CITY OF MILWAUKIE RAIZED
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 28, 2012
6:30 PM

COMMISSIONERS PRESENT
Lisa Batey, Chair
Chris Wilson
Mark Gamba
Scott Churchill
Russ Stoll
Clare Fuchs

STAFF PRESENT
Katie Mangle, Planning Director
Brett Kelver, Associate Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Justin Gericke, City Attorney

COMMISSIONERS ABSENT
Nick Harris, Vice Harris

1.0 Call to Order – Procedural Matters*
Chair Batey called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

***Note**: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at http://www.ci.milwaukie.or.us/meetings.*

2.0 Planning Commission Minutes
2.1 November 22, 2011

Commissioner Fuchs noted a change of Line 404, on 2.1 Page 12, to read "…stated from her experience, bike and pedestrian projects attached to multimodal projects…"

Commissioner Gamba moved to approve the November 22, 2011, Planning Commission minutes as amended. Commissioner Stoll seconded the motion, which passed with Commissioner Churchill abstaining.

2.2 January 10, 2012

Commissioner Churchill moved to approve the January 10, 2012 Planning Commission minutes as presented. Commissioner Stoll seconded the motions, which passed unanimously.

3.0 Information Items

Chair Batey noted Commissioner Stoll's 1 year anniversary. Commissioner Stoll mentioned how he enjoys working with the other Commissioners and staff.

Katie Mangle, Planning Director, introduced Justin Gericke, City Attorney, who was sitting in for Damien Hall.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Residential Development Standards
Applicant: City of Milwaukie
File: ZA-11-03
Presenter: Li Alligood and Ryan Marquardt

Chair Batey called the hearing to order and read the conduct of legislative hearing format into the record.

Li Alligood, Assistant Planner, and **Ryan Marquardt, Associate Planner**, presented the staff report via PowerPoint and described the project's proposal.

Chair Batey called for public testimony in support of the project.

Stephan Lashbrook, 4342 SE Rockwood St, noted he was nearly entirely in support of the project. His comments and concerns addressed garage placement, Accessory Dwelling Units (ADUs), lot size, and tarp structures.

Nathan Bell, 5249 Brookside Dr, supported ADU regulations with modifications.

Chair Batey called for public testimony neutral to the project.

David Aschenbrenner, 11505 SE Home Ave was concerned about the definition of fowl, but supports the provisions on wind turbines, etc.

Greg Hemer, 5822 SE Harrison St, presented his proposal to include a 100% Made in USA incentive as an optional single-family design criterion.

James Knight, 10987 SE 28th Ave, stated he was in favor of increasing housing density and flexibility, specifically for ADUs.

Ray Bryan, 11416SE 27th Ave, noted that he appreciated work done on the project, especially on multifamily standards. He was concerned about detached ADUs in the backyards of existing lots and the impact of them to neighbors. He opposed personal services allowed as Conditional Uses in the Historic Downtown zones.

Chair Batey called for public testimony in opposition to the project.

Steve Smelser, 13395 SE King Rd Happy Valley, noted his comments pertained to single family detached houses. He was opposed to design standards but not opposed to zoning, although aesthetics were subjective.

Katie Mangle, Planning Director, recommended that the hearing be continued to March 13, 2012, keeping the record open for comment.

It was moved by Commissioner Churchill and seconded by Commissioner Gamba to continue the public hearing for ZA-11-03/CPA-11-04 Residential Development Standards to March 13, 2012, as recommended by staff. The motion passed unanimously.

5.2 Summary: Furnberg St Single-Family Residence
Applicant: Bruce Goldson
File: WQR-11-05
Staff: Brett Kelver

Brett Kelver, Associate Planner, presented the staff report via PowerPoint. .

Bruce Goldson, Applicant, presented the application.

Chair Batey called for public testimony.

Tracey Anderson, 6415 SE Apple St, is opposed to a 2-story home due to privacy impacts. She noted that Apple St floods often and more development would aggravate the problem. She asked what the City could do to address the flooding problem before allowing more development.

Jeff McDaniel, 6405 SE Apple St, asked about what vegetation was proposed to be removed, noting he had been taking care of the property and would like it to continue to be a preserved resource.

Dennis Teske, 6335 Apple St, felt that the house would impact wildlife in the nearby pond. He noted that the house built on the west of the pond had impacted the bullfrogs and water flows, and the difference was noticed after the fill went in in 2002.

Chair Batey called for the Applicant's rebuttal.

Mr. Goldson responded that the drainage issue on Apple St was City problem. The conditions for approval included a stormwater easement on the south side of the property, and the impacts to the pond would be minimal and the proposed restoration would help habitat.

Chair Batey closed public testimony.

The Commission requested further information from staff regarding stormwater management and flooding issues on SE Apple St and potential wetland fill issues on adjacent assisted living facility property.

It was moved by Commissioner Gamba and seconded by Commissioner Churchill to continue the public hearing for WQR-11-05 to March 13, 2012. The motion passed unanimously.

7.0 Planning Department Other Business/Updates

7.1 Planning Commission Elections - *postponed*

8.0 Planning Commission Discussion Items

9.0 Forecast for Future Meetings:

March 6, 2012	1. Annual Meeting with City Council
March 13, 2012	1. Public Hearing: ZA-11-03 Residential Development Standards *tentative*
	2. Public Hearing: WQR-11-05 Furnberg St Wetland *continuation*
March 27, 2012	1. Public Hearing: ZA-11-03 Residential Development Standards

Meeting adjourned at approximately 10:33 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Lisa M. Batey

Lisa Batey, Chair

AGENDA

MILWAUKIE PLANNING COMMISSION
Tuesday February 28, 2012, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

1.0 Call to Order - Procedural Matters

2.0 Planning Commission Minutes – Motion Needed

2.1 November 22, 2011

2.2 January 10, 2012

3.0 Information Items

4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda

5.0 Public Hearings – Public hearings will follow the procedure listed on reverse

5.1 Summary: Residential Development Standards
Applicant: City of Milwaukie
File: ZA-11-03
Staff: Li Alligood and Ryan Marquardt

5.2 Summary: WQR Review for SFR (Furnberg St), estimated to begin at 8:45pm
Applicant/Owner: Bruce Goldson
File: WQR-11-05
Staff: Brett Kelver

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

7.1 Planning Commission Elections

8.0 Planning Commission Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.

9.0 Forecast for Future Meetings:

March 6, 2012	1. Annual meeting with City Council (5:30pm, City Hall)
March 13, 2012	1. Public Hearing: ZA-11-03 Residential Development Standards *tentative* 2. Public Hearing: WQR-11-05 Furnberg St Wetland *(continuation)*
March 27, 2012	1. Public Hearing: ZA-11-03 Residential Development Standards

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

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.

2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org

3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org

4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.

5. **TME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

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.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.

3. **APPLICANT'S PRESENTATION.**

4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.

5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.

6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.

7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.

8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.

9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.

10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.

11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Lisa Batey, Chair
Nick Harris, Vice Chair
Scott Churchill
Chris Wilson
Mark Gamba
Russ Stoll
Clare Fuchs

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Brett Kelver, Associate Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Alicia Martin, Administrative Specialist II

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, November 22, 2011
6:30 PM

COMMISSIONERS PRESENT
Lisa Batey, Chair
Nick Harris, Vice Chair
Mark Gamba
Russ Stoll
Fuchs
Chris Wilson *(arrived as Public Hearing 5.1 was called to order)*

STAFF PRESENT
Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Damien Hall, City Attorney
Wendy Hemmen, Light Rail Design Clare Coordinator

COMMISSIONERS ABSENT
Scott Churchill

1.0 Call to Order – Procedural Matters

Chair Batey called the meeting to order at 6:37 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 October 11, 2011

Chair Batey deferred the minutes due to the amount of meeting material the Commission had to read.

Commissioner Fuchs asked that staff email the Commission to let them know which minutes needed to be reviewed for the next meeting.

3.0 Information Items

Chair Batey stated that the new Milwaukie Kitchen & Wine restaurant downtown is awesome and encouraged everyone to try it. She had taken a cooking class there and got many ideas for Thanksgiving dinner.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Kellogg Bridge for Light Rail *continued from 11/17/11*

Applicant/Owner: TriMet
File: WG-11-01, DR-11-01, HCA-11-01, WQR-11-03, CSU-11-09
Staff Person: Susan Shanks

The following exhibits were distributed to the Planning Commission:

- Two-sheet handout titled, "Oak Tree Exhibit," a memorandum from Mark W. Hynson, Mason Bruce & Girard, dated November 21, 2011, regarding the assessment of the Oregon White Oak at Kronberg Park.
- Green, two-sheet handout from staff, Recommended Findings in Support of Approval, excerpted from Attachments 1 and 2, to include the Pedestrian Bridge dated November 22, 2011.

Chair Batey called the public hearing to order and read the conduct of quasi-judicial hearing format into the record.

Commissioner Wilson arrived at this time.

Chair Batey asked if any Commissioners had any ex parte contacts to declare that were previously undeclared.

Commissioner Gamba stated he had received one email that he forwarded to staff who had forwarded it to the Commission.

- **Katie Mangle, Planning Director,** explained that an email from Dan Platter addressed both hearing items. The part that was pertinent to the Trolley Trail hearing was forwarded to that record and the comments relevant to the Kellogg Bridge hearing were being held back and would be included in the record if the public testimony were reopened at the Commission, City Council, or LUBA. The email had been received after the close of public testimony for the Kellogg Bridge.

All Commissioners declared for the record that they had visited the site. No Commissioners, however, declared a conflict of interest, bias, or conclusion from a site visit. No Commissioners abstained and no Commissioner's participation was challenged by any member of the audience.

Commissioner Wilson confirmed that he had reviewed the material from the last hearing to prepare to participate this evening as he had missed part of that meeting.

Chair Batey opened the record so staff could present new information requested by the Commission at the last hearing.

Susan Shanks, Senior Planner, stated that the City had hired Mr. Hynson, who visited the site and prepared a memorandum, which had been distributed to the Commission and officially entered into the record.

Mark Hynson, Senior Biologist, Mason, Bruce & Girard, stated he was originally asked to evaluate the tree's condition and any sort of protection measures that could be employed to preserve the tree during the construction of the bridge. He reviewed photos of the tree via PowerPoint that were included in the memorandum. Key comments and responses to Commissioner questions were as follows:

- A large cavity, approximately 2.5 ft long, existed on the backside of the tree in its main central leader. In many cases, such indications of rot and decay extended well above and below the cavity. The cavity had probably been on the tree for many years, but it was a very significant point of failure or weakness in the tree.
    - Farther down in the tree, fungal fruiting bodies or mushroom-like growths indicated some advanced decay. This was also considered a weak juncture or point of attachment of the tree.
    - The tree had a number of very old damaged limbs with very weak attachments, some of which were very dangerous. There was quite a bit of deadfall, or dead material, in the top of the tree.
    - His main concern for the long-term structural integrity of the tree was the cavity, which would essentially split the tree in half.
- Essentially, the tree was a hazard and in such a state of decline that it could fail at any time. It was not a question of if the tree would fail, but when the tree would fail.
- In his professional opinion, the tree warranted removal. If the tree was retained, pedestrians should not be walking under the tree until it received extensive care.
- He did not core the tree, but estimated its age to be at least 60 years old. In comparing trees of similar age, a lot depended on the level of care provided. This tree had received no professional tree care whatsoever, so it was in a state of decline. A tree in an urban or park setting needed a tremendous amount of care. The degree of damage and failure was not unusual for a tree of this advanced age.

- Positive arborist reports occurred more often than expected; it depended on the level of care a tree received and a tree's location. Arboriculturists always considered the risk target for a tree. A tree in a farmer's field was not as concerning as a tree like this where people would be in close proximity, which represented a risk for the City. If this tree were in his backyard, he would be under contract to have it removed.

Ms. Mangle reminded that if the Commissioners wanted any further information they should request it now before closing the hearing. There were no further questions.

Chair Batey closed the public testimony portion of the hearing and opened Commission deliberation. Discussion on the four key issues noted at the November 17 hearing continued amongst the Commission and staff as follows:

Oak Tree:

- Given the arborist's report, doing a lot of work to save the tree did not seem prudent. In lieu of a condition for saving the tree, the replacement ratio could be further discussed and revised if necessary.
- The replacement ratio was probably sufficient except in the first set of modified conditions, Attachment 2 dated November 8, 2011. The language in Condition of Approval 10.A.6 stated "a few oak trees." The number and location of the replacement trees should be more specific.
    - Without a master plan and with the planting already done in the park by North Clackamas Parks & Recreation District (NCPRD), a little more flexibility was needed in the condition about the placement of the oaks. The mitigation plan should be reviewed to ensure the right combinations of plants were planted. Some large conifers planted in the park would shade out the oaks, so any oaks needed to be planted separate from where the conifers were located.
- Staff proposed amending Condition 10.A.6 to read, "Incorporate ~~a few~~ oaks into the mitigation plan to replace the one in Kronberg Park that will be removed by this project, and as a means to provide views of the water, which is consistent with the Willamette Greenway View Protection Criterion that applies to this area, oaks should be located in areas where they are most likely to thrive, in consultation with the City and in consideration of recent restoration plantings in Kronberg Park. To facilitate their survival, oaks should also be planted with appropriate understory and ground cover plants."

- Staff could include some general language about not grinding the stump and retaining parts of the tree onsite in the interest of habitat. The bigger part of the tree could be used as woody debris in the creek. Condition 10.A.6 was specific to mitigation plantings and Condition 11 spoke to Community Service Use (CSU) approval criteria that balance the impacts and benefits. Staff suggested adding new Condition 11.B to require retaining or repurposing the tree onsite.

- Because some other recent plantings were probably conifers and TriMet's application was not looking at that area, staff wanted to provide some flexibility in Condition 10.A.6. The mitigation plan had the replacement ratio built in, so not identifying a specific number of oak trees provided flexibility for having the most oaks in the area, especially if a master plan were developed by the time mitigation would occur.
- No language required TriMet to work with the City as a master plan was developed for the park between now and 2013. Although language did direct TriMet to consult with the City when the plantings were done to see where the master planning process was for the park, the City could not hold up TriMet's project while the City master planned the park.

Plantings

- Condition 10.A.7 of the revised conditions (Attachment 2) stated, "Consider reducing the amount of common snowberry" and adding various other plants. The condition should be worded more strongly; otherwise, the City would get all snowberries.
  - The language was from the City's consultant and could be changed. Staff suggested amending the language to state, "Add more flowering shrubs that provide wildlife habitat. ~~Consider reducing~~ Reduce the amount of common snowberry…and ~~adding~~ add red-flowering…"
  - The letter received from Oregon Department of Fish and Wildlife (ODFW) had a concise paragraph to that very point. Staff included that language directly in Condition 10.A.8, "Add herbaceous plant species to the native grass species mix to provide a food source for native pollinators."

Lighting:

- Given the lower energy alternatives of LEDs, the language regarding all references to lighting should be stronger. The Applicant should be required to present LED options, which had positive aspects for birds, bats, bugs, etc., and resulted in energy savings and reduced maintenance costs.
  - Staff suggested amending Condition 4 to read, "Prior to approval of development permits for the pedestrian bridge, the Applicant or other authorized entity shall propose energy

efficient and wildlife friendly pedestrian scale lighting for the pedestrian bridge, preferably LED lighting. The Planning…" A related finding was tweaked in a similar manner.

  - LED was also the direction the Design and Landmarks Committee (DLC) was recommending for the jump span lighting, so staff was uncertain whether LED should be specified, since that lighting would be re-reviewed anyway.

- Condition 4 essentially said the Planning Director would review and approve the particular lighting proposed in consultation with the DLC, but ultimately, the City would still have to approve it per the condition. The condition allowed the DLC to participate in the building permit or Type I development review.
- Some hard and fast language should be included about glare into residential areas, regardless of the light source.
  - Glare was addressed in the Code, depending on the area and type of review. For example, in the Willamette Greenway area, because it was a type of conditional use, Code language addressed no nuisance impacts, prompting the recommended condition about the train light, which had not yet been evaluated. The lighting underneath the jump span was discretely located, and there was no additional lighting on the bridge itself. Pedestrian lighting on the pedestrian bridge was potentially another source that had not been evaluated.
  - Language should be added requiring that pedestrian scale lighting not glare into residential properties and be appropriately shielded.
    - Staff suggested adding new Conditions 4A and 4B to separate the issues of the pedestrian scale lighting being energy efficient and wildlife friendly, and the shielding from residential properties. The condition would fall under the umbrella of the Willamette Greenway conditional use criteria.
- Condition 9C on Page 3 of Attachment 2 addressed light from the train. At the last hearing, a baseline was requested of the existing conditions regarding light from the train being shielded by the trees.
  - Staff suggested changing the language of Condition 9C to, "Provide a memo that describes the lighting impacts, if any, from the train light on nearby residential uses and drivers on McLoughlin Blvd as the ~~tracks curve on the Kellogg Bridge~~ train travels through the Willamette Greenway Zone." The approval criteria related to the whole area with respect to nuisance impacts. TriMet was doing the analysis now and agreed to extend the area of the analysis.

- The proposed language read as if only the impacts to residential uses along the McLoughlin Blvd were being analyzed. The point was to reach the residential uses across Kellogg Lake and not be limited to McLoughlin Blvd.
- As long as the train was within the Willamette Greenway Zone, anything affected by that source point would be analyzed.
- "Nearby residential uses" should be closer to the Willamette Greenway reference in the sentence. Other proposed wording was also mentioned.
  - Staff clarified the intent was to cover the whole area, and to capture residential uses as well as the drivers on McLoughlin Blvd. Staff would look into changing the language.

- Staff agreed Condition 6E should be changed to state, "Explore other energy efficient and low-pollutant lighting options with a focus on comparing fluorescent lighting with LED and other feasible lighting opinions." "Feasible" was a fickle word, but this item would return to the DLC for their response and then the Commission would see the language again.

Pedestrian Bridge:

- **Commissioner Gamba** asserted that not having the pedestrian bridge as part of the original project was an oversight. TriMet's efforts to try to make the project better for Milwaukie were appreciated and the budget constraints were understood. The Commission's job was to look out for the citizens of Milwaukie, see where something might have been missed in the project, and to try to change that.
  - The Commission was not allowed to address the Habitat Conservation Area (HCA) and Water Quality Resource (WQR) issues because that regarded the future and was not part of this permitting process. The additional damage done to those two areas by going back in and erecting the construction bridge to build the pedestrian bridge later when the City had the money was not minimizing the impact. Those areas would no longer be degraded after the mitigation, so the City would be going back and tearing up a good HCA area to put in the pedestrian bridge.
  - Building the pedestrian bridge during this construction would cost $1 million and building it in four or five years would likely cost $4 million or $5 million. The additional cost made it far more unlikely that the City would ever build the bridge. Grants could probably be obtained for a $1 million project but not likely for a $5 million pedestrian bridge. Not building the pedestrian bridge now essentially condemned it to not ever being done.

- Having the pedestrian bridge could possibly increase ridership on the train. It would certainly increase traffic to downtown Milwaukie because of all the apartments across the lake. Island Station residents would also have easy walking and biking access that they would not have had otherwise.
- One criterion of the Willamette Greenway is air quality. The pedestrian bridge would improve air quality due to the decreased vehicle trips to the train station.

- Two applications were pertinent in addressing the pedestrian bridge issue:
  - The Downtown Design Guidelines required that the pedestrian be a priority in all development projects, as noted in Table 1.a of the green two-page handout, Recommended Findings in Support of Approval, dated November 22, 2011. No pedestrian access existed to or anywhere near the Kellogg Bridge without the pedestrian bridge; it was akin to building a building without a sidewalk in front. It did not meet the Design Guidelines.
  - The Willamette Greenway required "public access to and along the river to the greatest degree possible by appropriate legal means." This project did not increase public access to the Willamette River.
    - The language used in previous versions of the findings referenced the future pedestrian bridge as enabling the project to meet that criterion, but there probably would not be a pedestrian bridge unless it was built now.
    - A finding could not be made on something not planned for, and the “future pedestrian bridge” was referenced in many places. If the Commission could not consider what would happen in the future with regard to protecting the HCA and WQR, how could something that might happen in the future be used as a finding for meeting the City’s criteria?
- It did not matter what grant funding was used or how it was paid for, the pedestrian bridge should be built when Kellogg Bridge was constructed. The sidewalks and all the connecting parts did not need to be built at the same time. The only thing that would cause a lot of destruction by being built later was the bridge itself.
- Tim Ramis, City Attorney, stated last week that the Commission could not issue a condition on TriMet that was not within their budget, which limited the Commission’s authority to the point that they could not make a legal land use decision and a finding about whether or not the project met the Code.
- The Design Guidelines language in Table 1 states the pedestrian was the priority in all development projects. The Applicant's information stated that the crossing productor created

no barrier, which was a very different test. It was one thing to create no barrier, but another thing to re-enhance the pedestrian system.

- **Ms. Shanks** explained the Applicant was addressing the first part of that guideline. The entire guideline stated, "Barriers to pedestrian movement and visual and/or other nuisances should be avoided or eliminated, so that the pedestrian is the priority in all development projects."
- As far as making a legal land use finding, it was correct that this guideline might not be fully met, but the approval criteria for the design review portion was “substantial consistency with the guidelines”, which was why it was a discretionary decision. Taken as a whole, the question was whether the project was substantially consistent with all the design guidelines, which was what the DLC found and staff believed. It was also a discretionary decision for the Commission. The Commission could make a legal finding one way or the other because of the approval criteria language.

- Putting an active train through downtown did create barriers to pedestrians. Getting from the high school to McLoughlin Blvd/Hwy 99E would require crossing the tracks and a pedestrian bridge would eliminate that.
  - It could also be said that building a bridge into Milwaukie increased pedestrian access because people were more likely to walk to the train. It was a mode for more active transportation and conducive to more pedestrian activity.
- There was already an issue in Island Station with children crossing the railroad trestle. With a light rail station as a destination in addition to the high school, more people could be walking the railroad trestle because they do not want to walk around the sewage treatment plant, especially with no convenient alternative.
  - A death occurred off the railroad trestle in the summer of 2010, so this was not an insignificant concern.
- It was a shame the pedestrian bridge was not included in the original project, but it was not TriMet’s issue. TriMet should not be required to construct Milwaukie's bridge.
- The pedestrian bridge was almost guaranteed to see a lot of use. There was a lot of housing density on the east side of McLoughlin Blvd.
  - With the Trolley Trail construction next to the sewage treatment plant, people were now walking out onto McLoughlin Blvd in the bike path because the sidewalk was torn up. This was seen on the east side of McLoughlin Blvd as well because no sidewalk existed along the east side.

- TriMet designed the bridge across the Willamette River with extensive bike and pedestrian access. Each of the two, 14-ft lanes penciled out at $1 million. It was as if that end of the light rail system got the funding and this one did not.
    - The pedestrian bridge was just missed in the planning. People did not realize the extent of the population that could access the station directly if some kind of crossing existed. It was an important piece of infrastructure that would greatly serve light rail and keep more cars out of downtown.

Chair Batey called for a short recess to review the green handout from staff. The Planning Commission reconvened at 7:42 p.m.

Damien Hall, City Attorney, stated the City was limited in the extent of conditions that could be put on the project and was limited by the project budget. If the Commission added a condition that exceeded the project budget, it would call into question how that condition would be treated and how the City would proceed procedurally. Everyone agreed the pedestrian bridge would be a wonderful aspect of the project, but if the objective was to get the pedestrian bridge, it was very unclear that putting a condition of approval requiring the pedestrian bridge would achieve that goal. It would likely shift the issue onto Council at that point, but there was no way to say that condition of approval would result in a pedestrian bridge.

The Commission, staff, and Mr. Hall continued the discussion as follows:

- **Mr. Hall** confirmed that the Land Use Final Order (LUFO) had the authority to keep the Commission from making what they felt was a legal land use decision per Milwaukie's local Code. Any conditioned changes exceeding the budget or the chosen alignment would be preempted by LUFO and the statute creating that LUFO process.
- If the City could get a grant to build the pedestrian bridge, the City would have to attach public infrastructure to TriMet property. TriMet could keep the City from building the pedestrian bridge because of the hassle, liability, etc. While it might be difficult to attach the pedestrian bridge as a condition of approval, the City might not have the legal ability to build it later.
- The final budget had not yet been established. A short list of elements could be included in the project, but the pedestrian bridge was not on that list.
- The Commission’s job was not to sort out whether or not the application could be appealed, but to decide what was right for Milwaukie and what met the Code. Creating a condition

could result in the pedestrian bridge being put on a short list to at least have a chance to be built.

- The condition did not specify who paid for the pedestrian bridge. It was entirely possible the money would be found, and TriMet would not have to find money in their budget. If the pedestrian bridge was not built before the work bridge was removed in the summer of 2013, it probably would not be built, which was the problem.
- **Mr. Hall** stated the draft conditions did not discuss the pedestrian bridge at all. Staff agreed that a condition could be crafted stating if the funding source materialized before construction was complete, then TriMet would construct the pedestrian bridge. Some caveats existed in that Milwaukie could not adjust TriMet's funding priority.
- With the clarification that the City was not prescribing TriMet's authority to deal with its own budget, a condition could be added that the bridge be built if outside funding for the bridge became available.
  - If they did use the language about building the bridge if the funding became available, the findings or conditions of approval should specify that if the City was building the pedestrian bridge, TriMet would allow the City to build it onto their bridge. It would be a big hurdle if TriMet were not legally required to accommodate it.
- **Mr. Hall** summarized there were two issues. The initial issue regarded who would build the bridge if funding became available before or during construction. The other issue was that the City be entitled, as part of this approval, to add on to Kellogg Bridge at its own expense.
  - Staff preferred consulting TriMet about the feasibility of TriMet building the bridge during the Kellogg Bridge construction should the City find the funding.
  - Staff proposed extending the 4-year expiration date for this project's land use approval, because the project was so large and complex. The Commission might want to consider extending the approval longer. The extension could be somewhat indefinite as long as certain things had not changed. There was a bit more scrutiny if a WQR area was involved because those areas could change more over time than the actual development in the area.

Chair Batey called for a straw poll on the following options:

1. Fully condition the construction of the pedestrian bridge
2. Alter the conditions to encourage, but not require, construction of the pedestrian bridge
3. Approve the application as submitted, without a pedestrian bridge

Commissioner Fuchs said she was leaning between options 1 and 2.

Commissioner Gamba preferred option 1; stating very clearly that this was what the Commission wanted and expected could cause entities to put some effort into making it happen.

Vice Chair Harris favored options 1 and 2, but leaned toward the middle ground as an avenue of success. He hoped middle ground could be found that would permit the construction of the pedestrian bridge at some future date, hopefully while the temporary bridge was in place, and not result in an outright appeal and the pedestrian bridge being stripped out.

Commissioner Stoll supported the middle ground of option 2.

Commissioner Wilson said he was between options 2 and 3, but would choose the middle ground of option 2 only because a future group would decide where the money came from; his concern was that the money would be taken from improvements to neighborhoods.

Chair Batey firmly believed the Commission needed to condition the pedestrian bridge now. If funding were not found in the next year, the pedestrian bridge would not happen no matter how they conditioned their ability to build it in the future. She supported the conditions on the green sheet.

Commissioner Gamba noted Milwaukie would never be able to fund this; a grant would be necessary.

Commissioner Fuchs stated from her experience, projects attached to multimodal projects, especially light rail, were funded by federal grants, not neighborhood improvements. With the current politics for federal grant programs, money would not be taken away from neighborhood projects.

Commissioner Gamba stated if they created it as a condition, TriMet had two options: they could appeal it and probably win, or they could put some effort into looking for grants the City did not know about, could not apply for, or find. If the condition were wishy-washy, no one would put any more effort into getting the pedestrian bridge built.

- **Ms. Mangle** noted TriMet had made it clear they would appeal option 1. They may also help the City find funding, which was staff's hope.

Commissioner Fuchs noted the issue of putting the Commissioners' names on something they did not agree with simply because of the threat of appeal. If City Council wanted to take away the pedestrian bridge, that was their purview.

Chair Batey agreed.

Ms. Mangle confirmed Vice Chair Harris and Commissioner Fuchs would be interested in staff crafting option 2 and then do another straw poll.

The Commission took a brief recess to allow staff to draft a condition based on the Commission's straw poll. The meeting reconvened at 8:19 p.m.

Ms. Mangle stated staff met with the TriMet project staff during the break. She made it clear that she appreciated their participation in trying to come up with a workable middle ground, and understood it did not preclude any appeal or arguments on LUFO. TriMet was happy to participate but reiterated that option 1 would be appealed to LUFO on the grounds the pedestrian bridge was not included in the base project.

Ms. Shanks stated the finding would be to augment the pedestrian emphasis guideline. The following language would be added to the first paragraph under a. of the Pedestrian Emphasis Guidelines in Finding Table 1 on 5.1 Page 27, Attachment 1, of the original packet, "<u>However, TriMet will allow the construction of the bridge by any entity. Moreover, TriMet will construct the pedestrian bridge if funding becomes available on or before February 1, 2013 for construction by September 30, 2013.</u>" September 30 was the date the construction bridge was to be removed. February 1 regarded the time needed to do the final engineering and design work.

- Information about the grant application that had been submitted would be on the City's website. She encouraged people to contact the funder for the grant that was currently submitted for the pedestrian bridge.
- The corresponding condition would be to modify further Condition 16B, shown on Page 1 of the green handout dated November 22, 2011, to state, "Construct the pedestrian bridge beneath the light rail bridge <u>if funding becomes available on or before February 1, 2013 for</u>

construction before September 30, 2013. The pedestrian bridge must connect to each bank of Kellogg Bridge, but need not include pedestrian walkway connections to the park or nearby streets."

- An ongoing condition of approval would ensure TriMet would allow any entity to construct the pedestrian bridge at any time in the future.

Key discussion points amongst the Commission and staff regarding the newly proposed conditions continued as follows:

- **Mr. Hall** confirmed that based on TriMet's comments thus far, including language about "actively seeking funding" would work, but should be limited to the window between now and February 1, 2013.
  - **Ms. Shanks** would add, "actively seek funding in partnership with the City of Milwaukie" to new Condition 16B.
  - The proposed language added a new Item D to both Conditions 7 and 9, shown on page 1 of the green handout, would be deleted because the additions would not fit with the proposed approach of the revised Condition 16B.
  - Option 2 was separate from the original green handout. The key in the newly proposed language was the overarching finding stating that the application complied; otherwise, it would go more toward option 1.
- **Commissioner Fuchs** felt that the project did not meet the Code. It would be appropriate to make a finding stating the reason for crafting the condition was that LUFO said their decision preempted Milwaukie's Code. This resulted in the Commission making a different discretionary finding than would have been made otherwise.
  - **Chair Batey** agreed that that was the problem. If the project did not meet Milwaukie's Code, which should be first and foremost for the Commission, not LUFO or whether TriMet would appeal.
- The Commission was assuming the City would lose the appeal, but it was possible to win.
  - **Mr. Hall** stated if the Commission and Council fully conditioned the construction of the pedestrian bridge on the light rail bridge and it was appealed up to the LUFO steering committee, the criteria they would apply was whether the pedestrian bridge was necessary for the light rail project.
  - If that was the criteria, what was the purpose of the hearing?
    - **Ms. Mangle** clarified that something was eligible for appeal if the funding was not available for it, then it met that criteria and could be cut.

- **Mr. Hall** added the funding is sort of a subset of 'necessary and reasonable', which was defined as being within the budget. Winning the appeal would be an uphill battle.

- The pedestrian bridge was not available in the budget because it was not made available. Conditioning TriMet to require the pedestrian bridge outright was a condition to call their bluff about the appeal. The hybrid condition was the best case scenario for getting the pedestrian bridge built.
- **Mr. Hall** confirmed it was perfectly fine for the Commission to have something in the findings that said they were making this finding only because they were constrained by LUFO and they would determine otherwise if assessing only under Milwaukie's Code.

The Commission took another straw poll regarding the newly revised conditions and findings:

Commissioner Gamba indicated he had no change in thought since the last straw poll.

Vice Chair Harris stated that given the conditions the Commission was to work under, the hybrid solution had the best potential, realizing not only a pedestrian bridge, but the opportunity to build a pedestrian bridge in the future. This was a better option than having the potential of something being sent to appeal and not having anything. He would like to attach the findings from the green handout, but did not believe that would have a lasting benefit, whereas the hybrid condition could provide a lasting benefit.

Commissioner Stoll agreed.

Commissioner Wilson now preferred option 3, approving the project as submitted.

Commissioner Fuchs supported the hybrid condition in the spirit of trying to be a good partner and neighbor. The outright condition was appropriate because Milwaukie should not be treated differently than any other jurisdiction or community. She got the sense Milwaukie was being treated like a second-class citizen in prioritization. At the same time, she did not want to vote for a condition out of spite. Even though more could have been done to be a good partner for Milwaukie, she chose to take the high road and not fight back or have a mud-slinging match.

Chair Batey stated that having been the Island Station Neighborhood District Association (NDA) Chair back in 2007/2008, perhaps TriMet could have done more to recognize the need for this bridge upfront. The bridge was raised by the Island Station neighborhood at that point in time. She did not feel TriMet had treated Milwaukie as second-class citizens. The City did not get organized early enough to make this happen. She would not put it all on TriMet to say they treated Milwaukie different from Portland. She was still inclined to choose option 1, but was willing to go along with the hybrid approach if that was the consensus.

Ms. Mangle clarified the pedestrian bridge was not involved when TriMet presented drawings to the City prior to getting the LUFO. Not every little element as designed today was included in the LUFO, namely the alignment and the station. It did include the minimum operable segment, which included a park and ride in downtown. The LUFO was broadly the elements required to build the alignment and the project's major elements in the Milwaukie segment.

- She was very involved in the discussions with TriMet prior to the LUFO decision and recalled talking about the pedestrian bridge with the Island Station NDA. She could not recall the timing of the conversations, but believed the LUFO was adopted in 2008, which included a broad map of the broad elements. Many detailed elements of the project were being reviewed in the Draft Environmental Impact Statement (DEIS) at that point, and the pedestrian bridge was not one of them.

Ms. Shanks recalled the focus was not about the pedestrian bridge but about having two stations downtown and placing those stations. As the project was refined, different elements were given more scrutiny, and she believed the pedestrian bridge did come later.

Ms. Mangle added that staff pushed TriMet at every point on this project and on the pedestrian bridge. Staff began by ensuring the project would accommodate the bridge, including the design and permitting. Staff had about many wins already.

Chair Batey acknowledged staff had worked hard the last few years to get the conditions the City currently had, but she remembered having conversations with Kenny Asher, Community Development and Public Works Director, early on when Lake Rd was settled on as the station, about how important this bridge was and it was clearly not on his radar screen.

Vice Chair Harris added he would not put the responsibility all on City staff. Different leaders in the City at that time might have missed the mark on this one.

Vice Chair Harris moved to proceed with the hybrid proposed amended conditions of approval and recommended findings as read into the record with the statement that LUFO preempted the Planning Commission from making the finding that would have otherwise been decided. Commissioner Fuchs seconded the motion.

Staff read the following amendments to Finding 1.a and Conditions of Approval 16 and 18 into the record as follows:

- Modify Finding 1.a on 5.1 Page 27 by adding the following language to the end of the first paragraph, "However, TriMet will allow the construction of the bridge by any entity. Moreover, TriMet will construct the pedestrian bridge if funding becomes available on or before February 1, 2013 for construction by September 30, 2013."
  - Add as a concluding statement, "As conditioned, the pedestrian experience is improved to the greatest extent possible within the constraints of the Land Use Final Order."
  - Delete the last line, "The proposal meets this guideline."
- Modify Condition 16 to include Condition 16B, which stated, "Construct the pedestrian bridge beneath the light rail bridge if funding becomes available on or before February 1, 2013 for construction before September 30, 2013. The pedestrian bridge must connect to each bank of Kellogg Lake but need not include pedestrian walkway connections to the park or nearby streets. TriMet must actively seek funding for construction of the pedestrian bridge in partnership with the City of Milwaukie."
- Modify Condition 18 to add Condition 18B as an ongoing requirement "Allow the construction of the pedestrian bridge by any entity."

Mr. Hall suggested restating the motion**.**

Vice Chair Harris restated his motion moving to adopt the recommended findings and conditions of approval as modified and read into the record. Commissioner Fuchs seconded the motion, which passed 5 to 1 with Commissioner Wilson opposed.

The Commission took a brief recess for staff to display a copy of the proposed revisions to the conditions of approval via PowerPoint. The meeting reconvened at 9:04 p.m.

Ms. Shanks reviewed the revisions to the conditions of approval as discussed by the Commission with these comments:

- Amend Condition 4 so that future lighting for the future pedestrian bridge should be energy efficient and wildlife friendly, preferably LED, and the light should be shielded from the windows on residential properties.
- Amend Condition 6E to reflect the preference that the jump span lighting be LED, which would return to the DLC and Commission for review.
- Modify Condition 9C regarding lighting on the train to state, "Provide a memo that describes the light impacts, if any, from the train light on drivers on McLoughlin Blvd and nearby residential uses as the train travels through the Willamette Greenway zone on the Kellogg Bridge."
- With regard to the mitigation plan:
  - Amend Condition 10.A.6 so oak trees were planted instead of some of the proposed Douglas fir trees. Flexibility was built in to allow the City to consult because Kronberg Park did not have a master plan. The City would also consult about recent plantings when placing and planting the new oaks, so they would thrive, and ensure the appropriate understory and groundcover were provided around the new oaks.
  - Amend Condition 10.A.7 to be more directive and have the City's consultant's comments about the specific proportions of different understory bushes be as stated.
  - Add Condition 11B to repurpose the remnants of the oak tree, either in Kronberg Park and/or in the pedestrian pathways through the area, and require that the stump not be ground to allow for the possibility of a tree to grow from that particular location.
- Amend Condition 16B, shown on the green handout, to state, "Construct the pedestrian bridge beneath the light rail bridge if funding becomes available on or before February 1, 2013 for construction before September 30, 2013. The pedestrian bridge must connect to each bank of Kellogg Lake but need not include pedestrian walkway connections to the park or nearby streets. TriMet shall actively seek funding for construction of the pedestrian bridge in partnership with the City of Milwaukie."
- **Add Condition 18C as an ongoing requirement, stating, "Allow the construction of the pedestrian bridge by any entity."

***Conditions 16B and 18C were already approved in the prior motion.*

Discussion regarding the revised conditions was as follows:

- Concern was expressed about the wording of Condition 16B stating that pedestrian walkway connections did not need to be included. If funding was available, the walkways should not be excluded.
  - **Ms. Shanks** explained the walkways were not included as part of this review, so the review for their impact to the HCA and WQR area was not a part of the package, so the Commission could not move it forward as a condition.
  - TriMet proposed that the City build the walkways to further the Kellogg Bridge design. If the bridge were not designed to hold the pedestrian bridge, walkways would be a moot point. The grant fund did include the whole package. The findings reflected that the pathways would need to return for additional review because a portion of them were elevated and went through the HCAs and WQR areas.
- **Ms. Shanks** agreed Condition 11B should specify that the 36-in oak tree would be repurposed. Additionally, the tree might be repurposed to build part of the pathway.

Ms. Shanks read the amended language for Finding 1.a on 5.1 Page 27 regarding the pedestrian bridge as approved in the prior motion. She also read the findings supporting staff's revised conditions and noted the amended findings that addressed the Commission's changes to the Conditions of Approval.

Vice Chair Harris moved to approve File WG-11-01, DR-11-01, HCA-11-01, WQR-11-03, CSU-11-09 with the modified Recommended Findings and Conditions of Approval. Commissioner Gamba seconded the motion. Motion passed unanimously.

Chair Batey read the rules of appeal into the record.

5.2 Summary: Trolley Trail Modification for Light Rail
Applicant/Owner: TriMet
File: MOD-11-01, WQR-11-04
Staff Person: Susan Shanks

Chair Batey called the public hearing to order and read the conduct of quasi-judicial hearing format into the record. She noted the Commission had opened the hearing on November 8 and continued it to November 22 to allow more time for public testimony and deliberations.

Chair Batey asked if any Commissioners had any ex parte contacts to declare beyond those previously reported.

Chair Batey declared that since the initial hearing, this was discussed briefly at the Island Station NDA meeting. The NDA Chair had expressed some concerns and Chair Batey encouraged her to put those in the record by letter or by testimony, and she was present in the audience.

All Commissioners declared for the record that they had visited the site. No Commissioners, however, declared a conflict of interest, bias or conclusion from a site visit. No Commissioners abstained.

Vice Chair Harris stated he had reviewed the material from the November 8 hearing in order to be prepared to participate.

No Commissioner's participation was challenged by any member of the audience.

Ms. Shanks stated the City had received one written comment, which had been forwarded to the Commission via email. Hard copies were distributed.

Chair Batey called for public testimony in support of the project.

Cindy Tyler, 1959 SW Morrison St, Portland, believed the present undergrowth along the proposed new area for the trail was a virtual who's who of noxious weeds and invasive species. All the noxious weeds and undesirable growth would be removed when TriMet reworked this section for the new trail alignment. The required retaining walls would make it very clear where the trail ended and private property began. The trail as presently proposed would be a tremendous benefit to the community and should be approved accordingly.

Chair Batey called for public testimony in opposition to the project.

Dion Shepard, 2136 SE Lake Rd, Milwaukie, supported having another look to save the sequoias. One was being saved, and she questioned why several in a different location could not be saved. Sequoias were significant trees. So many trees were being removed, so the City,

TriMet, or North Clackamas Parks and Recreation District (NCPRD) should see if the path could be moved so those trees could be preserved.

Commissioner Gamba stated that Daniel Platter had suggested saving only one of the trees because they had been planted or grew too close to one another to be healthy. He asked Ms. Shepard's opinion.

- **Ms. Shepard** responded she did not know if they had a professional look at them, but she would like to see one saved.

JoAnne Bird, 12312 SE River Rd, **Milwaukie**, stated when she was sent the sheaf of material, she focused on the Water Quality Resource (WQR) area, because they lived upstream of that on the unnamed drainage. She was dismayed at the number of trees being removed, including 18 trees that were 10 in in diameter. The 48 trees being planted were not very big. The trees would not grow to the size of the existing ones in her lifetime. She had not thought about removing 2 of the 3 sequoias until reading Mr. Platter's letter. She would like an arborist to look at the sequoias. The project was already all over the WQR area; an extension of one of the retaining walls goes into it as well as another wall under the path to keep it level. She asked why they could not push a little farther into the WQR area to save the sequoia.

Chair Batey asked if she preferred saving all 3 trees or just 1 tree.

- **Ms. Bird** responded that at this point in time, especially since they lost the oak, saving any big trees was very important.

Commissioner Stoll confirmed that the 3 sequoias were just south of the drainage and currently indicated in the center of the trail on the diagram.

Chair Batey stated there was no further public testimony.

Ms. Shanks noted the Applicant had submitted the application, but then revised their landscape, lighting, and WQR mitigation plans, the latter being at staff's direction. On November 8, two green sheets had been distributed with the revised conditions of approval and findings that were a starting point for this discussion.

- She noted that the review extent for the Trolley Trail application included everything on either side of the trail, but not between the light rail and McLoughlin Blvd. A fence would divide the rail from the Trolley Trail property.
- Exhibit P33 of the packet showed the mitigation plan and tree removal for the WQR.

Jeb Doran, TriMet, reviewed the alternative alignment, noting key changes in response to safety concerns expressed by NCPRD and TriMet's Safety and Security Committee. His additional comments and responses to comments and questions from the Commission were as follows:

- The line of trees that were within 3 ft of McLoughlin Blvd would be removed.
  - Within the city limits, 181 trees would be removed, 44 of which required mitigation. The project was currently proposed that 382 trees be planted in the area. This did not include the trees being planted in the WQR areas.
- Early on, TriMet had considered removing two sequoias and keeping the southernmost tree. Based on the Code for minimum impact to the WQR, TriMet determined that the current proposed design minimized the impact to the greatest extent.
- Sequoias were great trees and had habitat quality, but were not native to the area. By removing the 3 sequoia trees, 6, large, mature trees were being saved that were already part of the WQR. This was most consistent with the Code criteria to minimize impacts to the WQR.
- Many noxious weeds were in the area. The weeds could be still be removed if the 3 trees remained, but would require more hand grubbing and working with smaller tools inside of the root zone to protect the trees. Removing the trees would enable TriMet to get the top layer of soil, and remove the weeds along with their root systems when they did the clearing and grubbing to have more of a fresh start.
- Keeping the current alignment and bending the trail back around one Sequoia resulted in the same issue of saving 3 nonnative trees to remove 6 native trees.
  - While sequoias were unique specimens to the area, the 3 subject trees would not reach their full potential, given the condition of their canopies and how closely they were planted together. Saving just 1 tree would still impact the 6 native trees due to the construction limit area required for higher retaining walls.
  - Removing the 2 northern trees would allow the arc of the trail to shift substantially farther to the south; however, any alignment outside the configuration coming straight across would increase the WQR impact to some degree.

- There was 10,700 sq ft of impact with the trail, the light rail alignment, and the 18 trees being removed with the revised configuration. TriMet was not only enhancing the area, including 48 trees, but also adding new upland habitat that did not exist today.
- The alignment really did minimize the impacts to the WQR to the greatest extent possible and met the criteria. TriMet was open to some additional tree plantings to help mitigate for the loss of the Sequoia trees. They had made an honest effort to go above and beyond what the Code required, not only for the WQR areas but for tree mitigation in general. The Code typically required a 1:1 replacement for rights-of-way, and the proposal had a 3:1 to 5:1 replacement.

- The Water and Resource Mitigation slide was displayed. The green areas indicated where TriMet proposed plantings, in addition to removing the clematis and ivy. The 5-year monitoring and maintenance requirement would also be met.
- A 6-ft, high welded wire fence was proposed in the 6-ft buffer for the length of the trail section that would protect trail users, especially cyclists traveling fast speeds, from falling into the light rail line.
- The proposed alignment would retain the largest portion of developable area for a future parcel, as well as preserve the screening elements so highly desired by the community.
- This alignment allowed the project to stay outside the wetland. The current environmental permits for the project did not account for any impacts to the wetland area and maintaining a good amount of buffer from that area would be desirable.
- TriMet had been working in a collaborative process with Clackamas County, NCPRD, Urban Green, and many community members. TriMet had done a great job of doing outreach and getting out and talking to people living next to the alignment. Mr. Doran believed TriMet had a pretty high level of buy-in to the alignment with the screening elements, WQR, and planting buffers being provided.
- The timing of the tree removal was moved due to the migratory bird window, which dictated that trees could not be removed between March 1 and September 30. TriMet was considering two windows of opportunity for tree removal, one in February, and the other in the fall after the window closed.
  - TriMet wanted to leave screening and trees in place for as long as possible as they were valuable to the neighbors. They wanted to time it so the trees were replanted within the shortest window possible.

- Some specific trees would likely be removed in February to facilitate the work that needed to be done. The rest would be removed in the fall.

Vice Chair Harris appreciated that TriMet came to the hearing with an alternative trail alignment.

Chair Batey called for staff comments.

Ms. Shanks noted Michelle Healey, who had been working with TriMet on this Trolley Trail section, and Sarah Hartung, the City's consultant, would address the Commission.

Michelle Healey, North Clackamas Parks and Recreation District (NCPRD), stated she had looked at the same things Mr. Doran had presented. They would like to be able to save all the trees if they could, but there were always tradeoffs to consider. TriMet had put a lot of thought into the alignment presented, and it was good for the trail as well as for the WQR area. She responded to questions from the Commission as follows:

- NCPRD was currently working with TriMet on an intergovernmental agreement regarding who would maintain the plantings and landscaping along the sides of the Trolley Trail in perpetuity. More than likely, NCPRD would have a big part of that responsibility, but it would be either TriMet or NCPRD. NCPRD wanted to be sure it was well maintained, not only for aesthetics but for safety reasons.
  - **Mr. Doran** added TriMet was installing the irrigation and usual maintenance amenities.

Chair Batey commented NCPRD had a wonderful resource in Tonya Burns; her expertise would have been helpful with regard to the plantings in Kronberg Park. She supported any help Ms. Burns could get as well as more funding to the natural area part of the parks budget.

- **Ms. Healey** noted Ms. Burns was reviewing all of this material as well and helping provide comment.

Vice Chair Harris moved to continue the meeting until 10:30 p.m. Commissioner Stoll seconded the motion which passed unanimously.

Sarah Hartung, Wetlands and Wildlife Biologist, Environmental Science Associates, Portland, stated her firm had been consulted to look at the plan and investigate the site back in September.

- A spring-type feature was identified at the very bottom of the ravine; it was sort of a wetland and a waterway because groundwater was seeping out of the gravels and substrate at the bottom. The presence of the water at that time of year indicated it had a perennial nature and met the primary protected feature definition. Farther up in the contours was more of an intermittent drainage.
- The wide buffer was a result of it being a primary protected feature and the steep slopes. It was a degraded buffer because of the high dominance of English ivy and clematis. The mitigation plan would really provide a boost in clearing out and replacing the invasive nonnatives with native ground cover and understory. Several native shrubs were also being proposed.
- The retention of a couple Douglas firs, some of the big leaf maples, and the proposed planting of many Western cedars would eventually result in a mixed forest. There was a loss of that resource as those trees grew, but that was why there was a higher replacement ratio.
- Sequoias were not normally found in Oregon, although they did quite well here. She had done a tree survey for the Eastmoreland Golf Course where hundreds of giant sequoias were getting so big they crowded out the natives, used all the water, and caused problems. From a timeline perspective, the subject trees were very young sequoias. Old growth, irreplaceable trees were not being removed. The 3 trees were probably 60 to 80 years old, but the only way to be certain was to do a tree core.

Chair Batey noted that Mr. Platter said rare forms of trillium were farther up the water resource and that they should be dug up and moved.

Ms. Bird remarked that yet again, TriMet was giving reasons why something could not be done. She was worried about TriMet's diagram, because it showed trees planted closer to the existing pathway than if the pathway ran around the sequoias. She was on the fence about whether or not the sequoias were natives.

- The point about the potential loss of the other 6 native trees was not entirely clear in her mind. The path alignment shown was farther away from the sequoias than from the other trees they had planted in the diagram. She strongly suspected TriMet was saying, yet again, "we cannot do this because…"

Chair Batey called for the Applicant's rebuttal.

Mr. Doran clarified that the plantings displayed were for the old alignment and not necessarily how the new planting would be configured. With the new alignment, the screening densities would change.

Commissioner Gamba noted where the preferred path was drawn in relationship to the drip line of the big sequoia tree being saved. He asked why the other alignment could not be pulled in closer to the other trees.

- **Mr. Doran** believed they could move that alignment in closer to those trees and bring that farther to the southeast. But again, anything outside of the straight-through alignment would increase the impact to the WQR. Additional walls would need to be built in the WQR closer to the wetland resource and the spring source itself.
- TriMet was not saying it could not be done, but it was a balance of determining the best way to restore and enhance the area. Saving three trees did not necessarily have an equal ecological benefit to the 6 trees on the other side; it did not balance. In removing 2 of the sequoias, they needed to consider if the benefit of saving that 1 tree outweighed the benefits of keeping the 1 to 6 native big, healthy trees.

Commissioner Fuchs asked the species of the 6 trees that would have to be removed in the alternative alignment.

- **Mr. Doran** believed most were big leaf maples and one was a Douglas fir. They were all natives and all were fairly mature trees.
- **Ms. Shanks** noted the canopy in this area was determined to be all native and in good shape; the understory was completely invasive, resulting in the area being classified as degraded. Saving as much of the canopy as possible was a good idea.
- **Mr. Doran** added it was easier to remove the invasives under the sequoias if they were not there. Work in and around the roots was not as thorough. Getting into the root systems of a lot of the species out there would be vital to the long-term success of the restoration. How those invasives were removed was a key to making this successful.

Chair Batey closed the public testimony for File MOD-11-01 and WQR-11-04.

Commissioner Stoll stated that as much as he would like to see the sequoias saved, he would rather not see further encroachment into the WQR and removal of the big leaf maples. He would rather keep native species and maintain the integrity of WQR as much as possible.

Commissioner Fuchs stated it was all important, not just what was charismatic like the sequoias. The sequoias might be more important to the citizens who have participated than the WQR or the maples. She was on the fence. It was hard to say which was more important.

Commissioner Gamba stated he had spent time at the site and believed they could leave the southern sequoia and not cut down any of the maples. He did not believe it was an either/or proposition. If the southern sequoia was saved, the bend in the trail could be moved significantly further south. He confirmed that the width of the trail was 12 ft wide with 2 ft shoulders on each side. He indicated on a displayed diagram how the trail could be configured to avoid the other large trees if the sequoia were saved. Essentially, the bend in the trail would start earlier and finish earlier.

Chair Batey said she would have liked to have seen that studied and some testimony about how close the trail could get to the sequoia without damaging the tree's root system too much. The question was whether that one sequoia was worth the cost benefit of all the extra work and extra cost. She did not believe it was worth it.

Commissioner Wilson stated it came down to the safety issue; realignment was not safe. The arborist could condemn all the trees.

Chair Batey stated it was a safety issue if the trail was realigned all the way behind the trees, but Commissioner Gamba was talking about staying with the preferred alignment and bending it around that sequoia.

Commissioner Fuchs asked why TriMet's revised alignment was preferred rather than just following the existing alignment and bulbing the trail out right around the sequoias.

Commissioner Wilson responded that on the trails he had been on, cyclists were jamming down the path. He did not see the practicality of such an alignment, which really created a

safety issue, especially with cyclists traveling 10 or 20 miles per hour and someone walking the other way.

Vice Chair Harris offered cyclists travel much faster, 30 miles per hour.

Vice Chair Harris moved to approve the application as presented with the modified recommended findings and conditions of approval provided on the green handout. Commissioner Stoll seconded the motion.

Commissioner Gamba said he wanted to adjust Condition 3.B.2 which discussed vine plantings.

Ms. Shanks said she knew the vine plantings had been debated, but it was outside her expertise. The plantings for the WQR areas were all native, but natives were not proposed for all the plantings outside of the WQR areas.

Carol Mayer-Reed, Urban Design Lead for TriMet, Mayer-Reed Landscape Architects, explained certain kinds of vines were able to negotiate and climb a wall surface. Other vines sprawl on the ground and would not provide the graffiti deterrent quality they were looking for the design of the trail. She did not know of a native vine that would stick to the wall like the nonnative Boston ivy, which was why it was chosen.

Commissioner Fuchs assumed the alternative alignment presented was chosen because of safety issues such as the cycling speeds.

Ms. Mayer-Reed believed that was part of it. In her experience, one did not want to design a trail with a sudden turn for safety reasons, especially around a conifer branched to the ground, because no sight line existed through it.

- When a cluster of trees like these dense branching sequoias grew together as one canopy, there was a lot of dead inside. Removing 2 of the trees would not result in the magnificent single tree they envisioned. The center tree would probably be brown on 2 sides. It was a lot of work for a tree that probably would not meet their expectations.

Commissioner Gamba said he was not fond of plantings things like Boston ivy, and wanted to find a different alternative, even though Boston ivy was not on the invasive list.

Chair Batey stated recently she had seen some kind of vine climbing up a wall that was all different colors and beautiful.

Ms. Mangle stated this condition was almost solely focused on coordinating the information shown in different plans. Some things shown in the landscaping plans were not reflected in the civil plans. To change the species of a planting, which would change the urban design quality and vision, the related criteria would need to be identified. This set of conditions was more related to plan coordination, so if there was a policy related to the recommended change, it would need to be identified.

The Commission consented to use Boston ivy.

Vice Chair Harris moved to approve TriMet's land use application File MOD-11-01 and WQR-11-04 with the modified recommended findings and conditions of approval shown on the green handout. Commissioner Wilson seconded the motion. The motion passed unanimously.

Chair Batey read the rules of appeal into the record.

6.0 Worksession Items — None

7.0 Planning Department Other Business/Updates

7.1 Water Master Plan hearing 12/13/11

Ms. Mangle briefly overviewed the Water Master Plan, which would be introduced at the public hearing on December 13, 2011. Also at that meeting, a worksession would be held on the Residential Development Standards project addressing the list of issues the Commission wanted to discuss.

8.0 Planning Commission Discussion Items

Commissioner Fuchs distributed an article on electronic signs that discussed a number of things that Commission did not know.

9.0 Forecast for Future Meetings:

December 13, 2011 1. Public Hearing: CPA-11-02 Water Master Plan *tentative*
2. Worksession: Residential Development Standards Project – Multifamily Residential Development & Design; Typology

January 10, 2011 1. Worksession: Residential Development Standards Project – Single-Family Residential Development & Design; Conditional Uses.

Meeting adjourned at 10:33 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for
Alicia Martin, Administrative Specialist II

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Lisa Batey, Chair

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 10, 2012
6:30 PM

COMMISSIONERS PRESENT
Lisa Batey, Chair
Nick Harris, Vice Harris
Mark Gamba
Scott Churchill
Russ Stoll

STAFF PRESENT
Katie Mangle, Planning Director
Ryan Marquardt, Associate Planner

COMMISSINERS ABSENT
Chris Wilson
Clare Fuchs

1.0 Call to Order – Procedural Matters

Chair Batey called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

Note: *The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at http://www.ci.milwaukie.or.us/meetings.*

2.0 Planning Commission Minutes

2.1 October 11, 2011

Chair Batey noted a correction to 2.1 Page 8 Line 262:"River Rd was going to be getting some *improvements under the Walk Safely Milwaukie Program* ~~sidewalks~~..."

Commissioner Gamba moved to approve the October 11, 2011, Planning Commission minutes as amended, and Commissioner Stoll seconded. Vice Chair Harris abstained. Motion passed unanimously.

3.0 Information Items

Katie Mangle, Planning Director, noted the new front door security system in City Hall.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings – None

6.0 Worksession Items

6.1 Summary: Residential Development Standards – Single-Family Development and Design, Conditional Uses
Staff: Katie Mangle and Ryan Marquardt

Ryan Marquardt, Associate Planner, presented the second briefing on the Residential Development Standards project and discussed single-family residential (SFR) development and design standards, and Conditional Uses. He noted that tonight's meeting was also to determine if the project was ready to go to public hearing in February or not.

The Commission directed staff to investigate options for: a list of prohibited materials on new SFR development; to allow a developer to request a Type III variance for creative home design; to keep with the recommendation to limit the garage width to 35% of the lot width and an alternative to limit it to 50% (and discuss this standard with Council); to allow garage door windows to count toward the minimum window requirement; to provide more examples of how the lot coverage standard would work. The Commission was in agreement regarding lot coverage increase allowance for single story, duplexes, ADUs and rowhouses. and new building height measurement methodology. The Commission discussed limited conditional uses in residential zones. The Commission was split and would like to discuss with City Council at a study session. The Commission agreed to schedule the public hearing for February 28, 2012.

7.0 Planning Department Other Business/Updates

7.1 Summary: Work Plan Forecast for 2012

Katie Mangle, Planning Director, noted the current workplan and schedule for 2012, current and upcoming projects and how they fit together with regard to workload, etc. She updated the Commission on the Tacoma Station, South Downtown implementation, Residential Development Standards project, Commercial Core Enhancement Program with regard to low hanging fruit code amendments and 32nd and 42nd Ave Corridor studies, and the UGMA area project which would indicate a Comprehensive Plan update. She reviewed last year’s workplan

with regard to light rail final design, Electronic Sign Code Amendments, population forecast, Transportation Plan update, Façade Improvement Program, Comprehensive Plan update, murals program, Dogwood Park, master planning for larger properties, and further wish list projects.

8.0 Planning Commission Discussion Items

Commissioner Gamba noted that regarding the recent questioning of the Planning Department's integrity, he wanted to publicly state that the Planning staff were excellent and in no way were in collusion with TriMet.

Chair Batey and **Vice Chair Harris** agreed.

9.0 Forecast for Future Meetings:

January 24, 2012	1. Worksession: Residential Development Standards – Accessory Dwelling Units, Accessory Structures
January 31, 2012	1. Joint study session with City Council: Residential Development Standards project
February 14, 2012	1. Public Hearing: Residential Development Standards

Meeting adjourned at approximately 8:33 p.m.

Respectfully submitted,
Alicia Martin, Administrative Specialist II

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Lisa Batey, Chair

MILWAUKIE
Dogwood City of the West

To: **Planning Commission**

Through: **Katie Mangle, Planning Director**

From: **Li Alligood, Assistant Planner**
Ryan Marquardt, Associate Planner

Date: **February 21, 2012, for February 28, 2012, Public Hearing**

Subject: **File:** ZA-11-03, CPA-11-04
File Types: Zoning Ordinance Amendment, Comprehensive Plan Amendment
Applicant: Katie Mangle, Planning Director, City of Milwaukie

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ACTION REQUESTED

Recommend that City Council adopt the proposed amendments to Milwaukie Comprehensive Plan Chapter 4 and Milwaukie Municipal Code Title 19 Zoning Ordinance; Title 17 Land Division Ordinance; and Title 14 Sign Ordinance with the recommended findings in support of approval (see Attachment 1 and Exhibit A).

BACKGROUND INFORMATION

Milwaukie has seven established neighborhoods that are mostly built-out. However, many of these neighborhoods contain large lots and older homes, so there is room for both new "infill" development and expansion of existing homes. For years, many in the community have called for more attention to the design and development standards that govern infill residential development and home additions. The City has revised residential regulations multiple times since the current zoning ordinance was adopted in 1979, both to remain compliant with federal, state and regional policies and to address community concerns. This piecemeal approach has resulted in residential standards that are fragmented, confusing, and at times contradictory.

The proposed amendments are the result of a 2009 grant from the State of Oregon's Transportation and Growth Management (TGM) program, which funded a phased code review and revision project. This is the second package of code amendments being proposed as a result of this phased project.[1] The project was led by staff, assisted by grant-funded land use and design consultants Angelo Planning Group and Urbsworks, and overseen by a citizen

[1] ZA-10-02/CPA-10-03, adopted on March 15, 2011 by Ord. 2025, revised and improved the process for review and approval of land use applications and development permits.

steering committee that included Planning Commissioners, Design and Landmarks Committee members, NDA representatives, community residents, and a City Councilor.

A. History of Prior Actions and Discussions

- **January 31, 2012:** The City Council and Planning Commission discussed accessory structure standards, accessory dwelling unit standards, single-family design standards (specifically attached garages), and conditional uses in low-density residential zones during a joint study session.
- **January 24, 2012:** The Commission was briefed on topics in the proposed code amendments, focusing on accessory dwelling units and accessory structures.
- **January 10, 2012:** The Commission was briefed on topics in the proposed code amendments, focusing on single-family dwelling design standards, garage standards, height and mass regulations, and conditional uses in low-density residential uses.
- **December 13, 2011:** The Commission was briefed on topics in the proposed code amendments, focusing on multifamily standards, cottage cluster housing, rowhouses, and land/building ownership configurations.
- **October 25, 2011:** The Commission was briefed on the proposed code amendments for the Residential Development Standards project and identified topics for further discussion.
- **October 11, 2011:** The Commission discussed one aspect of the project: conditional uses in residential zones.
- **September 27, 2011:** The Commission discussed some aspects of the proposed multifamily design standards during a joint study session with City Council.
- **June 21, 2011:** The Commission discussed some aspects of the proposed single family design and development standards during a joint work session with City Council.
- **May 10, 2011:** The Commission received a progress report on the project and public involvement activities to date.
- **January 11, 2011:** The Commission reviewed and provided guidance on the updated public involvement plan and web-based survey.
- **October 26, 2010:** Staff provided the Commission with a project setup summary including the scope of work and project schedule.
- **March 16, 2010**: Staff provided the Commission with a copy of the intergovernmental agreement between the City and the State of Oregon that commits the City to prepare draft code amendments based on priorities that were identified in the 2009 *Smart Growth Code Assessment Final Report*.
- **August 25, 2009:** The Commission reviewed and provided concurrence on the Action Plan presented in the 2009 *Smart Growth Code Assessment Final Report*.
- **July - August 2009**: The Commission held two worksessions to discuss the consultant's code assessment findings, prepared during Phase I of the Smart Growth Code Assistance project.

B. Existing Code History

This project marks the first time since 1968 that the City has conducted a comprehensive review of its residential development and design policies. The current base zone development requirements are the result of incremental revisions since the adoption of the City's first zoning ordinance in 1946, and the current residential standards are substantially similar to those adopted in 1968 and 1979. During the past 33 years, the residential use, development, and design standards have been updated in piecemeal fashion to address urgent issues or to remain compliant with federal, state, and regional policies. This approach has resulted in residential development standards that are fragmented, confusing, and at times contradictory.

The goal of this project is two-fold: (1) to update Milwaukie's site development and building design standards for single-family and multifamily housing outside of downtown, and (2) to develop policies that reflect the community's changing housing needs and preferences.

C. Process and Outreach

The proposed amendments were prepared with extensive input from the City Council (3 meetings), Planning Commission (6 in-depth work sessions), and a 10-person Steering Committee (6 meetings).

In January 2011, staff posted project information on the City's website, including draft chapters, and has kept it updated with current information and drafts as they have become available. In February 2011, an online survey was posted on the project website; there were 81 respondents. Between March and May 2011, staff held one-on-one interviews with 22 community residents. Between March and July 2011, staff held four stakeholder focus groups– two with neighborhood leaders (16 participants), and two with homebuilders, developers, and real estate professionals (13 participants) – with a total of 29 participants.

Staff notified the Neighborhood District Associations (NDA) about the project via regular e-mails, updated them in January 2012 via e-mail, and provided updates at individual NDA meetings in February 2012. Staff also notified other affected agencies and stakeholders about the project in January 2012, including a mailing to all residential property owners in the city. Staff held an informal question and answer session on February 16, 2012, which was attended by approximately 20 people.

D. Proposed Amendments

The City is proposing amendments to its existing residential development and design standards to: reorganize the residential base zones for easier comprehension and implementation; address community concerns regarding the design and compatibility of new residential development; and eliminate confusing and contradictory standards. Based on direction from the Milwaukie Planning Commission and City Council, as well as feedback from the community, the proposed amendments were drafted with 5 values in mind:

- Be clear and objective. To be easy to understand and implement.
- Be style neutral. To allow a wide variety of building shapes and site layouts that "work" in all of Milwaukie's neighborhoods.
- Be flexible. To allow reasonable building and site development variations.

- Support compatibility. To facilitate building and site development that "fits" within Milwaukie's existing neighborhoods.
- Support good building and site development without being cost prohibitive. To keep Milwaukie an affordable place to live.
- Support sustainable solutions. To allow or encourage projects that reduce energy use and environmental impacts.

Generally, the amendments address the following areas:

- Use standards: The types of construction and activities that are allowed in a zone, as well as what level of land use review they may require.
- Development standards: The combination of controls that determine the maximum size and placement of buildings on a lot. They are often used to address issues of context and compatibility. They include, but are not limited to: lot size; lot coverage; minimum vegetation; height; and setbacks.
- Design standards: Combination of building façade elements that prevent blank walls. Elements can include the location of the main entrance, the amount of windows and doors, and design features such as porches.

The commentary on the amendments (see Attachment 2) describes in detail how the proposed amendments would change the residential development regulations of the Zoning Code. The following is a summary of key aspects of the proposed amendments.

Changes Affecting All Residential Properties

Some of the proposed amendments affect all residential properties in the City (see Attachment 3 for a zoning map). Key proposals include the following:

- Revision of accessory structure standards to allow larger and taller accessory structures (outbuildings) with additional setbacks, subject to new design standards. This would allow larger lots to have larger structures, but their size would be limited by the size of the main house. *See Attachment 2 page 80*.
- Allowance for sustainability-related structures such as wind turbines, water cisterns, and solar panels. These types of structures are currently allowed, but they are subject to accessory structure design standards. They would be clearly allowed, subject to specific standards. *See Attachment 2 page 83*.
- New standards to help new buildings fit into existing neighborhoods, such as increased setback requirements for larger buildings and a revised height measurement for buildings on slopes. This would prevent larger new buildings from towering over or being too close to existing buildings.
- New allowance for home occupation uses in conjunction with agricultural or horticultural uses. This would allow for community supported agriculture (CSA) or similar arrangements. *See Attachment 2 page 38*.
- Deletion of complicated standards that require solar access calculations for all structures. Most of these standards already do not apply to single-lot development. *See Attachment 2 page 142*.
- Revised accessory dwelling unit (ADU) standards to allow one ADU outright for each single-family home and to allow detached ADUs. This would allow "mother-in-law"

units inside the home or in separate buildings on the same property. *See Attachment 2 pages 49 and 128*.

- Revised and expanded single-family design standards would apply to all new residential development, including standards regarding the location and size of attached garages. Some standards apply to additions on the front of the building and conversion of garages to living space. If a property owner added a large street-facing addition, such as a second story, it would be subject to some design standards if it was larger than 300 square feet. If a property owner wanted to convert a garage to an office or bedroom, some of the design standards would also apply. *See Attachment 2 page 90*.
- New single-family dwellings in all zones would be subject to side yard height plane limits that reduce height allowances closer to the side property lines. *See Attachment 2 page 78*.

Changes Affecting Lower Density Residential Properties

The lower density residential zones include the Residential R-10, R-7, and R-5 zones. Generally, these are single-family zones. Key proposals include the following:

- Revised duplex standards to allow duplexes in the R-10 and R-7 zones through an administrative Type II review in certain locations. Duplexes could be new construction or conversion of existing single-family homes. Currently a Type III review, and hearing before the Planning Commission, is required. *See Attachment 2 page 132*.
- Revised lot coverage standards for very large lots, additions to single-family homes, and construction of a detached ADU on properties with a single-family home. This would allow property owners to add on to or upgrade their current home even if they would exceed the lot coverage of the zone. It would also allow property owners to add a detached ADU even if they are at the maximum lot coverage. *See Attachment 2 page 39*.
- Allow small offices on arterial streets as conditional uses through Type III review. This could result in the conversion of some houses to office use, and more signage associated with conditional use businesses. *See Attachment 2 page 38*.
- New requirement that at least 30% of the required front yard be vegetated. This requirement prevents paving of the entire front yard. *See Attachment 2 page 41*.
- New design standards for duplexes and detached ADUs. These standards ensure that houses maintain the appearance of single-family houses, and that detached ADUs relate to the main house in design. *See Attachment 2 page 96 and 129*.
- New permitting process to request flexibility from required single-family design details and detached ADU design standards. This would allow for creativity in housing design. *See Attachment 2 page 133*.

Changes Affecting Medium and High Density Residential Properties

The medium and high density residential zones include the Residential R-3, R-2.5, R-2, R-1, and R-1-B zones. Generally, these zones allow higher density residential development and a wider range of uses than the lower density zones. Key proposals include the following:

- Allowance of cottage cluster development and rowhouses. This would allow for multifamily development that appears more like single-family development. *See Attachment 2 page 49*.
- Allow "personal/business services" as a conditional use subject to Type III review. This could result in more neighborhood amenities such as dry cleaners and hair salons in residential areas. *See Attachment 2 page 50*.
- New development standards for cottage clusters. These would ensure that cottage clusters have sufficient open space and parking, and provide for fee-simple lot division and individual ownership of the cottages. *See Attachment 2 page 107*.
- New development standards for rowhouses. Rowhouses would be limited to 4 in a row, and could be sold as fee-simple individual lots. *See Attachment 2 page 111*.
- New design standards for multifamily development. This would result in multifamily projects that are required to be good neighbors and provide a comfortable environment for residents. *See Attachment 2 page 97*.
- New "two-track" review process, in which an applicant can choose to have a project reviewed through an objective (Type I) process or a discretionary (Type II) process. This provides for some flexibility in design as long as the applicant can meet the overall intent of the standards. *See Attachment 2 page 98*.

Other Amendments

Amendments are also proposed to the following code sections, either because they coordinate with the residential standards or to address housekeeping issues on the Planning Department's ongoing "code fix list":

- MMC 14.16.010 Residential Zone (Sign Ordinance): Coordination
- MMC 17.16 Application Requirements and Procedures: Coordination
- MMC 17.28 Design Standards: Coordination
- MMC 19.201 Definitions: Coordination
- MMC 19.202 Measurements: Coordination and housekeeping amendments
- MMC 19.401 Willamette Greenway Zone WG: Housekeeping amendment
- MMC 19.402 Mixed Use Overlay Zone MU: Housekeeping amendment
- MMC 19.503 Accessory Uses: Housekeeping amendments
- MMC 19.504 Site Design Standards: Housekeeping amendments
- MMC 19.506 Manufactured Dwelling Siting and Design Standards: Housekeeping amendments
- MMC 19.600 Off-Street Parking and Loading: Coordination
- MMC 19.700 Public Facility Improvements: Coordination
- MMC 19.900 Land Use Applications: Coordination
- MMC 19.1000 Review Procedures: Housekeeping amendments

KEY ISSUES

At the outset of this project, staff identified 19 key policy questions to be resolved (see Attachment 4 for a detailed list). Over the course of the project, these were answered through input from the Steering Committee, Planning Commission, City Council, and other project participants. The "Outcomes" listed in the table reflect the policy in the proposed draft code.

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. During worksession discussions leading up to the hearings on this proposal, the Planning Commission reviewed the draft proposal and recommendations from the Steering Committee. The Commission advised staff on several aspects of the proposal, and also highlighted several policy choices as key issues on which they are specifically seeking comment during the public hearing.

A. Should design standards apply to single-family dwelling additions?

B. What is the appropriate size limit for attached garages?

C. Are there materials that should be prohibited for accessory structures?

Analysis

A. Should design standards apply to single-family dwelling additions?

There are two outstanding questions related to this issue:

- Should single-family design standards apply to street-facing additions?
- The proposed trigger is 300 square feet of new façade area. Is this the right number?

Currently, single-family design standards do not apply to house additions. The proposal would apply some standards related to articulation and eyes on the street to additions that add more than 300 square feet to the area of any street-facing façade.

The proposed limited design standards would not apply to the additions shown below, each of which added less than 300 square feet to the street-facing façade.[2]





The limited design standards would apply to the additions shown below, which exceed the

[2] Façade calculations do not include roof area.

proposed 300 square foot threshold.





The 300-foot trigger would allow for a substantial addition without triggering the limited design standards. The proposed amendments also include additional lot coverage allowances for single-family property owners who wish to upgrade their house or add a detached ADU.

Staff believes that the proposed standards, in combination with additional lot coverage allowances for additions to single-family homes, strike the right balance between regulation and flexibility.

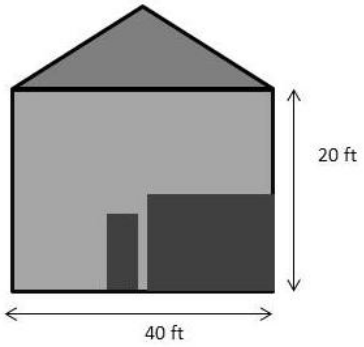
B. What is the appropriate size limit for attached garages?

The purpose of the proposed garage standards is to prevent garages from obscuring or dominating the street-facing façade of a house, and provide for a pleasant pedestrian environment in residential areas. The Planning Commission has supported limiting the size of attached garages, and is considering two methods of calculating the maximum garage size:

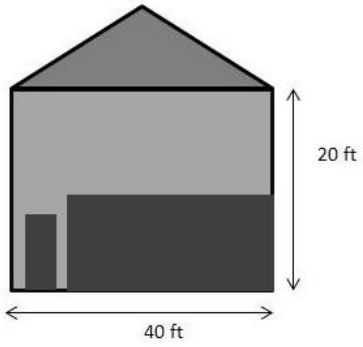
- As a percentage of the linear width of the façade
- As a percentage of the total street-facing area of the façade

The proposed garage size limit is 50%. The two calculation methods under consideration are illustrated below. In each case, the façade area of the house is 800 square feet.

50% of façade width = 20 ft



50% of façade area = 400 sq ft[3]



[3] The garage could be larger as a percentage of the façade, but the dwelling would be required to meet the front entrance standards.

Measuring maximum garage size as a percentage of the linear façade width is a common approach in the region. Staff was unable to find any examples of jurisdictions that calculated maximum garage size as a percentage of the total street-facing façade area. Staff has identified the following potential issues with this approach:

- It could result in two-story houses with garages that dominate the lower level, as shown in the examples below. This may not be a desirable outcome.





- Because Milwaukie would be unique in the region in using this approach, it could be more difficult for applicants to understand and calculate.

Staff suggests moving forward with the linear width calculation method.

C. Are there materials that should be prohibited for accessory structures?

Although this was not identified as a key project issue, longstanding community concerns about temporary materials on primary and accessory structures resulted in proposed amendments to address the issue.

Current standards do not address the use of temporary materials on smaller accessory structures. The proposed amendments would prohibit PVC or plastic supports and fabric, plastic tarps, or similar materials on any accessory structure that is visible from the street or sidewalk at pedestrian level. The proposal is in response to community concerns regarding the aesthetics of these types of structures.

The Planning Commission has expressed concern about the proposal related to temporary uses of tarps during construction projects and similar activities. However, the community has been very supportive of the proposal.

Staff suggests moving forward with the amendments as proposed.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

Vote to recommend that City Council adopt the draft ordinance and related exhibits as proposed, or as amended based on the key issues.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- Section 19.902 Amendments to Maps and Ordinances
- Chapter 19.1000 Review Procedures

The proposed amendments are subject to legislative review, which requires both the Planning Commission and City Council to consider whether the proposal complies with the code sections shown above. For legislative actions, the Planning Commission assesses the application against the review criteria, evaluates testimony and evidence received at a public hearing, and makes a recommendation to City Council. City Council will hold another public hearing to consider the Commission's recommendation, evaluate any additional testimony and evidence, and make the final decision on the proposal.

The Commission has 4 decision-making options as follows:

A. Forward a recommendation to City Council to approve the proposed amendments and ordinance.

B. Forward a recommendation to City Council to approve the proposed amendments and ordinance with modifications.

C. Continue the hearing to further evaluate the proposed amendments and ordinance.

D. Deny the proposed amendments and ordinance. This would have the effect of deciding to continue to implement the code in its current state.

Because this proposal is a legislative action, there is no deadline by which the City must make a final decision.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building, Engineering, and Community Services Departments; all seven Neighborhood District Associations (NDAs); Oregon Department of Land Conservation and Development (DLCD); Metro; other Interested Persons; and participants in the Steering Committee. As required by Measure 56, public notice of the Planning Commission hearing was mailed to the owners of approximately 6,571 properties (see Attachment 5).

To date, staff has received 15 phone calls, e-mails, or visits to the Planning counter, in addition to formal comments. Most comments related to clarifying how the proposed amendments would impact individual properties. Staff will continue to collect comments; those received prior to 3pm on the day of the hearing will be provided to the Commission before the hearing.

The following is a summary of the comments received by the City. See Attachment 6 for further details.

- **Miranda Bateschell, Planner, Metro:** No issues with proposed amendments. Glad to see addition of cottage clusters to allowed housing types.
- **Jennifer Donnelly, Metro Regional Representative, DLCD:** Comments regarding terminology in the Comprehensive Plan.

Staff Response: These comments have been addressed in the Planning Commission version of the proposed amendments.

- **David Mealey, 5111 SE Lake Rd**: Supportive of proposed amendments to allow offices as conditional uses on arterial streets.

  Staff Response: The proposed amendments include allowances small offices on arterial streets in lower density zones with Planning Commission review.

- **Steve Smelser, Owner, Steve Smelser Homes, Inc:** Concerns about 35% garage width requirements, as well as some of the items on the detailed design menu.

  Staff Response: As a local homebuilder, Mr. Smelser makes some good points. Standard house plans are commonly used in single-family development, and the home designs he submitted as examples would meet the other proposed design standards. The maximum garage size has been increased to 50% in the Planning Commission version of the proposed amendments.

- **Leslie Schockner, 4681 SE Logus Rd**: Questions about proposed amendments to regulations governing the keeping of fowl and building permits for small buildings; concerns about the proposed prohibition on PVC and plastic supports, and fabric, tarpaulin, or other similar materials and its impact on property owners.

  Staff Response: A key provision of the language regarding the use of temporary materials on permanent structures is that it applies only to structures that can be seen from the street or sidewalk. A provision allowing for the temporary use of such structures has been included in the Planning Commission version of the proposed amendments.

- **Greg Hemer, 5822 SE Harrison St:** Multiple comments. Suggested amendments to proposed single-family detailed design options; supportive of calculating maximum garage size as percentage of entire façade area.

  Staff Response: One of the guiding principles of the project is to encourage sustainable solutions, and another goal of the project is avoid overregulating and making houses too expensive for the community's residents. The City encourages sustainable building practices, but the Planning Commission version of the proposed amendments does not include any requirements for specific levels of sustainable construction. The proposed amendments suggest calculating maximum garage size as a percentage of the linear façade width. The method of calculating maximum garage size has been identified as a key issue for discussion at the public hearing.

- **Floyd Bennett, 12101 SE 36th Ave:** Supportive of prohibiting "tents" designed to protect cars and RVs.

  Staff Response: A prohibition against these types of structures is included in the Planning Commission version of the proposed amendments and has been identified as a key issue for discussion at the public hearing.

- **Hector Campbell NDA Leadership Team:** Questions regarding the maintenance of foreclosed homes, definition of "fowl," beehive provisions, "tent coverings" on residential properties, and maintenance of sustainability-related accessory structures; concerns regarding detached ADUs and traffic on Railroad Ave as a result of new uses; support for allowing small businesses on arterial roads; and suggestions regarding sustainable building materials.

Staff Response: Some of the questions and comments submitted are beyond the scope of zoning regulations and are addressed in other sections of the Milwaukie Municipal Code, or by existing laws. Some of the comments are addressed in the Planning Commission version of the amendments: a definition of "fowl" has been added; and the proposed standards for ADUs retain the current requirement that one of the structures must be occupied by an owner of the site. If a property in the R-5 zone has enough area (more than double the standard lot size), it is possible that an owner could construct an ADU and later divide it to be on its own lot. If a property is less than double-lot size, simply having an ADU would not allow that property to be divided.

- **James Knight, 10987 SE 28th Ave:** Supportive of detached ADU proposal, and would like to see more flexible setback requirements for the conversion of existing accessory structures to detached ADUs.

  Staff Response: This is likely a concern for both those who desire to convert existing accessory buildings to ADUs, and their neighbors. The proposed amendments were drafted to address community concerns about privacy in residential neighborhoods, and would allow existing accessory structures to be converted to ADUs if they meet the minimum setback requirements for the building height and size. No changes have been incorporated into the Planning Commission version of the proposed amendments.

- **Wes and Sandra Burch, 11388 SE 45th Ave:** Supportive of allowing detached ADUs, request allowances for conversion of existing accessory structures to ADUs. Suggest limiting the number of ADUs per property and the size of ADUs.

  Staff Response: See response to James Knight above. The proposed amendments include restrictions on the number of ADUs per single-family home as well as the size of both attached and detached ADUs.

- **Ray Bryan, 11416 SE 27th Ave:** Supportive of ADUs, but concerned about detached ADUs in rear yards and potential negative impacts on neighbors. Suggests requirements for screening and neighborhood involvement in the establishment of detached ADUs. Requests standards for minimum maintenance standards.

  Staff Response: The proposed amendments do not include requirements for screening of driveways leading to detached ADUs, just as there are no requirements for screening of driveways that lead to detached garages set behind the house. Additionally, the proposed amendments reduce the level of review for ADUs from Type II or Type III to Type I, which does not require notice to neighbors. This would allow for staff review of the ADU against objective standards. Staff recognizes the community's desire for minimum maintenance standards for properties; though important, these standards would be more appropriately located in the building and structural code or Code Enforcement regulations and are outside of the scope of both the zoning ordinance and this project.

- **Yoriko Takui, 11861 SE 28th Ave:** Supports allowing detached ADUs through conversion of existing structures. Suggests that existing nonconforming detached ADUs be deemed conforming.

  Staff Response: See response to James Knight above. Generally, existing detached ADUs would be illegal rather than nonconforming because they have not previously been allowed by the zoning ordinance. If standards allowing detached ADUs are adopted, it could be possible to legalize existing detached ADUs through the appropriate permitting process, assuming they met all of the relevant standards for accessory structures.

- **Linda Hedges, 5185 SE Elk St:** Concerns about poorly maintained properties, request for incorporation of minimum property maintenance regulations into the residential development standards update project.

  Staff Response: Though Ms. Hedges' concerns are shared by others in the community, property maintenance is outside of the scope of the Zoning Ordinance, which regulates the use and development of property. The Building and Community Services Departments have limited regulations regarding safety and nuisances; the City's nuisance code and/or building and structural code would need to be amended to address property maintenance.

- **Phyllis Mazzarella, 10987 SE 28th Ave:** Supportive of detached ADUs.

- **Donna Morrow, 3521 SE Sellwood Ave:** Supports conversion of detached structures to ADUs.

- **Kathy Mayers, 12215 SE 69th Ct:** Supportive of allowing detached ADUs; concerns about allowing additional conditional uses in residential areas due to potential traffic impacts and safety issues.

  Staff Response: The proposed amendments would allow offices along arterials in lower density residential areas, and personal/business services uses anywhere in the medium and high density zones. These uses would be subject to Type III review, and would be required to mitigate any additional traffic generated by the new use.

- **Bernie Stout, 4647 SE Ada Ln**: Supportive of prohibitions on PVC structures; concerns about accommodating off-street parking for ADUs.

  Staff Response: New ADUs are and will be subject to the standard to the current off-street parking standards, which require one off-street parking space per dwelling unit.

- **Karen Olsen, 11106 SE Stanley Ave:** Concerns about an outright ban on accessory structures made of PVC or plastic and tarpaulins and similar materials. Suggests revised wording for code section [MMC] 19.502.2.A. 2.a.

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Draft Ordinance (attached)

   Exhibit A: Recommended Findings in Support of Approval (attached)
2. Proposed Code Amendments with Commentary (attached)
3. Zoning Map (attached)
4. Key Project Questions (attached)
5. Property Owner Notification (attached)
6. Public Comments (attached)
7. Exhibits

Note: the Underline/Strikeout and Clean Versions of the proposed amendments will be provided to the Planning Commission at subsequent public hearings.

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN CHAPTER 4, AND THE MILWAUKIE MUNICIPAL CODE TITLE 14 SIGN ORDINANCE; TITLE 17 LAND DIVISION ORDINANCE; AND TITLE 19 ZONING ORDINANCE, TO UPDATE THE CITY'S RESIDENTIAL DEVELOPMENT AND DESIGN STANDARDS. LAND USE FILE ZA-11-03 AND CPA-11-04.

WHEREAS, the City of Milwaukie desires to promote smart growth and redevelopment, and ensure that new residential development in the City reflects the desires of the community; and

WHEREAS, the City conducted a Smart Growth Code Assessment in 2009, which identified areas in the Municipal Code that present obstacles to smart development and realizing the community's vision for future growth; and

WHEREAS, the City Council approved Resolution #27-2010 to execute an intergovernmental agreement with the State of Oregon's Transportation Growth Management Program providing resources to the City to address problems identified by the Smart Growth Code Assessment; and

WHEREAS, the City has prepared amendments to the Comprehensive Plan and Municipal Code that address problems identified by the Smart Growth Code Assessment; and

WHEREAS, all residential property owners were notified of the amendments and opportunity for public input has been provided at multiple public meetings and through the City website; and

WHEREAS, the Planning Commission and City Council have held duly advertised public hearings on the amendments, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes; and

WHEREAS, the City Council finds that the amendments will result in update residential development and design standards that reflect the community's vision for future development;

WHEREAS, the City Council finds that the amendments are extensive in scope and require 60 days from the date of adoption to put into effect.

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

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Comprehensive Plan Chapter 4, and Milwaukie Municipal Code Title 14 Sign Ordinance; Title 17 Land Division Ordinance; and Title 19 Zoning Ordinance are amended as decribed in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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

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

Signed by the Mayor on _____.

_____
Jeremy Ferguson, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
City Attorney

Document6 (Last revised 09/18/07)

Recommended Findings in Support of Approval
Land Use Files ZA-11-03 & CPA-11-04

1. The City of Milwaukie ("applicant") proposes to amend various residential regulations that are contained in Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC), and Chapter 4 of the Milwaukie Comprehensive Plan (MCP). The land use applications for these amendments are ZA-11-03 and CPA-11-04.
2. The purpose of the proposed code amendments is to improve the user-friendliness and clarity of the residential use zones; update Milwaukie's site development and building design standards for single-family and multifamily housing outside of downtown; and establish policies that reflect the community's changing housing needs and preferences.While the proposed amendments are located in several titles of the municipal code, the most substantive amendments are proposed to the following chapters of Title 19:
   - Chapter 19.300 Base Zones
   - Chapter 19.500 Supplementary Development Regulations
   - Chapter 19.900 Land Use Applications

   Additionally, amendments are proposed to Title 14, Title 17, and Chapter 4 of the MCP to coordinate with the proposed amendments to Title 19.
3. The proposed amendments are subject to the following provisions of the MMC:
   - MMC Section 19.902 Amendments to Maps and Ordinances
   - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications.

   A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

      The amendments are proposed by the City of Milwaukie and were initiated by the Planning Director on December 13, 2011. The Planning Commission finds that this criterion is met.

   B. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:

      i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff held a public open house on October 20, 2011, for review of the draft amendments. The Planning Commission and City Council have had numerous worksessions and study sessions about the proposed amendments. The draft amendments were sent to members of the project steering committee, the Planning Commission, and "interested persons" for review on December 13, 2011. The current version of the draft amendments have been posted on the project web site since January 21, 2012. On January 27, 2012, staff e-mailed NDA leaders and interested persons with information about the hearing and a link to the draft proposed amendments. City staff presented information about the

project and Planning Commission hearing at individual February 2012 neighborhood district association (NDA) meetings, and held a Q & A session at City Hall on February 16, 2012.

Public comments received, including any City responses, are summarized in a separate attachment.

ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission's February 28, 2012, hearing was posted as required on January 27, 2012.

iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The proposed amendments will apply to all residential properties in the City, and specific property owner notice is not required. All residential property owners were notified of the hearing date via the Measure 56 notice (see Finding 5.B.v).

iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. Notice of the proposed amendments was sent to Metro and to DLCD on December 30, 2011.

v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. The proposed amendments would affect residential development on residential properties or properties in residential use. The City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing on January 26, 2012, to all residential property owners in the city.

vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held a duly advertised public hearing on February 28, 2012, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on April ___, 2012, and approved the Comprehensive Plan amendments.

6. MMC Chapter 19.902 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code.

   A. MMC Subsection 19.902.3.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

      The Planning Commission held a public hearing on the proposed amendments on February 28, 2012. A public hearing before City Council is tentatively scheduled for April 17, 2012. Public notice was provided in accordance with MMC Subsection 19.1008.3. The Planning Commission finds that this criterion is met.

   B. MMC Subsection 19.902.3.B contains approval criteria for text amendments to the Milwaukie Comprehensive Plan.

      i) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

      The proposed amendments are consistent with the relevant goals and policies of the MCP, which are contained in Chapter 4: Residential Land Use and Housing Element.

There are several relevant policies contained in this element. Amendments are proposed to sections of the following:

- Objective #2, Policy 5

  The proposed amendments retain the policy of protecting lower-density areas from the impacts of higher-density development, while removing unenforceable policies regarding traffic movement.

- Objective #3, Policies 1, 2, 5, and 6

  The proposed amendments retain existing policies regarding compatibility between new multifamily development and existing lower-density development; delete development standards that are more appropriately located in the MMC; and remove references to nonexistent regulations.

- Objective #4, Policies 6 and 7

  The proposed amendments delete references to Design Review for residential development for compliance with federal regulations and to reflect the development review process contained in the MMC.

- Objective #5, Policy 2

  The proposed amendments retain the overarching policy of encouraging the provision of affordable housing through additional density allowances, and relocate specific standards to the MMC.

ii) MMC Subsection 19.902.3.B.2 requires that the proposed amendment is in the public interest with regard to neighborhood or community conditions.

The proposed amendments reflect the community's desire for policies that encourage maintenance of existing housing and sensitivity to existing neighborhoods; while recognizing the importance of housing options for all community residents.

iii) MMC Subsection 19.902.3.B.3 requires the public need be best satisfied by this particular proposed amendment.

The proposed amendments clarify existing policies while retaining their intent; remove unenforceable or confusing language; and update the MCP to relate more closely to the standards contained in the MMC.

iv) MMC Subsection 19.902.3.B.4 requires that the proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any areas where the proposed amendments were inconsistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

v) MMC Subsection 19.902.3.B.5 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD's comments on the amendments were incorporated into the proposal presented to the Planning Commission at the first

public hearing DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

The Planning Commission finds that the criteria of MMC 19.902.3.B are met.

C. MMC Subsection 19.902.5.A requires that changes to the text of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a public hearing on the proposed amendments on February 28, 2012. A public hearing before City Council is tentatively scheduled for April 17, 2012. Public notice was provided in accordance with MMC Subsection 19.1008.3. The Planning Commission finds that this criterion is met.

D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.

i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The amendments to Titles 14 and 17 are proposed to be consistent with the amendments to Title 19. They are intended to ensure that all internal code references are consistent and accurate, all new and existing terms are clearly defined, and all affected code sections are appropriately located. The Planning Commission finds that this criterion is met.

ii) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The Planning Commission finds that the relevant section of the Comprehensive Plan is *Chapter 4 – Land Use: Residential Land Use and Housing Element*. Current Comprehensive Plan goals and policies strongly support City-wide design standards for single-family and multifamily residential development; ensuring development compatible with existing single-family neighborhoods; and provision of a variety of housing types to meet the needs of residents. The proposed amendments:

- Strengthen existing single-family design standards.
- Establish design standards for multifamily development.
- Ensure that new development is compatible with existing development through compatibility standards such as increased setbacks for taller structures.
- Allow detached accessory dwelling units (ADUs) in addition to attached ADUs, and reduces the level of review required.
- Add rowhouse and cottage cluster development to the housing types allowed in multifamily zones.

The Planning Commission finds that this criterion is met.

iii) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any areas where the proposed amendments were inconsistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The Planning Commission finds that this criterion is met.

iv) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD's comments on the amendments were incorporated into the proposal presented to the Planning Commission at the first public hearing. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

The Planning Commission finds that this criterion is met.

v) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The Planning Commission finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments retain the current clear and objective review of single-family housing and duplexes, and provide a choice between clear and objective review and discretionary review of new multifamily development.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that the criteria of MMC 19.902 are met.

MILWAUKIE
Dogwood City of the West

Residential Development Standards Proposed Code Amendments

February 17, 2012

File No. ZA-11-03, CPA-11-04

Comprehensive Plan

Chapter 4 – Land Use

Municipal Code - Title 14, Sign Ordinance

Section 14.16.010, Residential Zone

Municipal Code - Title 17, Land Division Ordinance

Chapter 17.16, Application Requirements and Procedures
Chapter 17.28, Design Standards

Title 19 Zoning Ordinance

Chapter 19.200, Definitions and Measurements
Chapter 19.300, Base Zones
Chapter 19.400, Overlay Zones and Special Areas
Chapter 19.500, Supplementary Development Regulations
Chapter 19.600, Off-Street Parking and Loading
Chapter 19.700, Public Facility Improvements
Chapter 19.900, Land Use Applications
Chapter 19.1000, Review Procedures
Chapter 19.1200, Solar Access Protection

Please contact Li Alligood, Assistant Planner, with the City of Milwaukie Planning Department, at 503-786-7627 or alligoodl@ci.milwaukie.or.us with questions or comments about the proposed code amendments and/or the code adoption process.

Acknowledgements

Milwaukie City Council

Jeremy Ferguson, Mayor
Greg Chaimov. Council President
David Hedges
Joe Loomis
Mike Miller

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Reader Guide

Commentary
A commentary section precedes each section of code amendments. The commentary provides a non-technical summary of the proposed amendments and highlights proposed policy changes. The commentary section is labeled as commentary and presented in Comic Sans font (the same font of this sentence).

Amendments
Unless otherwise noted in the document, underlined text is proposed text, and ~~strikethrough~~ text is existing code language proposed for deletion.
Sections 19.301 and 19.302 are not shown in underline/~~strikeout~~ text since the amendments for these sections would repeal and replace several sections of existing code. Additions to the Comprehensive Plan are shown in doubleunderline to differentiate it from existing underlined text.

Context/Surrounding Code
The chapter, section, and subsection for the proposed code amendments are listed for reference in this document. Line breaks, like the one below, between subsequent amendments indicate that there is intervening text within the section or subsection that is not included in this document.

Please be advised that this document shows only sections of code for which amendments are proposed, along with limited surrounding sections for context. It does not include all sections of the Milwaukie Comprehensive Plan or Municipal Code.

COMMENTARY

COMPREHENSIVE PLAN

CHAPTER 4 — LAND USE

RESIDENTIAL LAND USE AND HOUSING ELEMENT

- There are amendments throughout Chapter 4 to use the term 'duplex' instead of 'single-family attached' and 'rowhouse' instead of 'townhouse'. There are also amendments to define multifamily as 3 dwellings on a single lot, and erase distinctions about multifamily apartments and multifamily condominiums. These wording changes would make the Comprehensive Plan consistent with housing terms used in the zoning code.
- Objective #2, Policy 5 – the clause stating that "high density projects shall not cause traffic to move through adjacent lower density designated areas" is deleted. This phrase is reflected in the current R1 and R2 zones as a threshold for allowing smaller lot sizes per dwelling unit. There is virtually no way to assure that traffic from a particular development will not travel through lower density areas. The City will review traffic impacts of new developments and require transportation improvements or other mitigation as appropriate.
- Objective #3, Policy 1 – deletion of a standard that driveway access for less than 4 units not be allowed on an arterial street. This topic is covered by Engineering Department regulations in Title 12 of the Municipal Code. Concerns about access points can be addressed through a traffic study if necessary. The Comprehensive Plan is not an appropriate place for this type of standard.

- Objective #3, Policy 2 – This policy deals with transition measures between multifamily development and lower density development. The existing policy is prescriptive about what transition measures should be used. The proposed amendments capture the spirit of having transition measures without being as specific about how they are achieved. The proposed multifamily development standards in the Zoning Ordinance contain the specific standards that implement these policy objectives.

- Objective #3, Policy 5 – This removes specific development standards from the Comprehensive. Plan. Standards in the Zoning Ordinance that require open space and the quality of open space will not be deleted.

- Objective #3, Policy 6 – There is no corresponding regulation in the Zoning Ordinance to require tree preservation outside of Natural Resource areas. It is more appropriate to change this tree preservation standard from "will" to "should".

- Objective #4, Policy 6 and 7 – These policies are proposed for deletion. The references to a Design Review function are out-of-sync with the City's development review process. Single-family and duplex housing are intended to be reviewed at a staff level against clear and objective standards. Multifamily housing is required to have an option for clear and objective review. The City does not now, nor does it intend to have, a Design Review function for most housing development. It also does not have neighborhood-specific design or compatibility standards. Further, the design standards proposed in the zoning code are intended to be style-neutral, whereas the Comprehensive Plan policy encourages specific architecture styles. The language in these policies is not consistent with the city's legal requirements in processing residential building permits or with the intent of the design and development standards.
- Objective #5, Policy 2 - The basic policy of allowing increased density for inclusion of affordable housing units is being retained. The policy has specific standards that are more appropriate for the Zoning Ordinance. It also references an out-of-date publication. The Zoning Ordinance will contain the correct and up-to-date reference.

Underline/Strikeout Amendments

COMPREHENSIVE PLAN

CHAPTER 4 — LAND USE

RESIDENTIAL LAND USE AND HOUSING ELEMENT

OBJECTIVE #2 — RESIDENTIAL LAND USE: DENSITY AND LOCATION

To locate higher density residential uses so that the concentration of people will help to support public transportation services and major commercial centers and foster implementation of the Town Center Master Plan.

Planning Concept

The most basic concept underlying residential land use policy in Milwaukie is that the City is and will continue to be composed primarily of single family neighborhoods. Housing types resulting in higher densities are to be concentrated in order to support public transportation services and major commercial centers, have close proximity to major streets, and to lessen the impact of through traffic on single family areas. A range of housing types is encouraged in all areas of the City, as long as the character of existing neighborhoods is not dramatically altered by new development. The Land Use Plan for the City, Map 7, shows how residential areas of differing density will be distributed throughout the City.

Table 2 summarizes the amount of vacant buildable land within each residential land use category and the total number of new dwelling units which would result from full development of these vacant buildable lands. These figures do not include density bonuses which may be available in development of high quality, nor the total variety of housing types which may result from Planned Unit Developments or application of the residential density policies. Residential design policies have little or no effect on the number of new units calculated in Table 2. At the time of full development, some 2,827 potential new dwelling units, added to the approximately 8,377 existing dwelling units, will result in 11,204 total dwelling units. The Town Center is anticipated to accommodate 1,773 new units (approximately 63 percent of the new units) primarily through infill and redevelopment, while vacant land outside the Town Center is anticipated to accommodate 1,054 new units. Because nearly all of the remaining buildable vacant land in Milwaukie is designated as low and moderate density land, distribution of future housing types within Milwaukie will be primarily single family outside the Town Center, with high density housing occurring on redevelopable land in the Town Center. In addition to these estimates, Milwaukie has the capacity for an estimated 198 secondary dwelling units to be developed on existing and future single family lots.

Table 2 — Estimate of Dwelling Unit Capacity on Vacant Lands by Zone

Zone Abbr.	Gross Unconstrained Vacant Land (Gross Vacant Buildable Land—Outside TownCenter)	Gross Unconstrained Vacant Land Minus Needed Schools, Park, Church, and Street (Net Vacant Buildable Land—Outside Town Centers)	Min. Lot Area Per Unit	Max. Res. DU Per Net Acre	With Underbuild (DU Per Net Acre × .97)	DU Estimate (Outside Town Center)	Addnl. DU from Possible Infill (Outside Town Center)	DU Estimate from Vacant Redevelopable Land in the Town Center
R-10	8.31	7.41	10,000	4.36	4.23	36	83	
R-7	19.53	17.95	7,000	6.22	6.04	113	550	
R-5	6.37	5.55	5,000	8.71	8.45	50	221	
R-3	0.12	0.12	3,750	11.62	11.27	1	0	
R-2.5	0.00	0.00	2,000	21.78	21.13	0	0	
R-2	0.00	0.00	2,000	21.78	21.13	0	0	
R-1	0.00	0.00	2,000	21.78	21.13	0	0	
R-1-B	0.00	0.00	2,000	21.78	21.13	0	0	
Totals	**34.33**	**31.03**				**200**	**854**	**1,773**

Table 2 methodology summary (detailed methodology in Technical Appendix C, City of Milwaukie Metro Functional Plan Compliance Report:

- Dwelling unit capacity was estimated on a parcel-by-parcel basis.
- *The City of Milwaukie 1998 Housing Inventory* was used to identify vacant residential land in the city.
- Environmentally constrained land, as defined by Metro, was subtracted from gross vacant land to arrive at gross vacant buildable land.
- Gross vacant buildable land was reduced by 5% to account for future needed schools, local and regional parks, and churches.
- A second gross-to-net reduction of 10% or 20% was made for right-of-way, depending on the size of the lot.
- The minimum lot size of each zone was used to determine the maximum dwelling units per acre.
- To account for underbuild, the capacity was reduced by 3% based on a study of actual built densities for housing in Milwaukie (see *Technical Appendix B, City of Milwaukie Metro Functional Plan Compliance Report*).
- To calculate dwelling unit estimate per vacant lot, the acreage of net vacant buildable land was multiplied by the maximum dwelling units per acre and the underbuild factor.
- Additional units were added to Milwaukie's housing capacity for dwelling units likely to be constructed through infill development. The rate of infill used in the above estimates is based on a local study of partitioning trends in the city.
- Estimates for new dwelling units on vacant and redevelopable land in the Town Center were added separately. See the *City of Milwaukie Town Center Master Plan* for the methodology used to estimate new dwelling units in the Town Center.

Policies

1. Residential densities will be based on the following net* density ranges:

   Low Density (Zones R-10, R-7) - up to 6.2 units per net acre

   Moderate Density (Zone R-5) - 6.3 to 8.7 units per net acre

   Medium Density (Zones R-3, R-2.5, R-2) - 8.8 to 21.1 units per net acre

   High Density (Zones R-1, R-1-B) - 21.2 to 24.0 units per net acre

   Town Center: Downtown Residential Transition Area (Zone DR) - 10 to 40 units per net acre

   Town Center: Downtown Residential Outside of Transition Area (Zone DR) - 40+ units per net acre

   Town Center: Outside of Downtown (Zone R-O-C) -25 to 50 units per net acre

   *In calculating buildable lands, density standards will be applied to net parcel areas to determine the maximum number of dwelling units allowed. Gross site area will be reduced to net site area according to the following schedule:

   - Areas one acre or larger will be reduced by twenty percent (20%) for the purposes of right-of-way dedication.
   - Areas greater than 3/8 of an acre and less than one acre will be reduced by ten percent (10%) for the purposes of right-of-way dedication. Areas less than or equal to 3/8 of an acre (16,335 s.f.) are assumed to be platted and receive zero reduction for right-of-way.

A general definition of housing types are:

Single family detached - a house normally occupied by one family with no structural connection to adjacent units. The unit may be situated at a specified distance from lot lines, or with one wall on a side property line. Typical density is 4 to 6.2 units per acre.

Duplex ~~Single family attached~~ - two units within one dwelling structure, each normally occupied by one family, sharing common structural walls. For purposes of buildable land inventories and needed housing types related to state statutes and statewide planning goals, duplexes are considered as a form of single-family attached housing.

Rowhouse ~~Townhouse~~ - An attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Rowhouses ~~Townhouses~~ on interior lots may have a zero side yard setback. ~~A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.~~

Multifamily ~~(Condominium)~~ - a single structure containing 3 or more ~~individually owned~~ dwelling units on a lot. ~~, with all other common elements, including lot, jointly owned on a specified basis.~~

~~Multifamily (Apartment) - a single structure containing 3 or more dwelling units, usually for rent. Each structure and lot are usually under single ownership.~~

2. Areas may be designated Low Density residential if any of the following criteria are met:

   a. The predominant housing type will be single family detached.

b. Low Density areas are residential areas which are developed at Low Density and little need for redevelopment exists.

c. Within Low Density areas, transportation routes are limited primarily to collectors and local streets.

d. Low Density areas may include sites where sensitivity to the natural environment or natural hazards necessitate a reduced density.

3. Areas may be designated Moderate Density Residential based on the following policies:

a. The predominant housing types will be single family detached on moderate to small lots, and single family attached units.

b. Moderate Density areas are residential areas which are currently developed at Moderate Density and little need for redevelopment exists.

c. Within Moderate Density areas, convenient walking distance to a transit stop or close proximity to major trip generators shall be considered.

4. Areas may be designated Medium Density residential based on the following policies:

a. The predominant housing types will be duplexes. ~~single family attached units.~~

b. Medium Density areas are residential areas with access primarily to major or minor arterials. Siting should not result in increased traffic through Low Density Residential areas.

c. Medium Density areas are to be located near or adjacent to commercial areas, employment concentrations or transit stops.

d. Medium Density areas may include areas of deteriorating dwellings or structures in neighborhoods in order to stimulate private investment, infilling and redevelopment, provided one or more of the preceding policies apply.

5. Areas may be designated High Density Residential based on the following policies:

a. The predominant housing types will be multifamily units.

b. High Density Residential areas shall be located either adjacent to or within close proximity to the downtown or district shopping centers, employment concentrations and/or major transit centers or transfer areas.

c. Access to High Density areas should be primarily by major or minor arterials. ~~Siting of High Density projects shall not cause traffic to move through adjacent lower density designated areas.~~

6. High Density in Mixed Use Areas will be based on the following policies:

a. Within the Mixed Use Area designated on Map 7, a range of different uses including residential, commercial and office are allowed and encouraged. It is expected that redevelopment will be required to implement these policies, and that single structures containing different uses will be the predominant building type.

b. Commercial uses will be allowed at the ground floor level, and will be located relative to the downtown area so that pedestrian access between areas is convenient and continuous.

c. Office uses will be allowed at the ground and first floor levels.

d. High Density residential uses will be allowed on all levels. At least fifty (50) percent of the floor area within a project must be used for residential purposes.

e. Within the Mixed Use Area, a residential density bonus of fifteen (15) percent over the allowable density may be granted in exchange for exceptional design quality or special project amenities.

f. All parking must be contained within a project.

7. Town Center Areas will be designated based on the following policies:

a. Regional Plan Areas are those sites identified within the subareas depicted on the Subareas Map in the Town Center Master Plan as suitable for redevelopment. Within the Town Center areas designated on Map 7, mixed use development combining residential high density housing with retail, service commercial, and/or offices is encouraged. This is intended to foster a Town Center environment in accordance with the Town Center Master Plan.

b. A mixed use zone will be applied to designated Town Center Areas as an interim tool to implement the Town Center Master Plan.

c. The Downtown and Riverfront Land Use Framework Plan and specific implementing zones shall replace the Mixed Use Zone for Subarea 1 of the Town Center Master Plan. Specific ratios of retail and office to residential shall be specified by the interim Mixed Use Zone.

d. Outside of the Downtown and Riverfront Land Use Framework Plan area, the Residential-Office-Commercial (R-O-C) Zone is the most appropriate zone for the Town Center Area.

e. The Town Center Area shall be served by multimodal transportation options; therefore, on-street parking, shared parking, and enclosed parking are the most appropriate parking options in the Town Center Area. Off-street surface parking is to be discouraged.

f. A variety of higher density housing is desired in a designated Town Center Area, and the City shall work cooperatively with the private sector to provide a diverse range of affordable housing.

g. Residential densities in the Downtown Residential Transition Area are in the range of 10 to 40 units per net acre, and 40+ units per acre outside of the Transition Area. Residential densities in the portion of the Town Center outside of Downtown are in the range of 25 to 50 units per net acre.

OBJECTIVE #3 — RESIDENTIAL LAND USE: DESIGN

To encourage a desirable living environment by allowing flexibility in design, minimizing the impact of new construction on existing development, and assuring that natural open spaces and developed recreational areas are provided whenever feasible.

Planning Concepts

Residential design policies are intended to ensure a high quality of environmental design, a flexible design approach, and a smooth integration of new development into existing neighborhoods. Density bonuses and transfers will be encouraged so that full development potential on individual parcels may be realized. Transition policies will be applied to reduce any negative impacts of development on adjacent uses. The transition policies will have little or no effect on the number of new units calculated in Table 2.

Policies

~~1. Access driveways to less than four residential units will not be allowed onto arterials unless it can be shown that no other alternative is possible.~~

~~2. Development in new multifamily housing projects in Medium and High Density areas within 100 feet of adjacent Low and Moderate Density areas where those housing types are not allowed, will provide one or more of the following transitions to reduce the impact on lower density areas. Transition measures, subject to approval, include:~~

~~a. Roadways separating projects.~~

~~b. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard setback of adjacent parcels will be designated as open area. Natural vegetation, landscaping or fencing will be provided sufficient to screen living rooms from direct view across open areas.~~

~~c. Gradual density changes. A new project may not have a density greater than 25 percent of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.~~

~~d. Planned Unit Development design concept is encouraged whenever possible. When feasible, density transfer will be encouraged so that full development potential may be realized. Encourage units which would be permitted by zoning on hazardous or environmentally sensitive lands to be transferred to areas which are less hazardous or less expensive to develop. Resulting density on the developed portion of a site shall not exceed the density allowed in the next highest residential plan category.~~

1. Development of new multifamily projects will reduce potentially negative impacts on existing adjacent single-family development and adjacent lower density zones by measures such as reduced maximum heights, increased setbacks for large facades, building size limitations, and other design features to maintain privacy of nearby properties.

2~~3~~. In all Planned Unit Developments, a density bonus up to 20% over the allowable density may be granted in exchange for exceptional design quality or special project amenities.

3~~4~~. All Planned Unit Developments will have at least one third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.

4~~5~~. All projects in Medium Density and High Density areas will have ~~at least one third of the gross~~ area devoted to open space and/or outdoor recreational areas. At least half of the ~~required~~ open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets and parking areas, but may include private yards.

5~~6~~. In all cases, existing tree coverage should ~~will~~ be preserved whenever possible, and areas of trees and shrubs will remain connected particularly along natural drainage courses.

6~~7~~. Specified trees will be protected during construction, in accordance with conditions attached to building permits.

7~~8~~. Sites within open space, natural hazard or natural resource areas will be protected according to specifications in the Natural Hazard and Natural Resources Elements.

OBJECTIVE #4 — NEIGHBORHOOD CONSERVATION

To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

Planning Concept

Milwaukie is predominantly a built-up city. It contains several districts, however, where neighborhood character, available buildable areas, and existing lotting patterns suggest different approaches to new residential development are appropriate. Within High Density areas reconstruction of older neighborhoods is encouraged; within Moderate and Medium Density areas infilling consistent with local scale is emphasized, and in Low Density areas conservation of single family character will be maintained.

Policies

1. Within High Density areas, clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as outlined in the Historic Resources Chapter. The predominant housing type will be multifamily.
2. Within Moderate and Medium Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. When projects involve destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations.
3. 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. The predominant type of new housing in Moderate Density areas will be single family detached on moderate to small lots and single family attached units. The predominant type of new housing in Medium Density areas will be duplex ~~single family attached~~ units. Multifamily housing may be allowed in Medium Density areas.
4. Within Low Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. ~~When projects involve the destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations.~~ The predominant type of new housing in Low Density areas will be single family detached. Single family attached units will be allowed based on location criteria in the Zoning Ordinance. ~~A public hearing is required.~~
5. Within Low Density areas, new projects will maintain a single family building bulk, scale and height when abutting existing single family areas, or when abutting a street where existing single family houses face the project.
6. ~~When feasible, a Design Review function will be incorporated into the City's development review process to interpret and enforce Residential Land Use: Design, and Neighborhood Conservation policies.~~
7. ~~When a Design Review function is implemented, a Neighborhood Design Guide will be developed for each neighborhood area. The Design Guide will identify any consistent and desirable architectural styles, elements, materials or landscape features existing in the neighborhood together with appropriate building standards to serve as guidelines for new housing construction as well as rehabilitation projects. The Design Guide will be enforced as part of a Design Review function.~~

OBJECTIVE #5 — HOUSING CHOICE

To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

Planning Concept

While the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplex ~~single family attached~~, rowhouses, cottage cluster, accessory dwelling units, ~~and detached~~ multifamily, manufactured housing, and mobile home parks.

The City of Milwaukie will not immediately zone all high density or Town Center land for maximum development. Some areas involved are already predominantly developed at a lower density, leaving only pockets of vacant land currently suitable for immediate density increases. The rezoning will occur over time, and will be consistent with the Town Center Master Plan based on applications which can demonstrate consistency with plan policies, as set forth in the City's Comprehensive Plan and, with public facility plans and standards, adequate to support maximum development. This process will ensure that development will occur with a timely, orderly, and efficient provision of public facilities and services as required by State Goal 11.

Policies

1. 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. Such techniques may include the reduction of lot size standards in established neighborhoods; allowing single family attached housing units in appropriate areas; and encouraging the construction of small housing units. A design review process shall be used within the Mixed Use Overlay Zone to assure that infill development is suitable in a given location.
2. The City will encourage the development of larger subdivisions and PUDs that use innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques to reduce costs may include providing a variety of housing size, type, and amenities. An additional housing unit will be allowed for the provision of affordably priced housing in residential developments. ~~An additional housing unit will be allowed for each unit priced for sale at twenty-five (25) percent below the average new single family housing cost established in the most recent edition of "Real Estate Trends," published semi-annually by the Metropolitan Portland Real Estate Research Committee, Inc.~~ Overall project density may not exceed the allowable density plus ten (10) percent, which may be added to the Planned Unit Development bonus.
3. Manufactured housing is encouraged and allowed wherever single-family housing is permitted in the City as long as density standards and other applicable policies are met. The City will encourage the provision of housing at types and densities indicated in the City's housing needs assessments summarized on Table 2.
4. Mobile home parks will be allowed in Low, Moderate, and Medium Density areas in zones allowing development at 6-12 units per acre, and will be subject to park design and appearance standards and review in a public hearing.
5. Although not all higher density and Town Center lands will immediately be zoned for maximum permissible densities, the rezoning of these lands will be approved when it can be demonstrated that adequate public facilities exist or can be provided in accordance with City plans and standards to support increased development.

COMMENTARY

TITLE 14, SIGN ORDINANCE

The proposed amendments to Title 14 are changes in terminology from using the term 'multifamily' rather than the more specific terms or 'apartment' and 'condominium'. These changes would make the Sign Ordinance consistent with the terms in the Zoning Ordinance.

Underline/Strikeout Amendments

TITLE 14 SIGNS

CHAPTER 14.16 SIGN DISTRICTS

14.16.010 RESIDENTIAL ZONE

No sign shall be installed or maintained in an R Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.010.

Table 14.16.010
Standards for Signs in Residential Zones

Sign Type	Area	Height	Number	Illumination[1]
Signs at entrances to subdivisions or manufactured home parks	Max. 2 SF per dwelling unit to max. 32 SF per sign; max. 16 SF per display surface; total sign area for all display surfaces of no more than 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External illumination only
Freestanding signs on multifamily ~~apartment and condominium~~ properties	Limited to 2 SF per dwelling unit to a max. area of 32 SF, 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.[2]	External illumination only
Wall signs on multifamily ~~apartment and condominium~~ properties	Limited to 2 SF per dwelling unit to a max. of 32 SF.	No wall sign shall extend above the roofline at the wall, or the top of a parapet wall, whichever is higher.	1 per street frontage permitted.[2]	External illumination only
Awning signs on multifamily ~~apartment and condominium~~ properties	Max. display surface is 25% of awning area, up to max. of 32 SF.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per street frontage.[3]	

Hanging sign suspended beneath awning	Max. area limited to 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground to the lowest portion of awning or sign.	1 per street frontage.[3]	External illumination only

[1] Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

[2] Either 1 freestanding or 1 wall sign per street frontage is permitted.

[3] Either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

14.16.020 RESIDENTIAL-OFFICE-COMMERCIAL ZONE

No sign shall be installed or maintained in an R-O-C or R-1-B Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020
Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B

Sign Type	Area	Height	Number	Illumination[1]
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily ~~apartment and condominium~~ properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily ~~apartment and condominium~~ properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily ~~apartment and condominium~~ properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted.[2]	External only

Wall signs on commercial property	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted.[3]	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage.[4]	External only
Daily display sign[5]	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

[1] Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

[2] 1 freestanding sign is permitted in addition to 1 wall sign.

[3] 1 wall sign is permitted in addition to 1 freestanding sign or 2 wall signs permitted.

[4] For awnings related to residential use, either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

[5] Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

COMMENTARY

TITLE 17, LAND DIVISION ORDINANCE

The amendments to the land division ordinance are to allow cottage cluster development. Cottage clusters may include lots or parcels that are substandard with regard to size and area that may also be land-locked. The proposed amendments to Title 17 would allow these lots so long as they are developed as part of a cottage luster development. While allowance for differently-configured lots would be allowed, cottage clusters would be subject to the overall maximum dwelling densities that apply to standard developments.

17.28.040 General Lot Design

These amendments specifically exempt cottage cluster lots from the lot design standards. This is done because the land patterns in cottage cluster developments are fundamentally different in style from standard residential development. Another change is to move a provision from Subsection A into the introductory provisions for this section. This move clarifies that units of land not created for development are exempt from all standards in the section; not just the standards in Subsection A.

17.28.070 Flag Lot Limitations

The intent of this prohibition, enacted in 2002, was to prohibit flag lots in new subdivisions. Many areas of Milwaukie are in subdivisions that were platted many decades ago, sometimes with very large lots. The regulation was not intended to prohibit flag lot partitions in these older large-lot subdivisions, so long as the lots have sufficient area and dimensions to meet current lot standards for a flag lot partition. The amendments make it clear that the flag lot prohibition applies only to newly platted subdivisions.

Underline/Strikeout Amendments

TITLE 17 LAND DIVISION

CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

17.16.080 COTTAGE CLUSTER DEVELOPMENT

Applications for subdivision preliminary plats or replats to create a cottage cluster housing development shall include narrative and plans necessary to show with sufficient detail to demonstrate compliance with the standards of Section 19.505.4.

CHAPTER 17.28 DESIGN STANDARDS

17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development per Section 19.505.4 are also exempt from the requirements of this section.

A. Size and Shape

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

17.28.060 FLAG LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot design shall be consistent with Subsection 19.504.8~~9~~.

17.28.070 FLAG LOT LIMITATIONS

Flag lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907.

COMMENTARY

TITLE 19 ZONING

CHAPTER 19.200

DEFINITIONS AND MEASUREMENTS

19.201 Definitions

Some new or revised definitions are proposed to ensure that terms defined in Chapter 19.200 are kept current and remain consistent with other proposed amendments to the zoning code. The amendments also add figures that illustrate and explain the terms used in the code.

In particular, the following changes or additions are proposed:

- Definitions related to dwellings are reorganized.
    - In the current code, all definitions related to different forms a dwelling unit could take are grouped under the term "dwelling", which is not intuitive for people looking for this information. These terms are proposed to be grouped instead under the heading of 'Residential Structures and Uses' heading.
    - Some existing definitions (e.g., Manufactured dwelling) are moved to be under this heading.
    - Specific definitions for each housing type would be modified to add clarity and specificity when needed, and to be consistent with the proposed amendments to Chapter 19.300 and 19.500.
- New definitions for terms introduced to the zoning code for the first time by the proposed amendments:
    - Cistern
    - Duplex
    - Cottage
    - Eave
    - Footprint
    - Fowl
    - Lot of Record and Legal Lot
    - Rowhouse
    - Solar energy system
    - Side yard Height Plane
    - Street Facing Façade
    - Wind energy system
    - Yurt

- Some definitions are proposed to be deleted because they are either not currently used in the zoning code, or would no longer be used as a result of the proposed amendments:
    - Dormitory
    - Type 1 and 2 accessory dwelling – replaced with new definition for "Accessory dwelling unit" to support the proposed policy for such dwellings.
    - Townhouse
- The definition of "Lot coverage" is proposed to change so that eaves are no longer counted toward overall lot coverage. This would have the effect of encouraging eaves as an architectural feature. Including eaves in the calculation of lot coverage has been an unintended incentive for builders to reduce or eliminate eaves to maximize the amount of floor area within a structure.
- The definition of footprint is new, even though this is a term already used in the code. It refers to the area covered by an individual building.
- Lot of Record and Legal Lot are terms common to nearly all zoning codes. These terms are used to differentiate units of land that were created legally with proper city and county approval; units of land that were created before city and county approval were needed, and are therefore recognized as legal; and any other unit of land that does not have legal rights as a buildable property.
- Side Yard Height Plane – this is a new definition that controls the mass of a building along a side lot line. The height plane is a height limit that slopes upward from the side setback line toward the middle of the lot. Portions of a building nearer to the side lot line must be shorter in height, while taller portions of a building are allowed further toward the interior of a lot.
- A definition of Yurt has been added. A yurt is allowed as an accessory dwelling unit, and the definition explains the characteristics of this type of structure.

19.202 Measurements

19.202.2 Vertical Measurements

The revisions to this section would change how the City measures building height and clarify some existing policies.

The current definition does not adequately address height limits on lots with significant slopes. The proposed definition is modeled after the Oregon Transportation Growth Management (TGM) program's Model Development Code for Small Cities and the City of Portland's regulations.

B.1 Exterior Height, Base point

The proposed definition would not change the height measurement for flat lots. On lots with a greater slope, the proposed definition would measure the building height starting from a point 10 ft above the lowest point on the lot. This will prevent buildings from being overly-tall on the downslope side of the lot, which can make a structure very tall in comparison to structures further down the slope.

B.2 Exterior Height, Top of building

The proposed amendments would not change how the City measures building height; it would add more direction on how to apply the existing methodology to more roof types.

19.202.3 Density Calculations

Milwaukie has implemented standards for minimum and maximum density for many years. This section of code is a new section that explains specifically how this standard is calculated. The rules for rounding density results are similar to those used in Portland.

There are changes to what parts of a property are or are not included in the calculation. Areas such as floodways, dedicated park or open space, and right-of-way area are excluded from both minimum and maximum density calculations. These areas are truly unbuildable and, as such, should not be excluded from these calculations.

Floodplains, which are currently deducted from density calculations, are not deducted under the proposed amendments, since they can be built on.

Maximum density also deducts floodplains and floodways, and slopes in excess of 25%. These are areas that can be built upon, but are constrained. The policy of excluding these areas from the calculation of maximum density helps to protect these sensitive lands by not setting a maximum density number that assumes development on them.

Lastly, a provision has been added that guarantees a legally platted lot at least 1 dwelling unit, regardless of the minimum density calculations. The development would still need to meet other applicable development regulations.

The overall effect of these changes will vary on a property-by-property basis. In the current zoning ordinance, there are about 197 acres of land on private property that are exempted for purposes of determining the minimum and maximum density.

The revised regulations would exclude approximately 4 acres of land on private property in the city from the minimum density calculations. Overall, this would result in a higher minimum number of dwelling units or lots required. The revised regulations would exclude approximately 200 acres of land on private property within the city from the maximum density calculations. This would result in a lower number of dwelling units or lots allowed than under the current regulations.

UNDERLINE/STRIKEOUT AMENDMENTS

TITLE 19 ZONING

CHAPTER 19.200

DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

~~"Dormitory" means a room which is rented for sleeping purposes for more than 4 persons.~~

~~"Dwelling" means a structure containing 1 or more dwelling units used, intended, or designed to be built, used, rented, let, or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this chapter.~~

~~"Dwelling unit" means 1 or more rooms designed for occupancy by 1 family, but excluding a recreational vehicle.~~

~~"Single-family attached" means 2 dwelling units, each occupied as a housekeeping unit, sharing common structural walls.~~

~~"Single-family detached" means a house or a manufactured home normally occupied by 1 family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.~~

~~"Multifamily apartment" means a single structure containing 3 or more dwelling units, usually for rent, and sharing common structural walls.~~

~~"Multifamily condominium" means a single structure containing 3 or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.~~

~~"Interior single-family attached, interior multifamily condominium" means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.~~

~~"Accessory dwelling" means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than 1 cooking facility. For the purpose of this definition "cooking facility" means an oven, stove, range, or other device used or intended for the preparation or heating of food.~~

~~"Type 1 accessory dwelling" means an accessory dwelling unit not less than 225 sq ft net floor area and not more than 600 sq ft net floor area and meeting the requirements of Subsection 19.910.1. For the purpose of this chapter, net floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells, and rooms.~~

~~"Type 2 accessory dwelling" means an accessory dwelling unit other than a Type 1 accessory dwelling unit, as permitted by Subsection 19.910.2.~~

"Eave" means a projecting overhang at the lower border of a roof, extending from the primary wall or support. Eaves are architectural features that aide in protecting buildings from precipitation and solar radiation and are distinct from overhangs that provide shelter for persons or property.

"Footprint" means the area covered by the outer structural walls of a building, measured in sq ft. Roofed structures that are not fully enclosed; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade are included in the calculation of footprint. Footprint does not include eaves.

"Fowl" means chickens, ducks, geese, turkeys and other birds of a similar size.

"Lot" means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record ~~plot, parcel, or area of land owned by, or~~ under the lawful control and in the lawful possession of, one distinct ownership. When one owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with one or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

"Corner lot" means a lot abutting ~~on~~ 2 or more streets, other than an alley, at their intersection.

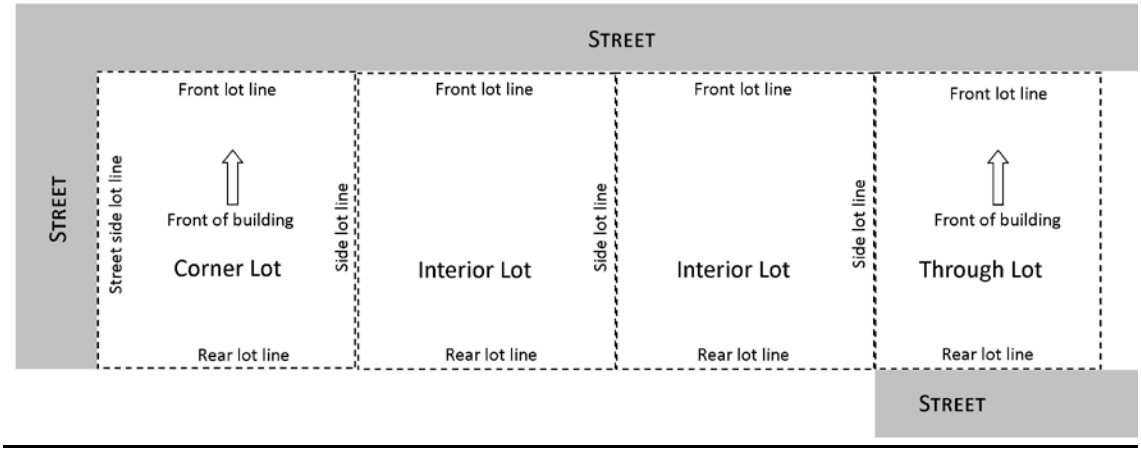
"Interior lot" means a lot other than a corner lot.

"Legal lot" means a unit of land other than a tract created through a subdivision or partition approved by the City.

"Lot of record" means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, that was not created through a partition or subdivision approved by the City, and that was created prior to October 5, 1973.

"Through lot" means an interior lot having frontage on 2 streets.

Figure 19.201-1
Lots and Lot Lines



"Lot coverage" means the amount of area covered by ~~footprint of a~~ building(s) on a lot~~, measured from the outermost projection of the building(s),~~ expressed as a percentage of the total lot area. Lot coverage includes open structures, such as pole barns; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade. Lot coverage does not include eaves.

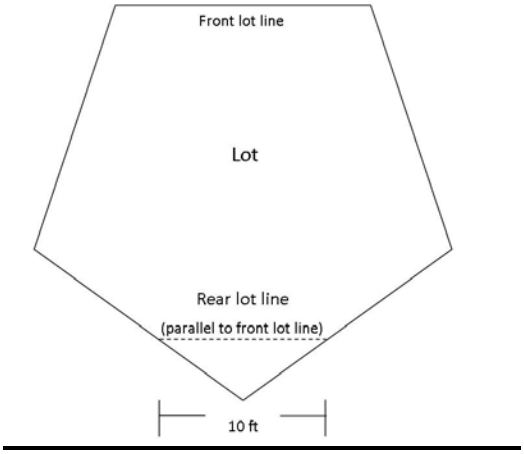
"Lot line" means the property line bounding a lot. The lot lines defined below are depicted in Figures 19.201-1 and 19.201-2.

"Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the existing or contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face. In the case of a flag lot, the front lot line is the lot line closest to the street from which the property takes access, excluding lot lines that are part of the pole portion of the flag lot.

"Rear lot line" means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular, or other-shaped lot, a line 10 ft in length within the lot parallel to and at the maximum distance from the front lot line.

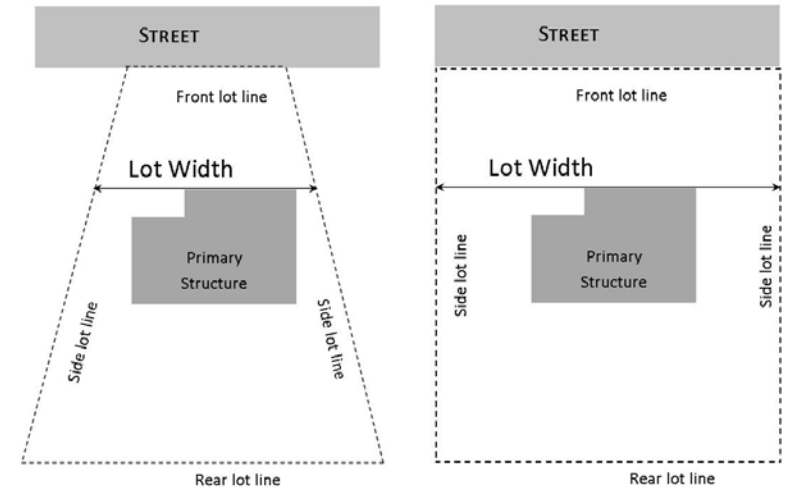
"Side lot line" means any lot line not a front or rear lot line.

Figure 19.201-2
Rear Lot Line



"Lot width" means the horizontal distance between side lot lines measured at the building line.

Figure 19.201-3
Lot Width



~~"Manufactured dwelling" means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, and that is being used for residential purposes.~~

~~"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.~~

~~"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.~~

Residential Uses and Structures:

"Accessory dwelling unit" means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to and smaller than the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot, or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people, independent of the primary dwelling unit.

"Duplex" means a structure on one lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.

"Dwelling" means a structure containing 1 or more dwelling units used, intended, or designed to be built, used, rented, let, or hired out to be occupied, or which are occupied for living purposes.

"Dwelling unit" means a building or portion of a building that includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facility is clearly accessory, and the property owner has recorded a covenant with the Clackamas County Records Division that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this Title.

"Cooking facility" means an oven, stove, range, or other device used or intended for the preparation or heating of food.

"Cottage" means a structure containing one dwelling unit on one lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.

"Manufactured dwelling" means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, and that is being used for residential purposes.

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Multifamily development" means 3 or more dwelling units on one lot. Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in one or more structures on the lot. The dwelling units may be arranged with one dwelling unit per structure or with multiple dwelling units within a structure that are separated vertically and/or horizontally. Multifamily development includes the forms of housing that are typically called apartments and condominiums. Multifamily developments may include structures that are similar in form to rowhouses, cottage clusters, duplexes, or single-family dwellings.

"Rowhouse" means a residential structure on its own lot that shares one or more common or abutting walls with at least one or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. The shared or abutting walls may be any wall of the buildings, including the walls of attached garages. A rowhouse does not share common floor/ceilings with other dwelling units.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped, or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Single-family detached dwelling" means a structure or manufactured home containing one dwelling unit that has no structural connection to adjacent units.

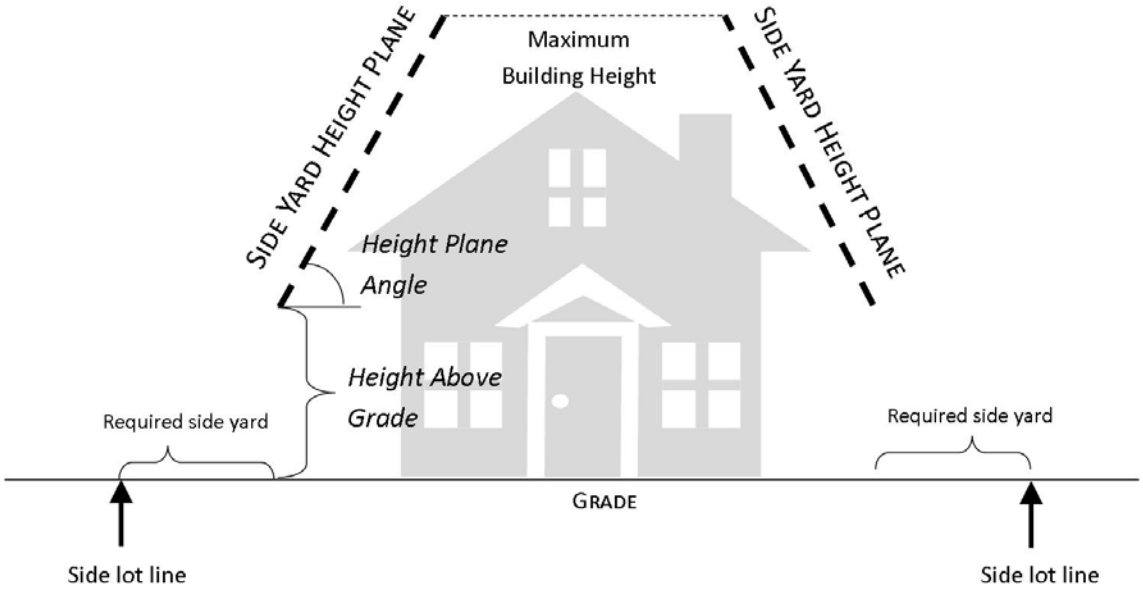
"Yurt" means a 1-story building with a circular footprint and a roof that is domed or conical with the highest point at the center of the circle. The walls and roof of a yurt are typically canvas or other flexible fabric material.

~~"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped, or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.~~

~~"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.~~

"Side Yard Height Plane" means a plane that limits the building height along side lot lines. Structures on the site must remain underneath the height plane. The height plane applies along side lot lines, and is not applicable to front, rear, or street side lot lines. The height plane begins at a specified height above grade at the base zone minimum required yard depth and slopes upward at a specified angle until it reaches the maximum allowed building height or intersects with the side yard height plane from an opposite side of the lot.

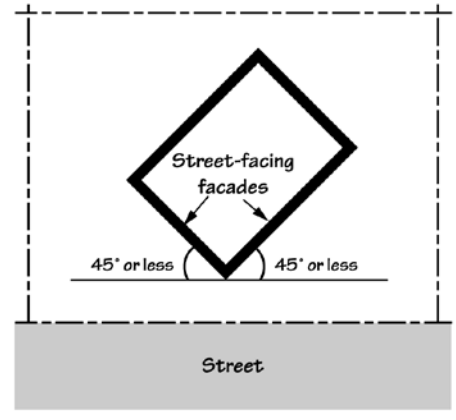
Figure 19.201-4
Side Yard Height Plane



"Solar energy system" means equipment used to capture solar radiation for purposes of heating water or generating electricity. A solar energy system is an accessory use and the energy generated by the system is used predominantly on-site.

"Street Facing Façade" means the wall planes of a structure that are visible from and at an angle of 45 degrees or less to a front lot line or street side lot line. Angle measurements for curved front or street side lot lines shall be based on a straight line connecting the opposing lot corners of the front or street side lot line.

Figure 19.201-5
Street Facing Facade



~~"Townhouse" means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required~~

~~to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.~~

"Wind energy system" means equipment used to generate electricity from wind. A wind energy system is an accessory use and the energy generated by the system is used predominantly on-site.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title. A yard may include areas with grass, mulch, barkdust, shrubs, trees, garden plantings, gravel, pavement, or asphalt. The yards defined below are depicted in Figure 19.201-6.

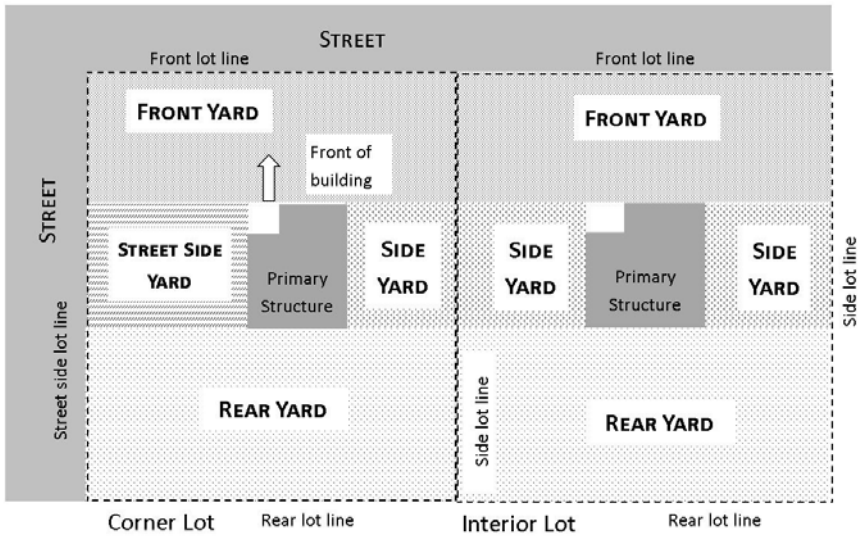
"Front yard" means a yard between side lot lines, measured horizontally and at right angles to the front lot line from the front lot line to the nearest point of the building.

"Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, measured horizontally and at right angles to the rear lot line from the rear lot line to the nearest point of the building.

"Side yard" means a yard between the front and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

"Street side yard" means a yard adjacent to a street between the front and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

Figure 19.201-6
Yards



19.202 MEASUREMENTS

19.202.2 Vertical Measurements

A. Interior Height

Floor-to-ceiling height shall be measured from the top of the floor finish to the bottom of the ceiling joists or, where there is no ceiling, to the bottom of the roof rafters.

B. Exterior Height of Primary Structures

~~Except where otherwise specified in Title 19, building height shall be measured from the adjoining street centerline grade, as established by the City, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the mean height between the eaves and the ridge for a gable, hip, or gambrel roof. Where the building is set back from the street, building height may be measured from the average elevation of the finished grade at the front of the building.~~

The height of a primary structure building is the vertical distance above the base point described in Subsection 19.202.2.B.1, below, and the top of a building described in Subsection 19.202.2.B.2, below.

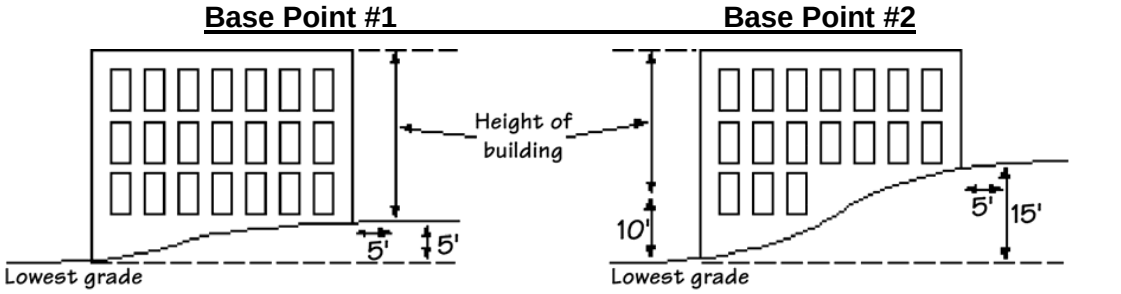
1. Base point.

The base point used for building height measurement shall be the base point that yields the greater building height. See Figure 19.202.2.B.1.

a. Base point 1 is the elevation of the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade

b. Base point 2 is the elevation that is 10 feet higher than the lowest grade when the sidewalk or ground surface described for base point 1, above, is more than 10 feet above lowest grade.

Figure 19.202.2.B.1
Base Point Measurement



2. Top of building.

The top of building shall be determined by the specific roof types listed below. See Figure 19.202.2.B.2.

a. Flat roof: Measure to the top of the parapet, or if there is no parapet, to the highest point of the roof . If a roof includes multiple flat roofs at different elevations, measure to the top of the highest parapet or highest point of the highest roof.

b. Mansard roof: Measure to the deck line.

c. Pitched, hipped, or gambrel roof where roof pitch is 12 / 12 or less: Measure to the average height of the highest gable.

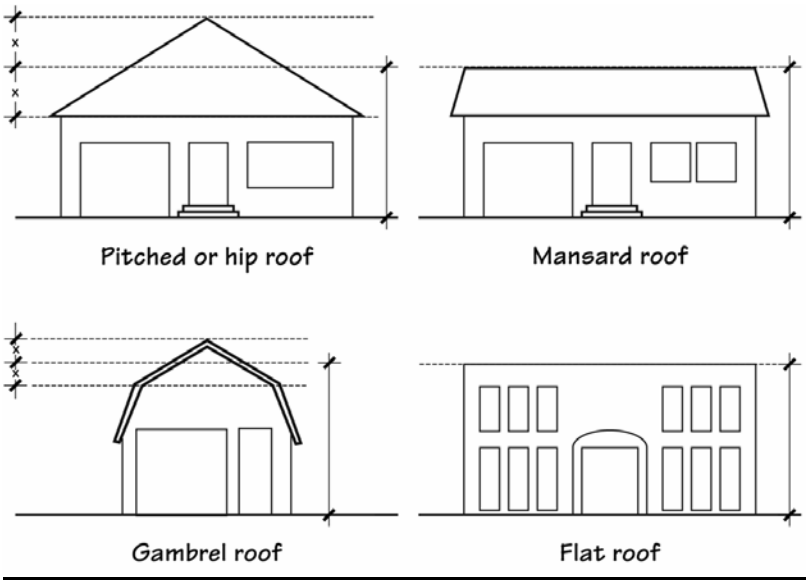
d. Pitched or hipped roofs with a pitch steeper than 12 / 12: Measure to the highest point.

f. Gambrel roofs where both pitches are steeper than 12 / 12: Measure to the highest point.

g. Other roof shapes such as domed, vaulted, or pyramidal shapes: Measure to the highest point.

h. Stepped or terraced building: Measure to the highest point of any segment of the building.

Figure 19.202.2.B.2
Top of Building Measurement



C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade within a 10-ft horizontal distance from the base of the building and the top of a building described in Subsection 19.902.2.B.2.

19.202.4 Density Calculations

Calculations of minimum required and maximum allowed dwelling unit density will be calculated as described below, except that residential cluster development on lands containing natural resource areas are subject to the density calculations in Subsection 19.402.14.C. The purpose of these calculations is to ensure that properties develop at densities consistent with the densities in the Comprehensive Plan. The areas deductions for minimum required density allow properties to utilize land that can be built upon. The area deductions for maximum allowed density include sensitive lands where development should be avoided.

A. Gross Area

The gross area of a lot is measured in square feet and is determined by a registered professional land surveyor or with data from the Clackamas County Assessor's Office.

B. Rounding

The results for minimum required and maximum allowed residential density are rounded based on a fraction that is truncated to two numbers past the decimal point. For example, 3.4289 is truncated to 3.42. Where a minimum density calculation results in a fraction that is .50 or above, the fraction is rounded up to the next whole number. Where a minimum density calculation results in a fraction that is less than .50, the fraction is rounded down to the preceding whole number. Where a maximum density calculation results in a fraction that is less than .75, the fraction is rounded down to the preceding whole number.

C. Discrepancy between minimum required and maximum allowed density

In situations where the calculation of maximum allowed density results in a number smaller than the calculation of minimum required density, the result from the minimum allowed density is both the minimum required and maximum allowed density.

D. Minimum density

1. Deductions to calculate net area

The following areas, measured in square feet, are subtracted from the gross area to determine the net area. The net area calculation is rounded to the nearest whole number.

a. Floodways, as determined by Federal Emergency Management Agency flood maps.

b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.

c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.

2. Density calculation

The minimum number of dwelling units required is calculated by dividing the net area by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

3. Constrained lands

Regardless of the density calculation described above, any legal lot that meets the standards of Subsection 19.501.1 is allowed at least 1 dwelling unit.

E. Maximum density

1. Deductions to calculate net area

The following areas, measured in square feet, are subtracted from the gross area to determine the net area. The net area calculation is rounded to the nearest whole number.

a. 1% Annual Chance Flood areas (also called the 100-year Floodplain), as determined by Federal Emergency Management Agency flood maps.

b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.

c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.

d. Slopes in excess of 25%.

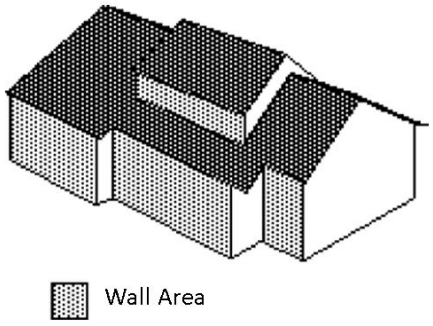
2. Density calculation

The maximum number of dwelling units allowed is calculated by dividing the net area site by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.202.5 Façade Area

The area of a building façade is the sum of all wall areas above grade that are visible on one side of a building. The following areas are excluded: roof areas; the wall area of a horizontal or vertical offset that is perpendicular to the primary orientation of the façade; and gable ends below the ridge of the roof and above the eave line. The wall area of a dormer is not exempt.

Figure 19.202.5
Building Face Area



COMMENTARY

CHAPTER 19.300

BASE ZONES

19.301 Low Density Residential Zones

Overview

The following pages contain recommended amendments to the base zone use and development standards for the City's low density zones: R-10, R-7 and R-5 zones. The amendments are intended primarily to streamline and simplify the lists of allowed uses and development standards. In addition to some proposed changes in the regulations, staff believes that it is critical to change the formatting of the current code, for the reasons described below.

The most significant changes proposed for these zones pertain to organization and formatting. The current code lists each of the zones individually, and describes the policies for each zone in a repetitive narrative format. The proposed amendments group the three zones together into one "Low Density Residential Zones" section. Information for all three zones is presented in tables; one table lists allowed uses and the other contains basic development standards.

Due to the significant re-formatting of this section of the code, staff is recommending that the existing sections 19.301 (R-10), 10.302 (R-7), and 19.303 (R-5) be repealed and replaced with one new section 19.301 (Low Density Residential Zones). Therefore the proposed amendments for this section do not include underline/ strikeout notations. The policy changes included in the proposal are instead described in detail in this Commentary document.

This reformatting solves multiple problems with the current code:

1. Each zone occupies 2 pages of its own section in the MMC.
2. The development standards are described in a series of paragraphs. The reformatting puts these standards in a table so they are easier to read.
3. Comparing the uses and standards in multiple zones requires leafing through multiple pages. The reformatted code groups similar zoning categories together so that uses and standards can be compared on the same page.
4. The base zone standards presented in these zones are the key standards applied to a development. However, there are other sections which are not referenced within the base zones that exempt, modify, or augment these standards. It is difficult to find

these sections without an exhaustive review of hundreds of pages of code or talking to Planning Department staff.

This problem is addressed by adding references to these other code sections. The references do not change the number of regulations that apply. Instead, they 'daylight' related sections of code that were previously hidden.

19.301.1 Purpose

This is proposed new language to clarify the purpose of the low density residential zones, as generally established by the Comprehensive Plan.

19.301.2 Allowed Uses in Low Density Residential Zones

New language states that similar uses may be allowed through a Director's Determination.

Table 19.301.2

- This new table of allowed uses lists the uses allowed outright or conditionally in each zone, and includes a column for comments or cross reference to applicable standards. No changes are proposed to the use categories or allowances except as described below.
- Four uses that have always been allowed in residential zones, but were not listed in the base zone sections, have been added to the use list to present a more complete list of uses that may be allowed in these zones. These uses are: home occupations, accessory uses and structures, mobile home parks, and community service uses.
- The table uses the term "Duplex" where the current code uses "single-family attached dwelling". In the current code, all residential base zones include lot and development standards for interior single-family attached dwellings. "Single-family attached dwellings," however, is defined as a duplex, which logically eliminates the possibility of an interior single-family unit. The reformatted code does not include the standards for interior single-family attached dwellings since they are effectively prohibited by the current definitions.
- The review process for permitting accessory dwelling units (ADU) would change. Currently, a small ADU requires a Type II Review and a larger ADU requires a Type III Review as a conditional use, including a Planning Commission hearing. The proposed code would make an ADU an outright allowed use. See the code and commentary for Chapter 19.900 for further details.
- A new type of use is added: Office. The proposed new policy would allow some offices to be approved as conditional uses if located on major streets (e.g., King Rd, Harrison St. and Lake Rd). Milwaukie is unique in that the areas adjacent to its arterial streets are generally zoned for low-density residential uses rather than higher density residential, mixed-use, or commercial uses. Because arterial streets are generally unattractive locations for SFR development, some of the City's arterials are lined with

legal and illegal nonconforming office uses. Large churches and government office buildings could be (and have been) approved in these areas through the Community Service Use permitting process. The City's Home Occupation policy allows for home offices and small businesses to exist throughout the city. This policy change would create a path to approval for a small office or business where impacts to surrounding residences is limited.

- "Temporary real estate office in a subdivision" has been deleted from the list of conditionally allowed uses. Given the lack of large sub-divisible property in and around the city, it seems highly unlikely that there would ever be a subdivision sizeable enough to need its own real estate office.
- One modification is proposed for agricultural/horticultural use regulations. The prohibition on a retail sales office remains, and a separate phrase states that home occupation uses are allowed in conjunction with a dwelling on a site with horticultural/agricultural uses. The intent is to allow Community Supported Agriculture (CSA) or similar arrangements. Direct retail sales would still be prohibited; however, an office associated with wholesale distribution or distribution of food to CSA members would be allowed.

19.301.4 Development Standards

Table 19.301.4 Low Density Residential Development Standards

This proposed new table of development standards for the low density residential zones summarizes the development standards for each zone, and includes a column of commentary and/or additional provisions is provided to link this section with other relevant sections or chapters of the code.

- 19.301.4.A.2 – current side yard setbacks for the R-10 and R-7 zone do not take building height into account. The default side yard setbacks for these zones would remain unchanged.
- 19.301.4.B.3 – the side yard height plane would require portions of the building over 20 ft in height to either slope away from the lot line at a 45 degree angle or use stepback or increased setbacks to make taller portions of the building further from the side lot lines. This standard helps to control building mass and maintain solar access for neighboring properties.
- 19.301.4.B.1 – Lots that are more than 2.5 times the minimum lot size would have a smaller allowable lot coverage. This is to prevent very large structures that are out of scale with development on smaller lots in the zone.
- 19.301.4.B.2 – allowed lot coverage is increased for additions to an existing single-family dwelling, residential home or duplex. The allowance is intended to make it easier for homeowners to expand and upgrade their current residences. The allowed increase

is 10 percentage points over the base zone standard. However, the portions of the building that exceed the allowed lot coverage are limited to 20 ft in height/ 1-story. All other vegetation and setback standards must be met.

This allowance is similar to what was allowed by the Home Improvement Exception variance. The cost for the variance was approximately $800 and took 4-6 weeks for approval. The proposed lot coverage increase would be allowed outright.

- 19.301.4.B.3 – Lot Coverage for Duplexes. A duplex would be allowed an increase in lot coverage of 20 percentage points.
- 19.301.4.B.4 – allowed lot coverage would be increased for adding a detached accessory dwelling unit.
- 19.301.5.C – a property would be required to have a certain percentage of its front yard area as vegetation. There is an existing limit that no more than 50% of a front yard can be used for parking, but no requirement that any portions needs to have vegetation.
- Currently, the density regulations apply only to applications reviewed by the Planning Commission. This exempts some applications that should be reviewed, such as partitions of 3 or fewer lots, and captures other applications for which density should not be reviewed, such as building a single structure in the Willamette Greenway. The proposed code would apply to any land division application in the low density zones.

  Applying minimum density standards to land divisions would have the effect of requiring large lots to create enough lots to meet the minimum density standards. For example, an R7 lot with 22,000 sq ft would be required to create 3 lots in order to meet the minimum density standards, even if the owner's original proposal was to create only two lots. By not enforcing minimum density regulations, property owners may create lot patterns with a partition that limit or preclude future land divisions elsewhere on the property in the future. It is preferable to establish the lot and street pattern for the property as a whole, as it will result in a more efficient use of the land in the long term. A property owner may still retain control of multiple unbuilt lots after the land division and is not required to develop the lots.

  There would be an exemption from minimum density requirements if the standard cannot be met due to constraints of lot dimensions. There would be no change in how maximum density regulations are applied.
- The standards pertaining to "single-family attached interior unit" are deleted because they are not relevant in the low density residential zones. No more than 2 units could be built on one lot.

Note:

1) The R-10 - R-5 zones currently include a reference to transition area measures. This is not included in the reformat because these zones do not allow the uses that are subject to the transition area measures.

CHAPTER 19.300

BASE ZONES

Underline/strikeout formatting us used only for proposed changes to text, not for proposed renumbering. (Where noted, new or rewritten complete sections are not underlined, for better readability.)

(The complete, amended and reorganized Chapter 19.300, as proposed, is shown in its entirety in Exhibit D.)

Current Section 19.301 – 19.303 repealed and replaced as Section 19.301. Complete section below – no underlining.

19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are the Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The low density residential zones are intended to create, maintain and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some non-household living uses, but maintain the overall character of a single-family neighborhood.

19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2
Low Density Residential Uses Allowed

Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes **Subsection 19.910.2** Duplexes
Residential home	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P	P	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	N	III	III	**Subsection 19.910.3** Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	**Subsection 19.905.9.G** Senior and Retirement Housing

Commercial Uses				
Office	CU	CU	CU	**Subsection 19.301.3** Use Limitations and Restrictions
Accessory and Other Uses				
Accessory structures and uses	P	P	P	**Section 19.503** Accessory Uses **Subsection 19.502.2** Specific Provisions for Accessory Structures
Agricultural or horticultural use	P	P	P	**Subsection 19.301.3** Use Limitations and Restrictions
Community service uses	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	**Section 19.507** Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905.

II = Type II Review required.

III = Type III Review required.

19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the two following conditions are met.

1. Activities allowed as a Home Occupation per Section 19.507 are allowed in association with agricultural or horticultural uses.
2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.

B. Office uses are allowed as a conditional use, subject to the following limitations:

1. The office use is limited to no more than 2,000 sq ft of floor area. The Planning Commission may approve an office use with more than 2,000 sq ft of floor area when the use would occupy an existing building.
2. The site is located on an arterial street, as identified by the Milwaukie Transportation System Plan, or as a major or minor arterial by the Clackamas County Comprehensive Plan.

19.301.4 Development Standards

In the low density residential zones, the development standards in Table 19.301.4 apply. Important notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.301.5.

See Section 19.201 Definitions and Section 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

Table 19.301.4 Low Density Residential Development Standards				
Standard	**R-10**	**R-7**	**R-5**	**Standards/ Additional Provisions**

A. Lot Standards				
1. Minimum lot size (square feet) a. Single-family detached b. Duplex	 10,000 14,000	 7,000 14,000	 5,000 10,000	**Subsection 19.501.1** Lot Size Exceptions
2. Minimum lot width (feet)	70	60	50	
3. Minimum lot depth (feet)	100		80	
4. Minimum street frontage requirements (feet) a. Standard lot b. Flag lot c. Double flag lot			 35 25 35	
B. Development Standards				
1. Minimum yard requirements for primary structures (feet) a. Front yard b. Side yard c. Street side yard d. Rear yard	 20 10 20 20	 20 5/10 20 20	 20 5 15 20	**Subsection 19.301.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions **Subsection 19.504.9** Flag Lot Design and Development Standards
2. Maximum building height for primary structures		2.5 stories or 35 feet, whichever is less		**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit a. Height above ground at minimum required side yard depth (feet) b. Slope of plane (degrees)			 20 45	**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (% of total lot area)		30%	35%	**Section 19.201 "Lot coverage"** definition **Subsection 19.301.5.B** Lot Coverage
5. Minimum vegetation (% of total lot area)	35%	30%	25%	**Subsection 19.301.5.C** Front Yard Minimum Vegetation **Subsection 19.504.7** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum	 3.5 4.4	 5.0 6.2	 7.0 8.7	**Subsection 19.301.5.D** Residential Densities **Subsection 19.501.4** Density Exceptions

19.301.5 Additional Development Standards

A. Side Yards

In the R-7 zone, one side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on a corner lot the street side yard shall be 20 feet.

B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

   The lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single-family Detached Dwellings

   The lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 feet in height or in excess of 1 story are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 and no taller than 1 story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

   A Type II Variance per Subsection 19.911.4.A to further increase this lot coverage allowance is prohibited.

Figure 19.301.5.B.2
Increased Lot Coverage for Single-family Detached Dwellings

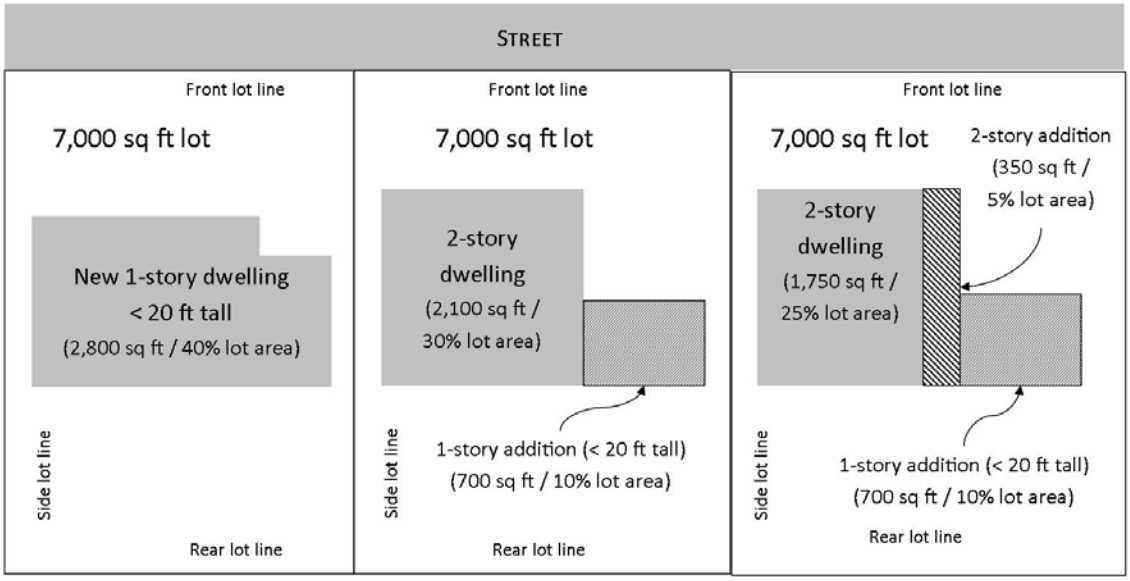


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000 sq ft lot area.

3. Increased Lot Coverage for Duplexes

   The lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

4. Increased Lot Coverage for Detached Accessory Dwelling Units

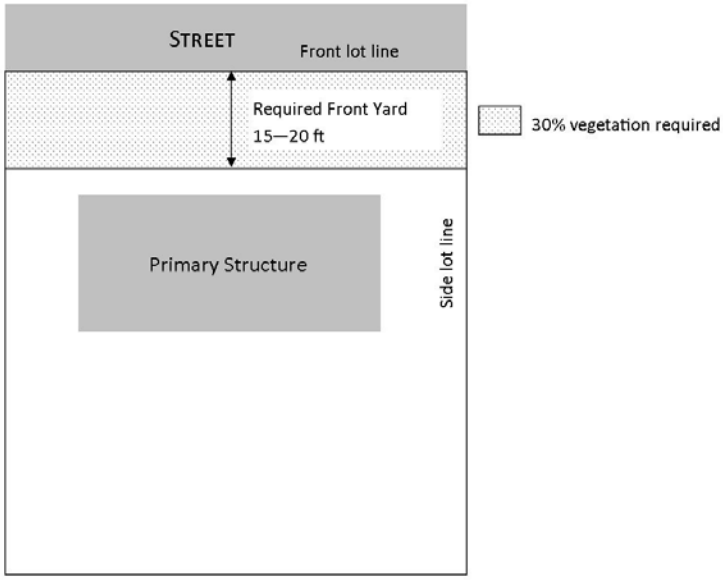
   The lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance

applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 30% of the required front yard shall be vegetated. The required front yard vegetation area counts toward the minimum required vegetation for the lot. A property may provide less than the 30% minimum front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land division applications and replat applications that would change the number of lots.

If a proposal for a replat or land division is not able to meet the minimum density requirement due to the dimensional requirements for lot width, lot depth, or lot frontage, the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability for new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory uses and accessory structures are contained in Section 19.502.

F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

G. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

H. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4, Buildings on the Same Lot.
2. Subsection 19.504.9, Flag Lot Design and Development Standards.
3. Subsection 19.505.1, Design Standards for Single-Family Dwellings.
4. Subsection 19.505.2, Garage Standards.
5. Subsection 19.506.4, Manufactured Dwelling Siting and Design Standards, Siting Standards.

COMMENTARY

19.300

BASE ZONES

19.302 Medium and High Density Residential Zones

Overview

The following pages contain recommended amendments to the R-3, R-2.5, R-2, R-1 and R-1-B zones that are intended to streamline and simplify the use lists and development standards for the higher-density residential zones. In addition to some proposed changes in the regulations, staff believes that it is critical to change the formatting of the current code, for the reasons described below.

The current code lists each of the zones individually, and describes the policies for each zone in a repetitive narrative format. The proposed amendments group the 5 zones together into one section. Information for all 5 zones is presented in tables; one table lists allowed uses and the other contains basic development standards.

Due to the significant re-formatting of this section of the code, staff is recommending that the existing sections 19.304 (R-3), 19.305 (R-2.5), 19.306 (R-2), 19.307 (R-1) and 19.308 (R-1-B) be repealed and replaced with one new section 19.302 (Medium and High Density Residential Zones). Therefore the proposed amendments for this section do not include underline/ strikeout notations. The policy changes included in the proposal are instead described below.

This reformatting solves multiple problems with the current code:

1. Each zone occupies 2 pages of its own section in the MMC.
2. The development standards are described in a series of paragraphs. The reformatting puts these standards in a table so they are easier to read.
3. Comparing the uses and standards in multiple zones requires leafing through multiple pages. The reformatted code groups similar zoning categories together so that uses and standards can be compared on the same page.
4. The base zone standards presented in these zones are the key standards applied to a development. However, there are other sections which are not referenced within the base zones that exempt, modify, or augment these standards. It is difficult to find these sections without an exhaustive review of hundreds of pages of code or talking to Planning Department staff.

This problem is addressed by adding references to these other code sections. The references do not change the number of regulations that apply. Instead, they 'daylight' related sections of code that were previously hidden.

19.302.1 Purpose

This is proposed new language to clarify the purpose of the medium and high density residential zones, as established by the Comprehensive Plan.

19.302.2 Allowed Uses in Medium Density Residential Zones

New language states that similar uses may be allowed through a Director's Determination process.

Table 19.302.2

This new table of allowed uses lists the uses allowed outright or conditionally in each zone, and includes a column for comments or cross reference to applicable standards. No changes are proposed to the use categories or allowances except as described below.

- Four uses that have always been allowed in residential zones, but were not listed in the base zone sections, have been added to the use list to present a more complete list of uses that may be allowed in these zones. These uses are: home occupations, accessory uses and structures, mobile home parks, and community service uses.
- The review process for permitting accessory dwelling units (ADU) would change. Currently, a small ADU requires a Type II Review and a larger ADU requires a Type III Review as a conditional use, including a Planning Commission hearing. The proposed code would make an ADU an outright allowed use. See the code and commentary for Chapter 19.900 for further details.
- Rowhouses would be allowed as an outright use, subject to the standard listed in this section and the design standards in Section 19.505.5. This housing type was once allowed in Milwaukie, and then prohibited from the mid-1980s to the present. There would be a limit of no more than 4 consecutive units that share common walls.
- Cottage cluster housing would be a new type of housing allowed in Milwaukie. This type of housing has small individual houses that are built in one development and have shared open space and parking. This type of development would be subject to the standards in Subsection 19.505.4.
- "Personal/business services" would be allowed as a conditional use, requiring approval from the Planning Commission. This use category is not currently allowed in any of these zones. As defined in the code, these include uses such as "laundromats/dry cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services, and blueprint services." This would slightly expand the scope of uses that could be conditionally permitted in these zones.

- Two types of uses currently listed in the code would be deleted. "Temporary real estate office in a subdivision" has been deleted from the list of conditionally allowed uses. Given the lack of large sub-divisible property in and around the city, it seems highly unlikely that there would ever be a subdivision sizeable enough to need its own real estate office.

  "Marina" would also be deleted as a conditionally allowed use in the R-2, R-1, and R-1-B zones. There are very few lots in these zones that could physically accommodate this type of use. Lots in these zones that do have frontage along the Willamette River and Kellogg Creek are in the Willamette Greenway Overlay, which allows for private, non-commercial docks.

- A phrase from the current R-1 zone would be deleted. It states that "allowed commercial uses" are limited to certain sizes and locations within a structure. This seems to be a vestigial regulation since commercial uses are not currently allowed outright or conditionally in this zone. Staff does not believe that the regulation is useful to apply to new Office or and Personal/Business Service uses that would be allowed in the R1 zone.

- The current language for office uses in most of these zones includes a caveat that office uses "generate a minimal amount of traffic". This language is vague and difficult to enforce and was therefore not included in the recommended amendments. The Public Facility Improvements required in Chapter 19.700 should be sufficient to address potential traffic concerns for these types of uses. The current language also includes a lengthy list of examples of allowed offices, and the proposed code simplifies this list considerably.

19.302.3 Use Limitations and Restrictions

A. One modification is proposed for agricultural/horticultural use regulations. The prohibition on a retail sales office remains, and a separate phrase states that home occupation uses are allowed in conjunction with a dwelling on a site with horticultural/agricultural uses. The intent is to allow Community Supported Agriculture (CSA) or similar arrangements. Direct retail sales would still be prohibited; however, an office associated with wholesale distribution or distribution of food to CSA members would be allowed.

B. The current code specifies a list of specific office uses that are allowed in each zone. The language is mostly consistent but does vary slightly from zone to zone. In addition, the R-1-B zone has two separate lists of permitted office uses; the intended difference between the lists is unclear. Listing specific office uses is not particularly useful and it is unclear if other office uses are prohibited or would require a Director's Determination. The proposed use table consistently uses the term "office, studio, or clinic". The proposed amendments would not change which uses would be allowed in the Medium and High Density residential zones, nor would it change the locations in which they are allowed.

Table 19.302.4 Medium Density Residential Development Standards

This proposed new table of development standards for the medium and high density residential zones summarizes the development standards for each zone, and includes a column of commentary and/or additional provisions is provided to link this section with other relevant sections or chapters of the code. No changes are proposed to the use categories or allowances except as described below.

- 19.304.5.A.1. The existing lot size standards for the medium and high density zones are somewhat confusing. In order to clarify the standards and remove potential conflicts and inconsistencies, the proposed code provides 3 lot size standards: rowhouses, duplexes, and one for all other development.
- 19.302.5.A.3. The existing code does not provide a lot depth standard for the R-1-B zone. It's unclear if this was an intentional omission. The recommended amendments include a lot depth standard of 80 feet for this zone.
- 19.302.5.B.1.d. The existing code did not provide a rear setback standard for the R-2.5 zone. It's unclear if this was an intentional omission. The recommended amendments include a rear setback standard of 15 feet for this zone, which is the same as that required in the other zones in the section.
- Lot size per unit – the current code regulates multi-unit development with a density requirement (X units per acre) as well as a lot size requirement (at least X,000 sq ft per unit). This is necessary for the current code since the density requirement has limited applicability. In the proposed code, the density requirement will be more broadly applicable. As a result, lot size requirements based on the number of dwelling units would be eliminated.

  Staff has retained portions of regulations that control density based on the number of square feet per dwelling unit in order to ensure that allowed residential density is not being increased.
- Rowhouse: Since allowing rowhouses would be a new policy, all the standards for this type of housing are new. The specific design standards for rowhouses are in Subsection 19.505.5.

19.302.5 Additional Development Standards

- 19.302.5.A – side yard setbacks for single-family structures and duplexes would remain unchanged. Rowhouses would also be allowed to have no side yard so as to allow attached units.
- 19.302.4.B.3 – the side yard height plane would require portions of the building over a certain height to either slope away from the lot line at a 45 degree angle or use stepback or increased setbacks to make taller portions of the building further from the side lot lines. This standard helps to control building mass and maintain solar access for neighboring properties.

- 19.302.5.B.1 – allowed lot coverage is increased for additions to an existing single-family dwelling, residential home or duplex. The allowance is intended to make it easier for homeowners to expand and upgrade their current residences. The allowed increase is 10 percentage points over the base zone standard. However, the portions of the building that exceed the allowed lot coverage are limited to 20 ft in height/ 1-story. All other vegetation and setback standards must be met.

  This allowance is similar to what was allowed by the Home Improvement Exception variance. The cost for the variance was approximately $800 and took 4-6 weeks for approval. The proposed allowance would be allowed outright.

- 19.302.5.B.2 – Lot Coverage for Duplexes and Rowhouses. A duplex or rowhouse would be allowed an increase in lot coverage of 20 percentage points.

- 19.302.5.B.3 – allowed lot coverage would be increased for adding a detached accessory dwelling unit.

- 19.302.5.C – a property would be required to have a certain percentage of its front yard area as vegetation. There is an existing limit that no more than 50% of a front yard can be used for parking, but no requirement that any portions needs to have vegetation.

- 19.302.5.E.1 - Currently, the density regulations apply only to applications reviewed by the Planning Commission. This exempts some applications that should be reviewed, such as partitions of 3 or fewer lots or multifamily developments in zones that allow them outright. It also captures other applications for which density should not be reviewed, such as building a single structure in the Willamette Greenway. The proposed code would apply to land divisions and actions that would increase the number of dwelling units on a lot.

  Applying minimum density standards to land divisions would have the effect of requiring large lots to create enough lots to meet the minimum density standards. For example, an R2 lot with 10,000 sq ft would be required to create 3 lots in order to meet the minimum density standards, even if the owner's original proposal was to create only two lots. By not enforcing minimum density regulations, property owners may create lot patterns with a partition that limit or preclude future land divisions elsewhere on the property in the future. It is preferable to establish the lot and street pattern for the property as a whole, as it will result in a more efficient use of the land in the long term. A property owner may still retain control of multiple unbuilt lots after the land division and is not required to develop the lots.

  There would be an exemption from minimum density requirements if the standard cannot be met due to constraints of lot dimensions. There would be no change in how maximum density regulations apply.

- 19.302.5.E.2 – The current zoning code has lot area regulations that require a certain minimum lot size based on the number of dwelling units. The requirements

of this table preserve those lot size requirements so that the density allowed in the proposed code is the same as it is in the current code. The R-3 and R-2.5 zones are not included in the table since they do not currently have lot size controls based on the number of dwelling units.

- 19.302.5.G.2 – multifamily structures would be limited to 150 ft between end walls of a structure. This is a new regulation to prevent overly-large multifamily structures and encourage development to be broken up into smaller sized buildings.
- 19.302.5.H – these transition measure are adapted from the existing transition measures in 19.504.6. The current transition area measures relate to setbacks and open space. The proposed measures relate to building height. Staff has revised the setback requirements for multifamily zones and believe that these standards will adequately address building separation.

CHAPTER 19.300

BASE ZONES

Current Sections 19.304 – 19.308 repealed and replaced as Section 19.302. Complete section below – no underlining.

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

The medium and high density residential zones are the Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and the Residential-Business Office Zone R-1-B. These zones implement the Medium Density and High Density residential land use designations in the Milwaukie Comprehensive Plan.

19.302.1 Purpose

The medium density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

19.302.2 Allowed Uses in Medium Density Residential Zones

Uses allowed, either outright or conditionally, in the medium density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.302.2
Medium Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential						
Single-family detached dwelling	P	P	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes
Residential home	P	P	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P	P	P	P	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling parks	III	N	N	N	N	**Subsection 19.910.3** Manufactured Dwelling Parks.
Rowhouse	P	P	P	P	P	**Subsection 19.505.1** Design Standards for Single-Family Dwellings and Duplexes **Subsection 19.505.5** Standards for Rowhouses

Cottage Cluster Housing	P	P	P	P	P	**Subsection 19.505.4** Design Standards for Cottage Cluster Housing
Multifamily	CU	CU	P	P	P	**Subsection 19.505.3** Design Standards for Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Congregate housing facility	CU	CU	P	P	P	**Subsection 19.505.3** Design Standards for Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	**Subsection 19.905.9.G** Senior and Retirement Housing
Boarding, lodging and rooming house	CU	CU	CU	CU	CU	
Commercial						
Office	CU	CU	CU	CU	P	**Subsection 19.302.3** Use Limitations and Restrictions
Personal/business services	CU	CU	CU	CU	CU	
Hotel or motel	N	N	CU	CU	CU	
Bed and Breakfast	CU	CU	CU	CU	CU	
Accessory and Other Uses						
Accessory structures and uses	P	P	P	P	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	**Subsection 19.302.3** Use Limitations and Restrictions
Community service uses	CSU	CSU	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	P	P	**Section 19.507** Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905.

III = Type III Review required.

19.302.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the two following conditions are met.

1. Activities allowed as a Home Occupation per Section 19.507 are allowed in association with agricultural or horticultural uses.

2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.

B. Office uses allowed in the medium and high density residential zones are offices, studios, clinics, and others similar professional offices.

19.302.4 Development Standards

In the medium density residential zones, the development standards in Table 19.302.4 apply. Important notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Section 19.201 Definitions, and Section 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

Table 19.302.4 Medium Density Residential Development Standards						
Standard	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**	**Standards/ Additional Provisions**
A. Lot Standards						
1. Minimum lot size (in square feet)						**Subsection 19.501.1** Lot Size Exceptions **Subsection 19.505.4** Design Standards for Cottage Cluster Housing **Subsection 19.505.5** Standards for Rowhouses
a. Rowhouse	3,000	2,500	2,500		1,400	
b. Duplex	6,000	5,000	7,000		6,400	
c. All other lots	5,000	5,000	5,000		5,000	
2. Minimum lot width (feet)						
a. Rowhouse	30		25		20	
b. All other lots	50		50		50	
3. Minimum lot depth (feet)						
a. Rowhouse	80	75	80		70	
b. All other lots	80	75	80		80	
4. Minimum street frontage requirements (feet)						
a. Rowhouse	30		25		20	
b. Standard lot	35		35		35	
c. Flag lot	25		25		25	
d. Double flag lot	35		35		35	
B. Development Standards						
1. Minimum yard requirements for primary structures (feet)						**Subsection 19.302.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions
a. Front yard					15	
b. Side yard					See 19.302.5.A	
c. Street side yard					15	
d. Rear yard					15	
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less		3 stories or 45 feet, whichever is less			**Subsection 19.302.5.E** Height Exceptions **Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection 19.302.5.I** Transition Measures

3. Side yard height plane limit a. Height above ground at minimum required side yard depth (feet) b. Slope of plane (degrees)		20 45		25 45	**Subsection 19.501.3** Building Height Exceptions
4. Maximum lot coverage (% of total lot area)		40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (% of total lot area)		35%		15%	**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation **Subsection 19.302.5.C** Minimum Vegetation
C. Other Standards					
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum	 11.6 14.5	 11.6 17.4		 25.0 32.0	**Subsection 19.202.4** Density Calculations **Subsection 19.302.5.F** Residential Densities **Subsection 19.501.4** Density Exceptions

19.302.5 Additional Development Standards

A. Side Yards

In the medium and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a rowhouse shall be at least 5 ft.
2. There is no required side yard for rowhouses that share 2 common walls. The required side yard for an exterior rowhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior rowhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

1. Increased Lot Coverage for Single-family Detached Dwellings

The lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling or an addition to an existing single-family detached dwelling, provided the portions of the structure that are in excess of 20 ft in height or in excess of 1 story are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft and no taller than 1 story are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II Variance per Subsection 19.911.4.A to further increase this lot coverage allowance is prohibited.

Figure 19.302.5.B.1
Increased Lot Coverage for Single-family Detached Dwellings

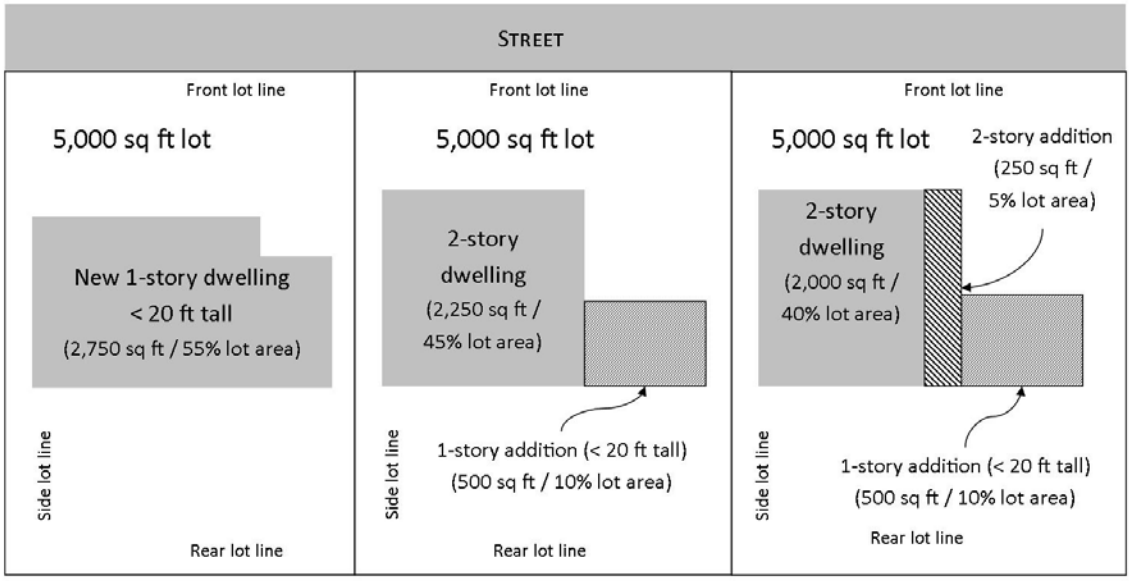


Figure 19.302.5.B.1 illustrates increased lot coverage for lots in Residential Zone R-2 based on 5,000 sq ft lot area.

2. Increased Lot Coverage for Duplexes and Rowhouses

   The lot coverage percentage in Subsection 19.301.4.B.3 is increased by 20 percentage points for a duplex or rowhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

   The lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

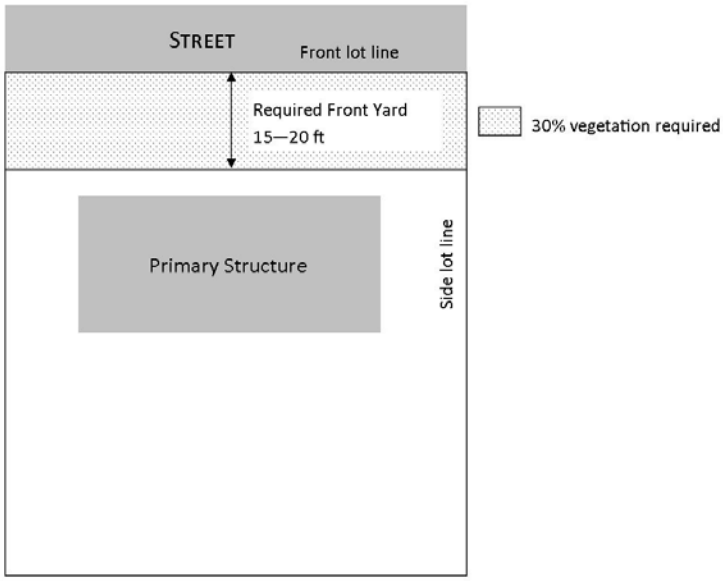
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 30% of the required front yard shall be vegetated. The required front yard vegetation area counts toward the minimum required vegetation for the lot. A property may provide less than the 30% minimum front yard vegetation requirement if it is necessary to provide additional maneuvering area as a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.302.5.D
Front Yard Minimum Vegetation



E. Height Exceptions

One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of a single-family detached dwelling or an accessory dwelling is exempt from the minimum and maximum density requirements.

   If a proposal for a replat or land division is not able to meet the minimum density requirement due to the dimensional requirements for lot width, lot depth, or lot frontage, the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability for new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multifamily development in the R-2, R-1, and R-1-B zones are subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2
Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones

Units	R-2 Zone	R-1 and R-1-B Zone
1st Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	2,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

1. In the R-3 zone, 1 single-family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.

2. Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear feet as measured from end wall to end wall.

I. Transition Measures

The following transition measures apply to multifamily development that abuts an R-10, R-7, or R-5 zoned property.

1. In the portion of the site within 25 feet of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.

2. Where the boundary of the lower density zone lies within or on the edge of a right-of-way, the building height limit for the portion of the site within 15 ft of the lot line bordering the right-of-way is equal to the height limit of the lower density residential zone.

J. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

K. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

L. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4, Buildings on the Same Lot.
2. Subsection 19.504.9, Flag Lot Design and Development Standards.
3. Subsection 19.504.10, On-Site Walkways and Circulation.
4. Subsection 19.504.11, Setbacks Adjacent to Transit.
5. Subsection 19.505.1, Design Standards for Single-Family Dwellings.
6. Subsection 19.505.2, Garage Standards.
7. Subsection 19.505.3, Multifamily Design Standards.
8. Subsection 19.505.4, Design Standards for Cottage Cluster Housing
9. Subsection 19.505.2, Building Orientation to Transit.
10. Subsection 19.506.4, Manufactured Dwelling Siting and Design Standards, Siting Standards.

COMMENTARY

CHAPTER 19.300

BASE ZONES

19.309 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C

Changes to this section of code are housekeeping amendments to maintain consistent terminology in the code. It will not have any policy implications. The Mixed Use Overlay applies to all areas zoned R-O-C, and the regulations in that section override the regulations in the R-O-C zone (See MMC 19.404.10)

- Changes to terminology for duplex and multifamily dwellings
- Deletion of standards for single-family attached dwellings. This would have the effect of only allowing duplexes in the R-O-C zone and not allowing rowhouses.
- This additional height allowance is being relocated directly into the base zone chapters (19.300) from its current location in Chapter 19.500. The regulation itself is not being amended.

19.310 DOWNTOWN ZONES

Changes in terminology (rowhouse, multifamily) are the only amendments to this section of code.

19.312 LIMITED COMMERCIAL ZONE C-L

Amendments would change terminology for duplex and multifamily dwellings. There would also be a deletion of standards for single-family attached dwellings. This would have the effect of continuing the existing zoning regulations that do not allow rowhouses in the C-L zone.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.300

USE ZONES

Current Section 19.309-19.317 are renumbered as 19.303-19.311. Underline/strikeout formatting is used below only for proposed changes to text, not for proposed renumbering.

19.303 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C

In an R-O-C Zone the following regulations shall apply:

19.303.1 Uses Permitted Outright

In an R-O-C Zone the following uses and their accessory uses are permitted outright:

A. Single-family detached dwelling;

B. Duplex ~~Single-family attached dwelling~~;

C. Residential home;

D. Multifamily development ~~condominium dwelling~~;

~~E. Multifamily apartment dwelling;~~

EF. Congregate housing facility;

FG. Senior and retirement housing;

GH. Offices;

HI. Retail trade establishment such as a food store, drugstore, gift shop, hardware store selling primarily from a shelf-goods inventory;

IJ. Personal service business such as a barber shop, tailor shop, or laundry and dry cleaning pickup station;

JK. Funeral home;

KL. Commercial recreation and motion picture theater;

LM. Eating establishment;

MN. Hotel or motel;

NO. Parking facility;

OP. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;

PQ. Financial institution;

QR. Trade or commercial school;

RS. Department or furniture store;

ST. Any other use similar to the above and not listed elsewhere.

19.303.3 Standards

In an R-O-C Zone the following standards shall apply:

A. Lot size. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,400 sq ft. Lot width shall be at least 50 ft. ~~Lot width for interior single-family attached and condominium units shall be at least 30 ft.~~ Lot depth shall be at least 80 ft.

C. Side yard. A side yard shall be at least 5 ft, and there shall be additional 1 ft of side yard for each 3 ft of height over 2 stories or 25 ft, whichever is less, except on corner lots a side yard shall be at least 15 ft on the side abutting the street. ~~For interior single-family attached and condominium units, side yards are not required.~~

F. Height restriction. Maximum height of a structure shall be 3 stories or 45 ft, whichever is less. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story.

JK. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft, except as provided in the Land Division Ordinance. ~~Lots for interior single-family attached and condominium units shall abut a public street for at least 20 ft.~~

19.304 DOWNTOWN ZONES

19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie,

Oregon" provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial "Main Street" character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail uses are required on the ground floors of buildings fronting on Main Street. Office and/or residential uses are allowed on upper floors. Industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A "Village Concept Area" has been established in the DS Zone to allow a broader mix of uses on a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses. These uses include rowhouses ~~townhouses~~ and multifamily ~~apartment/condominium~~ buildings.

19.304.3 Uses

A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.3~~10~~04.3
Downtown Zones—Uses

Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Single-family detached	N	N	N	N	N
~~Townhouse~~ Rowhouse	L[1]	N	N	L[1]	N
Multifamily ~~apartment/ condominium~~	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office[1]					
Automobile service station	N	N	N	N	N
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N

Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Industrial	N	N	N	N	N
Other					
Adult entertainment	N	N	N	N	N
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N

[1] Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

G. Limited Uses

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.304.3.

10. Multifamily ~~apartment/condominium~~ building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.

19.304.4 Development Standards

B. Explanation of Development Standards

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.

b. Minimum densities for standalone multifamily ~~apartment/condominium~~ dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.

c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

I. Duplex or multifamily development ~~Single-family attached dwelling, multifamily apartment, and condominium dwelling~~;

19.306.3 Standards

In a C-L Zone the following standards shall apply:

A. Lot size. None, except as follows for dwelling. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,000 sq ft. Lot width shall be at least 50 ft. ~~Lot width for interior single-family attached and condominium units shall be at least 30 ft~~. Lot depth shall be at least 80 ft.

F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft except as permitted under the Land Division Ordinance. ~~Lots for interior single-family attached and condominium units shall abut a public street for at least 20 ft~~.

COMMENTARY

CHAPTER 19.400

OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

Amendments to this section would exempt accessory structures for established uses from Willamette Greenway review. This exemption is consistent with the wording of Statewide Planning Goal 15, Willamette River Greenway, upon which the regulations in this section of code are based.

19.404 MIXED USE OVERLAY ZONE MU

Amendments to this section only affect the terminology for some housing types. There are not any policy changes proposed for this section.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.400

OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.5 Procedures

The following procedures shall govern the application of WG Zones:

A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.D.

D. A greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this section. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change in use or intensification. Approval shall be granted only if the criteria in Subsection 19.401.6 are met.

19.404 MIXED USE OVERLAY ZONE MU

19.404.3 Primary Uses

Provisions of Section 19.404 are intended to allow mixed use development, subject to the processes identified in Subsection 19.404.6 below, including retail, commercial, office, and residential development, as listed below.

A. Retail commercial uses such as food store, drugstore, gift shop, and hardware store selling shelf goods primarily (drive-up convenience stores are not permitted);

B. Multifamily ~~attached condominium~~ dwellings;

~~C. Multifamily attached apartment dwellings;~~

C~~D~~. Rowhouses ~~Single-family attached small lot townhouses~~;

D~~E~~. Professional offices;

E~~F~~. Personal service businesses such as haircutting shop, tailor shop, laundry, and dry cleaning pickup station, shoe repair, computer, and bicycle repair, office equipment and services, and electronics repair;

F~~G~~. Motion picture theater (adult theaters are not permitted);

G~~H~~. Restaurant and cafe, outdoor seating where provided for in the site design and located off of the public sidewalk area (drive-in and drive-through food establishments are not permitted);

H~~I~~. Brew pub which serves food;

I~~J~~. Hotel;

J~~K~~. Parking facility;

K~~L~~. Financial institution (without drive-up tellers);

L~~M~~. Trade or commercial school;

M~~N~~. Department or furniture store;

N~~O~~. Bed and breakfast;

O~~P~~. Service station without associated minimart—minor repair service allowed if approved through a mixed use overlay review application;

P~~Q~~. Farmers' market;

Q~~R~~. Public park or community meeting area;

R~~S~~. Youth center;

S~~T~~. Day-care facilities;

T~~U~~. Any other use similar to the above and not listed elsewhere.

19.404.8 Development Standards

Except as provided in Subsection 19.404.9.A.1, the following development standards apply to all proposals which have been determined to be subject to the Mixed Use Overlay Zone. Development in this overlay zone shall follow the standards and guidelines for development and for specific sites, as indicated below. All development proposals shall comply and not conflict with the Milwaukie Comprehensive Plan and the Town Center Master Plan.

A. Commercial and Commercial/Residential Mixed Use (office uses are Included in the Commercial designation)

13. Owners of existing single-family homes within the Mixed Use Overlay Zone may apply for a conditional use permit to allow a detached secondary living unit, an accessory dwelling ~~attached secondary living~~ unit, or conversion to a duplex or multifamily

dwelling with 3 units ~~triplex~~, provided that one of the units shall remain owner-occupied. Sound insulating and energy-efficient materials shall be provided in any of the above conversions of existing space. Setbacks and development standards of the underlying zone must be met.

19.404.9 Specific Sites in Subareas 2 and 4

The following additional requirements apply to proposed development in specific subareas and on specific sites:

A. Subarea 2

1. Sites 2-1 and 2-2 (Murphy Plywood Site)

   b. Business Industrial (BI) uses as set forth in Section 19.310 ~~316~~ shall also be allowed. The development of BI uses on Sites 2-1 and 2-2 shall comply with the development requirements of Section 19.310 ~~316~~, except that outdoor storage shall be permitted. In this case, the 32nd Avenue and Meek Street property lines shall be considered front yards and a 20-ft setback shall be applied. These setbacks shall be landscaped in accordance with Subsection 19.606.2.C.2, and provided with a sight-obscuring wooden fence adjacent to the public right-of-way and residential property lines. The Planning Commission may allow these setbacks to be reduced to 10 ft, where the proposed design of the buffer is of a high quality and includes: (1) the use of masonry walls, or other acceptable material, of up to 8 ft in height; (2) enhanced landscaping; and (3) one of the elements listed in Subsection 19.404.8.A.18. Development of BI uses on the site is not required to comply with the standards set forth in Subsections 19.404.8 and 19.303~~309~~.3.

B. Subarea 4

1. This site shall be developed with high-density (16 to 24 dwelling units per acre) diverse housing types. Retail, office, or lodging uses are also allowed at a 2:1 ratio (for every 2 sq ft of residential, 1 sq ft of commercial will be permitted). Commercial uses on the site shall be limited to those listed in Subsections 19.404.3.D, E, G, K, Q, R, and S ~~E, F, H, L, R, S, and T~~. Commercial use may be increased to a 1:1 ratio (1 sq ft of commercial for every 1 sq ft of residential), if amenities b, c, d, e, g, h, i, and k 2~~, 3, 4, 5, 7, 8, 9 and 11~~ of Subsection 19.404.8.A.18 are provided. A report on the status of contamination on this site shall be submitted with any proposed development.

2. Minimum vegetation for the site shall be 30%. Particular attention shall be paid to landscaping, which shall be designed to provide buffers to the residential neighborhoods to the north and east. Building heights shall also be designed to provide a transition for the neighboring residential properties. The height limit within 50 ft of the Monroe Street or 37th Avenue right-of-way shall be 2 stories or 35 ft, whichever is less. The building height for the remainder of the development on this site is 3 stories or 45 ft, whichever is less. Building setbacks from property lines shall be 15 ft for the front and rear yards and 5 ft for side yards. Minimum lot standards shall conform to the R-O-C standards, except that the minimum lot width for rowhouses ~~single-family attached and condominium units may~~ be reduced to 20 ft wide if amenities b, d, e, g, h and i ~~2, 4, 5, 7, 8 and 9~~ of Subsection 19.404.8.A.18 are provided. The distance between buildings on the same lot shall be 6 ft for 1 story and a minimum of 5 ft per every story over 1.

COMMENTARY

CHAPTER 19.500

SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

The wording of this section is revised to allow dwellings such as cottage cluster housing and rowhouses to be built on small lots. It would retain the policy of prohibiting single-family detached dwellings on lots under 3,000 sq ft in area. The policy has been re-written to be easier to understand.

19.501.2 Yard Exceptions

A. The City requires additional setbacks for properties along some streets as a means for planning for future road widening or sidewalk construction. The additional street setbacks along parts of Harrison St and 40th Ave would be reduced. The current regulations require excessively wide setbacks for these streets given the street classification and desired right-of-way width called for by the Transportation System Plan.

B. As a way to acknowledge that the existing environment of a neighborhood may not comply with the required setback requirements, current regulations allow an applicant to meet a reduced front yard setback if existing houses within 100 ft of the site have small front yard setbacks. The amendments would instead consider front yards within 250 ft of the site as a basis for a reduced front yard setback.

D. A new allowance would let a covered but unenclosed porch extend 6 ft into a required setback. This allowance is meant to encourage porches since they are a desirable urban design feature that increases community safety and improves the look of a dwelling.

19.501.3 Building Height Exceptions

B. This allowance is being moved into the appropriate base zone regulations in Chapter 19.300.

A new Subsectio B is being added that provide exemptions from the side yard height plane requirement. The height plane is an imaginary plane that slopes upward from the side lot line toward the interior of a lot. A building is required to be at or below the plane's height, which helps reduce the height and mass of a building near a side lot line and allows a building to be taller nearer the center of a lot.

The exceptions in this section allow eaves, dormers, and roof gables to exceed the plane, with some limitation. Eaves are architectural features that do not substantially add to a building's mass, and should be encouraged. Dormers are beneficial features that add visual

interest and help to break up expanses of roof area. Dormers below a certain size are allowed to encroach a limited amount into the height plane. Lastly, the gable ends of roofs are allowed some encroachment. This allowance maintains some flexibility for property owners to choose roof styles and orientation where the gable ends face side lot lines. If not for this exemption, the height plane regulations would otherwise provide an incentive to build houses with gable ends that face the front lot line, which would decrease the architectural variety that might otherwise occur.

19.502 ACCESSORY STRUCTURES

19.502.1 General Provisions

A minor change to this section is to clarify the relation between the general 5 ft accessory structure setback and the provision that says "except where other requirement of this title are more restrictive." This is an unclear reference since technically most of the rear yard setback and some of the side yard setback requirements in the base zones are more restrictive. The amendments specifically lists which setbacks apply.

19.502.2 Specific Provisions for Accessory Structures

Milwaukie adopted new accessory structure regulations in 2002 that included some basic design standards and limited height and building footprint. These standards have prevented the installation of very large accessory structures, but have been seen as too limiting in many cases. The proposed amendments would make allowances for larger structures while offsetting the impacts of larger structures by requiring increased setbacks. The proposed policy changes are described below:

- The first category of accessory structures allows small structures (less than 10 ft tall and under 200 sq ft) to be setback 3 ft from a side or rear lot line. The height and footprint thresholds correspond to the thresholds for structures that require a building permit. The intent is to allow more lenient standards for structures that would be installed on a property without any required review by the City.
- The second category allows moderately sized structure (up to 15 ft tall and 600 sq ft) to be setback further from the property line. This category corresponds closely to the current regulations on accessory structures for lots under 10,000 sq ft in area. One change is that the footprint size is increased from the current 500 sq ft limit.
- The third category allows accessory structures of a larger size if the structure meets the setback requirements for the primary structure on a lot. In most residential zones, this will require a 5 ft side yard setback and 20 ft rear yard setback. The height would be limited to 25 ft or no taller than the height of the primary structure, whichever is less. The footprint would be limited to be no larger than 75% of the size of the primary structure. The maximum lot coverage standard would be applicable and may limit the overall size of an accessory structure more

than the percentage limitation. The intent of this category is to allow larger accessory structures where they have increased setbacks from lot lines and are in proportion to the size and height of the primary structure on the lot.

- The walls of structures would need to be separated by at least 5 ft from other structures on the same lot. The current regulation requires a 6 ft separation from the closest point of each structure, which City staff believes is excessive.
- A section is added to clarify when a connection between a dwelling and a structure makes the accessory structure and addition, as opposed to two structures connected by a breezeway. This is important in determining whether accessory structure limitations are applicable.
- The design standards for accessory structures are expanded. In response to requests from citizens that the City limit the use of temporary materials on permanent buildings, plastic tarps would not be allowed on any size of accessory structure that is visible from the street. The basic design standards for accessory structures over 200 sq ft in size would not change. Additional regulations for accessory structures over 600 sq ft in size would require a basic compatibility with the design of the primary structure on the lot.
- A new provision would allow ramps for persons with mobility impairments to extend into required setbacks.
- A new provision would allow flagpoles as an accessory structure, with a height limit of 25 ft in residential zones. The 15 ft height limit and prohibition on accessory structures in the front yard has been problematic for a handful of property owners that have wanted to install flag poles. The revisions allow a 25 ft pole and requires a setback of 5 ft from any property line.

19.502.3 Sustainability-Related Accessory Structures

This new section makes allowance for solar energy, wind energy, and rainwater collection systems as accessory structures. The public outreach for this project strongly supported the allowance of sustainability-related equipment. The current code does not necessarily prohibit these items; however, the current design standards and limitations may have the effect of discouraging or limiting the effectiveness of such equipment. The point of this section is to specifically allow these systems while placing appropriate limits to limit impacts to surrounding properties. New definitions are included that clarify that these systems are intended for use by individual properties, as opposed to larger scale systems that provide energy to multiple properties.

- The regulations for solar energy systems clarify the allowances, standards, and review process. These standards are modeled after regulations recently adopted by the City of Portland. The regulations make broad allowances for the installation of

solar energy systems with limited review in response to recent state laws that limit the review that jurisdictions may apply to installation of solar energy systems.

- The regulations for wind energy systems clarify the allowances, standards, and review process. The proposed regulations are modeled after regulations recently adopted by Portland and Lincoln City.
- Allowances would be made for rainwater cisterns to be located near lot lines. These regulations help clarify that such systems are an allowed use as well as establish location requirements.

19.503 ACCESSORY USES

19.503.1 General Provisions

A. Clarifies that an accessory dwelling unit is not a guesthouse, and also adds a time limit for occupation of a guesthouse. Not having a specified limit has made it difficult for the City to prevent long-term living in what is supposed to be an accessory structure occupied on a limited basis.

B. Removes a prohibition of selling items on a site that are grown in a greenhouse accessory structure. A person could maintain a greenhouse and sell items from it on a pre-arranged basis (e.g. not having a roadside stand). This type of sales would not violate the rules on home occupations and should not be prohibited.

C and D. This would remove a legally unenforceable provision from two long-standing sections of code related to animal keeping. The City cannot require that surrounding property owners consent to keeping fowl or bees before allowing a property to keep them on site. The remaining portions of these provisions would still be enforceable.

E. Change are proposed to reduce the height restrictions on amateur radio antennas. These changes are necessary in order to be consistent with state law, which limits what height restrictions a jurisdiction can place on such equipment.

19.504 SITE DESIGN STANDARDS

19.504.4 Buildings on the Same Lot

Revises a regulation that prohibits multiple dwelling structures on one lot in the R-10, 7, 5 and 3 zones. An exception would be allowed for a detached accessory dwelling unit, and for multiple dwelling structures that are part of a multifamily development in the R-3 zone.

19.504.11 Setbacks Adjacent to Transit; 19.504.10 On-Site Walkways and Circulation; 19.504.6 Transition Area Measures; 19.505.5 Building Orientation to Transit

The basic regulations in these sections are unchanged. The amendments would remove multifamily developments from the types of development to which these regulations apply. The new multifamily design standards in Subsection 19.505.3 and development standards in

Section 19.302 would address the issues covered in 19.504 in a way that is more specific to multifamily housing.

19.504.7 Minimum Vegetation

This section describes the required character of the minimum vegetation areas. The review standard is that a "maximum of area shall be for planting and a minimum for barkdust." The revision would establish maximum percentage of the required vegetation area that may be covered in bark or mulch. Having an objective standard it easier for both applicants and for staff in the design and review of landscaping areas.

19.504.9 Flag Lot Design and Development Standards

Minor amendments are proposed to the description of where fencing or vegetation is required to screen flag lot development from adjacent properties. The intent behind these standards when adopted in 2002 was to require screening along all lot lines of a flag lot except for the lot lines that abut the flag lot's "parent lot." The wording of the regulation was such that screening was only required along the side lot line abutting the flag lot driveway.

19.504.8 Multifamily Recycling Requirements

These regulations have been moved into the multifamily design standards in Subsection 19.505.3.

19.505 BUILDING DESIGN STANDARDS

19.505.1 Design Standards for Single-Family Dwellings and Duplexes

This section replaces the existing design standards for single family home construction with new design standards. Single family homes and duplexes (where allowed outright) would continue to be permitted only through a clear and objective building permit review. The same standards would apply throughout Milwaukie. The standards are style-neutral, but focus on community design goals aimed at creating safer streets and attractive, human-scale development.

B. Applicability

Currently, design standards apply only to new home construction. Single family residential (SFR) additions that exceed 300 sq ft on any street-facing facade, or remodels that convert a street-facing garage to habitable space would be required to meet the design standards.

C. Standards

1. Articulation. All buildings must incorporate design features such as: varying roof lines; offsets, balconies, projections; recessed or covered entrances; window reveals; or similar elements to break up large expanses of blank walls. This promotes attention to detail, prohibits large blank walls and uniform boxes while still allowing flexibility in design.

2. Eyes on the Street. All buildings must provide defined entrances, and a combination of windows, porches, and/or balconies, on 15% of street-facing building face. This promotes human-scale design and street visibility.

3. Main Entrances. At least one entrance must face the street and be no more than 8' back from the longest street-facing wall. This promotes human-scale design and street visibility.

4. Detailed design. Each building must include 5 of 15 features listed on a "menu." This promotes attention to detail, human-scale design, while affording flexibility to use a variety of building styles. The "menu" approach allows a developer some flexibility to choose how a home design will meet the City's goals of achieving friendly development that addresses the public realm. Limiting the options allows staff to clearly determine, during building permit review, whether the standards are met. The design standards for new and remodeled single-family development allow a wide variety of housing styles to meet the standards. In other words, they do not prescribe a particular architectural style.

A Type II variance may be requested for relief from the Detailed Design standards. This type of variance is reviewed by staff and is less expensive and reviewed more quickly than a Type III variance, which is reviewed by the Planning Commission. A variance to the other design elements (Articulation, Eyes on the Street, and Main Entrances) requires a Type III review. A Type II variance is allowed for the Detailed Design standards as a way to allow unique and creative housing types that may not be able to incorporate the features listed as design details. A Type III variance is required for all of the other elements because the standards are important as urban design elements and are basic enough features that even unique, nontraditional dwellings should be able to meet them.

19.505.1.C.5 Duplexes

Duplex development would be subject to the single-family design standards as well as duplex-specific standards. The duplex specific standards are aimed at making the duplex structure appear as much like a single-family dwelling as possible. This includes standards to have uniform roofs, eaves, and other features for the entire building envelop, which makes the structure appear more like one cohesive unit. Entrances are also required to face separate streets if on a corner lot. If there is a single frontage, there is an allowance for the second entrance to be on the side or back.

A duplex is allowed outright in the R-5, R-3, R-2.5, R-2, R-1 and R-1-B zones. It is also allowed outright in some instances in the R-7 and R-10 zones. In other R-7 and R-10 areas, a Type II Review with public notice is required. See Section 19.910.2.

19.505.2 Garage Standards

New standards would apply to garages, both attached and detached. New garages built within 50 ft of the street would be limited to prevent garages from dominating the front of a house and obscuring the path from the street to the front door.

19.505.3 Design Standards for Multifamily Housing

Milwaukie's current code does not contain any standards to regulate the design of multifamily developments. Multifamily developments tend to include larger and taller buildings, different site layouts, and a larger quantity of parking relative to typical single-family developments. As such, it is important for a community to have basic multifamily design standards to support neighborhood character and livability.

The purpose of the proposed design standards is to facilitate the development of attractive multifamily housing. The proposed regulations identify characteristics of good site and building design that, in combination, contribute to livability, safety, and sustainability; help create stronger communities; and foster a quality environment for people in and near the development.

Multifamily residential development may take many forms, such as apartment buildings or "flats", several rowhouses on one lot, garden courtyard buildings, or other multiunit residential developments. Whether occupied as rentals or condominiums, the development would be reviewed by the multifamily design standards (as long as they are on a single lot of record). The review process and standards are modeled after multifamily standards recently adopted by the City of Gresham.

These standards would address:
1. Livability: Encourages multifamily development that contributes to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private outdoor open spaces.
2. Compatibility: Encourages multifamily development that is appropriate in scale to the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality: Encourages multifamily development that is safe and functional by providing visibility into and within a multifamily development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability: Encourages multifamily development that promotes elements of sustainability such as energy conservation, preservation of trees and open space, quality building materials, and walking and biking.

B. Applicability

These standards would apply to all new multifamily residential developments with three or more dwelling units on a single lot. There are specific details that make it clear what standards apply for additions and remodels to existing multifamily development.

C. Review process

In order to comply with State law while allowing for creativity and variety, the City is proposing a two-track review process for multifamily development projects:

- Objective process: The project is reviewed by staff against clear standards (Type I review). A project must be approved if it meets all of the standards.

•Discretionary process: The project would reviewed by staff (Type II) with neighborhood notice and opportunity for input. The "discretionary" option uses design guidelines, which can be applied with some discretion. Design guidelines are intended to provide more flexibility for developers and opportunities for public review and input. A project must meet the guidelines, but can use various approaches and designs to do so.

The applicant can choose which review process they want to use. The City already has a Development Review process in place for reviewing new development that is readily adaptable for applying to multifamily development projects once design standards are adopted.

D. Design Guidelines and Standards

Table 19.505.4 - Multifamily Design Guidelines and Standards

One table contains all of the criteria for approval of multifamily development - whether the project is undergoing Objective or Discretionary review. The table is organized so the important design principles are listed in the left-hand column.

The "Design Guideline" column lists qualitative criteria that describe the qualities the development should have. The City would use these guidelines to review and help shape a proposed development. This allows some flexibility for a developer/ architect to determine the best way for a project to meet the community goals, and would allow neighbors to weigh in on whether the project meets the criteria.

The "Design Standard" column lists measurable criteria for how to objectively determine whether a project is meeting community goals. These will be a useful reference even when a project is undergoing Discretionary review.

Cumulatively, the guidelines and standards address the following aspects of a project:

- Site layout, including open spaces and circulation patterns for vehicles and pedestrians.
- Orientation of buildings and entrances to provide a pedestrian-friendly approach.
- Building massing to ensure context sensitive scale.
- Exterior building façade articulation and building materials to promote neighborhood character similar to the predominant single-family development in Milwaukie.
- Landscaping to provide a buffer between multifamily and single-family developments.
- Compatibility with adjacent lower-density development through reduced building heights and screening.
- Incorporation of energy and water-saving design features and materials.

19.505.4 Design Standards for Cottage Cluster Housing

These are specific standards that would apply to cottage cluster housing. This type of housing features small dwellings on individual lots that share commonly owned areas such as open space and parking. They are a type of multifamily development that, in some cases, may fit into an existing neighborhood better than multifamily development in large, multi-unit structures.

These standards would apply instead of the base zone development standards in Section 19.302, due to the unique style of this housing type. The proposed regulations are modeled on Metro's suggested standards for cottage cluster housing. The key points are summarized below:

- This housing type is allowed in the R-3, R-2, R-2.5, R-1, and R-1-B zones.
- Cottage cluster housing requires the site to be subdivided prior to development. This ensures that the site is properly laid out for cottage cluster housing and encourages an owner-occupied housing style. The subdivision application would be heard by the Planning Commission. However, the development following the land division would be allowed outright without further public review.
- A cottage cluster development would need to have between 4-12 cottages, and is subject to the same density standards as other residential development.
- The site layout requires the cottages to face around a central common open space.
- The parking ratio is the same as for standard single-family development. The parking area is required to be grouped, rather than having parking at each structure. It must also be separate from the common open space.
- The cottages would be limited to 700 sq ft in footprint and 1,000 sq ft in floor area. Height limits would be 18 ft. Specific development standards address lot coverage and building separation. Design standards require the cottages to generally reflect small-home, craftsman style development.

19.505.5 Standards for Rowhouses

These are specific standards that would apply to rowhouses. This typology and associated regulations are new in the code. They are subject to the development standards in the Medium and High Density sections of the code. The key points of the specific design and development regulations are listed below:

- Rowhouse developments are limited to groups of 4 or less.
- Rowhouses must meet the same design standards as single-family detached developments.
- Additional standards for rowhouses include a transition area between the sidewalk (public realm) and private realm of the dwelling. This can be either a vertical transition like a stoop or a horizontal transition like a covered porch.

- Garages and front yard parking are not allowed on rowhouses unless the rowhouse lots are 30 ft wide. This width allows for on-street parking spaces between curbs and provides larger spaces for front yards to break up the driveways.
- Lot size standards require that the site on which rowhouses would be developed does not exceed the densities currently allowed in the zoning code.
- Parking and garages for rowhouses are encouraged to be in the back yard and accessed through a single shared driveway.
- Rear yard accessory strucutres like garages are allowed to have 0 yard setbacks on rowhouse lots.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.500

SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

The exceptions listed in Subsections 19.501.1–4 below are "by right" exceptions. "By right" exceptions ~~are either automatically required or allowed outright and~~ require no special review or approval by the City to implement.

19.501.1 Lot Size Exceptions

~~If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3,000 sq ft, or with no frontage on a public street. This section shall not apply in the downtown zones.~~

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the zoning ordinance, with the following limitations:

A. The development must conform to all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.

19.501.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.501.2.A below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.501.2.A plus the yard requirement of the underlying zone.

Table 19.501.2.A
Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th Ave. to Stanley Ave.)	25'
Harmony Road	40'
Harrison Street (Milwaukie Expressway to 44th Ave.)	30 ~~40~~'
Harrison Street (Milwaukie Expressway to McLoughlin Blvd.)	30'
Harvey Street (32nd Ave. to 42nd Ave.)	25'
Howe Street (42nd Ave. to 43rd Ave.)	30'
Johnson Creek Boulevard	30'

King Road	40'
Linwood Avenue	40'
Lake Road	30'
Logus Road	25'
Monroe Street (52nd Ave. to Linwood Ave.)	30'
Oak Street	30'
Oatfield Road	30'
Ochoco Street	30'
Olsen Street	25'
Railroad Avenue	30'
River Road (south of Lark St.)	30'
Roswell Street (32nd Ave. to 42nd Ave.)	25'
Washington Street (west of Railroad Ave.)	30'
Willow Street (Windsor Dr. to Stanley Ave.)	25'
17th Avenue (Ochoco St. to McLoughlin Blvd.)	40'
32nd Avenue (north of Harrison St.)	30'
37th Avenue (Lake Rd. to Grogan Ave.)	25'
40th Avenue (Harvey St. to Railroad Ave.)	30 ~~40~~'
42nd Avenue (Johnson Creek Blvd. to Howe St.)	30'
42nd Avenue (Harrison St. to King Rd.)	30'
43rd Avenue (Howe St. to King Rd.)	30'
55th Avenue (Firwood St. to Johnson Creek Blvd.)	25'

~~B. The following exceptions to the yard requirements are established for a lot in any one zone:~~

~~1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 ft of the proposed structure.~~

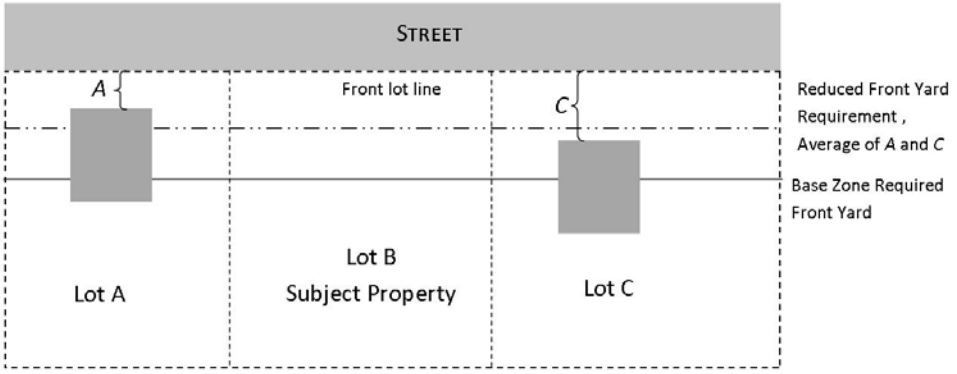
~~2. The required front yard need not exceed the average depth of the abutting front yard within 100 ft of the proposed structure and the required front yard depth.~~

B. The required front yard may be reduced below what is specified by Chapter 19.300. The reduction shall be based one of the two calculations described below; whichever yields the smaller required yard.

1. The required front yard may be reduced to the average front yard depth of the 2 shallowest front yards that are on same right-of-way as and within 250 ft of the subject property. See Figure 19.501.2.B.

2. The required front yard may be reduced to the average of the required front yard specified in Chapter 19.300 and the shallowest front yard along the same right-of-way as and within 250 ft of the subject property.

Figure 19.501.2.B
Reduction of Required Front Yard



Lots A and C are on the same right-of-way as Lot B. They are both within 250 ft of Lot B, and need not be adjacent as depicted in the figure.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 in into a required side yard or 36 in into a required front or rear yard. Such features that extend from a residential accessory structure located less than 5 ft from a property line shall not be closer than 18 in from a property line.

D. A covered porch on a single-family detached dwelling may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.

2. The surface of the porch does not exceed 18 in in height above the average grade.

3. The porch is at least 5 ft from the front lot line.

19.501.3 Building Height and Side Yard Height Plane Exceptions

A. Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height and side yard height plane limitations of the Zoning Ordinance ~~this chapter~~, except as provided in an L-F Zone.

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that the roof overhang or eaves do not extend more than thirty inches horizontally beyond the side yard height plane.

2. The gable end of a roof, provided that the encroachment is not more the 8 ft in height above the side yard height plane or more than 40 ft in width.

3. Dormers, with the following limitations:

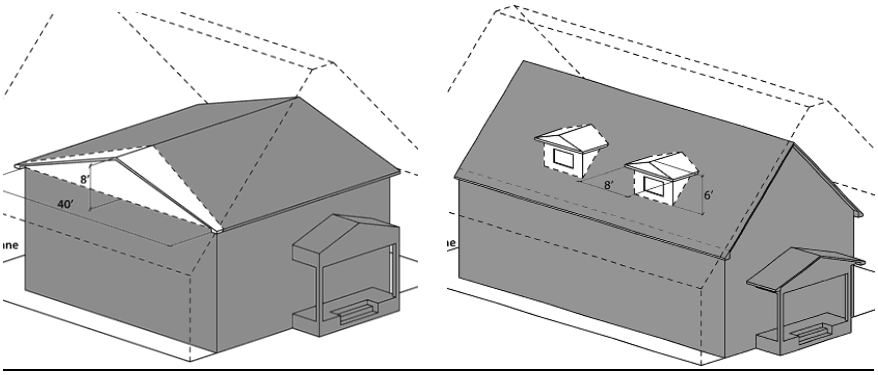
a. The highest point of any dormer is at or below the height of the primary roof ridge.

b. The encroachment is not more the 6 ft in height above the side yard height plane or more than 8 ft in width.

c. The combined width of all dormers does not exceed fifty percent of the length of the roof on which they are located.

Figure 19.501.3.B

Allowed Height Plane Encroachments



~~One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.~~

19.501.4 Density Exceptions

A. In exchange for the dedication of parkland, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Market Action", published by the Regional Multiple Listing Service (RMLS). ~~"Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc~~. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.311 ~~317~~ and this density increase are additive.

19.502 ACCESSORY STRUCTURES

19.502.1 General Provisions

A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.

B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.

C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.

D. Accessory structures excluding fences, flagpoles, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.

E. Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft except as described below. ~~An accessory structure must maintain a minimum side and rear yard setback of 5 ft, except where other requirements of this title are more restrictive.~~

1. Accessory structures are subject to the minimum street side yard requirements of the base zones in Chapter 19.300.

2. Regulations for overlay zones or special areas in Chapter 19.400 may require an accessory structure to be set back beyond the minimum side or rear yard requirements.

3. If the rear or side yard requirement in the base zone in Chapter 19.300 is less than 5 ft, then the yard requirements of the base zone shall apply.

F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Development.

G. Fences, flagpoles, ~~P~~pergolas, arbors, and trellises are permitted in yards in all residential zones.

19.502.2 ~~Single-Family Residential~~ Specific Provisions for Accessory Structures

~~A. Residential accessory structures excluding pools, uncovered decks, and patios are subject to the following:~~

~~1. For lots 10,000 sq ft or less, the footprint of an accessory structure may not exceed 500 sq ft. For lots greater than 10,000 sq ft the footprint of an accessory building may not exceed 850 sq ft.~~

~~2. An accessory structure may not exceed 15 ft in height as measured from the average finished grade within a 10-ft horizontal distance from the base of the building to the highest point of the roof.~~

~~3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than 9 ft.~~

~~4. The minimum roof pitch for accessory structures with other than a flat or shed roof is 4 in rise for every 12 in of run.~~

~~5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.~~

~~6. Metal siding is prohibited on accessory structures with a footprint greater than 120 sq ft. For accessory structures greater than 120 sq ft, exterior siding and roofing materials that are commonly used on residential structures shall be used.~~

A. The following standards apply for residential accessory structures on single-family detached, duplex, rowhouse, and cottage cluster properties. The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these regulations is to allow accessory structures that accommodate the typical needs for a single family residence, while protecting the character of single family neighborhoods.

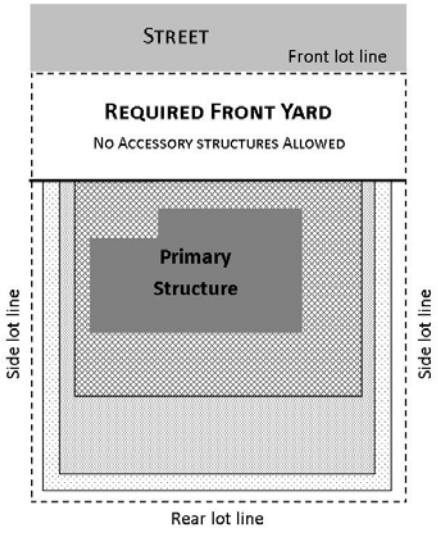
1. Development Standards

a. Height and Footprint

The maximum height and footprint allowed for an accessory structure is determined by the yard depths between the structure and the lot lines. Accessory structures with a larger height and footprint must meet the increased yard requirements. An accessory structure is allowed the maximum building height and footprint listed in Table 19.502.2.A.1.a only if the entire structure meets or exceeds all the yard requirements in the same column. See Figure 19.502.2.A.1.a.

Table 19.502.2.A.1.a Residential Accessory Structure Height and Footprint Standards			
Standard	**Type A**	**Type B**	**Type C**
Maximum building height	10'	15'	Lesser of 25' OR not taller than highest point of the primary structure
Maximum building footprint	200 sq ft	600 sq ft	75% of primary structure
Required rear yard	3 ft	5 ft	Base zone required rear yard
Required side yard	3 ft	5 ft	Base zone required side yard
Required front yard	Base zone required front yard	Base zone required front yard	Base zone required front yard

Figure 19.502.2.A.1.a
Accessory Structure Height, Footprint, and Yard Requirements



Area	Distance from side / rear lot	Structure Height	Structure Footprint
A	3 ft	10 ft	200 sq ft
B	5 ft	15 ft	600 sq ft
C	Base zone yard requirements	25 ft OR height of primary structure	Not larger than primary structure

If the footprint of a structure is in more than one area, the entire structure is subject to the size and height limits of the most restrictive area.

b. Other Development Standards

(1) Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.

(2) The yard exceptions in 19.501.2 are applicable for accessory structures.

(2) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site.

(3) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed; and meets the building code definition of a conditioned space.

2. Design Standards

a. Accessory structures that are located in a side yard, street side yard, or front yard and are visible form the public right of way at a pedestrian level may have PVC or

plastic supports, and fabric, tarpaulin, or other similar materials only if the structure is in place for 3 months or less.

b. Metal siding is prohibited on structures of more than 10 ft in height or a footprint greater than 200 sq ft. Exterior siding and roofing materials that are commonly used on residential structures shall be used.

3. Roof Pitch

There are no roof pitch requirements for an accessory structure with a height equal to or less than 10 ft. A minimum 4 / 12 roof pitch is required accessory for an accessory structure with a height over 10 ft,

4. Footprint and Height Exemptions for Large Lots

An accessory structure may exceed the maximum footprint and height regulations of Subsection 19.502.2.A.1.a if the structure is located on a lot larger than 1 acre in size and the structure is located at least 50 ft away from any lot line. The structure must conform to the base zone development and to all other accessory structure regulations.

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

a. Residential Zones and Residential Uses in All Zones

Maximum height is 6 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.

b. Commercial Zones

Maximum height 6 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a 6-ft-high sight-obscuring fence.

c. Industrial Zones

Maximum height 8 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of 6 ft.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 1-ft horizontal distance from the fence.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to 3 ft for an uncovered patio, deck, or swimming pool not exceeding 18 in. in height above the average grade of the adjoining ground (finished elevation). An uncovered ramp with handrails that provides access from grade to the elevation of the main entrance of a residential structure is allowed to exceed 18 in. in height.

D. A standalone flagpole in a residential zone is limited to 25 ft in height and must be at least 5 ft from any lot line. A standalone flagpole in commercial or industrial zones is subject to the height limits of the base zone in which it is located, and must be at least 5 ft from any lot line.

19.502.3 Sustainability-Related Accessory Structures

A. Purpose

The purpose of these regulations is to allow apparatus for the generation of renewable energy and collection of stormwater, subject to standards that ensure these structures are appropriate for their surroundings in both design and scale.

B. Maintenance Requirement

All of the sustainability-related structures in this section shall be maintained to be functional and safe. The Planning Director may require the repair or removal of the structures listed in this section if the structure is deteriorated, malfunctioning, or is otherwise unsafe.

C. Solar Energy Systems

1. Allowance

The installation of a solar energy system is an outright permitted use in zones where commercial, industrial, and residential structures are allowed outright. Installation of solar equipment that does not meet the definition of a solar energy system shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Solar Energy Systems

a. The review of a standalone solar energy system that is not wholly supported by another structure is subject to the reviews required by applicable base zones and overlay zones.

b. The review of a solar energy system that is attached to a structure shall be as follows. If the circumstances of a property or structure are not listed below, the solar energy system is exempt from any land use review.

(1) The installation of a solar energy system on an historic resource that is designated either ‘contributing’ or ‘significant’ per Section 19.403 shall follow the procedures of that section for alteration of the resource.

(2) The installation of a solar energy system in downtown zones shall be exempt from Downtown Design Review per Section 19.907.

(3) The installation of a solar energy system on structures within the Willamette Greenway Zone or Natural Resource overlay is exempt from the review requirements of those zones.

(4) The installation of a solar energy system on structures that have been designated as a Conditional Use or a Community Service Use are exempt from the reviews of Sections 19.904.3 or 19.905.3.

(5) A Type I Development Review permit may be required for installation of a solar energy system depending upon the applicability criteria in Subsection 19.906.3. In no case shall a Type II Development Review application be required for installation of a solar energy system.

3. Standards

a. A stand-alone solar energy system is subject to the development standards that apply to the site. The design standards of Section 19.502.2.A.2 shall not be construed so as to prevent installation of a standalone solar energy system.

b. A solar energy system that is attached to a structure is subject to the following standards.

(1) The solar energy system will not increase the lot coverage, footprint of the structure, or the peak height of the portion of the roof on which the system is installed.

(2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; except that the plane of the system is allowed a minimum slope of 35 degrees from horizontal regardless of the slope of the roof.

D. Wind Energy Systems

1. Allowance

A wind energy system is allowed outright as an accessory use in all zones. Installation of wind turbines and related equipment that does not meet the definition of a wind energy system shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Wind Energy Systems

The review of a freestanding or roof-mounted wind energy system is subject to the reviews required by applicable base zones and overlay zones.

3. General Standards

a. The minimum distance between the ground and any part of a rotor blade must be at least 20 ft.

b. Wind energy systems may not be illuminated, nor may they bear any signs or advertising.

c. Wind energy systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.

d. All wiring serving small wind energy systems must be underground.

e. Noise produced by wind energy systems may not exceed 45 dBA measured at the property line.

f. Wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization, radio transmissions, or with any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.

g. A finish (paint/surface) must be provided for the wind energy system that reduces the visibility of the facility, including the rotors. The Planning Director may specify the support structure and rotors be brown, blue, light gray haze, or other suitable color to minimize the structure's visibility. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

h. The rotor sweep area, as defined by the American Wind Energy Association, is 50 sq ft in residential zones and 150 sq ft in all other zones.

4. Standards for Freestanding Systems

Wind energy systems may be mounted on a tower detached from other structures on the lot.

a. Setback

A freestanding wind energy system is not allowed in a required front yard or street side yard, and must be at least 10 ft away from any side or rear lot line. All portions of the support pole, blades, guy wires, and associated structures or equipment must meet these standards.

b. Height

The pole and turbine are subject to the base zone height limit for primary structures, except that an increase of 1 additional foot in height is allowed for every 1 foot that the wind energy system is setback beyond what is required in Subsection 19.502.3.D.4.a, up to a maximum of 50% above the base zone height limit.

c. Number

A maximum of 1 freestanding small wind generator system may be allowed on a lot of 15,000 square feet or less. One additional freestanding system is allowed for each 7,500 square feet of lot area above 15,000 square feet.

5. Standards for Roof-Mounted Systems

Wind energy systems may be mounted on the roof of a structure.

a. Setback

The roof-mounted wind energy system is subject to the minimum yard requirements of the building on which it is mounted.

b. Height

Roof-mounted systems are subject to the height limit for freestanding systems in Subsection 19.502.3.D.4.b.

c. Number

There is no maximum number of roof-mounted systems permitted.

E. Rainwater Cisterns

1. A rainwater cistern installed below-ground, at grade, or above ground is a permitted accessory use for all properties.

2. A rainwater cistern that meets the standards listed below may encroach up to 3 ft into a required yard, but not be closer than 3 ft from any lot line. Rainwater cisterns that meet the standards below are not subject to any design or materials standards.

   a. The rainwater cistern is not mounted more than 2 ft above grade.

   b. The rainwater cistern's storage capacity is 80 gallons or less.

3. A rainwater cistern that exceeds the standards listed in Subsection 19.502.3.E.2 is considered an accessory structure that is subject to the applicable base zone, overlay zone, and general accessory structures of Subsections 19.502.1 -2.

4. A below-ground rainwater cistern shall be located at least 3 ft away from any lot line.

19.503 ACCESSORY USES

19.503.1 General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.

B. A greenhouse or hothouse may be maintained accessory to a dwelling ~~provided nothing grown is sold on the premises~~.

C. ~~Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes.~~ The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number ~~and shall require the written consent of all owners of real property (or a part thereof) within 100 ft of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept~~.

D. Keeping of bees shall be a permitted accessory use for residentially zoned properties. ~~Keeping of colonies of bees shall be prohibited except that the Planning Commission may approve an application to keep not more than 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 ft of any point on the boundary of the property on which the bees are proposed to be kept~~.

E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers are not permitted within any required front yard or street side yard, and shall be located at least 5 ft away from any side or rear property line. Amateur and CB radio structures and towers may exceed the height limits for the base zone, but shall not exceed a height of 70 ft. ~~Such structures and towers shall conform to height, yard, and other standards of the Zoning Ordinance.~~ Any deviation from these standards will require a variance by the Planning Commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

19.504 SITE DESIGN STANDARDS

19.504.4 Buildings on the Same Lot

~~A minimum distance of 6 ft as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same~~

~~lot. In R-10, R-7, R-5, and R-3 Zones, only 1 building designed for dwelling purposes shall be permitted per lot.~~

A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.

B. In the R-3 zone, 1 single family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing with multiple structures designed for dwelling purposes may be permitted as a conditional use per Section 19.905.

19.504.6 Transition Area Measures

Where ~~multifamily,~~ commercial~~,~~ or industrial development is proposed adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses. The downtown zones are exempt from this subsection.

A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.

B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

19.504.7 Minimum Vegetation

No more than [20-40]% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. ~~In the vegetation area a maximum of area shall be for planting and a minimum for bark dust.~~ Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

~~**19.504.8 Multifamily Recycling Requirements**~~

~~A. Purpose~~

~~This subsection is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.~~

~~B. Definition~~

~~For the purposes of this subsection, the following definition shall apply:~~

~~"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.~~

~~C. Applicability~~

~~All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.~~

~~D. Recycling Collection Area Standards~~

~~Standards for recycling collection areas are as follows:~~

1. ~~The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.~~
2. ~~The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.~~
3. ~~Recycling containers must be covered either by roof or weatherproof lids.~~
4. ~~If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.~~
5. ~~The recycling collection area(s) must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof.~~
6. ~~The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.~~
7. ~~The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.~~
8. ~~City Fire Department approval will be required for all recycling collection areas.~~
9. ~~Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.~~

~~E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the Planning Commission following the procedures of Section 19.1006 Type III Review.~~

~~F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Section 19.1004 Type I Review.~~

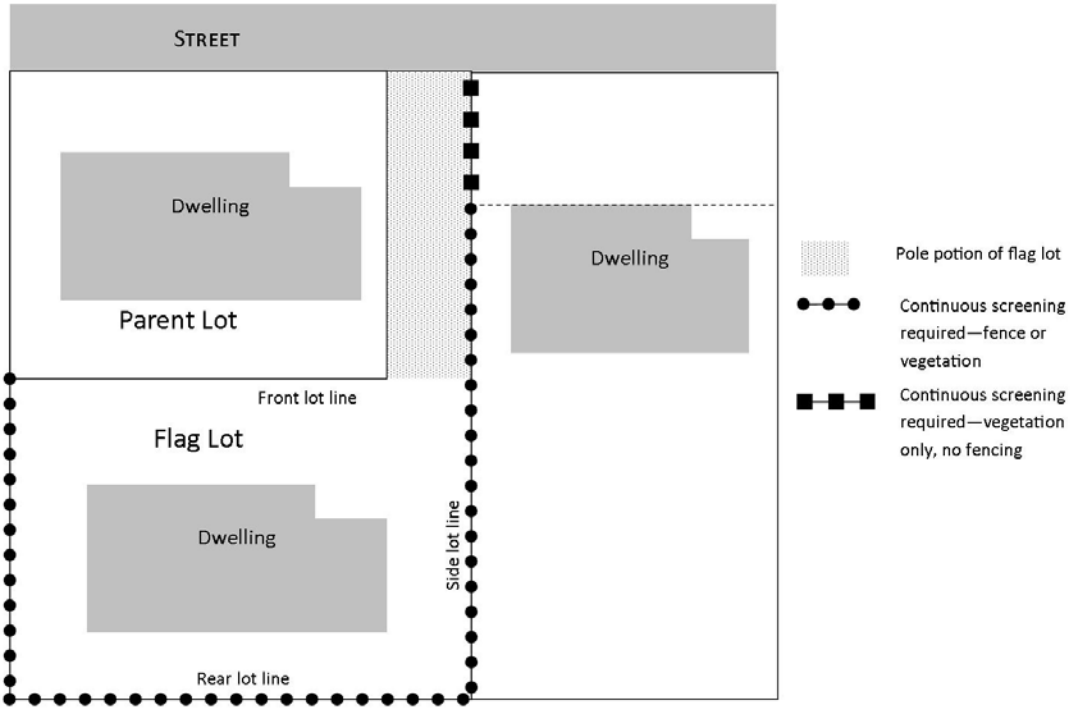
19.504.~~9~~8 Flag Lot Design and Development Standards

E. Protection of Adjoining Properties

Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

2. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot ~~driveway~~ abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described below. ~~follows:~~ See Figure 19.504.8.E.

Figure 19.504.8.E
Flag Lot Screening



19.504.~~10~~9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location

A walkway into the site shall be provided for every 300 ft of street frontage.

C. Connections

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

D. Routing

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

E. Design Standards

Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.504.~~11~~10 Setbacks Adjacent to Transit

The following requirement applies to all new ~~multifamily,~~ commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

When adjacent to a street served by transit, new commercial, office, or institutional development, including uses authorized under Section 19.904 Community Service Uses, shall be set back no more than 30 ft from the right-of-way that is providing transit service.

A. An individual building may be set back more than 30 ft, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30-ft setback standard.

B. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 ft.

C. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

D. If the site abuts more than 1 street served by transit, then the maximum setback requirement need only apply to 1 street.

19.505 BUILDING DESIGN STANDARDS

19.505.1 Design Standards for Single-Family Dwellings and Duplexes

~~A. All new single-family attached and detached dwelling units shall meet the following design standards:~~

~~1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.~~

~~2. The area of windows on all exterior wall elevation(s) facing the street shall be at least 12% of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.~~

~~B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least 3 of the following features on any building elevation that faces, or is visible~~

~~to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter:~~

~~1. Covered porch at least 5 ft deep.~~

~~2. Entry area recessed at least 2 ft from the exterior wall to the door.~~

~~3. Bay or bow window that projects at least 1 ft from exterior wall.~~

~~4. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.~~

~~5. Dormer.~~

~~6. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.~~

~~7. Roof line offsets of at least 16 in from the top surface of one roof to the top surface of the other.~~

~~8. Attached garage.~~

~~9. Cupola.~~

~~10. Tile or wood shingle roofs.~~

~~11. Horizontal lap siding.~~

~~12. Brick covering at least 40% of the building elevation that is visible from the street.~~

A. Purpose

The design standards for single-family dwellings and duplexes require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

B. Applicability

The design standards in this subsection apply to the types of development listed below.

1. New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots.
2. Expansions of structures in Subsection 19.505.1.B.1 that add more than 300 sq ft to the façade area of any street-facing façade. The design standards for such expansions are applicable as follows:
    a. Subsection 19.505.1.C.1 Articulation is applicable apply only when an expansion add 20 lineal feet to the street-facing façade or would expand the entire street-facing façade beyond 60 lineal feet.
    b. Subsection 19.505.1.C.2 Eyes on the Street is applicable. If the existing street-facing façade is not in conformance with the design standard, the expansion shall not increase the nonconformity as measured for the entire street-facing façade area, including the expansion.
    c. Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

d. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

4. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of this subsection.

C. Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II Review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III Review, per Subsection 19.911.3.C.

1. Articulation

All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

a. For buildings with 30-60 ft of street frontage, a minimum of 2 of the following elements shall be provided along the street-facing façades.

(1) A porch at least 5 ft deep

(2) A balcony that is at least 2 ft deep and is accessible from an interior room;

(3) A bay window that extends at least 2 ft in width; or

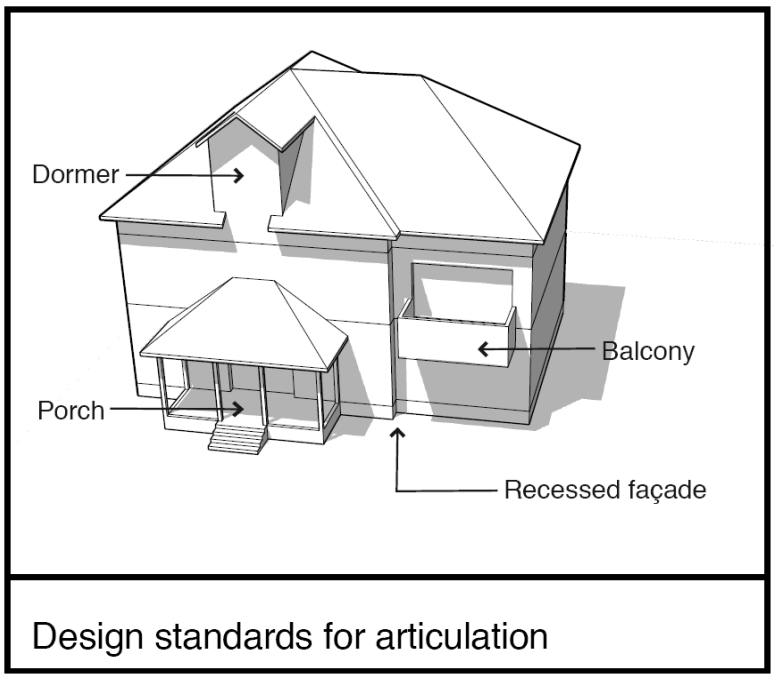
(4) Recessing a section of the façade by at least 2 ft in depth and 6 ft in length.

b. For buildings with over 60 ft of street frontage, at least one element in Subsection 19.505.1.C.1.a.(1-4) above shall be provided for every 30 ft of street frontage. Elements shall be distributed along the length of the façade so that there is no more than 30 ft between two elements.

c. For buildings with less than 30 ft of street frontage, one of the elements in Subsection 19.505.1.C.1.a.(1-4) above shall be provided along the street-facing facade.

Figure 19.505.1.C.1

Building Articulation



Design standards for articulation

2. Eyes on the Street

At least 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.

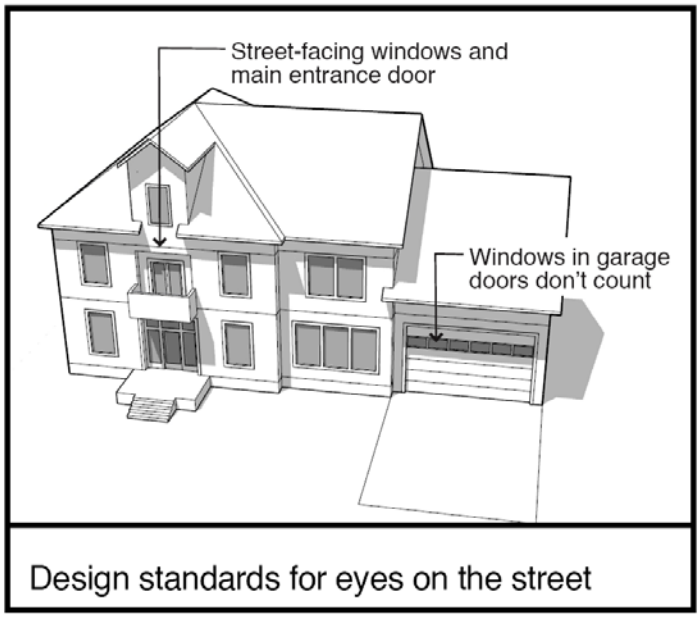
b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.

c. Window area is considered the entire area within the outer window frame, including any interior window grid.

d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

Figure 19.505.1.C.2
Eyes on the Street



3. Main Entrance

Main entrances must meet the following standards. See Figure 19.505.1.C.3 for illustration of main entrances.

At least one main entrance must:

a. Be no further than 8 ft behind the longest street-facing wall of the building; and

b. Face the street, or be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must:

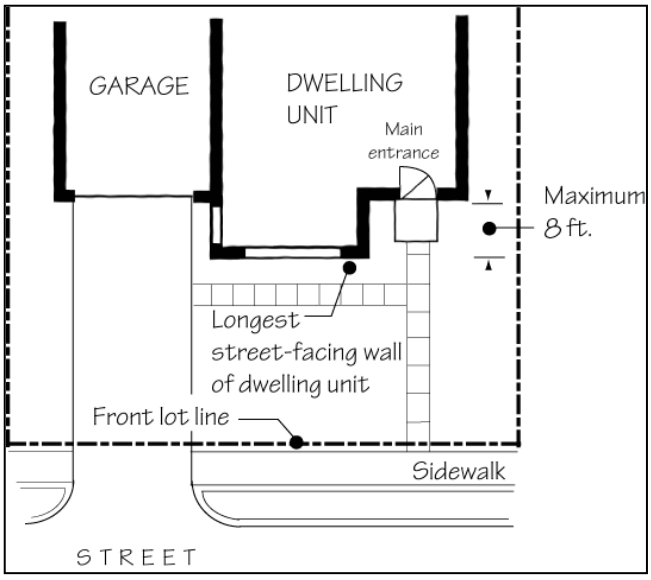
(1) Be at least 25 sq ft in area with a minimum 4 ft depth

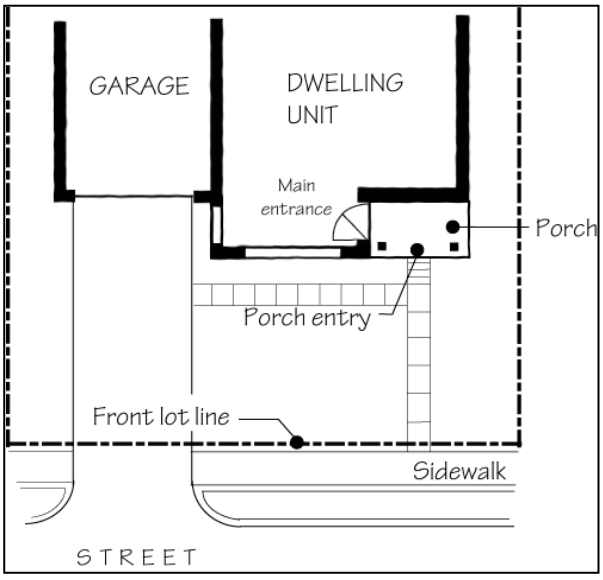
(2) Have at least one porch entry facing the street

(3) Have a roof that is no more than 12 ft above the floor of the porch.

(4) Have a roof that covers at least 30% of the porch area.

Figure 19.505.1.C.3
Main Entrances





4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

c. Offset on the building face of at least 16 in from one exterior wall surface to the other.

d. Dormer that is at least 4 ft wide and integrated into the roof form.

e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

f. Roof line offsets of at least 2 ft from the top surface of one roof to the top surface of the other.

g. Tile or wood shingle roofs.

h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). Only wood, hardiplank, or other similar lap siding material will be credited toward counting as a design detail. Vinyl siding with the appearance of lap siding is not prohibited, but shall not be credited as a design detail.

i. Brick, cedar shingles, stucco or other similar decorative materials covering at least 40% of the street-facing façade.

j. Gable roof, hip roof, or gambrel roof design.

k. Window trim around all windows at least 3 in wide and 5/8 in deep.

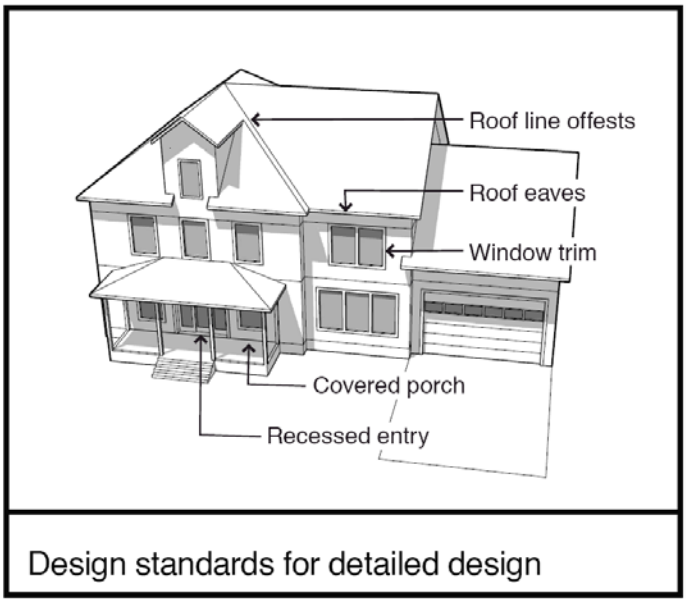
l. All windows recessed at least 3 in as measured horizontally from the face of the building façade.

m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft in depth and 5 ft in length.

Figure 19.505.1.C.4
Detailed Design Elements



5. Standards for Duplexes

In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.

a. The exterior finish of the structure must be the same for both units.

b. The eaves must be uniform for entire structure.

c. The window and door trim must be the same in type, size, and location for entire structure.

d. Windows must match in proportion and orientation for entire structure.

e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, one main entrance with internal access to both units is allowed.

f. For duplexes facing one frontage, the following standards apply.

(1) Only 1 entrance is required to face the frontage.

(2) Where more than one entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.c.3.

(3) A second entrance from a side or rear yard is not allowed within 10 feet of side or rear property line.

(Previous 19.505.2, Building Orientation to Transit, renumbered as 19.505.6—see that further on in this document)

19.505.2 Garage and Carport Standards

A. Purpose

These standards are intended to prevent garages from obscuring or dominating the street-facing facade of a dwelling and provide for a pleasant pedestrian environment in residential areas.

B. Applicability

The standards in this subsection apply to all new attached and detached garages and carports on properties with a single-family detached dwelling, residential home or duplex when the street-facing façade of the garage or columns of the carport is located within 50 ft of the front property line. Standards for garages in rowhouse development are in Subsection 19.505.5.

C. Standards

1. The front of a garage or carport can be no closer to the front lot line than the longest street-facing wall of the house that encloses living area. The following exceptions apply:

   a. A garage or carport may extend up to 5 ft in front if there is a covered front porch and the garage or carport does not extend beyond the front of the porch.

   b. A garage may extend up to 5 ft in front if the garage is part of a two-story facade that has a window at least 12 sq ft in area on the second story that faces the street.

2. The width of a street-facing garage door(s), as measured between the inside of the garage door frame, may not exceed 50% of the total width of the street-facing facades on the same street frontage as the garage door. Notwithstanding this limit, a dwelling is allowed 1 12 ft-wide garage door, regardless of the total width of street facing facades.

3. Garages may be side-oriented to the front lot line if the “eyes on the street” standard in Subsection 19.505.1.C.2 is met.

19.505.3 Design Regulations for Multifamily Housing

A. Purpose

The purpose of these design regulations are to facilitate the development of attractive multifamily housing that encourages multi-modal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability, helps create a stronger community and, fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multifamily development:

1. Livability

   Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality

   Development should be safe and functional by providing visibility into and within a multifamily development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

   Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3 this subsection apply, as described below, to all multifamily and congregate housing developments with three or more dwelling units on a single lot, except within the downtown zones of Section 19.304. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multifamily or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on site by more than [25% /, 1,000 sq ft]. Elements that are applicable only to additions do not apply to the site's existing development.
   a. Table 19.503.3.A Private Open Space for the entire site.
   b. Table 19.503.3.B Common Open Space for the entire site.
   c. Table 19.503.3.E Building Orientation and Entrances only for additions or new buildings.
   d. Table 19.503.3.F Building Façade Design only for additions or new buildings.
   e. Table 19.503.3.G Building Materials only or additions or new buildings.
   f. Table 19.503.3.H Landscaping for the entire site.
   g. Table 19.503.3.I Screening only for additions or new buildings.
   h. Table 19.503.3.K Sustainability only for new buildings.
   i. Table 19.503.3.L Privacy Considerations only for additions or new buildings.
   j. Table 19.503.3.M Safety only for additions or new buildings.
3. Table 19.505.3.G Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.
4. Any activity not described in Subsections 19.505.3.B.1-3 is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multifamily or congregate housing development: Objective and Discretionary. An applicant may choose which process to use. The Objective process uses clear objective standards that do not require the use of discretionary decision-making. The Discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the Objective process will be evaluated through a Type I Development Review pursuant to Chapter 19.906.
2. Projects reviewed through the Discretionary process will be evaluated through a Type II Development Review pursuant to Chapter 19.906.
3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the Objective standards and some of the Discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multifamily and congregate housing are located in Table 19.505.3. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3 Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
A. Private Open Space	The development should provide private open space for each dwelling unit. Private open space should have direct access from the dwelling unit and should be visually and/or physically separate from common areas. The development may use common open space in lieu of private opens space if the common open space is well designed, adequately sized, and functionally similar to private open space.	Private open space (patios or balconies) shall be provided as follows: 1. For each dwelling unit located on the ground floor, or within 5 feet of finished grade, a minimum of 96 square feet of private open space, with a minimum dimension of 5 ft. 2. For each dwelling unit located more than 5 feet above finished grade, a minimum of 48 square feet of private open space. 3. For each dwelling unit with private open space, the private open space shall be directly accessible from the interior of the dwelling unit. 4. Private open space shall be separated from common open space and adjacent dwelling units through the use of landscaping, fencing or a wall.
B. Public Open Space	The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.	Common open space shall be provided as follows: 1. For buildings with more than 5 dwelling units, a minimum of 10% of the gross site area, or 750 square feet, whichever is greater, shall be designated as common open space. 2. The minimum dimension for any common open space shall be 20 feet. 3. The common open space shall contain one or more of the following: recreation area, Willamette Greenway buffer areas per Section 19.401.8 or Natural Resource areas per Section 19.402, play fields, children's play area, sport courts, gardens, swimming pools, walking trails, or pedestrian amenities. 4. If a development includes a children's play area, the play area shall be located such that it is visible from at least 50% of the abutting units. Play areas shall not be located within required yards.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
C. Pedestrian Circulation	Site design should promote safe, direct and usable pedestrian facilities and connections throughout the development. Ground floor units should provide a clear transition from the public realm to the private dwellings.	The on-site pedestrian circulation system shall include the following: 1. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas. 2. At least one pedestrian connection to an abutting street frontage for each 200 linear feet of street frontage. 3. Pedestrian walkways shall be separated from vehicle parking and maneuvering areas through physical barriers such as planter strips, raised curbs, or bollards. 4. Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. 5. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.
D. Vehicle Parking	Parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site.	Parking for the development shall comply with the following: 1. On-site surface parking areas, garages, and vehicle maneuvering areas shall not be located directly between the façade of a primary building(s) and an abutting street right-of-way. 2. Parking located to the side of a dwelling structure shall be limited to 50% of the linear frontage of that side. Drive aisles without adjacent parking spaces do not count as parking areas for purposes of this standard. 3. All garages that are part of the same structure that contains dwelling units shall be located at least 4 feet behind the front building façade.
E. Building Orientation & Entrances	Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.	1. The primary building entry or entries for ground floor units shall face the street right-of-way or a central common open space. Secondary entries may face parking lots or other interior site areas. 2. Building entrances shall be emphasized through the use of features or elements such as recesses, projections, corner entry, or landscape treatments. 3. For sites not on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 10 feet from the required setback line. 4. For sites on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 20 feet from the required setback line.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
F. Building Façade Design	1. Changes in wall planes, layering, horizontal datums, vertical datums, building materials, color, and/or fenestration shall be incorporated to create simple and visually interesting buildings. 2. Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings. 3. Windows should be used to provide articulation to the façade and visibility into the street. 4. Building facades shall be compatible with adjacent building façades. 5. Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.	1. Street-facing building facades shall be divided into wall planes. The wall plane on the exterior of each dwelling unit shall be articulated by doing one or more of the following: a. Incorporating elements such as porches or decks into the wall plane. b. Recessing the building a minimum of 2 feet in depth by 6 feet in length. c. Extending an architectural bay at least 2 feet from the primary street-facing façade. 2. Windows shall occupy a minimum of 25% of the total street-facing façade. 3. Buildings shall have a distinct base and top. The base of the building (ground floor level) shall be considered from grade to 12 ft above grade. The base shall be visually distinguished from the top of the building by any of the following physical transitions: a change in brick pattern, a change in surface or siding materials, a change in color, or a change in the size or orientation of window types. 4. To avoid long, monotonous, uninterrupted walls, buildings shall incorporate exterior wall off-sets, projections and/or recesses. At least 1 foot of horizontal variation shall be used at intervals of 40 feet or less along the building's primary façade on the ground floor level. 5. Blank, windowless walls in excess of seven hundred fifty (750') square feet are prohibited when facing a public street unless required by the Building Code. In instances where a blank wall exceeds seven hundred fifty (750') square feet, it shall be articulated or intensive landscaping shall be provided. 6. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
G. Building Materials	Buildings should be constructed with architectural materials that provide a sense of permanence and high quality. 1. Street-facing façades shall consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles. 2. A hierarchy of building materials shall be incorporated that are durable and reflect a sense of permanence and quality of development. 3. Split-faced block and gypsum reinforced fiber concrete (for trim elements) shall only be used in limited quantities. 4. Fencing shall be durable, maintainable, and attractive.	1. The following building materials are prohibited on street-facing building facades and shall not collectively be used on more than 35% of any other building façade: a. Vinyl PVC siding b. T-111 Plywood c. Exterior insulation finishing (EIFS) d. Corrugated metal e. Plain concrete or concrete block f. Spandrel glass g. Sheet pressboard 2. The following fence materials are prohibited: a. Plastic or vinyl b. Chain link
H. Landscaping	Landscaping of multifamily developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible. Existing mature, healthy trees should be preserved when possible.	1. For every 2,000 square feet of site area, one tree shall be planted or one existing tree shall be preserved. a. New trees must be listed as a native trees in the Milwaukie Native Plant List. b. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed a nuisance species per the Milwaukie Native Plant List. 2. Trees shall be planted to provide, at maturity, canopy coverage for at least 1/3 of any common open space or courtyard. 3. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 zone, landscaping or a combination of fencing and landscaping shall be used to provide a sight-obscuring screen 6 feet in height along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
I. Screening	Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.	Mechanical and communication equipment and outdoor garbage and recycling areas shall be screened so they are not visible from streets and other ground-level private open space and common open spaces. 1. Appropriate screening for rooftop equipment includes parapet walls or architecturally compatible fabricated enclosures such as panels and walls. a. The Planning Director may require a review of screening of rooftop equipment by requesting sight line studies. b. Solar energy systems are exempt from this requirement. 2. Utilities such as transformers, heating and cooling, electric meters and other utility equipment shall be not be located within 5 ft of a front entrance and shall be screened with sight-obscuring materials.
J. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that it provides convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that the area is not a prominent feature viewed from the street.	1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum. 2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area. 3. Recycling containers must be covered either by roof or weatherproof lids. 4. The recycling collection area(s) must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. 5. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. 6. The recycling collection area and containers must be labeled to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. 7. Fire Department approval will be required for all recycling collection areas. 8. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
K. Sustainability	Multifamily development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.	In order to promote more sustainable development, multifamily developments shall incorporate the following elements: 1. Building orientation that does not preclude utilization of solar panels, or an eco-roof on at least 20% of the total roof surfaces. 2. Windows that are operable by building occupants 3. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. 4. Projects with greater than 40,000 square feet of floor area shall meet at least one (1) of the following: a. A vegetated roof for a minimum of 30% of the total roof surface b. For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3:12 roof pitch or less, or Solar Reflectance Index (SRI) of 29 or higher of the roof has a roof pitch greater than 3:12; c. A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface; d. An integrated solar panel system for a minimum of 30% of the total roof or building surface.
L. Privacy Considerations	Multifamily development should consider the privacy of and sight lines to adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	In order to protect the privacy of adjacent properties, multifamily developments shall incorporate the following elements: 1. The placement of balconies above the first story shall not create a direct line of sight into the living space or the back yard of adjacent residential properties. 2. Where windows on a multifamily development are within 30 ft of windows on adjacent residences, windows on the multifamily development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multifamily unit.

Table 19.505.3 CONTINUED Multifamily Design Guidelines and Standards		
Design Element	**Design Guideline (Discretionary Process)**	**Design Standard (Objective Process)**
M. Safety	Multifamily development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design: Natural Surveillance – Areas where people and their activities can be readily observed. Natural Access Control- Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. Territorial Reinforcement – Increased definition of space improves proprietary concern and reinforces social control.	1. Visible Dwelling Front. At least 70% of the street or common open space frontage shall be visible from the following areas on one or more dwelling units: a front door; a ground floor window (except a garage window); or a second story window placed no higher than 3.5 ft from the floor to the bottom of the window sill. 2. All outdoor common open space and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room, such as a kitchen, living room and dining room, but not bedroom or bathroom, faces a common open space or street. 3. Uses on the site shall be illuminated as follows: a. Parking and loading areas – 0.5 foot-candle minimum b. Walkways – 0.5 foot-candle minimum and average of 1.5 foot-candles. c. Building entrances – 1.0 foot-candle minimum with an average of 3.5 foot-candles, except that secondary entrances may have an average of 2.0 foot-candles. 4. Maximum illumination at the property line shall not exceed one-half (0.5) foot candle. However, where a site abuts a non-residential district, maximum illumination at the property line shall not exceed one (1) foot candle. 5. Developments shall use full cut-off lighting fixtures to avoid off site lighting, night sky pollution and shining lights into residential units.

19.505.4 Design Standards for Cottage Cluster Housing

A. Purpose

These regulations area intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home-ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300. The standards apply to development of new cottage clusters and modifications to existing cottage clusters.

C. Land Division

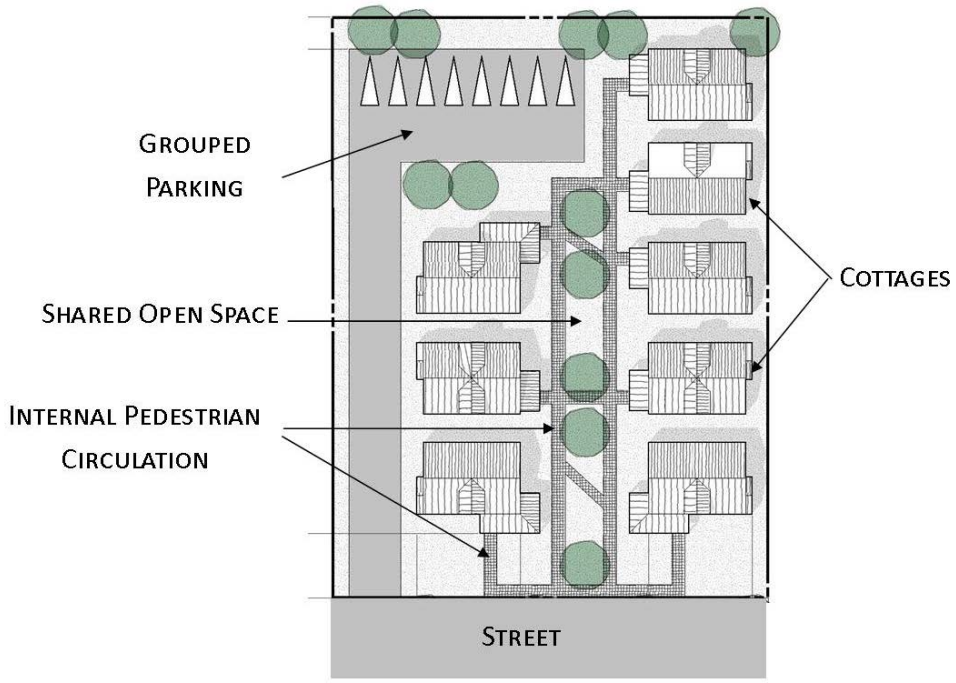
1. A subdivision or replat is required prior to the development of cottage cluster housing to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17, and be subject to the requirements of Chapter 19.700.
2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.
3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.
4. Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.
5. Access easements shall be required to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.

D. Development Standards

The standards listed below are the applicable development and design standards for cottage cluster housing. The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.

Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.

Figure 19.505.4
Cottage Cluster Development



1. Cottage Standards

   a. Size

      The total footprint of a cottage unit shall not exceed 700 sq ft, and the total floor area of each cottage unit shall not exceed 1,000 sq ft.

   b. Height

      The height limit for all structures shall not exceed 18 feet. Cottages or amenity buildings having pitched roofs with a minimum slope of 6 / 12 may extend up to 25 feet at the ridge of the roof.

   c. Orientation

      (1) The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.

      (2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.

   d. Required Yards

      (1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.

      (2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.

      (3) The required yard depth for all yards other than a front or rear yard is 5 ft.

(4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections, such as eaves, overhangs, or chimneys, may project into this required separation by 18 in

(5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.

e. Cottage Design Standards

The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.

(1) Cottages fronting a street shall avoid blank walls by including at least one of the following:

(a) Changes in exterior siding material.

(b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.

(c) Wall offsets of at least 1 ft in depth.

(2) Trim around windows and doors shall be at least 3 in in width and 5/8 in in depth.

(3) All roofs shall have a minimum roof pitch of 4 / 12.

(4) Windows and doors shall account for at least 15% of the façade area for facades oriented toward a public street or common open space.

(5) At least 60% of the siding material on each wall shall be either horizontal lap siding between 3 to 7 in in width once installed or shake siding.

f. Front Porches

Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semi-public area between the cottage and the open space.

(1) The minimum porch depth shall be 6.5 ft.

(2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.

(3) The front door of the dwelling must open onto the porch.

(4) The entire area of the front porch must be covered.

(5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.

2. Site Design and Other Standards

a. Number of Cottages Allowed

The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4. A cottage cluster development shall include a minimum of 4 cottages and a maximum of 12 cottages.

b. Common Open Space

An adequately-sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards:

(1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.

(2) The minimum dimension for the common open space is 20 ft on one side.

c. Private Open Space

Each cottage shall have a private open on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on one side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.

d. Maximum Lot Coverage and Impervious Area

The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.

e. Internal Pedestrian Circulation

The cottage cluster development shall include continuous pedestrian paths for internal circulation on site. The minimum width for pedestrian paths shall be 6 ft. Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of- way, parking areas, and any other areas of common use within the development.

f. Perimeter Setback Areas

All structures within a cottage cluster development shall be located at least 15 ft away from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed,

g. Off-street Parking

(1) There shall be at least one off street parking space per dwelling unit. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.

(2) A cottage cluster parking area shall be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 feet of the street. If the angle is less than 45 degrees, the parking area must be at least 20 feet from the street.

(3) If there are more than 8 units in a cottage cluster, there shall be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the two areas is permitted if a separate driveway access for each area is not permitted per Chapter 12. 16 Access Management.

(4) Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft away from

any cottage dwelling, and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft in height.

(5) Parking spaces that are not in a garage shall be screened from common open space, public streets and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

h. Fences

All fences on the interior of the development shall be no more than 3 feet in height. Fences along the perimeter of the development may be up to 6 feet in height, except as restricted by Chapter 12.14 Clear Vision at Intersection. Chain-link fences are prohibited.

19.505.5 Standards for Rowhouses

A. Purpose

Rowhouses provide a type of housing that includes the benefits of a single-family detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. The purpose of these standards is to allow rowhouses in medium to high density residential zones. Rowhouses are allowed at the same density as single-family detached and multifamily dwellings, and the general design requirements are very similar to the design requirements for single-family detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of rowhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single-family dwellings on their own lot where the dwelling shares a common wall across a side lot line with at least one other dwelling, and where the lots meet the standards for a rowhouse lot in both Section 19.302 and Subsection 19.505.5.D. Rowhouse development may take place on existing lots that meet the lot standards for rowhouse lots or on land that has been divided to create new rowhouse lots.

2. Development standards for rowhouses are in Section 19.302.

3. Design standards for single-family detached dwellings in Subsection 19.505.1-2 are also applicable to rowhouses.

4. Dwelling units that share a common side wall that are not each on their own lot are subject to either the standards for duplexes or multifamily housing.

C. Rowhouse Design Standards

1. Rowhouses are subject to the design standards for single-family housing in Subsection 19.505.1.

2. Rowhouses shall include an area of transition between the public realm of the right-of-way and the entry to the dwelling. The entry may be either vertical or horizontal as described below.

a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft and not more than 8

ft from grade. The flight of stairs may encroach into the required front yard, and the the bottom step must be at least 5 ft from the front lot line.

b. A horizontal transition shall be a covered porch at with a depth of at least 6 ft. The porch may encroach into the required front yard, but shall be at least 7 ft from the front lot line.

D. Number of Rowhouses Allowed

No more than 4 consecutive rowhouses that share a common wall(s) are allowed. A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.

E. Rowhouse Lot Standards

1. Rowhouse development is not allowed on lots with a lot width of more than 35 feet.

2. Rowhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.

3. Rowhouse development in the R-3 and R-2.5 Zones must meet the minimum lot size standards in Table 19.302.4.A.1.

4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Table 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.

Table 19.505.5.E
Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones

Number of Rowhouses	R-2 Zone	R-1 and R-1-B Zone
2	7,500 sq ft	6,400 sq ft
3	10,000 sq ft	7,800 sq ft
4	12,500 sq ft	9,200 sq ft

F. Driveway Access and Parking

1. Garages on the front façade of a rowhouse, off-street parking areas in the front yard, and driveway accesses in front of a rowhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.

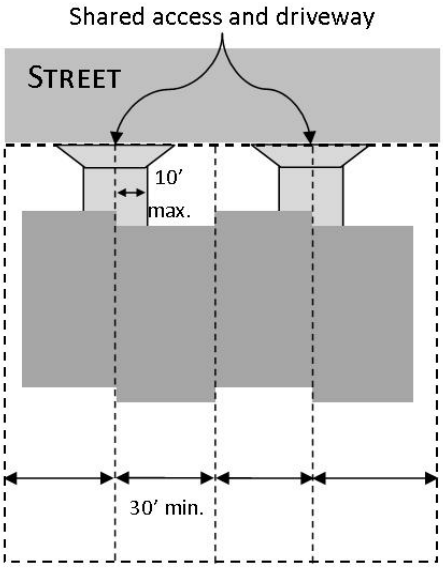
a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.

b. Development of 2 or 3 rowhouses has at least 1 shared access between the lots and development of 4 rowhouses has 2 shared accesses.

c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft in width on any lot.

d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

Figure 19.505.5.F.1
Rowhouse Development with Front Yard Parking



2. The following rules apply to driveways and parking areas for rowhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.

   a. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a rowhouse.

   b. Rowhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The Engineering Director may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2-1.

   c. Rowhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front facade and front lot line of any of the rowhouses. See Figure 19.505.5.F.2-2.

   d. A rowhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

Figure 19.505.5.F.2-1
Rowhouse Development with Corner Lot Access

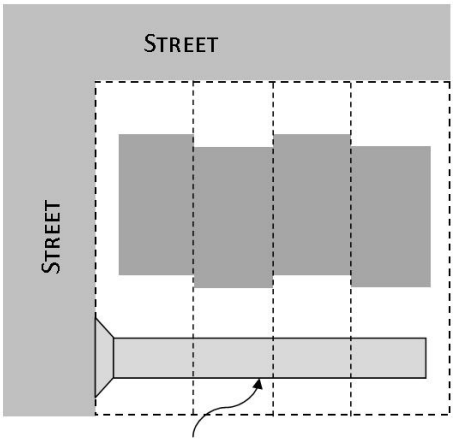
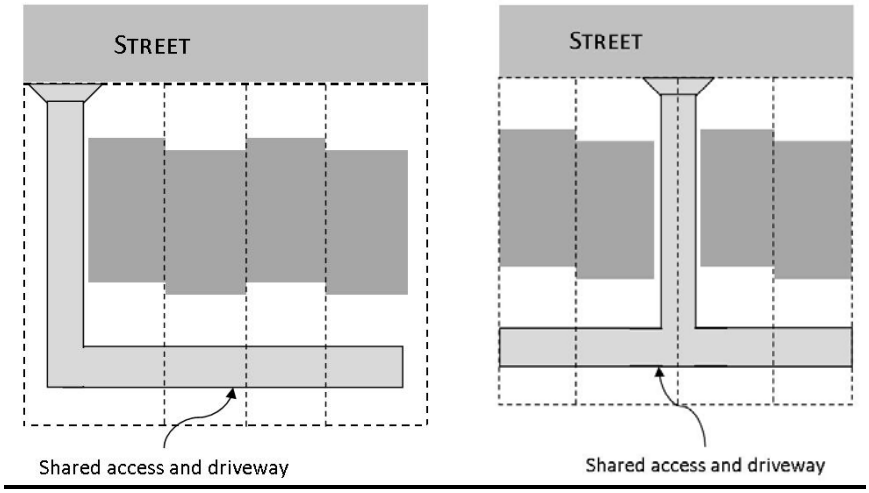


Figure 19.505.5.F.2-2
Rowhouse Development with Consolidated Access



G. Accessory Structure Setbacks

On rowhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.505.~~2~~6 Building Orientation to Transit

The following requirement applies to all new ~~multifamily,~~ commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than 1 entrance. If the development has frontage on more than 1 transit street, the primary building entrance may be oriented to either street or to the corner.

19.506 MANUFACTURED DWELLING SITING AND DESIGN STANDARDS

19.506.4 Siting Standards

Manufactured homes are allowed outright in any zone that allows single-family detached dwellings outright. Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 sq ft.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

~~C. The unit shall have a roof with a pitch of at least 3 in rise for every 12 in of run.~~

~~D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The Planning Director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.~~

C~~E~~. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit. ~~The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the Planning Director. Materials that shall not be allowed include bare metal siding or roofing.~~

D~~F~~. The unit shall comply with the definition for manufactured home as identified in this section.

E~~G~~. The unit shall comply with single-family parking and paving standards as described in Chapter 19.600.

COMMENTARY

CHAPTER 19.600

OFF-STREET PARKING AND LOADING

19.606 PARKING AREA DESIGN AND LANDSCAPING

Amendments to reference new dwelling unit typologies.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

Amendments to reference new dwelling unit typologies, and to direct code users that off-street parking design standards for cottage cluster housing and rowhouses are found in Chapter 19.500.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.600

OFF-STREET PARKING AND LOADING

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for cottage clusters, rowhouses, duplexes ~~single-family attached dwellings~~, single-family detached dwellings, and residential homes.

19.606.2 Landscaping

B. General Provisions

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for cottage clusters, rowhouses, duplexes, and single-family detached dwellings ~~and single-family attached residences~~. Landscaping shall be based on the following standards in Subsections 19.606.2.C-H.
2. Landscaped areas required by Subsection 19.606.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
3. Parking areas with 10 or fewer spaces in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, are exempt from the requirements of Subsection 19.606.2.

19.606.3 Additional Design Standards

D. Pedestrian Access and Circulation

Subsection 19.504.9~~10~~ establishes standards that are applicable to an entire property for on-site walkways and circulation. The purpose of Subsection 19.606.3.D is to provide safe and convenient pedestrian access routes specifically through off-street parking areas. Walkways required by Subsection 19.606.3.D are considered part of the on-site walkway and circulation system required by Subsection 19.504.9~~10~~.

1. Pedestrian access shall be provided for off-street parking areas so that no parking space is further than 100 ft away, measured along vehicle drive aisles, from a building entrance, or a walkway that meets the standards of Subsection 19.606.3.D.2.
2. Walkways through off-street parking areas must be continuous, must lead to a building entrance, and meet the design standards of Subsection 19.504.9~~10~~.E.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for rowhouses, cottage clusters, duplexes ~~single-family attached dwellings~~, single-family detached dwellings, and residential homes in all zones, unless specifically stated otherwise.

A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking ~~for single-family attached dwellings, single-family detached dwellings, and residential homes~~ shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.
2. No portion of the required parking space ~~for single-family attached dwellings, single-family detached dwellings, or residential homes~~ is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

C. Parking Surface Materials

Parking of vehicles ~~on a property with a single-family attached dwellings, single-family detached dwelling, or residential home~~ shall only be allowed on surfaces described in Subsection 19.607.1.C.

D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4, nor to rowhouses, which are subject to the standards in Subsection 19.505.5.

19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

Subsection 19.607.2 is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.607.2 apply to off-street parking areas for cottage clusters, rowhouses, duplexes ~~single-family attached dwellings~~, single-family detached dwellings, and residential homes in all zones.

A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached dwelling, or residential home properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in 1 day if the vehicle is engaged in loading or unloading materials for a residence(s).

B. Recreational vehicles and pleasure crafts on cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached, or residential home properties must comply with the following regulations:

   1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft in length shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.

   2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached dwelling, or residential home.

COMMENTARY

CHAPTER 19.700

PUBLIC FACILITY IMPROVEMENTS

19.708 TRANSPORTATION FACILITY REQUIREMENTS

There is a single reference change as a result of renumbering in Chapter 19.300.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.700

PUBLIC FACILITY IMPROVEMENTS

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.304~~310~~.5.

COMMENTARY

CHAPTER 19.900

LAND USE APPLICATIONS

19.901 INTRODUCTION

The proposed amendments would combine the current Type I and Type II Accessory Dwelling Unit (ADU) applications into a single ADU application. It would also add a specific application for duplexes in some locations in lower density zones where they are currently treated as conditional uses. Duplexes would still be allowed outright in higher density zones and in some instances in low density zones.

19.905 CONDITIONAL USES

Duplexes are now allowed either outright or through a Type II Review. They are no longer a conditionally permitted use, and are removed from this section. Other changes are made regarding terminology for multifamily development.

19.907 DOWNTOWN DESIGN REVIEW

The only amendments to this section are reference changes as a result of renumbering in Chapter 19.300.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

There are currently 2 types of accessory dwelling units (ADUs). The Type I ADU had a size limit of 600 sq ft and required a Type II staff level review. The Type II ADU allowed up to 800 sq ft and required Planning Commission approval as a conditional use. For both types, the ADU was required to be part of the same structure as the primary dwelling, which meant that detached ADUs could not be permitted.

Public input for the Residential Development Standards project has indicated support for detached ADUs as well as making the approval process less stringent. The main points of the proposed ADU regulations are summarized as follows:

- There is only one type of ADU and it is permitted through a Type I Review process (staff level review without public notice).
- There is a limit of 1 ADU per property and the primary use of the property must be a single-family detached dwelling. ADUs are not allowed for duplex properties.
- The size limits of an ADU are 800 sq ft or 75% of the floor area of the primary dwelling unit, whichever is less.

- An ADU is required to have a design style and materials that are generally similar to the primary dwelling unit. This applies to additions to create an attached ADU as well as detached ADUs.
- Attached ADUs have standards that prohibit the entrance for the ADU from being on the front façade of the structure. The intent is to maintain the structure's appearance as a single-family dwelling.
- Detached ADUs must meet the development standards that generally apply to all accessory structures. These standards allow a larger structure if it is located further away from lot lines. One exception is that detached ADUs are allowed an increased amount of lot coverage for adding the detached ADU.
- Conversions of existing accessory structures to create an ADU are allowed so long as the structure meets required setbacks and is not in the front yard of the property. The conversion cannot bring the structure further out of conformance with any standards.
- The parking standards for ADUs would not be changed from the current regulation, which requires a site with a primary dwelling and ADU to have at least 2 off-street parking spaces.
- ADUs do not count for purposes of density calculations. This is consistent with Metro's calculations for residential density in the region.
- Either the ADU or the primary dwelling must be occupied by the property owner. This is a current requirement for ADUs.

19.910.2 Duplexes

The purpose of this section is to establish the review and approval procedures for duplexes where they require a discretionary review. This section of code replaces the section that was deleted from the conditional use section. The key points of this section are:

- Duplexes in the R-5 through R-1/R-1-B zones are allowed outright and do not require further review. They do need to comply with the development and design standards in Chapters 19.300 and 19.500.
- In the R-7 and R-10 zones, duplexes are allowed outright on corner lots or on a collector or arterial street, and do not require further review. They do need to comply with the development and design standards in Chapters 19.300 and 19.500.
- Duplexes in the R-7, R-10, a Type II review is required (staff decision that includes public notice and comment). The criteria are that the duplex would not substantially alter land use character of the area, that the design is generally consistent with development in the area, and that the design appears as much as possible like that of a single-family dwelling.

- Duplexes in the Commercial Limited zone (C-L) also require a Type II review. The criteria include that the duplex will not create land use conflicts with existing commercial uses in the area and that it will not significantly reduce the supply of developable commercial land for the C-L zone.

19.911.Variances

One amendment is proposed for this section to allow a Type II variance to one of the 4 design elements for single-family development. See commentary for Subsection 19.505.1 for more detail.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.900

LAND USE APPLICATIONS

19.901 INTRODUCTION

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City's land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

Table 19.901
Land Use Applications

Application Type	Municipal Code Location	Review Types
Amendments to Maps and Ordinances:	Section 19.902	
Comprehensive Plan Text Amendment	Subsection 19.902.3	V
Comprehensive Plan Map Amendment	Subsection 19.902.4	IV, V[1]
Zoning Text Amendment	Subsection 19.902.5	V
Zoning Map Amendment	Subsection 19.902.6	III, V[2]
Annexations and Boundary Changes:	Chapter 19.1100	
Boundary Change	Section 19.1103	NA
Expedited Annexation	Section 19.1104	NA
Nonexpedited Annexation	Section 19.1102	IV
Appeal	Section 19.1010	Varies
Code Interpretation	Section 19.903	I
Community Service Use	Section 19.904	I, III
Compensation for Reduction in Property Value (Measure 37)	Chapter 1.20	NA
Conditional Use	Section 19.905	I, III
Development Review	Section 19.906	I, II, III
Director Determination	Section 19.903	I
Downtown Design Review	Section 19.907	I, II, III
Extension to Expiring Approval	Section 19.908	I, II
Historic Resource:	Section 19.403	
Alteration	Subsection 19.403.5	I, III
Demolition	Subsection 19.403.7	III
Status Designation	Subsection 19.403.4	IV
Status Deletion	Subsection 19.403.4	IV

Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapter~~s~~ 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony	Subsection 19.503.1.D	III
~~Multifamily Recycling Area~~	~~Subsection 19.504.8~~	~~I~~
Mixed Use Overlay Review	Section 19.404	III
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, IV
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311~~317~~	IV
Residential Dwellings:	Section 19.910	
Accessory Dwelling Unit ~~(Type 1)~~	Subsection 19.910.1	I ~~II~~
Duplex ~~Accessory Dwelling Unit (Type 2)~~	Subsection 19.910.2	II ~~III~~
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

[1] Level of review determined by City Attorney per Section 19.902.4.A.

[2] Level of review determined by City Attorney per Section 19.902.6.A.1.

19.905 CONDITIONAL USES

19.905.9 Standards Governing Conditional Uses

A conditional use shall comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

~~F. Single-Family Attached Dwellings~~

~~In considering a conditional use application for single-family attached dwellings, the Planning Commission shall consider the following:~~

~~1. Whether a structure of a similar type is within 200 ft.~~

~~2. Relationship to neighboring uses.~~

~~3. Street access.~~

~~4. Terrain of the site.~~

F~~G~~. Multifamily ~~Condominium and Apartment~~ Dwellings

In considering a conditional use application for multifamily ~~condominium and apartment~~ dwellings, the Planning Commission shall consider the following:

1. Relationship to neighboring uses.
2. Street access.
3. Terrain of the site.

G~~H~~. Senior and Retirement Housing

In considering a conditional use application for senior and retirement housing, the Planning Commission shall consider the following:

1. Pedestrian access to transit.
2. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.
3. Pedestrian access to banking, churches, hospitals, and restaurants.
4. Quality of project as a living environment for residents.
5. Minimizing impact on the surrounding area.

~~The Planning Commission may recommend to the City Council an increase in density to as much as that permitted by the next higher zone. The City Council shall make the final decision on density increase.~~

An applicant shall submit materials and the Planning Commission shall attach conditions that will ensure that the special nature of the housing, and the groups to be served, are clearly defined and maintained in perpetuity. A project is required to meet the definition for this type of housing in Section 19.201.

19.907 DOWNTOWN DESIGN REVIEW

19.907.2 Applicability

All new construction and changes to buildings and/or properties in the downtown zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in Subsection 19.304~~310~~.6.B are subject to design review in accordance with the procedures as outlined below under Subsection 19.907.5.

19.907.3 Design Guidelines

Design guidelines shall be established for the downtown zones and shall be considered as part of design review applications in accordance with the provisions of Section 19.304~~310~~.

19.907.5 Application Procedure

Applications for design review shall be processed in accordance with Chapter 19.1000, Type I, Type II, and Type III procedures as indicated in this section, as follows:

A. Exterior maintenance and repair, as defined in Subsection 19.304~~310~~.6.B.1, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I review.

B. Minor exterior alterations, as defined in Subsection 19.304~~310~~.6.B.2, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. The Planning Director may change a Type I review to a Type II review upon finding the following:

C. A major exterior alteration, as defined in Subsection 19.304~~310~~.6.B.3, shall be evaluated through a Type III review in accordance with the procedures in Section 19.1006. Applications for major exterior alterations shall be reviewed at a public hearing and decided by the Planning Commission, except as follows:

D. Residential

1. "Stand-alone" residential buildings that do not include nonresidential uses are exempt from design review, but shall be subject to the clear and objective design standards under Subsection 19.304~~310~~.6. Applicants may elect to process a stand-alone residential building design review.

2. Mixed Use Buildings

   The residential portion of mixed use buildings shall be subject to the clear and objective standards under Subsection 19.304~~310~~.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed use building through design review.

   Any change in use of the residential portion of a mixed use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the Planning Commission.

19.907.9 Variances to Development Standards

The Planning Commission may authorize variances to the development standards under Subsection 19.304~~310~~.4 in accordance with procedures of Section 19.911.

19.907.10 Modification of Design Standards

The Planning Commission may authorize modification of the design standards under Subsection 19.304~~310~~.6.C, in accordance with the following procedures.

19.907.11 Consideration of Prohibited Material or Design Features

The Planning Commission may authorize the use of prohibited materials or design features specified in Subsection 19.304~~310~~.6.C subject to the following criteria:

19.910 RESIDENTIAL DWELLINGS

This section contains applications for types of residential dwellings that require land use approval.

19.910.1 Accessory Dwelling Units ~~(Type 1)~~

~~Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:~~

~~A. Purpose~~

~~To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing homeowners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.~~

~~B. Approval Required~~

~~Type 1 accessory dwelling units are subject to Section 19.1005 Type II Review. Applications shall be made on forms provided by the Planning Department and shall be accompanied by the following information:~~

~~1. Completed application forms.~~

~~2. Site plan showing the following:~~

~~a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.~~

~~b. Location and dimension of existing and proposed parking.~~

~~c. Location of structures on adjoining lots.~~

~~3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.~~

~~C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.~~

~~D. Notwithstanding the maximum allowable net floor area of 600 sq ft, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.~~

~~E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.~~

~~F. Ownership and Tenancy~~

~~Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submittal requirements established by the Planning Director. Ownership of the accessory~~

~~units shall not be subdivided or otherwise separated from ownership of the primary residence.~~

~~G. Business License Required~~

~~A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.08.~~

~~H. Use, Alteration, or Conversion of Structure~~

~~Type 1 accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:~~

~~1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.~~

~~2. For fronting lots, only 1 entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.~~

~~3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.~~

~~4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.~~

~~5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.~~

~~6. No more than 1 accessory dwelling unit per lot is permitted.~~

~~I. Required Parking~~

~~Off-street parking shall be provided in accordance with Chapter 19.600. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.~~

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit shall be evaluated through a Type I Review per Section 19.1004.

D. Approval Criteria

An application for an accessory dwelling unit shall be approved if the following are met.

1. An accessory dwelling unit is an allowed use in the base zones and any applicable overlay zones where the accessory dwelling unit would be located.
2. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.
3. One accessory dwelling unit per lot is allowed.
4. The development standards of Subsection 19.910.1.E are met.
5. The proposal complies with all other applicable standards of this title.

E. Standards

1. Creation

   An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

   The more restrictive provisions shall be applicable in the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, except where specifically noted.

3. Size

   The floor area of an accessory dwelling unit is limited to 800 square feet or 75% of the floor area of the primary structure, whichever is less. The measurements are based on what the floor area of the primary dwelling unit and the accessory dwelling unit would be after completion of the accessory dwelling unit.

4. Design Standards for Attached Accessory Dwelling Units

   The standards listed below apply to accessory dwelling units that are part of the primary structure on the property.

   a. The façade of the structure that faces the front lot line shall have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

   b. Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.

   c. Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.

      (1) The exterior finish on the addition shall match the exterior finish material of the primary dwelling unit in type, size, and placement.

      (2) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

      (3) Windows on street-facing facades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

(4) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

5. Design Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.5 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. The accessory structure shall be at least 10 ft away from the front yard, as defined in Section 19.201.

b. The development standards for a detached accessory dwelling unit are the standards in Subsection 19.502.2.A for other residential accessory structures, except that the standards in Subsection 19.901.1.E.3 and 19.901.1.E.5.a may be more restrictive in the size and placement standards for an accessory dwelling unit than for other the accessory structures.

c. A new detached accessory dwelling unit shall comply with the following design standards.

(1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than one standard.

(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). Only wood, hardiplank, or other similar lap siding material will be credited toward counting as a design detail. Vinyl siding with the appearance of lap siding is not prohibited, but shall not be credited as a design detail.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.6.c(1) through a Type II Review, pursuant to Subsection 19.911.3.B.

(3) A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.5.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards for an accessory structure and a detached accessory dwelling unit.

d. Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure is allowed under the following circumstances.

(1) The accessory structure is not located within any required setback.

(2) The accessory structure is not within the front yard of the property.

(3) The conversion will not bring the accessory structure out of conformance with any applicable design or development standards. If the accessory structure is already nonconforming with design or development standards, the conversion will not make the structure go further out of conformance.

F. Additional Provisions

1. Either the primary of accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that one of the dwellings on the lot be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.

   The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence such as voter registration information or account information for utility services to demonstrate residence in one the dwelling units.

2. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.

3. Additional home occupations are allowed for a property with an accessory dwelling unit.

~~**19.910.2 Accessory Dwelling Units (Type 2)**~~

~~Type 2 accessory dwelling units are only allowed in the base zones where they are listed as conditional uses. Where allowed, they are subject to conditional use review and approval per Section 19.905. A Type 2 accessory dwelling unit may be allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition.~~

~~A. Requirements for Conversion of Existing Space or Addition~~

~~1. The unit is in conformance with the site development requirements of the underlying zone;~~

~~2. Off-street parking shall be provided in accordance with Chapter 19.600;~~

~~3. Garage or carport space may not be converted to an accessory dwelling unit, unless parking standards can be met after the completion of the unit;~~

~~4. Public facilities must be adequate to serve both dwelling units, as determined by the Public Works Department;~~

~~5. One unit shall be occupied by the property owner;~~

~~6. The Planning Commission may impose conditions regarding modification of building height, landscaping, buffering and orientation of the accessory unit to protect privacy of the neighbors, and any other conditions deemed necessary to ensure compliance with the requirements of this subsection, except that no condition may be imposed that prohibits rental occupancy, separate access, and full kitchens in any accessory unit;~~

~~7. Conditions of approval shall be part of the deed restrictions;~~

~~8. No more than 1 additional unit is allowed.~~

~~B. Requirements for Conversion of Existing Space~~

~~1. Cannot exceed 50% of the existing structure;~~

~~2. Each unit shall be a minimum of 250 sq ft;~~

~~3. No fire escape or exterior stair for access to an upper level may be located on the front of a building.~~

~~C. Requirements for Addition~~

~~1. Does not exceed 1 bedroom;~~

~~2. The maximum area is 800 sq ft.~~

19.910.2 Duplexes

A. Purpose

This subsection is intended to allow duplexes in order to increases available housing in the city while maintaining the coherence of single-family residential neighborhoods.

B. Applicability

The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert or add on to an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.

C. Review Process

1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of or addition to an existing structure.

   a. In the Residential zones R-5, R-3, R-2.5 R-2, R-1, R-1-B, R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.

   b. Duplexes are allowed outright, subject to the lot size requirements for the zone, in the Residential zones R-10 and R-7 in either of the following situations. For these properties, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.

      (1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.

      (2) The property is a corner lot.

   c. Duplexes in the Residential zones R-10 and R-7 that are not eligible as an outright allowed use under Subsection 19.910.2.C.1.b are allowed through a Type II Review per Section 19.1005.

   d. Duplexes in the Limited Commercial Zone C-L are allowed through a Type II Review per Section 19.1005.

2. For additions or modifications to existing duplexes, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.

D. Approval Criteria

1. A duplex in the Residential zones R-10 and R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b must meet the following criteria.

a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings that exists within the general vicinity of the site.

b. The design of the proposed duplex is generally consistent with the surrounding development.

c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.

2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.

a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial zone.

b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4, Detailed Design, or with Subsection 19.901.1.E.5.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

COMMENTARY

CHAPTER 19.1000

REVIEW PROCEDURES

Amendments to this chapter are changes that correct procedural steps that were not listed when this chapter was revised at the beginning of 2011. There are also some changes proposed in response to changes in state rules about notification to the state of legislative and zone change applications. These amendments do not change how the city processes land use applications.

UNDERLINE/STRIKOUT AMENDMENTS

CHAPTER 19.1000

REVIEW PROCEDURES

19.1001.6 Applications

C. Notice Requirements

3. Continued Hearing Notice

If a hearing has been opened and is continued to a specific date and time, additional mailed notice and sign notice for the continuation is not required. If a date and time of the continuation is not specified, notice for the continuation shall be provided as specified per Sections 19.1005-8.

19.1003 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

19.1003.2 Application Submittal Requirements

All application information must be sufficiently detailed and specific to the development being proposed to allow for adequate public review. The application submittal must include all of the items listed below for the City to accept the application and initiate completeness review. ~~If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.C and D prior to the public hearing.~~

If the application requires sign notice, a sign posting and sign posting affidavit will be required per Subsection 19.1001.6.C. If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.D prior to the public hearing.

19.1005 TYPE II REVIEW

19.1005.3 Type II Public Notice

B. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application and submit written comments concerning the application prior to issuance of the Type II decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

3. The City shall prepare an affidavit of mailing of notice for the file. The affidavit shall indicate the date that the public notice was mailed to the parties required by Subsection 19.1005.3.B.1.

19.1006 TYPE III REVIEW

19.1006.3 Type III Public Notice

A. DLCD Notice

For Zoning Map amendments, the City shall provide notification to the Department of Land Conservation and Development at least 35 ~~45~~ days prior to the first public hearing on adoption.

D. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type III decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to the first public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1006.3.D.3.

E. Sign Notice ~~Sign~~

At least 14 days prior to the hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

19.1006.5 Type III Decision

D. In addition to the requirements of Subsections 19.1006.5.A, B, and C, the following requirements apply to Zoning Map amendments evaluated through a Type III review process.

4. Not more than 5 days after the date of the approval or denial of the proposal, the City shall provide the required notice to the Department of Land Conservation and Development.

19.1007 TYPE IV REVIEW

19.1007.3 Type IV Public Notice

A. DLCD Notice

For Zoning Map or Comprehensive Plan map amendments, the City shall provide notification to the Department of Land Conservation and Development at least 35 ~~45~~ days prior to the first public hearing on adoption.

D. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type IV decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to each ~~a~~ public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1007.3.D.3.

E. Sign Notice

At least 14 days prior to each ~~the~~ hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

19.1007.5 Type IV Decision

G. Not more than 5 days after the date of the approval or denial of the proposal, the City shall provide the required notice to the Department of Land Conservation and Development.

H~~G~~. The notice of decision shall include the following:

6. A statement that only persons who submitted comments or made an appearance of record at a public hearing on the application have standing to appeal the decision by filing a written appeal within the ~~15-day~~ appeal period for the Land Use Board of Appeals.

19.1008 TYPE V REVIEW

19.1008.3 Type V Public Notice

A. General Public Notice

The purpose of general public notice for Type V applications is to allow the public, organizations, and other governmental agencies a meaningful opportunity to review and comment on legislative proposals.

2. At least 30 days prior to a public hearing on a Type V application, except for continuations as noted in Subsection 19.1001.6.C.3, the City shall provide notice of the hearing. At a minimum, the notice shall be available on the City web site and at City facilities that are open to the public and that customarily display public information. At a minimum, the notice shall include:

B. DLCD Notice

Notice of a Type V application shall be mailed to the Department of Land Conservation and Development at least 35 ~~45~~ days prior to the initial evidentiary hearing on adoption.

19.1008.5 Type V Recommendation and Decision

~~A.~~ The following procedures apply to applications evaluated through a Type V review.

A ~~1~~. The Planning Commission shall serve as the recommendation authority for Type V applications.

B ~~2~~. The Planning Commission shall conduct an initial evidentiary hearing and provide a recommendation to the City Council within 180 days from the date that the application was deemed complete.

C ~~3~~. The Planning Commission may recommend that the City Council approve or deny the application with or without changes. The Planning Commission shall provide a written justification for the recommendation.

D 4. The City shall provide notice of the hearing before the City Council consistent with the public notice requirements in Subsection 19.1008.3.A.

E ~~5~~. At the conclusion of the first public hearing before City Council, the City Council shall take one of the following actions:

1 ~~a~~. Continue the matter to a date, time, and place certain.

2 ~~b~~. Remand the matter back to the recommendation authority for additional deliberation.

3 ~~c~~. Approve the proposal, with or without changes. City staff, with review from the City Attorney, shall prepare the ordinance with written findings that demonstrate how the proposal meets all applicable approval criteria.

4 ~~d~~. Deny the proposal. This action is appealable.

5 ~~e~~. Take no action on the proposal. This decision is not appealable.

F ~~6~~. Not more than 5 days after the date of the approval or denial of the proposal, the City shall provide the required notice to the Department of Land Conservation and Development.

G ~~7~~. Within 7 days after the date ~~of the approval or denial of the proposal~~ on which one of the actions in Subsection 19.1008.5.E. 3 or 4 is taken, the City shall mail, or otherwise provide, notice to persons who testified orally or in writing to the recommendation or review authority while the public record was open regarding the proposal. The notice shall include the following information:

1 ~~a~~. A brief summary of the decision.

2 ~~b~~. If adopted:

a. ~~(1)~~ The date and number of the adopting ordinance.

b. ~~(2)~~ Where and when the adopting ordinance and related findings may be reviewed.

3 ~~c~~. A summary of the requirements for appealing the decision to the Land Use Board of Appeals.

19.1009 PUBLIC HEARINGS

19.1009.12 Decision

A. Following the close of the public portion of the hearing, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse, or remand the decision that is on appeal. Remanding the decision to a

prior hearing body requires that there is adequate time pursuant to Subsection 19.1001.7.C for the prior hearing body to issue a decision and for the City to issue a final decision if the decision resulting from the remand is appealed.

19.1010 APPEALS

19.1010.5 Specific Provisions for Appeal of a Type II Decision

B. The City shall mail written notice of the appeal hearing to all parties who were entitled to Type II public notice per Subsection 19.1005.3.B.1, interested persons, and the appellant(s) at least 20 days prior to the appeal hearing.

19.1010.6 Specific Provisions for Appeal of a Type III Decision

B. The City shall mail written notice of the appeal hearing to all parties who were entitled to Type III public notice per Subsection 19.1006.3.D; interested persons, the appellant(s), Planning Commission, and Design and Landmarks Committee if they made a recommendation on the initial land use application, at least 20 days prior to the appeal hearing.

19.1011 DESIGN REVIEW MEETINGS

19.1011.2 Design Review Meeting Notice Requirements

B. The mailed public notice shall meet the requirements of Subsections 19.1006.3.D.2 ~~and E~~.

COMMENTARY

CHAPTER 19.1100

ANNEXATIONS AND BOUNDARY CHANGES

There are two minor amendments proposed for this chapter. The first is to specify that applicants are responsible for providing basic census information about the property proposed for annexation. The City is required to provide this information to Portland State University for purposes of their official population estimates for the state.

The second is to add an approval criterion for annexations that should be evaluated at the time of annexation. The new criterion requires that non-expedited annexations, which may entail zone changes, must meet the approval criteria for a zone change. The City already evaluates these criteria for non-expedited annexations, and the amendment does not change the way that the city processes no-expedited annexations. The amendment daylights this connection to make it easier for staff and applicants to know what approval criteria will apply to a non-expedited annexation.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.1100

ANNEXATIONS AND BOUNDARY CHANGES

19.1102 ANNEXATIONS

19.1102.2 The Petition

C. An annexation petition shall include the completed petition form and the following information.

5. Census forms or other information regarding the demographic information about the area to be annexed.

19.1102.3 Approval Criteria~~.~~

The City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

COMMENTARY

CHAPTER 19.1200

SOLAR ACCESS PROTECTION

The solar access regulations in Chapter 19.1200 have 3 major sections.

1) Regulations for lots created through a subdivision or partition. The regulations in this section are aimed at maximizing the amount of lots with a north/south orientation or have a deep enough north/south distance to provide good solar access.

2) New development in single-family zones. The regulations in this section limit the height of a structure based on its location on the lot and potential to shade surrounding properties.

3) Allows property owners to file a permit that protects solar access on their lot. The permit requires surrounding properties to maintain vegetation and structures on their own property so that they do not shade the area protected by the solar access permit.

The proposed amendments would delete items 2 and 3 from this chapter. The problems associated with these sections are:

- The solar regulations for new development are very complicated. Applications for any residential permit may require detailed information about topography, and vegetation and structure heights on the development and surrounding properties. The allowed building height is subject to complex system of formulas, adjustments and exemptions. The complexity of this section makes it difficult to inform a property owner what the height limits are for a proposed structure. It is not commensurate with the amount of information or level of review typically associated with a normal residential building permit.
- The solar regulations for new development could result in stringent regulations that would limit development to 1-story where 2-story development would be allowed.
- The solar access permit is an overly-regulatory process that limits structures and vegetation on surrounding properties to protect solar features. The permit places an obligation on properties surrounding the site for which the permit is granted to limit vegetation height and structures. The permit raises many concerns for city staff about the processing, tracking, and enforceability of these permits, as well as the equity of allowing a request by one property owner to burden multiple surrounding properties.

Staff believes that other amendments in the Residential Development Standards project will better accomplish the goal of utilizing solar energy. The residential design standards give credit to roofs that are suitable for installation of solar energy systems. The

multifamily design standards encourage use of solar energy in the building design. The side yard height plane standards require the upper portions of buildings to be sloped or stepped back, which keeps the view of the sky more open for adjacent properties. Lastly, the accessory structure standards create an explicit allowance for installation of solar energy systems and provide a streamlined approval process for their installation. Staff believes that these provisions to utilize solar energy will do more to further the goals of this chapter, and will have fewer limitations and unintended consequences than protection solar access through development limitations.

The section related to lot orientation would be maintained. The information requested in this section is typically part of a land division application and can be easily evaluated. The lot orientation regulations apply where there are multiple lot configuration options. Due to the limited and constrained developable area in Milwaukie, most land division will have few options for lot orientation and layout. As a result, staff expects that this section will have no effect for most applications. However, it is useful to have these regulations in place to allow for good solar access in instances where multiple lot layouts are under consideration.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.1200

SOLAR ACCESS PROTECTION

SECTIONS:

19.1201 Purpose
19.1202 Definitions
19.1203 Solar Access for New Development
~~**19.1204 Solar Balance Point**~~
~~**19.1205 Solar Access Permit**~~

19.1201 PURPOSE

19.1201.1 The purpose of this chapter is:

A. To orient new lots and parcels to allow utilization ~~provide solar access protection to new development in subdivisions, new and remodeled single-family homes, structures within single-family zoning districts, and homes which make beneficial use~~ of solar energy;

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in single-family zones ~~and for single-family detached dwellings in any zone~~, except to the extent the Director finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

19.1203.6 Protection from Future Shade

~~Structures and nonexempt vegetation must comply with Section 19.1204 on all lots in a development subject to Section 19.1203, including lots for which exemptions or adjustments to Section 19.1203 have been granted.~~

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Subsection 19.1203.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this subsection. The covenant or restriction shall not be amended without written City approval.

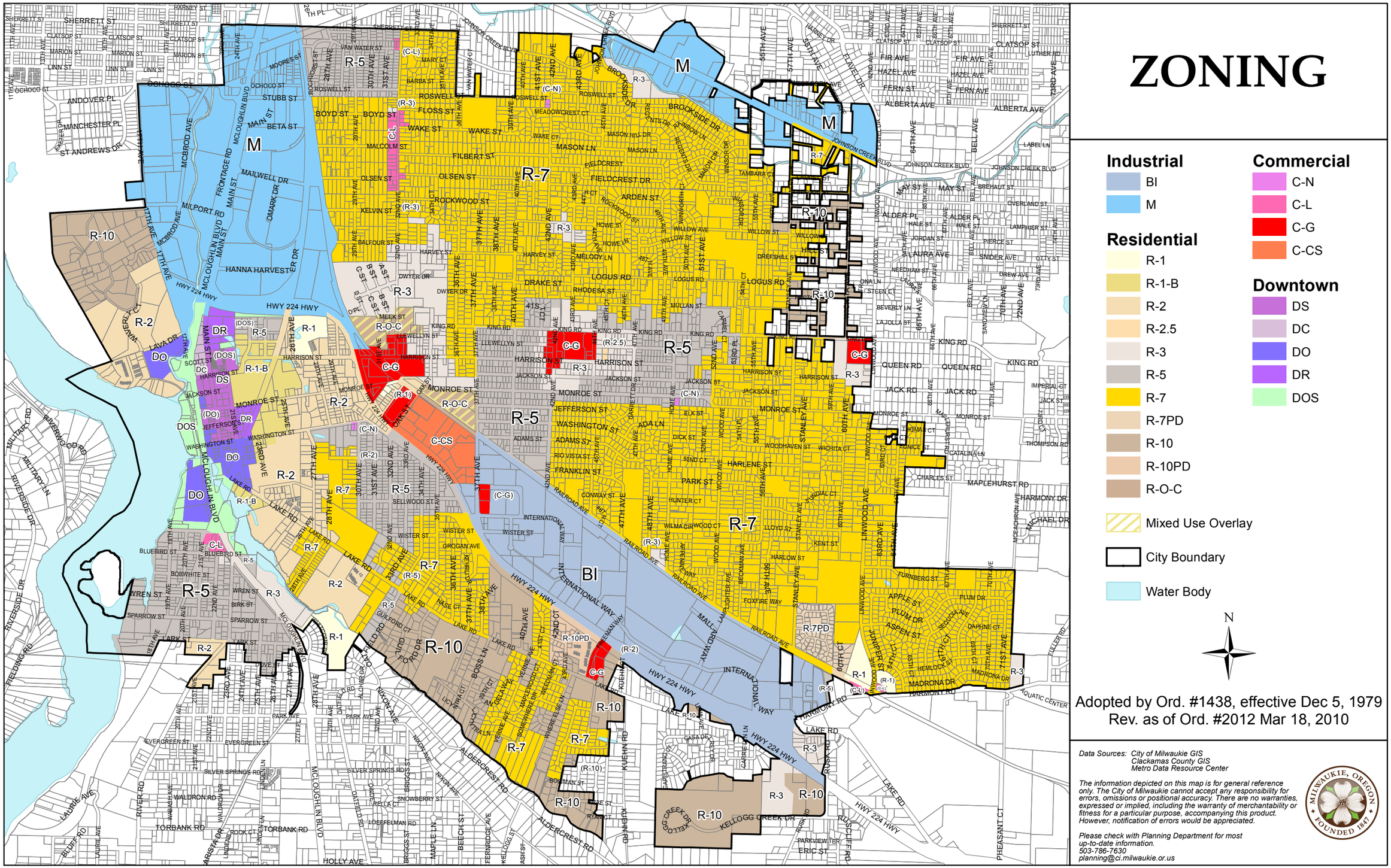
19.1203.8 Process for Approval

Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title~~, or in conjunction with building permit requests. The City's decision to grant or deny approval is intended to be ministerial~~.

Repeal Section 19.1204 Solar Balance Point.

Repeal Section 19.1205 Solar Access Permit.

ATTACHMENT 3



Residential Development Standards: Key Questions

Topic	Done	Key Question	Outcome
Single-family Dwelling Design Standards	☑	Milwaukie has design standards, though they are among the most lenient in the region. Should the current single family design standards be expanded?	YES
	☑	There are no standards that regulate the placement or design of garages. Should we add design standards for garages?	YES*
	☑	Currently, the design standards apply only to new construction. Should design standards apply to all large additions?	YES*
	☑	Should we have different standards for infill (within existing neighborhoods) than for new development within new subdivisions?	NO
	☑	All new buildings would have to comply with the design standards. Should there be an option for discretionary review to allow flexibility?	YES
Single-family Dwelling Development Standards	☑	Should new development be required to relate to the surrounding existing development (front setback, height, side setback)?	NO
	☑	Milwaukie has comparatively strict lot coverage standards. Should we allow more of a property to be covered by structures?	NO
Accessory Dwelling Units (ADUs)	☑	Should ADUs be allowed as separate, stand-alone structures?	YES
	☑	Should we add design standards for detached ADUs?	YES
	☑	Even where they are allowed, the process for approving an ADU is onerous. Should the process for approving an ADU be easier?	YES
	☑	Should development standards for detached ADUs be more strict than for primary structures?	YES
Multifamily Housing	☑	Apartments/condominiums are the only high-density housing type allowed. Should a broader array of housing types be allowed in high density zones?	YES
	☑	There are no design standards for multifamily development. Should we create building design standards for multifamily development?	YES
	☑	Should we add new compatibility standards for design & placement of multifamily development?	YES
	☑	Multifamily development is subject to basic development standards (height, setback, etc.). Should we make these standards more stringent?	YES
Duplexes	☑	Duplexes in low density zones require Planning Commission approval. Should there be circumstances where duplexes are allowed outright in low density zones?	YES
	☑	Should the minimum lot area for duplexes be reduced?	NO
Accessory Structures	☑	Existing regulations put considerable limits on accessory structure height and foot print. Should larger accessory structures be allowed on larger lot sizes?	YES
Other	☑	There is no allowance for small office/commercial uses in low density zones. Should we expand what uses can be conditionally permitted in these areas?	YES

* Key issue

ATTACHMENT 5

THIS IS TO NOTIFY YOU THAT THE CITY IS CONSIDERING ADOPTION OF LAND USE REGULATIONS THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY

(Land Use File #ZA-11-03)

MILWAUKIE
Dogwood City of the West

WHY THE CITY IS SENDING THIS NOTICE

State law requires cities to inform property owners about proposed land use regulation changes that may affect what development projects can be constructed on their property. You are receiving this notice because you are the owner of residentially zoned property in the City, or a property that is in residential use, and the proposed changes to the City's residential development and design standards potentially affect every residential property in Milwaukie.

HOW THE PROPOSED REGULATIONS MIGHT AFFECT YOUR PROPERTY

The land use regulations will revise the standards for residential development and design. If you are considering development or redevelopment of a residential property in the City, the proposed regulations may affect the standards the project is subject to and the process it would have to go through to gain approval.

WHY THE CITY IS PROPOSING NEW REGULATIONS

The City currently has design standards for new single-family homes, but there has been neighborhood concern about new infill housing (and significant additions) not being compatible with existing housing in height or scale. In addition, the City doesn't have design standards for multifamily housing and doesn't allow certain kinds of housing that many property owners want, such as detached accessory dwelling units (i.e. granny flats or mother-in-law suites), rowhouses, and cottage clusters. In response to these community concerns, City Council directed staff to address these issues through this project. As a result, the City is proposing to change its land use regulations, which are located in Title 19 of the Milwaukie Municipal Code, to revise the City's residential development and design standards.

THE PUBLIC PROCESS TO DATE

City Council directed the City's Planning Department to begin this project in 2009. These proposed regulations are the result of an 18-month long project to update the City's residential development and design standards. To date, City staff has conducted online surveys; interviews with community members; hosted stakeholder focus groups with Neighborhood Association leaders and developers; held a Housing Choices Workshop and a project Open House; and provided 13 staff updates to the Planning Commission and City Council. In February 2011, staff convened a 10-member project steering committee to guide the project policy.

A full description of public outreach activities to date is located at http://www.ci.milwaukie.or.us/planning/community-involvement-and-outreach. Although a great deal of work has been done, the project is ongoing and there are still opportunities for participation and comment.

HOW TO LEARN MORE ABOUT THE PROPOSED REGULATIONS

- The City will be hosting an informal question and answer session about the proposed amendments on **Thursday, February 16, from 3:30 to 6:30 p.m. in the City Hall Conference Room, 2nd floor**. If this time does not work for you, contact staff to set up another time to discuss the proposal.
- Project information is available at http://www.ci.milwaukie.or.us/planning/residential-development-standards-update-project.
- The proposed regulations, all supporting documents, and all applicable City ordinances are available for review at the Johnson Creek Facility (6101 SE Johnson Creek Blvd) or online at**:** http://www.ci.milwaukie.or.us/planning/residential-development-standards-update-project. Copies of the materials can be obtained at a reasonable cost.

WHO TO CONTACT WITH QUESTIONS

Li Alligood, Assistant Planner
Planning Department
6101 SE Johnson Creek Blvd; Milwaukie, OR 97206
Email: alligoodl@ci.milwaukie.or.us
Phone: 503-786-7627

SUMMARY OF PROPOSED CHANGES

- The regulations apply to new single-family houses and new multifamily buildings, as well as some additions to existing residential buildings.
- Density standards (the number of dwelling units permitted per acre) will not change. Rather, the regulations will provide additional tools to shape the design and form of multifamily development where it is already allowed.
- Proposed revisions to single-family standards include:
  - Establishing a maximum percentage of a house's façade that can be composed of a garage to make sure that garages do not dominate the front of the house.
  - Requiring additional design features on the street-facing walls of new houses to make sure that new houses contribute positively to the neighborhood and pedestrian environment.
  - Compatibility standards to make sure new houses respect existing houses.
  - Permitting detached accessory dwelling units in all residential zones. This would allow a property owner to have a smaller house in the rear of the lot, or an apartment above a detached garage.
- Proposed revisions to multifamily standards include:
  - Establishing design standards for multifamily residential development. This would require new multifamily development to meet site and building design standards.
  - Allow cottage cluster and rowhouse development in the zones where multifamily development is already allowed.
- Proposed revisions to accessory structure standards include:
  - Allowances for larger accessory structures with additional setbacks. Currently, accessory structures cannot exceed 500 square feet for a typical lot in the City.
  - Prohibiting tarps and other fabric structures where they can be seen from the sidewalk or street.
  - A new section for sustainability-related accessory structures, such as rainwater cisterns and wind mills.

HOW TO COMMENT ON THE PROPOSED REGULATIONS

The Milwaukie Planning Commission will hold a public hearing on the proposed changes (Land Use File #ZA-11-03) at the date, time, and location listed below:

Date: **Tuesday, February 28, 2012**
Time: **6:30 p.m.**
Location: **Milwaukie City Hall – 10722 SE Main Street – Council Chambers, 2nd floor**

The materials provided to the Planning Commission for the hearing will be available at 8:00 a.m. on Wednesday, **February 15, 2012**, at the Planning Department (6101 SE Johnson Creek Blvd), Ledding Library (local information shelf), City Hall (10722 SE Main St), and online at http://www.ci.milwaukie.or.us/planning/planning-commission-50. If the Planning Commission recommends approval, the proposed regulations will be considered for adoption by the Milwaukie City Council at a future public hearing.

The Planning Commission is interested in hearing your comments on this proposal. You are invited to attend any or all of the hearings and/or submit written comments to the Planning Department at alligoodl@ci.milwaukie.or.us before the hearing begins. You may also submit written comments or present verbal testimony at any or all of the hearings.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Wellness Center

December 15, 2010

City of Milwaukie
Chair and Member Planning Commision
c/o Katie Mangle, Planning Director
12323 SE 25th Ave
Milwaukie, OR 97222

Chair, Jeff Klein and Members of the Planning Commission,

I am a citizen and small business owner in Milwaukie. I own and live at 5111 SE Lake Road, where I operate the Milwaukie Wellness Center, a chiropractic and massage clinic. I would like the opportunity to expand my business into the rest of my current home but this is not allowed within the confines of a home occupation in an R-10 zone.

Currently the City allows professional offices as conditional uses only in R-3 zones. It is my understanding that the .city is undertaking a "Land Use and Development Review Project". I'd like the city to consider amending the code to allow professional offices as conditional uses in R-10 zones as well. In my case, the property is not conducive to residential development and is entirely appropriate for a small professional office. The current conditional use criteria allows the city to review each request individually, on it's own merits, and would not allow any professional office that wished to locate in an R-10 zone. Rather, each site and business would be reviewed for it's ability to meet the conditional use criteria that address surrounding uses and the impact of that use on it's neighbors..

I've discussed my desire to amend the code with the Lake Rd. neighborhood association and they are supportive. Based on that support and the suitability of the site for my business, I would like the Planning Commission to consider such a change as they review the residential standards, which I understand will begin after the first of the year.

As the city expands its boundaries and annexes previously unincorporated areas it will naturally include neighborhoods further away from the core downtown. Enabling professional offices under prescribed conditions along major roads, within walking distances of local neighborhoods would be an asset from both a functional and environmental standpoint.. It would also be a clear signal to the community that Milwaukie welcomes small businesses.

,Thank you in advance for your consideration of this matter. I would appreciate an opportunity to speak before the commission when you consider this matter.

Sincerely,

David Mealey, DC

David Mealey, D.C.
5111 SE Lake Rd. Milwaukie, OR 97222 (ph) 503-659-5900, (fax) 503 659-3388, www.milwaukiewellness.com

From: Steve Smelser
To: Alligood, Li
Date: Sunday, December 18, 2011 9:07:10 PM

Hi Li,

I have been thinking more about the garage width requirement in regards to a 2 story home. In reality the reason people build two story homes is because lots keep getting smaller and they are looking for smaller footprints. Because of this most two story homes are usually 50' wide or less. With these sizes, no two car garages would be allowed.

I went to "Mascord Home Design" and printed out five of their most popular two story homes. I put the percentage of the garage on the plan. As you can see, none of them would be allowed in Milwaukie. I believe they would meet all of the other design criteria you require except the garage width of 35%.

Additionally, all of these plans would qualify to be built in Oregon City, Gladstone, Clackamas County, Happy Valley and the city of Portland. Milwaukie would be the lone exception.

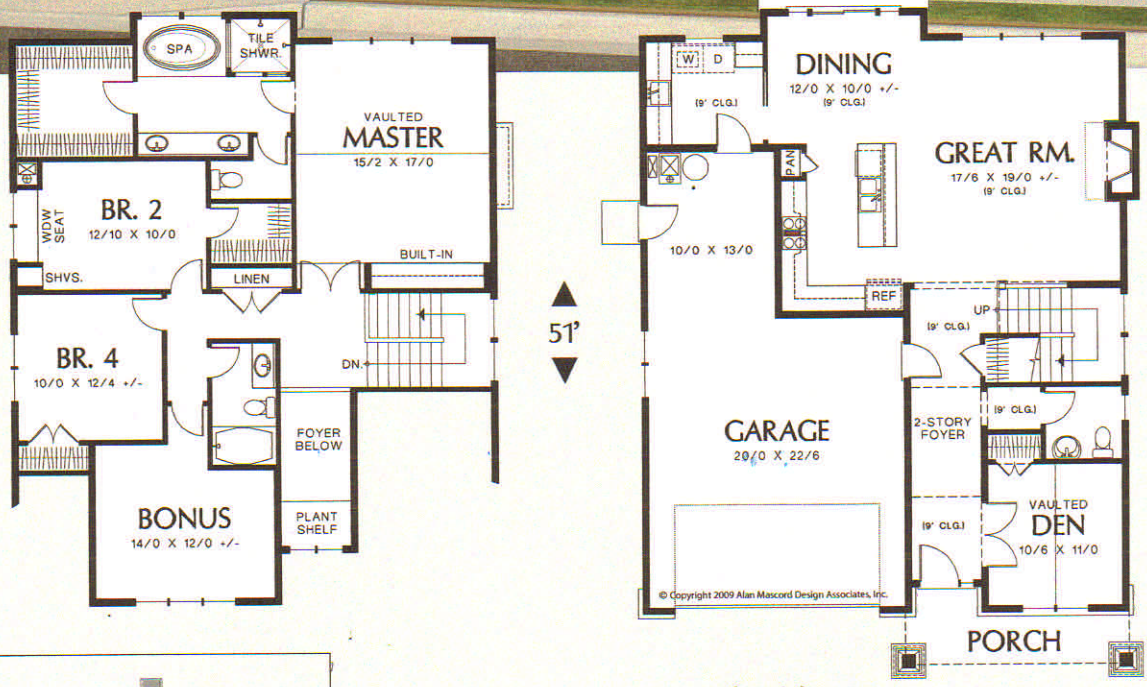
Respectfully,

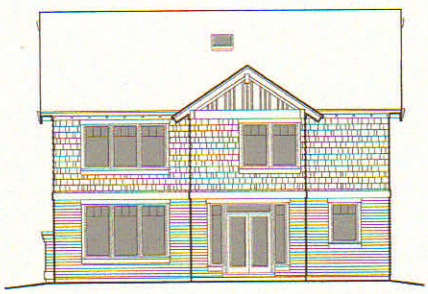
Steve Smelser
Steve Smelser Homes, Inc.
PO Box 1069, Clackamas, Or 97015
503-803-4068
srsmelser@q.com

Price Category

Plan 2230CD
The Olympia







garage = 52.5%

Upper Floor	1095 Sq. Ft.
Main Floor	1116 Sq. Ft.
Total Area	2211 Sq. Ft.
Bonus Room	+185 Sq. Ft.
Width 38'	Depth 51'
Height: 29'	Crawlspace

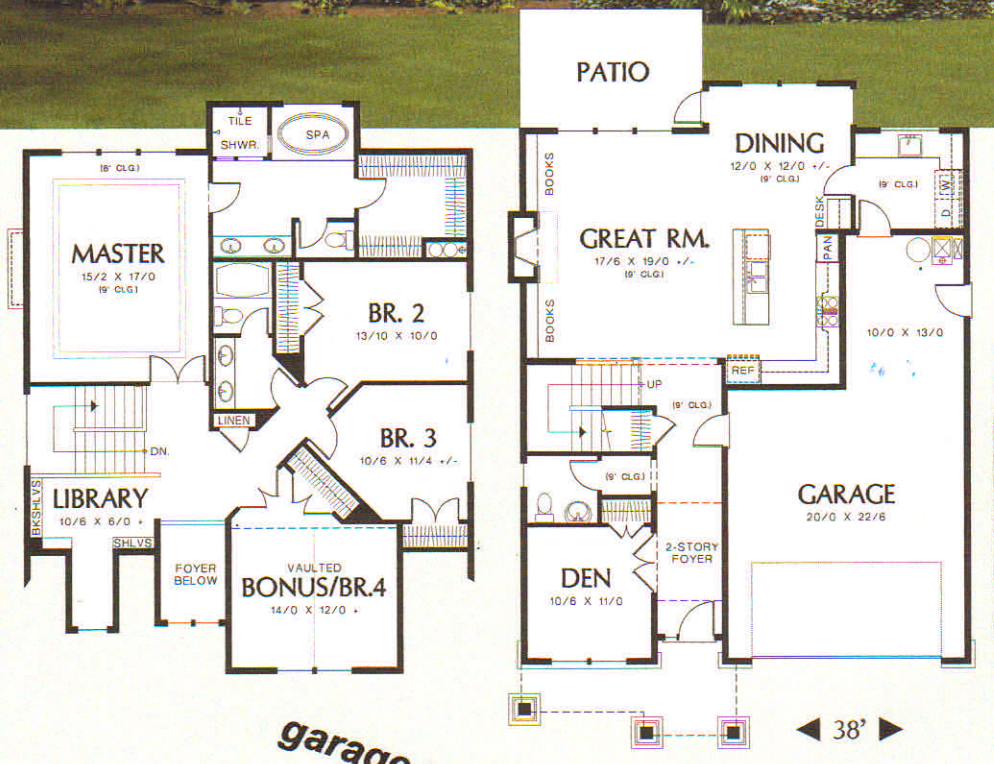
ALAN MASCORD DESIGN ASSOCIATES INC.
1305 NW 18th Ave., Portland, OR 97209 · 503.225.9161 · fax 503.225.0933
www.mascord.com

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Price Category

Plan 2230CE
The Morecambe





garage = 52.5%



Main Floor	1435 Sq. Ft.
Upper Floor	1142 Sq. Ft.
Total Area	2577 Sq. Ft.
Width 38'	Depth 55'
Height: 29'	Crawlspace

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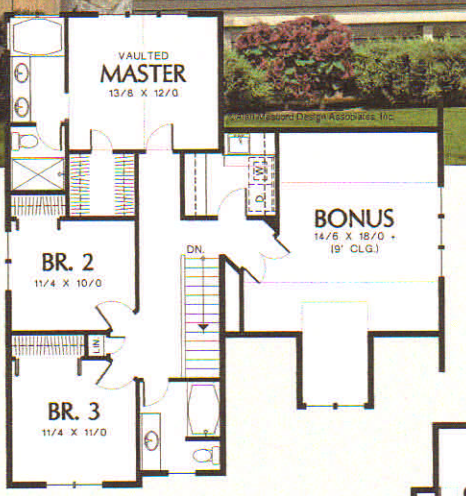
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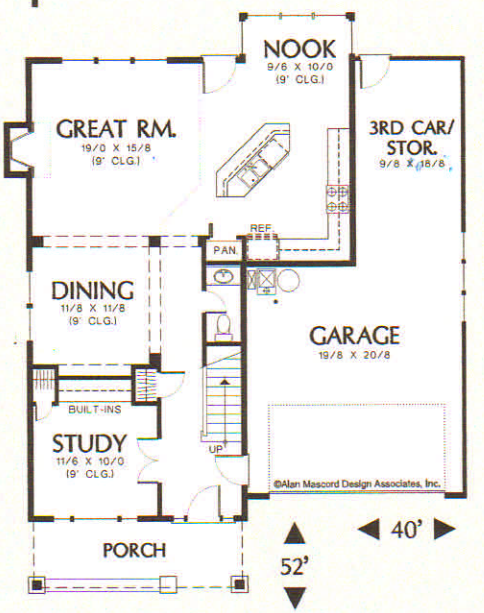


Price Category C

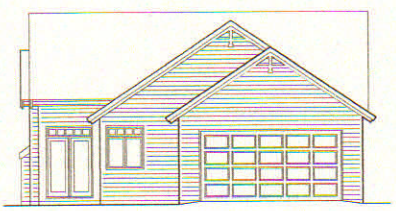
Plan 2164A
Malone

Upper Floor	864 Sq. Ft.
Main Floor	1082 Sq. Ft.
Sub-Total	1946 Sq. Ft.
Bonus Room	+358 Sq. Ft.
Width 40'	Depth 52'
Height 27'	Crawlspace





garage = 50%



UPDATED CRAFTSMAN

There are delightful surprises throughout this two-story home. A private study is furnished with handsome built-in storage. Impressive columns define the dining room. Upstairs, the master suite features a vaulted ceiling in the bedroom and a compartmentalized bath with a whirlpool tub in a windowed corner. And, there's the surprisingly large room above the garage, perfect for a studio or playroom.

A bounty of functional features also make this home a joy to inhabit. The angular kitchen island is outfitted with a sink and dishwasher and doubles as a snack bar. The breakfast nook is enclosed by windows, making meals feel alfresco. The full-service laundry room is conveniently sited near the bedrooms. The two-car garage offers an area at the back for storage of a third car, bikes, mower, and sports equipment.

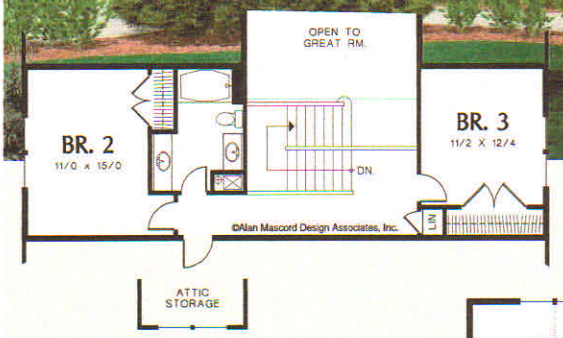
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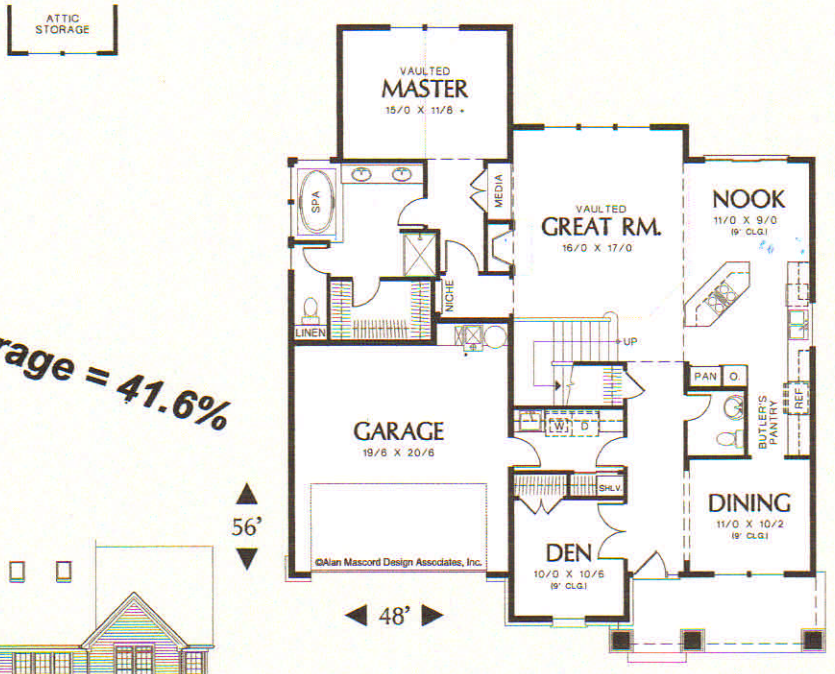
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Price Category D

Plan 22145
Ackley







garage = 41.6%



Upper Floor	614 Sq. Ft.
Main Floor	1675 Sq. Ft.
Total Area	2289 Sq. Ft.
Width 48'	Depth 56'
Height 27'	Crawlspace

OPEN, SPACIOUS BUNGALOW

With a nod to the details of the Arts and Crafts movement, this appealing bungalow has an eye-catching covered front porch, cedar-shingle accents and light-catching windows. All main-level spaces have nine-foot ceilings, except the great room, which features a scissor-vaulted ceiling, and the master salon, which is also vaulted. The main foyer separates a cozy den on the left from the formal dining room on the right.

A butler's pantry connects the dining room and the convenient kitchen. An angled peninsula containing the cooktop joins the kitchen to a casual nook. There is patio access here for outdoor entertaining. A gas fireplace, skylights and a built-in media center in the great room make it a comfortable place to relax.

Exquisite in design, the master suite includes a bath with spa tub, dual lavatories, separate shower, walk-in closet and compartmented toilet. On the upper level is a hall bath with dual lavatories to serve the two family bedrooms on this floor.

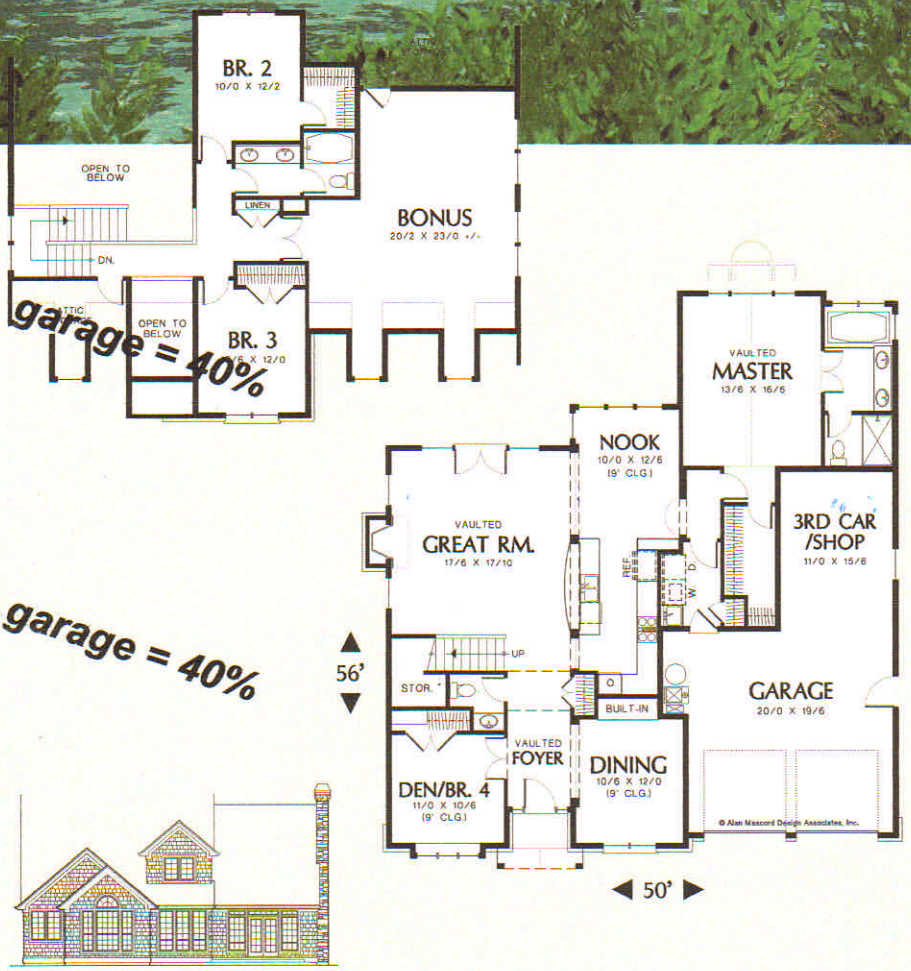
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Price Category D

Plan 22122
Greenspire



Upper Floor	538 Sq. Ft.
Main Floor	1658 Sq. Ft.
Total Area	2196 Sq. Ft.
Width 50'	Depth 56'
Height 28'	Crawlspace

FRENCH COUNTRY CHARM

This home's stone-and-cedar shingle facade is delightfully complemented by French Country detailing, dormer windows, and shutters at the large arched window and its second-story sister. The entry door features a transom and sidelights, which give natural light to the vaulted foyer.

A formal dining room, with built-ins, and a den--or bedroom--which opens through French doors, flank the foyer. A half-bath and coat closet are nice touches at the far end.

Containing a fireplace and double doors to the rear yard, the great room is further enhanced by a vaulted ceiling. The nearby kitchen has an attached nook with corner windows overlooking the back yard. A service hall, with laundry alcove, opens to the garage. There is space enough here for three cars or two and a workshop.

Bedrooms enjoy a split configuration: the master suite is on the main level; family bedrooms are upstairs. The master salon is well designed with a vaulted ceiling and Palladian window. Its bath sports a spa tub. Family bedrooms share a hall bath.

A huge bonus space on the second level provides for a future bedroom, games room, or home office. It is graced by two dormer windows. Note the large linen closet in the second-floor hall.

ALAN MASCORD DESIGN ASSOCIATES, INC.
1305 NW 18th Ave., Portland, OR 97209 ▪ 503.225.9161 ▪ fax 503.225.0933
www.mascord.com

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From: Steve Smelser
To: Alligood, Li
Subject: Proposed Code Amendments
Date: Sunday, December 18, 2011 9:20:33 AM

Hi LI,

I am responding to the proposed code amendments that affect single family homes in the city of Milwaukie.

On Section C. Standards.

C.1. Articulation -- I have no problem with the standards you have set forth.

C.2. Eyes on the Street – I have only one problem with this section and that is b. which states that windows in the garage doors do not count towards the 15% standard. In my experience, some people spend a lot of time in their garages working on projects or cars. It would seem that garage door windows would provide those who do with "eyes on the street". I believe that windows in the garage doors should count towards the 15%, just as the code proposed to count windows in a garage side wall that faces the front. Whats the difference if the glass is in the garage doors or the garage wall?

C.3. Main entrances – I am agreeable to these requirements.

C.4. Detailed Design - detail #h (horizontal lap siding). I would be much more comfortable with the visible portion being from 3" to 7" (instead of 3" to 6"). The most common form of siding used in todays market is Hardiboard siding which typically has 7" of reveal.

detail #k (recessed windows) – this is a very questionable practice in construction. By recessing a window 3", you create a perfect spot for water to infiltrate into the home.

19.505.2 Garage Standards -

C. Standards – 2. – 35% of the building width for a garage is way too small. A two car garage must be 20' wide by the time you have a 16' garage door and required structural panels on each side. A 50' wide home could only have a 17.5' wide garage. In order to have a two car garage with the 35% limit, a home would have to be 57' wide. Many existing lots in Milwaukie are not wide enough after required setbacks to build a 57' wide home home. Therefore, you either build a home with a one car garage (very unpopular) or you build a side load garage or a detached garage in the rear. Both of these methods create much more impervious surface and are worse for the environment. I have attached three scenarios on a lot in Milwaukie that I have some interest in and what this requirement will mean.

I believe that if you meet the "articulation", "eyes on the street", "main entrance" and "detailed design" requirements, that the garage will not be obtrusive and should not be limited to 35% of the front. It should be allowed to be at least 50% of the front or no limit at all. The city of Portland allows garages to be up to 50% of the front width.

Oregon City allows garages to be up to 60% of the width of the front façade. Clackamas County, Gladstone & Happy Valley have no limits. Most two story homes built today are narrower that 50' wide and would not be allowed a two car garage under this code.

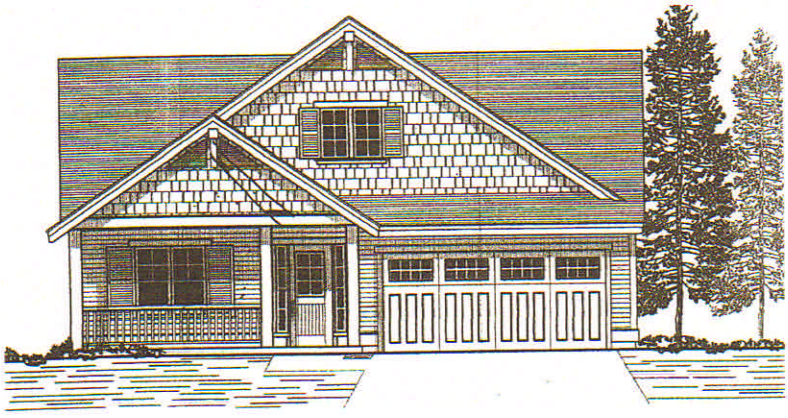
I have attached a copy of a home I built recently in Milwaukie on a 65' wide lot that would not be approved in Milwaukie under the proposed standards because of the 35% garage rule. I have drawn out three scenarios of a home on a 65' wide lot of how homes could be built. Only examples B & C would be allowed in Milwaukie if all other design items are met. As you can see, you waste a lot of land in concrete with this requirement.

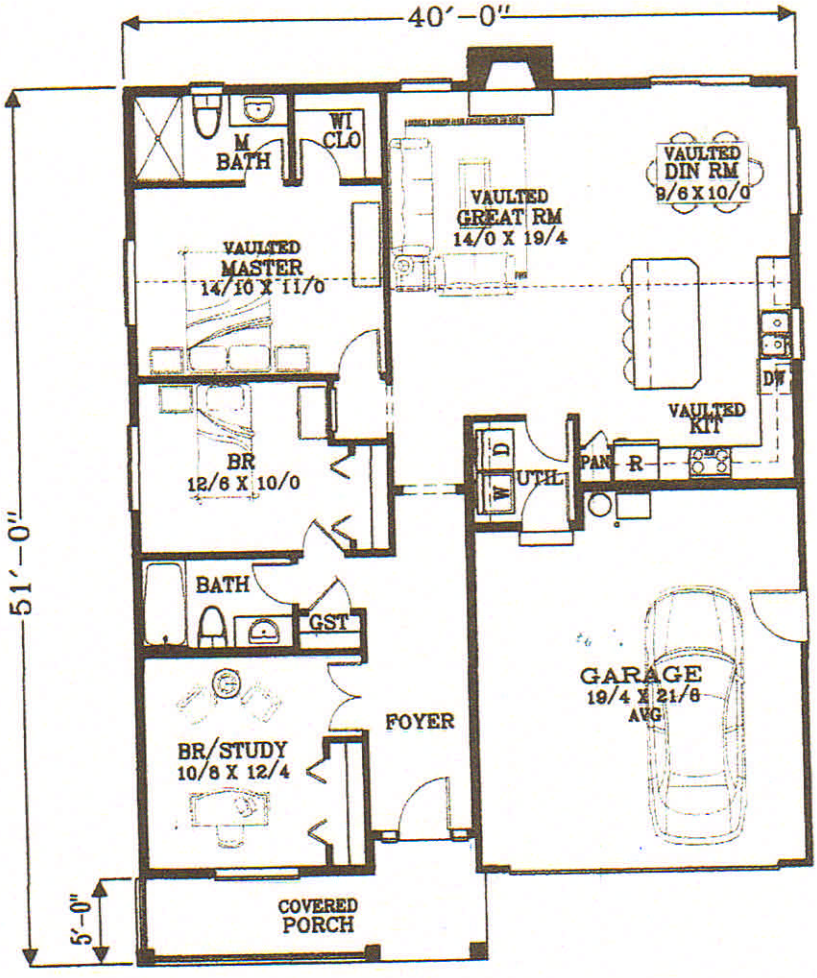
This particular plan would meet all design criteria in Portland, Gladstone, Oregon City, Happy Valley and Clackamas County, but not Milwaukie.

Please take these ideas into consideration.

Respectfully,

Steve Smelser
Steve Smelser Homes, Inc.
PO Box 1069, Clackamas, Or. 97015
503-803-4068
srsmelser@q.com





Example A

This home plan was built on a 65' wide lot in Milwaukie.
It meets all of the proposed design criteria for new construction except the 35% garage standard. In this plan the garage is actually 50% of the width.

Articulation - meets #1 & 4 therefore it qualifies.

Eyes on the street - meets the 15% rule even without the garage windows.

Main Entrance - meets rules

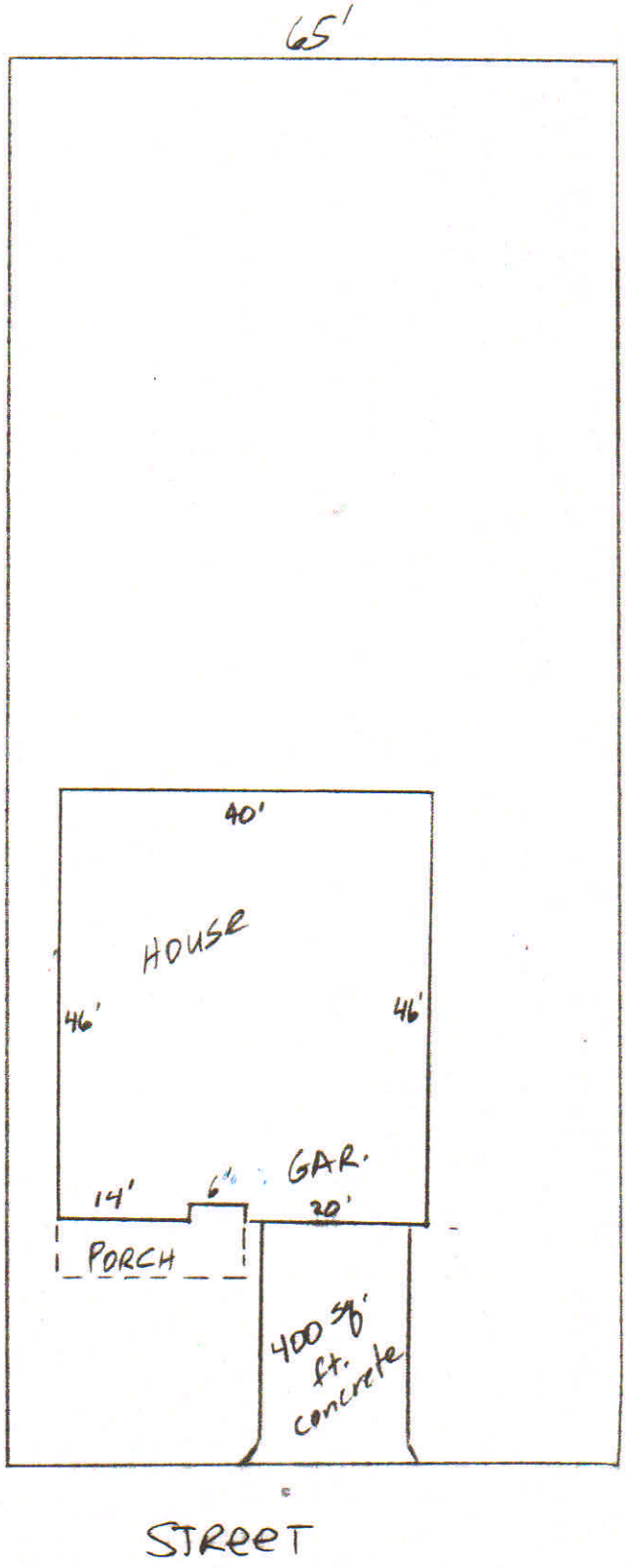
Additional Design - meets 8 design measures a, b, c, d, e, f, j, & k. only needs to meet 5.

Garage Standards - meets standard 1, does not meet the 35% standard. In this plan, the garage is 50% of width.

This plan would meet all design requirements of Clackamas County, City of Gladstone, City of Oregon City, City of Happy Valley and the City of Portland. We would be able to build this home in any of these jurisdictions. The only place we could not is Milwaukie.

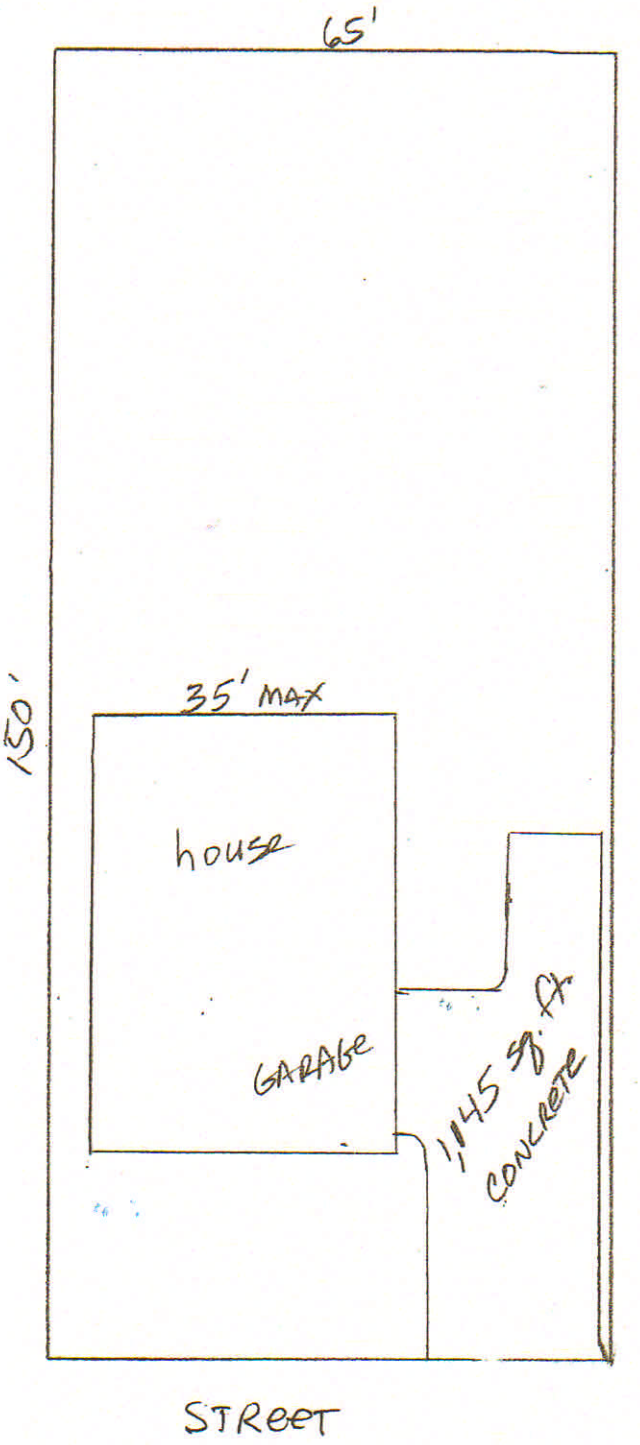
I built a home recently on a 65' X 153' lot in a R-7 zone that would not be allowed under the proposed change. After setbacks, you would be allowed to build a 50' wide home. 50 X 35% = 17.5' would be the maximum width of the garage which is not big enough for two cars. If the standard were 50%, you could build the attached home plan and meet all of the other design requirements. In this scenario, your driveway concrete would amount to about 400 square feet of impervious area.

Under the 35% rule, to get a two car garage (min. 20' wide), the home would have to 57' wide and the lot would need to be 72' wide.



Example A
home on 65' wide lot with current garage code

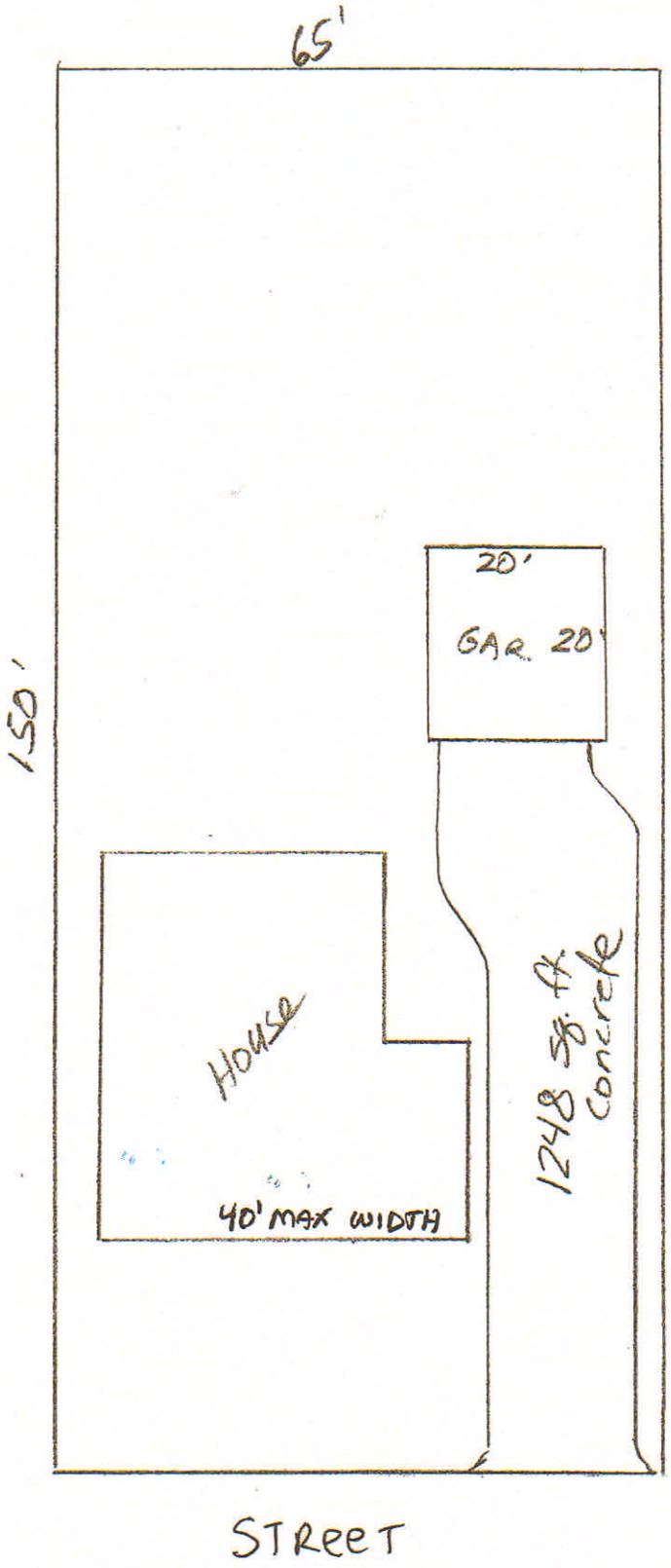
Under the proposed 35% garage standard, you could not have a two car garage on a 65' wide lot with existing setback requirements. You would either have to do a side entry garage or have the garage built behind the home. In this example, I have shown a side entry garage. In order to have enough room to make the turn into and out of the garage, the actual home would only be able to be 35' wide. In addition, you increase the impervious surface of the lot from 400 sq. ft. on a front loaded two car garage to at least 1,145 sq. ft. (almost three times as much concrete). This works against the goal of having as much pervious area and vegetation area as possible.



Example B

home built on 65' wide lot with 2 car side entry garage

Under the proposed 35% garage standard, you could not have a two car garage on a 65' wide lot with existing setback requirements. you would either have to do a side entry garage or have the garage built behind the home. In this example, i have shown a rear garage. In order to have the driveway wide enough to enter and back out, the home would only be allowed to be 40' wide. With this scenario you also increase the impervious area of the lot from 400 sq. ft. for a front loaded garage to approx. 1250 sq. ft. of concrete (over three times as much). This also works against the goal of having as much pervious area and vegetation area as possible. It also uses up valuable natural resources such as gravel. As you can tell, the garage also takes up a good part of the open rear yard area.



Example C

home built on 65' wide lot with 2 car rear garage.

Alligood, Li

From: Steve Smelser <srsmelser@q.com>
Sent: Sunday, December 18, 2011 9:28 PM
To: Alligood, Li

Hi again,

Sorry about another e-mail. I don't want to be a pest but I forgot one issue that a couple of others have brought up when talking to them about the proposed standards.

"Eyes on the street" requires 15% of windows or doors on the front facade of the home. If the garage is a side loaded garage, windows in the sidewall of the garage are counted, but if the garage is front loaded, garage door windows are not counted. Everyone asks me why you would count windows in one wall of a garage but not the other. This rule of not counting garage door windows doesn't seem to make sense.

Thanks,

Steve Smelser
Steve Smelser Homes, Inc.
PO Box 1069, Clackamas, Or 97015
503-803-4068
srsmelser@q.com

Milwaukie Wellness Center

December 21, 2011

City of Milwaukie
Chair and Member Planning Commission
c/o Katie Mangle, Planning Director
12323 SE 25th Ave
Milwaukie, OR 97222

Chair Batey and Members of the Planning Commission,

I am a citizen and small business owner in Milwaukie. I own and live at 5111 SE Lake Road, where I operate the Milwaukie Wellness Center, a Chiropractic and massage clinic. I would like the opportunity to expand my business into the rest of my current home but this is not allowed within the confines of a home occupation conditional use in an R-10 zone.

I have been following the proposed changes to the zoning code that would allow me to operate my wellness clinic in my home as an outright conditional use rather than the current home occupation. I am pleased that the proposed changes to the current code include the addition of professional offices as conditional uses in the R-10 zone. At the last Planning Commission work shop that I attended where this issue was discussed, there were concerns identified about how to apply limitations to the size of office use that could potentially occur in the low density residential areas. I believe that the proposed limitation of 2,000 square feet, unless otherwise authorized by the Planning Commission is a good solution to the concerns raised during the work session. As I indicated at the work session, my existing home, which I would like converted to the wellness clinic is currently 2200 square feet. The proposed language would allow me to request use of the entire structure for the wellness clinic at the same time that I apply for the conditional use. This is a reasonable approach.

I am writing to say that I support the language regarding office uses in the residential zone as proposed in the current draft. I plan to be present at your work session on January 10, 2012 and can answer any questions that you might have at that time.

Thank you to the staff and to you for your responsiveness in addressing the issues I have raised regarding my business in Milwaukie. I appreciate the time and energy you have put into this and other issues. Your actions send a clear signal to the community that Milwaukie welcomes small businesses.

Sincerely,

David Mealy DC

David Mealey, D.C.
5111 SE Lake Rd. Milwaukie, OR 97222 (ph) 503-659-5900, (fax) 503 659-3388, www.milwaukiewellness.com

Alligood, Li

From: Leslie Schockner <leslieschockner@gmail.com>
Sent: Friday, December 23, 2011 9:30 AM
To: Alligood, Li; Ragel, Beth
Subject: Questions on some of the code compliance language

Hi - I was reading the proposed new code and have a few questions. I have previously participated in commenting on some of this revision stuff due to my interest in accessory units, but have not had the chance to read the proposed actual code stuff before - and can now no longer find the link I thought I had to it, so if you could resend that, it would be helpful to me. So - unfortunately I can't quote chapter and verse here, but you probably know it well enough at this point to know what I am referring to. Here are my thoughts/questions - a prompt reply would be most appreciated.

1. I saw that there is a restriction on keeping chickens and other small livestock that is much more restrictive than what I was led to believe would occur, eg, limiting them to lots of an acre. My understanding is that currently Milwaukie does not restrict chickens except for banning roosters. Given that a source of eggs is important to many people health, self=sufficiency and monetary reasons, I don't understand where this provision to basically ban backyard livestock comes from. The code in Portland, a city much more dense than anything in Portland, not only allows, but encourages backyard poultry through specification of numbers, but also offers waivers for higher numbers. Likewise Portland allows small goats. All of the controversy with regards to backyard poultry in surrounding small cities has been to allow it - so I don't understand the rationale for such a draconian ban. I have neighbors on all sides with chickens which have not been a problem to anyone, and I would like to see this changed to be much more flexible. I am still interested in talking with you about why Milwaukie is doing this.
2. I have been told by one of the planners there when I did an interview on the residential standards that currently Milwaukie does not require a permit for buildings that are 200 sq ft or less. I think this is a good thing, and I don't see where it is being continued in the new standards. Is that going away, and if so why?
3. I saw some language that basically would ban all temporary structures such as the pole & canopy carport structures. I think for many people In Milwaukie this low cost option to cover vehicles or lawn equipment or woodpiles, is very important. I can understand a design standard, maybe, that would set limits on these in front yards, but I don't understand an outright ban. Where did this come from and why is it being done?

Thanks in advance for your prompt response to these questions. Feel free to call me to talk about it.

--
“Human salvation lies in the hands of the creatively maladjusted.” - MLK Jr

---

Leslie Schockner
Milwaukie, OR
503/501-9373
leslieschockner@gmail.com

Alligood, Li

From: Miranda Bateschell <Miranda.Bateschell@oregonmetro.gov>
Sent: Wednesday, January 11, 2012 3:16 PM
To: Alligood, Li
Cc: Christina Deffebach
Subject: ZA-11-03 / CPA-11-04

Li,

I just want you to know that I received and reviewed this the proposed code amendments related to this file number. Everything looks great and I am happy to see the addition of cottage clusters to your zoning code.

Hope all is well. Talk to you soon.

Miranda

Miranda Bateschell
Planning & Development Department
(503) 797-1817
Miranda.Bateschell@oregonmetro.gov

Metro
600 NE Grand Ave
Portland OR 97232
www.oregonmetro.gov

Alligood, Li

From: Frank Hemer Milwaukie <frankh@milwaukielumber.com>
Sent: Thursday, January 19, 2012 5:45 PM
To: Alligood, Li
Cc: Marquardt, Ryan; Mangle, Katie
Subject: Residential Design Standards

Hello everyone- here are a few notes I jotted down from the January 10th Planning Commission Meeting:

These issues are from the 5 out of 14 requirement list

Requirement: 3" width in trim
Issue: Trim boards are typically flat pieces of either lumber, fiber cement, PVC, or another man made substitution. All of these materials are called by there nominal width size. For example a 1"x4" board actual dimension is ¾"x3-1/2" , or 5/4"x6" dimension is 1"x5-1/2" (if you want to know the reason why look up Scribner's Rule).
Suggestion: If the intent of the requirement is to have 3" or more for trim and not allow 2-1/2" wide trim (uncommon but do-able) then to avoid confusion it should state: 3" nominal width in trim or minimum of 1"x4" board or 3" wide moulded trim.
Also, industry standards for doors are pre-hung on 2-1/4" shake mould or 2" brick mould. In my opinion the standard should be for window surround and exclude front or side entrance doors.
Also, board and batt (Tudor style-flat wall with trim every 2' or 4') are either 1-1/2" batts or 2-1/2" batts, would this qualify as trim?

Requirement: Façade 40% brick, stucco, or wood shingle
Issue- limits façade of house for expression of styles
Suggestion: Façade 40% not lap siding or reversed board and batt (t1-11 or the 4x8 premade panels). This would allow for stone, rock, board and batt, scallop, or even glass.

Requirement: Façade 40% brick, stucco, or wood shingle
Issue: potential cost of siding for the house
Suggestion: resemble the look of brick, stucco, or wood shingle. Faux "look a-like" products today are flawless and are easier to install, less expensive, and adequately provide the desired break-up in façade. For example 90% of the exterior columns in Portland with rock façade's are faux stone.

These issues are about garage standards:

Requirement: 35% of house being garage
Issue: promotes snout or garage dominant houses but just smaller- not promoting family sized square footage houses
Suggestion: If the garage faces the street it can not be more than 35% of the total façade facing the street. That way a two story house can have an attached 2 car garage but the garage is not the dominant feature.

I would also like to make a suggestion or a thought:
The proposed changes include environmental aspects like: wind and solar power alternatives, cisterns, selling vegetables from your greenhouse, allowing for natural eggs with no shelter required, and other well meaning, popular, and trendy aspects of living in the early 21st century. But at the same time we encourage more asphalt or concrete, more water run off, more soil disturbance, less green space, and a flat, boring, dark windowed 20' long façade (the garage wall facing the street because the garage door is facing the house next door) because of the "ugliness" associated with garage doors.
I understand the trend and the "desired" look, but I think some are missing the purpose of why the look developed. It was to maximize the structures livability square footage on small lots or modernize their dwellings to allow for automobiles without losing their living rooms. Many of Milwaukie's buildable lots do not have this problem.
I myself do not understand how at least 50' windmills, clucking chickens, and large greenhouses will beautify the Milwaukie, but I accept it. What I really can not grasp is the extra environmental damage and expense of more asphalt or concrete, longer overhead cables, more telephone poles, less green area, removed mature trees, and flat, boring, lifeless facades to "rid the ugliness" of garage doors.

Li or Ryan if you have any questions about the 5 requirements or the garage standards, please let me know. Also, you may submit it for public record or Commission review if you wish.

Thanks

Greg / Frank Hemer
office: 503-654-5417
fax: 503-654-5410
email: frankh@milwaukielumber.com
5822 SE Harrison St.
Milwaukie, OR 97222

Alligood, Li

From: Donnelly, Jennifer <jennifer.donnelly@state.or.us>
Sent: Tuesday, January 31, 2012 3:30 PM
To: Alligood, Li
Subject: Milwaukie 005-11

Hi Li –
Just following up on our conversation yesterday about the residential zone changes. The department had a few issues with the changes and consistency with the ORS.

- When you change single family attached to Duplex you might consider in the Comp Plan stating that duplexes are single family attached for consistency with Goal 10 and buildable land inventories for needed housing types – ORS 197.303
- Page 12 #2 How is the City going to measure affordability? Just curious.
- Page 12 #3 Manufactured housing has to be allowed where ever single family housing is permitted outright. The language is a bit misleading by saying it is encouraged.

Thanks, please let me know if you have any questions.
jennifer

Jennifer Donnelly | Metro Regional Representative
Community Services Division
Oregon Department of Land Conservation and Development
Portland Metro Regional Solutions
1600 SW Fourth Avenue, Suite 109 | Portland, OR 97201
Office: (503) 725-2183 | Cell: (971) 239-9451
jennifer.donnelly@state.or.us | www.oregon.gov/LCD/

Alligood, Li

From: Frank Hemer Milwaukie <frankh@milwaukielumber.com>
Sent: Thursday, February 02, 2012 3:09 PM
To: perraultjl@pella.com; David Aschenbrenner; Russ E Stoll; RUSS@PEAKCONTRACTORS.US; Loomis, Joe; Chaimov, Greg; Neil Hankerson; mark@markgamba.com; Ferguson, Jeremy; Lisa M Batey; Hedges, David; Miller, Mike
Cc: Alligood, Li; Marquardt, Ryan; Mangle, Katie
Subject: Amendment to Residential Standards - 100% Made in America Home as an option to meet 5 out of 15 residential facade requirements
Attachments: propsalresstandmilw.pdf

The other night during the City Council Residential Standards Work Session, I blurted out one quick statement about an amendment then tossed around some papers. I wanted to make sure that everyone understood the proposal and collected all of the information.

These are the major talking points to consider:

1. It is a choice not a requirement for residential buildings in the City.
2. It is meaningful and purposeful to the code
3. It is inexpensive to administer because the Builder or home owner needs to show the burden of proof
4. The city will collect the "list of materials" and "suppliers" that could be sold to anyone wishing to use this choice.
5. Because of the extra cost- smaller footprint of homes, more affluent citizens, and the builders and buyers are community orientated because they spent extra money for helping the American Economy
6. 1st in Nation with residential recognition and verification on Final Occupancy.
7. 1st in Nation to officially document 100% Made in America Homes.

If anyone would like to contact me or discuss this proposal please feel free to contact me at 503-849-0118 or email frank@milwaukielumber.com

We all have a chance in life to show that we can do something to help our friends, our neighbors, our community, our Country. This is one of those opportunities!

Thank you for your consideration-

Greg/Frank Hemer
5822 SE Harrison St.
office: 503-654-5417
fax: 503-654-5410
email: frankh@milwaukielumber.com

Proposed Amendment to 19.505.1.C4

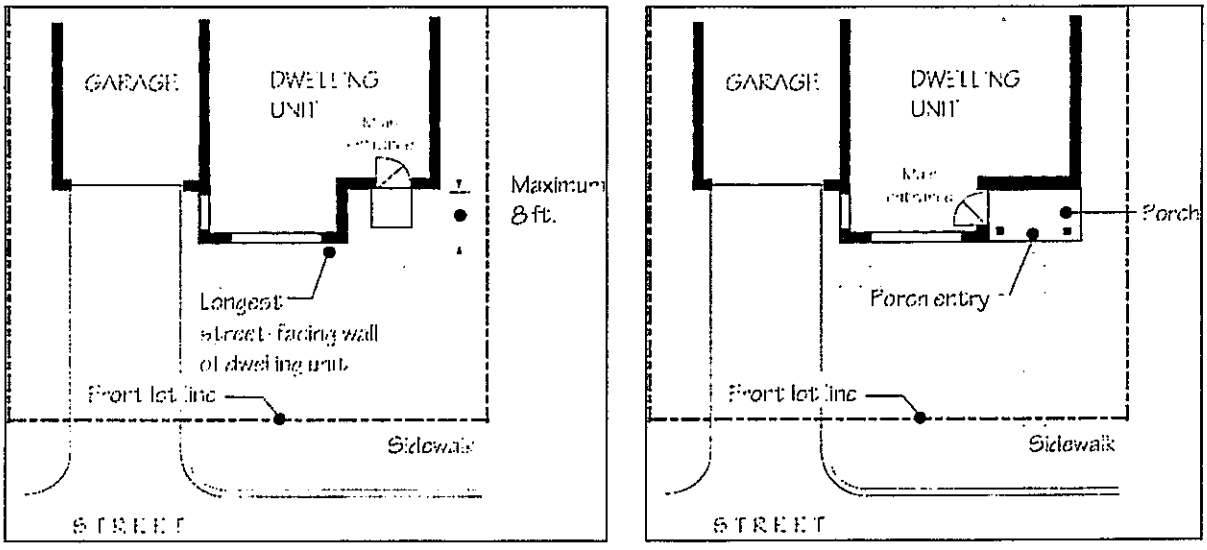
Current:
4. Detailed Design
All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

Proposed:
4. Detailed Design
All buildings shall include at least 5 of the following features on any street-facing façade or 4 of the following features on any street-facing façade and proven documentation of 100% Made in America Home. See Figure 19.505.1.C.4 for illustration of detailed design elements and 19.505.1.C.4.p

With the addition of:

Proposed:
19.505.1.C.4.p- For Final Occupancy Permit, the permitted address much submit the required details for proof of 100% Made In America Home to the Final Occupancy Permit Issuer
Required details:

- Typed list with following information
  - Description of all material or product remaining at time of final occupancy
    - on tax lot
    - for the structure
    - inside the structure
  - Manufacture of material or product remaining at time of final occupancy (brand)
  - City and State of manufacturing
- Receipts for above products with the following guidelines
  - Supplier's name
  - Supplier's address
  - Organized and coordinated with typed list
  - Legible



4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

c. Offset on the building face of at least 16 in from one exterior wall surface to the other.

d. Dormer that is at least 4 ft wide and integrated into the roof form.

e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

f. Roof line offsets of at least 2 ft from the top surface of one roof to the top surface of the other.

g. Tile or wood shingle roofs.

h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). Only wood, hardiplank, or other similar lap siding material will be credited toward counting as a design detail. Vinyl siding with the appearance of lap siding is not prohibited, but shall not be credited as a design detail.

i. Brick, cedar shingles, stucco or other similar decorative materials covering at least 40% of the street-facing façade.

j. Gable roof, hip roof, or gambrel roof design.

k. Window trim around all windows at least 3 in wide and 5/8 in deep.

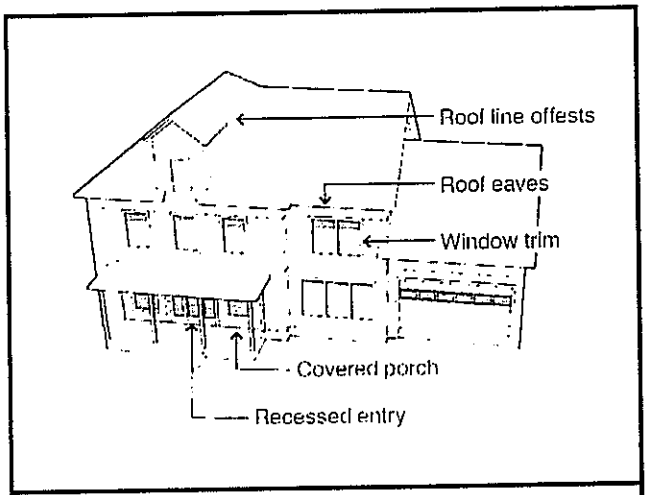
l. All windows recessed at least 3 in as measured horizontally from the face of the building façade.

m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 200 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft in depth and 5 ft in length.

Figure 19.505.1.C.4
Detailed Design Elements



Design standards for detailed design

5. Standards for Duplexes

In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.

a. The exterior finish of the structure must be the same for both units.

b. The eaves must be uniform for entire structure.

c. The window and door trim must be the same in type, size, and location for entire structure.

d. Windows must match in proportion and orientation for entire structure.

e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, one main entrance with internal access to both units is allowed.

f. For duplexes facing one frontage, the following standards apply.

(1) Only 1 entrance is required to face the frontage.

(2) Where more than one entrance to the structure faces the street, each separatee entrance is required to meet the standards of Subsection 19.505.1.c.3.

(3) A second entrance from a side or rear yard is not allowed within 10 feet of side or rear property line.

100% Made in America Proposal

Concept:

Based on the Diane Sawyer's ABC broadcast (see attachment)

All material, hardware, fixtures, etc… inside and outside must be material manufactured from inside the United States
Results in a stronger and growing United States Economy. If, we as Citizen's, can participate or create an economic turn-around to help ourselves, our neighbors, and our Country, then we should encourage our leaders in Local Municipalities to reward Citizen's whom make a that patriotic decision!

Living model:
Lake Grove Neighborhood, Lake Oswego, Clackamas County
Westlake Development, owner Gerald Rowlett
WWW.WestlakedevelopmentLLC.com
503-698-5912
1st 100% Made in America Home in the Pacific Northwest
Please contact if you would like more details than provided below

How does this apply?
See attached table

BASIS OF COMPARISON	CURRENTLY PROPOSED OR NON CHANGED	100% MADE IN AMERICA
ECONOMICS	addresses new economics of the 21st Century, new standards of ADU's, duplexes, and cottage clusters provide living spaces for younger adults living with parents, older adults who need more care, extra income for existing homeowners	creates jobs in Milwaukie, Clackamas County, Oregon, and the Nation. Changes economics of 21st Century from scrimping, struggling, and foreclosure to prosperity, home ownership, and discretionary income
QUALITY OF FOOD AND HEALTH	CSD, greenhouses, sustained living	jobs create dental and medical plans, decreasing depression, improving pride, honor, and self esteem. Jobs provide for the purchase of quality foods, not quantity foods. Labor Laws are adhered to and practiced
IMPROVING ENVIRONMENT	Cisterns, windmills, and solar orientaion	manufacured using high standards of energy creation and consumption, EPA laws are enforced, transportation is strictly monitored for pollution, less traveled miles uses less energy consumption
INCREASING PROPERTY VALUES	standards of excellence, varity and choice, opportunties for unique structures and neighborly compliance	choice of spending 10% more on house to help economy, leaqds to smaller footprints while increases property value and affluence. Promotes home ownership and more local jobs, better quality and better manufactured products last longer and in need of less repair
QUALITY OF LIFE	standards for citizens, a neighbor, a neighborhood, and a city	not just for pride for homeowner but also spreads to communties, regions, and even a country

THIS IS TO NOTIFY YOU THAT THE CITY IS CONSIDERING ADOPTION OF LAND USE REGULATIONS THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY

(Land Use File #ZA-11-03)

MILWAUKIE
Dogwood City of the West

WHY THE CITY IS SENDING THIS NOTICE

State law requires cities to inform property owners about proposed land use regulation changes that may affect what development projects can be constructed on their property. You are receiving this notice because you are the owner of residentially zoned property in the City, or a property that is in residential use, and the proposed changes to the City's residential development and design standards potentially affect every residential property in Milwaukie.

HOW THE PROPOSED REGULATIONS MIGHT AFFECT YOUR PROPERTY

The land use regulations will revise the standards for residential development and design. If you are considering development or redevelopment of a residential property in the City, the proposed regulations may affect the standards the project is subject to and the process it would have to go through to gain approval.

WHY THE CITY IS PROPOSING NEW REGULATIONS

The City currently has design standards for new single-family homes, but there has been neighborhood concern about new infill housing (and significant additions) not being compatible with existing housing in height or scale. In addition, the City doesn't have design standards for multifamily housing and doesn't allow certain kinds of housing that many property owners want, such as detached accessory dwelling units (i.e. granny flats or mother-in-law suites), rowhouses, and cottage clusters. In response to these community concerns, City Council directed staff to address these issues through this project. As a result, the City is proposing to change its land use regulations, which are located in Title 19 of the Milwaukie Municipal Code, to revise the City's residential development and design standards.

THE PUBLIC PROCESS TO DATE

City Council directed the City's Planning Department to begin this project in 2009. These proposed regulations are the result of an 18-month long project to update the City's residential development and design standards. To date, City staff has conducted online surveys; interviews with community members; hosted stakeholder focus groups with Neighborhood District Association leaders and developers; held a Housing Choices Workshop and a project Open House; and provided 13 staff updates to the Planning Commission and City Council. In February 2011, staff convened a 10-member project steering committee to guide the project policy.

A full description of public outreach activities to date is located at http://www.ci.milwaukie.or.us/planning/community-involvement-and-outreach. Although a great deal of work has been done, the project is ongoing and there are still opportunities for participation and comment.

HOW TO LEARN MORE ABOUT THE PROPOSED REGULATIONS

- The City will be hosting an informal question and answer session about the proposed amendments on **Thursday, February 16, from 3:30 to 6:30 p.m. in the City Hall Conference Room, 2nd floor**. If this time does not work for you, contact staff to set up another time to discuss the proposal.
- Project information is available at http://www.ci.milwaukie.or.us/planning/residential-development-standards-update-project.
- The proposed regulations, all supporting documents, and all applicable City ordinances are available for review at the Johnson Creek Facility (6101 SE Johnson Creek Blvd) or online at: http://www.ci.milwaukie.or.us/planning/residential-development-standards-update-project. Copies of the materials can be obtained at a reasonable cost.

WHO TO CONTACT WITH QUESTIONS

Li Alligood, Assistant Planner
Planning Department
6101 SE Johnson Creek Blvd; Milwaukie, OR 97206
Email: alligoodl@ci.milwaukie.or.us
Phone: 503-786-7627

We need an ordinance pro-
hibiting those ugly tents springing
up to cover cars & RVs. Oswego
and Boring have done this last
year —

Floyd Bennett

SUMMARY OF PROPOSED CHANGES

- The regulations apply to new single-family houses and new multifamily buildings, as well as some additions to existing residential buildings.
- Density standards (the number of dwelling units permitted per acre) will not change. Rather, the regulations will provide additional tools to shape the design and form of multifamily development where it is already allowed.
- Proposed revisions to single-family standards include:
  - Establishing a maximum percentage of a house's façade that can be composed of a garage to make sure that garages do not dominate the front of the house.
  - Requiring additional design features on the street-facing walls of new houses to make sure that new houses contribute positively to the neighborhood and pedestrian environment.
  - Compatibility standards to make sure new houses respect existing houses.
  - Permitting detached accessory dwelling units in all residential zones. This would allow a property owner to have a smaller house in the rear of the lot, or an apartment above a detached garage.
- Proposed revisions to multifamily standards include:
  - Establishing design standards for multifamily residential development. This would require new multifamily development to meet site and building design standards.
  - Allow cottage cluster and rowhouse development in the zones where multifamily development is already allowed.
- Proposed revisions to accessory structure standards include:
  - Allowances for larger accessory structures with additional setbacks. Currently, accessory structures cannot exceed 500 square feet for a typical lot in the City.
  - Prohibiting tarps and other fabric structures where they can be seen from the sidewalk or street.
  - A new section for sustainability-related accessory structures, such as rainwater cisterns and wind mills.

HOW TO COMMENT ON THE PROPOSED REGULATIONS

The Milwaukie Planning Commission will hold a public hearing on the proposed changes (Land Use File #ZA-11-03) at the date, time, and location listed below:

Date: **Tuesday, February 28, 2012**
Time: **6:30 p.m.**
Location: **Milwaukie City Hall – 10722 SE Main Street – Council Chambers, 2nd floor**

The materials provided to the Planning Commission for the hearing will be available at 8:00 a.m. on Wednesday, **February 15, 2012**, at the Planning Department (6101 SE Johnson Creek Blvd), Ledding Library (local information shelf), City Hall (10722 SE Main St), and online at http://www.ci.milwaukie.or.us/planning/planning-commission-50. If the Planning Commission recommends approval, the proposed regulations will be considered for adoption by the Milwaukie City Council at a future public hearing.

The Planning Commission is interested in hearing your comments on this proposal. You are invited to attend any or all of the hearings and/or submit written comments to the Planning Department at alligoodl@ci.milwaukie.or.us before the hearing begins. You may also submit written comments or present verbal testimony at any or all of the hearings.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Note enclosed -

To -

J FLOYD & ELAINE M BENNETT
12101 SE 36TH AVE
MILWAUKIE OR 97222-6907

**********AUTO**5-DIGIT 97222

11-1425

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Milwaukie, Oregon 97206

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Alligood, Li

From: Linda Hedges <linda@hammy.org>
Sent: Friday, February 10, 2012 9:53 AM
To: Marquardt, Ryan
Cc: Mary Weaver
Subject: HCNDA questions
Attachments: Comments on proposed Res Standards.doc

Hi Ryan
Our NDA Board met the other day and I have attached a list of questions we had relating to the Residential Standards Update. I have to admit, I thought someone from your office was coming to talk about Residential Standards and not Commercial uses, so we didn't even talk about that. However, you have your slot on our agenda, so if people have questions about any of the topics your staff are working on right now, they will have an opportunity to ask. See you Monday night! (or someone).
Linda Hedges

_____
The best car safety device is a rear-view mirror with a cop in it.

February 13, 2012

TO: City of Milwaukie Planning staff

From: Hector Campbell NDA Leadership Team

RE: comments on proposed Residential Design and Development Standards

1. Do the proposed standards address maintenance of houses in foreclosure? We believe there should be some way to address maintenance so that health and safety issues are not caused by broken water pipes, unrepaired roofs, broken toilets or sinks, all which could contribute to the growth of mold, or electrical disrepair, or unsecured doors, garages or windows, which could contribute to injury or to squatters. Without requiring the lien holder to remodel the property, some provision should be created to hold the lien holder responsible for lawn mowing, and maintenance effecting security, safety and health within the property.

2. Do the standards specify which “fowl” are to be allowed? Some “fowl”, such as geese, peacocks, emus or turkeys, would be undesirable if allowed to be farmed in a family plot. We suggest that you use specific language such as “chickens, game hens, or guinea hens”.

3. Do the standards address the number of beehives allowed? Notification of neighbors? Someone whose family member is allergic to bee stings should be able to object to the location of hives adjacent to their dwelling, therefore, neighbor notification should be required. Also, a cap of “X” (some relatively small number) should be placed on the total number of hives allowed, and some restrictions should be placed so that hives are not able to be located adjacent to sidewalks or public access areas.

4. Do the standards address sufficiently the prohibition against dumpsters, RVs, tent coverings, boats, broken-down vehicles, commercial vehicles, and trailers on residential properties?

5. We have concerns that by approving the addition of Detached Dwelling units, these units may adversely affect surrounding property owners’ enjoyment of their own property. What restrictions are placed upon the use of these dwellings? When someone builds one to house a relative, and later the whole property is sold, what, if anything, would keep the subsequent owner from using it as a rental unit? Could the area upon which the DDU was placed be subdivided and sold as an individual property at R5?

6. Proposed options could include: a) choosing all USA produced products: LEED upper-level certified product use for a high percentage of the building; and c) to strive for a much higher percentage of housing that incorporates sustainable choices

7. Should the policies incorporate a requirement upon house sellers for full disclosure of existing oil tanks, underground rain cisterns, or septic tanks, even if decommissioned?

What requirement should be placed on the seller for decommissioning and removing wind turbines or windmills or solar panels if the new owner does not intend to use them? Or of making safe old oil tanks or septic tanks.

8. Relating to the standards allowing small businesses to be built or open on arterial roads: we support small home-sized structures that meet parking standards, with no drive-thru or fast food outlets or gas stations. We would especially support a small coffeehouse, bed and breakfast establishments or bakeries or delis.

9. We have a concern that, as Railroad Avenue is considered an arterial, these standards would possibly be applied to this street, but because of the nature of this street, this could create safety and parking issues.

Alligood, Li

From: james knight <jknight367@gmail.com>
Sent: Tuesday, February 14, 2012 1:12 PM
To: Alligood, Li
Subject: Milwaukie detached ADU proposal

Hi Li, I sent this letter to you via post but I thought I'd email you a copy also in case it helps you in keeping a record. Thanks, James

To: Li Alligood, Assistant Planner
Planning Department
6101 SE Johnson Creek Boulevard
Milmaukie, OR 97206

Dear Milwaukie Planning Department,

It is my understanding that you are considering a rule change that would allow for detached accessory dwelling units within the city limits.

As a resident of Milwaukie I wish to express that I am very much in favor of such a rule change. I think there are many social, financial, and ecological benefits to ADUs and the more we can encourage or favor them the better.

To fully take advantage of those benefits I would like to see you do all you can to make it easy for homeowners to convert existing permitted structures such as garages, shops, guest houses, etc to detached ADUs. An example would be to have less stringent standards in regards to distance to property lines than you might for a new built structure. These already existing structures provide the least financial burdens, are a more sustainable use of resources, and will have the least impact on the environment. Thus I believe they deserve special consideration.

I appreciate that you are taking up this proposed rule change. I assume you are probably already aware of the many benefits of ADUs but if not I am willing to communicate mine and others views on the subject.

Thank you for considering my opinion on this matter.

Sincerely,
James Knight
10987 SE 28th Ave
Milwaukie, Or. 97222
jknight367@gmail.com

February 12, 2012

Dear City of Milwaukie Planning Commission,

Thank you for working on standards for new structures as ADU's.

Will you also consider regulations for existing ADU's? Is there a way for people to use space and resources they already have to add housing options to the city? Can already existing structures be grandfathered in to the codes so there can be creative use of space? We ask you to make it possible to make unused space available to those who are looking for more affordable housing.

So, things don't get out of hand and go willy-nilly, provisions could be added to the zoning ordinance, for example limiting one ADU per main dwelling unit. Or maybe a maximum percentage of the building to be altered for a tenant could be specified.

Thanks you for considering our requests.

Sincerely,

Wes and Sandra Burch
11388 SE 45th Ave
Milwaukie, OR 97222

Alligood, Li

From: wholinghands@gmail.com on behalf of Darshan Yoriko Takui <darshanyoriko@takui.net>
Sent: Thursday, February 16, 2012 8:06 AM
To: Alligood, Li
Subject: Milwaukie ADU Lette

Dear Planning Department,

I have received information that you are proposing new regulations for multifamily housing.

I would like to express my opinion that I favor allowing for detached accessory dwelling units and for formulating the regulations to make it possible to convert existing external structures such as garages, artist studios, and the like to dwelling units. These latter structures can provide the easiest avenue to creating more alternative housing without having to use up more green space.

You might also consider grandfathering in any nonconforming dwellings that have already been used for some time, and naming them conforming.

Thank you for your consideration,

Yoriko Takui
11861 SE 28th Ave.
Milwaukie, Or. 97222

--
'One cannot see well except with the heart, the essential is invisible to the eyes.'
"The Little Prince" by Saint Exupery

http://www.takui.net/yoriko/

From: Ray Bryan
To: Alligood, Li
Subject: Residential Standards
Date: Thursday, February 16, 2012 7:35:46 AM

Li,

Thank you very much for the answers to my questions. I would prefer that this email be added to the record, rather than the questions that I asked yesterday. Unfortunately Thursday's open house conflicts with the Portland Milwaukie light rail CAC meeting so I will not be able to attend.

To begin, I need to acknowledge the time, outreach, and effort by the planning department in doing this project. The citizens of Milwaukie are very fortunate to have a planning department that is knowledgeable, thoughtful, and very accessible to the public.

I would also like to thank the residents that served on the advisory committee and those that attended the outreach sessions.

I have one concern with the detached accessory dwellings part of this project and I have a second concern not addressed in this code change, but related to the goals I hope this project achieves.

My first concern is when detached units are being built in the back yards of properties in existing neighborhoods. I believe the code needs to protect the adjacent properties from the negative impacts.

My understanding is that changes in the code will allow for larger structures in the backyards of some properties, and that other than set backs, there is not any provision for mitigating the impacts to the properties next door. Those impacts include light, noise, cars and the presence of people added to the environment that was previously private.

I am fully supportive of the need for these accessory units, but I don't think their presence should negatively impact the properties next door. Minimally if cars are driving to the unit there should be a sight obscuring fence such a required by flag lots. I also think that inclusion of the neighboring property owners on the process would help. Variables such as elevation can impact the intrusiveness of a development as well.

Finally, thanks to our elected officials and talented staff we are finally going to have improved design standards, standards for multifamily housing, and a clear and concise code. What I find missing to complete this picture is something that requires a minimum standard of maintenance. I am not asking that it be added to this project, but what good do all these standards accomplish if something can be started and not finished, completed but not maintained, or not properly managed?

Thank you,
Ray Bryan

Alligood, Li

From: Linda Hedges <linda@hammy.org>
Sent: Wednesday, February 15, 2012 7:46 PM
To: Alligood, Li
Subject: Fw: Residential Standards

> Li - I just want to raise one issue that has come to my attention,
> that I wonder if the Residential Standards project can/should address.
> You perhaps know about the house on 27th near Monroe next door to Ray
> Bryan and Perry Chambers. This house has been being remodeled for
> several years. The homeowner stopped before he completed the remodel
> and has left it in a horrible state ever since. This is devaluing the
> property of the homes around it and is ugly as hell. The yard is not
> finished and the muddy runoff is a source of pollution in the
> stormwater system. There are other houses around town that are in a
> poor state and/or have been burned and left standing. It really needs
> to be addressed. This is not addressed under the city's nuisance
> ordinance. If you are going to set standards, then it seems reasonable to address existing housing and the state of repair or disrepair.

> Thanks,
> Linda Hedges
> co-Chair Hector Campbell NDA

_____
The best car safety device is a rear-view mirror with a cop in it.

To: City of Milwaukie
From: Phyllis M. Mazzarella
Date: February 16, 2012
Subject: Residential Standards + ADU's

I am a strong proponet of Accessory Dwelling Units.

As the population of Baby Boomers ready for retirement, those will need income of some type since their retirement funds are down or non-existent, lost their house to foreclosure, live below the poverty level post dissolution and high unemployment will necessitate less expensive and more plentiful places to live.

ADU's are a win-win for the owners who might lose their homes and those that already have a desperate need for housing that still allows them to eat.

To penalize new owners by not allowing them to rent property that after 50 years or more is a hazard seems wrong and unjust. How many individuals have resided in their apartments over garages or in basements? Grandfather these multiple space saving dwelling quarters.

Many thanks to all involved.

Phyllis M. Mazzarella
10905 SE Lake Rd Apt B
Milwaukie, OR 97222
phyllismazzarella2011@gmail.com

RESIDENTIAL STANDARDS OPEN HOUSE
Q&A SESSION
FEB. 16, 2012

COMMENT CARD

(Use backside if needed)

1. Which project recommendation do you support the most? Why?

Turning garage's separate from home into Living Area

2. Which project recommendation are you most concerned about? Why?

3. Which project recommendation do you still have questions about? Why?

4. Did we miss anything?

Contact Information (optional):

Name: Donna Morrow Email: _____

Property Address: 3521 SE Sellwood

Would you like e-mail updates about this project? Yes ☐ No ☐ Already receiving ☐

THANK YOU!

RESIDENTIAL STANDARDS OPEN HOUSE
Q&A SESSION
FEB. 16, 2012

COMMENT CARD

(Use backside if needed)

1. Which project recommendation do you support the most? Why?

Changes to allowed accessory dwelling units. I have a small house located on a large lot at the end of a cul de sac, so my back yard isn't visible from the street + far from other houses. I'd love to put in a small dwelling for my mother in law, who is starting to need more support.

2. Which project recommendation are you most concerned about? Why?

Changes to conditional uses. It could open the door for issues with parking in areas that have little to start with + could bring more non-city residents into residential areas, which could be a potential safety issue.

3. Which project recommendation do you still have questions about? Why?

I'm trying to learn more about the changes to ADUs as its something my husband and I have been considering.

4. Did we miss anything?

No - I was impressed at all the information provided and the opportunities for questions + answers one to one.

Contact Information (optional):

Name: Kathy mayers Email: kmayers@gmail.com

Property Address: 12215 SE 69th Ct, milwaukie 97222

Would you like e-mail updates about this project? Yes ☒ No ☐ Already receiving ☐

THANK YOU!

RESIDENTIAL STANDARDS OPEN HOUSE
Q&A SESSION
FEB. 16, 2012

COMMENT CARD

(Use backside if needed)

1. Which project recommendation do you support the most? Why?
REDUCTION OF PVC TYPE STRUCTURES

2. Which project recommendation are you most concerned about? Why? OFF STREET PARKING TO AVOID BUILD-UP ON STREET FROM ADU'S.

3. Which project recommendation do you still have questions about? Why?

4. Did we miss anything? VERY HELPFUL
THE INTENT SEEMS GOOD.

Contact Information (optional):

Name: BERNIE STOUT Email: _____

Property Address: 4647 SE 40A LN.

Would you like e-mail updates about this project? Yes ☐ No ☒ Already receiving ☐

THANK YOU!

RESIDENTIAL STANDARDS OPEN HOUSE
Q&A SESSION
FEB. 16, 2012

COMMENT CARD

(Use backside if needed)

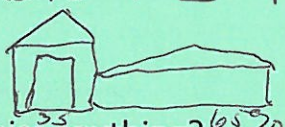
1. Which project recommendation do you support the most? Why?

2. Which project recommendation are you most concerned about? Why?

~~Under 5 out of~~ 15 recommends Section 19.505.C4 H- Horizontal lap..... only Wood, Hardie Plank, or..... should read Hardie Plank Fiber Cement lap

3. Which project recommendation do you still have questions about? Why?

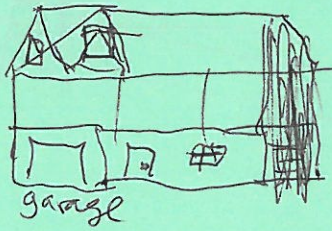
Garage standards - restrictions of lineal façade allows for 16' tall garage - no restriction on garage height.



Hardie Plank is a specific brand name ~~of~~ like Kleenex or Q-tip. ~~More better explanation is~~ needed

4. Did we miss anything?

Would like to see total % of façade for garages. Allows for 2 story Homes w/a garage below -



~~25%~~ ~~35%~~ 30% of total façade?

Contact Information (optional):

Name: Greg / Frank Herer Email: _____

Property Address: 5822 SE Harrison St

Would you like e-mail updates about this project? ~~Yes~~ ☒ No ☐ Already receiving ☒

THANK YOU!

RESIDENTIAL STANDARDS OPEN HOUSE
Q&A SESSION
FEB. 16, 2012

COMMENT CARD

(Use backside if needed)

1. Which project recommendation do you support the most? Why?

2. Which project recommendation are you most concerned about? Why?

19.502.2A.2.9 An outright ban on structures seems extreme. Many people use them and, for the most part, the structures ~~dow~~ are in good repair. Taking complaints about the structures in a case by case approach seems more constructive. A ban with fines in place could inflame neighborhood disputes instead of resolving bad feelings.

~~3. Which project recommendation do you still have questions about? Why?~~

~~4. Did we miss anything?~~

Maybe wording in the amendment requiring structures to be in good ~~repair~~ repair would be useful.

Contact Information (optional):

Name: KAREN OLSEN Email: _____

Property Address: 11106 SE STANLEY AVE MILWAUKIE

Would you like e-mail updates about this project? Yes ☐ No ☐ Already receiving ☐

THANK YOU!

ATTACHMENT 7

Exhibits List

The following documents are part of the official record for this application. They are being provided to the Planning Commission for review with the staff report, unless indicated below.

A. Application dated December 13, 2011 (not attached)

B. Notification information:
   1. NDA notice (not attached)
   2. Notice posted at the site (not attached)
   3. Measure 56 notice
   4. Measure 56 mailing list (not attached)

C. Agency Responses:
   1. DLCD
   2. Metro

D. Comments Received:
   1. David Mealey, 5111 SE Lake Rd, Milwaukie, OR 97222, December 15, 2011
   2. David Mealey, 5111 SE Lake Rd, Milwaukie, OR 97222, December 21, 2011
   3. Steve Smelser, PO Box 1069, Clackamas, OR 97015, December 18, 2012
   4. Leslie Schockner, 4681 SE Logus Rd, Milwaukie, OR 97222, December 23, 2011
   5. Greg Hemer, 5822 SE Harrison St, Milwaukie, OR 97222, January 19, 2012
   6. Greg Hemer, 5822 SE Harrison St, Milwaukie, OR 97222, February 2, 2012
   7. Floyd Bennett, 12101 SE 36th Ave, Milwaukie, OR 97222, February 7, 2012
   8. Linda Hedges, Hector-Campbell NDA Leadership Team, February 10, 2012
   9. James Knight, 10987 SE 28th Ave, Milwaukie, OR 97222, February 14, 2012
   10. Wes and Sandra Burch, 11388 SE 45th Ave, Milwaukie, OR 97222, February 15, 2012
   11. Ray Bryan, 11416 SE 27th Ave, Milwaukie OR 97222, February 16, 2012
   12. Yoriko Takui, 11861 SE 28th Ave, Milwaukie, OR 97222, February 16, 2012
   13. Linda Hedges, 5185 SE Elk St, Milwaukie, OR 97222, February 16, 2012
   14. Phyllis Mazzarella, 10987 SE 28th Ave, Milwaukie, OR 97222, February 16, 2012
   15. Donna Morrow, 3521 SE Sellwood Ave, Milwaukie, OR 97222, February 16, 2012
   16. Kathy Mayers, 12215 SE 69th Ct, Milwaukie, OR 97222, February 16, 2012
   17. Bernie Stout, 4647 SE Ada Ln, Milwaukie, OR 97222, February 16, 2012
   18. Greg Hemer, 5822 SE Harrison St, Milwaukie, OR 97222, February 16, 2012
   19. Karen Olsen, 11106 SE Stanley Ave, Milwaukie, OR 97222, February 16, 2012

I. Staff Report:
   1. Report
   2. Draft Ordinance
   3. Recommended Findings

MILWAUKIE
Dogwood City of the West

To: **Planning Commission**

Through: **Katie Mangle, Planning Director**

From: **Brett Kelver, Associate Planner**

Date: **February 21, 2012, for February 28, 2012, Public Hearing**

Subject: **Files:** WQR-11-05, VR-12-01
Applicant: Bruce Goldson (Theta, LLC)
Owner: West Coast Home Solutions, LLC
Address: No official street address (SE Furnberg Street near SE 64th Avenue)
Legal Description (Map & Taxlot): 1S2E32CB, tax lots 2801 & 2802
NDA: Linwood

ACTION REQUESTED

Open the public hearing for applications WQR-11-05 and VR-12-01. Following staff and applicant presentations and public testimony, provide direction to staff and continue the hearing to March 13, 2012.

BACKGROUND INFORMATION

The applicant, Bruce Goldson of Theta, LLC, has submitted an application for Water Quality Resource review to construct a single-family residence on a residentially zoned property that includes a large natural resource area. The subject property is comprised of two lots of record and is configured as a flag lot, with access to SE Furnberg Street. The site is undeveloped and is vegetated with a high percentage of invasive species, though it includes a delineated wetland and two intermittent streams. Water Quality Resource (WQR) and Habitat Conservation Area (HCA) designations cover approximately 99% of the property.

A. Site and Vicinity

The subject property does not have an official street address; it is located between 6404 SE Furnberg St to the west and 6460 SE Furnberg St to the east. The site is undeveloped and is currently vegetated with a high percentage of invasive species including Himalayan blackberry *(Rubus discolor)* and Tall fescue *(Festuca arundinacea)*. A delineated wetland

covers over half of the acreage in the southwestern part of the site and two intermittent streams flow near the northeastern and southeastern corners of the property. These WQRs and their vegetated buffer areas cover nearly 96% of the site, with High-value HCA comprising an additional 3% of the property.

The applicant's materials indicate that the main area of proposed new development was probably filled in the past, most likely prior to 2001 (see Page 1 in Attachment 3-i, Wetland Delineation). Anecdotal information from an adjacent property owner contends that the fill occurred within the last 10 years (see comments received from Deborah Barnes in Attachment 4-f). The property has changed hands several times within the last decade. Staff is not aware of documentation that would warrant the initiation of a code enforcement action by the Division of State Lands (DSL). In addition, state law exempts up to 50 cubic yards of fill (approximately 5 dump-truck loads). If enforcement action was to be pursued and a violation was demonstrated, part of the remedy would be to restore the filled area; but that would not preclude a future application similar to the current proposal to develop the property. Without more concrete documentation of past fill activity, it would not be productive to pursue any enforcement action at this time.

The subject property is configured as a flag lot, with access to Furnberg St through a 26-ft-wide "pole." According to available records, the two tax lots comprising the subject property were created no later than 1972, prior to the City's first adoption of any standards for flag lots or development on flag lots. Therefore, the property is not subject to the current flag lot development standards in Milwaukie Municipal Code (MMC) Subsection 19.504.9 but is instead subject to the regular development standards of the underlying R-7 zone (MMC 19.302.3).

The surrounding area is zoned R-7 and is fully developed with single-family residences, predominantly single-story houses averaging 1,300 sq ft to 1,600 sq ft in area. The western boundary of the subject property abuts the large rear yard of a group home (adult foster care) at 11910 SE Linwood Avenue, operated by Northwest Housing Alternatives. The wetland on the subject property extends west into the group home property.

B. Zoning Designation

Residential R-7

A significant portion of the subject property includes designated natural resource areas (WQR and HCA).

C. Comprehensive Plan Designation

Low Density (LD)

The Milwaukie Transportation System Plan (TSP) designates Furnberg St as a Neighborhood Route.

D. Land Use History

- **May 2000:** Lot Line Adjustment file **# LLA-00-03** (Denied) – Proposal to rotate the common boundary 90 degrees to re-form two lots of more equal size, though still with only one lot having direct access to Furnberg St. The proposal was denied because MMC Title 17 Land Division required that, when boundaries are changed, all lots must

meet applicable zoning standards, including the requirement to have frontage on a public street.

- **May 2002:** Minor Land Partition file **# MLP-02-02**, with Variance Request and Transportation Plan Review file #s VR-02-02 and TPR-02-02 (Withdrawn) – Proposal to use the partition process to reconfigure the two lots of record so both have direct access to Furnberg St. The variance request was to allow the shared flag pole accessway to be only 26 ft wide instead of the required 30 ft. The application was deemed incomplete and was subsequently withdrawn by the applicant.
- **August 2002:** Minor Land Partition file **# MLP-02-09**, with Variance Request file # VR-02-04 (Denied) – Resubmittal of MLP-02-02, a proposal to reconfigure the two lots to both have direct access to Furnberg St, with a variance request for a narrower accessway than was required. The application was denied—the variance request was denied due to an insufficient demonstration of extraordinary conditions, and the partition request was denied because the proposal did not meet the standard for accessway width.

E. Proposal

The applicant is seeking land use approval to build a single-family house on a residentially zoned property with significant natural resource constraints. The proposal includes the following:

1. Construct a single-family house with attached garage, approximately 1,850 sq ft in area.
2. Construct a 9-ft-wide asphalt driveway with turnaround for vehicle maneuvering in front of the new house, with a parking area in front of the proposed garage.
3. Mitigate for impacts to the WQR and HCA by replanting temporarily disturbed areas, constructing a drainage swale adjacent to the new driveway, and planting more than 40 trees and 200 shrubs in the wetland buffer.

Refer to Attachment 3 for more detail about the proposal.

The project requires approval of the following applications:

1. WQR-11-05 (Water Quality Resource review)
2. V-12-01 (Variance Request)

   Note on Variance for Density: A single-family detached dwelling is an outright permitted use in the R-7 zone. However, because the proposal requires Planning Commission review to evaluate its impact on natural resources, MMC 19.302.3.J requires the proposal to demonstrate compliance with the density standards of the R-7 zone. The density range for the R-7 zone is 5.0 to 6.2 units per net acre. The definition of "net acre" in place at the time of application submittal excludes WQRs and HCAs, which comprise approximately 99% of the total property area. This results in the subject property having only 0.01 net acres. As proposed, one dwelling unit on 0.01 net acres represents a density of approximately 105 units per net acre. Therefore, a variance to the maximum density standard is required.

   MMC 19.911.2.B.5 prohibits variance requests to increase, or have the same effect as increasing, the maximum permitted density. However, because the zoning code and City-implemented Metro Model Code for Title 13 both provide mechanisms for

allowing mitigated disturbance to designated natural resource areas, the acreage actually available for development is greater than 0.01 acres. The proposed development does not constitute a request to that has the effect of exceeding the maximum permitted density and therefore a variance from the density standard can be requested. Staff did not identify this issue during the required preapplication conference, so staff has requested the variance on behalf of the applicant. The relevant criteria of MMC 19.911 are addressed in Finding 13 (see Attachment 1).

KEY ISSUES

Summary

Staff believes the applicant has not yet provided sufficient analysis and detail to meet all of the relevant standards for approval of the WQR application. However, staff believes that the proposal is approvable if additional information is provided. Staff recommends that the Commission open the public hearing, listen to presentations, take public testimony, and open deliberations if time allows on February 28. But staff's recommendation is to continue the hearing to March 13, 2012, to allow time for the applicant to provide additional information and for the Commission to provide direction to staff on how to draft the findings and conditions.

(Note: Staff has highlighted in grey specific portions of the Findings where additional information from the applicant is necessary to recommend approval (see Attachment 1). This emphasizes the "draft" nature of the Findings, with the highlights serving as a reminder of items that need to be addressed further.)

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

A. Has the applicant convincingly demonstrated that there are no practicable alternatives to the proposed location of the new house?

B. What options are available for minimizing potential impacts to surrounding properties?

C. Is the proposed mitigation proportionate to and appropriate for the nature and scale of proposed disturbance?

Analysis

A. Has the applicant convincingly demonstrated that there are no practicable alternatives to the proposed location of the new house?

The subject property is almost 99% covered by either WQR or HCA; some disturbance of the designated natural resource areas is inevitable. The applicant's Options 1 and 2 (see Pages 9-10 in Attachment 3-a) show two different layouts for the vehicle turnaround area, either one of which might allow the house to be reconfigured to impact less of the WQR. The applicant has not evaluated alternative footprints and locations for the proposed new house sufficiently enough to meet the requirements of MMC 19.402.9.G.

Staff has made the following conclusions about the constraints of the site and some parameters for development:

- There are no alternatives to the proposed site access from Furnberg St—it has been designed to have minimal impacts on the WQR and HCA while still meeting other relevant City standards.
- Given the flag-lot shape of the property, a vehicle turnaround is needed. The City's Engineering staff has confirmed that the proposed turnaround area has been designed to be as small as possible and still allow adequate space for maneuvering.
- Development on the subject property is required to meet the 20-ft front yard setback for the R-7 zone and not the 30-ft front yard setback for flag lots.

At the site planning level, there are development alternatives that the applicant is foregoing by proposing only one dwelling unit on the 0.79 acre property. The applicant's proposal to develop only one single-family house on such a large property is arguably the least impactful type of development that could be allowed without effectively deeming the property to be "undevelopable."

- The site could support two dwellings. The subject property is comprised of two distinct lots of record, both of which are buildable. And duplexes are an allowed conditional use in the R-7 zone.
- The proposed development has been concentrated on the area of the site that is farthest away from the wetland.

Staff believes the applicant should consider the following alternatives:

- Shift the house footprint to the north, to within 20 ft of the front property line. The garage portion of the footprint may need to remain as proposed to allow for adequate vehicle maneuvering, but the non-garage portions of the house could be moved farther out of the WQR.
- Consider a two-story design to reduce the footprint while maintaining the overall square footage.
- Consider alternative house plans that result in a more compact footprint and lower-impact development.

The applicant has not sufficiently evaluated alternative footprints and locations for the proposed new house to meet the requirements of MMC 19.402.9.G. Staff recommends that the Commission ask the applicant to consider options that result in less permanent disturbance of the WQR, or direct staff on how to draft conditions of approval that would minimize impacts to the WQR. In Findings 7-C-iv a, b, and d, staff has proposed a particular condition that would pull the front of the house to the minimum 20-ft front yard setback (see Pages 4-6 in Attachment 1). This is an example of a way to condition approval if the applicant does not present a satisfactory alternative to the proposed house footprint.

B. What options are available for minimizing potential impacts to surrounding properties?

The WQR review process is focused on impacts to natural resource areas, not impacts to surrounding properties. The primary way to reduce impacts to the WQR is to shift the footprint of the new house farther to the north (see discussion of Key Issue A, above). However, that puts the new house closer to the adjacent properties and increases the potential for impacts.

The flag lot standards of MMC 19.504.9 include some measures for protecting adjacent properties, but they do not apply to the subject property. Since the proposed development is an outright permitted use in the R-7 zone, there is no basis for establishing conditions unrelated to the criteria for the WQR application.

Staff has identified one option to address concerns about potential visual impacts to neighboring properties:

- Require mitigation plantings within the HCA along the entire front property line, to provide screening. Although the primary area of concern is the WQR, most of the rest of the site that is not WQR is designated HCA and is therefore a candidate area for mitigation plantings. Such a requirement could be included in a condition of approval related to the mitigation plan (see discussion of Key Issue C, below).

With regard to other impacts, the Linwood NDA Land Use Committee has raised concerns about impacts to adjacent properties resulting from increased stormwater runoff from the new development. The City's code requires that stormwater be managed entirely on site, and there are standards in place for new stormwater treatment facilities. The Engineering Department will ensure that the proposed drainage swale and planter box are designed and constructed to adequately capture new runoff and prevent increased surface water flows.

C. Is the proposed mitigation proportionate to and appropriate for the nature and scale of proposed disturbance?

ESA, the City's on-call natural resource consultant, reviewed the application; the ESA analysis (see Attachment 4-d) includes several key conclusions:

- The applicant's demarcation of the actual boundary of the WQR is inaccurate and should be adjusted to account for the steep slope between the wetland and the south side of the proposed development. The WQR boundary should be shifted approximately 14 ft farther to the north in the area of the proposed development. Staff has noted the need for a revised WQR demarcation in Finding 7-C-i (see Page 3 in Attachment 1) and recommends that this item be addressed prior to a decision on the application.
- Temporary disturbances (e.g., excavations associated with construction of the new driveway, house foundation, stormwater pipes, etc.) should be included in the calculation of total disturbance area. As noted in Finding 7-C-iv, staff has indicated that a recalculation of the total disturbance area is necessary (see Page 9 in Attachment 1) and recommends that this item be addressed prior to a decision on the application.
- The HCA-Option-2 method of calculating required mitigation is also appropriate for mitigating disturbances to the WQR. Recalculating the total disturbance area will increase the number of required mitigation plantings.
- Regarding the applicant's mitigation plan (see Page 14 in Attachment 3-a), the proposed location for mitigation plantings is appropriate. However, it would be beneficial to install plantings throughout more of the WQR; for example, plantings along the entire wetland boundary would provide more vegetative screening.
- The applicant should consider alternative house footprints to reduce impacts to the WQR.

The ESA report identifies a number of areas where additional detail is necessary to determine if the application complies with applicable standards, particularly with regard to the mitigation plan. Staff has asked the applicant to provide additional detail prior to the hearing if possible, and recommends a condition of approval to require a final, more detailed mitigation plan as part of the building permit review process. Specifically, the revised mitigation plan should include the following:

- Clear indication of the person responsible for the mitigation work, including primary contact, phone number, and address
- Demarcation of mitigation planting areas for permanent disturbances to the Water Quality Resource (WQR) and/or HCA
- Locations of particular plant species within the mitigation planting area, with plantings that are appropriate for particular conditions (e.g., sun/shade, wet/dry, etc.)
- Demonstration that plantings to restore temporarily disturbed areas are native, non-nuisance species from the Milwaukie Native Plant List
- Timeline for planting, with schedule for watering, monitoring, and replacement of plants
- Contingency plan

The applicant's proposal to remove significant amounts of noxious, invasive vegetation within the mitigation area and replant it with native trees and shrubs will greatly enhance the condition of the WQR. With the recommended conditions of approval, staff believes that the proposed mitigation is appropriate and adequate for the impacts and disturbance generated by the proposed development. And the mitigation will meet the relevant standards of MMC 19.402 and the Metro Model Ordinance for Title 13 (HCAs).

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Open the public hearing for applications WQR-11-05 and VR-12-01. Hear staff and applicant presentations and take public testimony, but continue the hearing to the next Commission meeting date (March 13, 2012). This will allow consideration of and adjustment to the recommended Findings and Conditions of Approval found in Attachments 1 and 2.
2. Identify additional information needed from the applicant and staff to make a final decision.

B. Staff recommends the Planning Commission request the following additional pieces of information from the applicant:

- Revised map showing existing conditions, including the corrected WQR boundary
- Alternative low-impact house footprints for the site (with corrected WQR boundary) *(If no one alternative emerges to become the final proposal, then the applicant should at least demonstrate that these lower-impact alternatives will not work.)*
- Revised and more detailed mitigation plan (with corrected WQR boundary)

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning and Land Division Ordinances, which are Titles 19 and 17, respectively, of the Milwaukie Municipal Code (MMC).

- MMC Subsection 19.1006 Type III review
- MMC 19.302 Residential Zone R-7
- MMC 19.402 Water Quality Resource Regulations**
- MMC 19.504 Site Design Standards
- MMC 19.505.1 Design Standards for Single-Family Dwellings
- MMC 19.600 Off-Street Parking and Loading
- MMC 19.700 Public Facility Improvements
- MMC 19.911 Variances
- MMC 17.28 Design Standards

****Note:** The application was submitted on September 2, 2011, prior to the effective date of Ordinance 2036, which repealed MMC Section 19.402 Water Quality Resource Regulations and replaced it with a new MMC Section 19.402 Natural Resources. As per MMC 19.1001.7.B, the application is subject to the standards and criteria in place at the time of original submittal. The application is also subject to the Metro Model Ordinance for Title 13 (Nature in Neighborhoods), as applied by the City to land use decisions as of June 1, 2009.

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has three decision-making options as follows:

A. Continue the hearing, to allow further consideration of the recommended Findings and Conditions of Approval.

B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.

C. Deny the application upon finding that it does not meet approval criteria.

The Planning Commission has until March 13, 2012, to make a decision on this application. The final decision on these applications, which includes any appeals to the City Council, must be made by **May 5, 2012**, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building and Engineering Departments, Clackamas County Fire District #1, Linwood Neighborhood District Association, Southgate Community Planning Organization

(unincorporated Clackamas County), and ESA (the City's on-call natural resource consultant). The following is a summary of the comments received by the City. See Attachment 4 for further details.

- **Tom Larsen, City of Milwaukie Building Official:** Due to the location of the proposed home near the wetland, a soil test will need to be performed by a qualified firm or individual, verifying the adequacy of the soil to support the proposed structure. Report to be submitted with the building permit application.

  Staff Response: *A condition has been established to ensure that this requirement will be met.*

- **Dolly Macken-Hambright, Beth Kelland, and Don Wiley, members of Linwood NDA Land Use Committee:** The proposed development will add hardscape on the subject property, which could affect stormwater drainage. In particular, the four abutting properties to the south may be particularly affected by any increased surface runoff or increased volume of ground water.

  Staff Response: *The City of Milwaukie Engineering Department has reviewed the proposed development for compliance with current stormwater management standards. Increased runoff from the new house and driveway will be treated on site in stormwater facilities that are designed and approved to adequately handle the new volume. Ongoing maintenance of those storm water facilities by the subject property owner is incorporated in the Stormwater Design Standards in the City of Milwaukie Public Works Standards.*

- **Brad Albert, City of Milwaukie Engineering Department:** Various comments related to MMC 19.700 Public Facility Improvements, MMC 17.28 Design Standards, and MMC 12.24 Clear Vision at Intersections.

  Staff Response: *These comments have been incorporated into the Findings.*

- **Sarah Hartung, Senior Biologist with ESA:** As the City's on-call natural resource consultant, ESA reviewed the application; assessed the existing conditions, alternatives analysis, and proposed mitigation plan; and prepared a report summarizing the analysis.

  Staff Response: *The ESA analysis has been incorporated into the Findings.*

- **Mike Boumann, Clackamas County Fire District #1:** Various comments related to the Oregon Fire Code, including standards for fire apparatus access and water supply.

  Staff Response: *These comments are advisory for the applicant and are most relevant to the building permit review process.*

- **Deborah Barnes, owner/resident at 6330 SE Furnberg St:** Concerns about impacts of the proposed development on wetland and natural resource areas as well as on privacy for neighboring properties.

  Staff Response: *The intent of the WQR review is to evaluate whether the applicant has done as much as possible to avoid or minimize impacts to natural resources and then has adequately mitigated where impacts are unavoidable. The City recognizes the subject property as being developable, though the burden of proof is on the applicant to show how the natural resources will be protected. Privacy for neighboring properties is not part of the WQR review; and the current flag lot standards are not applicable, since the subject property was established before the City had standards for flag lots.*

ATTACHMENTS

All attachments are included in the e-packet unless otherwise noted. All material is available for viewing upon request.

1. Recommended Findings in Support of Approval
2. Recommended Conditions of Approval
3. Applicant's Consolidated Narrative and Supporting Documentation (e-packet only)**
   (all items stamped "Received" January 19, 2012, unless otherwise noted)
   a. Narrative
      Including:
      - Alternative House Footprint Options, pages 9-10
      - Mitigation Plan, page 14
   b. Location Plan
   c. Existing Conditions Plan
   d. Proposed Development Plan
   e. Surveyor-signed Lot Coverage & Vegetation Worksheet
   f. City of Milwaukie WQR & HCA maps
   g. Division of State Lands Concurrence Letter with maps
   h. Water Quality Resource Assessment Report *(stamped "Received" September 2, 2011)*
   i. Wetland Delineation
4. Comments Received
   a. Tom Larsen, City of Milwaukie Building Official
   b. Dolly Macken-Hambright, Beth Kelland, and Don Wiley – members of Linwood NDA Land Use Committee
   c. Brad Albert, City of Milwaukie Engineering Department
   d. Sarah Hartung, Senior Biologist with ESA
   e. Mike Boumann, Clackamas County Fire District #1
   f. Deborah Barnes, owner/resident at 6330 SE Furnberg St *(includes one photo)*
5. Exhibits List

(**Note: Attachment 3 was provided to the Planning Commission on February 8, 2012.)

Recommended Findings in Support of Approval

1. The applicant, Bruce Goldson of Theta, LLC ("the applicant"), is seeking land use approval to construct a single-family residence on the subject property. The property is vacant and has no official street address; it is comprised of tax lots 2801 and 2802 on Assessor Map 1S2E32CB. The property is zoned Residential R-7 with designated natural resource areas; including a large Water Quality Resource (WQR) area in the form of a delineated wetland, its vegetated buffer, and two stream channels, as well as Habitat Conservation Area (HCA).

2. The subject property is located between 6404 SE Furnberg Street on the west and 6460 SE Furnberg St on the east. The site has a total area of approximately 34,560 sq ft and is comprised of two tax lots created by deed from Block 2 of the Furnberg Park subdivision of 1958. The site is undeveloped, with a small pond on the western side, a mix of small trees and shrubs in the low wetland areas around the edges, and grasses in the flatter north-central portion where development is proposed. The property is shaped like a flag lot, with a narrow accessway (approximately 26 ft wide) onto Furnberg St.

   Deed records from the County Assessor's office indicate that tax lot 2801 was in its current configuration as early as 1969; tax lot 2802 was created as early as 1972. Since both tax lots were established prior to October 5, 1973 (the date the City began strictly enforcing its Subdivision Ordinance as per State directive), both are considered lots of record and are recognized as legal.

3. The proposal is subject to the following provisions of Milwaukie Municipal Code (MMC) Title 19 Zoning and Title 17 Land Division:

   MMC Subsection 19.1006 Type III review

   MMC 19.302 Residential Zone R-7

   MMC 19.402 Water Quality Resource Regulations**

   MMC 19.504 Site Design Standards

   MMC 19.505.1 Design Standards for Single-Family Dwellings

   MMC 19.600 Off-Street Parking and Loading

   MMC 19.700 Public Facility Improvements

   MMC 19.911 Variances

   MMC 17.28 Design Standards

   **Note: The application was submitted on September 2, 2011, prior to the effective date of Ordinance 2036, which repealed MMC 19.402 Water Quality Resource Regulations and replaced it with a new MMC 19.402 Natural Resources. As per MMC 19.1001.7.B, the application is subject to the standards and criteria in place at the time of original submittal.

   The application is also subject to the Metro Model Ordinance for Title 13 (Nature in Neighborhoods), as applied by the City to land use decisions as of June 1, 2009.

4. The application has been reviewed in compliance with the Type III review process described in MMC 19.1006. As required, public notice has been posted at the site and mailed to surrounding property owners and residents within 300 ft of the site. The Planning

Commission held a duly advertised public hearing considering the application on February 28, 2012, which was continued to March 13, 2012.

5. The Planning Commission reviewed the application for compliance with the code sections listed in Finding 3. The Planning Commission finds that code sections not addressed in these findings are not applicable to the decision.

6. MMC 19.302 Residential R-7 zone

MMC 19.302.3 establishes standards for lots in the R-7 zone. Table 1 (below) evaluates the subject property and proposed development with respect to the applicable standards. Many of the development standards will be evaluated at the time of building permit review.

Table 1 – Standards of the R-7 Zone

Development Standard	R-7 Standard	Subject Property
Lot Size	**7,000 sq ft**	34,560 sq ft (0.79 acres)
Lot Width	**60 ft**	207 ft
Lot Depth	**80 ft**	159 ft *(not including flag pole)*
Front Yard Setback[1]	**20 ft**	30 ft *(proposed)*
Side Yard Setback	**5 ft and 10ft (20 ft street-side)**	22 ft / 137 ft *(proposed)*
Rear Yard Setback	**20 ft**	80 ft *(proposed)*
Off-Street Parking	**1 space min. (no max.)**	4+ spaces *(proposed)*
Height Restriction	**35 ft or 2.5 stories**	n/a *(to be reviewed at time of building permit)*
Lot Coverage	**30% max**	6.5%
Minimum Vegetation	**30% min**	90.5%
Frontage Requirements	**35 ft**	26 ft *(existing frontage)*
Density	**5.0 to 6.2 dwelling units per net acre**	1.3 units per net acre[2]

The Planning Commission finds that the proposed development, as conditioned and with the approval of a variance to the density standard (see Finding 13), will comply with the applicable standards of the R-7 Zone (MMC 19.302).

7. MMC 19.402 Water Quality Resource Regulations

A. MMC 19.402.3 establishes applicability of the Water Quality Resource (WQR) regulations, including all properties containing protected water features as shown on the City's WQR map.

[1] Although the subject property is shaped like a flag lot, the two tax lots comprising the property were created as early as 1969 and 1972, before the City first established special standards for flag lots in 1979. Therefore, the property is subject to the regular standards of the R-7 zone and not to the flag lot development standards of MMC 19.504.9.

[2] MMC 19.302.3.J provides the standard for minimum and maximum density in the R-7 zone. Proposals that require review by the Planning Commission must demonstrate compliance with the density standard. Technically, developing the subject property with only one dwelling unit does not meet the density standard and therefore requires a variance, which staff is requesting on behalf of the applicant (see Finding 13).

The subject property includes a delineated wetland in the western and southern portions of the site and two stream channels on the eastern side of the site. These protected water features, as well as their vegetated buffer areas as defined in Table 19.402.9.A, constitute a WQR on the site.

The Planning Commission finds that the WQR requirements of MMC 19.402 are applicable to the subject property.

B. MMC 19.402.7 establishes that certain activities within a designated WQR, including development activities allowed in the base zone, are subject to Type III review and the standards of MMC 19.1006.

The proposal includes construction of a new single-family house, with a new driveway and utility connections that will disturb the WQR.

The Planning Commission finds that the activities related to the proposed development are subject to the relevant standards of MMC 19.402 and Type III review.

C. MMC 19.402.9 establishes application requirements for projects requiring Type III review.

i. MMC 19.402.9.A requires a topographic map of the site at contour intervals of 5 ft or less, showing a delineation of the WQR as established in Table 19.402.9.A. Similarly, MMC 19.402.9.B requires the identification of all existing natural features, including all trees with a greater than 6-in diameter at breast height.

The applicant has provided a site plan showing 1-ft contour intervals and demarcating the WQR as provided in Table 19.402.9.A. The site plan also shows the location of existing trees with their diameter at breast height.

ESA, the City's on-call natural resource consultant, has reviewed the applicant's materials and visited the site to assess the existing conditions. ESA has concluded that the applicant's materials are generally sufficient to meet the requirements of MMC 19.402.9.A and B, with one significant exception: ESA has determined that the applicant's demarcation of the WQR should be adjusted by approximately 14 ft to account for the steep slope between the wetland and the south side of the proposed development. The correct WQR boundary should be shown on a revised map of existing conditions and should be incorporated into the site plan for the proposed development, the alternatives for lower-impact development, and the revised mitigation plan.

The Planning Commission finds that, with the corrected WQR boundary, the application meets the requirement to provide the information listed in MMC 19.402.9.A and 19.402.9.B.

ii. MMC 19.402.9.C requires identified wetlands to be delineated according to the official process outlined by the Oregon Division of State Lands (DSL).

The applicant has submitted a wetland delineation that has been approved by DSL (WD# 2011-0331).

The Planning Commission finds that the application meets the requirement of MMC 19.402.9.C to provide a DSL-approved wetland delineation.

iii. MMC 19.402.9.D requires an inventory and location of existing debris and noxious materials. MMC 19.402.9.E requires an assessment of the existing

condition of the WQR in accordance with Table 19.402.9.E. MMC 19.402.9.F requires an inventory of vegetation within the WQR, including percentage of ground and canopy coverage.

The applicant's materials state that there is no debris or noxious material on the site. The applicant's WQR Assessment Report describes the WQR as Degraded because it includes less than 25% canopy coverage and has greater than 10% coverage by non-native species, including Himalayan blackberry and English ivy. The low amount of canopy coverage (7%) is provided by approximately three dozen red alder trees on the northwestern quarter of the site.

ESA has confirmed that there is no debris or noxious material on the site and that the existing condition of the WQR is Degraded as defined in Table 19.402.9.E.

The Planning Commission finds that the applicant's presentation of existing conditions of the WQR meets the requirements of MMC Subsections 19.402.9.D-F.

iv. MMC 19.402.9.G requires an analysis of alternatives to the proposed disturbance, including a demonstration that the following criteria are met:

(a) No practicable alternatives to the requested development exist that will not disturb the WQR.

The subject property is comprised of two lots of record in the R-7 zone, which allows development of a single-family detached dwelling as an outright permitted use. The WQR designation covers a majority of the site, except for an approximately 1,350-sq-ft rectangular area in the north-central portion of the property and a narrow portion of the accessway from Furnberg St. Some disturbance of the WQR in the accessway is necessary to provide a driveway of adequate width.

After subtracting the minimum required front yard setback of 20 ft, the non-WQR area in which a house could be built is reduced to approximately 350 sq ft (7 ft by 50 ft). That area is too small to accommodate the placement and construction of a conventional building. For comparison, the footprint of other houses in the surrounding area ranges from approximately 1,300 sq ft to 1,600 sq ft, and on much smaller lots.

Given that approximately 96% of the site is covered by WQR, any development on the site will cause at least some temporary disturbance of the WQR. However, it also appears possible to situate the proposed building footprint farther from the wetland portion of the WQR. There are practicable alternative site plans that keep more of the building footprint out of the WQR area.

The Planning Commission finds that there is no practicable alternative to the location of the proposed driveway but that there is a practicable alternative to the proposed footprint and location of the new house. A condition has been established to require a revised site plan showing the front of the new house located along a plane 20 ft from the front property line, which will place some of the new house footprint outside the WQR.

(b) Development in the WQR has been limited to the area necessary to allow for the proposed use.

The proposed development would permanently disturb a total of approximately 2,585 sq ft within the WQR (if corrected as noted in Finding 7-C-i). The proposed driveway would disturb approximately 585 sq ft within the corrected WQR; it is configured to impact as little of the WQR as possible and still meet other relevant City standards. As proposed, the new house would permanently disturb approximately 2,000 sq ft within the corrected WQR. As proposed, the entire footprint of the new house would be within the corrected WQR.

As noted in Finding 7-C-iv-b, the Planning Commission finds that there are practicable alternatives to the proposed house configuration and location. A condition has been established to require a revised site plan showing the front of the new house located along a plane 20 ft from the front property line, which will place some of the new house footprint outside the WQR.

(c) The WQR can be restored to an equal or better condition in accordance with Table 19.402.9.E.

The applicant proposes to restore the WQR where temporary disturbances will result from construction. As proposed, temporarily impacted areas of existing vegetation will be revegetated as soon as practicable. A condition has been established to specify that revegetation plantings in temporary disturbance areas shall be native, non-nuisance species from the Milwaukie Native Plant List.

For permanent disturbances to the WQR, the applicant proposes to mitigate by planting native-species trees and shrubs in the WQR to the west of the new house. Using the ratio provided as Option 2 for mitigating HCA disturbance in proportion to the square footage of disturbance area, the applicant has proposed to plant 42 trees and 210 shrubs. Prior to planting, the applicant has proposed to remove existing nuisance-species plants within the mitigation area.

ESA, the City's on-call natural resource consultant, has reviewed the proposed mitigation plan and confirmed that it is generally adequate for the nature and scale of the proposed WQR disturbance. As noted in Finding 8-C-iv, the Planning Commission has requested a recalculation of the total disturbance area to account for all permanent and temporary disturbances. The recalculation will increase the number of required mitigation plantings.

Given that almost 50% of existing vegetation on the site has been identified as invasive or noxious species, removing invasive plants and revegetating with native species will result in a significant improvement in the condition of the WQR. In particular, as the new trees mature, the percentage of canopy will increase. As proposed, the applicant asserts that the mitigation will improve the condition of the WQR to the Good category, as defined in Table 19.402.9.E. This improvement will satisfy the requirement to restore the WQR to an equal or better condition.

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

The applicant's narrative presents two alternatives to the preferred option for the location and configuration of the new house and has explained why neither is acceptable. One alternative would push the new house farther north and further out of the WQR than the preferred option, but it would also move the garage to the southeast corner of the house. This would require the driveway and turnaround area to be realigned along the eastern boundary, almost doubling the square footage of driveway. Placing the driveway and turnaround area on the east side of the new house pushes the entire development to the west and closer to the main wetland area and pond than the preferred option.

The second alternative would put the garage in the northeast corner of the house. This would reduce the amount of WQR disturbance caused by construction of the driveway but would move the development farther to the west and closer to the main wetland area and pond than the preferred option. The applicant asserts that this alternative would make it difficult or impossible to meet the requirement of MMC 19.505.1.A.1 to orient the main entrance of the dwelling toward the street that provides vehicle access.

Because the subject property is shaped like a flag lot, a vehicular turnaround area is needed. The Planning Commission is not satisfied that all possible house configurations have been explored, in the interest of minimizing the disturbance footprint of the new house and driveway. A condition has been established to require a revised site plan showing the front of the new house located along a plane 20 ft from the front property line, which will place some of the new house footprint outside the WQR.

As conditioned, the Planning Commission finds that the application meets the requirement of MMC 19.402.9.G to provide an analysis of alternatives.

v. MMC 19.402.9.I requires a mitigation plan for the WQR that includes information about adverse impacts to resource areas; how adverse impacts will be avoided, minimized, and/or mitigated; a list of all responsible parties; a map showing where specific mitigation activities will occur; and an implementation scheme.

The applicant submitted a mitigation plan for the proposed disturbance, with information about adverse impacts and how they will be avoided, minimized, and/or mitigated. Because the infiltration capacity of the site is too low for pervious paving materials, a stormwater treatment swale will be constructed adjacent to the new driveway to accommodate runoff. The proposed location and configuration of the new house is intended to minimize additional permanent disturbance of the WQR, though a condition has been established to adjust the new house footprint and further reduce impacts.

The mitigation plan includes a map showing where mitigation activities will occur. The current property owner, West Coast Home Solutions, LLC, is responsible for ensuring that the mitigation plantings are installed as proposed. A condition has been established to require submittal of a more detailed mitigation plan, including timeline and clear description of responsibility for the work.

As conditioned, the Planning Commission finds that the mitigation plan meets the requirements of MMC 19.402.9.I.

As conditioned, the Planning Commission finds that the proposed development meets all of the relevant application requirements of MMC 19.402.9.

D. MMC 19.402.10 provides standards for development in WQRs.

The development standards include requirements for restoring and maintaining the WQR in accordance with an approved mitigation plan, protecting existing vegetation, revegetating where vegetation is removed, performing all mitigation activities on site, and conducting all project work in accordance with the provisions of an approved construction management plan.

The applicant submitted a mitigation plan for the proposed disturbance, including a designated planting area and general indication of species to be planted. As proposed, the WQR will be restored and enhanced sufficient to reclassify it as being in Good condition as defined in Table 19.402.9.E. Conditions have been established to require a more detailed final mitigation plan and a construction management plan that shows the measures taken to protect the WQR.

As conditioned, the Planning Commission finds that the proposed development meets the applicable development standards of MMC 19.402.10.

The Planning Commission finds that, as conditioned, the proposed development meets all applicable standards of MMC 19.402 Water Quality Resource Regulations.

8. Metro's Title 13 Model Ordinance (Nature in Neighborhoods)

On June 1, 2009, the City began applying the Metro Model Ordinance implementing Title 13 of the Urban Growth Management Functional Plan. Title 13 regulations are intended to protect designated Habitat Conservation Areas (HCAs). On August 16, 2011, the City Council adopted an updated version of MMC 19.402 Natural Resources that incorporated much of the Metro Model Ordinance and made the City compliant with Title 13. However, the new rules did not become effective until September 15, 2011, approximately 2 weeks after the applicant submitted the application for WQR-11-05. Therefore, the application is subject to both the previous version of MMC 19.402 Water Quality Resource Regulations and the City-implemented portions of the Metro Model Ordinance.

A. Section 2 of the Model Ordinance establishes applicability for properties containing a HCA. Proposals for development within the HCA must provide a construction management plan as per Section 5, must comply with the development standards established in either Section 6 or Section 7, and must verify the HCA boundary as per Section 9.

The subject property includes a delineated wetland in the western and southern portions of the site and two stream channels on the eastern side of the site. These protected water features and their associated vegetated buffers constitute a WQR on much of the site. In addition, High-value HCA has been designated under most of the WQR area, as well as over the entire non-WQR buildable footprint area where development and disturbance are proposed.

The Planning Commission finds that the Model Ordinance is applicable to the proposed development.

B. Section 5 of the Model Ordinance requires a construction management plan to ensure that trees and vegetation within the HCA are not damaged during construction.

The applicant has asserted that a construction management plan will be provided as part of the building permit process. A condition has been established to ensure that this standard will be met.

As conditioned, the Planning Commission finds that the proposed development meets the standards of Section 5 of the Model Ordinance.

C. Section 6 of the Model Ordinance establishes standards for development within HCAs.

i. Section 6-A provides application requirements, including a detailed site plan showing the location and value of all HCAs on the property as well as the location of all existing trees within the HCA with a greater than 6-in diameter at breast height.

The applicant has provided site plans showing the requested information, including a demonstration that all of the HCA on the site is designated as High-value HCA. This standard is met.

ii. Section 6-B provides methods for avoiding HCAs, including building setback flexibility and flexible landscaping requirements.

Given the amount and distribution of HCA on the site, these allowances are not useful or applicable to the proposed development.

iii. Section 6-C establishes nondiscretionary standards for development within HCAs, including limitations on disturbance area. Projects that can meet the nondiscretionary standards are not subject to the additional analysis and requirements as established in Section 7 of the Model Ordinance.

(a) Section 6-C-1 provides a means for calculating the maximum allowed disturbance of the HCA for single-family residential projects.

The subject property has an area of approximately 34,560 sq ft, with approximately 935 sq ft designated High-value HCA outside of any WQR. For High-value HCA, the maximum disturbance area for single-family residential development is 50% of total lot area or 5,000 sq ft, whichever is less; in this case, the 5,000-sq-ft limit applies. Only approximately 415 sq ft of the subject property is not designated HCA or WQR, so the total allowable HCA disturbance is 4,585 sq ft.

Because only 935 sq ft of HCA is outside any WQR, the limit on HCA disturbance through the nondiscretionary process established in Section 6-C is effectively 935 sq ft. As proposed, the new development would permanently disturb only approximately 450 sq ft of HCA outside any WQR, well below the maximum amount allowed through the nondiscretionary process. The nondiscretionary standard for allowed HCA disturbance on the subject property is met.

(b) Section 6-C-2 establishes standards for protection of the HCA during development, including a requirement to mark work areas and a prohibition on using trees in HCAs as anchors for stabilizing construction equipment.

These standards apply to the proposed development. The applicant has proposed to provide appropriate fencing and flagging to protect the HCA, and a condition requiring a construction management plan has been established to ensure these standards will be met.

iv. Section 6-E establishes mitigation requirements for disturbance within HCAs, including options for determining the number of required plantings and standards for those plantings. Mitigation Option 2 bases the required mitigation upon the total area of HCA disturbance.

Technically, the applicant's calculation of total disturbance does not need to include the square footage of disturbed WQR on the property, since the Model Ordinance applies specifically to HCA disturbance. However, the applicant has elected to utilize the HCA mitigation requirements for WQR disturbance as well, so the applicant's calculation of total disturbed area does not distinguish between HCA and WQR.

The proposed area of permanent disturbance is approximately 4,200 sq ft. The applicant has used Mitigation Option 2 to determine that 42 trees and 210 shrubs are required for that amount of disturbance. As proposed, the mitigation plantings would be installed within the vegetated buffer abutting the delineated wetland in the northwestern corner of the site.

ESA has confirmed that the proposed mitigation plan is adequate for the nature and scale of the permanent disturbance to both HCA and WQR on the site. However, the Model Ordinance includes temporary disturbances in the calculation of total disturbance area. The Planning Commission finds that a recalculation of total disturbance area, including temporary disturbances, is necessary to demonstrate compliance with this standard.

The additional standards of Section 6-E regarding plant size, spacing, diversity, survival, etc., are applicable to the proposed development. The applicant has generally addressed these standards and indicated that a final mitigation plan will be prepared for the building permit review process. A condition has been established to ensure that a more detailed mitigation plan is provided to demonstrate that the applicable standards will be met.

As conditioned, the Planning Commission finds that proposed development meets the applicable development standards of Section 6 of the Model Ordinance.

D. Section 9 of the Model Ordinance outlines the process for verifying the HCA boundary. In particular, Section 9-F-1 establishes the basic verification approach of agreeing that the HCA map is accurate, which includes submittal of a detailed property description, copy of the HCA map, and 2005 aerial photograph of the property.

The applicant has provided the information required to verify the HCA boundary, while asserting that the HCA map is not entirely accurate. However, the applicant has opted not to pursue the more detailed verification approach outlined in Section 9-G; for purposes of this application, the applicant has essentially agreed that the HCA map is accurate.

As proposed, the Planning Commission finds that the proposed development meets the applicable standards of Section 9 of the Model Ordinance.

The Planning Commission finds that the proposed development, as conditioned, meets the applicable standards of Metro's Title 13 Model Ordinance.

9. MMC 19.504 Site Design Standards

MMC 19.504 establishes standards related to site design for items including clear vision, buildings on the same lot, minimum distances from property lines, and minimum vegetation. In particular, MMC 19.504.9 provides standards for the design and development of flag lots.

Because the subject property was established as a legal lot of record prior to the City having standards for flag lots, it is subject to the development standards of the R-7 zone (see Finding 6) and not to the standards of MMC 19.504.9.

The Planning Commission finds that the site design standards provided in MMC 19.504, where applicable, will be more appropriately applied to the proposed development during the building permit review process.

10. MMC 19.505 Design Standards for Single-Family Dwellings

MMC 19.505 establishes standards for the design of single-family dwellings, many of which will be evaluated as part of the building permit review process. However, MMC 19.505.1.A.1 requires that the main entrance of the dwelling be oriented to face the street which provides vehicle access.

The subject property takes access from Furnberg St to the north. In determining how to position the proposed new house and evaluating alternative options, the applicant has considered the requirement of MMC 19.505.1.A.1 and proposed a design that will meet this standard.

The Planning Commission finds that the proposed development meets the applicable standards of MMC 19.505 and that other relevant standards will be addressed during the building permit review process.

11. MMC 19.600 Off-Street Parking and Loading

A. MMC 19.605 establishes quantity requirements for off-street parking for specific uses, including residential uses. Single-family residences require a minimum of 1 parking space per dwelling unit.

The proposed development includes a garage with 2 parking spaces in addition to at least 2 spaces in the driveway and vehicle turnaround area. This standard is met.

B. MMC 19.607 provides off-street parking standards for residential areas. In particular, MMC 19.607.1 requires that residential off-street parking spaces must have minimum dimensions of 9 ft by 18 ft and, along with the driveway, must have a durable and dust-free surface. The required parking space may not be located in the required front yard.

The proposed development includes an asphalt driveway and vehicle turnaround area, as well as a 2-car garage that will meet the 20-ft front yard setback requirement of the R-7 zone. This standard is met.

The Planning Commission finds that the proposed development meets the applicable standards of MMC 19.600.

12. MMC 19.700 Public Facility Improvements

MMC 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

The applicant proposes to construct a single family residence on the existing parcel. The new construction of the single family residence on tax lot 2801 is projected to slightly increase vehicle trips to the site.

The Planning Commission finds that MMC 19.700 applies to the proposed development.

A. MMC 19.703 Review Process

MMC 19.703 requires for minimum safety and functionality standards to be met before a development permit will be issued.

The proposed single family residence on tax lot 2801 does have adequate paved width along the site's frontage on Furnberg St. The existing paved width on Furnberg St is 25 ft. The minimum paved width allowed along the site's frontage is 16 ft. The applicant is not required to provide any additional paving to meet the minimum safety and functionality standard.

The Planning Commission finds that the proposed development meets the requirements of MMC 19.703.

B. MMC 19.704 Transportation Impact Evaluation

MMC 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.

i. MMC 19.704.4 requires that transportation impacts of the proposed development be mitigated.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.

The Planning Commission finds that the proposed development meets the requirements of MMC 19.704.4.

The Planning Commission finds that the proposed development meets the requirements of MMC 19.704.

C. MMC 19.706 Fee in Lieu of Construction

MMC 19.706 establishes specific criteria for accepting a fee in lieu of construction of required transportation facility improvements.

The applicant has requested to pay a fee in lieu of construction of the required transportation facility improvements triggered by the construction of a new single family residence on tax lot 2801. The Engineering Director accepts the fee in lieu of construction on the basis that the required improvements may present a safety hazard because tax lot 2801 is mid-block with 25 ft of frontage on a curve and the required improvements are not safe to construct. The applicant must pay the fee in lieu of construction for the required frontage improvements prior to a development

permit being issued. A condition has been established to ensure that this requirement will be met.

The Planning Commission finds that, as conditioned, the proposed development meets the requirements of MMC 19.706.

D. MMC 19.708 Transportation Facility Requirements

i. MMC 19.708.1 requires all development to comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

Tax lot 2801 currently has no driveway access fronting Furnberg St.

The applicant is required to construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) on Furnberg St. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line. A condition has been established to ensure that these standards will be met.

The applicant is required to remove all signs, structures, or vegetation in excess of 3 ft in height from "vision clearance areas" at intersections of streets, driveways, and alleys. A condition has been established to ensure that this standard is met.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC 19.708.1.

ii. MMC 19.708.2 establishes standards for street design and improvement.

The applicant is responsible for street improvements along the tax lot 2801 frontage adjacent to Furnberg St. The street improvement includes construction of a 14-ft wide paved half street, standard curb and gutter, minimum 5-ft wide planter strip, and minimum 5-ft wide setback sidewalk to accommodate pedestrians. The applicant has proposed a fee in lieu of construction for the required street improvements. The Engineering Director accepts the fee in lieu of construction on the basis that the required improvements may present a safety hazard because tax lot 2801 is mid-block and the required improvements are not safe to construct.

The existing right-of-way width of Furnberg St fronting the proposed development is 50 ft. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of Furnberg St as a neighborhood route. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a neighborhood route is between 20 ft and 68 ft depending on the required street improvements. The required right-of-way width needed for the required street improvements is 52 ft. The applicant is responsible for half the required dedication. The applicant shall dedicate 1 ft of right-of-way to the public on Furnberg St fronting the proposed development. A condition has been established to ensure that this standard is met.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC 19.708.2.

iii. MMC 19.708.3 establishes that sidewalks shall be provided on the public street frontage of all development.

The construction of sidewalks along the proposed development property abutting Furnberg St is included in the street frontage requirements. The applicant will pay a fee in lieu of construction for the required improvements. A condition has been established to ensure that this condition will be met.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC 19.708.3.

iv. MMC 19.708.4 establishes standards for bicycle facilities.

The portion of Furnberg St fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements are not required for the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC 19.708.4.

v. MMC 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development property is surrounded by single-family residences and a water quality resource area with no mid-block connectivity. As a result, a pedestrian/bicycle path is not required for the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC 19.708.5.

vi. MMC 19.708.6 establishes standards for transit facilities.

The portion of Furnberg St fronting the proposed development is not classified as a transit route in the Milwaukie Transportation System Plan. As a result, transit facility improvements are not required for the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC 19.708.6.

As conditioned, the Planning Commission finds that the proposed development is consistent with all applicable standards of MMC 19.708.

The Planning Commission finds that, as conditioned, the proposed development is consistent with all applicable standards of MMC 19.700.

13. MMC 19.911 Variances

MMC 19.911 establishes the process and criteria for requests for variances from specific code provisions.

The applicant has proposed to develop a single-family detached dwelling on the subject property, at a density of approximately 1.3 units per acre. A single-family detached dwelling is an allowed use in the R-7 zone; however, MMC 19.302.3.J requires that the proposal must demonstrate compliance with the density standard of the R-7 zone because the proposed development is being reviewed by the Planning Commission.

The density range for the R-7 zone is 5.0 to 6.2 units per net acre. The definition of "net acre" in place at the time of application submittal excludes WQRs and HCAs, which comprise approximately 99% of the total property area and reduce the site to 0.01 net acres. As proposed, one dwelling unit on 0.01 net acres represents a density of

approximately 105 units per net acre. Therefore, a variance to the maximum density standard (6.2 units per net acre) is required.

MMC 19.911.2.B.5 prohibits variance requests to increase, or have the same effect as increasing, the maximum permitted density. However, because the zoning code and City-implemented Metro Model Ordinance for Title 13 both provide mechanisms for allowing mitigated disturbance to WQRs and HCAs, the proposed development does not represent an actual request to exceed the maximum permitted density. This issue did not surface during the required preapplication conference, so staff has requested the variance on behalf of the applicant.

A. MMC 19.911.3 establishes the review process for variances.

MMC 19.911.3.B lists Type II variances for some limited variations to numerical standards. However, there is no Type II variance for the minimum density standard. Therefore, the Planning Commission finds that the proposed development is subject to the Type III variance procedure as per MMC 19.911.3.C.

B. MMC 19.911.4 provides the approval criteria for variances.

Specifically, MMC 19.911.4.B.1 provides discretionary relief criteria for approving Type III variances.

i. MMC 19.911.4.B.1.a requires an alternatives analysis of the impacts and benefits of the variance proposal as compared to the baseline code.

Most of the subject property is designated as either WQR or HCA. Most proposed development activity will trigger a land use application and review by the Planning Commission to consider potential impacts on natural resources. Planning Commission review triggers compliance with the density standard, even though the proposal does not involve dividing the subject property or establishing multiple dwelling units on it.

Because the subject property is comprised of two developable (though constrained) lots of record, the proposed development represents a minimal use of the site. Constructing one dwelling unit on the site presents fewer direct impacts to surrounding properties than other alternative proposals that would actually increase the density by establishing more than one dwelling unit.

The zoning code and City-implemented Metro Model Ordinance for Title 13 both provide mechanisms for allowing mitigated disturbance to designated natural resource areas. Granting the variance request and allowing development of a single-family house as proposed, with the accompanying requirements to remove invasive vegetation and mitigate with native plantings, would result in the enhancement of the undisturbed natural resource areas remaining on the site.

The Planning Commission finds that this analysis demonstrates an overall benefit from the requested variance as compared to the baseline code.

ii. MMC 19.911.4.B.1.b requires that the requested variance be both reasonable and appropriate and meet at least one of three criteria related to (1) minimizing impacts to surrounding properties, (2) providing desirable public benefits, and (3) responding to the existing built or natural environment in a creative and sensitive manner.

The requested variance would allow development of a single-family detached dwelling, a use that is permitted outright in the R-7 zone. If not for the natural resource designation on the property, density would not be an issue and a new house on the site would be reviewed simply through the standard building permit process. Prohibiting development on the site due only to the density standard could be challenged as a regulatory taking, since the zoning code provides a process for mitigating impacts to designated natural resources. It is reasonable and appropriate to allow development of one single-family house on a residential property that is over 3,000 sq ft in area and has frontage on a public street, as per MMC 19.501.1.

The Planning Commission finds that the proposed development is reasonable and appropriate and meets the criteria of both MMC 19.911.4.B.1.b(1) and b(2).

iii. MMC 19.911.4.B.1.c requires mitigation of impacts from the requested variance to the extent possible.

The Planning Commission finds that allowing development of a single-family house on the subject property does not constitute an effective increase of the maximum permitted density and results in no negative impacts that require mitigation.

14. MMC 17.28 Design Standards

MMC 17.28.030 requires that easements for sewers, water mains, electric lines, or other public utilities shall be dedicated to the City wherever necessary.

The proposed development property has an underground stormwater mainline that runs along the south side of the property. The applicant does not show an easement for the mainline on the site plan. The applicant must grant and record a 10-ft-wide stormwater easement to the City for the stormwater mainline on tax lots 2801 and 2802. A condition has been established to ensure that this requirement will be met.

The Planning Commission finds that, as conditioned, the proposed development meets the specific requirements of MMC 17.28.030 and the applicable standards of MMC 17.28.

15. The City's Public Works Standards require erosion control measures to be installed prior to earth-disturbing activities. A condition has been established to ensure that this standard is met.

As conditioned, the Planning Commission finds that the proposed development meets the applicable requirements of the City's Public Works Standards.

16. MMC 12.24 requires clear vision at street and driveway intersections. A condition has been established to ensure that this standard is met.

As conditioned, the Planning Commission finds that the proposed development is consistent with the clear vision standards of MMC 12.24.

17. The application was forwarded to the following City departments and related entities for review and comment on January 20, 2012: City of Milwaukie Building and Engineering Departments, Clackamas County Fire District #1, Linwood Neighborhood District

Association, Southgate Community Planning Organization (unincorporated Clackamas County), and ESA (the City's on-call natural resource consultant).

The following is a summary of the comments received by the City:

- **Tom Larsen, City of Milwaukie Building Official:** Due to the location of the proposed home near the wetlands, a soil test will need to be performed by a qualified firm or individual, verifying the adequacy of the soil to support the proposed structure. Report to be submitted with the building permit application.

  Response: A condition has been established to ensure that this requirement is met.

- **Dolly Macken-Hambright, Beth Kelland, and Don Wiley, members of Linwood NDA Land Use Committee:** The proposed development will add hardscape on the subject property, which could affect stormwater drainage. In particular, the four abutting properties to the south may be particularly affected by any increased surface runoff or increased volume of ground water.

  Response: The City of Milwaukie Engineering Department has reviewed the proposed development for compliance with current stormwater management standards. Increased runoff from the new house and driveway will be treated on site in stormwater facilities that are designed and approved to adequately handle the new volume. Ongoing maintenance of those storm water facilities by the subject property owner is incorporated in the Stormwater Design Standards in the City of Milwaukie Public Works Standards.

- **Brad Albert, City of Milwaukie Engineering Department:** Various comments related to MMC 19.700 Public Facility Improvements, MMC 17.28 Design Standards, and MMC 12.24 Clear Vision at Intersections.

  Response: These comments have been incorporated into the Findings.

- **Sarah Hartung, Senior Biologist with ESA:** As the City's on-call natural resource consultant, ESA reviewed the application; assessed the existing conditions, alternatives analysis, and proposed mitigation plan; and prepared a report summarizing the analysis.

  Response: The ESA analysis has been incorporated into the Findings.

- **Mike Boumann, Clackamas County Fire District #1:** Various comments related to the Oregon Fire Code, including standards for fire apparatus access and water supply.

  Response: These comments are advisory for the applicant and are most relevant to the building permit review process.

- **Deborah Barnes, owner/resident at 6330 SE Furnberg St:** Concerns about impacts of the proposed development on wetland and natural resource areas as well as on privacy for neighboring properties.

  Response: The intent of the WQR review is to evaluate whether the applicant has done as much as possible to avoid or minimize impacts to natural resources and then has adequately mitigated where impacts are unavoidable. The City recognizes the subject property as being developable, though the burden of proof is on the applicant to show how the natural resources will be protected. Privacy for neighboring properties is not part of the WQR review; and the current flag lot standards are not applicable, since the subject property was established before the City had standards for flag lots.

Recommended Conditions of Approval

1. Prior to issuance of any building permits for construction on the subject property, the following shall be resolved:

   A. Unless otherwise required by these conditions of approval, all plans submitted for building permits for the subject property shall be substantially similar to those submitted as part of the final land use application (stamped received on January 19, 2012, for most of the applicant's materials; or September 2, 2011, for the applicant's Water Quality Resource Assessment Report; *or February xx, 2012, for any other materials received after preparation of the draft findings*).

   B. Provide a final revised site plan showing the front of the new house located along a plane 20 ft from the front property line. *(The details of this condition could change depending on the applicant's further exploration of alternative low-impact footprints.)*

   C. Provide a construction management plan that shows the following:

      i. Location of site access (ingress and egress) that construction equipment will use

      ii. Equipment and material staging and stockpile areas

      iii. Measures to protect trees and other vegetation located within the Habitat Conservation Area (HCA) but outside of the approved disturbance area

   D. Provide a final mitigation plan that includes the following details:

      i. Clear indication of the person responsible for the mitigation work, including primary contact, phone number, and address

      ii. Demarcation of mitigation planting areas for permanent disturbances to the Water Quality Resource (WQR) and/or HCA

      iii. Locations of particular plant species within the mitigation planting area—plantings shall be appropriate for particular conditions (e.g., sun/shade, wet/dry, etc.) and shall be native, non-nuisance species from the Milwaukie Native Plant List

      iv. Demonstration that plantings to restore temporarily disturbed areas are native, non-nuisance species from the Milwaukie Native Plant List

      v. Timeline for planting, with schedule for watering, monitoring, and replacement of plants

      vi. Contingency plan

   E. Submit a report documenting a soil test performed by a qualified firm or individual, verifying the adequacy of the soil to support the proposed structure.

   F. Submit a stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.

   G. Obtain a right-of-way permit for construction of the required driveway approach along the site's frontage on Furnberg St.

H. Pay the fee-in-lieu of construction costs for the required travel lane, curb, planter strip, and setback sidewalk. The fee for the required improvements will be calculated with the submission of the building permit.

I. Dedicate 1 ft of right-of-way on Furnberg St fronting the proposed development.

J. Provide an erosion control plan and obtain an erosion control permit.

2. Prior to final inspection for any building permit for the subject property, the following shall be resolved:

   A. Implement the final mitigation plan.

      i. Restore temporarily disturbed areas according to the details provided in the final mitigation plan.

      ii. Remove all invasive nonnative vegetation from within designated mitigation planting areas.

      iii. Install trees, shrubs, and ground cover according to the details provided in the final mitigation plan.

      iv. Provide a signed statement from the responsible party identified in Condition 1-D-i above, stating that all mitigation plantings have been installed according to the final mitigation plan.

   B. Construct a driveway approach onto Furnberg St to meet all guidelines of the Americans with Disabilities Act (ADA) prior to final inspection. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property lines.

   C. Remove all signs, structures, or vegetation in excess of 3 ft in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.

   D. Record a 10-ft-wide stormwater easement on the south side of tax lots 2801 and 2802 for the City stormwater mainline.

3. The land use approval shall expire and become void unless both of the following steps are completed:

   A. Obtain and pay for all necessary development permits and start construction within 2 years of land use approval.

   B. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.

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ATTACHMENT 3a

Theta, llc

ENGINEERING - SURVEYING - PLANNING

503/481-8822

PO Box 1345
Lake Oswego, Oregon 97035

e-mail: thetaeng@comcast.net

Water Quality Resource Review Application (Consolidated narrative)

Legal Description:
Tax lots 2801 & 2802 T1S R2E Sec 32CB, City of Milwaukie, Clackamas County, Oregon.

Pre-Application Conference:
A meeting was held December 2, 2010 at the city of Milwaukie. Subsequently a report was issued by the City on December 16, 2010.

Narrative:
The subject property is vacant land located south of SE Furnberg Street and east of SE 64th Avenue. The total area is approximately 0.8 acres and zoned R-7. The property is considered a lot of record and configured as a flag lot with 24+ foot frontage on SE Furnberg Street. SE Furnberg is a 50 foot wide right-of-way with a paved section, but without curbs and walks. Because of the very small street frontage payment a fee in lieu of construction is proposed.

The Water Quality Resources, Linwood Neighborhood Map (map 6 of 6) illustrates a wetland on the property and totally within a wetland buffer. Pacific Habitat has identified the potentially jurisdictional wetlands and the associated Water Quality Resource Area (see attached report by Pacific Habitat) with concurrence by the Oregon DSL.

The proposed development of this property is to construct one single family home. Due to the limits Water Resource Area and the Milwaukie code requirements the proposed home will invade the Water Resource Area. The access will be the minimum 12'foot paved access to the attached garage with a maneuver area to allow vehicles to safely exit going forward.

Storm water generated as a result of development with be collected in a swale for the driveway and planter box for the home with overflow to the wetland area. The storm water facilities will be constructed to meet the City requirements.

No trees will be removed with this development and no site grading is required.

Appendix:
Following this discussion of the various elements of the development code is an appendix which contains drawings and reference materials.

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APPENDIX INDEX

- Location Map
- Existing Conditions Plan
- Lot Coverage and & Vegetation Worksheet
- Surveyor signed Lot Coverage & Vegetation Worksheet
- City of Milwaukie WQR & HCA maps Sheet 1 & 2
- Division of State Lands Concurrence Letter with maps (Jan 10, 2012)
- Pacific Habitat Services- Water Quality Resource Assessment Report
- Pacific Habitat Services-Wetland Delineation

19.302.1 Outright Uses Permitted

In an R-7 Zone the following uses and their accessory uses are permitted outright:

A. Single-family detached dwelling;

B. Residential home;

Response: The proposed single family house is an outright permitted use.

19.302.2 Conditional Uses Permitted

Response: No conditional use is proposed.

19.302.3 Standards

In an R-7 Zone the following standards shall apply:

A. Lot size. Lot area shall be at least 7,000 square feet. For a single-family attached dwelling the lot area shall be an average of at least 7,000 square feet per unit. Lot width shall be at least 60 feet. The minimum lot width shall be 30 feet for interior single-family attached units. Lot depth shall be at least 80 feet.

Response: The existing lot is approximately 0.8 acres and therefore exceeds the minimum lot area.

B. Front yard. A front yard shall be at least 20 feet.

Response: The minimum 20 foot front yard will be met (see site plan)

C. Side yard. A side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on corner lots a side yard shall be at least 20 feet on the side abutting the street. For interior single-family attached units, side yards are not required.

Response: The proposed side yards have a minimum of 22 feet and therefore exceed the minimum side yard requirements.

D. Rear yard. A rear yard shall be at least 20 feet.

Response: The proposed rear yard is in excess of 78 feet and therefore exceeds the minimum.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading. As specified in Chapter 19.500\

Response: a two car garage is provided that meets the on-site parking requirements, additionally the proposed driveway is configured to allow for a safe vehicle turnaround so that a vehicle can exit forward onto Furnberg.

G. Height restriction. Maximum height of a structure shall be 2.5 stories or 35 feet, whichever is less.

Response: A one story home is proposed with the total height of less than 25 feet

H. Lot coverage. Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 30% of the total area of the lot.

Response: The total lot coverage is less than 7% (see the lot coverage worksheet)

I. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., will be 30% of the total area of the lot.

Response: The minimum vegetation area is more than 90% (see the vegetation worksheet)

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 feet, except as provided in the Land Division Ordinance.

Response: The subject property is a lot of record that was created prior to the flag lots requirements with approximately 28 feet of frontage.

K. Minimum and maximum density. Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the Planning Commission, pursuant to Subsection 19.1011.3 Minor Quasi-Judicial Review, shall be at least 5.0 and not more than 6.2 dwelling units per net acre.

Response: Although there are two tax lots the property is severely impacted by wetlands and water quality resources. No partition or division of the property is proposed. Only one building envelope is possible.

L. Transportation requirements and standards. As specified in Chapter 19.700. (Ord. 1977 § 3, 2008; Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

Response: A pre-application conference held 12/2/2010 stated that no traffic impact study was required. The SE Furnberg Street improvements include, beginning from the fronting property line, a 5-ft setback, 5 ft. landscape strip, curb and gutter, and 14ft. wide paved half street. Because of the very narrow flag lot a fee in lieu of construction for the required improvements is requested.

19.400 Overlay Zones

19.402.1 Purpose, General Policies, and Declarations

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

Response: This property has been identified on the City of Milwaukie Water Quality Resources, Linwood Neighborhood, Map 6 of 6 as being impacted by a wetland and wetland buffer. A study by Pacific Habitat has delineated the jurisdictional wetland and associated buffer. The proposed development plan has been prepared to minimize the impact to this existing resource. See the attached concurrence letter from the Oregon Department of State Lands.

B. It is the intent of this chapter to ensure protection of the functions and values of Water Quality Resource Areas at the time of development.

Response: The proposed development plan protects the existing resource to the maximum extent possible and avoids development within the potentially jurisdictional wetland.

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

1. Impose any obligation on property owners for the restoration of existing developed sites to predevelopment or natural condition;

2. Impose any hardship or limitation against the continued maintenance of existing legal site conditions;

3. Restrict activities that do not constitute development or to apply to activities that do not affect the Water Quality Resource Areas. Normal lawn and yard planting and maintenance does not include planting of invasive nonnative or noxious vegetation;

4. Prohibit normal lawn and yard landscape planting and maintenance.

This chapter is to be interpreted consistently with this intent.

D .Relief from the strict application of this section is afforded through Subsections 19.402.11, variance provisions, and 19.402.12, modification of the Water Quality Resource Area boundaries.

Response: Development of this property is no possible without impacts to the water resource area. The proposed development plan illustrates minimum disturbance and avoids disturbance to the potentially jurisdictional wetland. The subject property is not within a flood hazard area. The proposed development disturbance will be mitigated on site as outlined with the plan plan found on page 14 of this report. Note figure 6 of the Pacific Habitat Water Quality Resource Assessment Report has been superseded in the total area to be mitigated.

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

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

G.The Water Quality Resource Area regulations allow development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.

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

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

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

K. The Planning Director shall produce and maintain the Milwaukie Native Plant List.

19.402.2 Coordination with the Willamette Greenway Overlay

Response: The property is not subject to the Willamette Greenway.

19.402.3 Applicability

Water Quality Resource Area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Maps. Application for development activity shall be made in accordance with Title 19, this chapter, and Subsections 19.402.9 Application Requirements and 19.402.10 Development Standards.

19.402.4 Activities Permitted Outright

Response: The proposed development is not a outright permitted activity.

19.402.5 Activities Permitted Under Type I Application Review

Response: The proposed development will not meet the requirements for a type I review.

19.402.6 Activities Permitted Under Type II Review

Response: The proposed development will not meet the requirements for a type II review.

19.402.7 Activities Permitted Under Type IIII Review

Response: The proposed development meets the requirements of this section and will be reviewed under the Minor Quasi-Judicial Review process.

The following activities are allowed within the Water Quality Resource Areas subject to approval by the Planning Commission under Subsection 19.1006 Type III Review and compliance with Subsection 19.402.10 Development Standards:

A. Any activity allowed in the base zone, other than those listed in Subsections 19.402.4.A through C.

B. Roads to provide access to protected water features or necessary ingress and egress across Water Quality Resource Areas.

C. New public or private utility facility construction.

D. Walkways and bike paths.

E. New stormwater detention, retention, or pretreatment facilities.

F. Widening an existing road adjacent to, or running parallel to, a Water Quality Resource Area.

G. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, accessory uses, and development that increase the structural footprint or disturbed area within the Water Quality Resource Area.

H. Natural resource management plans and stormwater management plans.

I. Partitions and subdivisions that contain protected water features or Water Quality Resource Areas.

19.402.8 Prohibited Uses

A. Following adoption of this chapter, new structures, development, or activity other than those allowed in Subsections 19.402.4-7 are prohibited in the Water Quality Resource Area.

B. Uncontained Areas of Hazardous Materials

This prohibition shall not be effective until the Planning Director has adopted administrative measures for its implementation, which shall be no later than June 1, 2003.

Response: No prohibited use is proposed.

19.402.9 Application Requirements

Applications for Type II and Minor Quasi-Judicial review shall provide the following information in addition to the information required for the base zone:

A. A topographic map of the site at contour intervals of 5 feet or less showing a delineation of the Water Quality Resource Area, which includes areas shown on the Water Quality and

Flood Management Area maps, and that meets the definition of Water Quality Resource Area in Table 19.402.9.A.

Table 19.402.A

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor[6]
Primary Protected Water Features[1]	< 25%	• Edge of bank full flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet
Primary Protected Water Features[1]	> 25% for 150 feet or more[5]	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	200 feet
Primary Protected Water Features[1]	> 25% for less than 150 feet[5]	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in > 25% slope)[3], plus 50 feet.[4]
Secondary Protected Water Features[2]	< 25%	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	15 feet
Secondary Protected Water Features[2]	> 25%[5]	• Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet

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

[2] Secondary Protected Water Features include intermittent streams draining 50—100 acres.

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

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

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

Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

Response: the site was topographically mapped and the wetland was delineated. The topographic features with one foot contours are shown on the existing and proposed site plans.

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

Response: the trees greater than 6-inches were mapped and shown on the exhibit drawings. The existing swale was also mapped.

C. Location of Wetlands

Where wetlands are identified, the applicant shall follow the Division of State Lands wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist and will be accepted only after approval by the Oregon Division of State Lands.

Response: A jurisdictional wetlands were delineated by Pacific Habitat and mapped by Centerline Concepts and are shown on the exhibit drawings and in the wetland delineation report. The proposed development does not impact lands that were delineated. The Department of State Lands has found concurrence with the PHS reports and issued their response in a letter dated January 10, 2012. A copy of this response is included in the appendix of this narrative.

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

Response: No debris or noxious materials were found on the property.

E. An assessment of the existing condition of the Water Quality Resource Area in accordance with Table 19.402.9.E.

Table 19.402.9E

Existing Condition of Water Quality Resource Area	Requirements Applicable to Portions of the Water Quality Resource Area Disturbed During Development or Land Disturbance
Good Existing Corridor: Combination of trees, shrubs, and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.	Submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including: sediments, temperature and nutrients, sediment control, temperature control Or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list. Inventory and remove debris and noxious materials.
Marginal Existing Vegetated Corridor:	Vegetated disturbed and bare areas with nonnuisance plantings from the Milwaukie Native Plant List.

Combination of trees, shrubs, and groundcover are 80% present, and 25—50% canopy coverage in the vegetated corridor.	Inventory and remove debris and noxious materials. Revegetate with native species using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. Restore and mitigate according to approved plan using nonnuisance plantings from the Milwaukie Native Plant List. Inventory and remove debris and noxious materials.

Table 19.402.9.E CONTINUED
Water Quality Resource Area Requirements

Existing Condition of Water Quality Resource Area	Requirements Applicable to Portions of the Water Quality Resource Area Disturbed During Development or Land Disturbance
Degraded Existing Vegetated Corridor: Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any nonnative species.	Vegetate disturbed and bare areas with appropriate plants from the Milwaukie Native Plant List. Remove nonnative species and revegetate with nonnuisance plantings from the Milwaukie Native Plant List. Plant and seed to provide 100% surface coverage. Restore and mitigate according to approved plan using nonnuisance plantings from the Milwaukie Native Plant List. Inventory and remove debris and noxious materials.

Response: Pacific Habitat prepared a Water Quality Resource Assessment Report and is attached to this narrative and a part of the application.

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

Response: Included in the Water Quality Resource Assessment Report is an inventory of the vegetation.

G. Alternatives analysis demonstrating that:

1. No practicable alternatives to the requested development exist that will not disturb the Water Quality Resource Area; and

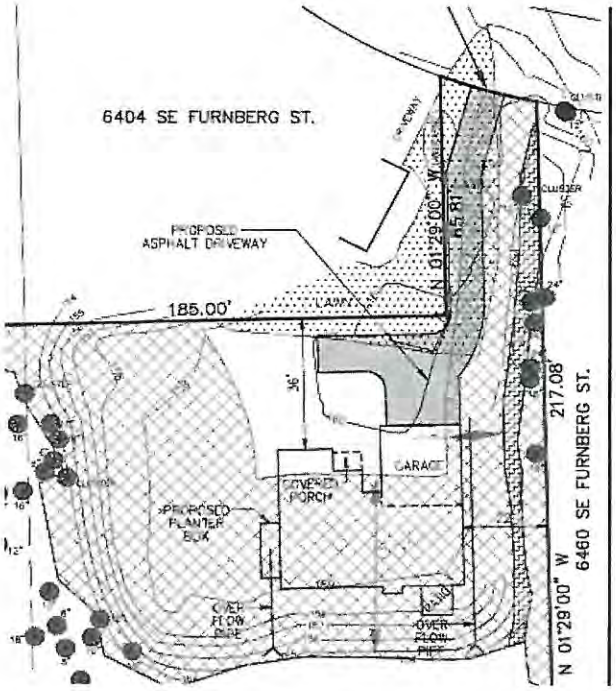
2. Development in the Water Quality Resource Area has been limited to the area necessary to allow for the proposed use; and

3. The Water Quality Resource Area can be restored to an equal or better condition in accordance with Table 19.402.9.E; and

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

Response: Alternatives were explored, including different site plan, but no practicable alternative was found that met other code requirements for setbacks, and flag lot development. The selected alternative meets the city development code and limits the impact to the resource area as much as possible.

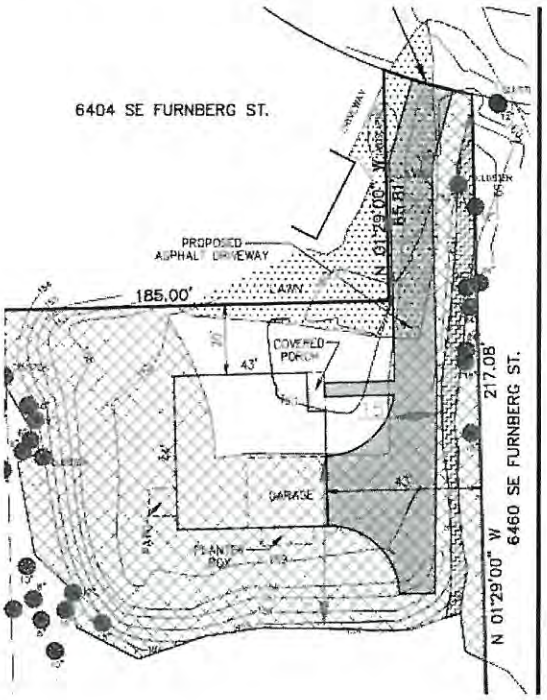
Option 1:
This option positions the garage on the right side, provides a 5-foot landscape strip and a vehicle turn-around. The front door faces the street and has a covered porch. Although the house is offset more than the minimum from the front property line the amount of driveway surface is minimized. The footprint may extend to the South and into the resource area but is minimized on the westerly side where the more significant wetland exists (actual standing water). The total impervious area of the driveway is 1314 square feet.



This layout meets the R-7 underline code for orientation and limits the impervious area while minimizing the impact to the Resource area. The driveway is only 12 feet wide in the flag and widens to approximately 17 feet wide at the garage resulting is a maneuver area at a minimum to allow cars to go out in the forward direction. For these reason the option has been identified as the preferred layout. (See PHS fig. 3 for texture key)

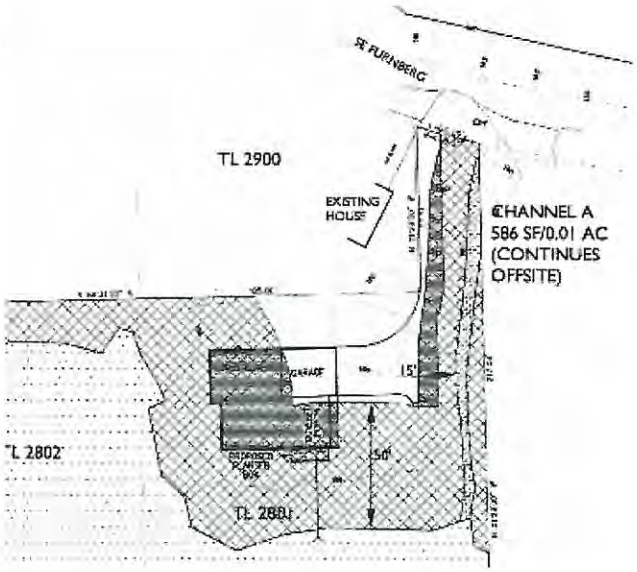
Option 2:
This option features a side loading garage on the easterly side of the proposed house. A covered porch is provided with a walk to the driveway. The house is set with a minimum 20 foot front yard setback. Because of the need to provide a vehicle turn around the side yard setback on the easterly side is at 43 feet.
The impervious area for the driveway Is 2345 square feet (almost twice Option 1). For this same size house & garage the disturbance of the Resource is greater to the west and extends approximately the same

distance for a portion of the plan to the South. The proposed driveway for this layout used accepted architectural dimensions to achieve a suitable turnaround. For these reasons this option was rejected.



Reference PHS Figure 3 for the Texture key for the existing.

Option 3:
This option set the front yard offset at 20 feet and to minimize the driveway placed the garage on the northerly side of the house. The house would be parallel to the northerly property line but the front door would not face the street (thus not meeting the R-7 code for orientation). To orientate the front door towards the front lot line would require reversing the garage. This would create significantly much more impervious pavement and would result is option 2. (See PHS fig. 3 for texture key)
This option would limit the impact to the resource to the south but encroach farther into the resource to the west.



H. For applications seeking an alteration, addition, rehabilitation, or replacement of existing structures located within the Water Quality Resource Area:

1. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and

2. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource Area to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement, or rehabilitation; and

3. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

Response: The Water Quality Resource Assessment Report considered options and provides for mitigation of the disturbed area.

I. A Water Quality Resource Area mitigation plan that contains the following information:

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

2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 19.402.9.E;

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

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

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

Response: The Water Quality Resource Assessment Report describes the impacts, provides maps and exhibits. West Coast Home Solutions is the current owner and at this time is responsible for the mitigation program. The mitigation work would be installed after the construction of the home.

1. Mitigation Plan-

a. *Pursuant to the Pacific Habitat report 48% of the area is covered with invasive/noxious and non-native plant materials. Invasive plants include blackberry and English ivy. The proposed site plan offers the least invasion into the Resource Area. However with most of the existing plants in this area being classified as invasive/noxious blackberry and tall fescue ground cover replanting will greatly enhance the Resource Area.*

An inventory or the existing plants is included in the Pacific Habitat "Water Quality Resource Assessment Report" The invasive/noxious, and nonnative species will be removed from the mitigation area portion of the property. Adjacent to the proposed driveway will be a drainage/water quality swale. Plants in this area will be wetland materials of a complement of camas lily, dewey sedge, slough sedge, & needle spike rush all planted at 12" on center. The seed mix of meadow Barley, Blue

Wild Rye, and California Oat grasses will be included as groundcover. No specific time table can be provided for implementation of the mitigation materials. The planting is heavily dependent of the construction schedule of the home and driveway and the time of year. Construction of the roadside swale will follow directly after the construction of the driveway. Even though the driveway will not be paved until the house is complete the swale will be constructed and planted as soon possible after the base rock is installed as a temporary surface. Planting of the remainder of the disturbed areas will be installed after construction of the house is complete. Intermediate erosion control ground cover may be installed in the interim if construction is delayed or it's the wrong time of year to establish the replacement plants. Following the initial planting, dependent of the final plant types and the time of year temporary irrigation may be

2. HCA Code

- **a. Section 2-** *The DSL has found agreement with the Pacific Habitat assessment of the location of the wetland. The proposed development is totally outside the wetland area and almost completely in the Habitat Conservation Area. Only a very small area of the property is outside the 100 foot buffer limits. The proposed development limits the disturbance as much as possible The 2009 WQR and HCA Areas map shows all but a very small portion of the flag as being in the HCA area, as well as portions of existing developed properties. This preliminary map as provided by Metro and is not an accurate illustration of the actual conditions in the neighborhood.*
- **b. Section 3-***(Exempt Uses and Conditioned Activities) reviewing this section a list of activities that are exempt for the section area listed. Upon consultation with Staff it appears that not exemption is proposed.*
- **c. Section 5** *(construction management plans) since the final house plan and engineered driveway and associated water quality swale are subject to review and approval the construction management plan will be submitted with the development application.*
- **d. Section 6** *(Development Standards)-*
  - ***A. Application Requirements:***
    - ***1.*** *The HCA has been verified, this condition has been met*
    - ***2.*** *A scaled map of the HCA has been submitted*
      - ***a.*** *Per the City of Milwaukie maps almost all the property has been identified as High Value (see Attached Map)*
      - ***b.*** *A site plan has been provided which illustrates the disturbance area, adjacent streets, paved areas, and utilities.*
      - ***c.*** *The locations of wetlands have been delineated by Pacific Habitat and are included in the application. The City provided map was very general in nature and does not at all represent the actual limits.*
      - ***d.*** *The subject property is not in a 100 year floodplain*
      - ***e.*** *A site specific one (1) foot contour map is included in the application*
    - ***3.*** *A detailed development plan has been included in the application that illustrates building footprint , utilities and landscape areas.*
    - ***4.*** *Additional information about the HCA*
      - ***a.*** *The subject property is less than one acre and the trees*

have been mapped indicating species and size.

b. *No trees are proposed to be removed in the disturbance area.*

c. *No significant grading is proposed that will change the location of the one foot contours. With the final development plans spot elevations will be provided.*

C. Development within HCAs.

1. Disturbance area Limitations

a. ***Single family residential-*** *Using the City of Milwaukie WQR & HCA area map all the HCA area is judged to be High value. Per Table 1 the total disturbance area for High Value HCA is 50% of the lot area and not to exceed 5000 sq ft. Accepting the staff calculation of the area within the flag pole outside the HCA and WQR as 415 sq ft., resulting in the maximum amount of disturbance as 4585 square feet. Using the preferred option 1 the total proposed lot coverage is 3298 sq ft. It is not clear if landscaping for a yard is included in the disturbance calculation. With 900 sq ft of landscape area equals 4198 sq ft of disturbance. This is less the than the maximum permitted about by approximately 8%. n 1) the total proposed lot coverage is 3298 sq ft. With 900 sq ft of landscape area for the house yard it equals 4198 sq ft of disturbance. This is less the than the maximum permitted about by approximately 8%.*

2. Protection of Habitat during Site Development

a. *The construction area limits will be identified in the field with an orange construction fence or other approved barrier.*

b. *There are no trees within the proposed disturbed area, and no tree will be used for an anchor.*

c. *To the extent possible native soils will be reused on the property.*

d. *An erosion control plan will be prepared with the final plans*

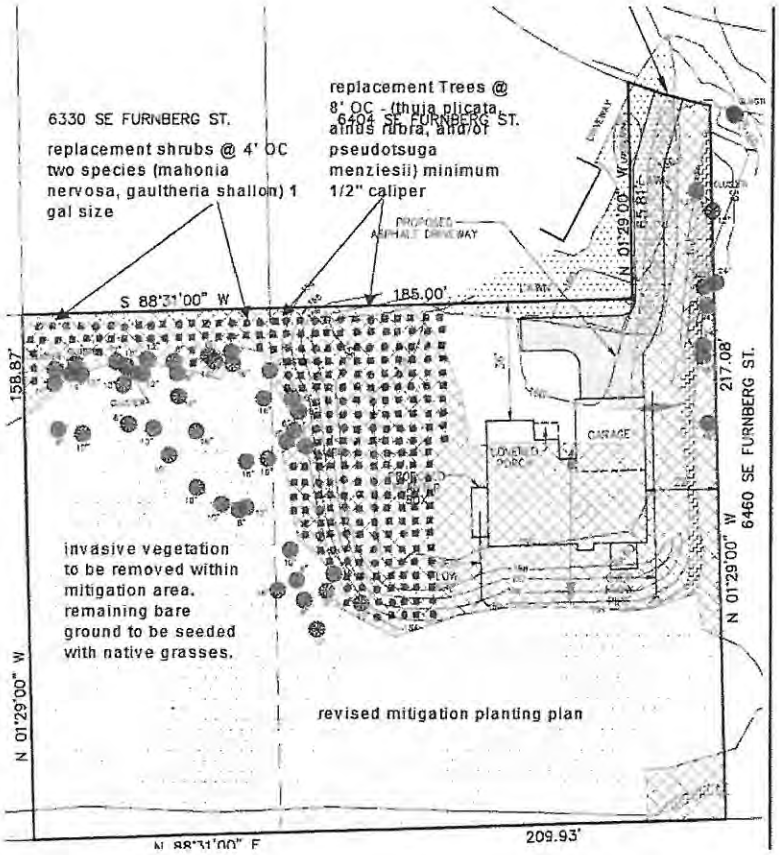
e. *As stated in item a. above the disturbance area will be marked in the field with an approved barrier.*

f. *The location of site access will be through the flag and will be indicated on the plans as well as any needed staging and*

E. Mitigation requirements for disturbance in HCA's

1. *Required plants and plant densities- Applying Mitigation Option 2:*

   the total plant materials is calculated as:
   4198/500= 8.4 5 trees X 8.4 = 42 trees required, 25 shrubs X 8.4 = 210 shrubs required.
   Trees will be of two species and shrubs will also be of two species. Trees will be ½ inch in caliper and shrubs 1 gal container. Location and species is shown on the mitigation plan. Note: the WQR and HCA overlap and without a specific mitigation requirement for the WQR if was determined that the more explicit requirements for the HCA was more that adequate



The area selected to receive the mitigation planting is generally the area as identified in figure 6 of the wetland delineation report as containing the evasive and non-native Himalayan blackberry and festuca arundinacea. This area would be best helped by the mitigation work.

As seen in the photos the general area where the house and driveway will be located is without habitat or viable vegetation. By locating the mitigation area outside this area the location can be demarcated for future monitoring.

2. ***Plant Size***- *No replacement trees are needed, but shrubs Will be at least a 1 gallon container size*
3. ***Plant Spacing-*** *the shrubs will be planted from 4 to 5 feet* On *center in clusters of species of 4 or less*
4. ***Plant Diversity-*** *At least two different species of shrubs and herbaceous plants will be used and shown on the final plans*
5. ***Location of Mitigation Area***- *Pacific Habitat has identified a mitigation areas in Figure 6 of their report . The mitigation area has been expanded to meet the requirement of the code. These areas are located in the HCA and are*

degraded areas that will be restored to "Good" condition.

6. ***Invasive vegetation-*** *The proposed mitigation areas are dominated by Himalayan blackberry, which will be removed.*
7. ***Shrub Survival-*** *The shrubs planted will be inventoried at Fifth anniversary for 80% survival and replaces as needed*
8. ***Monitoring and Reporting****- annual report will be submitted to the City Planning Director with the survival of plantings and replacements made.*
9. ***Enhance Survival-***
    a. *The new plantings will be mulched a minimum of three inched deep and 18 inches in diameter.*
    b. *The plantings will be provided with temporary irrigation for the first three years at the rate of one inch per week (June 15 to Oct 15)*
    c. *weed control will be done throughout reporting time*

J. All information contained in the application submission requirements and site plan checklist forms prescribed by the Planning Director.

Response: This application follows the submissions requirements and checklists.

K. The application fee as adopted by the City Council.

Response: Governmental required fees will be paid per the adopted schedules.

19.402.10 Development Standards

Applications for development or land disturbance on properties that contain Water Quality Resource Areas shall demonstrate compliance with the following standards:

A. The Water Quality Resource Area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 19.402.9.E.

Response: The final mitigation plan will be prepared to address the City requirements.

B. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and flagged marking the limits to reduce potential damage to the Water Quality Resource Area.

Response: Only a small portion of the site is proposed to be disturbed with this development. It is likely that no native plants and shrubs will be disturbed in the construction of this home. The limits of construction will be marked in the field.

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

Response: Existing vegetation that is removed and not part of the footprint of the house or driveway have erosion protection with revegetation as soon as practical.

D. Prior to construction, the Water Quality Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as may be allowed by this chapter. Such markings shall be maintained until construction is complete.

Response: The flagged limits of disturbance will be maintained through construction.

E. Stormwater Pretreatment Facilities

1. The stormwater pretreatment facility may encroach a maximum of 25 feet into the outside boundary of the Water Quality Resource Area of a primary water feature; and

Response: The property is almost entirely within the Water Quality Resource Area but the stormwater facilities have been sited to minimize encroachment in the resource area as much as practical.

1. The area of encroachment must be replaced by adding an equal area to the Water Quality Resource Area on the property.

Response: The areas of encroachment will be mitigated as outlined on the Mitigation Plan and identified in the Water Quality Resource Assessment Report.

F. Additions, Alterations, Rehabilitation, and Replacement of Lawful Structures

1. For existing structures, roadways, driveways, accessory uses, and development which are nonconforming, this chapter shall apply in addition to the nonconforming use regulations of the City.

Response: There are no existing structures on this property.

2. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, driveways, accessory uses, and development shall not encroach closer to the protected water feature than the existing structures, roadways, driveways, accessory uses, and development.

Response: There are no existing structures or development on this property.

G. Off-site Mitigation

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

Response: Mitigation is proposed to be done one site.

H. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent Water Quality Resource Area.

Response: Generally accepted best management practices and construction techniques will be employed to prevent damage to the resource area.

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

Response: No outside lighting is proposed.

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

Response: This section does not apply.

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

Response: The development does not create islands of resource and the natural vegetation remains connected.

L. Stormwater flows as a result of proposed development within and to natural drainage courses shall not exceed predevelopment flows.

Response: The stormwater from the driveway will be collected in a swale with overflow discharge to the existing drainage course. The storm water from the house will be directed to a planter box with overflow discharge to the existing drainage course. These facilities will meet the requirements for flow.

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

Response: This provision does not apply.

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

Response: The construction is proposed to be accomplished is the dry weather season.

19.402.11 Variances

Response: This property is almost completely within the Water Quality Resource. The development plan has protected the resource as much as possible and minimized the impact. No variances are requested.

19.504 Design Standards

19.504.1 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

Response: The subject property is an interior lot without street or railroad intersections.

19.504.2 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

Response: No reduction in lot area, open space, or off-street parking or loading is being proposed.

19.504.3 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in Subsection 19.503.1.C.

Response: All the required areas, open space, and off-street parking are used only the subject property.

19.504.4 Buildings on the Same Lot

A minimum distance of 6 feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 Zones, only one building designed for dwelling purposes shall be permitted per lot.

Response: Only one building is proposed for this property.

19.504.5 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

Response: Setback requirements for the R-7 zone are being met.

19.504.6 Transition Area

Response: does not apply

19.504.7 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

Response: Mitigation and landscape planting will enhance the existing landscape materials at the time of construction of the new home. More than 90% of the property is vegetated and approximately 0.44 acres is potential jurisdictional wetlands.

19.504.8 Multifamily Recycling Requirements

Response: Does not apply

19.504.9 Flag Lot Design and Development Standards

Response: The City Staff as determined that the Flag Lot Standards do not apply since this property was created before the adoption of the Flag Lot Design and Development Standards.

To avoid a jurisdictional wetland the driveway is not centered in the easement except for the initial 25 feet from the Furnberg right-of-way which is centered in the easement.

The driveway is less than 100 feet from the right-of-way to the proposed home. No emergency vehicle maneuvering area is required. For safety, the driveway does have a vehicle turnaround to allow vehicles to drive exit in a forward direction.

A good neighbor fence will begin at the building line of the existing westerly house and continue southerly to the end of the flag, and then turn

westerly running along the north log line approximately 80-feet.Planting will be provided in the first 25 feet of the driveway on the centered 12-foot paved driveway. The balance of the drive will be positioned to be away from the existing wetland running along the easterly side of the subject property.

19.504.10 On-Site Walkways and Circulation

Response: This section does not apply to single-family residential.

19.504.11 Building Orientation to Transit

Response: This section does not apply to single-family residential.

Title 13 Model Ordinance

Section 7 Alternative Discretionary Development Standards

This development application is not a partition, the mitigation is not proposed to be located off site, and the application is not seeking to vary the number of shrubs required. Subsection A, B, & C does not apply.
It is the intent of the application to comply with the requirements of Section 6 and an impact evaluation and alternatives analysis has been provided. This report was prepared by Pacific Habitat and is a part of the application.

Section 9 - Map administration and HCA verification

F. 2 Obvious misalignment between mapped Habitat and property lines.

a. 9(F)(1)(a) *The subject property is identified as tax lots 2801 & 2802, Map 1S2E32CB, City of Milwaukie, Clackamas County. The access to the property is via a flag from Furnberg Street which the yard from the adjacent westerly property currently encroaches into the flag area. There are two trees along the easterly side of the flag. There is a significant area approximately 70 feet square that that is level, without any trees and with non native ground cover of grass and weeds. The balance of the property is tree covered and has a wet land (standing water) on the southerly boundary. Some of the property is covered with non-native blackberry. The City map is not 100% accurate.*

9(F)(1)(b). *Attached is a copy of the HCA map.*

c. *Aerial maps of the subject property have been included years 2004 and 2005.*

9(F)(1)(d). *Sections 6 and 7 have been addressed*

9(F)(1)(e). *The City HCA map illustrates portions of the High Value areas extending into the paved streets, into the developed and landscaped backyards of properties along Furnberg and within the level area of the property as identified on the 2004 aerial photo.*

b. *The City aerial map illustrating the HCA appears to accurately show the right-of-way and lot possession lot lines. The high value HCA area extends into the street and into the landscaped yards of properties adjacent to the subject property along Furnberg. The HCA extends into the right-of-way approximately 40 feet and up to approximately 20 feet into the developed*

backyards. The map does not acknowledge the approximately 70 foot square area on the subject property that is without trees and covered with non native ground cover of grass and weeds.

A cursory review of the site, including aerial photos from 2002 and 2005 clearly reflect that the HCA is not accurately identified. The process to make changes, however, is very onerous and time consuming. At this time the value is not worth the effort, but the applicant is reserving the option to explore this process in the future.

PHOTO 2005





PHOTO 2002

19.505 Building Design Standards

19.505.1 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units shall meet the following design standards:

1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.

Response: The proposed home has the main entrance oriented to the (north) front lot line.

2. The area of windows on all exterior wall elevation(s) facing the street shall be at least 12% of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.

Response: The proposed home has approximately 14% windows facing the street.

B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least 3 of the following features on any building elevation that faces, or is visible to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter:

1. Covered porch at least 5 feet deep.

Response: The proposed house has a porch depth in excess of 5 feet.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

Response: The entry is recessed 6 feet from the exterior wall next to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

Response: The roof eaves projection is 12 inches.

7. Roof line offsets of at least 16 inches from the top surface of one roof to the top surface of the other.

Response: The proposed home rooflines are offset more than 16 inches.

8. Attached garage.

Response: The proposed garage is attached.

9. Cupola.

10. Tile or wood shingle roofs.

11. Horizontal lap siding.

12. Brick covering at least 40% of the building elevation that is visible from the street.

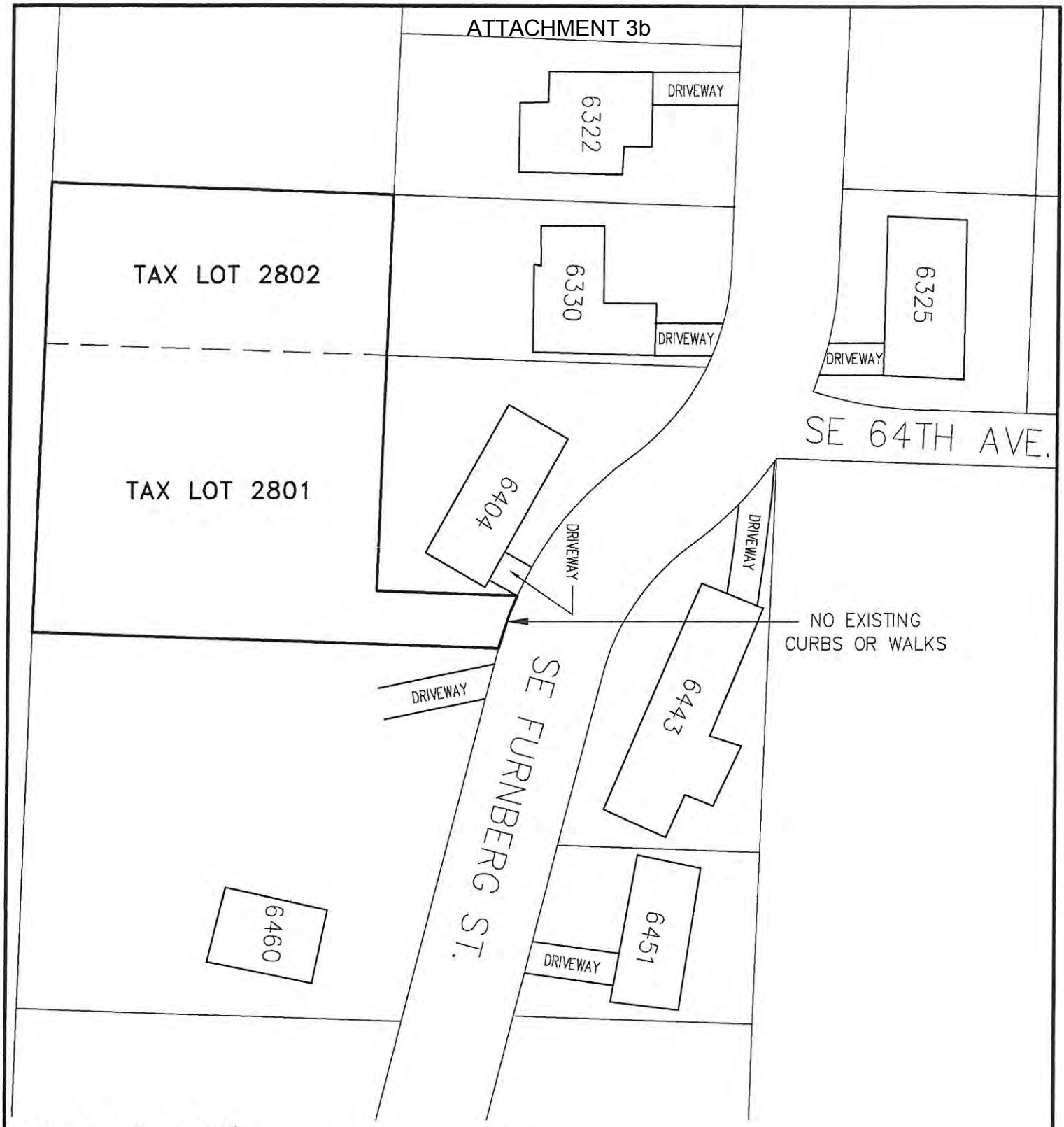
Authorization Signature

I witnessed the signature of Eugene Labunsky president of West Coast Home Solutions, LLC on the land use application.

APPENDIX INDEX

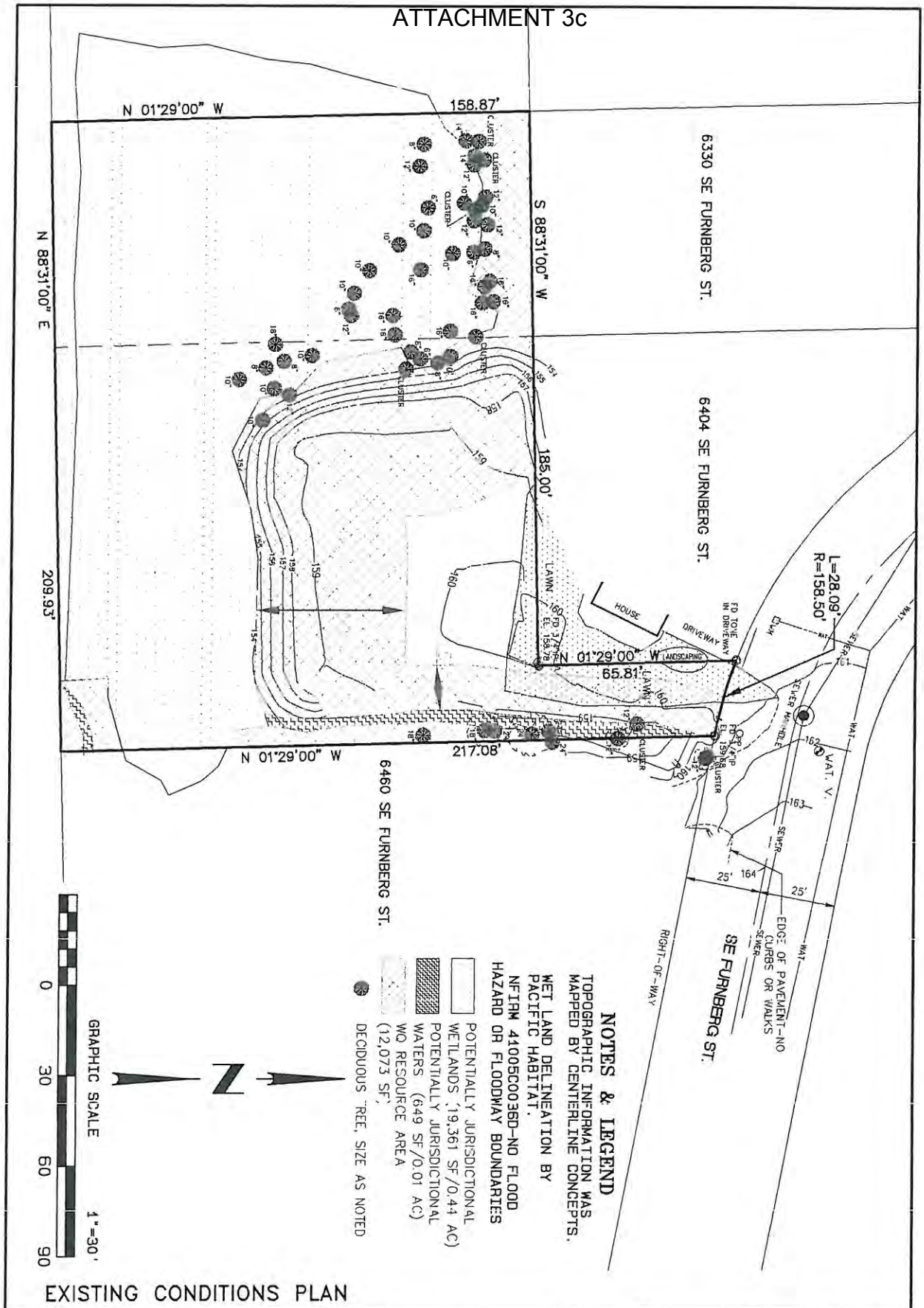
- Location Map
- Existing Conditions Plan
- Lot Coverage and & Vegetation Worksheet
- Surveyor signed Lot Coverage & Vegetation Worksheet
- City of Milwaukie WQR & HCA maps Sheet 1 & 2
- Division of State Lands Concurrence Letter with maps (Jan 10, 2012)
- Pacific Habitat Services- Water Quality Resource Assessment Report
- Pacific Habitat Services-Wetland Delineation

ATTACHMENT 3b



FOR TAX LOTS 2801 & 2802 T1S, R2E, SECTION 32CB Clackamas County, Oregon 2010-21-B	WEST COAST HOME SOLUTIONS	THETA, LLC P.O. BOX 1345 LAKE OSWEGO, OR 97035 PHONE: 503-481-8822 EMAIL: thetaeng@comcast.net

ATTACHMENT 3c



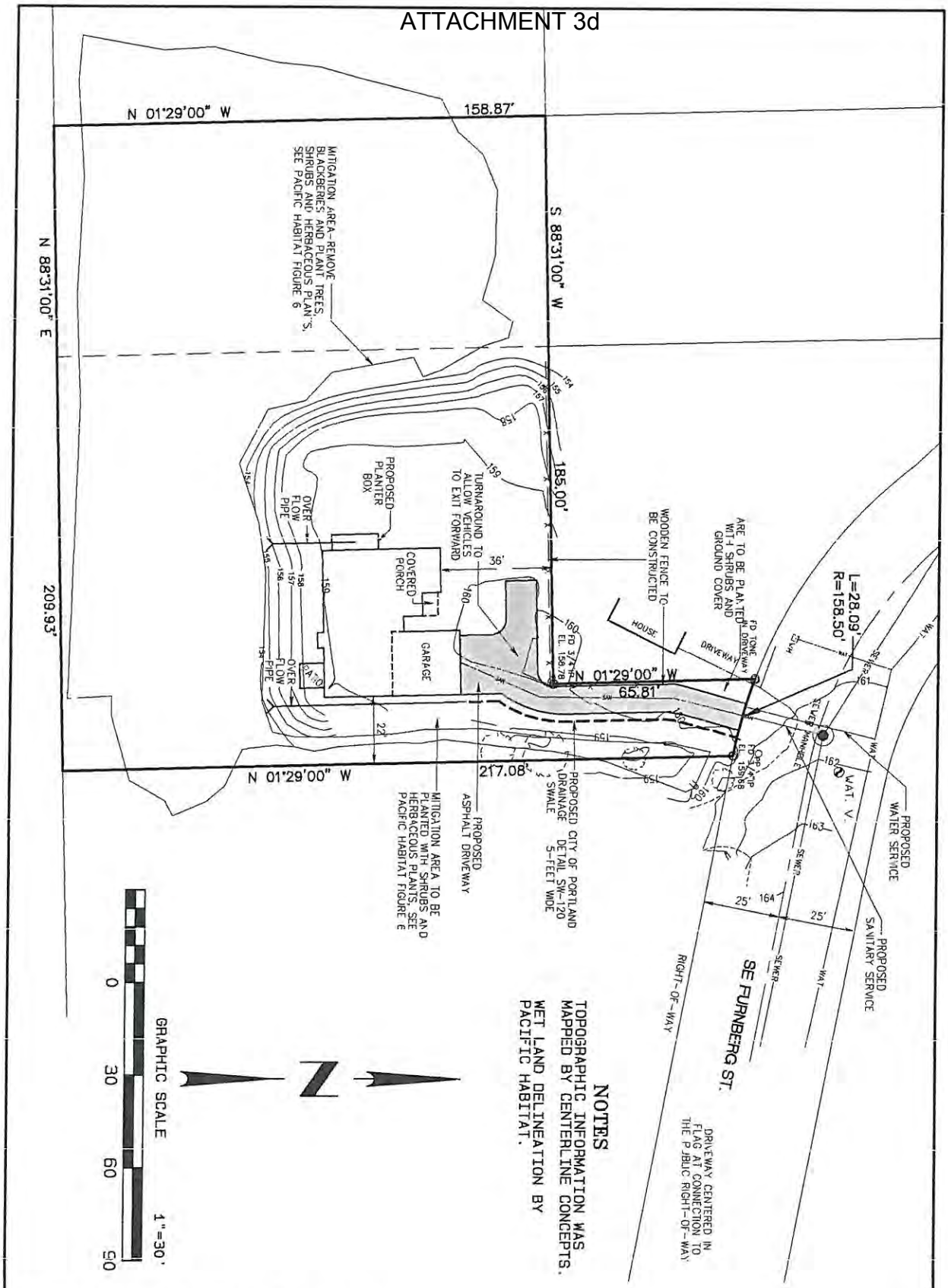
EXISTING CONDITIONS PLAN

FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon
2010-21-B

WEST COAST HOME SOLUTIONS

THETA, LLC
P.O. BOX 1345
LAKE OSWEGO, OR 97035
PHONE: 503-481-8822
EMAIL: thetaeng@comcast.net

ATTACHMENT 3d



NOTES

TOPOGRAPHIC INFORMATION WAS MAPPED BY CENTERLINE CONCEPTS.

WET LAND DELINEATION BY PACIFIC HABITAT.

PROPOSED DEVELOPMENT PLAN

FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon
2010-21-B

WEST COAST HOME SOLUTIONS

THETA, LLC
P.O. BOX 1345
LAKE OSWEGO, OR 97035
PHONE: 503-481-8822
EMAIL: thetaeng@comcast.net

NOTES

TOPOGRAPHIC INFORMATION WAS MAPPED BY CENTERLINE CONCEPTS.

WET LAND DELINEATION BY PACIFIC HABITAT.

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 12, 1968
BRUCE D. GOLDSON
851
EXPIRES: JUNE 30, 2011
5/16/11

VEGETATION COVERAGE

HOUSE = 1,383 SQ. FT.
GARAGE = 462 SQ. FT.
PAVED DRIVE = 1,314 SQ. FT.
PATO = 64 SQ. FT.
PLANTER BOX = 75 SQ. FT.

1. TOTAL COVERED AREA = 3,298 SQ. FT.
2. LOT AREA W/O FLAG = 33,352 SQ. FT.
3. FLAG AREA = 1,536 SQ. FT.
4. TOTAL AREA W/FLAG = 34,888 SQ. FT.

VEGETATED AREA (2-1) = 30,054 SQ. FT.
VEGETATED % = 90.1%

VEGETATED AREA (4-1) = 31,590 SQ. FT.
VEGETATED % = 90.5%

AREA DETERMINED BY PRELIMINARY SURVEY AND DEED DIMENSIONS.
MAXIMUM LOT COVERAGE & MINIMUM VEGETATION IN R7 ZONE IS 30%.

LOT COVERAGE

HOUSE/GARAGE AREA = 2,161 SQ. FT.
COVERAGE % = 6.5%

= DECIDUOUS TREE, SIZE AS NOTED

N

LOT COVERAGE & VEGETATION WORKSHEET

FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon
2010-21-B

WEST COAST HOME SOLUTIONS

THETA, LLC
P.O. BOX 1345
LAKE OSWEGO, OR 97035
PHONE: 503-481-8822
EMAIL: thetaeng@comcast.net

WQR and HCA Areas at 1S2E32CB (taxlots 2801 & 2802)

(preliminary map provided by Metro)



Legend

- City Boundary

WQR Areas

- Vegetated Corridor
- Wetland Buffer
- Water Body

HCA Areas

- High value
- Moderate value
- Low value

0 0.005 0.01 0.02
Miles

Author: City of Milwaukie Planning Department
Revised: May 2009
Source: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
All data depicted is approximate.
Not suitable for building or engineering purposes.

MILWAUKIE
Dogwood City of the West

WQR and HCA Areas at 1S2E32CB (taxlots 2801 & 2802)

(preliminary map provided by Metro)

Legend

City Boundary

WQR Areas

Vegetated Corridor

Wetland Buffer

Water Body

HCA Areas

High value

Moderate value

Low value

0 0.005 0.01 0.02

Miles

Author: City of Milwaukie Planning Department
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Source: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
All data depicted is approximate.
Not suitable for building or engineering purposes.

MILWAUKIE
Dogwood City of the West



ATTACHMENT 3g

Oregon

John A. Kitzhaber, MD, Governor

Department of State Lands
775 Summer Street NE, Suite 100
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State Land Board

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January 10, 2012

Bruce Goldson
Theta, LLC
PO Box 1345
Lake Oswego, OR 97035

Eugene Labunsky
West Coast Home Solutions, LLC
4035 Douglas Way
Lake Oswego, OR 97035

Re: Wetland Delineation Report for a proposed single family residence on SE Furnberg Street, Clackamas County; T 1S R 2E S 32CB TL 2801and 2802; WD #2011-0331

Dear Mr. Goldson and Mr. Labunsky:

The Department of State Lands has reviewed the wetland delineation report prepared by Pacific Habitat Services for the site referenced above. Based upon our review and additional information submitted upon request, we concur with their delineation and conclusions. Within the study area, one wetland (totaling approximately 0.44 acres) and two waterways, were identified. The wetland and waterways are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high water line (OHWL) of a waterway (or the 2 year recurrence interval flood elevation if OHWL cannot be determined).

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

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter, unless new information

necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity, or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. Please phone me at (503) 986-5232 if you have any questions.

Sincerely,

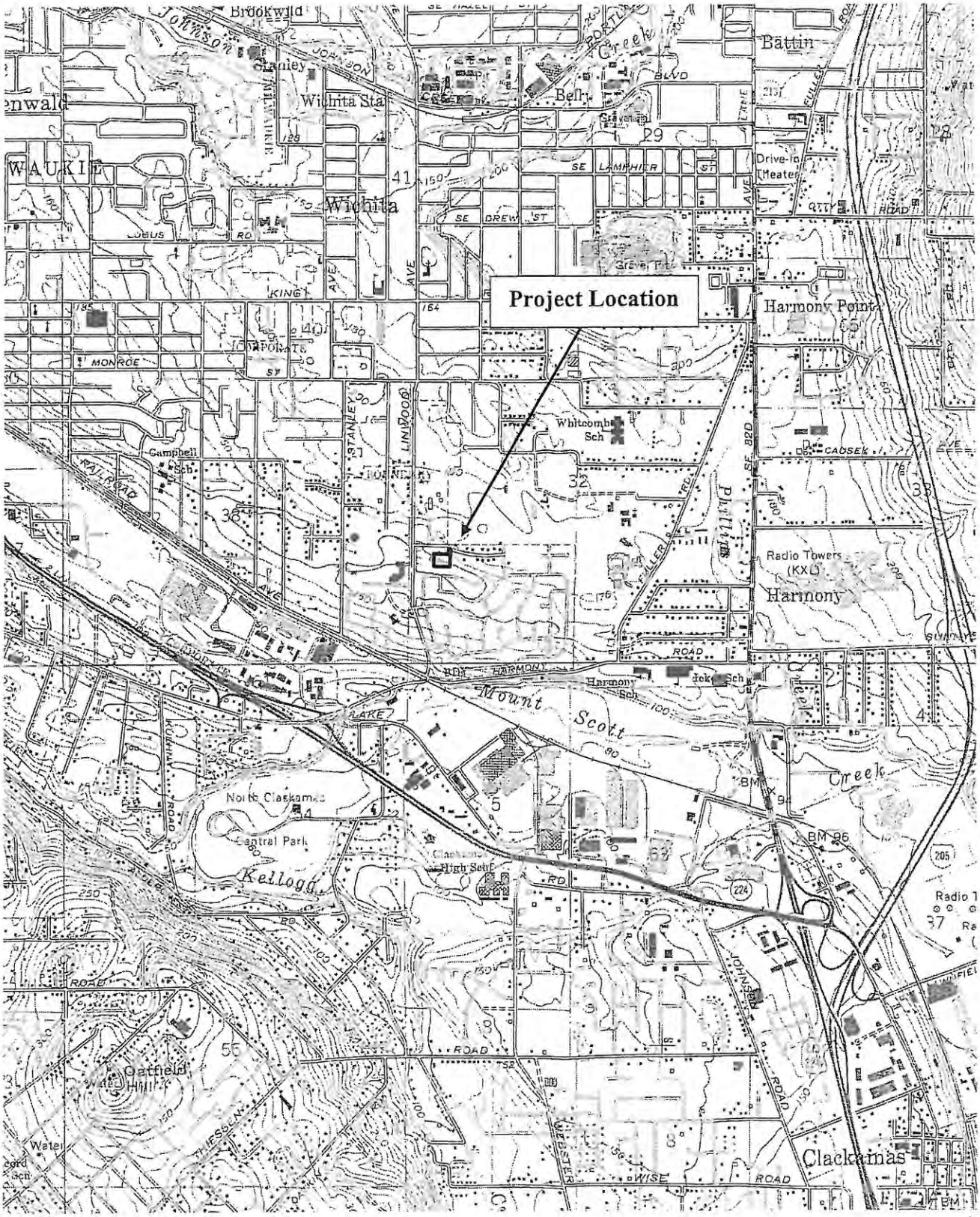
Peter Ryan, PWS
Wetland Specialist

Approved by Anna Buckley
Anna Buckley
Acting Wetlands Program Manager

Enclosures

ec: John van Staveren, Pacific Habitat Services
City of Milwaukie Planning Department
Karla Ellis, Corps of Engineers
Anita Huffman, DSL

WD# 11-033



Location and general topography for the SE Furnberg property in Milwaukie, Oregon (USGS Gladstone, OR quadrangle, 1961, photorevised 1984).

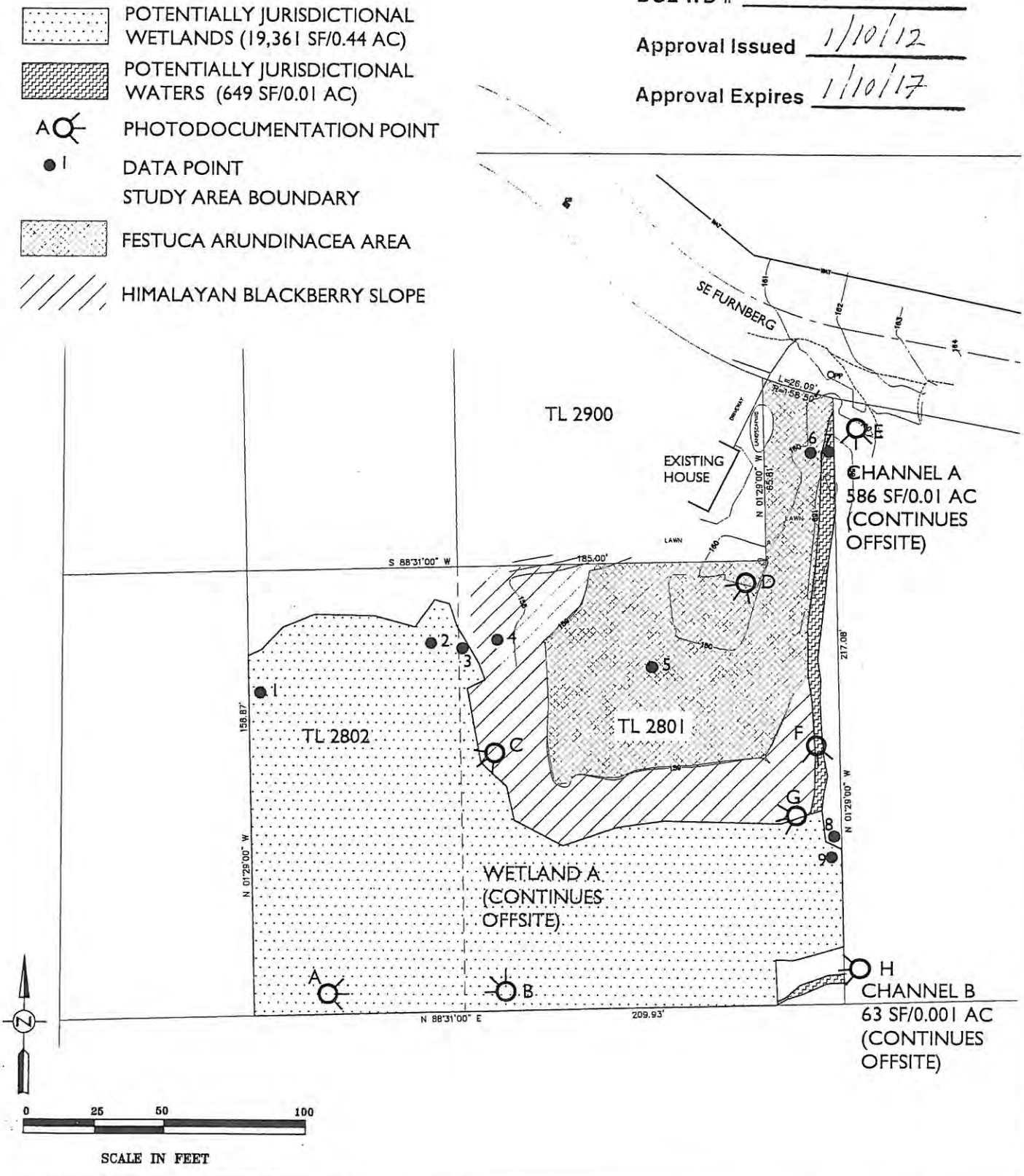
FIGURE 1

Pacific Habitat Services, Inc.

DSL WD # 11-0331

Approval Issued 1/10/12

Approval Expires 1/10/17



2/15/11
4749

Existing conditions and location of sample points and photodocumentation points for the SE Furnberg property in Milwaukie, Oregon. Survey by Centerline Concepts, Inc., 2011. Survey is sub-centimeter.

Pacific Habitat Services, Inc.

FIGURE 6

Y:\AUTOCAD\4700\4749 Furnberg Road\fig WESTCOAST-TOPO.dwg, 2/24/2011 12:46:24 PM, Letter, 1:1

ATTACHMENT 3h

Water Quality Resource Assessment Report for the SE Furnberg Road Project in Milwaukie, Clackamas County, Oregon

(Township 1 South, Range 2 East, Section 32CB
Tax Lots 2801 and 2802)

Prepared for

West Coast Home Solutions, LLC
4035 Douglas Way
Lake Oswego, Oregon 97035

Prepared by

Michele Eccleston
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PHS Project Number: 4749

April 25, 2011

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1.0 INTRODUCTION

Pacific Habitat Services, Inc. (PHS) conducted a wetland delineation and water quality resource assessment for the proposed SE Furnberg Road project in Milwaukie, Clackamas County, Oregon (Township 1 South, Range 2 East, Section 32CB, tax lots 2801 and 2802) (Figure 1; all figures are in Appendix A).

The Water Quality Resource Map for Milwaukie (Linwood neighborhood), identifies wetland and a drainage course on the property (Figure 2). This Water Quality Resource (WQR) assessment report identifies the on-site natural resources, proposed development, impacts, and mitigation as required by the City of Milwaukie's Section 19.322 WQR Regulations. The wetland delineation and WQR assessment fieldwork for the site was completed on January 11, 2011. PHS identified two channels and one potentially jurisdictional wetland within the study area (Figure 3). A wetland delineation report has been prepared and is included as a separate document.

2.0 EXISTING CONDITIONS

The site is an undeveloped parcel bordered by residential development. It is comprised of two tax lots (2801 and 2802). Tax lot 2801 is a flag lot accessed south of Furnberg Street. The flag lot opens into a large level area dominated by tall fescue (*Festuca arundinacea*). This area is several feet higher in elevation than the remainder of the tax lot. The transition from the tall fescue area to the lower elevations in the site is dominated by a Himalayan blackberry (*Rubus discolor*) thicket. Beyond the blackberry area, the remainder of the site is wetland. Channel A is located along the eastern site boundary and flows into the wetland in the southern half of the site. Channel B is located in the southeast corner of the site. Tax lot 2802 is comprised predominantly of wetland.

3.0 DISCUSSION OF PROTECTED WATER FEATURE AREA

PHS biologists flagged the wetland/waters boundary on January 11, 2011. The boundaries were determined by changes in the vegetation, hydrology and hydric soil indicators. The total area of wetland is approximately 0.44 acres and the total area of waters is approximately 0.01 acres within the project area. A brief description of each of the delineated resources is provided below with more detailed information in the wetland delineation report.

4.0 DISCUSSION OF WATER QUALITY RESOURCE AREA

Channels A and B are intermittent drainages, which will require a 15-foot vegetated corridor setback and Wetland A will require a 50-foot setback, according to the City of Milwaukie's WQR Resource Regulations. The WQR area, 12,073 square feet (0.28 acre), is dominated by tall fescue and Himalayan blackberry. On tax lot 2802 there are a few scattered red alder (*Alnus rubra*) and a small percentage of English ivy (*Hedera helix*). Photo documentation of the property is on Figures 4A and 4B. Table 1 below summarizes the WQR area.

Table 1. WQR Area – (12,073 square feet/0.28 acre)

Botanical Name	Common Name	Cover (%)
Trees:		
*Alnus rubra**	Red alder	7%
Shrubs:		
*Rubus discolor***	Himalayan blackberry	45%
Ground Cover:		
Festuca arundinacea	Tall fescue	45%
*Hedera helix***	English ivy	3%
% Cover by Natives		**7%**
%Tree Canopy		**7%**
%Invasive/Noxious		**48%**

** Native Species, **Invasive species or noxious weed (Oregon Dept. of Agriculture (ODA))*

The WQR area is a degraded plant community because of the less than 25-50% canopy coverage, and greater than 10% surface coverage of non-native species, according to the City of Milwaukie's WQR Resource Regulations Table 19.322.9.E.

5.0 PROPOSED DEVELOPMENT

The applicant proposes to construct an approximately 1,400 square foot single family residence and a 600 square foot garage (Figure 5). The construction will occur entirely upon tax lot 2801 with no development proposed on the adjoining tax lot 2802.

The house orientation was established to meet the development requirements of flag lots. The driveway width was held to the minimum of twelve feet to limit the extent of encroachment into the WQR area. Since tax lot 2801 is a flag lot, there is only one, narrow, access into the site. The proposed driveway is located west of Channel A and will impact a portion of the associated 15-foot WQR area. Without impacting this portion of the WQR area, there would be no way to access the site.

The proposed stormwater treatment plan includes the construction of a planter box, on the west side, adjoining the new house, as well as a 5 foot wide drainage swale east of the new driveway. Stormwater from the roof of the proposed residence will be collected and piped into a planter box. The box will treat the stormwater and discharge it into an overflow pipe that will discharge directly into the WQR area. The swale will infiltrate stormwater runoff from the proposed driveway. It will run parallel and west of Channel A for approximately 80 feet before flowing into a buried pipe that will collect overflow from the swale. The overflow pipe will discharge directly into the WQR area. To provide access to the buried pipe and backyard from the east side of the house, an area 6 feet wide between the pipe and house will be included in the permanent WQR area impact. This 72 square foot area can remain as lawn or other, but, will not be considered part of the WQR area.

Options to avoid and minimize impacts were reviewed; considerations included the utilization of pervious pavers for the driveway. Using the City of Portland's stormwater standards, the design was unable to accommodate an infiltration rate of 2-inches an hour; it was therefore determined that pervious pavers were not a feasible option.

The house could not be shifted further north and outside of the WQR because the driveway requires a vehicle turnaround. The narrow flag lot, connecting to SE Furnberg Road, would make backing out of the driveway both difficult and unsafe. The garage meets the City's minimum size requirement; therefore, reducing the WQR area impacts.

No wetlands or waters will be impacted by the proposed site design; therefore, no permits will be required from the US Army Corps of Engineers (Corps) or Oregon Department of State Lands (DSL). No trees will be removed or impacted as a result of the development.

During the construction of the residence, work areas will be carefully located and marked to reduce potential damage to the WQR area, as required by the City's Development Standards. The WQR areas located outside of the temporary construction areas will be marked, and erosion control fencing will be installed to assure these areas remain undisturbed until construction is complete. All temporary construction areas will be reseeded with a native seed mix.

No lights will be added to the proposed house that will shine directly into the natural resource areas, thus limiting potential adverse impacts to wildlife and/or their habitat.

5.1 Water Quality Resource Area Impacts

The proposed house, driveway, drainage swale, and the area between the house and buried stormwater pipe, will permanently impact a total of 2,621 square feet/0.06 acre of the water quality resource area (Figure 5). The impacts will occur within a "degraded" condition WQR area.

5.2 Water Quality Resource Area Mitigation

Enhancement is proposed to mitigate for the 2,621 square feet/0.06 acre of WQR area impacts. Because the wetlands and WQR area already covers a majority of the site, an expansion of the WQR area is not proposed. The enhancement of 0.28 acre of degraded WQR area will benefit from the planting of native trees, shrubs, and herbaceous plants.

The areas to be enhanced are identified on Figure 6. One area, located between the proposed driveway, house, and Channel A, will only be planted with shrubs and herbaceous plants, to avoid the potential of tree roots impacting the driveway. This area is narrow and already has several existing mature trees.

The remaining enhancement will be located along the southern and western WQR area. This will provide a vegetative buffer between the house and the existing WQR area. This area is currently dominated by Himalayan blackberry and would greatly benefit from planting native trees, shrubs, and herbaceous plants. The degraded WQR area will be restored to "Good" condition. It is anticipated that proposed enhancements will contribute to a localized increase in functional wildlife habitat in the vicinity of this property.

6.0 REFERENCES

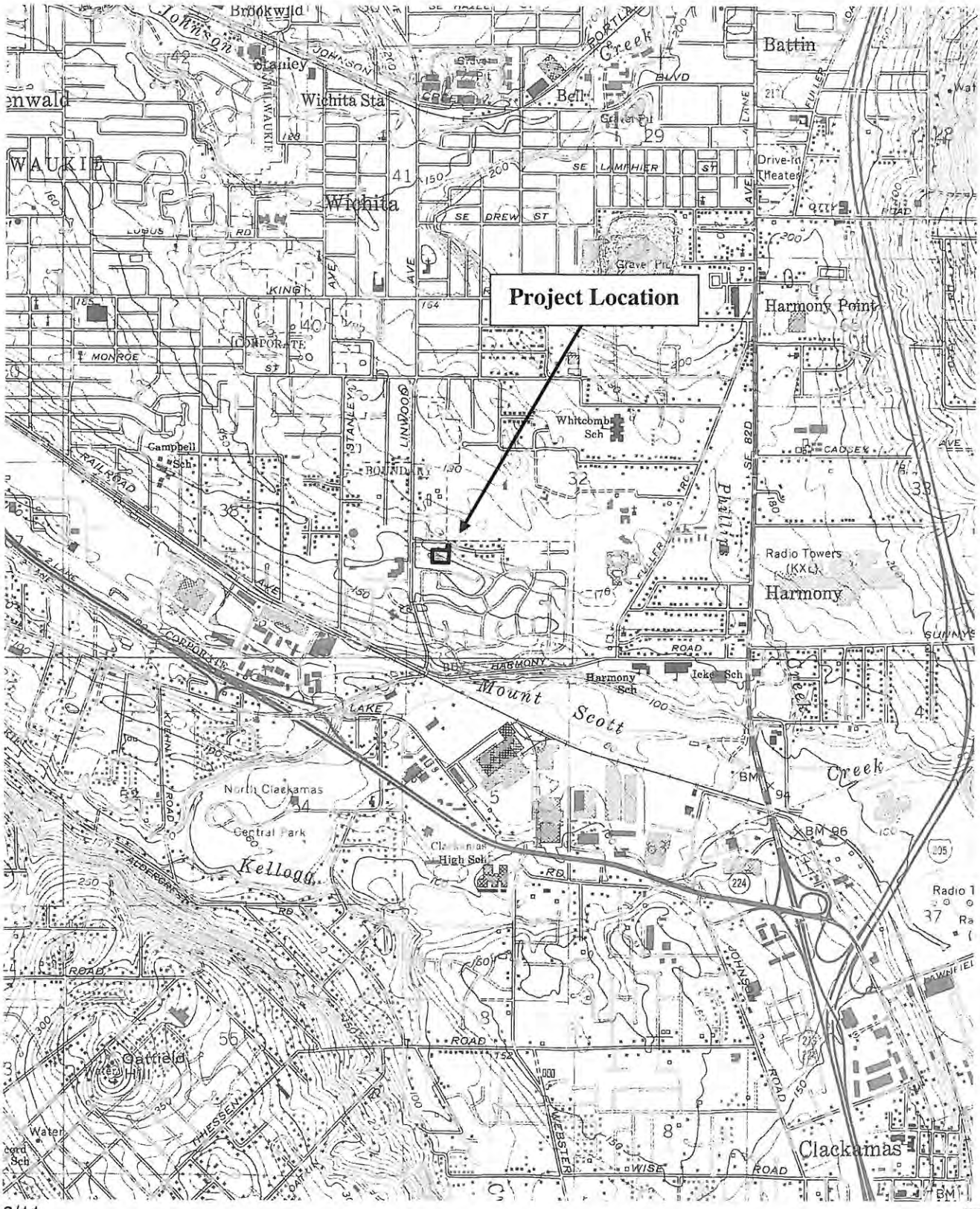
City of Milwaukie, 2002. *Milwaukie Municipal Code. Title 19 Zoning, 19.322 Water Quality Resource Regulations.*

Pacific Habitat Services, Inc., 2011. *Wetland Delineation Report for a Property Located on Furnberg Street in Milwaukie, Oregon.* February 23, 2011. `

U.S. Geological Survey, Gladstone, Oregon, topographical quadrangle, 1961, revised 1984.

Appendix A

Figures



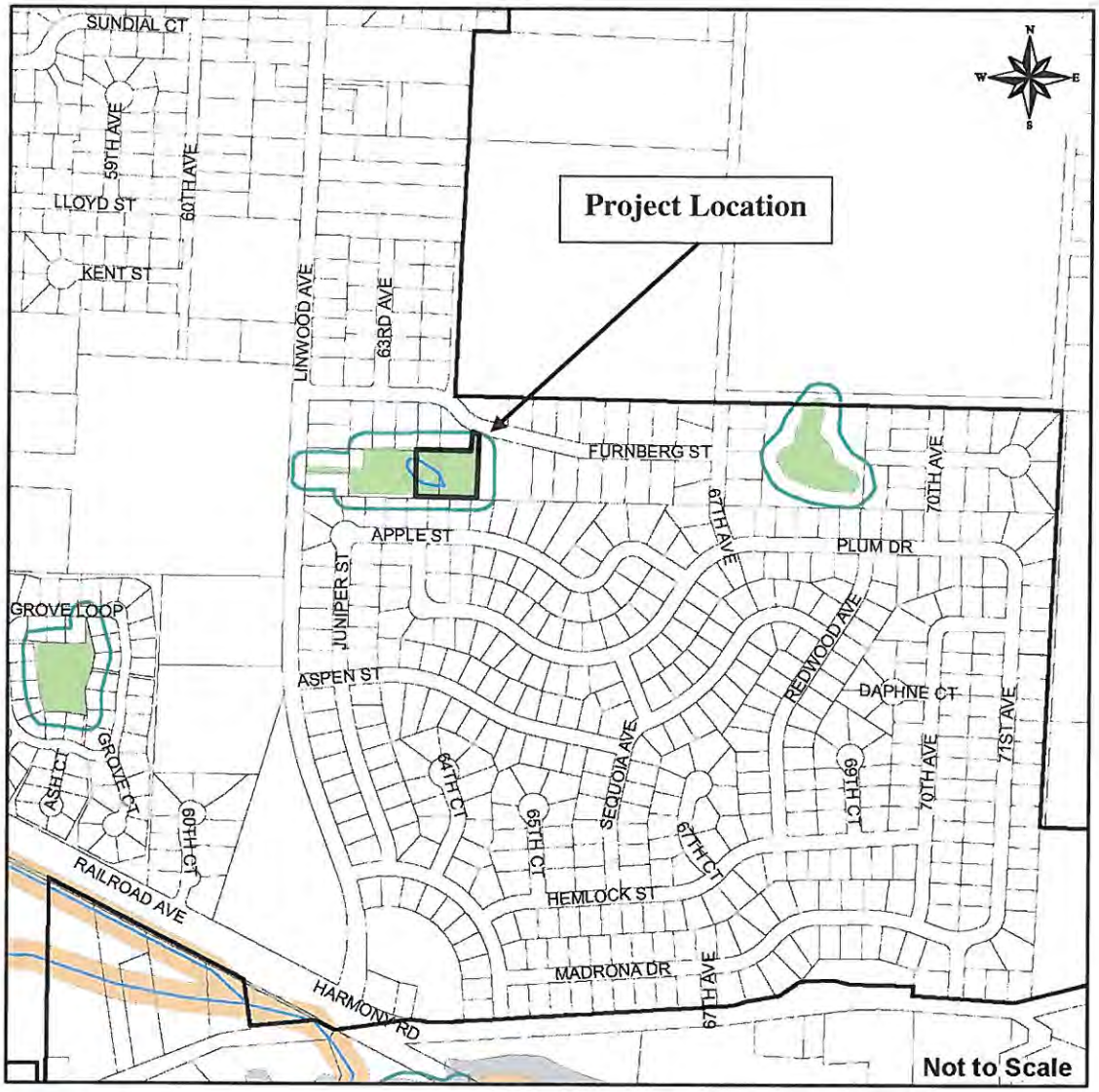
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Location and general topography for the SE Furnberg property in Milwaukie, Oregon (USGS Gladstone, OR quadrangle, 1961, photorevised 1984).

FIGURE 1

Water Quality Resources
Linwood Neighborhood
Map 6 of 6



- Tax Lots
- Drainage Course
- Wetland Buffer
- Vegetated Corridor
- Wetlands
- FEMA 100-Year Flood
- February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322-Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

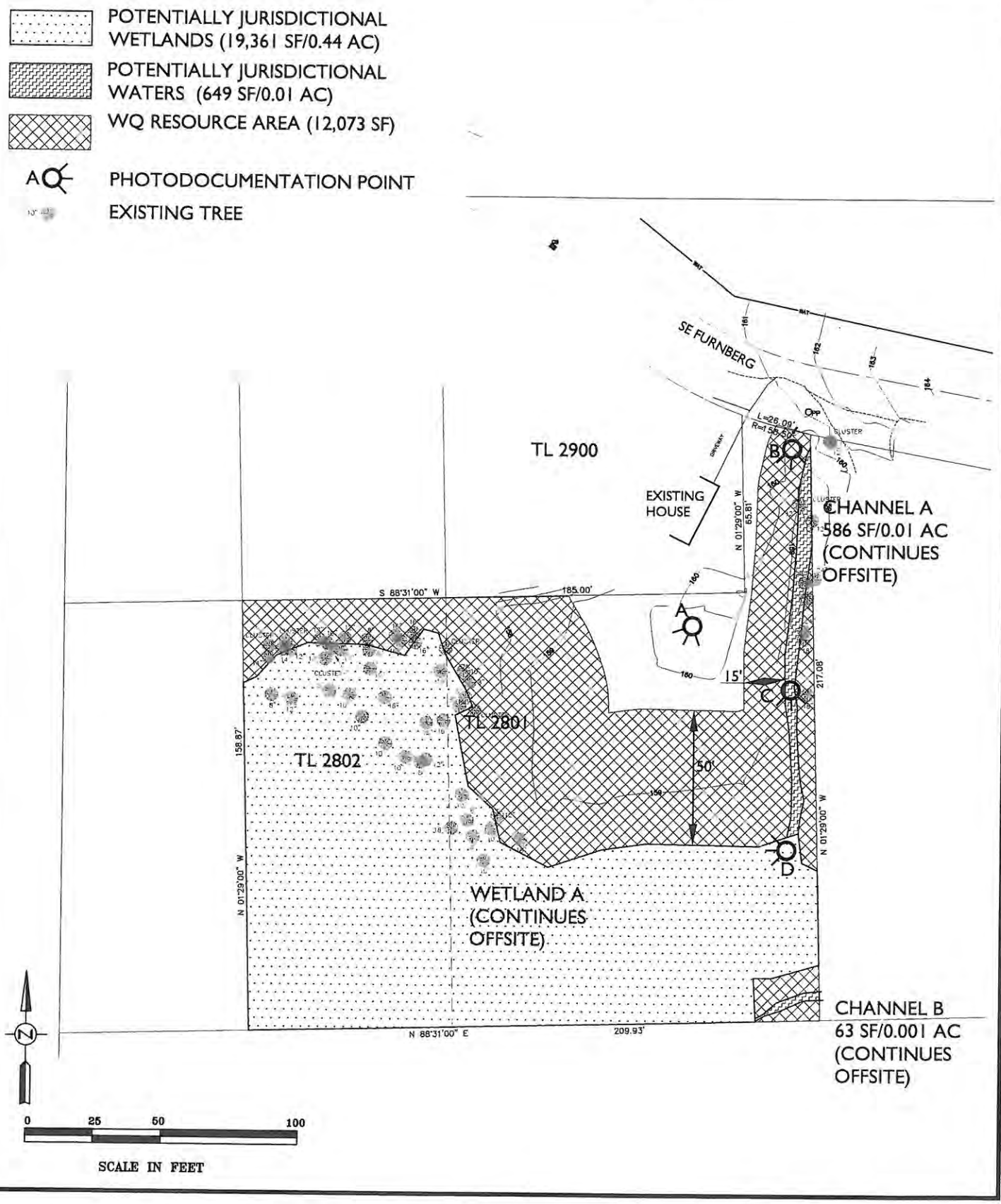
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Water Quality Resources map for the SE Furnberg Property in Milwaukie, Oregon (City of Milwaukie, 2002).

FIGURE 2

Pacific Habitat Services, Inc.



4/13/11
4749

Existing conditions and location of potentially jurisdictional wetlands/waters of the State/US, photodocumentation points, and regulated City of Milwaukie Water Quality Resource Area for the SE Furnberg property in Milwaukie, Oregon. Survey by Centerline Concepts, Inc., 2011. Survey is sub-centimeter.

Pacific Habitat Services, Inc.

FIGURE 3

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Photo A

Photo was taken looking southwest at the grass area.

Photo B

Photo was taken looking south at the northern portion of Channel A . The western boundary of the channel is defined by the blue flags. There are no blue flags along the eastern portion of Channel A because it is located off site.



Project # 4749
3/17/11

Photo documentation of the SE Furnberg property taken on January 11, 2011.

FIGURE
4A



Photo C

Photo was taken looking south at the southern portion of Channel A.

Photo D

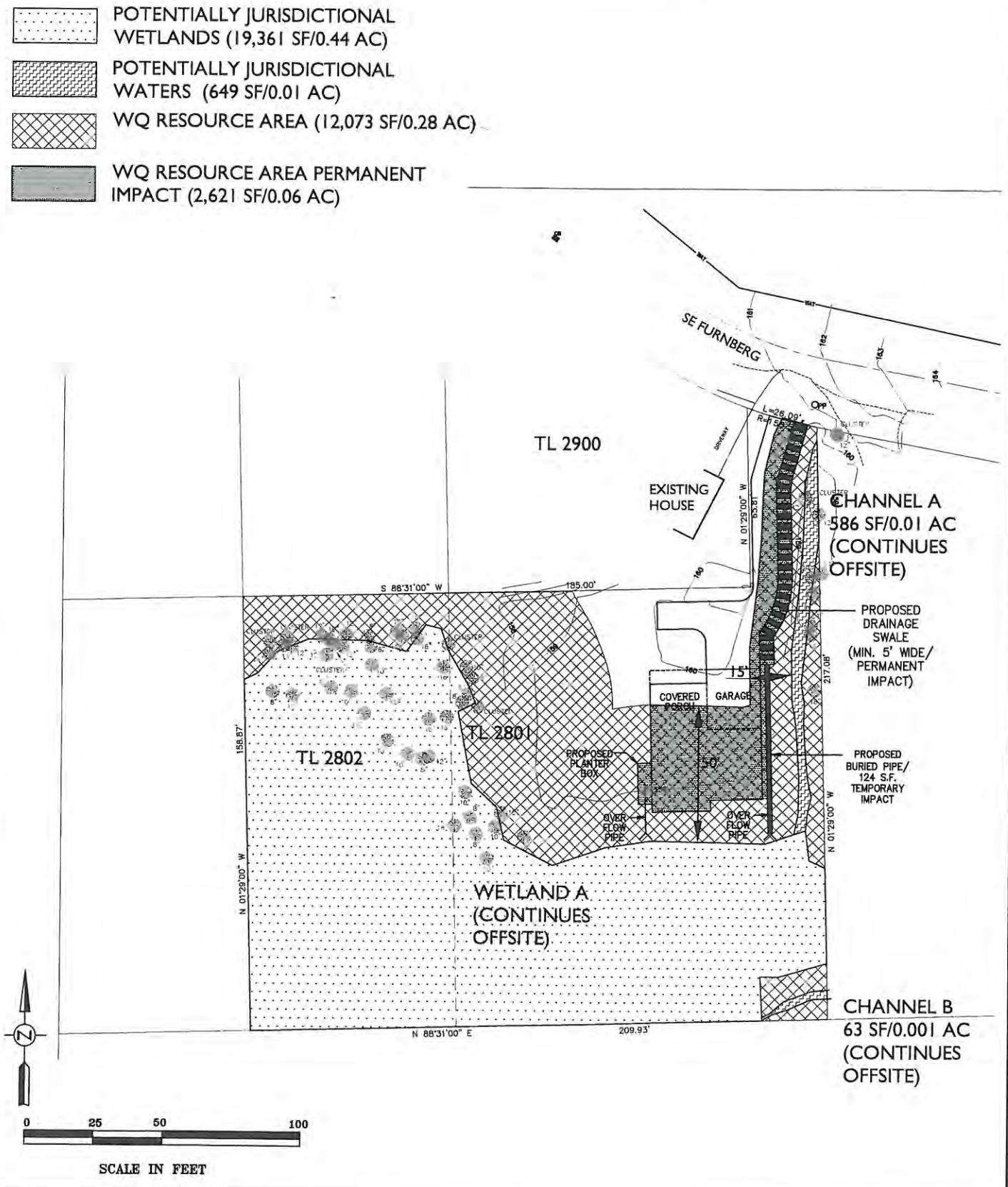
Photo taken looking west at the Himalayan blackberry slope just north of the delineated wetland boundary.



Project # 4749
3/17/11

Photo documentation of the SE Furnberg property taken on January 11, 2011.

FIGURE
4B



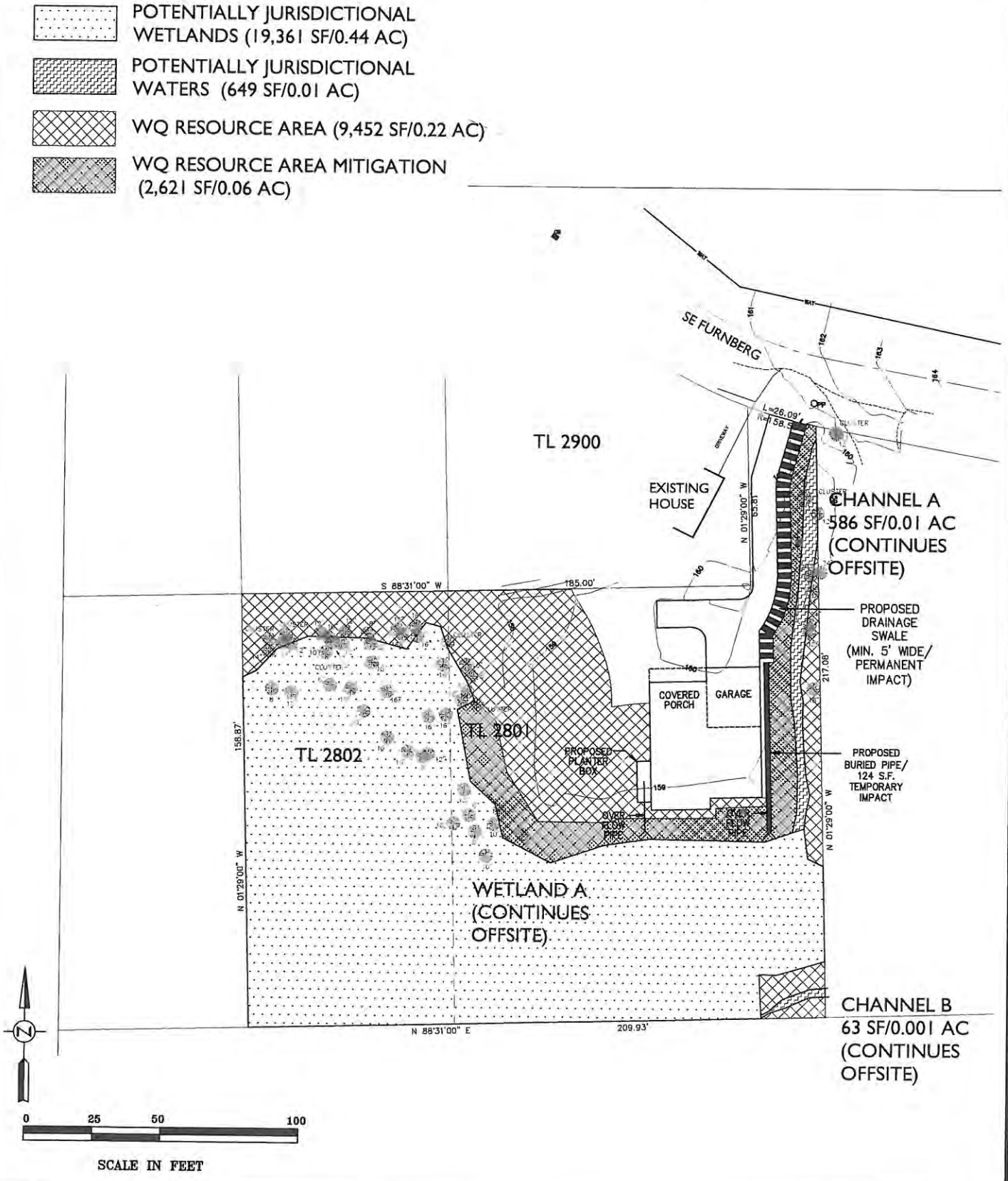
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Proposed development and location of Water Quality Resource Area impacts for the SE Furnberg property in Milwaukie, Oregon. Survey by Centerline Concepts, Inc., 2011. Survey is sub-centimeter.

FIGURE 5

Pacific Habitat Services, Inc.

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Proposed development and location of Water Quality Resource Area mitigation for the SE Furnberg property in Milwaukie, Oregon. Survey by Centerline Concepts, Inc., 2011. Design provided by Theta, LLC, 2011.

FIGURE 6

Pacific Habitat Services, Inc.

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ATTACHMENT 3i

Wetland Delineation for a Property Located on Furnberg Street in Milwaukie, Oregon

(Township 1 South, Range 2 East, Section 32CB
Tax Lots 2801 & 2802)

Prepared for

West Coast Home Solutions, LLC
4035 Douglas Way
Lake Oswego, Oregon 97035

Prepared by

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PHS Project Number: 4749

February 23, 2011

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PLANNING DEPARTMENT

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APPENDIX C: Site Photos
APPENDIX D: Wetland Definitions, Methodology (client only)

I. INTRODUCTION

Pacific Habitat Services, Inc. (PHS) has delineated the limits of potentially jurisdictional wetlands and waters for a property located on Furnberg Street in Milwaukie, Clackamas County, Oregon, (Township 1 South, Range 2 East, Section 32CB, Tax Lot 2801 and 2802).

This report presents the results of PHS's wetland delineation within the study area. Figures, including a map depicting the location of wetlands within the study area, are located in Appendix A. Data sheets documenting on-site conditions are provided in Appendix B. Ground-level photos of the site are located in Appendix C. A discussion of the wetland delineation methodology (for the client) is provided in Appendix D.

II. RESULTS AND DISCUSSION

A. Landscape Setting and Land Use

The site is an undeveloped parcel bordered by residential development. It is comprised of two tax lots (2801 and 2802). Tax lot 2801 is a flag lot accessed south of Furnberg Street. The flag lot opens into a large level area dominated by tall fescue (*Festuca arundinacea*) that is several feet higher in elevation than the rest of the tax lot. The transition from the tall fescue area to the surrounding lower elevations where a wetland is located is dominated by a Himalayan blackberry (*Rubus discolor*) thicket. There is a channel along the eastern site boundary that flows into a wetland located along the southern half of the tax lot. There is a second channel in the southeast corner of the lot. Tax lot 2802 is comprised predominantly of wetland.

B. Site Alterations

The tall fescue grass area on Tax lot 2801 is between 4 and 6 feet higher in elevation than the adjacent wetland, which suggests this area was likely filled in the past. It is mapped as Wapato silty clay loam, which is a hydric soil.

PHS reviewed historic aerial photographs obtained from Metro from 1956 and 1989; however, the quality of the photos was not sufficient to determine when this area may have been filled, as any topographic changes cannot be observed from the scale of the photos. A review of aerial photography on www.PortlandMaps.com for the dates of 2001 through 2009 shows this area to be either dominated by Himalayan blackberry or cleared of the blackberry. If the area had been filled, it likely predates 2001.

Sample point 5, which was taken to document existing conditions in this area, did not identify any hydric soils or hydrology. The existing vegetation includes tall fescue and poison hemlock (*Conium maculatum*).

C. Precipitation Data and Analysis

There is no weather station for Milwaukie, Oregon. As such, weather information for Portland was used for comparison and precipitation analysis. Recorded precipitation for Portland totaled 1.69 inches for the two weeks prior to PHS's January 11, 2011, wetland delineation field work and data collection.

The day of the January 11, 2011 delineation, there was a total of 0.05 inches of rainfall. Total observed precipitation for the water year (October 1, 2010 through December 31, 2010) was 16.44 inches, which is approximately 115 percent of normal.

Table 1 compares the average monthly precipitation to the recorded monthly precipitation at the Portland weather station, as well as to the normal precipitation range, as identified in the NRCS WETS Table for Portland. As shown in Table 1, recorded precipitation for the month of November was normal. The recorded precipitation for October, December, and January were above normal. Although rainfall in the months preceding the delineation were above normal, it is PHS's best professional judgment (BPJ) that "normal circumstances" were present at the time of the wetland delineation field work.

Table 1: Comparison of Average and Observed Precipitation at the Portland Weather Station and WETS Table for the Three Months Prior to the January 2011 Wetland Delineation

Month	Average Precipitation[1]	30% Chance Will Have		Observed Precipitation[2]	Percent of Normal
		Less Than Average[1]	More Than Average[1]		
October	3.39	1.85	4.14	3.87	114%
November	6.59	4.40	7.90	6.63	100%
December	6.46	4.43	7.71	8.35	129%
January	6.05	3.77	7.31	12.20	202%

Notes: 1. Source: NRCS WETS Table for Portland (ftp://ftp.wcc.nrcs.usda.gov/support/climate/wetlands/or/41051.txt)
2. Source: National Weather Service for Portland (http://www.nws.noaa.gov/climate/getclimate.php?wfo=pqr)

D. Methods

PHS delineated the limits of the wetlands on the site based on the presence of wetland hydrology, hydric soils, and hydrophytic vegetation, in accordance with the Routine On-site Determination, as described in the *Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1* ("The 1987 Manual") and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region.*

The delineation of Wetland A was based on the presence of hydric soil, the dominance of wetland vegetation, and hydrology within 12 inches of the surface. The limits of ordinary high water (OHW) of Channels A and B were based on the presence of physical characteristics such as a clear topographic break, water marks and vegetation changes.

E. Description of all Wetlands and Other Non-Wetland Waters

PHS identified the limits of the two channels and one wetland within the study area. A description of each of the delineated resources is provided below.

Wetland A

Wetland A (19,361 square feet/0.44 acre) is a palustrine forested/scrub-shrub/emergent (PFO/PSS/PEM) seasonally ponded system with an HGM classification of slope. The wetland is defined by its geomorphic position in the topography and continues off site to the south, east and west.

Dominant plant species (as characterized by Sample Points 1, 2, 3, and 9) include Pacific willow (*Salix lasiandra*), red alder (*Alnus rubra*), Himalayan blackberry, English holly (*Ilex aquifolium*), red osier dogwood (*Cornus sericea*), multiflora rose (*Rosa multiflora*), reed canarygrass (*Phalaris arundinacea*), soft rush (*Juncus effusus*), and English ivy (*Hedera helix*). The vegetation in the adjacent non-wetland communities (as characterized by Sample Points 4 and 8) include red alder, big leaf maple (*Acer macrophyllum*), Himalayan blackberry, red osier dogwood, English ivy, and poison hemlock.

At the time of the wetland delineation field work, the soils in the wetland were saturated to the surface with ponded water in the southwestern portion. The saturation identified in the sample points was between 2 and 8 inches, with free water between 7 and 8 inches. The wetland is located in a lower geomorphic position than the surrounding upland.

According to Brad Albert, a City of Milwaukee Engineer, there is an overflow pipe in the wetland that flows into the City's stormwater system to prevent flooding neighboring residential properties.

Channel A

Channel A is located in the northeastern portion of the site. The channel flows into the site from a culvert that is located south of SE Furnberg Street. It is assumed to be an intermittent feature that is fed by stormwater. The portion of the channel within the study area is 586 square feet (0.01 acre). Below the ordinary high water (OHW), the vegetation in the northern portion of the channel (as characterized by Sample Point 7), consists of an overstory of Oregon ash (*Fraxinus latifolia*), a small percentage of Himalayan blackberry, and a herbaceous cover of creeping bentgrass (*Agrostis stolonifera*) and bluegrass (*Poa* sp.). The adjacent vegetation beyond the channel limits (as characterized by Sample Point 6), includes a cleared and mulched area adjacent to lawn. As the channel continues south, and the topographic elevation becomes lower, the channel and its banks are dominated by a thicket of Himalayan blackberry.

The channel has a Cowardin classification of Riverine, unconsolidated bottom, seasonally flooded (RUBd). The limits of OHW were delineated using indicators such as the break in topographic slope (indicating the top of bank), vegetation changes, and surface scour. The channel width ranges between 3 and 5 feet. There was less than a ½ inch of flowing water at the time of the delineation. The source of hydrology appears to be stormwater flow collected from SE Furnberg Street.

Channel B

Channel B is located in the southeast portion of the site. The channel flows into the site from the east and into a 12-inch culvert connected to the City of Milwaukee's stormwater system. A map showing the City's stormwater system identifies the storm line flowing west across the site to Linwood Street. It is assumed to be an intermittent feature that is fed by stormwater.

The portion of the channel located within the study area is 63 square feet (0.001 acre). There was no vegetation below the ordinary high water (OHW). The channel has a Cowardin classification of Riverine, unconsolidated bottom, seasonally flooded (RUBd). The limits of OHW were delineated using indicators such as the break in topographic slope (indicating the top of bank) and water marks. The channel is approximately 2 feet deep and 2 feet wide. There was 2 inches of flowing water at the time of the delineation. PHS was unable to access adjacent properties to identify the source of hydrology in this system.

F. Deviation from LWI or NWI

A Local Wetlands Inventory (LWI) has not been completed for Milwaukie.

The US Fish and Wildlife Service's National Wetlands Inventory (NWI) map does not identify the wetland or channels in the site. NWI maps are generated primarily through the interpretation of color infrared aerial photographs (scale of 1:58,000), with limited "ground truthing" to confirm the interpretations. The small size of the wetland as compared to the scale of the aerial photographs used to prepare the NWI is the likely reason for the discrepancy between the wetlands mapping and the existing on-site conditions.

G. Mapping Method

PHS flagged the boundaries of wetlands and waters with blue surveyor's tape. Data points were flagged with lime green surveyor's tape. The wetland/OHW flagging and sample points were survey-located by Centerline Concepts, Inc. The estimated accuracy of the survey is sub-centimeter.

H. Additional Information

Channels A and B are not mapped as Essential Salmonid Habitat according to StreamNet.org and the Oregon Department of State Lands Essential Fish Habitat map.

I. Results and Conclusions

PHS identified two channels and one potentially jurisdictional wetland within the study area. The total area of wetland is approximately 0.44 acres and the total area of waters is approximately 0.01acres within the project area.

Table 2: Summary of Jurisdictional Wetlands and Waters of the State/U.S.

Feature	Square Feet	Area (acres)	Cowardin Class	HGM Class
Wetland A	19,361	0.44	PEM	Slope
Total	**19,361**	**0.44**		
Channel A	586	0.01	RUBd	Riverine Flow Through, Seasonally Flooded
Channel B	63	0.001	RUBd	Riverine Flow Through, Seasonally Flooded
Total	**649**	**0.01**		

J. Required Disclaimer

This report documents the investigation, best professional judgment and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.

III. REFERENCES

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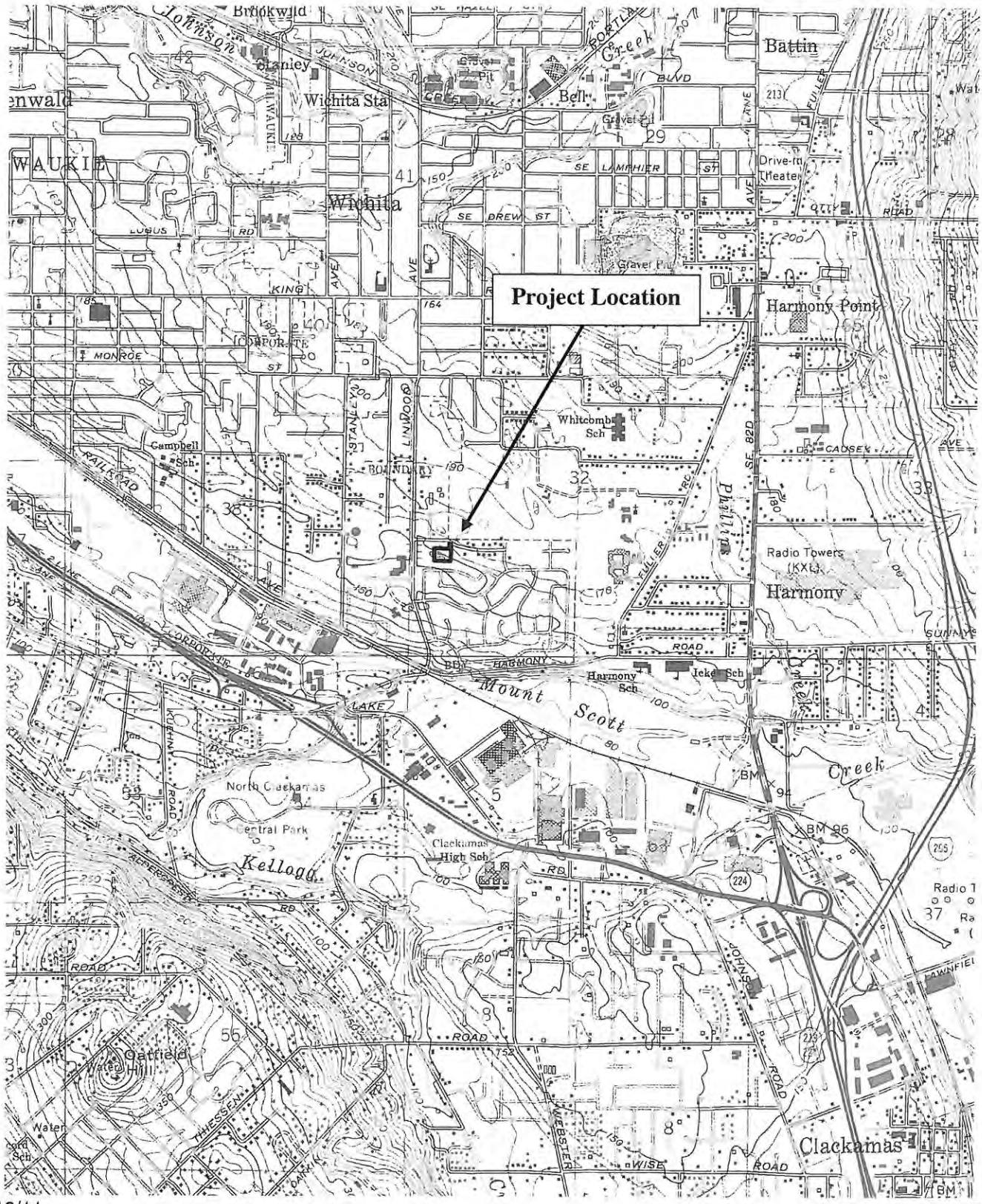
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Appendix A

Figures



Location and general topography for the SE Furnberg property in Milwaukie, Oregon (USGS Gladstone, OR quadrangle, 1961, photorevised 1984).

FIGURE 1

Pacific Habitat Services, Inc.

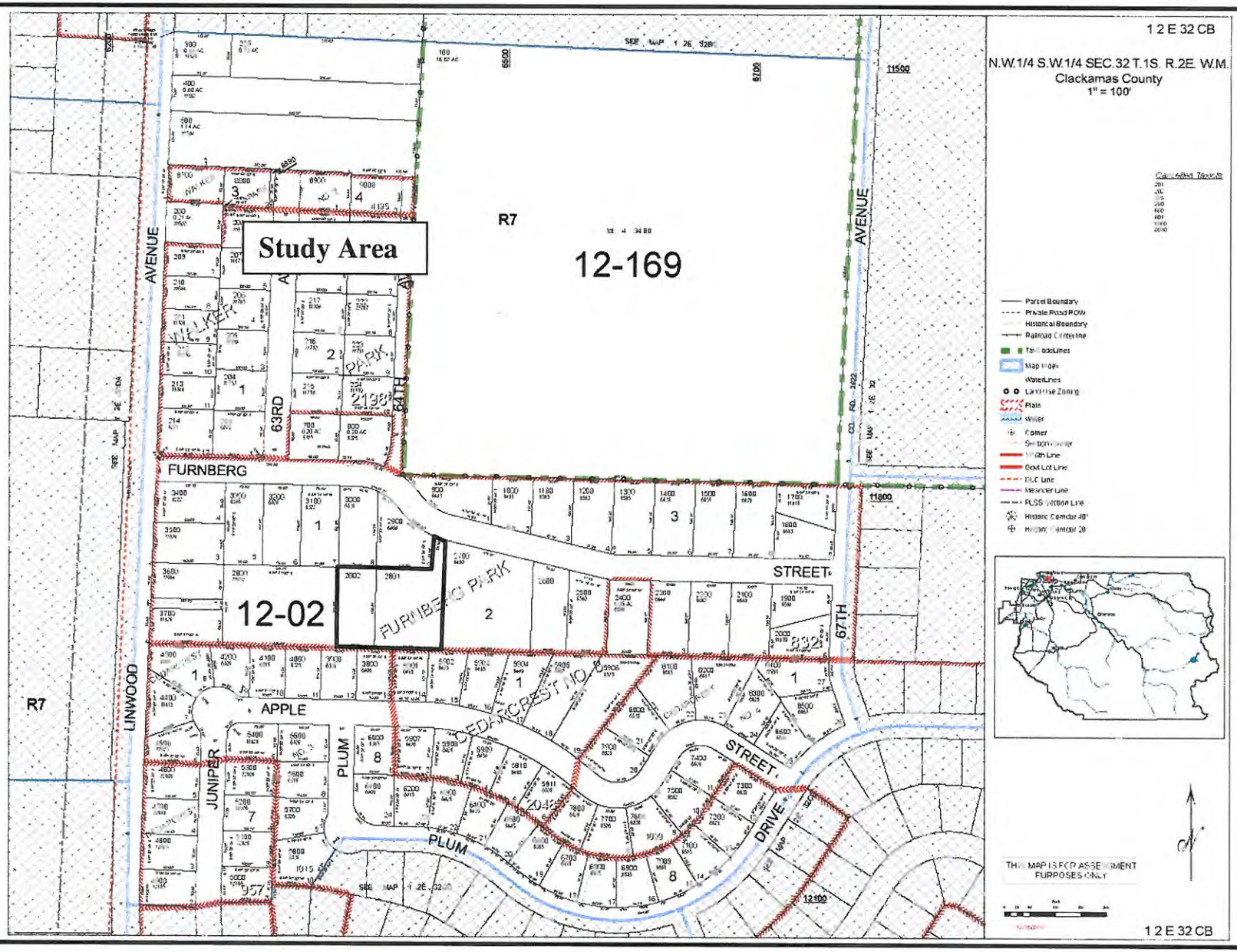
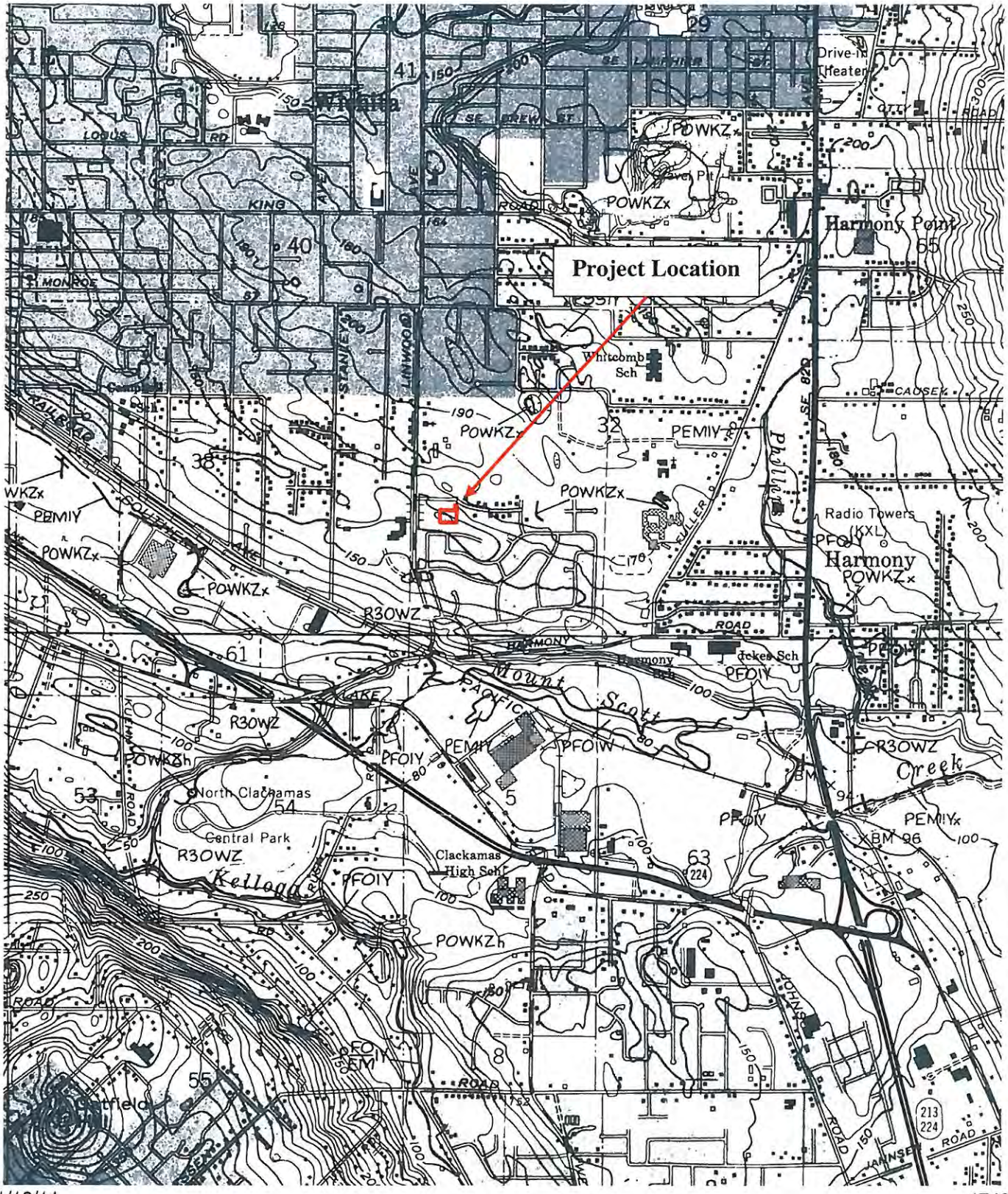


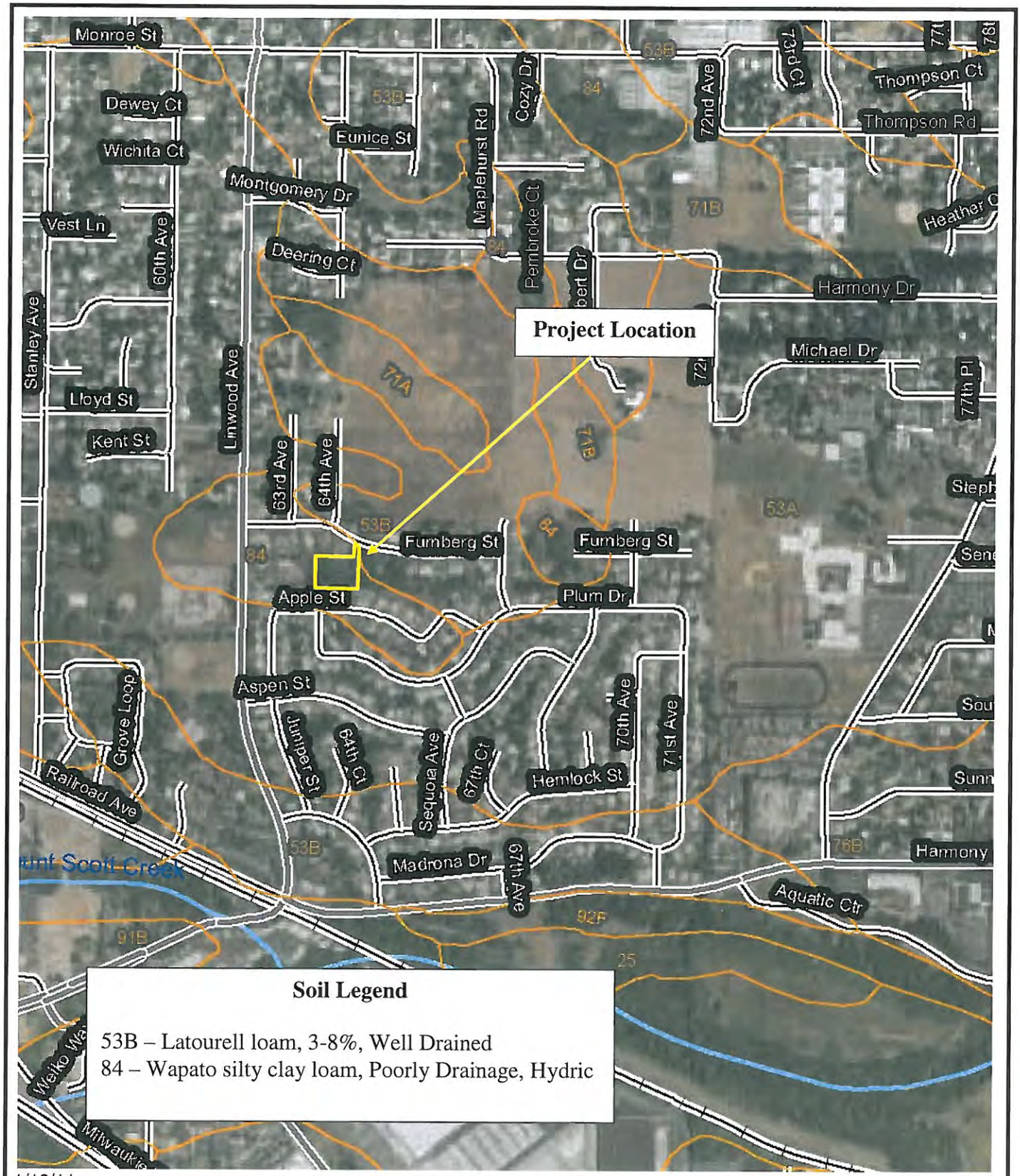
FIGURE 2

Tax lot map for the SE Furnberg property in Milwaukie, Oregon (Tax Map T1S R2E Sec 32CB, lots 2801, 2802. Courtesy of ORMAP).



National Wetlands Inventory map for the SE Furnberg property in Milwaukie, Oregon (USFWS Gladstone, OR quadrangle, 1981).

FIGURE 3



Soil series map for the SE Furnberg property in Milwaukie, Oregon (NRCS Web Soil Survey for Clackamas County).

FIGURE 4

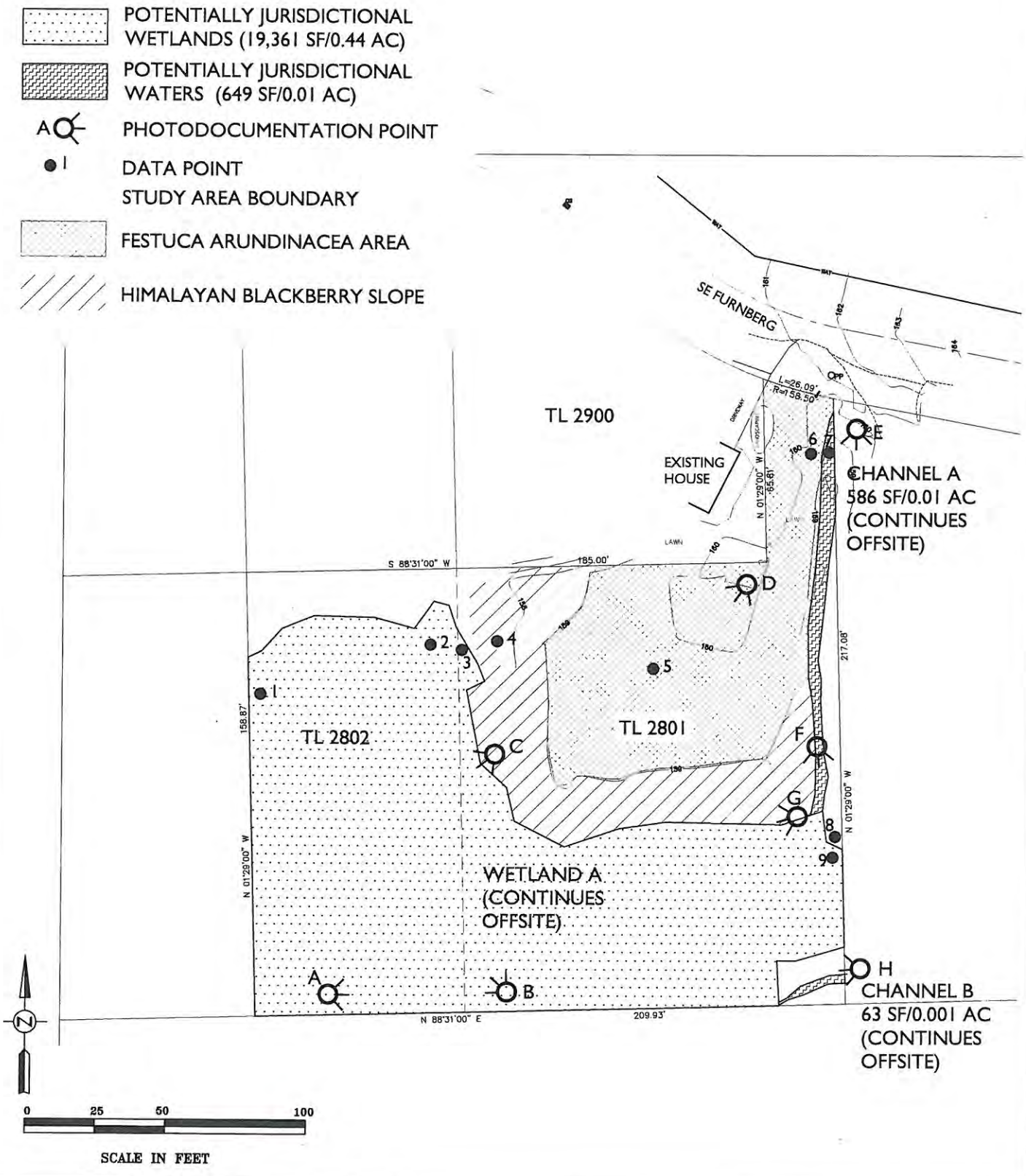


1/13/11

4749

Recent aerial photograph for the SE Furnberg property in Milwaukie, Oregon (GoogleEarth, 2010).

FIGURE 5



2/15/11
4749

Existing conditions and location of sample points and photodocumentation points for the SE Furnberg property in Milwaukie, Oregon. Survey by Centerline Concepts, Inc., 2011. Survey is sub-centimeter.

FIGURE 6

Pacific Habitat Services, Inc.

Y:\AUTOCAD\4700\4749 Furnberg Road\fig WESTCOAST-TOPO.dwg, 2/24/2011 12:46:24 PM, Letter, 1:1

Appendix B

Wetland Determination Data Sheets

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 1

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): Local relief (concave, convex, none): Slope (%):

Subregion (LRR): LRRA Lat: 45.4369 Long: 122.59787 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes	X	No		
Hydric Soil Present?	Yes	X	No	**Is Sampled Area within a Wetland?**	Yes X No
Wetland Hydrology Present?	Yes	X	No		

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: 30)			
1 *Salix lasiandra*	10	X	FACW
2			
3			
4			
	10	= Total Cover	
Sapling/Shrub Stratum (plot size: 5)			
1 *Rubus discolor*	68	X	FACU
2			
3			
4			
5			
	68	= Total Cover	
Herb Stratum (plot size: 5)			
1 *Phalaris arundinacea*	15	X	FACW
2 *Juncus effusus*	5	X	FACW
3 *Hedera helix*	2		UPL
4			
5			
6			
7			
8			
	22	= Total Cover	
Woody Vine Stratum (plot size:)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 75% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

___ 1- Rapid Test for Hydrophytic Vegetation

X 2- Dominance Test is >50%

___ 3-Prevalence Index is ≤ 3.0[1]

___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

___ 5- Wetland Non-Vascular Plants[1]

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

Remarks:

SOIL

PHS # 4749 Sampling Point: 1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-7	10YR 3/1	95	10YR 4/6	5	C	M	Silty Clay Loam	few
7-11	10YR 3/1	80	10YR 5/6	20	C	M	Silty Clay Loam	common
11-17	10YR 4/1	75	10YR 4/6	25	C	M	Silty Clay Loam	gravel in bottom, many

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- X Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ___

Depth (inches): ___

Hydric Soil Present? Yes X **No** ___

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Plowed Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9)
- X Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ Fac-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	___	No	X	Depth (inches): ___
Water Table Present?	Yes	X	No	___	Depth (inches): 7
Saturation Present? (includes capillary fringe)	Yes	X	No	___	Depth (inches): 2

Wetland Hydrology Present? Yes X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street | City/County: Milwaukie/Clackamas | Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC | State: OR | Sampling Point: 2

Investigator(s): ME/CT | Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): | Local relief (concave, convex, none): | Slope (%):

Subregion (LRR): LRRA | Lat: 45.43705 | Long: 122.59758 | Datum: DD

Soil Map Unit Name: Wapato silty clay loam | NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No	Is Sampled Area within a Wetland?	Yes X	No
Hydric Soil Present?	Yes X	No			
Wetland Hydrology Present?	Yes X	No			

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: 30)			
1 *Alnus rubra*	80	X	FAC
2			
3			
4			
	80	= Total Cover	
Sapling/Shrub Stratum (plot size: 5)			
1 *Ilex aquifolium*	30	X	UPL
2 *Cornus sericea*	30	X	FACW
3 *Prunus laurocerasus*	5		NI
4 *Thuja plicata*	5		FAC
5 *Rosa multiflora*	10		UPL
	80	= Total Cover	
Herb Stratum (plot size:)			
1			
2			
3			
4			
5			
6			
7			
8			
	0	= Total Cover	
Woody Vine Stratum (plot size:)			
1 *Hedera helix*	50	X	UPL
2			
	50	= Total Cover	

% Bare Ground in Herb Stratum

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 50% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species	0	x 1 =	0
FACW species	30	x 2 =	60
FAC Species	85	x 3 =	255
FACU Species	0	x 4 =	0
UPL Species	90	x 5 =	450
Column Totals	205 (A)		765 (B)

Prevalence Index =B/A = 3.73

Hydrophytic Vegetation Indicators:

___ 1- Rapid Test for Hydrophytic Vegetation

___ 2- Dominance Test is >50%

___ 3-Prevalence Index is ≤ 3.0[1]

___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

___ 5- Wetland Non-Vascular Plants[1]

X Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

Remarks:

Although the vegetation is at 50%, it is assumed wetland vegetation is present as the red alder and red osier dogwood comprise 110% of the vegetation in the sample point. In addition, the presence of wetland soils and hydrology, indicate this sample point is wetland.

SOIL

PHS # 4749 Sampling Point: 2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-2	10YR 2/2	100					Silt Loam	
2-6	10YR 3/2	95	7.5YR 4/6	5	C	M	Silt Loam	
6-18	2.5YR 4/2	60	10YR 5/6	20	C	M	Silty Clay Loam	
			5G 4/1	20	RM	M		

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- X Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ___

Depth (inches): ___

Hydric Soil Present? Yes X **No** ___

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Plowed Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- X Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ Fac-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	___	No X	Depth (inches):	___
Water Table Present?	Yes	X	No ___	Depth (inches):	8
Saturation Present? (includes capillary fringe)	Yes	X	No ___	Depth (inches):	0

Wetland Hydrology Present? Yes X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 3

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.:) Slope Local relief (concave, convex, none): _____ Slope (%): _____

Subregion (LRR): LRRA Lat: 45.43705 Long: 122.59758 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification: _____

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No _____ (if no, explain in Remarks)

Are vegetation ____ Soil ____ or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ____ Soil ____ or Hydrology ____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes	X	No		
Hydric Soil Present?	Yes	X	No	**Is Sampled Area within a Wetland?**	Yes X No
Wetland Hydrology Present?	Yes	X	No		

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: 30)			
1 *Alnus rubra*	80	X	FAC
2 *acer macrophyllum*	10		FACU
3			
4			
	90	= Total Cover	
Sapling/Shrub Stratum (plot size: 5)			
1 *Rubus discolor*	10	X	FACU
2 *Thuja plicata*	10	X	FAC
3 *Cornus sericea*	20	X	FACW
4 *Rosa multiflora*	5		UPL
5			
	45	= Total Cover	
Herb Stratum (plot size:)			
1			
2			
3			
4			
5			
6			
7			
8			
	0	= Total Cover	
Woody Vine Stratum (plot size:)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 75% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

_____ 1- Rapid Test for Hydrophytic Vegetation

X 2- Dominance Test is >50%

_____ 3-Prevalence Index is ≤ 3.0[1]

_____ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

_____ 5- Wetland Non-Vascular Plants[1]

_____ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No _____

Remarks:

SOIL

PHS # 4749 Sampling Point: 3

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-9	10YR 3/2	100					Silt Loam	
9-18	2.5Y 4/2	80	10YR 5/6	10	C	M	Silty Clay Loam	
			7.5YR 4/6	10	C	M		

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- X Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ___

Depth (inches): ___

Hydric Soil Present? Yes X **No** ___

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Plowed Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ Fac-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	___	No	X	Depth (inches): ___
Water Table Present?	Yes	___	No	X	Depth (inches): ___
Saturation Present? (includes capillary fringe)	Yes	X	No	___	Depth (inches): 9

Wetland Hydrology Present? Yes X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 4

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): Fill slope Local relief (concave, convex, none): _____ Slope (%): _____

Subregion (LRR): LRRA Lat: 45.43705 Long: 122.59758 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification: _____

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No _____ (if no, explain in Remarks)

Are vegetation ____ Soil ____ or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ____ Soil ____ or Hydrology ____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes		No	X	Is Sampled Area within a Wetland? Yes ____ No X
Hydric Soil Present?	Yes		No	X	
Wetland Hydrology Present?	Yes		No	X	

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: ____)			
1 *Alnus rubra*	25	X	FAC
2 *acer macrophyllum*	20	X	FACU
3			
4			
	45	= Total Cover	
Sapling/Shrub Stratum (plot size: ____)			
1 *Rubus discolor*	10	X	FACU
2			
3			
4			
5			
	10	= Total Cover	
Herb Stratum (plot size: 5)			
1 *Conium maculatum*	10	X	FAC
2			
3			
4			
5			
6			
7			
8			
	10	= Total Cover	
Woody Vine Stratum (plot size: ____)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 50% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

____ 1- Rapid Test for Hydrophytic Vegetation

____ 2- Dominance Test is >50%

____ 3-Prevalence Index is ≤ 3.0[1]

____ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

____ 5- Wetland Non-Vascular Plants[1]

____ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes ____ No X

Remarks:

SOIL PHS # 4749 Sampling Point: 4

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-18	10YR 3/2	100					Loam	gravelly fill

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ____ Histosol (A1)
- ____ Histic Epipedon (A2)
- ____ Black Histic (A3)
- ____ Hydrogen Sulfide (A4)
- ____ Depleted Below Dark Surface (A11)
- ____ Thick Dark Surface (A12)
- ____ Sandy Mucky Mineral (S1)
- ____ Sandy Gleyed Matrix (S4)
- ____ Sandy Redox (S5)
- ____ Stripped Matrix (S6)
- ____ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ____ Loamy Gleyed Matrix (F2)
- ____ Depleted Matrix (F3)
- ____ Redox Dark Surface (F6)
- ____ Depleted Dark Surface (F7)
- ____ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ____ 2 cm Muck (A10)
- ____ Red Parent Material (TF2)
- ____ Very Shallow Dark Surface (TF12)
- ____ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ____

Depth (inches): ____

Hydric Soil Present? Yes ____ **No** X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ____ Surface Water (A1)
- ____ High Water Table (A2)
- ____ Saturation (A3)
- ____ Water Marks (B1)
- ____ Sediment Deposits (B2)
- ____ Drift Deposits (B3)
- ____ Algal Mat or Crust (B4)
- ____ Iron Deposits (B5)
- ____ Surface Soil Cracks (B6)
- ____ Inundation Visible on Aerial Imagery (B7)
- ____ Sparsely Vegetated Concave Surface (B8)
- ____ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ____ Salt Crust (B11)
- ____ Aquatic Invertebrates (B13)
- ____ Hydrogen Sulfide Odor (C1)
- ____ Oxidized Rhizospheres along Living Roots (C3)
- ____ Presence of Reduced Iron (C4)
- ____ Recent Iron Reduction in Plowed Soils (C6)
- ____ Stunted or Stressed Plants (D1) **(LRR A)**
- ____ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ____ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ____ Drainage Patterns (B10)
- ____ Dry-Season Water Table (C2)
- ____ Saturation Visible on Aerial Imagery (C9)
- ____ Geomorphic Position (D2)
- ____ Shallow Aquitard (D3)
- ____ Fac-Neutral Test (D5)
- ____ Raised Ant Mounds (D6) **(LRR A)**
- ____ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present? Yes ____ No X Depth (inches): ____

Water Table Present? Yes ____ No X Depth (inches): ____

Saturation Present? (includes capillary fringe) Yes ____ No X Depth (inches): ____

Wetland Hydrology Present?

Yes ____ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 5

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): Local relief (concave, convex, none): Slope (%):

Subregion (LRR): LRRA Lat: 45.43705 Long: 122.59758 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes	X	No		Is Sampled Area within a Wetland? Yes ___ No X
Hydric Soil Present?	Yes		No	X	
Wetland Hydrology Present?	Yes		No	X	

Remarks:
Point taken in "historic" fill area.

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: ___)			
1			
2			
3			
4			
	0	= Total Cover	
Sapling/Shrub Stratum (plot size: ___)			
1			
2			
3			
4			
5			
	0	= Total Cover	
Herb Stratum (plot size: 5)			
1 *Festuca arundinacea*	95	X	FAC
2 *Conium maculatum*	10		FAC
3			
4			
5			
6			
7			
8			
	105	= Total Cover	
Woody Vine Stratum (plot size: ___)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum ___

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 1 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 100% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

___ 1- Rapid Test for Hydrophytic Vegetation

X 2- Dominance Test is >50%

___ 3-Prevalence Index is ≤ 3.0[1]

___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

___ 5- Wetland Non-Vascular Plants[1]

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No ___

Remarks:

SOIL PHS # 4749 Sampling Point: 5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-17	10YR 4/2	100					Silty Clay Loam	some gravel in pit

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ____ Histosol (A1)
- ____ Histic Epipedon (A2)
- ____ Black Histic (A3)
- ____ Hydrogen Sulfide (A4)
- ____ Depleted Below Dark Surface (A11)
- ____ Thick Dark Surface (A12)
- ____ Sandy Mucky Mineral (S1)
- ____ Sandy Gleyed Matrix (S4)
- ____ Sandy Redox (S5)
- ____ Stripped Matrix (S6)
- ____ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ____ Loamy Gleyed Matrix (F2)
- ____ Depleted Matrix (F3)
- ____ Redox Dark Surface (F6)
- ____ Depleted Dark Surface (F7)
- ____ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ____ 2 cm Muck (A10)
- ____ Red Parent Material (TF2)
- ____ Very Shallow Dark Surface (TF12)
- ____ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ____

Depth (inches): ____

Hydric Soil Present? Yes ____ **No** X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ____ Surface Water (A1)
- ____ High Water Table (A2)
- ____ Saturation (A3)
- ____ Water Marks (B1)
- ____ Sediment Deposits (B2)
- ____ Drift Deposits (B3)
- ____ Algal Mat or Crust (B4)
- ____ Iron Deposits (B5)
- ____ Surface Soil Cracks (B6)
- ____ Inundation Visible on Aerial Imagery (B7)
- ____ Sparsely Vegetated Concave Surface (B8)
- ____ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ____ Salt Crust (B11)
- ____ Aquatic Invertebrates (B13)
- ____ Hydrogen Sulfide Odor (C1)
- ____ Oxidized Rhizospheres along Living Roots (C3)
- ____ Presence of Reduced Iron (C4)
- ____ Recent Iron Reduction in Plowed Soils (C6)
- ____ Stunted or Stressed Plants (D1) **(LRR A)**
- ____ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ____ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ____ Drainage Patterns (B10)
- ____ Dry-Season Water Table (C2)
- ____ Saturation Visible on Aerial Imagery (C9
- ____ Geomorphic Position (D2)
- ____ Shallow Aquitard (D3)
- ____ Fac-Neutral Test (D5)
- ____ Raised Ant Mounds (D6) **(LRR A)**
- ____ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present? Yes ____ No X Depth (inches): ____

Water Table Present? Yes ____ No X Depth (inches): ____

Saturation Present? (includes capillary fringe) Yes ____ No X Depth (inches): ____

Wetland Hydrology Present?

Yes ____ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 6

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): _____ Slope (%): _____

Subregion (LRR): LRRA Lat: 45.43732 Long: 122.59681 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification: _____

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No _____ (if no, explain in Remarks)

Are vegetation ____ Soil ____ or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ____ Soil ____ or Hydrology ____ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes		No	X	Is Sampled Area within a Wetland? Yes ____ No X
Hydric Soil Present?	Yes		No	X	
Wetland Hydrology Present?	Yes		No	X	

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: ____)			
1			
2			
3			
4			
	0 = Total Cover		
Sapling/Shrub Stratum (plot size: ____)			
1			
2			
3			
4			
5			
	0 = Total Cover		
Herb Stratum (plot size: ____)			
1			
2			
3			
4			
5			
6			
7			
8			
	0 = Total Cover		
Woody Vine Stratum (plot size: ____)			
1			
2			
	0 = Total Cover		

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That are OBL, FACW, or FAC: #DIV/0! (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

_____ 1- Rapid Test for Hydrophytic Vegetation

_____ 2- Dominance Test is >50%

_____ 3-Prevalence Index is ≤ 3.0[1]

_____ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)

_____ 5- Wetland Non-Vascular Plants[1]

_____ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks:

No vegetation; cleared and mulched area adjacent to lawn.

SOIL

PHS # 4749 Sampling Point: 6

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-8	10YR 3/2	100					Silt Loam	
8-18	10YR 3/3	95	10YR 4/6	5			Silt Loam	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ____ Histosol (A1)
- ____ Histic Epipedon (A2)
- ____ Black Histic (A3)
- ____ Hydrogen Sulfide (A4)
- ____ Depleted Below Dark Surface (A11)
- ____ Thick Dark Surface (A12)
- ____ Sandy Mucky Mineral (S1)
- ____ Sandy Gleyed Matrix (S4)
- ____ Sandy Redox (S5)
- ____ Stripped Matrix (S6)
- ____ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ____ Loamy Gleyed Matrix (F2)
- ____ Depleted Matrix (F3)
- ____ Redox Dark Surface (F6)
- ____ Depleted Dark Surface (F7)
- ____ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ____ 2 cm Muck (A10)
- ____ Red Parent Material (TF2)
- ____ Very Shallow Dark Surface (TF12)
- ____ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ____

Depth (inches): ____

Hydric Soil Present? Yes ____ **No** X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ____ Surface Water (A1)
- ____ High Water Table (A2)
- ____ Saturation (A3)
- ____ Water Marks (B1)
- ____ Sediment Deposits (B2)
- ____ Drift Deposits (B3)
- ____ Algal Mat or Crust (B4)
- ____ Iron Deposits (B5)
- ____ Surface Soil Cracks (B6)
- ____ Inundation Visible on Aerial Imagery (B7)
- ____ Sparsely Vegetated Concave Surface (B8)
- ____ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ____ Salt Crust (B11)
- ____ Aquatic Invertebrates (B13)
- ____ Hydrogen Sulfide Odor (C1)
- ____ Oxidized Rhizospheres along Living Roots (C3)
- ____ Presence of Reduced Iron (C4)
- ____ Recent Iron Reduction in Plowed Soils (C6)
- ____ Stunted or Stressed Plants (D1) **(LRR A)**
- ____ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ____ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ____ Drainage Patterns (B10)
- ____ Dry-Season Water Table (C2)
- ____ Saturation Visible on Aerial Imagery (C9
- ____ Geomorphic Position (D2)
- ____ Shallow Aquitard (D3)
- ____ Fac-Neutral Test (D5)
- ____ Raised Ant Mounds (D6) **(LRR A)**
- ____ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	____	No	X	Depth (inches): ____
Water Table Present?	Yes	____	No	X	Depth (inches): ____
Saturation Present? (includes capillary fringe)	Yes	____	No	X	Depth (inches): ____

Wetland Hydrology Present?

Yes ____ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Soil moist, but not saturated.

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street City/County: Milwaukie/Clackamas Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC State: OR Sampling Point: 7

Investigator(s): ME/CT Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): Local relief (concave, convex, none): Slope (%):

Subregion (LRR): LRRA Lat: 45.43732 Long: 122.59681 Datum: DD

Soil Map Unit Name: Wapato silty clay loam NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes	X	No		
Hydric Soil Present?	Yes	X	No	**Is Sampled Area within a Wetland?**	Yes X No
Wetland Hydrology Present?	Yes	X	No		

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size: 30)			
1 *Fraxinus latifolia*	30	X	FACW
2			
3			
4			
	30	= Total Cover	
Sapling/Shrub Stratum (plot size:)			
1 *Rubus discolor*	5	X	FACU
2			
3			
4			
5			
	5	= Total Cover	
Herb Stratum (plot size: 5)			
1 *Agrostis stolonifera*	50	X	FAC
2 *Taraxacum officinale*	2		FACU
3 *Poa sp.*	50	X	(FAC)
4			
5			
6			
7			
8			
	102	= Total Cover	
Woody Vine Stratum (plot size:)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 75% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

- ___ 1- Rapid Test for Hydrophytic Vegetation
- X 2- Dominance Test is >50%
- ___ 3-Prevalence Index is ≤ 3.0[1]
- ___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)
- ___ 5- Wetland Non-Vascular Plants[1]
- ___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

Remarks:

SOIL PHS # 4749 Sampling Point: 7

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-8	10YR 3/2	100					Silt Loam	
8-18	10YR 3/2	90	10YR 4/6	10			Silt Loam	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- X Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ___

Depth (inches): ___

Hydric Soil Present? Yes X **No** ___

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Plowed Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- X Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ Fac-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	___	No X	Depth (inches):	___
Water Table Present?	Yes	X	No ___	Depth (inches):	10
Saturation Present? (includes capillary fringe)	Yes	X	No ___	Depth (inches):	0

Wetland Hydrology Present? Yes X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street | City/County: Milwaukie/Clackamas | Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC | State: OR | Sampling Point: 8

Investigator(s): ME/CT | Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): | Local relief (concave, convex, none): | Slope (%):

Subregion (LRR): LRRA | Lat: 45.43683 | Long: 122.59668 | Datum: DD

Soil Map Unit Name: Wapato silty clay loam | NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No	Is Sampled Area within a Wetland?	Yes	No X
Hydric Soil Present?	Yes X	No			
Wetland Hydrology Present?	Yes	No X			

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size:)			
1			
2			
3			
4			
	0 = Total Cover		
Sapling/Shrub Stratum (plot size: 5)			
1 *Cornus stolonifera*	40	X	FACW
2 *Rubus discolor*	30	X	FACU
3			
4			
5			
	70 = Total Cover		
Herb Stratum (plot size: 5)			
1 *Equisetum arvense*	2	X	FAC
2			
3			
4			
5			
6			
7			
8			
	2 = Total Cover		
Woody Vine Stratum (plot size:)			
1			
2			
	0 = Total Cover		

% Bare Ground in Herb Stratum

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 67% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species		x 1 =	0
FACW species		x 2 =	0
FAC Species		x 3 =	0
FACU Species		x 4 =	0
UPL Species		x 5 =	0
Column Totals	0 (A)		0 (B)

Prevalence Index =B/A = #DIV/0!

Hydrophytic Vegetation Indicators:

- ___ 1- Rapid Test for Hydrophytic Vegetation
- X 2- Dominance Test is >50%
- ___ 3-Prevalence Index is ≤ 3.0[1]
- ___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)
- ___ 5- Wetland Non-Vascular Plants[1]
- ___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

Remarks:

SOIL PHS # 4749 Sampling Point: 8

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(Inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-7	10YR 3/1	100					Silt Loam	
7-17	10YR 3/1	30	10YR 5/8	20	C	M	Silty Clay Loam	common
	10YR 6/1	50						

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ____ Histosol (A1)
- ____ Histic Epipedon (A2)
- ____ Black Histic (A3)
- ____ Hydrogen Sulfide (A4)
- ____ Depleted Below Dark Surface (A11)
- ____ Thick Dark Surface (A12)
- ____ Sandy Mucky Mineral (S1)
- ____ Sandy Gleyed Matrix (S4)
- ____ Sandy Redox (S5)
- ____ Stripped Matrix (S6)
- ____ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ____ Loamy Gleyed Matrix (F2)
- ____ Depleted Matrix (F3)
- X Redox Dark Surface (F6)
- ____ Depleted Dark Surface (F7)
- ____ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ____ 2 cm Muck (A10)
- ____ Red Parent Material (TF2)
- ____ Very Shallow Dark Surface (TF12)
- ____ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ____

Depth (inches): ____

Hydric Soil Present? Yes X **No** ____

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ____ Surface Water (A1)
- ____ High Water Table (A2)
- ____ Saturation (A3)
- ____ Water Marks (B1)
- ____ Sediment Deposits (B2)
- ____ Drift Deposits (B3)
- ____ Algal Mat or Crust (B4)
- ____ Iron Deposits (B5)
- ____ Surface Soil Cracks (B6)
- ____ Inundation Visible on Aerial Imagery (B7)
- ____ Sparsely Vegetated Concave Surface (B8)
- ____ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ____ Salt Crust (B11)
- ____ Aquatic Invertebrates (B13)
- ____ Hydrogen Sulfide Odor (C1)
- ____ Oxidized Rhizospheres along Living Roots (C3)
- ____ Presence of Reduced Iron (C4)
- ____ Recent Iron Reduction in Plowed Soils (C6)
- ____ Stunted or Stressed Plants (D1) **(LRR A)**
- ____ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ____ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ____ Drainage Patterns (B10)
- ____ Dry-Season Water Table (C2)
- ____ Saturation Visible on Aerial Imagery (C9)
- ____ Geomorphic Position (D2)
- ____ Shallow Aquitard (D3)
- ____ Fac-Neutral Test (D5)
- ____ Raised Ant Mounds (D6) **(LRR A)**
- ____ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present?	Yes	____	No X	Depth (inches):	____
Water Table Present?	Yes	____	No X	Depth (inches):	____
Saturation Present? (includes capillary fringe)	Yes	____	No X	Depth (inches):	____

Wetland Hydrology Present? Yes ____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

PHS # 4749

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: SE Furnberg Street | City/County: Milwaukie/Clackamas | Sampling Date: 1/11/2011

Applicant/Owner: West Coast Home Solutions, LLC | State: OR | Sampling Point: 9

Investigator(s): ME/CT | Section, Township, Range: Sec 32BC, T1S, R2E

Landform (hillslope, terrace, etc.): | Local relief (concave, convex, none): | Slope (%):

Subregion (LRR): LRRA | Lat: 45.43683 | Long: 122.59668 | Datum: DD

Soil Map Unit Name: Wapato silty clay loam | NWI Classification:

Are climatic/hydrologic conditions on the site typical for this time of year? Yes Y No (if no, explain in Remarks)

Are vegetation ___ Soil ___ or Hydrology ___ significantly disturbed? Are "Normal Circumstances" present? (Y/N) Y

Are vegetation ___ Soil ___ or Hydrology ___ naturally problematic? If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes X	No	Is Sampled Area within a Wetland?	Yes X	No
Hydric Soil Present?	Yes X	No			
Wetland Hydrology Present?	Yes X	No			

Remarks:

VEGETATION - Use scientific names of plants.

	absolute % cover	Dominant Species?	Indicator Status
Tree Stratum (plot size:)			
1			
2			
3			
4			
	0	= Total Cover	
Sapling/Shrub Stratum (plot size: 5)			
1 *Cornus sericea*	100	X	FACW
2 *Rubus discolor*	5		FACU
3			
4			
5			
	105	= Total Cover	
Herb Stratum (plot size: 5)			
1 *Hedera helix*	10	X	UPL
2			
3			
4			
5			
6			
7			
8			
	10	= Total Cover	
Woody Vine Stratum (plot size:)			
1			
2			
	0	= Total Cover	

% Bare Ground in Herb Stratum

Dominance Test worksheet:

Number of Dominant Species That are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 2 (B)

Percent of Dominant Species That are OBL, FACW, or FAC: 50% (A/B)

Prevalence Index Worksheet:

Total % Cover of		Multiply by:	
OBL Species	0	x 1 =	0
FACW species	100	x 2 =	200
FAC Species	0	x 3 =	0
FACU Species	5	x 4 =	20
UPL Species	10	x 5 =	50
Column Totals	115 (A)		270 (B)

Prevalence Index =B/A = 2.35

Hydrophytic Vegetation Indicators:

- ___ 1- Rapid Test for Hydrophytic Vegetation
- ___ 2- Dominance Test is >50%
- X 3-Prevalence Index is ≤ 3.0[1]
- ___ 4-Morphological Adaptations[1] (provide supporting data in Remarks or on a separate sheet)
- ___ 5- Wetland Non-Vascular Plants[1]
- ___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

Remarks:

Cornus sericea is the dominant plant species with 100% coverage and small percentages of FACU and UPL species. While the vegetation is at 50%, it is considered wetland because of the dominance of the Cornus being a FACW species. In addition, the prevalence index is less than 3.0.

SOIL PHS # 4749 Sampling Point: 9

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox Features %	Redox Features Type[1]	Redox Features Loc[2]	Texture	Remarks
0-6	10YR 3/2	100					Silt Loam	
6-18	10YR 4/2	75	7.5YR 5/6	25	C	M	Silty Clay Loam	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- X Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: ___

Depth (inches): ___

Hydric Soil Present? Yes X No ___

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water stained Leaves (B9) **(Except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Plowed Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water stained Leaves (B9) **(Except MLRA1, 2, 4A, and 4B)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ Fac-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present? Yes ___ No X Depth (inches): ___

Water Table Present? Yes ___ No X Depth (inches): ___

Saturation Present? (includes capillary fringe) Yes X No ___ Depth (inches): 8

Wetland Hydrology Present? Yes X No ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Appendix C

Site Photos



Photo A

Photo was taken looking east at the western portion of Wetland A. It shows an area that is seasonally ponded in the southwestern portion of the wetland.

Photo B

Photo was taken looking northwest at the western portion of Wetland A. It shows an area that is seasonally ponded in the southwestern portion of the wetland.



Project # 4749
2/10/2011

Photo documentation of the SE Furnberg property in Milwaukie, Oregon. Photos taken on 12/09/10.



Photo C

Photo was taken looking southwest at the western portion of Wetland A.

Photo D

Photo taken looking southwest at the grass area in the northeastern portion of the property.



Project # 4749
2/10/2011

Photo documentation of the SE Furnberg property in Milwaukie, Oregon. Photos taken on 12/09/10.



Photo E

Photo taken looking south at the northern portion of Channel A.

Photo F

Photo taken looking south at the southern portion of Channel A.



Project # 4749
2/10/2011

Photo documentation of the SE Furnberg property in Milwaukie, Oregon. Photos taken on 12/09/10.



Photo G

Photo taken looking west where the grass area transitions into Wetland A, which is located downslope in the Himalayan blackberry.

Photo H

Photo taken looking southwest at Channel B located in the southeast corner of the site.



Project # 4749
2/10/2011

Photo documentation of the SE Furnberg property in Milwaukie, Oregon. Photos taken on 12/09/10.

Appendix D

Wetland Definitions, Methodology

WATERS OF THE STATE AND WETLAND DEFINITION AND CRITERIA

Regulatory Jurisdiction

Wetlands and water resources in Oregon are regulated by the Oregon Department of State Lands (DSL) under the Removal-Fill Law (ORS 196.800-196.990) and by the U.S. Army Corps of Engineers (COE) through Section 404 of the Clean Water Act.

The primary source documents for wetland delineations within Oregon is the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1* (Environmental Laboratory 1987) and the *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Regio*n, which are recognized by both DSL and COE.

Waters of the State and Wetland Definition

Waters of the State are defined as "natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable...". "Natural waterways" is further defined as waterways created naturally by geological and hydrological processes, waterways that would be natural but for human-caused disturbances (e.g. channelized or culverted streams, impounded waters, partially drained wetlands or ponds created in wetlands)..."(DSL, 2001).

Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (DSL, 2001).

Wetland Criteria

Based on the above definition, three major factors characterize a wetland: hydrology, substrate, and biota.

Wetland Hydrology

Wetland hydrology is related to duration of saturation, frequency of saturation, and critical depth of saturation. The 1987 manual defines wetland hydrology as inundation or saturation within a major portion of the root zone (usually above 12 inches), typically for at least 12.5% of the growing season. The wetland hydrology criterion can be met, however, if saturation within the major portion of the root zone is present for only 5% of the growing season, depending on other evidence.

The growing season is defined as the portion of the year when soil temperatures at 12.0 inches below the soil surface are higher than biological zero (41 degrees Fahrenheit, 5 degrees Celsius), but also allows approximation from frost free days, based on air temperature. The growing season for any given site or location is determined from US Natural Resources Conservation Service, (formerly Soil Conservation Service) data and information.

Wetland hydrologic indicators include the following: visual observation of inundation or saturation, watermarks, drift lines, sediment deposits, and/or oxidized rhizospheres with living roots. Oxidized rhizospheres are defined as yellowish-red zones around the roots and rhizomes of some plants that grow in frequently saturated soils. Other indicators of hydrology, including algal mats or crust, iron deposits, surface soil cracks, sparsely vegetated concave surface, salt crust, aquatic invertebrates, hydrogen sulfide odor, reduced iron, iron reduction in tilled soils, and stunted or stressed plants can also be used to determine the presence of wetland hydrology.

Wetland Substrate (Soils)

Most wetlands are characterized by hydric soils. Hydric soils are those that are ponded, flooded, or saturated for long enough during the growing season to develop anaerobic conditions. Periodic saturation of soils causes alternation of reduced and oxidized conditions, which leads to the formation of redoximorphic features (gleying and mottling). Mineral hydric soils will be either gleyed or will have bright mottles and/or low matrix chroma. The redoximorphic feature known as gley is a result of greatly reduced soil conditions, which result in a characteristic grayish, bluish or greenish soil color. The term mottling is used to describe areas of contrasting color within a soil matrix. The soil matrix is the portion of the soil layer that has the predominant color. Soils that have brightly colored mottles and a low matrix chroma are indicative of a fluctuating water table.

Hydric soil indicators include: organic content of greater than 50% by volume, and/or presence of redoximorphic features and dark soil matrix, as determined by the use of a Munsell Soil Color Chart. This chart establishes the chroma, value and hue of soils based on comparison with color chips. Mineral hydric soil must meet one of the 16 definitions for hydric soil indicators, or be classified as a "problem soil" in the Interim Regional Supplement.

Wetland Biota (Vegetation)

Wetland biota is defined as hydrophytic vegetation. A hydrophyte is a plant species that is capable of growing in substrates that are periodically deficient in oxygen as a result of saturated soil conditions. The U.S. Fish and Wildlife Service, in the *National List of Plant Species that Occur in Wetlands*, have established five basic groups of vegetation based on their frequency of occurrence in wetlands. These categories, referred to as the "wetland indicator status", are as follows: obligate wetland plants (OBL), facultative wetland (FACW), facultative (FAC), facultative upland (FACU), and obligate upland (UPL). Table 1 gives a definition of the plant indicator codes.

Table 1. Description of Wetland Plant Indicator Status Codes

Indicator Code	Status
OBL	Obligate wetland. Estimated to occur almost exclusively in wetlands (>99%)
FACW	Facultative wetland. Estimated to occur 67-99% of the time in wetlands.
FAC	Facultative. Occur equally in wetlands and non-wetlands (34-66%).
FACU	Facultative upland. Usually occur in non-wetlands (67-99%).
UPL	Obligate upland. Estimated to occur almost exclusively in non-wetlands (>99%). If a species is not assigned to one of the four groups described above it is assumed to be obligate upland.
NI	Has not yet received a wetland indicator status, but is probably not obligate upland.

Observations of hydrology, soils, and vegetation, were made using the "Routine On-site" delineation method as defined in the 1987 manual and the Interim Regional Supplement for areas that were not currently in agricultural production. One-foot diameter soil pits were excavated to 20 inches and soil profiles were examined for hydric soil and wetland hydrology field indicators. In addition, a visual absolute-cover estimate of the dominant species of the plant community was performed using soil pit locations as a center of reference. Dominant plant species are based on estimates of absolute cover for herbaceous, and shrub species within a 5 foot radius of the sample point, and basal area cover for tree and woody vine species within a 30 foot radius of the sample point. Plant species in each vegetative layer, which are estimated at less than 20% of the total cover, are not considered to be dominant. The wetland indicator status is then used to determine if there is an overall dominance (greater than 50%) of wetland or upland plant species. If less than 50% of the dominant species are hydrophytic, then the prevalence index may be used to determine if the subdominant species are hydrophytic. If the prevalence index is less than or equal to 3, hydrophytic vegetation criterion is met.

During data collection, the soil profiles were examined for hydric soil and wetland hydrology field indicators. Plant species and cover were recorded. Data was recorded on standard data sheets which contain the information specified in the 1987 Corps Manual and the Interim Regional Supplement.

ATTACHMENT 4a

Kelver, Brett

From: Larsen, Tom
Sent: Tuesday, January 24, 2012 8:22 AM
To: Kelver, Brett
Subject: WQR-11-05

Brett,

Due to the location of the proposed home near the wetlands, a soil test will need to be performed by a qualified firm or individual, verifying the adequacy of the soil to support the proposed structure. This report will need to be submitted with the building permit application.

Tom Larsen, CBO
Building Official, City of Milwaukie
Phone: (503) 786-7611
Fax: (503) 786-7612



Linwood Neighborhood Association

12258 SE Grove Loop
Milwaukie, Oregon 97222
(503) 659-8908

Planning Dept.
City of Milwaukie
6101 SE Johnson Creek Bv.
Milwaukie, OR 97206

February 1, 2012

Dear Planners;

In response to the proposal, **file #WQR-11-05**, for the addition to be located on SE Furnberg St., Milwaukie, the Linwood Land-Use Ad Hoc Committee has the following concerns:

The property in question has apparently been cleared of trees formerly and the proposed development will add hardscape to the lot, which needs some variance with regard to the wetlands/riparian buffer. We have some concerns regarding negative impacts to the designated wetlands, as well as the storm water drainage directly into ground and surface water.

If this proposal affects the 4 abutting houses directly to the South of the property, it will be too late for any "fixes" involving other than potentially considerable cost to those homeowners. Also, there is quite often a breakdown between what is approved for a project and what gets done as time goes by as restrictions are forgotten and/or the property is sold to a new owner.

We are soliciting additional discussion on an informal basis with the owners of the 4 houses mentioned above and will comment further should those owners voice concerns, therefore we cannot endorse this project until those concerns have been explored.

Sincerely,

Beth Kelland, Don Wiley & Dolly Macken-Hambright
Linwood Ad Hoc Land Use Committee

MEMORANDUM

TO: Community Development Department

THROUGH: Gary Parkin, Director of Engineering

FROM: Brad Albert, Civil Engineer

RE: Willamette Greenway – Tax lots 2801 & 2802 (no site address) WQR-11-05,

DATE: February 3, 2012

Construction of a new single family residence.

1. MMC Chapter 17.28 – Design Standards

   The Planning Commission finds that the following complies with applicable criteria of MMC Chapter 17.28

   A. MMC Chapter 17.28.030 requires easements for sewers, water mains, electric lines, or other public utilities shall be dedicated to the City wherever necessary.

      The proposed development property has an underground stormwater mainline that runs along the south side of the property. The applicant does not show an easement for the mainline on the site plan. The applicant must grant and record a 10-foot wide stormwater easement on tax lots 2801 and 2802 to the City for the stormwater mainline.

      The Planning Commission finds that the requirements of MMC Section 17.28.030 have been met for the proposed development.

2. MMC Chapter 19.700 – Public Facility Improvements

   The Planning Commission finds that the following complies with applicable criteria of MMC Chapter 19.700.

   A. MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

      The applicant proposes to construct a single family residence on the existing parcel. The new construction of the single family residence on tax lot 2801 is projected to slightly increase vehicle trips to the site.

      The Planning Commission finds that MMC Chapter 19.700 applies to the proposed development.

   B. MMC Section 19.703 requires for minimum safety and functionality standards to be met before a development permit will be issued.

      The proposed single family residence on tax lot 2801 does have adequate paved width along the site's frontage on SE Furnberg St. The existing

paved width on SE Furnberg St is 25 feet. The minimum paved width along the site's frontage that is allowed is 16 feet. The applicant is not required to provide any additional paving to meet the minimum safety and functionality standard.

The Planning Commission finds that the requirements of MMC Section 19.703 have been met for the proposed development.

C. MMC Section 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.

The Planning Commission finds that the requirements of MMC Section 19.704 have been met for proposed development.

D. MMC Section 19.704.4 requires that transportation impacts of the proposed development be mitigated.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.

The Planning Commission finds that the requirements of MMC Section 19.704.4 have been met for the proposed development.

E. MMC Section 19.706 establishes specific criteria for accepting a fee in lieu of construction of required transportation facility improvements.

The applicant has proposed to pay a fee in lieu of construction of the required transportation facility improvements triggered by the construction of a new single family residence on tax lot 2801. The Engineering Director accepts the fee in lieu of construction on the basis that the required improvements may present a safety hazard because tax lot 2801 is mid-block with 25 feet of frontage on a curve and the required improvements are not safe to construct. The applicant must pay the fee in lieu of construction for the required frontage improvements prior to a development permit being issued.

The Planning Commission finds that the requirements of MMC Section 19.706 have been met for the proposed development.

F. MMC Section 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

Tax lot 2801 currently has no driveway access fronting SE Furnberg St.

The applicant shall reconstruct the driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) on SE Furnberg St. The driveway approach apron shall be between 9 feet and 20 feet in width and least 7.5 feet from the side property line.

The applicant shall remove all signs, structures, or vegetation in excess of three feet in height from “vision clearance areas” at intersections of streets, driveways, and alleys.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.708.1.

G. MMC Section 19.708.2 establishes standards for street design and improvement.

The applicant is responsible for street improvements along the tax lot 2801 frontage adjacent to SE Furnberg St. The street improvement includes construction of a 14-foot wide paved half street, standard curb and gutter, minimum 5-foot wide planter strip, and minimum 5-foot wide setback sidewalk to accommodate pedestrians. The applicant has proposed a fee in lieu of construction for the required street improvements. The Engineering Director accepts the fee in lieu of construction on the basis that the required improvements may present a safety hazard because tax lot 2801 is mid-block and the required improvements are not safe to construct.

The existing right-of-way width of SE Furnberg St fronting the proposed development is 50 feet. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE Furnberg St a neighborhood route. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a neighborhood route is between 20 feet and 68 feet depending on the required street improvements. The required right-of-way needed for the required street improvements is 52 feet. The applicant is responsible for half the required dedication. The applicant shall dedicate 1 foot of right-of-way to the public on SE Furnberg St fronting the proposed development.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.708.2.

H. MMC Section 19.708.3 establishes sidewalks shall be provided on the public street frontage of all development.

The construction of sidewalks along the proposed development property abutting SE Furnberg St is included in the street frontage requirements. The applicant will pay a fee in lieu of construction for the required improvements.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.708.3.

I. MMC Section 19.708.4 establishes standards for bicycle facilities.

The portion of SE Furnberg St fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements are not required for the proposed development.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.708.4.

J. MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development property is surrounded by single family residences and a water quality resource area with no mid-block connectivity. As a result, a pedestrian/bicycle path is not required for the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC Section 19.708.5.

K. MMC Section 19.708.6 establishes standards for transit facilities.

The portion of SE Furnberg St fronting the proposed development is not classified as a transit route in the Milwaukie Transportation System Plan. As a result, transit facility improvements are not required for the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC Section 19.708.6.

Recommended Conditions of Approval

1. Prior to issuance of any building permit, the following shall be resolved:

   A. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.

   B. Obtain a right-of-way permit for construction of the required driveway approach along the site's frontage on SE Furnberg St.

   C. Pay the fee-in-lieu of construction costs for the required travel lane, curb, planter strip, and setback sidewalk. The fee for the required improvements will be calculated with the submission of the building permit.

   D. Dedicate 1 foot of right-of-way on SE Furnberg St fronting the proposed development.

   E. Provide an erosion control plan and obtain an erosion control permit.

2. Prior to final inspection of any building permit, the following shall be resolved:

   A. Construct a driveway approach onto SE Furnberg St to meet all guidelines of the Americans with Disabilities Act (ADA) prior to final inspection. The

driveway approach apron shall be between 9 feet and 20 feet in width and least 7.5 feet from the side property lines.

B. Remove all signs, structures, or vegetation in excess of three feet in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.

C. Record a 10-foot wide stormwater easement on the south side of tax lots 2801 and 2802 for the City stormwater mainline.

ESA
522 SW Fifth Avenue
Suite 820
Portland, OR 97204
503.226.8018 phone
503.226.8017 fax
www.esassoc.com

memorandum

date February 7, 2012

to Brett Kelver

from Sarah Hartung and Alison Sigler

subject Completeness Review for the Furnberg Street Property

This memo has been prepared to satisfy the Task Order for the Furnberg Street Water Quality Resource Review. Our scope includes the following:

1. Review the application materials to help guide the City's assessment of the proposed project's compliance with applicable standards. Relevant materials include a proposed mitigation plan within the applicant's narrative, a Water Quality Resource Assessment (WQRA) Report prepared by Pacific Habitat Services, a Wetland Delineation Report prepared by Pacific Habitat Services, and the wetland delineation approved by the Department of State Lands (DSL).
2. Visit the site for reconnaissance and to assess existing conditions.
3. Evaluate the application materials and determine whether they accurately adequately describe the existing conditions. What is the existing condition of the Water Quality Resource (WQR) in accordance with Milwaukie Municipal Code (MMC) Table 19.402.9.E?
4. Review and evaluate the proposed mitigation plan (see pages 11-15 in the applicant's narrative, as well as page 3 and Figure 6 in the Water Quality Resource Assessment Report). Determine whether the proposed mitigation is appropriate and meets standards, given the nature and scale of the anticipated impacts. In particular, is it appropriate for the applicant to utilize the HCA mitigation Option 2 found in Section 6-E(1)(b) of the Metro Title 13 model code (i.e., 5 trees and 25 shrubs per 500 square feet (sq ft) of disturbance area) for mitigating the disturbance proposed to both types of resources (HCA and WQR)? Additionally, are the proposed species and spatial distribution of mitigation plantings appropriate for this site?

General Comments

We noted a few discrepancies between the applicant's narrative and the WQRA Report as follows:

- Figures found in the narrative are small and hard to read, lacking a north arrow, legend, and scale bar. We recommend that all the figures for the narrative be presented as separate plans with a scale bar, legend, and a north arrow, similar to how the plans were presented in the WQRA Report. This will allow the reader to better understand each of the plans.

- On Figures 5 and 6 of the WQRA Report, the house and garage footprint are different from the narrative and it is not clear if the square footage is the same.

- Mitigation was described in different sections within the application materials and appears to represent different mitigation areas. On page 14 of the applicant's narrative there is a mitigation plan presented above the text. On this same page the applicant references Figure 6 of the WQRA Report to identify the location of the mitigation areas. We recommend updating the mitigation plan and incorporating our comments found in Section 2.

1. Existing Conditions

Upon evaluation of the application materials and field reconnaissance, we have determined that the existing conditions described by the applicant are in accordance with a Degraded Existing Vegetated Corridor per Milwaukie Municipal Code (MMC) Table 19.402.9.E. However, we identified a few deficiencies regarding the plant inventory and the vegetated corridor for the wetland. See below for our summary of findings.

19.409 A. Topographic map at contour intervals of 5 feet or less showing a delineation of the Water Quality Resource Area, which includes areas shown on the Water Quality and Flood Management Area maps, and that meets the definition of Water Quality Resource Area in Table 19.402.9A: Section 4.0 of the WQRA Report states that Channels A and B will require a 15 foot vegetated corridor and Wetland A will require a 50 foot vegetated corridor.

Conclusion/Recommendation: Channels A and B are accurately described as intermittent streams and Secondary Protected Water Features with a vegetated corridor of 15 feet.

The determination of the vegetated corridor for Wetland A is incorrect because steep slopes were not considered. Using the topographic map, we calculated the slope between Wetland A and the south end of the proposed residential development at 28 percent. Wetland A is a Primary Protected Water Feature and has a slope greater than 25 percent for less than 150 feet adjacent to Wetland A; therefore the width of the vegetated corridor is the distance from the starting point of measurement to the break in slope plus 50 feet, which totals approximately 64 feet. We recommend that the applicant verify the steepness of the slopes on-site and update the vegetated corridor for the wetland.

19.409 B. Natural Features (all trees of a caliper greater than 6 inches diameter at breast height, natural drainages, etc): Two intermittent stream channels, A and B, and a wetland (Wetland A) are accurately described as they are found in the project site. All trees greater than 6 inches diameter breast height (dbh) appear to be shown on the figures but tree species are not described.

Conclusion/Recommendation: The location of all natural features within the vegetated corridor appears to be sufficiently described; however tree species are not shown on the figures. We recommend including tree species on the plan with a landscaping symbol description in the legend.

19.409 C. Location of Wetlands: The wetland delineation report identifies a wetland south of the site for proposed residential development at the bottom of a steep slope, Channel A to the east of the site, and Channel B to the southeast of the project site. The Department of State Lands (DSL) concurred with the determination that one wetland and two waterways occurred on-site.

Conclusion/Recommendation: The location of the wetland and two waterways is accurate and the information provided is sufficient.

19.409 D. Debris and Noxious Materials: The narrative states that no debris or noxious materials are within the WQR.

Conclusion/Recommendation: Our site visit confirmed that no debris or noxious materials are present and that this information provided is sufficient.

19.409 E. Assessment of the WQR Existing Condition:
Section 4.0 of the WQRA Report concludes that the Water Quality Resource Area is a Degraded Existing Vegetated Corridor, with greater than 10 percent of surface coverage by nonnative species.

Conclusion/Recommendation: The assessment of the existing conditions of the WQR in the WQRA Report is sufficient.

19.409 F. Inventory of Vegetation: The WQRA Report includes a list of existing species in the WQR, percent cover, and whether the species is native or non-native (Table 1).

Conclusion/Recommendation: It appears that the WQRA Report only includes an inventory of the vegetated corridor as outlined in Figure 5 and 6 of the WQRA Report. By definition the WQR includes the area delineated as wetland and an inventory of plant species in the wetland should be provided in Table 1 as well. In the case of this application, however, the "degraded" condition rating would stay the same. During ESA's recent site visit, we observed an additional noxious weed, poison hemlock, within the vegetated corridor and mitigation area.

We recommend that Table 1 be updated to include 5 percent cover of poison hemlock as ground cover in the WQR area. Trees greater than 6 inches in diameter were accurately mapped in the study area but no species were provided on the plan; it is assumed they are all red alder. Tree species mapped should be identified on the plan.

2. Mitigation Plan

The applicant's decision to use the HCA mitigation Option 2 appears to be the best option for mitigating disturbance to both the HCA and the WQR. Mitigation for Option 1 is based on the amount and size of the trees to be removed; however, the applicant's proposal does not involve tree removal. Option 2 is based on the footprint of disturbance where five trees and 25 shrubs shall be planted for every 500 sq. ft. of disturbance area. Option 2 is appropriate because, when compared to the WQR mitigation standards, the HCA mitigation standards are more stringent, and it also results in the planting of more native trees and shrubs which will increase habitat diversity and water quality functions on-site. The WQR mitigation requirements are broad and do not specify the density in which plants should be planted. We recommend a few improvements to the mitigation plan to meet code requirements and to be successful. These recommendations are outlined below.

19.402 I. 1. A description of adverse impacts that will be caused as a result of development.
There were two different calculations for disturbance presented in the narrative and the WQRA Report.

The narrative presents a total of 4,198 sq ft of disturbance but does not specify if this is for permanent impacts (page 13). Both the narrative and WQRA Report lack a discussion of temporary impacts.

The WQRA Report describes that a total of 2,261 sq ft of permanent impacts within the degraded WQR will take place from the construction of the proposed house, driveway, drainage swale, and the area between the house and buried stormwater pipe. The on-site mitigation of the WQR area is at a 1:1 ratio by planting native trees, shrubs, and herbaceous plants.

Conclusion/Recommendation: We reviewed the disturbance calculations (4,198 sq ft) and recommend that the applicant also include the square footage of the water quality treatment swale. Additionally, the application materials are lacking a clear description of the permanent and temporary impacts to the WQR area.

2. Explanation of how adverse impacts will be avoided, minimized, and/or mitigated.
The WQRA Report describes considering pervious pavers to minimize impacts and mentions that the house cannot be shifted further north and outside of the WQR because a vehicle turnaround is needed.

The WQRA Report clearly states that no trees will require removal and that no impacts to regulated resources (wetlands, intermittent streams) will occur.

Conclusion/Recommendation: The discussion of avoidance and minimization could be improved to include justification for why the vehicle turnaround needs to be the size and location that it is. The site development alternatives should analyze a two-story design and/or one with a smaller footprint to minimize impacts.

3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.
This current owner and responsible party is West Coast Home Solutions (narrative).

Conclusion/Recommendation: The responsible party was identified but we recommend that the primary contact, a phone number, and address also be provided.

4. A map showing where the specific mitigation activities will occur.
A revised mitigation plan is provided in the narrative on page 14. The mitigation plan lacks a scale bar, legend, and north arrow. Minimal details were provided on native grass seeding within the plan.

The WQRA Report provides an incomplete mitigation plan in Figure 6. The mitigation area is clearly labeled in this figure but is a different area than in the revised plan (in the narrative) and does not provide required details such as plant species, amount of plants, and how they will be planted.

Conclusion/Recommendation: Provide the mitigation plan on its own page, similar to how the plans are presented in the WQRA Report. Call out the mitigation area with its own polygon, include appropriate symbols in a legend, a north arrow, and a table with a summary of how many plants per species will be used, plant size, and how they will be plant [e.g. 4' on center (o.c.)]. The plan should also clarify site preparation methods for planting shrubs and trees. We recommend removing the existing grasses (tall fescue, orchard grass) in a minimum 18" radius in order to successfully plant shrubs and trees. In the planting table specify the grass species that will be used including the amount of seed (pounds) per acre that will be used to reestablish bare soils. For the existing trees on the mitigation plan graphic include a note that these trees will be retained.

Also, if the swale near the driveway and the planter box are part of the mitigation plan show details of how they will be planted on the mitigation plan.

5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency plan.
The narrative on page 12 addresses a basic schedule, intermediate erosion control, and timeline for construction and mitigation. The narrative on page 15 addresses monitoring, reporting, temporary irrigation, and weed control.

Conclusion/Recommendation: The narrative meets the bare minimum for most of the items in (5), but does not specify the length of the monitoring period and is missing a contingency plan. Contingency measures do not have

to be too detailed, but should acknowledge potential courses of action should there be high plant mortality rates or high cover of invasive species in the mitigation area (for example).

Title 13 Model Ordinance

E. Mitigation requirements for disturbance in HCAs.

1. Required plants and plant densities. b. Mitigation Option 2.

The applicant chose Mitigation Option 2 and calculated the total disturbance area to be 4,198 sq ft (including 900 sq ft of a landscaped yard, house, garage, paved drive, patio, planter box and the driveway). This calculation does not include the water quality treatment swale as disturbance area.

The planting rate, calculated by the applicant, is 42 trees and 210 shrubs. Bare ground will be seeded with native grasses. The applicant states that the mitigation area to be planted is identified by the tall fescue and Himalayan blackberry areas shown on Figure 6 of the wetland delineation report.

Conclusion/Recommendation: The disturbance area calculation is insufficient and does not address permanent versus temporary impacts. Mitigation is required for permanent impacts, whereas temporary impacts require site restoration or returning the area to pre-construction conditions. The water quality treatment swale should be included as an impact (we recommend considering it a permanent impact, but this could be up for discussion) and should be included in the disturbance area. The revised total disturbance area should be used to update the required native tree and shrub densities for mitigation.

Mitigation Option 2 is appropriate for the project because more trees and shrubs will be planted when compared to the other mitigation options (Option 1 or the WQR mitigation standards). Mitigation Option 2 will provide more riparian and upland habitat complexity to the WQR and HCA areas by increasing habitat for wildlife, especially songbirds. The project offers a good opportunity to enhance a natural resource in an urbanized area.

The proposed location and geometry of mitigation area (as shown on page 14 of the narrative) is reasonable for the site. It concentrates mitigation on the west side of the open, flat space which makes the mitigation area easily identifiable. It is also located in an area that has limited habitat value due to the dominance by non-native pasture grasses (tall fescue and orchard grass). Native shrubs and trees are lacking in the open grassy area, which diminishes habitat opportunities for wildlife species. Fencing and/or signage to demarcate the proposed mitigation area is recommended. An alternative mitigation location that is also reasonable for the site is to shift the mitigation area so that it entirely abuts the wetland boundary. This would involve installing native shrubs and trees along the west and south slope above the wetland, which would in time provide more vegetative screening for the wetland.

Mitigation within the wetland, in this case, is not recommended. In general, wetland enhancement is a feasible option to compensate for WQR and HCA impacts, but opportunity exists in the adjacent vegetated corridor to increase habitat functions. The wetland has an intact native shrub and canopy layer (Pacific willow, red alder, and red-osier dogwood), but a disturbed understory, like many wetlands in the Northwest. Mitigation in the wetland (e.g. replacing reed canarygrass with native groundcover) would require the applicant to submit a permit application to the Department of State Lands in order to conduct wetland enhancement. The wetland enhancement permit application is short, straightforward and would not require a submittal fee; however this option would involve more documentation and coordination for the applicant.

2. Plant Size.

The applicant states that no replacement trees are needed, but shrubs will be at least a 1 gallon container size.

Conclusion/Recommendation: This statement is insufficient and should be updated. "Replacement shrubs and trees" in this section refer to the shrubs and trees that will be used in the mitigation plan. We recommend this section be updated to include the requirements outlined for plant size. Plant size for mitigation shrubs and trees will meet the requirements outlined in the Mitigation Option 2 requirements as follows: Mitigation trees will measure at least one-half inch in caliper (as specified in the mitigation plan in the narrative on page 14). Shrubs will be planted from at least a 1 gallon container and will be at least 12 inches in height.

3. Plant Spacing.

The narrative states that shrubs will be planted 4 to 5 ft on center in clusters of species of 4 or less.

The narrative mitigation plan (pg 14) presents shrubs planted at 4' o.c. individually and trees planted individually 8' o.c.

Conclusion/Recommendation: The report text and mitigation plan should present consistent information. Include report text addressing that the trees will be planted individually 8' o.c. The code allows tree spacing from 8' o.c. to 12' o.c. The proposed spacing of 8' o.c. is on the dense end of the spectrum, but does not appear to be unreasonable for the site.

The mitigation plan presents shrubs planted individually 4' o.c. but the text mentions they will be planted in clusters of 4 species or less. For the shrubs, update the report text and/or mitigation plan. If the shrubs are to be planted individually (as specified in the mitigation plan), update the report text. If the shrubs are to be planted via the report text, update the text stating that the shrubs will be planted in clusters of four plants (not species) at 8 to 10 ft o.c. Also, update the mitigation plan accordingly for consistency.

4. Plant Diversity.

The narrative states at least two different species of shrubs and herbaceous plants will be used but does not provide species details. Also, the report indicates that camas lily, dewey sedge, slough sedge, and needle spike rush will be planted 12" o.c. in the water quality swale.

The mitigation plan in the narrative outlines two different shrubs, salal (*Gaultheria shallon)* and low Oregon grape (*Mahonia nervosa),* to be planted and three possible tree species, red alder (*Alnus rubra),* western red cedar *(Thuja plicata)* and/or Douglas fir (*Psuedotsuga menziesii)*. Neither the report nor the mitigation plan specifically mentions any herbaceous plant species to be planted.

Conclusion/Recommendation: At least two different species of shrubs and trees are required. Three possible tree species are proposed in the mitigation plan, and two shrub species are proposed, therefore the mitigation plan sufficiently addresses species diversity.

There are two different planting areas within the mitigation site – full sun and shade areas; each with different planting requirements. A majority of the site is open and plants that will tolerate full sun should be planted here. For example, *Psuedotsuga menziesii* and *Acer macrophyllum* would be good trees to plant and shrub recommendations are *Mahonia nervosa* and *Symphoricarpos albus*. We do not recommend *Thuja plicata* in an area with full sun because it requires part shade to full shade to thrive, it is typically an understory tree. Although red alder may be okay for the full sun area, we recommend choosing a different tree that thrives in dry and sunny conditions, such as *Acer macrophyllum* to increase species diversity, as there is already a healthy stand of red alder in the wetland. Red alder has a relatively short lifespan and can be grown in sun to part shade.

The smaller northwestern section of the mitigation area (as shown on page 14 of the narrative) is dominated by a red alder stand and has a considerable amount of shade. The shrub species proposed for this area are not suitable for shady conditions. Instead, we recommend planting this area with salmonberry (*Rubus spectabilis),* red

elderberry (*Sambucus racemosa), vine maple (Acer circinatum), or bald-hip rose (Rosa gymnocarpa).* If trees are to be planted in this section, we recommend western red cedar (*Thuja plicata)* and western hemlock (*Tsuga heterophylla).*

5. Location of the Mitigation Area.
There are three different mitigation areas outlined in the application materials.

The narrative (page 14) refers to Figure 6 in the WQRA Report for the mitigation plan and that the mitigation plan has been expanded to meet code. The WQRA Report presents the mitigation area to the south and east of the proposed residential development but lacks detailed information about the proposed planting plan.

The mitigation plan figure in the narrative on page 14 does not clearly label the mitigation area and does not show the same mitigation area as in Figure 6 (WQRA Report). The narrative also refers to Figure 6 of the wetland delineation report.

Conclusion/Recommendation: Revise the mitigation plan on page 14 of the narrative and make the mitigation plan more readable by putting this on its own page. Delete conflicting information in the application referring to other mitigation plans. Update and include a clearly labeled mitigation area, planting details to this plan including a detailed planting table for the entire mitigation site, use landscaping symbols (as on the current plan page 14), a legend, scale bar, and north arrow. The size of the mitigation area should also be reported.

6. Invasive vegetation.
The narrative states the proposed mitigation areas are dominated by Himalayan blackberry, which will be removed.

Conclusion/Recommendation: All invasive non-native or noxious vegetation must be removed prior to mitigation planting, regardless of the vegetation's dominance. Update report text to state that all invasive non-native or noxious vegetation within the mitigation area, including Himalayan blackberry, English ivy, English holly, and poison hemlock, will be removed prior to planting. Therefore the total amount of invasive/noxious plants is 55 percent not the 48 percent reported on page 11 of the narrative.

7. Tree and shrub survival.
The applicant states that at least 80 percent of the shrubs will survive on the fifth anniversary of the date the mitigation planting is completed.

Conclusion/Recommendation: This statement is not sufficient. Update report text to at least 80 percent of the shrubs and trees will survive on the fifth anniversary of the date the mitigation planting is completed. A more standard condition for state and federal permitting is to require the contractor to guarantee 100 percent survival of all installed plants after the first growing season and to replace any dead plants with the same or similar species.

8. Monitoring and Reporting.
An annual report will be submitted that includes the survival of plants and replacements made.

Conclusion/Recommendation: We recommend that the mitigation plan clearly state the duration of the monitoring period (5 years). The reporting information meets the minimum requirements, but more detail about how and when the monitoring and reporting for Year 0 to 5 will be executed is recommended.

9. Enhancing Survival of Mitigation Plantings.
a. Mulching: New plants will be mulched a minimum of 3 inches deep and 18 inches in diameter.

b. Irrigation: New plantings will be watered one inch per week between June 15th to October 15th for three years following planting.
c. Weed control: Weed control will occur throughout the reporting time.

Conclusion/Recommendation: This information meets the minimum requirements, but more details on weed control methods (such as herbicide application, if proposed) and timing could be provided.

3. Other Recommendations

We recommend the applicant include an analysis of alternative house designs that incorporate multiple stories and a smaller footprint to minimize intrusion into the vegetated corridor. The applicant is proposing a single-story house, but it is not clear why a multiple story house would not be suitable for the site. Another alternative to consider would be to shift the proposed house and garage footprint further north than the current design (towards Furnberg Street) to reduce intrusion into the vegetated corridor.

Clackamas County Fire District #1
Fire Prevention Office

E-mail Memorandum

To: Brett Kelver, City of Milwaukie Planning Department

From: **Mike Boumann**, Deputy Fire Marshal, Clackamas Fire District #1

Date: **2/21/2012**

Re: **WQR-11-05, Furnberg St. in Milwaukie**

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. ***When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official.*** The following items should be addressed by the applicant:

COMMENTS:

FD Apparatus Access

1) Fire Department Apparatus access road to be within 150' of all portions of new construction.
2) Apparatus access road to have a minimum of 20' clear width and 13'-6" vertical clearance.
3) Dead ends exceeding 150' in length require fire department turnaround. Turnaround shall be designed using the standards found in Appendix D of the Oregon Fire Code.

Water Supply

1) Fire hydrant to be within 600' of all portions of new construction.
2) The minimum available fire flow for single family dwellings served by a municipal water supply shall be 1,000 gallons per minute.
3) Homes over 3,600 square feet (which includes attached garage) are required to meet the fire flow requirements of Appendix B of the Fire Code.

2930 S.E. Oak Grove Blvd. • Milwaukie, OR 97267 • 503-742-2660

February 11, 2012

Milwaukie Planning Commission
Ms. Lisa Batey, Chair
10722 SE Main Street
Milwaukie, OR 97222

Re: File Number: WQR-11-05

Dear Ms. Batey and Members of the Planning Commission,

Please consider my testimony as you review this proposal at your February 28, 2012 meeting regarding the construction of a new home off of SE Furnberg Street. I own the property located at 6330 SE Furnberg, in front of one of the tax lots under construction for construction. I have lived here with my family for over 22 years.

One of the biggest considerations for buying my property was the distinction of having natural green space/wetlands behind my property. During the summer months it is filled with natural vegetation, various tree species that were used as cover as I played as a child growing up in the Cedarcrest neighborhood. There is a natural body of water where ducks and other wildlife rest throughout the year.

There have been numerous attempts at building on the lot behind my neighbor's home at 6404 SE Furnberg. The first owner who bought the property around 10 years ago requested permission to build a house for his son and future daughter-in-law. While he waited for permission he brought in fill dirt and the property was raised. When he was denied permission to build he let the lot grow vacant. And, like many property owners after him, the property grew as high as 10 feet with weeds and other vegetation. I have asked code enforcement to contact the owners on numerous occasions and they have dealt with the violations. To date, there are still plenty of blackberry plants that need to be dealt with. My neighbor's property has been severely impacted by the lack of concern about the spread of the weeds into her backyard. As an elderly woman she is unable to care for the property adequately and on several occasions we have helped her by clearing her property for her.

I am firmly against additional removal and impact on our wetlands and natural resource area adjacent and behind my home. Development on the two lots will have an impact on the wetlands and will eventually erode one of the few pieces of property in Milwaukie in a residential zone that embraces our love for nature. I am enclosing photos taken from my property of the lots so you have a better idea of the magnitude of this decision. As always, I am more than willing to share additional information from my perspective on this request.

Sincerely,

Deborah Barnes

From: Deborah Barnes [mailto:deborahbarnes@comcast.net]
Sent: Wednesday, February 15, 2012 6:38 PM
To: Kelver, Brett
Subject: RE: follow-up RE: Testimony and Pictures

I can send an additional photo that is one of what the area looks like today from my backyard.

I continue to believe that based on my experience this house should not be built and if planning commission members were to visit the site they would understand that there will be a clear violation of privacy if that home is allowed to be built.

Deborah Barnes

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is a public record of the City of Milwaukie and is subject to public disclosure unless exempt from disclosure under Oregon Public Records law. This email is subject to the State Retention Schedule.

MILWAUKIE SUSTAINABILITY: Please consider the impact on the environment before printing a paper copy of this message.

Exhibits List

The following documents are part of the official record for this application (WQR-11-05, with VR-12-01).

A. Application Forms
(received September 2, 2011, unless otherwise noted):
1. Water Quality Resource Review application form
2. Variance Request application form *(received February 15, 2012)*
3. Submittal Requirements Checklist

B. Applicant's Consolidated Narrative and Supporting Documentation
(final materials received January 19, 2012, unless otherwise noted):
1. Narrative
2. Location Map
3. Existing Conditions Plan
4. Lot Coverage & Vegetation Worksheet
5. Surveyor-signed Lot Coverage & Vegetation Worksheet
6. City of Milwaukie WQR & HCA maps
7. Division of State Lands Concurrence Letter with maps
8. Water Quality Resource Assessment Report *(received September 2, 2011)*
9. Wetland Delineation
10. Updated Footprint Options and Mitigation Plan *(received February 17, 2012)*

C. Notification information:
1. Application Referral form
2. Notice posted at the site
3. Sign Posting Affidavit
4. Notice mailed to properties within 300' radius (w/ site map)
5. Mailing list
6. Certification of Legal Notice Mailing
7. Application Materials form (to PC and City Attorney)

D. Agency Responses:
1. Tom Larsen, City of Milwaukie Building Official – Soil test needed.
2. Dolly Macken-Hambright, Beth Kelland, and Don Wiley, members of Linwood NDA Land Use Committee – Concerns about increased stormwater runoff.
3. Brad Albert, City of Milwaukie Engineering Department – Comments related to public facility improvements and stormwater easement.
4. Sarah Hartung, Senior Biologist with ESA (the City's on-call natural resource consultant) – Review and analysis of applicant's materials, including existing conditions, alternatives analysis, and mitigation plan.
5. Mike Boumann, Clackamas County Fire District #1 – Comments related to new construction meeting applicable standards for fire apparatus and water supply.

E. Comments Received:
1. Deborah Barnes, owner/resident at 6330 SE Furnberg St *(received February 13 and February 15, 2012)* – Concerns about impact of proposed development on wetland and natural resource areas as well as on privacy for neighboring properties.

2. _____

F. Other:
   1. Notes from Preapplication Conference *(December 2, 2010)*

G. Materials Received at the Hearing:
   1. Staff Presentation *(February 28, 2012)*
   2. Exhibit 1: _____
   3. Exhibit 2: _____

H. Staff Report:
   1. Report *(prepared for February 28, 2012)*
   2. Recommended Findings
   3. Recommended Conditions of Approval

MILWAUKIE
Dogwood City of the West

To: **Planning Commission**

Through: **Katie Mangle, Planning Director**

From: **Brett Kelver, Associate Planner**

Date: **February 21, 2012, for February 28, 2012, Public Hearing**

Subject: **Supplemental Information for WQR-11-05 application**

Files: WQR-11-05, VR-12-01

Applicant: Bruce Goldson (Theta, LLC)

Address: No official street address (SE Furnberg Street near SE 64th Avenue)

ACTION REQUESTED

None. Staff is providing additional information received from the applicant after the February 21 staff report had been completed.

BACKGROUND INFORMATION

On February 28, 2012, the Planning Commission is scheduled to open a hearing on land use files WQR-11-05 and VR-12-01. The proposal is to construct a single-family residence on a residentially zoned property that is 99% covered by Water Quality Resource (WQR) and Habitat Conservation Area (HCA) designations. The subject property, which is on SE Furnberg Street near SE 64th Avenue, includes a delineated wetland and two intermittent streams.

Staff asked the applicant to provide more detail about certain aspects of the application. ESA, the City's on-call natural resource consultant, had previously reviewed the application and concluded that the WQR boundary should be adjusted by approximately 14 ft to account for the steep slope between the wetland and the south side of the proposed development. The applicant submitted four additional documents on February 17, 2012, including new site plans showing the corrected WQR boundary. The materials arrived after the staff report had been finalized and so are being sent under this separate cover.

Alternative House Footprint Options

The new materials include plans for the applicant's three options for locating the proposed new house and driveway on the subject property (see Attachments 1-3). The plans are consistently labeled and scaled and show the various alternative footprints in the context of the corrected

WQR boundary. These option plans correspond to the three alternatives presented in the applicant's consolidated narrative (see Pages 9-10 in Attachment 3-a of the original staff report for February 28, 2012). The applicant has indicated that the Option 1 Plan is the preferred development option and asserts that Options 2 and 3 would result in greater impacts to the WQR.

Staff continues to believe that other low-impact alternatives exist and that the house footprint could be shifted to the north, farther away from the wetland. Staff stands by its recommendation that the Planning Commission ask the applicant to explore other low-impact alternatives for the new house footprint.

Revised Mitigation Plan

Attachment 4 is a revised mitigation plan that shows the corrected WQR boundary and includes more detail about the proposed mitigation plantings. The revised mitigation plan is scaled and uses symbols that are consistent with the three option plans. The applicant has provided figures for both permanent disturbance (4,198 sq ft) and temporary disturbance (1,800 sq ft) and has described the plantings that will go in the water quality swale adjacent to the new driveway. However, it is not clear from the revised mitigation plan whether the swale plantings will be sufficient in number and type to make the proposed mitigation adequate for the overall disturbed area. This question can likely be addressed at the hearing on February 28.

Additional detail regarding the mitigation timeline (schedule for planting, watering, and monitoring) and contingency plan will still be needed for the building permit stage of the project; at this stage, the recommended conditions of approval should be sufficient to address this issue.

ATTACHMENTS

All attachments are included in the e-packet unless otherwise noted. All material is available for viewing upon request.

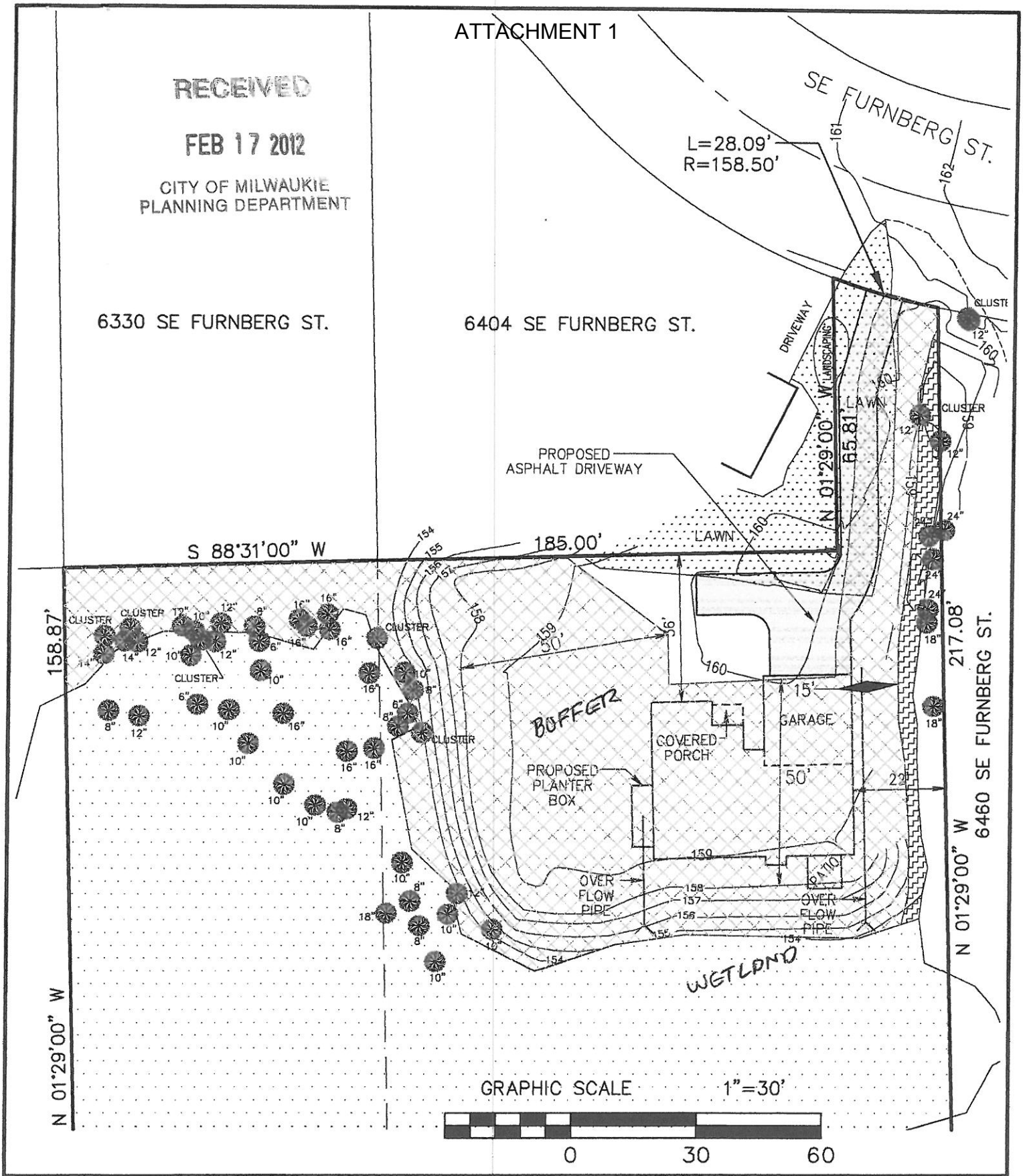
1. Option 1 Plan
2. Option 2 Plan
3. Option 3 Plan
4. Mitigation Plan

ATTACHMENT 1

RECEIVED

FEB 17 2012

CITY OF MILWAUKIE
PLANNING DEPARTMENT



THETA, LLC

ENGINEERING ★ SURVEYING ★ PLANNING

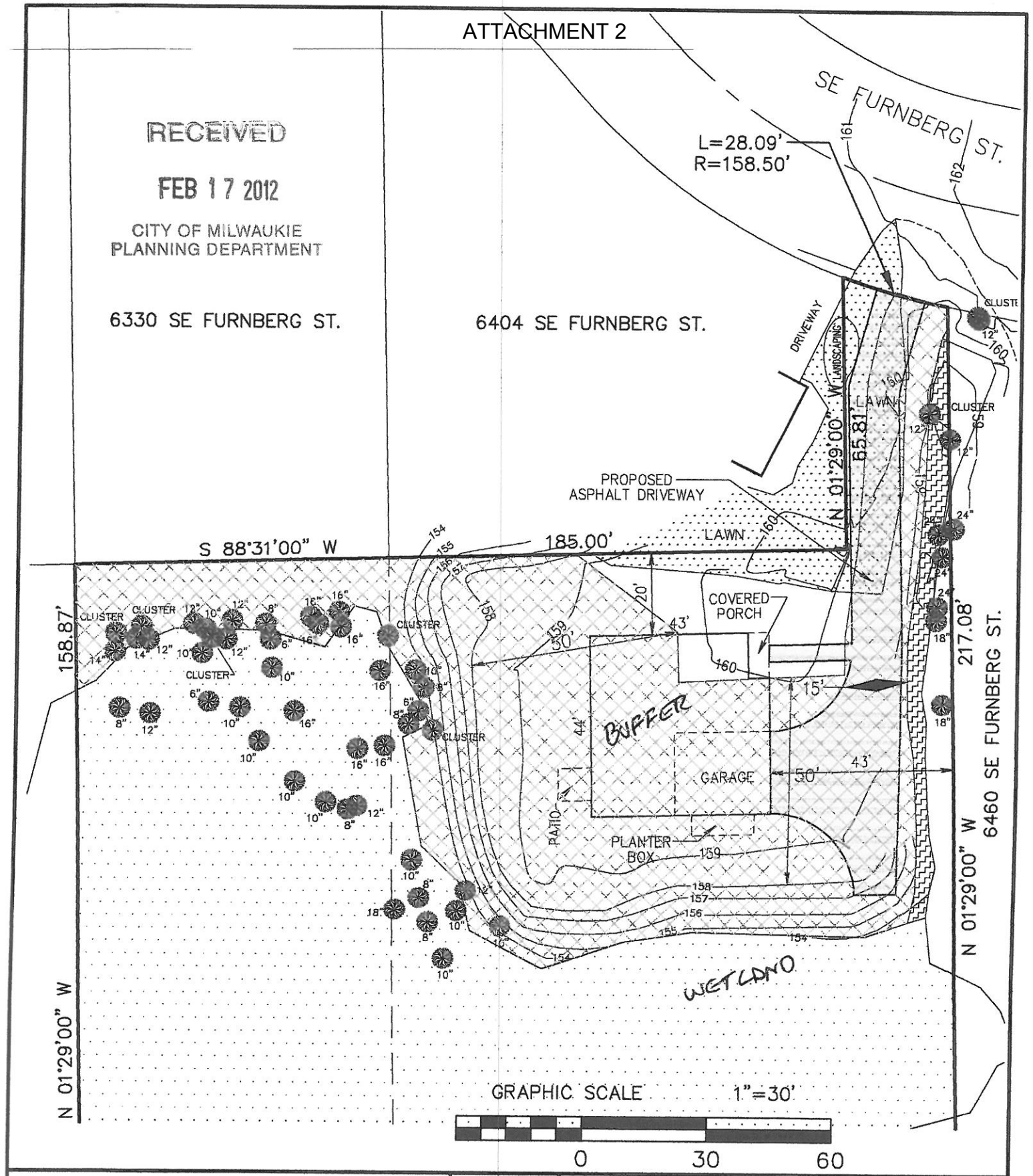
P.O. BOX 1345
LAKE OSWEGO, OREGON 97035
(503) 481-8822 PHONE

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W E
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OPTION 1 PLAN

FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon

ATTACHMENT 2



THETA, LLC

ENGINEERING ★ SURVEYING ★ PLANNING

P.O. BOX 1345
LAKE OSWEGO, OREGON 97035

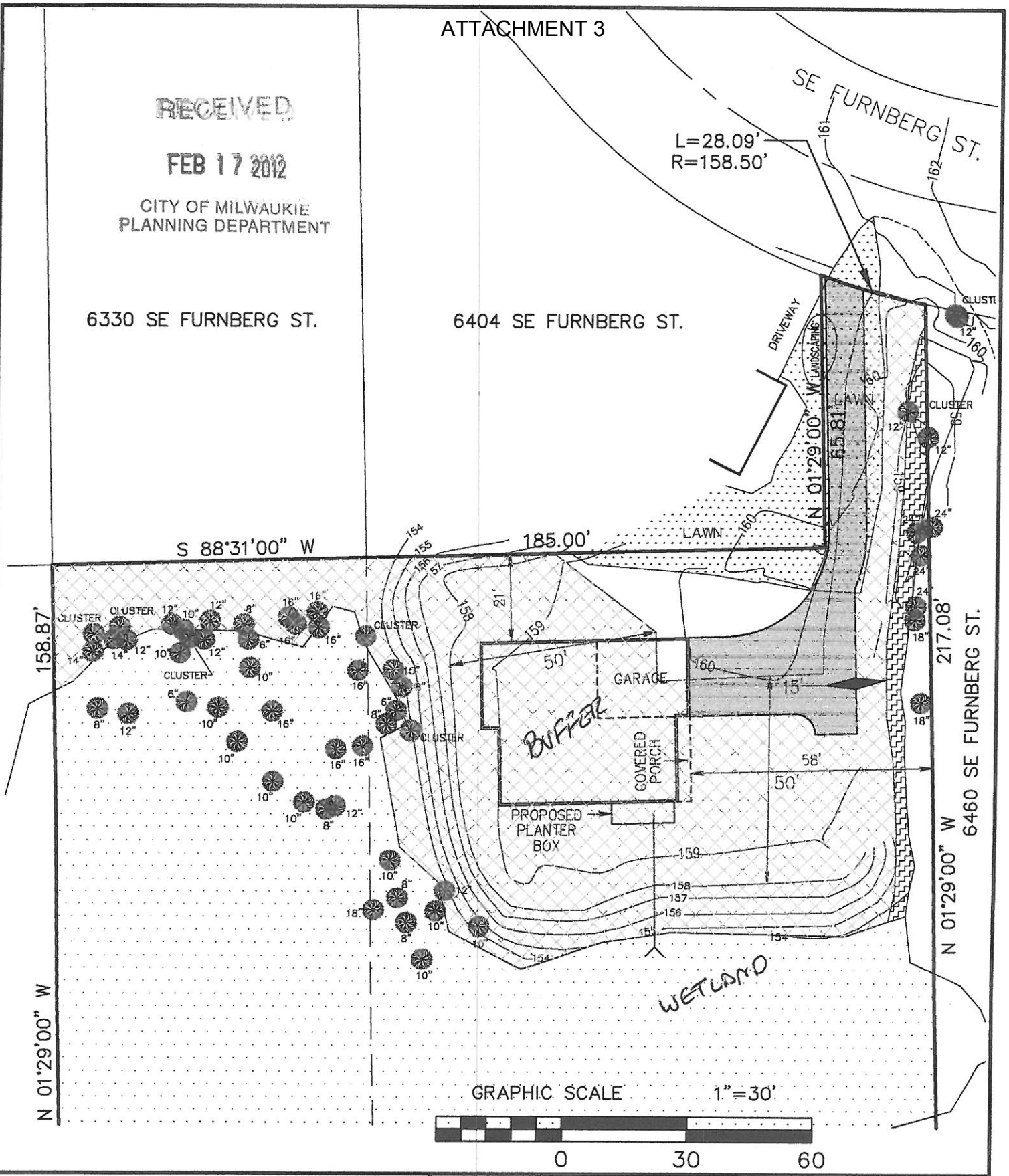
(503) 481-8822 PHONE

OPTION 2 PLAN

FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon

ATTACHMENT 3

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PLANNING DEPARTMENT



THETA, LLC

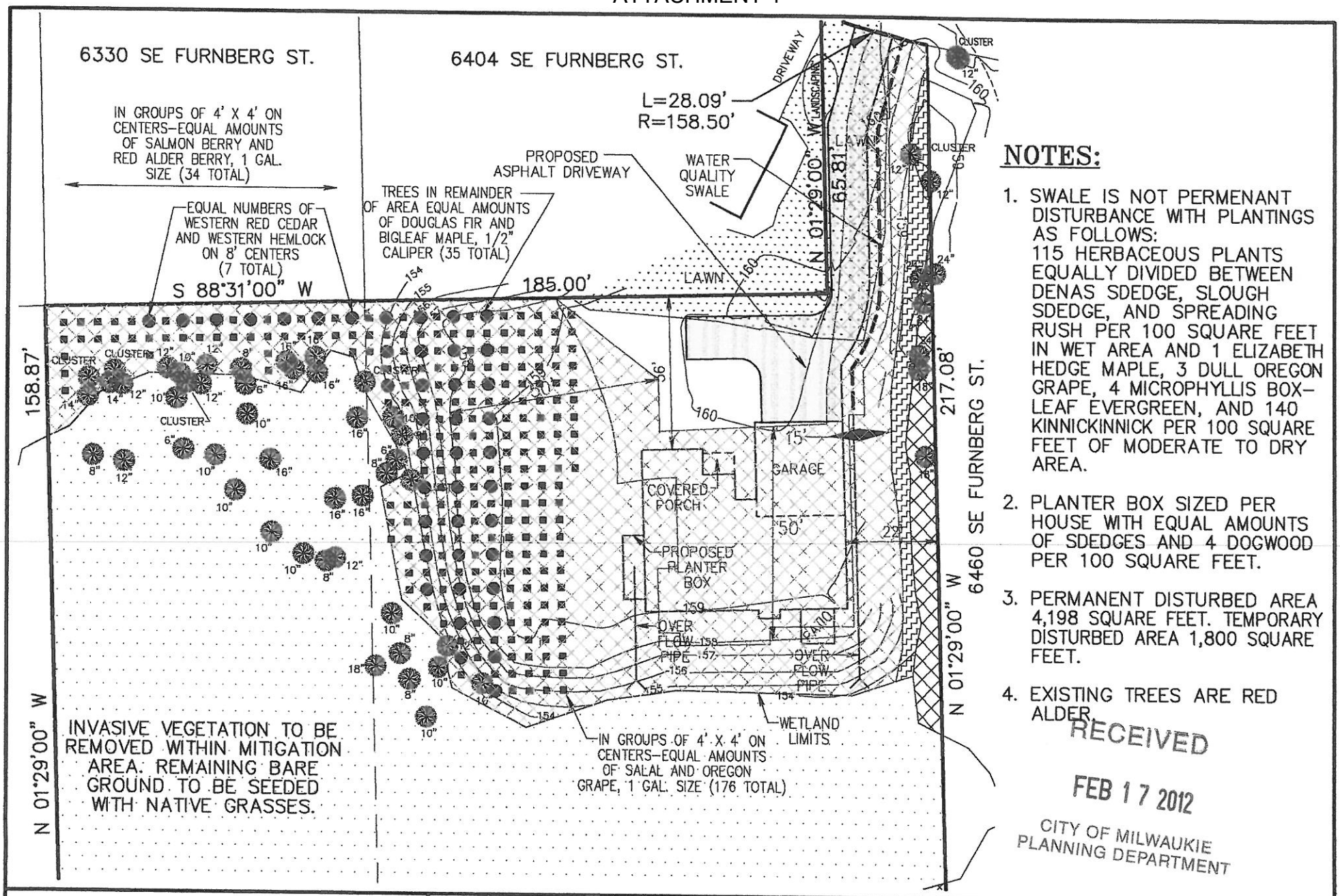
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N
W E
S

OPTION 3 PLAN
FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon

ATTACHMENT 4



NOTES:

1. SWALE IS NOT PERMENANT DISTURBANCE WITH PLANTINGS AS FOLLOWS: 115 HERBACEOUS PLANTS EQUALLY DIVIDED BETWEEN DENAS SDEDGE, SLOUGH SDEDGE, AND SPREADING RUSH PER 100 SQUARE FEET IN WET AREA AND 1 ELIZABETH HEDGE MAPLE, 3 DULL OREGON GRAPE, 4 MICROPHYLLIS BOX–LEAF EVERGREEN, AND 140 KINNICKINNICK PER 100 SQUARE FEET OF MODERATE TO DRY AREA.
2. PLANTER BOX SIZED PER HOUSE WITH EQUAL AMOUNTS OF SDEDGES AND 4 DOGWOOD PER 100 SQUARE FEET.
3. PERMANENT DISTURBED AREA 4,198 SQUARE FEET. TEMPORARY DISTURBED AREA 1,800 SQUARE FEET.
4. EXISTING TREES ARE RED ALDER.

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PLANNING DEPARTMENT

THETA, LLC
ENGINEERING ★ SURVEYING ★ PLANNING
P.O. BOX 1345
LAKE OSWEGO, OREGON 97035
(503) 481-8822 PHONE

GRAPHIC SCALE 1"=30'
0 30 60

N W E S

MITIGATION PLAN
FOR TAX LOTS 2801 & 2802
T1S, R2E, SECTION 32CB
Clackamas County, Oregon