See Exhibit 9*). All three of the lots will be accessed from SE Olsen Street. The site and the surrounding area is zoned R-7 – Residential. The proposal provides lot sizes that are larger than the R-7 zone minimums. *See Exhibit 2- Vicinity Map.*

There is an existing single family home on lot 2 that is proposed to remain. Lot 2 measures 150 feet long by 60 sq.ft. wide and is roughly 9,000 square feet in area. A portion of an existing carport on the lot is proposed for demolition and will be replaced to meet the City parking requirements of Section 500. The parcel has an existing shed that will also be removed in order to allow for the construction of a new single-family residence.

The parcel was previously approved to allow for a Non-Conforming Use at the site in May of 1998. The Non-Conforming Use consists of an Automotive Business that has been in continuous operation at the site since the early 1940's. *See Exhibit 8 – Chronology of Use.* The applicant would like to continue to operate the automotive business at this site.

RECOMMENDATION:

That the Planning Commission approve MLP-98-05 and deny the continuation of the Non-Conforming Use (NCU-98-04) based on the findings and subject to the conditions contained in Exhibit 1.

DISCUSSION:

Compliance with the Comprehensive Plan

The subject property has a Comprehensive Plan Designation of Low Density Residential that allows up to 6.7 dwelling units per acre. The proposed partition would result in the addition of 2 new dwelling units within the surrounding acre. Therefore, this proposal complies with Comprehensive Plan Objective 4, Policies 4 and 5 of the Residential Land Use and Housing Element. These Policies encourage rehabilitation of existing housing stock within Low-Density areas and maintenance of the single-family residential character of a neighborhood.

Compliance with Development Standards of the R-7 Zoning District

R-7 Standard Type	Lot #	Lot Area 7,000 Sq.Ft.	Lot Depth 80 Ft.	Lot Width 60 ft.	Front 20 Ft.	Rear Setback	Access 15Ft.
New Lot	1.	18,062 Sq. Ft.	134 Ft.	131Ft*			15 FT**
Existing SFR	2.	9,000 Sq. Ft.	150 Ft.	60 Ft.	62 Ft	20 Ft.	-----
New Lot	3.	7,029 Sq.Ft.	99 Ft	71 Ft.	-----	-----	-----

* The lot depth and width excludes the area included in the pole.

** Proposal stipulates a 12 foot wide paved access in compliance with Subdivision requirements.

The property is located within the R-7 (Residential, 7,000-sq. ft. minimum) Zoning District. The proposed Minor Land Partition meets the lot size and configuration requirements (*Exhibit 3*), that were in effect prior to November 17, 1998.

The applicant proposes to retain the existing home on lot 1. The existing home meets the setback requirements of the zone. The existing home and covered parking would have roughly 17% lot coverage (where 30% is the maximum allowed).

Compliance with Subdivision Criteria

This application was submitted prior to the partitioning changes that were adopted on November 17, 1998 and therefore must be reviewed under the prior partitioning regulations. (*Exhibit 9*).

Chapter 17.32 of the Subdivision Ordinance sets forth the regulations for land partitions. These provisions allow for the creation of lots from parcels that are under single ownership into smaller lots that meet the standards of the zoning ordinance.

Section 17.32.040 Flag lots. States that flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, considerations will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right of way could provide suitable access and avoid other flag lots.

Lot 1 as shown in *Exhibit 3* of the application is bounded by other private property on the south end and on the east and west sides of the property. If the application to partition this property is approved, the only access available to Lot 1 is off of SE Olsen Street. The applicant has exhausted all options of obtaining other access to a public right-of-way that would avoid the need to create a flag lot on this property.

The applicant's proposal meets all of the Subdivision Ordinance criteria that were applicable at the time the application was submitted.

Compliance with Non-Conforming Use Criteria

The applicant is asking for approval of a Non-conforming Use to continue the use of a shop building that is used in conjunction with a car restoration business.

A Non-conforming Use (NCU-98-01) approval to operate an automotive repair business was given, subject to conditions, on May 18, 1998. A chronology of the issues at the site related to the automotive repair business and the neighbors is provided at *Exhibit 8*.

Staff contends that subdividing the property substantially alters the use because the non-conforming use that received prior approval applied to the parcel as a whole. Under Section 802:

“A nonconforming use may be continued, but shall not be altered unless such alteration is approved by a the Planning Commission after a public hearing in accordance with subsection 1011.3, Minor Quasi-Judicial review upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use”.

The applicant's proposal to subdivide the property substantially impacts surrounding properties by maintaining a business in a smaller space surrounded by additional residential uses.

The applicant has indicated that he eventually wants to construct a single-family residence(s) on the proposed Lot 1, and 3 but has given no specific time line as to when that will be. He also has indicated that he will continue to use the existing gravel driveway that crosses proposed Lot 3 to continue to access the existing shop building that houses the automotive building.

The minor land partition as conditioned in Exhibit 1 is in compliance with the partitioning requirements of Section 17.032 of the Subdivision Ordinance that were in effect prior to November 17, 1998.

Staff is recommending that the continuation of the Non-Conforming Use be denied due to the significant impact on surrounding residential uses that would result due to the increased residential uses surrounding the property.

Neighborhood Association Comments

No comments have been received from the Neighborhood Association regarding this proposal.

Staff Comment:

The minor land partition as requested has been reviewed for compliance with the zoning requirements for minor land partitions that was in effect prior to the November 17, 1998 amendment, and as proposed meets all of the zoning requirements with the exception. Both of the lots fronting SE Olsen meet the minimum lot area requirement of 7,000 sq. ft. The lot depth requirements are met even with the 5-foot right of way dedication required by the Public Works Department. The dedication will provide sidewalk and drainage improvements to the area, which the NDA has indicated that they want.

Department of Public Works Comments

Exhibit 4 outlines the comments provided by Public Works. Olsen Street is an existing 26-foot asphalt street with curb and gutter and with a 4-foot sidewalk on the south side only. The existing right-of-way is 40 feet wide. Olsen Street is classified as a neighborhood street in the Transportation System Plan (TSP) which calls for a 50-foot right-of-way. The applicant is required to provide a 5-foot wide dedication of additional right-of-way along the entire frontage of the property along Olsen Street.

Sanitary sewer is available from an existing 4-inch line in the center of Olsen Street. The existing house is connected to City sewer through the one existing lateral line into the property. A new lateral will be required from the main line in Olsen Street to each of the two new lots. This will require a permit to open the street. Backfill for any portion of the trench over 4-feet deep in the street must be controlled density fill (CDF).

City water is available from an existing 4-inch line on the south side of the street. The size is adequate to provide domestic water to the proposed additional houses. The City water department has scheduled upsizing this line to 8-inch and adding fire hydrants in fiscal year 2000-2001. The City will install additional meters, as the expense of the owner, for the two proposed lots at the time of building on these lots.

Storm drainage is provided in Olsen Street at the low point to the west of this property. Roof drains may be run to curb or drywells. The existing house and shop must have roof drains connected to the curb or to a drywell. The driveway for the flag lot must have an inverted siphon catch basin connected to the curb or to a drywell. Size of drywells will be determined at the time of building permit application review.

The driveway for the flag lot must be paved a minimum of 12-feet wide with an inverted crown or sloped to one side with a berm along the edge to direct the storm water to a catch basin installed at the low point and piped to the curb or to a drywell. A right-of-way permit is required for all new driveway approaches that are constructed to Olsen Street.

A demolition permit is required to remove the existing garage to construct a flag lot driveway and a building permit must be taken out for construction of a new garage or carport to meet the requirement for one covered parking space prior to issuing any other permits.

The property to the west is not large enough to divide into two parcels, nor is there a potential to extend a street to the south through Rockwood Street. The parcel to the east has potential to be divided, however, there are already two houses on the one tax lot and it is not large enough for a third lot. Therefore, Public Works has no need, nor desire, for any public road dedication for a new street on this property to serve other properties.

An erosion control plan is required to be submitted along with the building permit. System Development Charges will be assessed on the building permits for the new houses for Water, Sanitary Sewer, Storm Drainage, Parks and Recreation, and Transportation.

The applicant has agreed to comply with the Public Works requirements.

Fire District Comments

Exhibit 5 provides the fire district comments regarding this proposal. The applicant must comply with the requirements stipulated by the fire district.

Other Comments

Exhibit 10 provides comments received as a result of the public notice that was mailed to neighbors surrounding the site.

CONCLUSION:

The proposed Minor Land Partition is consistent with the City's Comprehensive Plan and Zoning Ordinance as enforce prior to the November 17, 1998 amendments. It has been determined that the continuation of the Non-Conforming Use as proposed by the applicant is not consistent with the criteria of Section 800 for approval. The proposed alteration of the lot configuration would allow the business use to stand alone on a newly created lot that is zoned strictly for residential uses. This essentially changes the zoning of a residentially zoned lot and area into a business zone. Staff recommends approval of the Minor Land Partition (MLP-98-06) and denial of the continuation of the Non-Conforming Use (NCU-98-04) for any type of business.

FINDINGS FOR APPROVAL OF MLP-98-06

1. The applicant is proposing a 3 lot Minor Land Partition on property zoned R-7. (*Exhibit 3*) Lot 1 is proposed to be 18,062 square feet and Lot 2 is proposed to be 9,000 square feet and lot 3 is proposed at 7,029 sq.ft. The surrounding area is residential in character and is also zoned R-7.
2. Both of the proposed lots meet the minimum width, and rear yard setback of the existing single family residence all structure meets the current setback requirements of the R-7 zoning district.

3. The proposed Minor Land Partition is consistent with Land Use Objective 4, Policies 4 and 5, of Milwaukie's Comprehensive Plan, in that it preserves existing housing stock and maintains the single family scale of surrounding properties.
4. Partitioning submission requirements are those of Section 17.32 of the Subdivision Ordinance. The preliminary Plat (*Exhibit 3*) meets applicable standards of Section 17.32.020 of the Subdivision Ordinance.
5. The Department of Public Works has provided comments regarding required Developer installed improvements for utilities and access, and storm drainage connections. (*Exhibit 4*).
6. Minor Land Partition (MLP-98-05) and minor variance (VR-98-07) requires an Administrative Type II review per Section 17.32.030 of the City's Subdivision Ordinance. At the Planning Director's request, however, this review, followed the provisions for Minor-Quasi-Judicial Review, Section 1011.3. Public Notice has been issued in accordance with the provisions of Section 1011.2.

FINDINGS FOR DENIAL OF NCU-98-04

7. The proposed partitioning or modification of this parcel results in significant alteration to the Non-Conforming Use. The partition brings additional uses closer to the Non-Conforming Use. Section 802 of the Milwaukie Zoning Ordinance states that the continuation of a Non-Conforming Use must not result in additional detriment to surrounding properties.
8. The proposed minor land partition will allow an increase in the number of residences in the immediate area to the Non-Conforming Use.
9. The alteration requested by the applicant results in an increased impact by the Non-Conforming Use on residential uses by bringing more residential parcels closer to the Non-Conforming Use.
10. The alteration results in greater detriment to the surrounding properties than the existing use.

EXHIBITS:

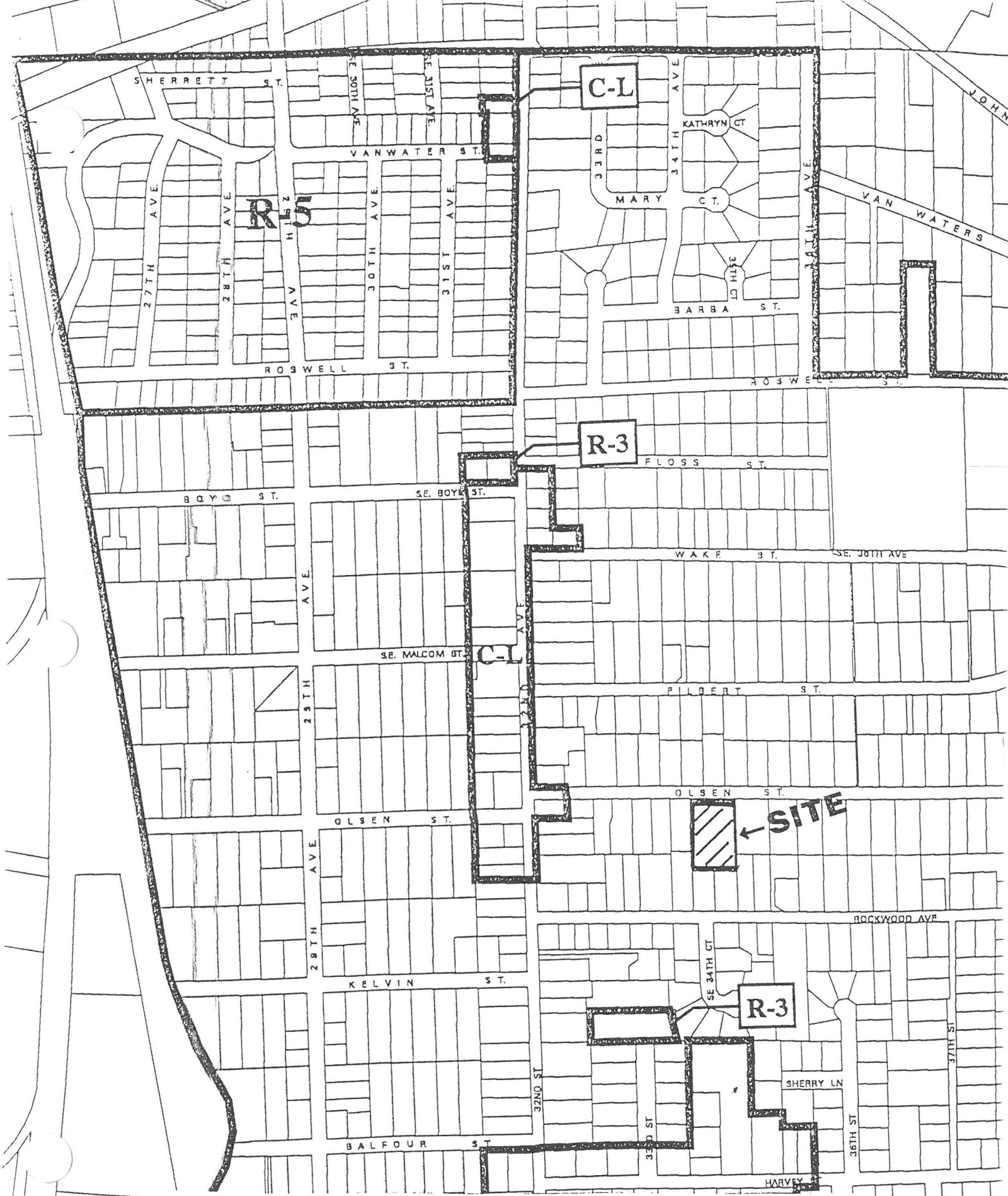
1. Recommended Conditions of Approval
2. Vicinity Map
3. Proposed Minor Land Partition Plat Map
4. Department of Public Works Memo
5. Clackamas County Fire District
6. Surrounding Property Map
7. Revised Notice of Director's Determination – Type I Administrative Review
8. Chronology of the Non-Conforming Use
9. Subdivision Ordinance Criteria in effect prior to November 17, 1998
10. Public Comments

EXHIBIT 1

CONDITIONS FOR APPROVAL FOR MLP-98-06

1. Parcel configuration shall be generally as indicated in *Exhibit 3* of the Staff Report.
2. Submittal of the Final Partition Plan shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction, completion of required improvements and compliance with conditions of approval. This submittal must occur within one year of this preliminary plat approval.
3. The requirements identified in the Department of Public Works Memo dated December 18, 1998 shall be complied with. (*See Exhibit 4*).
4. The existing shed on the southeast portion of proposed lot 1 shall be removed. A demolition permit is required prior to removal.
5. The existing garage on Lot 2 shall be removed and replaced to supply new covered parking on proposed Lot 1 to serve the existing house and replace the covered parking in accordance with Section 500 of the Zoning Ordinance. A demolition permit must be obtained prior to the demolition of the building.
6. The existing shop building that houses the automotive business shall be removed prior to signing the final plat.
7. The existing gravel driveway that accesses the shop building and automotive business must be closed and access to the proposed Lot 1 shall be from the proposed access on the west side of the existing single family residence.
8. The automotive business will be moved from the property to a different site or closed down at the site prior to the City signing the final plat.
9. The applicant shall comply with all requirements for access and fire safety of the South Metro Fire District as outlined in *Exhibit 5*.
10. Erosion control permits shall be obtained, as required, from the Department of Public Works, prior to construction.
11. Any deed restrictions proposed by the applicant shall be provided to the City Community Development Department for review to ensure that there are no conflicts with City Ordinances.

12. The applicant is required to extend sewer and water services to serve the lots. Sanitary sewer and water facilities are available from mains on SE Olson Street.
13. Utilities shall be installed underground. A five foot-wide right-of-way dedication is required along the entire Olson Street frontage as stipulated by the Public Works Memorandum dated December 18, 1998 (*Exhibit 4*).
13. The applicant shall provide a 6-foot privacy fence around the side and rear property lines of the flag lot (Lot 1), as well as along the west side of the access drive to the 20-foot front yard set back line.




City of Milwaukie Community Development Department

Title: Vicinity Submitted by: CD Date: 1/5/99 # Pages: 1

File Numbers: MLP-98-06322 Applicant: Thompson Exhibit #: 2

98-06



MEMORANDUM

RECEIVED
DEC 18 1998
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger, P.E. *P. Roeger*
Civil Engineer

RE: MLP-98-06
3406 SE Olsen Street

DATE: December 18, 1998

Olsen Street is an existing 26-foot asphalt street with curb and gutter and with a 4-foot sidewalk on the south side only. The existing right-of-way is 40-foot wide. Olsen Street is currently classified as a neighborhood street in the Transportation System Plan (TSP) which calls for a 50-foot right-of-way. Therefore, we must require dedication of an additional 5-feet along the entire frontage of Olsen Street.

City sanitary sewer is available in the center of Olsen Street. The existing house is connected to City sewer. There is only one lateral into the property. A new lateral will be required from the main line in Olsen Street to each of the two new lots. This will require a permit to open the street. Backfill for any portion of the trench over 4-feet deep in the street must be controlled density fill (CDF).

City water is available from an existing 4-inch line on the south side of the street. The size is adequate to provide domestic water to the proposed additional houses. The City water department has scheduled upsizing of this line to 8-inch and adding fire hydrants in fiscal year 2000-2001. The City will install additional meters, at the expense of the owner, for the two proposed lots at the time of building on these lots.


Storm drainage is provided in Olsen Street at the low point to the west of this property. Roof drains may be run to the curb or to drywells. The existing house and shop also must have the roof drains connected to the curb or to a drywell. The driveway for the flag lot must have an inverted siphon catch basin connected to the curb or to a drywell. Size of drywells will be determined at the time of building permit application review.

The driveway for the flag lot must be paved a minimum of 12-feet wide with an inverted crown or sloped to one side with a berm along the edge to direct the storm water to a catch basin installed at the low point and piped to the curb or to a drywell. A right-of-way permit is required for all new driveway approaches that are constructed to Olsen Street.

A demolition permit is required to remove the existing garage to construct the flag lot driveway and a building permit must be taken out for construction of a new garage or carport to meet the requirement for one covered parking space prior to issuing of any other permits.

The property to the west is not large enough to divide into two parcels, nor is there potential to extend a street to the south through to Rockwood Street. The parcel to the east has potential to be divided, however, there are already two houses on the one tax lot and it is not large enough for a third lot. Therefore, Public Works has no need, nor desire, for any public road dedication for a new street on this property to serve other properties.

System Development Charges will be assessed on the building permits for the new houses for Water, Sanitary Sewer, Storm Drainage, Parks and Recreation, and Transportation.

City of Milwaukie Community Development Department				
Title: <i>PW Comments</i>	Submitted by: <i>PW</i>	Date: <i>1/5/99</i>	# Pages: <i>1</i>	
File Numbers: <i>mlp-98-06/12/98</i>	Applicant: <i>Thompson</i>	Exhibit #: <i>4</i>		

Clackamas County Fire District



Fire Prevention Division

2930 SE Oak Grove Blvd.
Milwaukie, Oregon 97267
(503) 655-8537
Fax - (503) 655-8880

RECEIVED

JAN 04 1999

CITY OF MILWAUKIE
BUILDING DIV.

To: Janet Wright Assistant Planner City of Milwaukie

From: Tom Crowder Deputy Fire Marshal

Re: MLP ??- 3406 SE Olsen

Date: January 4, 1999

After careful review the **Prevention Division of Clackamas County Fire District #1** wishes to report the granting of this minor land partition to divide an existing parcel into three tax lots, is not in conflict with the **Uniform Fire Code** adopted by the City Of Milwaukie, as long as it meets the following requirements.

The first is the requirement that fire department access be provided and **maintained** with a minimum access road of 12 feet within a clear space 20 feet in width, a minimum vertical clearance of 13 feet 6 inches and in conformance with City requirements for driveway access. The access road must be of an all weather type which will handle a minimum of 50 thousand pounds weight load. Additionally, addresses must be *visible from the street* on a contrasting background which identifies each site location on the lot. Fire department turnarounds are required when the distance from the street on the access roadway exceeds 150 feet. Finally, there is a requirement that a fire hydrant be within 500 feet of the furthestmost structure on the lot. This can be field verified by the applicant and also by the water department.

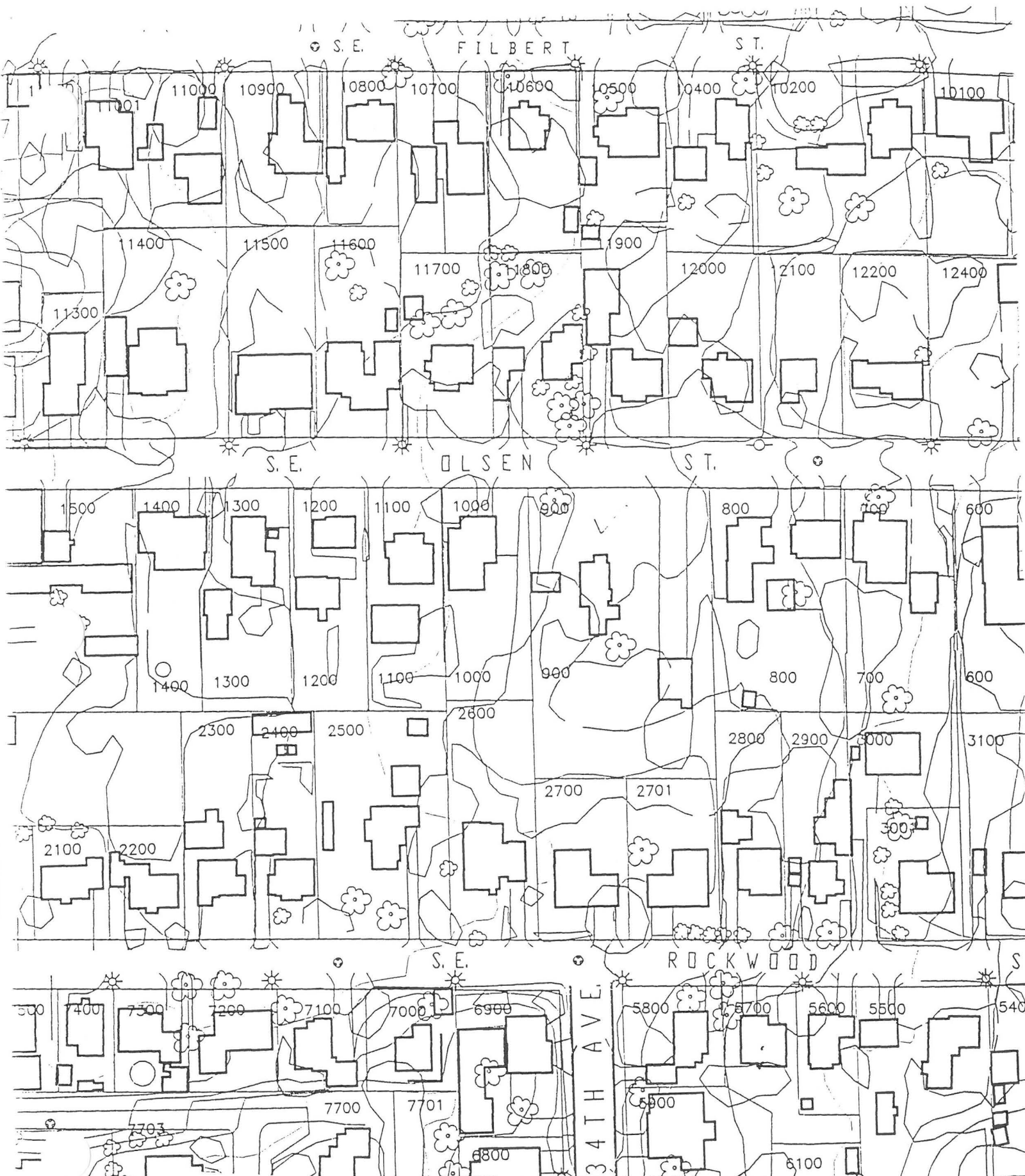
Yours in Fire and Life Safety,


Tom Crowder
Deputy Fire Marshal

City of Milwaukie Community Development Department

Title: Fire Dist Comment Submitted by: CCFD Date: 1/5/99 # Pages: 1
File Numbers: MLP-98-06/UCM Applicant: thompson Exhibit #: 4
98-04





City of Milwaukee Community Development Department

Title: Sub Prop Map Submitted by: CD Date: 1/5/99 # Pages: 1

File Numbers: MP-98-06/NCU Applicant: Thompson Exhibit #: 6

98-04



City of Milwaukie
NCU 98-01



May 18, 1998

NCU 98-01

Revised Notice of Director's Determination - Type I Administrative Review

This notice is issued pursuant to Section 1011.1 of the Milwaukie Zoning Ordinance, and shall serve as an official determination by the Milwaukie Community Development Department that an automotive repair business may be operated at 3406 SE Olsen Street as a legal nonconforming use based upon the following findings, and subject to the conditions listed below.

Findings:

1. The subject property is located in an R-7 Single Family Residential Zoning District. In addition to the nonconforming auto repair business and building, there is an existing single-family dwelling located on the property.
2. This area has been zoned for residential uses since Milwaukie adopted a Zoning Ordinance in 1946. It appears as an R-7 district on the 1968 City Zoning Map. Section 800 of the Milwaukie Zoning Ordinance sets forth the procedures governing the maintenance, use, expansion, and cessation of nonconforming uses and structures.
3. There has been an automotive repair business operating at this location for many years. The Community Development Department has on-file approved business licenses for Harold Bonin's Auto Repair at this address. Mr. Bonin operated the business between 1985 and 1996. The property was leased to Jerry Wiese in 1983 for use as an auto repair shop, and leased to Michael Gradt dba Competitive Rebuild from 1973 until 1977. It would appear that all auto repair activities have been limited to the Quonset hut and surrounding one-third acre situated on the southeast portion of tax lot 900 (Map 1 1E 25DB).
4. Mr. Howard Thompson applied for a business license from the City on January 10, 1997. A notice was sent to Mr. Thompson on May 9, 1997 informing him that the operation of an auto repair business in the R-7 Residential District was incompatible with Section 5.04.120 of the Municipal Code. This use cannot be considered a home occupation pursuant to Sections 100 and 401.1.E. of the Milwaukie Zoning Ordinance because it occurs in a detached structure. Additionally, the operator of the repair business does not live on the premises.

Conclusion:

Staff research leads to the conclusion that an automotive repair business appears to have been operated continuously on this property since the time that Zoning was initiated in Milwaukie. This use has been limited to the Quonset hut and immediate surrounding area in the southeast olsnauto.doc


COMMUNITY DEVELOPMENT • PUBLIC WORKS

City of Milwaukie Community Development Department				
Title: <i>Rev Notice @ Dir Det</i>	Submitted by: <i>CD</i>	Date: <i>1/5/98</i>	# Pages: <i>3</i>	
File Numbers: <i>MLP-98-01/NCU 98-01</i>	Applicant: <i>thompson</i>	Exhibit #: <i>7</i>		

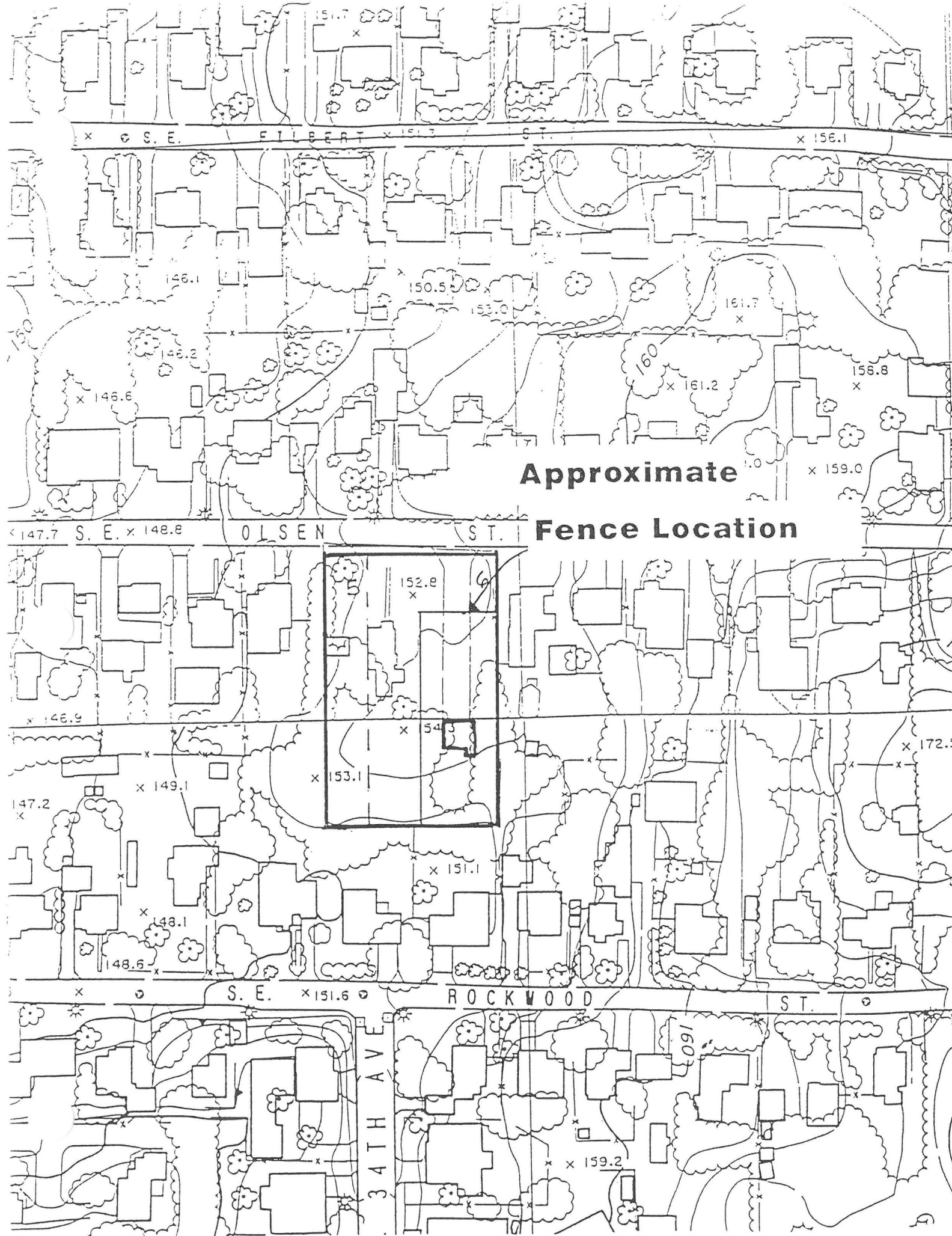
corner of the lot. Therefore, this activity and structure shall be considered legal nonconforming subject to the provisions of Section 800 of the Milwaukie Zoning Ordinance.

Conditions:

1. The automotive repair activities shall be limited to the Quonset hut and surrounding one-third acres, the south-east portion of tax lot 900 (Map 11E25DB). The operation shall be limited to general maintenance including engine, transmission and clutch, electrical, brake, tune-ups and similar work. Body and paint work is specifically prohibited. Dismantled cars used for parts shall not be stored on the site.
2. All vehicles being serviced or related to the operation of this business shall be parked in front of the existing Quonset hut (3406A Olsen Street). There shall be a graveled driveway to the Quonset hut, and a graveled area for no more than the parking of 10 cars shall be allowed. Paving of the site shall be prohibited. The area permitted to be used for auto repair shall be enclosed and screened by a six-foot high solid fence. This fence shall extend from a line approximately equal to the front of the existing residence on the site to the rear property line. A six foot high fence shall not be permitted to extend more that six feet in front of the residence towards Olsen Street. A maximum of 10 vehicles may be kept on the premises in relation to the business. The gravel and fence shall be installed no later than July 30, 1998.
3. No oils or solvents shall be stored outside. All such substances shall be recycled in accordance with Oregon Department of Environmental Quality guidelines and requirements.
4. A maximum of one employee shall be permitted on the premises at any time in addition to the proprietor/owner.
5. There shall be no noticeable noise, smoke, odor, dust, gases, vibration or glare associated with the business operation that would be detectable off of the premises.
6. One four square-foot nonilluminated sign - not exceeding three feet in height if ground mounted - shall be permitted.
7. Any expansion or change in the nonconforming use or structure shall be reviewed in accordance with Section 800 of the Milwaukie Zoning Ordinance. Renewal of the business license for an automotive repair business at this premises shall be contingent upon demonstrated compliance with the conditions stipulated in this Notice of Determination.



Michael Swanson,
Interim Community Development Director



**Approximate
Fence Location**

S. E. FILBERT ST. x 151.7 x 156.1

x 147.7 S. E. x 148.8 OLSEN ST.

S. E. x 151.6 ROCKWOOD ST.

34TH AVE

152.8
x
54
x 153.1

146.1

150.5

161.7

x 146.6

146.2

x 161.2

156.8

x 159.0

x 146.9

x 172.5

147.2

x 149.1

x 153.1

x 151.1

x 148.1

148.6

160

x 159.2

3406 Olsen Street:

- Early 1940's - An auto repair business was established on the site.
- 1946 - The City's first Zoning Ordinance was adopted.
- 1940's - An auto repair business has continued to operate since that time,
Present however, ownership has been transferred four times. The City has approved business licenses for the previous operator based on the non-conforming use status.
- January 1997 - Current owner, Howard Thompson, applied for a business license.
- May 1997 - The license was denied based on the use not complying with the current Zoning Code. Following receipt of the denial, the operator contacted the Planning Department with information regarding the history of the site as an auto repair facility.
- August 1997 - A citizen's complaint was received from a neighbor.
- August - The operator submitted lease agreements and business license
December '97 information dating back to the 1970's. The operator also submitted letters from neighbors and the previous operator to further document the use of the site.
- January 15, '98 - A Director's Determination, to formally document the non-conforming auto repair use of the site was issued.
- April 8th - A letter was received from one of the neighbors stating that the operation had expanded. This complaint was investigated and a copy of the Director's Determination was given to the complainant.
- April 13th - A petition was received from several neighbors stating their concern over the expansion of the use on the site and requesting a hearing before the Planning Commission. The primary complainant was told that an appeal of the Director's Determination would need to be made to hold a public hearing, however, Planning staff would enforce compliance with the January 15, 1998 conditions of approval.
- April 15th - A letter of non-compliance was sent to the operator from planning staff.
- April 16th - An appeal of the Director's Determination was received by planning staff and at tentative hearing date of June 9, 1998 was set.
- April 20th - Four complaints were received from neighbors.

City of Milwaukie Community Development Department

Title: Chronology of NCU Submitted by: CD Date: 1/5/98 # Pages: 2
File Numbers: mp 148 06/12/98 Applicant: Thompson Exhibit #: 8



- August 21st - Planning staff send letters to all petitioners and complainants indicating that an appeal had been filed and that a tentative hearing had been set.
- May 1st - Planning staff inspected the operation and found it to be in compliance with the January 15, 1998 conditions and issued a letter to the operator stating this.
- May 4th - A letter was received from the Ardenwald NDA stating their concerns with some of the conditions of approval. Of particular concern were conditions requiring erection of a six foot high fence and paving.
- May 5th - A complaint was received that a cargo container had been moved on to the operator's site. A inspection was made by the Planning and Building Departments and the operator was required to move the container from the site.
- May 14th - Planning staff met with the operator and the complainant to mediate and resolve the issues of conflict. This resulted in a revised Director's Determination with new conditions of approval to which both parties agreed. At this meeting, the complainant agreed to withdraw the appeal provided the agreed upon conditions were enforced.
- May 18th - The revised Director's Determination was issued. The revised conditions included further defining the area of operation by specifying the location a six foot fence, limiting the number vehicles kept on the site and prohibiting paving of the site. This Decision was mailed to all neighbors who had previously complained or signed a petition.
- June 23rd - The appeal was formally withdrawn. No comments were received from anyone who was sent a copy of the revised Director's Determination.
- June 29th - A call was received stating that a six foot tall fence was being constructed in a location not in compliance with the May 18th conditions. An inspection was made and a warning letter was posted on the fence.
- June 30th - Further investigation revealed that this fence was being constructed by the adjacent property owner for their single family residence.

To date the only unresolved issue involves the placement of a six foot tall fence between the non-conforming auto repair operation and the single family residence that also occupies the site. The operator would like to continue the six foot fence*to within 20 feet of the front yard setback for this property. The complainant believes that this violates the City fence code. Staff has recently received an opinion from the City Attorney that indicates that City fence regulations only apply to perimeter fences. Since this fence would be between two uses on the same site, the City cannot regulate it.

CHAPTER 17.32. PARTITIONING

17.32.010. Approval procedure. A parcel of land or contiguous parcels under a single ownership within the city shall not be partitioned into two or less than four parcels for transfer of ownership or building development so as to conflict with applicable standards for subdivision as set forth in this Section. Such land partitioning, other than subdivision or the creation of a street or way, shall be known as partitioning and shall be approved under the procedure provided in this Chapter.

17.32.020. Submission of plans. There shall be submitted to the Community Development Office, at least fourteen days prior to the Planning Commission meeting at which consideration is desired, four copies of a sketch map eight and one-half inches by eleven inches, or eighteen inches by twenty-four inches in size with the following information:

- A. The date, north point, scale, and sufficient description to define the location and boundaries of the parcel to be partitioned and its location. Topography of land within two hundred fifty feet of all boundaries;
- B. The name and address of the record owner or owners and of the person who prepared the sketch map;
- C. The approximate acreage of the parcel under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partitioning;
- D. For land adjacent to and within the parcel to be partitioned, the locations, names, and existing widths of all streets and easements-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, and power poles;
- E. The location of existing structures to remain in place;
- F. The lot layout, showing size and relationship to existing or proposed streets and utility easements;
- G. Such additional information as required by the Planning Commission.

17.32.030. Administrative approval. Minor partition requests shall be processed according to Section 10.05(B) of the Zoning Ordinance, Type II Administrative Review.

17.32.040. Flag lots. Flag lots may be created by partitioning under the following conditions:

- A. Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, consideration will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots.

City of Milwaukie Community Development Department

Title: Part Criteria Submitted by: CD Date: 1/5/98 # Pages: 4
 File Numbers: MLP 98-06/NCU Applicant: thompson Exhibit #: 9
08-04



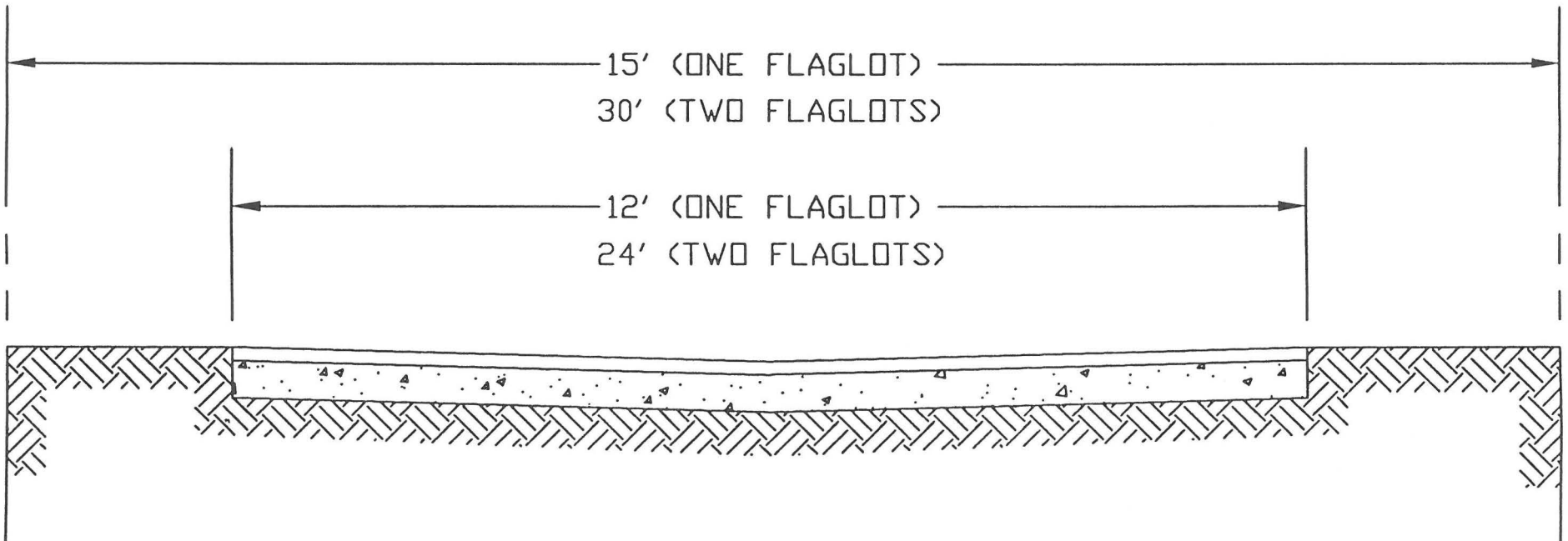
FROM THE SUBDIVISION ORDINANCE, CHAPTER 17.32., PARTITIONING

17.32.040. Flag lots. Flag lots may be created by partitioning under the following conditions:

- A. Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, consideration will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots.
- B. For any flag lot, the minimum width of the access strip will be fifteen feet, twelve feet of which must be paved for the full length of the access strip. The entire length of the access strip shall be kept clear of obstructions to access. These minimum standards may be increased if the Community Development Director determines such is necessary to guarantee adequate and safe access. A paved turnaround area, or other requirements intended to provide for emergency accessibility or reduced fire potential, may be required by the Fire Marshal to meet provisions of the Uniform Fire Code. In such a case, turnaround standards, or other requirements of the Fire Marshal, shall be provided by the Fire Marshal.
- C. Where two flag lots will have abutting access strips, the combined width of the two access strips shall not be less than thirty feet. A joint access easement shall be created for the two flag lots, which extends to the deepest lot for the full width of the combined access strips. Within the joint access strip, a common driveway with a minimum paved width of twenty feet shall be provided which extends from the street to the deepest parcel. At the end of the joint access easement, a paved turnaround area, or other requirements intended to provide for emergency accessibility or reduced fire potential, may be required by the Fire Marshal to meet provisions of the Uniform Fire Code. In such a case, turnaround standards, or other requirements of the Fire Marshal, shall be provided by the Fire Marshal.
- D. Proposed flag lots shall be referred to the Public Works Department and the Fire Marshal's office for review and recommendation or decision on appropriate improvements and other requirements to be provided by the applicant. These may include: paved access driveways constructed to residential street standards; special additional easements for utilities; vertical clearance for fire equipment; sewer lines and pumps; water meters and lines for adequate flows and pressures; fire hydrants; special post for display of house numbers at street entrance to access easement; street lights; and assurance of clear vision conditions at access entrance.
- E. Although discouraged by the Planning Commission, development of three or four flag lots in which there are more than two lots in depth from a public street may be considered by the Planning Commission under the variance procedure. Increased standards for improvements in such cases shall be as determined by the Planning Commission with advice from Public Works and other departments as appropriate.

MINIMUM REQUIREMENTS:

- (1) 2" ASPHALTIC CONCRETE PAVING
- (2) 4" 3/4"-0" CRUSHED ROCK (ONE FLAGLOT)
2" 3/4"-0" CRUSHED ROCK (TWO FLAGLOTS)
- (3) 4" 1-1/2"-0" CRUSHED ROCK (TWO FLAGLOTS)
- (4) DRIVEWAYS SHALL HAVE INVERTED CROWN OF 2%. ALL STORM WATER FROM DRIVEWAY SHALL BE CONTAINED BY CATCHBASINS & DRYWELL. THE DRYWELL SHALL HAVE AN OVERFLOW LINE EXTENDING TO STORM SEWER OR STREET RIGHT OF WAY FOR FUTURE STORM SEWER.



TYPICAL DRIVEWAY FOR FLAGLOTS

CITY OF MILWAUKIE DEPT. OF PUBLIC WORKS

17.32.060. Compliance with subdivision requirements. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided into small parcels. This provision applies if the parcel of land to be partitioned exceeds two acres and within a year is being partitioned into more than two parcels, any one of which is less than one acre.

17.32.070. Filing of map. When a sketch map has been approved, all copies shall be marked with the date and conditions, if any, of approval. Two copies shall be returned to the applicant, and two copies shall be retained by the Planning Commission.

January 4, 1999

Bob & Linda Tilley
3425 SE Rockwood
Milwaukie, OR 97206

Milwaukie Planning Commission
City of Milwaukie
Community Development Department
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RECEIVED

JAN 04 1999

CITY OF MILWAUKIE
BUILDING DIV.

Re: Minor Land Partition (File #MLP-98-06)
3406 SE Olsen

The property at 3406 SE Olsen is directly behind our house at 3425 SE Rockwood.

We are in favor of the proposed partition to three lots and removal of the Non-conforming usage. The lot has been an eyesore for years, has degraded the residential usage of the area and is a possible avenue for the vandalism to our house.

Thank you in advance for taking our viewpoint into consideration.

Bob & Linda Tilley

City of Milwaukie Community Development Department

Title: Public Comment Submitted by: CD Date: 1/5/99 # Pages: 1
File Numbers: mlp-98-06/NCU 98-04 Applicant: Thompson Exhibit #: 10



CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

120 Days: March 24, 1999
NDA: Hector Campbell

Date: January 5, 1999
File No.: MLP-98-07

Application: Minor Land Partition to Create 2 Lots
Applicant: Richard Kassebaum
Property Owner: Janet C. Jolley
Location: 5005 SE Park Street
See Exhibit 2 Location Map
Map & Tax Lot: 1 2E 31BD 01300
Zone: R-7

.....
RECOMMENDATION:

It is recommended the Planning Commission approve MLP-98-07 based upon the findings contained in this report and further that it be subject to the conditions in Exhibit 1.

EXECUTIVE SUMMARY

This application is referred to the Commission because of issues related to nearby flag lot potential and potential for construction of a public street. Public Works Department has advised a future public road is unwarranted and undesirable. Staff believes the analysis of this issue and resulting conclusion is worthy of the Commission's attention. The most significant site development issues are minimization of impacts to abutting neighbors to north and west and preservation of existing vegetation. Staff finds the application to be consistent with the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance and has no objection to the application being approved.

PROPOSAL

The applicant is requesting approval of a two-lot minor land partition of an existing 19,000 square foot lot located on the north side of Park Street east of Home Avenue. The lot presently contains a single-family residence and a detached garage. Parcel 1 (8560 s.f.) contains the existing house and detached garage and Parcel 2 (10,440 s.f.) a

flag lot contains lawn and cultivated landscape plantings. See Exhibit 3 for plan of proposed partition. Site topography is flat from the street extending to the rear of the existing house. The site then slopes gently to the north. The total elevation change is less than three feet. The site is bounded westerly, northerly, and easterly by residential lots. Rear and side yard setbacks of the three houses to the west and northwest are nonconforming; buildings on these lots are within a few feet of the shared property boundary.

The access-strip that serves Parcel 2, (107' in length) is located easterly of Parcel 1. The house on the neighboring lot to the east is located within 8' of the property line. A chain link fence separates the two lots. A number of large landscape plantings (rhododendron & laurels) are located along the shared property line. These plants may have to be removed for driveway construction. The site contains several significant cedars exceeding 30" diameter at breast height. These trees are clustered around the existing house and garage.

Water and sewer service is located in Park Street.

DISCUSSION

Effect of Regulations Affecting Flag Lots Adopted Nov. 17, 1998

This application is subject to zoning and subdivision ordinances in effect prior to the amendments adopted by the City Council on November 17, 1998.

Compliance with the Comprehensive Plan.

This application is subject to Milwaukie Comprehensive Plan, Chapter 4 – Land Use , Residential Land Use and Housing Elements. A summary of relevant policies and an analysis of consistency with those policies follows.

1. Objective #1 – Buildable Lands: To utilize lands according to their relative measure of buildability based on Special Policies Classifications of flood or geologic hazard, steep slopes, soils, and wildlife. Additionally, Policies and standards found in Historic Resources, Natural Hazards and Open Spaces, Scenic Areas, and Natural Resources Elements apply.

Staff Response: The application complies with Objective #1. The site contains no limitations based on Special Policies Classifications nor does it appear on the Natural Resources Map.

2. Objective #2 – Residential Land Use: Density and Location, Policy 1

Residential Density. The lot and surrounding properties are designated "low density " on the Milwaukie Comprehensive Plan Map 7, Land Use. Chapter 4 , Residential Land Use and Housing Element describes low density as providing

for up to 6.7 units per net acre. The maximum density allowable in low density areas results is based upon an average of 4,876 square feet of lot area per dwelling unit. The density of the proposal is 1 unit per 9,500 square feet of lot area.

Staff response: The application complies with policies of Objective #2 concerning the location and density of residential development. The proposed density is consistent with the density rate specified in the comprehensive plan.

3. Objective #3 – Residential Land Use:- Design: encourage a desirable living environment by allowing flexibility in design and minimizing the impact of new construction on existing development. Policies 6 & 7 specify that existing tree coverage is to be preserved whenever possible and that trees should be protected during construction by conditions attached to the building permit. The site has a number of significant trees, the preservation of which, among other measures, would aid in minimizing potential visual impacts of new development.

Staff Response: Existing trees have been identified. The recommended conditions of approval (Exhibit 1) include provisions for preservation and protection of those that do not interfere with fire access or siting of essential structures. Based upon these conditions, the application complies with Objective #3

4. Objective #4 – Neighborhood Conservation: Encourage the long-term maintenance of the City's housing Stock. Policy 4 encourages rehabilitation of older housing stock in lieu of "large area clearing". The predominant housing type is specified as single-family detached except that single family attached may be permitted subject to location and other criteria of the zoning ordinance.

Staff Response: If interpreted narrowly, a minor land partition, or other application that proposes demolition of existing housing would be subject to Objective #4. This proposal is designed to allow the existing house to remain. No removal of existing structures is proposed and the housing proposed is single family detached, therefore the application complies with Objective #4.

5. Objective #5 – Housing Choice: Encourage an adequate and diverse range of housing types and optimum utilization of housing resources to meet the housing needs of all segments of the population.

Staff Response: The proposal meet the above stated intent of Objective #5. However, the specific polices either do not apply or require broad interpretation in order to apply to this application. Policies 2,4, and 5 involve Planned Unit Development (PUD), mobile home parks, and lands within the Regional Center. These policies do not apply. Policy 2 concerns manufactured housing. The application does not state whether or not a

manufactured home is to be developed. There is no reason a manufactured home could not or should not be located on this property.

Policy 1 states the City "will encourage the development of infill housing that uses innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment".. The policy identifies techniques such as reduced lot size requirements, attached single family units, and small units as examples of innovative development techniques. If the purpose of this policy is *to effect reduced housing costs* it can be reasonably argued it does not apply to the creation of lots via minor land partition except through the very broad argument that an adequate supply of housing tends to control the rise of housing costs.

6. Objective #6 – Housing Assistance: Assist low and moderate income households in obtaining adequate housing.

Staff Response: The polices of this section are specific to low and moderate income housing needs and programs, therefore Objective #6 does not apply.

Compliance with Milwaukie Subdivision Ordinance

1. 17.32.040.A Access by dedicated public street and avoidance of other flag lots.
Five lots to the east of 5005 SE Park have lot area sufficient for the creation of 5 lots. The Public Works Department has reviewed the potential for creation of a public roadway and has deemed such to be undesirable and unwarranted.
2. 17.32.040.B Flag lot access & turn-around design.
The plan meets the specified design standards of a 15' wide access strip with a 12' paved surface.
3. 17.32.040.C Adjoining rear lots.
The application proposes only one flag and the proposed flag lot does not abut another flag lot. Accordingly, this section does not apply
4. 17.32.040.D Referral to Public Works & Fire departments.
Fire Department and Public Works Departments have reviewed the applications. Comments and recommendations are included in this report.

5. 17.32.040.E Three or more flag lots.

Not applicable. The proposed flag lot is one lot deep from SE Park. There is no potential for additional flag lot development more than one lot deep on the subject lot or adjoining lots.

Compliance with Milwaukie Zoning Ordinance

The proposal complies with applicable sections of the Milwaukie Zoning Ordinance as demonstrated in the following table.

R-7 Zoning Standards:

Standards	Std. measure	Parcel 1	Comply	Parcel 2	Comply
lot area, s.f.	7,000 min.	8,560	yes	10,440	yes
lot width	60' ft.	80'	yes	95'/93' ⁵	yes
lot coverage	30%	18%	yes	0% ¹	yes
lot depth	80' ave.	107'	yes	95'/93' ⁵	yes
lot frontage	35'/15'	80'	yes	15'	yes
bldg. height	35' ¹ / ₂ stories	n.a.	n.a.	n.a.	n.a.
yards, f/s/r	20/5&10/20	40/10+/ ² 20	yes	n.a.	n.a.
accessory structures		see note 3 below	yes	n.a.	n.a.
parking	2, 1 of which is covered	2 covered, 80' of driveway	yes	See note 4 below	See note 4 below
Solar Access Design Standard	Sec. 1303.3.A n/s dim. >90' or front line <30 degrees of e/w	design complies; significant existing trees	yes	n/s dim > 90' & front line is e/w	yes

1. Proposed coverage of 20% is variable subject to actual building footprint.
2. Each side yard for principal structure exceeds 10'.
3. Existing garage on Parcel 1 is 480 square feet, field verified, 78' from r-o-w, setbacks are 3' (existing side) and 7'(proposed rear).
4. Plan shows parking area of 480 s.f.(+/-) outside of, and not conflicting with access strip.
 480 s.f. is sufficient of 2.7 9'x 20' parking spaces; plans submitted do not indicate # of covered parking spaces. See recommended conditions of approval for requirements to demonstrate compliance.
5. Consistent with city practice property owner may choose building orientation for flag lots; design of parcel 2 meets lot depth and width requirements for both n/s or e/w orientations.

COMMENTS

HECTOR CAMPBELL NDA: David C. Murray, Land Use Chair, 11/3/98 (original correspondence in application file)

My main concern is the driveway width and turnaround. It should be the required dimension without a variance.

Staff Response: The development plan shows driveway widths to be in accordance with applicable requirements. See also comments concerning driveway design under Fire Marshal comments.

PUBLIC WORKS: Paul Roeger, P.E., Civil Engineer Public Works Department 10/28/98 (original correspondence in application file)

Park Street is a dedicated 50-foot right-of-way with approximately 17-feet of asphalt street with no curb or sidewalk. The property owner must sign an "Agreement for Real Property Improvements" for future street improvements to Park Street, including curb, gutter, sidewalk, storm drainage and appurtenances before the City will sign the partition plat.

City sanitary sewer is available in the center of Park Street from an 8-inch main. The existing house is connected to City sewer. There is only one lateral into the property. A new lateral will be required from the main line in Park Street to the new lot. This will require a permit to open the street. Backfill for any portion of the trench over 4-feet deep in the street must be controlled density fill (CDF).

City water is available from an existing 6-inch line on the south side of the street. The size is adequate to provide domestic water to the proposed additional house.

Storm drainage in this area is provided by drywells. Roof drains for the existing house and any new buildings must be run to drywells. The driveway for the flag lot must have an inverted siphon catch basin connected to a drywell. Size of drywells will be determined at the time of building permit application review.

The driveway for the flag lot must be paved a minimum of 12-feet wide with an inverted crown or sloped to one side with a berm along the edge to direct the storm water to a catch basin installed at the low point and piped to a drywell. A right-of-way permit is required for all new driveway approaches that are constructed to Park Street.

An erosion control plan and permit application must also be submitted along with the building permit application.

System Development Charges will be assessed on the building permit for the new house for Water, Sanitary Sewer, Storm Drainage, Parks and Recreation, and Transportation.

Staff Response: The referenced "Agreement for Real Property Improvements" secures agreement of present and future property owners to participate in a future Local Improvement District. No public facility improvements are required at this time.

CLACKAMAS COUNTY FIRE DISTRICT #1: Tom Crowder, Deputy Fire Marshal, October 28, 1998, Exhibit ??

After careful review the Prevention Division of Clackamas County Fire District #1 wishes to report the granting of this minor land partition to create two flag lots is not in conflict with the *Uniform Fire Code* as adopted by the City of Milwaukie, as long as it meets the following requirements.

The first is the requirement that fire department access be provided and maintained with a minimum access road of 12 feet, with a clear space of 20 feet in width, a minimum vertical clearance of 13 feet 6 inches and in conformance with City requirements for driveway access. The access road must be of an all weather type which will handle a minimum of 50 thousand pounds weight load. Additionally, addresses must be visible from the street on a contrasting background which identifies each site location on the lot. Fire department turnarounds are required when the distance from the street on the access roadway exceeds 150 feet. Finally, there is a requirement that a fire hydrant be within 500 feet of the furthest structure on the lot. This can be field verified by the applicant and also by the water department.

Staff Response: It is understood that the Fire District's turn-around requirement is not applicable in this case. The Deputy Fire Marshal has explained that where driveway access permits the 150' fixed length truck hose to reach all portions of any house to be constructed, the turn-around will not be required. The driveway access and lot depth comply with hose reach requirements. A turnaround will not be required.

CONCLUSION

The proposed Minor Land Partition is deemed to be consistent with the City's Comprehensive Plan, Subdivision Ordinance, and Zoning Regulations. Staff recommends approval of MLP-98-07 creating 2 lots based upon the findings contained herein and subject to conditions shown in Exhibit 1.

FINDINGS FOR MLP-98-03

This section summarizes applicable policies, regulations, and project evaluation for the purpose of establishing grounds for a decision. Findings are based upon preceding sections that contain relevant matters of fact as well as explanations of policy and

regulatory standards. The Commission, by adopting these findings, adopts by reference, all supporting information contained in this report.

1. The applicant is proposing a 2 lot Minor Land Partition on property zoned R-7. Parcel 1, a fronting lot, is proposed to be 8,560 square feet. Parcel 2, a flag lot, is proposed to be 1,605 square feet in the access strip and 8,835 square feet in the body of the lot for a total of 10,440 square feet. The surrounding area is residential in character, has the same Comprehensive Plan Land Use designation (low density) and is also zoned R-7.
2. The proposed minor land partition is consistent Milwaukie Comprehensive Plan, Chapter 4 Residential Land Use Housing Element, Objectives 1,2,3, & 4. It has been interpreted that Objectives 5 & 6 do not to apply.
 - a. The site contains no limitations based on Special Policies Classifications nor does it appear on the Natural Resources Map.(Objective #1)
 - b. The proposed density is consistent with the density rate specified in the comprehensive plan. (Objective 2)
 - c. The recommended conditions of approval (Exhibit 1) include provisions for preservation and protection of those trees that do not interfere with fire access or siting of essential structures. Based upon these conditions, the application complies with Objective #3.
 - d. No removal of existing structures is proposed and the housing proposed is single family detached. (Objective #4)
3. The proposed lots meet zoning requirements of the R-7 zoning district.
4. The preliminary Plat meets standards of Section 17.32.020 of the Subdivision Ordinance governing partitioning.
5. The Department of Public Works has provided comments regarding required Developer installed improvements for utilities and access, and storm drainage connections and traffic safety. (Exhibit 5)
6. Section 1303.3 (Solar Design Standards) of the City Zoning Ordinance requires that 80% of the lots in a new development be solar oriented (north/south orientation). The proposed Minor Land Partition meets this requirement.
7. The application has been processed and reviewed and public notice provided in accordance Zoning Ordinance Section 1011.2. Type II Administrative review.

EXHIBITS:

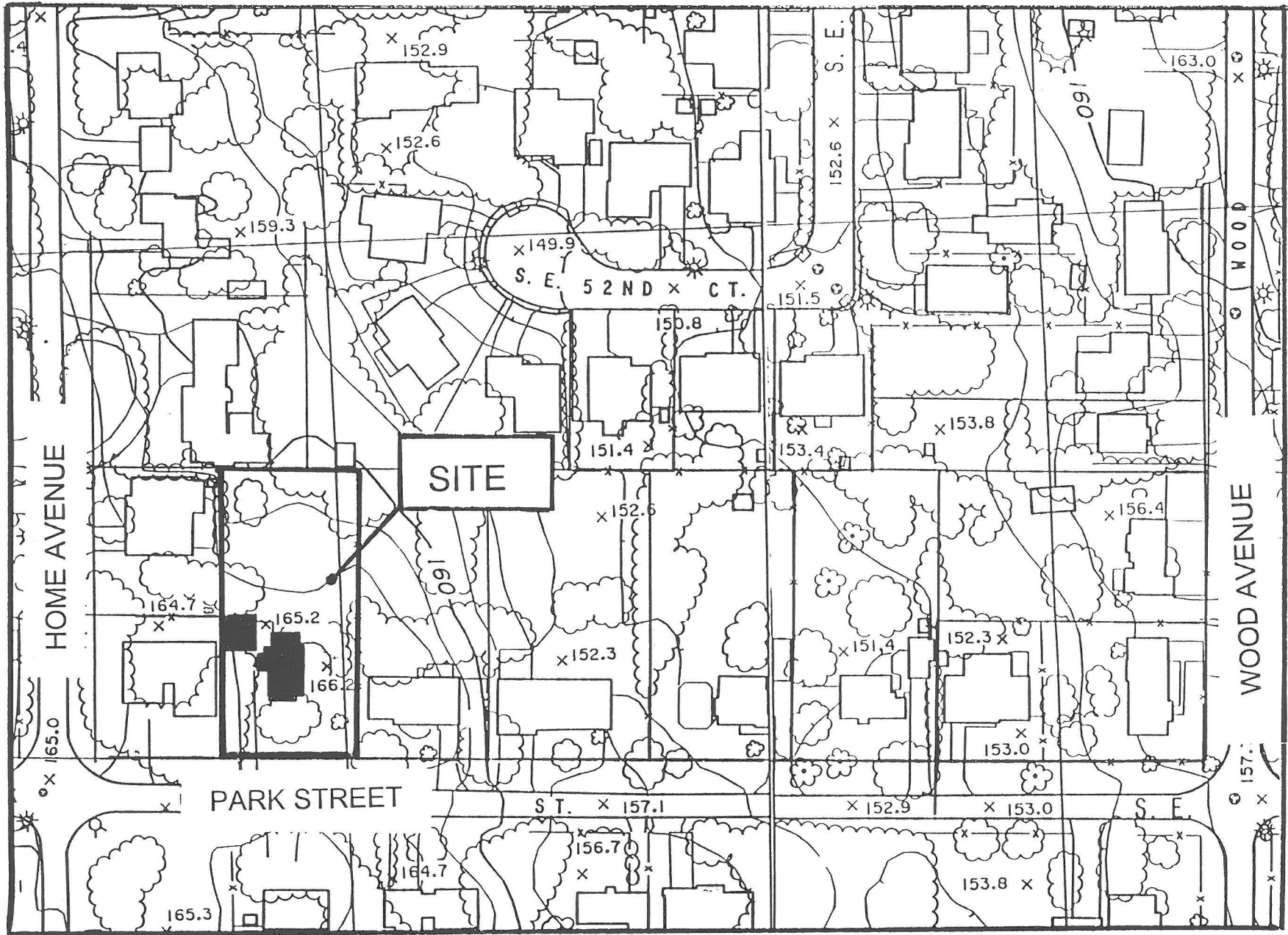
1. Recommended Conditions of Approval
2. Location Map
3. Proposed Minor Land Partition Plat Map
4. Department of Public Works Supplemental Report, 12/14/98

EXHIBIT 1

RECOMMENDED CONDITIONS OF APPROVAL FOR MLP-98-03

1. Lot configuration shall be generally as indicated in Exhibit 3
2. Submittal of the Final Partition Plan shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction and completion of required improvements. This submittal must occur within one year of this preliminary plat approval.
3. The requirements identified in the Department of Public Works October 28, 1998 memo be resolved to the satisfaction of the Director of Public Works.
4. That the following concerns of the Clackamas County Fire District #1 dated October 28, 1998 be resolved.
 - a. driveway, width and clear space
 - b. minimum vertical clearance and construction material
 - c. house address sign
 - d. location of nearest fire hydrant.
5. That no structure or obstruction be placed or required parking be located within the required driveway. A note indicating this prohibition shall be placed on the record sheet.
6. Any deed restrictions proposed by the applicant shall be provided to the City Community Development Department for review to ensure that there are no conflicts with City Ordinances.
7. That a tree plan preservation be submitted showing preservation and protection of all trees and major vegetation along the northern and western property lines so as to minimize impacts to neighboring properties. In addition, all efforts should be made to protect trees in excess of 12" in diameter at breast height except as necessary to site the new house, construct the driveway, and install utilities. The plan should indicate location of trees and major vegetation, locate all excavations, and location of proposed structures. The plan should identify use of fencing around major trees to protect against root compaction caused by vehicle and machine operation.
8. That a plan for vegetative or fence-type screening be located along the northern and western property lines for the purpose of providing mitigation of impacts to neighboring houses.

9. That house location on Parcel 2 be moved away from the northern and western property lines to the greatest extent practicable subject to providing adequate vehicle maneuvering areas and driveway access. A plan shall be submitted showing building footprint and driveway location with dimensions.



City of Milwaukie Community Development Department

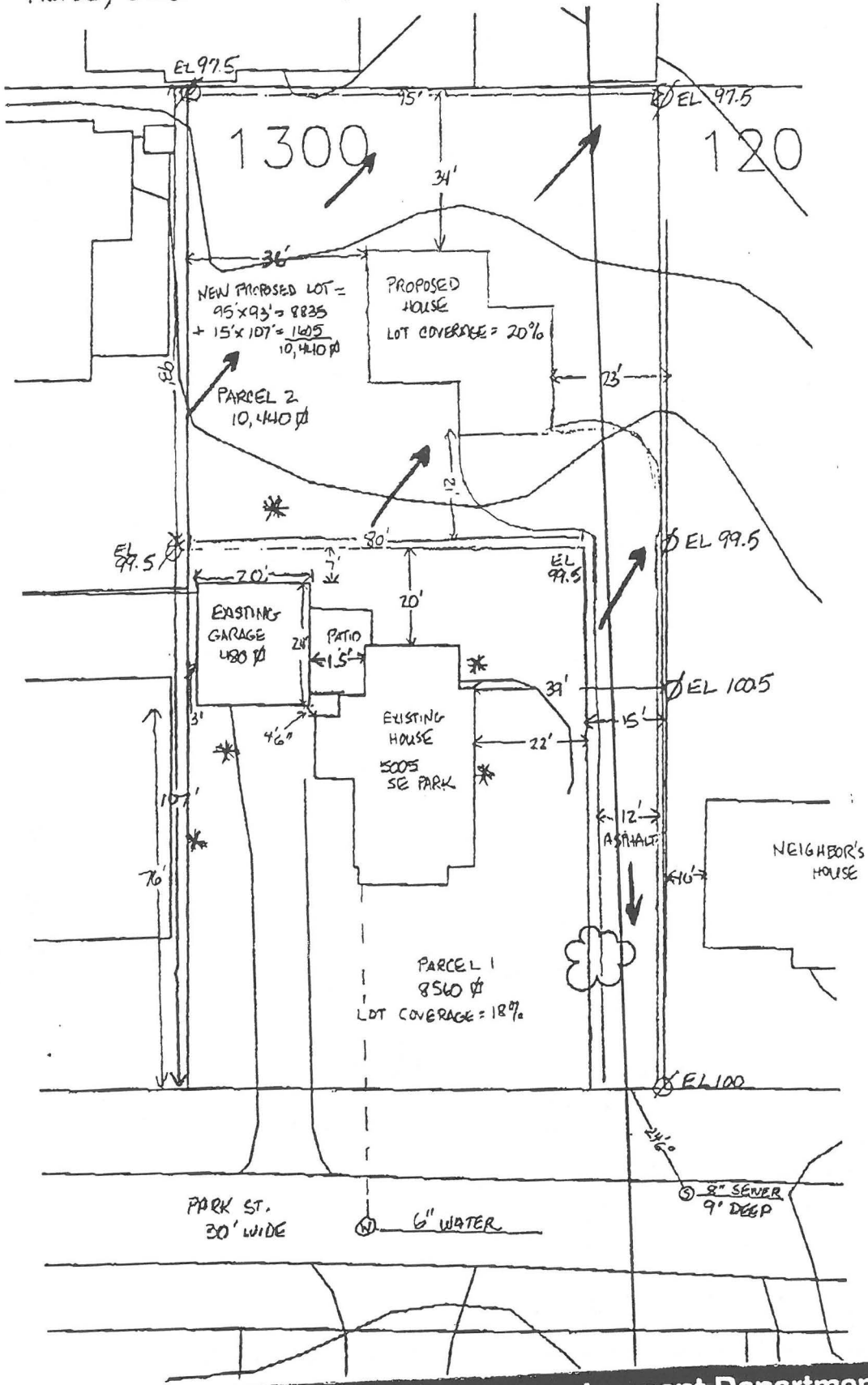
Title: LOCATION MAP Submitted by: STAFF Date: 1/5/98 # Pages: 1
 File Numbers: MLP-98-07 Applicant: R. KASSEBAUM Exhibit #: 2



LEGAL DESCRIPTION: R1 2E 31 BD, T101300
 APPROXIMATE ACREAGE: .434 (18,915.5 sq ft)
 PROPERTY OWNER: JANET JOLLY

- SCALE = 1" = 30'
- ⊙ = SEWER
 - ⊕ = WATER METER
 - * = CEDAR TREE
 - ☼ = DOGWOOD

APPLICANT:
 RICHARD KASSEBAUM
 18370 S. MATTHEW CT.
 OREGON CITY, OR 97045
 503-631-8247



City of Milwaukie Community Development Department

Title: PARTITION PLAN Submitted by: APPLICANT Date: 1/5/98 # Pages: 1
 File Numbers: MLP-98-07 Applicant: R. KASSEBAUM Exhibit #: 3



MEMORANDUM

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger, P.E. *PR*
Civil Engineer

RE: MLP-98-07
5005 SE Park Street
Supplemental Report

DATE: December 14, 1998

Need for, or desirability of a dedicated public street to serve future lots in this area is not present. There are two possible ways to serve the back of these properties with a public street.

First, small individual cul-de-sacs or hammerhead turnarounds could be installed between two existing houses to serve two new lots behind the existing houses. This would involve construction of a minimum of a 24-foot wide street with curb on both sides and sidewalk on at least one side of the street, a minimum of a 4-inch public water line with two services and two water meters, a minimum of an 8-inch sewer line with a clean out at the end, and at least one or two catch basins connected to a drywell.

Second, a single street could be constructed from Wood Avenue along the north side of these lots and then loop back to Park Street at the location of the flag strip proposed for this parcel. However, development could only take place on one side of this new street because the north side is developed to the maximum already. Section 17.28.050.D of the Subdivision Ordinance discourages double frontage lots, which would be created by constructing a street next to the property on the north which already fronts on 52nd Court. This new street would be very expensive, also, because of only getting development on only one side. Curbs would be required on both sides, along with sidewalk on the south side; a water main, fire hydrant, and services; sewer main, manholes, and laterals; catch basins and at least one drywell.

It is more practical to develop the back of any of these lots with flag lots, rather than public streets. In order to do a single street from Wood Avenue an orderly progression is required. With flag lots one property owner could do his individual lot and an adjoining property could work out an agreement later for sharing of access. The Planning Commission could place a condition on the first developer, if potential development of the adjoining property is determined to need to share access. Flag lots would construct a 12-foot (single) or 20-foot (double) wide driveway with an inverted crown and a catch basin at the low point. Water meters would be installed in public right-of-way with the individual homebuilder installing services along the flag strip to the houses. Sewer laterals would be tapped into the main in the street and extended to each individual house. If two lots were to be done at one time, the laterals and services could be installed in one ditch. All this would be less costly for the developer and the City would not have to take over maintenance of a street, water main, sewer main, and storm drainage system serving only two homes. The individual property owners would maintain these things.



City of Milwaukee Community Development Department

Title: PWSUPPLEMENT Submitted by: STAFF Date: 1/5/98 # Pages: 4 Exhibit #: 4
Applicant: R. KASSEBAUM
File Number: MLP-98-07



Memo To: Paul Roeger, P.E., Civil Engineer
From: John Gessner, Associate Planner *JG*
Date: December 4, 1998
Re: MLP-98-07 Potential for Development of Public Road

This morning you and I discussed the potential for construction of a public road to serve future development of lots located on the north side of SE Park Street between SE Home and SE Wood. We discussed this matter as it relates to the present application of Richard Kassebaum for minor land partition of 5005 SE Park. As you know the Subdivision Ordinance requires the following:

“... flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, consideration will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots.”. (Sec. 17.32.040.A)

Based upon preliminary investigation it is apparent that sufficient lot area and opportunity for driveway access exists to permit the creation of 4 additional flag lots along the block on which 5005 SE Park is located. A lot located on SE Wood which backs-up to a Park Street lot also has flag lot potential.

This memo is made to request your opinion on the need for, and desirability of a dedicated public street to serve future lots. For discussion purposes we assumed a 30' dedicated right-of-way was adequate and that any required cul-de-sac would be 50' in diameter paved. Do you know how flexible Fire Department is on dedicated cul-de-sac right-of-way radius, and minimum paved radius?

We would like to know if a public road is desirable and feasible. If a road is desirable what roadway design and maintenance considerations apply. These might include minimum r-o-w and paved widths, access management constraints such as minimum distance between intersections, problems with double frontage lots, maintenance considerations related to the number of lots served, and any

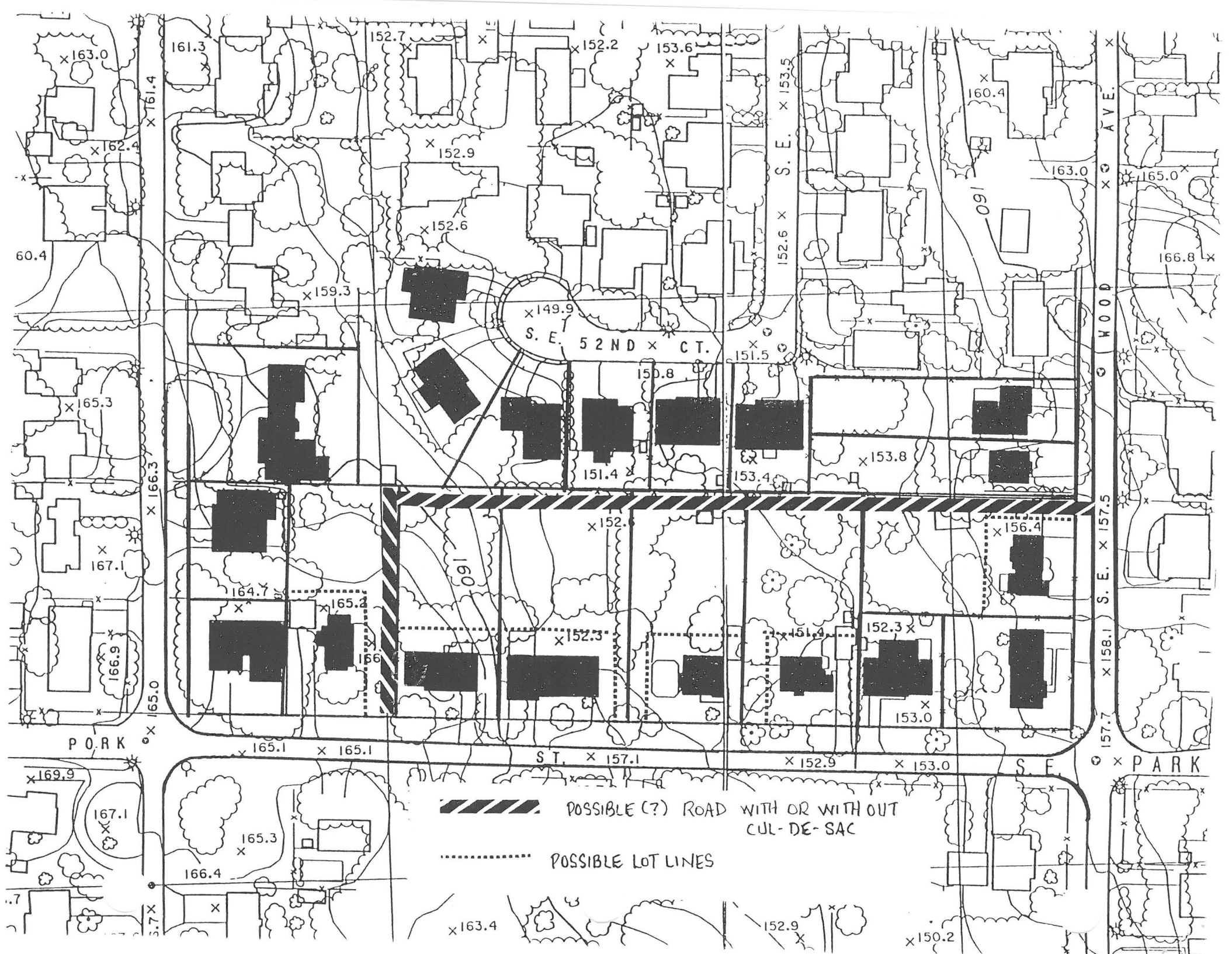
Paul Roeger, P.E., Civil Engineer
December, 4 1998
page 2 of 2

other that would apply. How might these considerations affect the feasibility of constructing a road?

I've attached a copy of the schematic plan we used this morning. I've put possible lot lines for flag lots, and a tape ribbon to show possible roadway alignment. The layout is based on a number of assumptions, which can be varied. The layout was done to establish a starting point for discussion and are not intended to limit design option. Please change these configurations where you think it makes sense to do so.

Thanks for your help.

cc: Susan Heiser, Planning Director
Ali Safayi, Associate Engineer



x149.9
S. E. 52ND x CT.

POSSIBLE (?) ROAD WITH OR WITHOUT CUL-DE-SAC

POSSIBLE LOT LINES

P O R K

S T. x 157.1

x 152.9 x 153.0

S. E. x P A R K

157.7 x 158.1 S. E. x 157.5

152.6 x S. E. x 153.5

x 163.0 x 165.0 x 166.8 x

x 161.4

161.3

152.7

x 152.2

x 153.6

x 152.9

x 152.6

x 159.3

x 163.0

x 162.4

60.4

x 165.3

x 167.1

166.9

x 166.3

x 165.0

164.7

x 165.2

x 152.

x 152.3

151.4

150.8

x 151.5

153.4

x 153.8

x 156.4

152.3 x

x 153.0

x 169.9

167.1

x 165.3

166.4

3.7 x

x 163.4

152.9

x 150.2

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

120 Days: March 25, 1999
NDA: Lewelling

Date: January 5, 1999
File NO.:CSO-98-07

Application: : Brookside Sewer Lift Station

Applicant: Public Works Department
City of Milwaukie

Property Owner: City of Milwaukie

Location: Northeast Corner of Brookside Dr. & Johnson
Creek Boulevard. See Exhibit 2 Location Map

Map & Tax Lot: 1 2E 30BB 00900

Zone: Manufacturing "M" Zone

.....

RECOMMENDATION

It is recommended the Planning Commission approve CSO-98-07 based upon the findings contained in this report and further that it be subject to the conditions in Exhibit 1.

EXECUTIVE SUMMARY

The Milwaukie Public Works Department is proposing to replace a sewer pump station decommissioned in 1996. Replacement is being pursued rather connecting to nearby City of Portland sewer system due to cost considerations. "Sewage pump station" is a named permitted use in the CSO zone. No noise or odor impacts to nearby residential uses are expected. Mitigation of view impacts is recommended. The application complies with the Comprehensive Plan and Zoning Ordinance as conditioned. A similar installation is located on the north side of Johnson Creek Boulevard at Stanley Ave.

PROPOSAL

The City of Milwaukie is proposing to install an above grade sewage pump located at the northeast corner of Brookside Drive and Johnson Creek Boulevard. See Exhibit 4,

Site Plan. The site contained a below grade pump station between 1968 and 1996. The former pump station was decommissioned in 1996. Please see Exhibit 3, CSO Application Supplement, 11/25/98 for an explanation of the decommissioning and present need for pump replacement. The plan calls for the installation of the enclosed pump station, electric transformer, electrical panel, telemetry system antenna 20 feet in height, and landscape screening. The lot measures approximately 25 feet by 50 feet and abuts the public right-of-way. The pump station has a footprint of 8 feet by 7 feet is approximately 5 feet in height. (The height is estimated from a photograph, actual height can be confirmed at the public hearing)

The pump station is located 21 feet back from the right-of-way, 22 feet from the rear property line, and 10.7 feet from the property line shared with Brookside Apartments. Siting of the structure on the lot is constrained by the location of below ground water and sewer lines. According to Public Works there is little flexibility in selecting alternative locations on-site.

Public Works has indicated that an above ground structure is preferred over an underground system for the following:

- a. Ease of maintenance and replacement of parts.
- b. Protect maintenance crews from contact with raw sewage during maintenance and inspection.
- c. Above ground pumps require smaller motors.
- d. Above ground pumps are the preferred self-priming type.

The nearest residential structures are located 130 feet to the southeast (apartment complex) and 120 feet to a residence on the west/north side of Johnson Creek Boulevard.

A fiberglass enclosure houses two sewer pumps. Pumps operate automatically as needed to handle flows to a wet-well located beneath the pump structure. Public Works indicates that operating noise should not be sufficient to cause noise impacts to residential neighbors. Similarly, it is understood that manner of construction and operation eliminates escape of objectionable odors.

Public Works originally proposed that sight obscuring fence be erected around the lot perimeter. Staff has advised Public Works that screening alternatives such as landscape plantings may be more desirable. Staff is concerned that use of a sight-obscuring fence in this location, may itself cause undesirable view impacts. As an alternative staff is recommending careful selection and placement of landscape plantings to reduce potential view impacts.

COMPLIANCE WITH COMPREHENSIVE PLAN

Provision of sanitary sewer service and maintenance of the sanitary sewer system is addressed in Chapter 5 –Transportation, Public Facilities, and Energy Conservation, Public Facilities and Services Element. Objective #5 reads: "To provide adequate

wastewater collection and treatment to all Milwaukie residents”. Policy 2 addresses maintenance: “The City will maintain and improve the existing sanitary sewer system through preventative maintenance and ongoing appraisal”.

Staff Response: Sewer pump replacement is a maintenance action necessary for cost effective provision of needed sewer services. Accordingly, the proposal is consistent with Comprehensive Plan Chapter 5. No applicable policies could be found in Comprehensive Plan Chapter 4 – Land Use, Economic Base and Industrial/Commercial Land Use Element. (This section applies to the “M” zones)

COMPLIANCE WITH ZONING ORDINANCE

CSO Zone

Sewage pump stations are subject to the Zoning Ordinance 321 Community Service Overlay Zone. Standards for approval of a community service use are compliance with requirements of underlying zone and compliance with Sec. 321.7-321.10

The proposal is consistent with Sec. 314 Manufacturing Zone as follows.

Use: Structures necessary for the provision of public services such as water and sewer are not named permitted uses in the “M” zone. No other explicit allowance for such uses was found in any other zoning classification. Utilities are necessary for land development and preservation of the public welfare. It is staff opinion that the tradition of public services in all zoning districts confirms the legitimacy of the use.

Site Development requirements:

Standard	Required	Proposed	Comply y/n
setback	front- 20 ft side- match abutting yard ¹ rear- match abutting yard ¹	front- 21 ft. sides- 6 & 10.7 ft-	Y
height	45 ft.	structure 5-6” antennae- 20 ft	Y
parking	unlisted. ²	1	Y
landscaping	15% lot of area	not measured	will comply
curb cut ³	1 per 150 ft.	1	Y
transition	see following section		will comply

1. Setback required to match required yard setback when site abuts a residential zone
2. No standard specified in Sec 500 Off Street Parking & Loading. Sec.503.5 Determination of Unlisted Uses requires the City to determine the number of required parking spaces. Staff believes 1 space is adequate.
3. Site access to be from Brookside Drive.

Transition: Section 314.5.F requires that when industrial development is adjacent to and within 120 feet of areas zoned for residential uses, the following characteristics be considered. Though the use is not industrial, it is appropriate to apply these standards in the interest of ensuring compatibility with nearby residential uses.

1. Noise - no noise impacts are expected, additional information on this issue may be available at the public hearing .
2. Lighting - no site lighting is proposed.
3. Hours of operation - pumps are automatically activated and may run at any time.
4. Delivery and shipping - site access will be infrequent .
5. Height of structure - height is 5-6 ft, landscape screening is recommended.
6. Distance to residential zone boundary.

Compliance with Zoning Ordinance 321.7 – 321.10

Sections 321.7 through 321.9 apply to uses such as schools, nursing homes, and churches and therefore does not apply. Utilities are covered under Section 321.10 as follows:

- A. Utilities, streets, or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.

Application Complies: Public Works Department will install and operate the pump station.

- B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses, which are estimated to generate fewer than 20 trips per day, are exempted from this subsection 321.10.B

Application Exempt: Trip generation is expected to be minimal. Site visits will only be made for maintenance. Average daily traffic is expected to be 1 trip.

- C When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.

Application Exempt: The lot is located in a manufacturing zone. However, setbacks comply the underlying zone.

- D. The height limitation of a zone may be exceeded to a maximum height of 50 feet provided subsection 321.10.C is met.

Not Applicable

- E. Noise-generating equipment shall be sound-buffered when adjacent to residential areas.

Application Complies: It has been represented that no noise impacts will occur. Noise generating data may be available at the public hearing.

- F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.

Application Complies: No lighting is proposed.

- G. Where possible, hours and levels of operation shall be adjusted to make the use.

Not Applicable: Hours of operation can not be adjusted.

COMMENTS

NDA: not available at time of writing.

FINDINGS SUPPORTING APPROVAL OF CSO-98-07

This section summarizes applicable policies, regulations, and project evaluation for the purpose of establishing grounds for a decision. Findings are based upon preceding sections that contain relevant matters of fact as well as explanations of policy and

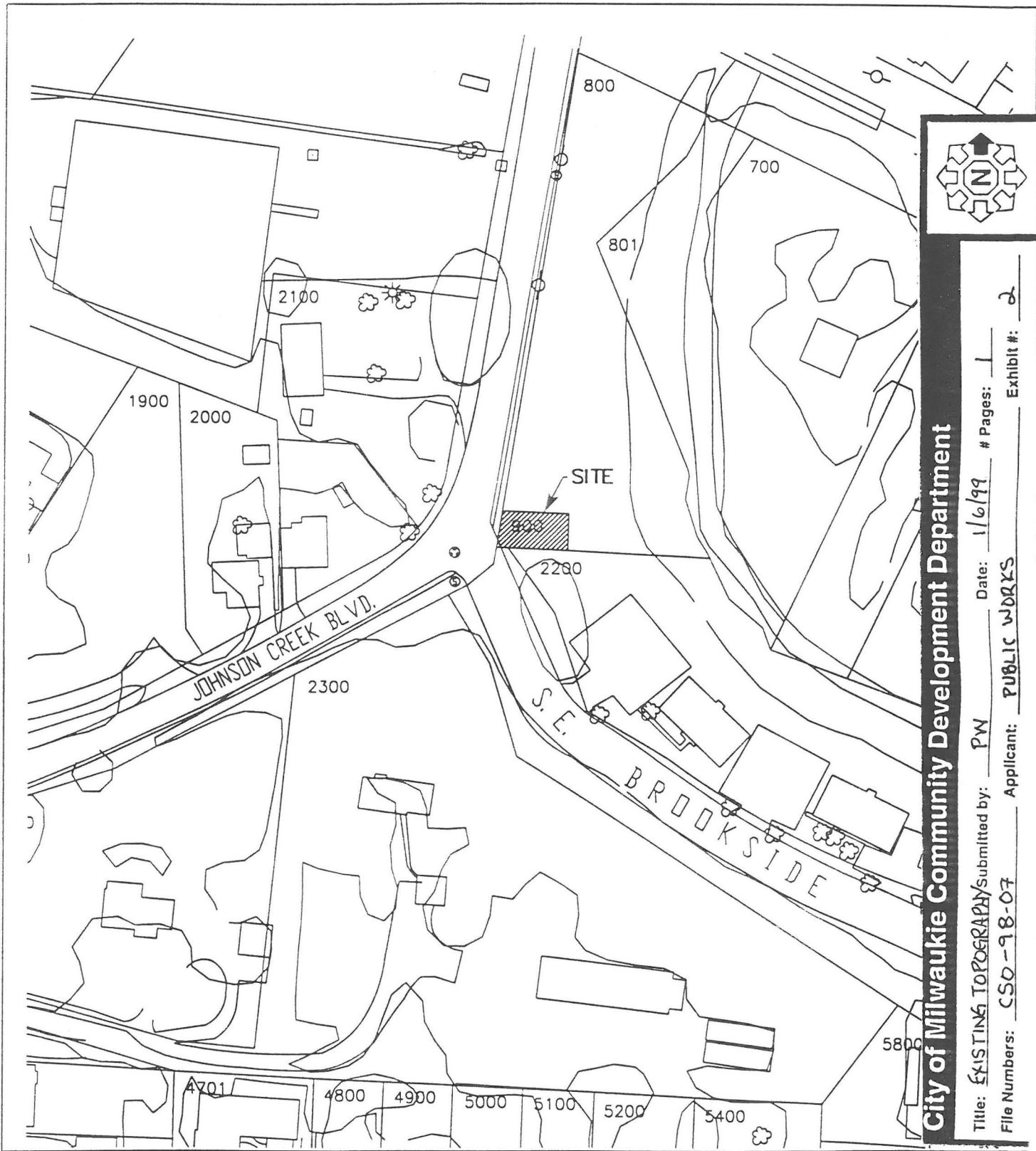
regulatory standards. The Commission, by adopting these findings, adopts by reference, all supporting information contained in this report

1. The application is consistent with applicable objectives and policies of the Comprehensive Plan.
2. The application complies with requirements and standards of Zoning Ordinance Section 321 Community Service Overlay Zone.
3. The application has been administered in accordance with requirements of Zoning Ordinance Section 1011.3 Quasi-Judicial Review.
4. As conditioned construction and operation of the facility will not result in unacceptable adverse impacts to adjoining residential uses.

EXHIBIT 1

RECOMMENDED CONDITIONS OF APPROVAL FOR CSO-98-07

1. That Public Works Department works with staff to develop a planting plan that minimizes view impacts of site development. Development of the plan may be deferred until the installation is complete so as to allow for the best selection and location of plant materials.
2. That the site be monitored for noise impacts. In the event noise complaints are received, provisions should be implemented immediately for noise mitigation.
3. That soil erosion controls be installed and maintained until soil is stabilized.
4. That any improvements as may be needed for vehicle access be provided.



City of Milwaukee Community Development Department

Title: EXISTING TOPOGRAPHY Submitted by: PW Date: 1/6/99 # Pages: 1
 File Numbers: CSO-98-07 Applicant: PUBLIC WORKS Exhibit #: 2

SCALE: 1" = 100'

BROOKSIDE LIFT STATION
 Existing Topography



CSO Application Supplement
November 25, 1998


TO: City of Milwaukie Planning Commission
FROM: Ali Safayi, Associate Engineer
SUBJECT: Brookside Lift Station Project (SE-99-3)

Action Requested: Approval to reconstruct the Brookside lift station in a parcel owned by the City of Milwaukie (Tax lot 12E30BB00900) in order to direct wastewater to the Kellogg Waste Water Treatment Plant operated by the CCSD#1 rather than the Columbia WWTP operated by the City of Portland.

Background:

1. The Brookside pump station was originally constructed in 1968. The pump discharged to the gravity collection system at 42nd Ave. and Mason Lane. In a sewerage facilities study prepared by CH2MHILL in 1994, it was determined that Brookside pump station was functionally obsolete. Furthermore, an emergency overflow pipe discharging into Johnson Creek needed to be plugged and abandoned due to the adverse environmental effect. It was concluded that the best solution was either to decommission the pump station and divert the flow to the City of Portland Lents Trunk or replace the pumps.
2. Consequently, the old Brookside pump station was decommissioned and the flow was diverted to the Lents Trunk in order to 1) avoid replacing the station, 2) discontinue direct discharge to Johnson Creek, and 3) alleviate capacity restrictions in other sections of the Milwaukie sewer system.
3. At the time of decommissioning of the pump station, the economic feasibility study did not include connection fees totaling between \$600,000 and \$750,000 to be paid by the City of Milwaukie to the City of Portland.
4. Based on the result of the cost re-evaluation, the City of Milwaukie has informed the City of Portland that the City of Milwaukie intends to disconnect from the Lents Interceptor and re-direct wastewater into the trunk sewer system draining to the Kellogg Creek Wastewater Treatment plant no later than October 1, 1999.

COMMUNITY DEVELOPMENT DEPARTMENT
Planning • Public Works • Facilities
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
PHONE: (503) 786-7600 • FAX: (503) 774-8236



City of Milwaukie Community Development Department

APPLICATION
Title: SUPPLEMENT Submitted by: PW Date: 1/6/99 # Pages: 3 Exhibit #: 3

File Numbers: CSD-98-07 Applicant: PUBLIC WORKS

Project Description:

1. The Brookside lift station will be constructed on Tax lot 12E30BB00900 directly east of Johnson Creek Blvd. and north of Brookside Dr. Tax lot 12E30BB00900 is City owned property, located in the Lewelling Neighborhood and within the Manufacturing Zoning area. Industrial/commercial properties surround the property to the north and northeast, single family residents in R-7 Zone to the west, and apartments in R-3 Zone located to the south. Tax lot 12E30BB00900 is a vacant lot that is 0.03 acres in size and characterized by flat gravelly land, free of any vegetation. The existing topography is shown on Map 1 attached.
2. The scope of the Brookside lift station project includes construction of a below ground wetwell, an above ground pump station, and connection to the City's telemetry system. The above ground pump station is approximately 7 feet wide by 8 feet long and consists of two 750 gpm pumps, pipings and controls and is housed in a fiberglass box on a concrete pad. The pump station looks as shown in attached pictures and copy of the product brochure. Arborvitae trees will be planted around the pump station box to provide an aesthetically pleasing look and reduce level of noise. The pump station is insulated which further reduces noise. The noise level is very low and similar to that on Clackamas River Water pump station.

CSO Requirements:

321.4.A.

1. Yes
2. See below
3. The pump station itself will be in operation 24 hours a day; however, the pumps will be turned on automatically as necessary. There will be occasional visit by the sewer crew to monitor and inspect the pump station's operation.

321.10

- A. Yes
- B. No vehicular access to the site will be necessary.
- C. NA
- D. The height of the metal pole for the telemetry antenna will not exceed 20 feet from ground.

- E. Although noise level will be minimal, fiberglass cover, insulation, and arborvitae screening around the station will help reduce the noise further.
- F. No lighting, other than streetlights is proposed.
- G. See 3 above.

JOHNSON CREEK BLVD.

TL 800

ELECTRIC TRANSFORMER
6'x6', Height=2.5'

ELECTRICAL PANELS

PROPOSED FENCE

PROPERTY LINE

3.0'

3.2'

50.0'

6.2'

20.4'

7.0'

8.2'

PUMP
STATION

21.0'

22.0'

25.0'

25.0'

10.7'

50.0'

TL 2200

SE BROOKSIDE DR.



City of Milwaukee Community Development Department

Title: SITE PLAN Submitted by: PW Date: 1/6/99 # Pages: 1 Exhibit #: 4
File Number: CSO-98-07 Applicant: PUBLIC WORKS

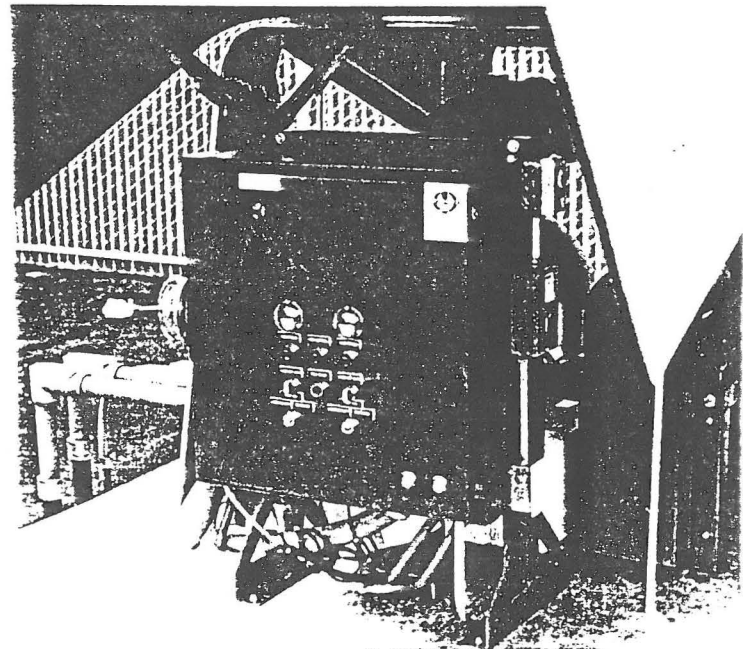
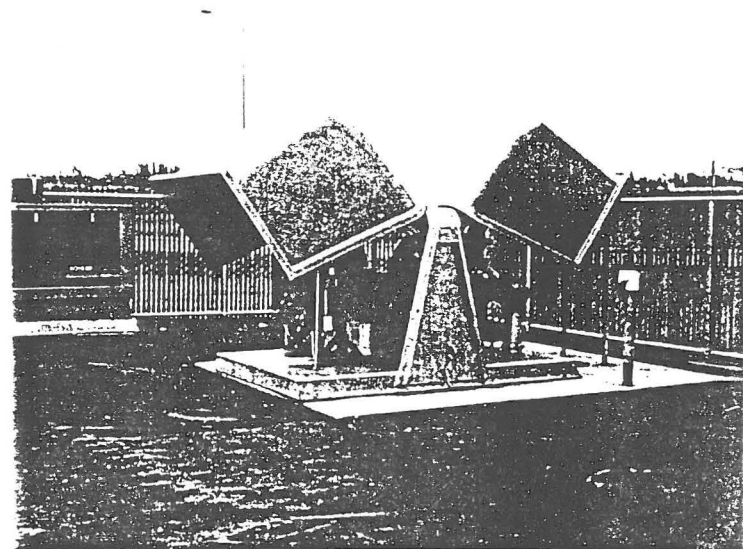
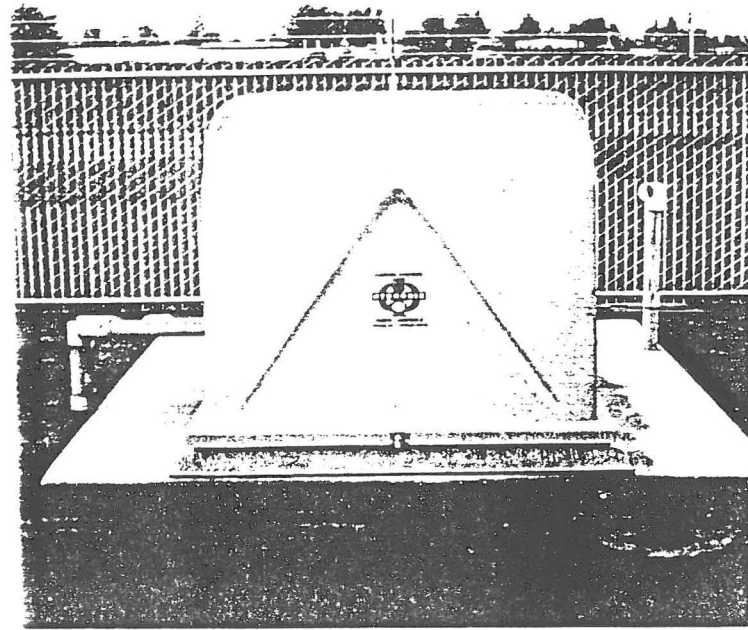
SCALE: 1" = 10'

BROOKSIDE LIFT STATION

Site Plan
CSO 98-06

HYDRONIX MODEL 185 FEATURES AND BENEFITS

- * LOW MAINTENANCE HOT DIP GALVANIZED BASE/ARCH AND PIPING
- * LOCKABLE FIBERGLASS HINGED HOODS WITH HYDRAULICALLY ASSISTED LIFT
- * V-BELT DRIVEN HYDROMATIC SELF PRIMING PUMPS
- * ACCOMMODATES 4" AND 6" PUMPS FOR A FLOW RANGE OF 100 TO 1500 GPM WITH HEADS TO 120'
- * SURFACE ACCESS TO PIPING, VALVING, AND LEVEL SENSORS
- * U.L. LISTED CONTROLS
- * MERCURY, BUBBLER, PRESSURE TRANSDUCER, OR SONIC LEVEL CONTROL SYSTEMS AVAILABLE
- * ENVIRONMENTAL EQUIPMENT INCLUDING:
 - THERMOSTATICALLY CONTROLLED BLOWER
 - G.F.I. PROTECTED CONVENIENCE OUTLET
 - 1500 WATT HEATER
 - STATION LIGHT
 - 4 CIRCUIT LIGHTING PANEL
- * 2-WAY PLUG VALVES FOR DISCHARGE ISOLATION
- * CAST IRON CHECK VALVES WITH LIMIT SWITCHES FOR PUMP FAILURE INDICATION
- * ALARM OPTIONS INCLUDING:
 - 120VAC OUTPUT WITH "PUSH TO SILENCE" FEATURE FOR LOCAL AUDIO-VISUAL ALARM
 - 12VDC OUTPUT WITH BATTERY BACK-UP
 - "DRY" CONTACTS FOR INTERFACING WITH OWNER SUPPLIED TELEMETRY EQUIPMENT
 - COMPLETE TELEMETRY SYSTEMS AVAILABLE



HYD-C03

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P.O. Box 22046
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