

**MILWAUKIE CITY COUNCIL  
REGULAR SESSION  
JULY 6, 1999**

The one thousand eight hundred and eighteenth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the Public Safety Building Community Meeting Room. The following Councilors were present:

Rob Kappa	Larry Lancaster
Mary King	Jeff Marshall

Also present:

Dan Bartlett, City Manager	Alice Rouyer, Planning Director
Jim Coleman, City Attorney	Janet Wright, Assistant Planner
Charlene Richards, Assistant City Manager	JoAnn Herrigel, Program Services Coordinator
Martha Bennett, Assistant City Manager	Steve Campbell, Code Compliance Specialist

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

**Milwaukie Downtown Development Association Report**

**Jim Bernard**, Milwaukie Downtown Development Association (MDDA) President, 7615 SE 20<sup>th</sup>, Portland, introduced **Jack Elder** who was recently hired as the organization's Director.

**Elder** announced the Sunday Farmer's Market that would begin on July 11 in the Main Street public parking lot. The initial focus will be on farmer's market activities in addition to live entertainment. The MDDA Niche Committee is encouraging arts and entertainment business development in the downtown. Elder discussed the possibility of displaying loaned art on City properties in conjunction with Clackamas Community College programs.

**CONSENT AGENDA**

**Councilor Marshall** requested that item III.C -- *Response to Traffic Safety and Transportation Board June 14, 1999 Motions* be pulled from the Consent Agenda for discussion.

**It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the balance of the Consent Agenda that consisted of:**

1. City Council Minutes of June 14 & 15, 1999; and
2. Reject Bids for North Drywell Improvement Phase 1 ST-00-01.

**Motion passed unanimously.**

#### **AUDIENCE PARTICIPATION**

**Richard Cayo**, 4203 SE Johnson Creek Blvd., spoke regarding his May 3, 1999, letter making certain observations on City management and the response he subsequently received. About four years ago, he had offered to loan the City three restored WW2 aircraft if a structure were provided. He maintained that the City had chosen to demolish a building on the riverfront that would have been ideal for such a museum. The building could have generated some revenue, and he believed whoever made the decision on the building should be held accountable.

Cayo referred to Bartlett's response that was included in the Council's June 1, 1999 packet. Generally, the memo stated that the riverfront/downtown plan was in its formative stages, therefore, it was premature to determine what types of attractions would be included in the development. Bartlett also recommended that Cayo contact the non-profit Bomber group since cities do not normally form museums although they may help facilitate development.

**Irene Wertheimer**, 8645 SE 36<sup>th</sup> Avenue, continued reading Cayo's correspondence. Cayo wanted a response to his question about why the building was demolished instead of being rented out pending a riverfront development decision. At a Council meeting, Bartlett stated that the building was dilapidated and contained hazardous materials. Cayo maintained that it was impossible to prove or disprove such a statement after a building has been demolished. He disagreed with Bartlett's statement because he saw no activity that suggested removal of contaminated soil. The building itself only needed some paint and a little repair to make it usable. Cayo believed a good building was lost for no reason.

Cayo's response then addressed the Council's 4 - 1 vote to approve light rail. He believed it was a pre-planned show because Council was worried about losing Metro funding. The majority of voters did not want light rail, but the Council voted for it anyway.

The next issue was the Safeway building and the City's leasing it with taxpayers' money. Cayo maintained that the idea of renting the building so it could be used for a future light rail transit station had to have come from the City Manager's office with Council approval. Cayo believed there should have been a clause stating that the lease would be terminated if light rail was not funded.

**Donald Wertheimer**, 8645 SE 36<sup>th</sup> Avenue, former Johnson Creek/Ardenwald Neighborhood Association President. He spoke to the issue of Johnson Creek Blvd. There was a lot of political pressure from Eastmoreland residents against putting the road in the gulch. Ardenwald was told time and again that there would be no traffic on Johnson Creek Blvd. and not to worry about it, but that is clearly not the case. The road itself is built on solid rock. Johnson Creek Blvd. is a collector street, and it is not possible to make it an arterial. There are some serious safety issues on that street. The residents have never wanted anything done to the street.

**Robert Brinker**, 4115 SE Johnson Creek Blvd., continued Cayo's comments on the Safeway site asking why the City was not subleasing the building so taxpayers could recover some of their losses. Cayo believed someone should be held accountable for this decision. The \$90,000 a year spent on leasing the building could better be spent filling potholes. Bartlett's response indicates that Tri-Met is interested in relocating the City Hall transit center to the site and notes that the cost of bringing the building up to code has discouraged potential renters. Cayo asked why the building has set idle for the past two years. He did not believe Tri-Met would come into an area with such limited ridership and bail the City out.

**Florene Shipley**, 8605 SE 36<sup>th</sup> Avenue, continued Cayo's comments. He believed that the City Council approved Bartlett's proposal based on the passage of light rail. There was no clause, however, making the continuation of the agreement contingent upon passage of light rail. On February 7, 1999, Cayo wrote a twelve-page letter to the Blue Ribbon Committee on Land Use offering property in exchange for a permit to build a six-foot fence to keep people off the rest of his property. To date, there has been no response from the City. Cayo felt it was foolish not to accept the offer because his attorney estimated the property value at about \$25,000. Bartlett's response indicated that Cayo's letter was provided during a Planning Commission hearing on the Functional Plan.

**Rebecca Lillie**, 4253 SE Johnson Creek Blvd., continued reading Cayo's comments. The property offer was made verbally to Assistant Planner Gessner and subsequently referred to Interim Planning Director Crumley. Crumley indicated he thought it was a good idea and said he would take care of it. To date, however, the City has not responded. Cayo had also talked to either a Paul or Jim and the Johnson Creek Facility receptionist, so, it was not accurate to say that no one knew anything about the offer. Since staff is being paid

astronomical wages to do a good job, Cayo was surprised that no one knew anything about his offer. At a recent Ardenwald Neighborhood District Association (NDA) meeting, former Public Works Director Brink tried to "sucker" the organization's president into signing a letter indicating that the residents approved of the Johnson Creek Blvd. improvements within a 44-foot right-of-way. It appears that Brink was given orders, possibly from the City Manager, to do this. He felt that, if the City Manager gave this kind of order, the City Council should replace him. Cayo noted that Assistant City Manager Bennett wrote a memo on the topic of communicating project plans with the neighborhoods as part of the service delivery model.

**Brad Inman**, 4253 SE Johnson Creek Blvd., continued reading Cayo's comments. After working with Linda Hatlelid on the Johnson Creek Blvd. improvement project, Cayo felt the City's response meant nothing. Hatlelid spent many hours working on this project, but staff has not worked with residents to keep the Johnson Creek Blvd. improvements within the existing 40-foot right-of-way. Apparently, Brink was fired in order to save someone else. Cayo was concerned about spending more tax dollars if the City were sued over this personnel issue. Cayo's correspondence went on to address the riverfront/downtown plan. He was appalled to learn that the City was paying a Portland firm between \$100,000 and \$200,000 to develop an idea of how to improve the riverfront/downtown area. He thought the idea of digging out the core downtown for a boat basin was ridiculous. Cayo thought perhaps Milwaukie Mayor Tomei and Portland Mayor Katz had gone to the same school to come up with these ideas. Disgusted with what he saw, Cayo directed his attorney to write a letter withdrawing his vintage aircraft offer.

**Linda Hatlelid**, 8617 SE 36<sup>th</sup> Avenue, spoke on behalf of Cayo. Bartlett's response indicated that the City Council approved a \$234,596 contract with Crandall Arambula to help the City clearly define its goals, take action, and influence people and events in a way that is consistent with its values. Cayo stated that the only thing in the response that answered his question was the amount of the consultant's contract. All Cayo saw was someone going from table to table at riverfront meetings asking people what they thought the riverfront/downtown should look like in the future. The idea of digging up three or four downtown City blocks and dumping the dirt into the Willamette River would result in a cesspool of treatment plant effluent. During Bartlett's ten years with Milwaukie, Cayo has seen a beautiful new Public Safety and Public Works Buildings constructed and City Hall and Ledding Library remodeled. Cayo saw the civil servants getting great working surroundings with no accountability. Taxpayers get all the bills, and the civil servants get everything. Cayo's comments went on to address the total annual compensation packages for Bartlett, \$114,024; Richards, \$90,336; M. Bennett, \$74,748; and Gregory, \$73,632.

**Gene Hatlelid**, 4277 SE Johnson Creek Blvd., continued Cayo's comments. This comes to a grand total of \$352,770 annually, or \$3,527,700 over a ten-year period. Cayo asked what taxpayers were getting for their money. Six months ago, Cayo talked to his neighbor Roger Haas who complained about the fact that 36<sup>th</sup> Avenue residents south of Johnson Creek had asked for two speed bumps which they would pay for themselves. Apparently, the City had lost the paperwork. This was brought to staff's attention, but nothing was done about it. A June 1999 City newsletter article stated that the City Council and City Manager spent a three-day "bonding" retreat at Skamania Lodge in Washington State. Now the taxpayers get slapped with a reported \$5,000 bill for this out-of-state event. Cayo thought the hard-earned tax dollars should at least be kept in Oregon. He also understood that the City Manager has been allowed to make out his own report card each year, and he was concerned this set a precedent. Cayo expressed a fear that the public, made up mostly of older, retired people, was slowly being bled to death. Everyday needs and problems are neither being addressed nor solved. Cayo felt that, if citizens were so lazy that they allowed this to continue, then they are getting what they deserve.

**Analiene Hummel** did not wish to enter her address into the record, although she believed it was in every file in the City, and also advised that she wanted to be addressed respectfully as Ms. Hummel. She added that discouraging tactics do not work on her because she was taught by a master. She spoke to the issue of truck traffic on Monroe Street that increases daily, and no one pays any attention. Eighty-three cents from each dollar goes out of state to corporations and fast food restaurants. We need to keep this money at home. She told the City Council that she got a late water bill, and it used the words "delinquent" and "penalty." She thought "delinquent" was crime related, and a "penalty" was something given to criminals. Hummel continued Cayo's comments. He believed citizens were getting what they deserved and hoped they would continue to be financially raped until they are lying in the street bleeding to death. Then the City can say what a good job it is doing.

**Michelle Roberts**, 13709 SE Laurie Avenue. She thanked staff for moving the waiver of the appeal fees forward and requested the Rasmussen's be refunded the money they paid for their appeal. That appeal was fully supported by the Neighborhood District Association (NDA), and it met the waiver criteria.

**Darlene Walsh**, 3108 SE Kelvin Street, recognized staff members Michelle Gregory, JoAnn Herrigel, and Charlene Richards for their assistance to the Ardenwald neighborhood.

## PUBLIC HEARING

Appeal a Planning Commission Decision – MLP-98-06/NCU-09-04

**Mayor Tomei** called public testimony portion of the hearing to order at 6:55 p.m.

The purpose of the hearing was to consider the appeal of the Milwaukie Planning Commission's May 11, 1999 decision. The Ardenwald NDA filed an appeal challenging the Planning Commission's approval and articulated reasons for the appeal. She reviewed conduct of the hearing.

**Coleman** explained the state mandates that local jurisdictions must complete the application process, including this hearing, in 120 days. The rule provides for quick processing and deliberation on this type of application.

Site Visits: All Councilmembers had visited the site.

Ex Parte Contacts or Conflicts of Interest: **Councilor Kappa** announced that he had attended the Planning Commission meeting during which this application was first considered. He attended the Commission meeting for the purpose of observing the group's process, and was not at the meeting to hear comments relating to this application. At that meeting, he did hear a portion of the public testimony. He had some concerns whether the City Council should be hearing this case. The applicant stated he wanted to remove his three-lot application and apply for a new MLP. Councilor Kappa asked if the applicant had filed a new application or if this was a revision. He understood that a new application would be considered under the current flaglot criteria.

**Coleman** referred to staff report page V.A.2 and Commissioner Miller's motion. The minutes of the January 12, 1999, Planning Commission meeting describe the discussion, and the motion was "*to continue Minor Land Partition MLP-98-07/NCU-98-04 to allow the applicant time to revisit the application with the Community Development Staff. Further, that a 120-day waiver will be signed by the applicant.*" That motion carried 6 - 0. Coleman interpreted this to be a continuance of the two application numbers and a revision to the existing application. He believed the minutes later showed that the applications came back to the Planning Commission under the same numbers. He did not see anything in the municipal code that would have prevented the Commission from taking this procedural step. There is a provision in Section 1012 which allows the Planning Commission a recess to get additional information, and Coleman considered a continuation and recess to be the same, and there is authority within the code for the Commission to take the step it did. He did not see a problem with the City Council continuing this hearing under the same application numbers.

**Councilor Kappa** said the minutes on staff report page V.A.41 reflect that Planning Director Heiser stated the applicant would need a written withdrawal letter and explained that any new application would be under the requirements of the new partitioning standards.

**Coleman** said, if there had been a withdrawal, then there would have been a different MLP application number. The Planning Commission construed this to be a revision to the existing application and not a different application.

Challenges to Impartiality: There were no challenges to any Councilmember's impartiality or ability to participate in the decision.

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

Staff Report: **Wright** presented the staff report in which the City Council was requested to deny the Ardenwald Neighborhood District Association's appeal. She indicated the site on a map. The applicant originally submitted a three-lot partition request. At the January 12, 1999, Planning Commission meeting, the applicant requested that his application be revised to a two-lot partition because he was concerned about losing his business on the site. The applicant did sign the 120-day extension. On April 27, 1999, the Planning Commission held a second public hearing on a revised tentative plan submitted by the applicant that provided for a two-lot partition. The flaglot criteria in effect at the time the application was made did allow for the "pole" to be included in the overall square footage. The lot was 6,750 square feet plus the 2,152 square feet of the pole. Parcel 1 was 25,000 square feet. A fenced auto repair business was located on another portion of the property.

The Planning Commission approved the applicant's minor land partition on May 11, 1999, and ruled that the nonconforming use was not affected. The use had previously been approved in a location delineated by a director's decision. The Planning Commission determined that the actual minor land partition, because it had been delineated into a specific site on the property, would not be affected by the nonconforming use. Staff requested that the City Council affirm the Planning Commission's decision to approve the minor land partition and allow the continuance of the nonconforming use at the site.

**Councilor King** referred to staff report page V.A.26 and asked the location of the new house.

**Wright** indicated the location of the new house on proposed Lot 2. She also pointed out the business that was located within a fenced area.

**Councilor Kappa** referred to section 802 and asked for a definition of the term "detriment to surrounding properties".

**Wright** said that normally would refer to noise, odors, unsightliness, and nuisances.

**Councilor Kappa** asked if the restrictions placed on the property by then Acting Community Development Director Swanson was intended to address those issues.

**Wright** said the restrictions were intended to address those neighborhood issues including parked cars, car parts, and containers.

Correspondence: None.

Appellant Testimony: **Darlene Walsh**, 3108 SE Kelvin Street, Ardenwald Neighborhood District Association (NDA) Chair. The neighborhood submitted the appeal based on the confusion over the minor land partition and the nonconforming use. One issue was the effect on the neighborhood and what the people thought would positively or negatively impact their livability. She had made a commitment to educate herself on the language relating to this application, she was concerned the information was too technical for the neighborhood to develop a reasonable response based on the criteria.

When she reviewed the information, Walsh had difficulty determining who was in charge, who said what, and who made the decisions based on what criteria. The decision on the nonconforming use was an example of this. She referred to the chronology on staff report page V.A.9, the business licensing process, and the grandfathering-in of Thompson's auto repair business. She interpreted from this information that the business was allowed to continue because there were few complaints from the neighborhood about its operation. As she continued to read through the chronology, she found the number of complaints increasing as residents looked for ways to better their neighborhood. She discussed the director's determination approving continuation of a nonconforming use and asked if there should have been an opportunity for public comment.

During the May Planning Commission meeting, a question arose about how the boundary of the nonconforming use was determined and who made that decision. She requested that the City Council direct staff to determine what process was undertaken to arrive at that decision. She understood that some of the actions were driven by litigation concerns, and she was there to represent

the neighborhood in opposing the applications. She was also concerned about Bartlett's response to resident correspondence in which he stated that the Planning Commission makes these types of decisions. She believed the residents were getting the run around as far as who does what and how to get their questions and concerns answered.

**Walsh** agreed that the area did look much better, but an auto repair business does not belong in the middle of a neighborhood. Residents get frustrated when they work to create a neighborhood vision and then are told that something like taking care of this Olsen Street property is not possible. She believed the entire process needed to be reviewed and told Council that residents feel frustrated when they do not get clear explanations to their questions. She had read that Thompson might reside on the property, and that would make her feel better. The NDA was distressed at how it was treated at the last Planning Commission meeting and was also concerned that decisions were made based on the possibility of legal recourse.

**Councilor Kappa** asked Walsh if the NDA was appealing the Planning Commission decision or the process itself.

**Walsh** said her original intent was to appeal the decision. Now she believed the process was confusing and slanted toward an employee whose job was to do City planning and make those types of administrative decisions. The NDA was not involved in the decision-making process. She summarized by saying that the appeal was based on the City's nonconforming use policies.

**Mayor Tomei** reminded those speaking before the City Council to address the criteria.

Testimony in Support of the Appeal: **Sara Newson**, 3337 SE Olsen Street. She felt the residents did everything they knew how to do but felt frustrated because they got rail-roaded in the process. Her question was who was in charge of all the decisions when people wrote their letters. Why are residents' feelings and opinions not considered? Residents are in the cross hairs, and the trigger is back.

**Philip Nelson**, 3739 SE Olsen Street. Testifying to the criteria will be hard, because the neighborhood does not have enough information. He referred to staff report page V.A.15, the January 6, 1999, staff report. There was a notation that staff recommended denial due to the significant impact to the surrounding residential area. Staff's conclusion was denial of the request for continued nonconforming use. He then referred to staff report page V.A.56 in which it was stated that Wright reported the City received one letter opposing the application. From what Nelson read, residents, the NDA, and staff have all expressed their opposition. He did not understand why, when all of these parties expressed

opposition, no one listened. He believed the criteria were full of loopholes. Administrative decisions can be made without caring what the neighborhood, the people, and the voters want. What criteria can the neighborhood use? The neighborhood comes before the Council and says it does not want this application approved. Staff made a mistake by letting it happen and is only trying to cover up its error. The use was grandfathered-in because the paperwork was lost. Administratively, the lot was divided into two portions apparently in order to keep the business and add density through increased housing. This is not what the neighborhood wants. He felt going before the Planning Commission was a waste of time. The NDA has opposed the applications for some time, but the issue has gone unresolved for more than a year. Someone has made some bad decisions, but no one wants to be accountable.

**Jeanne Fisher Lee**, 3622 SE Olsen Street. She lives on Olsen Street but did not submit correspondence. The community is very important to her, and feelings do come into the issue. The bottom line, however, is that the sidewalks created a traffic problem, and the street is now more dangerous than before. She was concerned that one flaglot will lead to another. The neighborhood is congested with people and cars, and residents feel smothered by the new sidewalk. The once friendly, happy neighborhood is now tense and worried about traffic. The sidewalk made it more dangerous instead of safer for the children. Olsen Street is in an old, well-established neighborhood that cannot accommodate more traffic.

**Michelle Roberts**, 13709 SE Laurie Avenue, Milwaukie. The issue that concerned her the most was whether the application had or had not been withdrawn. Is this one MLP or two because, for all intents and purposes, the lot was divided down the middle. She believed the applicant was coached by the Planning Department because, if Thompson had withdrawn his application and submitted a new one, it would have had to meet the revised flaglot standards. She believed it was a ridiculous configuration. There is staff coaching taking place that is not in the NDA's best interest. If Thompson can afford to build a \$170,000 house on the flaglot, then he could certainly afford to demolish the older house and build something that would suit the neighborhood. The whole configuration, the idea of nonconforming use, and the chronology were very confusing. The process flies in the face of what the neighborhood is trying to do in the areas of livability and design review. She believed the City needed to be more responsible when making these types of decisions. The house will eventually have to be demolished, and the NCU will not last forever. She took issue with staff's coaching the applicant to revise rather than withdraw his application. The driveway should not have been considered in the total square footage.

**Betty Stewart**, 3328 SE Olsen Street. Originally, there had been one car in and one car out of the business. She did not feel this business should have been grandfathered in. Olsen Street residents never wanted the sidewalk that was installed. One flaglot will certainly lead to more, and even one will have a big impact on the neighborhood. What will happen with all of the cars? Where will all of the children go to school? We cannot afford the schools we have now. She was against it all.

Applicant's Testimony in Opposition to the Appeal: **Howard Thompson**, 4310 SE Franklin Street. He provided correspondence from three residents in support of his application. Flaglots are not illegal in the City's zoning ordinance, and his was probably one of the few parcels that would support a flaglot based on current standards. The Planning Department put a restriction on the business and directed him to put a fence around the area used for auto repair, and cars relating to the business could not be parked elsewhere. That is why the Planning Commission determined that one area of the lot was zoned R-7. The original application was for three lots, and, since he did not understand that his original plan changed the nonconforming use, he revised the application to two lots. When he rented the business, the owner told him it was a legal use, and Thompson was not aware of the regulations. The Planning Department placed a ten-car limit on the business and made him construct a fence. He has made repairs to the existing house, and he did not intend to keep an unsightly place since he plans to live there. He plans to build a \$100,000, three-bedroom, ranch-style house that is not out of perspective of the rest of the neighborhood.

**Councilor Kappa** asked why there was so much confusion with the placement of the fence?

**Thompson** said staff told him he needed to construct a six-foot solid screen with a 20-foot setback. One neighbor, Malby, appealed the decision because the business was still visible from his house. After the fence was installed, Thompson met with Malby and staff, and he agreed to move the fence 50 feet back and even with the house. He agreed that the business was unsightly when he moved in, but he was not aware of all the regulations at that time. He was attempting to keep it clean and orderly. Senior Planner Heiser agreed that the fence defined the nonconforming area and told him the flaglot could be approved administratively. There is no change in the use or property configuration, and the house is on the other side of the fence.

**Bill Hupp**, 2626 SE Washington Street. He assured the City Council that this was a very significant issue for him and it was important to cover some crucial facts facing the City Council. He did not learn until this hearing what was being appealed. The Council must go by legal facts. He understood this was an emotional issue, but, at this time, flaglots are legal whether people like them or not. The nonconforming use of the garage for auto repair is also legal, and that

cannot be denied. The business is better kept and the fence is sight obscuring. Thompson is an honest and competent mechanic. He has been a long time Milwaukie resident who saved his pennies, so he could buy this property. Thompson's plan was to have a home next to his business, and this property offered this opportunity. Heiser worked with the applicant and advised Thompson that the business and house could be approved administratively.

Neutral Testimony: **Leona Goldsmith**, 3311 SE Olsen Street, asked why there was a business in a residential area.

Staff Recommendation: **Wright** said staff recommended that the City Council affirm the Planning Commission's approval of the Minor Land Partition and determination that the nonconforming use was not affected by the MLP.

**Councilor Kappa** asked if there was a business operation lapse of six months or more during the period mentioned on staff report page V.A.46.

**Wright** said records indicated an ongoing business at that location.

Appellants Rebuttal: **Walsh** was not aware of the rebuttal process, so she was not prepared. She requested clarification of the licensing process, applicant coaching by staff, and the application withdrawal action. She also wanted to know if there was a lapse in business. She sympathized with all parties who were confused with the process.

**Councilor King** asked, since the business has been at that location for about fifty years, what had changed to create this problem.

**Walsh** said perhaps people feel the business does not belong in the neighborhood, and they want to have a say in its continuing. Being grandfathered in is a privilege, and she was concerned with the criteria being applied to Thompson's business.

**Councilor King** asked for clarification of the grandfathering process.

**Wright** said staff researched the records and determined that an automotive business, with the exception of the rental house location, had been on that site since approximately 1940.

**Councilor Kappa** asked, for clarification, if the director determined that the fence established the boundary of the nonconforming use.

**Wright** believed the entire parcel could have been used for the nonconforming use with the exception of the rental house. The fence allowed the City to help the applicant concentrate his business to lessen neighborhood impacts.

**Councilor Kappa** asked if the nonconforming use applied to the entire property at the time, and **Wright** responded that she understood it did.

**Councilor Marshall** referred to the previous question about the issuance of a business license and continued operation without a six-month lapse. On staff report page V.A.46, the chronology indicates a license was issued in 1994 - 1995, but there was a letter stating that the license was not renewed for 1996. The next renewal was in May 1997.

**Wright** responded there was no nonconforming use approved for the site prior to the director's decision in 1998. Staff researched the issue of how long this business had been on that site.

**Mayor Tomei** said a nonconforming use is established in conformance with regulations that have subsequently been changed. When this auto repair business first opened, the owners did not need a nonconforming use.

**Wright** said there was no zoning code in the 1940's, and, therefore, there were no restrictions.

**Mayor Tomei** said this was established as a nonconforming use, but the business did not change, and the business existed prior to City zoning. She asked if the flaglot issue was a separate consideration.

**Wright** said Thompson does have property that is zoned R-7. He could, if he chose, partition the property further and build houses. The Planning Commission determined that the nonconforming use could be removed and the parcel could support another house in that zone. The Planning Commission determined that because the nonconforming use was segregated to one area of the lot, the partition of the other portion of the property was not affected.

**Mayor Tomei** restated for clarification that the Planning Commission initially found that the business had taken over the entire lot except for the rental house.

**Wright** said the director's determination found that the NCU was over the entire lot with the exception of the rental house. The determination confined the nonconforming use to one area for mitigation purposes. Thompson then determined he wanted to partition part of the property in order to build another house.

**Mayor Tomei** asked if these were indeed two different issues.

**Wright** said that was correct based on the Planning Commission's decision.

**Coleman** reminded City Council that it was not there to make a determination if there was a nonconforming use on the property. The director's 1998 determination made that decision, and the City Council did not need to reanalyze it. The City Council needs to make a decision on whether or not the MLP altered the NCU. The Planning Commission found that the MLP did not alter the NCU, and he referred to staff report page V.A.62 for the Commission's analysis of its decision. Commissioner Borden's motion stated there was no alteration in the use that is subject to NCU-98-04. The 1998 director's determination found that the use was confined to that portion of the property, and the partition does not change the property that was determined as subject to the nonconforming use.

**Councilor Kappa** asked if a nonconforming use could exist in a MLP or an MLP exist with the conditions of the nonconforming issue. He said it seemed like it was reversed. He understood the City Council was not there to decide if Thompson could keep his business or not, but rather to determine if the MLP can exist with the NCU.

**Coleman** said the issue is whether the MLP alters the NCU. The Planning Commission found that it did not. If the City Council finds that the MLP does alter the NCU, then a decision would have to be made based on whether the MLP modification results in no more of a detriment to the surrounding property than the existing use. The Planning Commission did not reach that level of analysis because it found the MLP did not alter the nonconforming use. The City Council is not here to determine if there is a nonconforming use or not because the director made that determination in 1998. He added that a six-month lapse in operation was not relevant to this decision. It has been decided there is a nonconforming use on the site, and there are two issues before the City Council based on Planning Commission determinations: does the MLP alter the NCU; and does the MLP application comply with regulations in existence at the time it was made. The existence of the nonconforming use is beyond the scope of what is under consideration at this meeting.

**Closure of Public Hearing:** **Mayor Tomei** closed the public portion of the hearing on the appeal of MLP-98-06/NCU-98-04 at 8:20 p.m.

**Discussion and Decision by Council:** **Mayor Tomei** reminded those in attendance that this was a nation of laws, and the City Council had to make its decision based on those laws. It was not a matter of how members feel about flaglots, neighborhood businesses, and traffic.

**Councilor Kappa** said, based on the City Attorney's comments, he was concerned the nonconforming use criteria was already established on the entire

property. The nonconforming use has already been established, and he believed the flaglot would be the issue upon which the City Council makes its determination.

**Coleman** said the MLP request must be determined on its own merit. The impact of approving the MLP could affect the continuation of the NCU if City Council disagrees with the Planning Commission's decision that the MLP does not alter the NCU. To find that the NCU does exist, does not rule out the MLP, since they are not mutually exclusive. If the City Council approves the MLP and believes that the NCU is altered, then the issue goes to the next step of analysis.

**Councilor Marshall** felt he needed to discuss the issue in executive session.

**Councilor Lancaster** commented that the entire discussion went beyond the scope of this application. The City Council needs to make its decision based on the letter of the law. Land use issues speak to the heart of the U.S. Constitution and property rights. He did not see, from his perspective, how Thompson's application could be denied.

**Mayor Tomei** had hoped the NDA would respond to the criteria, but she did not hear that. She heard issues about which she had concerns, but she did not think the criteria were addressed or the questions stated in such a way that the City Council would not uphold the Planning Commission's decision.

**Councilor King** heard there was a need for clarity with citizens at all times. This is a very complicated issue and a struggle for normal citizens to understand. She was concerned with the permit process and the citizens' belief that they cannot get the same answer on two consecutive days from staff. People perceive that the Planning Department favors one person over another, but citizens would want to have instructions as clear as possible when they make an application. The Department's job is to be open and honest with all parties and present possible options.

**Councilor Kappa** said the nonconforming use was established on the whole property. If the property is subdivided, then the determination must be made how that affects the nonconforming use. He contended that the MLP does impact the use by modifying the original agreement and providing additional property. In his opinion, increased density in the immediate area would be a detriment to the surrounding neighborhood.

**Councilor Marshall** pointed out he had invested thousands of hours to his community in order to make what he saw as needed changes, and some of them have occurred. People need to get involved and take the time to participate in their NDAs if they want to make a change or keep their neighborhoods the same. Democracy is a participatory form of government. People cannot wait until the next hearing; they need to be prepared for the next application. He assured people that Council would support more changes coming from the neighborhoods.

**Mayor Tomei** announced that the City Council would enter into executive session pursuant to ORS 192.660(1)(h) to consult with legal counsel regarding legal rights and duties in regard to current litigation or litigation that is more likely than not to be filed.

Mayor Tomei reconvened the regular session.

**It was moved by Mayor Tomei and seconded by Councilor Lancaster to deny the appeal of the Ardenwald Neighborhood District Association (NDA) affirming the Planning Commission approval of a Minor Land Partition and determination that the Nonconforming Use is not affected by the Minor Land Partition at 3406 SE Olsen Street, and adopt the Planning Commission Findings and Conditions of approval.**

**Councilor Marshall** said in the material and during the presentation there were references made to the fact that a section of the property was a nonconforming use and the other section was not nonconforming. It was as if there were two separate parcels. It was his opinion that a nonconforming use would impact the entire property as one contiguous piece of land. What triggered that concept was that the nonconforming use conditions of approval stated that the business had to be confined to the southeast corner and fenced. That determination did not mean it was separated from the rest of the property. He believed the Council should remand the decision back to the Planning Commission because it erred in its determination that the nonconforming use only impacted part of the lot, when it, in fact, impacts the entire property. The Planning Commission needs to reconsider the issue from that perspective.

**Mayor Tomei** respectfully disagreed. She believed when the director made the determination that the nonconforming use would be confined to a certain area that the fence defined that area. The determination placed the NCU at a very specific location on a .8 acre property. The idea could be expanded to say that, if there was a nonconforming use on one block, then the entire block would be nonconforming. She believed the City Council would be doing what the NDA accused staff and the Planning Commission of doing which is looking for loopholes. In this situation, she believed the City Council would be looking at a loophole if it upheld the appeal. She believed Thompson had shown a great

deal of effort to be a good neighbor by constructing the fence and confining his business to a small area. The business has been in that location for over fifty years. When people moved into the neighborhood, they knew what it was like. It seemed to her that Thompson had acted in good faith by confining his business to a small area and complying with what the City asked him to do. To deny him the right to develop a flaglot or continue his auto repair business, even though the City Council may not agree, would not be in keeping with the laws. She felt it was unfair and incorrect to say the whole property was nonconforming.

**Councilor Kappa** said he was not looking for loopholes. He was trying to make the law work to the best advantage of Thompson and the neighborhood. The facts are that the director made the nonconforming use determination on the entire property, not just the confined area. To alter that would be finding loopholes. He believed Marshall's was a very logical recommendation.

**Councilor Marshall** was not looking for loopholes but instead trying to critically address the criteria that a nonconforming use impacts the entire property and not just a portion. The Planning Director set conditions on the nonconforming use. She said the applicant could have the nonconforming use in one portion of the property, but she did not say the nonconforming use was not part of the entire property. He believed it was critical to look at the property as a whole, and looking at only one portion of that property created a loophole.

**Councilor Kappa** called for the question.

**Motion failed 2 - 3 with the following vote: Mayor Tomei and Councilor Lancaster aye; Councilor Kappa, Councilor King, and Councilor Marshall nay; no abstentions.**

**It was moved by Councilor Marshall and seconded by Councilor Kappa to remand the appeal to the Planning Commission for reconsideration based on the Council's interpretation that the nonconforming use applies to the entire property. Motion passed 3 - 2 with the following vote: Councilor Kappa, Councilor King, and Councilor Marshall aye; Mayor Tomei and Councilor Lancaster nay.**

**Coleman** said the City Attorney would prepare an Order for official Council action at the next meeting. This order would contain specific instructions for the Planning Commission, and the Council will determine if the Order is an accurate reflection of its decision.

**Protest Nuisance Abatement Notice for Property Located at 10409 SE 32<sup>nd</sup> Avenue**

**Mayor Tomei** called the public hearing to consider Mr. Griffith's protest that a nuisance exists on his property to order at 9:05 p.m.

The purpose of the agenda item was to consider a protest that a nuisance existed on property located at 10409 SE 32<sup>nd</sup> Avenue, Milwaukie.

**Staff Report:** **Wright** presented the staff report in which the City Council was requested to declare that a nuisance existed per Milwaukie Municipal Code Section 8.04.020 and to determine that the Building, Zoning, and Municipal Code violations at 10409 SE 32<sup>nd</sup> Avenue, Milwaukie, Oregon, be declared a nuisance under Municipal Code Section 8.04.135.

**Wright** reviewed the chronology of events regarding this property and copies of letters and citations that Mr. Griffith received. The packet also contained a summary of staff's contact with the property owner and the fiscal impact of cleaning up the site. There were several options upon which Council could act: it could move to declare that a nuisance does exist, or the Council may determine there is a reasonable doubt that a nuisance does exist and deny staff's request to abate.

The "Notice to Abate" was served on Mr. Griffith on June 17, 1999. The photos included in the packet were taken at various times during the process. Additional photos taken on this date indicated that the property owner had cleaned up some of the debris that was considered to be part of Griffith's business. Mr. Griffith did apply for a business license to operate an appliance and automotive business but was never granted this license because it was not in compliance with the zoning code.

**Wright** showed photos that indicated the most recent zoning violation had to do with the carport that came out to the edge of the property line. On corner lots in an R-5 zone, front and side yard setbacks must be 15 feet. This carport actually attaches to the house and comes out to the property line. The most recent pictures also indicated that Griffith had cleaned up some of the appliance and car parts, but staff does want to complete the cleanup and get rid of the zoning violations.

**Councilor King** understood from the packet information that the carport was constructed without a building permit.

**Wright** indicated that was correct, and, in this case, Griffith had not applied for a setback variance.

Correspondence: None.

**Councilor Kappa** asked how many violations were left other than the vehicle and the carport.

**Wright** responded Griffith would either have to apply for a variance or remove the carport in order to comply with building codes. He would also not be able to operate an automotive business on that site.

**Councilor Lancaster** asked about recreational vehicle storage.

**Wright** said those types of vehicles were required to be stored on the side of property, and no one was allowed to live in them. The RV is currently parked on the street, and she indicated that would be a separate action. The vehicle would have to be stored on the side of the property, but that could result in a vision problem.

**Councilor Lancaster** asked if there were screen requirements.

**Campbell** responded that the code requires that recreational vehicles be stored on a driveway or gravel surface on the property. Lots less than one acre may have only one personal pleasure craft or recreational vehicle stored. The boat currently parked in the yard creates a violation. The code also prohibits vehicle storage in the public right-of-way for over twenty-four hours. Griffith also has two trailers on his lot that are in violation.

**Councilor Marshall** asked if there had already been a judgment assessed.

**Wright** replied that the judgment had been assessed but was not paid.

**Bartlett** said the Council's action at this meeting was to determine whether or not a nuisance exists. If the City Council does determine a nuisance exists, then staff would follow through on the process.

**Councilor Marshall** noted that the determination was made in April, so the conditions illustrated in the photos taken today were not necessarily relevant to the facts City Council needed to consider.

**Bartlett** said the level of nuisance may be reduced. Staff has indicated there are still code violations existing on the property, and the City Council needs to determine if these are valid violations.

**Councilor Marshall** said the Council needed to look at the conditions on the property that resulted in Judge Gray's determination.

**Coleman** added that Judge Gray made his determination based on the evidence that was produced in municipal court. Since that time, some of the facts which gave rise to the court proceeding have changed. The City Council is being asked to determine if the nuisance exists today. The appliances and some debris that were part of the April court decision have been cleaned up, so those aspects no longer exist and are no longer a nuisance. Staff reports that the carport is still there and is a violation of the zoning code.

**Wright** said the zoning and building code violations still exist that include no provision for covered parking or off street parking for customers.

**Campbell** discussed the voluntary compliance process.

**Councilor King** understood the nuisance declaration still stood, and she considered today's photos a miracle.

**Councilor Lancaster** asked on how many current violations had Griffith received notice other than those that have been through municipal court.

**Campbell** said only those before the City Council at this time. From his expert opinion, he would only cite Griffith on the recreational vehicle and the trailers outside of the zoning and building code violations.

Audience Testimony: **Don Griffith**, 10409 SE 32<sup>nd</sup> Avenue. The carport was his main consideration because he did not want to tear it down. Several years ago, he contacted staff when he was first confronted about the carport. He did build it without a permit, so he tried to obtain a permit. Staff would not issue the permit because of the setback requirements. He then asked for a variance, but it was too expensive. Crumley told Griffith he would hold the notice, and if no one complained in six months, then staff would go from there. That was about five years ago, and Griffith indicated this was the first contact with the City since that time. He stated his willingness to comply with variances. He understood the setback was for safety, but, in his case, the carport did not block any views.

Staff Comments: None.

Questions of Clarification: None.

**Mayor Tomei** closed the public testimony portion of the hearing at 9:40 p.m.

Discussion among Councilmembers and Decision: **Councilor Marshall** explained there were several reasons for requiring a building permit in addition to circumstances under which variances are granted. One of the main safety concerns with building on the property line relates to fire hazards. In this instance, the property is adjacent to a lumber yard, so there is definitely a safety

issue to be considered. Generally, if a variance was granted, he believed it would require a concrete wall based on its proximity to a property line. He viewed the structure, and it was his opinion that Griffith would not be issued a building permit for the carport.

**Councilor Kappa** understood from Griffith's testimony that he could not afford the variance application fee. He asked if the City could help this person through a payment plan.

**Councilor King** appreciated those thoughts, but she was concerned about judging needs and asking other citizens to subsidize fees. She did not feel the City's fees were extraordinary.

**Councilor Kappa** was not suggesting subsidizing the fees but rather recommending a payment plan.

**Mayor Tomei** believed Councilor Marshall's point was good in that a variance would not likely be granted in this case.

**Councilor Lancaster** cautioned that the City Council not open the flood gates to all sorts of appeals to get around variances and other normal processes. These regulations are in place for a reason, and he was concerned about making policy decisions regarding exceptions and deviations.

**Mayor Tomei** commented, when looking at this notice to abate, she observed that Griffith was working on the outside storage issue. However, there were still the issues of customer parking, operating without a license, constructing the carport without a building permit, and building the structure in the front yard setback without zoning approval. She believed there was a nuisance, and it was appropriate to declare it as such.

**It was moved by Councilor King and seconded by Councilor Marshall to declare that the nuisance exists on the property located at 10409 SE 32<sup>nd</sup> Avenue, Milwaukie, Clackamas County, Oregon, per Section 8.04.020 of the Milwaukie Municipal Code. Motion passed unanimously.**

**Mayor Tomei** added that the City Council applauded Griffith for his efforts, but there are other issues to address on the notice to abate.

**Bartlett** said staff would contact Griffith explaining what needed to be done to come into compliance. The City seeks voluntary compliance in these cases. The progress in the past few days is a good demonstration of Griffith's intent to comply.

## **OTHER BUSINESS**

### **TCI Franchise Agreement -- Ordinance, second reading**

**It was moved by Mayor Tomei and seconded by Councilor King to read the ordinance adopting a ten-year franchise with Telecommunications of Georgia, Inc., to operate the cable television system in the City of Milwaukie effective July 7, 1999, for the second time by title only. Motion passed 4 - 0 - 1 with the following vote: Mayor Tomei, Councilor Kappa, Councilor King, and Councilor Lancaster aye; no nays; Councilor Marshall abstained.**

**It was moved by Mayor Tomei and seconded by Councilor Lancaster to adopt the ordinance adopting a ten-year franchise with Telecommunications of Georgia, Inc., to operate the cable television system in the City of Milwaukie effective July 7, 1999.**

**Councilor Lancaster** commented that he was voting to adopt this franchise agreement because it was something that needed to be done for Milwaukie residents. However, the cable companies give local jurisdictions very little choice. He did not like having local control taken away, but that is the situation.

**Councilor King** had concerns with large corporations having a lot of money and control. She also believed staff and counsel negotiated the best contract possible.

**Councilor Kappa** said he had a real concern when only a few companies nationwide control how and what people view and tell local jurisdictions what they can and cannot do.

**Motion passed 3 - 1 - 1 with the following vote: Mayor Tomei, Councilor King, and Councilor Lancaster aye; Councilor Kappa nay; and Councilor Marshall abstained.**

### **ORDINANCE NO. 1861:**

**AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO TCI CABLEVISION OF GEORGIA, INC., TO PROVIDE CABLE SERVICE WITHIN THE CITY OF MILWAUKIE.**

**Public Educational and Government (PEG) Access Fee  
Implementation -- Resolution**

**Herrigel** presented the staff report in which the City Council was requested to approve a resolution approving a monthly PEG access fee of \$1.00 per customer to be charged and collected by TCI and used by the City to maintain and upgrade its Institutional Network (I-Net) and Public Educational and Government Access (PEG) program.

This fee would be for capital support for PEG and I-Net in the City of Milwaukie. In return, the City agreed to provide TCI with an annual report on how these funds are used. The fee would amount to about \$72,000 annually. The City may need most of this amount to upgrade from coaxial cable to fiber to successfully move from the current Milwaukie studio-based public access program to an alternative.

There are currently four City facilities, the Milwaukie Center, and eight schools connected by I-Net. TCI has agreed to upgrade the coax system to fiber and lay the fiber at incremental costs to the City. When the trenches are open, TCI will lay fiber to those facilities, so the City's cost will only be for the fiber and labor. The City will not pay for the digging and refilling of the trench as it would if it chooses to wait. The estimated cost for fiber and incremental costs for the existing I-Net facilities was \$63,000. This nearly depletes the first year's fee collection. Additionally, each facility will need equipment to make the new fiber system function.

In eighteen months, the International Way studio will close, and it will no longer be operated by TCI. Staff is looking at alternatives for the existing studio for future Council consideration. Options include working with another PEG access system and purchasing a "suitcase" system that is loaned out on a day-to-day basis. The cost of the "suitcase" system was estimated at about \$50,000.

Additionally, the City will have expenses associated with its government programming that includes City Council meetings. Staff did not have an estimate at this time.

**Herrigel** pointed out that, based on early estimates, the City will exceed the monthly fees. Staff is recommending the \$1.00 monthly fee, but she suggested that fees may decrease once the system is established.

**Councilor Marshall** asked if the \$1.00 fee could be characterized as a fee that was previously incorporated into the franchise operating costs and that it was only recently isolated as a separate fee.

**Herrigel** said that was a fair statement. The system and the International Way studio are currently operating within the fees customers are currently paying. The rate will not change, and the additional \$1.00 fee will pay for capital when the City begins operating the PEG access.

**Councilor Marshall** said this cost would normally have been incurred by the franchisee.

**Gloria Creighton**, TCI Government Affairs Regional Director. She responded to Councilor Marshall's questions regarding the amount of money for studio operation and capital support that was embedded in the monthly charge. She indicated that was a situation TCI was willing to review and make Council and staff aware of what is included in the rates.

**It was moved by Councilor Kappa and seconded by Councilor King to adopt the resolution approving a monthly PEG access fee of \$1.00 per customer to be charged and collected by TCI.**

**Councilor Marshall** asked Creighton if she was willing to look into the situation to determine if the fee had previously been incorporated in the bill, and, that if it had been, it would not be broken out in future billings.

**Creighton** said she would provide the information, but she could not make that commitment.

**Motion passed unanimously.**

**RESOLUTION NO. 28-1999:**

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON,  
APPROVING A MONTHLY PUBLIC, EDUCATIONAL AND  
GOVERNMENT (PEG) ACCESS FEE OF \$1.00 PER CUSTOMER  
TO BE CHARGED AND COLLECTED BY  
TELECOMMUNICATIONS, INC., OF GEORGIA (TCI).**

**Dwyer Drive/36<sup>th</sup> Avenue/Snowhill Complaint**

**M. Bennett** presented the staff report on the portion of 36<sup>th</sup> Avenue between King Road and Harvey Street and the complaint brought forward by resident Dorothy Snowhill. She added that several members of the audience who had concerns with this issue had left the meeting due to the lateness of the hour.

She pointed out the revised staff report contained a letter from Associate Engineer Shelton to Ms. Snowhill regarding this project's Neighborhood

Traffic Management Program ranking. It also addressed studying the turning movements on Dwyer Drive at the entrance to the apartment complex and clarification from Providence Milwaukie that it had no record of making a commitment to pay for speed bumps.

Ms. Snowhill raised two primary issues relating to 36<sup>th</sup> Avenue and Dwyer Drive. One had to do with ownership of Dwyer Drive, and the second was under what conditions would traffic control devices be appropriate.

**M. Bennett** addressed the Dwyer Drive issue. Ms. Snowhill believed that, since Providence Milwaukie had never closed the street and that the City of Milwaukie sands Dwyer Drive in the winter, the street should revert to becoming a public right-of-way. In working with the City Attorney and hospital representatives, both the City and the hospital would like it to remain a private drive. The street is in very poor condition and would have high maintenance costs in light of the City's limited street repair funds. Because the hospital has not expressed a desire to dedicate and the City has not expressed a desire to obtain the street, it is still a private road. There are limited state statute references as to what it takes to maintain a private road, and Providence Milwaukie may establish its own maintenance standards. In spite of Snowhill's valid arguments, the City finds no evidence that Dwyer Drive has reverted to a public right-of-way. Staff recommends leaving the street as it is and to develop an agreement that would clarify the City's desire to sand the street as a public safety responsibility.

**M. Bennett** then addressed the issue of traffic control on 36<sup>th</sup> Avenue. Snowhill has expressed the desire for speed humps on 36<sup>th</sup> Avenue between King Road and Harvey Street. Her concerns are based on the finding that a majority of the traffic on 36<sup>th</sup> Avenue is hospital related. Snowhill believes the two traffic counts done on this portion of the road were flawed because one was done on one very slow day in January and the other was done during only a portion of a week in May during heavy rainfall. Bennett referred to the letter from Associate Engineer Shelton which analyzed the May 1998 study. A spreadsheet was attached that indicated the ranking of this project based on Neighborhood Traffic Management Program criteria. 36<sup>th</sup> Avenue between King Road and Harvey Street scored 12.52 points, and the City is working on projects that have scored 30 or more points. Staff found 36<sup>th</sup> Avenue traffic volumes to be low and speeds not above 30 mph which is the threshold speed.

Staff has an existing policy and program for ranking its street projects. When 36<sup>th</sup> Avenue between King Road and Harvey Street are run through the program, it does not score high enough to qualify for traffic calming. She suggested that the Council may also wish to consider that this is the

only local street that has an entrance to the hospital, and this may make it more unique. Staff did account for the hospital in the scoring process. Council may also consider approving traffic calming if no City funds are used.

Other issues in the memo include an indication from the hospital that it hopes to relocate the secondary entrance from 36<sup>th</sup> Avenue to King Road. Other traffic calming options may include a local improvement district for curb, gutters, and sidewalk since the hospital owns a substantial amount of property on the west side. This would make the street more narrow and encourage slower traffic. The City Council might also agree that the traffic studies were flawed and direct staff to conduct another study prior to making any other decisions. Other issues include the apartment complex traffic that could be directed to 32<sup>nd</sup> Avenue.

Snowhill's final concern was the legality of a hospital in an R-7 zone. The hospital applied for and was granted a Community Service Overlay (CSO) which permits institutional uses in any zone, including residential, as long as it meets appropriate criteria. The land use compliance is very clean, and the hospital meets all the conditions of its approval.

**Councilor Marshall** asked what amount of traffic was emergency vehicle access related.

**M. Bennett** did not have that information, but she did not believe those were the trips that concerned the neighborhood. She added that emergency users are not concerned about traffic calming. The City is concerned, though, that speed humps like those on Stanley and Wood Avenues are designed for 27 - 29 mph. If the 85<sup>th</sup> percentile speed is already less than 30 mph on 36<sup>th</sup> Avenue, staff had a concern that the speed humps would not result in any significant changes.

**Dorothy Snowhill**, 10281 SE 36<sup>th</sup> Avenue. She provided a map showing the dedicated portion of the street and the portion that was established as a private road. She referred to Planning Commission minutes dated March 7, 1967, that defined the private road. There was intended to be a five-foot sight-obscuring easement. The road has been relocated, but there is no copy of the survey or a map showing the present location of that portion that is considered a private road.

In response to Bennett's memo, the City based its response entirely on CSO-97-09 and TPR-97-10 on the assumption that a portion of Dwyer Drive was private because it did not show up on the assessor's map. Snowhill said she never objected to the City's sanding Dwyer Drive during an ice or snow storm. She did object, however, to using public funds to sweep and wash the center portion because it was a private road.

**Mayor Tomei** suggested that Snowhill schedule another meeting so Council would have sufficient time to review the material.

**Councilor Marshall** suggested staff contact the hospital to find out if they would pay for half of a traffic calming project.

**Snowhill** said she had contacted the hospital, and it was willing to pay for the full speed hump project.

**Councilor Marshall** also recommended finding out if the neighborhood was interested in forming a local improvement district.

**Snowhill** said no one in the neighborhood was interested in participating in a local improvement district.

**The group agreed to meet with Snowhill for 30 minutes during the August 2, 1999, work session.**

**Snowhill** said Heiser and Shelton attended the meeting with the hospital, and those notes should indicate the hospital's willingness to pay for traffic calming. The material dated June 22, 1998, was included in the material she provided.

### **Suspend Council Rules**

**It was moved by Councilor Marshall and seconded by Mayor Tomei to continue the meeting beyond 11:00 p.m. Motion passed unanimously.**

### **Milwaukie Downtown Development Association (MDDA) Contract**

This item was set over to the July 20, 1999 agenda.

### **Response to Traffic Safety and Transportation Board (TSTB) June 14, 1999 Motions**

This item, which Councilor Marshall removed from the Consent Agenda for discussion, was set over for work session discussion.

**City Council Goals**

**It was moved by Councilor Marshall and seconded by Councilor Lancaster to adopt the City Council Goals and 1999 - 2004 Strategic Directions. Motion passed unanimously.**

**Agreement to Allow Extension of Sanitary Sewer Service to Alleviate a Health Risk Prior to Annexation**

**Rouyer** presented the staff report in which the City Council was requested to authorize the Mayor to sign an agreement to allow for the extension of sanitary sewer service to 4325 SE Johnson Creek Boulevard prior to completing annexation proceedings. The City is in the process of updating its annexation code and is scheduled for Council consideration on September 7, 1999. The proposed agreement with this property has to do with a health risk, and she advised it would be in the City's best interest to pursue this agreement.

**It was moved by Councilor Marshall and seconded by Councilor Kappa to authorize the Mayor to sign an agreement allowing extension of sanitary sewer service to 4325 SE Johnson Creek Boulevard prior to completing annexation proceedings.**

**Councilor Lancaster** asked for clarification if this was a serious health problem and if there were other property owners in this situation that would have to be dealt with prior to annexation.

**Bartlett** responded said these properties are located in the unsewered area. The City is getting more contacts from residents who are either discovering problems with their septic tanks or who wish to sell their property and cannot do so until they are connected to the sewer system.

**M. Bennett** indicated there was one other property that staff believed needed immediate attention, but the others could likely wait until the code was adopted in September. Notice was just submitted to DLCD, so the City is 45 days out from adopting the code. After that the City will be able to annex prior to extending sanitary sewer service.

**Rouyer** added that the annexation ordinance will likely contain an emergency clause.

**Motion passed unanimously.**

### Renewal of City Manager's Employment Agreement

It was moved by Councilor Marshall and seconded by Councilor King to authorize the Mayor to sign the City Manager's employment agreement.

Mayor Tomei said the City Council considered three types of evaluations: the self-evaluation, achievements relating to Council goals, and an independent evaluation by each department head. She also pointed out that Bartlett was a 25-year member of ICMA. The Mayor reviewed the numbers of hours Bartlett worked and meetings he attended on a regular basis.

**Motion passed unanimously.**

Councilor King said most people do not realize how hard the City Manager works. He is a visionary and a planner and does a lot of behind the scenes work. When things go wrong, the Mayor and City Manager are held responsible.

Councilor Marshall commented that the letter read during audience participation was a personal embarrassment and an unfortunate misuse of free speech. The letter represented a fragmented misperception of facts, and the misleading amplifications of the misperceptions were a disservice to the community.

Mayor Tomei announced an executive session pursuant to ORS 192.660 to consider real property acquisition.

Councilor Kappa suggested that the Traffic Safety and Transportation Board (TSTB) be given the charge of reviewing the new draft Regional Transportation Plan (RTP).

### **ADJOURN**

The meeting adjourned at 10:55 p.m.

*Pat DuVal*

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Pat DuVal, Recorder



\*\*\* M E M O R A N D U M \*\*\*

June 29, 1999

To: Mayor and City Council  
From: Dan Bartlett, City Manager  
Re: Timothy Lake Conference

Action Requested

Please look over the attached information distributed by the County Commissioners at Timothy Lake.

Background

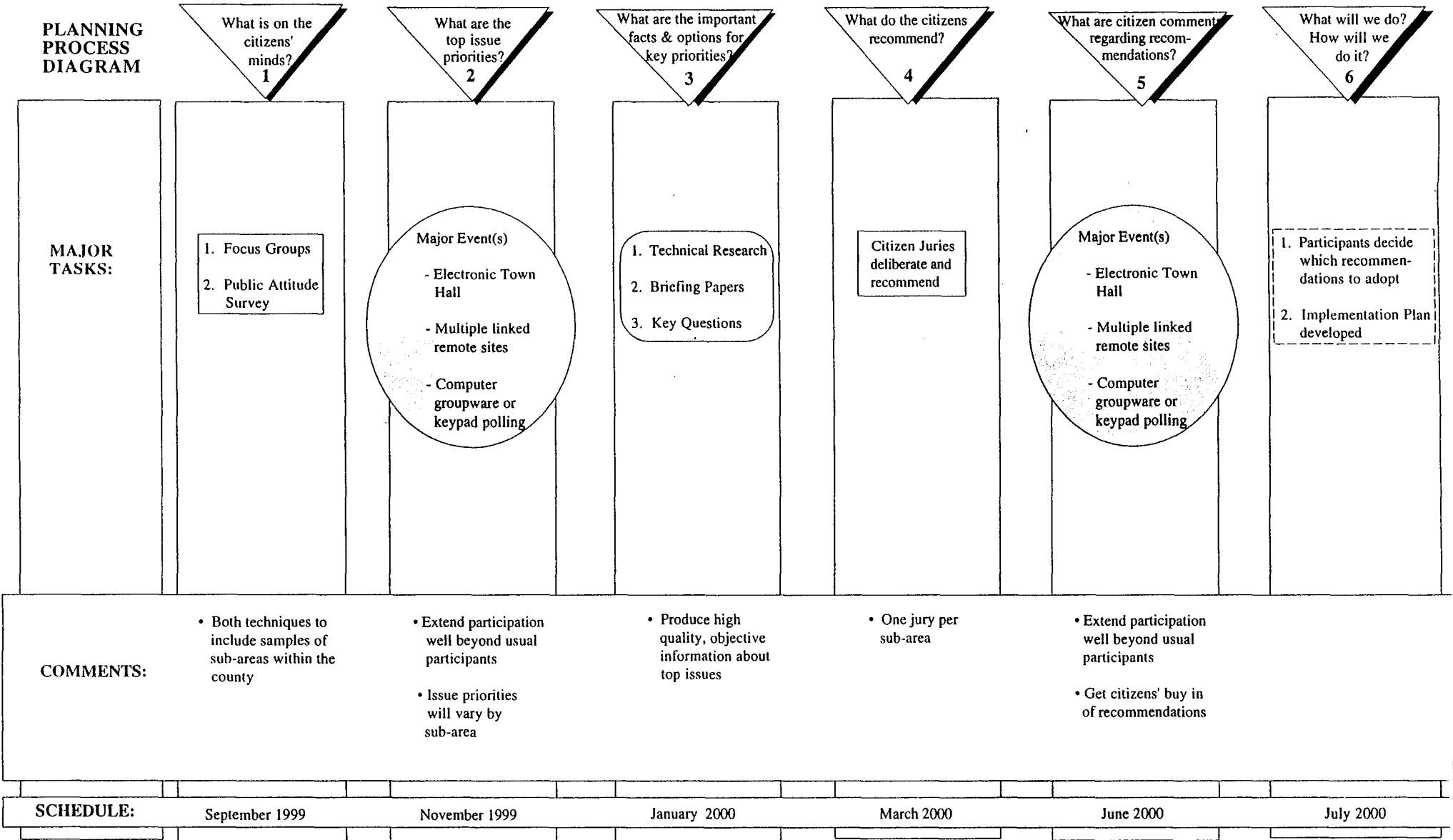
Carolyn and I attended the Timothy lake Retreat. The Commissioners presented the attached draft policy issue papers. More information about these processes will be released in a few weeks.

cc: File – cm2235/hd

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

# COMPLETE COMMUNITIES PROJECT - Draft

## PLANNING PROCESS DIAGRAM



**DRAFT**

## CONCURRENCY IN INFRASTRUCTURE

### A. Goal

We want to develop complete communities with adequate infrastructure. A public facilities strategy built around concurrency is viewed as a way to manage growth so that services are available to support the needs of new development and meets the goal of providing complete communities.

### B. What Does It Mean

Not allowing urbanization/development to occur without having the necessary infrastructure to serve the population. The infrastructure would be required to be consistent with a Capital Improvement Plan (CIP) and be either constructed or funded prior to development. There could be different subsets or layers depending on:

1. Geographical location.
2. Type of service.
3. Policy objectives to accomplish complete communities including attaining jobs and housing balance.

### C. What Does It Apply To

Capital facilities including:

1. libraries
2. parks and open space
3. public safety
4. schools
5. street lighting
6. surface water
7. transportation infrastructure
8. waste water
9. water

For purposes of the policy, level of service (LOS) would need to be determined for each service.

### D. Does it apply to all development

Requirements will be determined by the types of development in accordance with policy objectives and applied as follows:

1. Urban areas at land use stage.
2. Urban Reserves at zone change.
3. Rural areas at land use stage.

### E. Does it apply countywide

It will apply in all areas of the County but at different levels depending on the service needs defined in the public facilities strategy.

**STRATEGIC PLANNING COMMITTEE**  
*of the*  
**REGIONAL WATER PROVIDERS CONSORTIUM BOARD**

For more information contact:  
Lorna Stickel, 823-7502  
Dominique Bessee, 823-7528

**MEETING NOTICE**  
**June 17, 1999**

The Strategic Planning Committee of the Regional Water Providers Consortium Board will meet on Thursday, June 17, 1999 from 5:30-7:30 p.m. The meeting will be held in Conference Room 270 at the Metro Regional Center, 600 N.E. Grand Avenue in Portland.

The Strategic Planning Committee was established to assist the Consortium in developing a strategy to "jump start" the Fiscal Year 1999-2000 Consortium Work Program element on strategic planning.

At this meeting, the Strategic Planning Committee will discuss meeting logistics, and begin the discussion that will lead to development of a one to five year Consortium Strategic Plan for Board consideration by June 2000. Strategic Planning Committee meetings are open to the public.

**ACCOMMODATION OF PHYSICAL IMPAIRMENTS:**

*In order to accommodate persons with physical impairments, please notify the Portland Water Bureau of any special physical or language accommodations you may need as far in advance of the meeting date as possible. To request these arrangements, please contact Dominique Bessee at 823-7528. For the hearing impaired, please call the City of Portland's general TDD at 823-6868 with attention to Dominique Bessée at the Portland Water Bureau.*

**REGIONAL WATER PROVIDERS CONSORTIUM BOARD  
STRATEGIC PLANNING COMMITTEE**

Notes of May 20, 1999

Mike Rosenberger from the Portland Water Bureau called the Strategic Planning Committee meeting to order. Introductions were made. Meeting participants included District Board Chair Pat Stallings and Harvey Barnes from Rockwood Water PUD; District Board President Paul E. Rogers and Dale Jutila from Clackamas River Water; Councilor Rob Kappa from the City of Milwaukie; Commissioner Ron Blake and Tim Janssen from Mt. Scott Water District; Councilor Susan McLain from Metro; District Board Commissioner Jim Duggan from Tualatin Valley Water District; David Winship from the City of Beaverton; and Mike Rosenberger and Ross Walker from the Portland Water Bureau.

Consortium staff included Lorna Stickel and Dominique Bessée.

Ross Walker reviewed the Strategic Planning Committee (SPC) meeting agenda and the desired outcomes to: 1) confirm and clarify the SPC meeting summary materials, 2) agree on a recommended proposal to the Consortium Board, 3) select an individual to give the Consortium Board presentation, and 4) agree on materials to be included in the Consortium Board packet.

**Review of Meeting Summary and Chart-Pack Notes:** The Strategic Planning Committee (SPC) was invited to confirm or clarify the meeting summary materials for the last SPC meeting on May 5, 1999. There were no corrections to the meeting summary or chart pack notes, and the SPC confirmed that these materials were an accurate representation of activities at that meeting.

**Review of Proposal to Consortium Board:** The Strategic Planning Committee (SPC) reviewed the draft proposal prepared by Consortium staff based on discussion at the last meeting. The draft proposal indicates that the SPC was appointed to assist the Consortium Board in moving toward increased policy analysis and recommendation. The proposal identifies the purposes for strategic planning and the proposed role for the SPC.

Paul Rogers noted that the draft proposal recommends that the SPC to be comprised of "ten Board members with a geographic representation of the full Board, with three [members] from each county and a Metro representative." Mr. Rogers suggested that the current six-member Committee be allowed to continue for some period of time before changes are made to its composition.

Mr. Rogers suggested that language in the draft proposal could be more reader-friendly. He mentioned that Dale Jutila has prepared alternative language that will be shared after other members have an opportunity to provide feedback on the draft.

Pat Stallings recommended that "with a geographical representation of the full Board, with three from each county and a Metro representative" should also be deleted from that sentence in order to be consistent with the changes suggested. Ms. Stallings pointed to language in the draft

Consortium Board Strategic Planning Committee  
Minutes Notes from May 20, 1999 -- Page 2

proposal that indicates the SPC will select a Chair and Vice-Chair. She recalled comments voiced by some SPC members at the last meeting that Committee members be able to converse freely, unconstrained by formal procedures and structures.

Mr. Kappa and Mr. Rogers expressed an interest in the SPC working without committee officers. Mr. Rogers suggested that a meeting facilitator could be responsible for keeping the discussion on tract. Mike Rosenberger indicated that staff could provide facilitation services if deemed appropriate by the Committee.

Mr. Rosenberger explained that the draft proposal includes information regarding the composition of the SPC because staff recognizes that the Board may have input regarding the size and geographical representation of the Committee if the Board decides to assign as much responsibility as is being suggested in the proposal. He noted that the current structure of the SPC involves three members from Clackamas County, and one member each from Metro, and Washington and Multnomah Counties. Mr. Rosenberger talked about the benefits of increasing the Committee size to ten members.

Mr. Kappa commented that it may be necessary to expand the SPC membership at some future point, although he did not see deficiencies in the current composition. He commented that increasing the SPC size to ten members would be nearly comparable to having the entire Consortium Board at these meetings.

Mr. Rogers said that the size of the SPC could be increased at the future direction of the SPC or the Board. He said the SPC will have a regional focus and any subregional differences should be put aside.

Ms. Stallings noted that the upcoming Consortium Board meeting will be the first opportunity for the SPC to communicate as a group with the Board. She recalled discussion at the first SPC meeting about use of a "phone tree" to contact Board representatives about critical issues, and suggested that the draft proposal be modified to include this element. Ms. Stallings also suggested that the SPC contact Board members to request their support for the SPC proposal. The SPC decided to expand the final roles statement in the proposal to provide an example of how the Committee could serve as a communication link between Board meetings.

Susan McLain asked if there is a role statement for the SPC to assist in determining the future Consortium role and structure. Dale Jutila referred to the sixth statement for the SPC "to assist the Board in the assessment of longer-term issues associated with Consortium roles and structure, and to develop a one-to-five year strategic plan to direct work program/budget actions and to provide focus for the future role of the Consortium in regional water resource issues."

Mr. Jutila recommended removing "issues associated with" from that statement.

Mr. Jutila referred to the strategic planning purpose statement "to have more emphasis on policy recommendations for the region in terms of water resource issues that affect all (or a majority of) members." He noted that there was some controversy at the first SPC meeting regarding whether the Committee should address resource issues that affect all (or a majority of) the Consortium members. Mr. Jutila said the discussion outcome was for the SPC to decide whether to take a closer look at an issue based on criteria that would be developed as part of the work plan. He commented that the criteria should help to address any concerns that might exist about the Consortium being directive over the operational parts of individual agencies.

Mr. Jutila suggested changing "all or a majority of" in the strategic planning purpose statement to "its." Susan McLain voiced support for the proposed language change. Ms. Stallings suggested further modifying the purpose statement to delete "that affect its members."

Mr. Jutila suggested that a similar change be made to remove "affecting the majority of the member" from the SPC role statement to "be a gatekeeper to evaluate what goes to the Board so that priority policy issues are addressed with a focus on those issues that have broad implications affecting the majority of members." The SPC members voiced support for these changes. Mr. Rosenberger said the SPC will determine whether issues are regionally appropriate for the Consortium Board to address.

Mr. Kappa asked for information about the SPC role "to provide a better and more timely coordination linkage between members of the Strategic Planning Committee and other Board members between Board meetings." Lorna Stickel explained that the SPC could be used as a "sounding board" on important issues that might arise between the quarterly Consortium Board meetings. She said the SPC would not become a substitute for Board decision-making, but would provide an opportunity for staff to receive preliminary feedback from elected officials. The SPC agreed that this distinction will need to be emphasized during the SPC presentation.

Mr. Jutila distributed copies of proposed changes to the language and format of the draft SPC proposal. He indicated that these changes are being suggested to make the recommendation more reader-friendly.

Ms. Stickel noted that the proposed revisions do not indicate that the SPC will need to consider Consortium fiscal resources in carrying out its mission, or include resource needs in future organization proposals. Mr. Jutila said he believes this activity relates to operational issues which can be addressed as evaluation criteria are developed.

Ms. Stickel suggested replacing "establish" with "acknowledge" in the first proposed action by the Consortium Board. Ron Blake suggested replacing "by" with "to" in the third bullet of the mission statement. The SPC voiced comments in favor of these changes.

Ms. Stallings suggested that the revised mission statement recognize the SPC role to provide a communication linkage with the Consortium Board. There were no other comments about the proposed changes. The SPC agreed on the content of the recommendation.

Mr. Kappa suggested that the SPC elected representatives give the SPC proposal presentation to the Consortium Board. The SPC agreed with this approach, and decided to divide the Board presentation into three portions. Ms. Stallings will introduce issues related to strategic planning and background information, Mr. Kappa will discuss the purpose of strategic planning and proposed SPC roles, and Mr. Rogers will review the SPC proposal.

Ms. Stickel indicated that Consortium staff will refine the SPC proposal to reflect the feedback received. After some discussion about materials to include in the Consortium Board meeting packets, the SPC decided that Board members will receive the refined proposal and minutes for the last SPC meeting. The SPC discussed whether to include background information that was prepared to provide a context for the first SPC meeting, but did not reach a decision.

Ms. Stallings asked if Consortium staff determined whether it will be necessary to distribute a public meeting notice and minutes for SPC meetings. Ms. Stickel indicated while she has not contacted the Portland City Attorney's Office for an official response to this question, she feels confident that SPC meetings will need to be publicly noticed, particularly when the functions and purpose of this group are considered.

Ms. Stickel distributed copies of the draft agenda for the Consortium Board meeting on June 2, 1999. She noted that the Consortium Board will focus primarily on the SPC Recommendation at that meeting. The Board will hear an update presentation on the status of Consortium work program activities, and elect officers. Ms. Stickel mentioned that the current Consortium Board Chair and Vice-Chair have served the allowed two years and new members will need to be elected at that meeting.

Mr. Blake asked for a Consortium Board roster to be circulated to Board members in advance of the Board meeting. An updated Board membership list will be distributed with the Board agenda packets.

Ms. Stallings asked if the SPC should contact Board members in advance of the meeting to request support for the SPC proposal. The SPC agreed with this approach, and assigned each of the members present a list of members to contact.

Mr. Rosenberger asked for clarification about the proposed "gatekeeper" role for the SPC. He asked if the SPC will ratify Consortium Board agendas before being finalized. Jim Duggan said that he did not intend for the SPC to have veto power, but to help focus Board agendas so that the Board is spending time on priority issues. Councilor McLain suggested that the "gatekeeper"

Consortium Board Strategic Planning Committee  
Minutes Notes from May 20, 1999 -- Page 5

role statement be reworded to clarify the intent of this statement. After some attempt at word-smithing, the SPC decided that the intended meaning of this statement will be explained during the Board presentation.

There were no other questions. The meeting adjourned at 6:30 p.m.

Submitted by Dominique Bessée

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
JULY 6, 1999**

**MILWAUKIE PUBLIC SAFETY BUILDING**

Community Meeting Room  
3200 SE Harrison

**1818<sup>th</sup> MEETING**

**REGULAR SESSION - 6:00 p.m.**

**I. CALL TO ORDER**

**Pledge of Allegiance**

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

**A. Milwaukie Downtown Development Association Report (Jack Elder & Jim Bernard)**

**B. Clackamas County Commissioner Mike Jordan**

**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.)*

**A. City Council Minutes of June 14 & 15, 1999**

**B. Reject Bids for North Drywell Improvement Phase 1 ST-00-01**

**C. Response to Traffic Safety and Transportation Board June 14, 1999  
Motions**

**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.)*

**A. Appeal of a Planning Commission Decision -- MLP-98-06/NCU-98-04 to Create a Flaglot and Continue a Nonconforming Use at 3406 SE Olsen Street (Rouyer & Wright)**

**B. Protest Nuisance Abatement Notice for Property Located at 10409 SE 32<sup>nd</sup> (M. Bennett)**

**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. TCI Franchise Agreement -- Ordinance, second reading (Herrigel)
- B. Public Educational and Government (PEG) Access Fee Implementation -- Resolution (Herrigel)
- C. City Council Goals Adoption (Mayor Tomei)
- D. Milwaukie Downtown Development Association (MDDA) Contract (Bartlett)
- E. Agreement to Allow Extension of Sanitary Sewer Service to Alleviate Health Risk Prior to Annexation (Rouyer)
- F. Dwyer Drive/36<sup>th</sup> Avenue -- Snowhill Complaint (M. Bennett)
- G. City Manager Agreement Renewal (Mayor Tomei)

**VII. INFORMATION**

- A. Board and Commission Minutes
  - 1. Citizens Utility Advisory Board, May 5, 1999
  - 2. Library Board, May 24, 1999
  - 3. Riverfront Board, June 7, 1999
  - 4. Traffic Safety and Transportation Board, June 14, 1999
- B. Departmental Monthly Reports
- C. South Corridor Transit Options Study
- D. Correspondence to Contractors from City of Milwaukie Building Department Regarding Increase in State Surcharge Fees

**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.*

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION  
JUNE 14, 1999**

The work session began at 5:30 p.m. in the Public Safety Building Community Meeting Room.

Present: Mayor Tomei and Councilors Kappa, King, Lancaster, and Marshall.

Staff present: City Manager Bartlett; Assistant City Managers Bennett and Richards; Planning Director Rouyer; Program Services Coordinator Herrigel; and Brenda Bernards, Metro.

**Information Sharing**

1. **Councilor Marshall** announced he and Lancaster were going to participate in the Boy Scout "Dunk Tank" at Festival Daze.
2. **Councilor Lancaster** discussed Portland's Farmers' Market and the feasibility of a mid-week market in downtown Milwaukie.
3. **Councilor King** discussed the proposed year-round Volkswalk route in Milwaukie.
4. **Councilor Kappa** told the City Council that Milwaukie was being considered as a target area for the Metro Policy Advisory Committee outreach effort. He understood Metro was interested in speaking not only with Councils, but also advisory boards and neighborhood associations.

**Solid Waste Rate Review**

**Herrigel** presented the staff report that provided information on the solid waste haulers' rates of return. Based on the 12.2% rate of return before taxes for the calendar year 1998, no rate increase was requested by either staff or the haulers. Clackamas County guidelines state that if the operating margin is between 8% and 12%, then rates are not adjusted up or down.

**Councilor Lancaster** asked how the rate structure coincided with recycling.

**Herrigel** responded that recycling is incorporated in the actual collection and the revenue generated. Recycling does not even approach paying for itself. She added that rates are relatively standard throughout the region.

**Councilor King** asked if there was any new information on commingling recyclables.

### III. A. 2

**Herrigel** believed that the process was waiting for the City of Portland to decide on the type of material sort it wants to use.

**Councilor Kappa** asked how many jurisdictions would be deciding on commingling.

**Herrigel** said Washington and Clackamas Counties, the Cities of Portland and Gresham, and perhaps Troutdale and Wood Village would likely participate.

**Herrigel** added that Waste Management trucks have been modified with a new logo after the merger and wanted to clarify that Milwaukie does not have a new hauler.

**Councilor Lancaster** thought it would be positive to have an article in the *Pilot* about solid waste rates holding steady.

#### Title 3 Update

**Rouyer** provided the staff report. She noted the draft letter to Mike Burton from Mayor Tomei requesting a time extension resulting from staff transitions. The goal is to request that Metro allow an extension from the current compliance deadline of December 31, 1999, to July 1, 2000.

**Councilor Marshall** asked if there would be a problem in requesting additional time if needed.

**Rouyer** reviewed the tasks and believed the City could ask for more time if necessary.

**Councilor Marshall** explained that he made his suggestion so planning staff could put more time into other priority issues. He understood the City of Milwaukie was ahead of the curve at this time. If this Council deemed that there were other issues it wanted the planning staff to work on, he felt it would be appropriate to ask for a longer extension. He believed Title 3 was still a moving target.

**Councilor Lancaster** felt it was important to convey to Metro that the City was making consistent progress and not constantly deferring decisions.

**Bennett** felt staff was about two-thirds of the way to reconciling the existing regulations with Title 3. Erosion control and the Natural Resource Zone in the Comprehensive Plan address nearly the same issues.

**Councilor Kappa** discussed the inter-relationship between Title 3, the tree ordinance, the subdivision ordinance, and the riverfront/downtown plan.

The group agreed to authorize Mayor Tomei to sign the letter to Mike Burton seeking an extension to July 1, 2000, in a motion during the regular session. The group also agreed to evaluate the need for more time as the process continues and issues arise.

### Regional Center/Town Center Considerations

**Bennett** provided the staff report which sought Council direction on the City's request to be re-designated a Special Town Center from a Regional Center. Information from Metro staff indicates that the request is not likely to be granted. The January 19, 1999, letter that the Council approved for the Mayor's signature did not indicate what action Milwaukie wanted to happen if the requested re-designation was turned down.

The major impact of the being re-designated as a Town Center would be losing points in transportation funding. Bennett estimated the City would lose between 5 and 20 points in technical ranking depending on the category. The decision on the Regional Center vs. Town Center does not affect Milwaukie's ability to control the boundary of the Center. She suggested it might be a good idea to pull some of the single-family residences out of the boundary.

**Bernards** commented that there were at least ten Town Centers that have an equal or more compelling argument for the "special" designation, so Metro staff cannot recommend the "special" designation. The January letter did not give any other options if the redesignation request was denied, so she requested the City Council clarify that point to Metro Council.

**Bennett** said City staff recommends that Bernards go forward with the Special Town Center designation request. If the Metro Council rejects the request, then Metro staff needs to know if Milwaukie wants to be a Town Center or remain a Regional Center.

**Councilor Kappa** discussed the job targets and clarified that employment does not have to be in the Center itself and could be in the north industrial or other commercial areas.

**Bernards** said the City would have to plan for the employment capacity. If there is less housing inside the Center, the City will have to ask for an exception to the mixed use target.

**Bartlett** said, during the last discussion of the Special Town Center designation, the City did not believe it would mean too much in the Joint Policy Advisory Committee Priorities 2000 process. Now that he has seen the process work, he recommended that Milwaukie request becoming a Regional Town Center. The City controls what it is through its Comprehensive Plan and its vision document, so Milwaukie would not lose points in the transportation projects. In addition to

### III. A. 4

projects along Hwy. 99E and 224, work needs to be done on Harrison Street, King Road and 42<sup>nd</sup> Avenue, Lake Road, Monroe Street, Logus Road, and Railroad Avenue. These streets will need some kind of safety, boulevard, or main street improvements.

**Mayor Tomei** was concerned about getting fewer points and fewer transportation dollars.

**Bartlett** said the City will just have to work harder because of the competition for transportation funding in the region.

**Councilor Kappa** asked how the points related to dollars and cents.

**Bennett** said it is an issue of where a project ends up in the first cut. It will take longer and be harder to fund projects if the City is not at the top of the list. She added that there were twenty-nine Town Centers in the region.

**Mayor Tomei** asked if Metro would require anything more of the City of Milwaukie as a Regional Center than it would a Town Center.

**Bernards** understood the City was not asking for a reduction in its targets. She added that the RUGGOs allow Regional Centers to evolve over time. Metro is mostly interested in seeing a boost in employment numbers. The same holds true for all of Clackamas County because of a very real job shortage.

**Councilor Lancaster** asked if employment was not something separate from the designation.

**Bennett** said it was not really relevant to the designation.

**Councilor Lancaster** recalled there was a fundamental flaw in the computation of the employment targets.

**Bernards** believed the disagreement was in how the numbers were calculated in the capacity analysis.

**Councilor Lancaster** asked, if Milwaukie were under a Regional Center designation, would there typically be a higher performance expectation?

**Bernards** referred to transportation funding and said that higher densities also gather more points. It is not just being a Regional Center. Milwaukie's densities are in the Regional Center range. Milwaukie, though, is low on jobs. What is being done on the waterfront is moving toward a regional draw, and the work on McLoughlin Boulevard will help connect the water to the town. Metro believes the TGM grant will assist in connecting the downtown and the riverfront. She thought Milwaukie was already moving toward what a Regional Center is,

although it may be smaller and have a different draw. The Town Center, since Milwaukie is not proposing to change the work it has done, is more of a name change than a substantive-type of change. Milwaukie can call its downtown what it wants in its plans even though it is called a Regional Center on the Metro maps.

**Councilor Kappa** said job numbers is a chronic problem in Clackamas County, and he asked how the City could be penalized.

**Bernards** said she did not believe there was a penalty. There are large portions of Milwaukie that were not examined for job potential, so Metro is saying it does not believe the City is done looking for opportunities. The alternative would be to ask for a 50% target reduction.

**Bartlett** commented that staff's work load prevented it from completing the north industrial area study.

**Mayor Tomei** understood the fear was that, if Milwaukie had the Metro designation, it would somehow be required to have more density. Milwaukie clearly wants to stay a small town.

**Bernards** indicated the planning exercise provided sufficient density which seemed to be satisfy the citizens at the time. The downtown can address the density targets, and it is up to the cities to determine the boundaries. The job shortfall needs to be dealt with under either designation. Densities and jobs are connected in the overall regional picture.

**Councilor King** noted that Bernards had mentioned six-story structures in Hillsboro and asked if the City of Milwaukie had anything that high in any of its zoning.

**Bernards** said the six stories in Hillsboro were in one small area. She believed Milwaukie's highest structure was four stories.

**Bennett** said, in a sense, the City indicated it would implement the Regional Center Master Plan as a Town Center. If Milwaukie is not changing the Plan, all that is being changed is the designation.

**Bernards** pointed out the Plan provides guidelines and not hard rules, and the vision is Milwaukie's choice, not Metro's.

**Councilor Marshall** heard Bernards' point that the process was one of evolution, and allocations may change in the next round of transportation funding. Residents sent a clear message, which is why the current Council is seated, that they want Milwaukie to remain a small, suburban community. People have said time and time again that they want to be a Town Center, and for that reason, he

### III. A. 6

did not believe it was prudent for this Council to base its long-term community vision on the short-range goal of transportation funding. He had spoken with Andy Cotugno and Rod Sandoz, and both confirmed that of the forty technical points, 2040 compliance was allotted five. Transportation funding is a moving target, and the criteria could easily change in two years. The Council voted in favor of being a Town Center once, and it was only through negotiation and compromise that the City requested the Special Town Center designation. He felt the City Council should send a clear message to Metro and the community that Milwaukie will stay a small Town Center.

**Councilor Kappa** was concerned that money would be lost in future talks with entities such as ODOT.

**Councilor Marshall** said the point was valid, but Milwaukie got funding for McLoughlin Boulevard because the region realized something needed to be done. Milwaukie also has two Regional Centers within a ten-mile radius, and each will, in time, need transportation improvements. Milwaukie is the gateway, so he could think of no reason that the City would not get funding for its segment.

**Councilor Lancaster** said, if there were ten communities that could make a compelling case to be a Special Town Center, that might indicate the need for another tier in the rating system. The region may need to look to a more fair approach that would include a new classification. He understood the new Metro Council wants to be more flexible and approachable.

**Councilor Kappa** commented that ODOT offered one McLoughlin Boulevard scenario, and that might be the only option Milwaukie would have as a Town Center. Perhaps the new Metro Council might be open to considering new designations.

**Bernards** said the redesignation request is still at staff level and has not gone to the Metro Council. Her staff report would not recommend the special designation, but the Metro Council makes the final decision.

**Bennett** said staff would still forward Milwaukie's request to the Metro Council, but there still needs to be an option if the proposal is rejected.

**Councilor Marshall** said the City Council already made its decision on being a Town Center.

**Mayor Tomei** and **Councilor Kappa** agreed the City would lose points for transportation funding and believed this was an edge that was owed to the citizens.

**Mayor Tomei** thought the City Council needed to be practical by being a Regional Center. Milwaukie can still be a small town as the citizens were promised. The designation will not impinge upon Milwaukie's developing as it sees appropriate.

**Councilor Kappa** requested that Cotugno's comments be provided in writing.

**Councilor Marshall** discussed the two-year review period during which time regional transportation needs and dynamics would be evaluated.

**Councilor Lancaster** recalled that funds would be awarded within the designations based on merit.

**Bennett** said the money is all in one big pot, and the technical scoring and density establishes the project cut list.

**Councilor Lancaster** asked how the region could possibly be served if a street like McLoughlin Boulevard, one of the worst in the region, was not improved because it did not get enough points.

**Councilor Kappa** responded that McLoughlin Boulevard will be redone, but ODOT may make the improvements without the City's input relative to the riverfront/downtown plan.

**Councilor King** understood the funds for McLoughlin Boulevard were already allocated. She asked, if the City of Milwaukie changes how it wants McLoughlin Boulevard to look through its riverfront/downtown plan, if the ODOT money would be available for the new design.

**Bennett** said the money has to be committed in three years, so the City needs to make sure the project is designed within that time period. Whether ODOT will be open to the designs under consideration is unknown at this time. She did not believe already-funded projects would be impacted by a re-designation.

**Bartlett** said he determined by the scoring matrix that the City benefited from its current Regional Center designation.

**It was moved by Councilor Marshall and seconded by Councilor Lancaster to reaffirm the position that, if the City of Milwaukie is not given its requested Special Town Center designation, then wants to be designated a Town Center.**

### III. A. 8

**Councilor King** was concerned that there were no guarantees that the Regional Center designation would not impact Milwaukie's planning and densities.

**Mayor Tomei** reminded the group that Burton told the City Council that Milwaukie would not be required to change its density. He said publicly that it was all Milwaukie's choice.

**Motion passed 3 - 2 with the following vote: Councilor King, Councilor Lancaster, and Councilor Marshall aye; Mayor Tomei and Councilor Kappanay; no abstentions.**

**The item will be considered on the regular session agenda for formal action.**

**Councilor King** suggested staff prepare a second letter to Metro recommending an additional tier to address Special Town Centers.

**Bennett** said the City Council could direct staff to do so, but the consequence could be re-opening the entire 2040 process.

**Councilor Kappa** said he would not be opposed to re-opening the *2040 Plan* because he had serious concerns with the urban reserves.

**Councilor Marshall** added that the purpose of the targets was to determine what needed to be done with the Urban Growth Boundary.

**Bernards** commented that Milwaukie might need to lobby other cities to get support for the Special Town Center designation.

#### Work Session Open Forum

**Councilor King** discussed the idea of having a citizen open forum during one Council work session each month. The purpose would be to have a dialogue between the full Council and its citizens.

**Bartlett** said there would be certain topics, such as land use applications and labor management issues that could not be discussed.

The group discussed potential citizen attendance and how to structure the sessions.

**Councilor Marshall** provided draft amendments to the 1999 Agenda Forecast.

**Councilor Kappa** asked if union members could make presentations.

**Bartlett** responded union members could discuss general management issues.

The group agreed:

- First open forum on July 19 work session agenda.
- Handouts at meeting listing issues that may and may not be discussed in that type of forum.
- Advertise the sessions in *The Pilot* with a list of appropriate and inappropriate topics.
- Limit sessions to 30 minutes.

### Council Goals Work Plans

**Bartlett** discussed how critical it was to have a strategic plan. He reviewed the packet that included a summary of neighborhood visions and draft Council goals that incorporated individual member's comments.

**Councilor Marshall** said this related to his earlier questions regarding the agenda forecast and available staff time.

**Councilor Kappa** did not want to step too far back from the regional issues.

**Councilor Marshall** felt it was important to work closely with the boards and commissions so they could take on some of the responsibilities for carrying out Council's goals. He felt this would also raise the level of involvement and challenge the members.

**Councilor Kappa** believed board and commission roles would feed off the kinds of services the City determines it will provide. The City needs to continue finding ways to provide better service while holding down the costs. This may mean that some services are contracted.

**Councilor Marshall** understood Councilor Kappa to say this had to do with the vision statement. For example, if there is a regional water issue, Citizens Utility Advisory Board (CUAB) members could attend the meetings and report to the City Council.

**Councilor Lancaster** said the goals speak to the implementation of the vision statement. The boards and commissions need to be given direction on how they function in order to sustain the Council goals.

**Bartlett** said the vision and mission statements need to build a broader participation process including boards and commissions and the Neighborhood District Associations (NDA). He suggested an evening or Saturday session to get public input on the document.

The group agreed the session need to take place this summer and directed staff to determine several dates.

**Councilor Kappa** suggested inviting Milwaukie's Metro Councilor to the session.

**Councilor Marshall** said the City Council needs to meet with its boards and commissions on a regular basis. It was not his goal to add more staff time. He felt the benefit of allowing the board and commission members to do more of the work would outweigh the risks. Other issues, such as the Citizen Involvement Committee and the Tree Ordinance, also need to be addressed.

The group discussed staff attendance at the board and commission meetings. **Mayor Tomei** believed it was important to have a staff person present in order to close the loop and provide communication to the City Council.

**Bartlett** suggested that board and commission members could be responsible for doing significant research work. He noted that the Traffic Safety and Transportation Board (TSTB) had almost completed its Neighborhood Traffic Management Program review and would be ready for a new assignment. He suggested the Board work on tying up the loose ends of the School Trip Safety Program (STSP) so the next round of projects could begin.

**Councilor Lancaster** recommended the boards be given specific charges to be accomplished within an identified timeframe.

**Bartlett** discussed the benefits of giving work or problem solving groups a limited time in which to make a recommendation.

**Mayor Tomei** suggested giving the TSTB 90-days to make a recommendation on the STSP after the NTMP revisions were completed.

The group discussed the importance of forming groups around identified problems.

**Councilor King** liked the idea of getting NDA members involved in short-term problem solving with the advisory groups.

**Councilor Lancaster** suggested that the Citizen Involvement Committee (CIC), in addition to running the neighborhood grant program, act as a clearing house for these types of ad hoc committees.

**Bartlett** said staff could begin work on a CIC ordinance. He discussed identifying implementable pieces within the long-range plan.

**Bartlett** reviewed the draft goals and asked for Council input on his interpretation of the objectives.

The group referred to staff report page WS.8.8. **Councilor King** felt it was important to emphasize the City wishes to involve both citizens and youth in its programs.

The group discussed compatibility of Council and Neighborhood District Association (NDA) goals. **Councilor Kappa** felt the goal needed to be written in a way that showed the Council was together with its boards and commissions and its neighborhoods. To him, it was written in a way that implied that everything needed to be compatible with Council goals.

**Councilor Lancaster** suggested the goal be written "Encourage support board, commission, and neighborhood goals that are consistent compatible with Council goals...." The group accepted that amendment.

**Bartlett** referred to the downtown/riverfront goal on staff report page WS.8.7. He explained that the objectives were essentially from the Crandall contract. The objectives relating the Jr. High School Site Plan, Kellogg Treatment Plant, and implementing actions were outside the scope of the current contract.

**Councilor Marshall** wanted clarification on the movement to remove the treatment plant. When does the process begin?

**Bartlett** said the process has already begun.

**Councilor Marshall** asked if it was really prudent for Clackamas County to be investing \$3 million in odor control if it intends to close the facility.

**Mayor Tomei** assured Marshall that the neighbors communicated they did not want any improvements made that would extend the life of the plant. The initial Clackamas County proposal was scaled back. The document she read indicated there was nothing in the County's current proposal that would keep the plant open longer.

**Bartlett** discussed diverting heavy industrial wastes to Tri-Cities. It is conceivable that implementation of the \$3 million odor control project should be slowed long enough to find out if the diversion of food processing wastes takes away some of the odor and brings the plant down below operating limits. There are general assurances from County staff that the timing will be such that the District will not be extending the life of the facility. It is important to make sure that the City does not get caught up in the argument that it should reimburse the District because the County spent \$3 million on a facility with a ten-year life.

**Councilor Marshall** asked for Council concurrence on reactivating the Milwaukie Junior High Community Center Steering Committee. The Committee members were Sharon Van Horn, Gary Michael, Irene Park, Kathleen Butler, and others including himself. There seems to be some consensus that this group should begin meeting again to plan on how the property can be acquired for public use.

**Bartlett** suggested an ad hoc planning committee that would begin meeting in the fall. He suggested representation from the Historic Milwaukie Neighborhood District Association (NDA). The current work scope with Crandall is funded through 2001, and acquisition and planning for this property is high on the list of things the City wants to do.

**The Council concurred with reactivating this Committee and that staff would re-establish the contacts.**

**Councilor Kappa** was concerned that another committee was being created before the Council had adopted its Vision, Mission, and Goals in addition to another setting up another project for staff to handle. He was concerned about the timing. Additionally, he believed that the problem of crossing McLoughlin Boulevard was the primary concern at this point of the project.

**Bartlett** said the initial Committee was a political action group formed around the objective of finding a party interested in purchasing the property. As a result of this activity, the City began negotiating with the School District to purchase the property for public use. He discussed the March Presidential Primary and the November General Election in 2000. If the City does put forth a money measure, it will have to be on one of these ballots.

The group discussed the Capital Improvement Plan (CIP) presentations to the neighborhoods to find out how residents would prioritize projects. There seemed to be support from the neighborhoods for the "smorgasbord" approach to capital projects.

**Mayor Tomei** referred to staff report page WS.8.8 and said she did not agree with increasing the NDA grants up to a total of \$10,000 per neighborhood.

**Councilor Lancaster** had made the suggestion that the grants be increased by \$1,000 annually up to a total of \$10,000 for qualified uses such as neighborhood beautification, not parties.

**Bartlett** suggested that the Citizen Involvement Committee could improve the grant criteria. Gregory will come before the City Council in August with a proposal for new criteria.

**Bartlett** referred to staff report page WS.8.6 and asked if there were any revisions.

**Councilor Marshall** asked for clarification of the term "design review process."

**Bartlett** understood the objective was to develop ordinances and a Design Review Board or Committee. There will be a different design review process for the downtown which may or may not be the same board or committee.

**Councilor Marshall** said design review could also be considered a performance review which is structured around meeting certain criteria while not being too specific.

**Bartlett** said he would prepare a resolution adopting goals for the Council's July 6, 1999, meeting. Then the Mission, Vision, and Goals process would begin with components of the adopted goals communicated to groups such as the Junior High Site Committee. He would work with Crandall to add downtown/riverfront-related goal activities to his scope of work.

**Bartlett** provided information for the June 15 executive session and a staff report on the neighborhood appeal fee waiver.

**Councilor Marshall** discussed re-allocating priorities in upcoming work sessions, and he suggested a work session to make up for the July 5 holiday. On the July 19 work session, he recommended eliminating the American Cancer Society presentation. He also suggested that the North Clackamas Parks and Recreation District (NCPRD) and Milwaukie Downtown Development oral presentations were not a priority, and reports should be submitted in writing.

**Bartlett** said the Citizens Utility Advisory Board (CUAB) was working on storm and sanitary sewer rate increases. He suggested that if the board has thoroughly reviewed the topic, then the item should go on as a public hearing without work session time. The topic, however, may be moved back to January depending on discussions with Oak Lodge and Clackamas County. The group agreed to have a work session only if requested by the advisory board.

The Park and Recreation Board will meet with the Council in work session on August 2 and the Traffic Safety and Transportation Board (TSTB) on August 16. The group discussed presentations and the desire for making them as succinct as possible.

The group agreed to have the American Cancer Society presentation on July 19 and limit it to 20 minutes.

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**Bartlett** said there was an annexation code on the August 3 agenda to address Elk Rock Island and those citizens who are requesting annexation. The sewer rate will stay on the September 20 agenda. Councilor King reminded staff that Michael Jordan needed to be contacted so he could be introduced to the public during a regular session. The MDDA contract should be up for adoption at the July 6 meeting. The Riverfront Board/Crandall Arambula work session was tentatively scheduled for October 18 depending on Festival Daze input.

The work session ended at 8:50 p.m.

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Pat DuVal, Recorder

**MILWAUKIE CITY COUNCIL  
REGULAR SESSION  
JUNE 15, 1999**

The one thousand eight hundred and seventeenth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the Public Safety Building Community Meeting Room. The following Councilors were present:

Rob Kappa  
Mary King

Larry Lancaster  
Jeff Marshall

Also present:

Dan Bartlett,  
City Manager

Jan Gehlen,  
Finance Director

Gary Firestone,  
City Attorney

Alice Rouyer,  
Planning Director

Charlene Richards,  
Assistant City Manager

JoAnn Herrigel, Program Services  
Coordinator

Martha Bennett,  
Assistant City Manager

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPOTS, AND AWARDS**

**Mayor Tomei** read a letter from Adam W. Lis thanking the Ledding Library staff for encouraging his son Adam's interest in geography. Adam recently won the Oregon State Geography Bee.

**CONSENT AGENDA**

**Councilor Kappa** wanted to pull Item B -- *1999 - 2000 Salary Schedule* and Item E -- *Johnson Creek Policy Committee and Memo of Understanding to "Other Business"* for discussion.

**It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the balance of the consent agenda that consisted of:**

1. City Council Minutes of May 25 and June 1, 1999
2. 1999 - 2000 Waterline Improvement -- Phase 1 Bid Award
3. Resolution No. 23-1999: Blanket Purchase Orders for Fiscal Year 1999 - 2000

**Motion passed unanimously.**

### AUDIENCE PARTICIPATION

**Richard Cayo**, Johnson Creek Blvd., commented on Mayor Tomei's response to his May 4, 1999, letter. Her letter was dated June 1, but he received it until June 12. It also mentioned an enclosure that was not included. He referred to the Mayor's expressing her regrets about certain issues, but Cayo said people expect result.

He previously stated that the City of Milwaukie had nothing to be proud of, so he offered his planes in the spirit of good citizenship. He discussed how other aircraft museums around the country preserve history for future generations to enjoy. It seemed that neither the Council nor the City Manager were willing to let residents decide whether or not they wanted this type of museum.

The paragraph in which Mayor Tomei recommended what he should do with the planes was almost verbatim from Bartlett's earlier comments. Finding something for Milwaukie residents to be proud of is the problem.

The next paragraph responded to his offer to trade property for a permit to construct a six-foot fence on Johnson Creek Boulevard to buffer noise and keep people off his property. Cayo found it very strange because other cities make this type of mutually beneficial agreements. The response that the City of Milwaukie does not make variances based on property offers seemed naïve. He has withdrawn his offer, so it is no longer an issue.

The last paragraph referred to a staff report that was not included in the letter. He was eagerly awaiting the answers contained in that report.

In summary, he felt that, while the City Council continues to ask for citizen involvement and participation, input was actually being discouraged. He said the current situation with the Traffic Safety and Transportation Board (TSTB) was just such an example. The City has new buildings, and City Hall and the Ledding Library are being remodeled. A lot of tax dollars are being spend, and people are getting nothing in return. Civil servants get great working surroundings, but there seems to be no accountability. People get the bills, and civil servants get everything. He did not feel it was fair, and he intended to do something about it.

He requested the total salary and benefit packages for Bartlett, M. Bennett, and Richards.

**Councilor Kappa** wanted the record to show that the City Council endorsed the Mayor's signing the letter to Cayo. The City Hall HVAC update was approved almost two years ago by the previous Council.

**Linda Hatlelid**, 8617 SE 36<sup>th</sup> Avenue, was disappointed to hear at least two Councilors state they were concerned about jeopardizing Johnson Creek Boulevard Project Phase 3 by requesting changes. It seemed as if the dollar took precedence over the wishes of property owners. She believed the 40-foot right-of-way proposal could be done in such a way as not to jeopardize Phase 3 funding.

Recently, 80% of Johnson Creek Boulevard property owners just wanted the street to be repaved. A multimodal road with travel and bike lanes, curbs, and sidewalk on the south side can be accomplished in the existing 40-foot right-of-way. She believed M. Bennett had the skills to successfully present this idea to the City of Portland and ODOT.

**Hatlelid** reviewed the history of the project. In 1989, Metro responded to Ardenwald neighborhood residents' concerns by saying the project could be accomplished with minimal right-of-way impacts. She urged eliminating the northern sidewalk.

In a 1995 memo, Maggie Collins stated that most residents wished to discourage increased traffic volumes on Johnson Creek Boulevard. The final decision was to design an improvement with minimum acceptable lane widths so increased traffic in the residential area was not encouraged. The memo also referred to traffic safety mitigation with sidewalk, curbs, improved roadway alignment, bike lanes, storm drains, and lighting. She believed a sidewalk on the south side only was consistent with the bigger picture.

The February 1991 Street Improvement Project stated that the plan will be determined jointly by Portland, Milwaukie, the Ardenwald Neighborhood District Association (NDA), and affected property owners. This is why people will listen and support Bennett. The 40-foot right-of-way can meet current multimodal and ADA design guidelines. Sidewalk on one side of the street is consistent with other construction in the Milwaukie area.

The original intent of the Tacoma overpass was that the I-205 and McLoughlin Boulevard connectors would not make Johnson Creek Boulevard a thoroughfare. Another reason to advocate for no sidewalk on the north side was the fragility of the slope and proximity to residents' front doors. The 40-foot right-of-way would have less impact on trees, shrubs, foliage, and existing landscaping. At least 125 trees are scheduled to be removed in Phase 3 with the 44-foot right-of-way. Various portions of the July 1996 Metro Regional Transportation Policy (RTP) state that protecting the region's natural environment and neighborhood livability in the transportation planning process is fundamental. She believed a narrower road surely fit this philosophy.

Phase 3 needs to be completed in order for Phase 2 to actually function. Almost \$1.2 million has already been spent on the first two phases. She did not believe funding would be lost for Phase 3. Johnson Creek Boulevard can be a multimodal road within the existing right-of-way and address neighborhood livability, traffic and safety, and funding. It is a livability issue, and M. Bennett needs to show support.

## **PUBLIC HEARING**

### **Fiscal Year 1999 - 2000 Budget Adoption -- Ordinances and Resolutions**

**Mayor Tomei** called the 1999 - 2000 budget adoption hearing to order at 6:15 p.m.

The purpose of the hearing was to consider an ordinance and resolutions which are required to be enacted prior to the beginning of fiscal 1999 - 2000. Mayor Tomei reviewed the conduct of the hearing.

Staff Report: **Bartlett** presented the staff report in which the City Council was requested to adopt an ordinance and resolutions required to adopt the 1999 - 2000 City budget. The budget appropriates \$37,818,175 and utilizes the full permanent rate of \$6.5379 and also includes \$477,294 to retire the bonded indebtedness on the Public Safety Building. The City Council may reduce the budget by any amount but not increase it or any fund by more than 10%.

**Gehlen** noted three budget changes: two were within funds for carryover projects, and the third was a reduction in Fleet Services to balance the general fund transfer reduction.

**Councilor Lancaster** asked for clarification if the new adjustment to the permanent tax rate was the final effect of Measures 47 and 50.

**Bartlett** said the impact was on the current fiscal year. The proposed 1999 - 2000 budget was approximately a 1% increase over fiscal year 1998 - 1999.

**Councilor Kappa** asked if the Fleet Reserve budget would still meet its objectives, and **Gehlen** responded that it would.

**Mayor Tomei** reviewed the budget process including Budget Committee hearings with public testimony. Some of the budget allocations, such as the library budget, were increased in response to citizen input.

**Bartlett** added that the \$180,000 Olsen Street waterline project was in response to the Ardenwald Neighborhood District Association's request that this improvement be done in conjunction with the curb and sidewalk project.

Correspondence: None.

Public Testimony: None.

Close Public Hearing: **Mayor Tomei** closed the public testimony portion of the hearing at 6:18 p.m.

Discussion among Councilmembers and Decision:

**It was moved by Councilor Marshall and seconded by Councilor King to adopt the resolution adopting the 1999 - 2000 budget, making appropriations, and levying and categorizing taxes. Motion passed unanimously.**

**RESOLUTION NO. 24-1999:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, TO ADOPT THE BUDGET, MAKE APPROPRIATIONS, AND DECLARING AND CATEGORIZING THE AD VALOREM TAX LEVY FOR FISCAL YEAR 1999 - 2000.**

**It was moved by Councilor Marshall and seconded by Councilor Kappa to read the ordinance declaring the City's election to receive state revenues for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.**

**It was moved by Councilor Marshall and seconded by Councilor King to read the ordinance declaring the City's election to receive state revenues for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.**

**It was moved by Councilor Lancaster and seconded by Councilor Kappa to adopt the ordinance declaring the City's election to receive state revenues. Motion passed unanimously.**

**ORDINANCE NO. 1860:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.**

**It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the resolution certifying services provided for state revenue sharing. Motion passed unanimously.**

RESOLUTION NO. 25-1999:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MILWAUKIE, OREGON, CERTIFYING SERVICES PROVIDED  
FOR STATE REVENUE SHARING.

TCI Franchise Renewal

Mayor Tomei called the public hearing on the proposed TCI Franchise Renewal to order at 6:25 p.m.

The purpose of the hearing was to consider an ordinance adopting a ten-year franchise agreement with Telecommunications of Georgia, Inc. to operate the cable television system in the City of Milwaukie effective July 2, 1999. Mayor Tomei reviewed the conduct of the hearing.

Staff Report: **Herrigel** presented the staff report in which the City Council was requested to adopt an ordinance adopting a 10-year franchise agreement with Telecommunications of Georgia, Inc. (TCI). The ascertainment portion of the renewal process began in 1995 with Jones Intercable. The purpose of the ascertainment was to determine the level of public satisfaction with the operator and to get input on the services the public wanted that were not already provided. In 1996, Milwaukie was notified that the franchise was being transferred to TCI. She reviewed the history of the negotiations.

**Herrigel** referred to staff report page V.B.4 -- *Summary of Terms of TCI Contract with Milwaukie*, that explained Public Education and Government (PEG) Access and Institutional Network (I-NET). Examples of PEG programs are City Council meetings, educational program, the Mayor's interview program, and Councilor King's *Kitchen Cabinet*. The PEG access normally begins at the International Way studio and is broadcast from that location. The I-NET system allows the City and School District to broadcast training and educational programs between facilities within the network.

The proposed agreement is for a period of ten-years and is tied to 550 MHz. If TCI builds to 750 MHz, it will be granted an additional three years. Annexed areas will have the same service as the rest of the City including public access, educational programming, and the government channel as long as the annexed areas receive service from the same head end.

The system design will be upgraded to a fiber-to-node architecture that will serve no more than 1,200 subscribers per node. The new system will be capable of delivering at least 75 channels. The system upgrade is currently underway, and the agreement states that work will be completed on or before August 7, 2001. The channel line up, or designation, will likely be changed, and, under the terms of the agreement, Milwaukie will be given time for public service announcements about the channel changes. TCI will pay a designated amount not to exceed \$1 per month per residential customer to support PEG and I-NET capital improvements. That fee will be indicated on the customers' bills, and the City will be required to report how the funds are used.

The agreement also requires that the customer service office be within seven miles of the City of Milwaukie. There is no agreement that the office will remain on International Way. A pay station will be maintained within two miles of the Milwaukie Transit Center. As a term of the agreement, the customer service office will be open fifty hours per week that includes nine hours on weekdays and five hours on Saturday. There will be three phone lines and staff to accept payments, service repair calls, and equipment exchanges.

Standards state the customers should receive busy signals less than 30% of the time, and the wait time should not exceed 30 seconds 90% of the time. TCI is required to keep statistics on this and make the information available to the City upon request. The phone service can be located anywhere, but the criteria in the agreement will apply.

The franchise fee is 5% of gross receipts and is paid on a quarterly basis.

TCI will continue to provide full use of the studio and associated space on International Way for eighteen months after the agreement becomes effective. After that period of time, TCI will no longer operate or pay for the operation of that facility. Staff anticipates returning to the City Council to consider various options for continuing public access in the City of Milwaukie.

The new franchise does not cover the issue of senior discounts, but TCI has agreed to honor the existing senior accounts under the discount terms of the old agreement. The last point had to do with adding Milwaukie Jr. High School to the list of hardwire facilities and Ardenwald, Scott, and Waterfront parks as origination points.

**Herrigel** believed that TCI acted in good faith during the process and recommended that the City Council approve the franchise agreement.

**Councilor Kappa** commended those who had worked on the project. He felt it should be emphasized that the City was dealing with an entity that had all the federal regulations on its side. He added that residents needed to know about the importance of the right-of-way.

**Councilor Lancaster** asked for clarification of how often the City would receive the monthly customer service report.

**Herrigel** explained the report was provided "on demand." If she got calls from customers about service issues, she would ask TCI for the report.

**Councilor Lancaster** felt it was important during the transition that all parties were meeting the terms of the agreement. He asked if the channel numbering system was a function of the head end, and, if that is the case, does that mean there will never be a uniform channel system within the City limits?

**Herrigel** understood the channel designation was not associated with the head end. She believed TCI was working toward a channel numbering system that was generic throughout the region. The programming on the public access channel, although it would have the same number in the region, would be unique to the jurisdiction.

**Gloria Creighton**, TCI Director of Government Affairs, indicated that TCI has worked with the City of Milwaukie in a very cooperative manner to negotiate the franchise agreement before the City Council. The document was fair and should serve the citizens of Milwaukie well for many years. Regarding the channel line-up, TCI is the primary operator in the Portland area and is working toward a consistent channel line-up throughout the Portland metropolitan area. The cable plant upgrade will allow TCI to offer consistency in each one of the cities served in this area.

**Creighton** added that if the City annexes an adjacent area served by the same head end, then TCI should be able to offer the City of Milwaukie the public access line up with minimal modifications.

**Councilor King** asked if the local cable access shows would continue to be shown in the Portland area.

**Creighton** said the programming could be shared through an interconnection agreement.

**Councilor King** felt the busy signal less than 30% of the time standard seemed high based on the current level of service.

**Creighton** said that was the National Cable Television Association standard, and TCI agreed to comply with that standard. The phones will be answered within 30 seconds at least 90% of the time.

**Councilor Lancaster** asked when the upgrades will be complete.

**Creighton** said the franchise requires that the upgrades be completed by August 7, 2001.

**Councilor Kappa** said currently there are two TCI connections in Milwaukie that show different programs. He asked if these would be consolidated.

**Councilor Lancaster** said, although he lived within the City limits, he had to change from one system to the other in order to get the government channel. There are two systems within Milwaukie's City limits.

**Richards** explained that Lancaster lived in an area that was annexed after the previous agreement was signed, and that is the reason for his being on a different system.

**Creighton** said that problem would be eliminated in the system upgrade. Every Milwaukie resident will receive the same channel offerings and services.

**Herrigel** discussed annexation and how staff intends to work with adjacent public access systems to provide the desired programming.

**Creighton** added that the City will benefit by paying incremental costs as TCI upgrades its system.

**Pam Beery**, Telecommunications Legal Counsel for the City of Milwaukie, requested that Creighton confirm that TCI was willing to uphold the senior discount for existing customers. Federal law allows for this kind of discount but does not mandate it. She agreed there was a significant benefit to the City in that it that it will be paying only incremental costs over and above TCI's already existing work while the plant is being constructed. In most cases, the costs will be limited to additional fiber, and TCI will already be paying for the labor. She explained that TCI is no longer required by federal law to provide an access studio, but, because of Milwaukie's active studio, TCI agreed to keep it open for eighteen months while other solutions are sought.

**Creighton** said that TCI is committed to honoring existing senior citizen discount beneficiaries whether or not the company decides to continue the program.

**Councilor Kappa** asked if seniors moving into the area would be eligible for the discount.

**Beery** said the current rate structure does provide for a senior discount in the City of Milwaukie. Under this franchise document, TCI commits to retaining existing customers. The question of new customers is unresolved at this time because TCI has not made a decision whether to keep or eliminate that program. Federal law makes it optional for the cable company, and it is not something the City can regulate. She added that she works with several jurisdictions in the area, and as TCI gains control and upgrades the system, uniformity will be much easier to achieve in newly annexed areas.

Correspondence: None

Audience Participation: None.

Staff Comments: None.

Questions of Clarification: None.

Close Public Testimony: **Mayor Tomei** closed the public testimony portion of the hearing at 7:05 p.m.

Discussion and Decision:

**It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance granting a non-exclusive franchise to TCI Cablevision of Georgia, Inc. to provide cable service within the City of Milwaukie for the first time by title only. Motion passed 4 – 0 – 1 with the following vote: Mayor Tomei, Councilor Kappa, Councilor King, and Councilor Lancaster aye; no nays; Councilor Marshall abstained.**

**Councilor Marshall** said he abstained because he could not support the process. It exemplifies a continuing loss of local control and an insensitivity on the part of the federal government and large corporations to local community needs.

The ordinance was read for the first time by title only. The ordinance will be on the July 6, 1999, agenda for the second reading.

**OTHER BUSINESS****Regional Town Center and Title 3 Extension Letters**

**Bennett** and **Rouyer** presented the staff report in which the City Council was requested to authorize the Mayor to sign two letters to Metro. One had to do with the City's request for an extension to July 1, 2000, for Title 3 compliance. The second letter speaks to the City's continued desire to have a Special Town Center designation, but, if the Metro Council does not approve that request, then Milwaukie wishes to change its designation to Town Center from Regional Center.

**It was moved by Councilor Marshall and seconded by Councilor King to authorize the Mayor to sign both letters and forward them to Metro. Motion passed unanimously.**

**Appeal Fee Waiver for Neighborhood District Associations -- Resolution**

**Rouyer** presented the staff report in which the City Council was requested to adopt a resolution that would waive appeal fees for administrative and quasi-judicial land use decisions for City-recognized Neighborhood District Associations (NDA).

Based on NDA requests, she researched neighboring communities' policies and found that Gresham, Lake Oswego, Portland, Oregon City, and West Linn grant this type of waiver. The fee waiver would be based on the following standards: it is not made on the behalf of an individual; the decision to appeal was arrived at by a majority vote of the general membership, governing board, or land use committee in an open meeting; and the appeal is signed by the NDA chair or vice chair.

**Mayor Tomei** expressed concern about appeals coming from only the Land Use Committees and not the whole NDA. In some neighborhoods, the Land Use Committees consist of only one or two people.

**Councilor Kappa** was concerned about violating the Land Use Committee bylaws by cutting them out of the process.

**Rouyer** spoke with Neighborhood Services Coordinator Gregory about the issue, and she believed it would still be in keeping with their bylaws and the NDA program to make the change. She also understood both the Land Use Committee and the general membership NDA meetings were noticed and open.

**Councilor Lancaster** asked if the Land Use Committees operated independently from the NDAs.

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**Bartlett** said the Land Use Committees can act independently because they receive notice of the proposed land use action. The Land Use Committees can frequently meet more quickly because some of the response timelines are very short. In order for the NDAs to meet and consider the referral, they would have to call special meetings. The Land Use Committees are appointed and come out of the NDAs, but they do operate independently.

**Firestone** added that the timelines for appealing administrative actions is very short.

**Mayor Tomei** was concerned that, in some cases, Land Use Committees operate very independently.

**Councilor Marshall** understood her point. He had intended suggesting that an appeal required both general membership and Land Use Committee approval. The problem, however, would be the short appeal periods.

**Councilor Lancaster** noted that the appeal had to be signed by the NDA chair or vice-chair, so there was some type of forced communication. The chair has the ultimate authority in the decision to appeal.

**Councilor King** asked if the waiver was retroactive.

**Firestone** said resolutions typically go into effect when they are adopted. In the context of an individual application, the City Council may wish to determine if this resolution embodies a policy that should be applied retroactively. This resolution does give direction to staff, and it is sometimes difficult to waive something that has already happened. He believed it would be easiest for the Council to waive the fee in an individual situation after the fact.

**Bartlett** felt staff had dealt with the current situation in a different manner.

**It was moved by Councilor Marshall and seconded by Councilor Lancaster to adopt the resolution waiving appeal fees for administrative and quasi-judicial land use decisions for City-recognized Neighborhood District Associations (NDA). Motion passed unanimously.**

#### **RESOLUTION NO. 26-1999:**

**A RESOLUTION OF CITY OF MILWAUKIE, OREGON, WAIVING  
APPEAL FEES FOR ADMINISTRATIVE AND QUASI-JUDICIAL  
LAND USE DECISIONS FOR CITY-RECOGNIZED  
NEIGHBORHOOD DISTRICT ASSOCIATIONS.**

**Board and Commission Appointment**

With the consensus of Council, Mayor Tomei reappointed Carl Jacob to the Citizens Utility Advisory Board (CUAB) and Rebecca Langdon to the Park and Recreation Board (PARB).

**Fiscal Year 1998 - 1999 Supplemental Budget -- Resolution**

**Gehlen** presented the staff report in which the City Council was requested to adopt a resolution adopting a supplemental budget amending appropriations in the fiscal year 1998 - 1999 budget. The actions requested would transfer funds from the Public Safety Building reserve fund to the debt service fund for an interest payment and transfer \$5,000 from the telephone budget into legislative for the cost of videotaping City Council meetings. There will be no change to the overall dollar amount budgeted within each fund.

**It was moved by Councilor King and seconded by Councilor Kappa to adopt the resolution adopting a supplemental budget and amending appropriations for fiscal year 1998 - 1999. Motion passed unanimously.**

**RESOLUTION NO. 27-1999:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT A SUPPLEMENTAL BUDGET AND AMEND APPROPRIATIONS FOR FISCAL YEAR 1998 - 1999.**

**Management, Nonrepresented and Seasonal Employees 1999 - 2000 Salary Schedule**

**Councilor Kappa** asked if the current study was still applicable and if it maintained 5% between steps.

**Richards** said the 1989 - 1990 study will likely only be used until the end of the current represented employee contracts. She discussed internal alignments and comparability in the market. She noted that the payroll is maintained by beginning the increase at personnel scale 1.0, and the 5% reverberates through the system.

**It was moved by Councilor Kappa and seconded by Councilor Marshall that the salary schedule for all management, non-represented, and seasonal job classifications be adopted by City Manager directive effective July 1, 1999. Motion passed unanimously.**

**Johnson Creek Policy Committee and Memo of Understanding**

**Councilor Kappa** asked if the document indicated how Title 3 would be implemented in the jurisdictions.

**Councilor King** said the memo of understanding came out of last year's Johnson Creek Watershed Summit in which participants agree to work toward a positive future for Johnson Creek. Participants included Clackamas and Multnomah Counties, and the Cities of Portland, Happy Valley, Gresham and Milwaukie. The jurisdictions agreed to meet three or four times annually to develop similar codes and work toward the same goal.

**Bartlett** referred to staff report page III.E.7 which states that jurisdictions will base their ordinances on the Metro Title 3 model while recognizing there are unique circumstances within each community.

**It was moved by Councilor King and seconded by Councilor Kappa to authorize an appropriate representative of the City of Milwaukie to sign the revised Johnson Creek Policy Committee and Memorandum of Understanding. Motion passed unanimously.**

**INFORMATION**

1. The group urged the public to attend Festival Daze events.
2. Bartlett pointed out Traffic Safety and Transportation Board (TSTB) information outlining its June 14, 1999 motions. A response to those will be on the next Council agenda for action.

**Mayor Tomei** announced the City Council would meet in executive session pursuant to ORS 192.660 to discuss property acquisition and personnel evaluation.

**ADJOURN**

**It was moved by Councilor Marshall and seconded by Councilor King to adjourn the meeting. Motion passed unanimously.**

**Mayor Tomei** adjourned the meeting at 8:10 p.m.

---

Pat DuVal, Recorder



MEMORANDUM

TO: Mayor and City Council

THRU: Dan Bartlett, City Manager  
Martha Bennett, Assistant City Manager, Community Development *MB*

FROM: Ruthanne Bennett, Civil Engineer *R. B.*

RE: North Drywell Improvement Phase I ST-00-01

DATE: June 24, 1999

RECOMMENDATION

That Council reject all 6 original bids for the North Drywell Improvement Phase I.

BACKGROUND

At 10:00am on May 21, 1999 bids for the North Drywell Improvement Phase I were opened at the Johnson Creek Facility. The bid results are listed below:

- \$178,402 Oregon Underground, P.O. Box 777, Clackamas, OR 97015
- \$178,970 D & D Concrete & Utilities, 9142 SW Raritan Court, Tualatin, OR 97062
- \$184,324 Les Brown Excavating, P.O. Box 1019, Gresham, OR 97030
- \$193,140 Clackamas Construction, P.O. Box 279, Boring, OR 97009
- \$212,336 Moore Excavation, P.O. Box 30569, Portland, OR 97230
- \$230,276 Hubco Excavation, 2229 N.E. Burnside Rd., Suite 281, Gresham, OR 97030

It is in the public interest to reject all six bids as permitted by OAR 137-30-102 as adopted by City Resolution No. 35-1994. Since the request for a Surface Water rate increase has been delayed in order to coordinate with the other local jurisdictions which are part of the North Clackamas Watershed Management Commission, funds are not available for this project.

The Public Works Department will be advertising for bids again for this project when funds are available.



TO: Milwaukie City Council

VIA: Dan Bartlett, City Manager *DB*

FROM: Martha Bennett, Assistant City Manager *MB*

SUBJECT: Motions from June 14, 1999 Traffic Safety and Transportation Board Meeting

DATE: June 23, 1999 for July 6, 1999 Meeting

Action Requested

Council direction on a response to the TSTB motions from their June 14, 1999 meeting. Staff recommends that you inform the TSTB that you received their transmission, provide feedback on the one motion that needs Council response, and inform the TSTB that in general you will not be providing response unless you feel a particular motion requires Council action.

Background

At your last meeting, you received copies of four motions that the Traffic Safety and Transportation Board transmitted for your consideration. The four motions and the possible response are outlined below. The first motion probably needs Council response fairly quickly. One of the other motions will be coming to you for consideration in August. The other two motions can be handled administratively.

This motion transmittal form is a new procedure that the TSTB members have implemented. This is being done in addition to the transmittal of their regular minutes (staff understands that the TSTB has expressed frustration about times when minutes have not been transmitted). Staff recommends that you authorize the Mayor to send a letter to the TSTB that responds to the motion related to Johnson Creek Boulevard and also asks that the TSTB be understanding if the Council does not respond formally to every motion that comes from the TSTB, since some motions do not require Council action. Alternatively, you could direct staff to prepare a formal response to all motions for your consideration. This alternative would likely be time consuming and would not necessarily result in improved policy or decision-making.

### III. C. 2

*Motion #1.* The TSTB moved that the Public Works Department mark the boundaries of the proposed Johnson Creek Boulevard Phase III Improvement project, both the 40-foot design and the 44-foot design.

*Recommended Response.* Staff agrees that it would clarify the impact of the Johnson Creek Boulevard Project if we marked the actual impact on each of the effected properties between 36<sup>th</sup> and 46<sup>th</sup> Avenues. Staff would recommend two modifications to the TSTB's request. First, because the 44-foot improvement is the only option that has been designed, it's the only option we are able to stake at this time. If the roadway were redesigned to 40 feet, there would be some places (mostly in Portland) where we would still have to move the road because of unstable soils, so we could not accurately mark a 40-foot section. Marking the 44-foot section would provide information on the maximum impact of this project on individual properties.

Second, staff recommends that we not mark the properties until after we have scheduled additional worksessions and neighborhood meetings. Once we mark the properties, we will need to provide immediate information to the residents to immediately respond to concerns related to the markings. Staff recommends that we hold a work session in the fall on this project that involves Portland, ODOT, Milwaukie, and other agencies (such as Clackamas County and Metro) to ensure that we can better answer neighborhood questions.

If the Council agrees with staff recommendation, we will draft a letter to the TSTB with the Mayor's signature outlining this approach to the TSTB. We will come back to you with proposed dates in the month of August.

*Motion #2.* The raise crosswalks/speed humps on 32<sup>nd</sup> Avenue be brought before the TSTB for further comment before the City Council approves the project.

*Recommended Response.* Council action is not needed. The speed humps are included in the 1999 Overlay project, which the Council approved before the TSTB meeting on June 14. In other words, it will likely not come back to Council for further action. At the same time, it is our practice on Neighborhood Traffic Management and School Trip Safety Projects to work with the neighborhood and affected parties to ensure the project meets local needs. Staff has placed the speed humps on the July 6 TSTB agenda for discussion and we intend to continue to work with the Ardenwald neighborhood to identify concerns before they are installed.

*Motion #3.* The TSTB review all traffic control device requests prior to recommendation and implementation by staff.

*Recommended Response.* Council action is not needed. Currently, all traffic control requests are decided by the City Manager. The current process is that engineering staff reviews requests, analyzes the traffic impacts, and makes a recommendation to the City Manager. Staff understands the TSTB's desire to review the requests, and we are open to reviewing how the TSTB can provide input on the recommendation. The major

constraint is we try to respond to requests within 30 days, so residents get a timely response to their requests. The TSTB will only have one meeting, in general, to review proposals. This is a constraint we should be able to resolve working with the TSTB.

*Motion #4.* The TSTB will submit the final version of the Neighborhood Traffic Management Program (NTMP) to the Council and recommend the City Council adopt the TSTB's proposed amendments.

*Recommended Response.* Council action is scheduled for August 17. At the conclusion of the June 14, TSTB meeting, the TSTB completed their work on the NTMP and adopted a number of changes to the draft NTMP. The group made changes at the actual meeting, and the last version the TSTB saw included staff and Board notes in the margins. Staff will be taking a final, completed revision to them for ratification at their July 6 meeting. Assuming TSTB adoption of this version, we will be bringing the policy changes to you for adoption at your August 17, 1999 regular session. The TSTB members can then discuss their recommendation directly with Council.

III. C. 4

# Traffic Safety and Transportation Board

## Motion to City Council

### Transmittal Form

DATE 6/14/99 FAX # \_\_\_\_\_

TO Pat DuVal ACTION REQUESTED \_\_\_\_\_

CC file REPLY BY \_\_\_\_\_

FROM Connie Ware TOTAL NO. OF PAGES \_\_\_\_\_

Wisner MOVED that:

The Public Works Department mark the boundaries  
of the proposed Johnson Creek Blvd. Improvement  
Ph. II Project - both the 40' design and the 44'  
alternate design - as requested by the TSTB and  
the Neighborhood District Association (NDA), and  
approved by the former Public Works Director.

SECONDED by Aschenbrenner; motion passed unanimously.

III. C. 5

Traffic Safety and Transportation Board

Motion to City Council

Transmittal Form

DATE 6/14/99

FAX # \_\_\_\_\_

TO Pat DuVal

ACTION REQUESTED \_\_\_\_\_

CC file

REPLY BY \_\_\_\_\_

FROM Connie Ware

TOTAL NO. OF PAGES \_\_\_\_\_

Wisner MOVED that:

The raised crosswalks/speed bumps on 32nd Avenue  
project be brought before the TSTB for further  
comment before City Council approves the project.

Schierholz SECONDED the motion, which passed unanimously.

III. C. 7

# Traffic Safety and Transportation Board

## Motion to City Council

### Transmittal Form

DATE 6/14/99 FAX # \_\_\_\_\_

TO Pat DuVal ACTION REQUESTED \_\_\_\_\_

CC file REPLY BY \_\_\_\_\_

FROM Connie Ware TOTAL NO. OF PAGES \_\_\_\_\_

Proposed by Aschenbrenner:

TSTB submit the final version of the Neighborhood  
 Traffic Management Program (NTMP) Policy, and  
 recommend that City Council adopt the Policy with  
 TSTB's proposed amendments.

Seconded by Wisner; approved unanimously.

*we have the  
 amendments +  
 Martha says  
 Rsb will do the  
 revision next week.*

III. C. 6

# Traffic Safety and Transportation Board

## Motion to City Council

### Transmittal Form

DATE 6/14/99 FAX # \_\_\_\_\_

TO Pat DuVal ACTION REQUESTED \_\_\_\_\_

CC file REPLY BY \_\_\_\_\_

FROM Connie Ware TOTAL NO. OF PAGES \_\_\_\_\_

Chair Stone MOVED that:

The Traffic Safety and Transportation Board (TSTB  
 review all traffic control device requests prior  
 to recommendation and implementation by staff

Grasley SECONDED; motion passed unanimously.

Chair Stone noted that this motion was passed the first time at the  
 October 19, 1998 regular meeting of the TSTB.



**DATE:** June 25, 1999

**TO:** Milwaukie City Council

**THRU:** Dan Bartlett, City Manager  
Martha Bennett, Assistant City Manager, CD  
Alice Rouyer, Planning Director

**FROM:** Janet Wright, Assistant Planner

**SUBJECT:** Appeal of a Planning Commission Decision – MLP-98-06/NCU-98-04-To  
Create a Flag Lot and Continue a Nonconforming Use (Auto Repair  
Business) at 3406 SE Olsen Street, Milwaukie

.....

**ACTION REQUESTED**

**Move to deny an appeal by the Ardenwald Neighborhood District Association, affirming the Planning Commission approval of a Minor Land Partition (MLP) and a determination that the Nonconforming Use is not affected by the Minor Land Partition at 3406 SE Olsen Street, Milwaukie, and adopt the Planning Commission Findings and Conditions of Approval.**

**BACKGROUND**

**Location:**

Parcel consists of a 34,091 square foot lot (.78 acres) located at 3406 SE Olsen Street. The property is zoned R-7 Residential and is located in the Ardenwald Neighborhood District Association. The legal description is 1S 1E 25DB, Tax Lot 900. See Exhibit 1- Vicinity Map.

**Summary of Original Proposal:**

On October 8, 1998, Applicant, Howard Thompson submitted a three (3) lot minor land partition application (MLP) to the Community Development Department. The application was reviewed and staff determined that the partition of the property affected the existing nonconforming automobile service use at the site per Section 802. The Applicant was directed to apply for a request to continue the nonconforming use, for consideration by the Planning Commission.

### Summary of Events:

- Numerous citizen complaints regarding this site had previously been received by the City beginning in January, 1997, as a result of the expansion of the automotive repair business by the Applicant (See **Exhibit 2-Zoning Compliance Issues Memo, Dated September 1, 1998**).
- The Applicant was informed that the MLP application was complete on November 5, 1998, but that an application to continue the nonconforming use at the site was required if the automotive repair business was not proposed for removal (**Exhibit 3-Notice of Complete Application**).
- The Applicant submitted the application to continue the nonconforming use on November 13, 1998. The application was first heard at public hearing on January 12, 1999, (**Exhibit 4– Staff Report, Dated January 6, 1999**). Because the applicant was concerned about the possibility of losing his business at the site, he requested that the application be changed to a two-lot partition. The Planning Commission continued the hearing to allow the Applicant to work with Staff regarding a new tentative MLP plan and to discuss issues regarding the nonconforming use (**Exhibit 5– Planning Commission Meeting Minutes of January 12, 1999**).
- On April 27, 1999, the Planning Commission held a public hearing on the revised applications, (**Exhibit 6 -Revised Tentative Plan**) and decided to continue the hearing to allow the Commissioners to review information submitted at the hearing from the Applicant. (**Exhibit 7 - Planning Commission Meeting Minutes of April 2, 1999**). On May 11, 1999 the Planning Commission approved the Applicant's MLP application and ruled that the nonconforming use was not affected by the partition of the property. Staff was instructed to refund the Applicants nonconforming use application fee (**Exhibit 8-Planning Commission Meeting Minutes of May 11, 1999**). The fee has not been refunded due to the filing of this appeal by the Neighborhood District Association.
- On May 28, 1999, an appeal of the Commission's decision to approve the MLP application was filed by the Ardenwald Neighborhood District Association. (See **Exhibit 9 – Appeal Application**).

### PROCEDURAL ACTION

The Planning Commission's review followed the provisions for Minor-Quasi-Judicial Review, Section 1011.3 of the Zoning Ordinance Code. Notice was first sent to all neighbors within 250 feet on December 23, 1998 and again on June 16, 1999. A second notice was published as a result of the continuance at the first hearing. As required by State Statute, the site was posted before each of the hearings.

## **BASIS FOR APPEAL**

Section 1002 of the Zoning Ordinance provides that any action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the City Council within 15 calendar days after the Planning Commission has rendered its decision. A report and recommendation on the Planning Commission's decision must be forwarded to the City Council.

An appeal of a Planning Commission decision shall specify, in detail, the issues or findings in contention so as to afford the Council and interested parties an adequate opportunity to respond to and resolve each issue.

### **Discussion of Appeal Issues:**

The appeal application cited several issues related to the Planning Commission decision that related to the previous nonconforming use approval of the automotive business at the site. The questions and responses are as follows:

- 1. How was it determined where the boundary for the nonconforming use was drawn? On whose authority was it entitled nonconforming? How were the specifications determined?**

The boundary for the nonconforming use was determined as the result of a nonconforming use approval that was rendered on May 18, 1998. Residents surrounding the site had filed complaints with the Community Development Department indicating that the automotive repair business had expanded its activities at this site. The Applicant had applied for a business license and it was determined that a nonconforming use approval for an automotive repair business had never been approved for this site. The Applicant was informed that the auto repair use was determined to be an inappropriate use in a residential zone by a letter from the City Manager, and the Applicant was requested to contact the Community Development Department.

The Community Development Staff obtained a history of the site from the Applicant, and it was determined that an auto repair business had been operating continuously at the site since the early 1940's. The use was nonconforming, and no approval had been obtained. (See Exhibit 11-Revised Notice of Director's Determination-Type 1 Administrative Review).

A nonconforming use review was completed on May 18, 1998 (Exhibit 11) which limited the automotive repair activities to the Quonset hut and surrounding one third acres, the south-east portion of Tax Lot 900. The operation was also limited to general maintenance, which included engine, transmission and clutch, electrical, brake, tune-ups and similar work. Body and paint-work was specifically prohibited, and dismantled cards used for part were not to be stored on site. Other Conditions of the nonconforming use Approval were also provided in the determination. The Applicant was required to fence the site and limit the number of cars on site to ten.

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Condition No. 7 of the Director's Determination (Exhibit 11) stated that any change in the nonconforming use or structure was to be reviewed in accordance with Section 800 of the Zoning Ordinance. Subsequent to this determination the Applicant filed for a Minor Land Partition which Staff determined triggered the provisions of Condition No. 7., of the Directors Determination.

**2. Did it need to go before a committee?**

The original nonconforming use review was approved as a Director's Determination on May 18, 1998 (See Exhibit 11). It was completed as an Administrative Review under Section 1011.1- Administrative Provisions, of the Milwaukie Zoning Ordinance, was subject to standards outlined in Section 802 - Nonconforming Uses.

This section states that a nonconforming structure may be continued, and maintained in reasonable repair, but shall not be altered or extended unless, such alteration or extension is approved by the Community Development Director. The review was conducted and a decision was rendered on May 18,1998.

The subsequent Application(s) for the Minor Land Partition (MLP-98-06) and the Nonconforming Use (NCU-98-04) were submitted by the Applicant on October 9, 1998 and November 13, 1998. A decision by the Planning Commission was rendered at the May 11, 1999 Planning Commission meeting. The Planning Commission determined that the partition of the property by the applicant did not alter the existing and previously approved nonconforming use.

**3. Is the lot able to be arbitrarily divided?**

Property in the City of Milwaukie is not allowed to be arbitrarily partitioned or subdivided with out compliance with state statutes and the Milwaukie Subdivision and Zoning Ordinance.

In regards to the nonconforming use, staff analysis completed as a part of the nonconforming use approval in 1997, and it was found that there was a previous automotive repair business that was limited to the Quonset hut and the southeast corner of the lot. Therefore the conditions of approval for the nonconforming use were limited to the Quonset hut and surrounding one-third acres, the south-east portion of tax lot 900, Map 11E25DB. (See Exhibit 11-Revised Notice of Director's Determination).

**CONCLUSION**

The Planning Commission and Staff find the proposed Minor Land Partition consistent with the Zoning and Subdivision Ordinance (See Exhibit 10-Subdivision Ordinance). It is the Planning Commission's determination that the continuation of the nonconforming use, as proposed by the Applicant, is not affected by the partition of the property as proposed.

Staff therefore, recommends that the Council **deny** the appeal, and affirm the Planning Commission decision, and adopt the MLP Findings and Conditions of Approval contained in the May 17, 1999 Notice of Decision. (**Exhibit 12 – Notice of Decision**).

## **ALTERNATIVES**

The options available to the City Council in its deliberations are as follows:

- 1. Move to deny the appeal and affirm the Planning Commission's decision and adopt the Findings and Conditions of Approval.**
- 2. Move to affirm the appeal and direct staff to return to the Council with revised Findings and Conditions.**
- 3. Move to affirm or deny the Planning Commission decision and amend the Findings and Conditions of Approval.**

## **STAFF RECOMMENDATION**

Staff recommends that the Council affirm Planning Commissions approval of MLP-98-06 and its decision that the existing Nonconforming Use at the site was not affected by the partition of the property.

## **FINDINGS FOR APPROVAL OF MLP-98-06**

1. The applicant is proposing a two parcel minor land partition on property zoned R-7. (**Exhibit 3-Staff Report Dated January 6, 1999**) Parcel 1 is proposed to be 25,189 square feet and Parcel 2 is proposed to be 8,902.5 square feet. The surrounding area is residential in character and is also zoned R-7.
2. Both of the proposed lots meet the minimum width, and depth criteria of Section 302.3 A. The existing single family residence can meet the requirements of Section 302.3A. B., C., and D., of the R-7 Residential Zone.
3. The proposed Minor Land Partition is consistent with Land Use Objective 4, Policies 4 and 5, of Milwaukee's Comprehensive Plan, in that it preserves existing housing stock and maintains the single family scale of surrounding properties.
4. Partitioning submission requirements are those of Section 17.32 of the Subdivision Ordinance (**Exhibit 9 Staff Report Dated January 6, 1999**). The Tentative Plan meets applicable standards of Section 17.32.020 of the Subdivision Ordinance that was in affect before November 17, 1998.

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5. The Department of Public Works has provided comments regarding required Developer installed improvements for utilities and access, and storm drainage connections. (Exhibit 4-Staff Report Dated January 6, 1999).
6. Public Notice has been issued in accordance with the provisions of Section 1011.3: Minor Quasi-Judicial Review.

#### **FINDINGS FOR DISMISSAL OF THE APPEAL OF THE NCU-98-04**

7. The proposed partitioning or modification of this parcel does not result in a significant alteration to the Nonconforming Use currently operating as an Automotive Repair Business per the criteria stipulated in Section 800 of the Milwaukie Zoning Ordinance.
8. The continuation of a Nonconforming Use does not result in additional detriment to surrounding residential properties.

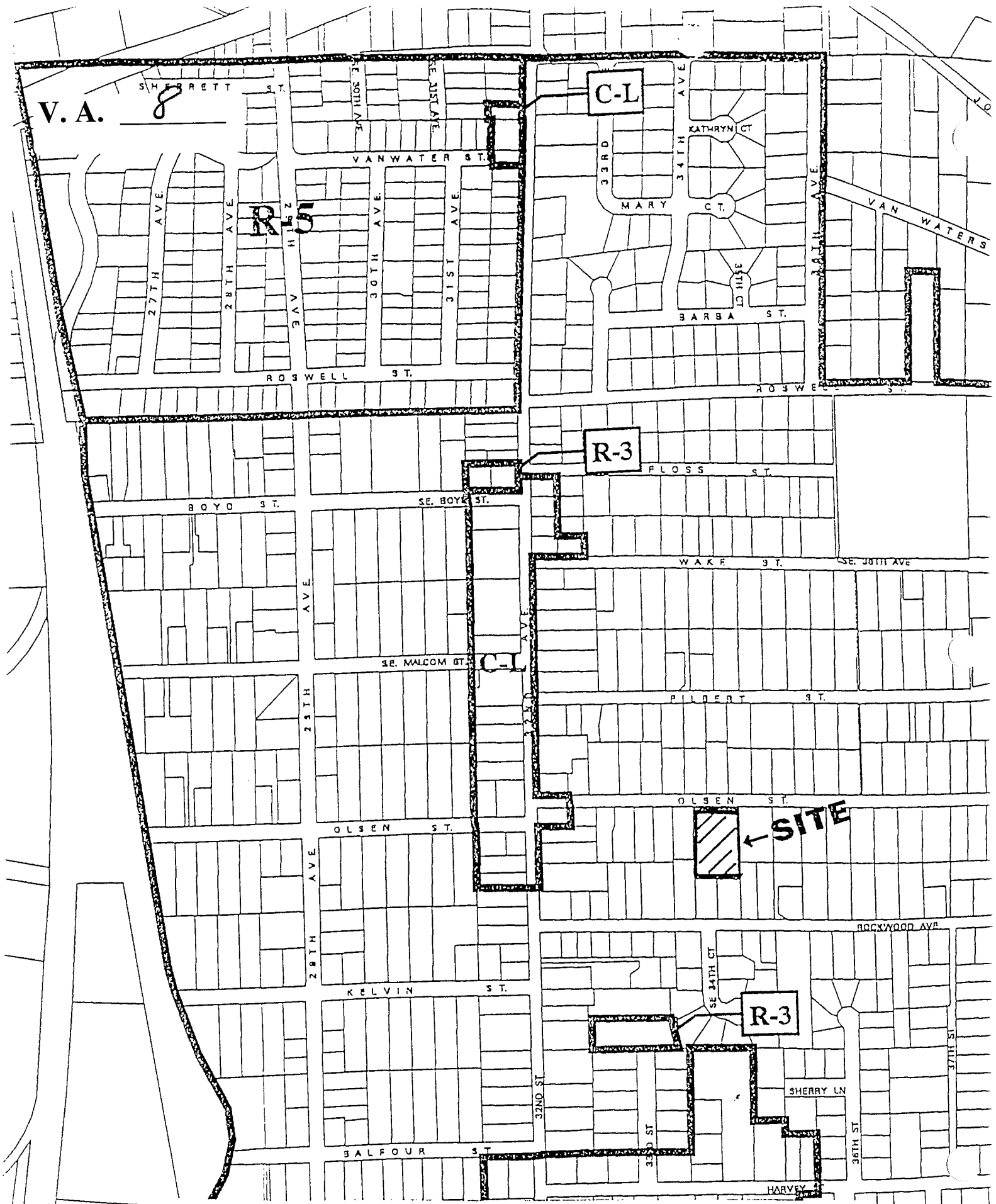
#### **CONDITIONS FOR APPROVAL FOR MLP-98-06**

1. Parcel configuration shall be generally as indicated in Exhibit 3 of the Staff Report dated January 6, 1999.
2. Submittal of the Final Partition Plan shall follow all requirements of Section 17.20 of the City Subdivision Ordinance that was in affect before November 17, 1998.
3. The final plat submittal shall include timelines and plans for construction, completion of required improvements and compliance with conditions of approval. This submittal must occur within one year of this preliminary plat approval.
4. The requirements identified in the Department of Public Works Memo dated December 18, 1998 apply. (See Exhibit 4 Staff Report Dated January 6, 1999).
5. The existing shed on the southeast portion of proposed Parcel 2 shall be removed. A demolition permit is required before removal.
6. The existing garage on Parcel 1 shall be removed and replaced to with a new covered parking structure to serve the existing house and replace the covered parking in accordance with Section 503.3A1 of the Zoning Ordinance. A demolition permit must be obtained before the demolition of the building.

7. The applicant shall comply with all requirements for access and fire safety of the South Metro Fire District as outlined in Exhibit 5 of the Staff Report dated January 6, 1999.
8. Erosion control permits shall be obtained, as required, from the Department of Public Works, before construction.
9. Any deed restrictions proposed by the applicant shall be provided to the City Community Development Department for review to ensure that there are no conflicts with City Ordinances.
10. The applicant is required to extend sewer and water services to serve the lots. Sanitary sewer and water facilities are available from mains on SE Olsen Street.
11. Utilities shall be installed underground. A five foot-wide right-of-way dedication is required along the entire Olsen Street frontage as stipulated by the Public Works Memorandum dated December 18, 1998
12. The applicant shall provide a 6-foot privacy fence around the side and rear property lines of the flag lot (Lot 1), as well as along the west side of the access drive to the 20-foot front yard set back line.

#### EXHIBITS

1. Vicinity Map
2. Zoning Compliance Issues Memo Dated September 1, 1998
3. Notice of Complete Application
4. Staff Report, Dated January 6, 1999
5. Planning Commission Meeting Minutes - January 12, 1999
6. Revised Tentative Plan
7. Planning Commission Meeting Minutes - April 2, 1999
8. Planning Commission Minutes - May 11, 1999
9. Appeal Application
10. Subdivision Ordinance
11. Revised Notice of Director's Determination
12. Notice of Decision
13. Neighbor Comments




**City of Milwaukee Community Development Department**

Title: Vicinity Submitted by: CD Date: 1/5/99 # Pages: 1  
 File Numbers: MLP-91-06/152 Applicant: Thompson Exhibit #: 1  
9800



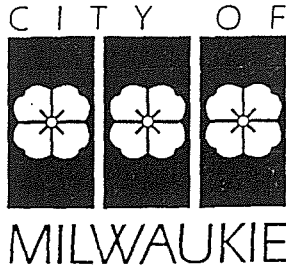
**3406 Olsen Street:**

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

<b>City of Milwaukee Community Development Department</b>				
Title: <u>Zoning Compliance Issues</u>	Submitted by: <u>CD</u>	Date: <u>6/23/99</u>	# Pages: <u>2</u>	
File Numbers: <u>MLP-98-06/MLU-98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>2</u>		

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

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



V. A. 11

December 14, 1998

Howard Thompson  
P.O. Box 22101  
Milwaukie, OR 97222

RE: Notice of Complete Application for MLP-98-06/NCU-98-04 Re: 3406 SE Olsen,  
Milwaukie, Clackamas County, OR, Legal 1S 1E 25DB, TL 900

Dear Mr. Thompson:

After a review of your Minor Land Partition (MLP-98-06) application and receiving the application for continuation of the Non-conforming use to allow the continuation of an existing shop building on one of the lots, the City has determined your application to be complete.

Processing of your application will proceed pursuant to Zoning Code Section 1011.2. Although your application has been deemed complete, additional materials may be requested in order to finish processing your application.

Please feel free to call me at (503) 786-7653, if you have any questions.

Sincerely,

Janet Wright, Planner

Cc: Paul Roeger, Civil Engineer  
Ali Safayi, Associate Engineer  
John Bennett, Building Official  
File

COMMUNITY DEVELOPMENT DEPARTMENT

**City of Milwaukie Community Development Department**

Title: Notice of Complete Submitted by: AD Date: 6/23/99 # Pages: 1  
File Numbers: MLP-98-06/NCU-98-04 Applicant: Thompson Exhibit #: 3



V. A. 12

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

Hearing Date: January 12, 1999  
120-Days: April 12, 1999  
NDA: Ardenwald NDA

Date: January 6, 1999  
File No.: MLP-98-06/  
NCU-98-04

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

**Applicant:** Howard Thompson

**Property Owner:** Same

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

**Zone:** Residential Zone R-7

.....

**PROPOSAL:**


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

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

**BACKGROUND:**

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

<b>City of Milwaukie Community Development Department</b>			
Title: <u>Staff Report 1/6/99</u>	Submitted by: <u>CD</u>	Date: <u>6/23/99</u>	# Pages: <u>27</u>
File Numbers: <u>MLP-98-06/NCU-98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>4</u>	



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

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

**RECOMMENDATION:**

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

**DISCUSSION:**

**Compliance with the Comprehensive Plan**

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

**Compliance with Development Standards of the R-7 Zoning District**

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

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

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

V.A.

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

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

### **Compliance with Subdivision Criteria**

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

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

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

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

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

### **Compliance with Non-Conforming Use Criteria**

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

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

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

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

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

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

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

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

### **Neighborhood Association Comments**

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

### **Staff Comment:**

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

V. A. 16

### Department of Public Works Comments

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

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

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

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

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

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

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

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

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

### **Fire District Comments**

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

### **Other Comments**

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

### **CONCLUSION:**

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

### **FINDINGS FOR APPROVAL OF MLP-98-06**

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

V.A.  
18

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

#### FINDINGS FOR DENIAL OF NCU-98-04

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

**EXHIBITS:**

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

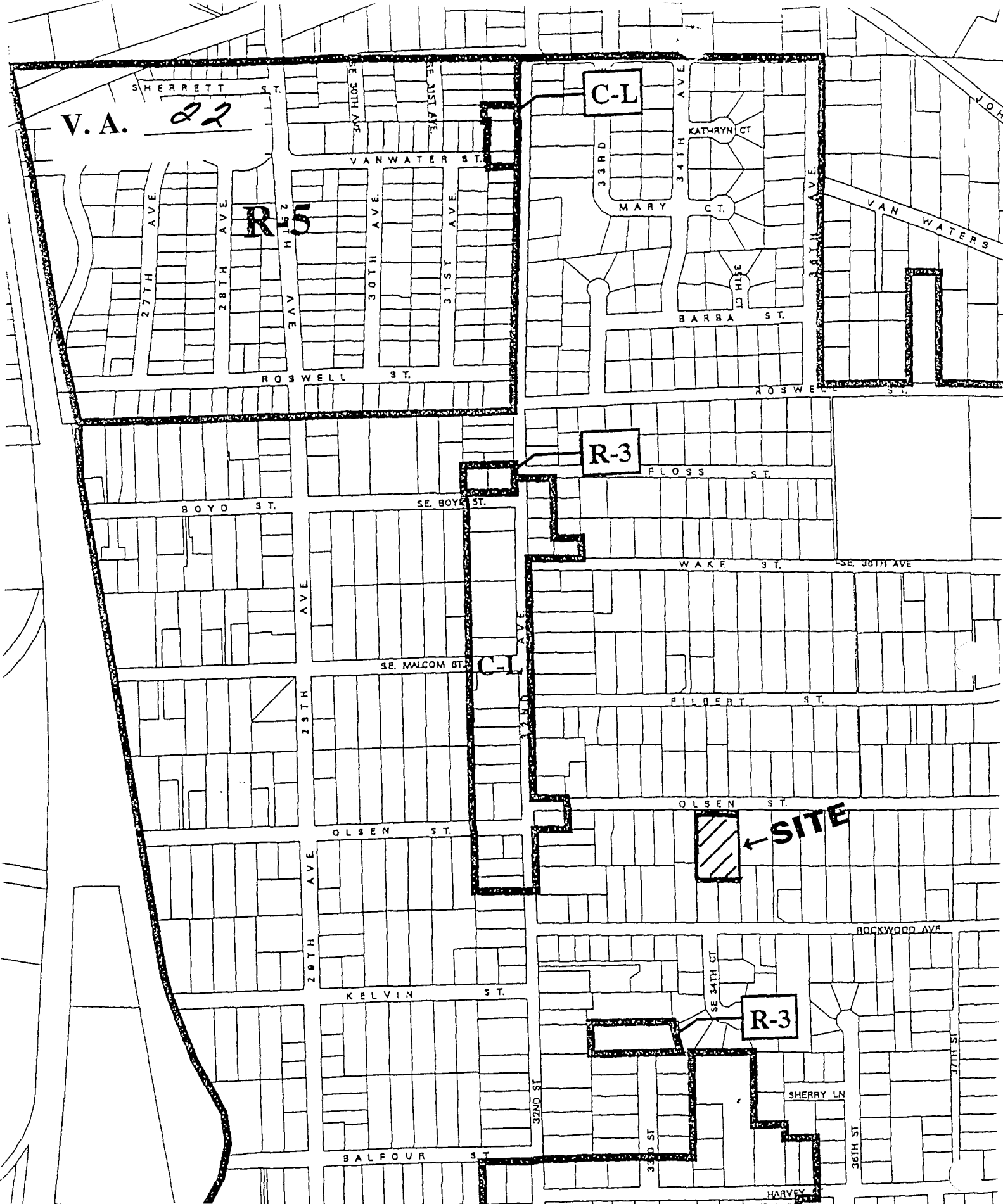
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**EXHIBIT 1**

**CONDITIONS FOR APPROVAL FOR MLP-98-06**

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

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



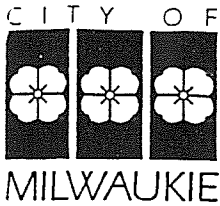
**City of Milwaukee Community Development Department**

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

File Numbers: MLP-98-06/22 Applicant: thompson Exhibit #: 2

28-04





COMMUNITY DEVELOPMENT  
6101 SE JONSON CREEK BLVD.  
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7650  
FAX: (503) 774-8236

# Application for Land Use Action

(Please V. A. 23)

APPLICANT(S): <u>Howard Thompson</u>	Phone: <u>513-0816</u>
Address: <u>3406 SE OLSEN ST Milwaukie</u>	Zip: <u>97222</u>
PROPERTY OWNER(S): <u>Howard Thompson</u>	Phone: <u>789-1322</u>
Address: <u>PO BOX 22101 Milwaukie OR</u>	Zip: <u>97269</u>

**APPLICATION TYPE (check):**

<input type="checkbox"/> Annexation <input type="checkbox"/> Appeal (Admin. to PC/PC to CC) <input type="checkbox"/> Community Service Overlay <input type="checkbox"/> Comprehensive Plan Amendment (Major QJ/Legislative) <input type="checkbox"/> Conditional Use <input type="checkbox"/> Exception <input type="checkbox"/> Expedited Land Division <input type="checkbox"/> Historic Resource Review: <input type="checkbox"/> Alteration <input type="checkbox"/> "Other" Alteration <input type="checkbox"/> Demolition <input type="checkbox"/> Deletion OR Designation <input type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Major Land Partition <input type="checkbox"/> McLoughlin Corridor Design Review: <input type="checkbox"/> Regular <input type="checkbox"/> With Willamette Greenway Conditional Use <input checked="" type="checkbox"/> Minor Land Partition <input type="checkbox"/> Natural Resource Review	<input type="checkbox"/> Nonconforming: <input type="checkbox"/> Use <input type="checkbox"/> Structure <input type="checkbox"/> Replacement of existing NCU <input type="checkbox"/> Planned Development (Preliminary/Final) <input type="checkbox"/> Solar Review <input type="checkbox"/> Subdivision (Preliminary/Final) <input type="checkbox"/> Temporary Structure <input type="checkbox"/> Transition Area Plan Review <input type="checkbox"/> Transportation Planning Review <input type="checkbox"/> Variance: <input type="checkbox"/> 25% or less of Zoning Ordinance standards <input type="checkbox"/> Over 25% of Zoning Ordinance standards <input type="checkbox"/> Sign Ordinance <input type="checkbox"/> Subdivision Ordinance <input type="checkbox"/> Zoning Ordinance Amendment: <input type="checkbox"/> Map, Major Quasi-Judicial <input type="checkbox"/> Map, Legislative <input type="checkbox"/> Text, Major Quasi-Judicial <input type="checkbox"/> Text, Legislative <input type="checkbox"/> Other:
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**PROPOSAL (describe briefly):** I'm proposing to subdivide 0.80 Acres into 3 lots and build a new house on one of the three lots and leave the existing house on its own lot

Location: 3406 SE OLSEN ST Map & Tax Lot(s): 11 E 25 DB # 900

Comprehensive Plan Designation: \_\_\_\_\_ Zoning: R-7 Size of property: 34091

**PLEASE NOTE:** The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: Araville LUC Chair: \_\_\_\_\_ Phone: \_\_\_\_\_

**ATTEST:** I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate. I have attached a proposal description, criteria response, site plan/map, notice labels and map, and other relevant information as required for this application.

Submitted by: Howard Thompson Date: 10-9-98

**City of Milwaukie Community Development Department**

File # \_\_\_\_\_ Title: Applications Tentative Plan App. Date: 1/5/98 # Pages: 4

Submitted by: \_\_\_\_\_ Applicant: Thompson Exhibit #: 3

File Numbers: MIP 98-06/NCU-9804

ment Department—12/6/95

**Minor Land Partition**

Review type: Administrative II

**APPLICATION CHECKLIST**

- \_\_\_\_\_ A. Describe proposal
- \_\_\_\_\_ B. Address approval criteria
- \_\_\_\_\_ C. Submit site plan/map (12 copies)
- \_\_\_\_\_ D. Other specific requirements
- \_\_\_\_\_ E. Submit notice labels and map
- \_\_\_\_\_ F. Pay fee

**A**

**DESCRIBE PROPOSAL**

In your own words, describe what you propose to do and why (use additional pages if necessary):

I would like to divide .80 Acre lot  
into 3 lots with the existing house  
remaining on one lot and build a new  
house on a lot behind the existing house  
there is also a shop building to  
remain on the lot with the new house  
the third lot would be vacant it  
is on the east side of the existing  
house and it would front Olsen St

**D**

**OTHER SPECIFIC REQUIREMENTS**

A preapplication conference may be desirable or required for this action. Please discuss this with Community Development staff.

Please provide the information requested below.

1. The name, phone number, and address of your engineer or surveyor (if appropriate):

Name N/A Phone \_\_\_\_\_

Address \_\_\_\_\_ Zip \_\_\_\_\_

2. Number of total parcels proposed 3 Approx. acres ~~44~~.78
3. Show how each parcel complies with minimum zoning standards, as indicated below:

Minimum zoning standards for parcels in the R-7 zone:  
 Area: ~~7000~~<sup>34,091</sup> sq. ft. Width: ~~60~~<sup>146</sup> ft. Depth: ~~80~~<sup>233.5</sup> ft.

Parcel 1 measurements:

Area: 18062' sq. ft. Width: 146 ft. Depth: 134 1/2 ft.

Parcel 2 measurements:

Area: 9000 sq. ft. Width: 60 ft. Depth: 150 ft.

Parcel 3 measurements:

Area: 7029 sq. ft. Width: 71 ft. Depth: 99 ft.



V. A. 87

MEMORANDUM

RECEIVED

DEC 18 1998

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

TO: COMMUNITY DEVELOPMENT

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

RE: MLP-98-06  
3406 SE Olsen Street

DATE: December 18, 1998

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

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

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


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

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

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

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

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

<b>City of Milwaukie Community Development Department</b>				
Title: <u>PW Comments</u>	Submitted by: <u>PW</u>	Date: <u>1/5/99</u>	# Pages: <u>1</u>	
File Numbers: <u>MLP-98-06/NEW 9804</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>4</u>		

V. A. 28

# Clackamas County Fire District



## Fire Prevention Division

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

RECEIVED

JAN 04 1999

CITY OF MILWAUKIE  
BUILDING DIV.

To: Janet Wright Assistant Planner City of Milwaukie

From: Tom Crowder Deputy Fire Marshal

Re: MLP ??- 3406 SE Olsen

Date: January 4, 1999

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

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

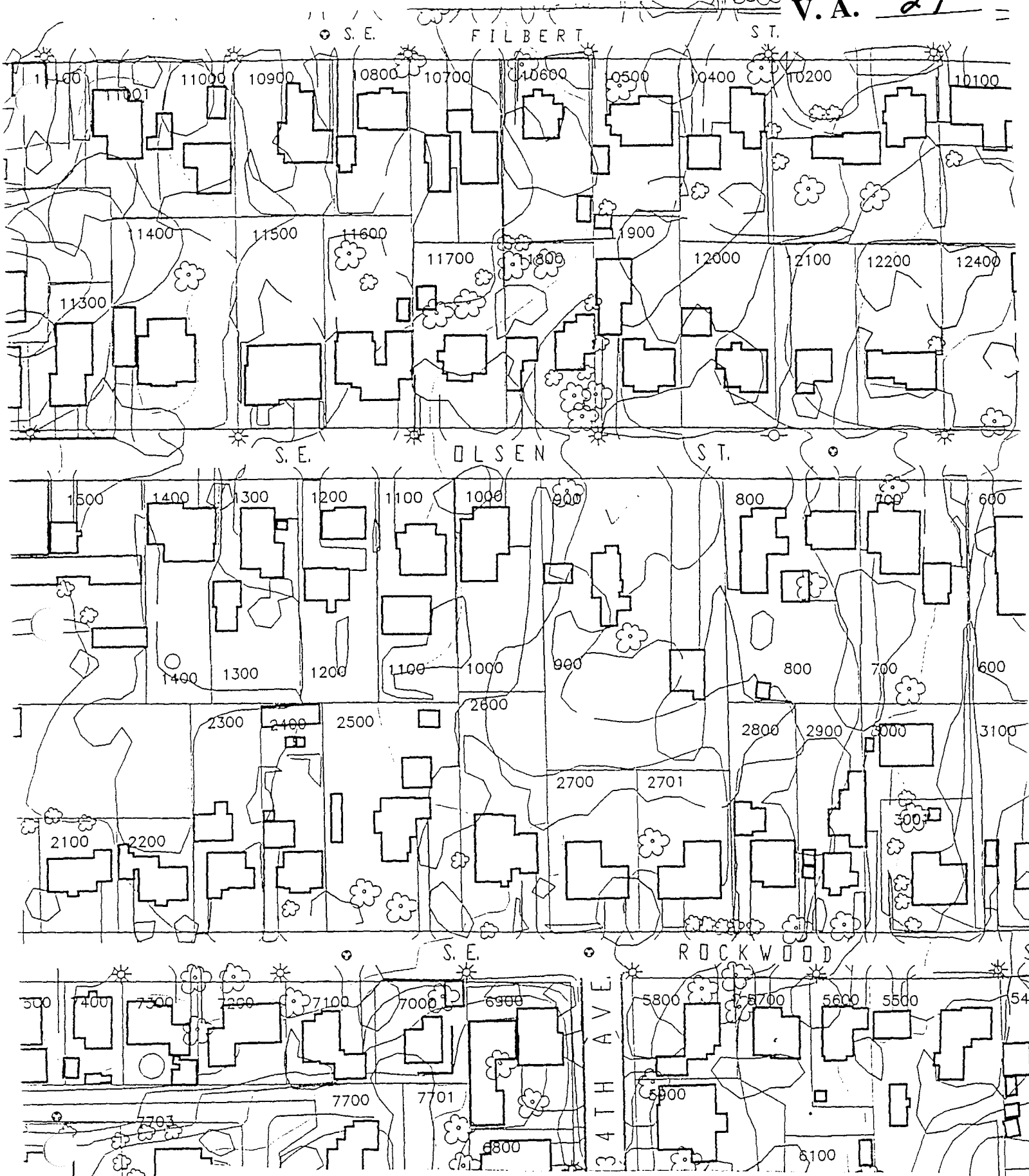
Yours in Fire and Life Safety,

  
Tom Crowder  
Deputy Fire Marshal

11200 S.E. Fuller Road - Milwaukie, Oregon 97138  
**City of Milwaukie Community Development Department**

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





**City of Milwaukee Community Development Department**

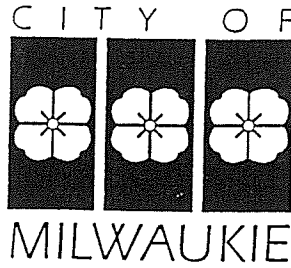
Title: Sur Prop Map Submitted by: CD Date: 1/5/99 # Pages: 1

File Numbers: Mp 98-06/PCU Applicant: Thompson Exhibit #: 6

98-04



NCU 98-01



V. A. 30

May 18, 1998

NCU 98-01

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

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

**Findings:**

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

**Conclusion:**

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


COMMUNITY DEVELOPMENT • PUBLIC WORKS

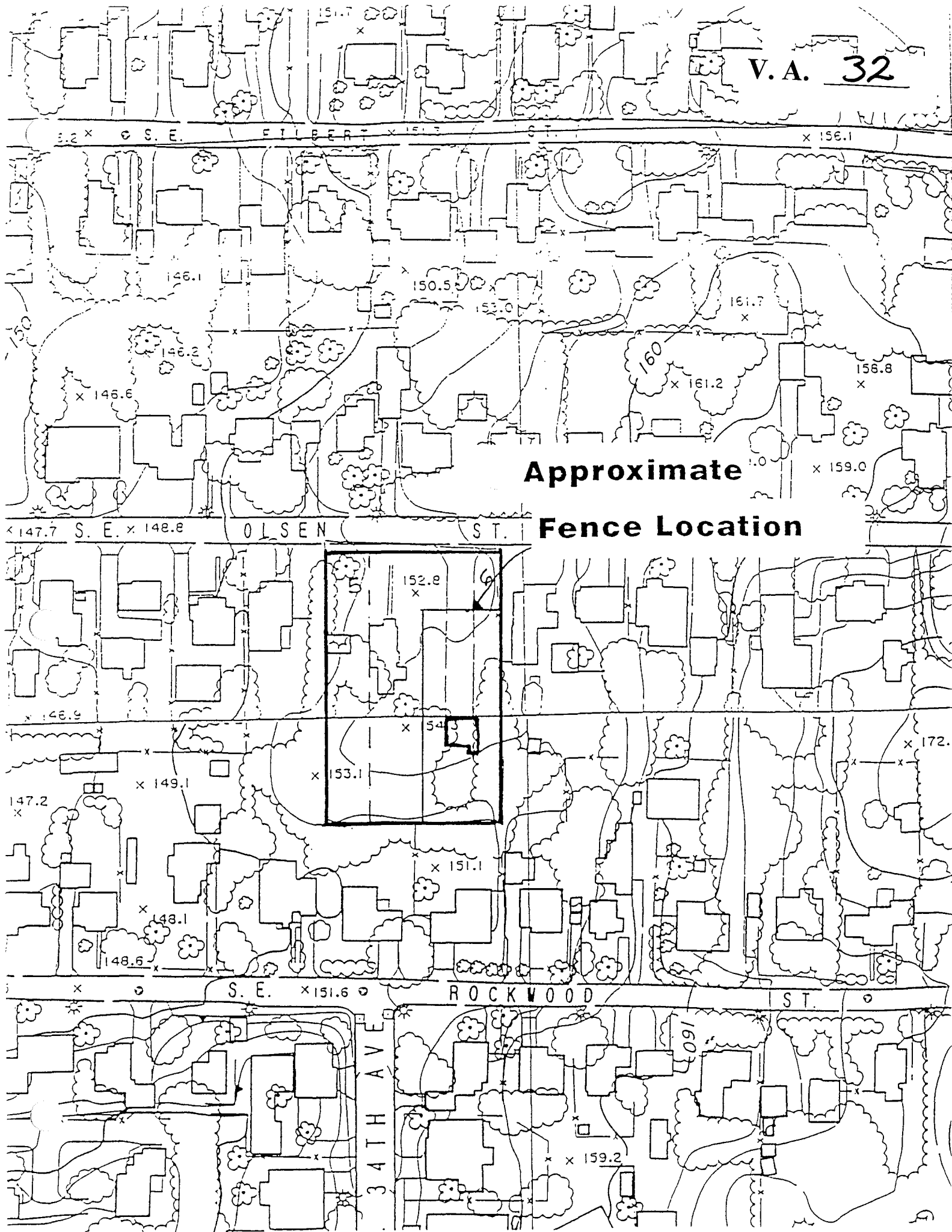
<b>City of Milwaukie Community Development Department</b>				
Title: <i>Rev Notice of Dir Det</i>	Submitted by: <i>CD</i>	Date: <i>1/5/98</i>	# Pages: <i>3</i>	
File Numbers: <i>MLP-98-04/NCU</i>	Applicant: <i>thompson</i>	Exhibit #: <i>2</i>		

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

**Conditions:**

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


  
\_\_\_\_\_  
Michael Swanson,  
Interim Community Development Director



**3406 Olsen Street:**

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

<b>City of Milwaukie Community Development Department</b>			
Title: <u>Chronology of NCU</u>	Submitted by: <u>CD</u>	Date: <u>1/5/98</u>	# Pages: <u>2</u>
File Numbers: <u>mcp 498 06/NCU 98-09</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>8</u>	



V.A.  
34

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

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

CHAPTER 17.32. PARTITIONING

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


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

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

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

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

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

<b>City of Milwaukee Community Development Department</b>			
Title: <u>Part Criteria</u>	Submitted by: <u>CD</u>	Date: <u>1/5/98</u>	# Pages: <u>4</u>
File Numbers: <u>MLP 98-06/NCU</u>	Applicant: <u>thompson</u>	Exhibit #: <u>9</u>	

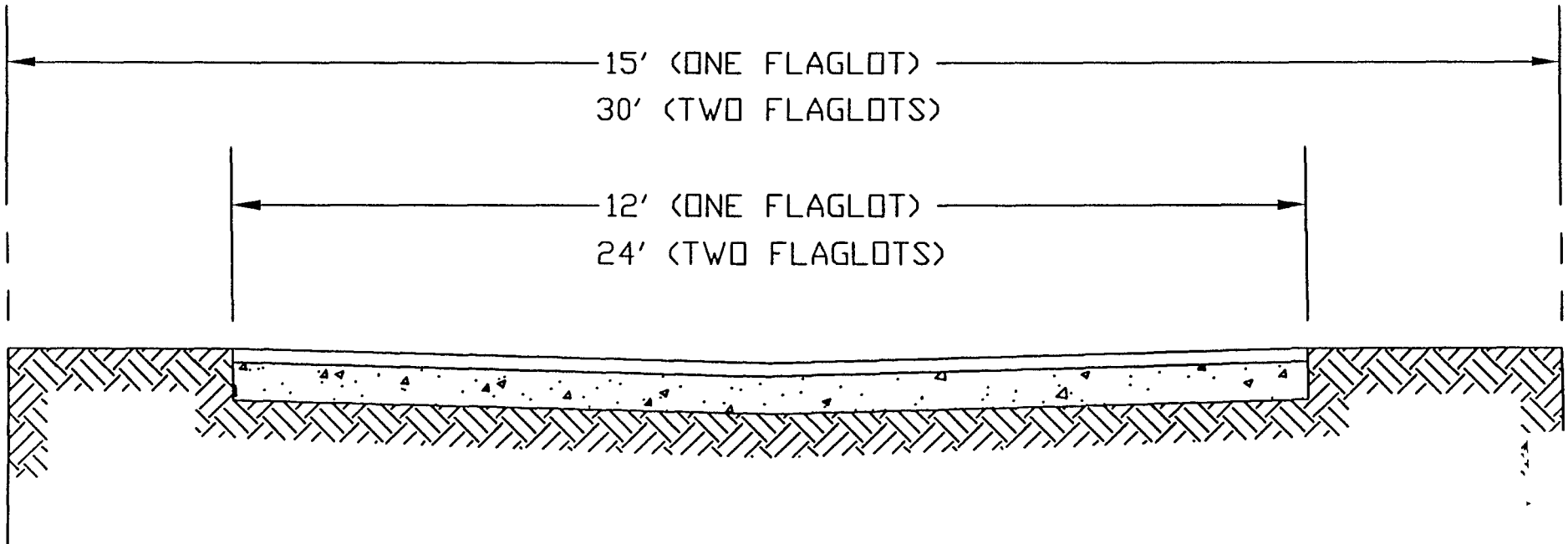
FROM THE SUBDIVISION ORDINANCE, CHAPTER 17.32., PARTITIONING

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

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

MINIMUM REQUIREMENTS:

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



TYPICAL DRIVEWAY FOR FLAGLOTS

CITY OF MILWAUKIE DEPT. OF PUBLIC WORKS

V.A. 37

PARTITIONING

Last Rev. Ord. #1620 3/17/87

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

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

January 4, 1999

Bob & Linda Tilley  
3425 SE Rockwood  
Milwaukie, OR 97206

RECEIVED

JAN 04 1999

CITY OF MILWAUKIE  
BUILDING DIV.

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


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

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

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

Thank you in advance for taking our viewpoint into consideration.

Bob & Linda Tilley

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Public Comment</u>	Submitted by: <u>CD</u>	Date: <u>1/5/99</u>	# Pages: <u>1</u>	
File Numbers: <u>mlp-98-06/ncu 98-06</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>10</u>		

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**Michael Smith** moved to deny CU-98-02 and VR-98-09 and directed Staff to draft denial findings for review and adoption on January 26, 1999. **Judith Borden** seconded. MOTION CARRIED 6-0.  
Aye: Borden, Miller, Hammang, Smith, Cook, Cartmill; Nays - None.

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

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


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

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

STAFF REPORT

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

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

<b>City of Milwaukie Community Development Department</b>			
Title: <u>PC Mtg Min 1/12/99</u>	Submitted by: <u>CO</u>	Date: <u>6/23/99</u>	# Pages: <u>3</u>
File Numbers: <u>MLP-98-06/NCU-98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>5</u>	

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

QUESTIONS FROM THE COMMISSIONERS

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

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Howard Thompson, 3406 SE Edison, Milwaukie

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

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

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

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

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

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

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

Speaking: Greg Mulby, 3423 SE Olson

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

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

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

SE OLSEN AVE

S

W

SIDEWALK

EL 100

EL 101

EXISTING SHED  
TO BE REMOVED

11E 25 DB # 900

TX 400 900

LOT COVERAGE 80%

EXIST SHEDS

EXIST SHEDS 233.5

EL 101

EL 102

EXIST HULLY TREES

LOT @ 3406 SE OLSEN AVE

Parcel #1  
# FAN # LOT 6750 #  
POLE 5152 #

PARCEL 900 OF ROCKWOOD ACRES

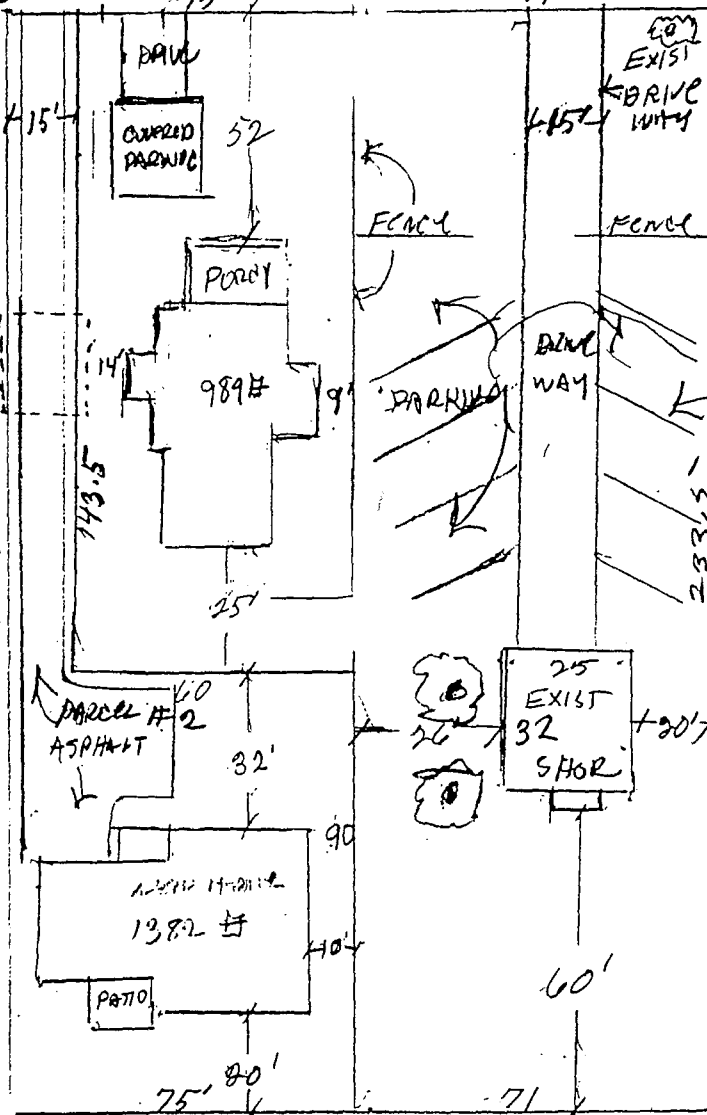
Parcel #1  
25189 #

CITY OF MILWAUKIE

TOTAL # 34091 #

CRACKAMAS COUNTY OR

SCALE 1" = 40'



PARKING SPACES  
15' X 28'

He is proposing that Monroe and Jefferson Streets be closed to McLoughlin and level the parking. By putting the parking next to the highway, it will preserve the view to the River. Having buildings next to the River will only obstruct the views. He suggested leveling up the surface parking and lowering the highway so the view is unobstructed.

The proposal has been amended to create a parking structure underneath the 3-block stretch. With parking underneath it keeps the upper surface level and allows for a pedestrian overpass over the lowered highway.

6.0 PUBLIC HEARINGS


- 6.1 Applicant: Howard Thompson
- Owner: Howard Thompson
- Location: 3406 SE Olsen Street
- Proposal: Minor Land Partition to create 3 lots and a Non-Conforming Use application to continue the use of an existing shop for an auto restoration business on lot 1.
- File Number: MLP-98-06/NCU-98-04
- NDA: Ardenwald

**Vice-Chair Hammang** opened the public hearing on File Number MLP-98-06 and NCU-98-04. This is a request to allow a Minor Land Partition to create 2 lots and a Non-Conforming Use Application to continue the use of an existing shop building for an auto restoration business. Criteria to be addressed are found in Section 7.32.040 of the Subdivision Ordinance; Section 302 and Section 1000 of the Milwaukie Zoning Ordinance.

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

STAFF REPORT

**Janet Wright** reviewed the Staff Report with the Commission. An overhead was shown of the subject site and surrounding area. Pictures were also shown of the site. She noted that the Application had been revised for the creation of two lots,

<b>City of Milwaukie Community Development Department</b>				
Title: <u>PC Mtg Min 4/27/99</u>	Submitted by: <u>CD</u>	Date: <u>6/23</u>	# Pages: <u>11</u>	
File Numbers: <u>MLP-98-06/NCU-98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>7</u>		

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not three, and to continue the non-conforming use of the auto restoration business. This Application was submitted prior to the adoption of the new partitioning criteria on November 17, 1998, and must be reviewed under the prior criteria.

Staff contends that the partition of the property substantially alters the property enough that the business application should not be allowed to continue. The area around property is intensely residential. With the proposed additional residential lot, this increases the residential uses in the area and puts pressure on the business to conform to view, noise, and DEQ issues, etc.

Staff recommends approval of the minor land partition, and recommends that the non-conforming use of the auto restoration business be denied.

CORRESPONDENCE RECEIVED BY STAFF

**Janet Wright** stated that no additional correspondence has been received; however, she did receive a call from Michelle Greeley-Roberts, Chairperson of the Ardenwald Neighborhood Association, who stated that they are in support of Staff's recommendation.

QUESTIONS FROM THE COMMISSIONERS

**Judith Borden** asked what types of complaints have been received on this auto restoration use. **Janet Wright** stated that most of the neighborhood does not like the look of the business. Many cars are parked at the site in various states of repair. Complaints have been received about noise, cars parked on the site, equipment, site appearance, etc.

When the non-conforming use was approved, the Applicant was required to construct a fence to shield the view of the cars. Cars are reported to be parked outside the fence and there are more cars on the site than was allowed in the Non-Conforming Use approval.

**Judith Borden** noted that one complaint listed was about the expansion of the business. She asked how this expansion impacted more complaints. **Janet Wright** explained that the expansion of the business meant more cars. The number of cars on site, along with the noise, is a complaint of the neighbors.

**Mike Miller** noted that the Application is proposing two driveways, side-by-side. He asked if there is a concern about the impact of the two driveways and the

CITY OF MILWAUKIE PLANNING COMMISSION  
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possibility of a third driveway. **Janet Wright** stated that there were no concerns expressed by Public Works.

**Mike Miller** asked if an Environmental DEQ report will be required before building permits are issued. **Janet Wright** stated that this could be required as a condition of the building permit.

APPLICANT PRESENTATION

Speaking: Howard Thompson, 4310 SE Franklin Street, Milwaukie

**Mr. Thompson** stated that he is asking to build a house on his property on Olsen Street. He has operated his auto repair shop at this site for the last two years. This business is located on the southeast corner of his property.

In December 1996, he rented the auto-repair shop from Barbara Shulz, who had a legal business, Harold Bottoms Auto Repair.

January 10, 1997	Applied for Business License, paid \$35 fee, and was told that his business license would be mailed to him.
May 9, 1997	A letter was received stating that an auto repair shop was not permitted in the R-7 Zoning District signed by Dan Bartlett.

**Mr. Thompson** then contacted a former Mayor for the City of Milwaukie, Mr. Bill Hupp. He indicated that the shop had been in operation for 40 years. Bill Hupp and himself met with Senior Planner Dan Pava. It was found that a business license had been issued in 1994/95 and that a letter had been sent to Mr. Bottom stating that he had not renewed his 1996 license.

January 7, 1998	Again applied for a business license and paid a \$35 fee.
January 21, 1998	A letter was received from Dan Pava stating that an auto repair business is a legal non-conforming use at this site. There was a restriction that this non-conforming use was limited to the quonset hut and the immediate surrounding area in the southeast corner of the lot. Further, that the six-foot high fence be built no later than June 30, 1998.

A contractor was hired to build the fence at \$4,000. **Mr. Thompson** then contacted Susan Heiser, Senior Planner, to get the exact location of the fence. He was told that the fence needed to be located 20-feet back from the right-of-way.

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Paul Roeger assured him that the 20-foot setback was correct. The contractor was instructed to build the fence in that location.

May 18, 1998 Susan Heiser, Greg Malby, and myself met to confirm the location of the fence. The City asked that the fence be moved 30-feet from its location. He agreed and moved the fence. Later, he received a Revised Notice of Director's Determination that indicates where the non-conforming use is located on the property.

After re-siting the fence, **Mr. Thompson** met with Susan Heiser on his property to confirm the location. Bill Hupp was present at this meeting. Mr. Thompson asked Susan Heiser what could be done with the vacant property on the southwest corner of his lot. She informed him that anything permitted in the R-7 Zoning was legal. Mr. Thompson asked about a new house for himself and Susan Heiser informed him that he would have to apply for a Minor Land Partition and a flag lot. This would be an administrative process and there would be a pre-application meeting. The pre-application meeting was scheduled and held.

September 3, 1998 Met with Janet Wright at the pre-application appointment. He was told that he needed to apply for a Minor Land Partition at the cost of \$980.

October 9, 1998 Application submitted with check for \$980.

November 5, 1998 Letter from Janet Wright deeming the Application complete and stating the need to submit an application for a non-conforming use approval. He thought this was approved on May 18, 1998.

**Mr. Thompson** contacted Janet Wright and was told that the shop would have to stop doing business and removed before he could get approval to build a new home.

November 13, 1998 Paid \$1,605 for a non-conforming use approval.

December 14, 1998 Letter from Janet Wright stating that the Application was complete.

**Mr. Thompson** stated that it was never his intent to close his business or tear down his shop. He has spent a lot of time and money to comply with the City's conditions. He

CITY OF MILWAUKIE PLANNING COMMISSION  
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feels that the staff has no set rules to go by since each planner has changed conditions of his business. He is asking for a house to live in and to continue to operate his business. It has been suggested several times by Janet Wright that he tear down the house that exists on the property and close the business. He does not feel that she can make that decision for him. Susan Heiser originally told him that the decision was administrative to build another house on the property, dividing it into three lots.

When he came to the first Planning Commission meeting, he withdrew the Application for three lots and reapplied for two lots. He stated that he only applied for the third lot originally because he felt he was paying the \$980 for the Minor Land Partition and he could leave the third lot vacant. This is when he was told he was changing the non-conforming use by the way he was accessing the shop.

**Mr. Thompson** stated that he is here tonight to ask for one flag lot to construct a new house. He asked how the use of his auto repair shop is changing by his adding a house that conforms to legal zoning for this property. A new house will not be detrimental to the neighborhood and will screen the view of the repair shop from the neighbors. He does not understand why he has to pay the non-conforming use fee as his lot is in conformance to the zone. He told the Commission that he would just like to know how he can continue the use of the business and build a new home.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR

Speaking: Bill Hupp, 2626 SE Washington, Milwaukie OR 97222

**Mr. Hupp** stated that he was a member of City Council for ten years and served two terms as Mayor for the City of Milwaukie. He has lived in Milwaukie since 1957 and has had a business in downtown Milwaukie for 20 years.

**Mr. Hupp** voiced concern about the confusion in processes that this Applicant has endured with this Application. There has been a number of discrepancies that Mr. Thompson has had to endure. Howard Thompson was born and raised in the City of Milwaukie. He has married and his dream is to own his own business. The garage that was purchased has been in operation for 40 years, many of which Mr. Hupp stated that he had been a customer. Considering this information, records were updated and a license was issued.

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**Mr. Hupp** stated that this was a pre-existing business. Mr. Thompson would like to build a home and live on his property. He should not have to tear down the business; let him live his dream.

**Mr. Hupp** then read into the record Milwaukie Mission Statement from the Citizens Handbook, which quoted Mike Richardson, Darkhorse Comics..."I could operate my business anywhere in the world I chose. I chose Milwaukie. The sense of community and can-do attitude makes it a great place to do business." The Vision Statement of the City Council states, "Milwaukie is a good place to live and work which is clean and safe with a government that is responsive and provides quality service. The City of Milwaukie is committed to achieving and maintaining the history and the future that defines Milwaukie and distinguishes it from other areas, a living safe environment including preservation and enhancement of built and natural areas, public and private partnership to maintain business and individual opportunities."

**Mr. Hupp** reiterated that he is very concerned about the discrepancies in this Application. He was in attendance at the last meeting. After the hearing had been closed, testimony was given by an adjacent neighbor. Mr. Hupp voiced concern that he was not allowed to testify. In conclusion, Mr. Hupp asked the Commission to take into consideration the process this Applicant has gone through when they decide whether he can have his new home and business too.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: David Webb 1209 14th Street, West Linn.

**Mr. Webb** stated that he is a builder. Mr. Thompson contacted him about his situation. He has done partitioning and subdividing in Milwaukie over the years and he helped Mr. Thompson draw up his site proposal. He met with City staff and he felt there was a bias against this Application, without justification. He asked if there were letters or remarks from people that warranted this difficulty. A remark was made that the neighbors felt the property would be devalued if this lot were allowed.

**Mr. Webb** stated that he has been an appraiser and real estate broker for 40 years. He does not feel the property value will be devalued by having a \$170,000 home next to this business. The market would not be able to find three comparable sales to substantiate devalue of the property.

QUESTIONS FROM THE COMMISSIONERS -- None.

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Speaking: Bill Hupp, 2626 SE Washington, Milwaukie OR 97222

**Mr. Hupp** asked how this Application, which was originally presented as an administrative process, is now a whole new ball game. Why doesn't the City do everything in their power to help their citizens?

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Speaking: Leona Goldsmith, 3411 SE Olsen, Milwaukie

**Ms. Goldsmith** stated that her property is zoned for houses, not business. She would like to see this area stay that way. Mr. Thompson has other businesses, at other locations. She is not in opposition to his building a home. She is in opposition to the business.

QUESTIONS FROM THE COMMISSIONERS

**Barbara Cartmill** asked if the business was there when she purchased her property? **Ms. Goldsmith** stated that yes it was, but when the business was sold, it should have fallen under the grandfather law. The grandfather law should have been discontinued a year later. There was another business there on the street that was a mess, but it has been improved. This property can be cleaned up too.

Speaking: Philip Nelson, 3739 SE Olsen Street

**Mr. Nelson** is member of Ardenwald Neighborhood Association. The Association concurs with staff's finding for approval and denial. This is the Applicant's property, his business, and his decision on what to do. However, nothing has been said about the effect on the neighborhood or the residents. They have fought for a long time to not have flag lots. They are stuck between a rock and a hard place; they either get a flaglot, which will be the first, or they get a non-conforming business in a neighborhood designed for residential purpose.

This business has been here for years, but it is time that the residents and neighborhoods take priority over business. This is a residential area. The Council had the opportunity to close down this area and restrict it, but they chose to allow

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the business to expand. He does not want to see more traffic on this street. He feels this business is where a house should be. He complimented the owner on the work that had been done in cleaning up the business.

**Mr. Nelson** stated that he agrees with staff; the structure of the property will change. Once divided, the essence of this property changes. It is only a matter of time and someone else down the street will want to do the same thing. This will set precedence.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

**Janet Wright** stated that the non-conforming use approval in May, 1988, was approved for the parcel as a whole. Staff's interpretation of the non-conforming use criteria is that the subdivision, even though the new tentative plan reduced from 3 lots to 2 lots, it alters the property, thereby affecting the previously approved non-conforming use.

**Gary Firestone** stated that the legal standard in Section 802 of the Milwaukie Zoning Ordinance, provides that, "A non-conforming use may be continued but shall not be altered unless the alteration is approved by the Planning Commission." The issue is whether the use is being altered. Use is defined as, "The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained."

Staff's position is that by changing where the lot boundary is located, it is changing the arrangement of the use." It is the Planning Commission's responsibility to interpret the code and determine whether they agree with staff's interpretation.

QUESTIONS FOR CLARIFICATION

**Tracy Cook** asked if the Applicant would be living in the newly constructed house? **Mr. Thompson** replied yes.

APPLICANT CLOSING COMMENTS

Speaking: Howard Thompson, 3406 SE Olsen Street, Milwaukie

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**Mr. Thompson** stated that if he lived on the site in a new home, he would be able to take better control of the aesthetics of the property and the business. He plans to continue to clean up and upgrade the image of the business. He is more than willing to work with the neighbors and their concerns about the way this site looks.

**Mr. Thompson** stated that at this point he has not done improvements to the repair shop building because he was afraid it would be considered a change in the use. Staff told him that improvements to the repair shop would change the use. He does not want to do anything that will cause him to lose his license. He has offered to re-front the building and make various improvements. It is his understanding that he can only maintain what is existing.

Improvements done include painting the house, construction of a fence, and roofing repairs. He is afraid to do more, in fear of losing his license. Building a home and living on the site will enable him to do a better job of maintaining and improving his property and business.

## QUESTIONS FROM THE COMMISSIONERS

**Barbara Cartmill** asked if the conditional use permit was explained to Mr. Thompson when he purchased the business. **Gary Firestone** explained that there was no determination made before the purchase of the property. Mr. Thompson was given a non-conforming use determination after the purchase and this determination set the perimeters of the non-conforming use.

**Mike Miller** asked if the Applicant checked to see if the business was in conformance with City regulations before it was purchased. **Mr. Thompson** stated that he rented the shop from the owner before purchase. This shop building was used as a rental. Barbara Shulz, the previous owner, told him that there was a license for the business and that it needed to be renewed. The City stated that they had no record; however, later it was determined that there was a license. Ms. Schulz purchased it in 1973, and before that time, this building was rented out to an auto repair shop.

**Mr. Thompson** stated that both Dan Pava and Susan Heiser had indicated that the area for the flag lot is not non-conforming. The area around the shop was required to be fenced and was determined to be the non-conforming area. He does not understand how this all works.

**Mr. Webb** indicated that the non-conforming use determination restricted the use to the south one-third of the property.

#### DELIBERATION AMONG COMMISSIONERS

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

**Judith Borden** asked if the auto repair shop is a lawful business and if there were no Application, would Mr. Thompson be allowed to continue the business as it exists today? **Gary Firestone** stated that this is a lawful business and Mr. Thompson could continue that business. If it is found that the alteration changes the business, the non-conforming use only continues if the Application is withdrawn.

**Tracy Cook** asked if Mr. Thompson could build a new house on his property if there was no Minor Land Partition. **Jim Crumley** stated that there can be only one primary use per lot; the house could not be built. **Gary Firestone** stated that there is a possibility of removing the existing house on the lot, and rebuilding a new home. It may have to go through the non-conforming process because it will have two primary uses; repair shop and one house. As long as the lot stays in tact, there is no issue of non-conforming use alteration. **Jim Crumley** stated that the question is whether or not the Applicant should be allowed to modify the non-conforming use by reducing the area of the lot. This is an intensification of the non-conforming use.

**Judith Borden** asked if the non-conforming use applies only to a portion of the property; not the entire site. **Gary Firestone** stated that this is part of the question of interpretation of what is a non-conforming use. The definition of use can be interpreted as how the property is arranged. This can be interpreted as a change in the arrangement of the property. The non-conforming use portion was a part of the entire lot. The lot is being rearranged. It can also be interpreted that the use is limited to the area of the auto repair shop.

**Mike Miller** asked if the lot was sold, would the non-conforming use change. **Gary Firestone** stated that the non-conforming use does not change with the sale of the lot. It use can be continued as long as the use is not discontinued for a period of time.

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**Barbara Cartmill** asked for clarification of the Determination of Non-conforming Use. It states in this document that the auto repair business shall be limited to the one-third southeast portion of the lot. **Gary Firestone** stated that the determination explains what exactly the use is and the restrictions or limits of that use. This can be interpreted to say that this is the non-conforming use and everything else is conforming. It can be interpreted that this is a non-conforming use on the lot. By changing the residence on the lot, it brings an additional residence closer to the non-conforming use. This could be seen as a change in the arrangement. There are some conditions that could be tied to ownership of the lots and the business, but the Applicant would have to agree.

**Vice-Chair Hammang** asked where this Application was in terms of the 120-day rule? **Janet Wright** stated that Mr. Thompson has signed a waiver to that rule.

**Mike Miller** noted that there were 12 documents submitted tonight. He would like to have more time to review the documents before making a decision. He suggested that the hearing be continued.

**Vice-Chair Hammang** re-opened the hearing to allow additional testimony and deliberations.

**Mike Miller** moved to continue the hearing on File Numbers MLP-98-06 and NCU-98-04, to May 11, 1999, to allow time for the Commissioners to review the information received tonight. **Barbara Cartmill** seconded. MOTION CARRIED 5-0.

Ayes: Borden, Cartmill, Cook, Hammang, Miller; Nays, none.

Recess was taken at 8:50 p.m. and the meeting reconvened at 8:55 p.m.

- 6.2 Applicant: Clackamas County Corrections  
Owner: State of Oregon  
Location: 9000 and 9002 SE McBrod  
Proposal: Request to modify a previously approved Community Service Overlay to allow offenders in crime categories 9 and 10 be housed at the McBrod facility.  
File Number: CSO-99-01  
NDA: Historic Milwaukie

5.0 PUBLIC COMMENTS


Speaking: Darlene Walsh,

**Darlene Walsh** stated that she was the Chair of the Ardenwald Neighborhood Association. She had received a Notice of Intent to Approve a Minor Land Partition on Kelvin Street. She asked the Commission if this Application could be held over until the Association could review the case and render a decision. **Janet Wright** informed her that this application is reviewed under the Administrative Review process, and that staff would be happy to discuss the application with her.

5.1 Applicant: Howard Thompson  
 Property Owner: Howard Thompson  
 Location: 3406 SE Olsen Street  
 Proposal: Minor Land Partition to create 2 lots to allow construction of a new single family residence; and a Non-Conforming Use application to continue the use of an existing shop for an auto restoration business on Lot 1.  
 File Number: MLP-98-07/NCU-98-04  
 NDA: Ardenwald

**Mike Miller** opened the public hearing on File Number MLP-98-06 and NCU-98-04. This is a request to allow a Minor Land Partition to create 2 lots and a Non-Conforming Use Application to continue the use of an existing shop building for an auto restoration business. Criteria to be addressed are found in Section 7.32.040 of the Subdivision Ordinance; Section 302 and Section 1000 of the Milwaukie Zoning Ordinance.

**Mike Miller** asked if there were any conflicts of interest or ex-parte contacts to declare? **Commissioner Ouderkirk** stated that he was not present for the previous hearings, and had not reviewed the tapes on this application. He abstained from participating in this hearing. There were no other conflicts of interest or ex-parte contacts declared. **Mike Miller** asked if any member of the Planning Commission visited the site; five hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the Staff Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

<b>City of Milwaukie Community Development Department</b>				
Title: <u>PC MLP-98-07/NCU-98-04</u>	Submitted by: <u>CD</u>	Date: <u>6/23/99</u>	# Pages: <u>8</u>	
File Numbers: <u>MLP-98-07/NCU-98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>8</u>		

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STAFF REPORT

**Janet Wright** explained that the Supplemental Staff Report passed out to the Commissioners was a recap of the issues that were brought up at the last hearing. She asked that the Commission review this Report for consideration and decision.

QUESTIONS FROM THE COMMISSIONERS

**Barbara Cartmill** asked if Exhibit D, Request for a Non-Conforming Use, was requested of Mr. Thompson by Staff. **Janet Wright** stated that Mr. Thompson requested a Minor Land Partition. As a result of that submission, in a pre-application meeting, it was determined and requested that he submit the Request for a Non-Conforming Use.

CORRESPONDENCE RECEIVED BY STAFF

**Janet Wright** reported that one letter in opposition to the business portion of this application was received from Leona and Victor Goldsmith. She read the letter into the record.

QUESTIONS FROM THE COMMISSIONERS -- None.

APPLICANT PRESENTATION

Speaking: Howard Thompson, 4310 SE Franklin Street, Milwaukie

**Mr. Thompson** stated that it was at the pre-application meeting that he was told that he needed to apply for a Non-Conforming Use. He was told he needed to submit a \$980 application fee for a Minor Land Partition; he did that and a month later he was told that he needed to apply for the Non-Conforming Use.

He asked the Commission what the property is zoned for? He also asked why he was not told that this was going to have to go before the Planning Commission when he paid his fees for the minor land partition. Why was he not told when he paid the \$980 that the total would be \$2,500?

**Mr. Thompson** asked the neighbors what they would want him to do if approved? He is open-minded to a nice neighborhood; he is not trying to ruin the neighborhood. He has no trouble with landscaping; he will clean up shrubbery and plant new trees. He has spent \$2500 to apply for a new home and he would

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like for the surroundings to look nice as well. These people have been his neighbor for 8 hours a day, and now they will be his neighbors for 24 hours a day.

In the past year he has painted the house, replaced broken windows, put in a new fence, replaced the roof and gutters. He is willing to continue to improve the site if he has an opportunity to do so. This site will look presentable to all when completed.

**Mr. Thompson** stated that he has asked to improve the look of the shop building; however, he was told this would require another fee. He has talked to two neighbors just across the street and they had no negative comments about the site.

#### QUESTIONS FROM THE COMMISSIONERS

**Mike Miller** asked how many employees work at the site? **Mr. Thompson** stated there is one employee.

**Mike Miller** noted that one of the exhibits submitted stated that this is an R-7 residential zone and does not allow certain kinds of home occupations. Home occupations do not include auto repair and home occupations require that the owner of the business live on the site. **Mr. Thompson** stated that this is what the City found before they determined that the business site was a non-conforming use. The owner of the property has never lived on the site. The building has been a rental from 1972 to the present.

#### TESTIMONY IN FAVOR OF APPLICATION

Speaking: Dave Webb, 1209 14th Street, West Linn

**Mr. Webb** stated he is the builder that Mr. Thompson hired to build the proposed new home. He was present at the last meeting. At that meeting, there were a number of questions on the specific designated area for the auto business. He did not understand if it was resolved that the non-conforming use was only on the southeast one-third of the lot. He would like to know this, so he can proceed with construction plans.

**Mr. Webb** stated that he submitted a site map to the City and was told that it was incomplete and needed to be in more detail, particularly the parking. He cannot indicate where the parking will be until he knows where the non-conforming use area is located. Is the non-conforming use on a portion of the property or on the whole parcel?

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**Mr. Webb** stated that he did not understand why the property owner is precluded from building a home on the other portion of the lot where the non-conforming use is not in effect.

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS

Speaking: Betty Stewart, 3328 SE Olsen, Milwaukie

**Ms. Stewart** stated that she has lived at this location for many years. She has seen the business from day one. She feels Mr. Thompson is conforming to what the City wants him to do and addressing neighbors concerns. Her main concern is the flag lot. She stated that people purchased lots in this area to have large lots. Now with this proposal, Mr. Thompson's backyard will be facing her front yard.

**Ms. Stewart** stated that she is not against the new home, or the use of the business. She does not want to start having flag lots in the neighborhood.

QUESTIONS FROM THE COMMISSIONERS

TESTIMONY IN OPPOSITION

Speaking: Phillip Nelson, 3739 SE 26th Street, Milwaukie

**Mr. Nelson** stated that he is the land use Chair for the Ardenwald Neighborhood Association. He is here tonight to reiterate what was said at the last hearing, that they are against this Application and in support of the City's denial of the business. He stated that they are not against the business since it is grandfathered in however he would not like to see this property divided.

**Mr. Nelson** stated that he feels the Commission is dealing with an interpretation problem as to lot definition. This is one lot with one house, now consideration is being given to dividing this one unit and creating a flag lot. This flag lot is entirely different from other uses in the neighborhood. This is not the direction to go.

**Mr. Nelson** stated that there are two options. Either the business and residence stay as it currently exist or remove the business and have two homes on the property. This is the issue before the Commission. The neighborhood is

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concerned about flaglots. He asked that the Commission give this a lot of thought as to what the results of a flag lot would be in this neighborhood.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

**Janet Wright** stated that when Mr. Webb submitted the site plan, he was asked to be more specific as to what is on the site; parking spaces, location of buildings, etc. The tentative plan was incomplete, and he was therefore asked to complete the tentative plan to accurately show what was on the site.

QUESTIONS FOR CLARIFICATION

**Judith Borden** asked about the use of the existing house. **Mr. Thompson** stated that the existing house is a rental house and someone is living on the premises.

**Judith Borden** asked if consideration had been given to expanding or remodeling the existing house? **Mr. Thompson** stated that the existing home is 100 years old. He has done all he can to remodel the home for renting, but it is not in good structural condition. He has put about \$15,000 in new linoleum, carpeting, roof and gutters, and paint. In the future, it probably will have to be demolished. It would cost more to remodel this home than to start new construction.

**Judith Borden** asked if consideration had been given to tearing down the old house and rebuilding in that location? **Mr. Thompson** explained that he couldn't afford to demolish the home at this point as it is rental income. This income is needed to make payments on the property.

APPLICANT'S CLOSING COMMENTS

Speaking: Howard Thompson, 3406 SE Olsen Street, Milwaukie

**Mr. Thompson** stated that when the City requested that a fence be constructed to confine the area that was deemed a non-conforming use, this was a confirmation of the continuation of the business use. He also feels this was a conformation that only this portion of the lot was non-conforming. He feels the use of the property has not changed.

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**Gary Firestone** explained that the term "use" is defined in the Zoning Ordinance as, "The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained." This comes into the standard for non-conforming use in Section 800, "A non-conforming use may be continued but shall not be altered unless such alteration is approved by the Planning Commission after a public hearing in accordance with subsection 10.11.3 - Minor Quasi Judicial Review, upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use."

The initial decision for the Planning Commission is whether the non-conforming use that has been approved is going to be altered. It is altered, would that result in any more of a detriment to the surrounding properties.

**Mr. Thompson** contends that since he had to put up the fence between the house and the shop, this specifies the non-conforming area. The use of that area is not being changed.

QUESTIONS FROM THE COMMISSIONERS -- None.

DELIBERATION AMONG COMMISSIONERS

**Mike Miller** closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

**Judith Borden** read Exhibit 6, Finding 1, "The subject property is located in the R-7 single family residential zoning district. In addition to the non-conforming auto repair business and building, there is an existing single-family dwelling located on the property." She interprets this finding to mean that the only thing on the property that is deemed non-conforming is the business and building portion of the lot.

**Tracy Cook** stated that she feels the entire lot is one unit, regardless of the fact that a portion of it is non-conforming. When there is a division of the parcel, it changes the entire parcel.

**Barbara Cartmill** stated that she feels it is clearly defined where the non-conforming use is located. The Applicant came before the City with an application for a Minor Land Partition. There is plenty of room for the partition and this would have been done administratively if it had not been for the business

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on the property. The criteria for a Minor Land Partition have been met. She feels the application should be approved with no restrictions on the business.

**Howard Steward** asked how the applications are paid? **Janet Wright** explained that a fee is paid to file a land use application before it can go through the process. The Minor Land Partition and the Non-Conforming Use fees were applicable to this application and Mr. Thompson was charged the fees.

**Mike Miller** voiced concern that the planned partition does not put the business with the planned personal home. This division changes the boundaries and use of the total property. He asked staff if this is an appropriate non-conforming use for the R-7 Zone? He also asked if this partition was approved, could this set precedence for others in the area to partition their property and put in an auto repair business? He does not have a problem with the house or the business; he does have concerns about both being allowed.

**Jim Crumley** explained that a non-conforming use is a use that is established in conformance with the regulations and the regulations have subsequently changed. By virtue of the change in regulations, the non-conforming status is established. **Gary Firestone** explained that if you have a business above your garage and regulations changed and that use is not allowed, the business-owner must come in and request a non-conforming use. If granted, the non-conforming use sets the scope of the use. Expansion or alterations cannot be done without requesting additional approval.

The question before the Commission is whether moving the property line over to the fence line will result in a greater detriment than exists today.

**Howard Steward** stated that he feels there are three issues. One, the business existed before the zoning. Two, when the Applicant was instructed to put up a fence, that request was passive/acceptance of continuance of the business in that location. Three, the flag lot application is legal and should be approved. He cannot find any reason for denial of the partition.

**Judith Borden** asked if there was a condition that could be imposed to insure that in the future that the partitioned properties are not sold to two different people? **Gary Firestone** explained that if it found that the partition does not alter the non-conforming use, all the non-conforming issues are eliminated and the non-conforming application is not applicable. The partition application remains. There is no basis for this type of condition in the partition request. If it is found

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that the partition does alter the non-conforming use, there could be a condition placed on the continuation of the non-conforming use.

**Judith Borden** moved that a finding be made that there was no alteration in the use that is the subject of NCU-98-04. This application is deemed mute. **Barbara Cartmill** seconded. MOTION CARRIED 4-1.

Ayes: Borden, Cartmill, Cook, Steward; Nays: Miller

**Judith Borden** moved to approve MLP-98-06 subject the conditions and findings as stated in the Staff Report as Exhibit 1, with the deletion of Conditions 7 & 8. **Barbara Cartmill** seconded. MOTION CARRIED 5-0.

Ayes: Borden, Cartmill, Cook, Miller, Steward; Nays: None.

**Barbara Cartmill** asked that the concerns of the neighbors be considered and that this non-conforming business is closely supervised to conform to the conditions of approval. **Jim Crumley** stated that the annual business license renewal would allow the City to review the site for compliance with the NCU approval.

**Howard Steward** stated that the Planning Commission acted on the basis of the criteria of this Application. The Commission is in sympathy with neighborhood concerns regarding flag lots and business uses, but must make their decision on the regulations and requirements of the Ordinances.

**Barbara Cartmill** asked if the Applicant would be reimbursed his Non-Conforming Use Application fee? **Gary Firestone** stated that the Commission's decision was that there was no alteration, therefore no need for the Application. Mr. Thompson's Non-Conforming Use Application fee will be reimbursed.

Recess was taken at 8:03 p.m. and the meeting reconvened at 8:12 p.m.

- 5.1 Applicant: Norm Scott  
Property Owner: Norm Scott  
Location: 8555 SE 28th  
Proposal: Build an addition to existing home that would be within normal setback area requiring a variance; and to fill and level upper portion of same lot to create a level playing field.  
File Number: NR-99-01/VR-99-02

V. A. 63

City of Milwaukie

Appeal Application

Date: 5-28-99

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

Re: File No.(s): 98-06 Minor Land Partition } Olsen  
98-04 Non-Conforming Use } St.

The undersigned hereby appeal(s) the decision of (check one):  Community Development Director,  Planning Commission, concerning the action to (check one):  approve,  deny the above referenced file(s) on the following date: 5-11-99.

Howard  
Thompson

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

Sec. 100B

The reasons for this appeal are identified as follows:

The Ardenwald / Johnson Creek Neighborhood Association, at their 5-11-99 meeting, discussed their confusion & difficulty in understanding the following:  
How was it determined where the boundary for the non-conforming use was drawn? Did it need to go before a committee? On whose authority was it entitled non-conforming? How were the specifications determined? Is the lot able to be arbitrarily divided?

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

Possibly

Sincerely,

Darlene Walsh Ardenwald / Johnson Creek Ch

2107 SE 10th St Milwaukie, OR

City of Milwaukie Community Development Department

Title: Appeal App Submitted by: CD Date: 6/23/99 Pages: 1  
File Numbers: MLP-98-06/NCU 98 86 Applicant: Thompson Exhibit #: 9



Q.

V. A. 64

City of Milwaukie

Subdivision Ordinance

(Title 17 of the  
City of Milwaukie Municipal Code)

Adopted Ord. #1440, December 3, 1979  
Last Rev. Ord. #1762, May 17, 1994

City of Milwaukie Community Development Department

Title: Subdivision Ord Submitted by: CO Date: 6/23/94 # Pages: 3  
File Numbers: MLP-98-06/NC49504 Applicant: Thompson Exhibit #: 10



CHAPTER 17.32. PARTITIONING

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

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

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

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

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

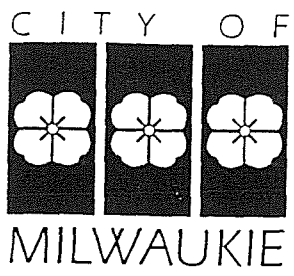
- A. Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. In addition, consideration will be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid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

PARTITIONING

Last Rev. Ord. #1620 3/17/87

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

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



May 18, 1998

NCU 98-01

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

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

**Findings:**

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

**Conclusion:**

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

COMMUNITY DEVELOPMENT • PUBLIC WORKS

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Revised Dir Det</u>	Submitted by: <u>CD</u>	Date: <u>5/23/98</u>	# Pages: <u>4</u>	
File Numbers: <u>ncu 98-01</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>11</u>		

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

**Conditions:**

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



Michael Swanson,  
Interim Community Development Director

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

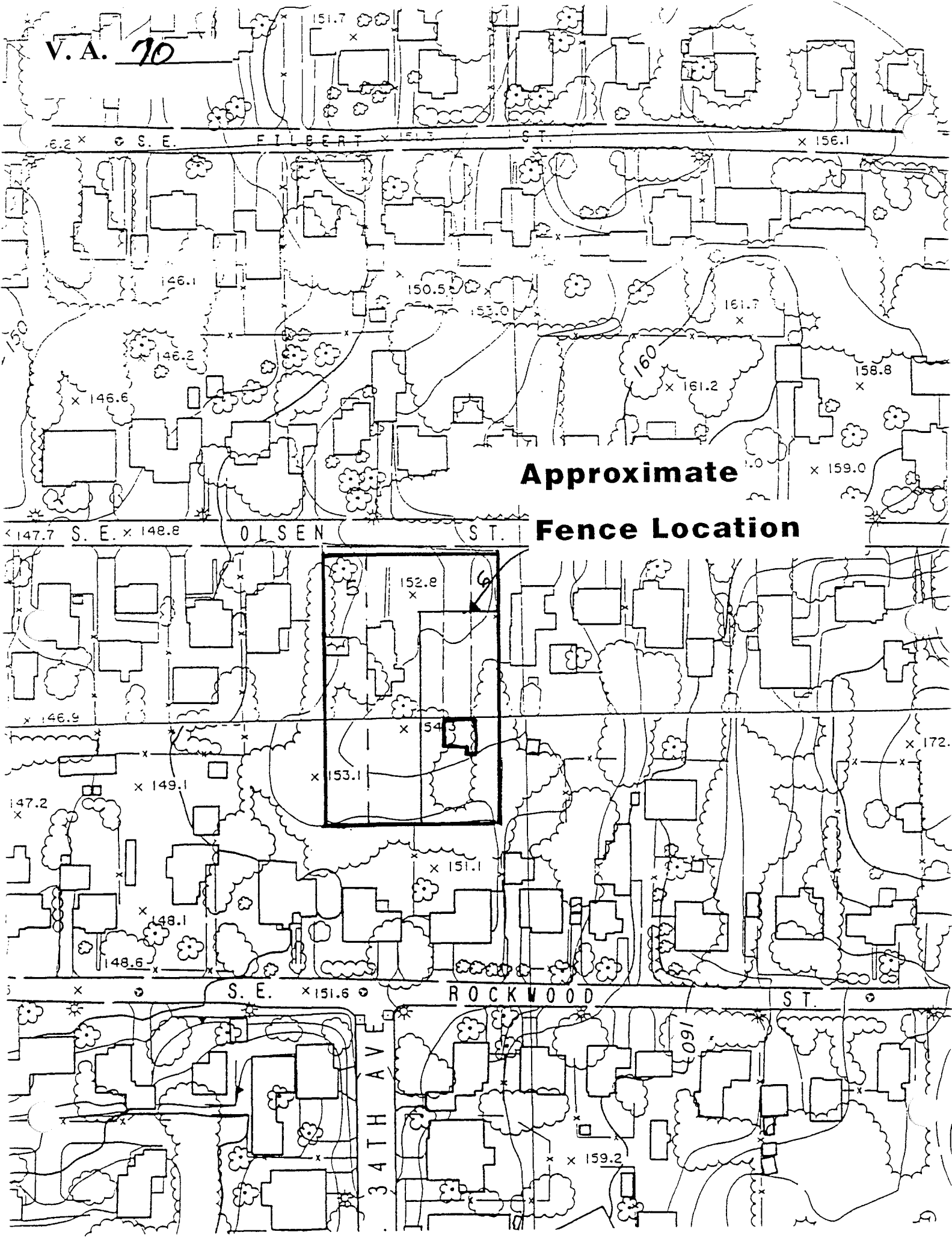
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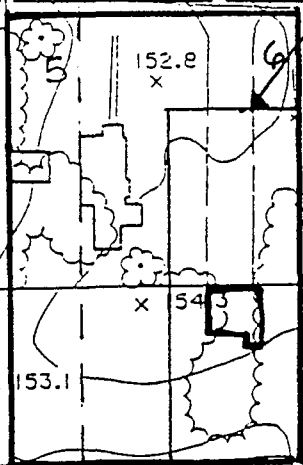


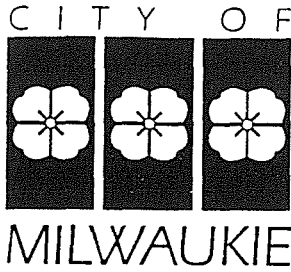
Michael Swanson,  
Interim Community Development Director

V.A. 70



**Approximate  
Fence Location**





V. A. 71

May 17, 1999

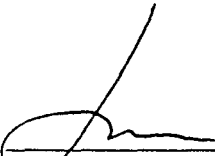
MLP-98-06

**NOTICE OF DECISION**

This is official notice of action taken by the Milwaukie Planning Commission at a Public Hearing held on Tuesday, May 11, 1999. At that meeting the Planning Commission approved a request by Howard Thompson to partition property located at 3406 SE Olsen Street, Milwaukie, Clackamas County, Oregon. Map 1S, 1E, Section 25DB, TL 900. The adopted findings and conditions of approval are included with this Notice.

Following provisions of Section 1011.3 of the City of Milwaukie Zoning Ordinance, this application has been approved as of this date. A 15-day appeal period is now in effect, expiring at 5:00 p.m. on June 4, 1999.


Copies of the Staff Report and other written materials are available upon request. Community Development Department Staff can be contacted at 786-7653 if additional information is required.

  
\_\_\_\_\_  
Jim Crumley, Planning Director

Cc: Martha Bennett, Assistant City Manager, CD  
File: MLP-98-06

Attachment: Findings and Conditions of Approval

COMMUNITY DEVELOPMENT DEPARTMENT

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Notice of Dec</u>	Submitted by: <u>CD</u>	Date: <u>6/23/99</u>	# Pages: <u>2</u>	
File Numbers: <u>MLP-98-06/ANU 98-04</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>12</u>		

**EXHIBIT 1**

**CONDITIONS FOR APPROVAL FOR MLP-98-06**


1. Parcel configuration shall be generally as indicated in *Exhibit 3* of the Staff Report.
2. Submittal of the Final Partition Plan shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction, completion of required improvements and compliance with conditions of approval. This submittal must occur within one year of this preliminary plat approval.
3. The requirements identified in the Department of Public Works Memo dated December 18, 1998 shall be complied with. (*See Exhibit 4*).
4. The existing garage on Lot 2 shall be removed and replaced to supply new covered parking on proposed Lot 1 to serve the existing house and replace the covered parking in accordance with Section 500 of the Zoning Ordinance. A demolition permit must be obtained prior to the demolition of the building.
5. The applicant shall comply with all requirements for access and fire safety of the South Metro Fire District as outlined in *Exhibit 5*.
6. Erosion control permits shall be obtained, as required, from the Department of Public Works, prior to construction.
7. Any deed restrictions proposed by the applicant shall be provided to the City Community Development Department for review to ensure that there are no conflicts with City Ordinances.
8. The applicant is required to extend sewer and water services to serve the lots. Sanitary sewer and water facilities are available from mains on SE Olson Street.
9. Utilities shall be installed underground. A five foot-wide right-of-way dedication is required along the entire Olson Street frontage as stipulated by the Public Works Memorandum dated December 18, 1998 (*Exhibit 4*).
10. The applicant shall provide a 6-foot privacy fence around the side and rear property lines of the flag lot (Lot 1), as well as along the west side of the access drive to the 20-foot front yard set back line.

Dan Bartlett  
Milwaukie City Manager  
Milwaukie, OR

This is a letter from two very concerned citizens on Olsen St. who feel as though the "powers that be" are deciding on the quality of life we can look forward to. We are totally opposed to flag lots in general and specifically on Olsen. My family moved here nineteen years ago because it was a good neighborhood to raise our boys in. Single family homes on large lots were the two most important features. Olsen has already been squeezed by the sidewalks taking our off street parking and that's with an average of 2.5 vehicles per home. What kind of impact do you think 5+ vehicles per current lot will be? It is difficult to get the school buses and fire trucks down the street as it is. Olsen can not handle high-density living without major problems and what most of you vote on will have a very negative impact on all our lives. We already have to put up with residential property going commercial (yes, that was handled badly whatever you think) and soon we may be staring at walls instead of our neighbor's flowers. I used to be very proud to say that I lived in Milwaukie because it had that small town feel and people who cared about quality of life. My friends in Portland and other cities say that soon we will be just like them. What a sad commentary and what a sad downward spiral you will be beginning.

Sonny and Sarah Newson  
3337 SE Olsen St  
Milwaukie, Or 97222  
653-1718

cc: Martha Bennett

<b>City of Milwaukie Community Development Department</b>			
Title: <u>Neigh Comment</u>	Submitted by: <u>CD</u>	Date: <u>6/23</u>	# Pages: <u>4</u>
File Number: <u>MCD 98-06/NEU 98-44</u>	Applicant: <u>Thompson</u>	Exhibit #: <u>13</u>	

V. A. 74



June 16, 1999

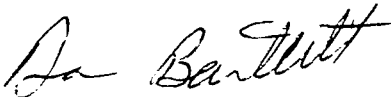
Sonny and Sarah Newson  
3337 SE Olsen Street  
Milwaukie, Oregon 97222

Dear Mr. & Mrs. Newson:

I have received your letter concerning flag lots. Ms. Bennett and I are staff to the City Council. We can not vote on the Ordinances proposed by the Planning Commission or City Council. We do know that there is significant neighborhood concern about flag lots.

I will pass your letter on to the Mayor and City Council and Planning Commission so that they can be aware of your concerns. Because this is a land-use matter I can not give them your letter until this matter comes before them for action. This is a legal requirement to protect all individuals legal rights.

Sincerely,



Dan Bartlett  
City Manager

Cc: Mayor and City Council  
Martha Bennett  
Alice Rouyer, Planning Director

V. A. 75

May 31, 1999

RECEIVED

JUN 03 1999

PUBLIC WORKS

Martha Bennett  
Assistant City Manager  
Milwaukie, Or

Dear Ms. Bennett,

The result of the decision that was made by the planning commission concerning the building of a flag lot house at 3406 SE Olsen St prompted us to write this letter.

We have lived on this site since 1955 and bought it because of the large lot and the privacy of the backyard.

We are surrounded by large lots on all three sides and the lot directly in back of us is a double lot, which means we could be closed in by four flag lot houses destroying our privacy we now have.

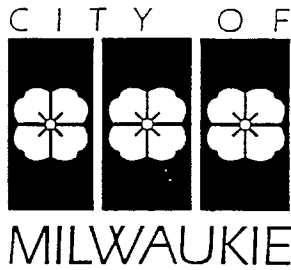
The only way out of this dilemma is by your no vote on flag lot houses or by our moving or dying.

We strongly feel that Olsen cannot handle the impact of more cars. It is already impossible to pass because of the parked cars on such a narrow street.

Herman and Betty Stewart  
3328 SE Olsen St.  
Milwaukie, Or 97222  
654-7367

cc: Dan Bartlett

V. A. 26



RECEIVED

JUN 14 1999

PUBLIC WORKS

June 8, 1999

Herman and Betty Stewart  
3328 SE Olsen Street  
Milwaukie, Oregon 97222

Dear Mr. & Mrs. Stewart:

I have received you May 31, 1999, letter concerning flag lots. Ms. Bennett and I are staff to the City Council. We can not vote on the Ordinances proposed by the Planning Commission or City Council. We do know that there is significant neighborhood concern about flag lots.

I will pass your letter on to the Mayor and City Council so that they can be aware of your concerns.

Sincerely,

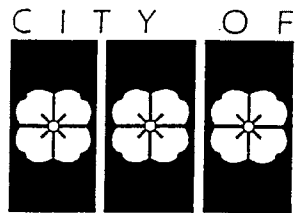


Dan Bartlett  
City Manager

Cc: Mayor and City Council  
Martha Bennett  
Alice Rouyer, Planning Director

V. B. 2

Posted - 6/17/99  
12:10 PM  
Officer Jessie Riley Pres



# MILWAUKIE NOTICE TO ABATE

Pursuant to Milwaukie Municipal Code, Section, Section 8.04.170, the City of Milwaukie hereby gives:

**Don Griffith**

Notice that a nuisance exists on his property located at:

**10409 SE 32<sup>nd</sup> Street, Milwaukie**


The nuisances on this property consist of:

1. Outside storage and/or display of merchandise, materials or equipment on the premises, outward appearance of business that are not allowed in the zone (Milwaukie Zoning Ordinance Section 401.1E).
2. No provision for covered or off-street parking for customers (Section 503.3).
3. Operating a business without a business license (Milwaukie Municipal Code 5.04.030).
4. Construction without a building permit (City of Milwaukie Ordinance No.1814).
5. Construction of a building in the front yard setback without zoning approval (Milwaukie Municipal Code Section 8.04.135-Compliance with Zoning).

**The nuisance on this property MUST be abated within ten (10) days of the date of this notice. If such nuisance is not removed within the ten (10) day period, the City may abate the nuisance and assess the cost of abatement against the property.**

The owner or other person in charge of this property may protest this notice to abate by providing written notice to the City Recorder within ten (10) days from the date of this notice.

This notice is dated the 17 day of June, 1999

  
\_\_\_\_\_  
**Dan Bartlett, City Manager**  
**City of Milwaukie**

Notice to protest, Notice of Abate.

Re: Mr. Don Griffith  
10409 S.E. 32<sup>nd</sup> St. Milwaukee

I Donald A. Griffith do protest  
the City of Milwaukee Notice to Abate  
dated June 17<sup>th</sup> 1999. Concerning outside  
storage - <sup>3</sup> overhead cover.

In written notice I hear by submit this  
to the City Records Dept. on this date  
of June 27-99.

Donald A Griffith (503) 317-4565  
or 481-6091

Please schedule a board hearing time  
and date at your earliest convenience

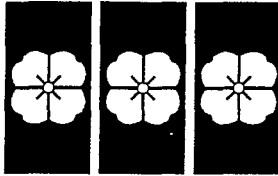
Thank you Mark  
Donald A Griffith

MILWAUKIE POLICE DEPT.

JUN 28 1999

BY Annette Quinn  
4:40 PM

C I T Y O F



MILWAUKIE

DATE: July 2, 1999

TO: Mayor and City Council

THRU: Dan Bartlett, City Manager  
 Martha Bennett, Assistant City Manager, CD *MB*  
 Alice Rouyer, Planning Director *scr*

FROM: *Janet*  
 Janet Wright, Planner

RE: Abatement of Zoning, Building and Municipal Code Violations at 10409  
 SE 32<sup>nd</sup> Avenue, Milwaukie, Clackamas County, Oregon

### ACTION REQUESTED

1. That the Council declare that a nuisance exists per Section 8.04.020 of the Milwaukie Municipal Code which states:
 

"The acts, conditions or objects specifically enumerated and defined in Sections 8.04.030 through 8.04.160 of this chapter are declared to be public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in Section 8.04.170 through 8.04.210 of this chapter".
2. That the Council determine that the Building, Zoning and Municipal Code Violations at 10409 SE 32<sup>nd</sup> Avenue, Milwaukie, Oregon, be declared a nuisance under the Milwaukie Municipal Code Section 8.04.135.

### CHRONOLOGY OF EVENTS

- a. On October 17, 1997 a Notice of Potential Violation was sent to Mr. Griffith for violation of Section 8.04.135, Section 503.22\*\*, (Recreational Vehicles and Pleasure Craft), 8.04.135, Section 402 (Storage of Unlicensed or Dismantled Vehicles).
- b. On April 21, 1998, a letter was sent regarding the Business License and Home Occupation Application, indicating the following violations:
  - (1) An automobile repair business operated in the carport is not permitted in the zoning district. The letter addressed Section 422.3A and D of the Zoning Ordinance that prohibits outside display or storage of merchandise, materials, or equipment on the premises.

- (2) The letter also addressed the construction of the carport within the 15-foot front yard setback without zoning approval or a building permit, Section.309.3 B and C of the Milwaukie Zoning Ordinance.
  - (3) Other issues included failure to meet the required off-street residential parking requirements of Section 500 of the Zoning Ordinance, and the appliance and auto repair businesses being run out of the attached garage which eliminated the covered parking available to the residence.
- c. On August 11, 1998, a letter was sent to Mr. Griffith regarding failure respond to the business license and home occupation license renewal. The letter stated that the application submitted by Mr. Griffith described his business as appliance repair. The letter also addressed the automobile repair business that was taking place at the site and that automobile repair activities were not allowed in the zone. Parking standards of Section 500 were being violated in addition to the prohibition of automobile parts, tools and other materials in various locations in the yard.
  - d. On August 25, 1998, A Milwaukie Police Department conducted a site visit as a result of a complaint regarding illegally parked vehicles parked on the street waiting to be repaired by Mr. Griffith at 10409 SE 32<sup>nd</sup> Street, Milwaukie. (See Attachment C - Police Report - Case #m98-2724).
  - e. August 27,1998, Mr. Griffith was cited into Municipal Court for Zoning, Building and Municipal Code violations.
  - f. Court dates for the citations were October 14, 1998, and November 4, 1998. See Attachment E - Citation and Complaint #31014 and # 31019.
  - g. An Order and Judgement was issued on April 28,1999, for \$7,030.00 (See attachment D - Judgement and Order - Dated April 28, 1999).
  - h. On May 12, 1999 the City Code Enforcement Officer conducted a visual inspection of the property and photographed several nuisance problems. He determined violations on the property to be attractive, dangerous, and accessible to children and to affect the health or welfare of the City per the Municipal Code Section(s):
    - 8.04.070 B-Debris on Private Property;
    - 8.04.120-Scattering Rubbish and Composting;
    - 8.04.090-Nuisances Attractive to Children; and
    - 8.04.080-Abandoned Refrigerators.
  - i. On June 17,1999 a Notice to Abate was posted on Mr. Griffith's property at 10409 SE 32<sup>nd</sup> , Milwaukie, Oregon. (See Attachment A - Notice to Abate Dated June 17, 1999).

**SUMMARY**

Staff has given the property owner many opportunities to remove and remedy the violations over the past year. The applicant was cited into, and fined, by the Municipal Court, and did not respond. Staff recommends that the Council declare that a nuisance exists and on the property and authorize staff to proceed with abatement.

Attached with this staff report are pictures that provide visual evidence of the ongoing building and zoning code violations at the site. See Attachment B - Pictures.

**FISCAL IMPACT**

Staff estimates that cleanup of the site and removal of the illegal carport will cost approximately \$5,000. The funds used to clean up the site will come from the Abatement Fund.

Staff will turn abatement billings over to the Finance Director for recovery of costs per Section 8.04.200-Assessment of Costs of the Milwaukie Municipal Code.

**ALTERNATIVES**

The Council has several options. First, if the Council is convinced that a nuisance exists, it can move to declare that a nuisance exists and authorize staff to proceed with the abatement. Second, if the Council has reasonable doubt that the nuisances exist, the Council can move to dismiss staff's request and declare that a nuisance does not exist at the site and deny staffs request to abate. Below is language for either option.

- **I move that the Council declare that the nuisance exists on the property at 10409 SE 32<sup>nd</sup> Street, Milwaukie, Clackamas County, Oregon.**
- **I move that a nuisance does not exist at 10409 SE 32<sup>nd</sup> Street, Milwaukie, Clackamas County, Oregon.**

**Attachments**

- A. Notice To Abate
- B. Pictures -
- C. Case #M98-2724-Milwaukie Police Department Case Report
- D. Judgement and Order - Dated April 28, 1999
- E. Citation and Complaint(s): # 31014 - Dated October 14, 1998  
# 31019 - Dated November 4, 1998

V. B. 6

\*\* Code Revision of April 6, 1999. Previous citation in Code was Section 503.18 Of the Milwaukee Zoning Ordinance.

V. B. 7 - 6/17/99  
12:10 PM  
offer Jesse Riley Pre

## NOTICE TO ABATE

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**Don Griffith**

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**10409 SE 32<sup>nd</sup> Street, Milwaukie**

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2. No provision for covered or off-street parking for customers (Section 503.3).
3. Operating a business without a business license (Milwaukie Municipal Code 5.04.030).
4. Construction without a building permit (City of Milwaukie Ordinance No.1814).
5. Construction of a building in the front yard setback without zoning approval (Milwaukie Municipal Code Section 8.04.135-Compliance with Zoning).

**The nuisance on this property MUST be abated within ten (10) days of the date of this notice. If such nuisance is not removed within the ten (10) day period, the City may abate the nuisance and assess the cost of abatement against the property.**

The owner or other person in charge of this property may protest this notice to abate by providing written notice to the City Recorder within ten (10) days from the date of this notice.

This notice is dated the 17 day of June, 1999

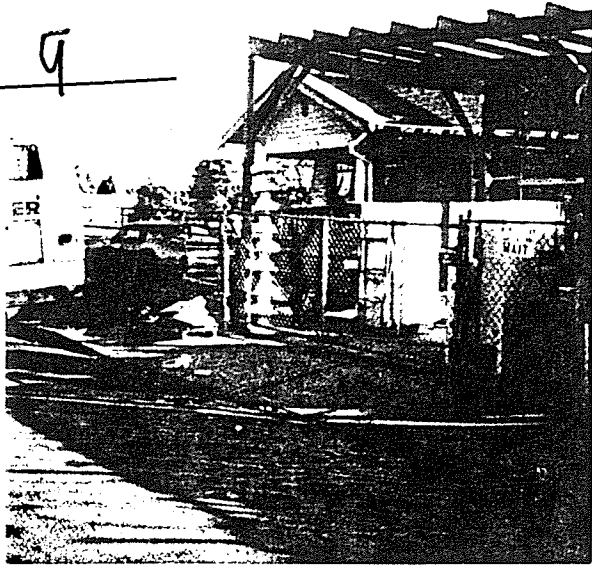
  
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Dan Bartlett, City Manager  
City of Milwaukie

V. B. 8

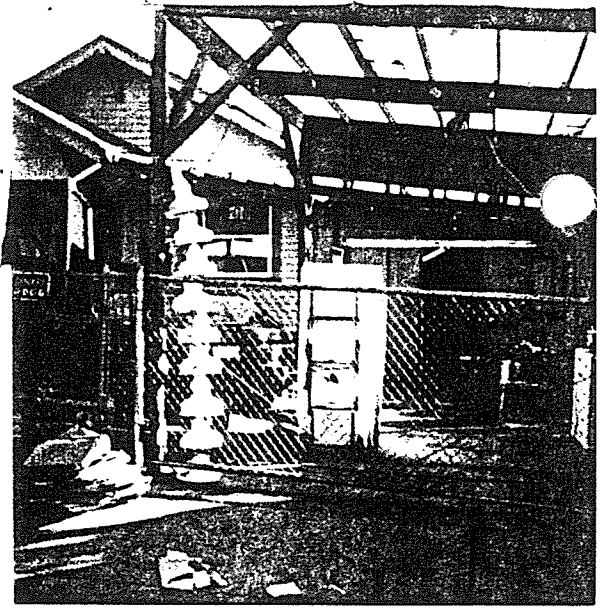
ATTACHMENT B

V. B.

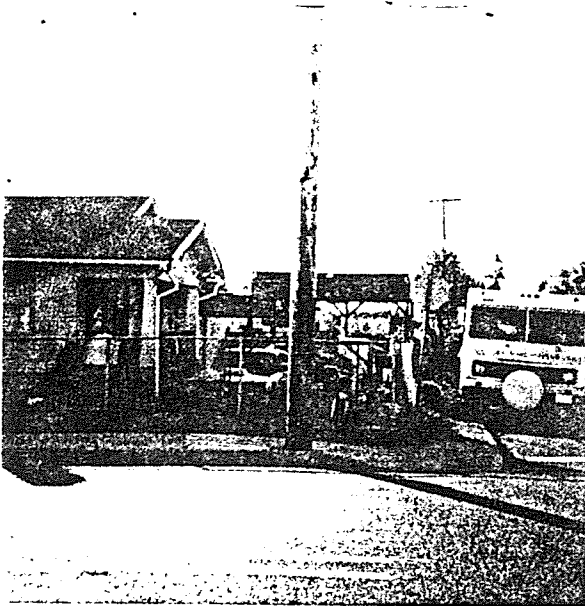
9



10409 SE 32nd  
10/22/98 4:15 pm



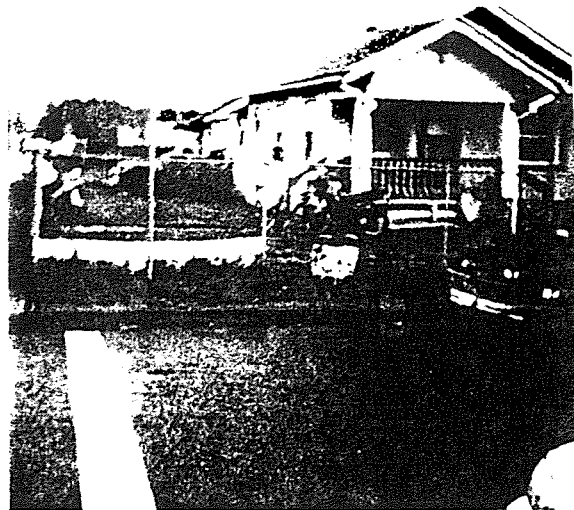
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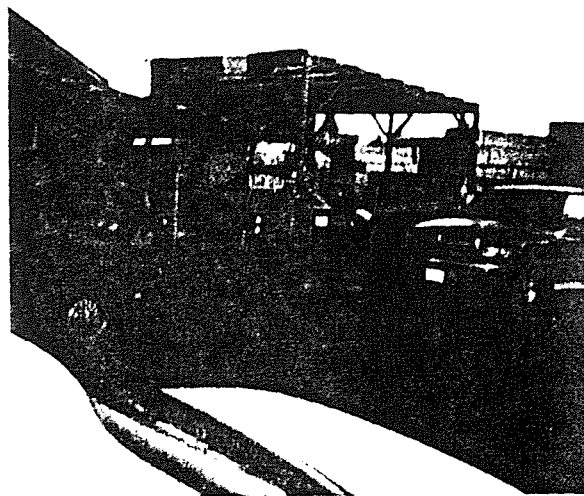
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10/22/98



10409 SE 32nd  
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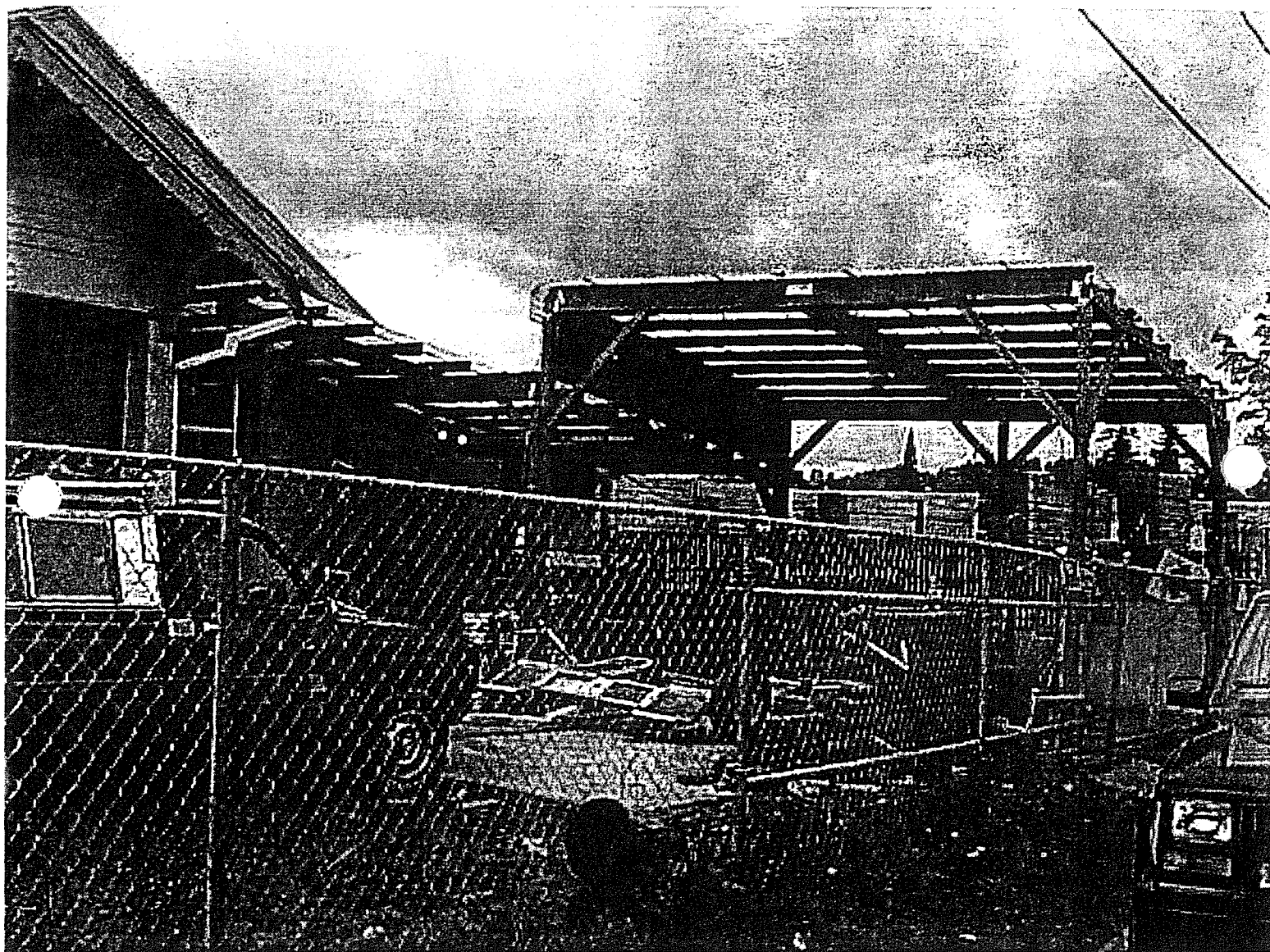


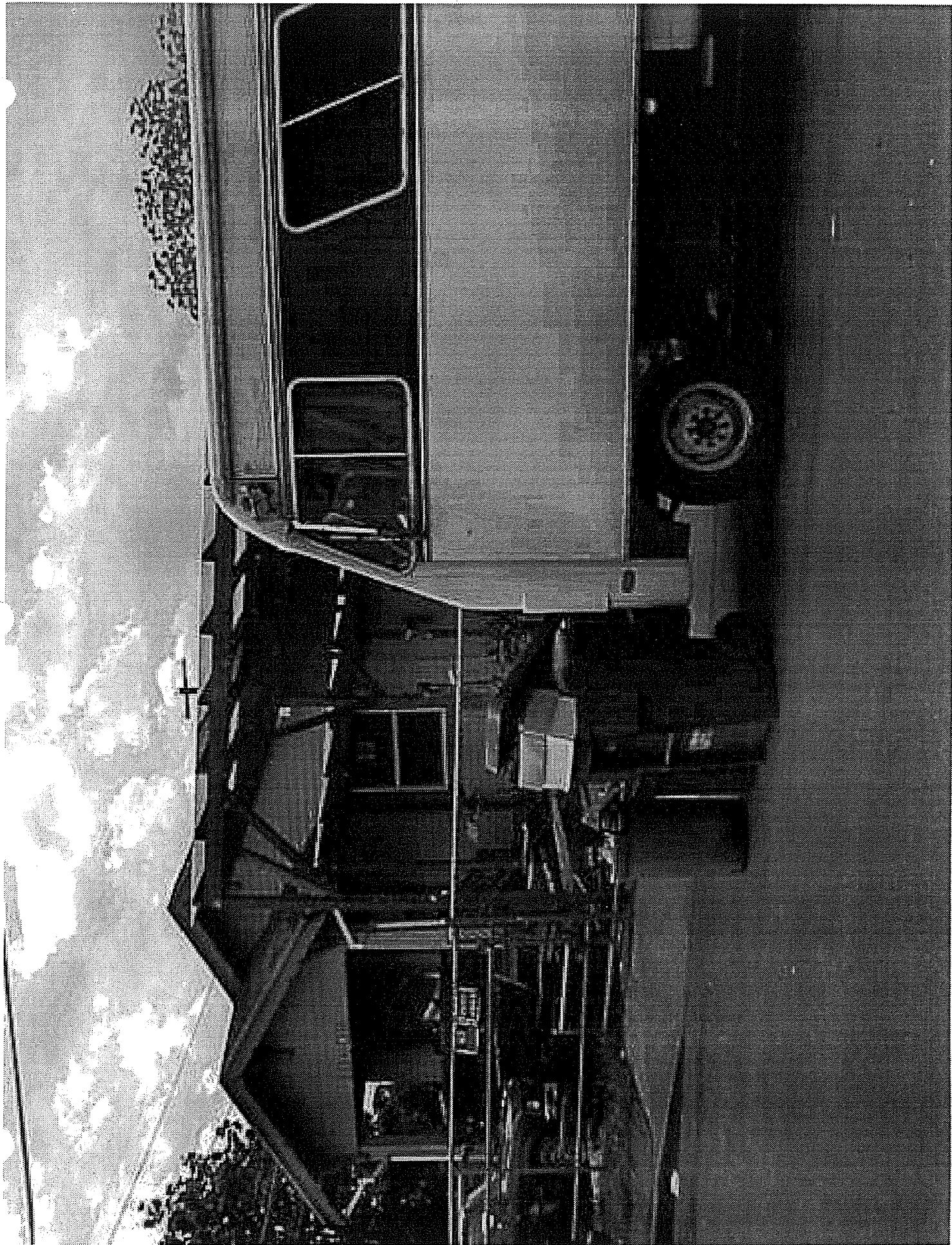
4/8/44 - 10009 SE 32nd  
Mrs. Guffella Prop.



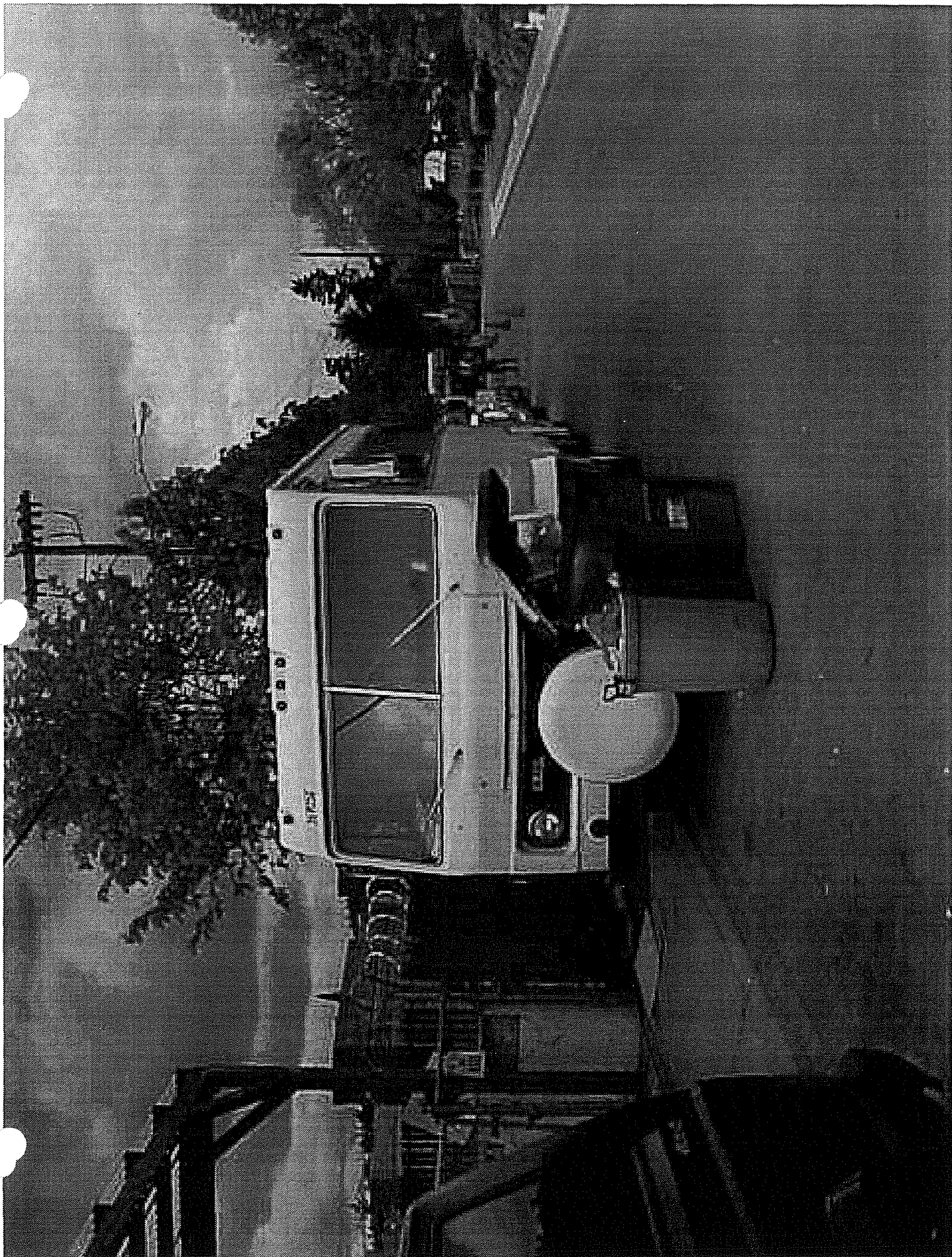
4/8/44 Don Guffella Prop  
10009 SE 32nd

V. B. 11





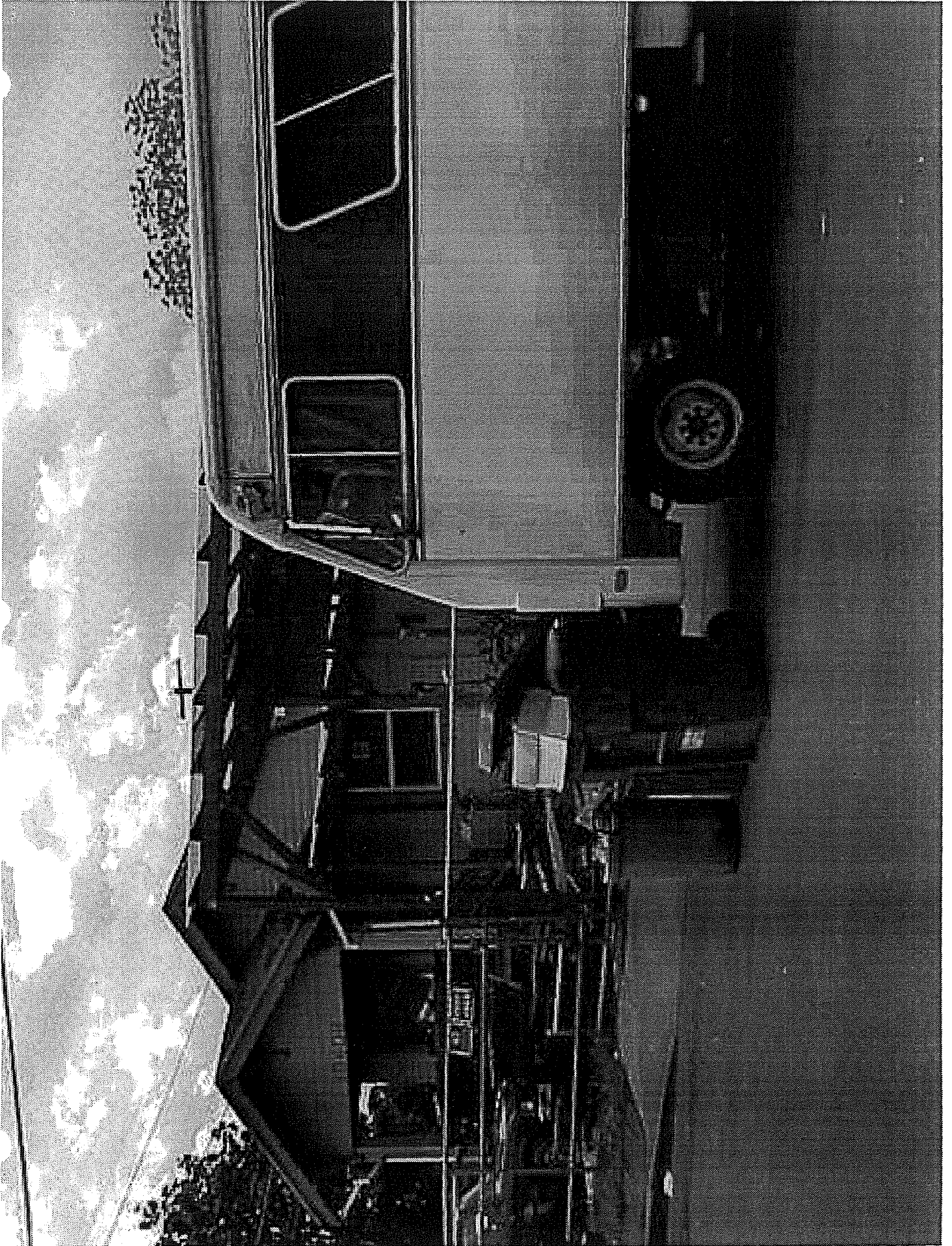


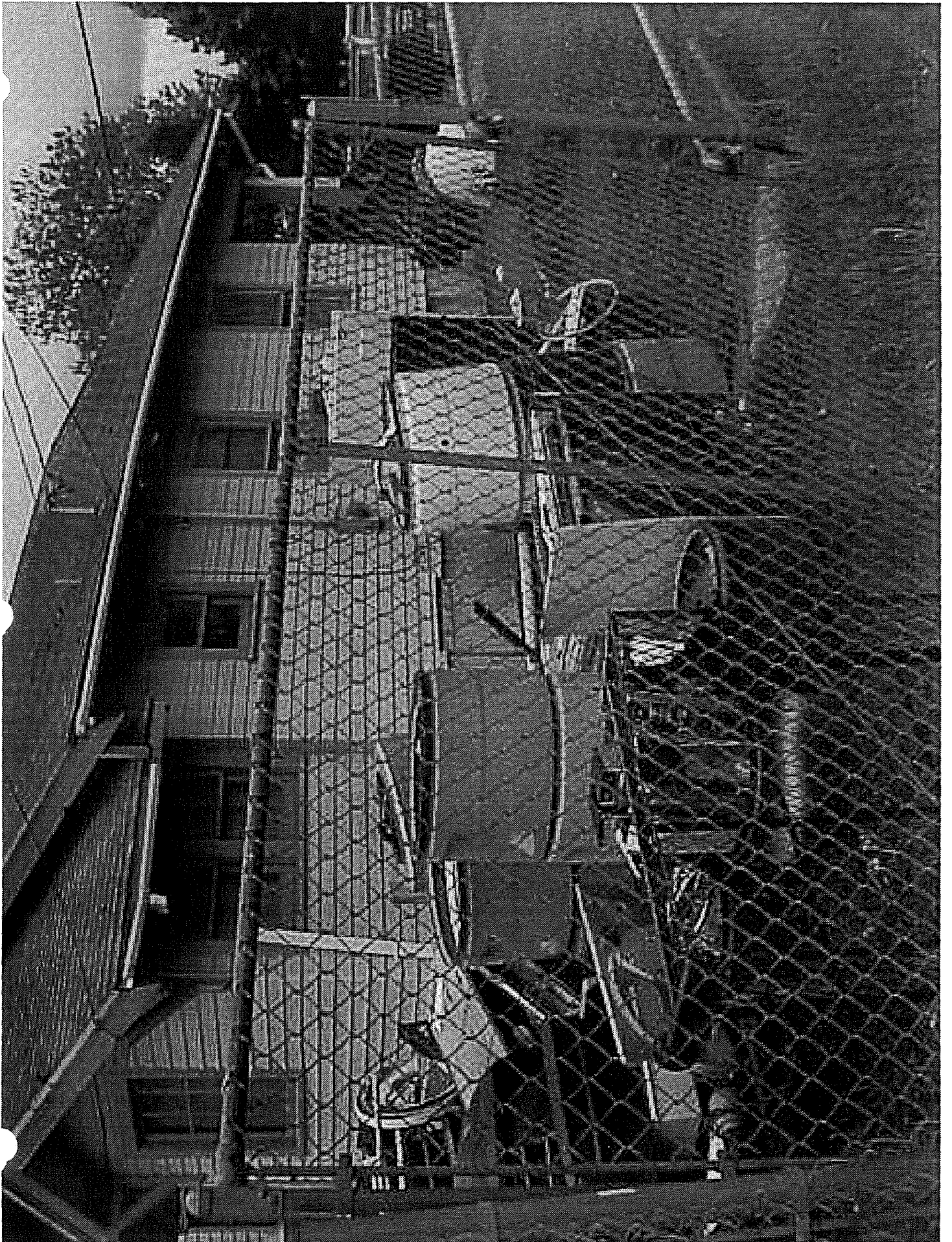


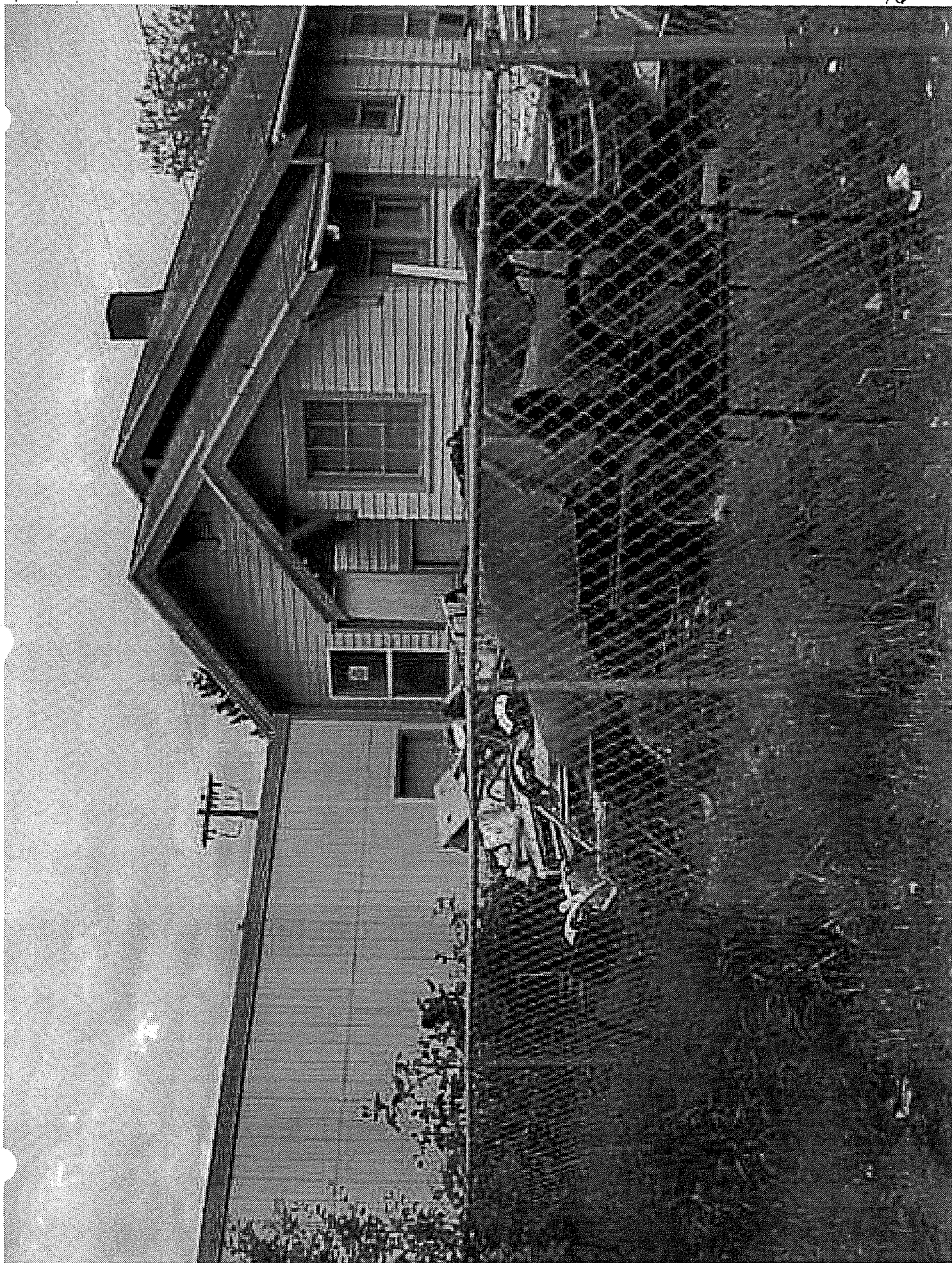
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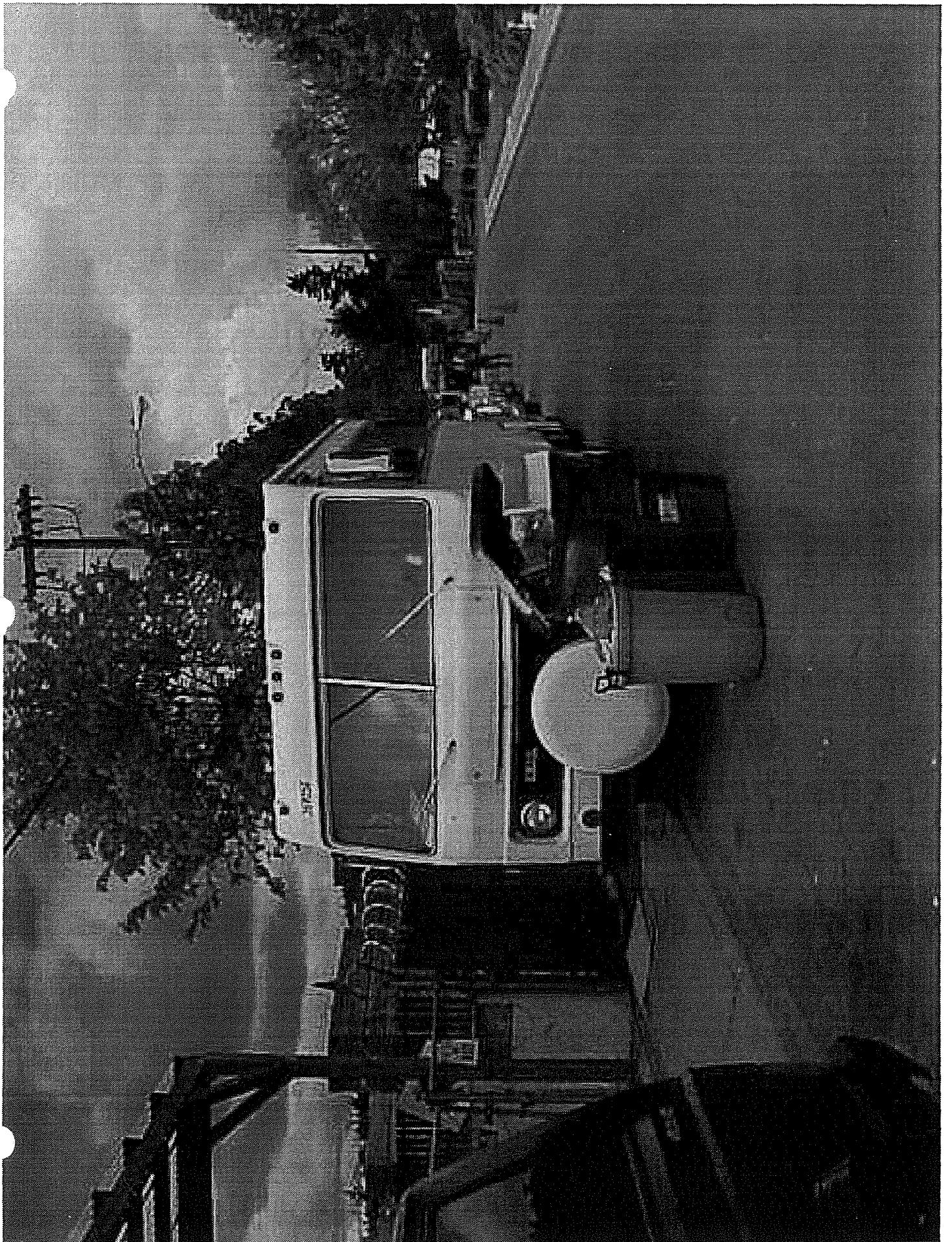




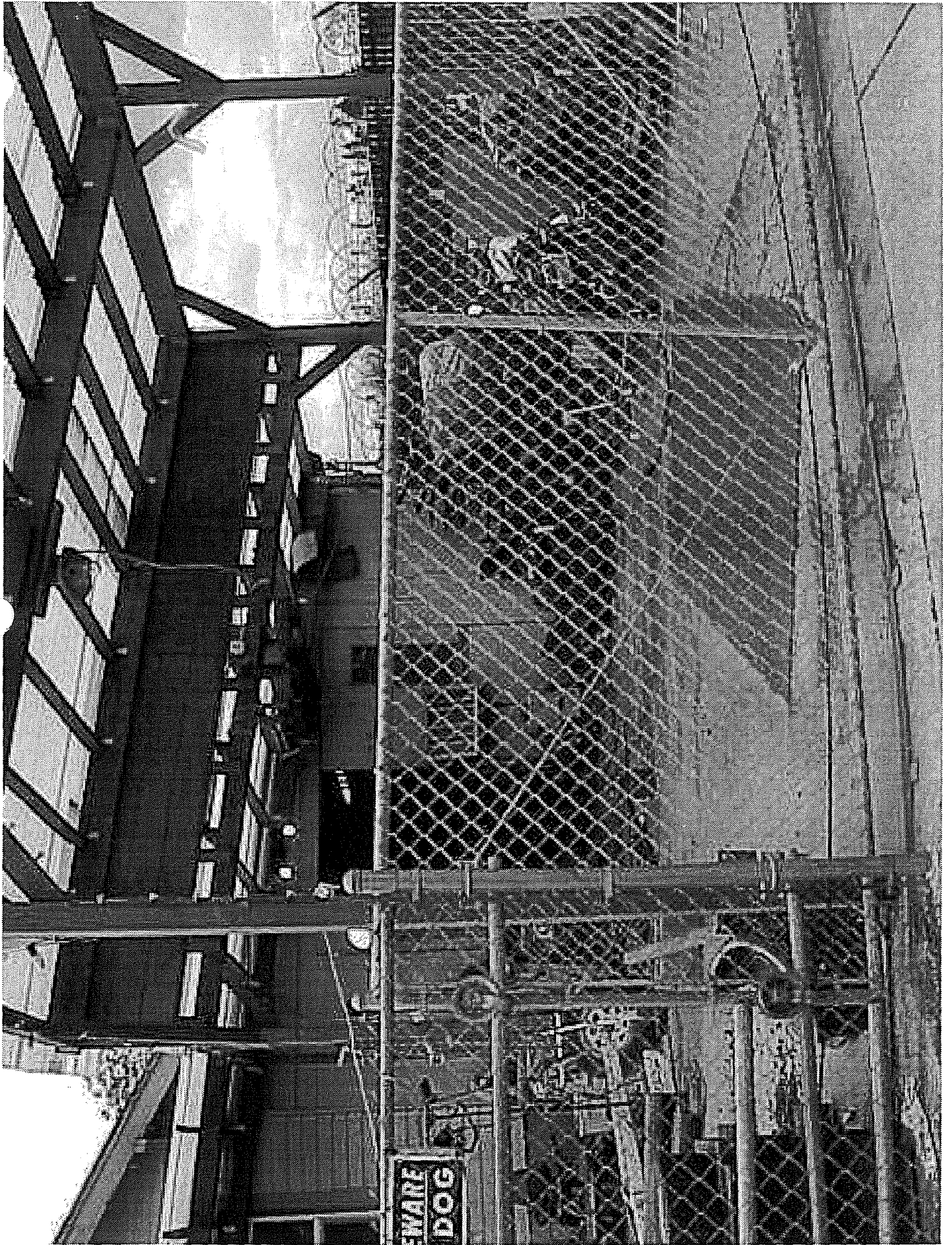




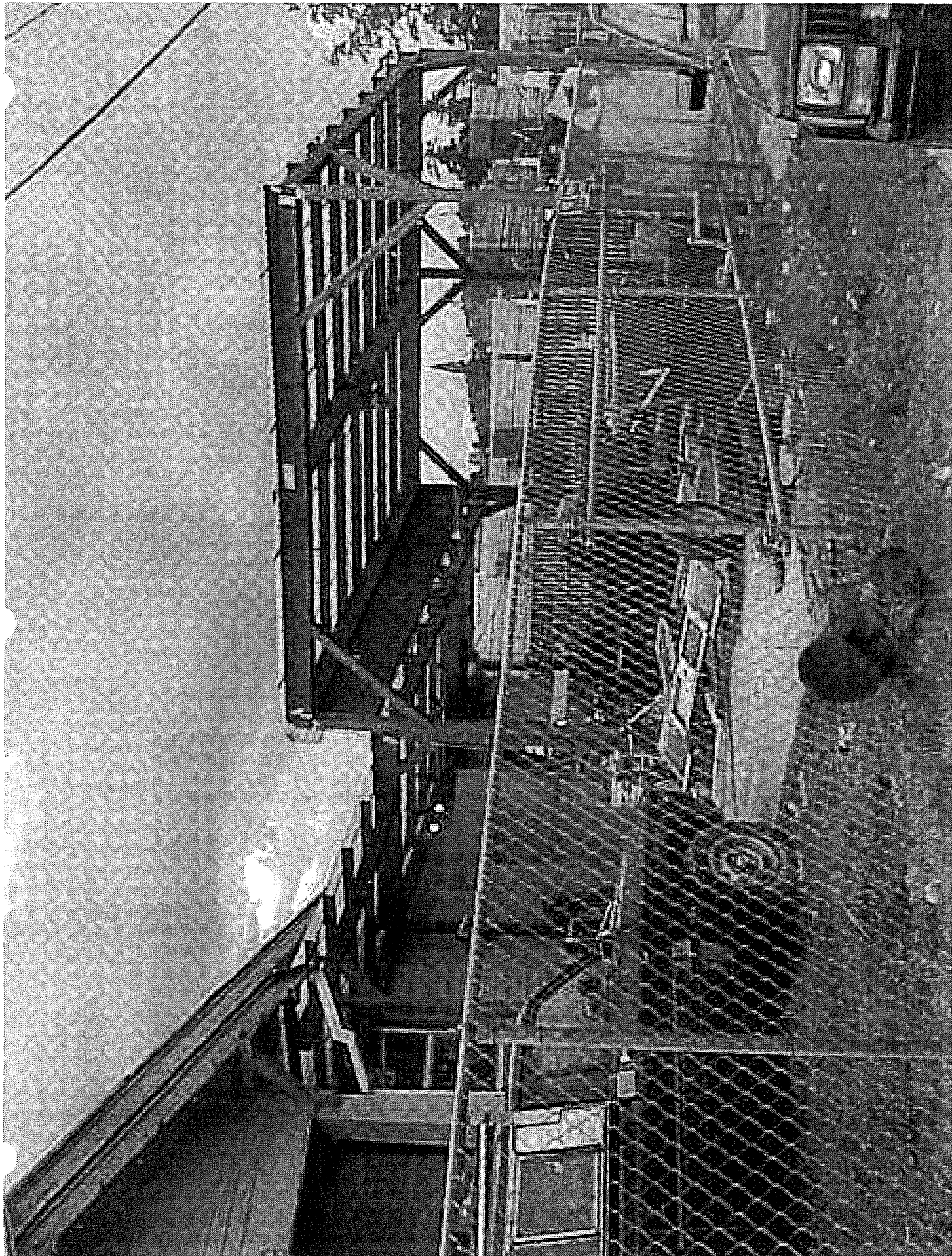












City

CLASS	
ROUTE	
PROP	

V. B. 24

Page 1

Case # m98-2724

Milwaukie Police Department  
 Milwaukie Oregon  
 Special Report

Report Type: SPECIAL Case Status: REFERRED Classification: CRIME

Incident Type: City Ordinance violations Subject of Report: My Observations

Original Report: - This Report: 8-25-98

Location: 10409 SE 32nd Milwaukie,OR

Name: WRITER DOB: Sex: Race:

Address: Phone #:

Employment: Position: Phone #:

Subject: Griffith, Donald DOB: 9-5-55 Sex: M Race: W

Address: 10409 SE 32nd Milwaukie,OR Phone #: 654-6612

**DETAILS:**

On 8-25-98 at about 12:00pm, I was dispatched to the area of 32<sup>nd</sup> and Meek St in Milwaukie,OR regarding illegally parked vehicles. I arrived and found several vehicles parked illegally.

While checking the vehicles, I was approached by two unidentified neighbors who told me that they were tired of the vehicles that Mr. Griffith was working on, being parked up and down the street.

I contacted Clifford Gard(birthdate7-25-53, in the street and he advised that he was moving one of the vehicles that was parked illegally. Mr. Gard told me that he was occasionally helping his friend Don Griffith work on cars at Mr. Griffith's residence.

I then spoke with Mr. <sup>Griffith</sup> ~~Gard~~ who was working on a car in his driveway. I asked Mr. Griffith if he had a business license. He told me that he had been denied a license because the city of Milwaukie believes that he has a auto repair business on his property.

I advised him that the cars needed to be moved and that I would be contacting the city regarding his business.

**ACTION RECOMMENDED**

Forward copies to Susan Andersen and Janet Wright-City employees.

Thomas Broomfield/26807

*TB*

Approved Rash

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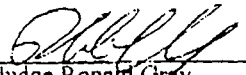
IN THE MUNICIPAL COURT FOR THE CITY OF MILWAUKIE  
FOR THE STATE OF OREGON

CITY OF MILWAUKIE,	)	
Plaintiff,	)	Case nos. 31014A,B and 31019A,B,C
Vs.	)	
DON GRIFFITH, dba DON'S USED	)	<u>ORDER AND JUDGMENT ON ORDER</u>
APPLIANCES,	)	
Defendant.	)	

This matter comes before this Court on plaintiff's motion for an order and judgment against defendant Don Griffith dba Don's Used Appliances in the referenced matter. Evidence and argument having been considered by this Court, the Court hereby finds that plaintiff is entitled to judgment as requested.

THEREFORE, IT IS HEREBY ADJUDGED AND DECREED that a final judgment be entered in favor of plaintiff CITY OF MILWAUKIE and against defendant DON GRIFFITH, dba DON'S USED APPLIANCES, in case numbers 31014A,B and 31019A,B,C, in the amount of \$7030.00.

Dated: April 28, 1999

  
\_\_\_\_\_  
Judge Ronald Gray

ORDER AND JUDGMENT ON ORDER- 1

Blake & Duckler, I.L.P.  
148 B Avenue, Suite 200  
Lake Oswego, OR 97034  
(503) 635-9626  
Fax (503) 635-9361

OREGON UNIFORM TRAFFIC CITATION AND COMPLAINT

OFFICER'S NOTES

31014

RESERVED FOR D.A. USE

RESERVED FOR COURT USE

CRIMINAL/OTHER SEE A ON BACK OR  INFRACTION(S) SEE B ON V. B. 26 IAFFIC

STATE OF OREGON  
CITY OF MILWAUKIE  
COUNTY OF CLACKAMAS

COURT: DISTRICT MUNICIPAL  
 JUSTICE  JUVENILE  CIRCUIT

THE UNDERSIGNED CERTIFIES AND SAYS THAT:

DEFENDANT

DRIVER LICENSE NO. STATE  EMPLOYED TO DRIVE  
 PASSENGER

NAME: LAST *Griffin* FIRST *Don* MIDDLE INITIAL *Lee*

ADDRESS *Seaside, 10409 SE 32nd*

CITY *Milwaukie* STATE *OR* ZIP CODE *97128*

SEX RACE DATE OF BIRTH HEIGHT WEIGHT HAIR EYES

TIME/PLACE

AT THE FOLLOWING TIME AND PLACE IN THE ABOVE MENTIONED STATE AND COUNTY:

OFFENSE DATE MONTH DAY YEAR TIME  AM  PM  
ON OR ABOUT: *4/21/98 7:00 AM 2:25 PM*

AT LOCATION *10409 SE 32nd Milwaukie OR*

VEHICLE

DID OPERATE THE FOLLOWING VEHICLE ON A HIGHWAY/PREMISES OPEN TO THE PUBLIC:

REGISTRATION NO. STATE  DRIVER NOT REG. OWNER ACCIDENT:  PERSONAL INJURY  PROPERTY DAMAGE

VEH. YR. MAKE MODEL STYLE COLOR

PUC NO.  HAZARDOUS MATERIAL  CDL RELATED

OFFENSE(S)

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

1. VIOLATED (CITE ORS/ORD./RULE) <i>OR 1814</i>	DESCRIPTION ALLEGED SPD ZONE/PSTD SPD	<input type="checkbox"/> RADAR <input type="checkbox"/> PACE
<i>2nd Milwaukie</i>	<i>speeding</i>	
2. VIOLATED (CITE ORS/ORD./RULE) <i>OR 1815</i>	DESCRIPTION	<input type="checkbox"/> SCHEDULED BAIL \$
<i>Seaside</i>	<i>no license</i>	<i>\$ 1000</i>
3. VIOLATED (CITE ORS/ORD./RULE)	DESCRIPTION	<input type="checkbox"/> SCHEDULED BAIL \$

I CERTIFY UNDER ORS 153.995 THAT I HAVE SUFFICIENT GROUNDS TO AND DO BELIEVE THAT THE ABOVE MENTIONED PERSON COMMITTED THE ABOVE OFFENSE(S) AND I HAVE SERVED THE PERSON WITH THIS COMPLAINT.

DATE ISSUED *4/21/98* OFFICER'S SIGNATURE *[Signature]*

PRINT NAME OF OFFICER: *[Name]* OFFICER'S I.D. NO. *5568*

BOOKING DATE: CUSTODY AT:

YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE:

MO	DAY	YEAR	TIME	<input type="checkbox"/> AM <input type="checkbox"/> PM	LOCATION:
<i>10</i>	<i>14</i>	<i>98</i>	<i>3:15</i>		<i>Milwaukie Court</i>

V. B. 27



August 27, 1998

Sent by Certified Mail

Mr. Don Griffith  
d.b.a. Don's Used Appliances  
10409 SE 32<sup>nd</sup>  
Milwaukie, OR 97222

**UNIFORM CITATION & COMPLAINT OF ORDINANCE VIOLATION  
CITATION TO APPEAR IN COURT**

Please find enclosed a Citation to Appear in Court for code violations at the following address:  
**10409 SE 32<sup>nd</sup>  
MILWAUKIE, OR 97222**

The citation is for the following code violations:

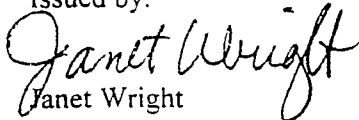
- Outside storage or display of merchandise, materials, or equipment on the premises. (Milwaukie Zoning Ordinance Section 401.1.E)
- Outward appearance of business (Zoning Ordinance Section 401.1.E)
- No provision for covered parking (Zoning Ordinance Section 503.3)
- No provision for off street parking for customers
- Operating a business without a business license ((Milwaukie Code Section 5.04.030).
- City of Milwaukie Ordinance 1814—Building Codes, Construction without a Building Permit.
- Violation of Section 8.04.135, Milwaukie Municipal Code, Compliance with Zoning Requirements.

It is important to the City to be consistent and fair when enforcing its ordinances. At this point, the City must issue the enclosed Citation to Appear in Court. In the citation, you will find information regarding your scheduled appearance and description of the code violations.

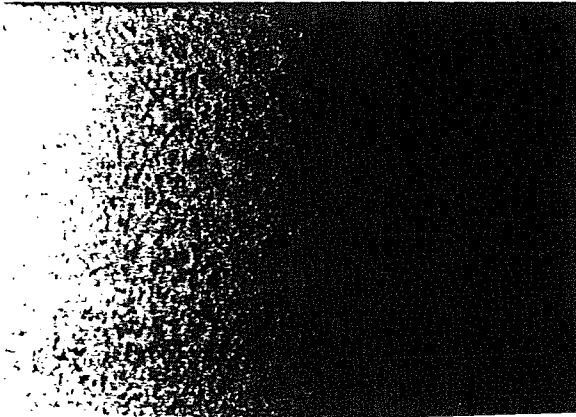
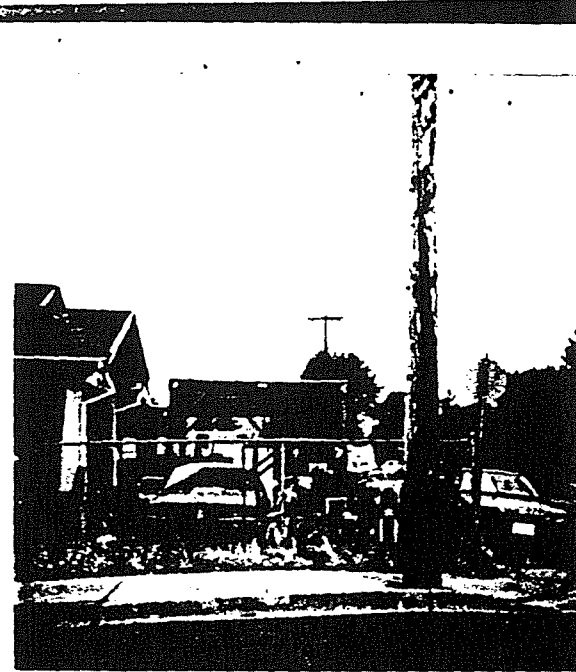
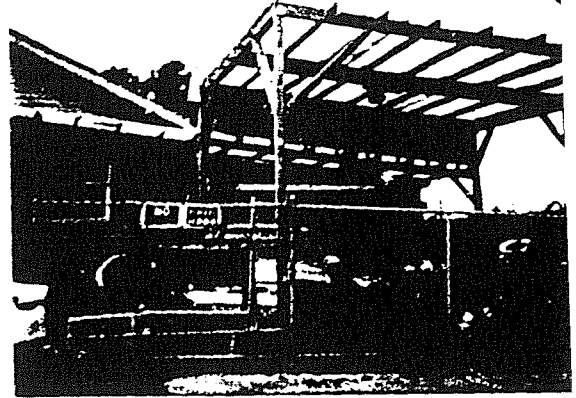
If the court finds that a violation of the above-mentioned code was committed, the court may assess a penalty, as well as court costs. Each day's violations may be deemed as a separate offense with fines not to exceed the bail stated on the citation per violation. You shall be required to pay these costs in addition to your costs for abatement.

The City of Milwaukie issues a Citation to Appear in Court as a last resort. We are optimistic that you will resolve these violations at the earliest possible time to avoid future violations.

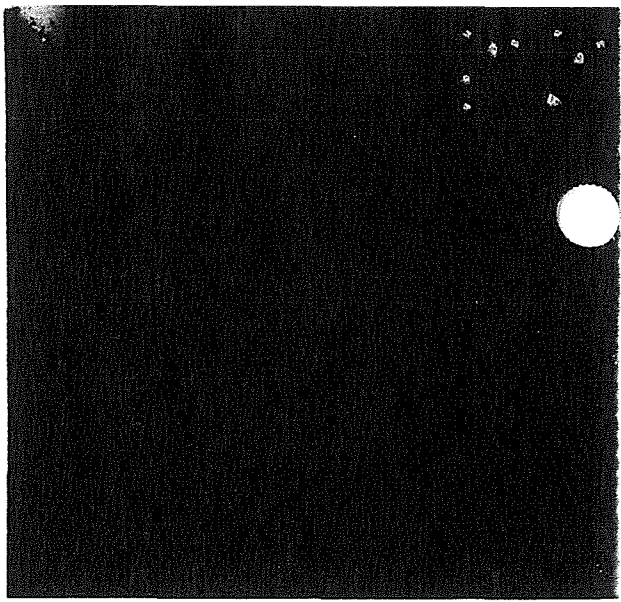
Issued by:

  
Janet Wright  
Assistant Planner

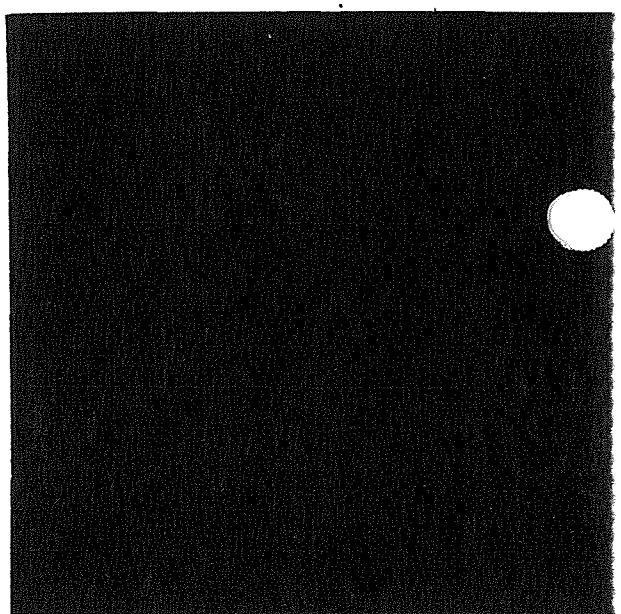
COMMUNITY DEVELOPMENT • PUBLIC WORKS  
6101 SE JOHNSON CREEK BLVD.  
MILWAUKIE, OREGON 97206  
PHONE: (503) 786-7600 • FAX: (503) 774-8236



V. B. 29



8-25-98  
10409 Lt 32nd



8-25-98  
10409 Lt 32nd

**OREGON UNIFORM TRAFFIC CITATION AND COMPLAINT**

CLERK RECORDS

31019

RESERVED FOR D.A. USE

RESERVED FOR COURT USE

CRIMINAL/OTHER (SEE A ON BACK) OR  INFRACTION(S) (SEE B ON BACK)  TRAFFIC  NON TRAFFIC

V. B. 30

STATE OF OREGON } D  
 CITY OF MILWAUKIE } C  
 COUNTY OF CLACKAMAS }  JUSTICE  JUVENILE  CIRCUIT

THE UNDERSIGNED CERTIFIES AND SAYS THAT:

DEFENDANT

DRIVER LICENSE NO. \_\_\_\_\_ STATE \_\_\_\_\_  EMPLOYED TO DRIVE  
 PASSENGER

NAME: LAST Griffith FIRST Don MIDDLE INITIAL dba Don's Used Appliances

ADDRESS 10409 SE 32nd

CITY Milwaukie STATE OR ZIP CODE 97222

SEX \_\_\_\_\_ RACE \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_

AT THE FOLLOWING TIME AND PLACE IN THE ABOVE MENTIONED STATE AND COUNTY:

TIME/PLACE

OFFENSE DATE MONTH 4 DAY 21 YEAR 1998 TIME THRU 10/22/98  AM  PM

ON OR ABOUT: 4/21/98 thru 10/22/98

AT LOCATION 10409 SE 32nd Milwaukie OR

DID OPERATE THE FOLLOWING VEHICLE ON A HIGHWAY/PREMISES OPEN TO THE PUBLIC:

VEHICLE

REGISTRATION NO. \_\_\_\_\_ STATE \_\_\_\_\_  DRIVER NOT REG. OWNER  ACCIDENT  PERSONAL INJURY  PROPERTY DAMAGE

VEH. YR. \_\_\_\_\_ MAKE \_\_\_\_\_ MODEL \_\_\_\_\_ STYLE \_\_\_\_\_ COLOR \_\_\_\_\_

PUC NO. \_\_\_\_\_  HAZARDOUS MATERIAL  CDL RELATED

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

OFFENSE(S)

1. VIOLATED (CITE ORS/ORD./RULE) Milwaukie Zoning Ord 401.1E DESCRIPTION Home OCCUPATIONS ALLEGED SPD \_\_\_\_\_ ZONE/PSTD SPD \_\_\_\_\_  RADAR  PACE

1. SCHEDULED BAIL \$ 200 /day

2. VIOLATED (CITE ORS/ORD./RULE) Milwaukie Zoning Ord 405.03 DESCRIPTION over a business w/o license 2. SCHEDULED BAIL \$ 200 /day

3. VIOLATED (CITE ORS/ORD./RULE) Milwaukie Municipal Code DESCRIPTION over a business w/o license 3. SCHEDULED BAIL \$ 200 /day

I CERTIFY UNDER ORS 153.995 THAT I HAVE SUFFICIENT GROUNDS TO AND DO BELIEVE THAT THE ABOVE MENTIONED PERSON COMMITTED THE ABOVE OFFENSE(S) AND I HAVE SERVED THE PERSON WITH THIS COMPLAINT.

DATE ISSUED 10/21/98 OFFICER'S SIGNATURE Janet Wright

PRINT NAME OF OFFICER: Janet WRIGHT OFFICER'S I.D. NO. 5565

BOOKING DATE: \_\_\_\_\_ CUSTODY AT: \_\_\_\_\_

YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE:

MO	DAY	YEAR	TIME	AM	PM	LOCATION
<u>11</u>	<u>04</u>	<u>98</u>	<u>8:15</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Milwaukie Municipal Court 10723 SE Main St. Milwaukie OR 97222</u>

Served in person

V. B. 31

copy sent 9/15/98



August 27, 1998

Sent by Certified Mail

Mr. Don Griffith  
d.b.a. Don's Used Appliances  
10409 SE 32<sup>nd</sup>  
Milwaukie, OR 97222

**UNIFORM CITATION & COMPLAINT OF ORDINANCE VIOLATION  
CITATION TO APPEAR IN COURT**

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MILWAUKIE, OR 97222**

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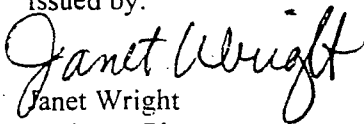
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- Outward appearance of business (Zoning Ordinance Section 401.1.E)
- No provision for covered parking (Zoning Ordinance Section 503.3)
- No provision for off street parking for customers
- Operating a business without a business license ((Milwaukie Code Section 5.04.030).
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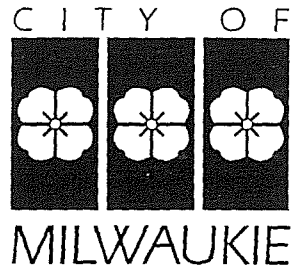
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The City of Milwaukie issues a Citation to Appear in Court as a last resort. We are optimistic that you will resolve these violations at the earliest possible time to avoid future violations.

Issued by:

  
Janet Wright  
Assistant Planner

COMMUNITY DEVELOPMENT • PUBLIC WORKS  
6101 SE JOHNSON CREEK BLVD.  
MILWAUKIE, OREGON 97206  
PHONE: (503) 786-7600 • FAX: (503) 774-8236



# Memo

**To:** Honorable Mayor and City Council  
**Through:** Dan Bartlett, City Manager *DB*  
**From:** Charlene Richards, Assistant City Manager *CR*  
**CC:** JoAnn Herrigel, Program Services Coordinator  
**Date:** June 18, 1999  
**Re:** TCI Franchise Agreement

---

## Action Requested:

Approve an ordinance adopting a 10-year franchise with Telecommunications of Georgia, Inc. to operate the cable television system in the City of Milwaukie effective July 7, 1999.

## Background

At the June 15, 1999 Council meeting, Council held a public hearing to evaluate the proposed franchise agreement with Telecommunications of Georgia, Inc. The public hearing was closed, and a motion for a first reading of the ordinance by title only passed with four affirmatives and one abstention. The first reading passed without a unanimous vote of those present. Therefore, the second reading and vote on adoption of the ordinance was delayed to the next regular meeting, July 6, 1999.

Attached is the proposed ordinance. A copy of the proposed TCI Franchise Agreement is available in the RIM cubicle for your review.

If you have any questions, please call JoAnn Herrigel at 786-7508.

**ORDINANCE NO. \_\_\_\_\_  
MILWAUKIE, OREGON**

**AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO  
TCI CABLEVISION OF GEORGIA, INC. TO PROVIDE CABLE SERVICE  
WITHIN THE CITY OF MILWAUKIE**

WHEREAS, the City received a timely request from TCI Cablevision of Georgia, Inc., the successor in interest to Jones Intercable, for renewal of its franchise to provide cable service within the City; and

WHEREAS, the City has evaluated the technical, legal and financial capability of the proposed grantee to operate the cable system; and

WHEREAS, the City Council finds based on its assessment of community needs that the proposed non-exclusive franchise agreement attached hereto as Exhibit "A" meets those community needs and that it should therefore grant the franchise renewal as requested, consistent with the terms and conditions of Exhibit "A"; and

WHEREAS, the current franchise will expire on July 7, 1999, and it is in the interest of the City and its citizens that the franchise renewal take effect upon expiration of the current franchise so that seamless provision of cable services and appropriate regulation thereof can occur,

NOW, THEREFORE,

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The City hereby grants to TCI Cablevision of Georgia, Inc. a non-exclusive franchise on the terms and conditions in the attached Exhibit "A", for a period of ten years from the effective date of this ordinance, to construct, operate and maintain a cable system in the City. If all required terms of the franchise are met, the franchise will be extended for three additional years, as provided in the attached Exhibit "A".

Section 2. The grant of franchise contained herein is conditioned upon the filing of an acceptance in substantially the form contained in Exhibit "B" to the attached franchise as provided in Section 3.8 of the franchise, and upon the filing of all required financial and insurance documentation as required by Section 3.3 of the franchise.

Ordinance No. \_\_\_\_\_, Page One

Section 3. Based on the impending expiration of the current franchise, an emergency is hereby declared to exist, and this ordinance shall take effect on July 7, 1999.

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the 15th day of June, 1999.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the \_\_th day of \_\_\_\_\_, 1999.

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

\_\_\_\_\_  
Carolyn Tomei , Mayor

ATTEST:

Approved As to Form:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Berry & Elsner, LLP.  
Legal Counsel for Telecommunications



To: Mayor and City Council  
 Through: Charlene Richards, Assistant City Manager  
 Dan Bartlett, City Manager  
 From: JoAnn Herrigel, Program Services Coordinator  
 Subject: PEG Access Fee  
 Date: June 24, 1999

**Action Requested/Recommended**

Adopt a resolution approving a monthly PEG access fee of \$1.00 per customer to be charged and collected by Telecommunications Inc. of Georgia (TCI) and used by the City to maintain and upgrade its Institutional Network (I Net) and Public Educational and Government Access (PEG Access) programs.

**Background**

TCI agreed as part of the cable franchise to collect from customers and pay to the City up to \$1.00 per customer per month as capital support for PEG Access and the I-Net. In return, the City agreed to provide TCI with an annual report describing how these funds are used. This report will document that the City, or their Designated Access Provider, are providing operating support for PEG Access or I-Net operations in an amount equivalent to at least half of the capital support being provided by TCI, up to a maximum of \$30,000 per year.

At a charge of \$1.00 per customer per month for approximately 6,000 customers, the PEG Access fee would amount to \$72,000 per year. Although this may seem like a large sum of money, the City may need most or all of it to upgrade the I-Net and successfully shift from the current Milwaukie studio based public access program to an alternative public access program. The costs and issues associated with the I Net and PEG Access over the next few years are summarized below.

**Institutional Network**

An initial estimate of the cost to upgrade the I-Net from coaxial cable to fiber optics was approximately \$63,000. This estimate included all City facilities, as well as all schools currently hooked into the I-Net. Internal equipment necessary to run the new fiber optic system will add additional cost. Further, if the City pursues technology that would allow transmission of voice, data and video (called Ethernet equipment) via Internet, the cost of this equipment could be as high as \$ 50,000.

It is possible that the City may be able to share the cost of the upgrade with the school district. However, discussions with district representatives are still underway. Further,

VI. B. 2

TCI may allow the City to pay for the upgrade as we hook facilities up, as opposed to having to pay for the entire upgrade all at once.

**PEG Access**

A year and a half after the approval of the TCI franchise, the studio at International Way will close. Over this coming year, staff will work with public and educational access users to determine their current and future needs. In the meantime, one option being researched by staff is the possibility of the City joining another PEG Access Provider system and using their studio and equipment to produce and broadcast PEG Access programs. Another option is the purchase of a "suitcase studio" that could be used by the public for program production. An estimate of the cost of the suitcase system is \$50,000.

In addition to the public access system, the City will have expenses associated with the upgrading and maintenance of the government program broadcasting equipment at City Hall and the Public Safety Building. Staff does not have an estimate for this expense at this time.

It appears, based on these preliminary estimates, that the City's capital needs for I-Net and PEG Access may even exceed the amount accumulated on an annual basis from a \$1.00 per customer monthly PEG Access fee. Staff will work closely with the users of the Public, Educational and Government Access systems to determine which capital expenses are most critical and to distribute funds wisely and fairly. Staff will continue to provide Council with information regarding the PEG Access and I Net systems and will seek your input where appropriate.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, APPROVING A MONTHLY PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG) ACCESS FEE OF \$1.00 PER CUSTOMER TO BE CHARGED AND COLLECTED BY TELECOMMUNICATIONS INC. OF GEORGIA (TCI).

WHEREAS, as part of the cable franchise granted to TCI, it was agreed that TCI would collect from customers and pay to the City a PEG Access Fee.

WHEREAS TCI further agreed to collect up to \$1.00 per month per customer in PEG Access Fees, and

WHEREAS, the City anticipates that upgrading and maintaining their PEG Access and I-Net systems will require the full amount of funds available through the PEG Access fee,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE** that TCI be requested to collect and pay to the City a PEG Access Fee of \$1.00 per customer per month.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on July 6, 1999.

\_\_\_\_\_  
Carolyn Tomei, Mayor



ATTEST:

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

APPROVED AS TO FORM:  
PAM BEERY

\_\_\_\_\_  
City Legal Counsel for Telecommunications



To: Mayor and City Council  
Through: Charlene Richards, Assistant City Manager   
Dan Bartlett, City Manager  
From: JoAnn Herrigel, Program Services Coordinator   
Subject: PEG Access and I-Net Fee Resolution  
Date: July 1, 1999

Attached is a revised version of the PEG access fee resolution included in your packet for the July 6 Council meeting. Changes have been made to increase the clarity of the resolution.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING A MONTHLY PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG) ACCESS AND I-NET FEE PURSUANT TO THE CABLE FRANCHISE GRANTED TO TELECOMMUNICATIONS INC. OF GEORGIA (TCI).

WHEREAS, the City Council recently adopted an ordinance granting a non-exclusive cable franchise to TCI; and

WHEREAS, as part of the cable franchise granted to TCI, it was agreed that TCI would pay to the City a PEG Access Fee; and

WHEREAS, that fee can be designated by the City up to \$1.00 per month per residential subscriber as support for PEG Access, and the Institutional Network (I-Net); and

WHEREAS, the City anticipates that upgrading and maintaining their PEG Access and I-Net systems will require the full amount of funds available as a PEG Access fee through the franchise;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE** that the amount designated by the City as support for PEG Access and the I-Net pursuant to section 8.5A of the cable franchise is \$1.00 per month per residential customer.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on July 6, 1999.

\_\_\_\_\_  
Carolyn Tomei, Mayor

ATTEST:

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

APPROVED AS TO FORM:  
PAM BEERY


\_\_\_\_\_  
City Legal Counsel for Telecommunications



VI. C. 1

\*\*\* M E M O R A N D U M \*\*\*

June 22, 1999

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: City Council Goals

Action Requested

I have modified the Council Goals Summary sheets as directed by council at your June 14, 1999 Work Session. These summaries are ready for Council to adopt.

Background

Council has devoted several months to prepare a long-term set of Goals. These Goals will guide and direct your decision-making and establish your priorities for the next five years.

These Goals were developed through an extensive process including: Neighborhood Vision presentations, Board and Commission Goals, individual Councilor's Goals, and departmental mandates and goals. Council considered all of this information, then narrowed and prioritized this input into the attached Goal Summaries.

At Council direction, staff has prepared draft work plans for each of the objectives under these goals. These work plans will be refined. Resource allocations and budgets will be developed to implement each objective. Some objectives will be accomplished in a few months; others will take several years.

Fiscal Impact

The costs for implementing most of the 1999-2000 Objectives have been included in the Budget. The long-term costs of some of these objectives can not be identified until additional planning has been completed. Some objectives (e.g. Junior High purchase) may require future Council, Budget Committee and voter approval, if general obligation bonds are determined to be the best source of funding.

cc: File -- cm2232/hd

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



## City Council Goals 1999-2004 Strategic Direction

Goal: Support community environmental sustainability (livability) through review of zoning and subdivision ordinances; establishing a design review process; implementing an urban forestry program; and acquiring open space and trails property while it is available.

### Objectives

- ◆ Modify Zoning and Subdivision Ordinance to enhance neighborhood livability.
- ◆ Develop and Adopt Neighborhood Design Review Ordinance, including a Design Review Board or Committee
- ◆ Adopt and Implement Urban Forestry Ordinance and Management Plan, becoming a Tree City USA within two years.
- ◆ Acquire Open Space, Park and Trail Properties NOW while it is available.
- ◆ Increase Code Enforcement Activity



## City Council Goals 1999-2004 Strategic Direction

Goal: Continue efforts toward development of the downtown and riverfront through a planning process, acquisition of key properties, and construction of key public projects to support a long-term public private partnership.

### Objectives

- ◆ Develop and adopt Downtown Plan
- ◆ Develop and adopt Riverfront Plan
- ◆ Develop and adopt Streetscape Plan
- ◆ Develop and adopt Downtown Design Standards
- ◆ Develop and adopt Downtown Development Plan
- ◆ Develop Milwaukie Junior High School Re-use and Site Plan
- ◆ Develop a Plan to relocate Kellogg WasteWater Treatment Plant within 10 years.
- ◆ Initiate Implementing Actions for All Plans



## City Council Goals 1999-2004 Strategic Direction

Goal: Encourage board, commission and neighborhood goals that are consistent with council goals which includes continued funding of neighborhood grants; creating a Citizen Involvement Board; encouraging more youth involvement; and supporting neighborhood visions.

### Objectives


- ◆ Continue Grant Funding for Neighborhoods, including increasing allocations by \$1,000 up to a total of \$10,000 per year per neighborhood.
- ◆ Develop Action Plans and Funding Proposals to support Neighborhood Visions.
- ◆ Develop and adopt a Citizen Involvement Board Ordinance.
- ◆ Develop and implement programs, which encourage more Citizen and Youth Involvement in City matters.
- ◆ Review and Update Board and Commission Responsibilities.



VI. D. 1

\*\*\* M E M O R A N D U M \*\*\*

June 29, 1999

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: Milwaukie Downtown Development Association (MDDA) Agreement

Action Requested

Staff would ask that the Council authorize the Mayor to sign a five-year, \$18,000 per year agreement with the Milwaukie Downtown Development Association subject to final approval as to form by the City Attorney and approval of the agreement by MDDA.

Background

At the May 3, 1999, Work Session, Council was asked to let the Mayor and City Manager negotiate a replacement agreement with MDDA. Council reviewed draft language to establish attainable, goals and performance expectations.

On May 12, 1999, MDDA provided a preliminary rewrite of our draft agreement. This was compared with our original agreement in a document dated May 26, 1999.

Mayor Tomei, James Bernard, Jack Elder, and I met on June 22, 1999, to compare the proposed language and select final language for review by the City Attorney. The attached draft contract will need final review by the City Attorney and acceptance by the Board of Directors of MDDA. Staff is asking that the Mayor be authorized to sign this agreement subject to these actions.

Fiscal Impact

This agreement calls for an \$18,000 per year payment to MDDA each year until 2003/2004. It requires any additional financial contributions and partnerships to be approved in writing by the City Manager or Council (if the total goes over the Manager's authority). This would allow for projects such as downtown clean up or tree watering. Under current policy, the Manager can approve up to \$7,000, in additional partnerships.

cc: File -- cm2234/hd

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

**City of Milwaukie  
Agreement with the  
Milwaukie Downtown Development**

**DRAFT**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of June 1999, between the City of Milwaukie (City) and the Milwaukie Downtown Development (MDDA). In consideration of the mutual covenants in this agreement, the parties hereby agree as follows:

The MDDA agrees to establish and maintain in the City, during the term of this agreement, an organization to stimulate the economic development of the City's downtown area through organization, promotion and improvement, and to use its best efforts to accomplish these goals. Also, if appointed, the MDDA agrees to act as the advisory committee to the Council for the timing of expenditure of funds assessed and collected from an economic improvement district formed in the downtown area.

1. **Organization**

- Encourage cooperation between the City, Businesses, and Property Owners and build leadership in the business community.
  
- Assist new and existing businesses in working with the City of Milwaukie to comply with all applicable planning, building, and municipal codes by providing referral information and facilitate contacts with permitting agencies.
  
- Retain and recruit businesses in the downtown in accordance with the MDDA niche goals and the laws and regulations of the community.
  
- Support existing dispute resolution programs provided by Clackamas County.
  
- Maintain an inventory of buildings, both vacant and occupied, in the Economic Improvement District (EID).

~~DRAFT~~

- Assist the City with implementation of the Downtown Master Plan and economic restructuring efforts.

## 2. Promotion

- Create and maintain a positive image for the downtown by promoting the downtown as an exciting place to live, shop, and invest.
- Sponsor at least two community events that will promote Milwaukie to both the community and to visitors as a livable, vibrant community.
- Coordinate tourism and business recruitment efforts with the City, the North Clackamas Chamber of Commerce, and the Clackamas County economic development staff.
- Provide equal promotion opportunity to all licensed businesses.
- Provide a current Business Directory annually.

## 3. Design

- Improve the appearance of the EID area through:
  - Litter control.
  - Coordination of paint schemes.
  - Participation in Downtown/Riverfront Master Plan.
  - Assist with Design Review implementation.
  - Promote development in accordance with the existing codes in the EID.
  - Coordinate Downtown banner program in compliance with sign codes, sign permits, and pole owners permits.
  - Develop additional Tree Planting Plans in an effort to complete Phase II -- East/West tree planting within the EID.

**DRAFT**

4. Administration

- Employ a Downtown Manager to coordinate activities and to administer funds received for downtown development.
- Ensure that all permit applications are submitted with sufficient lead-time to meet City ordinances.
- Advise the City of ownership changes in businesses or property within the EID in a timely manner.
- Obtain written City agreement for additional financial contributors and partnerships, approved by the Council, City Manager, or Assistant City Managers, as appropriate.

5. Financial

The City shall pay to the MDDA during the term of this agreement the sum of Eighteen Thousand Dollars (\$18,000) each fiscal year until 2003/2004 payable on the first Thursday of each January.

The MDDA shall provide the City by February 15 of each year during the terms of this agreement and within (30) days of expiration of this agreement, a financial report in a form to be determined by MDDA, but reflecting at minimum a summary of revenues, expenses, programs, accomplishments and membership of the MDDA for the prior year.

The MDDA shall appear before the Milwaukie City Council with a program report a minimum of four times each year.

The MDDA shall apply for appropriate grants from Federal, State, County, Local, and individuals for the betterment of the Community, City, and MDDA.

6. Termination

This agreement may be terminated in whole or in part under the following conditions: By Mutual written agreement of the City and the MDDA. Termination under this agreement may be immediate.

By the City for failure to establish a stable source of funding of approximately \$36,000 per year for the duration of this agreement. Termination under this provision shall be immediate; however, the City must notify the MDDA in writing and include a statement as to why the agreement has been terminated.

By the City for failure of MDDA to provide the services outlined in this agreement. Termination under this provision shall be immediate; however, the City must notify the MDDA in writing and include a statement as to why the agreement is being terminated.

By the City for non-appropriation of funds.

By the MDDA membership after a vote of dissolution. All funds to be donated to the Downtown Neighborhood Association grant fund.

**In Witness Whereof**, the City has caused this agreement to be executed by its duly undersigned officers.

Date: \_\_\_\_\_, 1999

CITY OF MILWAUKIE

By: \_\_\_\_\_

Carolyn Tomei, Mayor

**In Witness Whereof**, the Milwaukie Downtown Development Association has caused this agreement to be executed by its duly authorized undersigned officer.

Date: \_\_\_\_\_, 1999

MILWAUKIE DOWNTOWN DEVELOPMENT  
ASSOCIATION

By: \_\_\_\_\_

James Bernard, President

VI.D. 6

<b>MDDA Contract Review</b>	
<b>DRAFT CITY LANGUAGE</b>	<b>Draft MDDA Language</b>
<b>CITY OF MILWAUKIE</b>	<b>City of Milwaukie</b>
<b>AGREEMENT WITH THE</b>	<b>Agreement with the</b>
<b>MILWAUKIE DOWNTOWN DEVELOPMENT ASSOCIATION</b>	<b>Milwaukie Downtown Development</b>
Language added from May 3, 1999, Council Work Session in the following type style: <i>added language</i>	
THIS AGREEMENT is made and entered into this ____ day of June 1999, between the City of Milwaukie (City) and the Milwaukie Downtown Development Association (MDDA). In consideration of the mutual covenants contained in this agreement, the parties hereby agree as follows:	THIS AGREEMENT is made and entered into this ____ day of June 1999, between the City of Milwaukie (city) and the Milwaukie Downtown Development (MDDA). In Consideration of the mutual covenants in this agreement, the parties hereby agree as follows:
1. The MDDA agrees to establish and maintain in the City, during the term of this agreement, an organization to stimulate the economic development of the City's downtown area through organization, promotion and improvement, and to use its best efforts to accomplish these goals. Also, if appointed, the MDDA agrees to act as the advisory committee to the Council for the timing of expenditure of funds assessed and collected from an economic improvement district formed in the downtown area.	The MDDA agrees:
2. Among the services to be provided by the MDDA to the City during the term of this contract are the following:	

<u>ORGANIZATION:</u>	1. <b>Organization</b>
	<ul style="list-style-type: none"> <li>To maintain, stimulate, and develop an EID organization in the City, during the term of our contract, through cooperation and growth. To measure the efforts of the organization and to provide that information to the City Council in a timely manner.</li> </ul>
<p>Encouraging cooperation between the City, businesses and property owners, and building leadership in the business community.</p>	<ul style="list-style-type: none"> <li>Encourage cooperation between the City, Businesses, and Property owners, and build leadership in the business community.</li> </ul>
<p>Assist new and existing businesses in working with the City of Milwaukie to comply with all applicable planning, building, and municipal codes.</p>	<ul style="list-style-type: none"> <li>Assist new and existing businesses in working with the city of Milwaukie to comply with all applicable planning, building, and municipal codes by providing referral information.</li> </ul>
<p>Retain existing businesses and work to recruit new retail businesses to downtown. (It may be appropriate to set a target for MDDA such as "recruit at least two new businesses)</p>	<ul style="list-style-type: none"> <li>Retain and recruit businesses in the downtown in accordance with the MDDA niche goals and the laws and regulations of the community.</li> </ul>
<p><i>Support existing dispute resolution programs provided by Clackamas County.</i></p>	

Maintain an inventory of buildings, both vacant and occupied, in the downtown.	<ul style="list-style-type: none"> <li>• Maintain an inventory of buildings, both vacant and occupied, in the EID.</li> </ul>
<b><u>ECONOMIC RESTRUCTURING</u></b>	
Develop a graphic representation of the Arts and Entertainment niche.	
Recruit two Arts and Entertainment niche compatible businesses per year.	
Assist City with implementation of Downtown Master Plan.	
<b>PROMOTION</b>	<b>2. <i>Promotion</i></b>
Creating a positive image for downtown by promoting the downtown as an exciting place to live, shop and invest.	<ul style="list-style-type: none"> <li>• Create and maintain a positive image for the downtown by promoting the downtown as an exciting place to live, shop, and invest.</li> </ul>
Sponsor at least two major community events that bring residents and visitors to Milwaukie to downtown.	<ul style="list-style-type: none"> <li>• Sponsor at least two community events that will promote Milwaukie to both the community and to visitors as a livable, vibrant community.</li> </ul>
Coordinate tourism and business recruitment efforts with the City, the North Clackamas Chamber of Commerce, and	<ul style="list-style-type: none"> <li>• Coordinate tourism and business recruitment efforts with the City, the North Clackamas Chamber of Commerce, and the Clackamas</li> </ul>

Clackamas County economic development staff.	County economic development staff
<ul style="list-style-type: none"> <li>• Provide equal promotion to all licensed businesses.</li> </ul>	Provide Equal promotion to all licensed business. Provide a current
Provide a current Business Directory annually.	Business Directory Annually.
<u>DESIGN</u>	<i>3. Design</i>
<ul style="list-style-type: none"> <li>• Improving the appearance of the downtown area through:</li> </ul>	<ul style="list-style-type: none"> <li>• Improve the appearance of the EID area through:</li> </ul>
- Litter control;	-litter control;
- Coordination of paint schemes;	-Coordination of paint schemes;
- Participation in Downtown/Riverfront Master Plan; and	-Participation in the Downtown/Riverfront Master Plan through committee involvement
- Assistance with Design Review implementation.	
Promote development of second-story housing and other housing choices in the downtown.	<ul style="list-style-type: none"> <li>• Promote development in accordance with the existing codes in the EID.</li> </ul>

VI. D. 9

Coordinate Downtown banner program in compliance with sign code, sign permit, and pole owners permit.	<ul style="list-style-type: none"> <li>• Coordinate Downtown banner program in compliance with sign codes, sign permits, and pole owners permits.</li> </ul>
Complete Phase I Tree Plan.	Complete Phase I of the tree plan through fund raising and volunteerism.
Develop additional Tree Plans to complete a placement of street trees on all north/south and east/west streets with in the economic improvement district.	<ul style="list-style-type: none"> <li>• Develop additional Tree Planting Plans in an effort to complete: -</li> </ul>
	Phase II; East/West tree planting within the EID
	-Phase III; 21st tree planting within the EID
<b>ADMINISTRATION</b>	<b>4. Administration</b>
Hiring a downtown manager to coordinate activities and to administer funds received for downtown development.	
	<ul style="list-style-type: none"> <li>• To Coordinate activities and to administer funds received for downtown development.</li> </ul>
Ensure that all permit applications are submitted with sufficient lead-time to meet City Ordinances.	
Advise the City of ownership changes in downtown businesses or property within 10 days to assist the City process timely business license and economic	<ul style="list-style-type: none"> <li>• Advise the city of ownership changes in businesses or property within the EID in a timely manner.</li> </ul>

improvement assessment processing.	
Obtain written City agreement for additional financial contributes and partnerships, approved by the Council, City Manager, or Assistant City Managers, as appropriate.	<ul style="list-style-type: none"> <li>Obtain written City agreement for additional financial contributions and partnership, approved by the Council, City Manager, or Assistant City Manager upon renewal date.</li> </ul>
	<b>5. Financial</b>
3. The City shall pay to the MDDA during the term of this agreement the sum of Eighteen Thousand Dollars (\$18,000) each fiscal year until 2003/2004 payable on the first Thursday of each January.	
4. The MDDA shall provide to the City by February 15 of each year during the term of this agreement and within thirty (30) days of the expiration of this agreement, a financial report in a form to be determined by the MDDA, but reflecting at a minimum a summary of the revenues, expenses, programs, accomplishments and membership of the MDDA for the prior year. A representative from the MDDA will appear before the Milwaukie City Council with a program report at a minimum of four times each year	<ul style="list-style-type: none"> <li>Provide the City by February 15 of each year during the terms of this agreement and within (30) days of expiration of this agreement, a financial report in a form to be determined by MDDA, but reflecting a minimum a summary of revenues, expenses, programs, accomplishments and membership of the MDDA for the prior year. To represent MDDA by appearing before the Milwaukie City Council with a program report a minimum of four times each year.</li> </ul>
	<ul style="list-style-type: none"> <li>To apply for appropriate grants from Federal, State, County, Local, and individuals for the betterment of the Community, City, and</li> </ul>

VI.D. 11

	MDDA.
5. This agreement may be terminated in whole or in part under the following conditions:	This agreement may be terminated in whole or in part under the following conditions.
(a) By mutual written agreement of the City and the MDDA. Termination under this provision may be immediate.	1. By Mutual written agreement of the City and the MDDA. Termination under this agreement may be immediate.
(b) By the City for failure by the MDDA to establish and maintain stable sources of funding in the amount of approximately \$36,000 per year for fiscal years 1999/2000, 2000/2001, 2001/2002, 2002/2003 and 2003/2004. Termination under this provision shall be immediate, however, the City must notify the MDDA in writing and include a statement as to why the agreement is being terminated.	2. By the city for failure to establish a stable source of funding of approximately \$36,000 per year for the duration of this agreement. Termination under this provision shall be immediate, however, the City must notify the MDDA in writing and include a statement as to why the agreement has been terminated.
(c) By the City for failure of MDDA to provide the services outlined in this agreement. Termination under this provision shall be immediate, however, the City must notify the MDDA in writing and include a statement as to why the agreement is being terminated.	3. By the city failure to provide the services outlined in this agreement. Termination under this provision shall be immediate, however, the City must notify the MDDA in writing and include a statement as to why the agreement is being terminated.
(d) By the City for non-appropriation of funds.	4. By the City for non-appropriation of funds.
	5. By the MDDA membership after vote of dissolution. All funds to be donated to the Downtown Neighborhood Association grant fund.

IN WITNESS WHEREOF, the City has caused this agreement to be executed by its duly authorized undersigned officer.	In Witness Whereof the City has caused this agreement to be executed by its duly undersigned officers.
DATED	Date: _____, 1999
CITY OF MILWAUKIE	CITY of MILWAUKIE
	By:
	Carolyn Tomei, Mayor
	In Witness Whereof, the Milwaukie Downtown Development Association has caused this agreement to be executed by its duly authorized undersigned officer.
	Date: _____, 1999
	MILWAUKIE DOWNTOWN DEVELOPMENT
	ASSOCIATION
	By
	President



VI. E. 1

**To:** Mayor and City Council

**Through:** Dan Bartlett, City Manager *DB*  
Martha Bennett, Assistant City Manager *MB*

**From:** Alice Rouyer, Planning Director *ACR*

**Subject:** Agreement to allow extension of sanitary sewer service to alleviate health risk prior to annexation.

**Date:** July 16, 1999

**Action Requested**

Council authorization for Mayor to sign agreement to allow extension of sanitary sewer service to 4325 SE Johnson Creek Boulevard prior to completing annexation proceedings.

**Background**

Over the past month, staff has been working with Thomas Lande of 4325 SE Johnson Creek Boulevard to help him resolve issues relating to his failing septic system. He has requested access to the City of Milwaukie's sanitary sewer services. Staff has informed him that the City's Comprehensive Plan requires annexation prior to obtaining City sewer services.

Subsequent to your April, 19 1999 work session, staff is in the process of amending the annexation ordinance to bring it into compliance with new Metro code. Staff anticipates that the Council will consider the Annexation Ordinance amendments in late August or early September. The code language is nearly finished. However, staff must provide 45 day notice to the State and Metro, prior to the first public hearing. Following Council adoption of the new Annexation Ordinance, Mr. Lande's annexation request will be among the first to be processed.

In order to expedite Mr. Lande's request and alleviate the health problems associated with his failing septic system, staff recommends that the Council authorize the Mayor to sign the attached agreement, whereby sewer services could be extended to 4325 SE Johnson Creek Blvd. prior to completing the

VI. E. 2

annexation proceedings. Mr. Lande has signed the attached agreement and provided an annexation petition and annexation fee to the Planning Department. He has consented to the annexation and will participate in the processing of his application once it gets underway, following the adoption of the new ordinance. Staff has had a formal pre-application meeting with Mr. Lande and anticipates no significant issues with this annexation request.

**Fiscal Impacts**

Mr. Lande will be responsible for paying all annexation fees and sewer connection fees, as if he were in the City. The fiscal impact of deferring the annexation will not be significant. By signing the agreement, the City will allow the services to be extended. Delaying the annexation should not significantly affect other City revenues (such as property taxes).

AGREEMENT

THOMAS M LANDE ("Petitioner") and the City of Milwaukie ("City") agree as follows:

WHEREAS the City provides sanitary sewer services, and

WHEREAS, Chapter 6 of the City's Comprehensive Plan permits "annexation requests from properties within the City's Urban Growth Management Boundary," and

WHEREAS, Chapter 6 of the City's Comprehensive Plan "require[s] annexation in order to receive or utilize a City service," and

WHEREAS, the City is in the process of enacting an ordinance ("Annexation Ordinance") which creates and implements annexation standards and processes consistent with Metro Code Chapter 3.09 and State law pertaining to annexation, and

WHEREAS, the Petitioner requires a connection to the City's sanitary sewer service in order to alleviate the hazards posed by a failing septic system, and

WHEREAS, the City and the Petitioner are desirous of extending sanitary sewer service to the Petitioner's property in a timely manner and consistent with the City's annexation policies cited above.

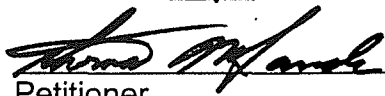
1. The Petitioner shall provide the City with a petition for annexation of the property described on the attached Exhibit A ("Subject Property") together with all fees and costs of connecting to the City's sanitary sewer service. The petition shall be complete in all respects, except that it shall not be dated. In addition to the requirements of Metro Code Chapter 3.09 and State and City laws, codes, and regulations, it shall contain a narrative which addresses the approval criteria set forth in Metro Code Chapter 3.09 and the City's Comprehensive Plan policies.
2. Upon receipt of the petition, fees, and costs outlined on Paragraph 1, the City shall conduct a staff review of the petition. If the review recommends approval of the annexation, the City shall take all steps necessary to connect the Subject Property to the City's sanitary sewer system, and the Petitioner shall thereafter be liable for all fees and costs imposed as if the Subject Property were within the City limits.
3. Upon enactment of the City's Annexation Ordinance, the City shall date the petition and process it as if it were filed as of that date. The Petitioner shall not take any action detrimental to the successful annexation of the Subject Property to the City.
4. By consenting to the process outlined above, the Petitioner expressly acknowledges the City's policy to provide service only upon annexation, and

VI. E. 4

the Petitioner hereby consents to the annexation of the Subject Property. At such time as the annexation petition is denied or if a final decision has not been made by the City Council for any reason by July 1, 2001, the City may, at its discretion, terminate the provision of sanitary sewer service to the Annexed Property without liability to the Petitioner.

5. This Agreement is binding on the Petitioner and all heirs and assigns.

Dated this 24 day of June, 1999.

  
\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

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

## EXHIBIT "A"

## PARCEL 2:

BEGINNING at a point which is South 83° 48' East 653.34 feet and South 3° 30' East 215.0 feet from the Northwest corner of Section 30, T1S, R2E, W.M., County of Clackamas, State of Oregon, said point being the most southerly corner of a tract of land conveyed by William B. LeSuer, et ex, to Richard L. Rosenberg, et al by deed recorded October 21, 1966 in Book 681, page 454, Deed Records; thence North 71° 21' 40" West along the south line of said Rosenberg tract a distance of 76.44 feet to an iron rod; thence South 33° 19' 15" East 30.16 feet to the most southerly corner of that certain tract of land conveyed to Edward V. Brattin, et ux, by deed recorded October 19, 1953 in Book 474, page 595, Deed Records; thence North 3° 30' West along the west line of said Brattin Tract a distance of 150 feet to the northwest corner thereof; thence North 65° East along the northerly line of said Brattin Tract a distance of 60 feet to the northeast corner thereof; thence North 3° 30' West a distance of 5.98 feet to the point of beginning.

**REVISED ON JULY 1, 1999**

TO: Milwaukie City Council

THROUGH: Dan Bartlett, City Manager

FROM: Martha Bennett, Assistant City Manager *MB*

SUBJECT: Dwyer Drive/ 36<sup>th</sup> Avenue/ Snowhill Complaint

DATE: July 1, 1999 for July 6, 1999 City Council Meeting

**Action Requested**

Council direction on traffic calming on 36<sup>th</sup> Avenue and other issues related to the impact of Providence Milwaukie Hospital on the neighborhoods east of the hospital.

**Background**

On May 28, I received a visit from Mrs. Dorothy Snowhill about issues related to Dwyer Drive and the possibility of traffic calming on 36<sup>th</sup> Avenue. Mrs. Snowhill also met with me, Paul Roeger, and Eric Snow of Providence Milwaukie Hospital on June 8, 1999 to discuss the same issues.

Mrs. Snowhill raised two primary issues. First, she expressed concern about the ownership of Dwyer Drive. Second, she is concerned about the volume and speed on 36<sup>th</sup> Avenue of hospital traffic.

***Dwyer Drive***

When the hospital received land use approval in March 1967, the east and west ends of Dwyer were dedicated as public right-of-way. The middle section of Dwyer, the portion on the hospital grounds, was created as a private road. In all subsequent land use actions proposed by the hospital and approved by the City of Milwaukie, the middle section of Dwyer has always been treated as a private road. In fact, since the original hospital construction, the hospital has modified the alignment of Dwyer, and the curves on the eastern portion of Dwyer are now much more severe than they were when the hospital was originally constructed.

## VI. F. 2

Mrs. Snowhill has expressed concern that Dwyer is no longer a private road. She expresses this concern for three reasons:

- First, the City sands Dwyer (and subsequently sweeps up the sand) in the event of snow and ice. Mrs. Snowhill also has expressed concern that the City may also sweep and maintain Dwyer.
- Second, Mrs. Snowhill believes that the owners of private roads must close the private road to general traffic for at least 24 hours each year. She has provided staff with a legal notice (attached) that Schnitzer published in the Oregonian last year that notes that Schnitzer closed its roads to “establish the corporation’s Right to Closure.”
- Third, Mrs. Snowhill states that after ten years of uninterrupted use, Dwyer should revert to the City under prescriptive rights (a common law dedication)

### *Analysis of Dwyer Drive Issue*

Mike Clark, Street Maintenance Supervisor, and Eric Snow of Providence Milwaukie Hospital both deny that the City provides routine street sweeping and maintenance on Dwyer. According to Eric Snow, the hospital contracts with a private company for sweeping and routine maintenance of Dwyer.

The City does sand Dwyer in the event of snow or ice because it is imperative for public safety that emergency vehicles and the general public are able to reach the hospital at all times. The City Attorney advises staff that this does not affect the status of Dwyer as a private road but that the City and the hospital should work out an agreement that spells out the reasons the City would sand this street.

In researching Mrs. Snowhill’s second concern, staff was not able to find any reference to state law that requires closure of a private road each year.

Finally, staff asked the City Attorney for a legal opinion of whether either uninterrupted use of the City’s sanding of Dwyer has automatically made it a public street. The City Attorney has advised us that common law dedication requires an intent to dedicate by the owner and either acceptance by the City of “estoppel.” (Estoppel is a legal principle that provides that a person who takes an action to cause another to believe a certain fact is true cannot deny that fact in litigation between the two persons, even if the fact is not true). The hospital has clearly indicated an intent not to dedicate, the City has never accepted Dwyer as a public road, and there are, according to the City Attorney, no grounds for estoppel. A copy of the City Attorney’s memorandum on this issue is attached.

### *Options for Dwyer Issue*

Providence Milwaukie Hospital has expressed a desire to maintain ownership of the private portions of Dwyer. Staff recommends against City acceptance of this street.

Dwyer is not built to City standards and is in need of repair. In addition, given our limited street maintenance funds, staff would prefer not to add another piece of street to our system.

If the Council disagrees with this recommendation, staff can work with Providence Milwaukie Hospital to determine if they would be willing to dedicate the roadway. The hospital has stated that they are willing to consider dedication of Dwyer if the City feels it is important to the community.

#### *Traffic on 36<sup>th</sup> Avenue*

Mrs. Snowhill also has expressed a desire to install speed humps on 36<sup>th</sup> Avenue. She has expressed concern about the speed and the volume of traffic on 36<sup>th</sup> and the safety of local residents. She also has expressed concerns that the two traffic studies, one in January 1998 and one in May 1998 were flawed because of timing and weather.

Under the Neighborhood Traffic Management Program that is in effect today, 36<sup>th</sup> Avenue does not qualify for traffic calming. Attached is a copy of a letter that Rob Shelton sent to Mrs. Snowhill after the May 1998 traffic count. Also attached is a copy of the current projects that do qualify, and how they compare to 36<sup>th</sup>.

In some ways, 36<sup>th</sup> Avenue could be considered a unique street in Milwaukie. It is the only local street that is immediately adjacent to (with access to) a hospital. In addition, Mrs. Snowhill notes that Providence Milwaukie has expressed a willingness to pay for speed humps. ~~I talked with Eric Snow on June 15, 1999, and he indicated the Hospital would be willing to pay for speed humps if it would satisfy neighborhood concerns about hospital traffic.~~ In a subsequent conversation on June 30, 1999, Eric Snow of Providence Milwaukie Hospital told me that the hospital has no record of a commitment to pay for speed humps. The Hospital Administrator also does not recall making such a commitment.

The hospital has worked with its employees and vendors to reduce business trips to the hospital, but some hospital traffic is using 36<sup>th</sup>. Neither the City nor the hospital has wanted to control traffic by emergency vehicles, patrons of the hospital, visitors to the hospital, or employees who live close to 36<sup>th</sup>.

#### *Future Hospital Development*

Representatives from Providence Milwaukie Hospital have told staff that at some point in the future, it is likely that the hospital's back entrance will be moved from 36<sup>th</sup> Avenue to King Road between 34<sup>th</sup> and 36<sup>th</sup>. Although there are no guarantees that the entrance will be moved at all, and even if relocation is likely, it could be years before the hospital moves forward with this project.

## VI. F. 4

### *Options for Traffic Calming on 36<sup>th</sup> Avenue*

City staff have three concerns about installing speed humps on 36<sup>th</sup> Avenue. First, Public Works staff are concerned about setting a precedent that is not consistent with the Neighborhood Traffic Management Program. Second, if the two studies on 36<sup>th</sup> are accurate, traffic volume on 36<sup>th</sup> is not significantly worse than the average residential street, and speeds are not excessive. In other words, speed humps may not solve what local residents perceive as the problem. Finally, 36<sup>th</sup> is in poor condition. Speed humps may make it more expensive to maintain or reconstruct the street in the future.

Bearing these issues in mind, the options available to the Council include:

- Council can waive the NTMP and authorize installation of speed humps on 36<sup>th</sup>. If this is the option you select, staff recommends that you include the following considerations in the motion:
  - ◆ 36<sup>th</sup> is the only street that is classified as a “local” street that has an access road to a hospital in Milwaukie. That means that it has a unique character and serves unique traffic. Residents close to the access to the hospital experience problems from traffic that residents on other local streets do not confront.
  - ◆ No city funds should be used to construct the speed humps. Although the humps should be built to City standards, the neighborhood should secure the commitment from Providence Milwaukie Hospital or some other private funding source to pay for the work. The cost of the speed humps can range from \$1,500 to \$3,000 depending on a number of factors.
  - ◆ The neighborhood should comply with the NTMP requirement that at least 50 percent of the local residents should support the installation of speed humps.
- Council could direct staff to study other traffic calming options. This street is an old county road. It is unimproved, has poor pavement quality, no curbs and no sidewalks. One option is construction of a “skinny” street with curb, sidewalks, and street trees. Other communities have found that this type of street slows traffic (the narrower a street, the slower the traffic, on average). This option will likely be more expensive than other options, but it would improve a street that is in poor condition and would also improve the neighborhood. If a portion of a project were funded through a local improvement district, the hospital would be participating, since they own a substantial number of properties on the west side of 36<sup>th</sup>. Staff could also investigate a traffic circle, stop signs, and other possible options.
- Council could direct staff to undertake another traffic study during the warmer weather to see if traffic counts have changed since May 1998. This is probably not the best option, especially since it does not provide us with additional options if volume and speed are still low.
- Council could direct staff to do nothing on this street, given the indication that the hospital’s entrance may move to King Road in the future.

*Other issues*

**Dwyer Drive Study.** One of the questions raised by Providence Milwaukie Hospital is whether there is a substantial amount of non-hospital traffic on Dwyer Drive. For example, could traffic from the apartment complex on the north side of Dwyer (near 32<sup>nd</sup>). In our discussions with both Mrs. Snowhill and Providence Milwaukie staff, we concluded that it may be a good idea to conduct a traffic count on Dwyer itself. The study would likely include an evaluation of turning movements on Dwyer at the apartment complex.

**Zoning.** Mrs. Snowhill also raised concerns about whether a hospital use is legal in the R-7 zone. The hospital has received "Community Service Overlay" approval for their recent activities. A CSO approval permits institutional uses, such as a hospital, park, City Hall, or transit facility, in any zone, including a residential zone, providing it meets the appropriate criteria.

*Recommendation*

Staff recommends that the Council not pursue dedication of Dwyer. Neither the community nor the hospital benefits from transfer of the road. Staff has concerns about speed humps on 36<sup>th</sup> Avenue, and urges the Council to make special findings about the uniqueness of this case should you opt to allow them.

VI. F. 6

*The Oregonian, 12-26-98  
Public Notice Section*

**ROADS TO BE CLOSED**

Schnitzer Investment Corp. will close its roads at its International Terminals location, 12005 N. Burdard Road, on January 1, 1999, to establish the corporation's Right to Closure. The roads will be reopened January 2, 1999.

RAMIS  
CREW  
CORRIGAN &  
BACHRACH, LLP

ATTORNEYS AT LAW

1727 N.W. Hoyt Street  
Portland, Oregon 97209

(503) 222-4402  
Fax: (503) 243-2944

VI. F. 7

## MEMORANDUM

TO: Martha Bennett, Community Development Director

FROM: Gary Firestone, City Attorney's Office

DATE: June 11, 1999

RE: Status of Street on Hospital Grounds

### BACKGROUND

A roadway passes over Providence Milwaukie Hospital property. The roadway has never been dedicated as a public right-of-way. It has not been shown on any plat as a public street or right-of-way. In previous land use proceedings, the hospital explicitly refused to dedicate the area for public street purposes but insisted on retaining ownership of the roadway as a private street.

Certain local residents have claimed that the roadway on the hospital property has become a public street or right-of-way by common-law dedication. They claim that the City has sanded and swept the street, indicating acceptance of the roadway as a public street.

### ISSUE

Has the roadway become a public street by common-law dedication?

### ANSWER

No. Common-law dedication requires intent to dedicate by the owner, and either acceptance or estoppel. The owner has clearly indicated an intent not to dedicate, the City has never accepted, and there are no grounds for estoppel.

Memorandum re: Status of Street on Hospital Grounds  
June 11, 1999  
Page 2

#### ANALYSIS

A dedication requires an offer and an acceptance. *Hendrickson v. City of Astoria*, 127 Or 1, 8, 270 P 924 (1982). An acceptance can be implied by "acts showing that the municipality has assumed control and possession of the land dedicated as a private street, provided the act or acts relied on are unequivocal and not isolated or equivocal." *Id.* In common-law dedications, estoppel can substitute for acceptance. *See Fallon v. Humes*, 51 Or App 381, 386-87, 627 P2d 1 (1981).

The party claiming the existence of a common-law dedication must prove the intent to dedicate by clear and convincing evidence. *Miller v. Roy W. Heinrich & Co. Inc.*, 257 Or 155, 158, 476 P2d 183 (1970); *Fallon*, 51 Or App at 387. Given the hospital's stated refusal to dedicate, it should be impossible to prove the intent to dedicate.

Furthermore, even if there had been an intent to dedicate, the City has not accepted. The City has never listed the roadway as a city street and does not maintain it as a City street.<sup>1</sup> There may be some evidence that the City has sanded the roadway and swept the sand. However, such acts are isolated and equivocal. A city can sand private roadways in the interests of public safety if it acknowledges that the roadway is private but believes that public health and safety require the sanding.

The advocate for the position that a common-law dedication has occurred relies on *Carter v. City of Portland*, 4 Or 339 (1873) and cases that have followed *Carter*. Those cases establish a very narrow rule for common-law dedication. If a property owner prepares a plat or map showing a public street and sells property within the plat area having referred to the plat, a common-law dedication occurs even if the plat is never properly recorded. *Miller*, 257 Or at 158; *Fallon*, 51 Or App at 386-87 (explaining common-law dedication). There is a good reason for this rule. If people have bought property relying on a plat showing access to their property, the seller should not be able to deny them access.

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<sup>1</sup>I understand that this is the case. If this matter ever reaches litigation, the City will need evidence on the factual issues.

Memorandum re: Status of Street on Hospital Grounds  
June 11, 1999  
Page 3

The concept of estoppel<sup>2</sup> is appropriate in the *Carter* situation because people have relied on a representation and the person making the representation (and that person's successors in interest) should not be permitted to avoid the representation. The same is not true here. There is no plat showing the roadway as a public street. No one has bought property relying on the roadway as a public street. The common-law dedication principles do not apply and the elements of common-law dedication cannot be established.

"Property owners cannot for their own benefit or convenience impose a street or highway upon a municipality against its will and compel it to improve or repair the street or highway." *Hendrickson*, 127 Or at 8. If a property owner cannot compel a city to accept a street, a person who is not the property cannot force a dedication on both the property owner and the City. The roadway on the hospital property is a private street, not a public right-of-way.

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<sup>2</sup>Estoppel is a legal principle that provides that a person who takes an action to cause another to believe a certain fact is true cannot deny that fact in litigation between the two, regardless of its truth.

VI. F. 10

June 24, 1998

Dorothy Snowhill  
10281 SE 36<sup>th</sup> Ave  
Milwaukie, OR 97222

Robert Shelton  
Associate Engineer  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

Re: NTMP Results for SE 36<sup>th</sup> Ave

As outlined in the attached copy of Resolution No. 20-1997, traffic counts for average daily traffic (ADT) and 85% speed (mean speed plus one standard deviation) were completed on SE 36<sup>th</sup> Ave. These counts were conducted from 5/11/98 to 5/15/98 at two different locations: between SE Harvey & SE Dwyer (S of Harvey) and between SE King & SE Dwyer (N of King). Results of these traffic counts are included with this report.

A comparison can be made between these recent (5/11-5/15) counts and those taken earlier this year (1/8). These comparisons are shown below in table format below.

<b>Date</b>	<b>Location</b>	<b>ADT</b>	<b>85% speed</b>
1/8	N of King	629	29.0 MPH
5/11-15	N of King	590	28.6 MPH
1/8	S of Harvey	252	28.0 MPH
5/11-15	S of Harvey	268	27.1 MPH

This comparison illustrates the consistent nature of traffic behavior on SE 36<sup>th</sup> Ave. Even with the small sample size, there is only a 6.4% variation between the ADT observed by the two counts at the location N of King.

This recent count was taken as part of the 1998 Neighborhood Traffic Management Program (NTMP). The results of the traffic count as they compare to the criteria described in Res. 20-1997 will be given below, along with the final tally and the recommendation by the Public Works Department.

## VI. F. 11

1. **Schools:** The proximity of a street to a school will give that street higher priority. 5 points for a school within 500 to 1000 feet of the street. 10 points for a school within 500 feet. The nearest school is more than 1000 feet from SE 36<sup>th</sup> Ave. **School pts. = 0**
2. **Speed:** The 85% speed measured on the street is compared with the base speed for the street. Streets with no sidewalks have a base speed of 5 MPH greater than posted. The base speed on SE 36<sup>th</sup> Ave is 30 MPH. 10 points for each MPH greater than base speed. 85% speed from the latest count is 28.6 MPH. **Speed pts. = 0**
3. **Traffic volumes (ADT):** ADT is divided by 250 to calculate volume points. **Volume pts. =  $590 / 250 = 2.36$**
4. **Accident History:** The average number of reported and correctable accidents per year over the past three years multiplied by 15. There were no reported and correctable accidents on SE 36<sup>th</sup> Ave in the last three years. **Accident pts. = 0**
5. **Existing street conditions:** 5 points if the street does not have continuous sidewalks on at least one side. **Existing street conditions pts. = 5**
6. **Pedestrian usage:** 5 points for multi-family housing, elderly housing or facility whose primary function is to serve the disabled is within 300 feet of the street. **Pedestrian usage pts. = 5**

A tally of the points listed above yields **12.36 points**. The threshold for acceptance into the NTMP is **30 points**. Therefore SE 36<sup>th</sup> Ave does not qualify for treatment through the NTMP, therefore it not be included in the 1998 NTMP.

NTMP Ranking Spreadsheet

NTMP Ranking Results for Streets with Requests for Traffic Calming Devices: Based on the scoring system outlined in Resolution No. 20 - 1997																			
NTMP Rank	Street Name	Cross-Streets	Street Class	Street No.	Curbs (Y/N)	School Distance	School Points	85% Speed (mph)	Base Speed (mph)	Speed Points	Volume (ADT)	Volume Points	Accidents per year	Accident Points	Street Condition	Condition Points	Pedestrian Usage	Usage Points	Total Points
1	Stanley Ave	Railroad to Monroe	collector	214	N	350 ft	10	33.1	30	31	1582	6.33	0	0	no sidewalk	5	park/elderly	5	57.33
2	Stanley Ave	Logus to Willow	collector	21401	N	550 ft	5	33.4	30	34	3252	13.01	0	0	no restriction	0	no	0	52.01
3	Home Ave	Park to Wilma Circle	neighborhd rt	134	N	430 ft	10	31.8	30	18	972	3.89	0.333	10.0	no sidewalk	5	no	0	46.88
4	Stanley Ave	Monroe to King	collector	214	N	500 ft	10	31.3	30	13	792	3.17	0	0	no sidewalk	5	multi-family	5	36.17
5	32nd Ave	Harrison to JCB	collector	1702	Y	>1000 ft	0	33.1	35	0	5043	20.00	0.333	10.0	no restriction	0	multi-family	5	34.99
6	35th Ave	Lake to Washington	local	20	Y	500 ft	10	30.9	30	9	989	3.96	0	0	vert. restriction	5	park	5	32.96
7	27th Ave	Lake to Washington	neighborhd rt	1001	Y	20 ft	10	30.8	30	8	904	3.62	0	0	horiz. restriction	5	multi-family	5	31.62
8	Roswell St	32nd to 42nd	neighborhd rt	204	N	30 ft	10	28.5	30	0	1153	4.61	0	0	no sidewalk	5	park	5	24.61
9	Monroe St	Home to Stanley	collector	17601	N	>1000 ft	0	30.0	30	0	2281	9.12	0.333	10.0	no sidewalk	5	no	0	24.11
10	34th Ave	Lake to Washington	collector	19	Y	760 ft	5	30.3	35	0	3218	12.87	0	0	vert. restriction	5	no	0	22.87
11	42nd Ave	Harvey to Howe	collector	2801	N	>1000 ft	0	30.4	30	4	2123	8.49	0	0	no sidewalk	5	multi-family	5	22.49
12	34th Ave	Lake to Wister	collector	19	Y	890 ft	5	30.2	35	0	3093	12.37	0	0	vert. restriction	5	no	0	22.37
13	Furnberg Rd	63rd to 67th	neighborhd rt	114	N	330 ft	10	27.4	30	0	567	2.27	0	0	no sidewalk	5	park	5	22.27
14	71st Ave	Madrona to Plum	neighborhd rt	55	Y	>1000 ft	0	29.6	30	0	565	2.26	0.333	10.0	no sidewalk	5	multi-family	5	22.25
15	Filbert St	32nd to 42nd	local	107	Y	405 ft	10	28.4	30	0	428	1.71	0	0	no sidewalk	5	multi-family	5	21.71
16	Aspen St	Linwood to Sequoia	local	65	Y	380 ft	10	25.0	30	0	393	1.57	0	0	no sidewalk	5	multi-family	5	21.57
17	Willow St	Stanley to west term.	neighborhd rt	23601	N	150 ft	10	23.0	30	0	690	2.76	0	0	no sidewalk	5	no	0	17.76
18	37th Ave	Lake to Grogan	neighborhd rt	22	Y	70 ft	10	29.8	30	0	629	2.52	0	0	no sidewalk	5	no	0	17.52
19	40th Ave	Harvey to Olsen	local	2602	N	1000 ft	5	28.5	30	0	626	2.50	0	0	no sidewalk	5	park	5	17.50
20	36th Ave	Roswell to JCB	local	2102	Y	120 ft	10	27.0	30	0	378	1.51	0	0	no restriction	0	park	5	16.51
21	36th Ave	Harvey to King	local	2101	N	>1000ft	0	28.8	30	0	629	2.52	0	0	no sidewalk	5	hospital	5	12.52
22	Windsor Dr	Willow to Windsor Ct.	neighborhd rt	238	Y	160 ft	10	24.8	30	0	531	2.12	0	0	no restriction	0	no	0	12.12
23	Cedar Crest Dr	Harmony to Linwood	neighborhd rt	84	Y	>1000 ft	0	24.1	30	0	464	1.86	0	0	no sidewalk	5	multi-family	5	11.86
24	41st Ave	Roswell to JCB	local	2702	N	700 ft	5	22.0	30	0	91	0.36	0	0	no sidewalk	5	no	0	10.36
25	Mason Ln	42nd to Mason Hill	local	168	Y	>1000 ft	0	27.6	30	0	1004	4.02	0	0	no sidewalk	5	no	0	9.02
26	Hillside Ct	"A" to "D"	local	132	Y	>1000 ft	0	23.6	30	0	603	2.41	0	0	no restriction	0	multi-family	5	7.41
27	70th Ave	Madrona to Daphne Ct	local	54	Y	>1000 ft	0	23.7	30	0	324	1.30	0	0	no sidewalk	5	no	0	6.30
28	Adams St	Railroad to 42nd	local	5801	N	>1000 ft	0	24.9	30	0	234	0.94	0	0	no sidewalk	5	no	0	5.94
29	22nd Ave	McLoughlin to Sparrow	minor arterial	5	N	>1000 ft	0	33.9	35	0	4243	16.97	0.333	10.0	no sidewalk	5	multi-family	5	36.96
30	33rd Ave	Wister to Sellwood	local	18	Y	500 ft	10	28.1	30	0	329	1.32	0.666	20.0	vert. restriction	5	no	0	36.30

33rd Ave. is ineligible for NTMP because it is classified as a minor arterial

at uncontrolled intersection). 33rd Ave. was removed from the list by the City Engineer because it qualified mainly due to accident history. The subsequent installation of the stop sign at 33rd & Wister is considered a solution to the accident problem (i.e. collision).

VI. F. 12



VI. F. 1

TO: Milwaukie City Council  
THROUGH: Dan Bartlett, City Manager  
FROM: Martha Bennett, Assistant City Manager *MB*  
SUBJECT: Dwyer Drive/ 36<sup>th</sup> Avenue/ Snowhill Complaint  
DATE: June 18, 1999 for July 6, 1999 City Council Meeting

Action Requested

Council direction on traffic calming on 36<sup>th</sup> Avenue and other issues related to the impact of Providence Milwaukie Hospital on the neighborhoods east of the hospital.

Background

On May 28, I received a visit from Mrs. Dorothy Snowhill about issues related to Dwyer Drive and the possibility of traffic calming on 36<sup>th</sup> Avenue. Mrs. Snowhill also met with me, Paul Roeger, and Eric Snow of Providence Milwaukie Hospital on June 8, 1999 to discuss the same issues.

Mrs. Snowhill raised two primary issues. First, she expressed concern about the ownership of Dwyer Drive. Second, she is concerned about the volume and speed on 36<sup>th</sup> Avenue of hospital traffic.

*Dwyer Drive*

When the hospital received land use approval in March 1967, the east and west ends of Dwyer were dedicated as public right-of-way. The middle section of Dwyer, the portion on the hospital grounds, was created as a private road. In all subsequent land use actions proposed by the hospital and approved by the City of Milwaukie, the middle section of Dwyer has always been treated as a private road. In fact, since the original hospital construction, the hospital has modified the alignment of Dwyer, and the curves on the eastern portion of Dwyer are now much more severe than they were when the hospital was originally constructed.

Mrs. Snowhill has expressed concern that Dwyer is no longer a private road. She expresses this concern for three reasons:

## VI. F. 2

- First, the City sands Dwyer (and subsequently sweeps up the sand) in the event of snow and ice. Mrs. Snowhill also has expressed concern that the City may also sweep and maintain Dwyer.
- Second, Mrs. Snowhill believes that the owners of private roads must close the private road to general traffic for at least 24 hours each year. She has provided staff with a legal notice (attached) that Schnitzer published in the Oregonian last year that notes that Schnitzer closed its roads to “establish the corporation’s Right to Closure.”
- Third, Mrs. Snowhill states that after ten years of uninterrupted use, Dwyer should revert to the City under prescriptive rights (a common law dedication)

### *Analysis of Dwyer Drive Issue*

Mike Clark, Street Maintenance Supervisor, and Eric Snow of Providence Milwaukie Hospital both deny that the City provides routine street sweeping and maintenance on Dwyer. According to Eric Snow, the hospital contracts with a private company for sweeping and routine maintenance of Dwyer.

The City does sand Dwyer in the event of snow or ice because it is imperative for public safety that emergency vehicles and the general public are able to reach the hospital at all times. The City Attorney advises staff that this does not affect the status of Dwyer as a private road but that the City and the hospital should work out an agreement that spells out the reasons the City would sand this street.

In researching Mrs. Snowhill’s second concern, staff was not able to find any reference to state law that requires closure of a private road each year.

Finally, staff asked the City Attorney for a legal opinion of whether either uninterrupted use of the City’s sanding of Dwyer has automatically made it a public street. The City Attorney has advised us that common law dedication requires an intent to dedicate by the owner and either acceptance by the City of “estoppel.” (Estoppel is a legal principle that provides that a person who takes an action to cause another to believe a certain fact is true cannot deny that fact in litigation between the two persons, even if the fact is not true). The hospital has clearly indicated an intent not to dedicate, the City has never accepted Dwyer as a public road, and there are, according to the City Attorney, no grounds for estoppel. A copy of the City Attorney’s memorandum on this issue is attached.

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Providence Milwaukie Hospital has expressed a desire to maintain ownership of the private portions of Dwyer. Staff recommends against City acceptance of this street. Dwyer is not built to City standards and is in need of repair. In addition, given our limited street maintenance funds, staff would prefer not to add another piece of street to our system.

If the Council disagrees with this recommendation, staff can work with Providence Milwaukie Hospital to determine if they would be willing to dedicate the roadway. The hospital has stated that they are willing to consider dedication of Dwyer if the City feels it is important to the community.

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Under the Neighborhood Traffic Management Program that is in effect today, 36<sup>th</sup> Avenue does not qualify for traffic calming. Attached is a copy of a letter that Rob Shelton sent to Mrs. Snowhill after the May 1998 traffic count. Also attached is a copy of the current projects that do qualify, and how they compare to 36<sup>th</sup>.

In some ways, 36<sup>th</sup> Avenue could be considered a unique street in Milwaukie. It is the only local street that is immediately adjacent to (with access to) a hospital. In addition, Mrs. Snowhill notes that Providence Milwaukie has expressed a willingness to pay for speed humps. I talked with Eric Snow on June 15, 1999, and he indicated the Hospital would be willing to pay for speed humps if it would satisfy neighborhood concerns about hospital traffic.

The hospital has worked with its employees and vendors to reduce business trips to the hospital, but a significant amount of hospital traffic is using 36<sup>th</sup>. Neither the City nor the hospital has wanted to control traffic by emergency vehicles, patrons of the hospital, visitors to the hospital, or employees who live close to 36<sup>th</sup>.

#### *Future Hospital Development*

Representatives from Providence Milwaukie Hospital have told staff that at some point in the future, it is likely that the hospital's back entrance will be moved from 36<sup>th</sup> Avenue to King Road between 34<sup>th</sup> and 36<sup>th</sup>. Although there are no guarantees that the entrance will be moved at all, and even if relocation is likely, it could be years before the hospital moves forward with this project.

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## VI. F. 4

local residents perceive as the problem. Finally, 36<sup>th</sup> is in poor condition. Speed humps may make it more expensive to maintain or reconstruct the street in the future.

Bearing these issues in mind, the options available to the Council include:

- Council can waive the NTMP and authorize installation of speed humps on 36<sup>th</sup>. If this is the option you select, staff recommends that you include the following considerations in the motion:
  - ◆ 36<sup>th</sup> is the only street that is classified as a “local” street that has an access road to a hospital in Milwaukie. That means that it has a unique character and serves unique traffic. Residents close to the access to the hospital experience problems from traffic that residents on other local streets do not confront.
  - ◆ No city funds should be used to construct the speed humps. Although the humps should be built to City standards, the neighborhood should secure the commitment from Providence Milwaukie Hospital or some other private funding source to pay for the work. The cost of the speed humps can range from \$1,500 to \$3,000 depending on a number of factors.
  - ◆ The neighborhood should comply with the NTMP requirement that at least 50 percent of the local residents should support the installation of speed humps.
- Council could direct staff to study other traffic calming options. This street is an old county road. It is unimproved, has poor pavement quality, no curbs and no sidewalks. One option is construction of a “skinny” street with curb, sidewalks, and street trees. Other communities have found that this type of street slows traffic (the narrower a street, the slower the traffic, on average). This option will likely be more expensive than other options, but it would improve a street that is in poor condition and would also improve the neighborhood. If a portion of a project were funded through a local improvement district, the hospital would be participating, since they own a substantial number of properties on the west side of 36<sup>th</sup>. Staff could also investigate a traffic circle, stop signs, and other possible options.
- Council could direct staff to undertake another traffic study during the warmer weather to see if traffic counts have changed since May 1998. This is probably not the best option, especially since it does not provide us with additional options if volume and speed are still low.
- Council could direct staff to do nothing on this street, given the indication that the hospital’s entrance may move to King Road in the future.

### *Other issues*

Mrs. Snowhill also raised concerns about whether a hospital use is legal in the R-7 zone. The hospital has received “Community Service Overlay” approval for their recent activities. A CSO approval permits institutional uses, such as a hospital, park, City Hall,

or transit facility, in any zone, including a residential zone, providing it meets the appropriate criteria.

*Recommendation*

Staff recommends that the Council not pursue dedication of Dwyer. Neither the community nor the hospital benefits from transfer of the road. Staff has concerns about speed humps on 36<sup>th</sup> Avenue, and urges the Council to make special findings about the uniqueness of this case should you opt to allow them.

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*The Oregonian, 12-26-98  
Public Notice Section*

**ROADS TO BE CLOSED**  
Schnitzer Investment Corp. will close its roads at its International Terminals location, 12005 N. Surgard Road, on January 1, 1999, to establish the corporation's Right to Closure. The roads will be reopened January 2, 1999.

*Att. # 4*

VI. F. 7

**RAMIS**  
**CREW**  
**CORRIGAN &**  
**BACHRACH, LLP**

**ATTORNEYS AT LAW**

1727 N.W. Hoyt Street  
Portland, Oregon 97209

(503) 222-4402  
Fax: (503) 243-2944

## MEMORANDUM

**TO:** Martha Bennett, Community Development Director

**FROM:** Gary Firestone, City Attorney's Office

**DATE:** June 11, 1999

**RE:** Status of Street on Hospital Grounds

### BACKGROUND

A roadway passes over Providence Milwaukie Hospital property. The roadway has never been dedicated as a public right-of-way. It has not been shown on any plat as a public street or right-of-way. In previous land use proceedings, the hospital explicitly refused to dedicate the area for public street purposes but insisted on retaining ownership of the roadway as a private street.

Certain local residents have claimed that the roadway on the hospital property has become a public street or right-of-way by common-law dedication. They claim that the City has sanded and swept the street, indicating acceptance of the roadway as a public street.

### ISSUE

Has the roadway become a public street by common-law dedication?

### ANSWER

No. Common-law dedication requires intent to dedicate by the owner, and either acceptance or estoppel. The owner has clearly indicated an intent not to dedicate, the City has never accepted, and there are no grounds for estoppel.

## VI. F. 8

Memorandum re: Status of Street on Hospital Grounds  
June 11, 1999  
Page 2

### ANALYSIS

A dedication requires an offer and an acceptance. *Hendrickson v. City of Astoria*, 127 Or 1, 8, 270 P 924 (1982). An acceptance can be implied by "acts showing that the municipality has assumed control and possession of the land dedicated as a private street, provided the act or acts relied on are unequivocal and not isolated or equivocal." *Id.* In common-law dedications, estoppel can substitute for acceptance. *See Fallon v. Humes*, 51 Or App 381, 386-87, 627 P2d 1 (1981).

The party claiming the existence of a common-law dedication must prove the intent to dedicate by clear and convincing evidence. *Miller v. Roy W. Heinrich & Co. Inc.*, 257 Or 155, 158, 476 P2d 183 (1970); *Fallon*, 51 Or App at 387. Given the hospital's stated refusal to dedicate, it should be impossible to prove the intent to dedicate.

Furthermore, even if there had been an intent to dedicate, the City has not accepted. The City has never listed the roadway as a city street and does not maintain it as a City street.<sup>1</sup> There may be some evidence that the City has sanded the roadway and swept the sand. However, such acts are isolated and equivocal. A city can sand private roadways in the interests of public safety if it acknowledges that the roadway is private but believes that public health and safety require the sanding.

The advocate for the position that a common-law dedication has occurred relies on *Carter v. City of Portland*, 4 Or 339 (1873) and cases that have followed *Carter*. Those cases establish a very narrow rule for common-law dedication. If a property owner prepares a plat or map showing a public street and sells property within the plat area having referred to the plat, a common-law dedication occurs even if the plat is never properly recorded. *Miller*, 257 Or at 158; *Fallon*, 51 Or App at 386-87 (explaining common-law dedication). There is a good reason for this rule. If people have bought property relying on a plat showing access to their property, the seller should not be able to deny them access.

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<sup>1</sup>I understand that this is the case. If this matter ever reaches litigation, the City will need evidence on the factual issues.

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Memorandum re: Status of Street on Hospital Grounds  
June 11, 1999  
Page 3

The concept of estoppel<sup>2</sup> is appropriate in the *Carter* situation because people have relied on a representation and the person making the representation (and that person's successors in interest) should not be permitted to avoid the representation. The same is not true here. There is no plat showing the roadway as a public street. No one has bought property relying on the roadway as a public street. The common-law dedication principles do not apply and the elements of common-law dedication cannot be established.

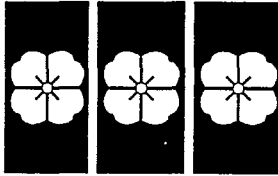
"Property owners cannot for their own benefit or convenience impose a street or highway upon a municipality against its will and compel it to improve or repair the street or highway." *Hendrickson*, 127 Or at 8. If a property owner cannot compel a city to accept a street, a person who is not the property cannot force a dedication on both the property owner and the City. The roadway on the hospital property is a private street, not a public right-of-way.

G:\acm\65021\bennettm.mel

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<sup>2</sup>Estoppel is a legal principle that provides that a person who takes an action to cause another to believe a certain fact is true cannot deny that fact in litigation between the two, regardless of its truth.

C I T Y O F



MILWAUKIE

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\*\*\* M E M O R A N D U M \*\*\*

June 29, 1999

To: City Council  
From: Mayor Carolyn Tomei *Carolyn Tomei*  
Re: Renewal of City Manager's Employment Agreement

Action Requested

I ask that the Council authorize me to sign the City Manager's Employment Agreement.

Background

The City Council has been conducting the City Manager's annual performance review. This review included: a self assessment prepared by the Manager, a report on Council Goals, and an evaluation form completed by eight members of the City's Management Team.

In a June 14, 1999, memo the Manager asked to receive a salary increase equal to the increase granted all other employees and an increase in his monthly vacation accrual. Council asked to update the severance pay language in the Employment Agreement.

On June 28, 1999, Council met with the Manager, City Attorney, and Labor Attorney. This was a very productive session. After discussing the Manager's performance in detail the Council agreed that his performance was good to excellent.

cc: File -- cm2233/hd

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

**EMPLOYMENT AGREEMENT**

**THIS AGREEMENT** is made and entered into this 6th day of July 1999, by and between the City of Milwaukie, Oregon, a municipal corporation hereinafter called "CITY", as party of the first part, and Dan R. Bartlett, hereinafter called "EMPLOYEE", as party of the second part.

**WITNESSETH:**

**WHEREAS**, the CITY appointed Dan R. Bartlett as City Manager, effective February 1, 1989, with the full authority of that position as provided in the Charter of the City of Milwaukie; and

**WHEREAS**, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment and to set working conditions of said EMPLOYEE; and

**WHEREAS**, it is the desire of the City Council to:

(1) secure and retain the services of EMPLOYEE and to provide inducement for him to remain in such employment; (2) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the EMPLOYEE; (3) to provide a just means for terminating EMPLOYEE's services at such time as he may be unable to fully discharge his duties due to disability or when the CITY may desire to otherwise terminate his employment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1. Duties.**

CITY agrees to employ Dan R. Bartlett as City Manager of the City of Milwaukie, to perform the functions and duties specified in the Home Rule Charter of the City of Milwaukie, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

**Section 2. Term.**

A. The term of this Agreement shall be effective July 1, 1999, and end when EMPLOYEE is terminated by Council action, or when EMPLOYEE resigns, whichever shall occur first.

B. The City Council and EMPLOYEE shall, in executive session, review the performance of the City Manager annually in June. The City Council and EMPLOYEE shall also annually evaluate the salary of the City Manager. The parties shall develop a mutually acceptable process of executive evaluation.

C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to

terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, paragraphs A and B of this Agreement.

D. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the EMPLOYEE to resign at any time from his position with the CITY, subject only to the provisions set forth in Section 3, paragraph C of this Agreement.

### **Section 3. Termination/Severance Pay.**

A. Termination At Will Not For Cause. This Agreement may be terminated by either the CITY or EMPLOYEE for any reason whatsoever upon the giving of thirty (30) days written notice to the other party. In addition, the CITY shall be permitted to give written notice to EMPLOYEE and immediately suspend EMPLOYEE with pay.

B. Termination for Cause. In the event EMPLOYEE is terminated For Cause, this Agreement shall not be deemed to construe any waiver of rights or remedies available to EMPLOYEE. This Agreement may be immediately terminated by the CITY in writing For Cause at the sole discretion of the CITY, if EMPLOYEE is determined to be unfit for the position pursuant to Federal, State, or CITY rules and regulations applicable to For Cause termination of employees.

C. Severance Pay. In the event EMPLOYEE is involuntarily terminated at Will, Not For Cause, by the City Council or voluntarily resigns following a written request from the CITY that EMPLOYEE resign, then the CITY agrees to pay EMPLOYEE an amount equal to: six months base salary. Such payment may be a lump sum cash payment or regular monthly payments, at the option of EMPLOYEE.

In the event the CITY chooses to reduce the salary or other financial benefits of EMPLOYEE in a greater percentage than that applicable across-the-board for all CITY employees; or in the event the CITY refuses, following written notice, to comply with another provision benefiting EMPLOYEE herein; or EMPLOYEE resigns following a suggestion, whether formal or informal, by a majority of the City Council that he resign; then, EMPLOYEE at his option may be deemed to be involuntarily terminated At Will Not For Cause at the date of such reduction or refusal.

### **Section 4. Salary.**

CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an initial annual base salary of \$91,128, commencing, July 1, 1999, payable in installments at the same time as other CITY employees are paid. This salary may be adjusted from time to time by the City Council following regular performance evaluations. Salary increases shall be effective the same time as those

**VI. G. 4**

approved for other CITY employees.

**Section 5. Use of Automobile.**

CITY shall provide a monthly automobile allowance of \$250.

**Section 6. Dues and Subscriptions.**

CITY agrees to budget and to pay the job-related professional dues and subscriptions of EMPLOYEE necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the CITY.

**Section 7. Professional Development.**

A. CITY hereby agrees to budget and to pay reasonable travel and subsistence expenses of EMPLOYEE for job-related professional and official travel, meetings, and occasions adequate to continue the professional development of EMPLOYEE and to adequately pursue necessary official and other functions for the CITY, including, but not limited to, the Annual Conference of the International City Management Association, the League of Oregon Cities, and such other national, regional, state and local governmental groups and committees thereof which EMPLOYEE serves as a member. Such participation may be discussed if desired by Council under the provisions of Section 2.B.

B. CITY also agrees to budget and to pay for reasonable travel and subsistence expenses of EMPLOYEE for short courses, institutes, and seminars, that are necessary for his professional development and for the good of the CITY.

**Section 8. Vacation and Sick Leave**

A. Vacation time shall accrue at the rate of fourteen (14) hours per month worked; however, no more than eight (8) weeks of vacation time may be accrued.

B. Sick leave shall accrue at the rate of eight (8) hours per month worked to the maximum in effect for management employees of 960 hours.

C. Upon termination, whether voluntary or involuntary, the CITY shall compensate EMPLOYEE for all accrued vacation leave.

**Section 9. Insurance Benefits.**

CITY agrees to provide EMPLOYEE with the same insurance benefits as are provided to other management personnel and under the same

conditions as provided to other management personnel.

**Section 10. Retirement Plan.**

CITY agrees to contribute to the Public Employees Retirement System the same percentage of EMPLOYEE's base salary as provided to other management personnel.

**Section 11. Deferred Compensation.**

CITY agrees to execute any agreements reasonably necessary to allow EMPLOYEE to defer payment of agreed-upon compensation in accordance with the deferred compensation programs offered by CITY.

**Section 12. City Residency**

The Council has approved EMPLOYEE's selection of housing within close proximity to the City of Milwaukie. Council has concluded that this selection complies with the spirit and intent of the City Charter. Should EMPLOYEE choose to relocate his residence during his employment with the City, EMPLOYEE's first effort toward finding a home shall be a due and reasonable search within the City limits of Milwaukie. If EMPLOYEE is unable to find appropriate family housing in the City, the Council shall approve other housing within close proximity to the City of Milwaukie, as determined by the Council.

**Section 13. Other Terms and Conditions of Employment.**

A. The City Council shall fix any such terms and conditions of employment, as it may determine from time to time, relating to the performance of EMPLOYEE, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter and any other law.

B. All provisions of the City Charter and Code and regulations and rules of CITY relating to vacation, sick leave, retirement system contributions, holidays, administrative leave and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to EMPLOYEE as they would to other employees of the CITY, in addition said benefits enumerated specifically for the benefits of EMPLOYEE, except as herein provided.

**Section 14. General Provisions.**

A. The text herein shall constitute the entire agreement between the parties.

B. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or

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unenforceable, the remainder of this Agreement, or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

C. This Agreement may be amended by mutual consent of the parties.

IN WITNESS WHEREOF, the City of Milwaukie, Oregon, has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Recorder and EMPLOYEE has signed and executed this Agreement, both in duplicate, the day and year first above written.

**ATTEST:**

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

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

\_\_\_\_\_  
Employee

DRAFT 5/25/99

Citizen's Utility Advisory Board  
6:00 pm  
May 5, 1999  
Johnson Creek Facility Conference Room

I CALL TO ORDER

Vice-Chair Hatz called the meeting to order at 6:03 pm. Present were:

- |                |   |
|----------------|---|
| Betty Chandler | Bob Hatz, Vice-Chair<br>Dennis Vanderpool   |
| Absent:        | Alan Fletcher, Chair (excused)  |
| Also Present:  | Lou Casale  |
| Staff present: | Jim Brink, Public Works Director<br>Jack Perry, Operations Supervisor<br>Connie Ware, Staff Assistant |

II APPROVAL OF MINUTES

Minutes of April 14, 1999 were approved unanimously.

III DISCUSSION

A. Review of Financial Status of Storm Water Utility

Brink directed attention to the packet material, beginning with the revenues. The first page of the budget proposal shows the working capital available, as well as the same line item from FY 96/97 through the upcoming 99/00 budget request. The last three years working capital available have been spent on capital improvements, leaving only \$104,785 in that line item. Brink pointed out that a \$2.15/month/esu increase has been assumed for budgeting purposes, but he pointed out that for budgeting purposes only - Council has not approved the fee increase.

Transfers from Fund 24 indicate the storm SDC fund, and the \$40,975 shown has been withdrawn from Fund 24 and added to Fund 33 (Storm) to help finance additional capital improvements. There was some discussion about the process of making those transfers.

Moving to the expenses, Brink explained that personnel expenses are increasing due to increases in PERS (Public Employee Retirement System) and medical benefits, not due to the addition of any new employees. Brink pointed out that the approved

## VII. A 1-2

Hatz asked if the budget committee meeting will be discussing the storm budget before the CUAB makes its' recommendation. Brink said that they will review the proposed budget with the understanding that if the "penciled in" rate increase is not as high as projected, the line item that will take the brunt will be capital improvements. There was further discussion about when a recommendation will be needed; Brink stated that he would expect to ask for a vote at the June meeting.

### III INFORMATION SHARING

Hatz expressed the appreciation of the neighborhood association for the speed bumps on Stanley Avenue, noting that traffic has slowed down a bit. He felt that the addition of the painted markings brought the bumps to the driver's attention.

Brink commented that the Neighborhood Traffic Management Program (NTMP) revision was going to be presented to Council soon, and he explained some of the revision. There was some discussion on the NTMP program.

### VI ADJOURN

The next meeting date was determined to be June 2nd, and the subject will be the Storm utility rate increase recommendation.

Hatz MOVED and Vanderpool SECONDED a motion to adjourn. The meeting was adjourned at 7:46 pm.



# Ledding Library Board May Minutes

5/24/99  
6:30 PM

Ledding Library, Fiction Room

**Meeting called by:** Don Leamy

**Attendees:** Attendees: Pat Healy, Don Leamy, Anna O'Guinn , Sue Trotter, Kim Wilber and Ed Zumwalt.

Staff: Cynthia Sturgis

## Agenda topics

Approval of minutes

Discussion: Approved as written.

### Librarian's report

Cynthia reported that Doug Ouderkirk has been appointed to the Planning Commission and had to resign for the Library Board.

Action item.

Deadline:

VII. A 2-2

Future's Committee

Discussion: Ed reported that discussions about hiring a consultant are still going on. The next meeting will not be until August. Don and Ed provided some background information about the Future's Committee to the Board's new members.

Action: The Board asked Cynthia to find out when the Future's Committee survey will be ready.

Deadline:

June meeting

Budget update

Discussion: Sue and Don reported on budget meetings. The Budget Committee is recommending that \$80,000 be returned to the library budget to replay cuts to the circulations materials line item and personnel. There is no word about the request for new carpeting.

Action: The Board asked Cynthia to find out the date that the City Council will vote on the city budget and to notify Board members of the date.

Deadline:

ASAP

Board planning

Discussion: Don reported that he talked to Charlene about the Board's interest in tying the library long range plan with the downtown development group. Charlene suggested that the Board keep its plan separate but to send a representative to the Downtown Development meetings and keep in communications with that group.

In planning for the work session with the City Council and developing a new plan, Board members discussed some areas that needed to be addressed: the need to update data from the old plan, why is a new plan necessary?, future funding, the library's place in downtown redevelopment.

Action: Homework assignment for Board members -- review the 1992 Long Range Plan

Deadline:

June meeting

Advocacy

Discussion:

Cynthia reported that plans for the summer reading program will be included in the June issue of the Pilot.

Action:

Deadline:

RIVERFRONT BOARD  
JUNE 7, 1999

The meeting came to order at 6:50 p.m. in the Milwaukie Public Safety Building Community Meeting Room.

Board members present: Cardinalli, Verbout, Martin, Bernard, Loaiza, and Green.

Council members present: Mayor Tomei and Councilors Kappa, Lancaster, and Marshall.

Consultants: George Crandall and Don Arambula

Guests: Bernie Thurber (Portland-Vancouver Rowing Association President), Mike Smith, and Gary Michael.

Staff: City Manager Bartlett, Assistant City Manager Bennett, and Planning Director Rouyer.

*Row, row, row your shell...*

**Loaiza** introduced Thurber, an active member in the Portland metropolitan area rowing community, who provided an overview of the demands for additional rowing, kayaking, and canoeing facilities.

**Thurber** said the public's interest in rowing activities was far exceeding the limited number of boat storage facilities. He understood that most clubs were turning people away and many needs were going unmet. He saw the Milwaukie waterfront not only as a wonderful opportunity but also provided a departure from the urban environment of Portland. Those interested in kayaking and canoeing would likely use a facility in Milwaukie also. He believed a public/private facility that served the rowing community would recover its costs and perhaps make a small profit.

**Thurber** described the ideal storage facility and dock for this type of undertaking. The 8-person shell is the largest and is about 62 to 63 feet long. Four-person shells are about 45 feet in length. The boathouse can be either floating or a less expensive land-based structure. The ideal facility would have room for a repair bench, bathroom, and shower. Many people row before work to avoid river traffic and to take advantage of calmer water. The facility could be multipurpose and serve a different group in the afternoons. Costs could also be defrayed by building a two-story structure and leasing the second floor as office space or some other commercial use such as a fitness club or conference facility.

## VII. A 3-2

The group discussed where it might go to see examples of this type of use, and **Loaiza** suggested Seattle.

**Kappa** asked for a comparison of a land vs. water-based facility.

**Thurber** said rowers would be happy with a simple pole structure on gravel or a concrete pad, and the clubs could build their own racks out of 2 x 4's. A two-story building with a nice meeting room could cost as much as a floating facility. Essentially, because a water-based structure would have to be built on a float, the cost per square foot could be about twice as much.

**Cardinalli** asked, if only a single-story structure were built, could that one level serve other uses.

**Thurber** said the boat storage area would have to be secure because the shells are so fragile.

**Loaiza** said the Lake Oswego club leases some of the space to privately-owned boats. Kayaks and canoes could conceivably be stored next to the shells with adequate security.

**Marshall** asked if rowing was a year-round activity and the participants' demographics.

**Thurber** said for most people, rowing normally starts in March depending on the river's height and amount of debris. He estimated that 75% of rowing activities take place between March and October.

**Loaiza** said rowing in Lake Oswego includes a range of participants from 12 to 70 years of age.

**Thurber** added there are age-group categories that go into 90+ years of age. There seems also to be a broad range of participants that include teachers, blue-collar workers, and some professionals.

**Marshall** said the type of facility would depend on the type of people the operators wished to attract. It could range from a high end facility with offices and meeting rooms to a subsidized activity.

**Smith** commented there are facilities in Seattle operated by the Parks Department, so the City of Milwaukie could think about partnering with the North Clackamas Parks and Recreation District (NCPRD) to keep user fees as low as possible.

**Lancaster** asked if canoeing and kayaking were year-round activities, and **Loaiza** responded that it depended on the size of the boats and protective clothing.

**Martin** asked how many spectators might attend a water event or regatta.

**Thurber** said crowds on the west coast are normally small, but it could still involve several hundred people. There is a 2000 meter stretch, which is the masters Olympic distance, on Milwaukie's riverfront.

**Kappa** asked how stable the clubs were?

**Thurber** said the Portland clubs are relatively stable, and the older ones have a core that has been together for 20 years or more. Clubs normally have several hundred members with a range of rowing experience and expertise. There is a land-based facility at Oaks Park and a floating one at River Place. The minimum structure would probably be about 80' x 20' and provides enough area for bathrooms and a work bench. If the operator decided to accommodate only 4-person shells, then the facility could be smaller. He would not recommend, however, a smaller facility because it would not attract clubs.

#### Election of Chair

The group unanimously agreed that the chairperson position would rotate every four months beginning July 1999. The position would begin with Bernard and continue in alphabetical order.

#### Approval of Minutes

The minutes were accepted as written.

#### Discussion of May 26, 1999 Meeting

**Crandall** summarized public input on the three alternatives:

- ODOT enhanced;
- McLoughlin Boulevard Cap and Kellogg Marina; and
- Willamette Waterway.

Most people saw the ODOT alternative as "ho-hum" and preferred the other two with some modifications. People seemed to be intrigued by the more ambitious, adventuresome schemes that would tie the waterfront to the downtown.

The ODOT scheme with an 18-foot median and enhanced pedestrian crossings every second block was expanded to include an underpass at Jackson Street. The Riverfront Board suggested depressing and capping McLoughlin Boulevard and creating a Kellogg Lake Marina. He discussed keeping McLoughlin

## VII. A 3-4

Boulevard above the flood level if the highway were depressed. There needs to be a 17-foot clearance between the road and the underside of an overpass. To stay at elevation 36 there would have to be a five-foot rise to Harrison Street from Monroe Street at elevation 50. The lid or roadway over the roadbed would be at elevation 55 and would likely become a valuable development site. There could be several options depending on the development site, but most people indicated they did not want development along the waterfront.

**Verbout** suggested a "super block" that had no roadways.

**Crandall** agreed that could be an option. Some kind of use over the road would act as a desirable acoustical block. Ideally, the park, or green would be carried back into the town itself. Only one portion of McLoughlin Boulevard would be capped partly because of the elevation and loss of key access points with the trench.

**Verbout** suggested capping further south near the marina instead of Washington Street.

**Crandall** said that could be done. The concept, however, is that Washington Street serves as the on-grade connection.

**Kappa** asked if this scheme would increase usage on Washington Street between downtown and Hwy. 224. He was concerned about traffic impacts to schools, churches, and the neighborhood.

**Arbmula** said it would depend on how Washington Street was treated beyond the two downtown blocks. Access could be limited.

**Bartlett** said ODOT already wants to move the traffic signal from Jefferson to Washington. The Transportation System Plan (TSP) calls for focusing transportation to Harrison Street, so there would have to be some kind of traffic calming in the school zones.

**Crandall** said the other idea within the cap and marina scheme was to take the waterway from the center of town and move it south to Kellogg Lake. There were several options that included taking out the weir and opening the lake to create a marina with surrounding greenspace. The marina would serve as community amenity and an anchor to the south end of town. As in the waterway, the fill could be used in another location to create more balance. These options were developed to represent a range, and there are hybrid design schemes that could be developed.

The group discussed the McLoughlin Boulevard cap, and **Crandall** indicated the existing road actually dropped about ten feet.

**Crandall** discussed the Willamette Waterway scheme which now included the Jackson Street underpass that would connect to the park on grade. This option also showed a road way connection at Jefferson and a main crossing at Washington Street to access the waterfront. The idea was to determine if a development site could be created. The Jackson Street underpass could also carry across the park setting from the waterfront through to the Jr. High site along Jackson. There was a concern expressed with the depth of the water below the street level, so there is some disconnect. One option might be to create a water amenity with a weir capturing some of the spring system and then allowing it to drop to the marina.

These concepts indicate the range of things from which refinement can continue. The waterfront land above the 100 Year Flood Plain is about 2.7 acres, most of which is not developable. There are about 5 acres between Kellogg Creek and Johnson Creek for a total of 7.7 acres. He discussed how the design could create more developable land.

The bottom line has to do with development potential. The ODOT scheme does not really change any of the development framework or provide for a regional attraction. It is the least expensive scheme, but it has very poor potential for generating revenue. Essentially, the ODOT scheme is safe but it does not have any development potential.

The McLoughlin Boulevard Cap and Marina scheme is better, but it has also has limited potential. The issue is making the connection to the downtown area. **Crandall** suggested several options that could be incorporated to improve this scheme.

**Loaiza** asked about the Kellogg Treatment Plant, and **Crandall** responded that the treatment facility would be there for some time.

**Verbout** asked the water elevation on the McLoughlin Boulevard Cap and Kellogg Marina scheme. Is the water more accessible?

**Arambula** said the drop would be similar to the waterway scheme of 40-feet.

**Crandall** said between existing grades and the river, there could be a 40-foot difference, but that could be changed with a dam or a weir.

**Loaiza** asked the drop at Harborside, and **Crandall** estimated it was about 20 feet.

**Verbout** asked if there was a way to use the dirt on the marina side to grade it down to the water.

## VII. A 3-6

**Crandall** said it certainly could be pulled down, and **Arambula** said a new building could be constructed at elevation 35.

**Verbout** said the sense in downtown Portland was that the water was very far away.

**Arambula** said a lot could be done with design mitigation to reduce the sense of a sheer wall.

**Crandall** continued. The Cap and Marina scheme does little for the downtown retail framework or housing. Most of the energy is located on the southern end, and the northern end is still adrift without a development framework. The retail office and housing framework is not changed, but there are great sites for regional attractors and a hotel.

**Arambula** said this situation could be extended to say that retail on the north end would have an even worse time because entry is limited to two points because of the trench.

The group discussed the role of retail and active storefronts. **Marshall** pointed out that retail was a function of people. **Crandall** added that, for retail to be most successful, it needed active fronts that beckoned shoppers.

**Martin** asked if the upper end could be zoned for residences, and **Crandall** said there would no real amenity to attract people.

**Arambula** recommended keeping in mind that for downtown retail to be successful, it needed maximum visibility to drive-by traffic.

**Crandall** said it is important to explore schemes 1 and 2 so all questions can be answered. There needs to be a development framework for the housing. The financial aspects of option 2 could be considered "fair" relative to the rest of the downtown.

**Loaiza** felt there was potential on the north end that could be developed around the greenway.

**Crandall** thought that would need work because there was probably not enough green to make a big difference. Some kind of intervention would be necessary.

**Verbout** was concerned that there needed to be a balance to attract any kind of development.

**Crandall** said the waterway, although it is the most costly, has the strongest development potential. The potential revenue generation is the best simply because that scheme is more central to the rest of the community. Whether it is

doable or affordable at this time is unknown because the current work is at a conceptual level. He discussed land use implications and how they worked with each of these schemes.

**Verbout** was concerned the waterway scheme would face some hurdles with property owners.

**Crandall** agreed the waterway was the toughest scheme, but property values would go up immediately if that design was selected.

**Marshall** was interested in the Kellogg Marina scheme, but what seemed to be lacking was a link to the Jr. High School site.

**Kappa** felt there was not enough focus on the north end of which the Jr. High site needed to be a part.

**Arambula** said this was a cursory view and remaining elements would need to be defined.

**Marshall** felt development should be extended about half a block by staggering building heights. There would be the benefit of views and other amenities.

**Crandall** said he wanted people to be skeptical of all of the schemes in order to put forth all possible ideas, concerns, and doubts.

**Michael** liked the boldness of the waterway scheme but was concerned about the expense and the interruption to Main Street. The Jr. High site could be a big amenity for the north end. He suggested a one-block waterway so Main Street could still go through and not be lost. He felt a lot could be made out of the one-block water feature accented by smaller, creek-fed water features. He was also bothered by roads surrounding the development sites. Although not opposed to developing on the west side of McLoughlin Blvd., he was concerned about too many roads.

**Arambula** said the road depends on the type of use. For example, retail would need more access, but other uses could have structured parking.

**Verbout** recalled a discussion of west-side structured parking in the McLoughlin Boulevard cap scheme.

**Crandall** felt there could be some sight problems associated with west-side parking. He felt Michael's suggestion of a one-block water feature could be considered because it would be more affordable.

**Cardinalli** said Milwaukie could become famous for its water inlets and elaborate central water feature enhanced by Kellogg Lake and Johnson Creek amenities.

## VII. A 3-8

**Arambula** commented the group would eventually need to think about the Milwaukie Lumber property.

**Marshall** suggested looking for a way to make the downtown easily accessible from only one way off McLoughlin Boulevard and one way from Hwy. 224. Both of those provide 30,000 to 40,000 cars per day.

**Tomei** asked if it was conceivable to phase in the elements of the one-block waterway and the Kellogg Marina.

**Crandall** believed that could be accomplished with additional consideration of the north end which is currently deficient.

**Arambula** suggested extending the greenspace and water features so the focus would be residential with nearby transit. This would give a reason for building housing on the north end.

**Loaiza** suggested exposing the smaller creeks that are currently flowing into Johnson Creek to further enhance the downtown area.

**Arambula** believed there was an opportunity to ring the entire area with green to attract residential through a variety of activities such as jogging and walking paths.

**Bernard** believed the railroad tracks offered some real transportation uses. In the Kellogg Marina scheme, that area could be developed into a hotel adjacent to a transportation resource.

**Crandall** said the location of the transportation center has come up several times, and he would come back with several ideas.

**Arambula** added the details of the transit study would have to be considered.

**Kappa** liked the riverfront walkway, but he did not want any more pavement or cars on the waterfront.

The group discussed automobile access to development on the west side of McLoughlin Boulevard. **Arambula** reminded the participants that the road does not have to be asphalt; it could be brick, pavers, or a wide pedestrian walkway that would also provide emergency access. It does not have to be a harsh environment.

**Bartlett** said the draft schedule has been pushed ahead one month, and he suggested a refinement session after Festival Daze input. He announced that the City of Milwaukie had signed a purchase and sale agreement for the Lowry

Apartment and is in the process of carrying out due diligence. The downside of this transaction is that \$450,000 in development funds is being used for the purchase, so not a lot of money left to do riverfront improvements.

**Loaiza** was in favor of taking the time to do the project right instead of being held to a timeline on a piece of paper.

**Bernard** felt the public needed to see some concrete evidence of the plan because people perceive that a lot of money is being wasted on dreams.

**Marshall** added that people ask why money is wasted on another riverfront plan when streets and sidewalks need to be repaired. The public needs to understand, and soon, that this is being done to better the City by increasing the tax base.

**Michael** commented that he was chair of two previous riverfront committees in the mid-1980's. Both attempts were forced to a vote by petitioners who opposed the plans on many grounds. Many things were said to defeat a plan which had a lot of good elements. He urged the Board to do its best to get the word out and involve the public so as few people as possible will say they never heard about the plan.

**Kappa** said this time it is different because the City is actually purchasing riverfront property, and there may not be a bond measure. Residents need to know that future planning is going on, and the City is looking for early successes. People need to understand the City is pursuing a plan, and there are only concepts at this time. The City may or may not need public money.

**Marshall** pointed out the City was already spending public money.

**Bernard** said some of the downtown business owners already think they have to move because of the waterway scheme.

**Bartlett** added this was a long-term process. Now there is one County Commissioner who is talking about moving the sewage treatment plant in 2010 instead of 2020. Some inroads are being made. ODOT money will be available and will have to be committed in three years.

**Crandall** commented that acquiring land along the waterfront is very proactive. He complimented the group on looking at the project in the broadest of terms to make a good, workable business solution in the downtown. The process has been very open.

## VII. A 3-10

**Arambula** pointed out that ODOT had committed \$1.8 million to the area, so money is going to be spent on this area already. He believed the City was doing a good job of getting the word out and reminded the group that not all people will be convinced that the plan is good.

**Bartlett** referred to page 4 of the draft outreach plan and gave an overview of the process. The City will try to have a riverfront-related story in each monthly *Pilot*, broadcast Riverfront Stakeholder meetings, keep the Interactive Bulletin Board updated, maintain the website, and purchase display ads in the *Clackamas Review* and *The Oregonian* for Festival Daze. There will be four riverfront-related kiosks in the downtown area asking people to vote and comment on their preferred scheme. There will be additional stakeholder meetings and outreach to Neighborhood District Association (NDA) in September and October.

**Loaiza** thought youth and schools needed to be included in the process. He also suggested taking a "dog and pony show" to the local churches.

**Kappa** believed it would be important in the refinement process to determine how the riverfront project will impact other parts of the City such as Washington Street.

**Crandall** said these schemes would run through the Festival Daze process and then continue through the refinement process. At this time it is not known if one of these will be carried forward or if the resulting scheme will be a composite. There has been a conscious effort not to bring in the all of the areas and possibly skewing the schemes. What is being considered now is how to cross McLoughlin Boulevard and get to the water.

**Michael** believed people would expect to find out what will happen to the entire area such as the Jr. High site. It needs to be clear that the main issue at this time is how to mitigate McLoughlin Boulevard.

**Verbout** recommended that, because public involvement is so important, after Festival Daze evaluate how well it is being done and what needs to be done to get public support.

**Crandall** said it is critical to have good materials to get good public involvement and meaningful comments. What is ready now will get the City through the Festival Daze process. The next phase, after the refinement and products are determined, will likely shape the public involvement program in more detail. The material needs to be really clear, direct, and ask the right questions to get meaningful public responses.

**Lancaster** sensed that most people have a difficult time visualizing what the downtown and riverfront might look like and asked if the schemes could be communicated through some kind of computer simulation.

**Crandall** agreed this would be very valuable after the initial circulation and land use issues were worked out.

**Bartlett** said he would discuss the project with Jack Elder, Milwaukie Downtown Development Association Director, and find out what kind of marketing ideas he might have. He reviewed maps of the riverfront.

**Next Meeting:** July 12, 1999

**Topic:** Discuss results of Festival Daze poll; review riverfront maps

**Location:** City Hall Conference Room

The meeting ended at 8:50 p.m.

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Pat DuVal, Recorder

DRAFT 6/15/99

Traffic Safety Commission  
June 14, 1999  
7:00 pm  
Johnson Creek Conference Room

I CALL TO ORDER

Chair Stone called the meeting to order at 7:00 pm. Present were:

Susan Stone, Chair  
Gene Covey  
Ron Grasley

David Aschenbrenner, Vice-Chair  
Jim Schierholz  
Julie Wisner

Absent:

none

Staff present:

Mike Swanson, Interim Staff Member  
Connie Ware, Staff Assistant

Citizens Present:

Linda Hatlelid  
8617 SE 36<sup>th</sup> Avenue, Milwaukie

II CALL TO ORDER

Chair Stone announced to the group that Jim Brink had left his position with the City, and, noting the presence of Mike Swanson, asked him what his role will be with the group tonight. Swanson explained that he was to be a staff liaison, and gave some background information on his experience in public services. The group then introduced themselves around the table.

Stone noted that there were no meeting minutes from the May 10<sup>th</sup> meeting in the packet for approval. Ware displayed the handwritten notes taken by former Public Works Director Brink at that meeting, explaining that as she was not present at the meeting, she was unable to provide a transcription of the notes for approval. Swanson noted that he would attempt to get a more complete outline from staff.

Stone also requested that minutes from the May 25<sup>th</sup> joint meeting with Council be submitted to the board for review. Staff will relay that request.

## VII. A. 4-2

### III DISCUSSION

- A. Linda Hatlelid, 8617 SE 36<sup>th</sup> Avenue, was present to discuss the Johnson Creek Blvd. Street Improvement Project. Hatlelid passed around a letter written by her brother Gene Hatlelid and read the results of another survey that the Hatlelid's had done which sought to determine how many of the Johnson Creek Blvd. property owners were in favor and how many against the proposed 44' right-of-way. Their results indicated that 81% of the property owners were in favor of staying within the current 40' right-of-way. She also passed around pictures taken of the Phase I improvements to illustrate her previously voiced concerns about paint wear and lack of maintenance (such as garbage in the bike lane).

Wisner asked when Phase II is scheduled to begin; Hatlelid commented that the scheduled start date that she was aware of had already passed. Hatlelid passed out some of the information she had read from at the 3/15/99 TSTB meeting. She also commented that she and her brother were preparing presentations to be given at the City Council meeting scheduled for 6/15/99.

- B. Complete Review of Neighborhood Traffic Management Program Policy

Stone began with the remaining section, Problem Identification and Action Plan. She discussed the speed watch section, and asked if a policy exists regarding how often a particular location should be sampled; staff replied that the original requirement was for at least two or three speed zone samples to be done with the radar gun - recent speed watches have had no less than three, sometimes more. Stone read her condensation of the problem action plan; the group was in favor of adopting that condensed version.

Aschenbrenner suggested that one result of the enhanced law enforcement portion of Phase III should be a report to the TSTB and the affected Neighborhood District Association (NDA). This also met with general approval.

Discussion of Phase IV brought up a question about what types of "test devices" noted in C. might be employed prior to a Capital Improvement Project (CIP) permanent solution. Stone stated that these might be moveable rubber speed humps, but as far as she knows the City does not have such test devices. There was extended discussion about whether there is a need for a separate vote or poll of "property owners" or "eligible residents" prior to the City making the permanent installation. Whether the property owners or eligible residents are only those on the project street or whether the adjacent street residents would be allowed to vote was also discussed.

Finally, the group discussed the "Typical Time Line" at the end of the document. After a great deal of discussion, Aschenbrenner MOVED that the "Typical Time Line" be removed and a statement that TSTB strongly recommends "a more aggressive time line from start to finish of an NTMP project than the "Typical Time Line" be adopted. Wisner SECONDED the motion. Aschenbrenner, Grasley, Covey, Schierholz, Wisner and Stone all voted AYE. There were no objections or abstentions.

With that final action, the NTMP review was complete. Aschenbrenner MOVED that the TSTB submit the final version of the NTMP policy with a recommendation that City Council adopt it with the proposed amendments by the TATB. Wisner SECONDED. Aschenbrenner, Covey, Grasely, Schierholz, Wisner and Stone all voted AYE. There were no objections or abstentions. Stone noted that when she and Wisner joined the TSTB (then the Traffic Safety Commission) in 1993, one of the TSC goals was adoption of a Neighborhood Traffic Management Program; six years later it is complete.

#### IV OTHER BUSINESS

- A. Referring to Linda Hatlelid's appearance earlier in the meeting regarding the Johnson Creek Blvd. Improvement Project, Wisner MOVED that the Public Works Department mark out the 40' and 44' proposed right-of-way as requested buy the TSTB and NDA and approved by former Public Works Director Brink. Aschenbrenner SECONDED the motion. Aschenbrenner, Covey, Grasley, Schierholz, Stone and Wisner all voted AYE. There were no objections or abstentions.
- B. Aschenbrenner would like a representative of TriMet to appear before the TSTB to explain the three-year service plan for Milwaukie; Wisner suggested that this be scheduled for the next regular meeting. Staff will contact TriMet and try to work out a visit within the next few months.
- C. Aschenbrenner asked for a map of the upcoming 1999 Street Overlay project areas to be included in the next packet. Staff will supply as requested.
- D. Aschenbrenner commented that he is making an effort to get the railroad company's requirements on what has to be done to improve Milwaukie's railroad crossings. He noted that the crossing at 37<sup>th</sup> near Railroad Avenue is particularly rough, and Harrison is nearly as bad. He feels that they are both potential bike and pedestrian hazards.
- E. Wisner reported that she is the Lake Road NDA liaison to Fire District #1, and through that connection heard about "some big transportation thing held in Oregon City" and wanted to know about those meetings and who from the

## VII. A. 4-4

City is attending. Further discussion determined that this must be the Regional Transportation System Plan meetings. Wisner expressed an interest in attending the meetings; Covey also expressed an interest in attending as an alternate. Aschenbrenner would like a representative to come to the TSTB and explain the relevance and significance to Milwaukie. Staff will investigate and return with information.

- F. Aschenbrenner encouraged staff to provide more information on traffic and transportation issues; Wisner noted that much more information has been supplied in the past, and that this year has been an exception.
- G. Stone restated an October 1998 motion to Council that the TSTB be allowed to review Traffic Control Device Requests (TCDR's) before they are implemented by the City. Grasley SECONDED the motion. Aschenbrenner, Covey, Grasley, Schierholz, Stone and Wisner all voted AYE. There were no objections or abstentions.

## V. INFORMATION SHARING

### A. ACTS/Oregon

Stone noted that a deadline is approaching for applying for an ACTS/Oregon mini-grant of about \$4,000. She explained what the TSC accomplished with a previous grant funds, and noted the grant requirements regarding monthly reports and completion within one year. Stone pointed out that the deadline for the grant application is August 2<sup>nd</sup>, read the list of points given for specific problems addressed, and asked for ideas from the group. Wisner suggested an educational video about various types of traffic control devices for use by the TSTB in making presentations to NDA's on proposed NTMP projects. Stone suggested contacting the Police Chief and asking if they have any ideas for a grant project; Swanson suggested examining existing problems and working from the problem to determine a solution that might qualify as a grant project.

After a short discussion, it was agreed to schedule a work session to brainstorm grant project ideas. Swanson noted that the grant application must be accompanied by a resolution by City Council approving the TSTB application; in order to get a resolution to Council the TSTB will have to meet earlier than usual for its' July meeting. A work session will be arranged by staff for June 29<sup>th</sup>, and the July regular meeting will be held July 6<sup>th</sup>.

## V. FUTURE AGENDA ITEMS

- A. Raised crosswalks/speed humps on 32<sup>nd</sup> Avenue

## VII. A. 4-5

Wisner MOVED that the raised crosswalks/speed humps on 32<sup>nd</sup> Avenue project be brought before the TSTB for further comment prior to Council approval of the project. Schierholz SECONDED the motion. Aschenbrenner, Covey, Grasley, Schierholz, Stone and Wisner voted AYE. No objections or abstentions.

Staff was given a TSTB motion transmittal form; after some questions from staff about the origin of the form, Aschenbrenner MOVED that the form be used to communicate TSTB motions to Council. Wisner SECONDED the motion. Aschenbrenner, Covey, Grasley, Schierholz, Stone and Wisner voted AYE. There were no objections or abstentions. Stone requested that staff use one form per motion to Council, and that the motions be faxed to the City Recorder the next morning.


## V. ADJOURNMENT

Stone MOVED and Wisner SECONDED a motion to adjourn the meeting. Meeting was adjourned at 9:12 pm.

/cjw



VII. B.     /    

TO: Milwaukie City Council  
VIA: Dan Bartlett, City Manager  
FROM: Martha Bennett, Assistant City Manager   
SUBJECT: June Community Development Report  
DATE: June 24, 1999 for July 6, 1999 City Council Meeting

Action Requested

None. This memo is for information only.

Background

This report includes activity for most of the divisions of Community Development for the past four weeks. The building division activity is reported for the month of May, and the Street Division activity is reported for the past quarter. More complete information will be available for the water and stormwater divisions in the next monthly report.

*Community Development*

- Supported the Downtown/Riverfront planning effort. Worked with other City staff to conduct public outreach during Festival Daze.
- Provided feedback to Metro on the proposed South Corridor Transportation Alternatives Study.
- Developed department work plans to implement City Council Goals.
- Supported the orientation of the new Planning Director.

*Future Community Development Activities*

- Continue to support the Downtown/Riverfront effort.
- Work with ODOT, the City of Portland, and Clackamas County to resolve questions related to Johnson Creek Boulevard, Phase III
- Support development of new Code for annexation and an annexation strategy.
- Begin recruitment of a new Public Works Director.

## VII. B. 2

### *Planning Division*

- Planning Director Alice Rouyer began work on June 1, 1999.
- Staff worked with the City Council on a policy to waive fees for appeals for City recognized Neighborhood Associations. Council adopted the resolution on June 15, 1999.
- Planning Commission considered and approved three land use cases, including odor control at the Kellogg Treatment Plant and modular classrooms at Linwood Elementary School.
- Staff continued to work on zoning enforcement cases. An abatement notice was delivered on June 17, 1999, in response to an ongoing zoning enforcement case.
- Four new land use applications were received, and staff held preapplication conferences with four applicants.
- Staff worked with the Council to request redesignation of the Milwaukie Regional Center as a Town Center and to request a time extension to comply with Metro's Title 3 ordinance.

### *Future Planning Activity*

- Staff is completing work plans to implement City Council and Planning Commission goals. The Planning Commission meets in work session to discuss progress and priorities on July 27, 1999, and the Planning Commission will make a report to the City Council on their goals and work plan on August 16.
- Staff will give a progress report on the Urban Forestry program at the August 16 work session.

### *Engineering Division*

- Managed Waverly Drive/Lava Drive Sewer and Water Project construction.
- City Council awarded the bid for the 1999-2000 Waterline Project – Phase I.
- Completed the Johnson Creek Waterline project.
- Opened bids for the North Drywell Improvement Project – Phase I.
- Awarded the bid and began construction of the Brookside Sewerage Pump Station Project. This project is critical to getting a substantial number of sewer connections removed from the City of Portland's system.
- Continued design of the 42<sup>nd</sup> Avenue CDBG Curb and Sidewalk Project.
- Continued design on the Stanley/55<sup>th</sup>/Morris Sewerage Lift Station Project.
- Continued inspection of the Lewelling Court subdivision (Logus Road across from Seth Lewelling School) construction.

### *Future Engineering Activity*

- Work with streets, sewer, and water to manage ongoing construction projects
- Negotiate an agreement with the consultant for the Water master plan project.
- Design the next phase of waterline improvement projects
- Work with the TSTB on the NTMP and other issues

*Building Division Activity*

- During the month of May, the Building Division issued 11 commercial building permits, 13 residential permits, and 50 "other" permits. The "other" permits include erosion control, plumbing and mechanical permits. This level of building activity generated approximately \$15,000 in revenue. Although this is not, by far, the most active May in the history of Milwaukie, we have seen an increase in construction activity due to drier weather.
- A total of 19 building permit applications are currently in plan review.
- The Reliable Credit building permit is ready to be issued, pending review of an issue requested by Engineering.
- John Wheeler, Building Inspector, passed his plumbing Exam for A1 and A2 Level Plumbing Inspection

*Future Building Activity*

- On July 1, State surcharges for Building Permits increase from 5% to 7%.
- Staff will begin working with Information Services and Planning to begin automating permit tracking.

*Street Division*

- Completed the sweeping of approximately 275 miles of city streets and 40 miles for Happy Valley
- Hot patched 47 pot holes and 22 utility cuts
- Completed 14 infra-red repairs, began crack sealing program.
- Installed new signs per request for City and Happy Valley, repaired damaged signs. Installed a guardrail on River Road
- Performed various shoulder rock repairs.
- Responded to 19 citizen requests. The County work crews have completed many jobs for the Storm, Sewer, Water, Street and Facility Divisions.
- Continue working with engineering on the CDBG and NTMP projects.

*Street Division next quarter:*

- 1999 Street Overlay project begins July 1 and includes streets in three neighborhoods.
- Continuing the sweeping schedule to include Happy Valley, patching of potholes, shoulder rock repairs, infra-red pavement repairs, crack sealing, sign replacement and installation, assisting Happy Valley with their needs, and training of street crew on using the new sign inventory program.
- Work with Engineering on the completion of the NTMP project (27th Ave speed humps), the CDBG sidewalk project and the FY99/2000 paving project.




VII. B. 4

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INTEROFFICE MEMORANDUM

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TO: HONORABLE MAYOR AND CITY COUNCIL  
THROUGH: DAN BARTLETT, CITY MANAGER  
FROM: CHARLENE RICHARDS, ASSISTANT CITY MANAGER   
SUBJECT: MONTHLY REPORT - HUMAN RESOURCES/COMMUNITY SERVICES  
DATE: JUNE 25, 1999  
CC: HR/COMMUNITY SERVICES TEAM

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What follows is the Monthly Report (May through June 15, 1999) for Human Resources and Community Services. If you have any questions, please speak with me. My telephone number is 786-7506.

### HUMAN RESOURCE SERVICES

#### General Administration

- Adopted new salary schedule for management, non-represented and seasonal employees for Fiscal Year 1999-2000 resulting in a 3% increase.
- Updated facility evacuation plans.
- Notified employees of increased premium rates for medical and dental insurance and impact on employee share of cost.

#### Anticipated June/July 1999

- Notify employees of new salary schedule and implement changes effective July 1, 1999.
- Work with employees on open enrollment.

#### Training

- Provided team building training and facilitation to the Development Review Team.
- Continued to input training, certification and skill information into human resources information system.

#### Anticipated June/July 1999

- Continue to develop a program for assessing employee competency and retaining quality employees.
- Continue work with Development Review Team to assess work processes and potential improvements.
- Work with consultant to schedule sessions for improving Citizen Service processes with Development Review Team.

#### Employment Activities (May)

- Two temporary employees hired.
- One full-time employee left City employment.
- Two recruitments in process.

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

## VII. B. 5

### COMMUNITY SERVICES

#### LIBRARY

- Experienced a slight drop in circulation (about .5%). This seems to be due to a decrease in out of city patronage. Also the number of new city registrations dropped.
- Looking forward to the installation of a long awaited heating/cooling system. Ductwork is scheduled to begin June 14th.
- Volunteers and staff are working on a major flower-planting project. The Parks District furnished the plants. The Parks District will construct a new arbor in Scott Park.
- Began registration on June 1<sup>st</sup> for the Read Quest Summer Reading program. About 60 children signed up during the first week.

#### Anticipated June/July 1999

- Hold Friends annual book sale June 18 - 20 during Milwaukie Festival Daze. Library staff will also help man the city booth.
- Install ductwork for the heating/cooling system.
- Install a filter on the children's internet station.
- Begin series of weekly summer events for school age children.
- Implement the Dynix Acquisitions Module for ordering books electronically from our major vendors.

#### NEIGHBORHOOD SERVICES

- Participated in PSU School of Government focus group for study of effective street-level bureaucrats.
- Participated in planning meetings and developed draft outreach plan for Riverfront Downtown Development project.
- Developed work plans for six projects within Council Goals.
- Brokered partnership with Milwaukie Together! and North Clackamas School District to relocate skatepark equipment for public use this summer.
- Secured neighborhood and planning director approval for skatepark equipment relocation.
- Brokered City partnership with Gladstone, Oak Lodge, and Milwaukie toward plans for a skatepark near Clackamette Park.
- Promoted and attended May Riverfront Open House.
- Provided direction, support and guidance to Code Compliance Specialist, Parking Temp and Information Specialist as needed
- Planned free oral history training for neighborhood history projects.
- Attended Festival Daze planning meeting.
- Worked Festival Daze supervising City and Neighborhood booth operations.
- Began development of Neighborhood Services database.

#### Anticipated June/July 1999

- Continue development of Neighborhood Services database.
- Continue outreach for Riverfront/Downtown Project.
- Submit staff report on Grant Program refinements and draft Communications Plan.
- Attend joint meeting of Milwaukie, Happy Valley, Oak Lodge PIO's toward development of rate increase promotion strategy and materials.
- Continue development of projects, per Council Goals and Neighborhood Visions.
- Finish research and begin report of parking administration options for downtown.
- Continue to provide direction, support and guidance to Code Compliance Specialist, Parking Temp and Information Specialist as needed.
- Plan next CERT meeting for review and improvement of procedures.

**Public Information**

- Designed, produced and placed May 26 Riverfront/Downtown Open House advertisement.
- Designed, produced and placed ad for Riverfront/Downtown Outreach effort at Festival Daze.
- Wrote and disseminated press releases for Riverfront/Downtown events, and Festival Daze activities.
- Submitted first draft of the Comprehensive Communications Plan, began refinement process.
- Designed, produced and placed advertisement for the TCI contract's public hearing.
- Coordinated publishing for budget notices in *The Oregonian*.
- Responded to citizens' request for information.
- Collaborated with crime prevention specialist in developing outreach tools for Neighborhood Watch program.
- Designed brochure for Neighborhood Watch program.
- Worked City booth and assisted with kiosk maintenance at Milwaukie Festival Daze.
- Finished draft of Employee List of Valuable Information and Services -- an expansive guide to City, County, State and Federal Resources -- began refining the draft and gathering quotes from printers.
- Attended Regional Emergency Response Team session toward coordination of response efforts -- i.e. floods, school shootings, Y2K crisis.
- Attended and documented Riverfront/Downtown Development Open House and the NDA Quarterly Meeting.
- Participated in outreach strategy development for the Riverfront/Downtown Development Plan.
- Began work on brochure explaining Milwaukie Budget and how tax dollars serve the community.
- Began training with video equipment.

**Anticipated June/July 1999**

- Continue working on the final draft of the City's Communication Plan.
- Gather more quotes for the Employee List of Valuable Information and Services and send it to print.
- Write and edit copy, take photos, design and produce the July newsletter.
- Regularly update the Interactive Video Bulletin Board.
- Develop and coordinate the publishing of advertisements for City events and functions.
- Continue outreach for the Riverfront and Downtown Development process.
- Develop advertisement for Council's move back into City Hall.
- Continue work on budget brochure.
- Continue training on video equipment.

**Code Compliance**

- Coordinated and planned booth activities and staffed the City and neighborhoods booths at Milwaukie Festival Daze.
- Assisted public information staff with riverfront kiosk set up and placement.
- Developed code compliance and property maintenance plans with Union Pacific, South Pacific and P&W railroads for easements within City limits.
- Updated Compliance photo library toward improved documentation of cases.
- Organized clean up effort with volunteer from the Milwaukie High School.
- Did a presentation for Historic Milwaukie (my own neighborhood) and addressed some concerns and issues for the neighborhood.
- Worked with parking enforcement temp on a plan to accommodate permit parkers during Festival Daze.
- Started a new code case distribution map for the first quarter of new fiscal year.
- Continued compiling a volunteer assistance list for the elderly property owners who need help with yard maintenance.

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### **Anticipated June/July 1999**

- Review City codes for clarification and improvement.
- Review code procedures for improvement.
- Further develop individual neighborhood case tracking system.
- Gather information on codes from other cities through the Code Enforcement Assoc. and how it can help Milwaukee.
- Try new process: send out thank you letters to citizens who are or have been habitual offenders that have come into voluntary compliance.

### **PROGRAM SERVICES**

#### **Solid waste and Recycling**

- Completed and submitted to Metro a plan for recycling activities for 1999-2000.
- Report to Council regarding Rate of Return for franchised haulers for 1998.
- Researched and reported to haulers regarding franchise fee applicability to specific services.
- Met with new Waste Management management team.
- Attended BRAG member award ceremony in Oregon City.
- Prepared for Council work session on commingling.

### **Anticipated June/July 1999**

- Reschedule haulers' meeting from last month.
- Write and submit report for last fiscal year to Metro.
- Submit request for funds to metro for Down To Earth day.

#### **Metro Local Share Projects**

- Coordinated planting party at Willow Place.
- Met with Planning and Public works reps for Pre-App meeting on Willow Place.
- Submitted preliminary project proposal to Planning Commission for Willow Place master plan.
- Attended Native Plant workshop at PCC.

### **Anticipated June/July 1999**

- Submit Master Plan for Willow Place to planning commission.
- Attend planning commission meeting on willow Place Master Plan.
- Begin flier on stewardship of Willow Place site.
- Begin working on coordination of maintenance plan for Home and Monroe site.
- Research irrigation options for Roswell site.
- Research weed control options for Willow Place.

#### **Cable Renewal & other Telecommunications Issues**

- Reviewed two drafts and provided comments on each
- Met with TCI for final negotiation meeting
- Executive Session with Council re: negotiation outcomes
- Submitted proposed franchise document to Council
- Coordinated Public announcement of TCI public hearing

### **Anticipated June/July 1999**

- Prepare final version of franchise document and distribute to all parties.
- Establish timeline for monitoring franchise.
- Begin coordination of telecommunication plan review process.

**Event Permits**

- Met with Festival Daze and CCI reps to go over final plans for Festival Daze weekend.
- Coordinated with Neighborhood Services, Library, and Public Works regarding City responsibilities for the Festival Daze weekend.
- Finalized Festival Daze and CCI event permit.

**Anticipated June/July 1999**

- Review and distribute event permits submitted by neighborhood associations for August events.

**PARKS AND RECREATION**

- Park, Open Spaces and Trails (POST) Program and Implementation Plan adopted by City Council.
- Met with City department heads and NCPRD Director regarding POST program and target areas and properties for refinement map.
- Began work on land banking management plan for Home and Monroe site.

**Parks and Recreation Board (PARB)**

- No meeting due to lack of quorum.

**North Clackamas Parks and Recreation District (NCPRD)**

- Continued work to proceed with wetland restoration project at Furnberg Park and inclusion of boardwalk.

**Metro Greenspaces Technical Advisory Committee and Local Share Projects**

- Continued work with consultants on Local Share acquisition project.
- Continued work with Level of Service subcommittee to develop standards for the Metro area.

**Anticipated June/July 1999**

- Meet with PARB and NCPRD staff regarding acquisition opportunities for POST acquisition program refinement map.
- Continue work on Local Share acquisition project including reallocation of funds.
- Continue work with Level of Service subcommittee to develop guidelines for the Metro area.



To: Mayor and City Council  
Through: Dan Bartlett, City Manager  
From: Pat DuVal, Records and Information Manager  
Subject: Monthly Activity Report for May 1999  
Date: June 23, 1999

Action Requested

None. This report is for information only and summarizes the activities of the Records and Information Management (RIM) division.

Staffing Activity, Training, Certifications, and Appointments

- PageMaker beginning and intermediate

Records Management

- Continued database project and identifying files for destruction;
- Began Community Development Department backfile preparation for imaging project;
- Purged 6.5 cubic feet of obsolete records (Human Resources and Police);
- Continued inventory of building division plans and drawings;
- Continued administration office file conversion;
- Responded to extensive public records request for Ardenwald Neighborhood District Association (NDA);
- Continued Oregon Association of Municipal Records Records (OAMR) Manual Committee; and
- Continued OAMR Fall Conference vital records training session.

Special Teams

- Lake Road Neighborhood District Association liaison;
- Payroll Problem Solving Team;
- Safety Committee; and
- Finance/RIM monthly staff meetings; and

## VII. B. 10

### Administration

- Supported 2 regular Council meetings and 2 work sessions: agenda packets, notices, and minutes;
- Supported 1 Riverfront Board Meeting: agenda packet, notices, and minutes;
- Supported 1 joint City Council/Traffic Safety and Transportation Board (TSTB) work session: agenda packet, notices, and minutes;
- Completed "*Manual for Preparing Council Agenda Reports*" for shared drive access;
- Processed 1 ordinance, 2 resolutions, 6 contracts and agreements, 2 traffic regulations, 3 recorded documents, and 3 vehicle registrations;
- Prepared FY 1999 - 2000 blanket purchase orders;
- Continued design work on citywide contact database;
- Designed Riverfront Stakeholder Meeting announcements;
- Assisted Planning Department with TGM Grant Applications;
- Completed installation of modem for Municipal Court computer; and
- Completed layout and data entry work on "*Manager's Musings*".

### Community Development/Planning

- Supported 2 Planning Commission meetings: agendas and notices;
- Prepared orientation materials for new Planning Commission member;
- Completed 2 records inspection requests; and
- Set up 2 planning application files and prepared referrals.

### Community Development/Public Works

- Completed 2 records inspection requests;
- Supported 1 Citizens Utility Advisory Board (CUAB): packet, notices, and minutes; and
- Supported one bid opening.

### Fleet and Facilities

- Processed 47 requests for vehicle maintenance and 42 work orders for Clackamas Fire District #1;
- Processed 74 repair orders for Public Works, Happy Valley, and Milwaukie Police;
- Processed 11 and completed 16 facilities maintenance requests and participated in monthly "walk through " of City facilities;
- Continued to update equipment lists and other fleet records;
- Completed 110 FY 1999 - 2000 Fleet and Facilities blanket purchase orders based on three-quote bid process; and
- Began setting up tracking system for FY 1999 - 2000 purchase orders and check requests.

### Municipal Court

- Scheduled and attended 2 court sessions;
- Entered 401 citations and 598 infractions;
- Scheduled 46 trials;
- Processed 2,192 after-court entries;
- Sent 348 abstracts to DMV;
- Processed 639 bills;
- Sent 25 accounts to collections; and
- Continued to evaluate improved receipting process with Finance.

Police Department

- Processed 54 false alarm permit letters and accepted 8 new applications;
- Assisted with 67 background checks;
- Processed 346 reports and 78 subpoenas;
- Prepared 37 letters for abandoned and towed vehicles;
- Responded to 77 insurance requests; and
- Processed 46 vehicle releases and 29 validations.

Front Counter Activity Tracking: RIM front counter staff had direct contact, either on the phone or in person, with 4,249 customers during the month of May.

<b>Facility</b>	<b>Department</b>	<b>Calls</b>	<b>Walk-ins</b>	<b>Monthly Totals</b>
City Hall	Court	267	213	480
	Water	255	270	525
	Business licenses	13	15	28
	Finance	16	15	31
	Administration	19	14	33
	Neighborhood Services	21	27	48
	PSB	38	34	72
	JCB	89	84	173
	Other	106	82	188
Combined customer contacts				1578
Johnson Creek	Planning	227	117	344
	PW Admin	115	65	180
	Fleet/Facilities	36	21	57
	Operations	86	22	108
	Building	154	65	219
	Permits	116	98	214
	Engineering	137	21	158
	PSB	6	3	9
	City Hall	28	15	43
	Other	110	24	134
	Interoffice	100	54	154
	Radio	38		38
Combined customer contacts				1658
<b>Public Safety Building</b>				
		611	402	1013



TO: Milwaukie City Council

THROUGH: Dan Bartlett, City Manager

FROM: Martha Bennett, Assistant City Manager *MAB*

SUBJECT: Metro South Corridor Transportation Alternatives Study

DATE: June 23, 1999 for July 6, 1999 City Council Meeting

Action Requested

None. This memo is for information only.

Background

Attached is a work program for a new study that Metro will conduct as a result of the defeat of the local funding of South/North Light Rail. This study will evaluate the non-light rail options to relieve traffic congestion in the "South" portion of the Corridor. Metro is conducting this study in part because of the decision to pursue light rail in the North. The study recognizes that the South portion of the corridor is the highest priority for congestion relief in the metropolitan region. Also, Metro solicited feedback in its "Listening Post" meetings last winter, and this study will evaluate many of the options raised by Clackamas County citizens. Finally, this study is needed to make improvements in the South corridor eligible for Federal transit funds.

In early May, you received a report from Bob Stacey and Phil Selinger of Tri-Met that outlined the "Rapid Bus" concept. Tri-Met received some funding to implement Rapid Bus in the Priorities 2000 allocation, and their first priority for improved service is the McLoughlin corridor. This study should complement rather than compete with Tri-Met's efforts, and make any rapid bus proposals eligible for federal funds.

Milwaukie is at the center of this corridor, and all three of the "arms" of the corridor come together at our transit center. We will be involved in the planning teams for all three sections. As the study begins, staff will be working with you to define our priorities in working with the other agencies involved in this study.

Fiscal Impact

Unknown at this time. Metro is seeking a local match, and Metro has also indicated that local agreements will be formed to help local agencies pay for their costs in the study.

RECEIVED

JUN 22 1999

PUBLIC WORKS

**STAFF REPORT**

CONSIDERATION OF RESOLUTION 99-2795A FOR THE PURPOSE OF AMENDING THE FY '00 UNIFIED WORK PROGRAM TO ADD THE SOUTH CORRIDOR TRANSPORTATION ALTERNATIVES STUDY AND AMENDING THE TRANSPORTATION IMPROVEMENT PROGRAM (TIP) TO AUTHORIZE FY '99 SURFACE TRANSPORTATION PROGRAM (STP) FUNDS

Date: June 17, 1999

Presented by: Richard Brandman

**PROPOSED ACTION**

This resolution amends the FY '00 Unified Work Program (UWP) to add a South Corridor Transportation Alternatives Study, amends the Transportation Improvement Program (TIP) to allocate \$1.5 million in STP funds from available South/North Transit Corridor Study resources and adopts Exhibit A, the *South Corridor Transportation Alternatives Study Work Program* as the work program for the study. The resolution also directs Metro staff to work together with Tri-Met, ODOT and the participating jurisdictions of Clackamas County and the cities of Portland, Milwaukie, Gladstone and Oregon City to:

1. Develop and prioritize non-light rail transportation options that are responsive to travel demand in the Corridor and to the community's needs.
2. Select a package of transportation improvements, specific to corridor segments, that can be expeditiously moved forward to service providers for implementation or into more advanced design, environmental analysis and construction.
3. Address community concerns expressed in the "Listening Post" meetings and through the public involvement process implemented for this study by developing fiscally responsible alternatives that can be implemented as expeditiously as possible.
4. Develop project capital and operating costs to a level that is appropriate upon which to base a federal funding request for any major capital investment.
5. Bring forward for adoption by the Metro Council a comprehensive transportation strategy for the corridor, an implementation plan and funding strategy.

JPACT unanimously recommends the proposed action and stressed the need to coordinate this study with the Willamette River Crossing Study and the potential to use the existing rail bridge between Milwaukie and Lake Oswego.

**FACTUAL BACKGROUND AND ANALYSIS**

**I. Development of the South Corridor Transportation Alternatives Study**

In July 1998, the Metro Council adopted the Locally Preferred Strategy for the South/North

Corridor Project that called for a light rail construction segment between Kenton, the Rose Quarter, downtown Portland, Milwaukie and Clackamas Town Center. This decision followed five years of planning, engineering and environmental analysis of transportation options in the South Corridor. In November 1998, a local funding measure to provide the local share of project financing (\$475 million) through Tri-Met's sale of General Obligation bonds was not approved by tri-county voters.

In response to the defeat of the local funding measure, Metro held a series of "Listening Post" public meetings to receive comments on what the region should do next. Generally speaking, the majority of those commenting at the listening post meetings supported the multi-modal emphasis that the region has adopted as a tool to maintain livable communities. In Portland and inner Multnomah County, support for continued expansion of the light rail system was strong. Conversely, a large number of Clackamas County residents who commented were opposed to light rail in any form. Clackamas County residents also voiced the strongest support for increased road capacity and the least support for light rail. Those who recommended alternatives or complements to a light rail system had a variety of suggestions, with improved bus service and high occupancy vehicle (HOV) lanes being the most common. Others suggested streetcars, bicycles, vanpooling, river transit, congestion pricing and flexible schedules for working and telecommuting.

At the April 8, 1999 meeting of the Joint Policy Advisory Committee on Transportation, (JPACT), Metro staff were asked to prepare a work program for adoption in June 1999 that outlines a program to advance non-light rail transportation options in the South Corridor. This work plan was prepared in response to that request.

## **II. Relationship to the Regional Transportation Plan (RTP)**

The Regional Transportation Plan (RTP) guides the region's investment in transportation infrastructure for both transit and highways. The region's 2020 RTP is currently being developed, with adoption planned for Fall 1999. The 2015 RTP was adopted by the Metro Council in 1995. The 2020 RTP, which will be adopted by the time this study concludes, would be modified by the results of this study, which will define transportation priorities in the South Corridor.

The 2015 RTP includes South/North light rail as the primary transit investment in the Corridor. Although a reversible HOV lane was addressed in the McLoughlin Boulevard Draft Environmental Impact Statement by ODOT, it was not included in the 2015 RTP due to the McLoughlin Corridor's designation as the region's priority corridor for light rail development.

The proposed 2020 RTP includes South/North Light Rail, but adds other potential strategies to reflect that light rail is no longer the short term priority for the Corridor. Light rail will not be evaluated further as part of this study. Specific strategies in the proposed 2020 RTP include:

## VII. C. 4

- Addition of a reversible HOV lane on McLoughlin Boulevard in Portland between the Ross Island Bridge and Harold Street.
- Expansion of McLoughlin Boulevard (Highway 99E) to a total of three general-purpose lanes from Harold Street to I-205.
- Implementation of access management on both McLoughlin Boulevard (Highway 99E) and Highway 224.
- Improved bus transit service throughout the Corridor, including rapid bus from Vancouver to Milwaukie, Oregon City and Clackamas Regional Center.
- Development of park-and-ride lots and transit centers in the corridor.

These strategies and improvements proposed for the 2020 RTP may be modified by the results of this study and should not be perceived in any way to influence the outcome of this study.

### III. Study Process and Organization

The study will take place between July 1, 1999 and December 31, 2000. As currently scoped, the study would be completed in November 2000. Figure 1 shows the study process and public involvement activities for the study.

In general, the study will revisit some options already studied as part of the South/North Corridor Project, with the exception of light rail, which will not be part of this study. New options may be added depending upon public comments received and ongoing technical analysis. This wide range of alternatives will be screened down to several promising alternatives for which more detailed analysis will be performed. The analysis in both the screening phase and the detailed analysis of alternatives will be geared toward evaluation criteria identified through the public involvement process and by the study's Policy Group.

Of particular importance to the project schedule and decision-making process is the evaluation of adding an additional lane to the Martin Luther King Jr. Boulevard and Grand Avenue viaducts north of the Ross Island Bridge in Portland. ODOT is planning to rebuild the viaducts and is entering the advanced stages of project development. If HOV lanes are shown to be a viable option in the McLoughlin corridor, Metro would need to advise ODOT early in the process so that the viaduct design could include a third lane option. If HOV is not an option, ODOT would continue design work to replace the two-lane viaducts.

The decision of what alternatives to implement in the South Corridor will ultimately be made by the Metro Council. Advising the Council will be TPAC and JPACT, as well as the study's Policy Group, comprised of either elected officials or executive level staff from the participating jurisdictions. Technical analyses will be overseen by three Corridor Teams specific to the three main segments for the study (shown in Figure 2):

- Portland to Milwaukie
- Milwaukie to Oregon City
- Milwaukie to Clackamas Regional Center

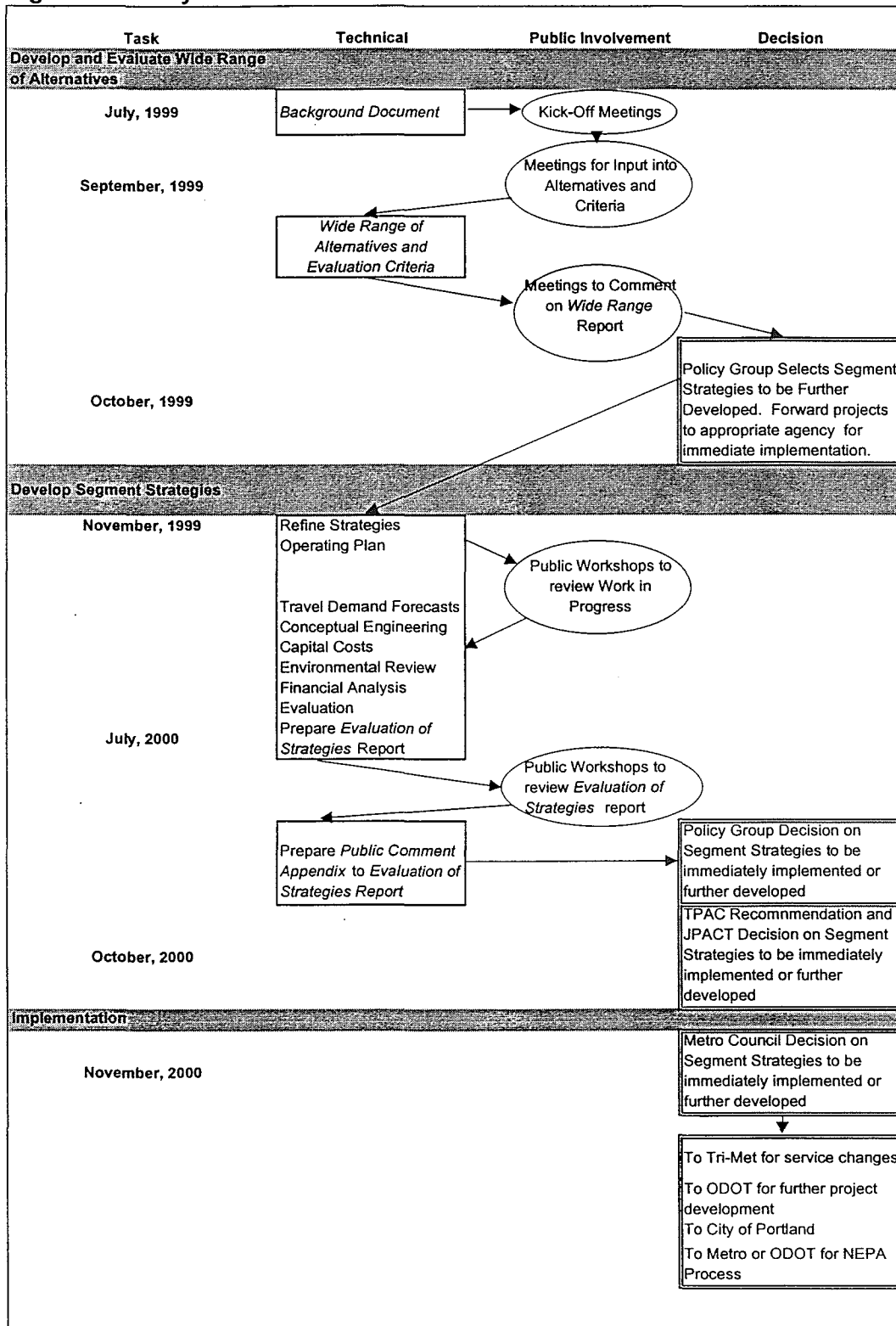
These teams will develop options and recommendations for their segments. Tri-Met, ODOT and Metro staff will assist to ensure that the recommendations are compatible between segments. A diagram of the study organization is included as Figure 3.

#### **IV. Budget and Schedule**

The budget for this study is \$1,671,682 to be spent in fiscal years 1999-2000 and 2000-2001. \$1.5 million in funding would come from FY '99 Regional STP funds currently programmed for the South/North Corridor and the remainder would be local match. The study will begin in July 1999 and conclude no later than December 31, 2000 for a maximum duration of 18 months.

# VII. C 6

Figure 1. Study Process



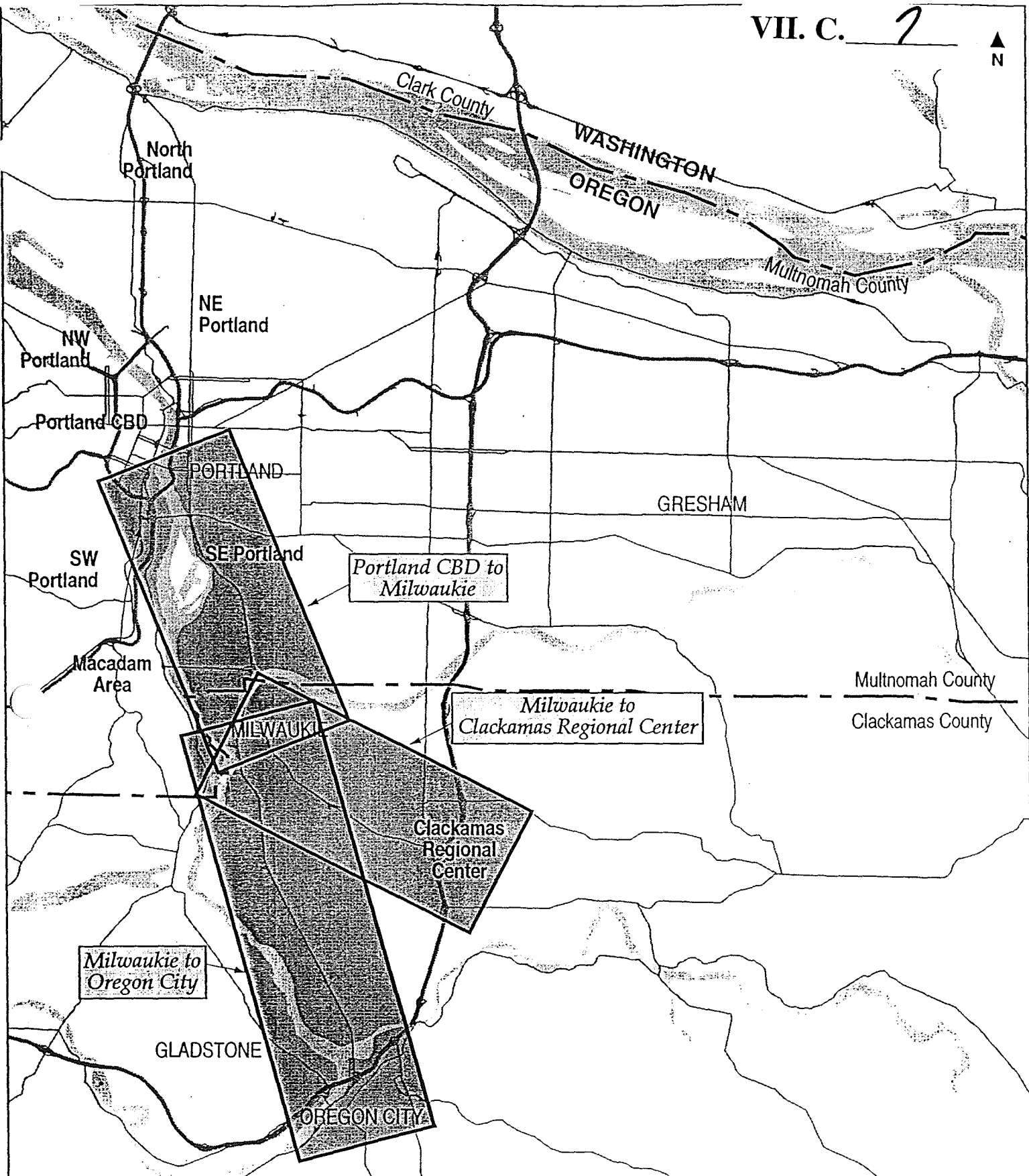


Figure 2  
Segment Map

May 1999



 Segment Areas

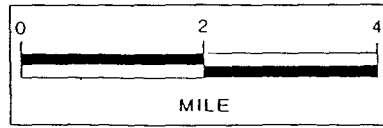
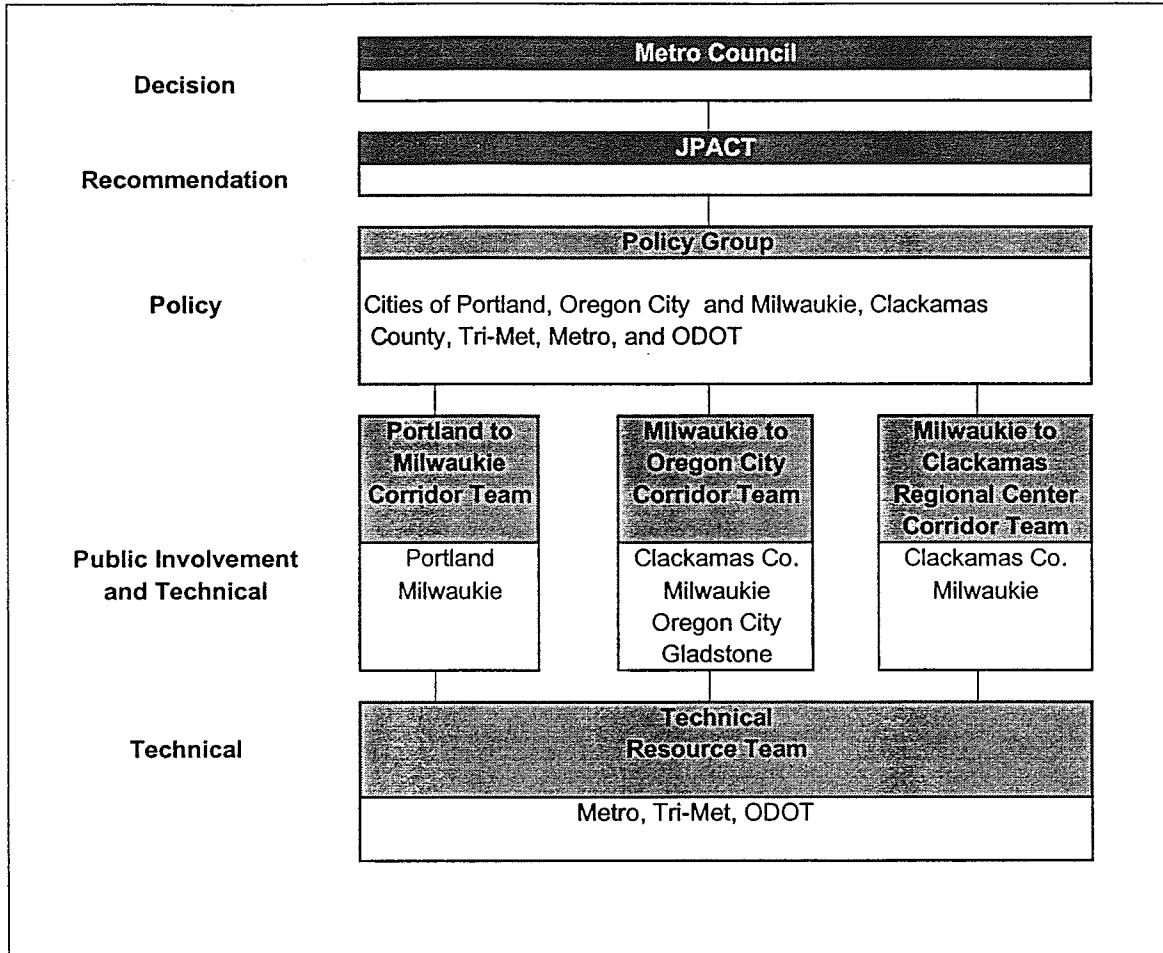


Figure 3. Study Organization



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY '00	)	RESOLUTION NO. 99-2795A
UNIFIED WORK PROGRAM TO ADD THE	)	
SOUTH CORRIDOR TRANSPORTATION	)	Introduced by:
ALTERNATIVES STUDY AND AMENDING THE	)	Councilor Kvistad, Chair
TRANSPORTATION IMPROVEMENT PROGRAM	)	JPACT
(TIP) TO AUTHORIZE FY '99 SURFACE	)	
TRANSPORTATION PROGRAM (STP) FUNDS	)	

WHEREAS, The FY '00 Unified Work Program was adopted by Resolution Number 99-2756; and

WHEREAS, Metro prepared a South/North Corridor Project Draft Environmental Impact Statement that evaluated numerous light rail transit (LRT) options, alignment alternatives and design options as well as a No-Build Alternative that would have served the South Corridor; and

WHEREAS, The Metro Council adopted Resolution 98-2674 on July 23, 1998 that adopted the Locally Preferred Strategy for construction of a light rail segment between the Clackamas Town Center and the Rose Quarter; and

WHEREAS, In November 1998, voters in the Portland metropolitan region rejected a ballot measure that would have reaffirmed the region's 1994 vote to authorize the sale of General Obligation bonds that would have provided \$475 million in local funding necessary to construct the Locally Preferred Strategy; and

WHEREAS, "Listening Posts" were held by Metro throughout the region to better understand the public's perception of the South/North Corridor's transportation needs; and

WHEREAS, Numerous transportation improvements were suggested in the "Listening Posts" and included transit options such as increased express and local bus service, addition of high occupancy vehicles lanes, additional park-and-ride opportunities and improved transit centers; and

WHEREAS, A significant amount of technical analysis has already taken place in the South Corridor including: system studies, South/North Preliminary Alternatives Analysis, Design Option Narrowing, Cost-Cutting, Draft Environmental Impact Statement, ODOT's McLoughlin Boulevard Draft and Final Environmental Impact Statements and subsequent studies by Clackamas County and the City of Milwaukie that address McLoughlin Boulevard; and

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WHEREAS, At the April 8, 1999 JPACT meeting, staff was asked to prepare a work program that outlines a program to advance non-light rail transportation options in the South Corridor and submit that plan at the June 1999 meeting of JPACT; and

WHEREAS, Resolution No. 96-2442 allocated \$55 million of Regional STP funds towards a light rail project in the South/North Corridor, of which \$1.5 million was programmed for FY '99; and

WHEREAS, An alternative transportation improvement program must be developed for the South Corridor as a result of the loss of funding for the rail project; and

WHEREAS, The region will endeavor to identify an early element of the South Corridor Improvement Program by December 1999 to be the basis of an FY 2001 federal transit funding request; and

WHEREAS, The attached work plan (Exhibit A) provides a work program for the South Corridor Transportation Alternatives Study; now, therefore,

BE IT RESOLVED:

That the Metro Council:

1. Amends the FY '00 Unified Work Program to add a South Corridor Transportation Alternatives Study with the attached work plan.
2. Amends the Transportation Improvement Program (TIP) to authorize \$1.5 million of FY '99 STP funds reserved for the South/North Corridor and \$171,682 of local match to fund the study.
3. Directs that Metro staff, ODOT and Tri-Met staff shall work together with participating jurisdictions including Clackamas County and the Cities of Gladstone, Milwaukie, Portland, and Oregon City to:
  - Develop and prioritize non-light rail transportation options that are responsive to the travel demand in the corridor and to the community needs as defined in the attached work plan including the potential of commuter rail between Milwaukie and Lake Oswego and Tualatin; and
  - Coordinate this study with the Willamette River Crossing Study; and
  - Select a package of transportation improvements that can be implemented expeditiously or

- moved forward into more advanced design, environmental analysis and construction; and
- Address community concerns expressed in the “listening post” meetings and through the public involvement process implemented for this study by developing fiscally responsible alternatives that can be implemented quickly; and
- Develop project capital and operating costs to a level that is appropriate upon which to base a federal funding request for any major capital investment; and
- Bring forward for adoption by the Metro Council a comprehensive transportation improvement strategy for the corridor, an implementation plan and funding strategy.

ADOPTED by Metro Council on this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Rod Monroe, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

# South Corridor Transportation Alternatives Study

Draft Work Program  
June 8, 1999



METRO

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## 1.0 INTRODUCTION

This section describes how the South Corridor Transportation Alternatives Study was developed and the events leading up to the decision to study alternative transportation modes in the corridor. This section also provides a description of the corridor, its planning history and relationship to the Regional Transportation Plan (RTP).

### 1.1 *Development of the South Corridor Transportation Alternatives Study*

The South/North Corridor Transit Study identified light rail as the preferred alternative for the development of the transit system in the South Corridor. The first construction segment was to connect the Rose Quarter, north of the Portland Central Business District (CBD) with Milwaukie and Clackamas Regional Center, with the second construction segment between Rose Quarter and Kenton, and ultimately terminating in Vancouver, Washington.

In November 1998, tri-county voters did not approve a local funding measure for the South/North Light Rail Project. In response, Metro held a series of "listening posts", public meetings to take comments on what direction the region needs to take to further develop transportation options in the South/North Corridor. Generally speaking, the majority of those commenting at the listening post meetings supported the multi-modal emphasis the region has adopted as a tool to maintain livable communities. In Portland and inner Multnomah County, support for continued expansion of the light rail system was strong. Clackamas County residents voiced the strongest support for increased road capacity and the least support for light rail. Those who recommended alternatives or complements to a light rail system had a variety of suggestions, with improved bus service and high occupancy vehicle (HOV) lanes being the most common. Others suggested streetcars, bicycles, hovercraft, vanpooling, river transit, congestion pricing and flexible schedules for working and telecommuting.

At the April 8, 1999 meeting of the Joint Policy Advisory Committee on Transportation, (JPACT), Metro staff were directed to prepare a work program for adoption in June 1999 that outlines a program to advance non-light rail transportation options in the South Corridor. This work plan has been prepared in response to that request.

### 1.2 *Corridor Description*

The South Corridor is a funnel-shaped travelshed with ends in Oregon City and Clackamas Regional Center and which narrows between Milwaukie and downtown Portland (See Figure 1). The corridor includes portions of the cities of Portland, Milwaukie, Gladstone and Oregon City, as well as Clackamas County. This corridor has experienced tremendous growth in the past twenty years and by 2015, trip volumes will increase by 30 percent and the hours that drivers spend in delayed traffic will increase eight-fold.

Over the past twenty years, the population of the four-county region has grown by approximately 45 percent, from 1,100,900 residents in 1975 to 1,596,100 residents in 1995. The population trends over this period consisted of three distinctly different cycles. The 1970s were a period of rapid growth with a population growth rate of 2.1 percent per year on average. The early/mid-1980s were marked by a recession with population remaining virtually flat. Population has been growing rapidly since 1988, by about 250,000 residents over this period.

Since 1980, the rate of employment growth in the Portland/Vancouver region has been almost 40 percent higher than the national average. From 1980 to 1995, employment growth in the Portland/Vancouver region averaged 2.6 percent per year, increasing from 672,800 jobs in 1980 to 995,700 jobs in 1995, while the national average was 1.9 percent. During the late 1980s, the region's job growth ranked as the fourth fastest in the country, with annual job growth peaking at about 35,000 net new jobs per year. Employment growth slowed in the early 1990s, and was particularly sluggish in 1991 during a short national recession. Most recently, the region has again been experiencing strong job growth.

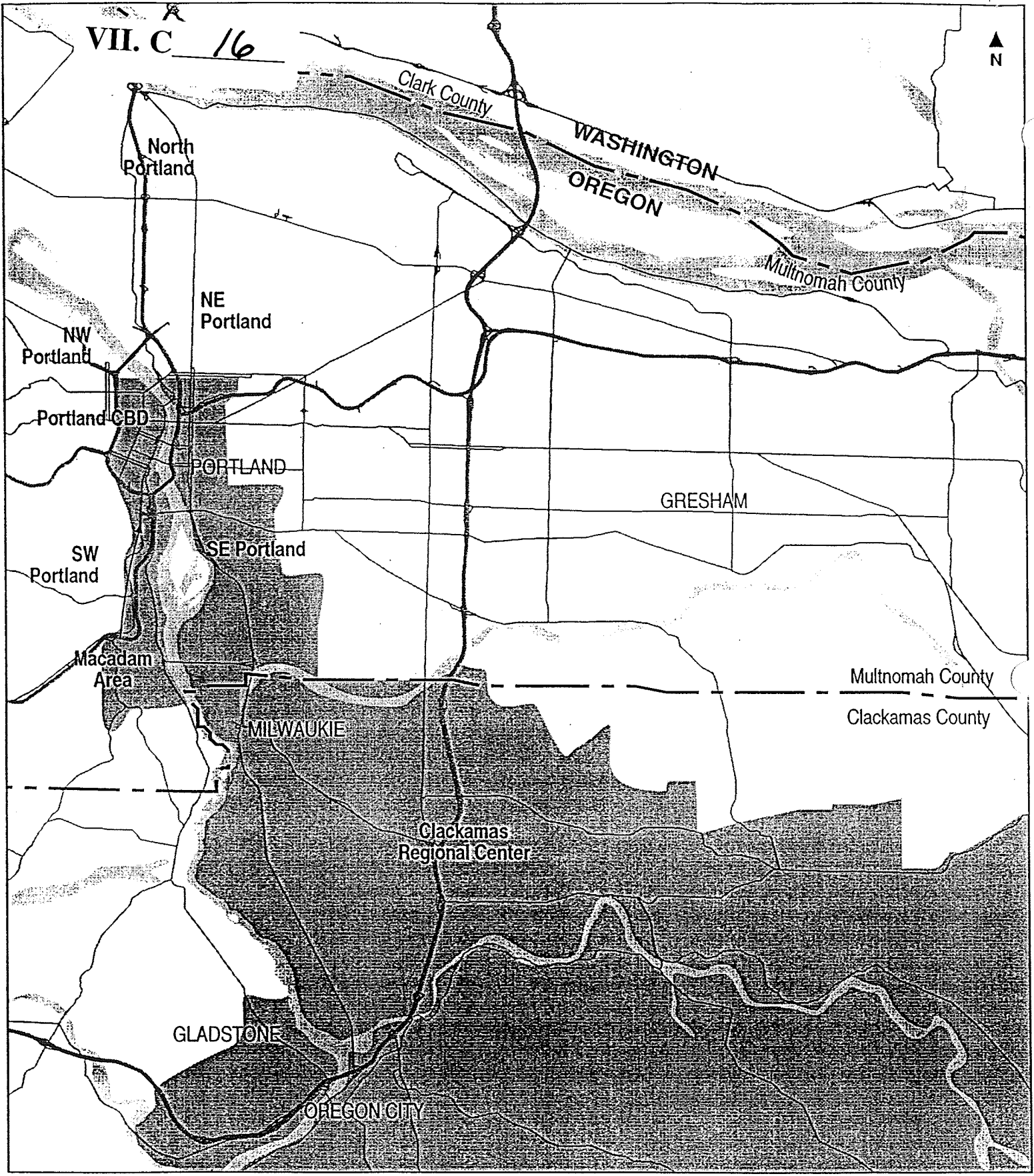
Clackamas County is a fast growing sector of the region. Between 1980 and 1994, the number of households in the county increased by about 2.3 percent per year and the number of jobs increased by 4.0 percent per year. The study corridor in Clackamas County currently contains about 80,600 households, with an expected growth rate of 2.4 percent per year between 1994 and 2015, reaching a total of 132,400 households by 2015. The study corridor also contains about 94,600 jobs, with an expected growth rate of 3.0 percent per year, reaching a total of 174,600 jobs by the year 2015. The Clackamas Regional Center, located near the northeast corner of Clackamas County, has been a major development site in recent years and is projected to continue to develop rapidly.

The South Corridor also includes the Portland Central City south of Burnside, including the Portland Central Business District (CBD). The Central City contains the largest concentration of employment in the region. As of 1994, the Central City contained 138,500 jobs and 11,900 households. Central City jobs are expected to grow by 2.0 percent per year reaching a total of 211,900 jobs by the year 2015. The number of households is expected to grow to 21,900 over the same period.

### *1.3 Corridor Planning History*

This corridor has been the subject of many transportation planning efforts over the past twenty years. In 1979, the McLoughlin Boulevard Draft Environmental Impact Statement produced by the Oregon Department of Transportation (ODOT) called for widening McLoughlin Boulevard, with the possibility of adding a high-occupancy vehicle lane. The improvements south of Tacoma Street were built, while those north of Tacoma were deferred until after the completion of a light rail line. An early light rail feasibility study was completed in 1984 by Metro. In 1992, Metro and the region selected the Milwaukie Corridor over the I-205 Corridor and as the region's highest transit improvement priority. A scoping process narrowed the modes under consideration to light rail and bus service from a range of alternatives that also included commuter rail and river transit. In 1994, Metro and the region undertook an Alternatives Analysis to identify the best way to provide high capacity transit service in the Milwaukie (South) and I-5 (North) Corridors. The project was renamed the South/North Corridor Transit Study. Several light rail alignments, termini and design options were evaluated in the South/North Corridor Project's Draft Environmental Impact Statement (DEIS).

In July 1998, the Metro Council adopted the Locally Preferred Strategy for the South/North Corridor Project that called for a light rail line between Clackamas Regional Center and Kenton in north Portland, with the first construction segment between Rose Quarter and Clackamas Regional Center. This decision followed five years of planning, engineering and environmental analysis of transit options in the South Corridor. In November 1998 a local funding measure to provide the local share of project financing (\$475 million) through Tri-Met's sale of general obligation bonds was not approved by tri-county voters.

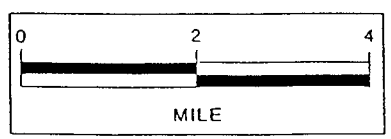


**Figure 1**

April 1999



 South Corridor Study Area



#### 1.4 Relationship to Regional Transportation Plan

The Regional Transportation Plan (RTP) guides the region's investment in transportation infrastructure for both transit and highways. The region's 2020 RTP is currently being developed, with adoption planned for Fall 1999. The 2015 RTP was adopted by the Metro Council in 1995. The 2020 RTP, which will be adopted by the time this study concludes, would be modified by the results of this study, which will define transportation priorities in the South Corridor.

##### 1.4.1 2015 RTP Improvements

The 2015 RTP includes several highway and transit improvements in the South Corridor. Two levels of expenditure were developed for the RTP, the constrained network based on existing resources, and the preferred network based on additional funding. These improvements include:

##### Financially Constrained Network

- South/North Light Rail
- Pedestrian improvements in support of the *Region 2040 Plan* in the McLoughlin Corridor

##### Preferred Network

The improvements listed above plus the following:

- Widen McLoughlin Boulevard to three travel lanes in each direction, Tacoma Street to Ross Island Bridge
- Widen Highway 224 to three travel lanes in each direction, McLoughlin to Johnson
- Build a 450 space park-and-ride lot sited on Highway 99E (McLoughlin Blvd) between Milwaukie and Oregon City
- Construct pedestrian improvements on McLoughlin/MLK/Grand between Tacoma and Multnomah Blvd.

The 2015 RTP includes South/North light rail as the primary transit investment in the Corridor. Although HOV lanes were addressed in the McLoughlin Boulevard Draft Environmental Impact Statement by ODOT, they were not included in the 2015 RTP due to the McLoughlin Corridor's designation as the region's priority corridor for light rail development. The proposed 2020 RTP does not emphasize light rail in the South Corridor.

##### 1.4.2 Proposed 2020 RTP Improvements

The 2020 RTP includes South/North Light Rail, but adds other potential strategies to reflect that light rail is no longer the short term priority for the Corridor. Light rail will not be evaluated further as part of this study. Specific strategies in the proposed RTP include:

- Addition of a reversible HOV lane on McLoughlin Boulevard in Portland between the Ross Island Bridge and Harold Street.
- Expansion of McLoughlin Boulevard (Highway 99E) to a total of three general-purpose lanes from Harold Street to I-205.
- Implementation of access management on both McLoughlin Boulevard (Highway 99E) and Highway 224.

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The following specific South Corridor projects are proposed for the 2020 RTP. These improvements may be modified by the results of this study and should not be perceived to in any way to influence the outcome of this study.

### Bus Transit Improvements

The RTP includes several major improvements to transit service in the South Corridor. These include:

- South/North Rapid Bus between Clackamas Regional Center, Downtown Portland and Clark County, Washington (2000-2020).
- Improved bus service between the Milwaukie and Oregon City Transit Centers (future improvement, post-2020).
- Improved bus service between Clackamas Regional Center and Oregon City (2000-2005).
- Intercity passenger station in Oregon City to connect local transit with future intercity passenger rail (future improvement, post-2020)
- Development of park and ride facilities and transit centers, to be identified after further study (2000-2020).

### Highway Improvements

The major highway improvements proposed in the 2020 RTP for the Corridor are listed below. Numerous other smaller projects address problems on specific streets and intersections.

- Widen McLoughlin Boulevard to six lanes between Reedway and Tacoma Streets (future improvement, post-2020).
- Construct new ramps from McLoughlin to I-5 northbound (2011-2020)
- Develop a reversible travel lane from the Ross Island Bridge to Harold Street (2011-2020)
- Widen McLoughlin to six lanes from Harold to I-205 (2011-2020)
- Implement access management controls on McLoughlin and Hwy 224 (2011-2020)

### *1.5 Land Use Context - Region 2040 Plan*

In 1992, Metro district voters approved a new charter for Metro, which expanded Metro's land use role. The charter directs Metro to prepare and adopt a "Future Vision" for the region, covering a period of 50 years and addressing "preservation of regional land and natural resources" and "how and where to accommodate the population growth." The charter further directs Metro to adopt ordinances that would require local comprehensive plans and zoning regulations to comply with the regional framework plan.

Metro responded to the charter requirements by developing the Region 2040 Growth Concept and its implementing document, the *Region 2040 Framework Plan*. This plan establishes the urban growth boundary for the next 20 years and the pattern and densities for development within the boundary to the year 2040. The plan is designed to absorb 720,000 additional residents into the Oregon portion of the metropolitan region by the year 2040 with as little expansion of the existing Urban Growth Boundary (UGB) as possible.

The *Region 2040 Framework Plan* designates the Central City of Portland as the high-density employment hub of the Portland metropolitan region. The role of downtown Portland as the finance, cultural, tourism, retail and commerce center for the region is reinforced by the plan. The plan designates "Regional Centers" as mixed-use areas consisting of compact employment and residential developments that are served by high-quality transit services and "Town Centers," which are similar to Regional Centers but slightly less dense. Within the South Corridor, the area around the Clackamas Town Center, referred to as Clackamas Regional Center, and the downtown areas of Milwaukie and Oregon City are currently designated as Regional Centers.

## 2.0 TRANSPORTATION CONDITIONS IN THE SOUTH CORRIDOR

This section documents the growth in travel demand in the South Corridor that has occurred in the past and is projected to occur in the future. Developing alternative mode strategies to address this future demand is a key objective of this study.

### 2.1 *Historic Trends*

Over the past two decades, growth in traffic volumes on the South Corridor's regional roadways has increased significantly. Table 1 summarizes the historic growth in traffic volumes on SE McLoughlin Boulevard, the primary highway connecting activity centers in the southern portion of the corridor with the Portland Central City. Growth in traffic volumes on SE McLoughlin Boulevard from 1971 to 1995 has ranged from 21 percent at SE 17<sup>th</sup> Avenue to 60 percent at Highway 224 and 59 percent at I-205.

**Table 1**  
**Historic Growth in SE McLoughlin Boulevard Traffic Volumes**

SE McLoughlin Boulevard at:	1971 ADT <sup>1</sup>	1995 ADT <sup>1</sup>	% Change
SE 17 <sup>th</sup> Avenue	37,200	45,000	21%
Highway 224	30,300	48,600	60%
I-205	22,200	35,300	59%

Source: Metro, 1997.

<sup>1</sup> ADT = Average Daily Traffic Volumes

### 2.2 *Projected Future Conditions*

Growth in traffic within the South Corridor is projected to continue over the next two decades. Table 2 summarizes forecast population and employment growth in the corridor, which will produce a 30 percent increase in vehicle miles of travel (VMT) in the southern portion of the corridor by the year 2015. This VMT growth is projected to lead to a three-fold increase in the miles of major roads in the southern portion of the corridor that are congested (i.e., have volumes that are in excess of 90 percent of the design capacity of the roadway).

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**Table 2**  
**P.M. Peak Hour Summary Statistics for Major Roads in South Corridor by Sub-Area, 1994 and 2015<sup>1</sup>**

Sub-Area <sup>2</sup>	Vehicle Miles Traveled		Vehicle Hours of Delay		Road Miles with V/C <sup>3</sup> > 0.90	
	1994	2015	1994	2015	1994	2015
Southeast Portland (7)	18,000	22,400	83	378	2.5	5.1
Milwaukie (8)	17,300	22,200	96	338	2.8	5.5
Sunnyside (9)	49,200	66,700	50	641	1.9	10.8
Gladstone (10)	33,600	43,700	13	358	0.0	6.2
Oregon City (14)	36,000	51,000	58	720	2.2	10.2
Macadam (6)	45,300	53,300	80	480	4.2	6.1
<b>South/North Corridor Total</b>	<b>199,400</b>	<b>259,300</b>	<b>380</b>	<b>2,915</b>	<b>13.6</b>	<b>43.9</b>
<b>Regional Total</b>	<b>1,617,400</b>	<b>2,328,800</b>	<b>2,181</b>	<b>17,442</b>	<b>85.0</b>	<b>292.0</b>

Source: Metro travel forecasts, 1997.

<sup>1</sup> Based on the No-Build Alternative developed for the South/North Corridor Project

<sup>2</sup> Number in parenthesis is a Metro sub-district number (see the *South/North Transit Impacts and Travel Demand Forecasting Results Report* (Metro: February 1998) for a map illustrating the sub-districts.

<sup>3</sup> V/C = ratio of vehicle volume to capacity.

As a result of this deterioration of road service levels, corridor drivers will experience an eight-fold increase in the number of hours they sit in delayed traffic. The worst decline in auto-travel quality is projected to occur in the Clackamas Regional Center area with a five-fold increase in over-capacity roadways and a thirteen-fold increase in vehicle hours of delay (i.e., added time spent on roadway segments with a V/C ratio greater than 0.9). Tables 3 and 4 show that by the year 2015, traffic on SE McLoughlin Boulevard and its parallel arterials will be at or over capacity for all or virtually all of their lengths within the corridor.

**Table 3**  
**P.M. Peak Hour Conditions on McLoughlin Corridor**  
**Southbound – Year 2015<sup>1</sup>**

Location <sup>2</sup> (Southbound Direction)	Volume <sup>3</sup>	V/C <sup>4</sup> Ratio
Grand Avenue near Powell Blvd. (E-20)	5,400	1.20
McLoughlin Blvd. near Sellwood (E-21)	4,100	1.13
McLoughlin Blvd. south of Milwaukie CBD (E-23)	2,800	1.58
McLoughlin Blvd. south of Concord Road (E-26)	2,100	1.00
McLoughlin Blvd. at Clackamas River (E-27)	2,800	1.34

Source: Metro travel forecasts, 1997.

<sup>1</sup> Based on the No-Build Alternative developed for the South/North Corridor Project

<sup>2</sup> Letter/Number designation in parenthesis is a Metro outline number.

<sup>3</sup> Vehicles per hour.

<sup>4</sup> V/C = ratio of vehicle volume to capacity.

**Table 4**  
**P.M. Peak Hour Conditions on Arterials Paralleling**  
**SE McLoughlin Boulevard Southbound – Year 2015<sup>1</sup>**

Location <sup>2</sup> (Southbound Direction)	Facility	Volume <sup>3</sup>	V/C <sup>4</sup> Ratio
Near SE Powell Blvd. (E-20)	SE Milwaukie Avenue	700	0.99
Near Sellwood (E-21)	I-205	6,200	0.94
	SE Johnson Creek Blvd.	1,000	1.13
	SE 82 <sup>nd</sup> Avenue	1,500	0.86
Southeast of Milwaukie CBD (E-23)	Hwy. 224	2,300	1.10
Near Clackamas River (E-27)	I-205	7,300	1.04

Source: Metro travel forecasts, 1997.

<sup>1</sup> Based on the No-Build Alternative developed for the South/North Corridor Project.

<sup>2</sup> Letter/Number designation in parenthesis is a Metro outline number.

<sup>3</sup> Vehicles per hour. <sup>4</sup> V/C = ratio of vehicle volume to capacity.

### 3.0 STUDY APPROACH, OBJECTIVES AND ORGANIZATION

This section describes the general approach to this study and identifies key objectives.

#### 3.1 Study Approach

Because a tremendous amount of public involvement and technical analysis have taken place in this Corridor in the preparation of the *South/North Corridor Project Draft Environmental Impact Statement*, the study does not propose to “reinvent the wheel”. This study will build on the information developed over the last five years and tailor it to the discussion of new non-light rail alternatives.

Because of the unique nature of the three main segments of this Corridor (see Figure 2) and recent planning efforts that have taken place since the November 1998 election, each segment will have a slightly different starting point. For example, Clackamas County is concluding a state and locally funded Transportation and Growth Management study of the McLoughlin Corridor in the unincorporated area of Clackamas County from Milwaukie to Gladstone. A public involvement process is concluding that will result in recommendations for the streetscape along McLoughlin and the composition of adjacent land uses. Starting from scratch would only create confusion and prolong the process unnecessarily for this study. Building on the results of the study and tying into the public involvement structure already in place makes sense. A similar situation exists in Milwaukie with the upcoming riverfront development planning, implementation of a recently funded boulevard project along the waterfront, and recent discussions with Tri-Met about development of a new transit center on the downtown Safeway site. In addition, Tri-Met is planning to increase service in the corridor in the Fall of 1999, with incremental service and bus stop improvements planned over the next three years. Tying into these efforts will result in better coordination with this study and make the best use of public input and talent, as well as tailoring the outcome to the specific need of these corridor segments.

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Although the study is structured to meet the unique needs of each corridor segment, a comprehensive alternative mode strategy will be developed for the entire corridor that ensures compatibility between corridor segments. Section 3.4 discusses the mechanism by which a comprehensive strategy will be developed that ensures compatibility between the segments.

### 3.2 *Objectives*

Objectives for this study include:

1. Development and prioritization of non-light rail transportation options that are responsive to travel demand in the Corridor and to the community's needs.
2. Selection of a package of transportation improvements, specific to corridor segments, that can be expeditiously moved forward to service providers for implementation or into more advanced design and construction or which would be documented further in an environmental impact statement.
3. Address community concerns expressed in the "listening post" meetings and through the public involvement process implemented for this study, by developing fiscally responsible alternatives that can be implemented as expeditiously as possible.
4. Adoption by the Metro Council of a comprehensive transportation strategy, an implementation plan and funding plan for the corridor.
5. Development of project capital and operating costs to a level that is appropriate upon which to base a federal funding request.

### 3.3 *Jurisdictional Involvement*

The following jurisdictions will be represented in this study process:

- City of Portland
- City of Milwaukie
- City of Gladstone
- City of Oregon City
- Clackamas County
- Tri-Met
- Metro
- Oregon Department of Transportation

### 3.4 *Project Management Structure*

Metro is the overall lead agency for this study, with support provided from the agencies listed above. Tri-Met will have an important role in the development of bus service and capital improvement strategies, as will ODOT for the evaluation of highway-based alternatives such as a McLoughlin HOV lane. The study will be structured from a geographic standpoint to respond to the unique needs of each of the three major corridor segments to be studied. Three Corridor Teams will be made up of technical staff from the jurisdictions as well as Tri-Met, Metro and ODOT staff. This segmentation will streamline the study process, allow for individualized solutions and make sure that the time spent by jurisdictions is focused directly on the issues in their area. Tri-Met, Metro and ODOT would be technical resources to all of these Corridor

Teams. Figure 3 outlines the proposed study organization. Proposed representation for the Corridor Teams in each segment are as follows:

Portland CBD to Milwaukie

- City of Portland
- City of Milwaukie

Milwaukie to Clackamas Regional Center

- Clackamas County
- City of Milwaukie

Milwaukie to Oregon City

- City of Milwaukie
- City of Oregon City
- City of Gladstone
- Clackamas County
- City of Oregon City

The organization of the study into three Corridor Teams allows for solutions tailored to the needs of each segment. However, the transportation strategies for each segment must be compatible. Representatives from the City of Milwaukie, Metro, Tri-Met and ODOT will be part of all three Corridor Teams and can ensure that strategies are compatible and complement each other. Milwaukie is a particularly important area, because Milwaukie is the only common point for all three segments. The Policy Group would resolve any compatibility issues between the three segments. The three segment transportation strategies will be integrated into a single document that details the transportation strategies for the entire corridor. Incompatible alternatives or those that preclude options in other segments will not be chosen as transportation alternatives to move forward without first resolving compatibility issues.

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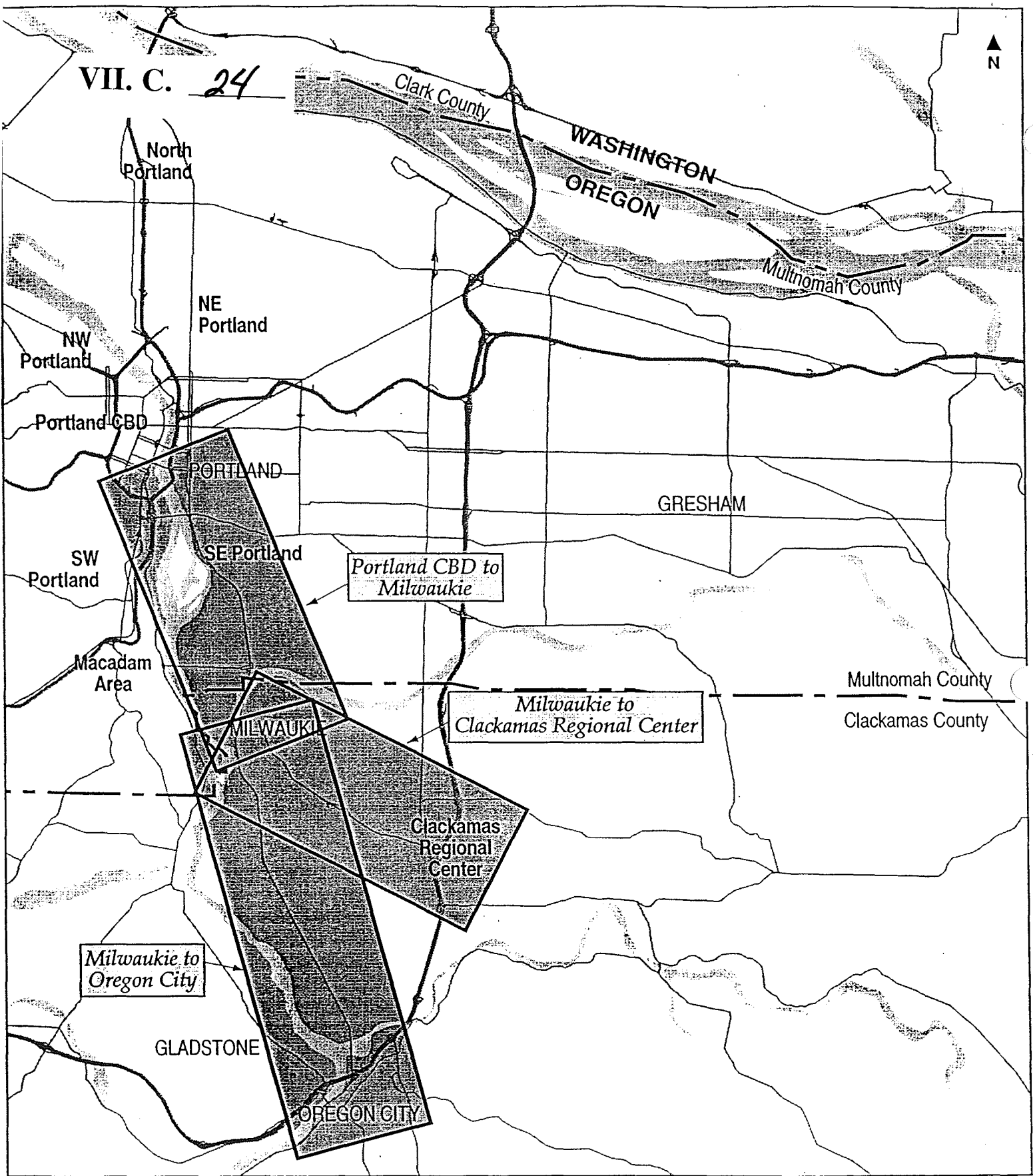
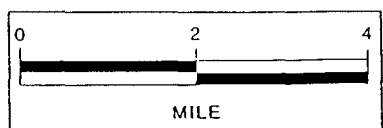


Figure 2  
Segment Map

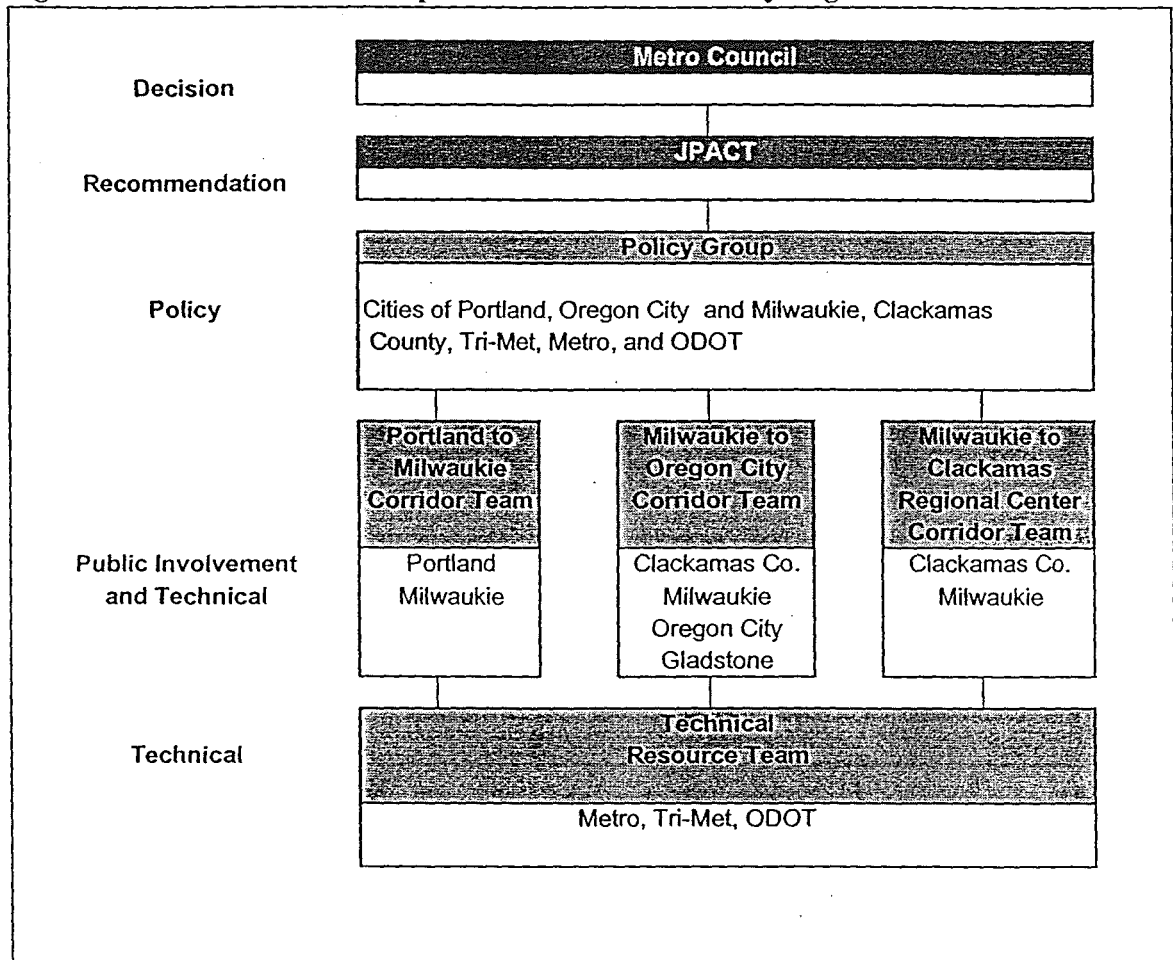
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 Segment Areas



**Figure 3. South Corridor Transportation Alternatives Study Organization**



Policy Group

The Policy Group makes recommendations to the Joint Policy Advisory Committee on Transportation (JPACT) at several key points in the process. This group will be composed of either executive-level staff or elected officials from Metro, Tri-Met, ODOT, Clackamas County, Milwaukie, Gladstone, Portland, and Oregon City. This group would meet primarily at strategic decision points. This group would have responsibility for ensuring compatibility between segment strategies if the Corridor Teams are not able to reach consensus.

Corridor Teams

These teams provide technical input and are specific to each of the three segments (see Figure 2). These will be comprised of jurisdiction technical staff with a citizen representative on each Corridor Team. Metro, Tri-Met and ODOT would be represented on each team. Jurisdiction team members would be appointed by the involved local jurisdictions. The corridor teams may need to meet jointly to resolve compatibility issues

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between strategies. If these issues cannot be resolved amongst the teams, the issue would be forwarded to the Policy Group.

**3.5 Budget and Schedule**

The budget for this study is \$1,671,872 to be spent in fiscal years 1999-2000 and 2000-2001. The Transportation Improvement Program (TIP) and Unified Work Program (UWP) will be amended to include this study. Budget revenue sources are shown in Table 5.

The study will begin in July 1999 and conclude no later than December 31, 2000 for a maximum duration of 18 months. Figure 4 shows the proposed study process and key dates. Every effort will be made to shorten the timeline, and interim decisions on implementation of specific strategies could also occur, such as transit centers or park-and-ride lots. Metro will initiate an Intergovernmental Agreement with Tri-Met for the provision of transit service planning and engineering services in support of the study, and with other jurisdictions as required.

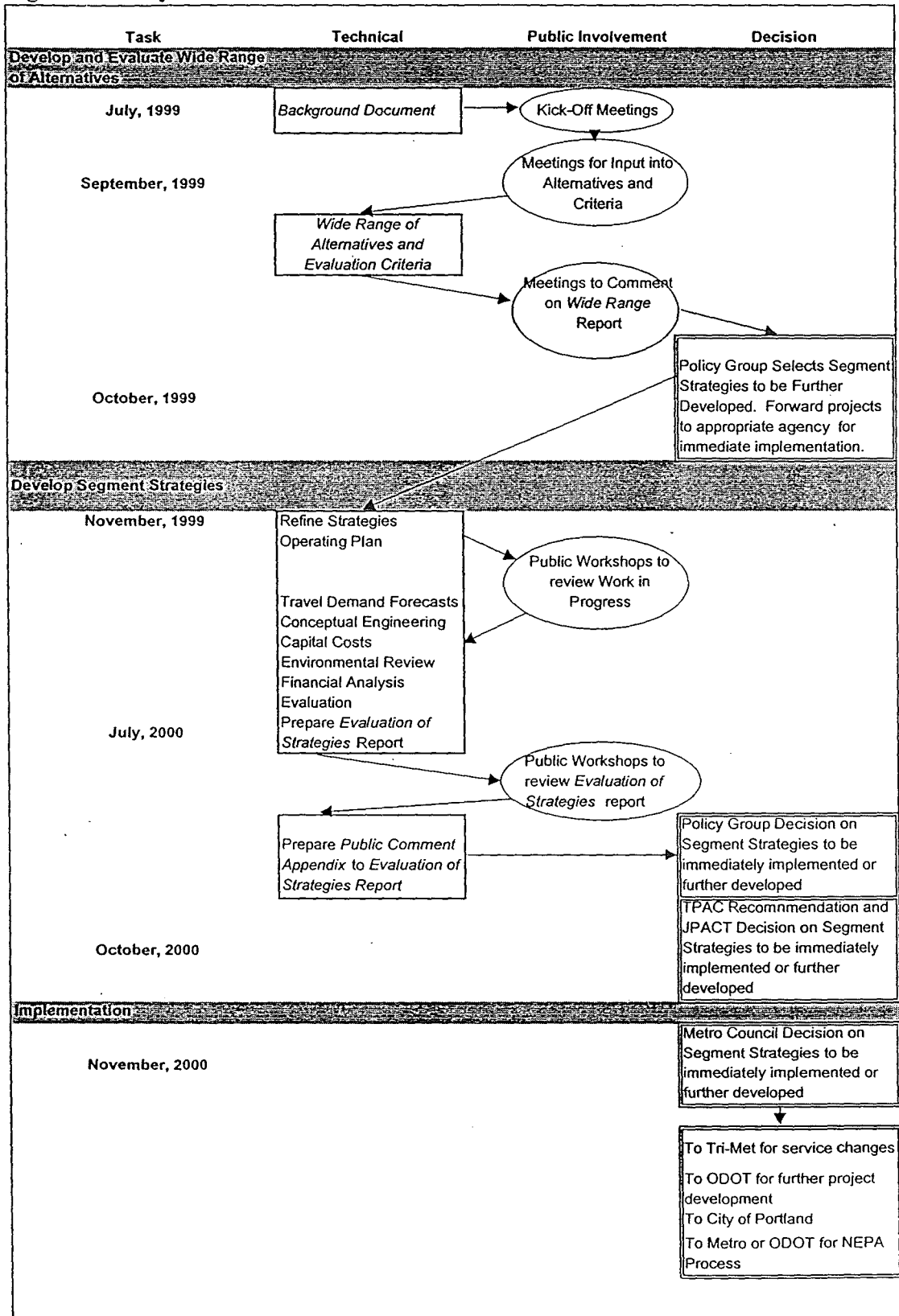
**Table 5**  
**South Corridor Transportation Alternatives Study Budget**

	Local Funds	STP Funds	Total
Revenue	\$171,872	\$1,500,000	\$1,671,872

Of particular importance to the project schedule and decision-making process is the evaluation of adding an additional lane to the Martin Luther King Jr. Boulevard and Grand Avenue viaducts in Portland. ODOT is planning to rebuild the viaducts and is entering the advanced stages of project development. If HOV lanes are shown to be a viable option in the McLoughlin corridor, Metro would need to advise ODOT early in the process so that the viaduct design could include a third lane option. If HOV is not an option, ODOT would continue design work to replace the two-lane viaducts.

Other schedule and decision point pressures affect this study. These include the proposed advancement of a Milwaukie Transit Center into design and construction, development of park and ride facilities, either permanent or shared use to accompany Tri-Met service increases, and the need to reconfigure transit facilities at Clackamas Town Center as a result of mall expansion.

Figure 3. Study Process



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### 4.0 WORK PROGRAM

#### 4.1 *Introduction*

This work program is designed to facilitate the selection of transportation strategies for each Corridor Segment that would in turn be combined into an overall corridor strategy. The realization that one strategy or project will not meet the transportation needs of the entire Corridor is the driving force behind this study process. A comprehensive integrated alternative mode strategy will be developed for the entire corridor based on the segment strategies. The goals of this work program are:

- To allow timely decisions to be made regarding the implementation of those strategies that are the least capital intensive early in the process, i.e. those that require little or no new capital funding. These could range from bus stop improvements to a transit center or park and ride lot.
- To develop a comprehensive package of transportation improvement strategies, an implementation plan and a funding plan for the corridor to be adopted by the Metro Council.
- To perform analysis at the appropriate level to thoroughly evaluate transportation strategies; i.e., no environmental analysis or capital costs (aside from additional buses) would be required for transit service increases, while an environmental analysis and cost estimates would be prepared for a major capital project.
- To allow individual segments to pursue the options that are most attractive to them. Corridor Teams will meet jointly to resolve any incompatible recommendations. The Policy Group will resolve any conflicts that cannot be resolved between the Corridor Teams.

#### 4.2. *Start-Up Tasks*

This group of tasks puts in place the contracts and other administrative machinery to undertake the study. In addition, the study's Policy Group would be appointed and past actions would be summarized in a *Study Background Document*. Tasks to be completed include the following:

- Refine study work plan, purpose and need, budget and schedule
- Refine public involvement plan
- Develop and execute Intergovernmental agreements
- Develop consultant scopes of work
- Procure consultant. This task includes preparation of a Request for Qualifications, advertisement of RFQ availability, review of proposals, selection, and contract negotiations. This task is started early in order for the consultant to be available to begin technical evaluation of alternatives. Special expertise will be required for transit operations, traffic engineering, civil design, ITS applications and HOV lane design and operation and other specialties tailored to specific alternatives.
- Develop *Study Background Document* that summarizes the extensive public involvement and technical analysis undertaken to date, the alternatives considered and the decisions reached regarding advancement of those alternatives. This

document will form the basis for the wide range of strategies that the public will be asked to consider.

No "one-size-fits-all" strategy is proposed for this study. Different strategies or combinations of strategies would be tailored to each individual segment. Alternatives previously considered in this Corridor by Metro, ODOT, the City of Portland, Tri-Met or community groups to date include:

- Expanded bus service
- Light Rail (not an option for further study)
- Transit options from Tri-Met's Transit Choices for Livability Study
- Commuter Rail
- Transportation Systems Management
- River Transit
- Streetcar
- High Occupancy Vehicle Lanes

Additional strategies to supplement those already studied could include:

- Intelligent Transportation Systems Applications
- Transportation Demand Management
- Pricing Strategies (High Occupancy Toll (HOT) lanes, or peak pricing)

A round of public involvement kick-off meetings will be used to distribute the *Study Background* report and to discuss the study's public involvement program, decision points and opportunities to get involved.

The next task develops evaluation criteria and screens a wide range of potential strategies down to several options. Alternative strategies will be developed for each corridor segment to be advanced for further refinement. As mentioned earlier in this work program, the Corridor Teams developing these strategies will work together to ensure that segment alternatives are compatible and complementary. The Policy Group would resolve any compatibility issues for which the Corridor Teams were not able to reach consensus.

#### 4.3 *Screening of Alternatives*

This task develops the wide range of alternatives to a level where they can be evaluated technically and be reviewed by the Corridor Teams and the public. The *Range of Alternatives and Evaluation Criteria* report will contain the analysis of the wide range of alternatives and the evaluation criteria. The Corridor Teams and the public will review the alternatives and recommend segment strategies to the Policy Group for adoption.

##### 4.3.1 *Development of Evaluation Criteria*

This task produces evaluation criteria based on purpose and need, public comment and Corridor Team reviews. Evaluation criteria are the yardstick against which alternatives are measured. In order to respond to the needs of the unique corridor segments, evaluation criteria will be developed for each segment. These criteria will be tied to the function of the segment in the transportation system and its relation to the community. For example, the function of the Portland to Milwaukie segment is much more of a high capacity trunk

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with Clackamas and Oregon City feeding in to it. Southeast Portland neighborhoods also will have unique needs that may or may not coincide with the trunk function of McLoughlin Boulevard. Different strategies will address different evaluation criteria with the anticipated outcome being a package of improvements that address multiple goals.

Development of the evaluation criteria and wide range of alternatives will include the second round of public meetings to ensure that all appropriate options are considered. The draft evaluation criteria will be drafted based on results of the Listening Posts, applicable local jurisdiction policies and comments received during the public meetings.

### *4.3.2 Develop Wide Range of Alternatives*

This task develops the alternatives to the point where they can be evaluated and a determination made by the public, Corridor Teams and Policy Group as to which alternatives should be evaluated in detail. Enough information about the alternatives will be developed so that the evaluation criteria can be applied equally to every alternative, assuring a clear and objective comparison. The alternatives developed would be grouped into three categories; service alternatives, transportation system management alternatives, and capital improvement strategies. These would also be grouped according to the corridor segment being addressed. Examples are given below.

#### Service Options

- Little to no capital component
- Increased bus service
- Re-oriented bus routes
- Additional bus modes dial-a-ride, small bus

#### TSM Options

- Mid-range capital component
- Signal prioritization
- Queue jump lanes
- ITS applications
- Pricing strategies

#### Capital Improvements

- Bus Rapid Transit/Busway
- Commuter Rail
- River Transit
- Streetcar
- Transit centers, park and rides, and transit streets
- HOV Lanes

### *4.3.3 Prepare Range of Alternatives and Evaluation Criteria Report – Decision on Segment Strategies*

This task develops and evaluates the wide range of alternatives. Each alternative will be considered based on the evaluation criteria. The report will be the subject of a third round of public meetings and Corridor Team meetings. Following incorporation of comments, the report will be forwarded to the Policy Group for a decision on which alternatives should be carried forward in each segment.

### *4.4 Development of Segment Strategies*

This group of tasks more fully develops the costs and impacts of the small group of strategies defined in the previous task. The goal of these tasks is to develop the alternatives to a degree that accurate costs can be produced, based on conceptual

engineering where appropriate. Operating and maintenance costs will be based on refined operating plans, as will ridership forecasts. Because the exact range of strategies determines to a certain degree the analysis required, these tasks will be further defined as the outcome of Task 2.3 becomes clear. Figure 3 shows the analyses required for each type of strategy.

4.4.1 *Develop Strategies*

The development of segment strategies will include several opportunities for public involvement as the alternatives are developed and evaluated. Corridor Teams and small public working groups will play a significant role in guiding this part of the process.

**Figure 3. Strategy Analyses Required**

	Service Strategies	TSM Strategies	Capital Investments
<b>Analysis</b>			
Operating Plan	◆	◆	◆
Travel Demand Forecasts	□	◆	◆
Operating and Maintenance Costs	◆	◆	◆
Conceptual Engineering	○	□	◆
Environmental Review	○	□	◆
Capital Costs	□	□	◆
Financial Analysis	◆	◆	◆
Evaluation	◆	◆	◆

◆ = required analysis      □ = optional, to be determined  
 ○ = not required

4.4.2 *Refine Strategy*

This task will refine important characteristics of each strategy with the goal of matching it closely to the applicable evaluation criteria for each segment. In some cases, no changes will be needed. This is not intended to be a highly technical task, but rather a confirmation of or adjustment to the strategies developed for each segment. This task will more fully develop programmatic elements of alternatives such as a TDM Program or pricing strategies. Public workshops will support this task.

4.4.3 *Develop Operating Plan and Capital Facilities Program*

For each strategy, define the operating components that are required to complete travel demand forecasting. These include:

- Headway
- Transit line routings
- Service Span
- Number and effect of transit priority treatments
- Park-and-Ride Lots – size, location and service

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- Station locations
- Transfer penalties

This task will be summarized in a *Detailed Transportation Strategies* technical memorandum that will form the basis of travel demand forecasting and conceptual engineering, if applicable.

### 4.4.4 *Travel Demand Forecasts*

In order to conserve budget and meet the study schedule, the minimum number of travel demand forecasts will be prepared that yield the full range of information required. These runs will combine strategies in a manner that best highlights the trade-offs between alternatives and uses forecasting resources economically. The forecasts will provide inputs to several tasks, including operating and maintenance costing, environmental review and evaluation.

### 4.4.5 *Operating and Maintenance Costs*

Based on the travel demand forecast, operations and maintenance costs will be calculated for each strategy based on appropriate unit costs including vehicle miles traveled, vehicle hours traveled, number of stations, and length of fixed guideway or other linear facility. Costs will be produced in 1999 dollars.

### 4.4.6 *Conceptual Engineering*

This task will develop conceptual engineering. This conceptual engineering will form the basis for capital costs and will determine the extent of the transportation facility's environmental impacts. Conceptual engineering would be required to evaluate a bus rapid transit project, a streetcar extension, or an HOV lane. It may be needed for some TSM facilities as well, such as queue-jump lanes and signals. This will be primarily a consultant task.

### 4.4.7 *Environmental Screening*

This task will identify significant environmental impacts that would occur for the strategies. This is a reconnaissance-level analysis, designed to identify those impacts that would have the greatest effect in terms of cost and potential mitigation. Due to the tremendous amount of environmental documentation developed for the South Corridor as part of the South/North Corridor Project DEIS, this task will rely primarily on existing data, with a minimum of new data collection anticipated. Factors to be analyzed include:

- Traffic Impacts
- Land Use Impacts
- Neighborhood Impacts
- Noise and Vibration Impacts
- Ecosystems Impacts
- Visual and Aesthetic Impacts
- Historic Resources and Parklands

#### 4.4.8 *Capital Cost Estimates.*

These will be prepared based on the conceptual engineering in the case of major capital investment projects or some TSM projects. For Service Strategies, this will consist of estimating the cost of additional vehicles. Appropriate local unit costs will be used if possible. If not, national averages will be used. The environmental review may result in some added costs for environmental mitigation if such measures are easily identified.

#### 4.4.9 *Financial Analysis*

This analysis combines the results of the capital costs and operating and maintenance costs and identifies the revenue needs to implement the strategy. Potential funding sources and shortfalls will be identified. Because these strategies could draw from many sources, both transit and highway, this analysis is critical to determine the sources and likelihood of project funding for these strategies.

#### 4.4.10 *Evaluation*

This section utilizes all of the analysis from the previous seven tasks and prepares a comparison of the costs and benefits of each of the strategies, addressing the evaluation criteria for each project segment.

#### 4.4.11 *Prepare Evaluation of Transportation Strategies Document.*

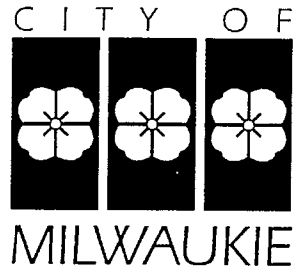
This document summarizes the evaluation of the strategies. The Corridor Teams will combine the best performing strategies into improvement packages to be selected by the Policy Group, JPACT, and Metro Council for further development or immediate implementation. There will be an extensive public involvement process during this period, with public comments being included as an appendix to the evaluation document.

#### 4.5 *Selection of Preferred Transportation Strategies*

The Policy Group will act on the *Evaluation of Transportation Strategies Document* and make a recommendation to JPACT and the Metro Council. This recommendation will include:

- A comprehensive package of transportation improvement strategies for the South Corridor
- An Implementation Plan for the strategies
- A Funding Plan

The Policy Group's recommendation will be forwarded to TPAC, JPACT and the Metro Council for adoption.



*June 25, 1999*

*Comfort Mechanical  
17936 SE Division  
Portland OR 97236*

*To whom it may concern:*

*As outlined in the attached memo from the State of Oregon, Department of Consumer and Business Services, effective July 1, 1999 the State Surcharge fee for all permits (i.e. structural, mechanical, plumbing, electrical, manufactured dwelling placement, etc.) will increase from 5% (five percent) to 7% (seven percent) statewide.*

*New permit applications, reflecting the increase, are in the printing process and will be available within a few weeks. In the mean time, effective July 1, 1999, please adjust all state surcharge fees on existing permit application forms to reflect this increase.*

*If you have any questions, please feel free to contact me at (503) 786-7613.*

*Sincerely,*

*Bonnie Lanz  
Permit Specialist*

*Enc:*

Date 7/7/99

I wish to address City Council on Agenda Item # OLSEN ST

Name BETTY R. STEWART

Organization \_\_\_\_\_

Address 3328 SE OLSEN ST

Phone 503 654-7367

Speaking in Support       Speaking in Opposition  
 Raising Questions       Providing Information

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

I wish to address City Council on Agenda Item # \_\_\_\_\_

Name Jeanne A. Lee

Organization \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Speaking in Support       Speaking in Opposition  
 Raising Questions       Providing Information

Comments against Flag lots on Olsen Street - we are congested quite enough since the sidewalks

167

Date \_\_\_\_\_

I wish to address City Council on Agenda Item # Pub Hearing

Name BILL HURP

Organization \_\_\_\_\_

Address 2626 W 26th ST

Phone 654-2511

Speaking in Support       Speaking in Opposition  
 Raising Questions       Providing Information

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

167

Date 7/6/99

I wish to address City Council on Agenda Item # Appeal

Name Michelle Robert

Organization ASC

Address 13709 SE Law

Phone 653 2823

Speaking in Support       Speaking in Opposition  
 Raising Questions       Providing Information

Comments /  
\_\_\_\_\_  
\_\_\_\_\_

164

Date \_\_\_\_\_

I wish to address City Council on Agenda Item # Sign lots on Olsen

Name SARAH NEWSON

Organization \_\_\_\_\_

Address 3337 SE Olsen

Phone 653-1718

Speaking in Support  
 ~~Speaking in Opposition~~  
 Raising Questions       Providing Information

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

174

Date 7-6-99

I wish to address City Council on Agenda Item # IV

Name Darlene Walsh

Organization Ardenwald AJC

Address 3108 SE Kelvin St.

Phone 786-2076

Speaking in Support       Speaking in Opposition  
 Raising Questions       Providing Information

Comments \_\_\_\_\_

Present awards to :

Jo Ann Herrisal

Charles Richard

Michelle Gregory

172

Date 7-6

I wish to address City Council on Agenda Item # MLP 9806/NCU-9804

Name Philip Nelson

Organization Ardenwald NDA

Address 3739 SE OLSEN

Phone 654-8783

Speaking in Support       ~~Speaking in Opposition~~  
 Raising Questions       Providing Information

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*boundary ask staff*

Date 7/6/99

I wish to address City Council on Agenda Item # V A

Name Darlene Walsh

Organization AJC NDA

Address 3108 SE Kelvin St.

Phone 786-2076

Speaking in Support <sup>- of the Appeal</sup>       Speaking in Opposition  
 Raising Questions       Providing Information

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_