

## MINUTES

MILWAUKIE CITY COUNCIL  
AUGUST 17, 2004

## CALL TO ORDER

**Mayor Bernard** called the 1940<sup>th</sup> meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Joe Loomis

Councilor Deborah Barnes  
Councilor Susan Stone

Staff present:

Gary Firestone,  
City Attorney  
Stewart Taylor,  
Finance Director  
Alice Rouyer,  
Community Development and  
Public Works Director  
John Gessner,  
Planning Director  
JoAnn Herrigel,  
Community Services Director

Cynthia Sturgis,  
Senior Librarian  
Kelly Somers,  
Operations Director  
Steve Campbell,  
Code Compliance Coordinator

## PLEDGE OF ALLEGIANCE

## PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Community Service Recognitions

The City Council recognized **Janet Witter** for 23 years of service to the community on the Center/Community Advisory Board and **Jean Michel** for his service to the community on the Budget Committee and Lewelling Neighborhood Association Leadership.

Advisory Board Interview

The City Council interviewed **Lisa Batey** for a vacant position on the Planning Commission.

**Mayor Bernard**, with the consensus of the City Council, appointed **Nancy Jamieson** to the Design and Landmarks Commission.

Mayor Bernard wished **Lillie Moore** a speedy recovery.

## CONSENT AGENDA

It was moved by Councilor Stone and seconded by Councilor Barnes to approve the Consent Agenda.

- A. City Council Minutes of August 3, 2004;
- B. Resolution 24-2004: A Resolution of the City Council City of Milwaukie, Oregon, Amending Resolution 10-2004; and
- C. Authorizing the City Manager to Sign a Purchase Order for the Public Works Operations Building Framing.

Motion passed unanimously among the members present.

## AUDIENCE PARTICIPATION

**David Aschenbrenner**, Budget Committee chair, urged interested persons to apply with the City for the vacant position on the Committee.

**Ed Zumwalt**, 10888 SE 29<sup>th</sup> Avenue, Milwaukie. He expressed his appreciation to Jean Michel for his contributions to the community and thanked the volunteers who contributed their time for the 2004 Riverfest.

**Bertha Kirk**, 3826 SE Washington Street, Milwaukie. She urged the City to consider adopting a cat ordinance. In addition to feral cats in the neighborhood, pet owners are not being responsible and are letting their cats wander the neighborhood or are leaving their cats behind when they move. The Feral Cat Coalition will spay and neuter the animals, but they have to be returned. This did not make sense to Ms. Kirk. She spoke with Code Compliance Coordinator Steve Campbell and understood the City of Gladstone has an ordinance that limits the number of cats a person can have to 10. That does not make much sense either. She asked the City Council if it could help find a solution to the problem.

**Councilor Stone** asked if there were state laws relating to cat abandonment.

**Mr. Firestone** said essentially there was nothing relating to cats.

**Councilor Stone** observed Ms. Kirk seemed to be contending with irresponsible cat owners who allow the cats to procreate and probably become diseased. She certainly did not advocate for that kind of situation with any animal. She asked Ms. Kirk if she or her neighbor had spoken with the Feral Cat Coalition.

**Ms. Kirk** said her neighbor talked with the Coalition, and it would be up to 30 days before they could assist.

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**Councilor Stone** said the Coalition has monthly clinics for \$20 per cat or reasonable donations.

**Ms. Kirk** questioned paying the fee and putting the cats back in her yard. It is costing her money to repair holes in her inflatable swimming pool and to get the cat scent out of her boat.

**Councilor Stone** asked if the neighbor would be willing to work with her.

**Ms. Kirk** said her neighbor is an elderly lady who wants to get rid of the feral cats.

**Councilor Stone** noted it was a problem in her neighborhood, and she has taken in some feral cats. Pet owners need to be responsible. There is a woman who lives in Oak Grove who would be a good contact for some suggestions.

**Ms. Kirk** is not a cat-lover, so keeping them is not an option for her. There are over 20 cats around her house, and about 15 of those are feral. It does not make sense to take a feral cat in for neutering and then taking it back home.

**Councilor Stone** has seen feral cats become domesticated once they are spayed or neutered. All rights, including animal rights, need to be considered. She suggested Ms. Kirk help her neighbor with the cats.

**Ms. Kirk** said a lot of the issue is cost. She has to buy the trap to catch them, take them in for the \$20 spay/neuter, and bring them back to her yard.

**Mayor Bernard** will put her in contact with one of his employees who works with an organization in Forest Grove.

**Councilor Stone** will follow up with her contact in Oak Grove.

**PUBLIC HEARING – None.**

## **OTHER BUSINESS**

### **A. Code Amendment 1.12.010 – General Penalty – Ordinance**

**Code Compliance Coordinator Steve Campbell** provided that staff report in which the City Council was requested to adopt an ordinance amending the Milwaukie Municipal Code Chapter 1.12.010. This issue was discussed in a City Council work session on July 20. Staff recommended these amendments for two reasons. The first was essentially housekeeping to make it clear that the general penalty applies to both civil penalties and fines. The second amendment increases the penalty for repeat offenders. Based on his research in surrounding jurisdictions, Mr. Campbell recommended this amendment to discourage people from repeating the same violation. The maximum

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\$500 fine is amended to a minimum of \$1,000 on the third citation into court. In the past 15 months, for example, 20 properties have had repeat violations. Repeatedly telling someone to mow his or her grass is becoming a babysitting issue. He believed the proposed amendment supported the Council goal of sustaining neighborhood livability.

It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and seconding readings by title only and adoption of an ordinance amending Municipal Code Chapter 1.12.010. Motion passed unanimously among the members present

The city attorney read the ordinance for the first and second times by title only.

The city recorder polled the City Council: Councilors Barnes, Loomis, and Stone and Mayor Bernard aye; no nays. Motion passed unanimously among the members present

**ORDINANCE NO. 1935:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 1.12.010 – GENERAL PENALTY – DESIGNATED.**

**Councilor Stone** hoped this would put some teeth in the chronic nuisance properties. She is also concerned about noise and lighting issues, and she would like the City to look at that policy for enforcement. Anything that enhances livability is a good thing.

**Mayor Bernard** hoped something could be done to regulate motorized scooters.

**Mr. Firestone** said there are issues with pre-emption by state law.

**B. Consider Resolution to the Board of Clackamas County Commissioners to Adopt and Implement the Recommendations of The Libraries for Tomorrow Project as Adopted by the Library Network Intergovernmental Board (LNIB)**

**Senior Librarian Cynthia Sturgis** and **Tom Hogan**, Library Board member, provided the staff report in which the City Council was requested to adopt a resolution encouraging the Clackamas County Board of Commissioners to put the library levy on the November 2004 ballot.

**Ms. Sturgis** reviewed the model resolution that came out of Library Network Intergovernmental Board (LNIB). The group worked on plans for the network that explored ways to have stable funding for libraries in Clackamas County. The resolution essentially asked that the Board of Commissioners put the levy on the November 2004 ballot. Milwaukie's would use these funds if the levy passes to recoup its lost hours and increase the materials budget.

**Mr. Hogan** echoed Ms. Sturgis's comments. The Library Board supported the levy and urged the City Council to adopt the resolution.

**Councilor Barnes** was concerned that people understand the importance of the levy and what it means to libraries if it does not pass. She felt the County should assume more of the burden to educate the public and asked what could be done to ensure the message gets out that this is an important issue.

**Mr. Firestone** reminded the group that appointed board members and city staff may not take a position on a pending election measure.

**Councilor Barnes** asked Mr. Hogan, as a resident, if he knew of any public relations regarding this levy.

**Mr. Hogan** replied the levy has a coordinating group made up of representatives from the member libraries, LNIB staff, and library board members. There was a survey that provided some direction to efforts. In addition to Countywide efforts, each library has been asked for form a local planning group. The central planning group will provide some fact sheets.

**Ms. Sturgis** said the County will issue information that will be available in the library.

**Mayor Bernard** supported the library. However, he has seen something at the County Commission that frightens him. When people vote "no" the Commission interprets it that people do not care. If this levy fails because of the economy, it will be like the failed transportation maintenance fee. The County does not talk about the roads falling apart anymore. They will continue to fall apart until the voices are loud enough. He supported the library 100%, but he can see it failing because of the economy. The job market has not turned around. Unemployment in Clackamas County is still huge. People are not interested in paying any more taxes. If this fails, the Commission will look at it that the people do not care about funding libraries. It is the County's responsibility to fund the libraries. The voters said it was. As far as he is concerned, libraries are a core essential service, and the County is responsible. The County needs to find sustainability for the libraries and not shirk it back on the voters at this time. If the levy fails, he can see the funding burden on the cities that are already spending about as much as they can. The levy is only a bandage to long-term sustainability. Libraries are as important as jail cells and youth programs. He did not support adopting the resolution at this time.

**Mr. Hogan** shared Mayor Bernard's concerns. The member libraries are supportive of this levy. There are efforts to publicize what the levy is about and what the library services increases have been over the past 10 years. All of the boards are hoping their councils will support the levy.

**Mayor Bernard** discussed Measure 50 and the County's claim that the previous voter-approved levy has expired. He believed the County was still responsible for

funding the libraries and other services in a sustainable manner. There are ways other than constantly going back to the taxpayers. The library is an essential service. He will fight it at the City Council to ensure the library is fully funded and at the County Commission to ensure taxpayers money funds the libraries.

**Councilor Loomis** believed voters are willing to give up a little money when they feel they get value, and the library is one of those cases. He was optimistic that the levy will pass in November because of the value the library provides.

**Councilor Stone** said historically speaking, library levies have been successful, and people value the service. The \$0.29 per \$1,000 is small change for a great value. She sees the levy in a more positive light because people do value their libraries, and it is not much when you do the math. She wholeheartedly supported the resolution.

It was moved by **Councilor Barnes** and seconded by **Councilor Loomis** to adopt the resolution encouraging the **Clackamas County Board of Commissioners** to adopt and implement the **Recommendations of the Libraries for Tomorrow Project**. Motion passed 3 – 1 with the following vote: **Councilors Barnes, Loomis, and Stone aye; Mayor Bernard no.**

**RESOLUTION NO. 25-2004:**

**A RESOLUTION TO ENCOURAGE THE BOARD OF COUNTY COMMISSIONERS TO ADOPT AND IMPLEMENT THE RECOMMENDATIONS OF THE LIBRARIES FOR TOMORROW PROJECT (PARTS I AND II) AS ADOPTED BY THE LIBRARY NETWORK INTERGOVERNMENTAL BOARD (LNIB).**

**C. Status Report on Economic Development Grant Projects**

**Project Manager Jeff King** updated the City Council on the increased activity in both the economic development grant and business in the City overall. The outreach program is accelerating to build improved relationships with the business community, and many Milwaukie companies are either expanding or contemplating expansion. Part of the outreach will include a business survey, so the City can get a better understanding of how businesses perceive City services and what their future plans might be.

There was also good news on a 6-acre parcel at International Way and Harmony Road that has been annexed. Mr. King addressed the feasibility study relating to transportation and traffic issues of the Panattoni development. The developer submitted material to the planning department for review, and the application will likely come before the Planning Commission in October. The proposal is to construct about 80,000 square feet of business industrial buildings, and there is already interest in the business community to occupy the space.

Staff is working on an economic development flyer that extols the virtues of the City of Milwaukie. He hoped to have a completed product by the end of the month. The City is seeking participants for a diverse, short-term economic advisory committee to provide oversight of the economic development grant as well as providing input and recommendations to the City Council. Mr. King hoped to start the committee meetings in September. Lastly, there was a request for proposal (RFP) to help develop website content to increase the City's marketability and awareness of attributes of certain sites. The business survey is also part of the RFP along with identifying reuse opportunities for underutilized facilities.

**Mr. King** noted tenant improvements are underway for the second floor of Electra Credit. There is interest in reuse of the Hanna South building as well. The City is seeing more activity, and as economic development promotion continues, he believed the City of Milwaukie would see still more activity.

**Councilor Stone** understood printing and mailing of the flyer would be done with grant money.

**Mr. King** said that was correct, and about \$3,000 would go into this particular piece. It is now serving as a general promotional piece for a variety of uses. Over time and with more participation from the business community, a more comprehensive marketing strategy will be developed. The flyer promotes both the City and specific economic benefits.

**Councilor Stone** understood there was currently a lot of outreach with existing businesses and asked if there would be a focus on other kinds of businesses people would like to have in Milwaukie such as a Trader Joe's or McMenamins.

**Mr. King** said that type of business focus would happen with the North Main Development. It will send a message that things are happening because of the City's location, Riverfront Park, and other benefits of the downtown area. Part of that is implementing the downtown plan that sets future design and infrastructure in motion. There will be work with individual developers and property owners to determine interests. Business community sales will increase as residents move into the Main Street project.

**Councilor Stone** thought if the City was looking at 200 additional residents in the downtown area, it needed to consider a grocery store, restaurants and other services people living in the core area would utilize.

**Mr. King** said as North Main comes in, the City could promote other amenities and programs that would assist developers.

**Councilor Stone** was glad to see the RFP was looking at vacancies in the North Industrial area because she understood there were a lot of vacancies.

**Mr. King** explained a lot of the industrial park was developed for a somewhat different era, so the City and property owners need to work together to get those sites filled efficiently. About \$29,000 is being budgeted for the consultant, and RFP respondents are being asked what the City can get for that amount of money.

**Councilor Barnes** believed Mr. King had one of the most important jobs in the City right now to ensure it is on the right track for economic development. This will help solve some of the City's budget problems. She felt Mr. King and Mr. Jenks of the County represented the City's efforts extremely well.

#### **D. Advisory Board Appointment**

**Mayor Bernard**, with Council consensus, appointed **Lisa Batey** to the vacant seat on the Planning Commission.

#### **E. Clarification of Work Session Item on the Trees as 40<sup>th</sup> Avenue and King Road**

**Councilor Stone** asked for information on this issue.

**Mr. Firestone** explained the item was removed from the work session agenda because there is a possible appeal to the City Council relating to the trees. The City Council would be deciding that appeal as a quasi-judicial matter. For due process considerations, he felt it was advisable for the City Council not to have contacts prior to the hearing assuming there will be one. The project is ongoing, but the trees cannot be removed if there is an appeal pending.

**Community Development and Public Works Director Alice Rouyer** said the appeal period is 14 days after the trees are marked.

#### **F. Jefferson Street Boat Ramp**

It was moved by **Mayor Bernard** and seconded by **Councilor Barnes** to keep the south side of the boat launch closed and keep the signage until such time as funds are available for repairs. Motion passed unanimously among the members present.

#### **G. Executive Session**

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(e) –real property transaction.

### **ADJOURNMENT**

It was moved by **Councilor Barnes** seconded by **Councilor Loomis** to adjourn the meeting. Motion passed unanimously among the members present.

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**Mayor Bernard** adjourned the regular session at 7:50 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# AGENDA

## MILWAUKIE CITY COUNCIL AUGUST 17, 2004

MILWAUKIE CITY HALL  
10722 SE Main Street

1940<sup>TH</sup> MEETING

### REGULAR SESSION - 6:30 p.m.

- I. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. **Community Service Recognitions**
    1. Janet Witter for 23 Years of Service to the City of Milwaukie on the Center/Community Advisory Board
    2. Jean Michel for Service on the Budget Committee and Lewelling Neighborhood Association Leadership
  - B. **Advisory Board Interview – Planning Commission**
3. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
  - A. **City Council Minutes of August 3, 2004**
  - B. **Amend Resolution 10-2004 Relating to Purchase Orders Exceeding \$25,000 -- Resolution**
  - C. **Public Works Operations Building Framing**
4. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*
5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

**None Scheduled**

6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
  - A. **Code Amendment 1.12.010 – General Penalty – Ordinance (Steve Campbell)**
  - B. **Consider Resolution to the Board Of Clackamas County Commissioners to Adopt and Implement the Recommendations Of The Libraries For Tomorrow Project As Adopted By The Library Network Intergovernmental Board (LNIB) – Resolution (Cynthia Sturgis)**
  - C. **Status Report on Economic Development Grant Projects (Jeff King)**
  - D. **Advisory Board Appointment (Mayor Bernard)**

7. **INFORMATION**

Planning Commission Minutes, April 13, April 27, May 11, and June 9, 2004

8. **ADJOURNMENT**

**Public Information**

- Executive Session: The Milwaukie City Council may go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2).

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

# MINUTES

## MILWAUKIE CITY COUNCIL AUGUST 3, 2004

### CALL TO ORDER

**Mayor Bernard** called the 1939<sup>th</sup> meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Larry Lancaster	Councilor Deborah Barnes
Councilor Joe Loomis	

Staff present:

Mike Swanson, City Manager	JoAnn Herrigel, Community Services Director
Stewart Taylor, Finance Director	John Gessner, Planning Director
Alice Rouyer, Community Development and Public Works Director	Paul Shirey, Engineering Director
Larry Kanzler, Police Chief	Willie Miller, Facilities Maintenance Specialist

### PLEDGE OF ALLEGIANCE

### PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

**Mr. Swanson** announced he had excused the City Attorney from this session.

**Mr. Swanson** introduced Stewart Taylor, the City's new finance director.

**Mayor Bernard** received numerous calls from residents in the 40<sup>th</sup> Avenue and King Road area regarding the sidewalk project and tree removal. There will be public meetings to determine what can be done.

**Mayor Bernard** reviewed the events of the previous weekend's Riverfest Events. **Councilor Loomis** thanked the volunteers particularly the Historic Milwaukie Neighborhood and Ed Zumwalt for their efforts.

### Advisory Board Interview

The City Council and Planning Commission Chair Donald Hammang interviewed Jeff Klein for a vacant position on the Planning Commission.

## CONSENT AGENDA

**Councilor Loomis** requested that consent agenda items C – Ratification of AFSCME Contract and D – 2004 – 2005 Salary Schedule for Management/Non-Represented Employees be pulled for separate discussion.

**It was moved by Councilor Barnes and seconded by Councilor Loomis to approve Consent Agenda items A, B, E and F. Motion passed unanimously among the members present.**

- A. City Council Minutes of July 20, 2004;**
- B. Public Works Operations Building Steel Framing Setup;**
- E. Resolution 23-2004: A Resolution of the City of Milwaukie, Oregon, Adopting Fiscal Year 2004/2005 (Year Fifteen) Annual Waste Reduction Plan and Authorizing the City Manager to Sign an IGA with Metro; and**
- F. O.L.C.C. Application – Harrison Street Arco & Mini Mart – 4140 SE Harrison Street.**

**Motion passed unanimously among the members present.**

## AUDIENCE PARTICIPATION

None.

## PUBLIC HEARING

### **Annexation of Properties on Hill Street, File AN-04-01 – Ordinance**

**Mayor Bernard** called the hearing to order at 6:45 p.m. This hearing was continued from July 20, 2004 at the request of City staff. The application is for annexation of eight lots, five of which are vacant, located on Hill Street east of Stanley Avenue.

The Planning Commission considered the request at its June 9, 2004 public hearing and recommended approval of the annexation proposal. This was a *de novo* hearing. All persons wishing to speak on the proposal were recognized.

The purpose of this hearing was to consider the Milwaukie Planning Commission's recommendation to approve the annexation request and related Comprehensive Plan and Zoning Ordinance amendments for an 8-lot site on Hill Street east of Stanley Avenue.

**Mayor Bernard** reviewed the order of business and conduct of the hearing.

Conflicts of Interest and Site Visits: **Mayor Bernard** visited the site.

Jurisdictional Issues: There were no objections to the Council's jurisdiction to consider the matter.

Correspondence: There was no additional correspondence other than what was included in the packet.

Staff Presentation: **Planning Director John Gessner** provided the correct map for page 22 of the staff report. Hill Street is located on the east side of Stanley Avenue south of Willow Street. The area to be annexed includes a total of eight tax lots. Hill Street dead ends as an unimproved right-of-way at Hollywood Street.

The purpose of the annexation is to provide City services to the lots that will be developed. The applicant is Darrin Williams on behalf of Prime Properties. In order for the development to take place, City services must be provided. The County cannot issue permits because all properties are within 300 feet of a serviceable sewer line located on Stanley Avenue. Consistent with land use policies, the preference is to take advantage of investment in City infrastructure before using alternate means of providing water and sewer services.

This area was likely subdivided in the 1920s or 1930s. By virtue of ownership, the existing lots have not been developed. Mr. Williams approached the property owners, and they were interested in selling. There is a shortage of land in the City, and it is increasingly difficult to build new houses. The staff report outlines the criteria that must be met for the City Council to approve an annexation. The Planning Commission did approve this annexation at a public hearing. The application is subject to review of City regulations that specifically involves annexation criteria. These are consistency with the Comprehensive Plan and state and regional regulations. The state and regional regulations are mostly procedural in nature. The recommendation is to designate the property medium density to conform to the surrounding properties in the Lewelling Neighborhood. Although the properties are less than 7,000 square feet, staff believes that is a better designation than R-10 or R-5 because it allows for reasonable development. The actual construction of homes will be consistent with the housing in the neighborhood. He briefly reviewed the resolution City Council adopted regarding the reimbursement district that addresses the financing and cost recovery for installing the sewer that is necessary for this annexation.

**Mayor Bernard** understood the applicant applied for a building permit through Clackamas County and asked if the City got its money back and who was inspecting the houses.

**Mr. Gessner** confirmed the applicant had applied for a permit through the County, and staff is working with the County on reimbursement. The County permit was issued in error, and it will perform the inspections. It was felt that with the amount of progress already made on the house, it would be appropriate for the County to continue the inspections. The annexation process will be complete in 15 – 20 days.

**Councilor Lancaster** understood there were eight lots ranging in square footage from 5,800 and 17,900. Does the City typically allow any lots in an R-7 zone to be below those standards?

**Mr. Gessner** replied any lot created today would have to meet the 7,000 square foot requirement. The original subdivision resulted in lots that were 58 and 59 feet wide by 100 feet. He understood the applicant intends to do a property line adjustment to make it smaller and create another lot.

**Mayor Bernard** understood some of the properties are on septic, and they will not be required to connect unless their systems fails.

**Mr. Gessner** said Engineering Director Paul Shirey is working on a code amendment that would allow a greater degree of flexibility.

**Councilor Lancaster** understood this property was zoned R-10, and the recommendation is to zone it down to R-7. Is this typical?

**Mr. Gessner** explained when the City adopted its annexation regulations an expedited annexation process was established. There is a legal provision that drives the decision over zoning. Statues protect any previously platted lots from any change in zoning. In this instance, it made more sense the zone the property R-7.

Applicant's Presentation: **Darrin Williams**, Prime Properties, went into the area that was not in the best of shape and fixed up the existing houses and will build new ones. This will increase Milwaukie's tax base. These are legal lots of record. The 17,900 square foot lot was actually two lots of record. He will request a lot line change because of the existing home.

**Mr. Williams** added Hill Street has some beautiful trees, but he has to put in sidewalks. Removing those trees will terrorize the neighborhood. He suggested the City consider putting a sidewalk on only one side of the street to save some of the trees. Taking these out will result in lose of neighborhood integrity, but it is called development.

**Mayor Bernard** felt the City was willing to work on that and suggested he talk to the planning department.

**Mr. Williams** said he would mark them for removal but would do anything in an effort to save them. Sidewalks on one side of the street and a curb on the other would still make a proper road. He will submit his report to the planning department and be advised from there.

**Councilor Lancaster** suggested installing the sidewalks on one side and banking the money for the future sidewalk if conditions change.

Public Testimony: **Evelyn Stratton**, 5907 SE Hill Street, Milwaukie. She owns three lots that act as a wildlife preserve with native plants. The trees being discussed were originally on the property line as a hedge. She supported the idea of a sidewalk on the south side of Hill Street. She found out several years ago that the fence and a couple of her trees are actually in the right-of-way. She knows the birch will have to go. Most of the new construction is on the south side with only one on the north side. She added there is nothing wrong with her cesspool.

**Scott Kauffman**, 9878 SE Stanley Avenue, Milwaukie. He is also concerned about keeping the trees and the additional traffic. He suggested a convex mirror to help people can see potential traffic. Williams has improved the neighborhood immensely already. He discussed lot delineation and wanted to know where the new lot would be. He asked if the fence would eventually have to be moved.

**Mr. Williams** said latest survey on record is the one that will be recorded by the County.

Questions from City Council to Staff: **Mr. Gessner** clarified some of the issues. It may take the City 4 to 5 years before it has the funds necessary to make the street improvements. He will pass the information he heard at this meeting to the engineering department to ensure the project is done correctly in the future. The agreement with the County requires that the County either pave the street to a 20-foot, 2-inch asphalt overlay or to provide funds in lieu of that work. The City is working with the County to obtain those funds, likely next fiscal year. That money will be combined with the money the developer is required to pay for frontage improvements to program a capital project. The City will address the sight distance issue after annexation. No one wants to see those trees cut before it is necessary. Once the property is annexed into the City, any tree in the right-of-way requires a permit before it can be removed. He hopes to work with the neighbors to ensure it stays a pleasant street with tree canopy.

**Mayor Bernard** asked if Mr. Williams was building the sidewalks and curbs.

**Mr. Gessner** replied the City is not requiring the improvements be built at this time

**Councilor Lancaster** asked if there were any statutory timetables for that capital project.

**Mr. Gessner** was not aware of any. The city attorney would advise the city not to sit on those funds too long because it will be holding \$5,000 to \$7,000 for each new house. The developer could conceivably ask for his money back since the City is not using it. The City will want to do the project within a period of time that meets the needs of the street.

**Councilor Lancaster** understood that there was nothing pressing other than developer to make the City move forward with that project any time soon.

**Mr. Gessner** said aside from the zoning requirements adopted three years ago to get street improvements at the time of development, there would not be any particular pressure unless the neighbors decided they wanted the street improvements. Currently it is a narrow asphalt roadway, and the shoulders are in poor condition. Apart from what the city attorney might advise, there is little pressure to do the project immediately.

**Mayor Bernard** commented that the street improvements would increase the value of the properties.

**Mr. Gessner** replied that engineering has advised a minimum of five years.

**Mr. Williams** said after running the numbers, he started negotiating with Mr. Shirey. He was proposing to put sidewalks in on lot five and in front of an existing home. This would be a solid piece of development Milwaukie could tie into. If it is going to be up to five years, he might as well do the sidewalks now.

Close Public Hearing: It was moved by Councilor Barnes and seconded by Councilor Lancaster to close the public hearing. Motion passed unanimously among the members present. Mayor Bernard closed the public testimony portion of the hearing at 7:15 p.m.

Council Discussion and Decision: It was moved by Councilor Barnes and seconded by Councilor Lancaster for the first and second readings by title only and adoption of an ordinance approving annexation application AN 04-01 and related Comprehensive Plan and Zoning Ordinance amendments and adopt the recommended findings. Motion passed unanimously among the members present.

The city manager read the ordinance twice by title only.

The City Council was polled: Mayor Bernard and Councilors Lancaster, Loomis and Barnes aye; no nays; no abstentions. Motion passed unanimously among the members present.

**ORDINANCE NO. 1933:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. # 1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS, AND ASSIGNING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE ANNEXED PROPERTY.**

**Mayor Bernard** provided LUBA appeal information for parties with standing.

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## **OTHER BUSINESS**

### **A. Set Date for Transit Center Relocation Deliberations**

The group discussed dates for the Transit Center Relocation deliberations. **Councilor Lancaster** suggested an October date. He indicated he was exploring some possibilities that he would like to finish before the City Council moves into the final decision-making process. Stan Link's development model has some serious potential and would require several meetings with regional representatives.

**Councilor Barnes** said, for the record, she believed that was a separate issue. The issue before the City Council is the one the Planning Commission and Working Group recommended. As far as she has been told, the Link discussion never happened with these bodies. Mr. Link's doing business with the City is a separate issue. People have made it clear they expect leadership and vision from the City Council. The City Council has heard from the public three times, and Councilor Barnes insisted the Council meet no later than next month to make a decision on this matter.

**Councilor Lancaster** disagreed and felt there was no rush to make the decision. The City Council needs to make sure it has looked at every opportunity. There was a meeting with ODOT, and the City Council has not had a chance to discuss the nature or full content of that meeting. He was convinced there were opportunities with the ODOT site that were never explored. The decision is too big with far reaching ramifications. Councilor Lancaster did not see a need for an expedited meeting.

**Councilor Loomis** agreed with Councilor Barnes. This is not being rushed. It has been a long process that started before he was on City Council. In all respect to Councilor Lancaster, he has been the one who seemed frustrated with government because it takes so much time and costs so much. Every meeting the City Council has and postpones costs taxpayers money. He was in favor of setting a date next month.

**Mayor Bernard** said no one is saying the decision has to be made next month. The City Council has not even talked about it yet. Mr. Link's proposal has not been part of the community process and would have to go back through. That is one of the alternatives the City Council has been considering.

**Councilor Lancaster** explained that was what he was trying to explore. Can Link's proposal really become a viable alternative? If it cannot, the he would abandon it and move on.

**Councilor Barnes** asked why Mr. Link had not brought this up during the meetings with the community group, TriMet, and the Planning Commission. Why now? Mr. Link is obviously a businessman, so why is he waiting so long? Is he trying to be a knight in shining armor?

**Councilor Lancaster** said he was driving this, not Mr. Link. He thought there was a genuine opportunity for a unique and creative way of integrating public transportation into economic development using federal dollars. He did not know if Mr. Link would make money on this personally. He is a small developer, and this is not a project he could take on alone. He is in the investment community where he might be able to bring a number of investors together on a public/private partnership to make it economically feasible. That is all of the discussion. This is not an avocation for Mr. Link; he simply brought the concept forward.

**Councilor Barnes** appreciated Mr. Link's interest. However, she believed it was a separate matter. The issue before the City Council is the one the public has spoken on many times. The City Council has a recommendation from City staff, the Planning Commission, and the Working Group. Now is the time for the City Council to make a decision. She proposed the City Council make the decision to meet and vote no later than next month.

**Mayor Bernard** asked Councilor Lancaster if scheduling a meeting for mid- to late September would give him adequate time.

**Councilor Lancaster** responded it might.

**The group agreed to hold its deliberations on the transit center at the September 21, 2004 regular session at 6:00 p.m. in City Hall.**

**Mr. Swanson** asked for clarification what the procedure would be.

**Mayor Bernard** said it would be City Council deliberation.

**Mr. Swanson** asked if there would be additional testimony from the floor, or would it be limited to City Council deliberations.

**Mayor Bernard** said City Council voted to close public testimony.

**Councilor Lancaster** would like to hear new information that was not brought forward earlier. He was not interested in repetition.

**Councilor Barnes** believed everyone who had something to say has spoken at least once. It is time for the City Council to decide.

**Mayor Bernard** agreed and was ready for deliberation.

**Councilor Loomis** was in favor of hearing new information from Councilor Lancaster.

**Councilor Lancaster** said he would know if there is anything worth pursuing before that meeting.

**Mr. Swanson** heard if there is new information, the hearing would be reopened. Is that new information from Council members?

There was consensus that this was correct – new information from Council members.

## **B. Advisory Board Appointments**

**Mayor Bernard**, with the consensus of Council members, appointed Sharon Phillips to the Center/Community Advisory Board and Jeff Klein to the Planning Commission.

## **C. Items for Discussion from the Consent Agenda – Ratification of AFSCME Contract and 2004 – 2005 Salary Schedule for Management/Non-Represented Employees**

**Councilor Loomis** was not able to attend the last meeting when this was approved by the City Council, so he wanted to talk about his concerns. The employees deserve a raise. The issue for him was whether or not the City could afford it. In the short time he has been here and on the Budget Committee, the City is running at a deficit and is into the contingency. His biggest concern is that the City might run into the situation like Portland Public Schools where functions like custodial services were outsourced to the detriment of all. The building department requested a 30% fee increase with 20% the year before. Ms. Rouyer testified that the departmental costs were all personnel. It is going to be harder to increase fees year after year. Even if we do not give well-deserving employees raises, there will be fee increases to meet the costs of doing business. He does not want to see any jobs lost or and citizens getting less service.

**Councilor Lancaster** observed it is a no-win situation. Milwaukie is not the highest paying municipality and tends to be on the lower end. The City has extremely high caliber employees. His biggest concern is that all of the cards have been played. We are into contingency again, which is a serious situation. There is a cost to maintaining quality programs. Next year when budgeting, we either dilute the programs we have, or we start cutting some of them back. That would mean a loss of personnel. If we do not compensate our employees, the best ones will leave. Then the City will be worse off than before.

**Mayor Bernard** said in the last round, one employee was lost and several retired. The fact is, costs are getting higher, and the City is going to lose employees. People are doing a lot more work in the same amount of time while providing better service.

**Councilor Lancaster** asked the city manager about financing development on a proprietary basis. The City will need to look at creative methods.

**Councilor Loomis** hoped the City would look at more ways to keep employees other than money. A 3% increase to employees is minimal to them, but the impact to the whole City is huge. He is really against losing jobs, because everybody loses.

**Mayor Bernard** commented that was a union decision.

**Councilor Barnes** said this contract was negotiated between the union and the City and is the best under the circumstances. Employees are now doing more because people have been lost. The union understands this is not a short-term situation. Every decision they make is something they will have to deal with down the road. Maybe with a change in leadership the economic situation will be even better for our City.

**It was moved by Councilor Barnes seconded by Councilor Lancaster to approve consent agenda items C and D. Motion passed 3-1 with the following vote: Mayor Bernard and Councilors Barnes and Lancaster aye; Councilor Loomis no.**

**Mayor Bernard** announced the National Night Out neighborhood events.

## **ADJOURNMENT**

**It was moved by Councilor Barnes and seconded by Councilor Loomis to adjourn the meeting. Motion passed unanimously among the members present.**

**Mayor Bernard** adjourned the regular session at 7:40 p.m.

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Pat DuVal, Recorder

**RESOLUTION NO.       2004**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
AMENDING RESOLUTION 10-2004.**

**WHEREAS**, a resolution of the City Council of the City of Milwaukie, Oregon, acting as the local contract review board, authorizing the City Manager to execute certain contracts for fiscal year 2004 - 2005.

**WHEREAS**, the City of Milwaukie, by adopting Ordinance No. 1865 and Resolutions 8-2002 and 21-2002, has put into place purchasing procedures; and

**WHEREAS**, contracts for certain services which have projected annual expenditures in excess of \$25,000 require City Council review pursuant to purchasing procedures; and

**WHEREAS**, the City Council has reviewed the listed services and the projected annual expenditures for such services; and

**WHEREAS**, the City Council finds such services needed and vital to the operations of the City of Milwaukie;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board:

SECTION 1. The City Council authorizes the City Manager to execute purchase orders for the following services are revised to read:

<b>Vendor</b>	<b>Service Provided</b>	<b>Projected Amount</b>
City County Insurance	Insurance Premiums	\$ 206,033.21
Marsh USA Inc	Insurance Agent of Record	\$ 25,000.00

SECTION 2. The effective date of this resolution is immediately upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on August 17, 2004

\_\_\_\_\_  
Mayor James Bernard

ATTEST:

\_\_\_\_\_  
Pat DuVal, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Ramis, Crew, Corrigan & Bachrach, LLP



**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Alice Rouyer, Community Development and Public Works Director

**From:** Kelly Somers, Fleet/Facility Manager

**Subject:** Public Works Operations Building Framing

**Date:** July 21, 2004 for August 17, 2004 Council Meeting

**Action Requested**

Authorize the City Manager to sign a purchase order to the responsible low bidder for the framing portion of the new Public Works Operations Building.

**Background**

City Council gave authorization on June 15, 2004 for a new Public Works Operations building to be constructed during the 2004/2005 fiscal year. This building will house the Public Works Operations personnel; this includes office area, work area, and a combination restroom/locker room facility for the crews. It also has a second floor for future office work area. The estimated cost of the building for this fiscal year is \$350,000. The City is acting as the general contractor on this project. This bid is for the interior framing of the building.

Due to the bid opening being held on August 6, 2004, the bid information will not be available in time to meet the staff report deadlines for the August 17 City Council meeting. Staff will present to Council, at the August 17 meeting, the results of the bid for the framing portion of the operations building project; and staff will make a recommendation to Council whom the responsible low bidder is, and the amount of their bid.

**Concurrence**

The City Manager, Director of Community Development and Public Works, and Operations Supervisors all concur with this proposal.

**Fiscal Impact**

This project is part of the overall project expected to total \$350,000 during the 2004/2005 fiscal year.

**Work Load Impacts**

This project is included in the Facilities Department's work program for this fiscal year.

**Alternatives**

1. Approve as presented.
2. Approve with modifications.
3. Deny request.



To: Mayor and City Council

Through: Mike Swanson, City Manager  
JoAnn Herrigel, Community Services Director

From: Steve Campbell, Code Compliance Coordinator

Subject: Ordinance Amendment 1.12.010 – General Penalty

Date: August 3, 2004

#### Action Requested

Adopt an ordinance amending Municipal Code Chapter 1.12.010 – General Penalty as discussed in Council work session on July 20, 2004. Staff suggests these amendments for two reasons:

1. To increase the penalty for repeat offenders, and
2. To clarify that the “general penalty” applies to both civil penalties and fines.

#### Background

The City’s code provides for enforcement of non-traffic code provisions by a civil infraction proceeding with imposition of a civil penalty rather than a fine. The general penalty under the existing code provision does not increase in amount for subsequent violations.

The City Attorney has noted that the general penalty section refers to “fines,” which is not the same as a civil penalty.

Currently if a citizen violates a Municipal Code multiple times the enforcement policy and general penalty does not have any provision for handling the habitual offender differently than taking the violator through the same course as a first time offender. Code Compliance has researched codes from surrounding Municipalities and is recommending that this amendment be made to strongly discourage violators from repeating the same violation.

As requested by City Council, Code Compliance Staff is recommending that a higher civil penalty be set for third and subsequent violations.

The proposed amendment addresses the concern for staff time spent on repeat violator cases, residents' peace, welfare, and livability.

By adopting this proposed amendment to the general penalty, it will clearly define the difference between civil penalty and fine. The City will be able to discourage the habitual offender thus helping our citizens enjoy their neighborhood. This proposed amendment meets the Council goal of sustaining livability in the Milwaukie neighborhoods.

### Concurrence

The City Attorney has reviewed and commented on the proposed amendment and has provided Code Compliance staff with their input.

### Fiscal Impact

No negative fiscal impact on the City is expected from this action.

### Alternatives

Maintain our current regulations regarding general penalty.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 1.12.010 – GENERAL PENALTY – DESIGNATED**

**WHEREAS**, Milwaukie Municipal Code Chapter 1.12.010 describes general penalty for persons violating or failing to comply with the Municipal Code; and

**WHEREAS**, the City’s code provides for enforcement of non-traffic code provisions by a civil infraction proceeding with imposition of a civil penalty;

**WHEREAS**, Milwaukie Municipal Code Section 1.12.010 currently provides for a general penalty in the form of a fine and does not increase the amount for subsequent violations; and

**WHEREAS**, it is in the interest of the City and its residents to provide a strong disincentive for repeat violations;

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

Section 1: Milwaukie Municipal Code Section 1.12.010 General Penalty is amended to read as follows:

- A. Any person adjudged to have violated any of the provisions or to have failed to comply with any of the mandatory requirements of any ordinance of the city, except in cases where a different punishment is prescribed by any ordinance of the city, shall pay a civil penalty (for non-traffic, non-parking violations) or fine (for traffic or parking violations) of not less than one hundred fifty dollars nor more than five hundred dollars.
- B. Each and every day during any portion of which any violation of any provision of an ordinance is committed, continued or permitted by any person shall constitute a separate violation.
- C. The penalty or fine for a third or any subsequent separate judgment of violation of the same offense by the same person shall be no less than one thousand dollars.

Section 2: All subsections of Milwaukie Municipal Code Section 1.12.010 not expressly amended by this ordinance remain in effect.

Read for the first time on \_\_\_\_\_, 2004 and moved to a second reading by \_\_\_\_\_ vote of the City Council.

Read for the second time and adopted by the City Council on \_\_\_\_\_, 2004.

Signed by the Mayor on \_\_\_\_\_, 2004.

\_\_\_\_\_  
James Bernard, Mayor

ATTEST:

\_\_\_\_\_  
Pat DuVal, City Recorder

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

\_\_\_\_\_  
City Attorney



To: Milwaukie City Council

Through: Mike Swanson, City Manager

From: Cynthia Sturgis and Joe Sandfort, Library Co-Directors

Subject: Resolution No. \_\_\_\_ To Encourage The Board Of Clackamas County Commissioners To Adopt And Implement The Recommendations Of The Libraries For Tomorrow Project As Adopted By The Library Network Intergovernmental Board (LNIB)

Date: August 3, 2004

**Background:**

The 1997 countywide library levy that was approved by the voters of Clackamas County passed but failed due to the new double majority laws (Measure 47) so the levy was not allowed to take effect. However when BM 50 was approved, the 1994 library levy was still in effect; so under the terms of BM 50, it was added to the County's General Fund. The County has decided to continue to provide the base amount of the 1994 levy for countywide library service but not the levy's growth, effective FY 05-06. This will reduce the amount of funds available to local libraries by about 20%.

Since the passage of the '94 levy, library circulation, countywide, has increased by 114%. New and stable, growth-related funding is necessary to keep pace with the increased demand for library service in Milwaukie and the surrounding areas.

In January of 2004 the Clackamas County Board of Commissioners decided to follow the recommendation of the countywide library advisory committee (LNIB) to place a local option levy on the November 2004 ballot. The LTP report recommends that the County investigate ways to provide stable, dedicated and growth-related library funding on a countywide basis to fund library operations to member libraries in Clackamas County.

This levy, if approved, would provide additional funding that is intended to allow public libraries countywide to sustain services at current levels for the five-year period of 2005-2010. Should the levy pass, it would raise \$8 million a year to be used countywide for library operations. In Milwaukie this would mean a gain of just over \$270,000 for the fiscal year 2005-2006. This opens the possibility of a recovery

of hours and staffing reduced in fiscal year 2003-04, the purchase of more circulating materials, and the installation of a security system for the library's collection. Failure of the levy would reduce our library's funding by \$124,000.

**Recommendation:**

Approve Resolution No. \_\_\_\_\_ To Encourage the Board of County Commissioners to adopt and implement the recommendation of the "Libraries for Tomorrow Project" (LTP) report as adopted by the Library Network Intergovernmental Board (LNIB)

Resolution No. \_\_\_\_\_

A RESOLUTION TO ENCOURAGE THE BOARD OF COUNTY COMMISSIONERS TO ADOPT AND IMPLEMENT THE RECOMMENDATIONS OF THE LIBRARIES FOR TOMORROW PROJECT (PARTS I AND II) AS ADOPTED BY THE LIBRARY NETWORK INTERGOVERNMENTAL BOARD (LNIB).

WHEREAS in 1990 the cities of Canby, Estacada, Gladstone, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, Wilsonville and Clackamas County agreed to continue to cooperate in an innovative county-wide library network and established the Library Network Intergovernmental Board (LNIB);and

WHEREAS the cities and the county all share responsibility for this shared library system which provides communications, cost-effective resource and information sharing, equitable distribution of county-wide funding resources and long-term planning; and

WHEREAS the cities and the county worked for two years (from mid 2002 to mid 2004) on a strategic plan entitled the “Libraries for Tomorrow Project” (LTP);and

WHEREAS use of library facilities and services in Clackamas County has more than doubled since 1994 – for example, the total number of items checked out by library users is expected to exceed six million items annually in 2004-2005; the number of children registered during the first two weeks of Summer Reading programs in June 2004 has already exceeded the number of kids who participated during the entire summer of 2003; and the number of reference and information questions answered annually at libraries in the county is projected to exceed two hundred sixty-eight thousand in 2004-2005;and

WHEREAS the “Libraries for Tomorrow” planning process demonstrated that local jurisdictions are spending all they can on library operations, and the time is right to restore a stable and dedicated operating funding source for libraries adequate to serve a growing population and ever-increasing library use; and

NOW, THEREFORE be it resolved by the \_\_\_\_\_ of the City of \_\_\_\_\_ that:

The City of \_\_\_\_\_ recommends that the Board of County Commissioners to follow the recommendations of the LTP planning process and provide stable, dedicated and growth-related library funding on a county-wide basis so that all libraries in the county can continue to maintain or restore adequate and acceptable library hours, programs and resources.

Adopted, signed and approved this \_\_\_\_\_ day of August, 2004.

\_\_\_\_\_



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**  
**Alice Rouyer, Community Development & Public Works Director**

**From: Jeffrey King, Project Manager**

**Subject: Status Report on Economic Development Grant Projects**

**Date: August 2, 2004 for August 17, 2004 Meeting**

### **Action Requested**

The Council is requested to review the status report and provide feedback on economic development grant implementation tasks.

### **Background**

This past spring, staff met with Council to gather feedback and provide an update on implementation of economic development grant tasks. The City received a \$25,000 grant from the Mt. Hood Economic Alliance to further economic development efforts in the City. Staff is now providing an updated status report on efforts to date.

### **Economic Development Grant Tasks**

- 1. Business Outreach & Visitation Program**  
**Completion Date Goal: May 10-November 30, 2004**  
An initial outreach meeting with Marquis Company was held on May 11. Since that date we have held meetings with OEEO, Mackay Photo Pak and Precision Castparts. City staff is now working to set up visitation meetings with Oregon Cutting Systems, ADP, Providence Milwaukie Hospital and OLCC. The meetings to date have included Mayor Bernard, Councilor Barnes, Greg Jenks from Clackamas County Economic

Development and me. The response from the companies we have met has been very positive. The business were pleased to find interest and to be able to meet with City elected officials. Each of the companies is either currently adding jobs or is considering new growth. They also were interested in some of the business resources information that we presented. Staff is providing follow-up services to encourage and support additional job creation and growth. These services include potential enterprise zone applications, workforce training grants and assistance, energy efficiency programs, financing, state tax credits and demographic and cost data. In late July a letter signed by the Mayor announcing the business visitation program, was sent to the City's twenty-two largest employers.

Other Milwaukie companies slated for outreach and visitation include ODS Health Plans, Albertson's, WW Metal Fabrication, Bob's Red Mill, Portland Mechanical, Dark Horse, Key Bank, McGrath's Fish House and Johnson Controls.

**2. Inventory and profile of available industrial and commercial sites  
Completion Date Goal: October 15, 2004**

A Request for Proposals solicitation was issued in early August for consultant assistance to create a more detailed profile of 19 of the largest sites and a basic profile of an additional 19 other sites. This profile will be placed on the City's web site.

Earlier, the Community Development Project Manager completed and is maintaining an inventory of available commercial and industrial sites throughout the City. Currently, the inventory resides with the Project Manager. Once a more detailed site profile has been completed, it will be posted on the City's web site. It has been effective in providing quick turnaround to businesses seeking sites. Staff has also established relationships with many of the area brokers. Recently, profile information on ten Milwaukie industrial/commercial sites was included on the statewide OregonProspector.com website.

**3. Develop an Economic Development/Enterprise Zone Marketing Flyer  
Completion Date Goal: August 30, 2004**

Councilor Barnes, Grady Wheeler and other staff members have been working with a consultant team on production of a marketing flyer. The content portion has been completed and is proceeding to final layout and design. The final product will be 2,500+ copies of a professionally produced multi-color glossy two-sided sheet. It will be completed by the end of August.

**4. Develop an Economic Development Section on the City's Web Site  
Completion Date Goal: November 30, 2004**

A Request for Proposals solicitation, was issued in early August for consultant assistance to gather and complete economic development content for the City's website. Staff also continues to develop content and has researched a number of existing community websites. An outline of content has been created. Once content has been collected by the consultants, staff will work with Grady Wheeler and IST to determine final design and whether this work will be done in-house or with consultant assistance.

**5. Establish an Economic Development Advisory Committee  
Completion Date Goal: June- November 30, 2004**

In early August, staff sent a formal invitation to serve on the short-term Milwaukie Economic Development Advisory Committee to selected business leaders approved by Council. Earlier this year, the City Council approved a charge statement to create an Economic Development Advisory Committee. A roster of potential individuals and organizations was identified. Staff will follow-up with a call to solicit members to insure that committee slots are filled.

**6. Industrial Land Infill Feasibility  
Completion Date Goal: May 1 – October 30, 2004**

This project will determine the feasibility of developing a 6.5-acre parcel of land abutting the International Way Industrial Park at the corner of International Way and Lake Road. The grant funded an initial transportation study to identify traffic issues and any barriers to development. The land has now attracted a developer who is planning to build 80,000+ sq.ft. of industrial flex space in four buildings. The City has completed annexation. The developer has completed a pre-application meeting with the City, prepared a traffic impact study and formally submitted a site plan. The Planning Commission will review the project sometime in September. The developer and broker have indicated that a number of businesses are already interested in the site. Additional grant monies could be used to fund further development review costs if needed.

**7. Industrial Building Reuse Assessment  
Completion Date Goal: November 15, 2004**

A Request for Proposals solicitation (RFP) was issued in early August for consultant assistance to identify re-use opportunities of an underutilized facility. The RFP seeks consulting services to retrofit a vacant facility for more modern industrial uses. A number of consulting hours will be

provided to assist in filling space within a vacant facility in North Milwaukie Industrial area. Assistance will consist of retrofit and reuse assessments such as site characteristics, plant layout and design, engineering and market strategies to improve the likelihood of obtaining a long-term occupant in the selected building.

## **8. Other: Technical Assistance**

Staff has been following up with Portland Mechanical as they complete their move to the south Hanna Building. They have 80 current employees and will be adding 30 more over 3 years. A grand opening event in coordination with the City is being considered. Over the last two months staff, across several departments, have provided information on sites and resources for several leads including an agri-tech food processor, the administrative offices of a carpet manufacturer and a finance collection office that is locating in the Electra Credit Union building. In addition, staff is working with the co-owner of the south Hanna building to site an additional business into the facility.

### **Concurrence**

Community Development, Planning, and the City Manager's Office support the implementation of economic development grant, program, and action steps.

### **Fiscal Impact**

The total of these proposed economic programs and tasks is budgeted at \$57,000. The budget consist of a \$25,000 grant from Mt. Hood Economic Alliance, \$14,000 cash match by the City, \$8,000 in-kind match by the City (staff time, space, etc.) and \$10,000 through the North Main Property Owners Group in the form of a transportation access study. The \$14,000 cash match from the City is in the FY2004/2005 budget. To date \$4,000 has been spent with another \$3,000 under contract.

### **Work Load Impacts**

The proposed economic development program is included in the Community Development annual work program. Some tasks will need to be completed with consulting assistance.

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, APRIL 13, 2004

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Judith Borden, Vice Chair  
Teresa Bresaw  
Brent Carter  
Mike Miller  
Howard Steward

**STAFF PRESENT**

John Gessner,  
Planning Director  
Lindsey Nesbitt,  
Associate Planner  
Shirley Richardson,  
Hearings Recorder  
Brion Barnett,  
Civil Engineer

**COMMISSIONERS ABSENT**

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None.

4.0 INFORMATION ITEMS -- City Council Minutes  
City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

**John Gessner** announced that the Waldorf School will not be heard tonight. The Commission will open the hearing without taking testimony and continue the hearing to a date certain being April 27, 2004. The rescheduling was made at the request of the Ardenwald Neighborhood District Association, which conducts their meeting tonight. They had requested Waldorf School to come and speak to the neighborhood. He said that if there was anyone here tonight interested in that matter, they may be able to catch the discussion at the Ardenwald Elementary School.

**Mr. Gessner** stated that they have just been informed that the hearing for Dieringer's Properties, Inc. has been withdrawn. He explained that this means that the conditions affecting noise limitations revert back to the original approval which stated that post construction noise cannot exceed pre-construction levels. There is the protection of the original condition to give them higher noise levels to meet.

## 5.0 PUBLIC COMMENT

Speaking: Jim McClefsky, 4242 SE Harrison Street  
Lynette Slagle, 4242 SE Harrison Street

**Mr. McClefsky** stated that they agree with the condition of approval. He voiced concern about the truck and trailer noise issue with the Safeway Store. There is a tendency to leave the trucks running when loading and unloading. He asked if there could be a stipulation or a sign that instructs the drivers to turn their engines off when they are delivering? There is no need to have the engines running.

QFC and New Seasons markets don't take deliveries before 7:00 a.m. and they asked that this be a consideration for this neighborhood. There is a problem at the Woodstock Safeway Store where trucks come in at 6:00 a.m. and start lining up; the only place for trucks to park in this King Road store would be on Harrison Street. They will be leaving their engines running to keep warm or in the summer to keep cool until they can get in.

The compactor is another noise issue. This is not a continuous noise but they are pretty loud at night; the buffer is not buffered at all. Anything with liquid (meat product, packaging, product waste) is compacted and then it starts leaking out across the parking lot are across the street. He asked that the Commission be aware of this.

**Ms. Slagle** stated that the previous store, Deiringer's Properties had signs posted so that the trucks would not park on Harrison Street and they also worked with the drivers to make sure that they didn't leave their trucks running. They are asking for that same consideration with the Safeway Store.

**John Gessner** stated that there may be other city codes that might apply in this case. Staff will have to investigate those options outside of the Commission meeting. Staff will speak with the neighbors on this matter.

**Gary Firestone** stated that the Commission has made its final decision; the one post decision application has been withdrawn. There is nothing before the Commission and staff can try to work with the property owner/operator. There is nothing in front of the Commission at this time.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Ed Parecki  
Owner: The Waldorf School  
Location: 10190 SE 37<sup>th</sup> Avenue  
Proposal: Applicant is requesting approval of a Community Service Overlay, a Transportation Plan Review and a Variance to renovate a single family residence to use for a pre-school for approximately 30 children and 4 teachers that would operate Monday through Friday 8:30 a.m. to 1:00 p.m.  
File Numbers: CSO-04-02/TPR-04-04/VR-04-04  
NDA: Ardenwald

**Chair Hammang** opened the minor quasi-judicial hearing for Community Service Overlay CSO-04-02, Transportation Plan Review TPR-04-04, and Variance Request VR-04-04 to allow consideration of a kindergarten for approximately 30 children and 4 teachers. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 302 - Residential Zone R-7; Section 321 - Community Service Overlay; Section 500 - Off-Street Parking and Loading; and Section 1400 - and Transportation Planning Design Standards and Procedures.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 6 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

**Chair Hammang** explained that there would be no testimony taken tonight and the hearing would be continued to April 27<sup>th</sup>, 2004.

**Commissioner Miller** moved to continue the Waldorf School application to April 27, 2004. **Commissioner Carter** seconded. MOTION CARRIED 5-0.

Ayes: Borden, Bresaw, Carter, Miller, Steward, Hammang; Nays: None.

- 6.3 Applicant: Peter Collins for Goodwill Industries  
Owner: Helco Distribution Center/Joseph Tennant  
Location: 1750 SE Ochoco  
Proposal: Applicant is requesting approval of a Transportation Plan Review and a Variance to renovate 106,048 sq.ft. (30%) of an existing 352,425 sq.ft. industrial building. The renovated space will be used for a retail and distribution facility.  
File Numbers: TPR-04-03/VR-04-03  
NDA: Business Industrial – Neighboring Historic Milwaukie

**Chair Hammang** opened the minor quasi-judicial hearing for Transportation Planning Review TPR-04-04 and Variance Request VR-04-03 to consider the renovation of a 106,000 sq.ft. existing warehouse for use as a retail and distribution facility. The criteria to be addressed can be found in Title 19 of the Milwaukie Municipal Code; Section 19.319 - Manufacturing M Zone; Section 19.500 - Parking and Loading; Section 19.700 - Variances; Section 19.1011.3 - Minor Quasi Judicial Review; and Section 19.1400 - Transportation Planning Design and Procedures.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 6 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**Keith Jones** reviewed the staff report with the Commission. The project site is bordered by the City of Portland and the post office to the north of the site is in the City of Portland as well as the Garthwick Neighborhood to the west. This is an existing 300,000 sq.ft. manufacturing facility.

The applicant proposes to remodel a section of the building and turn it into a Goodwill distribution facility. The existing facility on the other side of McLoughlin in Portland will be closed and moved to this proposed site. The applicant is requesting a variance to the transportation section for the code. Staff has reviewed the application and finds that it does meet the criteria of the M Zoning District which does allow some retail uses when associated with manufacturing.

The applicant is requesting a variance for transportation on Ochoco Street. There is an active and existing rail-line on Ochoco; it is contained within a 20-foot easement which is within the public right-of-way. This takes up quite a bit of the roadway. There is a rock wall and a building which prohibits installation of sidewalks along that street. Because of the facts of the existing rail-line, the rock retaining wall, the building, and the need for trucks to use this area, sidewalks would narrow the travel lane and make it difficult for trucks to get in and out of the site. Staff believes the applicant has addressed the criteria and recommends approval of the variance request.

The applicant is proposing an improvement along 17<sup>th</sup> Avenue. Originally the applicant proposed to construct a sidewalk for about 630 feet to the south of the bus stop on the corner of 17<sup>th</sup> and Ochoco. It was later determined that the city does not have any drainage facilities on 17<sup>th</sup> so the water would go against the curb line and dump off on the applicant's property. The applicant had proposed to put in a 2-3 foot bio-swale shoulder, but there were concerns about maintenance. For these reasons, the applicant proposed to do an exception; pay funds (\$62,400) in lieu of construction. These funds will be used at

a later date to reconstruct all of 17<sup>th</sup> Avenue when it is in the city's capital improvement program.

Tri-Met recently submitted comments to the city and they would like to have about 40-foot of sidewalk for a bus pad (8-foot attached sidewalk extending 35-feet south of the existing bus stop).

Because the site will generate more than 200 trips, ODOT was noticed. ODOT in turn noticed their Rail Division who indicated to the city some concerns about the existing crossing. The retail use of the site would require that this crossing be updated to public standards. Currently there is a private agreement between the land owner and the railroad. Because this is the public access area going into the site, ODOT rail wanted it upgraded to a public standard. This may require new railroad tracks and different warning signals. This is a process that ODOT must go through. Conditions have been written to address this issue; revisions (Goodwill Revised Conditions) were passed out. He pointed out one correction on page 1, number 4, "...bus stop on the southwest corner..." should read "...bus stop on the southeast corner..."

**Brian Barnett** stated that he would review the high points of the traffic impact study. The intersections studied were 17<sup>th</sup> and Ochoco, Ochoco and McLoughlin and the existing site access point on Ochoco Street. Staff reviewed Kittelson's traffic impact study and concur with it that all of the intersections in the site access point operate within city level of service standards. There is no significant congestion or delays. The intersection at 17<sup>th</sup> and Ochoco default to ODOT standards and they are within those standards.

Both Kittelson and the North Industrial Land Use Study (NILUS) found that a signal is warranted at 17<sup>th</sup> and Ochoco; however, both Kittelson and DKS don't recommend a signal at that location. Staff concurs with that.

The NILUS study recommended reconfiguring some of the lanes at the intersection of Ochoco and McLoughlin; however after further review staff concurs with Kittelson that no reconfiguration is necessary. There is actual available capacity and there are no levels of service impacts.

**Mr. Barnett** stated that just because a signal is warranted, doesn't mean that it has to be installed. A warrant means there should be consideration but an engineering study is needed to support the need for a signal at 17<sup>th</sup> and Ochoco.

There are also warrants meant for installing a southbound left turn lane on 17<sup>th</sup> and a northbound right turn lane. Jurisdictionally, the right-of-way is straight down the middle of the street. It is a 60-foot right-of-way, 30 feet on either side. The south side is Milwaukie and the north side is City of Portland. Although the southbound left turn lane is warranted, staff doesn't support it because City of Portland doesn't warrant it. The northbound right turn lane is a similar situation. Looking at the existing improvements,

right-of-way and low safety related incident history, staff doesn't support installing the right turn lane.

**Commissioner Miller** asked if the project is delayed and paid for; and if the improvements are required as a city project, who will pay the cost of the installation of the cross bars that will have to be put in as part of the project? **Mr. Jones** stated that the city has to be the applicant, however, in discussions with Goodwill, the conditions are written that they will pay for those improvements. The railroad would be the one to physically install them. Goodwill will have to pay the railroad company to come in and put those improvements in. There will have to be an agreement on what types of improvements that will entail (concrete, rail, warning signals or drop-down cross bars, etc.).

**Commissioner Miller** asked if there will be any incurred expenses to the city later? **Mr. Jones** stated that there were none that he was aware of; potentially there may be some maintenance costs, but not construction or application costs.

**Commissioner Bresaw** asked if the last business that comes in pay for turn lane. **Mr. Barnett** stated that side-street impact is reviewed. Under the code, new development that comes in and pushes it over the edge, the city can only ask for the businesses proportional share. The city would only be able to impose a proportional share on the person (business) who goes over the traffic limit. A portion would have to be borne by the city (transportation SDC's, etc.).

**Gary Firestone** explained that there are some instances where other property owners could pay if the city decided to finance it by a local improvement district and the property owners' agreed.

**Mr. Gessner** stated that there are a number of different scenarios under which an improvement would be required in terms of either increasing development in the area or a loss of capacity in the street because of growth and background traffic. With the city's new transportation regulations, any new developer who comes in would pay their share of the impact. In addition, as need grows, the city will evaluate whether or not the intersection should be included on the system development project list making it eligible for city funding. To the extent that is a shared intersection with Portland, it is quite likely that Portland and Milwaukie would look at cost-sharing arrangements to make the improvements so that they were done at the one time. The applicant, by agreement, is incurring the costs associated with making the application and building the improvements.

#### CORRESPONDENCE

**Keith Jones** stated that a letter had been received from Tri-Met and it is attached to the recommended conditions and findings.

## APPLICANT PRESENTATION

Speaking: Lonnie Deffinboff, Deffinboff and Associates, Architecture and Planning, 388 State Street, Suite 840, Salem 97302.

**Mr. Deffinboff** introduced Randal Rice, Project Architect; Peter Collins, Facilities Director; and Steve Pfiffer, Land Use Consultant. A large copy of the site plan was displayed showing the subject site and surrounding areas. There are no objections to the four items in the additional issues portion of the staff report (page 11) titled Additional Issues and Needed Corrections.

On Page 17 of the report, Attachment #1, Recommended Conditions and Approvals, (Item 2E) it says, "...submit full engineered plans for all public improvements for review and approval by engineering department. Item #3 and #4 on page 16 talks about Ochoco and 17<sup>th</sup> Streets. There is the payment in lieu of improvement on Ochoco Street and the variance on 17<sup>th</sup> Street. There are no engineered plans for public improvements associated with this application. If there are, they would like to know what they are specifically. Item 2H, at the bottom of page 17 talks about the application to the ODOT rail. If there is anything that staff feels they need, he would like to have them clarify that for them at the appropriate time.

Item 2G at the bottom of page 17 indicates that the R-2 sign is to be relocated. Relocation of that sign as the tenant and not the property owner, they do not have control over a third party sign, and there is no way to make that happen.

**Steve Pfiffer**, Land Use Attorney, stated they are in support of staff recommendations. Up until the revisions handed out by Mr. Jones today, there were three concerns which are set forth in his letter. That has been reduced to one issue, payment in lieu of the frontage improvements. Page 1 of his letter showed some modifications to the language of the staff report. That has been resolved with the handout provided tonight. That payment in lieu of fee will be undertaken in the future by the city with these funds.

There are two conditions that came from the original staff recommendation; the one at the bottom of the page is also resolved in the submittal tonight. The remaining issue is the condition in the middle of the page. Application has been filed with ODOT Rail, to review of the proposal. Given the retail nature of a portion of the use (20,000 feet of 100,000+ retail), it may trigger a need for a crossing beyond what has historically been required. There is more of an invitation to the public because of the proposed retail use. Under ODOT regulations there are three kinds of crossings they acknowledge and accept: cross arm bars come down stopping traffic, flashing yellow lights on either side to alert the public to the presence of a train, and cross bars painted onto a signage without any flashing lights.

**Mr. Pfiffer** stated that they have met with the Rail Division to discuss how to go forward with this. There will be an application and they are prepared to pay for the cost, but it

must be in the name of the city. The three options will go to ODOT and they will decide which of those three types of crossings are required. In the course of this decision, there will be improvements to the roadbed of which Goodwill will bear the bulk of the cost.

If a full crossing is decided, it takes up to a year for ODOT to get through their process and starting construction of improvements. Goodwill needs to be out of the facility on McLoughlin and into the new facility by September 15<sup>th</sup>. If everything goes well, they could have the crossing approval and begin construction by September 15<sup>th</sup>. They are proposing that as an alternative, subject to approval of the city engineer, in the event the crossing is not available, they offer indemnity to the city for any harm, cost, etc. that they may incur for a period of not more than a year and a half. This language is offered as an alternative, subject to agreements approved by the city attorney. Staff language found in Condition 5(e), page 4, is the alternative version, "There should be no occupancy to retail without a prior demonstration of compliance with the rail crossing law according to the city."

**Mr. Pfiffer** stated that they would like to begin the design drawings, begin taking over the building, begin with making the move and know that for whatever reason, they would be able to open for a period of not more than a year and a half under this amendment agreement.

QUESTIONS FROM THE COMMISSIONERS - None.

TESTIMONY IN FAVOR – None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION

Speaking: Thomas Ashenbrenner, 629 SE St. Andrews Drive

**Mr. Ashenbrenner** stated that the Garthwick neighborhood is in the City of Portland but they do pay Clackamas County taxes. As a member of the neighborhood association, he is not opposed to the application in concept; the idea of what Goodwill is doing makes a great deal of sense. He would like to make sure that they are indeed good neighbors to them.

The average speed is not 35 miles per hour as indicated. The sight line is not a safe view for that turn with the speed of traffic. The City of Milwaukie has allowed, under its previous tenant, Food Services of America, extensive truck traffic along 17<sup>th</sup>. Frequently they make illegal left-hand turns, obstructing traffic. He was delighted to see that on Page 10, Item 5, the applicant indicates that they plan to use the McLoughlin/Ochoco entrance.

**Mr. Ashenbrenner** stated that he has learned tonight that there are memorandum of that agreement can be developed with the applicant on certain issues. He asked that the neighbors be considered to get a formal agreement of the intent to use that entrance. The staff report indicates that truck traffic would be limited to a 19-hour day starting at 5:00 a.m. to midnight. They would like to have assurance that the Commission will consider that 19-hours is too much.

His primary consideration is what impact this use will have on the entire neighborhood as a result of what might happen with signage. He stated that the commission is responsible for the quality and character of the communities that they serve and the livability of his neighborhood. He is concerned about the signage along 17<sup>th</sup>; he does not want to see an electronic billboard on the roof of that building or at the intersection which would be distracting to people. He would like to hear from Goodwill Industries what their intention on signage is, and asked the Commission to make sure they have considered the idea of a common agreement on what is appropriate signage for that building.

Speaking: Tom Brown, 1625 SE Rural, Portland

**Mr. Brown** stated that he is concerned about this proposal and the dramatic change of use; changing from warehouse/manufacturing use to a retail use. Changing this building from warehousing to retail should trigger any public improvements that have not been done in the past. His main concern is the lack of sidewalks the applicant is proposing at the intersection of 17<sup>th</sup> and Ochoco. This area is a gateway to the City of Portland and currently there are no transportation facilities on the south side of Ochoco. It is dangerous for pedestrians to use Ochoco Street on the south side.

Many of Goodwill's own employees will be using the bus to go to work. The gravel path between the railroad and the property is the most likely route. When he walks from the bus stop, down the gravel path, through the parking lot to the proposed front door, it took him approximately 260 large paces (790 feet). People are not going to cross the street and use the north side of Ochoco to get to this site. He suggested a pedestrian pathway between the building and existing tracks. The rock wall could be rebuilt and a ramp installed so pedestrians could get to the parking lot surface much sooner.

The study indicates that there will potentially be 3,000 visitors/day to this site; he believes it, having seen the activity at their existing facility. The city could get creative and come up with a private agreement with Goodwill to build a pedestrian access.

Another concern is the lack of street lighting on Ochoco. If this facility will be open until 9:00 p.m., it will be dark. The pedestrians will have to get back to the bus stop at 17<sup>th</sup> and Ochoco. The report mentions truck traffic; right now 17<sup>th</sup> Avenue is a designated truck route. There are currently signs on 17<sup>th</sup> and Ochoco northbound that direct trucks from 17<sup>th</sup> to 99E on Ochoco. So to say that you can limit truck traffic on 17<sup>th</sup> is not going to happen. That is even the best route for Goodwill trucks coming from the south of the facility.

Since this is the only entrance into a 300,000 sq.ft. facility, more needs to be done there to make it safe, especially since it is now going to be open to the public.

Right now at the corner of 17<sup>th</sup> and Ochoco there is an undesignated gravel parking lot. He would think that Milwaukie would want this area improved for everyone's sake. Extensive landscaping at this corner would soften the impact of this giant building and new use.

Since this is basically a new use and there will be parking of hundreds of cars on the site, there will be added pollution to the existing storm water facility. It would seem that both Portland and Milwaukie would like to see an on-site storm water management facility installed.

He realizes that the site has problems, but he does think with some creativity on the planning side a better proposal can be made. He asked, under state law, what exception to the rule is being used to not require sidewalks on Ochoco and 17<sup>th</sup>? He talked to the applicant's architect and was told that a ramp or stair system from 17<sup>th</sup> would be too costly to build down to the parking lot. Such a ramp would alleviate a lot of his concerns about the Ochoco pedestrian access.

Another concern is that retail is being allowed instead of the manufacturing. He asked what part of Goodwill is manufacturing? The intent of the retail use is for manufacturing and retail. If this application is granted, it should be upgraded to allow the retail customers to access the site by foot. If the city is requiring Goodwill to pay funds in lieu of construction of a sidewalk on 17<sup>th</sup>, why isn't the same thing required for Ochoco Street in case at some future date the rail doesn't exist there anymore? **Mr. Brown** asked that this application be continued to allow for more creativity to happen as far as accessing the site. He pointed out on the map where he proposes a sidewalk would be feasible.

Speaking: John Meyers, 1745 SE St. Andrews Drive,

**Mr. Meyers** stated that he is directly across from the subject site. He has lived here for four and half years, walking to the bus down 17<sup>th</sup>, walking home both down 17<sup>th</sup> and up Ochoco. His primary concern is with the pedestrians. If a light is recommended at the current level, 3,350 more traffic uses a day at that site should make the signal a requirement.

There is a left turn lane going south on Ochoco; during peak times, cars will go around the turning lane coming within an inch of the sidewalk and the rail warning signal. It is very hazardous; it is completely unsafe to cross 17<sup>th</sup> at Ochoco. There are cars coming north on 17<sup>th</sup>, often going more than 35 miles an hour and there is not a good visual site to the north (post office wall).

Goodwill Industries is used more than most retail outlets by people who don't have automobiles. The pedestrian use will be greater than the pedestrian use for other retail settings. There are no considerations for handicapped/disabled pedestrians.

When you say payment in lieu of improvements, he hopes this does not refer to the payment to people injured trying to use their facility (run over by cars, falling in the gravel, twisting an ankle, etc.). When he walks from the bus stop from McLoughlin up to his residence, he has to walk in the street because there is no reasonable way to get from 99E up to 17th. The sidewalk stops down below the R-2 pallet. There is no pedestrian access from McLoughlin. He asked that pedestrians be considered as a primary user and the facilities should be designed to be pedestrian friendly first and automobile friendly second.

Speaking: Marnie Frank, 1845 SE Exiter

**Ms. Frank** stated that she lives in the Garthwick neighborhood and voiced concern about the danger associated with the 17<sup>th</sup>/Ochoco intersection. There are numerous illegal left-hand turns made from Ochoco onto 17<sup>th</sup> Avenue. She asked if there could be an agreement with Goodwill that they will not use 17<sup>th</sup> as a route and keeps trucks and traffic on Ochoco and McLoughlin. Work needs to be done on pedestrian safety and traffic safety at that intersection as there is not much room for those standing at the bus stop between the road and the bus stop.

There is a predominantly residential area behind the post office. Sixty-nine dwelling units are planned on 13<sup>th</sup> that will be affecting this bus stop.

Speaking: Jerry Johnson, 1826 SE St. Andrews Drive, Portland

**Mr. Johnson** read a letter into the record. He addressed the letter submitted by the Garthwick Neighborhood Association stating a number of concerns and stating that, "...we would welcome them as a neighbor." By "we" it would appear that this group is implying the Garthwick neighborhood of which he is a resident. While this letter purports to represent the interest of the neighborhood, it should be noted that this organization is neither recognized as a neighborhood representative by the City of Portland, nor has in any way has been authorized by the neighborhood to represent their opinions on this matter. The board chair and board are not elected, have no by-laws that he is aware of and have held no meetings or formal public outreach to ascertain the views of the neighborhood regarding this application.

As a result, this letter is appropriately interpreted as an expression of opinion of the five signatories as opposed to representing the collective opinion of the neighborhood.

**Mr. Johnson** stated that he supports most of the positions outlined in the letter beyond that, but he does not feel that the neighborhood would welcome this particular operation as a neighbor. While Goodwill has demonstrated the ability to serve as a good neighbor

in other locations with other development forms, the existing McLoughlin outlet facility indicates the nature of the proposed operation would not benefit the surrounding neighborhood. While allowable under the current zoning designation, I would not support extra-ordinary efforts by the city to facilitate this relocation.

The traffic analysis done by Kittelson anticipates over 3,300 daily trips associated with this facility and his primary concern is regarding the increase in traffic at the intersection of Ochoco and 17<sup>th</sup>. He is also concerned with cut-through traffic through the Garthwick neighborhood to access the site with high congestion at Tacoma and 17<sup>th</sup>. The Sellwood and Moreland Improvement League recently lobbied the City of Portland to install speed bumps at east-west roads south of Tacoma between 13<sup>th</sup> and 17<sup>th</sup> to mitigate speeding.

Kittelson, DKS, and city staff do not recommend a signal, however, the fact that the right-of-way at Ochoco and 17<sup>th</sup> is too constrained in this area to allow for mitigation of this impact, doesn't negate the reality of the impact. While Kittelson cites the lack of accident history as rationale to not improve the intersection, there has not historically been a retail use in that area with the related elevated levels of traffic.

The applicant is requesting a variance from installing a sidewalk along Ochoco and staff has found this reasonable with pedestrian traffic relocated to the north edge of Ochoco which has a partial sidewalk. He supports this, assuming that the current Tri-Met bus station on SE 17<sup>th</sup> is moved north of Ochoco, consistent with the availability of sidewalks. This may result in pedestrian traffic along the rail line or in the roadway.

Payment is being allowed in lieu of doing improvements to 17<sup>th</sup>; he doesn't understand why this doesn't apply to Ochoco as well. It appears that even though the facility would include a public parking lot that would not be secured during the evening, recent operations at the site has maintained a locked gate during the evening. Without evening security of the lot, potential would exist for unrelated activity in the parking lot. His home backs up to that parking lot so he is concerned.

Speaking: Joe Jones, 1806 SE St. Andrews Drive

**Mr. Jones** stated that he lives next door to Mr. Johnson and across the street from others who have testified tonight. He reported that he talked to Mr. Peter Collins a couple of times over the phone and he talked about the amount of money they are going to spend in this area. It is nice of Goodwill to do this, however, it is very important to consider the pathways.

**Mr. Jones** stated that he talked to Metro and when the Spring Water Corridor is completed, there will be an average of 1 million people a year crossing that area on bicycles or walking. Metro is in the process of their three bridges project.

Goodwill's past experience with going into a business location has been good; they take care of customers and the protection of the pedestrians. It is important that they do make more bike coverage space and make a more pedestrian helpful situation.

On 17<sup>th</sup> Avenue the bus stop is too close to sidewalk. He thinks that Tri-Met will be willing to help if someone explained the problem to them. He does want Goodwill to be at this location.

**Mr. Jones** had a package that he explained is a 'welcome to the neighborhood' package and he asked if it could be presented to Goodwill at this time. **Chair Hammang** stated that this was a legal proceeding and he didn't think it was appropriate to make this presentation during the Commission hearing. **Mr. Jones** stated that he would make the presentation to Goodwill at a later date in a different venue.

#### ADDITIONAL COMMENTS FROM STAFF

**Keith Jones** responded to tonight's testimony:

- Condition of approval for full engineering plans. The only public improvement that would be constructed is the 35-foot sidewalk. **Brion Barnett** stated that any work that is in the public right-of-way will require a right-of-way permit. An engineer plan would need to be submitted for review. It's 35-feet of improvements. The plan review is still required and they must be approved prior to construction. This is standard procedure.
- R-2 pallet sign. The sign came out in the traffic study and that is why staff is recommending that it be removed; it is a problem. **Gary Firestone** stated that he concurs with staff's position that if it is a site obstruction problem, it is on the site for which the application is made for. It can be resolved by a condition of approval.
- Amend the condition to allow insurance as a way of indemnifying the city and the railroad against not upgrading the crossing. Staff does not support that; they feel the improvement needs to be done; this will have to be worked out between the applicant and ODOT.
- Consideration of a formal agreement outside of the land use process. Staff is not going to support something that is outside of the code that they will have to enforce. Employees from the City of Portland and the City of Milwaukie won't come out and enforce a condition on 17<sup>th</sup> Avenue, a collector street that is designated for truck traffic. It is entirely up to the Commission whether they want to honor that and the applicant's good will if they want to agree to a condition of approval.
- Hours of operation. This is a manufacturing industrial zone. There is a transitional area provision in the code so there may be some code authority for that. This is a manufacturing zone; there is going to be truck traffic going in and out of the site.
- Use of the site. The site meets the zoning requirements because more than 25 percent of the applicant's proposal is a warehouse distribution. Less than 75 percent of the applicant's proposal is retail. It meets the manufacturing definition under the

- code. The NILUS Study is reviewing amending the code to allow very limited retail and to allow professional office as done in the International Way area of town.
- Pedestrian Issues with Connections and Access. These are not requirements in the city code; the applicant has shown a route from the entrance to the public way. Staff finds that this route meets the code requirements. The applicant can address that further.
  - Signage. The signage falls within the requirements of the city sign code. 20 percent of the elevation is needed for the fascia sign in the industrial zone. He is certain the applicant can put a free-standing sign on the corner as long as it is on their property and not on the railroad easement.

**Mr. Jones** stated that he has contacted the City of Portland to discuss the three-bridges project. They are unclear about what they are going to do with the unimproved right-of-way for 18<sup>th</sup> Street, but they plan on widening the sidewalk with a pedestrian signal. The trail will cross the railroad and follow the right-of-way down and hook up with the existing trail and then go into Portland along the west side of the river. Potentially some of these issues might be addressed with the Three-bridge project because of the lighting and proposed pedestrian crossing. The applicant has been conditioned for when they are updating the railroad crossing that there be a way for pedestrians to get across the railroad crossing as well. Hopefully this will prevent people from walking down the railroad tracks. Staff believes the applicant has addressed the variance criteria because of the retaining wall and the easement difficulty.

Intersection at 17<sup>th</sup> and Ochoco. **Brion Barnett** stated that jurisdictionally since part of the intersections are Portland, the city has to work closely with them and staff opinion and estimate of the usage is that at this time, even with the added Goodwill site, the usage is likely not going to be high enough to warrant the improvements just based on pedestrian usage for the signal. In working closely with Portland, there is going to come a time where it is going to be necessary. A signal is definitely the direction the city is going, it is staff's opinion that we are not there yet.

**Mr. Barnett** stated that the frontage has some challenges and the reason we didn't require them to build the actual improvements on 17<sup>th</sup> Avenue for the entire length of what they are occupying (640 feet) is because there is no city storm system available right now to connect to, except for a mainline all the way down on Milport.

The proposal that was put on the table did have a bio-swale in between the actual paved surface and the curb surface which would be impossible for the street department to actually maintain via sweeper. If the improvements were put in as they stand today, it would be directing all the storm water runoff at a concentrated point. Staff has recognized the need and they have asked for the funds in lieu of so they are positioned to apply for other grants and work with other jurisdictions and install the improvements as part of a larger project.

Related to Improvements on Ochoco Street, staff concurs with Kittelson in their report, that because of existing rail-line and the existing curb to curb width and because this is an area that serves industrial traffic and truck traffic, the safe turning movements for trucks onto that street prohibit making the curb-to-curb width on Ochoco to narrow. If a sidewalk is constructed, there wouldn't be a safe turning movement with the trucks anymore. Because of the rail-line, staff is in support of the variance.

New Retail Component of the Site. There were concerns expressed that there is going to be extra pedestrian use generated. Mr. Barnett asked that the applicant address the pedestrian numbers that were found when they studied the intersections and what they noted about the level of use and estimates of the expected level of use and how that ties into the need for public facilities.

Truck Traffic. The city would not support trying to impose a turning restriction because there are some issues that are in the City of Portland jurisdiction. People have noted that turns are being made that aren't currently allowed by signage, however, Milwaukie does not have the ability to enforce laws that are not in their jurisdiction.

#### QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Bresaw** asked about the reasoning for making the improvements now versus the fees in lieu of. **Mr. Barnett** stated that part of the discretion that the Engineering Director has in determining whether it's appropriate to have someone build the improvements now versus get funds in lieu of depends on the likelihood of the city being able to connect to adequate facilities. In this case, since the nearest storm-line to the south is Milport and to the east quite a ways down, it is not reasonable to expect someone to construct that improvement just to supply that site. The city envisions the improvements happening as part of a larger project. It is in the transportation system plan to have sidewalks on 17<sup>th</sup> all the way from Ochoco south; this could be done as part of a larger project. The storm water would be taken care of at that time. The funds in lieu of that is requested includes provisions for Goodwill to pay for two catch basins and it is recognized that this is their contribution to what will eventually be full improvements including a storm main down 17<sup>th</sup> that the city will connect to in the future.

**Chair Hammang** stated that there does not appear to be a holistic approach to dealing with this intersection. As someone that goes by that intersection everyday, he shares the concerns of those who have testified. He is not comfortable with the way that is planned.

**John Gessner** asked what the city can do better for the purpose of this application? The Commission can direct staff to come back with additional information. There is an option to continue the hearing if the Commission does not feel they have sufficient information to decide the issue. There is time on the application to gather more information.

**Mr. Gessner** stated that staff has suggested the transitional area review as a potential means for evaluating off-site impacts. In this case, the transitional area review section applies. If this were a major redevelopment or a new application, then there would have been the possibility of transitional area review. The intent of that code is to require Commission review of projects within 100-feet of a residential zone. He asked Mr. Firestone for his opinion if territory outside the City of Milwaukie still benefits from the same transitional area review of projects within 100-feet of residential zones.

There has been a lot of testimony tonight about pedestrian concerns. There aren't standards for on-site pedestrian facilities in the manufacturing zone. There are requirements in the parking regulations for a dedicated connection between the public right-of-way and the front of the building so that there is a safe means of access from the street. The site plan provides that safe means, but it is a great distance from the intersection. Manufacturing regulations are very permissive to the advantage of the developer or business; the city doesn't have that allowance. There are requirements to evaluate pedestrian impacts under the transportation regulations; specifically an adequacy requirement that says that a full range of transportation improvements have to be made adequate at the time of development. Given the amount of testimony, the Commission could invite the applicant's traffic engineer to speak on this matter; however, it would require re-opening the public hearing for rebuttal testimony.

Because this is a change of use, the landscaping and storm water facilities only kick in at the time of new development. The city doesn't have the code authority to require the landscaping, even though it would be a great thing for that corner. The same thing is true for storm water management.

There was a question from the audience about funds in lieu of actual construction for improvements along Ochoco Street. **Mr. Jones** stated that there are three criteria in the code to vary transportation standards; the exception process, an adjustment, or a variance. Staff believes that the applicant has addressed and meets the criterion for the variance.

**Chair Hammang** asked which jurisdiction was in authority on the north side of Ochoco by the post office? **Mr. Jones** stated that this is in the jurisdiction of the City of Portland.

**Chair Hammang** stated that because Goodwill has an eclectic product mix, he suspects that they will have a lot of foot traffic from the surrounding neighborhood. He would like to have adequate pedestrian transportation addressed formally in writing.

**Commissioner Borden** stated that she lives south of the subject site and she finds that this intersection is extremely pedestrian unfriendly. When she tries to pull into Waverly, the trucks are pulling out of the warehouse area by Rudy Wilhelm and can't make the turn. If you are at the intersection, you have to back up because they can't make the turn, and they would run into you.

**Commissioner Miller** stated that his biggest concern is that 3,000 visitors per day quote will be using a parking lot that is requesting a decrease in the number of parking spaces from 140 to 135; this does not mesh with the need. If half of the visitors are pedestrian, there has not been any access provided for the walkers.

**Mr. Barnett** stated that there is information in the staff report that elaborates on the planned project with the City of Portland's intent on widening the existing stretch of Ochoco on the north side. They intend to widen it and use it as a multi-use path that would link that intersection to the entrance of the Three-bridges project. The scheduled date of this construction is 2006. The trip generation estimates that were in the actual report by Kittelson were conservative.

**Mr. Firestone** stated that he reviewed the code and he concurs with the Planning Director that the transition area does not apply when there is no change in the building structure.

#### APPLICANT'S CLOSING COMMENTS

Speaking: Lonnie Deffinboff, Deffinboff and Associates, Architecture and Planning, 388 State Street, Suite 840, Salem 97302.

**Mr. Deffinboff** stated that depending on the questions, he may call on Randal Rice, Project Architect; Peter Collins, Facilities Director; or Steve Pfiffer, Land Use Consultant to help with his response.

This is not a new development or redevelopment; it is the occupancy of an existing building. The only new improvements will be landscaping of the parking lot and add 135 new parking spaces over and above what exists today to service the use. A portion of the site will go to retail and it will be within the existing shell of the building; it is occupying less than 20 percent of the total square footage.

Many of the concerns expressed with regard to the intersection, lack of pedestrian connectivity, lack of sidewalk, and many other circumstances, exists today. They are not the result of this project. The result of this project is the SDC fee of \$117,000 which will go towards correcting those kinds of pre-existing system deficiencies and an additional \$60,000+ to put pedestrian sidewalks on 17<sup>th</sup> and improvements to the rail crossing, none of which would occur if this change of use does not go forward.

If this use does not go forward, there will not be any significant reduction in impacts, there will be the existing problem that you have today without the ability to fund many of the new improvements. The 3,000 trips are a total of 1,500 in/out trips per day.

This is not a Fred Meyer store, nor the kind of Goodwill Retail Store where people are coming in and buying a piece-meal item or lost treasure. There are a series of step downs in the Goodwill recycling world. At the end of the day, something that doesn't make it

out of the last retail outlet, at the end of the line is shipped overseas for sale. This is a bulk-sales store, it gathers up the material that is not sold from the traditional retail stores and combines the product in bulk packages and shipped overseas. This is not a use that is particularly pedestrian friendly or bicycle friendly. There is not any significant pedestrian count of any kind associated with this facility because it is not that kind of retail outlet. It is the last chance for something to be bought in bulk.

**Mr. Deffinboff** stated that he understands the concerns about the truck movements and knows that people regularly disregard various movements. They have indicated in a letter to the neighborhood representatives, and they would accept this as a condition of approval without question, that any truck moving or leaving this site be required to make a right turn only down to McLoughlin and not make a left turn at all on Ochoco towards 17<sup>th</sup> Avenue. They cannot control the individual cars or private vehicles that come to the facility. They have no problem with signage of this truck movement.

There is no signage plan yet; he assures the Commission that they have no intention of asking for any kind of a variance or waiver for signage; they will be in compliance with the signage plan as it exists.

With regard to the pallet sign on the corner, he disagrees with legal counsel; they don't control that aspect of the site. They are a tenant and they have limited access and they can only control what they lease (portion of the parking lot and access driveway into the space). They cannot comply with that sign requirement. He is concerned that if the owner of that pallet sign doesn't acquiesce they will be denied a building permit for that sole reason. Secondly, it may be a non-conforming use which predates the sight restriction. This is a serious concern for them; they don't own the site, they are a ground lease tenant on a portion of the site and that is not the portion that they do control.

With regard to Tri-Met, there is a serious deficiency at the existing Tri-Met bus stop. What Tri-Met suggested yesterday is that there be constructed a 35-foot by 8-foot landing pad for the bus and the pedestrians. This is an issue that staff has asked in a condition to construct now and not be the subject of the fee in lieu or waive to a future date. This is something that they fully expect to be required to construct prior to occupancy and will do so.

On page 7 and 8 of the staff report is the city's analysis of the three various criteria. It would be difficult, if not impossible, to put a sidewalk at that location on Ochoco because of the rock-wall connected to the building. Secondly, it would attract pedestrians to an active railroad line which has issues. There are substantial improvements called for over time in the future.

The nature of the retail use is such that they do not anticipate any real pedestrian traffic coming to and from the site. This will be a vehicular store based on their experience. There are no other state sidewalk law requirements.

Any other type of retail in the future would bring this back before the Commission for further review.

#### QUESTIONS FROM THE COMMISSIONERS

**Chair Hammang** asked if there was a narrative that described the operation of the facility. **Mr. Deffinboff** stated that there was not much written because the nature of the retail was not an issue at the outset of the application.

Speaking: Peter Collins, 1943 SE 6<sup>th</sup> Avenue, Portland 97212

**Mr. Collins** stated that he has operated these outlet stores for about 20-25 years. They are the last chance; people who buy products in these facilities are dealers who buy in bulk, dealers who buy to ship overseas, those who run perpetual garage sales, flea markets, consignment stores, etc. Anything that does not sell there is sorted, bailed, and shipped overseas. Last year they had 120 million pounds of donated goods. They are not proud of the facility at McLoughlin and Tacoma Street and they are trying to exit that site for about six years. They are looking forward to upgrading their facility and providing a better workplace for their employees and for their neighbors.

**Chair Hammang** asked if there was a store-front or presentation for the single purchase, walk-in customer? **Mr. Collins** stated that it is all exclusively bulk sales. Everything is on tables, products are taken off the truck and put on tables that are rolled in and rolled out within an hour, and the sales are bulk sales. They average about 700 transactions a day in the facility on McLoughlin Blvd.

**Commissioner Miller** stated that he has been to the McLoughlin site a number of times. He asked what is the difference between him buying at the store there (he doesn't buy very many items) and buying at the store at the Marketplace (where he doesn't buy very many items)? It appears that the same people are accessing the store at the McLoughlin site (because of bus stop) that he sees at the Marketplace. There may be a different group of people, but not a different kind of people. He asked the limit of items that one would have to buy to define the different groups of people that use the bulk store? **Mr. Collins** stated that there is no limit on the number of items purchased at either store. A person can buy one item, but the majority of the customers purchase large quantities of goods.

**Commissioner Bresaw** asked if the product was sold by the pound? **Mr. Collins** stated that the facility that is being vacated is inadequate in size, construction, and the building is falling down around them. The new building is much more modern, more user friendly, much cleaner, and a complete upgrade from the existing building.

**Chair Hammang** asked legal counsel since public testimony has not been closed, do they run the risk of an infinite chain of rebuttal testimony is allowed on the applicant's rebuttal? **Mr. Firestone** stated that the Commission can allow additional testimony on

anything that the applicant brought up that was new, and limit that, and the applicant has the chance to rebut again.

Speaking: Tom Brown, 1625 SE Rural

**Mr. Brown** stated that he has shopped at the existing outlet store more than once and he can think of three things he bought there individually; a little trampoline for \$5, an old wagon for \$3, and some garden tools. This type of retail attracts transients. They will go in there and buy bulk items by the pound and they will go in the parking lot or the neighborhoods and sort their purchase. He is a member of the Johnson Creek Watershed Council and they cleaned up the area behind the existing Goodwill at least three times from transients going into Goodwill and purchasing bulk items and then sorting them in the creek.

To say that this is a last chance and that someone is going to bring their pickup in and purchase stuff by bulk is not true. It is a retail store. Their neighborhood is known as an antique collectable destination and they have curious shopper's everyday of the week looking for items cheaply. So for Goodwill to say they aren't going to attract single-item purchases is not true.

APPLICANT REBUTTLE -- None.

#### DISCUSSION AMONG THE COMMISSIONERS

**Chair Hammang** closed the hearing to public testimony and opened the meeting to discussion of the Commissioners.

**Commissioner Steward** stated that there is nothing to prevent the interested parties sitting down together and saying which of these issues can we resolve, whether it's conformity to the code, or beyond the code. He is very familiar with 17<sup>th</sup> and Ochoco and that is a corner of the city that escapes much of Portland's attention. To wait for Portland to move it will be a long, long wait. This is something that could potentially be addressed between now and the 27<sup>th</sup>.

**Commissioner Miller** stated that there are so many unanswered questions:

- Traffic related issues.
- Number of visitors that are going to visit the site.
- Number of parking spaces that are required for the number of visitors that are going to visit this site.
- Concerns about storm water management because he sees parking lots without any type of process to get rid of oil or other things that will get into Johnson Creek.
- Concerns that the landscaping doesn't meet the code.
- Concerns of what happens to the pedestrian that wants to access this site from the

bus stop. It appears that there is no way for them to access this site, except to go through the gravel or across the railroad tracks.

- How do people who come to this site get there on public transportation?

**Commissioner Miller** stated that all of these things are his concerns about this proposal. In the end he feels this is a good project, however, there are questions that need to be answered. If you wait for someone else to do something about the traffic problem, or the problem of getting across the street, it will happen after someone is injured or killed at that intersection.

**Commissioner Borden** stated that she is also concerned about the pedestrian issue. She has driven up McLoughlin and seen people on foot crossing McLoughlin, climbing over the center barrier to get to the Goodwill. Pedestrians will make an effort to get to the store and they are coming on foot.

**Chair Hammang** stated that there are a lot of unanswered questions and they need to be addressed specifically. The nature of the business has a bearing on the actual usage of the site, whether it will be commercial or large scale.

**Mr. Gessner** stated that staff has taken notes on all commissioners' comments and he will go back and prepare a new staff report. This hearing will be heard either April 27<sup>th</sup> or May 11<sup>th</sup>.

**Chair Hammang** stated that he was not comfortable about the answer about the indemnity versus the railroad. If it were in writing, it would be better. He also feels that there was not a satisfactory response for the pallet sign. **Mr. Jones** stated that staff could drop the condition and enforce the site distance problem; this way they can go to the source of who has the sign.

**Commissioner Steward** moved to continue TPR-04-03 and VR-04-03 to a date certain of April 27, 2004. **Commissioner Miller** seconded the motion. Motion carried 7-0.  
Ayes: Borden, Bresaw, Carter, Crites, Miller, Steward, Hammang; Nays: None.

#### 7.0 WORKSESSION ITEMS -- None.

**Commissioner Miller** asked how this continued hearing would affect his resignation, since tonight was suppose to be his last night? He stated that he would be happy to serve on his issue because it is continued. **Gary Firestone** stated that it would depend upon whether the resignation was accepted.

#### 8.0 DISCUSSION ITEMS

9.0 OLD BUSINESS

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director -- None.

11.0 NEXT MEETING -- April 27, 2004

11.1 CSO-04-02/TPR-04-04/VR-04-04 – Ed Parecki for the Waldorf School

11.2 Cell Tower Code Change Discussion Item

**Mike Miller** moved to adjourn the meeting of April 13, 2004. **Brent Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:11 p.m.

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Donald Hammang, Chair

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Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, APRIL 27, 2004

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Teresa Bresaw  
Brent Carter  
Brent Carter  
Rosemary Crites  
Mike Miller  
Howard Steward  
Judith Borden

**STAFF PRESENT**

John Gessner,  
Planning Director  
Keith Jones,  
Associate Planner  
Gary Firestone,  
Legal Council  
Shirley Richardson,  
Hearings Recorder

**COMMISSIONERS ABSENT**

None

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None.

4.0 INFORMATION ITEMS -- City Council Minutes  
City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT

Speaking: David Ashenbrenner, 11505 SE Home Avenue

**Mr. Ashenbrenner** stated that he is the chair of the Hector Campbell Neighborhood Association. He stated that he wanted to address a concern that has shown up recently in his neighborhood. There are lots in Milwaukie that are 2,000 sq.ft. or smaller that people are finding and combining to build 5,000 sq.ft. lots and building houses on them. There

is an instance where four lots were found (2,500 sq.ft.) and made into two 5,000 sq.ft. lots and they proceeded to build a house on them; one pre-existing house and one new house.

The garage had to be taken out on the pre-existing house and moved it in front of the pre-existing house. Now you see a garage first and then the house. He has been informed that this can happen (same size lots) in an R-7 Zone. Originally he thought his was an R-7 Zone; however, it's not, it's an R-5 Zone.

These pre-plotted lots can be combined to make a 5,000 sq.ft. lot in an R-7 Zone. He does not want to see this type of thing happen. He is frustrated because he was not notified, as the chair of the land use committee, that this was going on until the construction was started.

**Mr. Ashenbrenner** asked that when there is new construction in the neighborhood (a new house being built), that the neighborhood associations are informed. This way he can be informed and answer questions about what it going on in the neighborhood.

He would have objected to the garage being built in front of the house had he been notified. The issue of combining of small lots needs to be addressed by Planning. It is not good development to have garages in front of homes and suggests that a standard be drafted that prevents garages in front of houses.

**Chair Hammang** asked if small lots can be combined and new construction put on them? **John Gessner** reported that Zoning Ordinance Section 412 is all of sudden getting a lot of action as city reaches full build out, property owners and developers are looking for new opportunities.

There are many properties that have been built at a 10,000 sq.ft. standard, but those properties are comprised of four 2,500 sq.ft. lots. This zoning provision does compromise the limited lot size requirements in R-5, R-7 and R-10 Zones.

This provision was adopted during the 60's to protect lots that were previously platted by subdivisions. The policy question before the commission is whether the safety net is set at the right level - 3,000 sq.ft? A legally platted lot or combination of smaller lots can be developed at 3,000 sq.ft.

Another policy question, in terms of urban design, is whether it is appropriate to have garages constructed in front of homes that have a streetscape effect.

In regards to the issue of notification, Mr. Ashenbrenner has asked that staff review this in the past and they will try to take another look at it to see if they can put filters into the type of notices provided.

**Commissioner Miller** asked how lots can be combined without a zone change? **John Gessner** stated that there are two types of lots; the platted lot (the way it was created by

subdivision/deed description) and the tax lot (combined for tax purposes). Statutes protect those originally created lots from future zone changes. It is a matter of buying and selling property; there is no public process needed for that.

**Commissioner Carter** asked if the combining of these lots affect the city tax revenues? **John Gessner** stated that tax revenues are collected based on real market and assessed market evaluations. The dividing of the lots by ownership, in some cases, can increase the tax value to the city.

It was the consensus of the Commission to have staff review the available lots in the city that could be affected by this combining of lots to protect the existing character of the street scape .

#### 6.0 PUBLIC HEARINGS -- None.

Applicant: Peter Collins for Goodwill Industries  
Owner: Helco Distribution Center/Joseph Tennant  
Location: 1750 SE Ochoco  
Proposal: Applicant is requesting approval of a Transportation Plan Review and a Variance to renovate 106,048 sq.ft. (30%) of an existing 352,425 sq.ft. industrial building. The renovated space will be used for a retail and distribution facility.  
File Numbers: TPR-04-03/VR-04-03  
NDA: Business Industrial – Neighboring Historic Milwaukie

This Hearing is continued from April 13, 2004.

**Chair Hammang** re-opened the minor quasi-judicial hearing for Community Service Overlay CSO-04-02, Transportation Plan Review TPR-04-04, and Variance Request VR-04-04 to allow consideration of a Transportation Plan Review and a Variance to renovate 106,048 sq.ft. (30%) of an existing 352,425 sq.ft. industrial building. The renovated space will be used for a retail and distribution facility. The criteria to be addressed can be found in Title 19.314 - Manufacturing Zone; Title 19.500 - Parking and Loading; Title 19.700 - Variances; Title 19.1011.3 - Minor Quasi Judicial Review; and Title 19.1400 - Transportation Planning Design Standards and Procedures.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 4 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

## STAFF REPORT

**Keith Jones** reviewed the staff report with the Commission. The materials submitted for this application to date are:

- 4/27/04 Staff Report
- Applicant Response to 4/27/04 Staff Report
- 4/23/04 Staff Report
- Letter from John and Kay Meyers (citizen), April 26<sup>th</sup>, with photos
- Email containing optional conditions of approval from neighborhood residents
- Form with findings and three conditions, revised by himself, the applicant, and Gary Firestone

Tonight staff is looking for the Planning Commission to make a decision on Adequacy (Section 19.1407); Rough Proportionality (Section 19.1408) and Mitigation (Section 19.1408.4).

Within the review the following traffic needs were identified: Ochoco Street (Variance), bus stop on 17<sup>th</sup> Avenue (New Sidewalk), pedestrian access to the site (on-site) and new railroad crossing at the site entrance (applicant to pay costs). Other issues raised by the neighborhood were pedestrian access to the site for 17<sup>th</sup> Avenue (steep slope), signage (proposed conditions); and truck traffic on 17<sup>th</sup> (proposed conditions).

In summary, there is a finding on the railroad issue that the applicant has agreed to pay for the cost, submit the application and meet all state laws and requirements. The railroad crossing must be approved before occupancy of the building. The applicant will pay for the administrative costs and construction costs of the railroad crossing.

The hearing was continued to meet the terms of the 120-day time limit; another continuance would work with getting it on an appeal to Council. Staff recommends approval of the application with the conditions as stated in the April 23<sup>rd</sup> memo (Attachment 3 with revised finding).

Speaking: Brion Barnett, Engineering Department, City of Milwaukie

**Mr. Barnett** stated he wanted to review some of the questions in the April 23<sup>rd</sup> report.

1. Can a curb, gutter, or sidewalk be constructed in a right-of-way on the south side of Ochoco Street? Staff has reviewed the applicant's response from a technical standpoint. They feel it is sound and agree with the applicant; it is not feasible to install the improvement due to the restriction caused by the existing railroad line.
2. Mid-block cross on 18<sup>th</sup> Street. Staff has reviewed the applicant's response and agrees the expected level of use by pedestrians is not high enough to warrant striping an actual crosswalk for the pedestrians.

3. Options for \$17,000 in improvements. The warrants and other potential improvements at that intersection have been reviewed by the city and agree that while a warrant is met for a signal there, there is not really a need; a signal is not necessary at this time based on the capacity of the intersection.
4. In terms of the actual turn lanes that were noted; a southbound turn lane on 17<sup>th</sup> that would go eastbound on to Ochoco is in the City of Portland's jurisdiction and they have indicated that they do not support a turn lane there because of insufficient width in between the existing curb to curb roadway in the Portland jurisdiction. In the City of Milwaukie jurisdiction, which would be a northbound turn lane right, east onto Ochoco, the city agrees with the applicant that there is existing capacity in that turn movement and that the accident history doesn't support installation of a turn lane at this time.
5. In response to the illegal maneuvers that sometime happen, northbound right onto Ochoco Street, the city has reviewed the applicant's information and they suggest the installation of a median there between traffic. The placement of a median would restrict movements that would be a detriment to the operation of Ochoco Street. Milwaukie does not think it is a good thing to restrict that movement because it is open to the general public on Ochoco Street.
6. Staff has reviewed the applicant's response to pedestrian access issues regarding on-site connection to 17<sup>th</sup> Avenue and due to their analysis showing the grade in between 17<sup>th</sup> and the site, an ADA ramp would not work with the existing length. Steps could be constructed, however, the actual ADA compliance would be difficult. Staff agrees with their reasoning. The connection from their on-site facility to the public right-of-way on Ochoco Street would be made with a widened railroad crossing. The width would be sufficient to allow for their on-site sidewalk to progress from their private side out into the right-of-way. That meets the requirements of the code.
7. Staff feels it is a great good will effort for the applicant to say they are going to restrict their trucks, vendors, and employees to direct them out of the driveway access on Ochoco and head right onto McLoughlin; however, it would be difficult to enforce that from a regulatory side. Once the vehicles go out into the right-of-way onto Ochoco, it is not Milwaukie's jurisdiction to enforce.

Speaking: Elizabeth Papadopolis, City of Portland

**Chair Hammang** asked if Portland has any plans for their side of the street? Ms. Papadopoulos stated that the only project she is aware of that the city has projected is providing a pedestrian and bicycle crossing as part of the Springwater Corridor. That should be happening in the next few years. They are in the very early stages; it is not fully funded at this time.

There is nothing specifically planned for that intersection. If people have safety crossing issues, they can contact the traffic investigations units. Those issues are reviewed and if they find there is an issue they can be addressed, they will effect changes. Traffic Investigation business cards will be left with staff.

**Commissioner Bresaw** asked if the City of Portland has the same considerations for mid-block crossings? **Ms. Papadopolis** stated that a warrant may be a reason to look at an analysis. When the situation does not meet warrants there is a safety issue associated with implying to a pedestrian that this is a good place to cross. As soon as you starting putting markings down, people let their guard down. They see some markings and they think this is the place for them to cross. Vehicle drivers aren't expecting pedestrians and this creates two groups that are not paying attention. The City of Portland is very cautious about putting in cross walks when they aren't warranted or they see that there are operating or safety issues.

**Commissioner Miller** voiced concern about letting people go off on their own, rather than a safe crossing for this use. **Ms. Papadopoulos** stated that she couldn't speak to the specifics of this location. Generally speaking, when they have crossings at intersections, drivers are more likely to anticipate them there. Sometimes a mid-block crossing can be safer if there is a long distance and people can see what is going on. The driver needs to stop and they find that behavior to be less common when there is a mid-block crossing. There is more compliance with drivers when it is at an intersection.

CORRESPONDENCE -- None.

#### APPLICANT PRESENTATION

Speaking: Steve Pfiffer, 1127 NW Couch, Portland 97204

**Mr. Pfiffer** stated that they provided staff with their written response to the questions that were raised at the last hearing. Also included was additional proposed condition language in an email today which flows from discussions both during and after the last meeting and a meeting with neighborhood residents on Sunday. These four conditions relate to the signage program: (1) The signage lighting condition (anticipated signage); (2) signage lighting conditions –turn off at 9 p.m. until 5 a.m.; (3) eliminating and directing vendors, not having trucks turning left leaving the site (employees included) and (4) crossing improvements will be made; they are working with staff to provide an adequate solution.

The only remaining condition is 3(G) which relates to the pallet sign being removed. They have no control over the sign; it is not subject to their ground lease. It was mentioned at the last meeting that it would be dealt with as an enforcement issue; however, it remains in the conditions. That is the only concern they have with the conditions; the rest of them are fine. They welcome adopting the other three conditions, if not will keep promise with neighbors. **Mr. Jones** apologized and stated that the condition will be dropped.

**Commissioner Miller** asked how will people from the bus stop would be accessing their retail building? **Mr. Pfiffer** stated that there will be a pedestrian way from the front door

to the pedestrian crossing. It is clear from conversations with ODOT Rail that they will have as part of that crossing a pedestrian crossing over the tracks. At that point it becomes difficult, if not impossible, to put a connection on the south side of Ochoco. Any traffic that exists will be on the north side to the existing sidewalk crossing at Ochoco and 17<sup>th</sup>.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR – None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

Speaking: Tom Brown, 1625 SE Rural, Portland 97202

**Mr. Brown** stated that he has read the staff report and the information provided by Goodwill as of Monday. As he read the information, what kept popping into his mind is how hard and dangerous it is to get to the site. Both the staff and Goodwill describe it as dangerous for pedestrians. The information is persuasive in describing why sidewalks cannot be built on Ochoco.

When he compares this site to other retail sites, there is no other one that has a railroad running in front of them and also through the parking lot. If this plan is approved, he would hope that Goodwill would do more on the corner of 17<sup>th</sup> and Ochoco to improve the site. The existing corner is a gravel parking lot. He suggests that landscaping be installed with big trees, signs put up that directs pedestrians where to cross the street, and barriers put in place so people cannot walk down the gravel as it exists now.

**Mr. Brown** voiced concern about the site and area for the future. As more manufacturers and distributors move in, will there be more Commission hearings to monitor how this area changes over the years. He asked if this is the last time they have an opportunity to improve the access to the site? He suggested that a ramp or stairway system from Ochoco to the site. If Goodwill is willing to spend money, I would hope that they would want this to be as successful for everyone as possible. The applicant is down-playing how many pedestrians use the existing facility on McLoughlin, but this is a different neighborhood and it will attract more pedestrians; especially when the Springwater corridor is built because it will be a pedestrian/bicycle magnet and a destination for shoppers.

He hopes that in the future Milwaukie has storm water management facilities in this area, especially if the City of Portland uses a dry well and an on-site storm water management system to manage parking lots now.

He did not get informed about the neighborhood meeting on this issue. He does not feel cost is a reason not to have to do the right thing. To build a ramp and stairway system from 17<sup>th</sup> to their parking lot can be done. Goodwill is inviting the public to their facility to spend money and they are not providing full access; they should be required to.

Another thing he did not see addressed in the report was adequate street lighting. There is going to be a problem accessing this site and he hopes that the Commission requires Goodwill to do a traffic study in the future after the site is opened to see how the site has changed. Maybe then if there is enough change, the Commission would require a signal at 17<sup>th</sup> and Ochoco to get people across safely. There is three blocks from the bus stop to the applicant's front door.

#### ADDITIONAL COMMENTS FROM STAFF

**Keith Jones** stated that there is no requirement that the gravel lot on the corner be landscaped. The applicant will be cutting and installing about 5,600 sq.ft. of pervious area and meeting the landscape requirements for the parking lot landscaping. There is no provision in the code saying that they have to treat impervious storm water. There will be more pervious area by adding landscaping.

Although it would be desirable to have a connection from the building to 17<sup>th</sup> Avenue, the code requires that there is a connection to the nearest street (Ochoco). When the rail crossing is re-done, they must provide a pedestrian crossing. There will not be a cross walk at that location.

**Brion Barnett** stated that the City uses IEE standards for adequate lighting. The Planning Code also has standards that must be met for on-site illumination. If there is a deficiency to that standard, the City would advocate for increased lighting at that location.

**Commissioner Miller** asked if Tri-Met is responsible for lighting at the bus stop? **Brion Barnett** stated that this is Tri-Mets responsibility; however, the City has a vested interest in making sure adequate lighting is there.

**Commissioner Miller** asked why the bus pad was shortened from 40-feet to 35-feet? **Brion Barnett** stated that the only reason for shortening the bus pad is that at the 35-foot point, there is a low point on both sides of the pad. If it were extended the full 40-feet, it would result in a situation where there would be puddling between the new sidewalk area and the bus stop; it was done to prevent pocketing of water. **Brion Barnett** explained that there is 25-feet from the back door to the back of the bus. It was felt that ten feet would be enough of a buffer to catch the rear people coming off the back of the bus.

Speaking: Richard Samuals, Post Office Box 22548, Milwaukie 97625

**Mr. Samuals** stated that he is the owner and general manager of the Oregon Pacific Railroad which was previously the Portland Traction Company. He had not considered the problem of people walking from 17<sup>th</sup> to the site because he has been busy with the crossing project.

He can see that there will be a problem. He is sure there will be people who will not walk across the street. If there is any way that they can accommodate a ramp along their right-of-way, they would be willing to cooperate. There cannot be a fixed object closer than 8-feet, 6-inches from the center of the track. The Springwater Trail is a good example of that (fence separating the trail). If there is a way they can provide pedestrian access on the south side of the track it would have to go down a ramp. They would be willing to cooperate there.

**Mr. Samuals** stated that he would like to see signage directing people not to walk down the track and to go across the street and cross. The crossing that will be installed involves ODOT Rail who requires that it be a public crossing that they have control over. Improvements to private crossings are paid for by the industry; improvements to public crossings, the railroad is responsible totally for the maintenance of the crossing between the rails and two-feet outside the rails. They will not put in crossing gates because they will not work. Two flashing light units will be installed on the south side of the tracks with extra heads in different directions to warn people of a train coming.

**Mr. Samuals** stated that his company is absorbing about a third of the cost of the crossing just as a maintenance item. Goodwill is going to pay to signalize the crossing and pay for the new crossing panels.

**Commissioner Bresaw** asked Mr. Samuals to review photos that she received in a letter received tonight regarding Pedestrian Use Concerns for the Goodwill Industries Project done by John and Kay Meyers (Page 5 and 15). **Mr. Samuals** stated that it appears there might be room to put up a low fence and some sort of ramp. His concern would be of people walking across the spur that goes into the industrial park.

If access could be provide, Mr. Samuals stated that he would be in favor of it because it would eliminate the liability of people walking down the track.

Recess was taken at 7:47 p.m. and the meeting reconvened at 7:57 p.m.

**Mr. Samuals** addressed the ramp issue with the applicant and it was found that a ramp will not work.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

## APPLICANT'S CLOSING COMMENTS

Speaking: Steve Pfiffer, 1127 NW Couch, Portland 97204

**Mr. Pfiffer** urged that the Commission think of this application in terms of a retail store; an outlet store where there are bulk sales and materials sold by pound. Most of the customers will come in vehicles to purchase. He doesn't believe you will see activity to warrant a stairway. There is an established pedestrian connection; the pedestrian network is in place. Anyone willing to walk down the steep slope would walk that direction anyway. Depending on what location we are talking about, he feels that an ADA approved ramp would be more significant than a stairway.

**Commissioner Miller** asked if more people will be accessing this site than the existing site? There is a lot of people coming and going from McLoughlin to the store.

Lonnie Dieffenbaugh, Suite 840, Portland 97302

**Mr. Dieffenbaugh** stated that they considered constructing a ramp from 17<sup>th</sup> Street & Ochoco to meet ADA standards. It was found that this was not feasible.

The applicant agreed that a sign would be put up directing pedestrians across the street. They are also agreeable to a condition of a fence being erected along the triangle. Staff will draft conditions to address these issues.

## DISCUSSION AMONG THE COMMISSIONERS

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

**Commissioner Miller** stated that he felt the fence was needed for the pedestrians. There needs to be a way for the walkers to get to the site. Most people will go the shortest distance; not the safest way. This access should be corrected before the store is open so that everything is in place; the pedestrian is number one.

**Commissioner Crites** suggested a barrier where crossing would be most dangerous, other than that there is nothing that can be done.

**Gary Firestone** read the two conditions of approval that had been drafted:

1. Condition requiring that prior to final occupancy the applicant shall work with Tri-Met and install signage at the corner of Ochoco and 17<sup>th</sup> to direct people to Ochoco.
2. An additional sign shall be placed stating that the south side of the street is closed to pedestrians.

**John Gessner** reviewed the changes to the staff report.

**Commissioner Carter moved to approve Applications TPR-04-03 and VR 04-03 adopting the findings and conditions as outlined in the April 23<sup>rd</sup> staff report including Conditions 1, 2 and 3. And, adding the findings as presented tonight and the two conditions prepared by staff at tonight's meeting. Further, deleting the condition requiring that the sign be removed. Commissioner Steward seconded the motion. MOTION CARRIED 6-0.**

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

- 6.1 Applicant: Ed Parecki  
Owner: The Waldorf School  
Location: 10190 SE 37<sup>th</sup> Avenue  
Proposal: Applicant is requesting approval of a Community Service Overlay, a Transportation Plan Review and a Variance to renovate a single family residence to use for a kindergarten for approximately 30 children and 4 teachers that would operate Monday through Friday 8:30 a.m. to 1:00 p.m.  
File Numbers: CSO-04-02/TPR-04-04/VR-04-04  
NDA: Ardenwald

**Chair Hammang** opened the minor quasi-judicial hearing for Community Service Overlay CSO-04-02, Transportation Plan Review TPR-04-04, and Variance Request VR-04-04 to allow consideration of a kindergarten for approximately 30 children and 4 teachers. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 302 - Residential Zone R-7; Section 700 - Variance Exceptions and Home Improvement Exceptions; Section 1011.3 - Minor quasi-Judicial Review; Section 1400 - Transportation Planning Design Standards and Procedures; Milwaukie Land Davison Ordinance Section 17.12 - Application Procedure and Approval Criteria; Section 17.16 - Application Requirements and Procedures; Section 17.20 - Preliminary Plat; Section 17.28 - Design Standards; and Section 17.32 - Improvements.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? **Commissioner Crites** stated that she would not be participating in this hearing because of a conflict of interest. There were no other conflicts of interest or ex-parte contacts declared. **Chair Hammang** asked if any member of the Planning Commission visited the site; 6 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

**John Gessner** reported that he met with the neighborhood association and had gotten some feedback and thought it was in the best interest of their proposal to redesign the parking lot to eliminate the need for variances. At that time it was requested that there be a continuation of the application. Staff agreed to the continuation subject to the receipt of

a revised site plan and revised application narrative and other materials necessary to demonstrate intent. This would allow staff to treat the application along a different timeline. The materials were not received in a timely matter and when it came time to write the staff report, it had to be based on the application that was in-house at that time.

The ability to preserve the maximum amount of time for public and Council review would have been compromised had staff not take the action of preparing the recommendation for denial. The recommendation is credible based upon the quality of what was submitted. Staff had conversations with the applicant's attorney today and identified conditions under which they would be comfortable recommending the Commission accept a request for continuance. Staff has not received word from the applicant on the continuance so they are proceeding with the application that is before the Planning Commission tonight.

**Keith Jones** reviewed the staff report with the Commission. Ed Parecki is the owner, however, the Waldorf School will be taking over the site on 37<sup>th</sup> Avenue and moving two kindergarten classrooms into this existing single-family home.

Staff does not find that the applicant's parking lot proposal meets the variance criteria. There are approximately 30 students proposed to attend this kindergarten. The applicant has requested a variance to the paving material; they want to do a gravel surface as opposed to the pavement as required by code.

No parking lot lighting is proposed; it is a requirement of the code. The on-site sidewalk is proposed to be reduced from 5-feet to 4-feet and the landscaping width will be reduced to 8 feet. The parking code requires that the driveway entrance into the site be 8-feet with landscaping on one side, the driveway and 8-feet other side. The existing driveway is on one side of the access point; the applicant wants to limit that to 3-feet.

One of the requested variances is to reduce the driveway from 24-feet to 12-feet. Staff has found that a 20-foot driveway would be adequate. Staff does not believe the applicant has demonstrated compliance with the variance criteria.

The applicant has applied for a side-yard setback variance. In a school, under the Community Service Overlay, there is a requirement for a 20-foot setback. The existing house is at 8-feet. Staff has not found that the applicant has addressed the variance criteria. Staff is recommending denial.

#### CORRESPONDENCE

**Keith Jones** reported that a letter was received from Dorothy Snowhill dated April 26, 2004 and it was submitted to the Commissioners. Attached to the staff report is a petition that was circulated and with signatures that are in opposition to this application.

#### APPLICANT'S PRESENTATION

Speaking: Ed Parecki, 10190 SE 37<sup>th</sup> Avenue

**Mr. Parecki** stated that he owns the house (subject site) and he does not own the Waldorf School. He is here tonight to request a continuance to the May 25<sup>th</sup> planning date on grounds that they have submitted a revised plan that was never received by planning commission. They were asked to submit a plan and it was dropped off at the office of the Planning Department and apparently was not received.

The applicant stated that they had everything ready to attend the May 11<sup>th</sup> meeting, however, as a goodwill gesture they extended it to the 25<sup>th</sup> to allow the neighborhood association to look at the revised plan. This resulted in eliminating all the variances that were proposed in the original plan except for the 8-foot setback, which they have no control over where the existing house sits.

**Mr. Parecki** asked for a continuance to May 25<sup>th</sup> date to give both the neighborhood association and the planning department a chance to look at proposed narrative. He is willing to sign a waiver to allow time for continuance.

**John Gessner** stated that staff did receive a modified site plan, but there was no accompanying narrative that also revised the application. Without revising the narrative, staff believes that the applicant still would not have demonstrated compliance with the one remaining variance criteria regarding the required community service overlay setback.

The other issue that is yet to be resolved is that the parking lot is not large enough to accommodate the peak period drop off and pick ups for the number of students that are being proposed. Without having materials in hand that would assure the neighborhoods, staff, and the Commission that the 25<sup>th</sup> is a date staff can actually meet, he is reluctant to recommend the Commission accept the request for the continuance. Staff does not know when the information will come in, what quality it will have, or what other work will be in house competing for May 25<sup>th</sup> timing.

The applicant's attorney had implied that the prior request for continuing the public hearing had an inferred request to suspend the 120 day clock. Staff did not receive an expressed authorization to waive that time period. Without that in hand, staff is assuming the 120 clock is still running; that leave 14 more calendar working days to the 60-day mark when they try to have the application decided by the Planning Commission.

Mr. Parecki's attorney today was told that there could be an open-ended continuation of the hearing to a date uncertain and that the 120-day clock would be waived retroactively from April 13<sup>th</sup> until the day the application was deemed complete.

**Mr. Parecki** stated that they do have in-hand the narrative that staff is asking for. They would like to present it so it can be used to start whatever work they need to do. This

narrative excludes any variances except for the Community Service Overlay for the setback requirement and it is addressed in this document.

**Chair Hammang** asked if the applicant is amenable to extending the 120-day rule? **Mr. Parecki** stated that they are under a timeline where they need to begin work on the required parking lot as soon as possible in order to meet an opening school date in September. Every time they push date forward (second time) and they agree, they lose time at the other end. If they don't get approval by May 25<sup>th</sup>, they need to move on and make other plans.

**Commissioner Bresaw** asked if the Community Service Overlay can be done separately? **John Gessner** stated that he would recommend that the application be heard all at once.

**Mr. Parecki** stated that there has been a miss-communication problem between him and the Planning Department. On April 16<sup>th</sup> he spoke on the phone and agreed to continued this to May 11<sup>th</sup> with the condition that a new plan and narrative be submitted. No deadline was given on these documents. On April 19<sup>th</sup> he met with Keith Jones and discussed ways to change the plans so they would meet code and requirements. They were not told at that meeting that there was a deadline of April 19<sup>th</sup> at 4:00 p.m. On April 20<sup>th</sup> he was told that it is too late and the application will be presented to the Planning Commission as is. He finds it interesting that the Commission is accepting testimony and e-mails at the last minute from Goodwill and they won't accept their testimony that was submitted a week ago.

He needs help and he is asking the Commission for help. They would like to proceed as if they have a successful project. They have been addressing neighborhood concerns; everything that was brought up as a concern, they have been able to address with this new plan. This plan has been submitted to Mr. Gessner and he would like to have it presented to the Commission. On May 11<sup>th</sup> they will meet with the neighborhood association once again, represent their plan and review the revisions.

**John Gessner** stated that he disagrees with Mr. Parecki's representation of his communications with him. Gary Firestone has mentioned that there is an option for the Commission; staff can specify a deadline by which materials can be submitted to preserve the May 25<sup>th</sup> hearing date. Staff is reluctant to do this because it is not just a matter of what is submitted, but its quality and the level of additional internal review that must be completed. The applicant must provide an open-ended continuance to a date certain wherein the clock will start on the date the application is made complete retroactive to April 13<sup>th</sup> or the Commission needs to take action tonight.

Speaking: Diane Rawley, 122 SE 62<sup>nd</sup>, Portland

**Ms. Rawley** stated that they have with them the narrative that was requested and it is the narrative that was already accepted in their package. Previously they had a package that was given to staff that was approved and accepted. The only thing that has changed is

that they have taken out the variance. She sees no reason why this can't be accepted again. The proposed site plan that was changed was in hand and being discussed with Mr. Jones on the day of the deadline and there was no understanding that this was the deadline. No one told them that it was a deadline until the day after they would have submitted it then had they known.

**Chair Hammang** asked if the applicant was amenable to having the May 25<sup>th</sup> hearing and granting the waiver of the 120-day rule? **John Gessner** stated that staff must issue the staff report a week in advance of the hearing; the final staff report must be done May 18<sup>th</sup>. Administrative staff needs to have the information to them by May 14<sup>th</sup> to allow time to do the photocopying and distribution. Staff has a deadline of 20 days before the hearing to conduct engineering review. Neighborhoods and internal departments will need two weeks to review the plans.

**Mr. Parecki** stated that they are in favor of extending the 120-day clock to a date certain of June 8, 2004. If staff has completed their internal review, he would prefer that the hearing be continued to May 28<sup>th</sup> for purposes of scheduling.

**Commissioner Miller moved to continue CSO-04-02/VR-04-04 and TPR-04-04 to a date certain of June 9<sup>th</sup>. Commissioner Carter seconded the motion. MOTION CARRIED 6-0.**

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

## 7.0 WORKSESSION ITEMS

### 7.1 Affordable Housing

**John Gessner** reported that about nine months ago staff originally brought the Title VII reporting requirements before the Commission and what they have on the existing books as far as the Comprehensive Plan and Ordinances in support of providing and retaining affordable housing. There are seven affordable housing measures that Metro requires the City to consider. The City has proved consideration of these measures by a report from City Council indicating Comprehensive Plan policies in support of this Title.

Milwaukie is one of a number of communities that have not satisfied their Goal VII requirements. By June it is hoped that Council will adopt a strategy of work for the remaining portions of the work that has not been done and sanction of the work that has been done.

The Commission packet included a list of existing comprehensive plans and policies. This will be turned into a letter from City Council to be signed by the Mayor. The City has identified seven affordable housing measures that cannot be done until there has been an analysis of the housing market, trends, surveys, etc. Because market values in Milwaukie are lower than other portions of the region, the City is likely to demonstrate that they are already meeting significant affordable housing need. Hopefully there won't

be regional planning pressure to do anything more. Staff will need to review the City's demographics, housing stock, rates of housing production, socio-economics, etc. to get to the conclusions that are needed. Staff would also like to talk to the people who represent the interest of persons who benefit from affordable housing.

Staff is asking that the Commission sanction the approach recommended in the staff report so they can go to City Council next week and give a verbal report on the direction given to staff from the Commission.

It was suggested that standards be developed that are not as compliant as previous standards in regards to infill.

## 8.0 DISCUSSION ITEMS

**Commissioner Carter** suggested that the neighborhood associations not meet on a Planning Commission night. There have been conflicts with hearings and applicant's participation in neighborhood association meetings. **John Gessner** stated that in most cases, the Commission can accommodate these situations.

## 9.0 OLD BUSINESS

### 10.0 OTHER BUSINESS / UPDATES

#### 10.1 Matters from the Planning Director

**John Gessner** announced that this would be Mike Millers last hearing; his term has expired. He was thanked for all his dedication and service to the City.

### 11.0 NEXT MEETING - May 11, 2004

**Commissioner Bresaw** moved to adjourn the meeting of April 27, 2004. **Commissioner Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:57 p.m.

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Donald Hammang, Chair

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Shirley Richardson, Hearings Reporter



CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, MAY 11, 2004

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Teresa Bresaw  
Brent Carter  
Rosemary Crites  
Howard Steward

**STAFF PRESENT**

John Gessner,  
Planning Director  
Lindsey Nesbitt,  
Associate Planner  
Shirley Richardson,  
Hearings Recorder

**COMMISSIONERS ABSENT**

Judith Borden

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes – February 24, 2004

**Commissioner Bresaw moved to approve the minutes of February 24, 2004 as presented. Commissioner Carter seconded the motion. MOTION CARRIED 5-0. Ayes: Bresaw, Carter, Crites, Steward, Hammang; Nays: None.**

3.2 Planning Commission Minutes – March 9, 2004

**Commissioner Carter moved to approve the minutes of March 9, 2004 as presented. Commissioner Bresaw seconded the motion. MOTION CARRIED 5-0. Ayes: Bresaw, Carter, Crites, Steward, Hammang; Nays: None.**

3.3 Planning Commission Minutes – March 23, 2004

**Commissioner Bresaw moved to approve the minutes of March 23, 2004 as presented. Commissioner Carter seconded the motion. MOTION CARRIED 5-0. Ayes: Bresaw, Carter, Crites, Steward, Hammang; Nays: None.**

3.4 Planning Commission Minutes - April 8, 2004

**Chair Hammang** reported that staff has passed out the April 8, 2004 minutes for the Commission to review for comment and approval at the May 25<sup>th</sup> Planning Commission meeting.

4.0 INFORMATION ITEMS - City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT - None.

6.0 PUBLIC HEARINGS

Applicant: Allen Cumings  
Owner: Allen Cumings  
Location: 5837 SE Harrison  
Proposal: Applicant is proposing to convert a single family residence into a duplex by attaching a modular home to the back of the existing residence.  
File Numbers: CU-04-01  
NDA: Linwood

**Chair Hammang** opened the minor quasi-judicial hearing for to consider the conversion of a single-family residence into a duplex. The criteria to be addressed can be found in Milwaukie Zoning Ordinance Section 19.302 - Residential Zone R-7; Section 19.600 - Conditional Uses; Section 19.500 - Off-street Parking and Loading; and Section 19.1011.3 - Minor quasi-Judicial Review.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 2 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

**Lindsey Nesbitt** reviewed the staff report with the Commission. The proposal includes a conditional use application to attach a 1,786 square foot three-bedroom modular home onto the back of the existing single-family residence; the construction of a 6-foot tall wood fence along the east and rear property lines; preservation of the existing trees and

bushes along the west and near property lines; and construction of a new driveway and carport 10 feet from the west property line.

**Ms. Nesbitt** reviewed the criteria for the conditional use. The lot is about 21,000 sq.ft. in the R-7 Zone. The minimum setback requirement for the rear is 20-feet, the applicant is proposing 73-feet; the side yard setback is 5-feet on one side and 10-feet on the other; the applicant is proposing 10-feet and 30-feet. The applicant has indicated that they have spoke with adjacent property owners and they know exactly what is being proposed.

The lot has 90-feet of frontage on Stanley Avenue and access has been reviewed. The site is relatively flat and the attachment of the new home to the existing home will not require site grading. The applicant has indicated that the proposal will not detract from the residential character of the neighborhood or the surrounding uses.

The existing vegetation will be preserved on the west property line and a site- obscuring fence will be constructed. Based on the criteria, staff recommends that the Commission approve the application and adopt the recommended findings and conditions in support of approval.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked if the entrance of the house would be at the front. **Ms. Lindsey** pointed out both accesses on the overhead map. The applicant will be sharing a deck.

ADDITIONAL CORRESPONDENCE -- None.

#### APPLICANT PRESENTATION

Speaking: Victoria Cumings, 5837 SE Harrison, Milwaukie

**Ms. Cuming** stated that she is the land owner at this address. She is making this request because she was unable to find anything that would meet her needs. She adopted her daughter three years ago at age one and decided at that time that she didn't want to send her to Portland Public Schools. She was hoping to move to the Milwaukie area because her immediate family lives here. She works at Warner Pacific College and some of the professors highly recommend the North Clackamas School District.

When she mentioned to her mom that she was considering moving, her mom stated that their house was getting a lot for them to take care of. She suggested that if her daughter purchased a duplex and live in one part, they would sell their house and live in the other part. This seemed like a good solution to be there to support each other; as a single parent, it would be nice to have her parents close by. No duplexes were found to meet their needs; no houses were found that could be converted to a duplex and they looked at lots to build on.

Her realtor sent her the ad for the home on Harrison and she feel in love with the home and large lot. She purchased the house about three months ago and the interior has been completely remodeled. They love it; it's a great neighborhood.

Speaking: Allen Cumings,

**Mr. Cummings** stated that her daughter asked him to make the application because he has a little more time on his hands. He read his statement to the Commission. There are three corrections that he cleared up that were in the staff report:

- Item 6 on the Agenda should indicate that Victoria Cumings is the owner of the property located on 5837 SE Harrison.
- On Page 4, it states, "...6 feet of the new residence will show from the street." Elsewhere in the packet and on the drawing it is listed correctly as 10 feet.
- On Page 10, under C, "...a six-foot wood fence shall be constructed along the east and west property lines," and it should read, "...along the east and north property lines."

They have spent hours with officials to make sure that all the requirements are met concerning their proposal. There are no plans to destroy any of the existing trees or hedges on the west property lines. There is a chain link fence along much of the west line, however it is nearly obscured by vegetation. One limb of a tree may have to be trimmed to allow the house to pass through. The proposed house is brand new and of high quality. It has been suggested that a dry well be installed to address the run-off water from the eaves; they will do so.

**Mr. Cumings** stated that he has lived on King Road for the last 19 years and has good relations with their neighbors there. They do not own rental property and have no plans to do so. They look forward to living on a quiet street and in a friendly neighborhood. When the houses are finished they will be made to look and be compatible by same color and structural development; they want it to be a positive addition to the neighborhood.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Crites** stated that this was a good idea; she noted that the decks are connected and asked what happens if she decides to move someplace else. How will the property be divided? **Ms. Cumings** stated that this will be a duplex; the deck will be cut off. The main entrance to the house is on the west side. The east side would be a sliding glass door onto a deck, which could be cut off to only cover the house.

#### TESTIMONY IN FAVOR

Speaking: Carole Stephens, 5616 SE Harrison, Milwaukie

**Ms. Stephens** stated that she lives directly east of the subject property. About 25 years ago, she made a flag lot out of her property with a house behind them. She feels this proposal will create no problems. This is a wonderful idea; helping take care of each other. She has lived in her home for 24 years and raised 8 children there. She thinks it is great what she is doing.

#### QUESTIONS OR COMMENTS

Speaking: Ralph Gerber, 5822 SE Harrison, Milwaukie

**Mr. Gerber** stated that he lives directly across the street from the subject site. He stated that he has not talked to the applicants and asked the Commission if the applicants are going to change the zoning and change the existing dwelling to a multiple-family dwelling? He asked if duplexes are considered single-family homes? **John Gessner** reported that the City of Milwaukie distinguishes multi-family housing from duplexes by the number of units. Duplexes are considered single-family homes; three units and greater are considered multi-family.

**Mr. Gerber** noted that the houses will be attached; he asked if the second home were put on the back of the property, would the applicants have to go through a different process.?

**Mr. Gerber** stated that he is against this proposal because he is not in favor of the precedent that granting a duplex/multiple-dwelling will be set by allowing this application. Several years ago when paraplegics went in and everyone said no because they miss-understood what was going on. When they were more informed, they agreed to let the applicant's two properties change.

If the City is going to allow duplexes; he has a lot bigger than Ms. Cumings. Some day he will put a house in the back of his residence. If the City allows attachments, he has a bunch of friends that are low income and could use some help. It will change the attitude of the neighborhood. He does not agree with the multi-family aspect of the application.

Speaking: Stephanie Bayard, 5718 SE Harrison, Milwaukie

**Ms. Bayard** stated that she and her husband have lived here for ten years. She is completely in favor of the family options; if it were going to be forever, she would have no reservations. As far as what she has seen so far, it is great. She is concerned; however, if this will open a flood-gate on their block that this duplex will open this up for others to turn their homes into duplexes. She does not have property that could be turned into a flag lot; however she is concerned about what this would mean for their neighborhood if the applicant's don't live there anymore.

Speaking: Clinton Haney, 5881 Harrison Street, Milwaukie

**Mr. Haney** stated that he respects what this applicant is trying to do. However, he feels that if this is allowed to go through, it will begin a precedent of multi-family units in the entire neighborhood. He stated that he probably has the largest yard in the neighborhood; he just doesn't want it.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

**Ms. Nesbitt** stated that one of the criteria is whether or not there is a similar structure within 200 feet. If this application is approved, any other person that had a lot that was of adequate size to site a duplex, they would have to come before the Commission for approval. The decision on that application would take into consideration that there is already a duplex within 200 feet of the site. There could only be one duplex every 200 feet.

**John Gessner** noted that if the Commission should approve the application it should include correction of Condition #6, to note north rather than west.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY - None.

APPLICANT'S CLOSING COMMENTS - None.

DELIBERATION AMONG THE COMMISSIONERS

**Commissioner Bresaw** stated that she feels this alternative is better than a flag lot. The neighbors will think it is fine.

**Commissioner Crites** stated that her concern was for turning a residential area into a bunch of duplexes/apartments. With the protection for the neighborhood in tact, she is in favor of the application.

**Commissioner Steward** moved to approve application CU-04-01 authorizing the conversion of a single-family residence into a duplex and adopt the recommended findings and conditions in support of approval. Further that Condition #6 is revised to reflect east and north rather than east and west. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 5-0.**

**Ayes: Bresaw, Carter, Crites, Steward, Hammang; Nays: None.**

7.0 WORKSESSION ITEMS -- None.

## 8.0 DISCUSSION ITEMS

**Commissioner Bresaw** asked about the Centex application. **John Gessner** stated that the design technically meets the zoning codes. Lot #17 fronts on Lake Road and takes access from the new street. There is a convergence of property lines. There is no requirement that the lot take access from the street on which it is located.

There were some design alternatives that had flag lots. The issue of flag lots was eliminated by virtue of going from 21 lots to 17 lots. This configuration does not fit the requirements of a flag lot. There is a concern whether this is a flag lot by legal interpretation or by operation. This application was approved by the Planning Commission. Staff will come back on May 25<sup>th</sup> with photos of the subject site for further comment.

**Commissioner Carter** voiced concern that more information could be known on applications; maybe one of the commissioners sit in on neighborhood meetings about an issue so they are well versed when it came to the Commission meeting on certain applications.

**Commissioner Crites** stated that she would like to see more issues addressed where there is economic benefit for citizens of the city.

**John Gessner** stated that there is an eagerness to get involved in solving citizen concerns/problems for the applications. This is not the Commissioner role; there are different levels of involvement. In a quasi-judicial hearing, the Commissioners evaluate whether or not the applicant has demonstrated compliance with regulations. This Commission does an excellent job with building bridges between the neighborhood and the applicant to help find ways to problem solve. The Commission has a significant amount of influence in policy/regulatory matters; engage policy issues, make recommendations to City Council, etc.

Discussions followed on economic development and what role the Commission plays in the economy of the city. Neighborhoods are changing because the composition of the neighborhood is changing. There is more money being brought in that changes the land markets and retail opportunities. Milwaukie has received funds to improve code in regards to transportation; this is a form of economic development. Making Milwaukie a more attractive place through retail projects (trolley trail, 3-bridges) all contribute in the long run towards economic development. There are things that Milwaukie is doing that support economic development.

## 9.0 OLD BUSINESS

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

**John Gessner** announced that there will be a joint worksession with Planning Commission and Design Landmarks Commission to go over the proposed code to convert the commission to a committee. Draft language will be presented at that meeting.

Staff will see if Alice Royer and Jeff King can come talk about economic development concerns.

**John Gessner** announced that the first June Planning Commission meeting has been changed to Wednesday, June 9, 2004.

11.0 NEXT MEETING -- May 25, 2004

**Commissioner Carter** moved to adjourn the meeting of May 11, 2004. **Commissioner Bresaw** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:11 p.m.

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Donald Hammang, Chair

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Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
WEDNESDAY, JUNE 9, 2004

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Judith Borden, Vice Chair  
Teresa Bresaw  
Brent Carter  
Rosemary Crites

**STAFF PRESENT**

John Gessner,  
Planning Director  
Lindsey Nesbitt,  
Associate Planner  
John James  
Associate Planner  
Gary Firestone,  
Legal Counsel  
Shirley Richardson,  
Hearings Recorder

**COMMISSIONERS ABSENT**

Howard Steward

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA – April 27, 2007

**Commissioner Bresaw moved to approve the minutes of April 27, 2004 as revised. Commissioner Borden seconded the motion. MOTION CARRIED 5-0. Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

**Commissioner Bresaw moved to approve the minutes of April 27, 2004 as revised. Commissioner Carter seconded the motion. MOTION CARRIED 4-0 with one abstention; Judith Borden was not at that meeting. Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

4.0 INFORMATION ITEMS -- City Council Minutes  
City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT -- None.

## 6.0 PUBLIC HEARINGS

John Gessner reported that there has been a request to reschedule worksession item 7.2 - Economic Development Update, to the June 22<sup>nd</sup> meeting. He suggested that items 7.3 - Lot 16 of Centrex Subdivision, and 7.4 - Undersized Lots and Garages also be moved to the June 22<sup>nd</sup> meeting. He would like to have the discussion tonight on converting the Design and Landmarks Commission to a committee.

It was decided that the discussion on the Design and Landmarks Commission would be held as the first business issue.

### 7.1 Convert Design and Landmarks Commission to a Committee

**John Gessner** reported that staff has been working on proposed language to change the Design and Landmark Commission (DLMC) to a Committee. At this point in time, because of staff and resources, the City does not have the resources to support this commission. Two options were proposed; one to turn all the responsibilities of that Commission over to the Planning Commission; or another option to retain the function of the Design and Landmark Commission forming a Committee that would be an advisory to the Planning Commission. A packet has been provided that describes the word changes necessary to implement the change from a commission to a committee.

There is general agreement from the Planning Commission to change the Design and Landmark Commission to a committee.

**Patty Wisner**, 3225 SE Wister Street, member of DLMC stated that she has reviewed the draft. She is concerned about this proposal to solve the budgetary problems and the DLMC still being able to function as an advisory committee. They would like to be able to help to protect resources and implement and make sure that new development adheres to the downtown design plan. It is her understanding that with this change there would be no requirements to meet monthly; not function as a quasi-judicial authority; nor be able to assist in public hearings and give recommendations to the Planning Commission for consideration on their decisions. This will cut staff time in the committee's involvement and still retain participation in adding their knowledge to the decision making process.

**Ms. Wisner** stated that she is in agreement with this; but when she read Attachments I and II, she feels it is a huge deviation from the agreed-upon goals. She is concerned that all the definitions defined as the function of the DLC has been given to the Planning Commission. She thought they would be bringing items to the table and having the Planning Commission use that information to make decisions. This is unacceptable; there are no requirements that the Committee meet with the Commission. She is disappointed that this has changed from the goals set out previously. She would like to

get together with the Committee to discuss these changes and arrange a joint meeting with the Planning Commission to discuss their concerns.

**Brent Carter** asked for clarification of Item I on Page 7.16, was referring to the Planning Commission or the DLC. **John Gessner** stated that he believes that the proposed code is in line with the proposed goals of the DLC. The Planning Commission must assume the authorities under I in order to execute its function as the quasi-judicial decision maker. Page 7.17 indicates that the DLC is established for a number of purposes, broadly applied so there are no limitations within the application of the purposes of assisting the Planning Commission on:

- Historic preservation and urban design matters.
- Historic resources element, comprehensive plan, recommendation to the Commission regarding compliance with applicable design guidelines for development projects.
- Review of appropriate design guidelines and design review processes and procedures.

The code was not written to limit the scope of interest of the DLC; however, it was written specifically to establish clear lines of responsibility of authority and decision making. He asked if there were recommended changes to the purpose section that would make the DLC more comfortable?

**Ms. Wisner** stated that she would like to see some or all of the continuing duties under Section I and making those recommendations to the Planning Commission. The Planning Commission would consider those recommendations and then forward their decision to City Council.

**John Gessner** pointed out that in the bylaws there is a requirement that the DLC review a land use application or other item of historical architectural interest before the Planning Commission makes a decision. However, because of the need to protect the 120 day clock, it is difficult to schedule a DLC meeting. There is the potential of the Planning Commission making a decision without the advice of the DLC. The intent is to keep the DLC involved in the functions that it presently conducts except in an advisory capacity and insure that the Planning Commission would get the advice of the DLC at the time of work program and budget review.

**Judith Borden** asked if Items I. 3-5 are responsibilities of the Planning Commission? **John Gessner** stated that ways of accomplishing these responsibilities would be through staff of the DLC on multi-party collaboration with related historical interests.

**John Gessner** stated that a provision can be put in Section I, stating that nothing in Section I limits the authority of the DLC as provided in Section 2.18. Under Purposes, it can be restated that the Committee shall be responsible for advising the Planning Commission for the following historic preservation activities.

**Commissioner Carter** voiced concern about turnaround on 120-limit. How does the Committee prevent being bypassed in terms of time? **Mr. Gessner** suggested moving the Planning Commission responsibilities in Section I to the Purpose of the Design and Landmarks Committee; specifically the DLC is established for the following purposes, including advising the Planning Commission on Section I items and include a provision that specifies that nothing in Section I limits the authority of the DLC.

**Ms. Wisner** asked if there could be a provision regarding when the DLC would meet with the Planning Commission, how would the historic resources inventory be addressed, etc.

**Judith Borden** suggested language change: The DLC shall be responsible for making preliminary review and recommendations of all matters referred to in Section 2.16.

**Mr. Gessner** stated that language could be added recommending to Council that staff could support two joint meetings of the DLC and the Planning Commission per year.

There was a general consensus that the Planning Commission forward the recommended changes made tonight to Council on this specific language for a public hearing for adoption. Staff will follow up with the DLC regarding recommended changes.

6.1 Applicant: Charles Arnell  
Owner: Charles Arnell  
Location: 12504 SE 18<sup>th</sup> Avenue  
Proposal: Applicant is seeking approval to make alterations to an existing single family dwelling in the Willamette Greenway Overlay Zone and is asking for a variance to the transportation design standards.  
File Numbers: WG-04-01/VR-04-06  
NDA: Island Station

**Chair Hammang** opened the minor quasi-judicial hearing for a Willamette Greenway Conditional Use CU-04-01 and Variance Request VR-04-06 to allow consideration of the demolition and reconstruction of a single-family residence and variance of transportation improvements and adopt recommended findings and conditions. The criteria to be addressed can be found in Title 19, Section 303 - Residential R-5 Zoning District; Section 320 - Willamette Greenway Overlay; Section 600 - Conditional Uses; Section 700 - Variance Exceptions and Home Improvement Exceptions; Section 1011.3, Minor quasi-Judicial Review; and Section 1400 - Transportation Planning Design Standards and Procedures

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited

the site, 3 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**Keith Jones** reviewed the staff report with the Commission. The applicant is proposing to replace an existing home and garage with a new 4,462 sq.ft. single-family home and requesting a variance to road improvements along the public street frontage. The proposal is subject to a Willamette Greenway Conditional Use.

Staff recommends approval with the conditions and findings as outlined in the Staff Report. An overlay was presented of the site and surrounding area.

CORRESPONDENCE -- None.

#### APPLICANT PRESENTATION

Speaking: William Cox, Attorney, 0244 SW California Street, Portland 97219

Charles Arnel  
John Hassenberg, Architect

**Mr. Cox** introduced Charles Arnell, applicant, and John Hassenberg, Architect to the audience. He stated that the applicant has read the staff report and is in agreement with the conditions and findings.

This application is unique because of its dimensions and the access under the railroad tracks. In order to improve the street in a manner that meets the city codes, the entire overpass of the railroad would have to be redone. With the city's permission, Mr. Arnell has dug out to relieve some of the height limitations. There is a row of Arborvitae on the extension and then it drops off about 10-feet. It serves no purpose to improve that section of the street; no one will be traveling on it.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR – None.

#### QUESTIONS OR COMMENTS

Lisa Betty, 11912 SE 19<sup>th</sup>, Milwaukie

**Ms. Betty** asked for a clarification on Page 3, "There is no vehicle access from the site or to Spring Park from Lark Street due to topographical restraints." There was previously a

vehicle access to Spring Park and it is now overgrown. She is involved with improvements to that park and parking is an important issue. There was a meeting last week on the Park. There is a potential parking option at the corner of Lark Street. This may not be a viable parking option for Spring Park, but she would like to keep all of their options open at this time. She asked that there be care taken during the construction process so there are no further impediments put up that would prevent potential parking at that location.

**Ms. Betty** stated that she wanted the Commission to know that the statement on Page 3 should include language that there is prior access and that access is on city property.”

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Bresaw** asked where the closest fire hydrant is located on the site? **Mr. Jones** pointed out the hydrant to the audience.

APPLICANT’S CLOSING COMMENTS -- None.

DISCUSSION AMONG THE COMMISSIONERS

**Chair Hammang** closed the public testimony portion of the hearing and opened the meeting to discussion among the commissioners.

**Commissioner Carter moved to approve applications WG-04-01 and VR-04-06 authorizing demolition and reconstruction of a single-family residence and variance of transportation improvements and adopt recommended findings and conditions. Commissioner Bresaw seconded the motion. MOTION CARRIED 5-0. Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

- 6.1 Applicant: Andrew and Charmaine Coleman  
Owner: Andrew and Charmaine Coleman  
Location: 10392 SE 23rd  
Proposal: Applicant is requesting approval of a Variance to construct a subterranean garage. The applicant is requesting the variance to front and side yard setbacks due to the steepness of the slope of the front yard. The construction of the garage will bring the property into compliance with off-street parking standards.  
File Numbers: VR-04-05  
NDA: Historic Milwaukie

**Chair Hammang** opened the minor quasi-judicial hearing for Variance Request VR-04-05 to allow consideration of the construction of a garage. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.303 - Residential Zone R-5; Section 19.400 - Accessory Structures, Section 19.500 - (Off Street Parking and Loading, Section 19.700 – Variances; and Section 1011.3 - Minor quasi-Judicial Review.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site, 4 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

**Lindsey Nesbitt** reviewed the staff report with the Commission. The applicant is requesting a variance to reduce the front yard setback to 6 feet, the side yard setback by 6 inches and to reduce the required driveway setback from 7-1/2 feet to 3 feet from the property line.

The setbacks in this area range from 6 feet from the property line to 20 feet on 23<sup>rd</sup> Avenue. The view from the street will show approximately 8 feet; as the grade of the site goes up, the garage will be constructed into the bank of the front yard. The back portion of the garage is approximately 2-1/2 feet. The applicant plans to fence the top of the garage (flat roof) and use that space as a patio or outdoor garden area. The face of the garage will match the house.

A variance may only be granted if the Commission finds that the applicant has demonstrated compliance with the three variance criteria. Staff finds that the applicant has demonstrated compliance with unusual conditions because the topography prohibits the location of the garage anywhere else on the site. There are no feasible alternatives to the variance because the front yard is too steep to safely create an access drive, the 2-stall garage will bring the site into compliance with residential off-street parking requirements, and the location of the existing waterline and meter prohibits the location of the driveway elsewhere on the site. The applicant is proposing to plant climbing trees around the garage to address any adverse effects upon other properties. Only a fourth of the garage will be visible.

Staff believes that the applicant has demonstrated compliance with applicable criteria and recommends approval of the variance request.

#### QUESTIONS FROM THE COMMISSION

**Commissioner Bresaw** asked if the correspondence received by staff was from the neighbor to the north? **Ms. Nesbitt** stated that the correspondence was received from the neighbor to the north; there have been no comments from the neighbor to the south.

CORRESPONDENCE -- None.

APPLICANT PRESENTATION

Speaking: Charmaine Coleman, 10392 SE 23<sup>rd</sup> Avenue, Milwaukie

**Ms. Coleman** stated that they have gotten nothing but positive comments regarding their project. She and her husband moved from Sellwood to this area and both teach in this district. They have already put over \$45,000 into renovations to the house and plan on staying there. When considering the garage, they took into consideration the distance from the curb to see if it fit in with the character of the rest of the neighborhood.

**Ms. Coleman** stated that the front yard setback is a result of the right-of-way owned by the City. This is a dead-end street and there is a lot of parking from people who take the bus into downtown Portland. Since her husband likes to restore old cars, he would like to have a garage to work in. Their neighbors do not use that side of their yard. She asked that the Planning Commission take consideration of her request.

QUESTIONS FROM THE COMMISSIONERS -- None.

**Commissioner Bresaw** asked how much of the stone fireplace will be visible? **Ms. Coleman** stated that the front wall will only be as high as it needs to be to comply with city code; she likes the chimney and wants to see as much of it as possible. Because they plan on being here for a long time, she wants to make it as appealing as possible.

**Commissioner Borden** asked for clarification of the submitted hand drawing. **Ms. Coleman** explained the rendering.

**Chair Hammang** asked if the neighbor who will be losing six inches has any objections on record. **Ms. Coleman** stated that she asked them about it and there were none; there are no records of objections.

TESTIMONY IN FAVOR – None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Bresaw** asked if a two car garage must be built? **Ms. Nesbitt** stated that the code states that there are two off-street parking spaces, one of which must be covered.

APPLICANT'S CLOSING COMMENTS -- None.

#### DISCUSSION AMONG THE COMMISSIONERS

**Chair Hammang** closed the public testimony portion of the hearing and opened the meeting to deliberation among the Commissioners.

**Commissioner Bresaw moved to approve application VR-04-05 authorizing the construction of a garage within the front and side yard setbacks and adopt the recommended findings and conditions in support of approval. Commissioner Carter seconded the motion. MOTION CARRIED 5-0.**

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

- 6.1 Applicant: Michael Wells and Panattoni Development  
Owner: US Bank and Monte and Susan Greer  
Location: Harmony Road and International Way  
Proposal: Applicant is requesting approval to annex industrial land to the City of Milwaukie.  
File Numbers: AN-04-02  
NDA: Business Industrial

**Chair Hammang** opened the major quasi-judicial hearing for Annexation AN-04-02 for consideration of annexation of property at Harmony Road and International Way. The criteria to be addressed can be found in Zoning Ordinance Section 900, Section 1500; and Comprehensive Plan Chapter 2.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 4 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**John Gessner** introduced Ken Martin, the city's contract consultant on annexation application. There are two parts to this application:

1. Annexation Process -- The annexation is the process of incorporating land within the City boundaries and providing services (water, sewer, fire, police, general governmental services, etc.). The advantage of annexation accrues to the city's tax base and general economic development. There are a number of policies that would support annexation in that regard.

2. Comprehensive Plan and Zoning Designation – The appropriate land use designation (category of land uses) and zoning designation (specifies the extent and conditions under which the site can be developed).

The site is presently in an industrial land use designation and zoning and accounting. There is little difference between a county and city authority; the city will be the one providing the services if they are the authority. Development and access related issues will be dealt with after annexation.

A map was presented showing the location of the subject site and surrounding area. The county/city border was pointed out. The city would not take jurisdiction of the roadway on Harmony. One of the criteria is that site is suitable for the proposed development.

Because the city is the service provider and there is an intergovernmental agreement (IGA) with Clackamas County that specifies that the City will be relieved of providing urban services, the site cannot be developed without the annexation because it provides access to city services. Staff believes the annexation compliments city industrial lands to the west.

TPR-060 applies to the provision of the Transportation Plan Rule that requires rezoning and must have a finding made on the impact on a state highway facility. Staff reviewed the net effect of traffic impact on the state highway system for bringing this into the City. ODOT agrees that there is no net effect; written confirmation was received clearing TPR-060.

Future development issues require resolution of access and environmental issues. Many years before the business industrial area was developed it was in agricultural use. Drainage ways are part of the springs that originate at the Menthorne Creek area. The drainage through the business industrial area is both subsurface drainage and surface drainage. There is a stream corridor that runs through the site. The city's water quality and resource regulations require a 100-foot buffer on each side of the creek. A rare plant species (meadow hollyhock) was found in the upper portions of this site. Oregon National Resources Program has indicated that this plant is not protected by state law now. There would be interest in preserving portions of the site to preserve the habitat for this plant or relocation of the plants to another site where it is not subject to industrial pressure. The applicant has been notified of this issue.

The purpose of designating this site is to identify its values associated with its natural features. There were no determinations made on the appropriate plan designation because they are responding to applicant's specific request to be designated to industrial purposes. Part of the Commission's decision is if this is annexed, is this the best use of the property.

**Ken Martin** reported that annexation has several layers of criteria, (1) State statutes for annexation; (2) Metro rules; and (3) City codes for annexation. The Commission's role is

to advise the Council. There is a process which allows proposals to go directly to Council (expedited procedure). The state statute has no criteria for annexation and the Metro code is spelled out in the staff report. Proposal needs to be consistent with city policies and code provisions.

The applicant meets the criteria and staff recommends approval.

#### QUESTIONS FROM THE COMMISISON

**Chair Hammang** stated that he walked the site and this project seems to be an intensive use for that land. A significant amount of land must be given up for riparian setback and there is the sensitive vegetation issue. On most of the upland on the creek, there is a chunk of remnant land with evasive trees and an old orchard. It seems like a waste to develop this site so intensely. It is a shame to dig up the upper portion; the bottom portion is possible industrial use. This is probably the last chunk of the original Menthorne Creek left. He asked if there was anything in the annexation process that would preserve this land. **John Gessner** stated that it could be an issue for land use designation. Because environmental work has not been done, staff cannot recommend land use considerations.

**Commissioner Bresaw** asked what type of industrial use is proposed? **John Gessner** stated that any one of the uses seen on International Way today can be used on this site.

**Commissioner Carter** asked about streetlights. **Mr. Martin** stated that there is a general statement in the staff report; there are county service district for street lights and codes covering all lights on International Way.

CORRESPONDENCE -- None.

#### APPLICANT PRESENTATION

Speaking: Mike Wells, 13260 Sandlewood Court, Lake Oswego 97035

**Mr. Wells** stated that he is a partner with Panattoni Development Company. He stated that he wanted to develop in a fashion that is economically feasible and at the same time recognize that there needs to be a buffer along the Creek. They have not done an inventory of plants on the site; he was made aware of the Hollyhock yesterday. He would like to learn more about the Hollyhock and investigate whether it can be incorporated in the site plan, left there, moved to the buffer area, moved to another area on the site, or what. They would like to incorporate the natural landscaping features in any way they can.

They will be looking at ways to incorporate environmental friendly sustainable building practices and the LEED Program. It is difficult to achieve gold or platinum certification

for industrial buildings; they are aspiring towards that to give their customers opportunities to incorporate some of those sustainable development options.

Staff has coached them on the differences between business industrial and manufacturing and they will be making an application for business industrial (office, professional services). There will be three buildings; one in front two in back. This will help with the massing issue of having one building in the front dominating the site. The uses will be a combination of warehouse, manufacturing, wholesale sales, and engineering. The buildings will be offered for sale or lease.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Crites** asked for clarification of the LEED Program. **Mr. Wells** stated that it stands for Lighting, Energy, Efficient Design. This is a program set up to certify building to a degree of their sustainability or environmental friendly issues. A series of points are awarded for use of environmental materials.

TESTIMONY IN FAVOR – None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY -- None.

APPLICANT'S CLOSING COMMENTS -- None.

#### DISCUSSION AMONG THE COMMISSIONERS

**Chair Hammang** closed the public testimony portion of the hearing and opened the meeting to discussion among the commissioners.

**Commissioner Borden** moved to recommend to City Council support of the proposed annexation and the concurrent Comprehensive Plan and zoning map amendments as described in the staff report and attached report of Ken Martin, annexation contract staff. **Commissioner Carter** seconded the motion. **MOTION CARRIED 5-0.**

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

- 6.1 Applicant: Darren Williams  
Owner: Prime Properties, Inc.  
Location: 5908 SE Hill Street  
Proposal: Applicant is seeking approval to annex single family properties to the City of Milwaukie.  
File Numbers: AN-04-01  
NDA: Llewelling

**Chair Hammang** opened the major quasi-judicial hearing for Annexation AN-04-01 for consideration of annexation of property at 5908 SE Hill Street. The criteria to be addressed can be found in Section 1011.4 and 1502.4.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if any member of the Planning Commission visited the site; 3 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**John Gessner** reviewed the staff report with the Commission. An overhead was shown of the subject site and surrounding area. This site is located in a dual interest area as specified in the IGA with Clackamas County. The city is to take the lead in providing services for this site. These properties were platted many years ago at a lower density; average lot sizes are 5900 sq.ft. with one or two exceptions. There are 8 lots with three existing houses with potential for 5 new houses. The vacant lots cannot be developed without city sewer; there is a DEQ rule that limits Clackamas County from issuing septic system permits within 300 feet of a serviceable sewer line. There is a service line in Stanley Avenue. The water service will remain with Clackamas River Water; the city will take over water services when it becomes economically feasible. The city will take over the jurisdiction of street and make improvements with help from the applicant & the County to upgrade Hill Street.

The Lewelling Neighborhood Association has no objections. Staff recommends the R-7 Zoning. The site is currently county R-10. The applicant could have asked for the R-10 zone; however, there would have been significant non-conformities.

**Mr. Martin** stated that the same criteria apply to this application as the last. There are two levels of criteria to consider; City and Metro as outlined in the staff report. This application meets these criteria. He reported that he talked to an adjacent neighbor and the only concern raised was that she did not want to be annexed. She asked about having to pay for sewers if they were put in and a few other general questions.

## QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked how the county was reimbursed for the initial paving of the road? **John Gessner** stated that the details have not yet been worked out with Clackamas County.

CORRESPONDENCE -- None.

## APPLICANT PRESENTATION

Darren Williams, 17280 Timothy Way, Gladstone

**Mr. Williams** stated that he has worked with Mr. Shivery and staff to get this project through. He explained that since talking with staff he has picked up the neighbor's property which has a house with additional three lots; so there will be an extra sewer going in. In addition he has a partial across the street. When Hill Street gets done, it will be done right the first time.

This project is something that Milwaukie needs; it fits into Milwaukie's plan for growth and with sewers going in, it will make it more feasible and economical for the city to annex.

## QUESTIONS FROM THE COMMISSIONERS

**Commissioner Crites** asked if Mr. Williams would be building the homes? **Mr. Williams** stated that he would be building new homes in the price range of \$170 – 180,000; generally three bedrooms, two baths. The lot he is building on now is 63.75, the next 59, a house and then 58. There is one lot 70 by 100.

TESTIMONY IN FAVOR – None.

## QUESTIONS OR COMMENTS

Speaking: Scott Coffman, 9878 Stanley, Milwaukie

**Mr. Coffman** stated that he borders Stanley and Hill Streets. He voiced concern that this proposal will eliminate the character of the larger lots in the area. He is concerned about five new houses and how they will fit in with the larger lots. Some of the homes are built on property lines and some of the houses have no off-street parking.

**Mr. Coffman** voiced concern about who would service this area for police and fire protection. The area has had problems with drugs in the past.

Speaking: Ms. Coffman, 9878 Stanley, Milwaukie

**Ms. Coffman** voiced concern where Hill Street joins Stanley there is a retaining wall that limits site distance on the street. She would like to see some form of traffic signal/sign on Hill and Stanley. There was a child killed at this corner and if there are going to be more dwellings with more kids she is concerned about this corner.

**Ms. Coffman** stated that the neighborhood had problems with Hill Street being a lover's lane and liquor parties. She called state police rather than the Sheriff and they came. Currently the Clackamas County Sheriff works with their neighborhood nicely and she was given a cell number to call.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Crites** voiced concern about absentee ownership and houses in disarray. She is very concerned about drugs. It is hard for a neighborhood to change; a developer with conscious who wants to do a positive development, bringing in families, the negative issues will diminish. **Mr. Coffman** stated that a lot of these issues have been cleaned up over the past years. Mr. Williams owns the house he just remodeled and is in the process of purchasing another house. The problem houses have been the rentals. These are the homes that are being fixed up.

Speaking: Lois Stratten , 5907 SE Hill, Milwaukie

**Ms. Stratten** asked for clarification of the changing R-10/R-7 Zoning. How do you get 7,000 sq.ft. out of a 58/100 lot. Couldn't these lots be combined to make nice large lots; why such small houses? She voiced concern that children need their own yard to play in; these smaller homes have smaller yards. She will not be annexing, she is happy with the way things are. She does not need a sewer.

**Ms. Stratten** stated that she has no problem with Milwaukie annexing these proposed lots. There are Cedar trees that she would like to see preserved. It takes a long time to grow a tree. She asked who she calls if this street is annexed? She has no objection to annexation for someone else.

Speaking: Dave Stratten, 590 SE Hill, Milwaukie

**Mr. Stratten** asked what will happen to the house on the corner if this site is annexed? The lots are 100 feet deep and he questioned whether the steep portion of the property is considered usable?

TESTIMONY IN OPPOSITION -- None.

#### ADDITIONAL COMMENTS FROM STAFF

**John Gessner** stated that in the annexation area, each lot is already platted at the configuration and size and are protected by state zoning law. Local codes allow for protection of previously platted lots from zone changes. There is not a real difference in the potential of going from county to city except for keeping the lots the way they are today and sewer.

The question as to whether this site should be R-10, R-7 or R-5 has to do with setback limitations. R-7 seems to be just right; R-10 has restrictive setbacks and R-5 is too permissive and would look too dense. Staff recommends R-7 zoning.

In regards to fiscal impact, and conflicting information in the staff report, parts of the staff report were written at two different locations and when put together for production, the information didn't match. Any addition to the tax base is important. In the overall scheme of the city's tax base, the addition of three or four new homes is not going to mean that much relative to the total base, but to the extent that Milwaukie has been in fiscal stress, staff has really been promoting annexation opportunities as a way of shoring up the city's tax base, even though bit by bit.

As to the question about Hollywood; it is passable and does provide access to two homes. It is paved south of Maple Street. If the city takes a look at further road improvements, right-of-way dedications have been done piece meal. If Hollywood is going to improved for access to properties other than the two that depend on it, right of way would be taken from the east side and developed into a ally standard in some time in the future.

**John Gessner** stated that they hear complaints about police service. This project will not make the problem worse. If a crime takes place on the county side, there may not be a response. The chief and the sheriff would need to come up with an agreement on what will be done on un-annexed property.

#### QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Bresaw** asked where the closest fire hydrant is located on the site. Mr. Jones pointed out the hydrant to the Commission.

#### APPLICANT'S CLOSING COMMENTS

Speaking: -- Darren Williams, 17280 Timothy Way, Gladstone

**Mr. Williams** stated that he is doing a lot-line adjustment to correct some of the lot dimensions. The garage has been removed and there will be off-street parking. There is a motorcycle policeman at the end of Stanley; he has slowed down the traffic.

## DISCUSSION AMONG THE COMMISSIONERS

**Chair Hammang** closed the public portion of the hearing and opened the meeting to discussion among the commissioners.

**Commissioner Crites** stated that she hopes the garages on the homes are not sticking out too far.

**Commissioner Carter** moved to forward a recommendation of File Number AN-04-01 to the City Council in support of the proposed annexation and the concurrent comprehensive plan and zoning map amendments as described in this report and the attached report prepared by Ken Martin the City's contract annexation staff. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 5-0.**  
**Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

## 7.0 WORKSESSION ITEMS

**Commissioner Carter** moved to continue the worksession items to the next scheduled meeting in June. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 5-0.**  
**Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

## 8.0 DISCUSSION ITEMS -- None.

## 9.0 OLD BUSINESS

**Commissioner Crites** moved to reconsider the minutes of April 27, 2004. **Commissioner Carter** seconded the motion. **MOTION CARRIED 5-0.**  
**Ayes: Borden, Bresaw, Carter, Crites, Hammang; Nays: None.**

**Commissioner Crites** stated that she abstained from the Waldorf hearing because of a conflict of interest.

**Commissioner Carter** moved to approve the minutes of April 8<sup>th</sup> and April 13<sup>th</sup> that were to be approved at the May 25<sup>th</sup> Planning Commission meeting that was cancelled. The motion died for lack of a second.

Staff will reschedule approval of the minutes at the next scheduled Planning Commission meeting on June 22<sup>nd</sup>.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

**John Gessner** reported that there will be a meeting on June 22, 2004; it had previously been cancelled to accommodate a City Council meeting that is now not going to take place.

11.0 NEXT MEETING -- June 22, 2004

**Commissioner Bresaw** moved to adjourn the meeting of June 9, 2004. **Brent Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:30 p.m.

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Donald Hammang, Chair

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Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, JUNE 22, 2004

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Judith Borden, Vice Chair  
Teresa Bresaw  
Brent Carter  
Rosemary Crites  
Howard Steward

**COMMISSIONERS ABSENT**

None.

**STAFF PRESENT**

John Gessner,  
    Planning Director  
Lindsey Nesbitt,  
    Associate Planner  
Alice Rouyer  
    Comm. Dev. Dir.  
Jeff King,  
    Consultant  
Shirley Richardson,  
    Hearings Recorder

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None

4.0 INFORMATION ITEMS -- City Council Minutes  
City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS -- None.

7.0 WORKSESSION ITEMS

7.1 Economic Development Update

**Alice Rouyer** reported that a grant had been received from Mt. Hood Economic Reliance. She introduced Jeff King who updated the Commission on the grant.

**Mr. King** reported that a grant is matched with in-kind service and some cash from the city budget in an effort to implement some of the Comprehensive Plan as well as

supplemental with additional programs. Much work has gone into putting these plans together; there are about seven components:

1. Outreach and visitation program. The intent is to work with companies in Milwaukie to develop a better relationship/understanding of what they need and how the city can address any issues they have. This effort will improve communications so the city can help them with resources/programs that could be of assistance to them. The city wants the business to grow and prosper.
2. Create an inventory and profile of available industrial/commercial sites. A fair amount of space is beginning to fill up in Milwaukie by businesses. Information is passed out letting the major businesses know that there are sites available. A list of ten sites has been put on a state-wide data base, Oregon Prospect.com .
3. Develop an enterprise zone and economic development marketing. Part of the grant allows for a professionally prepared advertising piece.
4. Develop a portion of the city website. This will allow linking to other state efforts and regional economic development efforts. This will increase exposure about economic development, city services, and any other attributes of a Milwaukie location.
5. Economic Development Advisory Committee. This is a short-term committee that will commence. A letter will be sent out to businesses in the area. Staff would like to establish a member from the Planning Commission. **Teresa Bresaw** volunteered to be the Planning Commission representative to this Committee.
6. Industrial Infill feasibility. This is a six-acre parcel at the end of International Way at Harmony and Lake Road. Staff is working with a transportation consultant to determine the feasibility of this becoming an industrial site.
7. Industrial Build and Reuse Assessment. Staff will review older facilities and what type of adaptive reuse or reuse assessment that can be used to make Milwaukie more attractive to the market.

As part of this effort, staff is starting to deal with more interest in terms of getting leads, information as the economy picks up. The leads come in from many sources (business to business).

**Commissioner Carter** asked if this grant is a part of an overall master plan to grow and build Milwaukie? **Mr. King** stated that this grant is one component of a larger piece. A lot of work done with the NILA study, etc. is dealing with transportation/access issues, zoning issues, downtown plan, north main, light rail, transportation issues; all these efforts work together. The intent is to increase the awareness of Milwaukie and market sites that are vacant.

**Alice Rouyer** stated that Jeff's work is beginning to offer enough incentives through grant funding to start to get businesses interested in upgrading their facilities. She asked if there were any economic concerns/issues from the Planning Commission. No concerns were raised.

**Mr. King** stated that one of the major things that is going on in downtown is the North Main Project. **Alice Rouyer** stated that meetings are being held twice a month with the development team (Metro, Project Architect, Developer, Project Management Consultant, Jeff King, and Alice Rouyer). The developer will be submitting the Transportation Improvement Portion, Design and Development Review and variances and modifications to design standards this summer. There are code amendments submitted to the downtown code that will benefit this project and long term benefits to the downtown zone.

The downtown development plan includes 18 condos, 13 town houses and apartments; approximately 2/3rds rental and the rest for sale. There is a good product mix. The units along the street, above the ground floor retail are \$120-\$150,000 and townhouses about \$175-200,000.

#### 7.4 Centex

**Lindsey Nesbitt** reported that staff was requested to review the design of lot 16 of the Maplewood (Centex) Subdivision. Due to the topography of the area, the site was leveled and a large retaining wall was constructed along the north and east sides of the lot. A 5-foot pedestrian stairway and walkway was constructed along the west side of the lot. Access to lot 16 is gained from the hammerhead turn around of Maplewood Court.

The site plan was approved in 2002 with the hammerhead configuration. Lot 16 is not a flat lot. Technically lot 16 abuts Lake Road but since driveway access was not feasible on Lake Road, access is provided through a 15-foot easement off Maplewood Court.

**John Gessner** stated that in retrospect after seeing the houses built; if the houses had a 30% smaller footprint, and a 30% smaller massing, there would be more space between and it wouldn't be so offensive. It is easy to fill up 7,000 sq.ft.; these are big box homes. **Mike Miller** asked how you can have an easement 2 feet under an existing home? He does not think an automobile can get through this driveway.

One critical question that should have been asked is how these sites will eventually be developed? It was a struggle to get the lot count down from 21 to 17; lot 16 is shoe-horned in. There are solutions in other cases:

- Clarify the access requirement of the code.
- Look at land division regulations so that a test can be applied other than meeting requirements of frontage, depth, width and lot size to better condition, deny or approve with conditions something that doesn't result in this.
- The Commission has the authority to establish differing setbacks at the time of subdivision review.

Speaking: Mike Miller, 4206 SE Somewhere Drive, Milwaukie

**Mr. Miller** voiced concern that the easement says 15 feet when it is actually only 13 feet; the house on lot 15 is built 2-feet further forward towards the sidewalk than the easement calls for. How can someone have an easement which goes 2-feet underneath someone else's house? Also, he stated that if he took his truck on this road, he doesn't think he can get through the road without driving on the sidewalk or hitting the corner of the house. As soon as this lot is developed, there will be problems. All of the utilities are placed within the 13-foot access.

**John Gessner** reported that surveys were submitted prior to all foundations being poured and the surveyor is saying 15-feet to the property line and in actuality it is 13.3 feet to the property line.

**John Gessner** stated that Centex can be asked to confirm that they have a 15-foot setback on this lot. If the setbacks are actually 13 feet, the applicant will be asked to remedy the situation.

**Mr. Miller** complimented John Gessner and Lindsey Nesbitt on getting Centex to replace trees for the trees that were removed. They have replaced trees all the way up Maple Lane to Lake Road and across Lake Road. An irrigation system and shrubs were also placed. **John Gessner** stated that staff negotiated a \$5,000 plus attorney fee voluntary compliance agreement with Centex for the trees on Lake Road and Maplewood Court.

**John Gessner** stated that staff will review the situation and report back to the Commission on the specifics and how practices or codes need to be changed so this doesn't happen again.

## 7.2 Annexation Planning

**John Gessner** reported that there were a number of issues raised with the Harmony Road annexations with regards to identifying values of the site other than economic development values. The city has been absent over the last 20 years in terms of looking at issues that should be identified prior to an annexation occurrence so that there is some policy established for the benefit of the City's goal for how the annexation should occur.

Staff is suggesting a review of the southeast corner of the site between Railroad Avenue and Harmony Road that has the Menthorne Creek Environmental Corridor on it and use that as a pilot for determining what future annexations should look like. This would establish some basic expectations for how these sites would develop and preserve the values that warrant preservation at the time of annexation. Policy would reduce speculation and establishes the playing field for developers who need to annex to gain access to public utilities.

7.3 Work Program

**John Gessner** stated that some time soon the Commission needs to talk about the work program and get before the Council. Staff will come back with some structured suggestions for review and comment.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director -- None.

11.0 NEXT MEETING -- July 13, 2004

11.1 CSO – 04-03 – Three Bridges Project

**Judith Borden** moved to adjourn the meeting of June 22, 2004. **Brent Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:30 p.m.

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Donald Hammang, Chair

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Shirley Richardson, Hearings Reporter