

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, APRIL 28, 1998

COMMISSIONERS PRESENT

Mike Smith, Chair
Donald Hammang
Tim Havel
Charles Stoudt
Terry LaRocque

STAFF PRESENT

Susan Heiser,
Senior Planner
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Mike Miller

1.0 CALL TO ORDER

Chair Smith called the meeting to order at 6:00 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- None

4.0 PLANNING COMMISSION MINUTES -- April 14, 1998.

Tim Havel moved to approved the minutes of April 14, 1998, as corrected.
Donald Hammang seconded. MOTION CARRIED 4-0.

5.0 PUBLIC COMMENTS

Chair Smith presented Bryan Cosgrove with a plaque in appreciation for the hard work and dedication while working on the Planning Commission. Pat Lent was also awarded a plaque for her service to the Commission.

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6.0 ELECTION OF OFFICERS

Chair Smith opened nominations for the office of Chair. **Tim Havel** moved to nominate Mike Smith as Chair. **Charles Stoudt** seconded. There were no other nominations for the office of Chair. MOTION CARRIED 4-0.

Chair Smith opened nominations for the office of Vice-Chair. He then nominated Tim Havel as Vice-Chair. **Donald Hammang** seconded. There were no other nominations for the office of Vice-Chair. MOTION CARRIED 4-0.

Chair Smith opened nominations for a Planning Commission representative to serve on the Historic Resources Commission. **Donald Hammang** moved to nominate Charles Stoudt as the Historic Resources representative. **Tim Havel** seconded. MOTION CARRIED 4-0.

7.0 PUBLIC HEARINGS

- 7.1 Applicant: Allan Alford
Property Owner: Allan Alford
Location: 4005 SE Harrison
Proposal: Variance from Section 302.3(D) of the Zoning Ordinance to build a 1,212 sq.ft. accessory structure within 5 feet of the north property line where a 20 foot setback is required.
File Numbers: VR-97-07
NDA: Hector Campbell

Chair Smith opened the public hearing on File Number VR-97-07 to build a detached 1,212 sq.ft. accessory structure. The application must be consistent with the City of Milwaukie Zoning Ordinance and Comprehensive Plan. The criteria to be addressed are found Section 303, R-5 Development Standards, and Section 1300, Solar Access Standards, of the Milwaukie Zoning Ordinance and in Policy 3 under Objective 4--Neighborhood Conservation, in the Residential Land Use and Housing Element 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? Three hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the Staff Report.. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Susan Heiser reviewed the Staff Report with the Commission. The Applicant has revised his previous request on March 24, 1998, to a 50% variance to have a 10-foot rear yard setback where 20 is required and to comply with the provisions of Section 1300. Overheads were shown of the subject site and surrounding area.

In addition to moving the requested setback from 5 feet to 10 feet, the applicant has redesigned the roof pitch from the previously proposed 10 and 12 slope to a 8 and 12 or 6 and 12 slope. The east roof line has been designed so that the peak is now 15 feet from the neighboring property line. The east building setback is still proposed at 3 feet and the size of the accessory structure would still be 1,212 sq.ft.

Staff feels that there are physical constraints to the property that would necessitate a rear-yard setback variance. However, Staff does not agree that findings are met for criteria B and C. Findings could be made for Criteria B and C with a reduced sized structure (1,000 sq.ft. or less) that is no more 20 feet in height with increased setbacks to the north and east property line.

QUESTIONS FROM THE COMMISSIONERS

Chair Smith asked if the detached accessory structure shown in picture #4 (Page 6 of the Staff Report) required a variance? **Susan Heiser** indicated that a variance was granted for this structure and the variance granted was less than what was requested.

Charles Stoudt noted that one of the letters implied that the purpose of the structure was for commercial use. He asked if Staff had taken this into consideration. **Susan Heiser** stated that she spoke to one of the Applicants about that today and she is not sure if there is a home occupation. She suggested that the Applicant respond to this question.

Chair Smith asked Staff for clarification on their recommendations for reducing the overall footprint of the building. **Susan Heiser** stated that the recommendation is to increase either/or or both the rear-yard setback/side-yard setbacks by five feet.

CORRESPONDENCE

Susan Heiser reported that two letters were received from neighbors from the north and east. Ms. Ross sent pictures with her letter and these pictures were submitted to the Commission for review. Both neighbors are objecting to the height and bulk of the structure.

APPLICANT PRESENTATION

Speaking: Justin Alford, 3715 SE Jefferson Street, Milwaukie

Mr. Alford stated he is Allan Alford's son. The foot-print of the house has been recalculated. The house is actually 1,212 sq.ft. and the garage is 1,190 sq.ft. The house is actually 22 sq.ft. larger than the accessory structure.

Mr. Alford noted that the detached accessory structure shown in picture #4 (Page 6 of the Staff) was actually a 60% variance. His proposal is for a 50% variance. The parcel size is half the size of this Application. The variance approved was a 9-foot rear-yard variance; the required setback is 15 feet (60%). The proposed garage will be 267 sq.ft. larger than the approved variance (26% larger). He does not feel this Application is that much more than what has been previously granted.

Mr. Alford stated that most of the neighbors' concerns were for the bulk of the structure. Staff has indicated in the Staff Report that height and bulk are a concern. In the beginning of this project, Mr. Alford talked with all of his surrounding neighbors about the proposed garage. They tried to discuss the changes with the neighbors and the neighbors did not want to talk about the variance.

Mr. Alford showed a drawing of what the alternative of building two buildings would look like from the front of the street. There is no variance needed to do this. His family does not prefer this alternative because it does not look very pleasing. The intent of this project is to get their vehicles out of the driveway, yard, and out of site. A drawing was shown of a garage that was 200 sq.ft. smaller. There are two families in this household and there is a lot of possessions that need to be stored. Another drawing was shown of the proposed garage with a 15 foot setback and 35 feet between the house and the back property line. In order for this to work, one of the garage doors will have to be removed. This is not a good alternative.

Mr. Alford concluded that when they started this Application, his family thought they had all of the neighbor's support. Otherwise, they would not have paid for the Application.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked why the garage had to be so large? **Mr. Alford** stated that the proposed garage would house a 28-foot step van that is used for construction and house repair work, two family cars, a small truck, a small wood-working shop, and an area for occasional car repair.

Charles Stoudt asked if there will be any business uses associated with the proposed garage? **Mr. Alford** stated that his grandmother has a business license at this home address to manage rental properties. This van is used in the repair of some of her rental properties. **Susan Heiser** stated that she could not find records of a business license for this address. **Mr. Alford** submitted a copy of the business license. The license reflected a change of address.

Tim Havel asked if a day-light basement alternative had been considered? **Mr. Alford** stated that they had considered this alternative. Paul Roeger, Public Works Department, indicated that no matter how deep the structure is placed, there would be no difference on Solar access. Therefore, the family saw no need to spend an extra \$5,500-\$7,500. for excavation.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS

Speaking: Larry Landcaster, 10505 SE 55th, Milwaukie

Mr. Landcaster cited from the proposed text changes of January 27, 1998, under Objective #4, Neighborhood Conservation, Item #7. **Susan Heiser** explained that these standards are not pertinent to this Application. These changes have not been adopted and cannot be used as part of the deliberations this evening.

TESTIMONY IN OPPOSITION

Speaking: Virginia Ross, 10510 SE 40th, Milwaukie

Ms. Ross stated that she lives on the north side of Mr. Alford's home. She indicated that both neighbors Janet Aires (east of subject site) and Amy Patino

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(behind Janet to the north) have asked for her to also speak for them. She congratulated Mr. Alford on his efforts to make the proposed structure look as nice as possible.

The building is still far too high and too large, and will resemble a warehouse instead of a garage. From her view in the back, this structure will take up all of the Applicant's yard. The structure will lower any of the surrounding neighbors ability to sell their property and severely limit the view from all of their homes.

In the beginning, it was agreed that a single-story, two-car garage would be satisfactory. When the property was purchased two years ago, there was no indication that the property would be drastically changed and made to look like a commercial site. Mr. Alford has indicated that he would like to house his van, which contains a welder and tools, and have a shop where he can overhaul diesel engines. This seems like a commercial enterprise and does not fit in a residential area. There is potential safety concerns about working with a fire hazard of the welder and combustible materials.

Ms. Ross stated that Mrs. Alford has left messages on Ms. Aires' machine demanding a meeting. When the call was returned, she was told to get use to the idea as the Alford's intend to erect this structure whether there was agreement or not.

Ms. Ross asked if there will be any guarantee that Mr. Alford will complete this building, as he started a porch over six months ago and it is unfinished. The neighborhood has always been a congenial, nice place to live. It is upsetting to them that the Alford's want to change this atmosphere. There is no animosity towards the Alford's, only the proposed structure they plan to build. **Tim Havel** explained that as part of the conditions of approval, substantial construction of the proposed structure must be completed by the October 28, 1998.

QUESTIONS FROM THE COMMISSIONERS

Chair Smith asked what would be acceptable for her and the neighbors? **Ms. Ross** stated that a typical single-story, two-car garage is acceptable. The height and bulk of the structure are their main concern.

Tim Havel asked Ms. Ross for clarification of her view from her yard. **Ms. Ross** stated that there is a 7-foot hedge along the property line, but she will still be looking at the top portion of the proposed garage wall and roof. It will completely block her view of anything else.

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Charles Stoudt asked for Ms. Ross' interpretation of possible commercial use of this garage. **Ms. Ross** stated that the van has all of Mr. Alford's tools inside and it is used like a mini-workshop. This is used every day and she asked if this is in violation of a City code on commercial vehicles parked on residential property. There are no other similar uses in the neighborhood.

Speaking: Amy Patino, 4026 SE Lewellyn, Milwaukie

Ms. Patino stated that she assumed the proposed structure would be a one-story, two-car garage. It was explained to her that the City had approved two structures, and that the Alford's were proposing to change the plans and construct one structure. That is why she agreed to the changes. She has since changed her opinion of the proposed garage, because she found that it will be a very large structure.

When she looks out of her kitchen window, she will only see a tall wall. There will be no view of Harrison Street, vegetation, only the wall. She has spent many dollars on landscaping and this proposed building will result in about 2 hours of sun exposure to her garden area. **Ms. Patino** stated that her back yard is something they take pride in; they entertain friends and family. This structure will impact her lifestyle.

Speaking: Janet Aires, 4025 SE Harrison, Milwaukie

Ms. Aires stated that she is on the east edge of the subject site. With the additional 10-foot setback, plus the 35-foot structure, it will take away the view from all the windows she has on this side of her house. The structure will be 5-feet away from her bedroom window. She is concerned about the noise and smell of the welding and workshop activities. This and the solar access implications will be devastating to her property value.

Speaking: Jack Ross, 10510 SE Boyer Street, Milwaukie

Mr. Ross stated that from his residence he sees the van and the garage. Because the van is over 9-feet tall, he can only see the top of the Alford's house. When the proposed garage is completed, he will only see a wall, not the street, yard, or anything on the south side of his home. He does not feel it is right for the Alford's to block their view of Harrison Street.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FOR CLARIFICATIONS

Chair Smith asked Staff for clarification of a commercial vehicle being parked in a residential area. **Susan Heiser** stated that Section 503.17 of the Zoning Code prohibits commercial vehicles over 1-1/2 tons from being parked or stored in a residential district. As a practice, vehicles associated with a business are required to be parked so it is not visible from the street. They can be parked in a non-required garage.

Susan Heiser read the provisions of a Home Occupation for a business license.

CLOSING COMMENTS FROM THE APPLICANT

Mr. Alford showed pictures of their home and yard. He stated that they are limited on where the garage can be placed. It will only be three feet taller than the neighbor's house. The garage was proposed with a 8-12 pitch so that it will match the residence. They are willing to reduce the pitch to 6-12.

Mr. Alford stated that they have tried to get the agreement from the neighbors all through this process. If this Application is denied, they would be forced to construct the same size structure 20-feet from the property line. There is a possibility of damaging an existing tree. The van will still have to be parked outside, unless a separate building is constructed to house the van. The van is presently parked next to the house and has an alarm system so it can be heard if someone is outside.

A porch was erected to provide access for the grandmother. When this variance goes through, and construction is started on the garage, the porch and carport will be finished for the grandmother's use. He concluded that he feels that whether they put a 25'x25' shop or 35'x35' shop, it will still have the same impacts.

DELIBERATION AMONG COMMISSIONERS

Chair Smith closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

Terry LaRocque stated that he feels the structure is too large. It seems that the Applicant is asking the Commission to approve a building to accommodate an extra-large size vehicle, not a garage.

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Chair Smith agrees that going from a 500 sq.ft. two-car, single-story garage to a 1,212 sq.ft. structure is a big difference.

Charles Stoudt stated that he does not feel the application meets any of the criteria for a variance. There are no unusual conditions over which the applicant has no control. There are feasible alternatives for this variance by reducing the size of the structure and there are adverse effects on other properties by this variance in the way of visual impairment and solar impacts.

Tim Havel commended the Applicant on the roof treatments to mitigate some of the neighbor's concerns. The building can be placed five feet from the east property line without a variance. He feels a scaled-down version (1,000 sq.ft.) would be an adequate request.

Discussion followed on a 15-foot setback with a 5-foot variance. Because the van is used in connection with a home business, it must be parked in an enclosed structure or where it is not visible from the street. The following changes were agreed upon:

- Change Condition #2 to read, "The proposed accessory structure shall be no larger than 1,000 sq.ft., shall be no more than 20 feet in height, and have a roof pitch no greater than 6 and 12.

Tim Havel moved to approve VR-97-07 based on the findings as contained in Exhibit 3 of the Staff Report and subject to the amended conditions in Exhibit 3. **Donald Hammang** seconded. MOTION CARRIED 3-2 with Charles Stoudt and Terry LaRocque voting in opposition.

7.0 WORKSESSION

7.1 Joint Planning Commission and City Council Worksession on Light Rail

Chair Smith opened the worksession on Light Rail. He then turned the presentation portion of the worksession over to Dan Bartlett, City Manager. Introductions were made; those in attendance were:

Laura Jackson, W & H Pacific
Chris Eaton, W & H Pacific
Larry Landcaster, City Councilor
Charles Stoudt, Planning Commissioner

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Terry LaRocque, Planning Commissioner
Susan Heiser, City Senior Planner
Mary King, City Councilor
Carolyn Tomei, Mayor
Jeff Marshall, City Councilor
Rob Kappa, City Councilor
Donald Hammang, Planning Commissioner
Tim Havel, Planning Commissioner
Susan Finch, Metro
Mike Smith, Planning Commission Chair
Brent Collier, Police Chief
Dan Bartlett, City Manager

Bartlett gave an overview of the Light Rail project today. There are three proposed alternate routes for Milwaukie. Oregon City is very eager to have a Light Rail stop in their area. Mayor Fowler has asked to be involved in all of the routing decisions. The comment period for DEIS is closed. There is a 60-day period in effect now for comments and revisions to be included in the final report. Public hearings are still being conducted for these comments.

Milwaukie will hold a Townhall Meeting on May 27, 1998, to address Light Rail. This will give local residents an opportunity to learn more about the Light Rail project and have a forum for dialogue on the project.

There is an outreach program, in the form of small coffee meetings, which help to inform the public of the system and details of Light Rail.

A presentation was made by Laura Jackson and Chris Eaton. Issues discussed were:

- The DEIS Report and its impact on the final report. Other reports included in the process are the Scott Park Mitigation Report, Operations and Maintenance Facilities Park and Ride Milwaukie Report, etc.
- The original intent was for a route from Clackamas Town Center to Vancouver, WA. Metro, after realizing funding may not be available, has identified three shorter alternate routes: from the Milwaukie MarketPlace to Vancouver, Washington, Clackamas Town Center to the Rose Quarter, and Clackamas Town Center to North Lombard. All alternatives involve the East Milwaukie segment and the Regional Center Segment

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- Alignments within these routes were discussed. There are three choices for Milwaukie, Railroad Avenue as a local street, Railroad Avenue as a through street, and Highway 224. Discussion followed on the pros and cons of each alignment. Additional written material was submitted summarizing the impacts of these different alignments.
- Noise and vibration concerns (verify noise impacts)
- Light Rail noise impacts compared to railroad train impacts.
- DBA levels
- Noise walls
- Aesthetic impacts (structures and vegetation along travel corridors)
- Geology and soils (settlement of buildings, water issues)
- Riparian and wetland impacts (Scott and Kellogg Creek/Harmony Lot Fill)
- Final design (what is on the books at the time)
- Assessed value and lost taxes for park and ride site and maintenance facility
- Nylus study for impacts of Light Rail route alternatives
- Utility re-locations (significant re-locations that must occur)
- Downtown terminus for Milwaukie
- Traffic calming (impacts to neighborhoods, marketing, downtown
- Parking management plan for Downtown Milwaukie
- Air Quality (local air quality impact--bus service, traffic, Town Center)
- Full-size maintenance facility not needed--phase?
- Public safety (Milwaukie must provide safety issues)

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- Additional system revenue options--if needed.
- Service cuts and fair increase
- Traffic impacts south of Hwy. 224/Lake Rd (increased cut through traffic)
- Expand draft DEIS to include modernization of highway and facility and potential future development for overpassing and intersections

Discussion followed on the traffic impacts on the community. Traffic will get worse because of the concentration of cars coming to the park-n-rides and parking structures. This situation will be worse during peak traffic times.

These are all issues that Metro will take into consideration and come back to the Council with responses.

Susan Finch made a presentation on the impacts to the Ledding Library and Scott Park. She showed drawings of ways to mitigate the original alignment of the maintenance facility and the Ledding Library and Scott Park. A new alignment reduces the area that is impacted as Light Rail cuts through the library property and Scott Park.

Susan Finch explained that there are currently five mitigation sites:

1. Scott Park parcel (natural resource improvements, water feature, passive recreations)
2. Safeway parking lot (public plaza--performance)
3. Milwaukie Riverfront (performance area, riparian, recreation)
4. Remainder of Scott Park (improvements to park)
5. A portion of Milwaukie Junior High School site --(school district)

Brent Collier reviewed the safety and security aspects. In a meeting with planners and police officers, the focus was on two main areas: (1) recommend designs based on crime prevention and security challenges and opportunities for proposed stations and park and rides. It was recommended that there should be a people piece that addressed citizens working with uniform officers. The project is being asked to fund a portion of the costs for these security measures.

8.0 DISCUSSION ITEMS None.


- 10.0 OTHER BUSINESS/UPDATES
- 10.1 Historic Resources Commission Report. None.
- 11.2 Clackamas Regional Center Area Plan Report -- None.

- 11.3 Community Development Department Report -- None.

- 12.0 Next Meeting -- May 12, 1998
- 12.1 Functional Plan Compliance Workshop
- 12.1 Legal Issues Workshop

Charles Stoudt moved to adjourn the meeting of April 28, 1998. Tim Havel seconded.
MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:43 p.m.


Michael Smith, Chair


Shirley Richardson, Hearings Reporter

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 Community Development Department office at 786-7650.

Milwaukie Planning Commission:

Michael Smith, Chair
Mike Miller
Tim Havel
Terry LaRocque
Donald Hammang
Charles Stoudt

Community Development Department Staff:

Mike Swanson, Interim Community Dev Director
Susan Heiser, Senior Planner
Janet Wright, Assistant Planner
Jeanne Garst, Office Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

Hearing Date: April 28, 1998
120-Day Date: June 12, 1998

Date: April 21, 1998
File No.: VR-97-07

Application: Variance from Section 303.3D to build a detached accessory structure within the required rear yard setback.

Applicant/Owner: Allan Alford

Location: 4005 SE Harrison Street, Milwaukie, OR
Legal Description: 11E36AA, Tax Lot 1000 (See **Exhibit 4** - Vicinity Map)

PROPOSAL:

The applicant's original request, reviewed by the Planning Commission on March 24, 1998, was for a 75% variance to construct a 1,212-square foot accessory structure that would have a 5 foot rear yard setback where 20 feet is the minimum required (Section 303.3D). This proposal did not comply with the Solar Access Protection requirements of Section 1300. The applicant has since revised the request to a 50% variance to have a 10 foot rear yard setback where 20 is required and to comply with the provisions of Section 1300. (**Exhibit 5**)

RECOMMENDATION:

That the Planning Commission review the zoning ordinance criteria, and information provided in the staff report, consider the testimony of the applicant and others deemed to have standing and to render a determination to either conditionally approve or deny VR-97-07.

BACKGROUND:

This proposal was previously before the Planning Commission at a March 24, 1998 public hearing. At that time the Planning Commission determined to continue the public hearing to April 28, 1998 in order to allow time for staff to determine compliance with the Solar Access provisions of the Zoning Code, as well as allow the applicant time to work with the neighbors to resolve setback, height and bulk issues.

In addition to moving the requested setback from 5 feet to 10 feet, the applicant has redesigned the roof pitch from the previously proposed 10 in 12 slope to a 8 in 12 or 6 in 12

slope. The east roof line has also been designed so that the roof peak would now be 15 feet from the neighboring property line instead of 5 feet. The east building setback is still proposed to be 5 feet and the size of the accessory structure would still be 1,212 sq. ft.

This is a 10,000 sq. ft. corner lot located in the R-5 District. This two story single-family house was built in 1938. The house has a 1,190 sq. ft. foot print which sits 17 feet from the west property line (side yard) and 30.5 feet from the south property line (front yard), 48.5 feet from the east property line (side yard), and 35 feet away from the north property line (rear yard). (Exhibit 4) There is an existing single car garage, also built in 1938, situated five feet from the north property line behind the house. A newer carport is attached to this garage on the south side. The lot slopes upward from both Harrison Street and 40th Avenue, and driveway access is taken from 40th Avenue. There is a large maple tree growing between the house and the east property line. Adjacent properties as well as those on surrounding blocks are zoned R-5, while the east half of this block does contain some R-3 and C-G zoned lots.

DISCUSSION:

Compliance with the Comprehensive Plan

This property is situated in an area designated for Moderate Density housing according to the Land Use Plan, Map 7 in the Milwaukie Comprehensive Plan. While the Comprehensive Plan does not directly address the placement of accessory structures, Policy 3 under Objective 4 (Neighborhood Conservation) in the Residential Land Use and Housing Element does state, "Within Moderate and Medium Density areas, residential infill which maintains existing building heights, setbacks, yard areas and building mass will be encouraged. Of particular importance is the maintenance of existing residential scale when viewed from the street..."

There is also a tree preservation guideline found in the Neighborhood Element for Neighborhood Area 2 which now correlates to the part of the Hector Campbell Neighborhood District Association. This guideline states that it is desirable to preserve large trees throughout this neighborhood area.

The revised detached accessory structure location is closer to the tree, however, this location would not detrimentally impact the tree. The applicant has stated that he intends to keep and protect this tree, and conditions of approval have been recommended to ensure this occurs. The applicant has also revised his plan to lower the roof height from 28 feet to 22.5 feet in height, and to increase the setback to the north property line. Additionally, a new roof design would reduce impacts to the neighbors to the east by using a hip roof to place the peak of the structure 15 feet from the property line.

While these changes bring the structure into better conformance with the Comprehensive Plan Neighborhood Conservation Policies, staff believes that the size of the structure should

be reduced to below the foot print of the existing house. Staff contends that a detached accessory structure of 960 sq. ft. to 1,000 sq. ft. with a height no greater than 20 feet, should be the maximum size of a detached accessory structure at this site that would maintain the existing residential scale and meet the intent of Neighborhood Conservation Policy 3, Objective 4.

Compliance with Zoning Ordinance Criteria

Section 303 - R-5 Development Standards

Accessory structures are permitted outright in the R-5 district. The proposal meets the relevant R-5 District development standards (Section 303.3) as described below:

R-5 Zoning	Required	Existing	Proposed
Lot Size	5,000 sq. ft.	10,000 sq. ft.	No change
Setbacks -			
Harrison front yard	20 ft.	30.5 ft.	No change
40th side yard	20 ft.	16.66 ft.	No change
East side yard	5 ft.	48.5 ft.	5 ft.
Rear yard	20 ft.	35 ft./ 5ft.*	10 ft. **
Height	35 ft.	25 ft	22.5 ft. ***
Lot Coverage	35 %	17 %	24 %
Landscaping	25 %	74 %	64 %
Parking	2 (1 covered)	2 covered +	4 covered +

* The house has a 35 foot setback and the detached garage has a 5 foot setback. Accessory structures over 480 sq. ft. must maintain the same setbacks as required for the main structure.

** A variance is required.

*** Height for proposed building.

The applicant proposes to demolish the existing garage and the carport, and to replace them with a new accessory structure that is 1,212 square feet. The new structure complies with the district standards set forth in Section 303.3. with the exception of Section 303.3.D. that requires a rear yard setback of 20 feet. There is no change to lot size, front yard, or street side yard setback requirements proposed. Lot coverage will be about 24% which is less than the 35% permitted, and the landscaped area will still exceed 25%.

Section 1300 - Solar Access Standards

The proposal has been review by the Public Works Department for compliance with the Solar Access Protection provisions (1300). The solar evaluation, Exhibit 6, demonstrates that the current proposal complies with Section 1300.

Variance Criteria

Section 700 of the Milwaukie Zoning Ordinance provides that the Planning Commission may authorize a variance from the standards and attach conditions to lessen the impacts to nearby property, and protect the general welfare of the City. A variance may be granted only when the Planning Commission finds all three of the following criteria are satisfied in accordance with Section 702.1:

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

Applicant's Statement: "The property has existing conditions over which the applicants have no control. There is an historic maple tree, over 200 years old which prevents location of the accessory structure closer to Harrison Street. The placement of the existing house prevents location of the proposed garage from complying with the 20-foot setback requirement. In addition, a new access for this property, which could have addressed the set-back issue, at Harrison Street was denied. The applicants wish to protect the historic maple tree on site and have no control over its location. Nor do they have any control over the location of the existing house or the change in access from 40th to Harrison Street."

Staff Analysis: The location of the existing house is not unusual for a corner house in the Minthorn Addition. The house has always had access from 40th Street since the garage was constructed at the same time as the house. This R-5 lot is twice the minimum lot size required by the district regulations.

The old maple tree is an unusual physical characteristic of this property and it does preclude placement of the *proposed* accessory structure closer to Harrison Street. The Comprehensive Plan includes a neighborhood guideline that states it is desirable to preserve large trees throughout this neighborhood area.

This lot is higher than the abutting streets, particularly fronting along Harrison Street where the grade difference is approximately three feet. This is an unusual physical condition that makes it more difficult to construct the proposed accessory structure so that it has a garage oriented with a driveway from Harrison Street.

Conclusion: Criterion A stipulates that unusual conditions over which the applicant has no control must exist. These conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures. The Milwaukie

Zoning Ordinance defines "physical characteristics" as being physical, natural or manmade features of a property including trees, rocks, topography, wetland, and soils.

The existing old maple tree, and the grade difference between the lot and Harrison Street, are unusual conditions and physical characteristics over which the applicant has no control. These conditions may necessitate a rear yard setback variance. Therefore, the applicants proposal for a rear yard setback variance meets the conditions of Criterion A.

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

Applicant's Statement: *"The applicants have explored other possible configurations and alternatives to construction of the proposed garage. However, none of the alternatives is feasible.*

One alternative considered was to build two accessory buildings, six feet apart as required by code, covering the same basic footprint. No variance would be required if the buildings were limited to 480 feet each. Under the two building alternative, the setback requirement would be 3 feet from each property line, rather than the 5 feet proposed by the applicants' plan. However, two separate buildings would not meet the need to accommodate the 28-foot van and would be inconvenient for the applicants' other needs. In addition, the neighbors prefer a single building with 5-foot setbacks over two separate buildings with 3-foot setbacks.

If the historic tree was not there and if the house were in a different location on the lot, the applicants may be able to place the new garage in a manner which would comply with the 20-foot setback requirement. However, due to the foregoing factors, the requested variance is necessary to allow the applicants to use their property in a manner substantially similar to others in the surrounding area who do not have the same development constraints posed by the historic tree and the house location."

Staff Analysis: The Milwaukie Zoning Ordinance permits by right a one-story detached accessory structure up to 480 square feet, so long as it is at least 60 feet from a street and six feet from another building, (Section 401.1.D.). Such a structure could be built on this lot given its 100 foot depth.

More than one detached accessory structure could be built on this lot provided it did not intrude into a required yard setback, and the combined lot coverage of all structures did not exceed 3,500 square feet. For example, a garage to house the 28-foot long van could be built to replace the existing garage and carport while still maintaining the 20-foot rear yard setback; and there would still be room to place a

separate workshop up to 11 feet wide within three feet of both the rear and side property lines. Inconvenience in and of itself is not a consideration of Criteria B.

There are many detached garages and accessory structures in the Minthorn Addition and the surrounding R-5 district. One good example is the detached garage located at 3705 SE Harrison Street, No. 2 below.

At the March 25th hearing, the applicant submitted pictures of several large detached accessory structures constructed in the Ardenwald neighborhood. The table below shows that these structures range in size from 810 sq. ft. to 2,400 sq. ft. All structures meet the zoning setback requirements except for No. 4, the structure at 10486 SE 34th Avenue. This 945 sq. ft. structure is in the City's R-3 Zoning District and was granted a 9 foot rear yard variance in 1985 (VR 85-11) to allow a 6 foot rear yard setback where 15 feet is required.

	Address	Parcel Size	Approximate Structure Size
1.	10394 SE 40th	10,780 sq. ft.	900 sq. ft.
2.	3705 SE King	23,800 sq. ft.	1,800 sq. ft.
3.	3619 SE Harrison	8,060 sq. ft.	810 sq. ft.
4.	10486 SE 34th	6,480 sq. ft.	945 sq. ft.
5.	4543 SE Logus	53,380 sq. ft.	2,400 sq. ft.
6.	4581 SE Logus	38,420 sq. ft.	1,000 sq. ft.
7.	5405 SE King	43,180 sq. ft.	1,080 sq. ft.

The proposed accessory structure would have a 1,212 square foot footprint. This is larger than the residence on the same lot, and larger than all but two of the of the above listed detached accessory structures. The proposed structure is also 267 sq. ft. larger than the other accessory structure for which a rear yard setback variance was granted. Granting the requested variance, would appear to give the applicant the right to use the property in a manner substantially more permissive than other properties in the surrounding area.

Conclusion: There are other feasible alternatives available to the applicant than constructing a 1,212 square foot accessory structure that intrudes 10 feet (50%) into the required rear yard setback. The proposal does not appear to be the minimum variance necessary to allow the applicant to use the property in a manner substantially the same as others in the surrounding area. Reducing the structure to less than 1,000 sq. ft., consistent with other structures for which rear yard variances have been granted, could reduce the needed variance to 5 feet or less. Therefore, the applicants proposal for a rear yard setback variance fails to meet Criterion B.

C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

Applicant's Statement: *"There will be no significant adverse impacts on other properties resulting from this variance. The applicants have spoken with the majority of their neighbors and find that there is no opposition to their proposed plan. The applicants have located the accessory structure in a manner which prevents it from shading the neighbor's garden. Letters in support of this application from several neighbors are submitted herewith. Most of the neighbors prefer one large garage with 5-foot setbacks over two small buildings with 3-foot setbacks."*

Staff Analysis: The applicant has revised the application to address concerns voiced by neighbors regarding potential impacts to their properties. As a result, the building has been moved to have a ten foot setback from the north property line, and the roof has been redesigned to move the roof peak 15 feet from the property to the east.

It is the staff's position that a 1,212 square foot 22.5-foot high, detached garage is far too large to be located within a required yard. The size is much larger than needed to accommodate the 28-foot long van, and the applicant's needs do not outweigh the potential adverse effects on adjoining properties.

Impacts to the neighbors can be further minimized by requiring the reduction of the structure to less than 1,000 sq. ft. and by reducing the height of the proposed structure to less than 20 feet. Reducing the size of the building would also allow it to be moved further south and west to increase setbacks to the neighboring properties.

Conclusion: The requested variance would allow a structure that would be out of scale with the surrounding neighborhood and, therefore, does not meet the spirit and intent of the Comprehensive Plan and Zoning Ordinance. The neighbors, Mr. and Mrs. Roth and Ms. Eayrs gave testimony opposing the size and bulk of the applicant's proposal. Therefore, the applicant's proposal for a rear yard setback variance fails to meet Criterion B.

COMMENTS

Public Comment

Public comment was received at the March 24th hearing. These comments included concerns regarding the height and bulk of the proposed structure. The applicant has attempted to address these concerns with the current design. Additionally, these neighbors have been sent a copy of this report and are invited to give testimony at the April 28th public hearing regarding this current proposal.

Neighborhood Association Comments

The Hector Campbell Neighborhood District received a Neighborhood Land Use Referral and responded on March 9 stating , “ There are no objections to the proposed variance at 4005 SE Harrison Street.” See **Exhibit 7**.

Department of Public Works

The City Civil Engineer has reviewed this variance request, and notes that roof drains may be run to the curb on Harrison Street or to the storm system in 40th Avenue. See **Exhibit 8**.

North Clackamas Fire Prevention Office

No written or verbal comments had been received from the North Clackamas Fire Prevention Office as of on Monday March 16, 1998.

CONCLUSION

In accordance Section 1011.3 of the Milwaukie Zoning Ordinance, the Planning Commission shall render a decision including findings, conclusions, and conditions, if necessary. Section 700 allows the Commission to attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the City, and achieve the other purposes of the Zoning Ordinance.

The report analysis concludes that the applicant has failed to address all the variance criteria set forth in Section 702. Staff believes, however that variance findings could be made for a structure that is less than 1,000 sq. ft., a height of no more than 20 feet, and with increased setbacks to the north and east properties. Therefore, staff has prepared recommended findings and conditions for approval for a reduced proposal (**Exhibit 3**) in addition to the Findings for Denial of VR-97-07 (**Exhibit 1**), and the Findings and Conditions for Approval (**Exhibit 2**) that were part of the first staff report for this proposal.

EXHIBITS

- Exhibit 1: Draft Findings for Denial of VR-97-07
- Exhibit 2: Draft Findings and Conditions for Approval of VR-97-07
- Exhibit 3: Staff's Recommended Findings and Conditions of Approval for VR 97-07
- Exhibit 4: Vicinity Map
- Exhibit 5: Revised Site Plan and Elevation Submitted by Applicant
- Exhibit 6: Solar Access Protection Evaluation
- Exhibit 7: Hector-Campbell NDA Land Use Committee Comments
- Exhibit 8: Public Works Memorandum of 2/23/98

EXHIBIT 1

DRAFT FINDINGS FOR DENIAL OF VR-97-07

- 1. The property in question has unusual conditions over which the applicant has no control. These conditions relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures; specifically:**

The location of the existing house is not unusual for a corner house in the Minthorn Addition. The house has always had access from 40th Street since the garage was constructed at the same time, according to the applicant. This R-5 lot is twice the minimum lot size required by the district regulations.

The old maple tree is an unusual physical characteristic of this property and it does preclude placement of the proposed accessory structure closer to Harrison Street. The Comprehensive Plan includes a neighborhood guideline that states it is desirable to preserve large trees throughout this neighborhood area.

This lot is higher than the abutting streets, particularly fronting along Harrison Street where the grade difference is approximately three feet. This is an unusual physical condition that makes it more difficult to construct the proposed accessory structure so that it has a garage oriented with a driveway from Harrison Street.

- 2. There are feasible alternatives to the variance, and the variance is not the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area; specifically:**

The Milwaukie Zoning Ordinance permits by right a one-story detached accessory structure up to 480 square feet so long as it is at least 60 feet from a street and six feet from another building, (Section 401.1.D.). Such a structure could be built on this lot given its 100 foot depth.

More than one detached accessory structure could be built on this lot provided it did not intrude into a required yard setback, and the combined lot coverage of all structures did not exceed 3,500 square feet. For example, a garage to house the 28-foot long van could be built to replace the existing garage and carport while still maintaining the 20-foot rear yard setback; and there would still be room to place a separate workshop up to 11 feet wide within three feet of both the rear and side property lines. Inconvenience in and of itself is not a consideration of Criteria B.

There are many detached garages and accessory structures in the Minthorn Addition and the surrounding R-5 district. One good example is the detached garage located at 3705 SE Harrison Street. Based upon a windshield survey conducted on March 12 there do not appear to be any detached garages that greatly exceed the 480 square foot size limit, are higher than one story, and are located within the required setback areas. Only one of the large detached accessory structures presented by the applicant at the March 24th hearing, is within a required setback. This structure was granted a variance in 1985 and is much smaller than the applicant's proposal. The applicant's proposed accessory structure would actually have a footprint 282 square feet larger than the residence, which means that the applicant would be given a right to use the property in a manner substantially more permissive than other properties in the surrounding area.

3. Adverse effects upon other properties that may be the result of this variance will not be mitigated to the extent feasible.

As proposed, this 22.5-foot high 1,212 square foot accessory structure would be located in the northeast corner of this corner lot placing it ten feet away from three abutting properties. The Zoning Ordinance permits by right a one-story structure up to 480 square feet to be built within three feet of the rear and side property lines.

It is the staff's position that a 1,212 square foot 22.5 foot high, detached garage is far too large to be located ten feet from adjoining properties. The size is much larger than needed to accommodate the 28-foot long van, and would not outweigh the adverse effects on adjoining properties. This would also be counter to the spirit of the Neighborhood Guidelines in the Comprehensive Plan which promote maintenance of existing residential scale when viewed from the street.

EXHIBIT 2

DRAFT FINDINGS FOR APPROVAL OF VR- 97-07

- 1. The property in question has unusual conditions over which the applicant has no control. These conditions relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures; specifically:**

The location of the existing house is not unusual for a corner house in the Minthorn Addition. The house has always had access from 40th Street since the garage was constructed at the same time, according to the applicant. This R-5 lot is twice the minimum lot size required by the district regulations.

The old maple tree is an unusual physical characteristic of this property and it does preclude placement of the proposed accessory structure closer to Harrison Street. The Comprehensive Plan includes a neighborhood guideline that states it is desirable to preserve large trees throughout this neighborhood area.

This lot is higher than the abutting streets, particularly fronting along Harrison Street where the grade difference is approximately three feet. This is an unusual physical condition that makes it more difficult to construct the proposed accessory structure so that it has a garage oriented with a driveway from Harrison Street.

- 2. There are no feasible alternatives to the variance and the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area; specifically:**

It is not feasible nor desirable to build two 480 square foot accessory buildings, six feet apart as required by code, covering the same basic footprint. Two separate buildings would not meet the need to accommodate the 28-foot van and would be inconvenient for the applicants' other needs. In addition, some of the neighbors have expressed a preference for a single building with 5-foot setbacks over two separate buildings with 3-foot setbacks.

If the historic tree was not there and if the house were in a different location on the lot, the applicants may be able to place the new garage in a manner which would comply with the 20-foot setback requirement. However, due to the foregoing factors, the requested variance is necessary to allow the applicants to use their property in a manner substantially similar to others in the surrounding area who do not have the same development constraints posed by the historic tree and the house location.

3. Adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

There will be no significant adverse impacts on other properties resulting from this variance. The applicants have spoken with the majority of their neighbors and find that there is no opposition to their proposed plan. The applicants have located the accessory structure in a manner which minimizes shading of the neighbor's garden.

DRAFT CONDITIONS OF APPROVAL TO PERMIT A 1,212 SQUARE FOOT ACCESSORY STRUCTURE WITHIN 10 FEET OF THE NORTH (REAR YARD) PROPERTY LINE (V-97-07)

Community Development:

1. This 10 foot rear yard variance approval is valid only until October 28, 1998, by which time substantial construction of the structure must be completed.
2. The proposed accessory structure shall be as shown in the plans submitted on April 10, 1998.
3. The applicant shall have the old maple tree inspected by a licensed arborist and a report on its condition shall be submitted to the Community Development Department. A deed restriction to protect this tree shall be prepared and recorded with the County and a notarized copy provided to the Community Development Department.
4. The accessory structure shall not include a kitchen, and shall not be used as a dwelling unit, except in accordance with the provisions of the Milwaukie Zoning Ordinance.

Public Works:

5. The City Civil Engineer notes that roof drains are required and may either be run to the curb on Harrison Street or to the storm system in 40th Avenue.

EXHIBIT 3

RECOMMENDED FINDINGS FOR APPROVAL OF VR- 97-07

1. There are unusual conditions that relate to physical characteristics of the property. These include the old maple tree, the height of the lot in relation to Harrison street and the existing location of the house on this 10,000 sq. ft. lot. These conditions may necessitate a rear yard setback variance. Therefore, the property in question has unusual conditions over which the applicant has no control.
2. The applicant's proposed accessory structure would have a 1,212 square foot footprint. This is larger than the residence on the same lot and 267 sq. ft. larger than the other accessory structure for which a rear yard setback variance was granted. Granting the requested variance, would appear to give the applicant the right to use the property in a manner substantially more permissive than other properties in the surrounding area.

There are other feasible alternatives available to the applicant than constructing a 1,212 square foot accessory structure that intrudes 10 feet (50%) into the required rear yard setback. The proposal does not appear to be the minimum variance necessary to allow the applicant to use the property in a manner substantially the same as others in the surrounding area. Reducing the structure to less than 1,000 sq. ft., consistent with other structures for which rear yard variances have been granted, could reduce the needed variance to 5 feet or less. A variance for a 5 foot rear yard variance would be the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.

3. The requested variance would allow a structure that would be out of scale with the surrounding neighborhood and, therefore, does not meet the spirit and intent of the Comprehensive Plan and Zoning Ordinance. The proposed 1,212 square foot 22.5-foot high, detached garage is far too large to be located with in a required yard. The size is much larger than needed to accommodate the 28-foot long van, and the applicant's needs do not outweigh the potential adverse effects on adjoining properties.

Impacts to the neighbors can be further minimized by requiring the reduction of the structure to less than 1,000 sq. ft. and by reducing the height of the proposed structure to less than 20 feet. Reducing the size of the building would also allow it to be moved further south and west to increase setbacks to the neighboring properties. If the structure is reduced as proposed, adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

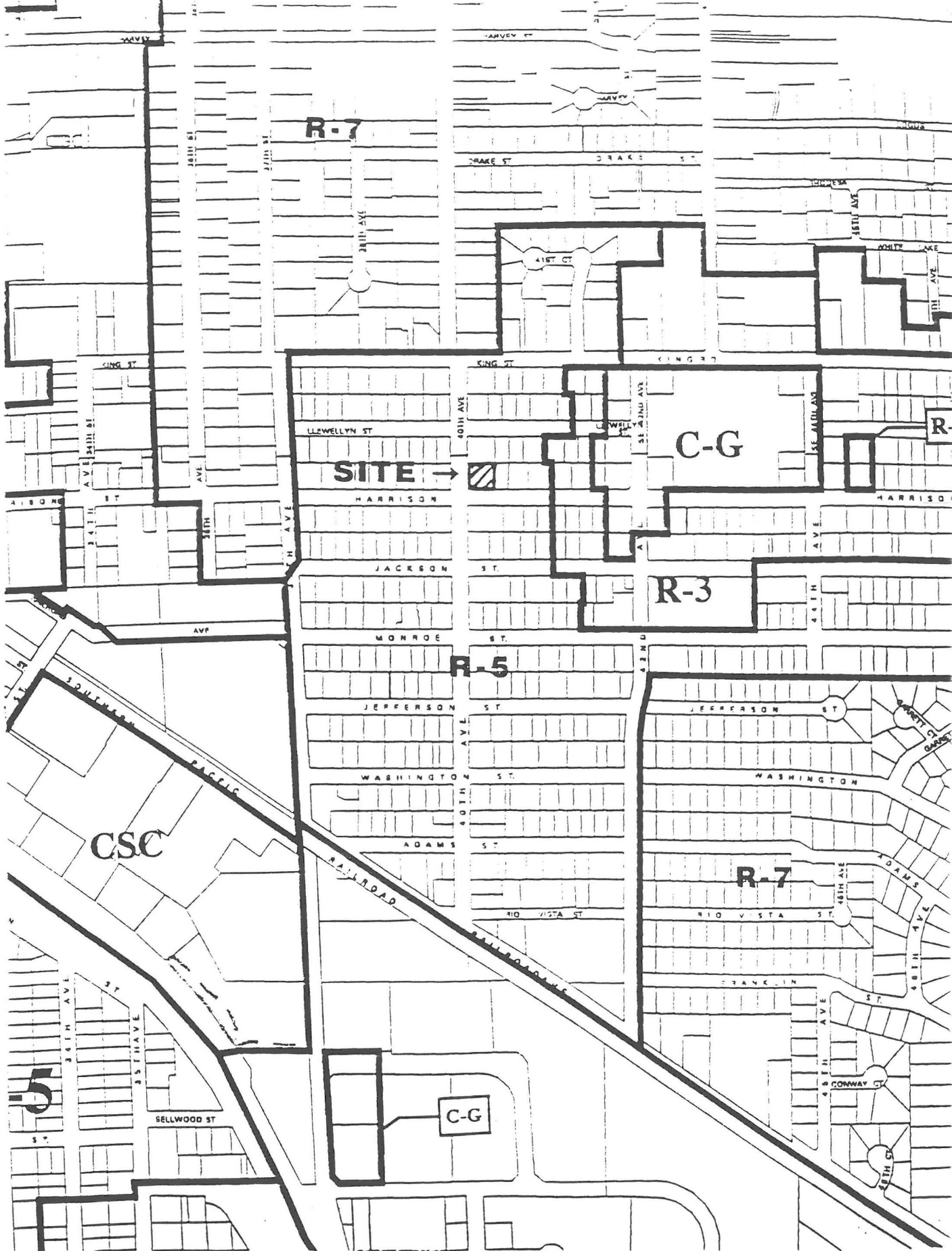
RECOMMENDED CONDITIONS OF APPROVAL V-97-07

Community Development:

1. This variance approval is for a five foot rear yard variance and is valid only until October 28, 1998, by which time substantial construction of the structure must be completed.
2. The proposed accessory structure shall be no larger than 1,000 sq. ft. and shall be no more than 20 feet in height.
3. The applicant shall have the old maple tree inspected by a licensed arborist and a report on its condition shall be submitted to the Community Development Department. A deed restriction to protect this tree shall be prepared and recorded with the County and a notarized copy provided to the Community Development Department.
4. The accessory structure shall not include a kitchen, and shall not be used as a dwelling unit, except in accordance with the provisions of the Milwaukie Zoning Ordinance.

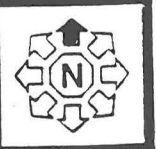
Public Works:

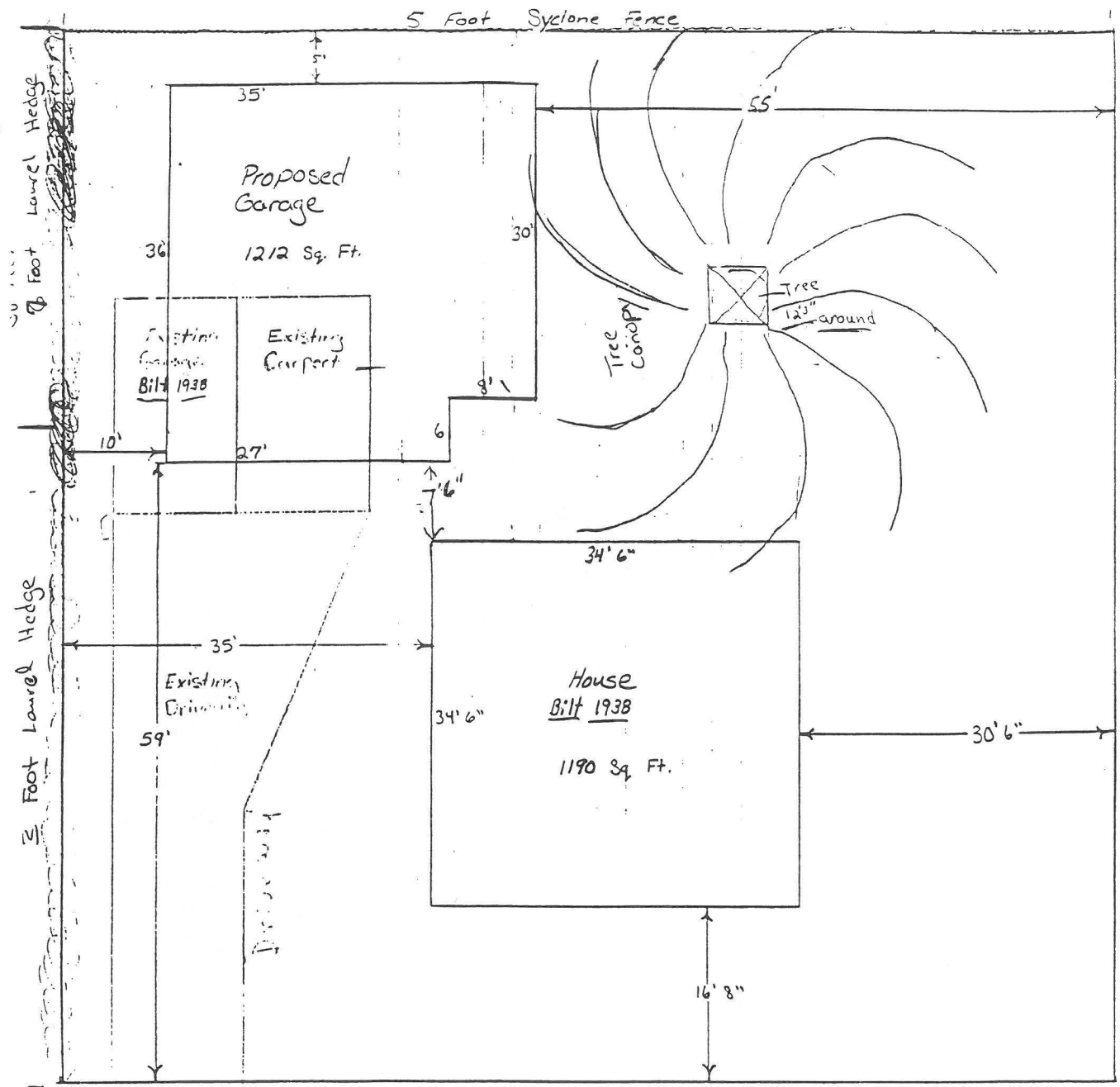
5. The City Civil Engineer notes that roof drains are required and may either be run to the curb on Harrison Street or to the storm system in 40th Avenue.



City of Milwaukie Community Development Department

Title: Vicinity Map Submitted by: Staff Date: 3-17-98 # Pages: 1
 File Numbers: VR-97-07 Applicant: Alford Exhibit #: 4





3/32" Scale

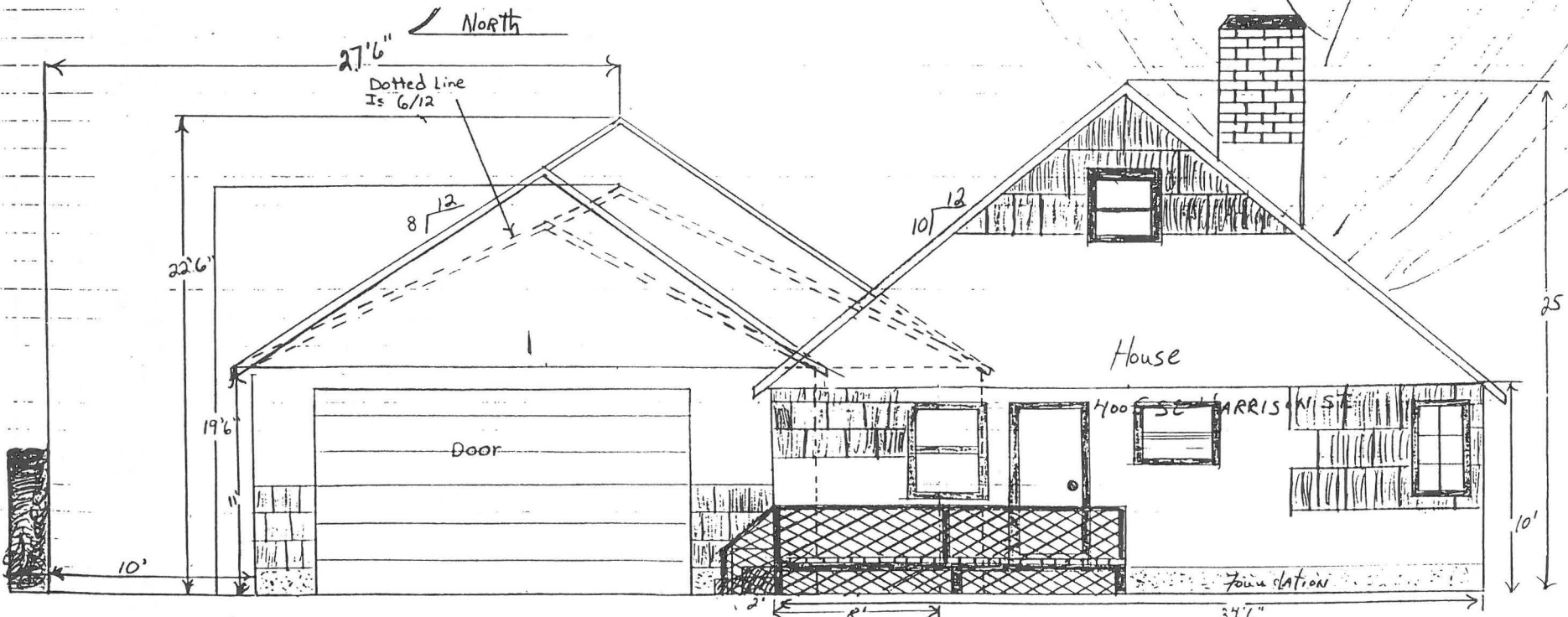
North

2402 Sq. Ft. Covered
10,000 Sq. Ft. Lot.
24.02% Covered

RECEIVED
APR 10 1998
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

RECEIVED
APR 10 1968
CITY OF MILWAUKEE
COMMUNITY DEVELOPMENT

MAPLE
TREE



3/16" SCALE 4005 SE. HARRISON

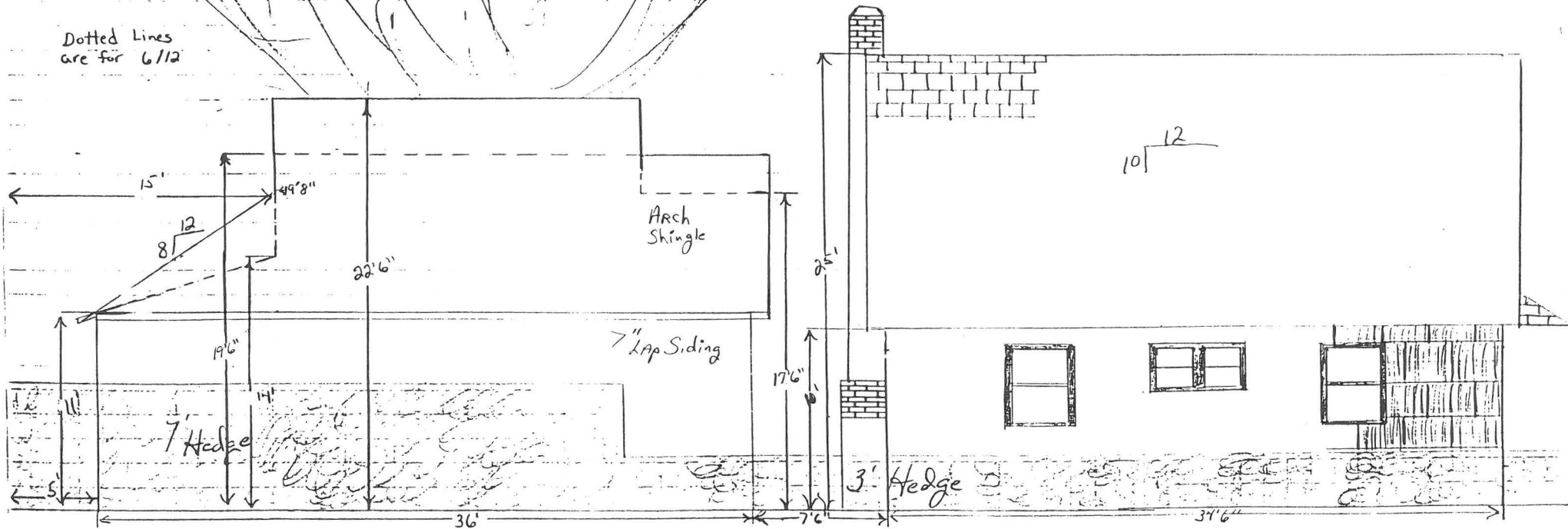
RECEIVED

APR 10 1998

CITY OF MILWAUKEE
COMMUNITY DEVELOPMENT

East
4005 SE HARRISON ST.

Dotted Lines
are for 6/12



RECEIVED

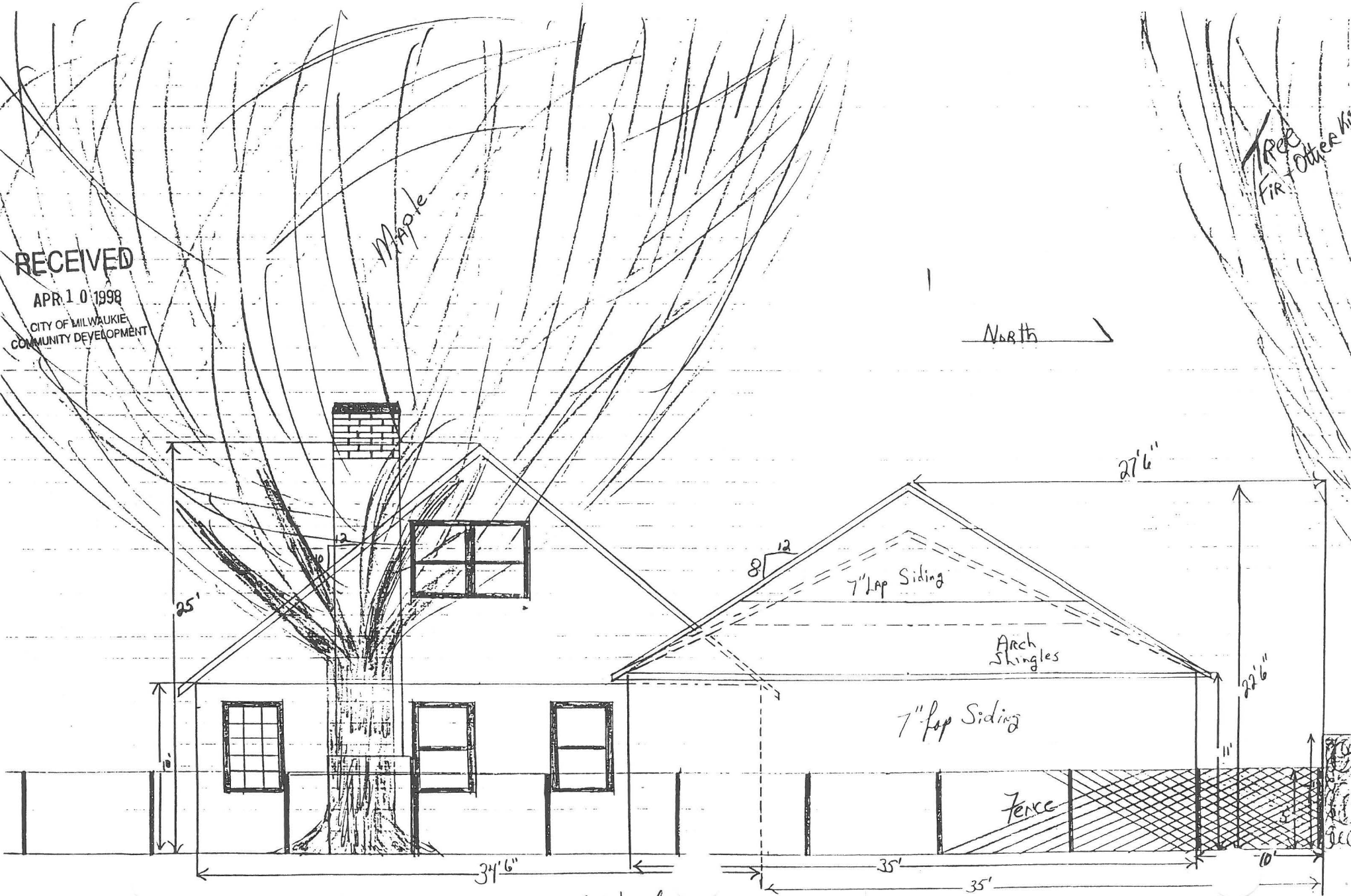
APR 10 1998

CITY OF MILWAUKEE
COMMUNITY DEVELOPMENT

Maple

Tree
Fir
Other

North



3/16" Scale

CITY OF MILWAUKIE

PORTLAND-VANCOUVER METROPOLITAN AREA SOLAR ACCESS PROJECT

SOLAR BALANCE POINT STANDARD CHECK SHEET

Date: 4-14-98

Building Permit#: _____

Plan Checker Initials: _____

Type of Use: Garage for SFR

MAXIMUM SHADE POINT HEIGHT CALCULATION

100 (feet) North South lot dimension

22 1/2 (feet) Height of shade point as proposed

27 1/2 (feet) Distance from northern lot line to shade reduction Line

22.9 (feet) Maximum height of shade point as allowed by maximum shade point height

ALLOWED SHADE ON SOLAR FEATURE

_____ (feet) Height at base of solar feature

_____ (feet) Southern neighbor's North-South lot dimension

_____ (feet) Maximum shade allowed at southern neighbor's northern lot line

_____ (feet) Distance to solar gain line from southern neighbor's northern lot line

_____ (feet) Height of shade allowed to be cast on solar feature

EXEMPTIONS AND MODIFICATIONS

If house does not meet maximum shade point height do any of the following exemptions apply?

1. Pre-existing shade

_____ From structure

_____ From topographic feature

_____ From vegetation

2. East, West or North facing slopes steeper than 20%

3. Insignificant benefit

_____ Undevelopable area

_____ Unheated space

_____ South wall with less than 20 square feet of glass

Do either of the following provisions for modifications to the standard apply?

1. Physical conditions (e.g. less than 3000 square foot lot size, unstable soils)

2. Solar balance point neighbor waiver

City of Milwaukie Community Development Department

Title: Solar Access Eval. Submitted by: Applicant Date: 4/21/98 # Pages: 5

File Numbers: YR-97-07 Applicant: Allan Alford Exhibit #: 6



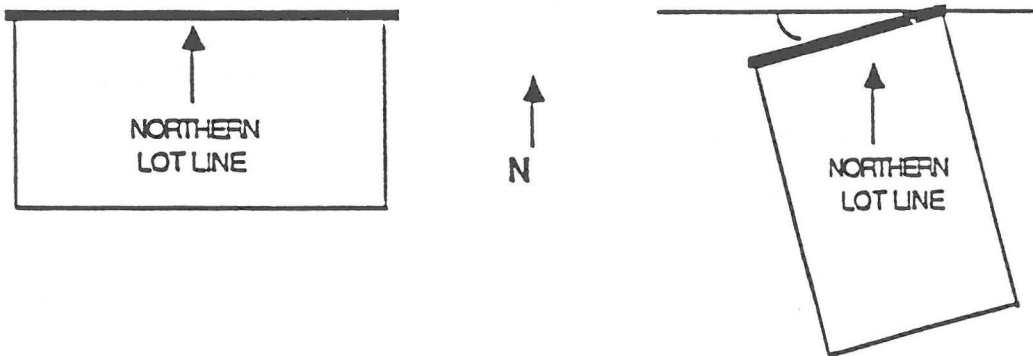
SOLAR SETBACK STANDARD INSTRUCTION SHEET: FLAT LOT

All structures in the R-1, R-2, R-2SRD, and R-3 districts, and structures on lots designated for single-family, duplex, or triplex use in a Planned Residential Development District, must comply with the Solar Setback.

STEP 1: Measure the North-South Dimension for the Lot

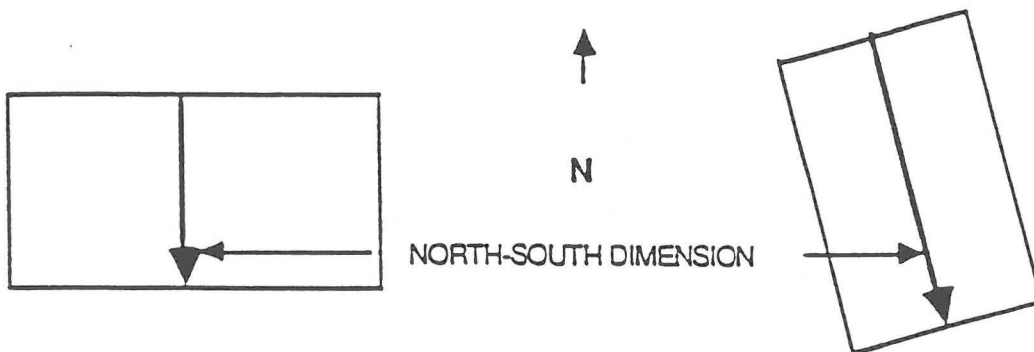
A. Find the Northern Lot Line.

The northern lot line is the line with the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot. Whenever an undevelopable area such as a street, alley or right-of-way is to the north of the lot, the northern lot line is the northern edge of the undevelopable area. The pole portion of a flag lot is excluded from the calculation.



B. Measure the North-South Dimension of the Lot

Draw a line perpendicular to the northern lot line starting from the mid-point of the northern lot line and going in a southerly direction until it leaves the property. The length of this line is the north-south dimension of the lot. Write the north-south dimension for your lot in the box below.



BOX A. NORTH-SOUTH DIMENSION FOR YOUR LOT

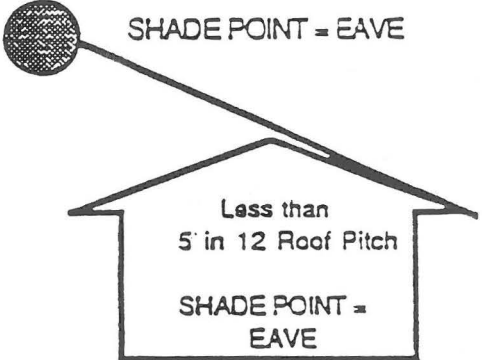
100 Feet

W Shade point

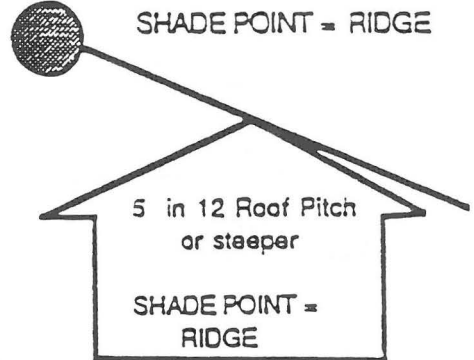
STEP 2: Measure the Height of the Shade Point of the Structure

A. Where to measure from:

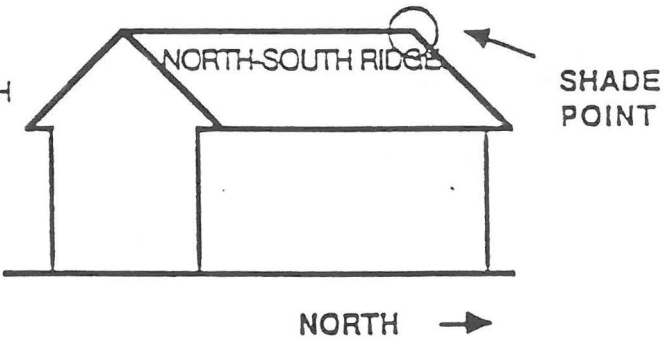
If the ridgeline runs EAST-WEST and the pitch is less than 5 in 12:



If the ridgeline runs EAST-WEST and the pitch is 5 in 12 or steeper:

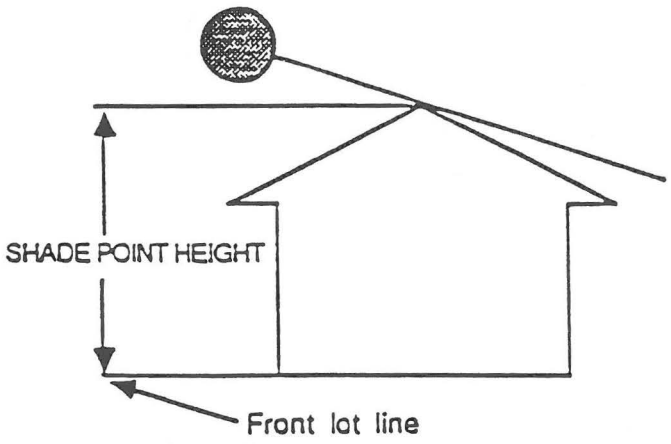


If the ridgeline runs NORTH-SOUTH measure from the northernmost point of the ridge, but reduce the height measurement by three (3) feet.



B. Where to measure to:

Measure to average grade at the front lot line.



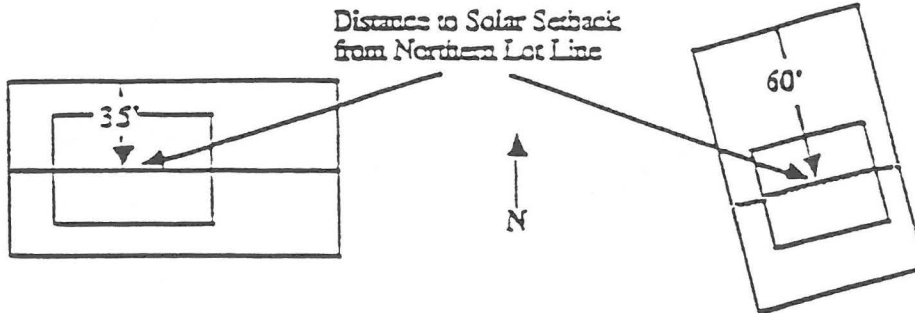
Write the height of the shade point for your structure in the box below.

BOX B. SHADE POINT HEIGHT FOR YOUR STRUCTURE

22 1/2 Feet

STEP 3: Measure the Solar Setback of the Structure

The solar setback is the distance from the northern lot line to the shade point. Draw the solar setback line parallel to the northern lot line. Measure the distance to the solar setback along a line drawn perpendicular from the northern lot line. Write the distance to the solar setback from the northern lot line in the box below.



BOX C. DISTANCE TO THE SOLAR SETBACK
27 1/2 Feet

STEP 4: Check for Compliance with the Solar Setback Standard

MINIMUM REQUIRED DISTANCE TO SHADE REDUCTION LINE

N/S LOT DIM	SHADE POINT HEIGHT						
	40	35	30	25	22 1/2	20	15
100 or more	70	58	45	33	26 1/2	20	8
95	70	58	45	33	20		8
90	70	58	45	33	20		8
85	68	55	43	30	18		5
80	65	53	40	28	15		3
75	63	50	38	25	13		0
70	60	48	35	23	10		0
65	58	45	33	20	8		0
60	55	43	30	18	5		0
55	53	40	28	15	3		0
50	50	38	25	13	0		0

MINIMUM DISTANCE TO SHADE REDUCTION LINE = $(2.5 \times H) - 75 + (N/2)$

WHERE: H = HEIGHT OF THE SHADE POINT
 N = THE NORTH-SOUTH LOT DIMENSION

BOX D: MINIMUM REQUIRED SOLAR SETBACK
26 1/2 Feet

CHECK FOR COMPLIANCE

If the proposed solar setback is less than allowed by the standard, consider one of the following:

- _____ Moving house south on lot, including using yard regulation exceptions for solar purposes (13.13.040G)
- _____ Alternative Shadow Pattern Standard
- _____ Adjustment of Standard for Shade on Applicant's Structure

Neighborhood Land Use Referral

Date routed: 2/18/98 Tentative Planning Commission hearing date: 3/24/98 Comments due by: 3/9/98

Application type: Major Variance File #(s): VR-97-07

Procedure type: Minor Quasi-Judicial

Applicable City policies and criteria:

Comprehensive Plan:
Zoning Ordinance: Section 700
Sign Ordinance:
Subdivision Ordinance:


✓ Applicant: Allan Alford
Address: 4005 SE Harrison
Milwaukie OR 97222
Phone: 654-9326

Proposal location: 4005 SE Harrison
Reference parcel #: 11E 36AA 1000
Zoning: R-7
Proposal: Variance from Section 302.3(D) to build a 1,212 sq ft accessory structure within 5 feet of the north property line where a 20 foot setback is required.

Comments: (attach separate sheet if necessary)

There are no objections to the proposed variance at 4005 SE Harrison St.

Thank you, Sincerely


David C Murray
Chairperson

RECEIVED

MAR 09 1998

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

City of Milwaukie Community Development Department

Title: NDAC Comments Submitted by: Staff Date: 3-17-98 Pages: 1
File Numbers: VR-97-07 Applicant: Alford Exhibit #: 7



MEMORANDUM

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger, Civil Engineer *PR*

RE: VR-97-07
4005 SE Harrison Street

DATE: February 23, 1998

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CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

This property is located on the northeast corner of 40th Avenue and Harrison Street. The existing house faces Harrison Street but the existing driveway accessing the property comes off of 40th Avenue. There is an existing garage within 5-feet of the north property line.

Harrison Street is an existing arterial street with curb and sidewalk. 40th Avenue is an existing neighborhood street with no curb or sidewalk. No increase in occupancy is proposed on the site, therefore, existing street conditions are satisfactory.

The existing driveway off of 40th Avenue is paved with asphalt and concrete and it appears there are no changes proposed. If widening of the driveway within public right-of-way were to be done, a Right-of-Way permit would be required.

Storm drainage in this area is handled by a storm system in 40th Avenue. Roof drains may be run to the curb on Harrison Street or to the storm system in 40th Avenue.

The property is currently served by City sanitary sewer and water. No additional system development charges are necessary.

City of Milwaukie Community Development Department

Title: PW Comments Submitted by: Staff Date: 3-17-98 # Pages: 1
File Numbers: VR-97-07 Applicant: Alford Exhibit #: 8

