

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 21, 1997**

The one thousand seven hundred and fifty-ninth meeting of the Milwaukie City Council was called to order by Mayor Lomnicki at 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilors were present:

Craig Lomnicki,
Mayor
Carolyn Tomei

Rob Kappa
Don Trotter

Absent: Jean Schreiber

Also present:

Dan Bartlett,
City Manager
Charlene Richards,
Assistant to the
City Manager
Paul Elsner,
City Attorney
Jim Brink,
City Engineer

Maggie Collins,
Community Development Director
Stacy Lawson,
Assistant Planner
JoAnn Herrigel,
Program Services Coordinator

Troop 144 performed the flag ceremony and led the Pledge of Allegiance.

Oath of Office

Ron Gray, Municipal Court Judge, administered the Oath of Office to **Councilmember Carolyn Tomei**.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Lomnicki read a proclamation naming the week of February 2 - 8, 1997, as *Scouting Anniversary Week*. He acknowledged pack 561.

CONSENT AGENDA

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to adopt the Consent Agenda that consisted of the City Council minutes of January 7, 1997. Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION -- None

PUBLIC HEARING

Appeal of Planning Commission Denial of File VR-96-07 -- Walters

Mayor Lomnicki called the Public Hearing to order at 7:17 p.m.

The purpose of the hearing was to consider the appeal of a Planning Commission denial of VR-96-07. The applicant proposed a minor variance to allow reduced lot sizes in an eight-lot subdivision to accommodate the development of a through street between Logus Road and the future Mullan Street.

Mayor Lomnicki reviewed the order of business and conduct of the hearing.

Conflicts of Interest: **Councilmember Tomei** stated, for the record, that she was a Planning Commission member at the time the application was considered. She voted, based on information in the staff report and public testimony at the Planning Commission public hearing. She said she was not biased and would be open-minded enough to decide the issue. She was prepared to say she was wrong if evidence at this hearing indicated.

Site Visits and Ex-Parte Contacts: **Mayor Lomnicki** and **Councilmembers Tomei, Kappa, and Trotter** announced they had visited the site but saw nothing different from the information in the staff report. **Councilmember Kappa** announced he had spoken with Planning Commissioners Lent and LaRocque on January 20, 1997, to clarify statements regarding the property boundaries and Mullan Street. **Elsner** said Councilmember Kappa's disclosure of his discussion with Planning Commissioners was sufficient for the record.

Challenges to Impartiality: **Jeff Marshall**, 9901 SE 53rd, technically challenged Councilmember Tomei's impartiality because she was the chair person of the Planning Commission at the time the decision to deny the application was made. She voted in favor of the applicant. **Councilmember Tomei** said she felt she could be impartial as a member of the City Council. She assumed she would hear new evidence at this hearing.

Mayor Lomnicki said both the applicant and the opponent could present new information not presented to the Planning Commission since this was a *de novo* hearing.

Staff Report: **Lawson** presented the staff report. She distributed the following material: a memorandum referred to in the staff report from Paul Roeger of the Public Works Department to Community Development dated November 8, 1996, regarding right-of-way alternatives; and clearer copies of staff report pages 43, 44, and 45 with calculations of various alternative lot sizes. The purpose was to provide more readable exhibits.

Councilmember Kappa commented that he and **Councilmember Trotter** had discussed these three maps because the initial copies were unreadable. There was no discussion beyond that.

Lawson explained the applicant requested a variance in order to reduce the size of six lots in an eight-lot subdivision. This would accommodate a through street between Logus Road and the future Mullan Street. The Planning Commission denied the application, and Walters filed an appeal to the City Council.

She referred to page two of the staff report containing information on the lot sizes of the initial submittal and two alternatives. The Planning Commission asked the applicant to consider alternatives after the first hearing. At the second hearing the applicant returned with Alternatives 1 and 2. Alternative 1 proposed to reduce the street width by eliminating the sidewalk on one side of the street. The result would be a minor lot size variance for lots 2, 3, 4, 6, 7, and 8. The second alternative increased lot sizes by incorporating what would be dedicated land for sidewalks and curbs into private properties through access easements. In the scenario, only lots 6, 7, and 8 would require minor variances.

The Planning Commission denied the application on the basis that it did not meet Variance Criteria A or B. The property was not unusual enough, and viable alternatives did exist. The Commission felt reducing the number of lots from eight to six or reducing the rear yard of Lot 5 were both viable alternatives. Furthermore, it did not see the property as being unusual for the neighborhood. The applicant said reducing the number of lots would result in at least 8,000 square foot lots in an R-7 zone.

The first issue addressed was unusualness as it relates to Criteria A. The property is unusual in relation to other properties within the R-7 zone which are large enough to subdivide. The property is long and narrow and can easily accommodate the eight units within the density of the Comprehensive Plan. The unusual circumstance was the amount of property required to be dedicated for public right-of-way. The Public Works Department has required dedication of a street at 39 feet extending from the north line of the property to the south line. The total dedication of Logus and the future Mullan Street right-of-way is 27%. **Lawson** said the standard in the Comprehensive Plan was 25%, and in the Pennywood subdivision, for example, there was a 12% dedication.

The second issue was the argument that the homes on the subject property were not located any further back from the right-of-way of Logus Road on the south side than were any other homes in relationship to Logus Road. She identified the location of homes in relationship to Logus Road. Staff found the property at 5400 Logus Road was setback further than the average of other homes in the area. This could impact the design of the subdivision, lot sizes, and location and orientation of the road.

The third issue related to Criteria B regarding use of the property in substantially the same manner as other properties in the area. The applicant submitted information on lot sizes in the surrounding area. She indicated the locations of various lot sizes on a map.

Councilmember Kappa asked her to identify those lots within the notification area.

Councilmember Trotter commented on the difference in shape of the proposed site. It did not appear to have the same configuration as it did on other maps he had seen.

Lawson responded one map included a portion of property to the east of the site which the applicant proposed to purchase. She noted that Planning Commissioner Pat Lent and City Engineer Jim Brink were present to respond to questions.

Lawson pointed out the Planning Commission's position on staff report pages 3 and 54. She outlined City Council's possible actions that included: upholding the Planning Commission's denial; reversing the Commission's decision; or concluding either of these with further findings and conditions based on testimony at this hearing.

Councilmember Trotter asked the status of the 120-day clock. **Lawson** said staff would like time to respond to the question.

Councilmember Trotter asked for information on the 25-foot dedication requirement on Mullan. He asked why Public Works was requiring this. **Brink** responded the developed portion of Mullan has a 50-foot right-of-way to the west of the project site. The City plans some day to extend Mullan Street through from Stanley to 43rd. He indicated on a map the existing Mullan Street as it relates to the proposed development. That is the purpose for the 25-foot dedication from the applicant.

Councilmember Trotter asked the purpose of a 50-foot right-of-way when that is not the current City standard. **Brink** responded the current right-of-way standard could be 50-feet depending on the terrain. The municipal code requires a minimum 39-foot right-of-way which includes the paved street, curb, and two sidewalks that may or may not have a planting strip. The criteria used for this application was the width of the existing, developed portion of Mullan Street.

Councilmember Trotter asked if the 30 feet on westbound Stanley was existing right-of-way. **Brink** responded that was correct.

Councilmember Trotter referred to the initial plan and asked if the existing driveway locations were evaluated and determined appropriate. **Brink** said he would respond to the question after determining from engineering if that level of detail was done.

Councilmember Trotter referred to a memo dated November 8, 1996. He asked for confirmation that the 10-foot easements on both sides were easements and not dedicated right-of-way. **Brink** responded that these were easements and not part of the dedicated right-of-way.

Councilmember Kappa asked if there was discussion of constructing the street to King Road and, if so, was the information included in the general notices to the public. **Lawson** said there was no specific notification that this could result. It was not under consideration as part of the proposal.

Collins added it was not advertised as a requirement of the subdivision. The additional right-of-way was a discussion topic, but it was determined to be legally not necessary at that point. The Planning Commission made its decision without coming back and requesting an extra variance process begin again having to do with right-of-way dedication.

Councilmember Kappa said there is discussion of the spirit of the draft Milwaukie Transportation System Plan (TSP) and the Oregon Transportation Plan. **Collins** said the draft TSP is being used as a general guide, and the Oregon Transportation Plan has an even more peripheral effect on Milwaukie's transportation policy. Staff goes back to the Comprehensive Plan for legal policies on transportation.

Councilmember Kappa referred to the newly distributed maps and a discussion in the Planning Commission minutes regarding a possible revision to the 40-foot setback of the northernmost lot.

Lawson pointed out the rear setback on the property is 47.87 feet. She then referred to the Planning Commission's alternative of reducing the size of Lot 5. The Planning Commission suggested this as a viable option when they evaluated the criteria, but it was not a request of the applicant.

Councilmember Trotter referred to page 76 of the staff report in which Mike Smith asked about the lot sizes indicated in Alternative 2. He asked for clarification of the comment regarding the eight feet belonging to an adjacent property owner. **Lawson** explained Mr. Casey spoke about trying to obtain an additional eight feet from an adjoining property owned by the Tarrs. The preliminary plan does indicate this additional acquisition, but the eight feet is irrelevant at this point.

Lawson responded to the question about the 120-day clock. The application became complete on September 3, 1996, and the Planning Commission took action within 70 days on November 12, 1996. She believed the application was at 140 days. **Elsner** said he would discount certain allowable time periods in his calculations.

Councilmember Trotter said he was concerned the application was very close to the 120-day period. He asked what options the City Council had.

Correspondence: None.

Applicant's Presentation: **Wayne Walters**, 18235 S. Grasle Rd., Oregon City, Oregon 97045. He indicated he had been working on the application for fifteen months, and all the steps were documented. He invited questions from the City Council.

Councilmember Trotter asked Walters to address the second variance criteria regarding feasible alternatives. He asked which of the three alternatives were acceptable to the applicant. **Walters** said he preferred the initial submittal, but alternative 2 which incorporated the sidewalk into the private property through access easements was also acceptable. He did not feel the livability factor would change as a result. The smallest lot is within 3% of the 7,000 square feet. He stated his concern with the amount of property required for dedication since 39 feet was standard. He added he would make flaglots on the property if this application was denied.

Councilmember Trotter said the Planning Commission saw two feasible alternatives and asked if anything could be done about the rear yard setback on Lot 5. **Walters** said the Tarrs were only willing to sell the additional eight feet of property, so beyond that, nothing was feasible. That is not a feasible alternative.

Councilmember Trotter asked the applicant if decreasing the number of lots was feasible. **Walters** responded doing this would create wide, 8,000 square foot lots with 110 foot frontages, and he did not believe this was feasible. The 3% difference would not even be noticeable to the naked eye. Two of the lots in the proposal are over 10,000 square feet.

Councilmember Kappa asked if there was any other viable proposal. **Walters** said you cannot be too creative with this shape of property. He understood lots over 6,500 square feet fit into the 7,000 square foot requirement. The applicant said if the 6 feet taken out for Mullan could be added back, no variances would be needed.

Testimony in Support: **John Casey**, John L. Scott Realty, 11410 90th Ave, Portland. He referred to page 77 of the staff report in which Jeff Marshall, Lewelling Neighborhood Association representative, made the following comment to the Planning Commission on November 12, 1996: "Though not part of the criteria, this street will dump as many as 12 cars onto Logus Road, a narrow road with no sidewalk at the intersection of the entrance into Lewelling Grade School. This subdivision road will be of no help to Lewelling Grade School and will cause endangerment to the children as they try to get to school." He felt this had some weight with one of the Commissioners. **Casey** then referred to the following statement by Planning Commissioner Lent on page 79 of the staff report: "She is not convinced that the criteria is met, and after testimony tonight, she does feel there are adverse effects to the community by this proposed development."

Casey discussed the current status of Logus Road in front of Lewelling School. There is one driveway to enter and one to exit the elementary school. There is no sidewalk, and the existing crosswalk ends at a residential driveway. The owner of that property has two trucks. If the subdivision is approved, there will be an appropriate area with a sidewalk that will make a much safer situation for the children.

Casey addressed the current non-consistent zoning of the block. He pointed out the following areas in the adjacent neighborhood: the location of three, 6,466 square foot lots approved by the Planning Commission in June 1996; adjacent properties with 50-foot widths; an almost contiguous R-5 zone; a multi-family development; and a retirement center. **Casey** also referred to Metro's 2040 plan which proposed 4 - 6 dwelling units per acre. He told City Council if it believed the 2040 Plan was a solution to regional growth problems, it would approve this variance application. Walters' only option will be to develop flaglots if this appeal was denied.

Councilmember Kappa asked the difference between this development and the one Casey indicated as being approved by the Planning Commission in June. **Casey** referred to the June 18, 1996, notice of decision. He said his first thought was that the developer was not required to construct a through street, and Walters was required to do so. He could not think of any reason beyond that.

Opponent's Presentation: **Jeff Marshall**, 9901 SE 53rd, Milwaukie, spoke as the Lewelling Neighborhood Land Use Chair. He and a majority of the people living in that area chose it because of the neighborhood characteristics. Many of these people are long-term residents. He spoke as the elected Lewelling Neighborhood Land Use Committee Chair representing 1,200 households.

The neighborhood is not opposed to growth, but it is opposed to unplanned growth. Seventy-five percent of the lots in the proposed subdivision do not meet minimum square footage in an R-7 zone. The lot sizes are substandard to both the code and the neighborhood. He discussed the future extension of Mullan to King Road and the property needed to make the connection.

Marshall expressed his concern with creating an intersection at the entrance to the elementary school. The municipal code requires developers to provide streets that appropriately continue existing streets in the area and conform to the current neighborhood. He discussed the size of a turnaround that would be required for emergency vehicle services.

There are 43 tax lots between Logus/King and Stanley/51st Avenue. He referred to Variance Criteria A and noted none of these lots are developed at less than 7,000 square feet. The average in the area is 35,000 square feet. Addressing Variance Criteria B, **Marshall** said the development must be in a "manner the same as others in the surrounding area." The applicant stated there were lots near Logus and Stanley under 7,000 square feet, but these have not been developed. The site is currently used

as a church parking lot. The applicant's references are to smaller lots not located near the proposed subdivision and which cannot be seen as comparable. The examples used by the applicant are beyond the 250-foot radius usually identified as the "neighborhood" for public notification.

Marshall discussed setbacks in the neighborhood. The average setback on that side of Logus Road is 74 feet. Of the 43 tax lots in the area, 14 are of the same size boundary and configuration. He noted staff's comment on page 40 of the packet stating "the parcel is not unusual in relation to its immediate neighbors ..." He felt the applicant had not met Variance Criteria A and the appeal should be denied.

Marshall referred to Criteria B. The applicant should be required to show why other alternatives are not feasible. On staff report page 9, staff writes that a variance would not be necessary if existing homes were demolished. Lawson stated on staff report page 60 that developing four new lots instead of six was a viable alternative. Commissioner Havel stated on staff report page 64 that 7,000 square foot lots could be achieved with an adjustment of the property line between Lots 5 and 6. Further, he noted on page 14 the discussion of flaglots and how the configuration could be achieved. **Marshall** stated there were at least five alternatives the applicant could carry out. He felt reducing the subdivision from eight to six lots was feasible and would maintain the neighborhood characteristics.

Marshall addressed Variance Criteria C regarding adverse effects on other properties. Lots under 7,000 are not in keeping with the neighborhood, and reducing the number of lots would be more in keeping with the neighborhood characteristics. He noted the applicant's proposal would result in the removal of 30-40 trees. If there were more flexibility in the home site location, fewer trees would be destroyed. He did not feel Criteria C had been met.

Marshall discussed the relationship of the applicant's proposal to the Metro 2040 Plan which is conceptual in nature. He referred to comments made by Councilmember Trotter in September 1995 in which he stated the following: (1) the Comprehensive Plan is conceptual and outlines goals and policies; and (2) the Zoning Ordinance applies to property and determination of land use actions. The 2040 Plan is conceptual, but the Zoning Ordinance is adopted.

He reviewed the "Overriding Management Policies" of the Comprehensive Plan he believed should be addressed. These were: the preservation of existing natural resources and developments of character; and preservation and enhancement of local neighborhoods. **Marshall** addressed the issues of preservation and enhancement of local neighborhood quality and identity; consideration of the needs of existing residents; conservation of existing areas; and housing densities to support transportation and major commercial centers.

Marshall concluded his testimony by stating he did not believe any of the variance criteria had been met by the applicant. He stressed the Lewelling Neighborhood and the Land Use Committee were not opposed to development, but they were opposed to unplanned development. Speaking as Lewelling Land Use Chair, Marshall suggested the City Council recommend the applicant meet with the neighborhood to develop a feasible alternative to take to the Planning Commission.

Mayor Lomnicki asked if the developer had met with the Neighborhood Association. **Marshall** responded the developer did not contact the Land Use Committee. After the first Planning Commission hearing, the Realtor attended an association meeting at which he, Marshall, had not been present. He understood the real estate agent was trying to tell the association what good this development would bring the neighborhood.

Councilmember Trotter asked Marshall to repeat his comments about the 6,000 square foot difference on the roadway. **Marshall** said his point was a developer is required by code to construct a roadway or turnaround. He discussed the minimum street width of 39 feet or 16,000 square feet on property such as this. The staff report states the developer would have to dedicate 22,000 square feet. The applicant is being asked for an additional 6,000 square feet above the standard.

Councilmember Trotter said the 6,000 is over what would be required. **Marshall** discussed his calculations for the amount of square feet needed for a turnaround if the street did not go through. **Councilmember Trotter** said the estimate was based on ending the road shortly after the last driveway and constructing a turnaround. He asked how this related to the requirement to connect with the future Mullan Street right-of-way. **Marshall** indicated he used information from the staff report regarding a right-of-way dedication of 39 feet to construct a roadway. He took the road 3/4 of the way in and then estimated a turnaround for emergency vehicles. **Councilmember Trotter** said the 6,000 square feet is the difference between the City's requirement for a 22,000 right-of-way dedication and a hypothetical roadway going all the way through.

Councilmember Trotter asked about the terminology of "neighborhood character." He understood from Marshall's comments the proposal is not compatible with other properties with 35,000 square foot lots, but a subdivision composed of six, 9,000 square foot lots is more compatible. **Marshall** stated lots in an R-7 zone must be a minimum of 7,000 square feet. **Councilmember Trotter** said this implies the neighborhood character is based on under-developed properties in an R-7 zone.

Councilmember Trotter asked Marshall to explain how he was given the authority to represent 1,200 households. **Marshall** said he was elected to the position of Lewelling Land Use Committee Chair as an arm of the Neighborhood District Association. His point was he was not speaking as an individual. He indicated he had no fewer than three discussions with a representative group of residents of the association on this issue.

Mayor Lomnicki asked if there had been a motion or action taken in the Land Use Committee or the Neighborhood Association. **Marshall** said the Land Use Committee members took a vote, and it was unanimous among the eight people on the Committee.

Councilmember Kappa asked Marshall to indicate on the map the locations of the 35,000 square foot lots and asked how the subject property did not fit with the neighborhood character. **Marshall** said the neighborhood character is large lots. Changing a two-lot area into an eight-lot area is a substantial change.

Councilmember Tomei asked Marshall the size of his own lot and to indicate its location on the map. **Marshall** said his lot measures 80' x 129'. **Councilmember Tomei** commended Marshall on his research. She asked Marshall if he felt the development would be substandard. **Marshall** said the Land Use Committee feels the proposed subdivision is substandard in that the lots are under the 7,000 square foot minimum of an R-7 zone. There are large lots in the area, and none have been developed at the 6,300, 6,400, or 6,500 square foot range the applicant is proposing.

Staff Comments: **Lawson** said she had no additional comments at this time and asked if there were any remaining questions.

Questions of Clarification: **Councilmember Kappa** referred to staff report page 23 and the parcel near the church. He asked what the difference was between this and the proposed subdivision. **Mayor Lomnicki** indicated these parcels belonged to the church. **Lawson** said the Planning Commission approved that development in June with half-street improvements. It was approved with reduced lot sizes. She added from the staff's perspective the issues were similar. **Councilmember Kappa** said it was confusing for the Planning Commission to approve one application and deny another that was identical.

Councilmember Tomei said membership of the Planning Commission had changed, and it was a judgment call. **Councilmember Kappa** commented the criteria should be the same.

Councilmember Tomei asked about the applicant's statement that the right-of-way dedication in the Pennywood subdivision was only 12%. **Lawson** said that was a correct statement. The north/south street on the east side did not require a dedication. Pennywood is under the average for this reason. **Councilmember Tomei** asked the width of the street dedication. **Lawson** responded she believed the street dedication throughout Pennywood was 32 feet, and she thought the application was prior to sidewalk requirements.

Councilmember Tomei asked if the statement that 27% of the proposed subdivision would be dedicated was accurate. This seems a large percentage. **Lawson** said the percentage was correct and added the Comprehensive Plan calls for 25%.

Councilmember Tomei asked, if the street dedication were 39 feet as stated in the code, would the lots then be 7,000 square feet in this proposed subdivision. **Lawson** responded she did not believe they would. The 39-foot right-of-way corresponds to the initial proposal.

Mayor Lomnicki said staff indicates it supports both alternatives 1 and 2 but prefers the initial submittal. He asked for the reasoning. **Lawson** said staff prefers the initial submittal because the sidewalks would be on public rather than private property, but the effect would essentially be the same. **Mayor Lomnicki** said it seems to be an issue of ownership of the sidewalk.

Mayor Lomnicki asked if there would be any problems if the City Council supported Alternative 2. **Brink** said precedent is a primary concern. There is only one example in the City in which the curb or some structure outside the paved roadway is on a private easement. The City would not have control and flexibility; although in the short-term, there would probably be no difference. Since the sidewalk would be on private property, any future action would require purchasing that property. He discussed additional setback requirements for garages on a private easement.

Councilmember Kappa asked if drywells would be sufficient to handle storm water runoff. **Brink** responded the street runoff would go to drywells, and private drywells would handle structural runoff. There is no storm sewer system in the area, and this would be a short-term solution. The subdivision would not add to runoff problems in that neighborhood since the drywells would be designed to meet the needs of the impervious surface to be constructed.

Councilmember Kappa discussed the issue of increased traffic and impact to the neighborhood. He asked for input from an engineering point of view and if it would be appropriate criteria to address. **Brink** said if 54th and Mullan were developed, there would be additional traffic. He felt with sufficient roadway width, radius, and signage the road would be equally as safe as 36th Avenue in the Ardenwald neighborhood. If the road is constructed as planned, he did not consider the traffic issue appropriate criteria at this time.

Councilmember Tomei asked Brink for additional clarification on Alternative 2 and utility easements. **Brink** said there would have to be a private easement for utilities. The five-foot utility easement is for maintenance purposes, and it would be the same for the sidewalks. We do not want utilities under the sidewalk. **Councilmember Tomei** asked if other municipalities had sidewalks on private property. **Brink** said staff was not aware of any City that had this as a policy unless on an exception basis.

Applicant's Rebuttal: **Walters** asked the City Attorney if he knew of any municipalities that allowed private sidewalks. **Elsner** responded he knew of some. **Walters** said it is not an uncommon thing. Alternative 2 was the most simple and would gain square footage for the lots. The lots approved June 1996 was done by a different Planning Commission with a different set of rules. He added he had not been approached by any citizen committees, and the meeting Casey attended had six residents present. **Walters** said the fifty-foot easement was the cause of the problem. If the dedication were only 39 feet as required by City code, there would be no problem, and the lots would be approximately 8,000 square feet.

Councilmember Trotter commented according to his calculations, if five and one-half feet were taken from the dedication of Lots 4 and 8, the square footage would still be under 7,000. **Walters** said he was speaking to Alternative 2 and not the initial submittal.

Councilmember Tomei stated for clarification that of the two Planning Commission meetings in which this application was considered, there was a vote taken at only one.

Casey said Marshall was not present when he attended the Lewelling Neighborhood Association meeting, but there were 10 - 15 others present. He wanted the corrected information to be in the record. He attended the meeting after the Planning Commission denial of the variance application with the attitude of finding out what the neighborhood feelings were. Four people expressed opinions: concern about potential runoff; dislike of any type of development; concern about taking care of people moving into the area; and how to bring others into the discussion. **Casey** indicated neither he nor **Walters** had been contacted about the meeting and the discussion. He got a lot of mixed responses from the people he contacted by phone in the neighborhood.

Councilmember Kappa said both he and Mayor Lomnicki were at that meeting but left when discussion about the application began.

Councilmember Trotter asked Brink about Alternative 2 and said it was difficult to read the square footage on the maps in the packet. **Lawson** referred Councilmember Trotter to staff report page two. **Councilmember Trotter** said he was confused by Alternative 2 since he saw no lots listed at 7,000 square feet. Staff determined the maps were mislabeled, and the question was clarified.

Close of Hearing: **Mayor Lomnicki** closed the public testimony portion of the hearing on the appeal of the Planning Commission denial of VR-96-07 at 9:28 p.m.

Mayor Lomnicki announced an executive session pursuant to ORS 192.660 to consult with legal counsel regarding this hearing.

The meeting reconvened at 9:56 p.m.

Mayor Lomnicki requested that the City Attorney discuss the process. **Elsner** explained during the course of the executive session, it was determined the City Council was meeting beyond the 120-day limitation imposed by statute. For that reason, Council options are more limited. It must approve the application, but it can be done with conditions. The City Council has three viable options before it.

Mayor Lomnicki summarized the options. These were the initial submittal and Alternatives 1 and 2.

Discussion among Councilmembers: **Councilmember Trotter** stated he did not support Alternative 1 because he felt eliminating the sidewalk on one side of the street near an elementary school was less safe. He felt the only difference between Alternatives 1 and 2 was semantics. It did not make sense to change a lot line to artificially change a number. He indicated his support of the initial proposal which was consistent with the staff-prepared findings. The property is unusual because of the above-average dedication of right-of-way caused by the future construction of Mullan Street. He referred to the "Conditions of Approval" on staff report page 21 and made the following recommendations: Condition 1 should be revised to reflect the lot configuration as originally submitted; and conditions 2, 3, 4, 5, 7 and 8 remain as proposed. He asked the rationale for requiring a wooden fence to protect the trees during construction as stated in Condition 6. **Lawson** said a wooden fence would be more difficult to knock down during construction. **Councilmember Trotter** said he would also agree, then, with Condition 6 as proposed.

Councilmember Tomei agreed with Councilmember Trotter and supported the initial submittal and the proposed conditions.

Councilmember Kappa also agreed. Based on what has taken place, he supported the initial proposal.

Mayor Lomnicki indicated his agreement with the initial submittal. He also supported Alternative 2 and Marshall's statement regarding substandard development because of lot sizes. If the neighborhood feels lot size is a major concern, Alternative 2 would get the subdivision closer to the comfort level of the area residents. He also agreed with Councilmember Trotter's comments about the need for two sidewalks and the Conditions of Approval. He discussed urban development concepts and indicated he had no problems with the initial submittal.

Councilmember Trotter asked staff if the hammerhead design had been reviewed and approved by the Fire Department. **Brink** said it had. **Councilmember Trotter** referred to the Public Works' recommendation that Mullan be constructed to its entire length with half-street improvements for an eventual 30-foot street. He asked for further clarification of the relationship between this figure and the 50-foot right-of-way. **Brink** said he would research the street width question.

Councilmember Trotter suggested an additional condition. He suggested erecting barricades in locations to be determined by staff to keep traffic from using the partially graveled right-of-way. **Brink** said it would be no problem to install a barricade at the end of the hammerhead.

Determination of Findings and Decision:

It was moved by Councilmember Trotter and seconded by Councilmember Tomei to direct staff to prepare findings of fact and conclusions of law consistent with the City Council decision overturning the decision of the Planning Commission on VR-96-07.

Councilmember Trotter suggested including a statement in the findings that the 120-day period had been exceeded. **Elsner** concurred.

Councilmember Trotter as the maker of the motion and Councilmember Tomei as second accepted the additional language.

Councilmember Trotter said there was a lot of good testimony. He briefly commented that, although there was a lot of discussion about not having lots less than 7,000 square feet, that is why there are variance criteria.

Motion passed unanimously among the members present.

Marshall asked if the appeal was approved primarily because of the 120-day clock. **Mayor Lomnicki** responded the City Council's choices had become limited.

Marshall asked if the subdivision could be reduced from eight to six lots. **Mayor Lomnicki** said the reduction in number of lots would not be possible.

Mayor Lomnicki addressed the issue of the subdivision application re-hearing.

Collins explained the Planning Commission was the routine decision-making body for preliminary plats for subdivisions. When the Planning Commission denied the variance, the subdivision application could not go forward. Staff requested the City Council direct the Planning Commission to consider S-96-03 in line with the variance approval. That public hearing would be noticed to all interested parties. She also suggested, in light of public comments, that the applicant meet with the Land Use Committee to address neighborhood concerns.

It was moved by Mayor Lomnicki and seconded by Councilmember Kappa to redirect S-96-03 to the Planning Commission based on City Council action on VR-96-07.

Councilmember Trotter said City Council has not approved the variance; it has asked staff to prepare findings to support the motion to approve. We can direct staff to move forward based on tentative approval of the variances. He recommended the Planning Commission pay special attention to the Mullan connection and coordinate with staff and developer for a more definitive explanation of that development.

Motion passed unanimously among the members present.

Mayor Lomnicki asked if there were other comments or questions of clarification.

Planning Commissioner Lent asked if the 120-day clock started again. **Elsner** said the applicant will have to resubmit the subdivision application. The 120-day clock will begin when the file is complete and eligible for Planning Commission consideration.

Councilmember Tomei wanted to make sure in the motion that the findings beginning on staff report page 19 and conditions of approval on page 21 were adopted. **Bartlett** said staff will take the findings from the original submittal and amend them for City Council approval at the next regular session.

Councilmember Kappa commended all parties for the work done. He discussed a design element within the Subdivision Ordinance and within the Comprehensive Plan.

Mayor Lomnicki said this type of application will become more prevalent as the City develops. Our City is full of very long lots such as these with streets that have not been connected very well. In previous hearings, residents told the City Council they did not like flaglots and preferred streets to create a more traditional development. He recommended that, as the Planning Commission and City Council deal with these applications, they should try to incorporate better connections of land use patterns and road systems. This type of development is more favorable than flaglot configurations, and a broad City-wide development perspective is needed.

Councilmember Kappa said he would like to consider the appropriateness of alleys in the future.

OTHER BUSINESS

Elect Council President

Councilmember Kappa nominated **Councilmember Schreiber**. **Councilmember Tomei** nominated **Councilmember Trotter**. The following vote was taken: **Councilmember Schreiber** one vote; **Councilmember Trotter** three votes.

Councilmember Trotter was elected **Council President**.

Sherrett Street Sanitary Sewer Project

Brink presented the staff report in which the City Council was requested to consider adopting two resolutions pertaining to the Sherrett Street Sanitary Sewer Project. Staff has met with the affected property owners and discussed the issues. Staff is requesting approval of a resolution directing preparation of a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements to seventeen tax lots in the Ardenwald neighborhood. If the City Council approves this resolution, staff is prepared to provide that report. The second resolution declared the intent to form a Local Improvement District (LID) to construct this project. He noted that there were seventeen affected properties in Milwaukie rather than the sixteen originally stated.

Councilmember Trotter asked if any language in the resolutions was changed due to the addition of one property. **Brink** said there were no changes in the resolutions before City Council at this time.

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to adopt the resolution directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements and a friendly amendment to delete item "g." Motion passed unanimously among the members present.

RESOLUTION NO. 3-1997:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING STAFF TO HAVE PREPARED A PRELIMINARY ENGINEERING REPORT REGARDING THE FEASIBILITY OF PROVIDING SANITARY SEWER IMPROVEMENTS THROUGH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT IN THE AREA OF ARDENWALD.

Councilmember Trotter referred to exhibit "A" of the second resolution and asked which was the seventeenth lot. **Brink** responded the additional lot was 101.

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution declaring the intent to form a local improvement district to construct sanitary sewer improvements in the Ardenwald area. Councilmember Trotter referred to the inclusion of Tax Lot 101. Councilmember Tomei and Councilmember Kappa concurred. Motion passed unanimously among the members present.

RESOLUTION NO. 4-1997:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE INTENT TO FORM A LOCAL IMPROVEMENT DISTRICT TO CONSTRUCT SANITARY SEWER IMPROVEMENTS IN THE AREA OF ARDENWALD ADOPTING THE PRELIMINARY ENGINEERING REPORT, CALLING FOR A PUBLIC HEARING, AND DIRECTING THAT NOTICE OF THE HEARING BE GIVEN.

Cable Television Transfer Review

Herrigel presented the staff report in which the City Council was requested to adopt a resolution that would allow the City to recover the costs for reviewing, analyzing, and processing TCI's application for transfer of the franchise. The City is currently in the fourteenth of a fifteen-year franchise and the renewal process has already begun. City staff is working with a consultant to negotiate the franchise and renewal.

She discussed the proposed purchase of the franchise system from Jones Intercable by TCI. The City has 120 days in which to approve or deny the application for consent. A public hearing is scheduled for February 4, 1997, at which time the public is invited to comment. A resolution approving the transfer is scheduled for the February 18, 1997, meeting.

Councilmember Kappa said he had concerns about maintaining current service and programming levels. **Herrigel** said staff is working on a condition of the transfer that TCI honor the existing franchise agreement and then continue the renewal process. Service and programming issues will be addressed during franchise renewal.

Councilmember Kappa also expressed concern the City might no longer have a public access studio. **Herrigel** said other sources in the community had expressed similar concerns.

Mayor Lomnicki said at the time of the regular renewal the City will be negotiating with the new owner, TCI. **Herrigel** said, during the transfer negotiations, the City can make TCI honor the current franchise agreement.

Mayor Lomnicki said it seems the City needs to be vigilant and make sure TCI provides the services in the current agreement. **Richards** responded TCI will sign an agreement saying it will abide by the existing agreement. She discussed the City's role in determining programming. The City cannot tell the cable company what programming to offer, but it can make sure there is compliance with FCC rules.

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution allowing the City to recover costs related to TCI's application for transfer of the cable television franchise. Motion passed unanimously among the members present.

RESOLUTION NO. 4-1997:

A RESOLUTION PROVIDING FOR THE RECOVERY OF COSTS FOR REVIEWING, ANALYZING, AND PROCESSING APPLICATIONS FOR FRANCHISE TRANSFER.

Suspend Council Rules

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to suspend City Council rules and extend the meeting beyond 11:00 p.m. Motion passed unanimously among the members present.

Cable Television Rates

Herrigel presented the staff report in which the City Council was requested to approve Jones Intercable's request to maintain existing rates for cable equipment and installation services. She reviewed the FCC permitted rates.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to approve Jones Intercable's request to maintain existing rates for cable equipment and installation services. Motion passed unanimously among the members present.

Regional Water Providers Consortium Designee

Bartlett presented the staff report in which the City Council was requested to designate a member and alternate to this group.

It was moved by Councilmember Trotter and seconded by Councilmember Tomei to nominate Councilmember Kappa as primary member and Councilmember Tomei as alternate to the Regional Water Providers Consortium. Motion passed unanimously among the members present.

Bartlett said at this point the South Fork Water Board will represent the City of Milwaukie on the technical committee.

Clackamas County Community Action Board

Mayor Lomnicki announced he was contacted by Clackamas County Community Action Board regarding an appointee to replace Rick Farley.

Councilmember Tomei was nominated as the Milwaukie City Council representative to the Clackamas County Community Action Board.

Fire Oversight Committees

Mayor Lomnicki discussed correspondence from Clackamas Fire District #1 regarding combining the oversight committees formed around battalion chiefs and the South Metro Fire Marshal's Office. This action would help consolidate time and effort.

Councilmember Trotter said he currently was serving as the City Council representative on the South Metro Group. He felt combining the two committees was a good idea.

City Council directed staff to go ahead with the proposal, and City Council will select a representative for the newly formed oversight committee.

Councilmember Kappa asked if the City of Milwaukie would have two representatives. **Councilmember Trotter** said there are two elected officials and three staff.

Mayor Lomnicki suggested staff prepare a report on the proposal to include the City's representation and the organizational structure.

Councilmember Kappa asked if the IGA would prohibit that type of organization. **Bartlett** said either the IGA could be modified or two meetings could be noticed.

INFORMATION -- None.

ADJOURNMENT

Mayor Lomnicki adjourned the meeting at 11:15 p.m.

Pat DuVal

Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA (revised 1/17/97)
JANUARY 21, 1997**

MILWAUKIE CITY HALL

10722 SE Main Street

1759th MEETING

WORK SESSION

Council Transition Workshop -- 4:30 p.m. - 6:30 p.m.

REGULAR SESSION

7:00 p.m.

- I. CALL TO ORDER -- Troop 144 Flag Ceremony
Pledge of Allegiance**

Oath of Office administered by Judge Ron Gray for Councilor Carolyn Tomei

- II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND
AWARDS**

Proclamation -- Scouting Anniversary Week

- III. 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.)*

City Council Minutes of January 7, 1997

- IV. 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.)*

- V. 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.)*

**Appeal of Planning Commission Denial of File VR-96-07 -- Walters
(Stacy Lawson)**

VI. 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. **Elect Council President (Mayor Lomnicki)**
- B. **Sherrett St. Sanitary Sewer Project -- Resolution (Jim Brink)**
- C. **Cable Television Transfer Review -- Resolution (JoAnn Herrigel)**
- D. **Cable Television Rates (JoAnn Herrigel)**
- E. **Regional Water Providers Consortium Designee (Dan Bartlett)**

VII. INFORMATION

- A. **Lake Road NDA Minutes, November 21, 1996**
- B. **Budget Committee Resignation**
- C. **Correspondence Regarding Tree Ordinance**
- D. **JPACT Meeting Report, December 12, 1996**
- E. **Urban Reserve Recommendation**
- F. **Departmental Quarterly Report**
- G. **Planning Commission Minutes, December 10, 1996**
- H. **Park and Recreation Board Minutes, December 2, 1996**

VIII. ADJOURNMENT

EXECUTIVE SESSION

At the end of the regular meeting, the Council may hold an Executive Session under the authority of Oregon Revised Statutes 192.660 as needed.

For assistance/service per the Americans with Disabilities Act (ADA), dial TDD 786-7555.

Item V

Appeal of Planning Commission Denial of Variance (File VR-96-07 -- Walters) January 21, 1997

1. **Opening** - "The public hearing on the variance appeal is called to order."
2. **Purpose and Procedure** - "The purpose of this hearing is to consider the appeal of a Planning Commission denial of VR-96-07. The applicant proposed a minor variance to allow reduced lot sizes in an eight-lot subdivision to accommodate the development of a through street between Logus Road and the future Mullen Street.

The order of business we will follow in conducting this hearing will be:

- a) Discussion of jurisdiction and impartiality questions
- b) Staff presentation
- c) Correspondence
- d) Applicant's presentation
- e) Other testimony in support
- f) Opponent's testimony
- g) Additional staff comments
- h) Questions of clarification
- i) Applicant's rebuttal
- j) Hearing closed, no further information from the audience
- k) Discussion by Council and decision

The Applicant has the burden of proving that the variance is consistent with the City of Milwaukie's Zoning Ordinance.

The criteria to be addressed for variances are those in Section 702 of the City of Milwaukie Zoning Ordinance.

All the testimony and evidence must be directed toward the criteria just described or other criteria in the plan or land use regulation which one believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Any interested party may appeal the decision of the Council to the State Land Use Board of Appeals according to the rules adopted by the Board."

3. **Conduct of Hearing** - "Does anyone in the audience wish to speak on this matter?" [If yes]:

"I will recognize those persons wishing to speak and any questions should be addressed through me. When you come to the podium, please state your name and address for the record, since this hearing will be tape recorded.

Because we have other items on the agenda this evening, I would encourage those wishing to speak to confine their remarks to the application before us and to avoid repetition and irrelevant information. I would also ask that if many of you wish to make similar or related comments, you may wish to appoint one spokesperson to speak for all of you.

If additional documents or evidence are provided by any party, the City Council may, if requested, allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any such continuance or extension of the record requested by an applicant shall result in a corresponding extension of the so-called 120-day time period."

4. **Conflicts of Interest** - "Do any members of the Council wish to declare any actual or potential conflicts of interest?"
5. **Site Visits and Ex-Parte Contacts** - "Do any members of the Council wish to announce any site visit or ex parte contacts?" (If so, disclose the nature of the site visit or ex parte contact and allow an opportunity for those in attendance to rebut.)
6. **Challenges to Impartiality**: "Does any member of the audience wish to make any challenge to any member's impartiality?"
7. **Staff Report** - Stacy Lawson, Assistant Planner
8. **Correspondence** - "Have we received any correspondence on this matter other than those items included in the agenda materials?"
9. **Applicant's Presentation**
10. **Other Testimony in Support** - "Does anyone wish to speak in support of the Appellant's request?"
11. **Opponent's Presentation** - "Does anyone wish to speak in opposition to the Appellant's request?"
12. **Staff Comments** - "Does the staff have anything to add at this point?"
13. **Questions of Clarification** - "Does any member of Council have any questions regarding clarification of the testimony to this point?"
14. **Applicant's Rebuttal** - "Does the Appellant have anything further to add in rebuttal? If not, I will close the public testimony portion of this hearing."
15. **Close Hearing** - "The public testimony portion of the hearing on the appeal of Planning Commission denial of VR-96-07 is now closed." [Gavel]
16. **Discussion among Council Members** - "Is there discussion by Council?"

(No further testimony unless absolutely necessary. You may want attorney to outline alternatives.)
17. **Determination of Findings and Decision** - "Is the Council ready to vote?"

(Council may adopt findings of the Planning Commission or direct staff to prepare its own.)

1/30-02

4-6:30 - (communications)

R.C.W.G. (Council)

Conf OK, CRAMING OK

Call re: these dates

2/6

6-9:30 (Goal setting) → NCPED - Scott Archer (CH-DEAF)

2/5

6-9:30 (Goal setting) → Budget Committee (OK CH)

YOUR CITY GOVERNMENT

CURRENT CITY COUNCIL

Terms expire

Craig Lomnicki, Mayor	12/31/98
Carolyn Tomei (Council Position #1)	12/31/00
Jean Schreiber (Council Position #2)	12/31/98
Rob Kappa (Council Position #3)	12/31/00
Don Trotter, Council President (Council Position #4)	12/31/98

FORM OF GOVERNMENT

Milwaukie operates under the Council-Manager form of government. All Oregon cities over 2,500 population have the Council-Manager form except Portland, Beaverton, Burns, Lakeview and Junction City. The chief characteristic of this form is that the Council appoints a qualified person as City Manager to take charge of the daily supervision of the City affairs. The Manager serves at the pleasure of the Council.

The theory underlying the Council-Manager plan is that the Council sets policy and the Manager carries it out.

(Source: Handbook for Oregon City Councilors - Published jointly by Bureau of Governmental Research and Service, University of Oregon, and League of Oregon Cities.)

THE MAYOR

- Is elected at a general state election for a four-year period. The Mayor may not serve more than two consecutive terms.
- Serves as Chairman of Council and presides over its deliberations. He/she has a vote on all questions brought before the Council.
- Appoints the board and commission members with the consent of the other Councilors.
- Has no veto power and signs all ordinances, resolutions, and orders approved by the Council.
- Is recognized as a community leader and serves as the official head of the City for ceremonial purposes.

THE COUNCIL PRESIDENT

The Councilor in this position presides over the Council in the Mayor's absence and may perform other functions of the Mayor at those times.

THE COUNCIL

Except as stipulated otherwise in the City Charter, all powers of the City shall be vested in the Council.

- There are four Council positions designated as Positions No. 1, 2, 3, and 4. Councilors are elected from the City at large.
- Two Councilors are elected at each biennial general state election for a four-year term. No Councilor may serve more than eight consecutive years. (Exception: Limitation does not apply to filling of unexpired term.)
- The Council exercises all discretionary powers of the City, both legislative and executive. It exercises its control of the City's administration through the City Manager.
- The Council adopts City laws and changes them as needed.
- The Council determines City policies and sets standards.
- The Council, with advice from the Budget Committee, determines program budget appropriations.
- Determines recommendations as to what City taxes should be levied.
- Approves contracts, agreements, and purchases over \$ 25,000.

THE CITY MANAGER

- The City Council employs the City Manager to carry out Council policies and to serve as Executive Officer for the City.
- Manages the City's business and carries out the Council's plans and orders by coordinating the work of all the City's departments and employees.
- Enforces City laws and applies Council policies.

CITY MANAGER, continued

- Expend funds as authorized by the City Council in the annual budget.
- Recommends to the Council on legislation, financial programs, capital improvements, policies, employment, services, and other matters as requested.
- Keeps the Council informed of the City's business and financial condition.
- Appoints, suspends, or removes City employees under his/her jurisdiction subject to union contractual stipulations and personnel policies.
- Investigates and acts on complaints.

THE CITY ATTORNEY:

- City Council employs the City Attorney.
- Advises the Council, City Manager, and Department Heads on legal matters and procedures.
- Reviews ordinances, resolutions, contracts, agreements, deeds, leases, and other legal documents.
- Represents the City in actions at law.

THE ASSISTANT TO THE CITY MANAGER

- Oversees library, parks and recreation, recycling and conservation programs, and cable and solid waste franchises.
- Staff support to the Milwaukie Parks and Recreation Board and liaison with North Clackamas Parks and Recreation staff.
- Serves as Acting City Manager in the absence of the City Manager.
- Responsible for full range of human resource services including labor negotiations, contract administration, classification and compensation, and training and development.
- Serves as staff liaison to assigned neighborhood association.

THE CITY RECORDER:

- Is the Council's Recording Secretary.
- Keeps ordinances, resolutions, and other official documents.
- Prepares Council Agenda and meeting packet material.
- Receives communications for Council consideration.
- Supervises preparation and distribution of Municipal Code and Charter.
- Furnishes the public with general information pertaining to City government.
- Serves as Elections Officer for the City; provides election information and reports to the Clackamas County Elections Division and Secretary of State.
- Monitors citizen boards/committees.

CITIZEN BOARDS AND COMMISSIONS:

- Act in an advisory capacity to the City Council in forming policy and making law.
- Milwaukie's advisory boards and commissions are:
 - ✧ Budget Committee reviews the City's budget document as prepared by the budget officer and recommends an approved budget to the City Council for approval. There are ten members of the Budget Committee: the five members of the governing body and five Milwaukie electors.
 - ✧ Center/Community Advisory Board advises the City Council, North Clackamas Parks and Recreation District (NCPRD), and Milwaukie Center staff on client/participant needs. It concentrates on the problems, desires, and needs of senior citizens and others in the Milwaukie area. Half (nine) of the board members are appointed by the Milwaukie City Council, and the other half are appointed by the NCPRD. Those appointed by the City Council must be Milwaukie residents.
 - ✧ Citizens Utility Advisory Board advises the Council on the methods and manner in which utility rates and capital improvements are scheduled and carried out. There are seven members appointed at-large, and each must be a resident or own a business within the city limits.

- ✧ Historic Resources Commission assists the Council on historic preservation matters. The makeup of the commission is described in Section 323.4(A) of the Zoning Ordinance.
- ✧ Library Board advises the City Council and Ledding Library staff regarding patrons' needs. The board has seven members, and a majority of them must be Milwaukie residents.
- ✧ Park and Recreation Board advises and makes recommendations on the City's recreation programs and facilities. The Board has seven members all of whom must be residents.
- ✧ Planning Commission reviews and advises on matters of planning and zoning according to Milwaukie's Comprehensive Plan, Zoning Ordinance, and other planning implementation documents. There are seven members, and there are certain appointment qualifications including: no more than two may be non-residents; no more than two members may be engaged in the same type of business; and no more than two voting members may be engaged in buying, selling, or developing real property for profit.
- ✧ Traffic Safety and Transportation Board advises and makes recommendations regarding transportation planning and safety needs in the City and within its urban growth boundary. The board has seven voting members and two ex officio members recommended by the North Clackamas School District.
- ✧ Board of Construction Appeals considers matters pertaining to building construction. It hears and decides appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the Uniform Building Code and the Uniform Code for the Abatement of Dangerous Buildings. The Board will also meet to hear matters relating to alternate materials and methods of construction. The members must be qualified by experience and training to consider these issues. The Board meets as needed.
- ✧ Local Contract Review Board considers contractual matters relating to the City. It is made up of the City Council members and meets on an as needed basis.

NEIGHBORHOOD DISTRICT ASSOCIATIONS

There are seven residential associations based on the attendance areas of Milwaukie's elementary schools. The Office of Neighborhoods works to develop this grassroots, neighborhood involvement program established to educate citizens on issues and to provide access to the local decision-making process. Residents are encouraged to address neighborhood problems and identify issues of concern. Citizens and staff work together to create a sense of community throughout the seven residential neighborhoods.

One City staff person is assigned to each neighborhood district to act as a liaison. This person attends regular association meetings and is a resource to that group. Other staff members may attend to address specific issues or to share information on various City programs.

COUNCIL MEETINGS

Council generally meets on the first and third Tuesdays of each month. Special meetings are held as required. Unless the meeting is declared an emergency, meeting notices are posted at least 24 hours in advance, and the press is notified. The City Recorder will, immediately on request, make a diligent effort to notify each member of the Council, the media, and other persons specified in person, either by telephone, fax, or other appropriate method.

For regular (that is, not "special" or "emergency") meetings, agendas and packets are available the preceding Tuesday. Packets are available to the public at all City facilities including the information shelf at the Ledding Library.

Meetings are held in the Milwaukie City Hall and usually begin at 7:00 p.m. The Council generally meets in a work session prior to the regular session. Work sessions usually begin at 5:00 p.m., but this depends on the number of topics to be discussed. Work session times are printed on the agenda page for that meeting. Work sessions are used for such items as sharing information, hearing updates on City or regional projects and programs, and meeting with advisory boards and commissions. Work sessions are for discussion only; no formal actions or decisions are made.

All regular meetings have the following order of business:

1. Call to order;
2. Proclamations, commendations, special reports, and awards;
3. Consent agenda;
4. Audience participation (for items not on the printed agenda);
5. Public hearings;
6. Other business;
7. Information items;
8. Adjournment; and
9. Executive sessions, as necessary.

Regular sessions are broadcast on Jones Intercable Government Access channel as follows:

Live Coverage - Channel 12	
First and third Tuesday of the month:	7:00 p.m.
Replays - Channel 12	
Daily	7:00 p.m.

Formal action by City Council (i.e., consideration of motions directing policy or staff action, approval of ordinances and resolutions) is done during the regular session.

All meetings are held in accordance with the State of Oregon "Open Meetings" law. The public may attend all meetings, including workshops and work sessions; the only exception for public attendance is Executive Session meetings.

EXECUTIVE SESSIONS:

Closed-door executive sessions are authorized in limited and specifically identified circumstances. No formal action may be taken at these meetings.

Representatives of the news media may attend executive sessions, but Council may require that certain information not be revealed. Executive sessions are scheduled on an as needed basis. Final action on any matter discussed in executive session must be taken at an open meeting. Council is allowed to meet in executive session only under certain circumstances that include: employment of public officers; discipline of public officers and employees; performance evaluations of public officers and employees; labor negotiator consultations; labor negotiations; exempt public records; and consultation with legal counsel on current or likely litigation; real property transactions; trade negotiations; and public investments.

Before adjournment of the regular session, the presiding officer will make an announcement similar to:

“The Milwaukie City Council will meet in Executive Session under the provisions of ORS 192.660 to discuss real property transactions and to consult with legal counsel on pending litigation issues.”

AGENDA PACKETS

Agenda packets are delivered the Tuesday prior to the regular meeting. Deliveries are made to each Councilor's residence unless other arrangements are made. Occasionally, a supplementary packet will be delivered on the following Friday if additional information has become available supporting an agenda item.

LAND USE PUBLIC HEARINGS

Public hearings on land-use issues must be advertised ten days in advance. The following hearing format is used during the meeting:

Public Hearing Opened (By Mayor or presiding officer)

Declarations or Challenges (Councilors note whether they feel they have a conflict of interest and, if so, may excuse themselves from participating in discussing and voting on the issue. At this time, it would also be appropriate for a citizen or interested party to "challenge" a Council member if it was felt a conflict of interest may exist.)

Correspondence (Any correspondence that was not included in the agenda materials is entered into the record.)

Staff Report

Public Testimony (Testimony is received from proponents and opponents with time allotted for cross examination and/or rebuttal. Testimony may also be neutral if it applies to the issue under consideration. There are sign-in sheets available for persons who plan to speak.)

Staff Comments (Comments with regards to issues or questions raised during public testimony.)

Clarification Questions (Council may ask questions about issues raised during public testimony.)

Public Hearing Closed (By Mayor or presiding officer)

Discussion among Councilors (Council may use this time to discuss options.)

Determination of Findings and Decision (At this point, Council may take its vote on the ordinance, resolution, or issue. It may also direct staff, by formal motion, to take action or to prepare a final order for Council review and consideration at a future meeting.)

ADVERTISING

Public hearing notices are placed in *The Clackamas Review* or, less frequently, in *The Oregonian*. Both of these publications have been designated by the Council as the City's papers of record. The notice contains the purpose of the hearing with the date, time, and place of the meeting.

The time of the meeting may change up to 24-hours prior to the meeting; however, the change will be posted at City Hall and the Ledding Library. The press is also notified. Public hearing times will never be scheduled earlier than what the original notice indicated.

CITY STAFF INFORMATION

Information on Meetings:

If in doubt about any information concerning Council meetings, please do not hesitate to contact the City Recorder. If she is not available but due back shortly, please leave a voice mail message. The City Manager or Assistant to the City Manager will also know of any changes and can be contacted if the Recorder is unavailable to call back the day the inquiry is received.

CITIZEN COMPLAINTS:

When a citizen has a complaint and asks to speak to the Mayor or Council, the following guidelines may be helpful:

- 1) Learn the nature of their complaint to determine which department and which staff member would best be able to assist.

2) Staff would like to respond to the citizen as quickly as possible to resolve the issue. If the individual does not want to visit with staff, they do have the opportunity to contact Council by writing a letter, leaving a message on the Council's voice mail, or by addressing their concerns before the Council during the "Audience Participation" portion of the agenda. This is the time made available for individuals to address Council with their concerns. Since there are other agenda items, Council may limit the time allowed for the presentation. Council will usually ask the visitor if they have contacted staff to resolve their problems. If they haven't, oftentimes Council will ask the City Manager or appropriate Department Head to meet with the individual to discuss their concerns.

MISCELLANEOUS

Voice Mail -- Each Councilor has a voice mail box available for his/her use to accept calls from the public. Staff will provide training, and Councilors can check their messages from home.

City Council Travel -- Guidelines

Expense Coverage

Transportation

Normally, out-of-state travel will be by public transportation (air, rail, or bus). Coach and special rates shall be utilized whenever possible. If driving to a conference, using your personal car, Councilmembers can be reimbursed at the rate of 30 cents per mile. However, the total reimbursement shall not exceed the amount that would have been expended if the Councilmember had used available economic, public transportation to the conference. Full reimbursement shall be made for round trip transportation for the Councilmember's travel expense. Airfare or other commercial means of transportation for the Council member's spouse shall be paid directly by the Council member without any use of City funds.

Lodging

Lodging shall be fully reimbursable. If attending a formal conference, lodging will normally be at the conference or headquarters hotel, or comparable facilities which are nearby. If the Councilmember's spouse is attending the conference, the Councilmember shall be responsible for the differential on the daily room rate for double occupancy.

Meals

All meal expenses shall be fully reimbursable for the Councilmember during the conference or out of town meeting.

Miscellaneous Expenses

Generally, any reasonable expense incurred because a Councilmember is traveling for the City can be an allowable expense. All such expenses shall be fully reimbursable.

Reimbursement

Councilmembers seeking reimbursement for expenses should provide the City Recorder with all receipts. These receipts will be used to process the check request.

COUNCIL/STAFF RELATIONS

DRAFT (1/21/97)

City Council Contacts with City Employees - City Councilors are to contact only members of the City Manager's Office or Department Heads for information as part of a clarified policy and procedure relating to employee contacts. This policy shall apply to informational inquiries from members of City Council, updates and coordination on various matters where a member of City Council is working with either the City Manager's Office, the City Attorney's Office, or one of the departments. Of course, there will be exceptions to this policy. For example, if a member of City Council is on a task force or a committee with a member of City Staff, there is justification for contact between the City Councilor and Staff person as it relates to coordination and updates involving the task force or committee's efforts. This overall policy and procedure is the product of the discussion at the Council Transition work session regarding Council/Manager and Staff relations, and it reflects the expressed intent of the Milwaukie City Charter as far as City Council contacts with members of the City employees group.

Criteria for City Council Requests for Staff Research and Studies - City Council criteria for requesting Staff time to do research, specific studies, or related effort that takes Staff additional time to produce the desired information requires that three members of City Council are required to concur in the request for the desired research before it would be assigned by the City Manager to an appropriate department. The form of the request may be at a work session or City Council meeting. Such requests for work will be channeled through the City Manager.

Signature Procedures for Mayor and/or City Council Letters - It is important to achieve timely turn around on producing and sending letters involving the Mayor or members of City Council on such matters as positions on State and Federal Legislation and other time sensitive situations. City Council has developed a revised procedure regarding who is to sign letters on behalf of the Mayor or City Council.

The City Manager is delegated the decision on determining time sensitiveness on letters. He is to determine the magnitude of the letter which, in turn, will dictate whether or not the Mayor would sign the letter, "on behalf of City Council," or if all City Councilors are to sign the desired letter. When letters are deemed to be time sensitive, the Mayor will sign policy or position related letters. Letters which are warranted to respond to citizen inquiries can be signed by the City Manager when reiterating existing policy. Any new policy to be stated would, as a minimum, come over the signature of the Mayor. However, some cases, given the magnitude, might warrant signatures by all City Councilors.

It was agreed by City Council that City Councilors will respond to the best of their ability to the stated deadline when the City Manager's Office asks for a response on a suggested position letter by the stated deadline. If no response is realized by the stated deadline, it is to be construed that "no response" is consent for the desired position addressed in the draft letter.

Letters written by individual Councilors to constituents are public records. Copies of this correspondence ~~needs~~ to be provided to the City Recorder who is the official custodian of City records.

CITY OF MILWAUKIE

SETTING THE STANDARD FOR SERVICE
EXCELLENCE

WE ARE AN ORGANIZATION COMMITTED TO:

TEAMWORK

QUALITY

RELIABILITY

INTEGRITY

RESPECT

SAFETY



To: Mayor and City Council
 Through: Charlene Richards, Assistant to the City Manager *CR*
 Dan Bartlett, City Manager *DB*
 From: JoAnn Herrigel, Program Services Coordinator *JH*
 Subject: Cable Television Rates
 Date: January 10, 1997

Cable Television Update

On November 15, 1996 the city received notice of a proposed transfer of our cable television system from Jones Intercable to TCI Cablevision of Georgia, Inc. This notice came in the form of an application for franchise authority consent to the transfer. With the submission of the consent application (FCC form 394), TCI set the clock ticking on the 120 day approval process for the transfer. Following is a tentative schedule for activities related to the transfer:

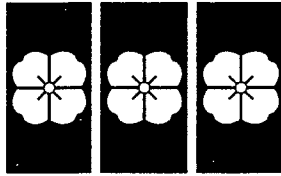
Activity	Date
City receives application from TCI/Jones	November 15
City notifies TCI of receipt of application	January 6
City requests additional information from TCI before review can begin (requests response by February 1)	January 9
Staff meets with Council to discuss transfer	January 21
Resolution considered by council to recoup cost of transfer review	January 21
City Receives info from TCI and begins 120 review period	February 1 at the latest
Public hearing to get input from public on transfer of Cable system from Jones to TCI	February 4
City Council considers approval of resolution to consent to the transfer of cable system from Jones Intercable to TCI	February 18
Transfer completed and renewal resumes	Mid March

MILWAUKIE CITY HALL
 10722 SE MAIN STREET
 MILWAUKIE, OREGON 97222
 PHONE: (503) 786-7555 • FAX: (503) 652-4433

Additional Notes:

- There are two cable processes taking place simultaneously: **renewal** of the existing franchise and **transfer** of the existing franchise. To the extent possible the city would like to make sure that all obligations in our current franchise have been met before finalizing the transfer. This will involve working closely and quickly with Jones to settle outstanding issues before March. Any remaining issues may have to be made conditions of the transfer.
- The 120 day review period is to begin the date formal notice of transfer and complete FCC forms are received by the city. If the city does not respond within 120 days, the transfer is deemed granted by federal law. The city has notified TCI that when we receive the additional information we requested on January 6, we will assume that the 120 period will commence. TCI may balk at this, claiming that the 120 days began the day we received their original forms. For now, staff will assume that TCI will prevail and staff will try to complete this process in time for Council to consider the approval of the transfer at the February 18 council meeting. This would allow the city to get back to TCI by their March 15 deadline.

C I T Y O F



MILWAUKIE

PROCLAMATION

WHEREAS, the Boy Scouts of America is a volunteer organization; and

WHEREAS, these volunteers selflessly serve the young people in their community through the organizations chartered by the Boy Scouts of America to use the program; and

WHEREAS, these men and women often neither receive nor seek the thanks of the public;

NOW, THEREFORE, I, Craig J. Lomnicki, Mayor of the City of Milwaukie, Oregon, do hereby proclaim the week of February 2-8, 1997, as

Scouting Anniversary Week

in celebration of the 87th anniversary of the founding of the Boy Scouts of America. During that time we ask everyone to join in honoring and giving thanks to all Boy Scouts of America volunteers. They have made and will make it possible for even more young people to "Be Prepared for the 21st Century" and to know that "Character Counts" as they grow into healthy and productive adults.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January 1997.

ATTEST:

Pat DuVal,
City Recorder

Craig Lomnicki, Mayor
City of Milwaukie

MILWAUKIE CITY HALL
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MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
JANUARY 7, 1997**

Mayor Lomnicki called the work session to order at 5:00 p.m. in the second floor conference room in City Hall.

Present were Councilmembers Kappa and Trotter.

Also present: City Manager Dan Bartlett; Assistant to the City Manager Charlene Richards; Finance Director Angus Anderson; Police Chief Brent Collier; City Engineer Jim Brink; Utility Specialist John Nagy; and Ela Whelan of Clackamas County Department of Utilities.

Information Sharing

1. **Councilmember Trotter** discussed nominations to the Clackamas River Basin Council.
2. The group discussed possible meeting times for the City Council Transition and Goal Setting sessions. Several dates were selected pending confirmation with Schreiber and Tomei.

Police Department Budget

Anderson presented the report on the Police Department budget. He discussed an error made in the personnel costing of the Police Department in the amount of approximately \$400,000. He indicated it was an appropriation rather than a cash problem. The City is projecting an ending fund balance of approximately \$1 million based on total expenditures and revenues.

The appropriation shortfall in the general fund has remained stable. The Police Department instituted actions to reduce expenditures, particularly in the area of overtime. The purchase of three new vehicles has been postponed until staff is given further direction. **Anderson** discussed proposed options for Council consideration: reduce staffing; forego vehicle replacement; reduce the general fund support for the public safety fund by about \$50,000; or transfer \$342,000 from the general fund contingency.

Mayor Lomnicki said staff is projecting an ending fund balance of \$1 million. **Anderson** said that was correct, and the current general fund contingency was \$750,000.

Bartlett reviewed the supplemental budget process. He also discussed local budget law and the restrictions on transferring from a special revenue fund to a general fund.

Councilmember Kappa asked how the error occurred. **Anderson** explained there was an error in the spread sheet formula.

Councilmember Trotter said he appreciated that the error was found. He wanted to know if the three replacement vehicles were part of the standard cycle. **Anderson** said that was correct, and the proposed \$342,000 transfer would include the vehicle purchase.

Councilmember Trotter said he would prefer to purchase the vehicles since the City has a policy of having safe vehicles and keeping down maintenance costs. He indicated his preference for transferring the funds. Contingency funds are for unforeseen events in the course of business. **Mayor Lomnicki** agreed transferring funds would be preferable, and the City will be in healthy condition at the end of the fiscal year.

Anderson said he plans to have the payroll clerk verify the ending numbers. This item will come before the City Council in regular session in the form of a budget transfer.

Bartlett added the funds will be corrected in the next budget cycle.

Information Sharing

The Police Department budget presentation ended early, so the City Council continued sharing items of information.

1. The group discussed appointments to the Regional Water Providers Consortium with the assignment to be made at the January 21, 1997, meeting.
2. **Councilmember Kappa** discussed representation on the Clackamas Public Safety Coordinating Council appointment. **Mayor Lomnicki** recommended this as a topic at the Clackamas Cities meeting in February, and **Bartlett** indicated he would bring it up at the Mayors' and Managers' meeting.
3. The City Council agreed to the following dates for the City Council Transition and Goal Setting sessions: January 14 from 6:00 p.m. to 9:30 p.m. for "roles and responsibilities"; January 17 from 3:00 p.m. to 5:00 p.m. for "communications"; January 21 from 3:00 p.m. to 5:00 p.m. for the City tour; and January 30 from 5:30 p.m. to 9:30 p.m. for goal setting. These dates were tentative based on Tomei's and Schreiber's availability.

Sherrett Street Sanitary Sewer Project

Brink updated the City Council on the Sherrett St. Sanitary Sewer Project. This is a joint project between the cities of Portland and Milwaukie. The project is in the final design phase, and the City of Portland wants to go to bid on February 1. The City of Milwaukie has 16 affected properties, and Portland has 42 affected properties. The proposed start date is May.

The first issue was to determine if the City of Milwaukie wants to proceed with the project, and staff recommends that it does with the groundwater protection as the primary reason. Funding, **Brink** said, is the biggest issue. **Councilmember Trotter** asked the amount of Milwaukie's share. **Brink** responded the City of Milwaukie's share is estimated at \$153,986.

Brink said the primary reason for proceeding with the project was that these were the last remaining unsewered properties in the area. Cesspools in the area have or will shortly fail. In addition, costs will be less if the City of Milwaukie decides to partner with the City of Portland on the project.

Brink discussed the section of the municipal code requiring connection of structures within 200 feet of a sewer line. All the affected properties in this project are within that 200 feet. The question is how long will the property owners have to connect to the main. Staff recommends the connection be made within three years of final acceptance of the project. The City Council can make this determination based on legal opinion.

Mayor Lomnicki asked if affected property owners would be assessed for construction of the sewer line whether or not they connect at this time. **Brink** said that was correct. Property owners could, for example, decide to wait for three years before running a lateral to the main.

Mayor Lomnicki asked why the City would care how long it took the property owners to connect if they were already paying for construction of the main sewer line. **Brink** said it seemed the spirit of the municipal code to protect the City's groundwater.

Bartlett said the policy of state law is that all urban areas will be sewerred.

Mayor Lomnicki asked if someone buying an affected property would know about the situation. **Brink** said the seller would have to declare to a potential buyer that the structure was not on a public sewer before it could be sold.

Councilmember Kappa felt there were other ways to encourage connection as soon as possible. **Brink** discussed the possibility of a City loan program and the potential for forming a Local Improvement District (LID). **Councilmember Kappa** recommended keeping the process as simple as possible.

Staff also proposed the assessment be based on the cost divided by the number of properties. The area is currently zoned R-7, so there is one unit per property. Two lots are undeveloped at this time.

Brink reviewed the possible methods of cost sharing. The City recognizes there are benefits to the community as a whole by protecting the groundwater. Possible splits are 75/25 or 90/10. There is reference in the municipal code to the 75/25 split for street surfacing. This is a City Council decision. He added that those property owners who have already made payments on previous assessments would be credited. **Mayor Lomnicki** said the credit would be appropriate for those who can verify payments. **Councilmember Trotter** agreed that staff could evaluate each case and do what was fair to the public.

The group indicated they were comfortable with the 75/25 split.

Brink addressed the last issue which was whether the City should carry loans allowing affected property owners to pay over a period of time with an interest rate to be established.

Councilmember Trotter asked for clarification of the difference to the property owner whether there was a City loan or the property was part of an LID. **Brink** said it would be more convenient for the property owner not to have to secure a loan if needed. The loan is part of the LID, and the City would provide some type of financing mechanism. **Mayor Lomnicki** added it would depend upon when the property owner decided to connect, also.

Councilmember Trotter asked the funding source for the proposed loans. **Brink** said the sewer fund is currently capable of handling the loans.

Councilmember Kappa asked if there was any other type of utility work proposed to be done at the same time. **Brink** said staff would like to install a new line in Kathryn Ct.

A property owner living at 33rd and Sherrett said he had been paying a sewer assessment and utility charges for thirty years. When he questioned the City, records indicated his property was not connected to the sewer. The sewer billings stopped, but he wanted to pursue the credit proposal **Brink** discussed earlier. The property owners indicated they had documentation available.

Brink summarized the direction and indicated he would meet with affected property owners next week.

The group discussed the timeframe for connecting with the sewer line.

Councilmember Trotter said he did not read any strong objections to the three-year time frame in the staff report. He suggested the matter be discussed in more detail with the property owners. **Mayor Lomnicki** said, after a certain length of time, the City would not offer the same guarantees. He discussed possible financing options and the incentives to connect early in the process.

Councilmember Trotter said there is a benefit to the community in solving ground water pollution problems. Property owners should be given a certain amount of time to get into the program; and if they choose to go beyond that time period, it becomes a health and safety issue. Cesspools are no longer acceptable in the urban area. Connecting under the LID would be the most cost effective. He recommended staff cost out the three options and prepare figures for Council review.

Rowe Jr. High Traffic Control Request

This item was set over due to time constraints.

Storm Water Master Plan

Brink reported on the Storm Water Master Plan (SWMP) and discussed the proposed alternatives. The major issue is detention. Staff believes the City of Milwaukie should support either Alternative "B" or "C" but not to the extent that support would include helping finance facilities east of I-205. He discussed the City's relationship to facilities installed by the jurisdictions upstream and east of I-205.

Mayor Lomnicki said Milwaukie would benefit downstream from the mitigation efforts of Happy Valley.

Councilmember Kappa said there is a cost factor to the City of Milwaukie, but there is also a benefit to being involved in what takes place upstream. **Brink** said the question is whether the City of Milwaukie becomes involved in funding upstream facilities. Staff does not recommend considering any facilities outside the Urban Growth Boundary (UGB), and there is only one facility proposed within Milwaukie's boundary.

Councilmember Trotter commented it would be very difficult to sell a bond that involves funding facilities outside the City's UGB.

Bartlett pointed out part of the structure proposed for the regional facility on the Southern Pacific property was within the Town Center tax increment financing area. **Whelan** said the costs in the report do not include any of the regional facility expenses.

Brink discussed the issue of drywells. Elimination of the drywells would have a positive impact on the City's water supply and take water off the streets in problem areas such as Home and Monroe. Current funding sources cannot handle these proposed projects. He discussed potential ways to drain the "bowl" area south to Mt. Scott Creek or west to the Washington Street system.

Mayor Lomnicki asked if there would be increased flooding of homes on the creek if outfalls were increased. **Brink** said there have not been any surcharge problems during previous flooding. This plan would move more water into the Willamette. That was the advantage of the Washington Street system in that creek flows would not be increased. He discussed the Johnson Creek system which would have little impact on the creek flows.

A member of the audience residing at 8905 SE Regents Drive complained about backed up storm drains. There has been new construction with no apparent thought to the impact on the existing storm sewer system. **Brink** said the plan calls for upsizing the line on Regents which would carry the flow from that area into Johnson Creek.

Brink said there is about \$300,000 per year from user fees that could be available for the design and construction of the storm projects. The usage fees are not intended to provide revenue for the larger projects.

Councilmember Trotter asked if Regents and Brookside were part of the same project. **Brink** said these were not in the same project and were two different problems. Regents is tied into the 43rd Avenue drywell area which was priority #2 in the staff analysis.

Mayor Lomnicki pointed out climatologists are predicting a period of wetter weather, and it seems to be a good time to address the needs and begin some of the projects.

Councilmember Trotter said the City needs to find funding for all of the projects; it does not make sense spreading them out over a period of time. There are solutions to the problems, and the City needs an accurate plan with numbers ready to answer questions from the public.

Bartlett said this was a project in the 1986 plan which the voters rejected.

Ruby Stapleton complained of runoff from the Standard Appliance building onto her property. **Mayor Lomnicki** recommended she speak with Brink regarding the construction project.

Mayor Lomnicki adjourned the work session at 6:55 p.m.

Pat DuVal, City Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 7, 1997**

The one thousand seven hundred and fifty-eighth meeting of the Milwaukie City Council was called to order by Mayor Lomnicki at 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilors were present:

Craig Lomnicki,
Mayor

Rob Kappa
Don Trotter

Absent: Carolyn Tomei

Jean Schreiber

Also present:

Dan Bartlett,
City Manager
Charlene Richards,
Assistant to the
City Manager
Paul Elsner,
City Attorney

Brent Collier,
Police Chief
Angus Anderson,
Finance Director
Jim Brink,
City Engineer

Oath of Office

Ron Gray, Municipal Court Judge, administered the Oath of Office to **Councilor Rob Kappa**.

CONSENT AGENDA

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to adopt the Consent Agenda with friendly amendment to the first paragraph on page eight of the regular session minutes. Motion passed unanimously among the Council present.

The Consent Agenda consisted of:

1. City Council Minutes of December 17, 1996;
2. Resolution 1-1997: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the First and Third Tuesdays of Each Month as the Regular City Council Meeting Date.
3. Resolution 2-1997: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the *Clackamas Review* and the *Oregonian* as the Papers of Record for the City of Milwaukie.

AUDIENCE PARTICIPATION -- None

PUBLIC HEARING -- None scheduled.

OTHER BUSINESS

Advance Refunding of 1990 Water Revenue and 1991 General Obligation Bonds

Anderson presented the staff report. The City Council was asked to authorize staff to pursue advance refunding of the two outstanding debt issues. The City could save on interest payments by taking advantage of lower market interest rates. Milwaukie has two outstanding debt issues: 1990 Water Revenue Bonds to construct the packed towers and the 1991 General Obligation Bond issued to construct the Public Safety Building. Seattle Northwest Securities estimated the total saving in debt service would be \$158,869. He discussed the application process to the State Treasurer for approval to refinance the debt. City Council's approval of the action would result in the City's beginning to work with Seattle Northwest Securities. If the position is still advantageous after the preliminary work is completed, staff would return to the City Council with a resolution seeking State Treasurer's approval of the action.

Councilmember Trotter asked if the estimated savings were figured after the various brokers' costs. **Anderson** said these figures reflect the actual savings to the City over the life of the bonds.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize staff to pursue advance refunding of the two outstanding debt issues in order to take advantage of lower market interest rates resulting in interest savings. Motion passed unanimously among the members present.

Law Enforcement Block Grant Applications

Dodi Linder presented the staff report. The City Council was asked to approve proceeding on a Local Law Enforcement Block Grant Application. The City of Milwaukie is eligible for an award of \$5,802 and would require a \$1,598 investment by the City. The block grant moneys are appropriated by the U.S. Congress to address crime and public safety issues. She felt the Traffic Data Management Project addressed both the City Council goals and the concerns of Milwaukie residents.

Brink reviewed the function of the electronic plates proposed for acquisition in the grant proposal. The plates can be moved to locations throughout the City and would provide data on such things as numbers of vehicles, speeds, time of day, and vehicle length. He discussed the current contract with Traffic Smithy and the potential savings the electronic plates would allow the City. The plates would give the Public Works Department more flexibility in taking traffic counts and help staff set project priorities.

Councilmember Kappa asked if this equipment would also help monitor or make modifications to the School Trip Safety Program. **Brink** said the plates would aid staff in collecting data and assessing projects based on level of need and impact to the community.

Councilmember Trotter said it would appear, based on this brief explanation, that the City could get data at a fraction of the cost of a consultant. **Brink** added the electronic plates should have a long life span. The disadvantage would be the additional staff time to move and reinstall the plates, but those times will improve as they become more experienced.

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to approve proceeding with the Local Law Enforcement Block Grant Application. Motion passed unanimously among the members present.

Councilmember Trotter commented this was another example of staff's leveraging funds to provide better service.

Clackamas River Basin Nominations

Bartlett presented the staff report. The City Council was requested to suggest a nominee for the Clackamas River Basin Council to be voted on at the Clackamas Cities meeting in January.

Councilmember Trotter nominated **Councilmember Kappa** and **Councilmember Tomei** as alternate.

Councilmember Kappa asked if the alternate would be able to vote. **Mayor Lomnicki** said that will be the case.

The Councilmembers present unanimously supported the nominations.

Information

1. **Bartlett** pointed out the information item on designating a representative to the Regional Water Providers Consortium to be considered at the January 21, 1997, meeting.
2. **Councilmember Kappa** inquired on the progress of the library levy. **Bartlett** indicated information on the proposed ballot title was being circulated. He felt Clackamas County was determined to put it on the March ballot because of the potential impact in July when the levy expires. **Councilmember Kappa** commented on a recent newspaper article regarding the location of a coffee vendor at the Multnomah County Library. **Bartlett** said some libraries are doing this; however, the bids for the Ledding Library CDBG project will be awarded soon.

Mayor Lomnicki announced an executive session pursuant to ORS 192.660 to discuss property acquisition and consultation with counsel immediately following adjournment of the regular session.

ADJOURNMENT

Mayor Lomnicki adjourned the meeting at 7:40 p.m.

Pat DuVal, Recorder/Secretary

EXECUTIVE SESSION

Mayor Lomnicki called the executive session for property acquisition to order. In addition to City Council, attendees included the City Manager, an Assistant City Attorney, Community Development Director, and Finance Director. The City Manager provided information concerning a real property transaction. Council discussed the opportunity and directed staff to determine the fiscal impact and options available for this transaction. Staff will bring this information back to Council at a later date for action.

The Community Development Director left the meeting. Council began the executive session to consult with legal counsel.

Staff presented information from the City Attorney. Councilors asked the Assistant City Attorney questions about the recommendations from legal counsel. Councilors discussed the implications of following the legal advice. Councilors indicated that they would need additional information prior to making a final decision. Council directed staff to quickly prepare information before April 1, 1997, for Council consideration.

Dan R. Bartlett, City Manager



CITY OF MILWAUKIE

MEMORANDUM

January 21, 1997

TO: Mayor and City Council

THRU: Dan Bartlett, City Manager *[Signature]*

FROM: *[Signature]* Maggie Collins, Community Development Director
Stacy Lawson, Assistant Planner

RE: Appeal of Planning Commission Denial of VR-96-07 (Wayne Walters)

ACTION REQUESTED

The Community Development Department staff recommends that, pursuant to Section 1002 (Appeals) of the Zoning Ordinance: (1) the City Council grant the appeal and overturn the denial of Variance VR-96-07 by the Planning Commission, based on the findings and subject to the conditions contained in the Staff Report dated November 12, 1996; and (2) direct a rehearing of the related Subdivision S-96-03 by the Planning Commission.

APPLICANT'S PROPOSAL

The applicant proposes a Minor Variance to allow reduced lot sizes in an eight lot subdivision to accommodate the development of a through street between Logus Road and the future Mullen Street. This would allow for a future extension of the street to connect to King Road.

The applicant initially proposed a subdivision that would create eight Lots from two existing Tax Lots. The two largest parcels were to include the existing homes and be over 10,000 square feet in lot size, while the remaining lots are proposed to be 6, 575 square feet to 6, 314 square feet in size. Minor Variances for lot size are necessary to

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2

allow the creation of Lots 2, 3, 4, 6, 7, and 8. The following table summarizes the lot areas proposed in the initial submittal.

Initial Submittal

Proposed Lot Number	Lot Size in Square Feet	Public Right-Of-Way Width
1	10,662 sq. ft.	39 feet
2	6,478 sq. ft.	39 feet
3	6,478 sq. ft.	39 feet
4	6,575 sq. ft.	39 feet
5	10,462 sq. ft.	39 feet
6	6,314 sq. ft.	39 feet
7	6,314 sq. ft.	39 feet
8	6,331 sq. ft.	39 feet

After the first hearing, the applicant (appellant) proposed two alternatives to the initial submittal. Alternative 1 proposed a reduced street width by eliminating the sidewalk on one side of the street, resulting in a need for Minor Lot Size Variances for Lots 2, 3, 4, 6, 7, and 8. While the Lots requiring the variances remain the same, the amount of the variance has been reduced for each lot.

Alternative 1

Proposed Lot Number	Lot Size in Square Feet	Sq. Ft. Change	Public Right-Of-Way Width
1	11,037 sq. ft.	+375	33 feet
2	6,724 sq. ft.	+246	33 feet
3	6,724 sq. ft.	+246	33 feet
4	6,795 sq. ft.	+220	33 feet
5	10,840 sq. ft.	+378	33 feet
6	6,560 sq. ft.	+246	33 feet
7	6,560 sq. ft.	+246	33 feet
8	6,549 sq. ft.	+218	33 feet

Alternative 2 proposed a reduced public dedication with sidewalks and curbs incorporated into private property through access easements. This further increased lot sizes, requiring a Minor Variance only for Lots 6, 7, and 8.

Alternative 2

Proposed Lot Number	Lot Size in Square Feet	Sq. Ft. Change	Public Right-Of-Way Width
1	11,518 sq. ft.	+856	24 feet
2	7,052 sq. ft.	+574	24 feet
3	7,052 sq. ft.	+574	24 feet
4	7,079 sq. ft.	+504	24 feet

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT

CITY COUNCIL MEMO - Wayne Walters, Variance VR-96-07

January 21, 1997

Page 3

5	11,341 sq. ft.	+879	24 feet
6	6,888 sq. ft.	+574	24 feet
7	6,888 sq. ft.	+574	24 feet
8	6,832 sq. ft.	+501	24 feet

PROCESS BACKGROUND

On October 8, 1996, a duly advertised public hearing was held before the City of Milwaukie Planning Commission on S-96-03, VR-96-07 and VR-96-08. The Planning Commission received testimony from a number of public members related to the applications. The minutes of the Planning Commission hearing are contained in this memorandum as Attachment 5. After taking testimony, the Commission acted to Approve VR-96-08, a variance for reduced setback from the proposed street to the existing structures, and to Continue S-96-03 and VR-96-07 to November 12, 1996, to allow the applicant to explore alternatives to the reduction in lot sizes. See Staff Report dated October 8, 1996 and Notice of Decision for VR-96-08 dated 11-26-96 (Attachments 1&3).

On November 12, 1996, the continuation of the public hearing for S-96-03 and VR-96-07 was held before the City of Milwaukie Planning Commission. The Commission again heard testimony from the public, in addition to two alternative proposals from the applicants. The applicant's alternative proposals showed reduced street width with sidewalk on one side only, or sidewalks on both sides of the street incorporated into easements on private property. The minutes of the Planning Commission hearing are contained in this memorandum as Attachment 6. The Planning Commission acted to Deny Variance 96-07 and as a result, Subdivision 96-03. See Staff Report Addendum dated November 12, 1996 and Notice of Decision for S-96-03 and VR-96-07 dated November 26, 1996 (Attachments 2 and 4).

Decisions of the Planning Commission can be appealed to the City Council within fifteen days of the date of the official Notice of Decision. On December 10, 1996, an official appeal of the Planning Commission decision was filed by Wayne Walters (Attachment 7).

PLANNING COMMISSION POSITION

The Planning Commission acted to deny the proposed lot size variance because they did not believe that Variance Criteria A or B could be met with any of the three alternative proposals presented by the applicant. There was concern that the property was not unusual enough to warrant the grant of a variance. It was further found that there were feasible alternatives to the variance, including a reduction in the rear yard of Lot 5 or a reduction in the number of lots from eight to six. The Planning Commission's findings are listed in Attachment 6.

DISCUSSION OF APPEAL

The Appeal Application states "The Planning Commission failed to recognize the applicant's compliance with the criteria required and defined in Section 702 Circumstances for Granting Variances as defined in the Community Development Director's Notice of Decision dated November 26, 1996." The following issues related to the Variance Criteria were then raised by the Appellant:

Criteria A

The appellant believes that the property is in fact unusual in that there are no other properties with the physical constraint of this location which requires dedication of 430 lineal feet of right-of-way, 39 feet wide, in addition to a requirement for a 25-foot wide dedication at the rear of the property.

In addition, the applicant also notes that the property is unusual in that the home on Tax Lot 1300 is located 60 feet back from the existing right-of-way, which is a greater distance than other homes along Logus Road between Stanley Avenue and 51st Street.

The requirement for a through street was applied to this property by the Department of Public Works because of the need for improved circulation in the Logus Road area. This location was chosen for a street connection because the homes are far enough apart to locate a road without moving or demolishing the homes on the properties above or below the Mullen right-of-way; and these are the only four parcels whose boundaries line-up, allowing for development of a connecting street without creating lots with undevelopable dimensions. In addition, this connection would be located roughly equi-distant from Stanley Avenue and 51st Street, providing for an orderly circulation pattern. This proposal would also provide a more direct route to and from Lewelling Elementary School from King Road and the surrounding area.

A review of the location of the homes along Logus Road between Stanley and 51st shows that with the exception of one home, all of the homes were located closer to Logus Road than the home on Tax Lot 5400. The home on Tax Lot 5300 is located an average distance from Logus Road, with some homes located further from the Road and some located nearer to the Road.

Criteria B

The Appellant argues that the alternative identified by the Planning Commission of reducing the number of lots from eight to six would not afford them the rights enjoyed by other property owners in the area. The Appellant identifies a vast contrast of lot sizes in the neighborhood, ranging down to 6,000 square feet with frontages of 60 feet. The

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applicant has submitted a map (Attachment 8) which shows the various lot sizes in the area. The Appellant argues that reducing the number of lots to six would be impractical because it would result in 8,000 square foot lots which would have 110 feet of frontage. Denial of the variance results in denying the property owner use of the property in substantially the same manner as the owners of the Leone Acres subdivision.

A review of lot sizes in the area has identified that several lots are below 7,000 square feet in size. These include property in the Leone Acres Subdivision and in the vicinity of 49th and Mullen Street.

In addition, the Appeal Application claims that the Planning Commission erred in its consideration of the referenced application and that its findings were not in unanimity with regards to Land Use Objective 5, Policy 1, by encouraging diversity in housing types with infill housing using reduced lot sizes.

The Comprehensive Plan is general in nature and is not intended to include specific development criteria. In addition to compliance with the aspirational goals of the Comprehensive Plan, all of the approval criteria for a variance must be met or shown that they can be met, or the variance cannot be approved. With this in mind, applicable guidelines can be found in the Comprehensive Plan.

The Comprehensive Plan designation for this site is Low Density, up to 6.7 dwelling units per net acre. The applicant's subdivision proposal is consistent with that density. The average lot area of eight lots on this site without public dedications would be 10,252 square feet. The average area of eight lots with the public dedication would be 7,450 square feet. A lot size variance would not be necessary if the existing homes were demolished.

The proposed development is consistent with Land Use Objective 4, Policies 4 and 5, in that it preserves existing housing stock and will maintain a single family scale. The project is also consistent with Land Use Objective 5, Policy 1, because it provides diversity in housing types, with infill housing using reduced lot sizes, resulting in possible construction of smaller housing units.

The proposed project is also in compliance with Transportation Objective 3, Policy 5, which requires that transportation improvements be provided as property develops, consistent with the land use plans and roadway functional classifications. The project is also consistent with the Draft Transportation System Plan, Goal Statement 1, Policy 2, in that it provides sidewalk connections with Logus Road, a street which is designated for sidewalk improvements and which adjoins Lewelling Elementary School.

COUNCIL ACTION

Upon hearing the testimony, the Council may decide to take one of the following actions, pursuant to Section 1002 (Appeals) of the Zoning Ordinance:

1. Concur with the Planning Commission's conclusions and findings, thus Upholding the Planning Commission Denial of VR-96-07; or
2. Concur with the Appellant's discussion of Criteria A and B, thus Reversing the Planning Commission Denial of VR-96-07; or
3. Conclude either (1) or (2) above, with further conditions and findings, based on the testimony and materials presented at this hearing.

STAFF RECOMMENDATION

Staff believes that the variance findings can be made for either the initial proposal or Alternative 1 or 2. Staff prefers the initial proposal. This conclusion is based on:

1. The fact that there are unusual circumstances related to this property because of its limited width, location of homes and property lines in relation to other property boundaries and streets and the resulting requirement for a public right-of-way.
2. The fact that the alternative to the variance (a reduction in the number of lots) is not feasible because the need for the reduction in lot size is caused by the City's requirement for through street access and improved circulation. The overall density of the project with the proposed eight lots would be consistent with the Low Density Comprehensive Plan designation of the two subject properties, and the sizes of the proposed lots are similar to properties within the surrounding area.

Thus, staff recommends that the appellant's request be granted, based on the findings and subject to the conditions contained in the Staff Report dated October 8, 1996. Staff further recommends the Council direct a rehearing of the related Subdivision S-96-03 by the Planning Commission.

ATTACHMENTS

1. Staff Report to Planning Commission dated October 8, 1996 and Staff Report Addendum dated October 8, 1996
2. Staff Report Addendum dated November 12, 1996, with attached letters and a Memorandum dated November 7, 1996, submitted to the Planning Commission.
3. Planning Commission Notice of Decision for VR-96-08, dated November 26, 1996
4. Planning Commission Notice of Decision for S-96-03 and VR-96-07 dated November 25, 1996
5. Planning Commission Minutes dated October 8, 1996
6. Planning Commission Minutes dated November 12, 1996
7. Appeal Application dated December 10, 1996
8. Map of Area Lot Sizes Submitted by the Applicant with the appeal.

**CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

**Date: October 8, 1996
File No.: S-96-03, VR-96-07, VR-96-08**

Application: Subdivision to create 8 lots, with a variance for reduced lot sizes on 6 lots, and a variance for reduced setbacks on 2 lots.

Applicants: Wayne Walters, Robin Tarr and Benjamin Tarr

Property Owner: Same

**Location: 5400 and 5330 SE Logus Road, Milwaukie, OR 97222,
Tax Lots 1200 and 1300 of Tax Map 1 2E 30 DC
(See Exhibit #1)**

RECOMMENDATION:

That the Planning Commission Approve Subdivision, S-96-03, and Variances VR-96-07 and VR-96-08, subject to the conditions in this report.

PROPOSAL:

The applicant proposes a subdivision to reconfigure two existing parcels into eight new parcels (Exhibit 2). The existing parcels front on Logus Road, and are owned by Mr. Walters and Mr. and Ms. Tarr. The parcels are zoned R-7 (Single Family Residential, 7,000 square foot minimum). The parcels are currently developed with one residence each. The proposed project is located on a property which abuts the planned alignment of Mullen Street, to the south.

The applicant proposes to subdivide the two tax lots into eight tax lots through the development of a north/south local street. Improvements will be made to the Mullen Street right-of-way, Logus Road and the proposed street, SE 54th Place (Exhibit 2). The application is a subdivision because eight lots will be created. Both of the existing Tax Lots are 420 feet deep. Tax Lot 1300 is 109 feet wide and Tax Lot 1200 is 86 feet wide.

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The lots will measure 10,662 square feet to 6,314 square feet in size. The two largest parcels will include the existing homes and will be over 10,000 square feet, while the remaining lots are proposed to be 6,575 square feet to 6,314 square feet. The applicant has applied for a Minor Variance to allow these six lots to be created with less than the required 7,000 square foot minimum lot area. The applicant has also applied for a Major Variance to allow the existing setbacks of the homes on proposed Lots 1 and 5 to remain.

The property is heavily vegetated, with mature trees and brush on Tax Lot 1300 and grassland and mature perimeter trees on Tax Lot 1200. The property is bisected from north to south by a minor drainage swale, and slopes from west to east. The elevation difference between the two properties is at times significant and will require a large area at the center of the property to be regraded.

DISCUSSION:

In evaluating this proposal, we will examine three relevant areas of factual analysis, including the proposal's compliance with the Comprehensive Plan, compliance with the Zoning Ordinance, and compliance with the required criteria for the Variance applications. In addition, we will discuss concerns of staff, the public and the Lewelling Neighborhood Land Use Committee.

Compliance With The Comprehensive Plan

The Comprehensive Plan designation for this site is Low Density, up to 6.7 dwelling units per net acre. This proposal is consistent with that density. The average lot area of eight lots on this site without public dedications would be 10,252 square feet. The average area of eight lots with the public dedication would be 7,450 square feet. A lot size variance would not be necessary if the existing homes were demolished.

The proposed development is consistent with Land Use Objective 4, Policies 4 and 5, in that it preserves existing housing stock and will maintain a single family scale. The project is also consistent with Land Use Objective 5, Policy 1, because it provides diversity in housing types, with infill housing using reduced lot sizes, which encourage construction of smaller housing units.

The proposed project is consistent, as conditioned, with Land Use Objective #3, Policies 6 and 7 of the Comprehensive Plan, because specific trees will be protected during construction and existing tree coverage will be retained, were possible.

The proposed project is also in compliance with Transportation Objective 3, Policy 5, which requires that transportation improvements be provided as property develops,

consistent with the land use plans and roadway functional classifications. The project is also consistent with the Draft Transportation System Plan, Goal Statement 1, Policy 2, in that it provides sidewalk connections with Logus Road which is designated for sidewalk improvements and adjoins Lewelling Elementary School.

Compliance With Development Standards of the R-7 Zoning District

The proposed subdivision is located within the R-7 (Residential, seven thousand square foot minimum) Zoning District. The proposed project will meet all of the requirements of the R-7 zoning district, excepting the size of Lots 2, 3, 4, 6, 7, and 8, and setbacks on Lots 1 and 5.

Setbacks

Lots 2, 3, 4, 6, 7, and 8 all conform to the requirement for a 20 foot front yard setback, a 20 foot rear yard setback and side setbacks of 5 feet and 10 feet. Lots 4 and 8 both show the required street side setback of 20 feet.

Lot 1 has a proposed front yard setback of 64.36 feet and a rear yard setback of 20 feet, where 20 feet is required. It has a side yard setback of 8.64 feet where 5 feet is required. The street side setback on 54th Place is proposed to be 19.27 feet where 20 is required. A variance (VR-96-08) has been applied for to address the proposed reduction in setbacks for Lot 1.

Lot 5 has a proposed front yard setback of 31.31 feet and a rear yard setback of 47.87 feet, where 20 feet is required. A street side setback of 8.83 feet is proposed, to accommodate the existing home's location, where 20 feet is required. Variance VR-96-08 has been applied for to address the street side setback reductions on Lot 5.

Logus Road is a Major Street, pursuant to Section 302.3 and 410.1(c) of the Zoning Ordinance. A setback of 45 feet from the centerline of the street is required. The existing right-of-way is 30 feet. The proposal incorporates this requirement for a 45 foot setback from the centerline of Logus with a 15 foot setback from centerline, an additional 10 foot dedication and the required 20 foot streetside setback.

Lot Area

Lots 1 and 5 will meet the requirements for a minimum area of 7,000 square feet, a minimum lot width of 60 feet and a minimum lot depth of 80 feet. Lot 1 has a depth of 136 feet, a width of 79 feet, and a lot area of 10, 662 square feet. Lot 5 has a depth of 137 feet, a lot width of 77 feet, and a lot area of 10,462 square feet.

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Lots 2, 3, 4, 6, 7 and 8 have lot widths of 79 feet and 77 feet and lot depths of 84 and 82 feet, which complies with the R-7 requirements. However, each of these parcels is below the minimum lot size, ranging from 6,575 to 6,331 square feet. A variance (VR-96-07) has been applied for to address the proposed lot sizes.

Parking

Parking for this development is regulated by the requirements of Sections 503.3(A)(1) and 503.17 of the Zoning Ordinance. These Sections require that two parking spaces be provided for residential units, each measuring 9 feet by 20 feet. One of these spaces must be covered with a carport or garage. The uncovered parking space may be provided on a paved surface within the front yard setback. Lot 1 proposes to meet this requirement by utilizing the existing driveway as the open parking area and constructing a 10 x 20 foot attached carport to the east side of the home. Lot 5 proposes to meet this requirement by utilizing the existing driveway as an uncovered space and retaining the existing carport which measures 25x 20 feet. Each of the other proposed lots has ample space within their building envelopes with which to meet the requirement for covered parking.

Height

The proposed homes will be able to meet the required height limit of 2 1/2 stories or 35 feet. The existing homes are one story and less than 15 feet high in compliance with this requirement.

Lot Coverage

The maximum lot coverage of 30% for each parcel will be met. The undeveloped lots will be required to meet this requirement at building permit application. The lot coverage of the existing home on Lot 1 is 17% and the lot coverage of the existing home and accessory structures on Lot 5 is 27%. The disparity in staff's figures and those that appear on the Preliminary Plat are due to an error in calculation on the part of the Applicant.

Minimum Vegetation

Each of the undeveloped lots should not have difficulty meeting the minimum vegetation requirement for 30% of the lot, based on lot sizes and buildable area. Calculations of the existing development on proposed Lots 1 and 5 show existing vegetated area of over 25% exists.

Minimum Access on a Public Right-of-Way

Each of the proposed lots will have the minimum required access of 35 feet on a public right-of-way, because 54th Place is proposed to be a dedicated street. The minimum access width proposed is 82 feet.

Vegetation

The property proposed for subdivision includes many existing trees (Exhibit 3). Staff has walked the site and reviewed the plans in relation to the trees. Staff found that many of the trees were overgrown, in poor health, or small in size and could be removed without adverse impacts. Many of the trees located on the property are located within the future right-of-way of Mullen Street. The applicant has submitted a plan showing existing trees on the property (Exhibit 3). After review, staff is recommending preservation of the 38' Cedar (#9), 38" Cedar (#36) and 42" Cedar (#35) on Lot 5, the large Cedar located on the eastern property line of Lot 6, The 24" Maple (#20) located on Lot 4, and the 31" Cedar (#39) and 48" Fir (#7), located on Lot 2. The Applicant has indicated a desire to retain as many trees as possible, but desires to remove the trees identified as #9 and #20, which staff recommends be retained. These are large trees and they do not appear to be impacted by development. A home placed on Lot 2 could easily avoid tree #20 and no alteration is planned around tree #9. Staff has included a condition requiring preservation of the trees indicated on Exhibit 3. The condition allows the applicant to petition the Community Development Director for removal of any of the trees which are required to be preserved, based on their location in relation to development or their health, as determined by a Certified Arborist.

Circulation and Future Development

The proposed subdivision incorporates a new street (SE 54th Place), which would connect Logus Road and the future right-of-way of Mullen Street. This additional roadway is recommended for approval by the Public Works Department and meets the standards of the Subdivision Ordinance. The applicant proposes to improve a portion of the right-of-way to provide the turnaround required by South Metro Fire. The curbs on Mullen Street are to be developed initially as rolled berms associated with the turnaround and later improved, pursuant to the standards of the Subdivision Ordinance. Improvements will include curb, gutter and a six foot wide sidewalk on either side of the street. Logus will be improved to include sidewalks, curbs and gutters to connect with SE 54th Place. The applicant is required to dedicate 10 feet on the frontage of Logus Road and 25 feet along the Mullen right-of way.

Exhibit 6 shows the current configuration of parcels adjacent to this property, including the future right-of-way of Mullen Street and the recently approved street associated with

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Aleksandr Garkusha's 4 lot subdivision (S-96-02). The proposed street connects up with the existing plans for development in this area and may encourage the further improvement of Mullen Street.

Variance VR-96-07 (Lot Area)

The Applicant is requesting a variance to allow the creation of six lots measuring less than 7,000 square feet in lot size. The proposed lot areas are as follows: Lots 2 and 3 at 6,478 square feet; Lot 4 at 6,575 square feet; Lots 6 and 7 at 6,314 square feet, and Lot 8, at 6,331 square feet. Staff is recommending approval of this variance, based on the following criteria.

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

The subject properties are unusual in that they are narrow and long, and have two existing homes located in the center of each parcel. The combined properties are 420 feet deep and 195 feet wide, measuring 81,900 square feet. The property is unusually narrow relative to its size. In addition, the location of the existing homes makes development of the parcel more difficult. The property could be developed with flag lots into 4 lots of approximately 20,000 square feet each. This is not the desire of the property owners. They wish to develop the property with a density appropriate to the R-7 Zoning Designation. Dividing the lot area of 81,900 square feet into 7,000 square foot increments, over eleven lots could be obtained. In order to accomplish this, the lots would need to be reoriented with their minimum lot width oriented perpendicular to the new street and the depth in a north / south orientation. The unusual length and limited width of this property should not constrain the development of the parcel in an orderly manner.

The Planning Commission has reviewed this situation in hypothetical in a worksession held earlier this summer. At that time, the Commission indicated that the approval of a reduction in lot size below 6,500 square feet would require extraordinary circumstances. In this case, the applicant is dedicating approximately 22,415 square feet of the property to be developed as public road. This will allow access to the development and improve local circulation within the neighborhood. The Planning Commission has indicated that this is adequate to substantiate a request for a reduction of lot size below 6,500 square feet.

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

With the exception of a flag lot subdivision of four lots, there is no alternative to this project. This lot size variance would be the minimum variance necessary to allow development of a public street and eight lots from these properties.

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

No adverse effects are anticipated as a result of the granting of this variance. Rear yard setbacks adjacent to properties neighboring Lots 2, 3, 4, 6, 7, and 8 will be the same as if a lot of 7,000 square feet had been created. All setbacks for these lots comply with the R-7 requirements. The only change is that building envelopes for these lots will be smaller, but adequate.

Variance VR-96-08 (Streetside and Side Setbacks)

The applicant is requesting two streetside variances, for Lots 1 and 5, to allow reduced streetside setbacks of 19.27 feet on Lot 1 and 8.83 feet on Lot 5, where 20 feet is required.

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

The property in question is unusually narrow in relation to its depth, creating a need to locate a new public street in order to fully develop the site. The location of this street were no street was planned, will create two non-conforming streetside setbacks of 19.27 feet on Lot 1 and 8.83 feet on Lot 2. The property owners could not have avoided the location of the pre-existing homes.

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

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With the exception of demolishing one or both of the existing homes or a 4 lot flag proposal, the proposed streetside setback reduction is the only alternative. The Comprehensive Plan identifies a policy of retaining existing homes where possible. Also, while a flag lot development is possible, such a proposal would not bring the property into conformance with the intended densities under the R-7 Zoning District.

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

No adverse effects from the granting of this variance should be felt by any one other than the occupants of the two existing homes, with the reduced setback. The current residents of these homes are aware of the potential impacts and do not object to the variance.

Variance Compliance with the Comprehensive Plan

Both of the proposed variances are consistent with the Comprehensive Plan. The proposed Minor Variance VR-96-07 is consistent with the Comprehensive Plan, Objective 5 of Chapter 4 - Land Use, Policy 1, "the City will encourage the development of infill housing that uses innovative development techniques for the purpose of ... creating an attractive living environment. Such techniques may include the reduction of lot size standards in established neighborhoods...". It is also consistent with Land Use Objective 5 of Milwaukie's Comprehensive Plan, in that it encourages infill development through the use of reduced lot sizes in established neighborhoods. The proposed Major Variance VR-96-08 is consistent with Land Use Objective 4, Policy 4 of Milwaukie's Comprehensive Plan, in that it encourages retention and rehabilitation of older housing stock.

Public Works

We have not received a memorandum from the Department of Public Works at this time. Tri-Met has also been advised of this project but no response has been received from their office. Expected requirements based on discussions with Public Works have been incorporated into this report and an addendum to this report will be provided, prior to the hearing.

South Metro Fire Prevention

The South Metro Fire Prevention office has commented on the proposed subdivision (Exhibit 4) and is requiring a turnaround within the right-of-way of Mullen Street and a fire hydrant to be located between lots 3 and 4 with a minimum flow of 1,000 gallons per minute.

Neighborhood Association Comments

The Lewelling Neighborhood District Association Land Use Committee has not submitted its recommendation regarding this proposal in time for inclusion in the Staff Report. Comments obtained from the Land Use Committee will be addressed in the addendum to the staff report.

Public Comments

No public comments have been received related to this proposal. Related comments have been received in discussions with surrounding residents who wish to either obtain access to the rear of their properties or encourage the development of Mullen Street. Staff is working with these area residents to address their access concerns and the development of Mullen Street.

CONCLUSION:

The proposed subdivision is consistent with the requirements of the R-7 zone, the Comprehensive Plan and the Subdivision Ordinance. The lot area variance applied for is recommended for approval because of the long narrow configuration of these lots, the lack of alternatives and the benefit to surrounding properties of the development of a street in this location. Approval of this subdivision and the associated variances, as conditioned, is warranted.

RECOMMENDATIONS:

- 1) **Staff recommends approval of Subdivision S-96-03, based on the previous conclusion and the following findings and subject to the following conditions.**

FINDINGS FOR SUBDIVISION S-96-03

1. The Applicant is proposing an 8 lot subdivision on property zoned R-7 (Exhibit 2). This subdivision will be called J.W.Futures Subdivision and will include lots ranging in size from 10,662 to 6,331 square feet in area. The surrounding area is residential in character and is also zoned R-7.
2. The proposed subdivision is consistent with Land Use Objective 4, Policies 4 and 5, of Milwaukie's Comprehensive Plan, in that it preserves existing housing stock and maintains the single family scale of surrounding development. The

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- application is also consistent with Land Use Objective 5, Policy 4, because it encourages infill development through innovative techniques, including reduction of lot sizes.
3. The proposed subdivision will provide pedestrian walkways on both sides of SE 54th Place, and on one side of Logus Road and Mullen Street. This will help to meet the Comprehensive Plan Transportation Objective 3, Policy 5 and the connectivity standards of the draft Transportation System Plan.
 4. The proposed lots will meet all requirements of the R-7 (Single Family Residential, 7,000 Square Foot Minimum) Zoning District, with the exception of lot size on 6 lots and streetside setbacks on two lots. Two associated variances are being processed with this application. Minor Variance VR-96-07 addresses the reduction in lot size and Major Variance VR-96-08 addresses the reduction in streetside setbacks.
 5. Preliminary plat submission requirements are those of Section 17.16 of the Subdivision Ordinance. The preliminary plat (Exhibit 2) meets applicable standards as evidenced by the preliminary plat checklist which has been reviewed by staff, through the project completeness process.
 6. Design standards are those of Section 17.28 of the Subdivision Ordinance. These will be addressed as follows:
 - a) Section 17.28.020 deals with the creation of streets. The proposed Subdivision is conditioned to comply with the requirements of the Public Works Department and the Subdivision Ordinance, Section 17.28.020 street improvement requirements.
 - b) Section 17.28.030 is not applicable, as no blocks are proposed.
 - c) Section 17.28.050 pertains to lot configuration and access. All lots have been reviewed and found to comply with R-7 zoning district standards for setbacks, lot configuration and lot area, with the exception of lot size and streetside and sideyard setbacks, for which variances have been applied.
 - d) Section 17.28.060 is not applicable, as no open space dedications are proposed.
 7. The Department of Public Works comments regarding street and utility requirements (See addendum) will require a dedication of 10 additional feet of right-of-way on Logus Road and 25 feet of right-of-way on Mullen Street.

Improvements to these streets will be required as well as improvements to the proposed SE 54th Place. A one foot reservation strip to be located at the south side of the dedicated street shall be maintained in order to allow the City to control access to the street prior to further development of adjacent parcels.

- 8. The Fire Marshal has provided comments (Exhibit 5) regarding the proposed 8 lot subdivision and has found that an approval of the subdivision, as conditioned, will not be in conflict with the Uniform Fire Code. The Fire Marshal requires a 20 foot paved access, a turnaround when the access length is greater than 150 feet from the roadway, and that fire flow requirements for the subdivision be met. This will require placement of a fire hydrant between Lots 3 and 4, so that the maximum distance between fire hydrants will not exceed 500 feet. The fire hydrant shall provide a minimum flow of 1,000 gallons per minute for firefighting water supply.
- 9. Section 1303.3 (Solar Design Standards) of the City Zoning Ordinance requires that 80% of the lots in a new development be solar oriented (north/south orientation). An exemption pursuant to Section 1303.5(A)(1)(B) of the zoning ordinance is proposed to apply to this development because a requirement for north/south orientation of the lots would reduce the density below what is proposed, and significantly below what is allowed in the R-7 zoning district. This reduction is not the result of the specific design of the applicant's proposal; it is the result of the existing lot configurations of the properties involved in the subdivision and the need for the access road through the development. The property setbacks could be reconfigured to orient the properties in a north/south direction but this could adversely impact on adjacent properties by reducing the setback on the west and east property lines to 5 feet, rather than the proposed 20 feet.
- 10. Subdivision S-96-03 requires review through a Minor Quasi-Judicial process as per Section 17.16.090 of the City's Subdivision Ordinance. This section refers to the process described in Section 1011.3 of the City's Zoning Ordinance. Public Notice has been issued in accordance with the provisions of Section 1011.3.
- 11. No deed restrictions are proposed. If any are proposed at a later date, they would need to be provided to City staff for review, prior to final plat approval.
- 2) **Staff recommends approval of Variance VR-96-07, based on the previous conclusion, the following findings and subject to the following conditions.**

FINDINGS FOR VARIANCE VR-96-07

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

The subject properties are unusual in that that are narrow and long, and have two existing homes located in the center of each parcel. The combined properties are 420 feet deep and 195 feet wide, measuring 81,900 square feet. The property is unusually narrow relative to its size. In addition, the location of the existing homes makes development of the parcel more difficult. The property could be developed with flag lots into 4 lots of approximately 20,000 square feet each. This is not the desire of the property owners. They wish to develop the property with a density appropriate to the R-7 Zoning Designation. Dividing the lot area of 81,900 square feet into 7,000 square foot increments, over eleven lots could be obtained. In order to accomplish this, the lots would need to be reoriented with their minimum lot width oriented perpendicular to the new street and the depth in a north / south orientation. The unusual length and limited width of this property should not constrain the development of the parcel in an orderly manner.

The Planning Commission has reviewed this situation in hypothetical in a worksession held earlier this summer. At that time, the Commission indicated that the approval of a reduction in lot size below 6,500 square feet would require extraordinary circumstances. In this case, the applicant is dedicating approximately 22,415 square feet of the property to be developed as public road. This will allow access to the development and improve local circulation within the neighborhood. The Planning Commission has indicated that this is adequate to substantiate a request for a reduction of lot size below 6, 500 square feet.

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

With the exception of a flag lot subdivision of four lots, there is no alternative to this project. This lot size variance would be the minimum variance necessary to allow development of a public street and eight lots from these properties.

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

No adverse effects are anticipated as a result of the granting of this variance. Rear yard setbacks adjacent to properties neighboring Lots 2, 3, 4, 6, 7, and 8 will be the same as if a lot of 7,000 square feet had been created. All setbacks for these lots comply with the R-7 requirements. The only change is that building envelopes for these lots will be smaller, but adequate.

- 3) **Staff recommends approval of Variance VR-96-08, as amended, based on the previous conclusion, following findings and subject to the following conditions.**

FINDINGS FOR VARIANCE VR-96-08

VARIANCE VR-96-08 (Streetside and Side Setbacks)

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

The property in question is unusually narrow in relation to its depth, creating a need to locate a new public street in order to fully develop the site. The location of this street were no street was planned, will create two non-conforming streetside setbacks of 19.27 feet on Lot 1 and 8.83 feet on Lot 2. The property owners could not have avoided the location of the pre-existing homes.

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

With the exception of demolishing one or both of the existing homes or a 4 lot flag proposal, the proposed streetside setback reduction is the only alternative. The Comprehensive Plan identifies a policy of retaining existing homes where possible. Also, while a flag lot development is possible, such a proposal would not bring the property into conformance with the intended densities under the R-7 Zoning District.

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

No adverse effects from the granting of this variance should be felt by any one other than the occupants of the two existing homes, with the reduced setback. The current residents of these homes are aware of the potential impacts and do not object to the variance.

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT - Walters/Tarr Subdivision S-96-03, Variances VR-96-07 and VR-96-08
October 8, 1996
Page 14

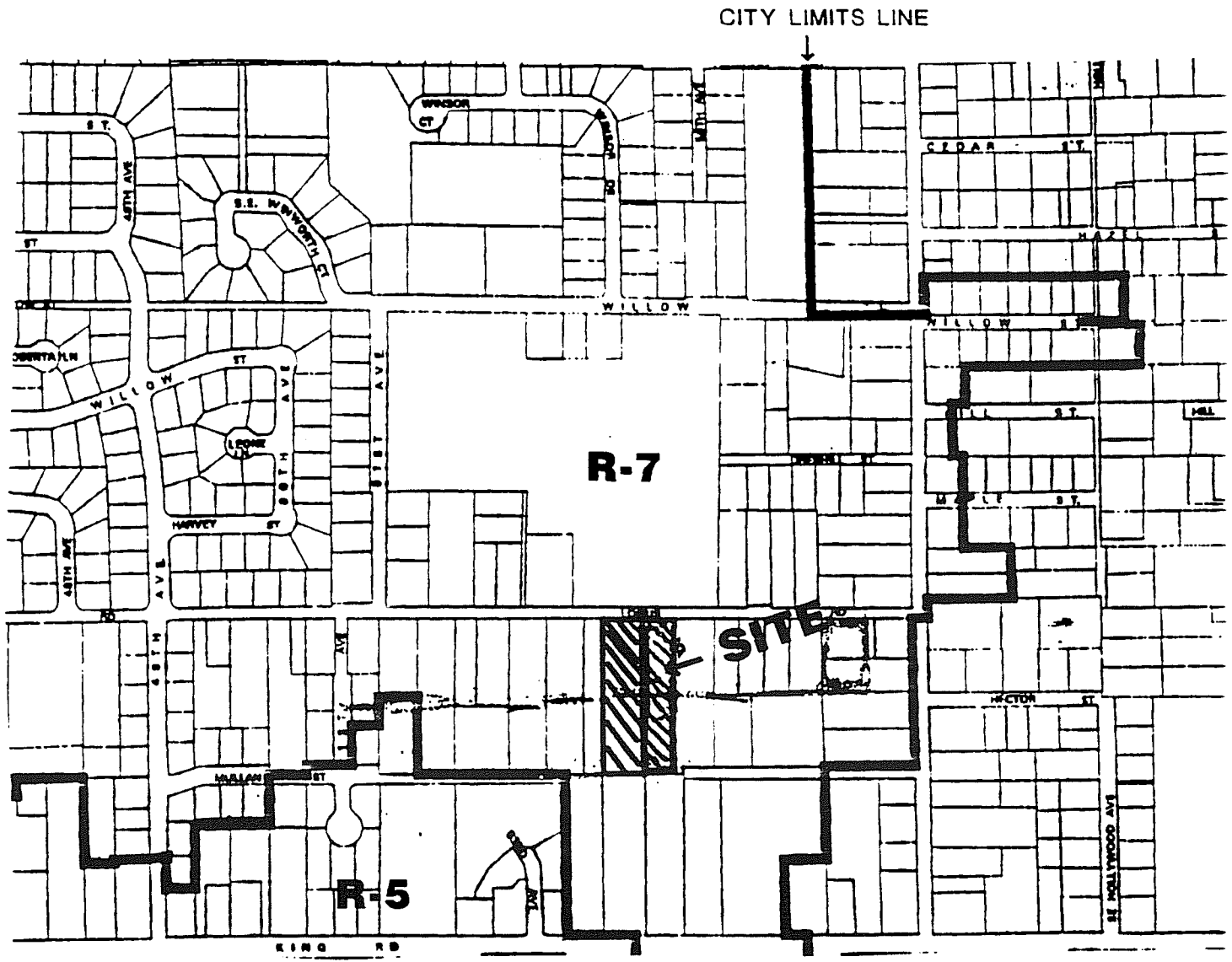
CONDITIONS OF APPROVAL:

1. Lot configuration shall be as indicated on Exhibit 2.
2. Submittal of the final plat shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction and completion of required improvements. This submittal must occur within one year of this preliminary plat approval.
3. The requirements identified in the Department of Public Works Memo (See addendum) shall be complied with, prior to recordation of the Final Map.
4. The requirements identified in the Fire Marshal's Memo dated 9-27-96 shall be complied with, prior to recordation of the Final Map.
5. If proposed, deed covenants shall be provided to City staff for review to insure that there are no conflicts with City Ordinances.
6. The Applicant shall preserve all trees possible. The applicant shall preserve the 38' Cedar (#9), 38" Cedar (#36) and 42" Cedar (#35) on Lot 5, the large Cedar located on the eastern property line of Lot 6, The 24" Maple (#20) located on Lot 4, and the 31" Cedar (#39) and 48" Fir (#7), located on Lot 2. The trees shall be protected by a wooden fence, located a minimum of 5 feet from the base of the tree and installed prior to any construction activity on the site. The trees to be preserved shall be identified by orange flagging around the base of the tree at 5 feet from grade. Any of the trees identified to be preserved which is removed or substantially damaged without prior approval of the Community Development Director shall be replaced by 3 trees per each tree damaged. Replacement trees shall be a minimum of 3 to 4 inch caliper. A petition for removal of any of the trees to be preserved may be made to the Community Development Director, based on their location in relation to the development as shown by a survey of the property, or their health as determined by a Certified Arborist.
7. The applicant shall obtain an erosion control and grading permit prior to any site clearing in preparation for development.
8. When building permits are applied for the applicants shall show the location of any tree identified to be preserved in condition 6 in relation to the proposed construction and identify proposed protection measures to be taken to protect the trees. These measures shall include the requirements found in condition 6, but may be more restrictive, if necessary.

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT - Walters/Tarr Subdivision S-96-03, Variances VR-96-07 and VR-96-08
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Page 15

EXHIBITS:

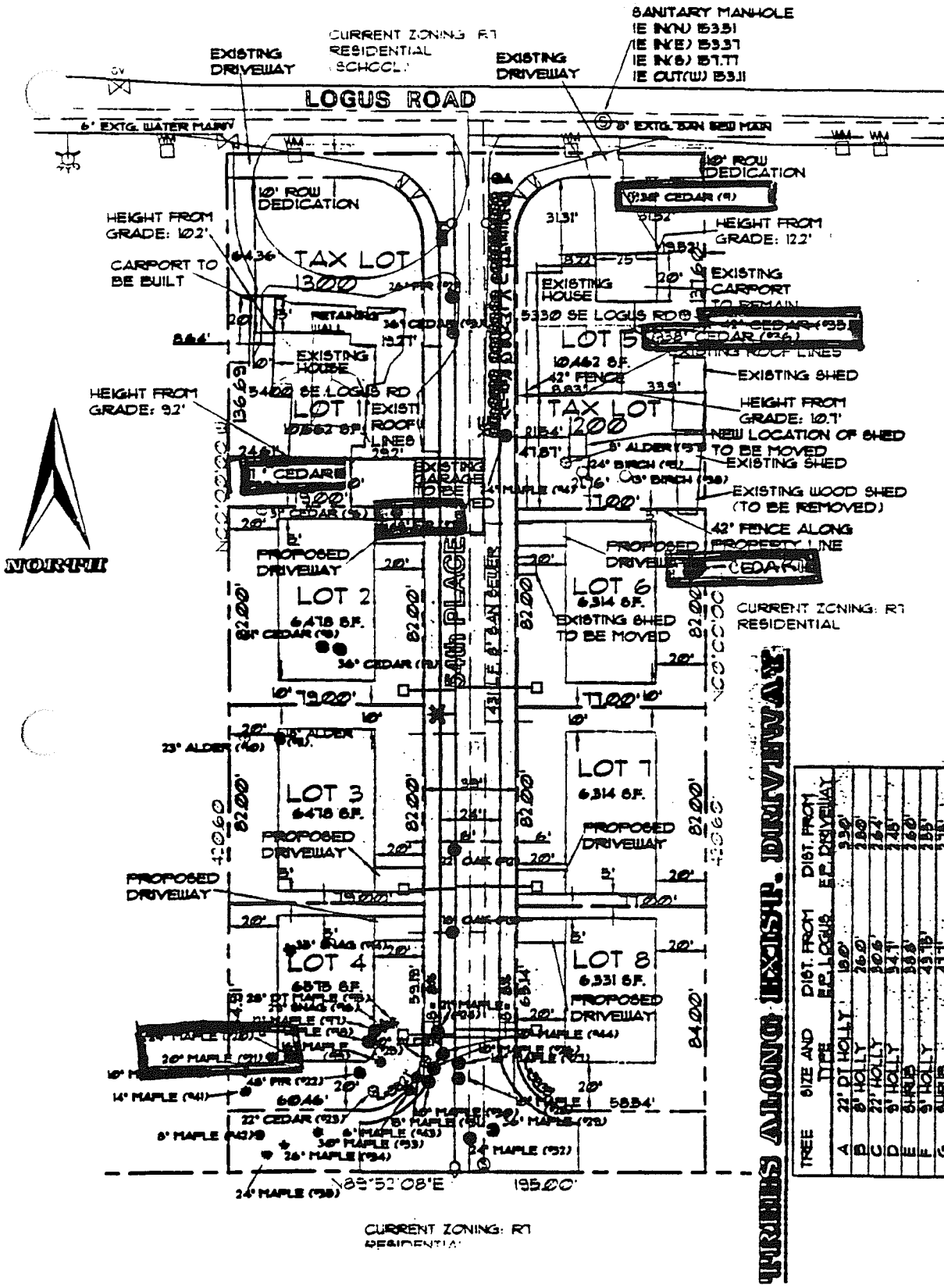
1. Vicinity map
2. Proposed Subdivision S-96-03 Preliminary Plat Map
3. Proposed Tree Removal Plan
4. Deputy Fire Marshal Memo dated 9-27-96
6. Surrounding Parcel Configurations Map



VICINITY MAP S-96-03

EXHIBIT #	1
DATE	10/8/96
SUBMITTED BY:	Stall
# OF PAGES	1
FILE #	S-96-03

VR-96-07 / VR-96-



TREES TO BE REMOVED

TO BE REMOVED	TO REMAIN	TREE TYPE
●	○	ALDER
○	○	BIRCH
○	○	CEDAR
●	○	FIR
●	○	MAPLE
●	○	OAK
●	○	SNAG

TREES ALONG EXIST. DRIVEWAY

TREE	SIZE AND DIF	DIST. FROM E.P. LOGUS	DIST. FROM E.P. DRIVEWAY
A	22' DI HOLLY	10.0'	3.90'
B	8' HOLLY	26.0'	2.80'
C	27' HOLLY	30.5'	2.44'
D	8' HOLLY	34.1'	2.15'
E	8' HOLLY	38.8'	2.60'
F	8' HOLLY	43.15'	2.85'
G	8' HOLLY	47.1'	3.15'
H	10' HOLLY	51.5'	3.00'
I	15' DI HOLLY	53.5'	3.10'
J	11' DI HOLLY	56.8'	3.50'
K	8' HOLLY	11.0'	3.20'
L	8' HOLLY	16.25'	3.45'
M	8' HOLLY	21.3'	3.80'
N	8' HOLLY	26.0'	3.60'
O	8' HOLLY	31.2'	3.50'
P	8' HOLLY	36.4'	3.40'
Q	8' HOLLY	41.6'	3.25'
R	8' HOLLY	46.8'	3.25'
S	8' HOLLY	52.0'	3.25'
T	8' HOLLY	57.2'	3.25'
U	8' HOLLY	62.4'	3.25'
V	8' HOLLY	67.6'	3.25'
W	8' HOLLY	72.8'	3.25'
X	8' HOLLY	78.0'	3.25'

EXHIBIT # 3

DATE 10/18/96

SUBMITTED BY: Applicant

OF PAGES 1

FILE # S-96-03

J.W. FUTURES

PROPOSED TREE REMOVAL PLAN S-96-03

RECOMMENDED TREES TO BE PRESERVED

VR-96-071
VR-96-08

SOUTH METRO FIRE PREVENTION OFFICE

"SERVING MILWAUKIE & CLACKAMAS COUNTY F.D. #1"

15711 S.E. 90th

Clackamas, Oregon 97015

Business - 655-8537

FAX - 655-8880

Voice Mail - 655-8537

TO: Stacy Lawson, Assistant Planner (Milwaukie Community Development)

FROM: Deputy Fire Marshal Ernie Badeau

SUBJECT: S-96-03 / VR-96-07 / VR-96-08 - Property at 5400 S.E. Logus

DATE: September 27, 1996

After careful review the South Metro Fire Prevention Office wishes to report that the granting of this eight lot subdivision is not in conflict with the U.F.C. (Uniform Fire Code) adopted by the City of Milwaukie. There are several considerations that need to be conditions of use with regard to the proposed subdivision.

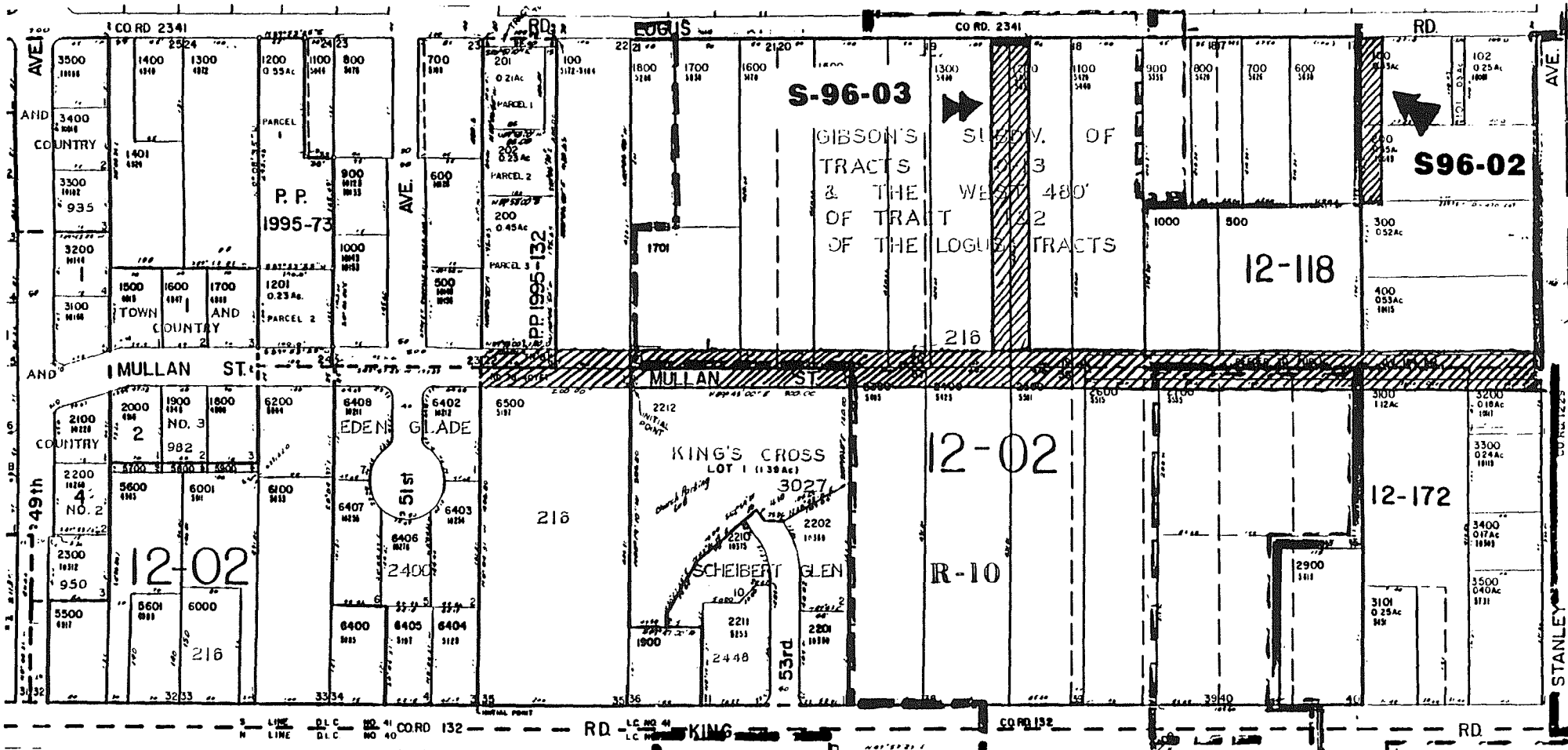
The first requirement is that Fire Department access be provided and maintained in the subdivision so there is a minimum, unobstructed width of 20 feet. Second, a turnaround is required when the length of the access roadway exceeds 150 feet in length from the street and shall be subject to joint approval by both the Planning Department and the Fire Department. And third, the fire flow requirement for this subdivision shall be met, which requires the placement of a fire hydrant between lots 3 and 4, so the maximum distance between fire hydrants does not exceed 500 feet. The fire hydrant shall provide a minimum flow of 1,000 GPM for firefighting water supply.

Yours in Fire and Life Safety,

Ernie Badeau,
Deputy Fire Marshal

EXHIBIT #	4
DATE	10/18/96
SUBMITTED BY:	Stakb
# OF PAGES	1
FILE #	S-96-03

VR-96-07 | VR-96-08



SURROUNDING PARCEL CONFIGURATIONS MAP S-96-03

EXHIBIT #	5
DATE	10/19/96
SUBMITTED BY:	State
# OF PAGES	1
FILE #	546-02

VR 516-07 1 VR 516-08

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT ADDENDUM

Date: October 8, 1996
File No.: S-96-03, VR-96-07, VR-96-08

Application: Subdivision to create 8 lots, with a variance for reduced lot sizes on 6 lots, and a variance for reduced setbacks on 2 lots.

Applicants: Wayne Walters, Robin Tarr and Benjamin Tarr

Property Owner: Same

Location: 5400 and 5330 SE Logus Road, Milwaukie, OR 97222,
Tax Lots 1200 and 1300 of Tax Map 1 2E 30 DC
(See Exhibit #1)

RECOMMENDATION:

That a condition be added to require street trees to be planted in the front yards of each of the new parcels and within the planter strip to be developed on Logus Road. Tree types shall be approved by the Community Development Department prior to planting.

That the Planning Commission Approve Subdivision, S-96-03, and Variances VR-96-07 and VR-96-08, subject to the conditions in this report.

ADDITIONAL INFORMATION

The information addressed in this addendum was not available in time for inclusion into the Staff Report on this item. The memos received have been attached and a synopsis of the comments follows.

PUBLIC WORKS MEMORANDUM

The Department of Public Works has submitted a memorandum dated September 27, 1996 (Exhibit 7). In this memorandum they have identified the

requirements necessary for development of this subdivision. A 10 foot dedication is required on Logus Road and a 25 foot dedication is required for the future Mullen Street. A dedication of 39 feet is required for the new street, 54th Place. Six foot sidewalks must be developed on either side of the roadway and curb and gutter is required. Parking will be allowed on only one side of this street. Curb, gutter and sidewalk are required to be installed on Logus Road for the entire frontage. This includes a 5 foot sidewalk to be installed near the property line and curb to be installed 15 feet from the centerline of Logus Road. This will leave a planter strip between the sidewalk and curb. Handicapped ramps are required at the curb returns.

A hammerhead turnaround, meeting the requirements of the South Metro Fire Prevention District shall be constructed on Mullen.

The City is requiring a 5 foot utility easement along the entire frontage of 54th Place. Construction of a manhole in Logus Road is required, as well as the extension of an eight inch sewer main and six inch water main down the new street.

A one foot reserve strip is required on the south, east and west sides of the Mullen Street dedication. Parking will not be permitted on Mullen Street.

Dry wells, catch basins and roof drains will be required, as well as a street lighting plan. Full, stamped, engineering drawings including erosion control and grading plans must be submitted to the City prior to any clearing or grading work.

Developers Agreements will be required for storm drainage improvements within each of the streets.

In the past, the City's policy of requiring improvement agreements has been the predominant method of addressing the need for improvements, as property has been developed. Emerging policy reflects a change in approach that is driven by the requirements of the State Transportation Planning Rule and the resulting draft Transportation System Plan. As the policy direction shifts from improvements in the future, to fully constructed improvements at the time of development, the conditions of approval applied to projects will reflect this change. Therefore, the City is requiring installation of improvements at the time of construction to provide pedestrian sidewalk access along Logus Road and adjacent to Lewelling Elementary School.

The applicant has been notified of the change in policy regarding improvement agreements. No response from the applicant has been received.

The Department of Public Works is requiring full improvement of Logus Road and the new street, with a Developers Agreement for Mullen Street. This is because these applicants were well into their application when the street improvement policy began to shift.

In the alternative, the Public Works Department suggests that half-street improvements, including curb, gutter and sidewalk be required on Mullen Street could be required, as well as a waterline extension to the east and west and a sewer line extension to the west on Mullen Street.

A representative of the Public Works Department will be available at the public hearing on this item to address any questions you may have.

LEWELLING NEIGHBORHOOD ASSOCIATION LAND USE COMMITTEE RECOMMENDATION

The Lewelling Neighborhood Association Land Use Committee (LUC) has submitted their recommendation on these applications (Exhibit 8). The following discussion addresses the major items raised. The full text of the response is included in Exhibit 8.

The Lewelling LUC is opposed to the proposed development because of the reduction in lot size and the necessity of tree removal from the site. They argue that none of the lots meets the R-7 development standards and that the removal of so many trees can not be justified to allow development of substandard lots.

They also argue that no 7,000 square foot lots can be found within a 1/4 mile of the site, and that 95% of the lots within a 1/2 mile are greater than 7,000 square feet. They believe that the proposed development is not consistent with the surrounding development.

A concern was voiced regarding the adequacy of public facilities in Milwaukie, including: schools; sewer treatment plant capacity; storm water drainage; traffic; lack of sidewalks; and lack of open space.

In addition, the Committee recommends that if Mullen is not improved at the time of development, it should be graded for the entire right-of-way width, constructed and surfaced in accordance with the standards adopted by the City, pursuant to Section 17.36.020 of the Subdivision Ordinance. The need for development of sidewalks for the length of the property's frontage on Logus, which is close to Lewelling Elementary, was identified.

The Committee addressed the request for the Major Variance for streetside setbacks with the recommendation that it be denied. Concerns identified were the lack of need for location of a public street which has not been provided for in

a street plan for the area and the location of an intersection so close to a school without sidewalks.

The Committee's recommendation regarding the Minor Variance request for reduced lot size is also for denial. The Committee believes that the location of the existing homes is not an unusual circumstance when compared to other properties the surrounding neighborhood. The Committee also cites the impacts of increased traffic on Logus Road, the reduced lot size as being out of keeping with the surrounding properties and the potential hazard of tree removal resulting in a weakening of the root systems of surrounding trees.

The Committee argues that a revised plan for 6 lots would be more in keeping with the surrounding neighborhood.

The Community Development Department has reviewed these concerns and agrees that the proposed lots are smaller than most of the lots in the surrounding area. Staff will identify the lot sizes in the area, with an accompanying map, for your review at the public hearing. It should be pointed out that there are some lots which are less than 7,000 square feet in the area, most notably, lots approved as a part of Subdivision 96-02, which measure 6,984, 6,208 and 6,208 square feet. These properties are located 5 lots to the east of the current proposal. This subdivision was approved in June by the Planning Commission with an associated variance for lot size. The Planning Commission required the applicant to construct a street to allow for future circulation. This change caused the reduction in lot size approved by the associated variance.

MEMORANDUM

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger, Civil Engineer *PR*

RE: S-96-03/VR-96-07/VR-96-08
5400 SE Logus Road

DATE: September 27, 1996

Logus Road is a 30-foot dedicated right-of-way with approximately 16-feet of asphalt paved roadway. An additional 10-feet of right-of-way is being dedicated by this development as required by Public Works to eventually have a 50-foot dedicated right-of-way. The developer is also dedicating 25-feet on the south end of the property for future Mullen Street. The new street through the middle of the property is proposed to be the minimum 39-foot right-of-way with a 24-foot curbed street and 6-foot sidewalks adjacent to the curb. With this configuration, parking will be permitted on one side of the street only. A 5-foot utility easement will also be required along the entire frontage of this new street for undergrounding of other utilities.

Curb and gutter and sidewalk will also be required along Logus Road for the entire frontage. A 5-foot sidewalk will be required near the property line and the curb will be installed 15-feet from the centerline of Logus Road. This will leave a planter strip between the sidewalk and the curb. Handicap ramps are required at the curb returns.

A one foot reserve strip will also be required on the south, east and west sides of the Mullen Street dedication. The subdivision plat must state that this reserve strip will become public right-of-way when the adjacent properties develop and dedicate additional right-of-way along this strip.

City water is available from an existing 6-inch main on the south side of Logus Road. The two existing houses are currently served from that main. A new main line, minimum 6-inch, will be required in the new street with a fire hydrant placed as required by the Fire Marshall and per Public Works standards.

City sanitary sewer is available from an 8-inch main in Logus Road. A manhole must be constructed over the main with an 8-inch line extended south on the new street and laterals for each of the six new lots. The existing houses are connected to the sewer in Logus Road.

Storm drainage in the area is provided by drywell. Catch basins will be required at all low points and must be connected to approved drywells. Each new house and the existing houses must have the roof drains connected to a drywell approved by the City. A Developers Agreement is required for future storm drainage improvements within the new streets.

Full stamped engineering drawings, including an erosion control plan and application, must be submitted to Public Works for approval before beginning work. The grading plan must also be approved by our Building Department.

The street light design must be submitted for approval, also.

Additional options for public improvements that the Planning Commission should consider are half street improvements, including curb and gutter and sidewalk along Mullen Street designed for an eventual 30-foot street. This will still act as the hammerhead turnaround meeting the Fire Marshall's standards as required at the south end of the new street. Parking would not be permitted on Mullen Street. Additional consideration is installation of a 6-inch waterline to extend to the east and west ends of Mullen Street and extension of the sanitary sewer to the west on Mullen Street. If this is not required at this time, then a Developers Agreement must be signed for future public improvements.

EXHIBIT #	<u>7</u>
DATE	<u>10/8/96</u>
SUBMITTED BY:	<u>S. J. H.</u>
# OF PAGES	<u>1</u>
FILE #	<u>S-96-03</u>

VR-96-07 | VR-96-08

NEIGHBORHOOD LAND USE REFERRAL

FILE #: S-96-03/VR-96-08 Neighborhood Response

Page #2 of the applicants general information sheet states that 6 of the proposed 8 lot sub-division do not meet the minimum requirements for R-7. The fact is none of the lots meet all the minimum requirements for R-7. But 75% of this sub-division is less than the minimum of 7000 sq. ft. lot size.

Zoning Ordinance 302.3 States clearly that R-7 means a minimum lot size of 7000 sq. ft. of course lots can be 7500 sq.ft. or even 9500 sq.ft., which would be a small lot compared to the surrounding neighborhood. But not 6500 sq.ft. or 5500 sq.ft., or any other number below 7000 sq. ft. that may suit a developers wants.

Under "Tree removal", in order to provide for a sub-division that does not meet minimum R-7 standards, 75% of the existing trees will be removed some 4ft. in diameter and over 60 yrs. old. These trees are an important part of the neighborhood character. Of coarse there is no mention of the "incidental kill", from bulldozers and backhoes, and there is no "Milwaukie Ordinance", to make this issue part of the, "Criteria". However the trees are important to those who live in this area and consider them part of our, "livability", and livability is part of our city vision and goals. As many trees must be preserved as possible and certainly not disordered for a sub standard subdivision.

Under "Summary" it is stated that the proposed subdivision is, "compatible with the surrounding neighborhood", suffice it to say there are no 7000 sq. ft. lots within a 1/4 of a mile and 95% of all lots within a 1/2 mile are greater than 7000 sq. ft.. This subdivision is not compatible with the surrounding neighborhood.

As to weather or not there are adequate public facilities, the Kelloge Sewage plant is at or over capacity, it needs a proposed 20 million dollar expansion plus the addition of a new plant. The near by schools are at capacity. There is No storm water drainage system in place and standing water is already a problem. There are No public sidewalks in place on a narrow road that serves as a corridor for children, cars and buses. Of course there will be 10 ft. dedicated for a sidewalk at the proposed new intersection across form the entrance to the school these children are trying to reach but there will be no sidewalk to buffer them from traffic and standing water. There exist a real question as to whether or not adequate public facilities exist. Page, 3OS-2 of the Milwaukie Comprehensive Plan Exemplifies this further in the top paragraph. "Typical public open space standards for a population of 20,000 suggest OVER 450 acres should be available: obviously an unrealistic expectation", as Milwaukie only has 265 acres of public open spaces. At 50% of typical standards is this, "Adequate"?

EXHIBIT #	8
DATE	10/18/96
SUBMITTED BY:	NOA Land Use Comm
# OF PAGES	4
FILE #	S-96-03

VR-16 071VR96-08

REQUEST FOR VARIANCE - SET BACK

Criteria A: the only condition unusual here is trying to place a road where one was never meant to be, either in the initial planning of the neighborhood or by the foresight of zoning and subdivision ordinances. The applicant states, " In order to construct a road in between the two existing houses , it will need to be nonconforming". Criteria A has not been met and the variance must be denied.

Criteria B has been discussed previously, the proposed subdivision does not meet minimum R-7 standards and is even further from the standards of the surrounding neighborhood. Criteria B has not been met and the variance must be denied.

The main question to be considered here is whether or not this is, " the ideal location", for the proposed road as stated by the applicant. Of course there is no street plan for this area so we really don't know if this is even a, "good", place for a road. Is it good for Logus Rd. and the neighborhood to create an intersection with No sidewalks across from the entrance to a grade school. Have, "adverse effects... been mitigated to the extant feasible" ,as called for in Criteria C. Or have adverse effects just been created. Criteria C has not been met and the variance must be denied.

REQUEST FOR VARIANCE - LOT SIZE

VARIANCE INFORMATION:

CRITERIA A: There are NO unusual conditions for this property that make it necessary to reduce the lot sizes below the minimum as set forth for R-7. It is not unusual for the house to be set back as they are. All the houses on that side of Logus Rd. are set back in this manner. We can not assume the existing houses are not there as they were there before this land was purchased. Knowing that the houses are there, and it is not feasible to move or remove them, and knowing that the area is zoned for a minimum of 7000 sq.ft, lots, knowing as the applicant states, "we must design the subdivision to accommodate their location". A lot size variance below the zoned R-7 standard, and the surrounding neighborhood standard, must be denied as applied for. However if lots where resized say by eliminating two lots and adding this space to the four lots that are under the 7000 sq.ft. (an example could be to eliminate lot #4 and add this space to lots #2 & 3, this would give a lot size around 9700 sq. ft.. This would comply with R-7 zoning and fit the actual configuration of the surrounding neighborhood. This would also allow for lot reconfiguration to save many of the large trees that make up the existing character of the neighborhood. Applicant does not meet Criteria A therefor a variance must be denied.

CRITERIA B:

Criteria B is not fulfilled by the applicant in that there is a feasible alternative to allowing below standard lot sizes. That is to allow 6 lots to be developed, not the 8 as requested. This was gone into at some length in Criteria A. Also to satisfy Criteria B the applicant must use the property, "in a manner SUBSTANTIALLY the same as others in the surrounding area". Of the 55 nearest properties none are developed less than 9000 sq.ft and the majority are larger. The applicant does not meet either test for Criteria B and therefore variance must be denied.

CRITERIA C:

The granting of the proposed variance does not meet the test for Criteria C, "adverse effects ...be mitigated to the extent feasible". There are 26 single family properties on Logus Road. In the block between 51st and Stanley. To add 6 more homes to this block is an increase of 23%, 23% more traffic on a road that is already narrow and has no sidewalks, is congested with bus traffic, yet must support children walking to school. The school entrance is directly across from the proposed street that will dump this 23% increase in traffic on to Logus Rd. Is this a mitigated effect ?

After over 1/2 the trees are removed from this property as proposed plus the "incidental", loss caused by bulldozer and backhoe. What will be the effect on surrounding properties trees during the wind and rain storms of fall and winter. No one knows for sure however, it has happened time and again when a large amount of stock is removed from an established woodlot, there is a very real, "weakening", of the ecosystem. These trees work together in a storm. By putting a large hole in it other trees will fall, and there will be property damage. To what extent? Again effects are not mitigated by the applicants proposal and it must be denied

In closing Lewelling Neighborhood or it's Land Use Committee is not against development. However it is against SUBSTANDARD development and poor prior proper planning. The applicant has met none of the required Criteria, and has not provided for the standards as required by City Ordinances. The Lewelling Land Use Committee Unanimously request this subdivision be denied

FURTHER CONSIDERATIONS:

Subdivision - Improvements - 17.36.020

A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the city.

Since Mullen street is within the boundaries of this proposed subdivision and the possibility exist that a considerable amount of time could laps before it is completed this requirement can not be over looked as a matter of fire, life, public safety .

Logus Rd. is a narrow street with bus and child traffic, within a year there will be as many as 12 new homes possibly more impacting the area near Lewelling Grade School this particular subdivision is directly across Logus Rd. from the entrance to the school.

17.36.020 can not be over looked and must be fully implemented, curbs and sidewalks for it's entirety along Logus Rd.

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MEMORANDUM

TO: COMMUNITY DEVELOPMENT

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

RE: S-96-03/VR-96-07/VR-96-08
5400 SE Logus Road

DATE: September 27, 1996

Logus Road is a 30-foot dedicated right-of-way with approximately 16-feet of asphalt paved roadway. An additional 10-feet of right-of-way is being dedicated by this development as required by Public Works to eventually have a 50-foot dedicated right-of-way. The developer is also dedicating 25-feet on the south end of the property for future Mullan Street. The new street through the middle of the property is proposed to be the minimum 39-foot right-of-way with a 24-foot curbed street and 6-foot sidewalks adjacent to the curb. With this configuration, parking will be permitted on one side of the street only. A 5-foot utility easement will also be required along the entire frontage of this new street for undergrounding of other utilities.

Curb and gutter and sidewalk will also be required along Logus Road for the entire frontage. A 5-foot sidewalk will be required near the property line and the curb will be installed 15-feet from the centerline of Logus Road. This will leave a planter strip between the sidewalk and the curb. Handicap ramps are required at the curb returns.

A one foot reserve strip will also be required on the south, east and west sides of the Mullen Street dedication. The subdivision plat must state that this reserve strip will become public right-of-way when the adjacent properties develop and dedicate additional right-of-way along this strip.

City water is available from an existing 6-inch main on the south side of Logus Road. The two existing houses are currently served from that main. A new main line, minimum 6-inch, will be required in the new street with a fire hydrant placed as required by the Fire Marshall and per Public Works standards.

City sanitary sewer is available from an 8-inch main in Logus Road. A manhole must be constructed over the main with an 8-inch line extended south on the new street and laterals for each of the six new lots. The existing houses are connected to the sewer in Logus Road.

Storm drainage in the area is provided by drywell. Catch basins will be required at all low points and must be connected to approved drywells. Each new house and the existing houses must have the roof drains connected to a drywell approved by the City. A Developers Agreement is required for future storm drainage improvements within the new streets.

Full stamped engineering drawings, including an erosion control plan and application, must be submitted to Public Works for approval before beginning work. The grading plan must also be approved by our Building Department.

The street light design must be submitted for approval, also.

Additional options for public improvements that the Planning Commission should consider are half street improvements, including curb and gutter and sidewalk along Mullen Street designed for an eventual 30-foot street. This will still act as the hammerhead turnaround meeting the Fire Marshall's standards as required at the south end of the new street. Parking would not be permitted on Mullen Street. Additional consideration is installation of a 6-inch waterline to extend to the east and west ends of Mullen Street and extension of the sanitary sewer to the west on Mullen Street. If this is not required at this time, then a Developers Agreement must be signed for future public improvements.

**CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT ADDENDUM**

**Date: November 12, 1996
File No.: S-96-03, VR-96-07**

Application: Subdivision to create 8 lots, with a variance for reduced lot sizes on 6 lots.

Applicants: Wayne Walters, Robin Tarr and Benjamin Tarr

Property Owner: Same

**Location: 5400 and 5330 SE Logus Road, Milwaukie, OR 97222,
Tax Lots 1200 and 1300 of Tax Map 1 2E 30 DC
(See Exhibit #1)**

BACKGROUND

On October 8, 1996, the Planning Commission held a public hearing on the applicant's proposal for a subdivision to reconfigure two existing parcels into eight new parcels (Exhibit 2). The hearing on Subdivision-96-03 and Variance-96-07 were continued and Variance 96-08 was approved. The Commissioners expressed concern that the proposed lot size variance did not meet criterion A or B (Exhibit 1) of Section 702.1 of the Zoning Ordinance. The Commissioners expressed concern that the subject parcels may not be unusual enough and that there were alternatives which could increase the proposed lot sizes. These alternatives include eliminating a lot or lots from the subdivision, or moving the rear lot line on parcel 5 to reflect minimum required rear yard setback of 20 feet.

The hearing was continued in order to allow the applicant to re-evaluate the proposal and identify possible alternatives, in light of the Commissioner's concerns about reduced parcel size.

DISCUSSION:

Since the last meeting with the Planning Commission, staff has met with the applicant to identify alternatives and receive an update on the applicant's proposal. The applicant contacted the owners of the eastern property. The owners are unwilling to renegotiate the

contract for sale of the property to include additional land at the rear of what was proposed as Lot 5. Faced with this fact, the applicant considered incorporating the sidewalk into the properties with an easement for public access to increase the lot size and the possibility of developing a flag lot configuration on the western property alone through a Minor Land Partition. The applicant has made no formal revised submittal to the staff at the time of this writing.

Staff Analysis

Staff believes that there are ample reasons to find that the property is unusual because of its minimal width and disproportionate length. While the parcel is not unusual in relation to its immediate neighbors, it is unusual in relation to surrounding lots in this and other neighborhoods. In addition, the City is requiring that full road improvements be made to connect Logus Road and the Mullen Street right-of-way. This requirement constrains the property, because of its narrow width in combination with the minimum roadway width, if a total of eight lots are created. The reduction in lot size would not constitute an increase in density beyond what would be allowed by the gross square footage of the property.

Without input from the applicant, the question of whether there are feasible alternatives remains, however, and staff has identified both the staff conclusion and Planning Commission options below.

Public Comments

No additional public comments have been received.

STAFF CONCLUSION:

The proposed subdivision is consistent with the requirements of the R-7 zone, the Comprehensive Plan and the Subdivision Ordinance. Staff has recommended approval of the lot area variance applied for because of the long narrow configuration of these lots, the lack of alternatives and the benefit to surrounding properties of the development of a street in this location. Thus, staff's recommendation continues to be approval of Subdivision, S-96-03, and Variance VR-96-07, subject to the conditions contained in the Staff Report dated October 8, 1996.

PLANNING COMMISSION OPTIONS:

The Planning Commission has several alternative actions which they may take:

1. Variance-96-07

- a) Conclude that there are no feasible options to meet the applicant's needs and approve Variance 96-07, based on the criteria in the Staff Report dated October 8, 1996, for the lot size variance.
- b) Conclude that the applicant has not carried the burden of proof for the requested variance and deny the proposal, based a lack of evidence provided by the applicant that shows the applicant's property is either A, unusual, or B, that there are no feasible alternatives.
- c) Approve a revised plan, if one is submitted by the applicant, which addresses the criteria for the lot size variance, based on revised findings that would be developed by staff.

2. Subdivision-96-07

- a) Take an action on the subdivision, as directed by the prior action on Variance-96-07:
 - 1) to approve the subdivision, based on the findings and conditions contained in the Staff Report; or
 - 2) deny the application based on revised findings to be developed by Staff.

Exhibits:

- 1. Variance Findings
- 2. Tentative Map for S-96-03

VARIANCE CRITERIA

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

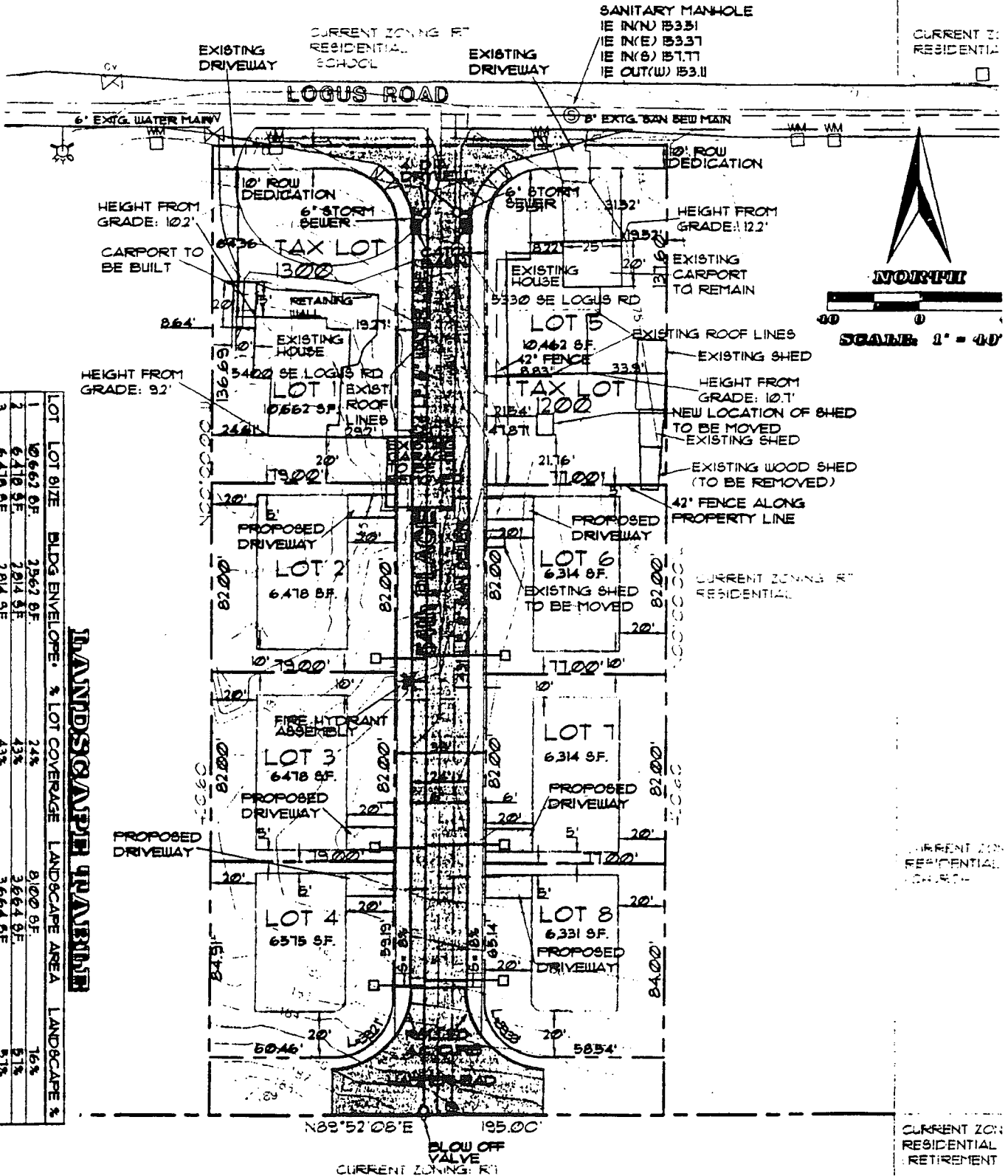
- B. **That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.**

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

J. W. FUTURES

43

TOWNSHIP 1S RANGE 2E TAX LOTS 1200 AND 1300 W
1.88 ACRES



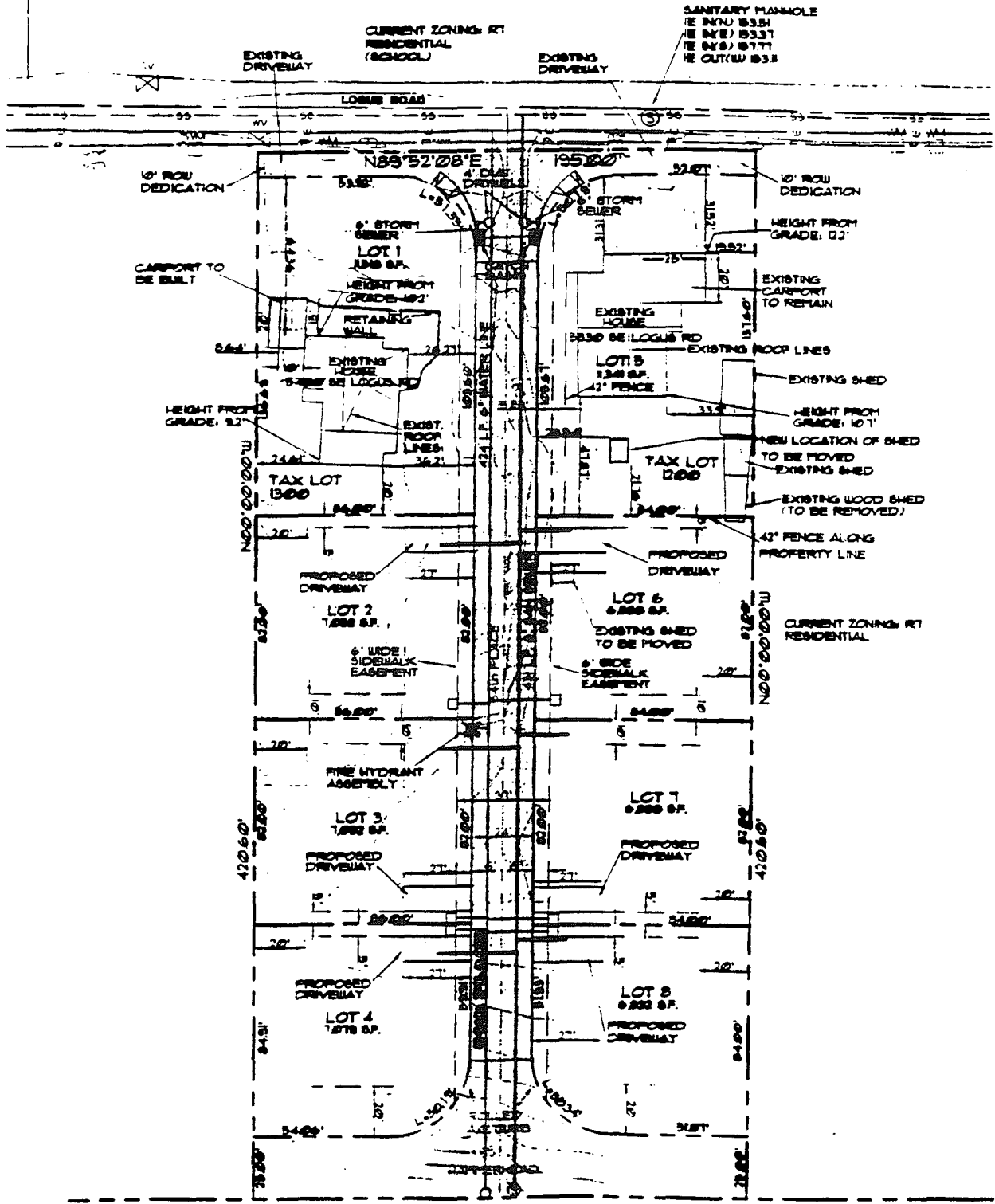
NOTE:
LOT 1 & 2 ARE EXISTING

LOT	LOT SIZE	BLDG ENVELOPE	% LOT COVERAGE	LANDSCAPE AREA	LANDSCAPE %
1	6562 SF	2967 SF	45%	8100 SF	16%
2	6478 SF	2014 SF	31%	3664 SF	5%
3	6410 SF	2814 SF	44%	3664 SF	5%
4	6575 SF	2532 SF	39%	4043 SF	6%
5	10462 SF	3890 SF	34%	6870 SF	6%
6	6314 SF	2700 SF	43%	3534 SF	6%
7	6314 SF	2700 SF	43%	3534 SF	6%
8	6331 SF	2777 SF	44%	3584 SF	6%

PRELIMINARY PLAT S-96-03

J. W. FUTURES

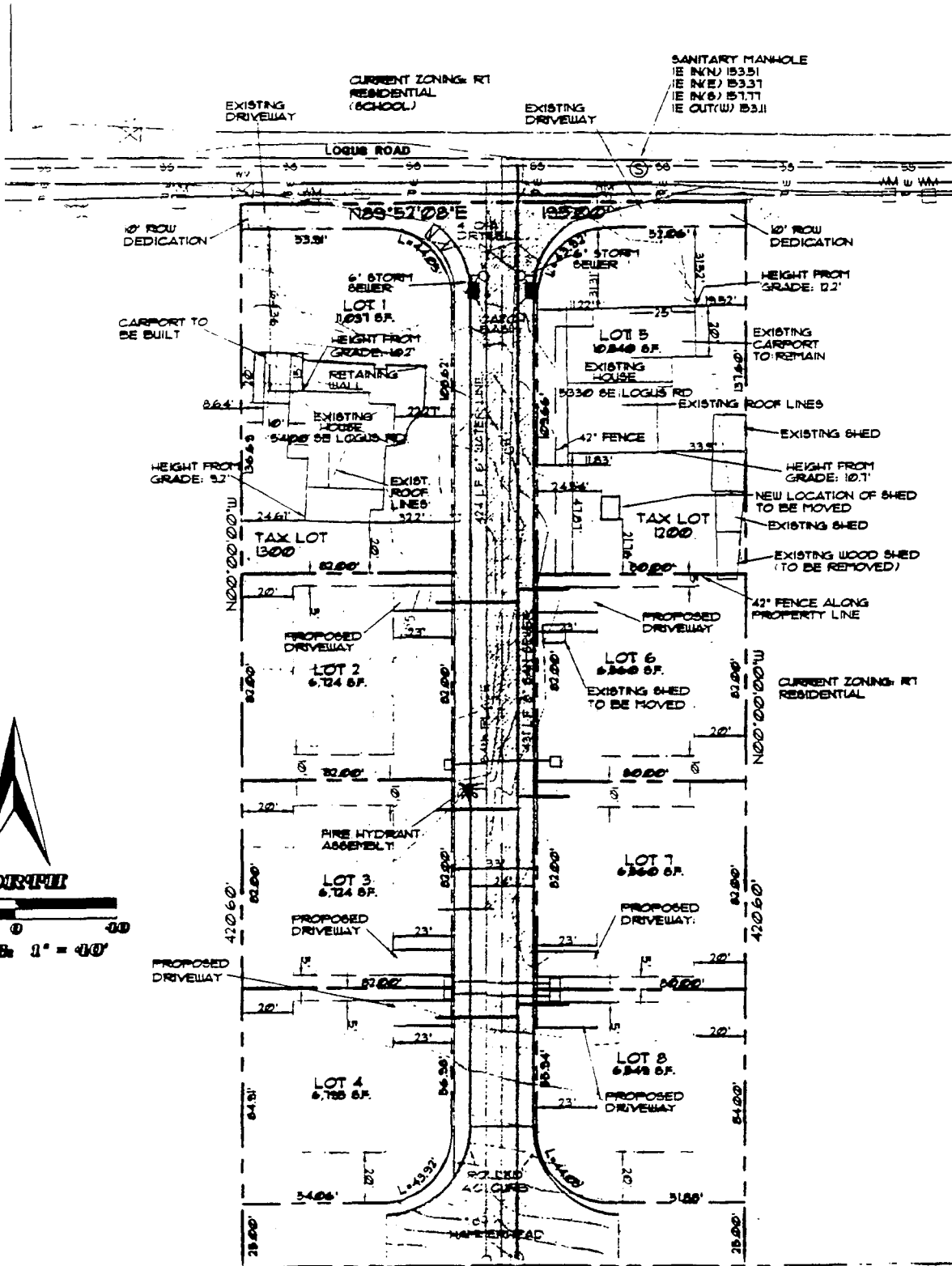
0 TOWNSHIP 1S RANGE 2E TAX LOTS 1200 AND 1.88 ACRES



ALTERNATIVE 1

J. W. FUTURES

TOWNSHIP 1S RANGE 2E TAX LOTS 1200 AND 1.88 ACRES



ALTERNATIVE 2

46

Submitted by ^{applicant rep.}
11/12/96
at hearing.

Re: Earnest Money Receipt No. 277190

Seller: Ben & Robin Tarr

Buyer: Wayne Walters

Property address: Back portion of 5330 SE Logus Rd. Milwaukie, Or.

We, Ben & Robin Tarr, have been informed by John Casey that there is a request to obtain more of our backyard to help satisfy the proposed subdivision.

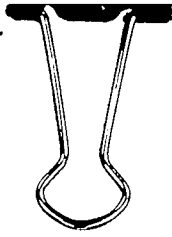
We agreed to sell the back 265 feet of our unused backyard. We were notified in June that we would need to give an additional 8 feet of our backyard to satisfy the city. Grudgingly we agreed, understanding how much money our new neighbor had already spent trying to get the subdivision approved.

This request is unacceptable. We do not want to sell any additional land.

Sincerely,

Ben & Robin Tarr

Ben & Robin Tarr 11/9/96



June 18, 1996

S-96-02

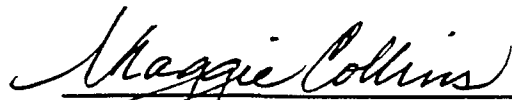
NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission at a public hearing on June 11, 1996 with regard to an application by Aleksandr Garkusha for a 4-lot subdivision (S-96-02) within the R-7 zone. The subject property is located just west of the intersection of SE Logus Road and Stanley Avenue. The properties' addresses are 10049 and 10115 SE Stanley Avenue.

At the public hearing, the Planning Commission formally approved this application, based upon findings included within the staff report. Conditions of approval were also adopted and are included with this notice.

Copies of the Staff Report and findings for approval are available upon request.

This action of the Planning Commission is subject to appeal. An appeal of the approval of S-96-02 must be filed within 15 days of the date of this notice. Milwaukie Community Development Staff (786-7650) can provide information regarding forms, fees and the appeal process. If no appeal is filed by July 3, 1996, at 5:00 p.m., this approval shall be final.



Maggie Collins
Community Development Director

- cc: Interested Persons
- Planning Commission Members
- Dave Wheaton, Director of Public Works
- Ernie Badeau, Deputy Fire Marshal
- File S 96-02
- Tickler File

3

CONDITIONS OF APPROVAL

1. Lot configuration shall be as indicated on Exhibit 3, except that a Minor Variance showing lot widths of 66 feet and areas of 6,466 square feet for lots 1 through 3 shall be applied for review by the Director of Community Development. The Tentative Map shall also be revised to show 30 feet of dedication for a half-street, including curb, gutter and a 6 foot sidewalk. The turnaround located between lots 2 and 3 shall be eliminated and the orientation of the home on lot three shall be reversed to ensure that the distance from Logus Road to the driveway of Lot 3 is less than 150 feet. The revisions to the Tentative Map shall be consistent with the requirements of the Public Works Department Memo dated 6-4-96.
2. Submittal of the final plat shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction and completion of required improvements. This submittal must occur within one year of this preliminary plat approval.
3. The requirements identified in the Department of Public Works Memo dated 6-4-96 shall be complied with, prior to recordation of the Final Map.
4. The requirements identified in the Fire Marshal's Memo dated 5-23-96 shall be complied with, prior to recordation of the Final Map.
5. If proposed, deed covenants shall be provided to City staff for review to insure that there are no conflicts with City Ordinances.
6. The Applicant shall preserve all trees possible, especially the apple and alder trees located on lot 1, and the fruit tree located in the rear yard of lot 3. The fir tree located in the middle of the proposed access drive may be removed, as well as the bushes on the south property line of lot 3. The trees on lot 4 shall be preserved unless a Certified Arborist's report identifying ill- health of one or more of the trees is accepted by the Community Development Director. A petition for removal of any of the trees to be preserved may be made to the Community Development Director, based on their location in relation to the development as shown by a survey of the property, or their health as determined by a Certified Arborist.

Notes: The South Metro Fire Protection District comments on the half-street public dedication alternative, verbally received prior to the hearing of June 11, 1996, were received in writing after the hearing. The amendment to the Fire District's Memo dated 6/11/96 is attached.

- Attachments:
- Exhibit 3, Preliminary Map
 - Exhibit 4, Public Works Memorandum dated 6/4/96
 - Exhibit 5, Deputy Fire Marshal Memorandum dated 5/23/96 and amendment dated 6/11/96

framework

Metro 2040 Framework Update

Spring 1996

Dear citizens and local government partners,

As the agency responsible for managing this region's growth, Metro – along with citizens and our local partners – has developed an important policy for how and where this region grows during the next several decades. That policy calls for the region to preserve its livability by keeping a tight urban growth boundary, creating urban communities within the region, making sure growth occurs along major transportation and transit corridors, preserving open spaces, keeping new lot sizes smaller, and creating business and employment areas that use land efficiently.

We must begin today to make the tough decisions that will result in positive change. We start making those changes in Phase I of the Regional Framework Plan, required to be adopted by Dec. 31, 1997, by the voter-approved Metro Charter. The framework plan outlines specifically what changes the region – and the three counties and 24 cities within it – must make to implement the growth management policy.

Seventy-five more people live in this region every day. The longer we wait to begin implementing the growth concept, the more we lose our grip on a livable future.

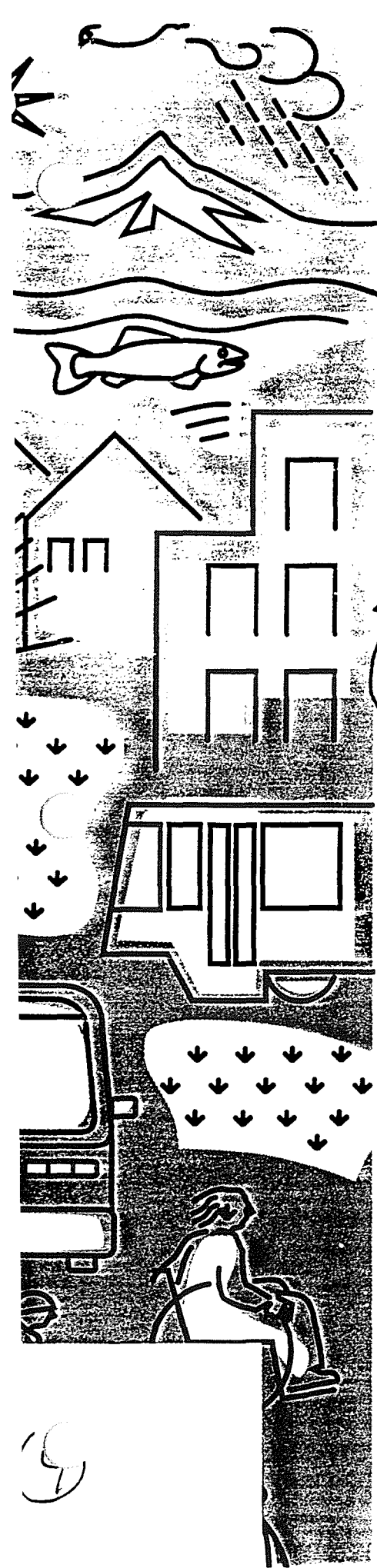
This update describes specific changes and provides a general description of where the region is on Phase I of the Regional Framework Plan and how it will affect people both regionally and in their own communities. Inside you'll also find information about the Regional Transportation Plan, currently being updated to better meet the needs of our communities and to support growth management policies.

As always, Metro will keep you informed – and ask your opinions – about upcoming regional decisions so that you can continue to help keep our community livable. See the back page for a schedule of upcoming open houses to provide input into Phase I of the Regional Framework Plan.

Sincerely,

Mike Burton
Mike Burton
Executive Officer
797-1507

Susan McLain
Susan McLain
Chair, Growth Management Committee
797-1553



SECTION **B**
FRIDAY, OCT. 25, 1996

INSIDE
OPINION, B8-9
OBITUARIES, B14
CLASSIFIED, B15-42

Metro approves growth targets

■ The council, on a 5-1 vote, puts its tentative stamp on the plan, but two members say they want to amend parking and retail portions

By R. GREGORY NOKES
of The Oregonian staff

The Metro Council approved a 20-year plan Thursday that includes mandatory housing and job targets for the Portland area and commits the region to aggressively pursue a zero boundary expansion.

The targets are aimed at making room for about 500,000 more people within the existing 17-year-old urban growth boundary that encircles 24 cities and three counties.

The council's approval, however, wasn't final. Two councilors said they would propose amendments aimed at changing two of the most contentious issues: parking limits and restrictions on the location of so-called big-box retail outlets before a scheduled final adoption of the plan Nov. 14.

The plan is one of a kind. No other region in the nation has tried to fine-tune growth to the extent of assigning population numbers to specific cities, although there's nothing in the plan that requires people to live in a particular place. And Metro is the only elected regional government of its kind bringing cities and counties together in a joint planning effort.

The council voted 5-1 for the blueprint, with home builder Don Moris-

Please turn to

THE OREGONIAN, FRIDAY, OCT. 25, 1996

Metro: Developers find fault

■ Continued from Page B1
sette opposed. "I think the plan calls for more sprawl, not less," he said. "We are kidding ourselves if we think the boundary will hold 244,000 more housing units." That's the number Metro says is needed for the additional thousands of people expected here in the next 20 years.

The plan chooses higher densities — more people living closer together — over expansion of the existing 365-square-mile boundary. All of the cities and counties will have two years to adopt the necessary zoning codes and take other steps to make room for the new jobs and housing.

The plan also envisions smaller lots, on average, for new single-family homes and aims at putting more people in townhouses, condominiums and apartments. Nothing in the plan requires builders to build the new homes, or people to buy them.

James Crumley, planning director of Happy Valley, said his city couldn't meet its targets and "many other cities" also would have trouble.

If local governments demonstrate that they can't meet the targets, the council can grant exemptions and increase the boundary to compensate. In a separate action, the council is looking at about 23,000 acres outside the boundary to put into reserves for possible future expansion.

Several city officials thought the plan was too restrictive but agreed with its overall goals. "You should tell us what to do, but not how to do it," Hillsboro Mayor Gordon Faber said.

The biggest criticisms came from private developers after Councilor Patricia McCaig won approval by a 4-3 vote for a controversial amendment setting maximum parking limits for new businesses and other development. Previously the plan merely recommended maximums in areas not well served by mass transit. But McCaig said that would encourage developers to go to areas without limits.

But David Bell of GSL Properties, a housing developer, said the parking limits "put a serious flaw in an otherwise excellent plan."

Otherwise excellent plan.
"It's a flag-burning issue," Bell said. "It creates a barrier to exactly the kind of development you want to encourage. You might feel good, but it's the wrong thing to do."
Jon Kvistad, the council's presiding officer, said he would offer an amendment at a later meeting to reverse McCaig's. Although Kvistad voted with the majority on the overall plan, he said he might change his mind in the final vote.

PLAN HIGHLIGHTS

The Metro Council has endorsed a 20-year planning blueprint for the Portland area. It commits the region to try and make room for an additional half-million people without expanding the urban growth boundary.

Highlights of the plan, which is still subject to change, include:

■ **TARGETS:** Establishes housing and job targets for each of the region's 24 cities and three counties. They'll have two years to meet those targets.

■ **DENSITY:** Increases housing densities — more people would be living closer together in single-family homes, town houses, condominiums and apartments.

■ **MINIMUMS:** Jurisdictions must establish minimum zoning densities for new housing averaging about 80 percent of the maximum — for example, if a single family zone allows 10 houses an acre, eight must be built.

■ **RETAIL:** New retail outlets exceeding 60,000 square feet would be kept out of industrial areas, and some restrictions would apply to mixed-use areas.

■ **PARKING:** Minimum and maximum parking ratios are required for new businesses and other development. The limits are greater where transit service is frequent.

■ **WATER:** Water quality and flood-management areas are protected, as are fish and wildlife habitat within specified conservation areas.

■ **EXPANSION:** If enough communities can demonstrate that the targets won't work, the Metro Council could approve a boundary expansion.

■ **AFFORDABLE HOUSING:** Encourages strategies for affordable housing and commits Metro to develop specific goals.

5

Nov. 7, 1996

City of Milwaukee
Community Development Dept
601. Lincoln Creek Blvd.
Milwaukee, WI

RECEIVED

NOV 07 1996

CITY OF MILWAUKEE
PLANNING DEPARTMENT

Re. Property @ 5400 SE Logans Rd
Tax Lots 1300 and 1300

I would like to go on record disap-
proving the variances requested by
Walter/Tara subdivision. The request
is for two oversized lots being 80x120, but
six undersized lots in the remaining
subdivision. It is zoned R-7 and should
remain as such.

Since my property abuts this proposed
development from the east, I feel they
should separate my property from this
subdivision with a fence to keep my
private property from becoming a
public playground.

654-6675

Sincerely,
Eleanor Campbell
4605 SE Logans Rd
Milwaukee, WI 53222

MEMORANDUM

TO: MILWAUKIE PLANNING COMMISSION

FROM: STACY LAWSON, ASSISTANT PLANNER 

DATE: NOVEMBER 7, 1996

RE: WALTERS SUBDIVISION S-96-03 AND VARIANCE VR-96-07

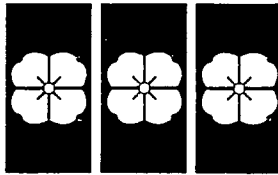
The applicant has submitted two new sets of plans (attached). No narrative has been submitted with the plans. We are providing these so that you may review them prior to the hearing. We have not included a revision to the staff report, but will comment on the plans during the hearing.

The plans appear to represent two alternatives to the initial proposal. The original plans showed lot sizes ranging from 6,300 to 6,470 square feet. The road width was shown at 39 feet with curb, gutter and sidewalk.

The first new submittal (#1) shows a 24 foot dedication, which is fully paved as roadway, with the curbs, gutters and sidewalks located on easements in the front yards. The lot sizes on these plans show an increase to 6, 800 or more square feet for the properties on the east side of the proposed street, and an increase in the westerly lots to over 7,000 square feet.

The second plan shows 31 feet of right-of-way which includes the road and sidewalk on one side of the street. This plan results in lots which measure 6,500 square feet or more on the east side of the proposed street, with lots measuring over 6,700 square feet on the west side of the proposed street.

C I T Y O F

**MILWAUKIE****NOTICE OF DECISION**

53

November 26, 1996

VR-96-08

This is official notice of action taken by the Milwaukie Planning Commission at a public hearing on October 8, 1996 with regard to an request by Wayne Walters for a variance to allow reduced street sideyard setbacks of 19.27 feet on Lot 1 and 8.83 feet on Lot 5, where 20 feet is required (VR-96-08), on property located within the R-7 Zoning District. The subject property is located at 5400 SE Logus Road (Tax Lots 1200 and 1300 of Tax Map R12E30 DC).

At the public hearing, the Planning Commission approved Variance 96-08 and continued the related Subdivision 96-03 and Variance 96-07 for further consideration at its meeting of November 12, 1996. Variance 96-08 was approved based on the following findings:

FINDINGS FOR VARIANCE VR-96-08

- A. The property in question is unusually narrow in relation to its depth, creating a need to locate a new public street in order to fully develop the site. The location of this street where no street was planned will create two non-conforming streetside setbacks of 19.27 feet on Lot 1 and 8.83 feet on Lot 2. The property owners could not have avoided the location of the pre-existing homes which in turn has created inability to meet City standards for street development and relevant setback standards.
- B. There are no feasible alternatives to the proposed variance. With the exception of demolishing one or both of the existing homes or a 4 lot flag proposal, the proposed streetside setback reduction is the only alternative. The Comprehensive Plan identifies a policy of retaining existing homes where possible. Also, while a flag lot development is possible, such a proposal would not bring the property into conformance with the intended densities under the R-7 Zoning District.
- C. No adverse effects from the granting of this variance should be felt by any one other than the occupants of the two existing homes. The current residents of these homes are aware of the potential impacts and do not object to the variance.

This action of the Planning Commission is subject to appeal. An appeal of the approval of Variance (VR-96-08) must be filed within 15 days of the date of this notice. Milwaukie Community Development Staff (786-7650) can provide information regarding forms, fees and the appeal process. If no appeal is filed by December 11, 1996 at 5:00 p.m., these denials shall be final.

Maggie Collins

Community Development Director

cc: Interested Persons
Planning Commission Members
Dan Bartlett, Acting Public Works Director
Ernie Badeau, Deputy Fire Marshal
Lewelling NDA Land Use Committee
Files S-96-03, VR-96-07, VR-96-08

COMMUNITY DEVELOPMENT • PUBLIC WORKS

6101 SE JOHNSON CREEK BLVD.

MILWAUKIE, OREGON 97206

PHONE: (503) 786-7600 • FAX: (503) 774-8236

November 25, 1996



S-96-03, VR-96-07

NOTICE OF DECISION

This is official notice of actions taken by the Milwaukie Planning Commission at a public hearing on November 12, 1996 with regard to an request by Wayne Walters for approval of an eight lot subdivision (S-96-03) with construction of a new street and a variance to allow a reduced lot size on six of the lots (VR-96-07), on property located within the R-7 Zoning District. The subject property is located at 5400 SE Logus Road (Tax Lots 1200 and 1300 of Tax Map R12E30 DC).

At the public hearing, the Planning Commission formally denied the variance for reduced lot size and the subdivision, based on the following findings:

FINDINGS FOR VARIANCE VR-96-07

- A. The subject property is similar in size and shape to several other properties in the area and the existing homes are placed in similar positions on the lots. Therefore, no compelling facts relating to unusual physical characteristics of the subject property can be found.
- B. Feasible alternatives to the variance exist which would allow the applicant the use of the subject property in a manner substantially the same as others in the surrounding area. There are existing alternatives which preclude the need for a variance or would reduce the scope of the variance on the subject property. For example, Lot 5 could be reduced in size using the minimum 20 foot rear yard required by the R-7 Zoning District, thereby increasing the size of some of the lots. Also, one or more lots could be dropped from the subdivision, resulting in larger lot sizes overall.
- C. No adverse effects on adjacent properties were identified.

FINDING FOR SUBDIVISION S-96-03

- 1. The criteria required for the proposed reduction in lot size of the subdivision on the subject property could not be met by the proposal. Therefore, the proposed eight lot subdivision can not be approved.

These actions of the Planning Commission are subject to appeal. An appeal of the denial of the Subdivision (S-96-03) or Variance (VR-96-07) must be filed within 15 days of the date of this notice. Milwaukie Community Development Staff (786-7650) can provide information regarding forms, fees and the appeal process. If no appeal is filed by December 10, 1996 at 5:00 p.m., these denials shall be final.



 Maggie Collins
 Community Development Director

cc: Interested Persons
 Planning Commission Members
 Dan Bartlett, City Manager
 Ernie Badeau, Deputy Fire Marshal
 Lewelling NDA Land Use Committee
 Files S-96-03, VR-96-07, VR-96-08

PLANNING COMMISSION MINUTES
TUESDAY, OCTOBER 8, 1996

COMMISSIONERS PRESENT

Brian Cosgrove
Tim Havel
Terry LaRocque
Pat Lent
Calvin Walter

STAFF PRESENT

Maggie Collins,
Com. Dev. Dir
Stacy Lawson,
Asst. Planner
Dave Wheaton,
Pub Works Dir
Shirley Richardson,
Hearings Recorder

COMMISSIONERS ABSENT

Michael Smith
Carolyn Tomei

1.0 CALL TO ORDER

Calvin Walter called the meeting to order at 7:33 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- September 24, 1996

Tim Havel moved to approve the minutes of the September 24, 1996, as corrected. **Terry LaRocque** seconded. MOTION CARRIED 5-0.

4.0 PUBLIC COMMENT -- None.

5.0 PUBLIC HEARINGS

5.1	Applicant:	Wayne Walters and Robin Tarr
	Property Owner:	Wayne Walters and Robin Tarr
	Location:	5400 SE Logus Road
	Proposal:	Applicant is requesting approval of an 8-lot subdivision and lot size and setback variances.

Calvin Walters opened the public hearing on File Numbers S-96-03, VR-96-07, and VR-96-08 to allow development to create 8 lots, with a variance for reduced lot sizes on six lots and a variance for reduced setbacks on two lots. The Applicant has the burden of proving that the Application is consistent with the City of Milwaukie Zoning Ordinance and Comprehensive Plan. The criteria to be addressed are found in Sections 302, 400, 500, 700, and 1300 of the Zoning Ordinance and Chapter 17 of the Subdivision Ordinance.

Calvin Walter asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if there were any Commissioners who visited the site; five hands were raised. None of the Commissioners who raised their hands noticed anything different from what is stated 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

Stacy Lawson reviewed the Staff Report with the Commissioners. The Applicant proposes a subdivision to reconfigure two existing parcels into eight new parcels. The parcels front on Logus Road and are owned by Mr. Walters and Mr. and Ms. Tarr. The parcels are zoned R-7. The parcels are currently developed with one residence each. The proposed project is located on a property which abuts the planned alignment of Mullen Street to the south.

Lots 1 and 5 are proposed to have their existing homes remain and there will be a development of three more lots on each parcel for a total of six, extending onto Mullen Street, in the future right-of-way.

Stacy Lawson noted a correction on Page 7, Variance VR-96-08, Criteria A: "...and 8.83 feet on Lot 5, where 20 feet is required, instead of Lot 2 ." Also, on Page 13, "...and 8.83 feet on Lot 5."

The Applicant proposes to retain the two existing homes, creating the need for a variance for street side setbacks. The street side setback requirement is 20 feet and the Applicant is proposing 19.71 feet on Lot 1. As well, the Applicant is proposing a street side setback of 8.83 feet on Lot 5. These setbacks are justifiable in that the property is unusually long and narrow. The location of the street is necessary in order to fully develop the property. In addition, the location of the existing homes was something that was not in the Applicant's control. The 8.83 foot street side setback is a major variance, while the 19.71 feet is a Minor Variance..

The other variance applied for is a variance for lot size on Lots 2, 3, 4, 6, 7, and 8, with all of the lots below the 7,000 square feet required in the R-7 Zoning District. This variance is recommended for approval because of the unusual configuration of the lot and the location of the existing homes. The density of the project is consistent with R-7 Zoning. Because of the location of the existing homes and the need to maintain required setbacks, the other proposed lots are reduced in size. In addition, because of the fact that there is a proposed street here, the lot configurations required a smaller size as well.

Earlier, in June, the Planning Commission had a worksession and evaluated a similar hypothetical situation. At that time, the Planning Commission directed staff that there would be consideration for reductions of lot size to less than 6500 sq.ft. if there was substantial dedication for public right-of-way. The Applicant is proposing to dedicate 22,415 sq.ft. of the property to public right-of-way and will create better circulation by connecting at Logus Road and the future Mullen Street.

The proposal is consistent with the Comprehensive Plan in that it preserves existing housing stock (Lots 1 and 5) and maintains the single-family scale of the neighborhood and provides for smaller homes on smaller lots. The Comprehensive Plan, under Objective 5, Policy 1, encourages in-fill housing by using additional lot sizes and therefore, encouraging construction of smaller units. Land Use Objective 3, Policy 6 and 7, also are consistent with the Application because specific trees will be protected during construction and existing tree coverage will be retained where possible. Staff has added conditions of approval which will require specific preservation of a number of trees. This project is consistent with the Comprehensive Plan, in that it requires transportation improvements to be provided as the property develops. The Department of Public Works is requesting improvements to Logus Road, including curb, gutter, and sidewalks, be required at the time of development.

The improvements on 54th Place, will need to be put in at the time of development. The Applicant has requested consideration of the requirements of a turn-around on Mullen Street, which is not yet approved. The Department of Public Works has recommended improvements to Logus and 54th Place, and that the hammerhead turn-around be provided on Mullen at the time of development. In the amended Staff Report, the Department of Public Works suggests an alternative which would require full improvements on Mullen Street. This is an option that the Planning Commission can consider.

This Variance can also be supported because the Public Works Department requirements would provide side-walk connections with Logus Road, so sidewalk improvements will be made adjoining Lewelling Elementary School. In addition,

the City encourages development of in-fill housing using innovative development techniques, including reduction of lot size in established neighborhoods and encouraging potential rehabilitation of existing housing stock.

The primary concerns of the neighborhood are the reduction in lot sizes, tree preservation, and the proposal to remove trees.

Staff has reviewed the tree plan, locating each tree and evaluating them for the ability to be retained, and the health of the tree in general. These large trees identified by Staff to be preserved do not show any obvious cancer or disease. Staff has identified a number of trees that they propose be retained. Conditions requiring preservation, fencing, and identification on the site, to reduce impacts from grading near these trees are recommended. There is a 38-inch Cedar on Lot 5, a 42-inch Cedar on Lot 5, and a 38-inch Cedar on Lot 5. The 38-inch Cedar is proposed to be removed. Staff is recommending that it be preserved.

In addition, there was a Cedar that was not shown on the plan, located on Lot 6. Staff recommends that this tree be retained and preserved also. There is a very nice Maple on Lot 4, and a large Fir tree on the edge of Lot 2, that should be retained. There is thick vegetation located in the right-of-way that will be impacted by the development of Mullen Street. This Application is consistent with each of the requirements of the R-7 Zone and is in compliance with the Comprehensive Plan development and objectives.

In June, another application was approved which also created reduced lot sizes which were below 6,500 sq.ft. This variance was based on a dedication of a half street which could eventually allow for additional sites or a connection to the Mullen Street right-of-way.

Staff feels that the increase in circulation will be a benefit overall for this area. There are not a large number of smaller lots in this area, the number of lots surrounding the development are large. Smaller lots have been approved.

The Public Works Department and South Metro Fire Prevention will be requiring a fire hydrant between Lots 3 and 4 and a turn-around at the end of Mullen until it is developed. Staff has provided a spread sheet showing how each lot meets or does not meet the applicable requirements.

There have been no written comments received. There have been a number of phone calls from neighbors expressing comments in favor and against Mullen Street improvement for fear of increased traffic. Some feel that the extension of Mullen Street will better disperse traffic in the area and provide access to the rear of their

property allowing them better use of their land. Others are concerned that further development in the area will increase traffic to an unacceptable level.

The Lewelling Neighborhood Association comments are included in the addendum to the Staff Report. They have suggested that a street side setback variance is inappropriate because of the potential for elimination of the homes or because the location of the homes is not unusual in the neighborhood. Staff feels the Applicant is not responsible for the location of the homes and therefore this finding can be made.

Staff recommends approval of Subdivision S-96-03 based on the conclusion and findings contained in the Staff Report, as well as the recommended conditions found in the Staff Report and the addendum.

QUESTIONS FROM THE COMMISSIONERS

It was asked what other options and lot configurations were looked at? **Stacy Lawson** explained that Staff does not do extensive evaluation of options for developers. The Applicant submits the Application and that is what is addressed in the Staff Report. Because of the width of this property, it could have a maximum potential of four lots, because of the requirements for flag lots. Until Mullen Street develops, there is no access to the site except from Logus Road.

Pat Lent asked if flag lots were considered and why this proposal did not include this street configuration and development of four new lots, instead of 6? **Stacy Lawson** stated that it is possible to do that; take out one of the lots on each side for a total of 3. This is a viable alternative.

Terry LaRocque asked what is the nature of accessory structures on the rear of Lot 5? **Stacy Lawson** stated that they are pre-existing. One of them will be removed as part of the Application. Because they are pre-existing and located on the property line, Staff did not address them in this variance. They will stay as they are in their current state.

Terry LaRocque asked what the setback requirement is for accessory structures in the rear yard? **Stacy Lawson** stated that the side setback requirement on the east side of that site is 5 feet. The rear setback requirement is 20 feet. There is an exception for accessory structures located in Section 400; for "...accessory structures that are less than 480 sq.ft., located a minimum of 60 feet from the street, which are one-story in height, 6 feet from any other structure, can be located within the 20-foot setback area and as close as 3 feet to the rear property line or side property lines." As this project is proposed, one structure will be relocated outside of the rear yard

setback while the other two will remain along the east side property line, within the setback.

Terry LaRocque asked if there has been any consideration of adjustment of the proposed property line between Lots 5 and 6, toward the existing residence on Lot 5, permitting the minimum rear yard on Lot 5, whereby Lots 6, 7, and 8 could achieve a minimum 7,000 sq.ft.? **Stacy Lawson** stated that this could be possible but is not what's requested by the Applicant. From Staff's standpoint there were ample reasons to be supportive of the project without requiring it. The property owners live in the home and intend to remain there.

Terry LaRocque asked who would be responsible for the maintenance of the excess road right-of-way? **Stacy Lawson** stated that this is a question for the Public Works Director. **Dave Wheaton** stated that until the roadway is developed, it is usually the adjoining property owner's responsibility. The City would take over the responsibility at the time of development.

Terry LaRocque asked what is required for on-site posting of notice? **Stacy Lawson** stated that this is one single application. Site posting is ten days prior to the hearing. One sign at the site was sufficient.

Tim Havel noted that drywells are proposed close to the intersection of 54th Place and Logus Road. How will these drywell to be addressed? **Dave Wheaton** stated that requiring drywells is the only viable way to address drainage as the subdivision is developing. There are currently no storm drain lines in place and they won't be located in the near future. At some time later, when storm drain utilities are installed, the drywell would be evaluated for effectiveness and it may be filled and abandoned so that stormwater discharge will flow into the new stormwater system. The City is responsible for maintaining and upgrading the storm drain system. There are standards the developer would have to follow in installing the drywells.

Pat Lent asked how many other narrow lots there are in this area? **Stacy Lawson** stated that when speaking of narrowness, it also includes narrowness of the street. There are other properties in the area. There have been difficulties with the location of flag lots because of the narrowness of some properties and other properties have been restricted to development of flag lots because Mullen is not a through Street. As a result, properties that can only partially develop utilize flag lots.

Pat Lent asked if the City had any specifics on the future plans for Mullen? **Dave Wheaton** stated that the City doesn't typically develop streets as a whole, it relies on development to form the basis of improvement. As each development comes along, the street will be expanded.

Terry LaRocque asked if there will be any improvements to Logus Road, since it is an existing City street because of the additional traffic generated by two recent decisions? **Dave Wheaton** stated that there are no improvements planned on Logus Road except the frontage obligations to this development.

Pat Lent noted that this new proposed road will open onto Logus Road which is directly across from a school.

No additional correspondence was received since the Staff Report was mailed.

APPLICANT PRESENTATION

Applicant: Vic Accomando, V & M Consulting Engineers, Inc. Portland

Mr. Accomando stated that the client has retained their services to submit an Application for approval, utilizing their planning and engineering staff to develop the proposal. The contract also includes hearings. The two parcels combined measure approximately 1.8 acre/40,000 + sq.ft. The developer/applicant has purchased the lot west of the proposed 54th Street. He then negotiated a contract to purchase a portion of the property to the east.

The developer has worked closely with the Milwaukie Community Development Staff. By the time he contracted with V&M, he had a basic layout design. He indicated that he planned to dedicate that portion of Mullen Street adjacent to the rear of those two parcels. The Applicant does not contest the dedication on Logus Road because there is a need for future improvement.

The Applicant felt that the request for a public dedication would best serve his project and the neighborhood. Of the entire lot size, a full 27% of the land is to be dedicated to the City of Milwaukie. The west parcel has a home on it which the Applicant has elected to renovate.

Mr. Accomando stated that the Applicant is trying to work within the density requirements of the area. The Neighborhood Land Use Committee's recommendation seemed to challenge the zoning densities. The development assumed this configuration because of the development requirements, retaining residence on the west lot, maintaining a larger rear yard for the resident on the east lot.

Mr. Accomando stated that he feels the Applicant is meeting the applicable requirements. Concerning the trees on the site, his survey crew did a field survey.

Some of the trees that are shown as Cedar are California Redwoods. He voiced concern that the California Redwoods and Douglas Fir Trees drop branches; some weighing 1-1/2 to 2 tons. This could be very dangerous. He cited a time when a 8-year old girl was killed because of the large trees. There is one tree that has 2-21/2 ft. of exposed root base and branches ranging over 1 ton hanging over the house. He would like to see this tree removed.

The Applicant is providing a 25 foot dedication of Mullen Street and asphalt turn-around for the Fire Department. He is reluctant to do a full-street improvement because of utilities involved. It was agreed that to address storm drainage, he would provide curb and gutter along the proposed 54th Street with partial curb returns. If half-street improvements are done, a runoff pond may be created in that area.

Because there is a school across from this site, public interest would best be served by putting in a full sidewalk. He doesn't feel partial sidewalks are beneficial. The Applicant proposes an interim improvement that would reflect the existing conditions, modifying them to accommodate this new subdivision. The plat can require that the purchasers of Lots 4 and 8 sign non-remonstrance against local improvement district formation or other improvements of Mullen Street.

A full storm-water analysis will be completed and submitted to the City. There was no ponding at this site during the storm event last February. The Applicant concurs with the Staff Report, although they would not like the Public Works alternative of improvement on Mullen Street be considered.

QUESTIONS FROM THE COMMISSIONERS

Tim Havel asked how much grading will be required in Lots 2 and 3 and what will be the impact on the vegetation on the site? **Mr. Accomando** stated that because of the impact on the tree root bases, Lots 2 and 3 will have to be graded in excess of 1200-1500 yards.

Tim Havel stated that a lot of the trees will be removed. Are there plans to replace the trees? **Mr. Accomando** stated that the Applicant would agree to a condition to provide street trees, 4-inch in caliper, or as the City requires. However, they may not be in like kind.

Tim Havel asked about the trees on the lots, not those along the street? **Mr. Accomando** stated that since this is not a planned development nor does it have private maintenance requirements, there is no need for an estimate of a homeowner's association. The City has the ability, as part of its conditions of approval, to tie the tree replacement to the plat. There possibly could be a condition of the permit, that the owner have to bond for/provide for street trees.

Tim Havel asked if similar species will be replacing the removed trees? **Mr. Accomando** stated that the Applicant would rely on the input from the City and their conditions.

Terry LaRocque asked if the Applicant would be willing to have an Arborist evaluate the health and hazard condition of these trees? **Mr. Accomando** stated that if an Arborist is conditioned, it will be addressed. He does not know what the Applicant would consider for the project.

Terry LaRocque asked for clarification on the half-street improvements? Is there a difference in cost of the Public Works improvements and the improvements being proposed. **Mr. Accomando** stated that there is approximately a \$4,000-5,000 improvement difference.

Pat Lent asked why the Applicant is asking for 8 lots instead of 6? **Mr. Accomando** stated that this was determined prior to his firm's involvement. It probably was done to maximize the density and highest return on investment. The Applicant and his son are planning to do the development together. This is probably the best was to approach the development of this site.

Tim Havel stated that if the property line was adjusted between Lot 5 and 6, you could achieve 7,000 sq.ft. lots on the east side of the development. **Mr. Accomando** restated that the layout is the result of negotiations with the homeowner and the developer.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: John Casey, 11410 SE 90th Avenue, Portland

Mr. Casey stated that he works for John L. Scott Real Estate.

Mr. Casey stated that he was the originator of the development. He contacted one of the owners to the west, and they told him that they wanted to sell the back part of their property. At that time, he contacted all the owners in the area to see if they would be interested in a subdivision. Three people were interested and he listed their property.

When he met the Applicant, Mr. Walters, and he tried to purchase this properties, only owners of tax lots 1300 and 1200 were willing to sell. At that point, he spoke with Paul Roeger and Jim Crumley, and they gave him the plan that would work in consideration with the zoning in the area. Staff felt that the 8-lot configuration would work.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

QUESTIONS IN OPPOSITION OF THE APPLICATION

Speaking: Jeff Marshall, 9901 SE 53rd Avenue, Milwaukie

Mr. Marshall stated that he is just west of Seth Lewelling Grade School, across the street from the proposed development. He asked if the Comprehensive Plan is considered part of the criteria when analyzing zoning variances?

Stacy Lawson stated that the Comprehensive Plan has relevance, but it is not part of the criteria.

Mr. Marshall stated that at previous hearings, the Comprehensive Plan has been introduced by neighbors in addressing these kinds of hearings and it has not been allowed. Why is it allowed this time?

Maggie Collins stated that the reasons the Comprehensive Plan lot size density mention of 6.7 units per acre, is because of a previous worksession with the Planning Commission. In evaluating of this type of request, both the Comprehensive Plan numerical standards as well as the Zoning Ordinance standards can be used.

Mr. Marshall noted that the Applicant admits 9 times in the Application that the subdivision doesn't meet the minimum requirements for R-7 Zoning in this neighborhood. The one existing owner that wants to stay, wants his lot larger than R-7. The Applicant admits that the two existing houses that face Logus are there and are not feasible for moving. This is the reason given for designing their subdivision; to accommodate the homes' location.

Mr. Marshall stated, in granting a variance, per Section 702, it is required that all criteria in Section 702.1 be met. In looking at the request for a variance, the lot size, in criteria A, Section 702.1, the setback of the two houses facing Logus is not an unusual condition. All of the houses on this block of Logus Road have the exact same setback. These two houses are not set back any more, in fact they have a specific planned setback for a reason. The Applicant uses the 7,000 sq.ft. minimum to come up with 8 lots. The only usual aspect of variance criteria 702.1 A is that the Applicant assumes that the two houses facing Logus Road on Lots 1200 and 1300 are not there for his purposes in determining that they can fit 8 lots. Yet, he admits the subdivision must accommodate their location. The Applicant has not shown any usual conditions in regards to criteria A and the variance must be denied.

Criteria 702.1 B reads that there are no feasible alternatives to the variance, that the variance is the minimum necessary to allow the Applicant to use his/her property in a manner substantially the same as others in the surrounding area. The Applicant states that the primary reason for the 6 lots south of the existing house being smaller than the 7,000 sq.ft. is the location of the two existing houses that face Logus Road. Yet the Applicant states that we must design the subdivision to accommodate their location. A location that is not unusual, but consistent with all the other houses on this side of the block. The important criteria in 702.1 B is surrounding lots, not only adjacent lots. Lots a quarter a mile away from the proposed subdivision are at least 9,500 sq.ft. Even at 7,000 sq.ft., it couldn't be considered substantially the same as the others in that area. But R-7 is the current zoning. Anything less than 7,000 sq.ft. is not substantially the same, it is substandard.

In their Criteria 702.1 B argument, the Applicant refers to Section 302 and the density requirements. There are no density requirements in Section 302. However, it does require a minimum of 7,000 sq.ft. lots; not an amount less than 7,000 sq.ft. that the developer chooses to suit their needs. Lots can be larger than 7,000 sq.ft. in the R-7 Zone which would be substantially the same as others in the surrounding area.

Mr. Marshall concluded that there is a feasible alternative to this variance request. By dropping off two lots and repartitioning the land into only four or six lots, not the eight, and adding that land into the other lots, the resulting lots would measure over the 7,000 sq.ft., somewhere in the 9,500-9,800 sq.ft. range. The Applicant has not met the requirements for criteria 702.1 B and the variance must be denied.

Regarding criteria 702.1 C, the Applicant is confused and states that the density of the land will be in accordance with one lot per 7,000 sq.ft. Section 302 states that the minimum lot size is 7,000 sq.ft. There is no mention of a density requirement and it is not part of the criteria. In an established large-lot neighborhood, the small lots are in the 9,500 sq.ft. range. How much more is a 2,800 sq.ft. house on a 9,800 sq.ft. lot worth compared to a 2,100 sq.ft. house on a 7,000 sq.ft. lot? A house can not occupy more than 30% of the lot size. Yet the Applicant maintains that a 1,800 sq.ft. house on a 6,300 sq.ft. lot will not impact prices on the surrounding properties. He feels the lower-priced properties will impact the surrounding properties. The impact has not been mitigated to the extent feasible by allowing substandard properties to be developed in this neighborhood.

Over 50 percent of the trees from this heavily wooded area would have to be removed. Wooded lots work as a unit when hit by a storm. If part of the woodlot is removed, it creates a weak area. With a weak link in the woodlot, how many trees will fall in the next storm. How much damage to property and life will be caused. The Applicant claims the impact to surrounding properties would be mitigated. Can

this be proved? Who will be responsible if it is not? Clearing out trees for a development can impact the remaining trees. How many cars will be crushed, how many homes damaged? The Applicant clearly has not mitigated to the fullest extent, as required by criteria 702.1 C, and the variance must be denied.

Other considerations are the maintenance of drywells, ponding on Logus Road, future plans for streets, and the impact of connecting Logus and Mullen with an entrance directly across the street from a school.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent asked for clarification on the need for consideration of the Comprehensive Plan? **Maggie Collins** stated that the Comprehensive Plan is looked to for guidance, whenever it is applicable. In training with Land Use Committees, emphasis is placed on the assumption that the Zoning Ordinance is in compliance with Plan policy. Therefore, you can use the Plan as a guide; the actual decision on a variance should be made on the variance criteria.

Speaking: Darrell Campbell, 2604 Sawno Creek Road, Alaska

Mr. Campbell stated that he is representing his father who resides at 4605 Logus Road and owns the lot at 5420 Logus Road. He agrees, in part, with the previous speaker. He voiced concern over giving variances when there isn't a solid purpose. If a subdivision should take place, the lots can be brought into a minimum of 7,000 sq.ft. and Lot 5 will still have 8,000 sq.ft.

In case there is run-off, 5420 is directly adjacent to the east of the subdivision. This is where the water will be running. He would like to see some sort of guarantee that the City would address maintenance issues created by any run-off.

There is about 18 feet of Mullen Street that does not exist. It stops 18 feet into his Dad's property. There is no right-of-way that continues on through. He does not want to see problems resulting from people using this property as a traffic cut through.

STAFF COMMENTS

Stacy Lawson stated that a condition has been recommended by Staff requiring the retention of trees. Trees to be preserved will only be able to be removed because of weakness on the advice of a Certified Arborist.

APPLICANT'S CLOSING REMARKS

Mr. Accomando stated that if they were to try to replace the trees in like kind, it would be very difficult to do. In response to the opposition, the criteria was addressed previously this evening. There should be no concern about devaluation of property caused by development of less than 7,000 sq.ft. lots. The developer does not wish to pursue 2,800 sq.ft. housing for people of upper economic level. He felt this site would be ideal for people who are first starting out. The thrust of this variance argument is not retention of the two existing houses. The main thrust of the variance argument is the dedication of so much land to the public right-of-way.

Mr. Accomando stated that there was a time during this Application procedure when the City asked the Applicant to explore the possibility of acquiring the 18-ft. strip that Mr. Campbell is referring to. It was his understanding that this was not a possibility. This is why they are proposing just a turn-out instead of a half-street improvement on Mullen. It may be some time before Mullen improvements are completed.

In response to Mr. Campbell's request for a guarantee on the drywells in the right-of-way area, it would be the City of Milwaukie's responsibility to maintain the drywells.

Terry LaRocque asked what the target market value of the development will be? **Mr. Accomando** stated that the homes will be valued at about \$140,000-160,000. each. **Calvin Walter** explained that the price and value is irrelevant; it is not part of the decision criteria.

DELIBERATION AMONG COMMISSIONERS

Calvin Walter closed the public testimony portion of the hearing and opened it up for deliberation.

Recess was taken at 8:20 p.m. and the meeting reconvened at 8:30 p.m.

Terry LaRocque stated that he disagrees with the notion that the Applicant has fulfilled the requirements for Criteria B, that there is no feasible alternatives for configuration of the lots. Lots 6, 7, and 8 on the east side do not conform with the minimum requirement of the Zoning. He would like to see an Arborist review the trees for the suspected danger. The City would lose by putting minimal improvements at the throat of this development off of Logus Road. There needs to be some arrangements made to pay for recovery of the \$5,000 difference in street improvement costs.

Terry LaRocque stated that he agrees with the Applicant's decision on a temporary turn-around at the end of Mullen. This will restrict access through to the Campbell property. At this time, he is not in favor of this Application as it is proposed.

Tim Havel stated that he too has concerns on the lot sizes. There is room to maneuver to get the lots up to 7,000 sq.ft. The Applicant has control over re-arranging a property line to create at least 7,000 sq.ft. lots on the eastern side.

Creating a setback on Lot 5 at 20 feet, you can gain 2,100 sq.ft. of extra space. If you split that between Lot 6, 7, and 8, it will be close to 7,000 sq.ft. There will be a lot of grading on this property and this could affect the quality of life of the trees. There should be some mitigation for the removal of these trees.

Tim Havel stated that drywells are a recurring problem. He would like to see more engineering review to see if there are other ways to handle the storm drainage on this site.

Pat Lent stated that she does not feel the Applicant has proven the variance is out of their control. The long narrowness of the lots may cause access problems, but she does not feel they are unusual. There are feasible alternatives; Staff has indicated that there can be 6 lots instead of 8 on this access road. Cutting out 2 lots will eliminate the need for variation on any of the lot sizes. She is not convinced of the unusualness of the property, in that there are viable alternatives. She will not vote in favor of this Application as presented.

Calvin Walter voiced concern about the amount of grading and drainage onto Logus Road. There are definite runoff problems in this area. Logus Road needs to be reviewed in general. He feels there is a problem with Mullen Street not punching through, unless the 18-ft. strip is obtained by the City or the developer. There is no reason to develop the hammer-head with curbs and sidewalks; its pointless. There are some trees on the site that are worthy of being saved. He would like to see as many of them retained as possible.

Discussion followed on the issue of 6 lots versus 8 lots. **Dave Wheaton** stated that there is a need to consider the policy of infill. This is an infill site, as are all of the sites on this road. The minimum lot area can be achieved on the lots on the east side. The Application meets the spirit of the infill policy. The turn-around is temporary. There is no permanent curve at the terminus where the hammerhead is. At some point in the future, this road will be continued through acquisition by the City, as a condition of approval of future development. This is how it is done; the City gets bits and pieces of improvements that are made available through development proposals.

The Public Works memorandum suggests that half-street improvements including curb, gutter, and sidewalk could be required on Mullen, as well as a water line extension to the east and west, and a sewer line extension to the west.

The number of lots on this site is a concern. Infill is part of the consideration, as well as what would blend into the character of the neighborhood. Eight lots may be too many.

Bryan Cosgrove stated that he did not have a problem with the number of lots as long as they meet the 7,000 sq.ft. minimum. There is another option to meet this minimum and keep the 8 lots proposed.

Staff was asked for clarification on the City's policy for trees. **Stacy Lawson** stated that the City policy is reflected in the Comprehensive Plan. When a developer comes in for an application, an evaluation is made of the trees on-site based on the health and size of the trees. Preservation of the trees may be required as a result of the evaluation.

Pat Lent moved to continue the Commission discussion on Variance Request VR-96-07 to allow the Applicant time to explore remedies to meet Criteria A and B, regarding minimum lot sizes. **Bryan Cosgrove** seconded. MOTION CARRIED 5-0.

Bryan Cosgrove moved to approve VR-96-08 based on the findings and conditions as indicated in the Staff Report, with the amendments made by Staff tonight. **Tim Havel** seconded. MOTION CARRIED 5-0.

Terry LaRocque moved to continue Subdivision S-96-03 until a decision is made on Variance Request VR-96-07. **Tim Havel** seconded. MOTION CARRIED 5-0.

- 6.0 WORKSESSIONS
- 6.1 Planning Commission Goal Setting

Maggie Collins asked the Commissioners to use last year's goals as a guide to focus on the goals needed for the City, keeping in mind the Regional Center planning process, riverfront plan, etc.

- 6.2 Milwaukie Vision Statement

Maggie Collins suggested that the Commissioners review the Vision Statement and pick out land use topics to incorporate into work program goals. **Calvin Walter** read the Vision Statement.

5.0 PUBLIC HEARINGS

- 5.1 Applicant: Wayne Walters and Robin and Benjamin Tarr
Property Owner: Wayne Walters and Robin and Benjamin Tarr
Location: 5400 SE Logus Road
Proposal: Applicant is requesting approval of an 8-lot subdivision and lot size and setback variances (S-96-03/VR-96-07/VR-96-08).

Chair Tomei explained that Variance Request VR-96-08 for setbacks was granted at a previous meeting. This hearing is for Subdivision Request S-96-03 and Variance Request VR-96-07 to allow for a lot size variance.

Chair Tomei explained the hearing format. She then opened the public hearing on Subdivision Request, S-96-03, for a 8-lot subdivision and Variance Request, VR-96-07, for reduced lot sizes. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. **Chair Tomei** asked if there were any Commissioners who visited the site; three hands were raised. None of the Commissioners who raised their hands noticed anything different from what is stated 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 Tomei stated that she was not at the last hearing on this Application, but she has read the minutes and all the materials that pertain to this hearing. She does not feel this will interfere with her ability to vote and be a part of the decision. **Michael Smith** stated that he too was not at the last hearing but has read the information and will be voting tonight.

STAFF REPORT

Stacy Lawson explained that this proposal is a request to approve an 8-lot subdivision. She handed to the Commissioners a recent revision to the Public Works Department's recommendations. This recommendation analyzes the submittal that came in last week from the Applicant.

At the last hearing, there was discussion on the proposal for an 8-lot subdivision located at 5400 Logus Road. The original proposal showed 8 lots and included a variance, which was approved, for reduced setbacks to the proposed street which would connect Logus Road and the Mullen Street right-of-way.

The Planning Commission, in reviewing this proposal found that there were concerns because of an additional variance which was required for the lot size of

the parcels in question. In the original proposal the lot sizes ranged from the 6,400, to 6,500, and 6,300 in size. The Commissioners were asked to make the findings submitted by the Applicant for the variance approval that would address the criteria requiring unusual circumstances of the property, not created by the Applicant, and that there was no other feasible alternative to the proposal.

The Commissioners raised concerns about the issue of other alternatives and asked that the Applicant re-evaluate alternatives in order to reduce the amount of variance requested in the lot sizes. Staff had originally recommended approval of the subdivision and lot area variance based on the finding that the properties are unusual in shape and size. Staff also found that it would be difficult to develop them in an orderly manner without a street, and that the Applicant proposed to dedicate an unusual amount of the property for public use.

The Applicant has responded with two additional drawings. Alternative One shows a proposal which is similar to the initial application; however, the lot sizes are increased by providing for the sidewalk and the curb and potentially, the utilities to be located by easement within each of the lots. This proposal will result in an overall lot size for lots 2, 3, and 4 of over 7,000 sq.ft. This would reduce the variance to lots 6, 7, and 8. Lots 6 and 7 would have an increased square footage of 6,888 sq.ft. and lot 8 increased square footage of 6,832 sq.ft.

Alternative Two proposes sidewalks on only one side of the street. In the drawing, the Applicant has chosen the western side of the property, eliminating sidewalks on the east side. The resulting square footage gain includes an increase for lots 2 and 3 to 6,724 sq.ft.; lot 4, 6,795 sq.ft.; lot 6 and 7 to 6,560 sq.ft.; and lot 8 to 6,549 sq.ft.

In both proposals, the lots sizes are over the 6,500 sq.ft. identified at the Planning Commission worksession in June with the Planning Commission as the Comprehensive Plan guideline for R-7 zoning.

In the density of these properties, because of the additional dedication, the City received a request for information on the overall density per acre with a range of number of lots. With five lots on the parcel, there are 2.6 dwelling units per acre; with six, there will be 3.1 dwelling units per acre; with seven lots, there would be 3.7 dwelling units per acre; and with 8 lots there would be 4.2 dwelling units per acre. These figures are gross average. Net figures come out to be 8 lots at 5.8; 7 lots, 5.1; 6 lots, 4.3; and 5 lots, 3.6.

She asked if the Commissioners had specific questions related to these alternative proposals. **Terry LaRocque** asked if there had been any consideration regarding

encouragement of certain housing designs consistent with the surrounding neighborhood? **Stacy Lawson** explained that at this time, housing design is not a criteria. In addition, the City cannot restrict the location of manufactured homes beyond what the Ordinance allows.

Stacy Lawson stated that Staff recommends approval of the original proposal. She then introduced Jim Brink, the new City Engineer with the Public Works Department.

Jim Brink reported that Public Works' positions concerning the proposed development in Public Work's second memo. Paragraph three restates the Public Works original proposal of a 39-foot wide right-of-way. This is the minimum standard in the Milwaukie Code for a residential development. It also addresses the additional five foot easement behind the right-of-way.

The next paragraph addresses Alternative One, which proposes a 24-foot wide right-of-way, curb to curb, with sidewalks on private easements. The next paragraph addresses Alternative Two, which is a 33-foot wide dedicated right-of-way which includes the 24-foot street, curb to curb, and an additional six-foot sidewalk on the west side.

The easement for the utilities is outside the right-of-way in all three alternatives. It would be placed outside the sidewalk. There is no difference in the options addressing utilities.

The difference in the three options is that the 24-foot width allows for two-way traffic and parking on one or both sides of the street. The six-foot area for the sidewalks includes a five-foot sidewalk and a one-foot area for the placement of signs. The signs do not extend into the street, but do extend into private property.

This results in an additional 12 feet to total 36 feet of right-of-way; leaving three feet allowed for curb (6" on both sides) and two feet for construction purposes behind the sidewalk.

Public Works has not required an easement for sidewalks on Alternative 2 because of the potential requirement for placing signs behind the sidewalk. These signs are the responsibility of the City for maintenance. Private sidewalks or easements for sidewalks on a private basis are the exception. There is only one such exception in the City. Public Works believes that in the proximity of a school, a private sidewalk is appropriate. It is appropriate to have sidewalks on both sides of the street. Alternative Two is not favored by Public Works because

the sidewalks are so close to the school, the road will be open to King Road and then traffic would be funneled directly to the school property.

Chair Tomei asked if any correspondence on this matter other than items included in the Staff Report and addendum material handed out had been received? **Stacy Lawson** reported that no additional information has been received.

APPLICANT PRESENTATION

Speaking: Vic Accomando, Representative of Applicant, V & M Consulting Engineers

Mr. Accomando stated that at last month's meeting they demonstrated to the Planning Commission that they were optimistic about developing a tax parcel that has been acquired by the Applicant and a portion of the tax lot next to the Applicant's property. The residents of the tax lot had come on board with them as co-applicants.

The Planning Commission felt there were some concerns at the last meeting that the Applicants had not addressed the lot density issue. The Applicant asked for a continuance to allow time to develop other alternatives. The Applicant approached the Tarrs to ask to purchase a portion or all of their lot; they were not in agreement to selling of any more of their property.

V&M, recognizing the 2040 Plan, realized that, although this is an R-7 area, through the variance process, they could approach the Planning Commission with the smaller density lots. The surrounding lots in the area are as low as 4,000 to 5,000 sq.ft. The dedication of public right-of-way is approximately 30% of the overall lot area. This is significant and the Applicant thought this would weigh heavily on the Commission's decision on the requested variances. The Applicant is planning to build stick-construction homes. He has existing floor plans he would utilize. He does not plan to build anything less than what is currently in the neighborhood now.

Mr. Accomando stated that what the Applicant is proposing is curb to curb, 24-feet, the right-of-way in back of the curb, and have the curbs in the right-of-way. There is a 25-foot right-of-way. By putting the sidewalks into an easement, it is no different than if they were in the right-of-way. The sidewalks will be built to City standards. There is an easement given to the City, wherein the City has full ability to access the area and maintain the sidewalk up to and including an easement wide enough to include the City signs. The Applicant is in support of the extension of Mullen Road and the street going through to King Road.

Mr. Accomando stated that their request fulfills infill requirements of the City. The homes will be sized consistent with each to lot size. He is confident that these homes will be an asset to the neighborhood.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the Public Works Memo mentions the only other alternative to reduce the number of lots. She asked if the Applicant considered reducing the number of lots to 6 and 7, thus negating the need for a variance. **Mr. Accomando** explained that they considered this, but the Applicant wants to build a nice project.

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that the piece of land is long and skinny. Right now the lots are a minimum 82 feet wide. If the lots were wider, because of a reduced number of lots, there would be huge sideyards. His homes will be 1,500-1,600 sq.ft. valued at \$160-170,000. There will be no manufactured homes.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the building envelope on the plans is the building envelope or footprint proposed? Mr. Walters stated that this is; the building envelope identifying the setbacks.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: John Casey, 11410 SE 9th Avenue, Portland

He handed out a copy of a letter from Ben and Robin Tarr regarding the purchase of the back side of their property at 5330 SE Logus Road. He read the letter into the record. The Tarrs do not want to sell any additional land.

Mr. Casey cited the Notice of Action Taken on an Application of June 11, 1996. This Application was filed by Alexander Garkusha for a four-lot subdivision with the R-7 zoning. "...formally approved this Application based upon findings included in the Staff Report." The second page lists the Conditions of Approval, "...lot configurations shall be as indicated on Exhibit 3 except for a minor variance showing widths of 66 feet in areas of 6,466 sq.ft. for lots 1-3." He pointed out the property on the map.

Mr. Casey stated that by approving this Subdivision request, it will be exactly what the people in this region have voted for. He read an excerpt from The Spring of 1996 Metro 2040 Framework Update regarding density. **Mr. Casey** also read to the Commissioners an excerpt from the October 25, 1996 Oregonian, on density and the Urban Growth Boundary. He then presented a map from Metro and pointed out what the zoning is proposed for this area. Metro has Milwaukie zoned at SF-RD, which is defined as single-family housing with minimum lot sizes usually ranging from 5,000-7,000 sq.ft., or 4-6 dwelling units per acre.

Mr. Casey thanked the Staff for being so helpful through this process.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the lot sizes shown in Alternative Two included the eight feet that was to be acquired from the adjacent neighbor? **Mr. Casey** stated that Alternative Two does include the eight feet of property that was asked for and granted by the adjacent neighbor.

QUESTIONS OR COMMENT ABOUT THE APPLICATION -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Jeff Marshall, 9901 SE 53rd, on Logus Road

Mr. Marshall stated that he lives diagonally across from the subject site. He stated that he comes before the Commission as Chairman of the Lewelling Land Use Committee. This subdivision has been before the Land Use Committee several times. It has been proposed to the neighborhood association and discussed at length. At a City Council meeting on September 5, 1996, a similar variance hearing was held. Councilman Donald Trotter stated, "The Comprehensive Plan is conceptual and lists goals and policies. When Zoning Ordinances and Subdivision Ordinances apply to property, the use of criteria to determine the land-use action is appropriate." **Mr. Marshall** went on to cite other quotes from the minutes.

On the books now is R-7 Zoning; 7,000 sq.ft. minimum lots. The 2040 Plan is not part of the criteria. 6,000 sq.ft. lots are not R-7. If a zone change is needed, it can be considered at a later date. The Comprehensive Plan is not part of the criteria; density is not an issue. Lot size is the issue. In order to grant a variance as per Section 702 of the Zoning Ordinance, all three criteria must be met. At the last hearing on this Application, staff stated that there is a viable alternative to Criteria B. He then read excerpts from the Staff Report and minutes of that meeting.

Mr. Marshall stated that Public Works has evaluated and found that the only other alternative is to reduce the number of lots. Part of the argument for granting this variance is a benefit to the area by creating 54th Street to improve circulation. 54th Street is a dead-end street and abuts Mullen, a street that has no current or future plans of ever being developed. Though not part of the criteria, this street will dump as many as 12 cars onto Logus Road, a narrow road with no sidewalk at the intersection of the entrance into Lewelling Grade School. This subdivision road will be of no help to Lewelling Grade School and will cause endangerment to children as they try to get to school. It will add wear and tear to our roads and who will pay for the maintenance and upkeep after the developer has taken the money and left the area? Who will answer to the children? This Subdivision Variance Request does not meet any of the criteria for a variance and must be denied.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the traffic increase is part of the criteria and can be considered an adverse effect on upon the neighborhood.

Stacy Lawson stated that using the Public Works Department minimum 24-foot wide roadway, with 5-foot sidewalks on each side equaling 34 feet, one foot greater than the right-of-way proposed for Alternative Two, and taking a half foot off of each side, lots 2 and 3 would have 6,633 sq.ft. and lot 6 would have 6,509 sq.ft.

CLARIFICATION OF TESTIMONY

Terry LaRocque asked what the mechanism was by which the road standards can be varied. Stacy Lawson stated that in the Subdivision Ordinance, Exceptions and Variances, Chapter 17.44, "When necessary, the Planning Commission may authorize variances to standards within the Subdivision Ordinance following the variance criteria." This includes roads.

APPLICANT'S CLOSING COMMENTS

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that he has been involved with this project for over a year. The street width has significantly grown since he has been involved with it. The Applicant has given five feet off of the back of the property next to Mullen Street. That in itself is more than enough to make the density go up. Thirty percent

(30%) of this property is going towards dedication. The average lot size is over 7,000 sq.ft. Livability does not change because the lot size is less than 7,000 sq.ft. There are two existing homes that take up 10-11,000 sq.ft. He thinks this is a sound plan.

QUESTIONS FROM COMMISSIONERS

Tim Havel asked for clarification of the building envelope. **Mr. Walters** stated that each lot shows side yard setbacks and front and back yard setbacks. Taking those out of the picture, that is the area left for a house footprint. **Tim Havel** asked if **Mr. Walters** was aware that in the Zoning Ordinance that the maximum building envelope coverage is 30%? **Mr. Walters** stated that the lots will be developed with 1,500-1,600 sq.ft. homes which meet the 30% lot coverage requirement.

DELIBERATION AMONG COMMISSIONERS

Chair Tomei closed the public testimony portion of the hearing and opened it to deliberations among the Commissioners.

Terry LaRocque stated that he does not see evidence of an Application for a variance to street standards, pursuant to Section 17.048 of the Zoning Ordinance. If this issue cannot be dealt with, there cannot be a decision on this Application. **Stacy Lawson** stated that while no application has been made to vary the street standards, Staff believes that the Commission could include that variance with the advertised variance for lot size because they are related. The findings will need to address the reduced street size as well.

Chair Tomei asked if the public would need to be notified of this variance also? **Maggie Collins** stated that the Commission could strictly interpret the Planning Commission's authority. A strict interpretation would result in a need for re-advertisement. A lesser interpretation could include findings for the variance to the lot sizes, as requested, and findings for the street standards as well.

Michael Smith asked for clarification on Public Works preference. **Jim Brink** stated that the 39-foot right-of-way is consistent with the current minimum addressed in the Subdivision Ordinance. Anything less than that is subject to a variance.

Pat Lent stated that the intent of the variance request is so that a developer can infill when it is possible. She does not believe the purpose of the variance request is to allow a developer to get as much as he can for his property. This site is not

so unusual that it cannot be developed on at all. There are other alternatives to developing this property. She is not convinced that the criteria is met, and after testimony tonight, she does feel there are adverse effects to the community by this proposed development.

Terry LaRocque stated that he is not convinced that all the possible options are being reviewed. He feels all the lots are substandard to the R-7 requirement. Inability to make arrangements for sale of property is not the same as a physical limitation the property might otherwise have. The Applicant should reconsider his position to see the Application go through. The argument to justify narrowing the public right-of-way is not valid.

Tim Havel stated that taking away public right-of-way was an option. These lots are deep and by nature, the amount of public right-of-way that needs to be dedicated is going to increase because of this. Putting that number of lots on this property is perplexing. He is not against infill, just the amount of lots going in.

Michael Smith stated that he felt it was reasonable to use private property for sidewalks. Public Works does not have a problem with that. The Comprehensive Plan does encourage in-fill development. As long as the Applicant sticks with 30% lot coverage required by the Zoning Code, he is in favor of the proposal indicated on Alternative One. Of the three plans submitted, Alternative One best fits the criteria for the Application.

Chair Tomei stated that she feels it meets the first criteria, it is very unusual. The properties in the vicinity that are restricted are because they are so long and narrow. The Applicant has the right to use his property. There are no feasible alternatives. A lot of the property is going to be used for street and sidewalk. This is something that Milwaukie needs. The area is there; it just means that it will be used for something other than a lawn. There are no adverse effects to the neighborhood.

Chair Tomei moved to approve Variance Request VR-96-07, with the findings and conditions as contained in the Staff Report of October 8, 1996. **Michael Smith** seconded. Motion Failed 2-3. The no votes were Tim Havel, Pat Lent, and Terry LaRocque.

Chair Tomei moved to deny the Subdivision Request, S-96-03. **Terry LaRocque** seconded. MOTION CARRIED 5-0.

City of Milwaukie
Appeal Application

RECEIVED

DEC 10 1996

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

Date: December 10, 1996

Milwaukie Community Development Department
City Hall
10722 SE Main St.
Milwaukie OR 97222

Re: File No.(s): Subdivision S-96-0371& Variance VR-96-07

The undersigned hereby appeal(s) the decision of (check one): Community Development Director, X Planning Commission, concerning the action to (check one): approve, X deny the above referenced file(s) on the following date: November 26, 1996.

Please set a date for the required public hearing for review of this appeal. I have enclosed the appeal filing fee of \$ 240.00.

The reasons for this appeal are identified as follows:

-- SEE INCLUDED NARRATIVE --

I will X, will not (check one) be providing additional written materials prior to the public hearing.

Sincerely,

Wayne Mathen

18235 S. GRASLE RD.

Signature(s)

OREGON CITY, OR. 97015
Address(es)

V & M Consulting Engineers, Inc.

7000 S.W. Hampton Suite 123 Portland, OR 97223
Phone (503)639-3956 / Fax (503)639-4098

RECEIVED

December 10, 1996

Milwaukie Community Development Dept.
10722 S.E. Main Street
Milwaukie, OR 97222

DEC 10 1996

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

RECEIVED

DEC 8 9 1996

CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

RE: **APPEAL OF PLANNING COMMISSION ACTION DENYING**
~~SUBDIVISION APPROVAL (S-96-05)~~ & **VARIANCE (VR-96-07)**

APPELLANT: WAYNE WALTERS

REASON FOR APPEAL

The Planning Commission failed to recognize the applicant's compliance with the criteria required and defined in Section 702 "CIRCUMSTANCES FOR GRANTING VARIANCES" as defined in the Community Development Director's NOTICE OF DECISION Dated November 26, 1996 by finding:

"A. The subject property is similar in size and shape to several other properties in the area and the existing homes are placed in similar positions on the lots."

Response: This finding is not appropriate because the appellant can find no other property in the area with the physical constraints of this proposed boundary geometry requiring dedication for a 430 L.F. right-of-way 39' wide with an additional requirement for a 25' wide dedication at the rear of the property. Furthermore, finding "A" is in error because the legally existing structure on Tax Lot 1300 is unusual in its front yard setback. *(See additional comment - page 2.)*

"B. Feasible alternatives to the variance exist which would allow the applicant the use of the subject property in a manner substantially the same as others in the surrounding area.Also, one or more lots could be dropped from the subdivision, resulting in larger lot sizes overall."

Response: This finding is flawed in that it fails to recognize the vast contrast of existing lot sizes in the neighborhood ranging down to 6,000 sq. Ft. within the designated R-7 zone with frontages of 60'. Reducing the proposed subdivision lots from eight to six (two existing and four new lots) would be impractical because it creates 8,000 sq. Ft. lots with 110' frontage, thus denying the owner equal consideration applied to the 'Leone Acres' subdivision. Additionally, it defeats the purpose of the the infill objective.

"C. No adverse effects on adjacent properties were identified."

Response: The appellant certainly finds no objection with a statement that endorses and lends support to this conscientious proposal.

DISCUSSION

Although certain members of the Planning Commission concurred with the staff report dated October 12, 1996 stating the variance for lot size "meets the first criteria, it is very unusual... There are no feasible alternatives... This is something Milwaukie needs...", other members held steadfastly that there are "other alternatives to developing this property." and suggested reducing the number of lots to achieve 7,000+ sq. Ft. lots giving no consideration to the substantial evidence placed in the public record by the applicant that no feasible alternatives exist and unusual physical characteristics prevailed compelling the need for a reduced lot size variance.

CONCLUSION

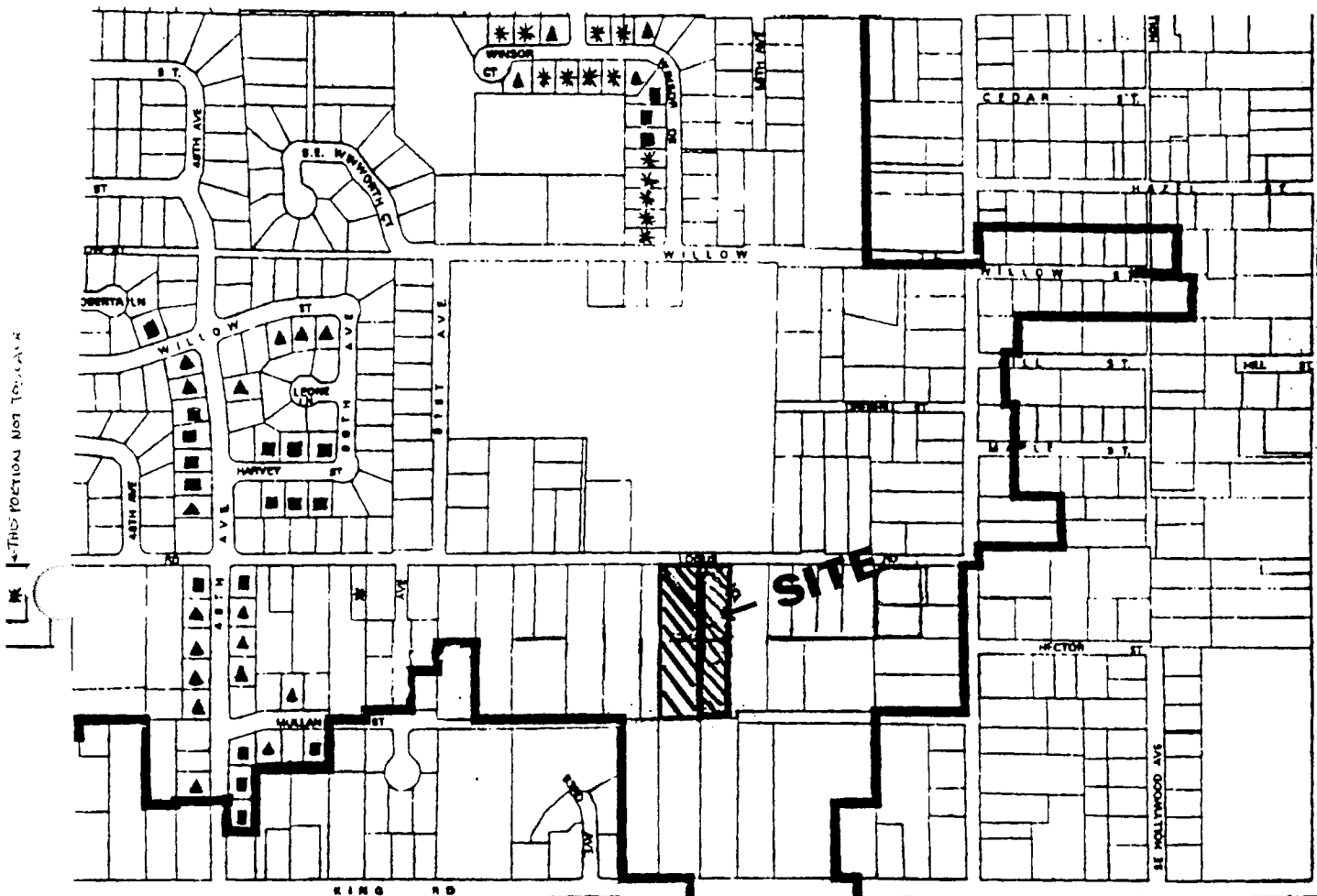
The Planning Commission erred in its consideration of the referenced application and its findings were not in unanimity with regards to Land Use Objective 5, Policy 1 by encouraging diversity in housing types with infill housing using reduced lot sizes.

Therefore, the applicant hereby respectfully submits the appeal application with the appropriate fees and and this narrative and requests an expeditious hearing for review of this appeal.

A. (Additional comment) The existing structure on Tax Lot 1300 sets approximately 60' from front lot line (Right-of-way on Logus) - much deeper than any existing dwelling on Logus - from Stanley St. to 51st Street.

RECEIVED
~~DEC 09 1996~~
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

RECEIVED
DEC 10 1996
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT



AREA LOT SIZES MAP VR-96-07

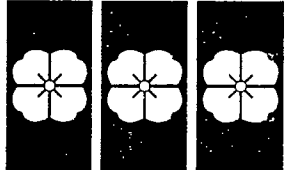
LOT SIZES IN SQUARE FEET

6500 - 7000 □

6000 - 6500 △

BELOW 6000 *


C I T Y O F



MILWAUKIE
MEMORANDUM

January 9, 1997

TO: Mayor and City Council

THRU: Dan R. Bartlett, Acting Public Works Director 

FROM: Jim Brink, City Engineer

SUBJECT: Sherrett St Sanitary Sewer Project

Action Requested:

- a. Adoption of a resolution directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements to 16 tax lots in the Ardenwald neighborhood.
- b. Adoption of a resolution declaring Council intent to form a Local Improvement District to construct sanitary sewer improvements to 16 tax lots in the Ardenwald neighborhood.

Purpose: Initiate the LID process for the Sherrett St sanitary sewer project.

Background:

- 1. Council received a project status report on 1-7-97 and provided guidance to Public Works on critical issues.
- 2. Public Works will have another meeting with affected property owners on 1-15-97 to provide feedback on Council guidance and provide information on the LID process.
- 3. Work on the project is expected to begin on or about 5-1-97 and last 45-60 days. **It is important to initiate the LID process as soon as possible so that all required items are completed prior to the project start date.**

Discussion:

- 1. The City Attorney has stated that the two resolutions can be addressed at a single public meeting. I recommend this approach because it will save two weeks, all required information is known at this time, and all affected property owners will be made aware of the public meeting and the two proposed resolutions.
- 2. Adoption of a resolution (Attachment A) directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements to 16 tax lots in the Ardenwald neighborhood.**

The required items for the Engineer's Report are attached:

- a. A topo map showing the nature, location and extent of the proposed improvement and an assessor's map showing the lands to be assessed to pay part of the costs.
- b. Preliminary plans, specs, and estimates of the work to be done.
- c. An estimate of the costs of the improvement from Murray Smith & Associates (Attachment B).

d. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the costs of the improvement to the properties benefited. **The recommended method of assessment is by tax lot** (Attachment C). An area option and a front footage option are also shown.

e. A description of the location and assessed value of each lot, or portion thereof, to be benefited by the improvement with the names of the owners (Attachment D).

f. A statement showing outstanding assessments against the properties to be assessed.

3. Adoption of a resolution (Attachment E) declaring Council intent to form a Local Improvement District to construct sanitary sewer improvements to 16 tax lots in the Ardenwald neighborhood.

The required items for this resolution are attached:

- a. Description of area of improvements as shown on the topo and assessor's maps in the Engineer's Report.
- b. Engineer's Report as described above.

sewer\project\st-97-1\council3.doc
1-10-97

RESOLUTION NO. _____
MILWAUKIE, OREGON

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON DIRECTING STAFF TO HAVE PREPARED A PRELIMINARY ENGINEERING REPORT REGARDING THE FEASIBILITY OF PROVIDING SANITARY SEWER IMPROVEMENTS THROUGH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT IN THE AREA OF ARDENWALD.

WHEREAS, the City Council recognizes the need for certain sewer improvements in the area of Ardenwald; and

WHEREAS, the City Council is considering formation of a local improvement district to finance the sewer improvements; and

WHEREAS, the Milwaukie Municipal Code (MMC) section 3.08.030 requires the City Council to cause an engineer's report to be prepared prior to creation of a local improvement district;

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

Section 1: The staff is hereby directed to prepare the Preliminary Engineering Report required prior to formation of a local improvement district per MMC § 3.08.030, to include the following:

- a. A plat or map showing the general nature, location and extent of the proposed improvement and the lands to be assessed to pay all or any part of those costs;
- b. Plans, specifications and estimates of the work to be done;
- c. An estimate of the costs of the improvement;
- d. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the costs of the improvement to the property benefited.
- e. A description of the location and assessed value of each lot, or portion thereof, to be benefited by the improvement, with the names of the owners;
- f. A statement showing outstanding assessments against the property to be assessed; and

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- g. Any other information required by the Council, who may direct the finance director or other public official to assist staff in obtaining the information required for the report. (Use this only if Council has requested additional information. Be specific as to what additional information is required).

Introduced and adopted by the City Council on _____, 1997.

Craig Lomnicki, Mayor

ATTEST:

Pat DuVal, City Recorder

peel/oom/65021/1klrprt.rc2(1)/13/97

Engineer's Opinion of Probable Construction Cost

5

Item No.	Item of Work and Measure	Estimated Quantity	Unit	Unit Price Bid	Extended Bid Price
1	Mobilization	1	Lump Sum	\$ 12,522	\$ 12,522
2	Traffic Control	1	Lump Sum	\$ 8,765	\$ 8,765
3	EXC. For 8" pipe, 0-12' deep	524	L.F.	\$ 17	\$ 8,908
4	EXC. For 8" pipe, 12-14' deep	332	L.F.	\$ 18	\$ 5,976
5	EXC. For 8" pipe, 14-16' deep	303	L.F.	\$ 20	\$ 6,060
6	EXC. For 8" pipe, 16-18' deep	212	L.F.	\$ 24	\$ 5,088
7	EXC. For 8" pipe, 18-20' deep	241	L.F.	\$ 26	\$ 6,266
8	EXC. For 6" pipe, 0-8' deep	37	L.F.	\$ 14	\$ 518
9	EXC. For 6" pipe, 8-10' deep	75	L.F.	\$ 15	\$ 1,125
10	EXC. For 6" pipe, 10-12' deep	65	L.F.	\$ 16	\$ 1,040
11	EXC. For 6" pipe, 12-14' deep	56	L.F.	\$ 17	\$ 952
12	EXC. For 6" pipe, 14-16' deep	38	L.F.	\$ 19	\$ 722
13	EXC. For 6" pipe, 16-18' deep	17	L.F.	\$ 23	\$ 391
14	EXC. For 6" pipe, 18-20' deep	5	L.F.	\$ 25	\$ 125
15	EXC. For 4" pipe, 0-8' deep	8	L.F.	\$ 14	\$ 112
16	EXC. For 4" pipe, 8-10' deep	56	L.F.	\$ 15	\$ 840
17	EXC. For 4" pipe, 10-12' deep	343	L.F.	\$ 16	\$ 5,488
18	EXC. For 4" pipe, 12-14' deep	54	L.F.	\$ 17	\$ 918
19	EXC. For 4" pipe, 14-16' deep	12	L.F.	\$ 19	\$ 228
20	EXC. For 4" pipe, 16-18' deep	9	L.F.	\$ 23	\$ 207
21	EXC. For 4" pipe, 18-20' deep	0	L.F.	\$ 25	\$ -
22	Foundation Stabilization	60	C.Y.	\$ 35	\$ 2,100
23	Crushed Rock Pavement Base	115	C.Y.	\$ 15	\$ 1,725
24	A.C. Pavement Replacement 5" Thk	0	S.Y.	\$ 30	\$ -
25	A.C. Pavement Replacement 3" Thk	0	S.Y.	\$ 20	\$ -
26	A.C. Pavement Replacement 2" Thk	707	S.Y.	\$ 18	\$ 12,726
27	8" ASTM D3034 SDR 35 PVC Sewer Pipe	1612	L.F.	\$ 25	\$ 40,300
28	6" ASTM D3034 SDR 35 PVC Sewer Pipe	293	L.F.	\$ 24	\$ 7,032
29	4" ASTM D3034 SDR 35 PVC Sewer Pipe	482	L.F.	\$ 22	\$ 10,604
30	8" x 6" PVC Tee	9	Each	\$ 100	\$ 900
31	8" x 4" PVC Tee	12	Each	\$ 75	\$ 900
32	48" Std Precast MH, 0-8' Deep	7	Each	\$ 1,500	\$ 10,500
33	48" Std Precast MH, Depth Over 8'	39	L.F.	\$ 150	\$ 5,850
34	Inside/Drop Connection for MH	1	Each	\$ 800	\$ 800
35	PVC Deep Connection Riser	2	L.F.	\$ 14	\$ 28
36	6" x 6" Tee for PVC Deep Conn Riser	2	Each	\$ 90	\$ 180

6

Item No.	Item of Work and Measure	Estimated Quantity	Unit	Unit Price Bid	Extended Bid Price
36	Cleanouts	1	Each	\$ 450	\$ 450
37	Concrete Curb Replacement	63	L.F.	\$ 19	\$ 1,197
38	Temporary Cold Mix AC, 1" Thick	707	S.Y.	\$ 2	\$ 1,414
39	Imported Granular Trench Backfill	2476	C.Y.	\$ 6	\$ 14,856
Subtotal					\$ 177,814
Contingency (10%)					\$ 17,781
Construction Engineering (15%)					\$ 29,339
Design Engineering					\$ 17,000
TOTAL					\$ 241,934

Cost Sharing	City of Milwaukie	\$ 134,124
	City of Portland	\$ 107,810

TOTAL COST ESTIMATE FOR CITY OF MILWAUKIE

1996 PROJECT (30TH AV - 32ND AV)	\$19,862
1997 PROJECT (32ND AV - EOP)	\$134,124
	<u>\$153,986</u>

7

**SHERRETT ST SANITARY SEWER PROJECT
COST SHARE OPTIONS**

	Front Footage	Area(sf)	"A" Total Cost *	"B" Total Cost	"C" Total Cost																
Klobertanz	100	7300	7218	9779	7237	<table border="1"> <tr><th align="center" colspan="2">Project Cost Estimate</th></tr> <tr><td align="right">118599</td><td>Construction</td></tr> <tr><td align="right">9000</td><td>Design</td></tr> <tr><td align="right">9957</td><td>Contingency</td></tr> <tr><td align="right">16430</td><td>Const. Engring</td></tr> <tr><td align="right">153986</td><td>Total</td></tr> </table>				Project Cost Estimate		118599	Construction	9000	Design	9957	Contingency	16430	Const. Engring	153986	Total
Project Cost Estimate																					
118599	Construction																				
9000	Design																				
9957	Contingency																				
16430	Const. Engring																				
153986	Total																				
Otis	61	6810	7218	5965	6751																
Johnson	42	8240	7218	4107	8169																
Noack	32	6950	7218	3129	6890																
Noack	42	7920	7218	4107	7852																
Adams	83	7304	7218	8117	7241																
Huntley	83	7304	7218	8117	7241	<table border="1"> <tr><th align="right" colspan="2">Property Owner Cost Share:</th><th align="right">\$115,490</th></tr> <tr><th align="right" colspan="2">City Cost Share</th><th align="right">\$38,497</th></tr> </table>				Property Owner Cost Share:		\$115,490	City Cost Share		\$38,497						
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Haller	60	6702	7218	5867	6644	<table border="1"> <tr><th align="center" colspan="2">City Costs</th></tr> <tr><td align="right">9,000</td><td>Design</td></tr> <tr><td align="right">16,430</td><td>Const. Engring</td></tr> <tr><td align="right">13,067</td><td>Sherrett St: 30th Av -32nd Av</td></tr> <tr><td align="right">38,497</td><td>Total</td></tr> </table>				City Costs		9,000	Design	16,430	Const. Engring	13,067	Sherrett St: 30th Av -32nd Av	38,497	Total		
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# Taxlots	16																				
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Sliger	73	7277	7218	7139	7214																
Mingo, D	99	7277	7218	9681	7214																
	1181	116496	115490	115490	115490																
	"A"	Split Equally Among Taxlots																			
	"B"	Split by Front Footage																			
	"C"	Split by Area																			
1/8/97																					

LOTS TO BE ASSESSED
SHERRETT ST SANITARY SEWER PROJECT

TAX LOT NO.	OWNER	COOWNER	MAIL ADDRESS	SITE STREET NO	SITE STREET NAME	SITE CITY	YEAR BUILT	LAND VALUE	BLDG VALUE	TOTAL VALUE
11E25AB02900	SLIGER FLOYD H TRUSTEE		8629 SE 34TH AVE	8629	34TH AVE	MILWAUKIE	1959	37110	111130	148240
11E25AB02800	OCH ALBERT E JR		8609 SE 34TH AVE	8609	34TH AVE	MILWAUKIE	1957	37110	96330	133440
11E25AB02700	SAMUELSON HARRY M		8585 SE 34TH AVE	8585	34TH AVE	MILWAUKIE	1958	37110	132060	169170
11E25AB02600	MINGO LARRY T		8551 SE 34TH AVE	8551	34TH AVE	MILWAUKIE	1957	37110	90440	127550
11E25AB02400	SCHULZ PALMER R	&TERESA M	8538 SE 34TH AVE	8538	34TH AVE	MILWAUKIE	1956	37110	111890	149000
11E25AB02300	HODGKINSON LUCILLE R		8580 SE 34TH AVE	8580	34TH AVE	MILWAUKIE	1957	36190	87370	123560
11E25AB01500	KLOBERTANZ ANTON J	&MARGARET	8616 SE 34TH AVE	8616	34TH AVE	MILWAUKIE	1958	37110	105110	142220
11E25AB01800	NOACK WALTER TRUSTEE		8555 SE 36TH AVE		KATHYRN CT	MILWAUKIE		30190		30190
11E25AB01900	NOACK WALTER TRUSTEE		8555 SE 36TH AVE		KATHYRN CT	MILWAUKIE		30190		30190
11E25AB02200	HALLER BLAISE M	&SUSAN B	3415 SE KATHRYN CT	3415	KATHRYN CT	MILWAUKIE	1961	38370	92180	130550
11E25AB01600	OTIS DANIEL P		3416 SE KATHRYN CT	3416	KATHRYN CT	MILWAUKIE	1958	38370	111890	150260
11E25AB01700	JOHNSON RALPH H	&JEAN E	3426 SE KATHRYN CT	3426	KATHRYN CT	MILWAUKIE	1958	38970	106570	145540
11E25AB03600	MINGO DONALD A	&DIANE P	3330 SE SHERRETT ST	3330	SHERRETT ST	MILWAUKIE	1959	37110	119530	156640
11E25AB02500	HELVEY CAROL A		3362 SE SHERRETT ST	3362	SHERRETT ST	MILWAUKIE	1962	37110	144440	181550
11E25AB02100	HUNTLEY GERALD		14627 SW RAINBOW DR	3464	SHERRETT ST	MILWAUKIE	1962	37110	87910	125020
11E25AB02000	ADAMS JOHN D		3536 SE SHERRETT ST	3536	SHERRETT ST	MILWAUKIE	1960	26210	88270	114480

RESOLUTION NO. _____
MILWAUKIE, OREGON

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON
DECLARING THE INTENT TO FORM A LOCAL IMPROVEMENT DISTRICT TO
CONSTRUCT SANITARY SEWER IMPROVEMENTS IN THE AREA OF ARDENWALD
ADOPTING THE PRELIMINARY ENGINEERING REPORT, CALLING FOR A PUBLIC
HEARING, AND DIRECTING THAT NOTICE OF THE HEARING BE GIVEN.

WHEREAS, the City Council by Resolution No. _____ directed that a Preliminary
Engineering Report be prepared for the construction of sewer improvements in an area generally
described as Sherrett Street (from 30th Avenue east to the end of the pavement); 34th Avenue
(from Sherrett Street to Kathryn Court), and Kathryn Court; and

WHEREAS, the Preliminary Engineering Report has been completed and submitted to the City
Council which finds the proposed project to be feasible, and recommends this project be given
a priority. Based on the City Engineer's findings, the City Engineer recommends the district
be formed and the improvements be made;

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

Section 1: The City Council by this resolution declares its intention to make the
following improvements:

820 feet of main sanitary sewer line, 400 feet of lateral sewer line and associated
manholes and paving.

The improvements will be located in the area generally shown in the map found in Exhibit "A",
attached hereto and incorporated herein by this reference.

Section 2: The City Council by this resolution declares its intention to form a local
improvement district and to assess the benefited owners for \$115,490, a portion of the cost of
the improvement.

Section 3: It is the intention of the City Council that the improvements be constructed
in accordance with the plans and specifications contained within the Preliminary Engineering
Report provided in Exhibit "B", attached hereto and incorporated herein by this reference. The
Preliminary Engineering Report may be changed in the hearings and construction process and
is hereby adopted subject to amendments.

10

Section 4: The total estimated cost for the proposed improvement is \$153,986 and the benefited properties shall be assessed on a tax lot basis to arrive at a fair apportionment of the costs among the specially benefited properties.

Section 6: A public hearing shall be held at City hall on March 4, 1997 at 7:00 p.m. At this time the City Council will hear objections or remonstrances to the proposed improvement by any property owner within the proposed local improvement district boundary.

Section 7: The Finance Director is hereby directed to give notice of the public hearing as provided in Section 3.08.040 of the Milwaukee Municipal Code.

Section 8: All remonstrances shall be filed with the City Recorder by the close of the initial public hearing. Thereafter, no remonstrances shall be considered.

Introduced and adopted by the City Council on _____, 1997.

Craig Lomnicki, Mayor

ATTEST:

Pat DuVal, City Recorder
pre/asm/65021/lid/inten.re2(1/13/97)

SHERRIF
N1/4
Cor.

ST.

SHERRETT

STREET

NOT CONSTRUCT

Clack Co. 527/181

NO. 163

CO. RD. 444

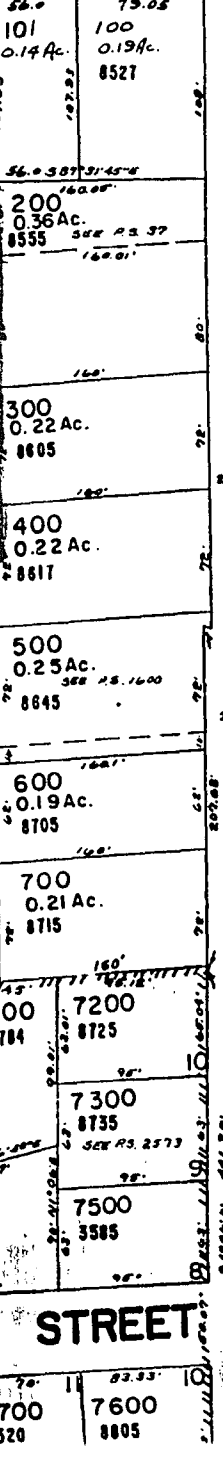
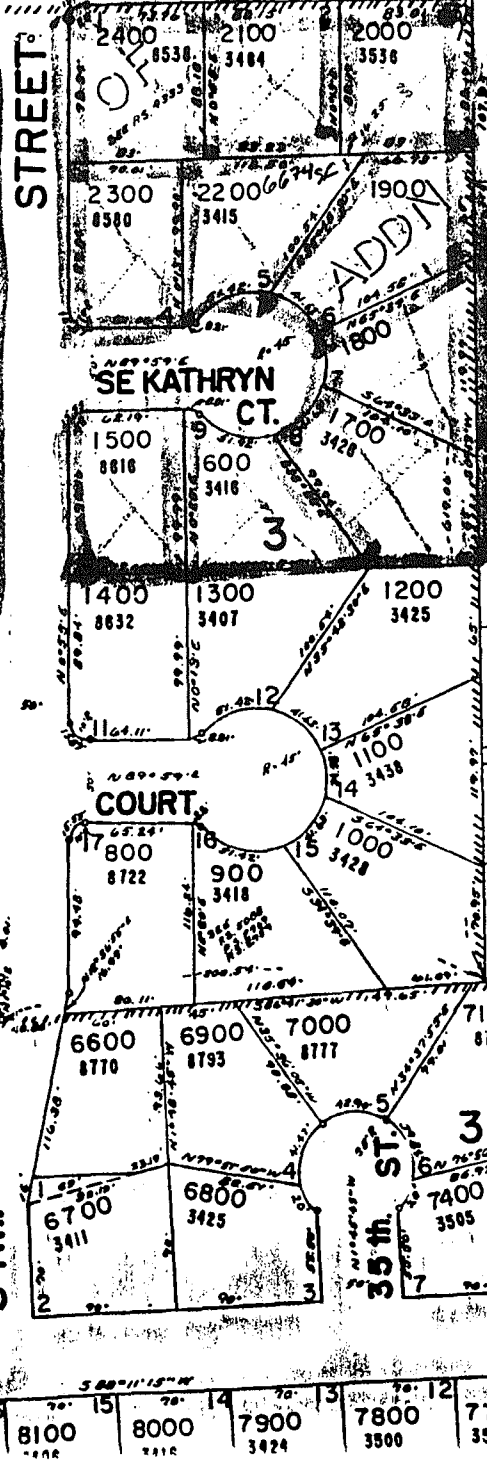
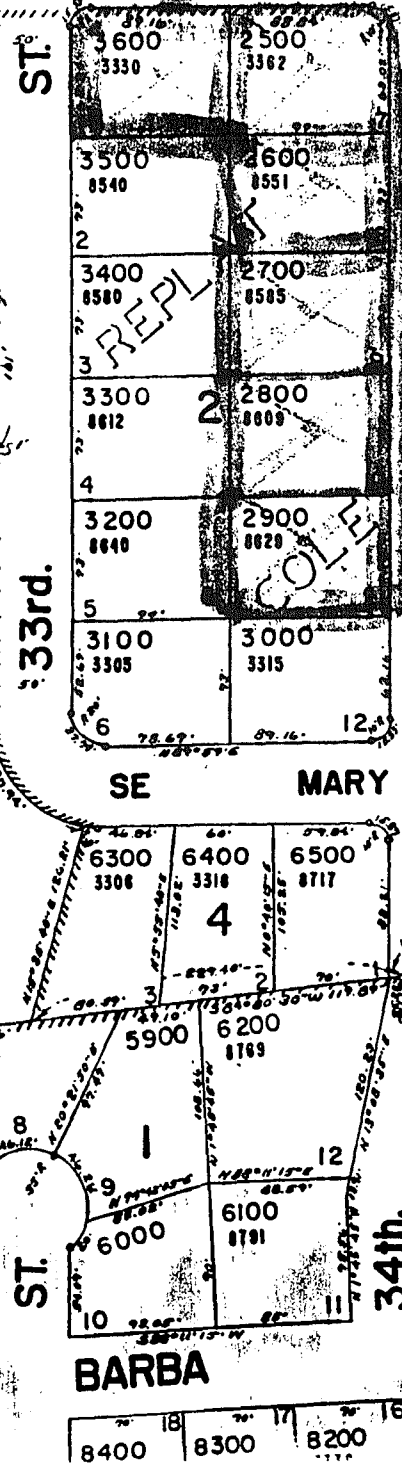
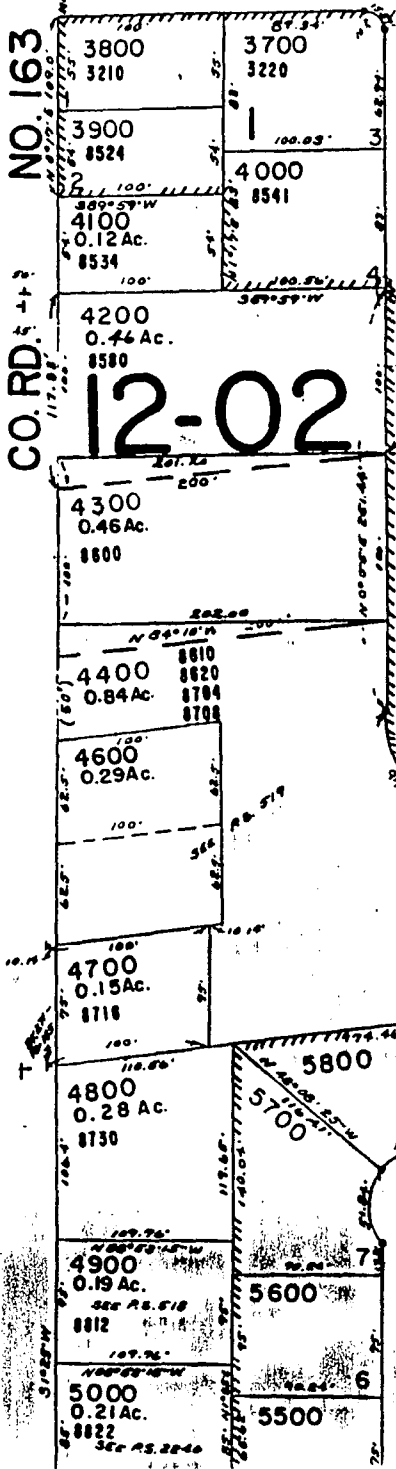
12-02

VAN WATER
ST.

SEE MAP I E 25BA

EXHIBIT

Properties
TO BE ASSESSED



BARBA

34th.

35th. ST.

STREET

MILWAUKEE CITY LIMITS



To: Mayor and City Council

Through: Charlene Richards, Assistant to the City Manager *CR*
Dan Bartlett, City Manager *DRB*

From: JoAnn Herrigel, Program Services Coordinator *JH*

Subject: Cable Television Transfer Review

Date: January 10, 1997

Action Requested/Recommended

Adopt a resolution that would allow the city to recover the costs for reviewing, analyzing, and processing TCI's application for transfer of the cable television franchise.

Background

On November 15th, 1996 the city received an application for franchise authority consent to transfer of control of our cable television franchise from Jones Intercable to TCI. Staff and the city's attorney have reviewed the documents submitted.

According to FCC rules, we are allowed 120 days to approve or deny the application for consent. Given this short period of time, staff will need to work closely with the city attorney and the cable consultant, Steve Jolin, to review all materials submitted. The attached resolution would require that one condition of the city's approval be that TCI reimburse the city for all costs incurred during our review and approval process.

RESOLUTION NO. _____
MILWAUKIE, OREGON

A RESOLUTION PROVIDING FOR THE RECOVERY OF COSTS FOR REVIEWING, ANALYZING, AND PROCESSING APPLICATIONS FOR FRANCHISE TRANSFER,

WHEREAS, franchising authorities, including the City of Milwaukie are charged under the 1992 Cable Act (§617) with the review of proposed transfers in franchise control; and

WHEREAS, the Cable Act imposes a 120-day time limit on franchising authorities to make decisions regarding whether to grant transfers; and

WHEREAS, the City is vested with all the powers and rights necessary to carry out its functions and is specifically empowered to condition transfers as it deems appropriate; and

WHEREAS, the review of proposed transfers of control are costly, time-consuming, and place financial burdens upon the City beyond those normally budgeted; and

WHEREAS, the possibility of a Jones Intercable sale exists;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE THAT:

Section 1. As a condition of franchise transfer, a fee shall be paid to the City in an amount equal to the City's reasonable costs above normal operating expenses for reviewing the transfer, including staff time, consultant fees, attorney's fees, and other related expenses. No consent to this transfer will become effective until this fee is paid. This fee is above the franchise fee and shall not be an offset against franchise fee payments.

Introduced and adopted by the City Council of the City of Milwaukie, 21st day of January, 1996.

Craig Lomnicki, Mayor

ATTEST:

APPROVED AS TO FORM

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council
Through: Charlene Richards, Assistant to the City Manager *CR*
Dan Bartlett, City Manager *ARB*
From: JoAnn Herrigel, Program Services Coordinator *JH*
Subject: Cable Television Rates
Date: January 6, 1997

Action Requested/Recommended

Approve Jones Intercable's request to maintain existing rates for cable equipment and installation services.

Background

In 1994, the FCC established rules for the implementation of the Cable Television Consumer Protection and Competition Act of 1992. As part of these rules, cable operators are required to submit specific forms to the FCC and the local franchising authority justifying rate modifications or increases.

Accordingly, Jones Intercable has submitted FCC Form 1205 which calculates allowable equipment and installation rates for cable subscribers. The permitted rates are higher than the actual rates in some cases and lower in others (see attached chart.) Jones contends that equipment (converter box) undercharges offset installation overcharges. For this reason Jones has requested that neither the installation nor the converter box rates be adjusted at this time.

Staff is inclined to concur with Jones. Those installation charges which exceed the permitted charges are for services that are infrequently provided to customers. These overcharges are most likely balanced by those more frequently provided equipment services for which customers are being undercharged. Requiring Jones to decrease the charges for installation would result in their increasing the rates for equipment services and having a greater financial impact on customers.

Staff reviewed the FCC rules for challenging Jones request for no rate change. To do so would require hiring a financial consultant to review Jones records in order to verify Jones calculation of total equipment and installation costs. This type of expenditure is not warranted in this case.

MILWAUKIE CITY HALL
10722 SE MAIN STREET
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

**Permitted vs Actual Rates
(Installation and Equipment)**

Service	Actual Rate	Permitted Rate	Increase/Decrease if Rate Changed
INSTALLATION			
Installation of Unwired Homes	\$ 47.62	\$ 34.45	\$ (13.17)
Installation Prewired Homes	33.33	33.02	(.31)
Additional Connection - Initial Installation	18.50	20.67	2.17
Additional Connection- Separate Installation	30.00	31.58	1.58
Reconnect Outlet	33.00	30.14	(2.86)
Install Customer Equipment - Separate Trip	29.45	22.97	(6.48)
Relocate Drop/Outlet	30.00	28.71	(1.29)
EQUIPMENT			
Converter Box - Type 1	2.16	2.57	.41
Charge for Changing Tiers	12.95	17.23	4.28



*** MEMORANDUM ***
December 30, 1996

To: Mayor and City Council
From: Dan Bartlett, City Manager *Dan*
Re: Council Regional Committee Assignments:
Regional Water Providers Consortium

Action Requested

Consider assignments to the Regional Water Providers Consortium.

Background

As a part of Council orientation, Council will discuss their regional committee assignments. The attached draft By-Laws for the Regional Water Providers Consortium indicates that we will need to designate a member and alternate to this group. Please review these By-Laws and plan to discuss your preferences at the January 21, 1997, Council Meeting.

Note that the group must meet at least once per year, at this time there will probably be more frequent meetings for start-up.

cc: File
cm1042/hd

REGIONAL WATER PROVIDERS CONSORTIUM AGREEMENT

BY-LAWS

(December 20, 1996 Rough Draft)

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ARTICLE 1

PURPOSE AND OBJECTIVES

The Regional Water Providers Consortium was created for the following general purposes:

- A. To promote the voluntary coordination of individual and collective actions of Participants implementing the *Regional Water Supply Plan for the Portland Metropolitan Area* ("Plan");
- B. To serve as the central custodian for Plan documents, including computer models;
- C. To review and recommend revisions of the Plan, as appropriate;
- D. To provide a forum for the study and discussion of water supply issues of mutual interest to Participants and to coordinate the responses of Participants to such issues;
- E. To provide a forum for review and discussion of water resource related issues preliminary to any final actions by individual Participants, regarding issues which could be considered to relate to application of the statewide land use goals, comprehensive plans, regional plans, or land use regulations;
- F. To establish an avenue for public participation in water supply issues in addition to public participation activities of the individual Participants.

ARTICLE 2

MEMBERSHIP

Composition

A. Initial Participants

Membership within the Consortium is available to any Participant who participated in the *Inter-Governmental Agreement to Fund Phase Two of the Plan*, listed as Ex. B to the Consortium Agreement. At least 15 of these Participants are required to create the Consortium and effect the Agreement. Any original phase two participants eligible to join the Consortium at any time by signing the *Consortium Agreement*.

B. Additional Participants

Any other public entity wishing to join the Consortium, after its initial creation, shall so inform the Board, in writing, and shall comply with whatever standards and or financial criteria the Board has established. The written request to join the Consortium must include a statement providing the reasons the entity desires to become a Consortium Participant. If the entity is not a water provider, its written statement should also identify a funding structure under which it would propose to financially participate in the Consortium. Such entity shall then become a participant in the Consortium if a majority of the Board votes in favor of its admission.

Withdrawal

Any Participant may withdraw from the Consortium at any time by giving written notice to the Chair of the Board. The withdrawing Participant should endeavor to advise the Chair of the Board of its intention to withdraw prior to February 1 of the year in which it intends to withdraw and prior to the approval of the Consortium's next fiscal year's budget.

Membership Term

Each Participant shall remain a Consortium Participant so long as it does not withdraw or fail to pay its dues.

ARTICLE 3

CONSORTIUM BOARD

Generally

The "Consortium Board" was established by the Regional Water Providers Consortium IGA and is the entity to which these by-laws apply. This group will be addressed as the "Board" in these by-laws.

Composition

Standing Members

The Board shall be composed of one representative from the governing board, commission or council of each Consortium Participant. Each Participant shall also name an alternate Board representative from its governing board, commission or council to serve in case the primary representative cannot. Provided, however, that if the Board Chair does not attend a meeting, the Vice-Chair shall assume the Chair's duties.

Each governing board, commission, or council shall notify the Board Chair, and staff, in writing, of any change in their chosen Board representative and alternate.

Ex Officio Members

Multnomah, Clackamas and Washington Counties may each also name a representative (and alternate) to serve as non-voting ex officio members of the Board. These Counties shall inform the Board and Board staff, in writing, who their representatives and alternatives will be. The term for these representatives shall be determined by the individual County Commissions.

Authority

The Board is authorized to:

1. Approve and amend the Consortium's annual work plan and budget as further described in the Consortium Agreement. Except for the first year, this shall occur by February 1 for the upcoming fiscal year beginning July 1;
2. Set dues;
3. Set Consortium policy;
4. Approve additional governmental entities as Participants into the Consortium;
5. Establish the terms and financial arrangements under which such new Participants may be accepted, or permit new Participants to join on a case by case basis, so long as no new member is permitted to join without an affirmative vote of a majority of the Board;
6. Recommend water supply, water planning, and regional cooperation actions to Participant governing boards, commissions or councils, including but not limited to actions to implement the Plan;
7. Designate which plan amendments are major and which are minor. Generally, major amendments to the Plan shall include revisions to the Plan's policy objectives, resource strategies, or implementation actions which significantly alter Plan direction or would significantly change the implementation strategies. Minor amendments are all other changes to the Plan.
8. Approve minor amendments to the Plan;

9. Recommend to the governing boards, commissions, or councils of the Consortium Participants major amendments to the Plan;
10. Periodically review the Plan comprehensively, on a schedule providing for review at least every five years, commencing with the date upon which the Consortium is formed, or on a shorter schedule determined by the Board;
11. Recommend to the governing boards, commissions or councils of the Consortium Participants, amendments to the *Inter-Governmental Agreement of Regional Water Providers Consortium (Consortium Agreement)*;
12. Adopt and amend by-laws;
13. Except as provided below, assign such duties or delegate such Board authority as the Board deems advisable to any Board committee, subcommittee or to the Technical Committee.
14. Establish Board subcommittees and other advisory committees or bodies as the Board may deem necessary to conduct its business. Subcommittees and/or advisory committees may be created or dissolved by vote of the Board. If so created the Board shall designate the chair and membership of the committee and may establish terms of membership. Any Board member may request the addition of one or more Participants to any subcommittee or advisory committees. The Board may also appoint advisory committees which are not solely composed of Participants. The Board may invite persons with special expertise or interests and lay persons to sit upon any advisory committee.
15. To establish a standing "Executive Committee" made up of Board members. If created, the Board shall endeavor to achieve geographic representation and representation from municipalities, districts, and other types of entities that form the Consortium. Terms may be established.

Any "Executive Committee" shall be appointed by the Board. The Chair of the Technical Committee will be an ex-officio member of the Executive Committee.

The purpose and function of the Executive Committee would be determined by the Board at the time of the Committee's creation. At no time may the Executive Committee speak on behalf of the Board unless specifically authorized to do so.

16. Fund special studies supportive of the Consortium's work;
17. Seek and accept sources of revenue other than dues and to authorize other expenditures so long as these are to be covered by identified sources of revenue;

18. Accept sources of revenue other than dues; and
19. Exercise any other powers and authority granted to the Consortium in the Agreement necessary to accomplish the Consortium's purposes.

Non-delegatable Board Authority

The Board may not delegate authority to:

- (1) to execute inter-governmental agreements;
- (2) to designate Plan amendments as minor or major;
- (3) to recommend to the individual governing bodies major plan amendments or amendments to the Consortium Agreement;
- (4) to approve the annual work plan and the budget;
- (5) to approve minor plan amendments;
- (6) to approve the admission of Participants to the Consortium; or
- (7) to dissolve the Consortium.

Meetings

Generally

The Board shall determine how frequently to meet provided, however, that it must meet at least once a year.

Special Meetings

The Board may meet at other times than those regularly scheduled as deemed necessary by the Board, Chair or Executive Committee, if one is created.

Location

The location of Board meetings shall be as determined by the Board but shall be determined with lead time sufficient to provide adequate notice.

Permitted Methods of Participation by Board Members

Board members may participate in meetings by physically attending the meeting or, if a Board member has forewarned the staff, when neither a Board member, or alternate, is physically able to attend the meeting, through electronic means which permit “non-attending” Board member to hear and fully participate in all of the proceedings and which permits all those in the meeting room to hear the comments of the non-attending member or alternate.

Conduct of the Meetings

All Board meetings shall be conducted in accordance with the latest addition of or revision to Robert’s Rules of Order or as formally modified by the Board.

Opportunities for public comment will be provided at each Board meeting.

Notice

Notice of all Board meetings shall be noticed as required by the State of Oregon’s public meetings law. Notice shall be provided by the staff, if any, or such other Participant or staff person as the Board Chair directs.

Quorum

To be effective, Board actions must be approved by a vote of a majority of the Board at a meeting at which a quorum of two-thirds of the Board is present.

By-Law Adoption

The Board shall adopt by-laws within three months of its first meeting.

Voting

Each Participant member of the Board shall have one vote. Alternates in attendance may vote but voting by proxy shall not be allowed.

ARTICLE 4

OFFICERS

The Board shall have at least the following official positions:

1. **Board Chair.**
2. **Board Vice-Chair.**

The Chair and Vice-Chair shall be Participants from two different counties.

The Board may elect other officers as well. If such other officers are elected then their terms in office and duties shall be described by the Board.

Terms of Office

The terms in office for the Chair and Vice-Chair shall be as follows:

1. **Chair - one year with a possible succession of one more consecutive year if re-elected by the Board.**
2. **Vice-Chair - one year with a possible succession of one more consecutive year if re-elected by the Board.**

Duties

The duties of the Chair are:

1. **Preside at all Board Meetings**
2. **Make all committee appointments assigned to the Chair in these by-laws**
3. **Scheduling regular and special meetings**
4. **Act as spokesperson for the Consortium on adopted Consortium policy deliberations and actions, and to delegate such responsibility as deemed appropriate**
5. **Sign Board approved contracts and inter-governmental agreements on behalf of the Consortium**
6. **Ensure adherence to the by-laws**
7. **Work with staff and the Technical Committee to create Board agendas**
8. **Review meeting minutes**
9. **Sign all Consortium documents which contain statements of Consortium policy**

10. Delegate responsibility for signing routine and non-policy documents
11. Such other duties as the Board or the *Consortium Agreement* assign to the Board Chair.

The duties of the Vice-Chair are:

1. Provide whatever assistance the Board Chair requests
2. Perform the functions of the Board Chair when the Chair is not available
3. Perform such other functions as may be assigned by the Board or the *Consortium Agreement*.

Delegation of Duties

Whenever an officer is absent, or unwilling or unable to perform the officer's duties, the Board may appoint another participant Board member to perform the officer's duties until the officer recovers, returns or a new officer has been elected, as deemed appropriate by a majority of the Board.

Election

All officers of the Board shall be elected from among the Board Participants by a majority vote of the Board at a meeting at which there is a quorum.

Vacancies

Any vacancy occurring on the Board by reason of resignation, death or otherwise shall be filled by an alternate until official notice of a new representative is given by the affected Participant entity. A new alternate shall also be named. These designations shall be provided to the Board Chair and staff, in writing, and shall occur within a reasonable time of the vacancy. The Vice-Chair shall take over for the Chair should that position become vacant. A new Chair will be chosen at the next Board meeting at which there is a quorum present.

When a Participant's representative, or alternate, no longer holds the position with that Participant, that person may no longer serve on the Board.

ARTICLE 5

PRESUMPTION OF ASSENT

A Board member, or a member of any committee, subcommittee or advisory committee, created by the *Consortium Agreement*, the Board or the Technical Committee, who is present at a meeting where action was taken and that person would have had a right to vote, is deemed to have assented to action unless his or her dissent or abstention shall be entered in the minutes of the meeting.

ARTICLE 6

FISCAL MATTERS

These matters are addressed in Section 8 of the Consortium Agreement and through the Board's authorization herein.

ARTICLE 7

EMPLOYMENT OF STAFF

Staff employment for the Consortium will be addressed in detail in a separate agreement. Refer to page 5 of the Agreement, sections I and J.

ARTICLE 8

ADVOCACY

On Behalf of the Board

Only the Board Chair, or Vice-Chair if the Chair is not available, shall be authorized to speak for the Consortium. The Chair may, however, delegate this authority to other Participants or staff but only as to previously Board authorized positions.

Disclaimer

Any major policy or program documents issued by the Consortium shall state, if true, that the documents do not necessarily represent the views of all the Participants in the Consortium.

ARTICLE 9

DISPUTE RESOLUTION

Purpose

The purpose of the dispute resolution process is to enable all Participants to resolve, in an amicable and constructive way, conflicts that are relevant and may materially affect processes and substantive work within the purview of the Consortium including, but not limited to, implementation of the Plan.

Dispute Resolution Process

Written Description of Dispute

If one or more Participants believe that another Participant(s), has or is about to act in a manner inconsistent with the purposes or express language of the *Consortium Agreement* or By-Laws it or they may bring that matter, in writing, to the attention of the Board Chair.

Such writing shall : (1) specify in which manner the subject conduct is inconsistent with the *Consortium Agreement*; (2) which section or sections of the *Consortium Agreement* are at issue; and (3) who the parties are. No claim of inconsistency will be considered which is not so provided.

Action by the Board

The Board will review the claim letter and will determine whether or not, in the Board's sole discretion, the matter does, in fact, concern the *Consortium Agreement* or its related by-laws.

If the Board agrees that such an inconsistency has or is about to occur, then the Board Chair shall appoint a neutral third party to act as a mediator between the disputing parties. The sole objective of the mediation is to attempt to resolve the differences of the disputing parties and neither the mediator nor the process are binding on any participants thereto. If the chosen mediator is not acceptable to any of the parties the Board Chair will choose another. The Board need not choose more than three proposed mediators. If the parties still cannot agree on a mediator the process will be terminated.

If the Board determines that the dispute does not concern the *Consortium Agreement* or its related by-laws the Board Chair may refuse to create a mediation process.

Report

A report on the result of any mediation shall be provided to the Board by the Participant's involved.

OPTIONAL SECTION TO CONSIDER

The Board may initiate a mediation process when it appears necessary and appropriate to maintain a functional Consortium.

ARTICLE 10

DISSOLUTION

The Consortium shall be dissolved when only one Participant remains or the Board votes to dissolve.

ARTICLE 11

BY-LAW AMENDMENT

These by-laws may be amended by a majority vote at a Board meeting when a quorum is present.

CONSORTIUM TECHNICAL COMMITTEE BY-LAWS

Purpose

The purpose of the Consortium Technical Committee (CTC) is to advise and provide assistance to the Board, and the Executive Committee, if there is one, on any matters within the Consortium's purview.

Authority

The CTC shall act within the scope of authority provided by the Board and, if one is created, the Executive Committee. The CTC shall direct the work of the Consortium Technical Sub-Committee (CTSC) and may assign work to the CTSC as the CTC deems necessary and appropriate. Terms for membership on CTSC may be established by CTC. The CTC and CTSC are further defined in the *Consortium Agreement* in Sections 10 and 11.

Establish CTC subcommittees and other advisory committees or bodies as the CTC may deem necessary to conduct its business. Subcommittees and/or advisory committees may be created or dissolved by vote of the CTC. If so created the CTC shall designate the chair and membership of the committee and may establish terms of membership. Any CTC member may request the addition of one or more Participants to any subcommittee or advisory committee. The CTC may also appoint advisory committees which are not solely composed of Participants. The CTC may invite persons with special expertise or interests and lay persons to sit upon any advisory committee.

Limitation on Authority

The CTC may work on tasks and issues as recognized by the Board through its budget and work program and as authorized by the Board or Executive Committee, if one is established. Neither the CTC Chair nor any of its members may speak for the Board, unless specifically authorized or directed to do so.

Meetings

Generally

The CTC shall meet at least three times a year and may meet more frequently as it deems necessary.

Special Meetings

The CTC may schedule special meetings as its Chair deems necessary. Requests for special meetings must be made to the Chair.

Location

The location of CTC meetings shall be held at the discretion of the CTC, but shall be determined with lead time sufficient to provide adequate notification.

Permitted Methods of Participation by CTC Members

CTC members may participate in meetings by physically attending the meeting or, if a CTC member has forewarned the staff, when neither a CTC member or alternate is physically able to attend the meeting, through electronic means which permit “non-attending” CTC members to hear all of the proceedings and which permits all those in the meeting room to hear the comments of the non-attending member or alternate.

Conduct of Meetings

All CTC meetings shall be conducted in accordance with the latest addition of or revision to Robert’s Rules of Order or as formally modified by the CTC.

Opportunities for public comment will be provided at each CTC meeting.

Compliance with Open Meetings Law

All meetings of the CTC shall be in compliance with the Oregon Open Meetings Law.

Officers

The CTC shall have a Chair and Vice-Chair. The CTC may appoint such other officer positions as it deems appropriate and necessary and may define their duties.

The duties of the CTC chair are:

1. Preside over all CTC meetings;
2. Schedule all CTC regular and special meetings;
3. Chair the CTSC;
4. Work with staff on specific project assignments from the CTC;

5. Work with Staff to create minutes of the CTC meetings;
6. Work with staff to create CTC meeting agendas;
7. See that any CTC by-laws are adhered to;
8. Act as spokesperson for CTC and to delegate this duty as necessary or appropriate to the Vice-Chair or staff at the Chair's discretion;
9. Review meeting minutes;
10. Sign all CTC correspondence and work reports and delegate signature authority to Vice-Chair or staff at Chair's discretion;
11. Direct the work of any subcommittees or advisory committees.

The duties of the Vice-Chair are:

1. Provide whatever assistance the Chair requires;
2. Perform the functions of the Chair when the Chair is not available;
3. Perform such other functions as may be assigned by the Chair or the Board.

Term of Office

The CTC Chair shall be elected for a period of one year with a possible one year succession.

The CTC Vice-Chair shall be elected for a period of one year with a possible one year succession.

Vacancies

Any vacancy occurring on the CTC shall be filled by an alternate until the Participant officially selects a new representative.

Committees

The CTC may create its own subcommittees and advisory committees, as it deems necessary and appropriate. Insert from board section.

Voting

Each member of the CTC shall have one vote. No proxy voting shall be permitted.

Quorum

To be effective all CTC actions must be approved by a vote of a majority of the CTC at a meeting at which a quorum of two-thirds of the CTC is present.

Appointment to the CTC

All Participants to the *Consortium Agreement* shall, through their governing boards, commissions or councils, recommend one representative, and an alternate, to the CTC. Alternates may vote when they are replacing the appointed representative.

All Participants shall notify the Chair of the Board, and staff, of such recommendations, in writing, and of any changes thereto.

LAKE ROAD NEIGHBORHOOD ASSOCIATION

MEETING MINUTES for November 21, 1996

Officer in Attendance:

Chuck Kersey	Chair
Susan Pei	Treasurer
Patti Casanova	Secretary
Patty Wisner	Newsletter / Riverfront Committee

Meeting called to order by Chuck Kersey @ 7:02 pm

Lake Road neighborhood meeting are to begin promptly at 7:00pm each 3rd Thursday of the month and end exactly at 8:30pm. If there are issues that we didn't have time to finish discussing we'll continue them at the next meeting.

Guests in attendance was Karen who talked briefly about Share The Lights Festival which started 6 years ago including an Umbrella Parade for the kids.

Also in attendance and new to the City of Milwaukee and the Lake Road Multi-Model Project was Susan Heiser, Senior Planner.

Speed enforcement along Lake Road was the issue that most people wanted mentioned at the next meeting of the Lake Road Working Group that meets once a month at City Hall.

January will be traffic safety month. We'll all try to support the Milwaukee Police Dept. in doing our part to keep the neighborhoods we drive in as safe as possible.

Patty Wisner gave us an update on the Riverfront issue. Everyone with a 97222 zip code receives questionnaires regarding Milwaukee's Riverfront Development and Planning process.

Meeting adjourned at 8:31pm

CITY OF MILWAUKIE

'97 JAN 7 PM 4 37

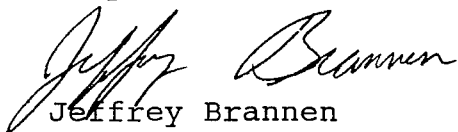
January 2, 1997

City of Milwaukie
10722 Southeast Main
Milwaukie, OR 97222

Dear Mr. Mayor,

I have the unhappy obligation to inform you of my immediate resignation from the City of Milwaukie Budget Committee. Unfortunately, I have moved outside the City of Milwaukie boundaries. I wish to thank the City Council for the opportunity to serve the City of Milwaukie as a member of the Budget Committee. I have greatly enjoyed my service to the City of Milwaukie and desired for it to continue. Best wishes for continued success and prosperity.

Respectfully,


Jeffrey Brannen

FRESH FROM THE NORTHWEST



January 6, 1997

Milwaukie City Council
10722 SE Main St
Milwaukie, OR 97222

RE: Tree Ordinances

As representatives of all growers of hazelnuts (filberts) in Oregon, the members of the Oregon Hazelnut Commission express their sincere concern over the direction some cities have taken regarding tree ordinances and the hazelnut tree.

While we are firmly behind the general concept of having trees in areas of urban development, we believe the following specifics about the hazelnut tree are important to keep in mind as ordinances are created.

The Willamette Valley is home to 99% of the hazelnuts produced in the United States. We can be proud that the hazelnuts produced here are the finest quality in the world and the industry contributes significantly to the economy of the northwest.

The concern is a disease called Eastern Filbert Blight (EFB) which first appeared in Lewis County in southwest Washington in the 1973. To date it is found in many orchards to the north of a line between Woodburn and Newberg. However, there are many growers within this generally infected area that continue to grow filberts successfully, even though their inputs in scouting for the disease and fungicide applications for disease control are considerable.

Complicating these endeavors is the fact that abandoned, infected trees will produce spores in the billions that can, under certain conditions, cause new infections in nearby commercial orchards.

The industry has spent considerable resources on learning about the disease, methods of control and on the development of EFB resistant varieties. However the new varieties are in their infancy and the methods of control are merely stop gap measures as the disease progresses.

OREGON HAZELNUT COMMISSION

11920 SW Greenburg Road, Suite 150 Portland, Oregon 97223-6453 (503) 639-3118 (800) 503-NUTS fax (503) 620-9808

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It is important to note that the ornamental hazelnut trees are also a part of the problem in that they are susceptible to EFB just as the commercial varieties are.

The Department of Agriculture has put in place a control area ordinance whereby the movement of trees from the infected area to the uninfected area is controlled. Currently there is a moratorium on the retail sales of hazelnut trees which should help prevent the artificial movement of the disease which is naturally progressing southward at a rate of about five miles per year.

Our hope is that as you look at tree ordinances, you will have enough knowledge of EFB, that you will find it appropriate to encourage the removal of trees that are no longer being commercially tended and that you will discourage the planting of hazelnut trees in developing areas.

Enclosed is a copy of the Control Area Ordinance for your perusal. If you have further questions, please feel free to call:

- Polly Owen at the Oregon Hazelnut Commission - (503)639-3118
- Jay Pscheidt at Oregon State University - (541)737-3472 or
- Kathleen Johnson at the Oregon Department of Agriculture (503)986-4662

Thank you so very much for your consideration in this most important matter.

Sincerely,

Phil Walker, Jr.

Phil Walker
Chairman

Polly Owen

Polly Owen
Executive Secretary

DIVISION 52

PEST AND DISEASE CONTROL

Eastern Filbert Blight Quarantine

Quarantine; Eastern Filbert Blight

603-52-810 (1) A quarantine is established restricting the trade of *Corylus* species and the movement of *Corylus* wood. This quarantine is established under ORS 561.510-561.600, ORS 570.305-570.345 and ORS 570.405-570.415 to protect the hazelnut industry from the artificial spread of eastern filbert blight disease caused by the fungus, *Anisogramma anomala*.

(2) Area under Quarantine: All states of the United States of America, including the entire state of Oregon, and all provinces of Canada.

(3) For the purposes of this quarantine, two areas exist within Oregon: The generally infected area of the state and an area considered free from eastern filbert blight based on official department survey information.

(a) The generally infected area includes all portions of Columbia, Multnomah and Washington counties and those portions of Clackamas, Marion and Yamhill counties detailed by the following landmarks: all points in Clackamas County north of an east-west line established where Highway 211 bisects Colton, and those portions of Clackamas County north of Highway 211 from Colton, thence west on Highway 211 to Molalla, thence west on Highway 211 to Meridian Rd., thence south on Meridian Rd. to the junction of Monitor Rd., all portions of Marion County that are north of the line established where Barlow Rd. leaves Monitor thence west on Barlow Rd. to Highway 214 thence south on Highway 214 to Dominic Rd. thence west on Dominic Rd. to Baron Rd. thence south on Baron Rd. to Marquam Rd. thence east on Marquam Rd. to Highway 214, thence south on Highway 214 to Church St. thence west on Church St. to 114 th Ave. thence north on 114 th Ave. to Waypack Dr. thence west on Waypack Dr. to Howell Prairie Rd. thence south on Howell Prairie Rd. to Wabash Dr. thence west on Wabash Rd. to Highway 99E, thence north on Highway 99E to Concomly Rd. thence west on Concomly Rd. to French Prairie Rd. thence south on French Prairie Rd. to Matheney Rd. thence west on Matheney Rd. to the Willamette River, and those portions of Yamhill County to the east and north of the line established where Wheatland Rd. begins thence west on Wheatland Rd. to Highway 221 thence north on Highway 221 to Fairview Rd. thence west on Fairview Rd. to the Lafayette Highway, thence north on the Lafayette Highway to Highway 18 and all points in Yamhill County north of an east-west line established by the intersection of the Lafayette Highway and Highway 18.

(b) The area considered free from eastern filbert blight includes all portions of Oregon not listed in subsection (3)(a) of this rule. Additional surveys will document distributional changes of the disease.

(4) Commodities covered: All trees, plantings, cuttings, rootstocks, prunings, scions and wood of all species and varieties of cultivated and wild filbert and hazelnut (all *Corylus* species).

(5) Provisions of the Quarantine: (a) Importation of covered commodities into the state of Oregon is prohibited, except under procedures established by a Director's Exemption described in section (6) of this rule.

(b) A moratorium is placed on retail and landscape sales, trade, barter, or any transfer of covered commodities within Oregon until January 1, 2001. Inventories on hand prior to January 1, 1996, are granted an exception and may be sold or otherwise transferred until June 30, 1996.

(c) All producers of *Corylus* nursery stock in the state shall enter into a compliance agreement with the department. This compliance agreement shall stipulate the conditions under which *Corylus* nursery stock shall be produced in Oregon. Export of

covered commodities from the Oregon is not affected by this quarantine, provided it has been produced using procedures prescribed in a compliance agreement with the department.

(d) All covered commodities produced in or moved to the generally infected area shall not be moved, transferred or offered for sale in the balance of the state unless these plant materials receive a Director's Exemption under procedures in section (6) of this rule.

(e) Wholesale shipments of covered commodities, including but limited to *Corylus* stock intended for commercial nut production, originating in, or passing through, the generally infected area or originating from outside the State, which are destined for the area considered free from eastern filbert blight are prohibited except under procedures established by a Director's Exemption in section (6) of this rule.

(f) *Corylus* wood (including but not limited to debris, prunings, firewood and wood chips) grown in the generally infected area shall not be removed from that property except for disposal at a department-approved site and with prior written approval from the department.

(6) Director's Exemptions: (a) Director's Exemptions shall be applied for in writing listing the parties involved; the number, type and origin of stock; location and characteristics of proposed planting sites(s); measures to prevent eastern filbert blight infection; and any other relevant information.

(b) Director's Exemptions will require three inspections of *Corylus* stock: pre-shipment, one year post-planting during the dormant season, and two years post-planting during the dormant season. The department will assess the established state charges for time and mileage for any such inspections.

(7) Violation of this Quarantine: Violation of any provision of this quarantine may result in one or more of the following actions: seizure of the *Corylus* stock, a fine as provided by ORS 561.990 (5), nursery license suspension or nursery license revocation.

(8) Review of this Quarantine: The continued necessity for this quarantine and its effectiveness will be reviewed by the department and other interested parties in 1999.

Statutory Authority: ORS 561.190, 561.510-561.600, 570.305-570.345 and 570.405-570.415

Stats. Implemented: ORS 561.190, 561.510-561.600, 570.305-570.345 and 570.405-570.415

MEETING REPORT

DATE OF MEETING: December 12, 1996

GROUP/SUBJECT: Joint Policy Advisory Committee on Transportation (JPACT)

PERSONS ATTENDING: Members: Chair Rod Monroe, Don Morissette and Jon Kvistad (alt.), Metro Council; Tom Walsh, Tri-Met; Tanya Collier, Multnomah County; Dave Lohman (alt.), Port of Portland; Rob Drake, Cities of Washington County; Charlie Hales, City of Portland; Ed Lindquist, Clackamas County; Craig Lomnicki, Cities of Clackamas County; Claudiette LaVert, Cities of Multnomah County; Roy Rogers, Washington County; Greg Green (alt.), DEQ; Dean Lookingbill (alt.), Southwest Washington RTC; and Grace Crunican, ODOT

Guests: Don Wagner (JPACT alt.) and Dave Williams, ODOT; Lisa Naito, Metro Councilor-Elect; John Rosenberger, Washington County; Kathy Busse and Susan Lee, Multnomah County; Steve Dotterer and Kate Deane, City of Portland; Jim Howell, AORTA; Scott Rice, City of Cornelius; Rod Sandoz, John Rist and Gini Brewster, Clackamas County; Robert Behnke, Citizen Against Transit Scams; Jan Shearer, Bernie Bottomly, Dick Feeney, G.B. Arrington and Mary Fetsch, Tri-Met; Tom Markgraf, Markgraf & Associates; Steve Clark, Transit Choices for Livability; Len Bergstein, Northwest Strategies; Meeky Blizzard and Pat Forgey, Office of Representative Blumenauer; Howard Harris, DEQ; Gary Katsion, Kittelson & Associates; Chris Wrench, RTP CAC; and Benjamin Schonberger, NGI

Staff: Mike Burton, Executive Officer Andrew Cotugno, Richard Brandman, Leon Skiles, Mike Hogle, Bridget Wieghart, Kim White, Pamela Peck, Gina Whitehill-Baziuk, and Lois Kaplan, Secretary

MEDIA: Larry Hilderbrand and Gordon Oliver, The Oregonian
Bruce Solberg, Daily Journal of Commerce

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December 12, 1996
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SUMMARY:

The meeting was called to order and a quorum declared by Chair Rod Monroe.

MEETING REPORT

Tom Walsh moved, seconded by Mayor Drake, to approve the November 14, 1996 JPACT meeting report as submitted. The motion PASSED unanimously.

ANNOUNCEMENTS

Andy Cotugno noted that the ISTEAs Reauthorization Position Paper distributed at the meeting was adopted by JPACT in February 1995. He asked that committee members submit any issues they would like addressed for incorporation in the update scheduled for adoption in January 1997.

Also noted was a South/North reference on the project component of the ISTEAs Position Paper that will be taken up next month by JPACT.

Andy reported that the JPACT Finance Committee had met and requested that a forum be established to meet with the Legislators after the first of the year to emphasize the importance of the Oregon Transportation Initiative (OTI). No date has been set at this time.

RESOLUTION NO. 96-2436 - ENDORSING THE STATEWIDE ADVISORY COMMITTEE RECOMMENDATIONS ON THE OREGON TRANSPORTATION INITIATIVE

Copies of the Statewide Advisory Committee (SAC) recommendations, concluding a year's efforts on the Oregon Transportation initiative, were included in the agenda packet. Resolution No. 96-2436, endorsing the SAC recommendations on the OTI, was distributed at the meeting.

Andy spoke of our regional participation on the OTI as one of five Regional Advisory Committees (RACs) comprised of community and business leaders. The focus of the SAC recommendations is on operation, maintenance and preservation needs and expansion of the transportation system while striving to improve efficiencies

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within the existing system. The OTI recognizes that both state and local efforts will be needed to meet transportation demands.

Andy reviewed the Staff Report/Resolution that would endorse the principles relating to operations, maintenance and funding of the transportation system.

Mike Burton commented on the importance of the SAC recommendations and his concern about whether the Metro area jurisdictions have identified their local needs. He spoke of very intensive transportation needs that are unique in this part of the state. He suggested that, while we are to work closely with the rest of the state, he hoped that endorsement of this resolution did not preclude finding some local, regional solutions to our transportation problems. He cited the need to work continuously with the state but to also seek authority and the ability to deal with transportation needs apart from the rest of the state.

Grace Crunican noted that it was her understanding, as a member of the State Advisory Committee, that everyone understood that there are regional needs beyond what is covered in the state's base package. She expressed appreciation for the cooperative effort with the Governor, commenting that the SAC expects the Portland metropolitan area to articulate their needs.

Mayor Lomnicki, who participated on the State Advisory Committee, indicated there was no discussion about limitations being placed on the regions' ability to meet their own needs. He felt there was nothing in the proposal that would limit this region from seeking its own funds.

Action Taken: Commissioner Hales moved, seconded by Mayor Drake, to recommend approval of Resolution No. 96-2436, endorsing the Statewide Advisory Committee recommendations on the Oregon Transportation Initiative. The motion PASSED unanimously.

Grace noted that the Governor has acknowledged the specific unfunded transportation need of \$391 million that needs to be addressed in the next biennium. Flexibility is being maintained and is needed through the process. The question was raised as to whether there will be a specific funding proposal from the Governor. The general conclusion was that any proposal may be molded as part of the legislative process.

Chair Monroe felt that the legislative leaders don't want this forwarded as the Governor's Plan but rather the Oregon Plan. Most of the work has been done in the State Capitol.

RESOLUTION NO. 96-2429 - APPOINTING NEW MEMBERS FOR VACANCIES ON
THE REGIONAL TRANSPORTATION PLAN CAC

Pamela Peck, Associate Public Involvement Planner at Metro, described the widespread advertising, mailing, nominations and screening process Metro undertook for filling the three vacancies on the Regional Transportation Plan Citizens Advisory Committee.

The three nominees recommended for appointment include: William Stewart, freight-at-large delegate; C.A. (Madya) Panfilio, City of Vancouver/Clark County delegate; and Edward Gronke, Cities of Clackamas County business delegate.

Action Taken: Councilor Kvistad moved, seconded by Commissioner Lindquist, to recommend approval of Resolution No. 96-2429, appointing new members for vacancies on the Regional Transportation Plan Citizens Advisory Committee (as noted above). The motion PASSED unanimously.

TRAFFIC RELIEF OPTIONS UPDATE - WORKING PAPERS NOS. 3 AND 4

Andy Cotugno explained that the genesis of the *Traffic Relief Options Study* (congestion pricing) occurred two years ago when JPACT adopted a resolution to undertake a study to determine whether congestion pricing has an appropriate role in this region. A grant has been awarded for this study, which the Task Force launched in May.

The study's process will include evaluation of a series of specific proposals for peak period pricing as a means of reducing traffic congestion in the region. The focus of the study will center on the field of possible approaches and types of congestion pricing applications from which 10 locations and types will be selected for further study. Based on that selection, staff will determine which are workable, their positive or negative consequences, and benefits.

Staff must first consider the practicality of the approaches and whether other applications have been overlooked. It is hoped that the outcome of the study will determine whether there is an appropriate pilot project for peak period pricing for a long-term solution for traffic congestion in this region.

Open houses will be held on the 10 locations/types to gain public feedback and, as a result, appropriate modeling and qualitative analysis will follow that will allow a narrowing of the projects from 10 alternatives to 3-5. The 3-5 alternatives will then be subjected to further review through open houses before a final selection is made.

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Andy explained that the task at hand is to develop a series of approaches that include a three-step evaluation: getting all possible locations and approaches in the field of possibilities to be considered; picking 10 specific proposals around the region to be evaluated in more detail; and narrowing the 10 alternatives down to five. He described congestion pricing as market pricing of the roadway based on time of day and location through management of peak-hour demand.

Examples of currently operating congestion pricing applications included State Road 91 in Orange County, California; Autoroute A-1 in France; Singapore; I-15 in San Diego -- where SOV drivers can pay to drive in HOV lanes; and on the Maine Turnpike where weekend recreational traffic is priced at peak times.

Andy noted that there are other U.S. metropolitan areas undertaking the same kind of FHWA demonstration studies. Our region is looking at congestion pricing because we have congestion problems (ranked in the top 15 most congested areas in the United States) and we have limited resources to keep up with growth and future congestion.

Current work has focused on identifying potential locations and types of pricing applications. The first step is to identify where congested locations are -- either now or projected for 2015. Also to be considered is what you do about the rest of the transportation system when capacity improvements are called for. Diversity in locations and approaches are also important.

Andy described the following types of potential applications:

- 1) Spot pricing (bridge, tunnel or chokepoint), which would be priced according to location and time of day.

In discussion, the issue of traffic diversion was raised. The spot approach does not distinguish how far a person travels. Examples noted include the tunnel on Sunset, the Willamette River bridge, and Highway 43 between the Sellwood Bridge and Taylors Ferry Road.

- 2) Partial facility (e.g., pricing the middle two lanes of a six-lane highway). The feeling is that it should only be considered on a freeway with three lanes available in each direction. Examples given included: the length of Sunset Highway, the length of I-84, Highway 217, I-205, McLoughlin Boulevard, I-5N, and I-5 south of downtown.

- 3) Whole facility (pricing all lanes). This would be regarded as a toll facility and all users would pay.

In discussion on the whole facility pricing, it was explained that people would try to find alternative routes. It needs to be a limited access facility and not have a strong set of parallel routes. Examples given included: Highway 217 with or without additional lanes, I-5S, I-5N, the Tualatin-Sherwood Expressway, the Sunrise Corridor, and Highway 43 south to the Sellwood Bridge.

Mayor Drake noted that such a major change in the region, if implemented, would necessitate giving something back to the users to reinforce the change. They need to see a positive return from the toll. He expressed difficulty in supporting a toll on T.V. Highway or Highway 217 unless there was some incentive given to ensure success of the project.

Commissioner Collier commented on the potential unpopularity of the subject matter, wanting to know what happens after this portion of the study is completed. Andy spoke of the importance of public involvement, noting that half the congestion pricing budget is dedicated to public outreach. He indicated that meetings are being held with targeted groups and, when agreement has been reached on 10 proposals, there will be broad public outreach. Mike Burton cited the importance of public approach in dealing with this topic.

Chair Monroe felt that it is more acceptable if you are adding capacity when tolling the new part of the roadway.

Andy Cotugno reported that the TRO Task Force has been concerned that congestion pricing be looked at as part of the whole transportation system. The pricing component is defined in conjunction with TDM and transit as part of an entire package to evaluate whether there is a net gain or loss from such an application. Grace Crunican commented that you need to see an improved performance of the trip, not necessarily a widening of the lane.

Mayor Drake commented that the Tualatin Valley Economic Development Corporation has expressed concern about the huge amount of business and single-occupant vehicle travel. The region must decide whether it needs to add buses, commuter rail or a combination package to make travel more efficient. The citizens need to experience a positive change in the corridor.

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- 4) Corridor (pricing of a major highway and major parallel arterials along a route from an origin to a destination)

This entails management of all the travel demand occurring in that corridor and must rely on pricing the network of parallel routes. Examples noted include: I-84 with a cordon line; I-5 north of downtown; and I-205 south of I-84.

- 5) Area Pricing (pricing of an entire area through an area license, an AVI cordon or attaching a peak-period component of parking pricing)

Andy cited the need to work with specific locations to see how they might develop such an approach.

- 6) Regionwide Approach (developing a regional approach of an entire area by pricing all facilities on a regionwide system or establishing a series of cordon lines)

Andy indicated that the TRO Task Force has identified evaluation criteria for further consideration.

Chair Monroe commented that one of the things needed to make our regional system work more efficiently is ramp metering. We try to discourage people from taking short trips on the freeways during peak hours. Andy cited the possibility of having metered ramps bypass carpoolers.

Following review of the 10 locations and types/approaches being considered by the TRO Task Force, public outreach will be broadened.

Commissioner Rogers asked about the timeline. Andy responded that the study will run until June of 1998 and half of the following year. The projects will be narrowed from 10 to 3-5 in the spring of 1997. It was explained that the Task Force will serve as the oversight committee and that there is a Technical Advisory Committee and a Project Management Group of partner jurisdictions. The study is co-sponsored by ODOT/Metro.

Commissioner Hales questioned the practicality of congestion pricing as a mechanism in relation to the conversion of the present ramp metering system. He noted that it has the potential of involving Clark County. A discussion followed on spill-over effects on adjacent parallel routes. Commissioner Hales felt the side effects would not be as severe.

Mike Burton reported that the state is looking at signalization systems and system improvements that would be used in other

JPACT

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areas. Grace added that the state is also looking at ramp metering as a possibility.

Andy commented that, when this study was first initiated, the three Clark County JPACT representatives declined to directly participate and, therefore, are not part of this effort. Metro staff met with the Southwest Washington RTC board and they were not interested in a cooperative scope of work that would examine congestion pricing across the two bridges. We are committed to return with a proposal on how that could be addressed and are looking at a variety of other issues in that corridor. The South/North corridor is involved as well and those issues need to be integrated in the discussion.

Commissioner Collier felt that the various governing bodies need to address the congestion pricing issue, citing the need for political unanimity. Grace Crunican pointed out that, while the topic is unpopular, part of the packaging is to remind people of the implications of doing nothing. She felt that our approach to explaining congestion pricing is vital, noting that it is considered crucial to changing driver behavior. It is an essential component in describing why this option looks viable to the region.

Commissioner Lindquist felt that it will be difficult when tolls are placed on a facility but that people can gain acceptance of it as long as they know that revenues will be used wisely. Commissioner Collier stressed the importance of working with the Legislature on this to ensure that it is a legally acceptable thing to do. Andy noted that the purpose of this study is to determine feasibility of a pilot project in the region before anything gets implemented. They must first determine whether there is political and public willingness to go along with it.

TRANSIT CHOICES FOR LIVABILITY

Steve Clark, Chair of the Transit Choices for Livability Committee, spoke of Tri-Met's planning and outreach effort as it relates to strategic transit priorities, rules and responsibilities. The objective of the effort is to enlist bold and flexible solutions and public-private partnerships in support of investments that will improve transit service within the suburbs.

Steve cited his background as a suburbanite since 1978 and his concern for the future of this region. He acknowledged that transit doesn't serve the needs of the suburbs. His concern stems from projected growth in the region, complexity of needs, public attitudes, and disappearance of open space. He noted that only 30 percent of Tri-Met's service is in the suburbs. He felt

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that safety and the transportation network will be enhanced if Tri-Met is successful in its effort to improve transit service.

The 33-member Transit Choices for Livability Committee is composed of business people, residents, and community leaders dealing in market-driven solutions. They are addressing how suburban transit service matches up with land use plans. Steve reported that a regionwide community workshop resulted in 700 recommendations for service improvements, which included: the need for more choices, greater flexibility, more transit connections between and within suburban communities, expansion of South/North corridor transit service to include light rail, the need to increase our investment in roads, the need to connect Regional Centers, major employers needing to get their employees around their campus, and a loop service being a significant issue. He also spoke of high-growth areas that currently do not have adequate transit service.

Steve reported that Oregon City has no light rail and is poorly connected to the surrounding communities. The Transit Choices for Livability Committee will recommend to improve service enhancement possibilities. They recognize, however, that funds are limited. He reiterated that this is a market-driven and market-responsive project. Steve felt that an action plan is needed for the right set of transit improvement projects.

Phase II of the process will begin in March 1997. Some initial demonstration projects will occur in 1997. Steve emphasized the importance of a partnership between JPACT and the state and asked what the priorities are in regard to that project.

Also emphasized was the need to seek new funding opportunities, create smart partnerships which, in effect, will create benefits. Steve felt that smart transit solutions will last longer if there is better utilization of limited funds.

Steve pointed out that this effort represents a long-term task and encouraged JPACT's commitment and participation.

Mike Burton applauded Steve Clark for his time and effort spent on behalf of the region. He felt the changing nature of the region is an important aspect of that effort, citing land use planning and the population increase as key factors in those considerations. He emphasized the importance of accessibility to the region, transit and roads being supportive of the 2040 Growth Concept and the ability to meet regional needs. Mike felt the effort is critical and should be a No. 1 priority, thanking Steve Clark for his presentation.

Tom Walsh commented that the community workshops have produced thoughtful comments, interest and criticism over transit's shortcomings. He noted the opportunity to follow the results of this committee's leadership by putting some of these projects on the ground. He personally thanked Steve Clark for his efforts and commented on the need for some permanent funding for transit improvements throughout the region.

Commissioner Rogers asked about the committee's thinking on other transit modes and public-private partnerships. Steve responded that it is quite possible that some of the improvements will not be owned or operated by Tri-Met. In discussion, possibilities included establishment of a community transit foundation that matches funds that the business community puts up, engaging Broadway Radio Cab, and employing a jitney service in a consumer-demand service. A number of alternatives are being explored.

Mayor Drake reported that both Hillsboro and Beaverton experienced large citizen turnout. Tri-Met representatives were present to facilitate rather than to drive discussion. Meetings were attended by a good cross-section of interests. Mayor Drake thanked Tri-Met for providing people with the opportunity to be critical of transit in a constructive way.

Councilor Kvistad felt the effort addressed most concerns about service and resulted in opportunities to provide innovative service.

SOUTH/NORTH LIGHT RAIL

Mike Burton noted that a synopsis of the impact of Ballot Measure 32, a precinct analysis of the vote, and a survey of voter opinion had been distributed at the meeting. Also distributed was a memo from Rod Monroe, JPACT Chair, and Mike relating to the South/North LRT proposal. The memo outlined the South/North Steering Group's recommendations, as follows:

- . Develop a range of options and design changes to significantly reduce the cost of the project;
- . Develop a financial plan which can be implemented to provide the basis for federal matching funds;
- . Work with the Oregon Congressional delegation to pursue ISTEA funds for the Phase One project;
- . Continue to assess and discuss with the public a range of transportation options to meet the future needs of this region; and

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December 12, 1996

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- . Develop a thorough public process to ensure that citizens have full opportunity to provide input regarding how this project moves forward and what changes are made in the DEIS.

Mike spoke of continued support for light rail in the Metro area, noting that the outcome of Ballot Measure 32 doesn't change the circumstances of the region. In terms of ISTEA funding, the region needs to get its request for match in after the first of the year.

Mike felt the region would be missing an opportunity if it failed to provide the leadership needed to seek available federal funding through ISTEA. If the region misses this window of opportunity, it will be another five years before those funds become available again. Mike noted that we will likely be competing with Seattle for such funds.

The Steering Group unanimously recommended that JPACT and the Metro Council proceed with this course of action to obtain funding for a Phase One South/North light rail project. Mike cited the need to reconfirm the public's commitment to light rail.

Commissioner Collier was supportive of moving ahead with the project and funding through ISTEA. She was also pleased to have the opportunity of reviewing the project once again in terms of scaling it back or making other modifications. She felt the river crossing issue should be further addressed and that there be provision for traffic in addition to light rail. She encouraged a thorough public outreach effort.

Chair Monroe reported on comments with Tim Hibbitts after his assessment of Measure 32 that indicated strong support for going forward with light rail in the South/North corridor in some form. Chair Monroe cited the importance of going on record in support of South/North light rail and hoped that all the partners would be included in that process. Commissioner Rogers stated that Washington County was supportive and wanted to participate in the process because they are included at the ballot box.

Mike Burton indicated that the reasons for people outside the region voting "no" were different from those within the region. There is need for the region to recapture some of the funds that were going to be transferred downstate (\$75 million).

Grace Crunican suggested taking the time to address the issues that were raised and suggested that the third bullet (relating to working with the Oregon Congressional delegation) be omitted as

JPACT

December 12, 1996

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it wouldn't occur until January. Other committee members felt the intent should be incorporated in the last sentence of the memo.

Mike Burton felt there was more interest in the voting data than the polling data. He noted there will be Congressional staff here this month to look at the existing light rail project.

Meeky Blizzard announced that Congressman Blumenauer is totally supportive of the regional light rail project between Clackamas County and Portland and that it move forward. His office will be holding a series of public forums beginning in January in the Southeast/Clackamas area and in North Portland in February to address concerns raised. It is slated to go to the full Congressional delegation in March.

Councilor Kvistad felt the committee should be sensitive to the concerns of the voters. He expressed his intention to fast-track this through the Metro Council as a placeholder on those funds.

Mayor Drake concurred with Commissioner Rogers' opinion that Washington County should also be at the table with regard to light rail; he noted that the City of Beaverton supported Measure 32 by a vote of 67 percent. He supported a full light rail system through the region in the long term and felt we would be foolish in not moving forward in view of current polling that demonstrates that the citizens of the region are in favor of completing the initial system.

Commissioner Hales favored deleting the third bullet on the second page of the letter (relating to the Congressional delegation) until such time as a position paper is developed in January and a public hearing has been held to gain public input rather than going forward on the basis of momentum and instincts.

Grace Crunican commented that there have been many public forums on this issue since defeat of Ballot Measure 32. The Citizens Advisory Committee held meetings in North and South Portland with citizens expressing support of moving forward with the project.

Mayor Lomnicki spoke of working with the Neighborhood Associations, the City of Milwaukie's Citizens Advisory Committee, and the business community and felt that the bullet relating to the Oregon Congressional delegation was important to the City of Milwaukie. Mike Burton cited the need to take something to the Metro Council that demonstrates regional consensus.

Action Taken: Commissioner Lindquist moved, seconded by Tom Walsh, to approve the December 11 JPACT memo on the South/North

JPACT

December 12, 1996

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light rail proposal with removal of the third bullet on the second page of the memo and incorporation of that intent in the last paragraph of the memo. The last sentence will read: "The Steering Group is recommending that JPACT and the Metro Council accept this course of action, include funding for a Phase One South/North Light Rail project in the ISTEAs position paper scheduled for adoption in January 1997, and work with the Oregon Congressional delegation regarding ISTEAs funding for Phase One of the project." The motion PASSED unanimously.

TRIBUTES TO OUTGOING JPACT COMMITTEE MEMBERS

Humorous, but heartfelt, "certificates of appreciation" were extended to Chair Monroe and Councilor LaVert, this being their last JPACT meeting. They were acknowledged and thanked for their contributions to the region.

Chair Monroe indicated he would continue to be a participant on transportation issues and needs of the region.

ADJOURNMENT

There being no other business, the meeting was adjourned.

REPORT WRITTEN BY: Lois Kaplan

COPIES TO: Mike Burton
JPACT Members



CLACKAMAS COUNTY

Board of Commissioners

MEMO

DARLENE HOOLEY
CHAIR

ED LINQUIST
COMMISSIONER

JUDIE HAMMERSTAD
COMMISSIONER

DATE: December 26, 1996

TO: Clackamas County City Managers
Clackamas County Service Districts

FROM: Judie Hammerstad, Commissioner *Judie*
Clackamas County

RE: RECOMMENDATIONS ON URBAN RESERVES

As you are aware, on December 12th the Metro Council made its preliminary recommendations on urban reserve areas. They have designated 18,600 acres, including 3,500 acres of land zoned EFU. I have repeatedly requested that those recommendations be referred back to the affected local governments for their review, especially since the criteria used by the Metro Council was extremely unevenly applied and seemed, in most cases, to be rather arbitrary. They have currently designated "fuzzy boundaries" and it is my feeling that the affected local governments would be able to review these areas for more specific boundaries and the feasibility of service. If you agree with this position, I would suggest that you contact Metro and review the areas that might affect your jurisdiction or service.

Their counsel has been directed to make findings for them by January 31st. MPAC will be reviewing these recommendations at our two meetings in January. The public hearing will be held on February 13th, therefore, this is on a very fast timeline and will require your immediate response. If you have any questions about this, your MPAC representatives for this are, in addition to me, Jean Schreiber (786-7555), for cities other than Lake Oswego in Clackamas County; Bill Klammer (635-0270), the new mayor of Lake Oswego; and Mitch Wall (238-0333), is the citizen representative.

I am enclosing a copy of my most recent letter to Metro to give you a better idea of what has gone on during this process.

cc: Jean Schreiber
Bill Klammer
Mitch Wall



CLACKAMAS COUNTY

Board of Commissioners

December 27, 1996

The Honorable Jon Kvistad, Presiding Officer
Metro Councilors
Metro Council
600 NE Grand Avenue
Portland OR 97232-2736

DARLENE HOOLEY
CHAIR

ED LINDQUIST
COMMISSIONER

JUDIE HAMMERSTAD
COMMISSIONER

Dear Presiding Officer Kvistad and Metro Councilors:

We realize that you have had a number of letters from us regarding the designation of the urban reserves. This one is simply to reiterate a request that we have made previously, but feel that it needs to be made once more with emphasis.

Now that the preliminary recommendations for urban reserves have been made, we are requesting that those recommendations be referred back to the affected local governments. After sitting through the two days of designation, it is apparent that the local governments need to refine the borders and the feasibility. It was my impression that the criteria you used was unevenly applied and that, in many cases, the particular designations lacked clarity. We, as an affected local jurisdiction, feel that we can be of assistance with more specific designations. We view as a necessity the cooperation of each affected local government if these designations are to be successful and to avoid the inevitable delays that will come through disagreement.

I am enclosing a copy of a letter to a constituent that reflects the Council's incorrect response regarding Area 15 based upon the testimony that was given at the Listening Post at the Boring-Damascus Grange. This is an example of the point that we are trying to make regarding the need for further clarification.

We would also like to reiterate our support of designating urban reserves in phases, that is, that the first phase of designation could include 4,000 - 5,000 acres with the master planning being done as a pilot project to give local governments the experience of working with a smaller number of acres, prior to the inclusion of additional acres once that is completed. We continue to support the smallest number of acres that would be reasonable to be designated.


We are also concerned and curious about Don Morissette's position, as reported in the Lake Oswego and West Linn newspapers, that the urban reserves in the Stafford area would only develop at rural densities. While I might actually support some version of that proposal, it has always been our understanding that urban reserves were to be

Page 2. Letter from Judie Hammerstad, 12/27/96.

planned for an urban level of development. If that has changed, we would appreciate an in-depth explanation of that view of urban reserves.

We realize that this is difficult work and, since Clackamas County will be receiving the great majority of land that is planned for future urban development, we would like to be considered and included in the decisions as they are being made. Let me restate that we would rather not be in a conflict situation but would like to work cooperatively on the designation of the urban reserves. We can only do that if we are in agreement on both process and product.

Sincerely,


Judie Hammerstad, Commissioner
Clackamas County

cc: MPAC members



CLACKAMAS COUNTY

Board of Commissioners

DARLENE HOOLEY
CHAIR

ED LINDQUIST
COMMISSIONER

JUDIE HAMMERSTAD
COMMISSIONER

December 20, 1996

Ms. Sandy Van Bemmell
14753 SE Monner Road
Portland OR 97236

Dear Ms. Van Bemmell:

Thank you very much for sending a copy of your letter to the Metro Councilors to us. I won't go into my displeasure with the Metro Council process and action, but I did want to let you know that I agree with many of the points in your letter.

You will recall that I was also at the Boring-Damascus Grange meeting and listened to the concerns of the people in Area 15. If I had been allowed to testify as I requested at the Metro meeting on December 12th, I would have requested that, upon the completion of their preliminary recommendations, those recommendations be referred back to the affected local governments where more specific review could take place. That would have been of assistance to people like you who know the area and had a very specific request.

As you noted in your letter, Clackamas County has requested enough property to be able to realign the road and do some master planning of an extension of Sunnyside Village but we need the assistance of people who live in that area to help plan a reasonable and livable neighborhood that will be able to provide for the safe realignment of 147th.


We will continue to work on this issue in order to come out with a more satisfactory result than we feel that we currently have. I really appreciate your taking the time to write to the Metro Council and to let us know of your opinion. As a county commissioner, I join you in your feeling that the Council failed to respond to our concerns also.

Sincerely,

Judie Hammerstad
Judie Hammerstad, Commissioner
Clackamas County

cc: Metro Councilors
Oregonian



Date: January 10, 1997
To: Honorable Mayor and City Council
Through: Dan Bartlett, City Manager
From: Charlene Richards, Assistant to the City Manager 
Subject: Quarterly Report -- 2nd Quarter FY1996/97
Human Resources & Community Services

What follows is the Quarterly Report (October, November, and December 1996) for Human Resources and Community Services. If you have any questions, please speak with me. My telephone number is 786-7506.

HUMAN RESOURCE SERVICES

Employee Committees and Teams

- The Teamwork and Quality Customer Service Steering Committee met 5 times. The three breakthrough teams of customer response, education and training, and development review processes began their work. The customer response team met nearly every Monday morning and will be presenting recommendations to the Steering Committee in the third quarter. The education and training team drafted situation statements, objectives, targets, strategies, performance measures, and implementation plans. Next quarter implementation plans will be finalized and action will be taken to execute the breakthroughs. The formation of the development review process team was developed this quarter. Their work will begin next quarter.

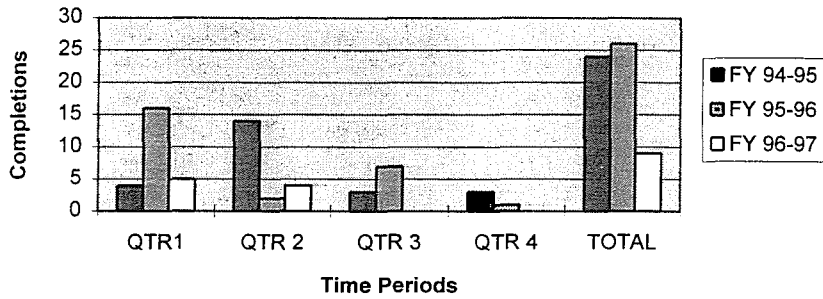
Training

- The Police and HR Departments implemented the Acting Watch Commander training as set forth in the union contract. The four training sessions were held in October, November, and December. Acting Detective Sergeant Colt, Sergeant Toll, Dennis Miller of the Clackamas County District Attorney's Office, and Cynthia Nagy and Charlene Richards of the City's Human Resources Department presented the training to thirteen Police Officers. The final examination took place in December. Results will be available in January for assignments. The end result should be better trained Police Officers to act as supervisors during the absence of a Sergeant and a larger pool of trained candidates for any future Sergeant's vacancy.
- Jim Colt of the City's Police Department presented Emergencies in the Workplace training to all City employees.

MILWAUKIE CITY HALL
10722 SE MAIN STREET
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

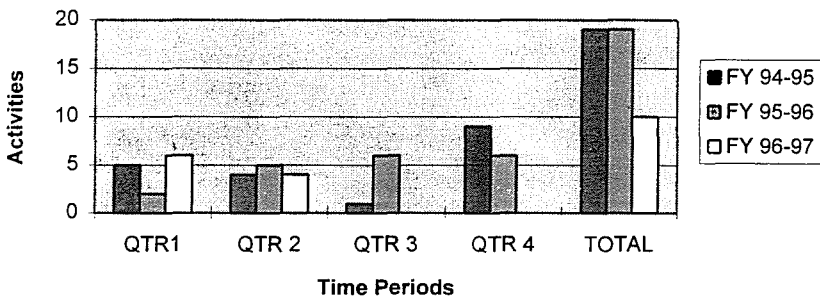
Employment Activities

NEW HIRES



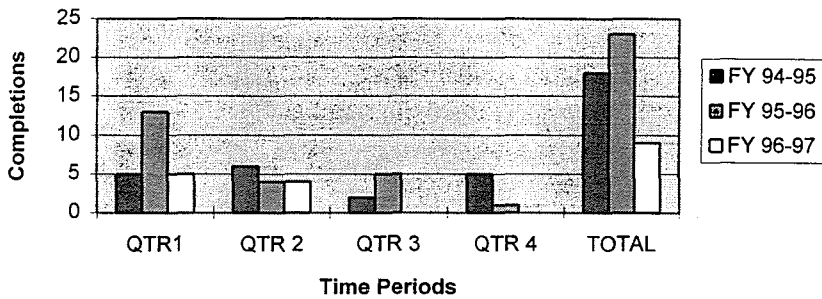
- Hired 4 full-time and part-time new employees.

SEPARATIONS



- Separated from City employment were 4 full-time and part-time employees.

RECRUITMENTS



- Completed 4 recruitments and have 1 recruitments in progress.

COMMUNITY SERVICES

LIBRARY

Staff

- Three Library Aide I's resigned. The vacancies will not be filled due to Measure 47 anticipated revenue reductions.

Budget

- Due to the passage of Measure 47, the Library will lay off five part-time employees. Two more staff members will have their hours reduced, and four vacant positions will not be filled. The staff layoffs and reduction in staff hours, along with library hours, will start February 1, 1997. All other line items have also been severely cut.

Children's Services

- Fall programs include two weekly preschool storytimes, a weekly activity program for home schooling families, a Halloween party, and holiday etiquette programs called "Why do I have two forks?"
- We have received our 1996-97 Children's Services Improvement Grant for \$4156. This will be used to fund a home schooling project, AV materials related to Head Start parenting program themes, and computer software for preschool children.

Facility

- The Milwaukie Police began enforcing a new ordinance that allows them to exclude from the downtown area people who commit offenses enumerated in this ordinance. This has led to the departure of the crowd that has been loitering around the Library and park.
- The Library's parking lot has much brighter lighting providing better safety.

Remodeling

- The Library will be going out for bids for the remodel project. 75% of this will be paid for by Community Development Block Grant funds.

County

- On November 25, the consolidation planning committee decided to table the project until after the levy election.

Circulation

- This was the busiest December in the history of the Library.

ENVIRONMENTAL/TELECOMMUNICATION SERVICES

Solid waste and Recycling

Education

- Designed and produced Christmas flier which was distributed by the haulers before Thanksgiving.
- Met with MDDA to remind them of existing leaf policy and to discuss leaf collection options for the future.
- Attended buy-recycled workshop in Portland.

Program Administration

- Met with haulers to discuss activities for 1997.
- Obtained Council approval of Year 7 Waste Reduction Plan and submitted invoice for Metro Challenge Grant funds.
- Met with School Principals regarding participation in 1997 Earth Day Fair.
- Worked with garbage haulers and Code Compliance Officer to close three code enforcement/customer service issues.

Employee Commute Options

- Input data from employee surveys and collated information for review by committee.
- Set up meeting of committee to discuss plan development.

Resource Conservation Project

Research/Program Development

- Conducted assessments of Johnson Creek Blvd. facility and Public Safety Building.
- Researched and advised Facilities Supervisor on low maintenance/low water planting options for waterfront and City facilities.
- Prepared and presented resource conservation recommendations for all four City facilities to City Manager and Facilities Supervisor.
- Conducted assessments, prepared and presented recommendations to three businesses: Enoch Manufacturing, Super King Sentry Market, and Coffee Resort.

Promotion

- Made presentation to MDDA membership and NCCCC Human Resources Committee.
- Wrote articles for City of Milwaukie's "Manager's Musings", Clackamas County's "Trash Talk," Community Journal, NCCCC Business News, Milwaukie Pilot.
- Interviewed with the Oregonian.

Other

- Applying for SELP loan to fund Library and City Hall HVAC systems.
- Researching and recommending recycled content products to include in City facilities' remodels.

Cable Renewal/Transfer

- Met with cable consultant to review cable compliance issues.
- Reviewed archived files for history of compliance of existing operator.
- Reviewed transfer documents from TCI and developed timeline for hearings and other activities required before transfer approval.
- Drafted letter to TCI regarding City's receipt of transfer documents.

PARKS AND RECREATION

Parks and Recreation Board (PARB)

- met to discuss the existing parks and recreation programs to determine the current level of service
- developed a list of stakeholder and issues from which to develop key areas of concern to address in the next year.
- will develop budget recommendations to present to the City Council in February for fiscal year 1997/98 North Clackamas Parks and Recreation District funding
- will develop next quarter the PARB annual work plan

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, DECEMBER 10, 1996

COMMISSIONERS PRESENT

Carolyn Tomei, Chair
Bryan Cosgrove
Tim Havel
Terry LaRocque
Michael Smith
Calvin Walter

STAFF PRESENT

Maggie Collins,
Com. Dev. Dir
Dan Pava,
Senior Planner
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Pat Lent

OTHERS PRESENT

No Audience

1.0 CALL TO ORDER

Vice-Chair Smith called the meeting to order at 6:34 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- November 26, 1996

Tim Havel moved to approve the minutes of the November 12, 1996, as corrected. **Michael Smith** seconded. MOTION CARRIED 5-0 with one abstention. Carolyn Tomei was not at that meeting.

4.0 PUBLIC COMMENT -- None.

5.0 PUBLIC HEARINGS

5.1 Applicant: City of Milwaukie
Property Owner: ODOT
Location: West of Highway 99E, east of the Willamette River along the former Portland Traction Company Railway (ODOT right-of-way)
Proposal: The City is requesting a Willamette Greenway Conditional Use for a Willamette River Multi-Use Path
File Number: WG-96-02

Chair Tomei moved to continue the hearing for File Number WG-96-02 for a Willamette Greenway Conditional Use for a Willamette River Multi-Use Path to January 14, 1997. **Terry LaRocque** seconded. MOTION CARRIED 6-0.

6.0 WORKSESSIONS
6.1 Transportation System Plan

Dan Pava passed out the proposed timeline for the completion of the Transportation System Plan (TSP). This timeline was drafted back in March of this year, and it has been updated to reflect the status of the Plan today.

Dan had spoken with Debbie Bischoff to determine the status of the Plan. She had managed all the work on this project before she left employment with the City. She suggested that Dan incorporate revisions regarding parking and the street network to be consistent with the new Functional Plan adopted by Metro.

Dan Pava stated that a final draft will be provided in January which also incorporates changes that are needed for Chapter 9 (Implementation) and Chapter 6 (Automobiles). Implementation addresses funding issues and Automobiles addresses functional street classifications. The aim is to have the public hearing before City Council on April 1, 1997.

A Planning Commission worksession is scheduled on January 28, 1997. In between that time, Staff will meet with the Land Use Committee chairs, hold an open house in February. A public hearing for a Comprehensive Plan Amendment before the Planning Commission is scheduled for March 11, 1997.

Discussion followed on whether there is enough time allowed in this proposed timeline to get everything done. **Dan Pava** explained that there is a need to get this project finished, since the project will be an element of the Comprehensive Plan. The City is working on the Regional Center Master Plan, and the implementation of the TSP will be helpful with that process. Oregon City has a TSP modeled from the Milwaukie TSP and plans to adopt it by summer, 1997. Public input will continue to be a part of the process.

6.2 Riverfront Concept Plan

Maggie Collins reviewed the draft Riverfront Concept Plan with the Commissioners. The draft concept map will be revised and distributed by the next Milwaukie Regional Center Master Plan Steering Committee meeting on Monday, December 16, 1996.

There have been about 430 responses to a city-wide survey received on this draft plan. There were a wide range of comments. The most controversy continues to be about the sewerage treatment plant. The second most commented issue is the boat ramp.

DRAFT

Chair Tomei voiced concern that the green space west of City Hall was not eliminated on the public mailer map. Also the draft has the service station eliminated and it was discussed that this would be retained.

The Island Station Neighborhood District is upset that the neighborhood south of the plan is not on the plan map. It is misleading and it doesn't make people aware that there is a neighborhood right next to the proposed boat ramp.

Comments on the draft of the November 11th meeting can be submitted to Diana Myrvang. **Calvin Walter** stated that in regards to comments, he has heard several comments as to "not another one." There is an element of the residents that feel the cycle of planning for the riverfront has gone on for too many years.

Maggie Collins noted that planning is a continuous process. It is necessary to have a plan that reflects current City needs, is responsive to public sentiments, and addresses the City's vision. She expressed confidence that the Concept Plan would generate implementation actions once it was approved by Council.

7.0 DISCUSSION ITEMS -- None.

8.0 OLD BUSINESS

8.1 ODOT Mitigation Plan

Maggie Collins reported that she met with the ODOT managers to agree upon a process to review Planning Commission concerns. Future meetings will be scheduled, including the public, to set the mitigation process in motion.

8.2 Light Rail Study Update

Maggie Collins reported that the south/north steering group meets tomorrow at Metro to review the results of the election, have a public discussion on what this means, and to craft a direction concerning the DEIS and whether to move ahead or not. Mayor Craig Lomnicki will be representing the City at this meeting to emphasize that successful completion of the Light Rail line in Milwaukie is important to its future as a livable place and is part of its long-term vision.

The Steering Committee makes the final decision whether to continue the DEIS. A decision must be made on where to go from here. In March, the region will submit a request for monies from the Federal ISTEAA Allocation process. If the DEIS stops at this point, the region would have to wait another two years before they can put in another request.

8.3 2040 Study Update

DRAFT

Maggie Collins reported that the Regional Center Master Plan Working Group meetings are being well attended. There are two meetings scheduled this week. An update report will be given at the Steering Committee Meeting.

9.0 OTHER BUSINESS/UPDATES

9.1 **Historic Resources Commission Report.** **Bryan Cosgrove** reported that the Commission discussed implications of Measure 47. The extreme case is that this Commission could be eliminated, and if so, the Planning Commission would carry on with the Goal 5 responsibilities. Changes are still being made to the video. Discussion was held on a scaled-down version of the HRC work program.

9.2 **Clackamas Retail Center Area Plan Report.** **Michael Smith** reported that the Committee met and the three land-use concepts were addressed. These will be presented to the public for their review and input. Light Rail is the major component of all three concepts. One alignment is north of Clackamas Town Center; one south of Clackamas Town Center and one includes both directions. Planning is going ahead assuming that Light Rail will be there some day.

The Urban Design Subcommittee developed draft recommendations of improvements for streets and gateways. These recommendations were discussed. The transportation sub-committee is also continuing with their work. There was discussion on 82nd Avenue in general and how it could be improved and developed. An open house will be held around the first of the year.

Calvin Walter noted that a report came out indicating that Portland is now the 14th busiest city in the nation in terms of congestion on the roadways. The parking rates are being raised in downtown Portland. Light Rail is not a dead issue; it will be back at the next election. He encourages the committees involved to keep pushing in the direction of Light Rail.

Maggie Collins stated that the local match (\$470 million) for Light Rail is still available; state funding will require another vote. These funds are open-ended. Legally, there is a \$530 million fund for Light Rail available. Milwaukie cannot achieve Regional Center growth objectives for healthy viability in this region unless there is a stronger public transit system.

Tim Havel stated that the November vote was very close; he suggests that the Steering Committees consider this when making decisions on Light Rail.

9.3 **Community Development Report.** **Maggie Collins** announced that both Carolyn Tomei and Calvin Walter would be leaving the Commission as of December 31, 1996. Carolyn Tomei will assume a City Council position and Calvin Walter will be resigning. Michael Smith will take over as Chair of the Planning Commission.

DRAFT

Planning Commission Goals and Workplan. Maggie Collins reported that she summarized the discussion of the last meeting of the three areas of the work program. She asked that the Commissioners review the draft for comments and input. The following changes were made:

1. Explore ways to enhance neighborhood livability by promoting specific urban design concepts for an established city.
 - Liaison with neighborhood land use committees
 - Specific design concepts
 - Compatible infill
 - Pedestrian access systems
2. Enhance and protect the City's natural resource base by
 - Implementation of Urban Forestry Program
 - Water quality issues
 - Detention and erosion control measures
 - Stormwater runoff issues
 - Identification and connection of urban greenbelts
3. Develop performance standards that promote desired urban design
 - Improving the effectiveness of the City's Sign Ordinance
 - Reviewing and recommending code/ordinance changes
4. Planning Commission stands ready to assist the Council on implementing the City's vision in whatever way possible
 - Implementation of Urban Forestry Program
 - Committee representation
 - Timely input into planning studies
 - Chief advisory on periodic review process

Staff was asked to prepare a draft format for Commission review and adoption at the next meeting, January 14, 1997.

It was asked that the Public Works Department come and make a presentation on the City's regulations on detention and erosion control and how they are implemented at this time. Included in this presentation should be the requirements for dry wells, erosion control ordinance, the basic stormwater drainage requirements on new development. Also, what is the city's current stormwater management plan?

- 10.0 NEXT MEETING -- January 14, 1997
- 10.1 WG-96-02 (CU for Willamette River Multi-Use Path)
- 10.2 CPA-96-03 (Riverfront Concept Plan Worksession)
- 10.3 CPA-96-04 (Natural Resources Text)
- 10.4 Community Development Department Report

DK.

Calvin Walter moved to adjourn the meeting of December 10, 1996. **Carolyn Tomei** seconded. MOTION PASSED UNANIMOUSLY. The meeting was adjourned at approximately 8:20 p.m.

Carolyn Tomei, Chair

Shirley Richardson, Hearings Reporter

Minutes

PARB Park & Recreation Board Monday, December 2, 1996

7:00 PM to 9:00 PM
2nd Floor Conference Room
City Hall

Attendees: Dave Murray, Jonathan Newman, Jeff Marshall, Tracy Cook
Excused Bill Knox & Rob Curtis
Please read & bring: Minutes from 9/9/96 & 10/7/96, mailing of 10/18/96 including expenditure list from NCPRD
Resource persons: Charlene Richards, City of Milwaukie, Thom Kaffun, North Clackamas Park & Recreation District

Agenda Topics

7:00-7:10 PM Minutes Jonathan Newman, Vice-Chair

Discussion: The 10/7/96 minutes needed to be revised deleting "developing" and replacing with "researching" in the section about skate board facilities

Conclusions: Marshall moved and Murray seconded the motion to approve the minutes of 10/7/96 as amended and the minutes of the 9/9/96 meetings. Passed unanimously.

Action items:	Person responsible:	Deadline:
Forward the approved minutes to the City Council	Charlene Richards	12/6/96

7:10-7:40 PM Presentation of Rose Garden Master Plan & SDC Proposal Thom Kaffun, NCPRD

Discussion: Rose Garden: No work was completed in the Fall 1996. The Committee submitted a request for a tourism grant. They should know the outcome by mid-December. The grant will fund Phases I through II. Otherwise, the NCPRD FY 96/97 budget has \$30,000 for Phase I. Construction work should begin in Spring 1997. The Committee has volunteers for the concrete and paving work. The City is in the process of removing the gravel pile. The PARB discussed the permit fee costs and the request by the Friends Rose Garden Committee for the City to provide some funding for the project in FY 97/98.

Action items:	Person responsible:	Deadline:
Are the cost of the bricks a donation and tax deductible?	Thom Kaffun	1/6/97
Request the Friends market the bricks widely.	Thom Kaffun	1/6/97

Discussion: System Development Charges for Parks: Thom discussed how the original charges were developed: \$950 single family residence, \$620 per unit for multi-family, and \$600 for manufactured units in a park. The Park District Advisory Board requested a review of the SDC working with the consultant who originally developed the SDC rates. At the meeting in November with the Clackamas County Builders' Liaison Committee, the Committee rejected both proposed rate structures. The lower rates were developed showing the Park District paying for more of the CIP costs. There was a discussion of the kinds of changes that impacted the rates such as land acquisition costs and development costs. Kaffun noted that SDC fees can only go into areas where growth is occurring. There was discussion about the methodology used CIP current vs. inventory of existing. There was further discussion about the SDC rates in the Metro area and how the Park District rates compared. Concerns were voiced about the small number of new houses in Milwaukie and the inability to show major areas of growth. There was discussion about the comp plan need for open space that is unmet. The group discussed options for incentives for builders such as using the number of bedrooms verses dwelling units, using purchase price and paying for the SDC at time of sale.

Conclusions: Marshall moved and Cook seconded the motion to authorize the Chair to send a letter on behalf of the PARB to the City Council copy to BCC and NCPRD that recommends that the City of Milwaukie implement the revised SDC Methodology Update Report for Parks drafted as of October 15, 1996. Passed unanimously.

Action items:	Person responsible:	Deadline:
Research feasibility of time of sale payment for SDC.	Thom Kaffun	1/6/97
Draft letter to City Council?	Thom Kaffun/ Jeff Marshall	12/6/97
Finalize and forward letter to City Council.	Charlene Richards	12/6/97
7:40-7:50 PM Review Stakeholder and Issues & Concerns Lists Charlene Richards		
Action items:	Person responsible:	Deadline:
Carryover to 1/6/97 meeting agenda	Charlene Richards	12/27/96
7:50-8:325 PM Work Plan Development Continued including Situational Anaysis, Information Needs, Objectives, Targets, Timelines Charlene Richards		
Action items:	Person responsible:	Deadline:
Carryover to 1/6/97 meeting agenda	Charlene Richards	12/27/96
8:35-8:50 PM NCPRD Update -- Metro Grant Thom Kaffun		
Discussion: The Park District received a METRO habitat restoration project grant to repair Mt. Scott Creek. The METRO grant is for \$7,343 and the Park District match is \$2,950 and \$7,000 in-kind. The work will be next summer. There will be an interpretation sign to describe the work on the bank. Lynn Sharp prepared the grant.		
North Clackamas Park had a lot of water with the last major rainfall. It was up to the Caretaker's steps.		
8:50-8:55 PM Other Business Jonathan Newman		
Discussion: None		
8:55-9:00 PM Next Meeting PARB		
Discussion: Need budget requests and criteria for selection.		
Conclusions: Need to hold two meetings in January and meet jointly with the City Council. Will hold regular meeting on January 6, 1997 and special meeting on January 13, 1997, both starting at 7:00 PM at City Hall in the Conference Room. Will request a joint worksession with the Council either January 21, 1997 or February 4, 1997.		
Adjourned by motion of Newman and second of Marshall at 9:05 PM.		
Action items:	Person responsible:	Deadline:
Send minutes and agendas for 1/6/97 and 1/13/97 meetings.	Charlene Richards	12/27/96
Request Council Worksession.	Charlene Richards	12/6/97

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- 23-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, TO ADOPT THE BUDGET, MAKE APPROPRIATIONS AND DECLARING THE AD VALOREM TAX LEVY FOR FISCAL YEAR 1995-96
- 25-1995 A RESOLUTION REQUESTING THE ECONOMIC DEVELOPMENT COMMISSION AND THE STATE OF OREGON TO ASSIST IN THE FINANCING OF THE PEAK NORTHWEST BREWING COMPANY
- 24-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING SERVICES PROVIDED FOR STATE REVENUE SHARING
- 26-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN CONTRACTS
- 27-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE NEED TO ACQUIRE PROPERTY FOR THE PURPOSE OF ACCESS TO COMMUNITY TRAILS NETWORK AND RIVERFRONT AREA
- 28-1995 A RESOLUTION RELATING TO THE DEVELOPMENT OF A NEIGHBORHOOD MEDIATION PROGRAM FOR THE CITY OF MILW.
- 29-1995 A RESOLUTION AMENDING RESOLUTION 23-1995 (BUDGET)
- 30-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND THE CITY OF HAPPY VALLEY
- 31-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING PROVISION OF \$375 MILLION STATE MATCHING FUNDS AT THE JULY 1995 SPECIAL LEGISLATIVE SESSION

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- 32-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE EXECUTION OF A FIRE TRAINING AGREEMENT
- 33-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON RECOGNIZING THE OUTSTANDING PERFORMANCE OF THE SOUTH METRO FIRE MARSHALS OFFICE DURING ITS FIRST FOUR YEARS OF OPERATION
- 34-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING AND ACKNOWLEDGING THE WILLAMETTE RIVER CORRIDOR COORDINATION PLAN, SEPTEMBER, 1994
- 35-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 26-1995 which authorizes the City Manager TO EXECUTE CERTAIN CONTRACTS
- 36-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING ISSUANCE OF REIMBURSEMENT BONDS
- 37-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING EARLY IMPLEMENTATION OF THE REGION 2040 PLAN
- 38-1995 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LOCAL AGENCY AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND THE OREGON DEPT. OF TRANSPORTATION FOR THE PURPOSES OF THE ADMINISTRATION OF THE CONGESTION MITIGATION AND AIR QUALITY PROJECT
- 40-1995 A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, ADOPTING FISCAL YEAR 1995/96 (YEAR SIX) ANNUAL WASTE REDUCTION PROGRAM
- 39-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR LOCAL SHARE COMPONENT OF THE OPENSACES BOND MEASURE
- 41-1995 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE EXECUTION OF A FIRE DEFENSE MUTUAL ASSISTANCE AGREEMENT

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1783 AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON,
DETERMINING THE ECONOMIC IMPROVEMENT DISTRICT ASSESSMENTS
FOR FISCAL YEAR 1995-96 AND DIRECTING THAT THEY BE
CERTIFIED TO THE CLACKAMAS COUNTY TAX ASSESSOR FOR
COLLECTION

1784 AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, DECLARING
THE CITY'S ELECTION TO RECEIVE STATE REVENUES

Date 1-21-97

I wish to address City Council on Agenda Item # 5

Name WAYNE WALTERS

Organization _____

Address 18235 S. GRASLE RD. OR. CITY OR. 97045

Phone 631-8048

- Speaking in Support
- Speaking in Opposition
- Raising Questions
- Providing Information

Comments _____

Date 1/21/97

I wish to address City Council on Agenda Item # 5

Name John Casey

Organization John L. Scott Real Estate

Address 11410 SE 90th Ave Portland, Or

Phone 652-5169

- Speaking in Support
- Speaking in Opposition
- Raising Questions
- Providing Information

Comments _____

Date 1-21-97

I wish to address City Council on Agenda Item # V.

Name JEFF MARSHALL

Organization LEWELLING LAND USE Comm. HER

Address 9901 S.E. 53rd Milw.

Phone 654-4834

- Speaking in Support
- Speaking in Opposition
- Raising Questions
- Providing Information

Comments _____
