

2006

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 17, 1998**

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

Larry Lancaster  
Mary King

Jeff Marshall  
Rob Kappa

Also present:

Dan Bartlett,  
City Manager

Susan Heiser,  
Planning Director

Charlene Richards,  
Assistant City Manager

Jim Brink,  
Public Works Director

Jim Coleman,  
City Attorney

Paul Roeger,  
Civil Engineer

Michelle Gregory,  
Neighborhood Services Coordinator

**PROCLAMATIONS COMMENDATIONS, SPECIAL REPORTS AND AWARDS**

**First Quarter 1998 – 1999 Neighborhood Grant Applications**

**Gregory** updated the City Council on the neighborhood grants awarded for the first quarter of the fiscal year. Thirteen applications were submitted between July and September. The Grant Committee, made up of the appointed members of the Budget Committee, awarded over \$7,000 this quarter. Information was sent to the Committee a week in advance, and that amount of time seemed adequate for the group to review the material. Second quarter applications will be due on December 18 with awards being made on January 11, 1999. The Grant Committee meetings are open to the public, and the Neighborhood District Associations (NDA) are notified of the time and place.

Awards granted during this round included: Ardenwald for childcare during PTA and NDA meetings and school crossing guard stipend; Island Station for meeting refreshments; Linwood for promotional efforts and youth athletics; and Milwaukie Transportation Program Bus Lift Maintenance under the Social Services Grant.

**Gregory** said a majority of the next quarterly NDA leadership meeting will be devoted to grant application development. The Grant Committee denied some of the applications because it felt they were too conceptual in nature. She noted that a technology application had been denied and explained that the Committee was concerned about depreciation and property liability. NDAs may appeal any Grant Committee denial.

## CONSENT AGENDA

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

1. City Council minutes of November 2 & 5, 1998;
2. City Acceptance of McLoughlin Boulevard Waterline Improvement Project; and
3. Resolution No. 33-1998: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the Second Regular Session of December Will Be Held on December 8, 1998, at Ardenwald Elementary School.

Motion passed unanimously.

## AUDIENCE PARTICIPATION

**Gene Branderhorst**, 2039 SE Courtney, Milwaukie 97222. He solicited donations for an upcoming 1998 Honolulu Marathon to benefit the Leukemia Society of America. He introduced his son, Josh, a leukemia patient. He needed pledges totalling \$3,500 to \$4,000, and he estimated his expenses would be about \$1,000.

## PUBLIC HEARING

### Economic Improvement District Continuance and Assessments

**Bartlett** said the purpose of the hearing was to allow persons conducting business and/or owning property in Milwaukie's economic improvement district (EID) the opportunity to support or object to the business license surcharge and assessment. On October 6, 1998, the Milwaukie City Council adopted two ordinances. Ordinance No. 1844 continued the business license surcharge through 2003. The surcharge will not be imposed if more than 33% of the persons conducting business in the district submit written objections. Ordinance No. 1845 changed the method of the EID assessment on property and continued these assessments through fiscal year 2003 – 2004. The assessments will not be made and the economic improvement district project terminated if property owners subject to more than 33% of the total amount levied submit written objections.

**Mayor Tomei** opened the hearing to determine assessments and the business license surcharge for the Economic Improvement District at 6:25 p.m.

Staff Report: **Bartlett** said prior to the meeting about 19% of the affected businesses had submitted written remonstrances for the surcharge and 29% to the assessment. Under Oregon Law, Ordinance No. 1845 allows for voluntary withdrawal from this type of district. The Milwaukie Downtown Development Association (MDDA) has requested the assessment be set over to the January 19, 1999. He reviewed the business license process and surcharge which is normally collected in January each year.

Correspondence: The remonstrance letters received up to the time of the hearing were summarized in a memo to Council.

Audience Testimony: **Jim Bernard**, 7615 SE 20<sup>th</sup>, Portland; business and property owner; MDDA president. The MDDA Board requested the Economic Improvement District assessment ordinance be set over because of apparent confusion in the affected business community. There was a rumor circulating that the assessment amount was doubling. The Board would use the additional time to address some of the concerns and work toward solving problems. The MDDA did wish, however, to follow through on the business license surcharge.

**Councilor Lancaster** asked the percentage of remonstrances that were on form letters.

**Bartlett** replied that about 90% of those remonstrances received were on form letters.

**Bernard** announced the downtown tree planting project on Saturday, November 21 at 8:30 a.m.

**Councilor Kappa** asked Bernard what he hoped to accomplish with the additional time.

**Bernard** intended to show business and property owners what the MDDA has actually accomplished and what services it provides. For example, the MDDA can act as mediator between the City and a new business owner to obtain remodeling permits. The Board wants to convince people that the MDDA is a viable group. He also felt the original letter sent by the City could have been more clear.

**George Van Bergen**, property owner of 2336 SE Washington and resident at 12366 SE Guilford Drive. As a property owner, he was concerned with the assessment method. It needed to be clear in the letter what the base rate was. He had an issue with parity and paying for unimproved land which, in his case, was grass and trees. His rate last year was \$225, and this year it was estimated at \$420. There are so many exceptions for non-profit and publicly-owned property that the total collection of \$24,000 was a great burden on some. He has always expressed his opposition to the EID, but, at the same time, has made a commitment to stay involved and attend MDDA Board meetings.

**Van Bergen** wanted to know if the MDDA needed the money and what were the organization's actual goals? He asked if the City's share of the "three-legged stool" was going up also. He felt the assessment on buildings and improvements was alright, but he did not feel he should be charged for open land. He suggested the MDDA look at other funding methods. The City of Portland's charges, for example, are based on gross receipts. He was not in favor of the EID, but he was willing to work to parity. The MDDA focuses on Main Street and does not include Washington Street in its services. He added that if there was to be an assessment, it should be larger.

**Councilor Kappa** asked Van Bergen how he felt about the business license surcharge.

**Van Bergen** said he was a property owner, and the surcharge did not apply to him because he no longer maintained a business. His argument was paying an assessment for grass and shrubs.

**Mayor Tomei** asked Van Bergen if he had attended the meetings in which the MDDA Board had discussed the assessment method.

**Van Bergen** replied that he had not. He was willing to work with the Board to re-evaluate the assessment because he felt there were other options. He was opposed to all four elements of the EID contained in the letter.

**Steve Morse**, 3028 NE Alameda, Portland; business and property owner of Milwaukie Lumber. He supported the continuance of the EID and believed in the grass roots nature of the project. He felt the MDDA was part of the City's future.

**Carl Thompson**, 2026 SE Harrison, owner The Glass Shop. He expressed his appreciation for the MDDA's being available to answer questions. He supported the MDDA and its activities.

**Dodie Linder**, MDDA Director, thanked Van Bergen for bringing his ideas and issues forward. If the EID is set over to January, the Board will address these concerns and others expressed by business and property owners.

**Councilor Kappa** was contacted by four businesses who believed the length of the assessment was too long. They felt it should be one to two years instead of five.

**Linder** said to be effective, the MDDA needs to set out a three to five year plan. It would be difficult to increase economic vitality in a one or two year time frame. Business and property owners also need that time for planning.

**Councilor Kappa** asked if the business license surcharge had to be concurrent with the Economic Improvement District.

**Bartlett** said the ordinances can be different. He pointed out the City incurred administrative expenses for holding public hearings which were not charged back to the MDDA.

**Mayor Tomei** made a final call for objections, and there were none.

**It was moved by Councilor Kappa and seconded by Councilor King to continue the Economic Improvement District assessment portion of the hearing to January 19, 1999.**

**Councilor Kappa** encouraged the MDDA to get consensus from the business community during this period.

**Motion passed unanimously.**

**Coleman** clarified that the remonstrances received by the City for Ordinance No. 1845 still stood. Affected property owners may submit or withdraw remonstrances until the close of the hearing on January 19, 1999.

**Mayor Tomei** closed the public testimony portion of the hearing on Ordinance No. 1844 at 7:06 p.m.

**Bartlett** responded that out of 170 registered businesses in the EID, 34 had submitted remonstrances on the business license surcharge. That is a 20% remonstrance rate, and, therefore, it failed. The ordinance stands, and staff will prepare the business license renewals to include the surcharge.

### **Zoning Code Amendments Relating to Variances and Flag Lots File No. ZA-98-01**

**Mayor Tomei** opened the public hearing on the proposed amendments to the Zoning Ordinance and Subdivision Ordinance relating to variances and flaglots at 7:12 p.m.

The purpose of the hearing was to consider the Planning Commission's recommendation on file number ZA-98-01 to amend Zoning Ordinance Section 700 (variances), and Subdivision Ordinance Sections 17.08 (definitions) and 17.32 (partitioning). **Mayor Tomei** reviewed the order of business.

Conflict of Interest and Jurisdictional Issues: None.

Staff Report: **Heiser** presented the staff report. These proposed regulations having to do with administrative variances and land partitioning were a result of working with the Neighborhood District Association (NDA) Land Use Committees. The recommendation was to reduce administrative variances from 25% to 10%, to add language regarding Home Improvement Exceptions, to revise the flaglot definition, and to improve partitioning standards for flaglots. The "flagpole" would increase from fifteen to twenty feet and allow for a five-foot vegetative buffer between the properties. Tree mitigation was also addressed. She provided examples of how the change in the administrative variance would impact applications. The Home Improvement Exceptions grant relief from the strict provisions of the Zoning Ordinance when it is desirable to sustain or enhance an existing residential design or element of the neighborhood character.

The final two proposed revisions had to do with the definition of the flaglot and partitioning of a parcel or contiguous parcels under single ownership into three lots or less. The intent was to provide for flaglot development more compatible with the existing neighborhood. The "flagpole" would increase from fifteen to twenty feet and allow for a five-foot landscaped buffer between the properties and encouraged shared access. The area of the "pole" would now be excluded from the area of the lot. There are also provisions for a maximum six-foot fence at the rear of the flaglot, tree mitigation, and language regarding compatibility with the NDA design plan.

**Councilor Lancaster** referred to staff report page V.B.6, item C. He suggested changing the language to read, "That adverse effect upon other properties that may be the result of this variance shall be mitigated to the maximum extent feasible."

**Heiser** said the ordinance as written was the existing language, and she had concerns about re-noticing the hearing.

**Coleman** said the City Council could make such a modification without notice, but the ordinance could not be enacted at one meeting. The policy issue is if the Council wishes to change the language as proposed. The City Attorney and City Manager discussed the procedure if Council wished any changes.

**Councilor Marshall** recommended adopting the ordinance and making changes at a later date.

**Councilor Kappa** said some of the changes were a result of comments from the NDAs, and it seemed the ordinance was moving toward a design review process.

**Heiser** replied the partitioning ordinance was not the appropriate place for a design review ordinance.

**Councilor Lancaster** referred to staff report page V.B.8, 708.1.C. He noted the word "convince" did not seem to fit the meaning of the sentence.

**Heiser** said that was a scrivener's error and should be the word "convenience."

**Councilor Lancaster** referred to staff report page V.B.16. There were comments relating to Planning Commission workloads, and he asked if these were a problem.

**Heiser** said the agendas have been overly full and noted there were statutory time restrictions. This action will increase the Commission's workload.

**Councilor Lancaster** referred to staff report page V.B.13, article F. dealing with tree removal and replacement. He asked if there had been any discussion of transplanting versus replacement.

**Heiser** said there had been no specific discussion.

**Councilor Kappa** asked if the Planning Commission's work load would become greater if these code amendments were adopted.

**Heiser** said it has the potential to increase the number of items on the agenda impacting both the Commission and the staff.

**Mayor Tomei** referred to staff report page V.B.30, Section F. – Tree Mitigation, and asked for clarification.

**Heiser** said it is understood that some trees may have to be removed specifically for site development.

**Mayor Tomei** referred to staff report page V.B.34, Planning Commission minutes, regarding increasing the flagpole width from fifteen to twenty feet and allowing for a five-foot buffer between properties. She asked if there had been any consideration given to trees that might be in that buffer area. Would they have to be removed?

**Heiser** said it was not the intent to remove trees in the buffer but that trees would be planted if not already there.

**Bartlett** understood the pavement width would stay at twelve feet.

**Heiser** said the twenty-foot wide access strip allows for an eight-foot buffer on one side, and preservation of existing trees could be required.

**Councilor King** noted Commissioner Miller's comments regarding the Commission's continuing to review the definition of flaglots.

**Heiser** said Miller's concerns had to do with private streets.

**Councilor Lancaster** referred to staff report page V.B.12 regarding fences. He asked if there were any style or design requirements that would make the fence uniformly appealing on both sides.

**Heiser** said there are no specifications other than a maximum of six feet as stated in the Zoning Ordinance.

Correspondence: None.

#### Audience Testimony

**Ken Roberts**, 13709 SE Laurie, Oak Grove, and property owner of 2924 SE Malcolm. He thanked Council for bringing the decision forward and Heiser for working with the NDAs and Land Use Chairs in particular. This ordinance began four years ago in response to the past Council and staff moves to densify Milwaukie neighborhoods and making flaglots easier to develop. This Council is demonstrating a desire to make a difference, and he felt this move was courageous and truly reflects long-held citizen beliefs. The neighborhoods wish to see their character carried forward in new development. He urged the City Council to adopt the ordinance at this meeting.

**David Aschenbrenner**, 11505 SE Home Avenue, Hector Campbell NDA. He encouraged the City Council to adopt the Ordinance at this meeting because applications were being submitted in anticipation of the amendments. He addressed the fence issue, and he hoped the developer would work with the neighbor to make it friendly and appealing to both.

**Mayor Tomei** closed the public testimony portion of the hearing at 7:45 p.m.

It was moved by Councilor Marshall and seconded by Councilor Kappa to read the ordinance amending Ordinances No. 1712 and 1440 and declaring an emergency for the first time by title only.

Councilor Kappa felt some of the issues raised could be addressed by developing a design review ordinance.

The group discussed language changes and agreed to forward the concerns to staff for further Planning Commission consideration.

Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance amending Ordinances No. 1712 and 1440 and declaring an emergency 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 Lancaster to adopt the ordinance amending Ordinances No. 1712 and 1440 and declaring an emergency. Motion passed unanimously.

**ORDINANCE NO. 1849:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, TO REVISE ADMINISTRATIVE VARIANCES AND ADD HOME IMPROVEMENT EXCEPTIONS – SECTION 700; AMENDING ORDINANCE NO. 1440, THE SUBDIVISION ORDINANCE, TO REVISE THE FLAG LOT DEFINITION AND PARTITIONING STANDARDS – SECTIONS 17.08 AND 17.32; AND TO ADOPT AN EMERGENCY CLAUSE TO ENACT THESE AMENDMENTS. (ZA-98-01)**

**Waverly Sanitary Sewer Local Improvement District (LID) Report -- Resolution**

Roeger provided the staff report in which the City Council was requested to adopt a resolution stating its intent to form a local improvement district on SE Waverly Drive between 17<sup>th</sup> Avenue and Cambridge Lane. Staff determined there were six lots instead of the five previously reported. This sewer improvement would be in conjunction with a waterline project, and the property owners would save money and experience less disruption. The cost would be shared equally among the tax lots. The project would begin March 1, 1999, and continue for about forty-five days.

Councilor Marshall discussed the cost share options and was concerned that those property owners able to subdivide could benefit more in the future. He noted lot sizes up to 50,000 square feet.

**Roeger** said there is a potential to subdivide and discussed previous attempts to do so. He was not aware of any covenants and restrictions in the area. There was no indication that property owners intended to partition their lots. He noted that tax lot 201 served tax lot 800.

**Councilor Marshall** commented that tax lot 800 had the potential for up to six houses, and the property owner stands to benefit substantially.

**Bartlett** said the City Council may wish to amend the cost share method, so he suggested staff be directed to modify the resolution to a per area methodology.

**Roeger** responded that the City only allows one home on each lateral, so there would have to be a public line built.

**Coleman** said this resolution proposes a method of assessment, so the City could do further cost estimates. Staff would go back to the public and then report those property owner comments to the City Council.

**It was moved by Mayor Tomei and seconded by Councilor King to adopt the resolution with the addition of the legal description for tax lot 800 and to amend all exhibits to include that area and associated costs. Motion passed unanimously.**

**RESOLUTION NO. 34-1998:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE INTENT TO FORM A LOCAL IMPROVEMENT DISTRICT TO CONSTRUCT SANITARY SEWER IMPROVEMENTS ON SE WAVERLEY DRIVE, BETWEEN SE 17<sup>TH</sup> AVENUE SE CAMBRIDGE LANE, ADOPTING THE PRELIMINARY ENGINEERING REPORT, CALLING FOR A PUBLIC HEARING, AND DIRECTING THAT NOTICE OF THE HEARING BE GIVEN.**

**Year 2000 Upgrade to Financial System**

**Bartlett** and **Atanes** presented the staff report in which the City Council was requested to grant the City Manager authority to sign a personal services contract with Springbrook Software in the amount of \$100,000. This would purchase and install Year 2000 compliant financial software.

**Atanes** discussed the potential problems that would likely arise as soon as the 1999 – 2000 fiscal year. This would continue the utility billing, court collections, accounts payable, and payroll. The City is currently 90% compliant with Y2K requirements and deadlines. This purchase was included in the adopted budget as a capital improvement project decision package. She reviewed the vendor qualification

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process in which she found continuing with Springbrook Software, the current provider, to be the most advantageous to the City. There will also be a discount based on the City's being an existing client. Setup and implementation will cost about \$6,500, and license fees will be \$42,000. The package is built to integrate with an NT operating system. An example of efficiencies would include bar coding on utility billing.

**It was moved by Councilor Marshall and seconded by Councilor Lancaster to authorize the City Manager to sign a personal services contract with Springbrook Software in the amount of \$100,000 to purchase and install Year 2000 compliant financial software. Motion passed unanimously.**

#### **Other Comments and Concerns**

**Councilor Kappa** urged moving forward with a design review ordinance and committee to support NDA design standards. **Heiser** said that work was in process, and **Bartlett** added that was a component of the riverfront planning efforts. **Councilor Kappa** suggested additional staff to support these endeavors.

**Councilor Kappa** began a discussion on the *Healthy Communities – Healthy Youth Proposal*.

**It was moved by Councilor Marshall to adjourn the meeting.**

**Councilor King** suggested setting a work session time to discuss youth issues, and **Mayor Tomei** agreed.

**Councilor Kappa** said a work session was part of his recommendation.

**Councilor King** seconded the motion to adjourn. 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.

#### **INFORMATION**

None.

#### **ADJOURNMENT**

**Mayor Tomei** adjourned the meeting at 8:45 p.m.

*Pat DuVal*

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Pat DuVal, Recorder



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

November 13, 1998

To: Mayor and City Council

From: Barb Kwapich *BK*

Re: Changes to City Council Packets for November 17, 1998

Listed below are the changes made to the City Council Packet for November 17, 1998.

- ◆ Revised Agenda
- ◆ **Add:** III. CONSENT AGENDA C. Resolution Changing the Date and Location of the Second Regular City Council Meeting in December
- ◆ V. PUBLIC HEARING Item A. Economic Improvement District Continuance and Assessments

**Add pages V. A. Pages 13 and 14.**

- ◆ **Add:** VI. OTHER BUSINESS. B. Year 2000 Upgrade to Financial System
- ◆ **Add:** VII. INFORMATION. C. Traffic Safety and Transportation Board Minutes, September 21, 1998 and October 19, 1998
- ◆ **Add:** VII. INFORMATION. D. Problem-Solving Partnership Meeting Minutes, November 10, 1998

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
NOVEMBER 17, 1998 - REVISED**

**MILWAUKIE PUBLIC SAFETY BUILDING**

Community Meeting Room  
3200 SE Harrison

**1803<sup>rd</sup> MEETING**

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

**I. CALL TO ORDER**  
**Pledge of Allegiance**

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

**First Quarter 1998 – 1999 Neighborhood Grants Applications (Gregory)**

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

- A. City Council Minutes of November 2 & 5, 1998**
- B. City Acceptance of McLoughlin Boulevard Waterline Improvement Project**
- C. Resolution Changing the Date and Location of the Second Regular City Council Meeting in December**

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

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

- A. Economic Improvement District Continuance and Assessments (Bartlett)**
- B. Zoning Code Amendments Relating to Variances and Flag Lots  
File No. ZA-98-01 – Ordinance (Heiser)**

**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. Waverly Sanitary Sewer Local Improvement District (LID) Report –  
Resolution (Roeger)**
- B. Year 2000 Upgrade to Financial System (Bartlett)**

## **VII. INFORMATION**

- A. Park and Recreation Board Minutes, October 5, 1998**
- B. Planning Commission Minutes, October 27, 1998**
- C. Traffic Safety and Transportation Board Minutes, September 21, 1998 and October 19, 1998**
- D. Problem-Solving Partnership Meeting Minutes, November 10, 1998**

## **VIII. ADJOURNMENT**

### **EXECUTIVE SESSION**

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

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

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
NOVEMBER 17, 1998**

**MILWAUKIE PUBLIC SAFETY BUILDING**

Community Meeting Room  
3200 SE Harrison

**1803<sup>rd</sup> MEETING**

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**Waverly Sanitary Sewer Local Improvement District (LID) Report – Resolution (Roeger)**

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Date: Tuesday, November 10, 1998  
To: Mayor and City Council  
Through: Charlene Richards, Asst. City Manager; Dan Bartlett, City Manager  
From: Michelle Gregory, Neighborhood Services Coordinator  
Subject: Neighborhood Grants Applications for 1<sup>st</sup> Quarter 1998-99

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Attached please find a table of the grants that were submitted by each neighborhood and for the social services grant, in the first quarter of the 1998-99 fiscal year.

Within each grant application box you will find the title of the grant, the amount applied for, the grant committee's decision (approved, conditionally approved or denied) and any pertinent comments regarding the decisions or recommendations of the committee.

**Neighborhood and Social Service Grant Applications  
Submitted in the Fall of 1998-99 (1<sup>st</sup> Quarter)**

II  
2

<b>Ardenwald</b>	<b>Island Station</b>	<b>Lewelling</b>	<b>Linwood</b>	<b>Lake Road</b>	<b>Hector Campbell</b>	<b>Historic Milwaukie</b>	<b>Social Services Grant</b>
<b>Resubmitted Application for Childcare at NDA/PTA meetings</b>  \$700  <b>Approved.</b> <i>For Reporting: show number of kids served and number of additional adult participants generated.</i>	<b>Refreshments at NDA Monthly Meetings</b>  \$900  <b>Conditionally Approved.</b> <i>NDA must market the availability of food through their meeting promotion efforts.</i>  <i>For Reporting: Track number of attendees at meetings.</i>	None submitted this quarter	<b>NDA Promotional Efforts</b>  \$600  <b>Approved.</b> <i>For reporting: track how meeting attendees find out about the meeting.</i>	<b>Low Income Homes Assistance</b>  \$4000  <b>Denied.</b> <i>Too conceptual. Not enough detail on how program would be implemented.</i>  <i>Encouraged to reapply with more concrete program criteria. Also make application more legible.</i>	None submitted this quarter	None submitted this quarter	<b>Northwest Housing Alternatives McFarland Site Community Land Trust Start Up</b>  \$5000  <b>Denied.</b>  <i>Too conceptual at this point and project for which funds would be used, has yet to go before any public review body.</i>  <i>Encouraged to reapply if/when project has developed further and funds can be applied to a more specific aspect of its completion.</i>

ARSONVILLE

ISLAND STATIONS

Lewelling LINWOOD

LAKE ZOO

Hecker Camp

HIST MILW.

Social Services

<p><b>Resubmitted Application for Crossing Guard Stipend</b></p> <p>\$640.00</p> <p><b>Approved:</b> For reporting list times of crossing guard duty and approx. average of kids served daily.</p>	<p><b>Neighborhood Association Christmas Party</b></p> <p>\$100</p> <p><b>Approved.</b></p>		<p><b>Milwaukie Youth Athletics</b></p> <p>\$1613.20</p> <p><b>Conditionally Approved.</b> Ensure that all aspects of the program funded by grant money are accessible to both genders.</p> <p>For reporting: Show number of "no-fee" opportunities were made possible with grant. Provide a list of Equipment (with costs) that was purchased. Also, provide documentation on any community service done in Linwood.</p>	<p><b>1999 NDA Open House</b></p> <p>\$1000</p> <p><b>Denied.</b> Not enough detail on how funds would be used. No report on status of projects from the last grant award.</p>			<p><b>Milwaukie Center Transportation Program Bus Lift Maintenance</b></p> <p>\$2000</p> <p><b>Approved.</b></p> <p>For Reporting: Provide copies of invoices for services and materials.</p>
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Resubmitted

ISLANDS  
STATION

LINWOODS

<p>Resubmitted Application for Technology Improvement</p> <p>\$800</p> <p><b>Denied:</b> Technology Equipment depreciates too quickly, liability for property is too high. Recommendation: NDA submit a grant for contracting these services out to a place like Kinkos.</p>	<p>Checking Account Maintenance</p> <p>\$75</p> <p><b>Approved.</b></p>		<p>Linwood Elementary School Playground Project Cont.</p> <p>\$2000</p> <p><b>Approved for \$1000.</b></p> <p>Reduction based on lack of detail on costs for improvements. Concrete must be poured before winter so use \$1000 for that part. Provide itemization of all expenses to date.</p> <p>Encouraged to reapply for the remainder once more estimates for park benches have been obtained.</p>				
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Total  
By  
NDA

Ardenwald	Islands Sector	Levelling	Linwood	Lake Road	Hector Camp.	Hist Milw.	Social Services
\$2140.00 requested	\$1075 requested	\$0	\$4213.20 requested	\$5000 requested	\$0	\$0	\$7000 requested
\$1340.00 approved	\$1075 approved		\$3213.20 approved	\$0 approved			\$2000 approved.

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION  
NOVEMBER 2, 1998**

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

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

Staff present: City Manager Bartlett; Assistant City Manager Richards; Police Chief Collier; and Program Specialist Middleton.

**Information Sharing**

1. **Councilor King** discussed the upcoming Johnson Creek Watershed Conference.
2. The Steinmann court date is November 18.
3. **Councilor Lancaster** reviewed the City's insurance coverage and determined that Sedgwick James was an appropriate agent of record. He did have one concern with ethics legal defense coverage, but that was included in the 1998 – 1999 policy.
4. **Councilor Lancaster** received a letter from Milt Palm requesting assistance with sewer problems on his property. **Bartlett** said that it was a matter of litigation and would have to be reviewed with legal counsel in executive session.
5. **Councilor Marshall** attended the North Clackamas Parks and Recreation District (NCPRD) Advisory Board retreat. Issues discussed were: revising the master plan; bringing finances in line with obligations; acquiring property; enhancing and maintaining existing properties; surveying neighborhood boards to determine their needs; and fulfilling past commitments primarily for active recreation. The Teen Center was discussed as a facility constituents seemed to want. He talked to the Board about issues relating to the City of Milwaukie: the Jr. High School site, riverfront, sewage treatment plant, and the lack of neighborhood parks. He felt the City was doing what it could at this point and moving ahead on its own projects.
6. **Councilor Kappa** discussed amendments to the LPSSC and Regional Water Purveyors bylaws.

7. **Councilor Kappa** discussed the rising frustration level among downtown business owners related to parking. He suggested the Milwaukie Downtown Development Association (MDDA) take responsibility for monitoring the situation and work with the City to contract for services. **Bartlett** said Linder and Gregory were preparing a survey from which a recommendation would be prepared.
8. **Mayor Tomei** and Bartlett attended a Bureau of Water and Environmental Services meeting. Tri-Cities apparently feels it has the capacity to take some of the flow from the Kellogg Plant. Hopefully, this will also help the odor problem since Kellogg is not equipped to treat food processing effluent.

**Bartlett** discussed future rates and the continuing talks with Oak Lodge Sanitary District. He was concerned the incentive to close Kellogg would disappear if Milwaukie was to move its flow elsewhere. He told Director Read he would not sign an agreement that did not have a date certain for decommissioning the Kellogg Plant.

**Mayor Tomei** cautioned that it will be harder to take Kellogg off line in the future if a lot of money is spent on odor control now. Closing the Plant will be very expensive and will need the support of the entire region.

9. **Mayor Tomei** met with Tri-Met Director Hansen, and he showed great interest in the Scott Park mitigation efforts. They also discussed the Safeway site as a transit center.

#### **Riverfront Board Interviews**

The Council interviewed Kathi Cardinalli and Paul Verbout.

#### **Problem-Solving Partnership**

**Middleton** reviewed the Problem Statement and the stakeholders involved in the project.

The group discussed the problem statement and the need to focus the community in a positive direction.

**Middleton** said the PSP was interested in a business community forum facilitated by the Milwaukie Downtown Development Association (MDDA) director and invite businesses, the City Council, Police Department, department heads, and office of neighborhoods. The purpose would be to give the business community an opportunity to air its concerns.

The PSP also recommended a downtown COPs annex that could be used for report writing, cadet activities, bike patrol headquarters, and SALT (Senior and Law Enforcement Together) volunteers. Other solutions under discussion: permit process streamlining; property maintenance and beautification; public restrooms; and continuance of a strong community policing ethic.

**Councilor Marshall** found it curious that there was a parking problem and the downtown, at the same time, was dying. The group discussed the City-owned permit parking lots.

**Bartlett** said the City has a legal obligation to provide spaces for those who have purchased permits, so over-selling was not really an option. He suggested delaying the long term decision until Linder and Gregory completed their survey. Street lighting concerns for the Key Bank and City Hall parking lots would be assessed as a risk management issue.

**Councilor Kappa** asked if there was significant criminal activity downtown.

**Collier** said, when compared with other communities, there was not a serious problem. Other members of the community need to get involved because these are not police-only issues. The truancy issue is being addressed through the School Resource Officer. There also needs to be a relationship with the riverfront plan.

The group discussed a downtown building mural project, transit center cleanup, and downtown directory.

**Mayor Tomei** asked that the PSP monthly meeting summaries be included in the Council agenda packet information section.

**Middleton** asked if a business forum should be scheduled.

**Councilor Kappa** said the business owners, not the City Council, are the decision makers in this case.

**Bartlett** said the MDDA contract calls for this type of forum, and Linder has been doing some preliminary planning to include both residential and business components. The PSP was a result of the Clean, Safe Downtown project.

**The City Council agreed to tell the MDDA to call the forum.**

**Middleton** said the committee members do not feel their concerns are being heard.

**Councilor Kappa** supported the forum and pointed out it was critical for the businesses to attend.

The group discussed inviting the 42<sup>nd</sup>/King Road and MarketPlace businesses to the forum.

**Councilor King** wanted direction on the COPS annex. **Bartlett** said that would have to be a budget decision package. He suggested using the fire bay as an interim location for the bike patrol and working with the patrol schedule to increase officer visibility in the downtown area.

The City Council agreed the problem statement was for internal use and would not be posted in City facilities.

#### **Riverfront Board Creation**

The group agreed the Board would consist of seven members and focus on the riverfront redevelopment. The Board may wish to discuss incorporating downtown redevelopment elements with the City Council. The group discussed residency and agreed that it would not be required.

The group agreed to consider adopting the ordinance establishing the Riverfront Board at the November 5 meeting and consider the Mayor's slate of appointees.

#### **Riverfront Plan**

**Bartlett** summarized the work done by the technical advisory committee. That group recommended carrying forward four of the eight firms responding to the City's Request for Qualifications: Walker Macy; Mayer/Reed; W&H Pacific; and Crandall Arambula. The group agreed interviews of these firms would be done jointly by the City Council and Riverfront Board on Saturday, December 5.

Mayor Tomei encouraged the Council and others to visit the new Main Street business "Some Like It Hot."

The meeting ended at 7:45 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 5, 1998**

The one thousand eight hundred and second meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the Lewelling Elementary School Library at 5325 SE Logus Road. The following Councilors were present:

Larry Lancaster  
Mary King

Jeff Marshall  
Rob Kappa

Also present:

Dan Bartlett,  
City Manager

Rob Shelton,  
Associate Engineer

Charlene Richards,  
Assistant City Manager

JoAnn Herrigel,  
Program Services Coordinator

Jim Brink,  
Public Works Director

**PROCLAMATIONS COMMENDATIONS, SPECIAL REPORTS AND AWARDS**

**America Recycles Day**

**Mayor Tomei** read a proclamation naming November 15, 1998, as *America Recycles Day* in the City of Milwaukie. **Herrigel** said the purpose of this nationwide event was to increase recycling program participation and encourage purchases of recycled content products.

**CONSENT AGENDA**

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

1. City Council minutes of October 19 & 20, 1998; and
2. City Acceptance of Clackamas River Water Intertie Project.

Motion passed unanimously.

**AUDIENCE PARTICIPATION**

**Amy Patiño**, 4026 SE Llewellyn Street. She had been advised by City Manager Bartlett and Planning Director Heiser that she needed to request a variance application fee waiver from the City Council. Patiño indicated there were circumstances relating to their home remodel project that resulted in her husband and the contractors not getting the appropriate building permits. She told the Council Mr. Patiño was not from this country, and neither he nor those with whom he bartered for construction services understood a variance and building permits were required. She was out of town during construction, and, when she came back to Milwaukie, she learned that a variance for

### III. A. 6

covered parking needed. She noted that half of the other houses on the block were in violation of the covered parking requirement.

When the Patiño's purchased their home, they were not aware of the drainage problem. The remodel both eliminated water coming into their home and made the structure more attractive. **Patiño** said the \$1,400 variance application fee would be a hardship and asked that it be reduced to \$800.

**Bartlett** said the variance itself was not a matter the City Council can address at this time. Council adopted a resolution stating that the City will charge the full amount for its permits, and staff does not have the authority to reduce or waive fees. The Council considers the requests on a case-by-case basis.

**Patiño** said she had understood the construction people would apply for the appropriate permits, but, she added, she was not sure they were licensed contractors. She believed her husband had signed an agreement to trade services. She did understand that a building permit was needed for the addition, but she went out of town and was not there to make sure they were taken out. She and her husband would not have added to their house if they had known about the covered parking requirement.

**Bartlett** said Heiser had determined this case to be a major variance, or waiver of a condition of the code, that would have to be heard by the Planning Commission. Application fees are not a matter of staff discretion.

**Patiño** added the permits and variance fee would cost over \$2,000. She would not have pursued the addition if she had known the extent of the fees. She said they were actually dealing with a drainage problem.

**Mayor Tomei** commented that non-profit organizations had come before the Council requesting waivers, and they were denied. She suggested installment payments.

**Councilor Marshall** said normally when construction goes on prior to applying for the proper permits, there is a penalty. He felt this was a violation of the laws, and other citizens should not be asked to shoulder the burden.

**Councilor Kappa** felt the City Council should set criteria for this type of issue rather than considering each fee waiver request on a case-by-case basis.

**Mayor Tomei** pointed out the policy was not to waive the fees. She suggested, since it seemed the family would be placed in a hardship situation, that installment payments be established.

**Councilor Kappa** felt Patiño had acted innocently out of ignorance of the law. He recommended the fee be reduced to \$800.

**Councilor King** was against setting that precedent and felt the full fee should be charged.

**Councilor Lancaster** agreed with Kappa because he did not feel any decision under the current circumstances would be characterize as precedent setting.

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to allow the \$800 variance application fee. Motion failed 2 – 3 with the following vote: Councilor Kappa and Councilor Lancaster aye; Mayor Tomei, Councilor King, and Councilor Marshall nay; no abstentions.**

**It was moved by Councilor King and seconded Councilor Marshall to direct Patiño to speak with the City's financial officer to establish installment payments on the full amount of the variance application fee. Motion passed 3 – 2 with the following vote: Mayor Tomei, Councilor King, and Councilor Marshall aye; Councilor Kappa and Councilor Lancaster nay; no abstentions.**

**Diane Luther**, Northwest Housing Alternatives, Inc. (NHA), 2316 SE Willard. NHA has operated the Annie Ross House in Milwaukie since 1986 in addition to other affordable housing units for low income families, seniors, the disabled, and the homeless. NHA is undertaking a new project, the Clackamas Community Land Trust. The goal of the project is to provide affordable home ownership opportunities and create a number of starter homes in the area. The mechanism is for the Trust to retain the land into perpetuity and the homeowner to purchase the home only. This method makes home ownership more affordable for the family. NHA is looking at the MacFarland property as a site for this type of program. **Luther** explained that the NHA operates as an independent non-profit organization. She was appointed to the Metro Policy Advisory Committee's Affordable Housing Committee and was aware of the Functional Compliance Plan.

### **Stanley Avenue Neighborhood Traffic Management Sidewalk Project**

**Shelton** presented the staff report in which the City Council was requested to authorize the City Manager to sign a contract for the Stanley Avenue Project. The scope of the project was 760 linear feet of curb, 3,450 square feet of sidewalk, storm water drainage, and two fourteen-foot speed humps. These improvements meet the objectives of the Neighborhood Traffic Management Program (NTMP) and the School Trip Safety Program (STSP). Stanley has the highest priority because of its proximity of Linwood Elementary School and traffic volume and speed.

Staff recommended delaying the Roswell Street local improvement district (LID) until fiscal year 1999 – 2000 and adding \$31,000 to the Stanley project. **Shelton** reviewed the proposed funding: Schedule A (Harlow Street to Sundial Court) \$65,857 from the Street Fund; and Schedule B (Sundial Court to Harlene Street) \$31,000 from the Roswell project; \$13,568 from developers agreements, and \$3,551 from the Street Fund. He discussed the public involvement process that included forty-five properties and indicated the speed hump determination would be made after the November 18 neighborhood meeting. He had received nine responses to his initial letter with five in favor and four opposed.

### III. A. 8

**Councilor Lancaster** noted the speed watch data used to make project decisions was from 1997 and asked how recent the other data was.

**Shelton** said the other data was also from 1997. He responded to Lancaster's concern that the itemized list called for speed "bumps" with one in Schedule A and one in B. That was an error and noted it should read "14' speed hump", and they are clearly within Schedule A.

**Councilor King** noted this project seemed to have some fairly extensive storm water elements.

**Shelton** explained the storm water needs were more extensive in that area than in the Olsen and Washington Street projects.

**Bartlett** said the Roswell project was not as critical to the STSP and felt delaying it was a more sensible expenditure of public funds.

**Shelton** added that section of the Roswell project was a dead-end street west of 32<sup>nd</sup> Avenue. It has not gone out for bid yet.

**Councilor Kappa** asked if the Stanley Avenue improvements would meet future development patterns in that area.

**Shelton** said he was not aware of many opportunities for development with the exception of several large lots that could be partitioned.

**It was moved by Councilor King and seconded by Councilor Kappa to authorize the City Manager to sign a contract for the Stanley Avenue sidewalk project with D & D Concrete and Utilities, Inc. in the amount of Schedule A \$65,847 and Schedule B \$48,119.40. Motion passed unanimously.**

#### Establish Riverfront Board – Ordinance

**It was moved by Councilor Marshall and seconded by Councilor King the read the ordinance adding Municipal Code Chapter 2.26 – Riverfront Board, 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 adding Municipal Code Chapter 2.26 – Riverfront Board, 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 Lancaster to adopt the ordinance adding Municipal Code Chapter 2.26 – Riverfront Board. Motion passed unanimously.**

**ORDINANCE NO. 1848:****AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ADDING  
MUNICIPAL CODE CHAPTER 2.26 – RIVERFRONT BOARD.****Riverfront Board Appointments**

**Mayor Tomei** with the consensus of Council, made the following Riverfront Board appointments: Dodie Linder, Michael Martin, David Green, Kathi Cardinalli, Mitch Wall, Stephen Loaiza, and Paul Verbout.

**Information**

1. **Bartlett** announced the November 12, 1998, Budget Committee meeting.
2. **Bartlett** announced the four firms would be interviewed on December 5 for the Milwaukie Downtown/Riverfront Master Plan: Walker Macy, Mayer/Reed, W&H Pacific, and Crandall Arambula. Interviews are scheduled for December 5.
3. **Councilor Kappa** requested a work session to discuss fee waiver criteria, and **Bartlett** recommended this be done in 90 days so the new Finance Director could be included in the discussion.
4. **Councilor King** announced the Johnson Creek Watershed Conference.

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

**Mayor Tomei** adjourned the meeting at 7:10 p.m.

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Pat DuVal, Recorder



TO: Mayor and City Council  
THRU: Dan Bartlett, City Manager *Dan*  
FROM: Jim Brink, Public Works Director *JEB 10-13-98*  
RE: McLoughlin Blvd. Waterline Improvement Project  
City Acceptance  
DATE: October 12, 1998

**BACKGROUND**

The Public Works Department advertised for bids for the McLoughlin Blvd. Waterline Improvement Project on April 2, 1998. Twelve companies submitted bids, and Les Brown Excavating, Inc. was the low bidder at \$172,440.00.

The project involved the removal of lead joint waterline casing and the installation of 3,300 lineal feet of 10" waterline, and 60 lineal feet of 6" waterline. Change orders added \$11,307.10 to the original bid price, due to changes in quantities, requirements by Union Pacific Railroad to protect the trestle pilings, and conditions found in the ground during construction. The final cost of the project was \$183,747.10.

The project was accepted as complete and retainage was paid August 26, 1998.

**ACTION REQUESTED**

City Council accept the McLoughlin Blvd. Waterline Improvement Project as capital improvements.

/cjw

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE SECOND REGULAR SESSION OF DECEMBER WILL BE HELD ON DECEMBER 8, 1998, AT ARDENWALD ELEMENTARY SCHOOL.**

**WHEREAS**, the City Council has identified improved communications with the community as a high priority goal; 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 second regular session of December 1998 will be called to order at 6:00 p.m. on December 8 at Ardenwald Elementary School, 8950 SE 36<sup>th</sup> Avenue.

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

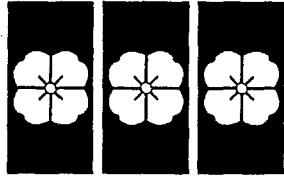
ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
O'Donnell, Ramis, Crew, Corrigan & Bachrach, LLP

C I T Y O F



MILWAUKIE  
\*\*\* M E M O R A N D U M \*\*\*  
November 10, 1998

To: Mayor and City Council  
From: Dan Bartlett, City Manager *DB*  
Re: Milwaukie Downtown Development Association (MDDA):  
Economic Improvement District Assessment &  
Business License Surcharge

Action Requested

Staff is requesting that Council conduct a remonstrance hearing for Ordinances 1844 and 1845.

Background

Council adopted Ordinances 1844 and 1845, on October 6, 1998. These Ordinances called for notification of potential assessments to the affected parties. The parties were notified of their potential assessments and the need to file written objections.

Council needs to take the following actions to complete this process:

1. open the public hearing for the Economic Improvement District remonstrances;
2. the Mayor would then call for any additional written remonstrances;
3. Council would then recess long enough for the written remonstrances to be counted; then,
4. staff would count the remonstrances and report the result.

If there are less than 33 percent of the total amount of the assessments levied, the assessments stand. If there were greater than 33 percent of the assessments levied, the Ordinances would be repealed.

cc: Dodie Linder, MDDA Manager  
File cm2180/hd

Attachments: Ordinance: Surcharge 1844  
Ordinance: EID 1845  
Minutes: October 6, 1998  
Remonstrances to follow Friday, November 14, 1998

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

CITY OF MILWAUKIE  
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.

WHEREAS, Ordinance No. 1702, adopted by the City Council on March 19, 1991, imposed a business license surcharge for the purpose of funding downtown development; and

WHEREAS, the City's authority pursuant to Ordinance No. 1702 to collect the business license surcharge expired in 1993; and

WHEREAS, ORS 223.154 authorizes the adoption of an ordinance providing for continuing the surcharge; and

WHEREAS, the City adopted Ordinance No. 1750 on November 19, 1993 continuing the surcharge authorized by Ordinance No. 1702 through 1998;

WHEREAS, the City Council finds it beneficial to the downtown area and the City as a whole to continue the surcharge in order to provide funding for downtown development; now, therefore;

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: The business license surcharge authorized by Ordinance No. 1702 shall continue to be collected through calendar year 2003 pursuant to the terms of Ordinance No. 1702.

Section 2: The City Council grants to persons conducting business in the economic improvement district the notice and right to remonstrance described in ORS 223.147(2)(b) to (d).  
Therefore:

a. The City Recorder is directed to mail to each person conducting business within the economic improvement district a notice that the surcharge is to be continued, and stating the time and place of a public hearing at which time affected persons may appear to support or object to the continuation of the surcharge. The notice shall contain the amount of the surcharge imposed in 1998. The hearing shall not be held sooner than 30 days after mailing of the notice.

b. The City Council, at said public hearing shall consider the objections of persons subject to the surcharge; may correct, modify or revise the surcharge and shall determine if the surcharge is to be continued.

V. A. 3

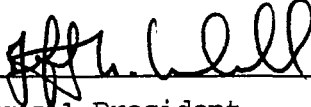
c. The surcharge will not be imposed and the economic improvement project terminated when written objections are received at the public hearing from more than 33 percent of persons conducting business within the economic improvement district who will be subject to the business license surcharge.

Section 3: If sufficient written objections to terminate the economic improvement project are not received at the public hearing, then the surcharge shall be imposed through calendar year 2003 pursuant to the terms of Ordinance No. 1702.

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the 6 day of October 1998.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the 6 day of October, 1998.

~~Mayor~~

  
\_\_\_\_\_  
Council President

ATTEST:



\_\_\_\_\_  
City Recorder

jmc/acm/65021/eidemployee.or1(9/17/98)

CITY OF MILWAUKIE  
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.

WHEREAS, after notice and hearing, Ordinance No. 1704 was adopted by the City Council on May 7, 1991, and created an economic improvement district in the downtown area, determined the boundaries of the district, determined the formula for assessment of benefitted properties and assessed the benefitted properties within the district boundaries for a three year period; and

WHEREAS, Ordinance No. 1710, adopted by the City Council on July 16, 1991, amended Ordinance NO. 1704 to provide for a fiscal year collection cycle and to provide for certification of the assessments to the County Tax Assessor for collection; and

WHEREAS, the City's authority pursuant to Ordinance No. 1704, having been extended by Ordinance No. 1759 to levy assessments for the economic improvement district expires after fiscal year 1998-99; and

WHEREAS, the City Council has considered the assessment options available through the provisions of ORS 223.112 to 233.132, elects to exercise the option provided by ORS 223.118, and determines that it is in the best interest of the City to change the method of assessment to one that is not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution; and

WHEREAS, ORS 223.118(2)(c) authorizes the adoption of an ordinance providing for continued assessments; and

WHEREAS, the City council finds it beneficial to the downtown area and the City as a whole to continue the assessments in order to provide funding for an economic improvement district; now, therefore;

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: Section 2 of Ordinance No. 1704, as amended by Ordinance No. 1710, is further amended by adding a new subsection (f) to read as follows:

“(f) The assessment method created by subsections (a) through (e) of this section shall continue as the assessment method until June 30, 1999. Beginning July 1, 1999, as authorized by ORS 223.118, and continuing for five (5) years, the assessment method shall change to the following:

Real property within the District that is not exempt from assessment pursuant to Section 3 shall be assessed on a rate per square foot of real property basis. The total assessment for each year of the five (5) year term of this assessment authorization is \$24,000 per year.

The assessment for each property shall be based upon the following codes:

CODES	RATES
1. Unimproved & Improved Lot	1 x Base Rate x Lot Square Footage
2. One Story Commercial & Two Story with Second Level Residential	2 x Base Rate x Lot Square Footage
3. Two or more Story Commercial	3 x Base Rate x Lot Square Footage

The Base Rate for the fiscal year beginning July 1, 1999 shall be \$0.009974.

The City Manager or designee shall prepare an assessment roll containing all the assessed real property in the District and in that assessment roll shall assign one of the rate codes to each property, and calculate the assessment due. However, the property of an owner that submits a written objection at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998 shall not be assessed. A new owner of that property may subject the property to assessment pursuant to ORS 223.118(2). Pursuant to ORS 223.118(1)(a) a property owner that does not submit a written objection at the public hearing is considered to have made a specific request for the services provided by the District.

Prior to July 1 of each successive fiscal year, the City Manager shall recommend a Base Rate that will result in a total assessment that does not exceed \$24,000. The Council shall adopt the recommended Base Rate, or a revised rate. After the Council, by resolution, adopts a Base Rate, the City Manager, or designee, shall prepare an assessment roll containing all the assessed real property in the District and in that assessment roll shall assign one of the rate codes to each property, and calculate the assessment due. However, the property of an owner that submits a written objection at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998 shall not be assessed. A new owner of that property may subject the property to assessment pursuant to ORS 223.118(2).

Section 2: Ordinance No. 1704 shall be amended by adding a new Section 5 to read as follows:

“5. Collection of Funds

For assessments made for the fiscal year beginning July 1, 1999, and each year thereafter, the Finance Director is hereby directed to give notice that the assessments are declared to be due and payable within thirty (30) days from the mailing of the notice of assessment, and in the event that said assessments are not so paid, the same shall thereupon become delinquent and bear interest at the rate of nine percent (9%) per annum thereafter. Failure to pay the assessment when due is a violation of the Code subject to the general penalty established by Section 1.12.010 of the Code and the City shall proceed in the manner prescribed by the City's civil infractions process found in Chapter 1.08 of the Code."

Section 3: Ordinance No. 1704 shall be amended by adding a new Section 6 to read as follows:

"6. Disbursement of Funds by Finance Director

For assessments collected after July 1, 1999, the Finance Director shall disburse funds collected from the Milwaukie Downtown Economic Improvement District to the Milwaukie Downtown Development Association quarterly, commencing October 1, 1999, to accomplish the purposes set forth in Section 4 herein. No funds shall be distributed if the Milwaukie Downtown Development Association ceases to exist for the purposes set forth in its adopted bylaws, or if the bylaws are amended so as to be in conflict with the enabling legislation contained in ORS Chapter 223."

Section 4: Ordinance No. 1704 shall be amended by adding a new Section 7 to read as follows:

"7. Expenditure of Funds

Funds collected after July 1, 1999 shall be allocated and expended by the Milwaukie Downtown Development Association in accordance with the following condition: the filing with the City Recorder a report showing compliance with Section 4 before any funds are released. A report will be prepared annually and provided to the City Recorder by April 1 of each year that the Milwaukie Downtown Economic Improvement District is in effect. The annual report will include a current budget including an annual financial statement, scope of work, and list of accomplishments of the Milwaukie Downtown Development Association."

Section 5: Ordinance No. 1704 is amended by adding a new Section 8 to read as follows:

“If sufficient written objections to terminate the economic improvement project are not received at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998, then the assessments shall be levied through fiscal year 2003-2004 pursuant to the terms of this Ordinance, as amended by Ordinance No. 1845.”

Section 6: The City Council grants to property owners in the economic improvement district the notice and right to remonstrance described in ORS 223.117(2)(b) to (e) and 223.118(1)(a) to (c). Therefore:

- a. The City Manager or designee is directed to prepare and file the assessment roll for the fiscal year beginning July 1, 1999.
- b. The City Recorder is directed to mail to the owner of each lot to be assessed a notice that the method of assessment is changing and the assessments are to be continued, and stating the time and place of a public hearing at which time affected property owners may appear to support or object to the continuation of the assessment. The notice shall contain the amount of the proposed assessment for fiscal year 1999-2000. The hearing shall not be held sooner than 30 days after mailing of the notice.
- c. After hearing, the City Council shall consider such objections and may adopt, correct, modify or revise the proposed assessments.
- d. The assessments will not be made and the economic improvement project terminated when written objections are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessments are levied.

Section 7: The property assessments authorized by Ordinance No. 1704 as amended by this Ordinance No. 1845 are not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution.

Within fifteen (15) days of the adoption of this Ordinance, the City Recorder shall cause to be published in a newspaper of general circulation within the City, a notice which shall:

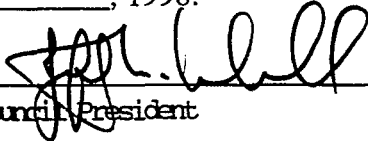
- a. Appear in the general news section of the newspaper, not in the classified advertisements;
- b. Measure at least three (3) inches square;
- c. Be printed in a type size at least equal to 8-point type; and
- d. State that the City has adopted this Ordinance classifying the property assessment for the financing of the Milwaukie Downtown Economic Improvement District as charges not subject to the limits of Article XI,

Section 11(b) of the Oregon Constitution, that the reader may contact the City Recorder to obtain a copy of the Ordinance, and that judicial review of the classification may be sought within sixty (60) days of the date the ordinance was adopted.”

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the 6 day of October 1998.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the 6 day of October, 1998.

Mayor

  
\_\_\_\_\_  
Council President

ATTEST:

*Pat Duval*  
\_\_\_\_\_  
City Recorder

jmc/acm/65021/eidsquarefootage.or2(10/6/98)

**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.

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.**

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.**



To: Dan Bartlett, City Manager

From: Pat DuVal, City Recorder *Pat*

Date: November 13, 1998

Re: Economic Improvement District Letters of Support and Opposition

Information Only

The following correspondence was received by noon on Friday, November 13, 1998, for inclusion in the City Council agenda packet:

Letters in Support

1. Dave Strauss, 10605 SE Main Street
2. David Mealey, D.C., 11266 SE 21<sup>st</sup> Avenue
3. Noble House Consulting and Management

Letters in Opposition

1. George Van Bergen, 2623 SE Washington
2. Things from Another World, 10956 SE Main Street
3. Suburban Explorations, Inc., 10956 SE Main Street
4. Dark Horse Comics, 10956 SE Main Street
5. Libbey's Restaurant, 11056 SE Main Street
6. Libbey's Too, 11094 SE Main Street
7. Kellogg Bowl, 10306 SE Main Street
8. Wolf Auto Sales, 11301 SE 21<sup>st</sup> Avenue
9. Gacek Insurance Agency, 10633 SE Main Street
10. Milwaukie Family Dental (Bachhuber), 2236 SE Washington
11. Howard Anderson, M.D., 2305 SE Washington Street, #109
12. Linco Mirco-Image Systems, Inc., 10883 SE Main Street

13. Collateral Management Services, 11220 SE 21<sup>st</sup> Avenue
14. On Target Archery, 2044 SE Adams
15. Donald Sirianni, DMD, 2403 SE Monroe
16. Chestnut Hill Corporation, 2403 SE Monroe
17. George N. Corti., MD, 2403 SE Monroe, Suite A
18. Dr. Robert Murakami, 2403 SE Monroe, Suite E
19. Electrodyne, Inc., 11200 SE 21<sup>st</sup> Avenue
20. Vic's Tavern, 10901 SE McLoughlin Boulevard
21. Daniel S. Phillips, Orthodontics, 11165 SE 23<sup>rd</sup> Avenue
22. Astro Station, 11010 SE McLoughlin Boulevard
23. Nelson's Nautilus, 10466 SE Main Street
24. Paul F. Olson, Property Owner, 11165 SE 23<sup>rd</sup> Avenue
25. Allen's Basketworks, 11008 SE Main Street
26. Lowry Apartments, 10961 SE McLoughlin Boulevard
27. Akers-Thomas, 1925 SE Washington Street
28. Chan's Steakery, 10477 SE Main Street
29. Gerri Sue Lent, Attorney, 10565 SE 23<sup>rd</sup> Avenue
30. Milwaukie Antique Mall, 10875 SE McLoughlin Boulevard
31. Mereno DeCristoforo, Property Owner, 11358 SE 21<sup>st</sup> Avenue

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

COMMUNITY DEVELOPMENT DEPARTMENT

November 10, 1998

**To:** Milwaukie City Council

**Through:** Dan Bartlett, City Manager

**From:** Susan Heiser, Planning Director

**Subject:** Planning Commission Recommendation on Proposed Amendments to Zoning Ordinance Section 700 (Variances), and Subdivision Ordinance Sections 17.08 (Definitions) and 17.32 (Partitioning). File No. ZA-98-01

**Applicant:** City of Milwaukie Neighborhood Land Use Committees

\*\*\*\*\*

**RECOMMENDATION**

**That the City Council accept the Planning Commission recommendation on ZA-98-01 to amend Zoning Ordinance Section 700, and Subdivision Ordinance Sections 17.08 and 17.32 by adopting the ordinance contained in Attachment A.**

**SUMMARY**

The Planning Commission held a public hearing on October 13, 1998 to consider the above listed proposal to amend the City's Zoning and Subdivision Ordinances to improve the development criteria for flag lots, to reduce administrative variances, and to add provisions for Home Improvement Exceptions. After reviewing the staff report, the Commission made some minor changes and unanimously voted to recommend City Council adoption of the Amendments. No one from the public spoke in favor or against the proposal and no written comments have been received.

An ordinance has been prepared and included as Attachment A, should the City Council decide to adopt the Planning Commission's recommendation. Exhibits 1, 2, and 3 of Attachment A, contains the recommended amendments for Zoning Ordinance Section 700 - Variances (Exhibit 1), Subdivision Ordinance Section 17.08 - Definitions (Exhibit 2), and Subdivision Ordinance Section 17.32 - Partitioning (Exhibit 3). The October 13, 1998 Planning Commission report, which includes the Neighborhood District Land Use Committee's proposal, is included as Attachment B. The Planning Commission made two changes to the original proposal. These included: 1) changing administrative variances (Zoning Section 703 & 704) from 25 % to 10%, where the Land Use Committee had recommended 7%; and 2) eliminating the word "public"

from the definition for flag lot (Subdivision Section 17.08.80). These changes are shown with a double underline for additions and ~~striketrough~~ for deletions. The original edits are shown with single underlines and ~~striketrough~~.

The ordinance prepared for City Council consideration includes an emergency adoption clause. The adoption of this clause would make the ordinance effective immediately.

### **CONCLUSION**

**Staff suggests that the City Council accept the Planning Commission recommendation and adopt an ordinance to approve:**

1. The Zoning Ordinance Text Amendments to Section 700, Variances, to change administrative variances for 25 % to 10 % and to add subsections 707, 708 and 709 for Home Improvement Exceptions as contained in Exhibit 1 of Attachment A of this report.
2. The Subdivision Ordinance Text Amendments to Sections 17.08, Definitions, to revise subsection 17.08.80 – flag lot as contained in Exhibit 2 of Attachment A.
3. The Subdivision Ordinance Text Amendments to Section 17.32, Partitioning, to improve the development criteria for flag lots, as shown in Exhibit 3 of Attachment A.

### **ATTACHMENTS:**

- A. Ordinance to Adopt ZA-98-01
  1. Zoning Ordinance Section 700 (Variances)
  2. Subdivision Ordinance Section 17.08.80 (Definitions - Flag Lot)
  3. Subdivision Ordinance Section 17.32 (Partitioning)
- B. Planning Commission Staff Report of October 13, 1998
- C. Excerpts from the Planning Commission Minutes of October 13, 1998

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, TO REVISE ADMINISTRATIVE VARIANCES AND ADD HOME IMPROVEMENT EXCEPTIONS - SECTION 700; AMENDING ORDINANCE 1440, THE SUBDIVISION ORDINANCE, TO REVISE THE FLAG LOT DEFINITION AND PARTITIONING STANDARDS - SECTIONS 17.08 AND 17.32; AND TO ADOPT AN EMERGENCY CLAUSE TO ENACT THESE AMENDMENTS. (ZA- 98-01)

**WHEREAS**, the City of Milwaukie desires to review, amend and revise its Zoning Ordinance and Subdivision Ordinance on a regular basis; and

**WHEREAS**, the Planning Commission held a public hearing for ZA-98-01 on October 13, 1998 and recommended approval of the changes to 1) Zoning Ordinance Sections 703 and 704 to reduce administrative variances from 25% to 10%, and to add Sections 707, 708, and 709 (Home Improvement Exceptions) to Section 700, as set forth in Exhibit 1; and 2) Subdivision Ordinance changes to Section 17.08.80 to revise the flag lot definition, and Section 17.32 to improve the partitioning standards for flag lots, as set forth in Exhibits 2 and 3 respectively; and

**WHEREAS**, the text changes for Zoning Ordinance Section 700 (Variances) and Subdivision Ordinance Sections 17.08 (Definitions) and 17.32 (Partitioning) were referred to the Department of Land Conservation and Development and Metro on September 18, 1998; and

**WHEREAS**, the City Council declares that an emergency exists because recent applications for partitions and administrative variances have resulted in undermining the character of the existing residential neighborhoods and have put a strain on City services and facilities.

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

Section 1. Findings. Findings of fact in support of these amendment(s) are as follows:

1. This zoning and subdivision text amendment has been made in compliance with the provisions of Zoning Ordinance Section 1003 and reviewed in accordance with Section 900 (Amendments) of the Milwaukie Zoning Ordinance. Specifically, this application satisfies the requirements for Zoning Text Amendments found in Section 904, and the Approval Criteria of Section 905.
2. The proposed text changes to Milwaukie Zoning Ordinance Section 700 and Subdivision Ordinance Sections 17.08 and 17.32 would improve the quality of infill development, specifically flag lots, while protecting and enhancing livability within the City. Additionally, the new provisions for Home Improvement Exceptions will provide relief to property owners who may wish to make minor improvements to their homes that do not conform to the strict interpretations of the zoning code. These provisions will streamline processing and thus reduce costs to City homeowners.

3. The proposed text amendments will act to correct existing regulations which allow for the reduction of lot sizes to just above the size of the standards for the next dense zone without the extensive review process required for a Major Quasi-Judicial review. The proposed revisions will also clarify inconsistencies in the current code language and strengthen requirements that are weak or difficult to apply. Therefore, these amendments will conform with and improve the existing zoning and subdivision ordinance provisions.
4. The development of the proposed zoning and subdivision text changes was carried out in accordance with the policies related to Comprehensive Plan Objectives #2 and #3, Chapter 1 that encourage broadly based public participation and promote informed public participation in planning decisions. The members of the seven Neighborhood District Association Land Use Committees developed the proposed text over the course of nine meetings. The proposed text was also reviewed with the Planning Commission and interested members of the public at two joint worksessions.
5. The proposed text amendments will provide for quality infill development, which will not detract from the character of the existing neighborhoods and will allow for a streamlined process to improve and rehabilitate existing residential homes. These amendments, therefore, conform with the overriding Goal Statement for Chapter 4 – Residential Land Use and Housing Element, which provides for “the maintenance of existing housing and the rehabilitation of older housing and the development of sound adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.”
6. The amendments are in conformance with applicable Statewide Planning Goals. These text amendments to the Milwaukie zoning and subdivision ordinances will increase the quality of infill development in the City while maintaining the livability of the residential neighborhoods. The amendments will also encourage maintenance and rehabilitation of existing single family housing which will result in an improved housing stock and increased neighborhood stability. For these reasons, these text amendments are in conformance with and further Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 10 (Housing), and 13 (Energy Conservation). No other Statewide Planning Goals apply.
7. The amendments are in compliance with Metro’s Urban Growth Management Functional Plan. These amendments to the Milwaukie Zoning and Subdivision Ordinance support the City’s efforts towards implementing the Milwaukie Functional Plan Compliance Report, (submitted to Metro on August 19, 1998), that establishes the direction for compliance with the Title 1 requirements for Housing. The City has a committed to provide for a wider variety and better quality of infill development. The City also wishes to encourage improvements to the existing housing stock and aid in the stabilization of its residential neighborhoods. These amendments are the first steps in working with the neighborhoods to achieve this goal and will further our collaborative efforts towards City implementation of the Metro 2040 Growth Concept. For these reasons, these text amendments comply with Metro’s Functional Plan.

Section 2. Zoning Ordinance Text Changes to Section 700. The changes to text as contained in Exhibit 1 dated October 13, 1998, are adopted as part of the Milwaukie Zoning Ordinance # 1712.

Section 3. Subdivision Ordinance Text Changes to Section 17.08. The changes to text as contained in Exhibit 2 dated October 13, 1998, are adopted as part of the Milwaukie Subdivision Ordinance # 1440.

Section 4. Subdivision Ordinance Text Changes to Section 17.32. The changes to text as contained in Exhibit 3 dated October 13, 1998, are adopted as part of the Milwaukie Subdivision Ordinance # 1440.

Section 5. Emergency. The City is receiving an increasing number of flaglot requests, and the City Council believes that flaglots are a serious detriment and threat to the livability of the City's neighborhoods. Therefore, in order to immediately preserve the quality of public peace, property, health, safety and morals, this ordinance shall be in full force and effect upon its passage by the City Council.

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

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

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

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

ATTEST:

APPROVED AS TO FORM:  
O'DONNELL RAMIS CREW CORRIGAN &  
BACHRACH, LLP

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

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

V. B.. le

**SECTION 700**  
**VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT**  
**EXCEPTIONS**

**701 VARIANCES**

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The Planning Commission or ~~Community Development~~ Planning Director may authorize variances from the standards and requirements of this Ordinance within the limitations prescribed in Section 702. In granting a variance, the Planning Commission or ~~Community Development~~ Planning Director may, in addition to the time limitations of Section 1013, attach conditions which it finds 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.

**702 CIRCUMSTANCES FOR GRANTING VARIANCES**

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A variance may be granted only when the Planning Commission or ~~Community Development~~ Planning Director finds all of the following criteria are satisfied.

**702.1 Criteria for granting variances**

- A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.
- B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.
- C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

**703 ADMINISTRATIVE VARIANCE**

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A variance of up to ~~25~~ 7 ~~10~~ percent of the standard required may be reviewed and approved or denied by the ~~Community Development~~ Planning Director. Procedures per subsection 1011.2, Type II Administrative review, shall be followed. Findings as specified in Section 702 shall be made.

**704 VARIANCE PROCEDURE**

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Variance requests in excess of ~~25~~ 7 ~~10~~ percent from the standard required shall require forms and procedures outlined in Sections 1003-1010 and subsection 1011.3, Minor Quasi-Judicial review. Findings as specified in Section 702 must be made.

**Planning Commission Recommended Administrative Variance and Home Improvement Exception Text Amendments – 10/13/98**

**705 AUTHORIZATION TO GRANT OR DENY EXCEPTIONS**

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**705.1 Circumstances**

The Planning Commission may authorize exceptions to uses established by this Ordinance upon a determination that the following circumstances exist:

- A. Exceptional circumstances apply to the property which do not apply generally to other properties in the same zone, resulting from circumstances over which the applicant has no control.
- B. The proposed use would not be substantially detrimental to the interests of neighboring, but not necessarily adjacent, owners.
- C. That substantial justice to all owners would be afforded thereby within the purposes of this Ordinance.
- D. There exists no other practical use of the property under the provisions of this Ordinance.
- E. Economic hardship shall not be a primary basis for allowance of an exception nor shall circumstances of which applicant had prior knowledge be considered upon application.

**706 EXCEPTION PROCEDURES**

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The procedures in applying for and acting upon an exception shall be the same as those of Section 704.

**707 HOME IMPROVEMENT EXCEPTIONS****707.1 Purpose**

The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the Zoning Ordinance where it is desirable to sustain the integrity or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the Zoning Ordinance for yards and lot coverage. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred and fifty (250) square feet and no more than one hundred (100) square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the 250 square foot limit. Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the Zoning Ordinance.

**Planning Commission Recommended Administrative Variance and Home Improvement Exception Text Amendments – 10/13/98**

**707.2 Conditions to Qualify for a Home Improvement Exception**

All of the following conditions must be met to make application for a home improvement exception:

- A. The home improvement exception is for an addition to an existing single family residential dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones.
- B. The home improvement exception is for addition to an existing two-family residential unit or attached garage in the R-5, R-3, R-2 or R-1 zones.
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application.
- D. At least 75% of the exterior walls (linear feet) will remain.
- E. A yard requirement will not be reduced by more than 50% and the addition will be located no closer than 5 feet from the property line, (including landings, overhangs, and eaves).

**708 CIRCUMSTANCES FOR GRANTING HOME IMPROVEMENT EXCEPTIONS**

A home improvement exception may be granted only when the Planning Director finds all of the following criteria satisfied.

**708.1 Circumstances**

- A. There are conditions applicable to the property, or the existing structure has a design, such that the proposed project would result in only minor exterior changes.
- B. The home improvement exception sustains the integrity or enhances an existing design concept or the neighborhood character.
- C. The granting of the application will not be detrimental or injurious to the property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convince.
- D. The home improvement exception authorizes only uses or activities, which are permitted by the zoning district.
- E. The home improvement exception is consistent with the objectives of the Comprehensive Plan and Zoning Ordinance.

In determining whether to approve or deny exceptions pursuant to this section, the Planning Director shall consider such applicable residential design guidelines as may be adopted for the Neighborhood District Association in which the site is located.

A home improvement exception shall not be granted for a structure if a Building Code or Zoning Ordinance violation exists at the site. A building code violation cannot be used to justify the

**Planning Commission Recommended Administrative Variance and Home Improvement Exception Text Amendments – 10/13/98**

integrity of an existing design concept, and a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected.

**709 HOME IMPROVEMENT EXCEPTION PROCEDURES**

Home improvement exceptions may be reviewed and approved or denied by the Planning Director. Procedures per subsection 1011.2, Type II Administrative review, shall be followed.

V.B. 9

Proposed Amendments to Chapter 17 – Subdivisions

Chapter 17.08. Definitions

Amend the definition for “flag lot” as follows:

- 17.08.80. Flag lot. “Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow ~~width for~~ access strip or “flagpole” to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are two distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag. The access strip normally contains the driveway and screening buffer.

## 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~~ three 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 site plan eight and one-half inches by~~ eleven inches by seventeen inches, or eighteen inches by twenty-four inches in size with the following information:

- A. The date, north point, scale, address, assessor reference number, and legal 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 site plan;
- C. The approximate acreage and square feet 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, driveways, public safety accesses, and easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, ~~and~~ power poles and other utilities;
- E. The location of existing structures, identifying those to remain in place and those to be removed;
- F. The lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes and relationship to existing or proposed streets and utility easements;
- G. The existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures.
- H. The applicant shall provide a conceptual plan of complete subdivision or partitioning of the subject property, as well as any adjacent vacant or under-utilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all other options for access, including shared driveways, pedestrian accessways and new street development, have been investigated.
- IG. Such additional information as required by the Planning Director or Planning Commission.

**Planning Commission Recommended Partitioning Amendments – 10/13/98**

17.32.030. Administrative approval. Minor partition requests shall be processed according to Section 1011.2 ~~10.05(B)~~ of the Zoning Ordinance, Type II Administrative Review. Should any variance be requested in conjunction with a minor land partition, the request must be processed according to Section 1011.3 of the Zoning Ordinance, Minor Quasi-Judicial Review, as required under Section 17.32.050.

17.32.040. Flag lots. Flag lots may be created by partitioning provided under the following standards are met. conditions: In reviewing a flag lot application, the lot size, lot dimension, setback, lot coverage, minimum vegetation, and height limit requirements of the underlying zone shall be applied. Additionally, specific site development criteria adopted for the Neighborhood District Association in which the site is located shall apply.

A. Future Development: 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. Flag lot partitioning shall not preclude the development of surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, Planning Commission review, as specified in sub-section 17.32.050, shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way will be required as part of final plat approval.

B. Lot Size: The area of the access easement (flagpole) shall be deducted from the gross acreage of the flag lot. The "flag" or development portion of the lot shall be equal to or greater than the square footage of the underlying zone.

C. Front Yard: The front yard of the flag lot shall be measured from the front lot line. The front lot line is the line that is most parallel and closest to the street, excluding the pole portion of the flag lot. If this standard is not practical due to placement of structures on the subject or adjacent lots, topography, lot configuration, or similar reasons, then the front lot line will be the other property line that abuts the access portion of the flag or easement.

D. Parking: No parking shall be permitted along the access easement (flagpole) portion of any flag lot or within the improved turnaround area for emergency vehicle access.

E. Screening and buffering: A five foot wide visual and noise buffer shall be provided along the property line of the adjacent property that abuts the access for the flag lot. This buffer is intended to protect the affected dwelling(s) located on adjacent parcels and must extend from the rear lot line to the required front yard setback for the adjacent lot. This buffer shall consist of:

1. A minimum five foot high site-obscuring wooden fence or masonry wall; and/or,

2. A vegetative landscape screen consisting of trees and shrubs of sufficient size to provide effective screening within two years of planting. Trees shall be a minimum 2" caliper, and shrubs shall be a minimum of 5 gallons at time of planting. All required vegetation must be maintained and survive for a minimum of two growing seasons.

In addition, the rear and side yards of the development area (flag) shall be screened from adjacent property with a six foot tall wood or masonry fence.

- F. Tree Mitigation: All trees 6 inches or greater in diameter, as measured at the lowest limb or 4 feet above the ground, which ever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be planted at an appropriate ratio as mitigation for tree removal. At planting, deciduous trees shall be a minimum of 2" caliper and evergreen trees shall be a minimum of five feet tall. This standard shall control until the City adopts an Urban Forestry Ordinance to supercede this provision.
- GB. Access: For any flag lot, the minimum width of the access strip will be ~~twenty~~ 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. Access to flag lots shall be consolidated into a single shared driveway wherever practical, including consolidation of the access of the parent lot. These minimum standards may be increased if the ~~Community Development~~ Planning 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.
- HE. 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~~ maximum 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.
- ID. 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 fire and traffic safety improvements, and other requirements to be provided by the applicant. At a minimum these ~~may~~ shall include recommendations on: 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. Additional improvement recommendations such as: paved access driveways constructed to residential street standards; special additional easements for utilities; necessary traffic safety devices, or half-street, curb and sidewalks; may also be required.

~~JE.~~ ~~Although discouraged by~~ The Planning Commission, shall discourage development of three or four flag lots in which there are more than two lots in depth from a public street. When requested, such proposals may must 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 site plan and concept plan~~ 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~~ site plan and concept 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 site plan and concept plan~~ 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 concept plan~~ that future partitioning within the area shown on the ~~sketch map concept plan~~ may occur without submission for approval of the Planning Commission. In this case, Administrative Review, pursuant to Zoning Ordinance Section 1011.2, shall be required to complete the future partitioning.

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 smaller 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 plan. When a ~~sketch map site plan~~ has been approved, all copies shall be marked with the date and conditions, if any, of approval. ~~Two~~ One copy ~~copies~~ shall be returned to the applicant, and ~~two~~ copies ~~one copy~~ shall be retained by the Planning ~~Commission~~ Director. Submission of the Final Plat for recordation with the Clackamas County Surveyor's Office, shall follow the provisions of Section 17.20.

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT

Date: October 6, 1998  
Hearing Date : October 13, 1998

File No. ZA-98-01

Application: Zoning Text Amendment

Applicant: City of Milwaukee

Subject: Zoning Code Section 700, (Variances), Subdivision Ordinance Sections 17.08 (Definitions) and 17.32 (Partitioning).

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PROPOSAL

The Neighborhood District Association Land Use Committees have developed these proposed Zoning and Subdivision Text Amendments in conjunction with City staff. These changes are intended to address inconsistencies between the City's development ordinances and the neighborhood visions for acceptable infill development. These amendments have been reviewed by the Planning Commission at worksessions on June 23, 1998 and September 22, 1998 and have been revised to address comments received at these worksessions. Deletions are noted with a ~~striketrough~~, additions are noted with and underline, and recent changes are noted with a thick underline.

RECOMMENDATION

That the Planning Commission approve ZA-98-01 and make recommendation to the City Council for the adoption of an ordinance to enact the proposed revisions to Zoning Ordinance Section 700 (Variances) and to the Subdivision Ordinance Sections 17.08 (Definitions) and 17.32 (Partitioning).

DISSCUSSION

The Zoning and Subdivision Text Amendments proposed by ZA-98-01 is a Legislative action that has been prepared in accordance with the provisions of Section 1011.5 of the Milwaukee Zoning Ordinance. Notice of this Planning Commission public hearing has been published in the Clackamas Review on September 11, 1998 and October 2, 1998. Notice of this proposal was also sent to the Department of Conservation and Land Division and Metro on September 18, 1998.

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**Zoning Ordinance Text Amendments**

**Section 703 – Administrative Variances**

The recommended changes to Section 700, (Variances) are contained in **Exhibit 1**. This includes changes to Section 703 to reduce the amount of variance that can be granted under Section 1011.2, Type II Administrative review, from 25 % to 7%. Variances are intended to allow, under special circumstances, development that varies from the requirements of the Zoning Ordinance when strict enforcement would make it difficult to develop a parcel, cause unnecessary hardship to the landowner, or result in inconsistencies with the general purposes of the Zoning Ordinance. Administrative Variances are permitted in most jurisdictions and are intended to speed processing time and reduce the Planning Commission workload by allowing Planning Staff to decide on variances that would have minimal impacts to neighboring properties

Presently, the City of Milwaukie Zoning Ordinance allows the Community Development Director, after sending notice to all neighbors within 150 feet of the subject site, to grant Administrative Variances of up to 25%. In some cases the approval of a 25% variance has been found to have a significant impact to surrounding properties. This is particularly true in the case of variances for lot size. For example column 6 of Table I below shows that a 25% variance for lot size in the R-7 Zoning District would allow the lot size to be reduced to 5,250 sq. ft. That is only 250 sq. ft. larger than the minimum lot size for the more dense R-5 Zoning District. Granting an Administrative Variance of this nature is effectively a rezoning without the extensive public review and notification process required for Major Quasi-Judicial reviews.

Table I also shows a comparison of the effect of various percentages of variance requests on specific development standards. These percentages range from 5% to 25%. After reviewing this table, the NDA Land Use Committee Chairs recommended that 7% be the maximum variance allowed to be granted by the Planning Director through the Type II review process. Planning staff has a different opinion and recommends that 10 % be the maximum Administrative Variance allowed instead.

Staff recommends that Administrative Variances be reduced only to 10 % for the following reasons:

- 1) A 10 % variance would be minor and result in minimal impacts to surrounding properties;
- 2) It would lower the number of cases going to the Planning Commission thus reducing processing time and Planning Commission workloads (The proposed revisions to Subdivision Section 17.32, that require Commission review for all proposals with a variance, will also increase Planning Commission workloads.); and,

- 3) A 10% variance is easier to calculate and measure. For example a 10% variance to a 10-foot setback would allow a 1-foot encroachment. A 7% variance, on the other hand, would only allow an 8.4-inch variance. It is very difficult to accurately measure these fractional numbers in the field.

**TABLE I  
 ADMINISTRATIVE VARIANCE  
 COMPARISON TABLE**

	1	2	3	4	5	6
	Required	5%	10%	15%	20%	25%
<b>Flag Lot Access Width</b>	15'	14.25'	<b>13.5'</b>	12.75'	12'	<b>11.25'</b>
<b>(Proposed)</b>	20'	19'	<b>18'</b>	17'	16'	<b>15'</b>
<b>Lot Area - R-10</b>	10,000 φ	9,500 φ	<b>9,000 φ</b>	8,500 φ	8,000 φ	<b>7,500 φ</b>
R-7	7,000 φ	6,650 φ	<b>6,300 φ</b>	5,950 φ	5,600 φ	<b>5,250 φ</b>
R-5 & R-3	5,000 φ	4,750 φ	<b>4,500 φ</b>	4,250 φ	4,000 φ	<b>3,750 φ</b>
<b>Lot Width - R-10</b>	70'	66.5'	<b>63'</b>	59.5'	56'	<b>52.5'</b>
R-7	60'	57'	<b>54'</b>	51'	48'	<b>45'</b>
R-5 & R-3	50'	47.5'	<b>45'</b>	42.5'	40'	<b>37.5'</b>
<b>Lot Depth - R-10</b>	100'	95'	<b>90'</b>	85'	80'	<b>75'</b>
R-7, R-5 & R-3	80'	76'	<b>72'</b>	68'	64'	<b>60'</b>
<b>Setbacks</b>						
<b>Front/Rear</b>						
R-10, R-7 & R-5	20'	19'	<b>18'</b>	17'	16'	<b>15'</b>
R-3	15'	14.25'	<b>13.5'</b>	12.75'	12'	<b>11.25'</b>
<b>Sides</b>						
R-10 & R-7	10'	9.5'	<b>9'</b>	8.5'	8'	<b>7.5'</b>
R-7, R-5 & R-3	5'	4.75'	<b>4.5'</b>	4.25'	4'	<b>3.75'</b>
<b>Lot Coverage - R-10</b>	30%	31.5%	<b>33%</b>	34.5%	36%	<b>37.5%</b>
R-7	35%	36.75%	<b>38.5%</b>	40.25%	42%	<b>43.75%</b>
R-5	40%	42%	<b>44%</b>	46%	48%	<b>50%</b>
R-3	45%	47.25%	<b>49.5%</b>	51.75%	54%	<b>56.25%</b>
<b>Min. Vegetation - R-7</b>	30%	31.5%	<b>33%</b>	34.5%	36%	<b>37.5%</b>
R-5	25%	26.25%	<b>27.5%</b>	28.75%	30%	<b>31.25%</b>
R-10 & R-3	35%	36.75%	<b>38.5%</b>	40.25%	42%	<b>43.75%</b>

**NOTE: Administrative Variances would not be allowed as part of a land partition. See changes for Subdivision Section 17.32 below.**

**Section 707 – Home Improvement Exception**

The proposal to add Section 707, new provisions for Home Improvement Exceptions, would allow for administrative approval for improvements to existing homes which do not meet the Zoning requirements and may exceed the 7% maximum discussed above. Essentially, these provisions would allow administrative approval of “exceptions” for setbacks and lot coverage to existing homes that are five years or older. Exceptions can

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only be granted for a limited square footage (250 sq. ft.) and must be consistent with the design of the house and character of the neighborhood. This does allow for variances greater than the 7% proposed for Administrative Variances. For example allowing 250 sq. ft. of additional lot coverage on a 7,000 sq. ft lot (R-7) would be 38.5 % lot coverage, this is equal to a 10% variance. On a 5,000 sq. ft. lot (R-5), allowing an additional 250 sq. ft. would increase lot coverage to 45% - equal to a 12.5% variance.

Likewise, setbacks could be reduced beyond the 7% administrative variance restriction. A 20-foot rear yard setback could be reduced by up to 50% to 10 feet, and a 10-foot side yard requirement could be reduced by up to 50% to 5 feet. Exceptions for side yard setbacks, however, are limited to a total of 100 sq. ft. to limit impacts to the adjacent neighbors. So in the case of the 50% side yard encroachment, the 5-foot setback could run for only 20 feet. Regardless of the dimensional request, approval requires only minor exterior changes, minimal impacts to adjacent properties and consistency with any adopted neighborhood design guidelines. A graphic of how these provisions would be applied is provided as **Exhibit 2**.

Providing this type of relief to property owners has benefits to both the property owners and the community. For existing homes, variances from development standards, (setbacks, lot coverage, height, etc.), are generally sought in order to accommodate specific needs of the resident. The granting of such variances encourages improvements to the housing stock and aids in stabilizing residential neighborhoods by decreasing the turnover of housing. Many residents choose to move rather than go through a public hearing process and pay the associated fees. Thus lowering the Administrative Variance standard, without providing some relief to existing residential homes, may discourage people from making improvements to their home that require very minor variances. The Home Improvement Exception regulations are proposed to alleviate this concern.

**Subdivision Ordinance Amendments**

**Section 17.08 - Definitions**

This proposal (**Exhibit 3**) would amend Section 17.08.80, to provide a comprehensive definition for “flag lot” which is consistent with the proposed revisions to the flag lot standards. The new definition includes descriptions of both the “flag” and the “pole.”

**Section 17.32 – Partitioning**

The proposed amendments to the partitioning standards (**Exhibit 4**) would provide for flag lot development that is more in compatible with the size and character of the surrounding neighborhood development. These provisions would require lot sizes equal to the zoning standards, exclusive of the access or “pole” portion of the lot. They would increase the width for a single access strip from 15 feet to 20 feet, reduce the amount of required pavement for the driveway, and require the use of a shared access to reduce site pavement. A landscape screen and buffering for the properties adjacent to the flag lot and

pole, and mitigation for trees removed as part of site development is also required. A graphic showing the basic layouts for lots developed under the existing and proposed regulations are attached as **Exhibit 5**.

In developing these regulations, the NDA Land Use Committees compiled their preferred standards from the Cities of Hillsboro, Eugene, Lake Oswego, and Bend. These standards provide specific features that buffer adjacent neighbors and improve the visual appearance of the flag lot development from the street. These provisions are intended to increase the quality of infill development in the City while maintaining the livability of the residential neighborhoods.

### **PUBLIC COMMENT**

No public comment on this request has been received prior to the date of this report.

### **ZONING TEXT AMENDMENT FINDINGS:**

Section 900 of the Zoning Ordinance guides the Zoning Amendment process. Specific Amendment requirements (Section 904 and 905) are addressed below:

1. This zoning and subdivision text amendment has been made in compliance with the provisions of Zoning Ordinance Section 1003 and reviewed in accordance with Section 900 (Amendments) of the Milwaukie Zoning Ordinance. Specifically, this application satisfies the requirements for Zoning Text Amendments found in Section 904, and the Approval Criteria of Section 905.
2. The proposed text changes to Milwaukie Zoning Ordinance Section 700 and Subdivision Ordinance Sections 17.08 and 17.32 would improve the quality of infill development, specifically flag lots, while protecting and enhancing livability within the City. Additionally, the new provisions for Home Improvement Exceptions will provide relief to property owners who may wish to make minor improvements to their homes that do not conform to the strict interpretations of the zoning code. These provisions will streamline processing and thus reduce costs to City homeowners.
3. The proposed text amendments will act to correct existing regulations which allow for the reduction of lot sizes to just above the size of the standards for the next dense zone without the extensive review process required for a Major Quasi-Judicial review. The proposed revisions will also clarify inconsistencies in the current code language and strengthen requirements that are weak or difficult to apply. Therefore, these amendments will conform with and improve the existing zoning and subdivision ordinance provisions.

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4. The development of the proposed zoning and subdivision text changes was carried out in accordance with the policies related to Comprehensive Plan Objectives #2 and #3, Chapter 1 that encourage broadly based public participation and promote informed public participation in planning decisions. The members of the seven Neighborhood District Association Land Use Committees developed the proposed text over the course of nine meetings. The proposed text was also reviewed with the Planning Commission and interested members of the public at two joint worksessions.
  
5. The proposed text amendments will provide for quality infill development, which will not detract from the character of the existing neighborhoods and will allow for a streamlined process to improve and rehabilitate existing residential homes. These amendments, therefore, conform with the overriding Goal Statement for Chapter 4 – Residential Land Use and Housing Element, which provides for “the maintenance of existing housing and the rehabilitation of older housing and the development of sound adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.”
  
6. The amendments are in conformance with applicable Statewide Planning Goals. These text amendments to the Milwaukie zoning and subdivision ordinances will increase the quality of infill development in the City while maintaining the livability of the residential neighborhoods. The amendments will also encourage maintenance and rehabilitation of existing single family housing which will result in an improved housing stock and increased neighborhood stability. For these reasons, these text amendments are in conformance with and further Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 10 (Housing), and 13 (Energy Conservation).
  
7. The amendments are in compliance with Metro’s Urban Growth Management Functional Plan. These amendments to the Milwaukie Zoning and Subdivision Ordinance support the City’s efforts towards implementing the Milwaukie Functional Plan Compliance Report, (submitted to Metro on August 19, 1998), that establishes the direction for compliance with the Title 1 requirements for Housing. The City has a committed to provide for a wider variety and better quality of infill development. The City also wishes to encourage improvements to the existing housing stock and aid in the stabilization of its residential neighborhoods. These amendments are the first steps in working with the neighborhoods to achieve this goal and will further our collaborative efforts towards City implementation of the Metro 2040 Growth Concept. For these reasons, these text amendments comply with Metro’s Functional Plan.

## CONCLUSION

The above findings demonstrate that the proposed amendment meets the required criteria for amendment to the Zoning and Subdivision Ordinance Text. Staff suggests that the Planning Commission consider the findings listed above, and make a recommendation to the City Council for adoption of ZA-98-01.

### Exhibits:

1. Proposed Zoning Ordinance Section 700 Text Amendments
2. Home Improvement Exception Graphics
3. Proposed Subdivision Ordinance Section 17.08 Text Amendments
4. Proposed Subdivision Ordinance Section 17.32 Text Amendments
5. Existing and Proposed Flag Lot Lay-outs

**SECTION 700**  
**VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT**  
**EXCEPTIONS**

**701 VARIANCES**

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The Planning Commission or ~~Community Development~~ Planning Director may authorize variances from the standards and requirements of this Ordinance within the limitations prescribed in Section 702. In granting a variance, the Planning Commission or ~~Community Development~~ Planning Director may, in addition to the time limitations of Section 1013, attach conditions which it finds 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.

**702 CIRCUMSTANCES FOR GRANTING VARIANCES**

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A variance may be granted only when the Planning Commission or ~~Community Development~~ Planning Director finds all of the following criteria are satisfied.

**702.1 Criteria for granting variances**

- A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.
- B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.
- C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

**703 ADMINISTRATIVE VARIANCE**

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A variance of up to ~~25~~ 7 percent of the standard required may be reviewed and approved or denied by the ~~Community Development~~ Planning Director. Procedures per subsection 1011.2, Type II Administrative review, shall be followed. Findings as specified in Section 702 shall be made.

**704 VARIANCE PROCEDURE**

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Variance requests in excess of ~~25~~ 7 percent from the standard required shall require forms and procedures outlined in Sections 1003-1010 and subsection 1011.3, Minor Quasi-Judicial review. Findings as specified in Section 702 must be made.

**NDA Land Use Committee Recommended Administrative Variance and Home Improvement Exception Text Amendments – July 15, 1998**

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**705 AUTHORIZATION TO GRANT OR DENY EXCEPTIONS**

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**705.1 Circumstances**

The Planning Commission may authorize exceptions to uses established by this Ordinance upon a determination that the following circumstances exist:

- A. Exceptional circumstances apply to the property which do not apply generally to other properties in the same zone, resulting from circumstances over which the applicant has no control.
- B. The proposed use would not be substantially detrimental to the interests of neighboring, but not necessarily adjacent, owners.
- C. That substantial justice to all owners would be afforded thereby within the purposes of this Ordinance.
- D. There exists no other practical use of the property under the provisions of this Ordinance.
- E. Economic hardship shall not be a primary basis for allowance of an exception nor shall circumstances of which applicant had prior knowledge be considered upon application.

**706 EXCEPTION PROCEDURES**

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The procedures in applying for and acting upon an exception shall be the same as those of Section 704.

**707 HOME IMPROVEMENT EXCEPTIONS**

**707.1 Purpose**

The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the Zoning Ordinance where it is desirable to sustain the integrity or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the Zoning Ordinance for yards and lot coverage. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred and fifty (250) square feet and no more than one hundred (100) square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the 250 square foot limit. Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the Zoning Ordinance.

**707.2 Conditions to Qualify for a Home Improvement Exception**

All of the following conditions must be met to make application for a home improvement exception:

- A. The home improvement exception is for an addition to an existing single family residential dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones.
- B. The home improvement exception is for addition to an existing two-family residential unit or attached garage in the R-5, R-3, R-2 or R-1 zones.
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application.
- D. At least 75% of the exterior walls (linear feet) will remain.
- E. A yard requirement will not be reduced by more than 50% and the addition will be located no closer than 5 feet from the property line, (including landings, overhangs, and eaves).

**708 CIRCUMSTANCES FOR GRANTING HOME IMPROVEMENT EXCEPTIONS**

A home improvement exception may be granted only when the Planning Director finds all of the following criteria satisfied.

**708.1 Circumstances**

- A. There are conditions applicable to the property, or the existing structure has a design, such that the proposed project would result in only minor exterior changes.
- B. The home improvement exception sustains the integrity or enhances an existing design concept or the neighborhood character.
- C. The granting of the application will not be detrimental or injurious to the property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convince.
- D. The home improvement exception authorizes only uses or activities, which are permitted by the zoning district.
- E. The home improvement exception is consistent with the objectives of the Comprehensive Plan and Zoning Ordinance.

In determining whether to approve or deny exceptions pursuant to this section, the Planning Director shall consider such applicable residential design guidelines as may be adopted for the Neighborhood District Association in which the site is located.

A home improvement exception shall not be granted for a structure if a Building Code or Zoning Ordinance violation exists at the site. A building code violation cannot be used to justify the

**NDA Land Use Committee Recommended Administrative Variance and Home Improvement Exception Text Amendments – July 15, 1998**

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integrity of an existing design concept, and a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected.

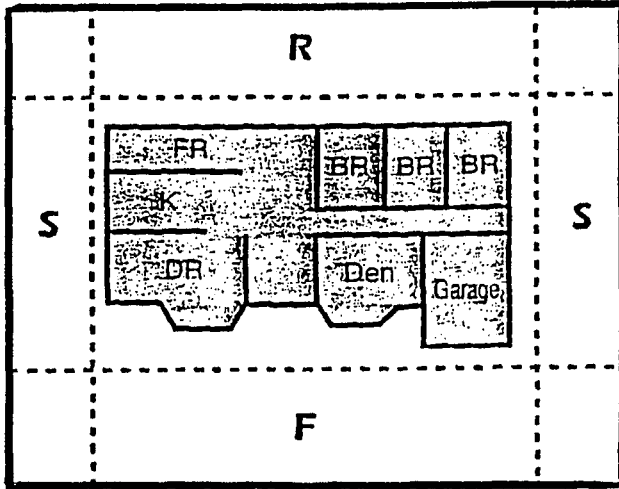
**709 HOME IMPROVEMENT EXCEPTION PROCEDURES**

Home improvement exceptions may be reviewed and approved or denied by the Planning Director. Procedures per subsection 1011.2, Type II Administrative review, shall be followed.

## Home Improvement Exception for Setbacks

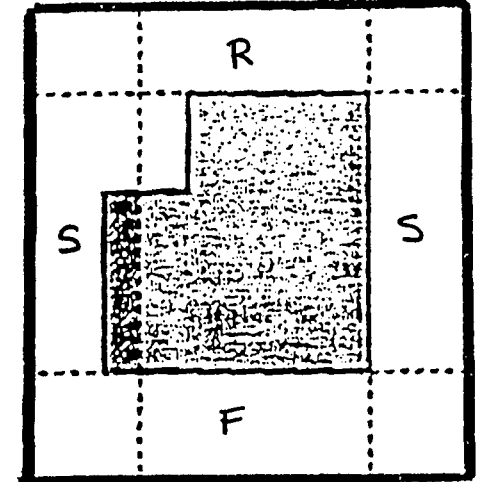
### Conforming

A) The house is conforming with respect to setbacks.

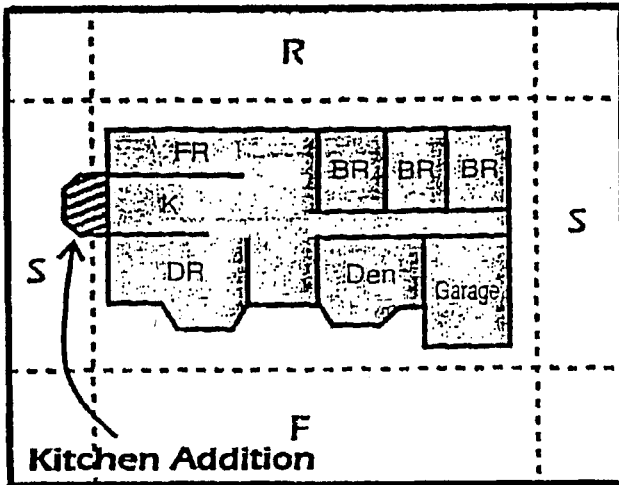


### Non-conforming

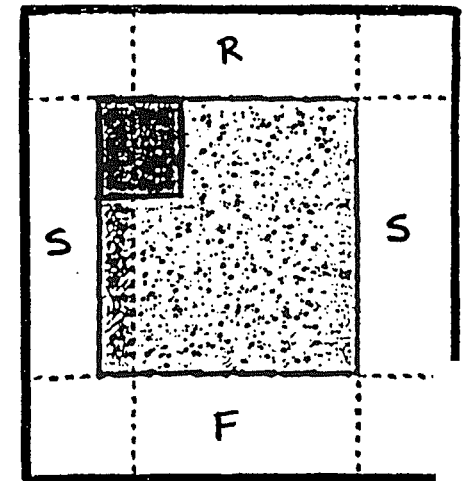
A) The house is non-conforming with respect to side yard setback.



B) The owner would be allowed to construct an addition which does not meet the setback requirements. The addition would continue the existing architectural style and materials



B) The owner would be allowed to construct an addition which would continue the non-conforming side wall. The addition would continue the existing architectural style.



Proposed Amendments to Chapter 17 – Subdivisions

Chapter 17.08. Definitions

Amend the definition for “flag lot” as follows:

- 17.08.80. Flag lot. “Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow ~~width for~~ access strip or “flagpole” to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are two distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag. The access strip normally contains the driveway and screening buffer.

## 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~~ three 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 site plan eight and one-half inches by~~ eleven inches by seventeen inches, or eighteen inches by twenty-four inches in size with the following information:

- A. The date, north point, scale, address, assessor reference number, and legal 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 site plan;
- C. The approximate acreage and square feet 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, driveways, public safety accesses, and easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, and power poles and other utilities;
- E. The location of existing structures, identifying those to remain in place and those to be removed;
- F. The lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes and relationship to existing or proposed streets and utility easements;
- G. The existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures.
- H. The applicant shall provide a conceptual plan of complete subdivision or partitioning of the subject property, as well as any adjacent vacant or under-utilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all other options for access, including shared driveways, pedestrian accessways and new street development, have been investigated.
- IG. Such additional information as required by the Planning Director or Planning Commission.

**NDA Land Use Committee Recommended Partitioning Amendments – 9/22/97**

17.32.030. Administrative approval. Minor partition requests shall be processed according to Section 1011.2 ~~10.05(B)~~ of the Zoning Ordinance, Type II Administrative Review. Should any variance be requested in conjunction with a minor land partition, the request must be processed according to Section 1011.3 of the Zoning Ordinance, Minor Quasi-Judicial Review, as required under Section 17.32.050.

17.32.040. Flag lots. Flag lots may be created by partitioning provided under the following standards are met. conditions: In reviewing a flag lot application, the lot size, lot dimension, setback, lot coverage, minimum vegetation, and height limit requirements of the underlying zone shall be applied. Additionally, specific site development criteria adopted for the Neighborhood District Association in which the site is located shall apply.

A. Future Development: 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. Flag lot partitioning shall not preclude the development of surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, Planning Commission review, as specified in sub-section 17.32.050, shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way will be required as part of final plat approval.

B. Lot Size: The area of the access easement (flagpole) shall be deducted from the gross acreage of the flag lot. The "flag" or development portion of the lot shall be equal to or greater than the square footage of the underlying zone.

C. Front Yard: The front yard of the flag lot shall be measured from the front lot line. The front lot line is the line that is most parallel and closest to the street, excluding the pole portion of the flag lot. If this standard is not practical due to placement of structures on the subject or adjacent lots, topography, lot configuration, or similar reasons, then the front lot line will be the other property line that abuts the access portion of the flag or easement.

D. Parking: No parking shall be permitted along the access easement (flagpole) portion of any flag lot or within the improved turnaround area for emergency vehicle access.

E. Screening and buffering: A five foot wide visual and noise buffer shall be provided along the property line of the adjacent property that abuts the access for the flag lot. This buffer is intended to protect the affected dwelling(s) located on adjacent parcels and must extend from the rear lot line to the required front yard setback for the adjacent lot. This buffer shall consist of:

1. A minimum five foot high site-obscuring wooden fence or masonry wall; and/or,

2. A vegetative landscape screen consisting of trees and shrubs of sufficient size to provide effective screening within two years of planting. Trees shall be a minimum 2" caliper, and shrubs shall be a minimum of 5 gallons at time of planting. All required vegetation must be maintained and survive for a minimum of two growing seasons.

In addition, the rear and side yards of the development area (flag) shall be screened from adjacent property with a six foot tall wood or masonry fence.

- F. Tree Mitigation: All trees 6 inches or greater in diameter, as measured at the lowest limb or 4 feet above the ground, which ever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be planted at an appropriate ratio as mitigation for tree removal. At planting, deciduous trees shall be a minimum of 2" caliper and evergreen trees shall be a minimum of five feet tall. This standard shall control until the City adopts an Urban Forestry Ordinance to supercede this provision.
- GB. Access: For any flag lot, the minimum width of the access strip will be ~~twenty 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. Access to flag lots shall be consolidated into a single shared driveway wherever practical, including consolidation of the access of the parent lot. These minimum standards may be increased if the ~~Community Development Planning~~ 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.
- HC. 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~~ maximum 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.
- ID. 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 fire and traffic safety improvements, and other requirements to be provided by the applicant. At a minimum these may shall include recommendations on: 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

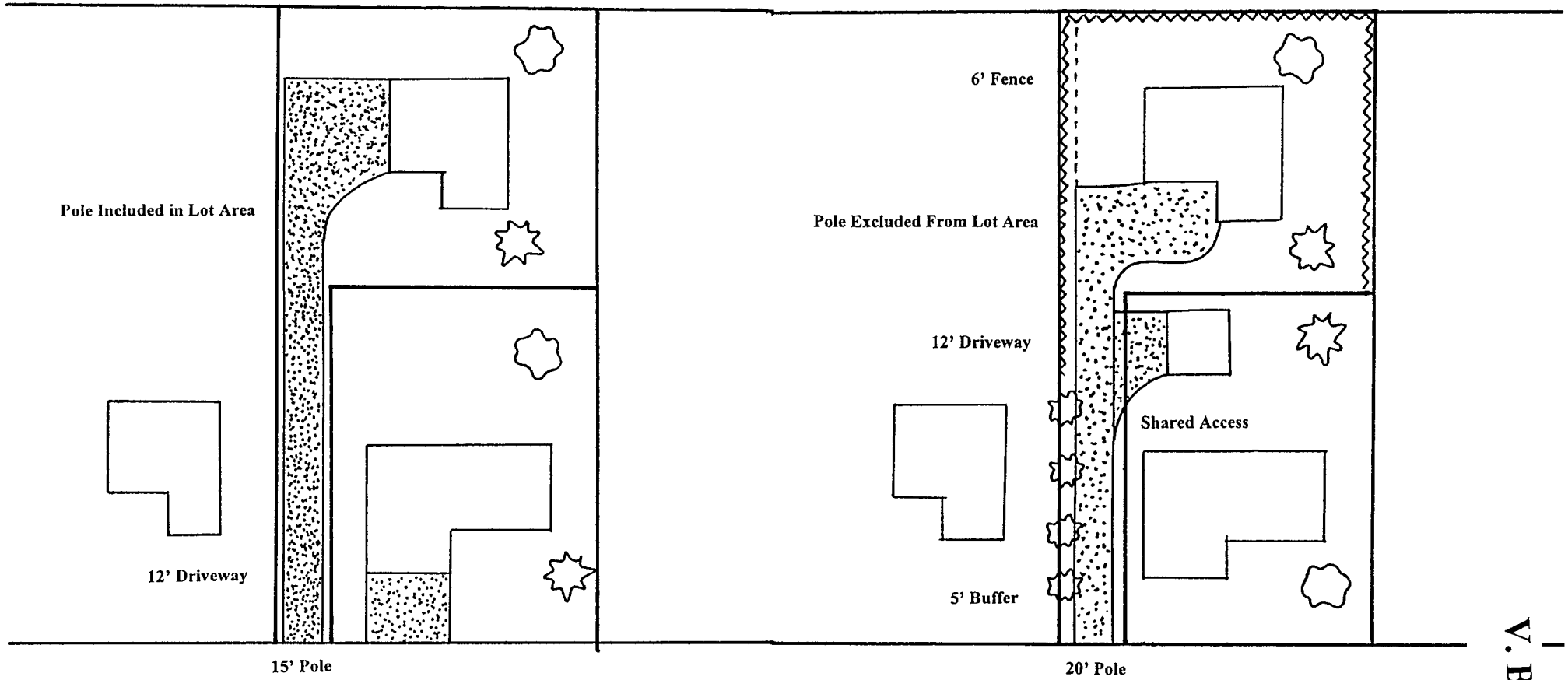
to access easement; street lights; and assurance of clear vision conditions at access entrance. Additional improvement recommendations such as: paved access driveways constructed to residential street standards; special additional easements for utilities; necessary traffic safety devices, or half-street, curb and sidewalks; may also be required.

JE. ~~Although discouraged by~~ The Planning Commission, shall discourage development of three or four flag lots in which there are more than two lots in depth from a public street. When requested, such proposals may must 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 site plan and concept plan 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 site plan and concept 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 site plan and concept plan 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 concept plan that future partitioning within the area shown on the sketch map concept plan may occur without submission for approval of the Planning Commission. In this case, Administrative Review, pursuant to Zoning Ordinance Section 1011.2, shall be required to complete the future partitioning.

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 smaller 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 plan. When a sketch map site plan has been approved, all copies shall be marked with the date and conditions, if any, of approval. ~~Two~~ One copy ~~copies~~ shall be returned to the applicant, and ~~two~~ copies ~~one copy~~ shall be retained by the Planning Commission Director. Submission of the Final Plat for recordation with the Clackamas County Surveyor's Office, shall follow the provisions of Section 17.20.



Existing Flag Lot Regulations

Proposed Flag Lot Regulations

V. B. 32

# EXCERPTS FROM THE 10/13/98 PC HEARING

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of October 13, 1998

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V.B.: 33

**Tracy Cook** moved to approve NR-98-07 and TPR-98-03 based on the report findings and subject to the conditions of approval contained in Exhibit 1. **Judith Borden** seconded. MOTION CARRIED UNANIMOUSLY 7-0.

Ayes: Bordon, Cartmill, Cook, Hammang, Miller, Steward, Smith; Nays: 0.

- 6.4 Applicant: North Clackamas Park & Recreation District  
Owner: City of Milwaukie  
Location: SE Monroe between Stanley & 60th  
Proposal: Approval of a Comprehensive Plan Amendment and a Community Service Overlay for a Master Plan to create Wichita Park.  
File Numbers: CPA-98-04, CSO-98-06  
NDA: Linwood

**Chair Smith** announced that the Community Service Overlay portion of this hearing was continued until November 10, 1998, and the Comp Plan Revisions portion is continued until December 8, 1998. **Susan Heiser** reported that this continuation was caused by incomplete noticing procedures.



- 6.5 Applicant: City of Milwaukie  
Owner: N/A  
Location: N/A  
Proposal: Approval of a Zoning Ordinance Amendment to amend Section 700 to reduce administrative variance from 25% to 7% and to add provisions for home improvement exceptions; and to amend Section 1732 of the Subdivision Ordinance pertaining to partitioning.  
File Numbers: ZA-98-01  
NDA: All

**Chair Smith** opened the public hearing on zoning text amendments, ZA-98-01. Criteria to be addressed are found in Section 904 and 905 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. There were none. No one in the audience challenged the impartiality of

CITY OF MILWAUKIE PLANNING COMMISSION

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any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

**Susan Heiser** reviewed the Staff Report with the Commissioners. She noted that these changes are intended to address inconsistencies between City development ordinances and neighborhood visions for acceptable infill development.

Two main issues were brought forward by the NDA Land Use Committees; the desire to change the standards for flaglots and to change administrative ability to grant variances up to 25%.

The result of this application will change the administrative variance from 25% to 7%. Staff would prefer that the variance be 10% because it is easier to calculate than the 7%. This will also keep the number of cases going to the Planning Commission reasonable.

The Home Improvement Exception came out of the neighborhood associations concern about existing homeowners who want to make improvements to their home. A provision was added for home improvement exceptions in very specific cases.

The other issue that the revisions address is the Subdivision Ordinance, provisions regarding flag lots. The first revision is a definition of a flag lot. Overheads were shown of home improvement exceptions for setbacks and flag lot regulations. Parking standards will be required and the new code requires increased width for the flagpole from 15 feet to 20 feet. This will allow for a 5-foot buffer between properties. Tree mitigation is addressed in this process. Shared access will be driven by how the lot is configured.

QUESTIONS FROM THE COMMISSIONERS

**Tracy Cook** asked if other jurisdictions were using the 10% variance for administrative approvals? **Susan Heiser** stated that she has seen 15% and 20% used in other communities.

**Mike Miller** noted that the Planning Commission should still review the definition of flag lots. The current definition does not cover all types of lots that can be developed as a flag lot. This could be done at a later date.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FOR CLARIFICATIONS -- None.

DELIBERATION AMONG COMMISSIONERS

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

**Judith Borden** asked how this proposed language in the definition of flag lots would apply to private streets? Discussion followed on whether it would be more desirable to just say "street" instead of "public street." It was the consensus of the Commission to delete the word "public."

**Tracy Cook** moved to approve ZA-98-01 and make recommendation to the City Council for the adoption of an ordinance to enact the proposed revisions to Zoning Ordinance Section 700 (Variances) and to the Subdivision Ordinance Section 17.08 (Definitions) and 17.32 (Partitioning) with two additional amendments; 10% administrative approval and deleting "public" from the definition language. **Howard Steward** seconded. MOTION CARRIED UNANIMOUSLY 7-0.

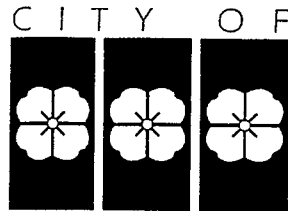
Ayes: Borden, Cartmill, Cook, Hammang, Miller, Steward, Smith; Nays: 0.

**Susan Heiser** announced that this issue will be heard at the November 17, 1998, City Council meeting.

END

7.0 WORKSESSION

8.0 DISCUSSION ITEMS -- None.



## MILWAUKIE

## MEMORANDUM

November 5, 1998

**TO:** Mayor and City Council

**THRU:** Dan R. Bartlett, City Manager  
Jim Brink, Public Works Director *JEB*

**FROM:** Paul Roeger, Civil Engineer *PR*

**SUBJECT:** Waverly Drive Sanitary Sewer LID Project

**Action Requested:**

Adoption of a resolution declaring Council intent to form a Local Improvement District to construct sanitary sewer improvements to 6 tax lots and/or potential lots on SE Waverly Drive from SE 17<sup>th</sup> Avenue to SE Cambridge Lane.

**Purpose:** Initiate the LID process for the Waverly Drive sewer project.

**Background:**

1. In 1991 the City engaged in some major paving overlay projects, including 17<sup>th</sup> Avenue. Public Works saw the need for sanitary sewer on Waverly Drive and the closest sanitary sewer was almost 400-feet south of Waverly Drive on the west side of 17<sup>th</sup> Avenue. Public Works did not want to dig up new asphalt in the near future, so the Sewer Department paid for installation of approximately 400-feet of sanitary sewer line on 17<sup>th</sup> Avenue to Waverly Drive.
2. Council approved Resolution 32-1998 (Attachment A) directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements to 6 tax lots and/or potential lots on Waverly Drive on 10-20-98.
3. Public Works had a meeting with affected property owners on 11-9-98 to provide information on the LID process.
4. Work on the project is expected to begin on or about 3-1-99 and last 45-60 days. **It is important to initiate the LID process as soon as possible so that all required items are completed prior to the waterline project start date.**

**Discussion:**

1. The required items for the Engineer's Report are attached:
  - a. A topo map (Attachment B) showing the nature, location and extent of the proposed improvement and an assessor's map (Attachment C) showing the lands to be assessed to pay part of the costs.
  - b. Harper Houf Righellis Engineers have done preliminary plans and specifications.
  - c. An estimate of the costs of the improvement from Harper Houf Righellis Engineers (Attachment D).

COMMUNITY DEVELOPMENT DEPARTMENT  
 Planning • Public Works • Facilities  
 6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206  
 PHONE: (503) 786-7600 • FAX: (503) 774-8236

VI. 2

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

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

f. There are no outstanding assessments against the properties to be assessed.

**2. Adoption of a resolution (Attachment G) declaring Council intent to form a Local Improvement District to construct sanitary sewer improvements to 6 tax lots and/or potential lots on Waverly Drive.**

The required items for this resolution are attached:

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

b. Engineer's Report as described above.

sewer\lid\WvrlyDr\Council2.doc  
11-6-98

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.

**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;

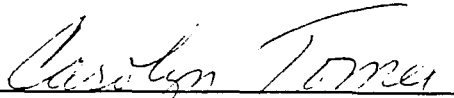
**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie that:

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


VI. 4

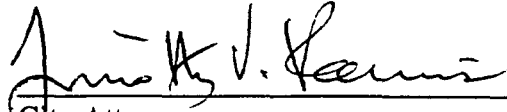
Introduced and adopted by the City Council on October 20, 1998.

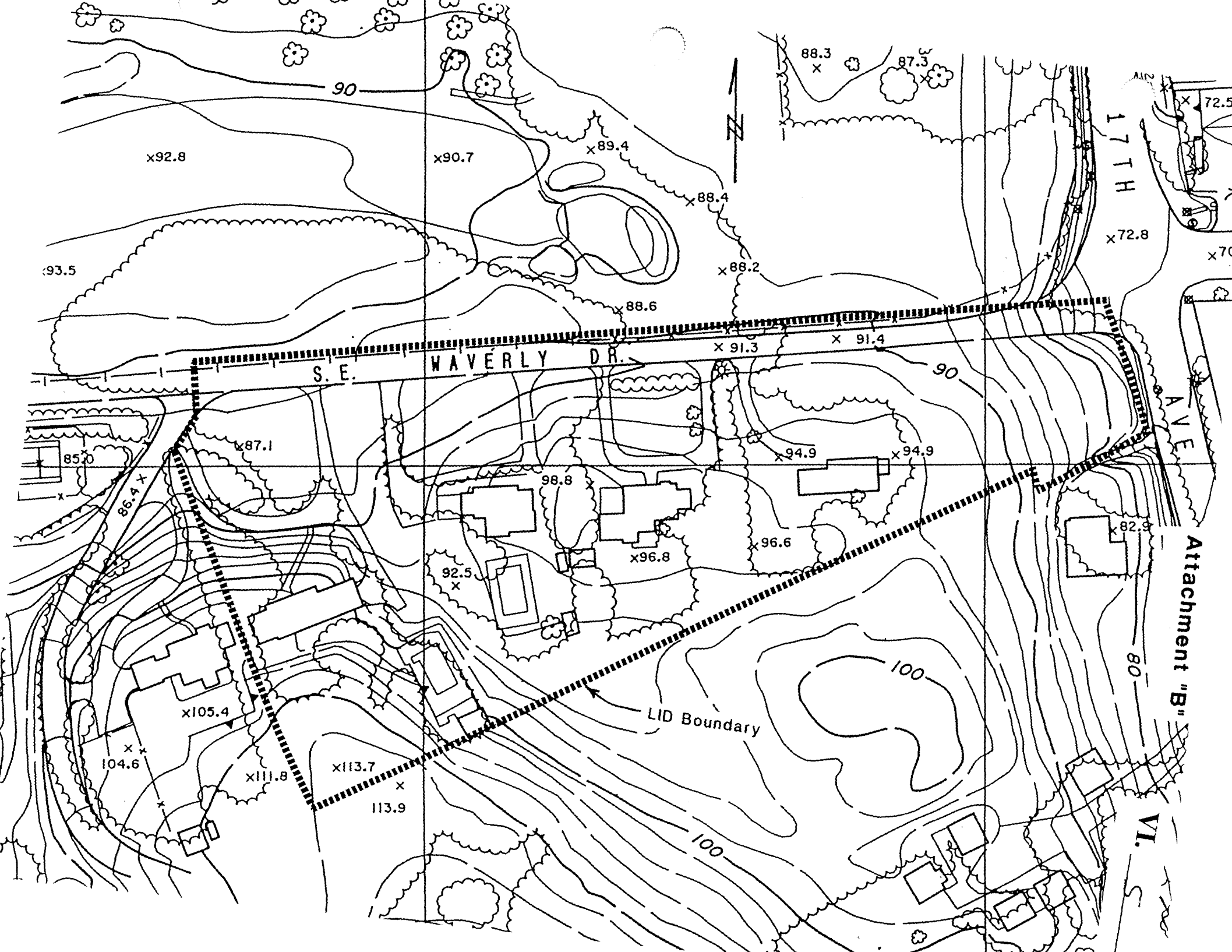
  
\_\_\_\_\_  
Carolyn Tomei, Mayor

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

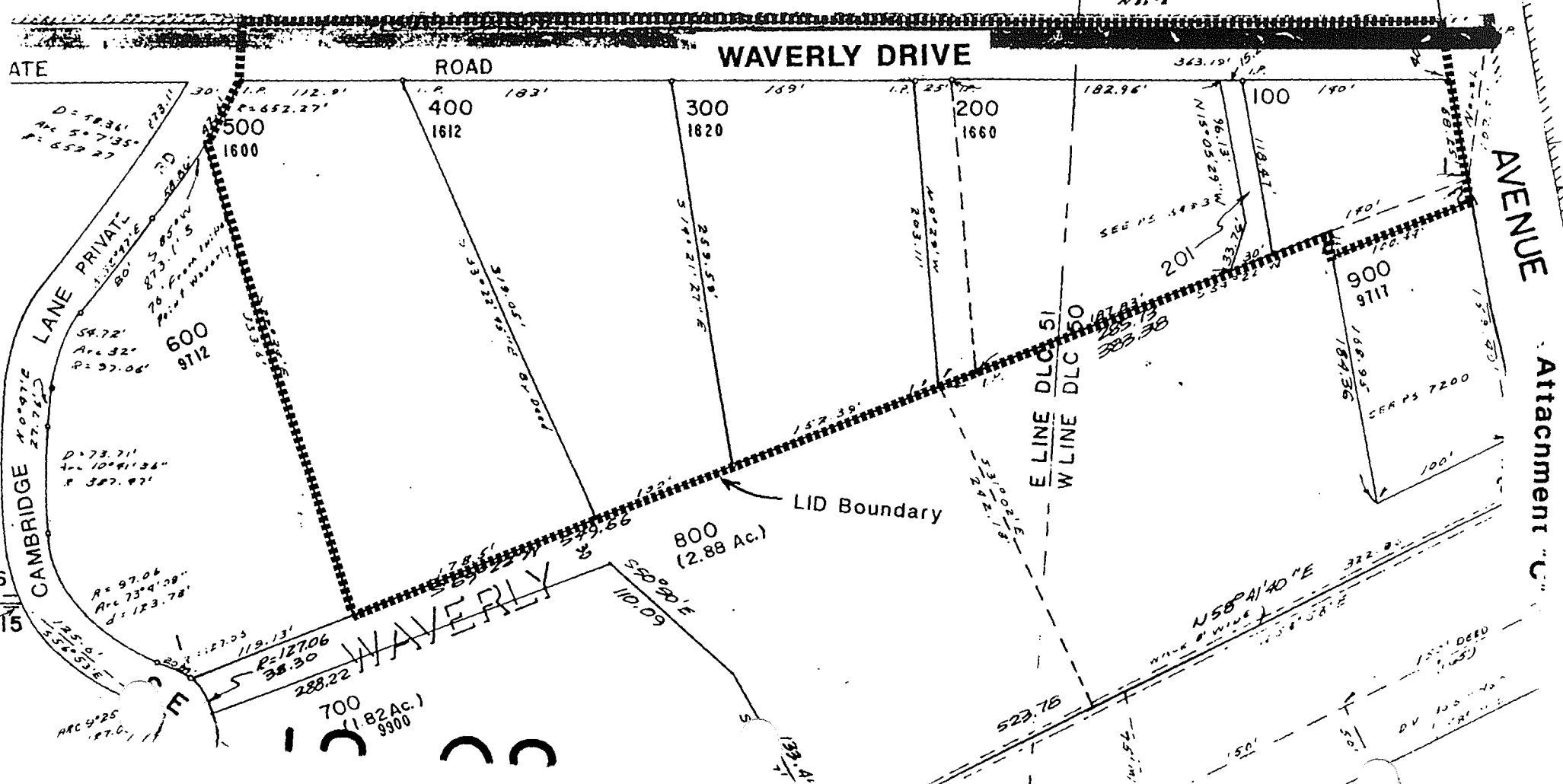
D.L.C.  
WILLIAM MEEK NO 50  
HENDERSON LLEWELLYN NO 51

1400

1"=100'

SEE MAP 1 IE 26

00021 17717



**Attachment "D"**

**Waverly Drive Sewer Improvements**

1	Connect to Existing Sanitary Manhole	Each	1	\$500.00	\$500.00
2	Sanitary Sewer Manholes	Each	3	\$2,400.00	\$7,200.00
3	8" PVC Sanitary Sewer Pipe	LF	725	\$50.00	\$36,250.00
4	4" PVC Sanitary Sewer Lateral	LF	75	\$30.00	\$2,250.00
5	Trench Excavation - Common	CY	160	\$25.00	\$4,000.00
6	Trench Excavation - Rock	CY	130	\$120.00	\$15,600.00
7	Granular Backfill	CY	280	\$28.00	\$7,840.00
8	10% Miscellaneous and Contingency				\$7,364.00
<b>Sub-Total of Waverly Drive Sewer Improvements</b>					<b>\$81,004.00</b>

VI.  
2

# Attachment "E"

## WAVERLY DRIVE SANITARY SEWER LID PROJECT COST SHARE OPTIONS

VI.  
8

	Front Footage	Area(sf)	"A" Total Cost *	"B" Total Cost	"C" Total Cost	
Waverley CC	140	14380	\$11,249	\$11,412	\$5,307	<b>Project Cost Estimate</b> 73,640 Construction 1,900 Design 7,364 Contingency 1,200 Const. Engring 5,891 Proj. Admin. & Insp.(8%) <b>89,995 Total</b>
Smith, Michael	207.96	34930	\$11,249	\$16,951	\$12,891	
Blazo	15.2	1800	\$11,249	\$1,239	\$664	
Worthington	169	35800	\$11,249	\$13,775	\$13,212	
Smith, Maynard	183	40460	\$11,249	\$14,917	\$14,932	
Lewis	112.9	55520	\$11,249	\$9,203	\$20,490	
						<b>Property Owner Cost Share: (75%)</b> <b>\$67,496</b> <b>City Cost Share (25%)</b> <b>\$22,499</b>
						<b>City Costs</b> 13,508 Construction 1,900 Design 1,200 Constr. Engring. 5,891 Proj. Admin. & Inspection (8%) <b>22,499 Total</b>
	828.06	182890	\$67,496	\$67,496	\$67,496	
	"A"	Split Equally Among Taxlots				
	"B"	Split by Front Footage				
	"C"	Split by Area				

# Attachment "F"

## Waverly Drive Sanitary Sewer LID Project Property Values

TLNO	SITSTRNO	SITSTRNA	OWNER	COOWNER	MAILADDR	SITCITY	LANDVAL	BLDGVAL	TOTALVAL
11E26DB00100	VACANT	WAVERLY DRIVE	WAVERLEY COUNTRY CLUB		1100 SE WAVERLY DR.	MILWAUKIE	\$117,850	\$0	\$117,850
11E26DB00200	1660	WAVERLY DRIVE	SMITH, MICHAEL L.	& PATRICIA P	1660 SE WAVERLY DR.	MILWAUKIE	\$237,300	\$252,060	\$489,360
11E26DB00201	VACANT	WAVERLY DRIVE	BLAZO, STEPHEN F.		1829 SE ST. ANDREWS DR.	MILWAUKIE	\$15,360	\$0	\$15,360
11E26DB00300	1620	WAVERLY DRIVE	WORTHINGTON, DAVID L.	& DIANE S.	1620 SE WAVERLY DR.	MILWAUKIE	\$247,230	\$364,660	\$611,890
11E26DB00400	1612	WAVERLY DRIVE	SMITH, MAYNARD G. - TRUSTEE		1612 SE WAVERLY DR.	MILWAUKIE	\$244,740	\$260,680	\$505,420
11E26DB00500	1600	WAVERLY DRIVE	LEWIS, CHARLES S. III	& MARIANNE	1600 SE WAVERLY DR.	MILWAUKIE	\$301,400	\$318,720	\$620,120

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE OREGON DECLARING THE INTENT TO FORM A LOCAL IMPROVEMENT DISTRICT TO CONSTRUCT SANITARY SEWER IMPROVEMENTS ON SE WAVERLEY DRIVE, BETWEEN SE 17TH AVENUE SE CAMBRIDGE LANE, ADOPTING THE PRELIMINARY ENGINEERING REPORT, CALLING FOR A PUBLIC HEARING, AND DIRECTING THAT NOTICE OF THE HEARING BE GIVEN.**

**WHEREAS**, the City Council by Resolution No. 32-1998 directed that a Preliminary Engineering Report be prepared for the construction of sanitary sewer improvements on SE Waverley Drive; and

**WHEREAS**, the Preliminary Engineering Report has been completed and submitted to the City Council which finds the proposed project to be feasible, and recommends this project be given a priority. Based on the City Engineer's findings, the City Engineer recommends the district be formed and the improvements be made;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie that:

Section 1: The City Council by this resolution declares its intention to make the following improvements:

Sanitary sewer, including associated manholes and service laterals to the properties on the south side of SE Waverley Drive west of SE 17<sup>th</sup> Avenue and east of SE Cambridge Lane.

The improvements will be located in the area generally described in the legal description found in Exhibit "A," attached hereto and incorporated herein by this reference.

Section 2: The City Council by this resolution declares its intention to form a local improvement district and to assess the benefited owners for seventy-five percent of the cost of the improvement.

Section 3: It is the intention of the City Council that the improvements be constructed in accordance with the plans and specifications contained within the Preliminary Engineering Report provided in Exhibit "B," attached hereto and incorporated herein by this reference. The Preliminary Engineering Report may be changed in the hearings and construction process and is hereby adopted subject to amendments.

Section 4: The total estimated cost for the proposed improvement is \$89,995.00 and the benefited properties shall be assessed on a per each residential lot to arrive at a fair apportionment of the costs among the specially benefited properties.

VI. \_\_\_\_\_

Section 5: A public hearing shall be held in the Community Meeting Room at the City of Milwaukie Public Safety Building on January 5, 1999, at 6:00 p.m. At this time the City Council will hear objections or remonstrance's to the proposed improvement by any property owner within the proposed local improvement district boundary.

Section 6: The Finance Director is hereby directed to give notice of the public hearing as provided in Section 3.08.040 of the Milwaukie Municipal Code.

Section 7: All remonstrance's shall be filed with the City Recorder by the close of the initial public hearing. Thereafter, no remonstrance's shall be considered.

Introduced and adopted by the City Council on \_\_\_\_\_, 1998.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:  
O'DONNELL, RAMIS, CREW & CORRIGAN

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

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

**EXIHIBIT "A"**

All of Block 1 of WAVERLY HEIGHTS, a duly recorded subdivision in Clackamas County, Oregon, except that portion conveyed to Michael C. and Sharon C. Malone in Instrument No. 91-21500, and together with a portion of Block 2 of said subdivision described as parcel II in Instrument No. 77-23440, and SE Waverly Drive, a private street, adjoining the north side of said Block 1.



**TO:** Mayor and City Council

**THRU:** Dan R. Bartlett, City Manager

**FROM:** Laura Atanes, Information Systems and Technology Manager *LA*

**SUBJECT:** Year 2000 Upgrade to Financial System

**Action Requested:** That Council grant the City Manager authority to sign a personal services contract with Springbrook Software in the amount of \$100,000 to purchase and install Year 2000 compliant financial software.

**Purpose:** To ensure that the integrity of the City's financial data is maintained through the Year 2000.

**Background:** An exhaustive study was conducted of over 100 software vendors who specialize in selling, installing, and supporting municipal financial software. Only one of these vendors (Springbrook Software) met our system, module, and timeline requirements. Since we are an existing customer of Springbrook, they have also offered the City a discount which, when compared to other systems, reflects a savings of approximately \$10,000-\$60,000.

**Discussion:** Time is of the essence when considering Year 2000 issues. Some financial systems may experience Year 2000 problems as early as December 1998 though the City will most likely start experiencing problems by June 1999. I believe it is imperative that the City begins the Year 2000 upgrade no later than December 1, 1998. The upgrade requires 4-6 months for completion due to the multiple, required data conversions.



# Park and Recreation Board

Monthly Meeting Minutes

Monday, 10/5/98

6:30 PM to 7:40 PM

Aquatic Park

7300 Harmony Road

**Type of meeting:** Regular

**Attendees:** Rebecca Langdon, Sandra McCune (dropped off memo), Chris Monson, Dave Murray, Darlene Walsh

## ----- Agenda Topics -----

Meeting called to order at 6:45 PM by Dave Murray, Chair

Welcome New Member – Rebecca Langdon

Minutes from 9/14/98 meeting Charlene Richards      5

Conclusions: Moved by Chris Monson and second by Dave Murray to approve as written. Approved 3 yeas and 1 abstention.

Action items:	Person responsible:	Deadline:
Send approved minutes to City Council	Charlene Richards	10/9/98

Open Period (non agenda items) No Audience

NCPRD & City staff Updates Thom Kaffun &      20  
Charlene Richards

Discussion: City update: South/North Light Rail – Council direction given to the Mayor and City Manager to proceed to negotiate for Scott Park mitigation. The City purchased for parkland the Canfield property located at Home and Monroe.

Conclusions: Dave Murray moved and Chris Monson seconded the motion to ask the City to designate the property as parkland. Passed unanimously.

Action items:	Person responsible:	Deadline:
Send a letter to the Planning Commission requesting parkland designation.	Charlene Richards	10/30/98

VII. A. 2

Old Business		
Review Neighborhood Association Presentations	PARB	10
<p>Discussion: Dave Murray met with the Hector Campbell neighborhood. Ten to twelve people attended. He will go back to the next Hector Campbell meeting to solicit requests. Darlene Walsh tabled the presentation until the October meeting, 10/13/98. Sandy McCune presented at the Historic Milwaukie and Lake Road neighborhood associations. Both groups developed a wish list. See attachments.</p> <p>Conclusions: PARB members will attend October meetings to solicit information from neighborhoods.</p>		
Action items:	Person responsible:	Deadline:
Include Historic Milwaukie and Lake Road wish lists with next meeting packet.	Charlene Richards	10/23/98
Next meeting -- agenda topics, date, time and location	PARB	10
<p>Conclusions: Postpone reviews of neighborhood association presentations and development of FY 98-99 work plan. PARB members will revisit neighborhood association meetings to complete gathering information from the community.</p>		
Action items:	Person responsible:	Deadline:
Place review of neighborhood associations wish lists on agenda	Charlene Richards	10/23/98
Adjourned at 7:40 PM		

**Other Information**

**Resource person:** Charlene Richards, City of Milwaukie

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, OCTOBER 27, 1998

**COMMISSIONERS PRESENT**

Donald Hammang, Vice-Chair  
Judith Bordon  
Barbara Cartmill  
Tracy Cook  
Mike Miller  
Howard Steward

**STAFF PRESENT**

John Gessner,  
Associate Planner  
Janet Wright,  
Assist. Planner,  
Shirley Richardson,  
Hearings Reporter

**COMMISSIONERS ABSENT**

Michael Smith

**OTHER**

JoAnn Herrigel,  
Program Services  
Coord.

1.0 CALL TO ORDER

**Vice-Chair Hammang** called the meeting to order at 6:13 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, September 22, 1998

4.0 PLANNING COMMISSION MINUTES -- October 13, 1998

**Judith Bordon** moved to approve the minutes of October 13, 1998, as presented.

**Mike Miller** seconded. MOTION CARRIED 5-0.

Ayes: Bordon, Cartmill, Hammang, Miller, Steward; Nays, 0.

5.0 PUBLIC COMMENTS -- None.

Tracy Cook arrived at the meeting at 6:30 p.m.

6.0 PUBLIC HEARINGS

6.1 Applicant: Lisa Haberlock Charron  
Owner: Flaviano Reyes  
Location: 4450 SE King Road

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of October 27, 1998

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Proposal: To replace an existing non-conforming use permit for travel and florist to Athens Hair Company.  
File Number: NCU-98-03  
NDA: Hector Campbell

**Vice-Chair Hammang** opened the public hearing on File Number NCU-98-02, a request for change of non-conforming use to allow operation of a hair salon. Criteria to be addressed are found in Sections 300 and 806 of the Milwaukie Zoning Ordinance; Chapter 4-Land Use of the Milwaukie Comprehensive Plan; and Section 14.08.09 of the Milwaukie Sign Ordinance..

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

STAFF REPORT

**John Gessner** reviewed the Staff Report with the Commission. The Application has been brought before the Commission by Athens Hair Company to seek permission to allow their non-conforming use to remain. An addendum to the Application included a Request for the Approval of Signage for the site.

The site, which is zoned R-3, has been approved for medical offices by way of a Conditional Use Permit issued in 1968. The building continued this use until 1987, when the current owner, Flaviano Reyes, obtained a business license for a non-conforming use for office tenants. Previous uses included educational services, florist, travel agency, offices of plumbing firm, offices of a construction firm, and this hair salon. The current office of accountants were permitted by conditional use.

The Planning Commission may authorize change of non-conforming uses upon a finding that the proposed use is no more detrimental than the former use pursuant to Section 806 of the Zoning Ordinance. The Commission's 1968 approval of additions to the then existing Doctor's office authorized 6 on-site personnel, 15 parking spaces and a floor area of 1,900 square feet. Staff suggests that the hair salon be compared to the previously approved doctor's office for the purpose of determining whether or not it has any greater impact or detriment.

## CITY OF MILWAUKIE PLANNING COMMISSION

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Traffic counts indicate King Road average daily traffic to be fairly stable over time. The site complies with Chapter 4, Land Use Residential Land Use and Housing Element, Section 304, Residential Zone R-3, Section 500, and Off Street Parking and Loading. Criteria to address the amendment to the Application for Signage is found in Section 14.08.09 of the Milwaukie Sign Ordinance.

Overheads were shown of the subject site and the surrounding area. Photographs were shown to the Commission which showed the location of the existing sign.

The amendment for the Signage Application requests location of the sign be (a) underneath the gable or (b) between the two windows on the left-hand side of the building; location (a) is preferred.

Staff recommends approval with the findings and conditions outlined in the Staff Report.

Staff recommends that no more than three stylists be permitted at one time. The Applicant has requested the flexibility of expanding employees to include four stylists. Staff's comparative impacts analysis was based on four stylists. Staff selected three stylists to give Commission some control over the present use of site; this is what is there now.

## CORRESPONDENCE RECEIVED BY STAFF

A packet was submitted to each Commissioner which included an amendment to the Application to include site signage and a letter of support of Application dated October 25, 1998, from Dorothy J. Davidson, who works in an adjacent office.

## QUESTIONS FROM THE COMMISSIONERS

**Howard Steward** asked if the building existed before the current zoning? **John Gessner** explained that in 1968 the building was zoned A-3, a more intense use which allowed multi-family and doctor offices as conditional uses. Sometime after the 1968 approval for medical offices, the property was rezoned to R-3, a less intense use. This use allowed single family residences, duplexes and multi-family with a conditional use. This was the only zoning change recorded.

**Howard Steward** asked what procedure is used to phase in a non-conforming use? **John Gessner** stated that the Conditional Use approval runs with the land. This approval is subject to conditions of approval established by the Planning Commission. The present regulations require that a change of tenancy be referred

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to the Planning Director for determination of consistency with Section 800 of the Zoning Ordinance if the new uses are not out-right permitted.

**Mike Miller** asked if there was a stipulation in the Code that when a tenant leaves and the use is changed, the property owner is responsible for alerting the City of the use change? **John Gessner** stated that this would be a Condition of Approval that could be added. The property owner should be encouraged to notify the City of any change of tenancy; presently the tenant has undertaken a responsibility that should be vested with the property owner.

**Barbara Cartmill** asked if there was any Staff discussion relating to previous zone changes in the King Road area? **John Gessner** stated that there was some discussion with Susan Heiser, Planning Director, regarding King Road as mostly residential, but is starting to look more commercial. Rezoning to commercial may not be successful, the neighborhood may not support the change.

**Donald Hammang** asked if there would be any negative impacts if four stylists were allowed? **John Gessner** stated that there are no negative issues relating to having four employees as opposed to three employees.

Discussion followed on hours of operation. There was an issue of whether the Athens Hair Company could be open during the hours of 7:00 a.m. to as late as 11:00 p.m. Because there are no concerns with noise or other negative impacts, could the salon have the flexibility to remain open in the evening hours if necessary to accommodate appointment requests? The property has been used intensely for the past 30 years, so there should be a degree of comfort by the residential neighbors by previous evening uses. Staff has recommended the hours requested by the Applicant. No analysis was done by Staff on closing times beyond 7:00 p.m. It was ultimately agreed that the operating hours should be from 8 a.m. to 8:00 p.m.

**Tracy Cook** asked if a Site Lighting Plan was required? **John Gessner** stated that in the conditions a Site Lighting Plan is requested to assure that the neighboring properties are not impacted.

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## APPLICANT PRESENTATION

Speaking: Lisa Haberlock Charron, 4450 SE King Road, Suite 8, Milwaukie

**Ms. Haberlock Charron** noted that she has read and supports the Staff Report. She stated that right now there are three stylists working half time and two stylists working three-quarter time. The company works strictly by appointment and they don't solicit walk-in clients. Most of the time now, there is only one stylist working. If there were two stylists on the property at all times, it would address safety concerns by the employees. Because of the part-time nature of the stylists, there is very few instances of three stylists working at the same time.

## QUESTIONS FROM THE COMMISSIONERS

**Howard Steward** asked if Ms. Haberlock Charron knew this Non-conforming Use Application would be a requirement when she entered into the lease agreement? **Ms. Haberlock Charron** stated that she signed a lease with Mr. Reyes on April 20, 1998, and she was not informed that this Application would be necessary. Mr. Reyes had met with City staff previously, but her first knowledge of the Application was from a letter she received on August 31, 1998, from the City.

**Mike Miller** asked if the old sign would be removed when the approved sign is displayed? **Ms. Haberlock Charron** stated that the Sign Ordinance requires that the old sign be removed.

**Barbara Cartmill** asked for clarification of hours of operation; could there be a Monday afternoon appointment? **Ms. Haberlock Charron** stated that the salon is closed on Sunday and Monday. Tuesday through Saturday are the days of operation with the hours depending on appointments, generally 9:00 a.m. to 7:00 p.m. There are times, when you are running over with a client that stylists will be in the salon at 8:00 p.m.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

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QUESTIONS FOR CLARIFICATION

**Judith Bordon** asked Staff what were their concerns were over the number of stylists for this salon? **John Gessner** stated that the concern is over the number of people on site at one time, not the number of people employed by the salon. Staff did not see a significant difference in having three stylists or having four stylists; the analysis is the same. The concern is the number of people on the premises at one time. The Code requires one person per 100 sq.ft.

APPLICANT CLOSING COMMENTS -- None.

DELIBERATION AMONG COMMISSIONERS

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

**Vice-Chair Hammang** stated that he feels that four stylists would be fine. He does not feel hours of 8:00 a.m. to 8:00 p.m. is unreasonable. He would like to encourage business at this location.

**Barbara Cartmill** stated that she too feels four stylists should be allowed. She suggested that hours of operations not be stipulated in the Conditions. **Janet Wright** stated that under the Municipal Code, hours of operation related to noise are stipulated to be 8:00 a.m. to 10:00 p.m.

**Tracy Cook** stated that she agrees with four stylists and no limitations on hours of operation. She would like to see a condition added that when this tenant vacates, the owner must come forward with the change in use.

**Howard Steward** complimented Staff on their thorough work and expressed appreciation of the Applicant's attitude and straight-forwardness. He is concerned that the Applicant entered into this lease agreement without being informed of the Conditional Use restrictions. He feels the government has the responsibility of informing its citizenry of these types of situations.

**Mike Miller** suggested that Staff consider some type of newsletter to inform citizens of the conditions and requirements necessary for businesses in the City.

**Tracy Cook** moved to approve NCU-98-02 for Athens Hair Company subject to the findings and conditions contained in Exhibit 1 as amended tonight:

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- Condition 1(a): The intent of the conditions is that four stylists will be utilizing the facility/premises at one time.
- Condition 1(b): General hours of operations shall be 8:00 a.m. to 8:00 p.m.
- Condition 1(e): The property owner, upon termination of its lease with this Applicant, inform the City Planning Department that the premises is vacated.

Further that the amended Sign Application be approved with the preferred (a) location. **Barbara Cartmill** seconded. MOTION CARRIED UNANIMOUSLY 6-0.

Ayes: Bordon, Cartmill, Cook Hammang, Miller, Steward.

Nays: None.

## 6.3 PUBLIC HEARINGS

Applicant: City of Milwaukie -- JoAnn Herrigel  
 Owner: City of Milwaukie  
 Location: 14014 SE Freeman Road  
 Proposal: Plant native and wetland plants around wetland at Willow Place and upland plants in forested area on site.  
 File Numbers: NR-98-03  
 NDA: Lake Road

**Vice-Chair Hammang** opened the public hearing on a Natural Resource Review, NR-98-03, an action to allow plant restoration and enhancement of the Willow Place natural area. Criteria to be addressed are found in Section 322.7 of the Milwaukie Zoning Ordinance.

**Vice-Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare. **Vice-Chair Hammang** explained that he was an advisor on the Pennywood Project. He has no economic interest in this issue. He feels that he can vote on this issue in an impartial manner. There were no other conflicts of interest or ex-parte contacts 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 audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

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STAFF REPORT

**John Gessner** reviewed the Staff Report with the Commission. Joanne Herrigel has been working with plant restoration on this project. Staff is recommending approval subject to the conditions and findings of the Staff Report.

Overheads were shown of the subject site and surrounding area. This property was conveyed to the City when the Pennywood Subdivision was created.

CORRESPONDENCE RECEIVED BY STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS -- None.

APPLICANT PRESENTATION

Speaking: Joanne Herrigel, 10722 SE Main Street, Milwaukie

**Ms. Herrigel** stated that she is the Program Services Coordinator for the City of Milwaukie. She explained that she took on this project in response to administering a Grant from METRO.

She noted that the vacation of Ryan Street actually goes south of Pennywood Subdivision and ends at the southern lot on the northern boundary of the Bowman Subdivision. She walked the site with a Division of State Lands representative and a Corps of Engineers representative and they both thought that the site had a lot of potential for enhancement. They had no jurisdictional issues.

The species list for this enhancement has not been completed to-date, but will be done shortly. As soon as it is completed, it will reviewed with the abutting property owners. Planting will be done as soon as approvals permit.

**Ms. Herrigel** asked Staff for clarification on Condition #2. **John Gessner** explained that Staff did not have any specific concerns about erosion control. Since there may be some land-clearing action on this site, a typical development condition was included. This condition allows for protection from loss of soil cover if needed.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

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TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FOR CLARIFICATION OF TESTIMONY -- None.

APPLICANT CLOSING COMMENTS -- None.

#### DELIBERATION AMONG COMMISSIONERS

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

**Howard Steward** moved to approve National Resource Review, NR-98-03, allowing plant restoration and enhancement of the Willow Place natural area based on the findings and conditions as contained in the Staff Report as Exhibit 1. **Mike Miller** seconded. MOTION CARRIED UNANIMOUSLY 6-0.

Ayes: Bordon, Cartmill, Cook, Hammang, Miller, Steward.

Nays: None.

Recess was taken at 7:30 p.m. and reconvened at 7:45 p.m.

#### 7.0 WORKSESSION

##### 7.1 Joint worksession with Historic Resources Commission

**Chair Irene Bowers** called the Historic Resources Commission meeting to order at 7:45 p.m. She introduced the members present: Margaret Parsons, Jean Johnson, Irene Bowers, and Patty Wisner. The meeting was then turned over to **Greg Chew**, Staff Consultant, for a presentation of the City's Historic Resources Program.

**Greg Chew** stated that he has been a consultant on the Historic Resources Commission since its inception in 1990. The Historic Resources Program started back in the late 1980's in response to State Planning Goal #5. It parallels similar programs in other cities. Goal #5 requires that local communities address issues about identifying and preserving resources. Every five years, the State has a periodic review of how cities address these concerns.

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In 1989, the Milwaukie City Council adopted City Code 323, Historic Preservation Overlay Zone HP. A copy was submitted to the Commissioners for review. Ten years ago, the City hired an architectural consultant to review every property in the City that was over 50 years-old. The Historic Preservation Overlay Zone was created to determine whether a property is on the Historic Resources Inventory.

Interested citizens were recruited to oversee the month to month functions of the Historic Resources Program (Historic Resources Commission). The Historic Resources Commission was given specific charges from the City Council for:

- The education of the history of the community, both architecturally as well as culturally. What are some of the major trends of the past and how do they reflect in the current built environment and natural resources?
- Oversee the ratings program and instill an inventory program.
- General outreach with the community, developing educational programs, and getting the word out about the history of Milwaukie.

In order to be on the Historic Resources list, a property must meet eleven criteria. The criteria include: Person/Group/Organization, Event, Pattern, Style/Landmark Type, Design/Artistic Quality, Materials/Construction/Development, Integrity, Rarity, Landmark, Setting, and Continuity. There is a total of 82 points possible from these criteria in terms of where the property fits in these categories.

A property can receive one of four rankings through Historic Review: Significant, Contributing, Unrankable, and Without Significant Historical Value. Of the categories, only those ranked "Significant" and "Contributing" are considered Historical Resources.

People often confuse the City's Historic List with the National Historical Register. A National Register designation has significant impacts on your property. It is quite a stringent process but allows you a 15-year tax freeze and other economic incentives. The City designation does not have economic incentives, but does have recognition and is not as restrictive. There are two requirements; there cannot be any major alterations to the exterior of the building, and the property cannot be demolished without approval from the Historic Resources Commission.

**Mr. Chew** then showed slides of some of the current properties in the Historic Resources inventory. Properties shown were:

- An Arts and Crafts home in the Waverly area.
- A Tudor style home in the Waverly area.

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- A Colonial Revival style home that was "Significant" because it was owned by a Famous Auto Parts Manufacturing Entrepreneur.
- A Pink Palace designed by the Dean of Architecture at the University of Oregon in the Waverly area.
- The Milwaukie Junior High School, a Georgian style building.
- The William Shindler House, built in the Italianate style, was the first Mayor of Milwaukie, plus the location of the largest Dogwood tree in the world.
- The Milwaukie Masonic Temple, a 20th Century Gothic Revival style building.
- Milwaukie City Hall, built in the Half Modern Style.
- Shindler Hardware Store, built in the Italianate style, owned by the first Mayor of Milwaukie.
- Oldest residence of the City, off Railroad Avenue, built in the Oregon Vernacular style.
- A Colonial Revival style home in the Waverly area.
- The Milwaukie High School, built in the Half Modern Style similar to City Hall.
- A Colonial Revival style home off 34th and King Road.
- A Tudor style home in the Island Station area.
- A downtown Milwaukie home associated with Reverend Hager, the first resident of downtown Milwaukie.
- A Colonial Revival style home in the Waverly area.
- An Arts and Crafts style home on King Road.
- A Queen Anne style home on Lake Road that was brought in by barge from Portland.
- A Colonial Revival style home on Lake Road. This property is associated with a piano teacher whose piano techniques are still used and taught today.
- A Mediterranean style home in downtown Milwaukie.
- A Craftsman style home in downtown Milwaukie.
- The Westler Building which is styled to look like cast stone.
- Birkemeier/Sweetland Property which is "Contributing" because of the famous people that have visited the home; John F. Kennedy, Harry Truman, Hubert Humphrey, and others.
- A National Parks style home off Oatfield Road.
- A Vernacular style home off River Road.
- A Colonial Revival home in the Waverly area.
- An Arts and Crafts home (Happy Face House) across from the elementary school.
- The Ardenwald Elementary School was done in the Greek Revival style.

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- A Craftsman style home associated with a prominent businessman, Courtney Trenton.
- The ODOT Building off McLoughlin Blvd., A WPA (Work Program Administration) project. The same program that built Timberline Lodge and Crater Lake.

**Greg Chew** stated that the work program in prior years have been centered on getting properties on or off the Historical Resource List. This year time was spent on putting together the history of Milwaukie on a 20-minute video. This video was shown on cable TV and is available for review.

A majority of the Commission's time will be spent developing and implementing a educational outreach program on the history of Milwaukie and its historic resources inventory for the community. Other projects will include light rail alignment issues on Milwaukie's historic resources, redevelopment of downtown and the riverfront, and expanded City Center Planning.

**Chair Bowers** noted that the Historic Resources Commission has not yet been appointed a Planning Commission representative and she invited a volunteer for the position. **Janet Wright** stated that Donald Hammang had been chosen as the Historic Commission representative and he would be attending the next meeting.

**Jean Johnson** stated that she would be leaving the Commission next year. There will be a vacant position at that time.

**Mike Miller** asked if there was a sale of a "Historic List" property, does the new owner automatically get removed from the list. **Greg Chew** stated that the new owner will have to fill out an Application to request removal from the "Historic List" if that is his desire.

Discussion followed on whether the Light Rail line would impact the ODOT building. The current plans include the maintenance station to be placed behind the building. A site study will be done taking into consideration historic property, parks, natural resources, etc.

**Jean Johnson** asked if consideration could be given from the Historic Resources Commission to doing something about the main nucleus of downtown Milwaukie (Far West Bank block--Main Street). Possibly some sort of market place or drawing point to downtown Milwaukie. **Chair Bowers** explained that there are several things going on in downtown Milwaukie. The MDDA (Milwaukie

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Downtown Development Association) is addressing the litter problems. Their Association has three committees working on downtown development: the Niche Committee to define the type of business to solicit and an Image Committee to fix up the current look of downtown Milwaukie. There is aggressive work is being done to attract developers for redevelopment. The Neighborhood Associations are soliciting comments on how the downtown area should be designed, possibly a unique creative art and entertainment core in downtown Milwaukie.

**Chair Irene Bowers** closed the Historic Resources Commission meeting at 8:40 p.m.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

9.1 Light Rail Study Update -- None.

10.0 OTHER BUSINESS

10.1 Historical Resources Commission Report -- Joint meeting tonight.

10.2 Clackamas Regional Center Area Plan Report -- No Report.

10.3 Community Development Director Report -- No Report.

11.0 Next Meeting -- November 10, 1998

11.1 CSO-98-04 -- North Clackamas Park & Recreation -- Wichita Park

11.2 MC-98-02/MU-98-01/TPR-98-08/VR-98-08 -- Reliable Credit

11.3 Street Name Change Request

**Barbara Cartmill** moved to adjourn the meeting of October 27, 1998. **Judith Bordon** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 8:52 p.m.

---

Donald Hammang, Vice-Chair

---

Shirley Richardson, Hearings Reporter

**TRAFFIC SAFETY and TRANSPORTATION BOARD**

Regular Session

September 21, 1998

7:00 pm

Johnson Creek Conference Room

**I Call to Order**

The meeting was called to order at 7:06 pm. Present were:

David Aschenbrenner  
Al Dorsey  
Susan Stone

Gene Covey  
Jim Schierholz  
Julie Wisner (7:10 pm)

Absent:

None

Staff present:

Jim Brink, City Engineer  
Rob Shelton, Associate Engineer  
Connie Ware, Staff Assistant

Also Present:

Susan Heiser, Planning Director  
Murray Stone, ODOT Traffic Investigation  
Dorothy Upton, ODOT Traffic Investigation

Newly appointed member Gene Covey was introduced to the members present. The rest of the group introduced themselves and some noted how and why they got involved in the TSTB. Covey commented that two or three years ago he had returned to the Portland area after living in Taiwan, and he applied to serve on a board with the City as a way to get involved with the community.

**II CONSENT AGENDA**

Chair Stone had a point of clarification on Page 2, Item 2 – the sign that she was referring to was the east-bound sign approaching the overpass on Tacoma. She noted that the sign was still not very prominent. Aschenbrenner MOVED to accept the August 10th minutes as submitted; Wisner SECONDED the motion. Motion approved by all members present.

**III PRESENTATIONS**

- A. Brink noted that at the July 14<sup>th</sup> meeting of the TSTB with Mr. & Mrs. Fox, the Foxes had requested a new speed zone study with the goal of finding support for their request to have the posted speed lowered on Lake Road from the 224 overpass to the current 35 mph speed sign (near 42<sup>nd</sup> Ave.). He explained that Murray Stone was present to discuss the methods and goals of speed zone investigations. Mr. Stone began by explaining that the last speed zone study on Lake Road was done in

1992, after an earlier request from Mr. Fox. That investigation resulted in a reduction from 45 mph to the present 40 mph; since that time the accident rate has been minimal. Judging from the speeds noted 8/28/98 at about 40<sup>th</sup> Avenue, the average speed in the 35 mph area is about 41 mph. In doing speed zone investigations, the most weighted item by far is the actual traffic speed – others are the presence or absence of curbs, the number of lanes, the proximity of homes to the right-of-way line, and the width of pavement, etc.

Aschenbrenner asked what criteria would justify dropping the 40 mph to 30 mph; Upton replied that 85% of the vehicles monitored would have to be traveling about 30 mph. Upton gave a short history of speed zones, and emphasized the necessity of statewide consistency in speed zone studies to ensure that there is no perception of “speed trapping”. She also ODOT looks at the road geometry – not the local designation of a street – to make its’ determination. Vehicle speeds, accident rate, and topography are all used as criteria; she pointed out that most drivers use visual clues to determine their speed, rather than a sign with a posted speed.

Wisner asked what it would take to get the speed reduced to 35 mph to match the existing speed limit to the west. Upton pointed out that ODOT Traffic Investigation is currently a one-man operation with a one-year backlog of requests. Any jurisdiction making a request for a speed zone investigation will be contacted when the current backlog has been taken care of. The process for appeal requires local agency to request a formal investigation, and a recommendation is made using the results of the investigation; the local agency must then request an appeal. The appeals panel meets twice a year. If the State must pay for the speed zone investigation, the request is added to the backlogged work. If the City pays for a traffic engineer to do the study, the process can move somewhat faster.

There was a discussion regarding how driver habits can be affected by changing the geography with “slow points” or reader boards. Mr. Stone pointed out that the accident rate on Lake Road through the subject area is about .99 per million vehicle miles, which is considered very, very low. Chair Stone argued that livability should be the focus.

Wisner and Chair Stone offered their points; Mr. Stone pointed out that if the City wants to change the speed to 25 mph, all they have to do is designate the subject area residential, and ODOT drops out of the equation. Brink commented that the Lake Road Multi-Modal project will re-engineer the road in such a way that traffic should naturally slow down, but he can’t support making such a drastic speed change at this point in time. He noted that a small sector of the population has requested change, and the City has responded with studies and investigation, the results of which do not support making the requested change. Mr. Stone commented that as he was making the 8/28/98 informal investigation, he actually observed vehicles slowing – hitting their brakes – as the track team proceeded along the bike lane. He felt that this indicated that drivers were very aware of the area and taking precautions when people are present.

Brink asked Upton if the basic rule applies to Lake Road. She replied that the basic rule states that drivers must travel a “reasonable and prudent speed” for the conditions; Lake Road drivers have been observed traveling below the posted

speed of 45 mph. Mr. Stone pointed out that a survey done in '97 showed that posted speeds had little effect on drivers, who favored visual clues in the surroundings. Posting Lake Road at 35 mph would therefore push the legal definition of "reasonable and prudent", and risk legal ramifications when tickets are issued.

Chair Stone took advantage of having Mr. Stone present to discuss the Tacoma Overpass signage issue. She asked why the City would be prohibited from placing the signs on McLoughlin Blvd. Mr. Stone replied that there are too many signs present in the area already – ODOT has had trouble trying to place the required regulatory signage, and State regulatory signs must appear first and cannot be obscured. State law states that if a truck route is posted, trucks must use the truck route (State highways are automatically truck routes). Posting a sign that says NO TRUCKS ON JCB on McLoughlin Blvd. may restrict legitimate truck traffic, particularly those going west from the overpass. Other factors are a 250' sight distance requirement for all signs, and Upton noted difficulty in placing signs on the overpass due to the turns and ramps. The group agreed that more study would be required to determine better placement for the signs.

#### B. FUNCTIONAL PLAN AS IT RELATES TO TRANSPORTATION

Planning Director Heiser was present to answer TSTB's question as to whether review of Title 6 of the Functional Plan is still needed. Heiser noted that the City is required to comply with Metro's Functional Plan, and the City needs to change some codes to reach that level of compliance. Title 6 is the regional accessibility section; Heiser passed out an excerpt from that section in addition to an executive report on where the City is current in regard to compliance. Heiser reported that the changes need to be accomplished by February 19, 1999, and the executive report outlines what needs to be done and the areas where the City is in full or "substantial" compliance. Some areas include a reduction in parking requirements in areas near transit centers, and the City needs to establish some method of monitoring parking utilization. Title 6 requires some amendments to reduce cul-de-sac length and minimum block length, which must be included into the Zoning ordinance and the Comprehensive Plan. A joint meeting with the Planning Commission and neighborhood associations as a "Functional Plan Compliance Steering Committee" is being planned to meet in the next few months. Any Title 2 or 6 elements that need TSTB review will be brought up around November; until then, the group can review the handouts from this meeting to familiarize themselves with the issues.

There was some discussion about a recent mailing about the Metro Regional Transportation Plan. Heiser said that the City is meeting with a group from Clackamas County to discuss projects to put forward to the State for a share of a \$43 million State Transportation Improvement Project grant, which would provide a 90% grant with 10% City share. Some of the City projects to be included in the group proposal are the Lake Road Multi-Modal Project, Linwood Avenue bike lanes and sidewalks, a grade separation for Harmony and Linwood over the railroad tracks, and some joint projects for Johnson Creek Boulevard and McLoughlin.

## VII. C. 4

### IV DISCUSSION

#### A. TSTB GOALS

##### 1. Review of Proposed Goals

Shelton directed attention to the Goals Summary included in the packet from the August 31<sup>st</sup> work session. Wisner wanted another work session to discuss goals, rather than adopt them tonight. She read off several additional goals from her list that she felt needed to be included; Stone offered a consolidated list of goals that she had which reduced the 12 points on the summary to four condensed goals. Wisner and Stone had their lists copied for the rest of the group, and a new work session date of October 19<sup>th</sup> was determined for further review of the goals.

#### B. ELECTION OF OFFICERS

There was a short discussion on the responsibility of officers. Wisner nominated Stone for Chair; Stone accepted. Schierholz nominated Aschenbrenner for Chair; Aschenbrenner accepted the nomination. On the first ballot, Wisner and Stone voted for Stone; Aschenbrenner and Schierholz voted for Aschenbrenner; and Dorsey and Covey chose to abstain from voting. Due to the lack of a majority, the group agreed to give a short history of their interest and background to help the group determine the best candidate.

Wisner reported to the group that when the TSTB was disbanded, Stone term of office was interrupted, and Wisner stated that she felt that Stone deserved the opportunity to continue her term. Stone then outlined her background on TSTB to the group. Aschenbrenner then gave a brief history of his interest in Traffic Safety and his participation in City workshops, etc. There was a short discussion about the fact that Stone is running for City Council and how that might affect her ability to chair the TSTB.

A second vote was then taken on the current nominees: Dorsey, Wisner, Covey & Stone voted for Stone; Aschenbrenner and Schierholz voted for Aschenbrenner, and there were no abstentions. Stone is new Chair, and the group agreed that Aschenbrenner would be Vice-Chair; if Stone were to win the City Council election, she would no longer be able to serve on the TSTB and Aschenbrenner would step up as Chair.

#### C. JOINT MEETING WITH CUAB AND BUDGET COMMITTEE

Brink explained the purpose of the meeting is to discuss the road utility fee and work out any issues. Aschenbrenner asked if Brink could provide a comparison of the Milwaukie proposal alongside a description of how Tualatin's and Wilsonville's road fees work. It was also suggested that staff provide nameplates so that the various members of the participating boards can become familiar with each other. Staff will provide a packet when the date is selected, following further polling of the other board members.

### V INFORMATION SHARING

A. ODOT Transportation Safety Survey

Shelton noted the inclusion in the packet of the executive summary of the subject survey, which was done by telephone in June 1998.

B. Truck Classifications

Shelton passed out copies of the AASHTO (Association of American State Highway and Transportation Officials) Truck Classification and vehicle characteristics in response to Wisner's request at an earlier meeting.

C. Shelton also passed out the results of the last Monroe Street traffic study, which also compared the results of the study done on 8/20/98 with the results of the 5/11/98 study.

D. Shelton then addressed the Board's attention to posters, bumper stickers, and handouts he had received from the ODOT Transportation Safety Section, noting that the City can receive quantities of any they wish for distribution. The group liked the idea and was enthusiastic about getting quantities of several of the items.

E. Ware passed out information on the Oregon Traffic Safety Conference in Hood River October 28-30<sup>th</sup>.

V FUTURE AGENDA ITEMS

Aschenbrenner asked if the Police Dept. could attend the next regular meeting and give a traffic update, particularly as to how the Dept. handles traffic enforcement when both designated traffic officers are out of action.

Stone wants a review of the Neighborhood Traffic Management Program at some point in the future. Aschenbrenner asked if all members of the TSTB could have copies of the TSP.

VI ADJOURNMENT

The next meeting will be the joint meeting with CUAB & Budget committee members. A goal-setting meeting is also scheduled for October 19<sup>th</sup>,

The meeting was adjourned at 9:39 pm.

/cjw

**Traffic Safety and Transportation Board**

**October 19, 1998**

**MOTION SUMMARY**

- 1) Aschenbrenner MOVED and Wisner SECONDED a motion to approve the 1998 TSTB Goals as listed on page 2. Motion passed unanimously.
  
- 2) Stone MOVED to recommend striking the 85-10 rule from the Neighborhood Traffic Management Program (NTMP) and applying the 85-5 rule to all residential streets as the first step of the TSTB review of the NTMP policy. Wisner SECONDED the motion. Information on this discussion is on page 3. Motion passed unanimously.
  
- 3) Stone MOVED that TSTB review all traffic control device requests prior to recommendation and implementation by staff. Schierholz SECONDED the motion. Information on this discussion at the bottom of page 3.

**TRAFFIC SAFETY and TRANSPORTATION BOARD**

Regular Session

October 19, 1998

7:00 pm

Johnson Creek Conference Room

I Call to Order

The meeting was called to order at 7:15 pm. Present were

David Aschenbrenner

Jim Schierholz

Gene Covey

Susan Stone

Ron Grasley

Julie Wisner

Absent:

Al Dorsey

Staff present:

Robert Shelton

Also present:

none

Ron Grasley introduced himself to the members present.

II GOAL SETTING

Stone explained that her proposed goals were meant to incorporate the first 12 goals listed in the LISTED PROPOSED GOALS (enclosed). Wisner asked if her proposed goals (17 through 20) were incorporated into the language of Stone's proposed goals (13 through 16). There was agreement on this point. Grasley asked about how and when the goals were developed. Grasley also asked for clarification on what traffic calming devices are. Wisner and Stone offered explanations. Staff provided the relevant section of the Ordinance (Chapter 2.24).

Covey asked about the extent of the Board's power. Stone and Wisner lead a discussion on the past experiences of the TSTB and its disbanding. The statement was made that the TSTB was never able to comment on the final version of the NTMP which was written by staff. A discussion on last years recall election followed.

Aschenbrenner MOVED that all TSTB members be provided with Chapter 2.24 of the City Ordinance, the TSTB orientation packet and binder, the TSP, and NTMP. Wisner SECONDED the motion. Motion passed unanimously.

Aschenbrenner MOVED to adopt goals 13,14,15 and 16 from the LISTED PROPOSED GOALS as the TSTB Goals as of October 1998. Discussion followed. Wisner refined the motion to read: Adopt goals 13,14,15 and 16 from the LISTED PROPOSED GOALS as the ongoing TSTB Goals as of October

1998. Aschenbrenner MOVED the adopt this version. Wisner SECONDED the motion as changed. Motion passed unanimously.

The Ongoing TSTB Goals as of October 1998 (adopted 10/19/98):

- 1) Comprehensive review of all documents and policies related to traffic safety and neighborhood liveability including but not limited to the TSP, Regional Center Plan (RCP), Functional Plan, NTMP, Comprehensive Plan and Zoning Ordinances in order to identify and resolve problems and inconsistencies and recommend policy changes to City Council.
- 2) Under the direction of City Council, collaborate with the Budget Committee, Citizen's Utility Advisory Board, and Planning Commission on issues regarding policy and procedure, funding, neighborhood traffic management and impacts of growth relative to traffic safety and liveability concerns.
- 3) Facilitate citizen involvement in TSTB through direct communication with traffic safety representatives from each NDA, regular attendance at NDA meetings and encourage citizen participation at TSTB meetings.
- 4) Expand knowledge of traffic safety issues through attendance at Alliance of Traffic Safety (ACTS) of Oregon conferences, workshops and seminars related to neighborhood traffic management, interaction with Milwaukie P.D. and Clackamas Fire District #1 and ongoing review of traffic control device requests.

### III FUTURE AGENDA ITEMS

Stone proposed future agenda items showing breakdown of SDC fees. Aschenbrenner pointed out that the information had been provided at the joint meeting on Oct. 14<sup>th</sup>.

Aschenbrenner requested that Dorsey and Schierholz be provided with a copy of the presentation given at the joint meeting on Oct. 14<sup>th</sup>.

A discussion followed about the SDC presentation on Oct. 14<sup>th</sup>, and the rates that would be charged for different types of dwellings and businesses. Styles of SDC funding schemes and the desire to see how they are supposed to work was mentioned. Wisner proposed doing research on the part of the Board.

Aschenbrenner MOVED to have staff provide any information that is already available on SDC funding methods used by other entities that is already available and to forward it to the TSTB for review. Wisner SECONDED the motion. The motion passed unanimously.

Stone proposed another future agenda item to have Sgt. Marthaller or other P.D. representative at the November meeting to give a presentation on enhanced enforcement efforts and the general traffic conditions in the city.

## VII. C. 9

Stone wanted clarification in setting up the agendas for future meetings. Stone proposed discussing the agenda with staff two weeks prior to the scheduled meeting. Staff should call the chair two weeks prior to the scheduled meeting to set the agenda.

### IV NTMP Review

Stone proposed addressing the rule that requires the 85% speed to be 10 MPH over the posted speed (the 85-10 rule) to count towards speed points on collector streets with curbs and sidewalks. Stone wants the threshold 85% speed to be 5 MPH over the posted speed (the 85-5 rule) on all collectors regardless of curb and sidewalk improvements.

Stone stated that the NTMP should not be tied to the STSP, and that the funding of each program should be separate. She said the NTMP could mesh with the STSP in the sense that traffic calming devices could be used in school zones to enhance school trip safety.

Stone mentioned that TSTB recommendations to Council will carry more weight if staff is in agreement with them.

Stone MOVED to recommend striking the 85-10 rule from the NTMP and applying the 85-5 rule to all residential streets as the first step of the TSTB review of the NTMP policy. The TSTB will bring this item and other recommendations to Council at a later date. Wisner SECONDED the motion. The motion passed unanimously.

Stone pointed out that NTMP funding is spent on sidewalks, which are not considered traffic calming devices.

Wisner MOVED that staff provide a line item account of how NTMP funding was spent during the last two years up to October 1998. (Ref. NTMP page 4 under **NTMP Objectives** section h). Grasley SECONDED the motion. The motion passed unanimously.

Discussion followed about scheduling the next two meetings. It was decided to have them on November 12 at 7:00 pm and December 10 at 7:00 pm.

Stone MOVED that TSTB review all traffic control device requests prior to recommendation and implementation by staff. Schierholz SECONDED the motion. The motion passed unanimously.

Discussion followed about ways to increase the power of the TSTB to determine policy.

Aschenbrenner MOVED that staff provide TSTB members with a copy of the Lake Road Multi-modal Plan at their request. Wisner SECONDED the motion. The motion passed unanimously.

V ADJOURNMENT

The meeting was adjourned at 9:15 pm.

**Problem-Solving Partnership Meeting Minutes  
November 10, 1998**

**Those Present:** Deborah Middleton, Kami Bracy, Rosie Sizer, Dodie Linder, Rob Kappa, Jason Koceja, Chief Brent Collier, Father Toll

Deborah discussed her presentation to the council work session. They were in favor of a community business forum run by MDDA. Scheduling for this forum is under way. The meeting will require 1.5 business persons per every council person present. Rob thinks that its time for the business community to take ownership in this and be the leaders in this and let us know what they need. Advertisement for this forum must draw in the people – business and property owners. Must be eye catching: What to do now with the defeat of South-North light rail? Chief suggested listing some of the issues we've brought up with the PSPFG. Dodie may be able to slip something into the newsletter. Deborah would like to send everyone a personal invitation as well. Due to council meetings in December, the forum will be sometime early in the new year. The tentative date for the forum is January 12, 1999 from 6:00 – 8:00 at city hall. Hopefully, construction at city hall will be complete.

**December Meeting: Tuesday, December 8, from 3:00 – 5:00 at Public Safety Building.**

More reports on the council work session: COPS office – Chief and City Manager to look at budget possibilities. The first budget meeting is November 12<sup>th</sup>.

**What's Achievable on our Solutions List?**

**Ash Trays:** We have \$650 to use for responses. Is using some of this money to buy ash trays for strategic places in downtown area something the group is interesting? Rosie asked who would keep up the maintenance of these ash trays. The post office and the Town Deli would probably be willing to participate in this. It has also been suggested to have ash trays at each corner of the Transit Center. Rosie will talk to Tri-Met regarding maintenance of these ash trays at the Transit Center. Jason suggested an ash tray at Key Bank. Deborah and Kami will work on price checks and codes that will effect this plan. Dodie will talk to the post office and the deli as well. An idea to attach a visual piece to these ash trays was suggested: "Donated to business community from the Problem-Solving Partnership."

**Better Street Lighting:** The issue of better street lighting is being addressed. Officer Craig Stensrud has been working on this issue in conjunction with the business community, in particular the poor lighting around the Key Bank. He contacted the Key Bank corporate office and they said they would take care of it. He also contacted Kelly Somers about other areas and what the city can do to help. Chief received some comments about officers having difficulty spotting individuals in this area.

## VII. D. 2

Surveys regarding parking will be going out to the businesses this month. If data is compiled in time, maybe Dodie and Michelle could present the results at our next meeting

**Mural:** Deborah shared that city council is very much in favor of a mural in the downtown area. Dodie may have a possible sight. City codes would need to be checked. We must approach the property owner with an idea. Then we need to get approval and determine who will be the artist. The high school students are seen as a great resource for this. It's a great opportunity for positive student involvement in the community. Rosie suggested having an artist to advise the students. Dodie has a few names and numbers of possible artists that would be interested. Dodie will follow up with the potential wall donor and find out where they stand. What kind of image do we want on the mural? What do we want to portray? Maybe work with the Niche Community to determine possible mural images.

Rosie asked whether or not there is something that lists phone numbers to call to get things done. Dodie responded. MDDA is working on a directory right now and a list of numbers is currently up for debate. Dodie suggested something acknowledging "problem-solving numbers." Chief suggested working with Michelle to produce this list. Dodie talked about the new pre-admission conference that all businesses will be required to attend at the first of the year. This conference will provide these numbers for the business making the businesses responsible for how to use the information. Jason will find out who to contact at the high school as far as resources for students interested in projects and community service opportunities.

Meeting adjourned at 4:00 p.m.