

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 20, 1998**

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

Larry Lancaster  
Mary King

Jeff Marshall  
Rob Kappa

Also present:

Dan Bartlett,  
City Manager  
Charlene Richards,  
Assistant City Manager  
Tim Ramis,  
City Attorney

Susan Heiser,  
Planning Director  
Jim Brink,  
Public Works Director  
Janet Wright,  
Assistant Planner  
Paul Roeger,  
Civil Engineer

Councilor Marshall arrived at approximately 6:20 p.m.

The Mayor and Council interviewed Stephen Loaiza for a position on the Riverfront Board.

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

**Mayor Tomei** read three proclamations:

1. *Veterans Remembrance Celebration Day*, November 6, 1998;
2. *Life Light 1998*, December 3, 1998; and
3. *Red Ribbon Week*, October 23 – 31, 1998.

**CONSENT AGENDA**

It was moved by Councilor King and seconded by Councilor Kappa to move agenda items VI.B – Acceptance of Oregon Association Chiefs of Police Traffic Safety Section Grant – Resolution, and VI.D – Notice of Change in Regular Meeting Date and Location – Resolution to Consent. Motion passed unanimously among the members present.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to adopt the Consent Agenda that consisted of the following:

1. City Council minutes of October 5 and 6, 1998;
2. Resolution No. 30-1998: A Resolution of the City of Milwaukie, Oregon, Accepting Traffic Safety Section (TSS) Grant; and
3. Resolution No. 31-1998: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the First Regular Session of November Will Be Held on November 5, 1998, at Lewelling School.

Motion passed unanimously among the members present.

#### AUDIENCE PARTICIPATION

**Jim Bernard**, Milwaukie Downtown Development Association (MDDA) President, 7615 SE 20th, Portland. He addressed accusations regarding the tree removal portion of the downtown tree planting program. He had looked for an immediate short-term solution to the project's needs and contracted a certain company. Local business owner John Hackett suggested others from whom Bernard could solicit bids for the balance of the project. He had indeed found a better price. He was concerned that there were people in the community who could be negative about something like the tree planting project. The MDDA was still seeking volunteers and donations for the program kick-off event in November.

**Mayor Tomei** reaffirmed the Council's support for the tree planting program and expressed delight that Bernard was taking on the task.

**Darlene Walsh**, Services to Children and Families, pointed out there were many needs in the community, and she issued a challenge to the Milwaukie City Council to let the community hear them talk more about these issues.

**Courtney Allen**, Foster Home Recruitment/Retention Specialist, said the organization tries to find foster homes in the children's neighborhoods to maintain some sense of belonging. She explained that the agency, whose mission it is to provide safe and permanent families, investigates child abuse allegations and works to help those families that have issues.

Historic Milwaukie Neighborhood Chairs **Sharon Phillips**, 11028 SE 28<sup>th</sup> Avenue, and **Ed Zumwalt**, 10888 SE 29<sup>th</sup> Avenue. **Phillips** discussed the Neighborhood's use of the grant funds: \$4,000 was donated to the Milwaukie Pool and \$800 went toward the National Night Out Neighborhood event. In addition to the grant funds, sixty local merchants donated door prizes to the neighborhood event. Volunteer hours were used to match the funding.

**Zumwalt** reviewed Historic Milwaukie's draft Vision Goals that included: property maintenance; economic development and support of downtown revitalization efforts; maintain neighborhood identity and character; transportation, traffic, and infrastructure; safety and crime prevention; improved communication between neighborhood and other city leadership; parks, recreation, and environmental protection; land use zoning; education and other services for all age groups.

**Councilor Kappa** asked if there would be an actual vision statement, and **Zumwalt** indicated that would be part of the continuing process.

**Carl Jacob**, 10500 SE 44<sup>th</sup> Avenue, Milwaukie. He suggested using consultant to help the City acquire federal and state funding assistance instead of the United States sending money to foreign governments.

**PUBLIC HEARING – Appeal of Planning Commission Decision – S-98-01**

**Mayor Tomei** called the public hearing on the appeal of the Planning Commission's approval of a 4-lot subdivision located at 2723 SE Malcolm Street to order at 6:45 p.m. She announced that it was a de novo hearing, and all persons would be recognized to speak.

The purpose of this hearing was to consider the appeal of the Milwaukie Planning Commission's approval of application S-98-01. The appellant challenged the Planning Commission's approval and articulated several reasons for the action. The applicable development standards to be considered are Zoning Ordinance, Section 301, R-7 – Residential, and Section 1011.3 Minor Quasi-Judicial review, and the Subdivision Ordinance, Title 17 of the City of Milwaukie Municipal Code.

**Mayor Tomei** reviewed the order of business. The appellant has the burden of proving that the Planning Commission erred in its September 19, 1998, decision in the particulars they allege. The City is in receipt of the appeal which identifies a number of reasons for the appeal.

Conflicts of Interest and Site Visits:

**Councilor Kappa** stepped down from the decision-making process because of statements made by him or on his behalf that might give the impression of bias.

**Councilor King** had visited the site and observed the large grove of trees and noticed the location and placement of the existing building. She had one conversation with Mr. & Mrs. Rasmussen and one with Mr. & Mrs. Roberts in which they expressed their concerns with the influence of the lot and development itself upon neighborhood livability in addition to a deep concern with the stand of trees and the habitat it provides.

**Councilor Marshall** visited the site and made the same observations as King. Mr. & Mrs. Roberts called him to inform him that they intended to appeal the Planning Commission action at which time he ended the conversation.

**Mayor Tomei** visited the site and saw what King had described. She did not discuss the issue with anyone.

**Councilor King** added that she left the room when there was a discussion of this issue at Ardenwald Neighborhood District Association meetings.

**Ramis** said if anyone wished to make a rebuttal, there will be an opportunity to do so during the hearing.

Jurisdictional Issues: None.

Staff Presentation: **Wright** presented the staff report with the recommendation that the City Council support the Planning Commission's decision and adopt the findings in the May 19, 1998, staff report for the subdivision S-98-01. She provided supplementary information that included a correction to the previous traffic count data.

The Henderson's submitted a 4-lot subdivision application on March 26, 1998, and it was considered complete on April 28, 1998. The public hearing was opened on May 26, 1998, and continued to a date uncertain to allow for further analysis of the public works improvements required for the subdivision. These improvements were quite extensive, and the applicant felt it might be in their best interest to develop a fifth lot. However, after considering that and attending a pre-application meeting, the applicant decided to continue the process with the 4-lot subdivision.

The Planning Commission held its public hearing on September 9, 1998, and approved the subdivision and adopted the findings and conditions in the staff report based on public input and the staff comments. The appeal was filed on September 17, 1998. The subdivision application was noticed and signed according to state land use laws and City zoning ordinance requirements.

**Wright** provided a general vicinity map of the site that showed existing flaglots. The proposed subdivision was not out of character with the surrounding neighborhood and usage. The applicant determined the best access route to the two lots in the back was through the middle of the property. Other alternative accesses were not found to be suitable. The Public Works Department will require a hammerhead turnaround and barricade. The infrastructure improvements along the front of the property would be those required in any subdivision.

The applicant also provided a vegetation plan that included a vegetative hedge along the railroad side of the property. The applicant also agreed as a condition of approval to provide City staff with a tree plan that would lessen the impacts of tree removal on the site. She cautioned, however, the City did not have the authority to enforce that on private property.

The supplemental staff report dated October 16, 1998, provided additional information on the issues raised by the appellants and corrections to a staff report regarding neighborhood district boundaries and numerical designations. In addition, there was information on Section 17.32.040 of the subdivision ordinance that addressed standards relating to access. The traffic counts were also amended to indicate 331 vehicles per day.

**Councilor Lancaster** raised the issue of enforceability of the tree preservation plan and asked Wright if she believed the applicant would deviate from it.

**Wright** did not believe the applicant would do so. The applicant submits a plan before construction begins indicating those trees which will have to be removed.

**Councilor King** said there was reference to eleven trees and asked if all of the Douglas fir would remain. She was concerned because those were a main habitat.

**Heiser** pointed out the trees on lots three and four were fruit trees.

**Wright** said the developer would submit a tree plan that minimized the impacts to the trees at the site. At this point, there is no clear location of the housing envelope. The City cannot dictate to the developer because it lacks the enforcement powers. The developer will, however, have to do something to access the back area.

**Councilor King** said it looked from the plan that the road would go right through the grove of fir trees.

**Wright** explained the developer has not submitted the plan because of the pending appeal.

**Mayor Tomei** said the preservation plan would show how the trees would be preserved and protected. So the implication was that all would be protected, but she heard Wright say as many as possible, but not all, would be preserved.

**Heiser** noted the fir trees were outside the 30 foot access area. There is a potential to build a driveway without removing those trees, although some may be impacted by grading and paving. That is the protection issue staff wishes to see addressed during construction. The only concern for tree removal would be on lot 2 depending on the location of the garage. It was understood by the

Planning Commission, staff, and the applicant that the maximum number of trees would remain, but that was for the applicant and staff to determine based on house style.

Correspondence: None.

Appellant Testimony: **Ken Roberts**, 13709 SE Laurie, Oak Grove; property owner of 2924 SE Malcolm. He protested the unfortunate process in which the resources of the Community Development staff are at the disposal of the applicant, but the appellant does not get equal time. The applicant had the use of the 120-day clock and the ability to start and stop it. The appeal case had to be created in less than two weeks. It is time to put an end to the intentional destruction of the neighborhood by the Community Development staff. The previous Council was recalled because of attacks on Milwaukie neighborhoods in the name of affordable housing, redevelopment, and protection of the region's urban growth boundary.

The third and fourth generation residents of the neighborhood have had enough. Now is the time and place to change the way things have been done. The Bonnie View acres area is and has always been differentiated by large 15,000 square foot lots that define the neighborhood character. The older housing mix and the large lots are why many have chosen to stay and invest in the neighborhood. He showed a series of slides many of which included craftsman-style bungalows that have been maintained and remodeled. Flaglots, he pointed out, were not the neighborhood character.

Any intentional change to this character was a violation of livability and a breach of the unwritten contract that Ardenwald is and always should be a large lot neighborhood. The Milwaukie Comprehensive Plan is supposed to protect the character and livability of existing neighborhoods. The proposed development does not enhance neighborhood character and livability. The applicant has not proven that the property will not be profitable or used to its greatest potential without cutting down trees and building three new houses. He suggested Henderson's return on investment would be satisfactory if the lot were divided in two and the existing house rehabilitated. For a change, make neighborhood protection, not development, a priority. **Roberts** urged the City Council to grant the appeal.

Other Testimony in Support of the Appeal:

**Darlene Walsh**, 3108 SE Kelvin, Ardenwald Neighborhood District Association Chair. She purchased her property with the intention of staying there because of the large lots throughout the neighborhood. The City has asked the citizens to gather together to volunteer their time and effort in promoting their neighborhoods. She felt that was what was taking place and expressed her frustration with the continual flaglot development appeals. Families are being

asked to pay over \$200 for the privilege of talking to the City Council when they wish to appeal. Wright's staff report contained information she did not understand, and it did not support neighborhood values. She recommended upholding of the appeal based on City policies and practices. The City needs a more human and personal approach rather than citing a state statute or city ordinance.

**Walsh** referred to staff report page 3 in which it was indicated neighborhood organizations were to be advisory to the City Council and the Planning Commission and submit requests for funding. If that is all the neighborhoods do, then even fewer people will be involved in the future. Staff report page 4 states the Ardenwald NDA had not done its visioning project. She wished to clarify that staff had not been available last spring to begin the process and advised the NDA to wait. Ardenwald has been working for years to stop flaglot development. Malcolm Street has been ravaged by flaglots, and they take away the neighborhood character. People in the Ardenwald neighborhood cannot afford to move, and the City and Community Development staff are making decisions that are changing the established character.

**Walsh** noted that Public Works would require sidewalks along all the frontage. The other streets do not have sidewalks. She was also concerned with the safety factor. Up to now, not so much as a piece of gravel has been put on her street, and there was no money in the City budget for years to come to repair the streets. The chronology provided by staff indicated the application was discussed at the Ardenwald NDA meeting, and she distinctly remembered the group did not discuss the development. Apparently, the one-member Land Use Committee did not share the referral. It was a mistake made by a group of volunteers. She challenged the City Council to think and do what was right for families in the neighborhood by consider the neighborhood character and denying the application.

**Alan Jones**, 2907 SE Malcolm Street. He expressed livability concerns. The neighborhood remained unchanged until flaglots were approved. Generations have chosen to live in the area because of the neighborhood livability and character. When that neighborhood was laid out, the lots were designed to be 240 feet deep with the streets 480 feet apart. City zoning calls for 7,000 square foot lots, and parcels can be subdivided as long as that minimum square footage is maintained. He saw that as a real problem in the lower Ardenwald area because there are not enough streets. Traffic will be doubled with the addition of these flaglots. Malcolm, he added, was a dead end street. There are no parks in the lower Ardenwald area, and he was concerned with increased traffic and the safety of children playing in the streets. Noise and visibility were other concerns. No one on Malcolm wants another flaglot – even those who currently live on flaglots. He asserted the action was strictly for profit, and, if Council denied the appeal, it would send the message that anyone could tear apart a neighborhood to make money despite what the people already living there want.

**Michelle Roberts**, 13709 SE Laurie Avenue, Oak Grove; property owner 2924 SE Malcolm. She urged the City Council to consider all things, not just the traditional planning methods and what staff selects to bring forward. The neighbors are at a disadvantage by the applicant and staff management, or mismanagement, of the time that is legally allowed to research and resolve these issues. The actions are governed by strict time management policies, but people such as herself cannot be expected to know or monitor these timelines so all affected parties can participate. She expected staff to be aware of these timelines. The staff's prompting of the applicant should have happened in a fashion that the appellants could have prepared their case.

The basis of the appeal is the City's Comprehensive Plan relating to preservation, protection, and enhancement. The Community Development staff did its homework on behalf of the applicant. She was shocked by the street's being rated as highly as it was since Malcolm has no roadbed, sidewalks, or storm drains. The appellants had hoped to hire an independent consultant to advise them on the street quality, but time constraints did not allow for this. She was also surprised to find out that the western Ardenwald neighborhood was the focus of the County's rehabilitation efforts, and she asked what that meant. The character and livability of the neighborhood cannot be determined by those who do not live there. She was insulted to be told by staff or anyone else that the majority of those living there were not sufficiently intelligent to make that determination.

Malcolm is a steep, dead-end street with limited visibility. The isolated nature of those properties at the bottom of the street and proximity to the railroad track make them unique. They could be considered individual micro-eco systems. The best judge of quality of life at the bottom of Malcolm Street should be Scott and Darlene Rasmussen and not City staff.

The grove of trees is a unique and irreplaceable resource. The trees cannot be replaced, and they should be protected from damage by excavation or other activity. The trees add a value that cannot be determined monetarily. She recommended the applicant upgrade the existing house and build one new one to preserve the character.

In response to safety and traffic concerns, staff recommended improvements to the frontage of the property. This may be a standard upgrade in most development, but it is not warranted in this situation. This is the only property on Malcolm that would have this type of improvement and would not contribute to connectivity in the area. Money should be directed to other mitigating efforts, particularly saving the trees.

For the record, **Roberts** indicated there was some confusion about the Ardenwald NDA official stand on the development proposal. An opinion was submitted in May and reviewed by the Land Use Committee. A decision was made to rescind the original approval and submit a statement in opposition. First, the Planning Department said that could not be done, and then staff said it did not matter what the Association thought. She was offended by staff's telling residents it did not really matter after the NDA made the effort to participate and provide input.

**Roberts** discussed the October 17 Neighborhood Design Workshop for which she received a special invitation because her property was identified as being vacant or underutilized. She and others found the letter insulting. She saw this workshop as being about infilling neighborhoods. People do not want to infill their neighborhoods, and flaglots are the very last method anyone would select. She found the session manipulative. There was too little time for discussion and presentation. People never have and never will want to infill the neighborhood, and that was what led to the recall and recent City code amendment.

**Roberts** felt the \$240 filing fee to appeal a land use decision was discriminatory, and people should not have to pay this amount for the opportunity to protect their investment. Maggie Collins had determined that if an appeal was made with the support of the NDA that fees would be waived or reduced. That process has been used before, but in this case, people were told that was not possible and there was no record of Collins' decision. She asked that the appellant be reimbursed for the filing fee. The neighborhood's infrastructure is limited. The roads are awful, and Ardenwald School has reached its limits. The City must consider the already overloaded system.

Residents were told the City would be sued if it did not allow the development. Eventually, the City will be sued because it does allow it. The City continues to allow the degradation of her investment and quality of life. Changes are happening too late. The City Council should take a serious look at the process and make sure that all aspects of the community are being served. If the development does occur, then the entire base of Malcolm needs to be improved first at no expense to the appellant. Rasmussen should not be made to suffer any further. She urged the City Council to uphold the appeal.

**Sherri Campbell**, 3803 SE Filbert. She projected what development would bring in the way of children, capacity, cars, noise, and infrastructure demands. She would never sell her 85 x 240 lot for a flaglot. It is sad that developers buy cheap property and then put an end the neighborhood characteristics. The neighborhood is against flaglots and subdivisions in their backyards.

**Kevin Enslow**, 2734 SE Malcolm. He recently purchased his property because of the quaintness of the area. The large lots and big trees made it attractive for him to return and raise his family. This type of development will draw down his property value and make his home difficult to sell. He does live on a flaglot now, but it is actually two lots. The streets are not safe, and adding more cars without improvements should not happen. It is not safe for children. He supported preservation of the current neighborhood.

**Scott Rasmussen**, 2710 SE Malcolm, appellant. The people who spoke care about livability and are speaking out for their beliefs. The amount of water coming down Malcolm from several directions is phenomenal, and he keeps sandbags on hand at all times. The City said it would construct catchbasins and tie them into the Roswell pond, but he was recently told that insufficient research had been done. The railroad had asked for so much money for the tie-in to the pond that the City had backed off. He felt the City should pursue the plan. The erosion coming down Malcolm will eventually clog the catchbasin and likely flood his property. If there is more and more development, something needs to be done. Livability is the real issue, and that was why he purchased his property twenty years ago.

Testimony Opposed to the Appeal:

**Ken Sandblast**, Land Solutions, PO Box 38, 9140 SE St. Helens, Clackamas, OR 97015. His company has been working with the applicant for about 45 days, and he wished to clarify some issues brought forth. He addressed the comments regarding access to the back lots. The minimum public street right-of-way would be 39 feet with sidewalks, curbs, and gutters. The other opportunity would bisect the site. Both public street improvements would have problems by impacting the trees. He understood the applicant wished to minimize the impact to the trees, and he believed the proposed flaglot configuration did that best. With the conditions of approval imposed by the Planning Commission, the pavement will be 20 feet wide to the back of the site. He believed there would be minimal impact to the trees with this design. He felt the flaglot was justified in this case because minimization of tree impacts is a critical issue. He supported the staff recommendation based on the criteria applied by the Planning Commission. He referred to condition of approval #8 on staff report page 99. It states the applicant shall provide a tree preservation plan for the evergreens on the site.

**Sandblast** noted the City Council had heard compelling testimony regarding the character and livability of the neighborhood. This subdivision application, however, is held to the standards and criteria of the subdivision ordinance. The subdivision meets those standards, and the applicant is fully prepared to meet conditions #1 - #7. He understood there was not enforcement mechanism for preserving trees, so at this point in time, the applicant would provide the plan. The language of the condition is strong since there is no enforcement code.

**Councilor Marshall** asked for clarification if the conditions would be followed.

**Sandblast** indicated the applicant would comply. The original application was reduced from a 5-lot to a 4-lot subdivision. The lots are well above the allowable density of the R-7 zone, and the applicant does not believe they are out of character.

**Sandblast** also believed that public input meant something, and these public hearings provide that opportunity. He addressed frontage improvements. These were imposed by staff, and if the sidewalk improvement money would be better spent on other mitigation, that would be staff's decision.

**Councilor King** said residents are concerned that the new houses will not be in the same style as the existing houses. She asked if the applicant had made any decision on the style of homes.

**Sandblast** said the houses would be single-family, but he has had no discussion with his client about the style.

Neutral Testimony: None

Staff Report and Recommendation: **Heiser** pointed out a chronology included in the staff report and said the delays were in no way intentional. Anyone with the intention of appealing the application has had from May 26 to the present to do so. The applicant chose to delay the proposal, and the 120-day time clock stopped. The City Council has until October 28 to make its decision and still be within the deadline.

Staff based its recommendation on the adopted City codes and intends to do so until amendments are made. The City is working with the neighborhoods to develop new codes to limit flaglots, and the proposal is scheduled for City Council hearing on November 17. The Planning Commission heard the proposal on October 13, but no one attended to speak either in support or opposition to the amendments. At this time, staff is obligated to look at and make recommendations based only on existing codes.

**Councilor Lancaster** was disturbed there was a perception that citizens voices were not heard, and their concerns do not mean anything. Speaking for himself, and likely the rest of the Council, he said that perception could not be more wrong. The visioning process speaks directly to Council's desire to get exactly what people think is appropriate for their neighborhoods. Council is working hard to change land use ordinances and put an urban forestry program in place. The political process takes a lot of time, and the Council is working to fast-track the process. He urged citizens not to maintain that perception, because the voice of the people means a lot to the City Council.

Rebuttal Testimony – Appellant: **Rasmussen** said the first time he met Henderson, he was counting the trees on the property and getting the value of them in the downed position. He was confident those trees would come down if Henderson could make a dollar. That is a crime. When he asked if the applicant would provide house design information, he was told the plans were not that advanced.

**M. Roberts** understood the City Council was working on these changes, but she also felt the neighborhood's anger was justified. Every other driveway is a flaglot. She was frustrated with staff and the process set up by Maggie Collins. The practices are such that they streamline the developer's process, and she felt some staff time should be directed to helping the neighbors research their needs and questions.

**Mayor Tomei** pointed out that Collins had been instrumental in setting up the Land Use Committees, and that is an effective way of getting neighborhoods involved.

**M. Roberts** said she was involved with the Land Use Coalition, and that was not Collins' idea.

**Bartlett** added that Chapter 17.20 was last revised in March 1987. Collins did not work for the City of Milwaukie at that time. He did not feel the codes should be personalized. Staff applies the codes fairly and equally based on state land use laws.

Closure of Public Hearing: **Mayor Tomei** closed the public hearing at 8:15 p.m.

Discussion and Decision:

**Mayor Tomei** sympathized with the neighborhood. The City Council has been working for months to make these flaglot changes, and all of it has been set in motion. The City Council agrees with what is being said about protecting the character of the neighborhoods. As the decision making body, the Council is bound by the laws as they now stand, not what they may be in the future.

**Councilor Marshall** indicated his biggest disappointment was that the appellant did not directly address the criteria. He understood why, without any kind of a variance request, and the fact that the partition met all the criteria that it was hard to rebut. No one dislikes flaglots more than he, and he has worked to change neighborhood impacts. This Council is working to change zoning and subdivision ordinances in the community to help protect the unique quality of life and existing neighborhood characteristics. He apologized to the appellants that those changes did not come quickly enough. He agreed with Mayor Tomei that the Council was bound by its current Zoning Ordinances.

**Councilor King** said this was a very hard decision for her because she loves the City. This clearly says that citizens need to be very aware of their rights. The City needs to review its zoning regulations and develop design standards. The next time this type of application comes forward, the City Council will have something in place. She urged people to attend their neighborhood meetings and get involved in making changes.

**Councilor Lancaster** added that he made a list of each issue people brought forth in their testimonies, and the City Council will look for ways to address each of these.

**Councilor King** spoke to the property owner and expressed the hope that he understood that a quality development could take place. She would also appreciate the Council message be conveyed that it hoped the trees would be left and the houses of high quality construction.

**Mayor Tomei** responded to those living in the neighborhoods for generations. It was her intent to protect the character of the neighborhoods and to make them livable for the future. The Council is doing what it can, but it cannot meet some of the requests at this hearing. Changes are coming, and the City Council needs support and input. She did not want to hear that there was a hearing about flaglot amendments and there was no public in attendance.

**It was moved by Mayor Tomei and seconded by Councilor Lancaster to deny the appeal and approve the conditions for S-98-01 including the findings of the Planning Commission. Motion passed 4 – 0 – 1 with the following vote: Mayor Tomei, Councilor King, Councilor Lancaster, and Councilor Marshall aye; no nays; and Councilor Kappa abstained from voting.**

## **OTHER BUSINESS**

### **TCI Milwaukie Cable Franchise Extension – Ordinance**

**Richards** presented the staff report. There was one revision to the original staff report and ordinance changing the extension from three to six months. TCI has a new member on its negotiating team, and after today's discussion she felt it should be extended further to provide more time for community input. The proposed ordinance would allow the City Manager to enter into an agreement that extends the time period to June 2, 1999.

**Councilor Lancaster** asked which party wanted the additional delay.

**Richards** said it was a mutual decision and discussed the upcoming meeting dates with TCI. Negotiations may move more quickly than this timeline would indicate.

**Councilor Lancaster** asked, since AT&T intends to purchase TCI, if the City was putting itself at a strategic disadvantage by extending the agreement by almost a full year.

**Richards** said the City was talking to the right people, but the it has no control over who TCI sends to negotiate. She did not believe there was a strategic concern and said Federal law allows this type of extension unless there is a blatant problem. TCI is keeping its commitment to move forward.

**Councilor King** said progress is being made and this extension does not mean that negotiations have to take that long.

**Richards** said cable television negotiations have applicable federal laws. At this time, TCI is abiding by its agreement, and the City does not have a basis to say TCI is out of time.

**Councilor Kappa** asked if the items discussed in executive session were still under executive session.

**Richards** said that was correct. Staff will come back when it believes it has something substantial to report and to outline a public involvement process.

**It was moved by Councilor Marshall and seconded by Councilor Kappa to read the ordinance authorizing the City Manager to enter into an agreement with TCI Cablevision of Georgia, Inc., to extend the current non-exclusive franchise agreement 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 King and seconded by Councilor Kappa to read the ordinance authorizing the City Manager to enter into an agreement with TCI Cablevision of Georgia, Inc., to extend the current non-exclusive franchise agreement 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 Kappa and seconded by Councilor King to adopt the ordinance authorizing the City Manager to enter into an agreement with TCI Cablevision of Georgia, Inc., to extend the current non-exclusive franchise agreement. Motion passed unanimously.**

**ORDINANCE NO. 1847:**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND TCI CABLEVISION OF GEORGIA, INC., TO EXTEND THE CURRENT NON-EXCLUSIVE FRANCHISE AGREEMENT.**

**Waverly Drive Sanitary Sewer Project**

**Roeger** presented the staff report in which staff asked for approval to prepare a preliminary engineering report as the first step of the Local Improvement District (LID) process. The LID includes five existing lots with four houses located on Waverly Drive in a mostly-sewered area. The City is currently designing a waterline in the area, and staff believes this is a good time to make the sewer line improvement. The project was identified in the Capital Improvement Plan (CIP), but no specific year was indicated. The property owners will pay 75% and the City 25%. Each property will pay an estimated total of \$17,236. The project will be funded by the Sewer Fund. The pertinent issue is the simultaneous construction of both sewer and water lines to cause as little disruption as possible. Meetings will continue with the affected homeowners.

**Councilor Lancaster** noted the City's share was estimated at about \$23,000, and he asked if this was budgeted.

**Brink** said it was not, but he believed the Sewer Fund had sufficient funds. Other planned projects would not be jeopardized.

**Councilor Marshall** understood the neighbors supported the project.

**Roeger** said the neighbors not only supported the project, but it was also their idea.

**Councilor Kappa** asked when the presentation would be made to the neighbors with the actual costs.

**Roeger** said the engineering report would have costs based on more information.

**It was moved by Councilor Kappa and seconded by Councilor King to adopt the resolution directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements through the formation of a local improvement district in the area of SE Waverly Drive east of SE 17<sup>th</sup> Avenue. Motion passed unanimously.**

**RESOLUTION NO. 32-1998:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING STAFF TO HAVE PREPARED A PRELIMINARY ENGINEERING REPORT REGARDING THE FEASIBILITY OF PROVIDING SANITARY SEWER IMPROVEMENTS THROUGH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT IN THE AREA OF SE WAVERLY DRIVE EAST OF SE 17<sup>TH</sup> AVENUE.**

**Other Information and Comments**

**Councilor Kappa** commented on the difficulty of the land use appeal decision and pointed out the need for the community to move ahead.

**Councilor King** asked if there was information on the Scott Park mitigation plan. **Bartlett** said clearly the South/North Light Rail Project has accepted everything in the Council's September 25, 1998, letter, and was willing to negotiate on Milwaukie's behalf.

**Mayor Tomei** noted that Sylvia Milne, Milwaukie Together, had provided Red Ribbon Week t-shirts and information relating to the annual event. **Councilor Kappa** discussed Anthony Dean's role.

**Bartlett** noted the upcoming Clackamas Children's Summit and how it related to Enterprise Zone. He felt it was important for Milwaukie to be there to discuss child care issues.

**Councilor Kappa** suggested back-to-back Council meetings in December.

**ADJOURNMENT**

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

**Mayor Tomei** adjourned the regular session at 9:20 p.m.

*Pat DuVal*

---

Pat DuVal, Recorder



October 14, 1998

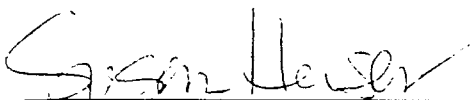
File No.: NR 98-05

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission at a public hearing on October 13, 1998 with regard to an application by the City of Milwaukie for a Natural Resource Overlay review to remove an illegal berm and fill from property located at and adjoining 12929 SE Rusk Road. The site is located in the Residential Zone R-3.

The Planning Commission approved the application at the public hearing based upon findings and conditions of approval included in the staff report and upon public testimony given at the hearing. The officially adopted findings and conditions of approval are included with this notice.

Copies of the staff report and other written materials are available on request. This action of the Milwaukie Planning Commission may be appealed to the Milwaukie City Council. An appeal of the decision must be filed within 15 days of the date of this notice. City Planning staff (786-7654) can provide information regarding forms, fees, and the appeal process. This decision will be final at 5:00 p.m. on October 28, 1998 if no appeal is filed.

  
 Susan Heiser  
 Planning Commission Secretary

- cc Jim Brink, Public Works Director
- Dan Bartlett, City Manager
- Ruthanne Bennett, Public Works
- Ronald & Kathleen Steinmann, property owners
- Interested Persons
- File NR 98-01

## FINDINGS OF APPROVAL FOR NR-98-05

### SUMMARY FINDINGS:

1. **The proposal complies with Comprehensive Plan objectives and policies for protection of Natural Resource Areas.**
2. **The proposal complies with Natural Resources Overlay Sec. 322.7.B Development Standards.**
3. **The proposal complies with Milwaukie Municipal Code Chapter 18.04 Flood Hazard Areas and Milwaukie Municipal Code Chapter 16.28 Erosion Control.**
4. **The proposal is not subject to regulatory jurisdiction of Oregon Division of State Lands or the US Army Corps of Engineers.**

### DETAILED FINDINGS

#### Compliance With Zoning Ordinance Sec 322 Natural Resource Overlay

Sec. 322.2 of the NR code identifies and defines three resources subject to natural resource regulation: riparian, wetland, and habitat areas. A summary of applicable designations follows. The following italic paragraphs are excerpted from the Zoning Ordinance. Findings follow in **bold text**.

1. *"322.2 A. Riparian areas—The NR Overlay Zone will be assigned to identified natural resource sites fronting water bodies, including rivers, creeks, lakes, and ponds. The boundary of this overlay zone shall be the same as the 100-Year Floodplain as established by FEMA, except for that area fronting the Willamette River from Johnson Creek to the south end of the sewage treatment plant site, where the boundary shall be 25 feet inland (measured horizontally) from the mean high water line as established by the Oregon Division of State Lands."*

**The entire lot is within the 100 yr. Flood boundary as shown on the Flood Insurance Rate Map Community Panel 41588 0036A. The entire lot is therefore is designated "riparian area".**

2. *"322.2 B Wetland areas—The NR Overlay Zone will be assigned to identified natural resource sites containing wetlands. The specific boundary of this overlay zone has not been identified by the Natural Resources Inventory and therefore shall generally follow identified tax lot boundaries until such time as specific on-site studies, normally as part of a development request, can more clearly delineate the wetland location."*

**The historical development of the yard minimizes concern about impacts to wetland resources. Any pre-existing wetland functions have been seriously degraded or displaced by development. Furthermore, activities associated with removal are to be limited to the minimum necessary to restore the site to recent pre-fill conditions and will not encroach beyond the top of the stream bank; no in-stream work is to be conducted.**

**The existence of wetland features such as soils and flora has not been determined although wetland vegetation and remnant wetland soils may exist. It is important to note that the site has been substantially developed for many years. Aerial photographs show the entire rear yard, from the creek to the house, has been maintained as lawn since at least 1977. (Source 1977, 1987 aerial photographs)**

- 3     *“322.2 C. Habitat areas—The NR Overlay Zone will be assigned to nonriparian and nonwetland natural resource sites containing habitat values such as wooded areas, naturally vegetated areas, areas with rare or endangered flora and fauna, or similar areas, as identified by the Natural Resources Inventory. The specific boundary of this overlay zone has not been identified by the Natural Resources Inventory and therefore shall generally follow identified tax lot boundaries until such time as specific on-site studies, normally as part of a development request, can more clearly delineate the habitat location.*

**The nonriparian designation does not apply. The entire site is riparian; no nonriparian areas exist.**

4.     322.7.A. Natural Resource Site. Not Applicable. These standards apply to natural resources that exist outside of the natural resource areas delineated on the official city map. The site is delineated on the official natural resource map.
5.     322.7 B. Natural Resource Location. Development activities within a natural resource location shall comply with the following:  
*Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the natural resource.*

**There will be no trails, rest points or other facilities at the site, the purpose of the of the project is not related to recreation or other resource use. The restoration of pre-existing topography and grass cover however replaces resource use values that may have previously existed.**

6.     *Development in areas of dense standing trees will be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch diameter or greater at a 5-foot. height) shall be removed without a one-*

*for-one replacement with comparable species. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and where and what type of tree replacement (if applicable) is to occur*

**No trees are to be removed.**

*Harvesting of uncultivated timber is not permitted, except as allowed by subsection 322.7.B.2 above.*

**No harvesting of timber shall occur.**

7. *Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water, and cover for animals located within the natural resource location, and to protect the visual amenity values of the natural resource.*

**Trees, shrubs and vegetation will not be disturbed except as follows: sod shall be removed as necessary for removal of fill; no trees are to be removed or disturbed; shrubs may be temporarily relocated during excavation. Site vegetataion is to be restored to conditions that existed prior to removal of fill.**

8. *.Natural riparian vegetation along streams and drainage ways will be maintained and preserved, except where mitigation is approved. Such vegetation will be maintained for a minimum distance of 15 feet from the normal high water line in those areas with slopes of 10 percent or less. Where slopes exceed 10 percent, an additional foot of vegetation should be preserved for each additional percent of slope increase. Selective cutting, trimming, and thinning may be allowed as necessary for access to the waterway.*

**Excavation may occur within 15' of the normal high water line as necessary to remove unauthorized fill. The slope between the stream top of bank and the berm is less than 10%. The City's 1987 topographic mapping shows a less than 1' change of elevation between the driveway and the lawn near the stream for an average slope of less than 1%. Slope based performance standards of this section do not apply. Field identification of on-site vegetation has not been conducted. Inspections from neighboring properties and interpretation of aerial photographs indicate grass to be the dominant vegetation along the stream's upper bank. Erosion control structures and or construction barriers shall be located upland of the top-of-bank to minimize loss of vegetation.**

9. *Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed natural flows as determined by the City Public Works Department.*

**Storm water flows will be the same as those existing prior to placement of fill.**

10. *Construction practices for all projects, private and public, will include steps to ensure that land cuts are not exposed to storm water. Land and trenches will be graded to allow direct flow into natural drainage courses. Grading shall not expose unprotected surfaces to water flows and possible erosion.*

**The erosion control plan proposed as part of this application shall be implemented to protect against potential erosion and sedimentation of Mount Scott Creek.**

11. *The development will be designed to have the least amount of impact on the natural features/values of the site as possible. The design should look at alternatives (design and location) to mitigate the impact.*

**Site disturbance will be limited to the minimum necessary to remove the berm and fill. Impact to Mount Scott Creek will be avoided to the greatest extent possible by designation of construction limits and the placement of construction/erosion control barriers. Although the upland portion of the site is a designated riparian area, its natural resource value is primarily that of flood water storage and transmission during storm and flood events. Removal of the berm and fill will enhance these functions.**

12. *Road crossings of major natural drainage courses will be minimized as much as possible.*

**No road crossings are proposed.**

13. *The construction phase of the development must be done in such a manner to safeguard the portions of the site within the Natural Resource Overlay Zone that have not been approved for development. The effect of this is that construction equipment, construction materials, excess fill, runoff, etc. will not ultimately harm the natural resource area.*

**The entire site is located within the natural resource area. Adjoining properties which may also be designated natural resource areas shall be protected during construction through the erosion control plan or construction barriers as needed.**

14. *A mitigation plan shall be required for development activities that would adversely impact the natural resource values of the site, as per subsection 322.10.*

**The fill removal and erosion control plans are designed to mitigate impacts to existing vegetation and Mount Scott Creek.**

**Compliance With Comprehensive Plan Goals & Policies**

The proposal is supported by the City of Milwaukie Comprehensive Plan as follows:

15. *Natural Hazards Elements Objective #1 Floodplain*  
*To manage identified 100 year floodplains in order to protect their natural functions as waterways, and to protect the lives and property of those individuals and concerns currently located within and along the floodplain.*

*Policy 1: New construction and development will be regulated so that water flow will not be increased. The capacity of the floodplain shall not be reduced by development activities.*

**Potential hazards associated with the berm and fill will be eliminated by removal. Flood storage capacity will be returned to that of which existed prior to December 1996.**

16. *Policy 2 Construction materials which may be inundated will be of such strength and quality that they will not deteriorate, and they must be able to withstand the pressure and velocity of flowing water.*

**The removal of earth and concrete structures subject to inundation but which have not been proven to withstand pressure and velocity of moving water is consistent with policies to regulate the placement of such construction materials**

17. *Policy 3 The finished elevations of the lowest floor of buildings and streets will be a minimum of 1.0 foot above the 100 year flood elevation.*

**This policy does not apply.**

18. *Open Spaces, Scenic Areas, and Natural Resources Element: Objective #2 Natural Resource Areas*  
*To preserve and maintain natural habitats and vegetation by protecting and enhancing major drainage ways, springs, existing wetlands, riparian areas and water bodies, and significant trees and vegetative cover while retaining their functions and values related to flood protection, sediment and erosion control, groundwater discharge and recharge, aesthetics, education, recreation, vegetation, and wildlife habitat. Regulate development within designated water bodies, riparian areas, wetlands, uplands and drainage areas.*

**The proposal seeks the preservation and maintenance of the riparian area for its functions and value related to flood protection by removal of fill and control of erosion and sedimentation during and after construction.**

19. *Policy 1 Protect designated natural areas and their associated values through preservation, intergovernmental coordination, conservation, mitigation and acquisition of resources*

*\*Notify and coordinate review of development proposals and plans within natural resource areas with affected State local, and federal regulatory agencies.*

**The following agencies will be notified of this application: Oregon Division of State Lands, US Army Corps of Engineers, Oregon Department of Transportation, and Clackamas County.**

*\* Develop a review process for development in natural areas which requires mitigation or other means of preservation of natural resource values.*

**The Natural Resources Overlay application review satisfies this policy. Mitigation of erosion and sedimentation shall be required.**

*\*The City shall pursue funding for the acquisition, protection, or enhancement of natural resource areas through private environmental groups, federal or state agencies, or local groups.*

**The City will not pursue federal or state funding for this abatement measure. Costs related to this action may be assessed to the property owner by court order.**

*\*Regulate activities in natural resource areas which may be detrimental to the provision of food, water, and cover for wildlife.*

**Existing wildlife opportunities for food, water, and cover though temporarily disrupted by removal activities will be restored.**

20. *Policy 2. Provide protection to important wetland and water body areas through designation of riparian buffers between natural resources and other urban development activities. Restrict non-water dependent development within the riparian buffer area.*

**The removal of fill is being conducted as an abatement measure. No riparian buffers are to be designated.**

21. *Policy 3. Maintain and improve water quality of wetlands and water bodies through regulating the placement and design of storm water drainage facilities.*

**Restoration of the drainage ditch will improve water quality through reduction of erosion and sedimentation.**

22. *Policy 4: Protect existing upland areas and values related to wildlife habitat, groundwater recharge, and erosion control.*  
*\*Encourage the development of open spaces and increased vegetation for wildlife habitats.*  
*\*Protect steep slopes from erosion through the use of vegetation*  
*\*Provide protection between the resource and other urban development*

**All work associated with this proposal will at a minimum maintain existing resource characteristics and values.**

23. *Policy 5: The City will continue to work with Metro and other jurisdictions to establish and implement drainage plans and policies for Johnson Creek, designated by Metro as an areas of Significant Environmental Concern.*

**This policy does not apply.**

24. *Policy 6. Provide greater protection and more stringent development review to those sites deemed most valuable to the community.*

**Sites within the mapped Natural Resources Overlay are considered to be potentially sensitive and therefore are subject to special development standards of the Comprehensive Plan and Zoning Ordinance.**

25. *Policy 7. Provide protection to inventoried natural resource sites currently outside the city limits as these sites are annexed.*

**This policy does not apply.**

### **CONDITIONS OF APPROVAL FOR NR 98-05**

1. That erosion control and soil stabilization plan as described in the staff report, as amended to include removal of any fill located on the property to the north, for application NR-98-05 be implemented and maintained to the satisfaction of the Director of Public Works.

Notice of Decision NR 98-05

October 14, 1998

page 9 of 9

3. That the removal plan be amended to include removal of fill that was placed on the northerly abutting property of Knapp (tax lot R22EO6AA00600) by owners of 12929 SE Rusk Road. (end of conditions)



September 4, 1998

Jane Hart  
Metro Regional Parks  
600 NE Grand Ave.  
Portland, OR 97232-2736

Dear Jane:

Charlene Richards has recently reminded me of your August 11, 1998, request for contributions. As Charlene told you Maggie Collins is no longer with the City of Milwaukie. Her suggestion of a contribution for \$2,500 was not placed in her department's budget request.

I have reviewed our previous commitments to the Data Resource Center and prior Regional Parks efforts. I do strongly believe in the cooperative Open Space efforts and recognize that Milwaukie has contributed in the past. Therefore, I have identified \$2,000 that can be paid from our citywide account for intergovernmental activities. While this amount is not the full amount pledged, it is equal to the amounts paid by Tigard and Tualatin.

For future requests, please be sure to work directly with Charlene Richards, Assistant City Manager, Community Services. She is responsible for parks and open spaces.

Sincerely,

A handwritten signature in black ink, appearing to be "D. Bartlett" or similar, written in a cursive style.

Dan R. Bartlett  
City Manager

Cc: Mayor and City Council  
Charlene Richards, Asst. City Manager

M E M O R A N D U M



METRO

TO: Charlene Richards, City of Milwaukee  
 FROM: Jane Hart, Metro Regional Parks  
 CC: Heather Nelson Kent, Div. Mgr., Metro Regional Parks  
 SUBJECT: Metro Requests for Contributions for Updating Region-wide Parks and  
 Natural Resources Inventories  
 DATE: August 11, 1998

This memo follows up on a conversation we had recently regarding the possibility of the City of Milwaukee contributing \$2,500 to Metro to conduct region-wide inventories for parks and natural resources. You asked me to provide some information that you could share with the city manager, Mr. Bartlett.

As you requested, attached is a list of jurisdictions and organizations that have either sent contributions, made pledges (or most likely will) to Metro for updating parks and natural areas inventories for the region. The original funding solicitation letter was sent to the 24 jurisdictions and 3 counties inside Metro's boundary, as well as several public agencies and environmental organizations. We expect to receive contributions from the majority of those that were asked. There have been a few jurisdictions and organizations that could not contribute due to lack of funds. Most of the jurisdictions/organizations on the list that have not yet pledged did make requests to their governing bodies but are awaiting news of budget approval. Many of those that have pledged are in the process of receiving invoices from Metro and we expect payment soon.

We have received very positive response from those contributing regarding the usefulness of the inventory information as a planning tool. The inventories will lay the foundation for creating an interconnected system of regional parks, natural areas, open spaces, trails and greenways for wildlife and people. If you would like more information about the products that will be available to contributing jurisdictions, please let me know and I will be happy to provide that to you.

We look forward to learning if Milwaukee wants to participate in this exciting project.

Post-It® Fax Note	7671	Date	8/12/98	# of pages	2
To	Charlene Richards	From	Jane Hart		
Co./Dept.	City Milwaukee	Co.	METRO		
Phone #		Phone #	747-1585		
Fax #	652-4433	Fax #			

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**Jurisdictions / Organizations Who Have Pledged and/or Contributed to Metro's  
Parks and Natural Areas Inventories  
as of August 12, 1998**

City / Organization	Amount Requested	Amount Pledged	Check Received
Beaverton	\$4,000	\$4,000	
Cornelius	\$200	\$200	\$200
Durham	\$200	\$200	
Forest Grove	\$500	\$500	\$500
Gresham	\$4,000	\$2,500	\$2,500
Happy Valley	\$500	\$500	\$500
Hillsboro	\$4,000		
Milwaukie	\$2,500		
Oregon City	\$2,500		
Portland (BES)	\$5,000	\$5,000	
Portland (Parks)	\$5,000	\$5,000	
Tigard	\$2,500	\$2,000	\$2,000
Troutdale	\$2,000	\$2,000	
Tualatin	\$4,000	\$2,000	
Wilsonville	\$2,500	\$2,500	
West Linn	\$2,500		
Lake Oswego	\$4,000		
Clackamas Co.	\$5,000		
Washington Co.	\$5,000		
N.Clac.Parks&Rec	\$5,000		
Tual.Hills Prk&Rec	\$5,000		
OR Parks & Rec.	\$5,000	\$5,000	
Audubon Society	\$1,000	\$1,000	\$500
Nature Conserv.	\$2,000	\$2,000	
Port of Portland	\$5,000	\$5,000	\$5,000
U.S.F.&W. Serv.	\$5,000	\$10,000	

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

October 15, 1998

To: Mayor and City Council

From: Dan Bartlett, City Manager

Re: Upcoming Meetings

Action Requested

If you are interested please put these meetings on your calendar.

Background

<b>Insurance Review</b>	
Date:	Monday, October 26, 1998
Time:	5:30-7:00 PM
Location:	Public Safety Building: Community Meeting Room
Description:	Councilor Lancaster had asked for a review of the City's insurance program. Our Agents of Record: Debora A. Leopold, ARM, CPIW, Vice President, Public Entity Division, Sedgwick of Oregon, Inc. and Robert Lilly, Vice President, Sedgwick James, Inc. will be available to discuss our program. This is an optional meeting for those Councilors who would like to know more about our coverage and loss record.

<b>5<sup>th</sup> Annual Leadership Symposium, Institute of Portland Metropolitan Studies</b>	
<b>Two States/One Region: The State of the Bistate Region</b>	
Date:	Friday, November 20, 1998
Time:	All Day
Location:	Oregon Convention Center
Description:	See reverse side of this memo.

cc: File -- cm2173/hd

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

# THE CATALYST



A QUARTERLY BULLETIN OF THE INSTITUTE OF PORTLAND METROPOLITAN STUDIES

PORTLAND STATE UNIVERSITY COLLEGE OF URBAN AND PUBLIC AFFAIRS PORTLAND, OREGON 503/725-5170  
VOL. 7, NO. 1 FALL 1998

## SAVE THE DATE!!! 5TH ANNUAL LEADERSHIP SYMPOSIUM ON NOVEMBER 20TH!!!

On November 20, 1998, the Institute will be holding its 5th Annual Leadership Symposium at the Oregon Convention Center. The event this year, entitled "Two States/One Region: The State of the Bistate Region," will have as its objective the

development of a short list of critical bistate priorities. Last year Governors Gary Locke and John Kitzhaber jointly delivered a charge to this bistate metropolitan area. They both recognized the importance of the health of this region to the needs and objectives of Oregon and Washington. They both suggested that this metropolitan area would best be able to advance its concerns if it settled on a short list of critical needs and objectives.

Since that event, held exactly one year ago, much has happened:

- Portland Mayor Vera Katz and Vancouver Mayor Royce Pollard held the first public summit meeting to discuss common concerns.
- Business leaders from both sides of the river met and have agreed to continue to discuss a bistate economic agenda.
- The Ports of Portland and Vancouver, along with economic development interests on both sides of the river, have launched a comprehensive, bistate inventory of industrial lands.
- Intergovernmental representatives from both sides of the Columbia have met to identify common state, regional, and national interests.
- Efforts to save the salmon promise to knit together the communities of this metropolitan area like nothing else we've experienced.

It's now time to take stock, and to take the next steps.

The event will feature presentations by Governor Gary Locke and Governor John Kitzhaber on the state of the states and the bistate region. Hear reports on bistate action and the state of our economy and environment. Former Oregon Governor Neil Goldschmidt will inspire us, and Bill Dodge, a national authority on models for bistate action, will inform us. Most of all, there will be ample time for interaction and discussion. The Institute is committed to serving in an ongoing role as a catalyst to ensure that the work of the Symposium receives ongoing attention and action.

Who should attend? Anyone who wants to be part of bridging the Columbia, not just with roads and rail but with new partnerships on behalf of our economy, environment, and community quality of life. Please plan on joining us on Friday, November 20th, at the Oregon Convention Center. Registration brochures will be sent out in mid-October. For more information, please contact the Institute, 725-5170.

**H**ello This informal bulletin is sent on a quarterly basis to keep you informed of the activities of the Institute and of opportunities to get involved. Institute policies and programs are overseen by a 23-member community-based board. Our mission is to better connect the resources of the university with the issues confronting the six-county (Clackamas, Clark, Columbia, Multnomah, Washington, and Yamhill) metropolitan area. Ultimately, our objectives are to serve as a consistent and effective point of access to the resources of higher education and to become a principal source for information about metropolitan issues and dynamics. As always, please send us your comments and suggestions.



**\*\*\*MEMORANDUM\*\*\***

October 16, 1998

To: Mayor and City Council

From: Barb Kwapich

Re: Changes to City Council Packets for October 19 and 20, 1998

Listed below is the change made to the Work Session Packet for October 19.

- ◆ Revised Agenda
- ◆ Item 1. Appointed Advisory Board Interviews

**Add pages** 1-2 through 1-7

- ◆ Item 4. Tobacco Education Program of Clackamas County

**Move** topic to Item 5. **Insert** Riverfront Board Creation as Item4

Listed below are the changes made to the City Council Packet for October 20.

- ◆ Revised Agenda
- ◆ V. PUBLIC HEARING Appeal of Planning Commission Decision on File No. S-98-01/Henderson Approving a 4-Lot Subdivision at 2723 SE Malcolm Street

**Add pages** V. 53 (2) through V. 53 (11) re: Support documentation for request and how City Council has handled in the past; Resolution 15-97 is included.

**Add pages** 110 through 115 re: Supplemental Staff Report

◆ VI. OTHER BUSINESS

**Add item** VI. D. Notice of Change in Regular Meeting Date and Location – Resolution

◆ VII. INFORMATION

**Add item** VII. F Departmental Quarterly Report – Police Department

**Add item** VII. G. Department Quarterly Report – Public Works

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
OCTOBER 20, 1998**

**MILWAUKIE PUBLIC SAFETY BUILDING**

Community Meeting Room  
3200 SE Harrison

**1801<sup>st</sup> MEETING**

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

**I. CALL TO ORDER**

**Pledge of Allegiance**

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

**A. Veterans Remembrance Celebration Day – Proclamation**

**B. Life Lights 1998 – Proclamation**

**III. CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

**City Council Minutes of October 5 & 6, 1998**

**IV. AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*

**V. PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

**Appeal of Planning Commission Decision on File No. S-98-01/Henderson  
Approving a 4-Lot Subdivision at 2723 SE Malcolm Street (Wright)**

**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 Milwaukie Cable Franchise Extension – Ordinance (Richards)**

**B. Acceptance of Oregon Association Chiefs of Police Traffic Safety Section Grant – Resolution (Collier)**

**C. Waverly Drive Sanitary Sewer Project – Resolution (Brink)**

## **VII. INFORMATION**

- A. Planning Commission Minutes of September 22, 1998**
- B. North Clackamas Parks and Recreation District Advisory Board Minutes of September 17, 1998**
- C. Joint Policy Advisory Committee on Transportation Meeting Report of September 10, 1998**
- D. Clackamas Children's Summit**
- E. Departmental Quarterly Report – Human Resources/Community Services**

## **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.*

**PROCLAMATION**

**WHEREAS**, on December 3, 1998, the Oregon Liquor Control Commission will light hundreds of Life Lights on a tree on the commission grounds in Milwaukie, Oregon.

**WHEREAS**, the Life Lights will serve as a visual reminder of their concern about safe and sober driving during the coming holiday season.

**WHEREAS**, you are invited to join symbolically with Oregon's middle school, junior high and high school students by pledging not to drink and drive or ride with a drinking driver. Your pledge, and all others will be represented by the Life Lights, as a brilliant symbol for all Oregonians.

**NOW, THEREFORE**, I, Carolyn Tomei, Mayor of the City of Milwaukie, Oregon, do hereby proclaim December 3, 1998 as Life Light 1998.

And urge all citizens to join with me in expressing our sincere appreciation for the Oregon Liquor Control Commission's efforts and for their gracious participation in community events.

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 1998.

ATTEST:

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

\_\_\_\_\_  
Carolyn Tomei, Mayor  
City of Milwaukie

\_\_\_\_\_  
Larry Lancaster, Council Person

\_\_\_\_\_  
Mary King, Council Person

\_\_\_\_\_  
Rob Kappa, Council Person

\_\_\_\_\_  
Jeff Marshall, Council Person

PROCLAMATION

WHEREAS, the Milwaukie Benevolent, Protective, order of Elks #2032, a fraternal organization, whose Pledge is, "As long as there is a Veteran in a hospital he will never be forgotten", and

WHEREAS, the members of the Veterans Committee have visited the Patients at the Portland Veterans Administration Medical Center, hosted the Patients on their monthly visits to the Elks Lodge the past 35 years, adopted Veterans in the local Nursing Homes; and

WHEREAS, since 1988 has held a Veterans Day "Remembrance Celebration" honoring the "Enlisted Serviceman/Woman of the Year of the U.S. Coast Guard, U.S. Navy Reserve, U.S. Marine Corps Reserve, U.S. Air Force Reserve, Oregon Army National Guard, Oregon Air National Guard and the Oregon Defense Force".

NOW, THEREFORE, I Carolyn Tomei, Mayor of the City of Milwaukie, the City of the Dogwoods, do hereby proclaim November 6, 1998, as

MILWAUKIE ELKS  
"VETERANS REMEMBRANCE CELEBRATION DAY"  
IN THE CITY OF MILWAUKIE

and urge all Citizens to join with me in expressing our sincere appreciation for their efforts and for their gracious participation in community events.

\_\_\_\_\_  
Carolyn Tomei, Mayor

ATTEST:

ATTEST: \_\_\_\_\_  
City Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION  
OCTOBER 5, 1998**

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

Present were Council President Marshall and Councilors Kappa, King, and Lancaster.

Staff present: City Manager Bartlett; Assistant City Manager Richards; Planning Director Heiser; and Public Works Director Brink.

**Appointed Advisory Board Interview**

Ron Grasle was interviewed for a vacant position on the Traffic Safety and Transportation Board (TSTB).

**Smart Development and Systems Development Charges**

**Council President Marshall** was in favor of aggressive park and open space acquisition, and Councilor Kappa had suggested that the City Council review all of the City's systems development charges.

**Bartlett** said the North Clackamas Parks and Recreation District is going before the Clackamas County Board of Commissioners this week to recommend a systems development charge (SDC) increase. The issue for Milwaukie is broader and should address Smart Development and infrastructure needs. The City charges as many SDCs as are allowed by law at this time. It is likely, however, that the 1999 legislature will consider a school facility SDC. Milwaukie reviewed its water, wastewater, and drainage and flood control SDCs in May 1997; transportation in February 1998; and parks and recreation in November 1994. Staff estimates the capital improvement costs, the Citizens Utility Advisory Board (CUAB) reviews them, and a consultant evaluates and makes a recommendation.

Milwaukie's adopted Capital Improvement Plans (CIP) identify infrastructure projects and are the key to calculating SDC fees charged to new development. State laws allow local governments to collect improvement and reimbursement fees for replacing, upgrading, or carrying out major maintenance on existing structures. Development also pays its fair cost for increased capacity.

The City is currently competing with development interests for park and open space within the City. He discussed past park land dedication practices and recounted how sites such as Weber Park in the Cedarcrest area were acquired.

### III. 2

**Councilor Marshall** was interested in getting at least the City's parks SDC raised as high as possible. Milwaukie's fee at \$950 is far lower than those of other cities. It had occurred to him the City could not necessarily charge systems development charges to new development that exceeds what is in place now.

**Bartlett** said that was correct. The homebuilders were careful in defining the methodology and writing the rules. The SDCs have to be built from existing standards, the Capital Improvement Plan, and the costs fairly apportioned between new and existing development. The City could develop a new standard, but he cautioned that it could be challenged as being too onerous. The City Council has the legislative ability to chose the standard and write a CIP that says Milwaukie intends to buy and build improvements on parks land to achieve this new standard. The SDC would be developed to fairly apportion the cost between the owners of existing residences and funded through bonds, grants, gifts, or other mechanism, and the balance allocated to developers.

**Councilor Marshall** asked if it would be erroneous to say that over the course of the next twenty years that Milwaukie would add 3,000 dwelling units, and the standard is five acres per thousand dwelling units. By the time 3,000 dwelling units have been installed, there should be enough money to buy fifteen acres of park land.

**Bartlett** said that could be done. The steps would be to review the standards; amend the Comprehensive Plan and parks ordinances to reflect new standards; and adopt a CIP that included acquiring that land over the next twenty years. Typically CIPs are calculated to five years, and SDCs are reviewed every five years based on the CIP. A twenty-year CIP and SDC would likely attract more scrutiny from home builders and realtors. A single standard and SDC has been adopted through the North Clackamas Parks and Recreation District. The City collects the money on development and turns it over to the District as the parks provider. Milwaukie is contracting with the District for parks service. The City may have a separate SDC if it chooses, but local citizens would pay more than others in the District.

**Councilor Kappa** agreed the parks SDC needed to be adjusted, but there were several steps he believed needed to be taken. The Planning Commission needs to complete its zoning and development work, and the Neighborhood District Associations (NDA) need to finish their visioning processes to provide a tool for amending the subdivision ordinance. He hoped to move away from subdivisions and create communities within the NDAs. There are methods other than SDCs. It will be important to identify where parks property and other infrastructure is needed and target properties to set aside for open space.

**Heiser** discussed the neighborhood process and the Lennertz Coyle & Associates report, *"Removal of Code Obstacles to Smart Development."* Some of the recommendations in the report were incorporated into the downtown mixed-use zone. Other elements will be reviewed in the neighborhood design sessions. She briefly reviewed the report and the generalized criteria used nationwide. It provides a framework for infill development as well as addressing environmental constraints.

**Councilor Kappa** said that if the community and Council decide they wish to have a higher density in the downtown area, there will be a legitimate need to acquire the 7.5 acre Jr. High site to provide the open space. This would establish a process in which infrastructure and open space is provided. He also felt strongly that Title 3 would be an important issue.

**Heiser** reviewed the timelines with Functional Plan Compliance code amendments planned for adoption by February 1999. Generally, everyone is comfortable with what has been adopted for the downtown area, but the residential areas have not yet been addressed. The purpose of the October 17 work session is to get input from both residents and owners of vacant or under-utilized neighborhood properties. The workshop is intended to identify a neighborhood preference for development and specifically directed toward infill. Each neighborhood will be asked to plan for a twenty-year density target based on Functional Plan compliance.

**Councilor Marshall** said the 2040 Plan provides for a wide range of housing types and should, he felt, include R-15 and R-20. Lots do not necessarily need to be made smaller, and large lots should be preserved in the community. He felt this might help resolve some of the neighborhood turmoil if residents understood some of the large lot community would be preserved.

**Heiser** added it was staff's intent to get compliance with the Functional Plan and ask the neighborhoods how they would like that to be achieved.

**Councilor Marshall** felt it should be presented in a fashion so that participants know it could be density or preservation of the existing community. Give people options for maintaining the character of their neighborhoods.

**Councilor Lancaster** did not feel there should be a lot of pressure to densify since the City was almost at compliance.

**Heiser** said the City has identified that it is in substantial compliance through its present zoning. There has to be a balance between achieving the targets and looking at preservation options.

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**Councilor Kappa** felt some current flaglots would disappear because of street design patterns. He strongly believed that Milwaukie needed to get away from subdivisions and create communities.

**Heiser** reviewed the Functional Plan Compliance Steering Committee work plan timeline. The group is made up of one member from each of the NDAs and three members of the Planning Commission. The Neighborhood Design Work Shops will feed into the Steering Committee. At this time, design review and Title 3 are not in this timeline because each will take additional staff time and money.

**Bartlett** said there are mandated items, actions that support other activities, and finally things the City would like to do. The City needs to get the development components completed, and then the decisions can be made. The design review and Title 3 considerations will likely take place next fiscal year.

**Heiser** added that the Periodic Review is due in 2003, but the City will probably begin sooner. The process is one of getting the ideas on the board, and then working out a wholesale revision.

**Bartlett** commented the workshops could result in a message to convey to the NCPRD regarding Milwaukie's park and open space needs.

**Councilor Marshall** said all of the City surveys indicated people want more parks and open spaces and are willing to pay for it.

**Councilor Kappa** asked how and when the urban forestry program would be addressed.

**Bartlett** said he would probably direct the City Attorney to begin review in November.

**Councilor Kappa** felt that needed be done hand-in-hand with Title 3.

**Bartlett** said the Metro Council was going to do additional work on Title 3 which would result extending the compliance deadline. **Heiser** anticipated work on Title 3 would be done next April.

**Bartlett** discussed the eight qualification packets the City received for the riverfront/downtown development.

**Councilor Marshall** felt this Council had the will to move to a different level in support of parks and infrastructure. The current SDC only covers about 60% of the needed funding.

**Bartlett** suggested that the Council could direct the Park and Recreation Board to look at a CIP independent of the Parks District.

**Councilor Marshall** personally wanted to see the existing citizen component raised along with a parallel development assessment to acquire more land.

**Councilor Kappa** felt it would be important to communicate with the District on the timing and methodology for raising SDCs in order to augment each other. It would also legitimize the need for open space.

**Bartlett** said it would be critical for each neighborhood to identify the additional needs so the Park and Recreation Board could build them into the CIP.

**Councilor Lancaster** was concerned about exceeding staff's work load level, but he wanted to know how to speed up the process and how much it would cost.

**Heiser** said DLCD is funding the workshops and providing consultants, and Metro has given the City grant funds.

**The group discussed prioritizing staff time and fast tracking those neighborhoods that have not begun the vision process.**

**Councilor Marshall** believed that streets with curb and gutter provide a better perception of a city. He asked for information comparing overall service delivery costs with such jurisdictions as Lake Oswego, Gladstone, Oregon City, and West Linn.

The group discussed infrastructure capacity. **Bartlett** said one could argue that Milwaukie has already reached its capacity for sewage treatment, and the recent agreement with Clackamas River Water provides additional time. Streets and storm drainage is more difficult to measure.

**Brink** said he would refer to the information provided by citizens in recent surveys. It is, however, difficult to determine exactly what residents want. If capacity could be measured for streets, the City is below what it would like to be.

**Councilor Marshall** said street improvement does not always mean sidewalks. Many cities have streets, storm drains, and curbs. He read that 31% of the City has curbs and gutter, and he wanted to know how much it would cost to bring all of the City to that level of improvement.

**Councilor Lancaster** asked at what point the City could say there can be no more construction of any kind because infrastructure capacity has been exceeded.

### III. 6

**Bartlett** said, if the City decided it would not issue any more permits, it would have to follow the moratorium process and develop a plan for increasing the capacities.

**Brink** said the Kellogg Treatment Plant is close to capacity, but generally the City's infrastructure is below its overall capacities.

**Councilor Kappa** commented there is other development around the City that is using capacity.

**Brink** agreed that was true but indirectly. He used the example of Lake Road which has increased in volume but is still below its capacity. He did not perceive sewer, storm, or water as issues. The biggest problem in the future will be treatment plant capacity.

**Bartlett** added that technically the City is at 30% of the plant capacity and has a contract that states Milwaukie can go to 40%. If the City were to do this, the rest of the County would have serious problems. He noted there was an upcoming meeting with Oak Lodge Sanitary.

**Councilor King** asked how traffic volumes were defined. **Brink** said it accounts for level of service. For example, the intersection at Oatfield and Lake Roads will need at least a right-turn lane soon. The other aspect is the ability of the road itself to handle volume. Lake Road is an arterial and could easily take up to 20,000 vehicles per day. He clarified that he was addressing only the physical capability to serve that volume.

**Bartlett** reminded Council that Lake Road was Hwy. 224/212 in the past before the Milwaukie Expressway was constructed.

**Councilor Marshall** went back to the SDC discussion. He understood that the Council would wait until other pieces were in place. The Park and Recreation Board would look at criteria for raising SDCs.

**Bartlett** said the water, sewer, storm, and transportation SDCs have been reviewed recently. The parks SDC, however, is due for a review, and the neighborhood design workshops will provide potentially valuable data. The Park and Recreation Board will be directed to begin a review of the information in November. The City will link itself to the process of what is taking place in the Parks District so extra work is not done. The City may provide a CIP that is higher.

**Councilor Kappa** suggested that the City and Parks District partner to send an even stronger message to the Clackamas County Board of Commissioners that the parks SDCs need to be increased.

**Councilor Marshall** asked if Richards was still pursuing a proactive assessment of available land for acquisition.

**Bartlett** said two neighborhoods were being targeted: Lewelling and Hector Campbell. The Canfield parcel closed and is now City property.

**Councilor King** had several issues she wished to discuss. One was truck parking behind the Public Safety Building. **Councilor Marshall** commented there was a similar problem off King Road near Kentucky Fried Chicken.

**Bartlett** said the right-of-way is not clearly defined or well signed. When the Public Safety Building was designed, the twenty-year plan called for the entire area to be vacated to public open space and traffic routed on 34<sup>th</sup> Avenue to expand the volume. There would be a signal at the Oak Street, Railroad Avenue, and Monroe Street intersection. Public Works has been directed to mark where the right-of-way ends because everything south of that belongs to Union Pacific Railroad. The City cannot enforce a parking ordinance on private property unless the owner directs it be done. The City will sign the area consistent with City codes. The downside of enforcement would be that the trucks would move into the neighborhoods, and if the driver's destination is his home, then it would not be considered through traffic.

**Bartlett** suggested the City Council tell staff that truck parking is a community problem and direct it to look for solutions that can be added to the Municipal Code. Two impediments identified are the need to identify the right-of-way and post signs. There are technicalities that need to be addressed before citing people into court.

**Councilor Marshall** said Council's role is to listen and bring issues forward. His other concern was the potential for trucks parking in the neighborhoods.

**Councilor King** discussed the Problem Solving Partnership Project and the idea of having a Cops Office in the downtown area. The Milwaukie Center is also interested in having a satellite campus downtown to provide additional classroom space. The downtown businesses are very frustrated with policy issues such as the parking code and citations not being issued. Her point was that these things are things that annoy people a little every day and give the City a bad name.

**Bartlett** said it is important to keep in mind how many downtown businesses are represented. Gregory and the MDDA are planning another study to find out if needs have changed. One of the problems is to get people to walk a little further in the downtown area as they would at a shopping mall.

**III.**     *S*    

**Councilor King** noted, as Milwaukie's Johnson Creek Watershed representative, she would be attending a summit at Marshall High School and policy makers tour in mid-November. She hoped other Councilors would be able to attend because the watershed is an important City asset.

The meeting ended at 7:30 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 6, 1998**

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

Larry Lancaster	Rob Kappa
Mary King	

Also present:

Dan Bartlett, City Manager	Susan Heiser, Planning Director
Charlene Richards, Assistant City Manager	Jim Brink, Public Works Director
Jim Coleman, City Attorney	Rob Shelton, Associate Engineer
Brent Collier, Police Chief	

City Attorney Coleman administered the oath of office to Councilor Larry Lancaster for Position #1.

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

**School Trip Safety Program and Neighborhood Traffic Management Program Updates**

**Shelton** provided an update on the School Trip Safety Program (STSP) and the Neighborhood Traffic Management Program (NTMP). Since the last update in June, several projects have been completed: sidewalks on Madison from 31<sup>st</sup> to the end of the pavement for \$18,337; sidewalk connection on Lake Road from Oatfield Road to Guilford for \$16,715; and various Community Development Block Grant projects throughout the City.

The Neighborhood Speed Watch Program continues and is operated on a first come, first served basis. One speed watch has just ended at 22<sup>nd</sup> Avenue and River Road in the Island Station Neighborhood. Residents continue to show interest in the Program.

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The highest-rated NTMP project on the priority list and the first one to be constructed is on Stanley Avenue. The project will include sidewalks on the west side between Harlow and Harlene Streets. The estimated cost of the entire project is \$91,743 with \$60,000 budgeted from the street fund. \$31,000 remains, at this time, unbudgeted. There are also two 14-foot speed humps proposed in that area to calm traffic in the school zone.

The second NTMP project, which is third on the priority list, is 14-foot speed humps on Home Avenue near Hunter Court. This would be a partnership between the City and a developer to help solve a sight distance problem.

Staff is also working with the Hector Campbell Elementary School principal to develop a better site circulation plan at the school's pick up and drop off area. A wooden pole has been installed on River Road so the "*Slow Down Banner*" can be placed in the Island Station Neighborhood.

**Councilor Kappa** asked if the residents requested the speed humps on Stanley Avenue and, if installed, would they be built into the roadway.

**Shelton** said one of the neighbors living on Stanley made the request. Stanley Avenue is at the top of the list because there are no sidewalks, and there is both a school zone and an adult care center. It is also classified as a collector street. The final phase of the process is to approach the neighborhood with the proposal, and it has to be accepted by 50% of the property owners on the street before the project can be constructed.

**Councilor Lancaster** asked how there was a shortfall if only \$60,000 was budgeted.

**Shelton** said the engineer's estimate was \$91,743, and the actual construction bids could be less. The project could be accomplished in two phases with the segment from Harlow Street to Sundial being done at a later date.

**Councilor King** asked if the speed humps were included in the budgeted portion.

**Shelton** replied that they were.

**Council President Marshall** asked the difference between a speed hump and a speed bump.

**Shelton** said speed bumps are normally found in parking lots and are more severe and narrow than the speed hump. Stanley Avenue is a good candidate for speed humps because Linwood Avenue is capable of carrying the traffic.

**Council President Marshall** asked which neighbors had to be 50% in agreement.

**Shelton** understood it was just those people living on that street.

**Councilor Lancaster** asked, since the Stanley and Home Avenue projects were first and third, what was project priority number two.

**Shelton** said the second-ranked project was Stanley between Logus and Willow. It is problematic because it is a county street. He has tried to contact the petitioners but has gotten no response. Property owner response has been positive in the other two areas, and the Home Avenue project will include a partnership with a developer.

**Councilor Lancaster** asked Shelton to estimate the life of the speed hump and when Stanley Avenue will require resurfacing.

**Shelton** said the City has been using the Pavement Quality Index to measure pavement distress. He estimated that the speed humps, if installed this year, would last until Stanley was resurfaced.

**Councilor King** asked if the proposed speed humps on Stanley were the same as those on 34th Avenue.

**Shelton** said the proposed 14-foot speed humps are shorter. The ones on 34<sup>th</sup> Avenue are 22 feet wide.

### **CONSENT AGENDA**

It was moved by Councilor Kappa and seconded by Councilor King to adopt the Consent Agenda that consisted of City Council Minutes of September 15 and 16, 1998. Motion passed unanimously among the members present.

### **AUDIENCE PARTICIPATION**

**Dale Potts**, 12177 SE Grove Loop, Milwaukie. He was disappointed that no steps have been taken to resolve the conflict he saw with Bartlett being both part of Milwaukie and Metro. He apologized to Lancaster for voting for him and putting him in a position in which he had to work with someone who has a real problem, and he was sorry the Mayor was not at the meeting so he could tell her directly. She thinks an attack is disagreeing with someone. She thinks it is all right for someone from the audience to say something negative about one of the members or the entire Council, but it is not all right for that person or the group to reply.

### III. 12

**Bill Scott**, 3825 SE Adams, Milwaukie. He stated his remarks were a consensus of an organized group and intended to be constructive and not in any way vindictive. The recent City Council meetings have been interesting because of Jean Schreiber's efforts to "correct the Council's thinking and approach to solving problems." One of her points seemed to be that once a decision is made on an issue, the Council should not change its mind. When does a person cross the line and no longer represent the people? It happens when ideas become set in concrete. This happens when one forgets he is part of the Milwaukie government and elected to represent the people. He believed Jean Schreiber had crossed that line and because of that, she was removed from office. The recall was not just about light rail and density; it was about attitudes and refusal to respect and represent the people.

**Alex Mahan**, 4300 SE Boardman Avenue, Milwaukie, 97267. He wanted to discuss current issues and options as a taxpayer and voter and from the perspective of a skateboarder. He congratulated the City of Milwaukie for the temporary skate park. It was a step forward in City/skateboarder relations. The problem is that the facility was temporary. Skateboarding is safer than most people perceive, and it is less dangerous than organized sports such as football, basketball, and soccer. He urged the City Council not to ban skateboarding before a permanent facility is found for that activity. He understood it would cost a lot to improve the Safeway facility, and he proposed an outdoor park that would be more efficient in the long run.

**Councilor Kappa** said some of the business people are concerned with the liability of someone being hurt in front of their businesses. This proposed ordinance has to do with banning skating in the business district, not the entire City. The City has not gotten into the process of looking at what type of skatepark or youth center is appropriate for the City. He looked forward to hearing Mahan's comments when it came time for the City Council to make its decision on a permanent facility.

**Councilor King** thanked Mahan for his participation. Skateboarding is being banned only in selected areas, not the entire City.

**Councilor Lancaster** commended Mahan for speaking with the City Council. The temporary youth center showed a dramatic need for that kind of facility, and the City Council wants to find a permanent location. He would appreciate Mahan's future participation.

**Council President Marshall** thanked Alex and hoped others in Mahan's age group would participate.

**PUBLIC HEARING****Economic Improvement District Business License Surcharge Continuation**

**Council President Marshall** called the public hearing to order at 6:45 p.m.

The purpose of the hearing was to consider two ordinances. The first ordinance continued the business license surcharge, granted the right for anyone conducting business within the Economic Improvement District to remonstrate, and set a public hearing date. The second ordinance continued the Economic Improvement District, changed the method of assessment, granted the right for the owner of each lot to be assessed to remonstrate, and set a public hearing date. This was the first of two public hearings.

Staff Report: **Bartlett** said this action establishes the legal process for affected business and property owners to remonstrate by the November 17 hearing. State statute provides a mechanism whereby businesses can assess themselves to provide certain types of services such as planning or management of development or improvement activities, promotions or public events, landscaping, parking, and other economic activities for which an assessment may be made on benefited properties.

The key points are: it is a voluntary assessment against the business or property; it cannot be charged against residential property; and the process is not final until after the remonstrance hearing. The ORS also allows the City to turn over the district operation to a bona fide business association, and the City may ask for an advisory committee. Since 1990, the City has chosen to utilize the Milwaukie Downtown Development Association (MDDA) as the business advisory committee and the vehicle to expend the improvement funds.

The first ordinance was a business license surcharge, and the second ordinance had to do with the Economic Improvement District, amended the previous enabling ordinance, and changed the assessment method to square footage. The "Milwaukie Model" for assessment was developed by an MDDA committee.

The final item was an article likening this type of district to a retail democracy. Businesses can tax themselves for improvements within their boundaries.

**Councilor Lancaster** asked how the recently adopted mixed-use zoning would be impacted.

**Bartlett** said first floor retail would be assessed, but second floor residential would not. He noted a drafting error on staff report page V.17. It should read "Milwaukie Downtown Business Development Association" and should be noted in the motion.

### III. 14

Correspondence: None.

Testimony: None.

Questions of Clarification: **Councilor Kappa** asked the MDDA why the City Council should adopt an ordinance to extend the district for five more years? Up to about a year ago, there was a great deal of criticism of the Association's inactivity and inability to pull programs together. He asked what had changed.

**Dodie Linder**, MDDA Director, responded that the City was on the verge of significant changes involving light rail, waterfront development, revitalization of the downtown district, potential Jr. High School site uses, McLoughlin Blvd. design, and the daily maintenance program. The MDDA represents the voice, opinion, and consensus of the business and property owners and the City. She sees MDDA in the role of communicator and liaison. The MDDA works to keep the District in the public eye and identifies grants and other funding sources. The Association also surveys regional strengths and looks for ways to build upon those in Milwaukie's downtown.

She has noticed a more collaborative spirit, and things are getting done in the downtown area. She sees positive energy and less apathy because people sense a more focused leadership that is getting things done. Business and property owners have someone they can talk to about what they feel is lacking.

**Councilor Kappa** asked Linder how she and the MDDA intended to sustain that momentum for five more years.

**Linder** said the membership will establish the 1999 goals, and the MDDA will work to meet those goals and provide periodic reports to the membership and the City Council.

**Councilor Lancaster** asked what percent of the downtown businesses were actively involved in the Association.

**Linder** estimated about 20% of the 165 downtown businesses participate on the Board or special committees. Both business and property owners are involved. This year funds are allocated to three committees: Niche Development/Business Recruitment, Image, and Membership Participation Committees. It is important to offer tangible evidence that things are changing to overcome the sense of apathy.

**Council President Marshall** closed the public testimony portion of the hearing at 7:00 p.m.

**Councilor King** has been actively involved in the Association's rejuvenation process, and she was very impressed with the commitment to developing the downtown to its potential.

**Councilor Kappa** was critical and skeptical a year ago, but he felt the leadership shown by Jim Bernard and Paul Graham was making a real difference. The key is attitude and fostering partnerships. He added he would like the goals to be realistic and achievable to give a sense of accomplishment and to maintain the momentum.

**Councilor Lancaster** agreed involvement was the key.

**Council President Marshall** added there needs to be a three-way effort: business, City Council, and the community.

It was moved by **Councilor Kappa** and seconded by **Councilor King** to read the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate for the first time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by **Councilor King** and seconded by **Councilor Kappa** to read the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate for the second time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by **Councilor Kappa** and seconded by **Councilor Lancaster** to adopt the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate with corrections mentioned by the City Manager. Motion passed unanimously among the members present.

**ORDINANCE NO. 1844:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON,  
PROVIDING FOR CONTINUING THE BUSINESS LICENSE  
SURCHARGE THROUGH 2003 AND GRANTING PERSONS  
CONDUCTING BUSINESS IN THE DISTRICT THE RIGHT TO  
REMONSTRATE.**

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It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate for the first time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to read the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate for the second time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to adopt the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate with corrections mentioned by the City Manager. Motion passed unanimously among the members present.

**ORDINANCE NO. 1845:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1704, AS AMENDED BY ORDINANCE NO. 1710, PERTAINING TO THE MILWAUKIE DOWNTOWN ECONOMIC IMPROVEMENT DISTRICT TO CHANGE THE METHOD OF ASSESSMENT AND TO CONTINUE ASSESSMENTS FOR A PERIOD OF FIVE (5) YEARS STARTING WITH THE FISCAL YEAR BEGINNING JULY 1, 1999, GRANTING PROPERTY OWNERS IN THE DISTRICT THE RIGHT TO REMONSTRATE, AND CLASSIFYING ASSESSMENTS AS NOT SUBJECT TO THE LIMITS OF ARTICLE XI, SECTION 11(b) OF THE OREGON CONSTITUTION.**

**OTHER BUSINESS****Amend Section 10.44.070 of the Milwaukie Municipal Code Regarding Rollerskate, Skateboard, and In-Line Skate Regulations**

**Collier** presented the staff report. He expressed his appreciation to Alex Mahan for his input during Audience Participation. The proposed ordinance will clearly identify the boundaries of the non-skate area in commercial and industrial areas and includes reference to in-line skates.

**It was moved by Councilor Lancaster and seconded by Councilor King to read the ordinance amending section 10.44.070 of the Milwaukie Municipal Code for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

**It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance amending section 10.44.070 of the Milwaukie Municipal Code for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.**

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to adopt the ordinance amending section 10.44.070 of the Milwaukie Municipal Code.**

**Councilor Kappa** encouraged Alex Mahan to be part of the decision making process. He asked, from a police standpoint, if skates could be considered a mode of transportation.

**Collier** said officers are invested with the power and ability to make judgment calls on the street.

**Councilor Lancaster** added the youth center was so positive, and he was concerned about communicating this regulation in a positive manner.

**Collier** responded that signage will be critical and notice will need to be given.

**Councilor King** suggested a brief presentation at the high school and looking very hard for ways to keep up the positive momentum of this summer's youth center.

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

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ORDINANCE NO. 1846:

AN ORDINANCE AMENDING SECTION 10.44.77 OF THE  
MILWAUKIE MUNICIPAL CODE.

Public Works Emergency Response Cooperative Assistance Agreement --  
Resolution

**Brink** presented the staff report. The Council was requested to adopt a resolution authorizing the City Manager to sign the Oregon Public Works Emergency Response Cooperative Agreement. The agreement allows the City to either provide or seek assistance in emergency situations. It will also allow the City to request resources from other entities and seek reimbursement from FEMA at that jurisdiction's rates.

**Councilor King** felt it was important for the citizens to know the City would not be required to respond if there were no resources available.

**Councilor Lancaster** asked what other jurisdictions had committed to participating. **Brink** said he would provide the list of participants when it was available.

**Councilor Lancaster** discussed the reimbursement process. **Brink** said the City would be able, for example, to be reimbursed for Portland's help at that city's rate. FEMA inspects the damage and reviews the bills to determine if the requested reimbursement is reasonable.

**Councilor Lancaster** asked who files for reimbursement if a disaster impacted a number of jurisdictions.

**Bartlett** said each impacted jurisdiction files. The City found during the 1996 flood that it was best to use a contractor because his fees are not disputable. Milwaukie was reimbursed for everything it submitted to FEMA for the 1996 flood.

**It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution approving the City's participation in the Oregon Public Works Emergency Response Cooperative Assistance Agreement. Motion passed unanimously among the members present.**

**RESOLUTION NO. 29-1998:****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING CITY PARTICIPATION IN THE OREGON PUBLIC WORKS EMERGENCY RESPONSE COOPERATIVE ASSISTANCE AGREEMENT.****17<sup>th</sup> Avenue Curb and Sidewalk Project**

**Shelton** presented the staff report in which the City Council was requested to authorize the City Manager to proceed with the construction of curb and sidewalk adjacent to 9788 SE 17<sup>th</sup> Avenue and to share the cost of construction equally with the property owner. The scope of the project included 266 feet of curb and 5-foot sidewalk on 17<sup>th</sup> Avenue and 139 feet of curb on Milport. This project will provide improved drainage and pedestrian and bike safety. Staff recommended a 50/50 cost share with property owner Bruce Kindler in the amount of \$6,521 each. The project was not listed in the FY 98-99 Capital Improvement Plan (CIP) project list, but there are sufficient funds in the Street Fund.

**Councilor Lancaster** noted the cost share was determined on a case-by-case basis. He asked who would be responsible for maintaining the curb and sidewalk after the project was completed. He was concerned with the volume of truck traffic turning at that intersection and potential damage to the improvement. Would there be engineering considerations made to protect the infrastructure and those using it?

**Brink** explained the City installed a barrier, and, although there has been damage to the barrier itself, there has been no perceptible movement. The sidewalk will be built behind the barrier, and he did not foresee any damage problems.

**Councilor King** asked how far the improvements would extend.

**Bartlett** responded the improvements included the frontage of the business.

**Councilor King** asked where the Springwater Corridor would connect.

**Bruce Kindler**, Kinco International owner, understood the Corridor would parallel the railroad tracks. He spoke in support of the proposed improvements and indicated it was a pleasure working with the City's two summer interns. He would be pleased, because of this favorable experience, to act as a spokesperson for similar projects.

**Councilor Kappa** recapped the design: roadway, barrier, and sidewalk at the intersection. The sidewalk and pedestrians would be protected from trucks, and staff indicated that was correct.

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**Council President Marshall** suggested extra rebar to protect the curb and sidewalk.

It was moved by **Councilor King** and seconded by **Councilor Kappa** to authorize the **City Manager** to proceed with the construction of curb and sidewalk adjacent to 9788 SE 17<sup>th</sup> Avenue and to share the cost of construction equally with the property owner. Motion passed unanimously among the members present.

#### League of Oregon Cities Voting Delegate Designation

**Bartlett** explained the voting process at the League of Oregon Cities Annual Conference.

It was moved by **Councilor Kappa** and seconded by **Councilor King** that **Mayor Tomei** be the voting member and **Council President Marshall** the alternate at the League of Oregon Cities annual business meeting. Motion passed unanimously among the members present.

#### Other

**Councilor Kappa** brought three items forward:

1. Oregon Liquor Control Commission Life Light Celebration – Council directed staff to prepare a proclamation of the next regular session;
2. Tobacco Education Program of Clackamas County – the Council agreed to review the material and discuss next steps at the October 19 work session; and
3. Ballot Measure 67.

#### **INFORMATION**

**Bartlett** noted the following information:

1. Downtown parking survey in collaboration with the MDDA and Problem Solving Partnership; and
2. Response time impact of closing the City Hall fire station was about 1/10 minutes. Information is pending on the issue of trains blocking the railroad track.

**Councilor King** announced swing dancing at the Milwaukie Center.

**Councilor Kappa** announced work was progressing on the Jaycees/Ronald McDonald Haunted House at the Safeway building.

**ADJOURNMENT**

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

**Council President Marshall** adjourned the regular session at 8:17 p.m.

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Pat DuVal, Recorder



**DATE:** October 9, 1998

**TO:** Milwaukie City Council

**THRU:** Dan Bartlett, City Manager  
Susan Heiser, Planning Director

**FROM:** Janet Wright, Assistant Planner

**RE:** Appeal of a Planning Commission Decision – S-98-01- Applicant: Tom & Kelly Henderson – Creating a 4 Lot Subdivision, 2723 SE Malcolm Street, Milwaukie, Clackamas County, Oregon 1S 1E 25BD, TL 1700 (**Exhibit 1 – Vicinity Map**)

**120-Day Deadline:** October 28, 1998

.....

**ACTION REQUESTED**

**City Council consideration of an appeal of a Planning Commission approval of a 4-lot Subdivision located at 2723 SE Malcolm Street (1S 1E 25BD TL 1700).**

**BACKGROUND**

On March 26, 1998, Tom and Kelly Henderson (Applicant) submitted a four (4) lot subdivision application to the Community Development Department. The application was considered complete on April 28, 1998, and heard at public hearing on May 26, 1998, (**Exhibit 2, Attachment 5 – Staff Report, Dated May 26, 1998**). The hearing was continued at the request of the applicant (**Exhibit 2, Attachment 1 – Planning Commission Meeting Minutes of May 26, 1998**) to a date uncertain and later scheduled for a September 26, 1998 Planning Commission Meeting.

At the September 9, 1998 Planning Commission meeting the application was heard at public hearing, (**Exhibit 2 - Addendum to Staff Report of May 26, 1998**) and approval was granted. (**Exhibit 3 - Planning Commission Meeting Minutes of September 9, 1998**).

On September 17, 1998, an appeal of the Commission’s decision to approve the subdivision application was filed by Michele Greeley-Roberts and Scott Rassmusson. (**See Exhibit 4 – Appeal Application**) The basis of the appeal is provided on the

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application and further addressed by the appellants in documents received on October 6, 1998. (See Exhibit 5 – Appellant Documents – Dated October 6, 1998)

The 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 May 6, 1998 and again on August 19, 1998. A second notice was published as a result of the first hearing being postponed. As required by State statute, the site was also posted on May 8, 1998 (First Scheduled Hearing) and again on August 21, 1998 (Second Scheduled Hearing). Although an additional paper notice was not required after the initial notice of public hearing, the City provided an additional notice of this proposal which was published in the Clackamas County Review on Friday, August 28, 1998 and Friday, September 8, 1998.

After a public hearing the Commission is required to either approve or deny the application based on the information obtained at hearing from the applicant, staff's recommendations and public testimony obtained in person or in writing by those affected by the land-use application. In order to comply with Oregon Land-use Law and adopted City Ordinances, the Commission's decision must be based on whether the applicant has met the development standards that have previously been adopted by the Council for such actions. In this case the applicable development standard that was used is Zoning Ordinance, Section 301, R-7 – Residential, and Section 1011.3 Minor Quasi-Judicial Review; and the Subdivision Ordinance, Title 17 of the City of Milwaukie Municipal Code. (See Exhibit 6)

### STAFF RECOMMENDATION

Staff recommends that the Council **deny** the appeal, and affirm the Planning Commission decision of approval, and adopt the Finding and Conditions of Approval contained in the May 19, 1998 Staff Report for the Subdivision (S-98-01). (Exhibit 7 – Findings and Conditions of Approval).

### BASIS FOR APPEAL

The following addresses the issues raised by the appellants as a justification for their appeal. The appellant's basis for denial is shown in italics with staff's response following.

The Appellant's original appeal listed six items as reasons for the appeal. These will be addressed along with the issues submitted on October 6, 1998. The original items of appeal as listed on the Appeal Application are as follows:

1. Sub-standard roads – beyond capacity.
2. Infrastructure inadequate.
3. Unique and irreplaceable Natural Resources, i.e. trees and wildlife.
4. Traffic safety and pedestrian safety concerns

5. Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.
6. Is contrary to Ardenwald Neighborhood Committee neighborhood vision.

### APPEAL ISSUES

***Appellant: Chapter 1 – Citizen Involvement – Objective #2 – Policy (a) of the Comprehensive Plan addresses the formation of citizen advisory committees to aide in the periodic update and review of the goals and policies related to land-use in Milwaukie.***

***Staff Response:***

This policy is a portion of Chapter 1, Citizen Participation Objective #1 – Neighborhood Associations – Policy 1, which reads:

*Neighborhood Organizations:*

- a) *will be advisory to the City Council and Planning commission on matters affecting their neighborhoods,*
- b) *May submit requests for funding of neighborhood projects for possible inclusion in City budget.*

***Appellant Item No. 6 - Is contrary to the Ardenwald Neighborhood Vision.***

This proposal was referred to the Ardenwald NDA/LUC on April 1, 1998. A recommendation was received from the Committee Members of that time on April 17, 1998 (**Exhibit 8**). As part of the appeal, the appellant has submitted a declaration that the NDA/LUC recommendation should be rescinded. (**Exhibit 9**). This declaration has not been signed. This issue was also raised at the Public Hearing, and at that time, the Commission confirmed that the NDA/LUC comments are advisory only, and the Commission is not bound by NDA/LUC recommendations. Public comments received at the hearing carry the same weight as the NDA/LUC comments.

***Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Background***  
***The Ardenwald area in the western half of the neighborhood is currently the focus of the county's housing and rehabilitation efforts.***

***Appellant Item No. 5 - Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.***

***Staff Response:***

Neighborhood Area-2 applies to Island Station Neighborhood and does not address guidelines for the Ardenwald Neighborhood Association. This guideline is not relevant to this proposal.

The Neighborhood Element of Chapter 4 was intended to provide guidelines for all of the nine (9) Milwaukie Neighborhood Areas. In order to be recognized by the Council and

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submit new policies into this section of the Comprehensive Plan, the Neighborhoods needed to comply with the four (4) regulations contained in Chapter 1- Objective 1 – Neighborhood Associations. The Ardenwald Neighborhood Association (Association #7) did not participate in this process.

**Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Guideline #2 – Tree Preservation** *To preserve large trees in the neighborhood by requiring cut permits for removal of selected live trees, and enforcing a tree replacement program.*

***Appellant Item No. 3 – Unique and Irreplaceable Natural Resources, No. 1 Substandard Roads beyond capacity, and No. 2 Infrastructure inadequate.***

**Staff Response:**

As stated above, Neighborhood Area 2 Guidelines address issues identified as concerns of the Island Station Neighborhood Association and do not apply to the Ardenwald Neighborhood Association.

The City's current tree ordinance provides a means to enforce the preservation of only those trees that are located in the public right-of-way. At this time the Commission has no enforcement authority to require that applicants maintain trees on private property. During the hearing process the applicant stated his desire to minimize the removal of trees from the site. In reviewing the land-use application, the Commission considered this and required the applicant submit a vegetation plan which protects and minimizes removal of trees affected by the proposed development. This requirement was added as Condition No.8 to the Findings and Conditions of Approval for the subdivision.

**Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Guideline #6 – Walkways** *To provide safe pedestrian walkway throughout the neighborhood separated from roadways, without necessarily constructing sidewalks. Important considerations are: Many deep back lots might provide right-of-way for walks and bikepaths.*

***Appeal Item No. 4 – Traffic Safety and Pedestrian Concerns***

**Staff Response:**

Again, Area 2 guidelines apply to the Island Station Neighborhood. This guideline is not relevant to this proposal.

The subdivision as approved includes sidewalks along the entire frontage of the property on Malcolm Street. Sidewalks are not required to be extended along the northern portion of the flag strip due to the fact that the accesses are private drives.

The inclusion of walkways that are separated from roadways to the back lots would not provide connectivity with other existing walkways or bikepaths in the area, and is not warranted.

**Appellant: Chapter 5 – Transportation, Public Facilities and Energy Conservation  
Objective #3 – Policy #5. *A high priority will be given to pedestrian Facilities along or to Transit Corridors.***

***Appellant Item No. 4 – Traffic Safety and Pedestrian Safety Concerns.***

There is no policy language that reads as that provided by the Appellant. The closest language staff could identify as addressing the Appellants concern is located in Objective #3 – Community Development Policy #2 which reads as follows: “*Public Facilities improvements should be made as properties develop. These improvements shall be consistent with the land use map and Public Facilities Plan*”.

Transportation improvements related to streets, sidewalks, curbs are required at the time of development and are addressed as condition of approval No. 3.

**Appellant: Chapter 5 – Transportation, Public Facilities and Energy Conservation –  
Objective 8 – Pedestrian/Bikeway #4 *Transportation improvements should be provided as development occurs.***

**Staff Response:**

Again, there is no policy which reads as stated. The closest staff could find is Objective 3 – Community Development Policy #2, which reads: “*Public Facilities improvements should be made as properties develop. These improvements shall be consistent with the land use map and Public Facilities Plan*”.

Chapter 5 – Transportation, Public Facilities and Energy Conservation – Objective 8 addresses Police and Fire Services. Policy 4 reads: “*the City will continue to participate in a mutual response agreements among fire districts and departments as long as the agreement enhances the ability of the City to provide uniform levels of fire protection through out the City*”.

**Appellant: Chapter 2 – Plan Review and Amendment Process – Objective #1 Policies - #3  
*It is our intention to ask the Planning Commission to review for possible amendments, the Citizen Involvement portion of the Comprehensive Plan.***

***Appellant Item No. 6 – Is Contrary to Ardenwald Neighborhood Vision.***

**Staff Response:**

The Commission can not apply or address future issues that have not been addressed in the land use process. In approving this subdivision, as well as any land-use action, the Commission is bound by land-use law. All land-use applications are heard and acted upon in accordance with the current land-use laws, rules, and regulations, ordinances and standards that are in force and effect at the time of the hearing.

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***Appellant:*** Chapter 2 – Plan Review and Amendment Process – Objective #2 Policies - #4  
*All actions will be consistent with the intent of the Comprehensive Plan. The intent is clearly stated in the Overriding Management Policies.*

***Appellant Item No. 5 – Violates the character of and livability of our neighborhood in conflict with the Comprehensive Plan.***

**Staff Response:**

The approval of the subdivision as proposed is consistent with the intent of the adopted Milwaukie Comprehensive Plan. The subdivision did not require variances, and meets all the subdivision and zoning ordinances that drive development and re-development in the City. The type of development proposed in the subdivision is single family detached dwellings which is compatible with, and of “like” character as the other single family detached dwellings currently existing in the neighborhood.

The application meets the criteria for consistency with the Comprehensive Plan.

***Appellant:*** Chapter 3 – Environmental and Natural Resources *Calls for the wise use and management of these resources, particularly since the City is almost completely developed and few areas remain in a natural state.*

***Appellant Item No. 3 – Unique and irreplaceable Natural Resources i.e. trees, wildlife.***

**Staff Response:**

Chapter 3 of the Comprehensive Plan addresses the City’s policies, goals, and objectives for preservation and enhancement of the natural resource areas found in Milwaukie. This chapter establishes policies for preservation of open space, natural resource areas, and historic and scenic areas for compliance with Statewide Planning Goal 5. This Statewide Planning Goal requires local governments to map these areas and provide a plan of how they will be preserved. These natural resource areas have been mapped and are regulated through the Natural Resource Overlay Zone in the Zoning Ordinance.

This site is not identified as a natural resource area. There are no historic structures existing on the property and the property does not have scenic or other valuable resources that would require a natural resource evaluation or review. The subdivision as proposed meets the criteria.

***Appellant:*** Chapter 3 – Environmental and Natural Resources *Typical open space standards for populations of 20,000 suggest over 450 acres should be available. 65 acres of city owned park land plus 50 acres of school grounds and 150 acres of privately owned land make up the total of 265 acres of open space remaining in the City.*

***Appellant Item No. 5. - Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.***

**Staff Response:**

This statement is derived from the Background and Planning Concepts portion of the Open Space, Scenic Areas and Natural Resources Element. The last sentence in paragraph 5 of this Section reads: “*Typical open space standards for populations of 20,000 suggests over 450 acres should be available: Obviously an unrealistic expectation due to the extensive level of development which has already occurred within the City*”.

Even with the above language, the City has been working toward identifying opportunities and acquiring property for parks. There is currently, a total of 80 acres of park property that is managed by the North Clackamas Parks & Recreation District. The City collects a \$950 dollar parks fee for each new single-family residence developed in the City for the purchase and development of new parks and open space.

**Appellant:** Chapter 4 – Land Use – Objective #2 – Planning Concept *A range of housing types is encouraged throughout the City as long as the character of existing neighborhoods is not dramatically altered by new development.*

*Appellant Item No. 6. Is contrary to Ardenwald Neighborhood Vision, and Item No. 5 violates the character and livability of our neighborhood in conflict with the Comprehensive Plan. .*

**Staff Response:**

The subdivision as proposed does not alter the characteristics of the neighborhood. The subdivision creates 4 lots where two presently exist. The surrounding neighborhood has single-family residences and lots 3 and 4 of the subdivision are similar to existing lots on the north and east side of the development. **(Exhibit 10 – Tentative Plan)** The applicant proposes to construct single family homes on the two new lots, which is compatible with the surrounding single family residences.

The project is located at the end of Malcolm Street, which dead-ends into the railroad right-of-way. The impacts from this proposal will be to only properties to the north and east of the site. The proposed addition of two new lots will not result in a dramatic change to the character and livability of the neighborhood.

**Appellant:**

Chapter 4 – Land Use – Objective 3 – Residential Land Use *To encourage a desirable living environment by allowing flexibility in design, minimizing the impact of new construction on existing development, and assuring that natural open spaces and developed recreational areas are provided whenever feasible.*

*Appellant Item No. 5 – Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.*

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**Staff Response:**

This Guideline addresses residential design. Objective 3 addresses policies and concepts that call for a flexible design approach and allow for density bonuses and transfers, to ensure a high quality of environmental design.

The applicant has proposed a simple 4-lot subdivision that has been designed to minimize paving by the use of a shared access. The applicant has also stated his intent to preserve, to the extent possible, the existing site vegetation, including the large evergreen trees which the neighbors have stated are an issue of concern. The subdivision as proposed meets the requirements of the City of Milwaukie Subdivision Ordinance as approved by the Commission.

**Appellant: Chapter 4 – Land Use – Planning Concepts – Policy #6 In all cases existing tree coverage will be preserved whenever possible, and areas of trees and shrubs will remain connected particularly along natural drainage courses.**

**Staff Response:**

This policy is also under Objective 3 – Residential Design. This policy refers to the preservation of trees particularly along natural drainage areas around streams, ponds and includes natural drainage swales. This property has no natural drainage areas on it that would be displaced, and as a result, affect drainage onto adjacent properties.

A vegetation plan was requested and obtained from the applicant and presented to the Commission for their review. As has been previously stated the City has no enforcement powers to require property owners to maintain trees on the property. The Commission can however, request that the impacts to vegetation be minimized. In this case, the Commission required that staff include as a Condition of Approval a condition that urged the property owner to provide a tree plan that would minimize the elimination of trees and vegetation on the site. (Condition of Approval #8 – Exhibit 7) The developer agreed to this condition.

**Appellant: Chapter 4 – Land Use – Objective #4 – Neighborhood Conservation To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing, well defined neighborhoods in order to encourage the long-term maintenance of the city's housing stock.**

**Appellant Item No. 5. – Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan**

**Staff Response:**

The subdivision site is located in a Low Density area (Map #7 – Land Use). The specific policies which apply to low-density areas, require the rehabilitation of existing housing stock and that new projects maintain a single family building, bulk, scale and height

when abutting existing single family areas. The proposal complies with all aspects of this policy. The development proposes to construct single family residences, and is not out of character with the existing housing in the neighborhood.

**Appellant:**

**Chapter 4 – Land Use – Neighborhood Element – Objective #1 – Neighborhood Character Policy #4** *Require new residential developments to be consistent in type, style and density with that existing in the neighborhood.*

**Appellant Item No. 5. – Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.**

**Staff Response:**

Policy #4 reads: “Requires new residential developments to be consistent in type, style, and density with that existing in the neighborhood area, unless as otherwise designated on the land use map.” This site is identified as Low-Density residential on the Land Use Map #7. Low-Density areas range up to 6.7 du per acres. The subdivision would result in a density of roughly 5 du per acre and meets the criteria.

**Appellant:**

**Chapter 4 – Land Use – Neighborhood Element – Objective #2 – Neighborhood Needs – Policies # 7.** *To more adequately maintain existing City streets, and to solve the problem of surface flooding and ponding.*

**#5** *The City will support the proposed 40 mile loop as a means to meet regional needs for pedestrian paths and bikeways.*

**Appellant Item No. 2. – Infrastructure inadequate**

**Staff Response:**

Policy #5 and #7 address the needs of neighborhood areas for public facilities and services. Specifically Policy #5 speaks to traffic safety improvements proposed in the Roadway and Traffic Safety Management Plan, 1978, and the Public Facilities Plan. Policy #7 addresses the adequate maintenance of existing City Streets, and to solve the problem of surface flooding and ponding. The City Public Works Department maintains the Capital Improvement program that is approved by Council. This plan identifies priorities for improvement and allocates funding to see that these improvements are completed.

Funding for on-going street repair and maintenance comes from gas taxes as well as from Transportation System Development Charges (SDC's) for all new development. The applicant will be required to pay separate SDC's for each new home built.

The project as proposed meets the City Public Works requirements for subdivision development. Street improvements, including access, drainage, sidewalks curbs, water and sewer, were addressed. The project as proposed met the criteria for approval by the Commission.

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The Public Facilities Plan identifies 32<sup>nd</sup> Avenue re-construction including curb and sidewalk, which has been completed. This is the only transportation project in the Public Facilities Plan identified for the Ardenwald Neighborhood. There was a storm drainage project identified along the railroad tracks from Olsen Street, north to Roswell Street. This project was not completed due to the lack of funding. The storm drainage improvements identified above for Malcolm Street, if and when they are constructed, will easily connect into the subdivision as approved by the Commission.

Even though no water line projects were identified in the 1988 Public Facilities Plan, the City did up-size the water line in Malcolm Street to a 6-inch line in 1995 and added fire hydrants to improve fire protection.

The subdivision as proposed meets the capacity requirements for storm drainage and water (fire protection).

**Appellant**

**Chapter 5 – Public Facilities and Services – Background and Planning Concepts – *The overriding concepts for public facilities and services are to improve conditions for existing residents.***

**Staff Response:**

This statement is taken from paragraph 4 of the Background and Planning Concepts section of the Public Services Element. The full text reads as follows: “*The overriding concepts for public facilities and services are to improve conditions for existing residents, to plan for and make available facilities and services for development within the City and within the City’s growth area, and to cooperate with other public and semi-public agencies in providing the best services at the lowest costs.*” This concept identifies three areas for the City to focus their facility and service improvement efforts – 1) improvements to existing conditions, 2) improvements for new development, and 3) inter-agency agreements. The Comprehensive Plan objectives and polices for the specific facilities and services support these concepts.

The City has adopted a Public Facilities Plan and Capital Improvement Plan to direct and prioritize facility improvements within the City. The public works projects identified in these documents are directed at improving the conditions for existing residents. When new development is proposed, the applicant is required to bear the costs for bringing services to the site. Sometimes the City may also organize a Local Improvement District (LID) in which all property owners who benefit share in the cost of facility improvements. In this case, all facilities are available to the site and the applicant will be required to extend services from the Malcolm Street to serve the new lots.

**Appellant:**

**Chapter 5 – Drainage and Streets - *With 65 miles of roadway compared to 22 miles of storm drainage, storm drainage continues to be a major issue in the City of Milwaukie.***

**Staff Response:**

This statement was written in 1989 and it continues to be true. Storm drainage concerns ranked number 2 in the City's Public Facilities Survey. Since 1989, the City has increased miles of roadway from 65 to 73 miles and storm drainage has gone from 22 to 35 miles. The City spends an average of \$ 25,000 a year on storm drainage improvements. These expenditures are guided by the priorities listed in the City's Public Facilities Plan and Capital Improvement Plan which are adopted by the Council.

In addition to the City's public projects, storm drainage and streets improvements are required when new subdivisions are constructed. The City Public Works Department has required that a new catch basin be developed at the end of Malcolm Street, as part of the development of the fire turn-around. This will handle storm run-off from the new paved area. The applicant will be required to connect all new impervious surfaces on site to drywells so that storm drainage impacts to the right-of-way or to neighbors will not be increased.

**Appellant:**

**Chapter 5 – Transportation, Public Facilities and Energy Conservation – Objective #8  
Policies #5 - *The City will ensure that streets are of high structural quality sufficient width and are well maintained.***

***Appellant Item No. 1 Sub-standard Roads – beyond capacity.***

**Staff Response:**

This policy is listed under Objective 8 – Police and Fire Services. It reads – “ The City will ensure that streets are of a high structural quality, sufficient width, and are well maintained to allow access of emergency vehicles and service equipment.” This policy is designed to ensure that the standards for safety access are maintained.

Malcolm Street is a dead-end local street with a 50-foot wide right-of-way and approximately 16 feet of paved surface. The Public Works Department and the Fire Marshall have required that the developer install half-street improvements as well as a hammerhead turn-around at the end of Malcolm Street. The turn-around would use a portion of the access strip that would be dedicated as public right-of-way. This would improve fire safety access for all homes at this the end of Malcolm Street.

The appellant has also stated that Malcolm Street is sub-standard and beyond capacity. Malcolm Street is designed as a local street in the City's Transportation System Plan (TSP). Local streets are designed to have up to 1,500 vehicle trips per day. There are currently 34 residential lots which front Malcolm between 32<sup>nd</sup> Avenue and the end at the

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railroad tracks. The Institute of Traffic Engineers Manual estimates an average of 10 daily trips per household.

Based on this we could anticipate approximately 340 trips per day on Malcolm Street. With the addition of two new lots, we may expect this to increase to 360 trips per day. This is well below the 1,500 vehicle trips per day maximum.

Based on traffic counts for similar streets in the City, Engineering Staff expect the average daily trips (ADT) to be below 200. Local streets which experience relatively high volumes of traffic include 35<sup>th</sup> Avenue (Washington to Lake) – 989 ADT, Filbert (32<sup>nd</sup> to 42<sup>nd</sup>) – 334 ADT and Aspen Street (Linwood to Sequoia) – 393 ADT. Local streets which would be similar to Malcolm include Blue Bird (at railroad crossing) – 162 ADT, Sparrow (at railroad crossing) 139 ADT, and Wren (at railroad crossing) – 83 ADT. City Engineering Staff will complete traffic counts prior to the hearing. We expect that this information will demonstrate that Malcolm Street is sufficiently below maximum road capacity to allow two additional residential lots.

**Appellant: Chapter 5 – Transportation, Public Facilities and Energy Conservation – Objective #2 – Transportation System – Policies. - Improvements to the pedestrian and bicycle system linking neighborhood and community facilities and improving access to transit corridors.**

**Staff Response:**

The appellant cites a portion of Policy 1, Objective 2 - The Transportation System Policies of the Energy Conservation Element. This policy is implemented through policies contained in the Transportation Element and is designed to encourage the reduction in vehicle trips through the use of other modes of transportation. Generally, the City will use gas tax or grant funds to make pedestrian and bicycle system improvements along road segments. Additionally, the City will require sidewalk and roadway improvements as part of land divisions or lot development.

The proposed subdivision requires half-street improvements along with curb, gutter and sidewalk in front of the project. This is consistent with City Comprehensive Plan policies and Subdivision criteria.

**EXHIBITS**

1. Vicinity Map
2. Addendum to Staff Report of May 26, 1998
3. Planning Commission Meeting Minutes of September 9, 1998
4. Appeal Application
5. Appellant Documents – Dated October 3, 1998
6. Section 302, R-7-Residential, Subdivision Ordinance, Title 17,
7. Findings and Conditions of Approval
8. Ardenwald NDA/LUC Comments

9. Letter Rescinding NDA Comments
10. Tentative Subdivision Plan Map

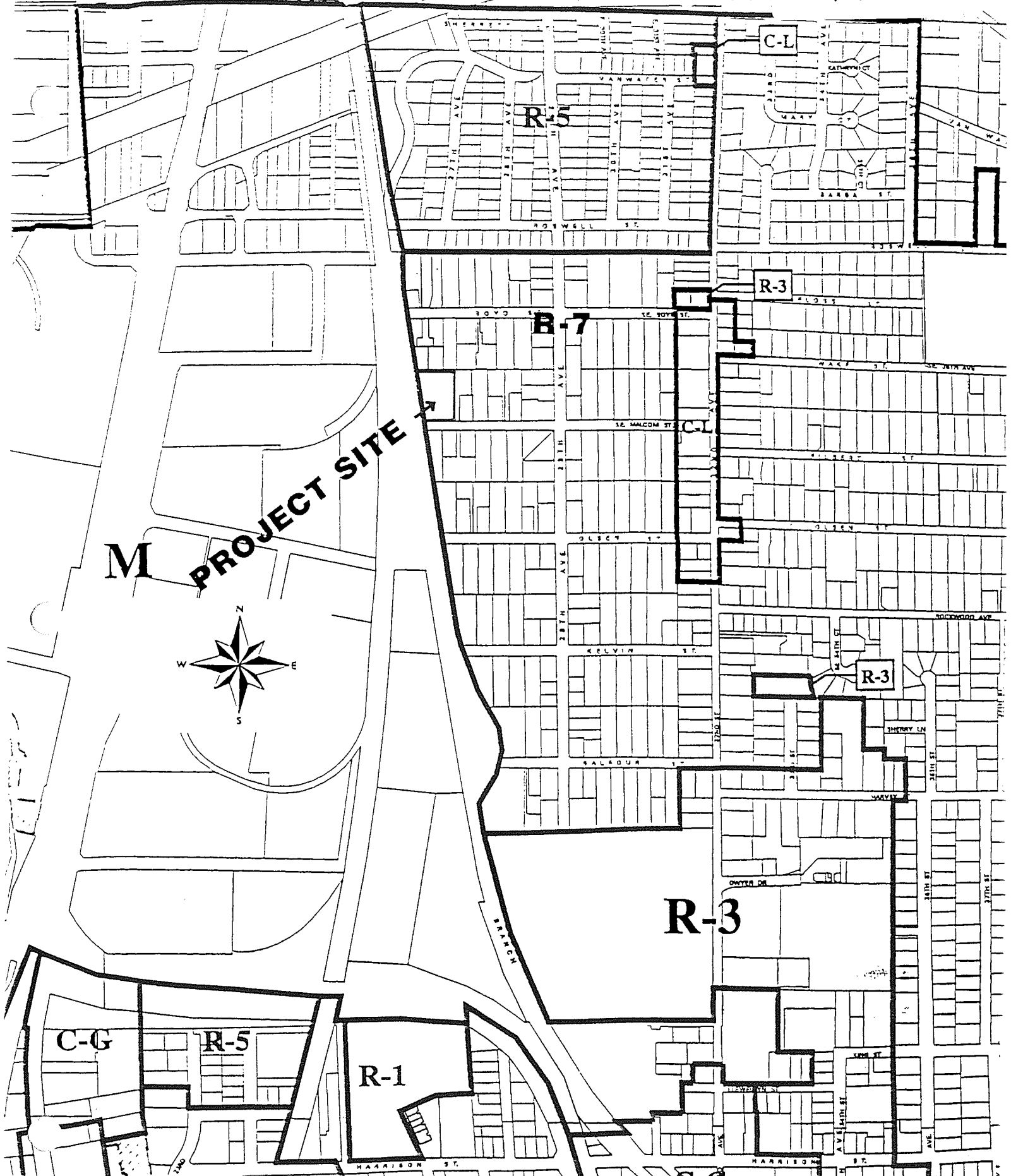
Attachment(s): Neighbor Comments

**HENDERSON – S-98-01**  
**CHRONOLOGY**

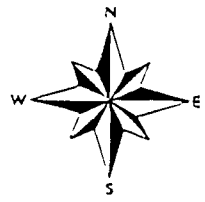
<i>February 17,1998</i>	Pre-Application Meeting.
<i>March 26, 1998</i>	Application Submitted.
<i>April 1, 1998</i>	Referrals Routed to Neighborhood Association, and other interested parties.
<i>April 14, 1998</i>	Proposal discussed at Ardenwald NDA Meeting.
<i>April 17,1998</i>	Ardenwald Neighborhood Comments Submitted to City.
<i>April 28, 1998</i>	Application Deemed Complete. 120-Day Clock Starts.
<i>May 6,1998</i>	Public Notice sent to Neighbors within 250 Feet of Applicant's property.
<i>May 15, 1998</i>	Public Notice Published in the Clackamas County Review.
<i>May 22, 1998</i>	Published in the Clackamas County Review.
<i>May 15,1998</i>	Public Notice Posted at Site.
<i>May 26,1998</i>	Planning Commission Meeting held Public Hearing on Proposal. Applicant requested a continuance to review Public Works requirements for infrastructure required for the subdivision and other options for development. 120-day Waiver submitted by applicant and obtained on June 9,1998.
<i>June 26,1998</i>	Pre-Application Meeting scheduled to review other development options.
<i>July 2, 1998</i>	Pre-application conference held.
<i>August 11,1998</i>	August 13, 1998 letter received by City from Applicant stating intention to continue with original proposed 4-lot subdivision.
<i>August 19,1998</i>	Re-Noticed Property Owners sent.
<i>August 28, 1998</i>	Public Notice published in the Clackamas County Review
<i>September 4, 1998</i>	Public Notice published in the Clackamas County Review.

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<i>August 28, 1998</i>	Public Notice posted at the site.
<i>September 9, 1998</i>	Second Public Hearing held by Planning Commission. The Commission votes to approve the proposal.
<i>September 10, 1998</i>	Notice of Decision sent to all interested parties.
<i>September 17, 1998</i>	Notice of Appeal filed with City by Michele Greeley-Roberts and Scott Rasmussen. Applicant indicates that additional materials will be submitted.
<i>September 30, 1998</i>	Public Notice - City Council Appeal Hearing Notice - Sent to Property Owners.
<i>October 2, 1998</i>	Public Notice of Appeal Hearing published in the Clackamas County Review.
<i>October 6, 1998</i>	Appellant submits remainder of appeal materials.
<i>October 9, 1998</i>	Public Notice published in the Clackamas County Review.
<i>October 13, 1998</i>	Appeal Site Notice Posted.
<i>October 13, 1998</i>	City Council Packet mailed to City Council Members and those deemed to have standing.
<i>October 20, 1998</i>	City Council Appeal hearing date.
<i>October 28, 1998</i>	120-Day review deadline.



**M PROJECT SITE** →



**City of Milwaukee Community Development Department**

Title: Vicinity MAP Submitted by: CD Date: \_\_\_\_\_ # Pages: 1  
 File Numbers: S-98-61 Applicant: Henderson Exhibit #: 1



COMMUNITY DEVELOPMENT DEPARTMENT

ADDENDUM TO STAFF REPORT OF MAY 26, 1998

Hearing Date: September 8, 1998  
120-Day Date: NA

Date: September 1, 1998  
File No.: S-98-01

Application: Subdivision  
Applicant: Tom & Kelly Henderson  
Owner: Same  
Location: 2723 SE Malcolm Street, Milwaukie  
Tax Lot: T1S R2E 25 BD TL 1700

NDA: Ardenwald

\*\*\*\*\*


BACKGROUND

The Applicant submitted a request for approval of a 4-lot subdivision at 2723 SE Malcolm Street. At the May 26, 1998 meeting of the Planning Commission a public hearing was held (Attachment 1, Planning Commission Minutes of May 26, 1998). At the hearing staff reported that the Applicant had requested that the public hearing be continued to a future date to allow him to review the required improvements outlined in the Public Works memorandum dated April 14, 1998. (Attachment 5 – Staff Report, Exhibit 5). The Planning Commission approved the Applicant’s request for a continuation to a date uncertain.

A Waiver of the 120-day processing time was obtained from the applicant on June 9, 1998.

On July 2, 1998 Staff held a pre-application conference with Mrs. Henderson regarding a re-design of the proposed subdivision which added a 5<sup>th</sup> lot and would have included the need for variances to lot widths. Because staff did not hear from the Applicant after the July 2<sup>nd</sup> pre-application meeting, a letter was sent on August 6, 1998 requesting a decision as to whether to continue with the original subdivision application or amend the application to include a 5<sup>th</sup> lot (Attachment 2). On August 18, 1998 Staff received correspondence from the Applicant stating that they wished to continue with the subdivision application as originally proposed (Attachment 3).

The original subdivision application submitted by the Applicant and the staff report are included as Attachment 4—Application, and Attachment 5—Staff Report.

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Addendum to Staff Report</u>	Submitted by: <u>CD</u>	Date: <u>9/1/98</u>	# Pages: <u>24</u>	
File Numbers: <u>S-98-01</u>	Applicant: <u>Henderson</u>	Exhibit #: <u>2</u>		

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As always Staff will be available to answer any questions that the Commission has regarding this proposed subdivision application at the September 8, 1998 Planning Commission meeting.

**Attachments:**

**Attachment 1** – Minutes of May 26,1998 Planning Commission Meeting

**Attachment 2** – Staff Letter to Applicant

**Attachment 3** – Applicant Response to Continuation of Application

**Attachment 4** – Subdivision Application

**Attachment 5** – Staff Report Dated May 26, 1998

- 6.2 Applicant: Corbin Shays/Centerline Concepts
- Property Owners: Tom and Kelly Henderson
- Location: 2723 SE Malcolm
- Proposal: Subdivision to divide 2 existing lots into 4 lots with 2 standard lots and 2 flag lots.
- File Number: S-98-01
- NDA: Ardenwald

**Chair Smith** opened the public hearing on File Number S-98-01, an action to construct a 4-lot subdivision at 2723 SE Malcolm Street. The criteria to be addressed are found in Sections 302 and 400 of the Milwaukie Zoning Ordinance; Chapter Four - Land Use, of the Milwaukie Comprehensive Plan; and Section 17 of the Milwaukie Zoning Ordinance.

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

**STAFF REPORT**

**Susan Heiser** reported that the Applicant has requested that this hearing be continued to a future meeting date. She suggested that the Commission allow those who came tonight to give testimony on the Application, then continue this Public Hearing to a date uncertain.

**QUESTIONS FROM THE COMMISSIONERS -- None.**

**APPLICANT PRESENTATION**

Speaking: Tom Henderson, 10801 SE Myrtle Street, Milwaukie

**Mr. Henderson** stated that he has asked Staff to continue this hearing until he has had time to review the present design and make it more cost effective. He would like to re-evaluate the design and maybe get another lot out of it; there is significant property available. This change is in response to the Conditions of Approval by Public Works in the Staff Report. These requirements may be too

CITY OF MILWAUKIE PLANNING COMMISSION  
Minutes of May 26, 1998  
Page 7

costly. The required barricade and turn-around road improvements are high-cost items.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Speaking: Scott Rasmussen 2710 SE Malcolm, Milwaukie

**Mr. Rasmussen** stated that there have been 5 flag lots put on his street in the last six years. The amount of water coming down their street is phenomenal, it is referred to as Malcolm Creek. His home is the last house at the bottom of the dead-end street. There are no storm drains on the street and there is nowhere for the water to go.

**Mr. Rasmussen** stated that he is in opposition to the five houses, it is out of character for this neighborhood. This has been a country setting for many years. He has received no information on whether this construction will be for manufactured homes, tri/duplexes, or what. He feels the only reason for this development is to make money. He is not in favor having more cars, more houses, and more traffic on this quiet dead-end street.

ADDITIONAL COMMENTS FROM STAFF

**Susan Heiser** requested that the Planning Commission continue the public hearing to a date uncertain. Should revisions to this Application require review by the land-use committees, new notices will need to be sent out with the date of the continued hearing.

QUESTIONS FOR CLARIFICATIONS

Speaking: Tom Henderson, 10801 SE Myrtle Street, Milwaukie

**Mr. Henderson** noted that he is required to put in a storm drain system to take care of storm water from his development. He is not responsible for existing problems. He is agreeable to doing what is required by the City. In reference to

the number of homes being constructed, **Mr. Henderson** stated that according to the Comprehensive Plan, he can put in as many as 6.7 houses per acre.

#### DELIBERATION AMONG COMMISSIONERS

**Chair Smith** opened the meeting to discussion among the Commissioners.

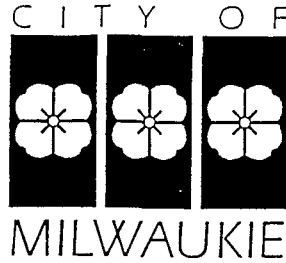
**Charles Stoudt** moved to continue S-98-01, a proposed four-lot subdivision, to a date uncertain, until the Applicant has had an opportunity to review his design and submit a revised Application. **Tim Havel** seconded. MOTION CARRIED 5-0.

- 6.3    Applicant:            Corbin Shays/Centerline Concepts  
           Owner:                Karl Brown  
           Location:             Home Avenue & Stewart Court  
           Proposal:             Subdivision to create 4 lots and to dedicate a 27-foot wide public street. Variances from Zoning Ordinance sections 302.3.A and B are requested to have 73-foot deep lots where 80 feet is required, and a 13.5 ft. front yard setback for the existing house on Lot 1 where 20 feet is the minimum required.  
           File Numbers:        S-98-02 and VR-98-02  
           NDA:                     Hector Campbell

**Chair Smith** opened the public hearing on File Number S-98-02 and VR-98-02, an action to create a 4-lot subdivision at Home Avenue and Stewart Court. The criteria to be addressed are found in Sections 302, 400, and 700 of the Milwaukie Zoning Ordinance; Chapter 4 - Land Use of the Milwaukie Comprehensive Plan; and Section 17 of the Milwaukie Subdivision Ordinance.

**Chair Smith** asked if there were any conflicts of interest or ex-parte contacts to declare. **Donald Hammang** declared that he is the chairperson of the Hector Campbell Neighborhood Association. The Land-Use Committee has reviewed this Application. He has not been involved with this Committee, or any land-use actions of the Committee. He feels this association will not impair his ability to vote on this issue. There were no other ex-parte contacts or conflicts of interest declared. He asked if any member of the Planning Commission visited the site; three hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the Staff Report. No one in the

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August 6, 1998

Tom & Kelly Henderson  
10801 SE Myrtle Street  
Milwaukie, OR 97222

RE: Subdivision Application #98-01- Four-Lot Subdivision at 2723 SE Malcolm Street

Dear Mr. & Mrs. Henderson:

This letter is in regard to your subdivision application (S-98-01). Per your request at the May 26, 1998 Planning Commission, your application for a four (4) subdivision on Malcolm Street, was continued. On July 2<sup>nd</sup> a pre-application meeting was held to discuss your subdivision application and a possible expansion of the subdivision from 4-lots to a 5-lot subdivision.

Since that time we have not heard whether you intend to continue with your original 4-lot subdivision proposal or proceed with the 5-lot proposal. Because your application has been in process for a considerable length of time and we have not heard from you, we have no choice but to with the public hearing process for your application.

Unless we hear from you by August 14, 1998 we will assume that your intention is to continue with the proposed 4-lot subdivision application and re-schedule the public hearing for the September 8, 1998 meeting of the Planning Commission.

Please do not hesitate to contact me at 786-7653 if you would like to discuss any of the issues associated with you application or the application process.

Sincerely,

A handwritten signature in cursive script that reads "Janet Wright".

Janet Wright,  
Assistant Planner

*Copy*

**Tom & Kelly Henderson**

V. 23

10801 SE Myrtle Street  
Milwaukie, Oregon 97222  
Home Phone (503) 786-1489

◆◆◆◆  
**RECEIVED**

August 13, 1998

**AUG 18 1998**

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

Janet Wright  
City of Milwaukie, Planning & Zoning

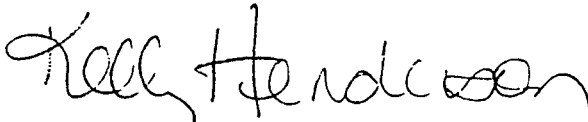
Dear Ms. Wright,

Per our telephone conversation of Tuesday, August 11, 1998, Tom and I have decided to go ahead with the original plans of four lots previously submitted to you for our property located at 2723 SE Malcolm street. Please schedule us for the next available city meeting.

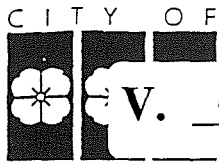
Please be advised, also, that Centerline Concepts is no longer employed by us. We are in the process of hiring another company and will notify you as soon as we have one on board.

Thank you for your patience in this matter.

Sincerely,



Kelly Henderson



MILWAUKIE

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

# Application for and Use Action

APPLICANT(S): Corbin Shays Centerline Concepts Phone: 650-0188  
 Address: 640 82nd Dr. Gladstone OR Zip: 97027  
 PROPERTY OWNER(S): Tom + Kelly Henderson Phone:  
 Address: 10801 SE Myrtle St. Milwaukie OR Zip: 97222

APPLICATION TYPE (check):

<input type="checkbox"/> Annexation	<input type="checkbox"/> Nonconforming:
<input type="checkbox"/> Appeal (Admin. to PC/PC to CC)	<input type="checkbox"/> Use
<input type="checkbox"/> Community Service Overlay	<input type="checkbox"/> Structure
<input type="checkbox"/> Comprehensive Plan Amendment (Major QJ/Legislative)	<input type="checkbox"/> Replacement of existing NCU
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Planned Development (Preliminary/Final)
<input type="checkbox"/> Exception	<input type="checkbox"/> Solar Review
<input type="checkbox"/> Expedited Land Division	<input checked="" type="checkbox"/> Subdivision <u>(Preliminary)</u> Final)
<input type="checkbox"/> Historic Resource Review:	<input type="checkbox"/> Temporary Structure
<input type="checkbox"/> Alteration	<input type="checkbox"/> Transition Area Plan Review
<input type="checkbox"/> "Other" Alteration	<input type="checkbox"/> Transportation Planning Review
<input type="checkbox"/> Demolition	<input type="checkbox"/> Variance:
<input type="checkbox"/> Deletion OR Designation	<input type="checkbox"/> 25% or less of Zoning Ordinance standards
<input type="checkbox"/> Lot Line Adjustment	<input type="checkbox"/> Over 25% of Zoning Ordinance standards
<input type="checkbox"/> Major Land Partition	<input type="checkbox"/> Sign Ordinance
<input type="checkbox"/> McLoughlin Corridor Design Review:	<input type="checkbox"/> Subdivision Ordinance
<input type="checkbox"/> Regular	<input type="checkbox"/> Zoning Ordinance Amendment:
<input type="checkbox"/> With Willamette Greenway Conditional Use	<input type="checkbox"/> Map, Major Quasi-Judicial
<input type="checkbox"/> Minor Land Partition	<input type="checkbox"/> Map, Legislative
<input type="checkbox"/> Natural Resource Review	<input type="checkbox"/> Text, Major Quasi-Judicial
	<input type="checkbox"/> Text, Legislative
	<input type="checkbox"/> Other:

PROPOSAL (describe briefly):  
Four lot subdivision, 2 standards lots + 2 flag lots.

Location: 2723 SE Malcolm Map & Tax Lot(s): 1S 1E 25B0 T.L. 1700  
 Comprehensive Plan Designation: Zoning: R7 Size of property: 31,206 s.f.

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: Sharon VanHorn LUC Chair: Ardenwald Phone: 659-5651

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: Kelly Henderson Date: 3-26-98

THIS SECTION FOR OFFICE USE ONLY

File #: Sub 98-01 Fee: \$ 2,198 Sign fee: \$ 80 Date: 3 26 98



**Centerline Concepts, Inc.**

**Narrative for Subdivision Application**

( file # 98-01 subd. )

**Applicant:** Corbin Shays  
Centerline Concepts  
640 82nd Drive  
Gladstone, OR 97027  
650-0188

**Owner:** Tom & Kelly Henderson  
10801 SE Myrtle Street  
Milwaukie, OR 97222

**Site:** 2723 SE Malcolm Street  
Tax Lot 1700, T.1S., R.1E., Section 25BD

**Zone:** R 7 (Single Family Residential / 7,000 s.f. lots)

**Proposal:** Four lot subdivision, creating two standard  
lots and two flag lots.

## I n t r o d u c t i o n

This application requests a four lot subdivision on 2723 SE Malcolm Street. There is an existing single family residence with a detached garage. Both structures are located on the proposed lot 1. Lot 2 is a standard lot, meeting the required 60' lot width at the building line. Lots 3 & 4 are flag lots, accessed by two adjoining 15' wide flag poles.

A hammerhead turnaround is proposed to satisfy fire and public works requirements. The area of the turnaround located on the flag pole portions of lots 3 & 4 will be dedicated to as right-of-way.

The applicant proposes to construct the hammerhead turnaround to Fire Bureau standards, without curb or sidewalk.

Beyond the hammerhead turnaround the applicant proposes a concrete approach leading onto a 12' wide standard driveway to access lots 3 & 4. No turnaround is proposed at the termination of this drive because it is less than 150' in length. To allow for this shared drive, a common access easement will be recorded with the plat. Additionally a maintenance agreement will need to be recorded to cover future maintenance of the driveway.

The utility laterals for lots 3 & 4 are to be located in a private utility easement within the flagpole portions of these lots.

**Lot Diminsion Requirements**

(17.28.050 Lots).. All lots in the proposed subdiviision are appropriate for the location of the subdivision and for the type of use contemplated. Lot standards conform to the City Zoning Ordinance, see table below. This area is served by a public sewer.

Standard Lot #1	Requirement	Proposal	Compliant
(Existing SFR)			
Minimum Lot Area	7,000 s.f.	8,480 s.f.	yes
Minimum Lot Depth	80'	141.33'	yes
Minimum Lot Width	60'	60'	yes
Minimum Front Setback	20'	44'	yes
Minimum Side Setbacks	5'	5.2'	yes
Minimum Rear Setback	20'	20'	yes

Standard Lot #2	Requirement	Proposal	Compliant
(Vacant Lot)			
Minimum Lot Area	7,000 s.f.	9,159 s.f.	yes
Minimum Lot Depth	80'	141.33'	yes
Lot Width at Building Line*	60'	60'	yes
Minimum Front Setback	20'	20'	yes
Minimum Side Setbacks	5'	5'	yes
Minimum Rear Setback	20'	20'	yes

\* Building Line Setback is 37.1'

Flag Lot #3	Requirement	Proposal	Compliant
(Vacant Lot)			
Minimum Lot Area	7,000 s.f.	11,683 s.f.	yes
Minimum Lot Depth	80'	98.72'	yes
Minimum Lot Width	60'	96.9	yes
Minimum Front Setback	20'	20'	yes
Minimum Side Setbacks	5'	5'	yes
Minimum Rear Setback	20'	20'	yes

Flag Lot #4	Requirement	Proposal	Compliant
(Vacant Lot)			
Minimum Lot Area	7,000 s.f.	9,524 s.f.	yes
Minimum Lot Depth	80'	98.72'	yes
Minimum Lot Width	60'	75'	yes
Minimum Front Setback	20'	20'	yes
Minimum Side Setbacks	5'	5'	yes
Minimum Rear Setback	20'	20'	yes

- B. Access. Each lot abuts a public street for a width of at least 35', except the two flag lots. The pole portions each have 15' of frontage.
- C. Lot sidelines. All lot sidelines run at right angles to Malcolm Street.
- D. Double frontage. No double frontage lots are proposed.

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

Hearing Date: May 26, 1998  
120 Day Date: August 28, 1988  
Date: May 19, 1998  
File No.: S-98-01

Application: Subdivision  
Applicant: Corbin Shays,  
Centerline Concepts  
Owner: Tom & Kelly Henderson  
Location: 2723 SE Malcolm, Milwaukie  
Tax Lot: T.1S R2E 25BD TL 1700 (Exhibit 2)  
NDA: Ardenwald

\*\*\*\*\*

**PROPOSAL**

The applicant requests a 4 lot subdivision on 2723 SE Malcolm Street, Milwaukie. The site is located within a Residential Zone, R-7, and is part of the Ardenwald Neighborhood District Association.

**RECOMMENDATION:**

**The Planning Commission approve S-98-01 based on the findings and subject to the conditions contained in Exhibit 1 of this Staff Report.**

**BACKGROUND**

The parcel fronts on to S.E. Malcolm Street and is adjacent to the Southern Pacific Railroad right-of-way on its west. (See Exhibit 2. - Vicinity Map). The property consists of a two legal parcels which total 38,846 square feet and is zoned R-7 Residential (Single Family Residential, 7,000 square foot minimum). See Exhibit 3 - Existing Site Conditions. The surrounding properties are zoned R-7 on the east and Manufacturing on the west side of the railroad right-of-way.

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The Applicant proposes to subdivide the property into four lots. Lot 1 is proposed to be 8,480 square feet, Lot 2 - 9,159 square feet, Lot 3 - 11,683 square feet, and Lot 4 - 9,524 square feet. (See Exhibit 4 - Proposed Subdivision Tentative Plan). There is an existing single family dwelling with a detached garage located on Lot 1. Lots 1 and 2 are standard lots, which meet the required 60 foot lot width at the building line. Lots 3 and 4 are flag lots, accessed by two adjoining 15 foot wide flag pole access easements.

A hammerhead turn-around is proposed at the end of Malcolm Street which would satisfy fire and public works requirements. Malcolm Street is a dead end local street consisting of a 50 foot right-of-way, with approximately 16-feet of paved surface which does not extend to the edge of the right-of-way. That area of the turn-around located on the flag pole portions of lots 3 and 4 is proposed to be a dedicated right-of-way to assure continued and future access to the lots.

The applicant proposes to construct the hammerhead turn-around to Public Works and Fire Bureau standards, without curb and sidewalk. Beyond the hammerhead turn-around the applicant proposes a concrete approach leading onto a 12 foot wide standard paved driveway to access both lots 3 and 4. To allow for this shared drive, a common access easement would be required to be recorded on the plat. Additionally a maintenance agreement is also proposed to be recorded to cover future maintenance of the driveway.

The utility laterals for lots 3 and 4 would be located in a private utility easement within the flagpole portions of these lots.

## **DISCUSSION:**

### **Compliance With The Comprehensive Plan**

The subject property has a Comprehensive Plan Designation of Low Density which allows up to 6.7 dwelling units per acre. the proposed division would result in a maximum of 5 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 feet	Lot Width 60 feet	Lot Frmtg** 35 feet	Access 15 feet
Existing SFR	1	8,840	141.33'	60'*	56.16'	----
Standard	2	9,159	141.33'	60'*	50.17'	----
Flag	3	11,683	98.72'	96.90'	15'	15'
Flag	4	9,524	98.72'	75'	15'	15'

\* Lot width at building line. Lot width is defined as the horizontal distance between side lot line measured at the building line. See Section 100 - Introduction Provisions .

\*\* This applies to lot frontage on a street.

The applicant will retain the existing single family dwelling and garage on Lot 1. Lot coverage for the R-7 Zone is 30% maximum allowed. The existing single family dwelling and garage make up 16% lot coverage. The existing garage meets all of the setback requirements of the zone with the exception of the west sideyard for the detached accessory building. The west side yard setback is proposed at 3 feet, 6 inches and complies with Section 401.1D. which allows a side yard setback to be reduced to 3 feet for accessory structures erected more than 60 feet from the street, other than an alley, and detached from other buildings by 6 feet or more and which does not exceed one story of height or an area of 480 square feet. The existing garage meets all of the setback criteria. The other lots are undeveloped and vacant.

**Compliance with Subdivision Standards**

Lots 3 and 4 are proposed flag lots. The applicant proposes to provide a 30 foot wide access to these lots. The applicant proposes the paved portion to be 12 feet wide.

Section 17.32.040.B. and C. Flag lots. requires that the access strip to each lot be 15 feet wide, and 30 feet wide for two flag lots. The paved portion of the access is required to be 20 feet wide for two flag lots. The access drive is 240.06 feet long. Public Works has determined that to improve fire access to this dead end of Malcolm Street, a hammer head turn around must be constructed at the south of the flag pole accesses. A portion of the flag strip will be used for part of the turn around. That portion of the flag strip will be dedicated as public right-of-way. Curb, gutter, and sidewalk are required along the entire frontage of this property, including the north section of the turn around. A sidewalk is not required to be extended along the northern portion of the flag strip. However, a concrete driveway approach is required at the north end of the turnaround. A type III barricade is also required at the end of Malcolm Street.

The existing vegetation on the lot consists of eight deciduous trees, of varying sizes are located on the property. A hedge is located in, and crosses the proposed access and also outlines the perimeter of the property. There are also various fir and pine trees located on the property. Five deciduous trees that are located on Lots 3 and 4 of the proposed subdivision need to be removed to allow for access.

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### **Department of Public Works**

After reviewing the proposal, the Department of Public Works comments are outlined in a memorandum dated April 14, 1998 and included as Exhibit 5 of this report.

Public Works is requiring a hammer head turnaround to be constructed at the end of Malcolm Street, and part of the flag strip must be dedicated as public right-of-way. Curbs, gutters and sidewalks are required along the entire frontage of lots 1 and 2, including the north portion of the flag strip. The memorandum also addresses requirements for a concrete driveway and a Type III barricade at the end of Malcolm Street. A full set of engineered construction plans for street improvements, water services, sanitary sewer laterals and storm drainage must be submitted for approval, and improvements must be funded or installed prior to the City signing the plat.

### **North Clackamas Fire Prevention District**

No comments were received.

### **Neighborhood Association Comments**

The Ardenwald Neighborhood District Association (NDA) Land Use Committee has reviewed the proposal and recommended approval. The NDA Chair invited the owners of the property to attend the May meeting of the NDA to address the questions that are outlined in the approval. See Exhibit 6.

Exhibit 7 contains the applicant's response to the Ardenwald NDA comments. The applicant has addressed the NDA's comments with the association, and Staff has not received any additional comments or concerns regarding the proposed subdivision.

### **Public Comments**

No public comments have been received to date regarding this proposal.

### **CONCLUSION:**

The subdivision as proposed is consistent with the City's Comprehensive Plan, Zoning Regulations, and Subdivision standards. Staff is recommending approval of Subdivision S-98-01 to allow 4 lots, two of which would be flag lots with a 30 foot wide joint access based on the following findings and the conditions of approval contained in Exhibit 1.

**EXHIBIT 1.**

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**CONDITIONS OF APPROVAL FOR SUBDIVISION 98-01:**

1. Submittal of the Final Plat shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The Final Plat shall include timelines and plans for construction of required improvements. This submittal must occur within one year of this preliminary plat approval.
2. The applicant shall have recorded a deed restriction prior to final plat approval which states that Lot 2 has a required front yard setback of 37.1 feet from the front property line.
3. The applicant shall submit full engineered plans for street improvements, water services, sanitary sewer laterals and storm drainage to the City of Milwaukie, Public Works Department, for approval and the improvements must either be installed or funded prior to the City signing the Plat.
4. A copy of the recorded Plat must be provided to the City prior to the issuance of building permits for any of the lots in the subdivision.
5. The applicant shall dedicate a portion of the flag strip as public right-of-way as stipulated in the Public Works Memorandum dated April 14, 1998. All other items detailed in the memorandum are hereby made a part of the conditions of approval for this subdivision.
6. The applicant will meet the City of Milwaukie, Subdivision Ordinance Section 17.32.040. Flag Lots.. which states that the paved portion of the access to two flag lots will be a minimum of 20 feet wide.
7. The applicant shall comply with the minimum requirements for paving typical driveways for flag lots, as provided by the City of Milwaukie Public Works Department.
  
8. The applicant shall provide a tree preservation plan for the eleven large evergreen trees on the site. The preservation plan shall show how the trees will be preserved and protected during general lot development, including road and home construction. The plan shall be submitted to the Planning department for review and approval prior to the recording of the final plat.

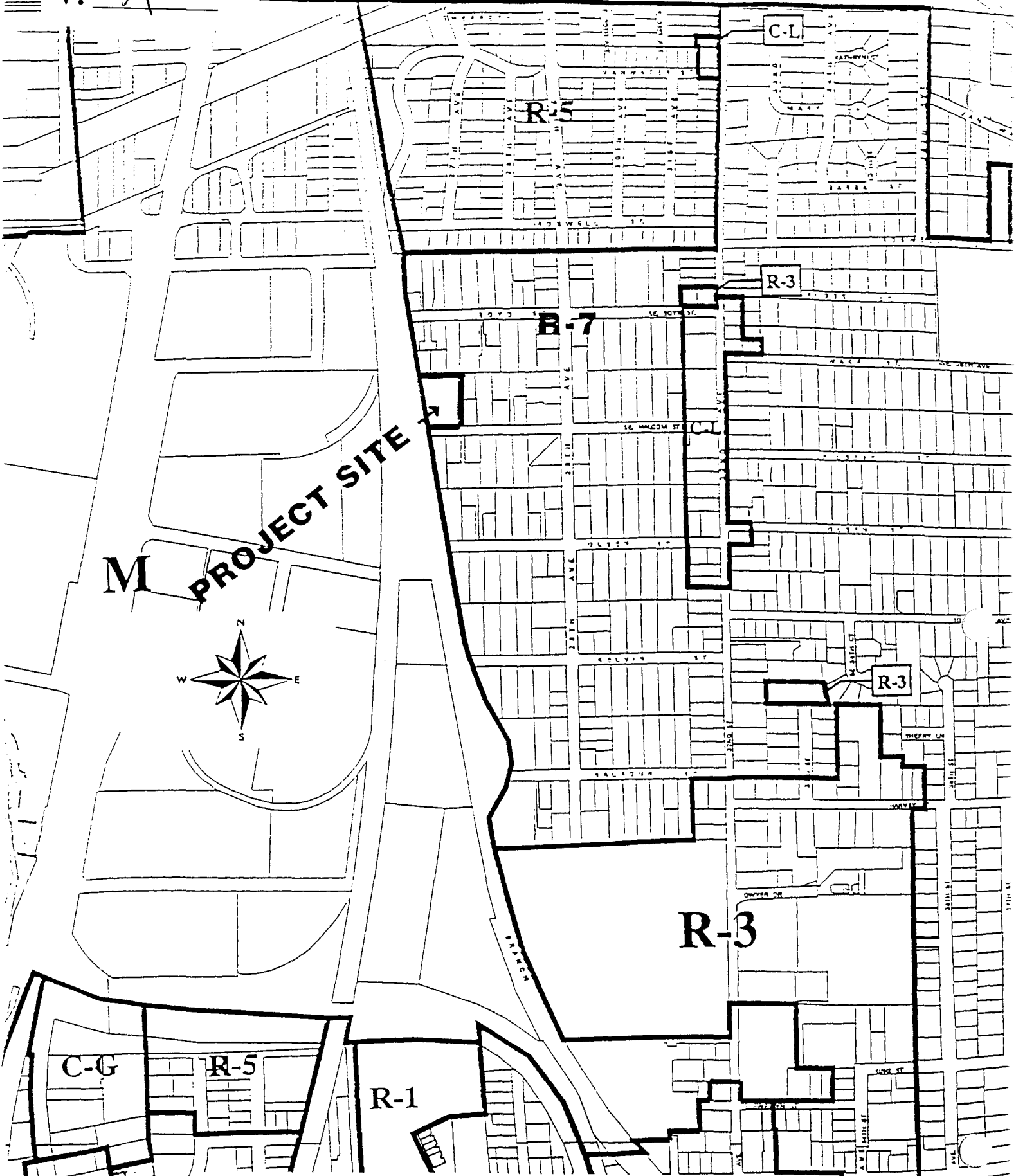
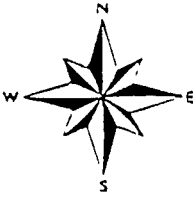
**City of Milwaukie Community Development Department**

Title: Conditions Submitted by: Staff Date: 5/19/98 # Pages: 1  
Numbers: 3-98-01 Applicant: Henderson Exhibit #: 1



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**M PROJECT SITE**





**OWNER:**  
 TOM HENDERSON  
 10801 S.E. MIRTLE ST  
 MILWAUKIE, OR 97222  
 PH. 786-1489

**REPRESENTATIVE:**  
 CENTERLINE CONCEPTS INC  
 640 82ND DRIVE  
 GLADSTONE, OR 97027  
 PH. 650-0189  
 CONTACT: CORBIN SHAYS

LOT COVERAGE NOT TO EXCEED 10%

\* - LOCATED PER AERIAL MAP,  
 LOCATION APPROXIMATE

PAGE 2 OF 2  
 EXISTING CONDITIONS

<b>PLANNING MAP</b>	
H.W. 1/4 SEC. 25, T. 1S., R. 1E., W.M.	
CLACKAMAS COUNTY, OREGON	
FEBRUARY 5, 1998	
DRAWN BY: TGB CHECKED BY: WGD/III	
SCALE 1"=40' ACCOUNT #150-2929	
M:\BND\HEND1700\HENDTOPO	

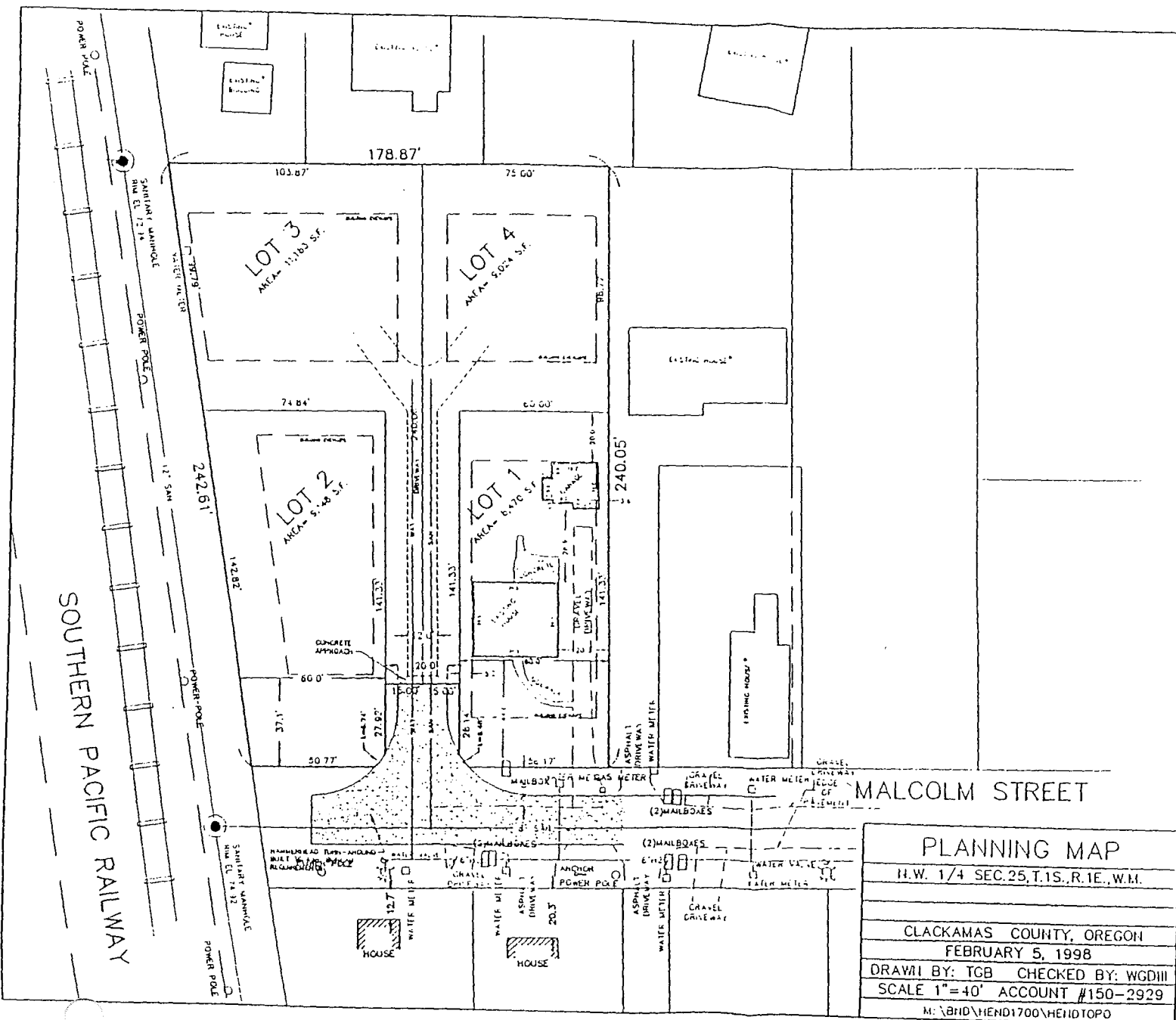
TAX LOT 1700, 1S 2E
Centerline Concepts
640 82nd Drive Gladstone, Oregon 503 650-0188 fax 503 653-0189

Z.V. 35



V. 36

N



OWNER:  
 TOM HENDERSON  
 10801 S.E. MIRTLE ST.  
 MILWAUKIE, OR 97222  
 PH. 766-1489

REPRESENTATIVE:  
 CENTERLINE CONCEPTS INC  
 640 82ND DRIVE  
 GLADSTONE, OR 97027  
 PH. 650-0189  
 CONTACT: CURRIN SHAFER

LOT COVERAGE NOT TO EXCEED 15%  
 \* - LOCATED PER AERIAL MAP, LOCATION APPROXIMATE

PAGE 1 OF 2  
 PROPOSED CONDITIONS

PLANNING MAP  
 H.W. 1/4 SEC. 25, T. 1S., R. 1E., W.M.  
 CLACKAMAS COUNTY, OREGON  
 FEBRUARY 5, 1998  
 DRAWN BY: TGB CHECKED BY: WGD/III  
 SCALE 1"=40' ACCOUNT #150-2929  
 M:\BID\HEND1700\HENDTOPO

TAX LOT 1700, 1S 2E 25BD  
 Centerline Concepts Inc  
 640 82nd Drive Gladstone, Oregon 97027  
 503 650-0188 fax 503 650 0189

MEMORANDUM

TO: COMMUNITY DEVELOPMENT

FROM: Paul Roeger, Civil Engineer

RE: S-98-01  
2723 SE Malcolm Street

DATE: April 14, 1998

Malcolm Street is a dead end local street with a 50-foot right-of-way with approximately 16-feet of paved surface which does not extend all the way to the end of the right-of-way. A hammer head turnaround must be constructed at the end of Malcolm Street using a portion of the flag strip for part of the turnaround. That part of the flag strip must be dedicated as public right-of-way. Curb, gutter, and sidewalk are required along the entire frontage of this property, including the north section of the turnaround, with ADA ramps on each side of the north section of the turnaround. Sidewalk is not required to be extended along the northern portion of the flag strip. However, a concrete driveway approach is required at the north end of the turnaround. A type III barricade is also required at the end of the street.


City water is available in Malcolm Street from a 6-inch main on the south side of the street. All new water meters will be placed within the Malcolm Street right-of-way.

City sanitary sewer is available in Malcolm Street and along the west side of the property in the Union Pacific Railroad right-of-way. Individual service laterals must be run to each of the new lots.

Storm drainage in the area is handled by drywells. The existing house and all new houses must connect roof drains to individual drywells. The new driveway will also be required to have storm water contained by an inverted crown or sloped to one side with a berm to direct the storm water to an inverted siphon catch basin which is connected to a separate drywell. A catch basin will be required at the end of the street to collect the storm water from the street and pipe it to a drywell or other method of disposal approved by the City.

Full engineered plans for street improvements, water services, sanitary sewer laterals and storm drainage must be submitted for approval and the improvements must either be installed or funded prior to the City signing the plat.

System development charges for sanitary sewer, water, storm drainage, transportation, and parks and recreation must be paid when building permits are issued on the three vacant lots.

<b>City of Milwaukee Community Development Department</b>			
Title: <u>Civil Engineer</u>	Submitted by: <u>Public Works</u>	Date: <u>5/4/98</u>	Pages: <u>1</u>
File Number: <u>S-98-01</u>	Applicant: <u>Henderson</u>	Exhibit #: <u>5</u>	

V. 38

# Neighborhood Land Use Referral

<b>Date routed:</b> 4/1/98	<b>Tentative Planning Commission hearing date:</b> 5/12/98	<b>Comments due by:</b> 4/17/98
<b>Application type:</b> Subdivision		<b>File #(s):</b> S-98-01
<b>Procedure type:</b> Minor Quasi-Judicial		

**Applicable City policies and criteria:**

Comprehensive Plan: Chapter 4--Land Use  
 Zoning Ordinance: Sections 302 & 400  
 Subdivision Ordinance: Sections 17.16, 17.28, 17.32, 17.36, & 17.40  
 Sign Ordinance: N/A

<p><b>Applicant:</b> Corbin Shays/Centerline Concepts  <b>Address:</b> 640 82nd Dr          Gladstone OR 97027  <b>Phone:</b> 650-0188</p>	<p><b>Proposal location:</b> 2723 SE Malcolm  <b>Reference parcel #:</b> T1S, R1E, 25BD, 1700  <b>Zoning:</b> R-7  <b>Proposal:</b> Subdivision to divide two existing legal lots into four lots. Two standard lots and two flag lots.</p>
--	--

**Comments: (attach separate sheet if necessary)**

*Questions:*

1. Are these houses to be sold or rented?
2. Why are there not sidewalks?
3. By the drawings is there room for a car to turn around for lot 3 + lot 4? They do not have to back out if that driveway?!
4. Is there ample parking for guests of lot 3 & lot 4?
5. What kind of privacy will be done for the back of lots 3 & 4?  
 (In the drawings there is hedges going all around them if lots - is that remaining?)
6. What kind of privacy will lot #4 have from the existing house on East side?

*This application has been read - property looked at and it seems to fit in with the surrounding property - with the exceptions of having the questions answered - we would like the owner to attend our May Neighborhood Association for an introduction. The Alderwald Board will approve this application upon the receipt of the answers and the owner attending the NDA meeting in May.*

*Shawn Van Housen  
Alderwald Chair*

City of Milwaukee Community Development Department  
 NDA Case # 511198  
 5/11/98



**Centerline Concepts, Inc.**

April 27, 1998

Janet Wright  
City of Milwaukie / Community Development  
6101 SE Johnson Creek Blvd.  
Milwaukie, Oregon 97206

Dear Janet

The following is the response to the Ardenwald NDA comments regarding case file #S-98-01

1. The proposed single family homes are to be owner occupied.
2. Public works is requesting sidewalks along all street frontage.
3. Individual driveway turn-arounds for the homes on lots 3 and 4 will be provided.
4. The number of parking spaces for lots 3 and 4 is mandated by code. Ample parking will be provided.
5. Privacy for lots 3 and 4 will be determined at the building stage. There are no plans at this time to remove the hedge along the perimeter of these lots.
6. There are no plans at this time to remove the hedge along the perimeter of these lots.

Sincerely,

Corbin Shays  
Planning Consultant  
letters/brown

Precise Boundary Surveys

640 82nd Drive Gladstone, Oregon 97027  
503 650-0188 fax 503 650-0189

<b>City of Milwaukie Community Development Department</b>			
Title: <u>Rel. to NDA</u>	Submitted by: <u>Applicant</u>	Date: <u>5/15/98</u>	Pages: <u>1</u>
File Numbers: <u>S98-01</u>	Applicant: <u>Henderson</u>	Exhibit #: <u>7</u>	

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, SEPTEMBER 9, 1998

COMMISSIONERS PRESENT

Michael Smith, Chair  
Judith Borden  
Tracy Cook  
Donald Hammang  
Mike Miller  
Howard Steward

STAFF PRESENT

Susan Heiser,  
Planning Director  
Janet Wright,  
Assistant Planner  
Shirley Richardson,  
Hearings Reporter

COMMISSIONERS ABSENT

None

1.0 CALL TO ORDER

**Chair Smith** called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, August 18, 1998

4.0 PLANNING COMMISSION MINUTES -- August 25, 1998

**Donald Hammang** moved to approve the minutes of August 25, 1998, as corrected. **Tracy Cook** seconded. MOTION CARRIED 6-0.

Ayes: Borden, Cook, Hammang, Miller, Steward, Smith -- Nays: None.

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS

Applicant: Tom and Kelly Henderson  
Owner: Tom and Kelly Henderson  
Location: 2723 SE Malcolm  
Proposal: Approval of a 4-lot subdivision



CITY OF MILWAUKIE PLANNING COMMISSION  
Minutes September 9, 1998  
Page 2

File Numbers: S-98-01  
NDA: Ardenwald

**Chair Smith** opened the public hearing on S-98-01, to allow for the creation of a 4-lot subdivision at 2723 SE Malcolm Street. Criteria to be addressed are found in Section 302 of the Milwaukie Zoning Ordinance; Chapter 4, Land Use, of the Milwaukie Comprehensive Plan, and Chapter 17 of the Subdivision Ordinance.

**Chair Smith** asked if there were any conflicts of interest or ex-parte contacts to declare. **Donald Hammang** explained that he is a member of the Hector Campbell Neighborhood Association and had received telephone calls regarding this Application and he referred them to Planning Staff and invited them to come out to the meeting and make a presentation. He did not feel this would impair his ability to vote on this issue. **Chair Smith** asked if there were any objections to Donald Hammang's participation in this hearing. There were none. There were no other conflicts of interest or ex-parte contacts declared. He asked if any member of the Planning Commission visited the site; four 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. The original application was scheduled for hearing on May 26, 1998; however, at that hearing, staff reported that the Applicant had requested a continuance to allow time to review the required improvements outlined in the Public Works memo dated April 14, 1998. A Waiver of the 120-day processing time was signed on June 9, 1998.

On July 2, 1998, a pre-application conference was held regarding re-design of the proposed subdivision adding a 5th lot. This would have necessitated variances to lot widths. On August 18, 1998, Staff received correspondence from the Applicant that they wished to continue with the originally proposed application.

Staff recommends approval of S-98-01 based on the findings and subject to the conditions contained in Exhibit 1 of this Staff Report.

CORRESPONDENCE RECEIVED BY STAFF -- None.

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QUESTIONS FROM THE COMMISSIONERS

**Donald Hammang** asked for clarification on the number and types of trees on the property. On his visit to the property, he noted 11 large Douglas Firs, which he would like to see maintained as a natural community resource in this area. **Janet Wright** reported that there are both fruit trees and deciduous trees on the property. Overheads were shown indicating some of the trees on the property.

APPLICANT PRESENTATION

Speaking: Ken Sandblast, Compass Engineering, 6564 SE Lake Road, Milwaukie 97222

**Mr. Sandblast** stated that he had been retained by the Hendersons within the last 30 days. The Applicant was considering a fifth lot; however, due to the overall configuration of the lots, this cannot be achieved within the variances. Four lots are being requested.

**Mr. Sandblast** stated that he and Applicant have read the Staff Report and are in agreement with the findings and conditions as stated. They support Staff's recommendation for approval.

Staff is correct in pointing out most of the trees on the overhead. The trees and topography have been surveyed. There is a total of 6 deciduous trees. Trees will be removed for the driveway between Lots #3 and #4 and for the building envelope on Lot #2. The Hendersons do not want to remove any more trees than they have to.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Speaking: Michelle Greely-Roberts, 2922 SE Malcolm Street, Milwaukie

**Ms. Greely-Roberts** reported that she is the past president of the Ardenwald Neighborhood Association, a current member of the Land-use Committee for the Ardenwald Neighborhood Association, and lifelong resident of her village and Malcolm Street.

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**Ms. Greely-Roberts** asked that the Commission disregard the approval submitted by the Ardenwald Land-Use Committee in May regarding this development. The findings were inappropriately obtained by the Land-Use Committee of one person.

In response to a land-use report, the Committee visited the site and generated a list of questions to be addressed. At that point a meeting was scheduled with the Applicant/Developer to attend an Association meeting and address these questions. However, the neighbors, who would be impacted by this development, were not notified. Mr. Henderson attended the meeting and those present moved for approval.

**Ms. Greely-Roberts** was then contacted by neighbors on Malcolm Street who were outraged that the Ardenwald NDA LUC had taken this action. She and her neighbors then attended the June Meeting and expressed disappointment and frustration of the project.

At the June meeting, no formal action was taken because the proposal had been tabled for possibility of a fifth unit in order to increase the profit margin. June is the last month the Ardenwald NDA LUC meets until September. Therefore, no further action has been taken in regards to this proposal.

Ardenwald NDA LUC acted inappropriately for the neighbors, as they were not included in the decision; hurting the people you are there to serve. No decision should have been rendered without fair representation of all sides. The Commission's disregard of this decision may eliminate the possibility of the neighbors taking legal action against the Ardenwald NDA LUC.

**Ms. Greely-Roberts** stated that this neighborhood is her village. It is the village that raised her and the village that is raising her children. It has been damaged and continues to be threatened and undermined directly by the infiltration of flag lots. She has been here many times in opposition to flaglots. Many neighbors have left the area because of these issues. How much is too much?

Within a two-block area, there are three generations and three families of Thashing-Ravingsons, three generations, four families of Greely-Roberts, four generations and two families of Warner-Jones. All were born and raised here, and returned to raise their families in the love and safety of the area they grew up in. Mothers, brothers, sisters, grandmothers all live on the same street.

People cruise Malcolm Street looking for homes to buy and the opportunity to live here. The Rassmussens are looking for property elsewhere; she has already moved to Oak Grove. The heart and soul of the village is already damaged and will be further damaged by these types of development.

The Comprehensive Plan not only calls for the preservation and protection, but further states that development shall be managed in such a way as to enhance the character and integrity of the existing neighborhoods. As a direct result of successful opposition to a flaglot proposal on Malcolm Street was the reduction of driveway widths. The direct result of another opposition was changes in variance criteria. Malcolm Street and Ardenwald have the highest concentration of flaglots that she knows about. There are currently 19 houses where there used to be 12. With the addition of these proposed three units, there will be 22.

No improvements have been made to accommodate the additional families. With the addition of these three houses, Malcolm Street will have more houses on the street than Lloyd Street, which currently has 20 houses per block. Lloyd Street was improved back in the 60's. How much is too much?

The proposed driveway is 12' for three houses; is this adequate? Where will people park on holidays? What will happen when there is an emergency and the fire trucks cannot get down the driveway? Light Rail will cross the bottom of this street, which will directly impact these same neighbors. How much is too much?

**Ms. Greely-Roberts** voiced concern about the trees on the lot. The fruit trees are replaceable, but there is no mention about replacement. There are eleven Fir trees that are over 200-feet tall on this property. At least five of these trees are in the middle of the proposed development. These trees are irreplaceable. There is no enhancement here.

Ardenwald School has been functioning over-capacity for a number of years. Because of the age and condition of the structure, it is not, nor will be slated for improvements or additions. A number of new homes have already gone in this summer. How much is too much?

Malcolm Street is an old gravel roadway, there are no curbs and no sidewalks. Paul Roeger, Public Works Department, has been contacted and he indicates that Malcolm Street is not, has not, and will not be considered for improvements in the future. She finds it disturbing that the City continues to increase pressure on an

infrastructure that is substandard. Every additional home adds car trips, traffic, and continues to degrade the street further.

The residents on Malcolm Street manage the street themselves, putting down gravel, directing puddles of water and water run off, etc. There are no storm drains. With the increased number of cars and a decrease in back yards for the children to play in, residents have to manage the traffic to keep their children safe.

The residents have requested traffic calming, traffic control, and some type of help from the City to manage the traffic on Malcolm Street. There has been no assistance. The streets are narrow and the intersection is uncontrolled. To continue to add more traffic, there is more pressure to the surfaces and adds more risk to children on the street.

This particular development configuration is not the only option for Mr. Henderson. He has made verbal arrangement to purchase property from both the Rassmussens and the current tenants in the existing house. There are options in terms of developing the property with more respect to the configuration of the natural resources that are present and more in keeping with the character and quality of life that the neighborhood enjoys. She suggested expanding the old house and build a new one, keeping the size and configuration of the existing house on the second lot and sell them as two separate parcels.

**Ms. Greely-Roberts** concluded by saying that it is time that the City support its neighbors in their effort to preserve what is left of the livability and character of this once beautiful neighborhood.

#### QUESTIONS FROM THE COMMISSIONERS

**Tracy Cook** asked where the large Fir trees were located? **Ms. Greely-Roberts** pointed out the large trees on the overhead map. Most of the trees are located along the back property line.

Speaking: Scott Rassmussen, 2710 SE Malcolm Street, Milwaukie

**Mr. Rassmussen** stated that he attended the Ardenwald NDA meeting in June. After talking with the Committee member who made the decision for approval, he was convinced that she acted solely as an individual, and not a Committee member. She did not speak to any other Committee member or member of the neighborhood about this proposal. This decision should be rendered invalid.

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**Mr. Rasmussen** submitted pictures of the large trees. He called the U.S. Forest Service to find out the age of the trees, and they may be 175-200 years old. According to his calculations, the driveway will take out five of the trees and Lot #4 will take out two of the existing trees. Seven trees will be lost. This is a grove of trees unlike any other site in the Ardenwald area.

**Mr. Rasmussen** voiced concern about the wildlife that are in the grove of trees on this property. He has lived across street from this site for 20 years and have seen Eagles, Owls, Squirrels, Raccoons, etc. If these trees go down, the wildlife will not come back. This type of wildlife go to groves of trees for protection.

If the Applicant proposes five homes, the trees will not survive the construction. The map received in the mail was incorrect; there is one other home on Malcolm.

**Mr. Rasmussen** voiced concern about the hammerhead turnaround. He does not feel it will be wide enough for safety concerns. Four more homes will produce eight more cars. With the additional amount of cars, additional traffic, additional parking, the street will not be able to handle the load.

When it rains, they get a deluge of water (called Malcolm Creek). Sandbags have been used to prevent flooding in his front yard and basement. If improvements are made to the other side of the street, what is going to prevent the water from coming to his side of the street?

**Mr. Rasmussen** asked for clarification of a Class 3 barricade. He has seen several types of barricades and they are large and ugly. If a barricade is place at the end of this road, it will prevent emergency access to railroad property.

Because of the configuration of the driveway, there will be headlights shinning into his house every time someone comes out of the development. This creates a problem for his family.

There was an article in today's Oregonian about flaglots. Milwaukie is trying to save neighborhoods, not develop them. He would like to see the City getting the neighborhoods back to the way it should have been years ago. All of the new houses within the last 20 years on Malcolm Street have changed the neighborhood dramatically. They are taking away the value of the large lots. He does not want to be here if this development goes in.

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**Mr. Rasmussen** submitted letters from the neighborhood in support of the wildlife, Owls, Eagles, and Raccoons.

QUESTIONS FROM THE COMMISSIONERS

**Tracy Cook** asked how the noise from the railroad affected the livability on Malcolm? **Mr. Rasmussen** stated that over the 20 years, he has learned to live with the train noise. He does not feel that it is as irritating as Light Rail, because Light Rail goes by every 7 minutes. The train goes by on a set schedule of about two hours. They sleep with their windows open and it does not bother them.

**Howard Steward** asked why those in opposition to the Neighborhood Association decision, did not call a special meeting where the action in May could be reconsidered this September? **Mr. Rasmussen** stated that he went to the meeting in June; there was no meeting in July or August. This meeting tonight is the first hearing they could get to and present their case.

Speaking: Allen Jones 2907 SE Malcolm Street

**Mr. Jones** stated that he is the third of four generations of Warner-Jones. His grandparents were one of first in neighborhood. They purchased and built in 1918 and lived there their remaining lives. His mother was born and raised in this neighborhood as was himself and his children. This has always been wonderful neighborhood to live in.

**Mr. Jones** noted that even though Lots #2, #3, and #4 fall into the lot size guidelines without a variance, these are not normal city blocks. The grid system was designed around lots that were the original 240' depth. There is no roadway (between Lots #3 and #4) where there would be in a conventional city block, these lots would have to face out on to Malcolm street.

The increased homes result in three times the traffic on one roadway. This roadway was never paved as a street, it started out as a cow path. No road can safely handle what conventionally should be three roadways.

There are over 30 children living on Malcolm Street alone. This is the sole access to the properties proposed. There are a lot of accidents on the corner of 29th & Malcolm because of visibility on the hill. It is very steep and difficult for emergency vehicles. The addition of 4 to 5 homes will be overtaxing the bounds of one hilly, unimproved street. He is hesitant to be in favor of more traffic.

They police their own street and the traffic and safety cannot be handled. The system was not designed to handle flaglots. Unless the City is willing to do something about the safety and welfare of these residents, the application should be denied.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Kevin Enslow 2734 SE Malcolm, Milwaukie

**Mr. Enslow** stated that he lives in one of the flag lots in the neighborhood. One of the reasons for picking this house was because the area was so nice; lot of trees. He lived in Hawaii for several years and the communities were too close together. He left Hawaii to get away from small lots.

He is concerned that this application will add too many houses to this area. He voiced concern about losing trees. They help to lessen the sounds from outside the area. He sold a car to purchase a truck to get up and down this road and more traffic is going to be dangerous.

**Mr. Enslow** stated that barriers were an issue of rethinking the purchase in other areas. If the barrier is put up, it will make selling his house difficult.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Ms. Rassmussen, 2710 SE Malcolm, Milwaukie

**Ms. Rassmussen** stated that she has been on Malcolm Street for 38 years. She purchased the house at the end of street, two houses from where she grew up. She enjoys the beauty and tranquillity of this location and the trees. At night you can hear the owls and wildlife.

A flaglot was put in next door to her. This flaglot was done in a nice manner, maintaining the integrity of the neighborhood. There are three houses put on a half an acre. Three to four homes is overwhelming for this amount of property. She asked the Commission to think about how nice this would look with only two additional homes on the lot.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

**Janet Wright** explained that a Class 3 wooden barrier will be put at the end of the dead-end street for safety purposes. It will be wood construction, consist of three panels, and would stand 6-feet high.

**Susan Heiser** reported that the Land-use Committee decision is a recommendation and carries the same weight as one individual person coming in to speak. There is no need to have the Land-use Committee reconsider this action.

QUESTIONS FOR CLARIFICATION .

**Tracy Cook** asked which side of the existing line the Light Rail line will be located? **Susan Heiser** stated that there are proposals to put a sound wall long the east side of the line.

**Tracy Cook** asked if the access to Southern Pacific is blocked, is there an alternative way to get to their site? **Janet Wright** explained that Public Works has informed her that this is a right-of-way that can be blocked off. There are other means of getting to the switch-block on the other side of the track. Southern Pacific will not be blocked from access to their property or railroad right-a-way. If requested by the railroad, a gate access can be put up that can be locked.

APPLICANT CLOSING COMMENTS

Speaking: Ken Sandblast, Compass Engineering, 6564 SE Lake Road, Milwaukie 97222

**Mr. Sandblast** stated that the function of the Neighborhood Association is not an issue for this hearing. Their recommendation will be noted as will every person testifying tonight. Tonight's hearing is the right process for neighbors to come and testify.

**Mr. Sandblast** stated that he had not seen the pictures given into testimony tonight. As stated before, the only trees proposed for removal are on Lots #3 and #4. There may be a tree removed on Lot #1 because of the road. The proposed hammerhead necessitates the removal of some trees.

The total lots proposed for this application is four lots not five. The driveway width is required by Condition of Approval that it be 20-feet wide. The proposed

CITY OF MILWAUKIE PLANNING COMMISSION  
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barricade is a decision of the City of Milwaukie. If they are conditioned to build the barricade, it will be erected to City specifications.

In closing, **Mr. Sandblast** reiterated that the decision on this Application is based on land-use statutes and regulations. The sentiments expressed are all valid, however, land use decisions have to be based on criteria. This Application meets those criteria.

#### DELIBERATION AMONG COMMISSIONERS

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

**Howard Steward** noted that several concerns were raised tonight; keeping the area the way it is, tree preservation, traffic concerns, and a feeling of flaglot invasion given the original plotting of the area. Even though he understands, accepts, and appreciates each point of view of each speakers, he does not feel that any testimony given tonight invalidates Staff's recommendation. The criteria is the deciding factor.

**Donald Hammang** noted that a memo from Public Works indicated that a full set of engineered construction plans for street improvements, water service, sanitary service, storm drains must be submitted prior to approval. Will the development be required to provide a storm water management structure for the end of Malcolm Street? **Janet Wright** reported that the end of the street will be improved as a turn-around. As part of this improvement design, there will be a new catch basin at the end of street to deal with the water coming from above. The Applicant will only be required to put curb and sidewalks on their side of the street (Lots #1 and #2 and across the end of street, but not in front of the Rassmussen's property. The Jones and the Rassmussens will get new asphalt with an inverted ditch on each side.

**Donald Hammang** noted that he shares the aesthetic and wildlife concerns voiced tonight. He would like to see some sort of an agreement with the Applicant to protect as many trees as possible; they are a significant natural resource. **Susan Heiser** submitted a tree survey and noted that if the survey is correct, the significant trees shouldn't be impacted. Ten of the twelve Fir and Evergreen trees could remain. A condition can be imposed to provide a Tree Protection Plan in an effort to preserve these trees during road construction.

**Tracy Cook** asked if the vegetation at the dead-end will remain or be paved? **Susan Heiser** stated that the roadway will stop 15' from the end of the access road. Some of the vegetation may be impacted.

**Chair Smith** stated that this development will adversely impact the neighborhood. He feels this is a quality of life issue. However, the decision must be made on the criteria. He, too, would like to see as many of the trees be preserved as possible.

**Donald Hammang** asked if a trip generation report will be required by this Application? **Susan Heiser** stated that no report is necessary; however, mitigation fees will have to be paid for traffic generation for each house. These funds will go towards street improvements in the City.

**Tracy Cook** asked if there was some sort of mitigation that could be required for screening/buffering for the headlights onto properties across from the subject site? **Susan Heiser** stated that a condition can be imposed where the Applicant works with the neighbors on a screening from the headlights.

**Howard Steward** moved to approve Subdivision Request, S-98-01, subject to the findings and conditions as outlined in Attachment 5, Exhibit 1 of the Staff Report. Further, a Condition 8, that the Applicant shall provide a tree preservation plan for the 11 evergreen trees on the site. The preservation plan shall show how the trees will be protected during road and home construction and general lot development. The plan shall be subject to review and approval by the Planning Department prior to the final plat recordation. **Donald Hammang** seconded. MOTION CARRIED 4-1.

Ayes: Steward, Bordon, Hammang, Cook -- Nays: Smith

**Chair Smith** announced that this action is appealable to the City Council within 15 days from the Notice of Planning Commission decision. Contact Staff regarding the appeal process.

**Susan Heiser** explained that scheduled for this fall is a design workshop to develop new tools for infill development. She invited all to attend and participate in these discussions. This is an effort to find other tools, besides flaglots, that work within the neighborhoods.

Recess was taken at 8:28 p.m. and the meeting reconvened at 8:40 p.m.

City of Milwaukie

Appeal Application

Date: 9/17/98

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

Re: File No.(s): S-98-01

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: Sept. 8, 1998.

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

The reasons for this appeal are identified as follows:

- 1- Sub-Standard Roads - beyond Capacity
- 2- Infrastructure inadequate.
- 3- unique & irreplaceable Natural Resources: Trees, Wild life
- 4- traffic Safety & Pedestrian Safety Concerns
- 5- violates the character & livability of our neighborhood in conflict with the Comprehensive Plan.
- 6- is Contrary to ASCs Neighborhood Vision.


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

Sincerely,

Michelle Greeley, Plaintiff 2924 SE Malcolm, Milw.

Scott A. Resman 2710 SE MALCOLM, MILWAUKIE, OR

Signat

City of Milwaukie Community Development Department				
Title: <u>Appeal App</u>	Submitted by: <u>Appellant</u>	Date: <u>9/17/98</u>	# Pages: <u>1</u>	
File Numbers: <u>S-98-01</u>	Applicant: <u>Greeley-Roberts</u>	Exhibit #: <u>4</u>		

9/18/08

To Whom It May Concern -

Please Consider Waiving  
all or part of this appeal fee,  
based on an agreement made  
with Maggie Collins @ appeals  
filed with support of the  
Neighborhood association.


— also - ASC's Vision project  
~~is scheduled for~~ is scheduled for  
October / November —

Hoping for a December  
hearing date.



V. 53(a)

\*\*\* M E M O R A N D U M \*\*\*  
September 24, 1996

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: Consider Waiver of Building Permit Fees

Action Requested

Concur with staff recommendation to charge fees as required by Council Resolution and State law.

Background

The Friends of Milwaukie Center, Inc., have asked that the City waive any and all building permit fees. Staff does not have the authority to waive these fees.

Building and Planning functions are paid for in part by permit fees. Waiver of these fees would result in using general funds to replace the amount of the fees. This would then be a subsidy or contribution to the project by the City. A portion of all building permit fees is required by State law to be forwarded to the State to pay for State supervision of the permit program.

In the past eight years, we have required public and non-profit agencies to pay their building permit fees. This was because we could not develop fair objective criteria that could be applied by staff to determine when to waive fees. In prior years, we had been criticized because the building official waived fees that had the appearance of favoritism. Some non-profit groups' fees were waived. Other groups were required to pay.

For staff the question is: "Who qualifies for fee waivers?" Do you waive fees for religious groups? For sports associations? For social service groups? How do you tell which groups qualify? How do you establish fair and objective rules?

The Council can choose to waive fees on a case by case basis.

cc: File  
cm1010/hd

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

file

V. 53(3)



September 3, 1996

Roald K. Berg  
 Rose Garden Committee  
 5440 SE Kellogg Creek Drive  
 Milwaukie, OR 97222

Dear Mr. Berg:

I am responding to your July 8, 1996, letter concerning the Sara Hite Memorial Rose Garden. You requested two things from the City in order to meet your construction schedule. First, you wanted the City to waive all building permit fees. Second, you wanted the City to remove the pea gravel pile.

I am not in a position to waive building permit fees. These fees are set by the City Council and include a portion which is required by State law to be paid to the State of Oregon. I will take a proposal to the City Council to waive all but the State portion of these fees. In the past, the City has not waived fees for non-profit entities and has also charged its own building projects the full permit fee.

Kelly Somers, our Fleet and Facilities Manager has been assigned to coordinate the removal of the pea gravel. He does not have funds budgeted for equipment and manpower to remove the gravel. It cost the City \$80,000 to have a contractor move this material from the former Albertson's site to the current pile. We are not in a position to use City crews and equipment to move this material to a disposal site and pay a dumping fee.

Kelly has contacted contractors who may have an interest in hauling this material in exchange for the gravel. He is working on this and will coordinate with Thom Kaffun and Joan Young.

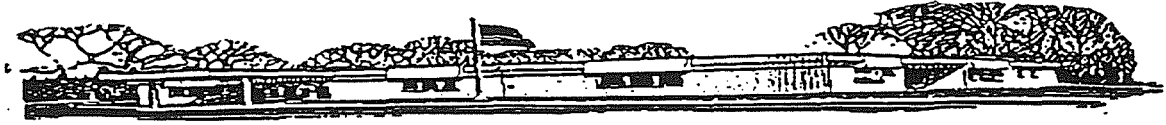
I realize this response does not meet your original expectation. It does not mean that City staff do not support your project. We want to work with you and the Parks District to see that this plan becomes reality. We are bound to follow Council policy and cannot authorize expenditure of funds that are not budgeted or waive fees that are set by the City Council without Council authorization. I will advise you when this matter is scheduled for Council action.

Sincerely,

Dan R. Bartlett  
 City Manager

cc: Mayor and City Council  
 Alan Brunk, Chairman, Friends of the Milwaukie Center, Inc  
 Roger Brown, Director, North Clackamas Parks and Recreation District  
 Thom Kaffun, Manager, Parks Services, NCPRD  
 Joan Young, Director, Milwaukie Center  
 cmi354

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



## FRIENDS OF MILWAUKIE CENTER, INC.

A Non-Profit Organization

*Organized in 1980 to support and promote Milwaukie Center and its services to the community.*

July 8, 1996

Dan Bartlett, Manger  
City of Milwaukie  
10722 SE Main St.  
Milwaukie, OR 97222

Dear Dan:

As you may already be aware, the Friends of the Milwaukie Center are actively pursuing the construction of a professionally designed and landscaped Rose Garden complete with a 3000 square foot plaza and a covered gazebo for the ground south of and adjacent to the Milwaukie Center facility, just inside the entrance to North Clackamas Park. This Rose Garden will be known as the Sara Hite Memorial Rose Garden.

This project was initiated several years ago, and now as Chairman of the Sara Hite Memorial Rose Garden Committee, I am very gratified and enthusiastic about being involved with this project and the progress made since October of 1995.

We have completed the following actions:

1. We have a completed set of final construction drawings from our landscape architects based on the Master Plan completed in 1994-95.
2. We have selected a style and supplier for the paver blocks that will be used for the 3000 sq. ft. plaza that will be in the center of the Rose Garden.
3. We have received approval for location and construction by Milwaukie Planning Department staff.
4. We have the support of and endorsement by the North Clackamas Parks and Recreation District.
5. We have submitted applications for obtaining grant moines to help finance the project.
6. We continue to sponsor benefit functions and sell personalized paver bricks for the Gardens' entry pathway for additional financial support of this project.

Our goal is to have the first three phases completed by the end of September 1996. We have a core of hard-working volunteers waiting for the green light to proceed.

V. 5365

This Rose Garden will provide the Milwaukie Community with a most unique outdoor facility for a variety of social, educational and ceremonial events that will involve a wide cross section of participants, both local and visitors.

The Sara Hite Memorial Rose Garden will be finished with an initial donation of rose bushes from a local award winning and well known rose fancier who has also committed an additional \$1000 to purchase new roses for the garden as needed. We would like to initiate rose planting by Spring 1997.

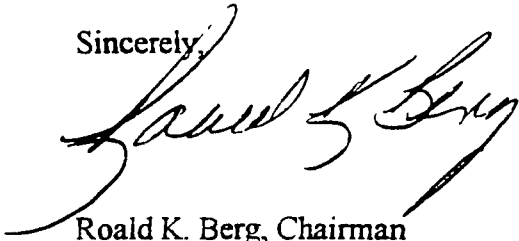
In order for us to meet our September time line, we would like to request your assistance and support as a team member of the Milwaukie governing infrastructure by:

- 1) Waiving any and all of the building permit fees by the Planning Department.
- 2) Providing assistance from the City of Milwaukie to remove the pea gravel pile, by providing equipment and manpower. If the City of Milwaukie can find a dump site, we would be willing to work with you on any dumping costs.

This would greatly expedite our cause and allow us to move forward.

The members of the Rose Garden Committee and Friends of the Milwaukie Center, Inc. sincerely appreciate your assistance in this matter. Please contact me at your soonest convenience at (w) 659-1708 or (h)654-0789 (eves). Thank you.

Sincerely,



Roald K. Berg, Chairman  
Rose Garden Committee.

cc. Alan Brunk, Chairman, Friends of the Milwaukie Center, Inc.  
Thom Kaffun, Manager, Parks Services, NCPRD.  
Joan Young, Director, Milwaukie Center.

### Consider Sara Hite Memorial Rose Garden Fee Waiver Request

**Bartlett** presented the staff report in which the City Council was requested to consider building permit fee waivers for the Sara Hite Memorial Rose Garden. The Friends of the Center are asking building permit fees be waived. Staff does not have the authority to waive these fees, so it must be a City Council decision. Building and planning functions are paid for in part by these permit fees, and a waiver would result in using general funds to replace the amount of the fees. Additionally, a percentage of the building permit fees goes to the state to pay for supervision of the permit program. Based on the practice of requiring public and non-profit agencies to pay permit fees, staff recommends charging fees as established by resolution.

**Councilmember Trotter** said from information in the September 5, 1996, work session, Council learned this was a three- to five-year phased project. He asked if the Friends were applying for fee waivers for the entire process or just the first phase. He asked if there was an idea of the entire permit fee amount. **Bartlett** said the Friends are asking for a waiver of all fees, and it would be difficult at this time to determine the entire amount of the request. He discussed how the City of Milwaukie contracted with Clackamas County for inspections of the Public Safety Building.

**Councilmember Kappa** asked if the building official still had the ability to waive the fees. **Bartlett** said the building official is only authorized to waive *de minimus* fees. He discussed SDC fees such as water connection.

**Councilmember Farley** asked who owned the property since the ultimate improvement will add value to the property. **Bartlett** said the City is the property owner. If the fees are waived, the Building Division will have to bear the burden.

**Councilmember Schreiber** asked if staff planned to prepare a recommended fee waiver policy. **Bartlett** said this issue has been debated in the past, but it is difficult to establish clear and objective standards. **Councilmember Schreiber** said these improvements appear to be a gift to the City. **Bartlett** said the Parks District and the City do business as separate entities. The departments need fees to cover operational costs in addition to paying the percentage to the state. He added similar issues have arisen with Milwaukie High School and Providence Milwaukie.

**Roald Berg**, Rose Garden Committee Chair, spoke on behalf of the Friends of the Center. The Friends are doing the work and improving the City's property.

**Bartlett** said the building trade has put pressure on departments to be self-balancing rather than using development fees to enhance the general fund. For example, plumbing and electrical are self-balancing in that fees are used to pay the wages of the inspectors.

V. 53(2)

**Berg** said the fees will be at least \$700, and he suggested a work program to offset some of the fees. **Mayor Lomnicki** said there was not precedent to waive the fees, and the City does not do so for its own projects.

**Daisa Lawson** spoke on behalf of the Friends and its request. The Public Safety Building was a different matter in that it was voted on by the entire community. The Rose Garden is being supported by North Clackamas County. She urged the City Council to help with the project since it is City property.

**Councilmember Kappa** asked if there was any idea of how and when the phases of the project would take place. **Bartlett** said he did not know, and staff would have to see what work is proposed with each phase.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said he generally agreed with Lawson, but he was concerned with setting a precedent for any non-profit wishing to build on public property. He was particularly concerned about the remaining phases of the project, since it would be difficult to waive this fee and not expect the group to return in the future. He indicated he would not support this motion.

**Councilmember Schreiber** suggested looking at an alternative to fee waivers and recommended a concept of using public money to carry out park improvements such as this.

**Mayor Lomnicki** felt the idea of establishing a funding mechanism through the Parks District budget to improve parks and their infrastructure was a sound one. He said he had a problem with setting a precedent of waiving fees without clear, objective standards.

**Councilmember Schreiber** discussed a concept of public contributions for public spaces. Mayor Lomnicki agreed with that logic to improve public spaces.

**Councilmember Kappa** suggested the City Council can handle waiver requests on a case-by-case basis and added he did not feel the argument that many people would request fee waivers was particularly valid. He felt the Rose Garden was a significant contribution to the community and the park system, and the City should do what it can to help.

**Councilmember Trotter** concurred with Schreiber's suggestion. He felt looking at the issue as a park improvement was a good idea. He had concerns about waiving the permit fees for all phases of the project at this time since they could go up substantially.

**Councilmember Schreiber** expanded her suggestion to include encouraging and accepting gifts for not only parks but also for the library.

**Councilmember Farley** felt the City could find a way to make a donation to support the enhancement of a City-owned property. He said the City should give the Center money.

**Mayor Lomnicki** wanted to make it clear that no member of the Council felt this project would not benefit the City. He felt it was important, however, to support the projects appropriately, and he supported Schreiber's recommendation of developing public improvement and contribution policies.

**Councilmember Trotter** understood construction would take place about May 1997. He felt the City Council would resolve the issues by that time, and he indicated he did not feel it was appropriate to flatly waive the permit fees.

**The motion to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden failed 2 - 3 with the following vote: Councilmember Farley and Councilmember Kappa aye; Mayor Lomnicki, Councilmember Schreiber, and Councilmember Trotter nay; no abstentions.**

**It was moved by Councilmember Schreiber and seconded by Councilmember Trotter to direct staff to develop in three-months' time an outline of a procedure the City Council can use to encourage donations to the public lands and a way to provide support for that.**

**Councilmember Kappa** asked if staff would be preparing policy options that would address the general concept but not be specific to this particular issue. **Mayor Lomnicki** said it would be a general policy.

**Motion passed 5- 0.**

**It was moved by Councilmember Trotter and seconded by Councilmember Kappa to direct staff to have the Park and Recreation Board review our budgeting process for our Neighborhood Districts and see if we can allocate funding to cover the cost of permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said, as Schreiber commented, this is an improvement to a park in our system. The Milwaukie Park and Recreation Board recommends to City Council, as the Neighborhood Board, how this money should be allocated. The intent of the motion was to have the Park and Recreation Board review the budget for this year; and if there is funding to reallocate to this project, make a recommendation to the City Council.

## V. 53(9)

**Councilmember Farley** asked if this would have to be on a priority list.

**Councilmember Trotter** said it is done on a budgetary basis. Some projects have been done, and there might still be some funds left to reallocate. If there are no funds remaining, it could be considered in the 1997 - 1998 District Budget.

**Councilmember Kappa** said he would not like to see this project displace others.

**Councilmember Schreiber** asked the motion be amended to reflect participation in development of that particular feature of that park and not be tied to the fee issue. It was a friendly amendment agreed to by the group.

**Councilmember Farley** asked if the priority list was made up of a multiple-year priority list. **Councilmember Trotter** said the priority list is developed annually and reviewed for multiple years. This project, to his knowledge, was not discussed during the budgetary cycle and seen as a possibility. He felt this concept had a lot of potential, and he felt it should go to Park and Recreation Board for review and recommendation to the City Council.

**The motion to direct staff to have Park and Recreation Board review the budgeting process for the Neighborhood Districts with the friendly amendment that it was not tied to fee waivers but to participation in the Sara Hite Memorial Rose Garden project passed unanimously.**

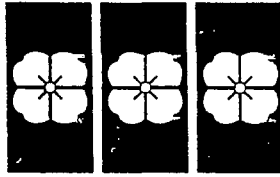
### Consider Three Cities Agreement Review

**Bartlett** presented the staff report in which the City Council was requested to direct the Mayor, City Manager, and Community Development Director to begin a periodic review of the agreement between Milwaukie, Happy Valley, and Gladstone commonly referred to as the Three Cities Agreement. The Agreement was signed in 1988 and helped the cities involved negotiate the Urban Growth Management Agreement with Clackamas County. The document should have undergone a review in 1993 and is now limiting needed discussion between city, county, and special district participants. He discussed the effects of SB 122 on local government planning activities.

**Councilmember Kappa** asked Bartlett what he wanted to achieve since the ORS 195 process has not been completed. **Bartlett** said the ORS 195 process will result in urban service agreements that may supersede this document in certain ways. We may want to have open discussions with special districts and the county which the Three Cities Agreement may limit. Elements have changed since 1988 that dictate a review.

**Councilmember Trotter** felt the agreement was very limiting and, with the definition of specific boundaries, was counterproductive to ORS 195 guidelines.

C I T Y O F



MILWAUKIE

V. 53(10)

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

March 24, 1997

To: Mayor and City Council  
From: Dan Bartlett, City Manager  
Re: Policy on Fee Waivers

Action Requested

Staff asks that Council adopt the attached Resolution directing staff to collect all fees due for development permits.

Background

At the October 1, 1996, Council meeting, the Council discussed fee waivers. Recently, it came to the Council's and my attention that fees have been waived for a public agency. This proposed Resolution re-affirms the City's practice that the full amount of fees due be collected by staff.

All permit applications require that City staff and contract staff spend time reviewing and processing the application. The City must forward a portion of building, electrical, and plumbing permit fees to the State of Oregon to pay for statewide activities. Waiver of fees results in a double subsidy from property taxes or other City revenues. There is the direct time involved to process the permit and there are the amounts the City has to pay directly to the State. Then there is the loss of revenue due from the permit.

Ballot Measure 47 requires a vote to raise fees in operations partly paid for by property taxes, or where fees are being shifted to pay for activities previously paid for by property taxes. It would seem that waiving some fees would then cause a shift of property taxes into development or building permit activities to off-set lost revenues.

Given these circumstances, I believe that the City should not subsidize any development permits. The attached Resolution clarifies Council policy on this matter.

cc: File  
cm1066/hd

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

V. 53(11)

CITY OF MILWAUKIE  
RESOLUTION NO. 15 -1997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
DIRECTING STAFF TO COLLECT ALL DEVELOPMENT PERMIT FEES DUE TO THE  
CITY.

**WHEREAS**, various non-profit organizations have asked to have development permit fees waived; and

**WHEREAS**, building permits require payment of a fee to the State of Oregon as part of the amount collected locally; and

**WHEREAS**, granting a waiver results in property taxes or other revenues sources offsetting the costs of staff work to process permits, and

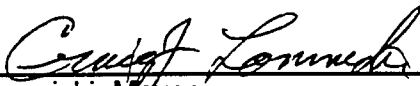
**WHEREAS**, Ballot Measure 47 does not allow the City to shift or increase fees without a vote of the citizens;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE THAT:**


1. The City of Milwaukie City Council does hereby find and declare that all permit fees are needed; and
2. Staff are directed to collect the full fee due on every application from every applicant.

Introduced and adopted by the City Council on this 1st day of April 1997.


CITY OF MILWAUKIE

By   
Craig J. Lomnicki, Mayor

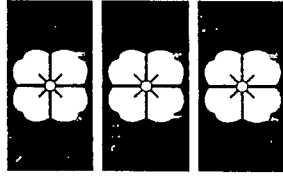
ATTEST:

  
Pat DuVal, City Recorder

APPROVED AS TO FORM:

  
O'Donnell, Ramis, Crew, & Corrigan

C I T Y O F



MILWAUKIE

V. 53(10)

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

March 24, 1997

To: Mayor and City Council  
From: Dan Bartlett, City Manager  
Re: Policy on Fee Waivers

Action Requested

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All permit applications require that City staff and contract staff spend time reviewing and processing the application. The City must forward a portion of building, electrical, and plumbing permit fees to the State of Oregon to pay for statewide activities. Waiver of fees results in a double subsidy from property taxes or other City revenues. There is the direct time involved to process the permit and there are the amounts the City has to pay directly to the State. Then there is the loss of revenue due from the permit.

Ballot Measure 47 requires a vote to raise fees in operations partly paid for by property taxes, or where fees are being shifted to pay for activities previously paid for by property taxes. It would seem that waiving some fees would then cause a shift of property taxes into development or building permit activities to off-set lost revenues.

Given these circumstances, I believe that the City should not subsidize any development permits. The attached Resolution clarifies Council policy on this matter.

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cm1066/hd

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

V. \_\_\_\_\_

**CITY OF MILWAUKIE  
RESOLUTION NO. \_\_-1997**

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DIRECTING STAFF TO COLLECT ALL DEVELOPMENT PERMIT FEES DUE TO THE  
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**WHEREAS**, various non-profit organizations have asked to have development permit fees waived; and

**WHEREAS**, building permits require payment of a fee to the State of Oregon as part of the amount collected locally; and

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**WHEREAS**, Ballot Measure 47 does not allow the City to shift or increase fees without a vote of the citizens;

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CITY OF MILWAUKIE

By \_\_\_\_\_  
Craig J. Lomnicki, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
O'Donnell, Ramis, Crew, & Corrigan

V. 53(11)

CITY OF MILWAUKIE  
RESOLUTION NO. 15 -1997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
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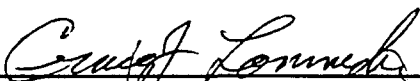
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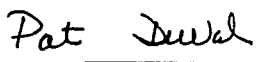
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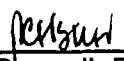
CITY OF MILWAUKIE

By   
Craig J. Lomnicki, Mayor

ATTEST:

  
Pat DuVal, City Recorder

APPROVED AS TO FORM:

  
O'Donnell, Ramis, Crew, & Corrigan

V. 54 D

OCT 06 1998

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

Date: October 3, 1998  
To: Milwaukie Planning Department and City Council  
From: Michelle Greeley-Roberts and Scott Rasmussen  
Subject: Appeal of Planning Commission approval of  
Subdivision Application - File #S-98-01

To whom it may concern;

We intend to clearly demonstrate in a number of ways that the "Intent" of the Comprehensive Plan is not being honored by this proposed development.

That the policies of the prior City Council and Community Development Director as pertains to the encouragement of "infill" at any cost must be revisited.


That the "Overriding Management Policies" for the Comprehensive Plan state clearly why this action must be taken.

It is so stated that the Planning Commission and the City Council and the CITIZENS should use the Comprehensive Plan as a guide for making decisions.

We intend to address the following points;

Chapter 1 - Citizen Involvement - Objective #2 - Policies - (a)

Neighborhood organizations will be advisory to the City Council.

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Appellant Doc</u>	Submitted by: <u>Greeley Roberts</u>	Date: _____	# Pages: <u>11</u>	
File Numbers: <u>S-98-01</u>	Applicant: <u>Greeley Roberts</u>	Exhibit #: <u>5</u>		

Chapter 4 - Land Use - Neighborhood Area 2 - Background

The Ardenwald area in the western half of the neighborhood is currently the focus of the county's housing and rehabilitation efforts.

Chapter 4 - Land Use - Neighborhood Area 2 - Guideline #2  
Tree Preservation

To preserve large trees in the neighborhood by requiring City permits for removal of selected live trees, and enforcing a tree replacement program.

Chapter 4 - Land Use - Neighborhood Area 2 - Guideline #6  
Walkways

To provide safe pedestrian walkways throughout the neighborhood separated from roadways, without necessarily constructing sidewalks. Important considerations are:  
many deep back lots might provide right-of-way for walks and bikepaths.

Chapter 5 - Transportation, Public Facilities and Energy  
Conservation - Objective #3 - Policies # 5

Transportation improvements should be provided as development occurs.

Chapter 5 - Transportation, Public Facilities and Energy  
Conservation - Objective #8 - Pedestrian/Bikeway -  
policies

#4 - A high priority will be given to pedestrian facilities along or to transit corridors.

Chapter 2 - Plan Review and Amendment Process - Objective #1  
Policies - # 3

It is our intention to ask the Planning Commission to review for possible amendments, the Citizen Involvement portion of the Comprehensive Plan.

Chapter 2 - Plan Review and Amendment Process - Objective #2  
Policies - #4

All actions will be consistent with the Intent of the Comprehensive Plan. The Intent is clearly stated in the Overriding Management Policies.

Chapter 3 - Environmental and Natural Resources -

Calls for the wise use and management of these resources, particularly since the city is almost completely developed and few areas remain in a natural state.

Chapter 3 - Environmental and Natural Resources -

Typical open space standards for a population of 20,000 suggest over 450 acres should be available. 65 acres of city owned parkland plus 50 acres of school grounds and 150 acres of privately owned land make up the total of 265 acres of open space remaining in the City of Milwaukie.

Chapter 4 - Land Use - Objective #2 - Planning Concept

A range of housing types is encouraged throughout the City as long as the character of existing neighborhoods is not dramatically altered by new development.

#5 - The City will support the proposed 40 mile loop as a means to meet regional needs for pedestrian paths and bikeways.

Chapter 5 - Public Facilities and Services - Background and planning concepts

The overriding concepts for public facilities and services are to improve conditions for existing residents

Chapter 5 - drainage and streets

With 65 miles of roadway compared to 22 miles of storm drainage, storm drainage continues to be a major issue in the City of Milwaukie.

Chapter 5 - Transportation, Public Facilities and Energy Conservation - Objective #8 -Policies # 5

The City will ensure that streets are of high structural quality, sufficient width and are well maintained

Chapter 5 - Transportation, Public Facilities and Energy Conservation - Objective #2 -Transportation System - Policies

Improvements to the pedestrian and bicycle system linking neighborhood and community facilities and improving access to transit corridors.

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Chapter 4 - Land Use -Objective # 3 - Residential Land Use

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

Chapter 4 - Land Use - Planning Concepts - Policies #6

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

Chapter 4 - Land Use-Objective # 4 - Neighborhood Conservation

To maximise the opportunities to preserve, enhance and reinforce the identity and pride of existing, well defined neighborhoods in order to encourage the long term maintenance of the citys housing stock.

Chapter 4 - Land Use - Neighborhood Element - Objective #1  
Neighborhood Character - Policies #4

Require new residential developments to be consistant in type, style and density with that existing in the neighborhood area,

Chapter 4 - Land Use - Neighborhood Element - Objective #2  
Neighborhood Needs - Policies #7

To more adequately maintain existing City streets, and to solve the problem of surface flooding and ponding.

V. 59

I am Michelle Greeley-Roberts. My address is 2924 SE Malcolm St., in Milwaukie. I am past president of The Ardenwald-Johnson Creek N.A., a current member of the Land Use Committee for Ardenwald-Johnson Creek N.A. and a lifelong resident of the village known as Malcolm Street. I am speaking in opposition to the proposed development.

I first would like to apologize for missing the deadline for the commissioners packets and if allowed will now provide commissioners with a copy of my statement, so that they may make notes or highlights if necessary.

The first and most important point that needs to be made is that this neighborhood, my village, the village that raised me and that is raising my children has been damaged and continues to be threatened and undermined directly by the implementation of infill. We have opposed on many occasions. I have been here numerous times to speak in opposition to proposed land use actions, primarily flag lots, in support of neighbors who felt that their quality of life was being compromised, that the character of our neighborhood was being degraded.

Most times we lost, on the occasions that we won, then Community Development Director, Maggie Collins made sure that each piece of code, ordinance or variance criteria that we used to our advantage was then addressed and made unusable to us in the future. Reduction of the notification area for proposed land use actions. The reduction of driveway widths, and more importantly the changes in the variance criteria, each of these actions removing the codes and ordinances further and further from the true directive of the comprehensive plan, which clearly states to protect, preserve, enhance.

RECEIVED

OCT 06 1998

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

Maggies' promises that Waverly would be rezoned R-7 along with the rest of the city was not fulfilled (I'll be very interested in their plan for infill). Her agreement to allow the Neighborhood Associations to sponsor appeals without the highly discriminatory \$240.00 filing fee (which she honored on at least one occasion) however cannot be remembered or evidence be found in support of by current planning staff. Whom should we trust now? How much is too much?

Let me tell you a little bit about my village. Within a two block area there are three generations and four families of Fasching/Rasmussens. Three generations and four families of Greeley/Johnsons. Four generations (not counting Granny, no longer with us) and three families of Warner/Joneses. We were born and raised here and returned to raise our own families in the love and safety that our village represents. Our mother, brothers, sisters, aunts, uncles and grandmothers are right here. The properties here are highly sought after, not only by those interested in hacking it up for short term profits, or those who want to make a career out of kissing Metros butt, but by people who know that this is a good safe place to raise children, grow a garden and stay.

As regards this property in particular I will tell you about the only family that ever lived here. Mr. and Mrs Keller came here from Switzerland. They lived at 2824 SE Malcolm while Leo Keller built the existing house for his bride. Two children were born at 2723 SE Malcolm, Marie who attended Ardenwald School with Dorothy Warner (who has lived her entire life on Malcolm street, currently next door to her son and grandchildren) and Dickey, who was mentally challenged and as far as I know never went to school. Dickey was a gentle steward of the land, who spent his entire life (he lived to be over fifty) tending the gardens. Dickey Keller took his first and last breaths in the shade of those fir trees.

V. 61

What about the trees? The **big** trees, the **eleven fir trees in excess of two hundred feet tall.** How are they addressed in the plat plan. I am not aware that they have been addressed appropriately. Mr Henderson has made verbal comments on more than one occasion as to the removal and profit to be made from such removal of this grove of fir trees. I see that Mr Henderson has made us aware of his plan to remove eight deciduous trees. I know those trees, fruit trees. I see no mention of tree replacement. Those fir trees cannot adequately be replaced. How much is too much?

Ardenwald Elementary School is and has been functioning over capacity for a number of years. Because of the age and condition of the structure it is not nor will it be slated for improvements or additions. A number of new dwelling units has gone in just this summer, how much is too much?

Malcolm Street is an old gravel/oil/asphalt roadway. There are no curbs or sidewalks. I have been informed personally by Mr. Paul Roeger of the Public Works Department, that Malcolm street **is not, has not,** and at least as far as he is concerned **will not be** slated for improvements anytime in the **near or distant future.** I find it very disturbing that we continue to increase pressure on an infrastructure that is sub-standard at best. Every additional house means exponential potential for increases in traffic and degradation of our unmaintained streets. We are not anxious for a lot of improvements on our street, because it is a well known fact that people tend to drive faster on improved roadways. The suggestion or introduction of curbs and sidewalks as referred to by the staff report are absurd. Why put them on the last house on the street?

What about the proposed driveway? Is twelve or fifteen feet paved surface going to adequately serve three to four houses? What about holidays and guests? Where will they park, what happens when there is an emergency and the response crews cannot get down the driveway? Perhaps they will park along the narrow, unimproved street. Now the emergency response crews cannot get to the Rasmussens house. I wouldn't call that enhancement or liveability.

We manage this street ourselves. I manage the gravel in front of my house. I pay for it, I bring it in, I spread it, I watch it wash down the hill with each rainstorm, then I bring in more. There are no storm drains here, none planned (although we do pay the storm water fee). We deal with the puddles and creeks by building and rebuilding little gravel dikes. We try to keep it running down the hill, straight down to the Rasmussens and Kellers place, where they finally have to deal with it and deal with it they do, at great effort and expense, with no help from the city. And so, how much is too much?

With the increased number of cars and the decreased back yards for playing, we also try to manage the traffic flow on our street. I watch our children narrowly dodge traffic. We have filed requests for traffic calming, some type of traffic control, some help from the city in managing the traffic on our street and have always been turned down. The streets are narrow, the intersections are as yet uncontrolled. If we continue to add more and more cars we add more pressure to already crumbling surfaces and more risk to the children who live and play here. People who live here know, or find out shortly after they move here that if they are going to come racing down that hill, they can expect the villagers to come knocking on their door. More houses, more cars, more people = less control, less liveability, less property values. How much is too much?

V. 63

How many flag lots on Malcolm Street? How much is too much in terms of undermining a family's quality of life, or property values. There is the highest concentration of flag lots that I am aware of already on Malcolm Street, in Ardenwald. There are currently 19 houses in one block that was intended for twelve. No improvements have been made to accommodate additional traffic, water run off, etc. How much is too much?

Sadly, some people have left the area in response to attacks on their quality of life by encroaching and careless development. I know the Rasmussens are looking at property out of the area. I have already purchased a home in Oak Grove. The very heart and soul of the village that makes up this neighborhood and raises our children is being damaged and continues to be threatened and undermined by the implementation of infill, more specifically flag lots, overzealous planners, and the lack of citizen empowerment to protect our investments and guide change to the benefit of the community and not to its demise.

Also with respect to the fact that the approved lightrail alignment is scheduled to go in at the bottom of this hill which will directly impact these same neighbors, most directly that of Scott and Darlene Rasmussen, and most certainly the quality of their lives, as well as their property values and the possibility of resale in the future, how much is too much?

This particular development configuration is not the only option open to Mr. and Mrs. Henderson. He made verbal arrangements for purchase of the property as two lots with both the Rasmussens and the current tenant, which he later refused to acknowledge and which would have been more in keeping with the character of the neighborhood. It is my understanding that he still has standing offers on the table.

There are configuration options in terms of developing the piece with more respect to the natural resources that are present and more in keeping with the character and quality of life that the neighbors currently enjoy. One of which would be to divide the property into two lots only, remodel/expand the current house and build a comparably sized house next door and sell them both at premium prices to families who value the land as we do. Doing so would maintain the integrity and character of the area and still allow the Hendersons to realize real profits from the purchase and sale of this property. Being familiar with the purchase price and the investment necessary to complete the project, as well as being in a related industry, tells me that Mr. Hendersons investment is not at risk nor is the potential for profit if other developmental configurations are employed.

It is beyond too much! It is time for someone to support these neighbors in their effort to preserve what is left of the character and integrity and liveability of this once beautiful neighborhood.


The village that raised me, and the village that is raising my children is being compromised and cannot be replaced. I don't believe we should continue to sacrifice this village for someone else's right to make a profit. Thank-You.

V. 65

# MILWAUKIE ZONING ORDINANCE

## SECTION 302

### SUBDIVISION ORDINANCE TITLE 17

<b>City of Milwaukie Community Development Department</b>				
Title: <u>Zoning Ord</u>	Submitted by: <u>CD</u>	Date: <u>10/5/98</u>	# Pages: _____	
File Numbers: <u>S-98-02</u>	Applicant: <u>Henderson</u>	Exhibit #: <u>6</u>		

**302 RESIDENTIAL ZONE R-7**

V. lll

In an R-7 Zone the following regulations shall apply:

**302.1 Outright uses permitted**

In an R-7 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Residential home.
- C. Agricultural or horticultural use, provided that:
  - 1. a retail or wholesale business sales office is not maintained on the premises; and
  - 2. poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- D. Any other use similar to the above and not listed elsewhere.

**302.2 Conditional uses permitted**

In an R-7 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Single-family attached dwelling.
- C. Senior and retirement housing.
- D. Secondary dwelling unit.
- E. Any other use similar to the above and not listed elsewhere.

**302.3 Standards**

In an R-7 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 7,000 square feet. For a single-family attached complex the lot area shall be an average of at least 7,000 square feet per unit. Lot width shall be at least 60 feet. The minimum lot width shall be 30 feet for interior single-family attached units. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 20 feet.
- C. Side yard: A side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on corner lots a side yard shall be at least 20 feet on the side abutting the street. For interior single-family attached units, side yards are not required.

V. 67

- D. Rear yard: A rear yard shall be at least 20 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be 2½ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 30 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be 30 percent of the total area of the lot.
- J. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet, except as provided in the Subdivision Ordinance. The lot for an interior single family attached unit shall abut a public street for at least 20 feet.

V. LS

**City of Milwaukie**

**Subdivision Ordinance**

(Title 17 of the  
City of Milwaukie Municipal Code)

Adopted Ord. #1440, December 3, 1979  
Last Rev. Ord. #1778, February 7, 1995

**Record of Revisions to the  
Subdivision Ordinance**

Last Revisions as of February 7, 1995

<u>Affected Chapter #</u>	<u>Adoption Ordinance #/Date</u>
17.04 . . . . .	#1440, December 3, 1979
17.08 . . . . .	#1440, December 3, 1979
17.12 . . . . .	#1503, October 6, 1981
17.16 . . . . .	#1762, May 17, 1994
17.20 . . . . .	#1620, March 17, 1987
17.24 . . . . .	#1440, December 3, 1979
17.28 . . . . .	#1762, May 17, 1994
17.32 . . . . .	#1778, February 7, 1995
17.36 . . . . .	#1440, December 3, 1979
17.40 . . . . .	#1440, December 3, 1979
17.44 . . . . .	#1769, July 19, 1994
17.48 . . . . .	#1620, March 17, 1987

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GENERAL PROVISIONS

Last Rev. Ord. #1440, 12/3/79

CHAPTER 17.04. GENERAL PROVISIONS

17.04.010. Title. The ordinance codified in this Title shall be known and may be cited as the "Subdivision Ordinance" of the City of Milwaukie.

## DEFINITIONS

Last Rev. Ord. #1440, 12/3/79

## CHAPTER 17.08. DEFINITIONS

- 17.08.010. Generally. The words and phrases used in this Ordinance have the meanings provided in this Chapter.
- 17.08.020. Bicycle way. "Bicycle way" means a right-of-way for bicyclists.
- 17.08.030. Block. "Block" means a group of lots, tracts, or parcels which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary.
- 17.08.040. Buffer strip. "Buffer strip" means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition and located along the edge of a subdivision.
- 17.08.050. Building line. "Building line" means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected.
- 17.08.060. City. "City" means the City of Milwaukie, Oregon.
- 17.08.070. Development plan. "Development plan" means the plan adopted by the Planning Commission for the guidance of growth and improvements of the city, including modifications or refinements which may be made from time to time. This includes plans identified elsewhere in the Community Development Ordinance.
- 17.08.080. Easement. "Easement" means the right to use land in a limited way for a stated purpose.
- 17.08.090. Flag lot. "Flag lot" means a lot that has a narrow frontage on a public street and a narrow width for access to the main part of the lot used for a building.
- 17.08.100. Lot. "Lot" means a unit of land that is created by a subdivision of land that permits transfer of ownership and development.
- 17.08.110. Monument. "Monument" means a fixed, permanent, and visible landmark indicating boundaries.
- 17.08.120. Owner. "Owner" means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said county, or a person who is purchasing a parcel of property under contract.
- 17.08.130. Parkway. "Parkway" means a broad landscaped street, often divided by planted median strips.
- 17.08.140. Partitioning. "Partitioning" means to divide an area or tract of land into two or three lots within a year when such area or tract of land exists as a unit or contiguous unit of land under single ownership at the beginning of such year.
- 17.08.150. Partition, major. "Major partition" means a partition which includes the creation of a road or street.

DEFINITIONS

Last Rev. Ord. #1440, 12/3/79

17.08.160. Partition, minor. "Minor partition" means a partition that does not include the creation of road or street.

17.08.170. Pedestrian way. "Pedestrian way" means a right-of-way for pedestrians that is improved or unimproved.

17.08.180. Person. "Person means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

17.08.190. Plat. "Plat" means and includes a final map or plan containing all the descriptions, locations, dedications, specifications, provisions and information concerning a subdivision, suitable for filing under the regulations of this Ordinance and State law.

17.08.200. Reserve strip. "Reserve strip" means a strip of land reserved between the end or side of a street or alley and an abutting parcel of land, or a strip of land between a dedicated street of less than full width and an abutting parcel of land, held for future street extension or widening.

17.08.210. Right-of-way. "Right-of-way" means the area between boundary lines of a public way.

17.08.220. Sidewalk. "Sidewalk" means a pedestrian walkway with permanent surfacing to City standards.

17.08.230. Street. "Street" means the width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. "Street" includes the terms "road," "highway," "lane," "place," "avenue," "boulevard," or other similar designations.

- A. "Access street" means a street intended only for access to abutting properties.
- B. "Alley" means a narrow street used for access to the back or side of properties otherwise abutting on another street.
- C. "Major arterial street" means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukee. Public transit to other communities generally use a major arterial.
- D. "Minor arterial street" means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to other neighborhoods within, or immediately adjacent to the city. Local public transit may use minor arterial streets.
- E. "Collector street" means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

DEFINITIONS

Last Rev. Ord. #1440, 12/3/79

- F. "Cul-de-sac" means a short access street terminated by a vehicle turnaround.
- G. "Dead-end street" means a street terminating at a property line, but which may be extended.
- H. "Frontage street" means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- I. "Local street" means a street that provides direct access to abutting property.

17.08.240. Subdivide land. "Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.

17.08.250. Subdivision. "Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this Ordinance.

17.08.260. Tract. "Tract" means a parcel of land being subdivided.

## CHAPTER 17.12. ADMINISTRATION AND ENFORCEMENT

17.12.010. Planning Commission approval required. All subdivision plats, all streets, or rights-of-way created for the purpose of partitioning land and changes in property boundary lines shall be approved by the Planning Commission in accordance with these regulations. A person desiring to subdivide land, to partition land by creating a street or way, or to sell any portion of a parcel of land, shall submit preliminary plan and final documents for approval as provided in this Ordinance and the State law.

17.12.030. Violation-Penalties. Any person who violates or fails to comply with any provision of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, or both. In addition to any fine or imprisonment, the cost of completing or correcting any improvements required by this Ordinance and incurred by the City may be assessed to a person convicted of violating the Ordinance. Each day that a violation continues shall be considered a separate violation.

## CHAPTER 17.16. PRELIMINARY PLAT

17.16.010. Submission of plans. The subdivider shall prepare a preliminary plat and such improvement plans and other supplementary material as may be required to indicate the general objectives of the development. The subdivider shall submit twelve copies of the preliminary plat to the Public Works Director at least twenty-five days prior to the Planning Commission meeting. A filing fee, as determined from time to time by resolution of the City Council, shall be paid by the subdivider upon submission of the preliminary plat.

17.16.020. Scale. The preliminary plat shall be drawn on a sheet eighteen inches by twenty-four inches or a multiple thereof at a scale of one inch equals one hundred feet or, for areas over one hundred acres, one inch equals two hundred feet.

17.16.030. Required information. The following general information shall be shown on the preliminary plat:

- A. Proposed name of the subdivision. The name shall not duplicate nor resemble the name of another subdivision in the County and shall be approved by the Planning Commission;
- B. Date, north point, and scale of drawing;
- C. Appropriate identification clearly stating the map is a preliminary plat;
- D. Location of the subdivision by section, township, and range; and a legal description sufficient to define the location and boundaries of the proposed tract. Approximate acreage enclosed;
- E. Names and addresses of the owner, subdivider, and engineer or surveyor.
- F. Date the property was surveyed if available. (A survey is not required for preliminary plat.)

17.16.040. Existing conditions shown on plat. The following existing conditions shall be shown on the preliminary plat:

- A. The location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, city boundary lines, and monuments;
- B. Contour lines related to an established bench mark or other datum approved by the Public Works Director, with intervals at a minimum of two feet for slopes up to ten percent and five feet for slopes over ten percent;
- C. The location within the subdivision, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts;

- D. Zoning and existing uses within the tract and two hundred feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed;
- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract;
- F. Natural features, such as rock outcroppings, marshes, wooded areas, and isolated preservable trees, including type and caliper;
- G. Floodway and floodplain boundary.

17.16.050. Proposed plan of land partitioning. The following information shall be included on the preliminary plat:

- A. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets as planned by the City; if road will continue beyond plat, an existing ground and finished grade profile;
- B. The location, width, and purpose of easements;
- C. The location, approximate dimensions, and area of all lots;
- D. Lot and block numbers;
- E. Proposed use of the property, including sites, if any, for multifamily dwellings, shopping center, churches, industry, parks, schools, playgrounds, or public or semipublic uses.

17.16.060. Partial development. Where the plat to be subdivided contains only part of the tract owned or controlled by the subdivider, the Planning Commission may require a sketch of a tentative layout for streets and utilities in the unsubdivided portion.

17.16.070. Supplemental information. The following information shall be submitted with the preliminary plat:

- A. A vicinity map shall be drawn at a scale of one inch equals four hundred feet, showing all existing subdivisions, streets, and nonsubdivided land ownership between the proposed subdivision and the nearest existing arterial or collector streets and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 feet of the subject property;
- B. Pedestrian ways. In any block over 600 feet in length between intersecting street lines, a pedestrian way with a minimum right-of-way width of 15 feet shall be improved to a minimum width of ten feet and paved with a hard surface material. In new developments, pedestrian ways shall not be considered as a substitute for a full street connection that provides access for motor vehicles, bicycles, and pedestrians. When desirable for public convenience, pedestrian ways may be required to connect to cul-de-sacs or to pass through oddly shaped blocks. The subdivider shall install sidewalks through all pedestrian ways in conformity with standards of the city.

- C. Proposed deed restrictions, if any, in outline form;
- D. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this Ordinance, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted at least thirty days prior to the approval time of the final plat if requested.

17.16.080. Preliminary review of proposal. After submission of a preliminary plat by the subdivider, the Public Works Director shall send the preliminary plat to appropriate affected agencies. Sufficient time shall be given for such agencies to provide a response. Such agencies may include the school district, State Highway Department, and Clackamas County.

17.16.090. Approval. Preliminary plat submittals shall be processed according to Section 10.05(C) of the Zoning Ordinance, Minor Quasi-Judicial Review.

## CHAPTER 17.20. FINAL PLAT

17.20.010. Submission of plans. Within one year after approval of the preliminary plat, the final plat and any supplementary information shall be prepared in conformance with the preliminary plat and submitted to the Community Development Director in the form required by these regulations and State laws. Twelve prints of the final drawings and supplemental information shall be submitted with the final plat. If the owner or subdivider wishes to proceed with the subdivision after the expiration of the one-year period following the approval of the preliminary plat by the Planning Commission, he must resubmit his preliminary plat to the Planning Commission and make any revisions considered necessary to meet changed conditions.

17.20.020. Required information. In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point, legend, and controlling topography such as creeks and highways;
- B. Legal description of the tract boundaries;
- C. Name and address of the owner(s), subdivider(s), and engineer or surveyor;
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision,
  2. Adjoining corners of adjoining subdivisions,
  3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this Ordinance;
- E. The exact location and width of streets and easements intersecting the boundary of the tract;
- F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest ten seconds with basis of bearings approved in advance by the City Engineer. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.
- G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to the centerline dimensions, the radius and central angle shall be indicated.

- H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;
- I. Lot numbers beginning with the number "1" and numbered consecutively in each block;
- J. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision;
- K. Land parcels to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale;
- L. Special building setback lines, if any, are to be made a part of the subdivision restrictions;
- M. The following certificates, which may be combined where appropriate:
  - 1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat,
  - 2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants,
  - 3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

17.20.030. Supplemental information. The following shall accompany the final plat:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;
- B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:
  - 1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any,
  - 2. The computation of all distances, angles, courses, and lot areas shown on the final map,

3. Ties to existing monuments, adjacent subdivisions, and street corners,
  4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities;
- C. A copy of any deed restriction applicable to the subdivision;
- D. A certificate by the City Engineer certifying that the subdivider has complied with one of the following alternatives:
1. All improvements have been installed in accordance with these regulations and with the action of the Planning Commission giving conditional approval of the preliminary plat,
  2. An agreement has been executed as provided in Sections 17.20.040 and 17.20.050 of this Chapter to assure completion of all required improvements.

17.20.040. Supplemental review. Upon receipt by the City, the final map and other data shall be reviewed by the Public Works Director, who shall determine whether the subdivision as shown is substantially the same as it appeared on the approved preliminary plat and that there has been compliance with provisions of the law and of this Ordinance. The City may make such checks in the field as are necessary to verify that the map is correct, and City representatives may enter the property for this purpose. Certification of the Public Works Director or County Surveyor shall be used to determine that the map and survey are technically correct.

17.20.050. Approval of final plat. Upon receipt of the final plat, the Community Development Director shall determine whether it conforms with the approved preliminary plat and requirements or ordinance. The Community Development Director shall approve the plat if it determines that the plat conforms with all requirements and the supplementary documents and provisions for required improvements are satisfactory. If the Community Development Director does not approve the plat, it shall advise the subdivider of the changes or additions that must be made, and shall give him an opportunity to make the necessary modifications. Approval shall be indicated by the signature of the Chair of the Planning Commission, or by the signature of the Vice Chair of the Planning Commission if the Chair is not available.

17.20.060. Notice for improvements. Before Planning Commission approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or file with the Public Works Director a notice, specifying the period within which required improvements and repairs will be completed. In either case, the subdivider shall reimburse the City for the cost of inspection by the City at a rate established by the City Council. All required improvements shall be guaranteed and bonded as provided in Section 17.36.030 of this Ordinance.

17.20.070. Bond.

- A. The subdivider shall file with the notice, to assure his full and faithful performance, one of the following:
1. An agreement to make improvements in a form approved by the City Attorney;

2. A letter of credit;
  3. Cash.
- B. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.
- C. If the subdivider fails to carry out said improvements and the City has unreimbursed costs or expenses resulting from such failure, the City may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the City, the subdivider shall be liable to the City for the difference.

17.20.080. Filing. The subdivider shall, within thirty days, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within thirty days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.

CHAPTER 17.24. CREATION OF STREETS AND WAYS

17.24.010. Creation of streets outside subdivision.

- A. The creation of a street shall be in conformance with requirements for a subdivision, except, however, the Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
1. The establishment of the street is initiated by the City Council or County and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;
  2. The tract in which the street is to be dedicated is one acre or less and such dedication in the judgment of the Planning Commission is not an attempt to evade the provisions of this Ordinance governing the control of land partitioning.
- B. In those cases where approval of a street may be given without full compliance with the regulations applicable to a subdivision, a copy of the proposed deed shall be submitted to the City at least five days prior to the Planning Commission meeting at which consideration is requested. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the objectives or standards of these regulations, may be approved subject to any conditions necessary to preserve these standards.

17.24.020. Creation of ways. The Planning Commission may approve an easement of way to be established by deed without full compliance with these regulations, provided such an easement is the only responsible method by which a portion of a lot large enough to warrant partitioning into two parcels may be provided with vehicular access and adequate utilities. If the existing lot is large enough to partition into more than two parcels, ordinarily a street must be dedicated. Standards for approving such partitions without street dedication shall be adopted by the Planning Commission.

## CHAPTER 17.28. DESIGN STANDARDS

17.28.010. Conformity of subdivision. The subdivision shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof. The subdivision shall conform with the requirements of State laws and with the standards established by the City.

17.28.020. Streets.

- A. General. The location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land served by the streets. The street system shall assure an adequate traffic circulation system. Intersection angles, grades, tangents, and curves shall be appropriate for the traffic to be carried and to the terrain. Where their location is not shown in a development plan, the arrangement of streets in a subdivision shall either:
1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
- B. Transportation improvements. Transportation improvements shall meet the following standards listed in Table 17.28.020.

Table 17.28.020 Transportation Improvement Standards								
	MAJOR ARTERIAL		MINOR ARTERIAL		COLLECTOR		LOCAL	
	Res./ Ind.	Comm./ Inst.	Res./ Ind.	Comm./ Inst.	Res./ Ind.	Comm./ Inst.	Res.	Comm./ Inst./ Ind.
R-O-W Minimum (Set-back Sidewalk)	97'	101'	73'	77'	77'	79'	47'	65'
R-O-W Minimum (Curbed Sidewalk)	89'	95'	65'	71'	69'	71'	39'	57'
Pavement Width	72'	72'	48'	48'	52'	52'	24'	40'
Travel Lanes (#)	5	5	3	3	2	2	1+	2
Width	12'	12'	12'	12'	12'	12'	10'	12'
Parking Lanes (#)	None	None	None	None	None, 1 or 2	None, 1 or 2	2	None, 1 or 2
Width	-	-	-	-	8'	8'	7'	8'
Bike Lanes (#)	2	2	2	2	2	2	None	None
Width	6'	6'	6'	6'	6'	6'	-	-
Park Strip (Minimum)	5'	5'	5'	5'	5'	5'	5'	5'
Sidewalk:								
Curbed	7'	10'	7'	10'	7'	8'	6'	7'
Set-Back	6'	8'	6'	8'	6'	7'	5'	6'

**Notes:**

Res.: Residential zones: R-10, R-7, R-5, R-3, R-2.5, R-2, R-1, PD  
 Ind.: Industrial zones: M, BI  
 Comm.: Commercial zones: R-1-B, R-O-C, C-N, C-L, C-C, C-G, C-CS, MC  
 Inst.: Institutional zone overlay: CSO

1. R-O-W width includes an additional 3' for curb width (6" each) and space for construction forms behind sidewalks (1' each).
2. The number of travel lanes for major and minor arterials includes a center turn lane or median strip.
3. Minimum R-O-W and pavement widths are provided for streets with two parking lanes.

Where existing conditions, particularly the topography or the size and shape of land parcels, make it otherwise impractical to provide buildable lots, the Planning Commission may accept a narrower right-of-way. If necessary, slope or utility easements may be required.

- C. Reserve strips. Reserve strips controlling the access to streets will not be approved unless they are necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land composing such strips shall be placed within the jurisdiction of the City under conditions approved by the Planning Commission.
- D. Alignment. All streets other than access streets or cul-de-sacs as far as practical shall be in alignment with existing streets by continuations of the centerline thereof. In the case of access streets, jogs creating "T" intersections shall have centerline offsets of not less than two hundred fifty feet.
- E. Future extension of streets. Where necessary to give access to or permit satisfactory future subdivision of adjoining land in the opinion of the Planning Commission, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turnaround. Consideration shall be given to grades permitting continuation. Reserve strips may be required to preserve the objectives of street extensions.
- F. Intersection angles. Streets shall be laid out to intersect at an angle as near to a right angle as practical, but in no case less than sixty degrees, unless there is a special intersection design. Right-of-way lines at street intersections shall have a minimum corner radius of fifteen feet.
- G. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
- H. Half-streets. Half-streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to protect the objectives of a half-street.
- I. Cul-de-sacs. Cul-de-sacs shall only be provided when no opportunity exists for creating a through street connection. A street ending in a cul-de-sac shall have a maximum length of 400 feet, measured from the cross street right-of-way to the end of the cul-de-sac.
- J. Street names. No street name may be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the Planning Commission.
- K. Street grades. Grades shall not exceed six percent on arterial streets, three percent on minor arterial streets, ten percent on collectors and fifteen percent on local or any other street or driveway. In flat areas allowances shall be made for finished street grades having a minimum slope of 0.5 percent.

- L. Street curves. Centerline radii of curves shall not be less than three hundred feet on arterial streets, one hundred fifty feet on collector streets, or seventy-five feet on other streets. On arterial streets there shall be a tangent of not less than one hundred feet between curves.
- M. Streets adjacent to railroad right-of-way. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision shall be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with the due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen plantings along the railroad right-of-way.
- N. Frontage streets. Where a subdivision abuts or contains an arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen plantings contained in a nonaccess reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- O. Alleys. Alleys may be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission. Alley intersections and sharp changes in alignment shall be avoided, but where necessary corners shall be cut off sufficiently to permit safe vehicular movement.
- P. Lots in subdivisions shall be arranged so that driveways to less than four lots shall not be allowed unless it can be shown no other alternative is possible.

17.28.030. Blocks.

- A. General. The length, width, and shape of blocks shall take into account the need for adequate lot size, convenient access, circulation, and traffic safety, and shall recognize the limitations of the topography.
- B. Size. No block may be more than eight hundred feet in length between intersecting streetlines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The average perimeter of blocks formed by streets shall not exceed 1,600 feet, except where street location is restricted by natural topography, wetlands, or other bodies of water.

17.28.040. Easements.

- A. Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be at least ten feet wide and centered on rear or side lot lines.

- B. Watercourses. If a subdivision is traversed by a watercourse such as a drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major watercourses may be required.
- C. Pedestrian ways. In any block over 600 feet in length between intersecting street lines, a pedestrian way with a minimum right-of-way width of 15 feet shall be improved to a minimum width of ten feet and paved with a hard surface material. In new developments, pedestrian ways shall not be considered as a substitute for a full street connection that provides access for motor vehicles, bicycles, and pedestrians. When desirable for public convenience, pedestrian ways may be required to connect to cul-de-sacs or to pass through oddly shaped blocks. The subdivider shall install sidewalks through all pedestrian ways in conformity with standards of the City.

17.28.050. Lots.

- A. Size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. Minimum lot standards shall conform to the City Zoning Ordinance. In areas that are not served by a public sewer, minimum lot sizes shall be not less than the requirements for the proper installation of a sewage disposal system before a building permit will be issued.
- B. Access. Each lot shall abut upon a public street other than an alley for a width of at least thirty-five feet except for flag lots and lots for interior dwellings of single-family attached, town house, and condominium complexes.
- C. Lot sidelines. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face, or on curved streets, shall be radial to the curve.
- D. Double frontage. Double frontage and reversed frontage lots should be avoided except where essential to provide separations of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

17.28.060. Public open spaces.

- A. Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.
- B. Where a proposed park, playground, or other public use shown in a development plan adopted by the City is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

- C. Where considered desirable by the Planning Commission, and where a development plan of the City does not indicate proposed public use area, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.
- D. If the subdivider is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within eighteen months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the subdivider.
- E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.
- F. In exchange for the dedication of park land, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same.

## 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. 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.

17.32.050. Planning Commission approval. If the location or type of land has not been defined for routine administrative approval or if the proposed partitioning does not comply with the requirements for routine administrative approval, the sketch map shall be submitted to the Planning Commission for determination that the proposal will be compatible with the Comprehensive Plan. The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the sketch plan necessary to carry out the Comprehensive Plan. In no event, however, shall the Planning Commission require greater dedication or conditions than could be required if the parcel were subdivided. If the partitioning provided in the sketch map results in complete accomplishment of those parts of the Comprehensive Plan which could be affected by partitioning of the parcel, the Planning Commission shall state on the sketch map that future partitioning within the area shown on the sketch map may occur without submission for approval of the Planning Commission.

PARTITIONING

Last Rev. Ord. #1778 2/7/95

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.

## CHAPTER 17.36. IMPROVEMENTS

17.36.010. Improvement procedures. In addition to other requirements, improvements installed by the subdivider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Ordinance and to improvement standards and specifications followed by the City. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. Provision for all underground utilities, including, but not limited to, water, sanitary sewers, and stormdrains, installed in streets by the subdivider shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the City upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the City.

17.36.020. Required improvements. If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the subdivider:

- A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the City. Existing streets which abut the subdivision shall be graded, constructed, reconstructed, surfaced, or repaired as determined by the Planning Commission with the advice of the Public Works Director.
- B. Curbs. Curbs shall be constructed in accordance with standards adopted by the City.
- C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the City.

IMPROVEMENTS

Last Rev. Ord. #1440 12/3/79

- D. Sanitary sewers. When the subdivision is within two hundred feet of an existing public sewer main, sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the City. When the subdivision is more than two hundred feet from an existing public sewer main, the Planning Commission, with the advice of the Public Works Director, may approve alternate sewer disposal systems.
- E. Drainage. Drainage of surface water shall be provided as determined by the Planning Commission with the advice of the Public Works Director in accordance with the development plans of the City.
- F. Underground utility and service facilities. All utility lines, including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities, shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground services.
- G. Street light standards. Street light standards shall be installed in accordance with regulations adopted by the City.
- H. Street signs. Street name signs shall be installed at all street intersections and dead-end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the City. Other signs may be required upon the recommendation of the Public Works Director.
- I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of such material, size, and length as required by State law or with standards. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced to conform to the requirements of State law.
- J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the City.

17.36.030. Guarantee. All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the Public Works Director. Said cash or bond shall comply with the terms and conditions of Section 17.20.070 of this Ordinance.

CHAPTER 17.40. ENVIRONMENTAL STANDARDS

17.40.010. Environmental protection. Developments approved through this Ordinance must conform to the requirements of the environmental protection subpart of the community development ordinance (Title 16 of the Municipal Code). Particular note should be made regarding requirements relating to excavation in landslide-prone areas.

17.40.020. Solar energy. Street and orientation of lots shall be designed to take maximum advantage of solar energy potential.

## CHAPTER 17.44. EXCEPTIONS AND VARIANCES

17.44.010. Exception-Large-scale development. The Planning Commission may modify the standards and requirements of this Ordinance if the subdivision plat comprises a complete neighborhood unit, a large-scale shopping center, or a planned industrial area. The Planning Commission shall determine that such modifications are not detrimental to the public health, safety, and welfare and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

17.44.020. Variance-Application. When necessary, the Community Development Director or the Planning Commission may authorize variances to standards within the Subdivision Ordinance following the criteria of Section 702 of the Zoning Ordinance. Process procedures shall be those of Section 1013 of the Zoning Ordinance. In granting a variance, the Planning Commission or Community Development Director may attach conditions which they find necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this ordinance.

APPEALS

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

CHAPTER 17.48. APPEALS

17.48.010. Appeals. An interested person may appeal a decision of the Planning Commission per the provisions in Section 10.02 of the Zoning Ordinance, Ordinance 1712. The City Council shall hold a hearing on the appeal. The City Council may affirm, overrule, or modify the decision or requirement made by the Planning Commission if the decision of the Council complies with the intent of this Ordinance. The disposition of the appeal shall be final.

EXHIBIT 1  
CONDITIONS OF APPROVAL FOR SUBDIVISION 98-01:

V. 99

1. Submittal of the Final Plat shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The Final Plat shall include timelines and plans for construction of required improvements. This submittal must occur within one year of this preliminary plat approval.
2. The applicant shall have recorded a deed restriction prior to final plat approval which states that Lot 2 has a required front yard setback of 37.1 feet from the front property line.
3. The applicant shall submit full engineered plans for street improvements, water services, sanitary sewer laterals and storm drainage to the City of Milwaukie, Public Works Department, for approval and the improvements must either be installed or funded prior to the City signing the Plat.
4. A copy of the recorded Plat must be provided to the City prior to the issuance of building permits for any of the lots in the subdivision.
5. The applicant shall dedicate a portion of the flag strip as public right-of-way as stipulated in the Public Works Memorandum dated April 14, 1998. All other items detailed in the memorandum are hereby made a part of the conditions of approval for this subdivision.
6. The applicant will meet the City of Milwaukie, Subdivision Ordinance Section 17.32.040. Flag Lots, which states that the paved portion of the access to two flag lots will be a minimum of 20 feet wide.
7. The applicant shall comply with the minimum requirements for paving typical driveways for flag lots, as provided by the City of Milwaukie Public Works Department.
  
8. The applicant shall provide a tree preservation plan for the eleven large evergreen trees on the site. The preservation plan shall show how the trees will be preserved and protected during general lot development, including road and home construction. The plan shall be submitted to the Planning department for review and approval prior to the recording of the final plat.

City of Milwaukie Community Development Department

Title: Conditions Submitted by: Staff Date: 5/19/98 # Pages: 1  
Numbers: 98-01 Applicant: Henderson Exhibit #: 7



Notes from Ardenwald/Johnson Creek Neighborhood Association Meeting  
April 14, 1998

Attendance: 9 residents, 2 guests, Deborah Kafoury from STOP and 2 City Staff, Deborah Middleton, PSP grant program specialist, Charlene Richards, staff liaison

Meeting called to order at 7:30 PM

Announcements:

- Taking donations for the Milwaukie Jr. High School Pool
- Ardenwald/Johnson Creek Board will develop proposals for Neighborhood grant funds
- Down to Earth Day – passed out flyers and announced a request for volunteers
- Milwaukie Festival Daze is asking NDA members to volunteer for the set-up or tear down of the festival.
- Passed out green cards for comments to be given to Metro on the South/North Light Rail DEIS
- Clackamas County Fire District #1 is conducting emergency training. It will be from noon until 4PM starting this Saturday for seven straight Saturdays. It cost \$10. There are still a few vacancies. Sharon Van Horn will be attending. If this program is successful, they may schedule one for the fall to be held either week day evenings or on Saturdays.
- May 11<sup>th</sup> Senior Housing Fair at the Milwaukie Center
- Next month is Elections.

Sharon Van Horn discussed the current land-use applications in the Ardenwald/Johnson Creek neighborhood. **She will be asking if it is a requirement that new development install sidewalks.**

Need to set up a time to begin the visioning process for the neighborhood.

Residents discussed the remodel of an existing home at 8960 SE 41<sup>st</sup> Street, a cul de sac. The home originally had less than 1500 square feet. The remodel adds 1600 square feet to bring the home to a total of 9 bedrooms and 6 bathrooms. The homeowner is applying for state funding for an adult foster home. Planning staff has informed the residents that the remodel did not require notification to the residents. The area is zoned R-7 that allowing such use. Concerns include possible increase in traffic and parked cars. These are issues that can only be addressed in the future should such a problem develop. It was explained that under federal law an adult foster care home is a use that cannot be excluded. **The group decided that Sharon Van Horn will discuss the issue at the next Land-Use chairs meeting.** The neighbors understand the use is allowable but wanted the community to be aware of the issue. **There was a statement that no one from the City had actually been out to the site.**

Deborah Kafoury from STOP presented the variety of rail projects being considered in the region, including street cars, commuter rail, light rail, and high speed rail. Residents were encouraged to become involved in their local decisions and to make comments to STOP.

Deborah Middleton, PSP grant program specialist, discussed the problem-solving partnership team process and those who are involved. She welcomed citizens to attend the team meetings noting that the team had a well defined process to follow. The team could take comments at the end of their meetings. She stated that she will return to the neighborhoods with updates.

Meeting adjourned at 9:10 PM.

# Neighborhood Land Use Referral

Date routed: 4/1/98	Tentative Planning Commission hearing date: 5/12/98	Comments due by: 4/17/98
------------------------	--	-----------------------------

Application type: Subdivision	File #(s): S-98-01
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Procedure type: Minor Quasi-Judicial

**Applicable City policies and criteria:**

Comprehensive Plan: Chapter 4--Land Use  
 Zoning Ordinance: Sections 302 & 400  
 Subdivision Ordinance: Sections 17.16, 17.28, 17.32, 17.36, & 17.40  
 Sign Ordinance: N/A

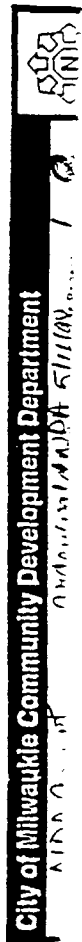
<p><b>Applicant:</b> Corbin Shays/Centerline Concepts  <b>Address:</b> 640 82nd Dr          Gladstone OR 97027  <b>Phone:</b> 650-0188</p>	<p><b>Proposal location:</b> 2723 SE Malcolm  <b>Reference parcel #:</b> T1S, R1E, 25BD, 1700  <b>Zoning:</b> R-7  <b>Proposal:</b> Subdivision to divide two existing legal lots into four lots. Two standard lots and two flag lots.</p>
--	--

**Comments: (attach separate sheet if necessary)**

- Questions:*
1. Are these houses to be sold or rented?
  2. Why are there not sidewalks?
  3. By the drawings is there room for a car to turn around for lot 3 + lot 4? They do not have to back out of that driveway?!
  4. Is there ample parking for guests of lot 3 + lot 4?
  5. What kind of privacy will be done for the back of lots 3+4?  
 (On the drawings there is hedges going all around these 4 lots - is that remaining?)
  6. What kind of privacy will lot # 4 have from the existing house on East side?

*This application has been read - property looked at and it seems to fit in with the surrounding properties - With the exceptions of having the questions answered - we would like the owner to attend our May Neighborhood Association for an introduction. The Alderwald Board will approve this application upon the receipt of the answers and the owner attending the NDA meeting in May.*

*Shawn Van Haren  
 Alderwald Chair*



V. 102 RECEIVED  
06 1998  
CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

Date: October 1, 1998  
To: Milwaukie Planning Department and City Council  
From: Ardenwald-Johnson Creek Neighborhood Association  
Subject: Subdivision Application - File # S-98-01


The Neighborhood Association Land-use board has reconsidered the proposal and **officially withdraws** it's support. We believe that the proposed development of this parcel will negatively impact the current existing quality of life for this immediate neighborhood.

We also see this parcel as having natural resource value in both significant trees and wildlife habitat. We seriously question whether it should be considered for development at all based on its position at the bottom of a very poorly managed drainage system.

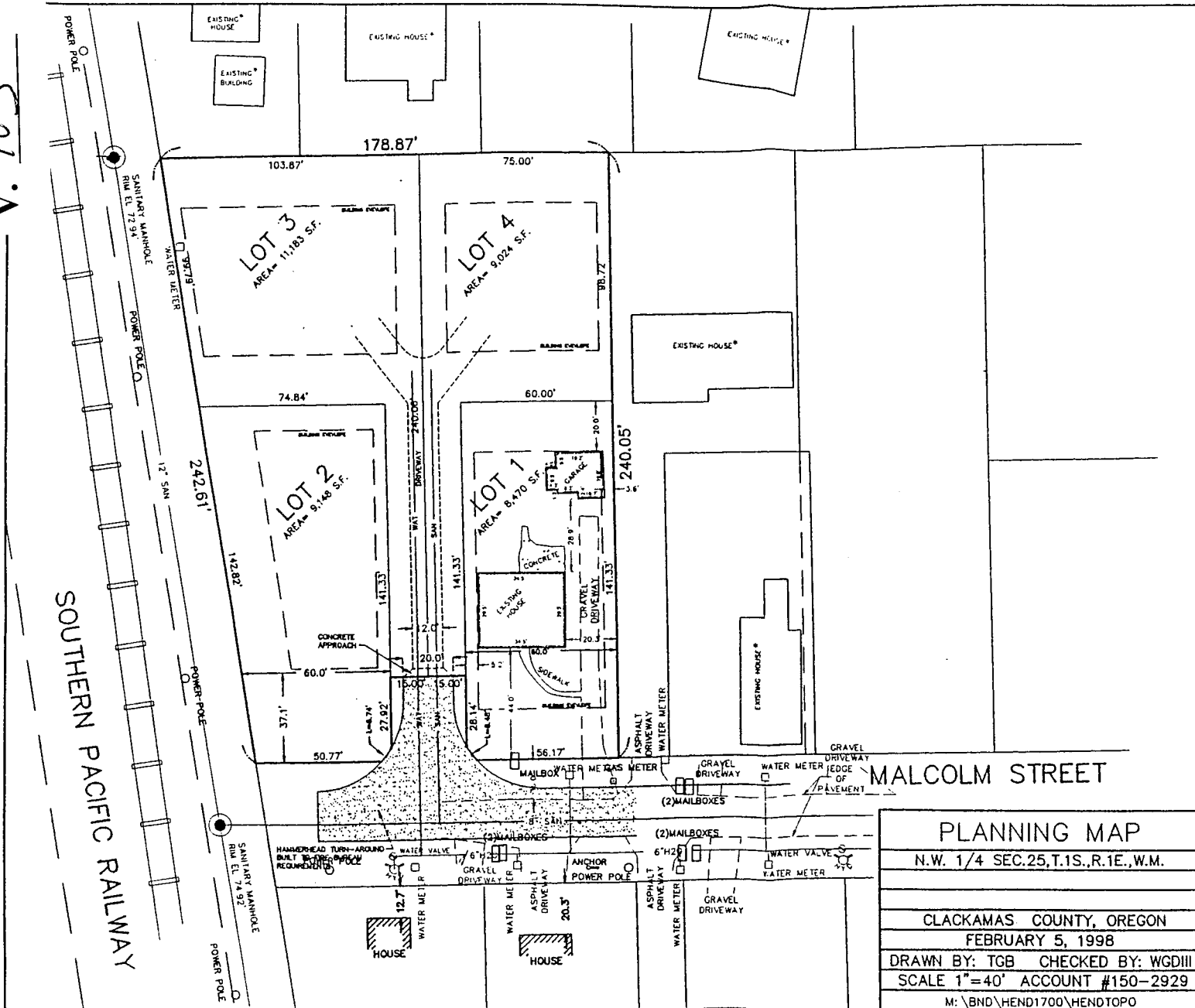
We find its proximity and similarity to the parcel two blocks away known as Roswell pond striking, and believe it should be considered for aquisition and protection/enhancement as a Natural Resource Area / Open Space under the objectives and policies set forth in the Comprehensive Plan.

Our hope is that the forty mile loop (Johnson Creek Corridor Trail) could connect at Roswell pond with a walking trail along the railroad into downtown through another natural area that is already owned by the City at the bottom of Balfour Street and is underutilized. We see this as an opportunity not to be missed!! Please give it your consideration. Thank-You.

<b>City of Milwaukie Community Development Department</b>			
Title: <u>LTR Reconsidering</u>	Submitted by: <u>Appellant</u>	Date: <u>10/9/98</u>	# Pages: <u>1</u>
File Numbers: <u>S-98-01</u>	Applicant: <u>Nenderson</u>	Exhibit #: <u>9</u>	



V. 103



**OWNER:**  
 TOM HENDERSON  
 10801 S.E. MYRTLE ST.  
 MILWAUKIE, OR 97222  
 PH. 786-1489

**REPRESENTATIVE:**  
 CENTERLINE CONCEPTS INC.  
 640 82ND DRIVE  
 GLADSTONE, OR 97027  
 PH. 650-0189  
 CONTACT: CORBIN SHAYS


LOT COVERAGE: NOT TO EXCEED 19%  
 \* = LOCATED PER AERIAL MAP,  
 LOCATION APPROXIMATE.

PAGE 1 OF 2  
 PROPOSED CONDITIONS



<b>PLANNING MAP</b>	
N.W. 1/4 SEC.25,T.1S.,R.1E.,W.M.	
CLACKAMAS COUNTY, OREGON	
FEBRUARY 5, 1998	
DRAWN BY: TGB CHECKED BY: WGD/III	
SCALE 1"=40' ACCOUNT #150-2929	
M:\BND\HEND1700\HENDTOPO	

TAX LOT 1700, 1S 2E 25BD



**Centerline Concepts Inc.**

640 82nd Drive Gladstone, Oregon 97027  
 503 650-0188 fax 503 650-0189

v. 104

**ATTACHMENT 1**

V. 105

To whom it may concern

I am writing in regards to the  
take down of the Fir trees.

I WAS born and raised 2 houses up  
the hill and after 45+ years those  
trees are the one solio thing that  
should never change; as do the  
homes, neighbors and surroundings.

They have housed generations of  
birds from Eagles to hawks and even  
Black birds - not to mention the many  
~~many~~ Squirrels, Raccons and others.

It would Be a Death that will  
never come back once it happen.  
we need to enjoy and protect as  
much old Growth as we can - as  
you drive from here to there all you  
see is one now and then - and to  
have a pot of Gold of many Deserves  
to be left alone.

We were promised from the man  
who wants them cut, that what ever  
he did He would not ~~han~~ harm them

So we come to you for help; that  
they be left alone.

please consider this strongly and  
know" to keep our little forrest would  
be a lasting choice that you could  
look up too.

Thank you  
Vickie Johnson  
2756 SE Malcolm  
Milwaukey, Oregon

9/9/98

v. 107

I have lived on Malcolm St. since 1961. The old Growth Fir's AT 2723 have been a Land mark on our St. For many years - I've seen Hawks - Crow's & many Birds perched There. We even saw an Eagle one Morning resting There.

Cutting down the Trees to build 4 Houses is a bad idea. 2 nice homes would be fine. The paving on our Street is not able to carry that much Traffic.

Guthrie J. Paschke  
2808 Malcolm

9/7/98

I have lived on Malcolm for fifteen years, that's my whole life. ~~Almost~~ Every day I walk out into my front yard and look at the beautiful fir trees across the street. And ~~when~~ I don't want to see them be torn down. I don't want to one day walk outside my house and see them gone.

Taking those trees is like taking away a piece of Milwaukee's history.

Kati Rasmussen  
2710 SE Malcolm.

9.7.98

TO Whom This MAY CONCERN:

I AM WRITING THIS LETTER TO STATE MY DISPLEASURE FOR THE PLANS TO TEAR DOWN THE BEAUTIFUL OLD FUR TREES ON PROPERTY LOCATED AT LAST HOUSE ON MALCOLM ST. WHERE THREE NEW HOMES ARE GOING TO BE BUILT, I FEEL THAT A DRIVEWAY CAN BE BUILT THERE WITHOUT HAVING TO DESTROY THE TREES

Sincerely  
Mary Fuscheng



**SUPPLEMENTARY STAFF REPORT**

**DATE:** October 16, 1998

**TO:** Milwaukie City Council

**THRU:** Dan Bartlett, City Manager  
Susan Heiser, Planning Director

**FROM:** Janet Wright, Assistant Planner

**RE:** Supplementary Staff Report Regarding Appeal: S-98-01, Tom & Kelly Henderson – Creating a 4 Lot Subdivision, 2723 SE Malcolm Street, Milwaukie, Clackamas County, Oregon 1S 1E 25BD, TL 1700



The following is provided as a Supplementary Staff Report as a result of additional information and review of the Comprehensive Plan. As Staff reviewed the Neighborhood Element of Chapter 4 of the Comprehensive Plan it became apparent that there was a discrepancy between Map 2 and actual Comprehensive Plan Text which describes the Neighborhood areas. Staff has provided an annotated Map 2 that reflects the proper text references. **(See Exhibit 1 – Annotated Map #2)**. Map #2 and the Neighborhood element will be updated along with other changes to the Comprehensive Plan that are anticipated to be occurring in February of 1999.

In addition to the changes to Staff responses discussed above, additional information regarding compliance with the approval standards has come to Staff's attention. It appears that information to support flag lot development, as required under Subdivision Section 17.32.040. A. has not been made part of the public record.

Section 17.32.040. A. Flag Lots., of the Subdivision Ordinance addresses criteria related to access. Specifically, this section states that:

*“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 in accessible adjacent or nearby properties for which a jointly dedicated public right of way could provide suitable access and avoid other flag lots.”*

V. 111  
The Applicant attended two pre-application meeting with City Staff regarding the proposed subdivision. One pre-application meeting was held on February 17, 1998 prior to submittal of their application. The second was held on June 26, 1998 following their request for a continuance. Various options for subdividing the property were discussed at both of these meetings; however, the applicant did not submit a formal analysis of alternatives for Planning Commission review.

Also included in this package is traffic information for Malcolm Street. **Exhibit 2**, shows traffic counts for 3-days during the week of October 12, 1998 through 15<sup>th</sup>. The table shows the average daily traffic count for Malcolm Street of 662 ADT. As stated in the Staff Report of October 9, 1998 the TSP calls for a maximum of 1,500 ADT for local streets. This traffic count that Malcolm Street is below half of its maximum capacity.

**Exhibit 3** shows the street quality index for Malcolm Street. This index is from a study conducted in 1994 which shows quality indexes for, pavement, roughness, and surface distress and structural adequacy. The indexes range from a 10, which is excellent, to 1 which is poor. Under these indexes Malcolm Street is rated good with an average index of 8. Under the current CIP no street preservation is scheduled or proposed for this street through the year 2009.

The information provided in this Supplementary Staff Report reflects changes in Staff's responses to the Appellants alleged violations of Comprehensive Plan policies, guidelines and goals in light of the text and map differences.

### APPEAL ISSUES

**Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Background**  
*The Ardenwald area in the western half of the neighborhood is currently the focus of the county's housing and rehabilitation efforts.*

***Appellant Item No. 5 - Violates the character and livability of our neighborhood in conflict with the Comprehensive Plan.***

#### **Staff Response:**

Neighborhood Area-2 (No. 7 on Map 2) addresses guidelines for the Ardenwald Neighborhood Association. In the background information provided it states that the area land-use is predominantly single family residential. The proposal approved by the Planning Commission does not violate the character or livability of the neighborhood. The subdivision approved by the Planning Commission allowed the applicant to subdivide the property to construct additional single family residences that are in character with those in the surrounding neighborhood. The subdivision of property in accordance with the City Subdivision Ordinance and Zoning Ordinance does not pose a conflict with the goals and polices of the Comprehensive Plan.

**Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Guideline #2 – Tree Preservation** *To preserve large trees in the neighborhood by requiring cut permits for removal of selected live trees, and enforcing a tree replacement program.*

*Appellant Item No. 3 – Unique and Irreplaceable Natural Resources, No. 1 Substandard Roads beyond capacity, and No. 2 Infrastructure inadequate.*

**Staff Response:**

The City's current tree ordinance provides a means to enforce the preservation of only those trees that are located in the public right-of-way. At this time the Commission has no enforcement authority to require that applicants maintain trees on private property. During the hearing process the applicant stated his desire to minimize the removal of trees from the site. In reviewing the land-use application, the Commission considered this and required the applicant submit a vegetation plan which protects and minimizes removal of trees affected by the proposed development. This requirement was added as Condition No.8 to the Findings and Conditions of Approval for the subdivision.

**Appellant: Chapter 4 – Land Use – Neighborhood Area 2 – Guideline #6 – Walkways** *To provide safe pedestrian walkway throughout the neighborhood separated from roadways, without necessarily constructing sidewalks. Important considerations are: Many deep back lots might provide right-of-way for walks and bikepaths.*

*Appeal Item No. 4 – Traffic Safety and Pedestrian Concerns*

**Staff Response:**

The subdivision as approved includes sidewalks along the entire frontage of the property on Malcolm Street. Sidewalks are not required to be extended along the northern portion of the flag strip due to the fact that the accesses are private drives.

This guideline originates from neighborhood studies conducted from 1977-1979. In the last 20 years there has been no movement towards dedication of land along the back of deep lots to construct a pedestrian or bike path. The inclusion of walkways to the back lots at this time would not provide connectivity with other existing walkways or bikepaths in the area, and is not warranted.

**EXHIBITS**

1. Revised Annotated Map #2
2. Traffic Count at SE Malcolm
3. Street Quality Index

V. 113

## TRAFFIC COUNT AT S.E. MALCOLM 200' W OF 32ND AVE

DAY	HOUR	COUNT	DAY	HOUR	COUNT	DAY	HOUR	COUNT
10/12/98	16:00	34	10/13/98	16:00	51	10/14/98	16:00	67
10/12/98	17:00	54	10/13/98	17:00	67	10/14/98	17:00	52
10/12/98	18:00	39	10/13/98	18:00	47	10/14/98	18:00	48
10/12/98	19:00	39	10/13/98	19:00	45	10/14/98	19:00	36
10/12/98	20:00	26	10/13/98	20:00	26	10/14/98	20:00	29
10/12/98	21:00	27	10/13/98	21:00	8	10/14/98	21:00	22
10/12/98	22:00	14	10/13/98	22:00	12	10/14/98	22:00	10
10/12/98	23:00	6	10/13/98	23:00	9	10/14/98	23:00	8
10/13/98	0:00	2	10/14/98	0:00	2	10/15/98	0:00	4
10/13/98	1:00	4	10/14/98	1:00	2	10/15/98	1:00	0
10/13/98	2:00	0	10/14/98	2:00	10	10/15/98	2:00	4
10/13/98	3:00	8	10/14/98	3:00	0	10/15/98	3:00	6
10/13/98	4:00	2	10/14/98	4:00	4	10/15/98	4:00	4
10/13/98	5:00	4	10/14/98	5:00	4	10/15/98	5:00	4
10/13/98	6:00	34	10/14/98	6:00	26	10/15/98	6:00	26
10/13/98	7:00	61	10/14/98	7:00	35	10/15/98	7:00	40
10/13/98	8:00	54	10/14/98	8:00	56	10/15/98	8:00	65
10/13/98	9:00	34	10/14/98	9:00	19	10/15/98	9:00	39
10/13/98	10:00	31	10/14/98	10:00	20	10/15/98	10:00	27
10/13/98	11:00	39	10/14/98	11:00	38	10/15/98	11:00	19
10/13/98	12:00	41	10/14/98	12:00	29	10/15/98	12:00	24
10/13/98	13:00	40	10/14/98	13:00	28	10/15/98	13:00	26
10/13/98	14:00	59	10/14/98	14:00	41	10/15/98	14:00	48
10/13/98	15:00	49	10/14/98	15:00	52	10/15/98	15:00	47
<b>TOTALS</b>		701			631			655

**AVERAGE DAILY TRAFFIC** 662

**ESTIMATED ADDITIONAL TRIPS** 20

**ESTIMATED DAILY TRAFFIC** 682

**PEAK HOUR TRAFFIC** 67

Prepared by:  
Robert Shelton  
Associate Engineer  
City of Milwaukee

10/15/98

**EXHIBIT 2**

SECT NO	Street Number	Full Street Name	Pavement Qua	RCI	SDI	SAI
0000005020	164	MALCOLM ST	7.6	3.1	9.7	
0000005030	164	MALCOLM ST	8.1	4.5	9.7	

PQI – Pavement Quality Index

RCI – Roughness Condition Index

SDI – Surface Distress Index

SAI – Surface Adequacy Index

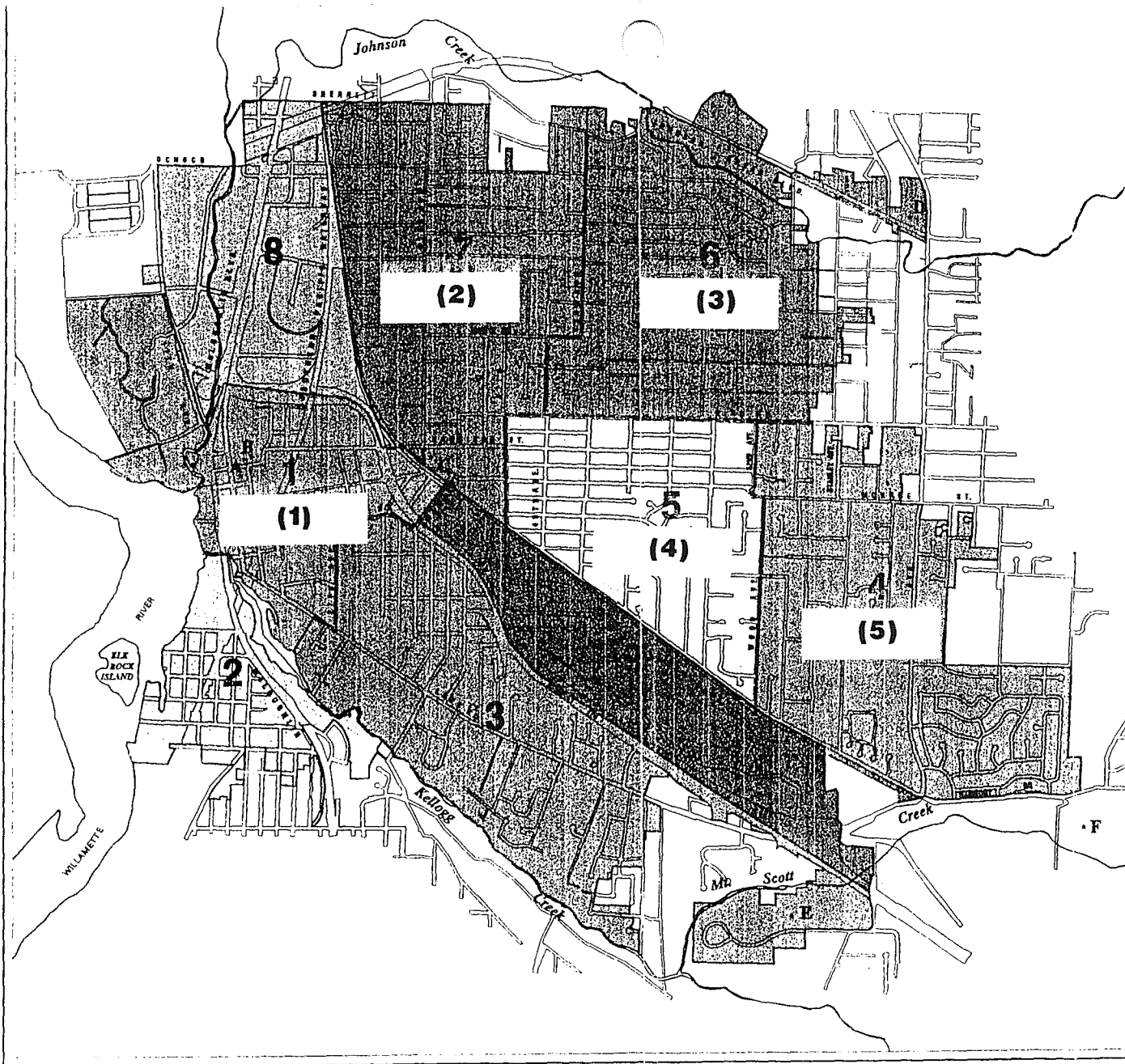
These criteria are rated from 1 to 10 with 10 being the highest rating.










V. 114

EXHIBIT 3

NEIGHBORHOOD DISTRICT  
ASSOCIATION BOUNDARIES

Milwaukie Comprehensive Plan  
Map 2



-  1 - WAVERLY/DOWNTOWN
-  2 - ISLAND STATION
-  3 - LAKE ROAD
-  4 - PINWOOD
-  5 - HECTOR CAMPBELL
-  6 - JEWELLING
-  7 - ARDENWALD
-  8 - MCCOUGHLIN INDUSTRIAL
-  9 - MILWAUKIE BUSINESS INDUSTRIAL

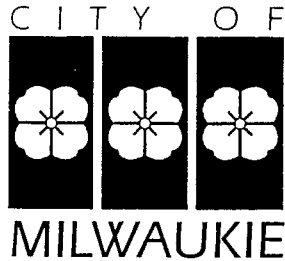
**PUBLIC BUILDINGS**

- A - CITY HALL
  - B - FEEDING LIBRARY
  - C - PUBLIC SAFETY BUILDING
  - D - PUBLIC WORKS BUILDING
  - E - MILWAUKIE CENTER
  - F - CLACKAMAS AQUATIC PARK
- ( ) - Neighborhood element References

MAP DATE : 10/18/94

City of Milwaukie   
**EXHIBIT 1**

V. 115



**To:** Mayor and City Council  
**Through:** Charlene Richards, Assistant City Manager *ER*  
Dan Bartlett, City Manager *Dan*  
**From:** JoAnn Herrigel, Program Services Coordinator *JH*  
**Subject:** TCI Cable Franchise Extension  
**Date:** October 6, 1998

**Action Requested/Recommended**

Approve an ordinance authorizing the City Manager to enter into an agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc to extend the current non-exclusive franchise agreement.

**Background**

At your May 5 Council meeting, you approved the extension of the TCI Cable franchise until December 2 to allow for additional time to negotiate. Since that time, staff has completed a new draft of the franchise and met with TCI to discuss it. Based on the complexity of the issues both sides have agreed that we would not conclude negotiations by the December 2 termination date. For this reason, TCI has requested an extension of another three months.

The extension of the existing contract will allow negotiations to be completed in a reasonable amount of time while assuring that cable service to Milwaukie residents is uninterrupted.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND TCI CABLEVISION OF GEORGIA, INC. TO EXTEND THE CURRENT NON-EXCLUSIVE FRANCHISE AGREEMENT.

WHEREAS, on May 3, 1983, the City Council adopted Ordinance No. 1540 that authorized the City to grant a non-exclusive franchise to Jones Intercable, predecessor in interest to TCI Cablevision of Georgia, Inc. which is the current Franchisee; and

WHEREAS, that franchise agreement expires on December 2, 1998;having been extended for six months after its original June 2, 1998 expiration date, and

WHEREAS, the City and TCI Cablevision of Georgia, Inc. will be conducting negotiations as provided by Federal law concerning renewal of non-exclusive cable television franchise agreements according to an informal process, while reserving the right to pursue a formal process provided for by federal law; and

WHEREAS, the City and TCI Cablevision of Georgia, Inc., will require additional time to conclude these negotiations, and therefore provision must be made for an extension of the agreement to govern for a reasonable period following the expiration of the franchise agreement that would allow the completion of the negotiation process and the execution of a new agreement; now, therefore;

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That the City Manager is hereby authorized, on behalf of the City of Milwaukie, to execute and otherwise enter into an extension of the non-exclusive franchise agreement with TCI Cablevision of Georgia, Inc. The extension shall be controlled by the terms and conditions of Ordinance No. 1540, except that the additional extension shall expire and be of no legal effect as of February 2, 1999 or on such date as the City may grant a new non-exclusive franchise to TCI Cablevision of Georgia, Inc., whichever occurs first.

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the \_\_th day of \_\_\_\_\_, 1998.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the \_\_th day of \_\_\_\_\_, 1998.

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

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

Approved As To Form:  
\_\_\_\_\_  
Beery & Elsner, LLP.  
Legal Counsel for Telecommunications

Franchise Extension Agreement

Whereas, TCI Cablevision of Georgia, Inc. ("TCI") currently holds a cable television franchise with the City of Milwaukie ("City"), granted by Ordinance No. 1540, on May 3, 1983; and

Whereas, TCI's franchise with the City is schedule to expire on December 2, 1998; and

Whereas, TCI and the City have been engaged in informal renewal negotiations in accordance with section 626(h) of the Cable Communications Policy Act of 1984; and

Whereas, the amount of time required to conclude negotiations and allow for public review will exceed the initial expiration date; and

Whereas it is in the public interest to extend the franchise for an additional period of time so that the cable service to the public will not be interrupted;

Therefore, the City of Milwaukie and TCI hereby agree that the Franchise with TCI shall be extended through February 2, 1999.

ACCEPTED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

City of Milwaukie

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

ACCEPTED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_

TCI Cablevision of Georgia, Inc.

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_



**To:** Mayor Tomei and Milwaukie City Council  
**Through:** Dan Bartlett, City Manager *DB*  
**From:** Brent W. Collier, Chief of Police *BW Collier*  
**Date:** October 6, 1998  
**Subject:** **Consider Resolution to Accept Oregon Association Chiefs of Police Traffic Safety Section Grant in the amount of \$10,100**

---

**Action Requested:**

Approval of Resolution accepting \$10,100 Traffic Safety Section (TSS) Grant Award.

**Background:**

In August of 1998 we received notification of the TSS Grant and applied for same. The grant's objectives are: increase DUII arrest 42 arrests, conduct five saturation patrols, increase the number of citations for violation of the seatbelt law by 84 citations, and to collect data on the number of DUII arrests, the number of fatal and injury accidents and the number of seatbelt violation citations resulting from the grant, for the period of the grant, and provide this information to the OACP.

On September 4<sup>th</sup>, 1998 we received a congratulatory letter (attached) from the Oregon Association Chiefs of Police reference the TSS Grant Award.

VI. B. 2

RESOLUTION NO. \_\_\_\_\_  
MILWAUKIE, OREGON

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON ACCEPTING  
TRAFFIC SAFETY SECTION (TSS) GRANT**

---

**WHEREAS**, on September 4, 1998, the City of Milwaukie received notice from the Oregon Association Chiefs of Police that a 1998-99 Traffic Safety Section grant in the amount of \$10,100 had been awarded to the City, and

**WHEREAS**, Oregon Revised Statutes section 294.326(2) states that Expenditures in the year of receipt of grants transferred in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MILWAUKIE THAT:**

**SECTION 1:** The City of Milwaukie hereby accepts a \$10,100 TSS grant issued through the Oregon Association Chiefs of Police.

**SECTION 2:** The City Council determines that the grant is a specific purpose grant.

**SECTION 3:** In accordance with ORS 294.326(2) the awarded grant funds are appropriated as follows:

FUND 29-Public Safety Services Fund	
Police Services	\$10,100

Introduced and adopted by the City Council of the City of Milwaukie, Oregon  
on \_\_\_\_\_, 1998.

\_\_\_\_\_  
Carolyn Tomei, Mayor

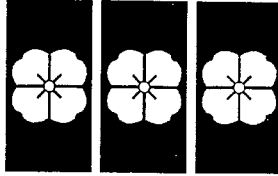
ATTEST:

APPROVED AS TO FORM:

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

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

C I T Y O F

MILWAUKIE  
MEMORANDUM

October 8, 1998

**TO:** Mayor and City Council

**THRU:** Dan R. Bartlett, City Manager *[Signature]*  
Jim Brink, Public Works Director *[Signature]* 7573-10-8-98

**FROM:** Paul Roeger, Civil Engineer *[Signature]*

**SUBJECT:** Waverly Drive Sanitary Sewer Project

**Action Requested:**

Approval of the attached resolution directing staff to prepare a preliminary engineering report on the proposed Waverly Drive sanitary sewer Local Improvement District (LID).

**Purpose:**

Provide information on the proposed Waverly Drive sanitary sewer Local Improvement District. The attached resolution is the first step in the LID process.

**Background:**

Waverly Drive is located in the northwestern part of the City, an area that has few properties not connected to the City sewer system. All five (5) of the existing lots on Waverly Drive between 17<sup>th</sup> Avenue and Cambridge Lane are not connected to City sewer. The City is in the process of designing a waterline improvement on Waverly Drive from 17<sup>th</sup> Avenue to the west end where it goes into Waverly Country Club. This project creates the opportunity to extend a public sewer line in Waverly Drive (approximately 700 feet) from 17<sup>th</sup> Avenue to Cambridge Lane, install sewer laterals to all adjacent properties, and thereby make a public sewer connection available to all Waverly Drive properties at a lower cost than if the City were to propose this as a separate project in the future.

**Discussion:**

1. The Waverly Drive sanitary sewer project is identified in the City Capital Improvement as a future project with an estimated cost of \$80,500. No specific year has been identified for the project.

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2. Project scope of work: 700' of sanitary sewer line and associated manholes in Milwaukie on SE Waverly Drive west of SE 17th Avenue.
3. Total project cost both for engineering and construction will be split between the City of Milwaukie and the property owners.
4. There are 5 affected property owners with 5 existing lots, one of which is vacant (see attached map).

5. Schedule:

10-20-98	City Council and Resolution directing staff to prepare a preliminary engineering report.
1-19-99	Declare intent to form LID and set public hearing
2-18-99	Hold public hearing and approve formation of LID
2-19-99	Advertise for bids on construction

5. Sewer Connection: Section 13.12.020 requires mandatory connection if a structure containing sanitary facilities is located with 200' of a sewer line; however, the code does not specify a time frame. My recommendation for a reasonable period of time is the same criteria used in the recent Cole Addition sanitary LID; i.e. within three years of date of City acceptance of the project; failure of the private septic, cesspool or other sewage system; or transfer of the property to a different owner. All affected residences (4) are within 200' of the proposed sewer line and therefore would be obliged to connect within the time frames established in MMC Section 13.12.020A. Staff also recommends that connection must occur if the property is transferred to a different owner.

7. Estimated Costs

a. Design	\$5,000
b. Construction & Contingency	\$80,500
c. Project Administration & Inspection (8%)	\$6,440
d. Total Estimated Cost	\$91,940
e. Total Property Owner Share (75%)	\$68,955
f. Total City Share (25%)	\$22,985
g. All costs for individual property owner: \$17,236 (includes \$13,791 for line charge, \$2500 for branch charge, \$893 for System Development Charge, and \$52 for sewer permit and inspection). This is an engineer's estimate only based on 5 affected properties, previous sewer construction cost data, and preliminary plans. The line charge is the estimated LID assessment and the branch charge is the cost for connecting a home to the lateral.	

8. Funding will be via the Sewer Fund and the assessments authorized by the Local Improvement District ordinance.
  - a. A LID can be initiated by City Council (MMC 3.08.020).

- b. In a LID an oral or written remonstrance by the owners of 2/3 of the property to be assessed shall suspend action regarding the improvement for 6 months.

#### 9. Issues

- a. Time required to meet the time requirements for an LID as stated in MMC Chapter 3.08 and still meet the construction time line for the waterline project - All the requirements of Chapter 3.08 can be met and still meet the construction time line; however, it will be necessary to stick to the schedule shown in paragraph 5 so as not to unduly delay the waterline project. Construction in the winter time best suits residents and the Waverly Country Club. Staff met with the neighborhood on July 8, 1998 to provide preliminary plans for the waterline project. It was at that time that support for a sewer line was expressed.
- b. Property owner support – owners of two of the five properties have expressed support for sewer, however, staff has not yet met with all properties to discuss LID procedures, estimated project costs, and property owner responsibilities. A meeting with affected property owners will be scheduled for November after more precise cost estimate is calculated.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE OREGON DIRECTING STAFF TO HAVE PREPARED A PRELIMINARY ENGINEERING REPORT REGARDING THE FEASIBILITY OF PROVIDING SANITARY SEWER IMPROVEMENTS THROUGH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT IN THE AREA OF SE WAVERLY DRIVE EAST OF SE 17<sup>TH</sup> AVENUE.**

**WHEREAS**, the City Council recognizes the need for certain sanitary sewer improvements in the area of SE Waverly Drive; and

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

**WHEREAS**, the Milwaukie Municipal Code (MMC) section 3.08.030 requires the City Council to cause an engineer's report to be prepared prior to creation of a local improvement district;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie that:

Section 1: The staff is hereby directed to prepare the Preliminary Engineering Report required prior to formation of a local improvement district per MMC section 3.08.030, to include the following:

- a. A plat or map showing the general nature, location, and extent of the proposed improvement and the lands to be assessed to pay all or any part of those costs;
  - b. Plans, specifications, and estimates of the work to be done;
  - c. An estimate of the costs of the improvement;
  - d. The proposed boundaries of the local improvement district;
  - e. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the costs of the improvement to the property benefited;
  - f. A description of the location and assessed value of each lot, or portion thereof, to be benefited by the improvement, with the names of the owners;
  - g. A statement showing outstanding assessments against the property to be assessed;
- and

Introduced and adopted by the City Council on \_\_\_\_\_, 1998.

\_\_\_\_\_  
Carolyn Tomei, Mayor

ATTEST:

APPROVED AS TO FORM:  
O'DONNELL, RAMIS, CREW & CORRIGAN

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

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

NW 1/4 SE 1/4 SEC. 26 T. 1 S. R. 1 E. W. M.  
 CLACKAMAS COUNTY

D.L.C.  
 WILLIAM MEEK NO 50  
 HENDERSON LLEWELLYN NO 51

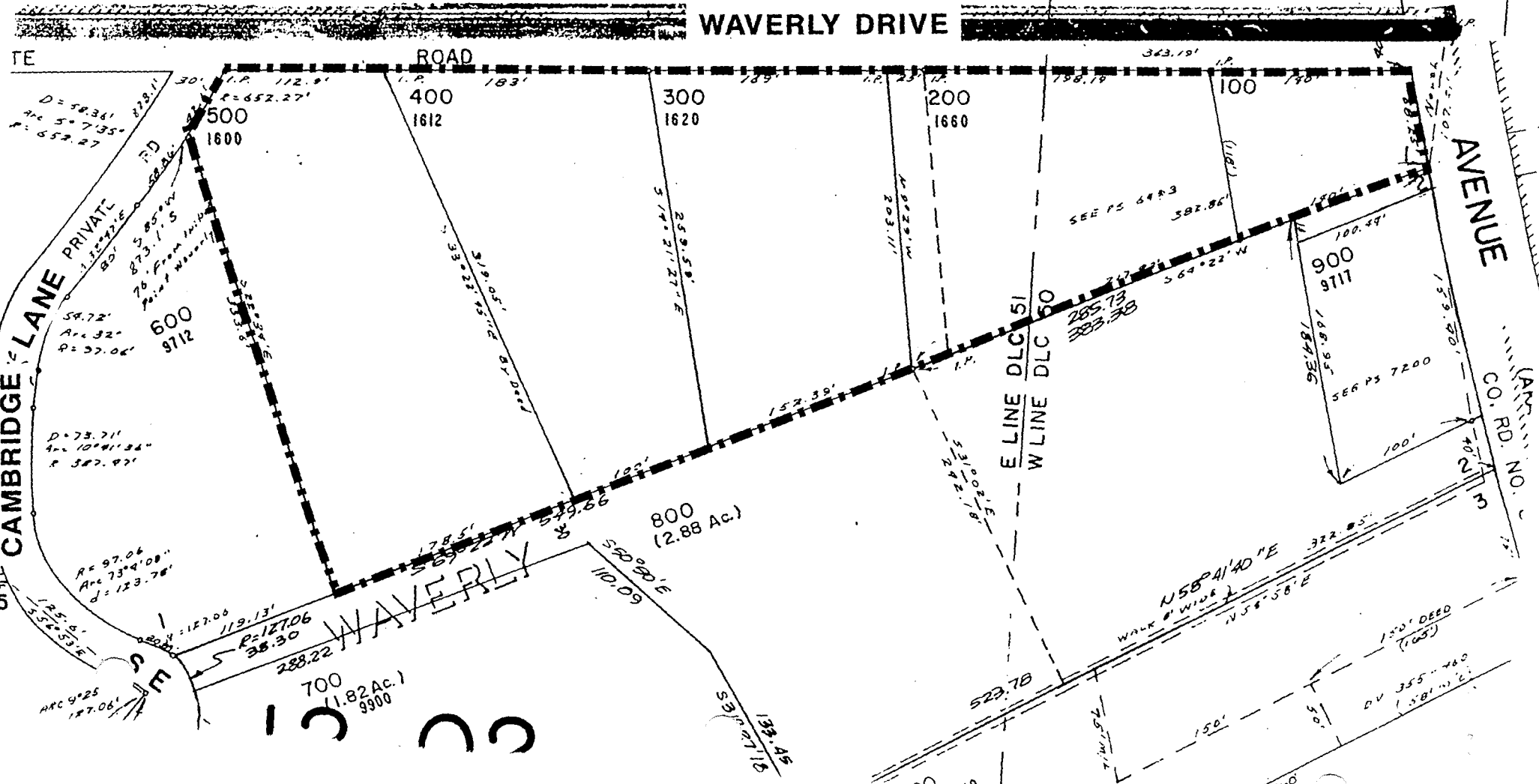
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1"=100'

SEE MAP 1 IE 26

0021 17TH

VI. C. 6



CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, SEPTEMBER 22, 1998

**COMMISSIONERS PRESENT**

Donald Hammang, Vice-Chair  
Tracy Cook  
Barbara Cartmill  
Mike Miller  
Howard Steward

**STAFF PRESENT**

Susan Heiser,  
Planning Director  
Shirley Richardson,  
Hearings Reporter

**COMMISSIONERS ABSENT**

Judith Bordon  
Michael Smith

1.0 CALL TO ORDER

**Vice-Chair Hammang** called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, September 1, 1998

4.0 PLANNING COMMISSION MINUTES -- September 9, 1998

**Tracy Cook** moved to approve the minutes of September 9, 1998, as corrected. **Mike Miller** seconded. MOTION CARRIED 4-0 with one abstention. Barbara Cartmill was not at that meeting.

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS -- None.

7.0 WORKSESSION

7.1 Clackamas Regional Center Area Plan Review with Maggie Dickerson from Clackamas County

CITY OF MILWAUKIE PLANNING COMMISSION  
Minutes of September 22, 1998  
Page 2

**Vice-Chair Hammang** opened discussion of the Clackamas Regional Center Area Plan. **Susan Heiser** introduced Maggie Dickerson, Director, Growth Management Services Department.

**Maggie Dickerson** passed out summaries of the Draft Clackamas Regional Center Area Plan. She pointed out the study area boundary on a map. The County has been working on this Plan for three years with a vision statement and set of planning principles.

Milwaukie and Happy Valley have joint planning agreements with Clackamas County to coordinate planning work. The vision statement was crafted by a 31-member task force, which transitioned into a 39-member Advisory Committee who, with the help of 70 citizens serving on five subcommittees, issued the Summary of Plan Choices Report. Mike Smith, Chair, Milwaukie Planning Commission, has chaired one of the subcommittees and assured that Milwaukie's issues were addressed through this Plan.

Three alternative land-use and transportation systems were identified in the "Choices" report. These "Choices" underwent an intensive public outreach program where the County talked with the Chamber, Kiwanis Club, and held numerous community meetings, presentations to interest groups, and open houses to obtain public comment and preferences.

The Vision Statement indicates that the Clackamas Regional Center Area wants to be the dominate commercial and business center of the southeast Portland metropolitan area; a cultural, civic and transportation center for the southeast Portland metropolitan area; and an area of diverse residential neighborhoods, commercial districts, natural features, and public attractions and spaces that serve both the local community and the region.

Many changes have reshaped the community and its needs. The Plan responds to trends in traffic congestion, transportation improvements, population growth, demographic changes, regional transportation service to the area, including light rail and/or high-capacity bus service, and new retail practices that influence the physical form of commercial land use.

The Plan defines a "Regional Center" area, which is intended for mixed use and compact development, high quality transit, streets designed for people and cars, and the highest land use intensities in the area. The Plan also implements regional direction for "Corridors" such as 82nd Avenue and Johnson Creek Boulevard.

**DRAFT**

CITY OF MILWAUKIE PLANNING COMMISSION  
Minutes of September 22, 1998  
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Maps were displayed and Ms. Dickerson explained in detail the changes proposed by the Plan.

The Urban Design Element Map showed:

- Gateways (Causey Avenue, Sunnybrook Road/82nd Avenue, Fuller Road, and proposed Sunnybrook extension)
- Boulevard Treatments (82nd Avenue between Causey & Sunnybrook, Sunnyside and Harmony)
- Street Treatments (82nd Avenue, Sunnyside, Monterey Street, Causey, and a number of other streets)
- Phyllis Creek Corridor improvements (trail and greenway preservation and restoration, pedestrian ways, plazas and parks)
- Transportation, based on increase in pedestrian, bike and transit trips. There is a 40% increase in traffic projected on 82nd Avenue; new parallel road on Sunnyside, King to Luther; street straightenings; new signals; signal spacing on 82nd Avenue; new road connection south of the Aquatic Center to connect Sunnybrook Road; Sunnybrook extension; Frontage Road; improvements to 92nd Avenue; extension from Johnson Creek Blvd. to Happy Valley; overpasses at Sunnybrook and Monterey; and a Sunnybrook Split Diamond Freeway Interchange at Sunnyside.

Five key decisions were reviewed:

- (1) What to do with 82nd Avenue -- access management, provide local street/driveway connections.
- (2) Road configuration for the Top of Scott golf course -- recommendation that it extends as far north as possible.
- (3) Road configuration for 79th Avenue go -- what will result in the least impact to residential neighborhoods with the street.
- (4) What will be the Advisory Committee's recommendation for the Top Of Scott Golf Course -- stay Open Space Management.
- (5) West-side boundary -- providing for housing close to 82nd Avenue.

The Plan includes a broad array of land use, transportation, urban design, and housing recommendations. These recommendations are intended to guide the location of new housing and jobs, provide needed community infrastructure, and enhance the livability of the area. These recommendations will be implemented through amendments to the County Comprehensive Plan and Zoning and

## VII. A. 4

### CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of September 22, 1998

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Development Ordinances, which set policies and standards to guide County decisions on land use and transportation. The key highlights of the Plan are to promote mixed use and pedestrian improvements in the Regional Center, seek to balance growth with the preservation of existing neighborhoods and affordable housing, provide for needed public amenities such as neighborhood parks, provide needed transportation improvements, and incorporate design standards that promote good design.

**Mike Miller** asked about the ball fields and recreational uses that were planned for the aquatic center area? **Ms. Dickerson** explained that the site contains hazardous wastes. The mitigation plan is to air out the soils. This will take about 15 years. Meanwhile storm drainage and retention facilities are being installed.

**Susan Heiser** asked about decision-making timelines. **Ms. Dickerson** explained that the first hearing will be held with the Clackamas County Planning Commission on Monday, September 28. The Board of County Commissioners will hear this item on November 4, 1998. There has been a lot of citizen involvement and committee involvement and it is now time to make final decisions.

**Dave Aschenbrenner** asked what is in the future for Harmony Road in this Plan? **Ms. Dickerson** stated that the Plan area goes all the way out to Linwood. Linwood is proposed to have five lanes with a boulevard treatment in the portion that is in the Regional Center. There has been no funding allocated yet for Harmony Road, nor any specific engineering plans. This project is needed and may be constructed within the next 5-15 years.

**Dave Aschenbrenner** asked if light rail is included in this Plan? **Ms. Dickerson** explained that light rail is in the Plan. It is proposed to provide better transit facilities. Excellent transit facilities are needed to get ridership. Light rail is not needed for this Plan to work; however, the location of one light rail plan alignment has been included in the final document.

It was asked what is meant by "smaller lot sizes" on page 4 of the draft Plan? **Ms. Dickerson** stated that the smallest single-family lot size currently in Clackamas County is 7,000 sq.ft. In this Plan, Clackamas provided for 5,000 sq.ft. lots and a 2,500 sq.ft. lot (row-house lot). Row houses will be allowed close to the Regional Center.

**DRAFT**

CITY OF MILWAUKIE PLANNING COMMISSION  
Minutes of September 22, 1998  
Page 5

**Dave Aschenbrenner** asked what is in the Plan for the Fuller Road/King Road/82nd Avenue intersection? **Ms. Dickerson** stated that this is the area where there is about 200-feet of stacking room on King Road before you get to 82nd Avenue. The County has been considering this problem for a while. The transportation map shows the intersection of King and Fuller being cut off and a new extension from Monroe Street to Fuller Street. Monroe Street may be extended to 82nd Avenue.

Discussions followed on the Regional Center Area Plan. The following comments are to be forwarded to City Council for consideration:

- No road improvements to Harmony until improvements are made to the Linwood/Railroad Avenue intersection.
- Preserve as much open space as possible in this Plan, recognizing that there is not much left. There is great need for recreational activities and room for future families moving into the area.

The Commissioners thanked Mike Smith for his participation in the Clackamas Regional Center Area Plan Committee. It was the consensus of the Commission that the Plan was thorough and well done.

## 7.2 Neighborhood District Association Land Use Committee Flag Lot Standard Amendments

**Vice-Chair Hammang** opened discussion of the flag lot amendments. **Susan Heiser** reported that there are two items in this packet, Section 700, Variances, Exceptions, and Home Improvement Exceptions; and proposed amendments to Chapter 17, Subdivisions. The Home Improvement Exceptions have been reviewed by the Commission and the language has been approved. Flag lot issues have been a concern for the neighborhoods for some time. Amendments have been drafted for Chapter 17 that address these issues. A Planning Commission hearing on these amendments has been set for October 13, 1998. Council will hear this issue in a public hearing on November 17, 1998.

These recommendations are a compilation of information on Ordinances used by the cities of Bend, Eugene, Lake Oswego, and Hillsboro. These rules are being used now in other jurisdictions. **Susan Heiser** made a drawing of a flag lot, indicating the buffers, square footage, and setbacks required.

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**Susan Heiser** then reviewed with the Commission line-by-line, the September 18, 1998, draft of land use amendments. The following comments and changes were made:

### Section 700. Variances, Exceptions, and Home Improvement Exceptions

- Change 707.2 (B): “The home improvement exception is for addition to an existing two-family residential unit or ...”

### Chapter 17.32.10, Partitioning

- Chapter 17.32.10, 17.32.20(A),(B),(C),(D), (E), (F) as proposed.
- Chapter 17.32.20(G) Can this be changed to require that topography of the site must remain until partition is approved? (G) is the best the City can do until a Urban Forestry Ordinance can be developed.
- Chapter 17.32.20 (H),(I) as proposed.
- Chapter 17.32.30 as proposed.
- Chapter 17.32.40, Flat Lots, change wording to read: “...Where ~~an adopted neighborhood plan contains~~ specific residential development criteria has been adopted for the Neighborhood District Association in which the site is located, those standards shall also ~~be applicable~~ apply.”
- Chapter 17.32.40 (A),(B) as proposed.
- Chapter 17.32.40 (C), a graphic is needed.
- Chapter 17.32.40 (D),(E), (E1),(E2) as proposed.
- Chapter 17.32.40 (F) change language, “...Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow ~~a minimum of thirty feet in height~~ in the region, shall be planted at ~~a 1:1~~ an appropriate ratio as mitigation for tree removal...”
- Chapter 17.32.40(G) as proposed. It was asked how positioning of the driveways on to streets to maximize safety be added? **Susan Heiser** suggested reinforcement in Section 17.32.040 (I) that Public Works review traffic safety and access.
- Chapter 17.32.40(H) as proposed.
- Chapter 17.32/40 (I) change language, “Proposed flag lots shall be referred to the Public Works Department and the Fire Marshall’s office for review and recommendation or decision on appropriate fire and traffic safety improvements and other requirements to be provided by the applicant...”
- Chapter 17.32.40(J), Chapter 17.32.050, and Chapter 17.32.060 as proposed.
- Chapter 17.32.070 change language, “Filing of map plan. When a ...”

**DRAFT**

## CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of September 22, 1998

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**Susan Heiser** explained that these amendments would be heard in a Planning Commission public hearing on October 13, 1998.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

9.1 Light Rail Study Update --

**Susan Heiser** reported that the Planning Commission recommendations for Scott Park mitigation were forwarded to the Council. The Council discussed their options at the September 15th meeting. Recommendations were as follows:

- Keeping 21st Avenue open
- Raised walkways
- Extended parking beyond the library
- Close the street in front of the library
- Purchasing the triangle of property on Harrison Street across the pond
- Providing a park on both sides of the street.

10.0 OTHER BUSINESS

10.1 **Historical Resources Commission Report**

**Susan Heiser** reported that the Historical Resources slide show will be presented at the October 27th Planning Commission meeting.

10.2 **Community Development Director Report**

**Susan Heiser** submitted the Planning Department Report. She reported that Staff had a legal training session with the City of West Linn. West Linn would be interested in a joint worksession, combining legal and land use planning training.

**Howard Steward** voiced concern about the need for more team building and visions of the community. He asked that the training include some sort of community awareness. Staff will keep the Commission updated on this worksession.

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- 11.0 Next Meeting -- October 13, 1998
- 11.1 MLP-98-02/MU-98-01/TPR-98-08/VR-98-08 -- Reliable Credit
- 11.2 CPA-98-04/CSO-98-06 -- North Clackamas Park & Recreation District
- 11.3 NR-98-05 -- City of Milwaukie, Abatement
- 11.4 ZA-98-01 -- City of Milwaukie & NDA LUC
- 11.5 NR-98-03/TPR-98-07 -- Kone

**Mike Miller** moved to adjourn the meeting of September 22, 1998. **Tracy Cook** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:33 p.m.

\_\_\_\_\_  
Donald Hammang, Vice-Chair

\_\_\_\_\_  
Shirley Richardson, Hearings Reporter

North Clackamas Parks and Recreation District  
Advisory Board Minutes  
Meeting # 87, September 17, 1998

**Board Members Present:**

Jim Ellis, Southgate/Town Center representative  
Sarah Eraker, Sunnyside representative  
Champ Husted, at-large member  
Eleanor Johnson, Milwaukie Center representative  
Daisa Lawson, Oatfield representative  
Jeff Marshall, City of Milwaukie representative  
Lynn Sharp, at-large member  
Elton Storment, Oak Lodge representative

**Board Members Absent:**

Bill Brod, at-large member

**Staff Present:**

Scott Archer, Recreation Program Coordinator  
Suzanne Bader, Community Relations Coordinator  
Diane Campbell, Administrative Analyst  
Mike Henley, Director  
Thom Kaffun, Park Services Manager  
Don Robertson, Program Services Manager  
June Southworth, Administrative Assistant  
Joan Young, Milwaukie Center Director

**Guests:**

Rob Kappa, Milwaukie City Council  
Carter MacNichol, Shiels Obletz Johnson  
Steve Rhodes, Clackamas County Administrator

**Minutes**

**1. Call to Order/Set Agenda:**

The regular meeting was called to order at 6:50 p.m. in the Poolside Room of the North Clackamas Aquatic Park by Chair Jim Ellis.

**2. Approval of Minutes of July 9, 1998 DAB meeting:**

Sarah Eraker pointed out that the minutes spelled Martha Waldemar's last name incorrectly. Waldemar is an applicant for the Sunnyside Neighbor-

## VII. B. 2

NCPRD Advisory Board Meeting Minutes  
September 17, 1998  
Page 2

hood Parks Advisory Board. Minutes were changed to reflect the correct spelling.

*Jeff Marshall moved to approve the minutes as amended. Elton Storment seconded the motion. APPROVED AS AMENDED.*

### 3. Station Area Master Plan Update:

Don Robertson provided an overview of the Station Area Master Plan and introduced Carter MacNichol, of Shiels Oblatz Johnson, who has been leading this effort.

MacNichol gave a brief background on the Station Area Master Plan and passed around a sheet listing possible things that could happen at the site. He described the existing facility at OIT and plans for expansion. To achieve this, it would have to go from a suburban type of setting with a one level structure and expansive parking, to multi-level facility with multi-level parking. Light Rail allows for an alignment that allows a safe and efficient operation.

Two different alternative routes were pointed out on maps. MacNichol described Alternate A where Light Rail runs to the north of the college and south of Harmony Road. He pointed out a proposed park and ride facility, pedestrian access and surface parking that would be available for Aquatic Park patrons. Elton Storment asked about the construction schedule. MacNichol answered that it would be about five years.

MacNichol explained that Alternate A was the one of choice. This route did not have Light Rail dissecting the parking lot. He added that they are now in the process of working with Tri-Met and Clackamas County. Lynn Sharp commented that she would like to see a cost comparison if the lots on the north side of Harmony Road were purchased. This would give light rail more wiggle room in the future.

Storment questioned whether this wasn't the less expensive option. MacNichol answered that this was probably the least expensive, but the qualifier is that the analysis isn't quite that simple because in the DEIS, the north route is more expensive than the south.

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MacNichol provided a breakdown of where funding was coming from. He noted that if the road is moved, it has to be rebuilt. Of great importance is the measuring of the impacts and mitigation strategies.

Sharp voiced her concern that construction of a parking garage near the Aquatic Park will cause a decrease in its popularity.

Ellis asked about the proposed building on the Aquatic Park parking lot. MacNichol explained that this building is only a proposal, and they would eliminate it from the plans if that is the wish of NCPRD. Ellis added that it is shocking to see the awkward position of the parking structures, given the situation it would create.

Sharp questioned how parking would be managed if OIT and Clackamas Community College expand. MacNichol stated the details of the parking management plan have not been worked out. He is confident this can be done.

Henley asked if the preferred option gets rolled in with the FEIS. MacNichol answered yes, the option being carried in their budget is the south option because it is the lowest cost. He reiterated that communications with the Park District will be continued through Don.

Ellis introduced visitors Rob Kappa and Steve Rhodes.

**4. Alma Myra Park Playground Bid Award:**

Thom Kaffun explained that bids for construction at Alma Myra Park are over by more than \$30,000. Ellis questioned how long the playground has sat uncompleted. Kaffun responded that it has been three or four years. He added that some neighbors have called the Park District asking about plans for completing the playground. Funds were allocated in last year's budget to complete the project. We advertised for bids in May 1998, but ran into a problem with the costs.

Ellis inquired about the status of the contingency fund. Kaffun said there was about \$640,000 in the fund. Henley added that if you elect to recommend initial funds to complete the project, there is a good chance we won't have to use the contingency fund. He explained how funds

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NCPRD Advisory Board Meeting Minutes

September 17, 1998

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were budgeted, adding that we could process a supplemental budget and move some funds at that time.

Eleanor Johnson expressed concern with the projected amount of the project and the bids. Kaffun explained how the bid process works and noted that he feels the project could be completed during the winter.

Henley provided more insight into how the budget process works regarding project construction. Storment asked if there was a chance the project could be done for less later. Kaffun answered no.

*Eleanor Johnson moved to recommend to the BCC approval of the bid from J.E., Inc. for \$48,210 plus the four additive alternates of \$17,669 and include \$5,000 as a contingency, for a total not to exceed costs of \$70,879. Elton Storment seconded the motion. APPROVED.*

### 5. CDBG Reappropriated Request for Boardman Slough:

The Director gave an overview of this project, stating that the acquisition component has been difficult. We have decided to request that the CDB reallocated money to Water Tower Park because it is in a CDBG eligible jurisdiction. This will allow us to put enough money out to get 91% of the total project done. Water Tower Park is in bad need of revitalization. The District is in a position to start moving for RFQ for design bids.

Sharp asked if some of the grant money was dedicated for land purchase. Henley answered land, acquisition and development, adding that we have spent \$47,000 so far on the Boardman Slough project. Diane Campbell has contacted the property owners and they are not interested in selling at this time.

Ellis asked for clarification on what property has been purchased. Kaffun said we bought Swanson Place wetlands at the southern end of Boardman Slough. We have talked to all property owners in the area and the asking prices are too high. Ellis asked if there was any possibility of limited development on some of the sites the District has purchased. Kaffun responded that we would like to build a trail system from East Side Athletic Club to the Swanson Place subdivision. Kaffun said we shouldn't walk away from Boardman Slough. Ellis asked if we should put our flag

NPCRD Advisory Board Meeting Minutes  
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out there by constructing something. Kaffun suggested possibly building an observation deck.

Ellis reiterated the community is aware the District has spent funds for this property. We have an obligation not to just bank the land.

*Elton Storment moved to approve the reappropriation of CDBG funds from Boardman Slough to Water Tower Park. Jeff Marshall seconded the motion. APPROVED.*

**6. Sunnyside NPAB Recruitment Update:**

Henley reminded the Board that at the July 1998 meeting, they had recommended two applicants for the Sunnyside Neighborhood Parks Advisory Board to the BCC. The BCC did not affirm recommendation. They requested the current Sunnyside board to more actively recruit a larger pool of applicants. Ideally, the BCC would like to have at least two candidates for each vacancy forwarded for consideration. When staff attempted to do this, we neglected to ask these candidates to be interviewed.

The three original interested parties have reapplied for these positions. Staff plans to meet with the Sunnyside NPAB to help them coordinate. Sarah Eraker provided background information on how their decision was made to forward these candidates. The next meeting of the Sunnyside NPAB is scheduled in October.

Jim Ellis stated that he felt it would be wise if the BCC understood that the District always interviews candidates and this particular incident was an exception.

**7. Board Retreat:**

Henley asked if the DAB is comfortable hiring Martha Bueche as facilitator for the fall Board retreat. The Jenkins Estate has been secured and is available for Friday and Saturday, October 30 and 31.

Daisa Lawson commented that she thought Bueche would be a very good choice. Storment added that he also was impressed. Board members asked about her cost for services. Henley said that he would request a

## VII. B. 6

NCPRD Advisory Board Meeting Minutes  
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proposal from Bueche, but estimated that her services would cost about \$1,000 a day.

*Eleanor Johnson moved to hire Martha Bueche as facilitator for the fall Board retreat. Elton Storment seconded the motion. APPROVED.*

Henley noted that the retreat will definitely be held on Friday, October 30, and we will decide later if another day is required.

Rob Kappa asked if alternates could attend the retreat. Ellis explained that it was the feeling of the facilitator that if alternates attended, it would be unwieldy.

### 8. Board Member Comments:

Eraker noted that a planning committee meeting on Top O' Scott was held the previous Monday. She received phone calls from residents of the area saying they felt NCPRD's response was weak. Eraker commented that this is a very volatile issue and it would be great to have direction on this issue. The question was why is the Park District trying to buy park land when this property is already zoned open space. Ellis pointed out that the land is privately held. The planning commission will have testimony this coming Monday night.

Eraker added that it has been a concern with the Sunnyside neighborhood that there is a need for response from the Park District. Lawson said she thought that the District's response had been provided more than once. Henley said that staff addressed the zoning issue and Top O' Scott. Lawson noted that this issue has been discussed for a long time and a response was formulated. She added that she doesn't understand why this is considered a weak response.

Ellis said the issue is we are not saying to the neighborhood what some people would like us to say. Eraker discussed a letter dated September 11, 1998 to Diane Campbell, which had 28 signatures requesting NCPRD to begin developing future park land in the area. Ellis commented that he is concerned when the Park District is presented with quasi-ultimatums. Ellis asked if the District should prepare a response.

NCPRD Advisory Board Meeting Minutes  
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9. **Director's Comments:**

The Director informed the DAB that staff is in the process of updating the SDC program. He explained details of the process. The BCC did support

non-resident SDCs that would affect commercial and industrial properties. Henley said he recently met with the Chamber of Commerce to discuss this issue and took findings back to the development liaison committee. The direction staff go on the update of the SDC was the current single family rate of \$950 contributes to 69% of the cost of new growth in the capital improvement program. Once we get through the development liaison committee and get to a work session with the BCC, Don Ganer will be brought back to provide and update to the DAB.

Henley said he talked to the City of Milwaukie City Council and they indicated they would like a staff work session on several issues. They would like to meet with the DAB to discuss the future of the youth center in Milwaukie. This should be a very valuable meeting.

Marshall asked what the DAB could do to get the BCC to raise the SDCs to where they need to be. Henley responded that a lot of lobbying on the part of the DAB would be beneficial. Milwaukie City Council could also be a big help. By packaging District SDCs with transportation SDCs, we cannot be higher than the transportation SDCs. Sharp added that we need public support in this area. Henley added there is a fundamental misperception that the Park District is artificially driving up the cost of land.

Kaffun noted that two public hearings are upcoming in the near future.

10. **Executive Session**

Executive Session was called to order at 8:40 p.m. in accordance with ORS 192.660. Executive session ended at 9:10 p.m.

11. **Adjournment:**

The meeting adjourned at 9:10 p.m.

## MEETING REPORT

DATE OF MEETING: September 10, 1998

GROUP/SUBJECT: Joint Policy Advisory Committee on Transportation (JPACT)

PERSONS ATTENDING: Members: Chair Ed Washington and Susan McLain, Metro Council; Linda Peters (alt.), Washington County; Sharron Kelley, Multnomah County; Karl Rohde, Cities of Clackamas County; Bob Stacey (alt.), Tri-Met; Greg Green (alt.), DEQ; Rob Drake, Cities of Washington County; Dave Williams (alt.), ODOT; and Don Wagner, WSDOT

Guests: Lou Ogden (JPACT alt.), Mayor of Tualatin; Brian Finneran, DEQ; John Rosenberger, Washington County; Rod Sandoz, Clackamas County; Steve Dotterrer, City of Portland; G.B. Arrington, Tri-Met; Gary Katsion, Kittelson & Associates, Inc.; Susan Lee, Multnomah County; and Rod Park, Metro Council-Elect

Staff: Andy Cotugno, Mike Hoglund, Rich Ledbetter, Chris Deffebach and Lois Kaplan, Recording Secretary

SUMMARY:

The meeting was called to order and a quorum declared by Chair Ed Washington.

ANNOUNCEMENTS

Andy Cotugno announced that Washington County was presenting an overview of TEA-21 via satellite broadcast on Wednesday, September 23, between 10:00 a.m. and 12:00 noon at the Washington County Public Services Building in Hillsboro. The event is sponsored by the National Association of Counties and is being broadcast from Washington, D.C. A flyer was distributed relating to the event.

\*\*\*\*\*

Another TEA-21 outreach meeting is scheduled on Monday, September 14, at the Ramada Plaza Hotel, 1441 NE Second Avenue in Portland. The U.S. Department of Transportation is sponsoring these listening sessions across the country to provide information on how to implement transit portions of the program. Registration packets were distributed at the JPACT meeting. Andy encouraged JPACT members to take advantage of this opportunity for involvement.

\*\*\*\*\*

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Andy announced that the JPACT freight tour will take place on Thursday, September 24, between the hours of 7:30 a.m. and 1:00 p.m. The tour will incorporate movement of raw materials (Reser's Food Processing), a tour of warehousing/distribution facilities, a retail outlet (supermarket), including loading docks, and lunch at Terminal 6.

Councilor McLain asked whether the itinerary had been developed so that JPACT members could join the group at different points of the tour. Andy indicated that it would be possible as the travel times become more certain.

\*\*\*\*\*

Andy cited the need to schedule a JPACT Finance Committee meeting. He felt that a two-hour session was needed to discuss upcoming legislation, the STIP process, and to better understand what ODOT is doing to finance the RTP. Councilor McLain noted that there's an MPAC subcommittee, chaired by Commissioner Hammerstad, that would like to connect with JPACT on the transportation elements and suggested that it might be appropriate for a few members from that subcommittee to be included at the JPACT Finance Committee meeting along with support staff. Andy indicated he would contact Mark Turpel of Growth Management staff.

### MEETING REPORT

Mayor Drake moved, seconded by Commissioner Kelley, to approve the August 13, 1998 JPACT meeting report as submitted. The motion PASSED unanimously.

### RESOLUTION NO. 98-2676 - ESTABLISHING A POLICY BASIS AND FUNDING STRATEGY FOR TRANSPORTATION MANAGEMENT ASSOCIATIONS (TMAs) FOR THE MTIP/STIP DEVELOPMENT PROCESS

Andy Cotugno explained that this resolution would adopt a policy framework and strategy for review of funding allocations and implementation of Transportation Management Association proposals through the MTIP/STIP development process. It establishes two stages of TMA development and screening criteria for review of the proposals and places the responsibility for the initial review with TPAC's Transportation Demand Management Subcommittee.

Andy spoke of the differences in responsibilities among TMAs and the research conducted on TMAs around the country. The typical experience has been that they are generally successful when given a clear mission.

The TMAs should be considered in two steps: the exploratory stage, which is to develop the program and define the mission of activities and ensure buy-in; and the operational stage, which

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focuses on implementation. Andy clarified that the STIP funds are intended to be seed money for start-up purposes. The exploratory stage includes up to \$35,000 for needs analysis. The total for operations is based on a three-year, phased-down approach, with some agency involvement needed. One-third to one-half of public sector participation is generally needed for continued TMA operations beyond three years. The STIP funds are not available for continued operating costs. In that connection, Councilor Rohde questioned whether the sentence on page 3 of Exhibit A to the resolution, which read as follows, should be omitted:

"Allocation of regional funds would be dependent upon re-application for funding through the MTIP/STIP process."

Upon learning that the statement did not apply, Committee members agreed that the sentence should be deleted from the text.

It was noted that *Transit Choices for Livability* identified the potential for as many as 25 Transportation Management Associations around the region. Andy explained that, during the upcoming MTIP/STIP process, JPACT would decide how much money should be set aside for TMAs. If a particular area applies for TMA funds, the request would be set aside until after the STIP allocation process has concluded. Specific TMAs would be recommended as part of a separate process next year and brought to JPACT for review and approval. The STIP is updated every two years and the TMA program would be re-evaluated at that time.

Bob Stacey agreed that there's need for a policy structure for the TMA program. He commented on Tri-Met's relationship with the TMAs and the success experienced in Tualatin and the Lloyd District area in providing effective shifts in the work force. Getting people out of the single-occupant vehicle to a range of choices is an indication of what can happen. This would set a framework on how we would respond in the future. Bob suggested that the committee think of \$142,500 as a base for the TMAs.

It was clarified that the CMAQ funds plus the local match allow the TMA project to get started. Mayor Ogden asked whether there are other sources of funds that could be programmed in as an ongoing source of regional funding. Andy noted that there is no federal funding for that operating support other than the gas tax and Tri-Met's operating funds. Mayor Ogden felt that Tri-Met was doing a great job in subsidizing TMAs and that the vanpool program provides great leverage for TMAs. He expressed concern about the funds being a flat amount and asked whether there should be flexibility in the program based on size.

Tri-Met is proposing to administer these funds which are reflected in its Transportation Demand Management program. This

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proposal would allocate \$142,500 over a three-year period. This program would be competing against bikes, transit and roads.

Councilor McLain felt that people should be aware of the fund limitations and questioned whether some locations should be prioritized over others. She noted that it should be regarded as start-up funds.

The process for funding TMAs will include review and recommendations by the regional TDM Subcommittee, approval through JPACT and the Metro Council, and program administration by Tri-Met. One of the requirements is that there be a sponsoring local government or business for a proposal. A discussion followed on the participation by employers in meeting the ECO Rule and the mandates it places on those employers. Andy Cotugno reported that TMAs across the country are most effective when they are targeted or focused on a specific location and a core set of issues.

Action Taken: Mayor Ogden moved, seconded by Councilor Rohde, to recommend approval of Resolution No. 98-2676, establishing a policy basis and funding strategy for Transportation Management Associations (TMAs) for the MTIP/STIP development process. The following sentence shall be omitted from the third paragraph on Page 3, Exhibit A, which read as follows: ~~Allocation of regional funds would be dependent upon re-application for funding through the MTIP/STIP process.~~ The motion PASSED unanimously.

Chair Washington felt it would be appropriate to have a presentation and discussion on TDM activities at a future JPACT meeting.

### 2000-2003 MTIP/STIP: FUNDING TARGETS AND PROJECT SOLICITATION

Copies of the 2000-2003 MTIP/STIP solicitation package were included in the agenda packet. Andy explained that the solicitation document was sent out for project nominations. October 16 is the submittal deadline. Andy noted that we now have a clear fix on the dollar amounts.

Table 1, depicting past decisions, resources available, and new funds to allocate, was reviewed. Andy cited the need to program the \$69 m./\$25 m. of TEA-21 funds. He also noted that the funds are overprogrammed to recognize that there is some slippage of projects. The earmarked projects will get 90 percent of the funding. If the remaining 10 percent was assigned, it would come out of the total pot and take away from another project.

It was clarified that this would apply to the fiscally constrained RTP and TIP. Mayor Ogden asked whether JPACT has the ability to reach into regional funds to provide the local match.

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Andy responded that federal funds must be matched by a non-federal local source. A discussion on CMAQ and STP funds followed. All freeway-related projects will be ODOT-sponsored, ensuring that the jurisdictions work through ODOT.

In explaining the difference between the Lovejoy ramp and the Broadway Bridge project, Steve Dotterrer, City of Portland staff, noted that the Lovejoy ramp is from Broadway westward and is for the purpose of removing the existing ramp and extending it to 14th. Susan Lee, Multnomah County staff, noted the Broadway Bridge project entails maintenance of the bridge itself. The Broadway Bridge paint job would cost approximately \$30 million.

#### PORTLAND AREA AIR QUALITY UPDATE

Brian Finneran of DEQ distributed updated versions of attainment dates and standards relating to ozone emissions for the Portland metropolitan area. He reported on the ozone levels experienced this summer, the Clean Air Action days and the fact that the standards are changing.

Brian provided background information dating back to March 1978 relating to the history of ozone emissions in the Portland airshed and reviewed the revised EPA ozone standards. He noted that EPA's standard has changed from a one-hour standard at the highest level of 0.12 ppm, allowing no more than three exceedances per three-year period, to a new eight-hour standard of 0.08 ppm averaged over three years. The change will involve looking at the fourth highest level each year and averaging it out over the three-year period. In July 2000, EPA will make new non-attainment designations based on 1997-99 monitoring data.

Monitoring of the ozone levels at the Carus (Clackamas County) site was reviewed. Brian noted that the change in EPA standard is less stringent and that EPA will be looking at the 1997 through 1999 data for air quality compliance. DEQ analysis indicates that the Portland airshed would meet the standard based on an historical review of fourth-highest ozone readings.

It was learned that Carus was picked as an appropriate monitoring site because the predominant windflow is out of the north. The Carus site is located south of Portland and south of Oregon City. Greg Green noted that trends indicate that some exceedances now occur during weekend activity in view of automobile use, barbecues, and lawn mowers. Under the current standard for ozone, if there are more than two exceedances a year, Phase I of the Contingency Plan kicks in. Greg indicated no decision has been made as to whether any additional strategies should be added to the Maintenance Plan.

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A discussion followed on the consequences of being in nonattainment. Greg indicated that additional controls would be placed on industry and federal highway funds could be withheld. He noted that some of the strategies in the Maintenance Plan have not been implemented as yet. Greg commented that DEQ has established a public education program, reporting a rise of 5 percent in Tri-Met ridership on Clean Air Action days. He cited the need to be proactive and cautious.

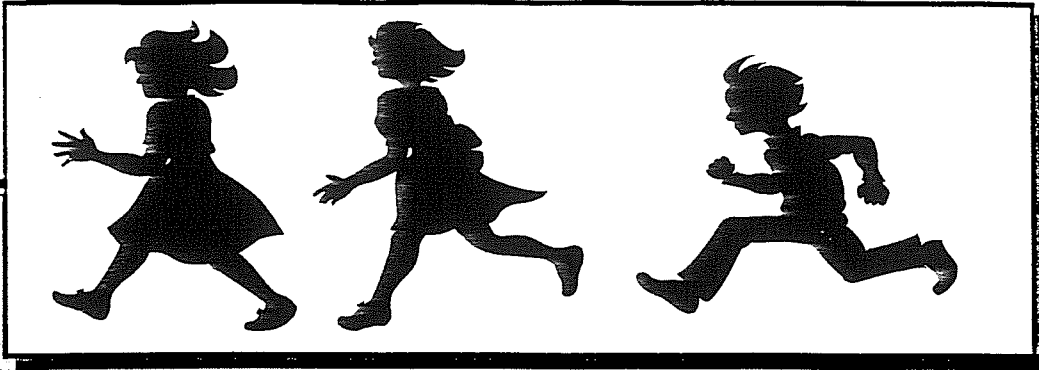
It was reported that Salem and Medford have both exceeded the standard and that it is now a statewide problem. Surprisingly, business represents only 6 percent of the problem.

ADJOURNMENT

There being no further business, the meeting was adjourned.

REPORT WRITTEN BY: Lois Kaplan

COPIES TO: Mike Burton  
JPACT Members



**Save This Date**

**November 12, 1998**

**8:30 A.M. to 3:00 P.M.**

**For The**

# **Clackamas Children's Summit**

## **A Strategic Planning Partnership**

- ◆ Participants will develop a County-wide Comprehensive Plan that coordinates State, County, and Non Profit Services for Children and Families.
- ◆ Participants will increase the collaborative working relationships of direct service providers and managers involved in working with youth.
- ◆ Participants will quantify and validate the gaps in service delivery, including programs provided, ages served and level of risk factors served.
- ◆ Participants will identify resources among participants and elsewhere in the community for filling these gaps. While increasing understanding among participants of each other's roles and responsibility.
- ◆ We will identify continued unmet needs, and potential resources and/or funding sources to meet these needs.
- ◆ Please put this on your calendar now!! We need your participation.

***For more information Call:  
503-655-8288***



**MEMORANDUM**

To: Mayor and City Council

From: Pat DuVal, City Recorder

Through: Dan Bartlett, City Manager

Subject: Notice of Change in Regular Meeting Date and Location

Date: October 14, 1998

**Action Requested**

Adopt a resolution that determines the first regular session of November will be on November 5, 1998, at Lewelling School.

**Background**

Chapter VI, Section 20, of the Milwaukie Charter calls for regular meetings at least twice a month at a time and place the Council designates. Milwaukie Code Section 2.04.070 sets the regular meetings and allows changes if the public is appropriately noticed.

At its September 15, 1998, regular session, City Council agreed to allow the Clackamas County Elections Division to use the Public Safety Building Community Meeting Room as a polling place for two Milwaukie precincts in the November 3, 1998 General Election. Since the first regular meeting of the month coincides with Election Day, Council voted unanimously to hold its first regular meeting of November on the 5<sup>th</sup> at Lewelling Elementary School, 5325 SE Logus Road at Lewelling Neighborhood District Association monthly meeting.

**Recommendation**

Staff recommends that Council adopt the resolution and direct staff to notify the public and the media of the change.

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE FIRST REGULAR SESSION OF NOVEMBER WILL BE HELD ON NOVEMBER 5, 1998, AT LEWELLING SCHOOL.**

**WHEREAS**, the first regularly scheduled Council meeting in November is the day of the 1998 General Election; and

**WHEREAS**, the City has authorized Clackamas County Elections to use its regular Council meeting facility for two voting precincts; and

**WHEREAS**, the Milwaukie City Council wishes to expand its outreach efforts by attending the Neighborhood District Associations meetings; and

**WHEREAS**, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of any changes to its regularly scheduled meeting times and locations;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Milwaukie, Oregon, that the first regular session of November 1998 will be called to order at 6:00 p.m. on November 5 at Lewelling Elementary School, 5325 SE Logus Road.

\_\_\_\_\_  
Carolyn Tomei, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
O'Donnell, Ramis, Crew, Corrigan & Bachrach, LLP




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INTEROFFICE MEMORANDUM

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TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: DAN BARTLETT, CITY MANAGER *DB*

FROM: CHARLENE RICHARDS, ASSISTANT CITY MANAGER *CR*

SUBJECT: QUARTERLY REPORT - HUMAN RESOURCES/COMMUNITY SERVICES

DATE: OCTOBER 9, 1998

CC: HR/COMMUNITY SERVICES STAFF

---

What follows is the first Quarterly Report (July, August and September 1998) 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

- Completed training for HR Assistant to begin using HRVantage.
- Inputted new pay scale and classification changes.

#### Anticipated 2nd Quarter 1998-99

- HRVantage modifications to reflect City pay systems.

### Employee Committees and Teams

- Continued to work out glitches in the revised payroll process.
- Developed and began implementing action plans to bring City safety program into compliance with current rules and regulations.

### Training

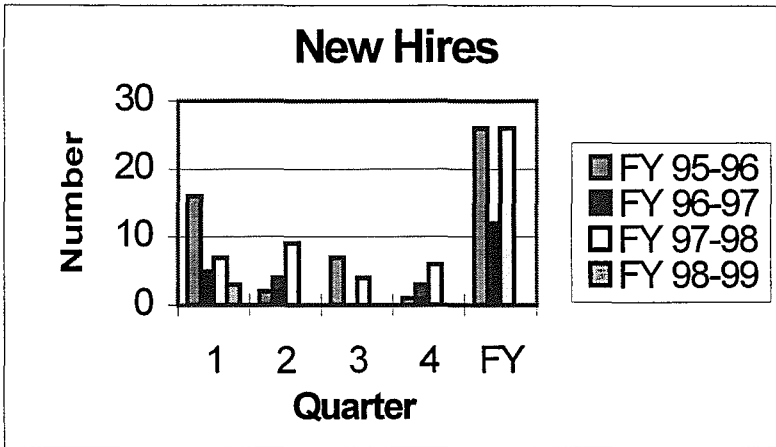
- Distributed Milwaukie U brochure for fall 98
- Conducted employee survey and analyzed results for presentation to all employees in October.
- Completed PowerPoint training class.

#### Anticipated 2nd Quarter 1998-99

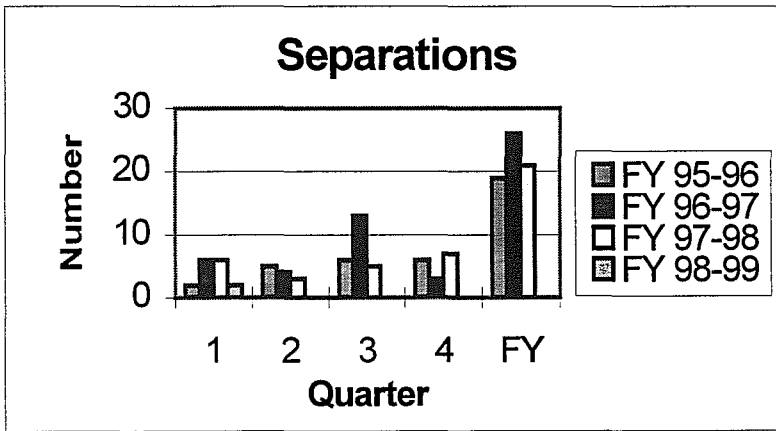
- Hold live and replay Forecast 98-99 employee meeting. Provide written response to all questions asked at Forecast 98-99 live and replay sessions.
- Conduct training on legal and appropriate use of e-mail.
- Schedule customer service and computer training classes for winter 99.

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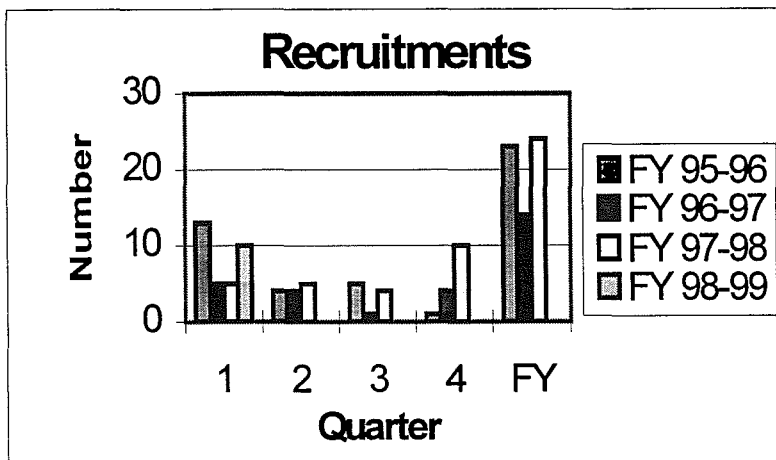
Employment Activities



- Hired 5 employees into regular positions and 7 seasonal, temporary, provisional employees.



- Separated 2 regular employees and 13 seasonal and provisional employees..



- Completed 10 recruitments and have 6 recruitments remaining in progress.

## COMMUNITY SERVICES

### LIBRARY

#### Circulation

- Each of the three months during this quarter were the busiest on record, making this the busiest first quarter in the history of the Ledding Library.

#### Children's Services

- Turnout for summer programs and the summer reading program were excellent. Over 400 children participated in the summer reading program, and we have had record attendance for some of our special events.
- Made schedules for fall programming available. These include two weekly preschool storytimes, a toddler series, Saturday crafts and storytelling and a weekly series of programs for homeschooling families.
- Working on a project to provide library materials and programs for childcare providers in Milwaukie. Funding for the materials will be available through our Ready To Read Grant from the State Library.
- Began a major weeding of nonfiction and picture books. We hope to finish by the end of October.

#### Collection

- Added more books, videos and books on tape than any previous year; a record year for the Technical Services Department.
- Completed a patron survey about home computer systems and programs to help identify useful computer books for our collection.

#### Computer System

- Trained staff on Windows 95. This is the software that will be used after the library's upgrade.
- Upgraded the library's CD ROM workstations through the city's ISTM Department. We are investigating additional CD ROMS for these workstations.
- Applied for a grant to purchase for the Children's Department a second station dedicated to early childhood educational programs.
- Laid new cabling under Harrison Street to connect the library to the city computer network. Additional work needs to be done in the library itself before the final connection can be made.

#### Library Board

- Reported to the City Council issues concerning the potential affect of the proposed light rail project on the Ledding Library. Attended a joint meeting in August with the City Council, Planning Commission and Park and Recreation Board. Discussed issues and reviewed proposed Scott Park mitigation plans presented by Metro and Tri-Met staff and consultants. Made recommendations to the City Council.

#### **Anticipated 2nd Quarter 1998-99**

- Complete the computer upgrade
- Obtain City Council approval for the Library's Internet policy.
- Implement public's Internet access and increased employee Internet access.
- Complete Library staff training in new computer system.
- Participate in Library Futures discussions.
- Investigate alternatives for shelving the growing talking book collection.
- Complete second phase of reference book replacement project.
- Finalize master plan for training the public in Internet use using volunteer assistance.

## VII. E. 4

### NEIGHBORHOOD SERVICES

- Facilitated and managed Visioning projects for Lake Road, Linwood, Hector Campbell, and Island Station NDAs.
- Launched, directed and completed the Milwaukie Youth Center Pilot Project.
- Recruited and trained new Information Specialist.
- Brokered agreement between the City and the Portland and Westside Jaycees to operate a Haunted House Fundraiser for the benefit of Ronald McDonald House out of the Safeway Site.
- Worked with Ad Hoc Grant Committee to develop grant program refinements.
- Coordinated and conducted Quarterly NDA Leadership Meeting.
- Collaborated with Community Development Staff, Department of Land Conservation and Development and NDAs, to plan City-wide Community Design Workshop.
- Collaborated with Public Works staff to develop City's first Water Quality Report.
- Presented New Newsletter to Council.
- Worked with CERT to develop proactive Code Enforcement tools and strategies (door hanger, parking downtown, junk car blitz).
- Initiated public outreach efforts to property owners in the McLoughlin Industrial District.
- Assisted NDAs in planning and promoting National Night Out, Ardenwald parade and other neighborhood events.

#### Anticipated 2nd Quarter 1998-99

- Complete NDA Visioning Process for Milwaukie NDAs.
- Complete and present evaluation of the Milwaukie Youth Center Pilot Project.
- Conduct Survey of needs for McLoughlin Industrial District property owners.
- Conduct Survey of Downtown businesses and Parking customers.
- Work with Community Development Staff and Neighborhoods to process and implement results of the City-wide Community Design Workshop.
- Work with Records & Information Management Staff on the development of a parcel-based, shared database.
- Attend National Collaborative Planning Symposium in Chicago, representing Milwaukie.
- Work with lay portion of the Budget committee to review and process 1<sup>st</sup> Quarter Grant applications.

#### Public Information

- Developed and coordinated public education campaigns for various City events.
  - Created Press Releases for City events.
  - Met with members of the media in order to initiate solid working relationships.
  - Advised local and regional media of City events they may want to cover.
  - Maintained a daily clip file cataloging any press coverage the City receives.
  - Attend monthly meetings as part of the Public Involvement Staff on the South/North Light Rail Project.
  - Met with Neighborhood Chairs to Information Specialist role.
  - Began research for a Comprehensive Communication Plan.
  - Assisted with the development of the 1998 Water Quality Report.
  - Designed, created, and coordinated the production of the Neighborhood Design Workshop notices.
  - Designed and created the production of Milwaukie's advertisement in the Chamber of Commerce's annual business directory.
  - Created inserts for brochures handed out by the Water Department.
  - Updated and maintained IVBB information.
-

**Public Information (continued)**

- Wrote the text and designed the general layout for a Code Enforcement Notice to be used by the Planning Department.
- Researched newsletters from other jurisdictions to study their means of production and distribution.
- Assisted with the design and production of the revamped newsletter.
- Devised a production and distribution scheme for Milwaukie's newsletter.
- Created, coordinated and edited the text, graphics and photos for the first expanded newsletter.

**Anticipated 2nd Quarter 1998-99**

- Generate Press Releases for the City.
- Advise media contacts of important and interesting City events.
- Update and maintain the IVBB.
- Be the City's primary Graphic Designer for brochures, pamphlets and other public information tools.
- Continue as Editor of the City's newsletter.
- Continue development of a Comprehensive Communication Plan.
- Investigate Cable Access and develop programming ideals.
- Research creating a Web Page for the City, and initiate its development.

**Code Compliance**

- Worked with CERT (Code Enforcement Revision Team) to review and recommend changes to code language and enforcement procedures.
- Responded to daily citizen requests for nuisances and other code violations.
- Patrolled on-street parking and parking lots in the downtown area.
- Successfully completed abatement proceedings on three problem properties on Milwaukie Neighborhoods.
- Developed door hanger to use during summer "junk car blitz."
- Coordinated enforcement and prosecution with County Prosecutor on a long term problem property in Island Station NDA.
- Began research and discussion of downtown parking alternatives with MDDA.
- Attended telephone mediation training session at Clackamas County Dispute Resolution Center.
- Attended quarterly training conference for the Oregon Code Enforcement Association.

**Anticipated 2<sup>nd</sup> Quarter 1998-99**

- Complete report on summer "junk car blitz."
- Continue to compile CERT's proposed code revisions.
- Work with staff and neighborhood associations to increase volunteerism and neighborhood preservation efforts.
- Continue researching innovative code compliance methods and solutions.
- Continue to work on downtown parking alternatives with MDDA.
- Coach other code enforcement staff on ways to on carry out enforcement, judicial proceedings and other aspects of abatement process.
- Attend American Association of Code Enforcement's annual training conference.

**ENVIRONMENTAL/TELECOMMUNICATION SERVICES****Solid waste and Recycling**

- Produced Year 9 Waste Reduction Plan and Year 8 report and took them to Council for a approval and adoption
- Finalized IGA with Metro for Challenge Grants and mailed invoice
- Toured City permit office and construction sites with Metro personnel to identify needs for recycling education for contractors

## VII. E. 6

### Solid waste and Recycling (continued)

- Met with state DEQ staff to discuss America Recycles Day
- Attended Association of Oregon Recyclers Conference
- Met with Garbage haulers to discuss dead animal collection and several other solid waste management issues.
- Coordinated with Clackamas Fire District #1 to distribute educational materials on Household Hazardous Waste
- Did presentation on recycling for the Kiwanis
- Discussed impact of Waste Management merger with USA Waste with Waste Management staff
- Submitted articles to City Newsletter and County Annual Newsletter on composting

#### **Anticipated 2nd Quarter 1998-99**

- Review Drop Box litigation underway in Washington County
- Coordinate compilation of low participation neighborhood study by Milwaukie and other local jurisdictions.
- Begin development of a recycling mailer for multi-family complexes in Milwaukie

### Cable Renewal & Other Telecommunications Issues

- Reviewed draft of TCI contract containing Public access section
- Met with City negotiation team to discuss draft
- Met with TCI to discuss draft of franchise
- Reviewed draft of customer survey proposed by TCI and provided comments

#### **Anticipated 2nd Quarter 1998-99**

- Review final draft of customer survey
- Review results of survey
- Conduct negotiation meeting with TCI
- Review next draft of cable franchise and complete any necessary research

## **PARKS AND RECREATION**

### Parks and Recreation Board (PARB)

- Developed and implemented PARB presentation for collecting Neighborhood District Association input into development of work plan for FY 1998-1999.
- Completed acquisition of property in the Hector Campbell neighborhood for future neighborhood park development.

#### **Anticipated 2nd Quarter 1998-99**

- Finalize Wichita Park Master Plan and adopt as ancillary document to comprehensive plan.
- Develop work plan for FY 1998-99.
- Begin work on developing proposal for improved Land Acquisition process.

### Metro Greenspaces Local Share Projects

- Met with abutters of the Pennywood site
- Met with Division of State Lands and the Corps of Engineers and o tour the Pennywood and Roswell sites
- Met with Clackamas County Department of Utilities to review the Pennywood site and discuss submitting grant application to Metro for further work on the Wetland.
- Met with Metro grant review board to tour the Pennywood site to discuss options for site enhancement
- Developed and submitted Planning Commission packet for Pennywood and Roswell Site Enhancement Plans

**Metro Greenspaces Local Share Projects (continued)**

**Anticipated 2nd Quarter 1998-99**

- Attend Ardenwald Neighborhood Association meeting to provide update on Roswell enhancement project
- Meet with abutter of entrance to Springwater trail at Sherret and 28<sup>th</sup> to get input on entrance enhancement
- Solicit and coordinate meeting of volunteers to begin work at Roswell pond
- Attend and provide testimony at Planning Commission meeting on Pennywood site
- Continue working with Clackamas County on potential grant funds for future projects at Pennywood
- Meet with Pennywood abutter to identify lot lines near City property

**North Clackamas Parks and Recreation District (NCPRD)**

- Received quarterly update from the NCPRD Director at Council meeting.
- Continued work on revising Park system development charges.
- Reviewed Scott Park Mitigation plan proposals from Metro and Tri-Met providing recommendations to City Council for their consideration.

**Anticipated 2ndr Quarter 1998-99**

- Work with Council regarding direction on revising Park system development charges.

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**To:** Milwaukie City Council  
**From:** Brent W. Collier, Chief of Police *B. Collier*  
**Through:** Dan Bartlett, City Manager  
**Date:** October 15, 1998  
**Subject:** July – September 1998 Police Department Quarterly Report

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**Action Requested:**

Information only.

**Background:**

This report specifically focuses on Police Department activity for July-September 1998. It will also provide you with Jan-September 1998 data. This data will provide you with a comparison to 1997. I have intentionally included statistics for the month of August 1998 for your review. The data for September 1998 is skewed, due to overdue police reports and pending investigations.

**Traffic Unit:**

Sergeant Marthaller supervises this unit. The decrease in traffic citations is directly attributable to injuries sustained by our traffic officers. You may note from the August 1998 VBR data that this trend is "on the mend". Officer Gilbert is still recuperating from his motorcycle accident. He underwent successful reconstructive facial and eye surgery on August 21, 1998. He is now working a light duty assignment at the police department. We are hopeful that Officer Gilbert will return to traffic duty in January 1999. Officer Giddings recovered from his broken wrist and has successfully completed his motorcycle training. You may note that the VBR citations for the month of August 1998 have more than doubled the 1997 statistics. This is directly attributable to the enforcement efforts of Officer Giddings. He has focused his efforts in neighborhoods and school zones. The third traffic officer position (night DUII car) has not been filled. The department was recently awarded a \$10,000 grant, which targets DUII/Seatbelt violations. We will use these traffic specific overtime funds to offset the lack of the third traffic officer. We continue to participate in "Three Flags", an International campaign to encourage seatbelt and child safety seat usage. We recently joined forces with Clackamas County to form a Multi-Agency Carrier Enforcement team (MACE). This team targets unsafe trucks throughout Clackamas County. Two Milwaukie officers have been trained as level 2 ODOT inspectors and are conducting inspections on local trucks.

We recently established a cooperative enforcement effort with other traffic units in Clackamas County. Participating member agencies are Lake Oswego PD, Oregon State Police, Milwaukie PD, Molalla PD, Oregon City PD, Sandy PD and West Linn PD. The task force is referred to as the Strategic Traffic Accident Reduction Team (START). This team pools all traffic enforcement resources within Clackamas County to provide saturation patrols in targeted areas. These saturation patrols will rotate to the various jurisdictions twice a month for a four-hour period. On October 13<sup>th</sup>, the team targeted Hwy 213 between I-205 and Beavercreek Road and the areas of I205 in Clackamas. Twelve officers worked the area for 3 ½ hours. The team issued 20 warnings, and issued 78 citations which included 49 speeding violations, five driving while suspended citations, 4 driving uninsured citations, 10 seatbelt violations, four following to close violations and six equipment violations. Two arrests were made and four vehicles were towed. Speeding citations averaged speeds ranged from 75-87 miles per hour. Milwaukie is scheduled to receive these team resources in November 1998. The traffic unit is also working to establish an Internet Web Page, which would notify the public as to the rationale and location of enforcement efforts.

**School Resource Officers:**

Sgt. Bartol supervises the SRO's and the DARE Officer. He has created a team of officers who are dedicated to the youth of our community. Officer Sterling (SRO for Milwaukie High School) and Officer Neitch (SRO for Milwaukie Jr. and Rowe Jr. High Schools) have been very busy in their assignments. Aside from school specific assignments, both officers have actively worked on numerous outreach programs. Officer Neitch is working with a group of middle school age girls on a graffiti removal program. She has also assumed responsibility for the Police Explorer Program. Officer Sterling was very active with the Milwaukie Pilot Youth Center (Safeway site). He facilitated the Code of Conduct committee and will continue to be involved with youth related programs. These officers have also been involved in a cooperative agreement discussion between Clackamas County law enforcement and Clackamas County schools to address weapons, destructive devices and threats of harm in our schools. The Police Chiefs, Sheriff, Juvenile Director, DA, and Presiding Judge have all agreed to the final draft. This draft is currently under review with the school Superintendents. We expect that the final agreement will be signed in November 1998.

Officer Freshner has been very busy with his DARE program. He is also assigned as the coordinator for the RideALong Program, COP Camp Program and The Block Home Program. Officer Freshner organized three COP Camp sessions in July and August. He is also assigned as the Department representative for the drug elimination collaborative agreement between the Clackamas County Housing Authority and the Milwaukie Police Department. Officer Freshner is currently providing four blocks of law enforcement career instruction at the Sabin Skill Center until a permanent instructor can be hired. The prior instructor, retired Lake Oswego PD Officer Coleman, died as a result of injuries sustained in an automobile accident on Hwy 224 last month.

**Detective Unit:**

Detective Sergeant Loudenback supervises this unit of four detectives and one Police Technician. They processed 21 drug tips during this period. They also investigated one officer involved shooting, one residential robbery, 18 sex abuse cases, 5 additional robbery cases, and 8 “other than natural” death investigations. The unit is currently retrofitting a retired Milwaukie Fire Dept. brush rig into a Major Crime Scene vehicle. This project should be completed in November 1998. Aside from Milwaukie PD cases, the unit participates in several interagency efforts.

**Interagency Narcotic Team:**

Milwaukie Detective Dye is assigned to this team. The team has executed numerous search warrants, both inside and outside our jurisdiction. We have several Milwaukie area cases that are currently under investigation.

**Interagency Homicide Team:**

Detective Sergeant Loudenback, Detective Wright and Detective Guy are actively involved in this team. Milwaukie PD continues to host the monthly training meeting for this team.

**New Civilian Position:**

Police Technician Robert Mott was hired June 15, 1998. This civilian position has assumed property control and evidence collection duties that were previously conducted by the Day Shift Sergeant and other Police Officers. The position reports directly to the Detective Sergeant. This civilian position has allowed us to redeploy sworn officers to community policing activities. Police Technician Mott has undergone extensive training. He also attended a regional Oregon State Police Forensics academy, which was hosted by Milwaukie PD. His first major call-out was a home invasion robbery. It was clear to us that the investment in training paid off. Forensic evidence collection is an integral part of any investigation. In this case, the firearm, other instrumentalities of the crime and \$20K in stolen property was recovered. Two subsequent arrests have been made reference this case.

**Uniform Officer/Detective Training Program:**

We are beginning our second year of this program. This program acknowledges uniform officers who demonstrate exceptional dedication to our law enforcement mission. The selected officer is released from patrol duties and temporarily assigned to the Detective Division for a period of three months. The officer receives specialized training in forensics, undercover operations, inter-agency liaison, search warrant application process and interview techniques. Patrol officers return to their shift with additional tools to facilitate problem solving. They also return with an increased level of confidence and enthusiasm. Five patrol officers have rotated through this program. Officer Broomfield is currently assigned to this program. While this program does draw down our patrol strength, we are extremely pleased with the demonstrated results of this program. We look at this program as a long-term investment in our officers and in our community.

**Emergency 911 Center:**

The City of Milwaukie and Clackamas County Fire District No.1 have posted a Request For Proposal (RFP) for dispatch services. We conducted a prebid conference regarding the RFP on September 17, 1998. Potential bidders posed twenty-seven questions. We are in the process of responding to those questions. The RFP submittal date has been extended to December 7, 1998.

**COPS Problem Solving Partnerships Grant:**

Program Specialist, Deborah Middleton has the lead for this grant-funded project. She is scheduled to provide a progress report to Council in November 1998.

**New Police Officer:**

Officer Krebs has graduated from the DPSST Basic Police Academy and is progressing well in our Milwaukie PD Field Training Evaluation Program (FTEP).

**Police Reserve Unit:**

The 20-member unit donates on an average, of 500 hours per month of volunteer time to our community. Sgt. Martin supervises the unit; Officers Rash and Marl serve as liaisons. The unit also provides bailiff duties for our municipal court. They also provided patrol and security support for the Mt. Angel Oktoberfest. Many of the members are certified as police mountain bike operators. Members are also used to move the radar SMART trailer to requested locations. Several members are used as interpreters in Spanish, Korean and Russian languages. The unit has become recognized for its strict selection criteria, as well as its exceptional training investment. Many members of this unit are subsequently hired as regular officers with various agencies. One can readily see why this volunteer unit is such an incredible asset to our profession, our department and to our community.

**Police Explorer Unit:**

The six-member unit donates on an average of 20 hours per person of volunteer time to our community. Officer Neitch supervises the unit. The unit assists with the Block Home Program; the Graffiti Removal Program, traffic control details, Bike Safety and other youth related programs. We find that this explorer experience typically creates a proving ground and hiring resource for future police officers.

**Police Interns:**

We currently have one police intern working at the police department. Portland State intern Kameron Bracy is currently assigned to the Problem Solving Partnership Program.

**Additional:**

A cooperative agreement between AARP, Clackamas County Sheriffs Office, Milwaukie Police Department, Oregon City Police Department and the Gladstone Police Department was signed on May 11, 1998. This agreement created a North Clackamas County "Seniors and Law Enforcement Together" (SALT) Council. The SALT Council has recently produced a Seniors Fraud Protection booklet, which is available at the Milwaukie Center, PSB and AARP. SALT members have expressed an interest in becoming involved with the Clackamas County Citizens Academy, neighborhood patrol, handicap parking

July – September 1998 Police Department Quarterly Report

enforcement and crime prevention programs. SALT members have conducted numerous fraud presentations to various community-based groups. SALT, AARP, RSVP, the North Clackamas Chamber of Commerce, The Senior Citizens Council and local volunteers have recently joined forces to conduct a community survey on seniors' issues. A "Reverse Boiler Room" was recently conducted at the AARP offices. This project was a cooperative venture between the FBI, Oregon DOJ, the Oregon Department of Human Services & SALT, which exposed suspects who perpetrated telemarketing and financial fraud schemes against seniors. SALT has demonstrated that it is a productive and energetic force in our community. I will continue to keep you apprised of the progress of this invaluable partnership with our seniors.

Officer John Hipes was voted as the "1998 American Legion Police Officer of the Year". Officer Hipes was formally recognized at the annual banquet in October.

The Milwaukie Police Department command staff recently completed our annual retreat. This retreat creates an opportunity for us to build upon our team, address complex issues and plan for the future. The overriding theme for this years staff retreat was "dealing with change". All participants agreed that this years staff retreat was the most productive to date.

I would be pleased to respond to any questions you may have about this report or any other police department issue. Thank you.

STATISTICS FOR THE MONTH OF  
SEPTEMBER 1998

OFFENSE/ACTIVITY	SEPTEMBER 1997	SEPTEMBER 1998	JAN SEP 1997	JAN SEP 1998
PART I OFFENSES	76	79	523	808
PART II OFFENSES	80	70	580	573
1 PART III ACTIVITY	336	302	3287	2949
2 OFFICER ASSISTANCE	338	16	2680	774
TOTAL	830	467	7070	5104

## CLEARANCES

PART I OFFENSES	19	14	173	133
PERCENT of CLEARANCES	25%	18%	33%	16%
PARTII OFFENSES	55	40	358	348
PERCENT of CLEARANCES	69%	57%	62%	61%
TOTAL	74	54	531	481
PERCENT of CLEARANCES	47%	36%	48%	35%

## ARRESTS

ADULTS	62	78	754	670
JUVENILE	46	16	320	213
TOTAL	108	94	1074	883
MISDEAMEANOR	75	43	626	452
*FELONY	26	38	330	309
**TRAFFIC	1	0	22	1
DUII	6	13	96	119
TOTAL	108	94	1074	881

## TRAFFIC ACCIDENTS

INJURY ACCIDENTS	2	5	26	24
NON-INJURY	27	16	189	168
TOTAL	29	21	215	192
FATAL ACCIDENTS	0	0	1	0
PERSONS INJURED	3	7	44	33
CITATIONS ISSUED	3	4	14	12

## UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	120	141	1538	990
EQUIPMENT VIOLATIONS	106	65	693	258
DUII	6	13	96	119
REG/LIC VOL	15	9	275	78
DWS	28	53	388	321
OTHER	91	95	912	680
TOTAL	366	376	3902	2446
COURTESY NOTICES	63	66	624	319

## MISCELLANEOUS

PARKING CITATIONS	7	0	20	24
RESIDENTIAL ALARMS	34	31	214	288
COMMERCIAL ALARMS	27	23	206	248
SCHOOL ALARMS	4	8	54	31
BANK ALARMS	3	1	20	8
TOTAL	75	63	514	599

\* Includes Felony Traffic Arrests \*\*Infraction and Misdemeanor Traffic Arrests

1.Non-Criminal Activity

2.Number of Officers Required to Provide Back-up/Assistance to Primary Officer

10/13/98

SQUAD ONE  
SEPTEMBER 1998

TOTALS

SUMMARY OF  
ENFORCEMENT  
ACTIVITY

	4203 MARTIN	22098 GIDDINGS	11967 KIDD	26807 BROOMFIELD	21341 GILBERT	20427 BARTOL	20023 NEITCH	29114 MARL	11995 BONDIETTI	
CALLS W/CASE NO.	9	10	8	18	0	11	0	8	28	92
PRIM. CALLS W/O CASE NO.	0	0	0	0	0	0	0	0	0	0
SECON. CALLS W/O CASE NO.	0	0	0	0	0	0	0	0	0	0
FOLLOW-UP INVESTIGATIONS	0	0	0	0	0	0	0	0	0	0
FIR CARDS	2	0	0	2	0	0	0	0	0	4
ARREST - ADULTS	1	3	2	5	0	4	0	2	1	18
ARREST - JUVENILES	0	1	0	1	0	1	0	0	0	3
MISDEMEANORS	0	1	0	2	0	1	0	1	0	5
FELONYS	1	3	1	4	0	4	0	1	1	15
TRAFFIC CRIMES	0	0	0	0	0	0	0	0	0	0
WARRANTS	1	3	1	4	0	3	0	1	1	14
V.B.R./EXE MAX SPEED	2	100	0	1	0	0	0	25	0	128
EQUIPMENT	9	37	0	3	0	0	0	6	0	55
REGISTRATION/LICENSE	0	1	0	0	0	0	0	1	1	3
DWS	1	9	0	1	0	0	0	2	3	16
OTHER	3	32	0	1	0	0	0	3	2	41
COURTESY NOTICES	0	12	0	0	0	0	0	10	0	22
PARKING CITATIONS	0	0	0	0	0	0	0	0	0	0
COMM. POLICE CONTACTS	0	0	0	0	0	0	0	0	0	0
TIME	0	0	0	0	0	0	0	0	0	0
TOTAL UTC'S	15	179	1	6	0	0	0	37	6	244

HR

DATA MISSING OR NOT SUBMITTED

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## 09/18/98 MILWAUKIE POLICE DEPARTMENT

STATISTICS FOR THE MONTH OF  
AUGUST 1998

OFFENSE/ACTIVITY	AUGUST 1997	AUGUST 1998	JAN AUG 1997	JAN AUG 1998
PART I OFFENSES	81	71	447	729
PART II OFFENSES	81	79	500	503
1 PART III ACTIVITY	367	298	2951	2647
2 OFFICER ASSISTANCE	184	15	2342	758
TOTAL	713	463	6240	4637

## CLEARANCES

PART I OFFENSES	22	12	154	119
PERCENT of CLEARANCES	27%	17%	34%	16%
PART II OFFENSES	69	57	322	308
PERCENT of CLEARANCES	85%	72%	64%	61%
TOTAL	91	69	476	427
PERCENT of CLEARANCES	56%	46%	50%	35%

## ARRESTS

ADULTS	75	75	692	592
JUVENILE	18	15	274	197
TOTAL	93	90	966	789
MISDEAMEANOR	50	37	551	409
*FELONY	32	38	304	271
**TRAFFIC	1	0	21	1
DUII	10	15	90	106
TOTAL	93	90	966	787

## TRAFFIC ACCIDENTS

INJURY ACCIDENTS	3	5	24	19
NON-INJURY	26	15	162	152
TOTAL	29	20	186	171
FATAL ACCIDENTS	0	0	1	0
PERSONS INJURED	5	6	41	26
CITATIONS ISSUED	1	1	11	8

## UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	100	241	1418	849
EQUIPMENT VIOLATIONS	27	24	587	193
DUII	10	15	90	106
REG/LIC VOL	13	8	260	69
DWS	30	35	360	268
OTHER	83	96	821	585
TOTAL	263	419	3536	2070
COURTESY NOTICES	40	60	561	253

## MISCELLANEOUS

PARKING CITATIONS	2	0	13	24
RESIDENTIAL ALARMS	22	36	180	257
COMMERCIAL ALARMS	35	21	179	225
SCHOOL ALARMS	4	4	50	23
BANK ALARMS	2	1	17	7
TOTAL	65	62	439	536

\* Includes Felony Traffic Arrests \*\*Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity

2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

**OFFICE OF THE ATTORNEY GENERAL**

HARDY MYERS

FOR IMMEDIATE RELEASE

October 7, 1998

**MEDIA ADVISORY**

Attorney General Hardy Myers will join representatives from the Federal Bureau of Investigation (FBI), Federal Trade Commission (FTC), American Association of Retired Persons (AARP), Elders In Action and the State Senior and Disabled Services Division Friday, October 9, to launch the first "Reverse Boiler Room" under the Elder Financial Exploitation Prevention Program. The event will be held at 9 a.m. in the Clackamas offices of AARP, 8440 SE Sunnybrook Blvd.

Volunteers, using FBI lists of known victims of telemarketing fraud, international lotteries and complainants to the National Fraud Information Center, will call residents of Multnomah County in two shifts, one at 9:30 a.m. and the other at 12:30 p.m.

The program will be the first in the nation to actively reach out to senior victims of telemarketing fraud in their homes. Volunteers will offer to visit homes with printed information on various scams and will review junk mail and phone solicitations.

Volunteers from Elders in Action in Portland have been trained to do the in-home visits in Multnomah County and will make available "Easy Hangup" devices that attach to telephones and with a touch of a button, instruct callers that the number does not accept this type of call and to remove the number from the caller's lists. Volunteers detecting any ongoing fraudulent activity will make immediate referrals to the Department of Justice and the FBI.

## VII. F. 10

The program also is recruiting volunteers in Washington and Clackamas counties. Other focus areas include the counties of Umatilla, Tillamook, Lincoln, Marion, Polk, Jackson and Josephine.

Other aspects of the Elder Financial Exploitation Prevention Program include distribution of consumer education booklets and video tapes to 400 interested churches throughout Oregon. "Elder Fraud Information Centers," consisting of displays of fraud-related materials provided by various state agencies, will be located in libraries, law enforcement agencies and seniors centers all over Oregon.

Special guests expected at the kick-off include Attorney General Myers, FTC Seattle Regional Director Chuck Harwood, FBI White Collar Crime Unit Supervisor Joyce Atkins, Portland FBI Special Agent-in-Charge Kathleen L. McChesney, AARP State Representative Jerry Cohen, AARP State President Nellie Fox and Vickie Herson and Pat Medford of Elders in Action.

The Elder Financial Exploitation Prevention Program is a cooperative effort of the Senior and Disabled Services Division, Oregon Department of Justice, FBI, FTC, AARP of Oregon, Department of Public Safety Standards and Training, Governor's Commission on Senior Services, Oregon Bankers Association, Oregon Association of Area Agencies on Aging, US Attorney, District of Oregon, US Postal Inspection Service and local law enforcement agencies and associations. The project is funded by a grant from the US Department of Justice, Office of Victims of Crime.

CONTACTS: Lee LaFontaine, SDS Grant Coordinator, (503) 945-8834  
Jim Sellers, DHR Media Communications, (503) 945-5738  
Gordon Compton, FBI, (503) 224-4181  
Chuck Harwood, FTC-Seattle, Wash., (206) 220-6350  
Pat Medford/Vicky Herson, Elders in Action, (503) 823-5373  
Jerry Cohen, AARP, (503) 652-8855  
Jan Margosian, DOJ, (503) 378-4732

###



To: Mayor and City Council

Through: Dan Bartlett, City Manager

From: Jim Brink, Public Works Director

SUBJECT: Public Works Quarterly Report, July 1 – September 30 1998

Action Requested: None. Information only.

Discussion: The following report provides information on Public Works' activities for the 1st quarter of FY 1998-1999. It also provides information on the expected activities for the 2nd quarter FY 1998-1999.

### Street Division

Maintenance: The street department completed the sweeping of approximately 300 miles of city streets and 30 miles for Happy Valley, hot patched 85 pot holes and 14 utility cuts, completed 33 infra-red repairs and 7 miles of crack sealing, installed new signs per request of City and Happy Valley and replaced damaged signs, shoulder rock repairs, responded to 41 citizen requests, installed pavement markings, and completed the 98/99 paving project. The County work crews have completed many jobs for the Storm, Sewer, Water, Street and Facility depts.

Projects: Worked with engineering on the STSP and NTMP projects (Lake Rd and Madison St sidewalks) and the 98/99 Transit Center Improvement project on Jackson St. Prepare for the leaf and winter season.

Next quarter: The activities anticipated for the following quarter include continuing the sweeping schedule to include Happy Valley, patching of potholes, shoulder rock repairs, infra-red pavement repairs, departmental cross training for new employees, sign replacement and installation, assisting Happy Valley with their needs, and training of street crew on using the new Hansen program. Also, work with Engineering on the completion of the NTMP project (Stanley Ave sidewalks), the CDBG sidewalk project and the CDBG Ramp project.

### Water Division

Maintenance: The field maintenance team has completed 7 dig in water services, 2 dropin water services, and 332 utility locates, changed out 344 water meters, repaired 4 fire hydrants, 1 main break and 3 water services, moved 1 hydrant for the CDBG sidewalk

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

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project, moved 8 water services on 22<sup>nd</sup> Ave, completed 125 turn offs on turn off days, and responded to 29 citizen request.

The City Hall Service team completed 1054 service requests. These consisted of final reads, leak investigation, rereads, turn ons, turn offs, and other misc. calls.

An intern (Ali Taha) is working to complete a water GIS coverage.

### **Projects:**

The telemetry improvement project is about 75% complete for water and some testing has started for the completed parts of the system (Wells 2, 3 5, 4, and 7, TP2/3/5 and TP4/7, the elevated tank, the concrete reservoir, transfer pumps from low to high side and CRW Intertie)

The 43<sup>rd</sup> Ave/Roswell St and Guilford Dr sections of the 1998-1999 Waterline Improvement (Phase I) were completed. The CRW Intertie project is 99% complete and has been pumping 500,000 gallons per day for 6 weeks.

### **Water Quality:**

Don Simonsen, the water quality specialist, has completed 72 bacteria samples, 6 new water line samples and the 3<sup>rd</sup> quarter Volatile Organic Compound (VOC) samples and taken 3 rounds of samples for the Clackamas River Water/Milwaukie blending study. Don is also working with the DEQ about contamination issues on the LD McFarland property at 37<sup>th</sup> Ave and Monroe St, Revtec on International Way, Waren Industries along ORE 224, and Stanley Works (the old Proto Tool site on 32<sup>nd</sup> Ave). We have taken some samples from well 8 to check out a taste problem.

**Next quarter:** Complete the telemetry project and the CRW Intertie project. Work with Engineering to complete the design of the 1998-1999 Waterline Improvement Project - Phase II project (Waverly Dr and Lava Dr) and the Johnson Creek Blvd and Portland Intertie Improvement project.

### **Sewer Division**

**Maintenance:** received and responded to 7 citizen requests; cleaned 2,000 ft of sewer lines; televised 2000 feet of sewer lines, completed 283 utility locates, 5 dye tests, 3 sewer generator tests, and lift station maintenance; continued sewer infrastructure mapping and responded to 1 oil spill.

**Projects:** Worked with TSI on the Telemetry Improvement project of the four lift stations (SE-98-3), worked on the sewer boundary map, hired an intern (Ali Taha) to work on the sewer and storm system GIS coverages. Trained Dave Butcher on sampling procedures, inspected 37<sup>th</sup> Ave Storm project and Blazer Ct. subdivision. Installed multi-conductor equipment in TV Van. Improved landscaping at 59<sup>th</sup> and Harrison Lift Station. Removed gas line from sewer main on Linwood Ave. Installed new clean out on 37<sup>th</sup> Ave for paving project. Located stub out for property on Olsen St. which was not connected to sewer (the property has been subsequently connected).

**Next quarter:** Implement corrections of sewer mapping; continue planning to implement manhole inspections and I&I elimination; continue to work with TSI to complete telemetry improvement of lift stations, and work with Engineering on Brookside Lift Station project (SE-99-3), 30<sup>th</sup> Ave Sewer project (SE-99-1), the Waverly Dr Sewer LID and the Light Rail Project. Begin looking at the purchase of a new sewer service vehicle.

### **Storm Division**

**Maintenance:** received and responded to 10 citizen requests, cleaned 535.5 feet of storm water line, televised 1,171 feet of storm main line and 50 feet of mini cam work, completed 283 utility locates, attended 3 NPDES meetings, attended 1 stormwater video production meeting, raised 1 drywell, cleaned 178 catch basins, responded to 1 oil spill, attended 1 Johnson Creek Watershed meeting and 3 Cleanwater(ACWA) meetings in Salem, and coordinated with Metro for the Johnson Creek Summit Conference,

**Projects:** completed the Brookside Dr Storm Improvement project, began Johnson Creek habitat rehab, organized Johnson Creek clean up day, completed 762' of "Grade- all" on Railroad Ave, completed 100' of "Grade-all" vicinity the Winsor Ct wetlands and improved drainage at outfall from Winsor Dr, installed 2 drywells and 1 sedimentation manhole on Woodhaven St, worked with the Johnson Creek Watershed Council and Wetland Conservancy on planning water quality improvements at Roswell Pond. County Corrections Crew cut brush around Roswell Pond.

**Next quarter:** complete mapping of stormwater system, clean catchbasins, and investigate installing new drywells. Investigate leasing a Combination machine, fill the vacant Storm FTE, and have the outfall and riprap at Roswell Pond cleaned out. Coordinate with Engineering on the Light Rail Project and the 42<sup>nd</sup> Ave storm improvement project..

### **Engineering Division**

#### **This quarter:**

1. Building permit reviews on 12 Commercial/Industrial permit applications and 31 SFR new and remodel permit applications and no multifamily permit applications.
2. Provided information to future applicants during 25 Pre-Application conferences.
3. Inspection of approximately 20 private drywells and work on about 50 code violations.
4. 1998-1999 Overlay project completed by Oregon Asphalt Paving. Punch list 90% complete.
5. Drefshill Street Sanitary Sewer LID project completed. Assessments mailed by finance.
6. Blazer Court subdivision on Lake Road at 35th Ave completed.
7. CDBG sidewalk project 95% complete except for punch list.
8. McLoughlin/22nd Avenue waterlines complete.

## VII. G. 4

9. 48th Avenue and 43rd and Roswell waterline projects by 3D Construction completed. Guilford Drive and Guilford Court waterline project by DM Excavating completed.
10. MARTINDALE Subdivision completed.
11. Madison Street sidewalk improvements completed.
12. Willow Street LID completed.
13. TEAM COURT (formerly ROCKWOOD MEADOWS) subdivision improvements completed. Walk through yet to be done.
14. HARVEY COURT Subdivision 98% complete.
15. Lava Drive and Waverly Drive waterline and sanitary sewer improvement project in design by HHR. Borings done on both streets to determine rock depth.
16. Lake Road sidewalks completed.
17. Milwaukie Transit Center improvements bid and awarded to Morse Bros.
18. 1998 ODOT Grant Application submitted.
19. Stanley Avenue sidewalk/NTMP improvements designed.
20. Brookside Stormline Project completed by Les Brown Excavating.
21. 42<sup>nd</sup> Avenue vicinity Washington St. stormline design completed.
22. Brookside Lift Station project in design by Murray, Smith & Associates.
23. Stanley Ave./55th/JCB sanitary sewer LID. Easement documents and Topo survey completed.
24. Submitted preliminary joint application w/CCSD#1 for Clean Water State Revolving Fund (CWSRF) program through DEQ to sewer areas east of the City. Application approved.
25. Sidewalk repair program progressing slowly (57 downtown and 43 neighborhood).
26. Update of standard drawings.
27. Completed Linwood/Monroe intersection street lighting improvement.

### **Next quarter:**

1. Continued implementation of School Trip Safety Program and NTMP.
2. Continue with design of 23rd and Harrison Street sanitary sewer re-construction project.
3. Continue implementation of 1998 NTMP project (Stanley Ave. vicinity Linwood Elementary School)
4. Final TEAM COURT Subdivision.
5. Final HARVEY COURT Subdivision.
6. Continue Stanley Ave/55<sup>th</sup> Ave/Johnson Creek Blvd. Sanitary sewer LID design by Compass Engineering.
7. Complete CSO and design of Brookside sanitary sewer lift station.
8. Complete design of Lava Drive and Waverly Drive waterline and sanitary sewer improvement project by HHR and go out for bid. Form LID for sanitary sewer.
9. Construct Stanley Avenue sidewalks.
10. Project management for Transit Center improvements.
11. Coordinate with Tri-Met to improve bus stop facilities on Line 75.
12. Submittal of projects for Priorities 2000.
13. Submittal of projects for inclusion in RTIP.

14. Final application for CWSRF for phase one of projects to be submitted.
15. Continued update of standard drawings.

### **Facility Maintenance**

Library - The new air handler and cooling system has been ordered. Preparation work for the new equipment is being done and the system will be up and running before the cooling season.

JCB - Phase one and two of the office remodel was successfully completed. The front counter is much more customer friendly. Phase three is planned the last week of October.

City Hall - We have started the City Hall project which includes a new roof, a new HVAC system and the remodel of the 2<sup>nd</sup> floor Council chambers, Council meeting room and the three offices.

Safeway - The youth center is closed. It was a very successful pilot project and the City is looking for ways to put a permanent facility in place. The building has been leased to the JCs for a Halloween Haunted House.

### **Fleet**

We are now providing Fleet service to Clackamas Fire District #1.